



**Indian Oil and
Gas Canada**

**Petrole et gaz des
Indiens du Canada**

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INFORMATION LETTER

Changes to the Management of Environmental Audits

A. Introduction

The purpose of this information letter is to provide clarification of the environmental audit management requirements for companies who hold surface agreements and obtain exploration licences on Indian reserve land.

Since 1995, Indian Oil and Gas Canada (IOGC) has required companies to conduct one-year and five-year environmental audits. These audit requirements are conditions of the surface contracts and ensure that companies meet their commitments and mitigation measures. While many companies do comply with the environmental audit requirements, a number of companies do not regularly submit environmental audits. As such, it is not clear if these well and pipeline sites are in compliance with the appropriate requirements.

IOGC recently completed updating its environmental management system. This system allows IOGC to track environmental audits and compliance with the environmental requirements. IOGC will be closely tracking the following with a view to enforcing compliance:

- the submission and non-submission of environmental audits; and
- compliance and non-compliance with the environmental requirements.

B. Background

Indian Oil and Gas Canada is a Special Operating Agency within Indian and Northern Affairs Canada responsible for administering the *Indian Oil and Gas Act* (Act) and the *Indian Oil and Gas Regulations, 1995* (Regulations).

The Regulations allow the Executive Director of IOGC to enter into contracts (licences, right of ways and surface leases) with corporations or individuals. Before these contracts are issued, the Executive Director must ensure an environmental assessment (screening level) is conducted and approved before the contract holder can enter onto the land to undertake its oil and gas project. The environmental assessment (EA) is conducted in accordance with the

Canadian Environmental Assessment Act (CEAA). After the EA is approved, the Executive Director is also obligated in subsection 20(2) of CEAA to ensure mitigation measures are implemented. IOGC requires that environmental audits be submitted to demonstrate contract holders are implementing mitigation measures and any other terms listed in the contract (also known as IOGC's CEAA Terms Letter).

C. Annual Environmental Audits Reminder Letter

As a courtesy, IOGC will continue to provide annual environmental audit reminder letters to all companies. IOGC endeavours to supply this letter to all surface contract holders by February of each year. IOGC encourages companies who have sold, acquired properties or amalgamated to apply to IOGC promptly for the assignment of contract rights. Forms for the assignment of contracts rights are located on IOGC's website at www.iogc.gc.ca.

D. Environmental Audits Due

All one-year environmental audits are due on December 31 the following year after the date of approval. For example, if you receive an approval for one lease on January 21, 2008, and another approval for another lease on October 20, 2008, the one-year after audit is due December 31, 2009. This time lag allows for construction and drilling and at least one growing season.

Each five-year after audit date is calculated from the due date of the previous audit. For example, if a one-year after audit was due December 31, 2009, the first five-year audit would be due by December 31, 2014. The next five-year audit would be due by December 31, 2019.

E. Failure to Comply

Failure to provide an environmental audit as specified in the surface contract (i.e. lease) will result in IOGC issuing a direction to comply as specified in Section 46 of the Regulations. A direction to comply will be sent to the lessee requesting that the environmental audit be submitted. If the lessee fails to submit the environmental audit, IOGC will take a range of actions that may include cancelling the surface contract. The site may also be subject to a joint inspection involving IOGC and the appropriate provincial authority.

F. Fulfilling the Environmental Audit Requirements

When the environmental audit is received (by December 31 of each year), IOGC will determine whether the site is in compliance with the audit requirements, which are available on IOGC's website at www.iogc.gc.ca.

The environmental audit requirements include:

- Surface Lease Environmental Audit Requirements;
- Pipeline ROW Environmental Audit Requirements; and
- Seismic As-Built Reports and Environmental Audit Requirements.

If the lessee is in compliance, a letter will be sent confirming compliance within three months of receiving the environmental audit. If the lessee is not in compliance, a letter will also be sent by March 31 informing the company to confirm by a specified date, that the site has been brought into compliance.

