



Province of Alberta

## WATER ACT

# WATER (MINISTERIAL) REGULATION

### **Alberta Regulation 205/1998**

With amendments up to and including Alberta Regulation 301/2020

Current as of December 23, 2020

### Office Consolidation

© Published by Alberta Queen's Printer

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(Consolidated up to 301/2020)

**ALBERTA REGULATION 205/98**

**Water Act**

**WATER (MINISTERIAL) REGULATION**

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### **Interpretation**

**1(1)** In this Regulation,

- (a) “Act” means the *Water Act*;
- (b) “alternative watering system” means a method of supplying water to grazing livestock that has been developed to replace the watering of grazing livestock directly in a natural water body;
- (c) repealed AR 253/2018 s2;
- (c.1) “authorization” means an approval, licence, preliminary certificate or registration with respect to a dam or canal and, so far as it has the potential to affect in a material way anything done or to be done at or near a dam or canal, includes
  - (i) an approval or registration under the *Environmental Protection and Enhancement Act*,
  - (ii) a disposition under the *Public Lands Act*,
  - (iii) a permission or disposition under the *Provincial Parks Act*,

- (iv) a permission or disposition under the *Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act*, or
- (v) any other kind of authorization, approval or permission given under any law;
- (d) “camp” includes, but is not limited to, a temporary industrial camp, a recreational camp and a temporary camp site;
- (e) “canal” means a structure with embankments that is designed and is or is to be constructed for the purpose of conveying or diverting water, including water containing another substance, and includes all works associated with such a structure;
- (f), (g) repealed AR 253/2018 s2;
- (h) “dam” means a barrier that is designed and is or is to be constructed for the purpose of retaining, storing or diverting water, including water containing another substance, fluid waste or flowable tailings within the meaning of section 26(1)(e), and includes all other works associated with such a barrier;
- (h.1) “dam/canal owner” means
  - (i) the holder of an authorization relating to anything done or to be done at a dam or canal,
  - (ii) a person who is required by or under the Act to, but does not, hold such an authorization,
  - (iii) a person who was the holder of such an authorization immediately before the authorization was suspended, cancelled, terminated or abandoned,
  - (iv) any owner of land on which a dam or canal is located, or
  - (v) any person who had a dam or canal constructed;
- (i) “dewatering” means removing or draining water;
- (j) - (m) repealed AR 253/2018 s2;
- (m.1) “factor at risk” means any one or more of the following, namely,
  - (i) the public,

- (ii) the surrounding environment,
  - (iii) the cultural values of a sector of the local or regional population,
  - (iv) a local or regional economy, and
  - (v) land or other property (including infrastructure) belonging to anyone;
- (n) repealed AR 253/2018 s2;
- (o) “ford” means an enhanced site used for traversing a watercourse where the bed or banks of the watercourse are modified to facilitate traversing the watercourse;
- (p) “Green Area” means that part of Alberta shown outlined and coloured green on the map annexed to
- (i) Ministerial Order 71/85 dated May 7, 1985 and made pursuant to section 10 of the *Public Lands Act* (RSA 1980 cP-30), as that order is amended from time to time, or
  - (ii) any order made in substitution for the order referred to in subclause (i), as amended from time to time;
- (q), (r) repealed AR 253/2018 s2;
- (s) “municipality” means the geographical area of a city, town, village, summer village, municipal district, improvement district, special area, specialized municipality or settlement area as defined in the *Metis Settlements Act*;
- (t) “operation, maintenance and surveillance manual” means a manual that describes the normal operation, maintenance and surveillance of a dam or canal;
- (t.1) “outfall structure” means a pipe or structure in, on, under or adjacent to a water body that is constructed for the discharge of
- (i) precipitation that has fallen and been collected, or
  - (ii) liquid and water-carried wastes
- to a water body, and includes any associated structure that is required for the installation, maintenance or protection of the outfall structure;
- (u) “owner”, with respect to land, means

- (i) the registered owner of the land,
- (ii) a purchaser of the land whose interest as a purchaser is shown on the certificate of title to that land, and
- (iii) except in sections 37(4), 50(4), 73, 80, 81(4) and (5) and 166(2) of the Act and Schedule 1 to this Regulation, a tenant or other person who is in lawful possession or occupation of the land;
- (v) “person in charge of the drilling” means a person who is authorized under the Act or regulations to drill or reclaim a well;
- (w) “pipeline crossing” means a pipeline crossing as defined in the *Code of Practice for Pipelines and Telecommunication Lines Crossing a Water Body* adopted in section 3(1);
- (x) repealed AR 253/2018 s2;
- (y) “quarter-section” means a quarter-section within the meaning of the *Surveys Act*;
- (z) “saline groundwater” means water that has total dissolved solids exceeding 4000 milligrams per litre;
- (aa) “substance” means
  - (i) any matter that
    - (A) is capable of becoming dispersed or is dispersed in the environment, or
    - (B) is capable of becoming transformed or is transformed in the environment into matter referred to in paragraph (A),
  - (ii) any sound, vibration, heat, radiation or other form of energy, and
  - (iii) any combination of things referred to in subclauses (i) and (ii);
- (bb) “surface water” means all water on the ground surface, whether in liquid or solid state;
- (bb.1) “surveillance” means the systematic monitoring, inspecting and documenting of the state, condition, behaviour and health of a dam or canal in order to assess its safety performance;

- (cc) “telecommunication line crossing” means a telecommunication line crossing as defined in the *Code of Practice for Pipelines and Telecommunication Lines Crossing a Water Body* adopted in section 3(1);
- (dd) “watercourse” means a river, brook, stream or other natural water channel and the bed along which this flows;
- (ee) “watercourse crossing” means a watercourse crossing as defined in the *Code of Practice for Watercourse Crossings* adopted in section 3(2);
- (ff) “well”, except where it occurs in the phrase “water well”, means a water well or a vertical closed-loop ground source heat exchange well;
- (gg) “Wells Directive” means the Water Wells and Ground Source Heat Exchange Systems Directive, as published by the Department and as amended or replaced (by whatever name).

