

(Consolidated up to 45/2014)

ALBERTA REGULATION 263/97

Mines and Minerals Act

PETROLEUM AND NATURAL GAS TENURE REGULATION

Table of Contents

Interpretation

- 1 Definitions
- 2 Interpretation provisions related to wells
- 3 Crown spacing units

Applications for and Rights under Agreements

- 3.1 Rules re applications
- 4 Rights granted by an agreement

Part 1

Petroleum and Natural Gas Licences

- 5 Term of licence
- 6 Initial term of licence
- 7 Maximum area of location
- 8 Location in more than one Region
- 9 Validating wells
- 11 Selection and validation of location for intermediate term
- 11.1 Requirements for use of unused earned sections
- 12 Licence continuation and offset requirements
- 13 Waiver of rental for licences under former Regulation

Part 2

Petroleum and Natural Gas Leases

Continuation of Leases

- 13.1 Interpretation
- 13.2 Cancellation
- 14 Application for continuation
- 14.1 No application for continuation
- 14.2 Late application for continuation
- 15 Qualification for continuation
- 16 Continuation because of drilling
- 17 Continuation in respect of potentially productive wells
- 18 Notice respecting non-productivity

Offset Requirements

- 19 Interpretation of offset requirement provisions
- 20 Offset notice
- 21 Review of offset notice
- 22 Liability to pay offset compensation
- 23 Calculation and payment of offset compensation

Part 3

General

- 24 Withdrawal of Crown from unit agreement

- 25 Proof of ownership of freehold rights
- 26 Time extensions related to drilling problems
- 26.1 Determination of Crown ownership in crude oil and natural gas

Transitional

- 27 Interpretation of transitional provisions
- 28 Licences under former Regulation
- 29 Pre-1998 leases
- 30 Continuation under section 96 of the Act
- 31 Continuation under section 97 of the Act
- 32 Non-productivity notices
- 33 Offset drilling obligations
- 34 Variation of transition rules

Repeal, Expiry and Coming into Force

- 35 Repeal
- 36 Expiry
- 37 Coming into force

Schedules

Interpretation

Definitions

1 In this Regulation,

- (a) “Act” means the *Mines and Minerals Act*;
- (b) repealed AR 89/2013 s19;
- (c) “Crown spacing unit” means a spacing unit that qualifies as a Crown spacing unit by reason of section 3;
- (d) “deepest productive zone”, with reference to a spacing unit containing all or part of a location approved for continuation pursuant to section 15(1), means the deepest of the zones in the spacing unit to which the approval extends under section 15(2);
- (e) “former Regulation” means the *Petroleum and Natural Gas Agreements Regulation* (AR 188/85);
- (f) “freehold spacing unit” means,
 - (i) in relation to Alberta, a spacing unit that is not a Crown spacing unit, or
 - (ii) in relation to a jurisdiction adjoining Alberta, the area allocated to a well drilled in land in that jurisdiction for the purpose of drilling that well or producing petroleum or natural gas from that well;
- (g) “freehold well” means
 - (i) in relation to Alberta, a well the spacing unit for which is a freehold spacing unit;
 - (ii) in relation to a jurisdiction adjoining Alberta, a well drilled in land in that jurisdiction;
- (h) “gas storage agreement” means a contract or agreement referred to in section 57(5)(b) or (c) of the Act;
- (i) “lease” means a lease of rights to petroleum or natural gas or both issued pursuant to the Act or the former Act;
- (j) “licence” means a petroleum and natural gas licence issued by the Minister under the former Regulation or this Regulation;
- (k) “licensee” means the holder of a licence according to the records of the Department;
- (l) “location”, in relation to a licence or lease, means

- (i) the subsurface underlying the surface area of the tract described in the licence or lease as its location, or
 - (ii) where the licence or lease grants rights to petroleum or natural gas or both in some but not all of the subsurface, the subsurface area or areas underlying the surface area of the tract described in the licence or lease as its location and in respect of which the rights are granted;
- (m) “measured depth”, in relation to a well, means the measured length of the well-bore of the well;
- (m.1) “minimum depth” means
- (i) 75 metres of measured depth, or
 - (ii) a lesser measured depth approved by the Minister under section 9(3);
- (n) “offset zone” means
- (i) in relation to a freehold spacing unit, a zone underlying the freehold spacing unit and identified in an offset notice in accordance with section 20(2)(a), or
 - (ii) in relation to a Crown spacing unit adjoining a freehold spacing unit that is the subject of an offset notice, the zone underlying the Crown spacing unit that is the same as the zone identified in the offset notice in accordance with section 20(2)(a);
- (o) “Plains Region”, “Northern Region” and “Foothills Region” mean the respective areas of Alberta described in Schedule 1;
- (p) “prescribed”, in relation to a fee, penalty or rental, means prescribed by the *Mines and Minerals Administration Regulation* (AR 262/97);
- (q) “producing well” means a well that is considered by the Minister to be a producing well on the basis of the records of the Regulator and other information available to the Minister;
- (r) “productive”, in relation to a well or zone, means capable, in the opinion of the Minister, of producing petroleum or natural gas from the well or zone in paying quantity;
- (s) “Region” means the Plains Region, the Northern Region or the Foothills Region;
- (s.1) “Regulator” means the Alberta Energy Regulator;
- (t) “rig release date”, with respect to a well, means the rig release date for the well according to the records of the Regulator;
- (t.1) “shallowest productive zone”, with reference to a spacing unit containing the whole or a part of the location of a lease continued pursuant to section 15(1), means the shallowest of the zones in the spacing unit to which the continuation extends under section 15(2);
- (u) “spacing unit” means
- (i) in relation to a well drilled or being drilled,
 - (A) the drilling spacing unit for the well prescribed by or pursuant to the *Oil and Gas Conservation Rules* (AR 151/71), or
 - (B) where the Regulator has issued an order suspending the operation of Part 4 of the *Oil and Gas Conservation Rules* (AR 151/71) in respect of the area in which the well is drilled or being drilled, the area that was, immediately before the effective date of the order, the drilling spacing unit prescribed for the well by or pursuant to those Rules,
- or
- (ii) the area that would be the drilling spacing unit prescribed for a well by or pursuant to those Rules if the well were drilled and in the absence of any order of the Regulator suspending the operation of Part 4 of those Regulations in respect of that area;

- (v) “unit agreement”, except in section 24, includes a unit operation order;
- (v.1) “unused earned section” means one of the number of sections of land
 - (i) that the Minister has determined under Schedule 2 has been earned by a validating well, and
 - (ii) that has not been used to validate a section of land as qualified to remain in the location of a licence;
- (w) “validating well” means a well that qualifies as a validating well under section 9;
- (x) “zone” means a stratum or series of strata considered by the Minister to be a zone for the purposes of this Regulation.

AR 263/97 s1;11/2000;251/2001;254/2007;89/2013;224/2013;
45/2014

Interpretation provisions related to wells

2 For the purposes of this Regulation,

- (a) a reference to “petroleum and natural gas rights” in the location of a licence or lease means petroleum or natural gas or both in the location, the rights to which are granted by the licence or lease;
- (b) a reference to a well that will evaluate or has evaluated petroleum and natural gas rights in the location of a licence or lease means a well whose results are expected to provide or have provided, as the case may be, evidence of the presence or absence of petroleum or natural gas in the location, the rights to which are granted by the licence or lease;
- (c) a well is in the location of a licence or lease or is drilled or has been drilled in the location of a licence or lease if the well is drilled under the authority of the licence or lease and all or any part of the well-bore is situated in the location of the licence or lease;
- (d) where the location of a licence or lease consists of some but not all of the subsurface areas underlying the surface area of the tract described in the licence or lease as its location, a well is being drilled in the location of that licence or lease if
 - (i) the well is being drilled under the authority of the licence or lease with the intention of penetrating the location, and
 - (ii) the well licence issued pursuant to the *Oil and Gas Conservation Act* for the well authorized the drilling of the well to a zone in the location;
- (e) a well is outside the location of a licence or lease if no part of the well-bore is situated in the location or any other subsurface area underlying the surface area of the tract described in the licence or lease as its location;
- (f) if a well is productive from more than one spacing unit, each of those spacing units shall be deemed to have a separate productive well in it;
- (g) if a producing well produces petroleum or natural gas from more than one spacing unit, each spacing unit shall be deemed to have a separate producing well in it;
- (h) a Crown spacing unit adjoins a freehold spacing unit if the surface areas of the Crown spacing unit and the freehold spacing unit are laterally or diagonally adjoining.

AR 263/97 s2;11/2000

Crown spacing units

3(1) For the purposes of this Regulation, a spacing unit is a Crown spacing unit in respect of petroleum or natural gas if the title to the petroleum or natural gas, as the case may be, in 50% or more of the area of the spacing unit, as determined under subsection (2), is owned by the Crown in right of Alberta.

