



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **WATER ACT**

## **WATER WITHDRAWAL REGULATIONS**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to June 11, 2022. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## WATER WITHDRAWAL REGULATIONS

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**WATER ACT**  
**CHAPTER W-1.1**

**WATER WITHDRAWAL REGULATIONS**

Pursuant to section 76 of the *Water Act* R.S.P.E.I. 1988, Cap. W-1.1, Council made the following regulations:

**INTERPRETATION**

**1. Definitions**

- (1) In these regulations
- (a) “**Act**” means the *Water Act* R.S.P.E.I. 1988, Cap. W-1.1;
  - (a.1) “**drought contingency plan**” means a plan for reducing water use during extreme drought conditions;
  - (b) “**geothermal well**” means a well made for geothermal purposes only;
  - (c) “**groundwater exploration permit**” means a valid and current permit issued pursuant to section 2;
  - (d) “**high capacity well**” means a well that is or is designed to be pumped at a rate of 345 cubic metres per day or more, except where otherwise provided;
  - (e) “**low capacity well**” means a well that is or is designed to be pumped at a rate greater than 25 cubic metres per day but less than 345 cubic metres per day;
  - (f) “**open-loop system**” means an earth energy system designed to use groundwater or surface water for the purpose of extracting or rejecting heat by use of a liquid-source heat pump;
  - (g) “**return well**” means a well that, as part of an open-loop system, accepts discharge water and returns it to the aquifer from which it was withdrawn;
  - (h) “**water withdrawal permit**” means a valid and current permit issued pursuant to section 5.

**Irrigation does not include research**

- (2) In these regulations, a reference to the drilling, construction or reconstruction of, or the withdrawal of water from, a high capacity well for the purpose of irrigation, does not include the drilling, construction or reconstruction of, or the withdrawal of water from, a high capacity well for the purpose of research approved by the Minister in respect of irrigation.

**Diversion not considered withdrawal**

- (3) For greater certainty, the diversion of water within a watercourse or wetland for the purpose of maintaining a dewatered work area located in whole or in part in the watercourse or wetland is not considered to be a withdrawal of water from a watercourse or wetland.  
(EC506/21; 452/22)

**GROUNDWATER EXPLORATION PERMIT**

**2. Groundwater exploration permit required, high capacity well or water supply system**

- (1) For the purpose of section 48 of the Act, a person may undertake the drilling, construction or reconstruction of a high capacity well or a well that supplies or is designed to supply water to a water supply system, if the person holds a groundwater exploration permit.

**Application for groundwater exploration permit**

- (2) The owner of the land on which a high capacity well or a well that supplies or is designed to supply water to a water supply system is to be drilled, constructed or reconstructed, or a person who has the written permission of the owner, may apply to the Minister for a groundwater exploration permit.

**Issuance of groundwater exploration permit**

- (3) On receipt of an application in the form required by the Minister and any fee required in the Schedule to these regulations, the Minister may issue a groundwater exploration permit to the applicant if the Minister is satisfied that the drilling, construction or reconstruction of the well
- (a) will not have an unacceptable adverse effect; and
  - (b) is consistent with the policies and objectives of the Minister with respect to managing and conserving water resources in the watershed in which the well is or is to be located.

**Factors determining unacceptable adverse effect**

- (4) In determining whether the drilling, construction or reconstruction of the well will have an unacceptable adverse effect, the Minister shall consider the following factors in respect of the watershed in which the well is or is proposed to be located,
- (a) the availability of water in the watershed;
  - (b) the proximity of the well to other wells, watercourses and wetlands in the watershed; and
  - (c) the potential impact of the well on the watershed and on other wells, watercourses and wetlands in the watershed.

**No permit for agricultural irrigation purposes**

- (5) Revoked by EC452/22.

**Purpose of groundwater exploration permit**

- (6) A groundwater exploration permit authorizes the permit holder to drill, construct or reconstruct a high capacity well or a well that supplies or is designed to supply water to a water supply system to explore its viability and the possible effects of the withdrawal of water from the well on water resources and related aspects of human or animal health or on an aquatic ecosystem.



**Validity period**

- (7) A groundwater exploration permit shall be valid for a period of one year from the date of issuance, unless sooner revoked.

**Extension of validity**

- (8) Where activities authorized under a groundwater exploration permit have commenced but have not been completed before the expiry of the permit, the holder of the permit may apply to the Minister, in the form required by the Minister and accompanied by any fee required in the Schedule to these regulations, to extend the permit for a period of up to one year.

**No second extension**

- (9) A groundwater exploration permit shall not be extended more than once.

