

Implementation of Alberta's new liability framework for oil and gas reclamation

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In July 2020, the Alberta government issued its new Liability Management Framework (the Framework), aimed at reducing the province's inventory of orphan and inactive well sites. That inventory includes close to 97,000 inactive wells and the Orphan Well Association's [list](#) of over 7,000 orphan sites in various stages of decommissioning, assessment and reclamation.

On December 17, 2020, the Alberta Energy Regulator (the AER) [announced](#) [PDF] the latest steps taken to implement the Framework. The Alberta government has now approved changes to the *Oil and Gas Conservation Rules* (OGCR) and *Pipeline Rules* to allow the AER to develop new liability management programs. In this article, we provide an overview of these changes and look ahead to what changes are still to come.

You can find a summary of the Framework in our [Osler update](#) from August 2020.

What are the latest changes?

The Alberta government has approved the following rule changes to help implement the Framework:

- The AER may now set closure targets (or closure quotas) for licensees, meaning that the AER can require a licensee to complete a specific amount of work or spend a specific dollar value over a period defined by the AER with respect to closure of the licensee's wells, facilities and pipelines. The OGCR and *Pipeline Rules* clarify that "closure" involves the permanent end of operations and includes abandonment and reclamation. These rule changes are intended to promote the timely reclamation of wells, facilities and infrastructure.
- The OGCR and the *Pipeline Rules* now include provisions requiring licensees to provide closure plans when requested by the AER. Closure plans must be approved by the AER and will be subject to any terms and conditions the AER decides to impose.
- The AER may direct the timing and priority for performing work with respect to closure of a licensee's wells, facilities and pipelines.
- The OGCR now allows "eligible requestors" to nominate inactive or abandoned wells and facilities for closure work. Eligible requestors include private landowners, in the case of sites located on private lands, and the Minister of Energy and public lands disposition holders, in the case of sites located on public lands. First Nation band councils, Métis

settlements and municipalities can also nominate sites on their respective lands.

- Licensees are required to provide financial and reserves information to the AER when the AER directs them to do so. The AER may require licensees to provide this information for the purposes of assessing licensee eligibility, administering liability management programs or otherwise ensuring the safe, orderly and environmentally responsible development and closure of energy resources.

The OGCR and *Pipeline Rules* suggest that the AER will be publishing directives to further specify how these new measures will be used going forward.

These changes all provide the AER with additional tools to hold current licensees accountable for addressing their abandonment and reclamation obligations. Previously, the AER primarily addressed these obligations when a licensee became insolvent or sought permission to transfer their licences to a third party. These new tools will allow the AER to address abandonment and reclamation obligations more proactively.

For current oil and gas licensees in Alberta, the implication of these changes is that they will likely be required to make additional and ongoing investments in abandonment and reclamation. Such investments could place additional pressures on companies that are already facing challenges with the COVID-19 pandemic and depressed commodity prices.

What changes are still to come?

The AER has announced that several changes to requirements, processes and systems are planned to improve existing liability programs and implement the new Framework. While there is no timeline for when these changes will come, we expect to see further developments in this area in early 2021. The AER's [Bulletin 2020-26 \[PDF\]](#) states that the AER will be seeking public feedback on these changes.

Future AER directives and regulatory or policy changes will have to address questions remaining with respect to how the AER will bring into effect the Framework's proposed mandatory five-year rolling spending targets for site reclamation, a guidance and support program for operators and a process for addressing how to fully reclaim legacy and post-closure sites to current reclamation standards. It also remains to be seen how the AER's Licensee Liability Rating program – the current mechanism used to determine an operator's eligibility to hold a licence based on their assets-to-liabilities ratio – will be replaced with a more comprehensive and accurate corporate health assessment.

This will continue to be an important development for the oil and gas industry to follow through 2021.