



*Water Sustainability Act*

WATER SUSTAINABILITY REGULATION

**B.C. Reg. 36/2016**

Deposited and effective February 29, 2016

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**Consolidated Regulations of British Columbia**

*This is an unofficial consolidation.*

B.C. Reg. 36/2016 (O.C. 110/2016), deposited and effective February 29, 2016, is made under the *Water Sustainability Act*, S.B.C. 2014, c. 15, ss. 124, 126, 127, 128, 129 and 140.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at [www.bclaws.ca](http://www.bclaws.ca).

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at [www.bclaws.ca](http://www.bclaws.ca).

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*Water Sustainability Act*

**WATER SUSTAINABILITY REGULATION**

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**WATER SUSTAINABILITY REGULATION**

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**PART 1 – INTERPRETATION**

**Definitions**

- 1** (1) In this regulation:
- “**Act**” means the *Water Sustainability Act*;
  - “**application**” means an application of an applicant;
  - “**dry hydrant**” means works, typically constructed of metal pipes, strainers, fittings and concrete, that are
    - (a) for diverting water,
    - (b) not pressurized, and
    - (c) accessible by a fire truck;
  - “**erosion**” means the wearing away by the action of water of the stream channel or the materials used in works;
  - “**fish habitat**” means the areas of an aquatic ecosystem on which fish depend, directly or indirectly, in order to carry out their life processes, including areas for spawning grounds, nurseries, rearing, food supply and migration;
  - “**legal instrument**” means a record that transfers, charges or otherwise deals with or affects land, or evidences title to the land;
  - “**location description**”, in relation to land, works, streams, aquifers or other geographical features, means
    - (a) in the case of land registered in a land title office, the description on the title to the land, and
    - (b) in any other case, a description of the location of the land, works or feature that is sufficient to clearly identify that location;
  - “**official name**” in relation to a place or a geographical feature means the name given to the place or feature in the Gazetteer of British Columbia;
  - “**point of diversion**” means,
    - (a) in relation to a stream, the location on the stream channel where water is diverted from the stream, and
    - (b) in relation to an aquifer, the location of a well from which water is diverted from the aquifer;
  - “**well tag number**” means the file number assigned in the government’s records to the records in relation to a particular well;
  - “**worksite**” means an area used for the construction of works.
- (2) In the Act and the regulations:
- “**extinguish**” includes to contain and control the spread of a fire;

“**licensee**”, in relation to a licence, means the owner of the land, mine or undertaking to which the licence is appurtenant, and includes the holder of an authorization if the authorization is a licence.

(3) For the purposes of the definition of “groundwater” in section 1 (1) of the Act, “**naturally occurring**” means occurring otherwise than in a pipe, cistern or other structure placed in the ground.

(4) For the purposes of paragraph (d) of the definition of “government water record” in section 1 (1) of the Act, the minister responsible for the administration of section 4 (1) of the *Ministry of Environment Act* is prescribed as a prescribed minister.

[am. B.C. Regs. 130/2017, ss. 1 and 2; 187/2020.]

### Industrial purposes

**2** (1) The uses of water set out in Column 1 of Schedule A, as described in Column 2 of Schedule A, are designated as uses of water for industrial purposes.

(2) For certainty, to the extent that a description of a water use for industrial purposes overlaps with another water use purpose, that other water use purpose is excluded from the industrial purpose.

### Exception to section 46 (1) of Act

**2.1** Section 46 (1) [*prohibition on introducing foreign matter into stream*] of the Act does not apply to a range practice to which section 46 of the *Forest and Range Practices Act* applies.

[en. B.C. Reg. 94/2016, s. 1.]

## PART 2 – LICENSING, DIVERSION AND USE OF WATER

### Division 1 – Licensing, Diversion and Use of Water

#### Applications for licences and use approvals

**3** (1) An application to a decision maker for an authorization must include all the following information, as applicable:

(a) the full name of the applicant and a mailing address, a telephone number and, if available, an email address at which the applicant or the applicant’s agent may be contacted;

(b) the official name of the stream or aquifer that is the proposed source of the water, or, if there is no official name, a location description of that stream or aquifer;

(c) if the application relates to water in a stream, the official name of the stream into which the proposed source of the water discharges or is immediately tributary, or, if there is no official name for the stream, a location description of that stream;

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- (d) if the application relates to water in an aquifer, the official names of each stream or other aquifer known to the applicant to be reasonably likely to be hydraulically connected to the source aquifer, or, if there is no official name, a location description of that stream or aquifer;
- (e) if water is to be stored under the authorization, the official name of the proposed reservoir, or, if there is no official name, a location description of that reservoir;
- (f) the water use purposes for which the water is to be used;
- (g) the quantity of water proposed to be diverted or stored for each water use purpose identified under paragraph (f), and, in the case of a power purpose, the amount of power proposed to be generated;
- (h) if the water is not to be diverted or used throughout the year, the periods in the year during which the water will be diverted or used;
- (i) a location description of the land, mine or undertaking to which the authorization is to be appurtenant or a general description of the project or scheme of water use;
- (j) if the land described in paragraph (i), (l) or (n) is Crown land, proof of the applicant's authority to occupy the Crown land, proof that an application for a disposition of the Crown land has been made or the applicant's request for a permit in relation to that Crown land;
- (k) if the water use purposes of the authorization include an irrigation purpose, the measurements of the area of land to be irrigated;
- (l) an identification of the location of the point of diversion, or diversion and storage, if applicable, either by location description or by reference to the location of a known feature;
- (m) a detailed description of the proposed works for the proposed diversion or use, including, without limitation, in relation to a well, the depth of the well or proposed well and, if available, any well report that has been prepared in respect of the well and the well identification plate number or well tag number;
- (n) a location description of
  - (i) the land on which the applicant proposes to construct works, and
  - (ii) any land that is likely to be physically affected by the proposed works;
- (o) the applicant's title to or other interest in the appurtenancy referred to in paragraph (i) and the name of the owner of any land described in paragraph (l) or (n) that is not owned by the applicant;
- (p) an accurate labelled drawing, to scale, showing all the following:
  - (i) the location and boundaries of the appurtenancy and the location within the appurtenancy where the water is to be used;
  - (ii) the approximate location of the proposed works;

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- (iii) the boundaries of any land that is likely to be physically affected by the proposed works;
  - (iv) if the water source is an aquifer, streams and other water bodies, whether natural or otherwise, other wells that are diverting water from the aquifer and other water features in the area shown in the drawing, if known to the applicant;
  - (v) if the water source is a stream, the location of the stream and the direction of flow.
- (2) A decision maker must not authorize in a use approval water storage by a dam to which Part 2 of the Dam Safety Regulation applies unless the dam is authorized by a licence.
- (3) An application for a licence or, subject to subsection (2), a use approval, that proposes the storage of water by a dam must include all the following information, as applicable:
- (a) the height or proposed height of the dam;
  - (b) the length or proposed length of the dam;
  - (c) the crest width or proposed crest width of the dam;
  - (d) the maximum volume of water proposed to be stored by the dam.

**Applications for change approvals**

- 4** An application for a change approval must include all the following information, as applicable:
- (a) the information specified in section 3 (1) (a);
  - (b) the official name of the stream in respect of which the changes in and about a stream are proposed, or, if there is no official name, a location description of the stream;
  - (c) a location description of the place on the stream at which the changes in and about the stream are proposed to occur and, if available, the street address of that location;
  - (d) a location description of the land or undertaking, if any, to which the change approval is to be appurtenant;
  - (e) a drawing as described in section 3 (1) (p) showing the relevant boundaries and locations in relation to the application;
  - (f) the proposed start and finish dates for making the changes in and about the stream and constructing any proposed works;
  - (g) a description of the activities and works to be constructed in relation to the proposed changes in and about the stream and that may affect the stream;
  - (h) if the land described in paragraph (c) or (d) is owned by a person other than the applicant, the written consent of the land owner to the use of the person's land for any works or construction of any works;



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- (i) if the land described in paragraph (c) or (d) is Crown land, proof of the applicant's authority to occupy the Crown land, proof that an application for a disposition of the Crown land has been made or the applicant's request for a permit in relation to that Crown land;
- (j) if the proposed changes in and about the stream will be carried out, or proposed works related to the change in and about the stream will be constructed, by a person other than the applicant, the person's name, professional affiliation, if any, and a mailing address and telephone number at which the person may be contacted.

**Applications for drilling authorizations**

- 5** An application for a drilling authorization referred to in section 62 [*drilling authorizations*] of the Act must include all the following:
- (a) the information specified in section 3 (1) (a) [*applications for licences and use approvals*] of this regulation;
  - (b) the official name of the aquifer in respect of which the activity authorized by the drilling authorization is to occur, or, if there is no official name, a location description of the aquifer;
  - (c) the restricted activity referred to in section 62 (1) of the Act to which the application relates;
  - (d) a location description of the land on which the activity referred to in paragraph (c) will occur, including an accurate description of where on that land that activity will be carried out;
  - (e) the class of well and the water use purpose, if any, the water is or will be used for;
  - (f) the reason for the activity referred to in paragraph (c);
  - (g) the proposed start and finish dates for the activity referred to in paragraph (c);
  - (h) the name of the well driller, well pump installer or professional who will perform or supervise the activity referred to in paragraph (c);
  - (i) a description of the works or equipment to be used in respect of the activity referred to in paragraph (c);
  - (j) a description of the manner in which the activity referred to in paragraph (c) is proposed to be carried out;
  - (k) if the application relates to an existing well,
    - (i) the number assigned to any authorization issued in relation to the well,
    - (ii) the well identification plate number and well tag number of the well, if known,
    - (iii) any well reports that have been prepared in relation to the well, and

- (iv) the results of any flow tests that have been conducted in relation to the well;
- (l) if the application relates to a proposed new well,
  - (i) details of the proposed well, including, without limitation, the drilling method, well diameter and construction materials to be used, and
  - (ii) the target depth of the well;
- (m) if the land described in paragraph (d) is owned by a person other than the applicant, the written consent of the land owner to the use of the person's land for any works or construction of any works;
- (n) if the land described in paragraph (d) is Crown land, proof of the applicant's authority to occupy the Crown land, proof that an application for a disposition of the Crown land has been made or the applicant's request for a permit in relation to that Crown land;
- (o) a drawing as described in section 3 (1) (p) showing the relevant boundaries and locations in relation to the application.

