

Legislation Related to the Protection of Drinking Water

The **Drinking Water Protection Act** (DWPA) and **Regulation** (DWPR) outline requirements and responsibilities of water suppliers and anyone who may impact a drinking water supply. Oversight is provided by Drinking Water Officers (DWO). For a summary of water supplier responsibilities under this legislation, see ‘What is a Water Supplier Required to Do?’

The DWPA states (section 2) that the authority provided is in addition to and does not restrict authority provided by or under any other enactment that may be used to protect drinking water.

DWOs work cooperatively with other government agencies where there may be overlap in authority and/or responsibility. Authority under the DWPA will not be used solely to facilitate compliance with other legislation; however, information may be shared in accordance with the Freedom of Information and Protection of Privacy Act. In turn, there may be some reference by DWOs to the work of other agencies where appropriate and to the extent that this supports the protection of drinking water. An inter-agency Memorandum of Understanding exists to guide this process, and is available at:

http://www.healthservices.gov.bc.ca/protect/pdf/drinking_water_protection.pdf

Though not an exhaustive list, the following list indicates other legislation related to the protection of drinking water in British Columbia.

Health Hazard Regulation (Under the Public Health Act)

- Specifies where wells may be located with respect to potential sources of contamination, as follows:

Wells installed on or after July 20, 1917 must meet the following:

- at least 30 m from any probable source of contamination
- at least 6 m from any private dwelling, and
- unless contamination of the well would be impossible because of the physical conformation, 120 m from any cemetery or dumping ground.

Anyone in control of a well installed before July 20, 1917 must

- Remove any source of contamination within the distances set out above, or
- Close the well in accordance with the Ground Water Protection Regulation (section 6), except wells within 6 m of a private dwelling if otherwise meeting setback requirements unless it can be shown that the well should be closed for another reason.

- Prescribes any well not meeting the above requirements as a health hazard

Water Act:

- Governs licensing of surface water in BC
- Establishes Comptroller of Water Rights and regional managers to oversee regulation of water use and water works
- Provides guidance on well drilling, well operation, well capping, surface seals, well head protection, prohibition on allowing introduction of foreign matter, and well deactivation and closing (administered by Ministry of Environment (MOE).
- Enables DWOs to request and receive information regarding well driller and pump installer qualifications, well reports and well water analyses (sections 71-73)
- Provides for establishment of water management plans (similar to drinking water protection plans under DWPA - plans to be developed under both acts for a given area can be developed jointly.)
- Enables Cabinet to make regulations to apply licensing provisions of the *Water Act* to ground water in specified areas.

Note: The **DWPA** and the *Water Act* complement each other: compliance with one does not mean compliance with the other as separate approvals, permits etc apply. Also, a water license may specify water works attached to that license, so changes to the water works may require amendments to the water license.

Further information: http://www.env.gov.bc.ca/wsd/water_rights/licence_application/index.html

Water Utility Act

- Defines water utility as a person providing water to 5 or more people (or an alternate specified number) unless certain conditions apply (listed in legislation).
- Provides that a “water utility” is subject to the control and regulation of the Comptroller of Water Rights under the *Water Act*.
- Requires Certificate of Public Convenience and Necessity through the Comptroller of Water Rights before a water utility can only be established
- Does not authorize DWOs to take any action, but officials responsible for regulation of water utilities may consult with DWOs in the exercise of their regulatory responsibilities.

Further information: http://www.env.gov.bc.ca/wsd/water_rights/water_utilities/index.html

Water Protection Act

- Restricts the removal of bulk water from British Columbia and the large scale transfer of water between watersheds.

Further Information: http://www.env.gov.bc.ca/wsd/water_rights/water_act_info/

Subdivision Regulation (Under the Local Services Act)

- The Lieutenant Governor in Council may establish areas not incorporated as a city, town, village or district municipality as a local area to which this act applies. (Any powers exercisable by council or regional district board may then be exercised by the Minister for the established area).
- Regardless of parcel size, assurance of an adequate supply of potable water suitable for the proposed land use is required (Guide to Rural Subdivision Approvals, 2.3.1.01)
- Where a community water system is to be installed in a subdivision, a supply of potable water adequate to serve the subdivision shall be proven before the subdivision is approved (4.11).
- Before the subdivision is approved, the water supply system must be installed as approved (4.09(2)), or at the very least plans for the water supply system must be approved and certain other conditions must be met (4.09(3)).

Further Information: http://www.th.gov.bc.ca/DA/Subdivision_Home.asp (general)
<http://www.th.gov.bc.ca/da/manual1/SubdivisionManual.pdf> (Guide)

Environmental Management Act

- Replaced the *Waste Management Act*
- Regulates waste discharge and pollution prevention in British Columbia.
- Provides no powers to DWOs, but may require/facilitate relationships with officials implementing this Act.
- Allows for the establishment of area based plans similar to drinking water protection plans (under DWPA), and water management plans (under Water Act).
- Allows that area based plans may be coordinated with plans under other legislation as appropriate.
- Includes other regulations with relevance to drinking water protection (i.e. contaminated sites, animal waste control, organic matter recycling)

Further information: <http://www.env.gov.bc.ca/epd/main/ema.htm>

Forest and Range Practices Act and Regulation

- Sets out stewardship and protection measures respecting forestry and range practices
- Enables the Lieutenant Governor in Council to make regulations allowing for:
 - Designation of areas and establishment of water quality objectives for community watersheds (Act section 150).
 - Designation of areas and establishment of objectives in watersheds with significant downstream fisheries values and significant watershed sensitivity (Act section 150.1)
 - Designation of areas as lakeshore management zones, and establishment of objectives for those zones (Act section 150.2)
 - Classification of streams, wetlands and lakes, and regulation of riparian zones (Act section 150.5)

- Unless a specific exemption has been granted by the minister (Regulation section 91(1)), an authorized person who carries out a primary forest activity must ensure that:
 - the activity does not cause material harmful to human health to be deposited in or transported to water diverted for human consumption by licensed waterworks (Regulation section 59)
 - the activity does not damage a licensed waterworks
 - timber is not harvested and road construction not undertaken within a community watershed within 100m radius upslope of a licensed waterworks where water is diverted for human consumption unless there will be no increase in sediment delivery to the intake (Regulation section 60(1))

Notes:

1. Other relevant provisions under this act may be found in the Woodlot License Planning and Practices Regulation and the Government Actions Regulation.
2. “licensed waterworks” are water supply intakes or water storage and delivery infrastructure licensed under the *Water Act* or authorized under an operating permit under the *DWPA*

All provincial legislation is available through www.bclaws.ca, with specific links as follows:

Drinking Water Protection Act and Regulation

www.bclaws.ca/Recon/document/ID/freeside/00_01009_01 (*Act*)

www.bclaws.ca/EPLibraries/bclaws_new/document/ID/.../200_2003 (*Regulation*)

Health Hazard Regulation (*under the Public Health Act*)

www.bclaws.ca/EPLibraries/bclaws_new/document/ID/.../216_2011

Water Act

www.bclaws.ca/EPLibraries/bclaws_new/document/.../00_96483_01

Water Protection Act

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96484_01#section4

Water Utility Act

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96485_01

Subdivision Regulation (*under the Local Services Act*)

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/262_70#section4.11

Environmental Management Act

www.bclaws.ca/Recon/document/ID/freeside/03053_01

Forest and Range Practices Act and Regulation

www.bclaws.ca/Recon/document/ID/freeside/00_02069_01 (*Act*)

www.bclaws.ca/Recon/document/ID/freeside/14_2004 (*Regulation*)

Freedom of Information and Protection of Privacy Act

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00