

# ENERGY RESOURCE ROAD REGULATION 56/2013

## - Unofficial Copy

Updated To:

[Note: This is an Unofficial Copy. includes B.C. Reg. 202/2023, Sch. 9 amendments (effective September 1, 2023)]

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B.C. Reg. 56/2013

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[Provisions of the *Energy Resource Activities Act*, SBC 2008, c. 36, relevant to the enactment of this regulation: section 111]

## PART 1 – Definitions and Application

### Definitions

1. In this regulation:

**"Act"** means the *Energy Resource Activities Act*;

**"affected permit holder"**, in relation to an energy resource road, means a permit holder whose rights under the permit might be affected by construction of the road;

**"affected rights holder"**, in relation to an energy resource road, means a "rights holder" as defined in section 1 of the Requirements for Consultation and Notification Regulation whose rights under the applicable instrument might be affected by construction of the road;

**"construction"**, in respect of an energy resource road, includes modifications to the road within the road right of way;

**"deactivate"**, in relation to an energy resource road, means deactivate in accordance with Part 6;

**"engineered retaining wall"** means a retaining wall greater than 1.5 m in height;

**"fish stream"** has the same meaning as in the Environmental Protection and Management Regulation;

**"local Indigenous nation"**, in relation to an energy resource road, means an Indigenous nation that is identified for the road in a manner specified by the regulator;

**"maintain"**, in relation to an energy resource road, means maintain in accordance with the provisions of Part 3 respecting maintenance or restoration;

**"major culvert"** means a culvert crossing a stream or wetland that

- (a) is one of the following:
  - (i) a pipe having a diameter of 2 000 mm or greater;
  - (ii) a pipe arch having a span greater than 2 130 mm;
  - (iii) an open bottom arch having a span greater than 2 130 mm, or
- (b) has a design discharge rate of 6 m<sup>3</sup> per second or greater;

**"modification"**, in relation to an energy resource road, means the widening of the running surface of the road, the realigning of a portion of the road or the reconstructing of a portion of a road, and includes the installing or replacing of a bridge or major culvert associated with the road;

**"motor vehicle"** has the same meaning as in section 1 of the *Motor Vehicle Act*;

**"primary activity"** means an energy resource activity or a related activity other than the construction, maintenance, operation or use of an energy resource road;

**"protection measures"** means sections 11 and 12 of the Environmental Protection and Management Regulation;

**"qualified person"** means, in relation to a specified duty, a person who has the qualifications specified by the regulator to perform that duty safely and properly;

**"road permit"** means a permit that includes permission to construct or maintain an energy resource road;



**"road permit holder"** means a permit holder of a road permit and a person who is otherwise required to maintain an energy resource road or was required, immediately before the coming into force of this regulation, to maintain an energy resource road;

**"road prism"** , in relation to a road, means an area consisting of the road surface and any cut slope, ditch and road fill;

**"road right of way"** , in relation to an energy resource road, means

- (a) the area that is shown or described in the permit as the road corridor within which the energy resource road may be constructed or modified, or
- (b) if the permit does not show or describe the area within which the energy resource road may be constructed or modified, the area 17.5 m of either side of the centre line of the energy resource road;

**"roadwork area"** , in relation to an energy resource road, means any of the following:

- (a) the road right of way;
- (b) an area that is adjacent to the road right of way and has been used for construction, operation or maintenance of the road under a permit or authorization held by the road permit holder;

**"stream"** has the same meaning as in the Environmental Protection and Management Regulation;

**"stream channel"** has the same meaning as in the Environmental Protection and Management Regulation;

**"traffic control device"** means a gate, signal or notice that regulates the operation of a motor vehicle and includes informational, cautionary, restrictive and prohibitory signals and notices;

**"wetland"** has the same meaning as in the Environmental Protection and Management Regulation.

[am. B.C. Regs. 216/2020; 50/2021; 202/2023, Sch. 9.]

## Energy resource roads prescribed

- 2. (1) Subject to subsection (2), the following are prescribed for the purposes of paragraph (g) of the definition of "energy resource activity" in section 1 (2) of the Act:
  - (a) a road or portion of a road that is constructed or maintained to facilitate the carrying out of a primary activity;
  - (b) a road or portion of a road that was constructed before June 3, 2013 under the *Land Act*, the *Petroleum and Natural Gas Act* or the *Pipeline Act* and has been used to facilitate the carrying out of a primary activity.
- (2) Subsection (1) does not apply to a road that
  - (a) has been deactivated, or
  - (b) is required to be maintained under an enactment other than
    - (i) this regulation, and
    - (ii) an Act referred to in subsection (1) (b).

