

Introduction to Oil Sands Regulatory Processes



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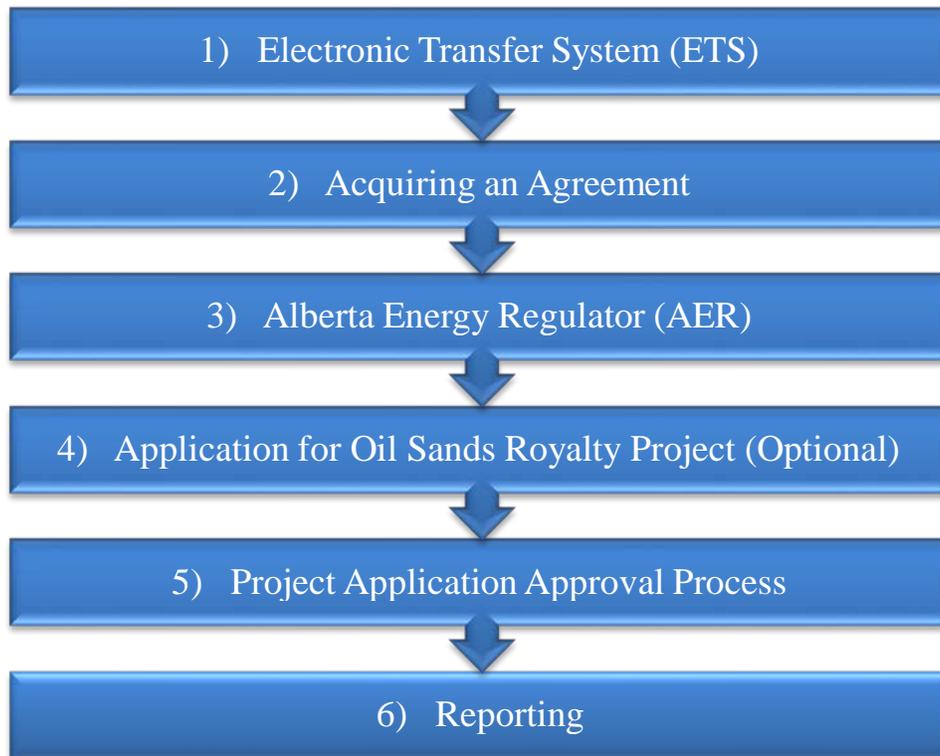
This document is produced for the convenience of readers and provides a general understanding of the oil sands royalty and tenure legislation and processes. Should the processes explained in this document conflict with any Act or regulation, the Act and regulations will prevail.

All persons making use of this document are reminded that it has no legislative sanction; this document is created for convenience of reference only. The appropriate Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Introduction to Oil Sands Regulatory Processes

Alberta's oil sands are the third-largest proven crude oil reserves in the world. Alberta is recognized as a responsible world-leading energy supplier, an energy technology champion, a sophisticated energy consumer and a solid global environmental citizen. For companies that are new to the development of oil sands in Alberta, there are regulatory procedures that are necessary to follow in order to acquire an agreement from the Crown and to start the development process. This document serves as a guide for potential developers and producers of oil sands, and to outline the regulatory processes the Oil Sands Division of the Government of Alberta has implemented in order to effectively administer responsible development.

The process to begin extracting Alberta's Crown oil sands involves acquiring an Electronic Transfer System (ETS) account, purchasing an agreement, acquiring approval from the Alberta Energy Regulator (AER), obtaining approval for a Project application from Alberta Energy (optional), and complying with reporting and royalty payment requirements as set by Alberta Energy. Each step is important to understand in its entirety. To assist in this process, the steps are outlined below.



1. Electronic Transfer System (ETS)



To acquire an oil sands agreement for the extraction of bitumen, an Alberta Electronic Transfer System (ETS) account must be first applied for from Alberta Energy. ETS is a secure web application that provides many services to the user and access to a source of information from Alberta Energy. ETS was designed specifically for industry by Alberta Energy to securely send and receive information electronically.

