



Province of Alberta

WATER ACT

WATER (MINISTERIAL) REGULATION

Alberta Regulation 205/1998

With amendments up to and including Alberta Regulation 240/2017

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

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(Consolidated up to 240/2017)

ALBERTA REGULATION 205/98

Water Act

WATER (MINISTERIAL) REGULATION

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Interpretation

- 1(1) In this Regulation,

- (a) “Act” means the *Water Act*;
- (b) “alternative watering system” means a method of supplying water to grazing livestock that has been developed to replace the watering of grazing livestock directly in a natural water body;
- (c) “annulus” means the space between the outside of the casing of a water well and the wall of the borehole;
- (d) “camp” includes, but is not limited to, a temporary industrial camp, a recreational camp and a temporary camp site;
- (e) “canal” means any structure or part of a structure
 - (i) that is constructed for the purpose of conveying 15 cubic metres or more of water per second, including water containing any other substance, and
 - (ii) that has embankments that are 2.5 metres or more in height when measured vertically from the lowest elevation at the outside limit of the embankment to the top of the embankment;
- (f) “certified journeyman driller” means the holder of a trade certificate as a water well driller issued under the *Apprenticeship and Industry Training Act*;
- (g) “completion”, with respect to a water well, means, except in sections 47(g)(i) and 53(1), that the drilling, construction, development, disinfection and yield testing of the water well have been completed as required under this Regulation;
- (h) “dam” means a barrier constructed for the purpose of storing water, including water containing any other substance, that
 - (i) provides for a storage capacity of 30 000 cubic metres or more, and
 - (ii) is 2.5 metres or more in height when measured vertically to the top of the barrier,
 - (A) from the bed of the water body at the downstream toe of the barrier, where the barrier is across a water body, or
 - (B) from the lowest elevation at the outside limit of the barrier, where the barrier is not across a water body,

and includes a works related to the barrier;

- (i) “dewatering” means removing or draining water;
- (j) “drilling report” means the drilling report referred to in section 41;
- (k) “emergency preparedness plan” means a plan developed by a person responsible for a dam or canal that describes the action the person responsible for the dam or canal must take in the event of an emergency at the dam;
- (l) “Environmental Protection and Enhancement Fund” means the Environmental Protection and Enhancement Fund established under the *Environmental Protection and Enhancement Act*;
- (m) “Environmental Protection Security Fund” means the Environmental Protection Security Fund established under the *Environmental Protection and Enhancement Act*;
- (n) “flood action plan” means a plan developed by a person responsible for a dam or canal that describes the action the person responsible for the dam or canal must take in the event of a flood;
- (o) “ford” means an enhanced site used for traversing a watercourse where the bed or banks of the watercourse are modified to facilitate traversing the watercourse;
- (p) “Green Area” means that part of Alberta shown outlined and coloured green on the map annexed to
 - (i) Ministerial Order 71/85 dated May 7, 1985 and made pursuant to section 10 of the *Public Lands Act* (RSA 1980 cP-30), as that order is amended from time to time, or
 - (ii) any order made in substitution for the order referred to in subclause (i), as amended from time to time;
- (q) “independent reviewer” means an independent reviewer under section 30;
- (r) “instrumentation” includes, but is not limited to, survey monuments and stations, inclinometers, extensometers, piezometers and measuring weirs;
- (s) “municipality” means the geographical area of a city, town, village, summer village, municipal district, improvement district, special area, specialized

municipality or settlement area as defined in the *Metis Settlements Act*;

- (t) “operation, maintenance and surveillance manual” means a manual developed by a person responsible for a dam or canal that describes the normal operation, maintenance and surveillance of the dam or canal;
- (t.1) “outfall structure” means a pipe or structure in, on, under or adjacent to a water body that is constructed for the discharge of
 - (i) precipitation that has fallen and been collected, or
 - (ii) liquid and water-carried wastesto a water body, and includes any associated structure that is required for the installation, maintenance or protection of the outfall structure;
- (u) “owner”, with respect to land, means
 - (i) the registered owner of the land,
 - (ii) a purchaser of the land whose interest as a purchaser is shown on the certificate of title to that land, and
 - (iii) except in sections 37(4), 50(4), 73, 80, 81(4) and (5) and 166(2) of the Act and Schedule 1 to this Regulation, a tenant or other person who is in lawful possession or occupation of the land;
- (v) “person in charge of the drilling” means a person who is authorized under the Act or regulations to drill or reclaim a water well;
- (w) “pipeline crossing” means a pipeline crossing as defined in the *Code of Practice for Pipelines and Telecommunication Lines Crossing a Water Body* adopted in section 3(1);
- (x) “qualified driller” means a person who
 - (i) is not a certified journeyman driller,
 - (ii) is the owner and operator of a drilling machine, and
 - (iii) holds a valid and subsisting approval to drill water wells that was issued under the *Water Well Regulation* (AR 123/93);

- (y) “quarter-section” means a quarter-section within the meaning of the *Surveys Act*;
 - (z) “saline groundwater” means water that has total dissolved solids exceeding 4000 milligrams per litre;
 - (aa) “substance” means
 - (i) any matter that
 - (A) is capable of becoming dispersed or is dispersed in the environment, or
 - (B) is capable of becoming transformed or is transformed in the environment into matter referred to in paragraph (A),
 - (ii) any sound, vibration, heat, radiation or other form of energy, and
 - (iii) any combination of things referred to in subclauses (i) and (ii);
 - (bb) “surface water” means all water on the ground surface, whether in liquid or solid state;
 - (cc) “telecommunication line crossing” means a telecommunication line crossing as defined in the *Code of Practice for Pipelines and Telecommunication Lines Crossing a Water Body* adopted in section 3(1);
 - (dd) “watercourse” means a river, brook, stream or other natural water channel and the bed along which this flows;
 - (ee) “watercourse crossing” means a watercourse crossing as defined in the *Code of Practice for Watercourse Crossings* adopted in section 3(2).
- (2)** A water body that is part of an irrigation works is included in the definition of “water body” as defined in the Act, for the purposes of the regulations under the Act, except as it is used in section 12(4)(h) and Schedule 1 to this Regulation.
- (3)** For the purposes of the Act,
- (a) “farm unit” means an agricultural operation
 - (i) that is carried out by a person, whether solely or jointly with one or more persons, on any parcel of land that is owned or occupied by that person, and

- (ii) that constitutes, in the opinion of the Director, one agricultural operation;
 - (b) “household” means one or more individuals living in a single, private and detached dwelling place;
 - (c) “municipal water” means water under a deemed licence that is processed through a treatment plant of a local authority of Alberta, where water under the deemed licence is transferred from within the Province to a location outside of Canada on the date the Act comes into force;
 - (d) “problem water well” means a water well that has been declared by the Director to be a problem water well;
 - (e) “processed water” means
 - (i) water that is packaged in Alberta as a beverage, including but not limited to bottled or canned water, and
 - (ii) water used in the processing of a food or industrial product if the water is a component of or used to transport the food or industrial product;
 - (f) “reclamation” means any or all of the following:
 - (i) the removal of equipment or buildings or other structures or appurtenances;
 - (ii) the decontamination of buildings or other structures or appurtenances, or of land or water;
 - (iii) the stabilization, contouring, maintenance, conditioning or reconstruction of the surface of the land;
 - (iv) any other procedure, operation or requirement specified in this Regulation.
- (4)** For the purposes of the Act, “activity” includes anything
- (a) that is conducted by a licensee in or on a works that is the subject of a licence and that is owned or operated by the licensee, and
 - (b) that impairs or may impair the exercise of rights of any household user, traditional agriculture user or other licensee, or causes or may cause a significant adverse effect on the aquatic environment, human health, property or public safety.

(5) A person responsible for an activity, diversion of water or for a works or operation of a works is any or all of the following:

- (a) an owner of the land on which the activity is or was carried out, the water is or was diverted or the works is or was located;
- (b) a previous owner of the land on which the activity was carried out, the water was diverted or the works was located, if the previous owner owned the land while the activity was carried out, the water was diverted or the works was located on the land;
- (c) a person who carries out or has carried out an activity;
- (d) a person who diverts or has diverted water;
- (e) an owner and a previous owner of the works;
- (f) any other person whom the Director considers caused or contributed to an adverse effect on the aquatic environment, natural water body, human health, property or public safety that resulted from the activity, diversion of water or works;
- (g) a successor, assignee, executor, administrator, receiver, receiver-manager, liquidator or trustee of a person referred to in any of clauses (a) to (f);
- (h) a person who acts as the principal or agent of a person referred to in any of clauses (a) to (g);
- (i) a person responsible for a dam or canal.

