

(Consolidated up to 169/2015)

ALBERTA REGULATION 262/97

Mines and Minerals Act

MINES AND MINERALS ADMINISTRATION REGULATION

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Definitions

1 In this Regulation,

- (a) “Act” means the *Mines and Minerals Act*;
- (b) “amount owing to the Crown” means a money amount owing to the Crown under the Act, the regulations or an agreement;
- (c) repealed AR 89/2013 s18;
- (d) “designated representative”, in relation to an agreement, means
 - (i) the person who is designated as the representative of the lessee or lessees of the agreement, according to the notice of the designation given to the Minister pursuant to section 29 of the Act, or
 - (ii) the lessee of the agreement, if the agreement is held by only one lessee who has not given the Minister a notice of a designation of a representative pursuant to section 29 of the Act or has given the Minister a notice of the revocation of a previous designation of a representative;
- (e) “due date”, in relation to the payment of an amount owing to the Crown, means
 - (i) the due date for the payment prescribed by the Act, the regulations or an agreement, unless the payment is made pursuant to a monthly invoice arrangement that provides for a different due date for the payment,
 - (ii) the due date for the payment specified in the monthly invoice arrangement, if the payment is made pursuant to a monthly invoice arrangement, or
 - (iii) the due date for the payment specified in an invoice or notice sent by the Minister, if no due date for the payment is prescribed by the Act, the regulations or an agreement;
- (f) “official service address”, in relation to any person, means that person’s official service address shown in the current notice given by that person to the Minister pursuant to section 30 of the Act;
- (g) “petroleum and natural gas lease” means a lease granting rights to petroleum or natural gas or both;
- (h) “petroleum and natural gas licence” means a licence granting rights to petroleum or natural gas or both;
- (i) “prescribed”, in relation to a fee or rental, means prescribed by this Regulation;
- (j) “regulations” means this Regulation or any other regulations under the Act;
- (j.1) “Regulator” means the Alberta Energy Regulator;
- (k) “royalty amount” means an amount owing to the Crown
 - (i) on account of a money royalty,

- (ii) in respect of the Crown's royalty share of a mineral when disposed of by an agent, or
- (iii) on account of royalty compensation;
- (l) "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 the *Oil and Gas Conservation Rules* (AR 151/71) if the well were drilled and in the absence of any order of the Regulator suspending the operation of Part 4 of those Rules in respect of that area.

AR 262/97 s1;251/2001;254/2007;89/2013;45/2014

Designated Representatives, Notices and Applications

Designation of representative

2(1) Subject to subsections (2) and (3), the following documents given to the Minister pursuant to section 29 of the Act shall be in a form determined or approved by the Minister:

- (a) a notice of the designation of a representative;
 - (b) a notice of the replacement of the designation of a representative;
 - (c) a notice by the sole lessee of an agreement of the revocation of the lessee's designation of a representative.
- (2)** A statement respecting the designation of a representative in relation to an agreement included in
- (a) the application for the agreement made pursuant to section 16(a) of the Act,
 - (b) the tender for the agreement, where the agreement is sold by way of a sale by public tender pursuant to section 16(b) of the Act,
 - (c) the registered transfer of part of the location of an agreement that led to the issuance of the agreement, or
 - (d) a registered transfer of the agreement from a sole lessee who at the time of registration had not designated a representative for the agreement, to another person who on registration of the transfer became the sole lessee of the agreement,

constitutes a notice to the Minister of the designation of that representative in relation to that agreement pursuant to section 29 of the Act.

(3) A statement respecting the replacement of the designation of a representative in relation to an agreement included in a registered transfer affecting that agreement constitutes a notice to the Minister of the replacement of the representative in relation to the agreement pursuant to section 29(4)(a) of the Act.

(4) Not more than one person may be designated pursuant to section 29 of the Act as a representative in relation to the same agreement.

(5) A notice of the designation of a representative given to the Minister

- (a) in a form determined or approved pursuant to subsection (1)(a) or (b), or

- (b) in accordance with subsection (2) or (3),

is, as against the Crown, binding on the lessees or the lessee, as the case may be, of the agreement to which the designation relates.

AR 262/97 s2;251/2001

Official service address

3(1) A notice of a person's official service address given to the Minister under section 30(1) of the Act

- (a) shall be in the form determined or approved by the Minister, and
- (b) shall not show more than one official service address for that person.

(2) Repealed AR 154/2004 s2.

AR 262/97 s3;251/2001;154/2004

Giving of notices, etc. by the Minister

4(1) Any notice that the Minister is required or authorized to give to any person under the Act, the regulations or an agreement may be given in any of the following ways:

- (a) by mail addressed to that person's official service address or, if that person has no official service address, to that person's last known address according to the records of the Department;
- (b) by delivery to that person's official service address or, if that person has no official service address, to that person's last known address according to the records of the Department;
- (c) by fax transmission to that person's last known fax number according to the records of the Department;
- (d) by e-mail transmission to that person's last known electronic address according to the records of the Department;
- (e) by approved electronic transmission to that person in accordance with sections 23.1 to 23.6.

(2) If a notice is given by the Minister by mail in accordance with subsection (1)(a),

- (a) section 23 of the *Interpretation Act* does not apply to the notice, and
- (b) the notice is deemed to have been given as of the date of mailing.

(3) If a notice is given by the Minister in accordance with subsection (1)(c) or (d), the notice is deemed to have been given on the day it was transmitted to the person's last known fax number or electronic address, as the case may be, according to the records of the Department.

(4) If a notice is given by the Minister in accordance with subsection (1)(e), the notice is deemed to have been given on the day it was transmitted to the person in accordance with sections 23.1 to 23.6.

(5) Subsections (1) to (4) also apply, with the necessary changes, to any letter, request, notification, invoice, demand or other document that the Minister is required or authorized by the Act, the regulations or an agreement to give, send or furnish to a designated representative or other person.