(2) Where the Crown owns the title to the petroleum or natural gas in less than 100% of the area of a spacing unit, the determination of whether or not the spacing unit is a Crown spacing unit shall be made in accordance with the following:

- (a) if the spacing unit consists of a section, quarter-section or legal subdivision of land, the whole of the area of the spacing unit shall be deemed to contain 256, 64 or 16 hectares respectively;
- (b) if the spacing unit does not consist of the whole of a section, quarter-section or legal subdivision of land, the area of the spacing unit shall be the area determined by the Minister for the purposes of this section;
- (c) for the purposes of this subsection, the “Crown portion” of a spacing unit is the portion of the area of the spacing unit in respect of which the Crown in right of Alberta owns the title to petroleum or natural gas or both, calculated in accordance with this subsection;
- (d) if the Crown portion of a spacing unit consists of the whole of the location of a licence or lease, the area of the Crown portion is the number of hectares shown in the description of the location in the licence or lease;
- (e) if the Crown portion of a spacing unit consists of a part only of the location of a licence or lease, the area of the Crown portion of the spacing unit is the number of hectares in that part of the location used by the Minister in the calculation of the total area shown in the description of the location in the licence or lease;
- (f) if the number of hectares in the Crown portion of the spacing unit, as determined under clauses (d) and (e), equals 50% or more of the whole of the area of the spacing unit, the spacing unit is a Crown spacing unit under subsection (1).

Applications for and Rights under Agreements

Rules re applications

3.1(1) Notwithstanding Parts 1 and 2, an application that may be made by a lessee or licensee under a provision of either Part may, if the application is in respect of more than one agreement, only be made by one person who is a person authorized to make the application under section 6 of the *Mines and Minerals Administration Regulation* (AR 262/97).

(2) An application that may be made under Part 1 or 2 in respect of an agreement may not be made in relation to or on the basis of a well that is not on the location of the agreement, unless

- (a) the applicant is authorized to do so by the designated representative, as defined in the *Mines and Minerals Administration Regulation*, for the agreement on the location of which the well has been or will be drilled, or
- (b) the Minister is satisfied that the applicant is authorized to do so by the person who holds the licence for the well issued under the *Oil and Gas Conservation Act*.

AR 11/2000 s4

Rights granted by an agreement

4(1) Subject to subsection (2) and any terms, conditions or exceptions contained in the agreement, an agreement granting rights to petroleum or natural gas or both conveys

- (a) the exclusive right to drill for and recover petroleum and natural gas in the location of the agreement in respect of which rights are granted by the agreement, and
- (b) the right to remove from the location any petroleum and natural gas recovered pursuant to clause (a).

(2) An agreement referred to in subsection (1) does not grant the right to

- (a) oil sands, or
- (b) natural gas, including coalbed methane, in a coal seam that the Minister has authorized the lessee of a coal lease to recover under section 67(2) of the Act.

AR 263/97 s4;251/2001;155/2004

Part 1

Petroleum and Natural Gas Licences

Term of licence

5(1) For the purposes of this Regulation,

- (a) the initial term of a licence is the initial term of the licence referred to in section 6(1), and includes any extension of that term under this Regulation or section 8(1)(h) of the Act,
- (b) the intermediate term of a licence is the 5-year period beginning on the commencement date prescribed under subsection (2), and includes any extension of that term under this Regulation or section 8(1)(h) of the Act, and
- (c) the combined periods referred to in clauses (a) and (b) are prescribed as the term of a licence for the purposes of sections 82 and 83 of the Act.

(2) The commencement date of the intermediate term of a licence is

- (a) subject to clause (b), the date of the expiration of the initial term of the licence as shown in the licence, or
- (b) the most recent anniversary of that expiration date, if the initial term, as shown in the licence, is extended for a period of more than one year.

AR 263/97 s5;251/2001

Initial term of licence

6(1) A licence shall be issued for an initial term of

- (a) 2 years, if the location is in the Plains Region,
- (b) 4 years, if the location is in the Northern Region, or
- (c) 5 years, if the location is in the Foothills Region.

(2) If

- (a) the drilling of a well is commenced before the expiration of the initial term of the licence,
- (b) the rig release date for the well occurs after the expiration of the initial term of the licence,
- (c) the drilling operations for the well are conducted diligently and continuously to the satisfaction of the Minister, and
- (d) the well
 - (i) is or may be approved as a validating well in respect of the licence, or
 - (ii) will, after the rig release date for the well occurs, have unused earned sections of land that will meet the requirements of section 11.1 in respect of that licence,

the initial term of the licence is extended to the expiration of the one-month period following the rig release date for the well and the licensee may submit evidence in respect of that well before that period expires.

(3) If a licensee of a licence that has been extended under subsection (2) commences the drilling of a well in the location of the licence during the period of the extension of the term under subsection (2), except a well that is, by reason of section 26, deemed to be the continuation of the drilling of a well referred to in subsection (2), the well does not qualify as a validating well.

AR 263/97 s6;224/2013

Maximum area of location

7 The maximum area of the location of a licence is

- (a) 15 sections in the Plains Region,

- (b) 32 sections in the Northern Region, and
- (c) 36 sections in the Foothills Region.

Location in more than one Region

8(1) Where the location of a licence lies within more than one of the Regions, then, for the purposes of this Regulation, the location is deemed to be in the Region in which the greatest part of the location is situated.

(2) Subject to subsection (1), if the location of a licence

- (a) lies within 2 or 3 Regions and the parts of the location within each of the Regions are equal in area, or
- (b) lies within 3 Regions and the parts within 2 of the Regions are equal in area,

then, for the purposes of this Regulation, the location shall be deemed to be wholly within whichever of those Regions would result in the longest term for the licence by reason of section 6(1) if the whole of the location were in that Region.

Validating wells

9(1) Subject to subsection (5), the following qualify as validating wells in respect of a licence:

- (a) a well that is drilled in the location of the licence during the initial term of the licence if the well
 - (i) is drilled within the location of the licence for at least 75 metres, and
 - (ii) is drilled for the purpose of evaluating petroleum and natural gas rights in the location of the licence;
- (b) a well that is drilled in the location of the licence and that has been re-entered during the initial term of the licence if, after the re-entry, the well
 - (i) is drilled within the location of the licence for at least 75 metres, and
 - (ii) is drilled for the purpose of evaluating petroleum and natural gas rights in the location of the licence;
- (c) a well that is drilled outside the location of the licence during the initial term of the licence if
 - (i) the well is drilled in a spacing unit part of which is in the location of the licence, and
 - (ii) the well is drilled for at least 75 metres and, in the opinion of the Minister, evaluates the petroleum and natural gas rights in the location of the licence;
- (d) a well that is drilled outside the location of the licence and that has been re-entered during the initial term of the licence if
 - (i) the well is drilled in a spacing unit part of which is in the location of the licence, and
 - (ii) after the re-entry, the well is drilled for at least 75 metres and, in the opinion of the Minister, evaluates the petroleum and natural gas rights in the location of the licence;
- (e) a well approved by the Minister as a validating well pursuant to subsection (2), (3) or (4).

(2) The Minister may approve a well as a validating well in respect of a licence if

- (a) the licensee applies for the approval before the drilling of the well is commenced,
- (b) the well is drilled during the initial term of the licence
 - (i) in a spacing unit no part of which is within the location of the licence, and
 - (ii) in the location of a lease or in the location of a licence,

- (c) the well is drilled for at least 75 metres and, in the opinion of the Minister, evaluates the petroleum and natural gas rights in the location of the licence, and
 - (d) the Minister is satisfied through evidence from the licensee or otherwise that all of the other criteria that the Minister may establish for the drilling of the well as a validating well have been met.
- (3)** The Minister may approve a well that is drilled less than 75 metres as required under subsection (1) as a validating well in respect of a licence if
- (a) the well has been drilled or re-entered during the initial term of the licence
 - (i) in the location of the licence, or
 - (ii) outside the location of the licence in a spacing unit part of which is in the location of the licence,
- and
- (b) the Minister is of the opinion that
 - (i) the well is productive
 - (A) from a zone that occurs within the location of the licence, and
 - (B) in the case of a well that has been re-entered, from a zone that occurs within the metres that have been drilled in the well after re-entry,
- or
- (ii) there are exceptional circumstances that prevented the lessee from drilling at least 75 metres in the location of the licence.
- (4)** The Minister may approve a well that does not meet the requirements of subsection (1), (2) or (3) as a validating well in respect of a licence if
- (a) the well is re-entered during the initial term of the licence and was drilled
 - (i) in the location of the licence, or
 - (ii) outside the location of the licence in a spacing unit part of which is in the location of the licence,
- and
- (b) the well becomes a productive well in a zone within the location of the licence.
- (5)** A well referred to in subsection (1)(b), (1)(d), (3) or (4) may qualify as a validating well under this section only on the basis of one re-entry operation.

AR 263/97 s9;11/2000;155/2004;224/2013

10 Repealed AR 224/2013 s5.

Selection and validation of location for intermediate term

11(1) Subject to this Regulation, a licensee may apply to the Minister for validation of the land qualified to remain in the location of the licensee's licence at the commencement of the intermediate term of the licence.

