



Province of Alberta

## MINES AND MINERALS ACT

# **PETROCHEMICALS DIVERSIFICATION PROGRAM ROYALTY CREDIT REGULATION**

### **Alberta Regulation 54/2016**

With amendments up to and including Alberta Regulation 211/2016

### Office Consolidation

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### **Note**

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(Consolidated up to 211/2016)

**ALBERTA REGULATION 54/2016**

**Mines and Minerals Act**

**PETROCHEMICALS DIVERSIFICATION PROGRAM  
ROYALTY CREDIT REGULATION**

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**Interpretation**

**1(1)** In this Regulation,

- (a) “approved project” means a project approved by the Minister under section 4 to receive royalty credits;
- (b) “consumption” and “consumed” mean
  - (i) the use of methane or propane as feedstock in the manufacture of products at a primary facility, or
  - (ii) the use of products produced from methane or propane as feedstock in the manufacture of products at a secondary facility;
- (c) “credit value” means an amount in dollars per cubic metre of feedstock established by the Minister under section 4 in the approval for each project;
- (d) “department” means the department administered by the Minister designated as responsible for the *Mines and Minerals Act*, pursuant to the *Government Organization Act*;

- (e) “integrated facility” means a petrochemical facility within a project that, in the opinion of the Minister,
- (i) consists of a primary facility and a secondary facility in the same location that are integrated, both operationally and by engineering design, and
  - (ii) manufactures products using methane or propane as feedstock,
- but does not include a power generation facility;
- (f) “Minister” means the Minister designated as responsible for the *Mines and Minerals Act*, pursuant to the *Government Organization Act*;
- (g) “operator” has the same meaning as in the *Oil Sands Royalty Regulation, 2009* (AR 223/2008);
- (h) “owner” means a person that, according to the records of the department, has an ownership interest in a project;
- (i) “primary facility” means a petrochemical facility within a project that manufactures products using methane or propane as feedstock, but does not include a power generation facility;
- (j) “royalty client” and “royalty compensation” have the same meanings as in the *Natural Gas Royalty Regulation, 2009* (AR 221/2008);
- (k) “royalty credit” means a royalty credit calculated and established by the Minister under this Regulation;
- (l) “royalty credit maximum” means the maximum dollar value of royalty credits per year that may be established for a facility within a project as determined by the Minister in section 4;
- (m) “secondary facility” means a petrochemical facility within a project that is downstream from a primary facility that consumes products produced from the primary facility as feedstock to produce higher value added products;
- (n) “year” means 12 consecutive months.

(2) Consumption is measured in cubic metres.

### **Applications and reports**

**2(1)** An application by an owner under this Regulation must

- (a) be made in and contain all the information that is required by the form of application or that is otherwise required by the Minister to accompany the application, and
- (b) be made within the time period required by the Minister, unless otherwise established in this Regulation.

**(2)** An owner or the person designated by an owner in the owner's application must provide to the Minister written reports or other information regarding any matter in relation to this Regulation

- (a) as required by the Minister,
- (b) in the form, if any, required by the Minister, and
- (c) within the time period required by the Minister.

#### **Authority for royalty credits**

**3(1)** The Minister may, in accordance with this Regulation, establish royalty credits in respect of an approved project

- (a) for the consumption of methane or propane at a primary facility or integrated facility, and
- (b) for the consumption of products manufactured from methane or propane at a secondary facility.

**(2)** If the Minister is satisfied that any grant or benefit has been provided by any government, including the Government of Alberta or the Government of Canada, or any agency of the Government of Alberta or the Government of Canada, and the grant or benefit is referable in whole or in part to eligible methane or propane, the Minister may reduce by an amount that does not exceed the amount of the grant or benefit any royalty credit established in respect of the approved project.

#### **Approval of projects**

**4(1)** On receiving an application under section 2, the Minister may approve a project for the purpose of establishing royalty credits in respect of a project if the Minister is of the opinion that, at the time the information required by the Minister has been received,

- (a) the project
  - (i) is physically located in Alberta,
  - (ii) contains a primary facility or an integrated facility, and

- (iii) is a new greenfield or new brownfield investment,
- (b) the project
  - (i) extends a methane or propane based value chain within Alberta,
  - (ii) is technologically feasible and economically viable, and
  - (iii) establishes incremental capacity to Alberta through construction of a new facility or the expansion of an existing facility and not through debottlenecking,
- and
- (c) establishing royalty credits for the consumption in the project is in the public interest.

**(2)** A secondary facility may form part of an application under section 2 in respect of a primary facility, or be the sole facility in respect of an application, but in order for the secondary facility to be considered for approval, the facility must, in the opinion of the Minister, be integrated, both operationally and by engineering design with a primary facility for which either an application for approval is being made or an approval has been granted.

**(3)** The Minister must in the approval establish the credit value of a cubic metre of feedstock consumed in the approved project and the Minister may establish different credit values for a cubic metre of feedstock for each approved project or for each facility within an approved project.

**(4)** The Minister must in the approval establish the royalty credit maximum in dollars for each facility within an approved project.

