

This Act has "Not in Force" sections. See the Table of Legislative Changes.

DRINKING WATER PROTECTION ACT
[SBC 2001] CHAPTER 9

Assented to April 11, 2001

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Part 1 — Introductory Provisions	

Definitions

1 In this Act:

"aquifer" has the same meaning as in section 1 (1) of the Water Sustainability Act;

"assessment" means an assessment under section 18 [water source and system assessments];

"construction permit" means a permit required under section 7 [construction permits and requirements for water supply systems];

"delegate" means a person to whom authority is delegated under section 3 (4) [drinking water officer delegation];

"domestic purposes" means the use of water for

- (a) human consumption, food preparation or sanitation,
- (b) household purposes not covered by paragraph (a), or
- (c) other prescribed purposes;

"domestic water system" means a system by which water is provided or offered for domestic purposes, including

- (a) works used to obtain intake water,
 - (b) equipment, works and facilities used for treatment, diversion, storage, pumping, transmission and distribution,
 - (c) any other equipment, works or facilities prescribed by regulation as being included,
 - (d) a tank truck, vehicle water tank or other prescribed means of transporting drinking water, whether or not there are any related works or facilities, and
 - (e) the intake water and the water in the system,
- but excluding equipment, works or facilities prescribed by regulation as being excluded;

"drill", in relation to a well, has the same meaning as in section 1 (1) of the Water Sustainability Act;

"drinking water" means water used or intended to be used for domestic purposes;

"drinking water health hazard" means

- (a) a condition or thing in relation to drinking water that does or is likely to
 - (i) endanger the public health, or
 - (ii) prevent or hinder the prevention or suppression of disease,
- (b) a prescribed condition or thing, or

(c) a prescribed condition or thing that fails to meet a prescribed standard;

"drinking water officer" means a drinking water officer under section 3 [drinking water officers];

"drinking water protection plan" means a drinking water protection plan approved by the Lieutenant Governor in Council under section 34 [approval of drinking water protection plan];

"drinking water source" means a stream, reservoir, well or aquifer from which drinking water is taken;

"groundwater" has the same meaning as in section 1 (1) of the Water Sustainability Act; .

"immediate reporting standard" means, in relation to a water supply system, a standard established by regulation or operating permit as an immediate reporting standard for the purposes of section 12 [notice if immediate reporting standard not met];

"intake water" means, in relation to a domestic water system, the water at or near the point of intake into the system;

"issuing official" means a person authorized under the regulations to issue a construction permit, operating permit or other permit required under this Act;

"laboratory" means a corporation, agency or other person engaged in conducting analyses for the purposes of this Act;

"local authority" means

(a) a local government,

(b) an improvement district, as defined in the Local Government Act, that is responsible for the provision of drinking water,

(b.1) a greater board, as defined in the Community Charter, that is responsible for the provision of drinking water, and

(c) a local body prescribed by regulation as a local authority for the purposes of the provision in which the term appears;

"local government" means

(a) the council of a municipality,

(b) the board of a regional district, and

(c) a local trust committee under the Islands Trust Act;

"medical health officer" has the same meaning as in the Public Health Act;

"operating permit" means a permit under section 8 [operating permits and requirements for water supply systems];

"owner" in relation to a water supply system includes

(a) a person who is

(i) responsible for the ongoing operation of the water supply system, or

(ii) in charge of managing that operation, and

(b) if

(i) parts of the water supply system are owned by different persons, or

(ii) all or part of the system is jointly owned by different persons,

all of those persons;

"potable water" means water provided by a domestic water system that

(a) meets the standards prescribed by regulation, and

(b) is safe to drink and fit for domestic purposes without further treatment;

"prescribed water supply system" means a water supply system that is of a class prescribed by regulation or is prescribed by regulation;

"private dwelling" means

- (a) a structure that is occupied as a private residence, or
- (b) if only part of a structure is occupied as a private residence, that part of the structure;

"Provincial health officer" has the same meaning as in the Public Health Act;

"stream" has the same meaning as in section 1 (1) of the Water Sustainability Act;

"threat" means, in relation to drinking water, a condition or thing, or circumstances that may lead to a condition or thing, that may result in drinking water provided by a domestic water system not being potable water;

"water supplier" means a person who is the owner of a water supply system;

"water supply system" means a domestic water system, other than

- (a) a domestic water system that serves only one single-family residence, and
 - (b) equipment, works or facilities prescribed by regulation as being excluded;
- "well" has the same meaning as in section 1 (1) of the Water Sustainability Act;

"well recharge zone" means the area of land from which water percolates into an aquifer and is transmitted from there into one or more wells that are used, or are intended to be used, to provide drinking water.

Relationship with other Acts

2 (1) The authority that is provided under this Act is in addition to and does not restrict authority provided under any other enactment that may be used to protect drinking water.

(2) Nothing in this Act affects the powers, duties and functions of a medical health officer under the Public Health Act or any other enactment.

Drinking water officers

3 (1) Unless another person is appointed under subsection (2), the drinking water officer for an area is

- (a) the person appointed by the medical health officer as the drinking water officer, or
 - (b) if no appointment is made under paragraph (a), the medical health officer.
- (2) The minister may, by order, appoint persons, by name or by title, as drinking water officers and establish the area of their jurisdiction.
- (3) In determining the qualifications for appointments under subsection (2), the minister must consult with the Provincial health officer.
- (4) Subject to the regulations, a drinking water officer may, in writing, delegate to any person a power or duty of the drinking water officer under this or another enactment.

Guidelines and directives respecting drinking water protection

4 (1) The minister may establish

- (a) guidelines that must be considered, and
 - (b) directives that must be followed
- by drinking water officers and other officials in exercising powers and performing duties or functions under this Act and the Public Health Act in relation to drinking water.
- (2) The Provincial health officer must monitor compliance of drinking water officers with guidelines and directives established under this section.

