

Ministry of Natural Gas Development
Guide to BC *Petroleum and Natural Gas Act* Lease Continuations

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The information in this guide is for your convenience and guidance and is not a replacement for the legislation or regulations. You can access the legislation and regulations online through [BC Laws](#).

Summary of Revisions

Effective date	Section	Description
December 2015	All	Updated to clarify information in some sections. Added an appendix with detailed information on applying for continuation under section 58 (3) (a). No changes to policy.
May 2016	Appendix A	Amended information on using seismic to delimit a pool, in Appendix A, to clarify isochron data can be used to delimit a pool in a small area (locally) but not over large areas (regionally).

Introduction

Section 50 of the *Petroleum and Natural Gas Act* (Act) defines a lease as a petroleum and natural gas lease, which provides the holder with the exclusive right to produce petroleum and natural gas from its location. A lease expires on its 5th or 10th anniversary depending on its location; however, there are several options for continuing a lease past expiry. This guide details the different lease continuation provisions in the Act, including how to demonstrate eligibility for continuation in an application.

The Ministry has also published online a [Guide to Oil and Gas Land Plats and Tenure Areas](#). This guide explains the process for accessing maps and shape files that illustrate land plats and tenure areas in British Columbia.

Reference is made throughout this document to the Director of Petroleum Lands (Director). The Director is a statutory decision maker established under the *Petroleum and Natural Gas Act* and its Regulations. This authority is typically assigned to the Executive Director of the branch responsible for tenure issuance, administration and management.

Preparing Your Lease Continuation Application

You must apply to the Director of Petroleum Lands (the Director) for a lease continuation. You can continue all or part of your lease – depending on the eligibility requirements for the section of the Act under which you apply. It is important to identify under which provision you wish to apply and how you wish the Ministry to handle those zones or spacing areas not eligible for continuation under that provision. Zones or spacing areas not eligible for continuation under one section (e.g. section 58 (3) (a) of the Act) may be eligible under another section (e.g. section 58 (3) (c) or section 62 of the Act).

When different parts of a lease are eligible for continuation under different sections of the Act, you can subdivide and continue each part. You can subdivide in your continuation application, or you can make subdivision contingent on the outcomes of your continuation application. It is your responsibility, as a lease holder, to determine under which continuation provisions you wish to apply and to structure your application accordingly.

You can revise your continuation application up to the deadlines established by the Act, which are outlined in the section on [Lease Continuation Provisions](#) below. The deadline for continuation applications varies depending on the type of continuation applied for and ranges from prior to expiry to 60 days past expiry. The Ministry will not issue a decision on a continuation application for a lease until its expiry date. It is very important to take note of the deadlines associated with each option to ensure there are no conflicts in your application package. For example, an unsuccessful request for continuation of a lease under section 58 cannot be followed by a request for a continuation under section 61 because the deadline for section 61 would have passed before the decision for section 58 was issued.

Once your lease expires, work cannot take place until an application to continue your lease is approved. This is especially an issue with section 58 since the deadline to apply to continue your lease is 60 days past expiry. It is in your best interest to apply as early as possible for a continuation under section 58 to avoid working in contravention of section 110 of the Act, which prohibits work for the purpose of producing petroleum or natural gas that is the property of government.

To help prevent unwanted lease expiry ensure your application:

- Identifies under which provisions you are applying;
- Shows how the zones and spacing areas in your lease meet the eligibility criteria;
- Indicates how the Ministry should handle zones or spacing areas which are not eligible for continuation; and
- Adheres to the application deadlines set for each provision.

Issuing the Decision

Once your continuation application is received, technical staff at the Ministry will review it and provide advice and recommendations to the Director on which zones and spacing areas in the lease are eligible for continuation under the Act. If the recommendations by technical staff at the Ministry are different from what you have requested in your continuation application, the Ministry will notify you of the recommendations and the reasons for them via a letter. You have 30 days to respond to this letter.

If you accept the recommendations sign the acknowledgement form included with the letter and return it to the Ministry.

