



Regulations Consequent to the Professional Governance Act

Summary of Public Input in Response
to the 2018 Intentions Paper

July 2019



OSPG

Office of the Superintendent
of Professional Governance



Ministry of
Attorney General

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Abbreviations

ABCFP	Association of BC Forest Professionals
APEGBC	Association of Professional Engineers and Geoscientists of British Columbia, known as EGBC
Act or PGA	Professional Governance Act
BCIA	BC Institute of Agrologists
CAB	College of Applied Biology
EGBC	Engineers and Geoscientists of BC
ENV	The Ministry of Environment and Climate Change Strategy
Office	Office of the Superintendent of Professional Governance
QP	Qualified Professional
SDM	Statutory decision makers



A. Introduction

The *Professional Governance Act* (the Act) received royal assent on November 27, 2018. The Act is intended to increase consistency and best practices in the governance of professional registrants, promote transparency and accountability of regulatory bodies (those professional regulators governed under the Act) and strengthen government oversight for regulatory bodies by establishing a statutory Office of the Superintendent of Professional Governance (Office) in the Ministry of Attorney General. This Office will be responsible for administering the Act and for ensuring that best practices for professional governance are implemented.

The purpose of the 2018 intentions paper was to seek comments and feedback on key topics to inform the development of policy and regulations for implementing the Act from Indigenous nations, interested parties and the public. The intentions paper comment period ran from October 30, 2018 through to March 4, 2019. The purpose of this report is to provide a summary of the input received in response to the 2018 intentions paper.

Background on the Act

The *Professional Governance Act* follows recommendations on professional governance provided in the report on professional reliance submitted by Mark Haddock to government in June 2018. The review of the Province's professional reliance model was conducted in fall/winter 2017-2018 with the goal to ensure the highest professional, technical and ethical standards are being applied to resource management in B.C. The report provided recommendations following a review of the professional reliance model in the natural resource sector. The Ministry of Environment and Climate Change Strategy (ENV) led the collection of information that Mark Haddock considered in developing the report and accompanying recommendations. The review was in accordance with the 2017 Confidence and Supply Agreement between the NDP and Green Caucus to "address failures in the professional reliance model in B.C."^[1], as well as the 2017 mandate letter for Minister Heyman to meet the "public's expectation of a strong, transparent process."^[2]

The provincial government accepted the first two governance recommendations in the report. These recommendations involved restructuring the governance of the regulatory bodies by creating a new office to oversee

professional legislation, developing best practices for governance and regulating professional regulators as needed, and standardizing elements of professional governance through umbrella legislation.

The five regulatory bodies and statutes in scope to be regulated by the Act are:

- ▶ Applied Science Technologists & Technicians of B.C. (ASTTBC) - *Applied Science Technologists and Technicians Act*
- ▶ Association of B.C. Forest Professionals (ABC FP) - *Foresters Act*
- ▶ B.C. Institute of *Agrologists* (BCIA) - *Agrologists Act*
- ▶ College of Applied Biology (CAB) - *College of Applied Biology Act*
- ▶ Association of Professional Engineers and Geoscientists of British Columbia (APEGBC), known as Engineers and Geoscientists B.C. (EGBC) - *Engineers and Geoscientists Act*

Background to the intentions paper engagement process

Government sought feedback and comments over a 120-day period on three key policy areas for regulation development from: Indigenous nations, interested parties (industry, regulatory bodies governed by the Act, other professional regulators, registered professionals, qualified professionals (QPs), local government, NGOs), and the public. Input collected is summarized in this report.

Government will carefully consider input received as part of the regulation development process. A summary of the engagement process and timeline is provided in TABLE 1.

Format of this document

The purpose of this report is to summarize the input received by ENV during the 120-day engagement period into a cohesive public report. Contents of this report do not represent the viewpoint of ENV or the author (Pinna Sustainability Inc.), rather the report aims to represent the breadth and depth of input received as submitted by

respondents. Readers are encouraged to read the 2018 intentions paper to better understand the context of the responses summarized in this report.

There are three remaining sections of this report, containing the following:

- ▶ Section B: a high-level summary of responses, including the number of responses, and how these were received, respondent background, and general theme of input received in response to each topic area of the 2018 intentions paper,
- ▶ Section C: a summary of the responses to the specific questions by topic area in the intentions paper response form (see appendix A for response form), and
- ▶ Section D: a brief closing statement.

Comments from responses received in letter or e-mail form that were not organized using the Professional Governance Act Feedback Form online format were reviewed and incorporated into the applicable topic areas.

Quotes from respondents are in italics. Note that respondent quotes have not been edited and may include grammar or spelling errors. These are acknowledged using [sic] beside the error. In some cases, additional text has been added in [] to improve the clarity of the quote or to spell out acronyms.

TABLE 1.

Date	Event
June 28, 2018	Release of professional reliance review report
October 30, 2018	Regulations Intentions Paper Consequent to the Professional Governance Act published and intentions paper feedback starts
November 27, 2018	Bill 49 -2018 Professional Governance Act receives Royal Assent
March 4, 2019	Deadline to provide feedback
July 2019	Summary of Public Input

[1] https://engage.gov.bc.ca/professionalreliance/about-the-project/#_ftn1

[2] https://engage.gov.bc.ca/professionalreliance/about-the-project/#_ftn2

B. Summary of Input Received

Summary of response formats and respondent background

During the engagement period, ENV received a total of 126 submissions, of which 66% completed the intentions paper response form online, and 34% submitted letters or email.

Respondents that completed the online form were anonymous, but identified their background and interest in the ministry's intentions. Note that some respondents identified with more than one category:

- ▶ 31 indicated that they are a user of QP information (includes those who hire, review, or otherwise engage with QP information)
- ▶ 63 indicated that they are a QP or a registered professional
- ▶ 4 indicated that they are a member of an Indigenous nation or rights-holding group within the province of B.C.
- ▶ 27 indicated that they are a member of the public
- ▶ 4 indicated that they prefer not to answer

Respondents that submitted responses via letters or email were not anonymous and included the following:

- ▶ 1 Crown corporation
- ▶ 2 local governments
- ▶ 3 citizen groups
- ▶ 4 individuals / unknown affiliations
- ▶ 6 non-government organizations and 2 union groups (1 submission)
- ▶ 7 private companies
- ▶ 8 professional regulators
- ▶ 8 industry associations
- ▶ 9 consultants / independent contractors

Summary of all submissions

Input received from the 126 respondents to the 46 questions asked in the 2018 intentions paper resulted in thousands of responses to be considered. Table 2 provides a high-level summary of the input received by topic area in order to provide readers with a general sentiment across all input received. Responses are also summarized by question in Section C.

TABLE 2.
Summary of responses to questions on the Response Form

1. Practice Rights of Professionals
<p>1.1 Exclusive practice</p> <ul style="list-style-type: none">▶ Generally, there were an equal number of responses expressing support for and against applying this model. The remaining responses requested clarifications, outlined concerns or provided recommendations.▶ There were many responses that did not address the exclusive practice rights model directly.<ul style="list-style-type: none">• Many respondents provided thoughts on the challenges of ensuring professionals “practice in their areas of competency and know their limitation.” These respondents indicated that substantial theoretical education combined with practice experience is necessary to be able to understand these limits.• Some respondents expressed concern that knowledge from professionals not belonging to a regulatory body will be discounted. There was the suggestion that professional designations should distinguish between junior and senior experience levels (or reflect the Master/Apprentice craft model).• Twelve respondents suggested additional legislation regarding practice rights would increase costs to taxpayers, clients and/or professionals.

1. Practice Rights of Professionals (cont)

1.2 Overlapping scope of practice

- ▶ Twelve respondents supported this model with seven of these respondents noting this model is consistent with current practices in BC, and five stating that this is their preferred model with clear definition of areas of exclusivity and overlap. Fifteen respondents did not support this model, suggesting that it would lead to public confusion or that it is inappropriate in some cases.
- ▶ There were concerns about exclusions or exemptions resulting in unregulated persons practicing within a regulated scope. Others suggested that this model would not address the deeper issues connected to the use of professional reliance and that there is too much potential for gaps. Suggestions to address concerns with exclusions and exemptions included ensuring there was a clear distinction between scopes of practice and that this should be defined in regulations and guidance documents.
- ▶ Twelve respondents suggested that overlap between professions should be clearly defined while four felt that the current system should not be changed and that overlap is sufficiently addressed.
- ▶ Six respondents recommended that professional regulators define overlap and an additional six respondents suggested clearly defining registered professionals by their level of responsibility, experience and training.
- ▶ There is broad support for joint administration of overlapping scopes by regulatory bodies, with clear communication about responsibilities, roles and administration. A few respondents suggested that this model is too complex and professions should be responsible for distinct scopes of practice. A major concern with this model is the greater complexity compared to other models and the potential that joint administration will create conflicts between associations.
- ▶ Five respondents specifically stated that BC should not follow the Alberta approach of two regulatory bodies governing engineering practices.

1.3 Shared scope of practice with restricted activities

- ▶ The majority of respondents felt this model is not appropriate for any sector except the health sector. One respondent preferred this model for oversight of the field of engineering. However, a number of respondents support a single regulatory body governing engineering practices. Some respondents felt that it is difficult to assess the most appropriate model until scopes of practice for each profession are determined.
- ▶ There was some concern that this model would require extensive government oversight to work as intended and would be too restrictive as technology evolves.

1.4 Considerations about practice rights

- ▶ The majority of responses expressed general support for exemptions, but that these should be defined by each regulatory body. A list of exemptions suggested is included in Part C. A few respondents suggested that exemptions should be considered in a risk management context, limiting exemptions to scopes of work that would not pose a risk to the public or the environment.
- ▶ Respondents provided comments on the potential impacts to various groups in the granting of practice rights. These included suggestions that there may be public confusion on scope of practice rights, that this may increase costs to sole proprietors and small and medium companies, and that the protection of the public should be the primary driver for the changes.

1. Practice Rights of Professionals (cont)

1.4 Considerations about practice rights (cont)

- ▶ A significant portion of respondents (19 responses) felt that regulatory bodies or a committee of professionals including those not in the natural resources sector, along with government representatives, should define the scopes of practice.
- ▶ There were a wide variety of comments on the duration of the transition period and suggested timelines for implementation. Most agree that implementation should progress in a manner that allows for the full consideration of complex issues. Regardless of the time line, respondents felt that clear and transparent communication were important throughout the process. Some respondents suggested creating an oversight committee that meets with regulatory bodies to review the implications of the proposed changes.
- ▶ There was equal support for grandfathering current practitioners under the Act and allowing a three- to five-year transition period to allow practitioners to obtain additional education to meet requirements.
- ▶ Additional comments by respondents included eight respondents stating support for the existing EGBC limited license option for engineering technologists or continuing to use the overlapping scope of practice model for EGBC, seven indicating support for granting practice rights to other professions (e.g. biologists, agrologists, chemists), and three stating broad disagreement with the Act in general. Two noted that a different approach is needed for biologists than engineers.

2. Regulation of Firms

2.1 Models for the regulation of firms

- ▶ The majority of respondents answered this question by indicating support or dissent for the regulation of firms broadly, rather than specifically commenting on the models described or that should be considered. Of those respondents that discussed specific models, the majority indicated support for the EGBC or Alberta models.
- ▶ Although not put forward as a question/option in the intentions paper, many respondents indicated preference for the government to regulate firms (14 responses) as opposed to preferring that regulatory bodies regulate firms (ten responses).
- ▶ Respondents were split between support for applying a consistent model and applying different iterations across professions with 22 respondents stating strong support for consistency and 20 respondents stating support for variation. Three other respondents were uncertain – desiring consistency, but recognizing that the vast differences between professions, firms involved and levels of risk may warrant different models.
- ▶ The majority of respondents supported the proposal to apply the model to EGBC first (25), while five respondents supported rolling it out to all professions at the same time.

2.2 Considerations

- ▶ There were mixed feelings about the appropriate timeline for enabling regulation of firms, with several respondents noting a need to implement as soon as possible, and several stating the need to take more time to prepare for successful rollout.

2. Regulation of Firms (cont)

2.3 Exemptions

- ▶ Responses were mixed with slightly more support for providing exemptions for specific circumstances, but with numerous respondents stating there should be no exemptions for legal entities to be regulated as firms.
- ▶ There was substantial agreement among respondents that in-house professionals should be regulated in the same manner as all other professionals, though several also noted the decision should rest on whether the work of in-house professionals could impact the public interest.
- ▶ Twelve respondents clearly addressed whether government (including Crown Corporation) functions should be exempt as firms, with the majority supporting no exemptions but acknowledging that further engagement on this topic is needed.
- ▶ The responses were relatively evenly split on the regulation of sole proprietors as firms with approximately half supporting regulation and half not supporting regulation. Several associations and regulatory bodies emphasized that regulation should apply to sole proprietors.

2.4 Multidisciplinary firms

- ▶ The majority of respondents support alignment of firm regulation across professions, though suggested mechanisms varied. Some respondents emphasized the importance of registering with each regulatory body individually.

2.5 Other areas of consideration

- ▶ Several respondents provided specific suggestions on the information that should be required in Professional Practice Management Plans (PPMPs) while several provided comments on what should be considered when developing the requirements (e.g. need to keep requirements streamlined, consider other jurisdictions).
- ▶ Respondents provided a combination of specific comments on triggers to consider for updating PPMPs, and some more general comments to consider when establishing triggers.
- ▶ Almost all respondents anticipate additional resources will be needed to regulate firms (34 responses), though a few respondents felt the additional effort would be minimal. Respondents provided several suggestions for mechanisms to consider to minimize the administrative burden on firms. There was clear concern expressed over a potentially greater impact for smaller firms.

3. Competency Declarations and Conflict of Interest Declarations

3.1 Expectations for when declarations are required

- ▶ Numerous respondents stated that declarations are already incorporated into existing systems in each profession. Several respondents emphasized the need to minimize or avoid duplication to reduce administrative burden.
- ▶ Some respondents emphasized the need to create separate policy on the requirements for competency and conflict of interest declarations.

3. Competency Declarations and Conflict of Interest Declarations

3.1 Expectations for when declarations are required (cont)

- ▶ The most commonly suggested approach for thresholds was to develop risk-based criteria to limit the number of circumstances requiring declarations to those involving higher risk.
- ▶ Fifteen respondents provided comments on specific types of activities that should be exempt from requirements, while several emphasized why there should not be any exemptions.
- ▶ Several respondents provided comments on how declarations should apply to regulated firms, including the suggestion that declarations should be made by firms rather than by individuals, or that individual reporting requirements could be reduced. Six respondents felt that declaration requirements should not be required from regulated firms.
- ▶ Respondents provided a variety of suggestions regarding enforcement, with most suggesting the use of audits to spot check or investigations conducted by an independent body.
- ▶ Most respondents felt that declaration requirements should be applied to government employees in the same manner as professionals working within industry. A small minority of respondents suggested requirements should not be applicable to government employees.

3.2 Filing and record keeping process for declarations

- ▶ Most respondents provided input on the filing process, including suggesting the implementation of an online system, expressing who should receive the declarations, and the format of filing. The majority indicated the process should be streamlined to minimize administrative burden.
- ▶ Respondents generally indicated project-specific declarations be included with project documentation submitted to the statutory decision makers (SDMs), annual declarations be filed with the regulatory bodies, and that the Office provide support to ease administrative burden, and/or serve a secondary oversight role, but not receive declarations directly.
- ▶ Most respondents that directly addressed the role of registered professionals in maintaining records of filed declarations indicated it is the professionals' responsibility.
- ▶ Most respondents indicated support for a template format and/or electronic form submission of declarations. Many respondents identified that the current signed and sealed project documentation is sufficient, in combination with annual filing of declarations through regulatory bodies.
- ▶ Respondents generally support transparency of declarations and suggested various forums for achieving this, though a small minority did not support public declarations.

3.3 Implications of a perceived or real conflict of interest

- ▶ Few respondents provided detailed comments about the role of the Office in identifying patterns and developing advice and policy for regulatory bodies. Respondents generally stated whether or not they support the Office having a role in this aspect, however, in several cases it was unclear whether respondents were expressing support or opposition to a more involved role than was posed in the question.

C. Response form input: Proposed regulatory changes

This section contains a summary of the responses received by ENV to the intentions paper during the engagement period. These responses are organized into general categories indicating whether responses to questions were supportive, not supportive, and/or providing general comments.

1. Practice Rights of Professions

1.1 EXCLUSIVE PRACTICE

Q1.1a: Do you have any comments on benefits of, or concerns with, applying the exclusive practice model to professions that are granted practice rights under the Act? [74 responses]

Generally, there were an equal number of responses expressing support for and against applying this model. The remaining responses requested clarifications, outlined concerns or provided recommendations. There were many responses that did not address the exclusive practice rights question but are summarized here for completeness.

