

The Water Power Regulations

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[Chapter W-6 Reg 3](#) (effective November 24, 2016).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER W-6 REG 3

The Water Power Act

Title

- 1 These regulations may be cited as *The Water Power Regulations*.

Interpretation

- 2 In these regulations:

“**Act**” means *The Water Power Act*;

“**applicant**” means any person or corporation that has filed an application for a licence pursuant to these regulations;

“**divert**” includes to take, remove or impound water for the purposes of generating water power;

“**licence**” means a licence issued or continued pursuant to these regulations authorizing an applicant to do any or all of the following:

- (a) construct, extend or alter water power works;
- (b) commission water power works;
- (c) operate water power works;
- (d) use the water power identified by the corporation;

“**licensee**” means the holder of a licence;

“**operating plan**” means a plan setting out how the water power works are to be operated, including how the water power works will be operated during the following:

- (a) all anticipated hydrological conditions;
- (b) normal operating conditions;
- (c) unusual operating conditions;
- (d) emergency operating conditions;
- (e) planned and unplanned shut downs;

“**waterbody**” or “**watercourse**” includes any river, stream, lake, creek, spring, ravine, coulee, canyon, lagoon, swamp, marsh or other body or course of standing or flowing water;

“**water power works**” means any physical structure or apparatus, including any device, equipment, appliance or appurtenance, that is:

- (a) authorized or required to be constructed, maintained or operated by an applicant or licensee; and
- (b) required for the diversion, use, or storage of water for water power.

Licence required

3 No person shall do any of the following without a licence:

- (a) commence the construction, extension, alteration, commissioning or operation of water power works;
- (b) continue to operate water power works in existence on or before the coming into force of these regulations;
- (c) use the water power produced or generated by water power works.

2 Dec 2016 cW-6 Reg 3 s3.

Application for licence

4(1) Every applicant for a licence shall submit to the corporation an application in a form and manner satisfactory to the corporation, including any certification by an expert satisfactory to the corporation, that the corporation may require.

(2) An application mentioned in subsection (1) must contain the following information:

- (a) the name and address of the applicant;
- (b) the name or a clear description of the waterbody or watercourse from which the water for use in developing water power is to be diverted or used;
- (c) the place where the water is to be diverted from or in the waterbody or watercourse;
- (d) the place where the water is to be returned or released;
- (e) the maximum quantity of water, expressed in cubic metres per second, that is estimated will be ultimately diverted or used pursuant to the licence;
- (f) a list of all principal water power works constructed or to be constructed, including dams, weirs, tailraces, flumes, penstocks, canals, tunnels, pipelines and other water conduits and power stations;
- (g) a list of:
 - (i) all neighbouring works or structures completed or in the course of construction, both upstream and downstream of the place of the proposed diversion, for diverting or using water for any purpose from the same source of supply;
 - (ii) the approximate distance and direction of each of the neighbouring works mentioned in subclause (i) from the proposed water power works; and
 - (iii) the names and location of any other works or structures, including bridges, railways and canals, that might affect or be affected by the construction, maintenance or operation of the proposed water power works;

- (h) the approximate historical, current and projected flow rate in cubic metres per second, at or near the place of diversion or use of the waterbody or watercourse from which the water is to be diverted at high, medium and low water stages respectively;
 - (i) an operating plan;
 - (j) in the case of an application for a licence to commence the construction, extension, alteration or operation of water power works:
 - (i) a list of all land control necessary for each of the following stages:
 - (A) construction, extension or alteration of the water power works;
 - (B) commissioning of the water power works;
 - (C) operation of the water power works;
 - (ii) a statutory declaration in a form specified by the corporation stating that all necessary land control will be obtained before the commencement of each stage mentioned in subclause (i); and
 - (iii) plans for the proposed construction of the water power works;
 - (k) in the case of an application for a licence to continue to operate water power works in existence on or before the coming into force of these regulations:
 - (i) a summary of all land control necessary for the operation of the water power works;
 - (ii) a statutory declaration in a form specified by the corporation stating that all land control mentioned in subclause (i) has been acquired; and
 - (iii) plans for the constructed water power works;
 - (l) any other information or material that the corporation may reasonably require.
- (3) All elevations given in connection with the plans or other information submitted by an applicant pursuant to subsection (2) must be specified in a manner satisfactory to the corporation.