(2) An application under subsection (1) must

- (a) be received by the Minister within the 3-month period before the expiration of the initial term of the licence, not including any extension of that period under section 6(2),
- (b) identify each well that the licensee is applying to use as a validating well in respect of the licence and provide sufficient evidence to demonstrate that each well is a validating well,

- (c) for each well referred to in clause (b) that is a multileg well, identify
 - (i) the wellbore that the licensee is applying to use as the validating well and that the Minister is to use under subsection (4)(a) to determine the measured depth of the well, and
 - (ii) the wellbore that the Minister is to use under subsection (8) to determine the zone that is penetrated by the well,
- (d) identify each validating well that has unused earned sections that the licensee is applying to use in respect of the licence and provide sufficient evidence to demonstrate that the requirements of section 11.1 are met,
- (e) identify each well referred to in section 6(2)(d)(ii) that will earn sections of land that the licensee is applying to use in respect of the licence, and provide sufficient evidence to demonstrate that the requirements of section 11.1 will be met,
- (f) show the licensee's selection of the sections of land requested for validation, which shall not exceed the number of sections that may remain in the location of the licence at the commencement of the intermediate term in accordance with Schedule 2, and
- (g) provide sufficient evidence to show the deepest zone in which rights may, in accordance with subsection (8), be validated under this section.

(3) If an application has not been made pursuant to subsection (1) within the 3-month period referred to in subsection (2)(a) and the Minister is of the opinion that a well has been drilled by the licensee that is or might be a validating well in respect of the licence,

- (a) the Minister shall give a notice to the licensee
 - (i) stating that no application had been received by the Minister within the 3-month period, and
 - (ii) stating that the licensee may make an application under subsection (1) within the one-month period following the date of the notice on payment of the prescribed rental for the licence and the prescribed late application penalty,

and

- (b) the licensee may make the application in accordance with the notice.

(3.1) If the Minister disagrees in whole or in part with the application made in accordance with subsection (1) or (3), the Minister shall give a notice to the licensee respecting the disagreement and specifying the deadline before which the licensee may respond to the notice.

(4) In granting an application made under this section, the Minister

- (a) shall determine
 - (i) in accordance with the criteria established by the Minister, the measured depth of each validating well identified in the application and the number of sections of land earned by the well under Schedule 2,
 - (ii) the number of sections of land to remain in the location of the licensee's licence at the commencement of the intermediate term of the licence, and
 - (iii) in accordance with subsection (8), the rights that may be validated under this section,

and

- (b) may determine the configuration of the location of the licence at the commencement of its intermediate term.

(5) Repealed AR 224/2013 s6.

(5.1) The Minister shall not make a final decision in respect of an application made under subsection (1) until

- (a) after the expiry of the initial term of the licence, and
 - (b) if a notice was given under subsection (3.1), after the Minister receives a response to the notice or, if no response is received, the deadline specified in the notice passes.
- (6) On making a decision in respect of an application under this section, the Minister shall give a notice of the decision to the licensee and, on the commencement date of the intermediate term of the licence, the location of the licence ceases to include any land that is not validated under this section as land that qualified to remain in the location of the licence at the commencement of its intermediate term.
- (7) Where an application is made under this section on the basis of a validating well approved under section 9(4) then, notwithstanding subsection (4) of this section, the land that may be validated under this section on the basis of that well shall consist of the part of the location within the spacing unit for the validating well, down to the base of the deepest zone from which the validating well is productive.
- (8) Notwithstanding any other provision of this section, where an application is made under this section in respect of a licence issued after December 31, 2001, the rights that may be validated under this section shall include any part of the location that consists of
- (a) a zone that is fully penetrated by the validating well, and
 - (b) a zone that is penetrated by more than 15 metres by the validating well.

AR 263/97 s11;11/2000;155/2004;224/2013

Requirements for use of unused earned sections

11.1 A licensee may apply under section 11 for validation of a section of land in the location of a licence using an unused earned section if all of the following apply:

- (a) the unused earned section was determined by the Minister under Schedule 2 in respect of a validating well, other than a validating well approved under section 9(4);
- (b) the validating well was drilled or re-entered during the initial term of that licence;
- (c) the location of that licence is separated from the location of the licence that contains the validating well by not more than one intervening section at their closest points;
- (d) where the validating well is located
 - (i) in the location of that licence, the validating well evaluates petroleum and natural gas rights in the location of the licence, or
 - (ii) outside the location of that licence, in the opinion of the Minister the validating well evaluates petroleum and natural gas rights in the location of the licence.

AR 224/2013 s7

Licence continuation and offset requirements

12(1) Sections 13.1 to 18 apply, with the necessary changes, to licences and for that purpose

- (a) a reference in those sections to a lessee or a lease shall be read as a reference to a licensee or a licence respectively, and
- (b) a reference in those sections to the term of a lease shall be read as a reference to the intermediate term of a licence.

(2) Sections 19 to 23 apply, with the necessary changes, to licences during their intermediate terms and the period of continuation beyond their terms, and for that purpose a reference in those sections to a lessee or a lease shall be read as a reference to a licensee or a licence respectively.

AR 263/97 s12;224/2013

Waiver of rental for licences under former Regulation

13(1) This section applies only to licences issued pursuant to the former Regulation.

(2) Subject to subsections (3) to (5), if a licensee commences the drilling of a validating well or grouping well in the location of the licence, no rental is payable for each year of the remainder of the initial term of the licence, commencing with the year of the initial term following that in which the drilling commenced, with respect to that portion of the total area of the location of the licence that would, in the opinion of the Minister, form the area for an application under section 11 if the application was made on the rig release date for the well.

(3) If the rig release date for the validating well or grouping well has occurred and the area for which an application may be made under section 11 is less than or greater than the portion of the total area in respect of which no rental is payable by virtue of subsection (2), the rental shall be adjusted by the Minister, effective as of the year of the initial term following that in which the drilling commenced, so that the area in respect of which no rental is payable is the actual area for which an application may be made under section 11 on the rig release date for the well.

(4) If an adjustment is made by the Minister pursuant to subsection (3), the Minister or the licensee, as the case may be, shall pay to the other the amount of the overpayment or underpayment, as the case may be, no later than one month after the adjustment is made.

(5) This section does not apply if the drilling of the validating well or grouping well commences during the last year of the initial term of the licence.

Part 2

Petroleum and Natural Gas Leases

Continuation of Leases

Interpretation

13.1 For the purposes of this Part, a reference to the term of a lease includes any period during which the term of the lease is continued or extended under this Regulation or extended under section 8(1)(h) of the Act.

AR 224/2013 s9

Cancellation

13.2 For the purposes of section 82(2) of the Act, a notice given by the Minister under section 14(6), 14.1(5) or 14.2(5) shall set out the parts of the location of a lease that have ceased to qualify for continuation under this Part that will be cancelled by the Minister.

AR 224/2013 s9

Application for continuation

14(1) A lessee may apply to the Minister for the continuation of a lease pursuant to section 15, 16 or 17, or any combination of those sections

- (a) within the last year of the term of the lease, or
- (b) with the consent of the Minister, at any time before the last year of the term of the lease.

(2) On receipt of an application under subsection (1), the Minister shall determine

- (a) whether the lease qualifies for continuation as to the whole or part of the location of the lease in respect of which the application is made, and
- (b) if any part of the location of the lease is not included in the application, whether the lease qualifies for continuation pursuant to section 14.1 as to that part.

(3) If the Minister determines under subsection (2)(a) that a lease qualifies or does not qualify for continuation with respect to any part of the location of the lease that is included in the application, the Minister shall give a notice to the lessee that

- (a) sets out what the Minister has determined under subsection (2)(a), and
- (b) in the case of a determination that a lease does not qualify for continuation with respect to any part

of the lease that is included in the application, specifies the deadline by which the lessee may respond to the notice.

(4) The Minister shall not make a final decision in respect of an application made under subsection (1) until

- (a) after the expiry of the term of the lease, and
- (b) if a notice was given under subsection (3) that requires a response, after the Minister receives a response to the notice or, if no response is received, the deadline specified in the notice passes.

(5) If the Minister determines under subsection (2)(a) that the lease qualifies for continuation as to the whole or part of its location in accordance with the application, the Minister shall continue the lease with respect to the whole or that part of its location.

(6) On making a final decision in respect of an application made under subsection (1), the Minister shall give notice of the decision to the lessee.

AR 263/97 s14;11/2000;155/2004;89/2013;224/2013

No application for continuation

14.1(1) Where no application is made under section 14 in respect of a lease before the expiration of its term, or where an application is made under section 14 but it omits a reference to a part of the location of the lease, the Minister shall review the Department's records after the expiration of the term of the lease to determine whether the lease

- (a) must be continued as to the whole or part of its location pursuant to section 15(1)(b) or (d), or
- (b) may be continued as to the whole or part of its location pursuant to
 - (i) section 15(1)(a) on the basis of a producing well,
 - (ii) section 15(1)(c), or
 - (iii) section 16(4) on the basis of a qualifying well
 - (A) that is drilled in the location of the lease or in a section of land containing the whole or part of the location of the lease, and
 - (B) in respect of which the rig release date has not occurred at the expiration of the term of the lease.

