

3. Applying for Generic Royalty Terms

3.1 When Is an Application Required?

The generic oil sands royalty regime does not apply automatically – by default royalty is payable under the *Oil Sands Royalty Regulation, 1984* (AR 166/84), as amended. Oil sands developers must apply for approval for new oil sands royalty projects and for all significant amendments to currently approved OSR projects. The application process is the same for each type of project.

3.2 Who Can Apply?

Oil Sands Royalty Regulation, 1997 (AR 185/97), sections 15(1) to 15(4)

Applications for oil sands royalty project approval (for a new project) or for an approval amendment (for a current OSR project) can be made by

- the project owner
- the project owner's designee
 - Project owners may authorize another individual or corporation to make the application on their behalf. In most cases, the owners' designee is the project operator.

If the application is made by the project owner's designee, documentation authorizing the designee to apply must be submitted together with the application. A letter from each project owner clearly authorizing or consenting to the application being made by the designee is sufficient.

If the application includes freehold rights*, documentation confirming that the lessee of these rights has authorized the application must be submitted.

If the application deals with a project expansion, documentation confirming that the lessee of the lands and subsurface strata being added by the proposed expansion has consented to the application must be submitted.

3.3 The Application Process

Oil Sands Royalty Regulation, 1997 (AR 185/97), section 16(1)

3.3.1 Consulting with the Department

Oil sands developers are encouraged to consult with the Department about their applications for oil sands project approvals and amendments. The Department can provide guidance and advice about the suitability of a proposed project or amendment and about factors that should be addressed in preparing the application.

Questions about specific applications or about the application process may be directed to the Director of Engineering & Operations, Oil Sands Development. (See Appendix J, "Contact Information")

3.3.2 Making an Application

Applications for oil sands royalty project approval must follow the format specified by the Department.

Applicants must use the standard Department of Energy application form, which can be downloaded from the Department website.

A sample "Application for Royalty Terms of the Oil Sands Royalty Regulation, 1997 (AR 185/97)" is included in Appendix B.

3.3.2.1 Required Information

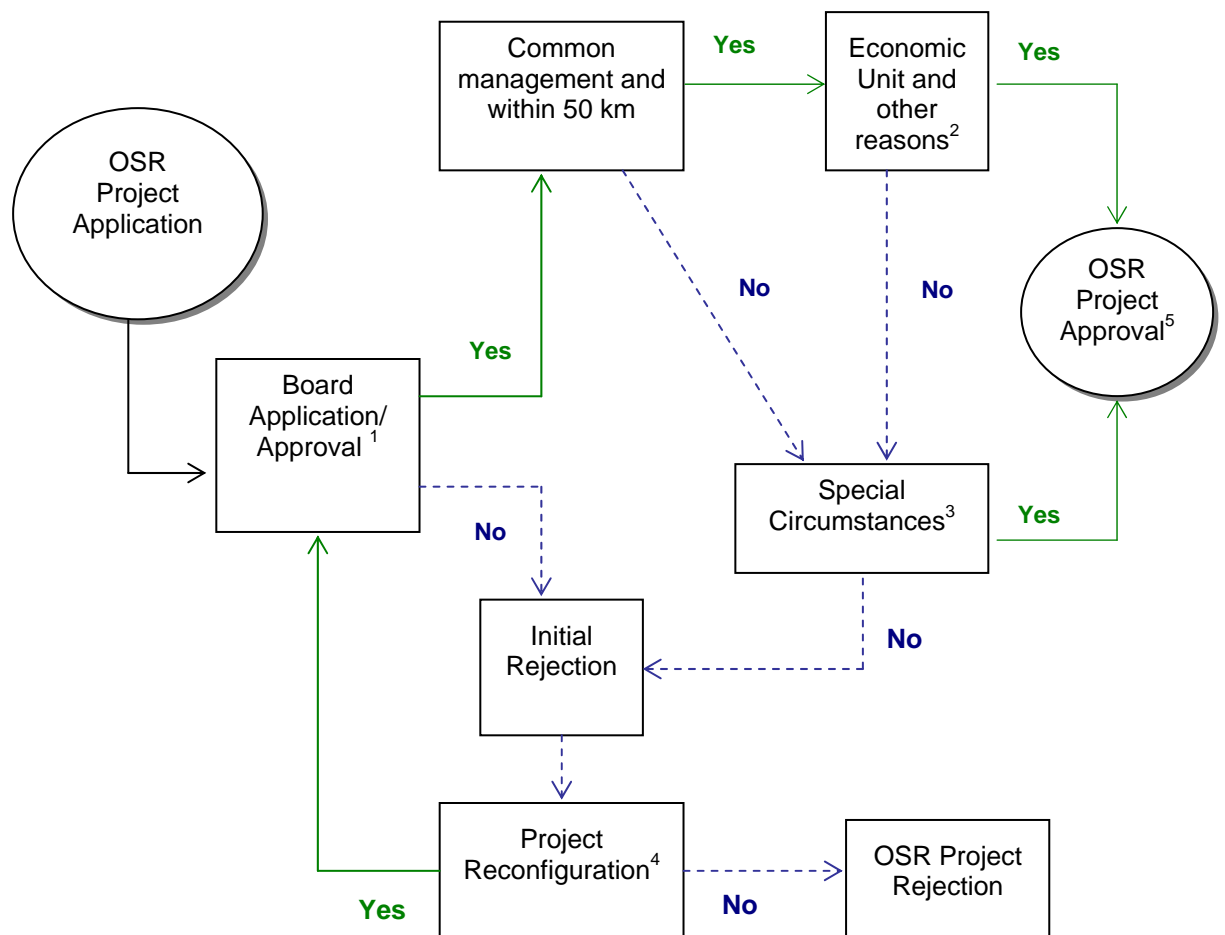
Information must be provided for all sections of the project application form. There is no limit on the amount of information that can be included for each section.

