Province of Alberta

WATER ACT

Revised Statutes of Alberta 2000
Chapter W-3

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Office Consolidation

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Alberta King's Printer
Suite 700, Park Plaza
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Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
Shop on-line at kings-printer.alberta.ca

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Water Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	*Amendments*
Water Act		
Bow, Oldman and South Saskatchewan River Basin Water Allocation Order	171/2007	
Oldman River Basin Water Allocation	319/2003	*109/2010*
Water (Ministerial)	205/98	*91/99, 200/99, 251/2001, 27/2002, 311/2002, 280/2003, 379/2003, 257/2004, 92/2005, 237/2006, 320/2006, 67/2007, 69/2007, 68/2008, 260/2009, 31/2012, 170/2012, 191/2012, 62/2013, 185/2015, 240/2017, 253/2018, 218/2019, 301/2020, 156/2021, 159/2021, 93/2023*
Water (Offences and Penalties)	193/98	*63/2003, 164/2005, 274/2009, 188/2012, 184/2015, 229/2017, 250/2018*

WATER ACT

Chapter W-3

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

(a) "abandon" means, with respect to a water well, to leave unattended or not to maintain for future use;

(b) "activity" means

(i) placing, constructing, operating, maintaining, removing or disturbing works, maintaining, removing or disturbing

ground, vegetation or other material, or carrying out any undertaking, including but not limited to groundwater exploration, in or on any land, water or water body, that

(A) alters, may alter or may become capable of altering the flow or level of water, whether temporarily or permanently, including but not limited to water in a water body, by any means, including drainage,

(B) changes, may change or may become capable of changing the location of water or the direction of flow of water, including water in a water body, by drainage or otherwise,

(C) causes, may cause or may become capable of causing the siltation of water or the erosion of any bed or shore of a water body, or

(D) causes, may cause or may become capable of causing an effect on the aquatic environment;

(ii) altering the flow, direction of flow or level of water or changing the location of water for the purposes of removing an ice jam, drainage, flood control, erosion control or channel realignment or for a similar purpose;

(iii) drilling or reclaiming a water well or borehole;

(iv) anything defined as an activity in the regulations for the purposes of this Act

but does not include an activity described in subclause (i) or (ii) that is conducted by a licensee in a works that is owned by the licensee, unless specified in the regulations;

(c) "adverse effect" means impairment of or damage to;

(d) "allocation" means the volume, rate and timing of a diversion of water;

(e) "amend" includes to change, add to or delete from;

(f) "approval" means an approval issued under this Act and a deemed approval under this Act;

(g) "approved water management plan" means a water management plan that is approved under Part 2;

(h) "aquatic environment" means the components of the earth related to, living in or located in or on water or the beds or shores of a water body, including but not limited to

(i) all organic and inorganic matter, and

(ii) living organisms and their habitat, including fish habitat,

and their interacting natural systems;

(i) "aquifer" means an underground water-bearing formation that is capable of yielding water;

(j) "conservation" includes but is not limited to

(i) improved efficiency, recycling, reuse or reduction of wastage or losses,

(ii) preservation, and

(iii) protection;

(k) "Director" means an individual designated as a Director for the purposes of all or part of this Act by the Minister under Part 13;

(l) "disposition" means with respect to land or an undertaking, a demise, devise, alienation, transfer or other disposition of the land or undertaking;

(m) "diversion of water" means

(i) the impoundment, storage, consumption, taking or removal of water for any purpose, except the taking or removal for the sole purpose of removing an ice jam, drainage, flood control, erosion control or channel realignment, and

(ii) any other thing defined as a diversion in the regulations for the purposes of this Act;

(n) "document" includes but is not limited to a book, sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and any other information that is recorded or stored by any means;

(o) "drill" means to drill, bore or otherwise make, construct, extend, alter or recondition;

(p) "driller" means a person who is authorized under this Act to drill or reclaim a water well;

(q) "drilling machine" means a machine that is designed to be used or is used to drill a water well;

(r) "environment" means the components of the earth and includes

(i) air, land and water,

(ii) all layers of the atmosphere, and

(iii) all organic and inorganic matter and living organisms,

and the interacting natural systems that include components referred to in subclauses (i) to (iii);

(s) "Environmental Appeals Board" means the Environmental Appeals Board established under Part 4 of the *Environmental Protection and Enhancement Act*;

(t) "farm unit" means farm unit as defined in the regulations for the purposes of this Act;

(u) "give notice" means to give or serve written notice in accordance with section 166;

(v) "groundwater" means all water under the surface of the ground whether in liquid or solid state;

(w) "household" means a household as defined in the regulations for the purposes of this Act;

(x) "household purposes" means the use of a maximum of 1250 cubic metres of water per year per household for the purposes of human consumption, sanitation, fire prevention and watering animals, gardens, lawns and trees;

(y) "household user" means a person who is entitled to divert water for household purposes, as described in section 21;

(z) "inactive water well" means a water well that is not currently being used but is being maintained for future use;

(aa) "inspector" means an individual who has been designated as an inspector under Part 13;

(bb) "investigator" means an individual who has been designated as an investigator under Part 13;

(cc) "irrigation district" means an irrigation district as defined in the *Irrigation Districts Act*;

(dd) "licence" means a licence issued under this Act and includes a renewed licence and a deemed licence under this Act;

(ee) "local authority" means

(i) the corporation of a city, town, village, summer village, municipal district or specialized municipality,

(ii) in the case of a special area, the Minister responsible for the *Special Areas Act* or the Special Areas Board,

(iii) in the case of an improvement district, the Minister responsible for the *Municipal Government Act* or the council of the improvement district,

(iv) a settlement under the *Metis Settlements Act*,

(v) a regional services commission established under the *Municipal Government Act*,

(v.1) a growth management board established under the *Municipal Government Act*,

(vi) the board of directors of an irrigation district within the meaning of the *Irrigation Districts Act*,

(vii) the board of trustees of a drainage district within the meaning of the *Drainage Districts Act*,

(viii) the regional health authority under the *Regional Health Authorities Act*, and

(ix) any other entity defined as a local authority in the regulations for the purposes of this Act;

(ff) "major river basin" means

(i) the Peace/Slave River Basin,

(ii) the Athabasca River Basin,

(iii) the North Saskatchewan River Basin,

(iv) the South Saskatchewan River Basin,

(v) the Milk River Basin,

(vi) the Beaver River Basin, and

(vii) the Hay River Basin,

with boundaries as specified in the regulations;

(gg) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

(hh) "operation of a works" means the operation of a works for the diversion of water;

(ii) "parcel of land" means

(i) the aggregate of one or more areas of land, as defined in the *Land Titles Act*, described in a certificate of title or by reference to a plan filed or registered in a land titles office,

(ii) in respect of patented land as defined in the *Metis Settlements Act*, the aggregate of one or more areas of land described in a register in the Metis Settlements Land Registry for the Metis title in the land or by reference to a plan filed in the Metis Settlements Land Registry, and

(iii) an area of unpatented land considered appropriate by the Director;

(jj) "peace officer" means a peace officer as defined in the *Police Act*;

(kk) "person responsible" means a person responsible within the meaning of the regulations;

(ll) "pesticide" means

(i) a substance that is intended, sold or represented for use in preventing, destroying, repelling or mitigating any insect, nematode, rodent, predatory animal, parasite, bacteria, fungus, weed or other form of plant or animal life or virus except a virus, parasite, bacteria or fungus in living people or animals,

(ii) any substance that is a pest control product within the meaning of the *Pest Control Products Act* (Canada) or is intended for use as such a pest control product,

(iii) any substance that is a plant growth regulator, a defoliant or a plant desiccant,

(iv) a fertilizer within the meaning of the *Fertilizers Act* (Canada) that contains a substance referred to in subclause (i), (ii) or (iii), and

(v) any other substance designated as a pesticide in the *Environmental Protection and Enhancement Act* or regulations made under that Act,

but does not include a substance that is intended, sold or represented for use in potable water to prevent or destroy bacteria, parasites or viruses if the substance is not a pest control product within the meaning of the *Pest Control Products Act* (Canada);

(mm) "place" includes but is not limited to any land, water, water body, building, structure, machine, aircraft, vehicle or vessel, whether above or below the ground;

(nn) "predecessor Act" means the *Water Resources Act*, RSA 1980 cW-5, *Irrigation Act* (Canada), RSC 1927 c104, *Dominion Lands Act* (Canada), RSC 1927 c113 or *Dominion Water Power Act* (Canada), RSC 1927 c210;

(oo) "preliminary certificate" means a preliminary certificate issued under Part 4 and anything deemed to be a preliminary certificate under this Act;

(pp) "priority number" means

(i) with respect to a licence issued under this Act or a registration effected under this Act, the number that has been assigned to that licence or registration in accordance with this Act, and

(ii) with respect to an authority or licence under a predecessor Act that is a deemed licence under this Act, the number described in Part 3;

(qq) "private dwelling place" means a place or part of a place that is used as a permanent or temporary dwelling place;

(rr) "problem water well" means a problem water well as defined in the regulations for the purposes of this Act;

(ss) "proponent" means a person, a local authority, the Government, a Government agency, a government of another jurisdiction or an agency of that government that undertakes

(i) a proposed activity,

(ii) a proposed diversion of water, or

(iii) a proposed operation of works for the diversion of water;

(tt) "proposed activity" means

(i) a planned activity that has not been commenced,

(ii) an activity that is being carried on and for which an approval is required but has not been obtained, or

(iii) a change to an activity if the change

(A) is one to which section 42(1) applies,

(B) is one to which section 42(4) or (5) does not apply, and

(C) is, in the opinion of the Director, of a substantial nature;

(uu) "proposed diversion of water" means

(i) a planned diversion of water that has not been commenced,

(ii) a diversion of water that is being carried on and for which a licence, other than a renewal, is required but has not been obtained, or

(iii) a change to a diversion of water if the change

(A) is one to which section 54(1) and (2) apply,

(B) is one to which section 54(4) or (5) does not apply, and

(C) is, in the opinion of the Director, of a substantial nature;

(vv) "proposed operation of a works for the diversion of water" means

(i) a planned operation of a works that has not been commenced,

(ii) an operation of a works that is being carried on and for which a licence, other than a renewal, is required but has not been obtained, or

(iii) a change to an operation of a works if the change

(A) is one to which section 54(1) and (2) apply,

(B) is one to which section 54(4) or (5) does not apply, and

(C) is, in the opinion of the Director, of a substantial nature;

(ww) "reclamation" means reclamation as defined in the regulations for the purposes of this Act;

(xx) "recondition" means to flush, clean, recase, reline, rescreen or redevelop an existing water well by a machine to improve the water production or quality of water produced by the water well;

(yy) "registrant" means a person who holds a registration;

(zz) "registration" means a registration effected under this Act;

(aaa) "search warrant" means a search warrant pursuant to the *Provincial Offences Procedure Act*;

(bbb) "statement of concern" means a statement of concern made under Part 8;

(ccc) "traditional agriculture user" means a person who is entitled to divert water pursuant to section 24;

(ddd) "undertaking" means a project that is established, proposed to be established, required to be established or carried on pursuant to this Act by any person and that is related to

(i) an activity, diversion of water or operation of a works, and

(ii) anything that is defined as an undertaking in the regulations for the purposes of this Act;

(eee) "vehicle" means a device in, on or by which a person or thing may be transported or drawn;

(fff) "water" means all water on or under the surface of the ground, whether in liquid or solid state;

(ggg) "water body" means any location where water flows or is present, whether or not the flow or the presence of water is continuous, intermittent or occurs only during a flood, and includes but is not limited to wetlands and aquifers but does not include except for clause (nn) and section 99 "water

body" that is part of an irrigation works if the irrigation works is subject to a licence and the irrigation works is owned by the licensee, unless the regulations specify that the location is included in the definition of water body;

(hhh) "water conservation objective" means the amount and quality of water established by the Director under Part 2, based on information available to the Director, to be necessary for the

(i) protection of a natural water body or its aquatic environment, or any part of them,

(ii) protection of tourism, recreational, transportation or waste assimilation uses of water, or

(iii) management of fish or wildlife,

and may include water necessary for the rate of flow of water or water level requirements;

(iii) "water guideline" means a water guideline established by the Minister under Part 2;

(jjj) "water management plan" means a plan with respect to conservation and management of water developed under Part 2;

(kkk) "water well" means an opening in the ground, whether drilled or altered from its natural state, that is used for

(i) the production of groundwater for any purpose,

(ii) obtaining data on groundwater, or

(iii) recharging an underground formation from which groundwater can be recovered,

and includes any related equipment, buildings, structures and appurtenances;

(lll) "water-power development" means the works required for the storage or diversion of water for the production of power;

(mmm) "works" means any structure, device or contrivance made by persons, or part of it, including a dam and canal, and

(i) land associated with it, and

(ii) mitigative measures associated with it,

and includes anything that is defined as a works in the regulations for the purposes of this Act.

(2) In this Act, a reference to "this Act" includes the regulations made under this Act.

(3) In this Act, a reference to the owner of land or to the owner of the fee simple in land means, in the case of land that is patented land as defined in the *Metis Settlements Act*, the owner of the Metis title in the land.

RSA 2000 cW-3 s1;2003 c42 s6;2013 c17 s11

Purpose of Act

2 The purpose of this Act is to support and promote the conservation and management of water, including the wise allocation and use of water, while recognizing

(a) the need to manage and conserve water resources to sustain our environment and to ensure a healthy environment and high quality of life in the present and the future;

(b) the need for Alberta's economic growth and prosperity;

(c) the need for an integrated approach and comprehensive, flexible administration and management systems based on sound planning, regulatory actions and market forces;

(d) the shared responsibility of all residents of Alberta for the conservation and wise use of water and their role in providing advice with respect to water management planning and decision-making;

(e) the importance of working co-operatively with the governments of other jurisdictions with respect to trans-boundary water management;

(f) the important role of comprehensive and responsive action in administering this Act.

1996 cW-3.5 s2

Application of REDA

2.1 This Act, to the extent that it applies to energy resource activities as defined in the *Responsible Energy Development Act*, shall be read and applied in conjunction with the *Responsible Energy Development Act.*

2012 cR-17.3 s110

Water vested in Crown

3(1) In this section, "use" includes but is not limited to use for the purposes of drainage, flood control, erosion control and channel realignment.

(2) The property in and the right to the diversion and use of all water in the Province is vested in His Majesty in right of Alberta except as provided for in the regulations.

RSA 2000 cW-3 s3;AR 217/2022

Crown is bound

4 The Crown is bound by this Act.

1996 cW-3.5 s4

ALSA regional plans

4.1 Where the Minister or the Director is empowered or directed to take an action under this Act, the Minister or the Director, as the case requires, must act in accordance with any applicable ALSA regional plan.

2009 cA-26.8 s92

Part 1
Consultation

Referral if EPEA applicable

5(1) If the Director is of the opinion that an activity, diversion of water or operation of a works requires an approval under the *Environmental Protection and Enhancement Act,* the Director

(a) must refer the activity, diversion of water or operation of a works for review, and

(b) may make any recommendations that the Director considers appropriate,

to a Director under the *Environmental Protection and Enhancement Act*.

(2) A referral may be made under subsection (1) whether or not

(a) an approval has been or may be issued,

(b) a preliminary certificate or licence has been or may be issued, or a registration has been effected, with respect to the diversion of water or the operation of a works, or

(c) a term or condition of a preliminary certificate or licence applies to the diversion of water or the operation of a works.

1996 cW-3.5 s5

Agreements

6(1) Subject to the *Government Organization Act*, the Minister may enter into agreements containing any terms and conditions, including but not limited to provisions for sharing of costs, with

(a) a person,

(b) a local authority,

(c) a Government agency, or

(d) the government or a government agency of another jurisdiction,

with respect to any or all of the subjects referred to in subsection (2).

(2) An agreement under subsection (1) may be made with respect to

(a) any matter pertaining to the conservation and management of water, including but not limited to the supply and control of water,

(b) water-power development,

(c) the use, operation, maintenance, repair, control, replacement or removal of works,

(d) flood control and management,

(e) trans-boundary water, and

(f) any other matter related to the administration of this Act.

1996 cW-3.5 s6

Part 2
Planning and Environmental Assessment

Division 1
Planning

Provincial planning framework

7(1) The Minister must establish a framework for water management planning for the Province by December 31, 2001.

(2) The framework for water management planning must include a strategy for the protection of the aquatic environment, as described in section 8, and may include

(a) water management principles,

(b) the geographical limits or boundaries within which water management planning is to be carried out in the Province, including limits or boundaries for the development of strategic and operational plans,

(c) criteria for establishing the order in which water management plans are to be developed,

(d) an outline of the processes for developing, implementing, reviewing and revising water management plans, including opportunities for local and regional involvement,

(e) matters relating to integration of water management planning with land and other resources, and

(f) matters relating to the development of water conservation objectives.

(3) The Minister must, in a form and manner that the Minister considers appropriate, consult with the public during the development of the framework for water management planning.

1996 cW-3.5 s7

Aquatic environment protection strategy

8(1) In this section, "biological diversity" means the variability among living organisms and the ecological complexes of which they are a part, and includes diversity within and between species and ecosystems.

(2) The Minister must establish a strategy for the protection of the aquatic environment as part of the framework for water management planning for the Province.

(3) The strategy referred to in subsection (2) may include

(a) identification of criteria to determine the order in which water bodies or classes of water bodies are to be dealt with,

(b) guidelines for establishing water conservation objectives,

(c) matters relating to the protection of biological diversity, and

(d) guidelines and mechanisms for implementing the strategy.

(4) The Minister must, in a form and manner that the Minister considers appropriate, consult with the public during the development of the strategy.

1996 cW-3.5 s8

Water management plans

9(1) The Minister may require a water management plan to be developed by the Director or another person.

(2) The Director or other person developing a water management plan

(a) may adopt an integrated approach to planning with respect to water, land and other resources;

(b) may co-operate with

(i) any persons,

(ii) local authorities,

(iii) Government agencies and other Government departments, and

(iv) the governments and government agencies of other jurisdictions;

(c) may, with the consent of the Minister, carry out any studies that the Director or other person considers appropriate;

(d) may consider any information, documents or other water and land management plans;

(e) must follow the framework for water management planning established under this Division;

(f) must engage in public consultation that the Minister considers appropriate during the development of the water management plan.

1996 cW-3.5 s9

Water management planning areas

10 The Minister may establish water management planning areas for the purpose of developing or implementing a water management plan or approved water management plan.

1996 cW-3.5 s10

Approved water management plans

11(1) The Lieutenant Governor in Council may approve a water management plan or part of a water management plan, subject to any terms and conditions that the Lieutenant Governor in Council considers appropriate.

(2) Notwithstanding subsection (1), the Lieutenant Governor in Council may authorize the Minister to approve a water

management plan or part of a water management plan with respect to an area of the Province, subject to the conditions that the Minister considers appropriate.

(3) A water management plan that has been approved under this section is an approved water management plan and

(a) must include

(i) a summary of the issues considered in the water management plan,

(ii) a description of the area of the Province to which all or part of the water management plan applies,

(iii) a summary of the recommendations of the Minister, and

(iv) the matters or factors that must be considered in deciding whether

(A) to issue an approval, preliminary certificate or licence or effect a registration, or

(B) to approve a transfer of an allocation of water under a licence,

in the area of the Province to which the approved water management plan applies, and

(b) may include

(i) the number of households permitted on a parcel of land for the purposes of section 21,

(ii) authorization of the ability to transfer an allocation of water under a licence,

(iii) authorization of the ability to withhold water under section 83, and

(iv) a provision on the maximum amount of water that may be diverted under a registration.

(4) The *Regulations Act* does not apply to an approval of a water management plan under this section or to an amendment of an approved water management plan or its cancellation under section 12.

1996 cW-3.5 s11

Amend, cancel approved plan

12(1) The Lieutenant Governor in Council may amend an approved water management plan or cancel the approval of an approved water management plan.

(2) Notwithstanding subsection (1), the Lieutenant Governor in Council may authorize the Minister to amend an approved water management plan or cancel the approval of an approved water management plan.

(3) Notwithstanding subsections (1) and (2), the Director may amend an approved water management plan in order to

(a) correct a clerical error, or

(b) make minor amendments that, in the opinion of the Director, do not affect the substance of the approved water management plan.

(4) If the approval of an approved water management plan has been cancelled, the Director is not required to consider the cancelled plan when making decisions under this Act.

1996 cW-3.5 s12

Notice of approved plan

13 The Director must provide notice, in accordance with the regulations, of

(a) the approval of a water management plan,

(b) the amendment of an approved water management plan by the Minister, and

(c) the cancellation of an approval of an approved water management plan.

1996 cW-3.5 s13

Water guidelines

14(1) The Minister may establish water guidelines.

(2) The *Regulations Act* does not apply to water guidelines.

1996 cW-3.5 s14

Water conservation objectives

15(1) The Director may establish water conservation objectives.

(2) The Director must engage in public consultation that the Director considers appropriate during the establishment of a water conservation objective.

(3) Information on a water conservation objective established by the Director must be made available to the public in a form and manner satisfactory to the Director.

1996 cW-3.5 s15

Division 2
Environmental Assessment Process

Environmental assessment requirements

16(1) Unless the regulations provide otherwise, the Director may not issue or amend an approval, preliminary certificate or licence or approve a transfer of an allocation of water under a licence if the Director is of the opinion that Part 2, Division 1 of the *Environmental Protection and Enhancement Act*, if applicable, has not been complied with.

(2) Notwithstanding subsection (1), the Director may issue an approval, preliminary certificate or licence to enable a proponent to comply with Part 2, Division 1 of the *Environmental Protection and Enhancement Act*.