[en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

## PART 2 – Permits and Notice

### Application for permit

3. A person applying for a permit, or an amendment to a permit, to construct or maintain an energy resource road must submit to the regulator
- (a) a map identifying the area the applicant wishes to have shown or described in the permit as the road right of way within which the road will be constructed or maintained, and
  - (b) with respect to a permit to construct a road, information respecting why the area referred to in paragraph (a) was chosen.

[am. B.C. Reg. 202/2023, Sch. 9.]

### Notice of construction

4. (1) A road permit holder must notify the regulator, local Indigenous nations, affected land owners, affected permit holders and affected rights holders of the construction of the energy resource road
- (a) not more than 30 days and not less than 72 hours before beginning construction, or
  - (b) if the construction must be carried out expeditiously to address an environmental or operational emergency, as soon as practicable.
- (2) A notice under subsection (1) must be in writing and must specify
- (a) the location of the road,
  - (b) the applicable road permit number and any administrative identifier that relates to the road,
  - (c) a contact name and contact information, and
  - (d) the date construction will begin or began, as applicable, and the date construction will be completed or was completed, as applicable.
- (3) A notice under subsection (1) to a local Indigenous nation must be provided in the form and manner that are identified for the nation in a manner specified by the regulator, if a manner is specified.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

## PART 3 – Construction and Maintenance

### Use of qualified person

- 4.1** (1) A road permit holder who constructs an energy resource road must ensure that the design and construction of the road are carried out under the supervision of a qualified person.
- (2) A road permit holder who maintains an energy resource road must ensure that maintenance of the road is carried out under the supervision of a qualified person.

[en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

### Clearing widths

- 5.** A road permit holder who constructs an energy resource road must ensure that the road's clearing widths are within the road right of way and are wide enough to ensure all of the following:
- (a) the safety of permit holders using the energy resource road;
  - (b) the integrity of the topography of the area;
  - (c) the maintenance of drainage of water in the area;
  - (d) the stability of terrain in the area;
  - (e) the safe conduct of operations, considering at least all of the following:
    - (i) the placement of borrow pits, quarries, landings or waste areas;
    - (ii) the storage of material and equipment as authorized under section 19.1 (2) or (3);
    - (iii) the amount of area required to operate equipment within the clearing width, including equipment turnaround sites;
    - (iv) the need to remove snow;
    - (v) the need to construct fencing or other ancillary structures;
    - (vi) the need to maintain sight lines, including, without limitation, at
      - (A) curves and hills,
      - (B) locations where the road crosses a road or railway, and
      - (C) locations where the road crosses a bridge or major culvert.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

### Bridges and culverts

- 6.** (1) Subject to subsections (2) to (4), a road permit holder may not construct or install a bridge or culvert on an energy resource road unless all of the applicable following requirements are met:
- (a) the bridge is designed, fabricated and installed in compliance with
    - (i) the Canadian Highway Bridge Design Code, CAN/CSA-S6, of the Canadian Standards Association, and
    - (ii) soil properties standards, as they apply to bridge piers and abutments, set out in the Canadian Foundation Engineering Manual;

- (b) the culvert is designed and fabricated
  - (i) in compliance with whichever of the following, as amended from time to time, is applicable:
    - (A) Canadian Standards Association standard CAN/CSA G401, Corrugated Steel Pipe Products;
    - (B) section B182.8 of Canadian Standards Association standard CSA B1800, Plastic Nonpressure Pipe Compendium, or
  - (ii) so that it is as strong as a culvert designed and fabricated in accordance with subparagraph (i);
- (c) the bridge, if it will cross a stream or a fish stream, or the culvert, if it will be in a stream or a fish stream, is designed to pass the highest peak flow of the stream that can reasonably be expected within the return periods set out in column 2 of the following table for the period the road permit holder anticipates the bridge or culvert will remain on the site, as set out opposite in column 1 of the table:

Column 1 Anticipated period bridge or culvert will remain on site	Column 2 Peak flow period
bridge or culvert, 3 years or less	10 years
bridge other than a bridge within a community watershed, more than 3 years but less than 15 years	50 years
bridge within a community watershed, more than 3 years	100 years
bridge, 15 years or more	100 years
culvert, more than 3 years	100 years