(2) A water body that is part of an irrigation works is included in the definition of “water body” as defined in the Act, for the purposes of the regulations under the Act, except as it is used in section 12(4)(h) and Schedule 1 to this Regulation.

(3) For the purposes of the Act,

- (a) “farm unit” means an agricultural operation
  - (i) that is carried out by a person, whether solely or jointly with one or more persons, on any parcel of land that is owned or occupied by that person, and
  - (ii) that constitutes, in the opinion of the Director, one agricultural operation;
- (b) “household” means one or more individuals living in a single, private and detached dwelling place;
- (c) “municipal water” means water under a deemed licence that is processed through a treatment plant of a local authority of Alberta, where water under the deemed licence is transferred from within the Province to a location outside of Canada on the date the Act comes into force;
- (d) “problem water well” means a well that the Director has declared to be a problem well under section 40;
- (e) “processed water” means

- (i) water that is packaged in Alberta as a beverage, including but not limited to bottled or canned water, and
  - (ii) water used in the processing of a food or industrial product if the water is a component of or used to transport the food or industrial product;
- (f) “reclamation” means any or all of the following:
- (i) the removal of equipment or buildings or other structures or appurtenances;
  - (ii) the decontamination of buildings or other structures or appurtenances, or of land or water;
  - (iii) the stabilization, contouring, maintenance, conditioning or reconstruction of the surface of the land;
  - (iv) any other procedure, operation or requirement specified in this Regulation;
- (g) “works”, used in relation to a dam or canal and for the avoidance of any doubt, includes its ancillary on-site installed structures and equipment, including its abutments, spillways, gates, gate hoist structures, mechanical and electrical control equipment, low level outlets, intakes, tunnels, penstocks, surge tanks and towers, powerhouse structures, pump barges and stations, water lines, tailings lines and beaches.
- (4)** For the purposes of the Act, “activity” includes anything
- (a) that is conducted by a licensee in or on a works that is the subject of a licence and that is owned or operated by the licensee, and
  - (b) that impairs or may impair the exercise of rights of any household user, traditional agriculture user or other licensee, or causes or may cause a significant adverse effect on the aquatic environment, human health, property or public safety.
- (4.1)** For the purposes of the Act, “activity”, used in relation to a dam or canal, includes any act that has the potential to cause
- (a) an increase in risk to factors at risk, or
  - (b) a change in
    - (i) the consequence classification, or

- (ii) the most recently approved design of the dam or canal (including any of its works).

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

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

**(6)** Repealed AR 253/2018 s6.

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

- (a) an owner of the land on which the well is situated;
- (b) a previous owner of the land if the well was situated on the land when that owner owned the land;
- (c) a person who has had charge, management or control of the well including the driller and, for the purposes specified in the Wells Directive, the person who installs the pumping equipment on the well;

- (d) a successor, assignee, executor, administrator, receiver, receiver-manager, liquidator or trustee of a person referred to in clause (a), (b) or (c);
  - (e) a person who acts as the principal or agent of a person referred to in clause (a), (b), (c) or (d).
- (8)** A reference in this Regulation generally to the performing of any act is to be treated as including a reference to an omission so to act.

AR 205/98 s1;251/2001;280/2003;253/2018

## **Part 1 Activities and Administration**

### **Approval exemption**

- 2(1)** An activity described in Schedule 1 is exempt from the requirement for an approval.
- (2)** An activity described in Schedule 2 that is commenced or continued in the area of the Province designated under Schedule 2 is exempt from the requirement for an approval.

### **Approval exemptions subject to Code**

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

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

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

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

**(3)** The placing, constructing, installing, maintaining, replacing or removing of a watercourse crossing is designated as an activity that does not require an approval if, and only if, the activity is

- (a) commenced,

(b) continued, and

(c) carried out

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

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

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

(a) commenced,

(b) continued, and

(c) carried out

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

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

**(7)** The placing, constructing, operating, installing, maintaining, removing or disturbing of works related to powerlines that impact a wetland, and the drilling or reclaiming of a borehole in a wetland, as defined in the *Code of Practice for Powerline Works Impacting Wetlands*, published by the Department and as amended or replaced from time to time, are designated as activities that do not require an approval if, and only if, the activities are

(a) commenced,

(b) continued, and

(c) carried out

in accordance with the Code of Practice for Powerline Works Impacting Wetlands.

**(8)** The *Code of Practice for Powerline Works Impacting Wetlands* referred to in subsection (7) is adopted and forms part of this Regulation.

(9) The placing, constructing, operating, installing, maintaining, removing or disturbing of wetland replacement works, as defined in the *Code of Practice for Wetland Replacement Works*, published by the Department and as amended or replaced from time to time, are designated as activities that do not require an approval if, and only if, the activities are

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

in accordance with the Code of Practice for Wetland Replacement Works.

(10) The *Code of Practice for Wetland Replacement Works* referred to in subsection (9) is adopted and forms part of this Regulation.

(11) In subsections (1)(c), (3)(c), (5)(c), (7)(c) and (9)(c), the term “carried out” includes monitoring activities.

AR 205/98 s3;91/99;280/2003;253/2018;218/2019;301/2020

#### **Notice of section 3 activities**

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

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

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

#### **Approval for activities affecting factors at risk, etc.**

**4.1(1)** Notwithstanding anything in this Regulation that could be construed as providing to the contrary, any activity that is referred to in section 1(4.1) requires an approval.

AR 253/2018 s11

**Effect of incomplete application**

**4.2(1)** The Director shall not review an application for the purpose of making a decision unless and until it is complete.

**(2)** If an application is not complete, the Director shall notify the applicant in writing and request whatever is necessary to make the application complete.