1996 cW-3.5 s16

Ministerial orders

17 If the designated Director under the *Environmental Protection and Enhancement Act* submits an environmental impact assessment report to the Minister, the Minister may advise the proponent,

(a) if an application has not already been made, that the proponent may apply for an approval, licence or transfer of an allocation under a licence or an amendment to an approval or licence, or

(b) if an application has been made, that the application may proceed under this Act

unless the Minister has made an order under section 34.

1996 cW-3.5 s17

Part 3
Right to Divert and Priority of Rights

Division 1
Right to Divert Water

Existing diversion rights

18(1) Every authority or licence other than a temporary authority, agreement, permit, interim licence, updated and reissued interim licence and supplementary interim licence, granted under a predecessor Act that on January 1, 1999 authorizes the diversion of

water, is a deemed licence that has a priority number that corresponds to the priority number of the original authority or licence.

(2) A person who holds a deemed licence under this section may continue to exercise the right to divert water in accordance with

(a) the priority number of the deemed licence, and

(b) the terms and conditions of the deemed licence and this Act, and if a term or condition of the deemed licence is inconsistent with this Act, that term or condition prevails over this Act.

(3) Every temporary authority granted under a predecessor Act that on January 1, 1999 authorizes the diversion of water may, by order of the Minister, be a deemed approval or deemed licence under this Act.

(4) A temporary permit, permission for temporary diversion and interim licence, including an updated and reissued interim licence and supplementary interim licence, granted under a predecessor Act that on January 1, 1999 authorizes the diversion of water may, by order of the Minister, be

(a) a deemed approval, deemed preliminary certificate or deemed licence under this Act, or

(b) a deemed approval as well as a deemed preliminary certificate or deemed licence under this Act.

(5) A temporary permit, permission for temporary diversion or interim licence that is

(a) a deemed licence under subsection (4) has a priority number that corresponds to the priority number of the original permit, permission or licence, or

(b) a deemed preliminary certificate under subsection (4) has a number that corresponds to the priority number of the original permit, permission or licence.

(6) Subject to subsection (2)(b), a deemed approval, preliminary certificate and licence under this section are subject to this Act.

(7) For the purposes of this Act, an updated and reissued interim licence or supplementary interim licence

(a) is deemed to be a valid and subsisting interim licence under the *Water Resources Act*, RSA 1980 cW-5,

(b) supersedes any previous interim licence that it replaced, and

(c) may be treated as an interim licence for the purposes of this section.

1996 cW-3.5 s18

Exempted agriculture user

19(1) A person who

(a) on January 1, 1999 owns or occupies land that adjoins a river, stream, lake, natural watercourse or other natural water body or land under which groundwater exists, and

(b) on or before January 1, 1999 diverts water from a source referred to in clause (a) for the purpose of raising animals or applying pesticides to crops, as part of a farm unit,

may continue to divert up to 6250 cubic metres per year or the maximum specified in an approved water management plan, whichever is greater, from the sources described in clause (a) for the purposes described in clause (b) without an approval, licence or registration for the diversion of the water as long as the person owns or occupies the land, but the person has no priority under this Act unless an approval or licence has been issued or a registration effected with respect to that diversion.

(2) A person who diverts water in accordance with subsection (1) may, without an approval, licence or registration, pump or otherwise convey water to the point of use for the purposes described in subsection (1) on the land that adjoins the source of water, or to an adjacent parcel of land owned by that person if both lands form part of the same farm unit.

(3) A person who is entitled to divert water both under subsection (1) and under section 21 is entitled to divert the water under subsection (1) as an additional amount of water.

1996 cW-3.5 s19

Activities continued

20(1) Every authority or licence, other than a temporary authority, agreement, permit, interim licence, an updated and reissued interim licence and a supplementary interim licence, granted under a predecessor Act that on January 1, 1999 authorizes the drainage, flood control, erosion control, channel realignment or other similar matters, is a deemed approval under this Act that does not have a priority number.

(2) Every permit granted under a predecessor Act that on January 1, 1999 authorizes an activity

(a) in the case of a permit, including an exploration permit, that was issued for a specified period of time, continues as a permit, and the *Water Resources Act*, RSA 1980 cW-5, continues to apply to that permit as if that Act were still in force, and

(b) in the case of a permit that does not have an expiry date, is deemed to be an approval under this Act that expires on December 31, 1999.

(3) A deemed approval under this section is subject to this Act.

1996 cW-3.5 s20

Household purposes

21(1) Subject to subsection (3) and section 23 and any exemptions specified in the regulations, a person who owns or occupies land that adjoins a river, stream, lake, natural watercourse or other natural water body

(a) has the right to commence and continue the diversion of the water that adjoins that land for household purposes, whether or not that water is reserved under section 35, and

(b) may not obtain a licence for the diversion of water that adjoins that land for household purposes.

(2) Subject to subsection (3) and section 23 and any exemptions specified in the regulations, a person who owns or occupies land under which groundwater exists

(a) has the right to commence and continue the diversion of the groundwater for household purposes, and

(b) may not obtain a licence for the diversion of the groundwater for household purposes.

(3) The number of households on a parcel of land for the purposes of this section is limited to

(a) the number permitted under an applicable approved water management plan, or

(b) if there is no applicable approved water management plan, the number permitted by an order of the Minister.

(4) A person who diverts water under subsection (1) or (2) may, without an approval, licence or registration, pump or otherwise convey water to the point of use for household purposes.

1996 cW-3.5 s21

Riparian owner or occupant

22(1) Notwithstanding the common law, a riparian owner, riparian occupant or person who owns or occupies land under which groundwater exists has the right to divert water only in accordance with section 21 and may not divert water for any other purpose unless authorized by this Act or under an approval, licence or registration.

(2) A person described in subsection (1) may commence an action with respect to a diversion of water only in respect of a diversion of water that is not authorized by this Act or under an approval, licence or registration.

(3) Nothing in this Act is to be construed so as to repeal, remove or reduce any rights held at common law by a riparian owner or occupant of land or by a person who owns or occupies land under which groundwater exists, other than the right to the continued flow or diversion of water.

1996 cW-3.5 s22

Household diversions

23(1) If the Director is of the opinion that there is or may be a significant adverse effect on the aquatic environment or on a licensee or traditional agriculture user resulting from a diversion of water pursuant to section 21, the Director may, subject to the regulations,

(a) issue a water management order under section 97, and

(b) declare that a person described in section 21 who did not divert water as described in section 21 prior to the date of the declaration may not, as of the date of the declaration, divert water as described in section 21 from a source of water specified in the declaration or from any sources of water within the water management area specified in the declaration.

(2) The Director must provide notice of a declaration in a form and manner satisfactory to the Director.

(3) If, on or after January 1, 1999, a subdivision of land of a type or class of subdivision specified in the regulations is approved under the *Municipal Government Act*, a person residing within that subdivision on a parcel of land that adjoins or is above a source of water described in section 21 has the right to commence and continue the diversion of water under section 21 only if

(a) a report certified by a professional engineer or professional geoscientist, as defined in the *Engineering and Geoscience*

Professions Act, was submitted to the subdivision authority as part of the application for the subdivision under the *Municipal Government Act*, and the report states that the diversion of 1250 cubic metres of water per year for household purposes under section 21 for each of the households within the subdivision will not interfere with any household users, licensees or traditional agriculture users who exist when the subdivision is approved, and

(b) the diversion of water for each of the households within the subdivision under section 21 is not inconsistent with an applicable approved water management plan.

(4) Notwithstanding subsection (3), a person residing within a subdivision as described in subsection (3) has the right to commence and continue the diversion of water under section 21 if

(a) the written consent of the subdivision authority is provided to the Director,

(b) the Director is of the opinion that there are or were extenuating circumstances with respect to the submission of the report under subsection (3), and

(c) the Director has approved in writing the right to divert under section 21.

RSA 2000 cW-3 s23;2011 c3 s33

Traditional agriculture user

24(1) A person who owns or occupies land

(a) to which a registration is appurtenant, and

(b) that adjoins a river, stream, lake, natural watercourse or other natural water body, or under which groundwater exists,

has the right to commence and continue the diversion of water from the sources authorized in the registration for the purpose of raising animals or applying pesticides to crops, as part of a farm unit, as authorized by the registration.

(2) A person who diverts water in accordance with subsection (1) may, without an approval or licence, pump or otherwise convey water to the point of use on the land that adjoins the source of water, or to an adjacent parcel of land owned by that person if both parcels form part of the same farm unit.

1996 cW-3.5 s24

Combined diversions

25 A person who is entitled to divert water both under section 21 and under section 24 is entitled to divert the water under section 24 as an additional amount of water.

1996 cW-3.5 s25

Diversion under approval or licence

26 A person has the right to commence and continue the diversion of water in accordance with the terms and conditions of a licence issued under this Act, or an approval, in good standing held by that person.

1996 cW-3.5 s26

Division 2
Priority of Rights

Priority of household user

27 A person who diverts water pursuant to section 21

(a) does not have priority with respect to another person who is diverting water pursuant to section 21, but

(b) has priority over a person who is entitled to divert water

(i) pursuant to an approval, licence or registration, or

(ii) that is authorized under this Act other than pursuant to section 21.

1996 cW-3.5 s27

Registration priority numbers

28 If in the opinion of the Director an applicant for a registration complies with this Act, the Director must assign a priority number to the registration that corresponds to the first known date of diversion of water but no earlier than July 1, 1894, for the purpose of raising animals or applying pesticides to crops from the sources of water on the land specified in the application for registration.

1996 cW-3.5 s28

Licence priority numbers

29(1) Subject to this section and sections 34, 35 and 82(7)(b), on receiving applications for licences that, in the opinion of the Director, are complete and comply with this Act, the Director must assign numbers to the applications in consecutive order that correspond to the date and time that the Director received the complete applications.

(2) On receiving an application for a licence under section 51(2) that, in the opinion of the Director, is complete and complies with this Act,

(a) with respect to a water conservation objective described in section 1(1)(hhh)(ii), the Director must, subject to section 35(2)(b), assign a number to the application that corresponds to the date and time that the Director received the complete application,

(b) with respect to a water conservation objective described in section 1(1)(hhh)(i) or (iii)

(i) within 5 years after the date this Act comes into force, or

(ii) at any time, with respect to water that has been reserved under section 35, within 5 years after the date this Act comes into force,

the Director must assign a number to the application that corresponds to the date and time this Act comes into force, and

(c) with respect to a water conservation objective described in section 1(1)(hhh)(i) or (iii), but not within the dates described in clause (b), the Director must assign a number to the application that corresponds to the date and time that the Director received the complete application.

(3) The Director may correct an error with respect to a number assigned to a complete application for a licence or with respect to a priority number assigned to a licence.

(4) A number assigned to an application for a licence described in subsection (1) or (2) must be assigned to the licence that is issued under section 51 pursuant to that application, and that number is the priority number of the licence.

1996 cW-3.5 s29

Priorities

30(1) Licensees and traditional agriculture users have priority among themselves according to the priority number that has been assigned to the licence or registration.

(2) A licensee or traditional agriculture user diverting water pursuant to a licence or registration that has a numerically lower priority number is entitled to divert the whole allocation of water specified under the licence or registration before a licensee or traditional agriculture user has any right to divert water pursuant to

a licence or registration that has a numerically higher priority number.

1996 cW-3.5 s30

Works limit diversion right

31(1) When a licensee's or traditional agriculture user's works is not of sufficient capacity to carry the diversion of water to which the licensee or traditional agriculture user is entitled under the terms and conditions of the licence or registration, the licensee's or traditional agriculture user's right to divert water under the licence or registration is limited to the volume and rate of water that the works is capable of carrying.

(2) In the case of a dispute as to the capacity of a licensee's or traditional agriculture user's works, the Director may order an inspector to inspect and report on the works.

1996 cW-3.5 s31

Division 3
Administering Priority of Rights

Administering priorities

32(1) If there is a dispute with respect to the order in which water is to be diverted, the Director may administer priorities within a water management area or any other geographical area considered appropriate by the Director.

(2) Subsection (1) does not apply to a dispute among household users.

(3) An inspector or the Director may issue a water management order under section 97(1)(a).

(4) If a water management order under section 97(1)(a) has been issued to a person, that person shall not divert water except in accordance with the terms and conditions specified in the water management order until the order expires, is amended or cancelled, or a further order is made by the Director.

(5) If the Director has received a complaint with respect to the order in which water is to be diverted and an inspector or investigator is of the opinion that a diversion of water is affecting the rights of a household user, licensee or traditional agriculture user, the inspector or investigator may interrupt the diversion of water and cause the works of the person responsible for the diversion of water to be closed, or take any other action that is necessary to ensure that the supply of water to which a household user, licensee or traditional agriculture user is entitled can be diverted by the household user, licensee or traditional agriculture

user in accordance with the household user's, licensee's or traditional agriculture user's priority.

1996 cW-3.5 s32

Agreements to assign water

33(1) A licensee or traditional agriculture user may, subject to the regulations, for a period of time set out in an agreement, temporarily assign all or part of the water that the licensee or traditional agriculture user is entitled to divert under the licence or registration to another licensee or traditional agriculture user if

(a) a written agreement is made and signed by all the licensees and traditional agriculture users participating in the temporary assignment of the water,

(b) the licences and registrations that are the subject of the agreement are in good standing,

(c) no rights of a household user, or of a licensee or traditional agriculture user with a higher priority than the party to the agreement who has the lowest priority, are adversely affected by the temporary assignment,

(d) the person receiving the water under the agreement is able to access the assigned water as a result of the natural flow or natural presence of the water,

(e) there are no adverse effects on any water body or the aquatic environment, and

(f) a copy of the written agreement is submitted to the Director on the request of the Director.

(2) Notwithstanding subsection (1), an agreement to assign water may not be made with respect to water that has been previously diverted under a licence.

(3) If an agreement is made under this section,

(a) the licensee or traditional agriculture user temporarily assigning the water is not entitled to divert the allocation of water that has been temporarily assigned,

(b) the diversion of water by the licensee or traditional agriculture user temporarily receiving the water must be done in accordance with the licence or registration of the licensee or traditional agriculture user receiving the water, and

(c) the licensee or traditional agriculture user temporarily receiving the water must not divert a total amount of water that is greater than the allocation of water specified in the licence or registration of the licensee or traditional agriculture user receiving the water.

(4) An agreement made under this section is subject to the regulations.

(5) If the Director is of the opinion that a temporary assignment causes or may cause

(a) the rights of any household user, or the rights of any licensee or a traditional agriculture user with a higher priority than the party to the agreement that has the lowest priority, to be adversely affected, or

(b) an adverse effect on any water body or the aquatic environment,

the Director may direct that water must not be diverted under the agreement or a subsequent agreement, either permanently or for a specified period of time.

(6) If the Director has directed

(a) that water must not be diverted under an agreement or a subsequent agreement for a specified period of time, no water may be assigned under that agreement or a subsequent agreement during the specified period of time, or

(b) that water must not be diverted under an agreement or a subsequent agreement permanently, no water may be assigned under that agreement or a subsequent agreement.

1996 cW-3.5 s33

Part 4
Approvals, Licences, Preliminary Certificates, Registrations

Approvals, licences, transfers, registrations not available

34(1) If the Minister is of the opinion that a proposed

(a) activity,

(b) diversion of water or operation of a works for the diversion of water, or

(c) transfer of an allocation of water under a licence,

should not proceed because it is not in the public interest, the Minister may make any order referred to in subsection (2).

(2) If subsection (1) applies, the Minister may order

(a) that no application for

(i) an approval, licence, registration or transfer of an allocation of water, or

(ii) an amendment of an approval or licence

is to be accepted in respect of the proposed activity, diversion, operation of a works for the diversion of water or transfer, or a class of proposed activities, diversions, operation of works for the diversion of water or transfers,

(b) that no approval, preliminary certificate or licence may be issued or that no registration may be effected in respect of the proposed activity, diversion or operation of a works for the diversion of water or in respect of a class of proposed activities, diversions, operation of works for the diversion of water or transfers,

(c) that no amendment of an approval, preliminary certificate or licence in respect of the proposed activity, diversion or operation of a works for the diversion of water or in respect of a class of proposed activities, diversions or operation of works for the diversion of water may be made, or

(d) that no transfer of an allocation of water may be approved in respect of the proposed transfer.

(3) If the Minister makes an order under subsection (2)(b), (c) or (d), the Director must give notice of the order to the applicant for the approval, licence, registration or transfer of an allocation of water if an application has been submitted.

(4) If the Minister makes an order under subsection (2)(a), the Director must provide notice in accordance with the regulations.

1996 cW-3.5 s34

Crown reservation

35(1) The Minister may by order reserve water that is not currently allocated under a licence or registration or specified in a preliminary certificate

(a) in order to determine how the water should be used, or

(b) for any other purpose.

(2) When making an order under subsection (1), the Minister may

(a) include terms and conditions,

(b) subject to section 29(2)(b), prescribe the priority number of any allocation of water to be made from the reserved water, but the priority number may not be based on a date and time that is earlier than the date and time that the reservation was made, and

(c) specify

(i) the purposes for which,

(ii) how,

(iii) to whom, and

(iv) the time period within which,

an allocation of the reserved water may be made by the Director.

(3) The Director may

(a) retain the water reserved in the water body in accordance with the terms and conditions of an order made under subsection (1),

(b) issue a licence for the temporary diversion of the reserved water, unless prohibited by an order made under subsection (1),

(c) if an order under subsection (1) allows, issue a licence for the diversion of the reserved water and in accordance with an order made under subsection (1), and

(d) refuse to accept an application for a licence for the reserved water unless the refusal is contrary to an order made under subsection (1).

(4) If the Director issues a licence under subsection (3), including a licence for the temporary diversion of water, the Director must do so in accordance with this Act.

(5) Subject to subsection (2)(b), the Minister may amend a term or condition of an order made under subsection (1), including but not limited to changing the priority of any allocation to be made from the reserved water, and including or amending matters described in subsection (2).

(6) If the Minister

(a) repeals an order made under subsection (1), or

(b) amends an order made under subsection (1) so that part of the reserved water is no longer reserved,

any of the reserved water that has not been allocated under a licence or does not remain reserved must be dealt with in accordance with this Act unless otherwise provided for in an order by the Minister.

1996 cW-3.5 s35

Division 1
Approvals

Approval required

36(1) Subject to subsection (2), no person may commence or continue an activity except pursuant to an approval unless it is otherwise authorized under this Act.

(2) No person shall commence or carry out an activity that is designated in the regulations as an activity in respect of which notice must be provided to the Director unless that person provides notice to the Director, in accordance with the regulations, of the intention to commence the activity or to carry out the activity.

(3) A person who commences or continues an activity

(a) that is designated in the regulations as exempt from the requirement for an approval or is part of a class of activities that is designated in the regulations as exempt from the requirement for an approval,

(b) that is an activity or part of a class of activities within an area of the Province that is designated in the regulations as an area where an approval is not required for that activity or class of activities, or

(c) that is an activity or part of a class of activities that is designated in the regulations as an activity or class of activities that does not require an approval but that must be carried out in accordance with the regulations,

is not required to obtain an approval under this Act.

(4) An activity and class of activities described in subsection (3)(c) must be carried out in accordance with the regulations.

1996 cW-3.5 s36

Application

37(1) A person who applies for an approval must

(a) make an application to the Director in a form and manner satisfactory to the Director,

(b) submit the information, including but not limited to plans and specifications, required by the Director,

(c) pay the required fees, and

(d) provide notice of the application in accordance with Part 8.

(2) The Director may require an applicant to submit any additional information including but not limited to plans and specifications the Director considers necessary within any time period required by the Director.

(3) The Director may deem an application for an approval to be an application for a licence.

(4) If an applicant for an approval does not own the land in fee simple or the undertaking to which the approval is to be appurtenant, if required by the Director, the applicant must submit the written consent of the owner of the land or of the undertaking as part of the application for the approval.

1996 cW-3.5 s37

Refusal for unpaid debts

37.1 The Director may refuse to issue an approval where the applicant is indebted to the Government.

2002 c4 s5

Issuance of approvals

38(1) Subject to section 34, the Director may issue or refuse to issue an approval to an applicant to commence or continue an activity.

(2) In making a decision under this section, the Director

(a) must consider, with respect to the applicable area of the Province, the matters and factors that must be considered in issuing an approval, as specified in an applicable approved water management plan,

(b) may consider any existing, potential or cumulative

(i) effects on the aquatic environment,

(ii) hydraulic, hydrological and hydrogeological effects, and

(iii) effects on household users, licensees and traditional agriculture users,

that result or may result from the activity, and

(c) may consider

(i) effects on public safety, and

(ii) any other matters applicable to the approval that, in the opinion of the Director, are relevant.

(3) The Director may issue an approval subject to any terms and conditions that the Director considers appropriate.

(4) The Director may issue an approval that authorizes the temporary diversion of water associated with carrying out an activity.

(5) An approval authorizing the temporary diversion of water associated with carrying out an activity does not provide any priority with respect to that water.

(6) When the Director issues an approval it must include an expiry date.

1996 cW-3.5 s38

Approval required onsite

39 An approval holder shall

(a) ensure that a copy of the approval is

(i) kept at the place where the activity occurs,

(ii) posted or otherwise made available, as required by the Director, and

(iii) produced in accordance with Part 10,

and

(b) in the case of a water well, display tags, decals, plates, devices, documents and other things as required by the Director.

1996 cW-3.5 s39

Certificate of completion

40(1) Unless the requirement for a certificate of completion is waived by the Director, on completion of the activity specified in

the approval, the approval holder shall submit in a form and manner satisfactory to the Director, a certificate of completion

(a) containing the information required by the Director, and

(b) certifying that the approval holder has completed the activity in accordance with the approval.

