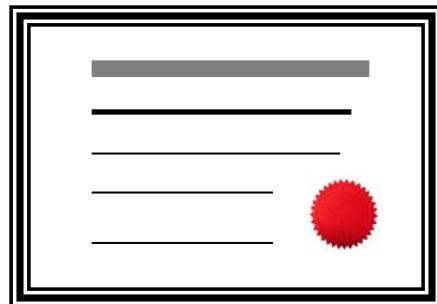


# A Framework for the use of Qualified Persons in the Natural Resource Sector



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# Table of Contents

## Contents

1	Introduction .....	1
2	What is a qualified person? .....	1
3	Functions of qualified persons .....	2
4	Framework for the use of qualified persons .....	3
4.1	Parties to the use of qualified persons .....	3
4.2	Essential components .....	4
4.2.1	Guidance .....	4
4.2.2	Competency .....	5
4.2.3	Accountability .....	5
4.3	QP models .....	6
4.4	The QP model development and improvement cycle .....	7
5	Summary .....	9

## **1 Introduction**

The agencies that regulate the use of natural resources (NRS agencies) in British Columbia continually seek opportunities to improve the effectiveness and efficiency of natural resource administration. The use of qualified persons (QPs) is one approach that has been successful in achieving this objective. A wide variety of qualified persons work in the natural resource sector, providing knowledge and expertise to support decision-making and operational activities. This paper presents a framework to guide the development and improvement of administrative regimes that rely on the work of QPs in the employ of resource users. A resource user includes a holder of an authorization, a proponent seeking an authorization or other persons conducting a regulated natural resource activity.

This paper includes:

- a definition of QPs
- a description of the functions they perform
- a framework for the effective use of qualified persons

The papers referenced in this guide are available through the [home page](#) for “Qualified Persons in the Natural Resource Sector” on the BC government website.

## **2 What is a qualified person?**

A qualified person is one who possesses the specified knowledge, skills, training, experience, and other requirements, to perform a specified type of work as:

- set out in legislation
- set out in government policy, or
- required by an organization satisfactory to government that has the responsibility for specifying the requirements

The requirements include holding an accreditation bestowed by:

- government
- a professional association constituted under an act, or
- other organization satisfactory to government

Attainment of the requirements is either:

- verified through a process undertaken by government, a professional association, or other organization satisfactory to government to confirm that all requirements are met, or
- self-assessed by members of a professional association constituted under an act where a code of ethics requires members to operate only within their area of expertise

Qualified persons may be registered professionals, or accredited practitioners. Table 1 shows a number of ways in which a person can become qualified.

*Table 1. Different approaches to becoming qualified persons.*

Qualified Persons			
Self-regulating professionals		Accredited practitioners	
Legislated self-regulating professionals	Non-legislated self-regulating professionals	Accredited by an organization acceptable to government	Accredited by government
Roster managed by government or other organization			
Meets criteria specified in legislation or policy			

Professional reliance is a particular approach where the qualified person involved belongs to a self-regulating professional association and takes on a greater measure of accountability for their work.

### 3 Functions of qualified persons

While qualified persons working in the natural resource sector come from a variety of disciplines, and work in a variety of commercial or industrial sectors, an inventory of the work QPs are currently doing showed that they conduct similar functions. Seventeen common ones have been identified:

- Develop standards
- Gather and provide information
- Predict impacts
- Prepare applications
- Prepare plans
- Provide consultation
- Design facilities and structures
- Design operational programs
- Support statutory decision-makers
- Supervise activities
- Conduct activities
- Provide reporting
- Verify compliance
- Provide peer reviews
- Provide training
- Troubleshoot
- Act as expert witnesses

These functions tend to fall into different project phases. More information on the use of QPs in the natural resource sector, and examples of each function, can be found in [Use of qualified persons in the Provincial administration and management of natural resources in British Columbia](#), Qualified Persons Cross-Ministry Working Group, 2014.

More specific information on the use of qualified persons for compliance verification can be found in [The Use of Qualified Persons for Compliance Verification](#), Edquist and Roberts, 2013.

## 4 Framework for the use of qualified persons

In order for a use of QPs to be effective from an economic, environmental and social perspective, it must be set within a governance model that adequately supports the use. In consultation with government staff, industry, qualified persons, professional associations and public interest stakeholders, a framework has been developed to guide new uses of qualified persons, and the improvement of existing uses. The framework is necessarily high-level in order to be relevant to the broad range of ways that QPs are used across the sector. Despite this, it has the ability to address many of the issues and concerns about QP use that were expressed during the development of the framework. Furthermore, it provides a common lens and language for interested parties to discuss the use of qualified persons. The framework consists of two main parts: a) the essential components, and b) a QP model development and improvement cycle.