(6) A person responsible for a dam or canal is any one or more of the following:

- (a) a licensee with respect to a dam or canal or both;
- (b) an owner of the land on which the dam or canal, or both, are located;
- (c) a successor, assignee, executor, administrator, receiver, receiver-manager, liquidator or trustee of a person referred to in clause (a) or (b);
- (d) a person who acts as the principal or agent of a person referred to in clause (a), (b) or (c).

(7) A person responsible for a water well is any one or more of the following:

- (a) an owner of the land on which the water well is situated;
- (b) a previous owner of the land if the water well was situated on the land when that owner owned the land;
- (c) a person who has had charge, management or control of the water well including the driller and, for the purposes of sections 60 and 61, the person who installs the pumping equipment on the water well;
- (d) a successor, assignee, executor, administrator, receiver, receiver-manager, liquidator or trustee of a person referred to in clause (a), (b) or (c);
- (e) a person who acts as the principal or agent of a person referred to in clause (a), (b), (c) or (d).

AR 205/98 s1;251/2001;280/2003

Part 1 Activities

Approval exemption

2(1) An activity described in Schedule 1 is exempt from the requirement for an approval.

(2) An activity described in Schedule 2 that is commenced or continued in the area of the Province designated under Schedule 2 is exempt from the requirement for an approval.

Approval exemptions subject to Code

3(1) The placing, constructing, installing, maintaining, replacing or removing of a pipeline crossing or telecommunication line crossing is designated as an activity that does not require an approval, but the activity must be

- (a) commenced,
- (b) continued, and
- (c) carried out

in accordance with the *Code of Practice for Pipelines and Telecommunication Lines Crossing a Water Body*, published by the Department and dated December 1, 1999, as amended or replaced from time to time.

(2) The *Code of Practice for Pipelines and Telecommunication Lines Crossing a Water Body* referred to in subsection (1) is adopted and forms part of this Regulation.

(3) The placing, constructing, installing, maintaining, replacing or removing of a watercourse crossing is designated as an activity that does not require an approval, but the activity must be

- (a) commenced,
- (b) continued, and
- (c) carried out

in accordance with the *Code of Practice for Watercourse Crossings*, published by the Department and dated December 1, 1999, as amended or replaced from time to time.

(4) The *Code of Practice for Watercourse Crossings* referred to in subsection (3) is adopted and forms part of this Regulation.

(5) The placing, constructing, installing, maintaining, replacing or removing of an outfall structure that discharges to a water body, as defined in the *Code of Practice for Outfall Structures on Water Bodies*, published by the Department and as amended or replaced from time to time, is designated as an activity that does not require an approval, but the activity must be

- (a) commenced,
- (b) continued, and
- (c) carried out

in accordance with the *Code of Practice for Outfall Structures on Water Bodies*.

(6) The *Code of Practice for Outfall Structures on Water Bodies* referred to in subsection (5) is adopted and forms part of this Regulation.

AR 205/98 s3;91/99;280/2003

Notice of section 3 activities

4(1) Before an activity referred to in section 3 may be commenced, continued or carried out, written notice must be provided to the Director in the form and manner required by the Director or the applicable code of practice at least 7 days before the activity is commenced, unless otherwise specified by the Director.

(2) If notice was provided in accordance with subsection (1) and the activity has not been commenced, continued or carried out, as specified in the notice, within one year of the date notice was provided, the notice is no longer valid and the person commencing, continuing or carrying out the activity must provide further notice

in accordance with subsection (1) before the activity is commenced, continued or carried out.

(3) No person shall commence, continue or carry out an activity referred to in section 3 unless that person provides notice to the Director in accordance with subsection (1) or (2) of the intention to commence the activity.

Part 2 Diversions and Transfers

Licence exemption

5(1) A diversion of water or operation of a works described in Schedule 3 is exempt from the requirement for a licence.

(2) A diversion of water or operation of a works described in Schedule 4 that is commenced or continued in the area of the Province designated under Schedule 4 is exempt from the requirement for a licence.

Temporary diversions subject to Code

6 The temporary diversion of water for hydrostatic testing of pipelines is designated as a temporary diversion of water that must be commenced, continued and carried out in accordance with the *Code of Practice for the Temporary Diversion of Water for Hydrostatic Testing of Pipelines*, published by the Department and dated the day the Act comes into force, as amended or replaced from time to time, and that Code is adopted and forms part of this Regulation.

Section 6 temporary diversion notices

7(1) Before the temporary diversion of water referred to in section 6 may be commenced, continued or carried out, written notice must be provided to the Director in the form and manner required by the Director or the applicable code of practice at least 7 days before the temporary diversion is commenced, unless otherwise specified by the Director.

(2) If notice was provided in accordance with subsection (1) and the temporary diversion of water has not been commenced, continued or carried out as specified in the notice, within one year of the date notice was provided, the notice is no longer valid and the person commencing, continuing or carrying out the temporary diversion must provide further notice in accordance with subsection (1) before the temporary diversion of water is commenced, continued or carried out.

(3) No person shall commence, continue or carry out a temporary diversion of water that is designated in section 6 as a temporary diversion of water for hydrostatic testing of pipelines unless that person provides notice to the Director in accordance with subsection (1) or (2) of the intention to commence the temporary diversion of water.

Diversion for household purposes prohibited

8 A person who is entitled to receive or receives water under a licence that has been issued to another person for municipal purposes, including community water supply purposes, does not have the right to commence and continue the diversion of water under section 21 of the Act.

Subdivisions requiring reports

9(1) Subject to subsection (2), a type of subdivision of land for the purposes of section 23(3) of the Act is a subdivision that results in 6 or more parcels of land in a quarter-section or in a river lot.

(2) If a subdivision referred to in subsection (1) occurs and the requirements of section 21(3) or 23(3) of the Act or of both sections 21(3) and 23(3) of the Act have not been met, a person who

- (a) resided prior to that subdivision on a parcel of land that was part of the subdivided land,
- (b) has continuously resided on that parcel of land since that subdivision and continues to reside on that parcel, and
- (c) meets the requirements of section 21(1) and (2) of the Act

has the right to commence and continue the diversion of water under section 21 of the Act.

Major river basin boundaries

10(1) The boundaries of the Peace/Slave River Basin are the geographical boundaries of that land of the Province from which surface water flows to the Peace River and Slave River and their tributaries.

(2) The boundaries of the Athabasca River Basin are the geographical boundaries of that land of the Province from which surface water flows to the Athabasca River and its tributaries.

(3) The boundaries of the North Saskatchewan River Basin are the geographical boundaries of that land of the Province from which

surface water flows to the North Saskatchewan River and its tributaries.

(4) The boundaries of the South Saskatchewan River Basin are the geographical boundaries of that land of the Province from which surface water flows to the South Saskatchewan River and its tributaries.

(5) The boundaries of the Milk River Basin are the geographical boundaries of that land of the Province from which surface water flows to the Milk River and its tributaries.

(6) The boundaries of the Beaver River Basin are the geographical boundaries of that land of the Province from which surface water flows to the Beaver River and its tributaries.

(7) The boundaries of the Hay River Basin are the geographical boundaries of that land of the Province from which surface water flows to the Hay River and its tributaries.

Licence purposes

11 A licence may be issued for any or all of the following purposes:

- (a) municipal;
- (b) agricultural;
- (c) irrigation;
- (d) commercial;
- (e) industrial;
- (f) water power;
- (g) dewatering;
- (h) management of fish;
- (i) management of wildlife;
- (j) implementing a water conservation objective;
- (k) habitat enhancement;
- (l) recreation;
- (m) water management;
- (n) any other purpose specified by the Director.

Licence expiry dates

12(1) If there is an applicable approved water management plan, an order of the Minister or a water guideline that specifies what an expiry date of a licence should be or how an expiry date of a licence should be determined, the Director must determine the expiry date of the licence in accordance with that plan, order or water guideline.

(2) Subject to subsection (3), if there is no applicable approved water management plan, order of the Minister or water guideline that specifies what an expiry date of a licence should be or how an expiry date of a licence should be determined, the Director must issue a licence with an expiry date of

- (a) 10 years,
- (b) less than 10 years if
 - (i) the applicant for the licence has applied for a licence with an expiry date of less than 10 years, or
 - (ii) in the opinion of the Director, the expected duration of the project is less than 10 years,

or

- (c) more than 10 years if the Director has considered any one or more of the criteria specified in subsection (4) and is of the opinion that the licence should be issued with an expiry date of more than 10 years.

(3) Notwithstanding subsection (2), if there is no applicable approved water management plan, order of the Minister or water guideline that specifies what an expiry date of a licence should be or how an expiry date of a licence should be determined, the Director must issue a licence for a municipal, agricultural, irrigation or implementing a water conservation objective purpose with an expiry date of

- (a) 25 years,
- (b) less than 25 years if
 - (i) the applicant for the licence has applied for a licence with an expiry date of less than 25 years, or
 - (ii) in the opinion of the Director, the expected duration of the project is less than 25 years,

or

- (c) more than 25 years if the Director has considered any one or more of the criteria specified in subsection (4) and is of the opinion that the licence should be issued with an expiry date of more than 25 years.

