

# *The Financial Security and Site Closure Regulations*

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[Chapter O-2 Reg 8](#) (effective January 1, 2023) as amended by Errata Notice published in [The Saskatchewan Gazette](#) on October 8, 2021.

**NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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**CHAPTER O-2 REG 8**  
*The Oil and Gas Conservation Act*

PART 1  
**Preliminary Matters**

**Title**

**1-1** These regulations may be cited as *The Financial Security and Site Closure Regulations*.

**Definitions**

**1-2** In these regulations:

“**Act**” means *The Oil and Gas Conservation Act*;

“**administrative levy**” means the fee to be levied on wells and pipelines pursuant to *The Oil and Gas Conservation Regulations, 2012*;

“**AOR**” or “**acknowledgement of reclamation**” means an acknowledgement of reclamation issued by the minister pursuant to subsection 6-2(2);

“**approved**” means approved by the minister;

“**ART**” or “**annual reduction target**” means the amount, expressed in dollars, of a licensee’s liability to be retired in a calendar year calculated in accordance with subsection 5-3(1);

“**assessed problem site**” means an assessed problem site as defined in *Directive PNG025: Licensee Liability Rating (LLR) Program*;

“**closure**” means the phase of the life cycle of a well, facility, associated flowline and their respective sites involving the permanent end of operations, and includes the abandonment, decommissioning and reclamation of a well, facility, associated flowline and their respective sites;

“**deemed**” means determined, evaluated or estimated by the minister in accordance with the rules;

“**fiscal year**” means the fiscal year of the orphan fund set out in section 7-6;

“**fund advisory committee**” means the committee appointed pursuant to section 8-1;

“**inactive liability**” means the deemed LLR liability that is attributable to wells and facilities for which no volumetric activity greater than 0 has been reported within the last 12 months and also includes problem site liability;

“**LLR**” or “**licensee liability rating**” means a licensee’s asset to deemed liability ratio determined in accordance with the formula set out in subsection 4-1(1);

**“orphan”** means a well, facility, associated flowline and their respective sites, if, in the opinion of the minister, a person responsible for the well, facility, associated flowline, or their respective sites:

- (a) does not exist;
- (b) cannot be located; or
- (c) does not have the financial means to contribute to the costs of meeting the obligations pursuant to the Act, these regulations, any orders made pursuant to the Act or any terms and conditions of a licence;

**“orphan fund levy”** means the fee to be levied on wells and facilities pursuant to these regulations;

**“reclamation”** means the process of:

- (a) decontaminating, excavating, removing, sequestering, encapsulating, immobilizing, attenuating, degrading, processing or treating the contaminants in the soil or water in a manner so that, in the opinion of the minister, the contaminants no longer pose a threat or risk to human health, public safety, property or the environment; and
- (b) re-contouring, landscaping, replacing or replenishing the topsoil and re-vegetating the surface of the soil so that it is compatible with its surroundings;

**“rules”** means:

- (a) any regulations, directives or minister’s orders made pursuant to the Act and *The Pipelines Act, 1998*; and
- (b) the terms and conditions of a licence issued pursuant to the Act and *The Pipelines Act, 1998*;

**“site”** means, when used in relation to a well or facility, the site of the well or facility and the area immediately adjacent to that site;

**“unassessed problem site”** means an unassessed problem site as defined in *Directive PNG025: Licensee Liability Rating (LLR) Program*;

**“unreclaimed site”** means a site for which closure has not been approved.

25 Jne 2021 c O-2 Reg 8 s1-2.

#### Application of regulations

1-3(1) These regulations apply to:

- (a) all wells and facilities licensed in accordance with the Act and the rules and all associated flowlines and sites; and
  - (b) all flowlines licensed in accordance with *The Pipelines Act, 1998*.
- (2) These regulations do not apply to wells within a mine or mining site governed by *The Mineral Industry Environmental Protection Regulations, 1996*.

- (3) The definitions in:
- (a) the Act and the rules made pursuant to the Act apply to the wells, facilities, associated flowlines and sites mentioned in clause (1)(a); and
  - (b) *The Pipelines Act, 1998* and the rules made pursuant to that Act apply to the flowlines mentioned in clause (1)(b).

25 Jne 2021 c O-2 Reg 8 s1-3.

**Application of parts 4, 5, 7 and 8**

- 1-4(1) Parts 4, 7 and 8 apply to licensees that hold one or more licences authorizing oil and natural gas operations.
- (2) Part 5 applies to licensees that hold one or more licences authorizing oil and natural gas operations.

25 Jne 2021 c O-2 Reg 8 s1-4.

**PART 2**

**Liability for Abandonment and Reclamation**

**Licensee or working interest participant is liable**

2-1(1) Abandonment and reclamation of a well, facility, associated flowline and their respective sites are the responsibility of:

- (a) the licensee; or
  - (b) the working interest participants, if the licensee is insolvent, bankrupt or cannot be located or is incapable of operating the well or facility as required by the Act or the rules.
- (2) Abandonment and reclamation of a well, facility, associated flowline and their respective sites does not relieve the licensee or the working interest participants of the responsibility to undertake further abandonment or reclamation work or from the responsibility for the costs of doing that work.

