

Integrated Compliance Assurance Framework

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Suite 1000, 250 – 5 Street SW

Calgary, Alberta

T2P 0R4

Telephone: 403-297-8311

Toll free: 1-855-297-8311

E-mail: inquiries@aer.ca

Website: www.aer.ca

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Introduction

The *Integrated Compliance Assurance Framework* outlines the AER's vision and overall approach to assuring compliance. The AER's work to help assure compliance contributes to meeting Albertans' expectations that energy development occurs in a manner that considers, balances, and respects social, environmental, and economic expectations. The Government of Alberta (GoA) has responded to these expectations by mandating the AER under the *Responsible Energy Development Act (REDA)* to

...provide for the efficient, safe, orderly and environmentally responsible development of energy resources in Alberta through the Regulator's regulatory activities, and in respect of energy resource activities, to regulate:

- (i) the disposition and management of public lands,
- (ii) the protection of the environment, and
- (iii) the conservation and management of water, including the wise allocation and use of water,

...in accordance with energy resource enactments and, pursuant to this Act (*REDA*) and the regulations, in accordance with specified enactments.

Opportunities to partner with other government and nongovernment agencies, the academic community, special interest groups, and the public are key to promoting prevention and education activities. The AER also works cooperatively with other GoA partners and federal agencies to co-ordinate investigations and enforcement responses to ensure broader regulatory outcomes are achieved wherever possible.

The *Integrated Compliance Assurance Framework* is based on the context of shared stewardship, continuous improvement, and innovative approaches and tools. It embodies the three main components of all effective compliance assurance programs, those being education, prevention, and enforcement.

Purpose of this Document

The purpose of the AER's *Integrated Compliance Assurance Framework* is to outline the AER's strategic approach to ensuring compliance. The framework defines the outcomes and states the guiding principles that AER staff use when undertaking compliance assurance activities. It describes the key components of education, prevention, enforcement, and ties to continuous improvement. The document also sets out the AER's approach to ensuring effective delivery, management, and reporting of compliance activities.

The *Integrated Compliance Assurance Framework* describes the AER's vision for compliance. Specific direction on implementing initiatives and strategies that support the framework components will be provided to AER staff in subsequent documents—for example, *Manual 013: Compliance and Enforcement Program*.

1 The Strategic Context

Ensuring compliance is necessary for the realization of the AER’s vision and, in turn, for the AER’s strategic goals. The linkages between each of these strategic components are illustrated here:



Figure 1. The strategic context of the *Integrated Compliance Assurance Framework*

2 Outcomes

This framework is intended to align the AER's delivery of compliance assurance activities to ensure that the AER is effectively carrying out its mandate. A risk-informed approach is essential to address compliance matters.

The framework enables flexibility, innovative ways to meet the compliance assurance principles, and performance expectations, and it supports continuous improvement.

Implementation of the *Integrated Compliance Assurance Framework* will support the AER in being

Protective

- Integrated compliance approach to safety, environmental protection, and risk management

Effective

- Regulated parties' awareness and understanding of the regulatory requirements that apply to them
- Changes in regulated parties' behaviour

Efficient

- Resources allocated to the most significant and highest-priority areas
- Coordinated delivery of compliance activities

Credible

- Stakeholder awareness of, and confidence in, AER compliance activities
- Fair, transparent, and equitable compliance activities
- Clear understanding of roles and responsibilities in ensuring compliance

3 The Operational Context

The *Integrated Compliance Assurance Framework* guides the design and delivery of compliance assurance programs and activities.