If you disagree with the advice and recommendation, you may submit your own interpretation of the technical information contained in your original lease continuation application in support of the continuation you are seeking.

Amendments to lease continuation applications may be made up to the deadlines set out under the Act but no later (see [Lease Continuation Provisions](#) below). New technical information cannot be submitted with the response to the recommendations as typically the deadline has passed and the application can no longer be amended. You must limit your response to interpretation of the information submitted to the Ministry prior to the application deadline.

The final approval of a lease continuation is at the discretion of the Director, who will take into account the recommendations of Ministry technical staff and any information or interpretations provided by the tenure holder in support of their application. Please note a section 58 (3) (c) - continuation for a program of exploratory work - is at the discretion of the Assistant Deputy Minister.

Lease Continuation Provisions

Continuation of “Eligible Spacing Areas” - Section 58 (3) (a)

What Can Be Continued: “Eligible spacing areas” in the location of the lease.

Eligibility Requirements: An “eligible spacing area” is a spacing area that meets one of the following criteria:

- contains a petroleum well or a gas well (i.e. a well capable of production);
- is subject to a special project designation under section 75 of the *Oil and Gas Activities Act*;
- in the opinion of the Director, covers, to the extent of at least one half of its area, a pool of petroleum or natural gas that has been delimited; or
- in the opinion of the Director, may be adequately drained by a petroleum well or a gas well situated on a contiguous spacing area.

Application Requirements: You must demonstrate the existence of an eligible spacing area. Please refer to [Appendix A](#) for detailed information on applying.

Application Deadline: 60 days past expiry of the current term.

Duration: One year. Once approved, the lease is continued annually through payment of rent, unless the eligibility for continuation changes. Please see [Appendix A](#) for more information on reduced continuation eligibility and the opportunity to submit a new application.

Rights Reversion: Subject to zone specific retention or deep rights reversion. For more information see section on [Rights Reversion](#) below.

Continuation for a Unit or Royalty Agreement - Section 58 (3) (b)

What Can Be Continued: Entire lease or parts of a lease.

Eligibility Requirements: An entire lease or parts of a lease that are subject to a unit or royalty agreement. Section 78 and section 114 of the Act enable the Crown to enter into unit or royalty agreements.

Application Requirements: You must submit an application to continue all or part of a lease subject to a unit or royalty agreement to the Director.

Application Deadline: 60 days past expiry of the current term.

Duration: One year. Leases subject to a unit or royalty agreement are continued annually on payment of rent unless there is a change to the unit or royalty agreement, which would then require a re-application for continuation.

Rights Reversion: Subject to zone specific retention or deep rights reversion. For more information see section on [Rights Reversion](#) below.

Note: The Ministry maintains copies of unit agreements and unit outlines, which are available for public inspection during business hours.

Continuation for a Program of Exploratory Work - Section 58 (3) (c)

What Can Be Continued: All or part of a lease. May include spacing areas in additional leases which will be drilled through as part of the commitment well, or evaluated by the program of work.

Eligibility Requirements: You must provide a written commitment to carry out a one-year program of work that, in the opinion of the Director, is designed to delimit pools of natural gas or oil on the spacing areas proposed for continuation. If the Division Head (the Assistant Deputy Minister of the Upstream Development Division) approves the program of work, the Director must continue the lease.

Application Requirements: Normally, drilling of new wells or completion of existing wells is required to delimit a pool of natural gas or oil. Drilling or completion commitments may be made contingent on the results of other preliminary exploration work. Where that preliminary work includes seismic work, it must evaluate all spacing areas proposed for continuation. If geophysical work is part of the program, then an interpretive report on the results of geophysical and drilling work is required as part of the approved program of work.

Application Deadline: 60 days past expiry of the current term.

Duration: One year. You can use this provision only once, except in extraordinary circumstances.

Rights Reversion: Only those parts of a lease not covered by the program of work and ineligible for continuation under another provision of the Act revert to the Crown. Portions of the lease covered by the program of work are approved down to the base of the target zone. For more information see section on [Rights Reversion](#) below.

