

# Overview of Oil and Gas Regulations and Application Process

## 1. Overview of Oil and Gas and Energy Resource Regulations and Application Process

Companies looking to explore, develop, produce, and market energy resources in British Columbia must apply to the BC Energy Regulator (Regulator) for activity permit(s). The Regulator's role in permitting energy resource activities is defined by the [Energy Resource Activities Act](#) (ERAA).

Effective Sept. 1, 2023, the Energy Resources Activities Act (ERAA) replaced the Oil and Gas Activities Act and expanded the BCER's responsibilities to include the regulation of hydrogen, ammonia, and methanol. The definition of "oil and gas activity" is repealed and replaced with "energy resource activity". The new definition highlights that, in addition to having jurisdiction over the exploration and production of natural gas, the BCER is now explicitly responsible for the oversight of the "construction or operation of a facility for manufacturing hydrogen, ammonia or methanol from petroleum, natural gas, water or another substance".

The Regulator operates within a legal framework embodied in the collection of acts, regulations, standards, practice requirements and management plans governing the mandate of the Regulator and provides a single-window model for energy resource and associated activity operating permits.

Operators apply to the Regulator, and the Regulator reviews, assesses and makes decisions on applications. This consolidated single-window authority provides not only a one-stop place for all energy resource and associated activity requirements, but a consistent application, decision, regulatory and compliance authority. Stakeholders work with one agency; therefore serving the public interest by having an all-encompassing review process for energy resource activities.

In its day to day operations, the Regulator is focused on coordinated, responsive and responsible decision-making. Decisions are made while protecting public safety, respecting those affected by energy resource activities, conserving the environment, and facilitating equitable participation in production.

**Please Note:**

This manual is written as a whole and provided to industry in sections to allow permit holders to access activity chapters. It is prudent of the permit holder to review the manual in its entirety and be aware of the content in other sections of the manual.

**Please Note:**

The Energy Resource Activities Act defines both energy resource activity and related activities and the Regulator adheres to the definitions. The Regulator's glossary and acronym listing is an extension of this manual and defines terms used throughout the energy resource activity. Applicants and permit holders should refer to the glossary to understand the exact definition of terminology as it may differ from other regulatory bodies. Due diligence is required to ensure proper understanding of terms, acronyms and legislation.

## 1.1 Regulator's Permitting Authorities

The Regulator's specific permitting authority is defined in the Energy Resource Activities Act (ERAA). In order to effectively function as a single-window regulator for energy resource activity in British Columbia, delegation agreements are in place to allow the Regulator to make decisions on certain energy resource and restoration activities within the parameters outlined in those agreements. In addition, certain authorizations granted through specific Acts provide the Regulator permitting powers under specified enactments.

Permits and authorizations granted by the Regulator include:

- Energy resource activity permits under the Energy Resource Activities Act, including well, pipeline, facilities, road and geophysical permits.
- Associated activity authorizations under the Petroleum and Natural Gas Act or Land Act, as applicable, including activities such as investigative use, aggregate operations, work spaces and camp sites.
- Authorizations and approvals under the Water Sustainability Act, including authorizations and approvals for changes in and about a stream, short-term water use and water licences.

- Non-farm use of lands included in the Agriculture Land Reserve (ALR), under delegated authority under the Agriculture Land Regulator Act.
- Master licences to cut and cutting permits and road use permits under the Forest Act.
- Archaeology-related permissions under the Heritage Conservation Act.
- Restoration activities under the Land Act

Specific provincial authorizations related to pipelines subject to the Canadian Energy Regulator Act.

The Regulator provides regulatory oversight at every stage of energy resource development, working with a broad range of stakeholders. Regulator staff have the legislative authority to make decisions on proposed energy resource activities. In addition, the Regulator:

- Tracks permit holder compliance.
- Reviews operational submissions.
- Provides guidance and processes for operators to submit applications and operational requirements.
- Conducts inspections and responds to incidents.
- Takes compliance and enforcement action when needed.

