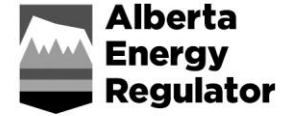


Draft Directive 067 Comment Form

Feedback will be accepted through February 14, 2021



Feedback By: Polluter Pay Federation and its consortium of industry practitioners and academics.

Submit form by email to Directive067@aer.ca or by mail to the AER, Directive 067 Feedback, Suite 1000, 250 – 5 Street SW, Calgary, AB T2P 0R4.
To create a new row, place your cursor at the end of the text in the last box and hit tab.

Section and page number	Issue	Possible solution or recommendation	Rationale to support solution or recommendation
Section 1 – Introduction, page 2	<p>The “energy development life cycle” consists of upstream, midstream, and downstream efforts. Each area has considerably different “informational elements” about ascertaining the eligibility for acquiring and holding licenses and approvals.</p> <p>What specific area of the “energy development life cycle” is this directive directed at?</p>	<p>Insomuch as this is a directive that establishes informational requirements and that the related information (and supporting data) is different within each segment of the “energy development life cycle” (e.g., exploration data is very different from exploitation data), the reference to the “energy development life cycle” should be expanded to provide all readers of the new directive, clarity on what constitutes the “energy development life cycle”.</p> <p>It is recommended that the Government of Alberta’s description of the “life cycle of an energy development” (The life cycle of an energy development Alberta.ca) should be used to frame and guide the description within Directive 067.</p> <p>It is further recommended that Directive 067 include appropriate visualization of the “energy development life cycle” and required “informational requirements” to be associated with each segment of the life cycle.</p>	<p>A more in-depth expression of the “energy development life cycle” (including supporting visual elements) provides a more meaningful context in which the required “informational elements”, to be provided by Licensees and Approval Holders, can be better assessed according to the “energy development life cycle”.</p> <p>Doing so assists in establishing, within Directive 067, the concept of “an ongoing eligibility assessment” since the “energy development life cycle” is a transformational industrial process and therefore eligibility can change as a Licensee and/or Approval Holder move their operations through the “energy development life cycle”.</p>
Section 1 – Introduction, page 2	<p>While the proposed Schedule 3 provides some insight into what “financial information” is to be collected, the term “financial information” can connote a broad range of interpretations, ranging from general statements of solvency to audited financial statements.</p> <p>Also, it is suggested that the “financial information” is to be provided throughout the life cycle.</p> <p>Are there specific timeframes, pursuant to the “energy development life cycle”, where specific “financial information” is required?</p>	<p>It is recommended that the description of “financial information” be expanded – perhaps a simple reference to the general categories of “financial information” expressed in Schedule 3.</p> <p>It is further recommended that specific types of “financial information” be associated with specific segments of the “energy development lifecycle” – possibly in visual form.</p>	<p>A more in-depth expression of what is meant by “financial information” would provide a more meaningful understanding of how “financial information” supports the determination of eligibility to obtain and hold a license for energy development in Alberta, including the potential changes in eligibility as a Licensee and/or Approval Holder, move their operations through the “energy development life cycle”.</p>

Section and page number	Issue	Possible solution or recommendation	Rationale to support solution or recommendation
	<p>What types of “financial information” is required?</p>		
<p>Section 1 – Introduction, page 2</p>	<p>The statement “...assess the capabilities of Licensees and Approval Holders to meet their regulatory and liability obligations...” is ambiguous.</p> <p>In a general sense, a “capability” connotes some level of human-based behavioral competency, technical skills, domain knowledge, work experience, and education of a workforce.</p> <p>What level of “capability” is desired by the AER?</p> <p>What is the relationship between “capabilities” and “regulatory and liability obligations”?</p> <p>How would the AER assess “capabilities of Licensees and Approval Holders”?</p>	<p>It is recommended that a formal “capability model” be developed and included in Directive 067.</p> <p>The developed “capability model” should outline levels of competency, technical skills, domain knowledge, work experience, and education that appropriate representatives and agents must have to ensure that Licensees and Approval Holders can meet their regulatory and liability obligations.</p> <p>For example, a required financial accounting capability might be founded on the following levels (based on a Likert scale of 0-5, where 0 is the lowest level):</p> <ul style="list-style-type: none"> • Behavioral competency – 3 • Technical skills (Financial) – 4 • Domain knowledge (Upstream) – 4 • Work Experience (Risk/Liabilities) – 3 • Education (Undergraduate) – 3 <p>The Likert scores can then be totaled and utilized to produce an average (mean) of the required capability levels; in this example, the mean is 3.4 representing a ratio of .68 or 68% of the required capabilities as “acceptable”.</p>	<p>A more in-depth expression of required “capabilities” will provide a more meaningful framework for assessing the capabilities of Licensees and Approval Holders to meet their regulatory and liability obligations.</p> <p>The utilization of a Likert scale (or some similar scale) provides assessment consistency.</p>
<p>Section 1 – Introduction, page 2</p>	<p>This statement...” Parties who hold a BA code are not permitted to hold AER licenses or approvals unless the AER has determined they are eligible to do so” is in contradiction to the Government of Alberta’s direction to institute the utilization of MyAlberta Digital ID for Business (MADI-B).</p> <p>Could MADI-B be utilized to provide an identification code?</p>	<p>Align Petrinex’s business associate (BA) code with the Government of Alberta’s MADI-B ID (via Service Alberta Government of Alberta - Digital Identity).</p> <p>More specifically, a MADI-B ID should incorporate references to a BA code.</p>	<p>The proposed solution will achieve consistency with the AER’s OneStop informational system environment and provide alignment with the production accounting information within the Petrinex informational system.</p> <p>The integration of AER and Petrinex’s informational sets will allow for cross-checking of “financial information” – specifically production volumes that underpin expressed revenues (netbacks) of active Licensees and Approval Holders.</p>