(2) If the Minister determines under subsection (1)(a) that a lease must be continued as to the whole or part of its location, the Minister shall continue the lease as to the whole or part of its location, as the case may be in accordance with section 15(2).

(3) If the Minister determines under subsection (1)(b) that the lease may be continued as to the whole or part of its location, the Minister shall send the lessee a notice that

- (a) describes the Minister's determination,
- (b) states that the lessee may, within the one-month period following the date of the notice, apply to the Minister for continuation of the lease as to the whole or part of its location as set out in the notice in accordance with the Minister's determination, and
- (c) states that the lessee must pay the prescribed rental for the lease and the prescribed late application penalty.

(4) If a lessee makes an application that complies with a notice sent under subsection (3), the Minister shall continue the lease as to the whole or part of its location in accordance with the application.

(5) On making a final decision under subsection (1), the Minister shall give a notice of the decision to the lessee.

AR 224/2013 s11

Late application for continuation

14.2(1) After the expiration of the term of a lease, the lessee may apply to the Minister for continuation of the lease as to the whole or any part of its location that

- (a) was not included in an application for continuation under section 14, and
- (b) was not referred to in a notice sent to the lessee pursuant to section 14.1(3).

(2) An application under this section must be made within 60 days after the latest of whichever of the following is applicable:

- (a) the date of a notice sent to the lessee respecting the lease under section 14.1(3);
- (b) the date of a report or letter sent by the Minister to the lessee respecting the expiration of the lease as to the whole or any part of its location, as the case may be;
- (c) the date of a letter that is sent by the Minister to the lessee advising that the Minister has notified the Regulator of the need to abandon a well in the location.

(3) The lessee must

- (a) include with the application evidence, satisfactory to the Minister, that the lease qualifies for continuation as to the whole or part of its location specified in the application pursuant to
 - (i) section 15(1)(a)(ii) on the basis of a producing well,
 - (ii) section 15(1)(c), or
 - (iii) section 16(4) on the basis of a qualifying well that is drilled in the location of the lease or in a section of land containing the whole or part of the location of the lease,

and

- (b) pay the prescribed rental for the lease and the prescribed late application penalty.

(4) If the lessee makes an application that complies with this section and the Minister is satisfied that the lease qualifies for continuation as to the whole or part of its location pursuant to

- (a) section 15(1)(a)(ii) or (c), the Minister shall continue the lease in accordance with section 15(2), or
- (b) section 16(4) on the basis of a qualifying well referred to in subsection (3)(a)(iii), the Minister shall continue the lease in accordance with section 16(4).

(5) On making a final decision in respect of an application made under subsection (1), the Minister shall give notice of the decision to the lessee.

AR 224/2013 s11

Qualification for continuation

15(1) Subject to subsection (2), a lease qualifies for continuation pursuant to section 14, 14.1 or 14.2 as to a part of its location that is within any of the following:

- (a) the spacing unit for a well that is
 - (i) productive from a zone in the location, in the case of section 14, or
 - (ii) producing petroleum or natural gas from a zone in the location, in the case of section 14.1 or 14.2;
- (b) a spacing unit all or part of which is within the unit area of a unit agreement to which the lease is subject;
- (c) a spacing unit adjoining the spacing unit for a freehold well if
 - (i) in accordance with this Regulation and before the expiry of the term of the lease, the lessee has

notified the Minister in writing that the lessee elects to pay offset compensation in respect of the location or the part of the location within the spacing unit, and

- (ii) offset compensation is being paid in respect of the location or the part of the location within the spacing unit;
- (d) a spacing unit all or part of which is within the area of a gas storage agreement to which the lease is subject;
- (e) a spacing unit all or part of which is productive from a zone in the location.

(2) The continuation of a lease as to the whole or part of its location that is within a spacing unit referred to in subsection (1) shall be granted

- (a) down to the base of whichever of the following zones is stratigraphically the deepest in that spacing unit:
 - (i) the deepest zone from which the well is
 - (A) productive, in the case of a lease that is continued on the basis of a productive well pursuant to subsection (1)(a)(i), or
 - (B) producing petroleum or natural gas, in the case of a lease that is continued on the basis of a producing well pursuant to subsection (1)(a)(ii);
 - (ii) the deepest zone that is subject to a unit agreement, in the case of a lease that is continued pursuant to subsection (1)(b);
 - (iii) the offset zone from which the freehold well is producing petroleum or natural gas, in the case of a lease that is continued on the basis of a freehold well pursuant to subsection (1)(c);
 - (iv) the deepest zone that is subject to a gas storage agreement, in the case of a lease that is continued pursuant to subsection (1)(d);
 - (v) the deepest productive zone, in the case of a lease that is continued pursuant to subsection (1)(e),

and

- (b) up to the top of whichever of the following zones is stratigraphically the shallowest in that spacing unit:
 - (i) the shallowest zone from which the well is
 - (A) productive, in the case of a lease that is continued on the basis of a productive well pursuant to subsection (1)(a)(i), or
 - (B) producing petroleum or natural gas, in the case of a lease that is continued on the basis of a producing well pursuant to subsection (1)(a)(ii);
 - (ii) the shallowest zone that is subject to a unit agreement, in the case of a lease that is continued pursuant to subsection (1)(b);
 - (iii) the offset zone from which the freehold well is producing petroleum or natural gas, in the case of a lease that is continued on the basis of a freehold well pursuant to subsection (1)(c);
 - (iv) the shallowest zone that is subject to a gas storage agreement, in the case of a lease that is continued pursuant to subsection (1)(d);
 - (v) the shallowest productive zone, in the case of a lease that is continued pursuant to subsection (1)(e).

16(1) For the purposes of this section,

- (a) a well is a “qualifying well” in relation to a lease if all of the following apply at the expiration of the term of the lease:
 - (i) the drilling of the well has commenced and the rig release date for the well has not yet occurred, or the rig release date for the well occurred not more than 3 months before the date of the expiration of the term of the lease;
 - (ii) in the opinion of the Minister, the well has or will evaluate petroleum and natural gas rights in the location of the lease;
 - (iii) the well has not previously been used as a qualifying well for continuation of any lease as to the whole or a part of its location pursuant to this section;
 - (iv) if the lease was previously continued as to the whole or part of its location pursuant to this section, the well is drilled in a section of land that contains a portion of the previously continued location;
- (b) the “qualifying area” in relation to a well that is a qualifying well in respect of a lease is
 - (i) the location of the lease, if the qualifying well is drilled in the location of the lease or in a section of land containing the whole or part of the location of the lease, or
 - (ii) if the qualifying well is drilled outside the location of the lease, the portions of the location of the lease that are contained within the sections of land that
 - (A) adjoin the section containing the well, or
 - (B) are, at their closest points, less than one intervening section from the section containing the well;
- (c) “previously continued location” means the whole or part of the location of one or more leases that have been continued pursuant to this section on the basis of a single qualifying well.

(2) If at the expiration of the term of a lease there is a qualifying well in respect of the lease, the lease qualifies for continuation on application under section 14 as follows:

- (a) if the lease was not previously continued as to the whole or part of its location pursuant to this section, the Minister shall continue the lease as to parts of its location that are contained in not more than 9 sections of land within the qualifying area of that well;
- (b) if the lease was previously continued as to the whole or part of its location pursuant to this section, the Minister shall continue the previously continued location, except for any portions of the previously continued location that have been surrendered or that have been continued pursuant to section 15.

(3) If a well is a qualifying well in relation to more than one lease, the Minister may, in accordance with subsection (2), continue all or portions of some or all of the leases.

(4) If at the expiration of the term of a lease there is a qualifying well in relation to the lease that is described in section 14.1(1)(b)(iii) or 14.2(3)(a)(iii), the lease qualifies to be continued under section 14.1 or 14.2 as to the location or part of the location, as the case may be, contained in the section of land in which the qualifying well is drilled.

(5) Where a lease is continued pursuant to this section as to the whole or part of its location, the whole or part of its location so continued expires at the end of the 6-month period following

- (a) the rig release date of the qualifying well, or
- (b) where there are 2 or more qualifying wells in respect of a previously continued location, the rig release date of the well with the latest rig release date.

(6) If a lease is continued pursuant to this section, the Minister may from time to time grant an extension of

that continuation period subject in the case of each extension to the following:

- (a) the lessee must apply to the Minister for the extension before the continuation period expires;
- (b) the application will be granted only if the Minister considers the extension warranted in the circumstances.

AR 263/97 s16;11/2000;155/2004;224/2013

Continuation in respect of potentially productive wells

17(1) Subject to subsection (8), a lease qualifies for continuation as to the whole or part of its location that is contained in up to 9 sections of land described in subsection (2) that are selected by the lessee on the basis of a well that

- (a) is productive, or
- (b) in the opinion of the Minister, is potentially productive.

