

2008 Bill 47

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 47

**MINES AND MINERALS (NEW
ROYALTY FRAMEWORK)
AMENDMENT ACT, 2008**

MR. WEBBER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 47
Mr. Webber

BILL 47

2008

MINES AND MINERALS (NEW ROYALTY FRAMEWORK) AMENDMENT ACT, 2008

(Assented to _____, 2008)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cM-17

1 The *Mines and Minerals Act* is amended by this Act.

2 Section 1 is amended

(a) in subsection (1)(l) and (m) by adding “, except in section 82.1,” after “means”;

(b) by adding the following after subsection (4):

(5) The references in sections 8(1)(a), 9(a)(i), 36(2)(j) and (3.1), 50(4) and (5) and 52(1) to a product obtained from a mineral, and in section 36(2)(a) and (b) to a product obtained from a royalty share include

- (a) any product obtained from a mineral or the royalty share of a mineral by processing, reprocessing or otherwise, and**
- (b) any product obtained directly or indirectly, and in whole or in part, in exchange for a mineral, a royalty share of a mineral or a product referred to in clause (a).**

Explanatory Notes

1 Amends chapter M-17 of the Revised Statutes of Alberta 2000.

2 Section 1(1)(l) and (m) presently read:

1(1) In this Act,

(l) “lessee” means the holder according to the records of the Department of an agreement;

(m) “location” means the tract described in an agreement;

3 Section 5(1) is amended

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

- (1.1) respecting investigations and inspections under section 52, including, without limitation, the powers and duties of a person conducting an investigation or inspection and the responsibilities of lessees and other persons in respect of investigations and inspections;
- (1.2) respecting the measurement, calculation or estimation of the quantity, quality or composition of minerals and products obtained by processing minerals or by reprocessing such products, including, without limitation, regulations
 - (i) requiring or authorizing measurement, calculation or estimation,
 - (ii) respecting the purposes for which measurements obtained or calculations or estimates made pursuant to regulations made under this clause are to be used, notwithstanding the provisions of any other enactment,
 - (iii) respecting the persons required to undertake measurement, calculation or estimation and the responsibilities of those persons in respect of measurement, calculation or estimation,
 - (iv) governing the kinds and specifications of tools, equipment and materials that may be used for measurement, and the standards and other requirements respecting the installation, operation and maintenance of those tools, equipment and materials,
 - (v) governing the methods to be used for measurement, calculation or estimation and the standard conditions to which those measurements, calculations or estimates are to be converted, and
 - (vi) governing methods and procedures for conducting sampling, analyses, tests, verification and monitoring in relation to measurement, calculation or estimation;

3 Section 5(1)(m) presently reads:

5(1) The Lieutenant Governor in Council may make regulations

(m) respecting the payment of money or the granting of other incentives relating to the exploration for or recovery or processing of a mineral;

(b) by repealing clause (m) and substituting the following:

(m) respecting the payment of money or the granting of other incentives relating to the exploration for or recovery or processing of a mineral and the termination of such payments or other incentives before

(i) any dates specified in the regulations up to which, or

(ii) the expiry of any time periods specified in the regulations during which,

such payments or incentives are to be provided;

4 Section 8(1)(a) is repealed and the following is substituted:

(a) exchange any Crown mineral or a product obtained from a Crown mineral for another mineral or another product obtained from a mineral;

5 Section 9(a)(i) is repealed and the following is substituted:

(i) the recovery of a mineral and the processing, sale or other disposition of the mineral or of a product obtained from the mineral;

6 Section 35(3) is amended by adding “or a contract or agreement under section 9” after “under the regulations”.

4 Section 8(1)(a) presently reads:

8(1) The Minister may

(a) exchange any Crown minerals for other minerals in Alberta;

5 Section 9(a)(i) presently reads:

9 Notwithstanding anything in this Act or any regulation or agreement, the Minister, on behalf of the Crown in right of Alberta and with the authorization of the Lieutenant Governor in Council, may

(a) enter into a contract with any person or the government of Canada or of a province or territory respecting

(i) the recovery of minerals, the processing of the minerals so recovered and the sale or other disposition of those minerals or the products obtained by processing those minerals or by reprocessing those products;

