

Directive 088

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Licensee Life-Cycle Management

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1 Introduction

This directive applies to energy infrastructure and sites regulated under the *Oil and Gas Conservation Act* and *Pipeline Act*. When licensees are referenced in this directive it also includes approval holders.

This directive

- introduces a holistic assessment of a licensee’s capabilities and performance across the energy development life cycle, which will be supported by the licensee capability assessment (LCA);
- introduces the Licensee Management Program, which determines how licensees will be managed throughout the energy development life cycle;
- introduces the Inventory Reduction Program, which sets mandatory closure spend targets;

- updates application requirements related to the licence transfer process; and
- outlines security collection under this directive.

In this directive, closure means the phase of the energy resource development life cycle that involves the permanent end of operations, and includes the abandonment and reclamation of wells, well sites, facilities, facility sites, and pipelines.

This directive is being developed in phases and will replace *Directive 006: Licensee Liability Rating (LLR) Program*. Elements in *Directive 006* will remain in effect until that time.

This is one of several directives published by the AER that sets out liability management programs. The directive outlines how information, particularly financial, reserves, closure, and compliance information, will be used to enable the AER to

- assess the capabilities of licensees to meet their regulatory and liability obligations throughout the energy development life cycle;
- administer our liability management programs; and
- ensure the safe, orderly, and environmentally responsible development of energy resources in Alberta throughout their life cycle.

Requirements are mandatory. The term “must” indicates a requirement. For ease of reference, requirements are numbered. Information on compliance and enforcement can be found on the AER website.

2 Holistic Licensee Assessment

The AER will comprehensively assess the licensee to inform regulatory decisions regarding the licensee. This assessment uses a multifactor approach to assess the capabilities of licensees to meet their regulatory and liability obligations throughout the energy development life cycle: initiate, construct, operate, and close. This includes the following:

- the factors listed in section 4.5 of *Directive 067: Eligibility Requirements for Acquiring and Holding Energy Licences and Approvals* for determining whether a licensee poses an unreasonable risk
- licensee capability assessment factors (outlined in section 2.2)
- any other factors as appropriate in the circumstances

The AER may also consider additional information provided by the licensee throughout the life cycle, including applications, amendments, reports, and other submissions to the AER.

This assessment is to ensure the responsible management by the licensee of their liability from their collective wells, facilities, pipelines, and sites. The holistic licensee assessment will reoccur at various times as the licensee moves through the energy development life cycle.

2.1 Licensee Capability Assessment

The licensee capability assessment (LCA) assesses the capabilities of licensees to meet their regulatory and liability obligations across the energy development life cycle. The results from the LCA will feed into the broader assessment of the licensee, which will inform regulatory decisions regarding the licensee, including licence eligibility under *Directive 067* and decisions under the programs outlined in this directive.

2.2 LCA Factors

The LCA uses various factors to identify risks posed by a licensee:

- financial health
- estimated total magnitude of liability (active & inactive), including abandonment, remediation, and reclamation
- remaining lifespan of mineral resources and infrastructure and the extent to which existing operations fund current and future liabilities
- management and maintenance of regulated infrastructure and sites, including compliance with operational requirements
- rate of closure activities and spending and pace of inactive liability growth
- compliance with administrative regulatory requirements, including the management of debts, fees, and levies

Each factor consists of various parameters (see *Manual 023*).

The data that feeds into the LCA are drawn from numerous sources available to the AER, including the financial information submitted under *Directive 067*.

The LCA will continue to evolve over time as the AER is able to enhance business intelligence and access more structured data. It is intended to be adaptive and remain relevant.

Each licensee will have access to their own LCA information. Financial and reserves information provided to the AER will be kept confidential for the period outlined in section 12.152(2) of the *Oil and Gas Conservation Rules*.

- 1) Licensees must provide complete and accurate information as required by the AER for the LCA.

3 Licensee Management Program

The Licensee Management Program is how the AER will proactively monitor licensees to support the responsible management of energy development. Under this program, the results from the holistic licensee assessment will be used to identify those licensees that are or are likely to be at risk of not meeting their regulatory and liability obligations throughout the energy development life cycle.

The AER may specifically engage and use appropriate regulatory tools or conduct compliance assurance activities with the licensee. This may involve providing education or recommendations to follow industry best practices and, where appropriate, initiating specific regulatory actions.

The AER encourages licensees to use available collaborative closure planning tools, such as area-based closure, to help reduce their overall closure costs and work more efficiently to reduce liability on the landscape. Where special action is warranted, the AER may use appropriate regulatory tools or conduct other compliance assurance activities. Examples include changing licence eligibility under *Directive 067*, placing restrictions on licences/approvals, requiring security deposits as per section 6, or issuing orders.

- 2) Licensees must provide information to the AER as requested under the Licensee Management Program to ensure the responsible management of energy development throughout the energy development life cycle.
- 3) When directed by the AER, the licensee must conduct and submit a site-specific liability assessment in accordance with *Directive 001: Requirements for Site-Specific Liability Assessments in Support of the ERCB's Liability Management Programs* or as otherwise directed.