1.1 ETS Services

Holders of an authorized ETS account may access a variety of services from ETS. These services include, but are not limited to:

- Correspondence
- Crown Oil Sands Agreement Documents
- Assignments
- Bidding
- Freehold Mineral Tax
- Monthly Royalty Statements
- OSR Applications
- Supplemental Reporting Submissions
- Postings
- Searches
- Transfers of Ownership and Designated Representative

For more information regarding ETS and for details on the services listed above, please access :
<https://www.alberta.ca/Electronic-transfer-system.aspx>

1.2 Registering with ETS

To obtain access to the Electronic Transfer System, an ETS Account Set Up/Change Form and accompanying letter of authorization must be submitted to Alberta Energy. This information can be obtained from the following ETS Support and Online Learning link:

<https://training.energy.gov.ab.ca/Pages/Accounts%20In%20ETS.aspx>

Each Client Account is given access to form types and assigned a role that defines the required functionality. Several online learning courses are available for Accounts (ETS) Administration in the ETS Support and Online Learning link.

1.3 Contact Information

For further information regarding ETS, please contact Alberta Energy / Crown Land data support at (780) 422-1395, or e-mail crownlanddatasupport@gov.ab.ca.

2. Acquiring an Agreement

Alberta Energy is authorized to dispose of oil sands rights by issuing agreements to companies or individuals that are not ineligible persons as defined in section 23 of the [Mines and Minerals Act](#)

Oil sands agreements convey the right to “drill for, win, work, and recover” oil sands that are owned by the Crown. There are two types of oil sands agreements: Permits that are issued for a term of 5 years, and Leases that are issued for a term of 15 years. For more information regarding the differences between permits and leases, please refer to the following link: [Oil Sands Tenure Guidelines: Chapter 3](#)

The two common methods to acquire oil sands agreements are by way of: Public Offerings or Direct Purchases.

2.1 Public Offerings (Sales)

The rights to the lands developed are leased through Public Offerings, commonly referred to as Land Sales. The Public Offerings schedule is published two years in advance by Alberta Energy so that potential bidders may strategize accordingly. Sales of oil sands rights are initiated by posting requests submitted by companies or individuals through ETS. If no rights have been requested, there is no need to hold a sale. Companies or individuals who wish to acquire undisposed oil sands rights request a posting for a specific sale date to the Crown through ETS. The total bid includes a minimum bid amount (i.e. bonus), a rental payment for the first year of the agreement and an administrative/issuance fee. Oil sands agreements are awarded to the highest bidder.

The only form of payment acceptable for winning bids is an electronic funds transfer (EFT) within two weeks of a sale date. The bidder must be registered for EFT before creating and submitting a bid. To register for EFT, an authorization form must be submitted to Alberta Energy. Access the EFT Authorization form in: [Alberta Online Learning: Sales](#)

For information or assistance with this form, please contact Alberta Energy / Crown Land data support at (780) 422-1395, or e-mail crownlanddatasupport@gov.ab.ca.



Photo courtesy of Syncrude Canada Ltd.

2.2 Direct Purchases

A Direct Purchase is the acquisition of Crown-owned oil sands rights by individual sale rather than through the public offering process. Direct Purchases can be done by one of two ways:

- Direct Purchase of Portions (Part Crown/Part Freehold)
- Direct Purchase of Complementing Rights

For more information regarding the two ways Direct Purchases can be done, please refer to the following link: [Oil Sands Tenure Guidelines: Chapter 2](#).

Similar to sales through public offering, sales through direct purchase are also requested through ETS. Upon review of the Direct Purchase application, Alberta Energy will establish a purchase price and advise the requestor of this price through ETS. The purchase price is calculated monthly and is posted on the Alberta Energy website at the beginning of each month. Acceptance or rejection of the purchase price is required before further processing. If a company chooses to reject a purchase price and post the lands in a public sale, the parcel will be placed into the next available sale. If the requestor has accepted the price, the applicant must pay an issuance fee, rental for the first year of the agreement, and the pre-determined

bonus. Payments for acquirement of oil sands rights through direct purchase are only accepted through EFT within two days of acceptance of the purchase price.

2.3 Continuation of a Lease

After an agreement has been granted to a lessee, the lessee must meet one of two criteria prior to the expiry of the agreement in order to continue the lease:

- Minimum Level of Evaluation (MLE) or
- Minimum Level of Production (MLP)

The lessee must prove to the Minister of Energy, by geologically evaluating the agreement in its entirety, that the agreement is eligible for continuation. Continuation is the term used when the Minister of Energy grants exploration and development rights to the lessee of that lease for an extended period of time, or, until that lease is surrendered or cancelled. Further requirements are set out in the Tenure Guidelines and can be accessed using the following link: [Oil Sands Tenure Guidelines: Chapter 4](#) for MLE and [Oil Sands Tenure Guidelines: Chapter 5](#) for MLP.

2.4 Contact Information

For information regarding the leasing or the administration of oil sands rights, please contact Oil Sands Tenure via the Energy Switchboard at (780) 427-8050, or e-mail OSTenure@gov.ab.ca.