(4) The Director must consider any one or more of the following criteria in determining whether the expiry date of a licence may be longer than that specified in subsection (2)(c) or (3)(c):

- (a) any applicable approved water management plan or water guideline;
- (b) the purpose of the licence;
- (c) the specific location of the diversion of water;
- (d) the area of the Province in which the diversion of water is located;
- (e) the lifespan of any technology related to the diversion of water or a works;
- (f) the expected duration of the project;
- (g) any potential positive and negative social and economic impacts of the proposed diversion of water;
- (h) any potential impact on the aquatic environment or a water body;
- (i) any existing policies and guidelines of the Department;
- (j) any other matters the Director considers relevant.

Part 3 Notice

Notice of application, decision or order

13(1) For the purpose of providing notice under sections 34(3), 108, 110(4) and 111 of the Act, the Director must do, or must require an applicant to do, one or more of the following:

- (a) publish notice of the application, decision or order in one or more issues of a newspaper that has daily or weekly circulation in the area of the Province in which the activity, diversion of water or operation of a works that is the subject of the application, decision or order is or will be carried out;

- (b) provide notice of the application, decision or order through a registry established by the Government for that purpose;
 - (c) provide notice of the application, decision or order through a telecommunication system or electronic medium;
 - (d) publish notice of the application, decision or order in The Alberta Gazette;
 - (e) make available a copy of the application, decision or order in one or more branch offices of the Department in the area of the Province in which the activity, diversion of water or operation of a works that is the subject of the application, decision or order is or will be carried out;
 - (f) provide notice of the application, decision or order, in the form and manner and within the time period specified by the Director, to
 - (i) any persons determined by the Director, and
 - (ii) the local authority of the municipality in which the land on which the activity, diversion of water or operation of a works is located;
 - (g) provide notice in any other form and manner considered appropriate by the Director.
- (2)** A notice with respect to an application under subsection (1) must contain the following:
- (a) the name of the applicant;
 - (b) a description of the nature of the activity, diversion of water or operation of a works referred to in the application;
 - (c) the location of the activity, diversion of water or operation of a works referred to in the application;
 - (d) a statement that a person who is directly affected by the application may submit a statement of concern to the Director within the time period as provided for by section 109(2) of the Act and set out in the notice;
 - (e) the location where information about the activity, diversion of water or operation of a works may be obtained or is available to the public;
 - (f) any other information required by the Director.

- (3)** A notice with respect to a decision or order under subsection (1) must contain the following:
- (a) a summary of and the date of the decision or order of the Director;
 - (b) the location where information about the decision or order may be obtained or is available to the public;
 - (c) if applicable, a statement that the decision may be appealed to the Environmental Appeal Board;
 - (d) any other information required by the Director.

Exemptions from notice requirements

14 An applicant or the Director is not required to provide notice under section 108 of the Act with respect to

- (a) an amendment under section 54(1)(b)(i), (ii), (v) or (vi) of the Act,
- (b) an application for an approval with respect to water well drilling, unless otherwise specified by the Director, and
- (c) a decision of the Director to issue or refuse to issue an approval with respect to water well drilling, except to the applicant for the approval, unless otherwise specified by the Director.

Part 4 Access to Information

Disclosure of information

15(1) Subject to this section,

- (a) the following documents and information in the possession of the Department that are provided to the Department in the administration of the Act must be disclosed to the public in the form and manner provided for in this Regulation:
 - (i) documents and information in a registry established by the Department for that purpose;
 - (ii) information, applications, plans and specifications that are provided to the Department as part of an application

- (A) by an applicant for an approval, licence or registration,
 - (B) by the holder of an approval, in respect of an application to amend a term or condition of the approval,
 - (C) by the holder of a preliminary certificate, in respect of an application to amend a term or condition of the preliminary certificate,
 - (D) by the licensee, in respect of an application to amend a term or condition of the licence, and
 - (E) for a transfer of an allocation of water under a licence;
- (iii) verified monitoring data and the processing information that is necessary to interpret that data, that is provided by an approval holder or licensee in accordance with a term or condition of the approval or licence, or the Act or this Regulation;
 - (iv) any reports or studies that are provided to the Department in accordance with a term or condition of an approval, preliminary certificate or licence, or the Act or this Regulation;
 - (v) statements of concern;
 - (vi) certificates of completion;
 - (vii) emergency preparedness plans;
 - (viii) flood action plans;
 - (ix) operation, maintenance and surveillance manuals;
- (b) the following documents that are created by the Department in the administration of the Act must be disclosed to the public in the form and manner provided for in this Regulation:
 - (i) approved water management plans;
 - (ii) approvals;
 - (iii) preliminary certificates;
 - (iv) licences;
 - (v) registrations;

- (vi) verified monitoring data and the processing information that is necessary to interpret that data;
- (vii) reports with respect to water conservation objectives and water guidelines;
- (viii) emergency plans;
- (ix) plans relating to floods;
- (x) water management orders;
- (xi) enforcement orders.

(2) Subject to subsection (3), subsection (1) applies only to documents and information provided to the Department after the coming into force of this Regulation.

(3) The Minister may disclose to the public in the form and manner specified by the Minister any other information in the possession of the Department that the Minister considers should be public information.

(4) If information referred to in subsection (1) or (3) is provided to the Department and relates to a trade secret, process or technique that the person submitting the information keeps confidential, the person submitting the information may make a request in writing to the Director within 30 days after the information is submitted to the Department that the information be kept confidential and not be disclosed.

(5) If the Director receives a request for confidentiality under subsection (4), the Director must

- (a) approve the request and order that the information be kept confidential and not be disclosed if the Director considers that the request is well founded, or
- (b) refuse the request if the Director considers that the request is not well founded.

(6) The Director must forthwith give notice to a person who makes a request for confidentiality of the Director's refusal of the request under subsection (5)(b).

(7) When the Director is considering a request for confidentiality or approves a request for confidentiality, no person involved in the administration of the Act may disclose any of the information to which the request relates except

- (a) to any other person who is or has been involved in the administration of the Act or of another law related to the

protection of the environment, or to the government of another jurisdiction or its agency for the purposes of administering a law related to the protection of the environment,

- (b) to the person who provided the information or any other person with his consent, or
- (c) as required by any other law or by an order of a court.

(8) No person to whom information is disclosed under subsection (7) may further disclose the information or use the information for any purpose other than the purpose for which it was disclosed to that person.

(9) Information relating to a matter that is the subject of an investigation or proceeding under the Act or this Regulation may not be released under subsection (1) or (3) if the Director is of the opinion that the release may be detrimental to the investigation or proceeding.

Provision of information

16(1) Subject to subsection (2), within a reasonable time after receipt of a request in writing for a document or information referred to in section 15, the Director or other person in charge of keeping the document or information must on request and on receipt of any fee specified in an order of the Minister under section 168 of the Act

- (a) make the document or information available for inspection by the person making the request during normal business hours at the location where it is kept, or at a location agreed to by the Director and the person making the request, and
- (b) provide one copy of the document or information to the person making the request.

(2) If a request relates in whole or in part to a document or information referred to in section 15(1)(a)(ii), (iii) or (iv), the Director or other person in charge may refuse to comply with subsection (1) unless the Director or other person in charge is satisfied that the person requesting the document or information has first made the request to the appropriate applicant, approval holder, licensee or registrant and that the request

- (a) was refused, or
- (b) was not complied with within 30 days after the request was made.

(3) If a person makes a written request for a document or information under this Part, and the Director or other person in charge is of the opinion that the document or information has already been provided to a group, organization, association or other body of which the person is a member or with which the person is otherwise affiliated, the Director or other person in charge may refuse to comply with subsection (1).

(4) A written request for a document or information under this Part must be made in a form and manner acceptable to the Director and must contain the following information:

- (a) the name, mailing address and telephone number of the person requesting the document or information;
- (b) the details of the document or information requested;
- (c) if subsection (2) applies, the date that the request was made to the appropriate applicant, approval holder, licensee or registrant.

Extension of time

17 The Director may, before or after the expiry of the prescribed time, advance or extend the time prescribed in sections 15(4) and 16(2) if the Director is of the opinion that there are sufficient grounds for doing so.

Part 5 Land Compensation Board Procedures

Appeals

18 This Part applies to appeals conducted by the Land Compensation Board pursuant to section 158 of the Act.

Notice of appeal

19(1) A licensee or preliminary certificate holder may appeal the amount of compensation authorized by the Director under section 158(1) of the Act by filing a notice of appeal in the form and manner required by the Land Compensation Board.

(2) A notice of appeal must be given to

- (a) the Land Compensation Board, and
- (b) the Director who authorized payment of compensation,

by the person appealing not later than 30 days after receipt of notice of the decision of the Director regarding compensation.

