

Aggregate Operators Best Management Practices Handbook

PART I

Chapter 3

PLAYERS, PERMITS AND LEGISLATION

Table of Contents

Players, Permits and Legislation	2
BC Aggregate Regulatory Framework	3
BC Aggregate Permitting Framework.....	4
Fisheries and Oceans Canada (DFO).....	5
Environment Canada (EC)	7
Ministry of Energy and Mines (MEM)	8
Ministry of Forests (MOF)	9
Minister of Sustainable Resource Management (MSRM).....	10
Ministry of Water, Land and Air Protection (MWLAP)	12
Ministry of Transportation (MOT)	13
Local Government.....	14

Players, Permits and Legislation

In British Columbia, various Federal, Provincial and local agencies may each have authority to govern aspects of the aggregate industry and require permits. To begin the permit application process, potential operators should contact a [Ministry of Energy & Mines - Mines Branch Regional Office](#) to obtain a Notice of Work and Reclamation for Sand and Gravel and/or Rock Quarry form, which serves as a [Mines Act](#) permit application. In reviewing the Notice of Work, the Ministry of Energy & Mines will refer the application to other applicable Federal and Provincial agencies and initiate a public review if required.

The figures on the two following pages are intended to familiarize operators with the basic framework of Federal and Provincial legislation and local government bylaws, and related permits.

Following the two figures, one-page descriptions of some key government agencies are presented to acquaint operators with the legislation and permits that may apply to aggregate production.

Table PPL - 1: Website links to various levels of government statute sites.

Government	Websites
Federal	http://laws.justice.gc.ca/en/index/index.html
Provincial	http://www.qp.gov.bc.ca/statreg/
Local Govt. Links	http://www.civicnet.gov.bc.ca/members/municipalities/index.shtml

Copies of legislation can be purchased through official sales agents for the Federal, or Provincial governments, or generally can be viewed over the Internet at a central website.

Local governments regulate activities through bylaws. These bylaws can be viewed at regional district or municipal offices and are available on local government Internet sites.

An acronym key for government agencies can be found in Appendix 4.

BC Aggregate Regulatory Framework

A partial description of the legislation that applies to aggregate extraction in British Columbia.
Refer to Appendix 4 for a list of acronyms.

FEDERAL	PROVINCIAL	LOCAL GOVT	OTHER GOVT	
<p>DFO <u>Fisheries Act</u></p>	<p>MEM <u>Mines Act</u></p>	<p>Regional Districts & Municipalities</p> <ul style="list-style-type: none"> • <u>Local Govt. Act</u> • <u>Soil Conservation Act</u> • Memorandums of Agreement • <u>Official Community Plans</u> • Bylaws (examples) <ul style="list-style-type: none"> * Soil Removal * Zoning * Subdivision & Servicing * Development * Temporary Industrial * Noise * Tree Retention * Commercial Vehicle * Business Licenses 	<p>First Nations (Consultation)</p>	
<p>EC <u>Canadian Environmental Assessment Act</u> <u>Fisheries Act (Section 36)</u> <u>Canadian Environmental Protection Act</u> <u>Migratory Birds Convention Act</u> <u>Canada Wildlife Act</u> <u>International River Improvements Act</u></p>	<p>MCAWS <u>Local Government Act</u></p>		<p>MWLAP <u>Wildlife Act</u> <u>Waste Management Act</u></p>	
<p>CG&TC <u>Navigable Waters Protection Act</u></p>	<p>LWBC <u>Land Act</u></p>		<p>LRC <u>Soil Conservation Act</u> <u>Forest Land Reserve Act</u> <u>Agricultural Land Reserve Act</u></p>	
<p>MOT <u>Highway Act</u></p>	<p>MOF <u>Forest Act</u> <u>Range Act</u> <u>Forest Practices Code Act</u></p>		<p>MSRM <u>Heritage Conservation Act</u> <u>Water Act</u></p>	
<p>EAO <u>Environmental Assessment Act</u></p>				

BC Aggregate Permitting Framework

A partial description of permits, approvals, licenses and certificates required for aggregate extraction in British Columbia. Refer to Appendix 4 for a list of acronyms.

