

# Directive 088

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## Licensee Life-Cycle Management

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## 1 Introduction

This directive applies to energy infrastructure and sites regulated under the *Oil and Gas Conservation Act* and *Pipeline Act*.

This directive

- introduces a holistic assessment of a licensee’s capabilities and performance across the energy development life cycle, which will be supported by the licensee capability assessment (LCA);
- introduces the Licensee Management Program, which determines how licensees will be managed throughout the energy development life cycle;
- introduces the Inventory Reduction Program, which includes closure quotas and closure nomination; and
- updates application requirements related to the licence transfer process.

In this directive, closure means the phase of the energy resource development life cycle that involves the permanent end of operations, and includes the abandonment and reclamation of wells, well sites, facilities, facility sites, and pipelines.

This is one of several directives published by the AER that sets out liability management programs. The directive describes how information, particularly financial, reserves, closure, and compliance information, will be used to enable the AER to

- assess the capabilities of licensees to meet their regulatory and liability obligations throughout the energy development life cycle;
- administer our liability management programs; and
- ensure the safe, orderly, and environmentally responsible development of energy resources in Alberta throughout their life cycle.

### 1.1 AER Requirements

Requirements are mandatory. The term “must” indicates a requirement, and terms such as “should,” “recommends,” and “expects” indicate a recommended practice. For ease of reference, requirements are numbered. Information on compliance and enforcement can be found on the AER website.

Because oilfield waste management facilities are included in the scope of this directive, but are approved rather than licensed, the terms “licence” and “licensee” are to be read as also including oilfield waste management approvals and oilfield waste management approval holders. The term “facility” includes oilfield waste management facilities.

## 1.2 What's New in This Edition

The availability of information has been clarified, specifically how the confidentiality outlined in section 12.152 of the *Oil and Gas Conservation Rules* and section 6 of the *Pipeline Rules* will be applied by the AER (see section 6).

Security requirements previously contained in this directive have been moved to *Directive 068: Security Deposits*. Information on the conditional adjustment of reclamation liability has been moved to *Directive 011: Estimated Liability*. Transfer requirements have been updated.

## 2 Holistic Licensee Assessment

The AER will comprehensively assess the licensee to inform certain regulatory decisions regarding the licensee. This assessment uses a multifactor approach to assess the capabilities of licensees to meet their regulatory and liability obligations throughout the energy development life cycle: initiate, construct, operate, and close. This includes the following:

- the factors listed in section 4.5 of *Directive 067: Eligibility Requirements for Acquiring and Holding Energy Licences and Approvals* for determining whether a licensee poses an unreasonable risk
- licensee capability assessment factors (described in section 2.1)
- any other factors as appropriate in the circumstances

The AER may also consider additional information provided by the licensee throughout the life cycle, including applications, amendments, reports, and other submissions to the AER.

This assessment is to ensure the responsible management by the licensee of their liability from their collective wells, facilities, pipelines, and sites. The holistic licensee assessment will reoccur at various times as the licensee moves through the energy development life cycle.

### 2.1 Licensee Capability Assessment

The licensee capability assessment (LCA) assesses the capabilities of licensees to meet their regulatory and liability obligations across the energy development life cycle. The results from the LCA will feed into the broader assessment of the licensee, which will inform regulatory decisions regarding the licensee, including licence eligibility under *Directive 067* and decisions under the programs described in this directive.

#### 2.1.1 LCA Factors

The LCA uses various factors to identify risks posed by a licensee:

- financial health

- estimated total magnitude of liability (active and inactive), including abandonment, remediation, and reclamation
- remaining lifespan of mineral resources and infrastructure and the extent to which existing operations fund current and future liabilities
- management and maintenance of regulated infrastructure and sites, including compliance with operational requirements
- rate of closure activities and spending and pace of inactive liability growth
- compliance with administrative regulatory requirements, including the management of debts, fees, and levies

Each factor consists of various parameters (see *Manual 023*).

The data that feeds into the LCA are drawn from numerous sources available to the AER, including the financial information submitted under *Directive 067*.

The LCA will continue to evolve over time as the AER is able to enhance business intelligence and access more structured data. It is intended to be adaptive and remain relevant.

- 1) Licensees must provide complete and accurate information as required by the AER for the holistic licensee assessment.

