ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor
or
Administrator

The Lieutenant Governor in Council makes the Natural Gas Royalty Regulation, 2009 (Helium) Amendment Regulation set out in the attached Appendix.

FILED UNDER
THE REGULATIONS ACT
as ALBERTA REGULATION 80/2020
ON May 13 2020

REGISTRAR OF REGULATIONS

For Information only

Recommended by: Minister of Energy

Authority: Mines and Minerals Act (sections 5 and 36)
APPENDIX

Mines and Minerals Act

NATURAL GAS ROYALTY REGULATION, 2009
(HELIUM) AMENDMENT REGULATION

1 The Natural Gas Royalty Regulation, 2009 (AR 221/2008) is amended by this Regulation.

2 Section 1(1)(w) is amended by adding “, helium” after “sulphur”.

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

(g.1) quantities of helium must be expressed in cubic metres;

4 Section 8(5) is amended

(a) by adding the following after clause (f):

(f.1) with respect to helium, the percentage of the helium prescribed in Schedule 6.1;

(b) in clause (g) by striking out “(a) to (f),” and substituting “(a) to (f.1),”.

5 Section 15 is amended

(a) in subsection (3) by adding the following after clause (f):

(g) in accordance with Schedule 6.1, with respect to helium.

(b) in subsection (4)(a) by striking out “and sulphur” and substituting “, sulphur and helium”.

6 The following is added after Schedule 6:
Schedule 6.1
Helium

Definitions
1 In this Schedule,

(a) “corporate average price for helium” or “H-CAP”, in relation to a royalty client and a month, is the corporate average price for helium established for that royalty client for a month pursuant to section 3 of this Schedule;

(b) “Helium Default Price”, in relation to a month, is the price determined from time to time by the Minister for a month pursuant to section 5 of this Schedule.

Helium royalty quantity
2(1) The royalty reserved to the Crown on helium extracted at the well head shall be calculated in accordance with the following formula:

\[ \text{RH} = (5\% - \text{HRAF}) \times \text{VHE} \]

where

\( \text{RH} \) is the Crown’s royalty share of the helium on which the royalty is payable;

\( \text{HRAF} \) is the Helium Royalty Adjustment Factor determined by the Minister pursuant to subsection (3);

\( \text{VHE} \) is the quantity in m\(^3\) of the helium, measured in accordance with the Minister’s direction, extracted at the well head.

(2) In the event the quantity cannot be measured at the well head the quantity of helium must be calculated at its first point of measurement.

(3) The Minister may determine, for the purposes of this Schedule,

(a) a Helium Royalty Adjustment Factor for all wells in Alberta from which helium may be recovered pursuant to an agreement, and

(b) the period of time in respect of which the factor applies.

Determination of royalty client’s H-CAP
3(1) Subject to this section, the Minister shall determine the client’s corporate average price for helium for April 2020 and each subsequent month if

(a) the royalty client is required to furnish a report under section 4(1) of this Schedule in respect of the month, and

(b) the quantity of helium disposed of by the client in the month to persons at arm’s length from the client is not less than 10% of the total quantity of helium disposed of by the client in that month.
The corporate average price for helium determined by the
Minister for a royalty client for a month shall be calculated in
accordance with the following formula:

\[ H\text{-\text{CAP}} = \frac{\text{MTNR}}{\text{VHS}} \]

where

- \( H\text{-\text{CAP}} \) is the corporate average price for helium referred to
  in section 1(a) of this Schedule;
- \( \text{MTNR} \) is the royalty client’s total net revenue for sales of
  helium for the month, calculated in accordance with
  the Minister’s directions;
- \( \text{VHS} \) is the quantity in m³ of helium sold, measured in
  accordance with the Minister’s direction, in the sales
  described with respect to the variable MTNR.

(3) A royalty client’s \( H\text{-\text{CAP}} \) for a month cannot be an amount per
m³ less than zero.

(4) A royalty client’s \( H\text{-\text{CAP}} \) for a month may be recalculated in
accordance with the Minister’s directions.

(5) A royalty client required under subsection (1)(a) to furnish a
report, 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 \( H\text{-\text{CAP}} \) for that
  month, and

(b) cooperate 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 helium disposition

4(1) A royalty client shall furnish to the Minister for April 2020
and each subsequent month a report respecting the quantities of
helium disposed of by the client in each month.

(2) A report furnished by a royalty client under subsection (1)
may, to the extent consented to by the Minister, include
information regarding the quantities of helium disposed of by the
client in any preceding month.

(3) A report required to be furnished under subsection (1) in
respect of a month shall be furnished by the royalty client to the
Minister by the 10th day of the 2nd month following the month to which the report relates.

**Helium royalty compensation**

5(1) The amount of royalty compensation on helium for a royalty client in a month is an amount calculated by multiplying the helium royalty quantity

(a) by the royalty client’s H-CAP for the month, in any case where clause (b) does not apply, or

(b) by the Helium Default Price determined by the Minister for the month if

(i) the quantity of helium disposed of by the royalty client in the month to persons at arm’s length from the client is less than 10% of the total quantity of helium disposed of by the client in that month, or

(ii) the royalty client was given a direction under subsection (5) and the direction applies to the month.

5(2) Subject to subsections (3) and (4), the Helium Default Price for a month is the last H-CAP calculated for that royalty client or, in the event an H-CAP for that royalty client has never been calculated, the Helium Default Price shall be calculated in accordance with the following formula:

\[
HDP = \frac{NMTNR}{NVH}
\]

where

- **HDP** is the Helium Default Price for the month;
- **NMTNR** is the total net revenue for sales of helium by all royalty clients in the month to persons at arm’s length from the client, calculated in accordance with the Minister’s directions;
- **NVH** is the quantity in m³ of helium sold, measured in accordance with the Minister’s direction, in the sales described with respect to the variable NMTNR.

5(3) In determining the total net revenue referred to in subsection (2), the net revenue from any sale included in the determination shall not be less than zero.

5(4) Subject to section 38 of the Act, the Minister may from time to time recalculate the H-CAP and Helium Default Price for a month.

5(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 helium for the royalty client in that month be calculated in accordance with subsection (1)(b).

5(6) If the Minister determines that there is insufficient information available to calculate a Helium Default Price under subsection (2),
the Minister may determine an alternate Helium Default Price for that month.