**(3)** If what is requested is not supplied within a reasonable time, the Director shall reject the application and forthwith advise the applicant in writing of that fact.

AR 253/2018 s11

**Reclamation of non-dam or canal works and works operation**

**4.3** A person responsible for any works who is not a dam/canal owner or for the operation of any such works shall reclaim those works at the end of the project life unless otherwise directed in writing by the Director.

AR 253/2018 s11

## **Part 2 Diversions and Transfers**

**Licence exemption**

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

**(2)** Repealed AR 253/2018 s12.

AR 205/98 s5;253/2018

**Temporary diversions subject to Code**

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

**Section 6 temporary diversion notices**

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

temporary diversion is commenced, unless otherwise specified by the Director.

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

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

#### **Diversion for household purposes prohibited**

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

#### **Subdivisions requiring reports**

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

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

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

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

**Major river basin boundaries**

**10(1)** The boundaries of the Peace/Slave River Basin are the geographical boundaries of that land of the Province from which surface water flows to the Peace River and Slave River and their tributaries except for the Athabasca River basin, whose boundaries are set out in subsection (2).

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

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

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

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

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

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

AR 205/98 s10;253/2018

**Licence purposes**

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

- (a) municipal;
- (b) agricultural;
- (c) irrigation;
- (d) commercial;
- (e) industrial;
- (f) water power;

- (g) dewatering;
- (h) management of fish;
- (i) management of wildlife;
- (j) implementing a water conservation objective;
- (k) habitat enhancement;
- (l) recreation;
- (m) water management;
- (n) any other purpose specified by the Director.

**Licence expiry dates**

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

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

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

or

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

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

Director must issue a licence for a municipal, agricultural, irrigation or implementing a water conservation objective purpose with an expiry date of

- (a) 25 years,
  - (b) less than 25 years if
    - (i) the applicant for the licence has applied for a licence with an expiry date of less than 25 years, or
    - (ii) in the opinion of the Director, the expected duration of the project is less than 25 years,
- or
- (c) more than 25 years if the Director has considered any one or more of the criteria specified in subsection (4) and is of the opinion that the licence should be issued with an expiry date of more than 25 years.

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

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

### **Part 3 Notice**

#### **Notice of application, decision or order**

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

- (a) publish notice of the application, decision or order in one or more issues of a newspaper that has daily or weekly circulation in the area of the Province in which the activity, diversion of water or operation of a works that is the subject of the application, decision or order is or will be carried out;
- (b) provide notice of the application, decision or order through a registry established by the Government for that purpose;
- (c) provide notice of the application, decision or order through a telecommunication system or electronic medium;
- (d) publish notice of the application, decision or order in The Alberta Gazette;
- (e) make available a copy of the application, decision or order in one or more branch offices of the Department in the area of the Province in which the activity, diversion of water or operation of a works that is the subject of the application, decision or order is or will be carried out;
- (f) provide notice of the application, decision or order, in the form and manner and within the time period specified by the Director, to
  - (i) any persons determined by the Director, and
  - (ii) the local authority of the municipality in which the land on which the activity, diversion of water or operation of a works is located;
- (g) provide notice in any other form and manner considered appropriate by the Director.

**(2)** A notice with respect to an application under subsection (1) must contain the following:

- (a) the name of the applicant;

- (b) a description of the nature of the activity, diversion of water or operation of a works referred to in the application;
  - (c) the location of the activity, diversion of water or operation of a works referred to in the application;
  - (d) a statement that a person who is directly affected by the application may submit a statement of concern to the Director within the time period as provided for by section 109(2) of the Act and set out in the notice;
  - (e) the location where information about the activity, diversion of water or operation of a works may be obtained or is available to the public;
  - (f) any other information required by the Director.
- (3)** A notice with respect to a decision or order under subsection (1) must contain the following:
- (a) a summary of and the date of the decision or order of the Director;
  - (b) the location where information about the decision or order may be obtained or is available to the public;
  - (c) if applicable, a statement that the decision may be appealed to the Environmental Appeal Board;
  - (d) any other information required by the Director.

#### **Exemptions from applicant notice requirements**

**14** An applicant is not required to provide notice under section 108(1) of the Act with respect to

- (a) an amendment under section 54(1)(b)(i), (ii), (v) or (vi) or 70(1)(b)(i), (ii) or (v) of the Act, or
- (b) an application for an approval with respect to drilling a well, unless directed to do so by the Director.

AR 205/98 s14;253/2018

## **Part 4 Access to Information**

#### **Disclosure of information**

**15(1)** Subject to this section,

- (a) the following documents and information in the possession of the Department that are provided to the Department in the administration of the Act must be disclosed to the public in the form and manner provided for in this Regulation:
  - (i) documents and information in a registry established by the Department for that purpose;
  - (ii) information, applications, plans and specifications that are provided to the Department as part of an application
    - (A) by an applicant for an approval, licence or registration,
    - (B) by the holder of an approval, in respect of an application to amend a term or condition of the approval,
    - (C) by the holder of a preliminary certificate, in respect of an application to amend a term or condition of the preliminary certificate,
    - (D) by the licensee, in respect of an application to amend a term or condition of the licence, and
    - (E) for a transfer of an allocation of water under a licence;
  - (iii) verified monitoring data and the processing information that is necessary to interpret that data, that is provided by an approval holder or licensee in accordance with a term or condition of the approval or licence, or the Act or this Regulation;
  - (iv) any reports or studies that are provided to the Department in accordance with a term or condition of an approval, preliminary certificate or licence, or the Act or this Regulation;
  - (v) statements of concern;
  - (vi) certificates of completion;
  - (vii) repealed AR 253/2018 s15;
  - (viii) flood action plans within the meaning of section 26(1)(d);
  - (ix) repealed AR 253/2018 s15;

- (b) the following documents that are created by the Department in the administration of the Act must be disclosed to the public in the form and manner provided for in this Regulation:
- (i) approved water management plans;
  - (ii) approvals;
  - (iii) preliminary certificates;
  - (iv) licences;
  - (v) registrations;
  - (vi) verified monitoring data and the processing information that is necessary to interpret that data;
  - (vii) reports with respect to water conservation objectives and water guidelines;
  - (viii) emergency plans;
  - (ix) plans relating to floods;
  - (x) water management orders;
  - (xi) enforcement orders.