FEDERAL	PROVINCIAL	LOCAL GOVT.	OTHER GOVT.
<p>DFO</p> <ul style="list-style-type: none"> • Authorization 	<p>MEM</p> <ul style="list-style-type: none"> • Mines Act Permit 	<p>Regional Districts & Municipalities</p> <ul style="list-style-type: none"> • Official Community Plans • Zoning Regulations • Soil Conservation Act Permit • Subdivision & Servicing • Other Bylaws & Permits <ul style="list-style-type: none"> * Development * Building * Soil Removal * Temporary Use Permits * Runoff Control * Tree Retention * Signs * Burning * Noise * Commercial Vehicle * Business License * Heritage Conservation 	<p>First Nations</p> <ul style="list-style-type: none"> • Consultation
<p>EC</p> <ul style="list-style-type: none"> • Environmental Assessment • Migratory Bird Convention Act permits • Fisheries Act, Section 36 authorization 	<p>MWLAP</p> <ul style="list-style-type: none"> • Waste Discharge Permit 		
<p>CG&TC</p> <ul style="list-style-type: none"> • Works impacting navigable water 	<p>LWBC</p> <ul style="list-style-type: none"> • Crown Tenure 		
	<p>LRC</p> <ul style="list-style-type: none"> • ALR Approval • FLR Approval 		
	<p>MOT</p> <ul style="list-style-type: none"> • Highway Access Permit 		
	<p>MOF</p> <ul style="list-style-type: none"> • Special Use Permit • Road Permit • Free Use Permit • Licence to Cut • Burning Permit 		
	<p>MSRM</p> <ul style="list-style-type: none"> • Water authorization • Heritage Conservation Act Permit 		
	<p>EAO</p> <ul style="list-style-type: none"> • Environmental Assessment • Project Approval Certificates 		

Fisheries and Oceans Canada (DFO)

Agency	Fisheries and Oceans Canada
Authority	Fisheries Act ; Canadian Environmental Assessment Act (CEAA)
Mandate Specific to Aggregate Operations	<p>To prevent negative impacts of projects and activities that have the potential to alter, disrupt or destroy fish habitat.</p> <ul style="list-style-type: none"> • Section 35 of the <i>Fisheries Act</i> prohibits the harmful alteration, disruption, or destruction of fish habitat. It applies to all fish habitat in Canada including non-salmon freshwater habitats. • Section 32 of the <i>Fisheries Act</i> prohibits the destruction of fish by any means other than fishing. • Section 36 prohibits deposition of substances deleterious to fish. • Section 20 prohibits obstruction of fish movement. • Section 30 requires screening of all water intakes. • The Policy for the Management of Fish Habitat (Fisheries and Oceans Canada, 1986) outlines the Net Gain of Fish Habitat Policy Objective and provides direction for interpreting the broad powers mandated by the <i>Fisheries Act</i>.
Role in Aggregates Administration	<ul style="list-style-type: none"> • Case-by-case evaluations, conducted prior to project implementation, normally initiated through MEM referral. • Impact avoidance by redesign and/or relocation is pursued as the first priority via the project planning process.
Permits, Approvals, Licenses and Certifications Issued	<ul style="list-style-type: none"> • Subsection 35(2) Authorization of unavoidable harmful alteration, disruption, or destruction of fish habitat. • Contains legally binding habitat compensation requirements, monitoring, maintenance and financial security obligations.
Application Requirements	Appropriate documentation and studies required for assessing each proposed project.
Application Process	<ul style="list-style-type: none"> • Referral process is coordinated with other regulating agencies. • Subsection 35(2) Authorizations require a review under the <i>Canadian Environmental Assessment Act</i>.
Compliance Monitoring	<ul style="list-style-type: none"> • Periodic inspections by habitat officers. • Assessment of constructed (compensation) habitats where applicable.
Enforcement Provisions	<ul style="list-style-type: none"> • Inspector's orders under Section 38(6) of the <i>Fisheries Act</i>. • Charges under the <i>Fisheries Act</i>. • Conviction under the <i>Fisheries Act</i> may result in a fine, imprisonment or both, as well as recovery of costs.