(2) On completion of a part of an activity, if required by the Director, the approval holder shall submit in a form and manner satisfactory to the Director, a certificate of completion with respect to that part of the activity

(a) containing the information required by the Director, and

(b) certifying that the approval holder has completed that part of the activity in accordance with the approval.

1996 cW-3.5 s40

Extensions

41(1) The Director may, on the Director's own initiative or on the request of an approval holder, extend the expiry date of an approval or a term or condition of an approval as the Director considers appropriate.

(2) An approval for the purposes of drainage, flood control, erosion control, channel realignment or a similar purpose may contain a term or condition that states that the approval, if in good standing, is extended once automatically for the same period of time for which it was originally issued.

(3) An extension under this section is deemed not to be an amendment of the approval for the purposes of this Part and Parts 8 and 9.

1996 cW-3.5 s41

Approval amendments

42(1) The Director may amend an approval

(a) on the Director's own initiative without the consent of the approval holder

(i) to correct a clerical error in the approval,

(ii) to amend a term or condition that relates to a monitoring, reporting or inspection requirement,

(iii) if the Director has received notice of a disposition of the land to which an approval is appurtenant, to reflect the disposition,

(iv) to address matters related to a temporary discontinuance of the activity by the approval holder,

(v) to extend, under section 41, the expiry date of an approval or a term or condition of an approval,

(vi) to amend a term or condition if, in the opinion of the Director, a significant adverse effect on the aquatic environment, human health or public safety that was not reasonably foreseeable at the time the approval was issued occurred, occurs or may occur,

(vii) to amend a term or condition if, in the opinion of the Director, an adverse effect on a household user, licensee or traditional agriculture user occurred, occurs or may occur, or

(viii) if there is a term or condition of the approval allowing the amendment,

and

(b) with respect to any matter

(i) on application by the approval holder, or

(ii) with the consent of the approval holder.

(2) An application under subsection (1)(b)(i) must be made in a form and manner satisfactory to the Director.

(3) Notice of an application to amend an approval must be provided in accordance with Part 8.

(4) Notwithstanding subsection (1), unless otherwise specified in the regulations, an approval holder does not require an amendment of the approval in order to make an adjustment, repair or replacement or to have maintenance done during the course of normal operations of a works.

(5) Notwithstanding this section, the addition of and modifications to plans or specifications relating to an approval that, in the opinion of the Director, do not substantially change the terms and conditions of the approval or the nature of the undertaking to which the approval is appurtenant are deemed not to be an amendment of an approval for the purposes of this Part and Parts 8 and 9.

1996 cW-3.5 s42

Suspension, cancellation

43(1) The Director may suspend or cancel an approval

(a) on the Director's own initiative without the consent of the approval holder if

(i) the approval was issued in error,

(ii) in the opinion of the Director, the activity has been abandoned,

(iii) there is an emergency or the Director is of the opinion that the suspension or cancellation is necessary for public safety,

(iv) the approval holder is indebted to the Government,

(v) there is non-performance of or in the opinion of the Director there is a serious breach of any term or condition of the approval,

(vi) in the opinion of the Director, the approval holder made a material misrepresentation in obtaining the approval,

(vii) the approval holder is convicted of an offence under this Act, other than an offence under section 142(1)(j), (o) or (p),

(viii) the Director is of the opinion that a significant adverse effect on the aquatic environment, human health or public safety occurred, occurs or may occur that was not reasonably foreseeable at the time the approval was issued,

(ix) the Director is of the opinion that an adverse effect on a household user, licensee or traditional agriculture user occurred, occurs or may occur, or

(x) an approval has been automatically extended under section 41(2),

and

(b) on any grounds

(i) on application by the approval holder, or

(ii) with the consent of the approval holder.

(2) If an approval has been suspended or cancelled, all rights of the approval holder cease, and in addition to the Director's exercising any powers provided under Parts 7 and 10, the Government may

recover any fees owing to the Government by the approval holder under this Act.

(3) If an approval with respect to drilling water wells is suspended or cancelled, the approval holder shall, on the request of the Director, return to the Director as soon as possible the tags, decals, plates, devices, documents or other things that serve as evidence that a drilling machine is being operated or was operated under an approval.

RSA 2000 cW-3 s43;2002 c4 s5

Security

44 If required by the regulations, an applicant for an approval or an approval holder must provide financial or other security and carry insurance in respect of matters to which the approval relates in an amount and of a type required by the Director.

1996 cW-3.5 s44

Approvals run with land, undertakings

45(1) When issuing an approval the Director must specify, in the approval, the land or undertaking to which the approval is appurtenant.

(2) An approval and all works constructed under the approval

(a) are appurtenant to the land or undertaking specified in the approval,

(b) are inseparable from the land or undertaking specified in the approval, and

(c) run with the land on any disposition of the land or undertaking, unless the Lieutenant Governor in Council orders otherwise.

1996 cW-3.5 s45

Division 2
Licences

No licences to transfer water outside Canada

46(1) In this section, "processed water" and "municipal water" mean processed water and municipal water as defined in the regulations for the purposes of this Act.

(2) For the purpose of promoting the conservation and management of water, including the wise allocation and use of water, a licence shall not be issued for the purpose of transferring water from the Province outside Canada by any means, unless the

licence is specifically authorized by a special Act of the Legislature.

(3) Subsection (2) does not apply to processed water and municipal water.

1996 cW-3.5 s46

No transfer between basins

47 A licence shall not be issued that authorizes the transfer of water between major river basins in the Province unless the licence is specifically authorized by a special Act of the Legislature.

1996 cW-3.5 s47

Public review

48 Before a Bill to amend section 46 or 47 or to enact a special Act described in those sections is introduced into the Legislative Assembly, the Minister must consult with the public, in a form and manner satisfactory to the Minister, with respect to such a Bill.

1996 cW-3.5 s48

Licence required

49(1) Subject to subsection (2), no person shall

(a) commence or continue a diversion of water for any purpose, or

(b) operate a works,

except pursuant to a licence unless it is otherwise authorized by this Act.

(2) A person who commences or continues the diversion of water or operates a works

(a) for household purposes in accordance with section 21,

(b) pursuant to a registration,

(c) pursuant to an approval,

(d) that is designated or is part of a class of diversions or works that is designated in the regulations as exempt from the requirement for a licence, or

(e) that is in an area of the Province that is designated in the regulations as an area where a licence is not required for that diversion or operation of works or that class of diversions or operation of works,

is not required to hold a licence for that diversion of water or operation of works.

1996 cW-3.5 s49

Refusal for unpaid debts

49.1 The Director may refuse to issue a licence where the applicant is indebted to the Government.

2002 c4 s5

Application

50(1) A person who applies for a licence must

(a) make an application in a form and manner satisfactory to the Director,

(b) submit the information required by the Director,

(c) pay the required fees, and

(d) provide notice of the application in accordance with Part 8.

(2) The Director may require an applicant to submit any additional information the Director considers necessary within any time period required by the Director.

(3) The Director may deem that an application for a licence is an application for an approval.

(4) If an applicant for a licence does not own the land in fee simple or the undertaking to which the licence is to be appurtenant, the applicant must submit the written consent of the owner of the land or of the undertaking as part of the application for the licence.

1996 cW-3.5 s50

Issuance of licences, preliminary certificates

51(1) On application for a licence by a person in accordance with this Act, the Director may, subject to subsection (2) and sections 34, 46 and 47, issue or refuse to issue

(a) a preliminary certificate to that person, or

(b) a licence to that person for

(i) the diversion of water, or

(ii) the operation of a works,

for any purpose specified in the regulations.

(2) On application by the Government in accordance with this Act, the Director may issue a licence to the Government but to no other person, or may refuse to issue a licence, for

(a) the diversion of water,

(b) the operation of a works, or

(c) providing or maintaining a rate of flow of water or water level requirements

for the purpose of implementing a water conservation objective.

(3) Subject to section 68, the Director may issue a licence under this section subject to any terms and conditions that the Director considers appropriate.

(4) In making a decision under this section, the Director

(a) must consider, with respect to the applicable area of the Province, the matters and factors that must be considered in issuing a licence, as specified in an applicable approved water management plan,

(b) may consider any existing, potential or cumulative

(i) effects on the aquatic environment,

(ii) hydraulic, hydrological and hydrogeological effects, and

(iii) effects on household users, other licensees and traditional agriculture users,

that result or may result from the diversion of water, operation of a works or provision or maintenance of a rate of flow of water or water level requirements, and

(c) may consider

(i) effects on public safety,

(ii) with respect to irrigation, the suitability of the land for irrigated agriculture, and

(iii) any other matters applicable to the licence that in the opinion of the Director are relevant, including any applicable water guideline, water conservation objective and water management plan.

(5) When the Director issues a licence, the Director must include an expiry date determined in accordance with the regulations.

(6) A licensee of water for irrigation purposes or a person who, under a licence, has acquired water from a licensee of water for irrigation purposes is entitled to divert, as part of the acquired water,

(a) up to a maximum of 1250 cubic metres of water per year for household purposes, and

(b) up to a maximum of 6250 cubic metres of water per year for the purpose of raising animals or applying pesticides to crops, as part of a farm unit,

whether or not that licensee or person owns or occupies land that adjoins a river, stream, lake, natural watercourse or other natural water body or under which groundwater exists or that person is diverting water under a registration.

(7) If a licensee of water for irrigation purposes or a person who under a licence acquires water under the licence of such a licensee is entitled to divert water under section 21, that licensee or person is entitled to the water under the licence in addition to the entitlement under section 21.

1996 cW-3.5 s51

Using works of another

52(1) If a person has applied for a licence to divert water through the use of another person's works, the Director may issue a licence under section 51 for the diversion, whether the applicant's works are constructed, under construction or to be constructed, if

(a) the operation of the works of the other person is licensed or authorized under this Act,

(b) the applicant for the licence and the owner of the works have made an agreement with respect to

(i) the use and maintenance of the works and, if necessary, the alteration and enlargement of the works,

(ii) the method of compensating the owner for the use and maintenance of the works, and

(iii) sharing the cost of altering, enlarging or jointly constructing the works, where applicable,

(c) the issuance of that licence will not interfere with the licensed diversion of water by the other person, unless the

owner of the works has agreed otherwise in a term of the agreement referred to in clause (b), and

(d) the agreement has been submitted to the Director.

(2) In issuing the licence under subsection (1), the Director may issue an approval to the applicant for the licence or the owner of the works to alter or enlarge any of the works described in subsection (1) if the Director is of the opinion that the alteration or enlargement is necessary in order for the water to be diverted through the use of the works.

(3) Notwithstanding subsection (2), if an agreement has not been submitted to the Director, the Minister may by order issue the licence under subsection (1), prescribe how any necessary alteration or enlargement of the works is to be done and how the costs are to be apportioned and require the Director to issue an approval with respect to the alteration or enlargement, if, in the opinion of the Minister,

(a) there has been an unreasonable delay in submitting the agreement, and

(b) it is in the public interest to do so.

(4) Unless otherwise provided for in the agreement, an applicant who is authorized to alter or enlarge a works previously constructed is responsible for any loss or damage that is sustained by the owner of the works as a result of the alteration or enlargement, and the Minister must determine the amount to be paid for the loss or damage, and that determination is final.

1996 cW-3.5 s52

Licence applications not accepted

53(1) If the Director is of the opinion that no further allocation of water should be made in a water management area or other geographical area considered appropriate by the Director or from a water body, the Director may decide that applications for licences are not to be accepted by the Director for a specified period of time.

(2) If the Director conducts a public review in a form and manner satisfactory to the Director, the Director may extend the period of time referred to in subsection (1).

(3) In making a decision under subsection (1) that no applications for licences may be accepted, the Director

(a) must consider, with respect to the applicable area of the Province, the matters and factors that must be considered in

issuing a licence, as specified in an applicable approved water management plan,

(b) may consider any existing, potential or cumulative

(i) effects on the aquatic environment,

(ii) hydraulic, hydrological and hydrogeological effects, and

(iii) effects on household users, licensees and traditional agriculture users,

that result or may result from a potential diversion of water, operation of a works or provision or maintenance of a rate of flow of water or water level requirements, and

(c) may consider any other matters that, in the opinion of the Director, are relevant, including any applicable water guideline, water conservation objective and water management plan.

(4) If notice of a decision has been provided under section 110(4) that no further applications for licences may be accepted, the Director must refuse to accept an application for a licence.

(5) The Director must consider and make a decision with respect to an application for a licence received prior to the date the Director provides notice under section 110(4).

(6) Notwithstanding subsection (4), the Director may accept an application for a licence for a temporary diversion of water.

(7) If the Director has made a decision under subsection (1) that no further applications for licences are to be accepted and the Director is of the opinion that water may once again be allocated even though the period of time referred to in subsection (1) has not expired, the Director must provide notice, in accordance with the regulations, that applications for licences may be accepted.

1996 cW-3.5 s53

Amendments

54(1) If an amendment of a licence does not increase the volume of the diversion of water specified in the licence, the Director may, subject to the regulations and subsection (3), amend a licence

(a) on the Director's own initiative, without the consent of the licensee,

(i) to correct a clerical error in a licence,

(ii) to give effect to a transfer of an allocation under a licence that has been approved under Part 5,

(iii) to amend a term or condition that relates to a monitoring, reporting or inspection requirement,

(iv) if the Director has received notice of a disposition of land or an undertaking to which a licence is appurtenant, to reflect the disposition,

(v) if, in the Director's opinion, an adverse effect on human health or public safety occurred, occurs or may occur that was not reasonably foreseeable at the time the licence was issued,

(vi) to give effect to the amalgamation of licences under section 56,

(vii) to limit the volume of water to that which a works is capable of carrying,

(viii) to reduce an allocation of water under a licence if part of the allocation was incorporated into a registration, and

(ix) if there is a term or condition of the licence allowing the amendment,

and

(b) on application by the licensee, including but not limited to an amendment

(i) to increase or decrease the rate of diversion of water specified in the licence,

(ii) to add a rate of diversion of water if none is specified in the licence,

(iii) to add terms and conditions to the licence,

(iv) to change the timing of the diversion of water specified in the licence,

(v) to change the point of use or add another point of use of the diverted water if the use is located on the same land specified in the licence or plan attached to the licence, and

(vi) to move the point of diversion of water or add another point of diversion of water if the diversion of water at

the new point of diversion of water is from the same source of water and the new point of diversion of water is located on the same land that is specified in the licence or plan attached to the licence,

if the Director is of the opinion that there is no or will be no adverse effect on the rights of a household user, other licensee or traditional agriculture user and that the proposed change will not adversely affect the ability to conserve or manage a water body.

(2) Subject to the regulations, if an amendment of a licence issued under this Act does not increase the volume of the diversion of water specified in the licence, the Director may amend the licence if, in the Director's opinion, an adverse effect on the aquatic environment occurred, occurs or may occur that was not reasonably foreseeable at the time the licence was issued, and compensation may be payable under section 158.

(3) An applicant for an amendment to a licence under subsection (1) must

(a) make an application in a form and manner satisfactory to the Director,

(b) submit the information required by the Director,

(c) pay the required fees, and

(d) provide notice of the application in accordance with Part 8.

(4) A licensee does not require an amendment to a licence in order to make an adjustment, repair or replacement or to have maintenance done during the course of normal operations of a works, unless otherwise specified in the regulations, if the change does not result in an increase in the rate or volume of or a change in the timing of the diversion of water.

(5) Notwithstanding this section, the addition of or modifications to plans and specifications relating to a licence that, in the opinion of the Director, do not substantially change the terms and conditions of the licence or the nature of the undertaking to which the licence relates are deemed not to be an amendment for the purposes of this Part and Parts 8 and 9.

1996 cW-3.5 s54

Suspension, cancellation

55(1) The Director may suspend or cancel a licence

(a) on the request of the licensee,

(b) if a licence has been issued in error,

(c) if there is an emergency or if in the Director's opinion it is necessary for public safety purposes,

(d) if the licensee is indebted to the Government,

(e) if there is non-performance of or in the opinion of the Director there is a serious breach of any term or condition of the licence,

(f) if, subject to the regulations, the Director is of the opinion that

(i) there has been no diversion of any of the water allocated in the licence, or there has been a failure or ceasing to exercise the rights granted under the licence, over a period of 3 years, and

(ii) there is no reasonable prospect that the licensee will resume diversion of all or part of the water specified in the licence or resume the exercise of the rights granted under the licence,

(g) if, in the opinion of the Director, the licensee made a material misrepresentation in obtaining the licence,

(h) if an entire allocation of water under a licence has been incorporated into a registration,

(i) if the licensee has been convicted of an offence under this Act, other than an offence under section 142(1)(j), (o) or (p), or

(j) if, in the opinion of the Director, a significant adverse effect on human health or public safety occurred, occurs or may occur that was not reasonably foreseeable at the time the licence was issued.

(2) Subject to the regulations, the Director may suspend or cancel a licence issued under this Act if, in the opinion of the Director, a significant adverse effect on the aquatic environment occurred, occurs or may occur that was not reasonably foreseeable at the time the licence was issued, and compensation may be payable under section 158.

(3) If a licence has been suspended or cancelled, subject to section 158 all rights of the licensee cease, and in addition to the Director's exercising any powers provided under Parts 7 and 10, the

Government may recover any fees owing to the Government by the licensee under this Act.

RSA 2000 cW-3 s55;2002 c4 s5

Amalgamation of licences

56(1) The Director may, if in the Director's opinion it is appropriate to do so, amalgamate 2 or more licences if

(a) the licensee has requested the amalgamation,

(b) all of the licences to be amalgamated are held by the same licensee,

(c) the diversions of water under all the licences are from the same source of water and are for the same purpose,

(d) in the opinion of the Director, the amalgamation will improve the administration of the licences under this Act, and

(e) in the opinion of the Director, there is no adverse effect on household users, other licensees or traditional agriculture users.

(2) The Director must assign to the licence resulting from the amalgamation of the licences the numerically highest priority number of all the amalgamated licences.

(3) The licence resulting from the amalgamation may contain any terms and conditions

(a) that were contained in any of the licences that have been amalgamated, or

(b) that, in the opinion of the Director, are necessary to give effect to the amalgamation.

1996 cW-3.5 s56

Security

57 If required by the regulations, an applicant for a licence or a licensee must provide financial or other security and carry insurance in respect of the matters to which the licence relates in an amount and of a type required by the Director.

1996 cW-3.5 s57

Licences run with land

58(1) When issuing a licence, including licences issued under Part 5, Division 2, the Director must specify in the licence the land or undertaking to which the licence is appurtenant.

(2) Subject to Part 5, Division 2, a licence and all works operated under the licence

(a) are appurtenant to the land or undertaking specified in the licence,

(b) are inseparable from the land or undertaking specified in the licence, and

(c) run with the land or undertaking on any disposition of the land or undertaking unless the Lieutenant Governor in Council orders otherwise.

1996 cW-3.5 s58

Licence renewal application

59(1) A licensee may apply for a renewal of the licence in a form and manner satisfactory to the Director at any time prior to the expiry date of the licence.

(2) At least 30 days prior to the expiry date of a licence the Director must give notice to the licensee that the licence expires on the licence's expiry date.

(3) If, after providing notice under subsection (2), the Director does not receive an application for renewal on or before the licence's expiry date,

(a) the licence expires on the licence's expiry date, or

(b) if the Director is of the opinion that the failure to apply is not the fault of the licensee, the Director may amend the licence, either before or after the licence expires, to extend the expiry date for up to 6 months, and the licence is deemed to have been in effect from the expiry date until the Director extended the expiry date so that the applicant has the opportunity to apply to renew the licence.

(4) If the Director extends the expiry date of a licence under subsection (3)(b), the licensee may apply to renew the licence prior to the new expiry date and section 60 applies to the application for the renewal.

(5) If a licence had expired when the expiry date was extended by an amendment under subsection (3), the licence is deemed to have been a valid licence from the time it expired until the date it was amended under subsection (3).

(6) If the Director fails to give notice under subsection (2), the licence is deemed not to have expired on its expiry date and the

licence is automatically renewed on the same terms and conditions for a period of one year.

1996 cW-3.5 s59

Renewal may issue

60(1) If an application for renewal is received by the Director prior to the licence's expiry date, the expiry date of the licence is extended by 6 months or for a longer or shorter time specified by the Director, and the Director must

(a) renew the licence, or

(b) refuse to renew the licence in accordance with subsection (3),

by the new expiry date of the licence.

(2) The Director may extend the expiry date of a licence for the purposes of this section.

(3) The Director may decide not to renew a licence only if

(a) the Director is of the opinion that it is not in the public interest to renew the licence,

(a.1) the licensee is indebted to the Government,

(b) the renewal of the licence would be inconsistent with an approved water management plan,

(c) the water conservation objective of a natural water body from which the diversion of water will be made is not being met,

(d) the renewal, in the opinion of the Director, would cause a significant adverse effect on the aquatic environment,

(e) subject to the regulations, in the opinion of the Director,

(i) there has been no diversion of any of the water allocated in the licence or there has been a failure or ceasing to exercise the rights granted under the licence over a period of 3 years, and

(ii) there is no reasonable prospect that the licensee will resume diversion of all or part of the water specified in the licence or resume the exercise of the rights granted under the licence,

or

(f) there is a term or condition of the licence that the licence is not renewable.

(4) If the Director makes a decision not to renew a licence, the Director must provide written reasons for the decision to the applicant for the renewal in a form and manner satisfactory to the Director.