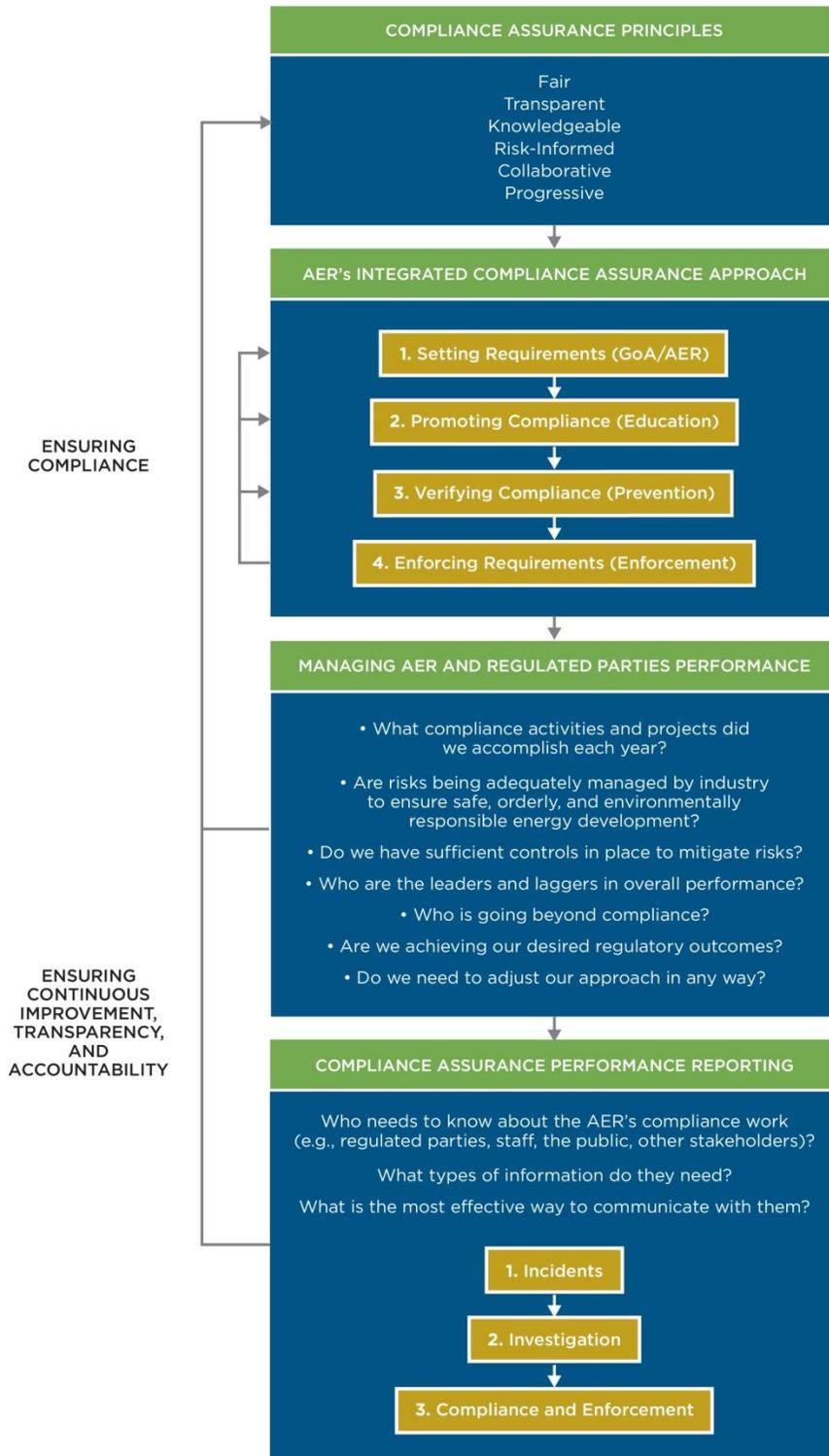


Figure 2. The operational context of the *Integrated Compliance Assurance Framework*

4 Compliance Assurance Principles

The following compliance assurance principles guide the design and implementation of compliance programs, procedures, and activities of the AER:

- 1) **Fair:** Compliance activities will afford all parties a fair process and compliance decisions will be made by objective decision makers. Noncompliance with regulatory requirements will be addressed in a timely manner according to the statutory authority within legislation, processes, and procedures.
- 2) **Transparent:** Compliance information will be open, transparent, and readily available to AER stakeholders. AER compliance activities will be reported according to the provisions within the *Responsible Energy Development Act*.
- 3) **Knowledgeable:** Staff are knowledgeable about the regulatory requirements and the associated processes essential to enabling the AER to achieve its mandate. AER staff undertaking compliance assurance activities will have the training to enable them to carry out their duties within their statutory authority. Those duties include working with regulated parties and other stakeholders to ensure that the rules are understood and compliance expectations are met.
- 4) **Risk-informed:** Compliance decisions will be based on an understanding of the nature and severity of an event, problem, or activity that has the potential to compromise strategic objectives and inform the optimal response based on sound analysis that is transparent and defensible.
- 5) **Collaborative:** Effective and efficient delivery of the AER mandate involves many interdependencies across the organization. Staff will work together to ensure that the compliance assurance system achieves the performance expectations and desired outcomes.
- 6) **Progressive:** Knowledge gained from compliance assurance activities will be used to promote the development of requirements that are clear, effective, and enforceable. Continuous improvement, including incremental and transformational change, will be undertaken systemically as an integral part of the *Integrated Compliance Assurance Framework*.

