



Province of Alberta

MINES AND MINERALS ACT

NEW WELL ROYALTY REGULATION

Alberta Regulation 32/2011

With amendments up to and including Alberta Regulation 158/2016

Office Consolidation

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(Consolidated up to 158/2016)

ALBERTA REGULATION 32/2011
Mines and Minerals Act
NEW WELL ROYALTY REGULATION

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Definitions

1(1) In this Regulation,

- (a) "Act" means the *Mines and Minerals Act*;
- (b) repealed AR 89/2013 s47;
- (c) "Crown interest", in respect of crude oil, natural gas or solution gas recovered from a well event, or gas product or field condensate obtained from that gas, means the percentage of Crown ownership in that crude oil, natural gas, solution gas, gas product or field condensate, as determined by the Minister in accordance with section

26.1 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);

- (d) “Crown share”, in respect of crude oil, natural gas or solution gas recovered from a well event, or gas product or field condensate obtained from that gas, means the product of the Crown interest in the substance multiplied by the total production of the substance from that well event;
- (e) “crude oil” means
 - (i) crude oil as defined in the *Petroleum Royalty Regulation, 2009* (AR 222/2008), and
 - (ii) oil sands product referred to in section 27(1) of the *Oil Sands Royalty Regulation, 2009* (AR 223/2008);
- (f) “eligible production” means crude oil or gas that is eligible production under section 4;
- (g) “eligible production month”, in respect of a well, means a month in which eligible production is recovered or obtained from any well event in the well;
- (h) “eligible production month cap” means the eligible production month cap under section 6;
- (i) “excluded production” means any substance recovered from a well that the Minister determines under section 8 to be excluded production;
- (j) “field condensate” means field condensate as defined in the *Natural Gas Royalty Regulation, 2009* (AR 221/2008);
- (k) “gas” means natural gas, solution gas, gas products and field condensate;
- (l) “gas product” means a gas product as defined in the *Natural Gas Royalty Regulation, 2009* (AR 221/2008);
- (m) “gas well” means a gas well as defined in the *Oil and Gas Conservation Rules* (AR 151/71);
- (n) “licence” means a licence for a well issued under the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*;
- (o) “licensee” means the holder of a licence according to the records of the Regulator and includes a trustee or receiver-manager of property of a licensee;

- (p) “new well” means an oil well, gas well or non-Project oil sands well that is a new well under section 3;
- (q) “non-Project oil sands well” means a well that contains only non-Project oil sands well events;
- (r) “non-Project oil sands well event” means a non-Project well event as defined in the *Oil Sands Royalty Regulation, 2009* (AR 223/2008) that is subject to royalty under section 27 of that Regulation;
- (s) “oil well” means an oil well as defined in the *Oil and Gas Conservation Rules* (AR 151/71);
- (t) “operator”, in respect of a well, means the person or partnership who is the operator of the well according to the records of the Department;
- (u) “production month”, in respect of a well, means a month in which crude oil or gas, other than excluded production, is recovered from the well;
- (u.1) “Regulator” means the Alberta Energy Regulator;
- (v) “solution gas” means solution gas as defined in the *Natural Gas Royalty Regulation, 2009* (AR 221/2008);
- (w) “volume cap” means the volume cap under section 7;
- (x) “well” means an oil well, gas well or non-Project oil sands well;
- (y) “well event” means
 - (i) a part of a well completed in a zone and given a unique well identifier by the Regulator,
 - (ii) parts of a well completed in 2 or more zones and given a single unique well identifier by the Regulator,
 - (iii) a part of a well completed in and recovering crude oil or gas from a zone but which has not yet been given a unique well identifier by the Regulator, or
 - (iv) parts of a well completed in and recovering crude oil or gas from 2 or more zones during the period when the parts are considered by the Minister as a single well event for the purposes of this Regulation and before the Regulator makes a decision whether to give the parts a single unique well identifier.

(2) A reference in this Regulation to a month, whether by its name or not, is the period commencing at 8:00 a.m. on the first day of the month and ending immediately before 8:00 a.m. on the first day of the next month.

AR 32/2011 s1;89/2013

Application of Regulation

2 This Regulation applies to royalty on eligible production recovered or obtained from a new well on or after May 1, 2010 and on or before December 31, 2021.

AR 32/2011 s2;158/2016

New well

3(1) Subject to subsection (5), a well is a new well if the well is spud on or before December 31, 2016 and commences production of crude oil or gas on or after April 1, 2009.

