

APEGA | Professional Practice Department: Comments/Feedback on [CSA NI 43-101](#)

Deadline: 13 July 2022

Submitted via electronic mail to: ccollins@bcsc.bc.ca; comments@osc.gov.on.ca; consultation-en-cours@lautorite.qc.ca

Intended for:

- British Columbia Securities Commission
- Alberta Securities Commission
- Financial and Consumer Affairs Authority of Saskatchewan
- Manitoba Securities Commission
- Ontario Securities Commission
- Autorité des marchés financiers
- Financial and Consumer Services Commission, New Brunswick
- Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
- Nova Scotia Securities Commission
- Office of the Superintendent of Securities, Service NL
- Northwest Territories Office of the Superintendent of Securities
- Office of the Yukon Superintendent of Securities
- Nunavut Securities Office

Section	#	Consultation Question	Feedback/Comment
A	(e.g. 1)	[insert/copy question]	[individual response]
E.	16.	<i>Is there anything missing or unclear in the current qualified person definition? If so, please explain what changes could be made to enhance the definition.</i>	<p>The current definition of Qualified Person implies that professional registration for engineers and/or geoscientists is not required. Likewise, section 5.2 implies that sealing (authentication) is optional. It is understood that some provinces do not regulate geoscience and there may be fewer restrictions on importing engineering and geoscience. However, care and attention must be taken to ensure all jurisdictional regulatory requirements are met. The addition of a statement in the definition of a Qualified Person which clarifies the requirement to be registered in the provincial jurisdiction would help to clarify this regulatory requirement.</p> <p>An issue around such definitions arose when the CSA began using the term "supervising professional" in CSA A283 <i>Qualification Code for Concrete testing Laboratories</i>. There was discussion and differences of opinion about the role of the supervision professional, whether this was the same or different than "supervising engineer" and whether technologists are qualified to fill the role of supervising professional.</p>

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E.	17.	<p>Should paragraph (a) of the qualified person definition be broadened beyond engineers and geoscientists to include other professional disciplines? If so, what disciplines should be included and why?</p>	<p>There is a space where a qualified person may be the person who has economic expertise. In such cases, it is imperative to ensure that all contributors to the reports stay within their area of competence. Optionality for authenticating and signing off of technical elements in support of the report must be included for P.Eng and P.Geo who are doing the technical work but not necessarily running the aggregation economic models.</p> <p>If the definition of Qualified Person be expanded to include professionals outside of the engineering or geoscience profession, the definition must state explicitly that qualified people stay in their lane of competence regardless of the jurisdiction within which they are registered.</p>
F.	21.	<p>Should the qualified person accepting responsibility for the mineral resource estimate in a technical report be required to conduct a current personal inspection, regardless of whether another report author conducts a personal inspection? Why or why not?</p>	
F.	22.	<p>In a technical report for an advanced property, should each qualified person accepting responsibility for Items 15-18 (inclusive) of the Form be required to conduct a current personal inspection? Why or why not?</p> <p>a) Should the qualified person responsible for the mineral resource estimate be required to conduct data verification and accept responsibility for the information used to support the mineral resource estimate? Why or why not?</p> <p>b) Should the qualified person responsible for the mineral resource estimate be required to conduct data verification and accept responsibility for legacy data used to support the mineral resource estimate? Specifically, should this be required if the sampling, analytical, and QA/QC information is no longer available to the current operator. Why or why not?</p>	<p>Questions 21 and 22 are related to accepting professional responsibility. Qualified persons who take professional responsibility for professional work (including data verification, mineral resource estimates, personal inspections) must follow jurisdictional requirements. If a qualified person does not have a legislated professional regulatory association, they should have a clearly documented obligation to exercise diligence. For example, a statement such as "Personal inspections and mineral resource estimates must be conducted by qualified competent professionals who stay in their area of expertise for the inspection". It is suggested that language about obligations to exercise diligence be clearly stated to avoid any potential contradictions between this document and jurisdictional regulatory requirements.</p>

L.	38.	<p><i>Are there other disclosure requirements in NI 43-101 or the Form that we should consider removing or modifying because they do not assist investors in making decisions or serve to protect the integrity of the mining capital markets in Canada?</i></p>	<p>Yes: Section 5.2: "A technical report must be dated, signed, and, <u>if</u> the qualified person has a seal, sealed by..." The statement of "<u>if</u> the qualified person has a seal" could easily be misconstrued as a circumvention of legislated engineering or geoscience requirements, since it implies that a licensed professional is not required to stamp the work simply because they have elected not to obtain one from the regulator. Provincial engineering and/or geoscience legislation requires that professional work must be stamped by the professional licensee. It is also acknowledged that some provinces do not regulate the profession of geoscience. It is suggested that this statement be modified to state that the technical report must be sealed and meet provincial jurisdictional requirements by the professional association.</p>