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Section 4 – Obtaining General License Eligibility, page 3	<p>With respect to “...once a person has a BA code, they may apply to the AER for license eligibility by submitting schedules 1 and 3 (and 2, if applicable) through the designated information submission system”.</p> <p>As outlined above, the utilization of the BA code is inconsistent with the AER’s utilization of MADI-B codes.</p> <p>Also, previous potential Licensees and Approval Holders would be reasonably familiar with Schedules 1 and 2. Schedule 3 is new, as such may create considerable confusion around the suggested changes.</p> <p>Since Schedule 3 is to be used to collect “financial information” it is unclear how this information may be associated with Directive 006 – Licensee Liability Rating Program and the License Transfer Program.</p> <p>Further, what is the “designated information submission system”?</p>	<p>It is recommended that more insight be expressed around the changes in the schedules utilized under Directive 067.</p> <p>It is recommended that Directive 067 refer to a specific “information submission system” such as AER’s OneStop.</p>	<p>The proposed solution will achieve further utilization of AER’s OneStop informational system environment.</p>
Section 4 – Obtaining General License Eligibility, page 3	<p>Concerning “...the AER may request additional information, including reserves information”, much of the reserves calculation accomplished in the current global hydrocarbon-based industry uses the Petroleum Resources Management System (PRMS).</p> <p>Alberta uses the Canadian Oil and Gas Evaluation Handbook (COGEH).</p> <p>This may create a problem if a foreign-based Licensee and/or Approval Holder is required to report using two standards.</p> <p>What is the standard being applied for developing reserves information?</p>	<p>It is recommended that if “reserves information” is requested, it be based on the Petroleum Resources Management System (PRMS).</p>	<p>The recommendation engenders the utilization of a global standard and ensures consistency with other oil and gas jurisdictions.</p>

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Section 4 – Obtaining General License Eligibility, page 3	<p>The draft Directive 067 indicates that “the AER may audit the information provided for accuracy and completeness at any time before or after granting eligibility.”</p> <p>How does the AER accomplish an audit of received information?</p> <p>If a request for license eligibility is “summarily closed”, can a potential licensee or approval holder resubmit for eligibility?</p>	<p>It is recommended that more detail be provided, describing the audit process that will be applied to the received information.</p> <p>It is recommended that a resubmission process be made available and appropriately described.</p>	<p>The recommendation establishes a high level of transparency and consistency within the implicit engagement process (between the AER and potential Licensees and Approval Holders) suggested within Directive 067.</p>
Section 4.1 – Residency Requirements, page 4	<p>While it agreed that Alberta residency is appropriate, the fact that modern technologies can achieve high levels of remote or virtual engagement, it is possible that an applicant’s residency can simply be a “post office box, attached to a corporate location that has an Alberta address”.</p>	<p>It is recommended that the revised Directive 067 incorporate an audit of the residency information to ensure a physical presence in the Province of Alberta.</p> <p>If the “Alberta presence” is a remote “shell”, then a waiver of residency should require a significant “security bond” to ensure Alberta is protected and the laws of Alberta are applied in the execution of any issued licenses or permits.</p>	<p>The recommendation ensures that the laws of Alberta control the actions of eligible Licensees and Approval Holders.</p>
Section 4.2 – Insurance, page 5	<p>With regards to “...At the time of applying for license eligibility, applicants must have and maintain comprehensive general liability insurance with a minimum coverage of \$1 000 000. Applicants must submit a certificate of proof of insurance or a statement of the insurer describing the coverage, effective date, and termination date of the insurance”</p> <p>It is agreed that comprehensive general liability insurance is an appropriate “first step” in offsetting potential liabilities.</p> <p>However, it does very little to offset the liabilities associated with the ongoing hydrocarbon-based exploration, extraction, processing, and distribution – most being cumulative social impacts.</p>	<p>It is recommended that the revised Directive 067 should consider a broader scope of liabilities associated with the risk profile of the “energy development life cycle”.</p> <p>Also, refinement and adjustments to Directive 067 and associated directives should consider the utilization of security deposits as a representation of “debt” owed to the AER.</p> <p>A visual diagram of a potential risk profile, associated liabilities, and a possible security-based solution is provided in Appendix A attached to this feedback form.</p>	<p>The inclusion of a broader set of liabilities sets the stage for establishing the need for a broader set of offsetting securities – beyond general liabilities insurance.</p>