Support for applying exclusive practice model:

- ▶ Eight respondents supported this model with no reservations, as this is perceived to be the only way to ensure individuals are qualified in the field which they are working. *"With proper governance (transparency and accountability) in place, the EPM [exclusive practice model] can work efficiently."*

Opposition to applying exclusive practice model:

- ▶ One respondent felt that the exclusive practice model could be too restrictive, as it could be a potential issue for government staff that are not registered professionals yet have the qualifications that allow them to carry out certain tasks or activities.
- ▶ One respondent felt that the emphasis should be on education and mentoring, not excluding the right to practice. If legislated practice rights are given, it *"... should be based on demonstrated need to protect the public interest..."*

- ▶ Some respondents felt that this model is not appropriate for biology or environmental science as there are areas of overlapping responsibilities.

"From the perspective of cost (economy) and from maximizing utilization of human resource potential the exclusive practice model is not in the interest of the public and society in general."

"Certification has never been a proxy for competence..." and the respondent feels that the "...government is simply politicizing access to employment while providing little to no benefit to the public."

- ▶ Four respondents support exclusive practice rights for defined professions with the caveat that the *"...exclusive practice rights model needs to allow for overlap with other organizations such as the EGBC and Foresters who both build roads in the natural environment. The EGBC / Forester overlap is working well and should not be jeopardized or adjusted."* Note that this is similar to the overlapping practice model (see question 1.2).

General comments and suggestions:

- ▶ Eight respondents did not see the need to change the existing system or felt that changes would be redundant or overlap with existing legislation, primarily in reference to engineers and geoscientists.
- ▶ Nine respondents felt that the challenge is ensuring the QP has specific skills and training in the area which they are providing their report, e.g. the QP must know their limitations. There is general concern that definitions for reservations and prohibitions will not be accurate.
- ▶ Some respondents expressed concern that this will create confusion, duplication and inefficiency and that the regulation of practice by multiple regulatory bodies (i.e. EGBC and ASTTBC) promotes inefficiency in administration. *"...Moreover, having separate regulatory bodies will limit the opportunities for the regulatory model in BC to respond in a flexible and timely manner to changes in the field of engineering."*
- ▶ A few respondents felt that the model will be difficult to implement, verify and enforce in professions with a high degree of overlap. In addition, respondents thought this model may lead to more

classes of membership in a profession or exclude other environmental disciplines that are affiliated with other professional organizations not included in the Act, resulting in these professionals not being recognized as qualified professionals within BC.

"An exclusive model in principle works but the model should be flexible so that professions can work together on overlapping areas of practice."

"In the present model there are only five regulatory bodies covered by the Act, therefore professionals from academic backgrounds other than these five will be excluded from practicing. To exclude a professional or a profession, because they don't have the exact educational background required by a regulatory body would not be in the best interest of the public. Academic degrees and diplomas have a lot of cross-over within each field of study, and these can differ from one educational institution to another, for example, B.A., B.Sc., or B.Tech. on a college level. ECO Canada certifies Environmental Professionals (EP®) based on standardized professional competencies mapped against the National Occupational Standards for Environmental Employment, and these competencies are not restricted to particular educational streams or courses taken while in university but reflect the actual competencies needed to work in the environmental sector."

- ▶ Some respondents felt that the Act should apply equitably to all professionals regardless of employer, i.e. "...government professionals must be held to the same requirements and standards as non-government professionals."
- ▶ Two respondents felt that additional legislation and regulation will increase costs associated with operating a professional practice, and therefore affect the competitiveness of BC firms.
- ▶ One respondent expressed concern that applying the exclusive practice model could result in a potential conflict with "ISA (International Society of Arboriculture) as they practice many aspects of Professional Forestry and Biology..."
- ▶ One respondent felt that benefits are only accrued from exclusive right to practice if regulations ensure the competency of the registrant through evaluation of education and work experience, registrants are subject to disciplinary action if work fails to meet standards of practice and/or breach of code

of ethics, and non-registrants are actively prevented from practicing.

- ▶ One respondent suggested that biology should not be included in the Right to Practice "because the scope of biology is way too wide to properly certify expertise in all specialties... It is impossible for the CAB [College of Applied Biology] to certify qualifications in any specific area of biological expertise (and they don't try)."
- ▶ One respondent expressed concerns on how registered professionals would work with unregulated experts such as academic institutions, Indigenous groups, federal or provincial government agencies, and other institutions of scientific/management knowledge and innovation. The concerns included how to collaborate, signing off on the work of non-registered experts, and bridging or grandfathering and appropriately including indigenous traditional knowledge.

"Regulations should allow for and provide clarity on the extent to which registered professionals may rely on services of non-registered staff."

- ▶ Other comments included:
 - Conversations with major BC academic institutions should be conducted regarding "undergraduate programs that are feeding into the workforce [as these programs] don't necessarily have the courses and meet all of the requirements to be eligible for one of the professional designations."
 - Add the Association of the Chemical Profession of British Columbia (ACPBC) as a regulatory body: "An exclusive practice model requires that the profession of chemistry be included from the outset to ensure that the system established is comprehensive. The absence of the profession of chemistry leaves a significant gap in the coverage of the Natural Resources sector and radically reduces the protection of the public interest and the environment."
 - Allow for the use of rosters: "We prefer the use of rosters to restricted practice in all cases where accountability to the provincial government or to the general public is desirable. In our view, accountability will be desirable in most cases where there is a high risk to the public or the environment."

- Use consultation to develop near-term and long-term roadmap for any proposed changes to Rights.
- Develop path to registration for foreign-trained professionals: *“...support that such foreign-trained professionals take all reasonable courses of action, supported by their employer, to achieve registration in BC, but we recommend a graduated program that allows a logical timeframe for their registration to be completed.”*
- Clarify who is responsible for field reviews. For example, *“most of technician [sic] work outside the office, at the job site, therefore they should be responsible for their field review, not architect or engineer.”*
- Clearly define practice rights: *“...the rights must be clearly and accurately defined without impacting those existing professional organizations.”*
- Within the legislation, define skills for specific activities: *“...it is most important to monitor an individuals [sic] skill set and put into legislation specific activities requiring specific skills.”*

Q1.1b: Do you have any additional comments on the exclusive practice model? [49 responses]

General comments and suggestions:

- ▶ A number of respondents felt that knowledge from experts that do not belong to a regulated profession will be discounted in favour of professionals with a membership in an association.
“I truly believe that it is a slippery slope to only base practice and scope on the limitations of these governing bodies and push out those accomplished, skill based, experience based professionals that have given decades to their profession, but who may not be eligible under the small scopes of the governing practice models.”
- ▶ Some respondents expressed concern that this process may end up creating scopes where no professionals have the right to practice. They felt that scope of practice must be clearly defined to ensure exclusion of non-practitioners is fair and appropriate.

▶ Other comments included:

- Oversight is best undertaken by those who are knowledgeable of the issues. *“Governing bodies require oversight to ensure they are enforcing rules fairly.”*
- Existing review, testing and registration models with professional regulators exist. *“Overlap of other work types exists only if the registered member can do so by training which is expected over a 40-year career.”*
- Twelve respondents felt that the changes could be costly both to the taxpayers and the clients.
- Experience levels may need to be considered in legislation so that professional designations better distinguish between junior and senior experience levels. One respondent gave the example of the Master and Apprentice model: *“The exclusive practice model should be based on the Master / Apprentice craft model.”*

1.2 OVERLAPPING SCOPE OF PRACTICE

Q1.2a: Do you have any comments on aspects of the overlapping scope of practice model that should be considered for the five professions governed under the proposed Act? [63 responses]

Twelve respondents indicated their support for this model, while 15 had reservations.

Support overlapping scope of practice model:

- ▶ Seven respondents noted that the overlapping scope of practice model is consistent with current practices within BC. Overlapping scope of practice is already managed by professions such as EGBC, ABCFP, and the Architectural Institute of BC (AIBC).
“If there is to be overlapping scope of practices, these need to be clearly defined, regulation must be comparable by involved professions or the professions can get together and form a workgroup/board that oversee the overlapping scope of practice. By forcing every regulated body doing one type of work to the same standard, we are ensuring good quality and reproducible data, creating qualified professionals, and building a good pool of qualified workers within our own province.”

"The current model by the self-regulated professional associations [regulators] are already in use and can simply work with Government to address specific areas as needed."

- ▶ Four respondents noted this is their preferred model but to define areas of exclusivity and overlap. For example, AFBCP and EGBC provide *"... a good example of how overlapping practice rights can be implemented through their Joint Practices Board."*

Opposition to overlapping scope of practice model:

- ▶ Fifteen respondents did not support this model, felt it would lead to public confusion, or that it was inappropriate in some cases:

"The Regulators must have clear areas of responsibility which provides clarity to the general public as to who has the required expertise to practice a particular profession."

"Grouping Professional Engineers and Geoscientists in with other professional and technical designations is inappropriate, they simply do not do the same job."

"Overlapping scope of practice should only be considered where both professions have clear requirements for training in that domain for registration."

"[The respondent] views this as the weakest model of the three presented. If overlap is normal and expected, then the shared scope of practice model is more efficient than this one."

General comments and suggestions:

- ▶ There were a number of concerns about unregulated persons practicing within a regulated scope and how the legislation will ensure that unregulated persons are prevented from practicing: *"[The respondent] is concerned about the reference to 'specific unregulated persons' having practice rights given the public protection and accountability mandate of the PGA and professional regulatory statutes in general."*

"...how does this model allow for the monitoring and control of the exemptions to allow unregulated persons to practice within the scope of practice for a profession? Won't these unregulated persons "slip

through the cracks" and carry on their practices just as they currently are thus limiting the intended results from implementing a right to practice authority?"

- ▶ One respondent felt this process would not address the deeper problems that are connected to the use of professional reliance. *"Chopping up the 'practice' territory among associations whose institutional mandates are to maintain their continued existence and expand their realm of influence is the [sic] miss the deeper problems connected to the use of professional reliance in the first place."*
- ▶ One respondent stated that there is *"too much potential for gaps if this model was used in the professional reliance regulatory development."*
- ▶ One respondent recommended that *"Exemptions should be extremely limited (if at all) and only when ability (education and experience) has been proven in the specific area of practice. Likewise [sic] with professional overlap, the person must be verified to be fully qualified in any areas of overlap."*
- ▶ Three respondents suggested there should be a clear distinction between scope of practice and that it should be well defined in the regulations and guidance documents. Any overlap should be reviewed on a case by case basis. In addition, exemptions should be rare. One respondent suggested to develop memorandums of understanding (MOUs) to deal with overlap.
- ▶ One respondent suggested to expand the list of regulatory bodies governed by the Act to *"ensure that competent, trained, and specialized workers are not excluded from the labour market."* They suggest if Environmental Professionals (EP) are not included under the Act that degrees such as B.Sc. in Environmental Science will not allow graduates to practice.

Q1.2b: Do you have any comments on how overlap between professions should be defined and communicated? [57 responses]

Four respondents felt that no change to the current system was required. One felt that there should be no overlap between professions. Twelve respondents suggested that any overlap should be clearly defined and communicated, as well as offering suggestions on how this could be achieved (see comments below).

The remaining comments outlined concerns, as well as other recommendations.

General comments and suggestions:

- ▶ A number of responses expressed concern that this model may create public confusion, duplication and inefficiency. In addition, this model will be administratively challenging to ensure the same oversight is being applied by all regulatory bodies. *"The public interest is not well-served by making a more complex system of this type."*
- ▶ One respondent requested clarification: will the existing overlapping scope of practice model as currently applied by ABFCP and EGBC be retained?
- ▶ Six respondents suggested clearly defining a registered professional by their level of responsibility, experience and training.
- ▶ Six respondents recommended that professional regulators should clearly determine and define overlap: *"Overlap should be defined and agreed upon by the overlapping professional organizations executives and it should be voted on by the memberships of those organizations." "...however one profession must be clearly in charge of professional standards and enforcement."*
"It may be appropriate to formally enshrine and mandate joint management of overlapping practice through boards or other mechanism."
- ▶ A number of respondents suggested consideration be given to develop more specific categories of practice and define overlap in legislation. *"Definition and communication of the overlap between professions is a critical aspect of this model. These activities must be, above all: 1. transparent, 2. clear, 3. enforceable, 4. collaborative. Communication should also be pro-active, respectful and meaningful."*
- ▶ Some respondents suggested that determining definitions should be done iteratively and slowly to ensure it is correct and with participation from industry associations, training bodies and other stakeholder groups. One respondent suggested that this *"...should be conditional on agreement between the overlapping professional bodies."*

▶ Other comments included:

- Competency must be verifiable and transparent. The regulatory bodies must ensure registration and licensing requirements are clear.
- Consideration should be given to accepting certifications from all Canadian regulatory bodies: *"...certifications from all Canadian regulatory bodies should be accepted, not simply their BC versions."*
"Areas of overlap could be clearly defined and then specific scope of practice could be granted to QPs in different associations, governed by a joint practices board."

Q1.2c: Do you have any comments on aspects of regulatory oversight that should be jointly administered? [48 responses]

There was broad support for joint administration, however, respondents felt that there needs to be clear communication about responsibilities, roles and administration. A few respondents felt that this model is too complex and professions should remain self-governed. One major concern is that this model has greater complexity than other proposed models and will not necessarily translate to better oversight. One respondent expressed the concern that joint administration will create conflicts and/or debate over who is responsible for what. Additional comments provided recommendations or suggestions.

General comments and suggestions:

- ▶ Three respondents felt that *"All regulatory bodies practising engineering and geoscience will need to participate in joint committees to resolve issues that overlap practise definition."*
- ▶ One respondent felt that the government should consider a discipline specific approach to risk regulation.
- ▶ While one respondent felt that oversight should be jointly administered between the new government office and existing associations, another suggested that joint administration of two related practice areas could only be effectively achieved under one regulatory body (e.g. ASTTBC and EGBC professionals).

- ▶ One respondent had suggestions for the oversight group that could administer areas of overlap: *“The oversight group should be made up of mature, knowledgeable members of each organization plus two members of the public so a group of 8 people. With, possibly a paid secretary or Administrative Assistane [sic].”*
- ▶ A number of respondents recommended the creation of a mechanism or process for ongoing communication to address the evolution of technology. This includes creating clear Terms of Reference and Responsibilities to ensure smooth administration. In addition, periodic review of reserved practice areas and areas of overlap should occur.
- ▶ One respondent suggested that *“A system based of transparent visibility between professions would be helpful. The 5 regulators and the government could engage to arrive a division-of-labor approach that ensures first and foremost, protection of the public interest. Public interest should be defined exclusive of political interest.”*

Q1.2d: Do you have any additional comments on the overlapping scope of practice model? [37 responses]

General comments and suggestions:

- ▶ Five respondents specifically stated that BC should not follow the Alberta approach where two regulatory bodies are granted the same practice rights, creating confusion and business conflicts.
- ▶ Some respondents felt that the overlapping scope of practice model was only appropriate for low risk fields.
- ▶ A few respondents felt that the overlapping scope of practice model may be beneficial in some cases but that it could be cumbersome and time-consuming approach.
- ▶ A number of respondents referenced the current overlapping scope of practice model currently in place between the ABCFP and EGBC, as well as AIBC and EGBC:
“The ABCFP expects that the current overlapping scope of practice model, as currently applied by the ABCFP and EGBC to specific areas of practice, will be retained regardless of whether the model can be workable by

an expanded number of regulatory bodies (e.g., due to capacity issues).”

AIBC and EGBC “currently operate very cooperatively to address overlap issues and otherwise collaborate on joint standards of practice, education, building code and letters of assurance and related matter in the built environment.”

- ▶ A few respondents expressed concern that this model may limit subject matter experts if their educational background does not fall within the regulatory bodies’ requirements. *“Modernization is good, but do not diminish existing professionals, or unduly burden them in wholesale new process and responsibilities.”* One respondent suggested applying this model on a case by case basis.

1.3 SHARED SCOPE OF PRACTICE

Q1.3a: Do you have any comments on the appropriateness of this model for professions that are granted practice rights under the proposed Act? [63 responses]

The majority of respondents (24) feel that this model is not appropriate for any sector other than the health sector, while a few felt that this model is only appropriate in the most general cases.

Support shared scope of practice model:

- ▶ A number of respondents felt that this model is only appropriate in the most general cases. Seven respondents felt the model was appropriate but that additional discussions are needed. One respondent felt this model was appropriate only for the biology profession.
- ▶ Two respondents support the implementation of this model, as it is similar to Quebec’s working system, however one respondent notes that this model would be best enabled with restricted activities as it maximizes the use of human resources.
- ▶ Another respondent felt strongly that *“A shared scope of practice with restricted activities is more reflective of the Natural Resource sector as it is a multi-disciplinary sector with a plethora of niche areas of practice and expertise.”*

Opposition to shared scope of practice model:

- ▶ Twenty-four respondents feel that this model is not appropriate for sectors other than the health sector.
- ▶ One respondent noted *“There does not appear to be a driving force to make a deviation; the Professional Reliance Review Report by Mark Haddock did not find the current practice model to be problematic, and there is no evidence of the current model being found to be ineffective by members of the public.”*
- ▶ One respondent suggested that this model would work well internally for government, but there may be a need for a less flexible model for professionals outside of government.

