

(Consolidated up to 202/2013)

ALBERTA REGULATION 90/2013

Responsible Energy Development Act

**RESPONSIBLE ENERGY DEVELOPMENT
ACT GENERAL REGULATION**

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Definitions

1(1) In this Regulation, “Act” means the *Responsible Energy Development Act*.

(1.1) For the purposes of section 1(1)(b) of the Act, “relief” does not include an investigation under section 196 of the *Environmental Protection and Enhancement Act*.

(1.2) For the purposes of section 1(1)(m) of the Act,

- (a) “amendment”, in respect of an approval, includes
 - (i) an extension, and
 - (ii) an addition or deletion of a term or condition;

- (b) “cancellation” includes a suspension of an approval, but does not include a cancellation of a disposition under sections 26 and 27 of the *Public Lands Act*;

(1.3) For the purposes of section 1(1)(s)(v) of the Act, “regulation” does not include a document adopted or incorporated by reference in a regulation.

(1.4) For greater certainty, section 25 of the Act does not operate to affect any substantive considerations in respect of an application, decision or other matter under a specified enactment.

(2) For the purposes of section 29 of the Act, “facility” means any scheme or operation that is under the jurisdiction of the Regulator or is subject to any energy resource enactment.

AR 90/2013 s1;202/2013

Described activity

1.1(1) For the purposes of section 1(1)(i)(ii) of the Act, the construction, operation and reclamation of a work camp is a described activity.

(2) For the purposes of subsection (1), “work camp” means a work camp that

- (a) is not greater than one hectare in size,
- (b) has a daily sewage discharge of not more than 25 cubic metres, and
- (c) is required for not more than one year.

AR 202/2013 s3

Board powers

2(1) For the purposes of section 6(2) of the Act, the board may authorize a hearing commissioner to carry out any power, duty or function of the Regulator.

(2) For the purposes of section 6(3) of the Act, the board may not authorize a person to exercise the Regulator’s authority to make Rules under this or any other enactment.

Factors to consider on applications, etc.

3 For the purposes of section 15 of the Act, where the Regulator is to consider an application or to conduct a regulatory appeal, reconsideration or inquiry in respect of an energy resource activity under an energy resource enactment, the Regulator shall consider

- (a) the social and economic effects of the energy resource activity,
- (b) the effects of the energy resource activity on the environment, and
- (c) the impacts on a landowner as a result of the use of the land on which the energy resource activity is or will be located.

Appealable decisions and eligible persons

3.1(1) For the purposes of section 36(a)(v) of the Act, the imposition of an administrative penalty under section 70 of the Act is an appealable decision.

(2) For the purposes of section 36(b)(ii) of the Act, a person who is required to pay an administrative penalty under section 70 of the Act is an eligible person.

AR 202/2013 s4

Hearing on regulatory appeal

4 For the purposes of section 40 of the Act, the Regulator shall conduct a regulatory appeal with a hearing if it appears to the Regulator that the concerns of the eligible person requesting the regulatory appeal have not been

- (a) addressed through any alternative dispute resolution process the Regulator has used under section 46 of the Act, or
- (b) otherwise resolved by the parties.

Prescribed time periods

5(1) The time prescribed for the purposes of section 45(2)(a) of the Act is one month from the day that the decision sought to be opposed was made.

(2) The time prescribed for the purposes of section 45(2)(b) of the Act is two months from the day the application is filed.

Publication of information

6 For the purposes of section 76 of the Act, the Regulator shall publish the particulars of enforcement action taken under the Act or any other enactment, including

- (a) the names of the licensees, approval holders, operators or other persons against which the enforcement action was taken,
- (b) the particulars of the contravention, and
- (c) the particulars of the enforcement action.

Furnishing copy of statement of concern to Minister

7 If the Regulator receives a statement of concern containing information that in the opinion of the Regulator is pertinent to policy development of the Government, the Regulator may furnish a copy of the statement of concern to the Minister.

Coming into force of order, etc.

8(1) The Regulator may provide in an order or direction that the order or direction or a portion or provision of it is to come into force

- (a) at a future fixed time,
- (b) on the happening of a contingency, event or condition specified in the order or direction, or
- (c) on the performance to the satisfaction of the Regulator or of a person named by it of any terms that the Regulator imposes on any party interested.

(2) The Regulator may direct that the whole or a portion of the order or direction is to have force for a limited time or until the happening of a specified event.

(3) When any work, act, matter or thing is by an order or direction of the Regulator required to be done, performed or completed within a specified time, the Regulator, if it thinks it proper to do so, may extend the time specified.