Review of application for licence

5 On receipt of an application for a licence, the corporation shall consider the following factors:

- (a) the current and future impact of the water power works, including predicted future cumulative impacts, on:
 - (i) the property and property rights of other persons or entities existing at the date of the application;
 - (ii) hydrology or water quality; and
 - (iii) any other factor the corporation considers relevant;
- (b) whether the impacts mentioned in clause (a) can be mitigated by the applicant;
- (c) any other matter with respect to water management that the corporation considers reasonably relevant.

2 Dec 2016 cW-6 Reg 3 s5.

Issuance of licence

6(1) Subject to section 10, after consideration of the factors mentioned in section 5, the corporation may:

- (a) issue a licence subject to any terms and conditions that the corporation considers appropriate, including:
 - (i) requiring measures to be taken to mitigate current and future impacts of the water power works;
 - (ii) requiring installation of accurate meters, measuring weirs, gauges or other devices that, in the corporation's opinion, are adequate for determining:
 - (A) the amount of water used or water power generated in the operation of the water power works;
 - (B) the flow of the waterbody or watercourse from which water is or will be diverted for the generation of water power; and
 - (C) the water rental payable to the corporation as calculated in accordance with *The Water Power Rental Regulations*;
 - (iii) fixing the date by which:
 - (A) the installations mentioned in subclause (ii) must commence and be completed; and
 - (B) the reporting of information collected from the measuring devices mentioned in subclause (ii) is to be submitted to the corporation;

- (iv) in the case of an application for a licence to commence the construction, extension, alteration, commissioning or operation of water power works:
- (A) fixing the date by which the construction of the water power works must commence and the date by which the water power works are to be completed;
 - (B) subject to subsection (2), fixing the date by which the commissioning of the water power works is to be completed;
 - (C) subject to subsection (3), fixing the date by which:
 - (I) the water power works are to be fully operational; and
 - (II) the applicant must provide the plans of the constructed water power works mentioned in subclause 4(2)(j)(iii) or a declaration stating that the water power works were constructed in accordance with the original plans submitted with the application;
- (b) subject to section 11, refuse to issue the licence if the corporation is satisfied that:
- (i) the applicant has not complied with these regulations;
 - (ii) the applicant has provided incomplete, false, misleading or inaccurate information in support of the application; or
 - (iii) having regard to the factors mentioned in section 5, issuing the licence is not appropriate or in the public interest.
- (2) The date fixed by the corporation pursuant to paragraph (1)(a)(iv)(B) must not be later than two years after the date of completion of the construction.
- (3) The dates fixed by the corporation pursuant to subparagraphs (1)(a)(iv)(C)(I) and (II) must not be later than two years after the date of completion of the commissioning.

2 Dec 2016 cW-6 Reg 3 s6.

Amendment, suspension or cancellation of licence

7(1) If a licensee fails to commence or complete the actual construction of a water power works in good faith within the time required pursuant to the licence, the corporation may:

- (a) amend the date by which the construction of the water power works is to be commenced or completed; or

