

FACT SHEET: Oil and Gas Flaring

This fact sheet is intended to answer common questions that members of the public may have about flaring from oil and gas developments. The focus of this fact sheet is to provide information on your legal rights and the regulation of flaring in Alberta.

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What is flaring?

Flaring is the burning of natural gas that cannot be processed or sold. There are several types of flaring that may occur on or near your property:

- solution gas flaring – this occurs at wells or batteries where oil is processed and stored. Solution gas is another name for natural gas that comes to the surface with crude oil;
- gas plant flaring – this is the burning off of by-products for which there is no market. They also burn off gas during emergency situations;

- well test flaring – this occurs during the drilling and testing of wells. It is done to determine the economic value of the well and what type of production facilities will be installed; and
- maintenance flaring – this is done to burn off gas from depressurizing equipment during emergencies or maintenance shutdowns.

Who regulates flaring?

In Alberta, flaring is regulated by the Alberta Energy and Utilities Board (EUB). For more information on the EUB, please see the Environmental Law Centre's fact sheet on the Alberta Energy and Utilities Board.

What are my rights if a new flare is proposed for my property?

If a flare is proposed for your property, the operator must negotiate this as part of the surface lease agreement before they can apply for an EUB licence. Ask questions about the flaring operation before you sign the lease agreement, for example:

- How often will flaring occur?
- How long will flaring last?
- Will flaring be used only to test the well or will it occur on a routine basis?

You can negotiate under what conditions the flaring will be carried out. This might include requesting that air quality monitoring take place. Ask if there are alternatives to flaring. For example, you can ask if the company can use an incinerator instead of a flare stack at the well.

If you or your family are sensitive to air pollution make this known to the operator. If you want to move out while flaring is conducted you will have to negotiate whether the operator will compensate you for your expenses during this period.

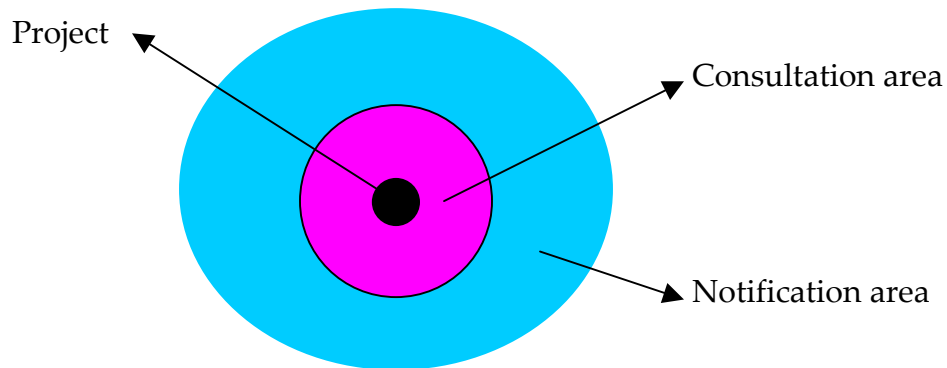
Does an operator need my permission to set up a flare near my property?

Before an operator can apply for a licence, the EUB requires the operator to consult and notify with those who may be affected by the flaring operation. This includes landowners, occupants and neighbouring residents who live within a certain distance from a proposed flare.

The minimum distances within which people must be consulted or notified are set out in EUB *Directive 56: Energy Development Applications and Schedules* (Tables 5.1, 6.1 and 7.1). The consultation and notification distances depend on:

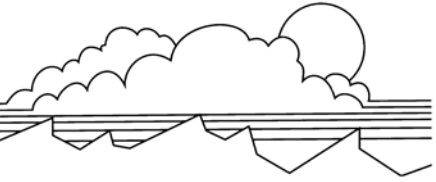
- the type of operation (well, pipeline, or other facility); and
- the hydrogen sulphide (H₂S) or “sour gas” content of the operation.

Generally speaking, the higher the H₂S or sour gas content of the operation, the larger the consultation and notification distance is around the project.



If consultation is required, what does that mean?

Personal consultation means that the operator must conduct face-to-face visits or telephone conversations with landowners, occupants, and neighbouring residents within a certain distance from the operation. The purpose of consultation is to provide information to those parties affected. The operator should discuss and respond to any concerns or objections the parties may have.



The operator is also required to provide a detailed information package about the proposed operation and a number of EUB documents. The EUB document entitled *EnerFAQs No. 6: Flaring and Incineration* is one of the publications the operator should be providing to you.

During consultation, the operator must also obtain a confirmation that you do not object to the new flaring operation. This is called a confirmation of non-objection. If you have outstanding concerns about the new flare do not sign this document and instead you should send a letter of objection to the EUB and the operator.

If notification is required, what does that mean?

Notification means that the operator will provide its information package and EUB documents. If the notified party would prefer consultation, the operator must be available to answer questions about the operation.

How are existing flares regulated?

The EUB regulates existing flares through reporting requirements and permits. This is detailed in EUB *Directive 60: Upstream Petroleum Industry Flaring Guide* and *EUB Directive 60: Updates and Clarifications*. These directives also set out notification requirements for existing flares.