### 4.1 Parties to the use of qualified persons

As shown in Figure 1, five parties have an interest in the efficient and effective operation of a regulatory model that relies on the use of qualified persons (QP model), whether as a participant or as a stakeholder.

The qualified person, the resource user, the qualified person governing body, and government are all participants in the use of qualified persons.

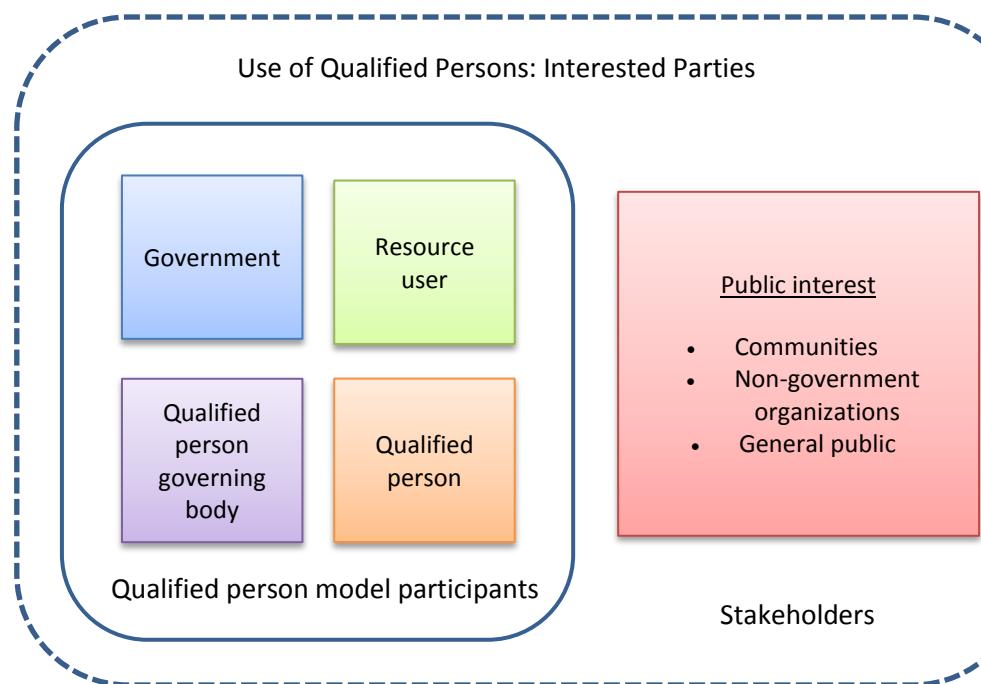


Figure 1. Interested parties to the use of qualified persons

The fifth party consists of all others who have an interest in the sustainable management and use of public resources including communities, non-government organizations and the general

public. It is recognized that First Nations have unique interests in the land which are not depicted in this model.

## 4.2 Essential components

The main part of the framework consists of three essential components that need to be in place for government and resource users to feel confident that they can rely on the work of qualified persons, and for the public to feel that this approach can support responsible management of natural resources. The essential components are: guidance, competency, and accountability, as shown in Figure 2.

Guidance	Competency	Accountability
<p>Resource and technical guidance or direction for QPs</p> <ul style="list-style-type: none"><li>• Objectives, standards, guidelines, codes of practice, best management practices, land use designations, resource use priorities, etc.</li><li>• Legal and non-legal</li></ul>	<p>Appropriate education, training and experience</p> <ul style="list-style-type: none"><li>• May include specialization, professional development, re-certification, etc.</li></ul>	<p>Measures to ensure acceptable performance</p> <ul style="list-style-type: none"><li>• Accountabilities<ul style="list-style-type: none"><li>○ QP: to client, association, public</li><li>○ QP Association: to public, government</li><li>○ Resource User: to government</li><li>○ Government: to public</li></ul></li></ul>

*Figure 2: Essential components of the framework for the use of qualified persons*

### 4.2.1 Guidance

In order for QPs to complete work to acceptable standards or to make recommendations that will be acceptable to natural resource managers, as well as their employers or clients, they require sufficient guidance to clarify or assure expected outcomes and enable performance evaluation through monitoring or audits. Guidance may be in legal or non-legal forms.