Continuation While Completing Work to Establish a Well - Section 58 (3) (d)

What Can Be Continued: The entire lease.

Eligibility Requirements: If drilling of or work on the establishment of a well is incomplete at lease expiry, you can apply for continuation to continue the drilling or complete the work. If expiry is imminent, you are advised to inform the Branch by e-mail, Fax or letter that an application under this section will be made. Except under extraordinary circumstances, work to establish a well is firm completion work carried out after the well is drilled.

Application Requirements: The Director must be satisfied that the drilling of or work on the well will continue if the lease is continued. Your application must clearly explain the work required to complete establishment of a well.

Application Deadline: 60 days past expiry of the current term.

Duration: One year. Renewed annually. There is no limit to the number of times you can use this provision, so long as the drilling or work on the establishment of a well is underway at the expiry date of the lease.

Rights Reversion: All rights below the base of the deepest target zone identified in the OGC well permit revert to the Crown upon continuation. For more information see section on [Rights Reversion](#) below.

Continuation by Commitment to Drill – Section 61

What Can Be Continued: Any or all leases drilled through by the commitment well may be continued for one year if they are expiring.

Eligibility Requirements: A commitment to drill a well on the location of the lease to be continued.

Application Requirements: You must submit a written commitment to the Director to drill a well on the location of the lease to be continued.

Application Deadline: You must apply *prior to the expiry of the current lease term*.

Duration: One year. You may apply to continue your lease under this provision in subsequent years with *additional commitments to drill*; however, gas spacing areas capable of production will be split out from the lease and continued under section 58 (3) (a).

Implications of Non-Performance: The Director has the authority to cancel the lease if the commitment well is not drilled.

Non-performance under section 61 may impact the Ministry's consideration of future applications under section 58 (3) (c), which also hinges on commitment to perform work.

Rights Reversion: Leases are not subject to rights reversion while continued under this section.

Note: This continuation option is different from a well commitment that is included in a program of work under section 58 (3) (c). Section 58 (3) (c) allows up to 60 days past expiry to apply, is subject to rights reversion, allows multiple leases and spacing areas to be continued beyond the lease being drilled, and has a duration of one year with no subsequent continuations.

Continuation for Disposal Purposes – Section 61.1

What Can Be Continued: One or more zones within one or more eligible spacing areas with an existing or planned eligible disposal well.

Eligibility Requirements: An eligible spacing area is a spacing area, other than a spacing area that is subject to a special project designation under section 75 of the *Oil and Gas Activities Act*, which meets one of the following criteria:

- contains an eligible disposal well;
- is, in the opinion of the Director, planned to contain an eligible disposal well; or
- is, in the opinion of the Director, likely to be needed in relation to an existing or planned eligible disposal well that is situated on a nearby spacing area.

An eligible disposal well is used or planned to dispose of water, carbon dioxide, or other waste fluids associated with natural gas or oil exploration, production or processing.

Application Requirements: Your application for continuation under this section should identify the eligible disposal well or describe plans to create one. If the spacing area is required to support an existing or planned disposal well on a nearby spacing area, you should provide technical details to demonstrate this need. You should indicate in your application which zone(s) will be used for disposal purposes.

Application Deadline: 60 days past expiry of the current term.

Duration: One year. Eligible spacing areas are continued annually upon payment of rent, unless the spacing area is no longer eligible in the opinion of the Director (i.e. the Director becomes aware that the well is no longer suitable for disposal operations or the planned disposal does not proceed).

Rights Reversion: The petroleum and natural gas rights granted by the lease that are outside the zone or zones continued under this section revert to the Crown, subject to continuation under section 58.

Note: This section does not apply to wells that are approved as a special project under section 75 of the *Oil and Gas Activities Act*. Leases approved as special projects are considered eligible spacing areas and may be continued under section 58 (3) (a) of the Act.

Continuation by Penalty Payment – Section 62

What Can Be Continued: All or part of a 10-year lease.

Eligibility Requirements: A 10-year lease

Penalty amounts:

- First use: \$15/ha
- Second and Third uses: \$25/ha

Application Requirements: You can choose to continue a 10-year lease by penalty payment. This option does not require a written application. You apply for this option using ePayments.

