

# Strengthening Compliance with British Columbia's New *Water Sustainability Act*

## ***The Water Sustainability Act***

British Columbia's new *Water Sustainability Act* received Royal Assent in May 2014, after more than four years of public engagement and policy development. The new act will provide new tools to help ensure that water stays healthy and secure for future generations of British Columbians. Government plans to bring the new act into force early in 2016, at which time the existing *Water Act* — and regulations under the *Water Act* — will be repealed.

In order to implement the *Water Sustainability Act*, government is replacing regulations associated with the *Water Act*, updating other regulations, and developing new regulations to be phased over the next several years. This paper describes some of the proposed new policies that government is developing to strengthen compliance with new water laws and regulations.

During the development of the *Water Sustainability Act* British Columbians made it clear that they support enhanced compliance and enforcement and the dedication of sufficient government resources to these activities.

## ***Why is Government Updating the Violation Ticket Administration and Fines Regulation?***

One of the regulations government is updating is the *Violation Ticket Administration and Fines Regulation* under the *Offence Act*. Schedule 2 of this regulation identifies offences under a number of provincial statutes, including the *Water Act*. For each listed offence it prescribes fines, victim surcharge levies and the total amount on the violation tickets that government enforcement officers can issue.

Proposed changes to the Violation Ticket Administration and Fines Regulation would align offence descriptions and section numbers with those in the *Water Sustainability Act*, change fines for some offences, and add new offences included in the *Water Sustainability Act*.

## **WHAT IS THE DIFFERENCE BETWEEN AN ACT AND A REGULATION?**

An Act is a law that has been introduced in the Legislative Assembly as a Bill, has passed three readings and committee-study by the Legislative Assembly, and has received Royal Assent. Acts typically state legal requirements to advance the Act's intent and objectives, and establish the overall framework within which the government is expected to act.

A Regulation is "subordinate legislation" (made under the authority of an Act) that provides the details of how the general principles laid out in legislation are to be applied, and must remain inside the boundaries established by the Act. In B.C., the Lieutenant Governor in Council approves regulations.



# The Water Sustainability Act and Compliance and Enforcement

With respect to compliance and enforcement, many sections of the *Water Sustainability Act* replicate sections of the older *Water Act*. However the *Water Sustainability Act* includes new policies. It:

- » Gives government additional authority to impose and collect fines, and to order site remediation or prosecution as an alternative to fines;
- » Recognizes that employees, officers, directors, or agents of a corporation can be fined if they authorize, permit or agree to a contravention or failure; and
- » Allows the courts to impose additional penalties if an offender benefitted financially from committing an offence.

## Proposed Changes to the Violation Ticket Administration and Fines Regulation

### ADMINISTRATIVE CHANGES

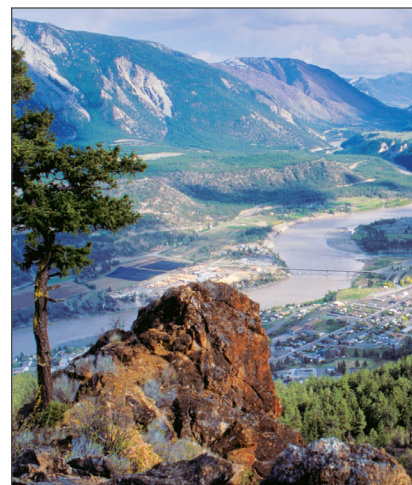
Many of the offences identified in the *Water Sustainability Act* replicate those identified in the *Water Act*. In many cases, however, the section numbers corresponding to specific offences have changed. Government proposes to update Schedule 2 of the Violation Ticket Administration and Fines Regulation to reflect the new section numbers in the *Water Sustainability Act*.

### UPDATING OFFENCE CATEGORIES

Government also proposes to reclassify some of the offences recognized in the *Water Act* to better reflect in the *Water Sustainability Act* the severity. The basis for this reclassification is that while it is an offence to break the law, it is a more serious offence to continue to break the law after being issued with an order to stop doing so.

