

PUBLIC CONSULTATION DRAFT
INDIAN OIL AND GAS REGULATIONS
INTERPRETATION

Definitions

1. The following definitions apply in these Regulations.

“Act”

« *Loi* »

“Act” means the *Indian Oil and Gas Act*.

“actual selling price”

« *prix de vente réel* »

“actual selling price” means

(a) in respect of oil, the price at which the oil is sold; and

(b) in respect of gas, the price or other consideration payable that is specified in the gas sales contract under which the gas is sold, free of any fees or deductions other than transmission charges beyond the facility outlet.

“adjoining”

« *adjacent* »

“adjoining”, in relation to two spacing units, means touching at one or more points. In determining whether two spacing units adjoin, any road allowances between them are to be disregarded.

“bitumen”

« *bitume* »

“bitumen” means oil that does not flow from a reservoir to a well unless it is heated or diluted.

“exploratory work”

« *travaux d’exploration* »

“exploratory work” includes mapping, surveying, geological, geophysical or geochemical examinations, test drilling and any other investigations that are conducted by air, land or water and are related to the exploration for oil and gas.

“first nation spacing unit”

« *unité d’espace d’une première nation* »

“first nation spacing unit” means a spacing unit in which 50% or more of the lands are first nation lands that belong to the same first nation.

“horizontal section”

« *tronçon horizontal* »

“horizontal section” means the portion of a wellbore that has

(a) an angle of at least 80°, measured between the line connecting the initial point of penetration into the productive zone and the end point of the wellbore in the productive zone and the line extending vertically downward from the initial point of penetration into the productive zone; and

(b) a minimum length of 100 m, measured from the initial point of penetration into the productive zone to the end point of the wellbore in the productive zone.

“horizontal well”

« *puits horizontal* »

“horizontal well” means a well with a horizontal section that has been approved by the provincial authority as well as any other well that has been approved by the provincial authority as a horizontal well.

“off-reserve spacing unit”

« *unité d’espace hors réserve* »

“off-reserve spacing unit” means any spacing unit that is not a first nation spacing unit.

“offset notice”

« *préavis de drainage* »

“offset notice” means a notice that is sent under section 86.

“offset period”

« *délai de préavis* »

“offset period” means the period that begins on the day on which an offset notice is received and ends

(a) 90 days after that day, if the offset notice is not sent until after confidential information about the well is made public;

(b) the day on which an extension of the offset notice expires, if one has been given under paragraph 5(1)(d) of the Act; or

(c) 180 days after that day, in any other case.

“offset well”

« puits de limite »

“offset well” means a well in a first nation spacing unit that is producing from the same zone as the zone from which a triggering well is producing.

“offset zone”

« couche de compensation »

“offset zone” means the zone from which a triggering well is producing.

“prescribed”

Version anglaise seulement

“prescribed” means prescribed by the Minister under subsection 5(1) of the Act.

“productive”

« productif »

“productive” means capable of producing oil or gas in a quantity that would warrant incurring the costs of completing a well or putting a well on production.

“project”

« projet »

“project” means a project, scheme or plan for the recovery of oil or gas, other than a bitumen recovery project, for which the approval of the provincial authority is required.

“provincial authority”

« autorité provinciale »

“provincial authority” means the office, department or body that is authorized by law to make decisions, grant approvals, receive information or keep records respecting exploration, exploitation or the conservation of oil and gas in the province in which the relevant first nation lands are located.

“service well”

« puits de service »

“service well” means a well that is operated for observation, fluid injection or disposal purposes.

“spacing unit”

« unité d’espacement »

“spacing unit” means an area in a zone that is designated as a spacing unit, a spacing area, a drainage unit or other similar unit by the provincial authority.

“subsurface contract”

« contrat tréfoncier »

“subsurface contract” means a permit or subsurface lease that is granted under the Act.

“surface contract”

« contrat de superficie »

“surface contract” means a surface lease or right-of-way that is granted under the Act.

“surface rates”

« frais de superficie »

“surface rates” means the amounts to be paid by a surface contract holder that are referred to in subsections 68(2) and (3).

“triggering well”

« puits déclencheur »

“triggering well” means a vertical well, or a horizontal section of a horizontal well, that is producing an off-reserve spacing unit that adjoins a first nation spacing unit.

“unit agreement”

« accord de mise en commun »

“unit agreement” means an agreement that combines the interests of all holders of oil or gas rights in all or part of a reservoir and provides for the joint exploitation of the oil and gas and the payment of royalties based on an allocation of production rather than actual production.

“zone”

« couche »

“zone” means a stratum of lands identified as a zone in accordance with Schedule 3 or 4.

GENERAL RULES

Sending notices, documents or information

2. (1) Any notice, document or information that is sent under these Regulations must be in paper or electronic format and be served on the intended recipient personally, sent to them by mail at their last known address, sent to them electronically or transmitted by another means agreed to by the interested parties.

Deemed receipt

(2) If a notice, a document or information is sent by the Minister electronically, it is deemed to be received on the day of transmission even if another means of transmission is also used; if it is sent by any other means, it is deemed to be received four days after the day of transmission.

Information possessed by Minister

3. Despite any provision of these Regulations, a person is not obliged to submit information to the Minister that the Minister has advised is already in his or her possession or is available to him or her from another source such as Petrinex.

Form not prescribed

4. When an application or other document is required by these Regulations to be submitted in prescribed form, but no form has been prescribed, the application or document may be submitted in any form so long as it includes all the information required by these Regulations.

Eligible contract holders

5. (1) A person is eligible to be granted a contract if

- (a) they are a corporation that is authorized by the law of the relevant province to carry on business in that province or an individual who is of the age of majority in that province;
- (b) they are not in default under a contract or the Act ; and
- (c) they have not been convicted of an offence under subsection 18(2) of the Act within two years preceding the date of the bid in the case of a sale by public tender or the date of the application in the case of a negotiated contract.

Default

(2) For the purposes of this section, a person is in default if a non-compliance notice has been sent to them under subsection 104(1) and they have neither remedied the breach nor submitted a plan to the Minister that shows how the breach will be remedied and that it will be remedied as soon as feasible.

Contract area boundaries

6. (1) The boundaries of a contract area must correspond to the boundaries of the legal land divisions of the relevant province if the lands in the contract area have been surveyed or to the anticipated boundaries of those divisions if the lands have not been surveyed.

Unsurveyed lands

(2) If the lands in a contract area are surveyed during the term of the contract, the Minister must, after consulting with the holder and the relevant council, amend the contract so that the description of the lands in the contract area complies with subsection (1).

Exception

(3) Subsections (1) and (2) do not apply if the contract area is in a reserve the boundaries of which prevent compliance with those subsections.

Survey plans

7. (1) Every survey plan that is required under these Regulations must be

- (a) prepared in accordance with the *Canada Lands Surveys Act* and any instructions issued by the Surveyor General of Canada;
- (b) confirmed by the Surveyor General of Canada; and
- (c) recorded in the Canada Lands Surveys Records.

Exception

(2) Subsection (1) does not apply to

- (a) a seismic survey plan; or
- (b) a survey of lands that are added to a reserve under a treaty land entitlement agreement or a specific claim settlement agreement.

Dispute

8. If a dispute arises regarding the location of a well, facility or boundary referred to in a contract, the Minister may send the holder a notice that requires them to arrange for a survey to be made. A holder that receives a notice must arrange for the survey to be conducted as soon as feasible.

Designation — single holder

9. (1) If a contract has a single holder, the holder may designate a person to act as their representative for the purposes of the contract, the Act and these Regulations.

Term — single holder

(2) A designation under subsection (1) takes effect on the latest of the effective date of the contract, any date specified in the designation and the day on which the notice of designation is received. It remains in effect until the day on which a designation naming a new representative takes effect or the Minister receives a notice that the designation has been revoked.

Designation — multiple holders

(3) If a subsurface contract has more than one holder, the holders must jointly designate a person to act as their representative for the purposes of the contract, the Act and these Regulations.

Term — multiple holders

(4) A designation under subsection (3) takes effect on the latest of the effective date of the contract, any date specified in the designation and the day on which the notice of designation is received. It remains in effect until a designation naming a new representative takes effect.

Designation — transitional

(5) In the case of a subsurface contract that is in effect when these Regulations come into force, the designated representative is the holder whose undivided interest or rights in the contract are the greatest or, if the holders' interest or rights are equal, the holder whose name comes first in alphabetical order.

Term — transitional

(6) A designation under subsection (5) takes effect on the day on which the holders receive notice of the designation and remains in effect until the day on which a designation naming a new representative takes effect.

Revocation or replacement

(7) During the term of a contract,

(a) a single holder may replace a designated representative or revoke the designation; and

(b) multiple holders may jointly replace a designated representative.

Notice to Minister

(8) A holder that designates or replaces a representative or revokes a designation during the term of a contract must give the Minister notice, in prescribed form, of the designation, replacement or revocation.

Approval

(9) The Minister must approve a designated representative that meets the requirements of subsection 5(1).

Notice to holders and council

(10) When a representative is designated, the Minister must send the relevant holders and the relevant council a notice of designation or, if the designation is refused, a notice of refusal.

Effect of designation

(11) When a representative is designated,

(a) a reference to a contract holder in the contract, the Act or these Regulations must be read as a reference to the designated representative; and

(b) each holder is legally bound by, and is responsible for, the acts and omissions of their representative.

Annual meeting request

10. (1) During the term of a contract on first nation lands, the relevant council may ask the Minister for a meeting between the council and the holder for the purpose of discussing the operations that have been conducted, or are planned to be conducted, on those lands.

New representative meeting request

(2) A meeting may also be requested when a new representative is designated if the council sends the request to the Minister in prescribed form within 90 days after the day on which the council receives notice of the new designation.

Minister's duty

(3) Within 90 days of receiving a request, the Minister must arrange for the meeting to be held as soon as feasible. However, in the case of a meeting requested under subsection (1), only one meeting a year must be arranged with any given holder.

Expenses

(4) Any expenses incurred in requesting, preparing for or attending a meeting must be borne by the party that incurs the expense.

Unforeseen incident

11. If any operation carried out under a contract injures a person or damages first nation lands or property, the operator must, as soon as feasible and in prescribed form, send the Minister and the relevant council notice of the incident that caused the damage or injury.

Payment of rent

12. (1) Any annual rent that is payable under a contract must be paid before the anniversary of the effective date of the contract.

No refund

(2) If a contract has expired or is surrendered or cancelled, the rent that has been paid is not refundable and any rent that is owed must be paid.

Payment to Receiver General

13. (1) All money that is owed to Her Majesty under these Regulations or a contract must be paid to the Receiver General for Canada.

Purpose of payment

(2) Every payment that is to be made under this Act or a contract must be accompanied by a statement indicating the purpose for which it is made.

Amendments

14. An amendment to a bitumen recovery project, or a contract other than an amendment referred to in subsection 6(2), requires the approval of the relevant council.

