

Alberta Regulation 198/2008
Income and Employment Supports Act
INCOME SUPPORTS, HEALTH AND TRAINING BENEFITS
AMENDMENT REGULATION

Filed: December 3, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 559/2008) on December 3, 2008 pursuant to section 18 of the Income and Employment Supports Act.

1 The *Income Supports, Health and Training Benefits Regulation* (AR 60/2004) is amended by this Regulation.

2 Section 5(2) is amended by adding the following after clause (j):

(j.1) a Registered Disability Savings Plan;

3 Section 6(4)(a) is amended by adding the following after subclause (xxiii);

(xxiv) payments received from a Registered Disability Savings Plan;

Alberta Regulation 199/2008

Animal Health Act
TRACEABILITY LIVESTOCK IDENTIFICATION REGULATION

Filed: December 3, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 562/2008) on December 3, 2008 pursuant to section 69 of the Animal Health Act.

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Definitions

1 In this Regulation,

- (a) “actual birth date” means the day, month and year of birth of livestock;
- (b) “approved tag” means a tag that meets the requirements of the *Health of Animals Regulations* (Canada);
- (c) “birthing start date” means the day, month and year of the first head of livestock born as part of a herd;
- (d) “Canadian Livestock Tracking System” means the database operated by the Canadian Cattle Identification Agency;
- (e) “dairy farm” means an operation, including the buildings and land occupied or used in connection with the production of milk, where dairy livestock are kept and part or all of the milk obtained from the dairy livestock is sold, offered for sale or supplied for human consumption;
- (f) “farm of origin” has the meaning set out in the *Health of Animals Act* (Canada);
- (g) “feedlot” means an operation that feeds more than 5000 head of livestock annually and is operated in whole or in part for the purposes of growing or finishing livestock by means other than grazing, but does not include
 - (i) an overwintering site where livestock are fed and sheltered,
 - (ii) a dairy farm, or
 - (iii) a site for breeding livestock and their offspring;
- (h) “livestock” means cattle;
- (i) “premises” means a premises as defined in the *Traceability Premises Identification Regulation*;
- (j) “premises identification number” means a premises identification number as defined in the *Traceability Premises Identification Regulation*.

Application

2 This Regulation applies to all cattle born in Alberta on or after January 1, 2009.

Recording and reporting livestock information

3(1) A livestock owner must identify livestock following the birth of a head of livestock, keep records and report to the Minister in accordance with this section.

(2) Except as provided in subsection (5), a livestock owner must ensure that livestock are identified by an approved tag and that corresponding records required by subsection (4)(b) are created and reported to the Minister,

- (a) if the livestock owner records birth dates by birthing start date, within 8 months of the birthing start date, or
- (b) if the livestock owner records birth dates by actual birth date, within 90 days of the birth of each head of livestock

or before the livestock leave the farm of origin, whichever occurs first.

(3) A livestock owner must record the age of livestock by

- (a) the actual birth date, or
- (b) the birthing start date.

(4) A livestock owner must

- (a) apply an approved tag required to be applied to the livestock in a manner that meets the requirements of the *Health of Animals Regulations* (Canada),
- (b) record in the livestock owner's records for each head of livestock
 - (i) the livestock owner's premises identification number,
 - (ii) the approved tag number applied to the livestock in accordance with the *Health of Animals Regulations* (Canada),
 - (iii) the actual birth date or birthing start date for the livestock, and
 - (iv) the method by which the birth date is determined according to subclause (iii),

and

(c) report all information required by clause (b) to the Minister.

(5) A livestock owner may move livestock without an approved tag to a site that meets the requirements of the *Health of Animals Regulations* (Canada) for the purposes of having an approved tag applied to the livestock at that site and must apply an approved tag within 6 months of the birthing start date.

Feedlots

4(1) A feedlot owner must identify livestock by recording and reporting all of the following information to the Minister:

- (a) the premises identification number for the feedlot;
- (b) the approved tag number for each head of livestock that moves into the feedlot within 7 days of the date the livestock moves into the feedlot;
- (c) the approved tag number for each head of livestock that moves out of the feedlot within 7 days of the date the livestock moves out of the feedlot, unless the head of livestock is destined for slaughter.

(2) A head of livestock is destined for slaughter if the livestock is delivered directly to a meat facility licensed under the *Meat Inspection Act* or to a registered establishment operating under the *Meat Inspection Act* (Canada) after leaving the feedlot.

Retagging

5 A person who owns, possesses or has the care or control of livestock that does not bear an approved tag must

- (a) apply a new approved tag in accordance with the *Health of Animals Regulations* (Canada), and
- (b) report to the Minister
 - (i) the date the new approved tag is applied to the livestock,
 - (ii) the new approved tag number,
 - (iii) the previously approved tag number, if available, and
 - (iv) the premises identification number of the person from whom the livestock owner or feedlot owner took

possession of, custody of or control of the livestock, if available,

within 30 days of the date the new tag is applied by livestock owners or before the date the livestock leave the farm of origin, whichever is earlier, and within 7 days of the date the new tag is applied by feedlot owners or before the livestock leave the feedlot, whichever is earlier.

Records

6 Any person who is required to identify livestock under this Regulation must

- (a) retain records containing the livestock's approved tag number and the livestock's production number or other on-farm or feedlot livestock identification numbers,
- (b) correlate records required by sections 3(4)(b) and 4(1), as applicable, with records retained in clause (a) for each head of livestock, and
- (c) provide a copy of the records referred to in this section to the Minister upon request.

Reporting into the Canadian Livestock Tracking System

7 Livestock owners and feedlot owners must comply with the reporting requirements of this Regulation except the requirements of section 6(c) by reporting the required information into the Canadian Livestock Tracking System.

Offence

8(1) No person shall create false records or provide false information to the Minister or to the Canadian Livestock Tracking System for the purposes of this Regulation.

(2) Any person who contravenes section 3, 4, 5, 6 or 7 is guilty of an offence.

Expiry

9 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 January 31, 2014.

Coming into force

10 This Regulation comes into force on January 1, 2009.

Alberta Regulation 200/2008

Animal Health Act

TRACEABILITY PREMISES IDENTIFICATION REGULATION

Filed: December 3, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 563/2008) on December 3, 2008 pursuant to section 69 of the Animal Health Act.

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Definitions

1 In this Regulation,

- (a) “applicant” means a person who applies for a premises identification account and at least one premises identification number;
- (b) “commingling site” means a commingling site under section 3;
- (c) “feedlot” means an operation that feeds more than 5000 head of livestock annually and is operated in whole or in part for the purposes of growing or finishing livestock by means other than grazing, but does not include
 - (i) an overwintering site where livestock are fed and sheltered,
 - (ii) a dairy farm, or
 - (iii) a site for breeding livestock and their offspring;
- (d) “location” means one or more premises that are contiguous to each other and that are under one management for breeding, raising, displaying, assembling, growing, finishing and disposing of livestock;

- (e) “premises” means the area of land contained in a legal land description or identified by georeferenced coordinates and is where recordable animals are bred, kept, raised, displayed, assembled or disposed of;
- (f) “premises identification account” means a unique identifying account number assigned by the Minister to an owner of a recordable animal or to an operator of a commingling site;
- (g) “premises identification number” means a unique identifying number assigned by the Minister to premises;
- (h) “recordable animal” means
 - (i) alpacas,
 - (ii) asses,
 - (iii) bees,
 - (iv) bison,
 - (v) cattle,
 - (vi) domestic cervids,
 - (vii) doves in captivity,
 - (viii) ducks in captivity,
 - (ix) fish acquired, propagated, reared or kept in accordance with a class A commercial fish culture licence or a class B commercial fish culture licence issued under the *Fisheries (Alberta) Act*,
 - (x) fur-bearing animals as defined in the *Fur Farms Act*,
 - (xi) geese in captivity,
 - (xii) goats,
 - (xiii) guinea fowl in captivity,
 - (xiv) horses,
 - (xv) llamas,
 - (xvi) mules,
 - (xvii) peafowl in captivity,

- (xviii) pheasants in captivity,
- (ixx) pigeons in captivity,
- (xx) poultry in captivity,
- (xxi) quail in captivity,
- (xxii) rabbits raised for the production of meat,
- (xxiii) ratites,
- (xxiv) sheep,
- (xxv) swine,
- (xxvi) wild boars,
- (xxvii) wild turkeys in captivity, and
- (xxviii) yaks.

Premises identification

- 2(1)** An owner of a recordable animal must apply for a premises identification account and at least one premises identification number in the form and manner approved by the Minister within 30 days of assuming ownership of a recordable animal.
- (2)** An owner of a recordable animal may obtain a premises identification number for each location, other than a commingling site, where the owner's recordable animal may be located.
- (3)** A commingling site operator must provide premises identification numbers to recordable animal owners who have recordable animals on the commingling site.
- (4)** An owner of an animal that is kept at a commingling site must provide the premises identification number for the commingling site in the application for a premises identification account.
- (5)** No owner of a recordable animal shall breed, keep, raise, display, assemble or dispose of the recordable animal unless that owner has a premises identification account.

Commingling site

- 3(1)** In this Regulation, a commingling site is a location, other than a farm or a ranch, where recordable animals owned by different owners are kept together either temporarily or permanently.

(2) Commingling sites include

- (a) an abattoir under the *Meat Inspection Act*,
- (b) animal artificial insemination centres,
- (c) animal embryo transfer stations,
- (d) assembling stations,
- (e) carcass disposal sites,
- (f) boarding stables,
- (g) community pastures,
- (h) fairs and exhibitions,
- (i) feedlots,
- (j) livestock markets,
- (k) an establishment operating under the *Meat Inspection Act* (Canada),
- (l) meat facilities under the *Meat Inspection Act*,
- (m) race tracks,
- (n) renderers,
- (o) veterinary clinics,
- (p) veterinary laboratories, and
- (q) veterinary hospitals.

(3) An operator of a commingling site shall obtain a premises identification account and at least one premises identification number for each commingling site operated by the operator within 30 days of assuming ownership or operation of the commingling site in the form and manner approved by the Minister.

Application for premises identification account

4(1) An application for a premises identification account must include the following information:

- (a) the applicant's name;

- (b) the name of the business the applicant will be operating under, if any;
- (c) the applicant's contact information during business hours and after business hours, including the applicant's
 - (i) address,
 - (ii) telephone number,
 - (iii) cell phone number, if available,
 - (iv) fax number, if available, and
 - (v) e-mail address, if available.

(2) If the applicant is an owner of a recordable animal that is located at a commingling site, the applicant must provide the premises identification number of the commingling site, obtained from the operator of the commingling site under section 2(3) in the application for a premises identification account.

Application for premises identification number

5(1) An application for a premises identification number must include the following information:

- (a) the applicant's name;
- (b) the applicant's contact information and the contact information for the person who will be the primary contact for the premises during business hours and after business hours, including each person's
 - (i) address,
 - (ii) telephone number,
 - (iii) cell phone number, if available,
 - (iv) fax number, if available, and
 - (v) e-mail address, if available;
- (c) the applicant's previously obtained Canadian Cattle Identification Agency premises number, if obtained;
- (d) the applicant's previously obtained Alberta Pork Producers' premises number, if obtained;

- (e) the legal land description or georeferenced coordinates for the premises to be associated with the premises identification account required under section 2(1), 3(3) or 4(2);
- (f) the type of premises the premises identification number is to be assigned to;
- (g) the species of recordable animals that will be present on each location associated with the applicant's management of a recordable animal operation;
- (h) the maximum capacity of each species of recordable animals that may be present on each location associated with the applicant's management of a recordable animal operation.

(2) If a recordable animal is located at a commingling site, the owner of the recordable animal must use the premises identification number issued to the operator of the commingling site and does not need to obtain a separate premises identification number for the commingling site.

Information

6 An applicant must inform the Minister of any change in the information provided under section 4 or 5 within 30 days after the change in information occurs.

Offence

7 Any person who knowingly provides false information in an application under section 4 or 5 or provides false information under section 6 is guilty of an offence.

Expiry

8 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 January 31, 2014.

Coming into force

9 This Regulation comes into force on January 1, 2009.

Alberta Regulation 201/2008

Stray Animals Act

STRAY ANIMALS AMENDMENT REGULATION

Filed: December 3, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 566/2008) on December 3, 2008 pursuant to section 35 of the Stray Animals Act.

1 The *Stray Animals Regulation* (AR 301/96) is amended by this Regulation.

2 Section 1 is amended by renumbering it as section 1(1) and by adding the following after subsection (1):

(2) In the Act, “livestock” means

- (a) alpacas,
- (b) bison,
- (c) cattle,
- (d) donkeys,
- (e) goats,
- (f) horses,
- (g) llamas,
- (h) mules,
- (i) sheep, and
- (j) swine.

3 Sections 2 to 4 are repealed.

4 Section 7 is amended by striking out “2009” and substituting “2014”.

5 This Regulation comes into force on the coming into force of the *Stray Animals Amendment Act, 2005*.

Alberta Regulation 202/2008

Alberta Enterprise Corporation Act

ALBERTA ENTERPRISE CORPORATION REGULATION

Filed: December 3, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 568/2008) on December 3, 2008 pursuant to section 16 of the Alberta Enterprise Corporation Act.

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Interpretation

1 In this Regulation, “Act” means the *Alberta Enterprise Corporation Act*.

Investments

2 The Corporation may make investments only as a limited partner in a limited partnership, and may not act as a general partner in respect of any investment.

Disqualification of directors

3(1) A director is disqualified if the director

- (a) becomes a dependent adult as defined in the *Dependent Adults Act* or the subject of a certificate of incapacity under that Act,
- (b) becomes a formal patient as defined in the *Mental Health Act*,
- (c) is found to be a person of unsound mind by a court elsewhere than in Alberta,
- (d) becomes a bankrupt in Canada or a person having a status equivalent to bankrupt in any other jurisdiction,
- (e) is convicted

- (i) of an indictable offence or of an offence of a similar nature in another jurisdiction, or has been convicted of such an offence within the immediately preceding 5 years, or
- (ii) of an offence under the *Bank Act* (Canada) or the *Loan and Trust Corporations Act*, the *Credit Union Act*, the *Insurance Act* or the *Securities Act*, or an equivalent law of another jurisdiction,
- (f) becomes an individual who is an employee of, or who is an employee of an agent of, the Crown,
- (g) becomes a Member of the Legislative Assembly of Alberta, or
- (h) is found, after being appointed, to have been
 - (i) less than 18 years of age at the time of the appointment,
 - (ii) a person described in any of clauses (a), (b), (c), (d) or (f) at the time of the appointment,
 - (iii) convicted of an offence referred to in clause (e)(i) within the 5 years immediately preceding the appointment, or
 - (iv) convicted of an offence referred to in clause (e)(ii) at any time preceding the appointment.

(2) An act of the board or a committee of the board is valid notwithstanding that a director may have been disqualified under this section.

Borrowing

4 Subject to the *Financial Administration Act*, the Corporation may, if authorized by a resolution of the board, borrow money

- (a) by credit card, if the money is required for operating purposes in the ordinary course of the Corporation's business, or
- (b) by another means or for another purpose, with the prior written authorization of the Minister.

Indemnities

5(1) The Corporation may indemnify a person under section 7(1) of the Act if the indemnity

- (a) is in writing,
- (b) is authorized by a resolution of the board, and
- (c) provides that it applies only to the extent that the person is not otherwise indemnified.

(2) An indemnity referred to in subsection (1) may contain additional terms and conditions required by the Corporation.

(3) Subject to subsections (4) and (5), the Corporation may provide an indemnity under section 7(2) of the Act if the indemnity is in writing, is authorized by a resolution of the board and

- (a) is ancillary and incidental to the business purpose of an agreement involving the Corporation and that agreement is of a kind where no liability under the indemnity is likely to arise in the normal course of the performance of the agreement if the agreement is properly performed, or
- (b) is an indemnity against losses that may be incurred by a financial institution resulting from a loan to a receiver, liquidator, bankruptcy trustee, administrator or other person acting in a similar capacity who is appointed by the Corporation.

(4) The Corporation may give indemnities only as a limited partner in respect of an obligation of the limited partnership, and shall not give any indemnity that requires or could require the Corporation to individually indemnify any person.

(5) The Corporation may give an indemnity only if all indemnification that may become payable under it is to be paid from the assets of the limited partnership.

Subsidiaries

6 The Act and this Regulation apply to any subsidiaries of the Corporation.

Expiry

7 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 March 31, 2014.

Coming into force

8 This Regulation comes into force on the coming into force of the *Alberta Enterprise Corporation Act*.

Alberta Regulation 203/2008

Assured Income for the Severely Handicapped Act

**ASSURED INCOME FOR THE SEVERELY HANDICAPPED GENERAL
AMENDMENT REGULATION**

Filed: December 3, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 569/2008) on December 3, 2008 pursuant to section 12 of the Assured Income for the Severely Handicapped Act.

1 The Assured Income for the Severely Handicapped General Regulation (AR 91/2007) is amended by this Regulation.

2 Schedule 1, Table 1 is amended by adding the following after section 1(f):

(f.1) a payment under a registered disability savings plan under section 146.4 of the *Income Tax Act* (Canada);

3 Schedule 2 is amended by adding the following after section 2(2)(c):

(c.1) a registered disability savings plan under section 146.4 of the *Income Tax Act* (Canada);

Alberta Regulation 204/2008

Health Insurance Premiums Act

HEALTH INSURANCE PREMIUMS AMENDMENT REGULATION

Filed: December 3, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 575/2008) on December 3, 2008 pursuant to section 2 of the Health Insurance Premiums Act.

1 The *Health Insurance Premiums Regulation* (AR 217/81) is amended by this Regulation.

2 The following is added before section 2:

1.1 Notwithstanding anything in this Regulation, the monthly premium payable for basic health services and insured hospital services for January, 2009 and subsequent months is \$0.00.

3 The Schedule is amended by striking out “Regular Premiums” under the heading “Basic Health Services and Insured Hospital Services” and substituting “Regular Premiums (ending December 31, 2008)”.

4 This Regulation comes into force on January 1, 2009.

Alberta Regulation 205/2008

Forests Act

TIMBER MANAGEMENT AMENDMENT REGULATION

Filed: December 3, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 576/2008) on December 3, 2008 pursuant to section 4 of the Forests Act.

1 The *Timber Management Regulation* (AR 60/73) is amended by this Regulation.

2 Section 122.2 is repealed.

3 Section 141.6 is repealed and the following is substituted:

141.6(1) Subject to section 141.61, the timber disposition holder shall submit to the Minister an establishment survey for an area to be reforested.

(2) If the reforestation standards have not been completely met by the end of the year in which the establishment survey is required to be submitted, the timber disposition holder shall, before the end of the following year, re-treat the area by methods and operations that

were approved in writing by the Minister under section 143.1 prior to the commencement of the re-treatment.

141.61(1) A timber disposition holder who at any time after the reforestation referred to in section 141.1 knows that the area to be reforested is not likely to meet the applicable reforestation standards without additional treatment, may, instead of submitting an establishment survey referred to in section 141.6(1), submit a declaration to that effect along with a written commitment to carry out the reforestation operations as necessary to meet the applicable reforestation standards.

(2) A written commitment under subsection (1) must be submitted for the approval of the Minister on or before the date on which an establishment survey for that area would have been required to be submitted.

4 Section 142(1) is repealed and the following is substituted:

142(1) Where a timber disposition holder fails to completely meet the reforestation standards by the end of the year in which the survey under section 141.6(1) or 141.7, as the case may be, is required to be submitted, the Minister may, notwithstanding section 141.6(2), order

- (a) the suspension of some or all,
 - (i) of the operations that may be carried out under any timber disposition held by the timber disposition holder, and
 - (ii) of the reforestation operations referred to in the order,
- or
- (b) if any of the operations have not yet commenced, that any or all of the operations not commence.

5 Section 142.2 is repealed.

6 Section 142.9 is amended by striking out “Survey Manual” and substituting “reforestation requirements”.

7 Schedule 2 is repealed and the following is substituted:

Schedule 2**Penalties for Contravention**

<u>Contravened Section of Regulation</u>	<u>Penalty</u>
57(1)(b), 64, 68, 72, 73, 105, 112, 113, 114, 115.1, 119, 120, 169	Not less than \$50 nor more than \$500 on the first offence. Not less than \$100 nor more than \$1000 on any subsequent offence that occurs within 2 years of the payment of any penalty for a previous offence against the same section.
74, 160, 170	Not less than \$10 nor more than \$100 for each offence.
70, 109	Not less than \$50 nor more than \$100 for each offence.
71, 98, 100(1)(h), 143.1, 143.2(2), 144.3	Not less than \$100 nor more than \$500 for each offence.
57(1)(c), 99, 100(1)(a), (b), (c), (d), (f), (g), (i) and (j), 101(3), 141.3(2), 141.5, 142(2), 142.8, 143(2), 144.2, 146, 164.1	Not less than \$300 nor more than \$5000 for each offence.
122.02, 122.03	Not less than \$500 nor more than \$5000 for each offence.
100(1)(e), 111, 148, 153(2)	Where the Minister can readily estimate the volume of timber that has been wasted, he may assess a penalty of not less than twice and not more than 4 times the general rate of timber dues on the estimated volume. Otherwise he may assess a penalty of not less than \$100 nor more than \$1000 for each offence.
116.1	Where there is unreported volume, not less than \$1000 and not more than twice the amount of the general rate of timber dues payable on the unreported volume if that amount is greater than \$1000.

- Where there is not any unreported volume, not less than \$1000 nor more than \$5000.
- 117, 117.1 Not less than \$200 nor more than \$500 for each offence.
- 118(1) Where the form is inaccurate or incomplete or the wrong form is produced, not less than \$200 nor more than \$500 for each offence.
- Where a form is not produced when demanded, not less than \$1000 nor more than \$5000 for each offence.
- 141.1(1), 141.6(2) \$2.50 per hectare for each month of contravention.
- 141.6(1), 141.61, 141.7(1) For each late submission of an acceptable survey or commitment, the Minister may assess a penalty in accordance with the following table computed on the Minister's estimate of the area involved and on the date when the acceptable submission of the survey or commitment is made:

Month following end of year in which acceptable submission of the survey or commitment was required by the applicable provision	Penalty to be assessed for each hectare that is the subject of the submission, where an acceptable submission of the survey or commitment is received in the relevant month listed in the first column
May	\$0.02 for each day of the month until submission received.
June	\$0.62 plus \$0.05 for each day of the month until submission received.
July	\$2.12 plus \$0.07 for each day of the month until submission received.
August	\$4.29 plus \$0.10 for each day of the month until submission received.
September	\$7.39 plus \$0.10 for each day of the month until submission received.

October	\$10.39 plus \$0.10 for each day of the month until submission received.
November	\$13.49 plus \$0.10 for each day of the month until submission received.
December	\$16.49 for submission received on any date in the month.
January February March April	\$17.30 for submission received on any date in any of the months.
	The penalties shown are repeated in each consecutive year, in addition to the penalties assessed in the previous years, until acceptable submission of the survey or commitment, as the case may be, is received, although other action may also be taken by the Minister as provided in the Act and the Regulation.

Alberta Regulation 206/2008

Stray Animals Act

STRAY ANIMALS DELEGATION REGULATION

Filed: December 3, 2008

For information only: Made by the Minister of Agriculture and Rural Development (M.O. 29/2008) on November 17, 2008 pursuant to section 27 of the Stray Animals Act.

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Definitions

1 In this Regulation,

- (a) “Act” means the *Stray Animals Act*;
- (b) “delegated power, duty or function” means a power, duty or function delegated under section 2;
- (c) “LIS” means Livestock Identification Services Ltd. incorporated under Part 9 of the *Companies Act*.

Delegation

2(1) LIS is continued for the purposes of this Regulation as a delegated authority referred to in section 27 of the Act.

(2) The powers, duties and functions of the Minister under the following sections of the Act are delegated to LIS:

- (a) section 4;
- (b) section 19;
- (c) section 21;
- (d) section 22.

(3) The powers, duties and functions of inspectors under the Act and the regulations are delegated to LIS.

Inspection and audit

3(1) To determine if LIS is carrying out a delegated power, duty or function in a manner satisfactory to the Minister, the Minister may

- (a) enter a premises in which LIS carries out a delegated power, duty or function during normal business hours,
- (b) audit LIS's operations, and
- (c) inspect LIS's records.

(2) Without limiting section 12, the Minister may make copies of records related to a delegated power, duty or function during normal business hours.

(3) The Minister may charge LIS for the reasonable costs incurred in carrying out an audit.

Conditions

4 A delegation of a power, duty or function is subject to the conditions set out in sections 5 to 14.

Delegation agreement

5 LIS shall comply with the terms and conditions of a delegation agreement with the Minister, if any, with respect to a delegation of a power, duty or function.

Permitted activities

6 LIS shall engage only in the following activities:

- (a) a delegated power, duty or function under this Regulation or any other Act or regulation;
- (b) livestock related reporting, education, assistance and audits;
- (c) co-operation in enforcement of livestock related legislation;
- (d) information services related to livestock tracing for product recall and disease control purposes;
- (e) co-operation in implementation of livestock related quality assurance program certification;
- (f) animal welfare services in co-operation with other agencies;
- (g) livestock identification and directly related services;
- (h) research into and co-operation in animal ownership and age verification systems;
- (i) any other activity as authorized by the Minister.

Licences

7 LIS shall maintain all municipal, provincial and federal licences required to carry out a delegated power, duty or function.

Financial reports

8(1) LIS shall,

- (a) at least 60 days before the beginning of each fiscal year, provide a report to the Minister with LIS's business plan and budget for the coming fiscal year,
- (b) not more than 120 days after the end of each fiscal year, provide a report to the Minister with
 - (i) a summary of LIS's activities,
 - (ii) any rules made by LIS under section 28 of the Act, and
 - (iii) audited financial statements

for the past fiscal year,

- (c) at least 30 days before the beginning of each quarter of each fiscal year, provide a report to the Minister forecasting revenues and expenditures for the coming quarter,

and

- (d) not more than 30 days after the end of each month, provide a report to the Minister with a financial statement for all LIS's activities for that past month.

(2) A report required under this section must be provided in a form and manner acceptable to the Minister.

(3) An audited financial statement provided under subsection (1)(b)(iii) must include the remuneration and benefits paid or provided to

- (a) each director of LIS,
- (b) the managers who reported directly to the board of directors of LIS, and
- (c) the persons not referred to in clause (a) or (b) who were employed by or under contract with LIS.

(4) Despite subsection (3)(a), the Minister may permit LIS to provide the remuneration and benefits for the directors of LIS on a group basis.

- (5) In this section, “remuneration and benefits” includes
- (a) regular salary, bonuses, overtime, lump sum payments and honoraria,
 - (b) the employer’s share of all employee benefits and contributions or payments made on behalf of employees, and
 - (c) the employer’s share of the cost of any other benefits provided to employees.
- (6) The Minister is authorized to disclose information about an identifiable individual collected under this section.

Handling of public auction proceeds

- 9(1)** The Stray Animals Proceeds Trust Fund is continued for the purposes of section 19(5) of the Act.
- (2) LIS shall maintain the Fund at a financial institution in an account that is used for the sole purpose of administering sections 19 and 21 of the Act.
- (3) LIS shall keep a separate accounting record for the Fund.
- (4) LIS may invest the money in the Fund in investments in which trustees are permitted to invest trust money under the *Trustee Act*.
- (5) Income and interest from the Fund accrue to and form part of the Fund.

Accounting

- 10** All money collected by LIS under a delegated power, duty or function must be recorded and accounted for in accordance with generally accepted accounting principles.

Privacy

- 11(1)** LIS shall comply with the *Freedom of Information and Protection of Privacy Act* in the course of carrying out a delegated power, duty or function as if LIS were a public body.
- (2) LIS shall designate a person to be responsible for *Freedom of Information and Protection of Privacy Act* matters.
- (3) LIS shall immediately direct a request for access to information under the *Freedom of Information and Protection of Privacy Act* to the Minister.

(4) LIS shall comply with the directions of the Minister with respect to matters under the *Freedom of Information and Protection of Privacy Act*.

(5) LIS is authorized to collect, use and disclose information about an identifiable individual as required to carry out a delegated power, duty or function.

Records

12(1) A record in the custody or control of LIS that is created or required to carry out a delegated power, duty or function is the property of the Crown in right of Alberta.

(2) LIS shall comply with the *Records Management Regulation* (AR 224/2001) or an enactment which replaces the *Records Management Regulation* (AR 224/2001) with respect to all records referred to in subsection (1) as if LIS were a department.

(3) LIS shall designate a person to be responsible for *Records Management Regulation* matters.

(4) LIS shall comply with the directions of the Minister with respect to the handling of the records.

Articles and members

13 LIS shall not, without the prior written consent of the Minister,

- (a) amend its Memorandum of Association or Articles of Association, or
- (b) permit a person to become a member of LIS.

Notice to Minister

14 LIS shall

- (a) notify the Minister within 15 days of a change to the directors of LIS, and
- (b) at the same time the following are circulated to the directors or members of LIS, provide a copy to the Minister:
 - (i) notice of LIS directors' meetings;
 - (ii) minutes of LIS directors' meetings;
 - (iii) resolutions of the directors and any committee of the directors;

- (iv) background information and documents provided by LIS to its directors;
- (v) notices or mailings provided by LIS to its members.

Appeal of decision

15(1) A person affected by a decision made by LIS or an employee, agent, director or officer of LIS in the carrying out of a delegated power, duty or function may appeal that decision.

(2) The appeal must be made in writing to LIS and within 30 days of being notified of the decision.

(3) The appeal must contain

- (a) a description of the decision being appealed,
- (b) the grounds of appeal, and
- (c) the name, address and telephone number of the appellant.

Appeal board and notice

16(1) If an appeal is received in accordance with section 15(2) and (3), LIS shall

- (a) immediately notify the Minister of the appeal, and
- (b) within 10 days of receiving the appeal, appoint an appeal board to hear the appeal.

(2) An appeal board shall consist of

- (a) a total of 3 members or, if there is an appeal where there is an amount in dispute that exceeds \$20 000, 5 members,
- (b) 2 members or, in the circumstances referred to in clause (a), 3 persons who are appointed to the Tribunal under section 72 of the *Livestock Identification and Commerce General Regulation*, and
- (c) persons nominated by the Minister.

(3) A director, officer or employee of LIS must not be appointed to an appeal board.

Appeal hearing

17(1) The appeal board shall hear the appeal within 30 days after the appeal board is appointed.

- (2) The appeal board shall serve a written decision, with reasons, on the parties within 15 days of the appeal.
- (3) An appeal may be heard on the basis of written submissions or an oral hearing at the discretion of the appeal board.
- (4) The appeal board may confirm, vary or reverse the decision appealed from.
- (5) The appeal board may establish rules and procedures for the conduct of an appeal.

Appeal secretary

- 18(1)** The Minister shall appoint a person to act as a secretary to the appeal board.
- (2) The secretary shall set and notify the parties to the appeal of
 - (a) the time, date and place of the appeal hearing, or
 - (b) the deadline for written submissions.

Mediation

- 19** LIS shall, if possible, try to resolve an appeal in good faith prior to the filing of an appeal or the commencement of the appeal hearing.

Limiting legal liability

- 20** No action in negligence lies against LIS or its employees, agents, directors or officers for anything done or not done in good faith while carrying out a delegated power, duty or function.

Repeal

- 21** The *LIS Delegated Authority Regulation* (AR 219/98) is repealed.

Expiry

- 22** 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 June 30, 2014.

Coming into force

- 23** This Regulation comes into force on the coming into force of the *Stray Animals Amendment Act, 2005*.

Alberta Regulation 207/2008
Livestock Identification and Commerce Act
LIVESTOCK IDENTIFICATION AND COMMERCE
DELEGATION REGULATION

Filed: December 3, 2008

For information only: Made by the Minister of Agriculture and Rural Development (M.O. 30/2008) on November 17, 2008 pursuant to section 84 of the Livestock Identification and Commerce Act.

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Definitions

- 1** In this Regulation,
- (a) “Act” means the *Livestock Identification and Commerce Act*;
 - (b) “delegated power, duty or function” means a power, duty or function delegated under section 2;
 - (c) “*LICA General Regulation*” means the *Livestock Identification and Commerce General Regulation*;

- (d) “LIS” means Livestock Identification Services Ltd. incorporated under Part 9 of the *Companies Act*.

Delegation

2(1) LIS is continued for the purposes of this Regulation as a delegated authority referred to in section 84 of the Act.

(2) The powers, duties and functions of the Minister under the Act are delegated to LIS except for

- (a) the power to make regulations, and
- (b) the powers, duties and functions in sections 66(6), 85 and 90.

(3) The powers, duties and functions of the Minister under the *LICA General Regulation* are delegated to LIS except for

- (a) sections 12 and 13,
- (b) section 17(1)(c),
- (c) section 33,
- (d) section 47,
- (e) section 48(2)(f), and
- (f) sections 71 to 73.

(4) The powers, duties and functions of inspectors under the Act and the *LICA General Regulation* are delegated to LIS.

Inspection and audit

3(1) To determine if LIS is carrying out a delegated power, duty or function in a manner satisfactory to the Minister, the Minister may

- (a) enter a premises in which LIS carries out a delegated power, duty or function during normal business hours,
- (b) audit LIS’s operations, and
- (c) inspect LIS’s records.

(2) Without limiting section 13, the Minister may make copies of records related to a delegated power, duty or function during normal business hours.

(3) The Minister may charge LIS for the reasonable costs incurred in carrying out an audit.

Conditions

4 A delegation of a power, duty or function is subject to the conditions set out in sections 5 to 15.

Delegation agreement

5 LIS shall comply with the terms and conditions of a delegation agreement with the Minister, if any, with respect to a delegation of a power, duty or function.

Permitted activities

6 LIS shall engage only in the following activities:

- (a) a delegated power, duty or function under this Regulation or any other Act or regulation;
- (b) livestock related reporting, education, assistance and audits;
- (c) co-operation in enforcement of livestock related legislation;
- (d) information services related to livestock tracing for product recall and disease control purposes;
- (e) co-operation in implementation of livestock related quality assurance program certification;
- (f) animal welfare services in co-operation with other agencies;
- (g) livestock identification and directly related services;
- (h) research into and co-operation in animal ownership and age verification systems;
- (i) any other activity as authorized by the Minister.

Licences

7 LIS shall maintain all municipal, provincial and federal licences required to carry out a delegated power, duty or function.

Financial reports

8(1) LIS shall,

- (a) at least 60 days before the beginning of each fiscal year, provide a report to the Minister with LIS's business plan and budget for the coming fiscal year,

- (b) not more than 120 days after the end of each fiscal year, provide a report to the Minister with
 - (i) a summary of LIS's activities,
 - (ii) any rules made by LIS under section 85 of the Act, and
 - (iii) audited financial statementsfor the past fiscal year,
 - (c) at least 30 days before the beginning of each quarter of each fiscal year, provide a report to the Minister forecasting revenues and expenditures for the coming quarter,
- and
- (d) not more than 30 days after the end of each month, provide a report to the Minister with a financial statement for all LIS's activities for that past month.
- (2)** A report required under this section must be provided in a form and manner acceptable to the Minister.
- (3)** An audited financial statement provided under subsection (1)(b)(iii) must include the remuneration and benefits paid or provided to
- (a) each director of LIS,
 - (b) the managers who reported directly to the board of directors of LIS, and
 - (c) the persons not referred to in clause (a) or (b) who were employed by or under contract with LIS.
- (4)** Despite subsection (3)(a), the Minister may permit LIS to provide the remuneration and benefits for the directors of LIS on a group basis.
- (5)** In this section, "remuneration and benefits" includes
- (a) regular salary, bonuses, overtime, lump sum payments and honoraria,
 - (b) the employer's share of all employee benefits and contributions or payments made on behalf of employees, and
 - (c) the employer's share of the cost of any other benefits provided to employees.

(6) The Minister is authorized to disclose information about an identifiable individual collected under this section.

Handling of unidentified livestock sale proceeds

9(1) The sale proceeds received by LIS under section 34(3) or 35(2) of the Act shall be deposited at a financial institution in an account that is used for the sole purpose of administering sections 35 and 36 of the Act.

(2) LIS shall keep a separate accounting record for the account.

(3) LIS may pay interest to a person entitled to the sale proceeds if LIS considers it to be appropriate in the circumstances.

Fees

10 LIS may not collect a fee with respect to a delegated power, duty or function except as set out in the *LICA General Regulation*.

Accounting

11 All money collected by LIS under a delegated power, duty or function must be recorded and accounted for in accordance with generally accepted accounting principles.

Privacy

12(1) LIS shall comply with the *Freedom of Information and Protection of Privacy Act* in the course of carrying out a delegated power, duty or function as if LIS were a public body.

(2) LIS shall designate a person to be responsible for *Freedom of Information and Protection of Privacy Act* matters.

(3) LIS shall immediately direct a request for access to information under the *Freedom of Information and Protection of Privacy Act* to the Minister.

(4) LIS shall comply with the directions of the Minister with respect to matters under the *Freedom of Information and Protection of Privacy Act*.

(5) LIS is authorized to collect, use and disclose information about an identifiable individual as required to carry out a delegated power, duty or function.

Records

13(1) A record in the custody or control of LIS that is created or required to carry out a delegated power, duty or function is the property of the Crown in right of Alberta.

(2) LIS shall comply with the *Records Management Regulation* (AR 224/2001) or an enactment which replaces the *Records Management Regulation* (AR 224/2001) with respect to all records referred to in subsection (1) as if LIS were a department.

(3) LIS shall designate a person to be responsible for *Records Management Regulation* matters.

(4) LIS shall comply with the directions of the Minister with respect to the handling of the records.

Articles and members

14 LIS shall not, without the prior written consent of the Minister,

- (a) amend its Memorandum of Association or Articles of Association, or
- (b) permit a person to become a member of LIS.

Notice to Minister

15 LIS shall

- (a) notify the Minister within 15 days of a change to the directors of LIS, and
- (b) at the same time the following are circulated to the directors or members of LIS, provide a copy to the Minister:
 - (i) notice of LIS directors' meetings;
 - (ii) minutes of LIS directors' meetings;
 - (iii) resolutions of the directors and any committee of the directors;
 - (iv) background information and documents provided by LIS to its directors;
 - (v) notices or mailings provided by LIS to its members.

Appeal of decision

16(1) A person affected by a decision made by LIS or an employee, agent, director or officer of LIS in the carrying out of a delegated power, duty or function may appeal that decision.

(2) The appeal must be made in writing to LIS and within 30 days of being notified of the decision.

(3) The appeal must contain

- (a) a description of the decision being appealed,
- (b) the grounds of appeal, and
- (c) the name, address and telephone number of the appellant.

(4) Subsection (1) does not apply to a decision made under section 56(7) of the Act.

Appeal board and notice

17(1) If an appeal is received in accordance with section 16(2) and (3), LIS shall

- (a) immediately notify the Minister of the appeal, and
- (b) within 10 days of receiving the appeal, appoint an appeal board to hear the appeal.

(2) An appeal board shall consist of

- (a) a total of 3 members or, in the following circumstances, 5 members:
 - (i) an appeal of a decision to refuse to issue or to cancel or suspend a licence;
 - (ii) an appeal where the amount in dispute in the appeal exceeds \$20 000,
- (b) 2 members or, in the circumstances referred to in clause (a)(i) or (ii), 3 persons who are appointed to the Tribunal under section 72 of the *LICA General Regulation*, and
- (c) persons nominated by the Minister.

(3) A director, officer or employee of LIS must not be appointed to an appeal board.

Appeal hearing

- 18(1)** The appeal board shall hear the appeal within 30 days after the appeal board is appointed.
- (2)** The appeal board shall serve a written decision, with reasons, on the parties within 15 days of the appeal.
- (3)** An appeal may be heard on the basis of written submissions or an oral hearing at the discretion of the appeal board.
- (4)** The appeal board may confirm, vary or reverse the decision appealed from.
- (5)** The appeal board may establish rules and procedures for the conduct of an appeal.

Appeal secretary

- 19(1)** The Minister shall appoint a person to act as a secretary to the appeal board.
- (2)** The secretary shall set and notify the parties to the appeal of
- (a) the time, date and place of the appeal hearing, or
 - (b) the deadline for written submissions.

Mediation

20 LIS shall, if possible, try to resolve an appeal in good faith prior to the filing of an appeal or the commencement of the appeal hearing.

Limiting legal liability

21 No action in negligence lies against LIS or its employees, agents, directors or officers for anything done or not done in good faith while carrying out a delegated power, duty or function.

Repeal

- 22** The following regulations are repealed:
- (a) *LIS Delegated Authority Regulation* (AR 218/98);
 - (b) *LIS Delegated Authority Regulation* (AR 220/98);
 - (c) *LIS Delegated Authority Regulation* (AR 221/98).

Expiry

23 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 June 30, 2014.

Coming into force

24 This Regulation comes into force on the coming into force of the *Livestock Identification and Commerce Act*.

Alberta Regulation 208/2008

Livestock Identification and Commerce Act

**LIVESTOCK IDENTIFICATION AND COMMERCE
GENERAL REGULATION**

Filed: December 3, 2008

For information only: Made by the Minister of Agriculture and Rural Development (M.O. 31/2008) on November 17, 2008 pursuant to sections 13, 43, 65, 76 and 92 of the Livestock Identification and Commerce Act.

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Interpretation

1(1) In this Regulation,

- (a) “Act” means the *Livestock Identification and Commerce Act*;
- (b) “country sale site” means a place
 - (i) where livestock is offered for sale to more than one prospective purchaser, and
 - (ii) that is not a livestock assembling station, livestock market, feedlot or abattoir;
- (c) “feeder” means a feeder association member acting on behalf of a feeder association pursuant to a feeder agreement under the *Feeder Associations Guarantee Regulation* (AR 75/98);
- (d) “feeder association” means a feeder association as defined in the *Feeder Associations Guarantee Act*;
- (e) “feedlot” means a place, other than a seasonal feeding and bedding site, that is operated for the purpose of feeding livestock by a means other than grazing;
- (f) “livestock assembling station” means a place that is operated for the purpose of assembling, weighing or sorting livestock;
- (g) “livestock market” means a place operated for the purpose of selling livestock;
- (h) “sheep” means an animal of genus *Ovis*;
- (i) “special permit” means a horse permit, pedigree cattle permit or a rodeo and exhibition permit;
- (j) “swine” means an animal of the species *Sus scrofa*;
- (k) “unlicensed person” means a person who is not licensed as a livestock dealer or livestock dealer’s agent under the Act.

(2) In the Act,

- (a) “assured livestock” means cattle or horses that have been
 - (i) supplied or sold by a participant, and
 - (ii) if the participant is not a livestock dealer, present in Alberta as defined in subsection (7) for 30 consecutive days immediately prior to the supply or sale;
- (b) “business day” means any day other than Saturday or, as defined in the *Interpretation Act*, a holiday;
- (c) “livestock manifest” means a manifest completed in the form set out in Schedule 2;
- (d) “livestock permit” means a livestock permit issued in the form required by the Minister;
- (e) “participant” means, with respect to a specific supply or sale transaction, a person
 - (i) who, at the time of the supply or sale,
 - (A) is an Alberta resident, and
 - (B) is not an associated person of the person to whom the assured livestock is supplied or sold,
 - and
 - (ii) who supplies or sells assured livestock within the circumstances described in one of the following paragraphs:
 - (A) a supply or sale in Alberta to a livestock dealer;
 - (B) a sale in Alberta by a licensed livestock dealer to an unlicensed person;
 - (C) a supply in Dawson Creek, British Columbia or Lloydminster, Saskatchewan to a livestock market that is approved by the Minister;
- (f) “permit” includes a rodeo and exhibition permit;

(g) “settlement statement” means a form of sales documentation that includes the information set out in section 33.

(3) For the purposes of section 1(j) of the Act, the following are designated as financial institutions:

- (a) the Agriculture Financial Services Corporation established under the *Agriculture Financial Services Act*;
- (b) the Farm Credit Corporation established under the *Farm Credit Canada Act* (Canada).

(4) For the purposes of section 1(p) of the Act, the following are designated as inspection sites:

- (a) a country sale site;
- (b) a livestock assembling station;
- (c) a livestock market;
- (d) a feedlot;
- (e) an abattoir.

(5) For the purposes of section 1(s) of the Act, sheep and swine are designated as livestock.

(6) In section 16 of the Act and section 3(3) of this Regulation,

- (a) “pay” means
 - (i) to deposit the purchase funds electronically,
 - (ii) to send the purchase funds by postmarked mail,
 - (iii) to deliver the purchase funds,
 - (iv) to make the purchase funds available for pickup, or
 - (v) if there is no livestock security interest in the livestock or the dam of the livestock being sold, to sign a financing agreement with the owner of the livestock granting the owner a purchase-money security interest;
- (b) “possession” means the day on which or, if the sale of the livestock is subject to a condition and the livestock has not been rejected on the basis of that condition, 2 business days after the day on which

- (i) the livestock is delivered to the purchaser or the purchaser's agent, or
- (ii) the purchaser or the purchaser's agent may take delivery of the livestock;
- (c) "price discovery" means the day on which the person who is required to pay the sale proceeds knows or ought to know the amount of the sale proceeds payable.

(7) In subsection (2)(a), "present in Alberta" includes the presence of the assured livestock at and the transportation or driving of the assured livestock directly to or from a location outside of Alberta that is approved by the Minister for the purposes of section 17(1)(b) or 78.

(8) In subsection (2)(e), "Alberta resident" means

- (a) a person whose ordinary place of residence is in Alberta,
- (b) a corporation registered under the *Business Corporations Act*, or
- (c) a partnership where a majority of the partners are described in clause (a) or (b).

Part 1 Application of Act

Livestock brands

2(1) Part 1 of the Act does not apply to sheep or swine.

(2) Part 2 of this Regulation does not apply to sheep or swine.

Transactions, transportation, inspection

3(1) The following provisions of Part 2 of the Act do not apply to sheep:

- (a) sections 19(1)(b) and (c) and (4) and 23 to 39;
- (b) sections 44 to 46 to the extent they relate to a section referred to in clause (a).

(2) Part 2 of the Act does not apply to swine except for

- (a) section 17, and
- (b) sections 44 to 46 to the extent they relate to section 17.

(3) Because swine are exempted from section 16 of the Act, section 55 of the Act applies to swine subject to the following modification and addition:

- (a) non-payment occurs when payment is not received as agreed to by the parties to the supply or sale agreement;
- (b) the notification must be made no later than 30 days from the date of price discovery or possession, whichever occurs later.

(4) Part 3 of this Regulation, except for sections 25 to 29 and 32, does not apply to sheep.

(5) Part 3 and Division 1 of Part 4 of this Regulation do not apply to swine.

Levies, assurance funds, security

4(1) Part 4 of the Act does not apply to sheep or swine.

(2) Divisions 2 and 3 of Part 4 of this Regulation do not apply to sheep or swine except for sections 44 and 47.

Out of province livestock – livestock manifest, livestock permit

5(1) Section 19(1)(c) of the Act and section 16 of this Regulation do not apply to a person who is transporting or driving livestock into or through Alberta from an originating point outside of Alberta.

(2) Section 19(1)(a) of the Act does not apply to a person referred to in subsection (1) if

- (a) the originating jurisdiction requires that the livestock be accompanied by documentation to be transported or driven out of the jurisdiction to the livestock's destination, and
- (b) the livestock is accompanied by the documentation.

(3) An exemption under subsection (1) or (2) expires when the livestock

- (a) stops in Alberta for a purpose other than rest, or
- (b) is required to be inspected under the Act.

(4) If the livestock stops in Alberta for a purpose other than rest, the point at which the livestock stops is considered to be its originating point for the purpose of section 16(a).

(5) The documentation referred to in subsection (2)(b) is required to be completed, distributed and retained in the same manner as,

- (a) if the documentation was issued as a result of an inspection, a livestock permit, or
- (b) if clause (a) does not apply, a livestock manifest.

(6) A person required to provide a copy of the documentation referred to in subsection (2)(b) shall ensure that there are sufficient copies available.

(7) A person required to complete the documentation referred to in subsection (2)(b) shall make whatever modifications or attachments are necessary to include the information that would be included in a livestock manifest or livestock permit, whichever applies.

Security

6 The requirement under section 53 of the Act to provide security does not apply to a livestock dealer if the livestock dealer and the livestock dealer's agents do not deal in livestock or livestock products as referred to in section 48(1)(a).

Inspection fee

7 The requirement under section 27 of the Act to pay an inspection fee does not apply if the livestock is inspected as a result of a vehicle search under section 40 of the Act.

Part 2 Registration of Livestock Brands and Honorary Brands

Application

8(1) The application form to register a brand or honorary brand is set out in Schedule 1.

(2) An application to change or correct a brand or honorary brand registration, including a change to reflect a surrender or transfer of the brand or honorary brand, must be made in the form and manner required by the Minister.

Registry

9 The following information must be entered and maintained in the registry:

- (a) the name of the brand or honorary brand owner;

- (b) the name of the municipality in which the brand or honorary brand owner resides;
- (c) a description of the brand or honorary brand;
- (d) the location of the brand or honorary brand on the livestock;
- (e) the type of livestock for which the brand or honorary brand is registered;
- (f) in the case of an honorary brand, the purpose of the honorary brand.

Part 3

Transporting or Driving Livestock

Division 1

Inspections

Inspection required

10(1) Livestock must be inspected

- (a) subject to sections 12 and 13, if the livestock enters an inspection site,
- (b) before the livestock is offered for sale or sold at a livestock market if the livestock has remained in the livestock market for more than 48 hours since the livestock was last inspected at the livestock market,
- (c) subject to section 14, to issue a permit,
- (d) if an inspector believes the livestock may have improperly entered an abattoir or a feedlot without inspection under section 12, or
- (e) if an inspector believes the livestock may be stolen.

(2) Livestock present at a country sale site before and during the country sale must be considered to have entered the country sale site.

Notice of inspection

11(1) The operator of an inspection site shall notify an inspector of the entry of livestock into an inspection site,

- (a) in the case of a feedlot, within 24 hours of the livestock entering the feedlot,

- (b) in the case of a livestock assembling station, livestock market or an abattoir, 2 business days before the proposed entry of the livestock into the inspection site, or
 - (c) in the case of a country sale site, 5 business days before the first day of the country sale.
- (2) A person requesting a permit, excluding a livestock permit required to transport or drive livestock from an inspection site, or a voluntary inspection shall notify an inspector 2 business days before the permit or inspection is needed.
- (3) A person requesting a livestock permit to transport or drive livestock from an inspection site shall notify an inspector,
- (a) if the livestock has been inspected at the inspection site within the previous 48 hours, as required by the inspector in the circumstances, or
 - (b) if clause (a) does not apply, 24 hours before the livestock permit is needed.
- (4) An inspector may consent to a different length of notice subject to any terms and conditions the inspector may require.
- (5) The notice must be given in the form and manner required by the Minister.

Exception - abattoir, feedlot

12 Section 10(1)(a) does not apply to livestock entering an abattoir or a feedlot

- (a) if the livestock is transported or driven under a livestock permit directly to the abattoir or feedlot from the location in Alberta where the livestock permit was issued, or
- (b) in the case of livestock that is transported or driven into Alberta from out of province, if the livestock is transported or driven directly to the abattoir or feedlot
 - (i) from a location
 - (A) where the livestock was inspected, and
 - (B) in a jurisdiction approved by the Minister,
 - and
 - (ii) the livestock is transported or driven under the documentation

- (A) required in that jurisdiction to transport or drive the livestock to the abattoir or feedlot, and
- (B) that is issued as a result of the inspection.

Waiver - entering inspection site

13(1) An inspector may waive an inspection of livestock required on entering an inspection site if

- (a) the livestock enters the inspection site for the purpose of rest,
 - (b) the inspection site is a country sale site, or
 - (c) the inspection site is a feedlot and
 - (i) the livestock is transported or driven directly to the feedlot from an out of province location in a jurisdiction that has not been approved by the Minister,
 - (ii) the livestock is transported or driven directly to the feedlot from another feedlot in Alberta where the livestock
 - (A) was inspected on entry, or
 - (B) entered without inspection under section 12,
- or
- (iii) the livestock is re-entering the feedlot from grazing.

(2) An inspector may revoke a waiver given under this section before the livestock is transported or driven from the inspection site.

Waiver - issuing permit

14(1) An inspector may waive an inspection of livestock required to issue

- (a) a livestock permit if
 - (i) the livestock permit is required to transport or drive livestock from an inspection site, and
 - (ii) the inspection site is not an abattoir,
- or
- (b) a special permit if a special permit was issued for the livestock in the previous calendar year.

(2) An inspector may revoke a waiver given under this section before the permit is issued.

Duty to provide inspection facilities

15(1) For greater certainty, the facilities that shall be provided by an owner or operator of a place where an inspection is carried out under section 25 of the Act may include office space, buildings, alleys, pens, chutes and gates.

(2) An owner or operator of a place where an inspection is carried out in a building or where sunlight is inadequate shall provide artificial light.

(3) The facilities provided for carrying out inspections must be adequate and appropriate for the purpose of performing the inspection to be carried out.

(4) On request, an owner or operator of an inspection site, excluding a country sale site, shall lease office space satisfactory to the Minister at a rate acceptable to the Minister.

**Division 2
Permits**

Livestock permit required

16 A livestock permit is required to transport or drive livestock from

- (a) an originating point in Alberta to a destination outside of Alberta, or
- (b) an inspection site to a destination in Alberta.

Livestock permit exemption

17(1) Section 16(a) does not apply if the livestock is transported or driven

- (a) under a special permit,
- (b) directly to a delivery destination
 - (i) that is owned or leased by the owner of the livestock,
 - (ii) that is contiguous to or near the Alberta border, and
 - (iii) that is approved by the Minister as part of the owner's operation in Alberta,

or

- (c) directly to a delivery destination
 - (i) that is approved by the Minister, and
 - (ii) where the livestock will be inspected by that jurisdiction.

(2) Section 16(b) does not apply if the livestock is transported or driven from

- (a) a feedlot,
- (b) a country sale site if the livestock was not inspected while at the country sale site, or
- (c) an inspection site if the livestock entered and remained at the inspection site for the purpose of rest.

Application

18 A person who requests a permit shall

- (a) make the request in the form and manner required by the Minister, and
- (b) notify an inspector in accordance with section 11.

Issuing

19(1) An inspector may issue a permit if

- (a) a person requests the permit in accordance with section 18,
- (b) subject to section 14, the inspector inspects the livestock, and
- (c) the inspector is satisfied that the person in possession of the livestock is
 - (i) the owner of the livestock or the owner's agent, or
 - (ii) otherwise lawfully entitled to be in possession of the livestock.

(2) Subsection (1)(c)(ii) does not apply to a special permit.

(3) The permit shall

- (a) be issued in the form and manner required by the Minister, and
- (b) include a unique numerical code assigned by the Minister.

Types of permits

20(1) An inspector may issue

- (a) a livestock permit with respect to livestock,
- (b) a horse permit or a lifetime horse permit with respect to a horse,
- (c) a pedigree cattle permit with respect to pedigree cattle, or
- (d) a rodeo and exhibition permit with respect to rodeo or exhibition livestock.

(2) A lifetime horse permit may only be issued with respect to one horse per lifetime horse permit.

Completion, distribution, handling

21(1) If a livestock permit is required by the Act, the livestock permit must be completed, distributed, retained and handled in accordance with this section.

(2) The person who is issued the livestock permit shall

- (a) give 2 copies to the person transporting or driving the livestock,
- (b) retain one copy, and
- (c) if required under section 30 or 31(2), complete or amend Part B.

(3) The person transporting or driving the livestock shall

- (a) if required under section 30 or 31(2), complete or amend Part B,
- (b) ensure that at least one copy accompanies the livestock to the livestock's destination,
- (c) complete Part E,
- (d) provide one copy to the person receiving the livestock, and
- (e) retain one copy.

(4) The person receiving the livestock shall

- (a) complete Part F, and
- (b) retain one copy.

(5) A person required to retain a livestock permit under this section shall

- (a) retain a copy for a period of 10 years, and
- (b) provide a copy to the Minister upon request.

Terms and conditions

22(1) A person who transports or drives livestock under a permit shall comply with the terms and conditions of the permit.