(2) Subject to subsection (5), a well that recommences production of crude oil or gas in the period commencing on April 1, 2009 and ending on April 30, 2010 is a new well

(a) if the well did not produce crude oil or gas, other than excluded production, at any time in the period that commenced on January 1, 2007 and ended on March 31, 2009, or

(b) if

(i) the well did produce crude oil or gas, other than excluded production, in the period referred to in clause (a), but not in the period that commenced on January 1, 2009 and ended on March 31, 2009, and

(ii) the total average monthly production rate of the well of

(A) crude oil, and

(B) gas

that is recovered or obtained from the well and converted into equivalent volumes of oil as determined by the Minister is less than 100 cubic metres of oil per production month.

(3) Subject to subsection (5), a well that recommences production of crude oil or gas in the period commencing on or after May 1, 2010 is a new well

- (a) if the well did not produce crude oil or gas, other than excluded production, at any time in the period of 36 consecutive months prior to recommencement of production, or
- (b) if
 - (i) the well did produce crude oil or gas, other than excluded production, in the period that commenced on January 1, 2007 and ended on December 31, 2008 but not in the period that commenced on January 1, 2009 and ended on April 30, 2010, and
 - (ii) the total average monthly production rate of the well of
 - (A) crude oil, and
 - (B) gasthat is recovered or obtained from the well and converted into equivalent volumes of oil as determined by the Minister is less than 100 cubic metres of oil per production month.

(4) For the purposes of subsections (2)(b)(ii) and (3)(b)(ii), the average monthly production rate of a well must be determined by the Minister based on the following production months:

- (a) if the well had 3 or more production months in the period that commenced on January 1, 2007 and ended on December 31, 2008, the last 3 production months in that period;
- (b) if the well had fewer than 3 production months in the period referred to in clause (a), those production months.

(5) A well is not a new well if the well

- (a) is part of a Project under the *Oil Sands Royalty Regulation, 2009* (AR 223/2008),
- (b) contains a well event in respect of which the Minister has, at any time, prescribed a quantity of conservation gas pursuant to section 7(10)(b) or (d) of the *Natural Gas Royalty Regulation, 2009* (AR 221/2008) or section 6(12)(b) of the *Natural Gas Royalty Regulation, 2002* (AR 220/2002), or
- (c) ceases to be a new well pursuant to section 6 or 7.

(6) The operator or licensee of a well shall, on the request of the Minister, submit to the Minister within the time specified by the Minister any information or record the Minister requires to aid in determining whether the well meets the requirements of this section.

(7) For the purposes of subsections (1), (2)(a), (2)(b)(i), (3)(a) and (3)(b)(i), if a well did not produce crude oil or gas in a month because the Regulator suspended production from the well for a contravention of or non-compliance with the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*, the regulations under either Act or an order of the Regulator, that month is deemed to be a month in which the well produced crude oil or gas.

AR 32/2011 s3;89/2013;158/2016

Eligible production

4 Subject to the applicable Schedule to this Regulation, crude oil or gas recovered or obtained from a well event is eligible production if

- (a) it is not excluded production,
- (b) it is recovered or obtained from a well event in a new well, including a well event specified in a schedule to this Regulation,
- (c) the Crown interest in it is greater than 0%, and
- (d) it is subject to the payment of royalty under the *Petroleum Royalty Regulation, 2009* (AR 222/2008), the *Natural Gas Royalty Regulation, 2009* (AR 221/2008) or section 27 of the *Oil Sands Royalty Regulation, 2009* (AR 223/2008).

Royalty on eligible production

5(1) If crude oil or gas recovered or obtained from a well event is eligible production, the royalty payable to the Crown on that crude oil or gas shall be calculated at a rate not exceeding 5% until

- (a) the end of the eligible production month cap of the well that contains the well event,
- (b) the volume cap is reached for the well that contains the well event,
- (c) the date that the well becomes part of a Project under the *Oil Sands Royalty Regulation, 2009* (AR 223/2008), or

(d) December 31, 2021,

whichever occurs first.

(2) After the 12th month of eligible production from a new well, royalty shall be calculated at a rate not exceeding 5% only in respect of crude oil or gas recovered or obtained from a well event specified in the applicable Schedule to this Regulation.

(3) For the purposes of subsection (1)(a), if a month was not an eligible production month of a well because the Regulator suspended production from the well for a contravention of or non-compliance with the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*, the regulations under either Act or an order of the Regulator, that month is deemed to be an eligible production month.

AR 32/2011 s5;89/2013;158/2016

Eligible production month cap

6(1) A new well reaches its eligible production month cap and ceases to be a new well

- (a) at the end of the 12th eligible production month of the well, or
- (b) at the end of the eligible production month specified in the applicable Schedule to this Regulation.

(2) For the purposes of subsection (1) an eligible production month in subsection (1)(b) is also counted as an eligible production month in subsection (1)(a).