Annual drinking water protection report

4.1 (1) The Provincial health officer must prepare and deliver to the minister an annual report respecting activities under this Act for the past year.

- (2) After receiving an annual report under subsection (1),
- (a) the minister must promptly lay the report before the Legislative Assembly if it is in session, or
 - (b) if the Legislative Assembly is not in session, the minister must file the report with the Clerk of the Legislative Assembly.

Reports respecting problems related to Provincial government actions

4.2 (1) The Provincial health officer must report to the minister on any situation that

- (a) in the opinion of the Provincial health officer, significantly impedes the protection of public health in relation to drinking water, and
 - (b) arises in relation to the actions or inaction of one or more ministries, government corporations or other agents of the government.
- (2) If the Provincial health officer makes a report under subsection (1) and the situation cannot be resolved to the satisfaction of the Provincial health officer, the minister must bring the situation to the attention of the Executive Council.

Drinking water advisory committees

5 (1) The minister may, after consultation with the Provincial health officer, establish an advisory committee to provide advice and recommendations with respect to drinking water matters referred to the committee by the minister.

- (2) Without limiting subsection (1), the minister may establish an advisory committee to provide advice and recommendations respecting standards and requirements to be established under this Act.
- (3) A person appointed to an advisory committee
- (a) must be reimbursed in accordance with the directives of Treasury Board for reasonable travelling and out of pocket expenses necessarily incurred in discharging the person's duties under this Act, and
 - (b) may be paid remuneration in accordance with the directives of Treasury Board, if the person is not an employee under the Public Service Act.

Part 2 — Drinking Water Supply

Water supply systems must provide potable water

6 Subject to the regulations, a water supplier must provide, to the users served by its water supply system, drinking water from the water supply system that

- (a) is potable water, and
- (b) meets any additional requirements established by the regulations or by its operating permit.

Construction permits and requirements for water supply systems

7 (1) This section applies in relation to the construction, installation, alteration or extension of

- (a) a water supply system, or
 - (b) works, facilities or equipment that are intended to be a water supply system or part of a water supply system.
- (2) Subject to the regulations, a person
- (a) must not undertake activities referred to in subsection (1) unless a construction permit for this has been issued in accordance with the regulations, and
 - (b) must not undertake those activities except
 - (i) in accordance with the regulations or the plans approved in accordance with the regulations, and
 - (ii) in accordance with the terms and conditions of the construction permit.
- (3) In addition to any other requirements established by the regulations, a person applying for a construction permit must submit to an issuing official,
- (a) in the case of a permit for the construction of a water supply system, the results of water quality analyses in accordance with the regulations, and
 - (b) in any case, the results of any water quality analyses required by the issuing official or drinking water officer.
- (4) The issuing official may refuse to issue a permit until satisfied that the applicant has identified an owner of the water supply system who is to be responsible for the ongoing operation of the system, or in charge of managing that operation, in accordance with this Act.

(4.1) An issuing official may include in a construction permit terms and conditions the official considers advisable respecting the construction, installation, alteration or extension.

(5) Terms and conditions included in a construction permit may set requirements and standards that are more stringent than those established by the regulations.

(6) A construction permit

(a) is valid for one year, unless a different period is specified in the permit,

(b) is not transferable unless the transfer is approved by an issuing official, and

(c) cannot be varied except by the issuance of a new construction permit.

Operating permits and requirements for water supply systems

8 (1) In the case of a prescribed water supply system, the water supplier

(a) must not operate the water supply system unless the water supplier holds a valid operating permit issued in accordance with the regulations,

(b) must comply with all terms and conditions of its operating permit, and

(c) must operate the water supply system in accordance with any applicable regulations.

(2) An issuing official may include in an operating permit terms and conditions the official considers advisable respecting the water supply system.

(3) As examples, but without limiting the authority under this section, terms and conditions respecting the following may be included in an operating permit:

(a) treatment requirements;

(b) equipment, works, facilities and operating requirements;

(c) qualifications and training of the persons operating, maintaining or repairing the water supply system;

(d) monitoring of the drinking water source and the water in the water supply system;

(e) standards applicable to the water in the water supply system;

(f) reporting and publication of monitoring results or other information respecting the water supply system.

(4) The drinking water officer or an issuing official may change the terms and conditions of an operating permit if the officer or issuing official considers this advisable, but must first consult with the water supplier respecting the proposed changes and must consider any comments of the water supplier in response.

(5) Terms and conditions included in an operating permit under this section may set requirements and standards that are more stringent than those established under this Act.

(6) If the drinking water officer considers that further information is necessary to determine whether

(a) the water provided by a water supply system meets the requirements of section 6 [water supply systems must provide potable water], or

(b) a water supply system meets the requirements and standards established by the regulations and its operating permit,

the drinking water officer may order the water supplier to undertake additional monitoring or testing as directed by the officer, and to report the results and make them public as directed by the officer.

Qualification standards for persons operating water supply systems

9 (1) Subject to the regulations, a person must not operate, maintain or repair a prescribed water supply system unless

(a) the person is qualified in accordance with the regulations to do this, or

(b) is doing this under the supervision of a person who is qualified in accordance with the regulations.

(2) A water supplier must ensure that subsection (1) is not contravened in relation to its water supply system.

Emergency response and contingency plans

10 (1) In the case of a prescribed water supply system, the water supplier must have a written emergency response and contingency plan in accordance with the regulations, to be implemented in the event of an emergency or abnormal operational circumstances affecting its water supply system or drinking water source.

(2) The drinking water officer may order a water supplier to review and update its emergency response and contingency plan.