AR 262/97 s4;251/2001;169/2015

Giving of notices, etc. to the Minister

5(1) Where a person is required or authorized by the Act, the regulations or an agreement to give a notice to the Minister, the notice may be given to the Minister in any of the following ways:

- (a) by physical delivery to an office of the Department;
- (b) by mail addressed to the Department;
- (c) by fax transmission to the Department, to a fax number specified by the Minister for notices of that kind;

- (d) by e-mail transmission to the Department, at an e-mail address specified by the Minister for notices of that kind.
 - (e) by approved electronic transmission to the Department in accordance with sections 23.1 to 23.6.
- (2) If a notice is given to the Minister by mail in accordance with subsection (1)(b),
- (a) section 23 of the *Interpretation Act* does not apply to the notice, and
 - (b) the notice shall be considered as being given by mail to the Minister on the day on which it is received in an office of the Department.
- (3) Where a provision of the Act, the regulations or an agreement authorizes a person to give a notice to the Minister within a prescribed period or before a prescribed deadline, a notice given by that person shall be considered as being given to the Minister only if it is received by the Department within that period or before that deadline.
- (4) Subsections (1), (2) and (3) also apply, with the necessary changes, to any application or other document that a person is required or authorized by the Act, the regulations or an agreement to make or furnish to the Minister, except that a transfer, security notice or other document may not be submitted for registration under Part 6 of the Act by fax or e-mail transmission.
- (5) If a provision of another regulation is in conflict with or inconsistent with this section, the provision of the other regulation prevails to the extent of the conflict or inconsistency.

AR 262/97 s5;251/2001;169/2015

Applications to the Minister

- 6 Where the Act, the regulations or an agreement authorizes a lessee of an agreement to make an application to the Minister, then, unless otherwise expressly provided by the regulations, the application may be made only by
- (a) the person who is the designated representative in relation to the agreement, or
 - (b) a person authorized by the designated representative to make the application.

Agreements

Issuance of agreement

- 7(1) For the purposes of the Act,
- (a) an agreement applied for under section 16(a) of the Act is issued when the Minister approves the application and the applicant accepts the conditions, if any, to which the Minister's approval is subject,
 - (b) an agreement sold by way of public tender pursuant to section 16(b) of the Act is issued when the Minister publicly announces the name of the successful tenderer for the agreement and the tenderer has complied with the provisions in the sale notice respecting preconditions for the issuance of the agreement, and
 - (c) an agreement issued pursuant to section 16(c) of the Act is issued at the time provided for in the procedure determined by the Minister under that section.
- (2) For the purposes of section 20(5) of the Act, the prescribed date is the date on which the agreement is mailed to the lessee and, in the absence of proof to the contrary, the date of the letter accompanying the agreement is deemed to be the date on which the agreement is mailed to the lessee.
- (3) Unless the Minister otherwise directs in a particular case, an agreement shall not be issued unless the prescribed issuance fee and the prescribed rental for the first year of the term of the agreement are received by the Minister.

Agreements issued to 2 or more lessees

8(1) Subject to subsection (2), an agreement shall not be issued to 2 or more lessees unless each of those lessees will be the holder of a specified undivided interest in the agreement.

(2) An agreement may be issued to 2 or more lessees other than as holders of specified undivided interests if each of them is an individual.

(3) Subsection (1) does not preclude the issuance of an agreement under which 2 or more persons will be the lessees in respect of the same specified undivided interest in the agreement if each of those lessees is an individual.

Specified undivided interests

9(1) The Minister may refuse to issue an agreement if any of the lessees would hold less than a 1% undivided interest under the agreement.

(2) The Minister may refuse to issue an agreement under which any lessee is to hold a specified undivided interest in the agreement if the interest

- (a) is expressed otherwise than in decimal form, or
- (b) is expressed in decimal form but to more than 7 decimal places.

Term of agreement

10 Where an agreement is issued for a term of more than one year,

- (a) the first year of the term commences on the date shown in the agreement as its term commencement date and ends at the expiration of the first anniversary of that term commencement date, and
- (b) each subsequent year of the term is a 12-month period expiring on an anniversary of the term commencement date.

Surrender of agreement

11(1) The lessee of an agreement may, in accordance with this section,

- (a) surrender the agreement, or
- (b) with the consent of the Minister, surrender the agreement as to part of its location.

(2) A surrender referred to in subsection (1)

- (a) must be submitted to the Minister in a form determined or approved by the Minister, and
- (b) is binding on the Crown and the lessee only if it is accepted by the Minister, as evidenced by the Minister's notification to the lessee confirming the acceptance.

(3) Where a surrender referred to in subsection (1)

- (a) is received by the Minister after an anniversary of the term commencement date of the agreement, or
- (b) is received by the Minister on or before an anniversary of the term commencement date of the agreement but provides for an effective date occurring after that anniversary date,

the Minister shall not accept the surrender unless the Minister receives payment of the rental for the year of the term following that anniversary date calculated on the basis of the area of the location as it stood on that anniversary date.

Partial location transfers and divisions and consolidations of agreements

12(1) In this section,

- (a) "new agreement" means an agreement referred to in subsection (3)(b);
- (b) "original agreement" means a lessee's agreement referred to in subsection (2).

(2) A lessee may, on application to and with the consent of the Minister, with respect to the lessee's agreement,

- (a) transfer any part of its location to another person,
- (b) have the Minister divide it into 2 or more agreements, or
- (c) consolidate it with one or more other agreements held by the lessee.

(3) If the Minister consents to the lessee's transfer under subsection (2)(a) or to a division under subsection (2)(b), the Minister shall, as the case may be,

- (a) consequentially amend the original agreement to reflect
 - (i) the transfer so that the lessee will continue to hold under the original agreement only the part of the location not transferred, or
 - (ii) the division so that the lessee will continue to hold under the original agreement only the part of the location that the application states is to remain under the original agreement,

and

- (b) issue an agreement under section 16(a) of the Act
 - (i) to the other person referred to in subsection (2)(a) covering the part of the location transferred, or
 - (ii) to the lessee under which the lessee will hold, following the division, the part of the location of the original agreement not continuing to be covered by the amended original agreement.

