

The Changing Role of Oil & Gas Regulation: the ERCB between now and 2020

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Introduction

Developing a single regulator will go a long way to bringing about a more competitive regulatory system for Alberta's energy resources. Government will be responsible for policy development, and the regulator will be required to make decisions and act in accordance with those policies. The move to a single regulator is not about reducing our province's environmental standards or decreasing our expectations of industry. Nor is it about sacrificing public safety, resource conservation, or the rights of landowners—it all about more effectively and efficiently fulfilling the regulatory mandate, and making Alberta a more competitive environment for oil & gas activities.

Challenges and opportunities

The single regulator will face numerous challenges that derive from four major sources. *First*, there are ongoing demographic and geographic changes in society: urban encroachment upon rural areas and oil and gas development; city folk moving out to live on acreages or rural developments; and industry impinging on both urban and rural areas.

Second, there are rapid changes in the hydrocarbon resource base with geographically extensive plays: coal bed methane, shale gas development, tight oil, tight gas, and so on. These require different development technologies and operational approaches that are akin to light industrial sites rather than individual well sites, and pose additional pressures on local infrastructure and water management .

Third, there have been significant changes in the nature of the oil & gas sector players.

Fourth, and finally, the expectations of the various stakeholders have changed. Industry wants a more competitive environment; the landowners and local residents want to maintain their current, and demand to be consulted more and participate in decision making; all Albertans want more and better services; and governments at all levels—provincial and municipal—rely more heavily on revenues from oil & gas activities to try to provide those services. In effect, we are, individually, all stakeholders; as tax-payers, citizens, industry employees, public servants, or landowners—whatever.

These issues create potential for stakeholder discord and conflicts, and the ERCB has already developed an unconventional resources regulatory framework designed to manage this situation.

ERCB regulatory framework development

The issues that we have already had to come to terms with and will remain for the single regulator to continue to address are four-fold.

There are land-use issues that derive from the dual rights of the surface landowners and the subsurface mineral rights owners. There are environmental concerns around emissions and odours, health and safety, and groundwater management. The industry companies are going to need to act as part of the community and be perceived as “good neighbours”. Technologies move forward at a rapid pace, and the regulator must be able to understand the implications. These technology advances can

create apprehension and fear of the consequences of their application, and need to be explained media and the public.

So what do we need to do as the regulator? We must continue to mitigate the potential harms that could occur. That is what the profession of regulating is all about— identifying the risks and potential harms, creating a regulatory framework to mitigate them, and policing industry's compliance with the rules.

The industry receives a social license to operate from Albertans, and it is the regulators role on their behalf to ensure that companies continuously earn and maintain that license.

We also have a tremendous responsibility with respect to stakeholder engagement. As regulators we must appropriately engage industry, government and the public.

Unconventional resources regulatory framework [URRF]

The URRF will be risk-based, and play-based, with two key aspects to the new approach. The first is *play development planning*, which requires the local companies working together, coordinating activities and infrastructure, through community consultation. The second is a *performance-based regulation approach* by the ERCB, where feasible, (rather than being prescriptive), whereby the regulator sets expectations and outcomes, industry determines how best to achieve them, and the ERCB monitors compliance with the desired outcomes. That sounds all well and good, but is not easy to achieve.

The play-focused regulatory framework is a hierarchy with broad outcome-based goals at the highest level (play level), and prescriptive requirements at a technical operational level. The approach provides flexibility to operate at different levels depending on risks involved, the stage of play development, and an individual operator's organizational capacity. Play-focused regulation will be delivered through regulatory processes focusing on planning and collaboration, different levels of authorizations, and compliance assurance. Play-based planning provides for early public involvement, and up-front disclosure of what can be expected as the play develops.

The new regulatory approach is going to require overall development plans for designated play areas. These will have to be co-operative efforts by the local operating companies—not individual corporate plans—and will need to address specified key areas. Industry will still have to meet the requirements, of course; but this should give much greater flexibility to operators—as long as they are able to work collaboratively, with each other and the local authorities and residents.

Stakeholder engagement – public/local communities

It's all about effective communication. The ERCB already mandates a certain level of consultation and notification about planned and ongoing oil and gas activities. But we need to get past industry only doing what is in the regulations, and actively encourage companies to become part of the community—to act like good neighbours as a matter of course.

The regulator has a role to play as well when it comes to dealing with public objections to activities. The framework needs to be more accommodating to members of the public, and we are working on various possible solutions. This has become a policy direction from government, and has been reinforced by the courts in recent years. We conduct public hearings of objections that are valid, but these are quasi-judicial processes and can be quite intimidating to individual members of the public and local intervenor groups [especially if they do not have legal counsel] and can be costly. The regulator must have processes that are more transparent and more accessible

Professional obligation to educate and inform

We as geologists, geophysicists [and engineers] have some personal and professional obligations with regarding our work and its potential impact on members of the public and local authorities. The work, of the operating companies, consulting firms, regulatory bodies, and government departments of which we

are employees, is not well understood by the general public. We have an obligation to properly inform both the general public—and the media from whom it gets most of its information—of the facts, the potential harms, the risks and the steps taken to mitigate those risks. We need to correct the misinformation [and disinformation] that is widespread—for our own sakes and more especially for the public.

This is an individual responsibility for each of us as professionals, and a collective responsibility for our employers and our professional associations.

Conclusion

It is not just the regulator that will be changing the way it approaches its role between now and 2020; the industry will have to adapt as well. There are already signs and examples of success in that realm. For example, operators in the Lochend area just northwest of Calgary were initially extremely reluctant to collaborate with each other in the development of the overall area. With encouragement from the regulator, and as an effective way of dealing with local issues, they created the Lochend Industry Producers Group—and have developed a much better relationship with the local community as a good-neighbour as a result.

That is going to be the way of the future for the regulator, the industry, and for the general public. We all have a role to play as professionals in making it work effectively.