**Applications for amendments under  
sections 26 and 62 (7) of Act**

- 6** (1) An application for an amendment referred to in section 26 [*amendment or substitution of authorization, change approval or permit*] of the Act must include
- (a) the information specified in section 3 (1) (a) [*applications for licences and use approvals*] of this regulation,
  - (b) the number assigned to the authorization, change approval or drilling authorization, and related permit, if any, to which the application relates,
  - (c) the reason for the application,
  - (d) if the application is under section 26 (1) (a), (b), (c) or (h) of the Act, the reason for and the period of the extension,
  - (e) if the application is under section 26 (1) (d) of the Act,
    - (i) a description of the works that will be decommissioned, if any, and of the proposed works,
    - (ii) if the proposed works will be located on land other than the land described in the original application, a location description of the land,
    - (iii) a location description of any land that is likely to be physically affected by the proposed works,
    - (iv) the name of the owner of any land described in subparagraph (ii) or (iii) that is not owned by the applicant,
    - (v) if the land described in subparagraph (ii) is Crown land, proof of the applicant's authority to occupy the Crown land, proof that an application for a disposition of the Crown land has been made by the

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- applicant or the applicant's request for a permit in relation to that Crown land, and
- (vi) a drawing as described in section 3 (1) (p) showing the relevant boundaries and the location of the proposed works,
- (f) if the application is under section 26 (1) (e) of the Act, identification of the error,
  - (g) if the application is under section 26 (1) (f) of the Act, identification of the inconsistency,
  - (h) if the application is under section 26 (1) (g) of the Act,
    - (i) the proposed new water use purposes and the quantities of water requested for each, and
    - (ii) the water use purposes to be deleted, if any, from the authorization and the quantities of water associated with those purposes, and
  - (i) if the application is under section 26 (1) (i) of the Act, an explanation of how the error occurred.
- (2) An application referred to in section 62 (7) [*drilling authorizations*] of the Act for an amendment to a drilling authorization must include
    - (a) the information described in subsection (1) (a), (b) and (c) of this section, and
    - (b) the particulars of the changes to information provided in the application for the drilling authorization.
  - (3) If an amendment proposed to a drilling authorization includes a change in the location of activities or works, the application must include
    - (a) a location description of the land where the activities are proposed to take place or works are to be constructed,
    - (b) in the case of privately owned land, the written consent of the owner of that land, unless the holder of the drilling authorization is the owner of the land,
    - (c) in the case of Crown land, proof of the applicant's authority to occupy the Crown land, proof that an application for a disposition of the Crown land has been made or the applicant's request for a permit in relation to that Crown land, and
    - (d) a drawing as described in section 3 (1) (p) showing the relevant boundaries and locations in relation to the application.

**Applications for transfer of appurtenancy**

- 7 An application referred to in section 27 [*transfer of appurtenancy*] of the Act must include
  - (a) the information referred to in section 6 (1) (a), (b), (c) and (d) of this regulation, as applicable,

- (b) a location description of the land, mine or undertaking to which some or all of the rights under the authorization, change approval or permit are being transferred,
- (c) if the new appurtenancy referred to in paragraph (b) is not owned by the applicant, details of the transferee's title to or other interest in the new appurtenancy and the written consent of that transferee to the transfer,
- (d) if the rights and duties under the authorization, change approval or permit are being divided between appurtenances, details of which portions of which rights and duties are being transferred and which are to be appurtenant to which land, mine or undertaking,
- (e) if section 27 (4) of the Act applies, written consent of the applicable mortgagee, and
- (f) a drawing as described in section 3 (1) (p) showing the relevant boundaries and locations in relation to the application.

**Applications for apportionment**

- 8** An application referred to in section 28 [*apportionment of rights under licences*] of the Act must include
- (a) the information referred to in section 6 (1) (a) and (b) [*applications for amendments*] of this regulation in relation to the licence,
  - (b) the reason for the application, including particulars of the proposed apportionment,
  - (c) a drawing as described in section 3 (1) (p) showing the parcels to which rights are to be apportioned under the application and the relevant boundaries and locations, including, without limitation, locations for new works and works that are to be jointly used, and
  - (d) for each parcel to which rights are proposed to be apportioned,
    - (i) a location description of the parcel,
    - (ii) the name and, if known, contact information of the person to whom rights are to be apportioned and the person's title to or other interest in the parcel, and
    - (iii) the water use purposes to be authorized under each licence and the quantity of water to be used for each purpose under each licence.

**Applications for abandonment**

- 9** An application under section 31 [*abandonment of rights under an authorization*] of the Act must include
- (a) the information referred to in section 6 (1) (a), (b) and (c) [*applications for amendments*] of this regulation,
  - (b) the quantity of water, the rights to which are to be abandoned, for each water use purpose authorized under the authorization,

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- (c) a description of any works related to the rights to be abandoned, including, in the case of a well, the well tag number or the number on the well identification plate, if any, attached under section 55 [*well identification*] of the Act,
- (d) a description or a copy of any orders or compliance actions pending in relation to the authorization,
- (e) if an agreement respecting joint use of works, or an order under section 36 [*joint construction or use of works may be ordered*] of the Act, applies in respect of works that are subject to the application, a copy of the agreement or order,
- (f) a description and evidence of any arrangements the applicant has with persons referred to in section 31 (1) (a) (i) to (iii) of the Act in relation to the matters set out in section 31 (1) (a) or (b) of the Act,
- (g) unless rights and responsibility for the works referred to in paragraph (c) are transferred from the applicant by an arrangement referred to in paragraph (f) that has been approved by the comptroller or the comptroller is satisfied that those works will continue to be used under an agreement referred to in paragraph (e), the details respecting the applicant's proposal to remove, decommission or deactivate those works,
- (h) if section 31 (2) of the Act applies, the written consent of each registered owner, and
- (i) if section 31 (3) of the Act applies, the written consent of the applicable mortgagee.

**Applications for final licence**

- 10** An application referred to in section 21 [*when final licence may be issued*] of the Act must include
- (a) the name of the licensee,
  - (b) the number assigned to the conditional licence and any related permit,
  - (c) information respecting the works that have been built, including dates of completion, the locations of the works and a description of any deviations from the works as authorized,
  - (d) a drawing as described in section 3 (1) (p) showing the final works, and
  - (e) the quantity of water the applicant asserts has been beneficially used for each water use purpose authorized under the conditional licence and any available information or reports verifying that quantity.

**Request for permit**

- 11** If an application for an authorization, change approval or drilling authorization, or an amendment to any of them, involves the use or flooding of Crown land, the application must include a request for a permit if the applicant has neither of the following:

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- (a) authority under this or another enactment for the occupation of the Crown land;
- (b) proof that an application for the disposition of the Crown land has been made.

**Consents respecting personal information**

**12** If an application referred to in section 3 [*licences and use approvals*], 4 [*change approvals*], 5 [*drilling authorizations*], 6 [*amendments*], 7 [*transfer of appurtenancy*], 8 [*apportionment*] or 9 [*abandonment*] includes personal information, including personal information about the applicant, the application must include the written consent of the person, in the form approved by the decision maker, to the disclosure of that personal information

- (a) by the applicant to the government for the purposes of the application,
- (b) by the government, for the purposes of the application, to
  - (i) a department or other subdivision of the government of British Columbia or Canada,
  - (ii) a municipality, regional district, improvement district, local trust committee, greater board or development district,
  - (iii) Canada,
  - (iv) the holder of a certificate of public convenience and necessity issued or deemed issued under the *Utilities Commission Act*,
  - (v) a regional health authority,
  - (vi) a first nation government, or
  - (vii) the Columbia Basin Trust,or to an agent of any of them,
- (c) by the government to the applicant or other person named in an application referred to in those sections, and
- (d) by the government to other persons whose rights the decision maker considers are likely to be detrimentally affected if an application referred to in those sections is granted.

**Applications must be signed, filed and include consents**

- 13** (1) An application under section 12 [*application and decision maker initiative procedures*] of the Act must be
- (a) signed by the applicant or the applicant's agent, and
  - (b) filed with the decision maker.
- (2) An application under section 12 of the Act, other than an application for an apportionment referred to in section 28 [*apportionment of rights under licence*], must include the written consents, in a form acceptable to the decision maker, of each person described in paragraph (a) or (b) of this subsection, as applicable, if the

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application is made by one person on the person's own behalf and on behalf of one or more other persons and the application will result in

- (a) one or more of those other persons co-holding the authorization, change approval or drilling authorization with the applicant, or
  - (b) the issuance of authorizations, change approvals or drilling authorizations to one or more of those other persons.
- (3) If an application under section 12 of the Act, other than an application for an apportionment referred to in section 28 of the Act, relates to an existing authorization, change approval, drilling authorization or permit that is held by more than one person, the application must include the written consents of each co-holder to the application being made by the applicant on the co-holder's behalf.

**Notice requirements and objections**

- 14** (1) A decision maker in respect of an application may require that notice of the application be given under section 13 (1) or (9) [*objections to applications and decision maker initiatives*] of the Act, and the decision maker may give notice under section 13 (14) of the Act, by publication, once each week for 3 consecutive weeks, in a printed or electronic newspaper that
- (a) is published and circulates in the area in which the stream or aquifer to which the licence, use approval or change approval that is the subject of the application applies or is to apply, or
  - (b) is approved by the decision maker.
- (2) At any time before a licence, use approval, change approval or amendment has been issued in respect of an application, a person may request that the decision maker in respect of the application give the person notice under section 13 (14) of the Act if the person
- (a) is a person referred to in section 13 (1) (a) or (b) of the Act in relation to the application, and
  - (b) has not been given notice of the application under section 13 (1), (9) or (14) of the Act.
- (3) A person given notice under section 13 (1), (9) or (14) of the Act may deliver the person's objection to the application within 30 days after the date the notice is given in accordance with section 117 (2) [*delivery and publication of documents and information*] of the Act.