For example, contravening the prohibition on introducing foreign matter (e.g., debris, refuse, carcasses, human or animal waste, pesticides, fertilizers, contaminants) into a well — currently classified as a high penalty offence — would be reclassified as a general offence. The fine would be reduced from \$500 to \$350.

On the other hand, failing to comply with an order to stop the introduction of foreign matter into a stream would be reclassified from a general offence to a high penalty offence. The fine would be increased from \$350 to \$500.



### THE ROLE OF ENFORCEMENT

British Columbia has set in place a suite of laws and regulations to protect human health and safety, the environment, and other public values. These tools are only effective, however, if people comply with them. The **provincial compliance model** involves:

- Setting regulatory requirements that are clear, practical and enforceable;
- Encouraging individuals and businesses to comply with these requirements voluntarily;
- Verifying (through monitoring, inspections and audits) that individuals and businesses are meeting these requirements; and
- Where regulatory requirements are not being met, adjusting the program management approach or, where appropriate, compelling compliance through enforcement.

Enforcement is necessary when voluntary compliance cannot be achieved. It ensures that no individual or business benefits from breaking the law, and it discourages further violations.

## ADDING NEW OFFENCES

In addition, government proposes to add new offences to Schedule 2 of the Violation Ticket Administration and Fines Regulation to reflect new features of the *Water Sustainability Act*.

<i>New Water Sustainability Act Feature</i>	<i>Corresponding New Offence(s) in the VTAF Regulation</i>
Expanded government powers to regulate groundwater.	<ul style="list-style-type: none"> <li>• Failure (for example of a well driller) to carry or provide proof of the required amount of liability insurance.</li> <li>• Failure to comply with the applicable regulations when installing, maintaining, repairing, removing or testing a well pump or wellhead, conducting a flow test of a well or disinfecting a well or well pump.</li> <li>• Failure to ensure that works (e.g., wells) are deactivated or decommissioned when required.</li> </ul>
Addition of water use efficiency (e.g., through use of best practices) to the definition of 'beneficial use'.	<ul style="list-style-type: none"> <li>• Failure to provide, when directed to do so, the results of a water conservation audit (to be defined in a future regulation)</li> <li>• Failure to submit, when directed to do so, a signed declaration that one has used water beneficially for the past three years.</li> </ul>
Tools to regulate water use during times of scarcity (e.g. Critical Environmental Flow Protection Order; Fish Population Protection Order) or in specific geographical areas subject to chronic water shortage (e.g., Water Sustainability Plan; other area-based plan).	<ul style="list-style-type: none"> <li>• Contravention of a Fish Population Protection Order or a Critical Environmental Flow Protection Order.</li> <li>• Diversion of unrecorded water from a stream for a purpose other than essential household use (e.g., drinking, cooking, bathing, watering pets) when prohibited by a regulation that closes or restricts access.</li> <li>• Diversion, storage or use of water from an aquifer for a purpose other than essential household use when prohibited by a regulation that closes or restricts access.</li> </ul>
A 30-year licence review.	<ul style="list-style-type: none"> <li>• Failure to provide information, plans, specifications or reports of assessments when directed to do so for the purpose of a 30-year licence review.</li> </ul>
Additional requirements for measuring and reporting water use.	<ul style="list-style-type: none"> <li>• Failure to maintain, retain, produce or submit a well report when required to do so.</li> </ul>
Expanded prohibitions on introducing foreign matter into a stream or aquifer.	<ul style="list-style-type: none"> <li>• Failure to keep foreign matter out of a stream or aquifer.</li> <li>• Failure to comply with a remediation order related to foreign matter in a well.</li> </ul>
Expanded notification requirements for several regulated activities.	<ul style="list-style-type: none"> <li>• Failure to give notice before interfering with water works constructed or used under an authorization.</li> </ul>

## Next Steps

This paper describes new policies that government proposes to incorporate into an updated Violation Ticket Administration and Fines Regulation. Government will consider these policies in the fall of 2015. The policies are therefore subject to change, depending on government direction. Pending government review and approval, the updated Violation Ticket Administration and Fines Regulation would be brought into force along with the *Water Sustainability Act* in 2016.