The guidance may include any or all of the following: desired results or outcomes, resource management objectives, statements of government's intent for resource values, regulatory standards, methodological standards, and practice guidelines— among many other possible guidance materials.

Metaphorically, this guidance serves either as goal posts to aim for (in results-focused regimes), or a rule book to play by (in prescriptive regimes). Either, or both, may be needed and there may be different guidance for different QP functions within an authorization type or project life cycle. Guidance may be produced by government, professional associations, or other organizations that set standards for professions or activities, or may be jointly produced by any combination of these three.

#### **4.2.2 Competency**

Government and resource users need to be sure that persons who are relied upon to carry out activities or provide advice are competent. One way of ensuring this is for the person to have to prove competence in order to be permitted to conduct the activities, or provide advisory services. The requirements for competency are usually determined by some form of governing body, whether it is a government agency, a professional association, or other non-government organization.

**Government** plays a number of different roles in defining and supporting this component. It may establish legislation for a professional organization and specify requirements, or categories of requirements, that must be met. It may directly certify QPs through testing and the granting of licences or permits, or it may establish and manage rosters of QPs that meet the competency requirements for specific work, as established by the agency. Government may also specify in regulation what requirements are needed to perform certain functions.

**Professional associations** play a role in defining competency by establishing or administering the knowledge, education, training and experience requirements that must be met in order to be admitted to the association.

**Other organizations** may also play a role in establishing and maintaining competency.

#### **4.2.3 Accountability**

Framework elements that support accountability help ensure acceptable performance, with consequences if performance is unacceptable. All four model participants have a role to play in supporting accountability.

**Qualified persons** are accountable to their employer or client. Those who belong to a professional association are also accountable to their association, and to the public if there is a legislated duty to uphold or protect the public interest. Professionals are typically held to a higher duty of care to protect the environment and the public than are non-professionals.

Accredited practitioners may, or may not, have an association to which they are accountable. In some cases, they are accredited by a professional association and are subject to similar accountability measure as professionals. In other cases, the accreditation is provided by government and there is no association. If this is the case, they are accountable primarily to their employer within the terms of the hiring agreement. The incentive to perform well is to continue to be employed or hired. However, there may still be some accountability measures in place, such as an oath, code of conduct or an ability to revoke the accreditation for poor performance. The public interest is upheld primarily through the resource users' accountability to the Province to fulfill their obligations.

**The resource user** is accountable to government for the terms and conditions of the applicable authorization or activity, and the legal obligations related to it.

**Professional associations** may have a number of provisions in place to hold their members accountable for their advice or actions. These include a code of ethics, complaint procedure, proactive practice reviews and disciplinary actions against a QP found to have violated association rules. Some associations have a legislated duty to uphold or protect the public interest.

**Government** is accountable to the public to a) ensure that the authorization holder complies with the terms and conditions of the authorization, and b) appropriately regulate the use of natural resources. The latter may include evaluating the effectiveness of the QP model, monitoring or auditing the work of the QP, obtaining third party audits of the model or aspects of QP use, and making this information available to the public.