Well data

15. An operator that conducts operations in connection with a well must submit the following documents and information to the Minister within the following time limits:

(a) before the well is spudded,

(i) a copy of the provincial licence authorizing the drilling of the well and the licence application,

(ii) the drilling and coring plan proposed for the well,

(iii) the geological prognosis,

(iv) any proposed horizontal drilling plan, and

(v) a copy of the surface lease survey plan;

(b) within 30 days of the day on which the well is rig-released,

(i) a copy of each wireline log prepared,

(ii) all daily drilling reports between the date of spudding and the rig-release date,

(iii) the results of any drill stem test conducted,

(iv) in the case of a horizontal well, the final horizontal drilling survey, and

(v) any descriptions, tests or analyses resulting from an identification of any well sections that were cored;

(c) within 30 days of the day on which the well is completed,

(i) each daily completion report and the final downhole well schematic,

(ii) a copy of each wireline log prepared,

(iii) all core and fluid analyses prepared,

(iv) all swab reports prepared, and

(v) the results of all pressure or flow tests conducted;

(d) within 30 days of the day on which any recompletion or workover of the well is completed,

(i) each re-completion or workover report prepared,

(ii) the final downhole well schematic,

(iii) a report disclosing hydraulic fracturing fluid component information,

(iv) a report identifying the details of any downhole well intervention or stimulation,

(v) a copy of each wireline log prepared,

(vi) all core and fluid analyses prepared,

(vii) all swab reports prepared, and

(viii) the results of all flow or pressure tests conducted;

(e) within 30 days of the day on which the well is downhole-abandoned, a copy of all daily operation reports relating to the downhole abandonment; and

(f) within 30 days of the day on which the well is surface-abandoned, a copy of the daily operations reports of the cut and cap operation and a copy of the final abandonment report submitted to the provincial authority.

Additional information

16. Any documents and information, other than the documents and information referred to in section 15, that an operator is required to submit to the provincial authority must, within the period specified by the law of the relevant province, be submitted to the Minister.

Information in reports

17. (1) Any information that is submitted by a contract holder to the Minister or a council under the Act must be kept confidential — unless the holder consents in writing to its release — until the end of the period during which the information must be kept confidential under the law of the relevant province.

Seismic information

(2) Any seismic information that is submitted to the Minister or a council must be kept confidential — unless the holder consents in writing to its release — until the earlier of five years after the day on which the seismic work is completed and the day on which the contract ends.

Interpretation

(3) Any interpretation of seismic data, including maps, that is submitted by the holder to the Minister or a council may be released only if the holder consents in writing to its release.

Disclosure to council

(4) Despite subsections (1) to (3), the Minister may disclose

(a) confidential information to a relevant council if required to do so by the Act, these Regulations or a contract; and

(b) the results of an environmental review referred to in subsection 23(3), 52(2) or 70(2).

Incorrect information

18. If a person becomes aware that any information submitted under these Regulations is incorrect, they must submit the correct information to the Minister as soon as feasible after the day on which they became aware.

Approval of assignment

19. (1) An assignment of rights under a contract must be made in prescribed form and must be submitted to the Minister for approval, along with the fee for assignment set out in Schedule 1.

Refusal to approve

(2) The Minister must not approve the assignment if

(a) it is conditional;

(b) it would result in more than five persons having an interest or rights in the contract;

(c) it assigns an undivided interest or rights in the contract that is less than 1%;

(d) it divides the oil and gas rights conferred by the contract;

(e) the assignee is not eligible under subsection 5(1); or

(f) the assignment was not properly executed or signed.

Minister's decision

(3) If the Minister approves the assignment, he or she must send the applicant and relevant council notice of the assignment. The assignment takes effect on the day on which it is approved.

Effect of approval

20. (1) If the assignment is approved, the assignor and assignee are jointly and severally, or solidarily, liable for any obligation owing, and any liability arising, under the contract before the day on which it was approved, even if the contract is subsequently assigned.

Exception

(2) Subsection (1) does not apply to an assignment that was approved before the coming into force of these Regulations.

TERMS INCLUDED IN EVERY CONTRACT

Compliance with laws

21. (1) Every contract granted by the Minister under these Regulations is deemed to include the holder's undertaking to comply with

- (a) the *Indian Act*, and any orders made under that Act, as amended from time to time;
- (b) the Act, these Regulations and any orders made under the Act or these Regulations, as amended from time to time; and
- (c) the laws of the relevant province, as amended from time to time, that relate to the environment or to the exploration for or the exploitation, treatment or conservation of oil and gas, including equitable production, if those laws are not in conflict with the Act or these Regulations.

Conflict with Act, regulation or order

(2) In the event of a conflict, the provisions of any Act, regulation or order that is incorporated into a contract under subsection (1) prevail over the other terms of the contract, with the exception of any terms respecting royalties negotiated under subsection 4(2) of the Act.

EXPLORATION

AUTHORIZATION

Authorization to explore

22. A person may explore for oil and gas on first nation lands if they

- (a) hold an exploration licence;
- (b) have obtained from the provincial authority any permission that is required to conduct exploration in the province; and
- (c) are in compliance with the terms of the licence and the permission.

APPLICATION FOR EXPLORATION LICENCE

Preliminary negotiation

23. (1) Before applying for an exploration licence, an applicant and the relevant council must reach agreement on the location of the proposed seismic lines and on the seismic rates, if those rates have not already been fixed in a related subsurface contract.

Application for licence

- (2) The application must be submitted to the Minister in prescribed form and include
- (a) the terms negotiated with the council;
 - (b) if the permission of a provincial authority is required to conduct exploration in the relevant province, a statement that the permission has been received;
 - (c) a description of the proposed exploration program, including the licence area, the exploratory work to be conducted, the names of any contractors to be engaged, the equipment to be used and the anticipated duration of the work;
 - (d) the results of an environmental review of the proposed exploration program that has been conducted by a qualified environmental professional who deals with the applicant at arm's length; and
 - (e) the exploration licence application fee set out in Schedule 1.

Environmental review

- (3) The results of the environmental review must be reported in prescribed form and include
- (a) a site description that addresses the site's topography, soils, vegetation, wildlife, sources of water, existing structures, archeological or cultural resources, current land uses and any other feature of the site that could be affected by the proposed exploration program;
 - (b) a description of all operations to be carried out during the proposed exploration program, the duration of the operations and their location on the site;
 - (c) a description of the short-term and long-term effects that each operation could have on the environment of the site and on any surrounding areas that might be affected; and
 - (d) a description of the proposed mitigation measures, the potential residual effects after mitigation and the significance of those effects.

Return of application

(4) After reviewing the application, the Minister must send it back to the applicant, along with an environmental protection letter that sets out the terms on which the exploration program may be conducted.

Council approval

(5) To obtain the exploration licence the applicant must, within 60 days after the day on which the reviewed application is received, submit to the Minister three original copies of the application signed by the applicant, a written resolution of the council approving the licence and three copies of the environmental protection terms letter.

Exploration licence

(6) If the requirements set out in this section are met, the Minister must grant the exploration licence for a period of one year. The terms of the licence are those set out in the application reviewed by the Minister and in the environmental protection terms letter.

OPERATIONS UNDER EXPLORATION LICENCE

Relation to subsurface contract

24. An exploration licence holder may exercise their rights in an area that is subject to a subsurface contract, but in doing so must not interfere with any operations conducted under the subsurface contract.

Priority

25. Every exploration licence is subject to

- (a) any surface rights granted under an Act of Parliament; and
- (b) any right to explore for or exploit minerals other than oil or gas in the licence area.

Maximum drilling depth

26. (1) An operator must not drill to a depth of more than 50 m, unless authorized to do so by their licence.

Operator's obligations

(2) An operator must

- (a) identify and mark the location of every test hole and shot hole that has been drilled under the licence;
- (b) repair and recondition any roads or road allowances that are damaged as a result of the exploratory work as soon as feasible after the damage occurs;
- (c) plug, as soon as feasible, any hole that is drilled under the licence and that, during or after completion of the exploratory work, collapses or emits gas, water or another substance;
- (d) within 90 days after completion of the exploratory work, pay compensation for the seismic shot, based on the amount shot and the rates specified in the licence; and
- (e) within 90 days after completion of the exploratory work, submit to the Minister and the relevant council
 - (i) a mylar sepia copy and a legible paper copy of a map, on a scale of not less than 1:50 000, that shows the location and ground elevation of every vibrating equipment station, shot hole and test hole,
 - (ii) summaries of geologists' and drillers' logs, indicating depths and thicknesses of formations bearing water, sand, gravel, coal and other minerals of possible economic value, and
 - (iii) all technical information obtained from the drilling of each test hole.

Exploration report

27. (1) A holder of a subsurface contract that conducts exploratory work within the area of their contract must, within 90 days after completion of exploratory work, submit an exploration report to the Minister.

Content of report

(2) The exploration report must comply with any exploration reporting requirements of the relevant province and must include, in addition to the material referred to in paragraph 26(e),

- (a) a copy of every aerial photograph taken during the period of exploration;
- (b) two copies of a geological report on the area investigated, including stratigraphic data and structural and isopach maps on a scale of not less than 1:50 000; and
- (c) a geophysical report on the area investigated.

Geophysical report

(3) The geophysical report must include the following:

(a) if a seismic survey has been conducted,

(i) a mylar sepia copy and two legible paper copies of a map, on a scale of not less than 1:50 000, that shows contour lines drawn on the corrected time value at each source point for all significant reflecting horizons investigated, with a contour line interval of not more than 10 m,

(ii) a mylar sepia copy and two prefolded paper copies for each stacked seismic cross-section, including migrated displays if such processing has been conducted, with all significant reflecting horizons clearly labelled at both ends on one of the copies, and

(iii) two microfilm copies of all basic recording data, including survey notes, chaining notes and observer reports;

(b) if a gravity survey has been conducted, two legible copies of a map, on a scale of not less than 1:50 000, that shows the location and ground elevation of each station, the final corrected gravity value at each station and gravity contour lines drawn on that value with a contour line interval of 2.5 $\mu\text{m/s}$ or less; and

(c) if a magnetic survey has been conducted, two copies of a map of the area, on a scale of not less than 1:50 000, that shows the location of the flight lines or grid stations and magnetic contour lines, with a contour line interval of not more than 5 Nt.

Exception

(4) The Minister may authorize a holder in writing to include maps at contour line intervals or scales other than those specified in subsections (2) and (3) if the alternative intervals or scales would enhance the interpretability of the maps.

Information available to council

(5) The Minister must make the information submitted under subsections (2) to (4) available to the relevant council.

Information to be kept

(6) In addition to any information submitted under this section, a contract holder must keep any information that was obtained as a result of exploratory work conducted in the contract area, including any paper or magnetic digital display of raw data or interpreted seismic data, and must make it available for review by the Minister at their office during office hours for a period equal to the greater of

(a) 90 days after the day on which a lease expires or is continued, the initial term of a permit expires or, in the case of a permit issued under the *Indian Oil and Gas Regulations, 1995*, the permit is converted to one or more leases; and

(b) one year after the day on which the seismic work is completed.

Remediation and reclamation

28. When exploratory work under a licence is no longer being conducted, regardless of whether the licence has ended, the operator must ensure that the lands in the exploration licence are remediated and reclaimed.

SUBSURFACE RIGHTS
GRANTS OF SUBSURFACE RIGHTS
General Rules

Subsurface contracts

29. (1) Oil and gas rights in first nation lands may be granted by the Minister under the following subsurface contracts:

(a) an oil and gas permit;

(b) an oil and gas lease.

Mode of disposition

(2) A subsurface contract must be granted in accordance with the public tender process set out in sections 34 to 37 or the negotiation process set out in sections 39 to 41, as chosen by the relevant council. The negotiation process may be preceded by a call for proposals in accordance with section 38.

No splitting of rights

(3) When granting a subsurface contract, the Minister must grant the rights to all the oil and all the gas in each zone included in the contract.

Priority

30. A subsurface contract holder's rights are subject to the right of an exploration licence holder to conduct exploratory work in, and the right of another subsurface contract holder to work through, the subsurface contract area.