AR 90/2013 s8;159/2013

Administrative penalty

8.1 For the purposes of section 70 of the Act, the following provisions are prescribed provisions in respect of which a notice of administrative penalty may be given under section 71 of the Act:

- (a) sections 10(1), 11, 13, 15(1), 16(1) and (2), 23(1), 26, 27(1) and (2), 29, 30(1), 31, 31.1(1), 31.2, 31.4(3), 32(3), 33(1), (2)(b) and (4), 34, 35(1), 36, 37 and 40 of the *Coal Conservation Act*;

- (b) sections 2, 3, 4, 5, 6, 8, 9, 10, 12, 14, 15, 16, 17, 19, 21(1), (2) and (3), 21.1, 21.2, 21.3, 21.4, 21.5, 23, 26, 28, 29, 34, 35, 36, 36.1, 38, 39, 40, 41, 42, 42.1, 44, 46, 46.1, 62, 62.1, 65, 66, 66.1, 67, 68, 69(1), 70, 71, 73, 78, 79, 80, 81, 81.1, 85.1(1), (2) and (3) of the *Coal Conservation Rules* (AR 270/81);
- (c) section 18(1)(a) and (c) and (2) of the *Gas Resources Preservation Act*;
- (d) sections 11(1) and (3), 12(1), 16(1), 17(1), 20, 21(1), 23(1), 26.1, 27(1), (2) and (4), 39(1), 42, 48(2), 50(2), (3) and (4), 51(2) and (3), 53(3) and (4), 71(1)(b), 71(2)(b), 79(2) and (3), 86, 91(2), (6), (7) and (8), 93, 96(3), 103(5), 105(2) and 107 of the *Oil and Gas Conservation Act*;
- (e) sections 1.200, 2.010(1), 2.020(3), (3.1) and (4), 2.030(5), 2.050(3), 2.100, 2.110, 2.120, 3.010(1), 3.011, 3.012, 3.013, 3.020, 3.040, 3.060, 3.061, 3.062, 4.021, 4.030, 4.040(2), 5.100(2), 5.190(2), 6.010, 6.020, 6.021, 6.030(1) and (3), 6.040(1), 6.050, 6.060, 6.070(1), 6.080, 6.081, 6.090, 6.100, 6.101(1), 6.110, 6.120, 6.130, 6.140, 6.150, 6.160, 6.170, 6.190, 6.191, 6.192, 6.200, 7.001, 7.002, 7.004(1), 7.020, 7.025(1), (2) and (4), 7.030, 7.035, 7.040(1), 7.050, 7.055, 7.060, 7.070(3), (4) and (5), 7.080, 8.002, 8.003, 8.004, 8.005, 8.006, 8.010, 8.030, 8.031, 8.040, 8.050, 8.051, 8.052(1), 8.060, 8.080, 8.090, 8.110, 8.120(1) and (2), 8.129(2), (7) and (8), 8.149(2), 8.150, 8.151, 8.170, 8.180(1) and (2), 8.190, 8.191, 8.192, 8.193, 9.020(1), 9.030, 9.040, 9.050, 9.060, 10.020, 10.150, 10.170(2), 10.300(2), (3), (5) and (6), 11.005, 11.010, 11.020, 11.030, 11.040, 11.070(1), (2) and (4), 11.080, 11.090, 11.100, 11.101, 11.102(1), 11.110, 11.120, 11.135, 11.140(1) and (2), 11.145, 11.150, 12.010, 12.020, 12.030, 12.056, 12.060, 12.061, 12.080, 12.120, 12.140, 12.141, 12.160, 12.170, 14.011, 14.012, 14.050, 14.060, 14.130, 14.200, 15.005, 15.050, 15.140, 15.150, 15.210, 15.212, 16.640, 16.643(4), 16.649 and 16.650 of the *Oil and Gas Conservation Rules* (AR 151/71);
- (f) sections 8(4), 10(1), 11(1), 16(1) and (3), 21 and 22(1) of the *Oil Sands Conservation Act*;
- (g) sections 3(1), (2), (3) and (4), 4(1), (2), (3) and (7), 5, 6, 7(1) and (2), 8, 9, 10(1), 11, 11.1, 13, 14, 16, 17, 20, 22, 24, 24.1, 26, 27, 28.1, 29, 30, 31, 32, 32.1, 33, 34, 35, 36, 36.1, 37, 38, 39, 40, 41.1, 42, 43, 44, 45, 47, 48, 49, 51, 54, 55, 56 and 57 of the *Oil Sands Conservation Rules* (AR 76/88);

- (h) sections 5(3), 6(1), 10(1), 11(4), 16, 17(1), 18(2), 19(2) and (6), 20, 21, 22, 23(1) and (3), 31(2), 32, 35(1), (2), (3) and (5), 37(2), 38(1) and (2), 39(1), 41, 42, 44, 45 and 46(1) of the *Pipeline Act*;
- (i) sections 1.2, 2, 3(1) and (2), 4(1), 5, 6, 7, 8, 9, 10(1), (2), (4) and (5), 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40(1), 43, 44, 45, 47, 48, 49, 50, 51, 52, 53(1), 54, 55(2), 56, 57(1), 58, 59, 60(2), (3), (4) and (5), 61(1), 62(1), 63, 65(1), (2), (3) and (5), 66, 68(1), (2), (4), (5), (6) and (8), 69, 70, 71, 72, 73, 74, 76, 77, 79, 80(1), 82, 84 and 85 of the *Pipeline Rules* (AR 91/2005);
- (j) sections 10, 11 and 12 of the *Turner Valley Unit Operation Act*.

