Draft *SED XXX: Rock-Hosted Mine Liability Process* (released February 2025)
What We Heard – And Our Response

We thank those who commented on the draft *Specified Enactment Direction* (*SED) XXX*: *Rock-Hosted Mine Liability Process*. We received over 60 comments and reviewed each one, consolidating comments covering similar issues. What follows is a summary of the issues raised and our responses.

The public and contributors representing Indigenous groups commented on various aspects of the draft SED. Most notably, we received comments on approval holder capability assessments, specifically key performance indicators (KPIs), the Responsible Development Incentive Program and the components of the mine rehabilitation functions.

We directed comments outside our regulatory authority to the Government of Alberta (e.g., input related to the government's duty to consult and government policy decisions).

Comments on grammar, punctuation, and cross-referencing have not been summarized, but changes were made where needed.

A list of the respondents is provided at the end of this document.

Stakeholder Feedback – Issue	AER Response
1. **AER Oversight and Review**	
Concerns were expressed about the Alberta Energy Regulator's (AER's) oversight of mine approvals, the application process, the assessment of new mining methods, project-specific requirements to limit environmental damage, and the lack of consequences for noncompliance. Examples of where requirements are needed include: • If the operator does not follow the rules. • If the operator fails to meet the mine liability process deadlines. • If the operator fails to submit the required materials on time. • If the operator fails to carry out rehabilitation plans.	The concerns about our general oversight of mining are outside the SED's scope, which is concerned with the rock-hosted mine liability process (RMLP) and is designed to secure 100% of the operations' estimated liabilities for each mine. Our authority to regulate rock-hosted mineral development is under the *Mineral Resource Development Act* (*MRDA*). The SED is used with other regulatory instruments, including *Directive 091: Rock-Hosted Mineral Development*. Rock-hosted mineral exploration must follow the *Metallic and Industrial Minerals Exploration Regulation.* Additional information is provided in *Manual 030: Rock-Hosted Mineral Exploration*. An *Environmental Protection and Enhancement Act* (*EPEA*) approval is issued simultaneously with the mine permit and licence and contains requirements for activities that could impact the environment. There are additional operating conditions in the *EPEA* approval to protect the environment. AER-regulated parties must follow our compliance assurance program guided by the Integrated Compliance Assurance Framework. *Manual 013: Compliance and Enforcement Program* provides details on compliance, investigations, and enforcement actions.
2. **Participant Involvement**	
There is a lack of recognition that the regulator's role is to protect the people of Alberta, including a lack of rules addressing public concerns about the inadequacy of the existing Mine Financial Security Program (MFSP).	Our mandate is to provide for the efficient, safe, orderly, and environmentally responsible development of energy and mineral resources in Alberta through our regulatory activities. This includes allocating and conserving water resources, managing public lands, and protecting the environment while providing economic benefits for all Albertans. Section 3 of *Directive 091* sets out robust participant involvement program requirements for consultation. The MFSP does not apply to the RMLP. The RMLP is designed to secure 100% of the operations' estimated liabilities, using standardized costing to develop mine security requirements for each rock-hosted mineral mine.

Stakeholder Feedback – Issue	AER Response
3. **Indigenous Engagement**	
There is a lack of requirements regarding Indigenous peoples, including engagement with Indigenous communities in planning and sharing mine-specific information.	Rock-hosted mineral mines are regulated under the *MRDA*. Applicants must follow the requirements set out by the Aboriginal Consultation Office, public notice of application requirements, and *Directive 091*, which includes detailed requirements for participant involvement and a minimum participant involvement area.
4. **Rock-Hosted Mine Liability Process**	
The RMLP should not incentivize operators who only meet the basic requirements. Incentives should apply only to operators who do more reclamation more quickly than required or undertake or sponsor research that will allow operators to improve future land restoration.	The intent of the RMLP incentive program is to maximize progressive reclamation activities throughout the mine life cycle and limit overall site disturbance and soil degradation. It uses a dynamic KPI structure that adjusts to maximize environmental stewardship. The RMLP incentive program can only be accessed when operators meet the requirements in section 4.3. New mines will be ineligible to participate in the Responsible Development Incentive Program (RDIP) during the first five years of the mine's operating life. Also, all mines with less than five years of economically viable reserves remaining at the permitted production rate are ineligible for RDIP.
5. **Security Collection**	
Security deposits should be irrevocable.	Security requirements incorporate irrevocable letters of credit.
Section 3.5 should be revised to eliminate discretion ("may") in the AER's actions, making them mandatory ("will") and to ensure that suspension and rehabilitation work can commence immediately and proceed rapidly.	The cited wording is intentional and provides us with flexibility and discretion to efficiently address potential multiparty liabilities. This wording allows us to regulate parties as appropriate in accordance with our compliance assurance program. *Manual 013* provides details about compliance, investigations, and enforcement actions.
Section 4.2.1 should be revised to ensure that an operator must provide funding upfront to cover all rehabilitation costs from the end of mining to the completion of rehabilitation, even where such work might extend for decades.	The base security deposit will be collected in full before we issue a disposition. The RMLP is designed to assess liabilities and secure 100% of the operations' estimated liabilities for each mine.