(2) A livestock permit is subject to the following terms and conditions:

- (a) the livestock shall remain in the possession and control of the person to whom the livestock permit is issued or that person's agent;
- (b) the livestock shall be transported or driven together to the livestock's destination;
- (c) any other terms or conditions the Minister considers appropriate.

(3) A special permit is subject to the following terms and conditions:

- (a) the permit shall not be used to transport or drive livestock for sale or slaughter;
- (b) any other terms or conditions the Minister considers appropriate.

Expiry

23 A permit expires on the earliest of the following:

- (a) in the case of a livestock permit,
 - (i) 7 days from the date of issue,
 - (ii) when the livestock is delivered to the livestock's destination, or
 - (iii) when an inspection is required under section 10;
- (b) in the case of a special permit,
 - (i) when there is a change of ownership in the livestock, or

- (ii) except in the case of a lifetime horse permit, on December 31 of the year in which the permit is issued.

Cancellation

24(1) An inspector shall cancel a permit if the inspector is satisfied that the permit was improperly issued.

(2) An inspector may cancel a permit if

- (a) the inspector is satisfied that a term or condition of the permit has been breached,
- (b) section 20 of the Act or section 28 of this Regulation has not been complied with, or
- (c) in the case of a livestock permit, section 21, 30 or 31 has not been complied with.

(3) If a permit is cancelled, the inspector

- (a) shall advise the permit holder of its cancellation, and
- (b) may require the return of the permit.

(4) Nothing in this section affects the rights of a person who has acted in good faith and in reliance on the permit.

**Division 3
Livestock Manifests**

Completion, distribution, handling

25(1) If a livestock manifest is required by the Act, the livestock manifest set out in Schedule 2 must

- (a) be completed, distributed, retained and handled in accordance with this section, and
- (b) include a unique numerical code assigned by the Minister.

(2) The owner of the livestock or the owner's agent shall

- (a) subject to section 26, complete Parts A, B and C,
- (b) provide the original plus 3 copies to the person transporting or driving the livestock,
- (c) retain one copy, and
- (d) if required under section 32(2), amend Part B.

- (3) The person transporting or driving the livestock shall
- (a) ensure that the original plus 3 copies accompany the livestock to the livestock's destination,
 - (b) complete Part E,
 - (c) if required under section 32(2), amend Part B,
 - (d) provide the original plus 2 copies to the person receiving the livestock or that person's agent, and
 - (e) retain one copy.
- (4) The person receiving the livestock shall
- (a) complete Part G,
 - (b) if an inspection is not required upon delivery of the livestock, retain the original plus one copy, and
 - (c) if an inspection is required upon delivery of the livestock,
 - (i) provide the original plus 2 copies to an inspector, and
 - (ii) retain the copy returned to the person by the inspector.
- (5) If an inspection is required upon delivery of the livestock, the inspector shall
- (a) complete Part D,
 - (b) return one copy to the person who received the livestock, and
 - (c) retain the original and one copy.
- (6) A person required to retain a livestock manifest under this section shall
- (a) retain a copy for a period of 10 years, and
 - (b) provide a copy to the Minister upon request.
- (7) In this section, "owner" includes a feeder.

Signing restrictions

- 26(1)** If the livestock is being transported or driven for sale and the livestock manifest does not direct payment solely to the owner of the livestock, only the owner may complete Part C.

(2) Despite subsection (1), a livestock dealer or livestock dealer's agent acting on behalf of the owner or the livestock dealer's agent may complete Part C if the livestock manifest directs payment to the livestock dealer.

Use as livestock security interest declaration

27 The owner of the livestock may complete Part F of the livestock manifest for the purpose of providing a livestock security interest declaration with respect to the livestock being transported or driven under the livestock manifest.

**Division 4
Transportation**

Transporting or driving livestock - one owner

28 If livestock of one owner is transported or driven together under more than one document, the person transporting or driving the livestock shall ensure that the livestock is distinctively identified so that the livestock transported or driven under each document can be readily distinguished.

Delivery destination

29(1) A person who transports or drives livestock under a livestock manifest or livestock permit shall deliver the livestock to the person, including that person's agent, and destination indicated in the document.

(2) The person or destination may be added or amended in accordance with sections 30 to 32.

Adding person or destination - livestock permit

30 If an inspector issues a livestock permit without indicating the person or destination for the delivery of the livestock in Part B,

- (a) the person who was issued the livestock permit shall provide the information required to complete Part B
 - (i) to the person transporting or driving the livestock as soon as reasonably possible after the livestock permit is issued, and
 - (ii) to the Minister no later than 2 business days from the day the livestock permit is issued,

and

- (b) the person transporting or driving the livestock and the person who was issued the livestock permit shall include the information in Part B on all the copies of the livestock permit in their possession
 - (i) as soon as the information is known, and
 - (ii) before the livestock is transported or driven.

Amending person or destination - livestock permit

31(1) A person who is issued a livestock permit may change the person or destination for the delivery of the livestock under a livestock permit.

(2) If the person who was issued the livestock permit changes the person or destination for the delivery of the livestock,

- (a) the person transporting or driving the livestock and the person who was issued the livestock permit shall amend this information in Part B on all copies of the livestock permit in their possession as soon as the information is known, and
- (b) the person who was issued the livestock permit shall provide the Minister with the updated information within 2 business days of the amendment.

Amending person or destination - livestock manifest

32(1) The owner of livestock or the owner's agent may change the person or destination for the delivery of the livestock under a livestock manifest.

(2) If the owner of the livestock or the owner's agent changes the person or destination for the delivery of the livestock, the person transporting or driving the livestock and the owner of the livestock or the owner's agent shall amend this information in Part B on all copies of the livestock manifest in their possession as soon as the information is known.

Part 4
Sale of Livestock

Division 1
Sale Documents and Requirements

Bill of sale, invoice, settlement statement

33(1) For the purpose of section 14 of the Act, the documentation for a sale of livestock shall identify

- (a) the date of the sale transaction,
- (b) the names and addresses of the owner of the livestock and the purchaser,
- (c) a description of the livestock that includes the kind, colour and number of head of livestock sold,
- (d) a description and the location of any brands on the livestock,
- (e) if the livestock is sold by weight, the weight of the livestock sold,
- (f) the purchase price, the deductions from the purchase price and the sale proceeds, and
- (g) any other information required by the Minister.

(2) For the purpose of section 14 of the Act, a settlement statement shall also identify

- (a) the name and address of the person issuing the settlement statement,
- (b) any unique codes on the documentation under which the livestock is transported or driven, and
- (c) if the livestock was transported or driven into Alberta for the sale, the jurisdiction from where the livestock originated.

(3) Despite subsection (1)(b), if a livestock dealer or livestock dealer's agent issues a settlement statement, the settlement statement may solely identify

- (a) the owner, on the purchaser's copy, and
- (b) the purchaser, on the owner's copy

by a unique code assigned by the livestock dealer or livestock dealer's agent.

Livestock security interest declaration

34(1) An owner of livestock shall provide a declaration required under section 15 of the Act before or at the time the livestock is supplied or offered for sale.

(2) The declaration must also

- (a) be dated,

- (b) be signed by the owner of the livestock, and
- (c) identify the address of each holder of a livestock security interest in the livestock or the dam of the livestock.

(3) For the purposes of section 15 of the Act and this section, “owner” includes a feeder.

Disclosure of status by owner or dealer

35 A person who sells livestock or deals in livestock shall make a disclosure under section 14.1 of the Act

- (a) in writing,
- (b) to a person from whom the sale proceeds will be received, and
- (c) before or at the time the livestock is supplied or offered for sale.

Document retention

36 A person who makes or receives a document referred to in section 33 or 34 shall

- (a) retain a copy of that document for a period of 10 years, and
- (b) provide a copy to the Minister upon request.

**Division 2
Levies**

Payment of levy

37(1) A participant shall pay the levy to the Tribunal within the time and in the manner required by the Tribunal.

(2) Subsection (1) does not apply if the levy was deducted from the sale proceeds under section 63.

(3) The Tribunal shall deposit the levy of a participant who sells or supplies assured livestock to a livestock dealer into the Livestock Assurance Fund.

(4) The Tribunal shall deposit the levy of a participant who is a livestock dealer and who sells assured livestock to an unlicensed person into the Livestock Dealers’ Assurance Fund.

Waiver of eligibility

38(1) A participant may

- (a) waive the ability to claim against an assurance fund, and
- (b) revoke the waiver given under clause (a).

(2) The waiver or revocation of waiver

- (a) must be made to the Tribunal in writing and in the form and manner required by the Tribunal, and
- (b) is effective as of January 1 of the year following the year in which the waiver or revocation of the waiver is made.

(3) The participant is ineligible to claim against an assurance fund while the waiver is in effect.

Refund of levy

39(1) A participant may apply to the Tribunal for a refund of levies paid by the participant while the participant is ineligible to claim against the assurance fund under section 38.

(2) The application must be made to the Tribunal in the form and manner required by the Tribunal.

(3) The Tribunal shall refund a levy from an assurance fund if

- (a) the participant applies in accordance with subsection (1),
- (b) for refunds of less than \$5000, the chair of the Tribunal has determined that the refund is payable,
- (c) for refunds of \$5000 or more, the Tribunal has determined that the refund is payable, and
- (d) the request for the refund was received by the Tribunal no later than March 31 of the year following the year in which the levy was paid.

(4) An eligible refund must be paid within 90 days of the application.

Division 3
Recovery for Non-payment

Livestock Assurance Fund claims

40(1) The Tribunal shall treat a notification under section 58 of the Act or a successful appeal under section 59 of the Act as a claim against the Livestock Assurance Fund.

(2) If an appeal under section 59 of the Act may affect the amount a participant may receive from the Livestock Assurance Fund, the Tribunal may

- (a) delay determining the participant's claim, and
- (b) provide an interim payment to the participant from the Livestock Assurance Fund.

(3) The Tribunal may at any time require a participant to provide documentation or any other information as required by the Tribunal in support of the claim.

(4) A participant who makes a claim under subsection (1) must meet the conditions and eligibility requirements set out in sections 45 and 47 in order to be entitled to receive a payment from the Livestock Assurance Fund.

(5) On determining the claim, the Tribunal shall serve the participant with a copy of the Tribunal's decision, with reasons.

Livestock Dealers' Assurance Fund claims

41(1) For the purposes of this section, a default occurs in respect of a sale of assured livestock to an unlicensed person when

- (a) the unlicensed person fails to pay the livestock dealer the sale proceeds in respect of the assured livestock as required by the Act, unless the main reason for the failure to pay is a contract dispute between the unlicensed person and the livestock dealer respecting the sale of the assured livestock or the obligation to pay for the assured livestock, or
- (b) the unlicensed person fails to pay the livestock dealer the sale proceeds in respect of the assured livestock as required by the Act, the livestock dealer obtains a judgment against the unlicensed person based on the unlicensed person's failure to pay and the judgment is unsatisfied for 20 or more days after the judgment becomes final.

(2) If a livestock dealer wishes to claim against the Livestock Dealers' Assurance Fund because an unlicensed person has committed a default in a sale of assured livestock to the unlicensed person, the livestock dealer shall

- (a) notify the Tribunal of the non-payment as soon as is reasonably possible after the livestock dealer knows or ought to know of the non-payment, and

- (b) provide documentation or any other information as required by the Tribunal in support of the claim.
- (3) If the Tribunal receives a notice under subsection (2), the Tribunal may by notice in writing require the unlicensed person identified in the notice to provide the Tribunal with any information specified by the Tribunal relating to the sale transaction.
- (4) An unlicensed person who receives a notice under subsection (3) shall comply with it.
- (5) If the Tribunal is satisfied that an unlicensed person has committed a default with respect to a sale transaction, the Tribunal shall publish a notice requiring any livestock dealer who has a claim against the unlicensed person arising from a default in respect of a sale of assured livestock to that unlicensed person to make a claim to the Tribunal by the date specified in the notice.
- (6) The Tribunal may
 - (a) publish the notice referred to in subsection (5) in any form and manner that the Tribunal considers appropriate, and
 - (b) take any other steps that the Tribunal considers appropriate to bring the default of the unlicensed person to the attention of livestock dealers who may sell assured livestock to the unlicensed person.
- (7) A claim against the Livestock Dealers' Assurance Fund must be verified by statutory declaration or any other manner specified by the Tribunal and must
 - (a) contain a statement as to the particulars of the default,
 - (b) contain or refer to a statement of account showing particulars of the amount owing with respect to the default, and
 - (c) specify the documentation, if any, by which the default and amount owing can be verified.
- (8) The Tribunal may at any time require a claimant to provide documentation or any other information as required by the Tribunal in support of the claim.
- (9) A livestock dealer who makes a claim under subsection (2) must meet the conditions and eligibility requirements set out in sections 46 and 47 in order to be entitled to receive a payment from the Livestock Dealers' Assurance Fund.

(10) On determining the claim, the Tribunal shall serve the claimant with a copy of the Tribunal's decision, with reasons.

Terms and conditions

42 The Tribunal may impose terms or conditions that the Tribunal considers appropriate on a payment made from an assurance fund.

Maximum recovery

43(1) The maximum recovery from an assurance fund, including any amount recovered from a livestock dealer's security, is the lesser of

- (a) 80% of the non-payment, and
- (b) 80% of the value of the assured livestock.

(2) If a participant makes a claim for a non-payment that occurs in the first calendar year after revoking a waiver of the right to claim against the assurance fund, the maximum recovery is

- (a) in the case of a non-payment in the first quarter, 25%,
- (b) in the case of a non-payment in the 2nd or 3rd quarter, 50%,
or
- (c) in the case of a non-payment in the 4th quarter, 75%

of the amount the claimant would otherwise receive.

(3) If there are insufficient funds to pay all outstanding successful claims against an assurance fund, each successful claimant shall receive a prorata share of the amount the claimant would otherwise receive from the remainder of the fund after the following are paid:

- (a) first, all the fund's operating expenses;
- (b) second, all outstanding levy refunds.

Eligibility - security

44 To be eligible to claim against security, a person must, in the opinion of the Minister, or, in the event of an appeal, in the opinion of the Tribunal,

- (a) have supplied or sold livestock
 - (i) if the person was not a livestock dealer, that was present in Alberta as defined in section 1(7) for 30 consecutive days immediately prior to the supply or sale, and

- (ii) to a livestock dealer who
 - (A) committed a default within the meaning of section 56 of the Act, and
 - (B) was not an associated person of the person making the claim,
- (b) have notified the Minister as required by section 55 of the Act and section 3(3) of this Regulation,
- (c) have submitted the claim within the time specified in the notice given under section 56(2)(b)(iii) of the Act, and
- (d) meet the remaining eligibility requirements set out in section 47.

Eligibility - Livestock Assurance Fund

45 To be eligible to claim against the Livestock Assurance Fund, a participant must, in the opinion of the Tribunal,

- (a) have supplied or sold assured livestock to a livestock dealer who committed a default within the meaning of section 56 of the Act,
- (b) have notified the Minister as required by section 55 of the Act,
- (c) have submitted the claim within the time specified in the notice given under section 56(2)(b)(iii) of the Act,
- (d) have paid the levy with respect to the assured livestock,
- (e) not be ineligible to claim from the fund under section 38, and
- (f) meet the remaining eligibility requirements set out in section 47.

Eligibility - Livestock Dealers' Assurance Fund

46 To be eligible to claim against the Livestock Dealers' Assurance Fund, a participant must, in the opinion of the Tribunal,

- (a) be a livestock dealer and have sold assured livestock to an unlicensed person who committed a default within the meaning of section 41(1),
- (b) have notified the Tribunal as required by section 41(2),

- (c) have submitted the claim within the time specified in the notice given under section 41(5),
- (d) have paid the levy with respect to the assured livestock,
- (e) not be ineligible to claim from the fund under section 38, and
- (f) meet the remaining eligibility requirements set out in section 47.

Eligibility - security or assurance funds

47 Subject to sections 44 to 46, to be eligible to claim against security or an assurance fund, a person must

- (a) not have colluded with the purchaser of the livestock or the purchaser's agent to make a claim against the livestock dealer's security or an assurance fund,
- (b) have complied with an inspection requirement of
 - (i) the Act, and
 - (ii) if the livestock was supplied in Dawson Creek, British Columbia or Lloydminster, Saskatchewan to a livestock market approved by the Minister, the laws of that jurisdiction,
- (c) have delivered the livestock,
- (d) if the person did not own the livestock, have paid the sale proceeds to the person who supplied the livestock,
- (e) not have agreed expressly or implicitly to accept payment of the sale proceeds contrary to the requirements of section 16 of the Act, if applicable, and
- (f) have deposited or cashed sale proceeds received by way of cheque within a reasonable time.

Part 5
Livestock Dealers and Livestock
Dealer's Agents

Dealing in livestock or livestock products

48(1) A person deals in livestock or livestock products if the person

- (a) as an agent or on the person's own behalf, purchases or sells livestock or livestock products, including an ownership interest in livestock or livestock products, or

- (b) provides information about livestock or livestock products that are for sale to assist in the purchase or sale of the livestock or livestock products.

(2) Despite subsection (1), a person is not dealing in livestock or livestock products if

- (a) the person is
 - (i) dealing in livestock or livestock products for the purpose of administering the estate of a deceased livestock dealer,
 - (ii) the personal representative of the estate or, if there is no personal representative, approved by the Minister, and
 - (iii) dealing within 90 days of the deceased's death,
- (b) the person purchases and sells livestock in accordance with section 47(3) of the Act,
- (c) the person sells livestock the person has owned and maintained since the livestock's birth,
- (d) the person is a feeder,
- (e) the person is
 - (i) named as an authorized representative in the licence of a livestock dealer or livestock dealer's agent who is a corporation or partnership, and
 - (ii) acting in the course of the person's duties as an authorized representative,
- (f) the person is an agricultural society under the *Agricultural Societies Act* or a similar organization recognized by the Minister, or
- (g) the person is an incorporated not-for-profit livestock pedigree association or is an Alberta 4-H club that sells livestock as an agent if
 - (i) the sale of livestock is held as an incidental service to association or club members,
 - (ii) in the case of a pedigree association, the livestock is pedigree livestock, and
 - (iii) at least one association or club member participates in the livestock sale as a purchaser or a seller.

Division 1 Licensing

Application

49(1) An application to issue, renew, reinstate or replace a licence must be

- (a) made in the form and manner required by the Minister, and
- (b) accompanied by the fee set out in section 81.

(2) An application to issue, renew or reinstate a livestock dealer's licence must be accompanied with a declaration in the form and manner required by the Minister for the purpose of section 56.

(3) The Minister may refuse to accept an application if the applicant has unsuccessfully submitted an application in the previous 12 months.

Grounds of refusal, suspension, cancellation

50(1) The Minister may refuse a licence application or suspend or cancel a licence if, in the Minister's opinion, the applicant or licence holder

- (a) contravened the Act, this Regulation or the following Acts and the regulations made under those Acts:
 - (i) *Brand Act*;
 - (ii) *Livestock Identification and Brand Inspection Act*;
 - (iii) *Livestock and Livestock Products Act*;
 - (iv) *Livestock Diseases Act*;
 - (v) *Animal Protection Act*;
 - (vi) *Health of Animals Act (Canada)*,
- (b) is an associated person of a person who could be refused a licence under clause (a),
- (c) held a licence to deal in livestock or livestock products, in any jurisdiction, that was suspended or cancelled,
- (d) had a livestock dealer's agent whose licence was suspended or cancelled while licensed under the applicant or licence holder,
- (e) contravened a term or condition of a licence issued under this Regulation,

- (f) provided false, misleading or incomplete information with respect to a licence application,
- (g) failed to pay a fee, levy, assessment or penalty under the Act or this Regulation when due,
- (h) is unlikely to comply or to be able to comply with the Act and this Regulation,
- (i) is incorporated and a director, officer or authorized representative of the applicant or licence holder could be refused a licence under clauses (a) to (h),
- (j) is a partnership and a partner or authorized representative of the applicant or licence holder could be refused a licence under clauses (a) to (h), or
- (k) in the case of a replacement licence, fails to satisfy the Minister that the original was lost or destroyed.

(2) The Minister may refuse, suspend or cancel a licence if, in the Minister's opinion, to do so is in the public interest.

Automatic refusal, suspension, cancellation

51(1) The Minister shall

- (a) cancel a licence if the licence was improperly issued,
- (b) cancel a livestock dealer's agent's licence on the receipt of notice in accordance with section 61, and
- (c) suspend or cancel a livestock dealer's agent's licence if the related livestock dealer's licence is suspended or cancelled.

(2) The Minister shall refuse a licence application or suspend or cancel a licence if the livestock dealer fails to provide security as determined by the Minister in accordance with section 56.

(3) Unless the Tribunal waives the application of this section, the Minister shall refuse a licence application or suspend or cancel a licence if

- (a) the applicant or licence holder is or may be subject to a claim by the Tribunal under section 73 of the Act for an amount paid from the assurance fund, or
- (b) the applicant or licence holder is
 - (i) an associated person of a person referred to in clause (a), and

- (ii) was directly involved in the transaction giving rise to the payment from the assurance fund.

Automatic reinstatement

52 The Minister shall reinstate a livestock dealer's agent's licence if

- (a) the licence was suspended under section 51(1)(c), and
- (b) the related livestock dealer's licence is reinstated.

Notice of refusal, suspension, cancellation

53(1) If a licence application is refused, the Minister shall provide notice to the applicant in writing.

(2) If a licence is not renewed or is suspended, cancelled or reinstated, the Minister shall

- (a) provide notice to the licence holder in writing, and
- (b) publish a notice advising of the non-renewal, suspension, cancellation or reinstatement of the licence.

(3) The Minister may publish the notice referred to in subsection (2)(b) in any form and manner that the Minister considers appropriate.

Terms and conditions

54(1) A livestock dealer or a livestock dealer's agent shall comply with the terms and conditions of the livestock dealer's or livestock dealer's agent's licence.

(2) A licence is subject to the following terms and conditions:

- (a) the licence holder must complete the educational requirements, if any, as required by the Minister;
- (b) the licence must, immediately on request, be returned to the Minister;
- (c) the licence must be displayed in a conspicuous place in the licence holder's business premises;
- (d) any other terms or conditions the Minister specifies when the licence is issued, renewed or reinstated.

Expiry

55 A licence expires on the earlier of

- (a) December 31 of the year for which the licence is issued,
- (b) the cancellation of the licence by the Minister, and
- (c) in the case of a livestock dealer's agent's licence, on the death of the livestock dealer under whom the livestock dealer's agent is licensed.

Determination of security

56(1) The Minister shall, on an application to issue, renew or reinstate a livestock dealer's licence, determine the amount and form of security a livestock dealer is required to provide under section 53 of the Act.

(2) A livestock dealer shall, on request, provide financial statements in the form and manner required by the Minister.

(3) If a livestock dealer does not operate an abattoir, the amount of security a livestock dealer is required to provide is, based on the annual volume of livestock supplied or sold to the livestock dealer as assessed by the Minister, as follows:

12 000 head or less	\$40 000
12 001 to 25 000 head	50 000
25 001 to 35 000 head	60 000
35 001 to 45 000 head	70 000
45 001 to 55 000 head	80 000
55 001 to 65 000 head	90 000
65 001 to 75 000 head	100 000
75 001 to 85 000 head	110 000
85 001 to 95 000 head	120 000
95 001 to 110 000 head	150 000
110 001 to 135 000 head	175 000
135 001 to 175 000 head	200 000
more than 175 000 head	400 000

(4) If a livestock dealer operates an abattoir, the amount of security a livestock dealer is required to provide is, based on the annual volume of livestock purchased by the livestock dealer as assessed by the Minister, as follows:

1000 head or less	\$10 000
1001 to 3000 head	20 000
3001 to 20 000 head	50 000
20 001 to 35 000 head	100 000
35 001 to 75 000 head	200 000
more than 75 000 head	500 000

(5) For the purpose of subsections (3) and (4), sheep and swine must be counted as follows:

(a) 10 sheep = 1 head of livestock;

(b) 8 swine = 1 head of livestock.

(6) The Minister may consider the extent of the livestock dealer's previous dealings and intended dealings in livestock or livestock products to assess the annual volume of livestock supplied, sold or purchased for the purpose of subsection (3) or (4).

(7) The Minister may accept as security a bond, a letter of credit, a deposit secured to the Minister or another form of security approved by the Minister.

Division 2 Obligations and Duties

Relations with Public

Good faith

57 A livestock dealer or a livestock dealer's agent shall conduct all dealings in livestock or livestock products

(a) honestly and in good faith, and

(b) if acting as a person's agent, in that person's best interests.

Representations

58 A livestock dealer or livestock dealer's agent shall not

(a) misrepresent the goods or services offered by the livestock dealer or livestock dealer's agent, or

(b) mislead or attempt to mislead anyone with respect to a dealing in livestock or livestock products

nor permit or require a person acting on the livestock dealer's or livestock dealer's agent's behalf to do so.

Accounting for dealings

59 A livestock dealer shall account to a person for whom the livestock dealer or livestock dealer's agent acts or from whom the livestock dealer or livestock dealer's agent purchases livestock or livestock products with respect to a dealing in livestock or livestock products.

**Relations Between Livestock Dealers
and Livestock Dealer's Agents**

Permitted agents

60(1) Subject to subsection (3), a livestock dealer shall not permit a person to deal in livestock or livestock products on the livestock dealer's behalf unless the person is licensed under the livestock dealer's licence as a livestock dealer's agent.

(2) Subject to subsection (3), a livestock dealer's agent shall not permit a person to deal in livestock or livestock products on the livestock dealer's agent's behalf.

(3) A livestock dealer or livestock dealer's agent who is a corporation or a partnership may permit a person who is named as authorized representative under the livestock dealer's or livestock dealer's agent's licence to deal in livestock or livestock products on the livestock dealer's or livestock dealer's agent's behalf.

Termination of Agency

61 If a livestock dealer's agent ceases to represent a livestock dealer or an authorized representative ceases to represent a livestock dealer or livestock dealer's agent, the livestock dealer or livestock dealer's agent shall notify the Minister

- (a) immediately by telephone, and
- (b) by facsimile or e-mail within one business day.

Consent for dual licensing

62 A livestock dealer's agent shall not agree to be licensed under more than one livestock dealer without the prior written approval of the livestock dealers.

Dealings and Transactions

Deduct and remit levy

63(1) A livestock dealer to whom assured livestock is supplied or sold shall

- (a) deduct the levy from the sale proceeds, and
- (b) remit the levy to the Tribunal on behalf of the participant.

(2) If the livestock dealer fails to deduct or remit the levy to the Tribunal, the livestock dealer is jointly and severally liable to the Tribunal for the levy.

Dealing in livestock dealer's name

64(1) A livestock dealer's agent shall, before dealing in livestock or livestock products, disclose to the person with whom the livestock dealer's agent is dealing the name of the livestock dealer on whose behalf the livestock dealer's agent is acting.

(2) A livestock dealer's agent shall deal in livestock or livestock products in the name under which the livestock dealer for whom the livestock dealer's agent is acting as an agent is licensed.

(3) A livestock dealer or livestock dealer's agent shall pay sale proceeds in the name under which the livestock dealer is licensed.

Sale or supply prohibited

65 A livestock dealer or livestock dealer's agent shall not sell or supply livestock or livestock products to a person dealing in livestock or livestock products who the livestock dealer or livestock dealer's agent knows or ought to know is not licensed.

Record keeping and retention

66(1) A livestock dealer shall make and retain detailed records in the form and manner required by the Minister with respect to the dealing in livestock or livestock products by the livestock dealer or livestock dealer's agent.

(2) The records shall include

- (a) copies of all documents related to the dealings that come into the livestock dealer's or livestock dealer's agent's possession, and
- (b) financial and trust account records.

(3) The records must be retained for 10 years and must be provided to the Minister upon request.

Trust accounts

67(1) A livestock dealer required to maintain a trust account under section 17(2) of the Act shall operate the trust account in the form and manner required by the Minister.

(2) A withdrawal from a trust account must be made by a cheque or bank transfer that is identified as a withdrawal from a trust account.

(3) A livestock dealer shall deposit trust money within one business day of receipt of the trust money.

(4) If a person requests that trust money held on that person's behalf be provided to the person, the balance of the trust money shall be provided within 2 business days of the request.

Livestock weight

68 A livestock dealer or a livestock dealer's agent who purchases or sells livestock by weight shall

- (a) weigh the livestock on a weigh scale approved under the *Weights and Measures Act* (Canada) at the time of sale,
- (b) if the livestock dealer or livestock dealer's agent is not the owner of the livestock, provide the owner with a copy of the official scale ticket, and
- (c) use the weight from the official scale ticket in a bill of sale, invoice or settlement statement.

Required sale transaction documentation

69 If one or more livestock dealers or livestock dealer's agents are involved in a sale transaction, a livestock dealer or livestock dealer's agent shall document the sale transaction in the form of a settlement statement for the purpose of section 14 of the Act.

**Part 6
Miscellaneous**

**Division 1
Establishment and Operation of Tribunal**

Tribunal

70(1) The Tribunal shall consist of one person appointed by each association authorized under this section.

(2) Subject to section 73, the following associations are authorized to appoint a person to the Tribunal:

- (a) Alberta Auction Markets Association;
- (b) Alberta Beef Producers;
- (c) Alberta Cattle Feeders Association;
- (d) Feeder Associations of Alberta Ltd.;
- (e) Alberta Livestock Dealers and Order Buyers Association;

- (f) Western Stock Growers Association;
- (g) any other association designated in accordance with section 71.

Designated associations

71(1) The Tribunal may, by resolution, designate an association for the purposes of section 70(2)(g).

(2) The resolution is not effective unless approved by the Minister.

Requirement to appoint

72(1) For the purpose of section 70, an association that is authorized to appoint a person to the Tribunal shall appoint 2 persons, one of which will act in the event the other is unwilling or unavailable to act.

(2) An appointment is not effective unless approved by the Minister.

Revocation and reinstatement of authorization

73(1) The Tribunal may, by unanimous resolution, revoke the authorization of an association to appoint a person to the Tribunal if, without a satisfactory explanation,

- (a) the association fails to appoint 2 persons in accordance with section 72, or
- (b) both persons appointed by the association fail to attend a meeting of the Tribunal.

(2) For the purposes of a resolution under subsection (1), the Tribunal does not include a member appointed by the association whose authorization may be revoked.

(3) The Tribunal may, by unanimous resolution, reinstate the authorization of an association to appoint a person to the Tribunal.

(4) A resolution under this section is not effective unless approved by the Minister.

Chair

74(1) The Tribunal shall elect a person appointed to the Tribunal as chair.

(2) In the event of a tie, the chair has an additional vote.

Quorum

75(1) Subject to subsection (2), 2/3 of the Tribunal constitutes a quorum.

(2) One hundred percent of the Tribunal constitutes a quorum for the purpose of

- (a) assessing a claim,
- (b) hearing an appeal, or
- (c) authorizing or revoking or reinstating the authorization of an association to appoint a person to the Tribunal.

**Division 2
Fees**

Registry fees

76 The following fees are prescribed for the purpose of sections 2, 5, 6 and 7 of the Act:

- (a) to register a brand or to change the registered description or location of a brand \$220;
- (b) to register an honorary brand or to change the registered description or location of an honorary brand \$275;
- (c) to transfer ownership of a registered brand or honorary brand \$50;
- (d) to search the registry to obtain a certified copy of an extract of the registry's records \$25.

Inspection fees

77(1) The fee for an inspection, other than an inspection for a special permit, is

- (a) per head of livestock, excluding horses, \$1, and
- (b) per horse, \$2.

(2) The fee for an inspection for a special permit is \$10 per head of livestock.

(3) The minimum inspection fee under subsection (1) or (2) is

- (a) \$20, or

- (b) in the case of an inspection for the purpose of a lifetime horse permit, \$30.

Inspection fee reduction - grazing

78 The inspection fee for an inspection of livestock may be reduced by the Minister by 50% if

- (a) the full fee is received by the Minister in accordance with the Act,
- (b) the inspection was for the purpose of issuing a livestock permit,
- (c) the livestock permit is used to transport or drive livestock outside of Alberta for the purpose of grazing at a location and in a jurisdiction approved by the Minister,
- (d) Part B of the livestock permit
 - (i) was completed by the inspector when the livestock permit was issued, and
 - (ii) was not amended to change the person or destination for delivery,
- (e) the livestock was not sold, and
- (f) in the same calendar year during which the livestock permit is issued,
 - (i) the livestock, as described in the livestock permit, returns to Alberta after grazing,
 - (ii) the livestock is inspected in the approved jurisdiction for the purpose of returning to Alberta and an inspection fee was paid, and
 - (iii) the owner of the livestock or the owner's agent applies to the Minister in the form and manner required by the Minister for a fee reduction.

Special permit fee

79(1) The fee for a special permit issued without an inspection is \$10 per head of livestock under the special permit.

(2) The minimum special permit fee under subsection (1) is \$20.

Collection of inspection fees

80(1) An owner and operator of an inspection site shall pay the inspection fees due for inspections carried out at the inspection site to the Minister within 7 days of a request for payment by the Minister.

(2) An owner and operator of an inspection site may deduct a 5% commission from all inspection fees paid to the Minister.

Licence fees

81 The following are the licence fees for the purpose of section 49:

- | | |
|---|--------|
| (a) to issue or renew a livestock dealer's licence | \$100; |
| (b) to issue or renew a livestock dealer's agent's licence | \$50; |
| (c) to reinstate a suspended livestock dealer's licence | \$50; |
| (d) to reinstate a suspended livestock dealer's agent's licence | \$25. |

**Division 3
Information and Offences**

Collection of third party information

82(1) For the purposes of the *Freedom of Information and Protection of Privacy Act*, personal information is authorized to be collected from a third party for the following purposes:

- (a) the registration of a brand or honorary brand;
- (b) issuing, renewing, reinstating, suspending or cancelling a licence;
- (c) issuing, completing or cancelling a permit;
- (d) an inspection, including a notice of a proposed or required inspection;
- (e) a claim against security or an assurance fund, including a notice of a claim.

Offences

83(1) A person is guilty of an offence if the person

- (a) contravenes sections 5(5) and (6), 11, 21, 22, 25, 28, 30(a) and (b)(ii), 31(2), 32(2), 36, 41(4), 54, 59, 60, 63 to 69 or 94,

- (b) fails to remit an inspection fee to an inspector or an owner or operator of an inspection site,
- (c) fails to return a permit required under section 24(3)(b),
- (d) not being the owner of the livestock completes a livestock security interest declaration in respect of the livestock, or
- (e) fails to pay a levy as required by section 69(2) of the Act.

(2) The offences in subsection (1) are in addition to the offences set out in sections 11, 44 and 64 of the Act.

Division 4 Transition of Matters to Act

Interpretation

84(1) In this Division,

- (a) “new enactment” means the Act and the regulations under the Act;
- (b) “previous enactment” means the following Acts and the regulations under the following Acts:
 - (i) *Brand Act*;
 - (ii) *Livestock Identification and Brand Inspection Act*;
 - (iii) *Livestock and Livestock Products Act*.

(2) The provisions in this Division respecting the transition of matters from a previous enactment to the new enactment do not limit the application of section 35 or 36 of the *Interpretation Act* except as specifically set out in this Part.

Brand registry

85 The Minister shall enter in the registry all brands or honorary brands that were registered under a previous enactment.

Licence

86 If a licence issued under a previous enactment has not expired or been cancelled, that licence is deemed to be issued under the new enactment.

Inspectors

87 A person appointed as an inspector under a previous enactment is deemed to be designated as an inspector under the new enactment.

Withheld sale proceeds

88 A claim for the return of settlement funds withheld under a previous enactment because ownership of the livestock could not be determined is subject to the limitation period for making the claim set out in the new enactment.

Livestock manifest

89 A livestock manifest in the form required under a previous enactment is permitted as an alternative to the livestock manifest required under the new enactment until March 31, 2009.

Livestock permit

90(1) A permit issued under a previous enactment that has not expired is deemed to be issued under the new enactment.

(2) A requirement to obtain a permit under section 16 does not take effect until 30 days after the coming into force of this Regulation.

Rules

91 All Rules made by a delegated authority under a previous enactment are deemed to have been made under the new enactment, insofar as they are not inconsistent with the new enactment.

Assurance Funds

92 The levies collected under a previous enactment and the interest on those levies shall be paid,

- (a) if the levies were collected with respect to the sale or supply of assured livestock to a licensed person, into the Livestock Assurance Fund, and
- (b) if the levies were collected with respect to the sale of assured livestock to an unlicensed person, into the Livestock Dealers' Assurance Fund.

Appeal to Court of Appeal

93 A decision of a Tribunal issued after the coming into force of the new enactment is subject to the limitation period for an appeal to the

Court of Appeal in the new enactment notwithstanding the claim on which the decision is based arose under a previous enactment.

Document retention

94 A person required to retain a document for 2 years under a previous enactment is required to retain that document for 10 years and to provide the document to the Minister upon request if, on the coming into force of the new enactment, the document

- (a) is still required to be retained under a previous enactment, or
- (b) has not been previously disposed of.

**Division 5
Other**

Repeals

95 The following regulations are repealed:

- (a) *Brand Regulation* (AR 217/98);
- (b) *Livestock Identification and Brand Inspection Fees Regulation* (AR 216/98);
- (c) *Livestock Identification and Brand Inspection Regulation* (AR 195/98);
- (d) *Application and Licence Form Regulation* (AR 215/98);
- (e) *Fees Regulation* (AR 222/98);
- (f) *Livestock Dealers and Livestock Dealers' Agents Regulation* (AR 66/98);
- (g) *Livestock Patrons' Claims Review Tribunal Regulation* (AR 257/97);
- (h) *Livestock Transportation Regulation* (AR 22/99);
- (i) *Section 8 Livestock Designation Regulation* (AR 198/98);
- (j) *Stock Yard Regulation* (AR 197/98);
- (k) *Weighing of Beef Carcasses Regulation* (AR 252/2002);
- (l) *Ribbon Branding of Carcasses Regulation* (AR 251/2002).

Part E - Honorary Brands only					
<p>The purpose of the honorary brand is to:</p> <p><input type="checkbox"/> Promote the livestock industry, or</p> <p><input type="checkbox"/> Recognize outstanding service to the livestock industry</p> <p>Description of how the honorary brand will be used to promote the livestock industry or to recognize outstanding service to the livestock industry:</p>					
Part F - Signature of each individual applicant					
<p>The undersigned hereby declare that all of the above information is true and correct.</p>					
(Date)	(Printed name of applicant(s))	(Signature of applicant(s))			
Part G - Signature of Corporate or Partnership applicant					
<p>The undersigned hereby declare that all of the above information is true and correct and that the undersigned has authority to complete this application on behalf of the partnership or the corporation.</p>					
Date:	<table border="1" style="width: 100%;"> <tr> <td style="width: 100%;">Print Name:</td> </tr> <tr> <td>Signature:</td> </tr> <tr> <td>Position:</td> </tr> </table>		Print Name:	Signature:	Position:
Print Name:					
Signature:					
Position:					
<p>This information is being collected for the purposes of brand registry records in accordance with the <i>Livestock Identification and Commerce Act</i>. Questions about the collection of this information can be directed to the Freedom of Information and Protection of Privacy Coordinator for the brand registry at 109, 264 Midpark Way SE, Calgary, Alberta T2X 1J6.</p>					
Documents to submit with the Brand or Honorary Brand Application					
Corporations	Certificate of Incorporation Proof of filing of their annual return				
Partnerships	Filed Declaration of Partnership				
Any applicant operating under a trade name	Filed Declaration of Trade Name				

If applying on behalf of an applicant under 18 years of age	Guardian's Acknowledgment of Responsibility (Form 1 under the <i>Minors' Property Act – Minors' Property Regulation</i>) available from Livestock Identification Services on request.
Permitted Brand Locations	
For Cattle: Left Shoulder, Left Rib, Left Hip, Right Shoulder, Right Rib, Right Hip For Horses: Left Jaw, Left Shoulder, Left Thigh, Right Jaw, Right Shoulder, Right Thigh	
Application Fee	
Application Fee payable to Livestock Identification Services Ltd. is: For a Brand: \$220 plus GST For an Honorary Brand: \$275 plus GST	

Schedule 2

LIVESTOCK IDENTIFICATION SERVICES LTD.	ZZ999999
ALBERTA LIVESTOCK MANIFEST	(Bar code)
Part A - Purpose of Manifest	
<input type="checkbox"/> Transport Only	<input type="checkbox"/> Transport for Sale by: <input type="checkbox"/> Owner <input type="checkbox"/> Dealer on Behalf of Owner
Check if Livestock Security Declaration is by Separate Document <input type="checkbox"/>	
Part B - Transportation and Sale Details	
Pen or Lot Number	Date YYYY/MM/DD
Owner or Dealer Name (Print Clearly & Press Hard)	Phone #
Owner or Dealer Address	
On Account Of	
Pay To (If Other Than Owner)	Address
Transport From Address	Premises ID
Transport To Name	
Transport To Address	
Description of Livestock	

Number	Colour	Kind	Brand(s)/ Identifier(s)	Loc.	AV	Other Information
Total	Part C - Parts A and B Certification					
	I CERTIFY THAT PARTS A AND B ARE TRUE X Signature of Owner or (if Permitted) Owner's Agent					
Part D - Inspector						
Adj. Total	Inspector Signature		Inspector	Client #		
	#					
Sale Point #	Assur. Fund # Eligible	Check-off # Eligible	Livestock Permit #			
Part E - Transporter						
Transporter Name and Address			Trailer or Conveyance Licence #			
Transporter Signature		Phone #	Trucking Charges			
Part F - Livestock Security Interest Declaration (If Sale by Owner)						
Name and Address of Holder of Livestock Security Interest in the Livestock or in the Dam of the Livestock or if None Indicate "NONE"						
I CERTIFY THAT THIS DECLARATION IS TRUE X Signature of Owner					Date YYYY/MM/DD	
Part G - Destination						
Date and Time Received YYYY/MM/DD		Time	Count	Placed in Pen #		
Received and Counted By: (Print Name) /Signature				Premise ID #		

Manifest # ZZ999999

Alberta Regulation 209/2008

Animal Health Act

REPORTABLE AND NOTIFIABLE DISEASES REGULATION

Filed: December 3, 2008

For information only: Made by the Minister of Agriculture and Rural Development (M.O. 32/2008) on November 17, 2008 pursuant to section 70 of the Animal Health Act.

Table of Contents

- 1** Definition
- 2** Reportable diseases
- 3** Notifiable diseases
- 4** Repeal
- 5** Expiry
- 6** Coming into force

Schedules

Definition

1 In this Regulation, “animal” includes the animals listed in column 1 of the Schedules.

Reportable diseases

2 The diseases listed in Schedule 1 are reportable diseases prescribed for the purposes of section 3 of the Act.

Notifiable diseases

3 The diseases listed in Schedule 2 are notifiable diseases prescribed for the purposes of section 4 of the Act.

Repeal

4 The *Designated Communicable Diseases Regulation* (AR 301/2002) is repealed.

Expiry

5 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 January 31, 2014.

Coming into force

6 This Regulation comes into force on January 1, 2009.

Schedule 1
Reportable Diseases

ROW	COLUMN 1	COLUMN 2
1	cattle and yaks	Disease caused by <i>Salmonella dublin</i> ; Disease caused by <i>Salmonella typhimurium</i> ; Bovine spongiform encephalopathy; Foot-and-mouth disease; Disease caused by any toxic substance that is a threat to animal health or human health.
2	swine and wild boars	Transmissible gastroenteritis; Foot-and-mouth disease; Classical swine fever; Disease caused by any toxic substance that is a threat to animal health or human health.
3	domestic chickens, bantams, pheasants and peafowl	Infectious laryngotracheitis; Disease caused by highly pathogenic strains of avian influenza or all strains of H5 or H7 strains of avian influenza; Exotic Newcastle disease; Disease caused by <i>Salmonella gallinarum</i> ; Disease caused by <i>Salmonella pullorum</i> ; Disease caused by <i>Salmonella enteritidis</i> ; Disease caused by <i>Salmonella heidelberg</i> ; Disease caused by <i>Salmonella typhimurium</i> ;

		Disease caused by any toxic substance that is a threat to animal health or human health.
4	any of the following birds when kept in captivity: domestic turkeys, ostriches, emu, rheas, pigeons, doves, quail, guinea fowl and wild turkeys	<p>Disease caused by highly pathogenic strains of avian influenza or all strains of H5 or H7 strains of avian influenza; Exotic Newcastle disease;</p> <p>Disease caused by <i>Salmonella gallinarum</i>;</p> <p>Disease caused by <i>Salmonella pullorum</i>;</p> <p>Disease caused by <i>Salmonella enteritidis</i>;</p> <p>Disease caused by <i>Salmonella heidelberg</i>;</p> <p>Disease caused by <i>Salmonella typhimurium</i>;</p> <p>Disease caused by any toxic substance that is a threat to animal health or human health.</p>
5	domesticated ducks and domesticated geese	<p>Disease caused by highly pathogenic strains of avian influenza or all strains of H5 or H7 strains of avian influenza; Exotic Newcastle disease;</p> <p>Disease caused by <i>Salmonella enteritidis</i>;</p> <p>Disease caused by <i>Salmonella heidelberg</i>;</p> <p>Disease caused by <i>Salmonella typhimurium</i>;</p> <p>Disease caused by any toxic substance that is a threat to animal health or human health.</p>

6	farmed bison	Foot-and-mouth disease; Disease caused by any toxic substance that is a threat to animal health or human health.
7	sheep and goats	Scrapie; Foot-and-mouth disease; Disease caused by any toxic substance that is a threat to animal health or human health.
8	domestic cervids	Chronic wasting disease; Foot-and-mouth disease; Disease caused by any toxic substance that is a threat to animal health or human health.

**Schedule 2
Notifiable Diseases**

ROW	COLUMN 1	COLUMN 2
1	all animals	Disease caused by any Salmonella species other than those listed in Schedule 1; All transmissible spongiform encephalopathies other than those listed in Schedule 1; Lyme disease or the presence of the vector Ixodes species ticks; Anthrax.
2	birds kept in captivity, including poultry	Avian chlamydiosis (<i>Chlamydothila psittaci</i>).
3	wild birds	Avian influenza; Exotic Newcastle disease.

4	ruminant animals residing in a zoo	Anaplasmosis; Bluetongue.
5	cattle and yaks	Anaplasmosis; Bluetongue; Johne's disease; Vibriosis (genital campylobacteriosis); Bovine trichomoniasis.
6	swine and wild boars	Swine influenza.
7	sheep and goats	Anaplasmosis; Bluetongue; Johne's disease; Foot rot.
8	domestic cervids	Anaplasmosis; Bluetongue; Epizootic hemorrhagic disease; Johne's disease.
9	wild cervids	Anaplasmosis; Bluetongue; Bovine tuberculosis; Epizootic hemorrhagic disease; Foot-and-mouth disease.
10	farmed bison	Anaplasmosis; Bluetongue; Bovine tuberculosis; Brucellosis; Johne's disease; Malignant catarrhal fever.

11	wild bison	Anaplasmosis; Bluetongue; Bovine tuberculosis; Brucellosis.
12	horses and donkeys	Disease caused by West Nile virus; Disease caused by the neurotropic variant form of equine herpesvirus Type-1 (nEHV-1).

Alberta Regulation 210/2008

Animal Protection Act

ANIMAL PROTECTION AMENDMENT REGULATION

Filed: December 9, 2008

For information only: Made by the Minister of Agriculture and Rural Development (M.O. 35/2008) on November 27, 2008 pursuant to section 15 of the Animal Protection Act.

1 The *Animal Protection Regulation* (AR 203/2005) is amended by this Regulation.

2 Section 1 is amended

(a) in clause (d) by striking out “area of land” and substituting “place”;

(b) in clause (e) by striking out “stock yard” and substituting “place”;

(c) by repealing clause (g).

3 Section 10(2) is amended by striking out “within the meaning of the *Livestock Transportation Regulation* (AR 22/99)”.

4 Section 16 is amended by striking out “*Livestock and Livestock Products Act*” wherever it occurs and substituting “*Livestock Identification and Commerce Act*”.

5 This Regulation comes into force on the coming into force of the *Livestock Identification and Commerce Act*.

Alberta Regulation 211/2008

Municipal Government Act

ELECTRIC ENERGY GENERATION EXEMPTION REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 579/2008) on December 10, 2008 pursuant to section 603 of the Municipal Government Act.

Electric power systems exempt from taxation

1 Notwithstanding sections 358, 359.1(4) and 359.2(4) of the Act, the Minister may in respect of a taxation year, to any extent the Minister considers appropriate, exempt electric power systems intended for or used in the generation of electricity from taxation for the purpose of raising revenue needed to pay the requisitions referred to in section 326(a)(ii) and (iii) of the Act.

Repeal

2 The *Electric Energy Generation Exemption Regulation* (AR 264/2006) is repealed.

Expiry

3 This Regulation is made under section 603(1) of the Act and is subject to repeal under section 603(2) of the Act.

Coming into force

4 This Regulation comes into force on January 1, 2009.

Alberta Regulation 212/2008

Municipal Government Act

EXTENSION OF LINEAR PROPERTY REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 580/2008) on December 10, 2008 pursuant to section 603 of the Municipal Government Act.

Linear property includes electric power system

1 Notwithstanding section 284(1)(k)(i) of the Act, linear property is to be construed as including an electric power system intended for or used in the generation of electricity owned or operated by a person whose rates are not controlled or set by the Alberta Utilities Commission or by a municipality or under the *Small Power Research and Development Act* but not including, unless the Minister otherwise directs,

- (a) an electric power system that is owned or operated by a person generating or proposing to generate electricity solely for the person's own use, or
- (b) a micro-generation generating unit as defined in the *Micro-Generation Regulation* (AR 27/2008).

Repeal

2 The *Extension of Linear Property Regulation* (AR 265/2006) is repealed.

Expiry

3 This Regulation is made under section 603(1) of the Act and is subject to repeal under section 603(2) of the Act.

Coming into force

4 This Regulation comes into force on January 1, 2009.

Alberta Regulation 213/2008

Alberta Capital Finance Authority Act

**ALBERTA CAPITAL FINANCE AUTHORITY
AMENDMENT REGULATION**

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 581/2008) on December 10, 2008 pursuant to section 35 of the Alberta Capital Finance Authority Act.

1 The *Alberta Capital Finance Authority Regulation (AR 258/2006)* is amended by adding the following after section 1:

Maximum outstanding loans and securities

1.1 For the purpose of section 27(1) of the Act, the aggregate principal sum of all outstanding loans and securities shall not exceed \$9 000 000 000.

Alberta Regulation 214/2008

Alberta Investment Management Corporation Act

**ALBERTA INVESTMENT MANAGEMENT CORPORATION
AMENDMENT REGULATION**

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 582/2008) on December 10, 2008 pursuant to section 20 of the Alberta Investment Management Corporation Act.

1 The *Alberta Investment Management Corporation Regulation (AR 225/2007)* is amended by this Regulation.

2 Section 1 is repealed and the following is substituted:

Interpretation

1(1) In this Regulation,

- (a) “Act” means the *Alberta Investment Management Corporation Act*;
- (b) “chair” means the chair of the board;

(c) “senior publicly traded issuer” means a publicly traded issuer that has or had a market capitalization of at least \$75 000 000.

(2) For the purposes of the Act and this Regulation,

(a) “costs” includes funds advanced to defray the costs, charges and expenses of an action or proceeding referred to in section 12 of the Act;

(b) “party” includes a person involved in an action or proceeding;

(c) “proceeding” includes an investigation.

3 Section 7 is amended

(a) **in subsection (3)(a) by striking out** “and provide that it applies only to the extent that the person is not otherwise indemnified”;

(b) **by adding the following after subsection (3):**

(3.1) If the Corporation advances funds to a person in order to defray the costs of an action or proceeding, the person shall repay the funds advanced unless the person fulfils the conditions set out in section 12(1) of the Act and any terms and conditions required under subsection (3)(b).

Alberta Regulation 215/2008

Alberta Treasury Branches Act

**ALBERTA TREASURY BRANCHES (TFSA, 2008)
AMENDMENT REGULATION**

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 583/2008) on December 10, 2008 pursuant to section 34 of the Alberta Treasury Branches Act.

1 The *Alberta Treasury Branches Regulation (AR 187/97)* is amended by this Regulation.

2 Section 4 is amended by adding the following after clause (d):

- (e) a self-directed registered tax-free savings account under the *Income Tax Act* (Canada).

Alberta Regulation 216/2008

Credit Union Act

**CREDIT UNION (PRINCIPAL) (TFSA, 2008)
AMENDMENT REGULATION**

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 584/2008) on December 10, 2008 pursuant to section 230 of the Credit Union Act.

1 The *Credit Union (Principal) Regulation* (AR 249/89) is amended by this Regulation.

2 Section 18 is amended by adding “, self-directed registered tax-free savings accounts” after “funds”.

Alberta Regulation 217/2008

Government Organization Act

FINANCE AND ENTERPRISE GRANT REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 585/2008) on December 10, 2008 pursuant to section 13 of the Government Organization Act.

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Definition

1 In this Regulation, “Minister” means the Minister of Finance and Enterprise.

Delegation

2 The Minister may delegate in writing any power, duty or function under this Regulation to any employee of the Government.

General authority to make grants

3 The Minister may make grants, in accordance with this Regulation, for any purpose related to any program, service or matter under the administration of the Minister.

Eligibility criteria

4 The Minister may establish eligibility criteria for grants.

Applications for grants

5 An application for a grant must be made in a manner and form satisfactory to the Minister.

Conditions

6 The following conditions apply to a grant:

- (a) that the recipient
 - (i) use the grant only for the purpose for which it is made,
 - (ii) account to the Minister, in the manner required by the Minister, for the way in which the grant is spent in whole or in part,
 - (iii) permit a representative of the Minister or the Auditor General to examine any books or records that the Minister or the Auditor General considers necessary to determine how the grant has been or is being spent, and
 - (iv) provide to the Minister, on request, any information the Minister considers necessary for the purpose of determining whether or not the recipient has complied or is complying with the conditions of the grant;

- (b) any other conditions imposed by the Minister.

Variation

7 The Minister may vary

- (a) the eligibility requirements for a grant,
- (b) the purpose of a grant, or
- (c) a condition on which a grant is made.

Repayment of grant

8(1) Subject to subsection (4), a recipient of a grant shall repay a grant or part of a grant

- (a) that the recipient receives for which the recipient is not eligible,
- (b) where the recipient provided false, inaccurate or misleading information to obtain the grant, or
- (c) where the recipient fails to comply with a condition on which the grant or part of the grant is made.

(2) Subject to subsection (4), a recipient of a grant shall repay any unused portion of the grant.

(3) A grant or part of a grant that is required to be repaid under this section constitutes a debt due to the Government and is recoverable by the Minister in an action in debt against the recipient of the grant.

(4) Subsections (1) and (2) do not apply where the Minister varies the eligibility criteria for, the purpose of or the conditions applicable to the grant to allow the recipient to retain the grant or to use the grant for the varied purpose or under the varied conditions.

Payment

9 The Minister may provide for the payment of any grant in a lump sum or by way of instalments and may determine the time or times at which the grant is to be paid.

Agreements

10 The Minister may enter into agreements with respect to any matter relating to the payment of a grant.

Refusal to provide grant

11 The Minister may refuse to provide a grant under this Regulation to an applicant who

- (a) makes or has made a false or misleading statement in an application under this Regulation or in any other document required by the Minister or who furnishes or has furnished the Minister or the Government of Alberta or the Government of Canada with any false or misleading information that, in the opinion of the Minister, materially affects the applicant's eligibility to receive a grant under this Regulation, or
- (b) if the Minister, in the Minister's sole discretion, considers it appropriate to refuse to make the grant.

Repeal

12 The *Treasurer's Grants Regulation*, Order in Council numbered O.C. 474/78, is repealed.

Expiry

13 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 April 30, 2016.

Alberta Regulation 218/2008

Feeder Associations Guarantee Act

FEEDER ASSOCIATIONS GUARANTEE AMENDMENT REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 587/2008) on December 10, 2008 pursuant to section 5 of the Feeder Associations Guarantee Act.