(5) A renewed licence has the same priority as the original licence and the Director has the same powers and duties with respect to a renewal of a licence that the Director has with respect to issuing a licence under section 51(3).

RSA 2000 cW-3 s60;2002 c4 s5

Public review of renewal

61(1) The Director may, subject to the regulations, conduct a public review with respect to the renewal of a licence.

(2) A public review must be carried out in a form and manner determined by the Director.

1996 cW-3.5 s61

Temporary Diversion Licence

Application

62(1) A person who applies for a licence for the temporary diversion of water must

(a) make an application in a form and manner satisfactory to the Director,

(b) submit the information required by the Director,

(c) pay the required fees, and

(d) provide notice of the application in accordance with Part 8.

(2) The Director may require an applicant to submit any additional information the Director considers necessary within any time period required by the Director.

1996 cW-3.5 s62

Issuance of temporary diversion licence

63(1) The Director may issue a licence for the temporary diversion of water to any person subject to any terms and conditions the Director considers appropriate.

(2) A licence for the temporary diversion of water may be issued only for a specified period of time of one year or less.

(3) The Director may extend the expiry date of a licence for the temporary diversion of water, if the total period for which the licence is issued does not exceed one year.

(4) Notwithstanding subsections (2) and (3), the Director may, on application, reissue a licence for a temporary diversion of water.

(5) Sections 18, 29, 30, 33, 50, 51, 52, 54, 55 and 56 and Part 5 are not applicable to a licence for the temporary diversion of water.

(6) A holder of a licence for the temporary diversion of water may divert water through the use of another person's works if the holder of the licence for the temporary diversion of water provides the written consent of the owner of the works to the Director.

1996 cW-3.5 s63

Amendment, suspension, cancellation

64 The Director may, on the Director's own initiative, amend, suspend or cancel a licence for the temporary diversion of water.

1996 cW-3.5 s64

Licence to be onsite

65 A licensee for the temporary diversion of water must ensure that a copy of the licence is

(a) kept at the point of diversion,

(b) posted or otherwise made available as required by the Director,

(c) produced in accordance with Part 10, and

(d) if the water is transported by a vehicle, kept in the vehicle while the water is transported.

1996 cW-3.5 s65

Division 3
Preliminary Certificates

Issuance of preliminary certificates

66(1) If a person has applied for a licence, other than a licence for the temporary diversion of water, the Director may issue a preliminary certificate under section 51 to that person for the period of time stated in the preliminary certificate.

(2) The Director may issue a preliminary certificate under section 51 subject to any terms and conditions and for any specified period of time.

(3) In considering whether to issue a preliminary certificate, the Director

(a) must consider, with respect to the applicable area of the Province, the matters and factors that must be considered in issuing a licence, as specified in an applicable approved water management plan,

(b) may consider any existing, potential or cumulative

(i) effects on the aquatic environment,

(ii) hydraulic, hydrological and hydrogeological effects, and

(iii) effects on household users, licensees and traditional agriculture users,

that result or may result from the potential diversion of water, operation of a works or provision or maintenance of a rate of flow of water or water level requirements, and

(c) may consider

(i) effects on public safety,

(ii) with respect to irrigation, the suitability of the land for irrigated agriculture, and

(iii) any other matters applicable to the preliminary certificate or licence that, in the opinion of the Director, are relevant, including any water guideline, water conservation objective and water management plan.

(4) In a preliminary certificate the Director

(a) must specify the conditions that must be complied with before a licence will be issued, including but not limited to a requirement for securing any necessary rights of way,

(b) must specify

(i) a volume of water and related terms and conditions that are to be included in a licence, and

(ii) the priority number to be assigned to the licence,

when the preliminary certificate holder fulfils all the conditions specified in the preliminary certificate,

(c) must specify the date for submission of a certificate of completion by the preliminary certificate holder,

(d) may specify any other terms and conditions to be included in the licence that the Director considers appropriate, including but not limited to the rate and timing of the diversion of water, when the preliminary certificate holder fulfils all the conditions specified in the preliminary certificate, and

(e) may specify that any further terms and conditions may be added to a licence that is issued subsequent to the preliminary certificate.

1996 cW-3.5 s66

Refusal for unpaid debts

66.1 The Director may refuse to issue a preliminary certificate where the applicant for the preliminary certificate is indebted to the Government.

2002 c4 s5

Certificate of completion

67 On completion of the conditions specified in a preliminary certificate, the preliminary certificate holder may submit, in a form and manner satisfactory to the Director, a certificate of completion containing the information required by the Director, confirming that the conditions referred to in section 66(4)(a) have been fulfilled.

1996 cW-3.5 s67

Licence issues

68(1) If the holder of a preliminary certificate submits a certificate of completion that meets the requirements of section 67, the Director must

(a) issue a licence under section 51, or

(b) if, in the Director's opinion, the conditions set out in the preliminary certificate have not been fulfilled, refuse to issue a licence.

(2) If the Director issues a licence referred to in subsection (1), the Director must include in the licence

(a) the volume of water and related terms and conditions specified in the preliminary certificate, and

(b) the number specified in the preliminary certificate.

(3) Notwithstanding subsection (2),

(a) if a certificate of completion indicates that

(i) a smaller volume of water will be diverted than the volume specified in the preliminary certificate, or

(ii) there is a change in the rate or timing of the diversion of water from that specified in the preliminary certificate,

the Director may issue the licence for the same or a smaller volume of water and with a change in the rate or timing of the diversion of water that corresponds to the changes specified in the certificate of completion, and

(b) if, in the Director's opinion, the capacity of the works constructed is insufficient to divert the volume of water specified in the preliminary certificate and any applicable approval, the Director may issue the licence for the same or a smaller volume of water and with a change in the rate or timing of the diversion of water that corresponds to the capacity of the works.

(4) If a licence has been issued subsequent to a preliminary certificate, the licensee has only those rights provided in the licence and has no rights with respect to the preliminary certificate.

(5) If the holder of a preliminary certificate fails to submit a certificate of completion by the preliminary certificate's expiry date, the preliminary certificate and the application for the licence become void on the date that the preliminary certificate expires.

1996 cW-3.5 s68

Preliminary certificate extension

69(1) The Director may extend the expiry date of a preliminary certificate for one or more periods if the total extended time is not longer than 2 years.

(2) Notwithstanding subsection (1), the Minister may extend the expiry date of a preliminary certificate for one or more periods of any length of time if the Minister considers that it is in the public interest to do so.

1996 cW-3.5 s69

Preliminary certificate amendment

70(1) If an amendment of a preliminary certificate does not result in an increase in the volume of water specified in the preliminary certificate, the Director may, subject to the regulations, amend the preliminary certificate

(a) on the Director's own initiative, without the consent of the preliminary certificate holder,

(i) to correct a clerical error in a preliminary certificate,

(ii) to amend a term or condition that relates to a monitoring, reporting or inspection requirement,

(iii) if the Director has received notice of a disposition of land or an undertaking to which a preliminary certificate is appurtenant to reflect the disposition, or

(iv) if there is a term or condition of the preliminary certificate allowing the amendment,

and

(b) on application by the preliminary certificate holder, including but not limited to an amendment

(i) to increase or decrease the rate of diversion of water specified in the preliminary certificate,

(ii) to add a rate of diversion of water if none is specified in the preliminary certificate,

(iii) to add terms and conditions to the preliminary certificate,

(iv) to add or change the timing of diversion of water specified in the preliminary certificate, and

(v) to change the point of use of the diverted water

if, in the Director's opinion, there is not and will not be an adverse effect on the rights of any household user, licensee or traditional agriculture user and the proposed change will not adversely affect the ability to conserve or manage a water body.

(2) An application under subsection (1)(b) must be made in a form and manner satisfactory to the Director.

(3) Notice of an application to amend an approval must be provided in accordance with Part 8.

(4) Notwithstanding this section, the addition of or modifications to plans and specifications relating to a preliminary certificate that, in the opinion of the Director, do not substantially change the terms and conditions of the preliminary certificate or the nature of the undertaking to which the preliminary certificate is appurtenant are deemed not to be an amendment for the purposes of this Part and Parts 8 and 9.

1996 cW-3.5 s70

Preliminary certificate cancellation

71(1) The Director may cancel a preliminary certificate

(a) on the request of the preliminary certificate holder,

(b) if a preliminary certificate has been issued in error,

(c) if the preliminary certificate holder is indebted to the Government,

(d) if, in the opinion of the Director, there is a serious breach of any term or condition of the preliminary certificate,

(e) if the preliminary certificate holder has ceased to exercise the authority granted under an approval that is applicable to the preliminary certificate,

(f) if the preliminary certificate holder made a material misrepresentation in obtaining the preliminary certificate,

(g) if the preliminary certificate holder has been convicted of an offence under this Act, other than an offence under section 142(1)(j), (o) or (p),

(h) if, in the opinion of the Director, a significant adverse effect on human health or public safety occurred, occurs or may occur that was not reasonably foreseeable at the time the preliminary certificate was issued, or

(i) if, in the Director's opinion, subject to the regulations, a significant adverse effect on the aquatic environment occurred, occurs or may occur that was not reasonably foreseeable at the time the preliminary certificate was issued, and compensation may be payable under section 158.

(2) If a preliminary certificate has been cancelled, all rights of the preliminary certificate holder cease, and in addition to the Director's exercising any powers provided under Parts 7 and 10, the Government may recover any fees or other money owing by the

holder of the cancelled preliminary certificate to the Government under this Act.

RSA 2000 cW-3 s71;2002 c4 s5

Runs with land

72(1) When issuing a preliminary certificate, the Director must specify in the preliminary certificate the land or the undertaking to which the preliminary certificate is appurtenant.

(2) A preliminary certificate

(a) is appurtenant to the land or undertaking specified in the preliminary certificate,

(b) is inseparable from the land or undertaking specified in the preliminary certificate, and

(c) runs with the land or undertaking on any disposition of the land or undertaking unless the Lieutenant Governor in Council orders otherwise.

1996 cW-3.5 s72

Division 4
Registration

Application

73(1) If, on January 1, 1999,

(a) a person owns land that adjoins a river, stream, lake, natural watercourse or other natural water body or owns land under which groundwater exists, and

(b) the owner or occupant of the land diverts water from the sources described in clause (a) for the purpose of raising animals or applying pesticides to crops, as part of a farm unit,

the person who owns the land may apply to register the amount of water diverted as described in clause (b).

(2) If, on January 1, 1999, a person who occupies unpatented Crown land that adjoins a river, stream, lake, natural watercourse or other natural water body or occupies land under which groundwater exists diverts water for the purpose of raising animals or applying pesticides to crops, as part of a farm unit, the Government may apply, in accordance with this section, to register the diversion of that amount of water.

(3) Notwithstanding subsections (1) and (2), a registration of a diversion of water under this section may not exceed 6250 cubic

metres of water per year or the maximum amount specified in an applicable approved water management plan, whichever is greater.

(4) An application for a registration of a diversion of water under this section must

(a) be made in a form and manner satisfactory to the Director,

(b) in the case of an application under subsection (1), be made by the person who owns the land in fee simple to which the registration is to be appurtenant,

(c) in the case of an application under subsection (2), be made by the Government,

(d) be made by December 31, 2001 or after there is an approved water management plan that applies to the area of the Province where the land is located, whichever is earlier,

(e) be for the diversion of water for the purpose of raising animals or applying pesticides to crops, as part of a farm unit,

(f) contain information and proof respecting

(i) the date of the first diversion of the water for the purpose of raising animals or applying pesticides to crops, as part of a farm unit, by any person on the land to which the registration is to be appurtenant,

(ii) all sources of water used for the purpose of raising animals or applying pesticides to crops on the specified land, as part of a farm unit,

(iii) a legal description of the land and the boundaries and size of the parcel of land to which the registration is to be appurtenant,

(iv) estimates of the volumes and rates of water used for the purpose of raising animals or applying pesticides to crops, as part of a farm unit, on the specified land from the specified sources and where on the land the water is used, and

(v) any other information required by the Director,

(g) be made to the Director, and

(h) meet the requirements of the regulations.

(5) The Director may require an applicant for a registration to submit any additional information the Director considers necessary within any time period required by the Director.

(6) The applicant for registration is responsible for providing the information required under this section.

1996 cW-3.5 s73

Registration effected

74(1) Subject to section 34, on receipt of an application for a registration that, in the opinion of the Director, is complete, the Director must register the diversion of water applied for for the purpose of raising animals or applying pesticides to crops, as part of a farm unit, unless the Director is of the opinion that the information or proof provided by the applicant is incorrect, in which case the Director may refuse to register the diversion of water.

(2) A registration is effected without an expiry date.

(3) The Director may effect only one registration for a person unless the Director is satisfied that

(a) the person is raising animals or applying pesticides to crops on a parcel of land that is distinct from any other parcel of land for which the person holds a registration, and

(b) the raising of animals or application of pesticides to crops is being done as part of a different farm unit from any other farm unit to which any other registration relates.

(4) Subsection (3) does not apply to the Government with respect to unpatented Crown land.

1996 cW-3.5 s74

Registration runs with land

75(1) When effecting a registration, the Director must specify in the registration the land to which the registration is appurtenant, the sources of water from which water may be diverted and the amount of water that may be diverted pursuant to the registration.

(2) A registration

(a) is appurtenant to the land specified in the registration,

(b) is inseparable from the land specified in the registration, and

(c) runs with the land on any disposition of the land unless the Lieutenant Governor in Council orders otherwise.

1996 cW-3.5 s75

Appeal

76(1) If a person has reasonable and probable grounds to believe that the priority number of a registration is incorrect, the person may by application appeal the validity of the priority number to the Court of King's Bench, and the Court may make any order to amend a registration as it considers appropriate.

(2) An appeal to the Court of King's Bench under subsection (1) must be made within 5 years after the registration is effected.

RSA 2000 cW-3 s76;2009 c53 s185;AR 217/2022

Amendments

77(1) If an amendment does not result in an increase in the volume of the diversion of water, the Director may amend a registration without the consent of the registrant

(a) in order to correct a clerical error in the registration, or

(b) if the Director has received notice of a disposition of land to which a registration is appurtenant, to reflect the disposition.

(2) The Director may amend a registration if, in the opinion of the Director, all the persons affected by the registration have agreed to the amendment.

1996 cW-3.5 s77

Suspension, cancellation

78(1) The Director may suspend or cancel a registration

(a) on the request of the registrant;

(b) if a registration has been issued in error;

(c) if there is an emergency or if, in the Director's opinion, it is necessary for public safety purposes;

(d) if the registrant is indebted to the Government;

(e) if, in the opinion of the Director, the registrant made a material misrepresentation in obtaining the registration;

(f) if the registrant has been convicted of an offence under this Act, other than an offence under section 142(1)(j), (o) or (p).

(2) If a registration has been cancelled or suspended, all rights of the traditional agriculture user with respect to the land to which the registration is appurtenant cease, and in addition to the Director's exercising any powers provided under Parts 7 and 10, the Government may recover any fees owing by the traditional agriculture user to the Government under this Act.

RSA 2000 cW-3 s78;2002 c4 s5

Division 5
Natural Flow Declaration

Natural flow declaration

79(1) The Director may declare that a drainage ditch, channel realignment or oxbow cutoff that has been created

(a) pursuant to an approval under this Act, or

(b) without a permit, interim licence, including an updated and reissued interim licence or a supplementary interim licence, licence, approval or other authority under an Act

is a naturally occurring water body for the purposes of this Act.

(2) If a declaration is made under subsection (1),

(a) the approval that authorized the activity or diversion of water that created the drainage ditch, channel realignment or oxbow cutoff expires on the date the declaration comes into effect,

(b) the drainage ditch, channel realignment or oxbow cutoff must be treated as a naturally occurring water body for the purposes of this Act, and

(c) the approval holder and the owner of the land to which the approval was appurtenant is relieved of all further responsibilities with respect to the drainage ditch, channel realignment or oxbow cutoff.

1996 cW-3.5 s79

Part 5
Changes in Ownership, Transfers

Division 1
Changes in Ownership

Land, undertaking dispositions

80(1) Unless exempted in the regulations, if an approval holder, preliminary certificate holder, licensee or registrant disposes of

land or an undertaking to which an approval, preliminary certificate, licence or registration is appurtenant, the approval holder, preliminary certificate holder, licensee or registrant must notify the Director in writing of that disposition in a form and manner satisfactory to the Director.

(2) If the owner of land to which an approval, preliminary certificate or licence is appurtenant is not the approval holder, preliminary certificate holder or licensee and the owner of land disposes of the land or the undertaking, the owner and the approval holder, preliminary certificate holder or licensee must notify the Director in writing of that disposition in a form and manner satisfactory to the Director.

(3) If an owner of land, approval holder, preliminary certificate holder, licensee or registrant who disposes of land or an undertaking to which the approval, preliminary certificate, licence or registration is appurtenant fails to provide notice to the Director in accordance with this section, the owner of the land, approval holder, preliminary certificate holder, licensee or registrant and the purchaser of the land or undertaking to which the approval, preliminary certificate, licence or registration is appurtenant

(a) are jointly and severally liable for carrying out the duties and responsibilities specified in the approval, preliminary certificate, licence or registration, and

(b) are subject to the duties and obligations under this Act including those related to the approval, preliminary certificate, licence or registration.

(4) In addition to the ability to issue a water management order to a person who has purchased land or an undertaking to which an approval, preliminary certificate, licence or registration is appurtenant, if the Director has not received a notification under this section, the Director may issue a water management order to the land owner, approval holder, preliminary certificate holder, licensee or registrant who has disposed of the land or undertaking.

(5) Notwithstanding subsections (1) to (4), if

(a) the Director receives notice of a disposition of land or an undertaking in a manner other than from the land owner, approval holder, preliminary certificate holder, licensee or registrant, and

(b) the approval, preliminary certificate, licence or registration has been amended to reflect the disposition referred to in clause (a),

all previous land owners, approval holders, preliminary certificate holders, licensees and registrants are relieved of their obligations under this section.

1996 cW-3.5 s80

Division 2
Transferring Water Allocations

Transfer application

81(1) An application for a transfer of an allocation of water under a licence must be made to the Director and

(a) must be made in a form and manner satisfactory to the Director,

(b) must contain or be accompanied with any information required by the Director,

(c) must be accompanied with the required fees, and

(d) may be made with respect to all or part of an allocation of water under a licence.

(2) The Director may require an applicant to submit any additional information that the Director considers necessary within any time period required by the Director.

(3) If an application under this section is made by a person other than the licensee, the written consent of the licensee must be provided to the Director with the application.

(4) If the applicant for a transfer of an allocation of water under a licence does not own the land in fee simple or the undertaking to which the new licence is to be appurtenant, the written consent of the owner of the land or undertaking to which the new licence is to be appurtenant must be provided to the Director with the application for the transfer of the allocation.

(5) If the licensee does not own the land in fee simple or the undertaking to which the licence is appurtenant, the written consent of the owner of the land or the undertaking must be provided to the Director with the application for the transfer of the allocation of water under a licence.

(6) The Director must conduct a public review of a proposed transfer of an allocation of water under a licence, in a form and manner that the Director considers appropriate.

(7) An application for a transfer of an allocation of water under a licence may be considered only if

(a) the ability to transfer an allocation in the area of the Province referred to in the application has been authorized

(i) in an applicable approved water management plan, or

(ii) if there is no applicable approved water management plan, by an order of the Lieutenant Governor in Council,

(b) the proposed transfer of an allocation is not from a licence that was issued as a result of a previous transfer where the transferred allocation is to revert back to the original licence, and

(c) the allocation of water to be transferred is held under a licence in good standing.

1996 cW-3.5 s81

Transfer approved, licence issues

82(1) Subject to this section and sections 34, 81 and 83, on application, the Director may

(a) approve the transfer of an allocation of water under a licence and, subject to subsections (6) and (7)(b), issue a new licence for the transferred allocation of water subject to any terms and conditions that the Director considers appropriate, including specifying in the licence the land or undertaking to which the licence is appurtenant, or

(b) refuse to approve the transfer of an allocation.

(2) A transfer of an allocation of water under a licence may be made

(a) with respect to all or part of an allocation of water from a licence, and

(b) either permanently or for a specified period of time.

(3) The Director may approve a transfer of an allocation of water under a licence only if

(a) the volume of water to be transferred does not exceed the volume of water under the licence from which the transfer of the allocation is to be made,

(b) the transfer of the allocation, in the opinion of the Director, does not impair the exercise of rights of any household user, traditional agriculture user or other licensee other than the household user, traditional agriculture user or other licensee

who has agreed in writing that the transfer of the allocation may take place, and

(c) the transfer, in the opinion of the Director, will not cause a significant adverse effect on the aquatic environment.

(4) An allocation of water with respect to the following may not be transferred:

(a) a licence for a temporary diversion of water;

(b) a licence issued as a result of a previous transfer if the transferred allocation is to revert back to the original licence after a specified period of time;

(c) a right to divert water for household purposes;

(d) a right to divert water pursuant to a registration;

(e) a right to divert water pursuant to an approval;

(f) an anticipated right to divert water pursuant to a preliminary certificate.

(5) In making a decision under subsection (1), the Director

(a) must consider, with respect to the applicable area of the Province, the matters and factors that must be considered in approving a transfer of an allocation of water under a licence, as specified in an applicable approved water management plan,

(b) may consider any existing, potential or cumulative

(i) effects on the aquatic environment and any applicable water conservation objective,

(ii) hydraulic, hydrological and hydrogeological effects, and

(iii) effects on household users, traditional agriculture users and other licensees,

that result or may result from the transfer of the allocation, and

(c) may consider

(i) effects on public safety,

(ii) with respect to irrigation, the suitability of the land to which the allocation of water is to be transferred for irrigated agriculture,

(iii) the allocation of water that the licensee has historically diverted under the licence, and

(iv) any other matters applicable to the transfer of the allocation that the Director considers relevant.

