

Demolition & Decommissioning A Legal Perspective

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Overview

- **Building/Facility Demolition**
- **Tank Closure and Removal**
- **Oil and Gas Asset Decommissioning**
- **Offences & Penalties for Non-Compliance**

BUILDING/FACILITY DEMOLITION



Source: Michael Gaida, Pixabay

Alberta Building Code 2014

- **Objective of Code is to limit risk of hazards to public from building/facility construction and demolition**
- **A permit is required for demolition or other work to which the Alberta Building Code applies**
- **Building constructor responsible for ensuring methods used for demolition are safe**
- **Before demolition, owners must notify in writing to the authority having jurisdiction describing asbestos management work**

Alberta Occupational Health and Safety Act and Code

- **Objective is protection of workers and public**
- **Employer must**
 - assess a work site and identify existing and potential hazards prior to work commencing
 - prepare a report of the results of the hazard assessment and methods used to control or eliminate the hazard
 - take measures to eliminate or control the hazard (if elimination not reasonable practicable) through engineering controls, administrative controls, and PPE

Alberta Occupational Health and Safety Act and Code

- **Employer must**
 - ensure exposure levels to harmful substances is minimized and in accordance with the exposure limits set in the OHS Code
 - ensure employee training about potential exposure, overexposure, and decontamination and emergency procedures
 - minimize the release of asbestos, silica, coal dust and lead into the air as far as is reasonably practicable

Alberta Occupational Health and Safety Code – Asbestos

- **Building removal/demolition/dismantling = high risk exposure to asbestos fibres**
- **Employer must**
 - remove materials with the potential to release asbestos fibres from a to-be-demolished building
 - notify a Director of Inspection of asbestos-releasing activity/demolition at least 72 hours in advance
 - ensure employees receive necessary training to work with asbestos safely and enter areas with asbestos present

Alberta Asbestos Abatement Manual

- **Manual provides principles to select appropriate techniques for safe abatement**
- **Conduct building survey to determine asbestos levels/location in building**
- **Removal of asbestos is a prerequisite for building demolition**
- **Removal of all asbestos-containing materials which can release fibres taken off underlying surfaces, placed in container and disposed of at approved waste disposal facility**

Alberta Asbestos Abatement Manual

- **In certain cases, asbestos-containing materials may be left during demolition**
- **Acceptance in accordance with OHS Code, s. 34 required to leave in place**
- **Criteria evaluated in granting Acceptance**
 - asbestos content <5% chrysotile and non-friable
 - demolition done by machine
 - water used as dust control
 - material is problematic to remove and would create more hazard to workers

Alberta Occupational Health and Safety Code – Demolition (Part 30)

- **Employer must**

- remove all chemical and biological substances that could be hazardous to workers during demolition
- designate a competent person to
 - be in charge of the demolition while it is in progress
 - develop a demolition procedure for the use of explosives during demolition
- “competent” means adequately qualified, suitably trained and with sufficient experience to perform the work

Alberta Occupational Health and Safety Code – Demolition (Part 30)

- **Procedure for dismantling/demolishing buildings**
 - remove glass and windows on exterior walls/adjacent to a public walkway
 - safeguard stability of adjoining buildings
 - if tensioned steel cables/bars present in building
 - certify demolition procedure
 - have procedure supervised by a professional engineer

Alberta Occupational Health and Safety Code – Demolition (Part 30)

- **Procedure for dismantling/demolishing buildings**
 - perform demolition floor by floor and top down if workers present
 - dismantle steel structures column length by column length and tier by tier
 - secure structural elements and walls that are being removed
 - arrange for removal and disposal of all demolition debris and waste to appropriate waste disposal facilities

TANK CLOSURE AND REMOVAL



Source: Petroleum Tank Management
Association of Alberta

Permits Required for Tank Removal – Alberta Permit Regulation

- **Alberta Permit Regulation under the *Alberta Safety Codes Act*, and applies to the *Alberta Fire Code 2014***
- **Regulation requires a permit to install, alter or remove a storage tank system**
 - identify approved person for removal
 - notify authority of removal or discontinued use
 - have removal work accepted by authority
- **Permit issued by accredited municipality or PTMAA**

Aboveground Storage Tank – Out of Service – Alberta Fire Code 2014

- **AST out of service not exceeding 180 days**
 - cap piping, close and lock valves, as necessary
 - measure flammable liquid in tanks, and compare results monthly
- **AST out of service exceeding 180 days**
 - remove all liquid and vapours from tank and connected piping
 - markings must clearly indicate that tank is empty

Aboveground Storage Tank – Return to Service – Alberta Fire Code 2014

- **AST to be returned to service**
 - shall be internally inspected where possible, and
 - authority having jurisdiction shall be notified of
 - inspection results and
 - intention to return tank to service