- (2) A road permit holder may construct or install a bridge that does not comply with subsection (1) (c) if
  - (a) the bridge is designed to pass expected flows during the period the bridge is anticipated to remain on the site, and
  - (b) the construction, installation and use of the bridge occurs during a period of low flow.
  - (c) *Repealed.* [B.C. Reg. 216/2020]
- (3) A road permit holder may construct or install a culvert that does not comply with subsection (1) (c) if
  - (a) the installation is temporary and the person does not expect to subsequently install a replacement culvert at that location,
  - (b) the stream in which the culvert is being installed is not a fish stream,
  - (c) the culvert will pass the flow that will occur during the period the culvert remains on the site, and
  - (d) the installation of the culvert occurs during a period of low flow.
  - (e) *Repealed.* [B.C. Reg. 216/2020]
- (3.1) A road permit holder must remove the following structures from the energy resource road before any period of high flow begins:

- (a) a bridge referred to in subsection (2), or the components of the bridge that are vulnerable to damage by high flow;
- (b) a culvert referred to in subsection (3).
- (4) A road permit holder may construct or install a bridge barrier that does not comply with subsection (1) (a) (i) if the bridge barrier's bridge
  - (a) is intended primarily for industrial traffic and no pedestrian traffic,
  - (b) is less than 5 m above water,
  - (c) has good vertical and horizontal alignment, and
  - (d) is designed to ensure the safety of permit holders.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

**Structural defects or deficiencies in a bridge,  
culvert or engineered retaining wall**

- 7. (1) This section applies in relation to the following structures:
  - (a) a bridge;
  - (b) a culvert;
  - (c) an engineered retaining wall.
- (2) A road permit holder who knows of a structural defect or structural deficiency on a structure associated with the energy resource road must
  - (a) ensure that a qualified person carries out an inspection of the structure and recommends that one or more actions be taken under paragraph (c),
  - (b) make a record of the inspection and recommendations, and
  - (c) take one or more of the following actions as recommended by, and under the supervision of, the qualified person:
    - (i) correct the defect or deficiency;
    - (ii) remove or replace the structure;
    - (iii) restrict traffic loads to a safe level;
    - (iv) close the road, or a portion of the road, under section 20.

[en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

**Signs and markers for bridges**

- 8. (1) A road permit holder must, for each bridge associated with the energy resource road, place and maintain
  - (a) a reflective marker on each corner of the bridge,
  - (b) a sign that indicates there is a narrow structure ahead, and
  - (c) if the road permit holder knows of a structural defect or deficiency on the bridge, a sign that states the maximum load capacity of the bridge.
- (2) A sign required under this section must be placed at a distance from the bridge sufficient to enable users of the road to stop safely before reaching the bridge.
- (3) A sign or marker required under this section must be designed and maintained in accordance with any requirements specified by the regulator.

[en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

**Records relating to bridges, major culverts  
and engineered retaining walls**

- 9. (0.1) This section applies in relation to the following structures:

- (a) a bridge;
  - (b) a major culvert;
  - (c) an engineered retaining wall.
- (1) A road permit holder who constructs or installs a structure must do all of the following:
- (a) prepare or obtain
    - (i) pile driving records, if any,
    - (ii) for new materials used to build the structure, mill test certificates, in-plant steel fabrication drawings and concrete test results, as applicable,
    - (iii) soil compaction test results, if any, and
    - (iv) other relevant field and construction data;
  - (b) prepare record drawings of the structure;
  - (c) retain the information and records referred to in paragraphs (a) and (b) until at least one year after the date that the road permit holder
    - (i) submits a signed statement under section 27 (1) respecting the energy resource road, or
    - (ii) is prohibited under section 23 (4) (b) from deactivating the energy resource road.
- (2) Subject to subsection (3), a road permit holder must retain a copy of records of inspections and recommendations under section 7 (2) or 14 (1) or (2) that relate to a structure associated with the energy resource road for at least one year after
- (a) the structure is removed from the site, or
  - (b) the road permit holder
    - (i) submits a signed statement under section 27 (1) respecting the energy resource road, or
    - (ii) is prohibited under section 23 (4) (b) from deactivating the energy resource road.
- (3) If a road permit holder is exempt from the requirement to deactivate an energy resource road, the road permit holder must submit to the regulator the documents, drawings and records described in subsections (1) and (2) in respect of the road.
- (4) *Repealed.* [B.C. Reg. 145/2023, App. 6]

[am. B.C. Regs. 216/2020; 145/2023, App. 6; 202/2023, Sch. 9.]