1 The *Feeder Associations Guarantee Regulation* (AR 75/98) is amended by this Regulation.

2 Section 3(2) is amended by striking out “brand inspected in accordance with the *Livestock Identification and Brand Inspection Act*” **and substituting** “inspected under the *Livestock Identification and Commerce Act*”.

3 This Regulation comes into force on the coming into force of the *Livestock Identification and Commerce Act*.

Alberta Regulation 219/2008

Livestock Diseases Act

**LIVESTOCK MARKET AND LIVESTOCK ASSEMBLING STATION
AMENDMENT REGULATION**

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 589/2008) on December 10, 2008 pursuant to section 12 of the Livestock Diseases Act.

1 The *Livestock Market and Livestock Assembling Station Regulation* (AR 70/2000) is amended by this Regulation.

2 Section 1 is amended

- (a) **in clause (c) by striking out** “stock yard” **and substituting** “place”;
- (b) **in clause (d) by striking out** “stock yard” **and substituting** “place”;
- (c) **in clause (e) by striking out** “stock yard in accordance with the *Stock Yard Regulation* (AR 197/98)” **and substituting** “livestock market or livestock assembling station”;
- (d) **by repealing clause (f).**

3 This Regulation comes into force on the coming into force of the *Livestock Identification and Commerce Act*.

Alberta Regulation 220/2008

Stray Animals Act

HORSE CAPTURE AMENDMENT REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 590/2008) on December 10, 2008 pursuant to section 35 of the Stray Animals Act.

1 The *Horse Capture Regulation* (AR 59/94) is amended by this Regulation.

2 Section 12(1)(a) is amended by striking out “, electronic identification or vent, within the meaning of the *Brand Act*, or any other identifying mark specified in an order made by the Minister,” and substituting “or other identifier as defined in the *Livestock Identification and Commerce Act*”.

3 This Regulation comes into force on the coming into force of the *Livestock Identification and Commerce Act*.

Alberta Regulation 221/2008

Mines and Minerals Act

NATURAL GAS ROYALTY REGULATION, 2009

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 593/2008) on December 10, 2008 pursuant to sections 5 and 36 of the Mines and Minerals Act.

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**Part 1
General**

Interpretation

1(1) In this Regulation,

- (a) "Act" means the *Mines and Minerals Act*;
- (b) "allocation data" means owner allocation data or stream allocation data or both;
- (c) "allowable costs" means costs and allowances for which the Crown is liable under section 18(2);
- (d) "battery" means a pipeline or pipeline installation at which natural gas recovered from one or more wells is collected and measured prior to its delivery to another facility or into a pipeline;
- (e) "Board" means the Energy Resources Conservation Board or the Alberta Energy and Utilities Board;
- (f) "butanes" means, in addition to its normal scientific meaning, a mixture mainly of butanes that ordinarily may contain some propane or pentanes plus;
- (g) "commercial storage facility" means the wells and other facilities used in the operation of a commercial storage scheme and designated by the Minister as a commercial storage facility for the purposes of this Regulation;
- (h) "commercial storage scheme" means a scheme approved or ordered by the Board under the *Oil and Gas Conservation Act* for the storage of natural gas or a gas product in an underground formation or subsurface cavern and designated

by the Minister as a commercial storage scheme for the purposes of this Regulation or the 2002 Regulation;

- (i) “common stream operator”, in relation to natural gas or residue gas delivered from one or more facilities to a receipt meter station in a production month, means the person who is recorded in the Petroleum Registry of Alberta as the common stream operator in relation to that natural gas or residue gas;
- (j) “component analysis” means an analysis of a sample of natural gas or residue gas to determine the respective volumes and quantities of in-stream components of the natural gas or residue gas;
- (k) “cost of conservation gas” means the cost of conservation gas determined in accordance with section 7(5) of Schedule 1;
- (l) “Crown lease” means an agreement granting petroleum and natural gas rights, natural gas rights, petroleum rights or oil sands rights;
- (m) “Crown percentage”, in relation to a well group, means the portion of the production from well events in the group that is recovered pursuant to a Crown lease, as shown in the records of the Department;
- (n) “crude oil” means a mixture mainly of pentanes and heavier hydrocarbons
 - (i) that may be contaminated with sulphur compounds,
 - (ii) that is recovered or is recoverable at a well from an underground reservoir, and
 - (iii) that is liquid at the conditions under which its volume is measured or estimated,

and includes all other hydrocarbon mixtures so recovered or recoverable except natural gas, field condensate or crude bitumen;

- (o) “dispose of”, in relation to any natural gas or gas product, means
 - (i) to sell and deliver the natural gas or gas product to a buyer, or
 - (ii) to otherwise dispose of and deliver the natural gas or gas product to a person who by reason of the disposition becomes its owner;

- (p) “document” includes information transmitted electronically;
- (q) “drilling spacing unit” means a drilling spacing unit prescribed or established pursuant to regulations under the *Oil and Gas Conservation Act*;
- (r) “facility” means
 - (i) a battery,
 - (ii) a gathering system,
 - (iii) a gas processing plant,
 - (iv) a reprocessing plant,
 - (v) a gas injection facility, or
 - (vi) a commercial storage facility;
- (s) “field condensate” means products, other than gas products and oil sands products, obtained from natural gas or solution gas before it is delivered to a gathering system;
- (t) “gas injection facility” means
 - (i) the wells and other associated injection facilities, or
 - (ii) a well without any associated injection facilities,used by an operator in the operation of one or more gas injection schemes;
- (u) “gas injection scheme” means a scheme, other than a commercial storage scheme, approved or ordered by the Board under the *Oil and Gas Conservation Act* and respecting the injection of natural gas or a gas product into an underground formation;
- (v) “gas processing plant” means a plant for the processing of natural gas, but does not include a reprocessing plant, well head separator, treater or dehydrator;
- (w) “gas product” means residue gas, ethane, propane, butanes, pentanes plus, sulphur or any other product obtained by processing natural gas or by reprocessing residue gas or otherwise, but does not include field condensate;
- (x) “gathering” includes compressing by means of a compressor forming part of a gathering system;

- (y) “gathering system” means a pipeline or pipeline system, including installations and equipment associated with the pipeline or pipeline system, that transmits natural gas from one or more wells to a gas processing plant or other delivery point;
- (z) “IETP costs” means allocable costs as defined in the *Innovative Energy Technologies Regulation* (AR 250/2004);
- (aa) “in-stream component” or “ISC” means a component of natural gas or residue gas, including, without limitation, methane, ethane, propane, butanes, pentanes plus, carbon dioxide, hydrogen, hydrogen sulphide, helium and nitrogen;
- (bb) “ISC reference prices”, in relation to a production month, means, collectively, the Methane ISC Reference Price, Ethane ISC Reference Price, Propane ISC Reference Price, Butanes ISC Reference Price and Pentanes Plus ISC Reference Price for that production month;
- (cc) “light-ends” means a gas product that is obtained at a gas processing plant or reprocessing plant and is given by the owner of the product to another person for no consideration and that is, in the Minister’s opinion, not of a kind or quantity sufficient for the owner of the product to dispose of by way of sale;
- (dd) “mainline straddle plant” means a plant for the reprocessing of residue gas that is designated by order of the Minister as a mainline straddle plant for the purposes of this Regulation or the 2002 Regulation in a designation that remains unrevoked;
- (ee) “1994 Regulation” means the *Natural Gas Royalty Regulation, 1994* (AR 351/93);
- (ff) “oil sands product” means oil sands product as defined in the *Oil Sands Royalty Regulation, 2009*;
- (gg) “operator”, with reference to a well or facility, means the person who is the operator of the well or facility according to the records of the Department;
- (hh) “owner allocation data”, in relation to an allocation of quantities available for sale to a royalty client, means the owner allocation factor or factors for that allocation and the related data referred to in section 23(3)(e)(ii);
- (ii) “owner allocation factor” means an owner allocation factor referred to in section 23(3)(c) or (d);

- (jj) “pentanes plus” means a mixture of hydrocarbons consisting wholly or mainly of pentanes and heavier hydrocarbons and obtained from natural gas by processing or otherwise, but does not include field condensate;
- (kk) “Petroleum Registry of Alberta” means the electronic information system administered by the Department and called the Petroleum Registry of Alberta;
- (ll) “plant gate” means
 - (i) in relation to a gas processing plant, the first point of measurement of the quantity of a gas product after it is obtained at that gas processing plant, or
 - (ii) in relation to a reprocessing plant, the first point of measurement of the quantity of a gas product after it is obtained at that reprocessing plant;
- (mm) “pool” means a natural underground reservoir containing or appearing to contain an accumulation of petroleum or natural gas separated or appearing to be separated from any other such accumulation;
- (nn) “production entity” means
 - (i) a drilling spacing unit, to the extent that the drilling spacing unit is not included in an area described in subclause (ii) or (iii),
 - (ii) the area of a project as defined in the *Oil and Gas Conservation Act*, or
 - (iii) a unit area;
- (oo) “production month”, in relation to any natural gas, gas product or field condensate, means the month in which it is recovered or obtained;
- (pp) “propane” means, in addition to its normal scientific meaning, a mixture mainly of propane that ordinarily may contain some ethane or butanes;
- (qq) “quantities available for sale”, in relation to a production month, means
 - (i) the quantities or volumes of gas products obtained during the production month at a gas processing plant or reprocessing plant,

- (ii) the quantities or volumes of natural gas or gas products delivered from a gathering system during the production month, except quantities or volumes delivered to a gas processing plant, reprocessing plant or to another gathering system,
- (iii) the quantities of natural gas delivered during the production month from a battery, or
- (iv) the quantities or volumes of natural gas or gas products disposed of during the production month before being delivered to a gas processing plant or reprocessing plant;
- (rr) “receipt meter station” means each place on a pipeline at which natural gas or residue gas can be received and the quantity so received can be measured;
- (ss) “reprocessing plant” means a plant for the reprocessing of residue gas, with or without the capacity of processing natural gas, but does not include a mainline straddle plant;
- (tt) “residue gas” means a gaseous mixture consisting primarily of methane and obtained as a separate product at a gas processing plant or reprocessing plant;
- (uu) “royalty calculation point”, in relation to any natural gas, gas product or field condensate, means the place determined under section 9 as the place at which the Crown’s royalty share of the natural gas, gas product or field condensate is to be calculated;
- (vv) “royalty client” means
 - (i) with reference to a well group, a person shown in the records of the Department as a royalty client for that well group, or
 - (ii) with reference to the Crown’s royalty share of excess or unallocated quantities of natural gas or gas products referred to in section 24, a person who is deemed to be a royalty client in respect of those quantities by reason of (the operation) of section 24(1)(c) or (2)(c);
- (ww) “royalty client account” means an account maintained for a royalty client pursuant to section 16(6);
- (xx) “royalty compensation” means money payable to the Crown under this Regulation as compensation in respect of the Crown’s royalty share of natural gas, a gas product or field

condensate, the Crown's title to which is transferred pursuant to section 15;

(yy) "royalty invoice" means a monthly invoice issued and sent to a royalty client pursuant to section 16(1);

(zz) "solution gas" means

(i) gas that is separated from crude oil or crude bitumen after recovery from a well event,

(ii) gas that is dissolved in crude oil under initial reservoir conditions and includes any of that gas that evolves as a result of changes in pressure or temperature, or both, due to human disturbance, and

(iii) gas that is dissolved in bitumen under initial reservoir conditions and includes any of that gas that evolves as a result of changes in pressure due to human disturbance

but does not include gas produced through chemical alteration of crude bitumen using high temperature, high pressure, a catalyst or otherwise;

(aaa) "stream allocation data", in relation to an allocation of quantities available for sale, means the stream allocation factor or factors for that allocation and the related data referred to in section 23(3)(e)(i);

(bbb) "stream allocation factor" means a stream allocation factor referred to in section 23(3)(a) or (b);

(ccc) "2002 Regulation" means the *Natural Gas Royalty Regulation, 2002* (AR 220/2002);

(ddd) "unit area" means the unit area under a unit agreement or unit operation order;

(eee) "well event" means

(i) a part of a well completed in a zone and given a unique well identifier by the Board,

(ii) parts of a well completed in 2 or more zones and given a single unique well identifier by the Board,

(iii) a part of a well completed in and recovering natural gas from a zone but which has not yet been given a unique well identifier by the Board, or

(iv) parts of a well completed in and recovering natural gas from 2 or more zones during the period when the parts are considered by the Minister as a single well event for the purposes of this Regulation and before the Board makes a decision whether or not to give the parts a single unique well identifier;

(fff) “well group” means a well group referred to in section 20.

(2) Where any reference is made in this Regulation to a month, whether by its name or not, the reference shall be construed as being the period commencing at 8:00 a.m. on the first day of that month and ending immediately before 8:00 a.m. on the first day of the next month.

(3) For the purposes of the provisions of this Regulation that refer to persons being associated with each other, persons are associated with each other if they are considered associated with each other by reason of a general or special direction of the Minister.

(4) For the purpose of the provisions of this Regulation that refer to persons dealing at arm’s length with each other, persons shall be regarded as not dealing at arm’s length with each other if, at a material time under this Regulation, they are related parties within the meaning of the CICA Handbook published from time to time by the Canadian Institute of Chartered Accountants.

(5) If any natural gas or gas product is injected into a pool and any question arises as to the purpose for which the gas was injected, then, for the purposes of this Regulation, the question is to be decided by the Minister.

(6) The Minister shall decide any question arising under this Regulation as to whether any particular plant, pipeline or installation is a battery, a gathering system, a gas processing plant, a reprocessing plant, a gas injection facility or a receipt meter station for the purposes of this Regulation.

(7) 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.

Lessee’s liability unaffected

2 Nothing in this Regulation operates to relieve a lessee from

(a) the lessee’s liability to the Crown under an agreement for the payment of royalty, or

- (b) the lessee's liability under this Regulation to pay royalty compensation to the Crown.

Application of Regulation

3(1) This Regulation applies to royalty on natural gas recovered, and gas products and field condensate obtained on or after January 1, 2009.

(2) This Regulation applies

- (a) to solution gas as though it were natural gas, and
- (b) except as provided in section 8(6) and (7), to products obtained from solution gas.

Furnishing documents to the Minister

4(1) If a provision of this Regulation requires a document to be furnished to the Minister, or an amount to be paid to the Crown, on or before a day, the document is deemed to be furnished or the amount is deemed to be paid, as the case may be, if it is received by the Department on or before that day.

(2) Unless otherwise directed by the Minister, where any document required or permitted to be furnished under this Regulation must be provided in a form required by the Minister, the document must

- (a) contain complete and accurate information required by the form, and
- (b) be completed in accordance with any general directions given by the Minister or any instructions shown in the form.

(3) The Minister may refuse to accept a document that does not meet the requirements of subsection (2) and in that case the document is, for the purposes of this Regulation, deemed not to have been furnished.

Reporting standards

5(1) In this section,

- (a) "cubic metre of gas" means the volume of natural gas or residue gas which, when dry and at standard temperature and under standard pressure, will fill a space of one cubic metre;
- (b) "gross or higher heating value" means, for the purposes of subsection (3)(a), the total joules obtained by the complete combustion of one cubic metre of natural gas or residue gas and air under conditions where

- (i) the combination reaction is at constant standard pressure,
 - (ii) the gas, including acid gas components, is free of all water vapour,
 - (iii) the temperature of the gas, air and products of combustion are at standard temperature, and
 - (iv) all water formed by the combustion reaction is condensed to a liquid state;
- (c) “heat content” means the total amount of heat contained in a gas stream, including the sensible heat and latent heat of condensation;
- (d) “standard pressure” means the absolute pressure of 101.325 kilopascals;
- (e) “standard temperature” means 15 degrees Celsius.

(2) In a document furnished to the Minister under the Act or this Regulation,

- (a) volumes of natural gas or residue gas must be expressed in thousands of cubic metres of gas to the nearest tenth of a thousand cubic metres;
- (b) the heating value of natural gas or residue gas must be expressed in megajoules per cubic metre to the nearest hundredth of a megajoule per cubic metre;
- (c) quantities of natural gas or residue gas must be expressed as heat content in gigajoules to the nearest whole gigajoule;
- (d) volumes of ethane, propane, butanes, pentanes plus and field condensate must be expressed in cubic metres to the nearest tenth of a cubic metre;
- (e) volumes of in-stream components must be expressed in thousands of cubic metres, to 3 decimal places;
- (f) quantities of in-stream components must be expressed as heat content in gigajoules, to 3 decimal places;
- (g) quantities of sulphur must be expressed in tonnes to the nearest tenth of a tonne;
- (h) prices of natural gas or residue gas must be expressed in dollars per gigajoule to the nearest cent.

(3) Subject to subsection (4), in a document furnished to the Minister under the Act or this Regulation,

- (a) volumes of natural gas, residue gas or ethane in gaseous form must be converted to gigajoules by multiplying the volumes of the gas by the gross or higher heating value of the gas, and
- (b) if the gross or higher heating value used under clause (a) is calculated from a component analysis of the gas, the gross or higher heating value of the gas must be calculated in accordance with *Calculation of Gross Heating Value, Relative Density and Compressibility Factor for Natural Gas Mixtures from Compositional Analysis* (GPA Standard 2172) published from time to time by the Gas Processors Association.

(4) If the Minister requires a document furnished under the Act or this Regulation to show volumes or quantities of in-stream components of natural gas or residue gas,

- (a) the respective volumes of the in-stream components of the gas must be determined from a component analysis of the gas,
- (b) the respective volumes of the in-stream components of the gas must be converted to gigajoules by multiplying those volumes by the gross or higher heating value of the respective in-stream components as shown in any edition of *Table of Physical Constants of Paraffin Hydrocarbons and Other Components of Natural Gas* (GPA Standard 2145) published by the Gas Processors Association, and
- (c) the quantities of the in-stream components calculated under clause (b) must be normalized so that the aggregate quantities of those in-stream components equal the aggregate quantities of the gas.

(5) The conditions of measurement of volume and heating value when not otherwise specified in this section must be

- (a) in accordance with the provisions of the *Electricity and Gas Inspection Act* (Canada), and
- (b) corrected for actual atmospheric pressure to the nearest 2 kilopascals.

(6) For the purposes of calculating royalty on ethane under this Regulation, volumes of ethane in liquid form must be converted to the number of cubic metres the ethane would occupy in gaseous form at

standard temperature and under standard pressure using the conversion factor for a month determined by the Minister.

(7) For the purposes of calculating royalty on field condensate under this Regulation, volumes of natural gas in gaseous form must be converted to the number of cubic metres the field condensate would occupy in liquid form at standard temperature and under standard pressure using the conversion factor of $0.78783 \text{ } 10^3 \text{ m}^3$ of natural gas per cubic metre of field condensate.

Petroleum Registry of Alberta

6(1) Subject to this section, where this Regulation requires a person to furnish to the Minister

- (a) allocation data,
- (b) information respecting volumes or quantities of in-stream components of natural gas or residue gas,
- (c) information referred to in section 25(4), (5) or (7),
- (d) a report, the deadline for the furnishing of which occurs on or after January 1, 2009, or
- (e) a report related to January, 2009 or any subsequent production month,

the allocation data, information or report must be furnished by electronic transmission to the Petroleum Registry of Alberta in accordance with the directions of the Minister respecting the operation of the Registry.

(2) The Minister may exempt from the operation of subsection (1)

- (a) any class of persons other than operators, or
- (b) any class of reports, subject to any conditions.

(3) Section 5 of the *Mines and Minerals Administration Regulation* (AR 262/97) does not apply to the furnishing of allocation data or any information or reports to which subsection (1) applies.

(4) A reference in this Regulation to a report filed with the Board, to the extent it applies to a report related to January, 2009 or any subsequent production month, shall be read as a reference to a report filed with the Board by electronic transmission to the Registry.

(5) For the purposes of this Regulation, where natural gas or a gas product is delivered in a production month from a facility (the

“sending facility”) to a receipt meter station or another facility, the reports filed with the Board showing the volumes of the natural gas or gas product received at the receipt meter station or the other facility from the sending facility in that month are, subject to subsequent corrections, deemed to be as the volumes delivered from the sending facility in that month.

(6) Without limiting the operation of section 4 of the *Mines and Minerals Administration Regulation* (AR 262/97),

- (a) the Minister may send to a person a royalty invoice or any notice or other document authorized or required to be sent to that person under this Regulation by electronic transmission to the Petroleum Registry of Alberta in accordance with the directions of the Minister respecting the operation of the Registry, and
- (b) a royalty invoice or a notice or other document sent in accordance with clause (a) is deemed for the purpose of this Regulation to be received by that person when it is transmitted to the Registry.

Prescribed prices, factors, deductions and allowances

7(1) The Minister shall, by order, prescribe an amount per gigajoule as the Gas Reference Price for January, 2009 and for each subsequent production month.

(2) The Minister shall, by order, for January, 2009 and for each subsequent production month, prescribe the following, each expressed as an amount per gigajoule:

- (a) the Methane ISC Reference Price;
- (b) the Methane ISC Par Price;
- (c) the Methane ISC Adjusted Intra-Alberta Transportation Deduction.

(3) The Minister shall, by order, for January, 2009 and for each subsequent production month, prescribe the following, each expressed as an amount per gigajoule:

- (a) the Ethane Reference Price;
- (b) the Ethane Par Price;
- (c) the Ethane ISC Reference Price;

- (d) the Ethane ISC Adjusted Intra-Alberta Transportation Deduction.

(4) The Minister shall, by order, for January, 2009 and for each subsequent production month, prescribe

- (a) an amount per cubic metre as the Propane Reference Price,
- (b) an amount per gigajoule as the Propane ISC Reference Price, and
- (c) an amount per gigajoule as the Propane ISC Adjusted Intra-Alberta Transportation Deduction.

(5) The Minister shall, by order, for January, 2009 and for each subsequent production month, prescribe

- (a) an amount per cubic metre as the Butanes Reference Price,
- (b) an amount per gigajoule as the Butanes ISC Reference Price, and
- (c) an amount per gigajoule as the Butanes ISC Adjusted Intra-Alberta Transportation Deduction.

(6) The Minister shall, by order, for January, 2009 and for each subsequent production month, prescribe

- (a) an amount per cubic metre as the Pentanes Plus Reference Price,
- (b) an amount per cubic metre as the Pentanes Plus Par Price,
- (c) an amount per gigajoule as the Pentanes Plus ISC Reference Price, and
- (d) an amount per gigajoule as the Pentanes Plus ISC Adjusted Intra-Alberta Transportation Deduction.

(7) The Minister shall, by order, for January, 2009 and for each subsequent production month, prescribe

- (a) the respective transportation allowances, expressed as amounts per cubic metre, applicable to
 - (i) propane and butanes obtained as separate products from a natural gas liquids mix by fractionation,
 - (ii) pentanes plus obtained as a separate gas product from a natural gas liquids mix by fractionation, and

- (iii) propane, butanes and pentanes plus contained in a natural gas liquids mix,

for each region of Alberta established pursuant to subsection (8),

- (b) the fractionation allowance, expressed as an amount per cubic metre, applicable to propane, butanes and pentanes plus obtained as separate products from a natural gas liquids mix by fractionation occurring downstream from

- (i) the gas processing plant or reprocessing plant at which the mix was obtained, or

- (ii) a gathering system, where the mix was not obtained at a gas processing plant or reprocessing plant.

(8) The Minister shall, by order, divide Alberta into regions for the purposes of subsection (7)(a).

(9) The Minister may, by order, for January, 2009 and for each subsequent production month, prescribe a receipt meter station factor for a receipt meter station.

(10) The Minister may, by order, for January, 2009 and for each subsequent production month, prescribe the following:

- (a) an adjustment factor for the month for any well event completed in the interval from the top of the Wabiskaw member to the base of the McMurray Formation in the Athabasca Oil Sands Area;
- (b) a quantity of conservation gas for the month for any well event perforated in the interval from the top of the Wabiskaw member to the base of the McMurray Formation in the Athabasca Oil Sands Area;
- (c) an adjustment factor for the month for any well event completed in the interval from the top to the base of the Clearwater Formation in the Fisher and Moore fields in the Cold Lake Oil Sands Area;
- (d) a quantity of conservation gas for the month for any well event perforated in the interval from the top to the base of the Clearwater Formation in the Fisher and Moore fields in the Cold Lake Oil Sands Area.

(11) The Minister may, by order, designate or terminate the designation of any well event as a technical solution pilot well event.

(12) The adjustment factor for a well event for a production month is deemed to be zero if

- (a) the Minister does not prescribe an adjustment factor for the well event for the production month, or
- (b) the well event is designated as a technical solution pilot well event.

(13) For the purpose of subsection (10)(a) and (b), the Athabasca Oil Sands Area is the strata and area designated as the Athabasca Oil Sands Area by the Board pursuant to the *Oil Sands Conservation Act* as of October 1, 2004, and includes any pool that lies in whole or in part within that strata and area.

(14) For the purpose of subsection (10)(c) and (d), the Cold Lake Oil Sands Area is the strata and area designated as the Cold Lake Oil Sands Area by the Board pursuant to the *Oil Sands Conservation Act* as of September 1, 2007, and includes any pool that lies in whole or in part within that strata and area.

Part 2 Royalty

Division 1 Determination of the Crown's Royalty Share

Royalty share of natural gas, gas products and field condensate

8(1) If natural gas is recovered from a well event pursuant to a Crown lease and the natural gas is

- (a) disposed of,
- (b) consumed as a fuel,
- (c) delivered from a gathering system to a mainline straddle plant, or
- (d) removed from Alberta

without having first been processed at a gas processing plant or reprocessing plant, then, subject to this Regulation, the royalty reserved to the Crown on that natural gas is that portion of the natural gas so recovered calculated in accordance with Schedule 1.

(2) If

- (a) natural gas is recovered from a well event pursuant to a Crown lease, and
- (b) pentanes plus are obtained from the natural gas and delivered from a gathering system before the natural gas is processed, disposed of, consumed as a fuel or removed from Alberta,

then, subject to this Regulation, the royalty reserved to the Crown on the pentanes plus is that portion of the pentanes plus calculated in accordance with Schedule 5.

(3) Where natural gas is recovered from a well event pursuant to a Crown lease and gas products are obtained by processing the natural gas, then, subject to this Regulation, the royalty reserved to the Crown on the natural gas must instead be calculated in accordance with this Regulation on gas products obtained by processing the natural gas and by reprocessing residue gas obtained from the natural gas.

(4) The royalty reserved to the Crown on gas products referred to in subsection (3) must be calculated as follows:

- (a) except as provided in clause (b), where natural gas is processed at a gas processing plant or reprocessing plant and
 - (i) the residue gas obtained as a result of the processing is disposed of, consumed as a fuel or removed from Alberta without being reprocessed or is reprocessed at a mainline straddle plant, or
 - (ii) the gas products, other than residue gas, obtained as a result of the processing are disposed of, consumed as a fuel or removed from Alberta,

the royalty reserved to the Crown on the residue gas and other gas products must be calculated on the residue gas and other gas products obtained as a result of the processing;

- (b) where residue gas obtained by the processing of natural gas is reprocessed at one or more reprocessing plants before the residue gas is disposed of, consumed as a fuel, delivered to a mainline straddle plant or removed from Alberta,
 - (i) the royalty reserved to the Crown on the residue gas must be calculated on the quantity of the residue gas obtained at the last of those reprocessing plants, and
 - (ii) the royalty reserved to the Crown on the gas products other than residue gas must be calculated on the quantities of those gas products obtained at each of those reprocessing plants.

(5) The royalty reserved to the Crown on gas products referred to in subsection (4) is

- (a) with respect to residue gas, the percentage of the residue gas calculated in accordance with Schedule 1;
- (b) with respect to methane and ethane, the percentage of the methane and ethane calculated in accordance with Schedule 2;
- (c) with respect to propane, the percentage of the propane calculated in accordance with Schedule 3;
- (d) with respect to butanes, the percentage of the butanes calculated in accordance with Schedule 4;
- (e) with respect to pentanes plus, the percentage of the pentanes plus calculated in accordance with Schedule 5;
- (f) with respect to sulphur, the percentage of the sulphur prescribed in Schedule 6;
- (g) with respect to any other gas product not mentioned in clauses (a) to (f), 30% of the gas product.

(6) The royalty reserved to the Crown on field condensate obtained in a month from natural gas or solution gas recovered from a well event is to be determined in accordance with section 6 of the *Petroleum Royalty Regulation, 2009* as though the field condensate were crude oil.

(7) For the purposes of subsection (6), the royalty reserved to the Crown on field condensate is to be determined under the Schedule to the *Petroleum Royalty Regulation, 2009* except that

- (a) the par price to be used under section 3 of that Schedule is the Pentanes Plus Par Price for the month as prescribed under section 7(6)(b) of this Regulation, and
- (b) the quantity to be used under section 4 of that Schedule is the sum of
 - (i) the quantity of field condensate obtained in the month, and
 - (ii) the quantity of natural gas or solution gas obtained from the well event in the month, converted to equivalent quantities of field condensate in accordance with section 5(7).

(8) The royalty reserved to the Crown on natural gas and gas products must be calculated with reference to natural gas and gas products that are quantities available for sale.

(9) The royalty reserved to the Crown on natural gas, gas products and field condensate must be free and clear of all deductions.

Royalty calculation point

9 Unless the Minister otherwise determines in a particular case, the place at which the Crown's royalty share of natural gas, gas products or field condensate is to be calculated is the place determined in accordance with the following rules:

- (a) the Crown's royalty share of natural gas referred to in section 8(1) must be calculated at
 - (i) the last point of measurement before the natural gas is delivered from the gathering system in which it is transported, or
 - (ii) the point of delivery under the disposition, if the natural gas is disposed of and the point of delivery is upstream from the point referred to in subclause (i);
- (b) the Crown's royalty share of pentanes plus referred to in section 8(2) must be calculated at the first point of measurement after the pentanes plus are delivered from the gathering system;
- (c) the Crown's royalty share of residue gas and other gas products referred to in section 8(4)(a) must be calculated at the plant gate of the gas processing plant at which the residue gas and other gas products are obtained;
- (d) the Crown's royalty share of residue gas referred to in section 8(4)(b)(i) must be calculated at the plant gate of the last of the reprocessing plants referred to in that subclause;
- (e) the Crown's royalty share of a gas product referred to in section 8(4)(b)(ii) must be calculated at the plant gate of the reprocessing plant at which the gas product is obtained;
- (f) the Crown's royalty share of field condensate must be calculated at its first point of measurement after being obtained from natural gas or solution gas.

Special royalty O.C.

10 Where in the opinion of the Lieutenant Governor in Council it is necessary or desirable in the interest of conservation or of maintaining or increasing the recovery of crude oil or natural gas from a well event, a group of well events, a pool or any portion of a pool, the Lieutenant Governor in Council may by order

- (a) prescribe a royalty payable with respect to the natural gas obtained or any gas products recovered from that natural gas, that is less than the royalty that would otherwise be payable under this Regulation, and
- (b) prescribe the period in respect of which the order is to apply.

Unit operations

11 When natural gas recovered pursuant to a Crown lease is subject to a unit agreement or unit operation order, the unit area is deemed to be a location for the purposes of determining the royalty rate applicable to the portion of the production allocated to any tract wholly or partly within the location of the Crown lease.

Proportionment of royalty liability

12 Liability for royalty payable to the Crown is determined by the Minister in accordance with section 26.1 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97).

When royalty not payable

13(1) No royalty is payable to the Crown,

- (a) on natural gas or residue gas consumed as a fuel in operations for gathering or processing natural gas recovered pursuant to a Crown lease, or on residue gas consumed as a fuel in operations for reprocessing residue gas obtained from natural gas recovered pursuant to a Crown lease, where
 - (i) the natural gas so consumed is recovered from the same pool as the natural gas that is gathered or processed, or
 - (ii) the residue gas so consumed is obtained from natural gas recovered from the same pool as the natural gas that is gathered or processed,

as the case may be, including consumption as a fuel for the purpose of generating electricity and steam in a power plant that is provided for such operations in exchange for the fuel;

- (b) with approval of the Minister given before January 1, 1994, on natural gas, residue gas or solution gas consumed as a fuel in operations for the recovery or processing of oil sands or oil sands products conducted under a commercial oil sands scheme under the *Oil Sands Conservation Act*, where the scheme is also the subject of a contract entered into pursuant to section 9(a) of the Act;
 - (c) unless the Minister directs otherwise in any case, on solution gas consumed as a fuel in operations for the recovery or processing of oil sands or oil sands products that is subject to royalty under the *Oil Sands Royalty Regulation, 2009*, where the consumed solution gas and the oil sands or oil sands products recovered or processed in such operations are recovered pursuant to the same agreement;
 - (d) unless the Minister directs otherwise in any case, on any natural gas, residue gas or solution gas other than natural gas, residue gas or solution gas referred to in clause (b) or (c), consumed as fuel for drilling or production operations in respect of a well drilled pursuant to an agreement.
- (2) Despite subsection (1), in respect of natural gas, residue gas or solution gas consumed in a month in accordance with clause (b) of that subsection,
- (a) an amount equal to the royalty compensation that would be payable on the gas in the absence of subsection (1) must be paid to the Crown as if subsection (1) did not apply in respect of the gas, and
 - (b) the Minister shall credit an equivalent amount to the royalty client account of the royalty client who made the payment, no later than the last day of the month following the month in which the Minister receives from the royalty client a report satisfactory to the Minister concerning the consumption of the gas.
- (3) The Minister may, by written notice given to the person identified by the Minister as the operator of a commercial oil sands scheme referred to in subsection (1)(b), withdraw an approval referred to in that subsection that relates to the scheme.
- (4) Subsection (1)(b) ceases to apply to natural gas, residue gas and solution gas consumed in a commercial oil sands scheme on or after the date indicated in a notice given under subsection (3) as the effective date of withdrawal of the approval referred to in subsection (1)(b) in respect of the scheme.

(5) If any natural gas, residue gas or solution gas that is subject to royalty is consumed as a fuel without having first been disposed of, then, unless the Minister directs otherwise, the Crown's royalty share of the natural gas or residue gas may, subject to the other provisions of this Regulation that prescribe the royalty payable with respect to the natural gas, residue gas or solution gas, be consumed for the same purpose.

Royalty exemptions

14 In accordance with and to the extent authorized under Schedule 7, otherwise flared solution gas is exempted from the payment of royalty to the Crown.

**Division 2
Royalty Compensation**

Liability for royalty compensation

15(1) The Crown's title to the Crown's royalty share of natural gas and gas products is automatically transferred

- (a) at the point immediately downstream from the royalty calculation point for the natural gas or gas products, or
- (b) in the case of sulphur,
 - (i) at the place where it is solidified at the site of the gas processing plant or reprocessing plant at which it is obtained, or
 - (ii) at the place where it leaves the gas processing plant or reprocessing plant at which it is obtained, where it leaves the plant in liquid form without having first been solidified,

to the person who is, in relation to that royalty share, the owner of the lessee's share of the natural gas or gas products.

(2) When the Crown's title to the Crown's royalty share of natural gas or a gas product is transferred pursuant to subsection (1), royalty compensation is payable to the Crown in accordance with this Regulation in respect of that royalty share.

(3) Subject to this Regulation, the royalty compensation payable to the Crown under subsection (2) is an amount calculated

- (a) in accordance with Schedule 1, with respect to natural gas, residue gas and solution gas;

- (b) in accordance with Schedule 2, with respect to methane and ethane;
 - (c) in accordance with Schedule 3, with respect to propane;
 - (d) in accordance with Schedule 4, with respect to butanes;
 - (e) in accordance with Schedule 5, with respect to pentanes plus;
 - (f) in accordance with Schedule 6, with respect to sulphur.
- (4) Royalty compensation is not payable in respect of
- (a) gas products other than residue gas, ethane, propane, butanes, pentanes plus and sulphur, and
 - (b) light-ends.
- (5) Where the Crown is entitled to a royalty on field condensate,
- (a) unless the Minister directs otherwise in a particular case, the Crown's title to the Crown's royalty share of the field condensate is automatically transferred at a point immediately downstream from its royalty calculation point to the person who is, in relation to that royalty share, the owner of the lessee's share of the field condensate, and
 - (b) the royalty compensation in respect of the royalty share so transferred is an amount calculated by multiplying the quantity of the Crown's royalty share by the Pentanes Plus Reference Price for the production month in which the field condensate was obtained less the Transportation Allowance prescribed for the production month pursuant to section 7(7)(a)(iii).

Payment of royalty compensation

16(1) The Minister shall, on or before the last day of the 2nd month following a production month, issue and send an invoice to each royalty client showing for that production month the Minister's calculations of at least the following:

- (a) the aggregate quantities available for sale allocated to the royalty client for the production month and the Crown's royalty share of those quantities available for sale;
- (b) the royalty compensation payable by the royalty client under this Regulation.

- (2)** Where the Minister is satisfied that incorrect information in the Registry or information omitted from the Registry may affect the calculation of royalty compensation payable by a royalty client for a production month,
- (a) the Minister may, subject to clause (b), calculate the royalty compensation on the basis of one or more assumptions that, when applied to the calculation, will ensure that the Crown is not financially prejudiced by the incorrect or omitted information, and
 - (b) when the incorrect or omitted information is corrected or entered, as the case may be, in the Registry, the Minister shall recalculate the royalty compensation accordingly and have any resulting difference reflected in the royalty client's royalty client account.
- (3)** On receipt of a royalty invoice in respect of a production month, the royalty client shall pay the Crown the net amount shown in the invoice on or before
- (a) the last day in which the offices of the Department are open during the 3rd month following the production month, where the production month to which the invoice relates is December, or
 - (b) the last day of the 3rd month following the production month, in any other case.
- (4)** Where for any reason the Minister fails to issue and send royalty invoices to royalty clients in respect of a production month by the deadline prescribed by subsection (1) then, despite subsections (1) and (3),
- (a) the Minister may, by general directions to the royalty clients affected, require them to pay amounts on account of royalty compensation in respect of that production month by the deadline prescribed by subsection (3) on the basis of estimates by those royalty clients of the amounts owing or on any other basis specified in the directions, and
 - (b) the royalty clients affected shall pay the amounts in accordance with the directions.
- (5)** After the end of each year the Minister may, with respect to each royalty client,
- (a) calculate, recalculate or make additional calculations of the actual quantities available for sale for all of the production months in that year that are allocated to the royalty client,

- (b) calculate, recalculate or make additional calculations of the actual royalty compensation in respect of the Crown's royalty share of the quantities available for sale determined for the year pursuant to clause (a),
- (c) if the aggregate amount of the actual royalty compensation determined for the year under clause (b) exceeds the aggregate of the amounts of royalty compensation for all production months in the year shown in the royalty invoices for those production months, show the excess amount payable to the Crown as an adjustment in the client's next royalty invoice and also show in that invoice how the excess amount was determined, and
- (d) if the aggregate amount of the actual royalty compensation determined for the year under clause (b) is less than the aggregate of the amounts of royalty compensation for all production months in the year shown in the royalty invoices for those production months, credit the excess amount to the client in the client's next royalty invoice and also show in that invoice how the excess amount was determined.

(6) The Minister shall maintain for each royalty client an account called a "royalty client account" that reflects the amounts debited and credited to the account.

(7) If the royalty client account for a royalty client shows a net credit balance in the client's favour as of the end of a month, then, unless the Minister or the royalty client directs otherwise, the Crown shall pay the royalty client an amount equal to that credit balance.

Injection credits

17(1) If natural gas or a gas product is injected during a production month after December 31, 2008 into a pool through a gas injection facility for the account of or for the benefit of a royalty client, the Minister shall establish for the royalty client a credit for that production month, called an "injection credit", in an amount determined in accordance with this section.

(2) Except as provided in subsection (5), an injection credit for a royalty client in respect of natural gas or a gas product injected into a pool through a gas injection facility in a production month shall be calculated by

- (a) determining the quantity of the Crown's royalty share of the natural gas or gas products received at the gas injection facility for the purposes of injection for the account of or for the benefit of the royalty client (without deducting any part of the gas or gas products that are subsequently lost or used

as fuel in conducting injection) that would have been payable for that production month if

- (i) the natural gas had instead been recovered from that pool in that production month, or
- (ii) the gas products had instead been obtained in that production month from natural gas recovered from that pool,

as the case may be, and

- (b) determining the royalty compensation that would have been payable by the royalty client under this Regulation with respect to the royalty quantity determined under clause (a).

(3) In determining royalty compensation under subsection (2)(b), if

- (a) natural gas or a gas product is injected during a production month into a pool through a gas injection facility,
- (b) the operator of the gas injection facility has informed the Minister pursuant to section 25(4) or (7) of a facility (in this section called the “reproducing facility”) to which natural gas obtained, or gas products recovered, that may be recovered from the pool in that production month can be delivered, and
- (c) the Minister is satisfied that natural gas recovered from the pool, or gas products obtained from that natural gas, during the month could be delivered to the reproducing facility,

the Minister shall, in addition to considering the natural gas or gas products received at the gas injection facility as having been recovered, or obtained from natural gas recovered, respectively, from the pool in that month, and for the purpose of determining the royalty calculation point for the natural gas or gas products and the royalty trigger factor for the purposes of section 5 of Schedule 1 for that point, also consider the natural gas or gas products as having been delivered to the reproducing facility after being so recovered or obtained.

(4) In determining royalty compensation under subsection (2)(b), if

- (a) natural gas or a gas product is injected during a production month into a pool through a gas injection facility,
- (b) the operator of the gas injection facility has informed the Minister pursuant to section 25(4) or (7) that there is no reproducing facility for that month in respect of the gas injection facility, and

- (c) the Minister is satisfied there is no reproducing facility to which natural gas recovered from the pool, or gas products obtained from that natural gas, during the month could be delivered,

the royalty trigger factor for the purpose of applying section 5(1) of Schedule 1 in respect of the natural gas or gas products shall, despite section 5(2) of that Schedule, be 1.0.

(5) If natural gas or residue gas is injected into a pool in a production month through a well event having no associated injection facilities or through a gas injection facility in respect of which there is no reproducing facility for that production month, an injection credit for a royalty client for that production month shall be calculated by

- (a) determining the quantity of the Crown's royalty share of the natural gas or residue gas so injected for the account of or for the benefit of the royalty client (without deducting any part of the natural or residue gas that is subsequently lost or used as fuel in conducting injection) that would have been payable for that production month if
 - (i) the natural gas had instead been recovered from that pool in that production month, or
 - (ii) the residue gas had instead been obtained in that production month from natural gas recovered from that pool,

as the case may be,

- (b) determining the respective volumes and quantities of the in-stream components of the natural gas or residue gas so injected,
- (c) determining the average of the ISC reference prices for the production month, weighted according to the respective proportionate quantities of methane, ethane, propane, butanes and pentanes plus components of the natural gas or residue gas, and
- (d) multiplying the weighted average price determined under clause (c) by the quantities of the natural gas or residue gas injected in that production month.

(6) The Minister shall apply an injection credit calculated for a production month as a credit to the royalty client's royalty client account.

(7) In determining royalty compensation for the purposes of subsection (2)(b), no reduction shall be made in respect of the cost of conservation gas or in respect of IETP costs.

Allowable costs

18(1) In this section, “facility” does not include a gas injection facility or commercial storage facility.

(2) The costs and allowances to which the Minister consents and that are incurred

- (a) in gathering or processing the Crown’s royalty share of natural gas or reprocessing the Crown’s royalty share of residue gas, and
- (b) in handling the Crown’s royalty share of gas products within a gas processing plant or reprocessing plant after the place in the plant where the Crown’s royalty share is calculated

must, subject to this section, be deducted from the royalty compensation otherwise payable.

(3) The Minister may determine the amount of the costs and allowances referred to in subsection (2) in respect of 2009 and each subsequent year.

(4) Subject to subsection (5), the Minister may for the purposes of this section

- (a) estimate the amount of the allowable costs determined for a royalty client for a year and, subject to clause (b)(ii), consent to that estimated amount, and
- (b) after the end of the year determine the actual allowable costs determined for that royalty client for that year and,
 - (i) if the actual costs exceed the estimated amount referred to in clause (a), consent to further costs equal to the difference, or
 - (ii) if the estimated amount referred to in clause (a) exceeds the actual allowable costs, invoice the royalty client for the difference.

(5) The allowable costs consented to under this section in respect of a royalty client for a year may not exceed the aggregate royalty compensation calculated under section 15(3) in respect of that royalty client for that year.

(6) The Minister may not consent under subsection (2) to the Crown being liable for any allowable costs in relation to approved equipment as defined in the *Gas Processing Efficiency Assistance Regulation* (AR 275/89) if credits have been established under that Regulation in relation to that approved equipment.

(7) If credits have been established pursuant to a regulation made under the Act

- (a) on the basis of costs the Minister estimates may be saved in the gathering or processing of the Crown's royalty share of natural gas or the reprocessing of the Crown's royalty share of residue gas, and
- (b) that may be applied against the payment of money owing to the Crown under this Regulation,

the Minister may, in determining the amount of costs and allowances under subsection (3) in relation to such gathering, processing or reprocessing, reduce the costs and allowances by an amount or amounts that the Minister considers necessary to ensure that an amount equal to the present value, as of the date the credits are established, of the estimated costs savings is recovered by the Crown.

(8) The operator of a facility that commences operations in 2009 or any subsequent year shall furnish to the Minister by March 1 of the following year a report respecting the facility, its owners and their respective percentage interests in the facility, as of December 31 of the year in which the facility commences operations.

(9) If one or more changes occur in the owners of a facility or their respective percentage interests in the facility during a year, other than the year in which the facility commences operations, the operator of the facility shall furnish a report to the Minister by the next March 1 respecting the owners and their respective percentage interests as of the end of the year.

(10) Despite subsection (9), the operator of a facility shall, on written notice from the Minister, furnish to the Minister, within the time indicated in the notice, a report respecting the owners of the facility and their respective percentage interests in the facility as of the date indicated in the notice.

(11) A person replaced as the operator of a facility shall furnish to the Minister a report respecting the change in operators by the last day of the month following the month in which the change occurs.

(12) The operator of a facility shall furnish to the Minister in respect of 2009 and each subsequent year a report respecting the allowable

capital costs of the facility for that year, on or before April 30 in the year following the year to which the report relates.

(13) If a facility commences operations in 2009 or any subsequent year, a report may not be furnished under subsection (12) by the operator of that facility in respect of that year if the operator has not furnished a report under subsection (8) in respect of that facility.

(14) A royalty client shall furnish to the Minister in respect of 2009 and each subsequent year a report respecting the consideration given by that client for custom processing fees for that year and, to the extent approved by the Minister, preceding years, for gathering or processing natural gas and reprocessing residue gas during that year or preceding years, as the case may be, and the report must be furnished on or before May 15 of the year following the latest year to which the report relates.

(15) A royalty client may reallocate all or part of the allowable costs allocated to it that arise in relation to its facility capital costs and its facility operating costs to one or more other royalty clients that

- (a) are owners of that facility,
- (b) own natural gas or gas products processed at that facility, or
- (c) pay royalty compensation on behalf of an owner of that facility,

and if a reallocation is made, shall furnish to the Minister a report respecting the reallocation on or before May 15 following the year to which the reallocation relates.

Deposits

19(1) A deposit made by a royalty client pursuant to section 18 of the 1994 Regulation or section 21 of the 2002 Regulation and held by the Crown on January 1, 2009 shall be held as a deposit for the purposes of this section as though it had been paid to the Crown under this section.

(2) A person who initially becomes a royalty client under this Regulation on or after January 1, 2009 shall pay to the Crown, as a deposit, an amount specified by the Minister, in the manner determined by the Minister.

(3) If a royalty client pays a deposit to the Crown under this section during a year, the Minister shall in each subsequent year, recalculate the deposit to be maintained by the royalty client, as an amount equal to 1/6 of the estimate of the aggregate amount of royalty compensation for which the royalty client was liable in respect of the preceding year after deducting allowable costs, multiplied by a factor determined by

dividing the long term Gas Reference Price on the date on which the recalculation occurs by the average of Gas Reference Prices for the previous year.

(4) In estimating royalty compensation for the purposes of subsection (3), no reduction shall be made in respect of the cost of conservation gas or in respect of IETP costs.

(5) For the purposes of subsection (3), the long term Gas Reference Price on the date on which a recalculation occurs is the Minister's estimate as of that date of the average Gas Reference Price for the period commencing on the first day of the year in which the recalculation occurs and ending on a future date specified from time to time by the Minister.

(6) Despite subsection (3), the Minister may at any time recalculate the deposit in an amount determined by the Minister where the Minister considers the recalculation is warranted in the circumstances.

(7) If the amount of a deposit is recalculated pursuant to subsection (6), the Minister shall

- (a) notify the royalty client of the amount of the recalculated deposit,
- (b) if the amount of the recalculated deposit is greater than the existing deposit, by a notice to the royalty client, require the royalty client to pay the difference to the Crown within the time provided for in the notice in order to maintain the deposit in the recalculated amount, and
- (c) if the amount of the recalculated deposit is less than the existing deposit, credit the difference to the client's royalty client account unless the Minister directs that the difference is to be paid to the client.

(8) Money paid to the Crown under this section as a deposit or to increase a deposit

- (a) shall be paid into the General Revenue Fund but not credited to the royalty client's royalty client account, and
- (b) shall be refunded to the person maintaining the deposit when that person ceases to be a royalty client, subject to any rights of the Crown to set off against the amount otherwise refundable any debt owing by that person to the Crown.

(9) Interest is not payable to a royalty client on the amount of a deposit maintained by the royalty client under this section.

Part 3

Administration and Enforcement

Well groups

20(1) For the purposes of this Regulation, 2 or more well events constitute a well group if those well events are

- (a) within a block as defined in the *Oil and Gas Conservation Act*,
- (b) subject to a unit agreement or unit operation order,
- (c) within a pool or part of a pool that is subject to a scheme for enhanced recovery approved pursuant to section 39(1)(a) of the *Oil and Gas Conservation Act*, or
- (d) subject to a commercial storage scheme.

(2) A well event that is not included in a well group under subsection (1) is itself a well group for the purposes of this Regulation.

Royalty clients

21(1) The Department shall maintain records showing the persons who are royalty clients for a well group by reason of

- (a) allocations of quantities available for sale made to those persons pursuant to section 23 in their capacity as royalty clients for that well group, or
- (b) assignments made to those persons pursuant to subsection (2) and relating to that well group.

(2) If a person assigns to another or others responsibility for paying royalty compensation in respect of quantities available for sale allocated pursuant to section 23 to that person in the capacity of a royalty client for a well group, the assignment must be in the form determined by the Minister and must be furnished to the Minister on or before the last day of the 3rd month following the production month in which the assignment is effective.

(3) On the filing by the Minister of an assignment that conforms with subsection (2), the assignee becomes the royalty client in respect of quantities available for sale allocated to the assignor pursuant to section 23 for the production month in which the assignment is effective and for subsequent production months.

- (4) A royalty client is authorized to
- (a) make a request to the Minister under section 38(2)(b) of the Act, or
 - (b) make an objection to the Minister under section 39 of the Act.

Responsibility for quantities available for sale

22 For the purposes of this Regulation,

- (a) the operator of a reprocessing plant is responsible for quantities available for sale for a production month if they are obtained at that reprocessing plant in a production month;
- (b) the operator of a gas processing plant is responsible for quantities available for sale for a production month if they are obtained at that gas processing plant in that production month;
- (c) the operator of a gathering system is responsible for quantities available for sale for a production month if they are delivered from that gathering system in that production month
 - (i) other than to a gas processing plant or reprocessing plant or to another gathering system, or
 - (ii) to a delivery point outside Alberta;
- (d) the operator of a battery is responsible for quantities available for sale for a production month if they are delivered from that battery in that production month.

Allocations of quantities available for sale

23(1) Unless the Minister directs otherwise in a particular case, quantities available for sale for a production month must be allocated in accordance with the following:

- (a) where an operator of a reprocessing plant is responsible for the quantities available for sale, the operator may make allocations of those quantities to one or more well groups but must allocate the remainder, if any, to the gas processing plants, gathering systems or batteries from which the quantities were delivered;
- (b) where an operator of a gas processing plant is responsible for the quantities available for sale, the operator may make

allocations of those quantities, and the quantities available for sale allocated to the operator's gas processing plant pursuant to clause (a), to one or more well groups but must allocate the remainder, if any, to the gathering systems or batteries from which the quantities were delivered for processing;

- (c) where a gathering system operator is responsible for the quantities available for sale, the operator may make allocations of those quantities, and the quantities available for sale allocated to the operator's gathering system pursuant to clause (a) or (b), to one or more well groups but must allocate the remainder, if any, to the gathering systems or batteries from which the quantities were delivered;
- (d) where a battery operator is responsible for the quantities available for sale, the operator must allocate all of those quantities to one or more well groups;
- (e) where an operator allocates quantities available for sale to a well group pursuant to clause (a), (b), (c) or (d), the operator must further allocate those quantities to the royalty clients for the well group;
- (f) where a well group consists of well events within a unit area, allocations under clause (e) to royalty clients must be in accordance with the tract factors under the unit agreement or unit operation order.

(2) Despite subsection (1), the Minister may in a particular case direct that a facility operator is to be responsible for specified quantities available for sale and, in that event, the operator must comply with subsection (1) with respect to those quantities available for sale.

(3) Allocations of quantities available for sale under subsection (1) must be made in accordance with the following:

- (a) where an allocation is made to one facility or well group only, the stream allocation factor for that allocation is 1.0;
- (b) where allocations are made to 2 or more facilities or well groups or any combination of them, the stream allocation factor for each allocation to a facility or well group is in the proportion that the quantities allocated to that facility or well group bear to all of the quantities required to be allocated, expressed as a decimal fraction;
- (c) where an allocation is made pursuant to subsection (1)(e) to one royalty client only, the owner allocation factor for that allocation is 1.0;

- (d) where allocations are made pursuant to subsection (1)(e) to 2 or more royalty clients, the owner allocation factor for each allocation to a royalty client is in the proportion that the quantities allocated to that royalty client bear to all of the quantities required to be allocated to the royalty clients for the well group, expressed as a decimal fraction;
 - (e) the facility operator making the allocations must furnish to the Minister
 - (i) the stream allocation factor or factors for the allocations made to facilities and well groups and any other data related to the factor or factors that the Minister requires, and
 - (ii) the owner allocation factor or factors for the allocations made to royalty clients pursuant to subsection (1)(e) and any other data related to the factor or factors that the Minister requires.
- (4)** If natural gas or a gas product is received at a gas injection facility or commercial storage facility in a production month for the account of a royalty client for the purpose of injection or storage, as the case may be, the operator of the facility must furnish to the Minister
- (a) the stream allocation data and owner allocation data respecting the quantities so injected at that facility in that production month, as though those quantities had been recovered from each well event of all wells at that facility in that production month, and
 - (b) information respecting the volumes and quantities of in-stream components of the natural gas or residue gas injected at that facility in that production month.
- (5)** Allocation data referred to in subsection (3) or (4) must be furnished to the Minister on or before the 15th day of the 2nd month following the end of the production month to which the allocation data relates.
- (6)** A facility operator may furnish to the Minister amended allocation data for a production month.
- (7)** If allocation data required to be furnished by subsection (3) is not received by the Minister by the deadline prescribed by subsection (5), the allocation data shall be deemed to be furnished by that deadline for the purpose only of determining responsibility for quantities available for sale and to show nil allocations of quantities available for sale.

Provisional royalty compensation

24(1) If a facility operator is responsible for allocating quantities available for sale pursuant to section 23 but fails to allocate all of those quantities pursuant to that section,

- (a) the unallocated quantities of natural gas are deemed to be recovered pursuant to Crown leases and the unallocated quantities of gas products are deemed to be obtained from natural gas recovered pursuant to Crown leases,
- (b) the unallocated quantities are deemed to be allocated to the facility operator,
- (c) the facility operator is deemed for the purposes of this Regulation to be the royalty client with respect to the Crown's royalty share of those unallocated quantities, and
- (d) the facility operator, in the capacity of a royalty client, is liable to the Crown for the payment of royalty compensation in respect of the Crown's royalty share of those unallocated quantities, calculated in accordance with subsection (3).