Adding rights to existing lease

31. In the case of a subsurface contract that was granted before the coming into force of these Regulations and did not grant rights to all the oil and all the gas in the contract area, the holder may apply under sections 39 to 41 to add the ungranted rights to the contract.

Multiple holders

32. (1) A subsurface contract may be granted to no more than five eligible persons, each having an undivided interest in the contract of at least 1%. The interest must be expressed in decimal form to no more than seven decimal places.

Joint and several liability

(2) If two or more persons have an undivided interest in a subsurface contract, their liabilities and obligations under the contract are joint and several or solidary.

Determination of fair value

33. In determining the fair value of rights to be granted under a subsurface contract, the Minister must consider the bonuses and royalties paid by a purchaser for grants of oil and gas rights in other lands, adjusted to take into account any of the following factors:

- (a) the size of the other lands and their proximity to the first nation lands;
- (b) the time when the rights were granted;
- (c) current oil and gas prices and the prices when the rights were granted;
- (d) the results of recent drilling operations in the vicinity of the other lands;
- (e) similarities and differences in the geological features of the other lands and the first nation lands;
- (f) any other factors that could affect the fair value of the rights.

Public Tender Process

Public tender

34. The Minister may grant the oil and gas rights in first nation lands by way of public tender only if the relevant council requests or consents to that process.

Minister's duties

35. (1) When oil and gas rights are to be granted by way of public tender, the Minister must, after consulting with the relevant council, prepare a notice of tender.

Notice of tender

- (2) The notice of tender must include the following information:
- (a) the type of subsurface contract to be granted;
 - (b) the terms of the contract to be granted or the address of a website where the terms are set out, including
 - (i) a description of the lands to be included in the contract area and the oil and gas rights to be granted,
 - (ii) the surface rates and seismic rates,
 - (iii) in the case of a permit, the earning provisions for the initial term including the drilling commitment and deadline for completion, the target zone or depth to which each new earning well must be drilled and the lands to be earned by each, and
 - (iv) the royalty to be paid, if it differs from the royalty provided for in the Regulations;
 - (c) the instructions for submitting a bid, including any information to be provided by the bidders, the place where a bid may be submitted and the deadline for submission; and
 - (d) a statement indicating that by submitting a bid, a bidder acknowledges that they have reviewed and understood the contract and will be bound by it if their bid is the winning bid.

Council approval required

(3) The Minister must submit a copy of the notice of tender to the relevant council before publishing it and, if the council approves the notice, must publish it

(a) in a publication known to the industry, such as the *Daily Oil Bulletin* published by the JuneWarren-Nickle's Energy Group; or

(b) on any website on which the Minister publishes information about oil and gas in first nations lands.

Submission of bids

36. (1) All bids must be submitted in accordance with the instructions set out in the notice of tender, be sealed and include the following:

(a) the subsurface contract application fee set out in Schedule 1;

(b) the rent for the first year of the contract;

(c) the bonus; and

(d) the name of and contact information for the designated representative.

Certified funds

(2) The fee, rent and bonus must be paid in certified funds unless the notice specifies a different form of payment.

Opening of bids

37. (1) Immediately after the tender closes, the Minister must open the bids, exclude any bids that were not submitted in accordance with section 36, identify the bid with the highest bonus and give the relevant council notice of that bid.

Presence at opening

(2) The council or a person designated by the council may be present when the Minister opens the bids.

Council's decision

(3) The council may, within 72 hours after the tender closes, notify the Minister by written resolution that it rejects the bid with the highest bonus. If a notice is received, all bids must be rejected.

Acceptance of highest bid

(4) If no notice is received, the Minister must accept the highest bid and send the winning bidder a notice of acceptance. The effective date of the contract is the day on which the Minister's notice is received.

Posting of tender results

(5) The Minister must publish the name of the winner and the winning bonus amount or, if no bid was accepted, a notice to that effect. The information must be published in a publication or website referred to in subsection 35(3).

Confidentiality

(6) Except for the name of the winning bidder and bonus amount, the information in bids must be kept confidential.

Unsuccessful bids

(7) The Minister must return the fee, rent and bonus included in each unsuccessful bid to the person that submitted it.

Call for Proposals Process

Call for proposals

38. For the purpose of soliciting interest in rights in first nation lands, either the relevant council, or the Minister jointly with the council, may make a call for proposals. The call may be made by public advertisement or by other means and must include the following information:

(a) the type of subsurface contract to be granted;

(b) a description of the lands to be included in the contract area and the oil and gas rights to be granted;

(c) any terms, other than those set out in these Regulations, to which the proposals are subject;

(d) the elements that will be considered in evaluating the proposals;

(e) a statement that the proposals that are received will form the basis for negotiations with the council and the Minister; and

(f) a statement that in addition to the terms negotiated, the contract will include the terms set out in these Regulations.

Negotiation Process

Application

39. (1) A person may apply to the Minister for a subsurface contract that grants oil and gas rights in one or more zones in first nations lands.

Preliminary negotiation

(2) Before applying for a subsurface contract, an applicant must reach agreement with the relevant council on the following terms:

- (a) the type of subsurface contract to be applied for;
- (b) a description of the lands to be included in the contract area and the oil and gas rights to be granted;
- (c) the amount of the bonus to be paid;
- (d) the royalty to be paid, if it differs from the royalty provided for in these Regulations; and
- (e) in the case of a permit, the earning provisions for the initial term, including the drilling commitment and deadline for completion, the target zone or depth to which each new earning well must be drilled and the lands to be earned by each; and
- (f) if the applicant for a permit anticipates the recovery of bitumen from the permit area, the dates by which the minimum level of evaluation and the minimum level of production will be achieved.

Application for contract

(3) The application to the Minister must be in prescribed form, set out the terms negotiated by the applicant and the council and be accompanied by the subsurface contract application fee set out in Schedule 1.

Confidentiality

(4) Any information disclosed during the negotiations referred to in subsection (2) or in an application referred to in subsection (3) must be kept confidential.

Conditions of approval

40. (1) The Minister must not approve the application unless the following conditions are met:

- (a) the oil and gas rights described in the application have been surrendered or designated for development by the relevant council under section 38 of the *Indian Act*; and
- (b) the bonus to be paid and the royalty to be paid, if it differs from the royalty provided for in these Regulations, reflect the fair value of the rights to be granted, determined in accordance with section 33.

Approval of application

(2) If the application is approved, the Minister must prepare the subsurface contract and send a copy to the relevant council and the applicant. The Minister must fix and include in the contract the surface rates to be paid under any related surface contract and the seismic rates to be paid under any related exploration licence.

Surface and seismic rates

(3) The surface rates must be fixed on the basis of the criteria set out in subsections 68(2) and (3). The seismic rates must be consistent with seismic rates for exploration on off-reserve lands in the vicinity.

Refusal of application

(4) If the application is not approved, the Minister must send the applicant and relevant council a notice of refusal that sets out the reason for the refusal.

Granting of contract

41. The Minister must grant the contract if he or she receives the following within 90 days after the day on which the contract has been received by both the council and the applicant:

- (a) a written resolution of the council approving the contract and stating that the council chose to have the rights described in the contract granted by way of negotiation rather than public tender;
- (b) the amount of the bonus and the rent for the first year; and
- (c) three original copies of the contract, signed by the applicant.

TERMS OF SUBSURFACE CONTRACTS

Subsurface contract rights

42. The holder of a subsurface contract has the exclusive right to exploit the oil and gas in the lands in the contract area and to process and dispose of that oil and gas.

Initial term of permit

43. (1) If the lands in a permit area are located in a province set out in column 1 of the table in Schedule 2 and in a region set out in column 2, the initial term of the permit is the term set out in column 3. If the lands in the permit area are not located in a province set out in column 1, the initial term is five years.

More than one region

(2) If the lands in a permit area are located in more than one region set out in column 2 of that table, the initial term is the term for the region in which more of the lands are located. If the extent of lands in each region is the same, the initial term is the longer of the terms set out in column 3.

Intermediate term of permit

(3) The intermediate term of a permit is three years.

Term of lease

44. The term of an oil and gas lease is three years.

Annual rent

45. The annual rent for a subsurface contract is \$5 per hectare or \$100, whichever is greater.

Damages — late application for intermediate term

46. (1) A permit holder that applies for approval of a selection of lands and for a grant of rights in those lands after the expiry of the relevant time limit set out in subsection 48(1) must pay \$5,000 in liquidated damages.

Damages — late application for continuation

(2) A subsurface contract holder that applies for a continuation of their contract under subsection 61(3) must pay \$5,000 in liquidated damages.

SELECTION OF LANDS FOR INTERMEDIATE TERM OF PERMIT

Lands earned

47. (1) A permit holder earns lands, and may select those lands for the intermediate term of the permit if during the initial term they have

- (a) drilled a new well in the permit area in accordance with the earning provisions of their permit;
- (b) achieved the minimal level of evaluation set out in their permit;
- (c) re-entered an existing well in the permit area and drilled at least 150 m beyond its original depth; or
- (d) re-entered an existing well in the permit area and drilled a horizontal section or additional lateral section at least 150 metres beyond the point of re-entry.

Selection of zones

(2) A holder that has earned lands may select the zones in those lands, identified in accordance with Schedule 3, down to the base of the deepest zone into which they have drilled.

Constraints on selection

(3) The lands selected under subsection (2) must

- (a) be contiguous, if possible having regard to their configuration; and
- (b) include the entire spacing unit in which the newly drilled well is located.

Spacing unit only

(4) A holder that has re-entered and completed a well, but not drilled to the extent required by paragraph (1)(b) or (c), may select only the lands in the spacing unit in which the well is completed.

Completed zones only

(5) A holder that has drilled a well in a spacing unit in which the first nation interest or rights are less than 75% may select only the lands in the section in which the well is located down to the base of the deepest zone into which they have drilled.

Application for intermediate term of permit

48. (1) The holder must apply to the Minister for approval of their selection of lands and for a grant of oil and gas rights in those lands for the intermediate term of a permit

- (a) at least 60 days before the day on which the initial term of a permit ends; or
- (b) if the initial term has been extended under subsection 56(2), before the day on which the extension ends.

Content of application

(2) The application to the Minister must be in prescribed form and include

- (a) an identification of each well that was drilled or re-entered;

(b) a description of the lands, including the zones, selected for the intermediate term from the lands earned by each well; and

(c) documentation that shows the depth of each new well or, in the case of a re-entered well, shows completion and the number of metres drilled.

Additional information

(3) A holder may submit new information that supports their application at any time before the day on which the initial term of their permit expires.

Approval

(4) On receiving an application, the Minister must

(a) approve the selection if the requirements of section 47 are met and the matters referred to in paragraph (2)(c) are documented; and

(b) grant the holder the oil and gas rights in the selected lands for the intermediate period of the permit if the holder has complied with the requirements of the Act, these Regulations and their permit.

Notice to holder and council

(5) If the selection is approved and the oil and gas rights are granted, the Minister must send the holder and the relevant council a notice of the approval and a description of the lands, including the zones, retained for the intermediate term of the permit. If the selection is not approved, the Minister must send the holder a notice of refusal that sets out the reasons for the refusal.

Rent

(6) On receiving a notice of approval, the holder must send the Minister the first year's rent for the intermediate term.

No amendment

49. (1) The Minister must not amend the earning provisions, including the drilling commitment, set out in a permit.