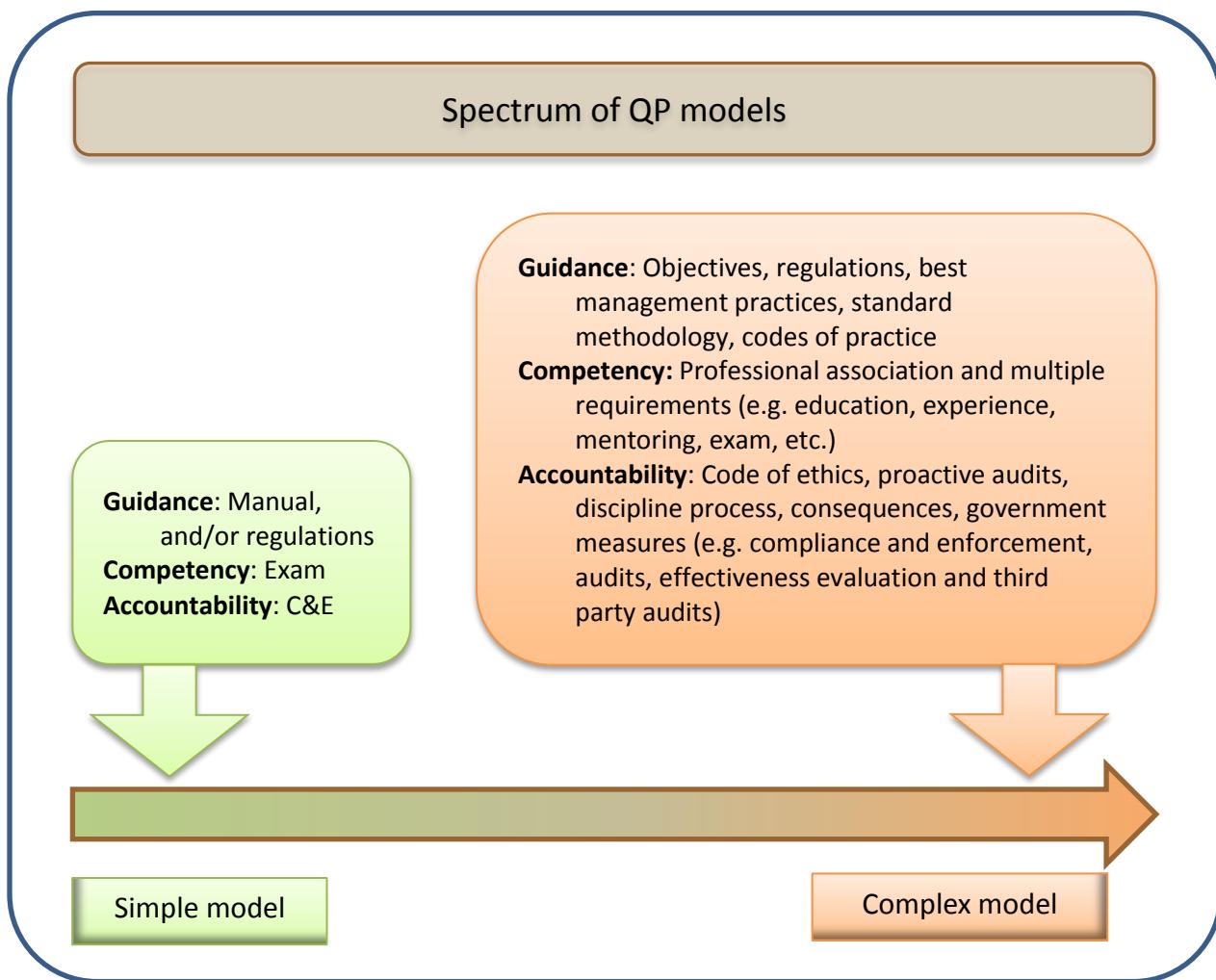
Government is also the governing body for many accredited practitioners and may have powers to revoke accreditation for poor performance.

### 4.3 QP models

Each of the essential components can be supported in a variety of ways, through measures put in place, primarily by government and professional associations, but resource users and other organizations can also play a role. Each combination of how the three components are supported or implemented for a particular QP use results in a QP model. Those models can range from simple to complex, as shown in Figure 3.

The measures chosen to support each component will depend on the nature and inherent risks of the activity involved and the role and responsibilities of the QP. Straightforward, lower-risk activities may require only certification of competency and a practice manual, while more complex, higher-risk activities requiring professional accountability might warrant a number of measures for each component.





*Figure 3. Spectrum of QP models, based on implementation of the three framework elements*