#### Hazard warning

10. (1) At all times while an energy resource road is being modified, the road permit holder must have a warning sign posted at each junction of the energy resource road with another energy resource road, a road that is required to be maintained under another enactment or authorization or a highway within the meaning of the *Transportation Act*.
- (2) A sign posted under subsection (1) must indicate the portion of the energy resource road that is being modified.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

#### Report regarding construction

11. Within 60 days of completion of the construction of an energy resource road under a permit, the road permit holder must submit to the regulator a report, in the form and manner specified by the regulator, describing the location of the constructed road.

[am. B.C. Reg. 202/2023, Sch. 9.]

#### Ongoing restoration – disturbed areas

- 11.1 A road permit holder who is not using a roadwork area for the energy resource road for the construction, operation or maintenance of the road must restore the roadwork area, as soon as weather and ground conditions permit, by
- (a) revegetating the area, using ecologically suitable species, so as to maintain bank and slope stability, and
  - (b) implementing measures in the area, until the vegetation referred to in paragraph (a) is established, to
    - (i) conserve soil in the area, and
    - (ii) prevent erosion, and sediment transport, from the area into streams and bodies of water.

[en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

#### Ongoing restoration – invasive plants

- 11.2 (1) A road permit holder must ensure that invasive plants do not
- (a) become established in the roadwork areas for the energy resource road, or
  - (b) spread from a roadwork area for the energy resource road into areas that are immediately adjacent to the roadwork area.
- (2) Without limiting subsection (1), a road permit holder must
- (a) make reasonable efforts to ensure that seed, plant parts and propagules of invasive plants are not transported into the roadwork areas for the energy resource road, and
  - (b) promptly remove invasive plants from
    - (i) the roadwork areas for the energy resource road, and
    - (ii) any immediately adjacent areas referred to in subsection (1) (b) into which invasive plants have spread from a roadwork area for the energy resource road.

[en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

#### Invasive plant compliance record

- 11.3 A person who carries out energy resource activities within an operating area must prepare and maintain an invasive plant compliance record that describes the activities carried out for the purpose of complying with the obligations described in section 11.2 of this regulation and section 15 of the Environmental Protection and Management Regulation, including all of the following:
- (a) the assessment and monitoring activities carried out for the purpose of determining whether invasive plants
    - (i) are present or established, or may become established, or

- (ii) have spread to adjacent areas;
- (b) the location, type and distribution of each species of invasive plants found through assessment and monitoring activities;
- (c) the activities carried out for the purpose of preventing the following:
  - (i) the transportation of seed, plant parts or propagules of invasive plants;
  - (ii) the establishment of invasive plants, including the removal of invasive plants;
- (d) the revegetation activities carried out, including the plant species used for revegetation;
- (e) the activities carried out for the purpose of ensuring that revegetated plants are successfully established;
- (f) with respect to the activities described in this subsection,
  - (i) the dates on which the activities were carried out, and
  - (ii) the processes and equipment used in carrying out the activities;
- (g) the qualifications of the persons
  - (i) carrying out assessment and monitoring activities, and
  - (ii) supervising the activities described in this subsection.

[en. B.C. Reg. 145/2023, App. 6; am. B.C. Reg. 202/2023, Sch. 9.]

#### **Road maintenance: general**

12. Subject to section 15, a road permit holder must perform the maintenance and undertake the modifications necessary to ensure that
- (a) the clearing width for the road complies with this regulation,
  - (b) the road prism and all access structures related to the road are stable,
  - (c) the bridges, culverts, fords and other structures and works associated with the road are functional and appropriate for the uses of the road, and
  - (d) the road can be used safely by permit holders.

#### **Road maintenance: technical**

13. (1) A road permit holder must
- (a) ensure that road surface and slope drainage systems, including inlets, drainage structures, ditches, culverts, bridges, road crowning, insloping and outsloping, are functional,
  - (b) remove all vegetative growth and cuttings from road surfaces, roadsides and inlets from drainage structures and ditches if
    - (i) the vegetative growth impedes or reduces sight distance to the extent that the road is not safe for use by permit holders,
    - (ii) the removal of the vegetative growth is necessary to enable placement of snow that has been removed from the road at a sufficient distance from the road surface to maintain the sight distance that is adequate for the safe use of the road by motor vehicles, or
    - (iii) the vegetative growth is encroaching on the road surface such that the usable road width has been reduced to the extent that vehicles cannot safely pass each other at road widenings or turnouts,
  - (c) unless the surface consists of ballast rock surfaces, grade the surface of the energy resource road to facilitate industrial use, provide proper road surface drainage and prevent pooling on the surface by