Failure to meet drilling commitment

(2) If a holder fails to meet their drilling commitment, the initial term of the permit expires with respect to all lands that have not been earned by the day on which the commitment was to be completed.

Transitional

50. Sections 42 to 49 do not apply to a contract that was issued under the *Indian Oil and Gas Regulations, 1995*.

BITUMEN RECOVERY PROJECT APPROVAL

Application for approval

51. (1) A subsurface contract holder may apply to the Minister for approval of a bitumen recovery project if they have achieved the minimum level of evaluation and applied to the provincial authority for approval of the project.

Minimum level of evaluation

(2) The minimum level of evaluation to be achieved is

(a) drilling one well on each section in the reserve that is in the area of the proposed bitumen recovery project and coring at least 25% of those wells in the bitumen zone; or

(b) drilling one well on at least 60% of the sections in the reserve that are in the area of the proposed bitumen recovery project, coring at least 25% of those wells in the bitumen zone and shooting seismic over at least 3.2 km in each undrilled section.

Content of application

52. (1) An application for approval of a bitumen recovery project must be in prescribed form and include

(a) a description of the lands to be included in the project;

(b) evidence establishing that the minimum level of evaluation has been carried out;

(c) a statement that the holder has applied for or received the provincial authority's approval of the project;

(d) the results of an environmental review of the project that has been conducted by a qualified environmental professional who deals with the holder at arm's length;

(e) the terms of the royalty to be paid for oil and gas recovered from lands in the project area;

- (f) the reporting requirements for the project;
- (g) a general description of the project, including its location, size and scope, the operations to be carried out, the schedule of pre-construction, construction and start-up operations and the reasons for selecting that schedule;
- (h) a map indicating any ownership, lease, mineral and surface rights in lands in the project area and any area that is likely to be affected by project operations;
- (i) an aerial photo mosaic of the project area at a scale that is adequate to show the location of the project components, including wells, facilities, tanks, access roads, railways, pipelines, utility corridors and tailings ponds and other discard storage sites;
- (j) a general description of storage and transportation facilities for the oil and gas, including the size and ownership of any pipeline that may be used;
- (k) the proposed rate of production of the oil and gas for the period for which approval is sought;
- (l) the year and month in which the minimum level of production will be achieved;
- (m) a description of the energy sources to be used in the project and their anticipated quantity and cost, along with a comparison to possible alternative sources; and
- (n) the term of the approval sought, along with the anticipated starting and completion dates of the project.

Environmental review

(2) The results of the environmental review of the project must be set out in prescribed form and include

- (a) a site description that addresses the site's topography, soils, vegetation, wildlife, sources of water, existing structures, archeological or cultural resources, current land uses and any other feature of the site that could be affected by the proposed bitumen recovery project;
- (b) a description of the operations to be carried out during the proposed project, the duration of each operations and its location on the site;
- (c) a description of the short-term and long-term effects that each operation could have on the environment of the site and on any surrounding areas that might be affected; and
- (d) a description of the proposed mitigation measures, the potential residual effects after mitigation and the significance of those effects.

Environmental protection terms letter

(3) After reviewing the application, the Minister must send the holder an environmental protection letter that sets out the terms on which the bitumen recovery project may be conducted.

Approval

53. The Minister must approve the bitumen recovery project if

- (a) the applicant has carried out the minimum level of evaluation;
- (b) a written resolution of the relevant council approving the project has been submitted;
- (c) the application meets the requirements of subsections 52(1) and (2);
- (d) the project has been approved by the provincial authority; and
- (e) the results of the environment review are satisfactory, taking into account the terms of the environmental protection terms letter issued under subsection 52(3).

Minimum level of production

54. (1) The minimum level of production per year required from lands that are subject to a bitumen recovery project is equal to an average of 2400 m³ per section in the project area.

Compensation — bitumen

(2) A holder that fails to achieve the annual minimum level of production referred to in subsection (1) in any year following the month in which that level of production was to be achieved must pay compensation equal to 25% of the difference between the minimum and the actual level of production.

Deemed price

(3) For the purpose of calculating the compensation referred to in subsection (2), the price of oil is deemed to be the average of the monthly Bitumen Floor Prices published by Alberta's Department of Energy for the time period.

Exception

(4) This section does not apply to a project approved by the Executive Director under section 42 of the *Indian Oil and Gas Regulations, 1995*.

Additional wells or facilities

55. Once a bitumen recovery project has been approved, the subsurface contract holder must obtain the approval of the relevant council before adding an additional well or a facility that was not included in the description referred to in paragraph 52(1)(g).

DRILLING OVER EXPIRY

Application for extension

56. (1) A subsurface contract holder may apply to the Minister, in prescribed form, for an extension of the initial or intermediate term of their permit or the term of their lease if

(a) they have begun to drill or re-enter a well, but cannot complete the operation before the term expires;

(b) the application is made before the expiry of the term;

(c) the application identifies the well, indicates when it was spudded or re-entered and confirms the holder's intention to continue drilling and complete the well; and

(d) the application includes the rent for the following year.

Approval of extension

(2) On receiving an application in accordance with subsection (1), the Minister must extend the term until 90 days after the day on which the well is rig-released.

Condition

(3) If the holder does not conduct the drilling or recompletion in a manner that will ensure that the well is rig-released within the shortest feasible period, the term expires 30 days after the day on which the holder receives a notice of expiry from the Minister.

No additional wells.

(4) During an extension, the holder must not drill or complete any additional wells within the area of the extended contract.

Transitional provision

(5) This section applies in respect of a permit or lease granted under the *Indian Oil and Gas Regulations, 1995*.

CONTINUATION OF SUBSURFACE CONTRACTS

Qualifying lands

57. (1) A subsurface contract may be continued with respect to the zone, identified in accordance with Schedule 4, in any spacing unit

(a) that contains a productive well;

(b) that is subject, in whole or in part, to a unit agreement or to a storage agreement that has been approved by the provincial authority;

(c) is subject to a project, other than a bitumen recovery project, that has been approved by the provincial authority;

(d) that is subject to a bitumen recovery project that has been approved by the Minister; or

(e) in respect of which an offset notice has been issued in the six months before the application for continuation or in respect of which a compensatory royalty is paid;

(f) that is not producing but is shown by mapping to be productive from the same zone from which a productive well on an adjoining spacing unit is productive;

(g) that is potentially productive.

Horizontal wells

(2) For the purposes of subsection (1), each spacing unit from which a horizontal well is productive is deemed to contain a productive well.

Definition of “potentially productive spacing unit”

(3) For the purposes of paragraph (1)(g), a “potentially productive spacing unit” means

(a) a spacing unit in which a well is located that is in a mapped pool, is neither productive nor abandoned and

(i) was previously producing, or

(ii) contains evidence of the presence of hydrocarbons whose potential productivity has not been conclusively determined;

(b) a spacing unit in which there is a well that has been abandoned, if any zone penetrated by the well has remaining oil or gas reserves; or

(c) an undrilled spacing unit that in the case of oil is within a quarter-section – and in the case of gas is within a section – that adjoins lands referred to in paragraphs (1)(a) to (e), if there is evidence that the spacing unit may be part of a producing or productive pool.

Application for continuation

58. An application for the continuation of a subsurface contract must be made to the Minister within the following time limits:

(a) at least 60 days before the day on which the lease or the intermediate term of the permit expires; or

(b) if the lease or intermediate term of the permit has been extended under subsection 56(2), before the day on which the extension ends.

Content of application

59. (1) The application must be in prescribed form and include the following:

(a) a description of the lands, including the zones, with respect to which continuation is sought;

(b) the basis for continuation under subsection 57(1) along with evidence establishing that basis; and

(c) the rent for the first year of the continued contract.

Additional information

(2) A holder may submit to the Minister new information that supports their application for continuation at any time before the day on which their lease or the intermediate term of their permit expires.

Incomplete application

(3) If the application is incomplete, the Minister must send the holder a notice that describes the missing information.

Deadline

(4) The deadline for submitting missing information is 30 days from the day on which the notice is received.

Interim extension

(5) A contract that would expire during the 30-day period is extended until notice of the Minister’s determination is given. However, during the extension the holder must not drill or re-complete a well.

Determination

60. (1) On receiving an application for a continuation, or when the period for submitting missing information has expired, the Minister must determine which of the lands described in the application include zones that are in a spacing unit or subject to an agreement or project referred to in subsection 57(1) and must continue the contract with respect to those lands.

Non-producing spacing unit

(2) If a non-producing spacing unit referred to in paragraph 57(1)(f) is smaller than one legal subdivision in the case of oil and one quarter section in the case of gas, the Minister must continue the contract with respect to all the lands in the legal subdivision or quarter-section in which the spacing unit is located.

Potentially productive spacing unit

(3) If the Minister determines that a spacing unit is potentially productive, he or she must offer to continue the contract with respect to the lands in that unit if the holder, within 30 days after the day on which the notice of continuation is received, pays the Minister a bonus of \$2,000 or \$25 a hectare, whichever is greater.

Notice to holder and council

(4) The Minister must send the holder and the relevant council a notice of his or her determination and — if the contract is continued — a description of the lands, including the zones, with respect to which it is continued as well as the basis for the continuation.

Return of rent

(5) If the contract is not continued, the Minister must return the first year's rent. If the contract is continued only in part, the Minister must return a percentage of the rent that corresponds to the portion of the lands with respect to which the contract is not continued.

Failure to apply for continuation

61. (1) If a holder has not applied for a continuation within the time limits referred to in section 58, the Minister must determine, as soon as feasible and on the basis of information in his or her possession, whether their contract is eligible for continuation under paragraphs 57(1)(a) to (e) with respect to any spacing units included in the contract area.

Notice of eligibility

(2) If the contract is eligible for continuation, the Minister must send the holder a notice that includes the following information:

(a) a description of the lands, including the zones, with respect to which the contract is eligible for continuation;

(b) the basis for continuation under any of paragraphs 57(1)(a) to (e); and

(c) the deadline and requirements for an application for a continuation.

Application

(3) A holder that has received a notice of eligibility may, within 30 days after the day on which the notice is received, apply to the Minister, in prescribed form, for a continuation of the contract with respect to any of the lands described in the notice.

Content of application

(4) The application must include a description of the lands, including the zones, with respect to which continuation is sought, the rent for the first year of the continuation and the liquidated damages owed under the contract.

Continuation to be granted

(5) If the holder provides the required rent and damages, the Minister must continue the contract with respect to the lands described in the application.

Indefinite continuation

62. (1) A contract that is continued on the basis of any of paragraphs 57(1)(a) to (f) continues until the lands in the contract area are surrendered or the contract expires, in whole or in part, under subsection 63(2) or (4).

Continuation for a year

(2) A contract that is continued on the basis of paragraph 57(1)(g) continues for a period of one year from the day on which the notice of continuation is received.

Non-productivity — conventional oil and gas

63. (1) If a contract ceases to be eligible for continuation under any of paragraphs 57(1)(a) to (c), (e) and (f) with respect to any lands in the contract area, the Minister must send the holder a notice of non-productivity that describes those lands and indicates the basis on which the contract can no longer be continued with respect to those lands.

Expiry

(2) A contract referred to in subsection (1) expires with respect to the lands described in the notice of non-productivity one year after the day on which the notice is received.

Non-productivity — bitumen

64. (1) In the case of a contract continued under paragraph 56(1)(d), if the lands that are subject to the bitumen recovery project fail to achieve the annual minimum level of production in any three years, the Minister must send the holder a notice of non-productivity with respect to those lands.