6 Section 35(3) presently reads:

(3) If under the regulations the quantity of the royalty on a mineral is calculated on the basis of all or any of the products obtained by processing that mineral or by reprocessing the products obtained by processing that mineral, unless otherwise provided a reference to the mineral in any provision in this Act or the regulations respecting

7 Section 36 is amended

(a) in subsection (1)(f) by adding “and the termination of any such waiver or variation before any date, or before the passing of any time period, specified in the regulations by which the waiver or variation is to expire” **after** “royalty on a mineral”;

(b) in subsection (2)

(i) by repealing clause (a) and substituting the following:

(a) respecting the Crown’s royalty share of a mineral, including, without limitation, the delivery of the royalty share in kind and the undertaking of any action in relation to the royalty share so delivered for any purpose leading directly or indirectly to and including the disposal of the royalty share or of any product obtained from the royalty share;

(ii) by repealing clause (b) and substituting the following:

(b) respecting the circumstances under which the lessee, the Alberta Petroleum Marketing Commission or any other person may be required to act, or requiring the lessee, the Alberta Petroleum Marketing Commission or any other person to act, as agent of the Crown in right of Alberta for any purpose leading directly or indirectly to and including the disposal of the Crown’s royalty share or of any product obtained from the royalty share;

(iii) in clause (c) by adding “, the Alberta Petroleum Marketing Commission” **after** “lessee”;

(iv) by adding the following after clause (c):

(c.1) respecting goods and services that may be required by the Minister or the Alberta Petroleum Marketing

the royalty on the mineral shall be read as a reference to the product obtained by the processing or reprocessing, as the case may be.

7 Section 36 presently reads:

36(1) The Lieutenant Governor in Council may make regulations

- (a) prescribing the royalty on a mineral;*
- (b) prescribing that the quantity of the royalty on a mineral be calculated at a place other than the place where the mineral is first measured after it is recovered;*
- (c) prescribing that the royalty on a mineral be delivered to the Crown in right of Alberta at a place other than that at which its quantity is calculated;*
- (d) authorizing the Minister to determine any component or value in the calculation of the royalty on a mineral;*
- (e) respecting the circumstances under which the quantity of the royalty on a mineral shall be calculated on all or any of the products obtained by processing the mineral or by reprocessing any of those products instead of on the mineral;*
- (f) respecting the waiver or variation of all or part of the royalty on a mineral.*

(2) The Lieutenant Governor in Council may make regulations

- (a) respecting the Crown's royalty share of a mineral;*
- (b) respecting the circumstances under which the lessee or any other person may be required to act or requiring the lessee or any other person to act as agent of the Crown in right of Alberta for any purpose leading to and including the disposal of the Crown's royalty share of a mineral;*
- (c) respecting the conditions of any agency relationship created pursuant to clause (b) and the powers, rights and duties of the Minister and of the lessee or any other person under the agency relationship;*
- (d) respecting the determination of the amount of money payable to the Crown in respect of the Crown's royalty share of a mineral when disposed of by a person required by the*

Commission to be provided to the Crown or the Alberta Petroleum Marketing Commission for any purpose in relation to the Crown's royalty share of a mineral, the persons required to provide those goods and services, and the consideration to be paid by the Crown or the Alberta Petroleum Marketing Commission for those goods and services;

- (c.2) respecting the determination by the Minister or the Alberta Petroleum Marketing Commission of the consideration referred to in clause (c.1) or the determination by the Alberta Utilities Commission of charges instead of consideration;
- (c.3) respecting the rights, powers, liabilities and obligations of the Minister, the Alberta Petroleum Marketing Commission and others in relation to the provision of goods and services referred to in clause (c.1) and the payment of consideration, or charges instead of consideration, for those goods and services;

(v) by adding the following after clause (i):

- (j) respecting the delivery of a mineral or of a product obtained from a mineral in exchange for, or on account of, or in lieu of, the Crown's royalty share of a mineral or of a product obtained from a mineral.