- (i) grading during industrial use of the road as often as needed, avoiding the creation of berms along shoulders, to provide a road surface that self drains,
- (ii) grading and shaping the existing road surface and shoulders, including turnouts,
- (iii) placing surface aggregate where necessary to provide a surface that self drains,
- (iv) loosening surfacing materials to a depth sufficient to remove potholes, rutting or washboarding without causing contamination of the surfacing materials with subgrade materials or unsuitable ditch materials, and
- (v) grading only when the moisture content is suitable,
- (d) maintain turnout size, number and location to accommodate the vehicles that are in regular use on the road, and
- (e) ensure that signs, posts and markers, if any, are legible and visible.
- (2) If a road permit holder is using the energy resource road in winter, the road permit holder must
  - (a) remove snow from all or part of the travelled portion of the road, including sufficient turnouts, to provide for efficient and safe use by permit holders of the road,
  - (b) remove snow to create breaches in snow berms for wildlife crossings,
  - (c) not undercut cut slopes,
  - (d) not blade gravel or other surfacing materials off of the road,
  - (e) remove snow only from the portions of the road having roadbed support, including turnouts, and reshape any over-width ploughing as necessary to define the usable width,
  - (f) if chains on the vehicles used to carry out energy resource activities are not suitable or sufficient to enable safe use of the frozen energy resource road, add sand to the bladed road surface as and when required to provide sufficient traction for the vehicles, and
  - (g) during periods of snowmelt,
    - (i) wing back or breach snow berms to facilitate surface drainage in a manner that prevents water flow along the road, and
    - (ii) keep roadbed drainage ditches, drainage dips and culverts functional.

[am. B.C. Reg. 202/2023, Sch. 9.]

## Maintenance and deactivation of borrow pits

- 13.1** (1) A road permit holder who holds an authorization for a borrow pit that the road permit holder has used for construction, maintenance or deactivation of the energy resource road must ensure that the cut slopes of the borrow pit are
- (a) stable, and
  - (b) graded to a resting angle that
    - (i) facilitates reasonable egress by wildlife and livestock, and
    - (ii) does not exceed a grade of 2:1.
- (2) A road permit holder who holds an authorization for a borrow pit described in subsection (1) that the road permit holder is not using for construction, maintenance or deactivation of the energy resource road must deactivate the borrow pit, as soon as weather and ground conditions permit, by

- (a) spreading topsoil evenly around the perimeter and edges of the borrow pit, and
- (b) revegetating the perimeter and edges of the borrow pit with ecologically suitable species.

[en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

**Maintenance of bridges, major culverts  
and engineered retaining walls**

**14.** (0.1) This section applies in relation to the following structures:

- (a) a bridge;
  - (b) a major culvert;
  - (c) an engineered retaining wall.
- (1) A road permit holder must
- (a) ensure that a qualified person carries out a visual inspection of each structure associated with the road at least once every year after the structure is constructed, and
  - (b) make a record of the inspection.
- (2) A road permit holder must
- (a) ensure that a qualified person carries out a detailed inspection of each structure associated with the road, and
  - (b) make a record of the inspection,
    - (i) subject to subparagraph (ii), at least once every 3 years after the structure is constructed, or
    - (ii) at such intervals as specified in writing by a professional engineer.
- (3) The written specification referred to in subsection (2) (b) must be retained by the road permit holder as part of the record of inspection for at least one year after
- (a) the structure is removed from the site, or
  - (b) the road permit holder
    - (i) submits a signed statement under section 27 (1) respecting the energy resource road, or
    - (ii) is prohibited under section 23 (4) (b) from deactivating the energy resource road.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

**Limited maintenance**

- 15.** (1) If a road permit holder temporarily stops using the energy resource road to carry out a primary activity for a period anticipated to be greater than 6 months, the person is not required to perform the maintenance and undertake the modifications set out in section 12 but must ensure
- (a) the structural integrity of the road prism and clearing width are stable, and
  - (b) the drainage systems of the road are functional
- to the extent necessary to ensure there is no material adverse effect on fish, fish habitat, water quality or quantity, wildlife or wildlife habitat.
- (2) A road permit holder referred to in subsection (1) must notify the regulator not more than 30 days after a stoppage referred to in that subsection, and the notice must specify all of the following:

- (a) the location of the road;
  - (b) the road permit;
  - (c) a contact name and contact information;
  - (d) the projected duration of the stoppage.
- (3) A road permit holder referred to in subsection (1) must notify the regulator when the road permit holder resumes using the energy resource road.

[am. B.C. Reg. 202/2023, Sch. 9.]

