

Fact Sheet

Alberta Energy Regulator

Obtaining and Maintaining Eligibility

Acquiring and holding a licence or approval for energy development in Alberta is a privilege, not a right. *Directive 067* expands on requirements contained in AER legislation and outlines the scrutiny that we apply to ensure that this privilege is only granted to responsible parties.

The AER's requirements, including acts, regulations, rules, and directives contain requirements and processes that energy companies operating in Alberta must follow. Companies are responsible for reading and complying with all requirements.

? What is the process for obtaining eligibility?

Any party that seeks to apply for and hold AER licences or approvals must first apply for and obtain an identification code, called a business associate (BA) code, through Petrinex (www.petrinex.ca). Once a person or corporation has a BA code, they may apply to the AER for eligibility under *Directive 067: Eligibility Requirements for Acquiring and Holding Energy Licences and Approvals* by submitting the required schedules and associated attachments. Notices of eligibility applications are subject to the AER's public notice of application (PNoA) process. Further information about the PNoA process is available on the AER's Statement of Concern webpage. A decision on eligibility is made within a mandated timeline of 45 business days. Once a licensee has been granted eligibility, they can then apply to obtain AER licences.

1. **Applicants must obtain a business associate (BA) code to hold AER licences or approvals.**
2. **Apply to the AER for eligibility under *Directive 067*.**
3. **Eligibility is decided within 45 business days.**
4. **Eligible licensees can apply for AER licences.**

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Process to maintain eligibility

Hold eligibility

Licensees are to meet requirements on an ongoing bases.

Before making a change

Licensees **may** request an advance ruling on whether the AER would consider the change an "unreasonable risk," as changes may result in a change to their eligibility.

Inform the AER

Licenseee must inform the AER within 30 days of any change.

What are the types of eligibility?

The AER may grant eligibility with or without restrictions, terms, and conditions – or it may refuse to grant licensee eligibility. There are three types of eligibility:

- **No Eligibility:** Not eligible to acquire or hold licences or approvals for wells, facilities, or pipelines.
- **Limited Eligibility:** Eligible to acquire or hold only certain types of licences and approvals, or eligibility is subject to certain terms and conditions.
- **General Eligibility:** Eligible to acquire or hold licences and approvals for all types of wells, facilities, and pipelines.

What is the process to maintain eligibility?

All licensees that hold eligibility under *Directive 067* are required to meet requirements on an ongoing basis and ensure that the information the AER has on file is accurate. The recently introduced holistic assessment is used across the entire life cycle to determine ongoing eligibility. All licensees must inform the AER within 30 days of any change. Examples of common changes include amalgamations, changes to directors or officers, a sale of all or substantially all of a licensee's assets, or commencement of insolvency proceedings. Before making a change, licensees may request an advance ruling on whether the AER would consider the change an "unreasonable risk," as changes may result in a change to their eligibility.

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When would the AER revoke or restrict eligibility?

There are three main circumstances in which the AER would revoke or restrict licence eligibility:

1. Failure to provide complete and accurate information, or to update required information within the prescribed timeframe.
2. A finding by the AER that the licensee poses an "unreasonable risk."
3. The licensee fails to acquire or hold licences or approvals within one year following granting of licence eligibility.

If a party already holds licences or approvals, eligibility would be restricted. If the party had general eligibility, this would be changed to limited eligibility, and the AER may impose additional terms or conditions. The party would not be permitted to acquire additional licences or approvals unless general eligibility is reacquired or the terms and conditions are lifted. If a party does not hold licences or approvals, eligibility would be revoked, and the party would have to reapply to reacquire eligibility.

What are some risk factors you look for?

As part of the holistic assessment, factors the AER may consider while assessing whether and applicant, licensee, or approval holder poses an unreasonable risk are listed in *Directive 067* section 4.5.

- failure to maintain in Alberta persons who are authorized to make decisions and take actions on behalf of the licensee or approval holder to address any matters or issues that arise in respect of the wells, well sites, facilities, facility sites, or pipelines of the licensee or approval holder
- the compliance history of the applicant, licensee, or approval holder, including its directors, officers, and shareholders in Alberta and elsewhere
- the compliance history of entities currently or previously associated or affiliated with the applicant, licensee, or approval holder or its directors, officers, and shareholders
- outstanding noncompliances of current or former AER licensees or approval holders that are directly or indirectly associated or affiliated with the applicant, licensee, or approval holder or its directors, officers, or shareholders
- the experience of the applicant, licensee, or approval holder and its directors, officers, and shareholders
- corporate and ownership structure
- working interest participant arrangements, including participant information and proportionate shares
- the financial health of the applicant, licensee, or approval holder and entities currently associated or affiliated with the applicant, licensee, or approval holder or its directors, officers, and shareholders
- the assessed capability of the applicant, licensee, or approval holder to meet its regulatory and liability obligations throughout the energy development life cycle, including financial capability

- the assessed ability of the applicant, licensee, or approval holder to provide reasonable care and measures to prevent impairment or damage in respect of a well, well site, facility, facility site, or pipeline
- outstanding debts owed to AER or the Orphan Fund by the applicant, licensee, or approval holder or by current or former AER licensees or approval holders that are directly or indirectly associated or affiliated with the applicant, licensee, or approval holder or its directors, officers, or shareholders
- outstanding debts owed for municipal taxes, surface lease payments, or public land disposition fees or rental payments by the applicant, licensee, or approval holder or by current or former AER licensees, or approval holders that are directly or indirectly associated or affiliated with the applicant, licensee, or approval holder or its directors, officers, or shareholders
- being or having been subject to or initiating insolvency proceedings (which includes bankruptcy proceedings, receivership, notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*, proceedings under the *Companies Creditors Arrangement Act*)
- involvement of the applicant, licensee, or approval holder's directors, officers, or shareholders in entities that have initiated or are or have been subject to insolvency proceedings
- cancellation of or significant reduction to insurance coverage
- naming of directors, officers, or shareholders of the applicant, licensee, or approval holder in a declaration made under section 106 of the *Oil and Gas Conservation Act*, section 51 of the *Pipeline Act*, section 25 of the *Geothermal Resource Development Act*, and section 24 of the *Mineral Resource Development Act*
- any other factor the AER considers appropriate in the circumstances.

Where can I get more information?

For more information on AER licences or approvals, please reach out to our Customer Contact Centre at **inquiries@aer.ca** or visit **aer.ca**.

Inquiries 1-855-297-8311

24-hour emergency 1-800-222-6514

inquiries@aer.ca

Find out more at **aer.ca**