



Province of Alberta

RESPONSIBLE ENERGY DEVELOPMENT ACT

# **ENFORCEMENT OF PRIVATE SURFACE AGREEMENT RULES**

**Alberta Regulation 204/2013**

**Extract**

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Alberta Queen's Printer  
7<sup>th</sup> Floor, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

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**ALBERTA REGULATION 204/2013**  
**Responsible Energy Development Act**  
**ENFORCEMENT OF PRIVATE SURFACE**  
**AGREEMENT RULES**

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**Definitions**

- 1 In these Rules,
  - (a) “Act” means the *Responsible Energy Development Act*;
  - (b) “AER registration number” means the registration number assigned by the Regulator in respect of a private surface agreement registered under section 4;

- (c) “party” means a signatory to a private surface agreement or any successor to or assignee of that signatory;
- (d) “private surface agreement” means a signed and dated written agreement between a holder and an owner or occupant of land that concerns any aspect of the holder’s access to or use of that land for the purposes of an energy resource activity, but does not include an order granted by the Surface Rights Board;
- (e) “registration”, in respect of a private surface agreement, means the process of filing a copy of the private surface agreement and any amendments to the private surface agreement with the Regulator;
- (f) “request for an order to comply” means a request by an owner or occupant of land to the Regulator to issue an order to comply under section 64 of the Act.

**Application**

**2** These Rules apply to private surface agreements made after the coming into force of these Rules.

## **Part 1 Registration of Private Surface Agreement**

**Request to register private surface agreement**

**3** Where an owner or occupant of land wishes to register a private surface agreement, the owner or occupant must provide the following documents and information to the Regulator in writing:

- (a) a copy of the private surface agreement;
- (b) the name, address in Alberta, telephone number and e-mail address, if available, of the owner or occupant;
- (c) the type and location of the energy resource activity to which the private surface agreement relates.

**Registration of private surface agreement**

**4** The Regulator may register a private surface agreement received under section 3 if the Regulator is of the opinion that the private surface agreement

- (a) relates to an energy resource activity on land owned or occupied by one of the parties, and

- (b) is the current and entire agreement between the parties in respect of the energy resource activity on the land for which the agreement was made.

#### **Cancellation of registration**

**5** If the Regulator determines that the registration of a private surface agreement was the result of a mistake, an error or a false or fraudulent act, the Regulator shall cancel the registration.

#### **Use of registered private surface agreement**

**6** A private surface agreement that is registered with the Regulator shall be considered by the Regulator only for the purposes of Part 2.

## **Part 2 Order to Comply**

#### **Request for an order to comply**

**7(1)** A request for an order to comply must

- (a) be in writing,
- (b) indicate the term or condition of the registered private surface agreement that the owner or occupant believes the holder is not complying with,
- (c) set out the basis for, and provide information that demonstrates, the alleged non-compliance, and
- (d) indicate the AER registration number.

**(2)** No request for an order to comply may be submitted to the Regulator after one year from the date on which the owner or occupant first knew, or in the circumstances ought to have known, that a term or condition of the private surface agreement was not complied with.

**(3)** An owner or occupant making the request under subsection (1) shall serve a copy of the request on the holder of the registered private surface agreement

- (a) by personal delivery, courier service, ordinary mail, fax or electronic means to the holder's address contained in the private surface agreement or to the registered office or principal place of business of the holder or the holder's representative in Alberta, or
- (b) by any other method as the Regulator directs.

**Additional information, documents and materials**

**8** When the Regulator receives a request for an order to comply, the Regulator may direct the owner or occupant or the holder of the registered private surface agreement to which the request relates to file with the Regulator further information, documents or materials within a specified period to permit a full and satisfactory understanding of the alleged non-compliance with a term or condition of the registered private surface agreement.

**Failure to provide further information, documents or materials**

**9** The Regulator may, where the owner or occupant or holder fails to respond to a direction under section 8, or does so in a manner the Regulator determines to be inadequate,

- (a) proceed to consider a request for an order to comply, or
- (b) dismiss a request.

**Examination**

**10** The Regulator may, in respect of a request for an order to comply, on its own volition or on the written request of a party, conduct an examination of the land to which the registered private surface agreement applies to determine whether a term or condition of the agreement has been complied with.

**Decision on request for order to comply**

**11** If the Regulator issues an order to comply, the Regulator shall provide the owner or occupant and the holder of the registered private surface agreement with a copy of its decision and publish or otherwise make available the Regulator's decision.

**Referral of request for order to comply**

**12** When the Regulator receives a request for an order to comply and is of the opinion that there is a more appropriate forum to deal with the matter, the Regulator may, instead of deciding the request,

- (a) provide for the resolution of the request through settlement meetings, mediation or other dispute resolution processes, or
- (b) direct the owner or occupant of the registered private surface agreement who made the request to have the matter considered by a court or by the Surface Rights Board.

### **Part 3**

## **Public Information**

#### **Public information**

**13(1)** The Regulator may place on the public record the following information respecting the registration of a private surface agreement:

- (a) the name of the holder of the private surface agreement;
- (b) the date of the private surface agreement;
- (c) the date the Regulator registered the private surface agreement;
- (d) a description of the energy resource activity to which the private surface agreement relates;
- (e) the location of the energy resource activity site;
- (f) the AER registration number.

**(2)** The Regulator shall, on receiving a request for an order to comply, place on the public record the registered private surface agreement to which the request applies and all other documents, information and materials filed or provided with respect to the request.

#### **Expiry**

**14** For the purpose of ensuring that these Rules are reviewed for ongoing relevancy and necessity, with the option that they may be repassed in their present or an amended form following a review, these Rules expire on September 30, 2023.

#### **Coming into force**

**15** These Rules come into force on the coming into force of Part 3 of the *Responsible Energy Development Act*.



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