

Fact Sheet on Short Term Diversion Or Use of Surface Water for Drilling, Altering, Developing, Rehabilitating or Closing Wells

Background:

The *Water Act* prohibits* diverting or using water from a stream unless a person has:

- a written approval issued under section 8 of the Act, if the diversion or use is “short-term” (i.e., not exceeding 12 months), or
- a licence issued under section 12, if the diversion or use is 12 months or more.

(*Except for extinguishing a fire or for a domestic or mineral prospecting purpose.)

However, water well drillers have historically taken small volumes of surface water – in the range of 1-6 cubic meters a day (200 - 1,200 Imperial gallons per day), for one or two days - to assist in removing cuttings from the drill hole, flushing fine sediments from fractures in bedrock and controlling dust. While these diversions are low-risk and cause few problems, they contravened the *Water Act* and there were instances of drillers being charged.

What has changed?

A new “Part 8” has been added to the Water Regulation (*Water Act*). The new Part authorizes a qualified well driller (QWD), a qualified professional (QP), or a person supervised by a QWD or QP to withdraw relatively minor quantities of surface water – without a written approval or a licence under

the *Water Act* – for drilling, altering, developing, rehabilitating or closing a well, subject to conditions that:

- set limits on the amounts withdrawn and the frequency,
- prohibit diverting water from certain streams where in-stream flow is explicitly protected by means of a designation, order or reserve (see links below), and
- protect the environment and the interests of other water users.

More specifically, these “flow-protected” streams are

- “[sensitive streams](#)” designated under the *Fish Protection Act*
- streams subject to a temporary reduction order under the *Fish Protection Act* (Contact your local Regional Water Stewardship Office to protect fish during a drought, or
- streams subject to certain types of water reservations made under the *Water Act*. See [list and maps](#) .

A copy of the Water Regulation may be found at: [Water Regulation](#)

Does this mean that approvals for short term use of water and water licences have been eliminated?

No. The new provisions set out conditions where an approval or licence is not required. In other situations not covered by the new provisions, an approval or licence must still be obtained. Furthermore, if a Ministry of Environment engineer under the *Water Act* is of the opinion that a diversion or use of water from a stream may have a significant detrimental impact on the stream, then the engineer may require an application for an approval or licence.

- When surface water is diverted or used in compliance with Part 8, the person must also: provincial or municipal enactment, and
- obtain the approval of any relevant land owner (the Crown or a private party) before proceeding with the diversion.

What safeguards are in place to protect streams?

The new Part 8 sets out limits on the amounts of water that may be withdrawn. The person must not:

- divert more than 11 cubic metres (2,400 Imperial gallons) a day from a stream,
- use the same point of diversion for more than 5 successive days, or
- divert water from the same stream for more than 10 days in any period of 30 days.

There are also provisions that prohibit diverting water from “sensitive areas” such as

- swamps,
- streams within park boundaries,
- streams legally designated as “sensitive”, or streams subject to a temporary reduction order under the [Fish Protection Act](#),

- “minor water bodies” (streams < 5m wide and lakes < 1 ha in area), and
- streams that are subject to a reserve that is intended to maintain in-stream flow, is for a conservation purpose, or is in favour of a treaty First Nation (other than for power purpose) to implement a final agreement. See: [\[list and maps\]](#).

In addition, section 5 of the *Ecological Reserves Act* and section 9(6.1) of the *Park Act* state that water cannot be taken from an ecological reserve or a conservancy.

Helpful links in finding ecological reserves and conservancies include the following sites: [IMap](#) [Internet Mapping Tutorials](#) [GeoBC portal](#) [BC Water Resources Atlas](#)

Additional provisions protect the environment and other water users by:

- requiring that the water intake line be screened or modified to prevent pumping of fish, other organisms, or gravel,
- prohibiting disposal of unused water into a sewer system or into a stream other than the stream from which it came to prevent transfer of foreign aquatic species to another stream, or in a manner that causes environmental or property damage,
- requiring that any disturbance of the stream channel or stable natural materials and vegetation in and about the stream is minimized when gaining access to water from the stream, and
- prohibiting installation of any permanent or semi-permanent works in the stream channel itself.

What types of wells are affected by this regulatory change?

The new Part 8 applies to water diverted and used for water supply wells, monitoring wells, recharge and injection wells, dewatering wells, remediation wells, and geotechnical wells.

This regulatory change **does not apply** to water diverted and used for wells that are regulated under the *Petroleum and Natural Gas Act*, the *Geothermal Resources Act*, or the *Mines Act*.

How are other users of the stream protected?

A person (i.e. a QWD, QP or a person supervised by a QWD or QP) who diverts or uses water from a stream under the new Part 8 must ensure that other lawful users are not adversely affected.

Will there be any fees or rentals charged for the diversion of water for short term use by water well drillers?

No, not if the diversion is in accordance with Part 8 of the Water Regulation. There are fees, however, for written water approvals and licences, or when a Ministry of Environment Engineer under the *Water Act* requires an application for an approval or licence.

What if I want to take more water than that allowed under the safeguards, or if I still want to take water from a sensitive “area” or “stream”?

Then you must seek an approval from the appropriate Regional Water Stewardship Office just as you should have before this new “Part 8” was added to the Water Regulation (*Water Act*).

Contact information for the Regional Water Stewardship Office nearest the source of water in question may be found at:

[Contacts Water Stewardship Division](#)

Who is affected by the new Part 8 of the Water Regulation?

The new provisions apply only to persons responsible for well drilling who are regulated under the *Water Act* and Ground Water Protection Regulation. They do not apply to drillers drilling wells regulated under the *Petroleum and Natural Gas Act*, the *Geothermal Resources Act*, or the *Mines Act*. For example, the provisions do not apply to drillers involved in oil and gas production – those drillers still require a written approval since their activities typically require much more water.