

(Consolidated up to 40/2011)

ALBERTA REGULATION 247/2007

Mines and Minerals Act

OIL SANDS DISPUTE RESOLUTION REGULATION

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Definitions

1(1) In this Regulation,

- (a) “Act” means the Mines and Minerals Act;
- (b) “applicant” means a lessee, Project owner or Project operator, or an agent of any of them;
- (c) “committee” means a committee established under Part 2;
- (d) “Department” means the Department of Energy;

(e) “Department official” means a person delegated by the Minister to act under section 38 of the Act and a Royalty Regulation;

(f) “Director” means the Director of Dispute Resolution for the Department;

(g) “lessee” means a lessee as defined in the Act;

(h) “Minister” means the Minister of Energy;

(i) “objection” means, subject to section 2, an objection referred to in section 39 of the Act;

(j) “Project” means a Project as defined in the Oil Sands Royalty Regulation, 1997 (AR 185/97) or the Oil Sands Royalty Regulation, 2009 (AR 223/2008);

(k) “Project operator” means an operator as defined in the Oil Sands Royalty Regulation, 1997 (AR 185/97) or the Oil Sands Royalty Regulation, 2009 (AR 223/2008);

(l) “Project owner” means a Project owner as defined in the Oil Sands Royalty Regulation, 1997 (AR 185/97);

(m) “Royalty Regulation” means the Oil Sands Royalty Regulation, 1997 (AR 185/97), the Oil Sands Royalty Regulation, 2009 (AR 223/2008), the Oil Sands Allowed Costs (Ministerial) Regulation (AR 231/2008) or the Bitumen Valuation Methodology (Ministerial) Regulation (AR 232/2008);

(n) “Statement of No Resolution” means a Statement of No Resolution issued by the Director pursuant to section 5(5).

(2) Terms and expressions defined in a Royalty Regulation apply to those terms and expressions when used in this Regulation.

Part 1

Terms and Conditions of Objections

Objections

2(1) Subject to section 38 of the Act, an applicant may make an objection related to a Royalty Regulation only in accordance with the terms and conditions set out in this Regulation.

(2) Only one application may be made in respect of the same objection.

(3) Before an objection may be made, the Project operator must pay all royalty amounts that are payable under the Act and all penalties and interest that are owing under the Act or a Royalty Regulation that relate to the objection.

(4) An objection must be made in writing to the Director only after the applicant has contacted the Department for the purpose of resolving the matter in dispute.

(5) The objection must be received by the Director within 90 days from the end of the month in which the Department official sent to the Project operator the notice advising of the calculation or recalculation.

(6) The Minister may, in exceptional circumstances, extend the period referred to in subsection (5).

AR 247/2007 s2;40/2011

Contents of objection

3(1) An objection must contain the following information:

- (a) a copy of the notice advising of the calculation or recalculation;

(b) a summary of the basis for the objection;

(c) evidence showing that section 2(3) has been complied with.

(2) If the information required under subsection (1) has been provided to the satisfaction of the Director and section 2 has been complied with, the Director must give a notice in writing to the applicant that the objection will be reviewed by the Director.

Requests and consideration of information by Director

4(1) Subject to subsection (2), for the purpose of conducting a review of an objection, the Director may request from the Department official or the applicant

(a) any relevant information, including evidence, legislation and guidelines, and

(b) the analysis and position of the Department official and applicant with respect to the objection.

(2) The Director shall not request or consider any information that was not considered by the Department when conducting an assessment, audit or review of the subject-matter of the objection, unless the assessment, audit or review had been concluded before this subsection came into force.

(3) The Department official and the applicant shall respond to any request made under subsection (1) by the date specified by the Director.

AR 247/2007 s4;40/2011

Resolution of objection

5(1) The Director, after considering the merits of the objection, must propose a resolution to the objection not later than 180 days after the date the Director gave the notice under section 3(2) by sending a copy of the Director's proposed resolution to the applicant and the Department official.

(2) The Director may, if both the Department official and the applicant agree, extend the period referred to in subsection (1).

(3) The applicant and the Department official must, not later than 60 days after receiving a copy of the proposed resolution, respond to the Director on the proposed resolution referred to in subsection (1).