Contact Information	For General Enquiries, please contact: Director, Habitat and Enhancement Branch , Fisheries and Oceans Canada, 360-555 W Hastings St., Vancouver BC V6B 5G3, or the local DFO office. Website: http://www.pac.dfo-mpo.gc.ca
Additional	Fisheries and Oceans Canada includes the Canadian Coast Guard , which administers the Navigable Waters Protection Act . The provisions of this Act may regulate aspects of aggregate operations, including transport of aggregates.

Environment Canada (EC)

Agency	Environment Canada
Authority	Canadian Environmental Assessment Act (CEAA) , Fisheries Act (Section 36) , Canadian Environmental Protection Act , Migratory Birds Convention Act , Canada Wildlife Act and International River Improvements Act .
Mandate Specific to Aggregate Operations	<p>Through these acts, Environment Canada:</p> <ul style="list-style-type: none"> • sets out the Federal environmental assessment process, • prohibits the deposition of deleterious substances into waters frequented by fish, • regulates toxic substances, nutrients and pollution at Federal facilities, international air pollution and ocean dumping, • facilitates the conservation and protection of migratory birds and their habitat, • facilitates the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and • regulates the alteration of river flows and water levels across the international boundary. <p>Environment Canada also:</p> <ul style="list-style-type: none"> • Through the Federal Policy on Wetland Conservation, promotes the maintenance of wetland values across Canada.
Role in Aggregates Administration	Environment Canada initiates environmental assessment process for operations that fall under the CEAA Comprehensive Study List Regulations 3.18 (see Part V): "(i) a stone quarry or gravel or sand pit with a production capacity of 1,000,000 t/a or more".
Permits, Approvals, Licences and Certifications Issued	Activities related to the legislative mandate of Environment Canada may require permits. For example, a permit to alter the nest, egg or shelter of a migratory bird may be issued under the <i>Migratory Birds Convention Act</i> .
Contact Information	For General Enquiries, please contact: Environmental Assessment: (604) 666-0901, 224 West Esplanade, North Vancouver, BC V7M 3H7. Website: http://www.ec.gc.ca/envhome.html

Ministry of Energy and Mines (MEM)

Agency	British Columbia Ministry of Energy and Mines , Mines Branch (MB)
Authority	Mines Act , Health, Safety and Reclamation Code for Mines in BC
Mandate Specific to Aggregate Operations	<ul style="list-style-type: none"> • Pits and quarries are defined as mines and are regulated under the <i>Mines Act</i>.
Role in Aggregates Administration	To manage mines for: <ul style="list-style-type: none"> • safety and health of mine workers and public, • minimal environment impacts and • reclamation of site into sustainable and productive end use.
Permits, Approvals, Licences and Certifications Issued	<ul style="list-style-type: none"> • Mines Act Permit. • Shiftboss, mine rescue, explosives magazine, blasting certificate, etc. • Cutting licences on Crown Land. • Road use agreements for activities on Forest Service Roads (FSR).
Application Requirements	<ul style="list-style-type: none"> • Notice of Work and Reclamation Program for a Sand & Gravel/Quarry Operation (NoW), complete with description of proposed work, environmental protection plan, reclamation plans, maps, and cross sections.
Application Process	<ol style="list-style-type: none"> 1. Apply for <i>Mines Act</i> Permit, using a NoW. 2. MEM reviews permit application and refers it to affected agencies. 3. Public review if required. 4. MEM decides whether to issue a permit and if a permit is to be issued places conditions of operation on permit, including reclamation security amount. 5. MEM issues <i>Mines Act</i> Permit.
Compliance Monitoring	<ul style="list-style-type: none"> • Regular inspections by Inspectors of Mines to assess compliance with <i>Mines Act</i>, Code and permit conditions. • Inspector must issue Inspection Reports, which may order a remediation, suspension or closure.
Enforcement Provisions	<ol style="list-style-type: none"> 1. Orders 2. Cancellation of permit 3. Seizure of security 4. Injunction 5. Fine or imprisonment
Contact Information	For General Enquiries, please contact: (250) 952-0471 Website: http://www.em.gov.bc.ca/