(2) Each section of land that the lessee may select with respect to a well must

- (a) contain the well, or
- (b) adjoin or, at its closest point, be less than one intervening section from the section that contains the well.

(3) If a lessee applies under section 14 for continuation of a lease as to the whole or part of its location pursuant to this section, the application must in respect of each well to which the application pertains,

- (a) include evidence satisfactory to the Minister that the well
 - (i) is productive or potentially productive, and
 - (ii) has or will evaluate petroleum and natural gas rights in the location of the lease,

and

- (b) set out the sections of land that the lessee has selected on the basis of the well to qualify the lease for continuation as to the whole or part of its location contained in those sections.

(4) If a lessee applies under section 14 for continuation of a lease as to the whole or a part of its location pursuant to section 15 or 16 and the Minister determines that the whole or part of the location does not qualify for continuation under those sections but qualifies for continuation pursuant to this section on the basis of a well described in subsection (1), the Minister's notice under section 14(3)

- (a) must set out that the Minister is offering to continue the lease as to the whole or part of its location pursuant to this section,
- (b) must state that the lessee may accept the offer in whole or in part as set out in the notice by selecting up to 9 sections of land described in subsection (2) to qualify the lease for continuation as to the whole or part of its location contained in those sections, and
- (c) must state that if the lessee accepts the offer, the lessee must pay
 - (i) the prescribed rental for any part of the location in respect of which the rental has not yet been paid for the first year following the expiration of the term of the lease, and
 - (ii) the prescribed acceptance fee.

(5) If a lessee accepts an offer made under subsection (4) in respect of a well, the Minister may continue the lease as to the whole or part or its location as provided for in the offer and accepted by the lessee subject to any terms and conditions imposed by the Minister.

(6) The continuation of the whole or part of the location of a lease on the basis of a well pursuant to this section shall be granted to the base of the deepest zone in the location of the lease from which the well

- (a) is productive, or
 - (b) in the opinion of the Minister, is potentially productive.
- (7) Where a lease is continued pursuant to this section as to the whole or part of its location
- (a) the lease continues in effect as to the whole or part of the location in respect of which it was continued for a period of one year from the expiration of the term of the lease, and
 - (b) the lessee must pay
 - (i) the prescribed rental for any part of the location in respect of which the rental has not yet been paid for the first year following the expiration of the term of the lease, and
 - (ii) the prescribed acceptance fee.
- (8) A lease does not qualify for continuation pursuant to this section as to the whole or a part of its location
- (a) that has previously been continued under this section or section 16, or
 - (b) is contained in the spacing unit that contains the well to which the application relates if that part of the location qualifies for continuation under section 15.

AR 263/97 s17;224/2013

Notice respecting non-productivity

18(1) The Minister may give a lessee written notice in accordance with this section if

- (a) the lease is continued pursuant to section 15(1)(a) or (e) as to all or any part of its location in a spacing unit and the Minister considers that the deepest productive zone in the spacing unit is then no longer productive,
 - (b) the lease is continued pursuant to section 15(1)(b) as to all or part of its location in a spacing unit and the deepest productive zone in the spacing unit is then no longer subject to a unit agreement,
 - (c) the lease is continued pursuant to section 15(1)(c) as to all or part of its location in a Crown spacing unit and the freehold well concerned has, for a continuous 6-month period, ceased to produce petroleum or natural gas from the zone that is the same as the deepest productive zone in the Crown spacing unit, and the Minister considers the zone in the freehold spacing unit to be no longer productive, or
 - (d) the lease is continued pursuant to section 15(1)(d) as to all or part of the location in a spacing unit and the deepest productive zone in the spacing unit is then no longer subject to a gas storage agreement.
- (2) In this section, “subsurface portion”, in relation to a location or part of a location of a lease contained in a spacing unit referred to in a notice given under this section, means the portion of the subsurface in that spacing unit that lies stratigraphically between
- (a) the base of the zone specified in the notice and within that spacing unit, and
 - (b) the base of the deepest productive zone in that spacing unit.

(3) Subject to subsection (4), a notice under this section shall relate to

- (a) the location or the part of the location contained in the spacing unit referred to in subsection (1)(a), where the notice is given pursuant to subsection (1)(a),
- (b) the location or the part of the location contained in the spacing unit referred to in subsection (1)(b), where the notice is given pursuant to subsection (1)(b),
- (c) the location or the part of the location contained in the Crown spacing unit referred to in subsection (1)(c), where the notice is given pursuant to subsection (1)(c), or
- (d) the location or the part of the location contained in the spacing unit referred to in subsection (1)(d),

where the notice is given pursuant to subsection (1)(d).

(4) A notice under this section may be confined to a subsurface portion of the location or part of the location to which the notice relates by reason of subsection (3).

(5) A notice under this section shall state that, after the expiration of one year following the date on which the notice is given, the lease will expire as to the whole or part of the location to which the notice relates or the subsurface portion to which the notice relates, as the case may be, except to the extent that it is continued by reason of subsection (9).

(6) The Minister may from time to time extend the one-year period under a notice given pursuant to subsection (1) if

- (a) the lessee applies for the extension before the expiration of the one-year period or of the previous extension, as the case may be, and
- (b) the Minister considers the extension to be warranted in the circumstances,

and, on the granting of the extension, a reference in subsection (8) or (9) to a one-year period shall, in relation to the lease, be deemed to be a reference to the extended period.

(7) The Minister may at any time withdraw a notice given under this section

- (a) in its entirety,
- (b) with respect to one or more of the spacing units to which the notice relates, or
- (c) with respect to all or part of the subsurface portion in one or more of the spacing units to which the notice relates.

(8) If a notice is given to a lessee pursuant to this section then, subject to subsection (9), the lease expires at the end of the one-year period referred to in the notice as to the whole or part of the location or the subsurface portion, as the case may be, to which the notice relates.

(9) Before a lease expires in respect of all or part of its location or a subsurface portion, as the case may be, at the end of the one-year period pursuant to subsection (8), the lessee may apply for approval of the continuation of the lease pursuant to section 15 or 16 as to the location or the part of the location or the subsurface portion, as the case may be, or any lesser area or subsurface portion, and for that purpose sections 14, 14.1 and 14.2 apply, with the necessary changes, as though the expiration of the one-year period were the expiration of the term of the lease.

AR 263/97 s18;224/2013

Offset Requirements

Interpretation of offset requirement provisions

19(1) In this section and sections 20 to 23,

- (a) “offset obligation” means the requirements described in section 20(2)(b) and contained in an offset notice;
- (b) “offset notice” means a notice given pursuant to section 20(1);
- (c) “offset well” means a well required to be put on production of petroleum or natural gas by a lessee pursuant to an offset notice;
- (d) “solution gas” means the gaseous component of petroleum that is separated from crude oil after the recovery of the petroleum from a well;
- (e) “6-month notice period”, in relation to an offset notice, means the 6-month period following the date of the notice and any extension of that period granted under section 21 of this Regulation or section 8(1)(g) of the Act.

(2) In this section and sections 20 to 23, the definitions of “natural gas” and “petroleum” in section 80(2) of

the Act do not apply.

(3) Where a freehold spacing unit adjoining a Crown spacing unit has

- (a) a producing well producing from more than one zone, or
- (b) 2 or more producing wells each producing from one or more zones,

an offset notice pertaining to that freehold spacing unit may relate to and identify each of those zones and, in that case, references in this section and sections 20 to 23 to an offset zone shall be read as references to each of those zones.

AR 263/97 s19;11/2000;251/2001;155/2004

Offset notice

20(1) The Minister may give a notice to a lessee in accordance with this section where

- (a) there is a producing well producing from a zone in a freehold spacing unit adjoining a Crown spacing unit containing all or part of the location of the lessee's lease,
- (b) there is no well producing petroleum or natural gas from the offset zone in the Crown spacing unit, and
- (c) the offset zone in the Crown spacing unit is not subject to a unit agreement or gas storage agreement.

(2) An offset notice shall

- (a) identify the zone in the freehold spacing unit to which the offset notice relates,
 - (b) require the lessee within the 6-month notice period
 - (i) to put a well on production of petroleum or natural gas from the offset zone in the Crown spacing unit and notify the Minister that the lessee has done so, or
 - (ii) to prove to the Minister's satisfaction that the offset zone in the Crown spacing unit is not productive,
- and
- (c) describe the lessee's alternative courses of action under subsection 3(a) and (b) and the circumstances described in subsection 3(c) in which the lessee's offset obligation need not be fulfilled.