(c) by adding the following after subsection (3):

(3.1) Without limiting the powers of the Lieutenant Governor in Council under subsection (2)(j), regulations may be made under that clause

- (a) authorizing or requiring, or providing for the authorizing or requiring, of deliveries referred to in subsection (2)(j);
- (b) respecting the persons authorized or required to participate in a delivery referred to in subsection (2)(j);
- (c) respecting the terms governing deliveries referred to in subsection (2)(j);

regulations to be an agent of the Crown for that purpose, notwithstanding the consideration actually received for the Crown's royalty share when it is disposed of by the agent, and respecting the liability of that agent for the payment of that amount;

- (e) respecting the determination of the value of a mineral or of the Crown's royalty share of a mineral for any purpose under the regulations;*
- (f) respecting the costs and allowances for which the Crown may consent to be liable in relation to the Crown's royalty share of a mineral;*
- (g) respecting the respective rights, powers, liabilities and obligations of the Minister, the lessee and others in the event that the quantity of a mineral delivered to the Crown under the lessee's agreement in a month is less than or greater than the quantity of the Crown's royalty share of the mineral actually payable in respect of that month;*
- (h) respecting the transfer of title to the Crown's royalty share of a mineral to the lessee or any other person after the recovery of the mineral;*
- (i) respecting the determination and payment to the Crown of compensation in respect of the Crown's royalty share of a mineral, where the Crown's title to that share is transferred pursuant to regulations under clause (h).*

(3) Without limiting the powers of the Lieutenant Governor in Council under subsection (2)(g), regulations may be made under that clause

- (a) respecting the powers of the Minister, in the event of a deficiency in deliveries of the quantity of the Crown's royalty share of a mineral under an agreement in a month, to require that the default under the agreement resulting from the deficient delivery be remedied in a subsequent month by either*
 - (i) the delivery in kind to the Crown of the deficient quantity in that subsequent month, or*
 - (ii) the payment to the Crown in that subsequent month of an amount of money determined in accordance with the*

- (d) respecting the rights, powers, duties, functions, liabilities and obligations of the Minister, the Alberta Petroleum Marketing Commission, a lessee or any other person in relation to deliveries referred to in subsection (2)(j), including, without limitation, in relation to excess or deficient deliveries of a mineral, a product obtained from a mineral, the Crown's royalty share of a mineral or the Crown's royalty share of a product obtained from a mineral, for the purposes of such deliveries;
- (e) respecting estimation by the Minister or the Alberta Petroleum Marketing Commission of the Crown's royalty share of a mineral or of a product obtained from a mineral for the purposes of deliveries referred to in subsection (2)(j);
- (f) respecting the acquisition by the Minister or the Alberta Petroleum Marketing Commission of anything required for the purposes of, or in connection with, deliveries referred to in subsection (2)(j);
- (g) respecting the specifications applicable to any mineral or product obtained from a mineral to be provided to the Crown in deliveries referred to in subsection (2)(j);
- (h) respecting the determination or prescribing of adjustments and prices and the application of adjustments and prices for any purpose in relation to deliveries referred to in subsection (2)(j);
- (i) respecting the establishment and operation of a market for the purposes of deliveries referred to in subsection (2)(j).

(d) by adding the following after subsection (5):

(5.1) The Minister may make regulations

- (a) respecting the determination of any component or value in the calculation of the royalty on a mineral;
- (b) respecting the determination of any component or value in the calculation of
 - (i) a money royalty,

regulations as the value to the Crown of the deficient quantity,

whichever the Minister directs;

(b) respecting the powers of the Minister, in the event of deliveries of a mineral to the Crown in excess of the quantity of the Crown's royalty share of the mineral in a month, to act as the agent of the owner of the excess quantity for the sale and delivery of the excess quantity to a purchaser in accordance with the regulations.

(4) The Lieutenant Governor in Council may make regulations

(a) prescribing a money royalty on a mineral instead of a royalty in kind;

(b) authorizing the Minister to determine any component or value in the calculation of a money royalty on a mineral;

(c) authorizing the Minister to determine the costs and allowances that may be deducted in computing a money royalty on a mineral.

(5) Regulations made under this section may relate to

(a) a specified mineral or class of minerals, or

(b) a specified agreement or class of agreements.

(6) If regulations are made under this section respecting the calculation of royalty on a mineral recovered pursuant to an agreement subject to a unit agreement or unit operation order, the regulations operate notwithstanding anything in the unit agreement or unit operation order.

(7) If regulations are made under this section with respect to oil sands products to which section 90 applies, those regulations operate subject to section 90.

(8) A regulation made under this section, or an order made pursuant to a regulation made under this section, may be made effective with reference to a period occurring before it is made.

- (ii) amounts owing to the Crown in respect of the Crown's royalty share of a mineral when the Crown's royalty share is disposed of by an agent, or
- (iii) royalty compensation.