(4) Notwithstanding subsections (2) and (3), the Minister shall not accept or approve an application for

- (a) the consent of the Minister to a transfer of part of the location of a petroleum and natural gas licence during its initial term,
- (b) the division of a petroleum and natural gas licence during its initial term, or
- (c) the consolidation of 2 or more petroleum and natural gas licences during the initial term of any of them.

(5) The term of a new agreement is

- (a) deemed, for the purpose only of compliance with any applicable provision of the Act and the regulations that sets a term for a type of agreement issued in respect of a kind or category of mineral for which the new agreement was issued, to have commenced on the date of the commencement of the term of the original agreement, and
- (b) to end on the expiry date of the original agreement.

(6) It is a condition of each consent under subsection (2) and of each approval referred to in section 7(1)(a) respecting a new agreement that

- (a) the lessee of the new agreement is taken to have agreed to the issue of that agreement and to be bound by and is to comply with all its terms and conditions,
- (b) that agreement is to govern all matters arising in relation to the mineral rights divided or transferred, from the date of the division or of the registration of the transfer, as the case may be, and
- (c) the lessee of that agreement is taken to have agreed to assume responsibility for obligations and liabilities accruing or arising under the original agreement in relation to those mineral rights that relate to any period when those rights were covered by the original agreement.

AR 262/97 s12;130/2002

Amendment of agreement

13 If, pursuant to the Act or the regulations,

- (a) a description of the location in an agreement is amended, or
 - (b) an agreement is amended in respect of the rights granted under it,
- the Minister shall send a copy of the amendment to the lessee of the agreement.

Cancellation of agreement

14(1) Where the Minister cancels an agreement pursuant to section 45 of the Act, the Minister shall send to the person who was the designated representative for the agreement immediately before it was cancelled, a notification confirming the cancellation of the agreement.

(2) Where the Minister cancels a petroleum and natural gas licence or lease as to part of its location pursuant to section 20(4) of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97), the Minister shall send a notification to the licensee or lessee, as the case may be, confirming the cancellation in part of the agreement.

AR 262/97 s14;251/2001

Commencement of reinstatement application period

15 For the purposes of section 8(1)(e)(i) of the Act, the effective date of the surrender or cancellation of an agreement is prescribed as the date of the notification from the Minister to the lessee confirming the Minister's acceptance of the surrender or confirming the cancellation, as the case may be.

Persons ineligible as lessees

16(1) Where the lessee or one of the lessees of an agreement is a person ineligible to be a lessee by reason of section 23 of the Act, a notice given by the Minister to the ineligible person pursuant to section 23(4)(a) of the Act must also be given to

- (a) the designated representative in relation to the agreement, and
- (b) each of the other lessees of the agreement, if it is held by 2 or more lessees.

(2) Where the ineligibility of a corporation under section 23 of the Act is the result of the dissolution of the corporation, a notice given by the Minister pursuant to section 23(4)(b) of the Act must be given to the corporation despite its dissolution at

- (a) its official service address if it had given a notice to the Minister containing that address, or
- (b) in any other case, its last known address according to the records of the Department.

(3) Unless the Minister otherwise directs in a particular case, an individual under the age of 18 years is eligible to be the lessee or one of the lessees of a metallic and industrial minerals licence under the *Metallic and Industrial Minerals Tenure Regulation* (AR 145/2005).

AR 262/97 s16;251/2001;169/2015

Examinations, Amendments and Calculations

Prescribed matter and calendar year

16.1(1) In this section,

- (a) "carry forward amount" means any one or more of the following, as applicable:
 - (i) a net loss determined under the *Oil Sands Royalty Regulation, 2009* (AR 223/2008);
 - (ii) the amount by which the other net proceeds exceed the allowed costs for that same year, as determined pursuant to section 23(2)(f) and (g) of the *Oil Sands Royalty Regulation, 2009* (AR 223/2008);
 - (iii) the excess of royalty compensation that would otherwise have been paid, as determined under section 15(2) of the *Oil Sands Allowed Costs (Ministerial) Regulation* (AR 231/2008);
 - (iv) the products calculated under section 15(3) and (4) of the *Oil Sands Allowed Costs (Ministerial)*

Regulation (AR 231/2008);

- (v) the excess of cumulative cost over cumulative revenue, as determined under section 15(7) of the *Oil Sands Allowed Costs (Ministerial) Regulation (AR 231/2008)*;
 - (vi) the cost of diluent, as determined under section 15(8)(a) of the *Oil Sands Allowed Costs (Ministerial) Regulation (AR 231/2008)*;
 - (vii) the excess of the cost of diluent included in the blended bitumen over the product of the unit price and the quantity of the blended bitumen, as determined under section 15(8)(b) of the *Oil Sands Allowed Costs (Ministerial) Regulation (AR 231/2008)*;
 - (viii) a net loss as defined in section 1(k) of Schedule 2 of the *Coal Royalty Regulation (AR 295/92)*;
 - (ix) any other amount that relates to or arises from the calculation of royalty proceeds payable for a given royalty year or period, but only if that amount according to the regulation under which it was determined is not used in the calculation of royalty proceeds for that given year or period, excluding a prior net cumulative balance determined under the *Oil Sands Royalty Regulation, 2009 (AR 223/2008)*;
- (b) “date of project payback” means the date of project payback determined under the *Coal Royalty Regulation (AR 295/92)*;
- (c) “offset compensation” means amounts that a lessee elects to pay to the Crown in relation to an obligation referred to in section 83(1)(e) of the Act;
- (d) “Project payout date” means the Project payout date determined under the *Oil Sands Royalty Regulation, 2009 (AR 223/2008)*;
- (e) “royalty proceeds” means amounts owing
- (i) on account of a money royalty,
 - (ii) in respect of the Crown’s royalty share of a mineral when disposed of by an agent, or
 - (iii) on account of royalty compensation.
- (2)** For the purpose of section 38(1)(b) of the Act, the prescribed matters are as follows:
- (a) the Crown’s royalty share of a mineral;
 - (b) any royalty proceeds;
 - (c) any credit or other deduction permitted by the Act or regulations from the Crown’s royalty share of a mineral or from royalty proceeds;
 - (d) any reduction or exemption from payment permitted by the Act or the regulations of the Crown’s royalty share of a mineral or of royalty proceeds;
 - (e) any amount that relates to the determination of the Project payout date or the date of project payback, but only if the Minister’s ability to amend or adjust the amount is not otherwise limited by a regulation;
 - (f) any carry forward amount;
 - (g) any offset compensation;
 - (h) any consideration, or charges instead of consideration, referred to in section 36(2)(c.1), (c.2) or (c.3) of the Act that are made subject to section 38 of the Act by the regulations;
 - (i) any fees payable into the Post-closure Stewardship Fund under Part 9 of the Act;
 - (j) any interest or penalty arising or imposed under the Act or the regulations.
- (3)** For the purposes of section 38 of the Act, a calendar year is determined as follows:

