
Questions and Answers: Post-Abandonment Remediation Pilot Approach

This document answers questions received from industry and other stakeholders about the Office of the Regulator of Oil and Gas Operations (OROGO) pilot approach to regulating post-abandonment remediation under the *Oil and Gas Operations Act* (OGOA). It addresses:

- What is covered under the pilot approach
- When a remediation Authorization is required
- The scope of a remediation Authorization
- Minimizing duplication with Land and Water Board processes
- The impact on companies with an approved Final Closure and Reclamation Plan
- The impact on companies with a Closure and Reclamation Plan in process but not approved
- Proof of financial responsibility for remediation Authorizations
- The legal basis for the Regulator's authority over remediation on oil and gas sites
- The concerns OROGO is addressing with the pilot approach
- The timing of OROGO's engagement with this issue
- The parties and stakeholders OROGO engaged with about the pilot approach

What is Covered Under the Pilot Approach

The pilot approach covers pollution resulting from activities authorized through an Authorization under OGOA or, prior to April 1, 2014, under the *Canada Oil and Gas Operations Act* (COGOA).

Therefore, the pilot approach covers pollution resulting from:

- Drilling, operating, suspending, and abandoning a well
- Building, operating, deactivating, decommissioning, and abandoning a pipeline
- Building, operating, decommissioning, and abandoning infrastructure associated with wells and pipelines such as batteries, separator shacks, and storage tanks

The pilot approach does not cover pollution or other environmental impacts resulting from sumps, camps, access roads, or transboundary pipelines and associated infrastructure.

When a Remediation Authorization is Required

The following factors determine whether a remediation Authorization is required:

Was the activity authorized under OGOA (or COGOA, before April 1, 2014)?

Examples of activities authorized under (C)OGOA include wells, pipelines, batteries, storage tanks, and other items directly associated with wells and pipelines.

Did the activity authorized under (C)OGOA cause pollution?

Pollution occurs when an unauthorized substance enters the environment. It is not limited to spills of oil and gas. All pollution must be reported to the Regulator as soon as the circumstances permit. Pollution may also have been reported to the NT/NU Spill Line.

Was the pollution cleaned up?

As the abandonment and decommissioning of oil and gas infrastructure on a site is winding up, OROGO will assess the status of any pollution reported to the Regulator or the NT/NU Spill Line from activities authorized under (C)OGOA. If the status is anything other than closed and remediated, OROGO will contact the company for more information. At that time, companies can submit documents to OROGO demonstrating the pollution from activities authorized under (C)OGOA was completely cleaned up and there is no known or potential remaining pollution.

If a company demonstrates, to the satisfaction of the Regulator, there is no known or potential remaining pollution from activities authorized under (C)OGOA, it does not require a remediation Authorization and OROGO will not regulate other closure and reclamation activities on the site.

However, if later research reveals pollution from an activity authorized under (C)OGOA, the company must meet its obligations under section 75 of the *Oil and Gas Drilling and Production Regulations*, beginning with reporting to the Regulator. Pollution must also be reported to the NT/NU Spill Line.

If there is known or potential remaining pollution from activities authorized under (C)OGOA, OROGO will regulate the assessment and clean-up of the remaining pollution through a remediation Authorization.

However, if testing conducted under the remediation Authorization demonstrates no pollution from activities authorized under (C)OGOA, the Authorization will be terminated and OROGO will not regulate other closure and reclamation activities on the site.

Scope of a Remediation Authorization

The remediation Authorization scopes in four components:

1. Environmental Site Assessment (ESA)

ESAs include initial testing to determine whether pollution exists and, if necessary, subsequent testing to gather more information about the pollution and inform the clean-up plan. ESAs must meet the standards established by the Department of Environment and Climate Change (ECC-GNWT) for ESAs.