**Evidence – date of first use**

- 15** (1) For the purposes of satisfying a decision maker as to a person's date of first use of groundwater from an aquifer, the person must provide all the following information to the decision maker:
- (a) the official name, if known, and otherwise a location description of the location of the aquifer that is the source of the groundwater;

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- (b) the location of each well from which the person diverts groundwater, either by location description or by reference to the location of a known feature, and the well identification plate number and well tag number of each well, if known;
  - (c) the water use purposes for which the person diverts groundwater from the aquifer;
  - (d) the land, mine or undertaking to which the water use is appurtenant and a location description of its location;
  - (e) the history of the use of groundwater in relation to the appurtenancy described in paragraph (d) from the aquifer, including, without limitation,
    - (i) the date from which, to the person's knowledge, any person made beneficial use of the groundwater in relation to that appurtenancy,
    - (ii) the quantity of water beneficially used by the person for each water use purpose identified under paragraph (c) in each year since the person owned the appurtenancy, and, to the extent known, the quantity of groundwater beneficially used for each water use purpose identified under paragraph (c) in each year of the period from the date referred to in subparagraph (i) to the date the person became the owner,
    - (iii) an explanation for any significant increases or decreases in the quantities referred to in subparagraph (ii) that occurred since the date referred to in subparagraph (i), and
    - (iv) any changes in the appurtenancy of the water use or the water use purposes of the water diverted from the aquifer that occurred since the date referred to in subparagraph (i) and a description of the changes.
- (2) A person must submit to the decision maker evidence of the information provided under subsection (1), which evidence may include, but is not limited to, the following:
- (a) well reports submitted under section 57 [*well reports*] of the Act, or a former Act, in respect of a well referred to in subsection (1) (b) of this section;
  - (b) in relation to beneficial use of groundwater referred to in subsection (1) (e),
    - (i) the results of water quality tests and the date of the tests,
    - (ii) the results of flow tests and the date of the tests,
    - (iii) pumping records,
    - (iv) in the case of a waterworks purpose, the number of connections to the waterworks, when the connections were established and the size of the population served under the waterworks licence,
    - (v) in the case of an irrigation purpose, the area of land, type of soil and type of crops irrigated, and



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- (vi) in the case of an industrial livestock and animal purpose, the number and type of livestock watered;
  - (c) invoices in relation to the construction or testing of the well or the installation of a well pump;
  - (d) copies of any of the following required in relation to the water use purpose for which the groundwater is diverted:
    - (i) a certificate of public convenience and necessity under the *Utilities Commission Act*;
    - (ii) an environmental assessment certificate under the *Environmental Assessment Act* or a predecessor to that Act or a decision statement issued under the *Canadian Environmental Assessment Act, 2012* or a predecessor to that Act;
    - (iii) a construction permit or an operating permit issued under the *Drinking Water Protection Act*;
    - (iv) a building permit, occupancy permit, business licence, inspection report or other document issued by a municipality or regional district;
    - (v) a licence of occupation or other privilege issued in relation to the use of Crown land;
    - (vi) an approval under the *Land Title Act* of a subdivision plan;
  - (e) if the applicant is registered under the *Water Protection Act*, the registration number and evidence of the registration;
  - (f) signed statements from persons having information or knowledge respecting the person's beneficial use of water;
  - (g) other evidence the person considers relevant or that is requested by the decision maker.
- (3) A person submitting information or evidence to a decision maker in relation to the person's date of first use of groundwater must include the person's signed declaration as to the origins of documents and the accuracy of information submitted.
- (4) Despite this section, for the purpose of making orders or taking action in relation to water or works, an engineer may determine the date of first use of a person to whom section 6 (4) [*use of water – unlicensed domestic user of groundwater*] of the Act applies based on the records available to the engineer at the time of making the order or taking the action, including, without limitation, records related to the construction of a well or test results respecting the quantity or quality of water in a well.

**Environmental flow needs – exemptions**

- 16** For the purposes of section 15 (1) of the Act, a decision maker need not consider the environmental flow needs of a stream in relation to the following applications:
- (a) an application for a new authorization for a domestic purpose;

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- (b) an application for a change approval;
- (c) an application for a drilling authorization in relation to an aquifer that is not hydraulically connected to the stream;
- (d) an application under section 26 [*amendment or substitution of authorization, change approval or permit*], 27 [*transfer of appurtenancy*] or 31 [*abandonment of rights under an authorization*] of the Act unless granting the application would result in
  - (i) a change in the point of diversion,
  - (ii) an increase in the rate of diversion, or
  - (iii) a change in the timing of water use;
- (e) an application for a final licence.

**Division 2 – Sensitive Streams****Sensitive streams designated**

- 17** The streams named and described in Schedule B are designated as sensitive streams.

**Applications respecting sensitive streams**

- 18** The decision maker considering an application for an authorization in respect of a sensitive stream may require that the applicant provide the following information:
- (a) a fish inventory of the stream;
  - (b) a flow or runoff analysis of the stream, including additional flow measurements for correlation of data;
  - (c) seasonal distribution of water demand from the stream, including for irrigation purposes;
  - (d) if there is a tributary or aquifer designated with the sensitive stream,
    - (i) the contribution to the sensitive stream of water from the tributary or aquifer, and
    - (ii) the seasonal distribution of water demand from the tributary or aquifer;
  - (e) an assessment of the fish habitat at the point of diversion, or proposed point of diversion, on the stream and in the area of the stream affected or that will be affected;
  - (f) the design of proposed works, including diversion structure and balancing and storage reservoirs;
  - (g) if appropriate, any specific water conservation measures that the applicant will use to minimize the amount of water used;
  - (h) whether material is to be removed from the stream or stream channel in connection with the works;

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- (i) proposed measures for the protection of natural materials and vegetation that contribute to the fish habitat of the stream and the stability of the stream channel;
- (j) whether substances, sediment, debris or other material is to be deposited in the stream or stream channel in connection with the works;
- (k) a proposal for restoration of the worksite after the works have been completed.

**Mitigation requirements**

- 19** It is a term and condition of a licence issued in respect of a sensitive stream that the holder implement mitigation measures to ensure that no significant adverse impact on a protected fish population or the aquatic ecosystem of the stream will occur or compensatory mitigation measures, as defined in section 21 [*compensatory mitigation measures*], that provide full compensation for any significant adverse impact on a protected fish population or the aquatic ecosystem of the stream.

**Mitigation measures**

- 20** (1) For the purposes of section 17 (2) [*sensitive streams mitigation*] of the Act, the mitigation measures that must be proposed under that subsection must include all the following in relation to the worksite for each of the project planning, design, construction and operational phases:
- (a) strategies relating to the timing for the construction of any proposed works;
  - (b) practices to be undertaken to ensure stream bank and channel stability;
  - (c) practices to be undertaken to provide for satisfactory fish migration;
  - (d) practices to be undertaken to ensure that fish are not injured and their migration is not hindered by structures, pumping devices or construction activities;
  - (e) practices and procedures to be undertaken to maintain water quality in the stream;
  - (f) measures to be undertaken to restore the stream channel to the state that exists before the work proposed by the application begins;
  - (g) measurement and reporting of water use;
  - (h) measures to be undertaken in respect of water conservation.
- (2) If, for the purposes of section 17 (3) of the Act, the decision maker imposes a term or condition on the authorization or change approval, or amendment to the authorization or change approval, that the holder implement mitigation measures, it is a term and condition of the authorization, change approval or amendment that the holder ensure that the following are monitored, by a person whose qualifications are acceptable to the decision maker, to ensure that they are performed and maintained in accordance with the Act, the regulations and the authorization, change approval or amendment:

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- (a) the construction of the works authorized under the authorization, change approval or amendment;
  - (b) the implementation of the mitigation measures required under the authorization, change approval or amendment.
- (3) It is a term and condition of an authorization, change approval or amendment referred to in subsection (2) that the monitoring required under that subsection may be discontinued only if
- (a) the person whose qualifications are acceptable to the director under subsection (2) certifies in writing that all works have been completed and are functioning as required, and
  - (b) the holder of the authorization or change approval is relieved of the monitoring and maintenance requirement by the comptroller or a water manager or, in the case of a change approval, by an engineer.

**Compensatory mitigation measures**

- 21** (1) In this section, “**compensatory mitigation measures**” means compensatory mitigation measures described in section 17 (3) (a) (iii) [*sensitive streams mitigation*] of the Act.
- (2) If a decision maker considers that mitigation measures proposed under section 17 (2) of the Act in relation to an application respecting a sensitive stream would not satisfy the requirements of that section, the decision maker may require that the applicant submit a proposal for compensatory mitigation measures that complies with this section.
- (3) The measures proposed for compensatory mitigation must
- (a) be in relation to the same species of fish as the fish population whose sustainability is at risk,
  - (b) provide the same type of fish habitat as the fish habitat used by the fish population whose sustainability is at risk, and
  - (c) result in an area of fish habitat that is at least the size of the fish habitat that will be lost.
- (4) A proposal for compensatory mitigation for fish habitat in a sensitive stream must provide for mitigation measures to be taken at the following locations in the following order of priority until the proposal satisfies subsection (3):
- (a) at a different location on the sensitive stream;
  - (b) within the watershed in which the sensitive stream is located;
  - (c) within another area immediately adjacent to that watershed that has similar physiography and macroclimate as that watershed.
- (5) If, for the purposes of section 17 (3) of the Act, the decision maker imposes a term or condition on the authorization or change approval, or amendment to the authorization or change approval, that the holder implement compensatory mitigation

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measures, it is a term and condition of the authorization, change approval or amendment that the holder ensure the following are monitored, by a person whose qualifications are acceptable to the decision maker, to ensure that they are performed and maintained in accordance with the Act, the regulations and the authorization, change approval or amendment:

- (a) the construction of the works authorized under the authorization, change approval or amendment;
  - (b) the implementation of the compensatory mitigation measures required under the authorization, change approval or amendment.
- (6) It is a term and condition of an authorization, change approval or amendment referred to in subsection (5) that the monitoring required under that subsection may be discontinued only if
- (a) the person whose qualifications are acceptable to the director under subsection (5) certifies in writing that all works have been completed and are functioning as required, and
  - (b) the holder of the authorization or change approval is relieved of the monitoring and maintenance requirement by the comptroller or a water manager or, in the case of a change approval, by an engineer.

**Division 3 – Expropriation of Land by Licensees****Definitions**

- 22** (1) In this Division:
- “**affected land**” means land expropriated or proposed to be expropriated under section 32 [*licensee’s right to expropriate land*] of the Act;
  - “**benefiting land**” means the land, mine or undertaking to which a licence referred to in section 32 (1), (2) or (3) of the Act is appurtenant;
  - “**court**” means the Supreme Court.
- (2) In sections 32 and 33 [*licensee’s rights when owner refuses compensation*] of the Act, and in this Division, “**land**” includes an easement over land.

**Lieutenant Governor in Council consent to flood**

- 23** A licensee requiring consent for an expropriation under section 32 (3) of the Act may petition the Lieutenant Governor in Council by submitting to the minister a request that sets out, in a form acceptable to the minister,
- (a) details of the proposed expropriation,
  - (b) the reason for the proposed expropriation,
  - (c) the potential benefits of the expropriation to the licensee, and
  - (d) an assessment of the potential impacts of the expropriation on the affected land.

