



Province of Alberta

MINES AND MINERALS ACT

DRILLING ROYALTY CREDIT REGULATION

Alberta Regulation 245/2009

With amendments up to and including Alberta Regulation 89/2013

Office Consolidation

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(Consolidated up to 89/2013)

ALBERTA REGULATION 245/2009

Mines and Minerals Act

DRILLING ROYALTY CREDIT REGULATION

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Interpretation

1(1) In this Regulation,

- (a) "Act" means the *Mines and Minerals Act*;
- (b) repealed AR 89/2013 s43;
- (c) "Crown interest" means the percentage of Crown ownership of crude oil or gas
 - (i) as determined by the Minister, in the case of a well in which crude oil or gas is not recovered, or
 - (ii) as determined by the Minister in accordance with section 26.1 of the *Petroleum and Natural Gas*

Tenure Regulation (AR 263/97), in the case of a well in which crude oil or gas is recovered;

- (d) “crude oil” means
 - (i) crude oil as defined in the *Petroleum Royalty Regulation, 2009* (AR 222/2008), and
 - (ii) an oil sands product referred to in section 27(1) of the *Oil Sands Royalty Regulation, 2009* (AR 223/2008);
- (e) “drain” is a well event that is given a status of a drain according to the records of the Regulator;
- (f) “drilling royalty credit” means a drilling royalty credit established under section 3;
- (g) “eligible well” means a well that is an eligible well under section 2;
- (h) “field condensate” means field condensate as defined in the *Natural Gas Royalty Regulation, 2009* (AR 221/2008);
- (i) “finished drilling date” means a finished drilling date for a well according to the records of the Regulator;
- (j) “gas” means natural gas, solution gas, gas products and field condensate;
- (k) “gas product” means gas product as defined in the *Natural Gas Royalty Regulation, 2009* (AR 221/2008);
- (l) “gas royalty client” means a royalty client 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) “gas well operator” means an operator as defined in the *Natural Gas Royalty Regulation, 2009* (AR 221/2008);
- (o) “licence” means a licence for a well issued under the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*;
- (p) “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;

- (q) “non-Project well event” means a non-Project well event as defined in *Oil Sands Royalty Regulation, 2009* (AR 223/2008);
- (r) “oil sands well” means a well that consists of only non-Project well events;
- (s) “oil sands well operator” means an operator as defined in the *Oil Sands Royalty Regulation, 2009* (AR 223/2008);
- (t) “oil well” means an oil well as defined in the *Oil and Gas Conservation Rules* (AR 151/71);
- (u) “oil well operator” means an operator as defined in the *Petroleum Royalty Regulation, 2009* (AR 222/2008);
- (v) “operator” means a gas well operator, an oil well operator or an oil sands well operator;
- (w) “original well” means the initial well drilled prior to any re-entry well;
- (x) “production month” means the month in which crude oil or gas is recovered;
- (y) “re-entry well” means a re-entry well according to the records of the Regulator;
- (y.1) “Regulator” means the Alberta Energy Regulator;
- (z) “royalty payer” means
 - (i) a gas royalty client,
 - (ii) an oil well operator,
 - (iii) an oil sands well operator, or
 - (iv) a working interest participant whose name is furnished under section 6;
- (aa) “solution gas” means solution gas as defined in the *Natural Gas Royalty Regulation, 2009* (AR 221/2008);
- (bb) “well” means an oil well, gas well or oil sands well;
- (cc) “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 or not to give the parts a single unique well identifier;
- (dd) “well leg” means a deviation or branch of a wellbore according to the records of the Regulator;
- (ee) “working interest participant” means a person who owns a beneficial or legal undivided interest in a well under contracts that pertain to the ownership of that well;
- (ff) “zone” means a zone as defined in the *Petroleum Royalty Regulation, 2009* (AR 222/2008).

