



Province of Alberta

## MINES AND MINERALS ACT

# LOW PRODUCTIVITY WELL ROYALTY REDUCTION REGULATION

### **Alberta Regulation 350/1992**

With amendments up to and including Alberta Regulation 89/2013

### Office Consolidation

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(Consolidated up to 89/2013)

**ALBERTA REGULATION 350/92**

**Mines and Minerals Act**

**LOW PRODUCTIVITY WELL ROYALTY REDUCTION REGULATION**

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**Definitions**

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

- (a) repealed AR 89/2013 s12;
- (b) “conventional royalty” means the royalty share of eligible oil, that would, except for this Regulation, be reserved to the Crown under
  - (i) the *Petroleum Royalty Regulation*, or
  - (ii) the *Oil Sands Royalty Regulation, 1984*;
- (b.1) “Crown interest”, in respect of a well or well event for any period, means
  - (i) in the case of a well or well event that is subject to a unit agreement, a unit operation order or an order of the Regulator under section 80 or 81 of the *Oil and*

*Gas Conservation Act*, the percentage of any production obtained during the period from the area subject to that agreement or order that would be allocated pursuant to the agreement or order to all the Crown tracts in that area, or

- (ii) in the case of a well or well event that is not referred to in subclause (i), the percentage of the area of the production entity, as defined in the *Petroleum Royalty Regulation*, containing the well or well event that consists of one or more Crown tracts;
- (c) “Crown production”, in respect of crude oil or oil sands obtained from a well or well event in a period, means the total production of crude oil or oil sands from the well or well event in the period multiplied by the Crown interest for the well or well event for the period;
- (c.1) “Crown tract” means the whole or part of a location;
- (d) “eligible oil” means crude oil or oil sands that is determined to be eligible oil under section 2.1;
- (e) “excluded production” means any substance obtained from an oil well or oil sands well that the Minister determines under section 5 to be excluded production;
- (f) “ineligible well” means a well
  - (i) that is in whole or in part within the area enclosed by a scheme boundary or less than 0.8 kilometres from a scheme boundary, unless the Minister has made a declaration in respect of the well under section 2.2, or
  - (ii) whose production is subject to a royalty that has been prescribed under section 10 of the *Petroleum Royalty Regulation*;
- (g) “low productivity well” means a low productivity well referred to in section 2;
- (h) “*Oil Sands Royalty Regulation, 1984*” means the *Oil Sands Royalty Regulation, 1984* (AR 166/84);
- (i) “oil sands well” means a well that produces oil sands, other than a gas well as defined in the *Oil and Gas Conservation Rules* (AR 151/71);
- (i.1) “oil sands well event” means a well event that is part of an oil sands well;

- (j) “oil well” means an oil well as defined in the *Oil and Gas Conservation Rules* (AR 151/71);
- (j.1) “oil well event” means a well event that is part of an oil well;
- (j.2) “operator”, in respect of a well, means the person who is the operator of the well according to the records of the Department;
- (k) “*Petroleum Royalty Regulation*” means the *Petroleum Royalty Regulation* (AR 248/90);
- (k.1) “production month”, in respect of a well, means a month in which crude oil or oil sands is obtained from the well;
- (l) “qualifying period”, in respect of a well, means period of 24 consecutive months during which the requirements of section 2(a) to (d) are satisfied in respect of the well;
- (l.1) “Regulator” means the Alberta Energy Regulator;
- (m) “royalty reduction” means the royalty reduction referred to in section 3;
- (n) “scheme boundary” means, in respect of a scheme that has received a benefit from the Minister under section 11 of the *Petroleum Royalty Regulation* or that is an approved scheme under the *Enhanced Recovery of Oil Royalty Reduction Regulation*,
  - (i) the boundaries of the scheme as described in an order issued by the Regulator approving the scheme, or
  - (ii) if the boundaries of the scheme are not so described, the boundaries of the pool or pools containing the whole or any part of the scheme and designated by order of the Regulator,  
  
including any changes to those boundaries that extend those boundaries outward;
- (o) “threshold quantity”, in respect of a low productivity well for a production month, means the threshold quantity determined for the well for that month under the Schedule;
- (p) “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 oil sands 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 oil sands 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 or not to give the parts a single unique well identifier.