Expiry

(2) If the lands that are subject to the bitumen recovery project fail to achieve the minimum level of production in the year following receipt of the notice of non-productivity, the project ends and the contract expires with respect to those lands.

Re-application

65. Before the expiry of a contract with respect to lands referred to in paragraph 57(1)(g) or in a non-productivity notice, the holder may apply under section 59 for continuation of the contract with respect to those lands that are eligible under any of paragraphs 57(1)(a) to (f).

Transitional provision — continuation

66. (1) Sections 57 to 65 apply to the continuation of any subsurface lease that was granted under the *Indian Act* or the Act.

Transitional provision — non-productivity

(2) Section 63 applies to leases that have been continued under the *Indian Act* or the Act. However, section 64 does not apply to a project that was approved by the Executive Director under section 42 of the *Indian Oil and Gas Regulations, 1995*.

SURFACE RIGHTS

Authorization

67. (1) A person may conduct surface operations on first nation lands for the purpose of exploiting oil and gas if

- (a) in the case of operations that require the exclusive occupation and use of the surface of first nation lands, they hold a surface lease of those lands; and
- (b) in the case of operations that require crossing over or going through first nations lands, they hold a right-of-way in those lands.

Entry with permission

(2) A person that intends to apply for a surface contract in first nation lands to conduct any of the operations referred to in subsection (1) may, with the permission of the relevant council and any first nation member in lawful possession of those lands, enter on the lands to locate proposed facilities, conduct surveys and carry out any activity necessary to complete an application under section 70.

Preliminary negotiations

68. (1) Before applying for a surface contract, the applicant must provide the council, and any first nation member in lawful possession of lands in the proposed contract area, with a survey plan of that area and must reach agreement with them on the terms of the proposed contract, including

- (a) the lands to be included in the contract area;
- (b) the operations for which the lands in the contract area will be used;
- (c) the surface rates, if these have not been fixed by the Minister in a related subsurface contract; and
- (d) if a service well is to be drilled or an existing well is to be used as a service well, the permitted uses of the well and the amount of compensation to be paid in respect of the well.

Surface rates — right-of-way

(2) In the case of a right-of-way, the surface rates consist of the right of entry charge referred to in paragraph 70(1)(e) and initial compensation based on the fair value of the lands.

Surface rates — surface lease

(3) In the case of a surface lease, the surface rates consist of

- (a) the right of entry charge referred to in paragraph 70(1)(e);
- (b) initial compensation based on the fair value of the lands, loss of use of the lands, adverse effects and general disturbance; and
- (c) the annual rent for subsequent years, based on the loss of use of the lands and adverse effects.

Negotiation breakdown

69. If agreement cannot be reached during negotiation on the amount of initial compensation or annual rent to be paid, the Minister must, at the request of the applicant, the relevant council or a first nation member in lawful possession of lands in the contract area, determine the amount, having regard to the factors mentioned in paragraph 68(3).

Application for contract

- 70.** (1) The application must be submitted to the Minister in prescribed form and include
- (a) the terms negotiated with the council and any member in lawful possession of lands in the contract area;
 - (b) a survey plan of the lands to be included in the contract area;
 - (c) the results of an environmental review of the operations to be carried out in the contract area that has been conducted by a qualified environmental professional who is not a related party;
 - (d) in the case of a surface lease, if the applicant is not the holder of a related subsurface contract, permission in prescribed form from the holder of the rights in the target zone to drill a well that terminates in that zone;
 - (e) a right of entry charge of \$1,250 per hectare, subject to a minimum charge of \$500 and a maximum charge of \$5,000; and
 - (f) the surface lease or right-of-way application fee set out in Schedule 1.

Environmental review

- (2) The results of the environmental review must be set out in prescribed form and include
- (a) a site description that addresses the site's topography, soils, vegetation, wildlife, sources of water, existing structures, archeological or cultural resources, current land uses and any other feature of the site that could be affected by the proposed uses of the lands in the contract area;
 - (b) a description of the proposed operations to be carried out on the lands, the duration of each operation and its location on the site;
 - (c) a description of the short-term and long-term effects of each operation could have on the environment of the site and of any surrounding area that might be affected; and
 - (d) a description of the proposed mitigation measures, potential residual effects after mitigation and the significance of those effects.

Return of application

- (3) After reviewing the application, the Minister must send it back to the applicant along with an environmental protection letter that sets out the terms on which the lands in the contract area may be used.

Submission to Minister

- (4) To obtain the surface contract the applicant must, within 60 days after the day on which the reviewed application is received, submit to the Minister
- (a) four copies of the environmental protection terms letter, and four original copies of the reviewed application, signed by the applicant;
 - (b) a written resolution of the council approving the contract and the written consent of any first nation member whose consent is required;
 - (c) a sensitized polyester base film copy and four paper prints of a survey plan of the contract area;
 - (d) the right of entry charge and initial consideration owed under the surface contract or a related subsurface contract; and
 - (e) in the case of a surface lease, the first year's rent.

Contract to be granted

- (5) If the requirements set out in this section are met, the Minister must grant the contract. The terms of the contract are those set out in the application reviewed by the Minister, in the environment protection terms letter and, if applicable, in the non-operating applicant form.

Term

- 71.** Unless the contract provides otherwise, a surface contract does not expire until a surface contract surrender has been approved by the Minister.

Renegotiation of rent

- 72.** (1) Unless the surface lease provides otherwise, the holder must renegotiate the amount of the rent with the Minister, the relevant council and any first nation member in lawful possession of lands in the lease area at the end of the lesser of
- (a) every five-year period; and

(b) any period fixed by the law of the relevant province for the renegotiation of surface leases of off-reserve lands.

Renegotiation breakdown

(2) If agreement cannot be reached in renegotiating the rent, the Minister must, at the request of the holder, the council or any first nation member in lawful possession of lands in the lease area, determine the rent, having regard to the factors mentioned in paragraph 68(3)(c).

Lease to be amended

(3) The Minister must amend the lease to reflect the renegotiated rent if

(a) a written resolution of the council approving the renegotiated rent is submitted along with the written consent of any first nation member in lawful possession of lands in the lease area; and

(b) the Minister determines the renegotiated rent is fair, having regard to the factors mentioned in paragraph 68(3)(b).

Remediation and reclamation

73. If the lands in a surface contract area are no longer used for the uses for which the contract was granted, the holder must abandon any well and facilities in the contract area and remediate and reclaim all lands in the area. The holder remains liable under the contract until those obligations are carried out.

ROYALTIES

Information to be kept

74. (1) Every person who produces, sells, acquires or stores oil or gas that has been recovered from first nation lands, or acquires a right to such oil or gas, must keep, for a period of 10 years, records of all information that may be used to calculate the royalty owing in respect of the oil and gas they have produced, sold, acquired or stored or to which they have acquired a right, including any information required by this section.

Information to be submitted

(2) Every person referred to in subsection (1) must submit the following information to the Minister as soon as it becomes available:

(a) the volume and quality of the oil or gas produced, sold, acquired or stored, or to which a right was acquired, by the person during the month in which the oil or gas was produced;

(b) the value for which the oil or gas, or a right to the oil or gas, was sold or acquired;

(c) any costs and allowances that will be taken into account in determining the royalty payable on the oil or gas; and

(d) any other information that is required to calculate or verify the payable royalty.

Information

(3) For the purpose of determining whether the parties to a transaction are related, the Minister may require a person referred to in subsection (1) to submit records that indicate the relationship between those parties.

Records to be submitted

(4) Persons are related parties for the purpose of subsection (3) and paragraph 77(1)(b) if they would be considered related parties under section 251 of the *Income Tax Act*.

Order to submit plans

75. (1) The Minister may, for the purpose of determining the royalty owed under a contract, order an operator to submit a plan or diagram, drawn to a specified scale, of any facility that is used by the operator in exploiting oil or gas.

Compliance with direction

(2) An operator that receives a order must submit the plan or diagram referred to in the order within 30 days of the day on which the order is received.

Notice to submit sales information

76. (1) The Minister may, for the purpose of determining the royalty owed under a contract, send a person who has sold, purchased or swapped oil or gas recovered from first nation lands a notice requesting

(a) a signed copy of the written sales contract, or if the contract was unwritten, a document that sets out its terms;

- (b) a transaction statement, invoice or other document that sets out the details of the transaction; or
- (c) a document that sets out the details of the swap.

Deadline for submission

(2) A person who receives a notice sent under subsection (1) must submit the copy or document within 14 days after the date of the notice.

Payment of royalty

77. (1) Except as otherwise provided in a special agreement entered into under subsection 4(2) of the Act, a subsurface contract holder must pay a royalty on the oil and gas produced from or attributable to a subsurface contract area in an amount calculated in accordance with Schedule 5.

Index or reference price

(2) If a special agreement entered into under subsection 4(2) of the Act provides that the royalty on oil or gas is to be calculated using a monthly index price rather than the actual selling price, the holder must give the Minister notice of the index price for each month in which the oil or gas is produced.

Alternative price

(3) Even though a contract provides that the royalty on oil or gas is to be calculated using the actual selling price, the price to be used to calculate the royalty must be determined in accordance with subsection (4) in the following circumstances:

- (a) no agreement for disposing of the oil or gas has been concluded;
- (b) the agreement under which the oil or gas was disposed of was between related parties;
- (c) the holder did not receive the price set out in the agreement for disposing of the oil or gas;
- (e) the oil or gas was disposed of in whole or in part for a consideration other than money; or

Determination of alternative price

(4) Subject to subsections (5) and (6), the price to be used to calculate the royalty is,

- (a) in the case of oil, the average monthly price established and published by the provincial authority for the class of oil produced, or if a provincial price is not available, the price published by a public exchange such as the West Texas Intermediate; and
- (b) in the case of gas, the average monthly price established and published by the provincial authority for the class of gas produced or, if such a price is not available, the price set out in a price index that is publicly available.

Adjustment for cost

(5) If the price determined under subsection (4) is established at a place other than the wellhead for oil or the exit valve of a processing plant for gas, the cost of transporting the oil or gas from the wellhead or plant to the place where the price is established must be deducted from that price.

Other adjustments

(6) The price determined under subsection (4) must also be adjusted to reflect,

- (a) in the case of oil,
 - (i) any difference in the quality of the oil whose price is relied on in applying paragraph 4(a) and the quality of the oil that was produced,
 - (ii) any difference between the index price and the price at the place where the oil is delivered in Canada; and
- (b) in the case of gas, the heat value of the gas.

Deadline for payment

78. (1) The royalty must be paid on or before the 25th day of the third month after the month in which the oil or gas is produced.

Submissions

(2) At the time the royalty is paid, the holder must submit to the Minister, in prescribed form, an oil royalty submission report if oil has been recovered and a gas royalty submission report if gas has been recovered.

Royalty to be included in every sale

(3) Subject to subsection (4), every sale of oil or gas that is obtained from or attributable to a subsurface contract area must include the sale on behalf of Her Majesty in right of Canada of any oil or gas that is the royalty payable under this section.

Payment in kind

(4) After giving the holder notice and having regard to any obligations that the holder may have in respect of the sale of oil or gas, the Minister may, with the prior approval of the relevant council, direct that all or part of the royalty be paid in kind for a specified period or until the Minister directs otherwise.

FIRST NATION EXAMINATION AND AUDIT

First nation audit

79. A council may conduct an examination or audit of any documents and information for the purpose of verifying the royalties payable on oil or gas recovered from the lands of that first nation if

- (a) the examination or audit is approved by the Minister; and
- (b) the examination or audit is conducted in accordance with an agreement between the Minister and the council.