Water monitoring requirements

11 (1) In the case of a prescribed water supply system, the water supplier must

- (a) monitor its drinking water source, the water in its system and the water it provides for the parameters, and at the frequency, established by the regulations and by its operating permit,
- (b) have the sampling required for that monitoring carried out in accordance with the regulations and the directions of the drinking water officer, and
- (c) have the analyses required for that monitoring carried out in accordance with the regulations, through laboratories that meet the requirements established by the regulations and by individuals who are qualified in accordance with the regulations.

(2) The laboratory conducting monitoring analyses under this section must report the results in accordance with the regulations to the drinking water officer and, subject to the regulations, to the water supplier.

(3) A water supplier must ensure that a laboratory conducting monitoring analyses under this section is aware of the applicable standards and requirements established by the regulations and the operating permit for the water supply system.

Notice if immediate reporting standard not met

12 (1) If a monitored parameter in relation to a water supply system fails to meet an established immediate reporting standard for that system, the laboratory conducting the analysis must immediately give notice to

- (a) the water supplier,
- (b) the drinking water officer, and
- (c) the medical health officer.

(2) In addition, a water supplier who receives notice under subsection (1) must give immediate notice to the drinking water officer advising that the water supplier has been notified by the laboratory as required by this section.

(3) For the purposes of this section, the person giving the immediate notice must

(a) take all reasonable steps to give this notice by speaking directly to or by telephone with

- (i) each person required to be notified,
- (ii) a person designated for this purpose by the person required to be notified, or
- (iii) a person answering the telephone number designated for this purpose by the person required to be notified, and

(b) follow with notice in writing to each person within 24 hours.

Water supplier must report threats to drinking water

13 (1) In addition to the requirements under section 12, a water supplier must immediately notify the drinking water officer if the supplier considers there is a threat that is likely to result in the drinking water provided by its water supply system not meeting the requirements of section 6 [water supply systems must provide potable water].

(2) Notice required by subsection (1) must be given in accordance with section 12 (3).

Public notice of threats to drinking water

14 (1) The drinking water officer may request or order a water supplier to give public notice in a manner approved by the drinking water officer, or in accordance with the directions of the drinking water officer, if

- (a) the drinking water officer has received a report under section 12 [notice if immediate reporting standard not met],
- (b) the drinking water officer has received a report under section 13 [water supplier must report threats], or
- (c) the drinking water officer considers that there is, was or may be a threat to the drinking water provided by a water supply system.

(2) In addition to any requirement under subsection (1), if a water supplier

(a) has received a report under section 12 or considers that there may otherwise be a drinking water health hazard in relation to its water supply system, and

(b) is not able to immediately notify the drinking water officer,
the water supplier must immediately give notice of the possible hazard to the users of drinking water from that water supply system.

Publication of other information

15 A water supplier must ensure that the following information is made public in accordance with the regulations and any requirements of the drinking water officer:

- (a) the water supplier's emergency response and contingency plan;

- (b) the results of the monitoring required by the regulations, its operating permit or the drinking water officer, subject to any applicable time limits established by the regulations;
- (c) if applicable, its current assessment under section 18 [water source and system assessments];
- (d) if applicable, its current plan under section 22 [assessment response plans];
- (e) other information required to be made public by the regulations, its operating permit or the drinking water officer.

Floodproofing required for drinking water and other wells

16 (1) If required by regulation, the owner or operator of a well that provides drinking water must floodproof the well in accordance with the regulations.

(2) For the purpose of protecting the drinking water provided by a well that is subject to a requirement under subsection (1), the drinking water officer may, by order,

(a) require the owner or operator of another well that the drinking water officer has reason to believe

(i) is in the same well recharge zone, or

(ii) may otherwise affect the drinking water well

to floodproof the other well in accordance with the regulations, or

(b) if the drinking water officer is not reasonably able to determine who is the owner or operator of the other well, require the owner of the land on which that well is located to floodproof that well in accordance with the regulations.

Water supply systems with multiple owners

17 (1) If a water supply system is owned by 2 or more persons, or parts of the water supply system are owned by different persons, the drinking water officer may require those persons

(a) to designate one of their number for the purposes of receiving and providing information and records as required or authorized under this Act, and

(b) to provide to the drinking water officer the person's name, address and other contact information as required by the drinking water officer.

(2) If subsection (1) applies and the owners do not make the required designation, the drinking water officer may designate one of the owners for the purposes of this section.

Part 3 — Water System Assessments and Plans

Water source and system assessments

18 (1) A water supplier must prepare an assessment in accordance with this Part if required by the regulations or ordered by the drinking water officer.

(2) The purpose of an assessment is to identify, inventory and assess

(a) the drinking water source for the water supply system, including land use and other activities and conditions that may affect that source,

(b) the water supply system, including treatment and operation,

(c) monitoring requirements for the drinking water source and water supply system, and

(d) threats to drinking water that is provided by the system.

Drinking water officer authority in relation to assessments

19 (1) In addition to any requirement established by regulation, the drinking water officer may order a water supplier to prepare an assessment if

(a) the drinking water officer has reason to believe that an assessment is necessary to properly identify and assess threats to drinking water in relation to the water supply system, or

(b) more than the prescribed number of years have passed since the previous assessment.

(2) In addition to any requirement established by regulation or by order under subsection (1), if

(a) more than one water supplier uses the same drinking water source or related drinking water sources, and

(b) at least one of the water suppliers is required to prepare an assessment, by regulation or by order under subsection (1),

the drinking water officer may order 2 or more of those water suppliers to prepare a joint assessment, regardless of whether the water suppliers are otherwise required to prepare an assessment.

(3) Despite any other provision of this Act or the regulations, a drinking water officer may

(a) postpone the time for beginning an assessment,

- (b) extend the time for completing an assessment, or
- (c) in the case of an assessment that has been ordered by the drinking water officer, limit or expand the scope of the assessment from that otherwise required under the regulations.