(4) The Director may, in exceptional circumstances, extend the period referred to in subsection (3).

(5) If the Department official or the applicant does not accept the resolution proposed by the Director, the Director must issue a Statement of No Resolution to the Department official and the applicant indicating the matters that remain in dispute.

(6) If either the applicant or the Department official accepts the resolution proposed by the Director and the other party does not respond within the period referred to in subsection (3) or (4), the resolution proposed by the Director is deemed to have been accepted by the party that did not respond.

AR 247/2007 s5;40/2011

Part 2

Establishment of an Oil Sands Dispute Review Committee

Request for establishment

6(1) Where a Statement of No Resolution has been issued under section 5(5) with respect to one or more matters in dispute and the terms and conditions of this Part are complied with, an applicant may request the establishment of an oil sands dispute review committee to provide recommendations to the Minister regarding a resolution to the matters that are in dispute.

(2) The request must be made in writing to the Director by the applicant and received by the Director not later than 90 days after the date the Statement of No Resolution was issued by the Director.

(3) The Minister may, in exceptional circumstances, extend the period referred to in subsection (2).

Processing of request

7(1) A request under section 6 must contain the following information:

(a) a copy of the Statement of No Resolution;

(b) a brief summary of the applicant's position with respect to the matters that are in dispute.

(2) Subject to subsection (3) and (4), after the Director determines that a request contains all of the information required under subsection (1), the Director must

(a) provide written notice to the applicant indicating that the request meets those requirements, and

(b) forward the request to the Minister to decide whether to establish a committee.

(3) If a committee has been established under section 8 in respect of another dispute, the Director may delay forwarding a request under subsection (2)(b) until such time that

(a) the Minister has made a decision in respect of that committee, or

(b) the terms and conditions of a decision made in respect of that committee have been fully satisfied.

(4) If the Director receives multiple requests under section 6 before forwarding any one of the requests to the Minister, the Director may determine the order in which to forward the requests to the Minister.

AR 247/2007 s7;40/2011

Establishment of committee

8(1) Not later than 30 days after the Director has provided the applicant with written notice pursuant to section 7(2)(a), unless the Minister determines that additional time is required, the Minister must advise the Director whether a committee will be established.

(2) The Minister must agree to establish a committee unless, in the opinion of the Minister,

(a) the request

(i) is frivolous,

(ii) is vexatious, or

(iii) is without merit,

or

(b) the subject-matter of the dispute has been dealt with by a previous committee.

(3) If the Minister agrees to establish a committee, the Department official and the applicant must, not later than 30 days after being requested by the Director, unless the Director extends that period, each nominate 3 individuals who have consented to participate as members of a committee.

(4) An individual shall not be nominated if the individual is an employee of the Department or the applicant or of an affiliated company of the applicant.

(5) The Director must provide the names of the persons nominated under subsection (3) to the Minister, and may make recommendations to the Minister as to the membership of the committee, including the chair.

(6) The Minister may request that additional nominations be submitted by the Department official or the applicant or both.

(7) Not later than 90 days after the date the Director has provided the names under subsection (5), unless the Minister determines that additional time is required, the Minister must, by order, establish a committee in accordance with section 7 of the Government Organization Act consisting of 3 members as follows:

(a) a chair;

(b) a nominee of the Department;

(c) a nominee of the applicant.

(8) The Minister may describe the issues to be heard by the committee and may exclude certain issues from being heard if the issues

Regulation, or

(a) relate to the exercise of a Ministerial discretion under the Act or a Royalty

(b) were dealt with by a previous committee.

AR 247/2007 s8;40/2011

Powers and duties of a committee

9(1) A committee must

and (a) conduct a fair, expeditious and impartial hearing of the matters in dispute,

it. (b) subject to this section, establish procedures for dealing with matters before

(2) Two members of the committee constitute a quorum.

(3) The committee may determine the admissibility, relevance and weight of evidence.

(4) The committee must make its decision based solely on written submissions, unless it decides to hold an oral hearing.