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

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

**(4)** If information referred to in subsection (1) or (3) is provided to the Department and relates to a trade secret, process or technique that the person submitting the information keeps confidential, the person submitting the information may make a request in writing to the Director, at the time of submitting it, that the information be kept confidential and not be disclosed.

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

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

(b) refuse the request if the Director considers that the request is not well founded.

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

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

(a) to any other person who is or has been involved in the administration of the Act or of another law related to the protection of the environment, or to the government of another jurisdiction or its agency for the purposes of administering a law related to the protection of the environment,

(b) to the person who provided the information or any other person with his consent, or

(c) as required by any other law or by an order of a court.

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

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

AR 205/98 s15;253/2018

#### **Provision of information**

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

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

- (b) provide one copy of the document or information to the person making the request.

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

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

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

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

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

#### **Extension of time**

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

## **Part 5 Land Compensation Board Procedures**

### **Appeals**

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

### **Notice of appeal**

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

**(2)** A notice of appeal must be given to

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

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

### **Pre-hearing matters**

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

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

### **Conduct of a hearing and decision**

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

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

- (a) confirm, reverse or vary the decision appealed and make any decision with respect to the amount of compensation

that the Director whose decision was appealed could make, and

- (b) make any further order that the Board considers necessary for the purposes of carrying out the decision.

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

#### **Combining hearings**

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

#### **Costs**

**23(1)** Any party to a proceeding before the Land Compensation Board may make an application to the Land Compensation Board at the conclusion of the hearing for an award of costs that are reasonable and that are directly and primarily related to the matters contained in the notice of appeal and the preparation and presentation of the party's submission.

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

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

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

#### **Fees**

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

#### **Extension of time**

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

## Part 6 Dam and Canal Safety

### Interpretation

**26(1)** In this Part,

- (a) “critical safety deficiency” means a hazardous condition that has the potential to lead to an imminent failure;
- (b) “emergency preparedness plan” means a document that describes potential emergency situations related to the safety of a dam or canal and the roles and responsibilities of those involved in managing any such emergency situation that arises;
- (c) “failure” means an uncontrolled release of the contents of a dam or canal;
- (d) “flood action plan” means a document that describes the procedures to be followed by a dam/canal owner in the event of an actual or potential flood to ensure the safety of the dam or canal and to minimize the risk to factors at risk;
- (e) “flowable tailings” means residual materials, including process effluents, left behind after the resources from an ore have been extracted at a processing plant and whose characteristics allow the materials to flow;
- (f) “hazardous condition” means a defect, insufficiency or other condition that has the potential to contribute or lead to the failure of a dam or canal, including one resulting from an unusual loading or a weather event;
- (g) “instrumentation” means the equipment installed on, in or near a dam or canal that is designed to exercise or enable monitoring of safety performance during construction and over its behaviour and health after construction;
- (h) “qualified individual” means
  - (i) a qualified professional, or
  - (ii) an individual who is trained and certified by an organization or agency that the Director accredits in writing for the purposes of this subclause,  
  
and who otherwise meets the requirements of the Safety Directive;
- (i) “qualified professional” means an individual who

- (i) is a professional engineer within the meaning of section 1(v), or a professional technologist within the meaning of section 86.4(m), of the *Engineering and Geoscience Professions Act*, and
  - (ii) has at least the minimum experience in the relevant field specified in the Safety Directive;
  - (j) “risk assessment” means an analysis and evaluation of risk performed pursuant to section 34.3;
  - (k) “safety assessment” means a process that
    - (i) is used to facilitate interpretation of surveillance objectively with a view to enabling full understanding of the current state of safety or condition of a dam or canal, and
    - (ii) meets the requirements of the Safety Directive;
  - (l) “safety deficiency” (except where preceded by “critical”) means a hazardous condition that has the potential to develop into a critical safety deficiency over time;
  - (m) “Safety Directive” means the Alberta Dam and Canal Safety Directive, as published by the Department and as amended or replaced (by whatever name);
  - (n) “safety evaluation” means a process that
    - (i) is used to facilitate measurement and analysis of safety performance, and
    - (ii) meets the requirements of the Safety Directive;
  - (o) “safety performance” means a process that measures whether a dam or canal is behaving as intended and that identifies departures from the intended design behaviour of the structure.
- (2)** In this Part and when used in relation to a dam or canal, “abandonment”, “closure” and “decommissioning” have the meanings according to their definitions in the Safety Directive.
- (3)** The persons or entities referred to in section 1(1)(h.1)(i) to (v) shall ensure that there is submitted to the Director, at the times specified in the Safety Directive, a notice in writing
- (a) identifying, by reference to the status specified in the appropriate subclause of section 1(1)(h.1) or by name if there is to be personal accountability, which of those persons or entities is the person who is to be the

dam/canal owner responsible for all aspects of compliance with the Act and this Regulation or any portion of that legislation, and

- (b) when applicable, indicating any change in who that person or entity is.

**(4)** In this Part, risk is to be determined through the use of a risk assessment that has regard to the probability and severity of harm or damage to factors at risk.

AR 205/98 s26;253/2018

#### **Application of the Part**

**27(1)** Unless exempted by the Safety Directive, this Part, to the extent that it applies with respect to dams, applies and applies only to a dam that, at the time in question, meets any one or more of the following criteria, namely

- (a) that provides a live storage capacity of 30 000 cubic metres or more and is 2.5 metres or more in height when measured vertically to the top of the barrier,
  - (i) from the bed of the water body at the downstream toe of the barrier, where the barrier is across a water body, or
  - (ii) from the lowest elevation at the outside limit of the barrier, where the barrier is not across a water body,
- (b) that is classified as being a significant, high, very high or extreme consequence structure in the Safety Directive, or
- (c) that exists for the purpose of storing flowable tailings.