Assessment process

20 (1) The process, preparation, form, content, area of coverage and time for completing an assessment must be in accordance with any applicable regulations and the directions of the drinking water officer.

(2) In determining the directions to give for the purposes of subsection (1), the drinking water officer must consult with the medical health officer.

(3) In addition, the drinking water officer may establish a technical advisory committee for the purposes of

(a) providing advice respecting directions to be given under subsection (1), and

(b) reviewing the draft assessment before it is filed under subsection (4).

(4) On completion, the water supplier must file the assessment with the drinking water officer.

Public notice

21 (1) A water supplier that is required to prepare an assessment must give advance public notice that the assessment is being prepared, with the notice to be given in accordance with the regulations and any directions of the drinking water officer.

(2) After the assessment has been filed under section 20 (4) [assessment process], the water supplier must make the assessment public in accordance with section 15 [publication of other information].

Assessment response plans

22 (1) In addition to any changes to the terms and conditions of an operating permit made in response to an assessment, the drinking water officer may order the water supplier to prepare an assessment response plan if

(a) an assessment has identified threats to the drinking water provided by the water supply system, and

(b) the water supply system is of a prescribed class.

(2) The purpose of an assessment response plan is to identify the measures that may reasonably be taken in order to address identified threats to the drinking water that is provided by the water supply system.

(3) An assessment response plan must be prepared in accordance with the regulations and the directions of the drinking water officer.

(4) As examples of provisions that may be included in an assessment response plan, but without limiting the issues that may be addressed, the drinking water officer may require a plan to include provisions respecting any or all of the following:

(a) public education and other means of encouraging drinking water source protection;

(b) guides to best management and conservation practices;

(c) infrastructure improvements;

(d) cooperative planning and voluntary programs;

(e) input respecting local authority zoning and other land use regulation.

(5) The drinking water officer may order a water supplier to review and revise its assessment response plan in accordance with the directions of the drinking water officer.

Part 4 — Drinking Water Protection

Prohibition against contaminating drinking water or tampering with system

23 (1) Subject to subsection (3), a person must not

(a) introduce anything or cause or allow anything to be introduced into a domestic water system, a drinking water source, a well recharge zone or an area adjacent to a drinking water source, or

(b) do or cause any other thing to be done or to occur,

if this will result or is likely to result in a drinking water health hazard in relation to a domestic water system.

(2) Subject to subsection (3), a person must not

(a) destroy, damage or tamper with any part of a domestic water system,

(b) open or close any part of a domestic water system,

(c) introduce anything or cause or allow anything to be introduced into a domestic water system, a drinking water source, a well recharge zone or an area adjacent to a drinking water source, or

(d) do or cause any other thing to be done or to occur,

if it is reasonably foreseeable that, as a result, the owner of the domestic water system would have to limit the use of the water provided by the system on the basis that there may be a risk of a drinking water health hazard.

(3) The prohibitions in subsection (1) and (2) do not apply

(a) in relation to anything required for the proper operation, maintenance or repair of a domestic water system or the treatment of water in the system,

(b) if the introduction or activity is authorized or required under an enactment or the person is otherwise acting with lawful authority, or

(c) in relation to an activity prescribed by regulation that is undertaken in accordance with any conditions prescribed by regulation.

(4) For the purposes of prosecuting a contravention of subsection (1) (a), it is not necessary to prove that the thing, if diluted at or subsequent to the point at which it was introduced, continued to result in or be likely to result in a drinking water health hazard.

Requirement to report threats to drinking water

24 (1) If a person

(a) is required to report under

(i) section 11 [mandatory reporting of health hazards] of the Public Health Act in respect of a toxic spill, or

(ii) section 79 (5) [spill prevention and reporting] of the Environmental Management Act, and

(b) considers that the event reported may result in a threat to drinking water, the person must also promptly report the situation to the drinking water officer.

(2) Despite any other enactment, if a regulation designates

(a) persons employed in the public service of the Province, or

(b) officials acting under the authority of a specified enactment

for the purposes of this section, by title or otherwise, those designated must report to the drinking water officer any situation they observe, or of which they become aware, that they consider may be a threat to drinking water.

Hazard abatement and prevention orders

25 (1) A drinking water officer may make an order under this section if the drinking water officer has reason to believe that

(a) a drinking water health hazard exists, or

(b) there is a significant risk of an imminent drinking water health hazard.

(2) An order under this section may be directed to

(a) a person whose action or omission, in the opinion of the drinking water officer, resulted in or significantly contributed to the drinking water health hazard or risk, or

(b) a person who had possession, charge or control of a condition or thing that, in the opinion of the drinking water officer, caused or significantly contributed to the drinking water health hazard or risk.

(3) The order must be served on the person to whom it is directed and may require that person, at the person's own expense, to do one or more of the following:

(a) provide to the drinking water officer information, as requested by the drinking water officer, relating to the conditions or things that resulted in or contributed to the drinking water health hazard or risk;

(b) undertake investigations, tests, surveys and any other action the drinking water officer considers necessary to assess and determine how to address or prevent the drinking water health hazard, and report the results to the officer;

(c) abate the drinking water health hazard;

(d) acquire, construct or carry out any works or do or cease to do any other thing, if this is reasonably necessary to control, abate, stop, remedy or prevent the drinking water health hazard;

(e) adjust, repair or alter any works to the extent reasonably necessary to control, abate, stop or prevent the drinking water health hazard;

(f) give public notice in a manner approved by the drinking water officer or in accordance with the directions of the drinking water officer;

(g) prepare and implement a hazard remediation plan or hazard prevention plan acceptable to the drinking water officer.

(4) If the order is directed to a person who is not the registered owner of the property on which action is required to be taken under subsection (3) (c), (d) or (e), a copy of the order must also be served on the registered owner.

(5) An order under this section may authorize persons designated by the drinking water officer to enter on or into property for the purpose of controlling, abating, stopping, remedying or preventing the drinking water health hazard.