(e) by repealing subsection (7);

(f) by adding the following after subsection (8):

(9) No compensation is payable for goods or services provided pursuant to regulations under subsection (2)(c.1) other than the consideration, or charges instead of consideration, determined under the regulations.

8 Section 38 is amended

(a) in subsection (2) by adding the following after clause (e):

(e.1) any consideration or charges instead of consideration referred to in section 36(2)(c.1), (c.2) or (c.3) that are made subject to this section by the regulations;

(b) in subsection (4)(a)(ii) by adding “, (e.1)” after “(e)”.

8 Section 38 presently reads in part:

(2) Where the Minister considers it appropriate to do so, the Minister may, in accordance with this section, calculate, recalculate or make additional calculations of any of the following:

- (a) the Crown's royalty share of a mineral;*
- (b) any royalty proceeds;*
- (c) any credit or other deduction permitted by the regulations from the Crown's royalty share of a mineral or from royalty proceeds;*
- (d) any reduction or exemption from payment permitted by the regulations of the Crown's royalty share of a mineral or of royalty proceeds;*
- (e) any offset compensation;*
- (f) any interest or penalty arising or imposed under the regulations.*

(4) A calculation, recalculation or additional calculation of any amount referred to in subsection (2) may be made,

- (a) subject to subsection (6), within 4 years after the end of the calendar year in which*

9 Section 39(1) is amended by striking out “with respect to the lessee”.

10 Section 50 is amended

(a) in subsection (4) by striking out “or” at the end of clause (c), adding “or” at the end of clause (d) and adding the following after clause (d):

- (e) was obtained for the purposes of, or in connection with, the collecting, managing, processing, reprocessing, transporting, storing or disposing of the Crown’s royalty

- (i) *the mineral that is the subject of the calculation, recalculation or additional calculation was recovered in a case to which subsection (2)(a) applies,*
- (ii) *the amount referred to in subsection (2)(b), (e) or (f), as the case may be, became owing, or*
- (iii) *the amount of any credit, deduction, reduction or exemption referred to in subsection (2)(c) or (d) was first determined by the Minister,*

or

- (b) *notwithstanding clause (a), at any time if the calculation, recalculation or additional calculation is made necessary by reason of*
 - (i) *fraud, or*
 - (ii) *misrepresentation attributable to neglect, carelessness or wilful default*

in the filing or submission of any report or other information under this Act.

9 Section 39(1) presently reads:

39(1) A lessee, a lessee's agent and any other person authorized by the regulations to make an objection may, in accordance with the terms and conditions specified by the Minister and in the form and manner and within the time specified by the Minister, object to a calculation, recalculation or additional calculation of any amount referred to in section 38(2) with respect to the lessee.

10 Section 50 presently reads in part:

- (4) *With respect to information that*
 - (a) *was obtained on a royalty return,*
 - (b) *appears on a royalty account, invoice or statement,*
 - (c) *was obtained for the purposes of determining or verifying royalty liability or collecting or forecasting royalty, or*

share of a mineral, or of a product obtained from a mineral, taken in kind,

(b) by repealing subsection (5)(c) and substituting the following:

- (c) “royalty” means royalty reserved to the Crown in right of Alberta on a mineral or a product obtained from a mineral, and includes royalty proceeds as defined in section 38(1)(b);

11 Section 52 is repealed and the following is substituted:

Investigation and inspection

52(1) The Minister or a person designated by the Minister for the purpose may, from time to time or on a periodic basis, conduct an investigation or inspection in relation to any of the following:

- (a) any well, battery, mine, quarry, installation, equipment or other facility used or formerly used for or in connection with the recovery of a mineral pursuant to an agreement, or any plant or other facility used or formerly used for the processing of a mineral recovered pursuant to an agreement or of any product obtained from that mineral;
- (b) any well, installation or equipment used or formerly used for or in connection with the injection of a substance into a subsurface reservoir for the purpose of storage;
- (c) a mineral recovered pursuant to an agreement or any product obtained from such a mineral;
- (d) the Crown’s royalty share of a mineral or of any product obtained from a mineral.

(2) An investigation or inspection under this section may, without limitation, be conducted whether or not any mineral or product referred to in subsection (1) is or was commingled with any mineral recovered other than pursuant to an agreement or with any product obtained from such a mineral.