G. Failure to Comply with the Environmental Audit Requirements

Failure to bring the site into compliance will result in IOGC issuing a direction to comply. If the lessee fails to submit the “in-compliance” letter by the specified deadline, IOGC will take a range of actions that may include cancelling the surface contract. The site may also be subject to a joint inspection involving IOGC and the appropriate provincial authority.

H. Frequently Asked Questions

1. Are environmental audits due for those surface agreements executed by IOGC before 1995?

Many of these pre-1995 agreements do not have environmental audit requirements. As such, IOGC does not require environmental audits. However, some of these older agreements may have environmental audits due if the agreement was amended after 1995. The lessee must review the terms of its surface agreement to determine if an environmental audit is required or contact IOGC for clarification.

2. How often are environmental audits due?

For oil and gas well sites, environmental audits are due one year after construction and then every five years thereafter.

For pipelines, environmental audits are due one-year after construction. No additional audits will be required however, compliance or reclamation matters may require follow-up.

For lease sites that contain batteries and compressors, environmental audits are due one year after construction and then three years after the one-year audit.

3. When did IOGC start requesting environmental audits for pipelines?

IOGC began requiring environmental audits for pipelines around 2004.

4. **How often are pipeline environmental audits due?**

A pipeline environmental audit is due only once but follow-up or non-compliance issues may require additional reporting.

5. **Should First Nations receive a copy of the environmental audit report?**

As of 2010, companies will be required to send a copy of the environmental audit to the First Nation addressed to their Oil and Gas Representative.

6. **Must companies notify the First Nation prior to entering the lease or pipeline right of way?**

IOGC highly recommends that companies or their consultants contact the First Nation or the First Nation's Oil and Gas Representative before conducting an environmental audit to maintain good relations.

7. **Is an environmental audit due for a site that has not been constructed?**

IOGC does not expect to see an environmental audit if the site has not been constructed. However, the company is still obligated to inform IOGC in writing that the site was not constructed. IOGC will set the environmental audit due date for the next year. IOGC will also confirm with the appropriate provincial authority that a well has not been drilled. It will conduct regular inspections of active sites annually, including visiting non-constructed locations as well.

If a site has been found to be constructed and/or drilled, a direction to comply may be issued if the company is past its due date.

8. **Where can I find the IOGC's Terms Letter?**

Environmental consulting companies often contact IOGC to obtain the Terms Letter. Companies are expected to provide the Terms Letter (also known as the CEAA Terms Letter) to their consultants. Companies or their consultants are able to visit the public registry at IOGC's offices to photocopy the terms letters. Companies with an address for service outside of Calgary will be faxed a copy of the Terms Letter. The public registry is available Monday through Friday from 8:00 to 4:30 p.m. but closed for lunch from 12 to 1:00 p.m. You are encouraged to contact the appropriate environmental analyst to arrange a time to view the file(s). The contact list is available on IOGC's website www.iogc.gc.ca.

9. **Are environmental audits due if the site is being reclaimed?**

Environmental audits are required until a completed reclamation application is submitted to IOGC. When the application is received, an environmental audit is no longer required.

10. **Are environmental audits due if the well is suspended, shut-in or abandoned?**

Yes, environmental audits are still required.

11. **What happens if a company does not submit its environmental audit report?**

If a company does not submit its environmental audit report by December 31, it will receive a direction to comply letter requesting that the report be submitted usually by August 31 of the following year. Failure to comply may result in an IOGC inspection, a joint inspection with the appropriate provincial authority or lease cancellation.

12. **What happens if IOGC's list of environmental audits due does not match the company's list?**

Companies are encouraged to contact IOGC to discuss and resolve the discrepancies.

13. **To what company address does IOGC send its environmental audit correspondence?**

IOGC sends all correspondence to the confirmed address for service that has been established between IOGC and the company.

14. **If a drilling waste form is not available from the company, is the site considered not in compliance?**

Yes, the site is considered not in-compliance. The company will be expected to respond as it would with the provincial authority regarding how and where it disposed of its drilling waste and how it will rectify the problem for future activity. This information also needs to be provided to the provincial authority.

I. Contact Person at IOGC

Any questions relating to this Information Letter should be directed to:

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