**Requirement to submit data, reports, other information**

- (10) The holder of a groundwater exploration permit shall ensure that a copy of all data, reports and other information obtained pursuant to an activity conducted under the permit are submitted to the Minister within 30 days of the completion of the activity. (EC506/21; 452/22)

**WATER WITHDRAWAL PERMIT****3. Prohibition, withdrawal to supply water supply system**

No person shall withdraw water from a well, watercourse or wetland for the purpose of supplying water to a water supply system unless the person holds a water withdrawal permit. (EC506/21)

**4. Water withdrawal permit required, > 25 m<sup>3</sup>/day**

- (1) For the purpose of section 40 of the Act, a person may withdraw water from a well, watercourse or wetland at a rate that exceeds 25 cubic metres per day, if the person holds a water withdrawal permit.

**Rate of withdrawal, multiple sources**

- (2) For the purpose of subsection (1), where a person withdraws water from more than one well, watercourse location or wetland location, or from a combination of these and
- (a) the water is directed to a single water supply or water storage structure, such as a water transmission line or a holding pond;
  - (b) in the case of multiple wells, the wells are within a radius of 15 metres of each other; or
  - (c) the effect of the water withdrawal on groundwater is similar to that which would occur as a result of withdrawal from a single well,
- the total water withdrawn by the person from all of these sources shall be included in calculating the rate of withdrawal per day from each source.

**Exception, geothermal well**

- (3) Notwithstanding subsection (1), a water withdrawal permit is not required to withdraw water from a geothermal well that forms part of an open-loop system, provided that
- (a) the difference between the rate at which water is withdrawn from the well and the rate at which water is returned to a return well in the system is 25 cubic metres per day or less; and

- (b) the maximum rate at which water is withdrawn from the well is less than 345 cubic metres per day.

**Exception, fire suppression**

- (4) Notwithstanding subsection (1), a water withdrawal permit is not required to withdraw water from a watercourse or wetland at a rate that exceeds 25 cubic metres per day for the purpose of fire suppression.

**Exception, permit not required for certain uses**

- (5) Notwithstanding subsection (1), but subject to subsection (6), a water withdrawal permit is not required to withdraw water from a well, watercourse or wetland at a rate that exceeds 25 cubic metres per day for any of the following purposes:
- (a) to fill a swimming pool not exceeding 100 cubic metres in volume;
  - (b) to fill a mobile container for use in the application of crop protectants;
  - (c) to fill a mobile container for use in dust suppression or similar activities on roads;
  - (d) to remediate contaminated water, as part of a remedial action plan approved by the Minister under the *Environmental Protection Act* Petroleum Hydrocarbon Remediation Regulations (EC655/06).

**Exception does not apply**

- (6) A person shall not withdraw water from a watercourse at a rate that exceeds 25 cubic metres per day for a purpose described in subsection (5) without a permit where the minimum width of the water in the watercourse at the time and location of the withdrawal is less than one metre. (EC506/21)

**5. Application for water withdrawal permit**

- (1) The owner of land adjacent to a watercourse or on which a well or wetland is located, or a person with the written permission of the owner, may apply to the Minister for a water withdrawal permit to withdraw water from the well, watercourse or wetland.

**Minister may require tests, data, information or plan**

- (2) The Minister may require an applicant to do any of the following in support of an application:
- (a) conduct tests, collect data or obtain information;
  - (b) submit test results, data or information to the Minister;
  - (c) submit a drought contingency plan, acceptable to the Minister.

**Issuance of water withdrawal permit**

- (3) On receipt of an application in the form required by the Minister and any fee required in the Schedule to these regulations, and on compliance with any requirements under subsection (2), the Minister may issue a water withdrawal permit to the applicant if the Minister is satisfied that the withdrawal of water from the well, watercourse or wetland for the purpose of supplying a water supply system or at a rate that exceeds 25 cubic metres per day, as the case may be,
- (a) will not have an unacceptable adverse effect; and
  - (b) is consistent with the policies and objectives of the Minister with respect to managing and conserving water resources in the watershed in which the well, watercourse or wetland is located.



**Factors determining unacceptable adverse effect**

- (4) In determining whether the withdrawal of water will have an unacceptable adverse effect, the Minister shall consider the following factors:
- (a) in respect of the watershed in which the well, watercourse or wetland is located and adjacent watersheds,
    - (i) the cumulative effect on the watersheds of the withdrawal of water from all sources within the watershed,
    - (ii) the potential effect of the withdrawal of the water on the aquatic ecosystems in the watersheds,
    - (iii) the sufficiency of water available to support the withdrawal of water from the watershed under existing permits and the permit under application,
    - (iv) the potential effect of the withdrawal of the water on other users of water in the watersheds, and
    - (v) the potential effect of the withdrawal of the water on water flow in any watercourse or wetland within the watersheds;
  - (b) where the well, watershed or wetland is located in a water management area, the contents of any plan for the water management area;
  - (c) where the well, watershed or wetland is located in a coastal area, the potential effect of the withdrawal of the water on salt water intrusion, and the potential effect of changes in salt water intrusion on other users of water in the coastal area.