- (a) with respect to a prescribed matter referred to in subsection (2)(a) or (b), the year in which
 - (i) the amount referred to in subsection (2)(b) became owing, or
 - (ii) the mineral that is the subject of the calculation, was recovered and delivered to a point where royalty is payable in a case to which subsection (2)(a) applies,
 whichever is earlier;
- (b) with respect to a prescribed matter referred to in subsection (2)(c) or (d), the year in which the amount of any credit, deduction, reduction or exemption referred to in subsection (2)(c) or (d)
 - (i) was claimed against the Crown's royalty share or from royalty proceeds, or
 - (ii) was first determined by the Minister,
 whichever is earlier;
- (c) with respect to a prescribed matter referred to in subsection (2)(e), the year in which the amount referred to in subsection (2)(e) is considered by the regulations to be incurred, or in any other case, could, in the opinion of the Minister, have been first reported by the lessee or other person on a royalty reporting form required by the regulations;
- (d) with respect to a prescribed matter referred to in subsection (2)(f), the year in which the amount referred to in subsection (2)(f) first arose;
- (e) with respect to a prescribed matter referred to in subsection (2)(g), (h), (i) or (j), the year in which the amount referred to in subsection (2)(g), (h), (i) or (j), as the case may be, became owing.

AR 169/2015 s5

Audit closure notice

16.2 The Minister shall, before completing an audit referred to in section 38(5) of the Act, provide a notice to the reporting person whose record is the subject of the audit that the reporting person may make any final submissions relevant to the audit within the time specified in the notice.

AR 169/2015 s5

Examination, amendment and calculation periods related to mine reclamation

16.3(1) In this section,

- (a) “eligible non-producing year” means “eligible non-producing year” as defined in section 5.1(1)(b) of Schedule 2 of the *Coal Royalty Regulation* (AR 295/92);
- (b) “net revenue” means “net revenue” as defined in section 1(l) of Schedule 2 of the *Coal Royalty Regulation* (AR 295/92).

(2) For the purposes of section 38(10) of the Act,

- (a) subject to clauses (b) and (c), the period for conducting an examination, making an amendment or making a calculation of costs, charges, expenses, interest and penalties relating to reclamation in respect of a mine or mining operations is the same as the period set out in section 38(2) to (9) of the Act for the examination, amendment or calculation of the prescribed matter in section 16.1(2) to which the costs, charges, expenses, interest or penalties relate,
- (b) if costs, charges and expenses relating to reclamation in respect of a mine or mining operations are incurred in an eligible non-producing year, and the amount or any portion of the amount of those costs, charges and expenses are applied to the amendment of net revenue in any production year under section 5.1(4) of Schedule 2 of the *Coal Royalty Regulation* (AR 295/92), the period for conducting an examination and making a calculation of those costs, charges and expenses is 8 years after the end of the production year to which such amendment relates, and
- (c) if as a result of the amendment of net revenue described in clause (b), interest, penalties or any other changes to payment obligations arise in relation to a production year, the period for conducting an

examination and making a calculation of the interest, penalties and changes to payment obligations is 8 years after the end of the production year to which the interest, penalties or any other change in payment obligations relates.

AR 169/2015 s5

Transitional

16.4 The amendments to the Act made by section 6(4), (5) and (6) of the *Statutes Amendment Act, 2014* apply to the prescribed matters as follows:

- (a) with respect to a prescribed matter referred to in section 16.1(2)(a), to a mineral that was recovered in 2015 or later;
- (b) with respect to a prescribed matter referred to in section 16.1(2)(b), (g), (h), (i) or (j), to any amount that became owing in 2015 or later;
- (c) with respect to a prescribed matter referred to in section 16.1(2)(c) or (d), to any credit, deduction, reduction or exemption that was claimed against the Crown's royalty share or from royalty proceeds as first determined by the Minister in 2015 or later;
- (d) with respect to a prescribed matter referred to in section 16.1(2)(e), to any amount that is deemed by the regulations to be incurred in 2015 or later, or in any other case could, in the opinion of the Minister, have been first reported in 2015 or later by the lessee;
- (e) with respect to a prescribed matter referred to in section 16.1(2)(f), to any amount that first arose in 2015 or later.

AR 169/2015 s5

Fees, Penalties, Rentals and Interest

Prescribed fees

17 The fee payable for any service described in the Schedule to this Regulation is the fee shown in the Schedule for that service.

AR 262/97 s17;169/2015

Fee accounts

18(1) The Minister may enter into an arrangement with a person under which prescribed fees payable by that person in respect of the class of services specified under the arrangement will be charged to that person's account on a continuing basis and on the conditions determined by the Minister.

(2) If a prescribed fee is payable by a person during the period an arrangement under subsection (1) is in effect and not suspended under subsection (3), the fee shall be charged to that person's account.

(3) If the Minister sends an invoice in respect of the amounts charged to a person under an arrangement under this section and the total amount of the invoice is not paid on or before the date specified in the invoice, the Minister may suspend the arrangement with that person until all amounts owing under it are paid in full.

(4) The Minister may terminate an arrangement with any person under this section on the giving of at least one week's notice to that person.

Monthly invoice payments

19(1) In this section "prescribed charge" means

- (a) the annual rental payable pursuant to the terms or conditions of an agreement granting rights in respect of petroleum or natural gas or both of them;
- (b) any fee or penalty prescribed in the Schedule that the Minister determines is to be paid in the manner described in subsection (2);
- (c) interest on late payment of all or a part of an amount referred to in clause (a) or (b) that is payable under section 21.

