



Province of Alberta

## MINES AND MINERALS ACT

# **MINES AND MINERALS DISPUTE RESOLUTION REGULATION**

### **Alberta Regulation 170/2015**

With amendments up to and including Alberta Regulation 173/2017

#### Office Consolidation

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(Consolidated up to 173/2017)

**ALBERTA REGULATION 170/2015**

**Mines and Minerals Act**

**MINES AND MINERALS DISPUTE  
RESOLUTION REGULATION**

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**Interpretation**

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

- (a) “Act” means the *Mines and Minerals Act*;
- (b) “affiliate” means, with respect to an applicant, a person, including a firm, trust, partnership or joint venture,

affiliated with an applicant pursuant to section 2 of the *Oil Sands Royalty Regulation, 2009* (AR 223/2008);

- (c) “applicant” means
  - (i) an authorized person as defined in section 39(1) of the Act, and
  - (ii) a lessee as defined in the Act,and includes an agent of an authorized person or lessee;
- (d) “committee” means a committee established under Part 2;
- (e) “objection” means, subject to subsection (3), an objection referred to in section 39 of the Act;
- (f) “Oil Sands Regulation” means the *Oil Sands Royalty Regulation, 1997* (AR 185/97), the *Oil Sands Royalty Regulation, 2009* (AR 223/2008), the *Oil Sands Allowed Costs (Ministerial) Regulation* (AR 231/2008) or the *Bitumen Valuation Methodology (Ministerial) Regulation* (AR 232/2008);
- (g) “prescribed matter” means an amount, item or matter prescribed by section 16.1(2) of the *Mines and Minerals Administration Regulation* (AR 262/97);
- (h) “prescribed matter Regulation” means any regulation under the Act in respect of a prescribed matter;
- (i) “Statement of No Resolution” means a Statement of No Resolution issued pursuant to section 6(6).

**(2)** Where any question arises pertaining to the interpretation or application of this Regulation, the Minister is the sole judge of the question and there is no appeal from the Minister’s decision.

**(3)** An objection must not include an objection with respect to any decision made by the Minister within the Minister’s discretion or opinion under a prescribed matter Regulation.

## **Part 1 Objections**

### **Objections**

**2(1)** An applicant may make an objection related to a prescribed matter referenced in a prescribed matter Regulation in accordance with this Regulation.

(2) Only one objection may be made in respect of the same dispute of a prescribed matter.

(3) Before an objection may be made, all amounts calculated by the Minister that are payable under the Act and the regulations, including penalties and interest, that relate to the objection must be paid.

(4) An objection must be made in writing to the Minister only after the applicant has contacted the Department for the purpose of resolving the matter in dispute.

(5) The objection must be received by the Minister within 90 days from the end of the month in which a notice was issued under section 38(7) of the Act.

(6) The Minister may, in exceptional circumstances, extend the period referred to in subsection (5).

#### **Contents of objection**

**3(1)** An objection must contain the following information:

- (a) a copy of the notice issued under section 38(7) of the Act;
- (b) a summary of the basis for the objection;
- (c) evidence showing that section 2(3) has been complied with.

(2) If the information required under subsection (1) has been provided to the satisfaction of the Minister and section 2 has been complied with, the Minister must give a notice in writing to the applicant that the Minister will review the objection.

#### **Requests for information by Minister**

**4(1)** Subject to subsection (2), for the purpose of conducting a review of an objection, the Minister may request any relevant information in addition to the information provided under section 3.

(2) The Minister shall not request or consider any information that was not considered by the Department when conducting an examination or audit of the subject-matter of the objection, unless the examination or audit was concluded before March 21, 2011.

AR 170/2015 s4;173/2017

**Review of an objection**

**5(1)** This section applies to an objection in respect of a prescribed matter Regulation.

**(2)** The Minister, after considering the merits of the objection, must issue a final decision not later than 180 days after the date the Minister gave the notice under section 3(2) by sending a copy of the Minister's decision to the applicant and the Department.