### Other Regulatory and Technical Considerations

In addition to the regulatory and technical considerations outlined in this manual, applicants and permit holders should be familiar and understand other provincial and federal regulations, local authority requirements, industry recommended practices, Canadian Standards Association, labour board laws, and workers compensation rules in order to operate in British Columbia.

## 1.2 Regulator's Application Process

Companies must adhere to the Regulator's application requirements throughout the entire application process. As shown in Figure 1-A, once pre-application requirements are complete, companies prepare and compile the relevant information for submission to the Regulator.

Following application submission, the Regulator conducts a comprehensive technical review of the application based on the characteristics, location and circumstances of the activity.

Permits must be in hand before conducting any activity. Permits may have timelines and/or conditions attached and all conditions must be adhered to. Amendments are required to change or adjust existing permits. Amendment applications must be submitted to the Regulator.

This manual focuses on the requirements for the planning and preparation stages and application submission requirements for energy resource and associated activity permits. The Regulator website provides documentation for the latter stages of energy resource development, including operations, compliance, emergency management and remediation and reclamation. Those areas are out of scope of this manual.

### 1.2.1 Pre-Application Requirements

Pre-application requirements include securing tenure rights and conducting the required consultation and notification and/or engagement with land owners and/or rights holders. Applicants are also encouraged to engage First Nations prior to submitting an application.

Planning of energy resource activity should take into consideration the entire lifecycle of the project and the environmental and social impact of the proposed project. The Regulator makes available documents and data in the [public zone](#) of the website to assist in the pre-planning stages including:

- Area-based analysis approach and documents.
- GIS data.
- Major projects coordination and information.
- Public engagement.
- Water information resources.
- Air quality.

The Application Analysis Tool within the Application Management System can be used to assist with pre-application requirements.

Applications require engineering and technical information and this manual provides assistance in preparing complete and accurate data, attachments and requirements. This applies to both the company and agent or representative submitting information on behalf of the company.

### Required Consultation and Notification

Consultation and notification activities are outlined in Chapter 6 of this manual. This formalized public engagement process allows land owners and affected parties to express concerns about proposed energy resource activity and encourages companies to work proactively and collaboratively with those affected by energy resource activity.

### First Nations Pre-Engagement

Applicants are encouraged to work with First Nations to consider any environmental, heritage and/or community concerns impacted by energy resource activity. The Regulator suggests applicants initiate and build relationships with First Nations communities by discussing the proposed activities with the communities during the project planning phase and to continue the relationship throughout the project lifecycle.

While not required prior to application, engagement with the public and First Nations within a pre-determined Emergency Planning Zone for Emergency Response Contingency Plans is encouraged since emergency plans must be in place for well, facility and pipeline permit holders prior to operation.

### Surface Agreements on Private Land

The Regulator may permit the construction and operation of energy resource activities on private land, but access is subject to a land owner agreement. If an agreement with the land owner cannot be made, the applicant or land owner may apply to the [Surface Rights Board](#) for assistance.

## 1.2.2 Application Submission and Review

To submit an application, operators access the Regulator's Application Management System (AMS). AMS is an online electronic application submission system, for the majority of energy resource and associated activities. Operators may apply for a single activity or multiple activities at the same time.

The application system utilizes spatial data submitted by the applicant to verify geographic location of proposed energy resource activity. The spatial data is an important component since it highlights both the activity and land required. The application system is prompted to automatically activate the specific application tabs based on the activity chosen and the spatial data. Applicants then move through a series of windows within AMS and are prompted to input engineering and/or technical data into the required fields. Additional supporting information may be required in the application information tabs.

The dashboard page serves as a home page once logged into AMS and provides the status of all applications.

Applications are validated by AMS to ensure all required fields and attachments are completed. Validation must be done before users may submit an application. Applicants can validate the application at any time however, the system will not allow submission of incomplete applications. Within the application tabs there is an overview menu which highlights all outstanding issues that must be addressed before the application can be submitted. The dashboard page can be utilized to follow the status of the application from data entry through to review and decision.