(6) As restrictions on subsection (5),

(a) except in the case of an emergency, a person authorized under that subsection must take reasonable steps to notify the owner or occupier before entering the property, and

(b) the authority must not be used to enter a private dwelling except with the consent of the occupant or as authorized by a warrant under this or another Act.

(7) If the drinking water officer considers that the situation is urgent, the officer may issue an order under this section orally, in which case the officer must serve a written version of the order in accordance with this section as soon as reasonably possible.

(8) A drinking water officer may amend or cancel an order made under this section.

(9) The authority to make an order under this section, and to take action in relation to the order under section 27 [action in default], applies despite any other enactment, and the order applies despite any other enactment or authorization under an enactment.

(10) In the event of a conflict between an order under this section and an order of a health officer under the Public Health Act, the order of the health officer prevails.

Orders respecting contraventions

26 (1) If a drinking water officer has reason to believe that a person is in contravention of this Act or the regulations, the drinking water officer may make an order under this section directed at the person.

(2) An order under this section must be served on the person to whom it is directed and must set out the reasons why it was made, what the person is required to do and the time within which this must be done.

(3) As examples of provisions that may be included in an order under this section, but without limiting the authority of a drinking water officer under subsection (1), an order may include provisions for the following:

(a) requiring the person to provide information respecting an activity;

(b) requiring the person to take specified actions to comply with the Act or the regulations;

(c) prohibiting the person from starting or continuing specified actions until compliance is achieved;

(d) requiring the closure of all or part of a domestic water system;

(e) requiring public notice to be given in a manner approved by the drinking water officer or in accordance with the directions of the drinking water officer;

(f) requiring the person to remedy, in accordance with the directions of the drinking water officer, circumstances arising from the contravention that may cause or contribute to a drinking water health hazard;

(g) prohibiting a water supplier from providing water, or from using a specified drinking water source or fill location, until compliance has been achieved.

(4) Section 25 (4) to (10) [hazard abatement and prevention orders] applies to an order under this section.

Action in default

27 (1) If a drinking water officer makes an order under section 25 [hazard abatement and prevention orders] or 26 [orders respecting contraventions], the drinking water officer may

(a) direct that, if the person fails to take the action required by the order, the action is to be done at the expense of that person, with the costs and expenses incurred recoverable under this section, and

(b) enter or authorize other persons to enter on or into any property for the purpose of

(i) determining whether the order is being complied with, or

(ii) taking action in default under paragraph (a).

(2) As restrictions on subsection (1),

(a) except in the case of an emergency, before taking action under that subsection, the drinking water officer must give notice to the person subject to the order, and

(b) section 25 (6) [restrictions on entry] applies.

(3) All reasonable costs and expenses incurred in taking action in default under this section are deemed to be money paid for the use and at the request of the person to whom the order was directed, and may be recovered in any court of competent jurisdiction by the person who incurred those costs and expenses as a debt owed to that person.

(4) In addition to recovery under subsection (3), in the case of recovery against a property owner or an occupier of property who is subject to property taxation under the Community Charter, Local Government Act, Vancouver Charter or Taxation (Rural Area) Act, the costs and expenses may be recovered in accordance with section 35 [recovery of costs by health authorities] of the Public Health Act, with the required certificate to be filed by the drinking water officer.

Direct action by drinking water officer

28 (1) Despite any other provision of this Act, if a drinking water officer

(a) has reason to believe that a drinking water health hazard exists or that there is a significant risk of an imminent drinking water health hazard, and

(b) is not aware of a person against whom an order under section 25 [hazard abatement and prevention orders] or 26 [orders respecting contraventions] may appropriately be made, the drinking water officer may take any actions the drinking water officer considers necessary to address the health hazard or risk or may authorize a water supplier or other person to do this.

(2) For the purposes of this section, the drinking water officer may authorize any persons designated by the drinking water officer to enter on or into property and take the necessary actions.

(3) As restrictions on subsection (2), section 25 (6) [restrictions on entry] applies.

(4) If

(a) action is taken under this section, and

(b) the drinking water officer afterwards determines that there was a person against whom an order referred to in subsection (1) could have been made, the drinking water officer may, by order, require the person to pay all or some of the reasonable costs and expenses incurred in taking action.

(5) Section 27 (3) and (4) [action in default — cost recovery] applies in relation to an order under subsection (4) of this section.

Request for investigation

29 (1) If a person considers that there is a threat to their drinking water, the person may request the drinking water officer to investigate the matter.

(2) A request under subsection (1) must be in writing and must include specifics of the facts that the person considers constitute the threat.

(3) On receiving a request under subsection (1), the drinking water officer must review the request and consider whether an investigation is warranted.

(4) As applicable,

(a) if the drinking water officer decides against undertaking an investigation, the officer must advise the requesting person of this, and

(b) if the drinking water officer undertakes an investigation, the drinking water officer must advise the requesting person of the results of the investigation.

Required consultations respecting drinking water

30 (1) The Lieutenant Governor in Council may make regulations

(a) prescribing enactments for the purposes of this section, and

(b) prescribing that all or specified classes of decisions under a prescribed enactment may be made subject to this section.

(2) If a regulation under subsection (1) applies to an area, the minister may, by regulation applicable to all or part of that area,

(a) provide that all or specified classes of the prescribed decisions are subject to this section,

(b) identify local authorities, drinking water officers and water suppliers who must be

(i) provided an opportunity to comment on proposed decisions that are subject to this section, and

(ii) advised as to the decisions when they have been made, and

(c) specify whether persons identified under paragraph (b) may require a written response under subsection (6).

(3) Before making a regulation under subsection (2), the minister must consult with the minister responsible for the enactment in relation to which the regulation is intended to be made.