**(3)** The Minister may, if both the Department and the applicant agree, extend the period referred to in subsection (2).

AR 170/2015 s5;24/2017

**Review of an oil sands objection**

**6(1)** Subject to section 12(4), sections 6 to 11 apply to an objection made in respect of an Oil Sands Regulation.

**(2)** The Minister, after considering the merits of the objection, must propose a resolution to the objection not later than 180 days after the date the Minister gave the notice under section 3(2) by sending a copy of the proposed resolution to the applicant and the Department.

**(3)** The Minister may, if both the Department and the applicant agree, extend the period referred to in subsection (2).

**(4)** The applicant and the Department must, not later than 60 days after receiving a copy of the proposed resolution, respond to the Minister on the proposed resolution referred to in subsection (2).

**(5)** The Minister may, in exceptional circumstances, extend the period referred to in subsection (4).

**(6)** If the Department or the applicant does not accept the resolution proposed by the Minister, the Minister must issue a Statement of No Resolution to the Department and the applicant indicating the matters that remain in dispute.

**(7)** If either the applicant or the Department accepts the resolution proposed by the Minister and the other party does not respond within the period referred to in subsection (4) or (5), the resolution proposed by the Minister is deemed to have been accepted by the party that did not respond.

AR 170/2015 s6;24/2017

## **Part 2**

### **Oil Sands Dispute Review Committee**

#### **Establishment of committee**

- 7(1)** Where a Statement of No Resolution has been issued under section 6(6) with respect to one or more matters in dispute, an applicant may request the establishment of an oil sands dispute review committee to provide recommendations to the Minister regarding a resolution to the matters in dispute.
- (2)** The request must be made in writing to the Minister by the applicant and received by the Minister not later than 90 days after the date the Statement of No Resolution was issued by the Minister.
- (3)** The Minister may, in exceptional circumstances, extend the period referred to in subsection (2).
- (4)** A request must contain the following information:
- (a) a copy of the Statement of No Resolution;
  - (b) a brief summary of the applicant's position with respect to the matters in dispute.
- (5)** After the Minister determines that a request contains all of the information required under subsection (4), the Minister must provide written notice to the applicant indicating that the request meets those requirements.
- (6)** The Department and the applicant must, not later than 30 days after being requested by the Minister, unless the Minister extends that period, each nominate 3 individuals who have consented to participate as members of a committee.
- (7)** An individual shall not be nominated if the individual is an employee of
- (a) the Department,
  - (b) the applicant, or
  - (c) an affiliate of the applicant.
- (8)** The Minister may request that additional nominations be submitted by the Department or the applicant or both.
- (9)** Subject to subsections (10) to (12), not later than 90 days after the date the Minister receives the names of all of the nominees provided under subsections (6) and (8), unless the Minister extends the period, the Minister must, by order, establish a committee in

accordance with section 7 of the *Government Organization Act* consisting of 3 members as follows:

- (a) a chair;
- (b) a nominee of the Department;
- (c) a nominee of the applicant.

**(10)** The Minister must specify the matters in dispute to be reviewed by a committee and exclude any matter that

- (a) is based on a position set out by the applicant under subsection 4(b) that is frivolous, vexatious or without merit,
- (b) relates to a decision made by the Minister within the Minister's discretion or opinion under an Oil Sands Regulation, or
- (c) was dealt with by a previous committee.

**(11)** If a committee has been established under subsection (9) in respect of any other dispute, the Minister may delay establishing a further committee until such time that

- (a) the Minister makes a decision in respect of a previously established committee, or
- (b) the terms and conditions of a decision made in respect of a previously established committee have been fully satisfied.

**(12)** If the Minister receives multiple requests to establish a committee from the same or any other applicant under subsection (1), the Minister may determine the order in which to establish those committees.

#### **Powers and duties of a committee**

**8(1)** A committee must

- (a) conduct a confidential, fair, expeditious and impartial review of the matters in dispute specified by the Minister under section 7(10), and
- (b) subject to this section, establish procedures for dealing with matters before it.