Pre-hearing matters

20 The Land Compensation Board may, prior to conducting the hearing of the appeal, on its own initiative or at the request of the person who filed the notice of appeal, convene a meeting of the person who filed the notice of appeal and the Director who authorized the compensation, and any other persons the Board considers should attend, for the purpose of

- (a) mediating a resolution of the subject-matter of the notice of appeal, or
- (b) determining any matters relevant to the hearing of the appeal.

Conduct of a hearing and decision

21(1) On receipt of a notice of appeal, the Land Compensation Board must conduct a hearing of the appeal and, within 30 days after the completion of the hearing, make a written decision on the matter.

(2) In its decision, the Land Compensation Board may

- (a) confirm, reverse or vary the decision appealed and make any decision with respect to the amount of compensation that the Director whose decision was appealed could make, and
- (b) make any further order that the Board considers necessary for the purposes of carrying out the decision.

(3) On making its decision, the Land Compensation Board must immediately give notice of its decision in accordance with section 166 of the Act to the person appealing and the Director whose decision was appealed.

Combining hearings

22 If 2 or more appeals have a common question of law or fact or arise out of the same authorization of compensation by the Director, the Land Compensation Board may order that the appeals be heard simultaneously or consecutively.

Costs

23(1) Any party to a proceeding before the Land Compensation Board may make an application to the Land Compensation Board

at the conclusion of the hearing for an award of costs that are reasonable and that are directly and primarily related to the matters contained in the notice of appeal and the preparation and presentation of the party's submission.

(2) In deciding whether to grant an application for an award of costs in whole or in part, the Land Compensation Board may consider any criteria the Board considers appropriate.

(3) In an award of costs, the Land Compensation Board may order the costs to be paid in whole or in part by any party to the appeal that the Board may direct.

(4) The Land Compensation Board may make an award of costs subject to any terms and conditions it considers appropriate.

Fees

24 The Land Compensation Board may charge fees for services or material provided by the Board or things done by the Board under the Act in accordance with an order of the Minister under section 168 of the Act.

Extension of time

25 The Land Compensation Board may, before or after the expiry of the prescribed time, advance or extend the time prescribed in sections 19 and 21 if the Board is of the opinion that there are sufficient grounds for doing so.

Part 6 Dam and Canal Safety

Plans and operation

26(1) If required by the Director, a person responsible for a dam or canal must prepare an emergency preparedness plan, flood action plan and operation, maintenance and surveillance manual in the form and manner and within the time period specified by the Director, whether or not there is a licence or approval with respect to the dam or canal or a term or condition in a licence or approval with respect to the dam or canal requiring such plans or manuals to be prepared.

(2) A person responsible for a dam or canal must operate and maintain the dam or canal in accordance with

- (a) the terms and conditions in any applicable licence,

- (b) if applicable, an emergency preparedness plan, flood action plan and operation, maintenance and surveillance manual,
- (c) the terms and conditions of any water management order that is issued under the Act,
- (d) the directions of an inspector or the Director, and
- (e) the Act and this Regulation.

Site assessments

27 If required by the Director, a person responsible for a dam or canal must carry out an assessment of the site of the dam or canal during the construction, operation, rehabilitation or repair of the dam or canal in the form and manner and within the time period specified by the Director.

Safety assessments

28(1) A person responsible for a dam or canal must, within 30 days of receiving written notice from the Director or within another time period specified by the Director,

- (a) submit to the Director the original or copies satisfactory to the Director of all design notes, drawings, specifications, structural, hydraulic, hydrologic, geotechnical and geological data, reports or other documents that were required or used for the design, construction, repair and rehabilitation of the dam or canal, and
- (b) arrange for a safety assessment of the dam or canal described in the notice to be conducted by an inspector or person authorized by the Director in the form and manner and within the time period specified by the Director.

(2) A safety assessment under subsection (1) may be carried out jointly with a person responsible for the dam or canal.

Reporting of site or safety assessment

29(1) Unless otherwise specified by the Director, if an assessment of a dam or canal is carried out or arranged by a person responsible for a dam or canal, including an assessment under section 27 or 28, the results of the assessment must be forwarded to the Director within 90 days of the assessment, or other time period required by the Director, unless the assessment reveals an unusual situation or potential safety hazard, in which case the results of the assessment must be reported immediately to the Director.

(2) For the purposes of this section, “results of the assessment” includes, but is not limited to, instrumentation readings and analyses, photographs and other visual records and drawings, soil or aggregate testing results or other test results and any other information related to the dam or canal that is requested by the Director.

Safety evaluation

30(1) If required in writing by the Director, a person responsible for a dam or canal must have a person who has been approved by the Director and who is a professional engineer as defined in the *Engineering and Geoscience Professions Act* be an independent reviewer to carry out a safety evaluation of a dam or canal in accordance with any written requirements of the Director and provide a written report of the safety evaluation.

(2) The report under subsection (1) must be in the form and manner required by the Director and must be submitted within the time period specified by the Director.

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Safety directives

31 If conditions are or may likely be hazardous to a dam or canal or if conditions may reasonably be anticipated to cause a dam or canal, or any part of a dam or canal, or any operation or action at or in connection with a dam or canal, to be or become a hazard to the environment, human health, property or public safety, a person responsible for a dam or canal must

- (a) operate the dam or canal, or any part of the dam or canal, in accordance with an applicable emergency preparedness plan,
- (b) immediately inform all persons who may be endangered by the dam or canal of the nature of the existing or anticipated conditions and, if reasonably necessary, advise those persons to vacate and to remove any property from the endangered area,
- (c) immediately notify the Director of
 - (i) the nature of the existing or anticipated conditions,
 - (ii) all things done with respect to the dam or canal by a person responsible for the dam or canal, and
 - (iii) the time and exact nature of any information provided or warning issued to any person under this section,

and

- (d) suspend operation of the dam or canal if required by the Director.

Suspension, cessation, abandonment, decommissioning

32(1) A person responsible for a dam or canal must not commence any of the following unless the person responsible for the dam or canal has previously applied for and obtained the written authorization of the Director:

- (a) to cease the operation of the dam or canal permanently or for any period of time;
- (b) to abandon or decommission the dam or canal permanently;
- (c) to remove the dam.

(2) If required by the Director, a person responsible for a dam or canal must prepare a program or comply with a program prescribed by the Director for ceasing the operation of a dam or canal, abandoning or decommissioning a dam or canal or removing a dam.

(3) A person responsible for a dam or canal who has obtained the Director's authorization under subsection (1) must, at least 14 days before commencing any work to which the authorization applies, notify the Director of the date on which the person responsible for the dam or canal expects to commence the work and submit a schedule for completion of the work.

(4) On the completion of any work to which this section applies, a person responsible for a dam or canal must submit to the Director a report on the work and how it was performed, and must arrange an inspection of the work by an inspector or person authorized by the Director on a date satisfactory to the Director.

(5) If required by the Director, a person responsible for a dam or canal must do any further work that the Director prescribes with respect to any danger to any person or property.

Providing information

33(1) In addition to any information required under this Regulation or under section 167 of the Act, a person responsible for a dam or canal must, within the time period specified by the Director, submit to the Director any information requested by the Director respecting the dam or canal and the land upstream or

downstream from or adjacent to the dam or canal that the Director requires to evaluate the condition of the dam or canal.

(2) A person responsible for a dam or canal must conduct any inspection, investigation, survey and test that is necessary to provide the information under subsection (1).

Instrumentation

34(1) If instrumentation is installed in a dam or canal, a person responsible for a dam or canal must monitor and maintain, and replace, if necessary, the instrumentation so the instrumentation provides continuity of readings.

(2) If required by the Director, a person responsible for a dam or canal must

- (a) install any additional instrumentation prescribed by the Director, and
- (b) submit instrumentation readings to the Director within 60 days after the readings are taken.

(3) If instrumentation reading schedules that have been agreed to by the Director are to be changed or modified, a person responsible for the dam or canal must notify the Director within 60 days of a cessation of the reading or before making any changes or modifications to the reading schedules.

Part 7 Water Wells

Duty to comply

35(1) No person shall site, locate, drill, construct, cover, reclaim, service, monitor, deepen, operate, complete, equip, disinfect, recondition, test or maintain a water well or cause a water well to be sited, located, drilled, constructed, covered, reclaimed, serviced, monitored, deepened, operated, completed, equipped, disinfected, reconditioned, tested or maintained except in accordance with this Regulation.

(2) Notwithstanding subsection (1), sections 41, 43(4), 44(1)(b) and (d), 44(2), 45, 47(b), (c), (e) and (f), 52(2), 60, 61, 63, 64 and 66(2) do not apply in respect of a water well drilled by the holder of a Class C approval.