- (d) *was obtained for the purposes of determining, prescribing or verifying an amount, factor or other component that is used to calculate royalty,*

subsection (1) prevails despite the Freedom of Information and Protection of Privacy Act for a period of 5 years following the end of the year to which the information relates.

(5) *In this section,*

- (c) *“royalty” means royalty reserved to the Crown in right of Alberta on a mineral;*

11 Section 52 presently reads:

52(1) The Minister may conduct an investigation or inspection in relation to

- (a) *the operation of any well, battery, mine, quarry, installation or equipment used or formerly used for or in connection with the recovery of a mineral pursuant to an agreement, or of any plant used or formerly used for the processing of a mineral recovered pursuant to an agreement or the reprocessing of the products obtained by processing that mineral,*
- (b) *the operation of any well, installation or equipment used or formerly used for or in connection with the injection of a substance into a subsurface reservoir for the purpose of storage,*
- (c) *the disposal of a mineral recovered pursuant to an agreement or of the products obtained by processing that mineral or by reprocessing the products obtained by processing that mineral, or*
- (d) *the delivery of the Crown’s royalty share of a mineral or of any product obtained by processing that mineral or by reprocessing the products obtained by processing that mineral.*

(2) The Minister may enter into and have access to the site of the well, battery, mine, quarry, installation, equipment or plant to which an investigation or inspection relates, and the lessee or other person in charge of it shall

(3) A person conducting an investigation or inspection may enter into and have access to the site of the well, battery, mine, quarry, installation, equipment, plant or other facility to which the investigation or inspection relates, and the lessee or other person in charge of it, and any person performing any operation or function in relation to it, shall

- (a) render whatever assistance is requested by the person conducting the investigation or inspection,
- (b) supply any information and samples requested by the person conducting the investigation or inspection, and
- (c) provide access to any reports, plans, logs, data, designs, process control and engineering documents or other records requested by the person conducting the investigation or inspection,

if it is, in the opinion of the person conducting the investigation or inspection, relevant to the investigation or inspection.

12 Section 63(1) is amended

- (a) in clause (a) by striking out “52(2)” and substituting “52(3)”;
- (b) in clause (b) by adding “or (1.2)” after “5(1)(j)”.

13 The following is added after section 82:

Shallow non-productive rights reversion

82.1(1) In this section,

- (a) “determination date” means a date on which the Minister makes a decision as to the shallowest productive zone in the location of a lease or licence or in an individual spacing unit comprising a portion of the location of a lease or licence which, for the purposes of this section, may be any one of the following:

- (a) *render whatever assistance is requested by the Minister, and*
- (b) *supply the information requested by the Minister if it is available at the well, battery, mine, quarry, installation, equipment or plant, and, in the opinion of the Minister, it is relevant to the investigation or inspection.*

12 Section 63(1) presently reads:

63(1) A person who contravenes

- (a) *section 47, 48(3), 50, 52(2), 53, 54, 79 or 107, or*
- (b) *a regulation made under section 5(1)(j)*

is guilty of an offence and is liable to a fine of not more than \$100 000.

13 Shallow non-productive rights reversion.

- (i) the date of a notice given under subsection (3),
 - (ii) the date of a response given under subsection (8),
 - (iii) the date of an offer made under subsection (10), or
 - (iv) the date of a final decision under subsection (12);
- (b) “lease” means a lease as defined in the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97) that
- (i) is issued before January 1, 2009, and
 - (ii) has been approved for continuation by the Minister after the expiration of its term pursuant to section 15(1) of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
- (c) “lessee” means the holder of a lease or licence or the holder’s designated representative as indicated in the Department’s records;
- (d) “licence” means a licence as defined in the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97) that
- (i) is issued before January 1, 2009, and
 - (ii) has been approved for continuation by the Minister after the expiration of its intermediate term pursuant to section 15(1) of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
- (e) “location” has the same meaning as in the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
- (f) “notice expiry date” means the date that coincides with the end of
- (i) the 3-year period from the date of a notice given to a lessee under subsection (3), or
 - (ii) an extension of that period allowed under subsection (6);