(2) Notwithstanding the regulations or any term or condition of any agreement issued under the Act but subject to subsection (3), a person who is liable to pay or has the responsibility for paying a prescribed charge shall pay the prescribed charge

- (a) in accordance and in compliance with monthly invoices issued by the Minister and the terms and conditions of those monthly invoices, and
- (b) on or before the due date for the payment of the prescribed charge that is specified in the monthly invoices.

(3) The Minister may exempt a person or a class of persons from the application of subsection (2) in respect of one or more prescribed charges.

AR 262/97 s19;61/2006;254/2007;169/2015

Annual rentals

20(1) The lessee of an agreement is liable to the Crown for the payment of a rental for each year of the term of the agreement.

(2) For the purposes of this section,

- (a) a year during which a petroleum and natural gas lease is continued after the expiration of its term is deemed to be a year of the term of the lease, and
- (b) a year during which a petroleum and natural gas licence is continued after the expiration of its intermediate term is deemed to be a year of the term of the licence.

(3) Except in the case of an agreement referred to in section 57(5)(c) or 116 of the Act or a subsurface reservoir lease under Part 4.1 of the *Metallic and Industrial Minerals Tenure Regulation* (AR 145/2005), a rental for a year of the term of an agreement is payable at the rate of \$3.50 per year for each hectare in the area of the location of the agreement, subject to a minimum of \$50 per year.

(3.1) A rental for a year of the term of an agreement under section 115 or 116 of the Act is payable at the rate of \$1.00 per year for each hectare in the area of the location of the evaluation permit or carbon sequestration lease, subject to a minimum of \$50 per year.

(3.2) A rental for a year of the term of a subsurface reservoir lease under Part 4.1 of the *Metallic and Industrial Minerals Tenure Regulation* (AR 145/2005) is payable in the amount determined under the lease.

(4) Subject to subsections (5) and (6), a rental for the 2nd or any subsequent year of the term of an agreement

- (a) is due and payable on the last day of the preceding year of the term of the agreement, and
- (b) shall be calculated on the basis of the area of the location of the agreement as it stood on that due date.

(5) Subsection (4)(a) does not apply if the payment of the rental for the year is to be made pursuant to a monthly invoice arrangement.

(6) Notwithstanding anything in an agreement,

- (a) the rental for the first year of the intermediate term of a petroleum and natural gas licence, and
- (b) the rental for any year of the term of a petroleum and natural gas lease or licence that
 - (i) occurs during its continuation pursuant to section 15, 16 or 17 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97), and
 - (ii) is exempted by the Minister from the operation of subsection (4),

is due and payable on the date shown as the due date for its payment in a notice given by the Minister to the lessee of the lease or licence, and shall be calculated on the basis of the area of the location as it stood at the beginning of that year.

AR 262/97 s20;251/2001;68/2011;174/2014

Liability to the Crown for interest

- 21(1)** If an amount owing to the Crown is not received in full by the Minister on or before the due date for its payment, interest is payable to the Crown by the person who owes that amount, computed in accordance with this section.
- (2)** Interest payable under this section shall be computed from the due date as an amount equal to 3% of
- (a) the principal amount owing to the Crown, or
 - (b) if partial payment of that principal amount is received on or before the due date for its payment, the portion of that principal amount remaining unpaid on that due date.
- (3)** If an amount of interest that would otherwise be payable in the absence of this subsection is \$20 or less, no interest is payable.
- (4)** This section does not apply to interest on an amount owing to the Crown in cases where provisions respecting the imposition of that interest are contained in some other regulation.

AR 262/97 s21;154/2004

Crown's liability for interest on overpayments

- 22(1)** If a payment is made in respect of an amount owing to the Crown in excess of the actual amount owing on the due date for its payment and the excess payment is wholly or primarily attributable to an error made by the Department, the excess amount is an "overpayment" for the purposes of this section.
- (2)** If the Crown is liable to a person for an overpayment, interest is payable by the Crown to that person on the amount of the overpayment, computed in accordance with this section.
- (3)** An amount of interest payable by the Crown under this section
- (a) shall be computed from the later of
 - (i) the due date for payment of the amount owing to the Crown to which the overpayment relates, and
 - (ii) the date on which the Minister received the overpayment,continuing to the date of the requisition by the Department of a cheque for the overpayment and interest, and
 - (b) shall be computed for each day in the period referred to in clause (a) at a rate of yearly interest that is 1% greater than the rate of interest established by Alberta Treasury Branches as its prime lending rate on loans payable in Canadian dollars and in effect on the first day of the month in which that day occurs.
- (4)** If an amount of interest that would otherwise be payable in the absence of this subsection is \$20 or less, no interest is payable under this section.
- (5)** This section does not apply to the payment of interest on overpayments in cases where provisions respecting the payment of that interest are contained in some other regulation.

AR 262/97 s22;27/2002;221/2004

Penalty and compensation for unauthorized taking and unauthorized injection

- 22.1(1)** Where the Minister gives a direction to pay a penalty under section 55(1)(a) of the Act, the penalty must be in the amount prescribed in item 11 of the Schedule.
- (2)** Where the Minister gives a direction to pay compensation under section 55(1)(a.1) of the Act, the compensation must be in an amount equal to the value of the mineral, as determined by the Minister, that was won, worked or recovered contrary to section 54(1) of the Act.

AR 154/2004 s5;199/2005;169/2015

Application of payments

- 23(1)** For the purpose of this section, a person is in arrears if any amounts owing to the Crown by that person

remain unpaid after the due date of those amounts, unless the Minister extends, under subsection (2), the due date of those amounts.

(2) The Minister may extend the due date to a maximum of 60 days.

(3) Notwithstanding subsections (4), (5), (6) and (7), any amounts paid must first be applied against all goods and services tax payable under Part IX of the *Excise Tax Act* (Canada) in respect of amounts owing to the Crown.

