



Province of Alberta

MINES AND MINERALS ACT

EMERGING RESOURCES ROYALTY REGULATION

Alberta Regulation 209/2016

Extract

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ALBERTA REGULATION 209/2016

Mines and Minerals Act

EMERGING RESOURCES ROYALTY REGULATION

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Schedule

Interpretation

1(1) In this Regulation,

- (a) “approved project” means a project granted an approval under section 7;
- (b) “C*” means the C* for a well as determined under the *Petroleum Royalty Regulation, 2017* or the *Natural Gas Royalty Regulation, 2017*, as the case may be;
- (c) “C*_{ERP}” means the C*_{ERP} for an eligible well calculated in accordance with section 9;

- (d) “C*_{ERP} pool” means the C*_{ERP} pool for an approved project determined in accordance with section 10;
- (e) “formation” is an underground geological formation according to the records of the Alberta Energy Regulator;
- (f) “hydrocarbon” includes any crude oil, natural gas, gas product or oil sands product that is subject to the calculation of royalty under the *Petroleum Royalty Regulation, 2017*, the *Natural Gas Royalty Regulation, 2017* or the *Oil Sands Royalty Regulation, 2009*, as the case may be;
- (g) “maximum number of eligible wells” means the maximum number of eligible wells calculated in accordance with section 10(3);
- (h) “oil sands project” means a Project as defined in the *Oil Sands Royalty Regulation, 2009*;
- (i) “project activity level” means the project activity level determined in accordance with section 4 and specified in a project approval under section 7;
- (j) “project approval” means an approval granted under section 7;
- (k) “project area” means the project area referred to in section 3(2)(a);
- (l) “project benefit period” means the project benefit period determined in accordance with section 5 and specified in a project approval under section 7;
- (m) “project benefit period commencement date” means the project benefit period commencement date determined in accordance with section 6;
- (n) “project evaluation area” means the project evaluation area referred to in section 3(2)(b);
- (o) “project participant” means a project participant referred to in section 3(2)(d);
- (p) “project representative” means the person
 - (i) making an application under section 3, or
 - (ii) approved by the Minister as the project representative according to the records of the Department of Energy;

- (q) “target formation” means the target formation referred to in section 3(2)(c);
- (r) “total potential wells within the project area” means 4 wells per section of the project area, unless otherwise determined by the Minister;
- (s) “total potential wells within the project evaluation area” means 4 wells per section of the project evaluation area, unless otherwise determined by the Minister.

(2) A reference in this Regulation to hydrocarbons obtained from a well is also a reference to hydrocarbons produced or recovered from a well.

(3) Except in section 16, a reference in this Regulation to a month, whether by its name or not, shall be construed as the period commencing at 8:00 a. m. Mountain Standard Time on the first day of the month and ending immediately before 8:00 a. m. Mountain Standard Time on the first day of the next month.

Application of regulation

2 This Regulation applies only to hydrocarbons that are obtained from an eligible well on or after January 1, 2017, and on or before December 31, 2039, in which the percentage of Crown ownership, as determined by the Minister in accordance with section 26.1 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97), is greater than 0.

Project application

3(1) An application for a project may be made on or after January 1, 2017 and on or before December 31, 2024.

(2) An application must be in the form provided by the Minister and contain the information required by the Minister, including the following:

- (a) the project area, which must be an area of land greater than or equal to 18 sections and less than or equal to 144 sections;
- (b) the project evaluation area, determined in accordance with parameters specified by the Minister;
- (c) the target formation;
- (d) the project participants;

- (e) an agreement between the project participants in respect of the project, in the form provided by the Minister, if there is more than one project participant.
- (3)** Only one person may make an application and that person must
- (a) hold a valid and subsisting hydrocarbon agreement issued under the *Mines and Minerals Act* applicable to the project area, and
 - (b) must be a project participant.
- (4)** At the time of application, the project participants must collectively hold one or more valid and subsisting hydrocarbon agreements issued under the *Mines and Minerals Act* applicable to the entire project area.
- (5)** An application must not include a well that is part of an oil sands project application pending a decision by the Minister.

Project activity level

- 4(1)** In this section,
- (a) “bottom hole location” means the subsurface point at the greatest measured penetration of a well;
 - (b) “confidential well” means a confidential well as defined in the *Oil and Gas Conservation Rules* (AR 151/71) or Directive 056: Energy Development Application and Schedules, as published by the Alberta Energy Regulator, as amended from time to time;
 - (c) “evaluation well” means a well within the project evaluation area, based on bottom hole location, penetrating the target formation, including the following:
 - (i) dry holes;
 - (ii) confidential wells of a project participant;
 - (iii) abandoned wells;
 - (iv) commingled wells;
 - (v) wells producing a hydrocarbon.
- (2)** The project activity level is calculated by dividing the total number of evaluation wells by the total number of potential wells within the project evaluation area, expressed as a percentage.