**(2)** Unless exempted by the Safety Directive, this Part, to the extent that it applies with respect to canals, applies and applies only to a canal that

- (a) is constructed for the purpose of conveying or diverting per second 15 cubic metres or more of water, water containing any other substance, fluid waste or tailings, and has embankments that are 2.5 metres or more in height when measured vertically from the lowest elevation at the outside limit of the embankment to the top of the embankment, or
- (b) does not meet the criteria outlined in clause (a) but is classified as being a significant, high, very high or extreme consequence structure in the Safety Directive.

AR 205/98 s27;253/2018

**Safety Directive**

**28** The Safety Directive is incorporated in this Regulation.

AR 205/98 s28;253/2018

**Dam and canal safety — general responsibilities and accountabilities**

**29(1)** Notwithstanding anything in this Part, a dam/canal owner shall

- (a) ensure that, at all applicable times and as circumstances require, the dam or canal is and remains designed, constructed, operated, maintained, decommissioned, closed and abandoned in a manner that effects or maintains the safety of the dam or canal,
- (b) exercise due diligence to safeguard the dam or canal from improper operation,
- (c) ensure that sufficient surveillance, maintenance and repairs are carried out with sufficient regularity to ensure compliance with clauses (a) and (b) and other results as directed by the Safety Directive,
- (d) ensure that there is in place a dam safety management plan that
  - (i) outlines the dam/canal owner's commitments and activities with a view to ensuring the safety of the structures,
  - (ii) contains the requirements about how the hazardous condition referred to in clause (f) is to be addressed, and
  - (iii) otherwise meets the requirements of the Safety Directive,
- (e) ensure that all safety deficiencies are identified, tracked and managed appropriately until corrected in accordance with the Safety Directive, and
- (f) if a critical safety deficiency exists, address the hazardous condition in accordance with the Safety Directive.

**(2)** Without limiting the application of subsection (1), the dam/canal owner shall exercise reasonable care and demonstrate due diligence to avoid or obviate any risk to factors at risk that exceeds that which is inherent having regard to what the dam or canal is designed for or approved.

AR 205/98 s29;253/2018

**Investigations, design, construction, assessments and evaluations**

**30(1)** A dam/canal owner shall ensure that

- (a) the dam or canal is designed by qualified professionals and constructed in accordance with the accepted design and the Safety Directive,
- (b) all the construction is
  - (i) supervised by a qualified professional in accordance with the authorizations and the Safety Directive, and
  - (ii) in conformity with the accepted drawings and the Safety Directive.

**(2)** Unless otherwise directed in writing by the Director, a dam/canal owner shall ensure that all site investigations, surveillance, safety assessments, safety evaluations and risk assessments that are required by the Safety Directive are

- (a) performed by qualified individuals in accordance with the authorizations, and
- (b) reported to the Director,

in accordance with that Directive.

**(3)** In subsection (2), “site investigations” means processes designed to enable understanding of the objective characteristics of the geography, geology and hydrology of the location on which a dam or canal stands or is to be constructed.

AR 205/98 s30;170/2012;253/2018

**Operation, maintenance and surveillance**

**31(1)** A dam/canal owner shall ensure that

- (a) an operation, maintenance and surveillance manual is prepared, maintained, reviewed and, where applicable, updated, all by a qualified professional in accordance with the Safety Directive, and
- (b) the dam or canal is operated, maintained and subjected to surveillance in accordance with
  - (i) that manual,
  - (ii) the authorizations,
  - (iii) the terms and conditions of any water management order that is issued under the Act, and

(iv) the directions of an inspector or the Director.

(2) Prior to their commencement, a dam/canal owner shall notify the Director of any major repairs or significant changes to operations, maintenance or surveillance in respect of the dam or canal.

(3) A dam/canal owner shall ensure that

- (a) the instrumentation that the design requires for monitoring the performance of the dam or canal is installed, operated and maintained as specified in the operation, maintenance and surveillance manual and in accordance with the Safety Directive, and
- (b) the instrumentation is maintained and subjected to surveillance to provide continuity of readings, analysis and interpretation of the readings, in accordance with the operation, maintenance and surveillance manual, for the necessary safety assessments and evaluations in accordance with the Safety Directive.

AR 205/98 s31;253/2018

### **Emergency management**

**32(1)** In this section,

- (a) “emergency management plan” means the combination of documents, being an emergency preparedness plan, an emergency response plan, and a flood action plan or any of them;
- (b) “emergency response plan” means a document that describes the procedures to be followed by the dam/canal owner in the event of an emergency related to the safety of the dam or canal.

(2) A dam/canal owner shall ensure that an emergency management plan has been prepared, maintained, reviewed and, where applicable, updated by a qualified individual in accordance with the Safety Directive.

(3) A dam/canal owner shall ensure that all relevant and up-to-date information from the emergency management plan is shared with the municipalities, indigenous communities and other emergency response agencies that have the potential to be impacted by an emergency at the dam or canal during the testing of the final version of that plan and in accordance with the Safety Directive.

- (4) A dam/canal owner shall ensure that when conditions associated with the dam or canal are or are likely to result in any increase in risk to factors at risk,
- (a) the dam or canal is operated in accordance with the emergency management plan, and
  - (b) subject to section 33(1)(a), the Director is notified forthwith of
    - (i) the nature of those conditions,
    - (ii) all actions already undertaken or that are to be undertaken in response by the dam/canal owner, and
    - (iii) the time and nature of any information provided or warnings issued to any particular persons or to the general public about those conditions and the situation generally,
- and
- (c) operation of the dam or canal is suspended, if so ordered by the Director.