#### 4.4 The QP model development and improvement cycle

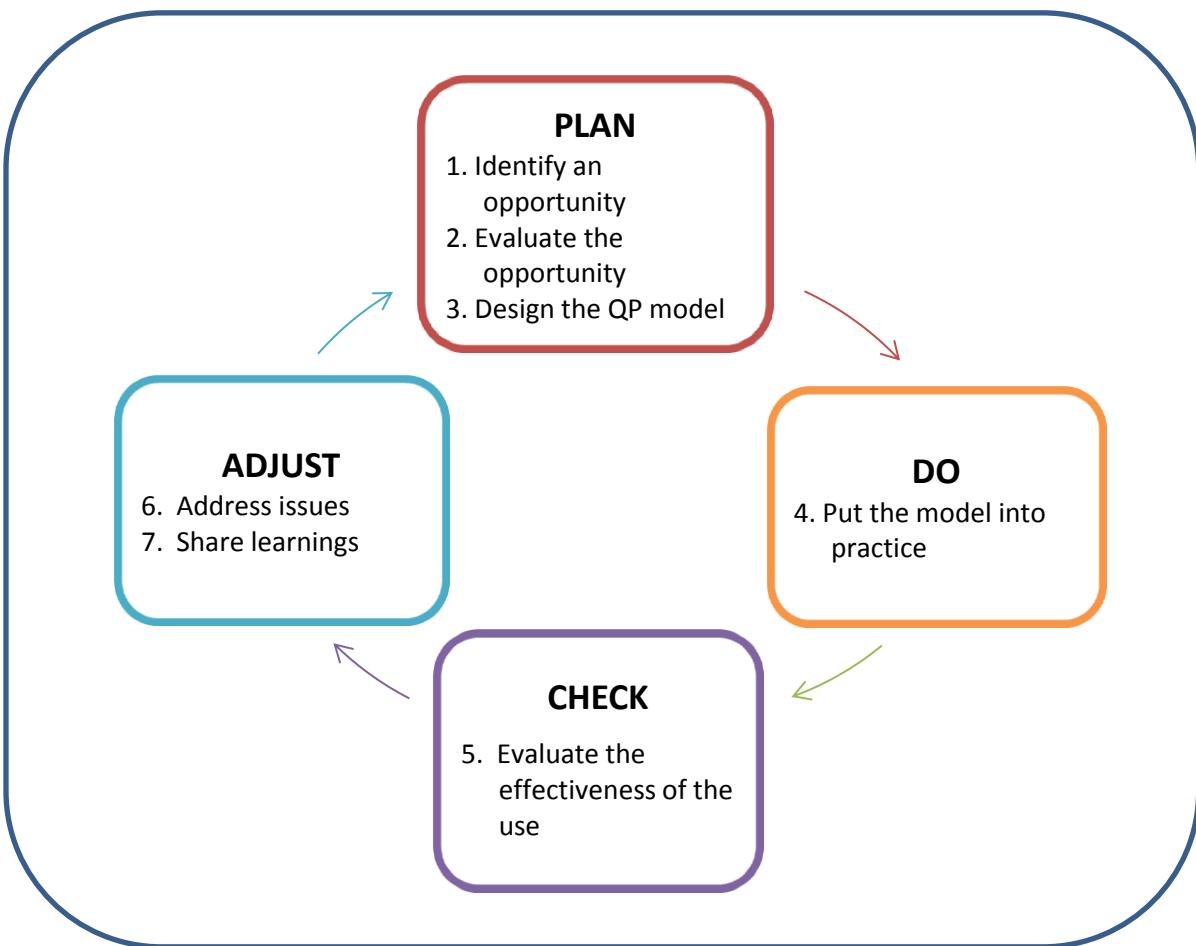
The development of a new way of using qualified persons (QP model), should be guided by an interactive, four-stage, Plan-Do-Check-Adjust (PDCA) management method (also known as the Deming cycle) as shown in Figure 4. This method is used in business for the control and continuous improvement of processes and products, and for carrying out change. Just as a circle has no end, the PDCA cycle should be repeated again and again for continuous improvement.

The general actions at each stage of the cycle are:

##### Plan

1. Identify a potential opportunity.
2. Evaluate the opportunity, looking at cost, risks, and benefits.

3. If likely to have overall benefit, design the governance model or plan a change to the existing one.
  - Guidance for identifying and evaluating opportunities is provided in [Use of Qualified Persons: Opportunity Assessment Tool](#), Vold and Mitchell, 2012.
  - Information on existing legal mechanism that support the use of QPs use can be found in [Mechanisms Supporting or Requiring the Use of Qualified Persons in Natural Resource Administration in British Columbia](#), Bauer and Webber Atkins, 2014.
  - Information on the measures currently in place to support the competency and accountability of a number of different types of qualified persons working in the natural resource sector can be found in [Measures in Place to Support the Competency and Accountability of Qualified Persons Working in the Natural Resource Sector](#).



*Figure 4. The qualified persons model development and improvement cycle*

#### **Do**

4. Implement the new use or improved use of QPs.
  - This may be done initially as a pilot project.

### **Check**

5. Evaluate the effectiveness of the use
  - Note strengths, and issues to resolve.
  - Guidance for this is provided in [\*Evaluating the Effectiveness of Using Qualified Persons in the Natural Resource Sector: Preliminary Metrics\*](#), Hayter, 2014.

### **Adjust**

6. Address issues identified in the evaluation and begin the cycle again.
7. Share what was learned, to help other models improve.

## **5 Summary**

Use of qualified persons is a tool that can be used to improve the administration of natural resources. However, it must be set in the context of a governance model that supports QPs, and adequately manages risks. The framework presented here can help government staff and QP model participants to design and implement QP uses which are efficient for government and resource users, and effective at managing public natural resources.