25 Jne 2021 c O-2 Reg 8 s2-1.

**PART 3**

**Financial Security**

**Security deposits**

3-1(1) For the purposes of section 15 of the Act, the minister may require a licensee or a transferor or transferee of a licence to submit a security deposit to the minister:

- (a) before approving, issuing or transferring a licence;
- (b) at any time the licensee fails an LLR assessment conducted by the minister pursuant to section 15 of the Act;

- (c) at any time, if the minister issues an order pursuant to section 17.01 of the Act and if, in the opinion of the minister, additional financial security is required to ensure that the work ordered by the minister is carried out;
  - (d) if the licensee has not made qualifying expenditures in an amount greater than or equal to its ART as required by subsection 5-4(1); or
  - (e) in any other circumstances in which, according to the minister, the financial risk related to the suspension, abandonment, decommissioning, restoration, remediation or reclamation of a well, facility, any associated structure or infrastructure, or the associated site is not addressed by any provision of these regulations or the Act.
- (2) The minister may specify any relevant factors at any time to calculate the amount of a security deposit required to be submitted:
- (a) at the minister's initiative; or
  - (b) on application by the licensee.
- (3) The minister shall provide the relevant factors specified pursuant to subsection (2) to the licensee in writing.

25 Jne 2021 c O-2 Reg 8 s3-1.

#### **Adjustment of security**

**3-2** Notwithstanding subsection 3-1(1), if the minister determines that the security deposit amount held by the minister is inadequate for the purposes provided for in subsection 15(1) of the Act, the minister may require the licensee to provide any additional amounts that the minister considers necessary to meet those purposes.

25 Jne 2021 c O-2 Reg 8 s3-2.

#### **Form of security**

**3-3(1)** A security deposit must be in the form of an irrevocable letter of credit or any other form satisfactory to the minister.

- (2) The minister may require that the security deposit be submitted:
- (a) as a lump sum; or
  - (b) in portions in the amounts and at the times specified by the minister.

25 Jne 2021 c O-2 Reg 8 s3-3.

#### **Return of security**

**3-4(1)** On the written request of a licensee, the minister may, in accordance with the rules, return all or a portion of a security deposit submitted pursuant to clause 3-1(1)(b) or (e).

- (2) The minister may retain a portion of the security deposit submitted pursuant to clause 3-1(1)(b) for use by a licensee for meeting its ART pursuant to subsection 5-4(1).

- (3) A security deposit or portion of a security deposit submitted pursuant to clause 3-1(1)(d) may be returned only if the licensee has reduced its liability by an equivalent amount.
- (4) Notwithstanding subsection (3), the minister may retain a security deposit submitted pursuant to clause 3-1(1)(d) if the licensee owes a security deposit with respect to the LLR.
- (5) A security deposit submitted pursuant to clause 3-1(1)(a) may be returned in accordance with subsection 4-2(4).

25 Jne 2021 cO-2 Reg 8 s3-4.

#### **Forfeiture of security deposits**

**3-5(1)** The minister may retain all or a portion of the security deposit required pursuant to section 3-1, or may declare it to be forfeited to the Crown in right of Saskatchewan if, in the opinion of the minister:

- (a) the licensee with respect to the construction, drilling, operation, abandonment or reclamation of a well or a facility has failed to comply with the rules;
  - (b) the drilling, construction or operation of a well, facility, associated flowline and their respective sites poses a risk described in section 17.01 of the Act or may be a source of contamination described in section 75 of *The Oil and Gas Conservation Regulations, 2012*;
  - (c) the licensee:
    - (i) cannot be located;
    - (ii) is insolvent, bankrupt or defunct; or
    - (iii) is incapable of the proper care and custody of the site infrastructure in accordance with the rules;
  - (d) the licensee has failed to submit the security deposit as required by subsection 3-1(1); or
  - (e) the licensee has failed to submit the specified amount of administrative levy or orphan fund levy within the period required by the rules.
- (2) If the minister makes a decision pursuant to subsection (1), the minister shall provide the licensee with written notice of the decision along with written reasons for the decision.

25 Jne 2021 cO-2 Reg 8 s3-5.

#### **Use of security**

**3-6(1)** The minister may apply any or all of the security deposit forfeited pursuant to subsection 3-5(1), and any moneys recovered from sales of machinery, equipment or materials or oil, gas or products pursuant to subsection (4), towards the costs required to:

- (a) suspend the operations of and secure a well, facility, associated flowline and their respective sites;