(4) Subject to subsection (8), if money is paid to the Crown by or on behalf of a person towards amounts owing to the Crown by that person and the person is not in arrears, the money must be applied as specified by the payor, or if the payor does not specify how the money is to be applied, the money must be applied in chronological order based on the due date, as defined in section 1, of the amounts owing to the Crown by the person.

(5) Subject to subsection (8), if money is paid to the Crown by a person towards amounts owing to the Crown by that person and the person is in arrears, the money must be applied in chronological order based on the due date, as defined in section 1, of each of the following:

- (a) first, against amounts owing to the Crown that remain unpaid, in the order set out in clauses (b) to (g);
- (b) 2nd, against fees owing to the Crown by the person;
- (c) 3rd, against penalties owing to the Crown by the person;
- (d) 4th, against interest owing to the Crown by the person;
- (e) 5th, against rentals owing to the Crown by the person;
- (f) 6th, against amounts owing to the Crown by the person to increase a deposit or security maintained by the person;
- (g) 7th, against royalty amounts owing to the Crown by the person.

(6) Subject to subsection (8), if money is paid to the Crown on behalf of a person towards amounts owing to the Crown by that person and the person is in arrears, the money must be applied as specified by the payor, or, if the payor does not specify how the money is to be applied, the money must be applied in the order set out in subsection (5).

(7) Subject to subsection (8), if money is paid to the Crown by a person who is directed to do so under a notice given under section 43(2) of the Act towards amounts owing to the Crown by a debtor as defined in section 43(1) of the Act, the money must be applied in the order set out in subsection (5).

(8) Subsections (3) to (7) do not apply if the Minister is of the opinion that the ability of a person to pay amounts owing to the Crown by the person will be affected as a result of an operation of a law of Alberta or Canada, or by an action that has been or is likely to be commenced against the debtor pursuant to a law of Alberta or Canada.

(9) Section 41 of the Act applies to any circumstance not provided for under this section.

AR 262/97 s23;169/2015

Functional Equivalency Rules

Interpretation and application

23.1(1) For the purposes of this section and sections 23.2 to 23.6,

- (a) “approved electronic document” means a document in approved electronic format;
- (b) “approved electronic format” means an electronic format, including an electronic format created for a document that is originally in non-electronic form, that has been determined or approved by the Minister;
- (c) “approved electronic transmission” means a method and means of transmission that has been

determined or approved by the Minister;

- (d) “business process” means business operations or business requirements performed or administered by any unit or part of the Department and includes, but is not limited to, requirements or operations relating to the issuance, transfer, continuation and renewal of agreements and contracts and requirements or operations relating to postings and bids for the sale of mineral rights;
- (e) “document” means an application, bid, report, statement, record, return, request, bulletin, letter, disposition, agreement, contract, transfer, encumbrance, charge, invoice, notice or a document that is created, made, collated, issued, negotiated, sent, given, delivered, exchanged, submitted, filed, registered, stored, retained or otherwise dealt with in connection with a business process performed or administered by any unit or part of the Department;
- (f) “electronic” includes digital form or any other intangible form created by electronic, magnetic or optical means or by any other means that have similar capabilities for creation, recording, transmission or storage;
- (g) “format” means a form having certain technological attributes or characteristics in which electronic information may be presented and includes, but is not limited to, a computer graphics file or a file that contains electronic information in discrete readable data sets;
- (h) “transmission” means the sending, giving or delivery of an approved electronic document.

(2) Sections 23.2 to 23.5 apply in respect of any document dealt with in connection with a business process performed or administered by any unit or part of the Department if the Minister has directed or determined that those sections are to apply in respect of the performance or administration of the business process by that unit or part of the Department from the date specified by the Minister.

(3) A person engaged in a specified business process with any unit or part of the Department pursuant to subsection (2) must comply with sections 23.2 to 23.4.

(4) If a conflict exists between sections 23.2 to 23.4 and the provisions of the Act or any other regulation under the Act, those sections prevail.

AR 154/2004 s6;61/2006;169/2015

Enforceability of documents submitted in electronic format

23.2(1) An approved electronic document must not be denied legal effect or enforceability solely because it is in electronic format.

(2) An approved electronic document

- (a) is exempt from any requirement that to be effective and enforceable it must be in writing or be signed, and
- (b) has the same effect for all purposes as if the document were in writing and as if the document were signed by any person that would have been required to sign it, but for the fact that it is in electronic form.

(3) Notwithstanding subsection (2), the Minister may, in respect of any approved electronic document of any particular type or class that is submitted to or sent by any unit or part of the Department, establish requirements, rules and procedures

- (a) to verify the identity of the person who created and submitted or sent the document,
- (b) to verify the authority of that person to create, submit or send the document, and
- (c) respecting the electronic signature on the document, including, but not limited to, the verification of the signature and the method of making the signature.

(4) If a document exists in a written form that is not a printed copy of the approved electronic document, the approved electronic document or a non-electronic copy of the approved electronic document prevails over the written form of the document in the event of a conflict.

AR 154/2004 s6

Standards for and approvals of electronic formats and electronic transmission

23.3(1) The Minister may determine and approve the electronic format in which a document of any particular type or class is dealt with in connection with a business process performed or administered by any unit or part of the Department, including, but not limited to, the electronic format in which a document of that type or class is created, made, collated, defined, presented, issued, negotiated, sent, given, delivered, submitted, filed, registered, recorded, stored or retained.

(2) The Minister may determine and approve the methods and means of transmission of all approved electronic documents or of any particular type or class of approved electronic documents and establish rules, procedures and guidelines respecting their transmission.

(3) Notwithstanding any provision of the Act or the regulations specifying or requiring that a document must be in a particular form, including a written or other non-electronic form, that document will not be accepted by the Minister unless it is in the electronic format determined or approved by the Minister under subsection (1).

(4) Notwithstanding any provision of the Act or the regulations specifying how or when a document is to be submitted by the Minister to a person or by a person to the Minister, all matters relating to how and when a document must be submitted shall be determined and approved by the Minister in accordance with subsection (2).