(6) When the Director issues a new licence with respect to a transfer of an allocation of water under a licence under subsection (1)(a),

(a) if only part of an allocation of water under a licence is transferred permanently, the Director may amend the terms and conditions of the licence from which the transfer of the allocation of water is made

(i) with respect to the rate of flow and volume of water diverted, and

(ii) to give effect to the transfer,

and may make amendments, in addition to those described in subclauses (i) and (ii), if they are within the Director's powers to amend under section 54,

(b) if all of the water allocated under the licence from which the transfer is made is transferred permanently, the Director must cancel the licence from which the transfer is made, or

(c) if all or part of an allocation of water is to revert back to the original licence, the Director may amend the licence from which the transfer is made in accordance with clause (a) and issue a new licence to give effect to the transfer.

(7) If a transfer of an allocation of water under a licence is approved,

(a) the licence from which the transfer is made retains the priority number assigned to it before the transfer if the licence is not cancelled under subsection (6)(b), and

(b) the new licence that is issued in respect of the transferred allocation

(i) must be given the same priority number as the licence from which the allocation was transferred, and

(ii) is appurtenant to the land or the undertaking specified in the new licence.

(8) On the expiry of a licence issued to transfer an allocation of water under a licence that is to revert back to the original licence,

(a) the new licence that expired is void,

(b) the allocation of water under the new licence that expired reverts back to the licence from which the transfer of the allocation was made, and

(c) the Director may, subject to the regulations, take any necessary steps to reverse the transfer, including but not limited to amending the licence from which the transfer was made.

1996 cW-3.5 s82

Water conservation holdback

83(1) If the Director is of the opinion that withholding water is in the public interest to protect the aquatic environment or to implement a water conservation objective, and the ability to withhold water has been authorized in an applicable approved water management plan or order of the Lieutenant Governor in Council, the Director may withhold up to 10% of an allocation of water under a licence that is being transferred.

(2) A withholding of an allocation of water under subsection (1) may be made only at the time a new licence is issued with respect to a transfer of an allocation of water.

(3) If there has been a withholding of an allocation of water under subsection (1),

(a) the water may remain in the natural water body, for the purposes of providing or maintaining a rate of flow of water or water level requirements, without issuing a licence for that water,

(b) the water may be reserved or added to an existing reservation under section 35, or

(c) the Director may not issue a licence with respect to the withheld water except to the Government under section 51(2) for an allocation of that water in accordance with the priority number and terms and conditions of the licence from which the water was withheld.

(4) If a withholding of an allocation of water under subsection (1) has been made with respect to a transfer of an allocation of water

under a licence that is to revert back to the original licence, the withheld allocation does not revert back to the original licence and remains with the Government.

1996 cW-3.5 s83

Part 6
Water Management Works and Undertakings

Construction and operation by Minister

84 If the Minister is of the opinion that it is in the public interest to do so, the Minister may

(a) construct, operate, maintain, repair, control, replace and remove a works, and

(b) initiate and carry out an undertaking,

for any purpose that the Minister considers appropriate if the Minister obtains an approval or licence where required.

1996 cW-3.5 s84

Undertaking construction

85 The construction, operation, maintenance, repair, control, replacement or removal of a works or the initiation or carrying out of an undertaking may be undertaken

(a) by or under the direction of the Director,

(b) by or under the direction of an employee who is under the administration of the Minister and designated by the Director, or

(c) by a person designated by the Director, who is an agent or employee of or is under contract with the Government, a local authority or the Government of Canada.

1996 cW-3.5 s85

Public Works Act applicable

86 If the Minister enters into a contract with any person for the construction, operation, maintenance, repair, control, replacement or removal of a works or the initiation or carrying out of an undertaking, except where otherwise provided the *Public Works Act* applies to the tenders and the contracts.

1996 cW-3.5 s86

Tenders

87(1) In addition to complying with the provisions regarding tenders provided for in the *Public Works Act*, the Minister may,

when it appears practical or expedient to do so, call for tenders by invitation, public advertisement or public notice for the operation, maintenance, repair, control, replacement and removal of a works or the initiation or carrying out of an undertaking.

(2) The Minister may provide notice, in accordance with the regulations, of a call for a tender or any extension of time for receiving a tender.

1996 cW-3.5 s87

Withdrawal of tender

88(1) A tender may be withdrawn at any time up to the time fixed for receiving tenders, but only on a request in writing signed by the tenderer or an agent of the tenderer.

(2) No person may withdraw a tender at or after the time fixed for receiving tenders until the earlier of

(a) the Government's entering into a contract with some other person for the performance of the work, the initiation or carrying out of the undertaking or the supplying of the materials specified in the notice inviting tenders, and

(b) 60 days after the time fixed for receiving tenders.

1996 cW-3.5 s88

Acquisitions and takeovers by Minister

89(1) The Minister may, if the Minister is of the opinion that it is in the public interest to do so, acquire

(a) by purchase, or

(b) through any gift or bequest to the Government,

a works that is under construction or completed or an undertaking that has been initiated or carried out.

(2) The Minister may, if the Minister is of the opinion that it is in the public interest to do so, take over and operate a works that is under construction or completed or carry out an undertaking, if

(a) the works or undertaking has been abandoned,

(b) it is necessary for public safety,

(c) in the opinion of the Director, the works is being or has been operated or the undertaking is being or has been initiated or carried out contrary to the terms and conditions of an approval or licence or this Act,

(d) the licence or preliminary certificate with respect to the works or undertaking has been suspended or cancelled,

(e) the person, approval holder, preliminary certificate holder or licensee responsible for the works or undertaking is bankrupt or insolvent, or

(f) an emergency has been declared with respect to the works or undertaking under section 107.

(3) If a works or undertaking has been acquired or taken over under subsection (1) or (2), the Minister has, in addition to all the powers provided under this Act, all the powers, duties and privileges of the approval holder, preliminary certificate holder, licensee or registrant applicable to the works, for the purposes of

(a) operating the works or carrying out the undertaking that has been acquired or taken over,

(b) setting and collecting fees and charges for the use of the works or undertaking by others or for the supply of water, and

(c) generally carrying on business with respect to the works or undertaking.

(4) Subject to any applicable licence, the Minister may specify which land is to be served by the works or undertaking acquired or taken over under subsection (1) or (2).

(5) On acquiring or taking over a works or undertaking under subsection (1) or (2), the Minister is entitled to recover and receive

(a) from any person under any contract with the approval holder, preliminary certificate holder, licensee or registrant for the supply of water, all money then accrued to the approval holder, preliminary certificate holder, licensee or registrant, and

(b) from all water users, all money that they would have been under an obligation to pay in respect of the water supply if the approval holder, preliminary certificate holder, licensee or registrant had continued the operation of the works or the initiation or carrying out of the undertaking.

(6) If the Minister has acquired or taken over a works or undertaking under subsection (1) or (2) for irrigation purposes, the Minister has all the powers, privileges and immunities of an irrigation district.

(7) If the Minister has taken over a works or undertaking under subsection (2)

(a) for the purposes of an emergency or public safety, the Minister may pay compensation to the approval holder, preliminary certificate holder, licensee or registrant for any losses incurred by the approval holder, preliminary certificate holder, licensee or registrant as a result of the takeover, in the manner and amount the Minister considers appropriate, but

(b) compensation is not payable to any person for a takeover for purposes other than an emergency or public safety.

1996 cW-3.5 s89;1999 cI-11.7 s214

Disposal of works or undertaking

90 The Minister may, if the Minister is of the opinion that it is in the public interest to do so, dispose of a works or undertaking acquired or taken over under section 89 by sale or any other means.

1996 cW-3.5 s90

Repossession and resumption of operation

91 If the Minister has taken over a works or undertaking under section 89 and has not disposed of the works or undertaking under section 90, the approval holder, preliminary certificate holder, licensee or registrant is entitled to resume the possession and operation of it at any time that the Minister considers appropriate, on

(a) paying to the Minister, as specified by the Minister, any costs incurred by the Minister in the operation of the works or the carrying out of the undertaking, and

(b) satisfying the Minister that the approval holder, preliminary certificate holder, licensee or registrant is able to operate the works or carry out the undertaking.

1996 cW-3.5 s91

Use of land administered by Minister

92(1) The Director may, subject to the regulations, by order with respect to public land that is under the administration of the Minister that is related to or used in connection with a works or undertaking in which the Government has a property interest or that is related to an approval, preliminary certificate or licence issued to the Government,

(a) permit, restrict, prohibit or impose any conditions on

(i) the use of any land or water for any purpose by a person, including but not limited to use by a person's animals,

(ii) the use of any reservoir or part of any reservoir,

(iii) the use, speed, direction of travel, stopping, leaving or parking of any vehicle or thing on any land or reservoir,

(iv) the erection of signs or devices on land, and

(v) any nuisance or noise on land,

and

(b) seize, remove or detain, or direct an owner or operator of a vehicle or thing to remove, any vehicle or thing parked or left in contravention of the regulations, if the vehicle or thing is located on land or a reservoir under the administration of the Minister.

(2) A person, other than the owner or operator, who seizes, removes or detains a vehicle or thing under subsection (1)(b) must provide a justice with an affidavit describing the vehicle or thing and the reason for the seizure, removal or detention, and describing the disposition of the vehicle or thing.

(3) The Director or the owner of a vehicle or thing seized, removed or detained under subsection (1)(b) may make an application to a justice for an order respecting the disposition of it and the justice must

(a) order that the application be stayed and be dealt with pursuant to section 150, or

(b) if section 150 is not applicable, make an order that the thing seized, removed or detained

(i) be confiscated to the Crown in right of Alberta, or

(ii) be returned to the person who is entitled to it.

1996 cW-3.5 s92

Part 7
Remedial Measures

Division 1
Resolution of Disputes, Removal of Works

Dispute resolution

93 If 2 or more persons are unable to resolve a complaint or dispute with respect to a matter under this Act, any one of the persons involved in the complaint or dispute may make a request to the Director that the matter be reviewed.

1996 cW-3.5 s93

Mediation

94(1) If a review of a complaint or dispute has been conducted and the complaint or dispute is not resolved, the Director may appoint a mediator to assist in resolving the complaint or dispute if

(a) the Director is of the opinion that there has not been a contravention of this Act with respect to the complaint or dispute, and

(b) the persons involved in the complaint or dispute are in agreement that the matter should be referred to a mediator.

(2) The Director may require that all or part of the costs of a mediator be paid by the persons involved in the complaint or dispute who participate in the mediation and may direct the amount that each person must pay.

1996 cW-3.5 s94

Removal of works and obstructions

95 The Director or any person authorized in writing by the Director may, at any reasonable time, enter on any land and remove or otherwise render ineffective

(a) a works constructed without an approval,

(b) a works not constructed in accordance with an approval,

(c) a works referred to in an approval or licence that has expired or has been cancelled, or

(d) a natural or other obstruction, including but not limited to an obstruction formed by soil, debris, ice or vegetation, or beaver dam, if, in the opinion of the Director, the obstruction or dam causes the diversion of water or interferes with the flow of any water,

if, in the opinion of the Director, there is an interference with the rights of a household user, licensee or traditional agriculture user, or with private or public property, as a result of the works, obstruction or dam.

1996 cW-3.5 s95

Flood risk areas

96(1) If the Minister is of the opinion that there is or may be a risk to human life or property as a result of flooding, the Minister may designate, subject to the regulations,

(a) any area of land in the Province as a flood risk area, either generally or on an interim basis, and

(b) specify any acceptable land uses with respect to the flood risk area.

(2) If the Minister has made a designation under subsection (1)(a), subject to the regulations,

(a) new Government works or undertakings must not be located or carried out,

(b) Government financial assistance must not be given to any person who engages in a use other than a use specified under subsection (1)(b), and

(c) money and services and Government disaster assistance programs may be restricted with respect to flood damage,

in the designated flood risk area after the designation has been made, except as specified in the designation or the regulations.

(3) The Minister must consult with the local authority that is responsible for a proposed flood risk area before making a designation under subsection (1).

(4) For the purposes of subsection (3), "local authority" does not include a local authority as defined in section 1(1)(ee)(vi) to (ix).

RSA 2000 cW-3 s96;2017 c22 s50

Division 2
Water Management Orders

Order issues

97(1) An inspector or the Director may issue a water management order

(a) to any person for the purpose of administering priority under this Act if the inspector or the Director is of the opinion that

(i) prior to the dispute, the works of the person claiming priority was adequate to divert the water to which the person has a priority, and

(ii) the issuance of the order will provide a remedy with respect to priority;

(b) to an approval holder, preliminary certificate holder, licensee, registrant or owner of a works

(i) if, in the opinion of the inspector or Director, there has been a failure to maintain, repair, improve, alter or replace a works referred to in the approval, preliminary certificate, licence or registration, or

(ii) if all or part of the works referred to in the approval, preliminary certificate, licence or registration fails or collapses;

(c) to any person responsible for

(i) a works that does not require an approval,

(ii) a diversion of water that does not require a licence or registration,

(iii) an activity that does not require an approval, or

(iv) a diversion of water for household purposes,

if, in the opinion of the inspector or Director, an adverse effect on the aquatic environment, human health, property or public safety occurred, occurs or may occur;

(d) to any person holding a licence for the temporary diversion of water, if the inspector or Director is of the opinion that the diversion of water should be suspended;

(e) to any owner or occupier of land if on that land, in the opinion of the inspector or Director, a flood occurred, occurs or may occur;

(f) to the person responsible for a water well if, in the opinion of an inspector or the Director, the water well is a problem water well or any actions related to the drilling of a water well caused, causes or may cause an adverse effect on the environment or on human health, property or public safety;

(g) to the person in charge of drilling, if the inspector or Director is of the opinion that any drilling of any kind

caused, causes or may cause an adverse effect on groundwater;

(h) to a person responsible for an activity, diversion of water or operation of a works, if the inspector or Director is of the opinion that the activity, diversion of water or operation of a works caused, causes or may cause a significant adverse effect on human health, property or public safety;

(i) to a household user, approval holder or licensee whose licence has been issued under this Act, if an inspector or the Director is of the opinion that a diversion of water caused, causes or may cause a significant adverse effect on the aquatic environment, human health, property or public safety, and compensation may be payable under section 158 with respect to a licence issued under this Act.

(2) If the Director is of the opinion that water is not being conserved or that a person has wasted any water that is diverted pursuant to an approval, licence, registration or this Act and the wastage is contrary to a water conservation guideline respecting wastage of water, the Director may issue to any person a water management order for conservation purposes.

(3) An inspector may issue a water management order that is in effect for a period of up to 4 days, and the Director may issue a water management order that is in effect for any period of time stated in the order.

1996 cW-3.5 s97

Order by inspector

98 If an inspector issues a water management order under section 97, the inspector must give a copy of it to the Director immediately after issuing it.

1996 cW-3.5 s98

Terms of order

99(1) A water management order issued by the Director may

(a) order the person to whom it is directed to take any measures that the Director considers necessary, including but not limited to any or all of the following:

(i) to make inquiries into the subject-matter of the order;

(ii) to submit to the Director

(A) any information on the subject-matter of the order, or

(B) a proposal or plan including but not limited to preparing an emergency preparedness plan or conducting an examination or survey of a water body, for the Director's approval on any action that is to be undertaken with respect to the subject-matter of the order;

(iii) to remove or otherwise to render ineffective

(A) a works placed or constructed without an approval,

(B) a works that is no longer required or for which an approval, licence or registration has been cancelled or is no longer in effect, or

(C) a natural or other obstruction to the diversion or flow of water caused in any manner;

(iv) to maintain, repair, improve, alter, replace or remove a works;

(v) to operate a works for a specified result or in a specified manner;

(vi) to cease construction with respect to an activity, diversion of water or operation of a works for a specified period;

(vii) to stop, shut down or suspend an activity, diversion of water or operation of a works or thing for a specified period;

(viii) to prevent, minimize or remedy any adverse effects on the aquatic environment, human health, property or public safety;

(ix) to stop wasting water and comply with the water guideline regarding wastage of water;

(x) to carry out any emergency measures that the inspector or the Director considers necessary;

(xi) to restore or reclaim the area affected to a condition satisfactory to the Director;

(xii) to report on any matter that the order requires to be carried out;

(xiii) to maintain records on any relevant matter;

(xiv) to report periodically to the Director;

(xv) with respect to a problem water well, to reclaim the water well or take any remedial action with respect to the water well and to prevent, minimize or remedy any adverse effects on the environment, human health, property or public safety;

(xvi) to modify, suspend or stop any of the actions related to the drilling of a water well and to prevent, minimize or remedy any adverse effects on the environment, human health, property or public safety;

(xvii) to take any other measure that the Director considers necessary;

(b) contain provisions specifying

(i) how the order is to be carried out,

(ii) the time within which any measure required by the order is to be commenced and the time within which the order or any part of the order is to be complied with, and

(iii) the apportionment of the costs of doing any of the work or carrying out any of the measures specified in the order among the persons to whom the order is directed.

(2) A water management order issued by an inspector under section 97 may contain any or all measures under subsection (1)(a)(v), (vi), (vii), (x), (xv) and (xvi) and (b)(i) and (ii).

(3) The person issuing a water management order must give a copy of it to the person to whom it is directed.

(4) If a water management order requires an approval holder, preliminary certificate holder, licensee or traditional agriculture user to carry out an activity or diversion of water that is not specified in or is contrary to the approval, preliminary certificate, licence or registration, the approval holder, preliminary certificate holder, licensee or traditional agriculture user does not contravene this Act when complying with the order.

1996 cW-3.5 s99

Responsibility to carry out orders

100 If a water management order is directed to more than one person, all persons named in the order

(a) are jointly responsible for carrying out the order, and

(b) are jointly and severally liable for payment of the costs of doing so, including any costs incurred by the Director under section 103 or 104.

1996 cW-3.5 s100

Amendment and cancellation of orders

101(1) The Director may on the Director's own initiative

(a) amend a term or condition of,

(b) cancel, or

(c) amend a clerical error in,

a water management order issued by the Director or by an inspector.

(2) If a water management order is amended under subsection (1), a copy of the amended order must be given by the Director to the same person to whom the original order was directed.

1996 cW-3.5 s101

Court order for compliance

102(1) If the person to whom a water management order is directed fails to comply with the water management order, the Minister may apply to the Court of King's Bench for an order of the Court directing that person to comply with the water management order.

(2) This section applies whether or not a conviction has been adjudged against the person to whom the water management order is directed for an offence under this Act in respect of the subject-matter that gave rise to the issuing of the water management order.

RSA 2000 cW-3 s102;AR 217/2022

Director may carry out order

103(1) If the person to whom a water management order is directed fails to comply with the order, the Director may take whatever action the Director considers necessary to carry out the order.

(2) Costs incurred by the Director under this section are recoverable by the Government

(a) in an action in debt against the person to whom the water management order is directed, or

(b) by order of the Minister directing any person who has acquired or purchased or is to acquire or purchase land from

the person to whom the water management order is directed to pay to the Government instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(3) Even if the identity of a person to whom the Minister may make an order under subsection (2)(b) is not known the Minister may issue the order and when the identity of the person becomes known the Director may take whatever action the Director considers necessary to ensure compliance with the order.

(4) For the purposes of this section, the costs referred to in subsection (2) include, without limitation, any costs incurred in administering, investigating and responding to

(a) any matter to which the water management order relates, or

(b) any failure to comply with the water management order.

(5) A purchaser of land who pays an amount to the Government under subsection (2)(b) is discharged from any obligation to pay that amount to the vendor.

1996 cW-3.5 s103

Order where person unidentifiable

104(1) If this Act authorizes the issuance of a water management order but none of the persons to whom the order could be issued are identifiable, the Director may nevertheless issue the order and take whatever action the Director considers necessary to carry out the order.

(2) The costs of carrying out a water management order under this section are recoverable in accordance with section 103 against any person to whom the water management order referred to in subsection (1) could have been issued, if the identity of the person becomes known to the Director after the order is issued.

1996 cW-3.5 s104

Division 3
Emergencies

Emergency measures

105(1) If an inspector or investigator or the Director is of the opinion that an activity, diversion of water or operation of a works

(a) occurred, occurs or may occur, and

(b) caused, causes or may cause an immediate and significant adverse effect on the aquatic environment, human health, property or public safety,

the inspector, investigator or Director may take any emergency measures that the inspector, investigator or Director considers necessary to prevent immediate and significant damage to the aquatic environment, human health, property or public safety.

(2) Subsection (1) applies whether or not the activity, diversion of water or operation is authorized by an approval, licence or registration and whether or not the approval holder, licensee or traditional agriculture user is or was in compliance with the approval, licence, registration or this Act.

(3) If an inspector or investigator or the Director is of the opinion that an immediate and significant adverse effect on the environment, human health, property or public safety occurred, occurs or may occur due to a problem water well or to any actions related to the drilling of a water well, the inspector, investigator or Director may take any emergency measures that the inspector, investigator or Director considers necessary to protect the environment, human health, property or public safety.

1996 cW-3.5 s105

Recovery of costs

106 The costs of carrying out emergency measures under section 105 are recoverable by the Government in an action in debt against the person, government of another jurisdiction or local authority that is responsible for the need to take the emergency measures.

1996 cW-3.5 s106

Declaring an emergency

107(1) The Lieutenant Governor in Council may, when satisfied that an emergency related to water exists or may exist, declare an emergency relating to all or any part of Alberta.