General comments and suggestions:

- ▶ A number of respondents support a single regulator approach for all professionals within a field of practice, e.g. a single regulatory body defines scope of practice for engineers and engineering technologists.
- ▶ Some respondents requested clarification on who creates the scope of practice documents: *“Even within the population of P.Eng. registrants, there is an enormous range of scope of practices. Government is not the best to define those scopes.”*
- ▶ Some respondents expressed that it is difficult to assess the most appropriate model until overlap is determined: *“Until it is determined what reserved or restricted practices fall under CAB, ASTTBC, and BCIA and what overlaps exist between the regulatory bodies, it will be difficult to assess the most appropriate practice model or if it is necessary (or even possible) to standardize the model.”*
- ▶ Two respondents expressed concern that this model is too complicated and will be difficult to implement, understand and enforce. They felt that the lack of clarity puts public safety at risk.

Another respondent also felt that *“This model allows an unregulated person to still provide services which is in direct contradiction to the main premise of supporting practice rights.”*

Implementing practice rights *“may not be uniform across the five professions. The process to work*

collaboratively and the resultant model that is best suited to one regulatory body may differ from the rest of the professions if justified.”

- ▶ One respondent felt that this model should only be implemented if the government oversight body sets clear standards and is in charge of enforcement. Another respondent felt this oversight body should not define the details of acceptable overlap.

Other comments included:

- Recognize other practitioners who may not be under the Act, including Registered Professional Planners.
- Limit requirements to activities that the Province regulates, e.g. exclude commercial fishing.
- Shared scope of practice is necessary to define and determine scopes of practice between CAB and BCIA.
- This model should be flexible to ensure it can address unanticipated conflicts when put into practice.

Q1.3b: Do you have any additional comments about the shared scope of practice/restricted activities model? [40 responses]

General comments and suggestions:

- ▶ One respondent felt this approach aligns best with their recommendations, and the Environmental Professional designation could serve as a “specialist designation.”
- ▶ Three respondents strongly felt that this model is the worst option.
- ▶ Four respondents felt that EGBC is in the best position to regulate engineers and geoscientists, not the government.
- ▶ A few respondents expressed concern that this model would require extensive government oversight to work as it is intended and would be overly restrictive and difficult to keep current as technology changes rapidly.
- ▶ One respondent felt that this model would be most supportive of collaboration between different professionals.

- ▶ One respondent commented that the shared practice model is currently in effect within the Contaminated Sites Regulation.
- ▶ One respondent commented that the Act should also apply to ENGOs, *“including those who use environmental campaigns and ‘research’ as a marketing (or de-marketing) tool for private interests.”*
- ▶ *“A shared scope of practice with very restricted activities for registration is a much better model for biologists and environmental technicians/technologists. Those individuals who want to do the restricted work can certify and people with other expertise can continue to work in their specialty.”*
- ▶ One respondent commented that there should be definitions of different types or levels of qualifications.

1.4 CONSIDERATIONS

Q1.4a: Do you have any comments on exemptions that should be considered when defining reserved practices? [51 responses]

The majority of responses were comments specifically on exemptions. The remaining comments included concerns, requests for clarifications, and a few general suggestions.

Considerations for exemptions:

- ▶ A number of respondents expressed the opinion that exemptions should be concrete and clear and be defined by each profession through dialogue. *“Decisions to provide exceptions to practice by a non-registered person will vary depending on circumstances and therefore, should be made by the regulatory body.”*
- ▶ Some respondents suggested that the list of exemptions should be flexible and able to expand once the Act and Regulations are implemented and exemptions should be defined by each profession. For example, professionals coming from different jurisdictions should still be allowed to work while in the process of registering in BC.
- ▶ Three respondents thought that exemptions should be considered in a risk management context: *“The*

basis for exemptions should include types or scopes of work that will not endanger the public or the environment.” For example, junior positions could be exempted provided they are supervised by a professional member.

- ▶ A few respondents felt there should not be exemptions for:
 - Public or First Nations: *“All education and experience must be rigorously obtained through the processes developed by the current professional advisory bodies themselves. (i.e. just as no one is born with the ability of a doctor no one [sic] is born with the ability to manage the environment or natural resources).”*
 - Private companies.
- ▶ A number of respondents expressed support for exemptions for:
 - Licensed EGBC members that do not work in the natural resources sector.
 - ASTTBC members that follow codes or manuals (but not if they identify their work as engineering or geoscience).
 - Private individuals operating on own private lands.
 - Crown corporations and major utilities conducting emergency work.
 - Emergency forest fire response.
 - Activities that have no impact on public interests.
 - Research, conducted in partnerships with research institutions.
 - Sole proprietors.
 - Part-time workers.
 - Academic teaching in biology and environmental science.
 - First Nations ecological knowledge.

General comments and suggestions:

- ▶ Clarify why the Planning Institute of BC has been excluded from this engagement process.
- ▶ Grouping engineers and geoscientist in with other professional and technical designations is inappropriate.

- ▶ Clarify why Registered Professional Planners have been excluded from the list of QPs.
- ▶ Clearly define traditional ecological knowledge.
- ▶ Snow avalanche risk management should be shared by qualified engineers and geoscientists and professionals.
- ▶ Continuous study of professions is needed to ensure appropriate oversight is given, e.g. it may or may not become important to regulate software engineers.

Q1.4b: Do you have any comments on potential impacts to various groups in the granting of practice rights? [48 responses]

General comments and suggestions:

- ▶ Six respondents suggested that there may be public confusion between ASTTBC and EGBC scope of practice rights and suggested that this could be managed by having one regulatory body (EGBC) instead of two.
- ▶ Three respondents felt that protection of the public must be the primary driver for the changes: *“Ensuring effective protection of the public interest must be the overriding consideration under the Regulations. The granting of additional practice rights has a potential to bring in unskilled practitioners, or those acting outside the areas of their competency.”*
- ▶ Seven respondents expressed concerns about the potential additional costs to sole proprietors or small to medium companies, beyond the application fee, that would include administrative burdens and supporting employee training for those that may not meet the qualifications of registered professionals in their field. One respondent specifically felt that implementing the model should not translate into increase association dues and another highlighted that the *“transition towards this [should occur] in a manner that is fair and well thought out.”*
- ▶ Two respondents suggested that individuals be allowed to acquire credentials within a reasonable time frame and two others suggested that experience should be recognized by associations such as CAB. It was suggested that during the transition period, the right to practice for agrologists, biologists and technologists should not be limited to

avoid inadequate availability of personnel. One respondent suggested that, *“The burden and cost of this transition needs to be shared by professional associations [regulators] and government.”*

- ▶ Two respondents expressed concerns about CAB Right to Practice, *“In moving to Right to Practise [sic] for CAB, it will be necessary for the College to re-examine entrance requirements to ensure that qualified people are able to apply while still safe guarding the profession.”*

▶ **Other general comments included:**

- How does granting practice rights affect Aboriginal peoples obtaining jobs in traditional territories? The model must acknowledge Indigenous Knowledge as stated in UNDRIP.
- How will practice rights impact professions outside of the natural resources sector?
- The Environmental and Social Impact Assessment (ESIA) practitioners should be added to the Act and given exclusive rights to practice.
- The Act should recognize professional snow avalanche workers that have planning competency.
- There is some concern that this process and model is open to political interference.
- There is potential for conflicts in Urban Forestry with the International Society of Arboriculture.

Q1.4c: Do you have any comments on the process that should be put in place for reviewing professional scopes of practice to ensure that multiple perspectives are considered? [49 responses]

General comments and suggestions:

- ▶ A significant portion of respondents (19 responses) felt that professional regulators or a committee of professionals including those not in the natural resources sector, along with government representatives, should define the scopes of practice. *“I thin[k] it is reasonable that government be at the table in some form, either as an active participant or referred party, in establishing the scope of practice of the professions - at the profession level but not at the level where the associations assign those rights across it's [sic] membership.”*

- ▶ Three respondents felt this process should be transparent and collaborative with opportunities for members and public to review scopes of practice at initial stages and in draft form. *“The [respondent] favours a collaborative approach guided by an agreed upon set of shared principles for determining professional scopes of practice. The parties to this collaboration would initially include each of the five regulatory bodies subject to the Act, and the Government lead.”*

“...there needs to be a clear understanding of what the associations responsibilities are to both members and public, so that these can be watched closely and questioned for quality assurance. Process should be based on meaningful consultation and be inclusive of all partners and stakeholders. Final decisions must rest with specific professions.”

- ▶ One respondent felt that professionals not under the Act should define the scope.
- ▶ The remaining comments were varied and included the following suggestions:
 - *“Government grants the right to practice and scope / extent of that right only.”*
 - Use best practices to define professional scopes of practice.
 - Develop codes of ethics similar to Forestry professionals and EGBC members.
 - *“Each registrant will need an individual scope of practice created for themselves, by themselves, then peer reviewed, then government reviewed and accepted. Put the individual scope of practices online for public access. This is how the APEGBC system is for Eng. L. and Geo.L.”*
- ▶ A few respondents suggested to improve clarity on:
 - What is meant by “multiple perspectives”.
 - How the regulatory body will determine if an individual meets the competency requirements: *“Can the regulatory body determine whether an individual has the specific expertise needed for this job - WITHOUT USING A SELF-ASSESSED COMPETENCY DECLARATION? If yes, the activity is a candidate for including, if not, then it should not be included in scope of practice. Competency declarations are by their very nature a conflict of interest because the person declaring his/her competence wants to be*

paid for work of that type. Even if declarations were not inherently conflicting, people can and do believe they are experts in areas where they are not!”

Q1.4d: Do you have any comments on what will be important to include in a transition period? [49 responses]

General comments and suggestions:

- ▶ Respondents had varied comments on the duration of the transition period and suggested timelines for implementation ranged from one to 20 years. Most agree that implementation of regulations *“...should be progressed in a timeline that allows for full consideration of complex issues.”*
 - One respondent felt that the transition period should be minimal as people practicing must already be qualified.
 - Another felt that the transition period should only be for existing professionals, not new applicants.
- ▶ Twelve respondents suggested that clear and transparent communication were important throughout the process: *“Approachable communication to the public, to the professions, and the government bodies who utilize QPs. Work to ensure that clear and understandable information is provided throughout the transition period, including where feedback, concerns, reports can be submitted (and how these will be addressed).”*
- ▶ Five respondents recommended creating an oversight committee that meets with regulatory bodies frequently to review implications of changes.
- ▶ **Other suggestions from respondents included:**
 - Ensure an orderly and transparent transition period: *“This would necessarily include assurances to professions, the public and industry that the current regulatory approaches (current regulatory Acts) will remain in place until everything is in place for the transition to occur. This includes having time to revise Bylaws, Codes of Ethics and Conduct, regulations regarding business models, and certification policies and methods.”*
 - Wide ranging engagement and facilitated discussions between all parties: *“Consult with as many*

stakeholders as is practical. Objectively consider how to manage good regulation with the primary measure of success being how that regulation will protect the public. In working out relationships between parties, please consider facilitation of discussions between them.”

- Opportunity for feedback and check-ins throughout the transition period: “An ability to bring forward new learnings and considerations as they become apparent so that at the end of the transition period the end result is meaningful and practical process.”
- Address business continuity, include a change management strategy, and opportunities to pilot various provisions in the transition.
- Develop grandfather clauses for persons working in multiple professions with adequate overlap of skills and/or consider individual circumstances on a case-by-case basis.
- Develop tools to ensure professionals can complete requirements easily and efficiently.

Q1.4e: Do you have any comments on accommodations that should be given for practitioners brought under the authority of the regulatory bodies where this might limit their ability to continue to practice? [45 responses]

Comments on grandfathering practitioners:

- ▶ Five respondents felt that current practitioners should be grandfathered under the Act and continue to practice. “In cases where a practitioner whose practice has produced projects that have been safe and protected the public, consider grandfathering those people with directions for restricting their practice from expanding into areas that require further qualifications or competencies.”
- ▶ Five respondents suggested a transition time of three to five years to allow a reasonable period for practitioners to obtain additional education to meet requirements to practice. One respondent suggested that there should be “transition status” for professionals that currently do not meet the qualification standards within the defined timeline.
- ▶ An additional four respondents indicated there

needs to be support to allow transition to appropriate qualifications within a time period but did not specify a time period.

- ▶ A few respondents felt the government should provide support in transition planning for grandfathered practitioners, including funding. “Under these circumstances professional development to address the short comings may require temporary support (funding) to allow these practitioners the opportunity.” However, another respondent felt that accommodation should only be provided if the practitioner has formal training in the field.
- ▶ **General comments and suggestions:**
- ▶ Some respondents felt that changes should only affect future licensees and should not affect current practitioners and that existing licensed members that are not practicing within the natural resources sector should be exempt.
- ▶ One respondent suggested that “Fair and appropriate compensation should be paid to any practitioners who were fully registered, vetted and qualified before this Act but are subsequently limited or unable to practice after this Act because of actions by the government or its regulatory changes.”
- ▶ One respondent felt that “...emphasis should be placed on expanding the list of professional bodies to better reflect the complete labour market in the Natural Resource sector before starting the process of restricting scope of practice, whether an overlapping or shared model is adopted.”
- ▶ **Other suggestions included:**
 - Provide a mechanism that allows the number of years of experience to be substituted for some requirements.
 - Use the experiences of ABCFP as “lessons learned.”
 - Consider allowing provisional limited licenses similar to EGBC.
 - Provide opportunity to meet the regulatory requirements before ability to practice is limited.
- ▶ Other general comments included:
 - The process must be fair to everyone.
 - It is difficult to determine who may be affected and how they may be affected at this stage of the process.

- *“Until such time as other professionals, like professional chemists, are drawn into the Act a process must be in place to allow the Office of the Superintendent to authorize scopes of practice not currently recognized under the Act.”*

Q1.4f: Do you have any additional comments on considerations for granting practice rights to professions? [33 responses]

The following additional comments were provided:

- ▶ Eight respondents stated support for the existing EGBC limited license option for engineering technologists or continuing to use the overlapping scope of practice model for EGBC, and three other respondents broadly stated they are not supportive of the new legislation.
- ▶ Seven indicated support for granting practice rights to other professions (e.g. biologists, agrologists, chemists). Two respondents felt that the approach used by EGBC would not work for biologists.

“[The respondent] believe[s] the protection of the public interest is best served through recognition that every significant problem in the Natural Resources sector is multidisciplinary. The current scopes of practice of the existing five professions under the Act leaves large portions of the Natural Resources sector without significant professional oversight.”

- ▶ Other comments on consideration for granting practice rights included:
 - Practice rights need to extend to all levels of the work: *“Granting practice rights is an essential component in improving the professional reliance model. Regulators cannot protect the public interest, if they cannot hold unregulated practitioners in their fields accountable to professional standards.”*
 - Practice rights should only be granted when there is real evidence of significant risk to the public if such rights are not granted.
 - Scope of *“Right to Practice”* should be tailored to each profession. This process should not limit the availability of the workforce nor increase the cost of the practices.
 - Practice rights should not be granted if education,

certification and registration as a professional has not prepared the person to solve the problems in their profession.

- ▶ One respondent suggested that *“...a self regulating professional body that operates under a provincial act, but is not directly controlled by the provincial government is a functional model that works in the public interest.”*
- ▶ One respondent suggested developing programs so that technologists can gain the appropriate training to become Professional Engineers and Professional Geoscientists.
- ▶ One respondent identified a potential gap between the Act and other legislation: *“S. 32 of the Foresters Act makes it an offence to take punitive action against a member who fulfills their obligation under that Act to exercise professional judgment or take independent action in the practice of professional forestry. The Professional Governance Act appears to provide no similar protection to registrants.”*
- ▶ **Other general comments included:**
 - Clearly define Qualified Professional versus Registered Professional.
 - Clarify whether employees working in provincial or federal governments are exempt.

2. Regulation of Firms

2.1 MODELS FOR THE REGULATION OF FIRMS

Q2.1a: Do you have any comments on elements that should be added to one or all the models described, or additional models, that should be considered? [67 responses]

The majority of respondents answered this question by indicating support or dissent for the regulation of firms broadly, rather than specifically commenting on the models described or that should be considered. Of those respondents that discussed the specific models, the majority indicated support for the EGBC and/or Alberta models.

Comments on specific models:

- ▶ Twelve responses indicated support for either the Alberta model or the EGBC model, ten responses supported the EGBC model, two supported the Alberta model, and one supported the Basic model.