- (b) subject to section 11, based on a current review of the factors mentioned in section 5 and having regard to the public interest:
 - (i) cancel the licence;
 - (ii) suspend the licence; or
 - (iii) amend the terms and conditions of the licence, including the date by which the construction of the water power works is to be commenced or completed.
- (2) If a licensee fails to complete the commissioning of a water power works within the time required pursuant to the licence, the corporation may:
 - (a) amend the date by which the commissioning of the water power works is to be completed;
 - (b) subject to section 11, based on a current review of the factors mentioned in section 5 and having regard to the public interest:
 - (i) cancel the licence;
 - (ii) suspend the licence; or
 - (iii) amend the terms and conditions of the licence, including the date by which the commissioning of the water power works is to be completed.
- (3) If a licensee fails to have a water power works fully operational within the time required pursuant to the licence, the corporation may:
 - (a) amend the date by which the water power works are to be fully operational;
 - (b) subject to section 11, based on a current review of the factors mentioned in section 5 and having regard to the public interest:
 - (i) cancel the licence;
 - (ii) suspend the licence; or
 - (iii) amend the terms and conditions of the licence, including the date by which the water power works are to be fully operational.

2 Dec 2016 cW-6 Reg 3 s7.

Deemed terms and conditions of licence

8 The following conditions are deemed to be conditions of every licence issued pursuant to these regulations:

- (a) the licensee shall comply with the terms and conditions of the licence;
- (b) the licensee and the corporation shall jointly review the operating plan at 20-year intervals following the date of the licence and, with the approval of the corporation, the operating plan may be amended;

- (c) the corporation or the licensee may initiate reviews of the operating plan at any time or times and, with the approval of the corporation, the operating plan may be amended;
- (d) subject to section 11, the corporation may amend, suspend or cancel the licence, if the corporation determines, having regard to the factors mentioned in section 5, that:
 - (i) it is appropriate and in the public interest to do so; or
 - (ii) the impacts of the development of the water power deviate significantly from the impacts predicted in the studies on which the issuance of the licence, or any amendment to the licence, was based;
- (e) the licensee shall provide the corporation with an undertaking satisfactory to the corporation:
 - (i) in the case of water power works not operated in accordance with a licence, to allow the corporation to make any order, subject to section 11, that the corporation considers appropriate requiring the alteration, closure, removal, destruction or otherwise rendering inoperable the whole or any part of the water power works, including fixing the date by which the order is to be complied with; and
 - (ii) to indemnify the corporation and the Crown against all actions, claims or demands arising against them by reason of anything done by the licensee in the exercise or purported exercise of the rights and privileges granted pursuant to the licence.

2 Dec 2016 cW-6 Reg 3 s8.

Application by licensee to amend licence

- 9(1) The licensee may apply to the corporation to amend a licence at any time the licensee wishes to make a material change to the water power works.
- (2) Every licensee applying to amend a licence shall submit an application form to the corporation in the form and manner specified by the corporation.
- (3) On receipt of an application mentioned in subsection (2), the corporation shall consider the factors mentioned in section 5 that the corporation considers relevant to the application for an amendment.
- (4) Subject to section 10, after consideration of the factors mentioned in section 5, the corporation may:
 - (a) approve the amendment to the licence, subject to any terms and conditions that the corporation considers appropriate; or

- (b) subject to section 11, refuse to approve the amendment to the licence, if the corporation is satisfied that:
- (i) the applicant has not complied with these regulations;
 - (ii) the applicant has provided incomplete, false, misleading or inaccurate information in support of the application for the amendment; or
 - (iii) approving the amendment to the licence is not appropriate or in the public interest.

2 Dec 2016 cW-6 Reg 3 s9.

Decision re applications

10(1) Subject to subsection (3), the corporation shall make a decision with respect to an application pursuant to section 6 or 9 within 180 days after the date the corporation received an application that the corporation is satisfied is complete.

(2) The corporation may take a further period of not more than 180 days to make a decision if:

- (a) the corporation considers it necessary and in the public interest to complete consultations with those persons the corporation considers to be appropriate; and
- (b) the corporation notifies the applicant of the reasons for the delay.

2 Dec 2016 cW-6 Reg 3 s10.

Opportunity to make representations

11(1) Before the corporation takes any action pursuant to clause 6(1)(b), 7(1)(b), 7(2)(b), 7(3)(b) or 8(d), subclause 8(e)(i) or clause 9(4)(b) or 13(4)(b), the corporation shall provide the applicant or licensee with:

- (a) written notice of the corporation's intended action and the reasons for that intended action; and
- (b) an opportunity to make written representations to the corporation, within a period set by the corporation, as to why the intended action should not be taken.