5 Integrated Compliance Assurance Framework and Components

The regulatory system for energy resource development in Alberta must be progressive to keep pace with the dynamic nature of the energy sector. The *Integrated Compliance Assurance Framework* relies on the components of education, prevention, and enforcement to ensure that performance expectations and responsibilities are upheld. Each component of the framework provides a variety of options for achieving compliance and emphasizes the need for staff to use the best available information to assess each case on its own merits and to choose the most appropriate response for the situation. The model (see figure 3) involves the following:

- 1) Setting regulatory AER and GoA requirements that are clear, practical, and enforceable
- 2) Promoting requirements in ways that encourage regulated parties to voluntarily comply
- 3) Verifying (through monitoring, inspections, and compliance audits) that regulated parties are meeting their regulatory requirements
- 4) Where these requirements are not being met, adjusting the compliance approach, and where appropriate, compelling compliance through enforcement

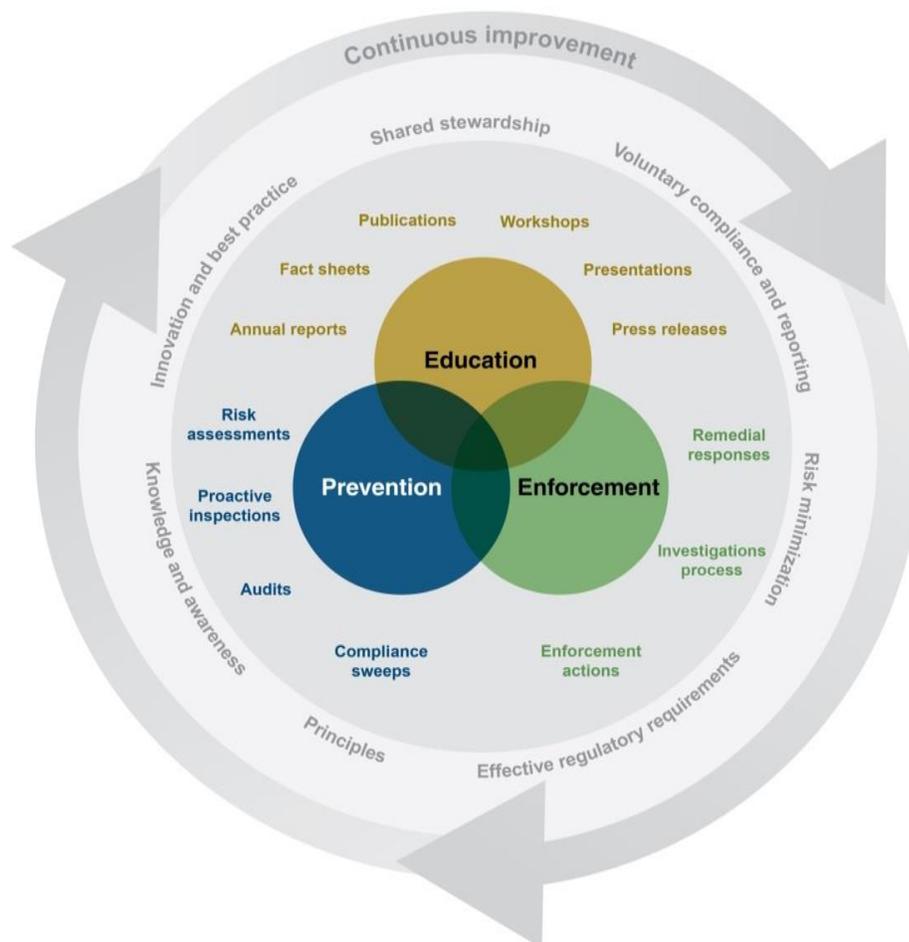


Figure 3. Compliance assurance model

The compliance assurance model (figure 3) illustrates the relationship between education, prevention, and enforcement. This relationship ensures that performance expectations and responsibilities are met. The model also illustrates the variety of approaches that individually or in combination support achieving compliance. The AER uses the best available information to assess each situation on its own merits and chooses the most appropriate response. It is also important for Alberta's regulatory system that compliance assurance be progressive to keep pace with the dynamic nature of the energy resource development sector.