Ministry of Forests (MOF)

Agency	British Columbia Ministry of Forests
Authority	Forest Act Forest Practices Code of British Columbia Act
Mandate Specific to Aggregate Operations	To regulate timber harvesting activities on Crown lands through the <i>Forest Act</i> and on private land through the <i>Forest Practices Code of British Columbia Act</i> and Regulations.
Role in Aggregates Administration	<ul style="list-style-type: none"> • Management of timber resources on Crown land. • Authority and guidance on production of granular material for resource roads.
Permits, Approvals, Licences and Certifications Issued	<ul style="list-style-type: none"> • Special Use Permit (SUP) • Road Permit • Free Use Permit • Licence to Cut • Burning Permit
Application Requirements	Variable, depending on permit.
Application Process	Apply through MEM NoW referral process or contact MOF directly.
Compliance Monitoring	<ol style="list-style-type: none"> 1. MOF staff from Compliance and Enforcement Branch (C&E) inspect for compliance. A specified time period is given to bring deficiencies up to code requirements. 2. Follow-up inspection to confirm specified remedial work completed.
Enforcement Provisions	<i>Forest Practices Code of British Columbia Act</i> and Regulations
Contact Information	District Manager of forest district in which SUP is approved or MOF pit is developed.

Minister of Sustainable Resource Management (MSRM)

Agencies under Minister of SRM	Ministry of Sustainable Resource Management Land and Water British Columbia (LWBC) Environmental Assessment Office (EAO) Land Reserve Commission
Authority	Land Act , Water Act , Heritage Conservation Act Environmental Assessment Act (EAA), Forest Land Reserve Act and Agricultural Land Reserve Act
Mandate Specific to Aggregate Operations	<p>To provide Provincial leadership toward achieving sustainable development of the Province's land, water and resources, including:</p> <ul style="list-style-type: none"> • Allocation and rental of water resources, • Allocation of Crown land for quarrying and allocation of Crown aggregate resources, • Collection of Crown land use rent and aggregate resource royalties, • Protection and conservation of heritage property and • Environmental assessment of large aggregate or quarry proposals.
Land Act	<p>Application process for Crown land applications:</p> <ol style="list-style-type: none"> 1. Apply to LWBC field office for <i>Land Act</i> tenure; 2. LWBC review and referral to other agencies and local govt.; advertising of application by applicant; 3. Land use decision by LWBC (Approval/Disapproval); 4. LWBC issuance of <i>Land Act</i> tenure. <p>The LWBC website for aggregate is: http://lwbc.bc.ca/applying_for_land/aggregates.htm</p>
Water Act	<ul style="list-style-type: none"> • The <i>Water Act</i> authorizes the use, diversion and storage of water. For long-term use a licence is required, but for shorter-term use (not exceeding 12 months), a Section 8 approval is all that is required. • The <i>Act</i> also authorizes changes (work) in and about a stream. However, regulation allows that an approval under the <i>Act</i> is not required for routine works provided that conditions and requirements under the regulation are met. This includes notification of the MWLAP's Regional Habitat Officer through a notification form and meeting the terms and conditions of the Habitat Officer, and seeking approval from the Federal government under the Fisheries Act. For major works (diversions, rip rapping), proper drawings and a Section 9 approval is required, with Federal approval as well.

