

# Overview of Oil and Gas Regulations and Permit Management

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

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 oil and gas and associated activity operating permits.

Operators apply to the Regulator, and the Regulator reviews, assesses and makes decisions on these applications. This consolidated single-window authority provides not only a one-stop place for all oil and gas 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 oil and gas activities. In addition, operators are expected to abide by all applicable local by-laws, provincial and federal legislations.

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 oil and gas 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 Oil and Gas Activities Act defines both oil and gas activity and related activities and the Commission adheres to these definitions. The Commission's glossary and acronym listing is an extension of this manual and defines terms used throughout the oil and gas 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 oil and gas in British Columbia, delegation agreements are in place to allow the Regulator to make decisions on certain oil and gas uses 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:

- Oil and gas activity permits under the Energy Resource Activities Act, including well, pipeline, facilities, road and geophysical permits.
- Associated oil and gas activity authorizations under the Petroleum and Natural Gas and Land Act, including activities such as borrow pits, temporary work spaces and camp sites.
- Authorizations under the Water Sustainability Act, including authorizations 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 Commission Act.
- Master licences to cut and cutting permits under the Forest Act.
- Archaeology-related permissions under the Heritage Conservation Act.
- Specific provincial authorizations related to pipelines subject to the National Energy Board Act.

The Regulator provides regulatory oversight at every stage of oil and gas development, working with a broad range of stakeholders. Regulator staff have the legislative authority to make decisions on proposed oil and gas 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

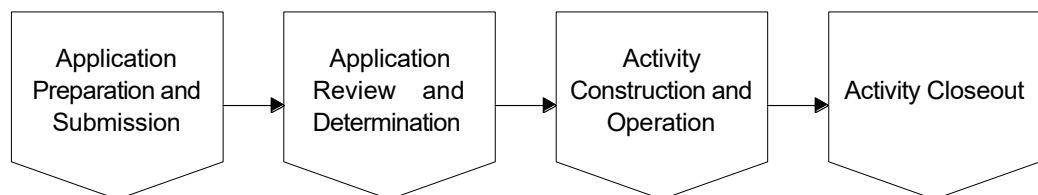
In addition to the regulatory and technical considerations outlined in this manual, applicants and permit holders should be familiar and understand other provincial and federal regulations, local authority requirements, industry recommended practices (IRP), Canadian Standards Association, labour board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

All submissions made to the Regulator in support of an application or a regulatory requirement that include work relating to the practice of professional engineering or professional geoscience are expected to accord with the Professional Governance Act, [SBC 2018], c. 47 and the Bylaws of Engineers and Geoscientists British Columbia (EGBC). This includes any requirements relating to authentication of documents

## 1.2 Oil and Gas Activity Regulatory Life Cycle

The regulatory life cycle of an oil and gas activity is the requirements and steps involved in permit application preparation, application review and determination, activity construction and operations and activity close-out as shown in Figure 1-A.

**Figure 1-A Oil and Gas Regulatory Life Cycle**



Companies must adhere to the pre-application and application requirements as outlined in the Regulator's [Oil and Gas Activity Application Manual](#). Once pre-application requirements are complete, companies prepare and compile the relevant information for submission to the

Regulator's Application Management System (AMS). Following application submission, the Regulator conducts a comprehensive technical review of the application based on the characteristics, location and circumstances of the activity.

This manual focuses on the requirements for the construction and operation stages and requirements of the oil and gas and associated activity permits. Activity close out procedures where permitted oil and gas activities are permanently discontinued, equipment is removed and land is restored, are touched on briefly in this manual and in greater scope in the Regulator's Certificate of Restoration Application Manual and Environmental Protection and Management Guideline.

### **Please Note:**

Throughout this manual, the term oil and gas activities often refers to both oil and gas and oil and gas associated activities as defined in the Commission's glossary.

## 1.3 Permit Management

Companies are issued oil and gas permits from the Regulator to construct and operate oil and gas and associated activities.

### **Permit Defined**

A permit, as defined by the Energy Resource Activities Act means:

- A permit issued under Section 25 and includes any conditions imposed on a permit.

### **Permit Holder Defined**

A permit holder, as defined by the Energy Resource Activities Act means:

- A person who holds a permit.
- A person, if any, who is the holder of a location with respect to that permit.

Permits are only granted to the operator and/or company from the original application. All those working for the permit holder must meet permit requirements.

Permits must be in hand before conducting any activity. Permits may have timelines and/or conditions attached specifying what activities the permit holder may carry out, including, but not limited to, authorizations under the Land Act, Forest Act and Water Sustainability Act. Permit holders must understand the operational guidance and requirements for each activity and reporting requirements throughout the life cycle of the oil and gas and associated activity.

Permits issued over private land are 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.

Once a permit is issued, companies should continue to take into consideration the entire life cycle of the project and minimize the environmental impacts of the proposed project. Permit holders are responsible for keeping current with legislation, regulatory updates and documentation in order to properly and safely pursue oil and gas activities. In addition to manuals and guidelines published on the Regulator's website, permit holders should review directives, information bulletins, reports and safety advisories for any changes.