Underground Storage Tank – Out of Service – Alberta Fire Code 2014

- **UST out of service for over 180 days**
 - notify authority having jurisdiction as soon as practicable
 - empty Class I liquids from storage tanks, connected piping, and dispensers
 - lock fill pipe covers and covers over openings
- **Alberta Fire Code lists requirements where UST facilities operate on a seasonal basis**

Underground Storage Tank – Abandonment in Place – Alberta Fire Code 2014

- **Owner shall apply for permission to abandon in place, confirming no soil contamination and agreement of property owner**
- **Authority having jurisdiction will permit abandonment in place, if satisfied that**
 - excavation is impracticable,
 - UST is inaccessible to necessary heavy equipment required for removal
 - removal of the storage tank would endanger structural integrity of nearby buildings or other facilities

Underground Storage Tank – Abandonment in Place – Alberta Fire Code 2014

- **If permission to abandon UST in place, owner shall**
 - purge vapours to less than 10% of lower explosive limit
 - arrange for certified person to conduct internal inspection for perforations, and notify authority if perforated
 - conduct additional investigations or take remedial action as directed
 - remove sludge and dispose of it in acceptable manner
 - make holes along top of UST large enough to fill with inert material (i.e. sand, gravel, concrete)
 - remove or permanently cap piping

Underground Storage Tank – Removal – Alberta Fire Code 2014

- **If UST has no further use or out of service for 2 years, prior to removal, owner shall**
 - notify authority in writing at least 30 days before removal
 - remove flammable/combustible liquids from UST
 - purge UST of vapours and remove UST from ground
 - purge vapours from pipes and permanently cap ends or remove piping from ground
- **If soil contaminated, notify authority, determine extent of contamination and remove, treat or replace soil as required**

OIL AND GAS ASSET DECOMMISSIONING



Source: The Narwhal



Source: CBC News

Oil and Gas – General Rules

- ***Oil and Gas Conservation Act and Pipeline Act***
 - requires operators to “abandon” assets – Liable for abandonment costs
 - “abandonment” - permanent dismantlement so that asset is left in a permanently safe condition
 - empowers Alberta Energy Regulator (AER) to
 - impose licencing and transfer conditions relating to abandonment (e.g., security deposits)
 - issue orders requiring abandonment work
 - Orders in Court of Queen’s Bench for abandonment costs under *Pipeline Act*
 - “Orphan” designation if cannot be abandoned by licensee or others

Well Abandonment – Oil and Gas Conservation Rules

- **Licensees shall**

- obtain the AER's consent before abandoning wells with wellbore problems (i.e., leaking plugs, ghost-holes across porous zones, fish-in-the-hole across porous zones)
- abandon wells when required by the AER, including where the well constitutes an “environmental hazard”
- follow all prescribed requirements of abandonment as set out in Directive 020
- keep records relating to operations (including abandonment work) as set out in Directive 059

Well Abandonment – Directive 020

- **Routine abandonment does not require AER approval but proponent shall inform affected landowners**
- **Non routine abandonment requires AER approval before abandonment, report submitted to AER within 30 days after abandonment**
- **Gas migration, surface casing vent flow, and fluid level testing may be required before well can be abandoned**

Well Abandonment – Directive 020

- **Specific abandonment procedures for different well types and different locations**
- **Operator shall confirm cement plug locations, using AER approved methods and submit Plug Log and additional information to AER**
- **Surface abandonment testing, procedures and timing for completion after downhole abandonment operations**

Pipeline Abandonment – Pipeline Regulation

- **Licensee required to abandon inactive pipelines, or where required by AEP**
- **Pipeline shall be**
 - isolated/disconnected from facility/other pipelines
 - purged to mitigate substance release/spill
- **Licensee shall**
 - remove surface equipment and cathodic protection
 - permanently plug or cap ends and identify ends with required information

Pipeline Abandonment – Directive 056

- **Licensee shall apply to AER for pipeline removal in accordance with Directive 056**
- **Permanent deactivation of a pipeline to leave in a safe and secure condition**
- **Licensee must meet the Participant Involvement Program requirements to engage with stakeholders and concerned persons**
- **Notify the AER within 90 days of abandonment**

Pipeline Abandonment – Federally Regulated Pipelines

- ***National Energy Board Act*** – inter-provincial, international
 - Companies shall
 - obtain NEB permission to “abandon” pipeline - public hearing requirement
 - prepare abandonment plan as required under the *NEB Onshore Pipeline Regulations*
 - NEB can
 - impose conditions and issue orders
 - prohibit contact/alteration of abandoned pipelines
 - require security for abandonment

Pipeline Decommissioning – Federal NEB Onshore Pipeline Regulation

- “abandonment” versus “decommissioning”
 - Abandonment – permanently discontinue services along pipeline route
 - Decommissioning - permanently cease operation without discontinuing service
- Company shall apply to NEB to decommission pipeline
 - NEB will assess socio-economic, environmental, financial effects of decommissioning pipeline
- Record maintenance requirements for abandonment and decommissioning