(3) A lessee to whom an offset notice is given

- (a) may defer the lessee's offset obligation by notifying the Minister in writing, within the 6-month notice period, that the lessee elects to pay offset compensation in accordance with sections 22 and 23;
- (b) may, within the 6-month notice period, submit to the Minister a surrender of the lease, the part of the location of the lease within the Crown spacing unit or the part of the location down to the base of the offset zone in the Crown spacing unit, excepting
 - (i) each zone in which a producing well is producing, and
 - (ii) each zone that is subject to a unit agreement or a gas storage agreement;
- (c) need not fulfil the lessee's offset obligation if, within the 6-month notice period,
 - (i) the freehold well is abandoned,
 - (ii) the freehold well is abandoned in the offset zone,
 - (iii) the Regulator makes an order that reduces the size of the spacing unit for the freehold well with the result that the reduced spacing unit containing the freehold well no longer adjoins the Crown spacing unit, or

- (iv) the offset zone underlying the location or part of the location within the Crown spacing unit becomes subject to a unit agreement or gas storage agreement.

(4) Where at the end of the 6-month notice period in respect of an offset notice

- (a) the lessee has not complied with the notice,
- (b) the lessee's offset obligation is not deferred pursuant to subsection 3(a),
- (c) the Minister does not have a surrender from the lessee in accordance with subsection 3(b), and
- (d) the lessee is not excused from fulfilling the lessee's offset obligation by reason of subsection 3(c),

the Minister may, subject to subsection (5), cancel the lease with respect to the part of the location of the lease within the Crown spacing unit in one or more of the zones down to the base of the offset zone.

(5) The Minister may not cancel a lease under subsection (4) or accept a surrender under subsection 3(b) in respect of a zone in the Crown spacing unit

- (a) in respect of which, during the 6-month notice period, a well has commenced production of petroleum or natural gas, or
- (b) that, during the 6-month notice period, becomes subject to a unit agreement or a gas storage agreement.

(6) Where, after an offset notice is given, the Regulator makes an order that has the effect of changing the area of the Crown spacing unit referred to in the offset notice into smaller spacing units, the offset notice is deemed to be amended to refer to the smaller Crown spacing unit or units adjoining the freehold spacing unit.

(7) The Minister may at any time withdraw an offset notice

- (a) in its entirety,
- (b) with respect to part of the spacing unit to which the notice relates, or
- (c) with respect to part of the subsurface in the spacing unit to which the notice relates.

AR 263/97 s20;11/2000;155/2004;89/013

Review of offset notice

21(1) A lessee to whom an offset notice is given may apply to the Minister for a review of the decision to give the notice, or of any requirement contained in the notice, if, when the application for review is made, the lessee

- (a) notifies or has notified the Minister under section 20(3)(a) of the lessee's election to pay offset compensation, or
- (b) submits or has submitted a surrender under section 20(3)(b).

(2) An application under this section in respect of an offset notice must be made before the end of the 6-month notice period and must show either

- (a) that the offset notice was not authorized by section 20(1), or
- (b) the relief sought by the applicant under subsection (3)(b) or (c) and the grounds on which the relief is sought.

(3) On concluding a review under this section, the Minister may

- (a) where the applicant claims that the giving of the offset notice was not authorized by section 20(1),
 - (i) confirm the decision to give the offset notice, or
 - (ii) withdraw the offset notice,

- (b) withdraw the offset notice if the Minister is satisfied, on the basis of the evidence provided by the applicant, that the withdrawal of the offset notice is warranted in the circumstances,
- (c) extend the 6-month notice period where the Minister considers the extension warranted in the circumstances, or
- (d), (e) repealed AR 11/2000 s14;
- (f) consent to a surrender pursuant to section 20(3)(b) that excepts a productive zone in addition to the zones referred to in section 20(3)(b)(i) and (ii) and (5).

(4) A decision by the Minister under subsection (3) to withdraw an offset notice does not preclude the Minister from giving another offset notice relating to the same Crown spacing unit.

AR 263/97 s21;11/2000;155/2004

Liability to pay offset compensation

22(1) A lessee is liable to the Crown for the payment of offset compensation if

- (a) the lessee is given an offset notice and notifies the Minister in accordance with section 20(3)(a) of the lessee's election to pay offset compensation, or
- (b) the Minister gives a notice to the lessee pursuant to subsection (2) requiring the lessee to pay offset compensation.

(2) Where

- (a) a lessee has fulfilled the lessee's offset obligation by putting a well on production of petroleum or natural gas from the offset zone in the Crown spacing unit and has notified the Minister that it has done so, or
- (b) the lessee's liability to pay offset compensation has terminated in accordance with subsection (5)(a) by virtue of a well producing from the offset zone in the Crown spacing unit,

the Minister may give a notice to a lessee requiring the lessee to pay offset compensation where

- (c) the well has not produced petroleum or natural gas from the offset zone for a period of at least 3 consecutive months, or
- (d) the Minister is of the opinion that the production of petroleum or natural gas from that well from the offset zone over a specified period is unduly or unjustifiably less than the production of petroleum or natural gas from the offset zone in the freehold spacing unit during the same period.

(3) A lessee to whom a notice is given pursuant to subsection (2) may apply to the Minister within the period specified in the notice for a review of the Minister's decision to give the notice and, on concluding the review, the Minister may

- (a) confirm the decision,
- (b) withdraw the notice if the Minister, on the basis of the evidence provided by the applicant, considers the withdrawal of the notice warranted in the circumstances, or
- (c) specify a period longer than the period specified in the notice for the purposes of subsection (4)(b).

(4) The liability of a lessee to pay offset compensation commences with

- (a) the month following the month in which the 6-month notice period expires, where the liability arises under subsection (1)(a), or
- (b) the month in which the period specified in the notice under subsection (2) expires, where the liability arises under subsection (1)(b).

(5) The liability of a lessee to pay offset compensation ends if any of the following events occur and the Minister receives and approves an application from the lessee for such termination that satisfies the Minister as to the occurrence of the event:

- (a) a producing well commences producing petroleum or natural gas from the offset zone in the Crown spacing unit, and the lessee notifies the Minister that the well is doing so;
- (b) the Minister receives from the lessee a surrender that is accepted by the Minister and that surrenders
 - (i) the lease or the part of the location of the lease containing the Crown spacing unit, or
 - (ii) the part of the location of the lease within the Crown spacing unit down to the base of the offset zone, excepting each zone lying stratigraphically above the offset zone that is either productive or is subject to a unit agreement or gas storage agreement;
- (c) the Regulator issues an order that reduces the area of the spacing unit for the freehold well with the result that the spacing unit for the freehold well no longer adjoins the Crown spacing unit;
- (d) the offset zone in the Crown spacing unit becomes subject to a unit agreement or a gas storage agreement.

(5.1) The liability of a lessee to pay offset compensation ends on the first day of the month in which the Minister receives an application under subsection (5) if the Minister subsequently approves the application.

(5.2) The liability of a lessee to pay offset compensation ends as of the day on which either of the following occurs:

- (a) the Minister is satisfied that the freehold well has, for a period of at least 6 consecutive months, ceased to produce petroleum or natural gas, as the case may be, from the offset zone in the freehold spacing unit and that the offset zone is no longer productive, or
- (b) the freehold well, according to the Regulator's records, is abandoned in its entirety or in the offset zone.

(6) Notwithstanding anything in this section, the lessee may apply to the Minister, at any time after the liability for offset compensation commences, to have the lessee's liability terminated and, on considering the application and the lessee's evidence, the Minister may by notice direct that the liability be terminated as of the date specified in the notice or may refuse to grant the application.

(7) If a Crown spacing unit adjoins more than one freehold spacing unit each of which contains a well producing petroleum or natural gas from the same zone, the liability of a lessee to pay offset compensation applies in respect of each of those freehold wells and for that purpose a reference in this section or section 23 to a freehold well shall, in relation to that Crown spacing unit, be read as referring to each of those freehold wells.

(8) A person who is liable to pay offset compensation is indebted to the Crown in right of Alberta.

AR 263/97 s22;11/2000;155/2004;89/2013

Calculation and payment of offset compensation

23(1) Offset compensation payable by a lessee

- (a) for any month during which the lessee's liability for offset compensation arises under section 22(4) shall be an amount equal to the value of the Crown's royalty share of petroleum and natural gas that would have been payable to the Crown if the freehold well had instead produced the petroleum or natural gas during that month from the offset zone in the Crown spacing unit,
- (b) shall be reduced by the amount of any deductions allowed under subsection (3), and
- (c) shall be paid in the manner and at the times prescribed by this section.

(2) For the purposes of subsection (1)(a),

- (a) the value of the Crown's royalty share of petroleum
 - (i) for any month prior to February, 2000 shall, in respect of crude oil, be calculated by using the new oil par price prescribed for that month under the *Petroleum Royalty Regulation* (AR 248/90), and

- (ii) for any month from and after February, 2000 and before January 1, 2009 shall, in respect of crude oil, be calculated using the par price prescribed for that month under the *Petroleum Royalty Regulation* (AR 248/90) that would apply to the petroleum produced from the freehold well if the well had instead produced the petroleum from the offset zone in the Crown spacing unit, and
- (iii) for any month from and after January 1, 2009 shall, in respect of crude oil, be calculated using the par price prescribed for that month under the *Petroleum Royalty Regulation, 2009* that would apply to the petroleum produced from the freehold well if the well had instead produced the petroleum from the offset zone in the Crown spacing unit,

and

- (b) the value of the Crown's royalty share of natural gas and solution gas for any month shall be calculated by using 80% of the Gas Reference Price prescribed by the Minister for that month pursuant to the *Natural Gas Royalty Regulation, 1994* (AR 351/93), the *Natural Gas Royalty Regulation, 2002* (AR 220/2002) or the *Natural Gas Royalty Regulation, 2009*, with no deductions for any costs or allowances incurred in gathering, processing or reprocessing.