3. Alberta Energy Regulator (AER)

Note: For complete instructions and details, it is strongly recommended that the applicant contact the Alberta Energy Regulator. This section has been included for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

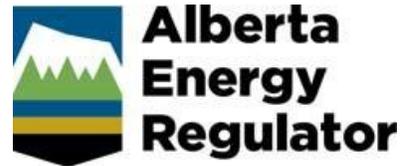


Photo courtesy of AER

The Alberta Energy Regulator (AER) is an agency that adjudicates and regulates matters related to energy within Alberta, to ensure that the development, transportation, and monitoring of the province's energy resources are in the public interest. This is done through applications and hearings processes, regulation, monitoring, and surveillance and enforcement.

Before a company or individual can perform any operations or begin the extraction of bitumen from an obtained lease or permit, an application must be made to the AER for approval of the oil sands development. After the AER grants approval, a company or individual must continue to meet all regulations and requirements through the full-lifecycle of the operation.

3.1 Application to AER

Depending on the project being applied for, there are different directives that apply. Each directive indicates the necessary information that is required to be included with an application to the AER.

Information regarding the directives and the applications for each directive can be accessed using the following link: [AER Directives and Applications](#).

3.2 Review of AER Scheme Application

The application for oil sands development (scheme approval) will undergo a preliminary review to ensure it is administratively complete before the AER proceeds with a detailed review. If the application is incomplete, the AER may request the missing information or close the application entirely. If there are no outstanding concerns or issues relating to the application and the proposal is technically sound and meets the regulatory requirements, the AER will process it as a routine application and may approve the application without a public hearing.

If there are any public or industry objections to a proposed project, the AER will make the determination on a case-by-case basis for whether the application should be scheduled for a hearing before a panel appointed by the Board.

3.3 Contact Information

Applicants who have questions or concerns regarding the application process with the AER can direct inquiries to the AER Customer Contact Centre at (403) 297-8311, or e-mail inquiries@aer.ca.

4. Application for Oil Sands Royalty Project (Optional)

Individuals or companies recovering hydrocarbons from Alberta Crown Rights must pay royalties to Alberta Energy. Royalties are determined by either the conventional oil royalty regime (production-based royalty) or, if an Oil Sands Royalty Project (OSR Project) has been approved, under the generic oil sands royalty regime (revenue minus cost regime).

Applying to pay royalties under the generic oil sands royalty regime is optional; however, it is well suited for projects that are capital intensive since a lower royalty rate is paid until the OSR Project reaches payout. Oil sands projects do not automatically pay royalties under the generic oil sands royalty regime. To pay royalties under the generic oil sands royalty regime, individuals or companies who have obtained an oil sands agreement and have AER approval for oil sands development (scheme approval) must apply to Alberta Energy under the [Oil Sands Royalty Regulation, 2009](#). If approved, an OSR Project is created and production from that OSR Project will pay royalties under the generic regime.



Photo courtesy of Suncor Energy Inc.

An oil sands project that has not applied for an OSR Project, or applied but was denied OSR Project status, is still subject to pay royalties to Alberta Energy. These projects are referred to as having a non-

Project status. These non-Projects pay royalty under the conventional oil royalty regime but must still comply with all royalty reporting prescribed under the [Oil Sands Royalty Regulation, 2009](#).

Note: If an approval is granted, the approved OSR Project is limited to the Project Description detailed in the Ministerial Order. Should the oil sands project be modified or expanded, it may be necessary to apply to amend the OSR Project. Applicants who are unsure if a project change requires an amendment application should contact Alberta Energy using the contact information provided below.

4.1 Applying for an OSR Project

Only projects with AER scheme approval may apply for an OSR Project. AER applications and approval documentation relevant to the project must be submitted to Alberta Energy as part of the application for OSR Project approval.

An OSR application is required for all new Projects, Project amendments, Project amalgamations, or applications in the alternative. Information of what is required in an application can be accessed through the [Oil Sands royalty forms](#), please see the OSR New Project Application Checklist and the OSR Project Amendment Application Checklist

Applications for OSR Project approval must follow the format specified by Alberta Energy and must be submitted through ETS. Additional information may be required by Alberta Energy in order to grant approval for the proposed OSR Project. Applicants should be prepared to respond to further requests by Alberta Energy and should be able to provide the requested material in a timely manner.