Environmental Assessment Act (EAA)	The Province's <i>Environmental Assessment Act</i> , administered by the Environmental Assessment Office (EAO) applies to very large aggregate proposals seeking a project approval certificate. The Environmental Assessment Reviewable Projects Regulation specifies reviewable projects as those with a production capacity of 500,000 or more tonnes per year, 1,000,000 or more tonnes over less than four years or an increase of 35% in the size of the disturbed area. The EAO's website http://www.eao.gov.bc.ca/ details the environmental assessment process.
Heritage Conservation Act	Heritage Permits are issued under the <i>Heritage Act</i> authorizing a person to undertake actions affecting heritage objects.
Compliance Monitoring	<ul style="list-style-type: none"> • <i>Land Act</i> - Submit an annual statutory declaration of volume of aggregate material removed and certified cheque for royalty payment. • Periodic compliance review under <i>Water Act</i>, <i>Environmental Assessment Act</i> and the <i>Heritage Act</i>.
Enforcement Provisions	Enforcement provisions are located within and are specific to the <i>Land Act</i> , <i>Water Act</i> , <i>Heritage Conservation Act</i> , and <i>Environmental Assessment Act</i>
Contact Information	<p>For Crown Land Application and Tenure Information, contact the appropriate LWBC Inc field office. Website: http://www.bcal.bc.ca/contact.htm http://lwbc.bc.ca/applying_for_land/aggregates.htm</p> <p><i>Water Act</i> - for authorization for storage, use or diversion of water, and work in and about a stream, contract regional offices of MSRM. <i>Heritage Conservation Act</i> - for heritage site enquiries, contact Archaeology Planning & Assessment BC, MSRM, Victoria. Website: http://www.archaeology.gov.bc.ca <i>Environmental Assessment Act</i> - for large aggregate or quarry proposal contact the Environmental Assessment Office in Victoria. Website: http://www.eao.gov.bc.ca.</p>

Ministry of Water, Land and Air Protection (MWLAP)

Agency	British Columbia Ministry of Water, Land and Air Protection
Authority	Waste Management Act , Wildlife Act , Water Act , and Fish Protection Act .
Mandate Specific to Aggregate Operations	The Ministry of Water, Land and Air Protection (MWLAP) is responsible under the Ministry of Water, Land and Air Protection Act for the management, protection and conservation of all water, land, air, plant life and animal life.
Waste Management Act	<ul style="list-style-type: none"> • The <i>Waste Management Act</i> authorizes discharges into the environment. Authorizations take the form of waste management approvals and permits. • Introduction of deleterious substances into the environment, intentionally or unintentionally, without a valid authorization may result in charges under the <i>Act</i>. Examples of unauthorized discharges potentially occurring on an aggregate property include discharges of sediment or dust, as well as a fuel (hydrocarbon) spill. • Under the <i>Act</i>, the Ministry may order construction of works to prevent unauthorized discharge or achieve compliance with permits or approvals, and may also require necessary monitoring or studies.
Water Act and Fish Protection Act	<ul style="list-style-type: none"> • Fish habitat is protected primarily through the Federal Fisheries Act administered by Fisheries and Oceans Canada (DFO). However, since the Province owns the water and most of the land in BC, it can indirectly protect fish and fish habitat through its legislation, primarily the <i>Water Act</i> and, when fully enacted, the <i>Fish Protection Act</i>. • In some local jurisdictions the MWALP has entered into intergovernmental agreements (Memoranda of Agreement) with local jurisdictions and DFO for the purpose of protecting the environment through a coordinated approach.
Reclamation	<ul style="list-style-type: none"> • For reclamation purposes, security requirements under the <i>Waste Management Act</i>, <i>Wildlife Act</i> and <i>Fish Protection Act</i> are, by understanding with the Ministry of Energy and Mines, included in the Mines Act permit.
Contact Information	<ul style="list-style-type: none"> • Applications and advice regarding authorizations under the above legislation can be obtained at the Ministry's regional offices. • MWLAP website: http://www.gov.bc.ca/wlap/.

Ministry of Transportation (MOT)

