

6. Road Activity

The road activity section of this manual provides operating guidelines for regulatory requirements throughout the operations life cycle of the permitted activity. Construction activities are discussed in Section 4 of this manual. Associated energy resource activities, if required in addition to the energy resource activity permit, are touched on in Section 3.1 of this manual.

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

6.1 Road Permitted Activity

All permit holders are ultimately responsible for ensuring they understand and meet all legal and regulatory requirements of the permit, including all conditions attached to the permit. If an exemption is requested from regulatory requirements, an exemption must be prepared at the time of application. Permit holders must contact the Regulator prior to commencing construction or operations if the adherence to the permitted activity cannot be met. The Regulator may be able to provide further guidance and clarification.

6.1.1 Roads Defined

Energy resource roads are prescribed as an energy activity in ERAA and are defined within the [Energy Resource Road Regulation](#) (ERRR) as:

- (1) (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 [the coming into force of the Energy Resource Road Regulation] under the Land Act, the Petroleum and Natural Gas Act [or as a Petroleum Development Road] or [that provided access under] 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).

Approved energy resource road applications receive a permit under Section 25 of ERAA to construct and maintain the road. The road permit expires where construction activities have not started within two (2) years of permit issuance. Unless expired, the road permit remains active until cancelled, suspended or declared spent, according to the provisions of ERAA.

The ERRR prescribes the rights and obligations of permit holders related to design, construction, maintenance, use and deactivation of energy resource roads.

6.1.2 Regulatory Requirements

Roads must meet the design and operational requirements outlined in the [Energy Resources Activities Act](#) (ERAA), the [Energy Resource Road Regulation](#) (ERRR) and the [Environmental Protection and Management Regulation](#) (EPMR).

- Part 2 of ERRR outlines requirements related to: identification of construction areas, if there is nearby access, providing rationale for why new construction is needed, and notice of construction.
- Part 3 of ERRR outlines requirements related to road construction including: supervision of design, construction and maintenance by a

qualified person, clearing widths, bridges and culverts, borrow pits, record keeping requirements, hazard warnings and post-construction reporting.

Permit holders must include stream crossing requirements in the application to make changes in or about a stream. ERRR regulates construction of bridges and/or culverts as part of a road to facilitate a crossing. A WSA Section 11 approval may also be required. Permit holders must be aware of and abide by Canadian Standard Association and Canadian Highway Bridge design codes for bridges or culverts. A federal Fisheries Act review may also be required by DFO.

6.1.3 Guidance Requirements

Roads should meet guidance recommendations in the following documents:

- [Environmental Protection and Management Guideline](#).
- [Motor Vehicle Prohibition Regulation](#).

6.2 Roads Operational Requirements

6.2.1 Road Use Requirements Applicable to all Energy Permit Holders

Permit holders must review and comply with ERRR:

- Part 3: outlines requirements related to road maintenance including: general and technical road maintenance, ongoing restoration, borrow pits, bridge maintenance, and limited maintenance related to temporary stoppage in road use.
- Part 4 of ERRR outlines requirements related to streams and stream crossings.
- Part 5: sets out road use and operation provisions and requirements including: right of access, limited application of the Motor Vehicle Act to energy resource roads, speed restrictions, use and requirements related to traffic control devices, storage and disposal, temporary closures, temporary restriction of access, removal of objects, and the use of energy resource roads maintained by a road permit holder.
- Part 6: prescribes requirements for road permit holders in relation to road deactivation including: supervision of deactivation by a qualified person, notice, maintenance, hazard warnings and signed statement of compliance.

Road permit holders are required to maintain energy resource roads until they are deactivated, or they are relieved from deactivation.

Where in stream works are required for maintenance activities, such as bridge or culvert maintenance, the road permit holder must have or obtain a new Section 11 [Water Sustainability Act](#) authorization for changes in and about a stream from the Regulator prior to carrying out the activities. A review under the federal Fisheries Act may also be required by DFO for any changes in or about a stream.

6.2.2 Notice of Road Usage

As outlined in section 21 of the Energy Resource Road Regulation (ERRR), any energy activity permit holders intending to use an energy resource road must provide notice of the intended use to the road permit holder at least 14 days before the intended use will begin. If there is no road permit holder on the energy resource road, you must apply for a road permit in order to use the road.