**(2)** Two members of the committee constitute a quorum.



**(3)** Subject to subsection (4), the committee may determine the admissibility, relevance and weight of any written or oral evidence.

**(4)** The committee shall not consider any information that was not considered by the Minister when conducting a review of the objection that gave rise to the establishment of the committee, unless the Statement of No Resolution for the objection was issued before March 21, 2011.

**(5)** The committee must make its decision based solely on written submissions, unless it decides to hold an oral hearing.

**(6)** If the committee decides to hold an oral hearing,

- (a) oral evidence is not admissible, unless otherwise directed by the committee,
- (b) any oral evidence permitted by the committee must be taken down in writing or recorded by electronic means,
- (c) the committee may require any individual giving evidence before it to do so under oath, and
- (d) the hearing must be held in private.

**(7)** Intervenors are not permitted to participate in any written submissions or oral hearings.

**(8)** In establishing procedures for reviewing a dispute, the committee must, unless the Department and the applicant otherwise agree,

- (a) provide the applicant with at least 28 days to prepare written submissions to be filed with the committee by a date specified by the committee,
- (b) provide the Department with at least 42 days to prepare a response to the written submissions referred to in clause (a) to be filed with the committee by a date specified by the committee,
- (c) provide the applicant with at least 14 days to prepare a rebuttal to the response referred to in clause (b) to be filed with the committee by a date specified by the committee, but that date must not be later than 14 days before the date the matters in dispute are to be reviewed by the committee, and
- (d) require the Department and the applicant to provide a copy of the documents filed pursuant to clauses (a) to (c) to each other at the same time as those documents are filed with the committee.

**(9)** Documents filed under subsection (8) must include the following:

- (a) a summary of the facts, evidence and arguments supporting the position of the party filing the document;
- (b) the name and contact information of the lawyer or other agent acting on behalf of the party to the dispute;
- (c) any other information specified by the committee.

AR 170/2015 s8;173/2017

#### **Committee recommendations**

**9(1)** The committee must provide the Minister and the Department and the applicant

- (a) with written recommendations, and reasons for its recommendations, not later than 45 days after the completion of the review, unless the Minister extends that period, and
- (b) any supporting documentation on request of the Minister.

**(2)** The Minister, after having reviewed the recommendations and reasons, must make a decision to accept, reject or vary the recommendations of the committee.

**(3)** A decision under subsection (2) must be made within 45 days of the date the committee issued its written recommendations and reasons, unless the Minister extends that period.

**(4)** The Minister must, not later than 14 days after having made a decision,

- (a) provide a copy of the decision to the Department and the applicant, and
- (b) publish or otherwise make available the recommendations and reasons of the committee and the decision of the Minister, or a summary of them, in a manner the Minister considers appropriate.

#### **Amendment to decision**

**10(1)** A decision of the Minister made under section 9(2) may be amended by the Minister on application by a party or on the Minister's own initiative

- (a) to clarify the decision, or
- (b) to correct any of the following:

- (i) a clerical or typographical error;
- (ii) an accidental or inadvertent error, omission or other similar mistake;
- (iii) an arithmetical error made in a computation.

**(2)** The Minister shall not amend a decision other than in those circumstances described in subsection (1).

**(3)** Within 30 days after the date the Minister provides the parties with a copy of a decision under section 9(4)(a),

- (a) a party may make an application under subsection (1) to amend the decision, and
- (b) the Minister may, if acting on the Minister's own initiative under subsection (1), amend the decision.

**(4)** A party must submit an application under subsection (1) to the Minister and provide a copy of the application to the other party at the same time as submitting it to the Minister.

**(5)** The Minister must decide on an application to amend a decision within 45 days of receiving the application, unless the Minister extends that period.

**(6)** If the Minister decides to amend a decision under this section, the Minister must, not later than 14 days after making the amendment,

- (a) provide a copy of the amendment to the Department and the applicant, and
- (b) publish or otherwise make available the amendment, or a summary of it, in a manner the Minister considers appropriate.