(2) A reference in this Regulation to a month, whether by its name or not, shall be construed as the period commencing at 7:00 a.m. Mountain Standard Time on the first day of the month and ending immediately before 7:00 a.m. Mountain Standard Time on the first day of the next month.

AR 350/92 s1;348/93;206/2006;254/2007;89/2013

#### **Low productivity well**

**2** An oil well or oil sands well is a low productivity well if it meets all of the following requirements:

- (a) in a period of 24 consecutive months ending after December 1992 and on or before December 31, 2008, the well
  - (i) does not in any month of the period produce more than 121 m<sup>3</sup> of crude oil or oil sands, not including excluded production, and
  - (ii) produces crude oil or oil sands in at least 6 months of the period;
- (b) in the last 6 production months of the 24-month period referred to in clause (a), the well does not produce an average of more than 73 m<sup>3</sup> per month of crude oil or oil sands, not including excluded production;
- (c) no royalty reduction is made in respect of the well during the 24-month period referred to in clause (a);
- (d) any royalty reduction made in respect of the well before the 24-month period referred to in clause (a) was wholly revoked under section 6 or 7 before the commencement of that period and has not been reinstated under section 8.1;

- (e) the well is not an ineligible well.

AR 350/92 s2;206/2006;222/2008

**Eligible oil**

**2.1(1)** Crude oil or oil sands that is not excluded production is eligible oil if it is obtained from a low productivity well on or before December 31, 2008

- (a) after the well's qualifying period,
- (b) from an eligible well event,
- (c) from a pool or oil sands deposit penetrated by the well before the end of the well's qualifying period, and
- (d) in segregation from crude oil or oil sands obtained from a pool or oil sands deposit penetrated by the well after the end of the well's qualifying period if that pool or deposit is deeper than the pool or deposit referred to in clause (c).

**(2)** An oil well event or oil sands well event is an eligible well event for the purposes of this section if all of the following apply:

- (a) the well event is part of a low productivity well and was an oil well event or oil sands well event throughout the well's qualifying period;
- (b) the Crown interest in the well event was greater than 0% in the last month of the well's qualifying period or the Minister has made an order under subsection (3) declaring that this requirement has been waived;
- (c) if crude oil or oil sands had been obtained from the well event in the last month of the well's qualifying period, that crude oil or oil sands would have been subject to the payment of royalty under the *Petroleum Royalty Regulation* or the *Oil Sands Royalty Regulation, 1984*.

**(3)** The Minister may, by order, declare that the requirement in subsection (2)(b) has been waived in respect of an oil well event or oil sands well event if the only reason the well event does not meet that requirement is undue delay on the part of the Minister to enter into a unit agreement that provides for a Crown interest for the well event that is greater than 0%.

**(4)** An order by the Minister under subsection (3) may be made effective on a date earlier than the date the order 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.

AR 206/2006 s4;222/2008

**Declaration that well not ineligible well**

**2.2(1)** The Minister may, by order, declare that a well that is in whole or in part within the area enclosed by the scheme boundary of a scheme or less than 0.8 kilometres from the scheme boundary of a scheme is not an ineligible well if

- (a) the Regulator has cancelled its requirement for or approval of the scheme under section 38 or 39, respectively, of the *Oil and Gas Conservation Act*, or
- (b) the t-factor for the scheme, if any, for the purposes of the *Enhanced Recovery of Oil Royalty Reduction Regulation* (AR 348/93) is zero.

**(2)** An order by the Minister under subsection (1) may be made effective on a date earlier than the date the order 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.

AR 206/2006 s4;89/2013

**Royalty reduction**

**3(1)** The royalty payable under the *Petroleum Royalty Regulation* or the *Oil Sands Royalty Regulation, 1984* on eligible oil that is obtained in a production month occurring prior to September 1, 2007 from a low productivity well is reduced to 5% of the eligible oil that is Crown production.