Class of approval required

36 The class of approval that is required in respect of an activity described in Column 2 of Schedule 5 is the class of approval shown in Column 1 of Schedule 5 opposite that activity.

Requirements for a Class A approval

37(1) The Director may issue a Class A approval to an applicant who

- (a) is a certified journeyman driller,
- (b) employs a certified journeyman driller, or
- (c) is a qualified driller.

(2) An applicant for an approval who employs a certified journeyman driller must disclose the name of that certified journeyman driller in the application.

(3) A Class A approval holder shall not allow any person to operate a drilling machine unless,

- (a) in the case of an approval issued to a person under subsection (1)(a) or (b), that person is
 - (i) a certified journeyman driller,
 - (ii) enrolled in an apprenticeship program for the designated trade of water well driller under the *Apprenticeship and Industry Training Act* and is directly supervised by a certified journeyman driller at least once a day, or
 - (iii) under the direct and continuous supervision of a certified journeyman driller at the drilling site,

or

- (b) in the case of an approval issued to a person under subsection (1)(c), that person is the qualified driller to whom the approval was issued or a certified journeyman driller who is employed by that person.

Notification of change in information

38 An approval holder must notify the Director

- (a) within 10 days after any change to any information provided in an application for an approval if the

information relates to the eligibility of the approval holder, and

- (b) within 60 days after any other change in any information provided in an application for an approval.

Plates for approval holder

39(1) The Director must provide an approval holder with one plate for each drilling machine owned and operated by the approval holder.

(2) No person shall use or permit the use of a drilling machine unless the plate is prominently displayed on the drilling machine.

(3) No approval holder shall transfer a plate to any other person.

(4) If an approval holder sells, transfers or otherwise disposes of a drilling machine or retires the machine from use, the approval holder must immediately return the plate to the Director.

Problem water well

40 The Director may declare a water well to be a problem water well if the Director is satisfied that the water well may cause, is causing or has caused an adverse effect on the environment, human health, property or public safety.

Drilling report

41(1) Within 60 days after the completion of a water well, the approval holder must ensure

- (a) that a drilling report is completed in a form acceptable to and containing the information required by the Director, and
- (b) that a copy of the drilling report is provided to the Director and the owner of the water well.

(2) A person who drills a water well for which an approval is not required under this Regulation must, within 60 days after completion of the water well,

- (a) complete a drilling report in a form acceptable to and containing the information required by the Director, and
- (b) provide a copy of the drilling report to the Director.

(3) A person required to complete a drilling report under this section must keep a copy of it for at least 5 years after it is completed.

Records during drilling

42 During the drilling of a water well, the driller must

- (a) maintain a current record of the construction and testing of the water well, including a lithologic log, and
- (b) have the record available for inspection.

Reporting saline groundwater or gas

43(1) If saline groundwater is encountered in drilling a water well, the driller must

- (a) notify the owner of the water well that saline groundwater has been encountered, and
- (b) ensure that the saline groundwater is sealed off to prevent it from mixing with any other water that is not saline groundwater.

(2) If gas is encountered in drilling a water well, the driller must

- (a) notify the owner of the water well that the gas has been encountered,
- (b) subject to subsection (3), notify the Director within 24 hours after encountering the gas, and
- (c) subject to subsection (3), ensure that the gas is immediately sealed off to prevent an adverse effect on the environment, human health, property and public safety.

(3) Subsection (2)(b) and (c) only apply when gas is encountered in a quantity that would prevent the safe drilling or operation of the water well.

(4) If saline groundwater or gas is encountered in the drilling of a water well, the driller must, in the drilling report, report to the Director the remedial steps taken.

Water well site specifications

44(1) The driller and the owner of a water well must locate the water well site so that

- (a) the water well is accessible for cleaning, treatment, repair, testing, maintenance and inspection,
- (b) the area immediately surrounding the water well may be kept in a sanitary condition,
- (c) surface water does not collect or form a pond in the vicinity of the water well, and
- (d) the water well is at least 3.25 metres away from the nearest building.

(2) No person shall locate a water well in a pit.

Pumphouse

45(1) No person shall locate a water well in a building other than a pumphouse that houses only the water well and the pump.

(2) The owner of a water well must ensure that a pumphouse is constructed and maintained so that water does not collect on the pumphouse floor.

Distance from sources of contamination

46(1) No person shall locate or drill a water well for the diversion of groundwater, other than saline groundwater, closer to a thing described in Column 1 of Table 1 than the distance specified in Column 2 of Table 1.

(2) If the diversion of water from a water well is licensed for municipal purposes, no person shall locate or drill the water well closer than 100 metres from any thing listed in Column 1 of Table 1.

Table 1

Column 1 Sources of Substance	Column 2 Minimum Distance Required
Watertight septic tank or sewage holding tanks	10 metres
Sub-surface weeping tile effluent disposal field or an evaporation mound	15 metres
Sewage effluent discharge to the ground surface	50 metres

Sewage lagoon	100 metres
Above ground storage tanks containing petroleum substances	50 metres

Construction requirements

47 The driller of a water well must ensure that the water well meets the following requirements:

- (a) the water well must be constructed so that surface water or substances can not enter any aquifer;
- (b) the water well must be designed and developed so as to allow production consistent with the water well owner's water requirements, taking into account the production potential of the aquifer being used;
- (c) the water well must be constructed so that the casing extends
 - (i) not less than 20 centimetres above the pumphouse floor or the established ground surface, and
 - (ii) at least 60 centimetres above the highest flood record in the area, if the water well is not to be equipped with a watertight cap;
- (d) the water well must be sufficiently straight and free of obstructions to admit the pumping equipment without damage;
- (e) in the case of a water well intended to be equipped with a submersible or independent jet pump, the water well must be constructed so that the casing has an inside diameter of at least 10.16 centimetres from the top of the water well to below the optimum pump intake depth;
- (f) when non-metallic pipe is used as casing, the water well must be protected at the ground surface by steel casing that is firmly anchored in the ground;
- (g) in the case of a diversion of groundwater from a water well that must be licensed, the water well must be
 - (i) constructed in a manner that does not result in multiple aquifer completions,
 - (ii) constructed with an open hole with a slotted or screened section that does not exceed 7.62 metres if distinct water-producing units are not present, and

- (iii) sealed the full length of the annulus from the ground surface to the top of the aquifer using suitable cement, grout, concrete, bentonite or equivalent commercial slurry, or using clay slurry, impervious water well cuttings or impervious overburden materials;
- (h) a water well that is bored or dug must be provided with a cover that has a 5-centimetre overlap and does not allow water to enter through the top.

Covering of water well

48 The owner, in the case of a completed water well, and the driller, in the case of a water well that is being drilled and is left unattended, must ensure that the water well is securely covered to prevent the entry of surface water and foreign materials into the water well and to prevent persons or animals from falling into the water well.

Specifications for materials

49 No person shall use or permit the use of materials in the drilling, construction, maintenance, servicing or monitoring of a water well unless the materials

- (a) are new and uncontaminated, and
- (b) meet or exceed the specifications set out for that material and purpose by the Canadian Standards Association or the American Society for Testing and Materials.

Fluids and substances

50 No driller shall use a fluid or substance in a drilling operation that may cause an adverse effect on the environment, human health, property or public safety.

Casing joints

51 The driller must ensure that all joints in the casing of a water well are made so as to prevent entry into the water well of any substance that may cause an adverse effect on the environment, human health, property or public safety.

Casing specifications

52(1) The driller must ensure that casing used in a water well has at least the following wall thickness:

- (a) 4.78 millimetres for metal well casing;

- (b) 3.96 millimetres for metal liner casing;
 - (c) for cement-like casing, 6.35 centimetres if the inside casing diameter is 60.96 centimetres or less, with an additional 2.54 centimetres for each additional 30.48 centimetres of diameter;
 - (d) 16-gauge for corrugated and galvanized steel casing used in bored or dug water wells.
- (2) The driller must ensure that plastic casing used in a water well
- (a) is ABS or PVC pipe manufactured from virgin resin and approved for potable water use by the Canadian Standards Association or the American Society for Testing and Materials, and
 - (b) meets or exceeds the specifications for wall thickness set out in Table 2.

Table 2

Nominal Pipe Size (Millimetres)	Standard Dimension Ratio or Schedule Number	Minimum Wall Thickness (Millimetres)
50.8	SDR 21	2.67
	SCH 40	3.91
	SCH 80	5.54
76.2	SDR 21	4.24
	SCH 40	5.49
	SCH 80	7.62
101.6	SDR 21	5.44
	SCH 40	6.02
	SCH 80	8.58
127.0	SDR 21	6.73
	SCH 40	6.55
	SCH 80	9.53
152.4	SDR 21	8.03
	SCH 40	7.11
	SCH 80	10.97
203.2	SDR 21	10.41
	SCH 40	8.18
	SCH 80	12.70
254.0	SDR 21	12.98
	SCH 40	9.27
	SCH 80	15.08

Annulus

53(1) A driller who drills a water well by a method other than boring or digging must,

- (a) when a casing-liner completion method is used, fill the annulus from the bottom of the casing to the ground surface, and
- (b) when a single string casing completion method is used, fill the annulus from immediately above the perforated section to the ground surface.

