

Bulletin 2021-32

August 10, 2021

2021/22 Orphan Fund Levy for Large Facilities

In accordance with Part 11 of the *Oil and Gas Conservation Act* and [Directive 024: Large Facility Liability Management Program \(LFP\)](#), the Alberta Energy Regulator (AER) is prescribing an LFP orphan fund levy of \$3.5 million for the 2021/22 fiscal year, to be issued in September of 2021.

The levy will support the closure costs for large facilities in the LFP with licences held by defunct licensees. This is the first time such a levy has been necessary. The Orphan Well Association (OWA) and licensees with facilities in the LFP support the need to issue an LFP orphan fund levy as needed.

This year's \$3.5 million levy will be allocated proportionately among licensees with facilities in the LFP based on the facility-specific liability assessments as of September 4, 2021. For information on liability assessments, see [Directive 001: Requirements for Site-Specific Liability Assessments in Support of the ERCB's Liability Management Programs](#).

The LFP orphan fund levy is separate from the orphan fund levy for facilities and wells in the Licensee Liability Rating (LLR) Program and Oilfield Waste Liability (OWL) Program. Funds collected by the LFP orphan fund levy will go solely to cleaning up LFP facilities of defunct licensees.

Levy Formula

Each licensee with facilities in the LFP will be invoiced for its proportionate share of the orphan fund levy in accordance with the following formula:

$$\text{Levy} = \frac{A}{B} \times \$3\,500\,000$$

where

- *A* is the sum of the licensee's deemed liabilities on September 4, 2021, for all of its facilities in the LFP, determined as per *Directive 024*; and
- *B* is the deemed liability on September 4, 2021, for all facilities in the LFP *minus* the liability of any facilities in the LFP licensed to a defunct licensee, also determined as per *Directive 024*.

The deemed liability of a large facility is the current cost estimate to suspend, abandon, remediate, and reclaim based upon the most recent site-specific liability assessment accepted by the AER.

A licensee may review its deemed liabilities in the LFP at any time through the Digital Data Submission (DDS) system on the AER website at www.aer.ca.

Notification and Payment

An LFP orphan fund levy invoice will be sent to the attention of each licensee's chief financial officer by email to the address the AER has on file.

Licensees must notify [Directive067@aer.ca](mailto:Directive067@ aer.ca) of any changes to their email address. In the event the AER does not have an email address on file or an emailed invoice has been returned as "undeliverable," the AER will send a hard copy of the invoice to the corporate mailing address provided under *Directive 067: Eligibility Requirements for Acquiring and Holding Energy Licences and Approvals*.

Licensees are reminded that it is their responsibility to ensure that *Directive 067* records are kept up to date. To update corporate email or mailing addresses, contact [Directive067@aer.ca](mailto:Directive067@ aer.ca).

LFP orphan fund levy invoices will be emailed by September 16, 2021. The licensee is responsible for ensuring that the invoice is directed to the appropriate person. If the licensee does not receive their invoice by September 23, 2021, they must contact [OrphanLevy@aer.ca](mailto:OrphanLevy@ aer.ca) to request a copy.

All LFP orphan fund levy invoices must be paid in full by the licensee and received by the AER by **October 15, 2021**. Payment must be made payable to the "Alberta Energy Regulator" in Canadian currency using an acceptable financial instrument, such as a cheque, money order, or bank draft. We cannot accept cash or electronic fund transfers at this time.

Failure to pay the full invoiced amount by October 15, 2021, will result in a penalty of 20 per cent of the original invoiced amount being assessed to the licensee pursuant to section 74(2) of the *Oil and Gas Conservation Act* and section 16.531(4) of the *Oil and Gas Conservation Rules*. Additional compliance measures may also be applied in accordance with the AER's compliance assurance program.

Furthermore, information regarding nonpayment of debt may be used in a licensee capability assessment, which involves determining a company's ability to meet its financial obligations throughout the life cycle of its energy projects. For more information about the licensee capability assessment, see www.aer.ca > Providing Information > By Topic > [Liability Management](#).

Appeal

Section 76 of the *Oil and Gas Conservation Act* sets out the grounds for an appeal. A written appeal must be submitted within 30 days of the mailing date shown on the invoice, as per section 16.540(1) of the *Oil and Gas Conservation Rules*. The written appeal may be either emailed to the attention of Finance at OrphanLevy@aer.ca or mailed to the following address:

Attention: Finance
Alberta Energy Regulator
Suite 1000, 250 – 5 Street
Calgary, Alberta T2P 0R4

Even if an appeal is filed, payment in full of the original invoiced amount is required by October 15, 2021, to avoid an automatic notice of noncompliance and 20 per cent penalty. The AER will refund any overpayment resulting from a successful appeal within 30 days of the result of the appeal.

For questions about this bulletin, contact OrphanLevy@aer.ca.