- (b) take control of, operate, maintain, monitor, repair or care for a well, facility, associated flowline and their respective sites;
  - (c) investigate, audit or inspect a well, facility, associated flowline and their respective sites or any area on or off the sites that has been affected as a result of the operation;
  - (d) conduct an environmental site assessment, install monitoring equipment and systems, acquire water, soil and air samples or analyze the samples at a well, facility, associated flowline and their respective sites or any other area on or off the sites that has been contaminated as a result of the operation;
  - (e) contain, manage, secure, stabilize, excavate, treat, process, handle, transport and dispose of materials, contaminated materials and wastes generated, used or stored at the well, facility, associated flowline and their respective sites;
  - (f) abandon, decommission or reclaim a well, facility, associated flowline and their respective sites or any other area on or off the sites that has been damaged, contaminated or otherwise adversely affected as a result of the operation;
  - (g) account, make an inventory of, advertise, sell, transfer, donate or dispose of machinery, equipment or materials or oil, gas or products on the well, facility, associated flowline and their respective sites;
  - (h) acquire legal, administrative, engineering, scientific, professional and technical advice, services or work; or
  - (i) undertake any other activities that the minister considers necessary to carry out the functions mentioned in clauses (a) to (h).
- (2) If a person other than the licensee is authorized by the minister to carry out any of the activities mentioned in subsection (1), the minister may pay any or all of the security deposit to that person for that purpose.
- (3) If the security deposit provided by the licensee does not cover the cost or the expense of carrying out the activities mentioned in subsection (1), the licensee shall pay the difference to the minister within the period specified in the written demand of the minister.
- (4) If the licensee fails to pay the difference within the period specified by the minister in the written demand made pursuant to subsection (3), the minister may do all or any of the following:
- (a) use any amount of money in the orphan fund to make up the shortfall if the situation is one to which section 7-1 applies;
  - (b) recover any portion of the difference from the working interest participants based on their percentages of interest;
  - (c) in accordance with section 17.06 of the Act, sell any machinery, equipment or materials or oil, gas or products that are at the site of a well or facility to make up the shortfall.



**Deposit to orphan fund**

**3-7(1)** The minister may deposit any amount of money from the security deposit that has been forfeited pursuant to subsection 3-5(1) in the orphan fund at any time.

(2) The minister may deposit any amount of any proceeds recovered or acquired pursuant to subsection 3-6(4) in the orphan fund at any time.

25 Jne 2021 cO-2 Reg 8 s3-7.

**Withdrawal from orphan fund**

**3-8(1)** Notwithstanding section 7-1, the minister may withdraw any amount less than or equal to the amount of money that was deposited in the orphan fund pursuant to section 3-7 at any time for the purpose of covering the cost of activities mentioned in subsection 3-6(1).

(2) On completion of the activities mentioned in subsection 3-6(1) and on the written request of a licensee, the minister may return the balance, if any, of the forfeited security deposit to the licensee.

25 Jne 2021 cO-2 Reg 8 s3-8.

**When minister may make orders pursuant to section 17.01 of the Act**

**3-9** The minister may make an order pursuant to section 17.01 of the Act if a licensee fails to submit a security deposit to the minister as required by subsection 3-1(1) in the amounts and at the times specified by the minister.

25 Jne 2021 cO-2 Reg 8 s3-9.

## PART 4

**Security Deposit Assessment****Licensee liability rating**

**4-1(1)** For the purposes of the definition of “LLR” as set out in section 1-2, an LLR is calculated in accordance with the following formula:

$$\text{LLR} = \frac{\text{Deemed Asset Value}}{(\text{Deemed Abandonment Liability} + \text{Deemed Reclamation Liability})}$$

where:

LLR is the licensee liability rating for a month rounded to the nearest hundredth;

Deemed Asset Value is the amount determined in accordance with subsection (2);

Deemed Abandonment Liability is the total cost of the future abandonment and decommissioning of all wells and facilities licensed to a licensee as determined by the minister; and

Deemed Reclamation Liability is, subject to subsection (4), the total cost of the future reclamation of all sites associated with all wells and facilities licensed to a licensee as determined by the minister.

(2) For the purposes of the formula set out in subsection (1), Deemed Asset Value is to be calculated in accordance with the following formula:

$$\text{Deemed Asset Value} = \text{ANI} \times \text{Return Period}$$

where:

Deemed Asset Value is the asset value of a licensee;

ANI is the annual net income of a licensee calculated in accordance with subsection (4); and

Return Period is the average payback period for a licensee's assets taking into consideration the expected rate of return and the production decline rate of the assets as determined by the minister, which is 3 years unless determined by the minister to be a different period.

(3) For the purposes of subsection (2), ANI is the amount calculated in accordance with the following formula:

$$\text{ANI} = \text{GPV} - \text{OC} - \text{R} - \text{T}$$

where:

ANI is the annual net income of a licensee;

GPV is the annual gross production value of sales reported for royalty or tax purposes pursuant to section 101 of *The Oil and Gas Conservation Regulations, 2012*;

OC is the total annual operating cost that is attributable to the oil and gas infrastructure licensed to a licensee, as determined by the minister;

R is the total annual sum of Crown royalties and freehold production tax with respect to production attributable to a licensee's licensed oil and gas infrastructure, plus annual freehold royalties as determined by the minister; and

T is the total annual transportation cost in relation to production attributable to a licensee's licensed oil and gas infrastructure, as determined by the minister.

(4) Notwithstanding subsection (1), if site-specific assessments have been conducted, the minister may use the results of those assessments as the Deemed Reclamation Liability or Deemed Abandonment Liability, as the case may be.

(5) If a licensee has an LLR of less than 1.0, the licensee:

(a) is considered to have failed the LLR assessment conducted pursuant to this section; and

(b) shall submit any amount of security deposit required by the minister pursuant to subsection 3-1(2).

(6) If a licence transfer will result in either the transferor or transferee having an LLR of less than 1.0, the transferor or transferee, as the case may be, shall submit any amount of security deposit required by the minister pursuant to subsection 3-1(2), as a condition of approving the transfer.