Oilfield Waste Management Facility – Directive 058

- **Alberta Environment and Parks responsible for closure**
 1. eliminate inventory on site
 2. dismantle structures, equipment
 3. properly abandon wells, pipelines
 4. perform detailed site assessment to identify contamination
 5. implement reclamation program for next intended land use
 6. complete post-closure monitoring
 7. document work undertaken, including verification
- **Operator must submit closure plan with application and post financial security**

Oil and Gas Reclamation Certificate – Specified Enactment Direction 002

- **AER accepts energy-related Reclamation Certificate applications under *EPEA* – SED 002 provides guidance**
- **AER reviews reclamation applications against standards, criteria and guidelines set by AEP**
- **AER publishes notice of application on website, operator provide a copy to landowners, interest-holders and occupants**
- **Application Review – Baseline and Additional**
- **Statement of Concern and Appeals of AER decisions**
- **Compliance Audits – desktop, surface field and subsurface field audits**

Oil and Gas Reclamation Certificate – Specified Enactment Direction 002

- **Application requirements**

- asset, associated facilities and infrastructure information
- environmental site assessment – Phase 1 ESA, Phase 2 ESA, drilling waste disposal information, remediation reports, variance request
- stakeholder information – operator, applicant, consultant, landowner, occupant
- reclamation information – survey plan, construction dates, reclamation criteria, revegetation approach
- application declaration, professional declaration

OFFENCES & PENALTIES FOR NON-COMPLIANCE



Source: Global News

Alberta Occupational Health & Safety Act – Offences & Penalties for Non-Compliance

- **Offences for**
 - failing to comply with an order or decision
 - intentionally obstructs or fails to reasonably cooperate with officer in performance of duties
 - making false entry or deletes or destroys entry in register or other documents
 - failing to report an injury or incident
 - failing to comply with Act, regulations or Code

Alberta Occupational Health & Safety Act – Offences & Penalties for Non-Compliance

- **Penalties for non-compliance**

- First offence

- fine of not more than \$500,000 and, continuing offence further fine not more than \$30,000/day offence continues, and/or
 - imprisonment for not more than 6 months

- Second or subsequent offence

- fine of not more than \$1,000,000 and, continuing offence further fine not more than \$60,000/day offence continues, and/or
 - imprisonment for not more than 12 months

- May be ordered to comply

Alberta Safety Codes Act, Building & Fire Codes – Offences & Penalties for Non-Compliance

- **Offences for**
 - interference with officer in performance of duties
 - making false or misleading statements
 - failing to prepare, submit or retain information
 - contravening the Act, regulation or Code
 - contravening a condition of a permit,
 - contravening an order, or
 - failing to take action required in an order within a specified time

Alberta Safety Codes Act, Building & Fire Codes – *Offences & Penalties for Non-Compliance*

- **Penalties for non-compliance**

- First offence

- fine of not more than \$100,000 and, continuing offence further fine not more than \$1,000/day offence continues, and/or
 - imprisonment for not more than 6 months

- Second or subsequent offence

- fine of not more than \$500,000 and, continuing offence further fine not more than \$2,000/day offence continues, and/or
 - imprisonment for not more than 12 months

- May be ordered to comply

Oil and Gas Conservation Act – Offences & Penalties for Non-Compliance

- **Offences for**
 - contravening the Act, regulation or Code
 - contravening an order
 - contravening an approval, term, condition or licence
 - causing any person to contravene the Act, an order or an approval, term, condition or licence
 - instructing, directing or ordering an officer or employee to contravene the Act, an order or an approval, term, condition or licence

Oil and Gas Conservation Act – Offences & Penalties for Non-Compliance

- **Penalties for non-compliance**
 - Individuals: fine not more than \$50,000
 - Corporations: fine not more than \$500,000
 - Persons are liable for each day when the offence occurs or continues
 - no person shall be convicted if a due diligence is established on a balance of probabilities

Pipelines Act – Offences & Penalties for Non-Compliance

- **Offences for**

- obstructing or causing obstruction to repair, operation, dismantling of pipeline
- willfully damaging a pipeline or removing, destroying sign erected under Act
- knowingly making a false statement in a record
- as a principal, contravening the Act, an order, or licence
- causing, directing or ordering, a person, officer or employee to contravene the Act, an order ,a licence, term or condition
- obstructing, hindering or interfering with Regulator exercising power to access, investigate and test

Pipeline Act – Offences & Penalties for Non-Compliance

- **Penalties for non-compliance**
 - Individuals: fine not more than \$50,000
 - Corporations: fine not more than \$500,000
 - Persons are liable for each day when the offence occurs or continues
 - no person shall be convicted if a due diligence is established on a balance of probabilities

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