Application

80. A council that wishes to conduct an examination or audit must apply to the Minister in prescribed form to have the examination or audit approved. The application must include

- (a) the name of the person whose documents and information are to be examined or audited;
- (b) the type of examination or audit to be conducted, that is, a royalty or a volumetric examination or audit, and its scope;
- (c) the name of the proposed auditor and their auditing firm, if any, and proof that the auditor is qualified to conduct the examination or audit;
- (d) the name of any accountant or audit technician who will assist the proposed auditor;
- (e) the name of any person who will accompany the proposed auditor as an observer;
- (f) proof that the requirements of section 81 are met;
- (g) the reasons why the council is of the opinion that an audit or examination is needed, if the Minister is not planning to conduct one during the year following the application;
- (h) the period to be audited or examined and the proposed dates of the audit or examination; and
- (i) the estimated cost of the audit.

Qualifications

81. A person or firm that is proposed by a council to conduct an examination or audit must have the credentials and experience recognized as necessary in the industry to carry out their role in the examination or audit in accordance with good practice.

Approval

82. (1) The Minister must not approve the application if

- (a) the requirements set out in sections 80 and 81 have not been met;
- (b) the examination or audit would be paid for by the council and the Minister does not have the resources to review the proposed audit and provide any necessary enforcement;
- (c) the documents and information to be examined or audited have been previously examined or audited by the Minister or the First Nation; or
- (d) agreement has not been reached on who will pay for the audit or examination.

Notification

(2) The Minister must send the council a notice indicating whether the application has been approved.

Agreement

83. If the application is approved, the Minister must prepare an agreement that includes the following:

- (a) the name of each person authorized under section 10 of the Act to conduct the examination or audit or to accompany them;
- (b) the type and scope of the examination or audit;
- (c) the period to be audited or examined and the proposed dates of the audit or examination;
- (d) a statement that if a person refuses to produce a requested document or information, the first nation may ask the Minister to issue an order to produce under section 11 of the Act;
- (e) a statement that the Minister will assist the examination or audit by providing access to documents and information that are required for the purpose of verifying royalties payable to the first nation;

- (f) a statement that the council undertakes to include in its contract with the auditor an obligation to respect the confidentiality of, and security requirements of, the documents and information obtained in conducting the examination and audit;
- (g) a statement that the council undertakes to provide the Minister with a copy of all examination or audit reports and working papers; and
- (h) the cost of the audit or examination and who will pay the cost.

Confidentiality

84. (1) A council that conducts an examination or audit must keep confidential any documents or information it obtains concerning the audit or examination.

Duty to report

(2) Despite subsection (1), a council that conducts an examination or audit must provide the Minister with a copy of all examination or audit reports and working papers.

EQUITABLE PRODUCTION OF OIL AND GAS

HOLDER'S OBLIGATIONS

Compensatory royalty is owed

85. (1) The holder of a subsurface contract is obliged to pay Her Majesty in right of Canada, in trust for the relevant first nation, a compensatory royalty in respect of each triggering well that is located in an off-reserve spacing unit that adjoins a first nation spacing unit that is in their contract area.

Scope of obligation

(2) A compensatory royalty must be paid in respect of each first nation spacing unit in the contract area that adjoins the spacing unit in which the triggering well is located.

When payment begins

(3) The compensatory royalty does not become payable until the first day of the month that follows the month in which the offset period ends.

OFFSET NOTICE

Offset notice

86. (1) If the Minister becomes aware that a triggering well is in production, the Minister must send an offset notice to every subsurface contract holder that is obliged to pay a compensatory royalty under section 85.

Confidential information

(2) However, if information about a well in respect of which a notice must be sent is confidential under the law of the relevant province, the Minister must send the notice only when he or she becomes aware that the information has been made public.

Absence of holder

(3) If any lands in a first nation spacing unit that adjoins a spacing unit from which a triggering well is producing are not subject to a subsurface contract, the Minister must

- (a) give the relevant council notice of the triggering well; and
- (b) send an offset notice to any person that becomes the holder of a subsurface lease in those lands; and
- (c) send an offset notice to any person that becomes the holder of a permit in those lands one year after the effective date of the permit.

Information included in notice

87. (1) The offset notice must include the following information:

- (a) the subsurface contract holder's name and the number of their contract;
- (b) a description of the lands in the contract area that are subject to the notice;
- (c) the unique well identifier of the triggering well;
- (d) a description of the off-reserve spacing unit in which the triggering well is located and the offset zone from which the triggering well is producing;
- (e) in the case of a horizontal or multilateral triggering well, the total length of the well, the total length of the horizontal section of the well and the length of the portion of the well that is producing from the off-reserve spacing unit;
- (f) the offset period; and
- (g) statements informing the holder that

- (i) a spacing unit from which a triggering well is producing adjoins the first nation spacing unit in the contract area described in paragraph (b);
- (ii) the obligation to pay a compensatory royalty begins on the first day of the month following the month in which the offset period ends,
- (iii) the compensatory royalty must be paid within 30 days after the day on which the Minister's demand for payment in respect of a month is received, and
- (iv) the obligation to pay the compensatory royalty ends in any of the circumstances referred to in section 92.

Copy and notice

(2) The Minister must send the relevant council a copy of the offset notice as well as a notice if the offset period is extended.

Lifting of obligation

88. (1) A subsurface contract holder is not obliged to pay a compensatory royalty if, during the offset period, they submit to the Minister information that establishes any of the following circumstances:

- (a) the triggering well is not draining from the offset zone referred to in the offset notice;
- (b) the triggering well in the offset zone has been abandoned, as shown in the records of the provincial authority;
- (c) an offset well is producing from the offset zone or, if there is more than one triggering well, the number of producing offset wells is equal to or greater than the number of triggering wells;
- (d) the spacing unit from which the triggering well is producing no longer adjoins the first nation spacing unit referred to in the offset notice;
- (e) the offset zone in the first nation spacing unit is subject to a unit agreement under which oil or gas is being or is deemed to be produced;
- (f) the triggering well is part of a gas storage agreement that has been approved by the provincial authority.

Notice to holder

(2) After determining whether a circumstance mentioned in subsection (1) has been established, the Minister must send the holder a notice of his or her determination.

Surrender

(3) A holder is not obliged to pay a compensatory royalty if, during the offset period, their rights are surrendered down to the base of the offset zone, except for any rights in a zone from which a well is productive or that is subject to a unit agreement or to a storage agreement that has been approved by the provincial authority.

Notice

(4) If the obligation to pay a compensatory royalty ends, the Minister must send the relevant council a notice indicating that it has ended and the reasons why it has ended.

CALCULATION AND PAYMENT OF COMPENSATORY ROYALTY

Vertical or horizontal well

89. (1) The compensatory royalty that is payable for a month is

(a) in the case of a triggering well that is a vertical well, an amount equal to the amount that would have been payable by the holder as royalty in that month if the triggering well were producing from the first nation spacing unit; and

(b) in the case of a triggering well that is a horizontal or multilateral well, an amount equal to the percentage of the amount referred to in paragraph (a) calculated in accordance with the formula

$$(L/T) \times 100$$

where

L is the length of the horizontal portion of the triggering well that is located in the adjoining off-reserve spacing unit and is capable of producing oil or gas from the offset zone, and

T is the portion of the total length of the horizontal well that is capable of producing oil or gas.

First nation interest

(2) If the first nation to which a compensatory royalty is owed has an interest or rights in the spacing unit in which the triggering well is located, the compensatory royalty payable for a month is an amount prorated in accordance with the formula

$$C \times (100 - I) / 100$$

where

C is the amount of the compensatory royalty calculated in accordance with subsection (1) and

I is the percentage interest of the first nation in the off-reserve spacing unit.

Volume and price

(3) For the purpose of calculating the compensatory royalty for a month,

(a) the volume of oil, gas or condensate to be used in the royalty formula is the volume of oil, raw gas or condensate that was produced in the month by the triggering well, as shown by the records of the provincial authority; and

(b) the price of oil, gas or condensate to be used in the royalty formula is

(i) in the case of oil, the monthly par price for light, medium, heavy or ultra heavy oil, as the case may be, published by Alberta's Department of Energy,

(ii) in the case of gas, in Saskatchewan, the price indicated in the *Monthly Natural Gas Royalty/Tax Factor History* published by the Ministry of the Economy and, in the other provinces, the Gas Reference Price in the monthly information letter entitled *Natural Gas Royalty Prices and Allowances* published by Alberta's Department of Energy, and

(iii) in the case of condensate, the Pentanes Plus Reference Price in the monthly information letter entitled *Natural Gas Royalty Prices and Allowances* published by Alberta's Department of Energy.

Heating value

(4) If a heating value is required to convert the Alberta Gas Reference Price in \$/GJ into a price in \$/10 m, the heating value is 37.7 mJ/m.

No deduction

(5) In calculating the compensatory royalty, no deduction for costs or allowances is to be made.

Transitional

(6) This section does not apply in respect of a compensatory royalty that is owed under the *Indian Oil and Gas Regulations, 1995*.

Demand for payment

90. (1) The monthly compensatory royalty must be paid within 30 days after the day on which the Minister's demand for payment for a month is received.

Notice to council

(2) The Minister must send the relevant council a notice indicating that the holder has begun to pay the compensatory royalty.

Amended spacing unit

91. The obligation to pay compensatory royalty continues despite any change in the size of the first nation or off-reserve spacing unit if the two units continue to adjoin.

Compensatory royalty ends

92. (1) The obligation to pay a compensatory royalty ends if, after the offset period has expired, the holder

(a) establishes any of the circumstances set out in subsection 88(1); or

(b) surrenders their rights down to the base of the offset zone, except for any rights in a zone from which a well is productive or that is subject to a unit agreement or to a storage agreement that has been approved by the provincial authority.

Notice to holder

(2) After determining whether a circumstance mentioned in subsection 88(1) has been established, the Minister must send the holder a notice of the determination and, if the obligation ends, the day on which it ends.

Day obligation ends

(3) The obligation to pay a compensatory royalty ends

- (a) if the holder establishes a circumstance mentioned in subsection 88(1), on the first day of the month in which the holder receives a notice to that effect; or
- (b) if the holder has surrendered their rights, on the first day of the month in which the Minister receives a notice of the surrender.

Notice to council

(4) If the obligation to pay a compensatory royalty ends, the Minister must send the relevant council a notice indicating that it has ended and the reasons why it has ended.

Transitional provision

93. Subject to subsection 89(6), sections 85 to 92 and subsection 103(3) apply in respect of any subsurface contract that was granted under the *Indian Act* or the Act.

OFFSET WELLS

Allocation of production

94. (1) A subsurface contract holder that puts an offset well on production in a first nation spacing unit may allocate its production to offset any triggering well in an adjoining spacing unit and may notify the Minister of the allocation.

Failure to allocate

(2) If the offset period has expired and an allocation has not been made, a compensatory royalty must continue to be paid to offset the production of each triggering well producing from the adjoining spacing unit until the allocation is made.

Failure to produce

95. (1) If an offset well fails to produce any oil or gas for three consecutive months after the offset period has expired, the holder must pay the a compensatory royalty in respect of the triggering well whose production was to be offset.

When royalty becomes payable

(2) The obligation to pay the compensatory royalty begins on the first day of the month following the three-month period.

Notice to council

(3) The Minister must send the relevant council a notice that the holder has become obliged to pay a compensatory royalty.