Project benefit period

5 The project benefit period is the number of years specified in column 2 of the Schedule that corresponds to the project activity level calculated under section 4(2) and specified in column 1 of the Schedule.

Project benefit period commencement date

6(1) Subject to subsection (2), the project benefit period commences on the first day of the 3rd month following the month a project is approved under section 7.

(2) Subject to subsection (3), a project representative may, in an application under section 3, or in a written request submitted to the Minister within 3 months of the date a project is approved under section 7, select the month in which the project benefit period commences

- (a) from between and including the month an application is received under section 3 and the 3rd month following the month the project is approved under section 7, or
- (b) from between and including the month an oil sands project application is received by the Minister and the 3rd month following the month the project is approved under section 7, in the case of a project that includes a well that is part of an oil sands project application denied approval.

(3) The project benefit period commences on the first day of a month selected under subsection (2).

Project approval

7(1) The Minister may approve a project if

- (a) the total number of evaluation wells, as defined in section 4(1)(c), at the time of application is less than or equal to 10% of the total potential wells within the project evaluation area, rounded up to the next whole number,
- (b) the total number of wells producing a hydrocarbon from the target formation within the project area at the time of application is less than or equal to 15% of the total potential wells within the project area, rounded up to the next whole number, and
- (c) the Minister is of the opinion that
 - (i) there is a large development potential of hydrocarbons from the target formation,

- (ii) the project would not be commercially viable if not approved,
- (iii) positive net royalty from the production of hydrocarbons from the target formation is likely if the project is approved, and
- (iv) it is in the public interest to approve the project.

(2) The Minister shall specify in an approval under subsection (1) the following:

- (a) the project participants;
- (b) the project area;
- (c) the project evaluation area;
- (d) the target formation;
- (e) the project activity level;
- (f) the project benefit period;
- (g) the maximum number of eligible wells;
- (h) any terms and conditions in respect of the project.

Eligible well

8(1) Subject to subsection (2), an eligible well is a well that

- (a) is spud
 - (i) within the project area,
 - (ii) during the project benefit period, and
 - (iii) for the purpose of producing a hydrocarbon from the target formation,
- and
- (b) commences production during the project benefit period.

(2) A well is not an eligible well if the well

- (a) is spud after December 31, 2034,
- (b) commences production after December 31, 2034,
- (c) is part of an oil sands project,

- (d) produces from a formation other than the target formation,
- (e) produces from 2 or more formations, or
- (f) has been at any time part of an approved scheme under the *Enhanced Hydrocarbon Recovery Royalty Regulation* or the *Enhanced Oil Recovery Royalty Regulation*.

C* multiplier and C*_{ERP}

9(1) The C* multiplier for an eligible well is the value specified in column 4 of the Schedule that corresponds to

- (a) the number of years set out in column 3 of the Schedule that have elapsed between the project benefit period commencement date and the date the well first commenced production, and
- (b) the project activity level calculated under section 4(2).

(2) The C*_{ERP} for an eligible well is calculated by multiplying the C* for the well by the C* multiplier applicable to the well determined in accordance with subsection (1).

C*_{ERP} pool

10(1) In this section, “excluded well” means a well in a project area that is

- (a) spud before the project benefit period commencement date,
- (b) producing a hydrocarbon from the target formation at the time an application is made under section 3, or
- (c) producing a hydrocarbon from more than one formation, including the target formation.

(2) The C*_{ERP} pool for an approved project is determined by aggregating the C*_{ERP} for each eligible well until the maximum number of eligible wells is reached in accordance with subsection (3).

(3) The maximum number of eligible wells is calculated by

- (a) multiplying the total potential wells within the project area by 0.15,
- (b) rounding the result obtained under clause (a) up to the next whole number, and

- (c) subtracting the total number of excluded wells from the result obtained under clause (b).

Royalty

11(1) In this section, “cumulative revenue” means the total revenue, as determined by the Minister under the *Petroleum Royalty Regulation, 2017* or the *Natural Gas Royalty Regulation, 2017*, as the case may be, from hydrocarbons obtained from a well since the project benefit period commencement date.

(2) If an eligible well is part of a C^*_{ERP} pool,

- (a) the C^*_{ERP} for the well supersedes the C^* for the well for the purposes of the *Petroleum Royalty Regulation, 2017* or the *Natural Gas Royalty Regulation, 2017*, as the case may be, and
- (b) the royalty payable to the Crown on hydrocarbons obtained from the well is calculated
 - (i) at a rate of 5% until the earlier of
 - (A) 5 years following the expiry of the project benefit period,
 - (B) the aggregate cumulative revenue of eligible wells forming part of the C^*_{ERP} pool is equal to the amount of the C^*_{ERP} pool, or
 - (C) December 31, 2039,
 - or
 - (ii) if subclause (i)(A), (B) or (C) apply, in accordance with the *Petroleum Royalty Regulation, 2017* or the *Natural Gas Royalty Regulation, 2017*, as the case may be, deeming the cumulative revenue equal to the C^* for the well.