(2) The corporation is not required to give an oral hearing to any person to whom a notice has been provided pursuant to subsection (1).

(3) After considering the representations mentioned in subsection (1), the corporation shall issue a written decision and shall serve a copy of the decision on the applicant or licensee.

(4) An applicant or licensee who is the subject of a decision pursuant to subsection (3) may appeal the decision to the Court of Queen's Bench on a question of law only.

(5) An appeal mentioned in subsection (4) must be made within 30 days after the date of the decision.

2 Dec 2016 cW-6 Reg 3 s11.

Water power rental charges

12 The licensee shall pay for any water used for producing water power at the rates specified in *The Water Power Rental Regulations*.

2 Dec 2016 cW-6 Reg 3 s12.

Transfer of licence

13(1) A transfer of a licence is valid only if made in accordance with this section.

(2) The licensee shall provide the corporation with not less than 360 days' notice of:

- (a) a proposed transfer of the licence; and
- (b) the proper name and contact information for the proposed transferee.

(3) On receipt of the notice mentioned in subsection (2), the corporation shall consider the following factors:

- (a) whether the proposed transferee has all necessary capacity, including financial capacity and relevant operating experience, to assume and carry out all obligations of the licensee and properly comply with all terms and conditions of the licence;
- (b) whether a transfer of the licence to the proposed transferee is contrary to the public interest.

(4) After consideration of the factors mentioned in subsection (3), the corporation may, in writing:

- (a) approve the transfer, subject to any terms or conditions the corporation considers appropriate; or
- (b) subject to section 11, refuse to allow the transfer of the licence.

(5) The corporation's approval pursuant to clause (4)(a) may include additional terms and conditions to the licence that the corporation considers appropriate.

(6) On approval of the transfer, the transferee is deemed to have assumed all the obligations of the licensee.

(7) A transfer of the licence or any of the rights and privileges granted pursuant to the licence is valid only with the corporation's approval in writing.

(8) The corporation may terminate the licence on three days' written notice to the licensee and the transferee on any unapproved transfer.

2 Dec 2016 cW-6 Reg 3 s13.

Compliance by licensee required

14 Every licensee shall comply with:

- (a) the terms and conditions of the licence;
- (b) these regulations; and
- (c) any order of the corporation issued pursuant to these regulations.

2 Dec 2016 cW-6 Reg 3 s14.

Sask Reg 906/68 repealed

15 Saskatchewan Regulations 906/68, being Regulations governing the administration of Provincial Water Powers and *The Water Power Act*, are repealed.

2 Dec 2016 cW-6 Reg 3 s15.

Transitional

16(1) In this section:

“**final licence**” means a final licence as defined in the former regulations;

“**former regulations**” means Saskatchewan Regulations 906/68, being Regulations governing the administration of Provincial Water Powers and *The Water Power Act*, as those regulations existed on the day before the coming into force of these regulations;

“**interim licence**” means an interim licence as defined in the former regulations.

(2) Any final licence that was issued pursuant to the former regulations and that was in force on the day before the coming into force of these regulations is continued pursuant to these regulations, subject to the terms and conditions pursuant to which it was issued, and may be dealt with as if it were a licence issued pursuant to these regulations.

(3) Subject to subsection (4), any interim licence that was issued pursuant to the former regulations and that was in force on the day before the coming into force of these regulations is continued pursuant to these regulations, subject to the terms and conditions pursuant to which it was issued, and may be dealt with as if it were a licence issued pursuant to these regulations.

(4) An interim licence continued pursuant to subsection (3) expires three years after the coming into force of these regulations.

2 Dec 2016 cW-6 Reg 3 s16.

Coming into force

17 These regulations come into force on the day on which they are filed with the Registrar of Regulations.

2 Dec 2016 cW-6 Reg 3 s17.