5.1 Setting Regulatory Requirements

For every regulatory requirement, the AER will have a clear strategy for achieving compliance. From a compliance perspective, the way in which the AER sets its regulatory requirements is as important as what the requirement entails. It is important to consider the following:

- **Stakeholder involvement:** Requirements that are set in consultation with stakeholders generally have higher levels of voluntary compliance. Further information on the AER's approach to stakeholder engagement can be found in the *AER Stakeholder Engagement Framework*.
- **Impact on the regulated party:** Requirements are set to balance the social and economic costs of compliance.
- **Type of requirement:** Performance-based requirements specify the legal standards (qualitative or quantitative) that regulated parties must meet instead of the process they must follow to achieve those outcomes. A performance-based approach allows the regulated party flexibility in achieving the desired outcomes of environmental protection, public safety, and orderly development. This flexibility provides opportunities for innovation, increased efficiencies, and results that exceed performance targets.

In other situations, prescriptive requirements may still be the most appropriate due to the size, scope, and complexity of the regulated activity.

5.2 Promoting Compliance (Education)

Compliance promotion is any activity that increases awareness, educates, motivates, or changes behaviour, and that encourages voluntary compliance with a regulatory requirement. Promotion may be a stand-alone activity or it may occur in conjunction with compliance verification activities and be an indirect consequence of enforcement.

Compliance promotion is a strategy for achieving voluntary compliance. When implementing a new regulatory requirement, promotion will always be the first activity done to ensure all regulated parties are

- aware of the requirement,
- able to understand the requirement and the consequences of noncompliance, and

- able to comply with the requirement.

Given the significance of promotion in achieving compliance with regulatory requirements, the AER will develop specific or detailed strategies, including

- publications (fact sheets, brochures, website pages, news releases, articles, and compliance, incident, and enforcement reporting),
- guidelines and best-management practices,
- educational programs (presentations, workshops, and operator-awareness sessions), and
- performance report cards.

5.3 Verifying Compliance (Prevention)

Compliance verification refers to the monitoring, inspection, and audit activities that the AER uses to determine regulatory compliance.

Compliance information may be obtained from AER verification activities, regulated parties, or reports from the public (e.g., complaints).

Many factors dictate the frequency and nature of verification activities, including the following:

- Complaints
- Releases and spills
- Emergencies
- Operational history
- Potential for adverse effects and damage (e.g., proximity to people, environmental impacts, loss or damage to public land)
- Unique circumstances (e.g., special operating authorizations, integrated resource management considerations, new technology)
- Government of Alberta policy, and AER strategic goals and objectives

The information gathered from verification activities helps staff determine the most appropriate response to regulated parties' noncompliances. When combined and analyzed, the data collected from verification activities provides information about compliance rates for a sector, regulated parties, or geographical area. This information is essential in compliance assurance program planning and management.

Verification activities will be based on a planned schedule that considers risk (actual or potential impact on the environment, public safety, or orderly development, and the likelihood of occurrence) as well as the need to maintain an appropriate level of contact with regulated parties.

Responding to Noncompliance

Where compliance verification reveals noncompliance with a regulatory requirement, staff assess the situation and determine an appropriate response while considering the facts of the situation and the need for general deterrence. Potential responses include

- continued monitoring of the noncompliant party (verification),
- conducting activities to encourage compliance (promotion), and
- compelling compliance or deterring future noncompliance (enforcement).

5.4 Compelling Compliance (Enforcement)

Enforcement is one response in the array of tools that may be used to achieve compliance with regulatory requirements. Enforcement includes administrative responses (e.g., warnings, administrative sanctions, orders, directions, administrative penalties) and prosecutorial responses (e.g., charges and potential fines or other penalties).