The application system and spatial data requirements are discussed further in Chapter 3 of this manual. Application requirements based on activity and geographic location are detailed in Chapters 4 -7 of this manual.

**Please Note:**

An application that has had no activity for three months will appear on the dashboard with a status of “Timed Out”, and then, after an additional three months of “Timed Out” status, the application is removed from the system. Once removed, the application cannot be retrieved.

## 1.2.3 Application Review

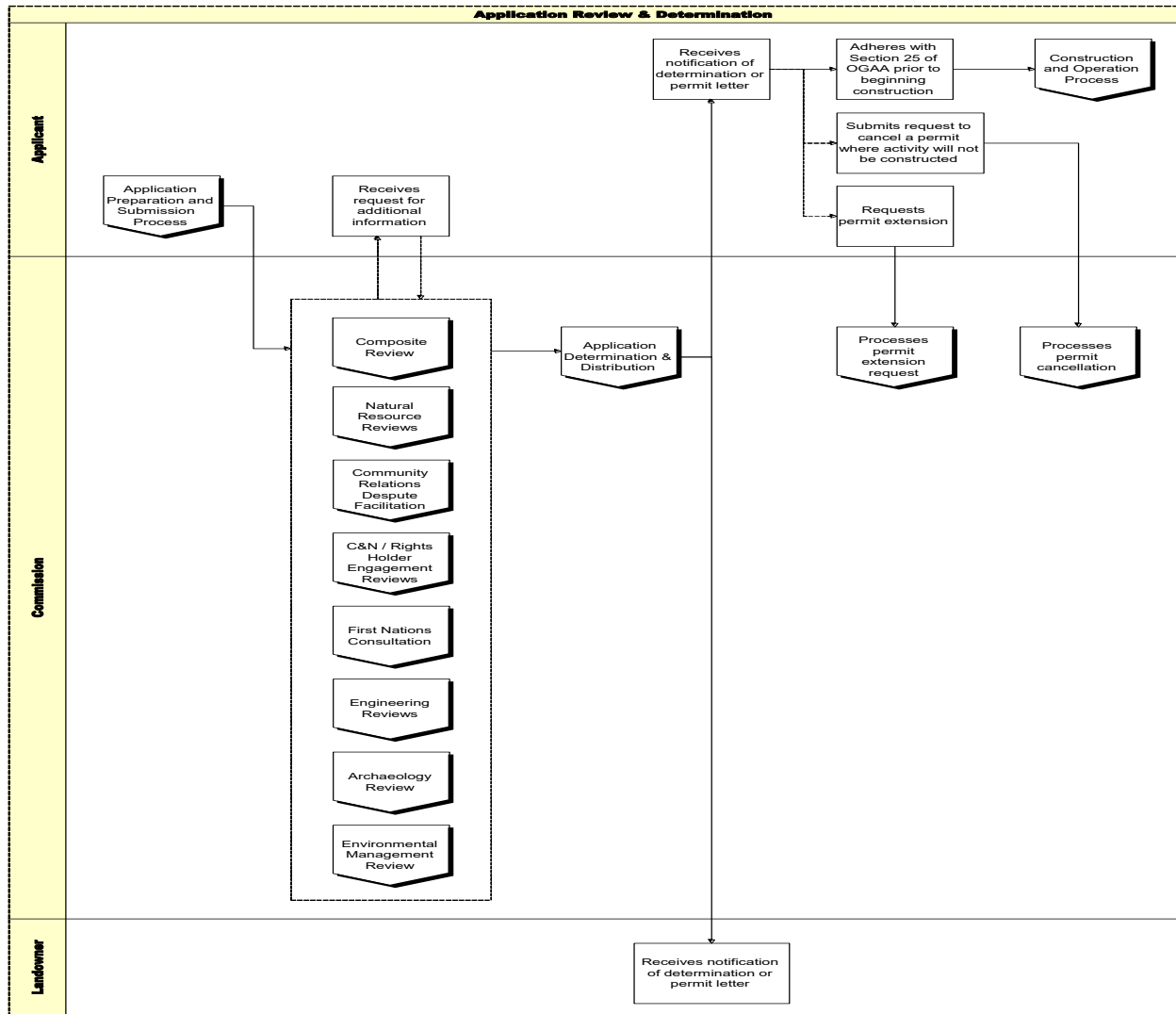
Once complete, the application is submitted to the Regulator for review. As shown in Figure 1-A, the Regulator conducts a wide range of technical reviews and carries out First Nations consultation during the review and determination process. Technical reviews include engineering (facilities, pipelines or drilling and production), land and habitat, forestry, agriculture, archaeology and environmental management.