Incomplete applications are returned to the applicant so that missing information can be added. (Supplementary information that is provided by mail, email or in discussions with Department staff – after the application has been deemed to be complete - will not be considered as part of the application.)

3.3.2.2 Submitting a Completed Application

Applications for OSR project approval must be submitted in hard copy format to the attention of the Director of Engineering & Operations, Oil Sands Development. (see Appendix J, "Contact Information") Forecast information should also be provided in electronic format.

Figure 1: The approval process for oil sands royalty projects



Notes:

¹All project components require Board applications and approvals, and must include a scheme or operation approved under the Oil Sands Conservation Act, in order to receive OSR project approval.

²Proposed project boundaries and facilities must be justified for economic reasons. If any aspect of the proposed project definition does not materially benefit the project's profitability, the Minister will not approve that project definition. The Department will also consider the Crown's royalty share. If the Department determines that any aspect of the proposed project definition results in a shift of the Crown's share of project revenue to the project owner(s) and away from the Crown, the Minister will not approve that application until it is amended to protect the Crown's interest.

³The Department will consider special or unforeseen circumstances that may justify project approval. Such circumstances will be reviewed on a case-by-case basis, where every case is considered on its own merits. These Guidelines provide direction, but are not intended to replace the requirement for case-by-case consideration.

⁴If a request for project approval is rejected at any level, the applicant must restructure the proposal in order for the project to be reconsidered.

⁵Project approval may contain conditions such as dealing with measurement of costs/revenues, non-arm's length fees, etc.

Additional Note: Refer to Section 3.3.3.1 "Project Status" relating to an Application in the Alternative method of reporting as well as the Oil Sands Royalty Regulation "Application for Royalty Terms of the OSR Reg 1997" form located in Appendix B.

3.3.3 Completing the Application Form

3.3.3.1 Project Status

The applicant must indicate the type of OSR project for which application is being made. OSR projects may be

- new projects
- amendments to approved oil sands royalty projects, including
 - expansions
 - amalgamations
 - other significant changes to the project description

For details, see 2.1.1, "Types of OSR Projects".

Applications for project expansions may be denied if they do not meet the OSR project requirements under 2.2. This normally requires the applicant to re-apply to have the proposal reviewed as a new project. This means that the project effective date can be no earlier than the new application date, which can result in delays, potential loss of return allowance and potential loss of costs.

For this reason, the application form allows the applicant to apply in the alternative, meaning that if the application for an expansion is denied the application will be reviewed as an application for a new project. The Department will consult with the applicant prior to this review.

3.3.3.2 Project Ownership

Project applications must identify and provide contact information for all project owners.

When there is more than one owner, the application must identify each owner's equity percentage. A copy of the operating agreement must be included.

When the project includes freehold rights, a copy of the unit agreement must be included.

Applicants, who feel their projects are qualifying joint ventures, as defined by the Regulation, must include a copy of the joint venture agreement.

For details about project owners, see 2.3.3, "The Project Owner". For details about freehold interests and qualifying joint ventures, see 2.3.4, "Ownership Considerations".

3.3.3.3 Project Identification

In this section, applicants identify the project name (see 2.3.1, "The Project Name"), the project operator (see 2.3.5, "The Project Operator") and the contact person. If the application is for a project amendment, the OSR project approval number should be included as well.

The project **contact person** is the individual to whom the Department will direct all correspondence and inquiries regarding the project.

The project application should provide the following details about the designated contact person:

- *name*
- *title*
- *company*
- *mailing address*
- *courier address (as appropriate)*
- *telephone number and area code*
- *fax number and area code*
- *e-mail address*

The project operator is responsible for notifying the Department whenever contact-related details change.