AR 205/98 s32;253/2018

**Further notifications to Director**

**33(1)** Unless otherwise exempted by the Act or this Regulation, a dam/canal owner shall ensure that, in relation to the dam or canal, the Director is notified in accordance with the Safety Directive of

- (a) any hazardous condition, safety deficiency or other potential safety hazard,
  - (b) any major repairs,
  - (c) any significant changes to operations, or
  - (d) any surveillance or inspection plans and outcomes in response to any hazardous condition.
- (2) A dam/canal owner shall ensure that
- (a) any additional information that is requested in writing by the Director to enable an assessment or evaluation of the safety of the dam or canal, including, so far as applicable, instrumentation readings and analyses, photographs and other visual records and drawings, material testing results and other test results are prepared and submitted to the Director in the form and manner, at the times and within the period specified by the Director, and

- (b) any additional resources that are requested in writing by the Director to enable the Director's audit assessment of the safety of the dam or canal are made available to the Director.

**(3)** A dam/canal owner shall ensure that

- (a) any additional inspections, investigations, surveys and tests are conducted that are necessary to enable the submission of the information referred to in subsection (2)(a), and
- (b) any additional qualified professionals needed to review the information submitted under subsection (2)(b) on behalf of the Director are employed by the dam/canal owner.

AR 205/98 s33;253/2018

**Decommissioning, closure, abandonment, etc.**

**34(1)** A dam/canal owner shall ensure that any plans for

- (a) the decommissioning, closure or abandonment of the dam or canal, or
- (b) the cessation, suspension or restriction or limitation of the operation of a dam or a canal for a period of longer than one year or permanently or indefinitely,

have been prepared by a qualified professional and submitted to the Director in accordance with the Safety Directive.

**(2)** The dam/canal owner shall not implement a plan referred to in subsection (1) unless the Director has confirmed in writing that the plan meets the criteria set out in the Safety Directive.

**(3)** An action referred to in subsection (1)(a) or (b) does not relieve any person of any applicable remaining duties that a person has under the Act or this Regulation or any other law.

AR 205/98 s34;253/2018

**Consequence classification**

**34.1(1)** Notwithstanding section 27, this section applies with respect to all dams and canals.

**(2)** In this section, "consequence classification" means the category assigned by a qualified professional to a dam or canal so that the appropriate level of safety requirements of the Act and this Regulation can be applied to ensure the safety of its works.

(3) A dam/canal owner shall ensure that a consequence classification is established in accordance with the Safety Directive, but the consequence classification has no effect until and unless the Director has confirmed in writing that the consequence classification meets the criteria set out in the Safety Directive.

(4) A dam/canal owner shall have the existing consequence classification reviewed by a qualified professional at the times required by the Safety Directive.

(5) A dam/canal owner shall ensure that any change to the consequence classification is reported in writing to the Director in accordance with the Safety Directive, but the change has no effect until and unless the Director has confirmed in writing that the change meets the criteria set out in the Safety Directive.

AR 253/2018 s16

#### **Orders by Director to mitigate or avert failure**

**34.2** If a dam or canal fails or if, in the Director's opinion, there arises a critical safety deficiency or a contravention of any provision of this Regulation that could result in a failure, the Director may issue orders to the dam/canal owner directing specific courses of action that are designed to mitigate or avert the failure, as the case may be, if the Director considers them necessary to avoid any increase in risk to factors at risk.

AR 253/2018 s16

#### **Risk assessments**

**34.3** A risk assessment must be performed in accordance with the Safety Directive through the use of a systematic process of analysis and evaluation of risk that

- (a) involves the use of a formal failure mode and effects analysis procedure or a similar technique, and
- (b) includes
  - (i) a decision as to whether or not the risk in question is tolerable relative to existing risk management measures, and
  - (ii) if that decision is in the negative, recommendations for risk management or mitigation measures.

AR 253/2018 s16

#### **Documents from qualified professionals**

**34.4** Any document that is required by this Regulation to be submitted by a qualified professional must be signed and stamped

or sealed by that person in accordance with Part 6 of the *Engineering and Geoscience Professions Act*.

AR 253/2018 s16

## **Part 7**

### **Water Wells and Ground Source Heat Exchange Systems**

#### **Wells Directive**

**34.5** The Wells Directive is incorporated in this Regulation.

AR 253/2018 s17

#### **Duty to comply**

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

**(2)** Repealed AR 253/2018 s18.

AR 205/98 s35;253/2018

**36 to 39** Repealed AR 253/2018 s19.

#### **Problem wells**

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

AR 205/98 s40;253/2018

**41 to 65** Repealed AR 253/2018 s19.

#### **Reclamation**

**66(1)** Repealed AR 253/2018 s20.

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

(3) If a water well is abandoned after completion, the owner of the water well must reclaim the water well or cause the water well to be reclaimed in accordance with the Wells Directive.

(3.1) The owner of a vertical closed-loop ground source heat exchange well shall have that well reclaimed in accordance with the Wells Directive if that well

- (a) was completed in order to evaluate site conditions but is not intended to be used as a vertical closed-loop ground source heat exchange well in a closed-loop ground source heat exchange system,
- (b) is leaking, or
- (c) was but is no longer used as a vertical closed-loop ground source heat exchange well in a closed-loop ground source heat exchange system.

(4) to (7) Repealed AR 253/2018 s20.

AR 205/98 s66;253/2018

#### **Inactive water well**

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

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

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

(3) The owner of the water well shall comply with the requirements of the Wells Directive respecting inactive wells.

AR 205/98 s67;253/2018

#### **Duties after water well completion**

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

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

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

(3) The owner of the water well shall comply with the requirements of the Wells Directive respecting completed wells.