(3) Where a lessee is liable for the payment of offset compensation in respect of any month by reason of a notice given under section 22(2), the amount of the offset compensation for that month shall be reduced by the following amounts:

- (a) the amount representing the value to the Crown, as determined by the Minister, of crude oil recovered from the offset well in that month;
- (b) the amount obtained by multiplying the quantity, in gigajoules, of the Crown's royalty share of natural gas and solution gas recovered from the offset well in that month by 80% of the Gas Reference Price for the month.

(4) A lessee who is liable to pay offset compensation shall make each payment to the Minister no later than 30 days after being sent an invoice for the amount by the Minister.

(5) If

- (a) a lessee is liable to pay offset compensation in respect of petroleum for any month prior to February, 2000 the value of which was calculated in respect of crude oil using the new oil par price referred to in subsection (2)(a)(i), and
- (b) within 3 months after the date of the invoice sent under subsection (4) setting out the offset compensation the lessee provides proof satisfactory to the Minister that the average price received in the month for crude oil produced from the freehold well in connection with which the liability arose is less than that new oil par price,

the value of the offset compensation shall be calculated using that average price instead of that new oil par price.

AR 263/97 s23;11/2000;220/2002;155/2004;221/2008;222/2008

Part 3 General

Withdrawal of Crown from unit agreement

24(1) In this section,

- (a) "unit agreement" means a unit agreement as defined in the Act;
- (b) "unit operations", in relation to a unit agreement, means any operations or activities conducted for the purpose of producing petroleum or natural gas pursuant to the unit agreement or any other operations or activities conducted for the purpose of developing or exploiting petroleum or natural gas pursuant to the unit agreement;
- (c) "unit operator" means the person who is the unit operator under a unit agreement according to the

records of the Department.

(2) If no unit operations have been conducted under a unit agreement for a period of at least 12 consecutive months, the Minister may give a notice to

- (a) the unit operator, and
- (b) the persons who, according to the records of the Department, are the working interest owners under the unit agreement,

stating that the Crown intends to withdraw as a party to the unit agreement after the end of the 3-month period following the date of the notice.

(3) The unit operator or a person authorized for the purpose by the unit operator may apply to the Minister to withdraw the notice given under subsection (2).

(4) An application under subsection (3)

- (a) must be made before the end of the 3-month period following the date of the notice, and
- (b) must be accompanied by evidence showing
 - (i) that unit operations had not ceased before the date of the notice,
 - (ii) that unit operations have recommenced since that date and are continuing in good faith, or
 - (iii) that on the date of the notice, unit operations were suspended in circumstances where the obligation of the unit operator to perform those operations was suspended pursuant to the force majeure provisions of the unit agreement.

(5) The Minister may, on application, extend the 3-month period referred to in subsection (4)(a) if the Minister considers the extension warranted in the circumstances, whether the application is made before or after the expiry of the 3-month period.

(6) Unless the Minister sooner withdraws a notice given under subsection (2), the Minister may make a declaration stating that the Crown has withdrawn as a party to the unit agreement as of the date specified in the declaration if

- (a) an application was not made under subsection (3) in accordance with subsection (4), or
- (b) an application was made under subsection (3) but the Minister considered that the evidence accompanying the application was insufficient to support the request for the withdrawal of the notice or that the application was not made in good faith.

(7) The Crown ceases to be a party to a unit agreement as of the date specified in the declaration of withdrawal made by the Minister under subsection (6).

(8) A declaration of withdrawal made by the Minister under subsection (6) must be published in The Alberta Gazette.

Proof of ownership of freehold rights

25 If the location of a licence or lease forms a part only of a spacing unit and the title to the petroleum or natural gas or both in the remainder of the spacing unit is not owned by the Crown in right of Alberta,

- (a) the Minister may give a notice to the licensee or lessee, as the case may be, requiring the licensee or lessee to provide to the Minister, within the period specified in the notice, proof that the licensee or lessee has the right to drill for and recover petroleum or natural gas or both with respect to that remainder of the spacing unit, and
- (b) the Minister may cancel the licence or lease if the notice under clause (a) is not complied with.

Time extensions related to drilling problems

26(1) If, due to mechanical or other difficulties encountered in the drilling of a well referred to in any

provision of this Regulation, the well cannot be completed but within one month from the cessation of those drilling operations the drilling of another well is commenced

- (a) in the same spacing unit, or
- (b) with the consent of the Minister, in another spacing unit,

the drilling of that other well shall be deemed to be a continuation of the drilling of the uncompleted well.

(2) The Minister may, on application, extend the one-month period under subsection (1), if the Minister considers the extension warranted in the circumstances.

Determination of Crown ownership in crude oil and natural gas

26.1(1) In this section,

- (a) “crude oil” means crude oil as defined in the *Petroleum Royalty Regulation, 2009*;
- (b) “field condensate” means field condensate as defined in the *Natural Gas Royalty Regulation, 2009*;
- (c) “gas product” means gas product as defined in the *Natural Gas Royalty Regulation, 2009*;
- (d) “production entity” means
 - (i) a drilling spacing unit prescribed or established pursuant to regulations under the *Oil and Gas Conservation Act*, to the extent the drilling spacing unit is not included in a block or area described in subclause (ii), (iii) or (iv),
 - (ii) a block established pursuant to regulations under the *Oil and Gas Conservation Act*,
 - (iii) the area of a project as defined in the *Oil and Gas Conservation Act*, or
 - (iv) the unit area under a unit agreement or unit operation order;
- (e) “solution gas” means solution gas as defined in the *Natural Gas Royalty Regulation, 2009*;
- (f) “well event” means well event as defined in the *Petroleum Royalty Regulation, 2009*.

(2) If the whole or part of a location forms a part only of a production entity other than the unit area under a unit agreement or unit operation order,

- (a) the percentage of Crown ownership in crude oil, natural gas or solution gas recovered from a well event or events in the production entity, or gas product or field condensate obtained from that gas is
 - (i) the proportion that the area of the location within the production entity bears to the whole area of the production entity, or
 - (ii) if the production entity is a drilling spacing unit and an order under section 80 or 81 of the *Oil and Gas Conservation Act* is in effect with respect to the spacing unit, the proportion that the production allocated to the location or to the part of the location contained in the spacing unit bears to the whole of the production from the spacing unit,

and

- (b) the well event or events in the production entity are deemed to be in the location or part of the location.

(3) If the production entity is a drilling spacing unit that is partly inside and partly outside the unit area under a unit agreement or unit operation order,

- (a) the crude oil, natural gas or solution gas recovered from a well event in the drilling spacing unit or gas product or field condensate obtained from that gas must be allocated to the parts of the drilling spacing unit inside or outside the unit area, and

- (b) the percentage of Crown ownership in the parts allocated under clause (a)
 - (i) inside the unit area is as stipulated in the unit agreement or unit operation order, and
 - (ii) outside the unit area is the proportion that those parts bear to the drilling spacing unit outside of the unit area.

(4) For the purposes of subsection (2)(a)(i), the production entity for a well event in a well designated by the Alberta Energy Regulator as a gas well producing crude oil is the quarter section of land on which the well is located, unless the Minister otherwise designates a larger or smaller area of land.

AR 222/2008 s17;89/2013

Transitional

Interpretation of transitional provisions

27 In sections 28 to 33,

- (a) “former continuation rules” means
 - (i) sections 90 and 94 to 97 of the Act, as they stood on December 31, 1997, and
 - (ii) sections 23 and 24 of the former Regulation;
- (b) “new continuation rules” means sections 14 to 17 of this Regulation;
- (c) a reference to section 96, 97 or 98 of the Act is a reference to that section as it stood on December 31, 1997.

Licences under former Regulation

28(1) Except as otherwise provided in subsections (2) and (3), this Regulation applies to every licence issued under the former Regulation and having a term expiring on or after January 1, 1998.

(2) If

- (a) the term of a licence issued under the former Regulation expires on or after January 1, 1998,
- (b) the location of the licence was in, or deemed to be in, the Plains Area under the former Regulation, and
- (c) the location of the licence contains more than 15 sections of land,

the Minister, in granting an application under section 11(1) of this Regulation, shall use the Table in Schedule B of the former Regulation to determine the number of sections of land to remain in the location of the licence at the commencement of its intermediate term.

