



Province of Alberta

## MINES AND MINERALS ACT

# DEEP OIL EXPLORATORY WELL REGULATION

### Alberta Regulation 225/2008

With amendments up to and including Alberta Regulation 156/2014

### Office Consolidation

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(Consolidated up to 156/2014)

**ALBERTA REGULATION 225/2008**

**Mines and Minerals Act**

**DEEP OIL EXPLORATORY WELL REGULATION**

*Table of Contents*

<b>1</b>	Interpretation
<b>2</b>	Exploratory well
<b>3</b>	Re-entry well
<b>4</b>	Exploratory oil
<b>5</b>	Declaration that well is an eligible well
<b>6</b>	Royalty adjustment
<b>7</b>	Twin well
<b>8</b>	Deemed production
<b>9</b>	Excluded production
<b>10</b>	Effect of further work
<b>11</b>	Termination of adjustment
<b>12</b>	Factors affecting adjustment, designation or determination
<b>13</b>	Request to revoke adjustment
<b>14</b>	Effect of revocation
<b>15</b>	Reinstatement of royalty adjustment
<b>16</b>	Reporting circumstances affecting eligibility
<b>17</b>	Minister's decision final
<b>18</b>	Expiry
<b>19</b>	Coming into force

**Interpretation**

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

- (a) "Act" means the *Mines and Minerals Act*;
- (b) repealed AR 89/2013 s40;
- (c) "Crown interest" means the percentage of Crown ownership of crude oil recovered from a well event as determined by the Minister in accordance with section 26.1 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
- (d) "crude oil" means crude oil as defined in the *Petroleum Royalty Regulation, 2009*;

- (e) “deepening” means the re-entry into a well and the drilling of any bore of the well away from the course of a pre-existing bore of the well and beyond the total depth of a pre-existing bore referred to in the licence for the well pursuant to an amendment of the licence or to any other approval by the Regulator relating to the well, so that crude oil or oil sands is obtained from a pool or oil sands deposit not penetrated by a pre-existing bore before the re-entry;
- (f) “excluded production” means any substance obtained from an oil well or oil sands well that the Minister determines under section 9 to be excluded production;
- (g) “exploratory interval” means,
  - (i) in the case of an exploratory well classified by the Regulator as a new field wildcat well or a new pool wildcat well, the interval that extends from the surface to the base of the well, and
  - (ii) in the case of an exploratory well classified by the Regulator as a deeper pool test well, the interval the Regulator specifies as the exploratory interval of the well;
- (h) “exploratory oil” means crude oil or oil sands that is determined to be exploratory oil under section 4;
- (i) “exploratory well” means an exploratory well described in section 2;
- (j) “finished drilling date” means a finished drilling date for a well event according to the records of the Regulator;
- (k) “ineligible well” means a well described in section 2(4);
- (l) “licence” means a licence for a well issued under the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*;
- (m) “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;
- (n) “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);
- (o) “oil sands well event” means a well event that is part of an oil sands well;

- (p) “oil well” means an oil well as defined in the *Oil and Gas Conservation Rules* (AR 151/71);
- (q) “oil well event” means a well event that is part of an oil well;
- (r) “operator” means an operator as defined in the *Petroleum Royalty Regulation, 2009*;
- (s) “pool” means a pool as defined in the *Petroleum Royalty Regulation, 2009*;
- (s.1) “producing interval” means a perforation from which production is obtained;
- (t) “re-entry well” means a re-entry well or resumption well described in section 3;
- (t.1) “Regulator” means the Alberta Energy Regulator;
- (u) “royalty adjustment” means the royalty adjustment referred to in section 6 or a royalty adjustment that has been transferred under section 7;
- (v) “scheme boundary” means, in respect of a scheme that is an approved scheme under the *Enhanced Recovery of Oil Royalty Reduction Regulation* (AR 348/93),
  - (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;
- (w) “true vertical depth” means the vertical distance measured in a perpendicular line from the kelly bushing of a well to the base of the bore of the well;
- (x) “twin well” means a well designated as a twin well under section 7;
- (y) “well event” means a well event as defined in the *Petroleum Royalty Regulation, 2009*.