AR 205/98 s68;253/2018

**69** Repealed AR 253/2018 s23.

#### **Security, well drillers**

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

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

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

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

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

- (a) cash;

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

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

**71** Repealed AR 253/2018 s23.

## **Part 8 Transitional Provisions, Consequential Amendment, Repeals**

### **Transitional Provisions**

#### **Transitional provisions**

**71.1(1)** Subject to subsection (2), the applicable provisions incorporated into this Regulation by the *Water (Ministerial, 2018) Amendment Regulation* and in the Safety Directive apply to dams and canals whether existing or in construction at the commencement of that Regulation or not yet constructed and where, with respect to such an existing or in construction dam or canal, there is an inconsistency between a provision of or resulting from that Regulation or that Directive and a term or condition in an authorization or a water management order previously given in respect of that dam or canal, the provision, term or condition that is to prevail is the one that produces the more stringent requirement.

**(2)** Where, in respect of a dam or canal that existed or was in construction immediately before the commencement of subsection (1), a person had previously performed an action required by an applicable provision referred to in subsection (1) and that action had been or is approved by the Director, then that provision is to be treated as having been complied with.

**(3)** The transitional provisions in the Safety Directive

- (a) providing for, or enabling a Director to provide for, any grace period for the implementation by any person of any provision of this Regulation,
- (b) providing for any circumstances existing at the time a provision of the *Water (Ministerial, 2018) Amendment Regulation* came into force to be exempted in whole or in part from the requirements of that provision, or
- (c) providing for consequence classifications for existing dams or canals

are to apply in prevalence to any provision of this Regulation to the contrary.

AR 253/2018 s25

#### **Temporary permission transitional**

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

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

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

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

#### **Water wells transitional**

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

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

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

AR 92/2005 s2

**Consequential Amendment**

**74** *(This section amends the Activities Designation Regulation (AR 211/96); the amendment has been incorporated into that Regulation.)*

**Repeals****Repeals**

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

**Expiry**

**76** Repealed AR 253/2018 s26.

**77** Repealed AR 253/2018 s27.

**Schedule 1****Activities that are Exempt from the  
Requirement for an Approval**

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

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

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

- (a) placing, constructing, installing, maintaining, replacing or removing a floating platform or a portable or seasonal pier, boat launch or dock in or adjacent to a water body;
- (b) placing, constructing, installing, maintaining, replacing or removing a fence in or adjacent to a water body;
- (c) placing, constructing, installing, maintaining, replacing or removing a crossing in a water body where
  - (i) the water body is not frequented by fish,
  - (ii) the hydraulic, hydrologic or hydrogeological characteristics of the water body are not altered at flood events below the one in 25 year flood event,
  - (iii) the size of the culvert used in constructing the crossing, if applicable, is 1.5 metres or less in diameter,
  - (iv) there is no diversion of water from the water body, and
  - (v) the installation of the crossing is not part of a causeway through a lake, slough, wetland or other similar water body;
- (d) landscaping except where
  - (i) it is in or adjacent to a watercourse frequented by fish or in a lake or a wetland, or
  - (ii) it changes the flow or volume of water on an adjacent parcel of land or adversely affects an aquatic environment;
- (e) installing a water supply line in, adjacent to or beneath a water body for the purpose of diverting water from the water body, if the line is installed by directional drilling or boring, and if a licence is not required for the diversion of the water and, where that water body is frequented by fish, if the installed water supply line has a screen of sufficient mesh size to prevent fish from entering;
- (f) installing a portable pump, portable aeration line or portable water supply line in or adjacent to a water body if there is not a significant alteration or disturbance of the bed or shore of the water body;

- (g) removal of debris from a water body that is not frequented by fish if the person removing the debris owns or occupies the land adjacent to the water body where the debris is located;
- (h) removal of a beaver dam from a water body if the person removing the beaver dam owns or occupies the land adjacent to the water body where the beaver dam is located, or has been authorized to remove the beaver dam under section 95 of the Act;
- (i) repealed AR 253/2018 s28;
- (j) drilling or reclaiming an exploratory test hole, shot-hole or borehole, except where the drilling or reclaiming
  - (i) is related to groundwater exploration or for the purpose of a water well, or
  - (ii) is in a watercourse frequented by fish, a wet lakebed or a wetland;
- (k) repealed AR 253/2018 s28;
- (k.1) activities expressly exempted from the requirement of an approval by the Wells Directive;
- (l) placing, constructing, maintaining or filling in a dugout except where the dugout
  - (i) is located in a watercourse frequented by fish or in a lake or a wetland,
  - (ii) is located in a watercourse, lake or wetland in an area that is subject to a reservation by order of the Minister under section 35 of the Act or that is subject to a Director's decision under section 53 of the Act,
  - (iii) would change the flow of water on an adjacent parcel of land,
  - (iv) has a capacity greater than 2500 cubic metres in volume,
  - (v) is located in the same watercourse and parcel of land as an existing dugout, or
  - (vi) is restricted by an approved water management plan;
- (m) commencing, continuing or carrying out, including monitoring, an activity that is referred to in section 3 of this Regulation;

- (n) the placing, constructing, installing, maintaining or operating of works to prevent surface water from flowing through or from or both through and from, a confined feeding operation or a manure storage facility as defined in the *Agricultural Operation Practices Act* if
  - (i) the works do not significantly alter the volume, quality or rate of water flowing to each location where water naturally discharges from the area covered by the confined feeding operation or the manure storage facility,
  - (ii) the works do not alter or affect any non-flowing water body,
  - (iii) the works are not located on a water body frequented by fish,
  - (iv) the works are governed and regulated by an approval or registration with respect to a confined feeding operation or an authorization with respect to a manure storage facility, under Part 2 of the *Agricultural Operation Practices Act*,
  - (v) a professional engineer designs and develops plans for the works, stamps and signs the plans, certifies that the plan design meets the requirements of this clause and provides the owner with a copy of the plans and certification, and
  - (vi) the owner retains a copy of the engineer's plans and certification;
- (o) commencing, continuing or conducting exploration for groundwater for the purpose of obtaining information in support of an application for a licence under the Act;
- (p) an activity conducted for the purpose of dewatering a sand and gravel site if
  - (i) the water diverted as a result of the dewatering is
    - (A) diverted into and retained in an on site pit within the boundaries of the project site, without using the water, or
    - (B) diverted back into a water body without using the water, if the water is equal to or of the same quality as the water that was originally diverted,