"I worked in Alberta for more than a decade. Requiring firms to have a Permit to Practice does drive home the responsibility of firms to the many issues of professional practice, and I believe also raises the overall quality of work."

"We believe that [the EGBC] model should act as the basis for the corporate regulation model implemented in BC."

- ▶ Two respondents indicated the need for more engagement with associations prior to selecting a model. One noted that: "...the proposed [EGBC] model appears best suited to firms which have a primary purpose of providing professional services (i.e., consulting and contracting firms). Within the forest sector government and forest companies employ almost sixty percent of BC's forest professionals." The respondent notes the implications of applying the EGBC model to the forestry sector are unclear, and recommends a consultation process to determine the best model moving forward.
- ▶ Two respondents expressed reservation about the EGBC model as currently described, and advocated for more careful analysis of the Alberta model or

other models instead. The respondent indicated the EGBC model may tend to have a pro-engineering bias. Conversely, another respondent supported regulation of firms "provided the framework is consistent with the outcomes from the EGBC Advisory Task Force on Corporate Regulation."

- ▶ One respondent recommended considering the "right touch" model, a global trend that uses a risk-based methodology to identify if regulation is the proper solution. This has the potential to focus regulatory resources in the areas of greatest risk.

Support for the regulation of firms:

- ▶ The majority of respondents expressed support for the regulation of firms (44 responses).

"Some form of regulation of firms could benefit the public trust and improve the transparency of science in decision making if it is properly and precisely implemented to the size of the firm."

"Any one of the models seems to provide much needed oversight [sic] of the firms and their responsibility to hire qualified professionals."

- ▶ One respondent noted that resource (forestry, mining, oil and gas) companies are an example of firms needing to be regulated to hold them to account on whether professional work is being undertaken by non-professionals, or with a failure to document professional work.

Lack of support for the regulation of firms:

- ▶ Ten respondents were not supportive of regulating firms. "I think this is addressing a problem that does not exist in BC. I see little benefit in regulating firms."

"We do not support the regulation of forest tenure holders as described in principle within the intentions paper. The paper suggests that regulation of firms intends to make employers legal [sic] responsible for the work conducted by its professional employees and bound by the same rules of conduct as all registrants. This is an impractical and unnecessary goal."

General comments and suggestions:

- ▶ Some respondents expressed concern relating to

the regulation of firms, such as onerous requirements (particularly for smaller firms), lack of job security and over working of junior consultants. “The procedures outlined in this model may be too onerous for smaller firms and smaller regulatory bodies, and may cause existential harm. This would not be in the public interest.”

“We encourage government to look at what problem it is trying to solve with this change and consider incremental improvements to forest policy rather than creating additional bureaucracy.”

- ▶ One respondent questioned whether firm regulation is appropriate in all professions and requested that “Government should clarify the respective roles of government and regulatory bodies in determining how broadly the regulation of firms should be applied and what model should be used.” Examples of reasons to limit firm regulation include: those not providing professional services to third parties, and those not engaged in activities that present a real and high risk to the public interest.
- ▶ Two respondents noted the importance of collaboration and cross-jurisdictional working relationships among all professions.
- ▶ One respondent noted caution that the regulation of firms may discourage hiring professionals (to avoid having to register as a firm). Further, the respondent emphasized that regulations need to be common between all regulatory bodies and, ideally between all jurisdictions in Canada, for BC firms to remain competitive.
- ▶ One respondent noted caution where regulation drives the transfer of uninsurable risks to firms, leading to the best individuals or firms avoiding higher risk engagements (and choosing to work in other jurisdictions), leaving less experienced firms to assume larger risks.

Q2.1b: Do you have any comments on the appropriateness and ability of the regulatory bodies governed by the proposed Act to regulate firms? [51 responses]

Although not put forward as an option in the intentions paper, many respondents indicated preference for the government to regulate firms (14 responses) as opposed to preferring that regulatory bodies regulate firms (ten

responses). Several respondents provided additional comments and suggestions.

Support for regulatory bodies regulating firms:

- ▶ Among the ten respondents that support regulatory bodies governing firm regulation, three noted concern about political interference if the government takes on this role. *“I firmly believe that a self regulating professional body that operates under a provincial act, but is not directly controlled by the provincial government is a functional model that works in the public interest.”*
- ▶ One industry association cited support for regulatory bodies making decisions regarding regulation of firms, with two conditions. First, that government issue guidance on the three areas to clarify the approach to all regulatory bodies, and second that regulatory bodies meet a state of readiness test before it can regulate: *“Cabinet should authorize a regulatory body to regulate professional services firms only if the regulatory body meets a state of readiness test. That test should ensure the regulatory body has the financial, administrative and governance capacity and capability to regulate firms as it proposes.”*
- ▶ One respondent indicated that only EGBC and ABCFP have sufficient capacity to regulate firms.

Concern for regulatory bodies regulating firms:

- ▶ Fourteen responses expressed apprehension about regulatory bodies governing firm regulation, including the following: unwillingness of regulatory bodies to pursue their own practitioners, inappropriateness of mixing regulation of firms and due diligence of professionals, and lack of resources (discussed further below). One respondent noted that higher risk aspects should be regulated by government, while other aspects could be regulated by regulatory bodies. *“It is highly unlikely that [regulatory body] will be able to act as an impartial party in investigating these companies.”*

“This could place a huge burden on regulatory bodies to implement. Perhaps this would better be a job for the Office of the Superintendent.”

- ▶ Some respondents raised concern about confusion between EGBC and ASTTBC regulation: *“ASTTBC*

will potentially create confusion in engineering firms unless the ASTTBC technologist members intending to practice engineering/geoscience become licenced under the EGBC Limited Licensee registration. This would allow ASTTBC the opportunity to consider corporate licenses for ASTTBC employers that do not practise engineering/geoscience."

- ▶ One respondent highlighted concern specific to the biology field: "I do not think the regulatory bodies in biology-related fields can regulate firms in an effective way, and I do not think it is appropriate."
- ▶ One highlighted concern related to ABCFP: "The ability of the ABCFP to perform this function maybe questionable and would only be possible if their 'advocacy role' for the forest industry was formally dropped."

General comments and suggestions:

- ▶ Nine responses focused on the concern that significant staff and administrative resources would be required to implement this effectively, and that the regulatory bodies would not have capacity to meet this. In particular, smaller regulatory bodies were identified as having insufficient resources to adequately fill this role.
- ▶ One respondent representing a regulatory body noted that a cost-recovery model allowing the regulatory body to recoup the costs associated with administering the program will be important.
- ▶ One respondent noted that if the Basic Model is employed, then regulatory bodies could administer it; however, other models would be too challenging and resource intensive to administer.
- ▶ One respondent noted that creative and collaborative efforts will be needed across the regulatory bodies to share in developing models and software – collaborations not present today. Further, the respondent suggests government consider funding key elements such as development of software to manage licensing of professionals and firms.
- ▶ One respondent listed what regulatory bodies should have authority over, including: regulation and registration of all types of firms; ability to conduct practice reviews, investigations, hearings, and extraordinary suspensions, which are overseen by appropriate committees; and establishment of

minimum professional liability insurance requirements.

Q2.1c: Do you have any comments on whether the model should be consistent across professions or whether different iterations could apply to different professions? [51 responses]

Respondents were split between support for applying a consistent model and applying different iterations across professions with 22 respondents stating strong support for consistency and 20 respondents stating support for variation. Three other respondents were uncertain – desiring consistency, but recognizing the vast differences between professions, firms involved and levels of risk may warrant different models.

Support for a consistent approach:

- ▶ Supporters of a consistent approach noted the importance of consistency to increase public trust in professionals, to ensure the foundation is identical for clarity and accountability, to enable overlapping scope of work, to minimize administration and complication for firms with representatives from many professions, and to ensure no competitive advantage or incentives are created for behaviour that is not in the public interest. Example responses included: "Consistency is absolutely required – otherwise how will accountability be maintained? In order to enable public trust in the QP framework [...] consistency in best practice is required."

"Consistency generally facilitates fair verification and enforcement. Under a Shared Scope of Practice Model, the shared areas must be consistent across professions. A default consistent approach could be supplemented by an enabling clause for case-by-case evaluation. Especially for multidisciplinary firms (more than one of the 5 natural resource professionals), consistency will be critical."

"Consistency of business regulation across all regulated professions – not only the professional reliance 'five' – would require a high level of cross-Ministry coordination. A systematic and consistent approach to professional regulatory statutes would be welcome, subject to ensuring adequate input from the regulators and other subject matter experts."

"Based on how the EGBC model is outlined, it appears this model could be applied across all NR [natural resource] professions. The regulation of firms does not appear to have to address the same level of differences that the right to practice model does."

- ▶ One respondent noted that the timeframe for other professions to regulate firms could be very long if a single model is not used and each regulatory body undertakes a lengthy process to define a new model, and recommended all use the EGBC model. The respondent expressed concern that some professions may obtain practice rights where related organizations are not yet subject to regulation, creating an incentive to establish companies engaged in that practice without regulation.

Support for variation across professions:

- ▶ Respondents advocating for variation noted the significant differences between professions requires different approaches, and several noted these should be individually developed using a process such as the one undertaken by EGBC, including undertaking test cases before deciding. Example responses included: *"The appropriate model should be selected jointly by each regulatory body, in collaboration with the Office of the Superintendent of Professional Governance, after the use of pilot studies similar to those performed by EGBC and the Law Society of BC."*

"Different sectors have different real risks and it is not rational to judge all practices with the same lens."

"There should be some consistency but it would be a mistake to try and regulate all the content. As an analogy, it would be reasonable that government defines that the 'table of contents' has to include but not what the specific chapters say."

- ▶ One respondent noted that firms that employ professionals should be distinguished from firms that are in the business of providing professional services.

Q2.1d: Do you have any comments on the appropriateness of applying the model to Engineers and Geoscientists of B.C. (EGBC) first? [46 responses]

The majority of respondents support applying the model to EGBC first (25), while five respondents support rolling it out to all professions at the same time. A few additional comments and suggestions were provided.

Support for applying the model to EGBC first:

- ▶ Twenty-five respondents support applying the model to EGBC first, and one suggested applying it to EGBC and ABCFP at the same time. Some supportive respondents noted the need for additional resources to support successful roll-out. One noted the roll-out for engineers should not apply to forest roads, with the exception of engineered bridges.

"It would be appropriate and preferable to apply the model to firms providing professional engineering and geoscience services first and allow time and further consultation before extending to other professional groups and regulatory bodies."

- ▶ Two respondents noted that the model should not be rolled out to other professions until a lengthy pilot period proves the success of the approach. For example:

"It makes sense to apply the model on one profession first as a way to identify deficiencies and required modifications before applying to all professions; since EGBC has developed this model then it makes sense to apply it to the EGBC first. The EGBC and/or Office could audit select firms within a specified time period after the application of the model to assess its functionality and provide recommendations for modifications before it is applied to the other four professions. Given the EGBC has already initiated a pilot program using this model, it is assumed that it would not require much time before the model could be applied to the other four professions."

Support for applying the model to all professions at the same time:

- ▶ Five respondents stated support for rolling out the new model for all professions at the same time. One noted that the engineering profession has a direct effect on public safety and thus should not be the test subject. *"Should be rolled out to all firms that employ professionals at one time otherwise the lag*

could mean that some professionals work for firms that are registered and some don't."

General comments and suggestions:

- ▶ Two respondents did not state support or dissent, but noted concern for the lack of staffing at EGBC, the high cost to implement the new model, and that it would only be appropriate to apply it if it can be actively enforced.

Q2.1e: Do you have any comments on sanctions that regulatory bodies could take against firms that do not comply with the requirements to be a regulated firm? [44 responses]

Several suggestions were provided by respondents regarding the types of sanctions that could be taken against firms that do not comply, a few provided guiding principles to consider when developing sanctions, and a few provided general comments.

Suggestions on types of sanctions:

- ▶ Withdraw the firm's ability to practice in the area.
- ▶ Mechanism to ensure individuals responsible for the firm's misconduct are held accountable, and that this is not lessened by practicing through a firm.
- ▶ Large fines, or fines sized appropriately to the size and sales of the firm.
- ▶ Public registry, possibly with ratings (akin to the Better Business Bureau, or health and safety model employed by the oil and gas industry).
- ▶ Tiered disciplinary action, from a warning, to a notice, to being listed in the regulatory body communication to members of the disciplinary action being taken.
- ▶ Required monthly reporting.
- ▶ Tax incentives for compliant firms.

General comments:

- ▶ General guidelines were provided by several respondents, including that actions taken should match the degree of the offence; and that the expectations need to be set high right from the outset with swift,

decisive, publicized responses that follow through. One respondent noted caution, stating that it will be important to avoid unintended consequences such as firms relocating or clogging up the BC court system. Another noted "sanctions should be proportional and aimed at encouraging compliance rather than punishment."

- ▶ One respondent noted that the sanctions system should be developed collaboratively by all five regulatory bodies and then they should be applied consistently to all. Three respondents emphasized that the regulatory bodies should determine the appropriate sanctions, while three respondents noted it is inappropriate for regulatory bodies to administer sanctions over firms and that the government should take on this responsibility.
- ▶ One respondent emphasized the use of audits and a public complaint process to support regulation of firms.
- ▶ One respondent noted that the intentions paper needs to outline the options in order to comment effectively.

2.2 CONSIDERATIONS

Q2.2: Do you have any comments on the timeline for enabling regulation of firms? [40 responses]

There were mixed feelings about the appropriate timeline for enabling regulation of firms, with several noting a need to implement as soon as possible, and several stating the need to take more time to prepare for successful rollout.

Support for identified timeline:

- ▶ Several respondents noted the need to implement the regulation as soon as possible, specifically by 2020, or to follow the EGBC timeline for staging in the regulation of firms this year (eleven responses).
- ▶ Some respondents noted that only engineers and geoscientist firms should be regulated in the near-term. One respondent noted that forest industry firms should be also regulated in the near-term, while others noted that regulation of forestry firms should occur later:

"In view of EGBC's experience with certifying firms over the past few years, it would be appropriate to go with the momentum created by EGBC and apply the enhanced model to EGBC first. However, given issues raised with respect to Forest Act tenure holders, it may be necessary to limit initial implementation to those classes of firms whose main function is to provide engineering and geoscience services (i.e., engineering and geoscience consultants/contractors; government agencies or departments that provide engineering and geoscience services)."

Support for longer timeframes:

- ▶ Others responded that the implementation needs to be staged carefully, for example, implementing the scope of practice first (e.g. in 2020), followed by initial firm regulation (e.g. in 2021) and that 2020 is likely an unreasonable timeframe for rolling this out.
- ▶ One regulatory body recommended implementing the corporate regulation regime for organizations conducting engineering and geoscience work begin in July 2021. Another professional regulator noted the 2020 timeframe is unreasonable and that many questions remain unanswered as to how this will be implemented. One noted there should be a significant transition period to allow for education and efficient processing of administrative requirements.
- ▶ One respondent noted that regulation of engineering firms may be appropriate in the shorter term, but suggested *"that the regulation of firms in the agrology profession and perhaps more significantly of firms employing professionals from more than one of the 5 natural resource professions ('multidisciplinary firms') may be premature."*
- ▶ Three respondents emphasized the importance of spending the time required to ensure "fair consistent and enforceable system" rather than rushing to meet a deadline. And others noted the suggested timeframe is unrealistic, for example:
"I think this will not give the industry the time to understand the changes and adjust to suit."
- ▶ Several respondents noted that the size of firm should be considered when establishing timeframes, perhaps extending the timeframe for smaller firms.

"Staged implementation of any model based on numbers of regulated persons in the firm. Activities that would be trivial for large multidisciplinary Engineering firms may represent a significant hardship on smaller specialist firms."

General comments and suggestions:

- ▶ One respondent requested the government assist BC firms in resource planning, change management and communication with non-resident partners by providing a timeline for regulation release. Another requested a phase-in period, especially for sole practitioners to allow time to adopt programs.

2.3 EXEMPTIONS

Q2.3a: Do you have any comments on criteria that should be considered for exempting firms or entities? [41 responses]

Responses were mixed with slightly more support for providing exemptions for specific circumstances, as outlined below, but with numerous respondents expressing the need to provide no exemptions.

Support for no exemptions:

- ▶ Several respondents expressed support for not providing any exemptions in order to provide clarity, transparency and objectivity. One association expressed the following:
"[The association] feels strongly that any effective system must have very limited opportunities for exempting firms or entities. A system designed to exempt will encourage firms the seek exemptions and dilute the effectiveness of the system."
"Don't exempt if at all possible. It will simply be used to divide. For example, the industrial P.Eng exemption in Ontario has resulted in a huge amount of engineering that is unregulated."
- ▶ Some respondents specifically stated that government ministries should not be exempt, or that federal entities should not be exempt (six responses).
- ▶ Two respondents noted that regulations must be equitably applied to all relevant organizations,

including both resident and non-resident firms operating in BC.