Agency	Ministry of Transportation
Authority	Highway Act
Mandate Specific to Aggregate Operations	Section 54(1) of the <i>Highway Act</i> prohibits construction or use of a "private road, entrance, way, gate or other structure or facility as a means of access to a controlled access highway" without a permit.
Role in Aggregates Administration	The Ministry is the province's largest user of aggregates. It both purchases aggregate from producers and operates its own pits. Aside from Section 54(1) permits, the MOT's role is essentially non-regulatory.
Permits, Approvals, Licences and Certifications Issued	<ul style="list-style-type: none"> • Road access permit. • For Ministry of Transportation pits only: <ul style="list-style-type: none"> – Designate Pit Manager – Provide pit resource development plan – Conduct rehabilitation of pits
Application Process	Road access permit application process normally initiated through MEM referral.
Compliance Monitoring	Regional Gravel Resource Manager - monitors all work operations
Enforcement Provisions	Ministry contracts
Contact Information	For General Inquiries, please contact: Senior Geoscientist, Engineering Branch, Ministry of Transportation, 4B-940 Blanshard St., PO Box 9850, Stn Prov Govt, Victoria, BC V8W 9T5 or phone (250) 387-7702, fax (250) 356-7798
Additional Information	For Specific Pit Information, please contact: Vancouver - (604) 501-8317 Kamloops - (250) 828-4882 Nelson - (250) 354-6682 Prince George - (250) 565-6677 Terrace - (250) 615-3952 Nanaimo - (250) 390-6240

Local Government

Agency	Local Government <ul style="list-style-type: none"> • Regional Districts • Municipalities
Authority	<u>Local Government Act</u> , <u>Soil Conservation Act</u>
Mandate Specific to Aggregate Operations	To represent the interests and respond to the needs of communities by providing services, managing public assets and fostering their current and future economic, social and environmental well being. Local Governments may adopt growth strategies or <u>Official Community Plans</u> that guide decisions on land use management, and may adopt various regulatory bylaws to implement plans and/or establish permit requirements.
Role in Aggregate Administration	<ul style="list-style-type: none"> • Issue permits and processes applications to remove soil and/or place fill on land within the Agricultural Land Reserve (ALR) pursuant to the <i>Soil Conservation Act</i>. • Respond to referrals from the <u>Ministry of Energy and Mines</u> regarding mines permit applications to provide an assessment of the consistency of the proposed operation with the community plan, zoning regulations and development permit area guidelines. • Establish zones for aggregate uses (e.g., processing) and, within zones, regulate: <ul style="list-style-type: none"> – The use of land, buildings and structures, – The density of the land use, buildings and structures, – The siting, size and dimensions of buildings, and structures and uses that are permitted on the land, and – The location of uses on the land and within the buildings and structures (<i>Local Government Act</i> s. 903).
Permits, Approvals, Licences and Certifications Issued	<ul style="list-style-type: none"> • Soil removal and deposit permits for land in the ALR pursuant to the <i>Soil Conservation Act</i>. • Local governments may enact soil removal and deposit bylaws that regulate or prohibit the removal and deposit of soil. These bylaws may establish different regulations and prohibitions for different areas. Fees may be charged for these permit applications. • Local Governments may consider the issuance of temporary use permits for specific land uses not permitted in a zone.
Application Requirements	Local Governments: <ul style="list-style-type: none"> • Review applications for consistency with Official Community plans, development permit guidelines, zoning and other land use regulations, policies and regulations of senior levels of government, and environmental and community impacts; • Submit all appropriate documentation and studies requiring assessment • May hold public information meeting.

Application Process	<ol style="list-style-type: none"> 1. Within the ALR or Forest Land Reserve (FLR), apply to the Local Government. 2. Applications will be forwarded to the Land Reserve Commission (LRC) for a decision. 3. If approved by LRC, application is forwarded to Local Government for review and consideration of approval 4. Local Government issues permit.
Compliance Monitoring	<ul style="list-style-type: none"> • Monitoring of local government regulations and permit compliance under <i>Soil Conservation Act</i> by Bylaw Enforcement Officer. • Local Government answers public enquiries and refers issues or concerns to appropriate agencies as necessary.
Enforcement Provisions	<ul style="list-style-type: none"> • Enforcement of permits to remove soil and/or place fill on land in the ALR is subject to ticketing authority or court action, enforcement on non-ALR lands for activities contrary to local government regulations ultimately could result in court action.
Contact Information	<p>For general inquiries, contact: Local Governments listed in the government sections of telephone directories or on Civicnet @ http://www.civicnet.gov.bc.ca/.</p>
Additional Information	<p>Local Governments may have prepared independent land use studies or aggregate studies as part of the implementation of plans or bylaws. Official Community Plans often contain policies related to aggregate management and may show the location of known or active sand and gravel pits.</p>