## PART 4 – Streams and Stream Crossings

### Streams and stream crossings

- 15.1** (1) A permit holder who constructs, operates, maintains or deactivates an energy resource road must comply with the protection measures, whether the road right of way is on Crown land or land other than Crown land.
- (2) A permit holder who uses an energy resource road must comply with the protection measures, whether the road right of way is on Crown land or on land other than Crown land, as though that use were an energy resource activity.
- (3) A road permit holder must not construct or place at a stream crossing for the energy resource road anything except a bridge, culvert, ice bridge or snow fill.
- (4) A road permit holder must ensure that
- (a) any abutments, footings and scour protection of bridges and culverts associated with the energy resource road are located outside stream channels, and
  - (b) equipment used for the construction, operation, maintenance or deactivation of the energy resource road is not located in a stream channel unless
    - (i) the stream channel is dry, or
    - (ii) the stream is frozen to the bottom.
- [en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

### Spring freshet

- 15.2** A road permit holder must remove the following stream crossings from the energy resource road before the spring freshet:
- (a) snow fills;
  - (b) culverts used in snow fills or ice bridges.
- [en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

## PART 5 – Use of Energy Resource Roads

### Use of energy resource road

- 15.3** (1) A permit holder must not use an energy resource road unless the road is safe for the intended use.
- (2) A permit holder must not use an energy resource road if
- (a) there is no road permit holder for the road,
  - (b) the road is causing damage to the environment, or
  - (c) the intended use will damage the road or the environment.
- [en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

### Right of access

- 16.** A road permit holder may not
- (a) close the energy resource road, or
  - (b) restrict the use of the road by a permit holder or other person, except as provided under section 20 or to the extent necessary to carry out maintenance on the road as required under this regulation.
- [am. B.C. Reg. 202/2023, Sch. 9.]

### Provisions of *Motor Vehicle Act* applicable to energy resource roads

- 17.** (1) The following provisions of the *Motor Vehicle Act* apply to permit holders using an energy resource road, and the provisions apply as if the road were a highway:
- (a) section 1;
  - (b) section 2 (5), (6) and (7);
  - (c) section 24 (1);
  - (d) section 33 (1) insofar as it applies to a driver's licence or a driver's certificate;
  - (e) section 68;
  - (f) section 70;
  - (g) section 73;
  - (h) section 84;
  - (i) sections 141 and 142;
  - (j) sections 144 and 145;
  - (k) sections 149 and 150;
  - (l) sections 157 to 160;
  - (m) section 162;
  - (n) sections 169 to 172;
  - (o) sections 185 and 186;
  - (p) section 194;
  - (q) sections 206 (1) and (3) and 207;
  - (r) sections 224 to 229.
- (2) For certainty, a permit holder who fails to comply with a provision referred to in subsection (1) may not be charged with an offence, or levied with a penalty, for that failure under the *Motor Vehicle Act*.
- [am. B.C. Reg. 202/2023, Sch. 9.]

### Speed restriction

18. A permit holder must not operate a motor vehicle on an energy resource road at a speed that
- (a) is unsafe for the conditions, or
  - (b) exceeds the lesser of
    - (i) 80 km/h, and
    - (ii) the speed posted on a relevant traffic control device.

[am. B.C. Reg. 202/2023, Sch. 9.]

### Traffic control devices

19. (1) Subject to the terms of the road permit, if any, and section 16, a road permit holder may erect a traffic control device in the form of a signal or notice on the road if the road permit holder considers that the device is necessary to promote the safe use of the road.
- (2) An official may erect or order a road permit holder to erect a traffic control device on an energy resource road if the official considers that the device is necessary to promote the safe use of the road.
- (3) Without limiting subsection (1) or (2), a traffic control device may be used in any of the following ways:
- (a) to close the road to all traffic or to specified categories or sizes of motor vehicles, including those not engaged in commercial activities;
  - (b) to close the road totally or for a specified period of time;
  - (c) to regulate the movement of traffic;
  - (d) to require the use of 2-way radio systems during certain hours in order to coordinate the movement of traffic, including specifying the radio frequency to be used on portions of an energy resource road;
  - (e) to restrict the use of vehicles having characteristics that could damage the energy resource road or create a safety risk;
  - (f) to warn drivers of hazardous or unusual conditions existing on an energy resource road.
- (4) A permit holder using an energy resource road must comply with all traffic control devices on the road.
- (5) An official may remove or order a road permit holder to remove a traffic control device on an energy resource road.

[am. B.C. Reg. 202/2023, Sch. 9.]