(2) Where, according to a report filed with the Board in respect of a production month that identifies a common stream operator, the total quantities of natural gas and residue gas received at a receipt meter station exceed the aggregate of the quantities shown as received at the receipt meter station from one or more facilities then, for the purposes of this Regulation and despite any other provision of this Regulation,

- (a) the excess quantities of natural gas are deemed to be recovered pursuant to Crown leases and the excess quantities of residue gas are deemed to be obtained from natural gas recovered pursuant to Crown leases,
- (b) the excess quantities are deemed to be quantities available for sale allocated to the common stream operator,
- (c) the common stream operator is deemed to be the royalty client with respect to the Crown's royalty share of the excess quantities,
- (d) the common stream operator, in the capacity of a royalty client, is liable to the Crown for the payment of royalty compensation in respect of the Crown's royalty share of those excess quantities, calculated in accordance with subsection (3), and
- (e) subsection (6) applies, as far as practicable, to the common stream operator and any royalty compensation owing by the common stream operator under clause (d).

(3) Royalty compensation payable under subsection (1) or (2) shall be called “provisional royalty compensation” and must be calculated in accordance with the following:

- (a) the Crown’s royalty share of the unallocated or excess quantities, as the case may be, is deemed to be 50% of those quantities in the case of natural gas, residue gas or ethane, 40% of those quantities in the case of pentanes plus, 30% of those quantities in the case of butanes and propanes and 16.66667% of those quantities in the case of sulphur;
- (b) the provisional royalty compensation payable in respect of the Crown’s royalty share of those quantities must be calculated by multiplying the Crown’s royalty share of those quantities by
 - (i) the Gas Reference Price for the production month, where the quantities consist of natural gas or residue gas,
 - (ii) the Ethane Reference Price for the production month, where the quantities consist of ethane,
 - (iii) the Propane Reference Price for the production month, where the quantities consist of propane,
 - (iv) the Butanes Reference Price for the production month, where the quantities consist of butanes,
 - (v) the Pentanes Plus Reference Price for the production month, where the quantities consist of
 - (A) pentanes plus, or
 - (B) a mixture comprising any 2 or more of pentanes plus, propane or butanes, where the relative proportions of each such gas product in the mixture has not been reported to the Minister for the purposes of this Regulation in accordance with the Minister’s directions,
- or
- (vi) the price determined by the Minister for the production month in accordance with subsections (4) and (5), where the quantities consist of sulphur;
- (c) provisional royalty compensation calculated under clause (b) shall not be reduced by an amount for allowable costs.

(4) The price referred to in subsection (3)(b)(vi) must be determined for each production month by dividing

- (a) the total net revenue for sales of sulphur by all royalty clients in the month to persons at arm's length with the royalty clients and reported to the Minister for the production month pursuant to section 4(1) or (2) of Schedule 6,

by

- (b) the total number of tonnes of sulphur sold in the month under the sales referred to in clause (a).

(5) In determining the total net revenue referred to in subsection (4)(a), the net revenue from any sale included in the determination shall not be less than zero.

(6) Where provisional royalty compensation is owing in respect of unallocated or excess quantities available for sale and the facility operator concerned allocates all or any of those quantities in accordance with section 23 by way of initial or amended allocation data furnished to the Minister or reports filed with the Board, the Minister shall recalculate the royalty compensation in respect of those allocated quantities without reference to subsection (3) and any difference must be reflected in the facility operator's royalty client account.

(7) The Crown is not liable for interest on any amounts of provisional royalty compensation that are reduced pursuant to subsection (6), but shall refund any interest received by it under section 29(2)(a) in respect of those amounts to the extent those amounts are so reduced.

(8) Despite section 29, where

- (a) provisional royalty compensation owing by a facility operator in respect of unallocated or excess quantities available for sale is included in a royalty invoice, and
- (b) the provisional royalty compensation is reduced as a result of a recalculation under subsection (6) where the facility operator furnished amended allocation data or filed reports with the Board by the 15th day of the month following the month in which the invoice was issued,

no interest is payable by the facility operator under section 29(2)(b) in respect of the provisional royalty compensation to the extent it is so reduced.

Other reports

25(1) The operator of a gas injection facility shall furnish to the Minister a report respecting

- (a) the commencement of the operation of the gas injection facility, if the operation commences on or after January 1, 2009, and
- (b) any change in
 - (i) the persons having participating interests in a well group that is subject to the gas injection scheme,
 - (ii) the Crown percentage for a well group that is subject to the gas injection scheme,
 - (iii) the percentage of natural gas or a gas product for a well group that is subject to the gas injection scheme,
 - (iv) the well events comprising a well group or the code number assigned by the Minister to a well group, where natural gas or a gas product recovered or obtained from the well group is injected into a pool through the gas injection facility,
 - (v) the pool or pools into which natural gas or a gas product is injected through that gas injection facility or the Board's code number for any of those pools, or
 - (vi) the field containing a pool referred to in subclause (v) or the Board's code number for that field,

on or before the last day of the month following the production month in which the commencement date occurs or in which the effective date of the change occurs, as the case may be.

(2) A person designated by the Minister as a reporter for the purposes of this section shall furnish to the Minister, on or before the 10th day of the 2nd month following each production month, any one or more of the following in accordance with the designation:

- (a) a report respecting the volumes of propane, butanes and pentanes plus purchased by the person in that production month at points in Alberta specified by the Minister, and the purchase prices of the propane, butanes and pentanes plus;
- (b) a report respecting the volumes of propane, butanes and pentanes plus sold by the person in that production month at

- points in Alberta specified by the Minister, and the selling prices of the propane, butanes and pentanes plus;
- (c) a report respecting the volumes of ethane purchased by that person in that production month at points in Alberta specified by the Minister, and the purchase prices of the ethane;
 - (d) a report respecting the volumes of ethane sold by that person in that production month at points in Alberta specified by the Minister, and the selling prices of the ethane.
- (3)** In subsection (2), “pentanes plus” includes field condensate.
- (4)** The operator of a gas injection facility shall furnish information to the Minister indicating, for the purposes of section 17(4),
- (a) the reproducing facility referred to in section 17 to which natural gas, or gas products obtained from natural gas, that may be recovered from the receiving pool of the gas injection facility can be delivered, if there is only one such facility when the information is required to be furnished, or indicating one of those facilities if there is more than one, or
 - (b) indicating that there is no reproducing facility to which such natural gas or gas products can be delivered at that time.
- (5)** The operator of a facility shall furnish information to the Minister
- (a) respecting the pipelines to which natural gas or gas products can be delivered from the facility without first passing through an intervening facility, and the receipt meter stations through which such natural gas or gas products can be so delivered, or
 - (b) indicating that there is no pipeline to which the natural gas or gas products can be delivered at that time.
- (6)** Information referred to in subsection (4) or (5) must be furnished to the Minister on or before the last day of the month following the month in which operation of the gas injection facility or facility commences, if operation commences on or after January 1, 2009.
- (7)** If any change occurs in respect of the information furnished to the Minister under subsection (4) or (5), the operator of the gas injection facility or facility in respect of which the information was furnished shall furnish the Minister with further information respecting the change on or before the last day of the month following the month in which the change occurs.

(8) If natural gas recovered in January, 2009 or any subsequent production month is disposed of without having first been processed at a gas processing plant or reprocessing plant, the person who disposed of the natural gas must furnish to the Minister, on or before the 15th day of the 2nd month following the month in which the natural gas was recovered, a report

- (a) relating to each disposition of the natural gas and the person to whom the disposition was made and containing any other related information the Minister requires, and
- (b) containing or accompanied with a component analysis of the natural gas that is the subject of each disposition.

(9) Where natural gas or residue gas is delivered in January, 2009 or any subsequent production month to the first facility downstream from the royalty calculation point for that natural gas or residue gas, the operator of that facility must furnish to the Minister, on or before the 18th day of the month following the production month, information respecting the volumes and quantities of in-stream components of the natural gas or residue gas.

(10) Where

- (a) according to a report filed with the Board, natural gas or residue gas is received in January, 2009 or any subsequent production month at a receipt meter station,
- (b) the natural gas or residue gas is received from one or more facilities at which the royalty calculation point for the natural gas or residue gas is located, and
- (c) the report identifies a person as the common stream operator,

the common stream operator must furnish to the Minister, on or before the 18th day of the following month, information respecting the volumes and quantities of in-stream components of the natural gas or residue gas.

Keeping of records

26(1) A person who is or was required or permitted by this Regulation, the 1994 Regulation or the 2002 Regulation to submit or furnish to the Minister any report or other document or information shall keep all records that come or came into that person's possession or the possession of any of that person's agents and that are, were or could be used for the purpose of preparing the report, document or information.

(2) If information furnished to the Minister by one or more persons for the purposes of this Regulation is inconsistent with information furnished to the Minister by any other person or persons for the purposes of this Regulation, the Minister may disclose the information to any or all of those persons to the extent the Minister considers necessary to resolve the inconsistency.

(3) A person required by subsection (1) to keep records must keep those records in the form of paper documents or store them in an electronic medium.

Penalties

27(1) A person who is required to furnish a report to the Minister under section 18(12) or under section 4(1) or (2) of Schedule 6 and fails to do so by the prescribed deadline applicable to the report is liable to pay a penalty of \$100 for each month or part of a month during which the failure continues, to a maximum of \$600.

(2) Despite subsection (1), where

- (a) a person who is required to furnish a report to the Minister under section 18(12) in respect of a year fails to do so by the prescribed deadline for the report by reason of the subsequent rejection of the report by the Minister,
- (b) the penalty under subsection (1) is included in the royalty invoice issued following the prescribed deadline for the report, and
- (c) the person furnishes the report by the 15th day of the month following the month in which the invoice was issued,

the person is not liable for the penalty.

(3) Despite subsection (1), if

- (a) a person who is required to furnish a report to the Minister under section 4(1) or (2) of Schedule 6 in respect of a month fails to do so by the prescribed deadline for the report, and
- (b) before furnishing the report or without having furnished the report, furnishes a report to the Minister under section 4(4) of Schedule 6 in respect of the year containing that month,

the person is not liable for the penalty under subsection (1) in relation to the report referred to in clause (a) in respect of any month occurring after the month following the month in which the report referred to in clause (b) is furnished to the Minister.

(4) A person who furnishes a report to the Minister under section 18(14) after the prescribed deadline for the report is liable to pay a penalty of \$100 for each month following the deadline, ending with the month in which the report is furnished, to a maximum of \$600.

(5) Despite subsection (4), where

- (a) a person who is required to furnish a report to the Minister under section 18(14) in respect of a year fails to do so by the prescribed deadline for the report by reason of the subsequent rejection of the report by the Minister,
- (b) the penalty under subsection (4) is included in the first royalty invoice issued following the prescribed deadline for the report, and
- (c) the person furnishes the report by the 15th day of the month following the month in which the invoice was issued,

the person is not liable for the penalty.

(6) A person who is required to furnish a report to the Minister under section 25(2) or under section 8(4) of Schedule 1 and fails to do so by the prescribed deadline applicable to the report is liable to pay a penalty of \$1000 for each month or part of a month during which the failure continues.

(7) A person who is required to furnish a report to the Minister under section 4(4) of Schedule 6 and fails to do so by the prescribed deadline applicable to the report is liable to pay a penalty of \$1000.

(8) The Minister may waive, in whole or in part, a penalty imposed under this section on being satisfied that it is appropriate to do so in the circumstances.

Penalty following audit

28(1) Where, as a result of an audit or examination conducted by or on behalf of the Minister under the Act, the Minister determines that the royalty compensation actually payable by a royalty client in respect of all production months in 2009 or any subsequent year is greater than the aggregate royalty compensation paid in respect of that year, the Minister

- (a) subject to subsection (2), may impose on the royalty client a penalty in an amount equal to 10% of the deficiency, and
- (b) shall, whether a penalty is imposed under clause (a) or not, give a notice to the royalty client describing what in the

Minister's opinion was the cause giving rise to the deficiency.

(2) Where the Minister has given a notice to a royalty client under subsection (1)(b) relating to an audit or examination in respect of a year and, as a result of an audit or examination conducted by or on behalf of the Minister under the Act in respect of a subsequent year, the Minister determines that

- (a) the royalty compensation actually payable by the royalty client in respect of all production months in that subsequent year is greater than the aggregate royalty compensation paid in respect of that subsequent year, and
- (b) the cause giving rise to the deficiency was the same as or similar to the cause described in the notice,

the Minister may, subject to subsection (3), impose on the royalty client a penalty in an amount not exceeding 50% of that part of the deficiency in respect of that subsequent year that the Minister considers to be attributable to that cause.

(3) No penalty may be imposed under this section if the amount of the penalty otherwise payable in the absence of this subsection would be less than \$1000.

Interest

29(1) In this section, "overpayment of royalty compensation" and "underpayment of royalty compensation" means an overpayment or underpayment, respectively, of royalty compensation payable by a royalty client, as determined by the Minister in a calculation, additional calculation or recalculation of the amount of royalty compensation.

(2) Interest is payable by a royalty client to the Crown in accordance with this section

- (a) on an underpayment of royalty compensation, computed
 - (i) from the first day of the 3rd month following the production month in respect of which the royalty compensation is payable, and
 - (ii) to the last day of the month in which the first royalty invoice is issued in which the underpayment of royalty compensation initially appears,

and

- (b) on any amount that appears as payable to the Crown in a royalty invoice issued to the royalty client in respect of a production month, including an underpayment of royalty compensation, computed
 - (i) from the first day of the 4th month following the production month, and
 - (ii) to the date on which the entire unpaid balance, together with accrued interest, is received by the Minister.
- (3) Interest is payable by the Crown to a royalty client in accordance with this section on an overpayment of royalty compensation payable by the royalty client in respect of a production month, computed
 - (a) from the first day of the 3rd month following the end of the production month, and
 - (b) to the last day of the month in which the first royalty invoice is issued in which the overpayment and interest are credited.
- (4) For the purposes of this section,
 - (a) interest payable by or to the Crown on any amount referred to in subsection (2) or (3) is payable on the balance of that amount remaining unpaid from time to time,
 - (b) interest shall not be computed and payable under subsection (2)(a) or (3) on the portion of an underpayment or overpayment of royalty compensation, as the case may be, resulting from the determination made under section 18(4)(b), but must be computed and payable on any subsequent determination made under that section from the date of the initial determination,
 - (c) if interest is payable under this section by or to the Crown in respect of any day, the rate of interest in respect of that day is the yearly rate 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, and
 - (d) interest computed under subsection (2) or (3) must, unless the Minister directs otherwise, be compounded monthly in respect of the period for which it is computed.

Application of payments

30 Unless the Minister directs otherwise, if money is paid to the credit of a royalty client's royalty client account, the money must be applied in the following order:

- (a) first, on arrears of fees owing by the royalty client under this Regulation;
- (b) 2nd, on penalties owing by the royalty client under this Regulation;
- (c) 3rd, on interest owing by the royalty client under this Regulation;
- (d) 4th, on an amount owing by the royalty client under section 19(7)(b) to increase a deposit maintained by the royalty client;
- (e) 5th, on royalty compensation owing by the royalty client.

Audit of Department records

31(1) The Minister may enter into a contract or arrangement with one or more organizations representative of the oil and gas industry in Alberta providing for the following:

- (a) the appointment by those organizations of an independent auditor to conduct an audit or examination under this section;
- (b) the conducting by the independent auditor from time to time of audits or examinations of records of the Department and the Alberta Petroleum Marketing Commission to the extent that they relate to the method and calculations by which the Minister determines any amount prescribed under section 7(1) to (6), (7) or (9), the method and calculations by which allowable costs are determined by the Minister or the method and calculations by which any other amounts are determined by the Minister under this Regulation;
- (c) the matters arising out of an audit or examination on which the auditor may report to the organization or organizations and the Minister;
- (d) the disclosure by the Minister of matters reported to the Minister under clause (c) to any other organization that
 - (i) is determined by the Minister to have a legitimate interest in those matters, and

- (ii) has paid or agrees to pay to the organization or organizations appointing the auditor, the amount specified by the Minister.

(2) The costs of an audit or examination referred to in subsection (1) shall be paid by the organization or organizations that appointed the auditor.

(3) Information obtained by the Minister under this Regulation may be communicated, disclosed or otherwise made available to the auditor if the information

- (a) relates to the manner in which amounts referred to in subsection (1)(b) were determined before being prescribed, and
- (b) is communicated, disclosed or made available in accordance with the contract or arrangement.

(4) Information obtained from the Minister by an auditor pursuant to subsection (3)

- (a) must be held by the auditor in confidence and must not be further communicated, disclosed or made available by the auditor in any circumstances where it is possible to relate that information to any particular identifiable person, gas contract, well, pipeline or facility at which natural gas or gas products are used or stored inside or outside Alberta, and
- (b) subject to clause (a), may be used by the auditor for the purpose of preparing a report to the organization or organizations that appointed the auditor if the information is used in accordance with that contract or arrangement.

Part 4 Consequential Amendments, Expiry and Coming into Force

Amends AR 220/2002

32(1) The *Natural Gas Royalty Regulation, 2002* (AR 220/2002) is amended by this section.

(2) Section 5(1) is amended

- (a) **in clause (d) by adding** “and before January 1, 2009” **after** “October 31, 2002”;
- (b) **in clause (e)**

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month”.

(3) Section 6 is amended

(a) in subsection (1)

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month”;

(b) in subsection (2)

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month”;

(c) in subsection (3)

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month”;

(d) in subsection (4)

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month”;

(e) in subsection (5)

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month”;

(f) in subsection (6)

- (i) **by striking out** “October, 2002” **and substituting** “October 2002”;
 - (ii) **by adding** “up to and including December 2008” **after** “production month”;
- (g) **in subsection (7) by adding** “up to and including 2008” **after** “subsequent year”;
- (h) **in subsection (8) by adding** “up to and including 2008” **after** “subsequent year”;
- (i) **in subsection (9)**
 - (i) **by striking out** “October, 2002” **and substituting** “October 2002”;
 - (ii) **by adding** “up to and including December 2008” **after** “production month”;
- (j) **in subsection (11)**
 - (i) **by striking out** “October, 2002” **and substituting** “October 2002”;
 - (ii) **by adding** “up to and including December 2008” **after** “production month”;
- (k) **in subsection (12)**
 - (i) **by striking out** “October, 2004” **and substituting** “October 2004”;
 - (ii) **by adding** “up to and including December 2008” **after** “production month”.
- (4) **Section 9(1) is amended**
 - (a) **by striking out** “October, 2002” **and substituting** “October 2002”;
 - (b) **by adding** “up to and including December 2008” **after** “production months”.
- (5) **Section 19 is amended by adding** “up to and including December 2008” **after** “a production month” **wherever it occurs**.
- (6) **Section 20 is amended**
 - (a) **by adding the following after subsection (2):**

(2.1) Subsections (3) to (15) do not apply in respect of 2009 and subsequent years.

(b) **in subsection (3) by adding** “up to and including 2008” **after** “in respect of 2002 and each subsequent year”.

(7) **Section 21(2) is amended by adding** “up to and including January 1, 2009” **after** “October 1, 2002”.

(8) **Section 27 is amended**

(a) **in subsection (1)(a) by adding** “and before January 1, 2009” **after** “October 1, 2002”;

(b) **in subsection (2) by adding** “up to and including “December 2008” **after** “following each production month”;

(c) **in subsection (6) by adding** “and before January 1, 2009” **after** “October 1, 2002”;

(d) **in subsection (8)**

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month”;

(e) **in subsection (9)**

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month” **wherever it occurs**;

(f) **in subsection (10)(a)**

(i) **by striking out** “October, 2002” **and substituting** “October 2002”;

(ii) **by adding** “up to and including December 2008” **after** “production month”.

(9) **Section 30(1) is amended by adding** “up to and including 2008” **after** “subsequent year”.

(10) **Section 31 is amended**

- (a) **in subsection (2)(a)(ii) by adding** “under this Regulation or under section 16(1) of the *Natural Gas Royalty Regulation, 2009*” **after** “issued”;
- (b) **in subsection (3)(b) by adding** “under this Regulation or under section 16(1) of the *Natural Gas Royalty Regulation, 2009*” **after** “issued”.

(11) The following is added after section 36:

Expiry

37 This Regulation expires on June 30, 2014.

(12) Schedule 1 is amended

- (a) **in section 8(5) by adding** “up to and including 2008” **after** “succeeding years”;
- (b) **in section 9(2) by adding** “up to and including 2008” **after** “subsequent year”;
- (c) **in section 10(1) by adding** “up to and including 2008” **after** “production year”.

(13) Schedule 6 is amended

- (a) **in section 3(1) by adding** “up to and including 2008” **after** “subsequent year”;
- (b) **in section 4(1), (2) and (4) by adding** “up to and including 2008” **after** “subsequent year”.

(14) Schedule 8 is amended

- (a) **in section 3(1)**
 - (i) **in clause (d)(i) by striking out** “April 1, 2010” **and substituting** “January 1, 2009”;
 - (ii) **in clause (g.1)(i) by striking out** “and on or before August 31, 2011” **and substituting** “and before January 1, 2009”;
 - (iii) **in clause (j)(i) by adding** “and both the eligible well and the qualified well must be spudded before January 1, 2009” **after** “in the case of a qualified well”;
- (b) **in section 5**
 - (i) **in subsection (1.1)**

- (A) in clause (a) by striking out** “April 1, 2012, and” **and substituting** “January 1, 2009”;
 - (B) by repealing clause (b);**
 - (ii) in subsection (6) by adding** “or beginning January 1, 2009” **after** “deepening”;
- (c) in section 6**
 - (i) in subsection (2.1)**
 - (A) in clause (a) by striking out** “April 1, 2012, and” **and substituting** “January 1, 2009”;
 - (B) by repealing clause (b);**
 - (ii) in subsection (3) by adding** “or after December 31, 2008, whichever occurs first” **after** “deepening”;
- (d) in section 10**
 - (i) in subsection (2) by adding** “before January 1, 2009” **after** “qualified well”;
 - (ii) in subsection (6) by adding** “or after December 31, 2008, whichever occurs first” **after** “deepening”;
- (e) in section 11**
 - (i) in subsection (3) by adding** “before January 1, 2009” **after** “qualified well”;
 - (ii) in subsection (4) by adding** “or after December 31, 2008, whichever occurs first” **after** “deepening”.

Amends AR 263/97

33 The *Petroleum and Natural Gas Tenure Regulation* (AR 263/97) is amended in section 23(2)(b) by striking out “or the *Natural Gas Royalty Regulation, 2002*” **and substituting “, the *Natural Gas Royalty Regulation, 2002* or the *Natural Gas Royalty Regulation, 2009*”.**

Amends AR 288/99

34 The *Regulations Act Regulation* (AR 288/99) is amended by repealing section 17(1)(r) and substituting the following:

- (r) all orders of the Minister under section 6 of the *Natural Gas Royalty Regulation, 2002* (AR 220/2002) and section 7 of the *Natural Gas Royalty Regulation, 2009*;

Expiry

35 For the purpose of ensuring that this Regulation is reviewed, 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.

Coming into force

36 This Regulation comes into force on January 1, 2009.

Schedule 1

Natural Gas, Residue Gas and Solution Gas

Interpretation

1(1) In this Schedule,

- (a) “gas” means natural gas, residue gas or solution gas;
- (b) “receipt meter station factor” means, in respect of a receipt meter station for a production month, the meter station factor prescribed for the receipt meter station under section 7(9) of this Regulation for the month or, if no meter station factor has been so prescribed for the receipt meter station for the month, 1.0.

(2) For the purposes of this Schedule, references to methane ISC, ethane ISC, propane ISC, butanes ISC and pentanes plus ISC in relation to any gas shall be read as the methane, ethane, propane, butanes and pentanes plus components respectively of that gas.

Royalty Share of Gas

Calculation of royalty quantity for gas

2 The royalty reserved to the Crown on gas in respect of a production month is the percentage of the gas recovered or obtained in that production month calculated in accordance with the following formula:

$$GR\% = \frac{[MR\%(MQ) + ER\%(EQ) + 30\%(PQ) + 30\%(BQ) + 40\%(PPQ)] + [C\% \times AF]}{MQ + EQ + PQ + BQ + PPQ}$$

where

GR% is the Crown’s royalty share of the gas expressed as a percentage of the gas on which the royalty is payable;

- MR% is the percentage calculated under Schedule 2 for methane;
- ER% is the percentage calculated under Schedule 2 for ethane;
- C% is the percentage determined in accordance with section 3 with respect to the well event from which the gas is recovered;
- AF is the adjustment factor for the well event prescribed or determined pursuant to section 7(10)(a) or (c) or (12) of this Regulation;
- MQ, EQ, PQ, BQ and PPQ are the quantities of methane ISC, ethane ISC, propane ISC, butanes ISC and pentanes plus ISC, respectively, contained in the gas.

Calculation of C%

3(1) Subject to subsection (2), C% for a production month for each well event completed in the same pool is the percentage specified in column 2 of the Table following this section that corresponds to the number of months set out in the Table that have expired from and after the earliest production month during which

- (a) production from any of those well events is shut in pursuant to an order or other decision of the Board requiring production from the well event to be shut in, or
- (b) any of those well events that never commenced production due to an order or other decision of the Board precluding the recovery of the production from the well event are completed in the interval referred to in section 7(10)(a) or (c) of this Regulation

to and including the month immediately preceding the first production month in a period of at least 2 consecutive production months for which the Minister does not prescribe a quantity of conservation gas pursuant to section 7(10)(b) or (d) of this Regulation for a well event that was completed in that pool, where the Minister has prescribed a quantity of conservation gas for such a well event for one or more production months preceding that first production month.

(2) For production months following the production month in which the total royalty compensation received for the additional royalty share payable by virtue of the $[C\% \times AF]$ component of the formula in section 2 of this Schedule equals the total cost of conservation gas calculated under section 7(5) of Schedule 1 of the 2002 Regulation and

section 7(5) of this Schedule for all royalty clients, C% is zero (0%) for all well events.

Table

Column 1 Months Expired	Column 2 C%
12 to 23 months	1%
24 to 35 months	2%
36 to 47 months	3%
48 to 59 months	4%
60 to 71 months	5%
72 to 83 months	6%
84 to 95 months	7%
96 to 107 months	8%
108 to 119 months	9%
120 months or more	10%

Royalty Compensation for Gas

Aggregate Gas Reference Price

4 For the purposes of this Schedule, the Aggregate Gas Reference Price for any gas for a production month is the amount determined in accordance with the following formula:

$$\text{AGRP} = \frac{\text{MRP}(\text{MQ}) + \text{ERP}(\text{EQ}) + \text{PRP}(\text{PQ}) + \text{BRP}(\text{BQ}) + \text{PPRP}(\text{PPQ})}{\text{MQ} + \text{EQ} + \text{PQ} + \text{BQ} + \text{PPQ}}$$

where

AGRP is the Aggregate Gas Reference Price for the gas for the month;

MRP, ERP, PRP, BRP and PPRP are the respective ISC reference prices prescribed for the production month under section 7 of this Regulation;

MQ, EQ, PQ, BQ and PPQ are the quantities of methane ISC, ethane ISC, propane ISC, butanes ISC and pentanes plus ISC, respectively, contained in the gas.

Transportation Allowance

5(1) For the purposes of this Schedule, the Transportation Allowance for any gas for a production month is the amount determined in accordance with the following formula:

$$\text{TA} = (\text{RTF} - 1) \text{D}$$

where

TA is the Transportation Allowance for the gas for the production month, which may be a positive or negative amount or zero;

RTF is the royalty trigger factor determined in accordance with subsection (2) for the production month for the royalty calculation point for the gas;

D is the adjusted intra-Alberta transportation deduction determined in accordance with subsection (3) for the production month.

(2) For the purposes of subsection (1), the royalty trigger factor for a production month for the royalty calculation point for any gas is

- (a) the receipt meter station factor for the receipt meter station for the month if the gas can only be delivered into a single pipeline through a single receipt meter station, or
- (b) if the gas can be delivered into one or more pipelines through more than one receipt meter station, the amount determined by rounding to the nearest hundredth the amount determined by
 - (i) multiplying the quantity of gas delivered to each receipt meter station from that royalty calculation point during the month by its receipt meter station factor,
 - (ii) determining the aggregate of the amounts calculated under subclause (i), and
 - (iii) dividing the aggregate amount determined under subclause (ii) by the total quantity of gas delivered to all those receipt meter stations from that royalty calculation point in that production month.

(3) For the purposes of subsection (1), the adjusted intra-Alberta transportation deduction for a production month for the royalty calculation point for any gas is the amount determined in accordance with the following formula:

$$D = \frac{MD(MQ) + ED(EQ) + PD(PQ) + BD(BQ) + PPD(PPQ)}{MQ + EQ + PQ + BQ + PPQ}$$

where

D is the adjusted intra-Alberta transportation deduction for the production month for the royalty calculation point for that gas;

MD, ED, PD, BD and PPD are the Methane ISC Adjusted Intra-Alberta Transportation Deduction, Ethane ISC Adjusted Intra-Alberta Transportation Deduction, Propane ISC Adjusted Intra-Alberta Transportation Deduction, Butanes ISC Adjusted Intra-Alberta Transportation Deduction and Pentanes Plus ISC Adjusted Intra-Alberta Transportation Deduction, respectively, for the production month;

MQ, EQ, PQ, BQ and PPQ are the quantities of methane ISC, ethane ISC, propane ISC, butanes ISC and pentanes plus ISC, respectively, contained in the gas.

Net Gas Reference Price

6 For the purposes of this Schedule, the Net Gas Reference Price in respect of the Crown's royalty share of any gas for a production month is

- (a) the Aggregate Gas Reference Price for the gas for the production month

minus

- (b) the Transportation Allowance for the gas for the production month.

Calculation of royalty compensation for gas

7(1) Subject to subsections (2), (3) and (4), the royalty compensation for a production month is an amount calculated by multiplying the quantity of the Crown's royalty share of gas in the production month by the Net Gas Reference Price for the gas for that production month and by subsequently reducing the amount so calculated to an amount not less than zero by subtracting firstly, the cost of conservation gas of the royalty client for the production month, and secondly, any IETP costs established and allocated to the royalty client in the month following the production month.

(2) If natural gas is

- (a) consumed as a fuel, or delivered from a gathering system to a mainline straddle plant, in a production month without having first been processed at a gas processing plant or reprocessing plant, or
- (b) disposed of in a production month without having first been processed at a gas processing plant or reprocessing plant and subsequently processed,

and royalty compensation on that natural gas would in the absence of this subsection be calculated in accordance with subsection (1), then, unless the Minister otherwise determines in a particular case, the royalty compensation is an amount calculated by multiplying the quantity of the royalty share by 80% of the Gas Reference Price for that production month.

(3) Subject to subsection (2), if

- (a) natural gas is removed from Alberta in a production month without having first been processed at a gas processing plant or reprocessing plant, and is subsequently processed, and
- (b) royalty compensation on that natural gas would in the absence of this subsection be calculated in accordance with subsection (1),

then, unless the Minister otherwise determines in a particular case, the royalty compensation is 80% of the amount that would, in the absence of this subsection, be calculated as the royalty compensation under subsection (1) before that amount is reduced by the cost of conservation gas or by any IETP costs.

(4) Where

- (a) gas is delivered pursuant to a contract under which the total consideration for sale of the gas is paid on or before the date of commencement of deliveries of gas under the contract, and
- (b) the Minister determines that the contract is a prepayment contract for the purposes of this section and that subsection (2) does not apply to the gas,

the royalty compensation payable on the gas delivered under the prepayment contract shall be calculated in accordance with subsection (1) without any reduction in respect of the cost of conservation gas or in respect of any IETP costs.

(5) The cost of conservation gas of a royalty client for a production month shall be determined in accordance with the following formula:

$$C = .5 [(SQ \times .8) (GRP - \$.3791 \text{ per GJ})]$$

where

- C is the cost of the conservation gas of the royalty client for the production month;
- SQ is the aggregate of the quantities of conservation gas prescribed pursuant to section 7(10)(b) or (d) of this

Regulation for the production month for all the well events for which the royalty client is, during the month, the operator according to the records of the Department;

GRP is the Gas Reference Price prescribed for the production month under section 7(1) of this Regulation.

Recalculation of royalty compensation for gas sold under long-term contracts

8(1) Despite anything in this Schedule, the Minister may, in accordance with this section, recalculate the royalty compensation on natural gas and residue gas sold under a long-term contract during the whole of 2009 and each subsequent production year if

- (a) an application was made under section 7 of Schedule 1 of the 1994 Regulation to have that section apply to the long-term contract, and
- (b) the Minister approved the application.

(2) This section applies to a contract referred to in subsection (1) in respect of the remainder of the period of years specified by the Minister pursuant to section 7(3) of Schedule 1 of the 1994 Regulation.

(3) In respect of each year to which this section applies to a contract by reason of subsection (2), the Minister shall, after the end of the year,

- (a) recalculate the royalty compensation on natural gas and residue gas sold under the contract in that year by multiplying the quantity of the gas royalty for the year by the price payable to the seller for gas sold under the contract in that year, and
- (b) compute the amount by which the royalty compensation payable under section 7(1) and (2) exceeds or is exceeded by the royalty compensation recalculated under clause (a) and have the difference reflected in the royalty client account of the royalty client.

(4) If this section applies to a contract in respect of a year, the royalty client concerned shall furnish to the Minister a report respecting the prices of natural gas and residue gas sold under the contract in the preceding year on or before March 31 of the next year.

Schedule 2

Methane and Ethane

Definitions

1(1) In this Schedule,

- (a) “ADP” or “average daily production” means the volume of natural gas recovered in a month from a well event in 10^3m^3 divided by the number of hours of operation of the well event in the production month and multiplied by 24;
- (b) “AGF” or “acid gas factor” is determined under section 5 of this Schedule;
- (c) “DF” or “depth factor” is determined under section 6 of this Schedule;
- (d) “drain” is a well event that is given a status of a drain, according to the records of the Board, but that contributes to the production of natural gas from the well that contains the drain;
- (e) “kick-off point” means each deviation or branch of a wellbore or leg according to the records of the Board;
- (f) “par price” means the par price for methane and ethane prescribed under section 7 of this Regulation;
- (g) “quantity” means the monthly production in 10^3m^3 of natural gas recovered from a well event according to the records of the Board.

Royalty Share of Methane and Ethane

Calculation of royalty

2(1) Subject to subsection (2), the royalty reserved to the Crown on methane and ethane in respect of a production month is the percentage of the methane and ethane recovered or obtained in that production month calculated in accordance with the following formula:

$$R\% = r_p\% + r_q\%$$

where

R% is the Crown’s royalty share of the methane or ethane expressed as a percentage of the methane or ethane on which the royalty is payable;

$r_p\%$ is the rate for price calculated pursuant to section 3 in relation to the methane or ethane;

$r_q\%$ is the rate for quantity calculated pursuant to section 4 in relation to the methane or ethane.

(2) Despite sections 3 and 4 of this Schedule, if R% for the purposes of subsection (1) is

- (a) less than 5%, R% is 5%, or
- (b) more than 50%, R% is 50%.

(3) For the purposes of Schedule 1, R% determined for methane shall be expressed as MR%, and R% determined for ethane shall be expressed as ER%

Calculation of rate for price

3(1) The $r_p\%$ is calculated in accordance with the following Table:

Rate for Price Table

Par Price	Formula
par price greater than zero and less than or equal to \$7.00/GJ	$r_p\% = [(par\ price - 4.50) \times 0.0450] \times 100$
par price greater than \$7.00/GJ and less than or equal to \$11.00/GJ	$r_p\% = [(par\ price - 7.00) \times 0.0300 + 0.1125] \times 100$
par price greater than \$11.00/GJ	$r_p\% = [(par\ price - 11.00) \times 0.0100 + 0.2325] \times 100$

(2) Where $r_p\%$ calculated under subsection (1) exceeds 30%, $r_p\%$ is deemed to be 30%.

(3) The $r_p\%$, determined in accordance with this section, may be less than or equal to 0%.

Calculation of rate for quantity

4(1) The $r_q\%$ is calculated in accordance with the following Table:

Rate for Quantity Table

Quantity	Formula
ADP greater than zero and less than or equal to $[6.0 \times 10^3 \text{ m}^3/\text{day} \times \text{DF}]$	$r_q\% = [(ADP - (4.0 \times \text{DF})) \times (0.0500/\text{DF})] \times 100$

[6.0 10 ³ m ³ /day x DF] greater than ADP and less than or equal to [11.0 10 ³ m ³ /day x DF]	$r_q\% = \{[ADP - (6.0 \times DF)] \times (0.0300/DF) + 0.1000\} \times 100$
ADP greater than [11.0 10 ³ m ³ /day x DF]	$r_q\% = \{[ADP - (11.0 \times DF)] \times (0.0100/DF) + 0.25000\} \times 100$

(2) Where $r_q\%$ calculated under subsection (1) exceeds 30%, $r_q\%$ is deemed to be 30%.

(3) $r_q\%$, determined in accordance with this section, may be less than or equal to 0%.

(4) For the purposes of this section, ADP for solution gas only is the sum of

- (a) the volumes of crude oil in cubic metres recovered in a month from the well event that is converted to volumes of natural gas in 10³m³ that the crude oil would occupy in gaseous form at standard temperature and under standard pressure, and
- (b) the total volume of natural gas recovered in a month from that well event in 10³m³

divided by the number of hours of operation of the well event in the production month and multiplied by 24.

(5) The conversion factor used to convert crude oil to natural gas in subsection (4) is 1.0686 10³m³ natural gas per cubic metre of crude oil.

Calculation of the acid gas factor

5(1) If, according to the records of the Board, the percentage of the natural gas recovered from a well event starting on January 1, 2009 production month, that is comprised of hydrogen sulphide and carbon dioxide exceeds 3% but is equal to or below 25% of the natural gas by volume, ADP for a well event is adjusted by multiplying ADP by AGF determined by using the formula:

$$AGF = 1.03 - (H_2S\% + CO_2\%)$$

where

AGF is the acid gas factor;

H₂S% is the percentage of the natural gas that is, according to the records of the Board, composed of hydrogen sulphide;

CO₂% is the percentage of the natural gas that is, according to the records of the Board, composed of carbon dioxide.

(2) If the AGF is

- (a) less than 0.78, the AGF is deemed to be 0.78, and
- (b) more than 1.00, the AGF is deemed to be 1.00.

(3) If the Board has no records as described in subsection (1), the AGF is deemed to be 1.00

Calculation of the depth factor

6(1) For the purposes of section 4 of this Schedule, DF for a well event for a production month is

- (a) one, in the case of a well event for which the measured depth is less than or equal to 2000 metres or for which a measured depth is not indicated in the Registry,
- (b) the square of the quotient of the measured depth of the well event divided by 2000 metres, in the case of a well event for which the measured depth is greater than 2000 metres and less than 4000 metres, and
- (c) 4, in the case of a well event for which the measured depth is greater than or equal to 4000 metres.

(2) For the purposes of subsection (1), and according to the records of the Board,

- (a) for a well containing one or more well events and no drains, the measured depth for each well event in the well is the longest distance, in metres, along the bore of the well from the kelly bushing of the well containing the well event to the base of the zone from which that well event is producing,
- (b) for a well containing one well event and one or more drains, the measured depth for that well event is the sum of
 - (i) the length, in metres, of the well event, from the kelly bushing of the well containing the well event to the base of the zone from which the well event is producing, and
 - (ii) the sum of the lengths, in metres, of all the drains in the well containing the well event, from the kick-off point of each drain to the base of the zone from which that drain is producing,

or

- (c) for a well not described in clause (a) or (b), the measured depth may be determined by the Minister.

Ethane Royalty Compensation

Ethane Transportation Allowance

7(1) For the purposes of this Schedule, the Transportation Allowance for any ethane for a production month is the amount determined in accordance with the following formula:

$$TA = (RTF - 1) D$$

where

TA is the Transportation Allowance for the ethane for the production month, which may be a positive or negative amount or zero;

RTF is the royalty trigger factor determined in accordance with subsection (2) for the production month for the royalty calculation point for the ethane;

D is the Ethane ISC Adjusted Intra Alberta Transportation Deduction for ethane for the production month.

(2) For the purposes of subsection (1), the royalty trigger factor for a production month for the royalty calculation point for any ethane is

- (a) if the gas obtained at the same gas processing plant or reprocessing plant as the ethane can only be delivered into a single pipeline through a single receipt meter station, the receipt meter station factor for the receipt meter station for the month, or
- (b) if the gas obtained at the same gas processing plant or reprocessing plant as the ethane can be delivered into one or more pipelines through more than one receipt meter station, the amount determined by rounding to the nearest hundredth, the amount determined by
 - (i) multiplying the quantity of gas delivered to each receipt meter station from that royalty calculation point in the production month by its receipt meter station factor,
 - (ii) determining the aggregate of the amounts calculated under subclause (i), and

- (iii) dividing the aggregate amount determined under subclause (ii) by the total quantity of gas delivered to all those receipt meter stations from that royalty calculation point in the production month.

Net Ethane Reference Price

8 For the purpose of this Schedule, the Net Ethane Reference Price in respect of the Crown's royalty share of any ethane for a production month is

- (a) the Ethane Reference Price for the production month
- minus
- (b) the Transportation Allowance for the ethane for the production month.

Ethane royalty compensation

9(1) Subject to subsection (2), the amount of royalty compensation on ethane for a production month is an amount calculated by multiplying the quantity of the royalty share by the Net Ethane Reference Price for that production month.

(2) Where

- (a) ethane is delivered pursuant to a contract under which the total consideration for sale of the ethane is paid on or before the date of commencement of deliveries of ethane under the contract, and
- (b) the Minister determines that the contract is a prepayment contract for the purposes of this section,

the royalty compensation payable in respect of the Crown's royalty share of the ethane delivered under the prepayment contract shall be calculated in accordance with subsection (1).

Schedule 3

Propane

Propane royalty quantity

1 The royalty reserved to the Crown on propane obtained in a production month is 30%.

Propane royalty compensation

2(1) The amount of royalty compensation on propane for a production month is an amount calculated by multiplying the quantity of the royalty share in cubic metres by the Net Propane Reference Price for that production month.

(2) For the purposes of this section, the Net Propane Reference Price for a production month is the Propane Reference Price for the production month minus the aggregate of the following:

- (a) the Transportation Allowance applicable to the propane, prescribed for the production month pursuant to section 7(7)(a) of this Regulation for the region in which is located the gas processing plant or reprocessing plant at which the propane is obtained;
- (b) the Fractionation Allowance for the production month, if applicable.

Schedule 4

Butanes

Butanes royalty quantity

1 The royalty reserved to the Crown on butanes obtained in a production month is 30%.

Butanes royalty compensation

2(1) The amount of royalty compensation on butanes for a production month is an amount calculated by multiplying the quantity of the royalty share in cubic metres by the Net Butanes Reference Price for that production month.

(2) For the purposes of this section, the Net Butanes Reference Price for a production month is the Butanes Reference Price for the production month minus the aggregate of the following:

- (a) the Transportation Allowance applicable to the butanes, prescribed for the production month pursuant to section 7(7)(a) of this Regulation for the region in which is located the gas processing plant or reprocessing plant at which the butanes are obtained;
- (b) the Fractionation Allowance for the production month, if applicable.

Schedule 5

Pentanes Plus

Pentanes plus royalty quantity

1 The royalty reserved to the Crown on pentanes plus obtained in a production month is 40%.

Pentanes plus royalty compensation

2(1) The amount of royalty compensation on pentanes plus for a production month is an amount calculated by multiplying the quantity of the royalty share in cubic metres by the Net Pentanes Plus Reference Price for that production month.

(2) For the purposes of this section, the Net Pentanes Plus Reference Price for a production month is the Pentanes Plus Reference Price for the production month minus the aggregate of the following:

- (a) the Transportation Allowance applicable to the pentanes plus, prescribed for the production month pursuant to section 7(7)(a) of this Regulation for the region in which is located the gas processing plant or reprocessing plant at which the pentanes plus are obtained;
- (b) the Fractionation Allowance for the production month, if applicable.

Schedule 6

Sulphur

Definitions

1 In this Schedule,

- (a) “corporate average price for sulphur” or “S-CAP”, in relation to a royalty client and a year, is the corporate average price for sulphur established for that royalty client for that year pursuant to section 3 of this Schedule;
- (b) “Sulphur Default Price”, in relation to a year, is the price determined from time to time by the Minister for the year pursuant to section 5 of this Schedule.

Sulphur royalty quantity

2 The royalty reserved to the Crown on sulphur obtained by processing natural gas is 16.66667% of the sulphur obtained.

Determination of royalty client's annual S-CAP

3(1) Subject to this section, a royalty client shall determine the client's corporate average price for sulphur for 2009 and each subsequent year if

- (a) the royalty client is required to furnish a report under section 4(4) of this Schedule, or elects to furnish a report under section 4(5) of this Schedule, in respect of the year, and
- (b) the quantity of sulphur disposed of by the client in the year to persons at arm's length from the client is not less than 10% of the total quantity of sulphur allocated to the client in that year.

(2) The corporate average price determined by a royalty client for a year is the amount calculated by dividing

- (a) the royalty client's total net revenue for sales of sulphur for the year, calculated in accordance with the Minister's directions,

by

- (b) the total number of tonnes of sulphur sold in the same year under sales referred to in clause (a).

(3) A royalty client's S-CAP for a year cannot be an amount per tonne less than zero.

(4) A royalty client's S-CAP for a year may be recalculated in accordance with the Minister's directions.

(5) A royalty client required under subsection (1) to determine the client's S-CAP for a year, and any person associated with that royalty client, must

- (a) whenever requested to do so by the Minister, consent to an audit or examination of the records of the royalty client or associated person that are or may be relevant to the determination of the royalty client's S-CAP for that year, and
- (b) co-operate with and give all reasonable assistance to the person conducting the audit or examination requested under clause (a) for the purpose of enabling that person to conduct the audit or examination satisfactorily.

(6) When an audit or examination is requested by the Minister under subsection (5), the royalty client or associated person has the choice of having the audit or examination conducted

- (a) by or on behalf of the Minister, at the Crown's expense, or
- (b) by an independent auditor approved by the Minister, at the expense of the royalty client and the persons associated with the royalty client or any one or more of them.

Report of sulphur disposition

4(1) A royalty client shall furnish to the Minister for each production month of 2009 and of each subsequent year a report respecting the quantities of sulphur disposed of by the client in each month if the Minister determines that the quantity of sulphur allocated to the client in the preceding year was 30 000 tonnes or more.

(2) A royalty client who is not required to furnish reports to the Minister under subsection (1) in respect of the production months of 2009 or a subsequent year, shall nonetheless furnish those reports for the 2nd and each subsequent production month of the year if the client elects to do so by furnishing the report in respect of the first production month of the year by the 15th day of the 2nd month following that first production month.

(3) A report furnished by a royalty client pursuant to subsection (1) or (2) in respect of a production month may, to the extent consented to by the Minister, include information regarding the quantities of sulphur disposed of by the client in any preceding production month.

(4) A royalty client shall furnish a report to the Minister for 2009 and each subsequent year in respect of which the client is required to furnish reports to the Minister under subsection (1) or (2) in relation to production months of the year, respecting the total quantity of sulphur disposed of by the royalty client in the year.

(5) A royalty client who is not required to furnish a report under subsection (4) in respect of a year may nonetheless elect to furnish a report under subsection (4) by furnishing the report to the Minister by the 15th day of April of the following year.

(6) A report required to be furnished

- (a) under subsection (1) or (2) in respect of a production month shall be furnished to the Minister by the 15th day of the 2nd month following the production month, and
- (b) under subsection (4) in respect of a year, shall be furnished to the Minister by the 15th day of April of the following year.

Sulphur royalty compensation

5(1) The amount of royalty compensation on sulphur allocated to the royalty client in a production month is an amount calculated by multiplying the quantity of the royalty share

- (a) by the royalty client's S-CAP for the year containing the month, in any case where clause (b) does not apply, or
- (b) by the Sulphur Default Price for the year containing the month if
 - (i) the quantity of sulphur disposed of by the royalty client in the year containing the month to persons at arm's length from the client is less than 10% of the total quantity of sulphur allocated to the client in that year,
 - (ii) the Minister determines that less than 30 000 tonnes of sulphur were allocated to the royalty client in the year preceding the year containing the month, and the client is not required to furnish a report under section 4(4) of this Schedule, and does not elect to furnish a report under section 4(5) of this Schedule, in respect of the year containing the month, or
 - (iii) the royalty client was given a direction under subsection (5) and the direction applies to the month.

(2) Subject to subsections (3) and (4), the Sulphur Default Price for a year is the price determined by dividing

- (a) the total net revenue for sales of sulphur by all royalty clients in the year to persons at arm's length with the clients, calculated in accordance with the Minister's directions,

by

- (b) the total number of tonnes of sulphur sold in the same year under sales referred to in clause (a).

(3) In determining the total net revenue referred to in subsection (2)(a), the net revenue from any sale included in the determination shall not be less than zero.

(4) Subject to section 38 of the Act, the Minister may from time to time recalculate the Sulphur Default Price for a year.

(5) If a royalty client or a person associated with the royalty client refuses to give consent to an audit or examination pursuant to section 3(5)(a) of this Schedule or fails to comply with section 3(5)(b) of this Schedule with respect to an audit or examination conducted under that

section, the Minister may direct that the royalty compensation on sulphur allocated to the royalty client in that year be calculated in accordance with subsection (1)(b).

(6) Subject to subsection (7), if a royalty client who is required to furnish a report under section 4(4) of this Schedule in respect of a year fails to furnish the report by the 15th day of April of the following year, the Minister may direct that the royalty compensation on sulphur allocated to the royalty client in that year be calculated in accordance with subsection (1)(b).

(7) Subject to section 38 of the Act, if a royalty client for whom the calculation of royalty compensation is subject to a direction by the Minister under subsection (6) subsequently furnishes the report required to be filed by it under section 4(4) of this Schedule in respect of a year, the Minister may, in accordance with subsection (1)(a), recalculate the royalty compensation on sulphur allocated to the royalty client in that year.

Schedule 7

Exemption for Otherwise Flared Solution Gas

Interpretation

1 In this Schedule,

- (a) “approved well event” means a well event approved by the Minister under section 2(1) of Schedule 8 of the 2002 Regulation or under section 2(1) of this Schedule;
- (b) “average daily production”, in relation to solution gas recovered from a well event in a production month, means the volumes of solution gas recovered from the well event in that production month in m³, divided by the number of hours of operation of the well event in the production month and multiplied by 24;
- (c) “bitumen battery” means a battery that is, according to the records of the Board, a bitumen battery;
- (d) “crude oil battery” means a battery that is, according to the records of the Board, a crude oil battery.

Exemption for solution gas

2(1) The Minister may, on application from the operator of a crude oil battery or a bitumen battery and on the recommendation of the Board,

- (a) approve, for the purposes of the exemption from royalty under subsection (4) or (5), a well event from which solution gas is recovered and delivered to the battery, and
- (b) specify an apportionment factor for the approved well event that is not more than 1.0, expressed as a decimal fraction.

(2) An application under subsection (1) must be received by the Minister within 6 months of the date when, according to the records of the Board, routine flaring or venting of all or part of the solution gas recovered from the well event permanently ceased.

(3) The Minister may extend the time by which an application must be received if, in the Minister's opinion, an extension is warranted in the circumstances.

(4) Subject to subsections (6) to (11), solution gas that is

- (a) recovered in a production month after September, 2002 from an approved well event,
- (b) delivered to a crude oil battery, and
- (c) used or consumed for some useful purpose and not injected

is exempt from the payment of royalty otherwise payable to the Crown under this Regulation.

(5) Subject to subsections (6) to (11), solution gas that is

- (a) recovered in a production month after December, 2008 from an approved well event,
- (b) delivered to a bitumen battery, and
- (c) used or consumed for some useful purpose and not injected

is exempt from the payment of royalty otherwise payable to the Crown under this Regulation.

(6) Where an apportionment factor is specified for an approved well event, the royalty exemption under subsection (4) or (5) applies only to the portion of the solution gas referred to in that subsection that is equal to the product of the quantity of the solution gas and the apportionment factor.

(7) Subject to subsections (9) and (10), a royalty exemption under subsection (4) or (5) applies in respect of solution gas recovered from an approved well event during the period of 120 consecutive months commencing with the month in which the application under subsection

(1) and section 2(1) of Schedule 8 of the 2002 Regulation in respect of the well event is received by the Minister.

(8) Where a well event was approved under section 12.1(2) of the 1994 Regulation,

- (a) the well event is deemed to be an approved well event for the purposes of this section, and
- (b) subject to subsections (10) to (12), the royalty exemption provided for under section 12.1(4) of the 1994 Regulation in respect of solution gas recovered from that approved well event continues for the remainder of the period of 120 consecutive months referred to in section 12.1(6)(b) of the 1994 Regulation.

(9) The Minister may terminate a royalty exemption under subsection (4), (5) or (8) in respect of solution gas recovered from an approved well event if

- (a) according to the records of the Board, the average daily production of solution gas recovered from the well event has exceeded 15 000 m³ in each of 3 consecutive production months commencing with any month after July, 2002,
- (b) the Minister receives a recommendation from the Board to terminate the exemption, and
- (c) the Minister is of the opinion that solution gas recovered from the well event should not be exempt from the payment of royalty under this section.

(10) The Minister may make the termination of a royalty exemption pursuant to subsection (9) effective commencing with the production month following the 3-month period referred to in that subsection or commencing with any subsequent production month.

(11) If the Minister terminates a royalty exemption pursuant to subsection (9), the Minister shall

- (a) give written notice of the termination to the operator of the crude oil battery or bitumen battery to which solution gas recovered from the well event is delivered, and
- (b) specify in the notice the production month specified by the Minister under subsection (10) as the initial production month in which the termination is effective.

(12) Qualifying batteries under the 1994 Regulation or the 2002 Regulation are not eligible to receive a royalty exemption under Schedule 7 of this Regulation.

Alberta Regulation 222/2008

Mines and Minerals Act

PETROLEUM ROYALTY REGULATION, 2009

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 594/2008) on December 10, 2008 pursuant to sections 5 and 36 of the Mines and Minerals Act.

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Schedule

Interpretation

1(1) In this Regulation,

- (a) "Board" means the Energy Resources Conservation Board or the Alberta Energy and Utilities Board;
- (b) "crude oil" means a mixture mainly of pentanes and heavier hydrocarbons
 - (i) that may be contaminated with sulphur compounds,
 - (ii) that is recovered or is recoverable at a well from an underground reservoir, and

- (iii) that is liquid at the conditions under which its volume is measured or estimated,
- and includes all other hydrocarbon mixtures so recovered or recoverable except natural gas, field condensate or crude bitumen;
- (c) “field condensate” means field condensate as defined in the *Natural Gas Royalty Regulation, 2009*;
- (d) “heavy oil” means the category of crude oil determined under section 4 as heavy oil;
- (e) “IETP costs” means allocable costs as defined in the *Innovative Energy Technologies Regulation (AR 250/2004)*;
- (f) “licence” means a licence for a well issued under the *Oil and Gas Conservation Act*;
- (g) “licensee” means the holder of a licence according to the records of the Board and includes a trustee or receiver-manager of property of a licensee;
- (h) “light oil” means the category of crude oil determined under section 4 as light oil;
- (i) “medium oil” means the category of crude oil determined under section 4 as medium oil;
- (j) “operator”, in respect of a well, means the person who is the operator according to the records of the Department;
- (k) “pool” means a natural underground reservoir containing or appearing to contain an accumulation of petroleum or natural gas separated or appearing to be separated from any other such accumulation;
- (l) “royalty” means royalty reserved to the Crown in right of Alberta;
- (m) “solution gas” means
- (i) gas that is separated from crude oil after recovery from a well, and
 - (ii) gas that is dissolved in crude oil under initial reservoir conditions and includes any of that gas that evolves as a result of changes in pressure or temperature, or both, due to human disturbance;

- (n) “ultra heavy oil” means the category of crude oil determined under section 4 as ultra heavy oil;
- (o) “well event” means
 - (i) a part of a well completed in a zone and given a unique well identifier by the Board,
 - (ii) parts of a well completed in 2 or more zones and given a single unique well identifier by the Board,
 - (iii) a part of a well completed in and recovering crude oil from a zone but which has not yet been given a unique well identifier by the Board, or
 - (iv) parts of a well completed in and recovering crude oil from 2 or more zones during the period when the parts are considered by the Minister as a single well event for the purposes of this Regulation and before the Board makes a decision whether or not to give the parts a single unique well identifier;
- (p) “zone” means any stratum or any sequence of strata that is designated by the Board as a zone.