**Proportional risk assessment for transfers**

4-2(1) For the purposes of subsection 4-1(5), regardless of whether a licensee has an LLR of 1.0 or greater following a licence transfer, if, in the opinion of the minister, a licence transfer will result in additional financial risk to the orphan fund that did not exist to the same extent before the transfer, the minister may require a licensee to submit a security deposit to offset the proportional increase in risk in accordance with the following:

$$TD = \left[ \left( \frac{ILT}{PA_{te}} - \frac{ILT}{PA_{to}} \right) \times ILT \right] - TD_{ut}, \text{ where } 0 \leq TD \leq ILT$$

where:

TD is the amount of the transfer deposit required;

ILT is the total inactive liability that is to be transferred;

PA<sub>te</sub> is the post-transfer prorated asset value of the transferee;

PA<sub>to</sub> is the pre-transfer prorated asset value of the transferor calculated in accordance with subsection (2);

TD<sub>ut</sub> is the evaluation of the expression in square brackets, obtained by setting PA<sub>te</sub> equal to the prorated LLR value described in subsection (3), multiplied by the transferee's post-transfer total deemed liabilities.

(2) For the purposes of subsection (1), PA is the amount calculated in accordance with the following formula:

$$PA = \text{Deemed Asset Value} \times AR$$

where:

PA is the prorated asset value, which is the LLR asset value that is attributable to active infrastructure;

Deemed Asset Value is the amount determined in accordance with subsection 4-1(2);

AR is the percentage of a licensee's total liability that is active.

(3) If the post-transfer prorated LLR, as mentioned in subsection (5), of the transferee is greater than or equal to a value specified in the rules, the minister may waive the requirement to pay a security deposit pursuant to subsection 4-2(1).

(4) A licensee may apply to the minister for a return of a security deposit submitted pursuant to subsection (1) or subsection 4-1(6) if the licensee has achieved a prorated LLR equal to or greater than the post-transfer prorated LLR mentioned in subsection (3) for a period of at least 6 consecutive months.

(5) For the purposes of subsections (3) and (4), the prorated LLR is calculated in the manner set forth in this section:

$$\text{Prorated LLR} = \frac{\text{PA}}{(\text{Deemed Abandonment Liability} + \text{Deemed Reclamation Liability})}$$

where:

Prorated LLR is the prorated LLR of the transferee;

PA is the prorated asset value, which is the LLR asset value that is attributable to active infrastructure;

Deemed Abandonment Liability is the total cost of the future abandonment and decommissioning of all wells and facilities licensed to a licensee as determined by the minister;

Deemed Reclamation Liability is, subject to subsection 4-1(4), the total cost of the future reclamation of all sites associated with all wells and facilities licensed to a licensee as determined by the minister.

(6) The transfer deposit required to be submitted must be the greater of the amount required pursuant to subsections (1) and 4-1(6).

25 Jne 2021 cO-2 Reg 8 s4-2; 8 Oct 2021 Errata Notice.

#### Corporate financial information

4-3(1) On the minister's request, an applicant for a licence or licensee shall submit to the minister in an approved form and manner any corporate financial information that the minister may require to evaluate the financial capacity of an applicant for a licence or licensee to meet its obligations pursuant to these regulations.

(2) The minister may consider the information mentioned in subsection (1) in assessing the amount of a security deposit due pursuant to sections 4-1 and 4-2 and in determining eligibility for a licence pursuant to the Act.

25 Jne 2021 cO-2 Reg 8 s4-3.

## PART 5 Management of Inactive Liabilities

#### Definitions for Part

5-1 In this Part:

**“actual expenditures”** means expenditures incurred by a licensee that are considered to be qualifying expenditures;

**“LRP”** or **“liability reduction percentage”** means the percentage of a licensee's inactive liabilities to be retired each year as set out in section 5-2;

**“qualifying expenditures”** include expenditures for the items listed in Table 1 of the Appendix that contribute to the cost of meeting a licensee's ART and that are reported in a manner that is consistent with international financial reporting standards.

25 Jne 2021 cO-2 Reg 8 s5-1.

**Liability reduction percentage**

- 5-2(1)** On the coming into force of this Part, the annual LRP is 5%.
- (2) The LRP mentioned in subsection (1) must be increased by 1% per year to a maximum percentage that, in the opinion of the minister, provides a sufficient rate of reduction in the total provincial inactive liability over time.
- (3) Notwithstanding subsection (2), if, in the opinion of the minister, it is warranted by economic circumstances, the minister may:
- (a) adjust the annual percentage increase in the LRP to a value greater than or less than 1%;
  - (b) determine that the LRP will not be increased between consecutive years; or
  - (c) decrease the LRP between consecutive years.
- (4) Notwithstanding subsection (3), the LRP must neither increase nor decrease by more than 2% per year.
- (5) The minimum LRP in a given year must not be less than 4%.
- (6) Once the maximum annual LRP mentioned in (2) has been attained, the minister may establish a new maximum annual LRP if, in the minister's opinion, it is necessary to achieve a further increase in the rate of reduction of total provincial inactive liabilities.
- (7) The minister may establish an advisory committee for the purposes of providing recommendations to the minister respecting the establishment of the annual LRP and the maximum percentage mentioned in subsection (2).