### **3 Licensee Management Program**

Under the Licensee Management Program, the results from the holistic licensee assessment will be used to identify those licensees that are or are likely to be at risk of not meeting their regulatory and liability obligations throughout the energy development life cycle. The AER will specifically engage and use appropriate regulatory tools with the licensee to address the identified risks and compel compliance. This may involve providing education and, where appropriate, initiating specific regulatory actions, including security deposits.

- 2) When required by the AER, the licensee must provide additional information within the timeframe directed by the AER.

Section 3 of *Manual 023* provides further details on the Licensee Management Program.

### **4 Inventory Reduction Program**

The purpose of inventory reduction is to increase the amount of closure work occurring in Alberta, reduce liability, and to increase the amount of land being returned to equivalent capabilities. To do this, the AER has introduced two components under the inventory reduction program: closure quotas and closure nomination.

#### 4.1 Closure Quotas

In the *Oil and Gas Conservation Rules (OGCR)* and the *Pipeline Rules*, the AER has the authority to establish “closure quotas,” meaning set minimum required amounts of closure work, money to be spent on closure activities, or both. The AER will set the mandatory closure quotas for each licensee annually.

The AER will annually publish industry-wide closure spend requirements. Licensee-specific mandatory spends will be calculated and released through OneStop each year.

When an amalgamation of licensees occurs during a calendar year, the successor licensee will be provided an updated closure quota which will be the combined quotas of the separate licensees. This updated closure quota becomes the mandatory spend for the successor licensee.

- 3) Each licensee must meet their annual mandatory spend directed by the AER.
- 4) Each licensee must accurately report to the AER in OneStop all its closure activities and closure spends for the previous calendar year by March 31 of every year, unless otherwise specified by AER requirements or as directed by the AER.

Accurately reporting closure activities and closure spends includes the use of appropriate spend category and type as outlined in appendix 1 of *Manual 023*.

- 5) Each licensee must keep complete and accurate records of its closure activities and spending.
- 6) Licensees must provide information to the AER as requested for closure quotas.

The AER will determine a threshold for when licensees may elect to provide a security deposit in accordance with *Directive 068: Security Deposits* of the full amount of their mandatory spend instead of achieving the mandatory spend through closure work (security deposit in lieu). This threshold will be assessed annually and identified in OneStop.

- 7) Each licensee must accurately report closure activities and correctly report closure spends in the appropriate spend category and type in OneStop (refer to appendix 1 in *Manual 023*).
- 8) Each licensee must update reported closure spends and closure category and type as directed by the AER.
- 9) All closure activity and spending records must be retained for five years.

The AER may also take other regulatory actions to ensure compliance and achievement of outcomes.

## 4.2 Closure Nomination

Under section 3.016 of the *Oil and Gas Conservation Rules (OGCR)*, if a well or facility has been in an inactive or abandoned state for five or more years, an “eligible requester” can make a request to the AER for the licensee of the well or facility to prepare a closure plan.

As defined by section 3.016(2) of the *OGCR*, an “eligible requester” is one of the following:

- the landowner (if the well or facility is on private land)
- the minister or holder of certain *Public Lands Act* dispositions (if the well or facility is on public land),
- the Indian reserve as represented by the council of the band (if the well or facility is on an Indian reserve)
- the Métis settlement (if the well or facility is on a Métis settlement)
- the municipality (if the well or facility is on land owned by a municipality)

A well or facility that has been in an inactive or abandoned state for five years or more is considered eligible for the purpose of closure nomination. The AER will notify the licensee if a request for closure of a well or facility is received by the AER.

- 10) If an eligible requester requests closure of an eligible site, the licensee of the eligible site must prepare a closure plan, unless the AER directs otherwise.
- 11) The licensee must notify the AER and provide evidence within 30 calendar days of licensee notification if either the well or facility nominated for closure or the requester does not meet the eligibility criteria.

The AER has the authority under section 3.015 of the *OGCR* to require that a licensee submit its closure plan, and the AER can define the terms and conditions when approving a closure plan.

- 12) A closure plan must include a timeline to complete each closure activity described in table 1.

A licensee is required to choose one of three options for providing its closure plans to the AER once it has been prepared: “baseline closure plan,” “non-baseline closure plan,” or “proposal to defer the closure plan.”

It is expected that most licensees will be able to meet the closure activities and timelines of a baseline closure plan. The baseline closure plan will be the default approved closure plan that a licensee must meet unless and until the AER approves an alternative (e.g., non-baseline closure plan, proposal to defer closure plan).