(2) The annulus must be filled with a suitable cement, grout, concrete, bentonite or equivalent commercial slurry, or with clay slurry, impervious water well cuttings or impervious overburden materials.

(3) A driller who drills a water well by boring or digging to a depth of more than 4.5 metres must fill the annulus

- (a) adjacent to the perforated section of the casing, and not closer to the land surface than 4.5 metres, with clean material free of clay and silt, and
- (b) between the ground surface and the area described in clause (a) with suitable cement, grout, concrete, bentonite or equivalent commercial slurry, or with clay slurry, impervious water well cuttings or impervious overburden materials.

(4) A driller who drills a water well by boring or digging to a depth of 4.5 metres or less must fill the annulus

- (a) from the bottom of the water well to a depth not closer to the ground surface than one metre with clean material free of clay and silt, and
- (b) between the ground surface and the area described in clause (a) with suitable cement, grout, concrete, bentonite or equivalent commercial slurry, or with clay slurry, impervious water well cuttings or impervious overburden materials.

Deepening water well

54(1) Subject to subsection (2), if an existing water well is deepened, this Regulation applies to the deepening, including the portion of the existing water well that is used as part of the deepened water well.

- (2) If an existing water well that was bored or dug is deepened by a method other than boring or digging through the bottom of the water well,
- (a) the water well must have casing that extends upward through the dug or bored water well in accordance with section 47(c), and
 - (b) the annulus between the casing referred to in clause (a) and the casing of the existing bored or dug water well must be filled from the bottom to the ground surface with suitable cement, grout, concrete, bentonite or equivalent commercial slurry, or with clay slurry, impervious water well cuttings or impervious overburden materials.

Potential flowing water well

55 If a water well being drilled has the potential of flowing, the driller must ensure that the water well is drilled in a manner that prevents the water from flowing out of control.

Completed flowing water well

56(1) On completion of a flowing water well, the driller must ensure that the water well is equipped with a variable flow control device to control the flow of water from the water well.

(2) After the installation of the variable flow control device, the driller must

- (a) stop the flow of water for a period of not less than 48 hours by closing the control device, and
- (b) ensure that the water well is effectively sealed to prevent the escape of water from the annulus of the water well or its immediate vicinity.

Maximum allowable flow

57(1) No person shall allow a flowing water well to flow at a rate in excess of the lesser of

- (a) the water requirements of the owner of the water well, and
- (b) 100 cubic metres per week.

(2) Subsection (1) does not apply to a water well that is licensed and the licence authorizes a yield in excess of 100 cubic metres per week.

Disinfection of water well

58 When a water well, other than a flowing water well, has been drilled, developed and yield tested, the driller must

- (a) disinfect the water well so that a concentration of 200 milligrams of chlorine per litre of water is present throughout the water in the water well, and
- (b) maintain the concentration prescribed in clause (a) in the water well for a period of at least 12 hours.

Protection from sediment

59 The driller must complete a water well in a manner that ensures that the pumping system, plumbing and fixtures are not damaged by sediment in the water.

Installation of pumping equipment

60 A person who installs pumping equipment in a water well must ensure that the pumping equipment is installed so that

- (a) the pump, water well and its surroundings can be kept in a sanitary condition,
- (b) the flow rate does not exceed the recommended pumping rate of the water well as set out in the drilling report,
- (c) the pump is not placed in an unsupported open hole,
- (d) if the connection of the pumping equipment through the casing of the water well is made below the ground surface,
 - (i) a pitless adapter is used and the connection is watertight, and
 - (ii) the outside excavation
 - (A) extends a minimum distance outward of 0.5 metre from the casing,
 - (B) extends from the bottom of the excavation to within 0.5 metre of the ground surface, and
 - (C) is filled with suitable cement, grout, concrete, bentonite or equivalent commercial slurry, or with clay slurry, impervious water well cuttings or impervious overburden materials,

and

- (e) if the pumping equipment is installed in a water well drilled by a method other than boring or digging, the top of the casing is sealed with a commercially manufactured water well cap.

Disinfection of pumping equipment

61(1) A person who installs pumping equipment in a water well must, after installation, disinfect the equipment by using chlorinated water in the concentration prescribed in section 58 and maintaining that concentration in the pumping system for at least 12 hours.

(2) At the end of the disinfection period, the installer must operate the pumping equipment until no odour of chlorine remains in the water.

Venting

62(1) If

- (a) pumping equipment is installed in a water well,
- (b) the water well casing is not used to transmit the water in the water well, and
- (c) the water well cap is not designed to vent the inside of the water well to the atmosphere,

the person installing the pumping equipment must ensure that the water well is equipped with an air vent that complies with this section.

(2) The air vent must have a minimum inside diameter of

- (a) 0.3 centimetre, if the inside diameter of the water well casing is less than 10.16 centimetres, or
- (b) 1.2 centimetres, if the inside diameter of the casing is 10.16 centimetres or more.

(3) The air vent must extend above the ground surface

- (a) for 30 centimetres, or
- (b) to a height equal to the highest flood on record in the area,

whichever is greater.

(4) The open end of the air vent must be shielded and screened to prevent the entry of any material into the water well.

(5) The air vent must be extended to the outside atmosphere so that all gases are safely dispersed.

Testing of water well yield, pumping

63(1) After drilling and developing a water well, the driller must test the yield of the water well in accordance with this section or section 64.

(2) A yield test must be conducted by pumping the water well for at least 2 continuous hours immediately followed by 2 hours of recovery.

(3) The pumping rate during the yield testing must be at least equal to the expected pumping rate of the water well and the rate must be held constant.

(4) When a yield test is conducted,

- (a) the static water level in the water well must be measured immediately before commencement of the pumping, and the water level during pumping must be measured at time intervals specified in the production test in the drilling report,
- (b) the water level in the water well must be measured immediately after the end of the pumping, and at time intervals specified in the production test in the drilling report for
 - (i) 2 continuous hours, or
 - (ii) until 90% recovery of the static water level measured under clause (a) is achieved,

whichever occurs first,

- (c) the water level in the water well must be measured by means of a tape, air line or electrical device, and
- (d) the rate of pumping and the water level measurements taken during the yield test must be recorded in the drilling report.

(5) If water cannot be pumped for 2 continuous hours during a yield test of a water well,

- (a) the water level in the water well must be measured immediately after the end of the pumping, and at time intervals specified in the production test in the drilling report for

- (i) 2 continuous hours, or
 - (ii) until 90% recovery of the static water level measured under subsection (4)(a) is achieved,
- whichever occurs first, and
- (b) the following information must be recorded in the drilling report:
 - (i) the reason the pumping was discontinued,
 - (ii) the rate of pumping, the length of time of the pumping and the recovery methods, and
 - (iii) the water level measurements taken during the pumping and recovery periods.

Testing of water well yield, water removal

64(1) When the yield of water from a water well is tested by a bailer or other equipment that does not permit accurate drawdown measurements in the water well, the driller must ensure that when the yield test is conducted

- (a) the static water level in the water well is measured immediately before removal of the water from the water well,
- (b) the water is removed from the water well for at least 2 continuous hours,
- (c) the water level in the water well is measured immediately after termination of water removal and at time intervals specified in the production test in the drilling report for
 - (i) 2 continuous hours, or
 - (ii) until 90% recovery of the static water level measured under clause (a) is achieved,whichever occurs first,
- (d) the water levels in the water well are measured by means of a tape, air line or electrical device, and
- (e) the rate of water removal during the test and the water level measurements taken during the recovery are recorded in the drilling report.

(2) If water cannot be removed from the water well for 2 continuous hours,

- (a) the water level in the water well must be measured immediately after termination of water removal and at time intervals specified in the production test in the drilling report for
 - (i) 2 continuous hours, or
 - (ii) until 90% recovery of the static water level measured under subsection (1)(a) is achieved,whichever occurs first, and
- (b) the following information must be recorded in the drilling report:
 - (i) the reason water removal was discontinued;
 - (ii) the rate of water removal, the length of time of the water removal and the recovery periods;
 - (iii) the water level measurements taken during the recovery periods.

Testing under exploration approval

65 Sections 63 and 64 do not apply in respect of a water well that has been yield tested in accordance with the requirements of an approval for the exploration of groundwater if that approval requires longer periods of water removal and recovery than those required by sections 63 and 64.

Reclamation

66(1) Subject to subsection (2), if a water well is not completed due to a construction problem or inadequate water yield to meet the water well owner's water requirements,

- (a) the driller must immediately reclaim the water well in accordance with this section, and
- (b) the approval holder or, in the case of a water well that does not require an approval, the driller must complete the drilling report and provide it as if the water well were completed as required by section 41(1).