(2) A reference in this Regulation to a month, whether by its name or not, shall be construed as the period commencing at 8:00 a.m. Mountain Standard Time on the first day of the month and ending immediately before 8:00 a.m. Mountain Standard Time on the first day of the next month.

Application of Regulation

2 This Regulation applies to royalty on crude oil and solution gas obtained from petroleum recovered from a well event on or after January 1, 2009.

s86 of the Mines and Minerals Act

3 Section 86 of the *Mines and Minerals Act* applies to all agreements granting petroleum and natural gas rights or petroleum rights and to crude oil obtained from petroleum recovered pursuant to those agreements.

Categories and densities of crude oil

4(1) The categories of crude oil and the density of each category are as specified in the following Table:

Crude Oil Category and Density Table

Category of Crude Oil	Density
light oil	less than 850 kilograms per cubic metre
medium oil	greater than or equal to 850 kilograms per cubic metre and less than 900 kilograms per cubic metre
heavy oil	greater than or equal to 900 kilograms per cubic metre and less than 925 kilograms per cubic metre
ultra heavy oil	greater than or equal to 925 kilograms per cubic metre

(2) The category for crude oil recovered from a well event during a month is determined by the Minister based on density information included in records provided to the Minister by the Board.

(3) In making a determination under subsection (2), the Minister may request and consider density information from the Alberta Petroleum Marketing Commission and the operator.

(4) If density information is not available to make a determination under subsection (2), the category for crude oil recovered from a well event during a month is light oil.

Prescribing par prices

5 The Minister may, with respect to any month, prescribe an amount per cubic metre as the par price for each of the following:

- (a) light oil;
- (b) medium oil;
- (c) heavy oil;
- (d) ultra heavy oil.

Royalty

6(1) The royalty on petroleum recovered from a well event pursuant to an agreement granting petroleum and natural gas rights, petroleum rights or natural gas rights is

- (a) that part of the crude oil obtained from the petroleum in each month calculated in accordance with the Schedule, and
 - (b) that part of the solution gas obtained from the petroleum in each month calculated in accordance with the *Natural Gas Royalty Regulation, 2009*.
- (2) The royalty on crude oil and solution gas must be free and clear of all deductions.

Adjustment of royalty

7(1) If IETP costs have been established and allocated to a well event, at the sole option of the Minister,

- (a) the Minister shall pay to the operator by the end of the next month the IETP costs established and allocated to the well event to an amount not exceeding the royalty calculated under section 6(1)(a) for the previous month multiplied by the par price prescribed under section 5 for the previous month applicable to that calculation, or
 - (b) the Alberta Petroleum Marketing Commission shall direct the operator to reduce the quantity of crude oil to be delivered in the next month under the *Petroleum Marketing Regulation* (AR 174/2006) by a quantity of crude oil calculated by dividing the IETP costs established and allocated to the well event by the par price prescribed under section 5 for the month in which the delivery is to occur to an amount not exceeding the royalty calculated for the previous month under section 6(1)(a).
- (2) Section 22 of the *Mines and Minerals Administration Regulation* (AR 262/97) does not apply in respect of any payment or delivery of crude oil under subsection (1).

(3) Where, by an order made pursuant to the *Oil and Gas Conservation Act*, the maximum allowable production from a well event is determined for a period in excess of one month, the royalty that has been calculated, levied and collected on crude oil shall, on application by the operator or licensee, at the end of that period be recalculated for each month during the period that crude oil was produced from the well event, and for that purpose the production of crude oil is deemed to have been produced at the same rate as specified in the order for each month of the period.

(4) If the royalty that has been levied and collected is in excess of the amount recalculated under subsection (3), a payment of the excess amount must be made in accordance with section 15 of the *Petroleum*

Marketing Regulation (AR 174/2006) as if the excess amount was an overdelivery of crude oil for the purposes of that section.

Crown tract in unit

8 If petroleum owned by the Crown is subject to a unit agreement or unit operation order, the unit area under the unit agreement or order is deemed to be a location for the purpose of determining the royalty calculated under section 2(1) of the Schedule applicable to the portion of the production allocated to any tract contained in an agreement.

Lesser royalty

9 Where in the opinion of the Lieutenant Governor in Council it is necessary or desirable in the interests of conservation or of maintaining or increasing the recovery of crude oil or natural gas from one or more well events in one or more wells, a pool or any portion of a pool, the Lieutenant Governor in Council may by order

- (a) prescribe a royalty with respect to the crude oil recovered from the one or more well events, the pool or portion of the pool, that is less than the royalty that would otherwise be deliverable under this Regulation, and
- (b) prescribe the period in respect of which the order is to apply.

Responsibility of operator

10 Where petroleum is recovered from a well in a month pursuant to an agreement, the operator of the well for that month is responsible as the agent of the lessee of the agreement for the delivery of the royalty on crude oil under the agreement in respect of that month.

Minister's decision final

11 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.

Consequential amendments

12(1) The *Enhanced Recovery of Oil Royalty Reduction Regulation* (AR 348/93) is amended by this section.

(2) Section 1 is amended

- (a) in clause (j) by striking out "section 1.1(4) of";**
- (b) by repealing clause (k) and substituting the following:**

- (k) “*Petroleum Royalty Regulation*” means, in respect of a month prior to January 2009, the *Petroleum Royalty Regulation* (AR 248/90), and in respect of January 2009 or a subsequent month, the *Petroleum Royalty Regulation, 2009*;

(3) The following is added after section 27:

Rebate for pre-1994 injection costs

27.1(1) In this section, “remaining total” means remaining total, as defined in section 9 of the *Petroleum Royalty Regulation* (AR 248/90) as of December 31, 2008, less reductions made under subsection (2)(a).

(2) The Minister may

- (a) rebate an amount not exceeding 5% of the royalty payable on crude oil for a month if the remaining total is reduced by an amount equal to the same percentage of the selling price or fair value of the crude oil on which the royalty on crude oil for the month is based, or
- (b) rebate a single lump sum amount determined by the Minister in respect of the remaining total, after which the remaining total is zero.

Consequential amendments

13(1) The *Experimental Project Petroleum Royalty Regulation* (AR 65/92) is amended by this section.

(2) The following is added after section 1:

Application of Regulation

1.1 This Regulation applies to experimental oil won, worked, recovered or obtained on or before December 31, 2008.

(3) The following is added after section 8:

Expiry

9 This Regulation expires on June 30, 2014.

Consequential amendments

14(1) The *Horizontal Re-entry Well Royalty Reduction Regulation* (AR 348/92) is amended by this section.

(2) Section 1.1 is amended by adding “on or before December 31, 2008” after “eligible oil if it is obtained”.

(3) Section 5(1) and (2) are amended by striking out “prior to September 1, 2012” **and substituting** “on or before December 31, 2008”.

(4) Section 6(1)(f) is amended by adding “and on or before December 31, 2008” **after** “August 31, 2007”.

(5) Section 10 is amended by striking out “December 31, 2017” **and substituting** “June 30, 2014”.

Consequential amendments

15(1) The *Innovative Energy Technologies Regulation* (AR 250/2004) is amended by this section.

(2) Section 1(1) is amended

(a) in clauses (c) and (i) by striking out “*Oil Sands Royalty Regulation, 1997* (AR 185/97)” **and substituting** “*Oil Sands Royalty Regulation, 2009*”;

(b) in clause (j) by striking out “*Natural Gas Royalty Regulation, 2002* (AR 220/2002)” **and substituting** “*Natural Gas Royalty Regulation, 2009*”;

(c) in clause (k) by striking out “*Petroleum Royalty Regulation* (AR 248/90)” **and substituting** “*Petroleum Royalty Regulation, 2009*”.

Consequential amendments

16(1) The *Low Productivity Well Royalty Reduction Regulation* (AR 350/92) is amended by this section.

(2) Section 2(a) is amended by adding “and on or before December 31, 2008” **after** “December 1992”.

(3) Section 2.1(1) is amended by adding “on or before December 31, 2008” **after** “eligible oil if it is obtained from a low productivity well”.

(4) Section 3(3) is amended by adding “and on or before December 31, 2008” **after** “August 31, 2007”.

(5) Section 4(1)(g) by adding “and on or before December 31, 2008” **after** “August 31, 2007”.

(6) Section 10 is repealed and the following is substituted:

Expiry

10 This Regulation expires on June 30, 2014.

Consequential amendments

17(1) The *Petroleum and Natural Gas Tenure Regulation* (AR 263/97) is amended by this section.

(2) Section 23(2) is amended

(a) in clause (a)(ii) by adding “and before January 1, 2009” after “February, 2000” and by adding “, and” after “spacing unit”;

(b) by adding the following after clause (a)(ii):

(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,

(c) in clause (b) by striking out “or the *Natural Gas Royalty Regulation, 2002*” and substituting “, the *Natural Gas Royalty Regulation, 2002* (AR 220/2002) or the *Natural Gas Royalty Regulation, 2009*”.

(3) The following is added after section 26:

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 Energy Resources Conservation Board 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.

Consequential amendments

18(1) The *Petroleum Royalty Regulation* (AR 248/90) is amended by this section.

(2) Section 1 is amended

(a) in subsection (1.1) by striking out “A” and substituting “Subject to subsection (1.2), a”;

(b) by adding the following after subsection (1.1):

(1.2) For the purposes of this Regulation, the month of December, 2008 shall be construed as the period commencing at 7:00 a.m. Mountain Standard Time on the first day of the month and ending immediately before 8:00 a.m. Mountain Standard Time on the first day of January, 2009.

(3) The following is added after section 1:

Application of Regulation

1.01 This Regulation applies to royalty on crude oil and solution gas obtained from petroleum recovered from a well event on or before December 31, 2008.

(4) Section 2.1 is amended by adding “prior to January 1, 2009” after “for a month”.

(5) The following is added after section 23:

Expiry

24 This Regulation expires on June 30, 2014.

Consequential amendments

19(1) The *Reactivated Well Royalty Exemption Regulation* (AR 352/92) is amended by this section.

(2) Section 2.1(1) is amended by adding “on or before December 31, 2008” **after** “eligible oil if it is obtained from a reactivated well”.

(3) Section 3(1) is amended by adding “on or before December 31, 2008” **after** “Eligible oil obtained from a reactivated well”.

(4) Section 4(1)(g) is amended by adding “and on or before December 31, 2008” **after** “August 31, 2007”.

(5) Section 10 is repealed and the following is substituted:

Expiry

10 This Regulation expires on June 30, 2014.

Consequential amendments

20 The *Regulations Act Regulation* (AR 288/99) is amended in section 17(1)(s) by adding “or section 5 of the *Petroleum Royalty Regulation, 2009*” **after** “(AR 248/90)”.

Consequential amendments

21(1) The *Third Tier Exploratory Well Royalty Exemption Regulation* (AR 16/93) is amended by this section.

(2) Section 2(1)(b) by adding “and on or before December 31, 2008” **after** “September 30, 1992”.

(3) Section 3(2) is amended by striking out “or” **at the end of clause (a), by adding** “or” **at the end of clause (b) and by adding the following after clause (b):**

(c) until December 31, 2008,

(4) The following is added after section 13:

Expiry

14 This Regulation expires on June 30, 2014.

Expiry

22 For the purpose of ensuring that this Regulation is reviewed, 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.

Coming into force

23 This Regulation comes into force on January 1, 2009.

Schedule

Crown Royalty Share of Crude Oil

Definitions

1 In this Schedule,

- (a) “Crown interest” means the percentage of Crown ownership of crude oil recovered from a well event as determined by the Minister in accordance with section 26.1 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
- (b) “par price” means the par price prescribed under section 5 of the Regulation applicable to the category of crude oil determined by the Minister under section 4 of the Regulation;
- (c) “quantity” means the monthly production in cubic metres of crude oil from a well event according to the records of the Board.

Calculation of Crown royalty share

2(1) Subject to subsection (2), the royalty for a month is the amount calculated in accordance with the following formula:

$$\text{royalty in cubic metres} = (r_p\% + r_q\%) \times \text{quantity} \times \text{Crown interest}$$

where

$r_p\%$ is the percentage rate for price calculated in accordance with section 3;

$r_q\%$ is the percentage rate for quantity calculated in accordance with section 4.

(2) Where the calculation of $(r_p\% + r_q\%)$

- (a) is less than 0%, the amount is 0%, or
- (b) is more than 50%, the amount is 50%.

Calculation of rate for price

3(1) The $r_p\%$ is calculated in accordance with the following Table:

Rate for Price Table

Par Price	Formula
par price greater than zero and less than or equal to \$250.00 per cubic metre	$r_p\% = ((\text{par price} - 190.00) \times 0.0006) \times 100$
par price greater than \$250.00 per cubic metre and less than or equal to \$400.00 per cubic metre	$r_p\% = [((\text{par price} - 250.00) \times 0.0010) + 0.0360] \times 100$
par price greater than \$400.00 per cubic metre	$r_p\% = [((\text{par price} - 400.00) \times 0.0005) + 0.1860] \times 100$

(2) Where the $r_p\%$ calculated under subsection (1) exceeds 35%, the $r_p\%$ is deemed to be 35%.

Calculation of rate for quantity

4(1) The $r_q\%$ is calculated in accordance with the following Table:

Rate for Quantity Table

Quantity	Formula
quantity greater than zero and less than or equal to 106.4 cubic metres	$r_q\% = ((\text{quantity} - 106.4) \times 0.0026) \times 100$
quantity greater than 106.4 cubic metres and less than or equal to 197.6 cubic metres	$r_q\% = ((\text{quantity} - 106.4) \times 0.0010) \times 100$
quantity greater than 197.6 cubic metres and less than or equal to 304.0 cubic metres	$r_q\% = [((\text{quantity} - 197.6) \times 0.0007) + 0.0912] \times 100$
quantity greater than 304.0 cubic metres	$r_q\% = [((\text{quantity} - 304.0) \times 0.0003) + 0.1657] \times 100$

(2) Where the $r_q\%$ calculated under subsection (1) exceeds 30%, the $r_q\%$ is deemed to be 30%.

Alberta Regulation 223/2008

Mines and Minerals Act

OIL SANDS ROYALTY REGULATION, 2009

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 595/2008) on December 10, 2008 pursuant to sections 5 and 36 of the Mines and Minerals Act.

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**Part 1
General**

Interpretation

1(1) In this Regulation,

- (a) “Act” means the *Mines and Minerals Act*;
- (b) “allowed cost” means costs or other amounts that are allowed costs under the *Oil Sands Allowed Costs (Ministerial) Regulation*;
- (c) “blended bitumen” means cleaned crude bitumen blended with diluent;
- (d) “Board” means the Energy Resources Conservation Board or the Alberta Energy and Utilities Board;
- (e) “cogeneration plant” means a plant that is approved under the *Hydro and Electric Energy Act* and produces electricity concurrently with thermal energy;
- (f) “core or supporting asset” means, in relation to a Project,
 - (i) a capital asset without which oil sands or oil sands products to be recovered or obtained pursuant to the Project could not physically be so recovered or obtained, or
 - (ii) a capital asset necessary for the operation and maintenance of a capital asset described in subclause (i),but does not include an overhead asset;
- (g) “cost of diluent” means the cost of diluent determined under section 22(3);
- (h) “crude bitumen” means a viscous mixture, mainly of hydrocarbons heavier than pentanes, that may contain sulphur compounds and that is obtained from oil sands;
- (i) “description of the Project” means,
 - (i) in relation to a Project other than a Prior Project, the description specified for the Project pursuant to sections 11(4)(b) and 14, and

- (ii) in relation to a Prior Project, the description specified for the Prior Project pursuant to sections 16(2)(a)(i) and 17(1)(d) of the Prior Regulation or pursuant to a contract under section 9(a) of the Act relating to the Prior Project,

as that description may be amended from time to time;
- (j) “development area” means
 - (i) in relation to a Project other than a Prior Project, the area and strata described pursuant to section 14(1)(d), and
 - (ii) in relation to a Prior Project, the area and strata described pursuant to section 17(1)(d)(i) of the Prior Regulation,

from which oil sands or oil sands products are to be recovered pursuant to the Project, as that area and strata may be amended from time to time;
- (k) “diluent” means hydrocarbon substances used to dilute crude bitumen;
- (l) “diluent recovery unit” means a processing plant or part of a processing plant at which diluent is separated from blended bitumen;
- (m) “effective date” means,
 - (i) in respect of a Prior Project, the effective date referred to in section 1(1)(i) of the Prior Regulation or deemed by a contract under section 9(a) of the Act to have been specified for the Prior Project,
 - (ii) in respect of a Project other than a Prior Project, the effective date specified under section 11(4)(d),
 - (iii) in respect of a Prior Project expansion, the effective date referred to in section 1(1)(ii) of the Prior Regulation, and
 - (iv) in respect of a Project expansion, the effective date specified under section 11(5)(d) for the amendment relating to the Project expansion;
- (n) “gross revenue” means, in relation to a Project, the gross revenue of the Project determined in accordance with section 22(2);

- (o) “IETP costs” means allocable costs as defined in the *Innovative Energy Technologies Regulation* (AR 250/2004);
- (p) “lessee” means,
 - (i) in relation to a Project, a lessee of an agreement, the location of which includes the whole or a part of the development area of a Project,
 - (ii) in relation to a non-Project well event, a lessee of the agreement pursuant to which an oil sands product is recovered from the non-Project well event, and
 - (iii) in relation to a non-Project mining operation, a lessee of the agreement pursuant to which oil sands is recovered by the non-Project mining operation;
- (q) “net loss” means, in relation to a Project, the net loss of the Project determined in accordance with section 24(3);
- (r) “net revenue” means, in relation to a Project, the net revenue of the Project determined in accordance with section 24(2);
- (s) “non-Project mining operation” means a mining operation, as defined in the *Oil Sands Conservation Act*, that is not part of a Project;
- (t) “non-Project well event” means a well event from which an oil sands product is recovered and that is not part of a Project;
- (u) “oil sands product” means
 - (i) any product recovered from oil sands,
 - (ii) any product obtained by processing oil sands, and
 - (iii) any other product obtained directly or indirectly from a product referred to in subclause (i) or (ii),but does not include solution gas;
- (v) “operator” means the person who from time to time is shown in the records of the Department as the operator of a Project, proposed Project, non-Project mining operation or the well containing a non-Project well event, as the case may be, or if no such person is shown in the records of the Department, the person who from time to time is shown in those records as the lessee of the Project, proposed Project, non-Project mining operation or non-Project well event, respectively;

- (w) “other net proceed” means an amount specified, determined or deemed to be an other net proceed under section 23;
- (x) “overhead asset” means, in relation to a Project, a capital asset that is used in connection with the functions and other items described in section 1(1)(b)(i) to (vi) of the *Oil Sands Allowed Costs (Ministerial) Regulation*;
- (y) “Period” means each calendar year or partial calendar year comprising the months between the effective date of a Project and the date the approval of the Project under section 16 of the Prior Regulation, a contract under section 9(a) of the Act or section 11 of this Regulation, as the case may be, is revoked, except that where the Project payout date of a Project occurs during the calendar year or partial calendar year, the months of the portion of the calendar year or partial calendar year that ends on the day before the Project payout date and the months of the portion of the calendar year or partial calendar year that commences on the Project payout date shall each be considered separate Periods;
- (z) “post-payout Period” means each Period commencing on or after the Project payout date;
- (aa) “pre-payout Period” means each Period commencing before the Project payout date;
- (bb) “Prior Approval” means an approval given under section 16 of the Prior Regulation and subsisting on January 1, 2009, whether given pursuant to an application under section 15 of the Prior Regulation or pursuant to the provisions of a contract under section 9(a) of the Act;
- (cc) “prior net cumulative balance” means,
 - (i) in relation to a Project that is not a Prior Project, the amount determined under section 15 or 16 as the prior net cumulative balance of the Project,
 - (ii) in relation to a Project expansion, the amount determined under section 15 or 16 as the prior net cumulative balance of the Project expansion,
 - (iii) in relation to a Prior Project, the amount specified under section 16(2)(a)(iii) of the Prior Regulation as the prior net cumulative balance of the Prior Project, and
 - (iv) in relation to a Prior Project expansion, the amount specified under section 16(2)(b)(iii) of the Prior

- Regulation as the prior net cumulative balance of the Prior Project expansion,
- as that amount has been or is amended from time to time pursuant to this Regulation or the Prior Regulation, as the case may be;
- (dd) “Prior Project” means, subject to section 50(2), a scheme or operation approved in a Prior Approval;
- (ee) “Prior Project expansion” means an addition to a Prior Project that is included in the description of the Project under section 16 of the Prior Regulation by virtue of section 16(2)(b)(i) of that Regulation;
- (ff) “Prior Regulation” means the *Oil Sands Royalty Regulation, 1997* (AR 185/97);
- (gg) “processing plant” means a facility
- (i) for obtaining crude bitumen from oil sands that have been recovered, or
 - (ii) for obtaining oil sands products from oil sands, crude bitumen or a derivative of crude bitumen that have been recovered,
- that is approved under the *Oil Sands Conservation Act*;
- (hh) “Project” means a project approved in one or more subsisting approvals under section 11, and includes a Prior Project;
- (ii) “Project expansion” means an addition to a Project that is included or incorporated in the description of the Project under section 11 by virtue of section 11(5)(b);
- (jj) “Project lands” means, in relation to a Project,
- (i) the development area of the Project, and
 - (ii) the surface areas occupied by the Project
- specified from time to time in the description of the Project;
- (kk) “Project operations” means
- (i) in relation to a Project other than a Prior Project, the description referred to in section 14(1)(a) of the approval granted under section 11 in respect of the Project, as that description may be amended from time to time, and

- (ii) in relation to a Prior Project, the operations described in the description of the Project for the Prior Project, as that description may be amended from time to time;
- (ll) “Project payout date” means the date a Project achieves payout in accordance with section 25;
- (mm) “Project revenue” means the amount determined as the Project revenue of the Project under section 22;
- (nn) “Project substances” means oil sands and oil sands products recovered, whether before, on or after the effective date of a Project, from the development area of the Project;
- (oo) “Project use threshold” means 75%;
- (pp) “royalty calculation point” means,
 - (i) in relation to an oil sands product, or blended bitumen containing crude bitumen, obtained pursuant to a Project that is a Project substance, the place specified in section 30(1) or (2) at which the Crown’s royalty share of the oil sands product or crude bitumen is to be calculated, or
 - (ii) in relation to an oil sands product, or blended bitumen containing crude bitumen, obtained pursuant to a Project that is not a Project substance, the place specified in section 30(3) as the royalty calculation point for the oil sands product or the blended bitumen, as the case may be;
- (qq) “royalty compensation” means money payable to the Crown under this Regulation as compensation in respect of the Crown’s royalty share of oil sands or oil sands products, the Crown’s title to which is transferred pursuant to sections 26, 27 or 31;
- (rr) “solution gas” means gas dissolved in crude bitumen under initial reservoir conditions and includes any of that gas that evolves as a result of changes in pressure due to human disturbance, but does not include gas produced through chemical alteration of crude bitumen using high temperature, high pressure, a catalyst or otherwise;
- (ss) “synthetic crude oil” means a mixture, mainly of pentanes and heavier hydrocarbons, that may contain sulphur compounds, that is obtained from crude bitumen and that is liquid at a temperature of 15 degrees Celsius and at a pressure of 101.325 kilopascals;

(tt) “unit price” means, in relation to each oil sands product obtained pursuant to a Project and delivered at a royalty calculation point of the Project for that kind of product during a month or Period, including blended bitumen containing crude bitumen so obtained or recovered and delivered, the price determined under section 32 in respect of that product for that month or Period, as the case may be;

(uu) “well event” means

- (i) a part of a well completed in a zone and given a unique well identifier by the Board,
- (ii) parts of a well completed in 2 or more zones and given a single unique well identifier by the Board,
- (iii) a part of a well completed in and recovering crude bitumen from a zone but which has not yet been given a unique well identifier by the Board, or
- (iv) parts of a well completed in and recovering crude bitumen from 2 or more zones during the period when the parts are considered by the Minister as a single well event for the purposes of this Regulation and before the Board makes a decision whether or not to give the parts a single unique well identifier.

(2) In this Regulation, “cleaned crude bitumen” means

- (a) crude bitumen from which impurities have been removed sufficiently to allow it, when blended with diluent, to be transported by pipeline,
- (b) crude bitumen delivered from
 - (i) a Project to a processing plant that is not included in the description of the Project, or
 - (ii) the part of a processing plant that is included in the description of a Project to another part of the processing plant that is not included in the description of the Project,

where the processing plant is, for the purposes of this clause, designated by the Minister in a subsisting designation as an integrated upgrader, and

- (c) crude bitumen delivered from a diluent recovery unit that is the last facility of a Prior Project from which the product is permanently removed from the Prior Project.

(3) In using the definition of “cleaned crude bitumen” for the purposes of this Regulation, crude bitumen described in subsection (2)(b) and (c) is deemed to have had impurities removed from it.

Affiliate rules

2(1) For the purposes of this Regulation, a person is affiliated with another person if, under subsection 1206(5) of the *Income Tax Regulations* under the *Income Tax Act* (Canada), the person is considered to be connected with the other person, but in making that determination, paragraph 1206(5)(a) shall be read as if it were replaced by the following:

- (a) a person and another person (in this paragraph referred to as “that other person”) are connected with each other if
 - (i) the person and that other person are not dealing at arm’s length,
 - (ii) the person has an equity percentage in that other person that is not less than 10%, or
 - (iii) where the person is a corporation, the corporation and that other person are linked by another person who has an equity percentage in each of them of not less than 10%;

(2) For the purposes of subsection (1)(a)(i), persons are not dealing at arm’s length with each other if, under the *Income Tax Act* (Canada), they would not be considered to be dealing at arm’s length.

(3) For the purposes of this Regulation, other than subsection (1)(a)(i), a transaction is, subject to subsection (4), a non-arm’s length transaction if

- (a) a party to the transaction is affiliated with any other party to the transaction,
- (b) any party to the transaction is in a position to compel any other party to the transaction to enter into the transaction, or
- (c) the consideration for any party under the transaction is in whole or in part based on or tied to
 - (i) any other contractual or other obligation with another party to the transaction, or
 - (ii) any consideration under a contractual or other obligation described in subclause (i),

but does not include any transaction to which the only parties are the Crown and another party.

(4) Despite subsection (3), the Minister may, on application by the operator of a Project or on the Minister's own initiative, determine that a transaction is an arm's length transaction.

(5) The Minister may revoke a determination made under subsection (4) effective as of the date of any change in the circumstances relied on by the Minister to make the determination or as of any later date.

(6) For the purposes of this Regulation, other than subsection (1)(a)(i), a transaction is an arm's length transaction if it is not a non-arm's length transaction under subsection (3) or so long as it is determined by the Minister to be an arm's length transaction pursuant to a subsisting determination under subsection (4).

Month

3 Where any reference is made in this Regulation to a month, whether by its name or not, the reference shall, except to the extent otherwise specified by the Minister in respect of any particular Project, non-Project mining operation or non-Project well event, be construed as being the period commencing at 8:00 a.m. on the first day of that month and ending immediately before 8:00 a.m. on the first day of the next month, except that the month of January of 2009 shall be construed as commencing at midnight on December 31, 2008.

Recovery and disposition presumption

4(1) Where any reference is made in a provision of this Regulation to any oil sands product recovered from a place specified in the provision, the reference shall, where the context requires, be construed as referring to an oil sands product obtained from oil sands or another oil sands product recovered from that place.

(2) Where any reference is made in this Regulation to the disposing or disposition of any thing, the reference shall be construed as referring to a sale or any other disposition of the thing to a person who by reason of the sale or disposition becomes its owner.

Submissions

5(1) If this Regulation requires or permits anything to be furnished or an amount to be paid to the Minister on or before a day, the thing shall be considered furnished or the amount shall be considered paid, as the case may be, if it is received by the Department on or before that day.

- (2) Any document required or permitted to be furnished to the Minister under this Regulation must be in the form determined by the Minister or in a form otherwise acceptable to the Minister.
- (3) Unless otherwise directed by the Minister, any document required or permitted to be furnished under this Regulation must
- (a) contain all the information called for by the form determined by the Minister, if any, for the document,
 - (b) be completed in accordance with any directions given by the Minister or any instructions shown in the form determined by the Minister, if any, for the document, and
 - (c) be accompanied by any additional information or documents called for by the form of the document or by any directions given by the Minister.
- (4) Subject to section 10(6), the Minister may reject a document that does not meet the requirements of subsections (2) and (3), and in that case the document shall, for the purposes of this Regulation, be considered not to have been furnished.

Measurement

- 6(1)** Subject to subsections (2) and (3), measurement and calculation of oil sands, oil sands products or blended bitumen for the purposes of this Regulation shall be undertaken in accordance with
- (a) the regulations under the Act governing such measurement or calculation,
 - (b) the enactments governing such measurement or calculation, administered from time to time by the Board, to the extent such measurement or calculation
 - (i) is not addressed by the regulations referred to in clause (a), and
 - (ii) is, in relation to the use of the results of the measurement or calculation for the purposes of this Regulation, the *Oil Sands Allowed Costs (Ministerial) Regulation* or the *Bitumen Valuation Methodology (Ministerial) Regulation*, acceptable to the Minister,
- or
- (c) the directions of the Minister governing such measurement or calculation, to the extent such measurement or calculation is not addressed under clauses (a) and (b).

(2) If a measurement or calculation is not undertaken in accordance with subsection (1) or at all, the Minister may authorize calculation in accordance with the directions of the Minister, in lieu of measurement or calculation in accordance with subsection (1).

(3) If calculation is not undertaken in accordance with subsection (2), the Minister may undertake the calculation.

Other royalty liability

7 Nothing in this Regulation operates to relieve a lessee from

- (a) the lessee's liability to the Crown under an agreement for the payment of royalty, or
- (b) the lessee's liability under this Regulation to pay to the Crown royalty compensation in respect of the Crown's royalty share of oil sands or an oil sands product.

Prescribed components

8 The Minister may, by order, with respect to any month, prescribe the following:

- (a) an amount per tonne as the par price for oil sands;
- (b) a percentage as the estimated annual R_N % for the month;
- (c) a percentage as the estimated annual R_G % for the month;
- (d) a percentage as the Third Party Disposition Threshold for the month;
- (e) a transportation allowance for a Project for the month for a kind of oil sands product obtained pursuant to a Project.

Application of Regulation

9 Unless otherwise provided in this Regulation, this Regulation applies

- (a) to oil sands products recovered from a non-Project well event on or after January 1, 2009,
- (b) to oil sands recovered by a non-Project mining operation on or after January 1, 2009,
- (c) to oil sands products recovered or obtained pursuant to a Project and delivered at a royalty calculation point for the product on or after January 1, 2009,

- (d) to each Period of a Project that commences on or after January 1, 2009, and
- (e) to the determination of the Crown's royalty share, and of the royalty compensation payable in relation to the Crown's royalty share, of the oil sands and oil sands products referred to in clauses (a), (b) and (c).

Part 2 Projects

Applications

10(1) The lessees of an agreement may apply to the Minister for approval of a proposed Project for the recovery of oil sands and oil sands products from the whole or a part of the location of the agreement if the proposed Project

- (a) includes the whole or a part of one or more schemes or operations for such recovery, approved by the Board under the *Oil Sands Conservation Act*,
- (b) contemplates such recovery only from oil sands rights owned by the Crown in right of Alberta, and
- (c) includes a processing plant for obtaining crude bitumen from oil sands so recovered, if a scheme or operation referred to in clause (a) is a mining operation.

(2) In addition to satisfying the requirements of section 5(2) and (3), an application under subsection (1) must include at least the following:

- (a) a proposed description of Project operations;
- (b) a listing and description of the kinds of oil sands products to be recovered or obtained pursuant to the Project;
- (c) a description of the capital assets proposed to be included in the Project, including whether any such assets will be located other than on Project lands;
- (d) a description of all other assets that are expected to be of material relevance to Project operations;
- (e) a proposed description of Project lands;
- (f) a listing and description of non-arm's length transactions expected to occur for the supply of any capital assets, goods or services for the Project, or for the supply of any capital assets, goods or services produced or generated pursuant to the Project other than for the purposes of the Project;

- (g) a proposed effective date for the Project;
- (h) a proposed calculation of the prior net cumulative balance for the Project;
- (i) the name of the operator of the Project.

(3) An application may be made for approval of a proposed amendment to a Project by

- (a) the lessees of the Project, and
- (b) any lessees of agreements, the whole or a part of the location of which are proposed to be added to the development area of the Project by the proposed amendment,

if the requirements in subsection (1)(a), (b) and (c) would continue to be satisfied despite the amendment.

(4) In addition to satisfying the requirements of section 5(2) and (3), an application under subsection (3) must include at least the following contemplated by or relating to the amendment:

- (a) a description of any material changes to Project operations;
- (b) a description of any change in the kinds of oil sands products to be recovered or obtained pursuant to the Project;
- (c) a description of any capital assets proposed to be added to or removed from the Project, including whether any to be added will be located other than on Project lands;
- (d) a description of any other assets that are expected to be of material relevance to Project operations and that were not disclosed in a previous application for which an approval was granted under section 11 in respect of the Project;
- (e) a description of any addition to or deletion from Project lands;
- (f) any addition or other change to the listing and description of non-arm's length transactions described in subsection (2)(f) disclosed in a previous application for which an approval was granted under section 11 in respect of the Project;
- (g) a proposed effective date for the amendment;
- (h) a proposed calculation of the prior net cumulative balance of a Project expansion, if any;

- (i) a proposed calculation of other net proceeds arising in relation to any capital assets to be removed from the Project.

(5) Each lessee who has made an application under this section or section 15(1) or (3) of the Prior Regulation, and the operator of the Project or proposed Project to which the application relates shall, whenever requested to do so by the Minister,

- (a) provide the Minister in accordance with the request, with any additional information specified in the request that is not already required to be provided pursuant to section 5(2) or (3),
- (b) consent to, and provide access in accordance with the request for, an examination of the records of the lessee or operator that, in the Minister's opinion, are or may be relevant to any information required to be provided in or with the application or required to be provided pursuant to clause (a), and
- (c) co-operate with and give all reasonable assistance in accordance with the request, to the person conducting the examination under clause (b).

(6) If an application under subsection (1) or (3) does not satisfy the requirements of section 5(2) and (3) or of subsection (1), (2), (3) or (4) of this section, as the case may be, or if a lessee or operator does not comply with subsection (5) in relation to an application, the Minister may, by written notice,

- (a) reject the application, or
- (b) notify the lessees of the deficiencies or non-compliance and the period of time within which the lessees must rectify the deficiencies or non-compliance, and reject the application if the deficiencies or non-compliance are not rectified within that period.

(7) Subject to section 11(7), an application that is rejected by the Minister may not be revived, however nothing in this section precludes the lessees who made the rejected application from submitting a new application under this section in relation to the proposed Project or amendment.

Approvals

11(1) The Minister may by order approve a Project for which an application for approval is made under section 10(1) of this Regulation or section 15(1) of the Prior Regulation, or reject the application, and in doing so shall, without limitation, take into consideration at least the following:

- (a) whether the Project will be substantially operationally integrated and operated under common management;
- (b) whether any part of the Project, other than a processing plant for the obtaining of synthetic crude oil from oil sands or crude bitumen, is more than 50 kilometres distant from any other part of the Project;
- (c) whether all the parts of the Project, other than a processing plant referred to in clause (b), are substantially geographically contiguous;
- (d) whether any parts of the Project will be located outside Alberta;
- (e) whether the Project, if it is not a demonstration project,
 - (i) will predominantly generate net revenue rather than net losses, and
 - (ii) can reasonably be expected to achieve payout as described in section 25during the period the Project is expected to be conducted;
- (f) whether the Project is likely to exceed the maximum production capacity and the maximum period of time for expansion of the Project's production capacity that the Minister considers appropriate for the Project.

(2) Subject to subsection (3), the Minister may by order approve an amendment to a Project for which an application for approval is made under section 10(3) of this Regulation or section 15(3) of the Prior Regulation, or reject the application, and in doing so shall, without limitation, take into consideration at least

- (a) the items referred to in subsection (1)(a) to (f), and
- (b) the overall impact the Minister anticipates the amendment will have on royalty payable to the Crown, in relation to both the Project and otherwise, where the Minister makes the determination of overall impact using, as the discount rate to determine the present value of future royalty payments, the Minister's estimate of the return allowance rate, as defined in the *Oil Sands Allowed Costs (Ministerial) Regulation*, for the period for which the present value is being determined by the Minister.

(3) Subsection (2)(b) does not apply if

- (a) the amendment that is the subject-matter of the application relates to a proposed Project expansion for a Project, and
- (b) the Minister,
 - (i) in approving the Project pursuant to subsection (1), has already considered the proposed Project expansion when considering the Project for the purposes of the consideration referred to in clause (e) of that subsection, or
 - (ii) in approving the Project pursuant to section 16(1) of the Prior Regulation, has already considered the proposed Project expansion when considering the Project for the purposes of the consideration referred to in section 17(3)(f) of that Regulation,

and determined that the Project, contemplating the potential inclusion of the proposed Project expansion, was acceptable in relation to that consideration.

(4) An order under subsection (1) approving a Project must specify at least the following:

- (a) a name for the Project;
- (b) a description of the Project;
- (c) the prior net cumulative balance of the Project;
- (d) the effective date of the Project;
- (e) any terms and conditions to which the approval is subject, including, without limitation, the maximum production capacity of the Project and the maximum period of time for expansion of the production capacity of the Project.

(5) An order under subsection (2) approving an amendment to a Project must specify at least the following contemplated by or relating to the amendment:

- (a) any change to the name of the Project;
- (b) any change to the description of the Project, or a restated description of the Project that combines the description of the Project prevailing immediately prior to approval of the amendment with any changes to that description arising from the amendment;
- (c) the prior net cumulative balance of a Project expansion, if any;

- (d) the effective date of the amendment;
- (e) any changes to, or any new, terms and conditions to which the approval for the Project is subject, which may include, in the case of an amendment to a Prior Project, a term or condition that specifies a maximum daily production capacity, and the maximum period of time for expansion, of the Project.

(6) In specifying the content of an order under subsection (1) or (2), the Minister

- (a) shall do so taking into consideration, without limitation, at least the items referred to in those respective subsections required to be taken into consideration in making the decision to approve the Project or amendment, as the case may be, and
- (b) is not required to conform to the content or information provided in, or in relation to, the application in respect of matters addressed or required to be addressed in the order.

(7) If the Minister decides to reject an application made under section 10(3) of this Regulation or section 16(1) of the Prior Regulation for reasons other than those referred to in section 10(6) and the application was for approval of a proposed Project expansion,

- (a) the Minister may treat the application as one made under section 10(1) for approval of the proposed Project expansion as a separate Project from that proposed to be amended in the application, and
- (b) the provisions of this Part that apply in relation to an application under section 10(1) shall apply in relation to the application if the Minister chooses to treat the application as described in clause (a),

if the lessees have requested in the application that the application be treated as described in clause (a) in those circumstances.

(8) If the Minister decides to reject an application for reasons other than those referred to in section 10(6), the Minister shall, by written notice, inform the lessees who made the application of the Minister's decision

- (a) to treat the application in accordance with subsection (7), in the case of an application to which that subsection applies, or
- (b) to reject the application and of the reasons for the decision.

Ministerial amendments

12(1) Subject to this section, the Minister may, by order on the Minister's own initiative, amend an order issued under section 11 or this section or a Prior Approval.

(2) The Minister may not, pursuant to subsection (1), amend the description of the Project specified in an order issued under section 11 or this section or in a Prior Approval unless

- (a) the amendment corrects a clerical error in the description of the Project, or an error in the description that the Minister is satisfied arises as a result of a clerical error in the application or in any other information that the Minister relied on to specify the description,
- (b) the amendment removes from the description of the Project a capital asset
 - (i) that has been disposed of to a person who is not a lessee in respect of the Project,
 - (ii) that is used to produce, gather, compress, process or reprocess solution gas recovered through Project operations, if the Minister is of the opinion that the solution gas is being disposed of on more than an isolated basis, or
 - (iii) that is a core or supporting asset in respect of which the Minister is of the opinion that
 - (A) the use of the asset for the purposes of the Project during the previous Period as a percentage of the total use of the asset for all purposes during that Period was less than the Project use threshold, and
 - (B) the sustained use of the asset over the remaining useful life of the asset for the purposes of the Project as a percentage of the total use of the asset for all purposes is unlikely to equal or exceed the Project use threshold,
- (c) the amendment relates to any other part of the Project description that in the Minister's opinion should be changed as a result of the removal of a capital asset from the description of the Project pursuant to clause (b), or
- (d) a Board approval relating to the whole or any part of the Project is amended by the Board and the Minister is of the opinion that the amendment to the description of the Project

should be made to make the description conform to the Board approval.

- (3)** Section 14(3) applies in relation to the formulation of an opinion by the Minister for the purposes of subsection (2)(b)(iii).
- (4)** An order under subsection (1) must specify at least the following:
- (a) any change to the name of the Project;
 - (b) any change to the description of the Project, or a restated description of the Project that combines the description of the Project prevailing immediately prior to the making of the order with any changes to that description arising from the order;
 - (c) the effective date of any changes to the description of the Project, which may be earlier than, the same as or later than the date the order is made;
 - (d) any amendment to any prior net cumulative balance relating to the Project;
 - (e) any change to the effective date of the Project, Project expansion or Prior Project expansion, as the case may be;
 - (f) any changes to, or any new, terms and conditions of the approval to which the order relates.
- (5)** The Minister shall, at least 30 days before making an amendment pursuant to subsection (1), give the operator of the Project notice of the Minister's intention to make the amendment, unless the operator waives this requirement.
- (6)** The Minister shall notify the operator of the Project of
- (a) any amendment made pursuant to subsection (1), and
 - (b) any decision by the Minister not to make an amendment in respect of which a notice was given to the operator under subsection (5).
- (7)** The Minister may at any time, for administrative convenience, issue an amended and restated Project approval order for a Project, consolidating any Prior Approval or approval order issued under section 11(1) in respect of the Project and all amendment approval orders issued under section 11 and this section in respect of the Project.

Effective date

13 The effective date of a Project or Project expansion must not be earlier than either of the following:

- (a) the first day of the month in which the application for approval of the Project or amendment relating to the expansion is received by the Minister;
- (b) the first day of the month that precedes by 9 months the month in which the Project or amendment relating to the expansion is approved by the Minister.

Project description

14(1) A description of a Project specified or amended under section 11 or 12 must include

- (a) a description of the operations that will be undertaken pursuant to the Project, including the major activities to be undertaken, and the principal technologies and methodologies to be employed, for or in respect of the operations,
- (b) a listing and description of the kinds of oil sands products that will be recovered or obtained pursuant to the Project,
- (c) a description of the core or supporting assets included in the Project, and
- (d) a description of the area and strata from which oil sands or oil sands products will be recovered pursuant to the Project and of the surface areas to be occupied by the Project.

(2) Subject to subsection (10), a capital asset may be included in the description of a Project if

- (a) the asset is a core or supporting asset,
- (b) the Minister is of the opinion that the sustained use of the asset over the remaining useful life of the asset for the purposes of the Project as a percentage of the total use of the asset for all purposes is likely to equal or exceed the Project use threshold, and
- (c) all approvals required by law in relation to the asset are subsisting.

(3) In forming an opinion for the purposes of subsection (2)(b), the Minister

- (a) may, without limitation, base the Minister's opinion on measures of relative use such as time of use for the purposes of the Project and for other purposes, or proportion of delivery of output for the Project and other than for the Project, and
 - (b) shall, where the capital asset is a processing plant or cogeneration plant referred to in subsection (5), (6) or (8), form the Minister's opinion on the basis that the proportion of the whole or part of the processing plant or cogeneration plant, as the case may be, that may be included in the Project is the capital asset.
- (4) Capital assets may not be partially included in the description of a Project except as provided in subsections (5), (6) and (8).
- (5) If the ownership of a processing plant, other than a processing plant described in subsection (6), is held by one or more lessees of a Project along with one or more persons who are not lessees of the Project, the Minister may include in the description of the Project a proportion of the plant that is the same as the proportion of the ownership of the plant that is held by lessees of the Project.
- (6) Subject to subsection (7), the Minister may include in the description of a Project a part of a processing plant that is designated by the Minister as an integrated upgrader for the purposes of this section, or a proportion of the plant or part of the plant.
- (7) In making a decision under subsection (6), the Minister shall, without limiting any other factors that the Minister may consider, take into consideration at least the following:
- (a) the extent to which portions of the plant would comprise core or supporting assets in relation to the kinds of oil sands products to be recovered or obtained pursuant to the Project;
 - (b) the proportionate ownership of the plant by lessees of the Project and persons who are not lessees of the Project, where the plant is owned by both kinds of persons.
- (8) Subject to subsection (9), the Minister may include in the description of a Project the whole or any part of a cogeneration plant or a proportion of the plant or part of the plant.
- (9) In making a decision under subsection (8), the Minister shall, without limiting any other factors that the Minister may consider, take into consideration at least the following:

- (a) the extent to which thermal energy or electricity, or both, produced from the plant will, in the Minister's opinion, be utilized for the purposes of the Project;
- (b) the proportionate ownership of the plant by lessees of the Project and persons who are not lessees of the Project, where the plant is owned by both kinds of persons.

(10) The Minister shall not include in the description of a Project a diluent recovery unit that is part of a processing plant unless

- (a) the whole of the processing plant is included in the description of the Project, or
- (b) a proportion of the whole of the plant has been included in the description of the Project pursuant to subsection (5) or (6) and the proportion of the diluent recovery unit included in the description of the Project is the same as the proportion of the plant included in the description of the Project.

Prior net cumulative balance

15(1) The Minister shall determine the prior net cumulative balance of a Project, other than a Prior Project, or of a Project expansion in accordance with this section.

(2) In determining the prior net cumulative balance of a Project or of a Project expansion, the Minister shall, without limitation, take into consideration at least the following with respect to amounts to be included in determining the prior net cumulative balance:

- (a) the costs of the Project or of the expansion, respectively, incurred during the period of 3 years preceding the effective date of the Project or expansion;
- (b) the costs of the Project or of the expansion, respectively, incurred during the period comprising the whole or the portion of the 4th and 5th years preceding the effective date of the Project or expansion, as the case may be, during which the obtaining of the approval of the Board under the *Oil Sands Conservation Act* for a scheme or operation included in whole or in part in the Project or expansion subsequent to the 4th year preceding the effective date of the Project or expansion, as the case may be, was diligently pursued;
- (c) the costs of the tangible assets of the Project or of the expansion, respectively, incurred prior to the periods referred to in clauses (a) and (b), to the extent the Minister is satisfied that the use of the assets in relation to the Project after the effective date of the Project or expansion, as the case may be,

will clearly result in significant savings of costs to the Project;

- (d) the aggregate of the proceeds of royalty and the royalty compensation paid to the Crown
 - (i) pursuant to the *Oil Sands Royalty Regulation, 1984* (AR 166/84) on Project substances recovered from the development area of the Project or expansion, as the case be, prior to the effective date of the Project or expansion, respectively, and
 - (ii) pursuant to section 26 or 27 of this Regulation on oil sands or oil sands products recovered from the development area of the Project or expansion, as the case may be, prior to the effective date of the Project or expansion, respectively.

(3) In determining the prior net cumulative balance of a Project or of a Project expansion, the Minister shall, without limitation, take into consideration at least the following with respect to amounts to be excluded in determining the prior net cumulative balance:

- (a) the costs referred to in subsection (2)(a), (b) and (c),
 - (i) incurred during any portion of the periods referred to in those clauses when development of oil sands in the development area of the Project or the area and strata to be added to the development area by virtue of the Project expansion, as the case may be, was, in the Minister's opinion, substantially suspended or abandoned,
 - (ii) incurred to recover or obtain oil sands or oil sands products to which the *Experimental Oil Sands Royalty Regulation* (AR 347/92) applies,
 - (iii) to the extent they would not be allowed costs under the *Oil Sands Allowed Costs (Ministerial) Regulation* if they had been incurred after the effective date of the Project or Project expansion, as the case may be, or
 - (iv) to the extent they are not evidenced by original invoices, receipts, contracts, timesheets or other like original documentation;
- (b) the costs in respect of which IETP costs have been established.

(4) In determining the prior net cumulative balance of a Project or of a Project expansion, the Minister shall, without limitation, take into consideration at least the following with respect to amounts to be deducted in determining the prior net cumulative balance:

- (a) any consideration received or receivable in respect of the Project or Project expansion, as the case may be, during the periods referred to in subsection (2)(a), (b) and (c) that, had they been received or receivable after the effective date of the Project or Project expansion, respectively, would have comprised other net proceeds of the Project;
- (b) any consideration received or receivable during the periods referred to in subsection (2)(a), (b) and (c) in respect of Project substances.

(5) If the amounts included by virtue of subsection (2) and not excluded by virtue by subsection (3) in determining a prior net cumulative balance exceed, are equal to, or are exceeded by, the amounts deducted in determining the prior net cumulative balance, the amount of the prior net cumulative balance shall be considered a positive amount, zero or a negative amount, respectively.

(6) Despite subsections (2) through (5), the Minister may determine as the prior net cumulative balance of a Project or of a Project expansion the amount determined in the proposed calculation specified under section 10(2)(h) or (4)(h), respectively, if the Minister is satisfied that the amount so determined would be less than the prior net cumulative balance that would be determined pursuant to subsections (2) through (5).

Amendment of prior net cumulative balance

16(1) Subject to this section, the Minister may, on the request of the operator of the Project or on the Minister's own initiative, amend a prior net cumulative balance in relation to a Project, Project expansion or Prior Project expansion, other than a prior net cumulative balance determined under section 15(6).

(2) The Minister may not amend a prior net cumulative balance pursuant to subsection (1) on the request of the operator of the Project if the request is received by the Department after the earlier of

- (a) the date the Minister notifies the operator that the examination of records pursuant to section 10(5) in respect of that prior net cumulative balance has concluded, and
- (b) the later of
 - (i) December 31, 2009, and

- (ii) the last day of the 4th year following the year in which the effective date of the Project, Project expansion or Prior Project expansion, as the case may be, falls.

(3) Subject to subsection (4), the Minister may not amend a prior net cumulative balance pursuant to subsection (1) on the Minister's own initiative after the earlier of

- (a) the date the Minister notifies the operator of the Project that the examination of records pursuant to section 10(5) in respect of that prior net cumulative balance has concluded, and
- (b) the later of
 - (i) December 31, 2009, and
 - (ii) the last day of the 4th year following the year in which the effective date of the Project, Project expansion or Prior Project expansion, as the case may be, falls.

(4) Subsection (3) does not apply

- (a) if an amendment to the prior net cumulative balance of a Project or Project expansion beyond the time limit specified in that subsection is made necessary by reason of
 - (i) fraud, or
 - (ii) misrepresentation attributable to neglect, carelessness or wilful default

in the creation, maintaining or concealment of a record subject to examination pursuant to section 10(5) or section 15(5) of the Prior Regulation, or in the filing or submission of any report or other information in connection with the determination of the prior net cumulative balance, or

- (b) if the Minister is of the opinion that full access to any record for examination in accordance with section 10(5) or section 15(5) of the Prior Regulation, or complete co-operation in relation to an examination in accordance with either of those sections, was not provided.

(5) The Minister shall, at least 30 days before amending the prior net cumulative balance of a Project, Project expansion or Prior Project expansion on the Minister's own initiative, give notice of the Minister's intention to make the amendment to the operator of the Project.

- (6) The Minister shall notify the operator of the Project of
- (a) any amendment made to a prior net cumulative balance relating to the Project,
 - (b) the Minister's refusal of a request by the operator to amend a prior net cumulative balance relating to the Project, and
 - (c) a decision by the Minister not to make an amendment described in a notice given under subsection (5).

Revocation

17(1) The lessees of a Project may apply for the revocation by the Minister of an approval made under section 11, or of a Prior Approval, in respect of the Project.

- (2) The Minister may by order, in respect of a Project, revoke an approval made under section 11, a Prior Approval or an order made under section 12 if
- (a) the lessees of the Project have applied for revocation of the approval, and the overall impact the Minister anticipates revocation of the approval will have on royalty payable to the Crown, in relation to both the Project and otherwise, is acceptable to the Minister,
 - (b) the Minister is satisfied that
 - (i) fraud, or
 - (ii) misrepresentation attributable to neglect, carelessness or wilful defaultoccurred in the filing or submission of the application for the approval or of any other information in connection with the application, or in the creation, maintaining or concealment of a record subject to examination pursuant to section 10(5) or section 15(5) of the Prior Regulation, or otherwise relating to the application, order or Project,
 - (c) a requirement set out in section 10(1)(a), (b) or (c) ceases to be satisfied in relation to the Project,
 - (d) any term or condition of the approval or order has been breached and, if the breach is capable of rectification, the breach has not been rectified within the period of time specified in a notice given to the operator of the Project informing the operator of the breach,

- (e) the operator or a lessee of the Project has materially or repeatedly breached any provision of the Act, of any regulations under the Act or of any enactment referred to in section 6(1)(b),
 - (f) the Project has been abandoned, or
 - (g) all the agreements granting the right to recover oil sands or oil sands products from the development area of the Project have expired or been cancelled.
- (3) The Minister shall
- (a) at least 30 days before revoking an approval or order pursuant to subsection (2)(b) to (g), give the operator of the Project notice of the Minister's intention to revoke the approval or order,
 - (b) notify the operator of the Project of the revocation of any such approval or order, and
 - (c) notify the lessees of the revocation of an approval, or of the Minister's refusal to revoke an approval, in the case of a revocation requested under subsection (1).
- (4) An order made under subsection (2) may include any terms and conditions to which the order is subject.
- (5) The lessees of the agreement, the location of which contained the area and strata included in the development area of a Project for which an approval or order is revoked under this section, shall comply with any terms and conditions in the order effecting the revocation.

Part 3 Costs and Revenues

Timing of costs

18(1) For the purposes of this Regulation, an allowed cost

- (a) is, in the case of a cost that becomes payable on or after January 1, 2009, deemed to be incurred
 - (i) in the month in which the cost is payable, to the extent of the amount of the cost that is paid within 90 days after the cost becomes payable, or
 - (ii) in the month in which the cost is paid, to the extent of the amount of the cost that is paid more than 90 days after the cost becomes payable,

or

- (b) is deemed to be incurred when the cost is paid, if the cost becomes payable before January 1, 2009, is paid on or after that date, and is not deemed by section 7(2)(a) of the Prior Regulation to be incurred before that date.

(2) Despite subsection (1), if services or materials have been supplied in relation to a Project by a lessee or the operator of the Project, or an affiliate of either of them, and no invoice for those services or materials is subsequently sent by the lessee, the operator or the affiliate, the cost of the services or materials is deemed to be incurred in the month in which the services were supplied or the materials were received at any part of the surface areas occupied by the Project.

(3) For the purposes of this Regulation, a cost considered in determining prior net cumulative balance under Part 2 is deemed to be incurred

- (a) in the month in which the cost is payable, to the extent of the amount of the cost that is paid within 90 days after the cost becomes payable, or
- (b) in the month in which the cost is paid, to the extent of the amount of the cost that is paid more than 90 days after the cost becomes payable.

General rules for costs and revenues

19(1) Subsections (2), (3) and (4) apply to the determination of any consideration that is part of the calculation or determination of TC, as described in section 32(2), (3), (4) or (5), other net proceeds or prior net cumulative balance under this Regulation.

(2) When consideration other than money is received or receivable, whether alone or in addition to money, the amount of the consideration is deemed to be the greater of

- (a) its fair market value, and
- (b) the value agreed to by the persons giving and receiving the consideration.

(3) Subject to subsection (4), when consideration, whether in the form of money or otherwise, is received or receivable under a non-arm's length transaction by a lessee or operator of a Project or non-Project well event, or a person affiliated with either of them, the amount of the consideration is deemed to be the greater of

- (a) the fair market value of the thing for which the consideration is received or receivable, and
- (b) the aggregate of the amount of money received or receivable and the amount determined in accordance with subsection (2) with regard to any consideration other than money.