### 1.3.1 Permit Term and Expiry

Section 32(1) of the Energy Resource Activities Act defines permit terms as:

- A permit and any related authorizations expire on the day after the prescribed period has elapsed if the permit holder has not begun constructing the permitted oil and gas activity.

The prescribed period of a permit is two years. ERAA permits remain active until cancelled, suspended, declared spent by the Regulator or expires at the end of two years.

If the Regulator has not received a permit extension application before the scheduled expiration date, the expired permit is removed from active records. A new application must be submitted if the permit expires but work is still required.

#### Extensions

To apply for a permit extension, permit holder must submit a completed Permit Extension Application Form including the required application deliverables prior to the scheduled expiration of the oil and gas permit.

To ensure adequate processing time, budget a minimum of three months prior to the scheduled expiration to submit and complete the [Permit Extension Application Form](#).

If approved, the Regulator may extend a permit and associated authorizations for up to one year. The extension may include additional conditions imposed by the Regulator. If construction has not commenced by the end of the permit extension period, the permit is removed from active records unless the Regulator is satisfied that there are special circumstances to justify a further extension, based on applicant request.

A decision to extend or not extend a permit is neither a reviewable nor appealable determination under ERAA.

## 1.3.2 Permit Notification

Following a permit approval, the Regulator provides notice to the land owner(s) affected by the oil and gas activity. The notice cites specific details about the location of the approved activity, and the land owners' right to appeal if applicable.

The permit holder must wait 15 days from the day the permit is issued before commencing any oil and gas activity on private land, unless the land owner has consented to the permit holder in writing the oil and gas activity may commence. Written consent from a land owner is not provided to the Regulator; however the permit holder should retain records for auditing purposes.

The permit holder must submit a notice of construction start to the Regulator prior the start of operations. Additional pre-construction notices are required for roads. Minimum time requirements for submission of notice of construction start for various activities are outlined in the construction chapter of this manual.

## 1.3.3 Permit Amendments

Permit holders must submit an amendment application to add, modify or change any existing oil and gas and associated activity permit except for those activities that meet the criteria for notification. Amendments are also required for corrections of inadvertent data errors where the error is in the permit or impacted on the decision. An amendment can include requests for multiple changes to an approved permit. Once an amendment is approved, the permit holder can apply for another amendment if required.

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

Amendments are submitted through the Application Management System and instructions on activity amendments are outlined in the [Oil and Gas Activity Application Manual](#).

## 1.3.4 Permit Surrender and Cancellation

If a permit holder would like to request the cancellation of a permit after approval; the permit holder must submit a letter requesting cancellation of the permit. The cancellation request letter must clearly identify:

- Regulator file number or Application Determination (AD) number.
- Legal description location.
- If surface disturbance has occurred and if the area has been reclaimed as per the Environmental Protection and Management Regulation (EPMR).
- Permit holder contact information including email address.

A confirmation letter/email will be sent to the permit holder upon cancellation of the permit and related authorizations/permissions.

If surrendering or cancelling a permit, other than a well site area, where surface disturbance has occurred, the area must be reclaimed as per section 19 of the Environmental Protection and Management Regulation.

Permits where no construction has taken place will be cancelled based on the submission of Post Construction.

## 1.3.5 Permit Transfers

A permit holder may apply to the Regulator to transfer a permit under Section 29 of ERAA. For more information on the permit transfer process and transfer application requirements, refer to the [Permit Operations and Administration Manual](#).

## 1.3.6 Permit Holder Name Changes and Transfers

In the event of a corporate amalgamation, corporate name change or other corporate structure change of a permit holder, submit appropriate documentation to the

Regulator. Upon receipt of all the correct documentation, the Regulator facilitates the proper chain of title and current ownership of assets for billing and liability purposes. For more information on the corporate structure change process and requirements, refer to the [Permit Operations and Administration Manual](#).

### 1.3.7 Permitted Use of Land

The Regulator grants authority to occupy Crown land in one of two ways:

- Section 138(1) of the Petroleum and Natural Gas Act (PNG Act): For any oil and gas activities or related activities as defined in Section 1(2) of the Energy Resource Activities Act (ERAA), the Regulator will grant authority to occupy Crown land through Section 138(1) of the PNG Act. This is applicable for permits issued for a related activity, as defined in Section 1(2) of ERAA including either an associated Forest Act (e.g. cutting permit) or Water Sustainability Act (e.g. Section 11) authorization.
- Section 39 of the Land Act: If the permit for a stand-alone related activity only includes an authorization for the right to occupy Crown land (e.g. water storage site), with no other related activity as defined in Section 1(2) of ERAA, the permit will be granted as a licence under Section 39 of the Land Act.

As of Sept. 21, 2015, permits have been updated to replace reference to Section 14 of the Land Act with the appropriate permission or authorization to occupy Crown land. Any Section 14 Land Act authorization issued prior to Sept. 21 will remain valid until it expires, is deemed spent and replaced by a subsequent Land Act tenure, or is replaced via subsequent amendment of the permit with which it is associated.

The Regulator issues the appropriate long term Land Act tenure upon acceptance of the post-construction plan. Submission of the original application and of the post-construction plan is considered application for all subsequent Land Act tenures; no further applications for replacement tenure is required.

## 1.4 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.