During the review and determination process, the Regulator conducts a wide range of engagement processes, actively liaising with First Nations, stakeholders, land owners and partner agencies. If the Regulator finds minor and/or major deficiencies, the Regulator contacts the applicant to clarify details, make revisions and/or provide additional information.

Applicants are able to monitor the status of an application by logging into AMS and checking on the status of the application in the dashboard.

The review process is also supported by dispute facilitation services offered by the Regulator’s Community Relations department to aid in communication and resolve interest-based differences between applicants and recipients. Further information on the consultation and notification process is detailed in Chapter 6 of this manual.

Figure 1-A: Application Review and Determination Process



## Amendments to Permits

Permit holders must submit an amendment application to add, modify or change any permitted energy resource activity and/or associated activity. An amendment can include requests for multiple changes to a permit. Multiple amendment applications cannot be submitted for the same permit at the same time. The Regulator will consider only one amendment application per permit at a time.

Engagement, consultation and notification requirements must be met if changes create alterations to the previous engagement, consultation and/or notification.



### Please Note:

AMS will restrict the ability to create a duplicate proposed amendment application when an existing amendment application exists with a status of 'In Progress', 'In Revision', or 'In Review'.

### Application Withdrawals

A request to withdraw an application must be received by the Regulator from the applicant company after the application has been submitted but prior to a decision being made on the application.

Requests for application withdrawal are made by letter or email submission to a Regulator Authorizations Director. Once a withdrawal request is made, the Regulator review team must accept the withdrawal. The application fee is charged to all applications submitted, regardless of whether or not a permit is granted. Once a withdrawal request is accepted by the Regulator, the application remains visible on the dashboard page, symbolized by an "x" icon. The dashboard page is discussed in further detail in Chapter 3 of this manual.

Applications not yet submitted may be discarded by authorized users without any acceptance by the Regulator. Once discarded, all data will be deleted and cannot be retrieved. A new application must be created if the applicant later decides to proceed with the application.

### Application Revision

If the Regulator finds minor and/or major deficiencies in the application, or requires additional clarification, the Regulator will contact the applicant to obtain additional information, clarify details or request that the applicant revise their application. Additionally, an applicant may wish to revise the application for a variety of reasons, including a revision to reduce the overall footprint of the activities within the application. If a revision of application information or spatial data is required, the applicant company must send an email to [revisions@bc-er.ca](mailto:revisions@bc-er.ca) to request that the application status be set to 'In Revision'. This will allow the applicant company or representative working on their behalf, to upload the revised spatial data package or change the application information. The subject line of this email must identify the email as a revision request, and include the

pertinent AA#, applicant company name, and activity type(s) included in the application. This email must also include details on the reason for the revision request.

If changes to the original application are made, the applicant must enter a description of the changes in the revision explanation text field provided on the AMS application overview page. If more space is needed to describe the changes, the applicant must upload a rationale document or email that outlines the changes, and where applicable, provide a more detailed summary of revision request. In a case where an application is set to 'In Revision' multiple times, this summary must include reasons and details on changes made to the application for the current revision as well as all prior revisions. Applicants should review all application information to ensure all necessary changes are made prior to submission of the revised application.