3.3.3.4 Project Overview

Applicants must provide a summary of the project's history and development intentions. The summary should include the following information:

- *the dates when lands and leases were acquired*
- *the locations of the first wells on the project site and the dates they were drilled*
- *a description of the lands and facilities included within the proposed project*
- *a history of project / operations development work completed to point of application*
- *a description of costs incurred to date*
- *an outline of the expected project production, operations, and future development plans and investment*
- *annual production to date and future production expectations*
- *other relevant details*

Applications pertaining to project amendments must describe the relationship between the proposed amendment and the existing project. Applications that do not provide this information will not be processed.

3.3.3.5 Project Description

The Department reviews oil sands royalty project applications on the basis of information provided in this section.

Errors in the project description may result in errors such as lands and facilities being excluded from the project description issued as part of the OSR approval order. Costs may be disallowed as a result.

The project description should include details about the relevant

- *EUB applications and approvals*
- *lands, leases and mineral rights*
- *project operations*
- *facilities and other capital assets*

A **map or air photo** showing the project development area and facilities must also be included.

Applicants who wish to defer the effective date of their project must include a request for deferral as part of their application.

3.3.3.5.1 Alberta Energy and Utilities Board Approvals

The production schemes, operations, processing plants, wells and facilities of a proposed oil sands royalty project must all be approved by the Alberta Energy and Utilities Board (EUB). (see 2.2.1, "**EUB Approval**".)

Copies of all relevant EUB applications and approvals must be filed with the Department as part of the application for OSR project approval. A description of each EUB-approved project component, with approval attached, should also be included.

If the approvals include specific terms or conditions required by the EUB, this should be brought to the Department's attention.

*The Department will not accept an application that does not have the necessary EUB approvals in place at the time of application. (see **Figure 1: The approval process for oil sands royalty projects**)*

3.3.3.5.2 Lands, Leases and Mineral Rights

Applicants should provide the following information about the project development area:

Project Lands

- legal land descriptions (section, township, range and meridian) that define the **surface areas** to be included in the project

Project Leases

- the **lease number** and **lease description** for all leased land to be included within the project
- the **subsurface strata** (geological names and zone designations/deeper rights reversion zone designations) and **deposits** from which oil sands products will be recovered

Deposits covered in an oil sands lease cannot be approved as part of an OSR project unless the development of the deposits has been approved by the EUB.

3.3.3.5.3 *Project Operations*

Applicants should describe

- the recovery methods and technology that will be used
- the oil sands products that will be recovered or processed

Process flow diagrams must be included with the description of project operations. These diagrams should indicate the design capacity of all major components.

3.3.3.5.4 *Facilities and Other Capital Assets*

Applicants must provide the following information about each facility and asset required to produce the proposed oil sands products

- the function
- the location
- the facility name and identification code, if available
- the appropriate EUB approvals or permits

All shared (co-owned) facilities and all off-project lands facilities and assets must be clearly identified. Each owner's equity share must also be specified.

3.3.3.5.5 *Wells*

Applicants must provide the name, unique well identifier and finished drilling date for all wells included in the proposed project.

Note

If an asset or facility is not clearly identified by the project applicant, it will not be included in the project description that forms a part of an OSR project approval order. Unless the asset or facility is included in the project description, its costs are not allowed as project costs and cannot be considered in calculating the prior net cumulative balance.

3.3.3.5.6 Financial Details

Financial information submitted by an oil sands royalty project applicant is treated as confidential in accordance with section 50 of the Act and with the *Freedom of Information and Protection of Privacy Act*, RSA 1994, c. F-18.5.

All financial information is subject to verification by Department of Energy auditors.

Project costs and revenues must be itemized on standard **prior net cumulative balance (PNCB)** forms and **supported by authorizations for expenditure (AFE)** or comparable budgetary approval documents and invoice numbers. Relevant AFE should be submitted as part of the OSR project application.

Applicants may download the required PNCB forms from the Department website or use in-house equivalents. For samples of the Department's standard PNCB forms, please refer to the appendices.

The following PNCB forms must be submitted for each scheme or operation proposed for inclusion in the oil sands royalty project. Separate forms must be completed for each scheme:

- Calculation of Prior Net Cumulative Balance: Summary
 - This form summarizes the costs and revenues for the appropriate period. Applicants must provide information for all the categories included on this form.
- Prior Net Cumulative Balance: Cost Detail
 - A cost detail form must be completed for each year reported on the summary form.
 - For all capital assets listed on this form, the corresponding AFE number should be cross-referenced on a separate sheet.
- Prior Net Cumulative Balance: Revenue Detail
 - A revenue detail form must be completed for each year reported on the summary form. Applicants must provide information for all the categories included on this form.

The project operator must also include an electronic transaction listing of capital and operating expenses claimed that reconciles with the total amounts claimed on the

PNCB. This file should include enough information to allow the Department of Energy auditors to trace a transaction to its supporting documentation.