(2) If a water well that is not completed has been drilled by the holder of a Class C approval and the water well is abandoned, the owner of the water well must reclaim the water well or cause the water well to be reclaimed in accordance with this section.

- (3)** If a water well is abandoned after completion, the owner of the water well must reclaim the water well or cause the water well to be reclaimed in accordance with this section.
- (4)** When a water well is to be reclaimed,
- (a) the water well must be thoroughly flushed and cleaned of all foreign materials,
 - (b) the water well must be disinfected with a concentration of at least 200 milligrams of chlorine per litre of water in the water well,
 - (c) all equipment and materials, including casing, liner and riser pipe, must
 - (i) be removed, or
 - (ii) if removal of the equipment or materials is impracticable, be cut off at least 0.5 metre below ground level,
- and
- (d) the water well must be filled full length so that vertical movement of water within the water well bore is effectively and permanently prevented.
- (5)** Material used to fill a water well under subsection (4)(d) must be
- (a) free of any substance that may cause an adverse effect on the environment, human health, property or public safety,
 - (b) suitable cement, grout, concrete, bentonite or equivalent commercial slurry, or clay slurry, impervious water well cuttings or impervious overburden materials,
 - (c) introduced at the bottom of the water well and placed progressively upwards, unless it is designed and manufactured for the purpose of being introduced into the water well from the ground surface, and
 - (d) put in place by the use of drill pipe, grout pipe or tremie pipe, cement bucket or dump bailer in such a way as to avoid segregation or dilution of the sealing materials.
- (6)** The uppermost 0.5 metre of the borehole to the ground surface in the water well must be backfilled with material appropriate for the intended use of the land.

(7) All equipment used for the reclamation of a water well must be free of any substance that may cause an adverse effect on the environment, human health, property or public safety.

Inactive water well

67(1) If a water well is temporarily not in use but is not abandoned, the owner of the water well must ensure that the water well is

- (a) thoroughly flushed and cleaned of all foreign materials,
- (b) disinfected with a concentration of at least 200 milligrams of chlorine per litre of water in the water well, and
- (c) securely capped with a sealing device that prevents the entry of any substance into the water well that may cause an adverse effect on the water in the water well.

(2) The owner of the water well must ensure that the sealing device referred to in subsection (1) is maintained in place at all times until the water well is reclaimed or put back into active service.

Duties after water well completion

68(1) After a water well is completed, the owner of the water well must

- (a) maintain the water well and the water well site in a manner that will prevent the entry of surface water or other foreign materials into the water well,
- (b) maintain the area immediately surrounding the water well in a sanitary condition,
- (c) if non-metallic pipe is used as casing, ensure that the water well is protected at ground surface by steel casing firmly anchored in the ground, and
- (d) protect the water well at ground surface from any physical damage.

(2) If saline groundwater enters a water well after completion, the owner of the water well must ensure that the saline groundwater is sealed off to prevent any adverse effect on the environment, human health, property or public safety.

Reconditioning

69 A driller who reconditions a water well must ensure that all material and equipment used in the reconditioning is free of any substance that may cause an adverse effect on the environment, human health, property or public safety.

Security, water well drillers

70(1) If an approval referred to in this Regulation is cancelled or suspended under the Act, the Director may refuse to issue another approval to the same person unless that person provides security in accordance with this section.

(2) The Director may by notice require an approval holder who has provided security under subsection (1) to provide additional security within the time period specified in the notice.

(3) Security must be in an amount determined by the Director to be sufficient to ensure compliance by the approval holder with the Act, this Regulation, the regulations under the *Environmental Protection and Enhancement Act* and the approval, but in no case may the Director require security in an amount exceeding \$100 000.

(4) An approval holder must immediately notify the Director of any material change in the approval holder's financial condition or operations which might affect the amount of security required.

(5) Security must be in one or more of the following forms as required by the Director:

- (a) cash;
- (b) cheques and other similar negotiable instruments payable to the President of Treasury Board and Minister of Finance;
- (c) Government guaranteed bonds, debentures, term deposits, certificates of deposit, trust certificates or investment certificates assigned to the President of Treasury Board and Minister of Finance;
- (d) irrevocable letters of credit, irrevocable letters of guarantee, performance bonds or surety bonds, in a form acceptable to the Director;
- (e) any other form that is acceptable to the Director.

AR 205/98 s70;27/2002;68/2008;31/2012;62/2013

Duration of approval

71 When the Director issues an approval with respect to water well drilling, the approval must have an expiry date of one year.

Part 8
**Transitional Provisions,
Consequential Amendment, Repeals,
Expiry and Coming into Force**

Transitional Provisions

Temporary permission transitional

72(1) On the coming into force of the *Water Act*, a temporary permission to divert water under the *Water Resources Act* that is, by order of the Minister under section 18(4)(a) of the *Water Act*, deemed to be a licence under the *Water Act* expires as follows:

- (a) on December 31, 2007, if on or before that date the Director
 - (i) has not received an application from the licensee of the deemed licence for a licence for the same project and purpose as the deemed licence, or
 - (ii) has received such an application but, in the opinion of the Director, the application is not complete;
- (b) on December 31, 2008, if on or before December 31, 2007 the Director has received an application from the licensee of the deemed licence for a licence for the same project and purpose as the deemed licence and the application, in the opinion of the Director, is complete.

(2) A deemed licence described in subsection (1) is not a renewable licence under the *Water Act*.

AR 205/98 s72;379/2003;257/2004;320/2006;69/2007

Water wells transitional

73 An approval to drill water wells that was issued under the *Environmental Protection and Enhancement Act* and that is in effect on the coming into force of this section is deemed to be an approval issued under the Act and this Regulation, and the class of the approval is the class that is designated in the approval.

**Amendment and cancellation of registration
under s18 of former Act**

73.1 Where the Registrar of Titles registered a certificate issued under section 18(3), pursuant to section 18(5), of the *Water Resources Act*, RSA 1980 cW-5, the Director may file with the Registrar a certificate to amend or cancel the certificate issued under section 18(3) and, on that filing, the Registrar shall, without fee, amend or cancel the registration accordingly.

AR 92/2005 s2

Consequential Amendment**Consequential amendment**

74 The *Activities Designation Regulation* (AR 211/96) is amended by repealing Part 3 of Division 4 of Schedule 1.

Repeals**Repeals**

75 The *Dam and Canal Safety Regulation* (AR 351/78), *Exemption Regulation* (AR 80/96), *Water Resources Regulation* (AR 73/91), *Water Power Regulation* (AR 72/91), *Water Supply System Rates Regulation* (AR 295/89) and *Water Well Regulation* (AR 123/93) are repealed.

Expiry**Expiry**

76 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 1, 2019.

AR 205/98 s76;379/2003;257/2004;260/2009;191/2012;185/2015;
240/2017**Coming into Force****Coming into force**

77(1) This Regulation, except for sections 3 and 4, comes into force on the date the Act comes into force.

(2) Sections 3 and 4 come into force on December 1, 1999.

AR 205/98 s77;91/99

Schedule 1

Activities that are Exempt from the Requirement for an Approval

1(1) In section 2(c), “crossing” includes but is not limited to a watercourse crossing, bridge crossing, culvert crossing or ford, but does not include an ice or snow bridge, pipeline crossing or telecommunication line crossing.

(2) Despite subsection (1), the only bridge crossing included in “crossing” is a single span bridge.