### Storage and disposal in right of way

- 19.1 (1) Subject to subsections (2) and (3), a permit holder must not store or dispose of material, equipment, garbage or anything else in a roadwork area.
- (2) A road permit holder for a seasonal energy resource road may store bridge and culvert material in a roadwork area for the road during the off-season for the road, if the material will be required for construction, operation or maintenance of the road in the next season.
- (3) A road permit holder may store material and equipment in a roadwork area for the energy resource road temporarily during construction, operation, maintenance or deactivation of the road if the material and equipment are required for that activity.

[en. B.C. Reg. 216/2020; am. B.C. Reg. 202/2023, Sch. 9.]

**Power to temporarily close, restrict access or  
remove motor vehicles, animals or things**

20. (1) A road permit holder or the regulator may

- (a) temporarily close the energy resource road, or
- (b) restrict the use of the energy resource road

if the action is necessary to address an existing or imminent threat that may

- (c) cause damage to the energy resource road or the environment, or
  - (d) endanger human life or property.
- (1.1) The regulator may restrict access to or close, or order a permit holder to restrict access to or close, permanently or temporarily, an energy resource road if the regulator is satisfied that the action is necessary in the public interest.
- (1.2) A road permit holder may restrict access to any portion of the energy resource road located on private property other than access in accordance with section 21 or for land owner uses.
- (2) A road permit holder or the regulator may remove a motor vehicle, animal or thing from the road at the expense of the owner of the motor vehicle, animal or thing if the road permit holder or the regulator believes that the presence on the road of the motor vehicle, animal or thing may
- (a) cause damage to the energy resource road or the environment,
  - (b) endanger human life or property, or
  - (c) prevent or impede a permit holder from using the energy resource road.
- (3) A road permit holder who, under subsection (1), temporarily closes an energy resource road or restricts its use must
- (a) temporarily close the energy resource road or restrict its use by ensuring
    - (i) any access control structure erected to restrict motor vehicle traffic
      - (A) will not be, or become, a hazard to the users of the road, and
      - (B) is placed in a conspicuous location and clearly visible to the operator of a motor vehicle from a safe stopping distance, and
    - (ii) signs are posted at locations that give vehicle operators adequate warning of the access control structure,
  - (b) promptly give notice of the temporary closure or restriction to the regulator, and
  - (c) reopen the energy resource road or remove the restriction promptly after
    - (i) the justification for that temporary closure or restriction ceases to exist, or
    - (ii) the regulator requires the reopening or removal.
- (4) Nothing in this section

- (a) affects the right of the regulator to use an energy resource road at any time, or
- (b) authorizes the removal from an energy resource road of any motor vehicle, animal or thing of the regulator.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

**Contribution to maintenance costs**

- 21.** (1) A permit holder who intends to use an energy resource road maintained by a road permit holder must notify the road permit holder at least 14 days before the intended use will begin.
- (2) A permit holder referred to in subsection (1) must provide to the road permit holder referred to in that subsection a reasonable contribution to the expense
- (a) of maintaining the energy resource road to accommodate the permit holder's use of the road,
  - (b) of modifying the road to accommodate the special needs of the permit holder, if any, and
  - (c) of repairing any damage to the road caused by the permit holder's use of the road.
- (3) On receiving a notice under subsection (1), the road permit holder must provide to the permit holder an estimate of the costs relating to the matters referred to in subsection (2) (a) to (c), including supporting data and records.

[am. B.C. Reg. 202/2023, Sch. 9.]



## PART 6 – Deactivation of Energy Resource Roads

### Deactivation

22. (1) Subject to subsection (2) and section 23 (4) (b), a road permit holder who is permitted to maintain an energy resource road may deactivate the road at any time.
- (1.1) Subject to subsection (2), a road permit holder must deactivate the energy resource road when restoring the land that was used for the primary activity in respect of which the road was used, unless the road is required for monitoring purposes.
- (2) A road permit holder must deactivate the portion of an energy resource road that provides access to the site of the well, pipeline or facility of the road permit holder when restoring that site.
- (3) A road permit holder who deactivates an energy resource road must deactivate the road
- (a) under the supervision of a qualified person, and
  - (b) in accordance with this Part.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