(4) When an asset is

- (a) removed from the description of a Project, and
- (b) included in the description of another Project,

and the lessees of either Project are the lessees of the other Project or are affiliated with the lessees of the other Project, the Minister may, instead of determining the fair market value of the asset pursuant to section 20 and subsection (3)(a) of this section as the amount of the consideration received or receivable for the asset for the purposes of section 23(2)(a)(i), determine as the amount of the consideration the amount of the allowed costs for the asset of the Project referred to in clause (b).

(5) When no consideration is received or receivable under a transaction, consideration in the amount of the fair market value of the thing for which no consideration is received or receivable is deemed to have been received or receivable.

(6) The following is excluded from any cost, charge, revenue, price, value, consideration, proceeds or royalty compensation that is part of a calculation or determination under this Regulation:

- (a) the amount of any taxes paid, payable or collected under Part IX of the *Excise Tax Act* (Canada) by or on behalf of the lessees of a Project or non-Project well event;
- (b) the amount of any revenues, payments and costs arising in relation to transactions that are, in the Minister's opinion, entered into to hedge price risk in relation to a commodity or currency, but not including
 - (i) contracts of insurance, surety, guarantee or indemnity,
 - (ii) contracts for the forward disposition or acquisition of a commodity where delivery or receipt, respectively, of the commodity actually occurs under the contract, or
 - (iii) contracts that hedge price risk specifically in relation to allowed costs of a Project or currency required to pay such costs.

Fair market value for revenues

20(1) The amount of any fair market value referred to in this Regulation is the value determined by the Minister in accordance with this section.

(2) In determining fair market value of anything under this Regulation, other than pipeline transportation service or an oil sands product, the Minister may, without limiting any other method for determining fair market value,

- (a) adopt any of the following methodologies if the Minister is of the opinion that comparable open markets exist in relation to the thing for which fair market value is required to be determined:
 - (i) the price of comparable things, if that price is published and generally adopted by buyers and sellers of such things;
 - (ii) a price for comparable things prescribed or determined pursuant to a regulation or statute other than this Regulation;
 - (iii) an average of the prices paid for comparable things in arm's length transactions,

or

- (b) adopt any of the following methodologies if the Minister is of the opinion that comparable open markets do not exist in relation to the thing for which fair market value is required to be determined:
 - (i) the amount charged by the lessees of the Project for the thing;
 - (ii) the actual cost incurred by the lessees, operator or affiliate of either of them to produce the thing, if it is not obtained by the lessees, operator or affiliate from another person;
 - (iii) the actual cost incurred by the person from whom the thing was obtained by the lessees, operator or affiliate of either of them to produce the thing;
 - (iv) the net book value of the thing according to the records of the Department, or if the Department has no such records, the records of the owner of the thing.

(3) In determining, for the purposes of this Regulation, the fair market value of pipeline transportation service provided using a pipeline that is included in the description of a Project, the Minister may, without limiting any other method of determining fair market value but subject to subsections (5) to (7), adopt

- (a) a tariff charged for the service, if the tariff is fixed or approved for such service by a regulatory authority having jurisdiction to do so,
- (b) the tariff charged for the service by the lessees or operator of the Project if, in the Minister's opinion,
 - (i) clause (a) does not apply,
 - (ii) the pipeline is subject to regulation on a complaints basis,
 - (iii) the tariff is generally agreed to and paid by persons who obtain the service under an arm's length transaction,
 - (iv) the tariff is just and reasonable in the circumstances,
 - (v) all tariffs charged for the service are published, and
 - (vi) no tariff or any other term for the service unjustly discriminates among persons seeking to obtain or obtaining such service,

or

- (c) the weighted average of the prices paid for comparable service by persons under arm's length transactions or, if the Minister is satisfied no comparable service is provided, the weighted average of the prices paid by persons under arm's length transactions with the lessee or operator for pipeline transportation service provided using the pipeline if, in the Minister's opinion,
 - (i) clauses (a) and (b) do not apply,
 - (ii) the pipeline is subject to regulation on a complaints basis,
 - (iii) not less than 2/3 of the quantities of substances transported by means of the pipeline during the period the weighted average is adopted obtain that service under arm's length transactions, and
 - (iv) the weighted average of prices is just and reasonable in the circumstances.

(4) The Minister may adjust a tariff or weighted average of prices referred to in subsection (3) to reflect differences between the terms of service applicable in respect of the tariff or weighted average of prices and the terms of service applicable in respect of the pipeline transportation service actually provided.

(5) For the purposes of subsection (3), “subject to regulation on a complaints basis” means subject to a process pursuant to legislation whereby a customer or potential customer for pipeline transportation service can complain regarding the charge for or terms of the service, or both, to a regulatory authority having jurisdiction to hear such a complaint and to fix the charge and terms of service.

(6) In determining the fair market value of an oil sands product, the Minister may, without limiting any other method for determining fair market value,

- (a) adopt a value determined by the Minister on the basis of arm’s length transactions occurring in comparable open markets in relation to the oil sands product or similar commodities if the Minister is of the opinion that a comparable open market exists in relation to the oil sands product or the similar commodities, or
- (b) adopt any of the following prices or methodologies if the Minister is of the opinion that comparable open markets do not exist in relation to the oil sands product or a similar commodity:
 - (i) a price for that kind of oil sands product, or a similar kind of commodity, prescribed or determined pursuant to a regulation or statute other than this Regulation,
 - (ii) a price derived from the prices of products that could be obtained from the oil sands product or from the prices of commodities similar to those products, or
 - (iii) a price derived from prices for the feedstock from which the oil sands product or products similar to the oil sands product could be obtained, or from prices for similar feedstock.

(7) Subject to subsection (8), a price, average of prices, cost, charge, value, methodology or a tariff may be adopted by the Minister pursuant to subsection (2), (3) or (6) for such period or periods as the Minister may specify from time to time.

(8) A price, average of prices, cost, charge, value, methodology or tariff adopted by the Minister pursuant to subsection (2), (3) or (6) ceases to apply prior to the end of the period or periods specified under

subsection (7) if any requirement specified in subsection (2), (3) or (6) with respect to the adoption of the price, average of prices, cost, charge, value, methodology or tariff ceases to be met.

Calculated value

21(1) If the Minister is of the opinion that a fair market value referred to in a provision of this Regulation, other than section 20, cannot reasonably be determined pursuant to section 20, the Minister may, employing engineering, economic or financial principles, determine a calculated value for the thing for which the provision contemplated the use of a fair market value.

(2) If the Minister has determined a calculated value pursuant to subsection (1), the calculated value shall be used in the provision referred to in that subsection in place of the fair market value.

Revenue

22(1) The Project revenue of a Project is, in respect of a post-payout Period or a month of a pre-payout Period, the aggregate of the products calculated by multiplying

- (a) each quantity of
 - (i) blended bitumen that contains crude bitumen recovered pursuant to the Project from the Project's development area, and
 - (ii) each oil sands product, other than crude bitumen referred to in subclause (i), recovered pursuant to the Project from the Project's development area,

that is delivered at a royalty calculation point for the crude bitumen or other oil sands product, as the case may be, during the Period or month respectively,

by

- (b) the unit price applicable to the blended bitumen or the oil sands product referred to in clause (a)(ii), as the case may be, for the Period or month respectively.

(2) The gross revenue of a Project in respect of a post-payout Period or a month of a pre-payout Period is the Project revenue of the Project for that Period or month, respectively, minus the cost of diluent contained in any blended bitumen included in the calculation of the Project revenue.

(3) The cost of diluent referred to in subsection (2) is the product of the total volume of the diluent contained in the blended bitumen multiplied by the weighted average cost per unit volume of that diluent calculated in accordance with the Minister's directions.

Other net proceeds

23(1) The "other net proceeds" of a Project are

(a) the amounts described in subsection (2),

excluding

(b) any amounts described in subsection (3).

(2) The following are the amounts for the purposes of subsection (1)(a):

(a) any consideration received or receivable from the sale, lease, licence or other disposition of any

(i) substances or assets of the Project, other than oil sands products, or

(ii) technology developed pursuant to, or for the purposes of, the Project;

(b) any proceeds received or receivable

(i) under a contract of insurance, as defined in the *Insurance Act*, providing for property insurance in relation to the Project, and including property insurance in relation to profits, earnings, pecuniary interests and indirect losses of the lessees or operator of the Project;

(ii) pursuant to a judgment of a court, or in settlement of litigation or threatened litigation, in relation to the Project, other than a judgment or litigation or threatened litigation against the Crown in respect of amounts paid or payable to the Crown under section 90 of the Act as that section stood on October 1, 2008 or under this Regulation in relation to the Project;

(iii) as a refund of a deposit paid to secure the performance of reclamation or abandonment in relation to the Project;

(c) any consideration received or receivable for transporting, or for granting the right to transport, by means of the transportation facilities of the Project, oil sands or oil sands

products not owned by or on behalf of the lessees of the Project;

- (d) any consideration received or receivable for
 - (i) processing, or granting the right to process, oil sands or oil sands products not owned by or on behalf of the lessees of the Project, in a processing plant or a part of a processing plant, the whole or a proportion of which is included in the description of the Project, or
 - (ii) producing thermal energy or electricity in a cogeneration plant, or a part of a cogeneration plant, the whole or a proportion of which is included in the description of the Project where the thermal energy or electricity is not utilized for the purposes of the Project,

to the extent that such processing or production utilizes any part of the capacity of the plant or of the part of the plant, as the case may be, that corresponds to the proportion of the plant or part, respectively, included in the description of the Project;

- (e) the aggregate of the products obtained by multiplying
 - (i) each quantity of
 - (A) blended bitumen that contains crude bitumen obtained pursuant to the Project from substances that are not Project substances but that are owned by or on behalf of the lessees of the Project, or
 - (B) each oil sands product, other than crude bitumen referred to in paragraph (A), obtained pursuant to the Project from substances that are not Project substances but that are owned by or on behalf of the lessees of the Project,

that is delivered at a royalty calculation point for the crude bitumen or other oil sands product, as the case may be,

by

- (ii) the unit price applicable to the quantity;
- (f) the amount, if any, by which the other net proceeds determined for the Project pursuant to this section for the preceding Period exceed the allowed costs of the Project for that preceding Period, if that preceding Period is a

post-payout Period that commences on or after January 1, 2009;

- (g) the amount, if any, by which the other net proceeds for 2008, determined for the Project pursuant to section 22 of the Prior Regulation, exceed the allowed costs of the Project for that same year, where “other net proceeds” and “allowed costs” have the same meaning as in the Prior Regulation;
- (h) any consideration received or receivable for the use of an asset of the Project, other than for the purposes of the Project;
- (i) an amount equal to the fair market value of an asset that is removed from the description of the Project without being sold, leased, licensed or otherwise disposed of;
- (j) an amount equal to the net book value, determined by the Minister, of an asset that is used to gather, compress, process or reprocess any solution gas recovered through Project operations and that, without being sold, leased, licensed or otherwise disposed of, is removed from the description of the Project;
- (k) the amount by which the consideration received or receivable for the disposition of a capital asset referred to in sections 1(1)(c) and 11 of the *Oil Sands Allowed Costs (Ministerial) Regulation* by the person providing a good or service to the Project using the asset exceeds the cost determined for the asset pursuant to that section;
- (l) the additive inverse of the prior net cumulative balance of the Project determined under section 15 or 16, excluding any expansions of the Project, if that prior net cumulative balance is a negative amount;
- (m) the additive inverse of the prior net cumulative balance of a Project expansion of the Project determined under section 15 or 16 if
 - (i) the Project payout date of the Project precedes the effective date of the Project expansion, and
 - (ii) that prior net cumulative balance is a negative amount;
- (n) the amount by which the cumulative revenue of a Project exceeds the cumulative cost of the Project if
 - (i) the excess amount arises as a result of the approval of a Project expansion of the Project,

- (ii) the prior net cumulative balance of the Project expansion is a negative amount, and
 - (iii) the Project payout date is the same day as the effective date of the Project expansion by virtue of the approval of the Project expansion;
 - (o) the net amount of any other proceeds and recoveries relating to the Project.
- (3)** The following are the amounts for the purposes of subsection (1)(b):
- (a) any consideration received or receivable for a disposition of a participating interest, an overriding royalty interest, a carried interest, a net profit interest or any other like interest in the Project;
 - (b) Project revenue of the Project;
 - (c) the consideration received or receivable for the sale or other disposition of an asset of the Project from a lessee of the Project to another lessee of the Project, if the asset remains in the description of the Project.
- (4)** The terms “cumulative costs” and “cumulative revenue” have the meaning given to them in section 25.

Net revenue and net loss

24(1) In this section and section 25,

- (a) “amalgamated Project” means the Project that arises from the amalgamation of 2 or more Projects pursuant to an amendment approved under section 11(2);
- (b) “amendment Period” means the Period of a Project during which the effective date of an amendment to the Project occurs that amalgamates it with one or more other Projects to form an amalgamated Project;
- (c) “first amalgamated Period” means, in respect of an amalgamated Project that arises from the amalgamation of 2 or more Projects pursuant to an amendment approved under section 11(2), the period of time that commences on the earliest day that an amendment Period of those Projects commences, and that ends on the earlier of
 - (i) the last day of the calendar year during which the effective date of the amendment occurs, and

- (ii) the date on which the approval under section 16 of the Prior Regulation, a contract under section 9(a) of the Act or section 11 of this Regulation in respect of the amalgamated Project, as the case may be, is revoked.

(2) Subject to subsection (4), the net revenue of a Project for a Period is the amount by which Project revenue of the Project for the Period exceeds the amount by which the allowed costs of the Project for the Period exceed the other net proceeds of the Project for the Period.

(3) Subject to subsection (4), the net loss of a Project for a Period is the amount by which the allowed costs of the Project for the Period exceed the aggregate of the Project revenue and other net proceeds of the Project for the Period.

(4) If, as of the day preceding the effective date of an amendment approved under section 11(2) that amalgamates 2 or more Projects, the Project payout date has occurred for at least one of the Projects being amalgamated, the net revenue and net loss of the amalgamated Project for its first amalgamated Period shall be determined on the basis of

- (a) the aggregate allowed costs, the aggregate Project revenues and the aggregate other net proceeds, of the Projects being amalgamated, for the portions of their respective amendment Periods that precede the effective date of the amendment, and
- (b) the allowed costs, Project revenue and other net proceeds of the amalgamated Project for the portion of the first amalgamated Period of the Project that commences on the effective date of the amendment.

Payout

25(1) Subject to subsections (4) and (5), a Project achieves payout on

- (a) the effective date of the Project, in the case of a Project for which the prior net cumulative balance is zero or a negative amount, or
- (b) the first day of the month during which the cumulative revenue of the Project first equals the cumulative cost of the Project, in the case of any other Project.

(2) The cumulative cost of a Project referred to in subsection (1)(b) is the aggregate of the following amounts:

- (a) the prior net cumulative balance of the Project;
- (b) the prior net cumulative balance of any Prior Project expansions or Project expansions included in the Project;

- (c) the aggregate of the proceeds, and royalty compensation, paid to the Crown in respect of royalty
 - (i) on Project substances reserved under section 29(1), and
 - (ii) on Project substances, as defined in the Prior Regulation, reserved under section 90(2) of the Act, as that section stood on October 1, 2008, if the Project is a Prior Project;
- (d) allowed costs of the Project, other than allowed costs under Part 3 of the *Oil Sands Allowed Costs (Ministerial) Regulation*, incurred on or after January 1, 2009;
- (e) allowed costs of the Project described in sections 15(3) and 16(2) of the *Oil Sands Allowed Costs (Ministerial) Regulation*;
- (f) if the Project is a Prior Project, the aggregate of
 - (i) allowed costs of the Project incurred before January 1, 2009, other than allowed costs described in section 4 of Schedule 1 or 2 to the Prior Regulation, as the case may be, and
 - (ii) allowed costs of the Project described in section 4(c) of Schedule 1 or 2 to the Prior Regulation, as the case may be, for a month prior to January 1, 2009,

where “allowed cost” and “incurred” have the same meaning as in the Prior Regulation.

(3) The cumulative revenue of a Project referred to in subsection (1) is the aggregate of the following:

- (a) the Project revenue of the Project for the month commencing on the later of January 1, 2009 and the effective date of the Project, and for each subsequent month;
- (b) other net proceeds of the Project arising on or after the later of January 1, 2009 and the effective date of the Project, other than other net proceeds described in section 23(2)(f) or (g);
- (c) if the Project is a Prior Project, the aggregate of
 - (i) the Project revenue of the Project for all months prior to January 1, 2009, and
 - (ii) the other net proceeds of the Project arising prior to January 1, 2009, other than other net proceeds described in section 22(2)(e) of the Prior Regulation,

where "Project revenue" and "other net proceeds" have the same meaning as in the Prior Regulation.

(4) If, as of the day preceding the effective date of an amendment approved under section 11(2) that amalgamates 2 or more Projects, the Project payout date has occurred for at least one of the Projects being amalgamated, the amalgamated Project is deemed to be a Project that has achieved payout.

(5) If, as of the day preceding the effective date of an amendment approved under section 11(2) that amalgamates 2 or more Projects, the Project payout date has not occurred for any of the Projects,

- (a) the amalgamated Project is deemed as of the effective date to be a Project that has not yet achieved payout, and
- (b) the aggregate of the cumulative costs of the Projects as of the day preceding the effective date of the amendment and the aggregate of the cumulative revenues of the Projects as of the same day shall, for the purpose of determining the Project payout date of the amalgamated Project, be the cumulative cost and cumulative revenue, respectively, of the amalgamated Project as of the commencement of the effective date of the amendment.

Part 4 Royalty

Division 1 Non-Projects

Non-Project mining operations

26(1) The royalty reserved to the Crown on oil sands recovered by a non-Project mining operation pursuant to an agreement granting oil sands rights and delivered in a month at the boundary of the location of the agreement is 20% of the oil sands.

(2) Royalty on oil sands under subsection (1) shall be free and clear of all deductions.

(3) The Crown's title to the Crown's royalty share of any oil sands recovered by a non-Project mining operation pursuant to an agreement and delivered in a month at the boundary of the location of the agreement is automatically transferred to the lessee of the agreement immediately downstream from the place at the boundary where the oil sands is so delivered.

(4) When the Crown's title to the Crown's royalty share of oil sands delivered in a month at the boundary of the location of the agreement

pursuant to which the oil sands was recovered is transferred pursuant to subsection (3), the lessee to whom the title is transferred shall, not later than the last day of the following month, pay to the Crown, in respect of that royalty share, an amount equal to the product of the quantity of the royalty share measured in tonnes multiplied by the par price for oil sands prescribed for the month pursuant to section 8(a).

Non-Project well events

27(1) The royalty reserved to the Crown on an oil sands product recovered from a non-Project well event pursuant to an agreement granting oil sands rights and delivered in a month from the well containing the well event is the royalty that would be reserved to the Crown under the *Petroleum Royalty Regulation, 2009* if the oil sands product was crude oil.

(2) Royalty on an oil sands product under subsection (1) shall be free and clear of all deductions.

(3) The Crown's title to the Crown's royalty share of any oil sands product recovered from a non-Project well event is automatically transferred to the lessee of the well event at the point immediately downstream from the well containing the well event.

(4) When the Crown's title to the Crown's royalty share of an oil sands product delivered in a month from a well is transferred pursuant to subsection (3), the lessee to whom the title is transferred shall, not later than the last day of the following month, pay to the Crown, in respect of that royalty share, an amount equal to the product of the quantity of the royalty share multiplied by the greater of zero and the unit value determined under subsection (5) for that kind of oil sands product for that month.

(5) The unit value applicable to the Crown's royalty share for a month of each kind of oil sands product recovered from a non-Project well event is the value determined by the Minister as of the time the Crown's royalty share is transferred pursuant to subsection (3) taking into consideration, without limitation, dispositions during that month of that kind of oil sands product recovered from the well event, notwithstanding the consideration actually given for the Crown's royalty share when it was sold or otherwise disposed of.

Trucking costs and allowances

28(1) The costs and allowances to which the Minister consents for a month in respect of the costs that are paid by the lessee of a non-Project well event during the month in trucking the Crown's royalty share of crude bitumen recovered from the well event

- (a) from the last facility at which impurities are removed from the crude bitumen before the crude bitumen is delivered into a pipeline, and
- (b) to an unloading facility connected to a pipeline,

shall, subject to subsections (2), (3) and (4), and despite the transfer of the royalty share pursuant to section 27(3), be deducted from the royalty compensation payable by the lessee in respect of crude bitumen recovered from non-Project well events during that month.

(2) The Minister may determine the amount of the costs and allowances referred to in subsection (1).

(3) Subject to subsections (4) and (6), the Minister may, for the purposes of this section,

- (a) estimate the amount of the costs and allowances for a lessee for a month and, subject to clause (b)(ii), consent to that estimated amount, and
- (b) after the 3rd month following the month referred to in clause (a), determine the actual costs and allowances for the lessee for the month, and
 - (i) if the actual costs and allowances exceed the estimated amount referred to in clause (a), consent to further costs and allowances equal to the difference, or
 - (ii) if the estimated amount referred to in clause (a) exceeds the actual costs and allowances, invoice the lessee for the difference, or deduct the difference from costs and allowances consented to for the next month or months, as the case may be.

(4) The costs and allowances consented to under this section in respect of a lessee for a month may not exceed the aggregate of the royalty compensation payable by the lessee for the month under section 27.

(5) The lessee to whom an invoice is issued under subsection (3) shall pay the Crown the amount invoiced on or before the last day of the month following the month in which the invoice is issued.

(6) It is a condition of any consent given under subsection (1) or (3) that

- (a) the trucking of the Crown's royalty share from the place described in subsection (1)(a) to the place described in subsection (1)(b) occurred in an uninterrupted manner, and

- (b) the Crown's royalty share, while being trucked, met the quality specifications in respect of the pipeline referred to in subsection (1)(b).

Division 2 Projects

Royalty share from Projects

29(1) The royalty reserved to the Crown, under each agreement granting oil sands rights in the development area of a Project, on each oil sands product recovered from the development area and delivered at a royalty calculation point for the product during each month of a pre-payout Period is the percentage, calculated in accordance with the following formula, of the quantity of the oil sands product so recovered and delivered:

$$R_G\% = 1\% + [F_G (A - B)]$$

where

$R_G\%$ is the Crown's royalty share of the quantity expressed as a percentage;

F_G is 8% divided by \$65 per barrel;

A is the lesser of the WTI price for the preceding month and \$120 per barrel;

B is the lesser of A for the month and \$55 per barrel.

(2) The royalty reserved to the Crown, under each agreement granting oil sands rights in the development area of a Project, on each oil sands product recovered from the development area and delivered at a royalty calculation point for the product during a post-payout Period is the greater of

- (a) the percentage of the quantity of the oil sands product so recovered and delivered during the Period calculated in accordance with the following formula:

$$R_G\% = 1\% + [F_G (A - B)]$$

where

$R_G\%$ is the Crown's royalty share of the quantity expressed as a percentage;

F_G is 8% divided by \$65 per barrel;

A is the lesser of the WTI price for the year containing the Period and \$120 per barrel;

B is the lesser of A for that year and \$55 per barrel;

and

- (b) the percentage of the quantity of the oil sands product so recovered and delivered during the Period calculated in accordance with the following formula:

$$R_N\% = \frac{[25\% + (F_N(A - B))][NR]}{GR}$$

where

$R_N\%$ is the Crown's royalty share of the quantity expressed as a percentage;

F_N is 15% divided by \$65 per barrel;

A is the lesser of the WTI price for the year containing the Period and \$120 per barrel;

B is the lesser of A for that year and \$55 per barrel;

NR is the net revenue of the Project for the Period;

GR is the gross revenue of the Project for the Period.

- (3) For the purposes of subsections (1) and (2),

- (a) the WTI price for a month is the simple average of the WTI prices for the trading days of the month, where that simple average is converted to Canadian currency using the simple average of the daily actual USD/CAD (noon) exchange rates for that month,
- (b) the WTI price for a year is the simple average of the simple averages of the WTI prices for the trading days of each of the months of the year, converted to Canadian currency using the simple average of the simple averages of the daily actual USD/CAD (noon) exchange rates for each of the months of the year, and
- (c) $R_G\%$ and $R_N\%$ shall be expressed to the nearest 5th decimal place.

- (4) For the purposes of subsection (3),

- (a) the WTI price for a trading day is the closing price for the day of the prompt month contract of Light Sweet Crude Oil (CL1) as traded in NYMEX,
- (b) a trading day is a day during which a prompt month contract referred to in clause (a) is traded in NYMEX, and
- (c) the actual USD/CAD (noon) exchange rate for a day is that published in relation to that day by the Bank of Canada.

(5) If crude bitumen or cleaned crude bitumen recovered pursuant to a Project from the development area of the Project

- (a) is delivered to a royalty calculation point for the crude bitumen or cleaned crude bitumen, and
- (b) when so delivered is contained in a blend with diluent,

the royalty reserved under subsections (1) and (2) shall be calculated on the quantity determined by deducting from the quantity of blended bitumen the quantity of diluent contained in the blended bitumen.

(6) Royalty on oil sands and oil sands products under this section shall be free and clear of all deductions.

Royalty calculation point

30(1) If an oil sands product recovered pursuant to a Project from the development area of the Project, other than crude bitumen processed, and cleaned crude bitumen obtained, as described in subsection (2),

- (a) is disposed of, or
- (b) is permanently removed from Project facilities,

royalty shall be calculated on the quantity of the oil sands product at the place the product is permanently removed from Project facilities.

(2) If oil sands or crude bitumen recovered from the development area of a Project, without first being disposed of,

- (a) is processed in a processing plant that is or is not included in the description of the Project, to obtain cleaned crude bitumen described in section 1(2)(a), and
- (b) the cleaned crude bitumen
 - (i) is disposed of, or
 - (ii) remains permanently removed from Project facilities,

royalty shall be calculated on the quantity of the cleaned crude bitumen at the place the cleaned crude bitumen is delivered from the processing plant at which it is obtained.

(3) For the purposes of sections 23(2)(e) and 32, the royalty calculation point of a Project for blended bitumen or an oil sands product described in section 23(2)(e)(i)(A) or (B), respectively, is the place that would be the royalty calculation point under subsection (2) or (1) for the crude bitumen contained in the blended bitumen or the oil sands product, respectively, if the crude bitumen or oil sands product were a Project substance.

Transfer of Crown's royalty share

31(1) The Crown's title to the Crown's royalty share of any oil sands product recovered from the development area of a Project is automatically transferred at the point immediately downstream from the royalty calculation point for the product to the person who is, in relation to that royalty share, the owner of the lessee's share of the oil sands product.

(2) When the Crown's title to the Crown's royalty share of an oil sands product is transferred pursuant to subsection (1), compensation is payable to the Crown in accordance with this Regulation in respect of that royalty share.

Unit price

32(1) In this section,

- (a) "handling charges" means the handling charges, export charges, pipeline tariff charges and charges of a similar nature that are paid to transport third party disposition quantities of a kind of oil sands product obtained pursuant to a Project that are disposed of in third party dispositions during a month or Period, as the case may be, from the royalty calculation point for the product to the place where those dispositions occur, but does not include
 - (i) any charges that are allowed costs of the Project,
 - (ii) any charges that are taken into consideration in determining a prior net cumulative balance in respect of the Project,
 - (iii) any marketing costs or charges, brokerage fees or other like charges,
 - (iv) any cost of diluent referred to in section 22(2) or 33(3)(a)(ii) or that is an allowed cost of the Project, and

- (v) any costs or charges arising in relation to a diluent recovery unit;
- (b) “NQ” means, in relation to a Project for a month or Period,
 - (i) in the case of blended bitumen described in subsection (6)(a)(i), the volume of cleaned crude bitumen contained in the volume of blended bitumen determined by deducting from the production quantity of the Project for the month or Period, respectively, of blended bitumen, the third party disposition quantity of the Project for the month or Period, respectively, of blended bitumen, or
 - (ii) in the case of any other kind of oil sands product, the volume of the oil sands product determined by deducting from the production quantity of the Project for the month or Period, respectively, of that kind of oil sands product, the third party disposition quantity of the Project for the month or Period, respectively, of that kind of oil sands product;
- (c) “oil sands product” includes blended bitumen that contains cleaned crude bitumen obtained pursuant to a Project;
- (d) “production quantity”, for a month or Period, means, in relation to each kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product during the month or Period, respectively, the quantity of that kind of oil sands product so obtained and delivered during the month or Period, respectively;
- (e) “third party disposition” means the first disposition of an oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product, made
 - (i) in an arm’s length transaction, whether or not the transaction is preceded by one or more non-arm’s length transactions in which the oil sands product is disposed of, and
 - (ii) before the oil sands product is processed in order to produce other discrete kinds of oil sands products or is otherwise consumed or used;
- (f) “TPD percentage for a month” means, in relation to each kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product during a month, the percentage that the third party disposition quantity of the Project for the month of that kind of product

is of the production quantity of the Project for the month of that kind of product;

- (g) “TPD percentage for a Period” means, in relation to each kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product during a Period, the percentage that the third party disposition quantity of the Project for the Period of that kind of product is of the production quantity of the Project for the Period of that kind of product;
- (h) “third party disposition quantity”, for a month or Period, means the quantity of each kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product that is disposed of in third party dispositions during the month or Period, respectively, whether the quantity disposed of was so obtained and delivered during that month or a preceding month, or during that Period or a preceding Period, respectively;
- (i) “Third Party Disposition Threshold” means,
 - (i) in relation to a month, the percentage prescribed under section 8(d) as the Third Party Disposition Threshold for the month, and
 - (ii) in relation to a Period, the simple average of the Third Party Disposition Thresholds so prescribed under section 8(d) for the months of the Period.

(2) If the TPD percentage for a month for a kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product during the month is greater than or equal to the Third Party Disposition Threshold for the month, the unit price applicable to the production quantity of the Project for the month of that kind of oil sands product is the price calculated in accordance with the following formula:

$$\text{Unit price} = \frac{\text{TC} - \text{HC}}{\text{TD}}$$

where

TC is the total consideration, calculated in accordance with the Minister’s directions, received or receivable by the seller under all third party dispositions of the third party disposition quantity of the Project for the month of that kind of oil sands product;

HC is the handling charges in relation to that third party disposition quantity;

TD is that third party disposition quantity.

(3) If the TPD percentage for a Period for a kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product during the Period is greater than or equal to the Third Party Disposition Threshold for the Period, the unit price applicable to the production quantity of the Project for the Period of that kind of oil sands product is the price calculated in accordance with the formula set out in subsection (2) except that, for the purposes of this section,

- (a) "TC" is the total consideration, calculated in accordance with the Minister's directions, received or receivable by the seller under all third party dispositions of the third party disposition quantity of the Project for the Period of that kind of oil sands product,
- (b) "HC" is the handling charges in relation to the third party disposition quantity referred to in clause (a), and
- (c) "TD" is the third party disposition quantity referred to in clause (a).

(4) If the TPD percentage for a month for a kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product during the month is less than the Third Party Disposition Threshold for the month, the unit price applicable to the production quantity of the Project for the month of that kind of oil sands product is the price calculated in accordance with the following formula:

$$\text{Unit price} = \frac{(\text{TC} - \text{HC}) + [(\text{NQ} \times \text{P}) + \text{CD}]}{\text{PQ}}$$

where

TC is the total consideration, calculated in accordance with the Minister's directions, received or receivable by the seller under all third party dispositions of the third party disposition quantity of the Project for the month of that kind of oil sands product;

HC is the handling charges in relation to that third party disposition quantity;

NQ is the NQ of the Project for the month for that kind of oil sands product;

P is the price determined for the month pursuant to subsection (6) for that kind of oil sands product obtained pursuant to the Project;

CD is the cost of diluent contained in the volume of blended bitumen determined for the month under subclause (i) of the definition of "NQ", if the kind of oil sands product is blended bitumen described in subsection (6)(a)(i), or zero in the case of any other kind of oil sands product;

PQ is the production quantity of the Project for the month of that kind of oil sands product.

(5) If the TPD percentage for a Period for a kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product during the Period is less than the Third Party Disposition Threshold for the Period, the unit price applicable to the production quantity of the Project for the Period of that kind of oil sands product is the price calculated in accordance with the formula set out in subsection (4) except that, for the purposes of this section,

(a) "TC" is the total consideration, calculated in accordance with the Minister's directions, received or receivable by the seller under all third party dispositions of the third party disposition quantity of the Project for the Period of that kind of oil sands product,

(b) "HC" is the handling charges in relation to that third party disposition quantity,

(c) "NQ" is the NQ of the Project for the Period for that kind of oil sands product,

(d) "P" is the price determined for the Period pursuant to subsection (7) for that kind of oil sands product obtained pursuant to the Project,

(e) "CD" is the cost of diluent contained in the volume of blended bitumen determined for the Period under subclause (i) of the definition of "NQ", if the kind of oil sands product is blended bitumen described in subsection (6)(a)(i), or zero in the case of any other kind of oil sands product, and

(f) "PQ" is the production quantity of the Project for the Period of that kind of oil sands product.

(6) The price for a month in relation to a kind of oil sands product obtained pursuant to a Project and referred to as "P" in subsection (4) is

- (a) if the oil sands product is
 - (i) cleaned crude bitumen described in section 1(2)(a) where the cleaned crude bitumen is of a density equal to or greater than the BVM Dilbit density for the month determined under section 3(4) of the *Bitumen Valuation Methodology (Ministerial) Regulation*, or
 - (ii) cleaned crude bitumen described in section 1(2)(b) or (c) of a density that is equal to or greater than the BVM Dilbit density for the month determined under section 3(4) of the *Bitumen Valuation Methodology (Ministerial) Regulation*,

the Hardisty Bitumen Price determined pursuant to the *Bitumen Valuation Methodology (Ministerial) Regulation* for the Project for the month minus the transportation allowance specified in subsection (8) for the Project for the month for that kind of oil sands product, or
- (b) the price determined by the Minister as the fair market value of the oil sands product, in the case of any other oil sands product.

(7) The price for a Period in relation to a kind of oil sands product obtained pursuant to a Project and referred to as “P” in subsection (5) is the average of the prices determined under subsection (6) for the Project for the months of the Period for that kind of oil sands product, weighted according to the respective volumes for those months of that kind of oil sands product obtained pursuant to the Project that comprise NQ for those months.

(8) The transportation allowance for a Project

- (a) for a month for a kind of oil sands product obtained pursuant to the Project is
 - (i) the transportation allowance, if any, prescribed for the Project for the month for that kind of oil sands product pursuant to section 8(e), or
 - (ii) the transportation allowance determined for the Project for the month for that kind of oil sands product pursuant to the *Bitumen Valuation Methodology (Ministerial) Regulation*, if a transportation allowance is not prescribed for the Project for the month for that kind of oil sands product pursuant to section 8(e), and
- (b) for a Period for a kind of oil sands product obtained pursuant to the Project is the average of the transportation allowances

for the Project for the months of the Period for that kind of oil sands product, weighted according to the respective quantities of the oil sands product referred to in subsection (6)(a), as the case may be, comprising “NQ” referred to in the formula in subsection (4) for those months.

(9) Despite subsections (2) to (8), if the kind of oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product during a month or Period is crude bitumen that is not cleaned crude bitumen (in this subsection called “raw crude bitumen”), the unit price applicable in respect of that month or Period, respectively, to the raw crude bitumen is the price calculated in accordance with the formula in subsection (2), except that

- (a) the fair market value of the cleaned crude bitumen that is or could be obtained from the raw crude bitumen shall be used as TC,
- (b) the aggregate of
 - (i) the charges of the kind described in the definition of “handling charges” in subsection (1) that the Minister is of the opinion would have been incurred to transport the raw crude bitumen from the royalty calculation point to the place at which it is or could be processed to produce cleaned crude bitumen, and
 - (ii) the charges that the Minister is of the opinion would have been incurred to process the raw crude bitumen to produce cleaned crude bitumen
 shall be used as HC, and
- (c) the quantity of that kind of oil sands product so obtained and delivered during the month or Period, respectively, shall be used as TD.

(10) A unit price may be determined under this section as a positive amount, zero or a negative amount.

Royalty compensation

33(1) When the title to the Crown’s royalty share of an oil sands product delivered in a month of a pre-payout Period at the royalty calculation point for the product is transferred pursuant to section 31(1), the operator of the Project pursuant to which the oil sands product is obtained shall, not later than the last day of the following month, pay to the Crown, in respect of that royalty share, the royalty compensation calculated under subsection (3).

(2) Subject to subsections (4) to (14), when the Crown's royalty share of an oil sands product delivered in a post-payout Period at the royalty calculation point for the product is transferred pursuant to section 31(1), the operator of the Project pursuant to which the oil sands product is obtained shall, not later than the last day of the 4th month following the Period, pay to the Crown, in respect of that royalty share, the royalty compensation calculated under subsection (3).

(3) For the purposes of subsections (1) and (2), the royalty compensation for the Crown's royalty share of an oil sands product obtained by a Project and delivered at a royalty calculation point for the product in a month or Period, as the case may be, shall, subject to subsections (4) and (5), respectively, be calculated as follows:

- (a) in the case of cleaned crude bitumen contained in blended bitumen,
 - (i) the quantity of the blended bitumen that contains the Crown's royalty share of the cleaned crude bitumen so obtained and delivered shall be multiplied by the greater of zero and the unit price for the month or Period, as the case may be, applicable to the blended bitumen, and
 - (ii) the lesser of the cost of diluent included in that quantity of blended bitumen and the amount determined under subclause (i) shall be deducted from the amount determined under subclause (i);
- (b) in the case of any other oil sands product, the quantity of the Crown's royalty share of the oil sands product so obtained and delivered shall be multiplied by the greater of zero and the unit price for the month or Period, as the case may be, applicable to the product.

(4) The aggregate of the royalty compensation payable under subsection (1) in respect of a Project for a month shall be reduced to an amount not less than zero by subtracting the IETP costs established and allocated to the Project during the month.

(5) The aggregate of the royalty compensation payable under subsection (2) in respect of a Project for a Period shall be reduced to an amount not less than zero by subtracting the IETP costs established and allocated to the Project during the months of the Period.

(6) The operator of a Project shall pay to the Crown in respect of each month of a post-payout Period, as an instalment with respect to the aggregate of the royalty compensation required to be paid by the operator under subsection (2) for the Period as reduced under subsection (5), the amount calculated by subtracting from the greater of the percentage for the month, described in subsection (8)(a), of the

gross revenue of the Project for the month and the preceding months of the Period ending with the month and the amount calculated in respect of the Project for the month in accordance with subsection (7),

- (a) the aggregate of the amounts paid by the operator under this subsection in respect of the preceding months of the Period and not repaid under subsection (11), and
- (b) if the amount remaining after subtracting the aggregate amount referred to in clause (a) is greater than zero, the IETP costs established and allocated to the Project during the month to the extent those costs do not exceed the amount remaining.

(7) The amount referred to in subsection (6) to be calculated in accordance with this subsection for the Project for a month of a post-payout Period shall be calculated in accordance with the following formula:

$$P = \frac{(ER \times ENR)}{EGR} \times GR$$

where

P is the amount referred to in subsection (6) to be calculated in accordance with this subsection in respect of the month;

ER is the percentage for the month, described in subsection (8)(b);

ENR is the amount estimated by the Minister under section 38(7) for the month as the net revenue of the Project for the Period or, if the Minister has not for that month estimated the net revenue of the Project for the Period, the operator's estimate of that amount contained in the report furnished under section 38(1) by the operator for that month;

EGR is the amount estimated by the Minister under section 38(7) for the month as the gross revenue of the Project for the Period or, if the Minister has not estimated for that month the gross revenue of the Project for the Period, the operator's estimate of that amount contained in the report furnished under section 38(1) by the operator for that month;

GR is the aggregate of the gross revenue of the Project for the month and for the preceding months of the Period.

(8) The percentage

- (a) for the month for the purposes of subsection (6) is the estimated annual $R_G\%$ prescribed for the month under section 8(c), and
- (b) for the month for the purposes of ER in subsection (7) is the estimated annual $R_N\%$ prescribed for the month under section 8(b).

(9) An amount required to be paid by the operator of a Project to the Crown under subsection (6) in respect of a month of a Period shall be paid by the last day of the following month.

(10) If the amount required to be paid by the operator under subsection (6) in respect of a month of a Period is a negative amount, the amount shall, subject to subsection (11), be deducted by the operator from the amounts required to be paid by the operator under subsection (6) in respect of the next ensuing month or months of the Period until the amount is fully deducted.

(11) If the amount required to be deducted under subsection (10) is, in the Minister's opinion, likely to exceed the amounts payable by the operator under subsection (6) in the remaining months of the Period, the amount shall be paid by the Minister to the operator by the last day of the month following the month in which the report is provided under section 38(1) that first identifies the amount.

(12) If the aggregate of the royalty compensation payable to the Crown under subsection (2) in respect of the royalty share for a Period as indicated in a report furnished under section 39(1) exceeds the royalty compensation paid to the Crown under subsection (6) that has not been repaid under subsection (11) in respect of the months of the Period, the operator shall pay the excess amount to the Crown by the last day of the 4th month following the end of the Period.

(13) If the aggregate of the royalty compensation payable to the Crown under subsection (2) in respect of the royalty share for a Period as indicated in a report furnished under section 39(1) is less than the royalty compensation paid to the Crown under subsection (6) that has not been repaid under subsection (11) in respect of the months of the Period, the Minister must pay the deficiency to the operator by the last day of the 4th month following the end of the Period.

(14) A reference in this section to "the last day of the month" means, in respect of the month of March, the last day of March on which the offices of the Department are open.

Previously paid royalty

34 Any royalty compensation in respect of oil sands and oil sands products recovered from the development area of a Project on or after

January 1, 2009 paid to the Crown, other than pursuant to section 33, for each month during the period, if any, commencing with the later of the effective date of the Project or January 1, 2009 and ending with the last day of the month in which the Project is approved under section 11, shall for the purposes of this Regulation be considered

- (a) an amount paid in respect of that month pursuant to section 33(1), if the month is part of a pre-payout Period, or
- (b) an amount paid in respect of that month pursuant to section 33(6), if the month is part of a post-payout Period.

Part 5 Administration and Enforcement

Definition

35 In this Part, “reporting entity” means a non-Project well event, non-Project mining operation or Project.

Division 1 Reporting

Operator changes

36(1) When a person is replaced as the operator of a reporting entity, the person shall furnish a report to the Minister by the end of the month in which the change is made, notifying the Minister of the change.

(2) Only one person may be the operator of a reporting entity at any time.

Operator's forecast

37(1) The operator of a Project shall, unless the Minister otherwise directs in a particular case, furnish to the Minister by January 15, 2009 and by December 15 of each calendar year a report that contains the operator's forecast of the information regarding the Project called for by the form of the report and relating to

- (a) the Periods that occur during the calendar year and that may occur during the following 9 calendar years, and
- (b) when the Project payout date of the Project is expected to occur.

(2) The Minister shall not, in making a direction under subsection (1), reduce the period of 9 calendar years to less than 4 calendar years.

(3) A report required to be furnished under subsection (1) may call for the furnishing of actual information, estimated or forecasted information or any combination of actual and estimated or forecasted information.

Monthly report

38(1) Unless the Minister otherwise directs in a particular case,

- (a) the operator of a Project shall furnish a report to the Minister for each month of a Period, and
- (b) the operator of any other reporting entity shall furnish a report to the Minister for each month.

(2) A report under subsection (1) must be furnished by the last day of the month following the month for which the report is required.

(3) Despite subsection (2), a report required to be furnished under subsection (1)(a) must, if the report is in respect of a month that precedes the month during which the Project is first approved under section 11, be furnished by the last day of the month following the month during which the Project is so approved.

(4) A report required to be furnished under subsection (1) may call for the furnishing of actual information, estimated or forecasted information or any combination of actual and estimated or forecasted information.

(5) A report under subsection (1) in respect of a Project must be accompanied by a statement indicating approval of the report by the chief financial officer of the operator or by another senior officer of the operator approved in advance by the Minister.

(6) Subject to section 44, an officer who in good faith approves a report furnished under this section is not liable to the Crown in any civil proceeding arising from the approval of the report.

(7) If a report furnished under subsection (1) in respect of a Project contains an estimate of any amount for a period of time and the Minister is not satisfied with the accuracy of the estimate, the Minister may substitute the Minister's estimate of the amount for the period and any other period.

(8) If the Minister substitutes an estimated amount pursuant to subsection (7), the Minister shall notify the operator of the Project of the substitution, the Minister's estimate of the amount and the period for which the Minister's estimate applies.

(9) The Minister may from time to time amend or replace a notice given under subsection (8) by giving a further notice to the operator.

Annual report

39(1) The operator of a Project shall, unless the Minister otherwise directs in a particular case, furnish to the Minister within 3 months after the end of each Period, a report in respect of the Period.

(2) A report under subsection (1)

- (a) must be signed by the operator of the Project or by the operator's representative, and
- (b) unless the Minister otherwise directs, must, if the aggregate quantity of crude bitumen and cleaned crude bitumen recovered or obtained pursuant to the Project and delivered at a royalty calculation point during the Period, whether as part of blended bitumen or otherwise, is greater than the product of the number of days in the Period and 1590 cubic metres per day, be accompanied by
 - (i) an opinion by the auditors retained by the operator, and
 - (ii) an opinion by the auditors retained by each lessee of the Project to report to the shareholders of the lessee,

as to whether the operator, in the case of the opinion referred to in subclause (i), and the lessee, in the case of the opinion referred to in subclause (ii), have complied with the requirements of this Regulation.

(3) A report under subsection (1) must be accompanied by a statement indicating approval of the report by the chief financial officer of the operator or by another senior officer of the operator approved in advance by the Minister.

(4) Subject to section 44, an officer who in good faith approves a report furnished under subsection (1) is not liable to the Crown in any civil proceeding arising from the approval of the report.

Ad hoc reports

40(1) If the Minister is of the opinion

- (a) that a person is in possession of information that may be relevant in calculating, determining, specifying, prescribing or verifying any amount, factor or other component for the purposes of this Regulation, or a regulation made by the Minister and referred to in this Regulation, that is used in the

calculation of royalty or royalty compensation in relation to a reporting entity, and

- (b) that the information cannot be gathered at all, or adequately, in reports otherwise required to be furnished under this Regulation,

the Minister may, by written notice given to the person, require the person to furnish one or more reports to the Minister respecting the information.

(2) A notice given under subsection (1) must specify the frequency with which reports called for by the notice are to be furnished and deadlines for the submission of the reports.

(3) A person given a notice under subsection (1) shall furnish the Minister with the reports called for by the notice with the frequency and by the deadlines specified in the notice, and in accordance with the requirements of section 5.

(4) If a notice given under subsection (1) does not specify a time after which reports called for by the notice are no longer required to be furnished to the Minister, the person given the notice may cease to furnish the reports 24 months after the date of the notice unless

- (a) the Minister gives the person another notice under subsection (1) requiring the person to continue furnishing the reports, or
- (b) the Minister gives the person notice that the person may sooner cease to furnish the reports called for by the notice given under subsection (1).

(5) The Minister may from time to time amend or replace a notice given under subsection (1) by giving a further notice to the person provided with the notice given under subsection (1).

Reporting changes

41(1) An operator or other person who has furnished a report under this Part shall, when the operator or other person learns of a material change or error in, or a material omission from, the information contained in the report, furnish to the Minister a replacement report containing the updated, corrected or missing information.

(2) An operator or other person who has furnished a report under this Part shall, on receipt of a notice from the Minister to do so, furnish the Minister with a replacement report

- (a) for the report furnished under this Part, and

- (b) in which any deficiency in the report referred to in clause (a) and identified by the Minister in the notice is rectified.

(3) When the operator of a Project is required to furnish the Minister with a replacement report for a report furnished under section 39 or this section for a pre-payout Period, the operator shall also furnish a replacement report for each report furnished under section 38 for a month of the Period where the change, error, omission or deficiency required to be addressed in the replacement report for the Period relates in whole or in part to the month.

(4) A replacement report required to be furnished pursuant to this section shall be furnished to the Minister by the last day of the month following the month in which

- (a) the operator or other person who furnished the report required to be replaced learns of the material change, error or omission in the information contained in that report, or
- (b) the Minister issues the notice pursuant to subsection (2) calling for the furnishing of the replacement report.

Records

42(1) The lessees and operator of a reporting entity, and any person furnishing a report under section 40, shall keep and maintain, and cause those persons affiliated with them to keep and maintain, records satisfactory to the Minister relating to the reporting entity or to oil sands or oil sands products recovered or obtained pursuant to, by or from the reporting entity, or used, or that would be required, to prepare any application, report, statement, opinion or other document permitted or required to be submitted or furnished under this Regulation.

(2) The Minister may make available any record, return or other information obtained under the Act or a regulation made under the Act, or under an agreement, to the Board for the purposes of obtaining information from the Board that the Minister is of the opinion is necessary for the purposes of administering this Regulation, the Prior Regulation, the *Oil Sands Allowed Costs (Ministerial) Regulation* or the *Bitumen Valuation Methodology (Ministerial) Regulation*.

Division 2 Compliance

Provisional royalty compensation

43(1) In this section, “provisional royalty compensation” means royalty compensation calculated in accordance with subsection (2).

(2) Despite the provisions of Parts 3 and 4, but subject to the other subsections of this section, in any case where information respecting the total consideration received or receivable

- (a) by the seller under third party dispositions, as defined in section 32, during a period of time in relation to any oil sands product obtained pursuant to a Project, or
- (b) by the lessee in dispositions of any oil sands product recovered from a non-Project well event during a period of time

is not provided to, or cannot be verified by audit or examination of records by, the Minister, royalty and royalty compensation payable in relation to the oil sands product shall, for that period of time, be calculated by the Minister in accordance with Parts 3 and 4 but using the highest unit price or highest unit value, respectively, for that kind of oil sands product achieved in respect of all Projects or all non-Project well events, respectively, during that period of time.

(3) If provisional royalty compensation calculated in relation to an oil sands product obtained pursuant to a Project or from a non-Project well event for any period of time exceeds the royalty compensation paid in relation to that oil sands product for that period, the operator of the Project or of the well containing the non-Project well event shall pay the excess amount to the Minister by the end of the month following the month in which the Minister issues an invoice to the operator for the amount.

(4) Where provisional royalty compensation has been paid in respect of an oil sands product and the operator concerned provides the Minister with the information described in subsection (2) and access to records that in the Minister's opinion are sufficient to verify the information, the Minister shall recalculate the royalty compensation in respect of the oil sands product without reference to subsection (2) and any difference shall be

- (a) paid by the operator to the Minister, or
- (b) refunded to the operator by the Minister,

as the case may be, by the end of the month following the month in which the operator is notified by the Minister of the results of the recalculation.

(5) Despite section 45, the Crown is not liable for interest on any amounts of provisional royalty compensation that are reduced pursuant to subsection (4), but will refund any interest received by it under section 45(1)(a) in respect of those amounts to the extent those amounts are so reduced.

Penalties

44(1) If a person is required to furnish to the Minister any report, statement or auditor's opinion required to be furnished pursuant to this Part, other than a report referred to in section 40, and fails to do so by the respective dates required by this Regulation, the Minister may impose on the person a penalty of \$5000 for each month or part of a month during which the failure continues.

(2) Despite subsection (1), a penalty shall not be imposed in respect of a month or part of a month for a failure to furnish

- (a) a statement described in section 38(5) or 39(3) if a penalty is imposed in respect of that month or part of a month for a failure to furnish the report under section 38(1) or 39(1), respectively, or the replacement report under section 41, that was to be accompanied by the statement, or
- (b) an auditor's opinion described in section 39(2)(b) if a penalty is imposed in respect of that month or part of a month for a failure to furnish the report under section 39(1) or the replacement report under section 41 that was to be accompanied by the opinion.

(3) If a person is required to furnish the Minister with a report under section 40 and fails to do so by the deadline specified in the notice given by the Minister calling for the report to be furnished, the Minister may by notice impose on the person a penalty of not more than \$5000 for each day during which the failure continues.

(4) The Minister may waive a penalty imposed under subsection (1) or (3) on being satisfied that the failure to furnish the report, statement or opinion by the deadline was due to circumstances beyond the control of the person required to furnish it.

(5) Where, as a result of an audit or examination conducted by or on behalf of the Minister under the Act, the Minister determines that the royalty compensation actually payable to the Crown in respect of a period of time on oil sands or oil sands products recovered or obtained by a reporting entity is greater than the aggregate royalty compensation paid to the Crown in respect of the oil sands or oil sands products, the Minister may give a notice to the operator of the reporting entity describing the deficiency and what, in the Minister's opinion, was the cause giving rise to the deficiency.

(6) If the Minister gives a notice under subsection (5) to an operator in respect of a period of time, and

- (a) has previously given another notice to the operator under subsection (5) in respect of a deficiency for not more than one earlier separate period of the same duration where the

cause giving rise to the whole or a part of the deficiency for the earlier period is, in the Minister's opinion, the same as or similar to the cause giving rise to the whole or a part of the deficiency for the period of time first referred to in this subsection, or

- (b) has previously given notices to the operator under subsection (5) for more than one earlier separate period of the same duration in respect of the deficiencies for those earlier periods where the cause giving rise to the whole or a part of the deficiencies for those earlier periods is, in the Minister's opinion, the same as or similar to the cause giving rise to the whole or a part of the deficiency for the period of time first referred to in this subsection,

the Minister may impose on the operator a penalty in an amount not exceeding

- (c) 10%, in a case where clause (a) applies, or
- (d) 50%, in a case where clause (b) applies,

of the whole or that part, as the case may be, of the deficiency for the period of time first referred to in this subsection that the Minister considers attributable to that cause.

(7) No penalty may be imposed under subsection (6) if the amount of the penalty is less than \$1000.

(8) If a person fails to undertake a measurement or calculation in accordance with section 6, the Minister may by notice impose on the person a penalty of not more than \$5000 for each day during which the failure continues.

(9) The Minister may waive the whole or a part of a penalty imposed under subsection (6) or (8) if the Minister is of the opinion that the circumstances warrant such a waiver.

(10) A penalty imposed by the Minister under this section must be paid within 30 days after the Minister

- (a) informs the person on whom the penalty is imposed of the imposition of the penalty, in the case of a penalty imposed under subsection (1), or
- (b) gives notice of imposition of the penalty to the person on whom the penalty is imposed, in the case of any other penalty.

Interest

45(1) If any of the following amounts are not paid by the date required by this Regulation, interest is payable to the Crown in accordance with this section on the amount by the person required to pay the amount, computed from the day following the date payment of the amount is required by this Regulation until the day the amount is paid to the Crown:

- (a) an amount required to be paid under section 26(4), 27(4), 28(5), 33(1) or (6) or 43(3) or (4)(a);
- (b) a penalty required to be paid under section 44;
- (c) any interest required to be paid under this section;
- (d) the portion of an amount referred to in subsection (2) that does not arise as a result of a calculation or estimate made by the Minister under section 6(3) or 38(7), unless interest is payable on that portion under subsection (2).

(2) Subject to subsections (3) and (4), interest is payable by the operator of a Project to the Crown in accordance with this section on any of the following amounts required to be paid in respect of the Project, computed from the first day of the 7th month of the Period in respect of which the amount is required to be paid until the amount is paid to the Crown:

- (a) an excess amount required to be paid by the operator under section 33(12) in respect of the Project;
- (b) the amount of any underpayment of royalty compensation payable in respect of a post-payout Period to the Crown in respect of oil sands products recovered from the development area of the Project, other than an amount described in clause (a), where the underpayment is identified in a recalculation by the Minister under the Act.

(3) Interest is not payable under subsection (2)

- (a) on any portion of an amount referred to in clause (a) or (b) of that subsection that arises as a result of a calculation or estimate made by the Minister under section 6(3) or 38(7), and
- (b) if the amount referred to in clause (a) or (b) of that subsection, excluding any portion of that amount that arises as a result of an estimate made by the Minister under section 6(3) or 38(7), is not more than 10% of the aggregate of the royalty compensation payable to the Crown under section 33(2) for the Period in relation to which the amount arises.