If a licensee identifies circumstances that prevent them from meeting the prescribed baseline closure timelines, the licensee may select a non-baseline closure option that requires approval by

the AER. Examples of such circumstances might include a site requiring more than three years to complete remediation or a large site with more complex closure needs (e.g., facility). A licensee is required to provide justification to the AER's satisfaction why the baseline closure timelines cannot be met with the submission of their non-baseline closure plan.

Non-baseline closure plans must be approved by the AER for the alternative closure activity and timelines to apply. The approval of a non-baseline closure plan will specify dates for the completion of each closure activity. Non-baseline closure plans may require additional reporting. The baseline closure plan continues to apply to the site until the non-baseline closure plan is approved unless otherwise directed by the AER.

In rare cases, a third option of proposing to defer a closure plan may be selected. Selection of the "proposal to defer the closure plan" option is only available for wells and facilities that are transitioning to another purpose (e.g., geothermal, monitoring) or are attached to an active site. The licensee must justify to the AER's satisfaction why deferring the closure plan is appropriate. The baseline closure plan continues to apply to the well or facility until the proposal to defer a closure plan is approved or unless otherwise directed by the AER.

Section 4.3.3 of *Manual 023* describes the closure plan options in more detail, including the process for informing the AER of the licensee's selected option, the information required to support the licensee's chosen option, and process for reporting.

- 13) Within 90 calendar days of receiving a closure nomination notification for a well or facility, the licensee must select one of the closure plan options described above (baseline, non-baseline, or proposal to defer) and, if non-baseline or proposal to defer is selected, must provide evidence to support its selection.
- 14) A licensee who selects a baseline closure plan must complete the closure activities within the specified timelines as described in table 1.
- 15) A licensee who selects a non-baseline closure plan must submit its proposed closure plan at the time of selection. The plan must describe the circumstances of the site and propose alternative timelines to bring the closure activities defined in table 1 to completion. In some circumstances such as complex remediation, the AER may allow a licensee to use annual licence-specific closure quotas in lieu of timelines if there is appropriate evidence to show progress of the site to full closure.
- 16) A licensee who selects a non-baseline closure plan must complete each closure activity within timelines defined in their approved closure plan and satisfy any other terms and conditions of approval.

**Table 1. Timelines for baseline closure plan closure activity**

Closure activity	Description	Maximum time to complete <sup>1,2</sup> (years)
Total well or facility abandonment	Well abandonment is completed per <a href="#">Directive O20: Well Abandonment</a> . Facility abandonment is complete.	3
Phase 1 environmental site assessment <sup>3</sup>	Completion of a Phase 1 environmental site assessment that satisfies the <i>Remediation Regulation</i> .	
Phase 2 environmental site assessment (if required) <sup>3</sup>	Completion of a Phase 2 environmental site assessment that satisfies the <i>Remediation Regulation</i> .	1 (if required)
Remediation (if required)	Complete remediation activities and submit a report that satisfies the <a href="#">Remediation Regulation</a> . <sup>3</sup>	2 (if required)
Revegetation Initiated	All reclamation activities prior to revegetation have been completed as required, including pre-reclamation assessments, replacement of soils, and recontouring.  The revegetation (e.g., seeding, tree planting) of the site has been started. The first seed application or planting cycle is complete, as required.	2
Reclamation certificate or letter of closure	A reclamation certificate application has been submitted to the AER, or a letter of closure has been provided.	5
Total time (from date of closure plan approval)		10-13 <sup>1</sup>

1 Total time may vary based on the results of environmental site assessment and the status of the licence when nominated.  
 2 The maximum time to complete each closure activity will be used to calculate a licence-specific date for completion of that activity based on the date a baseline closure plan is selected by the licensee.  
 3 If contamination is identified, a remedial action plan may be required under section 2.2(2) of the *Remediation Regulation*.

If a licensee identifies the potential for contamination through the completion of their Phase 1 environmental site assessment the licensee will be provided additional time to complete a Phase 2 environmental site assessment as per table 1. The results of the Phase 2 assessment may trigger section 2.2(1) of the *Remediation Regulation*; if so, the licensee must meet the associated requirements. If the site cannot be remediated in accordance with section 2.2(2) of the *Remediation Regulation* and within the baseline timeline, the licensee may be directed to use the non-baseline closure plan option. If unforeseen circumstances or a change in scope arises (e.g., the discovery of gas migration, necessary changes to contamination management), a licensee must provide evidence to support a request to change from the baseline closure option to an alternative option. The change from a baseline closure plan to a non-baseline closure plan, or proposal to defer closure, requires AER approval.