**(2)** 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.

AR 225/2008 s1;41/2009;135/2009;89/2013;159/2013

### **Exploratory well**

**2(1)** Subject to subsections (2) and (4), an oil well or an oil sands well is an exploratory well if it is classified by the Regulator as a new field wildcat well, a new pool wildcat well or deeper pool test well, and

- (a) where the spudding or the commencement of drilling or deepening of the well occurs on or after January 1, 2009 and on or before December 31, 2013,
  - (i) the well is drilled to a true vertical depth of greater than 2000 metres, and
  - (ii) the base of the producing interval is below a true vertical depth of 2000 metres,

or

- (b) where the spudding or the commencement of drilling or deepening occurred on or after October 25, 2007 and on or before December 31, 2008,
  - (i) the well meets the requirements of clause (a)(i) and (ii), and
  - (ii) the well qualifies as a third tier exploratory well and has unused royalty exemption under the *Third Tier Exploratory Well Royalty Exemption Regulation* (AR 16/93).

**(2)** If, under subsection (1)(a) with respect to a pool, there are multiple oil wells or oil sands wells that meet the requirements of subsection (1)(a)(i) and (ii), the first well in that pool to have discovered exploratory oil, in the opinion of the Minister, is the exploratory well.

**(3)** The Minister may ask for additional information to aid in determining that a well meets the requirements of subsection (1) or (2).

**(4)** An oil well or oil sands well is not an exploratory well under subsection (1) if

- (a) any production of the well is subject to a royalty that has been prescribed under section 9 of the *Petroleum Royalty Regulation, 2009*,

- (b) the well is eligible for a royalty adjustment under the *Natural Gas Deep Drilling Regulation*,
- (c) the well 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 5,
- (d) exploratory oil or excluded production is not obtained from the well in the first month in which a substance is obtained from the well, or
- (e) exploratory oil obtained from a well event of the well is not obtained in segregation from crude oil or oil sands obtained from another well event of the well that is not exploratory oil under section 4 of this Regulation.

AR 225/2008 s2;41/2009;89/2013

#### **Re-entry well**

**3** The Minister may, on application by an operator or licensee within 6 months of the finished drilling date, determine that a well is a re-entry well eligible for a royalty adjustment if

- (a) the well is a re-entry well or resumption well according to the records of the Regulator,
- (b) the well meets the requirements of an exploratory well under section 2(1)(a) and is not an ineligible well,
- (c) as a result of deepening of the well, the production from the well comes from a newly discovered pool, and
- (d) the well meets any other requirements determined by the Minister.

AR 225/2008 s3;89/2013

#### **Exploratory oil**

**4** Crude oil or oil sands that are not determined to be excluded production under section 9 are exploratory oil if

- (a) the crude oil or oil sands is obtained from an oil well event or oil sands well event, in segregation from any other crude oil or oil sands obtained from the well that is not exploratory oil, and the well event is part of
  - (i) an exploratory well classified by the Regulator as a new field wildcat well or a new pool wildcat well,

- (ii) an interval specified by the Regulator as the exploratory interval of an exploratory well classified as a deeper pool test well by the Regulator,
  - (iii) a well that has been designated as a twin well in respect of an exploratory well classified as a deeper pool test well by the Regulator from a pool specified by the Minister,
  - (iv) a well that has been designated as a twin well in respect of an exploratory well classified by the Regulator as a new field wildcat well or a new pool wildcat well,
  - (v) a re-entry well, or
  - (vi) a well declared to be an eligible well under section 5,
- (b) the Crown interest in the well event is greater than 0%, and
- (c) the crude oil or oil sands is subject to the payment of royalty under the *Petroleum Royalty Regulation, 2009* or the *Oil Sands Royalty Regulation, 2009*, respectively.

AR 225/2008 s4;89/2013

**Declaration that well is an eligible well**

**5(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 an eligible well if

- (a) the Regulator has cancelled its requirement for a scheme or cancelled its approval of a scheme under section 38 or 39 of the *Oil and Gas Conservation Act*,
- (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, or
- (c) the t-factor for the scheme, if any, for the purposes of the *Enhanced Oil Recovery Royalty Regulation* is 0.

**(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 225/2008 s5;89/2013;156/2014

**Royalty adjustment**

**6(1)** In this section,

- (a) “heavy oil” means heavy oil as defined in the *Petroleum Royalty Regulation, 2009*;
- (b) “light oil” means light oil as defined in the *Petroleum Royalty Regulation, 2009*;
- (c) “medium oil” means medium oil as defined in the *Petroleum Royalty Regulation, 2009*;
- (d) “ultra heavy oil” means ultra heavy oil as defined in the *Petroleum Royalty Regulation, 2009*.