**Unacceptable adverse effect**

- (5) Notwithstanding subsection (4), the withdrawal of water is considered to have an unacceptable adverse effect where
- (a) the cumulative effect on a watershed of the withdrawal of water from all sources within the watershed results in the reduction of water flow in any watercourse or wetland in the watershed by an amount greater than the amount equal to 35% of the mean base flow in the watercourse or wetland during August and September; or
  - (b) the cumulative amount of water withdrawn from a watercourse or wetland from a particular location and upstream of that location exceeds the amount equal to the difference between the monthly 70% flow duration and 70% of the median monthly flow in the watercourse or wetland, as the case may be.

**Priority of uses**

- (6) Where there is insufficient water in a watershed to permit the withdrawal of water for all purposes and meet the environmental flow needs of the aquatic environment in the watershed, the Minister shall prioritize the purposes for which water may be withdrawn from the watershed in descending order as follows:
- (a) fire suppression;
  - (b) domestic water use by individual household wells or through municipal water supply systems;
  - (c) industrial, commercial or other water uses prioritized based on the degree to which the use serves the public interest.

**No permit for agricultural irrigation purposes**

- (7) A water withdrawal permit issued for the withdrawal of water from a high capacity well for the purpose of irrigation is subject to the term and condition that the irrigation is conducted in accordance with an irrigation strategy approved by the Minister.

**Well considered high capacity**

- (8) In subsection (7), a high capacity well includes a well deemed to have a water withdrawal rate of 345 cubic metres or more per day under subsection 4(2). (EC506/21; 452/22)

**6. Terms of permit**

- (1) A water withdrawal permit shall state in respect of the withdrawal of water under the permit
- (a) the maximum rate at which the water may be withdrawn;
  - (b) the maximum amount of water that may be withdrawn within a specified period; and
  - (c) the purpose for which the water may be withdrawn.

**Prohibition, withdrawal contrary to permit**

- (2) No holder of a water withdrawal permit shall withdraw water from the well, watercourse or wetland covered by the permit at a rate, in an amount or for a purpose not authorized by the permit.

**Prohibition, withdrawal when low water flow**

- (3) Notwithstanding the terms of a water withdrawal permit, no holder of a water withdrawal permit shall withdraw water from the watercourse or wetland covered by the permit when the water flow in the watercourse or wetland is below the amount equal to 70% of the median monthly flow in the watercourse or wetland, as the case may be, except where the watercourse or wetland contains a pond located at the head of tide.

**Terms and conditions**

- (3.1) A water withdrawal permit shall state any terms and conditions imposed on it by the Minister pursuant to section 10 of the Act, including any requirements in respect of testing, monitoring and reporting.

**Validity of water withdrawal permits**

- (4) A water withdrawal permit may be valid for a period of up to five years and expires on the date stated on the permit, unless the Minister sooner revokes the permit or it becomes invalid under subsection (5).

**Water withdrawal permit ceases to be valid**

- (5) A water withdrawal permit ceases to be valid when, in respect of the land adjacent to the watercourse or on which the well or wetland is located from which water is being withdrawn under the permit,
- (a) there is a change in ownership of the land; or
  - (b) where the holder of the permit is not the owner of the land, the owner of the land rescinds his or her permission, in writing, for the holder of the permit to withdraw water from the well, watercourse or wetland. (EC506/21; 452/22)

**7. Data to be provided on request**

The holder of a water withdrawal permit shall provide data collected from any flow measuring device or water level measuring device, or data respecting the calibration of these devices, as required by the Minister.



**8. Application to renew water withdrawal permit**

- (1) The holder of a water withdrawal permit may apply to the Minister, within the 60 days preceding or following the expiry of the permit, to renew the permit.

**Minister may require tests, data, information or plan**

- (2) The Minister may require an applicant to do any of the following in support of an application:
- (a) conduct tests, collect data or obtain information;
  - (b) submit test results, data or information to the Minister;
  - (c) submit a drought contingency plan, acceptable to the Minister.

**Requirements for renewal**

- (3) On receipt of an application in the form required by the Minister and any fee required in the Schedule to these regulations, and on compliance with any requirements under subsection (2), the Minister may renew a water withdrawal permit if the Minister is satisfied that the continued withdrawal of water from the well, watercourse or wetland, as the case may be, up to the same maximum rate and amount and for the same purpose
- (a) will not have an unacceptable adverse effect; and
  - (b) is consistent with the policies and objectives of the Minister with respect to managing and conserving water resources in the watershed in which the well, watercourse or wetland is located,
- and subsections 5(4) to (8) apply, with any necessary changes. (EC506/21; 452/22)

**9. Application to amend water withdrawal permit**

- (1) The holder of a water withdrawal permit may apply to the Minister to amend the permit with respect to the maximum rate at which water may be withdrawn, the maximum amount of water that may be withdrawn within a specified period or the purpose for which the water may be withdrawn under the permit.