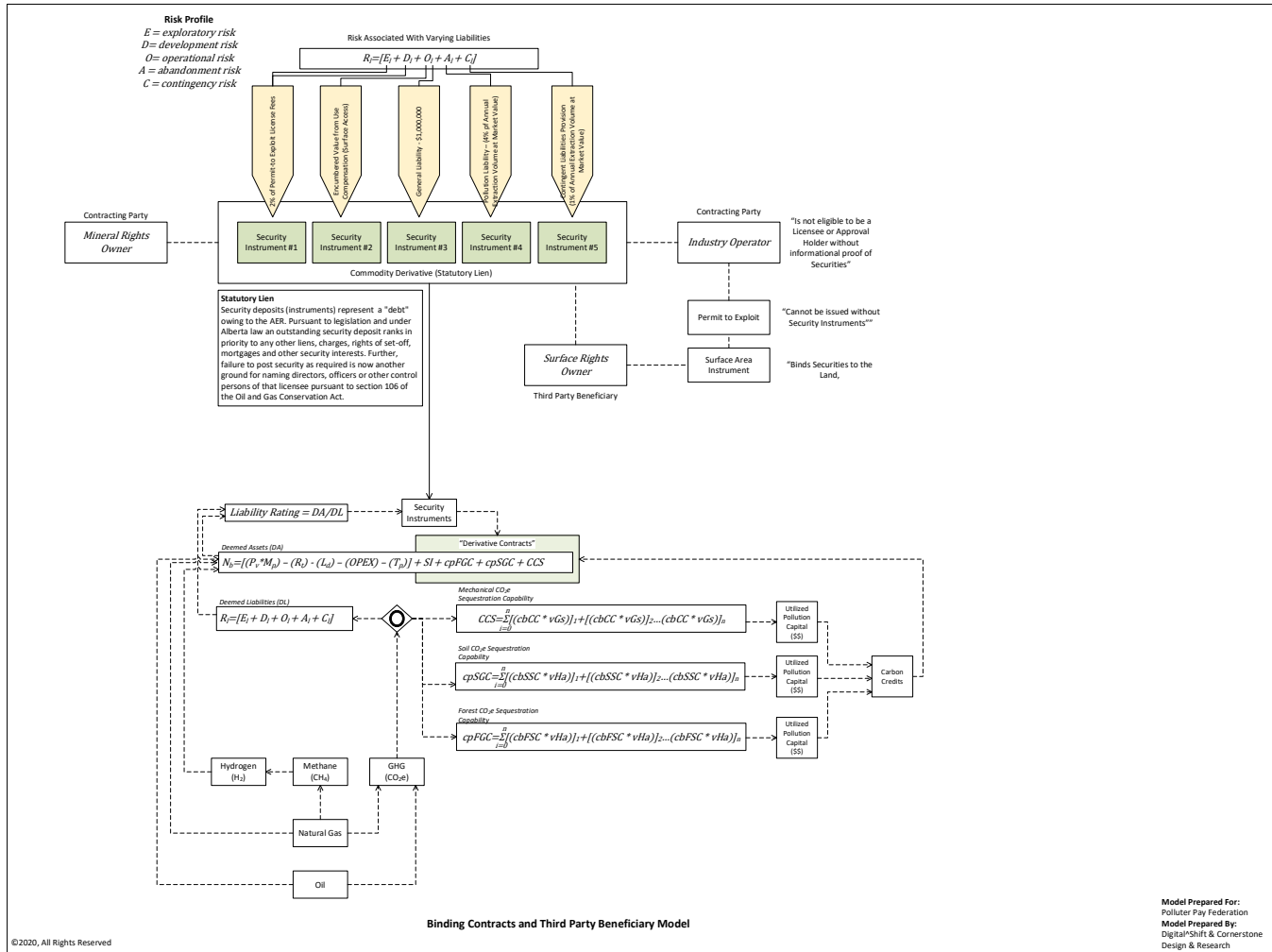
Section and page number	Issue	Possible solution or recommendation	Rationale to support solution or recommendation
	<p>What about the liabilities associated with initial exploration, completion and site development, continuous operations, abandonment, and contingent obligations for poorly abandoned assets?</p>		
<p>Section 4.2 – Insurance, page 5</p>	<p>Concerning the statement, “Should eligibility be granted, the licensee or approval holder must maintain reasonable and appropriate insurance coverage for the operations of the company. Such coverage must include pollution coverage sufficient to cover the cost of removal and cleanup operations required as a result of an incident. Sufficient coverage for loss or damage to property or bodily injury caused during operations must also be maintained”, is pollution coverage available under “general liabilities insurance”?</p>	<p>It is more likely that something like a surety bond is more appropriate to cover pollution costs.</p> <p>See previous recommendations and provided diagram in Appendix A.</p>	<p>See previous comments.</p>
<p>Section 4.4 – Financial Information, page 5</p>	<p>With regards to the statement “...administer our liability management programs”, it is anticipated that the current Licensee Liability Rating approach (Directive 006 and its associated Directive 011, Directive 020, and Directive 056) will all be impacted/modified to address the growing problem of inactive/abandoned oil and gas infrastructure within Alberta.</p> <p>As such, the types of information required to assess the eligibility of potential and/or Licensees and Approval Holders should be “highly aligned” with these anticipated changes, since these directives provide additional insight into varying liabilities that may arise.</p> <p>How will the AER ensure that a modified Directive 067 aligns with other Directives associated with and important to the overall liability management regime?</p>	<p>Commence simultaneous assessments of associated Directives specific to liability management pursuant to the “energy development life cycle”. (It is recognized that Directive 020 has come under review and adjustment).</p> <p>Refrain from issuing a revised Directive 067 until ALL related and associated Directives specific to liability management pursuant to the “energy development life cycle” are reviewed and modified as may be required.</p> <p>Issue Directive 067 and all related and associated Directives specific to liability management pursuant to the “energy development life cycle” simultaneous.</p>	<p>The recommendation assures a cohesive and consistent approach for administering liability management programs pursuant to the “energy development life cycle”.</p>