Upon receiving a notice of intended road use the road permit holder must provide to the permit holder providing the notice, an estimate of costs along with supporting data and records in relation to maintenance or any modifications necessary to accommodate the intended use of the permit holder, or to repair any damage cause by the user.

Types of Traffic - The obligation of a permit holder under Section 21(2) of the ERRR is to make a reasonable contribution to the expense of the road permit holder maintaining/modifying and repairing the road in relation to the permit holder's use and needs. This doesn't necessarily exclude specific types of traffic (i.e. pickup trucks), but the relevant expenses relating to the use of pickup trucks for example, might be less than other types of traffic.

Road Use Agreements – The ERRR requires that permit holders provide notice of road use (Section 21(1)) and pay the contribution identified in Section 21(2), however road use agreements are not required. This requirement does not preclude the use of contracts between permit holders and road permit holders, which may be desired to set out terms of agreement that go beyond the scope and requirements of ERRR.

6.2.3 Forest Service Roads

If the proposed road enters or affects a Forest Service Road right-of-way, or Ministry of Transportation and Infrastructure (MOTI) right-of-way, consent to carry out the approved activities must be obtained from the applicable agency before the project begins.

A road use permit (RUP) is required to use Forest Service Roads to carry out energy activities. Where an RUP is not already held, one can be obtained by submitting a completed [RUP application form](#) via email to RoadUsePermits@bc-er.ca. For additional information on road use permit administration, please refer to the [road use permit tenure administration guidance document for oil and gas](#).

6.3 Roads Use Status Changes and Closures Requiring Regulator Notice

Roads must be operated and maintained until deactivated, while they are required for the primary energy or related activity for which they were constructed. When this is not the case, notification must be provided where applicable and as required in the following scenarios:

- Periods of Limited Maintenance.
- Temporary road closures or restrictions.
- Road use resumption.

6.3.1 Periods of Limited Maintenance

Under Section 15 of the ERRR, a road permit holder who stops using an energy resource road for a period of more than six months to carry out a primary energy related activity, may transition the road to a status of limited maintenance by submitting a notice to the Regulator.

Maintenance obligations under the status of limited maintenance:

- The permit holder must ensure the structural integrity of the road prism and clearing widths are stable,
- The road drainage systems remain 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, and
- Maintain all bridges, major culverts and engineered retaining walls as per Section 14 of the ERRR (Maintenance of bridges, major culverts and engineered retaining walls).

In order to transition a road to limited maintenance, the following must be true:

- the permit holder is not using the road, and will not resume use for at least 6 months,
- there are no other active road users under Section 21 maintenance agreement, and

The Notice of Temporary Stoppage of Road Use must be submitted to the Regulator

within 30 days of stoppage in use. Submit through eSubmission using the Road Notification Submission.

For information regarding resumption of use, refer to Section 6.3.3 of this manual.

6.3.2 Temporary Road Closure or Restriction

Under Section 20 of the ERRR a road permit holder may temporarily close or restrict access if the action is necessary to address an existing or imminent threat that may cause damage to the road or to the environment or endanger human life or property.

Under such circumstances, the Permit Holder must promptly notify the Regulator. The notices must be submitted to the Regulator through eSubmission using the Road Notification Submission.

For clarity, the use of Section 20 should be viewed as distinct and independent of the actions/authorities outlined in Section 19 of the ERRR. Section 19 provides the necessary authority for permit holders to install traffic control devices without the need to notify the Regulator when conducting road operations.

For example, a hole in bridge decking requires the road before the bridge to be closed in accordance with Section 7, and under Section 20 of the ERRR, as the use of the bridge is not safe. The duration of the closure is limited to the time required to organize materials, equipment, contractors, etc. to fix the issue.

A road permit holder may also 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.

Please refer to Section 20 of the ERRR to understand the full scope of requirements imposed on Permit Holders when closing or restricting access.

6.3.3 Road Use Resumption

The Notice of Road Use Resumption informs the Regulator when a temporary stoppage of road use ends and the road use will resume.

The Notice of Road Resumption must be submitted to the Regulator upon restarting use of the road. Submit through eSubmission using the Road Notification Submission.

The Regulator recommends permit holders also notify land owners, rights holders and Indigenous Nations who may be affected by the change in road status.