### Notice of deactivation

23. (1) A road permit holder who intends to deactivate an energy resource road must provide written notice of the intention to all of the following:
- (a) the regulator;
  - (b) affected land owners;
  - (c) local Indigenous nations;
  - (d) users of the road known to the road permit holder;
  - (e) the district office for the forest district, as established in the Administrative Boundaries Regulation, B.C. Reg. 137/2014, in which the road is located.
- (2) A notice under subsection (1) must identify the road to be deactivated and specify the date when deactivation will begin.
- (2.1) A notice under subsection (1) to a local Indigenous nation must be provided in the form and manner that are identified for the nation in a manner specified by the regulator, if a manner is specified.
- (3) A road permit holder may not begin deactivating an energy resource road unless at least 30 days and not more than 60 days have elapsed since the road permit holder provided notice under subsection (1) in relation to the deactivation.
- (4) On receiving notice under subsection (1), the regulator may do one or both of the following:
- (a) extend the period referred to in subsection (3);
  - (b) prohibit the road permit holder from deactivating the road.
- (5) A road permit holder who provides written notice under subsection (1) must
- (a) retain a copy of the notice, and
  - (b) if the road permit holder receives written responses from or on behalf of the entities referred to in that subsection,
    - (i) retain a copy of each response,

- (ii) if a response objects to the deactivation, promptly submit to the regulator a copy of the response, and
  - (iii) if the road permit holder completes the deactivation,
    - (A) prepare a written report, within 30 days after the completion, that summarizes the responses and identifies the measures, if any, that the road permit holder took to address them, and
    - (B) retain a copy of the report.
- (6) *Repealed.* [B.C. Reg. 145/2023, App. 6]

[am. B.C. Regs. 216/2020; 145/2023, App. 6; 202/2023, Sch. 9.]

### Deactivation requirements

24. A road permit holder who deactivates an energy resource road must do all of the following:
- (a) barricade the road surface width in a clearly visible manner to prevent access by motor vehicles, other than all-terrain vehicles;
  - (b) remove stream pipe culverts and arch culverts;
  - (c) remove bridge and log or box culvert superstructures;
  - (d) remove bridge and log or box culvert substructures, if the failure of those substructures would have a material adverse effect on downstream property, improvements or the environment;
  - (d.1) remove engineered retaining walls, if the failure of those walls would have a material adverse effect on property, improvements or the environment;
  - (e) stabilize the road prism and the clearing width of the road;
  - (f) comply with section 19 (1) (c) and (d) of the Environmental Protection and Management Regulation, whether the road right of way is on Crown land or land other than Crown land.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

### Maintenance requirements during deactivation

25. (1) A road permit holder who deactivates an energy resource road must
- (a) maintain any portion of the energy resource road that is not being deactivated, and
  - (b) for any portion of the energy resource road that is being deactivated, maintain the portion but only to the extent necessary to ensure that the structural integrity of the road prism and the clearing width are stable and that the drainage systems of the road are functional.
- (2) For the purposes of subsection (1), a portion of an energy resource road is being deactivated when the road permit holder has begun but not completed on that portion of the energy resource road requirements referred to in section 24.

[am. B.C. Reg. 202/2023, Sch. 9.]

### Hazard warning during deactivation

26. (1) Subject to subsection (3), at all times while an energy resource road is being deactivated, the road permit holder must have a warning sign posted at each junction of the road with another energy resource road, a road that is required to be maintained under another enactment or authorization or a highway within the meaning of the *Transportation Act*.

- (2) A warning sign posted under subsection (1) must indicate the portion of the road that is being deactivated.
- (3) If a road permit holder is exempted from the requirement under section 24 (a) to barricade the road, the road permit holder must ensure that the sign posted under subsection (1) of this section remains on the site until the later of the following:
  - (a) the date 12 months after the date deactivation begins;
  - (b) the date deactivation is completed.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

**Signed statement to the regulator**

- 27.** (1) A road permit holder who completes deactivation of an energy resource road must, within 30 days after the completion, submit to the regulator a signed statement stating that the road permit holder has complied with
- (a) section 24, and
  - (b) section 19 of the Environmental Protection and Management Regulation, as applicable.
- (2) A signed statement under subsection (1) must
- (a) be signed by the road permit holder or a director or officer of the road permit holder, and
  - (b) specify the date on which the statement is signed.

[am. B.C. Regs. 216/2020; 202/2023, Sch. 9.]

## PART 7 – General

### Exemption by official

28. An official may exempt a permit holder from complying with one or more provisions of this regulation and may impose one or more conditions with respect to the exemption.  
[en. B.C. Reg. 216/2020.]

### Records

29. The records and reports required under this regulation are prescribed for the purposes of section 38 of the Act.  
[en. B.C. Reg. 145/2023, App. 6.]

[Provisions of the *Energy Resource Activities Act*, SBC 2008, c. 36, relevant to the enactment of this regulation: section 111]