(2) Notwithstanding anything in this Act or any approval, preliminary certificate, licence or registration under this Act, if an emergency has been declared under subsection (1), the Director may issue a water management order to any person

(a) suspending the operation of all or part of any approval, preliminary certificate, licence or registration,

(b) suspending a diversion of water,

(c) designating the purposes for which, and the volumes in which, water may be diverted or used, and

(d) ordering or containing any of the measures or provisions referred to in section 99,

with respect to the area of the Province affected by the declaration.

(3) Licensees or registrants affected by a declaration under subsection (1) may be entitled to compensation for any losses incurred as a result of the order in the manner and amount that the Lieutenant Governor in Council considers appropriate.

1996 cW-3.5 s107

Part 8
Notice

Notice of applications

108(1) An applicant

(a) for an approval,

(b) for a licence,

(c) for a renewal of a licence if the Director has decided to conduct a public review of the licence renewal,

(d) for an amendment of

(i) an approval,

(ii) a preliminary certificate, or

(iii) a licence,

or

(e) for a transfer of an allocation of water under a licence,

shall provide notice of the application in accordance with the regulations.

(2) If the Director proposes to amend an approval, preliminary certificate or licence on the Director's own initiative, the Director must provide notice of the proposed amendment in accordance with the regulations.

(3) Notwithstanding subsection (1), an applicant is not required to provide notice with respect to

(a) an application for a licence for the temporary diversion of water;

(b) an amendment

(i) to correct a clerical error,

(ii) to a monitoring, reporting or inspection requirement in an approval, preliminary certificate or licence, or

(iii) to extend the expiry date of an approval, preliminary certificate or licence,

unless required by the regulations;

(c) the disposition of land or an undertaking to which an approval, preliminary certificate, licence or registration is appurtenant;

(d) a matter that is exempted by the regulations from the requirement to give notice.

(4) Notwithstanding subsection (1), if an applicant applies for and gives notice of an application for an approval and the applicant subsequently applies for another approval with respect to an undertaking related to the subject-matter of the original application, the Director may waive the requirement to provide notice of the subsequent application.

(5) Notwithstanding subsection (1), if notice has been provided under subsection (1)(e), notice does not have to be provided under subsection (1)(d) in order to give effect to the transfer of an allocation of water under a licence.

(6) Notwithstanding subsection (1), if the Director has received an application for an approval, a licence or an amendment of an approval, preliminary certificate or licence or the Director proposes to make an amendment on the Director's own initiative, the Director may waive the notice requirement under subsection (1) if the Director is of the opinion that

(a) there is an emergency,

(b) the activity or diversion of water specified in the application for the approval or licence or the proposed amendment will result in a minimal or no adverse effect on the aquatic environment or on household users, licensees and traditional agriculture users, or

(c) adequate notice of the subject-matter of the application or the proposed amendment has already been provided or given under this Act or the *Water Resources Act*, RSA 1980 cW-5.

1996 cW-3.5 s108

Statement of concern

109(1) If notice is provided

(a) under section 108(1), any person who is directly affected by the application or proposed amendment, and

(b) under section 108(2), the approval holder, preliminary certificate holder or licensee,

may submit to the Director a written statement of concern setting out that person's concerns with respect to the application or proposed amendment.

(2) A statement of concern must be submitted

(a) in the case of an approval, within 7 days after the last providing of the notice, and

(b) in every other case, within 30 days after the last providing of the notice,

or within any longer period specified by the Director in the notice.

1996 cW-3.5 s109

Notice of Director's decision

110(1) If the Director issues or refuses to issue an approval or licence, or issues a preliminary certificate, the Director must give notice to the applicant.

(2) If the Director amends or refuses to amend an approval, preliminary certificate or licence, the Director must give notice of the amendment or refusal to amend to the approval holder, preliminary certificate holder or licensee.

(3) If the Director suspends or cancels an approval or licence or cancels a preliminary certificate, the Director must give notice of the suspension or cancellation to the approval holder, preliminary certificate holder or licensee.

(4) If the Director makes a decision under section 53 that no applications for licences will be accepted, the Director must provide notice in accordance with the regulations.

(5) If the Director approves or refuses to approve a transfer of an allocation of water under a licence under section 82, the Director must give notice of the approval or refusal to the applicant for the transfer.

(6) If an inspector or the Director issues a water management order or the Director issues an enforcement order, the inspector or the Director must give a copy of the order to the person to whom the order is directed.

(7) If the Minister takes over a works or undertaking under section 89, the Director

(a) must give notice to the owner of the works or undertaking, and

(b) if the works or undertaking is referred to in an approval, preliminary certificate or licence, must give notice to the approval holder, preliminary certificate holder or licensee.

1996 cW-3.5 s110

Notice of Director's decision

111(1) If the Director

(a) issues an approval,

(b) issues a preliminary certificate,

(c) issues a licence when a preliminary certificate has not been issued with respect to that licence, except for a licence issued to the Government under section 51(2) that relates to the implementation of a water conservation objective, or

(d) amends an approval, preliminary certificate or licence,

the Director must comply with the notice requirements referred to in subsection (2).

(2) If subsection (1) applies, the Director must

(a) if notice of the application or proposed changes was waived by the Director under section 108(6), ensure that notice of the decision is provided, in accordance with the regulations, to any directly affected person, or

(b) if notice of the application or proposed changes was provided under section 108, give notice or require the approval holder, preliminary certificate holder or licensee to give notice of the decision, in accordance with the regulations, to every person who submitted a statement of concern under section 109.

(3) If notice of an application was provided under section 108 and the Director refuses to

(a) issue an approval or licence, or

(b) amend an approval, preliminary certificate or licence,

the Director must give notice of the refusal to any person who submitted a statement of concern in accordance with section 109.

(4) If the Director issues or refuses to issue a licence to the Government under section 51(2), the Director must provide notice of the issuance or refusal, in accordance with the regulations.

(5) If the Director renews a licence and there has been a public review, the Director must give notice of the renewal to any person who submitted a statement of concern under section 109.

(6) If the Director suspends or cancels an approval or licence or cancels a preliminary certificate, the Director must provide notice of the suspension or cancellation, in accordance with the regulations.

(7) If the Director approves or refuses to approve a transfer of an allocation of water under a licence, the Director must provide notice of the approval or refusal, in accordance with the regulations, to every person who submitted a statement of concern under section 109.

(8) In addition to notice specified in this section, the Director may also give notice to any other person the Director considers appropriate.

1996 cW-3.5 s111

Notice of exemptions

112(1) Notwithstanding sections 110 and 111, the Director is not required to provide or give notice with respect to a decision relating to a licence for the temporary diversion of water unless required by the regulations.

(2) Notwithstanding sections 110 and 111, if the Director issues an approval and gives notice of the issuance, and then the Director issues a subsequent approval with respect to an undertaking relating to the subject-matter of the original approval, the Director is not required to provide or give notice of the subsequent approval.

(3) Notwithstanding sections 110 and 111, the Director is not required to provide or give notice of a decision

(a) to correct a clerical error,

(b) to amend a monitoring, reporting or inspection requirement in an approval, preliminary certificate or licence,

(c) to extend the expiry date of an approval, preliminary certificate or licence, or

(d) to give effect to the disposition of land or an undertaking to which an approval, preliminary certificate, licence or registration is appurtenant

unless required by the regulations.

1996 cW-3.5 s112

Notice of Minister's decision

113 If the Minister under section 52(3) issues an order to grant a licence to use another person's works, the Minister must give notice of the order to the owner of the works.

1996 cW-3.5 s113

Part 9
Appeals

Appeal to Board

114 A notice of appeal submitted under this Part initiates an appeal of the decision to which an objection has been made to the Environmental Appeals Board.

RSA 2000 cW-3 s114;2003 c42 s6

Notice of appeal

115(1) A notice of appeal under this Act may be submitted to the Environmental Appeals Board by the following persons in the following circumstances:

(a) if the Director issues or amends an approval, a notice of appeal may be submitted

(i) by the approval holder or by any person who previously submitted a statement of concern in accordance with section 109 who is directly affected by the Director's decision, if notice of the application or proposed changes was previously provided under section 108, or

(ii) by the approval holder or by any person who is directly affected by the Director's decision, if the Director waived the requirement to provide notice under section 108(6) and notice of the application was not provided;

(b) if the Director issues or amends a preliminary certificate, a notice of appeal may be submitted

(i) by the preliminary certificate holder or by any person who previously submitted a statement of concern in accordance with section 109 who is directly affected by the Director's decision, if notice of the application or

proposed changes was previously provided under section 108, or

(ii) by the preliminary certificate holder or by any person who is directly affected by the Director's decision, if the Director waived the requirement to provide notice under section 108(6) and notice of the application was not provided;

(c) if a preliminary certificate has not been issued with respect to a licence and the Director issues or amends a licence, a notice of appeal may be submitted

(i) by the licensee or by any person who previously submitted a statement of concern in accordance with section 109 who is directly affected by the Director's decision, if notice of the application or proposed changes was previously provided under section 108, or

(ii) by the licensee or by any person who is directly affected by the Director's decision, if the Director waived the requirement to provide notice under section 108(6) and notice of the application or proposed changes was not provided;

(d) subject to clause (e), the applicant for the approval or licence, if the Director refuses to issue an approval or licence;

(e) if the Director issues or refuses to issue a licence to the Government under section 51(2), the applicant for the licence and any directly affected person;

(f) the applicant, if the Director refuses to amend an approval, preliminary certificate or licence;

(g) the approval holder, preliminary certificate holder, licensee or registrant, if the Director suspends or cancels an approval, licence or registration or cancels a preliminary certificate;

(h) the licensee, if the Director refuses to renew a licence;

(i) if the Director renews a licence where there has been a public review, any person who previously submitted a statement of concern in accordance with section 109;

(j) if the Minister takes over any works or undertaking, the approval holder, preliminary certificate holder or licensee or the owner of the works or undertaking;

(k) if the Director provides notice that no further applications for licences are to be accepted, a person who wishes to apply for a licence for any water that was the subject of the notice;

(l) the owner of the works, if the Minister issues an order with respect to the use of another person's works under section 52(3);

(m) if an inspector or the Director issues a water management order or amends a water management order, except an order with respect to administering priority or an order that is only for the purpose of carrying out emergency measures, the person to whom the order is directed;

(n) if an inspector or the Director issues a water management order or amends a water management order with respect to administering priority, the person to whom the order is directed, or any person whose rights to divert water may be affected by the issuance of the order with respect to who has priority;

(o) a person who is entitled to divert water pursuant to section 21 and who is affected by a declaration by the Director that a diversion of water must cease;

(p) the person to whom an enforcement order is directed, if the Director issues an enforcement order directing

(i) the suspension or cancellation of an approval or licence or the cancellation of a preliminary certificate,

(ii) the stopping or shutting down of any activity, diversion of water or operation of a works if the activity, diversion or operation is the subject-matter of an approval or licence,

(iii) the ceasing of construction, operation, maintenance, repair, control, replacement or removal of any works or the carrying out of an undertaking, if the works or undertaking is the subject of an approval, or

(iv) the removal or otherwise rendering ineffective of any works or obstruction;

(q) if the Director requires a person to pay an administrative penalty, the person to whom the notice of the administrative penalty is directed;

(r) if the Director approves or refuses a request for a transfer of an allocation of water, the applicant and any person who submitted a statement of concern in accordance with section 109 who is directly affected by the Director's decision.

(2) Notwithstanding subsection (1), a notice of appeal may not be submitted

(a) if, pursuant to an order of the Minister under section 34, the Director

(i) refuses to issue an approval, preliminary certificate or licence, or

(ii) refuses to approve a transfer of an allocation of water under a licence;

(b) with respect to any matter relating to a licence for the temporary diversion of water;

(c) with respect to an amendment

(i) to correct a clerical error,

(ii) of a monitoring, reporting or inspection requirement in an approval, preliminary certificate or licence, or

(iii) to extend the expiry date of an approval, preliminary certificate or licence;

(d) with respect to an amendment to reflect a disposition of land or an undertaking to which an approval, preliminary certificate, licence or registration is appurtenant.

RSA 2000 cW-3 s115;2003 c42 s6

Submission of notice of appeal

116(1) A notice of appeal must be submitted to the Environmental Appeals Board

(a) not later than 7 days after

(i) receipt of a copy of a water management order or enforcement order, or

(ii) in the case of an approval, receipt of notice of the decision that is appealed from or the last provision of notice of the decision that is appealed from,

or

(b) in any other case, not later than 30 days after receipt of notice of the decision that is appealed from or the last provision of notice of the decision that is appealed from.

(2) The Environmental Appeals Board may, on application made before or after the expiry of the period referred to in subsection (1), extend that period, if the Board is of the opinion that there are sufficient grounds to do so.

(3) A notice of appeal must contain the information and be made in the manner provided for in the *Environmental Protection and Enhancement Act* and the regulations under that Act.

RSA 2000 cW-3 s116;2003 c42 s6

No damages, no compensation

117 If an inspector or the Director issues a water management order with respect to administering priority and that order or part of the order is successfully appealed by any person, no action for damages may be commenced and no compensation may be paid with respect to any impact on or losses incurred with respect to any person's priority as a result of the issuance or appeal of the water management order.

1996 cW-3.5 s117

Part 10
Inquiry and Enforcement Orders

Division 1
Inspection

Inspector identification

118(1) The Director must provide an inspector with an identification card, and on entering any place pursuant to this Act, the inspector must, on request,

(a) produce the identification card, and

(b) identify and explain the nature of the powers or duties that the inspector wishes to carry out under this Act.

(2) A person authorized in writing by the Director, on entering any place pursuant to the authorization, must, on request,

(a) produce a copy of the written authorization, and

(b) identify and explain the nature of the powers and duties that the person wishes to carry out under this Act.

1996 cW-3.5 s118

Right of entry by inspector and authorized persons

119(1) An inspector or any person authorized in writing by the Director may enter any place or gain access to any place, other than a private dwelling place, for the purpose of administering or ensuring compliance with this Act or any order made under this Act, and carrying out any work or doing any other thing that the inspector or authorized person is authorized under this Act to carry out or do, including but not limited to any of the following:

(a) enter and inspect any place, other than a private dwelling place, in which the inspector or authorized person believes, on reasonable grounds, that

(i) there is a works,

(ii) an undertaking is or was initiated or carried out,

(iii) an activity or diversion of water is or was carried out,

(iv) there is or may be an obstruction that interferes with a diversion or a flow of water,

(v) it is or is required to be the subject of or referred to in an approval, preliminary certificate, licence, registration, certificate of completion, water management order or enforcement order, or

(vi) it is necessary to ensure the safety of a works or the protection of any person or property that could be affected by the safety of a works;

(b) enter and inspect any place, other than a private dwelling place, that the inspector or authorized person believes, on reasonable grounds, is relevant to any complaint made with respect to this Act;

(c) enter and inspect any place, other than a private dwelling place, that the inspector or authorized person believes, on reasonable grounds, is likely to contain documents related to an activity, operation of a works or diversion of water, or to contain anything that is or is required to be the subject of an approval, preliminary certificate, licence, registration, certificate of completion, water management order or enforcement order.

(2) A person who has been authorized in writing by the Director may exercise the powers under subsection (1) with or without being accompanied by the inspector.

(3) If a water management order or an enforcement order requires the person to whom it is directed to carry out any work or do anything in respect of a place, that person and any other person carrying out the work or doing the thing on that person's behalf may enter the place, other than a private dwelling place, for the purpose of carrying out the work or doing the thing required by the order.

(4) A person entering any place under this section

(a) must do so at a reasonable time unless otherwise authorized by an order of a justice to enter and inspect,

(b) must, if it is practicable in the circumstances to do so, give reasonable prior notice of intention to enter the place to the occupant of the place or, if there is no occupant, to the owner, and

(c) may, notwithstanding subsections (1) to (3), enter a private dwelling place

(i) with the consent of the occupant of the private dwelling place, or

(ii) under the authority of an order of a justice to enter and inspect.

1996 cW-3.5 s119

Inspections

120(1) In the course of exercising powers under section 119, an inspector or person authorized in writing by the Director may do any or all of the following:

(a) require that anything be operated, used or set in motion or require that anything cease operation under conditions specified by the inspector or person authorized in writing by the Director;

(b) use or move any machine, structure, material or equipment in the place the inspector or person authorized in writing by the Director is inspecting in order to carry out the inspection;

(c) take samples of any substance or thing;

(d) conduct tests or take measurements;

(e) require the production of any information, data, records, reports and documents that are required to be kept or submitted under this Act or any other documents that are

related to the purpose for which the inspector or person authorized in writing by the Director is exercising any power under section 119;

(f) make copies of or take extracts from any information, data, records, reports and documents referred to in clause (e);

(g) use any computer system at any place to examine any data contained in or available by means of the computer system;

(h) record or copy, by any method, any information related to the administration of or ensuring compliance with this Act;

(i) examine, reproduce and take any record from data related to the administration of or ensuring compliance with this Act, in the form of a printout or other output;

(j) use copying equipment to make copies;

(k) make reasonable inquiries of any person, orally or in writing;

(l) take any photographs or electronic or audio-video records of anything related to the administration of or ensuring compliance with this Act;

(m) take any other action that is necessary to carry out the inspection.

(2) An inspector and a person authorized in writing by the Director may remove information, data, records, reports and documents that they are entitled to examine or copy or otherwise reproduce but must give a receipt for them to the person from whom they were taken and must return them within a reasonable period of the removal.

1996 cW-3.5 s120

Production of documents

121(1) For the purpose of ensuring that this Act and anything issued under this Act are complied with, the Director or an inspector may demand the production, within a reasonable time, of any information, data, record, report or document pertaining in any manner to the administration of or compliance with this Act or anything issued under this Act and may on giving a receipt for it remove it for the purpose of making copies of it and return it within a reasonable period.

(2) If a person on whom a demand is made under subsection (1) refuses or fails to comply, the Director or inspector may apply to a judge of the Court of King's Bench and the judge may make any

order that the judge considers necessary to enforce compliance with subsection (1).

(3) A copy of the application and a copy of each affidavit in support must be served not less than 3 days before the day named in the notice for hearing the application.

RSA 2000 cW-3 s121;2009 c53 s185;AR 217/2022

Seizure without warrant

122(1) An inspector may, without a search warrant, seize anything that is produced to the inspector or that is in plain view during an inspection whether or not an order has been granted under section 125 if the inspector has reasonable grounds to believe

(a) that an offence has been committed under this Act,

(b) that the thing will provide evidence of the commission of the offence, and

(c) that the delay in waiting for an investigator to obtain a search warrant could result in the loss or destruction of evidence.

(2) The inspector may remove the thing seized or may detain it in the place where it is seized.

(3) An inspector may not exercise any powers under this section if, prior to entering the place, the inspector has reasonable grounds to believe that an offence was committed under this Act and the purpose of the entry was to secure evidence as to the commission of the offence.

(4) An inspector must, on seizing anything under this section,

(a) inform the person, if any, from whom the thing is seized of the reason for the seizure, and

(b) give a receipt for the thing to the person, if any, having physical possession of it when it is seized.

(5) An inspector who seizes anything pursuant to this section must deal with it in the same manner as if it were seized pursuant to a search warrant.

1996 cW-3.5 s122

Assistance to inspectors, persons

123 The owner of and every person found in any place in respect of which an inspector, person authorized in writing by the Director or person authorized under section 119(3) is exercising powers or carrying out duties under this Act shall

(a) give the inspector, person authorized in writing by the Director or person authorized under section 119(3) all reasonable assistance to enable the inspector or person to exercise those powers and carry out those duties, and

(b) furnish all information relative to the exercising of those powers and the carrying out of those duties that the inspector or person may reasonably require.

1996 cW-3.5 s123

Interference

124(1) No person shall interfere with

(a) an inspector or person authorized in writing by the Director who is exercising powers or carrying out duties, or attempting to do so, under this Act, or

(b) a person authorized under section 119(3) who is carrying out any work or doing anything pursuant to a water management order or enforcement order.

(2) If a person interferes with a person contrary to subsection (1),

(a) the inspector or Director, in a case described in subsection (1)(a), or

(b) the Director, in a case described in subsection (1)(b),

may apply to the Court of King's Bench for an order prohibiting that person from so interfering, and the Court may make any order it considers appropriate.

RSA 2000 cW-3 s124;AR 217/2022

Order to enter and inspect

125(1) If a justice is satisfied on evidence under oath by an inspector, person authorized in writing by the Director or person authorized under section 119(3)

(a) that there is reasonable ground for believing that it is appropriate for ensuring compliance with this Act, a water management order or an enforcement order for the inspector, person authorized in writing by the Director or person authorized under section 119(3) to do anything set out in section 119 or 120, and

(b) that the inspector, person authorized in writing by the Director or person authorized under section 119(3) may not be able to carry out duties effectively under this Act without an order because

(i) no person is present to grant access to a place that is locked or is otherwise inaccessible,

(ii) a person has denied the inspector, person authorized in writing by the Director or person authorized under section 119(3) access to a place or there is reasonable ground for believing that a person may deny the inspector or authorized person access to a place,

(iii) a person has prevented the inspector, person authorized in writing by the Director or person authorized under section 119(3) from doing anything set out in section 119 or 120 or denied the inspector or authorized person access to anything as a result of which the inspector or authorized person is unable to do anything set out in section 119 or 120,

(iv) there is reasonable ground for believing that a person may prevent an inspector, person authorized in writing by the Director or person authorized under section 119(3) from doing anything set out in section 119 or 120, or may deny the inspector or authorized person access to anything as a result of which the inspector or authorized person may be unable to do anything set out in section 119 or 120,

(v) it will be impractical for the inspector, person authorized in writing by the Director or person authorized under section 119(3) to obtain an order without delay if access is denied because the place to be inspected is remote or for any other reason, or

(vi) there is reasonable ground for believing that an attempt by the inspector or person authorized in writing by the Director or person authorized under section 119(3) to do anything set out in section 119 or 120 without the order might defeat the purpose of that section or endanger human life, health or the aquatic environment,

the justice may issue an order to enter and inspect, authorizing the inspector, person authorized in writing by the Director or person authorized under section 119(3) to do anything set out in sections 119 and 120 that is specified in the order for the period of time set out in the order.