(3) If

- (a) 2 licences issued under the former Regulation were grouped under section 10 of the former Regulation before January 1, 1998,
- (b) 2 licences issued under the former Regulation are grouped under section 10 of this Regulation, or
- (c) a licence issued under the former Regulation and a licence issued under this Regulation are grouped under section 10 of this Regulation,

and, in the absence of the enactment of this Regulation, the licensee or licensees would have been entitled to apply for leases having aggregate locations containing more than 15 sections of land, the Minister, in granting an application under section 11(1) of this Regulation in relation to those licences, shall use the Table in Schedule B of the former Regulation to determine the aggregate number of sections of land to remain in the locations of the licences at the commencement of their intermediate terms.

(4) Where the term of a licence issued under the former Regulation expired on or before December 31, 1997 but all of the procedures respecting lease selection and issuance had not been completed before that date,

sections 11 and 12 and Schedules A and B of the former Regulation continue to apply to the licence as though those sections and Schedules had not been repealed.

Pre-1998 leases

29(1) Subject to subsection (2), this Regulation applies to every lease issued before January 1, 1998.

(2) Except as otherwise provided in sections 30 and 31, the former continuation rules apply to a lease whose term expired before January 1, 1998 until the decision is finally made in respect of an application under section 94 of the Act for approval of continuation of the lease after the expiration of its term.

Continuation under section 96 of the Act

30(1) Where as of January 1, 1998, a lease is being continued as to the whole or any part of its location for a period pursuant to section 96(1) or (4) of the Act or any extension of that period, the period is automatically extended for a further 3-month period and, at the end of that 3-month period, section 16 of this Regulation applies, and the former continuation rules cease to apply, to the lease with respect to the whole or part of the location so continued as though the expiration of the 3-month extension period were the expiration of its initial continuation period.

(2) In subsection (1), “initial continuation period” has the meaning given to it by section 16(1)(c) of this Regulation.

Continuation under section 97 of the Act

31(1) Where as of January 1, 1998 a lease is being continued as to the whole or part of its location pursuant to section 97 of the Act then, on the expiration of the one-year period referred to in section 97(4) of the Act or of any extension of that period, section 17(9) of this Regulation applies, and the former continuation rules cease to apply, to the lease with respect to the whole or part of the location so continued as though the expiration of the period or the extension were the expiration of the term of the lease.

(2) Notwithstanding subsection (1), the security furnished by a lessee pursuant to section 97(3)(d)(ii) of the Act shall be dealt with under the former continuation rules.

Non-productivity notices

32(1) If the one-year period under a notice given under section 98 of the Act expires during 1998, the new continuation rules apply to the location or part of the location or the subsurface portion of the location or part of the location, as the case may be, to which the notice related, as though the expiration of the one-year period were the expiration of the term of the lease.

(2) Where a notice given under section 18 of this Regulation relates to a lease whose term expired before January 1, 1998, section 18 shall, as far as practicable, be applied to the lease as though the lease had been continued under the new continuation rules.

Offset drilling obligations

33(1) Where

- (a) prior to January 1, 1998 the Minister has given a lessee a notice respecting the default by the lessee in complying with section 21(2) of the former Regulation and stating that the Minister will cancel the lease or cancel the lease with respect to the part of the location within the Crown spacing unit concerned, as the case may be, if the default is not remedied before the expiration of the 30-day period following the date of the notice, and
- (b) the 30-day period referred to in the notice expires on or after January 1, 1998,

section 21(1), (2), (4) and (5) of the former Regulation continue to apply to the lessee and the lease in relation to the Crown spacing unit concerned, as though that section had not been repealed, until the expiration of the 30-day period or any extension of that period.

(2) If a notice had been given to a lessee under section 21(3) of the former Regulation before January 1, 1998 and the 90-day period in that notice or any extension of that period expires after that date, section 21(1), (3), (4) and (5) of the former Regulation continue to apply to the lessee as though that section had not been

repealed, until the expiration of the 90-day period or any extension of that period.

(3) Where a lessee

- (a) was liable for the payment of compensatory royalty under the former Regulation and the liability had not ended by January 1, 1998, or
- (b) became liable for the payment of compensatory royalty under the former Regulation by reason of an election received by the Minister on or after January 1, 1998 and before the expiration of
 - (i) the 30-day period referred to in subsection (1) or any extension of that period, or
 - (ii) the 90-day period referred to in subsection (2) or any extension of that period,

the lessee's liability to pay compensatory royalty becomes a liability to pay offset compensation under this Regulation.

Variation of transition rules

34 Where the Minister is satisfied that any of the provisions of section 10 or sections 28 to 33 have caused or are causing undue hardship or prejudice in a particular case or class of cases, the Minister may by a general or special direction vary or replace any of the provisions of section 10 or sections 28 to 33 to the extent necessary to remove or alleviate the hardship or prejudice.

AR 263/97 s34;11/2000

Repeal

Repeal

35 The *Petroleum and Natural Gas Agreements Regulation* (AR 188/85) is repealed.

Expiry

Expiry

36 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 November 30, 2018.

AR 263/97 s36;329/2002;130/2004;155/2004;224/2013

Coming into Force

Coming into force

37 This Regulation comes into force on January 1, 1998.

Schedule 1

Regions

PLAINS REGION

The Plains Region consists of the land in Alberta contained within the outer perimeter of the land listed below:

On the east by townships 1 to 66 inclusive, range 1, west of the 4th meridian;

and

On the north by township 66, ranges 1 to 27 inclusive, all west of the 4th meridian, and township 66, ranges 1 to 4 inclusive, and township 34, range 5, all west of the 5th meridian;

and

On the west from townships 35 to 66 inclusive, range 4, west of the 5th meridian;

and

On the west from townships 1 to 34 inclusive, the lands immediately adjacent to the Foothills Region;

and

On the south by township 1, ranges 1 to 23 inclusive, all west of the 4th meridian.

NORTHERN REGION

The Northern Region consists of the land in Alberta not included in the Plains Region or the Foothills Region.

FOOTHILLS REGION

The Foothills Region consists of the land in Alberta listed below and that land within Alberta located south and west of the listed land:

Township 1, range 24; township 2, range 25; township 3, range 26; township 4, range 27; township 5, range 28; and townships 6 to 11 inclusive, range 29, all west of the 4th meridian;

and

Townships 12 and 13, range 1; townships 14 to 20 inclusive, range 2; townships 21 and 22, range 3; townships 23 to 28 inclusive, range 4; townships 29 and 30, range 5; townships 31 to 34 inclusive, range 6; townships 35 and 36, range 7; township 37, range 8; township 38, range 9; townships 39 and 40, range 10; township 41, ranges 11 to 13 inclusive; township 42, range 14; township 43, ranges 15 and 16; township 44, range 17; townships 45 and 46, range 18; townships 47 and 48, range 19; township 48, range 20; township 49, ranges 21 and 22; township 50, range 23; townships 51 and 52, range 24; townships 53 and 54, range 25; township 54, range 26; townships 55 and 56, range 27, all west of the 5th meridian;

and

Township 56, range 1; townships 57 and 58, range 2; township 58, range 3; townships 59 and 60, range 4; township 60, ranges 5 and 6; township 61, ranges 7 and 8; township 62, ranges 9 and 10; township 63, range 11; townships 64 and 65, range 12; and township 66, ranges 13 and 14, all west of the 6th meridian.

Schedule 2

Number of Sections of Land Earned by Validating Well

1 Subject to section 2 of this Schedule, where a validating well is drilled at least to a measured depth shown in Column 1 in the following Table (the measured depth being referred to in this Schedule as the “Column 1 depth”) but not beyond the next succeeding measured depth shown in Column 1, the number of sections of land earned by the well that may be used to validate sections of land as qualified to remain in the location of a licence at the commencement of its intermediate term is the number of sections shown in the Column for the appropriate Region opposite the Column 1 depth.

Table

Column 1 Measured Depth (in metres)	Column 2 Plains Region (sections)	Column 3 Northern Region (sections)	Column 4 Foothill Region (sections)
Minimum Depth as defined in section 1(m.1)	3	5	8

325	3	6	8
475	3	6	9
600	3	6	9
750	4	7	10
900	4	7	10
1050	5	8	11
1200	5	8	11
1350	6	9	12
1500	6	9	12
1650	7	10	13
1800	7	10	13
1950	8	11	14
2100	8	11	14
2200	9	12	15
2300	9	13	15
2400	10	13	16
2500	10	14	16
2700	11	14	18
2750	12	14	18
2775	12	15	19
2925	13	16	20
3000	13	16	20
3075	14	17	21
3225	15*	18	22
3300	15*	18	22
3375	15*	19	23
3525	15*	20	24
3600	15*	20	24
3675	15*	21	25
3825	15*	22	26
3900	15*	22	26
3975	15*	23	27
4125	15*	24	28
4200	15*	24	28
4275	15*	25	29
4425	15*	26	30
4500	15*	27	31
4550	15*	28	32
4650	15*	29	33
4800	15*	30	34
4850	15*	31	35
5000	15*	32*	36*

* Maximum

2 Repealed AR 224/2013 s18.

AR 263/97 Sched.2;11/2000;155/2004;224/2013

- © 1995 - 2015 [Government of Alberta](#)
- [Copyright and Disclaimer](#)