**Commencement of expropriation proceedings**

- 24** (1) A licensee, including a licensee referred to in section 23, who has a right under section 32 of the Act to expropriate land, may commence expropriation proceedings if the licensee intends to exercise the right and is unable to reach agreement with the owners of the affected land as to
- (a) the land reasonably required to be expropriated,
  - (b) the amount of compensation, or
  - (c) the terms of the required conveyance or other legal instrument.
- (2) A licensee may commence expropriation proceedings by filing with the comptroller and the registrar, and by personally serving on each owner of affected land, the following documents:
- (a) a notice of intent to acquire the affected land;
  - (b) a plan showing the area the licensee wishes to acquire;
  - (c) a draft of the legal instrument necessary to vest in the licensee the title to or right over that land, which legal instrument includes
    - (i) legal descriptions of the affected land and the benefiting land, and
    - (ii) a description of the works to be constructed, maintained, improved or operated within the affected land;
  - (d) a statement of the amount of compensation offered.

**Substituted service**

- 25** If the comptroller is satisfied that an expropriating licensee has been unable, after reasonable efforts, to effect personal service on an owner of affected land, the comptroller may order substituted service of the documents referred to in section 24 (2) in accordance with the order.

**Amendment of documents after commencement**

- 26** (1) At any time before an application is made under section 28 [*applications to Supreme Court*], the expropriating licensee may amend the documents referred to in section 24 (2) [*commencement of expropriation proceedings*].
- (2) If an expropriating licensee makes an amendment under subsection (1), the expropriating licensee must refile and personally serve the amended documents in accordance with section 24 (2) or 25, as applicable.

**Owner may refuse or accept offer of compensation**

- 27** If an owner of affected land intends to accept the compensation offered and execute the legal instrument referred to in section 24 (2) (c), the owner must notify the expropriating licensee and the comptroller of that intention within 30 days after being served under section 24 (2) or 25, as applicable.

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**Applications to Supreme Court**

- 28** When the 30-day period referred to in section 27 expires, the expropriating licensee or an owner of the affected land may commence an action in the court for a determination of any matter referred to in section 24 (1) (a), (b) or (c).

**Procedures on application and method and basis of compensation**

- 29** (1) On application under section 28, the court must determine the matters referred to in that section and, for that purpose, subject to subsection (2), the court has all powers of the court under the *Expropriation Act*.
- (2) Section 26 (1) (b), as it relates to section 19 (4), and sections 26 (1) (d), 27, 31 to 44 and 50 of the *Expropriation Act* apply in respect of a proceeding commenced under section 28 of this regulation, and, for that purpose, a reference in those sections to a term set out in Column 1 of the following table has the meaning set out opposite in Column 2:

<b>Column 1</b> <b><i>Expropriation Act</i></b>	<b>Column 2</b> <b>Water Sustainability Regulation</b>
date of expropriation	date the notice of intent referred to in section 24 (2) (a) is filed with the registrar
the expropriation notice under section 6 (1) (a) or order under section 5 (4) (a)	the notice of intent referred to in section 24 (2) (a)
expropriating authority	expropriating licensee

**Costs of expropriation proceedings**

- 30** (1) Subject to subsections (3) to (5) and (8), the owner of affected land that is expropriated is entitled to be paid costs necessarily incurred by the owner for the purpose of asserting the owner's claim for compensation or damages.
- (2) If the court makes an order for compensation or damages to which a person is entitled, the court must also determine the reasonable costs of the expropriation proceedings in accordance with this section.
- (3) If the compensation awarded to the owner of affected land is greater than 115% of the amount of compensation, as set out in the statement referred to in section 24 (2) (d) [*commencement of expropriation proceedings*], offered by expropriating licensee, the court must award costs to the owner of the affected land and include the costs in the award of compensation.
- (4) If the compensation awarded to the owner of affected land is greater than 100% but not greater than 115% of the amount of compensation, as set out in the statement referred to in section 24 (2) (d), offered by the expropriating licensee, the court may award all or part of the owner's costs to the owner of the affected land and the court must, if it awards any costs to the owner, include the amount of the costs in the award of compensation.

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- (5) If the compensation awarded to the owner of affected land is 100% or less of the amount of compensation offered to the owner, as set out in the statement referred to in section 24 (2) (d), the court may award costs to
- (a) the owner of the affected land and include the costs in the award of compensation, or
  - (b) the expropriating licensee.
- (6) If the court awards costs to the expropriating licensee under subsection (5), the court must deduct the amount of costs from the award of compensation.
- (7) The costs payable under subsection (3), (4) or (5) are the costs described in section 45 (7) (a) and (b) of the *Expropriation Act*.
- (8) Section 45 (6) and (8) of the *Expropriation Act* applies for the purposes of this section.
- (9) In a determination of the amount of costs to be paid, the following considerations apply:
- (a) the degree of success of the party, taking into account the determination of the issues;
  - (b) the manner in which the case was prepared and conducted.

**Division 4 – Exemptions from Section 6 (1) of Act****Exemption – corridor drainage**

- 31** (1) In this section, “**corridor ditch**” means a ditch constructed alongside a road or a railway line, for the purpose of draining surface runoff from the road surface or railway bed or to divert water from an aquifer to lower the water table, to protect the road or railway line.
- (2) A person is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion of water from an aquifer using a corridor ditch if
- (a) there is no use of the water for a water use purpose between the time the water enters the corridor ditch and the time that water is discharged from the corridor ditch, and
  - (b) that water is discharged without causing a significant risk of harm to public safety, the environment, land or other property.

**Exemption – local government drainage works**

- 32** (1) In this section and section 34:
- “**drainage works**” means works belonging to or used by a local government to drain surface runoff, or to divert water from an aquifer to lower the water table, to prevent a nuisance;
- “**local government**” means



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- (a) a municipality,
  - (b) a regional district that operates drainage works as a service, or
  - (c) an improvement district that operates drainage works under its letters patent.
- (2) A local government is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion of water from an aquifer using drainage works if
- (a) there is no use of the water for a water use purpose between the time the water enters the drainage works and the time that water is discharged from the drainage works, and
  - (b) that water is discharged without causing a significant risk of harm to public safety, the environment, land or other property.

**Exemption – agricultural drainage**

- 33** (1) In this section, “**agricultural drainage works**” means ditches or subsurface drain pipes or other conduits used to drain surface runoff or to divert water from an aquifer to lower the water table to improve the productivity of agricultural land.
- (2) A person is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion of water from an aquifer using agricultural drainage works if
- (a) there is no use of the water for a water use purpose between the time the water enters the agricultural drainage works and the time the water is discharged from the agricultural drainage works, and
  - (b) that water is discharged without causing a significant risk of harm to public safety, the environment, land or other property.

**Exemption – building perimeter drainage**

- 34** (1) In this section, “**perimeter drainage works**” means works, including, without limitation, curtain or French drains and sumps, that are constructed around the perimeter of a building to convey surface runoff and groundwater away from the foundation of the building.
- (2) A person is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion of water from an aquifer using perimeter drainage works if
- (a) there is no use of the water for a water use purpose between the time the water enters the perimeter drainage works and the time that water is discharged from the perimeter drainage works, and
  - (b) that water is discharged without causing a significant risk of harm to public safety, the environment, land or other property.

**Exemption – mine drainage works**

**34.1** (1) In this section:

“**mine**” has the same meaning as in section 1 of the *Mines Act*;

“**mine drainage works**” means works, including a drainage well as defined in section 35, located in or at a mine and used or intended to be used for diverting groundwater by discharging the groundwater from the mine to prevent interference with the operation of the mine and protect the mine.

(2) A person is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion of groundwater from an aquifer using mine drainage works if

- (a) there is no use of the groundwater for a water use purpose between the time the groundwater is diverted and the time the groundwater is discharged, and
- (b) that groundwater is discharged without causing a significant risk of harm to public safety, the environment, land or other property.

[en. B.C. Reg. 238/2017, Sch. A, s. 1 (a).]

**Definitions – mineral exploration**

**34.2** In this section and sections 34.3 to 34.5:

“**mineral exploration activities**” means activities, described in paragraph (a) of the definition of “mining activity” in section 1 of the *Mines Act*, performed in relation to minerals other than placer minerals;

“**Mines Act permit**” means a permit issued under section 10 of the *Mines Act* in relation to mineral exploration activities or placer mining activities;

“**placer mining activities**” means activities, described in the definition of “mining activity” in section 1 of the *Mines Act*, performed in relation to placer minerals and that involve the processing of less than 2 000 m<sup>3</sup> of pay dirt per year.

[en. B.C. Reg. 278/2019, s. 1.]

**Exemptions – mineral exploration**

**34.3** (1) Subject to section 34.4 [*rules for exemptions*], a person who holds a *Mines Act* permit is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion and use of water for

- (a) mineral exploration activities or placer mining activities, and
- (b) a camp that
  - (i) is operated and maintained in relation to activities conducted under the permit, and
  - (ii) provides living quarters for no more than 20 people.

(2) Subject to section 34.4, a person who is exempt from the requirement to hold a *Mines Act* permit is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion and use of water for mineral exploration activities if

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- (a) the activities are conducted using only mechanical hand drills or mechanical rock saws, and
- (b) the tools referred to in paragraph (a) are designed to be carried and used by a single person only.

[en. B.C. Reg. 278/2019, s. 1.]

**Rules for exemptions**

- 34.4** (1) A person who is exempt under section 34.3 [*exemptions – mineral exploration*] must comply with this section.
- (2) A person must not, under section 34.3, divert or use recorded water.
- (3) A person must not, under section 34.3, divert or use unrecorded water from any of the following:
- (a) a stream or aquifer in respect of which there is a water reservation under section 40 [*treaty first nation water reservations*] or 41 [*Nisga'a water reservation*] of the Act;
  - (b) a sensitive stream;
  - (c) a point of diversion on a stream if the point of diversion is within the boundaries of a protected area, as defined in section 46;
  - (d) a stream to which a regulation under section 82 [*plan regulations – dedicated agricultural water*] of the Act applies;
  - (e) a stream to which an order under section 86 [*declarations of significant water shortage*] or 87 [*critical environmental flow protection orders*] of the Act applies or an aquifer affected by such an order;
  - (f) a stream or aquifer to which an order under section 88 [*fish population protection orders*] of the Act applies.
- (4) A person who, under section 34.3, diverts or uses water from a stream must not construct, install or place any permanent or semi-permanent works in the stream channel.
- (5) A person who, under section 34.3, diverts or uses water from a stream must
- (a) remove from the stream channel any pump, equipment or material constructed, installed or placed by that person in diverting or using water from the stream,
  - (b) ensure that the intake line or other device for diverting water is equipped with a screen, or otherwise modified, to
    - (i) prevent potential loss of fish due to entrainment or impingement, and
    - (ii) minimize disturbance of, or removal of sand and gravel from, the stream channel, and
  - (c) ensure that

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- (i) any disturbance of a stream channel or of the stable natural materials and vegetation in and about the stream is minimized when gaining access to water from the stream,
- (ii) any water that is diverted is discharged without causing a significant risk of harm to public safety, the environment, land or other property,
- (iii) the water supply and works of persons who are lawfully diverting or using water under the Act are not adversely affected, and
- (iv) the diversion or use of water, whether from a stream or aquifer, does not cause a risk of significant harm to fish, wildlife or the aquatic ecosystem of a stream.