Volume cap

7(1) A new well reaches its volume cap and ceases to be a new well

- (a) when the total of the eligible production recovered or obtained from the well and converted into equivalent volumes of oil, as determined by the Minister, exceeds the equivalent of 7949 cubic metres of oil, or
- (b) when the total of the eligible production specified in the applicable Schedule to this Regulation that is recovered or obtained from the well and converted into equivalent volumes of oil as determined by the Minister exceeds the equivalent cubic metres of oil specified in the applicable Schedule.

(2) All eligible production from a well counts towards both the volume cap specified in subsection (1)(a) and the applicable volume cap specified in the applicable Schedule to this Regulation.

Excluded production

8(1) The Minister may, on application, determine that any substance recovered from a well is excluded production if the Minister is of the opinion that the production is related to

- (a) a test of the well,
- (b) the recovery of load oil from the well, or
- (c) any other activity prescribed by the Minister from time to time.

(2) An application under subsection (1) must contain all of the information required by the Minister and be made within the time period required by the Minister.

Factors affecting entitlement

9 If the Minister is of the opinion that

- (a) production from a new well has resulted in a material reduction in the production of crude oil or gas from another well that is not eligible production in this Regulation,
- (b) a provision of this Regulation has not been complied with in relation to a well,
- (c) compliance with section 47(6) of the Act in connection with an audit or examination in respect of a well has been inadequate, or
- (d) one or more acts, agreements, arrangements, transactions or operations were, before or after the coming into force of this Regulation, effected for the purpose of improperly, artificially or unduly qualifying production as eligible production under this Regulation,

the Minister may revoke in whole or in part the determination that production recovered or obtained from the well is eligible production under this Regulation.

Effect of revocation

10 If the Minister revokes a determination of eligible production under section 9 in respect of a new well, royalty on the eligible

production recovered or obtained from the well is calculated as if the production was never eligible production under this Regulation or was eligible production only in part, in accordance with the revocation.

Reinstatement of determination of eligible production

11(1) If the Minister considers it appropriate to do so, the Minister may reinstate a determination of eligible production that was revoked wholly or in part under section 9.

(2) If the Minister reinstates a determination of eligible production under subsection (1) in respect of a new well, royalty on the eligible production recovered or obtained from the well is calculated as if the determination as eligible production was never revoked.

(3) A reinstatement made by the Minister under subsection (1) may be made effective on a date earlier than the date the reinstatement is made, but may not be effective in respect of any period of time for which the Minister's power under section 38 of the Act to recalculate or make additional calculations of the Crown's royalty share of a mineral has expired.

Conversion factors

12 For the purposes of this Regulation, the Minister may determine and apply any factors that are necessary to convert volumes of gas into equivalent volumes of crude oil.

Reporting circumstances affecting eligibility

13 An operator or licensee must notify the Minister in writing on learning of any circumstances that indicate that crude oil or gas that was determined to be eligible production under this Regulation was not eligible production in whole or in part under this Regulation.

Minister's decision final

14 Where any question arises pertaining to the interpretation or application of this Regulation, the Minister is the sole judge of the question and there is no appeal from the Minister's decision.

Deep oil

15 If a new well is an exploratory well under the *Deep Oil Exploratory Well Regulation* (AR 225/2008), the determination of whether the cumulative value determined under section 6(2)(b) of that Regulation has been reached must be determined based on the royalty payable on eligible production from the new well under this Regulation.

Deep gas

16 If a new well is an exploratory well or a developmental well under the *Natural Gas Deep Drilling Regulation, 2010* (AR 198/2010), the royalty paid on eligible production from the new well under this Regulation must be applied before any adjustment is made to royalty under the *Natural Gas Deep Drilling Regulation, 2010* (AR 198/2010).

Expiry

17 This Regulation expires on June 30, 2027.

AR 32/2011 s17;158/2016

18 Repealed AR 158/2016 s5.

Coming into force

19 This Regulation is deemed to have come into force on May 1, 2010.

Schedule 1**Coalbed Methane****Definition**

1 In this Schedule, “coalbed methane well event” means a well event in a new well determined by the Minister to be a coalbed methane well event based on the well being classified by the Regulator as “coalbed methane-coals only”.

Eligible production month cap

2(1) The eligible production month cap for a new well containing coalbed methane well events is 36 eligible production months.

(2) All well events determined by the Minister to be coalbed methane well events shall contribute to the eligible production month cap under subsection (1).

(3) If a coalbed methane well event is also a well event that has eligible production under another Schedule to this Regulation, its eligible production will also contribute to the eligible production month cap under that Schedule.

Volume cap

3(1) The volume cap for a new well containing coalbed methane well events is 11 924 cubic metres of oil.

(2) All well events determined by the Minister to be coalbed methane well events shall contribute to the volume cap under subsection (1).

(3) If a coalbed methane well event is also a well event that has eligible production under another Schedule to this Regulation, its eligible production will also contribute to the volume cap under that Schedule.