Enforcement is necessary to compel compliance when voluntary compliance is not achieved. Enforcement can also be necessary to deter future noncompliance. By requiring parties to address noncompliance, enforcement can be effective in

- ensuring that no party benefits from not complying,
- deterring other potential noncompliant parties, and
- increasing an awareness of the importance of environmental protection, public safety, or orderly development.

The AER's *Manual 013: Compliance and Enforcement Program* guides the selection of appropriate responses to noncompliance.

Some enforcement responses may be subject to regulatory appeal.

6 Managing AER and Industry Performance

Managing performance involves tracking and analyzing compliance information in order to identify achievements and to determine whether adjustments need to be made to compliance activities and processes. In short, it answers, for the AER and industry, the questions, “what does success look like, have we been successful, and where do we need to adjust our efforts?”

The AER is committed to continuous improvement in order to most efficiently and effectively manage compliance assurance activities and industry performance. Accordingly, operational effectiveness is the business of achieving desired outcomes in the most efficient way. As such, processes and procedures that govern compliance activities must be assessed on an ongoing basis, including ongoing analysis of lessons learned and, when necessary, enhancement of compliance approaches through the continuous improvement processes. Integrating an assessment process into business activities is a structured approach to improvement.

The concepts of plan, do, check, and adjust will ensure operational effectiveness in the compliance work the AER does.

Plan: Establishes the objectives and desired outcomes, targets, and goals.

Do: Executes the plan and records compliance assurance activities. The data captured are required in the “Check” phase of the system.

Check: Analyzes the actual results against targets and goals collected from compliance assurance activities. Compliance statistics, trends, and emerging issues are then used in the “Adjust” phase.

Adjust: Corrective actions on differences between actual and planned results are used to determine where to apply changes. This includes improvements to processes, procedures, and recommendations for regulatory change and future compliance assurance activities.

Performance measurement information will be the basis for the continuous improvement of the AER’s compliance approach.

7 Communicating Our Results

Communicating compliance information means advising all stakeholders of our compliance activities and outcomes in a method and at a level of detail that is appropriate for the audience in question.

The purpose of public compliance reporting is twofold:

- It improves compliance rates by incentivizing compliant regulated parties, and by deterring noncompliant behaviour.
- It meets the AER's statutory obligations and strategic goals for accountability and transparency.

It is also important for the AER to share compliance results internally. The purpose of internal compliance reporting is to encourage learning among AER staff through the sharing of methodologies and experiences. Ongoing review of lessons learned can help to inform compliance decisions and enhance overall effectiveness and efficiency of compliance activities by pointing out the need to redirect resources, re-examine regulatory requirements, or amend policies and procedures.

Reporting of the AER's compliance activities and results will occur in a consistent, timely, and regular manner.

Appendix 1 Definitions

The following words and phrases are defined as follows for the purpose of this framework:

Compliance—conformity with regulatory requirements established by the AER and the GoA.

Compliance promotion—any activity that increases awareness, that educates, motivates, or changes behaviour, and that encourages voluntary compliance with a regulatory requirement.

Enforcement—one response in the array of tools that may be used to compel compliance or deter future noncompliance. It includes warning letters, administrative penalties, administrative sanctions, orders, and formal charges.

Noncompliance—failure by a regulated party to meet regulatory requirements.

Regulated party—a person or business subject to regulatory requirements.

Regulatory requirements—any restriction, duty, or obligation imposed upon a regulated party or other person by legislation (including regulations, rules, codes, guidelines, and policy documents), approval (including licences, permits, authorizations, leases, etc.), order, direction, declaration, or other document issued by the AER or the Government of Alberta and under the jurisdiction of the AER.

Stewardship—the careful and responsible management of energy resources for the benefit of present and future generations.

Shared stewardship—the notion that safe, orderly, and environmentally responsible energy development depends on the collective knowledge, commitment, and actions of individuals, organizations, communities, and all levels of government as a whole. This includes industry, stakeholders, and all regulatory staff.

Voluntary compliance—the situation whereby regulated parties comply with regulatory requirements of their own accord; while a notice of noncompliance may be issued, the AER is not compelling compliance through an enforcement action.