[en. B.C. Reg. 278/2019, s. 1.]

**Exception to exemptions**

- 34.5** (1) In this section, “**related aquifer**” means an aquifer that an engineer considers is reasonably likely to be hydraulically connected to a stream.
- (2) Despite section 34.3, an engineer may require that an application for an authorization be made for the diversion or use of water for mineral exploration activities or placer mining activities, or for a camp described in section 34.3 (1) (b), if the engineer considers that a diversion or use of water from a stream or related aquifer
- (a) may have a significant adverse impact on
    - (i) the stream, including the flow of water within the stream, or
    - (ii) other authorized water users, or
  - (b) may have an adverse impact on a cultural heritage resource within the meaning of the *Mineral Tenure Act*.
- (3) If an engineer imposes a requirement under subsection (2), section 34.3 does not apply to the diversion or use of water from the stream or related aquifer for the mineral exploration activities, placer mining activities or camp, as applicable.

[en. B.C. Reg. 278/2019, s. 1.]

**Exemption – wells**

- 35** (1) In this section:
- “**drainage well**” has the same meaning as in the Groundwater Protection Regulation;
  - “**remediation well**” has the same meaning as in the Groundwater Protection Regulation.
- (2) A person is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion of groundwater using a remediation well if

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- (a) there is no use of the groundwater for a water use purpose between the time the groundwater is diverted through the remediation well and the time that water is discharged, and
  - (b) that groundwater is discharged without causing a significant risk of harm to public safety, the environment, land or other property.
- (3) A person is exempt from the requirement under section 6 (1) of the Act to hold an authorization for the diversion of groundwater from a drainage well if
- (a) there is no use of the groundwater for a water use purpose between the time the groundwater is diverted and the time that groundwater is discharged, and
  - (b) that groundwater is discharged without causing a significant risk of harm to public safety, the environment, land or other property.

**Diversion and use of water for firefighting**

**35.1** A fire department may divert and use, including store, water without holding an authorization for the diversion and use if the diversion and use is for activities related to preparation for firefighting, including

- (a) maintaining and testing fire equipment, and
- (b) training firefighters,

and does not

- (c) adversely affect the water supply or works of other persons who are diverting water with lawful authority under the Act,
- (d) cause risk of significant harm to fish, wildlife or the aquatic ecosystem of the stream, or
- (e) cause a significant risk of harm to public safety, the environment, land or other property.

[en. B.C. Reg. 130/2017, s. 3.]

**PART 3 – CHANGES IN AND ABOUT A STREAM  
(NO CHANGE APPROVAL OR AUTHORIZATION)****Definitions**

**36** (1) In this Part:

“**acid-generating rock**” means rock that when ground to paste has a paste pH of less than 4.5;

“**authorized changes**” means the changes in and about a stream described in section 39 (1), (2), (3) or (5) [*authorized changes*];

“**clear span bridge**” means a single span structure without piers that spans a stream channel from top of bank to top of bank with the bridge abutments outside the stream channel;

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- “**culvert**” means one or more pipes, pipe arches or structures, covered with soil and lying below the land surface, used to carry water, but does not include log structures;
- “**embankment**” means a structure made of earth, gravel or similar material raised above the surrounding land surface;
- “**engineering professional**” means a person who is registered under the *Professional Governance Act* as a professional engineer or professional engineering licensee;
- “**fish-bearing**”, in relation to a stream, means that the stream has a fish population present at some time during the year;
- “**habitat officer**” means a public service employee or an employee of a government corporation designated in writing by the comptroller as a habitat officer for the purposes of this Part;
- “**public utility**” has the same meaning as in the *Utilities Commission Act* and includes a similar utility regulated by Canada.
- (2) A habitat officer has the powers of an officer under section 89 [*right of access to land and premises by authorized persons*] of the Act for the purpose of exercising powers and performing duties assigned to the habitat officer under this Part.

[am. B.C. Reg. 11/2021, App. 3, s. 22.]

**Authority to make changes in and about a stream**

- 37 (1) A person may make an authorized change without holding an authorization or change approval authorizing the changes if
- (a) the person satisfies the requirements in relation to making changes in and about a stream that are imposed by this Part, and
  - (b) the changes in and about a stream are made in accordance with this Part, including, if applicable, the terms and conditions specified by a habitat officer under section 44 [*protection of aquatic ecosystem*].
- (2) Despite subsection (1), if an engineer considers that an authorized change may have a significant adverse impact on the nature of the stream, including the flow of water in the stream, or the stream channel, the engineer may require that an application for a change approval or an authorization be made in connection with the change.
- (3) If an engineer imposes a requirement under subsection (2), the authorized change may not be carried out under this Part.

**Notice to habitat officer**

- 38 (1) A person proposing to make an authorized change, other than an authorized change described in section 39 (1) (o) to (s), (2) and (5), must

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- 
- (a) provide a notice, signed by the person or the person's agent, to a habitat officer of the particulars of the proposal at least 45 days before beginning the authorized change, and
  - (b) obtain from a habitat officer a statement of the terms and conditions described in section 44 (2) [*protection of aquatic ecosystem*] on which the authorized change can proceed.
- (2) A notice under subsection (1) must
- (a) be in a form approved by the comptroller, and
  - (b) include the information specified in section 4 [*applications for change approvals*].
- (3) Section 12 [*consents respecting personal information*] applies in relation to a notice under this section.
- (4) Despite subsection (1), if a person who has given notice under that subsection is not contacted by a habitat officer within 45 days after the notice is received by a habitat officer, the person may proceed with the authorized change that is the subject of the notice.
- (5) A person who makes an authorized change described in section 39 (1) (o) or (p) must
- (a) report the authorized change to a habitat officer within 72 hours after making the change, and
  - (b) comply with the terms and conditions, if any, specified by a habitat officer in relation to matters described in section 44 (2).

**Authorized changes**

- 39** (1) The following changes in and about a stream are authorized changes:
- (a) the installation, maintenance or removal of a culvert for crossing a stream for the purposes of a road, trail or footpath, if all the following conditions are met:
    - (i) the equipment used for site preparation, or for installation, construction, maintenance or removal of the culvert, is situated in a dry stream channel or operated from the top of the bank;
    - (ii) if the stream is fish-bearing, the culvert allows fish in the stream to pass up or down stream under all flow conditions;
    - (iii) the culvert inlet and outlet incorporate measures to protect the structure and the stream channel against erosion;
    - (iv) debris can pass through the culvert;
    - (v) the installation, maintenance or removal of the culvert does not destabilize the stream channel;
    - (vi) the culvert and its approach roads do not produce a backwater effect or increase the head of the stream;

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- (vii) the culvert capacity is equivalent to the hydraulic capacity of the stream channel or is capable of passing the 1 in 200 year maximum daily flow without the water level at the culvert inlet exceeding the top of the culvert;
  - (viii) the culvert has a minimum equivalent diameter of 600 mm;
  - (ix) if the culvert has an equivalent diameter of 2 m or greater, or has a design capacity to pass a flow of more than 6 m<sup>3</sup> per second, the culvert is designed by an engineering professional and constructed in conformance with that design;
  - (x) the culvert is installed in a manner that permits the removal of obstacles and debris within the culvert and at the culvert ends;
  - (xi) if the changes in and about the stream are related to a right of way, the stream channel, except the portion within the right of way, is not altered;
  - (xii) embankment fill materials do not, and are unlikely to, encroach on culvert inlets and outlets;
  - (xiii) the culvert has a depth of fill cover that is at least 300 mm or as required by the culvert manufacturer's specifications;
  - (xiv) the maximum fill heights above the top of the culvert do not exceed 2 m;
  - (xv) the culvert is made of materials that meet the applicable standards of the Canadian Standards Association;
- (b) the construction, maintenance or removal of a clear span bridge, if all the following conditions are met:
- (i) the equipment used for site preparation, or for construction, maintenance or removal of the bridge is situated in a dry stream channel or operated from the top of the bank;
  - (ii) the bridge and its approach roads do not produce a back water effect or increase the head of the stream;
  - (iii) the hydraulic capacity of the bridge is equivalent to the hydraulic capacity of the stream channel, or is capable of passing the 1 in 200 year maximum daily flow;
  - (iv) the height of the underside of the bridge is adequate to provide free passage of flood debris and ice flows;
  - (v) the bridge is made of materials that meet the applicable standards of the Canadian Standards Association;
- (c) the construction or maintenance of a pipeline crossing of a stream, if either of the following conditions is met:
- (i) the pipeline and associated works are installed in a dry stream channel at a depth so that the top of the pipe is at least 1 m below the lowest elevation of the bed of the stream;



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- (ii) in the case of an aerial crossing, the crossing is constructed in accordance with the conditions of paragraph (b) for clear span bridges;
  - (d) the construction, maintenance or removal of a pier or wharf in a stream, if the ebb and flow of water and the movement of material under the influence of waves or currents is not obstructed;
  - (e) the construction, maintenance or removal by the Crown in right of either Canada or British Columbia of a flow or water level measuring device in a stream;
  - (f) the construction or removal by the Crown in right of either Canada or British Columbia of a fish fence, fish screen or fish or game guard across a stream if the fence, screen or guard is designed, constructed, maintained and used in a manner that does not obstruct the flow of water in the stream;
  - (g) the restoration or maintenance of a stream channel by the government;
  - (h) the restoration or maintenance of a stream channel by a municipality or regional district;
  - (i) the mechanical or manual cutting of annual vegetation within a stream channel;
  - (j) the restoration or maintenance of fish habitat by the Crown in right of either Canada or British Columbia;
  - (k) the repair or maintenance of existing dikes or existing erosion protection works to their original state, if the dikes or works were functional during the previous year;
  - (l) the construction or maintenance of storm sewer outfalls, if both the following conditions are met:
    - (i) the storm sewer outfall is designed by an engineering professional;
    - (ii) the storm sewer outfall is constructed, maintained and used in a manner that does not obstruct the flow of water in the stream or cause erosion of the stream channel;
  - (m) the mechanical or manual control of Eurasian watermilfoil and other invasive species of aquatic vegetation by a land owner, a municipality, a regional district or the Greater Vancouver Water District, or an improvement district or other body, established or continued under an enactment, that has jurisdiction in relation to the control of invasive aquatic vegetation;
  - (n) the construction or maintenance of ice bridges, winter fords or snowfills if,
    - (i) in the cases of ice bridges, winter fords or snowfills, only clean ice and snow are used in the construction or maintenance and are removed from the stream channel before ice breakup, and
    - (ii) in the case of ice bridges, any logs, timber and other structural materials used are removed, before ice breakup, without causing a