**Minister may require tests, data, information or plan**

- (2) The Minister may require an applicant to do any of the following in support of an application:
- (a) conduct tests, collect data or obtain information;
  - (b) submit test results, data or information to the Minister;
  - (c) submit a drought contingency plan, acceptable to the Minister.

**Requirements for amendment**

- (3) On receipt of an application in the form required by the Minister and any fee required in the Schedule to these regulations, and on compliance with any requirements under subsection (2), the Minister may amend a water withdrawal permit if the Minister is satisfied that the withdrawal of water from the well, watercourse or wetland at the requested maximum rate, in the requested maximum amount or for the requested purpose
- (a) will not have an unacceptable adverse effect; and
  - (b) is consistent with the policies and objectives of the Minister with respect to managing and conserving water resources in the watershed in which the well, watercourse or wetland is located,
- and subsections 5(4) to (8) apply with any necessary changes.

- (4) Revoked by EC452/22.

- (5) Revoked by EC452/22. (EC506/21; 452/22)

**10. Application to transfer water withdrawal permit**

- (1) The holder of a water withdrawal permit may apply to the Minister to transfer the permit to the owner of the land adjacent to the watercourse or on which the well or wetland is located from which water may be withdrawn under the permit, or to a person with the written permission of the owner of the land.

**Requirements for transfer**

- (2) On receipt of an application from the holder of the water withdrawal permit, in the form required by the Minister, and any fee required in the Schedule to these regulations, the Minister may transfer the water withdrawal permit if the transferee undertakes, in writing, to accept the transfer and abide by the terms and conditions of the permit.

**Terms and conditions remain the same**

- (3) For greater certainty, on transfer, the terms and conditions of a permit, including the expiry date, remain as they were immediately before the transfer unless altered by the Minister. (EC506/21)

**GENERAL**

**11. Service of notice and reasons for decision**

- (1) For the purpose of subsections 6(7), 10(2) and 12(2) of the Act, the notice of and reasons for a decision of the Minister made under these regulations in respect of a groundwater exploration permit or water withdrawal permit shall be served on the applicant or holder of the permit, as the case may be, within 14 days of the decision, in a manner set out in clauses 67(2)(a) to (d) of the Act.

**Right to appeal**

- (2) For the purpose of section 68 of the Act, an applicant for or the holder of a groundwater exploration permit or water withdrawal permit has a right to appeal a decision of the Minister made under the Act or these regulations in respect of the permit. (EC506/21)

**12. Transitional**

Where water is being withdrawn from a well, watercourse or wetland pursuant to an authorization continued under subsection 77(5) of the Act and, in the opinion of the Minister, the withdrawal contravenes or does not comply with the Act, these regulations or the policies and objectives of the Minister with respect to managing and conserving water resources, the Minister may require the holder of the authorization to submit a plan indicating how the holder will bring the water withdrawal into compliance on the expiry of the authorization or five years after the date subsection 77(5) of the Act came into force, whichever occurs first. (EC506/21)



**SCHEDULE****FEEs**

1. The fee payable for an activity in column A in the table below is set out in column B of the table, adjacent to the activity.

<b>Column A</b>	<b>Column B 5-year Fee (\$)</b>
1. Groundwater exploration permit	50
2. Groundwater exploration permit extension	25
3. Water withdrawal permit - well < 25 m <sup>3</sup> /day supplying water supply system	50
4. Water withdrawal permit renewal or amendment – well < 25 m <sup>3</sup> /day supplying water supply system	25
5. Water withdrawal permit – low capacity well	100
6. Water withdrawal permit renewal or amendment – low capacity well	50
7. Water withdrawal permit – high capacity well ≤ 1,000,000 m <sup>3</sup> /yr	2,000
8. Water withdrawal permit renewal or amendment – high capacity well ≤ 1,000,000 m <sup>3</sup> /yr	1,000
9. Water withdrawal permit – high capacity well > 1,000,000 m <sup>3</sup> /yr	3,000
10. Water withdrawal permit renewal or amendment – high capacity well > 1,000,000 m <sup>3</sup> /yr	1,500
11. Water withdrawal permit – watercourse or wetland	2,000
12. Water withdrawal permit renewal or amendment– watercourse or wetland	1,000
13. Water withdrawal permit transfer	25

2. A fee for the issuance or renewal of a water withdrawal permit may be pro-rated for permits valid for less than 5 years.

(EC506/21)