(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 245/2009 s1;89/2013

Eligible well

2(1) Subject to subsection (2), an eligible well is a well that

- (a) is spudded on or after April 1, 2009 but before April 1, 2011,
- (b) has a finished drilling date on or after April 1, 2009 but before April 1, 2011,
- (c) is drilled for the purpose of recovering crude oil or gas according to the records of the Regulator,
- (d) has a Crown interest greater than 0%, and
- (e) is subject to 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).

(2) A well is not an eligible well if the well

- (a) is part of a Project, or is the subject of an application to be part of a Project, under the *Oil Sands Royalty Regulation, 2009* (AR 223/2008),
- (b) is drilled for a purpose other than recovering crude oil or gas, including the disposal or injection of a substance into the well,
- (c) is a re-entry well where the original well does not meet the requirements of subsection (1), or
- (d) 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).

(3) Additional information must be provided to the Minister by the licensee or operator of a well if required to aid in determining whether the well meets the requirements of this section.

AR 245/2009 s2;89/2013

Establishing drilling royalty credits

3(1) The Minister may establish a drilling royalty credit for an eligible well in accordance with the following formula:

$$\text{DRC} = \text{DM} \times \$200.00 \times \text{CI}$$

where

DRC is the drilling royalty credit for the well;

DM is, according to the records of the Regulator, the total distance in metres of new drilling for the well, including well legs and drains, calculated in accordance with subsection (2), as of the finished drilling date;

CI is the Crown interest.

(2) In calculating the total distance in metres of new drilling under subsection (1),

- (a) a well leg or drain must be counted only once,
- (b) for a well containing one or more well events and no well legs or drains, the distance for each well event in the well is the length, in metres, along the bore of the well from the kelly bushing of the well containing the well event to the deepest point of drilling of the well event,

- (c) for a well containing one well event and one or more well legs or drains, the distance for that well event is the sum of
 - (i) the length, in metres, of the well event, from the kelly bushing of the well containing the well event to the deepest point of drilling of the well event, and
 - (ii) the sum of the lengths, in metres, of all the well legs or drains in the well containing the well event, from the kick-off point of each well leg or drain to the furthest point of drilling of the well leg or drain,
- (d) for a well not described in clause (b) or (c), the distance may be determined by the Minister, and
- (e) for a well that has more than one finished drilling date, the Minister shall determine which is the finished drilling date for the purpose of this Regulation.

(3) For the purpose of section 5(4), the drilling royalty credit calculated for an eligible re-entry well is deemed established as of the finished drilling date of the original well.

(4) 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 an eligible well, the Minister may reduce by an amount that does not exceed the amount of the grant or benefit any drilling royalty credit established in respect of that well.

(5) Drilling royalty credits established under subsection (1) shall not be recalculated after June 30, 2011, unless the Minister considers it appropriate to do so.

AR 245/2009 s3;89/2013

Allocating drilling royalty credits to royalty payers

- 4(1)** The licensee of an eligible well must allocate a drilling royalty credit to any one or more royalty payers, such that the entire drilling royalty credit is allocated.
- (2)** The licensee must, in the form and manner determined by the Minister, notify the Minister of the allocations.
- (3)** Once the Minister has been notified under subsection (2), the licensee may not make any changes to the allocations.

Applying drilling royalty credits

5(1) In this section,

- (a) “average daily Crown production” means average daily Crown production of a royalty payer determined under section 7;
- (b) “drilling royalty credit balance” means a drilling royalty credit balance of a royalty payer determined under section 8;
- (c) “royalty obligations” mean, in respect of a royalty payer, royalty obligations determined under section 9.