6.4 Road Amendments and/or Transitions

The transition of roads from non-status to energy resource road permits is carried out to ensure all existing roads currently used or proposed for imminent use for energy activities are under a valid road permit. Applications to transition existing non-status roads to energy resource road permits must follow the non-status road transition application process as outlined in the [Energy Resource Activity Application Manual](#).

Non-status roads include, but are not limited to, non-tenured roads built by other resource sectors or roads originally constructed under Section 7 or 138 of the [Petroleum and Natural Gas Act](#) where there is no clear single ERAA permit holder for the road or the energy infrastructure accessed by the road.

6.5 Road Deactivation Requirements

Permit holders must comply with the requirements of Part 6 Deactivation of Energy Resource Roads under the ERRR and Section 19 of the EPMR related to energy resource road deactivation, including: oversight by a qualified person, timing of deactivation, notice of intent, maintenance and hazard warnings during deactivation, restoration and declaration of completed deactivation where applicable and as detailed in this section.

6.5.1 Timing of Deactivation

A road permit holder may deactivate a permitted road at any time, except where prohibited from carrying out deactivation by the Regulator. However, roads or portions of roads providing access to a well, pipeline, facility or an associated activity must be deactivated when restoring the land that was used for the primary activity associated with the road.

6.5.2 Notice of Intent to Deactivate a Road

The Notice of Intent to Deactivate a Road informs the Regulator, known users of the road (known to the permit holder) and any affected land owners, local Indigenous Nations and the local Forest District offices of the permit holder's intent to deactivate a road.

The Notice of Intent to Deactivate a Road must be submitted to the Regulator, as per Section 23(1) of the ERRR, and the permit holder must notify all known road users,

local Indigenous Nations, affected land owners and the Forest District offices of the deactivation at least 30 days prior to deactivating the road.

The permit holder must retain a copy of the Notice and if the permit holder receives written responses, retain a copy of each response. A response that objects to the deactivation must be promptly submitted to the Regulator.

Submit to the Regulator through eSubmission using the Notice of Intent to Deactivate a Road Submission.

When deactivating a portion of a segment or a non-status road the Notice of Intent to Deactivate Form must be submitted to ExternalNotification@bc-er.ca, using the [Notice of Intent to Deactivate](#) a Portion of a Road Segment or a Non-Status Road Form. These submissions must be completed in full and include a map.

The Regulator reviews the Notice of Intent to Deactivate a Road with consideration to current and potential road users. As a result, the Regulator may:

- Extend the 30-day notification period.
- Prohibit deactivation activities.
- Relieve the permit holder from the obligation to deactivate.

Deactivation activities cannot begin until at least 30 days have passed after providing the notice.

If the permit holder completes the deactivation, the permit holder must prepare a report, within 30 days after completion, that summarizes the responses and identifies the measures, if any, that the road permit holder took to address them, and retain a copy of the report.

6.5.3 Restoration and Signed Statement of Road Deactivation

Restoration should include as a minimum, removal of culverts and bridges, and any engineered structures that may fail, stabilization of the roadwork area, restoration of the natural drainage patterns and re-vegetation with ecologically suitable local native plants. Roads within the Agriculture Land Reserve must also meet the reclamation standards of Schedule B of the ALC-OGC Delegation Agreement. Requirements for deactivation and restoration on private land are subject to land owner or surface lease agreements.

Work in and about a stream requiring the removal of bridges or culverts during road deactivation activities require a Section 11 Water Sustainability Act authorization and may require review under the Federal Fisheries Act by DFO. If the permit holder has an existing WSA Section 11 authorization for the crossing, a new one is not required.

The Signed Statement is a dated statement affirming compliance with the road deactivation requirements set out in Section 24 of ERRR, including restoration as per Section 19 of the Environmental Protection and Management Regulation, as applicable.

The Signed Statement must be submitted to the Regulator within 30 days of completing deactivation. Submit by email to ExternalNotifications@bc-er.ca, using the Statement of Road Deactivation Submission.

When submitting a Statement of Road Deactivation for a portion of a segment or a non-status road the Statement of a Road Deactivation Form must be submitted to ExternalNotification@bc-er.ca, using the [Statement of Road Deactivation Form](#) of a Portion of a Road Segment or a Non-Status Road Form. These submissions must be completed in full and include a map.