25 Jne 2021 cO-2 Reg 8 s5-2.

**Calculation – annual reduction target**

- 5-3(1)** The annual target for the reduction of a portion of a licensee's inactive liabilities is calculated in accordance with the following formula:

$$\text{ART} = (\text{ABL} + \text{RCL} + \text{PSL}) \times \text{LRP}$$

where:

ART is the annual reduction target;

ABL is the sum of a licensee's deemed LLR abandonment and decommissioning liabilities for inactive wells and facilities;

RCL is the sum of a licensee's deemed LLR reclamation liability associated with the sites of inactive and abandoned wells and facilities;

PSL is the sum of the deemed LLR liability for the remediation of unassessed or assessed problem sites; and

LRP is the liability reduction percentage.

- (2) Notwithstanding subsection (1), if, through a transfer, a licensee acquires additional inactive liabilities or divests of inactive liabilities, there will be no recalculation of the licensee's ART for that year, unless a licensee does not have sufficient inactive liability post-transfer to meet its ART.
- (3) The minister shall provide to a licensee its ART determined in accordance with this section.

25 Jne 2021 cO-2 Reg 8 s5-3.

**Qualifying expenditures**

**5-4(1)** Beginning on January 1, 2023 and for each subsequent calendar year, a licensee shall make qualifying expenditures in an amount greater than or equal to its ART determined in accordance with subsection 5-3(1).

(2) Qualifying expenditures pursuant to subsection (1) may be made only in relation to wells, facilities and flowlines for which a licensee holds a licence and may not be claimed in relation to licensed wells, facilities and flowlines for which a licensee is only a working interest participant.

(3) Notwithstanding subsection (2):

(a) a licensee may apply to the minister pursuant to subsection 5-7(4) if a significant portion of its abandonment and reclamation expenditures involves wells, facilities and flowlines for which it is a working interest participant; and

(b) qualifying expenditures approved by the minister as a result of a licence transfer to a closure company may be applied against the transferor's ART.

25 Jne 2021 cO-2 Reg 8 s5-4.

**Carryovers**

**5-5(1)** If a licensee's actual expenditures in a calendar year exceed its ART, the surplus may be used to satisfy its ART for subsequent years.

(2) If, in the opinion of the minister, a licensee's ART for a calendar year is less than the amount necessary to carry out a single well abandonment or a single site reclamation, the licensee may carry its deficit forward for a maximum of 3 consecutive years or until, in the opinion of the minister, a licensee's ART for a calendar year is equal to or greater than the amount necessary to carry out a single well abandonment or a single site reclamation.

25 Jne 2021 cO-2 Reg 8 s5-5.

**Reporting of actual expenditures**

**5-6(1)** Within 90 days after the end of each calendar year, a licensee shall report to the minister in an approved form and manner its actual expenditures in relation to its ART determined in subsection 5-3(1).

(2) For the purposes of subsection (1), a licensee shall submit to the minister a statement certifying actual expenditures with respect to its infrastructure and sites for each calendar year signed by its Chief Financial Officer or equivalent or a person who has legal signing authority for or on behalf of a licensee.

(3) A statement pursuant to subsection (2) must include:

(a) the gross abandonment, decommissioning and reclamation expenditures; and

(b) the net abandonment, decommissioning and reclamation expenditures.

(4) The net expenditures mentioned in clause (3)(b) are the licensee's working interest costs.

25 Jne 2021 cO-2 Reg 8 s5-6.

**Application for decrease in annual reduction target**

**5-7(1)** If a licensee's ART would result in it having to abandon or decommission infrastructure that it intends to reactivate or use for a future purpose, the licensee may apply to the minister for a reduction in its ART.

(2) As part of an application mentioned in subsection (1), a licensee shall submit in an approved form and manner a plan for the reactivation or future use of the infrastructure.

(3) After considering an application submitted pursuant to subsection (1), the minister may do any of the following:

- (a) set a period within which the reactivation or use of the infrastructure must commence and be completed;
- (b) require the submission of a security deposit at any time during the process or as a requirement to approve the plan;
- (c) refuse to approve the application.

(4) Notwithstanding any other provision of these regulations, the minister may:

- (a) authorize a reduction in the ART on application by a licensee if the minister considers it reasonable to do so, based on the financial situation of the licensee; or
- (b) allow qualifying non-operated expenditures to count towards a licensee's ART.

(5) After considering an application submitted pursuant to subsection (4), the minister may:

- (a) approve the application; or
- (b) refuse to approve the application.

25 Jne 2021 cO-2 Reg 8 s5-7.

**Use of security towards annual reduction target**

**5-8** If a licensee has submitted a security deposit pursuant to subsection 3-1(1), the licensee may apply to the minister to use some or all of its security deposit to pay the costs associated with fulfilling its ART determined in accordance with subsection 5-3(1).

25 Jne 2021 cO-2 Reg 8 s5-8.

**Compliance plan**

**5-9(1)** If a licensee fails to make qualifying expenditures in an amount greater than or equal to its ART, the minister may require a licensee to submit to the minister, in an approved form and manner and within the period specified by the minister, a compliance plan setting out how the licensee will meet its ART obligations pursuant to these regulations.