For details about prior net cumulative balance calculations and timing rules for eligible costs, see 2.3.10, "Prior Net Cumulative Balance".

3.3.3.5.7 Forecast Data

All applications for proposed projects or proposed project amendments must be accompanied by economic forecast data. Any applications not including these data will be considered incomplete applications.

Financial information submitted by an oil sands royalty project applicant is treated as confidential in accordance with section 50 of the Act and with the *Freedom of Information and Protection of Privacy Act*, RSA 1994, c. F-18.5.

The Regulation requires the Minister to consider the economics of all proposed projects and proposed amendments to projects. Where, for example, a project expansion is proposed, the operator must submit data for two cases: a standalone case, where the project and the proposed expansion are treated as independent, separate projects, ignoring any synergies or economies of scale; and a combined case, where the project and proposed expansion are joined. A minimum of 10 years of annual data must be provided, and in some cases the Department may request more data. To facilitate the economic evaluation of proposed projects and proposed project amendments the applicant must submit the following information for both cases:

- Sales volumes* for each oil sands product (i.e., crude bitumen, blend, Synthetic Crude Oil (SCO) etc.) in cubic metres per year, indicating API, sulphur % and Total Acid Number* (TAN).
- Sales price for each oil sands, product in \$CDN per cubic metre.
- The quantities of arm's length and non-arm's length dispositions* for each oil sands product, in cubic metres per year.
- The quality differential* for each oil sands product, and the benchmark used.
- Bitumen production volumes, in cubic metres per year.
- Handling charges* for each oil sands product, in cubic metres per year, indicating blending fees, transportation charges, tankage charges and other handling fees.
- Other oil sands product revenues, by source.
- Natural gas volumes used, in cubic metres per year.
- Natural gas price, in \$CDN per gigajoule.
- Diluent* volumes used for each oil sands product, in cubic metres per year.
- Allowed operating costs, in \$CDN, broken down by major cost categories.
- Allowed capital costs, in \$CDN, broken down by major cost categories.
- Number of wells drilled to date and number of wells currently producing.

- Other net proceeds, in \$CDN, broken down by source.
- Forecasted project payout date, for each case (i.e., separate project and expansion, combined project).

Applicants may download the required economic evaluation data forms from the Department website.

3.3.3.5.8 Signatures

Applications for oil sands projects must be signed by an **authorized officer** who represents the project owner or the owner's designee and by the **person who completed the application**

These signatures

- verify that the information included in the application is accurate
- authorize the Department to audit the information and to access additional project records, if required
- confirm that the applicant accepts responsibility for reporting project changes to the Department
- confirm the applicant's willingness to comply with the provisions of the Oil Sands Royalty Regulation, 1997 (AR 185/97)

3.4 The Approval Process

3.4.1 Department Review

When an oil sands royalty project application is received, Department staff review it to ensure that

- the application is complete
- all required attachments have been included
- the required signatures are present
- the proposed project meets the requirements of the Regulation (For details about OSR project requirements, see 2.2, "OSR Project Requirements")

If the application is in good order, a staff member assigns a provisional **project approval order number** (see 2.3.2, "The Project Approval Order Number") and a provisional **effective date** (see 2.3.9, "The Effective Date"). The application is then reviewed by the Oil Sands Business Unit.

3.4.2 Project Approval: The Ministerial Order

Oil Sands Royalty Regulation, 1997 (AR 185/97), section 16(2)

Once the financial information has been reviewed and accepted, a preliminary project approval order is drafted and forwarded to the Department's Legal Services branch. Branch staff prepare the final project approval order and assign a Ministerial Order number.

The Ministerial Order is signed by the authorized delegate of the Minister. The original document and related attachments are kept on file with the Department. Pertinent information is entered into the Department's royalty information system.

The Ministerial Order provides legal authority and approval for an oil sands royalty project. An **appendix** to the Ministerial Order

- *describes the project, its facilities, assets, and operations and indicates whether or not it is a qualifying joint venture*
- *specifies the effective date and the project approval order number*
- *specifies the prior net cumulative balance*
- *identifies the project operator*
- *outlines any **terms and conditions** to which the approval is made subject*

An example of a Ministerial Order and attachments is included in Appendix B – "Project Application Forms and Approvals".

Confidentiality

Ministerial Orders are not public documents. The information they contain is treated as confidential.

3.4.3 How Long It Takes

Department of Energy staff, makes every effort to expedite the exchange of information with project applicants. Assuming that a project application is complete—and if there are no unusual circumstances—the project approval process typically takes 6 months.

Section 16(3)(c) of the 1997 *Oil Sands Royalty Regulation* states that the effective date cannot be earlier than the first day of the month that precedes by **9 months** the month in which the project or project amendment is approved by the Minister.