You can also make your continuation under this section contingent on whether or not your lease is continued under another section of the Act. For example, you can apply for continuation under section 58 (3) (a) “eligible spacing areas” and request that spacing areas not eligible for

continuation under section 58 (3) (a) be continued by penalty payment. For more information refer to the [Preparing Your Continuation Application](#) section above.

Application Deadline: 60 days past expiry of the current term, or upon refusal of an application under section 58 or section 61.1.

Duration: One year, up to a maximum of three times.

Rights Reversion: Leases are not subject to rights reversion while continued under this section.

Note: You cannot use this provision to continue a lease with a 5-year primary term.

Rights Reversion

Leases may be subject to rights reversion when they are continued. Rights reversion refers to the stratigraphic division of a lease where the rights to some zones are continued in the lease while others revert to the Crown.

Leases obtained directly from or belonging to a chain of title originating from a Crown disposition held on or after March 29, 2007 are subject to the stratigraphic reversion rules set out under section 59 of the Act. These rules, also known as zone specific retention, mean some types of lease continuation are determined on the basis of *individual zones in individual spacing areas* within the location of a lease.

Leases obtained from a Crown disposition prior to or belonging to a chain of title originating prior to March 29, 2007 are subject to deep rights reversion rules set out under section 59.1 of the Act – not the zone specific retention rules set out under section 59 of the Act. Deep rights reversion means that rights below the deepest zone eligible for continuation revert to the Crown upon lease continuation.

Contact Information

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Appendix A: Section 58 (3) (a) Applications

Section 58 (3) (a) deals with lease continuations on a spacing area by spacing area basis. It requires that the Director consider where a pool of hydrocarbons has been “delimited”. Hard control points including new, old, producing and non-producing wells, and soft control such as specific seismic attributes demonstrated to be useful in locating well bores, form the basis for this determination.

Land Plats illustrate in map view the oil or gas spacing areas determined to be delimited in a pool, and name the geological formation in which the pool is recognised. Land Plats are the official record of those spacing areas in which the Director of Petroleum Lands recognizes a pool of hydrocarbons to exist for the purpose of administering oil and gas title.

For conventional reservoirs, a producing well will typically continue only the spacing area drained by that well. If a spacing area has not been drilled, a line of correlation across the spacing area may help to delimit a pool over the undrilled spacing area, provided the offset wells demonstrate reservoir continuity and the presence of hydrocarbons. In some cases, seismic data paired with well control may also be used to delimit a pool over an undrilled spacing area.

In areas where a resource play (such as the Montney, Horn River, Jean Marie or Deep Basin Cadomin) has been demonstrated, the Director’s continuation criteria are more generous than for a conventional reservoir. The Director will allow continuation of a spacing area if the applicant can demonstrate that a pool has been delimited by a control well drilled on the spacing area or in an adjacent spacing area. A control well is one that has tested or produced hydrocarbons, or has certain log characteristics that are analogous to a nearby well that flowed hydrocarbons from the zone of interest. For example, an old abandoned well with similar density-neutron log and mud gas responses to a known successful well nearby is accepted in geographic areas where the resource play has been proven successful. If there is no well control on or adjacent to a spacing area in your lease, there is likely insufficient evidence for us to delimit a Montney pool over the spacing areas, and additional drilling will likely be needed.

If a spacing area has been drilled and tested, or is within a recognized Land Plat, a simple letter noting the successful well and hydrocarbon zone, or the Land Plat, is typically sufficient. However, for undrilled spacing areas or untested wells, a more complex technical package will normally be required. We encourage applicants to include interpretations and conclusions drawn from geological, geophysical, production, completion and well evaluation information to support the case for delimiting a pool. For example, include a discussion of the zone(s) of interest and key wells, highlight the key wells on a map, and include an interpreted cross-section correlating the key wells and clearly identifying prospective pay intervals on well logs. This is particularly important if you are seeking to demonstrate that untested wells or intervals are analogous to wells that tested or flowed hydrocarbons.