SERVICE WELLS

Application for approval

96. (1) An operator may apply to the Minister for approval to drill and use a service well, or use an existing well as a service well, for a maximum period of five years.

Content of application

(2) The application must be in prescribed form, be accompanied by a copy of the provincial authority's approval of the service well and set out the following information:

- (a) the proposed uses of the well;
- (b) the substances to be injected into or stored in the well;
- (c) the source of each substance;
- (d) the zone in which each substance will be injected or stored;
- (e) any adverse effects that could result from the proposed uses of the well;
- (f) the compensation to be paid for the well and any other benefit that could accrue to the relevant first nation from its use; and
- (g) the proposed term of the agreement.

Approval

(3) The Minister must approve the proposed service well if

- (a) the application is made in accordance with subsection (2);
- (b) the applicant has acquired the surface rights that are required for using and, if necessary, drilling the well;
- (c) the approval of the relevant council has been obtained; and

(d) the Minister concludes that approval will benefit the relevant first nation having regard to the information referred to in paragraphs (2)(e) to (g).

Exception

97. Section 95 does not apply to a service well that is part of a project approved by the provincial authority or a bitumen recovery project that has been approved by the Minister.

POOLING, PRODUCTION ALLOCATION AND UNIT AGREEMENTS

Pooling

98. (1) If there is more than one subsurface contract in a first nation spacing unit or if the first nation interest in a spacing unit is less than 100%, each holder must, before putting a well on production in the spacing unit, apply to the Minister in prescribed form for a determination of the percentage of production from the well that will be allocated to their contract.

Allocation

(2) Subject to any allocation of production set out in a compulsory pooling order issued by the provincial authority, on receiving an application, the Minister must allocate to the applicant's contract the percentage of production that equals the percentage of lands in the spacing unit that are in the applicant's contract area.

Notice to council

(3) The Minister must give the relevant council notice of the percentage of the production that is allocated to each contract in first nation lands.

Horizontal well production

99. (1) The holder of a subsurface contract in first nation lands from which a horizontal well is producing must, if the production is not exclusively from first nation lands, apply to the Minister in prescribed form for a determination of the percentage of production from the well that will be allocated to the first nation lands.

Allocation

(2) On receiving an application, the Minister must determine the percentage of production to be allocated to first nation lands, based on the criteria used by the provincial authority in allocating production from horizontal wells.

Unit agreement

100. (1) The Minister may, with the approval of the relevant council, enter into a unit agreement to coordinate any of the following operations:

- (a) the recovery of oil and gas from a subsurface reservoir, whether in or outside first nation lands;
- (b) the use of the subsurface reservoir for the storage of crude oil, gas or other fluids; or
- (c) the recovery of oil, gas or other fluids injected into or stored in the subsurface reservoir.

Terms of agreement

(2) The unit agreement may

- (a) permit the appointment of a person as the unit operator;
- (b) allocate responsibility for the exploitation of the oil or gas;
- (c) permit compensation for interests of any person that are adversely affected; and
- (d) allocate a percentage of the production of oil or gas from the area in the unit agreement to a tract.

Withdrawal from agreement

(3) The Minister may, with the approval of the relevant council and in accordance with the unit agreement, withdraw from the agreement.

Deemed productivity

101. So long as any oil or gas is being produced from a unit agreement, all the lands all the lands that are subject to the agreement are deemed to be productive.

SURRENDER AND CANCELLATION

Surrender of subsurface rights

102. (1) The holder of a subsurface contract may surrender their rights in the contract by sending the Minister a notice of the surrender in prescribed form.

Partial surrender of subsurface rights

(2) In a partial surrender of subsurface rights, all the rights in a spacing unit must be surrendered.

Notice to council

(3) When a subsurface contract is surrendered, the Minister must send a copy of the notice of surrender to the relevant council and, in the case of a partial surrender, a copy of the amended contract.

Surrender of surface rights

103. (1) The holder of a surface contract may surrender their rights in the contract only with the approval of the Minister.

Notice to council

(2) The Minister must send the relevant council a copy of the application.

Approval

(3) The Minister must approve the surrender if

(a) the holder is not in default under the contract, these Regulations or an order given under the Act;

(b) the Minister and the council have inspected the area of the contract to be surrendered and have confirmed that the remediation and reclamation of the surface in that area is satisfactory; and

(c) in the case of a partial surrender, the boundaries of the remaining contract area continue to meet the requirements of these Regulations and the fee for partial surrender approval set out in Schedule 1 has been paid.

Adjusted rent

(4) If the surrender of rights in a surface contract is partial, the annual rent for subsequent year is reduced in proportion to the reduction of the lands in the contract area. However, the annual rent must be at least \$100.

Notice to council

(5) When the surrender of a surface contract is approved, the Minister must send the relevant council notice of the surrender.

Non-compliance notice

104. (1) If a contract holder breaches their contract, the Act or these Regulations, the Minister must send them a non-compliance notice that describes the breach, gives them 30 days to begin to remedy the breach and warns that the contract may be cancelled if the breach is not remedied as soon as feasible.

Cancellation

(2) The Minister may cancel a contract if the holder has failed to remedy a breach in accordance with a non-compliance notice given under subsection (1).

Non-payment of compensatory royalty

(3) If the breach for which a contract is to be cancelled is non-payment of a compensatory royalty, the Minister must cancel the rights conferred by the contract down to the base of the offset zone except for any rights in a zone from which a well is productive or that is subject to a unit agreement or to a storage agreement that has been approved by the provincial authority.

Cancellation notice

(4) When a contract is cancelled, the Minister must send the holder a notice informing them that their contract is cancelled, the reason for the cancellation and the effective date of the cancellation.

Notice to council

(5) The Minister must send the relevant council a copy of any notice given under this section.

Continuing liability

105. When a contract ends for any reason, any liabilities that are outstanding under the contract, any liabilities for damages resulting from operations carried out under the contract and any obligations respecting abandonment, remediation and reclamation and survive the termination of the contract.

ADMINISTRATIVE MONETARY PENALTIES

Designated provisions

106. The provisions set out in Schedule 6 are designated as provisions the contravention of which is a violation that may be proceeded with in accordance with sections 21 to 28 of the Act.

TRANSITIONAL PROVISIONS

Minister to replace Executive Director

107. The powers, duties and functions of the Executive Director under *the Indian Oil and Gas Regulations, 1995* are to be exercised or performed by the Minister and any reference in a contract to the Executive Director is deemed to be a reference to the Minister.

Permits

108. Sections 15, 16, 18 to 23, subsection 24(1) and section 26 of the *Indian Oil and Gas Regulations, 1995* continue to apply in respect of permits granted under those Regulations.

REPEAL

109. The *Indian Oil and Gas Regulations, 1995* are repealed.

COMING INTO FORCE

Registration

110. These Regulations come into force on the day on which they are registered.

SOR/94-753

SCHEDULE 1

(Subsection 18(1), paragraphs 23(2)(e) and 36(1)(a), subsection 39(3), paragraphs 71(1)(f) and 102(3)(c)

FEES

Column 1	Column 2
Item Service	Fee (\$)
1. Subsurface contract application	250
2. Surface lease application	50
3. Right-of-way application	50
4. Exploration licence application	25
5. Assignment approval application	50
6. Partial surrender	25
7. Record search	25

SCHEDULE 2
 (Subsections 43(1) and (2))
 INITIAL TERM OF PERMITS
 DEFINITIONS

Definitions

1. The following definitions apply in this Schedule.

“Area 1”

« zone 1 »

“Area 1” refers to the lands described as being in Area 1 in Schedule 2 of the *Petroleum and Natural Gas Drilling Licence Regulation*, B.C. Reg 10/82.

“Area 2”

« zone 2 »

“Area 2” refers to the lands described as being in Area 2 in Schedule 2 of the *Petroleum and Natural Gas Drilling Licence Regulation*, B.C. Reg 10/82.

“Area 3”

« zone 3 »

“Area 3” refers to the lands described as being in Area 3 in Schedule 2 of the *Petroleum and Natural Gas Drilling Licence Regulation*, B.C. Reg. 10/82.

“Foothills Region”

« région des contreforts »

“Foothills Region” refers to the lands in the Foothills Region referred to in Schedule 1 of the *Petroleum and Natural Gas Tenure Regulation*, Alta. Reg. 263/1997.

“Northern Region”

« région du Nord »

“Northern Region” refers to the lands in the Northern Region referred to in Schedule 1 of the *Petroleum and Natural Gas Tenure Regulation*, Alta. Reg. 263/1997.

“Plains Region”

« région des plaines »

“Plains Region” refers to the lands in the Plains Region referred to in Schedule 1 of the *Petroleum and Natural Gas Tenure Regulation*, Alta. Reg. 263/1997.

“township”

« canton »

“township” means a township laid out in accordance with section 6 of *The Land Surveys Act*, R.S.S. 1987, c. L-4.

Column 1	Column 2	Column 3
Province	Region	Initial term (years)
Nova Scotia	The entire province	3
New Brunswick	The entire province	3
Manitoba	The entire province	3
British Columbia	Area 1	3
	Area 2	4
	Area 3	5
Saskatchewan	Lands located south of Township 55	2

	Lands located north of Township 54 but south of Township 66	3
	Lands located north of Township 65	4
Alberta	Plains Region	2
	Northern Region	4
	Foothills Region	5

TABLE

SCHEDULE 3
(Section 1 and subsection 47(2))
ZONES — INTERMEDIATE TERM

Definitions

1. The following definitions apply in this Schedule.

“KB”

«FE»

“KB” means kelly bushing, that is, the point on the rotary drilling table from which downhole well log depths are measured.

“NDE”

«FI»

“NDE” means not deep enough and indicates that the reference well was not drilled to a depth that was sufficient to penetrate the upper or lower limit of a particular zone.

“NP”

«NP»

“NP” means not present and, in relation to a zone, indicates that the zone is not present at the location where the reference well was drilled.

“UWI”

«NIP»

“UWI” means unique well identifier.

Zones

2. (1) The zones that may be selected are the zones set out in column 2 of the table for the lands of the relevant first nation that correspond to the well log data set out in column 3 that match the well log data for the well that was drilled or re-entered by the holder.

Multiple reference wells

(2) If there is more than one set of well log data in column 3, the set derived from the reference well, identified by its UWI, that is nearest the earning well must be used to determine the zones.

Minister’s determination

3. If an earning well is drilled into a zone that is not identified in a table to this schedule, the Minister must determine the upper and lower limit of the deepest zone penetrated by the well based on a review of the log data that relate to other wells in the vicinity and on any other log data that are available and relate to lands in the vicinity.

ALBERTA
ALEXANDER

Column 1	Column 2	Column 3		
		Well Log Data		
		UWI: 00/11-11-56-27W4	UWI: 02/6-15-56-27W4	UWI: 00/8-1-56-27W4
Item	Zone	Electric Log (ft. KB)	Induction Log (m KB)	Density Log (m KB)
1	Edmonton, Belly River and Lea Park		surface to 615.0	
2.	Waipiabi and SWSP		615.0 to 939.0	
3.	Viking	3090 to 3250	939.0 to 989.0	934.5 to 979.5

4.	Joli Fou	3250 to 3293	989.0 to 997.0	979.5 to 992.0
5.	Mannville, including Upper Mannville, Glauconite, Ostracod, Basal Quartz "A" and Lower Basal Quartz	3293 to 4112	997.0 to NDE	992.0 to 1218.0
6.	Wabamun	4112 to NDE	NDE	1218.0 to 1384.5
7.	Calmar	NDE	NDE	1384.5 to 1393.5
8.	Nisku	NDE	NDE	1393.5 to NDE
9.	Ireton	NDE	NDE	NDE
10.	Cooking Lake	NDE	NDE	NDE

Note: For the purpose of public consultation, the table relating to the Alexander first nation is the only table shown. Tables for the other first nations will be included in the version to be published in the *Canada Gazette, Part I*.