(5) If the committee decides to hold an oral hearing,

(a) oral evidence is not admissible, unless otherwise directed by the committee,

(b) any oral evidence permitted by the committee must be taken down in writing or recorded by electronic means, and

(c) the committee may require any person giving evidence before it to do so under oath.

(6) The committee shall not consider any information that was not considered by the Director when conducting a review of the objection that gave rise to the establishment of the committee, unless the Statement of No Resolution for the objection had been issued before this subsection came into force.

(7) All hearings must be held in private.

(8) Intervenors are not permitted.

(9) In establishing procedures for hearing a dispute, the committee must, unless the Department official and the applicant otherwise agree,

(a) provide the applicant with at least 28 days to prepare written submissions to be filed with the committee by a date specified by the committee,

(b) provide the Department official with at least 42 days to prepare a response to the written submissions referred to in clause (a) to be filed with the committee by a date specified by the committee,

(c) provide the applicant with at least 14 days to prepare a rebuttal to the response referred to in clause (b) to be filed with the committee by a date specified by the committee, but that date must not be later than 14 days before the date the matters in dispute are to be reviewed by the committee, and

(d) require the Department official and the applicant to provide a copy of the documents filed pursuant to clauses (a) to (c) to each other at the same time as those documents are filed with the committee.

(10) Documents filed under subsection (9) must include the following:

(a) a summary of the facts, evidence and arguments supporting the position of the party filing the document;

(b) the name and contact information of the lawyer or other agent acting on behalf of the party to the dispute;

(c) any other information specified by the committee.

Committee recommendations

10(1) The committee must provide the Director and the Department official and the applicant

(a) with written recommendations, and reasons for its recommendations, not later than 45 days after the completion of the hearing, unless the Minister extends that period of time, and

(b) any supporting documentation on request of the Minister.

(2) The Minister, after having reviewed the recommendations and reasons, must make a decision to accept, reject or vary the recommendations of the committee and must deliver a copy of his or her decision to the Director.

(3) A decision under subsection (2) must be made within 45 days of the date the committee issued its written recommendations and reasons, unless the Minister determines that additional time is required.

(4) The Director must, not later than 14 days after receiving a decision of the Minister,

(a) provide a copy of the decision of the Minister to the Department official and the applicant, and

(b) publish or otherwise make available the recommendations and reasons of the committee and the decision of the Minister, or a summary of them, in a manner the Director considers appropriate.

AR 247/2007 s10;40/2011

Amendment to decision

10.1(1) A decision of the Minister made under section 10(2) may be amended by the Minister on application by a party or on the Minister's own initiative

- (a) to clarify the decision, or
- (b) to correct any of the following:
 - (i) a clerical or typographical error;
 - (ii) an accidental or inadvertent error, omission or other similar mistake;
 - (iii) an arithmetical error made in a computation.

(2) The Minister shall not amend a decision other than in those circumstances described in subsection (1).

(3) Within 30 days after the date the Director provides the parties with a copy of a decision under section 10(4)(a),

(a) a party may make an application under subsection (1) to amend the decision,
and

(b) the Minister may, if acting on the Minister's own initiative under subsection (1), amend the decision.

(4) A party must submit an application under subsection (1) to the Director and provide a copy of the application to the other party at the same time as submitting it to the Director.

(5) The Director must, not later than 14 days after receiving an application under subsection (4), forward the application to the Minister to decide whether to amend the decision.

(6) The Minister must decide on an application to amend a decision within 30 days of receiving the application from the Director, unless the Minister determines that additional time is required.

(7) If the Minister decides to amend a decision under this section, the Minister must deliver a copy of the amendment to the Director.

(8) The Director must, not later than 14 days after receiving a copy of the amendment from the Minister under subsection (7),

(a) provide a copy of the amendment to the Department official and the applicant, and

(b) publish or otherwise make available the amendment, or a summary of it, in a manner the Director considers appropriate.

AR 40/2011 s10

Costs

11(1) A committee must obtain the prior approval of the Minister before incurring any costs in the performance of its duties.

(2) The Department and the applicant must share equally in any costs incurred by the committee in the performance of its duties, including the remuneration and expenses of committee members.

Expiry

12 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on September 1, 2017.