(2) The minister may require a licensee to prioritize in its compliance plan the abandonment, decommissioning, remediation or reclamation of:

- (a) inactive infrastructure or sites that may pose a risk to surface water or groundwater;

- (b) infrastructure with known integrity issues;
- (c) inactive infrastructure or sites where the landowner has requested site closure;
- (d) infrastructure that has been inactive for more than 15 years; or
- (e) any other infrastructure or site if, in the opinion of the minister, there is a concern as described in section 17.01 of the Act.

25 Jne 2021 c O-2 Reg 8 s5-9.

## PART 6 Site Closure

### Decommissioning and reclamation of well and facility sites

**6-1(1)** On completion of abandonment of a well or decommissioning of a facility, the licensee or the operator shall, in accordance with the rules:

- (a) conduct an environmental site assessment;
  - (b) decommission the well or facility site;
  - (c) reclaim the well or facility site;
  - (d) reclaim any area that is beyond the boundaries of the well or facility site and that, in the opinion of the minister, has been damaged, contaminated or otherwise adversely affected by the operations of the well or facility; and
  - (e) conduct a detailed site assessment.
- (2) If a site has been prepared, disturbed, constructed or contaminated and no well or facility has been drilled or constructed on the site, the minister may require the licensee or operator to perform the activities mentioned in subsection (1), in accordance with the rules.
- (3) On abandonment of a well or decommissioning a facility, the licensee shall abandon any unused or inactive associated flowlines.
- (4) Notwithstanding subsections (1), (2) and (3), a licensee or operator may apply to the minister for approval of a variation of the requirements of those subsections.
- (5) After considering an application described in subsection (4), the minister may:
- (a) approve the application; or
  - (b) refuse to approve the application.

25 Jne 2021 c O-2 Reg 8 s6-1.

### Acknowledgement of reclamation

**6-2(1)** Following completion of the activities mentioned in subsection 6-1(1) or (2), the licensee shall, in accordance with the rules, submit to the minister:

- (a) an application for AOR; and
- (b) any other information required by the minister.



- (2) The minister shall issue an AOR if the minister is satisfied that the licensee has complied with the requirements of section 6-1.
- (3) The minister may:
- (a) impose any terms and conditions in an AOR that the minister considers appropriate; or
  - (b) cancel an AOR if the minister considers it appropriate to do so.
- (4) Every licensee shall comply with the terms and conditions imposed on an AOR issued to it pursuant to subsection (3).

25 Jne 2021 c O-2 Reg 8 s6-2.

#### **Continuing obligations**

- 6-3(1)** The issuance of an AOR pursuant to section 6-2 does not relieve a licensee or working interest participant of its past, present or future environmental liability associated with the well or facility site that is the subject of the AOR.
- (2) If, in the opinion of the minister, any of the activities mentioned in section 6-1 or 6-2 have been unreasonably delayed, the minister may make an order requiring the completion of those activities and specifying the time in which they are to be completed.

25 Jne 2021 c O-2 Reg 8 s6-3.

## **PART 7 Oil and Gas Orphan Fund**

#### **Use of the orphan fund**

- 7-1** The minister is authorized to use the money in the orphan fund for the following purposes:
- (a) to reimburse the ministry or a person authorized by the minister:
    - (i) for undertaking the abandonment, decommissioning or reclamation of an orphan well, an orphan facility, associated flowline and their respective sites or any other area on or off the site that has been damaged, contaminated or otherwise adversely affected as a result of the operation;
    - (ii) for undertaking any other activities that the minister considers necessary and that are associated with the orphan well, the orphan facility, associated flowline and their respective sites mentioned in subclause (i); or
    - (iii) for undertaking the abandonment, decommissioning and reclamation of liabilities pursuant to an application mentioned in section 5-7;
  - (b) to pay the costs to carry out the following activities:
    - (i) the abandonment or decommissioning of all or part of the flowline associated with the orphan well or orphan facility and the reclamation of the area around the flowline or any other associated activities that the minister considers necessary with respect to the flowline or the area around the flowline;

- (ii) any action mentioned in section 17.04 of the Act;
- (iii) the undertaking of any steps to contain and secure a risk if the minister is reasonably satisfied that the licensee or operator cannot be located or is not readily identifiable and if, in the opinion of the minister, a well, flowline or facility has caused an impact or has the potential to cause an impact on or off the site that poses a risk to the environment, life or property;
- (c) to pay for technical, administrative, legal or other costs related to acquiring professional services that are incurred in pursuing reimbursement for the costs mentioned in clauses (a) and (b) from the person responsible for paying them;
- (d) to pay for a defunct working interest participant's share of suspension, decommissioning, abandonment and related reclamation costs if those costs:
  - (i) in the opinion of the minister, are reasonable and necessary to do the work; and
  - (ii) have been incurred by the licensee or a working interest participant;
- (e) to pay for any other costs directly related to the administration and operation of the orphan fund; and
- (f) to pay for any expense related to the fund advisory committee that is approved by the minister, including any expense incurred pursuant to subsection 8-2(2).

25 Jne 2021 cO-2 Reg 8 s7-1.

#### Orphan fund expenditures

- 7-2(1)** The minister may determine when money in the orphan fund may be used for the purposes mentioned in section 7-1.
- (2) The minister shall consult with the fund advisory committee with respect to the manner generally in which the purposes of the orphan fund are carried out.
- (3) Nothing in this Part requires the minister to consult with the fund advisory committee respecting the use of a security deposit, equipment and materials or oil, gas or products forfeited pursuant to subsection 3-6(1) or (4).

