



Guideline for Copying and Use of Computer Software

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The Association of Professional Engineers,
Geologists and Geophysicists of Alberta

FOREWORD

This document is an update of the document entitled *Illegal Copying and Use of Computer Software – A Guideline*, originally issued in 1990. The document was revised to conform to the current style for guidelines and practice standards and to update references.

An APEGGA guideline presents procedures and practices that are recommended by APEGGA. In general, an APEGGA Member should conform to the recommendations in order to be practising in accordance with what is deemed to be acceptable practice. Variations may be made to accommodate special circumstances if they do not detract from the intent of the guideline.

Guidelines use the word *should* to indicate that among several possibilities, one is recommended as particularly suitable without necessarily mentioning or excluding others; or that a certain course of action is preferred but not necessarily required; or that (in the negative form) a certain course of action is disapproved of but not prohibited (should equals is recommended that). The word *shall* is used to indicate requirements that must be followed (shall equals is required to). The word *may* is used to indicate a course of action permissible within the limits of the guideline (may equals is permitted).

PARTICIPANTS

APEGGA's Practice Standards Committee (PSC) publishes practice standards and guidelines to promote high levels of professional service. During the time the document was revised, the committee had the following membership:

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1 OVERVIEW

Computer software can be in any one or a combination of forms composed of computer programs and data. There is no distinction between human and machine readable programs or data. Computer software can be written or printed in hardcopy or embedded in electromagnetic media; embodied in erasable memory systems; in read-only memory chips or machine parts; or be transmitted through one or a variety of media.

1.1 SCOPE

This guideline sets out general principles concerning the copying and use of software by Members of the Association.

1.2 PURPOSE

The purpose of this guideline is to assist Members in understanding the Association's expectations and limitations concerning the use of software. It also serves as a guide against which Member conduct can be measured.

1.3 DEFINITIONS

For the purposes of this guideline, the following terms and definitions apply.

Association

The Association of Professional Engineers, Geologists and Geophysicists of Alberta (APEGGA).

Members

Individual persons and permit holders registered under the Engineering, Geological and Geophysical Professions Act.

2 CONSIDERATIONS IN THE COPYING AND USE OF SOFTWARE

2.1 LEGAL CONSIDERATIONS

Computer software is covered under the Canadian Copyright Act which provides for a financial penalty as well as a jail sentence for violation. The Copyright Act protects authors' legal rights and privileges to their creative works. It should be noted that a copyright in a work exists as soon as the work is created and there is no requirement to publish the work or to affix any special notice thereto. In addition to copyright considerations, usage of commercial software is also generally governed by contract law under the agreements of the software purchase contract and/or license.

2.2 ETHICAL CONSIDERATIONS

The Code of Ethics establishes the duty of APEGGA Members to enhance the dignity and status of the professions. APEGGA members shall conduct themselves with fairness and good faith toward other professional Members and the public in the area of computer software usage to avoid conduct which would detract from the image of the professions. In consideration of the Code of Ethics, APEGGA Members must guard against any violations, real or apparent, of the Canadian Copyright Act and contract laws and the resulting legal and ethical consequences.

2.3 GENERAL PRINCIPLES

All purchased/licensed computer software is subject to the full provisions of the agreements connected with the acquisition of the software and manuals associated therewith.

All APEGGA Members should be aware of the agreement provisions and abide by the terms of the agreements with particular regard to copying restrictions.

The use of copies of computer software or manuals that have been obtained in violation of copyright or trade secrets or in any other fraudulent manner is deemed unprofessional conduct on the part of an APEGGA Member.

In addition to exposure to possible criminal prosecution, violation of copyrights or misappropriation of trade secrets associated with computer software by our Members may result in disciplinary action by APEGGA.