(2) The period of time referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods each of which is not more than 30 days.

(3) An application under subsection (2) may be made before or after the expiry of the period.

(4) An order under this section may be issued or renewed on application without notice.

(5) An inspector, person authorized in writing by the Director or person authorized under section 119(3) who is exercising powers under an order issued under this section must do so at a reasonable time unless otherwise authorized in the order.

1996 cW-3.5 s125

Assistance by peace officer

126 An inspector, person authorized in writing by the Director or person authorized under section 119(3) may be accompanied by a peace officer while exercising powers or carrying out duties under this Act.

1996 cW-3.5 s126

Division 2
Investigations

Investigator identification

127(1) The Director must provide an investigator with an identification card and, on entering any place pursuant to this Act, the investigator must, on request,

(a) produce the identification card, and

(b) identify and explain the nature of the powers or duties the investigator wishes to carry out under this Act.

(2) A person authorized under section 128(2), on entering any place pursuant to this Part, must, on request, identify and explain the nature of the powers and duties that the person wishes to carry out under this Act.

1996 cW-3.5 s127

Right of entry by investigator

128(1) Subject to subsection (3), an investigator may enter any place for the purpose of responding to a complaint or conducting an investigation under this Act.

(2) Any person who

(a) an investigator considers necessary to enable the investigator to respond to a complaint or conduct an investigation under this Act, and

(b) has been authorized by the investigator or Director to enter a place,

may enter that place with or without being accompanied by the investigator.

(3) An investigator or person entering any place pursuant to this section

(a) must do so at a reasonable time unless otherwise authorized in a search warrant,

(b) if entering without a search warrant must, if it is practicable in the circumstances, give reasonable prior notice of intention to enter the place to the occupant of the place or, if there is no occupant, to the owner, and

(c) may not enter a private dwelling place except

(i) with the consent of the occupant of the place, or

(ii) under the authority of a search warrant.

1996 cW-3.5 s128

Investigations

129(1) An investigator has all the powers and is subject to all of the duties of an inspector under sections 119, 120 and 121 if the investigator

(a) is acting with respect to a complaint made under this Act, or

(b) has reasonable grounds to believe that

(i) an offence has been committed under this Act, and

(ii) there is in a place anything that will afford evidence as to the commission of an offence.

(2) An investigator who makes any reasonable inquiries of any person under section 120, orally or in writing, may exclude the presence of any person during the questioning of the individual except for counsel for the individual being questioned.

1996 cW-3.5 s129

Interference

130(1) No person shall interfere with an investigator or person authorized under section 128(2) who is exercising powers or carrying out duties, or attempting to do so, under this Act.

(2) If a person interferes with another person contrary to subsection (1), an investigator or the Director may apply to the Court of King's Bench for an order prohibiting that person from so interfering, and the Court may make any order it considers appropriate.

RSA 2000 cW-3 s130;AR 217/2022

Assistance to investigators

131(1) The owner of and every person found in any place in respect of which an investigator or person authorized under section 128(2) is exercising powers or carrying out duties under this Act shall

(a) give the investigator or person authorized under section 128(2) all reasonable assistance to enable the investigator or authorized person to exercise those powers and carry out those duties, and

(b) furnish all information relative to the exercising of those powers and the carrying out of those duties that the investigator or person authorized under section 128(2) may reasonably require.

(2) An investigator or person authorized under section 128(2) may be accompanied by a peace officer while exercising powers or carrying out duties under this Act.

1996 cW-3.5 s131

Tele-warrants

132(1) If an investigator has reasonable grounds to believe that

(a) an offence has been committed under this Act,

(b) there is in a place anything that will afford evidence as to the commission of the offence, and

(c) it would be impracticable to appear personally before a justice to make an application for a search warrant,

the investigator may submit an information on oath to a justice by telephone or other means of communication.

(2) An information submitted by telephone or other means of telecommunication must be on oath and must be recorded verbatim by the justice, who must, as soon as practicable, cause to be filed with the clerk of the Alberta Court of Justice nearest to the area in which the tele-warrant is intended for execution, the record or a transcription of the record certified by the justice as to time, date and contents.

(3) For the purposes of subsection (2), an oath may be administered by telephone or other means of telecommunication.

(4) An information on oath submitted by telephone or other means of telecommunication must include

(a) a statement of the circumstances that make it impracticable for the investigator to appear personally before a justice,

(b) a statement of the alleged offence, the place to be searched and the things alleged to be liable to seizure,

(c) a statement of the investigator's grounds for believing that things liable to seizure in respect of the alleged offence will be found in the place to be searched, and

(d) a statement as to any prior application for a tele-warrant under this section or any other search warrant in respect of the same matter of which the investigator has knowledge.

(5) A justice who is satisfied that an information on oath submitted by telephone or other means of telecommunication

(a) is in respect of an offence committed under this Act and conforms to the requirements of subsection (4),

(b) discloses reasonable ground for dispensing with an information presented personally and in writing, and

(c) discloses reasonable ground for the issuance of a search warrant in respect of the offence,

may issue a tele-warrant to an investigator conferring the same authority respecting search and seizure as may be conferred by a search warrant issued by a justice before whom the investigator appears personally, and may require that the tele-warrant be executed within any time period that the justice may order.

(6) If a justice issues a tele-warrant under subsection (5),

(a) the justice must complete and sign the tele-warrant in the form prescribed in the regulations, noting on its face the date, time and place of issuance,

(b) the investigator, on the direction of the justice, must complete, in duplicate, a facsimile of the tele-warrant in the form prescribed in the regulations, noting on its face the name of the issuing justice and the date, time and place of issuance, and

(c) the justice must, as soon as practicable after the tele-warrant has been issued, cause the tele-warrant to be filed with the clerk of the Alberta Court of Justice nearest to the area in which the tele-warrant is intended for execution.

(7) An investigator who executes a tele-warrant issued under subsection (5) must, before entering the place to be searched, or as soon as is practicable afterwards, give a facsimile of the tele-warrant to any person present and ostensibly in control of the place.

(8) An investigator who, in any unoccupied place, executes a tele-warrant issued under subsection (5), must, on entering the place or as soon as is practicable afterwards, cause a facsimile of the tele-warrant to be suitably affixed in a prominent place within the place.

(9) An investigator to whom a tele-warrant is issued under subsection (5) must file a written report with the clerk of the Alberta Court of Justice nearest to the area in which the tele-warrant was intended for execution as soon as is practicable but within a period not exceeding 7 days after the tele-warrant was executed, which report must include

(a) a statement of the time and date the tele-warrant was executed, or if the tele-warrant was not executed, a statement of the reasons why it was not executed,

(b) a statement of the things, if any, that were seized pursuant to the tele-warrant and the location where they are being held, and

(c) a statement of the information, data, records, reports, documents and things, if any, that were seized in addition to the things mentioned in the tele-warrant and the location where they are being held, together with a statement of the investigator's grounds for believing that those additional things had been obtained by, or used in, the commission of an offence under this Act.

(10) The clerk of the Alberta Court of Justice with whom a written report is filed pursuant to subsection (9) must, as soon as is practicable, cause the report, together with the information on oath and the tele-warrant to which it pertains, to be brought before a justice to be dealt with in respect of anything that was seized and is referred to in the report, in the same manner as if the things were seized pursuant to a search warrant issued by a justice on an information presented personally by an investigator.

(11) In any proceeding in which it is material for a court to be satisfied that a search or seizure was authorized by a tele-warrant under subsection (5), the absence of the information on oath, transcribed and certified by the justice as to the time, date and contents, or of the original tele-warrant, signed by the justice and carrying on its face a notation of the time, date and place of issuance, is, in the absence of evidence to the contrary, proof that the search or seizure was not authorized by a tele-warrant issued under subsection (5).

RSA 2000 cW-3 s132;AR 75/2023

Seizure without warrant

133(1) An investigator may, without a search warrant, seize anything that is produced to the investigator or that is in plain view during an investigation under this Act if the investigator has reasonable grounds to believe

(a) that an offence has been committed under this Act,

(b) that the thing will afford evidence of the commission of the offence, and

(c) that obtaining a search warrant would cause a delay that could result in the loss or destruction of evidence.

(2) The investigator may remove the thing seized or may detain it in the place where it is seized.

(3) An investigator must, on seizing anything under subsection (1),

(a) inform the person, if any, from whom the thing is seized of the reason for the seizure, and

(b) give a receipt for the thing to the person, if any, having physical possession of it when it is seized.

(4) An investigator who seizes anything pursuant to this section must deal with it in the same manner as if it were seized pursuant to a search warrant.

1996 cW-3.5 s133

Duty to stop a vehicle or vessel

134(1) An investigator may stop any vehicle or vessel that the investigator reasonably believes is being used in the commission of an offence under this Act.

(2) The operator of a vehicle or vessel must stop the vehicle or vessel when required to do so by an investigator who is readily identifiable as an investigator.

1996 cW-3.5 s134

Division 3
Enforcement Orders

Issuing an enforcement order

135(1) The Director may issue an enforcement order to any person if, in the Director's opinion, that person has contravened this Act, whether or not that person has been charged or convicted in respect of the contravention.

(2) If the Director issues an enforcement order, the Director must give a copy of it to the person to whom it is directed.

1996 cW-3.5 s135

Terms of an order

136(1) In an enforcement order, the Director may order any or all of the following:

(a) the suspension or cancellation of an approval, licence or registration or the cancellation of a preliminary certificate where one or more of the grounds set out in section 43, 55, 71 or 78 have been met;

(b) if an approval, preliminary certificate or licence has been issued or registration effected, the stopping or shutting down of any activity, diversion of water or operation of a works or thing either permanently or for a specified period of time if one or more of the grounds set out in section 43, 55, 71 or 78 have been met;

(c) if no approval, preliminary certificate or licence has been issued and no registration has been effected, the stopping or shutting down of any activity, diversion of water, or operation of a works or thing either permanently or for a specified period of time;

(d) the ceasing of construction, operation, maintenance, repair, control, replacement or removal of any works or the carrying out of an undertaking until the Director is satisfied that the construction, operation, maintenance, repair, control, replacement or removal or the carrying out of the undertaking will be done in accordance with this Act;

(e) the submission to the Director, for the Director's approval, of a proposal or plan to be undertaken by the person in order to remedy the contravention;

(f) the removal or otherwise rendering ineffective of

(i) a works placed or constructed without approval,

(ii) a works that is no longer required or for which an approval or licence has been cancelled or is no longer in effect, or

(iii) an obstruction to the flow of water caused in any manner;

(g) the repair of a works in order to protect human health, property or public safety;

(h) the minimization or remedying of an adverse effect on

(i) the aquatic environment,

(ii) the environment, caused by a problem water well or drilling, or

(iii) human health, property or public safety;

(i) the operation of a works in a specified manner or in order to achieve a specified result;

(j) the restoration or reclamation of the area affected to a condition satisfactory to the Director;

(k) how the order is to be carried out;

(l) the reporting on any matter that the order requires to be carried out;

(m) the maintenance of records on any relevant matter;

(n) the reporting periodically to the Director;

(o) the specification of the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with;

(p) with respect to a problem water well, the reclamation of the water well or the taking of any remedial action with respect to the water well;

(q) the modification, suspension or stopping of any actions related to the drilling of a water well;

(r) the taking of any other measure that the Director considers necessary to facilitate compliance with the order or this Act.

(2) If an enforcement order requires an approval holder, preliminary certificate holder, licensee or traditional agriculture user to carry out an activity or diversion of water that is not specified in or is contrary to the approval, preliminary certificate, licence or registration, the approval holder, preliminary certificate holder, licensee or traditional agriculture user does not contravene this Act by reason only of complying with the order.

1996 cW-3.5 s136

Amendment, cancellation of order

137(1) The Director may on the Director's own initiative

(a) amend a term or condition of an enforcement order,

(b) cancel an enforcement order, or

(c) amend a clerical error in an enforcement order.

(2) A copy of an amendment made under subsection (1) must be given to the same person to whom the original order was directed.

1996 cW-3.5 s137

Court order for compliance

138(1) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Director may apply to the Court of King's Bench for an order of the Court directing that person to comply with the enforcement order.

(2) This section applies whether or not a conviction has been adjudged against the person to whom the enforcement order is directed for an offence under this Act in respect of the subject-matter that gave rise to the issuing of the enforcement order.

RSA 2000 cW-3 s138;AR 217/2022

Director may carry out order

139(1) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Director may take whatever action the Director considers necessary to carry out the enforcement order.

(2) This section applies whether or not a conviction has been adjudged against the person to whom the enforcement order is directed for an offence under this Act in respect of the subject-matter that gave rise to the issuing of the enforcement order.

(3) Costs incurred by the Director under this section are recoverable by the Government

(a) in an action in debt against the person to whom the enforcement order was directed, or

(b) by order of the Minister directing any person who has acquired or purchased or is to acquire or purchase land or a licence from the person to whom the enforcement order was directed to pay to the Government instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(4) Even if the identity of a person to whom the Minister may make an order under subsection (3)(b) is not known, the Minister may issue the order and when the identity of the person becomes known the Director may take whatever action the Director considers necessary to ensure compliance with the order.

(5) For the purposes of this section, the costs referred to in subsection (3) include, without limitation, any costs incurred in investigating and responding to

(a) any matter to which the enforcement order relates, or

(b) the failure to comply with the enforcement order.

(6) A purchaser of land who pays an amount to the Minister under subsection (3)(b) is discharged from any obligation to pay that amount to the vendor.

1996 cW-3.5 s139

Responsibility to carry out orders

140 If an enforcement order is issued to more than one person, all persons named in the order are jointly responsible for carrying out the order and are jointly and severally liable for payment of the costs of doing so, including any costs incurred by the Director under section 139.

1996 cW-3.5 s140

Part 11
Offences, Penalties and Related Matters

Limitation period

141(1) A prosecution for an offence under this Act may not be commenced more than 2 years after the later of

(a) the date on which the offence was committed, and

(b) the date on which evidence of the offence first came to the attention of the Director.

(2) A notice of an administrative penalty under this Act may not be issued more than 2 years after the later of

(a) the date on which the contravention to which the notice relates occurred, and

(b) the date on which evidence of the contravention first came to the attention of the Director.

1996 cW-3.5 s141

Offences

142(1) A person who

(a) provides false or misleading information, data, records, reports or documents pursuant to a requirement under this Act to provide them;

(b) fails to provide information, data, records, reports or documents as required under this Act;

(c) contravenes a water management order;

(d) contravenes an enforcement order;

(e) contravenes a term or condition of the approval, preliminary certificate or licence that has been issued to that person;

(f) if required to provide notice under section 111(2)(b), fails to do so;

(g) makes a false or misleading statement in response to inquiries under section 120(1)(k);

(h) commences or continues an activity except under an approval or as otherwise authorized by this Act;

(i) contravenes section 36(2);

(j) contravenes section 39;

(k) contravenes section 40(1);

(l) contravenes section 40(2);

(m) contravenes section 43(3);

(n) commences or continues a diversion of water for any purpose or operates a works except under a licence or as otherwise authorized by this Act;

(o) contravenes section 65;

(p) contravenes an order under section 92(1)(a);

(q) contravenes section 108(1);

(r) contravenes section 124(1);

(s) contravenes section 130(1);

is guilty of an offence.

(2) A person who knowingly

(a) provides false or misleading information, data, records, reports or documents pursuant to a requirement under this Act to provide them;

(b) fails to provide information, data, records, reports or documents as required under this Act;

(c) contravenes a water management order;

(d) contravenes an enforcement order;

(e) commences or continues a diversion of water for any purpose, or operates a works for the diversion of water except under a licence or as otherwise authorized by this Act;

(f) commences or continues an activity except under an approval or as otherwise authorized by this Act;

(g) contravenes section 40(1);

(h) contravenes section 40(2);

is guilty of an offence.

(3) An approval holder, preliminary certificate holder, licensee or traditional agriculture user who fails to keep works to which the approval, preliminary certificate, licence or registration is appurtenant in a proper or safe condition is guilty of an offence.

1996 cW-3.5 s142

Penalties

143(1) A person who is guilty of an offence under section 142(2) is liable

(a) in the case of an individual, to a fine of not more than $100 000 or to imprisonment for a period of not more than 2 years, or to both fine and imprisonment, or

(b) in the case of a corporation, to a fine of not more than $1 000 000.

(2) A person who is guilty of an offence under section 142(1)(a), (b), (c), (d), (e), (g), (h), (i), (k), (l), (n), (q), (r) or (s) or (3) is liable

(a) in the case of an individual, to a fine of not more than $50 000, or

(b) in the case of a corporation, to a fine of not more than $500 000.

(3) A person who is guilty of an offence under section 142(1)(f), (j), (m), (o) or (p) is liable

(a) in the case of an individual, to a fine of not more than $250, or

(b) in the case of a corporation, to a fine of not more than $1000.

(4) A person shall not be convicted of an offence referred to in subsection (2) if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

1996 cW-3.5 s143

Additional fine if monetary benefits acquired

144 If a person is convicted of an offence under this Act and the court is satisfied that as a result of the commission of the offence monetary benefits accrued to the offender, the court may order the offender to pay, in addition to a fine under section 143, a fine in an amount equal to the court's estimation of the amount of those monetary benefits.

1996 cW-3.5 s144

Continuing offences

145 Every person who is guilty of an offence under this Act is liable on conviction for each day or part of a day on which the offence occurs or continues.

1996 cW-3.5 s145

Liability of directors, officers and agents

146 If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted for or convicted of the offence.

1996 cW-3.5 s146

Liability of public officials

147(1) If a person who is acting under the direction of

(a) a Minister of the Government,

(b) an official of the Government or a Government agency, or

(c) a member of a council, the chief administrative officer, a designated officer or a director of a local authority,

commits an offence under this Act, the Minister, official, member of council, chief administrative officer, designated officer or director is also guilty of the offence and liable to the punishment provided for the offence if the Minister, official, member of council, chief administrative officer, designated officer or director knew or ought reasonably to have known of the circumstances that constituted the commission of the offence and had the influence or control to prevent its commission, whether or not the other person has been prosecuted for or convicted of the offence.

(2) A person shall not be convicted of an offence by reason of the operation of subsection (1) if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent the commission of the offence by the other person referred to in subsection (1).

1996 cW-3.5 s147

Court orders relating to penalty

148(1) When a person is convicted of an offence under this Act, in addition to any other penalty that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order doing any or all of the following:

(a) prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;

(b) directing the offender to take any action the court considers appropriate to remedy or prevent any harm to the aquatic environment that results or may result from the act or omission that constituted the offence;

(c) directing the offender to publish, in the prescribed manner and at the offender's cost, the facts relating to the conviction;

(d) directing the offender to notify any person aggrieved or affected by the offender's conduct of the facts relating to the

conviction, in the prescribed manner and at the offender's cost;

(e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this section;

(f) on application to the court by the Minister made within 3 years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;

(g) directing the offender to compensate the Government, in whole or in part, for the cost of any remedial or preventive action that was carried out by the Government or caused by the offender to be carried out by the Government and that was made necessary by the act or omission that constituted the offence;

(h) directing the offender to perform community service;

(i) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(2) If an offender contravenes an order made under subsection (1)(c), the Minister may publish the facts in compliance with the order.

(3) If the court makes an order under subsection (1)(g) or the Minister incurs publication costs under subsection (2), the costs are a debt due to the Government by the offender and may be recovered by an action in debt.

(4) An order made under subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order, not to exceed 3 years.

1996 cW-3.5 s148

Variation of court orders

149(1) Subject to subsection (2), if a court has made an order under section 148, the court may, on application by the offender or the Minister of Justice, require the offender to appear before it and, after hearing the offender and the Minister of Justice, may make any or all of the following orders if it considers that the

circumstances of the offender have changed so as to warrant such an order:

(a) an order changing the original order or the conditions specified in it;

(b) an order relieving the offender absolutely or partially from compliance with any or all of the original order;

(c) an order reducing the period for which the original order is to remain in effect;

(d) an order extending the period for which the original order is to remain in effect for an additional period not to exceed one year.

(2) Before making an order under subsection (1), the court may direct that notice be given to any persons the court considers to be interested, and the court may hear any of those persons.

(3) If an application made under this section in respect of an offender has been heard by the court, no other application under this section may be made with respect to the offender except with the permission of the court.

RSA 2000 cW-3 s149;2013 c10 s34;2014 c13 s46;2022 c21 s93

Disposal of things seized

150(1) If a person is convicted of an offence under this Act and information, data, records, reports, documents or things relating to the conviction that were seized are detained, the information, data, records, reports, documents or things must, on the expiration of the time for taking an appeal from the conviction or on the final conclusion of the proceedings,

(a) be forfeited to the Government, if the court so directs, or

(b) be restored to the person from whom they were seized or to any other person who is entitled to possession of them, subject to any terms and conditions imposed by the court.

(2) If information, data, records, reports, documents or things are forfeited under subsection (1)(a),

(a) the Minister may dispose of or destroy them, and

(b) the costs of the forfeiture and disposal or destruction are a debt due to the Government by the offender and may be recovered by an action in debt.