- (g) “shallow non-productive rights” means those petroleum and natural gas rights granted by the lease or licence that are stratigraphically above a shallowest productive zone;
- (h) “shallowest productive zone” means the zone that the Minister determines, from among the following zones, to be the stratigraphically shallowest zone in the location of a lease or licence, or in an individual spacing unit comprising a portion of the location of a lease or licence, as at the determination date:
 - (i) the shallowest zone from which, in the opinion of the Minister, a well is capable of producing petroleum or natural gas in paying quantity;
 - (ii) the shallowest zone that is subject to a unit agreement;
 - (iii) the shallowest zone that is subject to a gas storage agreement as defined in the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
 - (iv) the shallowest offset zone from which a freehold well as defined in the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97) is producing petroleum or natural gas, if
 - (A) the holder of a lease or licence, the location or part of the location of which is within a spacing unit adjoining the freehold well, has notified the Minister in writing before the notice expiry date that the lessee elects to pay offset compensation, in accordance with the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97), in respect of the location or the part of the location within the adjoining spacing unit, and
 - (B) offset compensation is being paid in respect of the location or the part of the location within the adjoining spacing unit;
 - (v) the shallowest zone considered by the Minister to be capable of producing petroleum or natural gas in paying quantity;

- (i) “spacing unit” has the same meaning as in the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97);
 - (j) “zone” means a stratum or series of strata considered by the Minister to be a zone for the purposes of this section.
- (2) The Minister may determine
- (a) the shallowest productive zone in respect of the location of a lease or licence;
 - (b) the shallowest productive zone in respect of each individual spacing unit comprising a portion of the location of a lease or licence;
 - (c) the extent of the location of a lease or licence that no longer qualifies for continuation under the regulations.
- (3) Where a determination is made pursuant to subsection (2), the Minister shall give a written notice to the lessee, which
- (a) must state the shallowest productive zone in respect of the location of the lease or licence, or in respect of each individual spacing unit comprising a portion of the location of the lease or licence,
 - (b) may specify or indicate the extent of the location of the lease or licence that no longer qualifies for continuation under the regulations,
 - (c) must state that
 - (i) the shallow non-productive rights, and
 - (ii) the petroleum and natural gas rights in the whole or a portion of the location, if specified or indicated pursuant to clause (b),

will revert to the Crown at the end of a 3-year period from the date of the notice,
 - (d) must state that the lessee may respond to the Minister’s notice by way of an application, and
 - (e) must be given in accordance with section 31(1).

- (4) The lessee may request an extension of the 3-year period referred to in subsection (3).
- (5) A request under subsection (4) must be in the form prescribed by the Minister and must be received by the Minister on or before the notice expiry date.
- (6) The Minister may extend the 3-year period referred to in subsection (3) if the lessee satisfies the Minister that the extension is warranted in the circumstances.
- (7) An application under subsection (3)(d) must be in the form prescribed by the Minister and must be received by the Minister on or before the notice expiry date.
- (8) If an application is made by the lessee in accordance with subsection (7) and the Minister agrees with its contents, the Minister
- (a) shall respond in writing to the lessee and advise that the Minister agrees with the contents of the application,
 - (b) shall as part of the response to the lessee confirm the shallowest productive zone in respect of the location of the lease or licence, or in respect of each individual spacing unit comprising a portion of the location of the lease or licence, and
 - (c) may confirm as part of the response to the lessee the extent of the location of the lease or licence that no longer qualifies for continuation under the regulations.
- (9) When the Minister gives a response to the lessee under subsection (8),
- (a) the shallow non-productive rights shall be severed from the location of the lease or licence and revert to the Crown effective as of the notice expiry date, and
 - (b) the petroleum and natural gas rights in the whole or a portion of the location of the lease or licence that is confirmed in the Minister's response as no longer qualifying for continuation under the regulations revert to the Crown as of the notice expiry date.

(10) If an application is made by the lessee in accordance with subsection (7) and the Minister disagrees in whole or in part with its contents, the Minister shall make an offer to the lessee.

(11) An offer under subsection (10)

- (a) must contain, in respect of the location of the lease or licence, or in respect of each individual spacing unit comprising a portion of the location of the lease or licence, a description of the shallowest productive zone,
- (b) may specify or indicate the whole or any portion of the location of a lease or licence that no longer qualifies for continuation under the regulations and in which the petroleum and natural gas rights revert to the Crown as of the notice expiry date,
- (c) must state that the lessee has until the end of one month from the date of the offer or until the notice expiry date, whichever occurs later, in which to respond to the offer,
- (d) must be in the form prescribed by the Minister, and
- (e) must be given in accordance with section 31(1).