Will I be notified if flaring occurs at existing stacks?

Directive 60 (Table 1) sets out who must be notified and when for flaring done through a permanent stack installed at a facility. For permanent stacks, the operator is required to notify the local EUB field centre and all residents within 0.5 km of the flare. This only applies to flaring that lasts more than four hours within a 24 hour period.

Directive 60 Updates (Table 2 and 3) specify who must be notified and when for temporary flaring. This includes well test flaring and maintenance flaring at pipelines. The notification distances for residents vary depending on the type of

well and the H₂S content. Sweet gases are those with low levels of H₂S; sour gases have high levels of H₂S. The notification distance for residents is:

- 1.5 km for oil well tests;
- 1.5 km for gas well tests and maintenance flaring with sweet gas; and
- 3 km for a gas well tests and maintenance flaring with sour gas.

Again, notification is only required for flaring that lasts more than four hours within a 24 hour period.

Generally, companies are not required to notify neighboring landowners or occupants when they test flares for less than four hours within a 24 hour period. However, the EUB indicates that operators should conduct “good neighbour” notification. Where flaring may be of a concern to nearby residents, the EUB expects the operator to notify and address concerns of neighbouring residents.

What if I have concerns about a new flaring operation?

If you have concerns about a new flaring operation, you should send a letter of objection to the EUB and the operator. If you and the operator cannot resolve your concerns, the EUB can send an EUB staff member to facilitate negotiations or an independent mediator can be appointed to help resolve the dispute. If the flare is located on your property or if you are considered to be “directly and adversely affected” by the flare, you can trigger an EUB hearing. For more information on the EUB hearing process, please see the Environmental Law Centre’s fact sheet on the Alberta Energy and Utilities Board.

What if I have concerns about existing flares?

You may have outstanding concerns about existing flaring operations that have not been addressed by the operator. If so, complaints should be directed to your local EUB field center.

Where can I get a copy of EUB directives?

EUB directives are available to view or download free of charge from the EUB website at <<http://www.eub.gov.ab.ca>> or from the EUB Information Services at (403) 297-8190. Some of these guides are also available at the Environmental Law Centre's library.

Where can I get more information?

For general information about legal rights or regulations related to flaring or the EUB, please contact the Environmental Law Centre. Further resources are included below.

Environmental Law Centre Library Resources and Online Catalogue:

Clean Air Strategic Alliance. *Gas Flaring and Venting in Alberta: Report and Recommendations for the Upstream Petroleum Industry by the Flaring/Venting Project Team* (Edmonton, Clean Air Strategic Alliance, 2002).

Griffiths, Mary, Chris Severson-Baker & Tom Marr-Laing. *When the Oilpatch Comes to Your Backyard: A Citizens' Guide*, 2nd ed. (Drayton Valley: The Pembina Institute, 2004).

Petroleum Communication Foundation. *Flaring: Questions and Answers* (Edmonton: Petroleum Communication Foundation, 2000).

Online Articles:

Barringer, Keri. "Landowners and oil and gas interests: issues to consider" (2004) 19:2 *Environmental Law Centre News Brief* 11, online: Environmental Law Centre <<http://www.elc.ab.ca/publications/NewsBriefDetails.cfm?ID=814>>.

Additional Online Resources:

Alberta Energy and Utilities Board, online:

<<http://www.eub.gov.ab.ca/bbs/documents/directives/directive056.pdf>> - this website provides access to *EUB Directive 56: Energy Development Applications and Schedules*.

Alberta Energy and Utilities Board, online:

<<http://www.eub.ca/docs/documents/directives/Directive060.pdf>> - this website provides access to *EUB Directive 60: Upstream Petroleum Industry Flaring Guide*.

Alberta Energy and Utilities Board, online:

<<http://www.eub.ca/docs/documents/directives/Directive060-updates.pdf>> - this website provides access to *EUB Directive 60: Updates and Clarifications*.

Alberta Energy and Utilities Board, online

<<http://www.eub.gov.ab.ca/bbs/public/EnerFAQs/PDF/EnerFAQs6-Flaring.pdf>> - this website provides access to the EUB document *EnerFAQs No. 6: Flaring and Incineration*.

A word of caution about your use of this material

The information provided in this fact sheet is current to July 31, 2006. While every effort has been made to ensure the accuracy and timeliness of the information, the information provided is of a general nature and is not a substitute for legal advice. The Environmental Law Centre encourages individuals to seek specific advice on matters of concern and not to rely solely on the information in this document.

The Environmental Law Centre

The Environmental Law Centre (Alberta) Society is a registered charitable organization that was incorporated in 1982 to provide Albertans with an objective source of information on environmental and natural resources law. The Centre, which is staffed by four full-time lawyers, a librarian and a small support

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staff, provides services in environmental law education, assistance, research and law reform. The Centre maintains an extensive library and online catalogue of environmental law materials that is accessible by the public free of charge.

Funding for the Environmental Law Centre is provided by the Alberta Law Foundation and through the generous support of the public. The Centre also accepts private and government research contracts for work relevant to and consistent with the Centre's objectives.

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