Depending on the nature and scope of the revision, additional fees may be calculated. Applicants can upload attachments into AMS for applications with a status of 'In Review,' without a status change to 'In Revision.'

### **Please Note:**

Upon receipt of a revised application, where the only change made was to reduce the overall disturbance (ie. no additional activities have been added to the application, no changes were made to technical details, no additional land was added that was not included in the original or previous versions of the application) the BCER will send a notice to pertinent First Nations communities to inform them of the change. The BCER will continue with any consultation activities already in progress and will not reopen consultation activities that were concluded on the previous version of the application. Other application reviews (ie. Land and Habitat review, Archaeology review, technical reviews, etc.) will be carried out on the revised application; however, these reviews are expected to be brief in most cases.

## Application Contacts

When the Regulator needs to contact the applicant to clarify details, make revisions, request additional information and/or distribute permits, the Regulator will use the contacts as provided in AMS application. The contacts will be utilized by the Regulator for email correspondence as follows:

- The main Proponent contact name and email shown on the Overview screen, which is selected by the applicant, will be the main contact for **all** on all emails from the Regulator.
- The Contact e-mail shown on the Overview screen; which auto populates as the default contact set up in the Corporate Registry, will be **copied** on all emails from the Regulator
- If a referral agent or land agent is listed in the Administrative tab, they will be **copied** on all correspondence.
- If an Environmental specialist is listed in the Administrative tab they will be **copied** on all environmental related correspondence.
- If an Archaeologist is listed in the Administrative tab they will be **copied** on all Archaeology related correspondence. Please also note that an Archaeologist contact is mandatory should the application have an Archeology component.
- If more than one person is listed per company/contact in the Administration tab, the Regulator will only copy the first person listed and it will be the responsibility for the company/contact to distribute internally/externally as appropriate.
- If an Engineering contact is listed in the Administrative tab they will be copied on all engineering related correspondence. Please also note that an Engineering contact is mandatory should the application have an Engineering component.
- Post approval, the Regulator will distribute electronic copies of permit documents to the Proponent Contact and all Permit Distribution Contacts listed by the applicant on the AMS overview screen.

**Please Note:**

Contact information shown within the contact drop down list under the Administration Tab populates from accounts in the BCER KERMIT Registry. If a specific contact is not available in the contact drop down list; the contact must ensure an account has been created. A contact can create an account by clicking on the [Online Services](#) link located at the top of the BCER website and navigating to Additional Links – Create an Account / Change Password.

## 1.2.4 Application Post-approval

Post-approval, activities must be carried out in accordance with the permit, ERAA, regulations and any other applicable laws. Permit holders must adhere to the operational and reporting requirements throughout the life cycle of the energy resource and associated activity. Operational manuals are found on the [documentation section](#) of the Regulator's website.

Once a permit is issued, permit holders are responsible for all permit holder obligations (as defined in ERAA), including outcomes of actions of contracted personnel in carrying out permitted energy resource activities on behalf of the company.

An applicant or permit holder may have the right to review and/or appeal a determination as established in ERAA. Guidance on the review process is found in Chapter 7 of this manual. Instructions regarding appeals are obtained from the [Energy Resource Appeal Tribunal](#).

### Construction Start Dates

Permit holders must wait 15 days from the day the permit is issued before commencing any energy resource activity on private land, unless the land owner has consented in writing that the energy resource activity may commence. Written consent from a land owner is not required to be submitted to the Regulator; however the permit holder should retain records.

The permit holder must submit a notice of construction start to the Regulator prior to the start of construction activities. Leave to open is required prior to operation of a pipeline or facility. Minimum time requirements for submission of notice of construction start for various activities are outlined in the regulations and permit conditions specific to the activity.