4.2 Contact Information

Applicants who have questions or concerns regarding the application process can direct their inquiries to (780) 638-1345, or e-mail OSRApplications.Energy@gov.ab.ca.

5. Project Application Approval Process

Note: This section only applies to individuals or companies pursuing an OSR Project, as stated above in Section 4.

After an application for an OSR Project or OSR Amendment approval has been received, the Crown has up to nine months to complete the review of the application, and to either approve or deny the application. If the application is approved, the OSR Project or OSR Amendment is given an effective date. The effective date is typically retroactive to the first of the month when the application was received, but is subject to section 13 of the [Oil Sands Royalty Regulation, 2009](#).



Photo courtesy of Suncor Energy Inc.

5.1 Evaluation Criteria

Before issuing an OSR Project approval order (or amendment including amalgamations), there is a substantial set of evaluation criteria which the Minister of Energy must consider. The evaluation criteria are set out as per sections 11(1) and 11(2) of the [Oil Sands Royalty Regulation, 2009](#).

5.2 Application Approval Documents

Upon approval of the OSR Project application, the following documents will be issued to the operator that has been granted approval:

- The Ministerial Order (MO)
- The Cover Letter

5.3 Contact Information

Applicants who have questions or concerns regarding the application process can direct their inquiries to (780) 638-1345, or e-mail OSRApplications.Energy@gov.ab.ca.

6. Reporting

Alberta's royalty framework is designed to capture a fair share of the value of mineral and energy resources for the benefit of all Albertans. There are specific reporting requirements that must be met as outlined in the [Oil Sands Royalty Regulation, 2009](#). A complete set of the Alberta Oil Sands Royalty Guidelines and Appendices, which provide specific instructions on reporting requirements, can be found on the Alberta Energy website at the following link: [Alberta Oil Sands Royalty Guidelines](#)

6.1 Calculating Oil Sands Royalty

For OSR Projects, Alberta's project-based generic oil sands royalty regime operates on the principle of a 'revenue minus cost' regime. Royalty is paid at one of two rates, depending on the OSR Project's financial status. The deciding factor is the OSR Project's payout status. An OSR Project has "reached payout" when the Project's cumulative revenues first equal or exceed its cumulative eligible costs. The royalty rate for an OSR Project that has not reached payout status varies from 1% to 9% of the OSR Project's gross revenue, depending on oil prices. The royalty rate for an OSR Project that has reached payout status varies from 25% to 40% of the OSR Project's net revenue, depending on oil prices.



Photo courtesy of Syncrude Canada Ltd.

Royalty payable to the Crown for an OSR Project is calculated on the volume of oil sands product that is delivered and measured at the applicable Royalty Calculation Point (RCP). At the RCP, two events are triggered: the Crown's share of the oil sands product is determined, and the Crown's share is transferred to the owner of the lessee's share. Compensation is payable to the Crown at that time.

For oil sands wells that are not in an OSR Project, royalty must also be reported to Alberta Energy. These non-Project well events report and pay Non-Project royalty. For further information, please see section 26 and section 27 of the OSRR09.

6.2 Reports

The reports that OSR Project operators are required to complete and submit to the Crown can be accessed using the following link: [Oil Sands Reporting Forms](#). Reports that are required to be completed by operators, depending on the oil sands royalty regime, are as follows but not limited to:

- Monthly Royalty Calculation (MRC) Report
- Good Faith Estimate (GFE) Report
- Non-Project Royalty (NPR) Report
- End of Period Statement (EOPS) Report
- Enhancement and Other Reporting

Unless otherwise directed, most reports are to be submitted to Alberta Energy via ETS by the last day of the month following the production month. Other particular reports may be required quarterly or on an annual basis. Penalties may be assessed for the failure to submit any required report by the due date and will continue to be assessed for each month or partial month until the report(s) are received. Additional information regarding royalty information reports and the processing schedule can be accessed using the following link: [Royalty Information Reports and Processing Schedule](#).

6.3 Payment for Royalty

All remittances in respect of Crown royalty must be made payable to the “Government of Alberta”. If any of the amounts are not paid by the day on which it is required to be paid according to the [Oil Sands Royalty Regulation, 2009](#), interest on the amount outstanding will be payable to Alberta Energy. Additional information regarding the payment of royalty can be accessed using the following links: [Information Bulletin 2015-01.pdf](#) and [Alberta Energy: Oil Sands Payments](#).

6.4 Contact Information

For information regarding Oil Sands Royalty, please contact Oil Sands Royalty at (780) 643-9333, or e-mail OSReport@gov.ab.ca.



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