1996 cW-3.5 s150

Recovery of costs by Government

151 The Government may recover, in an action in debt against any person who is convicted of an offence under this Act, the costs incurred by the Government

(a) in administering, investigating and responding to any matter related to the offence, or

(b) in carrying out or causing to be carried out any preventive or remedial action made necessary by the act or omission that constituted the offence.

1996 cW-3.5 s151

Administrative penalties

152(1) Where the Director is of the opinion that a person has contravened a provision of this Act that is specified for the purposes of this section in the regulations, the Director may, subject to the regulations, by notice in writing given to that person, require that person to pay to the Government an administrative penalty in the amount set out in the notice for each contravention.

(1.1) A notice of administrative penalty may require the person to whom it is directed to pay either or both of the following:

(a) a daily amount for each day or part of a day on which the contravention occurs and continues;

(b) a one-time amount to address economic benefit where the Director is of the opinion that the person has derived an economic benefit directly or indirectly as a result of the contravention.

(2) A person who pays an administrative penalty in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

(3) Subject to the right to appeal a notice of administrative penalty to the Environmental Appeals Board, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of King's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

RSA 2000 cW-3 s152;2002 c4 s5;2003 c42 s6;AR 217/2022

Publication of information

152.1 Subject to the regulations, the Director shall publish particulars of enforcement action taken under this Act.

2002 c4 s5

Part 12
Civil Matters

Other civil remedies not affected

153 Subject to sections 22 and 157, no civil remedy for an act or omission is suspended or affected by reason only that the act or omission is an offence under this Act or gives rise to a civil remedy under this Act, and nothing in this Act is to be construed so as to repeal, remove or reduce any remedy available to any person at common law or under any Act of Parliament or of a provincial legislature.

1996 cW-3.5 s153

Injunction re commission of offence

154(1) If on the application of the Director, it appears to the Court of King's Bench that a person has done, is doing or is about to do any act or anything constituting or directed toward the commission of an offence under this Act, the Court may issue an injunction ordering any person named in the application

(a) to refrain from doing that act or thing, or

(b) to do any act or thing that it appears to the Court may prevent the commission of an offence under this Act.

(2) A copy of the application and supporting material must be given to the party or parties named in the application at least 48 hours prior to the time set for the hearing unless the Court is of the opinion that the urgency of the situation is such that giving notice would not be in the public interest.

RSA 2000 cW-3 s154;2009 c53 s185;AR 217/2022

Injunction re loss or damage

155 Any person who has suffered, is suffering or is about to suffer loss or damage as a result of conduct that is contrary to this Act may apply to the Court of King's Bench for an injunction ordering the person engaged in the conduct

(a) to refrain from doing any act that it appears to the Court causes or will cause the loss or damage, or

(b) to do any act or thing that it appears to the Court prevents or will prevent the loss or damage.

RSA 2000 cW-3 s155;AR 217/2022

Vicarious responsibility

156 For the purposes of this Act, an act or thing done or omitted to be done by a director, officer, official, employee or agent of a corporation in the course of employment for the corporation or in exercising powers or performing duties on behalf of the corporation is deemed also to be an act or thing done or omitted to be done by the corporation.

1996 cW-3.5 s156

Liability exemption

157 No action for damages may be commenced against

(a) a person who is an employee or agent of or is under contract to the Government or a Government agency,

(b) an inspector, investigator or Director,

(c) a person authorized in writing by the Director under section 95 or 119 or a person authorized by a Director or investigator under section 128,

(d) a person to whom a delegation of a power, duty or function under this Act has been made by the Minister under section 9 of the *Government Organization Act*, or

(e) a member of the Environmental Appeals Board,

for anything done or not done by that inspector, investigator, Director, person or member in good faith while carrying out that inspector's, investigator's, Director's, person's or member's duties or exercising powers under this Act including, without limitation, any failure to do something when that inspector, investigator, Director, person or member has discretionary authority to do something but does not do it.

RSA 2000 cW-3 s157; 2003 c42 s6

Compensation

158(1) If the Director

(a) amends a licence under section 54(2), suspends or cancels a licence under section 55(2) or cancels a preliminary certificate under section 71(1)(i), or

(b) issues a water management order under section 97(1)(i) with respect to a licence issued under this Act,

the Director must, subject to the regulations, authorize the payment of compensation to the licensee for any losses incurred as a result of the amendment, suspension or cancellation or the water

management order, in the manner and amount that the Director considers appropriate.

(2) If the licensee or preliminary certificate holder does not agree with the amount of compensation authorized under subsection (1), the licensee or preliminary certificate holder may in accordance with the regulations, appeal the amount to the Land and Property Rights Tribunal.

(3) When determining the amount of compensation pursuant to an appeal under this section, the Land and Property Rights Tribunal

(a) has all the powers, duties and functions of the Land and Property Rights Tribunal under the *Land and Property Rights Tribunal Act*,

(b) subject to the regulations under this Act, may follow the procedure and practice provided under the *Land and Property Rights Tribunal Act* and the requirements of section 32 of the *Expropriation Act*,

(c) may consider the term of the licence and the market value of the land that is appurtenant to the licence, and

(d) may not take into account that any reduction in the amount of water to be diverted that results from the amendment, suspension or cancellation or from the order is compulsory.

(4) The decision of the Land and Property Rights Tribunal is final and there is no appeal from the decision except on a question of jurisdiction or on a question of law.

RSA 2000 cW-3 s158;2020 cL-2.3 s40;2023 c9 s31

Expropriation of land, works

159(1) The Minister may purchase or expropriate any estate or interest in land and may expropriate, in conjunction with the land, a works or an undertaking related to that land and may purchase any personal property in conjunction with the land for the purpose of

(a) carrying out an agreement or contract related to this Act entered into by the Minister,

(b) a works to be constructed by the Minister,

(c) a program or project related to the conservation and management of water, or

(d) any other matter under the administration of the Minister related to this Act.

(2) Land, a works or an undertaking acquired under this section is under the administration of the Minister unless the Lieutenant Governor in Council, by order, directs that it is under the administration of another Minister.

(3) The Minister may not sell any public land acquired under this section except in accordance with the *Public Lands Act*.

1996 cW-3.5 s159

Part 13
Miscellaneous Matters

Documents as evidence

160(1) In any proceeding under this Act, the following are admissible in evidence as proof, in the absence of evidence to the contrary, of the contents of the certificate, report or statement, without proof of the signature or official character of the person signing the certificate, report or statement:

(a) an analyst's certificate or an analyst's report of the results of an analysis purporting to be signed by an analyst,

(b) a certificate purporting to be signed by the Director stating that, on a specified day or during a specified period, a person named in the certificate was or was not the holder of an approval, preliminary certificate or licence or was or was not a registrant,

(c) a certificate setting out with reasonable particularity the conviction and sentence of a person for an offence under this Act purporting to be signed by

(i) the person who entered the conviction, or

(ii) the clerk of the court in which the conviction was entered,

and

(d) a statement purporting to be signed by the Director setting out the day on which the Director became aware of the subject-matter of any proceeding.

(2) A notice, approval, preliminary certificate, licence, registration, water management order, enforcement order, consent or other order or document purporting to be signed by the person authorized to issue, make or give it is admissible in evidence without proof of the signature or official character of the person signing it.

1996 cW-3.5 s160

Notice of analyst's certificate

161(1) No certificate or report of an analyst may be received in evidence in court under this Act unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate or report.

(2) The party against whom a certificate or report of an analyst is produced may, with the permission of the court, require the attendance of the analyst for the purpose of cross-examination.

RSA 2000 cW-3 s161;2014 c13 s46

Inspector's report

162 The report of an inspector as to the capacity of a works is, for the purposes of this Act, final and conclusive.

1996 cW-3.5 s162

Designation of officials

163(1) The Minister may, by order, designate employees of the Government under the administration of the Minister as Directors for the purposes of all or a part of this Act.

(2) The Minister may, with respect to any Director, and a Director may, with respect to that Director, designate any employee of the Government under the administration of the Minister as an acting Director to act in that Director's place in the event of the Director's absence or inability to act, and may specify any limitations on the scope of the designation.

(3) The Minister or the Director may, by order, designate as an inspector or investigator for the purposes of this Act any person who in the opinion of the Minister or the Director is qualified to be so designated.

(4) The Minister or the Director may not designate a person under subsection (2) or (3) without the approval of that person's principal or employer.

(5) A designation under subsection (3) may direct that the authority of the inspector or investigator be exercised subject to any terms and conditions that the Minister or the Director prescribes in the designation, including limitations on the scope of the designation.

1996 cW-3.5 s163

Water management areas

164 The Director may establish water management areas for the purposes of

(a) administering priority to divert water,

(b) groundwater management,

(c) temporarily assigning water under section 33,

(d) directing that the diversion of water for household purposes cease,

(e) directing that applications for licences are not to be accepted, and

(f) any other matter specified in the regulations.

1996 cW-3.5 s164

Fund

165 All money deposited with the Government as security in respect of security required to be provided under section 44 or 57 must be paid into the Environmental Protection Security Fund under section 32 of the *Environmental Protection and Enhancement Act.*

1996 cW-3.5 s165

Giving notice

166(1) For the purposes of this section, "telecopier" means a machine or device that electronically transmits a copy of a document, picture or other printed material by means of a telecommunication system.

(2) If a notice, request, order, direction or other document is required to be given under this Act, it is deemed to be sufficiently given if a copy of it is

(a) personally given to the person to whom it is directed,

(b) sent by mail addressed to the person to whom it is directed at the last known address for that person,

(c) sent by means of a telecopier and received and printed by the receiving telecopier at the last known address for the person to whom it is directed,

(d) in the case of an owner of Metis title in patented land as defined in the *Metis Settlements Act*, sent by mail to the address of the owner shown in the records of the Metis Settlements Land Registry, or

(e) in the case of a registered owner of land that is not patented land as defined in the *Metis Settlements Act*, sent by mail to

the address for the registered owner shown on the assessment roll.

1996 cW-3.5 s166;1998 c22 s45

Providing information

167(1) An approval holder, preliminary certificate holder, licensee or traditional agriculture user or the holder's, licensee's or user's administrator, receiver, receiver-manager or trustee shall, to the Director on the request of the Director, forthwith submit information, data, records, reports and documents with respect to the approval, preliminary certificate, licence or registration or a related matter, as required by the Director.

(2) Subsection (1) applies whether or not there are terms and conditions in the approval, preliminary certificate, licence or registration with respect to submitting information, data, records, reports and documents.

1996 cW-3.5 s167

Fees

168(1) The Minister may, by order, charge fees

(a) for any application made under this Act,

(b) for issuing or amending any approval, preliminary certificate, licence, registration or other document under this Act,

(c) with respect to any hearing or review held under this Act,

(d) for any service with respect to works or undertakings administered by the Minister, and

(e) for any service, material, function or thing provided under this Act.

(2) Notwithstanding the *Public Utilities Act*, the Director may, in accordance with a Ministerial order under subsection (1), impose and collect charges for any service with respect to or for the use of land, a works or an undertaking under the administration of the Minister.

(3) In addition to the fees and charges provided for in subsections (1) and (2), the Minister may, by order, charge for water used for the production of power by a water-power development, and may set the fees and charges, including, without limitation, the method for and the rates to be used in calculating the charge, and establishing penalties for late payment or non-payment of the fees or charges.

RSA 2000 cW-3 s168;2007 cA-37.2 s82(31)

Regulations

169(1) A regulation under this Act may adopt or incorporate in whole or in part or with modifications documents that set out standards, codes, objectives, guidelines or other bodies of rules that relate to any matter in respect of which a regulation may be made under this Act if the standards, codes, objectives, guidelines or other bodies of rules have been published and copies are available.

(2) The Minister may make regulations

(a) respecting the information, data, records, reports and documents to be kept and to be submitted to the Director and notices to be provided by approval holders, licensees, preliminary certificate holders and traditional agriculture users and by persons authorized to carry out an activity or divert water for which notice must be provided under section 36;

(b) defining, for the purposes of this Act

(i) anything as an activity, diversion, undertaking or works;

(ii) household, farm unit, municipal water and processed water;

(iii) an entity as a local authority;

(iv) problem water wells;

(v) reclamation;

(c) specifying the boundaries of major river basins;

(d) respecting persons responsible;

(e) respecting water-power development;

(f) specifying exemptions to section 21;

(g) respecting public reviews on applications for the renewal of licences;

(h) exempting activities and classes of activities from the requirement to be carried out pursuant to an approval;

(i) respecting the application for, the complete application for, the issuance of, the amendment of, the suspension and cancellation of approvals and licences, the renewal and non-renewal of licences and cancellation of preliminary

certificates, and their terms and conditions and the period of time for which they are issued;

(j) respecting the definition of activity and respecting activities related to licensed works;

(k) exempting diversions and classes of diversions and operation of works from the requirement to be carried out pursuant to a licence or registration;

(l) respecting the purposes for which licences and preliminary certificates are issued;

(m) designating activities and classes of activities for which notice must be provided under section 36 and respecting who is to provide the notice and how the notice is to be provided;

(n) designating and governing temporary diversions of water and operations of works that must be carried out in accordance with the regulations;

(o) designating temporary diversions of water and operations of works for which notice must be provided under this Act, and respecting who is to provide the notice and how the notice is to be provided;

(p) respecting applications for registration;

(q) including activities carried out in a works by licensees as activities for the purposes of this Act;

(r) respecting the purposes for establishing water management areas;

(s) respecting amendments to licences;

(t) respecting exemption from notice requirements for dispositions;

(u) respecting providing notice;

(v) respecting requiring the provision of financial and other security and the carrying of insurance by applicants for approvals and licences and by approval holders and licensees;

(w) respecting adjustments, repairs, replacement and maintenance for the purposes of sections 42 and 54;

(x) respecting matters referred to in section 92;

(y) designating and respecting flood risk areas;

(z) specifying types and classes of subdivision of land for the purposes of section 23;

(aa) respecting forms;

(aa.1) governing the publication of particulars of enforcement action for the purposes of section 152.1 including, without limitation, what information must or may be published and the times at which and the manner in which it is to be published;

(bb) respecting compensation and appeals to the Land and Property Rights Tribunal;

(cc) respecting dam and canal safety;

(dd) respecting measurement of water;

(ee) deeming approvals issued under Part 6 of the *Environmental Protection and Enhancement Act*, as it read on December 31, 1998, to be approvals for the purposes of this Act and respecting any transitional provisions that the Minister considers necessary for the purposes of facilitating the transfer of the regulation of water well drilling from the *Environmental Protection and Enhancement Act* to this Act;

(ff) respecting the remedial action and reclamation with respect to water wells and problem water wells and methods to be used and requirements to be observed in reclamation operations;

(gg) respecting the qualifications for drillers;

(hh) providing for the issuing and display of tags, decals, plates, devices, documents or other things to an approval holder to serve as evidence that a drilling machine is being operated under an approval;

(ii) prohibiting the use of a drilling machine unless a tag, decal, plate, device, document or other thing referred to in clause (hh) has been issued in respect of that drilling machine;

(jj) requiring and governing the taking of samples, tests, analyses, surveys and logs and other water well data and the submission of them to the Director;

(kk) governing official water well names and their registration;

(ll) respecting the control of flowing water wells;

(mm) respecting determining the sources of groundwater;

(nn) respecting the precautions, measures, methods to be taken and casing, anchorage, equipment, materials and installations to be used before a water well is commenced and during the drilling, development, completion, operation, reconditioning and production of a water well;

(oo) respecting the maintenance of inactive water wells and the ongoing maintenance and operation of active water wells and classes of active water wells;

(pp) respecting the drilling and reclamation of boreholes and the persons in charge of drilling;

(qq) exempting water users or classes of water users from the right to divert water under section 21;

(rr) respecting water management orders and declarations under section 23;

(ss) respecting agreements for the assignment of water;

(tt) providing for any matters considered necessary to carry out the purposes of transfers of allocations of water under licences;

(uu) respecting how a transfer of an allocation of water under a licence reverts back to the original licence;

(vv) requiring and respecting notice to be given before commencing the drilling of a water well or class of water well;

(ww) prohibiting drilling through water, oil, gas, coal or any other mineral unless adequate measures are taken to confine the water, oil, gas or other mineral to its original stratum and to protect that stratum or any coal seam or other mineral deposit or any workings in it from infiltration, inundation, migration or injury and respecting those measures;

(xx) respecting drilling and the persons in charge of drilling;

(yy) prescribing requirements for the safety of any works including, but not restricted to, provisions for the orderly

abandonment and removal of any works that are no longer required;

(zz) respecting access to information by the public;

(aaa) designating and respecting activities that must be carried out in accordance with the regulations;

(bbb) respecting the definition of water body and respecting water bodies related to irrigation works;

(ccc) governing property in and rights with respect to diversion and use of water in Alberta;

(ddd) providing for any other matters necessary for the purposes of this Act.

(3) The Lieutenant Governor in Council may make regulations

(a) providing with respect to any provision of the regulations under this Act that its contravention constitutes an offence;

(b) prescribing penalties, including imprisonment, in respect of offences created under clause (a);

(c) prescribing the form and contents of tele-warrants and facsimiles for the purposes of section 132;

(d) prescribing the manner in which facts relating to convictions are to be published and notice is to be given for the purposes of section 148(1)(c) and (d);

(e) prescribing the form and contents of notices of administrative penalties for the purposes of section 152;

(f) prescribing contraventions in respect of which an administrative penalty may be imposed and prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed, but in the case of an administrative penalty referred to in section 152(1.1)(a), the administrative penalty may not exceed $5000 for each contravention or for each day or part of a day on which the contravention occurs and continues, as the case may be;

(g) respecting any other matter necessary for the administration of the system of administrative penalties.

RSA 2000 cW-3 s169;2002 c4 s5;2020 cL-2.3 s40

Part 14
Transitional

Transitional regulations

170 The Minister may make regulations

(a) respecting the conversion to this Act of anything from the *Water Resources Act*, RSA 1980 cW-5;

(b) to deal with any difficulty or impossibility resulting from the transition to this Act from the *Water Resources Act*, RSA 1980 cW-5.

1996 cW-3.5 s170

Applications

171(1) Subject to subsection (2), if on January 1, 1999, a complete application under the *Water Resources Act*, RSA 1980 cW-5, has been made for a permit, licence or other authority but a decision with respect to the application has not been made, the application continues as an application under the *Water Resources Act* as if it were still in force but the permit, licence or other authority on being issued, is, by order of the Minister, a deemed approval, preliminary certificate or licence under this Act.

(2) Sections 18(2), (5)(a) and (b), (6) and 20(3) of this Act apply to deemed approvals, preliminary certificates and licences under this section.

(3) If an application referred to in subsection (1) is incomplete, the application must be made in accordance with this Act.

(4) The decision as to whether an application referred to in subsection (1) is complete is in the discretion of the person who would be authorized under the *Water Resources Act*, RSA 1980 cW-5, to receive the application if the *Water Resources Act* were in force.

1996 cW-3.5 s171

Alberta Regulation 307/91 continued

172(1) The *South Saskatchewan Basin Water Allocation Regulation* (AR 307/91) is continued as a Regulation under this Act.

(2) Section 12(1) and (2) of the *Water Resources Act*, RSA 1980 cW-5, continue to be in force for the purposes of administering the *South Saskatchewan Basin Water Allocation Regulation* (AR 307/91).

(3) The Director under this Act may issue, subject to the *South Saskatchewan Basin Water Allocation Regulation* (AR 307/91), except for sections 1(b) and 6 of that Regulation, a licence or preliminary certificate with respect to any or all of the water reserved under the *South Saskatchewan Basin Water Allocation Regulation* (AR 307/91).

(4) An application for a licence with respect to water reserved under the *South Saskatchewan Basin Water Allocation Regulation* (AR 307/91) must be made in accordance with this Act.

(5) Subject to subsections (4) and (6), if the *South Saskatchewan Basin Water Allocation Regulation* (AR 307/91), other than sections 1(b) and 6 of that Regulation, is inconsistent with this Act, that Regulation prevails over this Act.

(6) For the purposes of this section, references in the *South Saskatchewan Basin Water Allocation Regulation* (AR 307/91) to "Controller of Water Resources" are deemed to be references to "Director" as defined in this Act.

1996 cW-3.5 s172

Reservations continued

173(1) On January 1, 1999, an order with respect to the reservation of water made under section 12 of the *Water Resources Act*, RSA 1980 cW-5, continues as an order under that Act as if that Act had not been repealed and section 12(1) and (2) of that Act continue to be in force for the purpose of administering that order.

(2) The Director under this Act may issue a licence or preliminary certificate with respect to any or all of the water reserved under an order referred to in subsection (1).

(3) An application for a licence with respect to water reserved under an order referred to in subsection (1) must be made in accordance with this Act.

1996 cW-3.5 s173

Water Power Regulation

174(1) In this section,

(a) "licence" means a licence

(i) that is a deemed licence under section 18(1) of this Act, and

(ii) to which, immediately before January 1, 1999, the Regulation applies;

(b) "Regulation" means the *Water Power Regulation* (AR 72/91).

(2) The Regulation continues in force under this Act with respect to a licence, but when that licence is amended under this Act the Regulation ceases to govern that licence and this Act governs that licence.

(3) For the purposes of applying the Regulation, "Director" as defined in the Regulation is deemed to mean "Director" as defined in this Act.

(4) If a term or condition of the licence or a provision of the Regulation is inconsistent with this Act, the term, condition or provision prevails over this Act except for sections 18(2)(a), 54 and 168 of this Act.

(5) This section expires on December 31, 2001.

1996 cW-3.5 s174

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