In specific cases where seismic data can be clearly demonstrated to result in superior well locations and results, an application that includes a seismic map illustrating the attributes that bring you success in locating your well bores, along with a representative seismic record section, may result in continuation of undrilled spacing areas. Seismic amplitude response data may be used to delimit Land Plats, for example porous reservoir in the Jean Marie zone. However, if seismic is being used only to map the thickness of a package, such as regional Montney isochron data, it will not be sufficient to delimit a pool.

Geological or net pay maps can be a useful way of presenting your interpretations, but may not be sufficient to delimit a pool if hard well control or useful seismic is absent on or near the spacing area of interest.

The Branch reviews and maintains a record of proprietary geological interpretations, seismic indications, supporting engineering analysis and all well information, and our technical staff make an effort to review relevant wells and data on and near a lease, even if it is not presented in your technical package. However, it is important that you point out key supporting data to ensure that it is examined.

Reduced Continuation Eligibility

Land plats are amended as new technical information is received. If an amendment alters the size of a land plat, all or some of the spacing areas contained in a lease may no longer satisfy the “eligible spacing area” criteria. When this happens the ministry will send a “Notice of Reduced Continuation Eligibility” (notice) to each title holder of record on the date of the notice. The notice will list the affected spacing areas and advise title holders to submit a new continuation application or surrender the spacing areas listed.

The Ministry will send the notice a minimum of three months prior to the lease anniversary date. Continuation of the affected spacing areas beyond the next anniversary date will require the approval of an application by the normal deadline (i.e., 60 days past the anniversary date).

Appendix B: Frequently Asked Questions

1. I continued a lease under section 62; however, I would like to continue the lease under section 58. Can I cancel a section 62 continuation and apply under section 58?

No, once your lease is continued, the Ministry cannot issue a new continuation until the next expiry date.

2. My 10 year lease was not continued under section 58. Can I continue it under section 62?

Yes, you can continue a 10 year lease not continued under another section under section 62 a maximum of 3 times.

3. I am not sure what section to continue a lease under, how do I keep my options open after the expiry date without paying a late rent payment penalty?

You have 60 days past expiry to apply for continuation under section 58, 61.1, or 62. You can pay your rent through ePayments if you want to avoid a later rent penalty and note the submission number. Once you know what you are planning to do, please notify the Ministry and quote the submission number so they know what action is required on the title.

4. I would like to apply to continue my lease under two different sections of the Act. How can I do that?

Your covering letter should indicate the rights to be continued under each section. You will pay rent in ePayments as a continuation submission for the entire number of hectares to be continued. Once an application is assessed, the Ministry will split the lease as well as the rents and request funds owing via ePayments.

5. I want to submit my continuation application to the Ministry more than 60 days prior to the expiry of my lease. Can I do that?

Applications for continuation are processed once paid in ePayments. Rents for leases that are being applied for initial continuation can only be paid in ePayments 60 days prior to the lease expiry date. The earliest we issue a continuation is on the lease expiry date.

6. I want to apply for continuation by sending an email with technical information attached to it. Can I do that?

All technical information must be in hard copy.

7. I received a response to my application. The letter mentioned that a description amendment was attached, but I don't see one. Where can I get a copy?

Description amendments are sent to all registered title holders of a lease.

8. I received a reply to my application to continue a lease. Can I submit additional technical information or discuss the Ministry's evaluation of our submission?

The Ministry does not allow submission of additional technical information; however, you can offer clarification on existing data up to 30 days after the date of your decision letter. Send an email to the person who signed the response. In the email your Geologist needs to outline the concerns they have with our analysis and give us detailed information on why they believe the response should be different from what was received based on interpretation of the original package submitted. Ministry staff will examine any clarifications provided and issue reasons for decision. In the event an error was made in the original decision, the Ministry will correct it.

9. I have several leases I wish to continue, can I apply to continue all of them in one submission?

Yes, if they are related (in close proximity, covering the same or similar zone). No, if they are not. The Ministry will advise if your submission covering multiple zones is accepted.