SCHEDULE 4
(Subsection 57(1))
ZONES — CONTINUATION

Definitions

1. The following definitions apply in this Schedule.

“KB”

«FI»

“KB” means the point on the rotary drilling table from which downhole well log depths are measured.

“NDE”

«NDE»

“NDE” means that the depth to which the reference well was drilled was insufficient to yield the relevant log data.

“NP”

«NP»

“NP” means a zone that is not present at the location where the reference well was drilled.

“UWI”

«NEIP»

“UWI” means unique well identifier.

Zones

2. (1) In the case of a contract that is continued on the basis of any of the paragraphs of 56(1), the zones with respect to which continuation may be sought are those set out in column 2 of the table for the lands of the relevant first nation that correspond to the well log data set out in column 3.

Multiple reference wells

(2) If there is more than one set of well log data in column 3, the set derived from the reference well, identified by its UWI, that is nearest the relevant spacing unit must be used to determine the zones that may be continued.

Minister’s determination

3. If the zone with respect to which the contract may be continued is not identified in a table to this Schedule, the Minister must determine the upper and lower limits of the relevant zone, based on a review of well log data that relate to wells in the vicinity of the relevant spacing unit and on any other well log data that are available and relate to lands in the vicinity.

ALBERTA
ALEXANDER

Column 1	Column 2	Column 3		
		Well Log Data		
		UWI: 00/11-11-56-27W4	UWI: 02/6-15-56-27W4	UWI: 00/8-1-56-27W4
Item	Zone	Electric Log (ft. KB)	Induction Log (m. KB)	Density Log(m. FDT)
1	Edmonton and Belly River		surface to 485.0	
2.	Lea Park		485.0 to 615.0	
3.	Waipiabi		615.0 to 805.5	
4.	SWSP		805.5 to 939.0	

5.	Viking	3090 to 3250	939.0 to 989.0	934.5 to 979.5
6.	Joli Fou	3250 to 3293	989.0 to 997.0	979.5 to 992.0
7.	Mannville, including Upper Mannville, Glauconite	3293 to 3790	997.0 to 1150.5	992.0 to 1141.5
8.	Ostracod	3790 to 3836	1150.5 to 1163.5	1141.5 to 1155.0
9.	Basal Quartz "A"	3836 to 3852	1163.5 to 1172.0	1155.0 to 1161.0
10.	Lower Basal Quartz	3852 to 4112	1172.0 to NDE	1161.0 to 1218.0
11.	Wabamun	4112 to NDE	NDE	1218.0 to 1384.5
12.	Calmar and Nisku	NDE	NDE	1384.5 to 1393.5
13.	Ireton	NDE	NDE	NDE
14.	Cooking Lake	NDE	NDE	NDE

Note: For the purpose of public consultation, the table relating to the Alexander first nation is the only table shown. Tables for the other first nations will be included in the version to be published in the *Canada Gazette, Part I*.

SCHEDULE 5
(Subsection 78(1))
ROYALTIES
INTERPRETATION

Definition

1. In this schedule, “marketable gas” means gas, consisting mainly of methane, that meets industry or utility specifications for use as a domestic, commercial or industrial fuel or as an industrial raw material.

OIL ROYALTY

Calculation of royalty — oil

2. (1) The royalty on oil that is obtained from, or attributable to, a contract area comprises the basic royalty determined under subsection (2) or (3) plus the supplementary royalty determined under subsection (5), all amounts to be calculated at the time and place of production.

Basic royalty — first five years

(2) During the five-year period beginning on the day on which production of oil from a contract area begins, the basic royalty is the part of the oil that is obtained from, or attributable to, each well during each month of that period, calculated in accordance with the table to this subsection.

TABLE

Column 1	Column 2
Monthly production Item (m ³)	Royalty per month
1. Less than 80	10% of the total number of cubic metres
2. 80 to 160	8 m ³ plus 20% of the number of cubic metres in excess of 80
3. More than 160	24 m ³ plus 26% of the number of cubic metres in excess of 160

Basic royalty — subsequent years

(3) Beginning immediately after the period referred to in subsection (2), the basic royalty is the part of the oil that is obtained from, or attributable to, each well in a contract area during each subsequent month, calculated in accordance with the table to this subsection.

TABLE

Column 1	Column 2
Monthly production Item (m ³)	Royalty per month
1. Less than 80	10% of the total number of cubic metres
2. 80 to 160	8 m ³ plus 20% of the number of cubic metres in excess of 80
3. 160 to 795	24 m ³ plus 26% of the number of cubic metres in excess of 160
4. More than 795	189 m ³ plus 40% of the number of cubic metres in excess of 795

(4) The Minister must send the relevant council notice of the date of commencement determined under subsection (2).

Supplementary royalty

(5) The supplementary royalty is

(a) in respect of oil to which subsection (2) applies, the royalty determined by the formula

$$(T - B) 0.50 (P - R)$$

where

T is the amount of oil, in cubic metres, that is obtained from, or attributable to, each well in a contract area during the month,

B is the basic oil royalty, in cubic metres, calculated under subsection (2) or (3),

P is the actual selling price of the oil per cubic metre, and

R is the reference price, equal to

(i) in the case of oil obtained from a source set out in column 2 of the table to this subsection, the amount set out in column 3, and

(ii) in any other case, \$25 per cubic metre;

and

(b) in respect of oil to which subsection (3) applies, the royalty determined by the formula

$$(T - B) [0.75 (P - R - \$12.58) + \$6.29]$$

where

T is the amount of oil, in cubic metres, that is obtained from, or attributable to, each well in the contract area during the month,

B is the basic oil royalty, in cubic metres, calculated under subsection (2) or (3),

P is the actual selling price of the oil per cubic metre, and

R is the reference price, equal to

(a) in the case of oil obtained from a source set out in column 2 of the table to this subsection, the amount set out in column 3, and

(b) in any other case, \$25 per cubic metre.

TABLE

Item	Column 1	Column 2	Column 3
	Reserve	Source producing before January 1, 1974	Reference price (\$/m ³)
1.	Pigeon Lake Indian	Cardium	24.04
	Reserve No. 138A	Leduc	25.37
2.	Sawridge Indian	Gilwood Sand	25.13
	Reserve No. 150G	Lower Cretaceous	24.64
3.	Stony Plain Indian	Acheson Leduc	24.45
	Reserve No. 135	Yekau Lake Leduc	25.01

4.	Sturgeon Lake Indian Reserve No. 154	Leduc	21.51
5.	Utikoomak Indian Reserve No. 155A	Gilwood Sand Unit No. 1 West Nipisi Unit No. 1	25.00 24.58
6.	Whitebear Indian Reserve No. 70	10-2-10-2 W2 well 8-9-10-2 W2 well	22.40 22.63
7.	Blackfoot Indian Reserve No. 146	6-25-20-21 W4 well	18.19
8.	Ermineskin Indian Reserve No. 138	6-11-45-25 W4 well	19.18

GAS ROYALTY

Calculation of royalty — gas

3. (1) When gas that is obtained from, or attributable to, a contract area is sold, the royalty payable is the gross royalty value of the gas, determined under subsection (2), less the portion of the cost of gathering, dehydrating, compressing and processing the gas that is equal to its gross royalty value divided by its total value.

Gross royalty

(2) The gross royalty value of gas that is obtained from or attributable to a contract area is the basic gross royalty value of 25% of the quantity of that gas multiplied by the actual selling price plus the supplementary gross royalty value determined under subsection (3), all amounts to be calculated at the time and place of production.

Supplementary gross royalty

(3) The supplementary gross royalty value on gas, individually determined for each gas component produced, is equal to the sum of the products obtained by multiplying 75% of the quantity of each gas component by

(a) in the case of marketable gas,

(i) if the actual selling price exceeds \$10.65/10 m³ but does not exceed \$24.85/10 m³, 30% of the difference between the actual selling price per 10 m³ and \$10.65/10 m³, or

(ii) if the actual selling price exceeds \$24.85/10 m³, \$4.26/10 m³ plus 55% of the portion of the actual selling price in excess of \$24.85/10 m³;

(b) in the case of pentanes plus, if the actual selling price exceeds \$27.68 per cubic metre, 50% of the portion of the actual selling price in excess of \$27.68 per cubic metre;

(c) in the case of sulphur, if the actual selling price exceeds \$39.37 per tonne, 50% of the portion of the actual selling price in excess of \$39.37 per tonne;

(d) in the case of other components from a source that produces marketable gas, an amount equal to the product obtained by multiplying the actual selling price of each of those components by the percentage by which the overall royalty rate for marketable gas, taking both basic and supplementary gross royalty values into account, exceeds 25%; and

(e) in the case of other components from a source that does not produce marketable gas, the lesser of one third of the actual selling price of that component and the amount determined under any special agreement entered into under subsection 4(2) of the Act.

Measurement of volumes

(4) For the purposes of this section, volumes referred to are volumes measured at standard conditions of 101.325 kPa and 15°C.

Notice to council

(5) The Minister must send the relevant council notice of any costs that are deducted under subsection (1) for gathering, dehydrating, compressing and processing.

ROYALTY ON OIL OR GAS CONSUMED

No royalty payable

4. (1) Despite sections 2 and 3, the royalty payable on oil or gas obtained from, or attributable to, a contract area is nil if the oil or gas is consumed in drilling for, producing or processing oil or gas that is obtained from, or attributable to, that contract area.

Royalty payable

(2) However, subsection (1) does not apply in respect of oil or gas that is consumed for the production or processing of crude bitumen.

SCHEDULE 6
(Section 105)
ADMINISTRATIVE MONETARY PENALTIES
PART 1
INDIAN OIL AND GAS ACT

Column 1	Column 2
<u>Provision</u>	<u>Penalty (\$)</u>
16	10 000
17(2)	10 000

PART 2
INDIAN OIL AND GAS REGULATIONS

Column 1	Column 2
<u>Provision</u>	<u>Penalty (\$)</u>
11	10 000
14(a)(i)	1 000
14(a)(ii)	1 000
14(a)(iii)	1 000
14(a)(iv)	1 000
14(a)(v)	1 000
14(b)(i)	1 000
14(b)(ii)	1 000
14(b)(iii)	1 000
14(b)(iv)	1 000
14(b)(v)	1 000
14(c)(i)	1 000
14(c)(ii)	1 000
14(c)(iii)	1 000
14(c)(iv)	1 000
14(c)(v)	1 000
14(d)(i)	1 000
14(d)(ii)	1 000

Column 1	Column 2
<u>Provision</u>	<u>Penalty (\$)</u>
14(d)(iii)	1 000
14(d)(iv)	1 000
14(d)(v)	1 000
14(d)(vi)	1 000
14(d)(vii)	1 000
14(d)(viii)	1 000
14(e)	1 000
14(f)	1 000
22	10 000
23(6)	10 000
26(1)	10 000
26(2)(a)	2 500 (per hole)
26(2)(b)	2 500
26(2)(c)	10 000
26(2)(e)	5 000
27(1)	10 000
28	10 000
48(1)	5 000
52(3)	10 000
61(3)	5 000
71(5)	10 000
74	10 000
76(1)	2 000
78(3)	1 000