(12) After the expiry of the period specified in subsection (11)(c), the Minister

- (a) may consider any response to the offer made by the lessee that is received by the Minister by the end of that period,
- (b) shall make a final decision as to the shallowest productive zone in respect of the location of the lease or licence, or in respect of each individual spacing unit comprising a portion of the location of the lease or licence,
- (c) shall make a final decision as to the extent of the location of the lease or licence that no longer qualifies for continuation under the regulations, if the whole or any portion of the location of the lease or licence no longer so qualifies, and

- (d) shall advise the lessee in writing of the decision made pursuant to clause (b) and, if applicable, the decision made pursuant to clause (c).

(13) When the Minister makes a final decision pursuant to subsection (12)(b) and, if applicable, subsection (12)(c),

- (a) the shallow non-productive rights shall be severed from the location of the lease or licence and revert to the Crown effective as of the notice expiry date, and
- (b) the petroleum and natural gas rights in the whole or any portion of the location of the lease or licence in respect of which the Minister has made a final decision under subsection (12)(c) revert to the Crown as of the notice expiry date.

(14) If no application is received by the Minister in accordance with subsection (7),

- (a) the shallow non-productive rights referred to in the notice shall be severed from the location of the lease or licence and revert to the Crown effective as of the notice expiry date, and
- (b) the petroleum and natural gas rights, to the extent of the location of the lease or licence that is specified or indicated under subsection (3)(b) as no longer qualifying for continuation under the regulations, revert to the Crown as of the notice expiry date.

14 Section 83(2) is repealed and the following is substituted:

(2) Regulations made under this section respecting the continuation of leases or licences shall not provide for the reversion to the Crown of rights to petroleum or natural gas in any subsurface area of any portion of the location of a lease or licence unless the reversion is referable

- (a) to the portion of that subsurface area lying stratigraphically above the top of the shallowest of the zones to which the approval for continuation extends in that portion of the location, and

14 Section 83(2) presently reads:

(2) Regulations made under this section respecting the continuation of leases or licences shall not provide for the reversion to the Crown of rights to petroleum or natural gas in any subsurface area of any part of the location of a lease or licence unless the reversion is referable to the portion of that subsurface area lying stratigraphically below the base of the deepest of the zones to which the approval for continuation extends in that part of the location.

- (b) to the portion of that subsurface area lying stratigraphically below the base of the deepest of the zones to which the approval for continuation extends in that portion of the location.

15 Section 86 is amended

- (a) in subsection (1) by striking out “the crude oil” and substituting “a mineral to which this section applies”;**
- (b) in subsection (2) by adding “and minerals” after “agreements”;**
- (c) by repealing subsection (3) and substituting the following:**
 - (3)** The Lieutenant Governor in Council may make regulations specifying the agreements and minerals to which this section applies.

16 Section 90 is repealed.

17(1) In this section, “oil sands product”, “Project” and “royalty calculation point” have the same meaning as in section 90 of the *Mines and Minerals Act* as it read immediately before the coming into force of section 16.

(2) Despite sections 7(e) and 16 of this Act, sections 36(7) and 90 of the *Mines and Minerals Act* apply to Projects in respect of oil sands products delivered at a royalty calculation point on or before December 31, 2008.

15 Section 86 presently reads:

86(1) Every agreement to which this section applies is subject to the condition that the Crown's royalty share of the crude oil recovered pursuant to the agreement must be delivered to the Alberta Petroleum Marketing Commission.

(2) This section applies only to those agreements to which it is made applicable by the regulations under subsection (3).

(3) The Lieutenant Governor in Council may make regulations declaring this section applicable either

(a) to all agreements granting petroleum and natural gas rights or petroleum rights, or

(b) to agreements granting petroleum and natural gas rights or petroleum rights the locations of which are situated in the part or parts of Alberta specified in the regulations.

(4) The Minister may, with respect to any agreement to which this section applies and in any special case when the Minister considers it warranted by circumstances to do so, waive compliance with subsection (1) for any period of time and on any conditions the Minister may prescribe.

16 Repealing section dealing with royalty on oil sands.

17 Transitional.

18 Sections 7(e), 15, 16 and 17 come into force on January 1, 2009.

18 Coming into force.