Re-entry

12(1) In this section, “re-entry activity” means re-entry as defined in the *Petroleum Royalty Regulation, 2017* or the *Natural Gas Royalty Regulation, 2017*, as the case may be.

(2) If a re-entry activity occurs in respect of an eligible well that is part of a C^*_{ERP} pool and results in incremental production of hydrocarbons from only the target formation, the incremental C^* associated with the re-entry activity shall be added to the C^*_{ERP} for the well and the C^*_{ERP} pool for the approved project.

- (3) If a re-entry activity occurs in respect of an eligible well that is part of a C^*_{ERP} pool and results in incremental production of hydrocarbons from 2 or more formations,
- (a) the well shall cease being an eligible well as of the date incremental production commences,
 - (b) the incremental C^* associated with the re-entry activity
 - (i) shall not be included in the C^*_{ERP} for the well and the C^*_{ERP} pool for the approved project, and
 - (ii) shall be subject to the *Petroleum Royalty Regulation, 2017* or the *Natural Gas Royalty Regulation, 2017*, as the case may be,
 - (c) the C^*_{ERP} calculated for the well prior to the re-entry activity shall continue to be part of the C^*_{ERP} pool for the approved project, and
 - (d) the revenue from the well after the incremental production commences,
 - (i) shall not be included in the aggregate cumulative revenue determined under section 11(2)(b)(i)(B), and
 - (ii) shall only be applied in respect to the incremental C^* associated with the re-entry activity in accordance with the *Petroleum Royalty Regulation, 2017* or the *Natural Gas Royalty Regulation, 2017*, as the case may be.

Project approval amendment

13(1) The Minister may, on receipt of a written request from the project representative or on the Minister's own initiative, amend a project approval.

(2) A project approval shall not be amended

- (a) to reduce the project area by more than 20%, or
- (b) to add lands to the project area that are outside of the project evaluation area.

Project approval revocation

14 The Minister may revoke a project approval if, in the opinion of the Minister, a project participant made

- (a) any misrepresentation that is attributable to neglect, carelessness or wilful default, or
- (b) has committed a fraud in providing a document or other information under this Regulation.

Project approval termination

15(1) The Minister may terminate a project approval if

- (a) requested to do so in writing by the project representative,
- (b) the project area is less than 18 sections or greater than 144 sections,
- (c) a term or condition of a project approval is breached, or
- (d) documents or information are not provided under section 16.

(2) If the Minister terminates a project approval, the royalty payable to the Crown on hydrocarbons obtained from an eligible well that is part of the C*_{ERP} pool as of the date of termination shall continue to be calculated in accordance with section 11.

(3) If an eligible well is spud after the date of termination, the C* for the well

- (a) applies for the purposes of the *Petroleum Royalty Regulation, 2017* or the *Natural Gas Royalty Regulation, 2017*, as the case may be, and
- (b) shall not be included in the C*_{ERP} for the well and the C*_{ERP} pool for the approved project.

Furnishing information

16 For the purposes of administering this Regulation, the project representative or any previous project representative shall furnish documents or any other information

- (a) requested or required by the Minister,
- (b) in the form specified by the Minister, and
- (c) within the time period specified by the Minister.

Project benefit period extension

17(1) The Minister may extend the project benefit period for all approved projects, or a class of approved projects, if the Minister is

of the opinion that an extension is justified based on a significant and prolonged reduction in market prices that is negatively impacting the production of hydrocarbons in Alberta.

(2) The Minister may specify any terms and conditions in respect of an extension under subsection (1).

Expiry

18 This Regulation expires on June 30, 2045.

Coming into force

19 This Regulation comes into force on January 1, 2017.

Schedule

Project Activity Table

Column 1 Project Activity Level	Column 2 Project Benefit Period (Years)	Column 3 Elapsed Time (Years)	Column 4 C* Multiplier
less than 5%	10	0-4	2.00
		5-8	1.75
		9-10	1.50
greater than or equal to 5% and less than 6%	9	0-3	2.00
		4-7	1.75
		8-9	1.50
greater than or equal to 6% and less than 7%	8	0-2	2.00
		3-6	1.75
		7-8	1.50
greater than or equal to 7% and less than 8%	7	0-1	2.00
		2-5	1.75
		6-7	1.50
greater than or equal to 8% and less than 9%	6	0-4	1.75
		5-6	1.50
greater than or equal to 9% and less than or equal to 10%	5	0-3	1.75
		4-5	1.50
greater than 10%	0	N/A	N/A



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