Support for exemptions:

- ▶ Numerous respondents highlighted the importance of exemptions for sole proprietors that are practicing as firms (15 respondents). One respondent noted that the definition of a sole proprietor could be strengthened to eliminate concerns over hiring temporary employees.
- ▶ In addition, several other respondents stated that the scope and scale of the firm should be taken into consideration for exemptions, for example exempting small firms, and those conducting research and development (six responses).
- ▶ Some respondents highlighted that *“firms that do not perform engineering services that would put the public interest at risk should be exempt”* (eight responses).
- ▶ Some respondents noted that government staff should be entirely exempt, or at least exempt for emergency restoration works such as wildfire response (three responses). For example:

“While we believe there is merit in regulating many types of private sector engineering and geoscience organizations, we do not see the added value of this additional regulation for public sector organizations. It is our opinion that public sector organizations are already sufficiently regulated and monitored, and have numerous checks and balances through Boards, Councils, and Committees, that would make additional regulation both costly and potentially redundant. [...] Our opinion that public sector organizations not be included in any potential regulation of engineering and geoscience organizations in BC is consistent with the regulatory practices of most other provinces.”
- ▶ One respondent raised concern that Forest Act tenure holders already have extensive legislated obligations and responsibilities and that adding regulation is redundant.
- ▶ One association from the building industry stressed *“that builders and developers SHOULD NOT be regulated under the proposed changes unless in those rare circumstances employees of these firm are acting as practicing professionals.”* The respondent noted this industry has not been consulted to date.

Q2.3b: Do you have any comments on how firms that employ professionals for services entirely internal to the firm (e.g. companies that employ in-house professionals) should be regulated? [45 responses]

- ▶ There was substantial agreement among respondents that in-house professionals should be regulated in the same manner as all other professionals, though several also noted the distinction should rest on whether the professional may impact the public interest. Most respondents indicated that these professionals should be regulated in the same manner as all other professionals (e.g. competency declarations and continuous education), and the regulations should be flexible enough to accommodate this (15 responses).
- ▶ A number of respondents noted that this should be distinguished by asking the question *“does it impact the public interest?”* and if the answer is no, then the professional does not need to be regulated. However, counter to this, some respondents noted difficulty distinguishing those roles, and that the majority of professionals *“would impact the public at some point along the chain of work.”*
- ▶ Other ideas included: companies need to prove independence of their practicing professionals; should be regulations in place for external audits and assurances against conflicts of interest.
- ▶ One respondent noted that an “outside” conduit should be provided to the professional complaints process.
- ▶ One respondent suggested considering exempting these professionals, based on their experience regulating firms in another industry.

Q2.3c: Do you have any comments on functions with the provincial government, including Crown corporations that should or should not be considered for exemption? [51 responses]

Twelve respondents clearly addressed whether government (including Crown Corporation) functions should be exempt as firms, and among these the following comments were made:

- ▶ Five indicated provincial functions should not be exempt as firms for consistency, for example:

“Government work and Crown corporations should not be exempt if they are doing work within the professions. Either there is a reason to register firms or there isn’t. If there is, then the logic applies to the government and Crown corporations as well as to other firms.”

“The corporate practice program should include all organizations in the private and public sectors that provide products and/or services in BC requiring the practice of engineering and/or professional geoscience.”

- ▶ Two respondents indicated public sector organizations should be exempt as firms as they are already sufficiently regulated and monitored, making additional regulation costly and redundant. Another indicated that provincial functions should be exempt as firms on the same grounds as professionals – e.g. for emergency response, or based on the nature of work (research, teaching), and a third respondent stated these entities should be exempt if they have standards equal to or greater than what is proposed. The reason for exemption was noted by one respondent as follows:

“Professional employees in public sector agencies are ideally registered professionals. However, adding the requirement for provincial and municipal agencies who employ professionals to be registered as ‘firms’ may be an excessive burden to the smaller regulatory bodies and in some case may be a conflict of interest.”

- ▶ Two respondents suggested further engagement on how this pertains to public sector organizations and Crown Corporations, because these entities may have established obligations and guidelines in place and voluntary participation may be an appropriate consideration.
- ▶ One municipality noted that the current draft legislation does not delineate municipalities from other professional service firms, and that this requires further exploration. The respondent noted that certain services within government may warrant exemptions.
- ▶ Two respondents noted that BC Timber Sales should be exempt, along with exempting forest tenure holders; however, the respondents emphasized that if either of these groups is to be regulated as firms, the other should be as well). Another respondent explicitly noted that BC Timber Sales should not be exempt.

General comments and suggestions:

- ▶ The majority of respondents clearly stated they do not support exemptions, however, many of these responses appear to be referring to exemptions of individual professionals, rather than the exemption of government functions as firms (26 responses).
- ▶ Another five responses also focused on the exemption of individuals and supported exemptions for specific roles such as teaching, research or other roles not directly affecting the public interest.

Q2.3d: Do you have any comments on whether incorporated or unincorporated sole proprietors should be regulated as firms? [64 responses]

The responses were relatively evenly split on this topic with approximately half supporting regulation and half not supporting regulation. Several associations and regulatory bodies emphasized that regulation should apply to sole proprietors. There were also several nuances to the responses.

Support to regulate sole proprietors as firms:

- ▶ Over half of respondents stated support for regulating all firms, including sole proprietors. Three of these responses specifically stated that this should apply to incorporated firms (implying that unincorporated firms need not be regulated). Two of these responses noted that these firms should be regulated but with less onerous requirements or as a separate class. Reasons cited for regulating firms were improving consistency and transparency, and avoiding competitive advantages – for example:

“Sole proprietors should be regulated as firms. There should be minimal exemptions, as any exemption could provide a competitive advantage that would allow for more work to be completed by firms that are not overseen by a Regulator.”

“Sole practitioners make up approximately 4% of membership, but account for 43% of complaints. [...] exclusion of sole proprietors would create a large loophole where organizations could avoid regulation by restructuring.”

“Architectural firms of any size across the three statutory firm ‘vehicles’ available under the Architects Act (sole proprietorships; partnerships; and corporations) are regulated reasonably consistently. However, specific ownership, oversight, and accountability provisions vary (e.g., majority registered professional share ownership in corporations is a requirement inapplicable to the other business forms.) In general, exemptions should be minimal and founded on legal and public policy rationale.”

Support for not regulating sole proprietors as firms:

- ▶ The remaining half of respondents stated that sole proprietors should not be subject to firm regulation as well, as this would be duplication of effort and cause undue strain. One noted this should be accompanied with a formal listing that identifies professionals, while another noted they should not be regulated, or at least that much lower requirements be set if regulated.

“The issues with lack of corporate regulation do not apply to sole proprietors, since the proprietors are regulated as individuals. To regulate such entities as firms appears to add administrative burden on the regulatory bodies as well as regulated proprietors, without any corresponding benefit.”

One respondent suggested that a *“more rigorous system of documenting the existing requirements of professional sole proprietors at a frequency consistent with the regulation of firms would meet the intent of regulating firms and protect the public interest without additional cost and burden imposed on professional sole proprietors.”*

General comments and suggestions:

- ▶ Ensure the process does not impose undue financial hardship.
- ▶ This will need well thought out guidelines, tools, resources and systems that can easily be adapted and adopted by small and large firms.
- ▶ One sole proprietor questioned whether excluding sole practitioners from being regulated as firms would affect their ability to obtain necessary liability and errors and omissions insurance.

- ▶ Professional Engineers of Ontario regulate sole proprietors in the same manner as others without adverse effects.

Q2.3e: Do you have any additional comments on exemptions that should be considered for regulation of firms? [15 responses]

Most respondents re-emphasized earlier input in this section, and one respondent raised a new question as follows:

- ▶ Five respondents emphasized that there should be no exemptions to firm regulation, while three were not supportive of regulating firms at all.
- ▶ Four respondents highlighted that the primary objective behind all of this should be ensuring the protection of the public interest.
- ▶ Question: For firms that subcontract their engineering design, do they have to register, or is the registration of their contractor sufficient?

2.4 MULTIDISCIPLINARY FIRMS

Q2.4a: Do you have any comments on how regulatory bodies could collectively implement the regulation of firms, specifically multidisciplinary firms? [41 responses]

The majority of respondents supported alignment of firm regulations across disciplines, though suggested mechanisms varied. Some respondents emphasized the importance of registering with each regulatory body individually.

Support for alignment of firm regulations across disciplines:

- ▶ Nineteen respondents indicated support for an aligned approach for firm regulation across all regulatory bodies to minimize or eliminate duplicative efforts.

“Firms shouldn’t have to bear additional fees or administrative loads just for hiring different professionals. The requirements of firms should be general enough across all professionals that multiple processes aren’t required.”

- ▶ Seven of these respondents suggested creating a joint working group, multidisciplinary council or federation of all regulatory bodies to collaborate on firm requirements and regulation. One of these noted that the government should facilitate this body.

“Common practices are employed by all regulators, and regulation avoids duplication by identifying a single regulator for firms employing a variety of professionals.”

- ▶ Several respondents recommended that multidisciplinary firms should register with a single regulator. It was suggested that EGBC expand its regulatory model to include multidisciplinary firms, with the condition that:

“Such a model would need to be supported by agreements between the five professional regulators on how processes, costs and information would be shared, and how, and under what circumstances, the regulatory processes such as audit, compliance and enforcement for each regulator would be applied within a shared model.”

- ▶ One respondent noted that their interpretation was that a multidisciplinary firm would only need one PPMP for the entire business (including engineers, biologists, agrologists and foresters).
- ▶ Two respondents noted the coordination of requirements for firms should be a function of the Office of the Superintendent.

“This is where the Office of the Superintendent may be of great public benefit. A coordinated on-line system for registering firms, which all of the regulatory bodies can access, would enable multi-disciplinary firms to maintain one “certificate” of registration for all of the involved professions. This underscores the need to define frameworks and systems for “smart regulation” including integrated and consistent systems across professions which are still flexible and responsive to changing or special conditions.”

- ▶ One respondent noted that the Alberta model should be used for multidisciplinary firms.

Support for registration with each individual body as applicable:

- ▶ Five respondents were in favour of firms registering with each applicable body separately.

“The regulation of multidisciplinary firms poses no greater difficulty than the regulation of individuals who are licensed in multiple professions (of which that are at least a few, based on anecdotal knowledge). As long as the overlap between professions is defined and communicated in explicit and unambiguous terms, there is no need for regulatory bodies to collectively regulate multidisciplinary firms; each practice area can be regulated in its own right by the appropriate regulatory body.”

“The professional associations [regulators] must remain the hub of this balance in order to ensure science remains objective and independent, but a broad range of support must also be afforded to smaller firms to make this a workable approach. Foremost, the [association] would like to see a model that gives professionals the ability to execute their work to a standard that is set across the province.”

General comments and suggestions:

- ▶ Several respondents noted that EGBC is about to define the implementation approach in phase 3 of their pilot and that results of this should be considered when formulating how to regulate multidisciplinary firms.

Q2.4b: Do you have any additional comments on the regulation of multidisciplinary firms? [18 responses]

Additional comments on the regulation of multidisciplinary firms are summarized as follows:

- ▶ Several respondents emphasized the need for collaboration and coordination to ease implementation and minimize administrative burden. Regulations need to be structured to enable regulatory bodies to work together and find efficiencies for regulation of multidisciplinary firms, including for example, collecting one fee through a joint body. *“This issue has been under review across multiple professions for many years, and would benefit from a consistent statutory design where possible.”*
- ▶ Government support will be needed for the transition process and initial implementation.
- ▶ Requirements of other provinces should be reviewed and considered because many multidisciplinary firms work in other provinces as well.

- ▶ Some respondents noted the importance of reviewing the EGBC Phase 1 and 2 reports.
- ▶ Two respondents noted that managers and firm executives should be required to take the professional ethics training of all professionals that they supervise, regardless of their own designation. Similarly, one respondent noted that owners (clients) must be held to the same ethical standard as the practitioner.

2.5 OTHER AREAS OF CONSIDERATION

Q2.5a: Do you have any comments on the information that should be required in Professional Practice Management Plans? (see the Alberta model for base information) [45 responses]

In response to comments on the information that should be required in PPMPs, several respondents provided specific suggestions while several provided comments on what should be considered when developing the requirements (e.g. need to keep requirements streamlined, consider other jurisdictions).

Comments on the information that should be included in PPMPs:

- ▶ List qualifications and scope of practice for each practitioner (refer to BC sampling guide, 2013, for an example of this).
- ▶ Record of documents signed by professionals, noting this should not be signed by non-registered managers.
- ▶ Signing matrix of authority.
- ▶ Professional development and training documentation.
- ▶ Requirement to update annually or with material changes.
- ▶ Requirement to release publicly, or at least release registration letters issued by the regulatory body to the public.
- ▶ Several respondents noted that the EGBC Organizational Quality Management (OQM) template should be considered.

General comments and suggestions:

- ▶ Several respondents were concerned with ensuring the requirements are as streamlined and cost effective as possible. Several highlighted the importance of templates, guidelines and even centralized online reporting systems to achieve streamlining. Others highlighted the importance of accommodating various sizes and scopes of firms.
- ▶ One respondent suggested the APEGA Guideline *"can inform the provision of all professional services and likely a useful model for adaption and continuous update."*
- ▶ Five respondents noted that alignment with or adopting best practices from other jurisdictions would be best, while one cautioned not to adopt directly from other jurisdictions. Two respondents asked how a PPMP would apply to projects that cross jurisdictions (e.g., across provinces or to another country), or projects that use out-of-province or out-of-country staff. One respondent suggested considering information sharing with other provincial regulatory bodies in the event firms operate in multiple provincial jurisdictions.
- ▶ Several responses questioned the value of this additional requirement, suggesting to stick with a Basic Model. One cautioned that the Alberta Model for the PPMP seems overly onerous and prescriptive, and another commented the Alberta Model is too vague and not enforceable.

Q2.5b: Do you have any comments on triggers that should be used to require submitting or providing updates to Professional Practice Management Plans? [29 responses]

Respondents provided a combination of specific comments on triggers to consider, and some more general comments to consider when establishing triggers.

Comments on other triggers for submitting or updating PPMPs:

- ▶ Numerous respondents proposed pre-defined timeframes for updating PPMPs. Suggested timeframes ranged from annually to every 5 years. Two suggested the timeframe match timing of recertification. Several suggested the following:

"Annual or biennial review of the plan may be sufficient to maintain relevance. Updates may be required in 5 year intervals, or for a specific reason, if an investigation is triggered by a complaint or simply at the regulator's request."

- ▶ Many respondents highlighted a change in areas of practice should trigger an update.
- ▶ Several respondents listed other examples, including: changes in the ownership or principals (as these people would need to sign-off on the PPMP), mergers or acquisitions, or changes in regulation.
- ▶ One respondent specified that if a sign-off professional leaves the firm prior to completion of a project, the PPMP should be updated to ensure an appropriate professional is identified to fill that role.

General comments and suggestions:

- ▶ Several respondents noted that the content requirements should be flexible and accommodate various sizes and scopes of firms.
- ▶ A few respondents expressed concern over any requirement for PPMPs.
- ▶ One respondent noted these may exceed the capacity of smaller regulatory bodies to administer.

Q2.5c Do you have any comments on resource implications for various sized firms that may be regulated? [43 responses]

Almost all respondents anticipate additional resources will be needed to regulate firms (34 responses), though a few respondents felt the additional effort would be minimal. There was clear concern expressed over the different impact for smaller firms.

Do not anticipate significant resource implications:

- ▶ A few respondents felt that there should not be significant resource implications other than an initial investment to prepare plans, and that there should be a natural link between the size of firm and administration costs (three responses).

"Regulation of compliant firms should not impose an insurmountable burden. Presumably, responsible corporate actors already function under an academic,

ethics and continuing development system. Regulating firms would simply formalize this system and ensure that responsibility is shared equally by individuals and those employing them."

Concerns about resource implications for all firms and regulators:

- ▶ Several respondents noted that the increase in data management could require additional resources for firms, and even more significant resources for regulatory bodies depending on the requirements. There may also be confidentiality issues to address, potentially increasing resource requirements (seven responses).
- ▶ Three respondents felt the additional resource requirements will be costly with little benefit, while one respondent acknowledged additional resources are required but that this investment is needed to protect public safety.

Concerns about resource implications for small firms:

- ▶ Over half of respondents emphasized concern that this will be disproportionately onerous for small firms and sole proprietors, and that a flexible and scalable approach would be appropriate. For example:

"Sole practitioners and small firms will be unduly impacted by the need for additional documentation and systems, because they typically employ only professionals, and don't have non-professional support staff to assist. Accordingly, 'The level of effort expended to develop a PPMP should be based on the scope of its professional practice. A PPMP would vary considerably in complexity, degree of detail and specific content depending on the size and nature of the professional organization.'"