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- significant risk of harm to public safety, the environment, land or other property;
- (o) the construction or placement, under the direction of the Crown in right of British Columbia, a municipality or a regional district, or an agent of any of them, of erosion protection works or flood protection works during an emergency declared under the *Emergency Program Act* that involves flooding;
  - (p) the clearing of an obstruction from a bridge or culvert by the Crown in right of British Columbia, a municipality or a regional district during a flood, if the obstruction is causing or has the potential to cause a significant risk of harm to public safety, the environment, land or other property;
  - (q) the installation or cleaning of drainage outlets;
  - (r) the repair or maintenance of the superstructure of a bridge, other than the bridge's foundation;
  - (s) the installation, repair, maintenance or removal of a fence, if the fencing materials
    - (i) are not in the stream channel,
    - (ii) do not block debris in the stream channel, and
    - (iii) do not interfere with navigation of the stream;
  - (t) maintenance of a minor and routine nature by a public utility of its works;
  - (u) the removal of a beaver dam under section 9 of the *Wildlife Act*, if the removal is carried out in such a manner that downstream flooding and erosion do not occur;
  - (v) the construction of a temporary ford for vehicular traffic across a stream, if
    - (i) the construction occurs at a time in the year during which the construction can occur without causing a risk of significant harm to fish, wildlife or the aquatic ecosystem of the stream,
    - (ii) the 1 in 10 year maximum daily flow over the ford is accommodated without the loss of the ford and without eroding the stream channel,
    - (iii) any culvert is designed and installed to pass the average low flow for the period of use,
    - (iv) the stream channel is protected against any anticipated erosion
      - (A) for the period of construction and use of the ford, and
      - (B) after the ford is removed,
    - (v) sediment from approach ditches does not enter the stream,
    - (vi) the driveable running surface is erosion-free,
    - (vii) the stream remains in its channel,
    - (viii) channel debris will pass over the ford, and

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- 
- (ix) the ford is removed at the end of the period of use at a time when the removal can proceed without causing a risk of significant harm to fish, wildlife or the aquatic ecosystem of the stream;
  - (w) the construction of a temporary diversion around or through a worksite for the purposes of constructing or maintaining bridge abutments, constructing or maintaining piers other than bridge piers, maintaining bridge piers or constructing works authorized under this section, if
    - (i) the size of the worksite is minimized,
    - (ii) any pumps, pipes or conduits used to divert water around or through the worksite are sized to divert the 1 in 10 year maximum daily flow for the period of construction,
    - (iii) any pump or intake withdrawing water from a fish-bearing stream is screened to prevent potential loss of fish due to entrainment or impingement,
    - (iv) any cofferdams used to isolate successive parts of the construction occurring at the worksite are designed by an engineering professional and constructed in accordance with that design,
    - (v) the natural channel remaining outside of any cofferdams is adequate to pass the 1 in 10 year maximum daily flow for the period of construction,
    - (vi) the flow of water diverted around the worksite using ditches remains within the stream channel,
    - (vii) any ditches used to divert the flow of water around the worksite are designed and constructed to divert the 1 in 10 year maximum daily flow around or through the worksite and are protected from any anticipated erosion for the period of construction and use of the ditch, and
    - (viii) any ditches are completely backfilled and the area returned as closely as possible to the state that existed before the changes in and about the stream were made;
  - (x) the construction and maintenance of a dry hydrant in a stream if
    - (i) the dry hydrant is designed by an engineering professional, and
    - (ii) the dry hydrant is constructed, maintained and used in a manner that does not cause erosion of the stream channel or sedimentation in the stream.
- (2) A change in and about a stream to which a standard or regulation under the *Forest and Range Practices Act* applies is an authorized change if
- (a) the change is made by
    - (i) a municipality, a regional district or another person who

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- (A) holds an agreement or road use permit under the *Forest Act*, an agreement under the *Range Act* or a special use permit under the *Forest Practices Code of British Columbia Act*, or
  - (B) is authorized under the *Coal Act*, the *Geothermal Resources Act*, the *Mining Right of Way Act* or the *Petroleum and Natural Gas Act* to construct or modify a road, or
    - (ii) the Crown in right of British Columbia, and
  - (b) the person making the change complies with the *Forest and Range Practices Act* and the regulations and standards established under that Act.
- (3) A change in and about a stream is an authorized change if
- (a) the change is made by a person who holds a permit under section 10 of the *Mines Act*, and
  - (b) the person making the change complies with
    - (i) Part 9 of the Health, Safety and Reclamation Code for Mines in British Columbia, and
    - (ii) the conditions included in the permit respecting changes in and about the stream.
- (4) For the purposes of section 38, an application for a permit to carry out exploration activities under section 10 of the *Mines Act* constitutes notice of the change.
- (5) A change in and about a stream is an authorized change if
- (a) the activities in relation to which the change in and about the stream is to be made are authorized by a permit issued under the *Oil and Gas Activities Act*, and
  - (b) the change in and about the stream is made in accordance with
    - (i) applicable regulations under the *Oil and Gas Activities Act*, and
    - (ii) the conditions respecting changes in and about the stream included in the permit.
- (6) If a person making changes in and about a stream under subsection (5) causes damage to an aquatic ecosystem, which damage is not authorized under the *Oil and Gas Activities Act* or the permit referred to in that subsection, the person must
- (a) report the damage to the Oil and Gas Commission within 72 hours after the damage is caused, and
  - (b) take any action ordered under the *Oil and Gas Activities Act* by an official, as defined in that Act, to repair the damage and restore the aquatic ecosystem.

[am. B.C. Regs. 130/2017, s. 4; 37/2019, App. 4.]

**Limitation on making authorized changes under this Part**

- 40** A person must not, for any purpose related to making an authorized change in accordance with this Part, enter onto any private land or premises, or use any privately

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owned works, unless the person has the written consent of the owner of the land, premises or works.

**Obligations of persons making authorized changes under this Part**

- 41** (1) A person making or proposing to make an authorized change, other than an authorized change described in section 39 (5) [*authorized changes*], in accordance with this Part must, on request of an engineer, officer or habitat officer, provide the information that the engineer, officer or habitat officer requires to assess the impact of the authorized changes on the nature of the stream or stream channel.
- (2) A person making an authorized change in accordance with this Part must, once the person begins making the change, complete the authorized change without delay unless the delay is necessary to preserve the nature of the stream or stream channel.
- (3) A person making an authorized change in accordance with this Part must ensure that the authorized change is designed, constructed and maintained so that the change does not pose a significant risk of harm to public safety, the environment, land or other property.

**Failure to comply with this Part when making authorized change**

- 42** (1) If a person purporting to make an authorized change in accordance with this Part fails to comply with this Part, the person must
- (a) report the non-compliance to the closest regional office of the minister's ministry within 72 hours after the non-compliance,
  - (b) take the measures, if any, specified by an engineer to remedy the effects of the non-compliance, and
  - (c) comply with the terms and conditions, if any, specified by a habitat officer in relation to matters described in section 44 (2) [*protection of aquatic ecosystem*] to remedy the effects of the non-compliance.
- (2) Compliance with subsection (1) does not relieve a person of any other consequences that may be imposed under the Act for non-compliance.

**Protection of water quality**

- 43** (1) A person making an authorized change in accordance with this Part must ensure that
- (a) making the authorized change does not cause a significant adverse impact on the ambient water quality of the stream,
  - (b) there is no disturbance or removal of stable natural materials and vegetation in and about the stream that contribute to stream channel stability except as authorized under this Part and in accordance with any terms and conditions specified by a habitat officer under section 44 (2) [*protection of aquatic ecosystem*],

**WATER SUSTAINABILITY REGULATION**Part 3 – Changes in and about a Stream (No Change Approval or Authorization)

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- (c) temporary material, fill, bridges, culverts, pumps, pipes, conduits, ditches or other structures used to assist in the construction of any works are constructed and maintained only for the period of construction and are removed on completion of the works,
  - (d) all cast-in-place concrete and grouting is completely separated from fish-bearing waters for a minimum of 48 hours,
  - (e) rock from acid-generating rock formations is not used for construction, and
  - (f) on completion of the authorized change the stream is restored to the state that existed before the authorized change was made.
- (2) Subsection (1) (c) does not apply in relation to a person making an authorized change described in section 39 (5) [*authorized changes*].

**Protection of aquatic ecosystem**

- 44** (1) In this section, “**timing window**”, in relation to a stream, means a period of the calendar year, specified under this section by a habitat officer, during which changes in and about the stream can be made without causing a risk of significant harm to fish, wildlife or the aquatic ecosystem of the stream.
- (2) A habitat officer may provide to a person carrying out or proposing to carry out an authorized change in accordance with this Part, for the protection of an aquatic ecosystem, a written statement containing terms and conditions applicable to the person in relation to the following:
- (a) the timing window during which the change may be made;
  - (b) the minimum instream flow or the minimum flow of water that must remain in the stream while the change is being made;
  - (c) the removal of material from the stream or stream channel in connection with the change;
  - (d) the addition of a substance, sediment, debris or material to the stream or stream channel in connection with the change;
  - (e) the salvage or protection of fish or wildlife while the change is being made or after the change has been made;
  - (f) the protection of natural materials and vegetation that contribute to the aquatic ecosystem or stream channel stability;
  - (g) the restoration of the worksite after the change has been made.
- (3) If a person making an authorized change in accordance with this Part, other than an authorized change described in section 39 (5) [*authorized changes*], causes damage to an aquatic ecosystem, the person must
- (a) report the damage to a habitat officer within 72 hours after the damage is caused, and
  - (b) repair the damage and restore the aquatic ecosystem to the state that existed before the damage was caused, or as directed by the habitat officer.

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- (4) Compliance with subsection (3) does not relieve a person of any other consequences that may be imposed under the Act in relation to the damage.