- (ii) the dewatering site, the water body and the on site pit referred to in subclause (i) are hydraulically connected, and
  - (iii) there is no adverse effect on
    - (A) the aquatic environment,
    - (B) a household user, licensee or traditional agriculture user, or
    - (C) any parcel of land;
  - (q) an activity conducted for the purpose of dewatering a construction site if
    - (i) there is no adverse effect on
      - (A) the aquatic environment,
      - (B) a household user, licensee or traditional agriculture user, or
      - (C) any parcel of land,
- and
- (ii) the maximum duration of the dewatering operation is 6 months or less for the entire construction project.  
AR 205/98 Sched.1;200/99;311/2002;237/2006;  
67/2007;253/2018;301/2020

## Schedule 2

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

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

- (a) the portion of the North Saskatchewan River
  - (i) located between the Bighorn Dam and the Town of Drayton Valley, or
  - (ii) located between the west boundary of the Town of Devon and the City of Fort Saskatchewan;
- (b) the portion of the Red Deer River

- (i) located between the north boundary of township 36, range 28, West of the 4th Meridian and the west boundary of township 39, range 26, West of the 4th Meridian, or
- (ii) located between the north boundary of township 29, range 21, West of the 4th Meridian and the east boundary of township 27, range 18, West of the 4th Meridian;
- (c) the portion of the Battle River located between the north boundary of township 42, range 26, West of the 4th Meridian and the north boundary of township 43, range 25, West of the 4th Meridian;
- (d) the portion of the Bow River located between the east boundary of Banff National Park and the west boundary of the Blackfoot Indian Reserve #146;
- (e) the portion of the Elbow River located between the east limit of the Village of Bragg Creek and the confluence of the Elbow River and the Bow River;
- (f) the portion of the Athabasca River
  - (i) located between the east boundary of township 60, range 17, West of the 5th Meridian and the north boundary of township 64, range 3, West of the 5th Meridian, or
  - (ii) located between the Town of Athabasca and the Hamlet of Fort McKay;
- (g) the portion of the Clearwater River located between the Saskatchewan border and the confluence of the Clearwater River and the Athabasca River;
- (h) the portion of the Peace River located between the Town of Peace River and the boundary of Wood Buffalo National Park;
- (i) the Wabasca River;
- (j) the Hay River.

**2** Repealed AR 253/2018 s29.

AR 205/98 Sched.2;200/99;253/2018

### Schedule 3

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

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

- (a) a diversion of water of up to 1250 cubic metres per camp per year for the purposes of human consumption, sanitation, fire prevention and other uses related to the camp;
- (b) a diversion of groundwater from a water well that is equipped with a manual pump if the water is diverted by use of the manual pump;
- (c) a diversion of water from a dugout except where
  - (i) the dugout is located in a watercourse frequented by fish or in a lake or a wetland,
  - (ii) the dugout is located in a watercourse, lake or wetland in an area that is subject to a reservation by order of the Minister under section 35 of the Act or that is subject to a Director's decision under section 53 of the Act,
  - (iii) water is pumped into the dugout,
  - (iv) the dugout has a capacity greater than 12 500 cubic metres in volume,
  - (v) the total diversion of water from the dugout is greater than 6250 cubic metres per year, or
  - (vi) the diversion of water is restricted by an approved water management plan;
- (d) a diversion of surface water for the purpose of operating an alternative watering system for livestock that are generally grazed;
- (e) a diversion of saline groundwater;
- (f) a diversion of water for the purpose of dewatering a sand and gravel site if
  - (i) the water diverted as a result of the dewatering is

- (A) moved into and retained in an on site pit within the boundaries of the project site, without using the water, or
- (B) diverted back into a water body without using the water, if the water is equal to or of the same quality as the water that was originally diverted,
- (ii) the dewatering site, the water body and the on site pit referred to in subclause (i) are hydraulically connected, and
- (iii) there is no adverse effect on
  - (A) the aquatic environment,
  - (B) a household user, licensee or traditional agriculture user, or
  - (C) any parcel of land;
- (f.1) a diversion of water for the purpose of dewatering a construction site if
  - (i) there is no adverse effect on
    - (A) the aquatic environment,
    - (B) a household user, licensee or traditional agriculture user, or
    - (C) any parcel of land,
  - and
  - (ii) the maximum duration of the dewatering operation is 6 months or less for the entire construction project;
- (g) a diversion of water for the purposes of fire fighting;
- (h) a temporary diversion of water that is referred to in section 6 of this Regulation;
- (i) a diversion of water for the purposes of pesticide application in accordance with section 8(4) of the *Pesticide Sales, Handling, Use and Application Regulation* (AR 24/97).
- (j) a diversion of water for the purpose of wetland restoration as defined in the *Code of Practice for Wetland Replacement Works* adopted in section 3(10);

- (k) a diversion of water for the purpose of maintaining all of the following with respect to an existing wetland:
  - (i) the quantity of water in that wetland;
  - (ii) the flow rate of water in or to that wetland;
  - (iii) the timing of the flow of water to that wetland;
- (l) a diversion of water for the purpose of wetland construction as defined in the *Code of Practice for Wetland Replacement Works* adopted in section 3(10), except where the total diversion of water is greater than 6250 cubic metres per year.

AR 205/98 Sched.3;280/2003;237/2006;  
67/2007;253/2018;301/2020

**Schedule 4** Repealed AR 253/2018 s31.

**Schedule 5** Repealed AR 253/2018 s32.





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