AR 32/2011 Sched. 1;89/2013

Schedule 2

Shale Gas

Definition

1 In this Schedule, “shale gas well event” means a well event in a new well determined by the Minister to be a shale gas well event based on the well event being classified by the Regulator as “shale gas only” or upon application to the Minister in respect of a well event classified by the Regulator as an oil well event from which gas is recovered from a shale zone.

Eligible production month cap

2(1) The eligible production month cap for a new well containing shale gas well events is 36 eligible production months.

(2) All well events determined by the Minister to be shale gas well events shall contribute to the eligible production month cap under subsection (1).

(3) If a shale gas well event is also a well event that has eligible production under another Schedule to this Regulation, its eligible production will also contribute to the eligible production month cap under that Schedule.

Volume cap

3(1) There is no volume cap for a new well containing shale gas well events.

(2) If a shale gas well event is also a well event that has eligible production under another Schedule to this Regulation, its eligible production will also contribute to the volume cap under that Schedule.

AR 32/2011 Sched. 2;89/2013

Schedule 3

Horizontal Gas

Definition

1 In this Schedule, “horizontal gas well event” means a well event in a new well determined by the Minister to be a horizontal gas well event based on

- (a) the well event being classified by the Regulator as “horizontal”, and
- (b) according to the records of the Regulator, the well event being created by drilling away from the course of the bore of the well and deviating at least 80° from vertical.

Eligible production

2 Crude oil or gas recovered or obtained from a horizontal gas well event is eligible production if

- (a) it is eligible production under section 4 of this Regulation, and
- (b) it is not recovered or obtained from a re-entry, reactivation, lengthened or deepened well event as determined by the Minister.

Eligible production month cap

3(1) The eligible production month cap for a new well containing horizontal gas well events is 18 eligible production months.

(2) All well events determined by the Minister to be horizontal gas well events shall contribute to the eligible production month cap under subsection (1).

(3) If a horizontal gas well event is also a well event that has eligible production under another Schedule to this Regulation, its eligible production will also contribute to the eligible production month cap under that Schedule.

Volume cap

4(1) The volume cap for a new well containing horizontal gas well events is 7949 cubic metres of oil.

(2) All well events determined by the Minister to be horizontal gas well events shall contribute to the volume cap under subsection (1).

(3) If a horizontal gas well event is also a well event that has eligible production under another Schedule to this Regulation, its

eligible production will also contribute to the volume cap under that Schedule.

AR 32/2011 Sched. 3;89/2013

Schedule 4

Horizontal Oil

Definition

1 In this Schedule, “horizontal oil well event” means a well event in a new well determined by the Minister to be a horizontal oil well event based on

- (a) the well event being classified by the Regulator as “horizontal”, and
- (b) according to the records of the Regulator, the well event being created by drilling away from the course of the bore of the well and deviating at least 80° from vertical.

Measured depth

2(1) The measured depth of all horizontal oil well events in a new well is the distance along the bore of the well from the kelly bushing to the end of the longest horizontal oil well event plus all additional horizontal laterals, measured from the kick off point of the well event, in a continuous drilling operation, as determined by the Minister according to the records of the Regulator.

(2) A horizontal oil well event that is abandoned before any crude oil or gas is first recovered or obtained from the new well shall not be included in the calculation of measured depth in subsection (1).

Eligible production

3 Crude oil or gas recovered or obtained from a horizontal oil well event is eligible production if

- (a) it is eligible production under section 4 of this Regulation, and
- (b) it is not recovered or obtained from a re-entry, reactivation, lengthened or deepened well event, as determined by the Minister.

Eligible production month cap and volume cap

4(1) The eligible production month cap and volume cap for a new well containing horizontal oil well events correspond to the measured depth of the well in accordance with the following table:

Depth (MD)	Volume Cap of Oil Equivalent	Production Month Cap
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more than 0 m but less than 2500 m	7949 m ³	18 months
2500 m or more but less than 3000 m	9539 m ³	24 months
3000 m or more but less than 3500 m	11 129 m ³	30 months
3500 m or more but less than 4000 m	12 719 m ³	36 months
4000 m or more but less than 4500 m	14 309 m ³	42 months
4500 m or more	15 899 m ³	48 months

(2) All well events determined by the Minister to be horizontal oil well events shall contribute to the applicable eligible production month cap in subsection (1).

(3) All well events determined by the Minister to be horizontal oil well events shall contribute to the applicable volume cap in subsection (1).

(4) If a horizontal oil well event is also a well event that has eligible production under another Schedule to this Regulation, its eligible production will also contribute to the eligible production month cap under that Schedule.

(5) If a horizontal oil well event is also a well event that has eligible production under another Schedule to this Regulation, its eligible production will also contribute to the volume cap under that Schedule.

AR 32/2011 Sched. 4;89/2013



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