AR 202/2013 s5

Notice of administrative penalty

8.2 A notice of administrative penalty must be given in writing and must contain the following information:

- (a) the name of the person required to pay the administrative penalty;
- (b) particulars of the contravention;
- (c) the amount of the administrative penalty and the date by which it must be paid;
- (d) a statement of the right to request a regulatory appeal under section 38 of the Act.

AR 202/2013 s5

Amount of administrative penalty

8.3(1) Subject to subsections (2) and (3), the amount of an administrative penalty for each contravention that occurs or continues is the amount determined by the Regulator, taking into account the seriousness of the contravention and the extent of any actual loss or damage that resulted or any potential loss or damage that may reasonably be expected to result from the contravention, in accordance with the following Base Penalty Table:

BASE PENALTY TABLE

Extent of actual or potential loss or damage	Seriousness of contravention		
	Major	Moderate	Minor
Major	\$5000	\$3500	\$2500
Moderate	3500	2500	1500

Minor to	2500	1500	1000
None	1000	600	250

(2) The Regulator may, in any particular case, increase or decrease the amount of the administrative penalty determined under subsection (1) if, after considering the following factors, the Regulator considers it appropriate to do so:

- (a) the importance to the regulatory scheme of compliance with the provision that was contravened;
- (b) the degree of wilfulness or negligence, if any, on the part of any person responsible for the contravention;
- (c) any steps taken by a person responsible for the contravention to avoid or limit the extent of any actual loss or damage that resulted or any potential loss or damage that may reasonably be expected to result from the contravention;
- (d) any steps taken by a person responsible for the contravention to prevent its recurrence;
- (e) any previous contravention of a provision prescribed by section 8.1 by a person responsible for the contravention;
- (f) whether a person responsible for the contravention derived or is likely to derive any economic benefit from the contravention;
- (g) any other factor that, in the opinion of the Regulator, is relevant.

(3) The maximum administrative penalty that may be imposed in respect of a contravention is \$5000 for each day or part of a day on which the contravention occurs or continues, in addition to any amount required to be paid under section 71(4)(b) of the Act.

AR 202/2013 s5

Publication of information

8.4 For the purposes of section 76 of the Act, the Regulator shall publish the particulars of enforcement action taken under the Act or any other enactment, including

- (a) the names of all persons responsible,
- (b) the particulars of the contravention, and
- (c) the particulars of the enforcement action.

AR 202/2013 s5

Disclosure of records

8.5(1) In this section,

- (a) “Department” means the Department of Environment and Sustainable Resource Development;
- (b) “record” means a record as defined in the *Freedom of Information and Protection of Privacy Act*.

(2) The Department shall disclose to the Regulator all records in the custody or control of the Department reasonably necessary for the Regulator to exercise its jurisdiction under a specified enactment.

(3) Subject to subsection (4), the records referred to in subsection (2) may be disclosed by providing originals or copies, by the provision of the records in electronic form or by means of access to an electronic repository.

(4) In disclosing the records to the Regulator, the Department shall ensure that original paper and electronic copies are maintained to the extent necessary for the Crown to preserve and disclose evidence.

(5) The disclosure of records by the Department to the Regulator pursuant to this section does not waive or negate any type of legal privilege, including solicitor-client or parliamentary privilege, or confidence attached to the records and any legal privilege or confidence continues for all purposes.

(6) The disclosure of records by the Department to the Regulator pursuant to this section is deemed not to be a disclosure contrary to any provision in a specified enactment governing disclosure of information or protection of confidentiality.

(7) The Regulator shall not further disclose any records received from the Department protected by any type of legal privilege, except with the consent of the Department.

(8) The Regulator shall take all reasonable measures to return to the Department any records received from the Department protected by any type of legal privilege unless the Department and the Regulator determine that the Regulator’s use of the record is essential to the furtherance of the Department’s and the Regulator’s common interest in ensuring that the Regulator can discharge its responsibilities under the specified enactments.

(9) Subject to subsections (5), (7) and (8), further disclosure, retention and disposition of the records received under this section by the Regulator shall occur in accordance with the Regulator’s obligations under the specified enactments, the *Freedom of*

Information and Protection of Privacy Act and the Records Management Regulation (AR 224/2001).

(10) This section is made under section 79(1) of the Act and is subject to repeal under section 79(2) of the Act.

AR 202/2013 s5

Expiry

9 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation, except section 8.5, expires on May 31, 2018.

AR 90/2013 s9;202/2013

Coming into force

10 This Regulation comes into force on the coming into force of section 3 of the *Responsible Energy Development Act*.