"We would like to stress that it is very important that the end-result model not be made too onerous or bureaucratic...especially for small to medium-sized firms."

- ▶ Two respondents noted the concept is good, but needs more discussion for appropriate application for sole proprietors compared to larger firms. The SAFECOMPANY Certification system developed by

the BC Forest Safety Council was highlighted as an example that takes size of firm into account.

- ▶ One respondent suggested establishing a minimum requirement, then adding additional requirements as necessary in proportion to the firm size.
- ▶ One sole proprietor had experience registering in Alberta and found the registration very onerous. They expressed deep concern that the proposed models would require similar time and effort resources for a sole proprietor as a company with dozens of engineers.
- ▶ One respondent noted the EGBC model as an example of document overload for smaller firms and sole proprietors.

Q2.5d: Do you have any comments on mechanisms that should be considered to minimize the administrative burden on firms? [34 responses]

Suggestions for mechanisms to consider in order to minimize the administrative burden on firms included:

- ▶ Providing templates, pre-developed management plans, guidelines and training will assist with streamlined reporting (nine responses).
- ▶ Providing the option to use “check-off confirmation” of pre-written forms, coaches and mentors, and other graduated approaches for smaller firms (five responses).
- ▶ Airing on the side of trust with streamlined reporting, then verify with audits as needed. One regulatory body indicated firms could be audited within four years of registration, prioritizing based on risk, and that a Responsible Member Declaration could be made annually to support compliance and accountability during non-audit years.
- ▶ Government providing an online reporting system and management database, minimizing paper documentation (five responses). It was emphasized this system needs to ensure confidentiality and privacy for all parties.
- ▶ Using one system or approach for all professions to minimize duplication of effort.
- ▶ Accepting audits performed by other jurisdictions where practical.

- ▶ Being very clear on the scope of practices, definition of specific areas of training, and continuing to develop practice guidelines.
- ▶ Learning lessons from other regulatory bodies (e.g. accountants, lawyers, securities), and learning from the EGBC experience.

Several respondents also reemphasized that they believe firms should not be regulated (six responses).

3. Competency declarations and conflict of interest declarations

3.1 EXPECTATIONS FOR WHEN DECLARATIONS ARE REQUIRED

Q3.1a: Do you have any comments regarding when declarations are required? [68 responses]

Numerous respondents stated that declarations are already incorporated into existing systems in each profession. Several respondents emphasized the need to minimize or avoid duplication to reduce administrative burden. Other responses ranged from support for declarations always being required, to being required under certain circumstances, to enhancing the existing assurance statements rather than establishing a new declaration process. Some respondents emphasized the need to create separate policy on the requirements for competency and conflict of interest.

Comments on when declarations are required:

- ▶ Six respondents felt that declarations should always be required, although one felt that this should only apply to engineers, not biologists.
- ▶ Twenty-two respondents felt that declarations are redundant for professions that already have mechanisms in place (assurance statements, use of seals, codes of ethics/conduct, peer reviews, or other conditions).

"...the concept of these proposed declarations may be somewhat repetitive. In addition, this proposal will create an avalanche of additional administrative duties for the regulators with little, if any additional protection of the public interest."

*"The current EGBC regulation condition include:
a) the Code of Ethics prescribed for EGBC professionals,
b) the commitment of professionals to practise [sic] in their respective disciplines,
c) the use of a Seal and dated signature on all drawings, reports and related works,
d) the required checking by another engineer/geoscientist who takes responsibility and initials the work,
e) the assurance that these standards will be protected through the regulatory body of EGBC,*

These conditions are the declarations of competency and conflict of interest. (Further, in dam safety studies, assurance declarations, signed and sealed by the reviewing engineer, are required attesting to the safety of the dam being reviewed.) Further declaration seems redundant."

- ▶ Ten respondents suggested that declarations could be completed during annual membership renewals with regulatory bodies.

"Declarations beyond membership registration and periodic renewal is likely unnecessary for most professionals."

"The CAB already requires members to make annual declarations regarding its Code of Ethics and its members are subject to a random audit. College members are required to maintain their competency in their scope of practice and to ensure real or perceived conflicts of interest are considered and are fully addressed in their work."

- ▶ Four respondents suggested using established assurance statements rather than establishing a new system for declarations, though they noted these must occur at the end of the project not at the beginning as suggested in the intentions paper. One respondent emphasized this practice is already well-established in BC and is familiar to many parties.

"I support the principle of transparency and agree that further disclosure regarding competence is in the public interest. However, government must ensure that any declarations are not redundant and do, in fact, provide further value commensurate with the resources required to implement such a system. Declarations must be risk-based, must build upon existing processes to increase compliance, and reduce duplication. We recommend that government use Assurance Statements, a system used already by many Qualified Professionals to implement this new requirement."

- ▶ Thirteen respondents felt that it would be appropriate to limit declaration requirements to specific situations/instances, such as:
 - High-risk activities (e.g., Structural Engineering and Site Characterizations for Dam Foundations):
"These limited areas of specialized or restricted professional designations may suggest exceptions for

when quality assurance statements may be required, such as when undertaking a major work activity to accompany the use of a seal.”

- If work is used to inform statutory decisions, project exceeds a defined dollar threshold, or there are risks to the environment, health and/or safety.
 - If performing an activity that is defined under their professional scope. For example, “when the registrant is carrying out an activity as defined by the “practice of professional forestry” in the Foresters Act.”
 - Only “when QPs are required by existing statute or regulation by appropriate ministries.”
 - When professionals submit reports for review by ENV’s Land Remediation group.
 - Wildfire Risk Reduction must include a competency declaration.
 - With respect to declaration of competency, only if/when a registered professional does work beyond what they have originally declared (assuming the declaration is made when registered).
 - With respect to conflict of interest, only if/when a conflict arises based on guidance from the profession’s regulatory body.
- ▶ One regulatory body and a professional regulator emphasized the importance of separating policy on competency and conflict of interest declarations, noting that conflict of interest be declared with every project but competency be less frequent:
- “The [respondent] believes that policies and regulations related to declarations of competency be addressed separately from declarations of conflict of interest. In natural resource sector professions such as forestry, the implications and implementation solutions will be significantly different.”*
- ▶ There was suggestion that declarations could “... help prevent expert shopping if they are required to be made and submitted to relevant government decision-makers at the time of retainer.”
- ▶ One firm noted support for the concept, but significant concern for the need to submit declarations with every project: “...although we do take on a diverse variety of work, many of the projects we routinely take on are similar—if not identical—in scope.

This may involve stream classification assessments, road crossing assessments, etc. More often than not, these projects are for repeat clients. For example, a major forestry client may approach us once per week with a road crossing assessment project.”

- ▶ Three respondents felt that declarations for the field of biology were not useful: “I do not think competency declarations will be very useful in the biological/environmental fields... It is creating a situation where the public is given a false assurance from a regulatory body when it is nothing more than an individual’s self-assertion.”
- ▶ One respondent felt that this requirement is a duplication of existing obligations for forestry professionals.
- ▶ If holding professionals to account for ‘perceived’ conflict of interest, one respondent noted the need for a process to protect professionals from harassment and filter complaints to avoid unnecessary burden.
- ▶ Three respondents stated that the declarations are of limited value and suggest eliminating them, or at most embedding them as part of submissions: “The legislated codes of conduct for engineering and geoscience professionals already demand that professionals not undertake any work for which they are incompetent or in a conflict of interest.”

Other general comments and suggestions:

- ▶ Several respondents noted concern about additional administrative burden, and that government should consider this closely when developing new declaration requirements.
- ▶ One regulatory body emphasized the need to implement requirements using a staged approach: “Further, we recommend a two-year pilot program for the processing of these declarations to ensure clarity, efficiency and compliance. During a pilot phase, with a certain, limited scope of applicability, a new model can be designed, tested, implemented and adjusted as necessary.”
- ▶ Some respondents felt that this could be onerous unless only used in specific instances. For example: “...it has the potential to result in significant increases to administrative processes and costs for regulators and registrants.”

- ▶ Some respondents felt that *“An individual declaring their own competence to work in a specific area is in itself a conflict of interest.”*
- ▶ One respondent asked if regulatory bodies, the Office and statutory decision makers that review professional work or proponent applications will be required to sign declarations.

Q3.1b: Do you have any comments on the criteria government should consider when developing thresholds for when declarations are required?
[47 responses]

The most common approach for thresholds suggested was to develop risk-based criteria to limit the number of circumstances requiring declarations to those involving higher risk. There were a number of other suggestions as well.

Criteria for thresholds:

- ▶ Five respondents suggested using project costs, risk matrices or permit requirements to develop thresholds: *“A risk matrix would need to be created to identify the environmental, health and safety risk thresholds for projects (i.e. is it a high risk project, a moderate-high risk project).”*
- ▶ One regulatory body recommended that government use the assurance statement model to determine when declarations should be filed, and that they should be based on risk.
- ▶ *“Thresholds should be based on a combination of factors including risk, technical complexity, and cost/size of the investment, among others. Extending declarations beyond high risk projects or those in legislation would be redundant, provide no additional value, and would present an unreasonable administrative burden on professionals.”*
- ▶ Two respondents felt that every report submitted by a QP should contain a declaration.
- ▶ Three respondents felt that declarations should only be required when registering, then when the professional’s competency changes. One respondent noted it should only apply to the natural resources sector.

Concern for establishing thresholds:

- ▶ Seven respondents suggested that it is difficult to set thresholds that work in every situation.
- ▶ One respondent is opposed to threshold-based exemptions and suggests that declarations are always required:

“The [respondent] is opposed to threshold-based exemptions. A small disposal facility for chemically contaminated materials might have the same, or greater, potential for adverse downstream effects as a large one. Small proposals require the same competency of the professionals involved in assessing the risks.”

Q3.1c: Do you have any comments on types of activities that should be exempt from declarations?
[46 responses]

Fifteen respondents provided comments on specific types of activities that should be exempt, while several emphasized why there should not be any exemptions. Two noted that regulatory bodies should define exemptions for their professions based on risk.

Comments on types of activities that should be exempt:

- ▶ Projects less than \$50,000 in value or low to medium risk projects (4)
- ▶ Academic and peer-reviewed research (2)
- ▶ Any activity that requires a professional (2)
- ▶ Activities that fall outside a restricted practice, and may be performed by non-professionals (1)
- ▶ Activities identified by regulatory bodies in bylaws as exempt (1)
- ▶ Activities spelled in regulations or don’t affect public safety (1)
- ▶ Any activities that cannot be objectively proven, e.g. environmental or biology activities (1)
- ▶ Building projects that comply with the BC Building Code (1)
- ▶ Volunteer work (1)
- ▶ Projects that are already within a declared scope of practice (e.g. structural engineering) (1)
- ▶ Projects with repeat clients (1)
- ▶ Emergency situations (1)

- ▶ Specific to declarations of conflict of interest:
 - Conflicts arising due to an employee being provided stock options as part of regular compensation package (no controlling interest in the corporation)
 - Situations where public declaration of the conflict would impact terms of an agreement

Comments on types of activities that should not be exempt:

- ▶ Five respondents suggested there should not be any exemptions. *“Declarations are required per existing statute or regulation; it is ultra vires for the current review to attempt to change those situations when declarations are required.”*
- ▶ Four respondents felt that there should not be any exemptions from declarations for sole proprietors: *“single proprietor QP or registered professional that is producing products for or serving the public through engineering or geoscience, the declaration concept is reasonable since her/his activity is generally separated from an oversight of a registered employer or an independent registered professional in his discipline”*
- ▶ Other situations that respondents felt should not be exempted include:
 - Research and development (should still declare competencies with registration),
 - Large natural resource projects,
 - Projects that require permits or authorizations under provincial regulations, and
 - Any project where there is a risk to the environment, public or infrastructure.
- ▶ One respondent asked for clarification on the following intentions paper statement (page 34): *“... professional registrations undertaking work as QPs might have different considerations for declarations.”*

Q3.1d: Do you have any comments on how the declaration requirements should apply to regulated firms? [41 responses]

Several respondents provided comments on how declarations should apply to regulated firms, including the suggestion that declarations should be made by

firms rather than by individuals, or that individual reporting requirements could be reduced. Six respondents felt that declaration requirements should not be required from regulated firms.

Comments on how declaration requirements should apply to regulated firms:

- ▶ Two respondents suggested that declarations should be made by the firm, rather than individual professionals. *“Firm declares with proposals and participating professionals each declare internally.”*
- ▶ Five respondents suggested that within a regulated firm, requirements for individual reporting requirements could be reduced. *“In a regulated firm, where engineering and geoscientist work is corroborated by other registered professionals in the firm or otherwise from another registered firm, the individual reporting requirements could be reduced or eliminated.”*
- ▶ One respondent suggested that *“It follows that competency declarations should be required of firms in all circumstances where individual registrants would be required to file.”*
- ▶ One respondent suggested firms use a simpler format, such as an assurance signed by firm officers: *“If individual registered professionals will be required to file competency declarations, those required for regulated firms would function with the assumption that all registered professionals in the firm have filed such declarations. Therefore, this type of declaration may simply ask for assurances to that effect with signatures from the principals or officers of the firms. Alternatively, these declarations may simply target the firm’s officers, not the employees.”*
- ▶ Other suggestions of how the requirements should apply to regulated firms included:
 - *“Consideration of a batch type of declaration; the regulated firm completes this scope of work.”*
 - *“Within the professional practices management plan, auditing required.”*
 - *“All regulated firms must have to ensure that staff professionals have filed declarations and that all new hired consultants have a declaration submitted and on file supporting their area of practice under contract.”*

- *“Conflict of Interest: There are situations when different professionals at one firm may be working on projects for one client or multiple clients that are actual or perceived conflicts of interest. Professional codes of ethics are typically very explicit that registered professionals may not engage in work with actual or perceived conflicts of interest. Firms are implicitly required to comply as well, however more explicit declarations may be in order.”*

- ▶ One regulatory body expressed concern over the potential administrative burden: *“Government must guard against redundancy and duplication and must also consider the costs associated with potentially redundant requirements. It must follow the principle of Right Touch Regulation and employ just enough regulation to get the desired outcomes - no more and no less.”*
- ▶ One respondent stated *“it may be appropriate for regulation to require firms to establish and periodically review code of conduct policies pertaining to conflicts.”*
- ▶ One respondent noted that firms should be responsible for ensuring their employees’ meet the requirements and should report publicly: *“This requirement of the firm, should be reported on regular, public audits.”*

Do not apply declaration requirements to regulated firms:

- ▶ Six respondents felt that declaration requirements should not apply to regulated firms. *“Professionals are by definition responsible for ensuring they are competent to perform the work they take on, declarations shouldn’t be required by professionals or regulated firms.”*

Other comments and suggestions:

- ▶ This should be finalized after determining the regulatory provisions that apply to firms: *“Finalization of a decision on how to apply declaration requirements to regulated firms should be deferred until decisions are made on regulatory provisions related to Regulation of Firms.”*

Q3.1e: Do you have any comments on how the declaration requirements should be enforced? [47 responses]

Respondents provided a variety of suggestions regarding enforcement, with most suggesting the use of audits to spot check or investigations conducted by an independent body. Some suggested declarations be required to obtain government authorization, or be part of contract requirements.

Comments on how declaration requirements should be enforced:

- ▶ Thirteen respondents felt that auditing individuals and firms would be appropriate. The audits could be done as spot checks or when a complaint is made against an individual or firm. Of these respondents, six felt that investigations should be undertaken by an independent body only when a professional is reported to have gone beyond their area of competence.
- ▶ Two respondents suggested that declarations should be made a requirement to obtain government authorizations.
- ▶ One respondent stated that regulatory bodies should determine enforcement.
- ▶ Three respondents suggested enforcing the requirement to sign and seal all documents.
- ▶ Two respondents suggested including declarations as part of the contract requirements. If declarations are not made, then the contract is not awarded.
- ▶ One respondent stated the current process in the forestry profession should be considered: *“Often disputes that originate through lack of understanding or misinformation can be settled through direct engagement between the parties. When that is not possible, there are mechanisms in place to resolve conflicts including Compliance and Enforcement BC, the Forest Practices Board, and the Forest Appeals Commission. Any changes to the process for dispute resolution should consider not only the risk of the activities involved, but the technical knowledge and understanding required to fully assess the impacts of a professional forestry activity.”*

General comments and suggestions:

- ▶ Priority should be on investigating malpractice complaints and professionals working outside their field of practice. *“Non-compliance with declaration requirements should be considered a serious breach of professional conduct, with the registrant (individual or firm) subject to investigation and associated disciplinary processes.”*

Q3.1f: Do you have any comments on how the declaration requirements should be applied to registered professionals when they are government employees? [45 responses]

Most respondents felt that declaration requirements should be applied to government employees in the same manner as professionals working within industry. A small minority of respondents suggested requirements should not be applicable to government employees.