**(2)** Subsection (1) does not apply to eligible oil that is Crown production if the conventional royalty on that eligible oil is less than 5% of the eligible oil that is Crown production.

**(3)** If the quantity of eligible oil obtained from a low productivity well in a production month occurring after August 31, 2007 and on or before December 31, 2008 is greater than the threshold quantity for the well for that production month, the royalty reserved to the Crown under the *Petroleum Royalty Regulation* or the *Oil Sands Royalty Regulation, 1984* in respect of that eligible oil is reduced to the portion of that eligible oil that is determined under subsection (4).

**(4)** For the purposes of subsection (3), the portion of eligible oil for a production month is the amount obtained by

- (a) determining the conventional royalty that would be reserved to the Crown if the threshold quantity was obtained from the well in the production month,
- (b) dividing the amount determined under clause (a) by the product obtained by multiplying the threshold quantity for the well for the production month by the Crown interest for the well for the production month, and
- (c) multiplying the quotient determined under clause (b) by the actual quantity of eligible oil obtained from the well in the production month.

AR 350/92 s3;206/2006;222/2008

#### **Termination of royalty reduction**

**4(1)** A royalty reduction in respect of a low productivity well terminates

- (a) at the beginning of the month in which the well becomes a reactivated well under the *Reactivated Well Royalty Exemption Regulation* (AR 352/92),
- (b) at the beginning of the month in which a declaration in respect of the well under the *Horizontal Re-entry Well Royalty Reduction Regulation* (AR 348/92) is effective,
- (c) at the beginning of the month in which the well becomes an ineligible well,
- (d) at the beginning of the month after the month in which the well is abandoned,
- (e) when 16 000 m<sup>3</sup> of eligible oil has been obtained from the well, if that quantity of eligible oil is obtained from the well before September 1, 2007,
- (f) on August 31, 2007, if on or before that date the value of the royalty reduction for the well determined under subsection (2) exceeds the maximum value determined for the well under subsection (4), or
- (g) when the value of the royalty reduction for the well determined under subsection (2) exceeds the maximum value determined for the well under subsection (4), if that occurs after August 31, 2007 and on or before December 31, 2008.

**(2)** The aggregate of the amounts determined under subsection (3) for a low productivity well is the value of the royalty reduction for the well for the purposes of subsection (1)(f) and (g).

(3) Each month that a royalty is reduced in respect of a well pursuant to section 3 the Minister shall determine the value of the royalty reduction for that month by

- (a) subtracting the reduced royalty from the conventional royalty that would otherwise have been payable in respect of the production from the well for that month, and
- (b) multiplying the difference obtained under clause (a) by the par price prescribed under section 1.1(4) of the *Petroleum Royalty Regulation* for that month that would otherwise have applied to the calculation of the conventional royalty on production from the well for that month.

(4) The maximum value for the purposes of subsection (1)(f) and (g) of a low productivity well is the product of \$50 000 multiplied by the Crown interest for the well for the first production month after the qualifying period for the well.

AR 350/92 s4;206/2006;222/2008

#### **Excluded production**

5 The Minister may, on application, determine that any substance obtained from an oil well or oil sands well during the qualifying period of the well is excluded production if the Minister is of the opinion that

- (a) the substance was obtained in an isolated occurrence that was a test of the well,
- (b) the quantity of the substance obtained is consistent with a test of the well, and
- (c) the number of hours over which the substance is obtained is consistent with a test of the well.