25 Jne 2021 cO-2 Reg 8 s7-2.

#### Orphan fund levy

**7-3(1)** A licensee shall pay an orphan fund levy for each fiscal year, as required by clause 20.98(c) of the Act, calculated in accordance with the following formula:

$$\text{Orphan fund levy} = \frac{A}{B} \times \text{Annual Budget}$$

where:

Orphan fund levy is the fee to be levied on wells and facilities and deposited in the orphan fund;

A is the licensee's deemed liability for all facilities, wells and unreclaimed sites licensed to the licensee, as calculated at a date and in a manner specified by the minister;

B is the sum of the oil and gas industry's deemed liability for all licensed facilities, wells and unreclaimed sites, as calculated at a date and in a manner specified by the minister; and

Annual Budget is the amount that is required to conduct work specified in section 7-1 for a fiscal year as determined by the minister after any consultation with the fund advisory committee appointed pursuant to section 8-1 that the minister considers necessary.

- (2) The minister shall provide written notice to a licensee setting out the amount of the orphan fund levy that is to be paid by the licensee.
- (3) A licensee shall pay the amount of the orphan fund levy not later than 60 days following the mailing date shown on the notice sent by the minister.
- (4) In determining the Annual Budget mentioned in subsection (1), the minister shall provide for a total levy that will be sufficient, in the minister's opinion, to cover:
  - (a) the anticipated costs mentioned in section 7-1 for the fiscal year; and
  - (b) any surplus for emergency or contingencies and non-budgeted expenditures.
- (5) After any consultation with the fund advisory committee that the minister considers necessary, the minister may adjust the Annual Budget mentioned in subsection (1) in order to maintain the minimum amount specified in subsection (6).
- (6) The annual budget and orphan fund levy must be established each year in order to target a minimum year-end fund balance of not less than \$2,000,000 to address unexpected costs and emergencies.

25 Jne 2021 cO-2 Reg 8 s7-3; 8 Oct 2021 Errata Notice.

#### **Late payment of orphan fund levy**

**7-4** Any amounts of the levy that remain unpaid to the minister after the period mentioned in subsection 7-3(3) are a debt due to the Crown in right of Saskatchewan payable to the orphan fund and may be recovered by the minister in any manner authorized by *The Financial Administration Act, 1993* or in any other manner authorized by law.

25 Jne 2021 cO-2 Reg 8 s7-4.

#### **Recovery of orphan fund expenses**

**7-5(1)** The minister may recover all or part of the money expended from the orphan fund for the purpose of carrying out any of the activities mentioned in clauses 7-1(a) to (d) from any of the following:

- (a) the licensee;
  - (b) the working interest participants based on their percentages of interest;
  - (c) any other person whom the minister considers responsible for the well, facility, associated flowline and their respective sites;
  - (d) the proceeds of the sale of any machinery, equipment or materials or oil, gas or products that were forfeited pursuant to section 17.06 of the Act.
- (2) The minister shall deposit any amount of money or proceeds recovered pursuant to subsection (1) in the orphan fund.

25 Jne 2021 cO-2 Reg 8 s7-5.

**Fiscal year**

**7-6** For the purposes of clause 20.98(k) of the Act, the fiscal year of the fund is the period commencing on April 1 of one year and ending on March 31 in the following year.

25 Jne 2021 cO-2 Reg 8 s7-6.

**PART 8****Fund Advisory Committee****Committee membership**

**8-1(1)** The minister may appoint as members of the fund advisory committee:

- (a) an official of the ministry, who shall chair the committee;
  - (b) 4 individuals nominated by the oil and gas industry associations that, in the opinion of the minister, represent the general and diverse interests of the oil and gas industry in Saskatchewan; and
  - (c) up to 2 other individuals.
- (2) Each member of the fund advisory committee holds office for a term of 2 years and until a successor is appointed.
- (3) If a member of the fund advisory committee nominated by an oil and gas industry association resigns or is no longer able to serve, that oil and gas industry association may:
- (a) nominate another person to be a member for the remainder of the term of the former member; or
  - (b) choose to have the former member's position remain vacant until the end of the term of the former member.
- (4) A member of the fund advisory committee is eligible to be reappointed as a member.

25 Jne 2021 cO-2 Reg 8 s8-1.

**Purpose of fund advisory committee**

**8-2(1)** The members of the fund advisory committee shall:

- (a) assist the minister in the development of an annual program to abandon and reclaim orphan wells and facilities and the respective sites by advising on the determination and selection of orphan wells and facilities for that program;
  - (b) provide the minister with advice and expertise in the development of the Annual Budget mentioned in subsection 7-3(1), for the payment of the costs associated with the annual abandonment program mentioned in clause (a); and
  - (c) make recommendations to the minister respecting the amount of the Annual Budget mentioned in subsection 7-3(1) for a fiscal year.
- (2) Members of the fund advisory committee are entitled to reimbursement for their expenses incurred in the performance of their responsibilities in accordance with rates paid to members of the public service of Saskatchewan.