**(2)** The royalty on exploratory oil obtained from an oil well event or oil sands well event that is payable under the *Petroleum Royalty Regulation, 2009* or the *Oil Sands Royalty Regulation, 2009* is adjusted to zero

- (a) for the first 12 months that exploratory oil is obtained from the oil well event or oil sands well event,
- (b) until the cumulative value of the royalty on the exploratory oil that would be payable in the absence of this Regulation equals \$1 000 000 multiplied by the Crown interest in the exploratory oil,
- (c) 5 years from the finished drilling date if the finished drilling date is on or before December 31, 2013, or
- (d) until December 31, 2018,

whichever occurs first.

**(3)** For the purposes of subsection (2)(b) and section 11(1)(b), the value of each cubic metre of the royalty for exploratory oil obtained in any month after December 2008 is,

- (a) in the case of exploratory oil that is light oil, the light oil par price for that month prescribed under the *Petroleum Royalty Regulation, 2009* multiplied by the quantity of exploratory oil in cubic metres,
- (b) in the case of exploratory oil that is medium oil, the medium oil par price for that month prescribed under the *Petroleum Royalty Regulation, 2009* multiplied by the quantity of exploratory oil in cubic metres,
- (c) in the case of exploratory oil that is heavy oil, the heavy oil par price for that month prescribed under the

*Petroleum Royalty Regulation, 2009* multiplied by the quantity of exploratory oil in cubic metres, and

- (d) in the case of exploratory oil that is ultra heavy oil, the ultra heavy oil par price for that month prescribed under the *Petroleum Royalty Regulation, 2009* multiplied by the quantity of exploratory oil in cubic metres.

**(4)** For the purposes of subsection (2)(b),

- (a) the Crown interest is the Crown interest applicable in the month in which the royalty adjustment commences,
- (b) in the case of an exploratory well under section 2(1)(b), the cumulative value of the royalty that may be adjusted is further reduced by the amount of any royalty exemption received under the *Third Tier Exploratory Well Royalty Exemption Regulation (AR 16/93)*, and
- (c) in the month that the cumulative value of the royalty on the exploratory oil that would be payable in the absence of this Regulation equals \$1 000 000 multiplied by the Crown interest in the exploratory oil, the royalty that is payable shall be adjusted only by the amount that would result in a cumulative value of \$1 000 000 multiplied by the Crown interest in the exploratory oil, which may result in royalty payable greater than zero for that month.

**Twin well**

**7(1)** The Minister may, on application by an operator or licensee, designate an oil well or oil sands well that meets the following criteria to be a twin well:

- (a) the well, in the opinion of the Regulator, is drilled to obtain exploratory oil because the oil is not recoverable from an exploratory well due to inadvertent damage to the exploratory well;
- (b) the well meets the requirements of an exploratory well under section 2(1)(a);
- (c) the well is located in the same drilling spacing unit or legal subdivision, whichever is of lesser area, of the exploratory well if the exploratory well is within a drilling spacing unit or legal subdivision;
- (d) the well is located not further from the exploratory well than a distance approved by the Minister if the exploratory well is not within a drilling spacing unit or legal subdivision.

- (2) When the Minister designates a well to be a twin well in respect of an exploratory well,
- (a) the royalty adjustment ceases to apply to production from the exploratory well,
  - (b) the balance of the exploratory well's royalty adjustment period under section 6(2)(a) and the balance of the royalty value under section 6(2)(b) in respect of the exploratory well is transferred to the twin well, and
  - (c) the latest finished drilling date of the exploratory well becomes the finished drilling date of the twin well.
- (3) The Minister may, in the designation of a twin well,
- (a) specify that the transfer of the royalty adjustment applies only to crude oil or oil sands obtained from a certain pool,
  - (b) make the effective date of the transfer a date that is before the application for a designation was made, and
  - (c) make the transfer of the royalty adjustment subject to other terms and conditions.

AR 225/2008 s7;89/2013

**Deemed production**

**8** If exploratory oil is not obtained from an exploratory well or twin well 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 for the purposes of section 6(2)(a) to be a month in which exploratory oil has been obtained from the well.

AR 225/2008 s8;89/2013

**Excluded production**

**9(1)** The Minister may, on application by an operator or licensee, determine that any substance obtained from an oil well or oil sands well is excluded production if the Minister is of the opinion that

- (a) during the test of the well all natural gas and solution gas obtained from the well was flared or vented, and
- (b) after the test of the well all natural gas and solution gas obtained from the well is conserved.

(2) For the purposes of subsection (1), a substance is obtained during a test of an oil well or oil sands well if the Minister is of the opinion that

- (a) the substance was obtained in an isolated occurrence,
- (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.

**(3)** An application under subsection (1) in respect of an oil well or oil sands well must be made by the operator in a form determined by the Minister within 6 months after the end of the first month in which any substance is obtained from the well.