**Protection of other water users**

- 45** (1) A person making an authorized change in accordance with this Part, other than a change described in section 39 (1) (o) to (s), (2) or (5) [*authorized changes*], must ensure that the water supply and works of persons who are lawfully diverting or using water under the Act will not be adversely affected.
- (2) Despite subsection (1), if the water supply of persons who are lawfully diverting or using water under the Act may be adversely affected by making the authorized change, the person proposing to make the authorized change, other than a change described in section 39 (1) (o) to (s), (2) or (5), must
- (a) give 3 days' notice to those persons before starting to make the change, and
  - (b) provide an adequate supply of water to those persons while making the change, if required by those persons.

**PART 4 – SHORT-TERM DIVERSION OR USE OF WATER  
FOR WELL DRILLING (NO USE APPROVAL)****Definitions**

- 46** (1) In the Act and this Part:
- “**develop**”, in relation to a well, has the same meaning as in the Groundwater Protection Regulation;
- “**protected area**” means
- (a) a park as defined in the *Park Act*,
  - (b) a conservancy as defined in the *Park Act*,
  - (c) a recreation area as defined in the *Park Act*,
  - (d) an ecological reserve established or continued under the *Ecological Reserve Act*, or
  - (e) a park dedicated or reserved under section 29 or 30 of the *Community Charter*.
- (2) In this Part:
- “**authorized person**” means a person authorized under section 47 (2) to divert and use water in accordance with this Part;
- “**rehabilitate**”, in relation to a well, has the same meaning as in the Groundwater Protection Regulation.

**Application of this Part**

- 47** (1) This Part applies to a professional or a well driller included in the register referred to in section 7 (a) (i) of the Groundwater Protection Regulation, or a person

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## Part 4 – Short-Term Diversion or Use of Water for Well Drilling (No Use Approval)

supervised by either, who diverts and uses water for the industrial purpose of drilling, altering, developing, rehabilitating or decommissioning a well.

- (2) A person referred to in subsection (1) may divert and use water in accordance with this Part without holding an authorization for the diversion and use.
- (3) Despite subsection (2), if an engineer considers that a diversion or use of water from a stream, or an aquifer the engineer considers is reasonably likely to be hydraulically connected to a stream, may have a significant adverse impact on the stream, including the flow of water within the stream, the engineer may require that an application for an authorization be made for that diversion or use of water.
- (4) If an engineer imposes a requirement under subsection (3), the diversion or use of water may not be carried out under this Part.

**Limitations on diversion under this Part**

- 48**
- (1) An authorized person must not, for the purposes of diverting or using water in accordance with this Part, enter onto any private land or premises, or use any privately owned works, unless the person has the written consent of the owner of the land, premises or works.
  - (2) An authorized person must not, under this Part,
    - (a) divert water from any one location on a stream or aquifer for more than 5 successive days,
    - (b) divert water from a stream or aquifer for more than 10 days in any calendar month, or
    - (c) divert more than 10 m<sup>3</sup> of water per day from a stream or aquifer.
  - (3) An authorized person must not, under this Part, divert or use water from
    - (a) a wetland,
    - (b) a point of diversion on a stream if the point of diversion is within the boundaries of a protected area,
    - (c) a stream, other than a lake, unless the width of the flowing water in the stream channel is at least 5 m at surface level, or
    - (d) a lake, unless the surface area of the lake is at least one hectare.
  - (4) An authorized person must not, under this Part, divert or use recorded water.
  - (5) An authorized person must not, under this Part, divert or use unrecorded water from
    - (a) a stream or aquifer in respect of which there is a water reservation under section 39 [*water reservations*], 40 [*treaty first nation water reservations*] or 41 [*Nisga'a water reservation*] of the Act,
    - (b) a sensitive stream,
    - (c) a stream to which a regulation under section 82 [*plan regulations – dedicated agricultural water*] of the Act applies,



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## Part 4 – Short-Term Diversion or Use of Water for Well Drilling (No Use Approval)

- (d) a stream to which an order under section 86 [*declarations of significant water shortage*] or 87 [*critical environmental flow protection orders*] of the Act applies or an aquifer affected by such an order, or
  - (e) a stream or aquifer to which an order under section 88 [*fish population protection orders*] of the Act applies.
- (6) An authorized person who, under this Part, diverts or uses water from a stream must not construct, install or place any permanent or semi-permanent works in the stream channel.
- (7) An authorized person who, under this Part, diverts or uses water from a stream must remove from the stream channel any pump, equipment or material constructed, installed or placed by that person in diverting or using water from the stream.
- (8) An authorized person may divert and use groundwater under this Part only if the diversion is carried out using existing works that are either authorized under the Act or do not require authorization under the Act.

[am. B.C. Reg. 94/2016, s. 3.]

**Protection of aquatic ecosystem**

- 49**
- (1) An authorized person must not, under this Part, divert water from a stream at any time or in any period when the diversion or use would cause a risk of significant harm to fish, wildlife or the aquatic ecosystem of the stream.
- (2) An authorized person who, under this Part, diverts water from a stream must ensure that the intake line or other device for diverting the water is equipped with a screen, or otherwise modified, to
- (a) prevent potential loss of fish due to entrainment or impingement, and
  - (b) minimize disturbance of, or removal of sand and gravel from, the stream channel.
- (3) An authorized person who, under this Part, diverts or uses water from a stream must ensure that
- (a) any disturbance of the stream channel or of the stable natural materials and vegetation in and about the stream is minimized when gaining access to water from the stream, and
  - (b) any water that is diverted from the stream but is not used for the purpose of drilling, altering, developing, rehabilitating or decommissioning a well is discharged without causing a significant risk of harm to public safety, the environment, land or other property.

[am. B.C. Reg. 94/2016, s. 4.]

**Protection of other water users**

- 50** An authorized person who, under this Part, diverts or uses water from a stream or an aquifer must ensure that the water supply and works of persons who are lawfully diverting or using water under the Act are not adversely affected.

**PART 5 – USE OF DEEP GROUNDWATER  
(NO AUTHORIZATION)**

**Definitions**

- 51** In this Part:

“**base of fish scales marker**” is a stratum of the earth’s surface, within the Western Canada Sedimentary Basin, that demarcates the boundary between the sedimentary rocks of the Lower Cretaceous Age from the sedimentary rocks of the Upper Cretaceous Age and is characterized by

- (a) the presence of abundant fish scales and skeletal material,
- (b) a high concentration of organic carbon, and
- (c) a low concentration of benthic foraminifera;

“**block**” has the same meaning as in the Petroleum and Natural Gas Grid Regulation;

“**deep groundwater**” means the following:

- (a) unless paragraph (b) applies, groundwater that is found in the subject area at a depth greater than 600 m below the earth’s surface;
- (b) groundwater that is found in the subject area
  - (i) below the base of fish scales marker, or if there is no base of fish scales marker, below strata that are older than the base of fish scales marker, and
  - (ii) at a depth greater than 300 m below the earth’s surface;

“**group**” has the same meaning as in the Petroleum and Natural Gas Grid Regulation;

“**subject area**” means the areas described, by reference to the Petroleum and Natural Gas Grid Regulation, in the following table:

Blocks A and F through L of Group 93I/16	Blocks A, B and G through K of Group 94G/15
Group 93P/1	Group 94G/16
Blocks A and G through K of Group 93P/2	Groups 94H/1 through 94H/16
Blocks H and I of Group 93P/6	Groups 94I/1 through 94I/16
Groups 93P/7 through 93P/10	Groups 94-J-1 and 94-J-2
Blocks A, B and F through K of Group 93P/11	Blocks A, H, I and J of Group 94J/6

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## Part 5 – Use of Deep Groundwater (No Authorization)

Blocks A and H through J of Group 93P/13	Groups 94J/7 through 94J/10
Groups 93P/14 through 93-P-16	Blocks A, B, C and E through L of Group 94J/11
Groups 94A/1 through 94A/3	Blocks A, B and F through L of Group 94J/13
Blocks A, B and F through L of Group 94A/4	Groups 94J/14 through 94J/16
Groups 94A/5 through 94A/16	Blocks A, B and F through L of Group 94N/1
Blocks A, H and I of Group 94B/9	Blocks A, B and G through J of Group 94N/7
Blocks A, G, H, I and J of Group 94B/16	Groups 94-N-8 and 94-N-9
Blocks A, B and F through K of Group 94G/1	Blocks A, B and H of Group 94N/10
Blocks A, B, C and E through L of Group 94G/8	Blocks A, B, C, G, H and I of Group 94N/16
Group 94G/9	Groups 94O/1 through 94O/16
Blocks A, H and I of Group 94G/10	Groups 94P/1 through 94P/16

**Conditions on diversion and use of deep groundwater**

- 52** (1) A person may divert from a water source well and use deep groundwater in accordance with this Part without holding an authorization.
- (2) A person must not divert deep groundwater under this Part unless
- the use is an oil and gas purpose,
  - the person holds a well permit, as defined in the Drilling and Production Regulation, in relation to the well,
  - the deep groundwater that is diverted is unrecorded water,
  - the diversion and use are in the subject area, and
  - the diversion does not adversely affect the water supply or works of a person lawfully diverting and using water from the same aquifer, another aquifer or a stream.
- (3) Deep groundwater may be diverted and used in accordance with this Part in any quantity and at any time of the year.

**When diversion and use must stop**

- 53** (1) A water manager may order a person to stop diverting and using deep groundwater under this Part if the water manager considers on reasonable grounds that

## WATER SUSTAINABILITY REGULATION

Part 6 – Offences

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- (a) the diversion of deep groundwater from the well is having an adverse impact on the rights of a person who is lawfully diverting and using water from the same aquifer, another aquifer or a stream, or
  - (b) there is a significant and imminent risk that the continued diversion of deep groundwater from the well will have an adverse impact on the rights of a person who is lawfully diverting and using water from the same aquifer, another aquifer or a stream.
- (2) This Part ceases to apply to a person, and the person must immediately stop the diversion and use,
- (a) in the circumstances described in subsection (1) (a), or
  - (b) if a water manager makes an order under subsection (1)
- until the person holds an authorization for the diversion and use or, in the case of an order under subsection (1), the order is rescinded.

**PART 6 – OFFENCES****Offences and penalties**

- 54** (1) A person who contravenes any of the following commits an offence:
- (a) section 39 (6) (a) [*authorized changes*];
  - (b) section 39 (6) (b);
  - (c) section 41 (1) [*obligations of persons making authorized changes under this Part*];
  - (d) section 41 (2);
  - (e) section 41 (3);
  - (f) section 42 (1) (a) [*failure to comply with this Part when making authorized change*];
  - (g) section 42 (1) (b);
  - (h) section 42 (1) (c);
  - (i) section 43 (1) (b) [*protection of water quality*];
  - (j) section 43 (1) (c);
  - (k) section 44 (3) (a) [*protection of aquatic ecosystem*];
  - (l) section 44 (3) (b);
  - (m) section 45 (1) [*protection of other water users*];
  - (n) section 45 (2) (a);
  - (o) section 45 (2) (b);
  - (p) section 35.1 (c) [*diversion and use of water for firefighting*];
  - (q) section 35.1 (d);
  - (r) section 35.1 (e).