2 The following activities are exempt from the requirement for an approval:

- (a) placing, constructing, installing, maintaining, replacing or removing a floating platform or a portable or seasonal pier, boat launch or dock in or adjacent to a water body;
- (b) placing, constructing, installing, maintaining, replacing or removing a fence in or adjacent to a water body;
- (c) placing, constructing, installing, maintaining, replacing or removing a crossing in a water body where
 - (i) the water body is not frequented by fish,
 - (ii) the hydraulic, hydrologic or hydrogeological characteristics of the water body are not altered at flood events below the one in 25 year flood event,
 - (iii) the size of the culvert used in constructing the crossing, if applicable, is 1.5 metres or less in diameter,
 - (iv) there is no diversion of water from the water body, and
 - (v) the installation of the crossing is not part of a causeway through a lake, slough, wetland or other similar water body;
- (d) landscaping except where
 - (i) it is in or adjacent to a watercourse frequented by fish or in a lake or a wetland, or
 - (ii) it changes the flow or volume of water on an adjacent parcel of land or adversely affects an aquatic environment;

- (e) installing a water supply line in, adjacent to or beneath a water body for the purpose of diverting water from the water body, if the line is installed by directional drilling or boring, and if a licence is not required for the diversion of the water;
- (f) installing a portable pump or portable water supply line in or adjacent to a water body if there is not a significant alteration or disturbance of the bed or shore of the water body;
- (g) removal of debris from a water body that is not frequented by fish if the person removing the debris owns or occupies the land adjacent to the water body where the debris is located;
- (h) removal of a beaver dam from a water body if the person removing the beaver dam owns or occupies the land adjacent to the water body where the beaver dam is located, or has been authorized to remove the beaver dam under section 95 of the Act;
- (i) drilling a water well if
 - (i) the person drilling the water well is the owner of
 - (A) the land on which the water well is to be located, and
 - (B) the drilling machine,
 - and
 - (ii) the water from the water well is to be used solely for household purposes under section 21 of the Act;
- (j) drilling or reclaiming an exploratory test hole, shot-hole or borehole except where the drilling or reclaiming
 - (i) is related to groundwater exploration or for the purpose of a water well, or
 - (ii) is in a watercourse frequented by fish, a wet lakebed or a wetland;
- (k) reclamation of a water well;
- (l) placing, constructing, maintaining or filling in a dugout except where the dugout
 - (i) is located in a watercourse frequented by fish or in a lake or a wetland,

- (ii) is located in a watercourse, lake or wetland in an area that is subject to a reservation by order of the Minister under section 35 of the Act or that is subject to a Director's decision under section 53 of the Act,
 - (iii) would change the flow of water on an adjacent parcel of land,
 - (iv) has a capacity greater than 2500 cubic metres in volume,
 - (v) is located in the same watercourse and parcel of land as an existing dugout, or
 - (vi) is restricted by an approved water management plan;
- (m) commencing, continuing or carrying out an activity that is referred to in section 3 of this Regulation;
- (n) the placing, constructing, installing, maintaining or operating of works to prevent surface water from flowing through or from or both through and from, a confined feeding operation or a manure storage facility as defined in the *Agricultural Operation Practices Act* if
- (i) the works do not significantly alter the volume, quality or rate of water flowing to each location where water naturally discharges from the area covered by the confined feeding operation or the manure storage facility,
 - (ii) the works do not alter or affect any non-flowing water body,
 - (iii) the works are not located on a fish-bearing water body, as determined from maps described in the *Code of Practice for Watercourse Crossings* adopted in section 3(2) of this Regulation,
 - (iv) the works are governed and regulated by an approval or registration with respect to a confined feeding operation or an authorization with respect to a manure storage facility, under Part 2 of the *Agricultural Operation Practices Act*,
 - (v) a professional engineer designs and develops plans for the works, stamps and signs the plans, certifies that the plan design meets the requirements of this clause and provides the owner with a copy of the plans and certification, and

- (vi) the owner retains a copy of the engineer's plans and certification;
- (o) commencing, continuing or conducting exploration for groundwater for the purpose of obtaining information in support of an application for a licence under the Act.

AR 205/98 Sched.1;200/99;311/2002;237/2006;67/2007

Schedule 2

Activities Within Designated Areas of the Province for Which an Approval is not Required

1 An approval is not required for placing, constructing, installing, maintaining, replacing or removing an ice bridge or snow fill, unless the ice bridge or snow fill is located in or on

- (a) the portion of the North Saskatchewan River
 - (i) located between the Bighorn Dam and the Town of Drayton Valley, or
 - (ii) located between the west boundary of the Town of Devon and the City of Fort Saskatchewan;
- (b) the portion of the Red Deer River
 - (i) located between the north boundary of township 36, range 28, West of the 4th Meridian and the west boundary of township 39, range 26, West of the 4th Meridian, or
 - (ii) located between the north boundary of township 29, range 21, West of the 4th Meridian and the east boundary of township 27, range 18, West of the 4th Meridian;
- (c) the portion of the Battle River located between the north boundary of township 42, range 26, West of the 4th Meridian and the north boundary of township 43, range 25, West of the 4th Meridian;
- (d) the portion of the Bow River located between the east boundary of Banff National Park and the west boundary of the Blackfoot Indian Reserve #146;
- (e) the portion of the Elbow River located between the east limit of the Village of Bragg Creek and the confluence of the Elbow River and the Bow River;
- (f) the portion of the Athabasca River

- (i) located between the east boundary of township 60, range 17, West of the 5th Meridian and the north boundary of township 64, range 3, West of the 5th Meridian, or
- (ii) located between the Town of Athabasca and the Hamlet of Fort McKay;
- (g) the portion of the Clearwater River located between the Saskatchewan border and the confluence of the Clearwater River and the Athabasca River;
- (h) the portion of the Peace River located between the Town of Peace River and the boundary of Wood Buffalo National Park;
- (i) the Wabasca River;
- (j) the Hay River.

2(1) In this section, “crossing” includes but is not limited to a watercourse crossing, single span bridge crossing, culvert crossing or ford, but does not include an ice or snow bridge, pipeline crossing, telecommunication line crossing or a bridge crossing with more than one span.

(2) An approval is not required for placing, constructing, installing, maintaining, replacing or removing a crossing in a water body in the Green Area where

- (a) the hydraulic, hydrologic or hydrogeological characteristics of the water body are not altered at flood events below the one in 25 year flood event,
- (b) the size of the culvert used in constructing the crossing, if applicable, is 1.5 metres or less in diameter,
- (c) there is no diversion of water from the water body, and
- (d) the installation of the crossing is not part of a causeway through a lake, slough, wetland or other similar water body.

AR 205/98 Sched.2;200/99

Schedule 3**Diversions of Water or Operations of Works that are Exempt from the Requirement for a Licence**

1 The following diversions of water and any operations of works associated with those diversions do not require a licence:

- (a) a diversion of water of up to 1250 cubic metres per camp per year for the purposes of human consumption, sanitation, fire prevention and other uses related to the camp;
- (b) a diversion of groundwater from a water well that is equipped with a manual pump if the water is diverted by use of the manual pump;
- (c) a diversion of water from a dugout except where
 - (i) the dugout is located in a watercourse frequented by fish or in a lake or a wetland,
 - (ii) the dugout is located in a watercourse, lake or wetland in an area that is subject to a reservation by order of the Minister under section 35 of the Act or that is subject to a Director's decision under section 53 of the Act,
 - (iii) water is pumped into the dugout,
 - (iv) the dugout has a capacity greater than 12 500 cubic metres in volume,
 - (v) the total diversion of water from the dugout is greater than 6250 cubic metres per year, or
 - (vi) the diversion of water is restricted by an approved water management plan;
- (d) a diversion of surface water for the purpose of operating an alternative watering system for livestock that are generally grazed;
- (e) a diversion of saline groundwater;
- (f) a diversion of water for the purpose of dewatering a sand and gravel site or construction site if
 - (i) the water diverted as a result of the dewatering is
 - (A) moved into and retained in an on-site pit, without using the water, or

- (B) diverted back into a water body without using the water, if the water is equal to or of the same quality as the water that was originally diverted,
- (ii) the dewatering site, the water body and the on-site pit referred to in subclause (i) are hydraulically connected,
- (iii) there is no adverse effect on the aquatic environment or on a household user, licensee or traditional agriculture user, and
- (iv) in the case of a construction site,
 - (A) there is no adverse effect on any parcel of land, and
 - (B) the maximum duration of the dewatering operation is 6 months or less for the entire construction project;
- (g) a diversion of water for the purposes of fire fighting;
- (h) a temporary diversion of water that is referred to in section 6 of this Regulation;
- (i) a diversion of water for the purposes of pesticide application in accordance with section 8(4) of the *Pesticide Sales, Handling, Use and Application Regulation* (AR 24/97).

AR 205/98 Sched.3;280/2003;237/2006;67/2007

Schedule 4

Diversions of Water or Operations of Works Within Designated Areas of the Province for Which a Licence is not Required

1 A temporary diversion of water in the Green Area for use related to the drilling of an oil or gas well if the temporary diversion and use of the water is made in accordance with the *Guideline on Oil Rig and Camp Water Supply Wells*, published by the Department and dated the day the Act comes into force, as amended or replaced from time to time.

2 A temporary diversion of water and use of up to 5000 cubic metres of water in the Green Area if the diversion of water and use is made in accordance with the conditions and the time period specified in the applicable surface disposition issued by the Department and any specific instructions from the local Forestry

Office of the Department but does not include the diversion of water for hydrostatic testing.

Schedule 5

Class of Approval for Water Wells

Column 1 Class of Approval	Column 2 Description of Activity
Class A	Drilling of water wells for the diversion and use of groundwater, includes all work described under Classes B, C, D and E.
Class B	Drilling, by means of digging, of water wells for the diversion and use of groundwater.
Class C	Drilling of water wells for the purpose of obtaining groundwater data or for special groundwater investigations not related to Class A or B.
Class D	Reconditioning of water wells.
Class E	Drilling of water wells to a depth of not less than 450 metres to obtain saline groundwater.



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