(4) Before making a decision that is subject to this section, the decision maker

(a) must provide the identified persons with an opportunity to comment on the proposed decision, and

(b) may, in relation to this, specify a time by which any comments the persons wish to make must be received by the decision maker in order to be considered.

(5) If a decision is to be made at the request of a person, by application or otherwise,

(a) the decision maker may satisfy the requirement of subsection (4) by requiring the requesting person to obtain comments for the purpose of this section and report them to the decision maker, or

(b) if no requirement is made under paragraph (a), the decision maker must provide a copy of any comments under this section to the requesting person.

(6) Despite any other enactment, a person making a decision that is subject to this section must,

(a) in making the decision, consider the comments provided under this section in relation to drinking water, and

(b) if requested by a person specified under subsection (2) (c), provide a written response respecting the decision maker's consideration of the person's comments in making the decision.

(7) Failure to provide an opportunity to comment in accordance with this section does not of itself render a decision invalid.

Part 5 — Drinking Water Protection Plans

Order designating area for planning process

31 (1) The minister may, by order made on the recommendation of the Provincial health officer, designate an area for the purpose of developing a drinking water protection plan for the area.

(2) The Provincial health officer may only recommend that an order be made under this section if

(a) based on monitoring or assessment results, the Provincial health officer is satisfied that a drinking water protection plan will assist in addressing or preventing a threat to drinking water that the Provincial health officer considers may result in a drinking water health hazard, and

(b) no other practicable measures available under this Act are sufficient to address or prevent the drinking water health hazard.

(3) The Provincial health officer must consider whether to make a recommendation under this section if requested by a drinking water officer.

(4) A local authority or water supplier may request a drinking water officer to make a request under subsection (3).

Plan development process

32 (1) The minister may, by order, establish the process by which a proposed drinking water protection plan for a designated area is to be developed.

(2) Without limiting subsection (1), an order under that subsection may

(a) establish who is to be responsible for preparing the proposed plan,

(b) establish the terms of reference for the plan, or authorize the preparation of some or all of the terms of reference subject to approval by the minister, and

(c) require the establishment of a technical advisory committee in relation to development of the plan.

(3) The terms of reference for a proposed drinking water protection plan must include

(a) the purpose of the plan,

(b) the issues to be addressed in the plan,

(c) a process for public and stakeholder consultation, and

(d) a time limit for completing the plan.

(4) As examples of terms of reference that may be established for a plan, but without limiting the issues that may be addressed, the terms of reference for a drinking water protection plan may include one or more of the following:

(a) whether changes are required to a water supply system, including measures respecting its water source, intake, treatment, storage, transmission and distribution;

(b) whether the operating permit for a water supply system should include additional provisions respecting monitoring, standards or other requirements;

(c) consideration of the economic and social costs and benefits of addressing risks through treatment, source protection or other means;

(d) whether an implementation regulation under any of sections 35 to 38 should be made.

(5) In preparing a proposed drinking water protection plan, consideration must be given to the results or progress of Provincial government or local government strategic, operational and land use or water use

planning processes within the designated area.

(6) A proposed drinking water protection plan may be prepared in conjunction with a proposed water sustainability plan under the Water Sustainability Act.

(7) The minister may, by order, extend the time for completing a proposed drinking water protection plan whether or not the time previously set has expired.

Drinking water officer authority

33 (1) For the purposes of developing a proposed drinking water protection plan, the drinking water officer may do one or more of the following:

(a) order a water supplier to participate in the process;

(b) undertake investigations, tests and surveys that the drinking water officer considers advisable;

(c) authorize persons to undertake investigations, tests and surveys referred to in paragraph (b).

(2) The drinking water officer or any person authorized under subsection (1) (c) may exercise any of the powers under section 40 [inspection authority] for the purposes of investigations, tests and surveys under subsection (1).

Approval of drinking water protection plan

34 (1) After a proposed plan has been prepared, it must be submitted to the minister, who must refer it to the Provincial health officer for review.

(2) After the review required by subsection (1), the minister must place the proposed plan and the comments of the Provincial health officer before the Lieutenant Governor in Council, who may approve all or part of the proposed plan as a drinking water protection plan.

(3) If a drinking water protection plan is approved under subsection (2), the minister must arrange for the plan to be made public.

Implementing a plan: effect on statutory decisions

35 (1) For the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation applicable in relation to all or part of the designated area for the plan, do one or more of the following:

(a) require that persons making decisions or classes of decisions under a specified enactment must consider the plan in making those decisions;

(b) restrict the issuance or amendment of licences, approvals, permits or other authorizations under a specified enactment;

(c) restrict the exercise of a power under a specified enactment;

(d) provide that specified provisions of the plan are a higher level plan for the purposes of the Forest Practices Code of British Columbia Act.

(2) Despite an enactment specified under subsection (1), a regulation under subsection (1) (b) may establish requirements that must be imposed in issuing or amending a licence, approval, permit or other authorization under an enactment.

(3) Requirements imposed under subsection (2) are deemed to be imposed under the enactment under which the authorization is issued or amended.

(4) The issuance or amendment of a licence, approval, permit or other authorization contrary to a regulation under subsection (1) (b), or the exercise of a power contrary to a regulation under subsection (1) (c), has no effect.

Implementing a plan: relationship with other planning processes

35.1 (1) For the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation, do one or more of the following:

(a) require that other specified Provincial government or local authority strategic or operational planning processes, or classes of such processes, consider the drinking water protection plan;

(b) require that the results of specified Provincial government or local authority strategic or operational planning processes, or classes of such processes, be consistent with the drinking water protection plan;

(c) provide that specified Provincial government or local authority strategic or operational plans, bylaws or other planning documents, or classes of such plans, bylaws or other documents, do not have legal effect to the extent of any inconsistency with the drinking water protection plan.

(2) A provision under subsection (1) (c) applies despite any other enactment.