## **Notice of Maintenance**

The permit holder must submit a notice of maintenance to the Regulator two (2) working days prior to the commencement of any change in or about a stream associated with maintenance activities, as authorized in the permit. Minimum time requirements for submission of notice of maintenance for various activities are outlined in the regulations and/or permit conditions specific to the activity.

A Notice of Maintenance is submitted by completing a Notice of Maintenance form and submitting by email to [ExternalNotifications@bc-er.ca](mailto:ExternalNotifications@bc-er.ca)

## **Emergency Planning and Response Programs**

The Energy Resource Activities Act requires permit holders to prepare and maintain an emergency response program and a response contingency plan as prescribed in the [Emergency Management Regulation](#) (EMR). The requirements and processes described in the EMR and the Regulator's [Emergency Management Manual](#) are designed to create a framework for the protection of the public, property and the environment from emergencies arising out of energy resource activities.

# **1.3 Applicant Obligations**

In preparing and submitting an application, applicants are expected to consider the environmental and social impact of the proposed energy resource activity. Companies must, as part of the planning stages, take into consideration the surface and subsurface locations in order to minimize impacts on the social and environmental values. It is the expectation of the Regulator that energy resource sites, once deactivated, will be restored and reclaimed at the end of the project; therefore, careful planning beforehand is required to ensure a successful project end.

When completing application and/or submitting additional reports, companies must provide engineering and technical information on activities carried out during the proposed term. Companies must provide true and accurate information and not knowingly omit relevant information. All data, attachments and requirements must be complete and accurate. If an agent or representative submits information on behalf of the company, the applicant remains accountable for the accuracy of submission.

### **Activity Area Overlapping a s.16 or s.17 Land Act Disposition Established by the Ministry of Forests**

Applicants wishing to submit a new application or an amendment must consider proposed activities that fall within a s.16 or s.17 Land Act disposition that has been established by MOF. For proposed activities that will impact land subject to a s.16 or s.17 Land Act disposition, applicants must complete a FrontCounter BC Application Form for Proposed Activities within Established Section 16 or 17 Land Act Dispositions and submit the form, prior to commencement of operations, to FrontCounter BC to request a decision whether to amend the Land Act disposition or determine compatibility to the established disposition.

Permit holders must obtain approval (as defined in ERAA) before starting any energy resource or associated activity(s) and should maintain ongoing dialogue with the Regulator and stakeholders throughout the lifecycle of the project. This includes operational and reporting requirements and continued engagement as defined in operations manuals.

Once approved, permit holders bear responsibility for all permit holder obligations (as defined in ERAA), including outcomes of actions of contracted personnel in carrying out permitted energy resource activities on behalf of the company.

## **1.4 Compliance and Enforcement**

Applicants have a legal obligation to meet all legislated requirements. The Regulator expects applicants and permit holders to use formal practices in day-to-day operations and comply with the Energy Resource Activities Act, the Regulator's specified enactments, and all related regulations.

The [Compliance and Enforcement Manual](#) provides further information about the Regulator's compliance processes. It is the permit holder's responsibility to know and uphold any legal responsibilities inside and outside of the Regulator's legislative authority. The Regulator audits and inspects permit holder activities and investigates incidents of alleged non-compliance.

## 1.5 Regulator Authority under Section 26 of ERAA

Under Section 26 of the Energy Resource Activities Act (ERAA), the Regulator has the authority to refuse, suspend, cancel, or amend a permit.

When making a decision under Section 26, the Regulator can consider the conduct of an applicant or permit holder. In addition, the decision maker may look beyond the applicant or permit holder to consider the conduct of a person (which includes a corporation) associated with an applicant or permit holder.

An associate means any of the following:

1. an agent of the applicant or permit holder;
2. a director, officer or shareholder of the applicant or permit holder;
3. a person who, in the Regulator's opinion, may have influence over the applicant or permit holder or may be able to affect the activities permitted by the permit.