4 Inventory Reduction Program

In the *Oil and Gas Conservation Rules (OGCR)* and the *Pipeline Rules*, the AER has the authority to establish “closure quotas,” meaning set minimum amounts of closure work, money to be spent on closure activities, or both. The Inventory Reduction Program will enable the AER to monitor licensees and adjust the program to ensure progress towards reducing their liability by setting these closure quotas. The AER will set mandatory closure spend targets (mandatory targets) and voluntary closure spend targets (voluntary targets) for each licensee annually. They will not be adjusted during the calendar year.

The AER will annually publish industry-wide closure spending targets. Licensee-specific mandatory targets and voluntary targets will be calculated and released through OneStop in July of each year.

- 4) Each licensee must meet their annual mandatory target as directed by the AER.

- 5) Each licensee must report to the AER all its closure activities and closure spends for the previous calendar year by March 31 of every year, or as otherwise directed by the AER.
- 6) Each licensee must keep complete and accurate records of its closure activities and spending.
- 7) Licensees must provide information to the AER as requested under the Inventory Reduction Program.

The AER will determine a threshold for when licensees may elect to provide a security deposit in the full amount of their mandatory target instead of meeting the mandatory target through closure work. This threshold will be assessed annually and identified in OneStop.

- 8) If for a calendar year a licensee elects to provide a security deposit in lieu of meeting their mandatory target through closure work, they must provide the deposit in the amount of the mandatory target to the AER by January 31 of that year.

Failure to meet requirement 4 or 8 will trigger a holistic licensee assessment as per section 6 to determine whether a security deposit is required and the amount of security. Security collected under the Inventory Reduction Program may be refunded as outlined in section 6. The AER may also take other regulatory actions to ensure compliance and achievement of outcomes.

5 Licence Transfers

Agreements for the purchase and sale of AER-licensed wells, facilities, and pipelines do not result in a transfer of the associated licences until a licence transfer application is submitted to and approved by the AER.

AER licences with a licence status of Issued, Amended, Discontinued, Suspension, Abandoned, RecCertified, or RecExempt are eligible to be transferred. Licences with a licence status of Cancelled or Re-Entered are not eligible to be transferred.

A licence transfer application will trigger a holistic licensee assessment of both the transferor and transferee. This assessment will include reviewing abandoned, reclaimed, and reclamation-exempt sites to ensure they are held by a responsible party that can address, manage, and monitor current conditions or future issues related to public safety or the environment should they arise.

The AER will consider the entire application package of licences to be transferred and may reject a licence transfer application that does not include licences that have received reclamation certification or that are abandoned and classified as “reclamation exempt.” The AER will consider the results of this assessment and any other factors determined appropriate in making the decision to approve, approve with conditions, or deny a licence transfer application. The AER will process licence transfer applications as they are received.

For licences that have a public lands disposition that needs to be assigned or transferred, if either party has arrears in respect of any debt to the Crown or of any taxes owing to a municipality, the AER will reject the public lands application for assignment or transfer of the disposition as outlined in the *Public Lands Administration Regulation*, section 153.

A licence transfer application can be submitted by the transferor, the transferee, or an authorized agent or consultant acting on behalf of either party. The party initiating the submission is responsible for notifying the other party that the application has been submitted; the application must be accepted by both parties before it can be processed.

The AER will not accept a licence transfer application unless both the transferor and transferee have AER identification codes that permit the holding of all licence types contained within the licence transfer application. For further information regarding agent appointments, identification code requirements, and other eligibility requirements, refer to *Directive 067*.

It is the transferor's responsibility to ensure that all information relevant to the licences contained in a transfer application is updated in AER systems before the application is submitted.

- 9) An applicant must apply for a licence transfer and submit the numbers of all the licences proposed for transfer through the designated information submission system.
- 10) The application must include the BA code and contact information (including both an email address and phone number) for both the transferor and transferee.
- 11) If a licence transfer application includes inactive licences, the transferor must update their reported closure activities and spends in the designated information submission system before submitting the application. The AER will not retroactively adjust the closure spend reporting after the transfer is approved.
- 12) Before a licence transfer application will be accepted by the AER, both parties must make the declarations outlined in appendix 2.
- 13) As part of a licence transfer application, parties must provide current information regarding each working interest participant, including the following:
 - a) full legal name of each working interest participant (which cannot be a partnership)
 - b) contact information for each working interest participant, including an email address
 - c) the percentages of working interest, totalling 100 per cent, for every well and facility included in the application
- 14) For licence transfer applications that include problem sites (see appendix 6 of *Directive 006*) or 10-well, 20-well, and 40-well equivalent non-sulphur recovery gas plants (see section 2.3 of *Directive 006*), any site-specific liability assessments submitted must have been completed

within the previous three years, unless otherwise directed by the AER, and must be accompanied by an evaluation of cost changes that have occurred since the assessments were completed.