AR 154/2004 s6;61/2006;169/2015

Submission of documents in electronic form

23.4(1) Notwithstanding any provision of the Act or the regulations, the Minister

- (a) may refuse to accept any document submitted to the Minister for any purpose, unless the document
 - (i) is submitted to the Department by approved electronic transmission in approved electronic format, and
 - (ii) is organized in the same or substantially the same manner, and contains the information prescribed for that document by the Act or the regulations,
- (b) may refuse to accept for any purpose a document of any particular type or class in respect of which rules, procedures or requirements have been established under section 23.2(3) if any of those rules, procedures or requirements have not been complied with in respect of the document, or
- (c) may exempt from any of the requirements of clause (a) documents of any type or class submitted to the Department in certain circumstances or for certain purposes or by or on behalf of certain persons in connection with a business process performed or administered by any unit or part of the Department.

(2) If a person complies with subsection (1), a document will be considered to have been submitted to the Department when the Minister acknowledges receipt of the document in accordance with the acknowledgment rules established by the Minister.

AR 154/2004 s6;169/2015

Electronic documents as original documents

23.5(1) Notwithstanding any provision of the Act or the regulations, an approved electronic document is deemed for all purposes to be the original of the document.

(2) Notwithstanding any provision of the Act or the regulations,

- (a) an endorsement or entry made on an approved electronic document, or
- (b) a certification of a copy of an approved electronic document to be a true copy

has the same force and effect at law and the same evidentiary value as if the endorsement or entry were made on, or a certified copy were made of, an original document in written form.

AR 154/2004 s6;169/2015

Retention of documents in electronic form

23.6(1) A requirement under the Act or the regulations to keep a document is satisfied if

- (a) the document is kept in the approved electronic format for its storage and retention, and
- (b) the information contained in the document is kept accessible and printable so as to be usable for subsequent reference by any person who is entitled or authorized to have access to the document or who is entitled or authorized to require its production.

(2) Sections 23.1 to 23.5 may apply to the keeping of documents by any unit or part of the Department responsible for their storage or retention if considered necessary by the unit or part of the Department notwithstanding that a direction or determination under section 23.1(2) may not have been made by the Minister in respect of the keeping of documents by that unit or part of the Department.

AR 154/2004 s6;169/2015

General

Return of deposit or security

24 Where

- (a) a deposit or security is furnished by the lessee of an agreement to the Government pursuant to the Act or the regulations,
- (b) the Minister subsequently registers a transfer of the agreement or of a specified undivided interest in the agreement, and
- (c) the Minister becomes obligated to return or refund all or part of the deposit or security,

then, subject to section 46(4) of the Act, the deposit or security or the part of the deposit or security, as the case may be, shall be returned or refunded to the person who originally furnished the deposit or security unless that person directs the Minister to return or refund it to some other person.

AR 262/97 s24;251/2001

Retention of records

25 A person who is a lessee or a former lessee of an agreement shall keep all records that come into that person's possession or the possession of any of that person's agents and that are or were used for the purpose of preparing any return or report required to be given to or filed with the Minister by that person in relation to the agreement pursuant to the Act, the regulations or the agreement.

(2) Records required to be kept by the regulations shall be kept until the expiration of the 7-year period following the end of the year to which the information contained in the records relates unless

- (a) in the case of any particular records, the Minister consents in writing to their destruction before the end of the 7-year period,
- (b) the regulations authorize their destruction before the end of the 7-year period, or
- (c) the regulations authorize their retention for a period longer than 7 years.

(3) Notwithstanding subsection (2),

- (a) if the Minister is of the opinion that it is necessary for the administration of the Act or the regulations, the Minister may give notice to any person required to keep records directing that those records be retained for any longer period that is specified in the direction, or
- (b) if the records contain information regarding costs, charges, expenses, interest and penalties relating to reclamation in respect of a mine or mining operations, the records must be kept until the expiration of the 8-year period following the end of the year to which the information contained in the records relates.

AR 262/97 s25;169/2015

Disclosure of information

26(1) The Minister may make available any records, returns or other information obtained under the Act, the

regulations or an agreement

- (a) to any person for the purpose of enforcing a law of Canada or a province,
- (b) to a person employed in or acting on behalf of the Department, for the purpose of administering any enactment under the administration of the Minister or evaluating, formulating or administering a policy or program of the Department, or
- (c) to a person employed in or acting on behalf of any department or agency of the Government of Alberta, for the purpose of administering any enactment under the administration of a minister or evaluating, formulating or administering a policy or program of a department or agency, subject to any terms and conditions specified by the Minister.

(2) The Minister may classify types of information obtained under the Act, the regulations or agreements as non-confidential and may systematically authorize the release to the public of information classified as non-confidential.

(3) With the authorization of the Minister, confidential information obtained under the Act, the regulations or agreements may be provided or published in summarized or statistical form in such a manner that it is not possible to relate the information to any identifiable person.

(4) A person employed or engaged in the administration of the Act may communicate, disclose or make available records, returns or other information received in respect of an agreement pursuant to the Act, the regulations or the agreement to

- (a) the person from whom the record, return or other information was obtained, or
- (b) a person who has the consent in writing of the person from whom the record, return or other information was obtained.

AR 262/97 s26;169/2015

Exceptions to section 32(1)(a) of the Act

27(1) Section 32(1)(a) of the Act does not apply to a well or to the installations and equipment, including casing, incidental to the well if

- (a) all or part of the spacing unit for the well continues under another agreement,
- (b) the Regulator notifies the Minister that, on the basis of evidence and representations presented to it by one or more interested parties,
 - (i) the well should not be abandoned because it is or will be used for some useful purpose, or
 - (ii) the well has evaluated a mineral, the rights to which are granted by another agreement, by reason of having penetrated a zone underlying the location of that other agreement, where the surrendered or cancelled agreement and that other agreement had a common surface area,
- (c) the agreement pursuant to which the well was drilled expires but is renewed, or
- (d) the agreement pursuant to which the well is drilled is cancelled or expires and, as a consequence of the exercise of a right of lease selection conferred by the agreement, the well is in the location of a lease so selected.