**(5)** The Minister may establish a different royalty credit maximum for each approved project and for each facility within an approved project.

**(6)** The Minister may in the approval establish any terms and conditions relating to the approved project that the Minister considers necessary, and may add to, change or delete those terms and conditions.

#### **Establishing royalty credits**

**5(1)** On a bi-annual basis, an owner of an approved project or the person designated by an owner in the owner's application under section 2 must file information as required by the Minister in

respect of actual feedstock consumption for the relevant time period.

(2) Subject to subsection (6), the Minister must calculate the total amount of royalty credits for a time period by multiplying the credit price or prices for an approved project established by the Minister in section 4(2) by the amount of feedstock actually consumed by the facilities in that approved project.

(3) The Minister may establish the whole or any part of the royalty credits calculated under subsection (2) in accordance with criteria and methodology determined by the Minister.

(4) The Minister may not establish any additional royalty credits for the methane or propane, or derivatives of the methane or propane in the case of an integrated facility, consumed at a facility in an approved project

(a) once the total of established royalty credits for the facilities within an approved project as a whole equals the royalty credit maximum established in section 4(4),

(b) subject to subsection (5), once royalty credits for the approved project have already been established for consumption of feedstock during a time period consisting of 36 consecutive months, or

(c) if no feedstock has been consumed in the approved project within 36 months of the beginning of the time period set out in subsection (5).

(5) The time period in subsection (4)(b) begins at the time identified by the applicant in an application to the Minister under section 2 and may be extended by up to an additional 18 consecutive months if, in the opinion of the Minister, it is in the public interest.

(6) The Minister must not calculate a royalty credit for any feedstock consumed in the production of electricity.

#### **Allocating royalty credits**

**6(1)** Royalty credits established under this Regulation may be applied in accordance with this section against the payment of royalty or royalty compensation owing to the Crown in right of Alberta under the *Natural Gas Royalty Regulation, 2009* (AR 221/2008) or the *Natural Gas Royalty Regulation, 2017* or the *Oil Sands Royalty Regulation, 2009* (AR 223/2008).

(2) An owner must show in information filed under this Regulation the royalty clients or operators to whom the royalty credits are to

be allocated and the percentage to be allocated to each royalty client or operator such that the aggregate of the percentages so allocated equals 100%.

(3) The Minister may, on application by an owner, amend information filed under this Regulation in respect of the royalty clients or operators and the percentage to be allocated to each royalty client or operator, within a period of time prescribed by the Minister.

(4) Unless the Minister otherwise determines in a particular case, the Minister may allocate royalty credits established under this Regulation for an owner in accordance with the allocation shown in information filed under this Regulation or as amended under subsection (3).

AR 54/2016 s6;211/2016

### Records

**7(1)** Subject to subsection (2), an owner of an approved project must keep all records that are in the possession of the owner

- (a) that relate to actual methane or propane consumption or derivatives of methane or propane feedstock consumption, in the case of an integrated facility, for the years 2015 to 2025, until the expiry of the 5-year period following the end of each year, and
- (b) that are otherwise requested by the Minister, until the date or the expiry of the period of time specified by the Minister.

(2) If the Minister is of the opinion that it is necessary for the administration of the *Mines and Minerals Act* or this Regulation, the Minister may, by a direction sent in writing, require any person required to keep records under subsection (1) to keep the records referred to in that subsection for any longer period specified in the direction.

(3) An owner required to keep records pursuant to this section must, on the request of the Minister, submit to the Minister within the time specified by the Minister any information or record the Minister requires.

### Artificial transactions and non-compliance

**8(1)** Notwithstanding any other provision of this Regulation, if the Minister is of the opinion that

- (a) one or more acts, agreements, arrangements, transactions or operations were effected, whether before or after the

coming into force of this Regulation, for the purpose of improperly, artificially or unduly obtaining or increasing the amount of any royalty credit, or

- (b) an owner has not complied with any terms and conditions specified in the approval under section 4 or under any provision of this Regulation or any provision of the *Mines and Minerals Act* in relation to this Regulation,

the Minister may take any or all of the actions specified in subsection (2).

(2) In the circumstances set out in subsection (1), the Minister may take action as follows:

- (a) determine that all of the royalty credits established or allocated should not have been established or allocated;
- (b) determine that the amount of royalty credits established or allocated was improperly, artificially or unduly increased and is to be reduced accordingly.

(3) If the Minister makes a determination under subsection (2), a person in whose favour royalty credits have been allocated is not entitled to the royalty credits or to the amount by which the amount of royalty credits is or was improperly, artificially or unduly increased, as the case may be, and the Minister may recalculate the royalty otherwise reduced by virtue of those royalty credits, disregarding those credits in doing so.

#### **Indemnity**

9 If the Minister has established royalty credits under section 5, the owner for which royalty credits have been established must indemnify and hold harmless the Government of Alberta against all third party claims, demands, actions or costs, including legal costs on a solicitor-client basis, related to, occasioned by or attributable to the owner and arising from any matter in relation to this Regulation, including the establishment and allocation of royalty credits.

#### **Coming into force**

10 This Regulation is effective on and from February 1, 2016.







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