#### **Effect of further work**

**10** No crude oil or oil sands obtained from an exploratory well or a twin well after a royalty adjustment terminates in respect of the well under section 6(2) is eligible for a new royalty adjustment even if the crude oil or oil sands is obtained as a result of further drilling or deepening.

#### **Termination of adjustment**

**11(1)** A royalty adjustment in respect of exploratory oil obtained from an exploratory well or a twin well terminates

- (a) at the end of 12 months of production under section 6(2)(a),
- (b) once the cumulative value of the royalty on the exploratory oil that would be payable in the absence of this Regulation equals
  - (i) in the case of an exploratory well under section 2(1)(a), \$1 000 000 multiplied by the Crown interest in the exploratory oil, or
  - (ii) in the case of an exploratory well under section 2(1)(b), \$1 000 000 multiplied by the Crown interest in the exploratory oil less any royalty exemption received under the *Third Tier Exploratory Well Royalty Exemption Regulation* (AR 16/93),
- (c) at the end of the month in which the exploratory well is abandoned or, if a twin well has been designated, at the end of the month in which the twin well is abandoned,
- (d) at the end of the month in which the exploratory well or twin well becomes an ineligible well referred to in section 2(4),

- (e) at the end of the month in which the well has reached 5 years from the earliest finished drilling date, or
- (f) at the end of the month in which a well has received a closed status from the Regulator,

whichever occurs first.

**(2)** For the purposes of subsection (1)(b), the Crown interest is the Crown interest applicable in the month in which the royalty adjustment commences.

AR 225/2008 s11;89/2013

### **Factors affecting adjustment, designation or determination**

**12** If, in respect of an exploratory well or a twin well, the Minister is of the opinion that

- (a) production of exploratory oil has exceeded the maximum allowable production authorized by the Regulator,
- (b) production from an exploratory well or a twin well subject to a royalty adjustment has resulted in a material reduction of the production of crude oil or oil sands from another well, production from which is not subject to a royalty adjustment,
- (c) there are circumstances that, had they been known when a designation of a twin well was made, would have resulted in a refusal to make the designation,
- (d) there are circumstances that, had they been known when a determination under section 3 or a designation under section 7(1) or (2) was made, would have resulted in a refusal to make the determination,
- (e) a term or condition specified in a designation of a twin well has not been complied with or satisfied,
- (f) a provision of this Regulation has not been complied with,
- (g) compliance with section 47(6) of the Act in connection with an audit or examination relating to a royalty adjustment in respect of a well has been inadequate, or
- (h) 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 or increasing a royalty adjustment,

the Minister may refuse to designate a well to be a twin well, may determine that crude oil or oil sands in respect of a well may not in whole or in part receive a royalty adjustment or may revoke a royalty adjustment in whole or in part.

AR 225/2008 s12;89/2013

#### **Request to revoke adjustment**

**13(1)** The Minister may wholly revoke a royalty adjustment in respect of exploratory oil obtained from an exploratory well or a twin well on receiving a request to do so from the operator or licensee of the well.

**(2)** No crude oil or oil sands obtained from an exploratory well or a twin well after a royalty adjustment is revoked under subsection (1) or terminated under section 11 may receive a new royalty adjustment even if the crude oil or oil sands is obtained as a result of further drilling or deepening.

#### **Effect of revocation**

**14** If the Minister revokes a royalty adjustment under section 12 or 13 in respect of an exploratory well or a twin well, royalty on the exploratory oil obtained from the well is calculated as if entitlement to the adjustment never arose or arose only in part, in accordance with the revocation.

#### **Reinstatement of royalty adjustment**

**15(1)** If the Minister considers it appropriate to do so, the Minister may reinstate a royalty adjustment that was revoked wholly or in part under section 12 or 13.

**(2)** If the Minister reinstates a royalty adjustment under subsection (1) in respect of an exploratory well or a twin well, royalty on the eligible oil obtained from the well is calculated as if entitlement to the adjustment was never revoked.

**(3)** A reinstatement may be made effective on a date determined by the Minister, 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.

#### **Reporting circumstances affecting eligibility**

**16** An operator or licensee shall forthwith notify the Minister in writing on learning of any circumstances that indicate that exploratory oil was not eligible in whole or in part for a royalty adjustment that was applied to the royalty payable on the exploratory oil.

**Minister's decision final**

**17** 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.

**Expiry**

**18** This Regulation expires on June 30, 2024.

**Coming into force**

**19** This Regulation comes into force on January 1, 2009.



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