- (3) The fund advisory committee may:
- (a) appoint or engage any professional, administrative, technical and clerical personnel that may be required for the purposes mentioned in clauses (1)(a) to (c); and
  - (b) determine the salaries and other remuneration of the personnel appointed or engaged pursuant to clause (a).
- (4) A person appointed or engaged by the fund advisory committee for the purposes mentioned in subsection (1) is entitled to reimbursement for that person's expenses incurred in the performance of that person's responsibilities in accordance with rates paid to members of the public service of Saskatchewan.
- (5) A member of the fund advisory committee or a person mentioned in subsection (4) may not disclose information obtained in the course of performing the member's or person's duties mentioned in subsection (1) that may reasonably be expected to:
- (a) result in financial loss or gain to a third party; or
  - (b) prejudice the competitive position of a third party.

25 Jne 2021 cO-2 Reg 8 s8-2.

## PART 9

### Administrative Penalties

#### Administrative penalties

- 9-1(1)** For the purposes of section 58.1 of the Act, the minister may assess administrative penalties as set out in Table 2 of the Appendix for the contraventions mentioned in that Table.
- (2) Notwithstanding subsection (1), a penalty is not to be assessed in relation to a deficit mentioned in subsection 5-5(2).
- (3) If a person fails to pay an administrative penalty in the amount required or within the time required, the amount not paid is a debt owing to the minister pursuant to section 53.2 of the Act.

25 Jne 2021 cO-2 Reg 8 s9-1.

## PART 10

### Confidentiality of Information

#### Confidential information

- 10-1(1)** The minister shall keep the following information confidential:
- (a) the deemed liability associated with any infrastructure or the site of any infrastructure licensed in accordance with the rules;
  - (b) any information reported pursuant to section 4-3, unless that information is already public;
  - (c) information produced by the fund advisory committee, including meeting minutes and correspondence.

(2) Notwithstanding subsection (1), the minister may provide liability information pertaining to unassessed or assessed problem sites or contaminated sites to a transferee with respect to a licence transfer.

25 Jne 2021 cO-2 Reg 8 s10-1.

## PART 11 General

### Applications

**11-1** An application pursuant to these regulations must be made in accordance with section 6 of *The Oil and Gas Conservation Regulations, 2012*.

25 Jne 2021 cO-2 Reg 8 s11-1.

### Methods of payment

**11-2** Any payment required to be paid pursuant to these regulations must be paid:

(a) subject to clause (b), by one of the following methods directed by the minister:

- (i) pre-authorized debit;
- (ii) electronic transfer of funds;
- (iii) cash or cash equivalent; or

(b) in the case of exceptional circumstances that, in the opinion of the minister, prevent payment by the method directed by the minister pursuant to clause (a), by any other method acceptable to the minister.

25 Jne 2021 cO-2 Reg 8 s11-2.

## PART 12 Coming into Force

### Coming into force

**12-1(1)** Subject to subsection (2), these regulations come into force on a day fixed by order of the Lieutenant Governor in Council.

(2) The following provisions come into force on January 1, 2023:

- (a) the definition of “**ART**” or “**annual reduction target**” in section 1-2;
- (b) subsection 1-4(2);
- (c) clause 3-1(1)(d);
- (d) subsection 3-4(2);
- (e) Part 5;
- (f) subclause 7-1(a)(iii);
- (g) subsection 9-1(2);
- (h) Table 1 of the Appendix;
- (i) items 3 and 4 in Table 2 of the Appendix.

25 Jne 2021 cO-2 Reg 8 s12-1.

**Appendix**  
**TABLE 1**  
**Qualifying Expenditures**  
*[Section 5-1]*

<b>Item</b>	<b>Activity</b>
1	Abandonment of a well.
2	Decommissioning of a facility.
3	Abandonment of a flowline.
4	Remediation or reclamation of a well site if the wells have been abandoned or if the wells are inactive and includes any and all costs incurred in order to obtain an AOR for the site.
5	Remediation or reclamation of a facility site if the facility has been decommissioned or if the facility is inactive and includes any and all costs incurred in order to obtain an AOR for the site.
6	Remediation activities at an unassessed or assessed problem site regardless of whether the associated well, facility or flowline is inactive and includes costs: <ul style="list-style-type: none"> <li>(a) to obtain a Site Specific Liability Assessment;</li> <li>(b) to obtain a Site Specific Risk Assessment;</li> <li>(c) related to monitoring; and</li> <li>(d) all costs required to obtain an AOR for a site.</li> </ul>
7	Costs for all activities specified in International Financial Reporting Standards (IFRS) 16 paragraph 16(b) and in PwC IFRS Manual of Accounting FAQ 16.85.7.

TABLE 2  
**Administrative Penalties**  
 [Section 9-1]

<b>Item</b>	<b>Description of Contravention</b>	<b>Administrative Penalty</b>
1	Subsection 3-1(1), failure to submit required security deposit within required time frame.	10 % of outstanding security deposit.
2	Section 4-3, failure to provide complete and accurate information to the minister in the required form and time frame.	\$100/day to a maximum of \$20,000.
3	Subsection 5-4(1), failure to meet ART.	10 % of the amount by which a licensee's ART exceeds its actual expenditures in a calendar year.
4	Sections 5-6, 5-7 and 5-9, failure to provide complete and accurate information to the minister in the required form and time frame.	\$100/day to a maximum of \$20,000.

25 Jne 2021 cO-2 Reg 8.