- 15) If one or both parties wish to withdraw a transfer application, they must submit a written request to the AER. Upon receipt of the request, the AER will process the application as withdrawn and will notify the licensees.
- 16) Licensees must provide information to the AER as requested for the transfer application.

The holistic assessment of a licensee is used to determine whether security deposits are required from the transferor or transferee and the amount of security as per section 6. To offset any potential increase in risk that may arise from a licence transfer, a transferor or transferee may be required, as a condition of approval, to provide a security deposit to the AER.

The AER does not provide a preliminary determination of expected security requirements. They cannot be determined until the licence transfer application has been received and reviewed.

If a required security deposit is not received by the due date identified by the AER, the licence transfer application will be closed, and the transferor will remain the licensee.

The AER will convey its decision regarding a licence transfer application to both the transferor and the transferee. If a transferor or transferee is represented by an agent or uses the services of a consultant, the AER will also provide notice of its decision to the agent or consultant.

The licensee of record (transferor) remains responsible to comply with all applicable regulatory requirements for any well, facility, or pipeline in a licence transfer application until the AER approves the transfer. On approval of a licence transfer application, the new licensee of record (transferee) becomes responsible for any well, facility, or pipeline in the application as of the effective date of the transfer.

6 Security Deposits

Section 1.100 of the *OGCR* gives the AER broad authority to require security deposits across the energy development life cycle. Where security deposits are required under this directive, the AER will direct a licensee to provide security, specifying the amount and date due.

- 17) Security deposits must be provided as directed by the AER.

When considering whether to require security deposits and when determining the amount of security, the AER will consider the holistic licensee assessment. As a result of the assessment, the

AER will apply further scrutiny on the potential need for security to mitigate the potential risks with a focus on the following LCA factors:

- financial health
- estimated total magnitude of liability
- remaining lifespan of mineral resources and infrastructure
- rate of closure activities and spending and pace of inactive liability growth

When security is determined to be required, the follow factors may be used for calculating the amount of security that the AER could require:

- value of liability under *Directive 011*
 - marginal wells (wells producing 1.59 cubic metres of oil equivalent per day [ten barrels of oil equivalent per day] or less)
 - inactive wells (defined in *Directive 013*)
 - inactive facilities (defined as facilities with no activity for 12 months)
- value of *Directive 001* site-specific liability
- present value of future cash flows based on the reserves and economic analysis
- any other amount that AER considers appropriate in the circumstance

The maximum amount of security that may be required is the licensee's total liabilities, including the cost of providing care and custody and the cost to permanently end operations, which includes the abandonment and reclamation of the site.

A request for a refund of security collected under this directive will trigger a holistic assessment of the licensee. If the holistic assessment of the licensee indicates there is a risk and security is still required to offset the risk, security will not be refunded. If the holistic assessment indicates that the risk has been sufficiently reduced, a refund or partial refund of security may be warranted.

For further information on the processes that apply when a security deposit is required or can be refunded, refer to *Directive 068: ERCB Security Deposits*.

Appendix 1 Transfer Application Declaration

In submitting this application as **transferor** or **transferee**, you hereby declare the following:

- Your use of the confidential identification code and password¹ for submission of this application has been duly authorized by your company (transferor/transferee), and the confidential identification code and password used are equivalent to and have the same binding effect as a signature executed by a duly authorized representative of the transferor/transferee company.
- You have the authority to make these (and the following, if transferee) statements and thereby bind your company.
- The information in the application is complete and accurate.

In submitting this application as **transferee**, you declare that the transferee

- holds valid surface access rights for all wells, pipelines and, facilities included in this application;
- holds valid mineral rights for all licensed producing and inactive wells included in this application;
- has the right to produce, inject, or dispose of fluids for all licensed active and inactive wells included in this application;
- is a working interest participant in all wells and facilities included in this application; and
- will ensure that all applicable AER signage requirements are met as required, including erecting or changing signs to accurately reflect the new licensee name and contact, and accepts and assumes the responsibilities and obligations of a licensee as provided for in law, including but not limited to, the *Oil and Gas Conservation Act*, *Oil and Gas Conservation Rules*, *Pipeline Act*, *Pipeline Rules*, and AER directives and requirements.

For pipeline licence transfers only:

- The **transferor** hereby confirms that it has collected and retained all records required under the *Pipeline Rules* and *Canadian Standard Association Z662: Oil and Gas Pipeline Systems*. The transferor confirms that it has provided these records to the transferee by the effective date of the licence transfer.

The **transferee** hereby confirms that it has received all records required to be collected and retained under the *Pipeline Rules* and *Canadian Standard Association Z662: Oil and Gas Pipeline Systems* from the transferor. The transferee is responsible for producing these records on request by the AER. Failure to do so constitutes a noncompliance of AER requirements.

¹ Used by authorized business associates to access the AER's designated information submission system.