#### **Costs**

**11(1)** A committee must obtain the prior approval of the Minister before incurring any costs in the performance of its duties.

**(2)** The Department and the applicant must share equally in any costs incurred by the committee in the performance of its duties, including the remuneration and expenses of committee members.

### Part 3

## Transitional, Consequential, Repeal, Expiry and Coming into Force

#### Transitional

**12(1)** In this section, “prior Act” means the *Mines and Minerals Act* as it read before the coming into force of section 6(3) and (4) of the *Statutes Amendment Act, 2014*.

**(2)** Subject to subsections (2.1) and (2.2), section 39 of the Act as enacted by section 6(4) of the *Statutes Amendment Act, 2014* applies in respect of an objection despite the calendar year in which the prescribed matter being objected to arose.

**(2.1)** Section 39(5) of the Act as enacted by section 6(4) of the *Statutes Amendment Act, 2014* does not apply in respect of an objection to a prescribed matter considered in an audit or examination concluded before March 21, 2011.

**(2.2)** In the case of an objection that relates to a year prior to the 2015 calendar year,

(a) the reference in section 39(5)(a)(i) of the Act as enacted by section 6(4) of the *Statutes Amendment Act, 2014* to an amendment made under section 38(3) of the Act as enacted by section 6(4) of the *Statutes Amendment Act, 2014* shall be read as a reference to a request received under section 38(3)(b) of the prior Act or a similar amendment made under the prior Act, as determined by the Minister, and

(b) the reference in section 39(5)(a)(ii) of the Act as enacted by section 6(4) of the *Statutes Amendment Act, 2014* to an examination under section 38 of the Act as enacted by section 6(4) of the *Statutes Amendment Act, 2014* shall be read as a reference to an audit or examination conducted under section 47(5) of the prior Act or a similar examination conducted under the prior Act, as determined by the Minister.

**(3)** A reference in this Regulation to

(a) an objection includes an objection made under

(i) section 39 of the prior Act, and

(ii) the *Oil Sands Dispute Resolution Regulation* (AR 247/2007),

(b) a prescribed matter includes an amount, item or matter referred to in section 38(2) of the prior Act, and

- (c) a notice under section 38(7) of the Act includes a notice from the Minister in respect of a calculation, recalculation or additional calculation made by the Minister under section 38 of the prior Act.
- (4) If an objection has been made in respect of an Oil Sands Regulation for which a proposed resolution has not been issued under section 6(2) before this subsection came into force,
- (a) subject to clause (b), section 5 applies instead of sections 6 to 11 to a matter in dispute for which a committee has not been previously requested or established under section 7, and
- (b) sections 6 to 11 apply to a matter in dispute that, in the opinion of the Minister, is substantially the same as one for which a committee has been requested or established under section 7.

AR 170/2015 s12;24/2017;173/2017

**Consequential**

**13(1) The *Natural Gas Royalty Regulation, 2009 (AR 221/2008)* is amended by repealing section 21(4) and substituting the following:**

- (4) A royalty client is authorized to make an objection to the Minister under section 39 of the Act.

**(2) The *Oil Sands Royalty Regulation, 2009 (AR 223/2008)* is amended by repealing sections 47 and 48 and substituting the following:**

**Objections**

**47** The operator of a reporting entity is authorized to make an objection under section 39 of the Act, with respect to the reporting entity.

**(3) The *Petroleum Royalty Regulation, 2009 (AR 222/2008)* is amended by adding the following after section 10:**

**Objections**

**10.1** An operator is authorized to make an objection under section 39 of the Act.

**Repeal**

**14** The *Oil Sands Dispute Resolution Regulation (AR 247/2007)* is repealed.

**15** Repealed AR 24/2017 s5.

**Coming into force**

**16** This Regulation comes into force on the coming into force of section 6(3) and (4) of the *Statutes Amendment Act, 2014*.





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