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Section 4.4 – Financial Information, page 5	With regards to the statement “...ensure the safe, orderly, and environmentally responsible development of energy resources in Alberta, throughout their life cycle”, it is unclear as to how financial information will be used to meet this stated goal.	<p>As recommended in previous paragraphs the revised Directive 067 should consider a broader scope of liabilities associated with the risk profile of the “energy development life cycle”, with a focus on ensuring safe and orderly industrial activities.</p> <p>Also, refinement and adjustments to Directive 067 and associated directives should consider the utilization of security deposits as a representation of “debt” owed to the AER.</p> <p>A visual diagram of a potential risk profile, associated liabilities, and a possible security-based solution is provided in Appendix A attached to this feedback form.</p>	The alignment of specific financial information to a broader set of liabilities that are associated with environmental impact, and coupled with general liability insurance that covers potential safety risks provides clarity on how financial information can drive industrial behavior that assures the safe, orderly, and environmentally responsible development of energy resources in Alberta.
Section 4.5 – Unreasonable Risk, page 6	<p>Concerning the suggested factor “...the experience of the applicant, licensee, or approval holder and its directors, officers, and shareholders”, what type of “experience” is the AER looking for?</p> <p>How will the AER “measure” experience?</p> <p>How does “experience” assist in assessing if a Licensee and/or Approval Holder pose an unreasonable risk?</p> <p>What is the AER’s definition of unreasonable risk?</p>	<p>As previously recommended in comments related to Section 4.2 – Insurance, page 5, it is recommended that the revised Directive 067 consider defining a formal risk profile that aligns to the “energy development life cycle”.</p> <p>Also, a primary (baseline) risk profile should be included in the revised Directive 067.</p> <p>Similar to the recommendation expressed for assessing “capabilities”, a Licensee and/or Approval Holder’s “tolerance” for risk could be measured through the utilization of a Likert scale of 0-5, where 0 is the lowest level of risk “tolerance” – i.e., no tolerance for the risk type:</p> <ul style="list-style-type: none"> • Competitive risks (Market Lock-out) – 2 • Financial risks (Capitalization) – 4 • Domain knowledge risks (Experience) – 4 • Compliancy risks (Tighter Scrutiny) – 1 • Operational risks (Safety) – 3 <p>The Likert scores can then be totaled and utilized to produce an average (mean) of the risk tolerance levels; in this example, the mean is 2.8 representing a ratio of .56 or 56% “risk tolerance level” – i.e., a mid-level “tolerance” for risk.</p>	<p>A more in-depth expression of a “risk profile” and associated “risk tolerance” will provide a more meaningful framework for assessing Licensees and Approval Holders risk profiles and the potential inability to meet their regulatory and liability obligations.</p> <p>The utilization of a Likert scale (or some similar scale) provides assessment consistency.</p>