- 17) To request a change from a baseline closure plan to an alternate option, the licensee must submit a non-baseline closure plan or proposal to defer the closure plan, including evidence to support the change.



18) Licensees must report on the completion of each closure activity for the previous calendar year by March 31 of every year, unless otherwise specified by AER requirements or as directed by the AER.

19) Licensees must provide information to the AER as requested for closure nomination.

The AER has the authority to direct timing and priority of site closure work. The AER may direct closure if closure plans are not adhered to or if closure work is not progressing within baseline or otherwise approved closure timelines. In these cases, the new closure timelines ordered/approved by the regulator supersede any previously prepared closure plans.

20) If a well or facility with an eligible closure request or approved closure plan is transferred to another licensee or an amalgamation occurs, the new licensee of record must meet the requirements and associated timelines of the closure plan.

## 5 Licence Transfers

Agreements for the purchase and sale of AER-licensed wells, facilities, and pipelines do not result in a transfer of the associated licences until a licence transfer application is submitted to and approved by the AER.

AER licences with a licence status of Issued, Amended, Discontinued, Suspension, Abandoned, RecCertified, or RecExempt are eligible to be transferred. Licences with a licence status of Cancelled or Re-Entered are not eligible to be transferred.

A licence transfer application will trigger a holistic licensee assessment of both the transferor and transferee. This assessment will include reviewing abandoned, reclaimed, and reclamation-exempt sites to ensure they are held by a responsible party that can address, manage, and monitor current conditions or future issues related to public safety or the environment should they arise.

The AER will consider the entire application package of licences to be transferred and may reject a licence transfer application that does not include licences that have received reclamation certification or that are abandoned and classified as “reclamation exempt.” The AER will consider the results of this assessment and any other factors determined appropriate in making the decision to approve, approve with conditions, or deny a licence transfer application. In situations where a licence transfer application includes an oilfield waste management site that has an approval under *Directive 058*, it is not necessary to submit a separate amendment application for that approval. The AER will consider the transfer of the oilfield waste management approval where an associated licence is part of the transfer application package. The AER will process licence transfer applications as they are received.

For licences that have a public lands disposition that needs to be assigned or transferred, if either party has arrears in respect of any debt to the Crown or of any taxes owing to a municipality, the AER will reject the public lands application for assignment or transfer of the disposition as described in the *Public Lands Administration Regulation*, section 153.

A licence transfer application can be submitted by the transferor, the transferee, or an authorized agent or consultant acting on behalf of either party. The party initiating the submission is responsible for notifying the other party that the application has been submitted; the application must be accepted by both parties before it can be processed.

The AER will not accept a licence transfer application unless both the transferor and transferee have AER identification codes that permit the holding of all licence types contained within the licence transfer application. For further information regarding agent appointments, identification code requirements, and other eligibility requirements, refer to *Directive 067*.

It is the transferor's responsibility to ensure that all information relevant to the licences contained in a transfer application is updated in AER systems before the application is submitted. This includes updated liability estimates in accordance with *Directive 001* and *Directive 011*.

- 21) An applicant must apply for a licence transfer and submit the numbers of all the licences proposed for transfer through the designated information submission system.
- 22) The application must include the BA code and contact information (including both an email address and phone number) for both the transferor and transferee.
- 23) If a licence transfer application includes inactive licences, the transferor must update their reported closure activities and spends in the designated information submission system before submitting the application.

The AER will not adjust a licensee's mandatory spend or retroactively adjust the closure spend reporting after a transfer is approved.

- 24) Before a licence transfer application will be accepted by the AER, both parties must make the declarations provided in appendix 1.
- 25) As part of a licence transfer application, parties must provide current information regarding each working interest participant, including the following:
  - a) full legal name of each working interest participant (which cannot be a partnership)
  - b) contact information for each working interest participant, including an email address
  - c) the percentages of working interest, totalling 100 per cent, for every well and facility included in the application

26) If one or both parties wish to withdraw a transfer application, they must submit a written request to the AER. Upon receipt of the request, the AER will process the application as withdrawn and will notify the licensees.