(2) Subject to this section, for each production month the drilling royalty credit balance of a royalty payer must be applied by the Minister against the royalty obligations of the royalty payer to a maximum of

- (a) 50% of the royalty obligations, if the average daily Crown production of the royalty payer is greater than zero cubic metres and less than or equal to 1590 cubic metres,
- (b) 40% of the royalty obligations, if the average daily Crown production of the royalty payer is greater than 1590 cubic metres and less than or equal to 2385 cubic metres,
- (c) 30% of the royalty obligations, if the average daily Crown production of the royalty payer is greater than 2385 cubic metres and less than or equal to 3180 cubic metres,
- (d) 20% of the royalty obligations, if the average daily Crown production of the royalty payer is greater than 3180 cubic metres and less than or equal to 3975 cubic metres, or
- (e) 10% of the royalty obligations, if the average daily Crown production of the royalty payer is
 - (i) greater than 3975 cubic metres, or
 - (ii) equal to zero cubic metres.

(3) Where a person becomes a royalty payer on or after January 1, 2009 but before April 1, 2010, the amounts applied against royalty obligations under subsection (2) on or before the March 2010 production month must be recalculated after the March 2010 production month based on the average daily Crown production determined under section 7(2).

(4) Where a person becomes a royalty payer on or after April 1, 2010 but before April 1, 2011, the amounts applied against royalty

obligations under subsection (2) on or before the March 2011 production month must be recalculated after the March 2011 production month based on the average daily Crown production determined under section 7(3).

(5) Drilling royalty credits established

- (a) on or after April 1, 2009 but before April 1, 2010 must be applied against royalty obligations of a royalty payer for the production months commencing with the April 2009 production month and ending with the March 2011 production month, and
- (b) on or after April 1, 2010 but before April 1, 2011 must be applied against royalty obligations of a royalty payer for the production months commencing with the April 2010 production month and ending with the March 2011 production month.

(6) Drilling royalty credits must be applied under subsection (2) until

- (a) the drilling royalty credit balance for a royalty payer is zero, or
- (b) the end of the month in which royalty obligations are determined in respect of the March 2011 production month,

whichever occurs first.

(7) Drilling royalty credits that are not applied in accordance with subsection (2) by the end of the month in which royalty obligations are determined in respect of the March 2011 production month will be forfeited.

(8) The Minister may begin implementing the application of drilling royalty credits against gas royalty obligations in advance of doing the same in respect of crude oil royalty obligations and determine the implementation dates for each.

Furnishing working interest participant information for oil wells and oil sands wells

6(1) Each oil well operator and oil sands well operator shall, in respect of the operator's total volume of crude oil that is subject to royalty under the *Petroleum Royalty Regulation, 2009* (AR 222/2008) or section 27 of the *Oil Sands Royalty Regulation, 2009* (AR 223/2008), furnish to the Department the names of working interest participants and the volumes attributable to each participant

- (a) for the production months commencing with the January 2008 production month and ending with the December 2008 production month, by September 30, 2009 or within 14 days after the filing of this Regulation under the *Regulations Act*, whichever is later,
- (b) for the production months commencing with the January 2009 production month and ending with the December 2009 production month, by January 31, 2010, and
- (c) for the production months commencing with the January 2010 production month and ending with the March 2011 production month, by the end of the month following the end of each production month.

(2) If the aggregate of the volumes furnished by an operator under subsection (1) is less than the operator's total volume of crude oil subject to royalty for the applicable period, the difference is attributed to the operator.

(3) If an operator does not furnish any volumes under subsection (1), all the volumes for the applicable period are attributed to the operator.

(4) The information to be furnished under subsection (1) must be in the form and manner determined by the Minister.

Average daily Crown production

7(1) The Minister must determine, based on the records of the Department as of March 20, 2009, the average daily Crown production of crude oil and gas expressed in cubic metres of crude oil that is attributable to each royalty payer for the production months commencing with the January 2008 production month and ending with the December 2008 production month.

(2) Where a person becomes a royalty payer on or after January 1, 2009 but before April 1, 2010, the Minister must determine, based on the records of the Department as of the end of the March 2010 production month, the average daily Crown production of crude oil and gas expressed in cubic metres of crude oil that is attributable to that royalty payer for the production months commencing with the April 2009 production month and ending with the March 2010 production month.