Stakeholder Feedback – Issue	AER Response
6. **Eligibility Requirements**	
Concerns were raised regarding the eligibility of operators and their ability to bear the liability costs associated with mining operations. The following additions were suggested: • Assigning staff to ensure operators maintain their credit rating. • Preventing multinational corporations from shifting liabilities to local subsidiaries. • Clearly define what constitutes an acceptable company history. • Referring to the parent company's history for new companies without a track record.	We did not add the suggested requirements to the SED, as operator eligibility is not in the scope of the RMLP. Eligibility requirements for acquiring and holding AER licences and approvals are regulated under *Directive 067: Eligibility Requirements for Acquiring and Holding Energy Licences and Approvals*. The RMLP is designed to secure 100% of the operations' estimated liabilities for each mine.
7. **Performance Indicators–Table 1**	
Reserves: Operators should not be allowed to reduce their mine liability estimate (MLE) by using some portion of the remaining mineral reserve value.	Mine operators are not allowed to reduce their MLE using some portion of the remaining mineral reserve value. The RMLP is designed to secure 100% of the operations' estimated liabilities for each mine.
Operational health: Assess geotechnical stability to minimize risks to down slopes. Additionally, there should be requirements that any signs of instability (highwall, tailings dams, waste dumps, etc.) must be reported immediately, work suspended to stabilize the area, and work resumed only after an independent expert has testified to the site's safety.	Design, operational, and monitoring details are regulated under the *MRDA* and *Directive 091* and are outside the scope of the RMLP.

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Environmental stewardship: There is a lack of acknowledgement of various environmental impacts, including • the soil stripping process, • soil microbiome due to soil placement, • weed problems, • water quality, and • leaching from waste dumps, tailings ponds, etc.	An *EPEA* approval is issued simultaneously with the mine permit and licence and contains requirements for activities that could affect the environment, such as soil salvage requirements. The *EPEA* approval would include any operating conditions to protect the environment and soil preservation. In addition, the design, operational, and monitoring details are regulated under the *MRDA* and *Directive 091*.
8. **RMLP Comprehensive Database of Mine Rehabilitation Functions**	
Concerns were raised regarding appendix 2, highlighting the need for a thorough review and revision to ensure clarity and validity. Key issues included assumptions about tank cleanliness, missing rates for various tasks, asbestos in new constructions, and undefined durations for monitoring and maintenance. Additionally, there were concerns about slope specifications, material availability, earthquake protection, and the use of acronyms. Definitions for soil types, successful revegetation, and artifact preservation were also required, along with explanations for decision-making processes and postclosure work timelines.	All rehabilitation functions are specific to the closure site. All security is retained by the AER pending a successful site rehabilitation assessment. Appendix 2 is the MLE tool cost schedule without unit costs. The MLE tool cost schedule, with unit costs, will be posted on www.aer.ca annually.
9. **Responsible Development Incentive Program**	
The RDIP undermines the "100% financial security" requirement by allowing operators to count up to 25% of their liability using projected in-ground reserves, which cannot be seized or sold in case of corporate default. RDIP eligibility, assessed mine-by-mine, can be manipulated at the corporate level, enabling strong operators to mask weak sites. This reduces cleanup obligations and increases environmental risks to the Cold Lake First Nations (CLFN) territory.	RDIP is a risk-based incentive program that limits access in the first and final five years of operation. The program requires that operators qualify annually and is available to those who demonstrate good reserve replacement rates, operational health, environmental stewardship, and an acceptable compliance and enforcement history. The reserve calculations are completed annually for site-specific reserves using geological models and production values. It incorporates a KPI scoring system, allowing only operators who exceed standard operating and environmental protocols and adhere to high compliance standards to participate.

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10. **Confidentiality**	
Explain why the liability estimates and financial security are confidential. With no access to critical information about projects operating in or near CLFN territory, the CLFN cannot protect their lands or uphold their rights.	Section 41(2) of the *Rock-Hosted Mineral Resource Development Rules* specifies *c*onfidentiality requirements. The AER will maintain the confidentiality of financial and reserves information submitted to it for 5 years and 15 years, respectively.

Stakeholders Who Submitted Feedback (in alphabetical order)

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