27) Licensees must provide information to the AER as requested for the transfer application.

To offset any potential increase in risk that may arise from a licence transfer, a transferor or transferee may be required, as a condition of approval, to provide a security deposit to the AER in accordance with *Directive 068*.

If a required security deposit is not received by the AER, the licence transfer application will be closed.

The AER will use the most current regional or site-specific estimated liability as required by and in accordance with *Directive 011* as the liability for a facility that is being transferred. When a facility has an SSLA, the estimated liability for the facility can be updated at any time following the decision for the transfer application. Approval of a transfer application does not constitute acceptance of the existing facility cost estimate.

The AER will convey its decision regarding a licence transfer application to both the transferor and the transferee. If a transferor or transferee is represented by an agent or uses the services of a consultant, the AER will also provide notice of its decision to the agent or consultant.

The licensee of record (transferor) remains responsible to comply with all applicable regulatory requirements for any well, facility, or pipeline in a licence transfer application until the AER approves the transfer. On approval of a licence transfer application, the new licensee of record (transferee) becomes responsible for all applicable regulatory requirements associated with any well, facility, or pipeline in the application as of the effective date of the transfer.

If a licensee of a large facility as defined in the *Oil and Gas Conservation Act (OGCA)*, section 1(1)(aa.1), becomes defunct within 24 months of a transfer of the licence for that facility, the AER will review the circumstances surrounding that transfer and may designate the prior licensee of that facility as the current licensee and working interest participant of that facility, in accordance with section 31(1) of the *OGCA*. A licensee so designated is responsible for its proportionate share of that facility's suspension, abandonment, remediation, and reclamation liability.

## 6 Availability of Information

Financial and reserves information provided to the AER will be kept confidential for the period specified in section 12.152(2) of the *Oil and Gas Conservation Rules*. The AER will use this information in addition to other factors identified in section 2 in carrying out assessments to inform certain regulatory decisions under this directive.

The information submitted by a licensee to the AER will remain confidential; however, some of the findings or results generated from the AER assessments using the financial and reserve information will be made available through liability management reporting and compliance and enforcement responses, including the following:

- publicly available summary of licensee capability to meet regulatory and liability obligations
- licensee-specific mandatory closure spend
- summary of licensee-specific reported closure spend
- licensee compliance with AER requirements such as administrative levy, the orphan fund, and its mandatory closure spend

Each licensee will have access to their own information, including its licensee capability assessment.

## Appendix 1 Transfer Application Declaration

In submitting this application as **transferor** or **transferee**, you hereby declare the following:

- Your use of the confidential identification code and password<sup>1</sup> for submission of this application has been duly authorized by your company (transferor/transferee), and the confidential identification code and password used are equivalent to and have the same binding effect as a signature executed by a duly authorized representative of the transferor/transferee company.
- You have the authority to make these (and the following, if transferee) statements and thereby bind your company.
- The information in the application is complete and accurate.

In submitting this application as **transferee**, you declare that the transferee

- holds valid surface access rights for all wells, pipelines and, facilities included in this application;
- holds valid mineral rights for all licensed producing and inactive wells included in this application;
- has the right to produce, inject, or dispose of fluids for all licensed active and inactive wells included in this application;
- is a working interest participant in all wells and facilities included in this application; and
- will ensure that all applicable AER signage requirements are met as required, including erecting or changing signs to accurately reflect the new licensee name and contact, and accepts and assumes the responsibilities and obligations of a licensee as provided for in law, including but not limited to, the *Oil and Gas Conservation Act*, *Oil and Gas Conservation Rules*, *Pipeline Act*, *Pipeline Rules*, and AER directives and requirements.

For pipeline licence transfers only:

- The **transferor** hereby confirms that it has collected and retained all records required under the *Pipeline Rules* and *Canadian Standard Association Z662: Oil and Gas Pipeline Systems*. The transferor confirms that it has provided these records to the transferee by the effective date of the licence transfer.

The **transferee** hereby confirms that it has received all records required to be collected and retained under the *Pipeline Rules* and *Canadian Standard Association Z662: Oil and Gas Pipeline Systems* from the transferor. The transferee is responsible for producing these records on request by the AER. Failure to do so constitutes a noncompliance of AER requirements.

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<sup>1</sup> Used by authorized business associates to access the AER's designated information submission system.