

Alberta's New Liability Management Framework for Oil and Gas Industry – Update from the Alberta Energy Regulator

By [Jacquelyn Stevens](#), Partner and Certified Specialist in Environmental Law by the Law Society of Ontario, and [Lauren Wortsman](#), Associate.

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On July 30, 2020, the Government of Alberta announced its new Liability Management Framework (“LMF”) for the oil and gas industry. The LMF, which includes new mechanisms and requirements to improve and expedite reclamation efforts, aims to enable the industry to better manage the cleanup of oil and gas wells, pipelines, and facilities.¹ The obligations in the LMF attempt to shrink the inventory of inactive and orphaned wells across Alberta, ensure more timely restoration of land to its original state, and protect future generations from experiencing a backlog of sites needing cleanup.²

The growing inventory of orphaned and inactive wells has become a significant issue in recent years in Alberta. As of July 2020, there were 96,969 inactive wells in Alberta.³ The Orphan Well Association, which closes wells, pipelines, and facilities that do not have solvent and responsible owners, had an inventory of 2,983 orphan wells for abandonment and 3,284 sites for reclamation as of April 2020.⁴ The LMF attempts to address the increasing inventory of inactive and orphaned sites in Alberta.

The LMF contains the following key components:

- 1 **Licensee Special Action** – provides practical guidance and support for individual or distressed operators to help them manage and maximize their assets to maintain their operations.
- 2 **Licensee Capability Assessment System** – replaces the Alberta Energy Regulator’s (“AER”) current Licensee Liability Program. The new Licensee Capability

¹ Alberta, “Clear Rules Advance Cleanup of Oil and Gas Wells” (30 July 2020), online: <https://www.alberta.ca/release.cfm?xID=72928417D69DB-F217-3A72-879326E24DAF392D>.

² *Ibid.*

³ *Ibid.*

⁴ Alberta, “Oil and Gas Liabilities Management”, online: <https://www.alberta.ca/oil-and-gas-liabilities-management.aspx>.

Assessment System assesses the capabilities of oil and gas operators to meet their regulatory liabilities obligations prior to receiving regulatory approvals. The System will take into account a wider variety of assessment parameters in an attempt to enable a more comprehensive and accurate corporate health assessment.

- 3 **Inventory Reduction Program** – establishes annual industry site closure spending targets over a five-year rolling period to help reduce inactive well inventories. This program includes an area-based closure program in which companies work together to share the cost of cleaning up multiple sites in an area. The program also provides for an opt-in mechanism that allows landowners to nominate sites for cleanup. Requests for cleanup will be reviewed by the AER, and operators will be responsible for justifying why a site should not be immediately brought through closure stages.
- 4 **Addressing legacy and post-closure sites** – establishes a process to address sites that were abandoned, remediated, or reclaimed before the current standards were put in place and sites that received reclamation certificates and the operator’s liability period has passed. A panel will be created to determine how to bring these legacy and post-closure sites in line with current environmental requirements.
- 5 **Expanding the mandate of the Orphan Well Association** – The *Liabilities Management Statutes Amendment Act*⁵ came into effect on June 15, 2020 and expanded the role of the Orphan Well Association to enable the Association to better manage and accelerate the cleanup of wells, infrastructure, and pipelines. The Association has expanded authority to protect the value of producing assets, protect jobs and public safety, and mitigate the risk of a growing inventory of orphan sites.⁶

Under the LMF, the Alberta government sets the policy direction and provides oversight, while the AER is responsible for administration and enforcement.⁷

On December 17, 2020, the AER released a [Bulletin](#) setting out its progress on implementing the LMF.⁸ The Bulletin states that the Government of Alberta approved

⁵ SA 2020 c4.

⁶ Alberta, “Liability Management Framework” (July 2020), online: <https://www.alberta.ca/assets/documents/energy-liability-management-framework.pdf>.

⁷ Alberta, “Clear Rules Advance Cleanup of Oil and Gas Wells” (30 July 2020), online: <https://www.alberta.ca/release.cfm?xID=72928417D69DB-F217-3A72-879326E24DAF392D>.

⁸ Alberta Energy Regulatory, “Bulletin 2020-26: Changes to Oil and Gas Conservation Rules and Pipeline Rules” (17 December 2020), online: <https://www.aer.ca/regulating-development/rules-and-directives/bulletins/bulletin-2020-26>.

changes to the *Oil and Gas Conservation Rules* and *Pipeline Rules* that enable the AER to:

- 1 Set closure spend targets for industry to support timely inventory reduction
- 2 Direct the timing and priority work in a licensee's closure plan and subject the plan to specific terms and conditions, and
- 3 Collect company financial and reserves information.⁹

The changes also allow landowners and other “eligible requesters” to nominate inactive or abandoned wells and facilities for closure work through an “opt-in” process.¹⁰ “Eligible requesters” include private landowners, the Ministry of Energy, public lands disposition holders, First Nations Band Councils, Metis settlements, and municipalities.¹¹

The Bulletin notes that there are still several changes to AER requirements, processes, and systems yet to come as the AER works to implement the LMF. Industry participants will want to keep an eye out for further details on the LMF and consider how their responsibilities may change under the new framework.

[Jacquelyn Stevens](#) is a Partner with Willms & Shier Environmental Lawyers LLP in Toronto and is certified as a Specialist in Environmental Law by The Law Society of Ontario. Jacquie may be reached at 416-862-4828 or by e-mail at jstevens@willmsshier.com.

[Lauren Wortsman](#) is an Associate lawyer at Willms & Shier Environmental Lawyers LLP in Toronto. Lauren may be reached at 416-642-4873 or by e-mail at lwortsman@willmsshier.com.

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⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Oil and Gas Conservation Rules*, Alta Reg 151/71, s 3.016(2).