- ▶ Thirty respondents felt that declarations requirements should apply to government employees:
“There needs to be transparency within the government regarding this. It is concerning that most of the documents and discussions around professional reliance/governance is pointed at consulting firms. Government employees have the ultimate decision making power on issuing permits/authorizations and approving projects. Not only is competency a concern when junior government employees are reviewing projects in the BC EAO or at DFO, but conflict of interest needs to be addressed. Government employees should not be given broadly applied exemptions.”
“...there is no differentiating factor between a professional working within industry and one working within the government. They are both expected to verify their competencies when they are working through the certification process and they are both required to upkeep their competencies through professional development, which is verified by the registrar and regulatory board.”
- ▶ Two respondents felt that the requirements were not applicable to government employees: *“Government employees adhere to their Standards of Conduct which already covers this off.”*
- ▶ With respect to conflict of interest declarations, one

respondent noted that Crown Corporations have policies governing codes of conduct that are aligned with the public sector governance and accountability principles and that additional declarations are not necessary.

- ▶ One respondent suggested that government staff who are also QPs should be required to complete declarations every two to five years.

3.2 FILING AND RECORD KEEPING PROCESS FOR DECLARATIONS

Q3.2a: Do you have any comments regarding the filing process for declarations? [45 responses]

Most respondents provided input on the filing process, including suggesting the implementation of an online system, expressing who should receive the declarations, and the format of filing. The majority indicated the process should be streamlined to minimize administrative burden.

Comments regarding the filing process:

- ▶ Who should receive the filing: Most respondents specifically stated the regulatory body should be the recipient (eight responses), three responses noted the holder of the PPMP in each firm should maintain the filing, while one response identified several recipients: regulatory body, professional, firm, person/firm hiring the professional, and the Office. Of those that felt the regulatory body should receive the filings, two expressed concern that resource constraints in smaller regulatory bodies may make this unfeasible unless a streamlined electronic system is put in place by government to support this. One regulatory body stated the client and the approval authority should receive the project-specific declarations, not the regulatory body.
“Competency declarations should be handled by the regulatory bodies along with the registration information for individual registrants. However, this adds yet another onerous requirement for collecting and maintaining information about registrants that the smaller regulatory bodies may be unable to manage given existing resources. The Office of the Superintendent may well choose to provide a central registry for all

registered professionals under the Act. Such a central registry would be a data source accessible to all of the regulatory bodies for purposes of tracking and managing their registrants. In such a case, these competency declarations can be held in the same registry.”

“Provided the regulator has access to the declaration under the necessary circumstances, it does not need to receive a copy at the time of filing with the AHJ [Authority Having Jurisdiction] let alone administer the declaration system.”

“We are concerned that if the government is collecting these declarations, but is not regularly monitoring the practitioners, there is a high likelihood that government will be exposed to a significant liability.”

- ▶ **Filing process:** Eleven respondents highlighted the importance of minimizing the administrative burden of the process, with six suggesting that a consistent online system be established for all regulatory bodies to use (provided by government). Four respondents noted that the declaration should be attached to the produced work and not be filed separately. One respondent emphasized the need for flexibility due to the variety of situations that occur. Three respondents stated there should not be a requirement to file for every project, noting that organizations should establish reasonable document retention policies and have the declarations be auditable (rather than submitting with every project).
- ▶ “For project specific declarations there needs to be a centralized online system where professional registrants and regulated firms, regulatory bodies, the Office and government have access to. An unique project identifier is created for each project, which the proponent requests from the centralized online system government custodian; all declarations associated with the project will include the unique project identifier for compilation.”
- ▶ “Administrative process requirements related to declarations should be driven by the nature of the professional work being done and who it is being done for. This requires the need for flexibility in regulations to accommodate the wide variety of situations and requirements that occur across ministries, professions and sectors.”
- ▶ One respondent asked whether declarations will be subject to Freedom of Information requests.

Q3.2b: Do you have any comments on the appropriate role of statutory decision-makers, regulatory bodies, and the Office in the filing process for declarations? [37 responses]

Respondents provided comments on the appropriate role of each of these groups, generally indicating project-specific declarations be included with project documentation with the SDM, annual declarations be filed with the regulatory bodies, and that the Office provide support to ease administrative burden, and/or serve a secondary oversight role, but not receive declarations directly. In several cases the responses do not clearly differentiate between project-specific filing and annual declarations.

Comments on the appropriate role of each body:

- ▶ **Role of statutory decision makers:** Generally, respondents identified SDMs as primary recipients and users of the declarations and indicated their role includes identifying which jobs need declarations, ensuring relevant documents are collected and are signed by relevant professionals (not just a senior manager that does not have status in the practice area), and making copies available to a regulatory body as needed. One respondent noted the SDMs should receive the filings and make them public. Two respondents noted SDMs should request information on competencies from regulatory bodies (but not receive the information directly).

“Statutory decision-makers would be the primary users of the declarations. The declarations could be filed per project, alongside all other paper work, or even attached to a decision memo or a recommendation memo. The Office would have secondary oversight. Regulators should retain primary oversight of the annual declarations, not of the project-specific ones.”

“The policy decision about when a declaration is required should be left to the ministries based on job-specific parameters. Regulatory bodies and the Office should have only a limited, administrative function associated with the filing process.”

- ▶ **Role of regulatory bodies:** Most respondents stated that regulatory bodies should receive annual declarations but not project-specific declarations, though one stated the regulatory body should

receive and verify additional declarations needed for specific projects and save these to the professional's account. Five respondents stated that EGBC already has sufficient processes in place and that no new requirements are needed. Two respondents expressed that the declarations should be rolled into annual practice review by peers, managed through regulatory bodies, and should not be filed with the Office. It was emphasized that regulatory bodies do not have capacity to manage declarations beyond the annual filings.

"EGBC, by nature of its agreement with the members, eliminates the need for redundant declarations."

- ▶ **Role of the Office:** Generally, respondents indicated that the Office not receive declarations directly, but instead play a role in relieving administrative burden by establishing systems and providing clarity on requirements. Some respondents also indicated the Office have a role providing secondary oversight, including conducting random audits on regulatory bodies, firms and registered professionals – including field audits. One respondent distinguished between competency declarations (which should not be filed to the Office but made available to the Office upon request) and conflict of interest declarations (which should be made available to the Office within two months). One respondent noted the Office should not be involved in specific cases with respect to competency declarations.

One regulatory body recommended that assurance statements provide the foundation for declarations rather than creating a new system, and that these should be filed with and managed by the Province (the Office) because this would be an unmanageable administrative burden to the regulatory body. Further, the respondent stated that this supports a single, consistent, centralized repository for all professions, and helps to address concerns regarding multidisciplinary firms.

"It is hoped that the Office of the Superintendent will provide clear statements of requirements, including standard forms and guidelines for such a public registry."

"The Office nor the regulator need be part of the filing process for declarations as the bureaucratic burden will be absolutely unmanageable."

"To increase efficiency, declarations should be filed with, and managed by, the Province. The declarations should be filed electronically and should be public and searchable, providing access to the public, regulators and clients when required. Centralized filing reduces duplication and improves consistency and efficiency while also providing the economies of scale required to keep costs low."

Q3.2c: Do you have any comments on the appropriate role for registered professionals in maintaining records of filed declarations? [34 responses]

Most respondents that directly addressed the role of registered professionals in maintaining records of filed declarations indicated it is the professionals' responsibility. Some commented on the roles of other groups as well.

- ▶ Eleven respondents indicated professionals should be required to maintain records of all filed declarations. Conversely, two indicated this should be optional.
- ▶ Two respondents stated this is the role of the project manager or Engineer of Record.
- ▶ Two respondents indicated the firm should be responsible for maintaining the records.
- ▶ One respondent noted that the regulatory body should set minimum standards.
- ▶ Five respondents stated that an online management system should act as a record, with one respondent stating that the records should be accessible for the life of the project.

Q3.2d: Do you have any comments on the appropriate form and manner for submitting declarations (i.e. template content, time period for filing, how often declarations are filed)? [49 responses]

Most respondents indicated support for a template format and/or electronic form submission of declarations. Many respondents identified that the current signed and sealed project documentation is sufficient, in combination with annual filing of declarations through regulatory bodies. In several responses there was no distinction between annual and project-specific filing requirements.

- ▶ Twelve respondents support the use of a template with checkboxes to simplify and streamline declarations. One respondent cited the Alberta approach of using a fillable electronic PDF. One respondent noted that a self-declaration of competence should be validated by at least three other professionals.

"A template format would be preferable. I would also add to the template a section that can be customized, to address individual needs. Declarations could be filed per project or per class of projects as appropriate. If a professional engages in consistent, similar work, annual declarations would suffice (yes, in addition to the annual declarations submitted with the Regulators)."

- ▶ Eleven responses suggest an online electronic form be filed that is simple, quick and without fee for each declaration.
- ▶ Twenty-four respondents indicated that declarations should be made with annual membership renewal, and that this should be sufficient in combination with provision of signed and sealed documents or assurance statements (as is currently the practice for some professions and that this be applied to other professions) and regulatory body codes of ethics. One respondent emphasized that there is no need for requiring a "front-end" declaration of competency as it does not replace an assurance statement with the product, and it adds additional effort.

"... include check box acknowledgements on every report or contract entered into by the Registrant(s). Under this proposal the template content, time period for filing and frequency of filing are all addressed by the concepts of annual declarations, updated intra year declarations if new experience/competency is obtained and check box acknowledgements of contractual documentation."

"A requirement that when signing/sealing work the professional add a declaration statement that the work is within their area of expertise may be a simpler solution."

"Annual Declarations of Competency and Avoidance of Conflict of Interest filed with the respective Regulators should be a mandatory requirement for the granting and continuance of the professional designation (which will be strengthened by the granting of practice rights). [...] This annual process will also avoid the

need for thresholds and triggers as the information disclosed will be applicable to all work conducted by the Registrant."

- ▶ Two respondents suggested combining the reporting requirements for regulation of firms with annual declarations, and another suggested setting requirements for firms to establish and periodically review code of conduct policies.
- ▶ One respondent highlighted that a conflict of interest declaration is needed for every project, while a declaration of competence can be filed once then reconfirmed annually, or updated when competency changes. Another highlighted that a competency declaration and conflict of interest declaration should be submitted for each report reviewed by ENV's Land Remediation group.
- ▶ Five respondents provided other suggestions on timing of filing: filing in advance of project starting, filing within a month of signing a contract, filing with a permit application, and/or providing as an appendix to the produced work.

Q3.2e: Do you have any comments on how long declarations should be kept as records? [33 responses]

There was a mixture of comments about how long declarations should be kept, summarized as follows:

- ▶ Four respondents indicated the records should be kept as long as the professional is registered, with one suggesting this be extended up to five years after they are no longer practicing.
- ▶ Seven respondents stated records should be kept in accordance with the regulatory body policy and/or the Statute of Limitations (15 years).

"Minimum standards should be set by the regulators to enable auditing or practice reviews. However, timelines for retention of records should be consistent with nature of work that the professional is undertaking as specified in an Act, regulations or contractual obligation. For example, in the forest profession, where prescriptions and plans apply to the growth of forest stands, timelines can be very long (30+ years)."

- ▶ Six respondents stated that timeframes depend on the activity undertaken, the expected life of the

project or until the professional's work on the project is superseded.

"The duration of the respective time periods would be influenced by the expected life span of specific projects and the provincial limitation of actions legislation."

- ▶ Nine respondents indicated declarations should be kept for the same timeframe as established document retention timeframes (e.g. other jurisdictions use 10 years, or 7 years as per accounting requirements).

Q3.2f: Do you have any comments related to the transparency of declarations? [35 responses]

Respondents generally support transparency of declarations and suggested various forums for achieving this, though a small minority did not support public declarations:

- ▶ Eighteen respondents indicated declarations should be posted online publicly, or be available to the public via information requests. One of these respondents noted support for this in principle, but was uncertain of the personal privacy implications. Two regulatory bodies stated the records should be posted on the respective regulatory body's website.

"Declarations should be transparent and public. In cases where patent/competition issues exist, a compromise system to protect both economic and public interests should be considered."

"If declarations are made publicly available, this would most certainly reduce the likelihood of personal embellishment and also gain public trust."

"The annual declarations and updates would be maintained digitally by the Regulator and would be posted on the respective Regulators website in a manner that is publicly accessible."

"The Regulators should post the mandatory annual declarations on their respective websites in a manner that is publically [sic] accessible. Consequently, the annual and subsidiary declarations filed with the Regulators should be statutorily exempted from any restriction or prohibition against disclosure created by any freedom of information and protection of privacy legislation."

- ▶ One regulatory body stated support for conflict of interest declarations to "raise the bar" on transparency in a consistent manner.
- ▶ One respondent expressed concern that laypersons may inappropriately interpret declarations made available to the public.
- ▶ Two respondents indicated the declarations should be available for audits by the regulatory body or Office.
- ▶ Five respondents noted specifically that EGBC should conduct a risk assessment to determine a practice solution for balancing transparency with reasonable management and reporting requirements. One noted that the current requirements for engineers are sufficiently transparent.
- ▶ Two respondents stated that declarations should be an appendix to the permit application or the produced work.
- ▶ One respondent stated that declarations should only be available to the client.

3.3 IMPLICATIONS OF A PERCEIVED OR REAL CONFLICT OF INTEREST

Q3.3a: Do you have any comments on the role of the Office in identifying patterns and developing advice and policy for regulatory bodies on how to avoid or mitigate perceived or real conflict of interests? [39 responses]

Few respondents provided detailed comments about the role of the Office in identifying patterns and developing advice and policy for regulatory bodies. Respondents generally stated whether or not they support the Office having a role in this aspect, however, in several cases it was unclear whether respondents were expressing support or dissent for a different (more involved) role than was posed in the question.

Comments on the role of the Office:

- ▶ Six respondents were supportive of the Office providing objective data collection, analysis and reports on trends and patterns. One respondent noted that there are established industry forums that focus on sharing knowledge, identifying trends

and providing guidance, and the Office may consider the function of such industry forums.

- ▶ Two respondents stated the Office's role is to provide consistent guidelines to regulatory bodies so that each body determines conflict of interest in a consistent manner. Further, one respondent recommended establishing a review board led by the Office with membership agreed by the regulatory bodies.
- ▶ One respondent suggested the role of the Office is to provide oversight and ensure best practices are being followed.
- ▶ One example pattern was provided for the Office to consider:
"...a pattern to consider is long-term proponent-consultant relationships whereby conflict of interest could be developed through increasing friendships outside the professional environment."
- ▶ One respondent suggested developing a collaborative approach between the Office and regulatory bodies.
- ▶ Six respondents felt that there is no role for the Office unless there is evidence of need.

General comments and suggestions:

- ▶ Allow for flexibility to address potential future conflicts.
- ▶ Include a transition period that allows for analyzing declarations and identifying any patterns.

Q3.3b: Do you have any additional comments regarding this proposed approach? [37 responses]

- ▶ The Office should provide regulatory body oversight, provide awareness and guidance on conflict of interest matters, and provide an auditing function of the regulatory bodies and select members.
- ▶ Concern about wording around due diligence: *"The mandatory Code of Ethics required for all regulatory bodies under section 57(2)(1) is concerning with regard to the wording around due diligence. It is of paramount importance that the ability of individual professionals and firms can use due diligence as a defense as established in the Supreme Court of Canada."*

- ▶ Conflicts of interest should be proven through proper judicial processes.
- ▶ This approach is redundant and adds cost; the use of seal and signature is sufficient.

"I believe by ensure [sic] regulated members and firms are properly regulated, have enforcement, are audited, and that anyone working under these scopes of work are regulated we will be limiting the need for a declaration. I think we should put the time where it matters and make sure this is rolled out properly and enforced so we can have meaningful and qualified professions and professionals."

- ▶ Keep it simple and transparent: *"The decision makers must be seen to and must act in an unbiased professional capacity."*

Q3.3c: Do you have any further comments on the intentions paper? [46 responses]

- ▶ A number of respondents felt that the process was too quick, the intentions paper was confusing, and that the changes will not improve public safety or protection of the environment:

"The whole process seems to have been undertaken too quickly without an understanding of the complexity of the regulations."

"This additional "tax" and quasi-government regulation is unlikely to provide any real benefits in the field of biology, but just an added cost and time burden that slows the economy down."

"Please do not build a huge reporting bureaucracy for declarations. Please measure all changes by how much they will improve protection of the public."

"The proposed changes are huge and can be very complicated - there has been very little consultation with the actual people affected by the legislation..."

"...the intentions set out by this act will add more barriers and cost to efficient work and more barriers to employment for practitioners."

- ▶ The lack of detail in the intentions paper prevented more detailed comments:

"It is recommended that very detailed consultation be undertaken when more concrete regulations begin"

to be developed. This will likely spawn more detailed comments.”