2. Clean-up Plan

Companies may submit the Closure and Reclamation Plan prepared for the Land and Water Board as a clean-up plan. The Regulator's approval is only required for sections addressing pollution from activities authorized under (C)OGOA. These sections of the clean-up plan must meet the standards established by ECC-GNWT for Remedial Action Plans.

3. Clean-up Activities

4. Monitoring and reporting

OROGO inspects authorized activities. OROGO's Inspectors work closely with ECC-GNWT Inspectors to minimize misalignment between regulators.

OROGO reviews the results of authorized activities. OROGO will consult with the Land and Water Board and ECC-GNWT Inspectors before declaring the pollution cleaned up.

Minimizing Duplication with Land and Water Board Processes

OROGO recognizes some remediation activities on oil and gas sites will also be regulated under the *Mackenzie Valley Resource Management Act* (MVRMA) by a Land and Water Board.

OROGO is minimizing duplication with Land and Water Board processes by:

- Limiting the scope of its Authorizations to the remediation of pollution resulting from activities and infrastructure authorized under (C)OGOA.
- Accepting documents prepared for the Land and Water Board process rather than requiring companies to develop separate, OROGO-specific documents. These documents include:
 - The Final Closure and Reclamation Plan prepared for the Land and Water Board. The Regulator's approval is only required for sections addressing pollution from activities authorized under (C)OGOA.
 - Reports of Environmental Site Assessments and other research prepared for the Land and Water Board, to the extent they address pollution from activities authorized under (C)OGOA.
 - Reports on the implementation of clean-up activities and their results, to the extent they address pollution from activities authorized under (C)OGOA.
- Coordinating its process with the Land and Water Board process, where possible, to avoid delays and misalignments.
- Conducting joint inspections with GNWT-ECC Inspectors where possible.
- Coordinating closure sign-off processes with the Land and Water Board and GNWT-ECC Inspectors.

Impact on Companies with an Approved Final Closure and Reclamation Plan

If there is known or potential remaining pollution from activities authorized under (C)OGOA on a site and the company already has a Final Closure and Reclamation Plan approved by the appropriate Land and Water Board, OROGO will accept the Final Closure and Reclamation Plan as approved to avoid delays.

In this case, the company must:

1. Submit the approved Final Closure and Reclamation Plan to OROGO with a concordance table indicating where pollution from activities authorized under (C)OGOA is addressed in the Final Closure and Reclamation Plan. If the company proposes changes to these sections based on the site assessment results, OROGO will review the proposed changes and provide feedback before it is finalized, in consultation with the appropriate Land and Water Board.
2. Apply to OROGO for a remediation Authorization.

Impact on Companies with a Closure and Reclamation Plan in Process but Not Approved

If there is known or potential remaining pollution from activities authorized under (C)OGOA on a site and the company does not have an approved Closure and Reclamation Plan with a Land and Water Board, the company must:

1. Apply to OROGO for a remediation Authorization.
2. Submit the latest version of the Closure and Reclamation Plan to OROGO with a concordance table indicating where pollution from activities authorized under (C)OGOA is addressed in the Closure and Reclamation Plan. OROGO will review the draft and provide feedback before it is finalized, in consultation with the appropriate Land and Water Board.

Proof of Financial Responsibility for Remediation Authorizations

The Regulator cannot issue an Authorization without proof of financial responsibility (PFR) in an amount satisfactory to the Regulator (sections 13 and 64(1) of the *Oil and Gas Operations Act*).

The applicant must provide the information described in the *Proof of Financial Responsibility Guidelines and Interpretation Notes* when applying for a remediation Authorization.

The Regulator's decision on the amount of proof of financial responsibility is based on the potential spills or debris resulting from the remediation activities covered by the Authorization. The amount of proof of financial responsibility does not relate to spills or debris already present on the site due to earlier activities.

Legal Basis for the Regulator's Authority over Remediation on Oil and Gas Sites

The Regulator's authority over remediation on oil and gas sites comes from OGOA and the *Oil and Gas Drilling and Production Regulations* (OGDPR).