(2) Section 32(1)(a) of the Act does not apply to any installations or equipment, including casing, incidental to a well if, at the time of the expiration, surrender or cancellation of the agreement, the installations or equipment is being used in the operation of another well not affected by the expiration, surrender or cancellation.

AR 262/97 s27;251/2001;89/2013

Deemed areas

28 For the purposes of an agreement, a section, quarter-section and legal subdivision of land are deemed to contain 256 hectares, 64 hectares and 16 hectares respectively, unless the Minister directs otherwise in a particular case.

Mineral title transfers and notifications

29 For the purposes of the Act,

- (a) a transfer of title referred to in section 12 of the Act is issued when it is signed by the Minister, and
- (b) a notification referred to in section 13 of the Act is issued when it is signed by the Minister and delivered to the appropriate Land Titles Office for registration.

29.1 to 36 Repealed AR 169/2015 s17.

Repeal

Repeal

37 The *General Regulation* (AR 163/84) is repealed.

Expiry

Expiry

38 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, 2017.

AR 262/97 s38;329/2002;354/2003;154/2004;80/2014;
169/2015

Coming into Force

Coming into force

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

Schedule

Prescribed Fees and Penalties

Fees Related to Agreements

1	Fee for the issuance of an agreement sold by public tender	\$625
2	Fee for the issuance of an agreement under section 16(a) or (c) of the Act, other than an agreement referred to in item 2.1,	\$625
2.1	Fee for the issuance of an evaluation permit or carbon sequestration lease under the <i>Carbon Sequestration Tenure Regulation</i>	\$625
3	Fee for including an additional mineral to which rights are granted under an agreement	\$625
4	Fee for an application for a metallic and industrial minerals licence	\$50
5	Fee for the issuance of a new agreement resulting from a division of an agreement or the registration of a transfer of part of the location of an agreement	\$625
6	Acceptance fee referred to in section 17(5)(c)(ii) of the <i>Petroleum and Natural Gas Tenure Regulation</i> (AR 263/97)	\$25 per hectare, subject to a \$1600 minimum

Penalties

7	Penalty for reinstatement of an agreement pursuant to section 8(1)(e) of the Act	\$5000
8	Repealed AR 169/2015 s19	
9	Penalty for processing a request to have mineral rights sold	

	at a sale by public tender, but only if	
	(a) the mineral rights are offered at a sale as a result of the request,	
	(b) the mineral rights are not sold at the sale, and	
	(c) payment of the penalty is demanded by the Minister	\$625
10	Late application penalty referred to in section 11(3)(a)(ii), 14.1(3)(c) or 14.2(3)(b) of the <i>Petroleum and Natural Gas Tenure Regulation</i> (AR 263/97)	\$5000
11	Penalty for the contravention of section 54(1) of the Act	\$50 000
12	Repealed AR 169/2015 s19	

Registration Fees

13(1)	Registration of a security notice, a notice of the assignment of all or part of the security interest that is the subject of a registered security notice, or a notice of the postponement of a registered security interest, for each agreement against which the notice is registered	\$50
(2)	Registration of a notice referred to in section 96(1)(a) or (d) of the Act	Nil
(3)	Registration of a transfer	Nil
14(1)	Registration under the <i>Builders' Lien Act</i> of a statement of lien or certificate of lis pendens, for each agreement against which the document is registered	\$50
(2)	Registration under the <i>Builders' Lien Act</i> of a discharge of a registered statement of lien or certificate of lis pendens	Nil

Fees for Searches and Information

(Note: The information contained in a search, report or file under this Part is derived or obtained from either the Alberta Mineral Information system maintained by the Minister of Energy or the Geographic Land Information Management and Planning System maintained by the Minister of Environment and Sustainable Resource Development.)

15(1)	The fee for a search of an agreement or other non-confidential matter or activity related to an agreement, including, but not limited to,	
	(a) a written search respecting mineral agreements, restrictions, units, well spacing unit orders, fields, postings, projects, zone designations, and	
	(b) a written or verbal search respecting surface activities, geo administrative areas, reservations, surface encumbrances and surface land postings	\$6
(2)	Surcharge for each written search under subitem (1) that is requested and provided on a rush basis	\$10
16	Each ad hoc report from either the Alberta Mineral Information system maintained by the Minister of Energy or the Geographic Land Information Management and Planning System maintained by the Minister of Environment and Sustainable Resource Development in either summary or detailed format, including, but not limited to, each mineral land index search, mineral agreement search by client identification, surface activity search by client identification or any other request not specifically addressed in this Schedule	\$30
17	Surcharge for an electronic download containing a search referred to in item 15 or 16	\$20

(Note: For the purposes of the following item, "land parcel" means a quarter section, half section, section or consecutive sequence of sections up to and including one complete township.)

18	Public land standing report or surface activity standing report or any other surface search requested by land description and provided orally or in writing	
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	(a)	\$1 for each land parcel included in the report subject to a minimum fee of \$5 per report	
	(b)	a maximum fee of \$75 for each public land standing report or surface activity standing report	
19(1)		Complete electronic file for any one or more of the following:	
	(a)	all mineral disposition data related to Crown mineral agreements, including, but not limited to, postings, restrictions, units and encumbrances	
	(b)	all Alberta Energy Regulator administrative data, including, but not limited to, well spacing unit orders	
	(c)	Crown mineral ownership in Alberta	
		fee for a test electronic data file	\$500
		fee for the complete electronic data file containing data to the end of the most recent month	\$1250
		fee for updates during each month to the electronic data file	\$650
(2)		Complete electronic file for all data related to surface dispositions issued under the <i>Public Lands Act</i> , including, but not limited to, surface activities, geo administrative areas, reservations, surface encumbrances and surface land postings	
		fee for a test electronic data file	\$500
		fee for the complete electronic data file containing data to the end of the most recent month	\$1250
		fee for updates during each month to the electronic data file	\$650
20		Historical search of agreements	\$50 per hour, subject to a \$50 minimum

Miscellaneous Fee

21	Certified copy of a document	\$30
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AR 262/97 Sched.;251/2001;154/2004;254/2007;54/2011;
68/2011;170/2012;89/2013;202/2014;169/2015

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