“It is not clear if the Professional Governance Act provides enough measures to ensure the professional associations [regulators] assess what is in the interest of the public, based upon the profile of the public and not based upon the professional associations [regulators] membership.”

- ▶ Request for clearer definition of the regulations: “Professionals rely on strong regulations that are well informed, based on up-to-date knowledge and are well supported by the regulator throughout the regulations’ effective term. This will need to be reflected in regulations consequent to the proposed Act and existing regulations that apply to this model!”

“The current scopes of practice of the existing five professions under the Act leaves large portions of the Natural Resources sector without significant professional oversight.”

- ▶ Regarding the role of advocacy for regulatory bodies, one respondent stated: *“... strongly promotes the removal of advocacy from the role of the ABCFP within the Act Bill 49 development of Regulations. If one reflects for a moment, how can a regulating body like the ABCFP effectively regulate and discipline it’s registrants (individuals and firms), if they advocate for the business/industry at the same time. It would appear to us to be the ultimate in conflict of interest regarding the primary mandate of protecting the public interest first. Haddock agreed with this point in his report and recommended this be at least embodied clearly in Regulation as well.”*
- ▶ Develop methods of identifying and addressing high-risk situations: *“High risk conflict of interest situations need to be identified and explicitly addressed, and methods for addressing them need to be developed...”*
- ▶ There should be no exemptions, even for QPs that are government employees: *“No one should be exempt from conflict of interest declarations, restrictions, and actions.”*
- ▶ Continue to engage on this process: *“An overhaul is overdue, but keep it modest and engage engage engage! There are significant economies and stakeholders at play, and we want something that sticks around, not just undone by future governments or courts.”*






- ▶ Enforce the existing rules: *“The government needs to start by actively enforcing the rules which are in place rather than re-inventing the wheel with declarations. Then they need to ensure protection for workers in a precarious work environment who are susceptible [sic] to exploitation (both sexual and otherwise) but unable to quit as this would cost them their employment insurance and cause them to default on what can be high student loans and mortgages.*

Currently there is absolutely no enforcement of any of the rules, be it the water sustainability act, mines act, or employment standards act and companies are well aware of this. It puts everyone in a bad position. But we still need to eat and hopefully one day put our kids through university.”

- ▶ Clarify why registered professional planners and archaeologists have not been included.
- ▶ One respondent emphasized that *“there must be no advocacy allowed by the ABCFP. Regulation of the forest profession must be in the public interest.”*



D. Closing



Government thanks all respondents for their input on the 2018 intentions paper. The Office of the Superintendent of Professional Governance will continue to consider the feedback provided to the intentions paper as policy and regulations are developed on these topics, as well as to inform future engagement on these topics.

Appendix A: Intentions Paper Online Response Form

Proposed Professional Governance Act Feedback Form

REGULATIONS INTENTIONS PAPER CONSEQUENT TO THE PROPOSED PROFESSIONAL GOVERNANCE ACT COMMENT FORM

The purpose of this response form is to gather British Columbians' comments, thoughts and suggestions on key topics to inform development of policy and regulations for implementing the proposed Professional Governance Act (Act). The proposed Act, which is intended to strengthen government oversight of regulatory bodies, was developed after the provincial government accepted the governance recommendations made in the independent final report submitted by Mark Haddock in June 2018. This report followed a comprehensive review of the professional reliance (PR) model in the natural resource (NR) sector. The proposed Act establishes an Office of the Superintendent of Professional Governance (Office) in the Ministry of Attorney General to administer the Act. The Office will provide centralized statutory authority for professional governance and help develop a consistent framework for how regulatory bodies govern registrants.

Government is seeking feedback and comments over a 90-day period on the following key policy areas requiring regulation development under the proposed Act (Part Two of the intentions paper):

1. Practice rights of professions: what is required to support professions governed under the proposed Act to operate with both 'reserved titles' and 'reserved practices'? What considerations should guide the process of defining reserved practices for the professions?
2. Regulation of firms: what is required to support professions governed under the proposed Act to regulate firms? What general and profession specific considerations should this framework take into account?
3. Competency declarations and conflict of interest declarations: When and how should declarations be required and what should be considered to ensure this process is efficient and effective?

Comments on these three policy areas are welcomed, using this form or via a separate email submission to NRS.PR.Review@gov.bc.ca. Fillable boxes are available for each question posed for the topics included in Part Two of the intentions paper. Government will consider input received during the public comment period when developing policy and regulations pursuant to the proposed Professional Governance Act. **Please do not include any personally identifiable information about yourself or others in your responses.**

Feedback received by January 31, 2019, will be incorporated in a "what we heard" summary report, which will be released publicly in spring 2019.

Thank you for your time and comments.

Please note: This online feedback form supports IE9 and all newer comparable browsers like Firefox, Chrome, Opera etc. with activated JavaScript. Your browser settings must have cookies enabled for the questionnaire to run properly and inactivity on the questionnaire for longer than one hour will result in the questionnaire timing out.

Collection Notice: Personal information collected through this feedback form will inform the development of future policy and regulations, under the authority of section 26(c) and 26(e) of the Freedom of Information and Protection of Privacy Act. If you have any questions about the collection, use and disclosure of your personal information, please contact:

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1. Practice Rights of Professions

The proposed Act includes the legislative framework to provide the right of practice of reserved practice as well as the exclusive use of reserved titles - known as “right to practice”, and “right to title”, respectively. Where not already granted to regulatory bodies in existing statutes, certain right to practice authorities will be brought into force by regulation.

There are multiple models to grant right to practice to a profession or a profession’s activities.

1.1 EXCLUSIVE PRACTICE

The exclusive practice model, also known as the guild model, grants registrants of a regulatory body the right to practice a defined set of activities. The definition of the professional practices which are reserved and prohibitions for non- registrants are laid out in legislation. In the exclusive practice model, there are no exclusions or exemptions for non-registrants to practice within the defined set of activities, including registered professionals of other regulatory bodies.

Do you have any comments on benefits of, or concerns with, applying the exclusive practice model to professions that are granted practice rights under the proposed Act?

Do you have any additional comments on the exclusive practice model?

1.2 OVERLAPPING SCOPE OF PRACTICE

The overlapping scope of practice model also prohibits practice outside the membership of the regulatory body. However, the model allows for exclusions which grant a subset of reserved practices to be shared between two or more professions. Exemptions may also be defined to allow specific unregulated persons to practice within the scope of practice for a profession.

Do you have any comments on aspects of the overlapping scope of practice model that should be considered for the five professions governed under the proposed Act?

Do you have any comments on how overlap between professions should be defined and communicated?

Do you have any comments on aspects of regulatory oversight that should be jointly administered?

Do you have any additional comments on the overlapping scope of practice model?

1.3 SHARED SCOPE OF PRACTICE

The shared scope of practice model moves away from the pre-existing notion of professional exclusivity. This model is characterized by two elements: scope of practice statements and restricted activities.

Do you have any comments on the appropriateness of this model for professions that are granted practice rights under the proposed Act?

Do you have any additional comments about the shared scope of practice/restricted activities model?

1.4 CONSIDERATIONS

Implementing practice rights under the proposed Act may not be uniform across the five professions. The process to work collaboratively and the resultant model that is best suited to one regulatory body may differ from the rest of the professions if justified.

Part of the work required to determine the scope of reserved practices for a regulatory body includes any exemptions that may be justified. Examples that may be considered include academic teaching or scientific research, farming on one’s own land, or the application of traditional ecological knowledge.

Do you have any comments on exemptions that should be considered when defining reserved practices?

Do you have any comments on potential impacts to various groups in the granting of practice rights?

Do you have any comments on the process that should be put in place for reviewing professional scopes of practice to ensure that multiple perspectives are considered?

Do you have any comments on what will be important to include in a transition period?

Do you have any comments on accommodations that should be given for practitioners brought under the authority of the regulatory bodies where this might limit their ability to continue to practice?

Do you have any additional comments on considerations for granting practice rights to professions?

2. Regulation of Firms

Regulatory bodies governed by the proposed Act will be enabled through regulation to register firms that employ professionals or carry out reserved practices. Through carrying out their duty to protect the public interest, regulatory bodies will be able to set requirements for firms in key areas, including ethics, continuous professional development, and quality management.

2.1 POTENTIAL MODELS

Three models are described in the intentions paper to illustrate approaches used elsewhere in Canada or under consideration for B.C.

Do you have any comments on elements that should be added to one or all the models described, or additional models, that should be considered?

Do you have any comments on the appropriateness and ability of the regulatory bodies governed by the proposed Act to regulate firms?

Do you have any comments on whether the model should be consistent across professions or whether different iterations could apply to different professions?

Do you have any comments on the appropriateness of applying the model to Engineers and Geoscientists of B.C. (EGBC) first?

Do you have any comments on sanctions that regulatory bodies could take against firms that do not comply with the requirements to be a regulated firm?

2.2 CONSIDERATIONS

It is envisioned that Engineers and Geoscientists of B.C. (EGBC), who have done considerable preparation and are best positioned to regulate firms, may be granted the ability as early as 2020. The other regulatory bodies may work with the Office to set reasonable timelines for the development of their bylaws and implementation of this provision.

Do you have any comments on the timeline for enabling regulation of firms?

2.3 EXEMPTIONS

Although regulation of firms is intended to apply broadly, the proposed Act provides authorities for exemptions to be addressed in regulation. If such exemptions are created, criteria will need to be developed in the regulation.

Do you have any comments on criteria that should be considered for exempting firms or entities?

Do you have any comments on how firms that employ professionals for services entirely internal to the firm (e.g. companies that employ in-house professionals) should be regulated?

Do you have any comments on functions with the provincial government, including Crown corporations that should or should not be considered for exemption?

Do you have any comments on whether incorporated or unincorporated sole proprietors should be regulated as firms?

Do you have any additional comments on exemptions that should be considered for regulation of firms?

2.4 MULTIDISCIPLINARY FIRMS

Numerous firms in BC employ professionals from more than one discipline. As more regulatory bodies start to regulate firms, consideration is needed for an efficient and effective way to regulate these multidisciplinary firms.

Do you have any comments on how regulatory bodies could collectively implement the regulation of firms, specifically multidisciplinary firms?

Do you have any additional comments on the regulation of multidisciplinary firms?

2.5 OTHER AREAS OF CONSIDERATION

A Professional Practice Management Plan is a key component of the proposed approach to regulating engineering and geoscience firms. The information required for the Professional Practice Management Plan, especially for large firms, will change regularly as professionals are hired and leave, and scope of work changes, potentially posing an administrative burden on the firm. Regulation or bylaws will need to consider triggers for a requirement to update plans on file, and whether a variation in the details required or expected in plans is justified based on the size and scope of the firm (e.g. sole proprietor vs. large multi-national firm).

As firms become regulated, there will also be resource requirements for regulatory bodies to administer firm regulation, as well as for firms to be regulated. A full understanding of the resource requirements for firms of different sizes and capacities, as well as for regulatory bodies, is needed.

Other considerations include details of the auditing programs, determining the roles and responsibilities between regulatory bodies in dealing with multidisciplinary firms, and the oversight role of the Office.

Do you have any comments on the information that should be required in Professional Practice Management Plans? (see the Alberta model for base information)

Do you have any comments on triggers that should be used to require submitting or providing updates to Professional Practice Management Plans?

Do you have any comments on resource implications for various sized firms that may be regulated?

Do you have any comments on mechanisms that should be considered to minimize the administrative burden on firms?

3. Competency Declarations and Conflict of Interest Declarations

Under the proposed Act, when a registrant provides services that are within their scope of practice, they will be required to sign separate competence and conflict of interest declarations.

Declarations will ask registered professionals to confirm that they have considered the scope of their expertise and their objectivity in the context of specific work they have been hired to do. Regulatory bodies, the Office, and statutory decision-makers reviewing registered professional work or proponent applications have an interest in the assurances provided by these declarations.

3.1 EXPECTATIONS FOR WHEN DECLARATIONS ARE REQUIRED

The proposed Act will require all professional registrants to file a competency declaration and conflict of interest declaration. However, exceptions to this blanket requirement may be determined by regulation.

Do you have any comments regarding when declarations are required?

Do you have any comments on the criteria government should consider when developing thresholds for when declarations are required?

Do you have any comments on types of activities that should be exempt from declarations?

Do you have any comments on how the declaration requirements should apply to regulated firms?

Do you have any comments on how the declaration requirements should be enforced?

Do you have any comments on how the declaration requirements should be applied to registered professionals when they are government employees?

3.2 FILING PROCESS FOR DECLARATIONS

Consideration needs to be provided for how competency declarations and conflict of interest declarations are

to be filed. Important considerations for filing of these declarations include:

- how the declarations will be reviewed and used by the appropriate bodies (e.g. government ministries and/ or municipal authorities, regulatory bodies, the Office), and therefore who needs to receive filed declarations;
- the appropriate time period for filing declarations;
- the appropriate form and manner (i.e., paper, electronic);
- the appropriate amount of time to maintain filed declarations as records; and
- systems in place for the appropriate bodies to receive filed declarations.

Do you have any comments regarding the filing process for declarations?

Do you have any comments on the appropriate role of statutory decision-makers, regulatory bodies, and the Office in the filing process for declarations?

Do you have any comments on the appropriate role for registered professionals in maintaining records of filed declarations?

Do you have any comments on the appropriate form and manner for submitting declarations (i.e. template content, time period for filing, how often declarations are filed)?

Do you have any comments on how long declarations should be kept as records?

Do you have any comments related to the transparency of declarations?

3.3 IMPLICATIONS OF A PERCEIVED OR REAL CONFLICT OF INTEREST

The Office is interested in looking systematically at the declared conflicts of interest to identify patterns and develop advice and policy for how to address or mitigate instances of conflict of interest. Statutory decision-makers would be looking at the conflict of interest declarations on a case by case basis to inform decisions on authorizations. The regulatory body may use the conflict of interest declarations to assess whether a registrant is

operating within the codes of ethics. If required, the regulatory body could develop bylaws with guidance from the Office to address on-going patterns of conflict of interest.

Do you have any comments on the role of the Office in identifying patterns and developing advice and policy for regulatory bodies on how to avoid or mitigate perceived or real conflict of interests?

Do you have any additional comments regarding this proposed approach?

Do you have any further comments on the intentions paper?

BACKGROUND AND AREA OF INTEREST

Please mark an "x" in the appropriate boxes to describe your primary interest in the ministry's intentions: Check all that apply

I am a user of QP information (includes those who hire, review, or otherwise engage with QP information.)

I am a QP or a registered professional

I am a member of an Indigenous nation or rights-holding group within the province of B.C.

I am a member of the public

Prefer not to answer

Other (please specify)

Which of the following best describes your past/current place of employment? Check all that apply

Federal government

Provincial government

Local government

Academic institution

Private industry

Consultant/Independent contractor

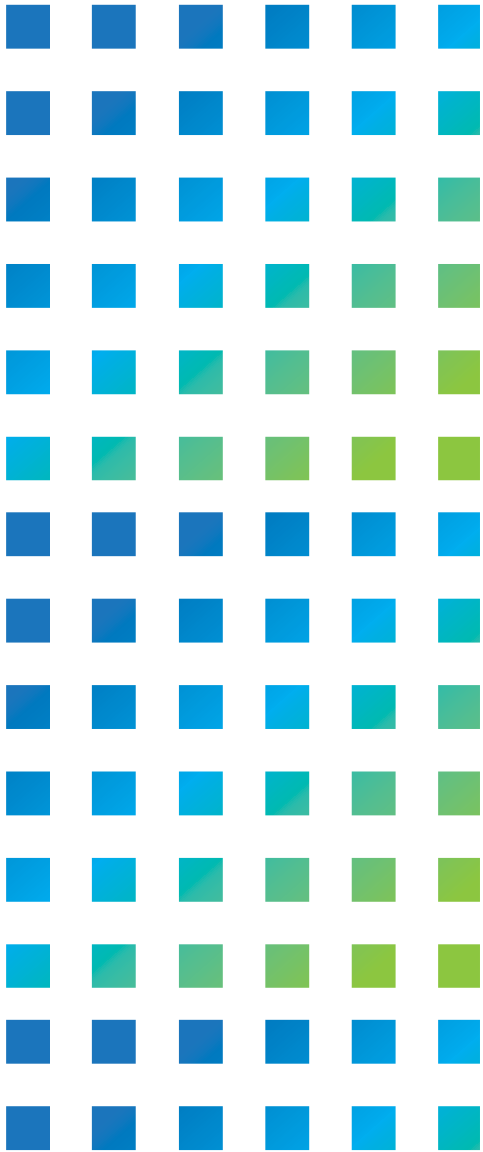
Non-government organization (paid or volunteer)

Qualified Professional Regulator

Industry Association

Prefer not to answer

Other (please specify)



OSP

Office of the Superintendent
of Professional Governance



Ministry of
Attorney General