(3) Where a person becomes a royalty payer on or after April 1, 2010 but before April 1, 2011, the Minister must determine, based on the records of the Department as of the end of the March 2011 production month, the average daily Crown production of crude oil and gas expressed in cubic metres of crude oil that is attributable to that royalty payer for the production months commencing with the

April 2010 production month and ending with the March 2011 production month.

(4) The information to be furnished under section 6 for the purpose of this section may not be furnished or changed after the Minister determines the average daily Crown production for a royalty payer under subsection (1), (2) or (3).

Drilling royalty credit balance

8 The Minister must determine and maintain a drilling royalty credit balance for each royalty payer consisting of the aggregate of drilling royalty credits allocated to a royalty payer under section 4 minus any amounts applied against the royalty obligations of a royalty payer under section 5.

Crude oil and gas royalty obligations

9(1) For each production month commencing with the April 2009 production month and ending with the March 2011 production month, the Minister must determine the total royalty obligations of each royalty payer under the *Petroleum Royalty Regulation, 2009* (AR 222/2008), the *Natural Gas Royalty Regulation, 2009* (AR 221/2008) and section 27 of the *Oil Sands Royalty Regulation, 2009* (AR 223/2008) net of any other credits, deductions or reductions.

(2) For the purposes of this Regulation, a working interest participant whose name is furnished under section 6 is deemed to have royalty obligations under the regulations referred to in subsection (1), despite not having a legal obligation directly to the Crown in respect of those royalty obligations.

(3) Royalty obligations determined under subsection (1) shall not be recalculated after June 30, 2011, unless the Minister considers it appropriate to do so.

Conversion factors

10 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.

Records

11(1) Subject to subsection (2), a licensee, operator and royalty payer must keep all records related to drilling royalty credits that are in the possession of the licensee, operator and royalty payer until the expiration of the 6-year period following the end of the year of the final calendar month in which the drilling royalty credits are applied under section 5.

(2) If the Minister is of the opinion that it is necessary for the administration of the Act or this Regulation, the Minister may, by a direction sent by registered mail or served personally, 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) A person required to keep records pursuant to this section 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.

Artificial transactions and non-compliance

12(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 filing of this Regulation under the *Regulations Act*, for the purpose of improperly, artificially or unduly obtaining or increasing the amount of a drilling royalty credit, or
- (b) a licensee, operator or royalty payer has not complied with any provision of this Regulation or any provision of the 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 either or both of the following actions:

- (a) determine that all of the drilling royalty credits, established, allocated or applied under sections 3, 4 and 5 should not have been established, allocated or applied;
- (b) determine that the amount of drilling royalty credits established, allocated or applied under sections 3, 4 and 5 was improperly, artificially or unduly increased and is to be reduced accordingly.

(3) If the Minister makes a determination under subsection (2),

- (a) a person in whose favour drilling royalty credits have been allocated and applied under sections 4 and 5 is not entitled to the drilling royalty credits or to the amount by which the amount of drilling royalty credits is or was improperly, artificially or unduly increased, as the case may be, and

- (b) the Minister shall reverse the drilling royalty credits allocated and applied under sections 4 and 5.

Licensee and operator liability**13(1)** The licensee of an eligible well

- (a) is liable for, and
- (b) 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 licensee arising from the allocation of drilling royalty credits under section 4.

(2) The operator of an oil well or oil sands well

- (a) is liable for, and
- (b) 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 operator arising from the furnishing of working interest participant information, whether furnished under section 6 after the filing of this Regulation under the *Regulations Act* or voluntarily furnished to the Department before the filing of this Regulation under the *Regulations Act*.

Reporting circumstances affecting eligibility

14 A licensee, operator or royalty payer must notify the Minister in writing on learning of any circumstances that indicate that

- (a) a well was not an eligible well in whole or in part, and
- (b) drilling royalty credits were allocated to someone who is not a royalty payer.

Minister's decision final

15 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

16 This Regulation expires on June 30, 2017.

Coming into force

17 This Regulation is deemed to have come into force on April 1, 2009.



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