Section 26(2) and (3) of ERAA provide a non-exhaustive list of circumstances that may trigger a decision under Section 26. The following is a list of factors that the Regulator may consider in making a decision under Section 26(1):

- Compliance history of the applicant or permit holder, or an associate of the applicant or permit holder.
- Corporate structure of the applicant or permit holder, or an associate of the applicant or permit holder.
- Experience of the applicant or permit holder, or an associate of the applicant or permit holder.

- Financial health of the applicant or permit holder, or an associate of the applicant or permit holder.
- Financing of the applicant or permit holder, or an associate of the applicant or permit holder.
- Outstanding debts owed by the applicant or permit holder, or an associate of the applicant or permit holder.
- Outstanding non-compliances of the applicant or permit holder, or an associate of the applicant or permit holder.
- The applicant or permit holder, or an associate of the applicant or permit holder, has been convicted of an offence as described in Section 26(2)(f) of ERAA.
- Involvement of the applicant or permit holder in bankruptcy or receivership proceedings.
- Involvement of an associate of the applicant or permit holder in entities that have initiated or are subject to bankruptcy or receivership proceedings.

In addition, the Regulator may make a decision under Section 26(1) of ERAA where there is a relationship (such as employer / employee, officer, director or agent) between an applicant or permit holder and a permit holder that has previously been the subject of a decision under Section 26(1).

Before making a decision under Section 26(1)(b),(c) or (d) of ERAA to suspend, cancel or amend a permit, or under Section 26(5) of ERAA to suspend or cancel an authorization for a related activity, the Regulator must provide the permit holder with an opportunity to be heard. The opportunity to be heard may be conducted in the time and format the Regulator deems appropriate, pursuant to Section 80 of ERAA.

## 1.6 Freedom of Information & Protection of Privacy

Throughout the course of application preparation and planning, the information collected from a person or other entity may contain personal information as defined by the [Personal Information Protection Act](#) (PIPA). Private sector organizations collecting personal information in British Columbia are subject to the PIPA, which sets out the rules for how personal information may be collected, used or disclosed.



Applicants and permit holders should comply with PIPA when collecting information from persons or entities and can contact the [Office of the Information and Privacy Commissioner](#) for British Columbia for more information.

As a public body, the Regulator is subject to the [Freedom of Information and Protection of Privacy Act](#) (FOIPPA). Any personal information contained in plans or applications submitted to the Regulator are subject to the protection and security requirements identified in FOIPPA.

## 1.7 Professional Reliance

This manual specifies instances where the Regulator will rely on Qualified Professionals to conduct necessary works and provide the necessary information that the Regulator requires to be able to make defensible determinations and to confirm that proposed development activities conform with regulation.

The Regulator considers a Qualified Professional to be those individuals who are registered members of one of the following Regulatory Bodies regulated under the [Professional Governance Act](#).

The Regulatory Bodies currently regulated under the BC Professional Governance Act are:

- [Agrologists](#)
- [Applied Biologists](#)
- [Applied Science Technologists & Technicians](#)
- [Engineers and Geoscientists](#)
- [Forest Professionals](#)

All work submitted by Qualified Professionals must be within their scope of practice and consistent with the standards and practices of their Professional Organization.

Any works submitted which the Regulator deems inconsistent with the standards and practices of the professional organization or outside the professionals field of study will be forwarded to the Professional Organization for review and potential disciplinary action.

The Regulator requires that Qualified Professionals signing off on any environmental assessment and mitigation works provide the following Professional Declaration:

- The assessment of that activity referred to in this report has been conducted in accordance with the standards and practices of the professional organization of which the signer is a registered member.
- The reported information is true based on the signatory's current knowledge as of the date completed. Where data gaps exist in the report, the judgment of the Qualified Professional has been used.
- The signatory has demonstrable experience within the field of work and/or practice for which the statement applies.

This manual will specify within the appropriate sections what works must be completed by Qualified Professionals regulated under the BC Professional Governance Act. If uncertain that works completed by a Qualified Professional is required please contact a Regulator Authorizations Director to confirm.