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Section 4.5 – Unreasonable Risk, page 6	<p>Concerning the suggested factor “... corporate structure”, what type of corporate structure would be acceptable to the AER?</p> <p>Is the AER concerned about “corporate structure” which generally connotes types of organizational roles and lines of authority and reporting, or is the AER more concerned about “ownership structure” – i.e., shareholders, percentage of issued equity, etc.?</p>	<p>It is recommended that the revised Directive 067 provide clarity on whether the AER wishes to assess “corporate structure”, “ownership structure” or both.</p> <p>Further, it is suggested that “ownership structure” is more important to assessing and determining unreasonable risk insomuch as “ownership”, particularly in publicly traded companies, determines where the majority of the influence on decision making exists.</p>	<p>A more in-depth focus on “ownership structure” will assist AER to better determine the potential existence of unreasonable risk.</p>
Section 4.5 – Unreasonable Risk, page 6	<p>Concerning the suggested factor “... 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”, does the AER have a “threshold for acceptable financial health”?</p>	<p>It is recommended that the revised Directive 067 provide a specific “financial threshold” that represents AER’s level of acceptable financial health.</p> <p>It is further recommended that the “threshold” be aligned with a Licensee and/or Approval Holder’s risk profile – i.e., the higher tolerance for risk should manifest as a higher level of financial health.</p>	<p>Alignment of a Licensee and/or Approval Holder’s risk profile to an acceptable “financial threshold” will provide a framework for determining financial health and its association with determining if an unreasonable risk exists.</p>
Section 4.5 – Unreasonable Risk, page 6	<p>Concerning the suggested factor “... the assessed capability of the applicant, licensee, or approval holder to meet its regulatory and liability obligations throughout the energy development life cycle”, does the AER have a “thresholds of acceptable capability levels within specific capability categories”?</p>	<p>As provided in previous recommendations associated with Section 1 – Introduction, page 2, it is suggested that a formal “capability model” be developed and included in Directive 067.</p> <p>It is further recommended that “thresholds of acceptable capability levels within specific capability categories” be aligned to a formal “capability model”.</p>	<p>Alignment of a Licensee and/or Approval Holder’s capabilities to an acceptable “thresholds of acceptable capability levels within specific capability categories” will provide a framework for determining the existence and health of business capabilities and their association with determining if an unreasonable risk exists.</p>
Section 4.5 – Unreasonable Risk, page 6	<p>Concerning the suggested factor “... 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 pipeline, well, facility, well site, or facility site”, how is this different (unique) from a capability?</p>	<p>It is recommended that this factor be removed from the revised Directive 067.</p>	<p>The reduction of factors, particularly those that are simply repetitive, will assist in making Directive 067 easier to read and interpret.</p>
Section 4.5 – Unreasonable Risk, page 6	<p>Concerning the suggested factor “...any other factor the AER considers appropriate in the circumstances”, is too ambiguous and open-ended.</p>	<p>It is recommended that this factor be removed from the revised Directive 067.</p>	<p>The reduction of factors, particularly those that are ambiguous, will assist in making Directive 067 easier to adhere to.</p>

Appendix A

The following model was prepared by financial and economic experts within Digital^Shift, for the Polluter Pay Federation, an Alberta-based not-for-profit organization, that provides insight into the impact industrial efforts of Alberta’s oil and gas industry have on landholders throughout the Province. The Polluter Pay Federation’s mandate is to use its in-depth insights and expertise to provide recommendations into the Province’s oil and gas regulatory regime to achieve more safe and fair interactions between the Province’s landholders and industry.



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