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## Part 7 – Transitional Provision

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- (2) An authorized person, as defined in section 46 [*definitions*], who contravenes any of the following commits an offence:
- (a) section 48 (7) [*limitations on diversion under this Part*];
  - (b) section 49 (1) [*protection of aquatic ecosystem*];
  - (c) section 49 (3) (a);
  - (d) section 49 (3) (b);
  - (e) section 50 [*protection of other water users*].
- (3) The owner of a well being used under Part 5 [*Use of Deep Groundwater*] who does any of the following commits an offence:
- (a) diverts or uses deep groundwater under section 52 contrary to a condition set out in section 52 (2) (a) to (e);
  - (b) fails to terminate the diversion and use of deep groundwater when required under section 53 (2) (a) or (b).
- (4) A person who commits an offence under this section is liable on conviction to the penalties set out in section 106 (6) [*general offences*] of the Act.
- [am. B.C. Reg. 130/2017, s. 5.]

## PART 7 – TRANSITIONAL PROVISION

### Transition – groundwater licensing

- 55** (1) A person to whom section 140 (1) of the Act applies must apply on or before March 1, 2022 for an authorization authorizing the person's diversion and use of water from an aquifer.
- (2) Subject to this section, the Act and the regulations apply in relation to an application under subsection (1).
- (3) Despite section 12 (1) (b) (ii) [*application and decision maker initiative procedures*] of the Act, if an application under subsection (1) of this section is received on or before March 1, 2022, the applicant is exempt from the requirement to pay an application fee.
- (4) Applications under subsection (1) are exempt from section 15 (1) [*environmental flow needs*] of the Act.
- (5) For the purposes of section 22 (1) [*precedence of rights*] of the Act, the date set out in an authorization issued in relation to an application under subsection (1) of this section is to be the person's date of first use in relation to the diversion and use of water from the aquifer.
- [am. B.C. Regs. 94/2016, s. 5; 301/2016, s. (a); 238/2017, Sch. A, s. 1 (b); 27/2019, s. (b).]

- 56** Repealed. [B.C. Reg. 278/2019, s. 2.]

**SCHEDULE A****INDUSTRIAL WATER USE PURPOSES****Definitions**

- 1** (1) In this Schedule:
- “**fur farming**” has the same meaning as in the Fur Farm Regulation;
- “**game farm**” has the same meaning as in the Game Farm Regulation;
- “**recreational camp**” means a camp that provides one or more of the following:
- (a) recreational experiences;
  - (b) educational experiences;
  - (c) rehabilitative or therapeutic experiences for persons with disabilities or chronic or life-threatening illnesses;
  - (d) religious instruction;
  - (e) leadership training.
- (2) For the purposes of the definition of “domestic purpose” in section 2 [*water use purposes*] of the Act, “**garden**” includes lawn.

**Industrial Water Use Purposes**

<b>Item</b>	<b>Column 1 Water Uses Designated as Industrial Purposes</b>	<b>Column 2 Industrial Water Uses Defined</b>
1	Bulk shipment for marine transport	Transporting bulk water out of Canada by boat
2	Camps and public facilities	The diversion and use of water for the operation of <ul style="list-style-type: none"> <li>(a) a church, community hall, school, hospital or other public institution,</li> <li>(b) public facilities such as drinking fountains, washrooms or public water parks, or</li> <li>(c) public exhibition grounds, residential camps for workers or recreational camps,</li> </ul> but excluding public or commercial campgrounds, except campgrounds that are part of a recreational camp

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Item	Column 1 Water Uses Designated as Industrial Purposes	Column 2 Industrial Water Uses Defined
3	Commercial enterprise	The diversion and use of water (a) for the operation of apartment buildings, hotels, motels, restaurants, service stations, mobile home, trailer or manufactured home parks, public campgrounds, including campgrounds in public parks, and commercial campgrounds, other than campgrounds associated with recreational camps, marinas, commercial amusement parks, including water parks, or commercial enterprises, or (b) in a food and beverage processing plant
4	Cooling	The diversion and use of water for cooling purposes in any manufacturing, processing or industrial operation
5	Crop harvesting, protection and composting	The diversion and use of water to clean or wash crops, to prevent crops from reaching maturity or to delay maturation of crops, to protect crops or seedlings from frost, to harvest crops, such as cranberries or wild rice, by flooding or in agricultural vegetative waste composting operations
6	Fish hatchery	The use of water to produce fish eggs and to propagate fish by hatching fish eggs, rearing fry or sustaining brood stock under controlled conditions in a containment facility
7	Fresh water bottling	The diversion and use of water for the bottling, for commercial distribution, of fresh water, including the bottling of carbonated water and water fortified with vitamins, but not including mineralized water or fermented or other processed beverages
8	Greenhouse and nursery	The diversion and use of water in a facility for the indoor propagation of fruits, vegetables or other plants, or at a facility for the propagation of trees, plants or turf
9	Heat exchange	The diversion and use of water in industrial and commercial operations to extract or dissipate heat by passing water through an open loop system
10	Ice and snow making	The diversion and use of water for the commercial production of ice or for making snow or ice for a recreation facility or area

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Item	Column 1 Water Uses Designated as Industrial Purposes	Column 2 Industrial Water Uses Defined
11	Lawn, fairway and garden	The diversion and use of water for watering (a) a golf course, sports field, park or similar property, (b) a commercial lawn, (c) an ornamental garden that is not adjoining and occupied with a dwelling, and (d) the portion of an ornamental garden that is adjoining and occupied with a dwelling, which garden is larger than 1 000 m <sup>2</sup>
12	Livestock and animal	The diversion and use of water for drinking water and sanitation requirements in the operation or maintenance of a kennel, an animal shelter or boarding facility, a ranch or feedlot operation, or a game farm, dairy farm, pig farm or poultry farm, or a similar enterprise for rearing livestock
13	Miscellaneous industrial	The diversion of water to dewater a construction site, mine or similar excavation The diversion and use of water for a standby system for fire protection The use of a streambed for overburden disposal The diversion and use of water for driving, booming and storing logs or other timber products The clearing or excavation of a stream channel, including for river improvement The impoundment of water in a settling pond for sediment control
14	Pond and aquaculture	The diversion and use of water for floating logs, fur farming, fish farming or keeping fish for recreational purposes, but does not include a fish hatchery
15	Processing and manufacturing	The diversion and use of water for the operation of a sawmill, shipyard, factory or other manufacturing facility or for the operation of a wharf, and includes the use of water in a gravel washing plant or the use in an industrial context of water to prevent a fire
16	Pulp mill	The diversion and use of water in the production of pulp and paper products or in the operation and maintenance of a pulp mill



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Item	Column 1 Water Uses Designated as Industrial Purposes	Column 2 Industrial Water Uses Defined
17	Residential heat exchange	The diversion and use of water to extract or dissipate heat, by passing water through an open loop system, for one or more private dwellings, other than multi-family building, located on a single parcel
18	Swimming pool	The diversion and use of water for the operation and maintenance of a public or private swimming pool by a person who does not hold a licence for another industrial water use to which the swimming pool is incidental
19	Vehicle and equipment	The diversion and use of water to wash trucks, other vehicles or equipment, operate equipment to explore for, take samples of or quarry rock, or to cool the brakes on logging trucks or other vehicles
20	Waste management	The diversion and use of water for diluting or treating effluent and sewage, for the operation of a landfill or industrial composting facility or for the washing and cleaning of water intake screens
21	Well drilling and transportation or utility corridor management	The diversion and use of water for well drilling and for construction and maintenance of a transportation or utility corridors, including for (a) dust control, soil compaction, (b) bridge washing, (c) tunnelling, but not for mining, (d) pressure testing or cleaning a pipeline, (e) hydroseeding, and (f) pesticide or fertilizer application, other than through an irrigation system

**SCHEDULE B****SENSITIVE STREAMS****Black Creek**

The creek that flows northeast into Elma Bay on the Strait of Georgia, the mouth of the creek being at latitude 49°51'00", longitude 125°06'00";

**Chapman Creek**

The creek that flows southwest into the Strait of Georgia south of Sechelt, the mouth of the creek being at latitude 49°26'00", longitude 123°43'00";

**Englishman River**

The river that flows north into the Strait of Georgia east of Parksville, the mouth of the river being at latitude 49°20'00", longitude 124°17'00";

**French Creek**

The creek that flows northeast into the Strait of Georgia between Qualicum Beach and Parksville, the mouth of the creek being at latitude 49°21'00", longitude 124°21'00";

**Fulford Creek**

The creek that flows southeast into the head of Fulford Harbour on Saltspring Island, the mouth of the creek being at latitude 48°46'00", longitude 123°28'00";

**Goldstream River**

The river that flows southeast and north into the head of Finlayson Arm, the mouth of the river being at latitude 48°29'00", longitude 123°33'00";

**Kanaka Creek**

The creek that flows west into the Fraser River northwest of McMillan Island, the mouth of the creek being at latitude 49°12'00", longitude 122°35'00";

**Lang Creek**

The creek that flows south into Lang Bay on Malaspina Strait, the mouth of the creek being at latitude 49°47'00", longitude 124°22'00";

**Little Qualicum River**

The river that flows northeast and northwest into the Strait of Georgia west of Qualicum Beach, the mouth of the river being at latitude 49°22'00", longitude 124°30'00";

**Little River**

The river that flows east into the Strait of Georgia northwest of Kye Bay, the mouth of the river being at latitude 49°44'00", longitude 124°55'00";

**Nathan Creek**

The creek that flows north into the Fraser River south of the west end of Crescent Island, the mouth of the creek being at latitude 49°10'00", longitude 122°29'00";

**Salmon River**

The river that flows southeast into the Fraser River west of Eaglet Lake, the mouth of the river being at latitude 54°04'00", longitude 122°33'00";

**Silverdale Creek**

The creek that flows south into the Fraser River east of the Stave River, the mouth of the creek being at latitude 49°08'00", longitude 122°21'00";

**West Creek**

The creek that flows north into the Fraser River in the New Westminster Land District, the mouth of the creek being at latitude 49°10'00", longitude 122°32'00";

**Whonnock Creek**

The creek that flows south into the Fraser River west of the Stave River, the mouth of the creek being at latitude 49°10'00", longitude 122°28'00".