OGOA applies to exploring for, drilling for, producing, conserving, processing, and transporting oil and gas in the onshore Northwest Territories (section 3 of OGOA). These activities may not be carried out without an Authorization issued by the Regulator under section 10(1)(b) of OGOA (section 6(b) of OGOA).

To obtain an Authorization, the applicant must submit (among other things):

- An Environmental Protection Plan (section 6(d) of the OGDPR) and a Contingency Plan (section 6(j) of the OGDPR). These two plans are intended to avoid pollution from activities under the Authorization and, if necessary, ensure any pollution that does occur is cleaned up to the Regulator's satisfaction.
- A description of the decommissioning and abandonment of the site, including methods for restoration of the site after its abandonment (section 6(k) of the OGDPR).

As authorized activities occur, the Regulator, the Chief Conservation Officer, and the Conservation Officer(s) are notified of any pollution and monitor its clean-up. If pollution from authorized activities remains after the oil and gas infrastructure on the site has been abandoned and removed, it continues to be under the Regulator's jurisdiction.

Concerns OROGO is Addressing with the Pilot Approach

OROGO's pilot approach addresses:

- **OROGO's regulatory obligations:** OROGO (or the National Energy Board, prior to April 1, 2014) regulated activities that may have resulted in pollution. If pollution from activities authorized under (C)OGOA remains after abandonment, OROGO has a regulatory obligation under OGOA to oversee the clean up of that pollution, in line with its mandate to protect the environment.
- **Limitations of the Land and Water Boards:** Land and Water Boards regulate activities that exceed certain thresholds for land use, water use, or deposit of waste. If a company is not carrying out activities that exceed the thresholds, they are not regulated by the Land and Water Boards. If a company were responsible for a site with pollution due to activities authorized under (C)OGOA and chose not to clean up that pollution, there would be no trigger for Land and Water Board regulation, and the Land and Water Board would not be able to make the company clean up the pollution.
- **Need for clear, transparent regulatory requirements:** Clean-up of pollution from activities authorized under (C)OGOA should meet clear minimum regulatory requirements and align with guidance issued by the Government of the Northwest Territories. To ensure this, OROGO must have a role in approving the clean-up plan and overseeing its implementation.
- **Oversight and enforceability of requirements:** While overseeing the clean-up of pollution from activities authorized under (C)OGOA, OROGO must be able to conduct inspections, receive reports, and monitor the results of these activities. An Authorization underpins OROGO's authority to conduct these activities as well as, if necessary, issue direction, issue orders, and otherwise enforce the Authorization.

Timing of OROGO's Engagement with this Issue

OROGO is engaging with this issue now because:

- Production sites have a higher potential for remaining pollution than single well sites. Two major production sites regulated by OROGO are being abandoned, raising the need to consider clean-up of any remaining pollution from activities authorized under (C)OGOA.
- The Land and Water Boards have expressed interest in OROGO taking a more active role in this area because of the origins of the pollution, the limitations of their process, and the technical expertise required.

Parties and Stakeholders OROGO Engaged with about the Pilot Approach

OROGO shared information on the pilot approach with:

- Operators active in its jurisdiction
- The Canadian Association of Petroleum Producers
- The Land and Water Boards of the Mackenzie Valley
- The Canada Energy Regulator
- The Department of Environment and Climate Change
- The Department of Industry, Tourism, and Investment

**Questions and Answers:
Regulating Post-Abandonment Remediation
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Their comments and questions formed the basis for this document.

The pilot approach addresses pollution resulting from activities authorized under (C)OGOA, which has always been under OROGO's regulatory authority. Therefore, the pilot approach does not represent a change in the regulatory framework.

Once the pilot approach has been running for at least a year, OROGO will draft guidelines and interpretation notes for remediation under section 18 of OGOA. As with all OROGO guidelines, a draft will be made available for public engagement and comment.