AR 350/92 s5;206/2006

#### **Factors affecting entitlement**

6 If the Minister is of the opinion that

- (a) production from a well of eligible oil subject to a royalty reduction has resulted in a material reduction in the production from another well of crude oil or oil sands that is not subject to a royalty reduction,
- (b) section 9 has not been complied with in relation to a well,
- (c) the volume of eligible oil obtained from a low productivity well has consistently been in excess of the threshold quantity for the well and that level of production

cannot be reasonably attributed to work performed in relation to the well during or after its qualifying period,

- (d) a well satisfied the requirements of section 2(1) while a restriction on production affecting the well was imposed by the Regulator and the well has consistently achieved a level of production of eligible oil in excess of the threshold quantity for the well after meeting those requirements,
- (d.1) compliance with section 47(6) of the Act in connection with an audit or examination relating to a royalty reduction in respect of a well has been inadequate, or
- (e) 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 obtaining a royalty reduction in respect of a well,

the Minister may determine that crude oil or oil sands in respect of the well is not entitled to the royalty reduction or may revoke a royalty reduction in whole or in part.

AR 350/92 s6;206/2006;89/2013

#### **Request to revoke royalty reduction**

**7(1)** The Minister may wholly revoke a royalty reduction in respect of eligible oil obtained from a low productivity well on receiving a written request to do so from the operator of the well.

**(2)** A written request under subsection (1) must be received by the Minister within 6 months after the end of the month in which the reduction in respect of eligible oil obtained from the well commenced.

AR 350/92 s7;206/2006

#### **Effect of revocation**

**8** If the Minister revokes a royalty reduction under section 6 or 7 in respect of a low productivity well, royalty on the eligible oil obtained from the well is calculated as if entitlement to the reduction never arose or arose only in part, in accordance with the revocation.

#### **Reinstatement of royalty reduction**

**8.1(1)** If the Minister considers it appropriate to do so, the Minister may reinstate a royalty reduction that was revoked wholly or in part under section 6 or 7.

(2) If the Minister reinstates a royalty reduction under subsection (1) in respect of a low productivity well, royalty on the eligible oil obtained from the well is calculated as if entitlement to the reduction 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.

AR 206/2006 s10

### **Limit on royalty adjustments**

**8.2** Despite any other provisions of this Regulation, oil obtained from an oil well or oil sands obtained from an oil sands well does not qualify for a royalty reduction under this Regulation in any month in which any of the following royalty adjustments have been made in respect of the oil or oil sands:

- (a) the royalty reduction provided for in the *Horizontal Re-entry Well Royalty Reduction Regulation* (AR 348/92);
- (b) the royalty exemption provided for in the *Reactivated Well Royalty Exemption Regulation* (AR 352/92);
- (c) the royalty exemption provided for in the *Third Tier Exploratory Well Royalty Exemption Regulation* (AR 16/93).

AR 206/2006 s10

### **Reporting circumstances affecting entitlement**

**9** A person who has, due to a royalty reduction, paid less royalty on crude oil or oil sands than would be payable in the absence of the royalty reduction shall forthwith notify the Minister in writing on learning of any circumstances that indicate the crude oil or oil sands was not entitled to the royalty reduction in whole or in part.

### **Expiry**

**10** This Regulation expires on June 30, 2014.

AR 350/92 s10;206/2006;222/2008

## **Schedule**

### **Threshold Quantity**

**1** For the purposes of section 2 of this Schedule, the average production rate of a low productivity well is the lowest average

amount of crude oil per production month, other than excluded production, determined by the Minister to have been obtained from the well based on the following periods of production months that apply:

- (a) the last 6 production months occurring during the qualifying period for the well;
- (b) every period of 6 consecutive production months that follows the qualifying period for the well and precedes the production month referred to in section 2 of this Schedule.

**2** The threshold quantity for a low productivity well for a production month is the quantity of crude oil indicated in the Threshold Quantity column of the following Table that corresponds to the production range in the Production Range column of the Table within which the average production rate of the well determined under section 1 of this Schedule falls:

**Table**

<b>Production Range</b>	<b>Threshold Quantity</b>
24 m <sup>3</sup> per month or less	24 m <sup>3</sup>
>24 m <sup>3</sup> and < or = 47 m <sup>3</sup> per month	47 m <sup>3</sup>
>47 m <sup>3</sup> and < or = 73 m <sup>3</sup> per month	73 m <sup>3</sup>

AR 206/2006 s12







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