Implementing a plan: restrictions on groundwater activities

36 (1) For the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation applicable to all or part of the designated area for the plan, restrict or prohibit one or more of the following or may impose requirements on a person doing one or more of the following:

- (a) constructing a well;
- (b) installing well pumps;
- (c) conducting flow tests;
- (d) performing another activity in relation to a well or groundwater.

(2) Without limiting subsection (1), a restriction in a regulation under that subsection may include a requirement that a person hold a drilling authorization in order to carry out one or more of the activities referred to in section 62 (1) [drilling authorizations] of the Water Sustainability Act.

Implementing a plan: enforcement of water source standards

37 (1) For the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation,

- (a) prescribe all or part of a drinking water source,
- (b) establish water quality standards in relation to the prescribed drinking water source or part of a drinking water source,
- (c) prohibit persons from doing anything that results in the prescribed standards not being met, and
- (d) establish exceptions to a prohibition under paragraph (c).

(2) A prohibition under subsection (1) applies despite any other enactment or authorization under an enactment.

Implementing a plan: local government authority

38 (1) If requested by a local government for the purposes of implementing a drinking water protection plan, the Lieutenant Governor in Council may, by regulation applicable to all or part of the designated area for the plan,

- (a) provide that
 - (i) the issuance or amendment of licences, approvals, permits or other authorizations under a specified enactment, or
 - (ii) the exercise of a power under a specified enactment,is subject to this section, and
 - (b) despite an enactment specified under paragraph (a) but subject to subsection (2), authorize the local government to
 - (i) establish terms and conditions that must be included in an authorization under a specified enactment, or
 - (ii) restrict the exercise of a specified power under an enactment,subject to any limits or conditions established by the regulation.
- (2) A local government may only exercise an authority under subsection (1)
- (a) after consultation with the relevant decision maker and the drinking water officer, if this consultation is required by regulation, and
 - (b) in each case, if the local government has reason to believe this is necessary for the purpose of protecting the potability of drinking water.
- (3) Terms and conditions established under this section are deemed to be imposed under the specified enactment to which they relate.

(4) For the purposes of undertaking work specifically contemplated by a drinking water protection plan, the minister responsible for the Local Government Act may, by order, exempt a local government from the requirement for approval of the electors, assent of the electors or other elector approval under the Community Charter, the Local Government Act, the Vancouver Charter or another enactment, subject to any conditions established by the minister.

Review and amendment of plans

39 The minister may, by order made on the recommendation of the Provincial health officer, direct that a current drinking water protection plan be reviewed to determine whether amendments should be made, and this Part applies to the review and to any amendment to the plan proposed by the review.

Part 6 — General

Reconsiderations and reviews of drinking water officer decisions

39.1 (1) In this section, "decision" means a decision of a drinking water officer under any of the following:

- (a) section 19 [drinking water officer authority in relation to assessments];
 - (b) section 25 [hazard abatement and prevention orders];
 - (c) section 26 [orders respecting contraventions];
 - (d) section 31 (4) [request respecting plan initiation];
 - (e) a decision resulting from a reconsideration under subsection (3) of this section.
- (2) Subject to the regulations, a person affected by a decision may
- (a) request a reconsideration of the decision under subsection (3), if the person considers that there is sufficient new evidence for this purpose, or
 - (b) request a review of the decision under subsection (4).
- (3) If a reconsideration is requested and the drinking water officer is satisfied that there is sufficient new evidence respecting the matter to justify a reconsideration, the drinking water officer may reconsider the matter and may confirm, vary or reverse the initial decision.
- (4) If a review is requested,
- (a) the review is to be conducted by the Provincial health officer or a medical health officer designated by the Provincial health officer,
 - (b) the review is to be a review based on the record,
 - (c) the person conducting the review may require the applicant to give notice of the review in accordance with the person's directions, and
 - (d) the person conducting the review may
 - (i) confirm, vary or reverse the initial decision, or
 - (ii) refer the matter back to the drinking water officer, with or without directions.

Inspection authority

40 (1) For the purposes of this Act, a drinking water officer or issuing official may enter on or into any property and conduct an inspection and, in relation to this, has the same authority as a medical health officer under Division 1 [Inspections] of Part 4 of the Public Health Act.

(2) The authority under subsection (1) must not be used to enter a private dwelling except with the consent of the occupant or as authorized by a warrant under this or another Act.

Entry warrant

41 If satisfied by evidence on oath or affirmation that access on or into property is necessary for the purposes of this Act, a justice may issue a warrant authorizing a person named in the warrant to enter on or into property and conduct an inspection, undertake hazard abatement or prevention activities or take other action as authorized by the warrant.

Court order requiring compliance

42 (1) On application by a drinking water officer, the Supreme Court may grant an injunction against a person who has contravened this Act, the regulations or an order under this Act,

- (a) restraining the person from contravening the Act, regulations or order, or
- (b) requiring the person to take action as directed by the court for the purpose of achieving compliance or remedying or preventing a drinking water health hazard.

(2) An order under subsection (1) does not prevent the imposition of a penalty in respect of an offence in relation to the same matter.

Personal liability protection

43 (1) No action for damages lies or may be brought against a drinking water officer, delegate or issuing official because of anything done or omitted

- (a) in the performance or intended performance of any duty under this Act, or
 - (b) in the exercise or intended exercise of any power under this Act,
- unless the person was acting in bad faith.

(2) Subsection (1) does not absolve a person from vicarious liability arising out of an act or omission of a person referred to in that subsection for which the first person would be vicariously liable if this section were not in force.

Prohibition against providing false information or obstructing officials

44 A person must not

- (a) provide false or misleading information when required under this Act to provide information, or
- (b) hinder, obstruct, impede or otherwise interfere with a drinking water officer, delegate or issuing official in the performance of their duties or the exercise of their powers under this Act.