(4) If the Period referred to in subsection (2) or (6)(b)(ii) includes the effective date of the Project, interest under that subsection shall be computed from the day that follows the effective date by half of the number of days between the effective date and the last day of the Period.

(5) Interest payable under this section by a person in relation to any amount shall be paid by the last day of the month following the month in which the due date specified in this Regulation for payment of the amount occurs.

(6) Subject to subsection (4), interest is payable by the Crown to the operator of a reporting entity in accordance with this section on

- (a) an amount required to be paid by the Crown to the operator under section 33(11) in respect of a Project, computed from the day following the last day of the Period in respect of which the amount is required to be paid,
- (b) the amount of
 - (i) any deficiency payable under section 33(13), or
 - (ii) any overpayment of royalty compensation
 - (A) payable in respect of a post-payout Period of a Project by the operator of the Project to the Crown in respect of oil sands products recovered from the development area of the Project, other than an amount described in subclause (i) or clause (a), and
 - (B) identified in a recalculation by the Minister under the Act,

computed from the first day of the 7th month of the Period in respect of which the deficiency is payable or the overpayment has been paid, respectively, if the deficiency or overpayment is more than 10% of the aggregate of the royalty compensation payable under section 33(2) for the Period,
- (c) an amount required to be refunded by the Crown to the operator under section 43(4)(b), computed from the first day of the 2nd month following the month in which the operator is notified by the Minister of the results of the recalculation pursuant to which the refund was determined,
- (d) an overpayment of royalty compensation payable in respect of a month by the lessee of a non-Project mining operation or

non-Project well event, computed from the first day of the month following the month in which the overpayment arose, and

- (e) an amount referred to in clause (b) computed from the due date for payment of the amount, unless interest is payable on that amount under clause (b),

until the date the Minister requisitions a cheque for the amount or notifies the operator to deduct the amount from an amount required to be paid by the operator under this Regulation.

(7) For the purposes of this section,

- (a) interest payable to or by the Crown on any amount is payable, subject to subsection (1)(c), on a simple interest basis on the balance of that amount remaining unpaid from time to time until the date on which the entire balance of the unpaid amount is received by the Minister or dealt with by the Minister in accordance with subsection (6), respectively, and
- (b) if interest is payable under this section by or to the Crown in respect of any day, the rate of interest in respect of that day is the yearly rate that is 1% greater than the rate of interest established by the Province of 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.

Application of payments

46 Unless the Minister otherwise directs, if money is paid to the Crown by the operator of a reporting entity, the money shall be applied in the following order:

- (a) first, on penalties owing under this Regulation or the Prior Regulation;
- (b) 2nd, on interest owing under this Regulation or the Prior Regulation;
- (c) 3rd, on royalty compensation or proceeds of royalty owing under this Regulation or the Prior Regulation, respectively.

Objections

47 The operator of a reporting entity is authorized to make a request referred to in section 38(3)(b) of the Act, and an objection under section 39(1) of the Act, with respect to the reporting entity.

Referral of disputes

48(1) If

- (a) the Minister specifies terms and conditions under which the Minister will, pursuant to section 7 of the *Government Organization Act*, establish a committee or board to hear a dispute between the Minister and the lessees or operator of a Project with respect to a matter under this Regulation, the *Oil Sands Allowed Costs (Ministerial) Regulation* or the *Bitumen Valuation Methodology (Ministerial) Regulation*, and
- (b) the operator of a Project makes a written request, in accordance with those terms and conditions, to refer a dispute to such a committee or board that is of a kind permitted by the terms and conditions to be so referred,

the Minister shall not make a decision with respect to the matter in dispute until the Minister has established the committee or board, the matter has been referred to the committee or board and its recommendations have been received and considered by the Minister.

(2) A dispute referred to in subsection (1) does not include a dispute with respect to any decision made by the Minister within the Minister's discretion under this Regulation, the *Oil Sands Allowed Costs (Ministerial) Regulation* or the *Bitumen Valuation Methodology (Ministerial) Regulation*.

Minister's decision final

49 Where any question arises pertaining to the interpretation or application of this Regulation, the Minister is the sole judge of the question and there shall be no appeal from the Minister's decision.

Part 6
**Consequential Amendments,
Expiry and Coming into Force**

Crown Agreements

50(1) This Regulation, the *Oil Sands Allowed Costs (Ministerial) Regulation*, the *Bitumen Valuation Methodology (Ministerial) Regulation* and the Prior Regulation are the regulations referred to in the definitions of "Generic Royalty Regulation" contained in

- (a) the Alberta Crown Agreement, as amended from time to time, referred to in Order in Council numbered O.C. 469/76, and

- (b) the “Alberta Suncor (O.S.G.) Crown Agreement: Second Amendment and Transition Agreement”, referred to in Order in Council numbered O.C. 245/96.

(2) The oil sands projects deemed by the Agreements referred to in subsection (1) to have been approved by the Minister for the purposes of the Regulations referred to in that subsection are Prior Projects for the purposes of this Regulation.

Amend AR 250/2004

51 The *Innovative Energy Technologies Regulation* (AR 250/2004) is amended in section 1(1)(c) and (i) by striking out “*Oil Sands Royalty Regulation, 1997* (AR 185/97)” and substituting “*Oil Sands Royalty Regulation, 2009*.”

Amends AR 166/84

52 The *Oil Sands Royalty Regulation, 1984* (AR 166/84) is amended in section 5 by adding “ending with December, 2008” after “and subsequent months”.

Amends AR 185/97

53(1) The *Oil Sands Royalty Regulation, 1997* (AR 185/97) is amended by this section.

(2) Section 1(ee) is amended by adding “on or before December 31, 2008” after “consumed or used”.

(3) Section 3 is amended by adding “, except that the month of December of 2008 shall be construed as ending at midnight on December 31, 2008” after “next month”.

(4) Section 7(2) is amended by adding “that becomes payable on or before December 31, 2008” after “subsection (1)”.

(5) The following is added after section 12:

Application of this Regulation

12.1 Unless otherwise provided in this Regulation, this Regulation applies to

- (a) each Period of a Project that ends on or before December 31, 2008,
- (b) each oil sands product obtained pursuant to a Project and delivered at a royalty calculation point for the product and disposed of, consumed or used on or before December 31, 2008, and

- (c) the determination of the Crown's royalty share, and of the proceeds payable in relation to the Crown's royalty share, of the oil sands products referred to in clause (b).

(6) Section 15 is amended

- (a) in subsection (1) by adding “, on or before December 31, 2008,” after “Project may”;
- (b) in subsection (3) by adding “, on or before December 31, 2008,” after “owners may”.

(7) Section 16 is amended

- (a) in subsection (1) by adding “, on or before December 31, 2008,” after “Minister may”;
- (b) by repealing subsection (3)(c) and substituting the following:
 - (c) the first day of the month that precedes by 9 months the month in which the Project or amendment is approved by the Minister.

- (c) by repealing subsection (4).

(8) Section 20 is amended by adding “, on or before December 31, 2008,” after “Minister may”.

(9) Section 27 is amended by adding “prior to 2008” after “each calendar year”.

(10) Section 28(1) is amended by adding “ending on or before December 31, 2008,” after “month of a Period”.

(11) Section 29(1) is amended by adding “ending on or before December 31, 2008” after “each Period”.

(12) Section 31 is amended

- (a) in subsection (1)(b) by adding “ending on or before December 31, 2008” after “pre-payout Period”;
- (b) in subsections (2)(b) and (4) by adding “ending on or before December 31, 2008” after “post-payout Period”.

(13) Section 32(3) is amended by adding “ending on or before December 31, 2008” after “of a Period”.

(14) Section 33 is amended

(a) in subsection (1)(a) by adding “, 38.1(3) or 38.2(2) or (7)” after “or (4)”;

(b) in subsections (2)(c) and (4)(b)(ii) by adding “ending on or before December 31, 2008” after “of a Period”.

(15) Section 34 is amended by adding “on or before December 31, 2008” after “of a Project”.

(16) Section 36 is amended by repealing subsection (4).

(17) Section 38 is amended by

(a) renumbering it as section 38(1);

(b) in subsection (1) by striking out “Any” and substituting “If a Project is approved under section 16, any” and by striking out “of a Project” and substituting “of the Project”;

(c) adding the following after subsection (1):

(2) If a Project, as defined in the *Oil Sands Royalty Regulation, 2009*, is approved under section 11(1) of that regulation, any proceeds of royalty in respect of oil sands and oil sands products recovered from the development area of the Project paid to the Crown, other than pursuant to this Regulation, for each month during the period, if any, commencing with the effective date of the Project and ending on December 31, 2008 shall, for the purposes of this Regulation, be considered

(a) an amount paid in respect of that month pursuant to section 31(1), if the month is part of a pre-payout Period, or

(b) an amount paid in respect of that month pursuant to section 31(4), if the month is part of a post-payout Period.

(18) The following is added after section 38:

Pre-2009 inventory

38.1(1) For the purposes of this Regulation, an oil sands product,

(a) that is obtained pursuant to a Project and delivered at a royalty calculation point for the product before January 1, 2009, and

(b) that is not disposed of, consumed or used before that date,

is, along with the Crown's royalty share of the oil sands product, deemed to be disposed of during December of 2008.

(2) Despite section 21, the unit price applicable to the quantity of an oil sands product referred to in subsection (1) is the simple average of the unit prices that

- (a) would be determined under section 32 of the *Oil Sands Royalty Regulation, 2009* for the months of 2009, and
- (b) would apply to an oil sands product of that kind obtained pursuant to the Project and delivered at a royalty calculation point under that Regulation for the product during those months,

if those months were part of a pre-payout Period of the Project.

(3) Despite section 31, the proceeds of disposition of the Crown's royalty share of an oil sands product referred to in subsection (1) shall be paid to the Crown by April 30, 2010 by the operator of the Project pursuant to which the oil sands product is recovered.

Pre-2009 transitional inventory

38.2(1) In this section, "transitional crude bitumen" means crude bitumen that is

- (a) described in section 1(2)(b) or (c) of the *Oil Sands Royalty Regulation, 2009*,
- (b) a Project substance, and
- (c) obtained before January 1, 2009 pursuant to a Project referred to in section 36(2)(b) or (c),

in respect of which royalty is not reserved under section 90 of the Act, as that section stood on October 1, 2008, on the crude bitumen or on oil sands products obtained from the crude bitumen.

(2) Despite section 31, if on or before December 31, 2008, an oil sands product other than transitional crude bitumen is

- (a) obtained pursuant to a Project referred to in section 36(2)(b) or (c),
- (b) delivered at a royalty calculation point for the oil sands product, and
- (c) is not disposed of, consumed or used on or before that date,

the operator of the Project shall pay the Crown the proceeds of the Crown's royalty share of the oil sands product by April 30, 2010.

(3) Subject to subsections (4) and (5), the proceeds of the Crown's royalty share of an oil sands product referred to in subsection (2) shall, despite section 21 and 31, be calculated by multiplying the quantity of the Crown's royalty share by the price calculated in accordance with the following formula:

$$(C - T) \div Q$$

where

C is the total consideration, calculated in accordance with the Minister's directions, received or receivable by the seller under all third party dispositions, as defined in section 21(1)(b), during 2009, of that kind of oil sands product obtained pursuant to the Project;

T is all handling charges, export charges, pipeline tariff charges and charges of a similar nature that are paid to transport the oil sands product disposed of in the dispositions referred to in the definition of C from the royalty calculation point for the oil sands product to the place where those dispositions occur;

Q is the total quantity of the oil sands product disposed of in the dispositions referred to in the definition of C.

(4) If the oil sands product referred to in subsection (3) is cleaned crude bitumen contained in blended bitumen, the price for the purposes of that subsection shall be calculated in accordance with the formula set out in that subsection, except that

- (a) "C" is the total consideration, calculated in accordance with the Minister's directions, received or receivable by the seller under all third party dispositions, as defined in section 21(1)(b), during 2009, of blended bitumen containing cleaned crude bitumen obtained pursuant to the Project,
- (b) "T" is all handling charges, export charges, pipeline tariff charges and charges of a similar nature that are paid to transport the blended bitumen disposed of in the dispositions referred to in clause (a) from the royalty calculation point for the cleaned crude bitumen contained in the blended bitumen to the place where those dispositions occur, and includes the cost of diluent contained in that blended bitumen, and

- (c) “Q” is the quantity of cleaned crude bitumen contained in the blended bitumen disposed of in the dispositions referred to in clause (a).

(5) If the Minister is of the opinion that the quantity of an oil sands product disposed of in third party dispositions referred to in subsection (3) or (4) is insufficient to determine a reasonably accurate price for the purposes of subsection (3), the price used for the purposes of subsection (3) shall be the price determined by the Minister as the fair market value of the product.

(6) The royalty reserved to the Crown on transitional crude bitumen is the same percentage of the quantity of the transitional crude bitumen as the percentage of the royalty reserved under section 90(3) of the Act, as that section stood on October 1, 2008, on other oil sands products obtained pursuant to the Project during the 2008 Period.

(7) The proceeds payable to the Crown for the Crown’s royalty share of transitional crude bitumen is the product of the quantity of the Crown’s royalty share and the simple average of the unit prices that

- (a) would be determined under section 32 of the *Oil Sands Royalty Regulation, 2009* for the months of 2009, and
- (b) would apply to crude bitumen described in section 1(2)(b) or (c) of the *Oil Sands Royalty Regulation, 2009* obtained pursuant to the Project and delivered at a royalty calculation point under that Regulation for the product during those months,

if those months were part of a pre-payout Period of the Project.

(8) The proceeds referred to in subsection (6) shall be paid to the Crown by April 30, 2010.

(19) Section 40 is repealed and the following is substituted:

Expiry

40 This Regulation expires on June 30, 2014.

(19) Schedule 1 is amended

- (a) **in section 2(d) by adding** “and on or before December 31, 2008” **after** “the Project”;
- (b) **in section 3(j)(iv) by adding** “under this Regulation or in the determination of unit price under section 32 of the *Oil Sands Royalty Regulation, 2009*” **after** “unit price”;

- (c) **in section 4 by adding** “and section 16 of the *Oil Sands Allowed Costs (Ministerial) Regulation*” **after** “subject to section 5 of this Schedule”.

(20) Schedule 2 is amended

- (a) **in section 2(d) by adding** “and on or before December 31, 2008” **after** “the Project”;
- (b) **in section 3(j)(iv) by adding** “under this Regulation or in the determination of unit price under section 32 of the *Oil Sands Royalty Regulation, 2009*” **after** “unit price”;
- (c) **in section 4 by adding** “and section 16 of the *Oil Sands Allowed Costs (Ministerial) Regulation*” **after** “subject to section 5 of this Schedule”.

Amends AR 288/99

54(1) The *Regulations Act Regulation* (AR 288/99) is amended by this section.

(2) Section 17(1) is amended by adding the following after clause (s):

- (s.1) all orders of the Minister under section 8 of the *Oil Sands Royalty Regulation, 2009*;

Expiry

55 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.

Coming into force

56 This Regulation comes into force on January 1, 2009.

Alberta Regulation 224/2008

Mines and Minerals Act

NATURAL GAS DEEP DRILLING REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 596/2008) on December 10, 2008 pursuant to sections 5 and 36 of the Mines and Minerals Act.

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Schedule

Definitions

1(1) In this Regulation,

- (a) "abandoned well" means a well classified as an abandoned well by the Board;
- (b) "Act" means the *Mines and Minerals Act*;
- (c) "Board" means the Energy Resources Conservation Board or the Alberta Energy and Utilities Board;
- (d) "Crown interest" means the percentage of Crown ownership of gas recovered or obtained as determined by the Minister in accordance with section 26.1 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
- (e) "crude oil" means crude oil as defined in the *Natural Gas Royalty Regulation, 2009*;
- (f) "deepening" means, in relation to a well, the drilling of the well below the true vertical depth referred to in the licence for the well, pursuant to an amendment to the licence;

- (g) “designated pool” means a pool that, as of June 1, 1985, has been designated as a pool by the Board pursuant to the *Oil and Gas Conservation Act*;
- (h) “development well” means a well classified as a development well by the Board;
- (i) “drilling spacing unit” means a drilling spacing unit as defined in the *Natural Gas Royalty Regulation, 2009*;
- (j) “eligible well” means an eligible well described in section 3;
- (k) “eligible well event” means a well event contained in an eligible well that has a Crown interest greater than 0%;
- (l) “exploratory well” means a well classified as an exploratory well by the Board;
- (m) “field condensate” means field condensate as defined in the *Natural Gas Royalty Regulation, 2009*;
- (n) “finished drilling date” means a finished drilling date for a well event according to the records of the Board;
- (o) “gas” means natural gas, residue gas, gas products and field condensate;
- (p) “gas product” means gas product as defined in the *Natural Gas Royalty Regulation, 2009*;
- (q) “lengthening” means increasing the measured depth of a well referred to in the licence for the well, pursuant to an amendment to the licence;
- (r) “licence” means a licence for a well issued under the *Oil and Gas Conservation Act*;
- (s) “licensee”, in relation to a well, means the holder of the licence in respect of that well under the *Oil and Gas Conservation Act*;
- (t) “measured depth” means, in relation to a well, the longest distance in metres according to the records of the Board, measured along the bore of the well from the kelly bushing of the well to the base of the deepest natural gas producing interval in the well that is producing in paying quantities;
- (u) “operator”, with reference to a well, means the person who is the operator of the well according to the records of the Department;

- (v) “pool” means a pool as defined in the *Oil and Gas Conservation Act*;
- (w) “qualifying pool” means a pool, other than a designated pool, that, in the opinion of the Minister, is in a producing zone the top of which is at a true vertical depth of more than
 - (i) 2500 metres, or
 - (ii) a number of metres less than 2500 metres specified by the Minister for that zone, if the zone is partly below and partly at or above a depth of 2500 metres and the Minister considers it appropriate to so specify either generally or for the purpose of a specific case;
- (x) “residue gas” means residue gas as defined in the *Natural Gas Royalty Regulation, 2009*;
- (y) “shortening” means decreasing the measured depth of a well where the base of the deepest natural gas producing interval in the well that is producing in paying quantities has a true vertical depth greater than 2500 metres but is shallower than the most recent measured depth determined previously for that well;
- (z) “true vertical depth” means the vertical distance, in metres, measured in a perpendicular line from the kelly bushing of a well to the top of the deepest zone that the well is, in the opinion of the Minister, producing natural gas in paying quantities;
- (aa) “twin well”, in relation to an eligible well, means a well that is
 - (i) spudded on or after October 25, 2007,
 - (ii) located in the same legal subdivision or drilling spacing unit, whichever is of lesser area, as that in which the eligible well is located, and
 - (iii) drilled to produce gas that, in the opinion of the Minister, is not initially recoverable from the eligible well due to inadvertent damage to the well;
- (bb) “2002 Regulation” means the *Natural Gas Royalty Regulation, 2002* (AR 220/2002);
- (cc) “unit area” means a unit area as defined in the *Natural Gas Royalty Regulation, 2009*;

(dd) “well event” means a well event as defined in the *Natural Gas Royalty Regulation, 2009*.

(2) A reference to the true vertical depth or measured depth of a well or a part of a well in this Regulation is a reference to the depth of the well or part of the well in metres according to the records of the Board.

Application of regulation

2 This Regulation applies to royalty on gas recovered or obtained from an eligible well on or after January 1, 2009.

Eligible well

3(1) Subject to subsection (3), an eligible well is a well that,

- (a) is an exploratory well or a development well,
- (b) is spudded, or deepened, on or after October 25, 2007 but before January 1, 2014,
- (c) is drilled, or deepened, in a drilling spacing unit that is not wholly or partly within the boundaries of a designated pool,
- (d) is drilled into a producing zone, the top of which is greater than a true vertical depth of 2500 metres,
- (e) produces gas from a qualifying pool, and
- (f) has a Crown interest greater than 0%.

(2) Additional information must be provided to the Minister by the operator or licensee if required to aid in determining that a well meets the requirements of subsection (1).

(3) A well is not an eligible well if,

- (a) subject to section 9, that well, or any well event in that well, has been the subject of a royalty exemption, adjustment or reduction under any former regulation,
- (b) unless otherwise approved by the Board, that well is off target within the meaning of the *Oil and Gas Conservation Regulations* (AR 151/71),
- (c) that well initially produces oil either alone or with gas at a gas oil ratio of less than 1800:1,

- (d) that well produces oil sands or crude bitumen, other than a gas well as defined in the *Oil and Gas Conservation Regulations* (AR 151/71),
- (e) it is a well whose production of crude oil or crude bitumen is exempt from royalty under the *Third Tier Exploratory Well Royalty Exemption Regulation* (AR 16/93) or eligible for a royalty adjustment under the *Deep Oil Exploratory Well Regulation* and that exemption or adjustment has not been wholly revoked,
- (f) that well is within the pool boundaries as designated by the Board as of June 1, 1985, or
- (g) that well is a re-entry into an abandoned well.

Nature of royalty adjustment

4(1) The royalty otherwise payable to the Crown on gas recovered or obtained from each eligible well event is adjusted in accordance with this section.

(2) Subject to subsection (3),

- (a) the royalty rate on natural gas recovered, or on residue gas or on gas products obtained from natural gas, from eligible well events on or after January 1, 2009, is reduced to 5%, and
- (b) the royalty rate on field condensate obtained from natural gas recovered from eligible well events on or after January 1, 2009 is reduced to 0%.

(3) Subsection (2)(a) and (b) do not apply to the last production month that a royalty reduction is applicable if there is not enough remaining in the total amount of royalty adjustment for the well, as calculated under subsection (7), to reduce the royalty rate for each well event in that well to 5% or 0%, as the case may be.

(4) In the case of the deepening of an eligible well, a royalty adjustment does not apply if the gas is recovered or obtained from a zone that is not below the deepest zone to which the well was previously drilled or deepened.

(5) The total royalty adjustment amount for an eligible well classified as a development well is the aggregate amount as determined under the Schedule.

(6) The total royalty adjustment amount for an eligible well classified as an exploratory well is the aggregate amount as determined under the Schedule.

(7) When the total royalty adjustment amount is determined for an eligible well under subsection (5) or (6), that amount is reduced each month by the total difference in the value of the adjusted royalty quantity for that well and the total royalty compensation determined as a result of the reduced royalty rate under subsection (2)(a) or (b), as applicable, for all eligible well events in that well, commencing with the first month of production from each eligible well event until

- (a) the total royalty adjustment amount is reduced to zero,
- (b) 5 years from the first finished drilling date of the eligible well has expired, or
- (c) December 31, 2018,

whichever occurs first.

(8) A royalty adjustment

- (a) does not apply in respect of any month that occurs after the 5-year period following the finished drilling date applicable to the drilling, deepening, lengthening or shortening of an eligible well, and
- (b) if the eligible well is abandoned, terminates effective as of the date of abandonment.

Determinations by Minister

5(1) If

- (a) an eligible well is drilled or deepened below a true vertical depth of 2500 metres to a new measured depth that is below the base of the natural gas bearing interval of the deepest zone from which the well was, in the opinion of the Minister, producing gas in paying quantities, and
- (b) the Minister is satisfied that the gas recovered or obtained from a qualifying pool in the deeper interval was subsequently recovered or obtained in paying quantities from a drilling spacing unit that, on the date the spudding in or commencement of deepening of the eligible well occurred, was not wholly or partly within the boundaries of a designated pool,

the Minister may determine a new measured depth and a new total royalty adjustment amount for the eligible well as if the well was deepened.

(2) If the Minister determines a new measured depth pursuant to subsection (1), the royalty otherwise payable to the Crown on gas recovered or obtained from the eligible well determined by the Minister is eligible for a royalty adjustment in accordance with section 4.

(3) If an eligible well has received a royalty adjustment under this Regulation and

- (a) that well is subsequently deepened,
- (b) the deepening results in a new measured depth, and
- (c) the new measured depth results in a new total royalty adjustment amount calculated for the well,

the new total royalty adjustment amount applied to the well

- (d) is the total royalty adjustment amount, and
- (e) shall be applied as of the effective date of the deepening,

and the finished drilling date of the eligible well is deemed to be the latest finished drilling date as a result of the deepening of the well.

(4) If an eligible well has received a royalty adjustment under this Regulation and

- (a) that well is subsequently lengthened or shortened,
- (b) the lengthening or shortening results in a new measured depth, and
- (c) the new measured depth results in a new total royalty adjustment amount calculated for the well,

the new total royalty adjustment amount applied to the well

- (d) is the total royalty adjustment amount, and
- (e) shall be applied as of the effective date of the lengthening or shortening,

and the finished drilling date of the eligible well is deemed to be the first finished drilling date of the well before the well was lengthened or shortened.

(5) If the new total royalty adjustment amount determined for an eligible well under subsection (3) or (4) is less than the amount of royalty adjustment already received by that well as of the effective date

of the new total royalty adjustment, that well shall not receive any further royalty adjustments.

(6) If an eligible well is receiving a royalty adjustment under this Regulation and that well subsequently becomes part of a unit area,

- (a) the Crown interest of each well event in that well is the Crown interest under the unit area, effective as of the date of the unit area,
- (b) the Minister shall determine whether or not that well or well event is an eligible well or eligible well event as of the effective date of the unit area,
- (c) the total royalty adjustment amount determined for that well does not change, and
- (d) the amounts that well received in royalty adjustments prior to the well becoming part of a unit area do not change.

(7) If an eligible well is receiving a royalty adjustment under this Regulation and the Crown interest in that well, or in any well event in that well, subsequently changes for a reason other than becoming part of a unit area as described under subsection (6), the Crown interest is adjusted accordingly, and there is no change to the total royalty adjustment amount determined for that well, or to the amounts that well received in royalty adjustments prior to the change in Crown interest.

(8) For the purpose of this section, the “value of the adjusted royalty quantity” with respect to an eligible well is the aggregate of the amounts of royalty compensation that would have been payable under the *Natural Gas Royalty Regulation, 2009* in respect of the Crown’s royalty share of gas recovered or obtained from each eligible well event in that well in the absence of

- (a) any royalty exemption, adjustment or reduction under another current or former regulation, and
- (b) any royalty adjustment under this Regulation

applied to that well event, or to the well that contains that well event, and without any deductions for allowable costs.

Transfer of royalty adjustment

6(1) The Minister may approve the transfer of a royalty adjustment in section 4 or 5 from an eligible well to its twin well.

- (2) If the Minister approves the transfer of a royalty adjustment pursuant to subsection (1),
- (a) the royalty adjustment on gas recovered or obtained from the eligible well from which the royalty adjustment was transferred terminates on the effective date of the transfer of the royalty adjustment to the twin well, and
 - (b) the royalty adjustment period applicable to the twin well is the balance of the royalty adjustment period that would have been applicable to the eligible well from which the royalty adjustment was transferred.

Factors affecting adjustment or determination

7 If, in respect of an eligible well or a twin well, the Minister is of the opinion that

- (a) gas recovered or obtained from an eligible well or a twin well subject to royalty adjustment has resulted in a material reduction of gas recovered or obtained from another well that is not subject to a royalty adjustment,
- (b) there are circumstances that, had they been known when the approval of a transfer of a royalty adjustment to a twin well was made, would have resulted in a refusal to allow the transfer,
- (c) there are circumstances that, had they been known when a determination under section 5 was made, would have resulted in a refusal to make the determination,
- (d) a provision of this Regulation has not been complied with,
- (e) compliance with section 47(6) of the Act in connection with an audit or examination relating to a royalty adjustment in respect of an eligible well was inadequate, or
- (f) one or more acts, agreements, arrangements, transactions or operations were, before or after the coming into force of this Regulation, effected for the purpose of improperly, artificially or unduly obtaining or increasing a royalty adjustment,

the Minister may determine that gas recovered or obtained in respect of a well is not eligible in whole or in part for the royalty adjustment, may revoke a royalty adjustment in whole or in part and may disallow the transfer of a royalty adjustment to a twin well.

Reporting circumstances affecting eligibility

8 A person who has received a royalty adjustment shall forthwith notify the Minister in writing on learning of any circumstances that indicate the well or well event from which gas was recovered or obtained was not eligible for the royalty adjustment in whole or in part.

Transition wells

9(1) A well that is eligible for, or received a royalty exemption or royalty adjustment under the 2002 Regulation is eligible for a royalty adjustment under this Regulation if it is an eligible well and if it meets the following criteria:

- (a) the well was spudded or commenced deepening on or after October 25, 2007 and on or before December 31, 2008;
- (b) the well is not a well described under section 3(3);
- (c) the well, or a well event in that well, has unused royalty exemption or royalty adjustment under the 2002 Regulation.

(2) The total amount of royalty adjustment is calculated for a transition well as if it were an eligible well under this Regulation but the total royalty adjustment amount is then reduced by the amount of royalty exemption or adjustment received by the well, or by all well events in that well, under the 2002 Regulation.

Minister's decision final

10 Where any question arises pertaining to the interpretation or application of this Regulation, the Minister is the sole judge of the question and there is no appeal from the Minister's decision.

Expiry

11 This Regulation expires on June 30, 2024.

Coming into force

12 This Regulation comes into force on January 1, 2009.

Schedule

Development wells

1(1) The total royalty adjustment for an eligible well classified as a development well is determined in accordance with the following formula:

$$\text{total royalty adjustment} = A+B+C+D+E$$

where

- A is the number of metres of the measured depth more than 2500 but not more than 3500 multiplied by \$625 per metre;
- B is the number of metres of the measured depth more than 3500 but not more than 4000 multiplied by \$2500 per metre;
- C is the number of metres of the measured depth more than 4000 but not more than 5000 multiplied by \$2500 per metre;
- D is the number of metres of the measured depth more than 5000 multiplied by \$3000 per metre;
- E is the supplemental royalty adjustment determined under subsection (2).

(2) The supplemental royalty adjustment is as follows:

- (a) if the measured depth is less than 4000 metres, \$0;
- (b) if the measured depth is 4000 metres or more, \$875 000.

(3) The maximum royalty adjustment is \$8 000 000.

Exploratory wells

2(1) The total royalty adjustment for an eligible well classified as an exploratory well is determined in accordance with the following formula:

$$\text{total royalty adjustment} = A+B+C+D+E$$

where

- A is the number of metres of the measured depth more than 2500 but not more than 3500 multiplied by \$625 per metre;
- B is the number of metres of the measured depth more than 3500 but not more than 4000 multiplied by \$2500 per metre;
- C is the number of metres of the measured depth more than 4000 but not more than 5000 multiplied by \$3125 per metre;
- D is the number of metres of the measured depth more than 5000 multiplied by \$3750 per metre;
- E is the supplemental royalty adjustment determined under subsection (2).

(2) The supplemental royalty adjustment is as follows:

- (a) if the measured depth is less than 4000 metres, \$0;
 - (b) if the measured depth is 4000 metres or more, \$875 000.
- (3) The maximum royalty adjustment is \$10 000 000.

Alberta Regulation 225/2008

Mines and Minerals Act

DEEP OIL EXPLORATORY WELL REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 597/2008) on December 10, 2008 pursuant to sections 5 and 36 of the Mines and Minerals Act.

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Interpretation

1(1) In this Regulation,

- (a) "Act" means the *Mines and Minerals Act*;
- (b) "Board" means the Energy Resources Conservation Board or the Alberta Energy and Utilities Board;

- (c) “Crown interest” means the percentage of Crown ownership of crude oil recovered from a well event as determined by the Minister in accordance with section 26.1 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
- (d) “crude oil” means crude oil as defined in the *Petroleum Royalty Regulation, 2009*;
- (e) “deepening” means the re-entry into a well and the drilling of any bore of the well away from the course of a pre-existing bore of the well and beyond the total depth of a pre-existing bore referred to in the licence for the well pursuant to an amendment of the licence or to any other approval by the Board relating to the well, so that crude oil or oil sands is obtained from a pool or oil sands deposit not penetrated by a pre-existing bore before the re-entry;
- (f) “excluded production” means any substance obtained from an oil well or oil sands well that the Minister determines under section 9 to be excluded production;
- (g) “exploratory interval” means,
 - (i) in the case of an exploratory well classified by the Board as a new field wildcat well or a new pool wildcat well, the interval that extends from the surface to the base of the well, and
 - (ii) in the case of an exploratory well classified by the Board as a deeper pool test well, the interval the Board specifies as the exploratory interval of the well;
- (h) “exploratory oil” means crude oil or oil sands that is determined to be exploratory oil under section 4;
- (i) “exploratory well” means an exploratory well described in section 2;
- (j) “finished drilling date” means a finished drilling date for a well event according to the records of the Board;
- (k) “ineligible well” means a well described in section 2(4);
- (l) “licence” means a licence for a well issued under the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*;
- (m) “licensee” means the holder of a licence according to the records of the Board and includes a trustee or receiver-manager of property of a licensee;

- (n) “oil sands well” means a well that produces oil sands, other than a gas well as defined in the *Oil and Gas Conservation Regulations* (AR 151/71);
- (o) “oil sands well event” means a well event that is part of an oil sands well;
- (p) “oil well” means an oil well as defined in the *Oil and Gas Conservation Regulations* (AR 151/71);
- (q) “oil well event” means a well event that is part of an oil well;
- (r) “operator” means an operator as defined in the *Petroleum Royalty Regulation, 2009*;
- (s) “pool” means a pool as defined in the *Petroleum Royalty Regulation, 2009*;
- (t) “re-entry well” means a re-entry well or resumption well described in section 3;
- (u) “royalty adjustment” means the royalty adjustment referred to in section 6 or a royalty adjustment that has been transferred under section 7;
- (v) “scheme boundary” means, in respect of a scheme that is an approved scheme under the *Enhanced Recovery of Oil Royalty Reduction Regulation* (AR 348/93),
 - (i) the boundaries of the scheme as described in an order issued by the Board approving the scheme, or
 - (ii) if the boundaries of the scheme are not so described, the boundaries of the pool or pools containing the whole or any part of the scheme and designated by order of the Board,

including any changes to those boundaries that extend those boundaries outward;
- (w) “true vertical depth” means the vertical distance measured in a perpendicular line from the kelly bushing of a well to the base of the bore of the well;
- (x) “twin well” means a well designated as a twin well under section 7;
- (y) “well event” means a well event as defined in the *Petroleum Royalty Regulation, 2009*.

(2) A reference in this Regulation to a month, whether by its name or not, shall be construed as the period commencing at 8:00 a.m. Mountain Standard Time on the first day of the month and ending immediately before 8:00 a.m. Mountain Standard Time on the first day of the next month.

Exploratory well

2(1) Subject to subsections (2) and (4), an oil well or an oil sands well is an exploratory well if it is classified by the Board as a new field wildcat well, a new pool wildcat well or deeper pool test well, and

- (a) where the spudding or the commencement of drilling or deepening of the well occurs on or after January 1, 2009 and on or before December 31, 2013,
 - (i) the well is drilled to a true vertical depth of greater than 2000 metres, and
 - (ii) the top of the producing interval is below a true vertical depth of 2000 metres,

or

- (b) where the spudding or the commencement of drilling or deepening occurred on or after October 25, 2007 and on or before December 31, 2008,
 - (i) the well meets the requirements of clause (a)(i) and (ii), and
 - (ii) the well qualifies as a third tier exploratory well and has unused royalty exemption under the *Third Tier Exploratory Well Royalty Exemption Regulation* (AR 16/93).

(2) If, under subsection (1)(a) with respect to a pool, there are multiple oil wells or oil sands wells that meet the requirements of subsection (1)(a)(i) and (ii), the first well in that pool to have discovered exploratory oil, in the opinion of the Minister, is the exploratory well.

(3) The Minister may ask for additional information to aid in determining that a well meets the requirements of subsection (1) or (2).

(4) An oil well or oil sands well is not an exploratory well under subsection (1) if

- (a) any production of the well is subject to a royalty that has been prescribed under section 9 of the *Petroleum Royalty Regulation, 2009*,

- (b) the well is eligible for a royalty adjustment under the *Natural Gas Deep Drilling Regulation*,
- (c) the well is in whole or in part within the area enclosed by a scheme boundary or less than 0.8 kilometres from a scheme boundary, unless the Minister has made a declaration in respect of the well under section 5,
- (d) exploratory oil or excluded production is not obtained from the well in the first month in which a substance is obtained from the well, or
- (e) exploratory oil obtained from a well event of the well is not obtained in segregation from crude oil or oil sands obtained from another well event of the well that is not exploratory oil under section 4 of this Regulation.

Re-entry well

3 The Minister may, on application by an operator or licensee within 6 months of the finished drilling date, determine that a well is a re-entry well eligible for a royalty adjustment if

- (a) the well is a re-entry well or resumption well according to the records of the Board,
- (b) the well meets the requirements of an exploratory well under section 2(1)(a) and is not an ineligible well,
- (c) as a result of deepening of the well, the production from the well comes from a newly discovered pool, and
- (d) the well meets any other requirements determined by the Minister.

Exploratory oil

4 Crude oil or oil sands that are not determined to be excluded production under section 9 are exploratory oil if

- (a) the crude oil or oil sands is obtained from an oil well event or oil sands well event, in segregation from any other crude oil or oil sands obtained from the well that is not exploratory oil, and the well event is part of
 - (i) an exploratory well classified by the Board as a new field wildcat well or a new pool wildcat well,

- (ii) an interval specified by the Board as the exploratory interval of an exploratory well classified as a deeper pool test well by the Board,
 - (iii) a well that has been designated as a twin well in respect of an exploratory well classified as a deeper pool test well by the Board from a pool specified by the Minister,
 - (iv) a well that has been designated as a twin well in respect of an exploratory well classified by the Board as a new field wildcat well or a new pool wildcat well,
 - (v) a re-entry well, or
 - (vi) a well declared to be an eligible well under section 5,
- (b) the Crown interest in the well event is greater than 0%, and
- (c) the crude oil or oil sands is subject to the payment of royalty under the *Petroleum Royalty Regulation, 2009* or the *Oil Sands Royalty Regulation, 2009*, respectively.

Declaration that well is an eligible well

5(1) The Minister may, by order, declare that a well that is in whole or in part within the area enclosed by the scheme boundary of a scheme or less than 0.8 kilometres from the scheme boundary of a scheme is an eligible well if

- (a) the Board has cancelled its requirement for a scheme or cancelled its approval of a scheme under section 38 or 39 of the *Oil and Gas Conservation Act*, or
- (b) the t-factor for the scheme, if any, for the purposes of the *Enhanced Recovery of Oil Royalty Reduction Regulation* (AR 348/93) is zero.

(2) An order by the Minister under subsection (1) may be made effective on a date earlier than the date the order is made, but may not be effective in respect of any period of time for which the Minister's power under section 38 of the Act to recalculate or make additional calculations of the Crown's royalty share of a mineral has expired.

Royalty adjustment

6(1) In this section,

- (a) "heavy oil" means heavy oil as defined in the *Petroleum Royalty Regulation, 2009*;

- (b) “light oil” means light oil as defined in the *Petroleum Royalty Regulation, 2009*;
- (c) “medium oil” means medium oil as defined in the *Petroleum Royalty Regulation, 2009*;
- (d) “ultra heavy oil” means ultra heavy oil as defined in the *Petroleum Royalty Regulation, 2009*.

(2) The royalty on exploratory oil obtained from an oil well event or oil sands well event that is payable under the *Petroleum Royalty Regulation, 2009* or the *Oil Sands Royalty Regulation, 2009* is adjusted to zero

- (a) for the first 12 months that exploratory oil is obtained from the oil well event or oil sands well event,
- (b) until the cumulative value of the royalty on the exploratory oil that would be payable in the absence of this Regulation equals \$1 000 000 multiplied by the Crown interest in the exploratory oil,
- (c) 5 years from the finished drilling date if the finished drilling date is on or before December 31, 2013, or
- (d) until December 31, 2018,

whichever occurs first.

(3) For the purposes of subsection (2)(b) and section 11(1)(b), the value of each cubic metre of the royalty for exploratory oil obtained in any month after December 2008 is,

- (a) in the case of exploratory oil that is light oil, the light oil par price for that month prescribed under the *Petroleum Royalty Regulation, 2009* multiplied by the quantity of exploratory oil in cubic metres,
- (b) in the case of exploratory oil that is medium oil, the medium oil par price for that month prescribed under the *Petroleum Royalty Regulation, 2009* multiplied by the quantity of exploratory oil in cubic metres,
- (c) in the case of exploratory oil that is heavy oil, the heavy oil par price for that month prescribed under the *Petroleum Royalty Regulation, 2009* multiplied by the quantity of exploratory oil in cubic metres, and
- (d) in the case of exploratory oil that is ultra heavy oil, the ultra heavy oil par price for that month prescribed under the

Petroleum Royalty Regulation, 2009 multiplied by the quantity of exploratory oil in cubic metres.

- (4) For the purposes of subsection (2)(b),
- (a) the Crown interest is the Crown interest applicable in the month in which the royalty adjustment commences,
 - (b) in the case of an exploratory well under section 2(1)(b), the cumulative value of the royalty that may be adjusted is further reduced by the amount of any royalty exemption received under the *Third Tier Exploratory Well Royalty Exemption Regulation* (AR 16/93), and
 - (c) in the month that the cumulative value of the royalty on the exploratory oil that would be payable in the absence of this Regulation equals \$1 000 000 multiplied by the Crown interest in the exploratory oil, the royalty that is payable shall be adjusted only by the amount that would result in a cumulative value of \$1 000 000 multiplied by the Crown interest in the exploratory oil, which may result in royalty payable greater than zero for that month.

Twin well

7(1) The Minister may, on application by an operator or licensee, designate an oil well or oil sands well that meets the following criteria to be a twin well:

- (a) the well, in the opinion of the Board, is drilled to obtain exploratory oil because the oil is not recoverable from an exploratory well due to inadvertent damage to the exploratory well;
- (b) the well meets the requirements of an exploratory well under section 2(1)(a);
- (c) the well is located in the same drilling spacing unit or legal subdivision, whichever is of lesser area, of the exploratory well if the exploratory well is within a drilling spacing unit or legal subdivision;
- (d) the well is located not further from the exploratory well than a distance approved by the Minister if the exploratory well is not within a drilling spacing unit or legal subdivision.

(2) When the Minister designates a well to be a twin well in respect of an exploratory well,

- (a) the royalty adjustment ceases to apply to production from the exploratory well,
 - (b) the balance of the exploratory well's royalty adjustment period under section 6(2)(a) and the balance of the royalty value under section 6(2)(b) in respect of the exploratory well is transferred to the twin well, and
 - (c) the latest finished drilling date of the exploratory well becomes the finished drilling date of the twin well.
- (3)** The Minister may, in the designation of a twin well,
- (a) specify that the transfer of the royalty adjustment applies only to crude oil or oil sands obtained from a certain pool,
 - (b) make the effective date of the transfer a date that is before the application for a designation was made, and
 - (c) make the transfer of the royalty adjustment subject to other terms and conditions.

Deemed production

8 If exploratory oil is not obtained from an exploratory well or twin well in a month because the Board suspended production from the well for a contravention of or non-compliance with the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*, the regulations under either Act or an order of the Board, that month is deemed for the purposes of section 6(2)(a) to be a month in which exploratory oil has been obtained from the well.

Excluded production

9(1) The Minister may, on application by an operator or licensee, determine that any substance obtained from an oil well or oil sands well is excluded production if the Minister is of the opinion that

- (a) during the test of the well all natural gas and solution gas obtained from the well was flared or vented, and
- (b) after the test of the well all natural gas and solution gas obtained from the well is conserved.

(2) For the purposes of subsection (1), a substance is obtained during a test of an oil well or oil sands well if the Minister is of the opinion that

- (a) the substance was obtained in an isolated occurrence,

- (b) the quantity of the substance obtained is consistent with a test of the well, and
- (c) the number of hours over which the substance is obtained is consistent with a test of the well.

(3) An application under subsection (1) in respect of an oil well or oil sands well must be made by the operator in a form determined by the Minister within 6 months after the end of the first month in which any substance is obtained from the well.

Effect of further work

10 No crude oil or oil sands obtained from an exploratory well or a twin well after a royalty adjustment terminates in respect of the well under section 6(2) is eligible for a new royalty adjustment even if the crude oil or oil sands is obtained as a result of further drilling or deepening.

Termination of adjustment

11(1) A royalty adjustment in respect of exploratory oil obtained from an exploratory well or a twin well terminates

- (a) at the end of 12 months of production under section 6(2)(a),
- (b) once the cumulative value of the royalty on the exploratory oil that would be payable in the absence of this Regulation equals
 - (i) in the case of an exploratory well under section 2(1)(a), \$1 000 000 multiplied by the Crown interest in the exploratory oil, or
 - (ii) in the case of an exploratory well under section 2(1)(b), \$1 000 000 multiplied by the Crown interest in the exploratory oil less any royalty exemption received under the *Third Tier Exploratory Well Royalty Exemption Regulation* (AR 16/93),
- (c) at the end of the month in which the exploratory well is abandoned or, if a twin well has been designated, at the end of the month in which the twin well is abandoned,
- (d) at the end of the month in which the exploratory well or twin well becomes an ineligible well referred to in section 2(4),
- (e) at the end of the month in which the well has reached 5 years from the earliest finished drilling date, or

- (f) at the end of the month in which a well has received a closed status from the Board,

whichever occurs first.

(2) For the purposes of subsection (1)(b), the Crown interest is the Crown interest applicable in the month in which the royalty adjustment commences.

Factors affecting adjustment, designation or determination

12 If, in respect of an exploratory well or a twin well, the Minister is of the opinion that

- (a) production of exploratory oil has exceeded the maximum allowable production authorized by the Board,
- (b) production from an exploratory well or a twin well subject to a royalty adjustment has resulted in a material reduction of the production of crude oil or oil sands from another well, production from which is not subject to a royalty adjustment,
- (c) there are circumstances that, had they been known when a designation of a twin well was made, would have resulted in a refusal to make the designation,
- (d) there are circumstances that, had they been known when a determination under section 3 or a designation under section 7(1) or (2) was made, would have resulted in a refusal to make the determination,
- (e) a term or condition specified in a designation of a twin well has not been complied with or satisfied,
- (f) a provision of this Regulation has not been complied with,
- (g) compliance with section 47(6) of the Act in connection with an audit or examination relating to a royalty adjustment in respect of a well has been inadequate, or
- (h) one or more acts, agreements, arrangements, transactions or operations were, before or after the coming into force of this Regulation, effected for the purpose of improperly, artificially or unduly obtaining or increasing a royalty adjustment,

the Minister may refuse to designate a well to be a twin well, may determine that crude oil or oil sands in respect of a well may not in whole or in part receive a royalty adjustment or may revoke a royalty adjustment in whole or in part.

Request to revoke adjustment

13(1) The Minister may wholly revoke a royalty adjustment in respect of exploratory oil obtained from an exploratory well or a twin well on receiving a request to do so from the operator or licensee of the well.

(2) No crude oil or oil sands obtained from an exploratory well or a twin well after a royalty adjustment is revoked under subsection (1) or terminated under section 11 may receive a new royalty adjustment even if the crude oil or oil sands is obtained as a result of further drilling or deepening.

Effect of revocation

14 If the Minister revokes a royalty adjustment under section 12 or 13 in respect of an exploratory well or a twin well, royalty on the exploratory oil obtained from the well is calculated as if entitlement to the adjustment never arose or arose only in part, in accordance with the revocation.

Reinstatement of royalty adjustment

15(1) If the Minister considers it appropriate to do so, the Minister may reinstate a royalty adjustment that was revoked wholly or in part under section 12 or 13.

(2) If the Minister reinstates a royalty adjustment under subsection (1) in respect of an exploratory well or a twin well, royalty on the eligible oil obtained from the well is calculated as if entitlement to the adjustment was never revoked.

(3) A reinstatement may be made effective on a date determined by the Minister, but may not be effective in respect of any period of time for which the Minister's power under section 38 of the Act to recalculate or make additional calculations of the Crown's royalty share of a mineral has expired.

Reporting circumstances affecting eligibility

16 An operator or licensee shall forthwith notify the Minister in writing on learning of any circumstances that indicate that exploratory oil was not eligible in whole or in part for a royalty adjustment that was applied to the royalty payable on the exploratory oil.

Minister's decision final

17 Where any question arises pertaining to the interpretation or application of this Regulation, the Minister is the sole judge of the question and there is no appeal from the Minister's decision.

Expiry

18 This Regulation expires on June 30, 2024.

Coming into force

19 This Regulation comes into force on January 1, 2009.

Alberta Regulation 226/2008

Mines and Minerals Act

CO₂ PROJECTS ROYALTY CREDIT AMENDMENT REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 598/2008) on December 10, 2008 pursuant to sections 5 and 36 of the Mines and Minerals Act.

1 The *CO₂ Projects Royalty Credit Regulation* (AR 120/2003) is amended by this Regulation.

2 Section 14 is repealed and the following is substituted:

Expiry

14 This Regulation expires on June 30, 2014.

Alberta Regulation 227/2008

Public Trustee Act

PUBLIC TRUSTEE INVESTMENT AMENDMENT REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 604/2008) on December 10, 2008 pursuant to section 46 of the Public Trustee Act.

1 The *Public Trustee Investment Regulation* (AR 24/2006) is amended by this Regulation.

2 Section 7 is renumbered as section 7(2) and the following is added before subsection (2):

Separate investments

7(1) For the purpose of section 37(3) of the Act, the Public Trustee may make a separate investment for a client by doing one or more of the following:

- (a) contributing money of the client to a registered disability savings plan as defined in the *Income Tax Act* (Canada);
- (b) contributing money of the client to a TFSA as defined in the *Income Tax Act* (Canada).

Alberta Regulation 228/2008

Trustee Act

TRUSTEE ACT REGULATION

Filed: December 10, 2008

For information only: Made by the Lieutenant Governor in Council (O.C. 605/2008) on December 10, 2008 pursuant to section 47 of the Trustee Act.

Tax-free savings plan

1 A TFSA under section 146.2 of the *Income Tax Act* (Canada) is prescribed for the purpose of section 47(1)(c)(iv) of the *Trustee Act*.

Alberta Regulation 229/2008

Traffic Safety Act

BUS SAFETY AMENDMENT REGULATION

Filed: December 11, 2008

For information only: Made by the Minister of Transportation (M.O. 44/08) on December 10, 2008 pursuant to sections 81 and 156 of the Traffic Safety Act.

1 The *Bus Safety Regulation* (AR 212/2006) is amended by this Regulation.

2 Section 8 is amended by striking out “2008” and substituting “2009”.

Alberta Regulation 230/2008

Traffic Safety Act

**COMMERCIAL BUS EQUIPMENT AND SAFETY
AMENDMENT REGULATION**

Filed: December 11, 2008

For information only: Made by the Minister of Transportation (M.O. 45/08) on December 10, 2008 pursuant to sections 81 and 156 of the Traffic Safety Act.

1 The *Commercial Bus Equipment and Safety Regulation* (AR 213/2006) is amended by this Regulation.

2 Section 21 is amended by striking out “2008” and substituting “2009”.

Alberta Regulation 231/2008

Mines and Minerals Act

OIL SANDS ALLOWED COSTS (MINISTERIAL) REGULATION

Filed: December 11, 2008

For information only: Made by the Minister of Energy (M.O. 82/2008) on December 10, 2008 pursuant to section 36(5.1) of the Mines and Minerals Act.

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Schedule

Interpretation

1(1) In this Regulation,

- (a) "basic service", in respect of a Project, means a service
 - (i) without which oil sands or oil sands products to be recovered or obtained pursuant to the Project could not physically be so recovered or obtained, or
 - (ii) necessary for the operation or maintenance of a core or supporting asset referred to in section 1(1)(f)(i) of the *Oil Sands Royalty Regulation, 2009*,

performed utilizing a core or supporting asset that is not included in the description of the Project, but does not include a service the cost of which is corporate overhead;
- (b) "corporate overhead", in respect of a Project, means costs that are not directly and solely incurred for the purposes of Project operations, including, without limitation, expenses in relation to
 - (i) information technology,
 - (ii) performance of human resource functions,

- (iii) office space and office operations,
 - (iv) accounting services,
 - (v) research, and
 - (vi) any other corporate operation or purpose;
- (c) “cost of service”, in respect of a service performed by any person, means the actual cost to the person to perform the service, except that the portion of the actual cost attributable to the use of a capital asset to perform the service is
- (i) an amount determined in accordance with the Minister’s directions as depreciation in respect of the cost of the capital asset determined in accordance with section 11, and
 - (ii) a rate of return determined in accordance with clause (i) on the undepreciated portion of the cost of the capital asset determined in accordance with section 11;
- (d) “cumulative cost” has the meaning given to it in section 25 of the *Oil Sands Royalty Regulation, 2009*;
- (e) “cumulative revenue” has the meaning given to it in section 25 of the *Oil Sands Royalty Regulation, 2009*;
- (f) “environmental laws” means legally enforceable obligations in respect of the environment imposed by Acts or regulations of the Government of Alberta or Canada or bylaws of a municipality in Alberta, and includes any levies or charges based on levels of production, consumption or emissions, but does not include taxes;
- (g) “fair market value” means fair market value as determined by the Minister in accordance with section 10;
- (h) “fundamental cost” means a cost described in section 4, but does not include a specifically included cost, a specifically excluded cost or a cost excluded from allowed costs under section 3(2);
- (i) “rate of return”, unless the Minister specifies otherwise, means
- (i) the return allowance rate that is applicable from time to time, in the case of a capital asset utilized to perform a basic service in relation to a Project, or

- (ii) the return allowance rate referred to in subclause (i) plus an additional amount, if any, specified by the Minister from time to time by order or otherwise in respect of the capital asset or the applicable class of capital asset, in the case of a capital asset utilized to perform any other kind of service;
- (j) “return allowance rate” means return allowance rate as determined under section 2;
- (k) “specifically excluded costs” means costs listed in, or costs of activities listed in, column 2 of the Schedule;
- (l) “specifically included costs” means costs listed in, or costs of activities listed in, column 1 of the Schedule.

(2) Sections 1, 2, 3, 5, 6, 14, 18, 19, 48 and 50 of the *Oil Sands Royalty Regulation, 2009* apply with respect to this Regulation unless otherwise specified in this Regulation or otherwise required by necessary implication.

Return allowance rate

2(1) The return allowance rate for any month is the rate calculated in accordance with the following formula:

$$mr = (1+LTBR)^{(1/12)} - 1$$

where

mr is the return allowance rate for the month;

LTBR is the simple average of the Selected Government of Canada long-term benchmark yields, published as a percentage and for the purposes of this formula expressed in a decimal format, specified for the Wednesdays of the preceding month in the *Weekly Financial Statistics* next published by the Bank of Canada after the last of those Wednesdays of that preceding month.

(2) The return allowance rate for a Period is the simple average of the Selected Government of Canada long-term benchmark yields specified for the last Wednesday of each month of the Period in *Weekly Financial Statistics* next published by the Bank of Canada after each of those Wednesdays.

(3) If the long-term benchmark yields referred to in subsections (1) and (2) cease to be published by the Bank of Canada for any period of time, the Minister may prescribe a substitute benchmark yield to be

used for the purposes of subsections (1) and (2) in the place of those long-term benchmark yields.

Part 1

Requirements for Allowed Costs

Allowed costs

3(1) A cost is an allowed cost of a Project to the extent that

- (a) the cost
 - (i) is incurred by or on behalf of the lessee or operator of the Project,
 - (ii) is incurred on or after the later of January 1, 2009 and the effective date of the Project,
 - (iii) is incurred to carry out Project operations,
 - (iv) is reasonable under the circumstances in which it is incurred, and
 - (v) is adequately evidenced in accordance with section 6 and affirmatively established to the satisfaction of the Minister,
- (b) the cost is one of the following:
 - (i) a specifically included cost;
 - (ii) a fundamental cost of the Project under section 4;
 - (iii) a cost approved by the Minister under section 5,and
- (c) the cost is not a specifically excluded cost or a cost excluded from allowed costs under subsection (2).

(2) If the lessee or operator of a Project obtains a core or supporting asset that is not included in the description of the Project, the amount of the capital cost of the asset is not an allowed cost of the Project.

Fundamental costs

4(1) Fundamental costs of a Project are costs incurred directly

- (a) to recover, obtain, process or transport oil sands or oil sands products, or to market oil sands products, pursuant to the Project,

- (b) to reclaim or abandon Project lands, or
- (c) to comply with environmental laws applicable to the Project or applicable to a lessee or operator of the Project in respect of the Project.