To support implementation of the new *act*, government is replacing or updating existing regulations related to essential water management activities that include authorizing stream water and groundwater use, water fees and rentals, changes in and about a stream, well construction and maintenance, dam safety, and compliance and enforcement. Once work on initial regulations is completed, government expects to initiate work on other regulatory components required to fully implement the *Water Sustainability Act*.

We invite you to share your ideas about the proposed compliance and enforcement policies and the updated Violation Ticket Administration and Fines Regulation by visiting the *Water Sustainability Act* blog at:  
<http://engage.gov.bc.ca/watersustainabilityact/>

You may also send related questions and comments to government by email at [livingwatersmart@gov.bc.ca](mailto:livingwatersmart@gov.bc.ca).

### FOR MORE INFORMATION

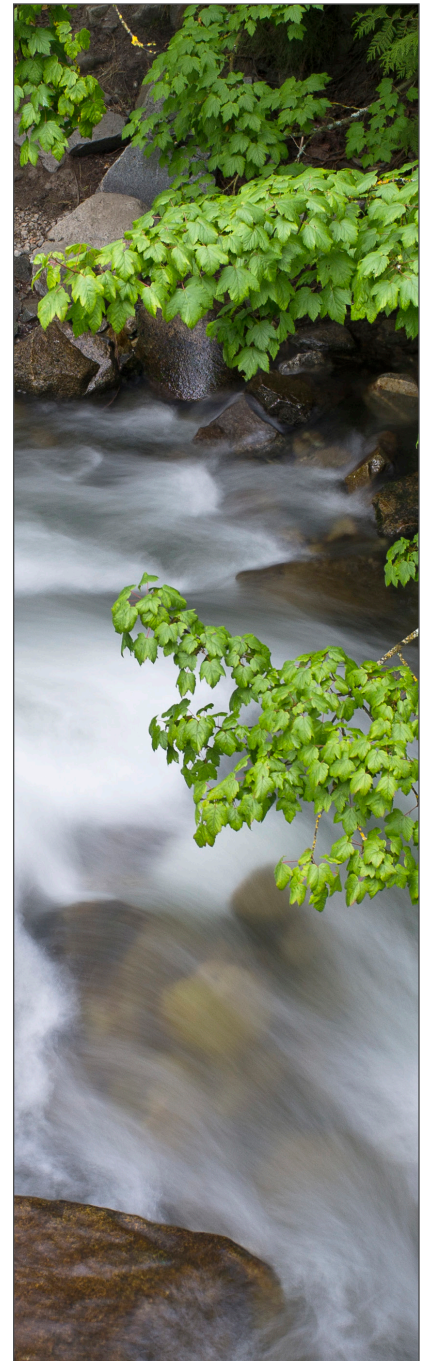
**General Information About the *Water Sustainability Act* and Engagement**  
<http://engage.gov.bc.ca/watersustainabilityact/>

**The *Water Sustainability Act***  
[http://leg.bc.ca/40th2nd/3rd\\_read/gov18-3.htm](http://leg.bc.ca/40th2nd/3rd_read/gov18-3.htm)

**The *Water Act***  
[http://www.bclaws.ca/civix/document/id/complete/statreg/96483\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/96483_01)

*About compliance and enforcement see:*

- » **Compliance and Enforcement**  
(Ministry of Forests, Lands and Natural Resource Operations)  
<https://www.for.gov.bc.ca/hen/>
- » **Environmental Enforcement Reporting** (Ministry of Environment)  
<http://www.env.gov.bc.ca/main/compliance-reporting/>
- » **Violation Ticket Administration and Fines Regulation**  
[http://www.bclaws.ca/Recon/document/ID/freeside/89\\_97\\_00](http://www.bclaws.ca/Recon/document/ID/freeside/89_97_00)



Copyright © 2015, Province of British Columbia.  
All rights reserved.

*This paper describes proposed policies related to compliance and enforcement and is not intended to support interpretation of the *Water Sustainability Act* or the *Violation Ticket Administration and Fines Regulation*. The policies described are subject to review and approval by government.*