Offences and penalties

45 (1) A person who contravenes this Act, or a regulation, order, direction or permit under this Act, commits an offence.

(2) Unless a lower penalty is specified by regulation, a person who commits an offence under subsection (1) is liable on conviction to the following:

- (a) in the case of an offence that is not a continuing offence, a fine of not more than \$200 000 or imprisonment for not longer than 12 months, or both;
 - (b) in the case of a continuing offence, a fine of not more than \$200 000 for each day the offence is continued or imprisonment for not longer than 12 months, or both.
- (3) If a person is convicted of an offence under this Act, a sentencing judge may order the convicted person to do one or more things described in section 107 (1) of the Public Health Act, and, for these purposes, section 107 (2) applies.
- (4) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the commission of the offence commits an offence.
- (5) Subsection (4) applies whether or not the corporation is prosecuted for the offence.
- (6) The time limit for laying an information respecting an offence under this Act is 2 years after the facts on which the information is based first came to the knowledge of a drinking water officer.

Service of documents

46 Service of documents under this Act must be in accordance with the regulations.

Area descriptions

47 Where this Act or the regulations authorize or require the description or designation of an area, this may be by any delineation of the area that adequately describes it including, for example, name, map, plan, legal description, reference to a stream, reference to an aquifer or other geological formation or part of one, depth or other dimension, or by any combination of methods.

General regulation making authority

48 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) The Lieutenant Governor in Council may make regulations respecting

- (a) matters that are referred to in a provision of this Act as being subject to the regulations or as having to be in accordance with the regulations, or
 - (b) any other matter for which regulations are contemplated by this Act.
- (3) Without limiting subsection (1) or (2), the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting water quality standards, including
 - (i) standards that are requirements for potable water,
 - (ii) standards for which monitoring must be conducted and reported,
 - (iii) standards for which immediate reporting is required if the standards are not met, and
 - (iv) standards for any other purpose established by regulation;
 - (b) respecting guidelines for drinking water quality that must be considered in determining what standards to establish in an operating permit and in reviewing the results of analyses required under this Act;
 - (c) respecting the issuance, amendment, renewal, suspension or cancellation of permits under this Act;
 - (d) establishing requirements and restrictions respecting the construction, alteration, repair, maintenance, installation, operation and monitoring of domestic water systems;

- (e) respecting water treatment requirements;
- (f) respecting the preparation, retention and publication of records;
- (g) respecting fees for applications, permits and services provided under this Act;
- (h) requiring persons to provide notice to the public in accordance with the regulations if water provided by a domestic water system is not or may not be potable;
- (h.1) restricting who may request reconsiderations or reviews under section 39.1 [reconsiderations and reviews of drinking water officer decisions], restricting what decisions may be reconsidered or reviewed and establishing procedures, time limits, fees, evidentiary rules and other matters respecting such reconsiderations and reviews;
- (i) providing for reconsiderations, reviews or appeals of orders and other decisions under this Act, other than those referred to in section 39.1, including restricting who may request them and establishing procedures, time limits, fees, evidentiary rules and other matters respecting them;
- (j) respecting the sharing of costs for a joint assessment ordered under section 19 (2) [drinking water officer authority in relation to assessments];
- (k) respecting testing required for the purposes of section 63 [water analyses for new or altered wells] of the Water Sustainability Act;
- (l) providing for any other matter that the Lieutenant Governor in Council considers advisable in relation to the protection of drinking water.

Authority in relation to regulations

49 (1) In making a regulation under this Act, the Lieutenant Governor in Council or minister may do one or more of the following:

- (a) make different provisions for different areas as specified in the regulation;
 - (b) make different regulations for different classes of persons, places, activities, conditions or things as specified in the regulation;
 - (c) make different regulations for different persons, places, activities, conditions or things;
 - (d) provide or provide for exemptions and waivers from otherwise applicable provisions of this Act or the regulations;
 - (e) delegate a matter to a person;
 - (f) confer a discretion on a person;
 - (g) establish criteria that a person must use in exercising a discretionary power conferred under this Act, which apply in addition to any other criteria established under this Act.
- (2) A regulation under this Act establishing a standard, code or rule may do so by adopting a standard, code or rule
- (a) published by a national or international standards association, or
 - (b) enacted as or under a law of another jurisdiction, including a foreign jurisdiction.
- (3) A standard, code or rule referred to in subsection (2)
- (a) may be adopted in whole, in part or with any changes considered appropriate, and
 - (b) may be adopted as it stands at a specific date, as it stands at the time of adoption or as amended from time to time.

Consequential and Related Amendments

[Note: See Table of Legislative Changes for the status of sections 50 to 103.]

Section(s)	Affected Act
50	Commercial River Rafting Safety Act
51–52	Environmental Assessment Act
53	Farm Practices Protection (Right to Farm) Act
54–64	Fish Protection Act
65–66	Forest Practices Code of British Columbia Act
67–82	Health Act
83–84	Hydro and Power Authority Act
85	Local Government Act
86	Oil and Gas Commission Act
87–101	Water Act
102–103	Water Utility Act

Transitional regulations

104 (1) The Lieutenant Governor in Council may make regulations the Lieutenant Governor in Council considers necessary or advisable to more effectively bring this Act into operation, including

(a) regulations for the purpose of preventing, minimizing or otherwise addressing any transitional difficulties encountered in bringing into operation amendments made by this Act to another Act, and

(b) regulations providing an exception to or a modification of a provision in this Act or another Act or a regulation under this Act or another Act.

(2) A regulation under subsection (1) may be made effective retroactively to a date on or after the date on which this Act receives Royal Assent.

(3) [Repealed 2014-15-158.]

Commencement

105 Sections 1 to 53, 55 to 66, 69, 74 and 83 to 101 come into force by regulation of the Lieutenant Governor in Council.

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