(2) Fundamental costs of a Project do not include costs incurred in respect of

- (a) corporate overhead,
- (b) lands other than Project lands, or
- (c) an expansion of the Project before the effective date of the Project expansion.

Discretionary allowed costs

5(1) The operator of a Project may apply to the Minister for approval of any of the following as an approved cost of the Project:

- (a) a cost that has been incurred;
- (b) a cost that is being incurred;
- (c) a cost that will be incurred.

(2) The Minister may approve a cost as an approved cost of the Project if

- (a) the Minister is satisfied that
 - (i) the requirements of section 5(2) and (3) of the *Oil Sands Royalty Regulation, 2009* have been complied with in relation to the application, and
 - (ii) approving the cost would not expose the Crown to the risk of overstated or unverifiable costs being included in allowed costs of the Project,

and

- (b) in the Minister's opinion, incurring the cost directly and materially benefits the Project operations and is not too remote from the Project operations.

(3) An approval granted under subsection (2) may specify

- (a) a term for the approval, which may include a period of time that precedes the date of the approval, and

(b) the terms and conditions to which the approval is subject.

(4) If the Minister is of the opinion that a requirement set out in subsection (2) or a term or condition specified in an approval has not been or is not being met or complied with, the Minister may by notice to the operator of the Project

(a) terminate the approval granted under subsection (2), effective from the date of termination, or

(b) revoke the approval granted under subsection (2), effective from the date of revocation or from a date that precedes the date of revocation.

(5) Termination of an approval in relation to a cost does not preclude a further application under subsection (1) in relation to the cost, and the cost ceases to be treated as an approved cost on the effective date of the termination.

(6) Revocation of an approval in relation to a cost precludes a further application under subsection (1) in relation to the cost, and the cost ceases to be treated as an approved cost on the effective date of the revocation.

Evidence of costs

6 The lessee or operator of a Project must be capable of providing contracts, invoices, receipts, time sheets and other documents or records that clearly establish

(a) that a cost has been incurred,

(b) the gross and net amounts of the cost, and

(c) that the cost has actually been paid and the date of payment.

Reduction of allowed cost

7(1) An allowed cost of a Project is reduced

(a) to the extent it would not be allowed as a deduction in computing income under the *Income Tax Act* (Canada), if it is in respect of the human consumption of food or beverages or the enjoyment of entertainment,

(b) by the amount of any credit or discount received by the operator or lessee of the Project, or by an affiliate of either of them, that is intended to reduce or offset the cost, and

- (c) by the amount of any economic assistance, other than economic assistance in the form of a reduction in income tax payable or in the form of a reduction of royalty, royalty proceeds or royalty compensation by virtue of allocable costs, that is
 - (i) provided by the Province of Alberta or the Government of Canada, or an agency of either, to the operator or lessee of the Project, or to an affiliate of either of them, and
 - (ii) intended to reduce or offset the cost.

(2) The amount of an allowed cost does not include the amount of any taxes paid or payable under Part IX of the *Excise Tax Act* (Canada) by or on behalf of the lessee of a Project.

Part 2 Amount of Costs and Charges

Division 1 Allocation of Allowed Costs

Allocation

8(1) Where a cost incurred by or on behalf of a lessee of a Project may only be an allowed cost in part, the operator of the Project must allocate the portion of the cost that is an allowed cost and the portion of the cost that is not an allowed cost.

(2) The Minister may, with respect to any amount reported to the Minister as an allowed cost of a Project, give the operator a notice requiring the operator to disclose to the Minister within the time specified in the notice

- (a) any allocation used by the operator to determine the amount of the allowed costs reported,
- (b) the basis and justification for the allocation, and
- (c) any documentation and records supporting the allocation.

(3) If the Minister is satisfied that an allocation disclosed under subsection (2) or otherwise is not fair and reasonable or is not justified by adequate supporting documentation, the Minister may, by notice, direct the operator to supply additional information or otherwise justify the allocation within the time specified in the notice.

(4) After the expiry of the period set out in the notice given under subsection (2) or (3), or both, the Minister may determine the

allocation and the amount of the portion of the cost that is an allowed cost, and must provide the determination of the allocation to the operator.

(5) The Minister may refrain from making a determination under subsection (4) if

- (a) the Minister did not receive, in accordance with and within the time specified in a notice given under subsection (2), the items required to be provided pursuant to the notice,
- (b) the Minister did not receive, in accordance with and within the time specified in a notice given to the operator under subsection (3), the additional information or further justification required to be provided pursuant to the notice, if a notice was given under that subsection,
- (c) the operator did not comply with section 5(2) or (3) of the *Oil Sands Royalty Regulation, 2009* in relation to submission of the items, information or further justification required to be provided pursuant to a notice given under subsection (2) or (3), as the case may be, or
- (d) the items received by the Minister pursuant to a notice given under subsection (2), or the additional information or further justification received pursuant to a notice, if any, given under subsection (3) are not, in the Minister's opinion, adequate for the Minister to make the determination.

(6) If the Minister has made a determination under subsection (4), the portion of the cost that is determined to be an allowed cost is the amount of the allowed cost for the purposes of the *Oil Sands Royalty Regulation, 2009*.

(7) If the Minister refrains from making a determination under subsection (4), then no portion of the cost that was the subject of the notice given under subsection (2) or (3), as the case may be, is an allowed cost for the purposes of the *Oil Sands Royalty Regulation, 2009*.

(8) The making of a determination by the Minister under subsection (4) in relation to a cost does not preclude the making of a further determination pursuant to this section in relation to the same cost.

Division 2

Non-arm's Length Costs and Charges

Application of this Division

9(1) This Division applies, in conjunction with Part 1 and section 8, to the determination of the amount of allowed costs relating to goods,

services or capital assets other than goods, services or capital assets acquired pursuant to an arm's length transaction.

(2) This Division applies to the determination of the amount

- (a) of handling charges as defined in section 32(1)(a) of the *Oil Sands Royalty Regulation, 2009*, other than such handling charges that arise pursuant to an arm's length transaction, and
- (b) of charges included in TRC and DRC, as those terms are defined in section 5(2) and (4) of the *Bitumen Valuation Methodology (Ministerial) Regulation*, other than such charges that arise pursuant to an arm's length transaction.

(3) Despite the other sections of this Division, if the Minister is of the opinion that a fair market value, calculated value or cost of service determined under this Division duplicates, in whole or in part, a cost or charge of a kind referred to in subsection (1) or (2) that arises pursuant to an arm's length transaction, the amount of that cost or charge is, as of the date the cost or charge is incurred, deemed to be reduced to the extent of the duplication.

(4) For the purposes of this Division,

- (a) the providing of thermal energy for the purposes of a Project is a service,
- (b) the transmission and distribution of electricity and the provision of ancillary services as defined in the *Electric Utilities Act* are services, and
- (c) electricity is a good.

Fair market value for costs

10(1) The amount of any fair market value referred to in this Division in relation to a good, service or other asset is the value determined by the Minister in accordance with this section.

(2) Subject to this section, in determining for the purposes of this Division, the fair market value of a good, service or asset, other than the service of transporting a substance by pipeline, the Minister may, without limiting any other method of determining fair market value, adopt

- (a) the price of comparable goods, services or assets, if that price is published and generally adopted by buyers and sellers of such goods, services or assets,

- (b) a price for comparable goods, services or assets prescribed or determined pursuant to any Act or regulation of the Government of Alberta or Canada, or
- (c) an average of the prices paid for comparable goods, services or assets in arm's length transactions.

(3) The Minister may adjust a price or average of prices referred to in subsection (2) to reflect the most cost effective means of delivery from the place at which the price is determined.

(4) Subject to this section, in determining for the purposes of section 12(1)(a) the fair market value of the service of transporting a substance by pipeline, the Minister may, without limiting any other method of determining fair market value, adopt

- (a) a tariff charged for the service, if the tariff is fixed or approved for such service by a regulatory authority having jurisdiction to do so,
- (b) the tariff charged for the service by the owner of the pipeline, if, in the Minister's opinion,
 - (i) clause (a) does not apply,
 - (ii) the pipeline is subject to regulation on a complaints basis,
 - (iii) the tariff is generally agreed to and paid by persons who obtain the service in arm's length transactions,
 - (iv) the tariff is just and reasonable in the circumstances,
 - (v) all tariffs charged for transporting substances by means of the pipeline are published, and
 - (vi) no tariff or any other term for transporting substances by means of the pipeline unjustly discriminates among persons seeking to obtain or obtaining such service,

or

- (c) the weighted average of the prices paid by persons pursuant to arm's length transactions for comparable service, or if the Minister is satisfied no comparable service is provided, for transporting the substances by means of the pipeline, if, in the Minister's opinion,
 - (i) clauses (a) and (b) do not apply,

- (ii) the pipeline is subject to regulation on a complaints basis,
- (iii) not less than 2/3 of the quantities of oil sands products transported by means of the pipeline during the period the weighted average is adopted are transported pursuant to arm's length transactions, and
- (iv) the weighted average of prices is just and reasonable in the circumstances.

(5) The Minister may adjust a tariff or weighted average of prices referred to in subsection (4) to reflect differences between the terms of service applicable in respect of the tariff or weighted average of prices and the terms of service applicable in respect of the transportation service actually provided.

(6) For the purposes of subsection (4)(b)(ii) and (c)(ii), "subject to regulation on a complaints basis" means subject to a process pursuant to legislation whereby a customer or potential customer for the transportation service can complain regarding the charge for or terms of such service, or both, to a regulatory authority having jurisdiction to hear such a complaint and to fix the charge and terms of service.

(7) Subject to subsection (8), a price, an average of prices or a tariff may be adopted by the Minister pursuant to subsection (2) or (4) for such period or periods as the Minister may specify from time to time.

(8) A price, an average of prices or a tariff adopted by the Minister pursuant to subsection (2) or (4) ceases to apply prior to the end of the period or periods specified under subsection (7) if any requirement specified in subsection (2) or (4) with respect to the adoption of the price, average of prices or tariff ceases to be met.

Capital assets for cost of service determination

11(1) Subject to subsection (3), the cost of a capital asset for the purposes of determining a cost of service for a service provided using the capital asset is the lesser of

- (a) the fair market value of the asset, where the Minister is satisfied that a fair market value can reasonably be determined, and
- (b) the net book value of the asset to the person providing the service using the capital asset,

when the use of the capital asset to provide the service for which the cost of service is being determined commences.

(2) The net book value of an asset for the purposes of subsection (1)(b) is the undepreciated portion of the cost to the person referred to in that subsection, according to

- (a) the records of the Department, or
- (b) if the Department has no records, the records of the person.

(3) If the Minister is of the opinion that a capital asset used to provide a service is also used to provide other kinds of services, the Minister may from time to time give the operator of the Project a notice requiring the operator to propose, within the time specified in the notice, an allocation of the cost of the capital asset determined under subsection (1) between

- (a) the portion that fairly and reasonably represents the proportionate use of the asset to provide the service, and
- (b) the portion that represents the proportionate use of the asset to provide other kinds of services.

(4) If the Minister is satisfied that a proposed allocation under subsection (3) is not fair and reasonable or is not justified by adequate supporting documentation, the Minister may, by notice, direct the operator to supply additional information or otherwise justify the proposed allocation within a time specified by the Minister.

(5) The Minister may, by notice to the operator, determine the portion of the cost of the capital asset that the Minister considers to fairly and reasonably represent the proportionate use of the asset to provide a service, except that the Minister shall not do so until after the time specified under subsection (4) has expired if the Minister gave a notice under that subsection.

(6) The Minister may refrain from making a determination under subsection (5) if

- (a) the Minister did not receive a proposed allocation in accordance with, and within the time specified in, a notice given under subsection (3),
- (b) the Minister did not receive additional information or further justification for the operator's proposed allocation in accordance with, and within the time specified in, a notice given to the operator under subsection (4),
- (c) the operator did not comply with section 5(2) or (3) of the *Oil Sands Royalty Regulation, 2009* in relation to the submission of the proposed allocation or the submission of the additional information or further justification, or

- (d) the Minister received additional information or further justification in accordance with the notice given under subsection (4), but the information or justification was not, in the Minister's opinion, adequate for the Minister to make the determination.

(7) If the Minister has made a determination under subsection (5), the portion of the cost of the capital asset identified in the determination shall be used for the purposes of determining the cost of service for the service provided using the capital asset, rather than the cost of the capital asset determined under subsection (1), until that portion is changed by a further determination, if any, by the Minister in accordance with subsections (3), (4) and (5).

Cost of non-arm's length goods and services

12(1) Subject to subsection (3) and section 14, the amount of a cost or charge referred to in section 9(1) or (2) incurred for a good or service, other than a basic service, is

- (a) where the Minister is satisfied that a fair market value can reasonably be determined for the good or service, the lesser of
 - (i) the amount charged for the good or service, and
 - (ii) the fair market value of the good or service,

or

- (b) where the Minister is satisfied that a fair market value cannot reasonably be determined for the good or service, and that the service is performed without utilizing a capital asset, the lesser of
 - (i) the amount charged for the good or service, and
 - (ii) the actual cost to produce the good or perform the service, incurred by the person who produced the good or performed the service.

(2) Subject to subsection (4) and sections 11 and 14, the amount of

- (a) an allowed cost of a Project incurred for a basic service, or
- (b) a cost or charge referred to in section 9(1) or (2) for any other service for which the Minister is satisfied that a fair market value cannot reasonably be determined and that is performed utilizing a capital asset

is the lesser of the amount charged for the service and the cost of service of the person who performs the service.

(3) If a service is performed in order to produce a good referred to in subsection (1)(b) and that service is performed utilizing a capital asset, the portion of the actual cost incurred to produce the good that is attributable to the service is, subject to subsection (4),

- (a) the fair market value of the service, if the Minister is satisfied that a fair market value can reasonably be determined for the service, or
- (b) the cost of service of the person who performs the service, in any other case.

(4) If the Minister is of the opinion that a cost of service cannot be determined for the purposes of subsection (2) or (3) because

- (a) the Minister has refrained from making a determination under section 11(5) in relation to a capital asset where that determination is required to determine the cost of service, or
- (b) the Minister has not given a notice under section 11(3) because, in the Minister's opinion, the circumstances do not reasonably permit the determination of a cost of service,

the Minister shall, by notice to the operator of the Project in respect of which the determination is otherwise required, provide an estimate of the value of the service, and that estimate shall apply for the purposes of subsections (2) and (3) in place of the cost of service.

Cost of non-arm's length capital assets

13(1) The amount of an allowed cost of the Project incurred for a capital asset that is included in the description of the Project is the least of

- (a) the amount charged to the Project for the capital asset,
- (b) the fair market value of the asset, where the Minister is satisfied that a fair market value can reasonably be determined, and
- (c) the net book value of the asset
 - (i) to the lessee or operator of the Project, as the case may be, if the asset is not obtained by either from another person, or

- (ii) to any other person from whom the asset is obtained by the lessee or operator of the Project

when the asset is delivered to the Project site.

(2) The net book value of an asset for the purposes of this section is the undepreciated portion of the cost to the lessee, operator or other person for whom net book value is being determined, according to

- (a) the records of the Department, or
- (b) if the Department has no records, the records of the lessee, operator or other person, respectively.

Calculated value

14(1) If the Minister is of the opinion that a fair market value or a cost of service, that is required by a provision of this Division to be used in determining the amount of an allowed cost, cannot reasonably be determined pursuant to this Division, the Minister may, employing engineering, economic or financial principles, determine a calculated value for the fair market value or cost of service, as the case may be.

(2) If the Minister has determined a calculated value pursuant to subsection (1), the calculated value is to be used in the relevant provision of this Division in place of the required fair market value or cost of service, as the case may be.

**Part 3
Deemed Allowed Costs**

Allowed costs on and after January 1, 2009

15(1) The net loss of a Project for a post-payout Period commencing on or after January 1, 2009 is an allowed cost of the Project for the next post-payout Period.

(2) Any royalty compensation paid in respect of royalty calculated under section 29(2)(a) of the *Oil Sands Royalty Regulation, 2009* in respect of a Project for a post-payout Period commencing on or after January 1, 2009 is, to the extent it exceeds the royalty compensation that would otherwise have been paid in respect of royalty calculated under section 29(2)(b) of that Regulation in respect of the Project for the same Period, an allowed cost of the Project for the next post-payout Period.

(3) The product calculated by multiplying

- (a) the excess, if any, of

- (i) the cumulative cost of a Project as of the last day of a month of a pre-payout Period of the Project commencing on or after January 1, 2009,

over

- (ii) the cumulative revenue of the Project as of the same day,

by

- (b) the return allowance rate for the month

is an allowed cost of the Project for the following month, unless subsection (6) applies.

(4) The product calculated by multiplying the return allowance rate of a Project for a post-payout Period commencing on or after January 1, 2009

- (a) by the product of 183/365 and the net loss, if any, of the Project for the Period, if
 - (i) the preceding post-payout Period also commenced on or after January 1, 2009 and a net loss did not also arise in respect of the Project for that preceding post-payout Period, or
 - (ii) the preceding post-payout Period ended on December 31, 2008 and a net loss, as defined in the Prior Regulation, did not also arise in respect of the Project for that preceding post-payout Period,
- (b) by the net loss, if any, of the Project for the Period, if
 - (i) the preceding post-payout Period also commenced on or after January 1, 2009 and a net loss also arose in respect of the Project for that preceding post-payout Period, or
 - (ii) the preceding post-payout Period ended on December 31, 2008 and a net loss, as defined in the Prior Regulation, also arose in respect of the Project for that preceding post-payout Period,

or

- (c) by the portion specified by the Minister of the net loss, if any, of the Project for the Period, in any other case,

is an allowed cost of the Project for the next post-payout Period, unless subsection (6) applies.

(5) The prior net cumulative balance of a Project expansion is, to the extent it is a positive amount, an allowed cost of the Project to which the expansion relates, for the Period in which the effective date of the Project expansion occurs, if that Period is a post-payout Period.

(6) The products referred to in subsection (3) in respect of any month of a pre-payout Period of a Project and in subsection (4) in respect of a post-payout Period of the Project, as the case may be, are not allowed costs of the Project for the next month or next post-payout Period, respectively, if the Minister has notified the operator of the Project that the Minister is of the opinion that operations in respect of the Project have been or are substantially suspended or abandoned for a period of time and the month or post-payout Period, respectively, falls within that period.

(7) The excess, if any, of

- (a) the cumulative cost of a Project as of the day preceding the Project payout date, where the Project payout date is on or after January 1, 2009,

over

- (b) the cumulative revenue of the Project as of the same day

is an allowed cost of the Project for the Period starting on the Project payout date.

(8) If the unit price applicable to the quantity of blended bitumen containing the Crown's royalty share of cleaned crude bitumen obtained pursuant to a Project and delivered at a royalty calculation point for the cleaned crude bitumen in a month of a pre-payout Period or in a post-payout Period

- (a) is zero or a negative amount, the cost of diluent included in the blended bitumen is an allowed cost of the Project for the next month or Period, respectively, or

- (b) is a positive amount, the excess, if any, of

- (i) the cost of diluent included in the blended bitumen,

over

- (ii) the product of the unit price and the quantity of the blended bitumen

is an allowed cost of the Project for the next month or Period, respectively.

(9) If an amendment of a Project is approved under section 11(2) of the *Oil Sands Royalty Regulation, 2009* that provides for the amalgamation of

- (a) a Project for which the Project payout date has not occurred as of the day preceding the effective date of the amendment, and
- (b) one or more other Projects for at least one of which the Project payout date has occurred as of the day preceding the effective date of the amendment,

the excess, if any, of

- (c) the cumulative cost of the Project referred to in clause (a) as of the last day preceding the amendment Period of the Project,

over

- (d) the cumulative revenue of the Project as of that last day

is an allowed cost of the amalgamated Project for the first amalgamated Period of the amalgamated Project.

(10) In subsection (9), “amendment Period”, “amalgamated Project” and “first amalgamated Period” have the meaning given to those terms in section 24 of the *Oil Sands Royalty Regulation, 2009*.

Carry-over of allowed costs under Prior Regulation

16(1) If an amount is, pursuant to section 4(a), (b) or (d) of Schedule 1 or 2 of the Prior Regulation, as the case may be, an allowed cost of a Project for a next post-payout Period of the Project and that next Period commences on January 1, 2009, that amount is, for the purposes of this Regulation and without duplication, an allowed cost of the Project for that next Period, unless subsection (3) applies.

(2) If an amount is, pursuant to section 4(c) of Schedule 1 or 2 of the Prior Regulation, as the case may be, an allowed cost of a Project for a following month and that following month is January 2009, that amount is, for the purposes of this Regulation and without duplication, an allowed cost of the Project for January 2009, unless subsection (3) applies.

(3) The products referred to in section 4(c) and (d) of Schedules 1 and 2 of the Prior Regulation that are otherwise deemed by subsection (1) or (2) of this section, respectively, to be allowed costs of a Project in respect of the post-payout Period of the Project commencing January 1, 2009, or in respect of January 2009, as the case may be, are not

allowed costs of the Project if the Minister has notified the operator of the Project that the Minister is of the opinion that operations in respect of the Project have been or are substantially suspended or abandoned for a period of time and the post-payout Period of the Project ending December 31, 2008, or December of 2008, respectively, falls within that period.

Part 4 Expiry and Coming into Force

Expiry

17 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.

Coming into force

18 This Regulation comes into force on January 1, 2009.

Schedule

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
1	Obtaining Board approvals required for the Project as follows: <ul style="list-style-type: none"> - preparing and presenting the application to the Board (“Board application”) for approval of Project operations, or facilities, to be included in the Project - acquiring baseline environmental data required for the Board application - preparing and supporting environmental impact assessments for those areas required by the Board - holding community or stakeholder meetings to obtain feedback and concerns regarding the Board application 	
2	Preparation of the Project lands for oil sands mining, including: <ul style="list-style-type: none"> - tree clearing and removing and stockpiling overburden on Project lands, and drilling geotechnical 	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	<p>wells on Project lands for siting Project mines and facilities</p> <p>Construction of facilities or assets on Project lands, including well pads, access roads and containment berms, including:</p>	
	<ul style="list-style-type: none"> - the quarrying on Project lands of construction materials required for these activities <p>Construction of those facilities or assets located off Project lands provided they are specifically listed within the description of the Project as being a Project facility or asset</p>	
3	<p>In relation to oil sands mining Projects, the acquisition and operation of:</p> <ul style="list-style-type: none"> - shovels, dozers, trucks, mining and construction equipment and similar earth moving equipment <p>In relation to oil sands mining Projects, the construction, acquisition and operation on Project lands of:</p> <ul style="list-style-type: none"> - haulage roads - power lines and service facilities - mine pits and site drainage - mine utilities, including those required for power and steam generation 	
4	<p>In relation to recovering in-situ oil sands products, the following activities on Project lands:</p> <ul style="list-style-type: none"> - drilling, re-drilling, completing, recompleting, plugging and abandoning and deepening wells for the recovery of oil sands products - constructing well pads and surface facilities - pumping systems for the recovery of oil sands products - gathering and processing solution 	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	gas, unless the assets required are removed from the description of the Project	
	<ul style="list-style-type: none"> - installing lift gas systems, casing gas and solution gas separation and conservation equipment - removing basic sediment and water, gas and solvents using crude bitumen separators - heating bitumen in tank heaters - treating raw water, de-oiling produced water and bitumen and recycling produced water - installing fuel gas compression and distribution systems and flare stacks - blending diluent and operating diluent blending facilities - constructing and operating steam generation facilities for in-situ operations - drilling or converting existing wells to observation wells, water source wells, water disposal wells or injection wells for water, steam or emulsion - enhancing primary production with water, polymer and solvent floods - constructing and operating water, effluent, bitumen, steam, gas and solvent pipelines - constructing and operating surface disposal pits 	
5		<p>Drilling and completing gas wells, or converting bitumen or other wells to a crude oil or natural gas well</p> <p>Any work on any portion of a crude oil or natural gas well</p>
6	In relation to recovering oil sands from mining Projects, the construction, acquisition and operation of the following equipment	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	or facilities on Project lands: - truck dump hoppers - crushers and sizers - surge bins, conveyors, feeders - separation cell feed sumps, conditioning drums, feed conveyors, rotary breakers, vibrating screens	
	- reject conveyors, oversize rejects bin - pump boxes, hot and fresh water pipelines - power transmission lines to ore preparation and conditioning facilities - hot process water exchangers, hydro transport units, including pumps, surge cells and pipelines	
7	In relation to primary extraction of oil sands products from oil sands in mining Projects, the construction, acquisition and operation of the following equipment or facilities on Project lands: - separation cells, secondary flotation systems, hydro cyclone banks and tertiary flotation systems - tailings pump stations and separation bottoms density control systems - feed pumps, pipelines and electrical systems	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
8	<p>In relation to secondary extraction of oil sands products from oil sands in mining Projects, the construction, acquisition and operation of the following equipment or facilities on Project lands:</p> <ul style="list-style-type: none"> - raw bitumen pipelines - froth launderers, settlers, de-aerators, froth recycle system and feed pumps - centrifuge feed systems, flotation banks or scavenger banks and interstage storage tanks - froth pumps, froth settler bottoms pumps, inclined plate separation units, cyclone banks, sumps and pumping systems - diluent storage and handling systems and diluent pipelines - froth treatment filters and centrifuges - diluted bitumen tanks (tank farm) and vapour recovery units - condenser and cooling water pumps - diluent recovery units, if specifically included in the description of a Prior Project 	
9	<p>In relation to tailings management in oil sands mining Projects, the construction, acquisition and operation of the following equipment or facilities on Project lands:</p> <ul style="list-style-type: none"> - consolidated tailings plant, tailings lines, final tailings pump house, all pump trains and support equipment, including hydro cyclones for minerals separation - tailings ponds (including extraction tailings, upgrading process waters and mine pit drainage waters) - dikes - tailings pump house 	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	<ul style="list-style-type: none"> - piezometers - wildlife deterrent systems 	
10	<p>In relation to transportation of oil sands products on Project lands, the construction, acquisition and operation of</p> <ul style="list-style-type: none"> - on-Project pipelines - intra-Project transport of oil sands and oil sands products - oil sands product pumping stations - trucking crude bitumen from Project wells to a central storage facility or to an on-Project pipeline terminal 	Pipelines that do not begin and terminate on Project lands
11	Natural gas, diesel, gasoline or other fuels not produced from Project leases purchased for consumption in undertaking Project operations	Any fuel arising from Project substances or solution gas exempted from royalty under the <i>Natural Gas Royalty Regulation, 2009</i>
12	Transporting Project operations personnel or materials to or from Project lands and on Project lands	
13	<p>In relation to storage of oil sands products on Project lands, the construction, acquisition and operation of:</p> <ul style="list-style-type: none"> - tank farms <p>In relation to storage facilities of oil sands products on Project lands, the labour and materials for the construction, acquisition and operation of the following:</p> <ul style="list-style-type: none"> - pumping facilities - dikes - fire foam injection systems and inert gas blanket systems - dewatering facilities - vapour recovery units - slop oil tanks 	
14	Processing of crude bitumen recovered from the Project leases in one or more non-Project processing	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	plants to produce cleaned crude bitumen before the cleaned crude bitumen so produced is delivered to a royalty calculation point	
15	Transporting crude bitumen recovered from the development area of the Project from the Project to a non-Project processing plant where cleaned crude bitumen is obtained from the crude bitumen before the cleaned crude bitumen is delivered at a royalty calculation point for the cleaned crude bitumen	
16	Purchasing, transporting and handling of non-Project oil sands products, for processing or reprocessing in one or more processing plants that are part of the Project	
17	Diluent used by a Project, provided the diluent does not form part of handling charges in determining unit price	
18	<p>In relation to utilities required for Projects, the construction, acquisition and operation of the following equipment and facilities on Project lands:</p> <ul style="list-style-type: none"> - water treatment conditioning and filtering units - raw water supply system, river water pump houses, cooling water pump houses and recycled water pumps - main boilers and once through steam generators - backup steam units used as standby steam production units - gas turbine generator or heat recovery steam generator system cogeneration units - primary electrical distribution system and power substations - electrostatic precipitator units - utilities plant flue gas 	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	<ul style="list-style-type: none"> desulphurization units - hot water pipelines - natural gas pipelines - diesel pipelines - (gypsum) tailings pipelines - recycled water pipelines - steam, water and compressed air distribution systems 	
	<p>In relation to utilities required for mining Projects, the construction, acquisition and operation of the following equipment and facilities on Project lands:</p> <ul style="list-style-type: none"> - (gypsum) tailings pipelines <p>In relation to utilities required for in-situ Projects, the construction, acquisition and operation of the following equipment and facilities on Project lands:</p> <ul style="list-style-type: none"> - water treatment plants, settling ponds, filters, softeners and de-aerators - boiler water feed pumps - water storage and distribution systems, fire-water systems and potable water systems - pumping stations and pump houses - gas-fired package boiler facilities - compressor building - steam distribution systems - air systems - wastewater systems - waste heat recovery systems, cooling towers and ponds - oil spill preparedness systems - natural gas import pipeline and distribution pipelines 	
19	The construction, acquisition and operation of the following equipment and facilities used on Project lands:	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	<ul style="list-style-type: none"> - ecology pits, land fill sites, waste management, wastewater treatment, sewage systems and hazardous waste storage buildings - closed sewer system, separators for oil-contaminated water, slop oil tanks, settling tanks, sewage treatment system and sour water treatment system to treat waste water - fire hall, fire prevention and suppression systems - emergency health and safety systems and buildings - maintenance shops and fueling stations - truck loading and offloading facilities - air and heating utilities - cogeneration plants - non-cogeneration electricity generation equipment, including backup and emergency generation equipment - power transmission lines and substations - control rooms and buildings - instrumentation, monitoring and control systems - camps, including food services facilities - equipment trailer - road use charges paid to third parties to access Project lands - buildings, equipment and service complexes, used for maintaining heavy equipment - roads and bridges included in the description of the Project, connecting Project facilities - airstrips and associated facilities included in the Project description 	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
20	Complying with Board or Alberta Environment requirements regarding Project air and water quality, soil and wildlife monitoring	
21	Acquiring, modifying or installing, operating and maintaining equipment on Project lands to reduce, or capture and dispose of, greenhouse gas emissions	
22	Abandonment, reclamation and decommissioning as a result of Project operations as follows: <ul style="list-style-type: none"> - deposits paid to the Crown to ensure the proper reclamation of Project lands - payments required by the Crown to secure reclamation of Project lands - performing reclamation work on the Project lands - abandoning and decommissioning surface and subsurface facilities 	Cost of abandonment of non-Project wells (PNG, etc.), regardless of whether such activities promote bitumen recovery and regardless of whether required by the Board The cost of orphan well levies imposed by the Board
23	Communications infrastructure located on Project lands Equipment used for remote control of Project facilities	
24	Repair and maintenance of Project assets, including direct labour, benefits, materials and supplies, and work performed by other companies or individuals expended in performing such repair and maintenance	
25	Safety equipment and safety manuals, and costs of preparing and implementing emergency and disaster recovery procedures for the Project	
26	Insurance premiums under a contract of insurance, as defined in the <i>Insurance Act</i> , providing for property insurance in relation to profits, earnings, pecuniary interests and indirect losses of the lessees or operator of the Project	

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
27	<p>Acquiring surface lands included in Project lands</p> <p>Annual rental required as part of Crown oil sands agreements within Project lands</p> <p>Rent or lease payments for use of surface areas included in Project lands</p> <p>Work performed on or in respect of the mineral rights in the development area of the Project or to create wells, facilities, roads, pipelines or other assets or infrastructure that is part of the Project in order to earn the interest or estate (i.e., farm-ins)</p>	<p>Purchasing oil sands agreements from prior lessees</p> <p>Bonus bids paid to the Crown for an oil sands agreement</p> <p>Escalating rental payments made under the <i>Oil Sands Tenure Regulation</i></p>
28	Municipal taxes and improvement fees of the type common to all individuals or industries	
29	Compensation paid to registered individual trappers whose trap lines are impacted directly by Project operations	
30	Purchasing a licence or the right to use intellectual property that is used directly for the recovery, production, or processing activities within Project operations	
31	<p>Any training facility or area exclusively dedicated toward providing training services to one or more approved Projects</p> <p>Any warehouse exclusively dedicated toward providing inventory services to one or more approved Projects</p>	<p>Any training facility or area not exclusively dedicated toward providing training services to one or more approved Projects</p> <p>Any warehouse not exclusively dedicated toward providing inventory services to one or more approved Projects</p>
32	<p>Exploration and delineation drilling, geophysical surveys on Project lands</p> <p>Evaluating data acquired with respect to Project lands</p>	Costs of exploration or delineation drilling, geophysical surveys outside Project lands or evaluating the data acquired
33	Planning, designing and engineering Project facilities	
34	Penalties or other compensation paid to an arm's length party, not	Penalties for late or deficient payment on any borrowing charge

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	including any government, that are required to be paid under a written contractual obligation when the operator is unable to complete the terms of a contract	
35	Legal services in relation to a claimed breach of private law matters arising as a result of undertaking Project operations	Legal services required in relation to a claimed breach of applicable laws, rules or regulations of any government or government agency Legal services required in relation to the shutting in of natural gas in oil sands areas, where the Crown is one of the parties
36	Recruitment advertising solely to attract potential employees to undertake Project operations Travel and accommodation costs of the potential candidate attending an interview for a position to perform Project operations The travel and accommodation costs of non-Project staff that attend recruitment fairs or specific recruitment initiatives in search solely of employees to undertake Project operations	
37	Employee gifts, rewards and similar products arising from Project specific recognition and awards programs	Gifts, rewards and similar products or promotional items for non-Project employees Employee gifts, rewards and products arising from corporate initiatives or corporate recognition and reward programs Promotional items not associated with a recognition and reward program
38	Bonuses given to Project employees based on those employees or the Project achieving or exceeding specific, pre-defined performance criteria for the individual or the Project, as the case may be Signing bonus or retention bonus payments	Bonuses given based on achieving or exceeding non-Project based performance criteria

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
39	Hosting and entertainment costs limited to employees conducting Project operations and their immediate family, to the extent allowed as a deduction in computing income under the <i>Income Tax Act</i> (Canada)	Any hosting and entertainment costs which are not exclusive to Project operations, Project employees and their immediate family
40	Information technology hardware on Project lands and dedicated to Project operations Project specific software licenses for personnel conducting Project operations	
41	Supplies and labour for administration in field offices located on Project lands Parking areas and security gates on Project lands Administration buildings for general administration, office support and engineering on Project lands	
42	Subscriptions to periodicals and journals where any individual subscription is \$500.00 or less per year	
43		Sponsorship, donations or gifts to cultural, charitable, sporting or community initiatives Matching employee contributions to any of the above Purchase of naming rights for buildings or other facilities
44		Funding provided for scholarships
45	Business and economic feasibility studies exclusively prepared to address problems of immediate applicability for the recovery, production or processing activities within Project operation	Contracts that hedge price risk specifically in relation to allowed costs of a Project or currency required to pay such costs Any activity related to debt or equity financing Foregone opportunity costs resulting from the non-arms length supply of goods and services to Project operations even though

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
		<p>potentially more profitable third party transactions are available with respect to those goods and services</p> <p>Any business or economic feasibility studies not included in Column 1</p>
46		<p>Production of promotional or informational material for investors or potential investors</p> <p>Arranging and hosting tours of the Project</p>
47	<p>Consultation in respect of the proposed or current Project operations, limited to:</p> <ul style="list-style-type: none"> - notifying stakeholders - meeting facilities - conducting meetings of stakeholders, including hosting 	<p>Consultation initiatives or studies concerning regional matters</p> <p>Any amount paid or the costs of items given to stakeholders not arising from:</p> <ul style="list-style-type: none"> - terms of a commercial arrangement - participation in regulatory proceedings or consultation in respect of the proposed or current Project operations as limited to Column 1 - trapper compensation under Column 1 <p>The following costs of consultation or of membership or participation in associations:</p> <ul style="list-style-type: none"> - membership and participation in, or contributions to, business or industry associations or organizations, including but not limited to: Canadian Association Petroleum Producers (CAPP), Small Explorers and Producers Association of Canada (SEPAC), The Oil Sands Developers Group, Canadian Oil Sands Network for Research and Development (CONRAD), Petroleum Technology Alliance of Canada (PTAC), Alberta Chamber of Resources (ACR), the In-Situ Oil Sands Alliance or the Conference Board of Canada

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
		- membership and participation in, or contributions to, local or community organizations, regional organizations or interest groups, including but not limited to: the Cumulative Effects Management Association (CEMA), the Lakeland Industry and Community Association (LICA) and the Athabasca Tribal Council (ATC)
48		Any loss arising as a result of a disposition of accounts receivable Uncollected portions of any account receivable
49		Any amount deducted in the determination of unit price
50		Interest or any other borrowing or financing charges, including the financing component of capital leases Charges for late payment or payment shortfalls Any fines, penalties or payments made for non-compliance with any legally enforceable obligation imposed by any government
51	External audits required for the purposes of reporting called for by the <i>Oil Sands Royalty Regulation, 2009</i> , in relation to the Project	Audits other than those required under the <i>Oil Sands Royalty Regulation, 2009</i>
52		Amounts assessed by the Board as part of industry's share of the Board's funding (Board levies)
53		Depreciation, except as specifically permitted in this Regulation
54		Dispute resolution processes, including a referral under section 35 of the <i>Oil Sands Royalty Regulation, 1997</i> or under section 48 of the <i>Oil Sands Royalty Regulation, 2009</i> , of arbitration or of litigation, of any dispute with the Crown in connection with any matter relating to royalty, royalty compensation, interest or any

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
		penalty payable or paid to the Crown in relation to the Project
55	Amounts paid as Overriding Royalty as specified in Schedule 3, section 101(n) of the <i>Metis Settlements Act</i>	Overriding royalty interests, carried interests, net profit interests or any similar interest
56	<p>Research personnel and their consumed supplies toward the development of technology to solve a problem of immediate applicability for the recovery, production or processing activities within Project operations</p> <p>Any research facility, laboratory or area exclusively dedicated toward the development of technology to solve problems of immediate applicability for the recovery, production or processing activities within Project operations</p>	<p>Research that provides the foundation for further research, or research conducted without any defined practical end pointing to practical applications</p> <p>Any research facility, laboratory or area not exclusively dedicated toward the development of technology to solve problems of immediate applicability for the recovery, production, or processing activities within Project operations</p> <p>Management fees or membership fees in research organizations</p> <p>Research grants, research chairs and research fellowships to educational and research institutions</p>
57	<p>Salaries, wages, benefits, training, travel and accommodations for employees solely dedicated to carrying out Project operations</p> <p>Salaries, wages, benefits, training, travel and accommodations for employees or personnel performing information technology, administration or office support work and solely dedicated to Project operations</p> <p>Salaries, wages, benefits, training, travel and accommodations, for employees to the extent those employees carry out Project operations in the following circumstances:</p> <ul style="list-style-type: none"> - legal counsel for matters integral to furthering Project operations - providing production accounting and royalty accounting for oil 	<p>Salaries, wages, benefits, bonuses, stock options, training, travel and accommodations, relocation and severance (including associated relocation and training expenses in respect of that severance) for executive or management employees not solely dedicated to Project operations</p> <p>Salaries, wages, benefits, training, travel and accommodations for employees or personnel performing information technology, administration, or office support work and not solely dedicated to Project operations</p> <p>Relocation and severance (including associated relocation and training expenses in respect of that severance) for employees not solely dedicated to Project</p>

Item	Column 1 Specifically Included Costs	Column 2 Specifically Excluded Costs
	sands products	operations
	<ul style="list-style-type: none"> - purchasing assets, materials or supplies delivered for use in, or disposing from, Project operations - conducting recruitment, classification, employee relations activities for employees carrying out Project operations - carrying out engineering activities for Project operations - carrying out marketing activities for oil sands products <p>Relocation and severance (including associated relocation and training expenses in respect of that severance) for employees solely dedicated to Project operations</p>	
58	Office assets and equipment (and their maintenance) exclusively used for the Project regardless of location.	<p>The following items not exclusively used for the Project, regardless of whether a portion of the labour cost of the user may be an allowed cost:</p> <ul style="list-style-type: none"> - office assets and equipment (and their maintenance) not located on Project lands - telecommunications and information technology support, where the items supported are not located on Project lands - all line charges associated with telephones or other telecommunications equipment, not used for remote control of facilities or operations, where those telephones or other telecommunications equipment are not located on Project lands
59	Third party office space leases, including operating costs associated therewith, for office space located off Project lands, exclusively accommodating Project personnel carrying out Project operations	Office space leases, including operating costs associated therewith, for office space located off Project lands which accommodates Project and non-Project personnel
60		Allowed costs of another project or another Project

Alberta Regulation 232/2008

Mines and Minerals Act

BITUMEN VALUATION METHODOLOGY (MINISTERIAL) REGULATION

Filed: December 11, 2008

For information only: Made by the Minister of Energy (M.O. 83/2008) on December 10, 2008 pursuant to section 36(5.1) of the Mines and Minerals Act.

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Interpretation

1(1) In this Regulation,

- (a) “dilbit” means a blend of heavy crude oil or cleaned crude bitumen mixed with diluent in order to meet pipeline viscosity and density specifications, where the density of the diluent included in the blend is less than 800 kg/m³;
- (b) “dilbit fraction”, in respect of a month, means the ratio of the volume of dilbit received during the month at the Hardisty WCS blending facility over the aggregate of all volumes of dilbit and synbit received during the month at the facility;
- (c) “diluent” has the meaning given to it in the *Oil Sands Royalty Regulation, 2009* but
 - (i) in relation to dilbit, the diluent will usually be condensate, and
 - (ii) in relation to synbit, the diluent will usually be synthetic crude oil;
- (d) “Floor Price”, in respect of a month, means the greater of
 - (i) \$10 per m³, and
 - (ii) the simple average of the weekly Mexico Maya Spot Prices FOB for the month, expressed in Canadian dollars per m³, minus \$250 per m³;

- (e) “four-month rolling average dilbit fraction”, in respect of a month, means the simple average of the dilbit fractions for the month and the 3 immediately preceding months;
- (f) “four-month rolling average synbit premium”, in respect of a month, means the simple average of the synbit premiums for the month and the 3 immediately preceding months;
- (g) “Hardisty WCS blending facility” means the terminal and related facilities located at Hardisty, Alberta and managed by Husky Energy Inc. at which WCS is produced;
- (h) “NQ”, in respect of a Project for a month or Period, means
 - (i) in the case of blended bitumen described in section 32(6)(a)(i) of the *Oil Sands Royalty Regulation, 2009*, the volume of cleaned crude bitumen contained in the volume of blended bitumen determined by deducting from the production quantity of the Project for the month or Period, respectively, of such blended bitumen, the third party disposition quantity of the Project for the month or Period, respectively, of such blended bitumen, or
 - (ii) in the case of cleaned crude bitumen described in section 32(b)(a)(ii) of the *Oil Sands Royalty Regulation, 2009*, the volume of the cleaned crude bitumen determined by deducting from the production quantity of the Project for the month or Period, respectively, of such cleaned crude bitumen, the third party disposition quantity of the Project for the month or Period, respectively, of such cleaned crude bitumen;
- (i) “Project CCB”, in respect of a Project for a month, means cleaned crude bitumen obtained pursuant to the Project and delivered at a royalty calculation point for the cleaned crude bitumen during the month, whether as part of blended bitumen or otherwise;
- (j) “synbit” means a blend of heavy crude oil or cleaned crude bitumen mixed with diluent in order to meet pipeline viscosity and density specifications, where the density of the diluent included in the blend is 800 kg/m³ or more;
- (k) “synbit premium”, in respect of a month, means the equalization premium paid for the month for crude bitumen based synbit over crude bitumen based dilbit received during the month at the Hardisty WCS blending facility;

- (l) “WCS” means the blended crude oil called “Western Canadian Select” comprised mostly of cleaned crude bitumen and diluent;
- (m) “WCS index”, in respect of a month, means the amount reported as the WCS index for the month pursuant to subsection (3) or the amount otherwise specified under subsection (4).

(2) Sections 1, 2, 3, 6, 32, 48 and 50 of the *Oil Sands Royalty Regulation, 2009* and Division 2 of Part 2 of the *Oil Sands Allowed Costs (Ministerial) Regulation* apply in respect of this Regulation unless otherwise specified in this Regulation or otherwise required by the context or by necessary implication.

(3) Subject to subsection (4) and unless the Minister specifies otherwise in any particular case,

- (a) the density of Project CCB reported to the Minister by the operator of the Project shall be as measured by the operator of the Project in accordance with section 6 of the *Oil Sands Royalty Regulation, 2009*,
- (b) the following amounts referred to in this Regulation shall be as reported for each month to the Minister by Canadian Natural Resources Limited as the representative for the WCS founders which include, in addition to Canadian Natural Resources Limited, Talisman Energy Inc., Petro-Canada and EnCana Corporation:
 - (i) the four-month rolling average dilbit fraction;
 - (ii) the four-month rolling average synbit premium;
 - (iii) the WCS density as defined in section 3(4),
- (c) the WCS index for each month shall be as published by NetThruPut Inc.,
- (d) the following shall be as determined for each month by the Equalization Steering Committee and as published on the website of the Canadian Association of Petroleum Producers:
 - (i) the Condensate Allowance Price;
 - (ii) the Condensate (CRW) Density,

and

- (e) the weekly Mexico Maya Spot Price FOB shall be as published by the Energy Information Administration of the U.S. Government.

(4) If any item referred to in subsection (3) reported to the Minister or published ceases to be so reported or published, or if the Minister is of the opinion that any such item has ceased to be appropriate in relation to how it is used in this Regulation, the Minister may specify an alternative to the item, and the alternative shall be used in lieu of that item for the purposes of this Regulation.

(5) The simple average of the weekly Mexico Maya Spot Prices FOB for a month referred to in subsection (3)(e), the synbit premium for a month and the BVM Dilbit Value for a month referred to in section 4(1) shall be converted from U.S. dollars per barrel to Canadian dollars per m³, using

- (a) a conversion factor of 6.29234 barrels per m³, and
- (b) the simple average of the daily actual USD/CAD (noon) exchange rates for the month published by the Bank of Canada, rounded to 5 decimal places.

Hardisty Bitumen Price

2 The Hardisty Bitumen Price for a Project for a month for the purposes of section 32(6)(a) of the *Oil Sands Royalty Regulation, 2009* is the greater of

- (a) the Floor Price, and
- (b) the price determined for the month in accordance with the following formula:

$$HBP = [QBVM Blend \times BVM Dilbit Value] - [QBVM Diluent \times CRWP]$$

where

- HBP is the Hardisty Bitumen Price for the Project for the month;
- QBVM Blend is the BVM Blend volume for the Project for the month determined under section 3;
- BVM Dilbit Value is the BVM Dilbit Value for the month determined under section 4;

QBVM Diluent	is the BVM Diluent volume for the Project for the month determined under section 3(2);
CRWP	is the amount determined as the Condensate Allowance Price for the month.

BVM Blend volume

3(1) The BVM Blend volume for a Project for a month for the purposes of section 2 is the volume of blended bitumen produced by blending one cubic metre of Project CCB obtained during the month with the BVM Diluent volume for the Project for the month determined in accordance with subsection (2).

(2) The BVM Diluent volume for the purposes of subsection (1) is the volume of condensate having a density equal to the Condensate (CRW) Density for the month that must be blended with one cubic metre of Project CCB in order for the density of the resulting blended bitumen to be equal to the BVM Dilbit density determined for the month in accordance with subsection (4).

(3) The BVM Blend volume referred to in subsection (1) shall be calculated in accordance with chapter 12.3 of the Manual of Petroleum Measurement Standards published by the American Petroleum Institute.

(4) The BVM Dilbit density for a month is the amount determined in accordance with the following formula:

$$\text{BVMDD} = \text{WCS density} - \text{DDA}$$

where

BVMDD is the BVM Dilbit density for the month;

WCS density is the monthly volume weighted average density of all WCS delivered to pipelines during the month from the Hardisty WCS blending facility;

DDA is the dilbit density adjustment determined for the month in accordance with subsection (5).

(5) The dilbit density adjustment for a month is the amount determined in accordance with the following formula:

$$\text{DDA} = 12 \text{ kg/m}^3 \times [1 - \text{FMDF}]$$

where

- DDA is the dilbit density adjustment for the month;
- FMDF is the four-month rolling average dilbit fraction for the month.

BVM Dilbit Value

4(1) The BVM Dilbit Value for a month for the purposes of section 2 is the difference between

- (a) the WCS Settlement Price for the month determined under subsection (2), and
- (b) the BVM Dilbit Value adjustment for the month determined under subsection (3)

converted to Canadian dollars per m3.

(2) The WCS Settlement Price for a month is the sum of

- (a) the simple average of the WTI prices for the trading days of the month where
 - (i) the WTI price for a trading day is the closing price for the day of the prompt month contract of Light Sweet Crude Oil (CL1) as traded in NYMEX, and
 - (ii) a trading day is a day during which a prompt month contract referred to in subclause (i) is traded in NYMEX,

and

- (b) the WCS index for the month.

(3) The BVM Dilbit Value adjustment for a month is the product of

- (a) the four-month rolling average synbit premium for the month, and
- (b) the difference between
 - (i) 1, and
 - (ii) the four-month rolling average dilbit fraction for the month.

Transportation Allowance

5(1) In this section,

- (a) “aggregate transportation rate”, in respect of a removal pipeline of a Project, means, for a month,
 - (i) the transportation rate for the month determined under subsection (3), (5) or (6), as the case may be, for the removal pipeline, where the removal pipeline is a single pipeline, or
 - (ii) the sum of the transportation rates for the month determined under subsection (3), (5) or (6), as the case may be, for each pipeline that comprises a part of the removal pipeline, where the removal pipeline is comprised of a series of 2 or more connected pipelines;
- (b) “diluent pipeline”, in respect of a Project for a month, means a pipeline, if any, that is capable of transporting diluent to a place on or near the Project lands during the month from another point on or near the route of the removal pipeline of the Project for the month, but does not include such a pipeline for a month during which a pipeline described in subsection (5)
 - (i) is the removal pipeline of the Project for the month, or
 - (ii) is a part of the removal pipeline of the Project for the month and is capable of taking delivery of crude bitumen at a place on or near the Project lands;
- (c) “end”, in respect of a pipeline that is the whole or a part of a removal pipeline of a Project, means the point on the pipeline closest to Hardisty, Alberta or Edmonton, Alberta, as the case may be;
- (d) “removal pipeline”, in respect of a Project, means each pipeline, or each series of 2 or more connected pipelines, that is capable of transporting cleaned crude bitumen, or oil sands products obtained from cleaned crude bitumen, from a place on or near the Project lands to a point at or near Hardisty, Alberta or Edmonton, Alberta, regardless of
 - (i) whether the cleaned crude bitumen to be transported would be transported as part of blended bitumen or otherwise, and
 - (ii) whether the oil sands products so obtained and to be transported are obtained at one or more processing plants located on or near the route of the pipeline or

series of pipelines, as the case may be, between the royalty calculation point of the Project for cleaned crude bitumen and the point at or near Hardisty, Alberta or Edmonton, Alberta;

- (e) “removal pipeline of the Project for the month” means the removal pipeline of the Project that has for a month the lowest aggregate transportation rate relative to any other removal pipeline of the Project;
- (f) “tariff”, in respect of a pipeline that is a removal pipeline or diluent pipeline in respect of a Project, means
 - (i) the tariff setting out the charges for transportation service on the pipeline, where the transportation service would, if obtained by the lessee or operator of the Project, be obtained pursuant to an arm’s length transaction, or
 - (ii) the amount determined under Division 2 of Part 2 of the *Oil Sands Allowed Costs (Ministerial) Regulation* as the cost of transportation service on the pipeline, in any other case.

(2) The transportation allowance for a Project for a month for cleaned crude bitumen referred to in section 32(6)(a)(i) and (ii) of the *Oil Sands Royalty Regulation, 2009* is the sum of

- (a) the aggregate transportation rate for the month for the removal pipeline of the Project for the month, and
- (b) the transportation rate determined under subsection (8) or (9) for the month for the diluent pipeline, if any, for the Project for the month.

(3) Subject to subsection (4), the transportation rate for a month of a pipeline that comprises the whole or a part of a removal pipeline of a Project and that transports dilbit or synbit is the amount determined in accordance with the following formula:

$$\frac{\text{BRC} + (.754 \times \text{GRC})}{\text{CCBQ}}$$

where

BRC is the amount that would be charged under the tariff for the pipeline to transport during the month the volume of dilbit determined by multiplying the BVM Blend volume for the Project for the month determined under section 3 by the NQ for the Project for the month;

GRC is the amount that would be charged under the tariff for the pipeline to transport during the month the volume of dilbit equal to the volume of diluent that would be contained in the volume of dilbit referred to in the definition of BRC;

CCBQ is the NQ for the Project for the month.

(4) In determining the transportation rate for a month for a pipeline under subsection (3),

- (a) the transportation service capacity contracted for on the pipeline to transport the volumes of dilbit referred to in the definitions of BRC and GRC in subsection (3) shall be considered to be equal to the aggregate of those volumes, and
- (b) GRC for the month is zero if the pipeline referred to in subsection (3) is the whole or a part of the removal pipeline of the Project for the month and there is a diluent pipeline for the Project for the month that is capable of transporting diluent during that month from a place at or near the end of the pipeline referred to in subsection (3) to a place on or near the Project lands.

(5) The transportation rate for a month of a pipeline that comprises the whole or a part of a removal pipeline of a Project and that transports cleaned crude bitumen rather than dilbit or synbit is the amount determined by dividing

- (a) the amount that would be charged under the tariff for the pipeline to transport during the month the NQ for the Project for the month,

by

- (b) the NQ for the Project for the month.

(6) Subject to subsection (7), the transportation rate for a month of a pipeline that comprises the whole or a part of a removal pipeline of a Project and that transports synthetic crude oil is the amount determined in accordance with the following formula:

$$\frac{TRC + (.92 \times DRC)}{CCBQ}$$

where

TRC is the amount that would be charged under the tariff for the pipeline to transport a volume of synthetic crude oil having a density of not less than 800 kg/m³ and not

more than 875 kg/m³ and equal to the volume of dilbit determined by multiplying the BVM Blend volume for the Project for the month determined under section 3 by the NQ for the Project for the month;

DRC is the amount that would be charged under the tariff for the pipeline to transport a volume of synthetic crude oil meeting the density requirements specified in the definition of TRC and equal to the volume of diluent that would be contained in the volume of dilbit referred to in the definition of TRC;

CCBQ is the NQ for the Project for the month.

(7) In determining the transportation rate for a month for a pipeline under subsection (6),

- (a) the transportation service capacity contracted for on the pipeline to transport the volumes of synthetic crude oil referred to in the definitions of TRC and DRC in subsection (6) shall be considered to be equal to the aggregate of those volumes,
- (b) the components of the tariff for the pipeline that vary according to the density of the synthetic crude oil transported on the pipeline shall be multiplied by a factor of 1.22, and
- (c) DRC for the month is zero if the pipeline referred to in subsection (6) is the whole or a part of the removal pipeline of the Project for the month and there is a diluent pipeline for the Project for the month that is capable of transporting diluent during that month from a place at or near the end of the pipeline referred to in subsection (6) to a place on or near the Project lands.

(8) Subject to subsection (9), the transportation rate for a month of the diluent pipeline for a Project for the month is the amount determined by dividing

- (a) the amount, if any, that would be charged under the tariff for the diluent pipeline to transport to the Project during the month the volume of diluent determined by multiplying the NQ of the Project for the month by the BVM Diluent volume for the Project for the month determined under section 3(2),

by

- (b) the NQ for the Project for the month.

(9) The transportation rate for a month of the diluent pipeline for the Project for the month is zero if the cost of transporting the volume of diluent referred to in subsection (8) on the pipeline during the month is included in the transportation rate determined under subsection (3) for a pipeline that is the whole or a part of the removal pipeline of the Project for the month.

Expiry

6 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.

Coming into force

7 This Regulation comes into force on January 1, 2009.