

# **Water Act: Upstream Oil and Gas Activity in and near a Water Body**

Effective March 29, 2014, the Alberta Energy Regulator (AER) has taken over jurisdictional responsibility for water and the environment with respect to energy resource activities in Alberta from Alberta Environment and Sustainable Resource Development.

As part of this jurisdictional transfer, the title page of this fact sheet now carries the AER logo. However, no other changes have been made.

For more information, contact the AER Customer Contact Centre at 1-855-297-8311 or [inquiries@aer.ca](mailto:inquiries@aer.ca).

# Water Act: Upstream Oil and Gas Activity in and near a Water Body

## FACTS AT YOUR FINGERTIPS

Choose sites that **AVOID** disturbance to sensitive areas, including areas in or near water bodies. .

Applicants must assess and address all site sensitivities..

This Fact Sheet provides information on the requirements under Alberta's *Water Act* for Upstream Oil and Gas activity in or near a water body (primarily well sites and facilities, including roadways). Proponents must investigate alternative approaches for energy development and, where feasible, are expected to select those that **avoid** disturbance to sensitive areas which includes areas in or near water bodies.

### Legislative Requirements

Alberta's *Water Act* requires that proponents obtain an approval before conducting an activity in a water body. "Activity" is defined in the *Water Act* Section 1(1)(b). Details on how to obtain an approval can be found at: *Water Act: Approvals* Fact Sheet: <http://environment.gov.ab.ca/info/library/8262.pdf>.

Administrative Guide for Approvals to Protect Surface Water Bodies Under the *Water Act* can be found at: <http://environment.gov.ab.ca/info/library/6208.pdf>.

Work in or near water bodies may also require authorization or consideration of:

- Energy Resources and Conservation Board (ERCB) under the ***Oil and Gas Conservation Act***
- Conservation and Reclamation under the ***Environmental Protection and Enhancement Act***
- the local municipality under the *Municipal Governments Act*
- Alberta Sustainable Resource Development under the ***Public Lands Act***
- Federal Legislation:
  - ***Federal Fisheries Act***
  - ***Migratory Birds Convention Act***
  - ***Navigable Waters Protection Act***

### Application Requirements

In addition to requirements in the *Water Act: Approvals* Fact Sheet and guide, an application submission must include an assessment of sensitivities, including:

- local drainage patterns around and across the site and access road;
- local hydrologic conditions and potential for the site to flood;
- soil characteristics and texture in terms of both changes from upland conditions and potential infiltration or transportation of contaminants and sediments in surface or groundwater;
- presence of native plants/plant communities or rare plants/communities within or adjacent to the project
- potential of the site to support wildlife during all or part of their life-cycle – although there should be particular attention to sensitive species or species at risk provincially and federally, all wildlife must be considered in the assessments
- presence of fish-bearing waters and fish habitat, if applicable, and
- relationship to adjacent upland habitats.

The applicant must retain a qualified environmental professional (s) to address all site sensitivities, including:

- (i) spill management plans,
- (ii) environmental protection plans,
- (iii) sediment and erosion control plans,
- (iv) drainage management plans,
- (v) contingency plans,
- (vi) access management (minimal disturbance) plans.
- (vii) reclamation plans,
- (viii) long-term monitoring plans,
- (ix) maintenance plans,
- (x) quality assurance/quality control programs.

In addition, the site must be designed to maximize the distance between high-risk equipment (e.g., tanks, flare stack) and the water body.

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### **Enforcement**

Under the *Water Act*, anyone who conducts an activity in a water body without an Alberta Environment approval or diverts water without a licence may face enforcement action with a fine up to \$50,000 for an individual and \$500,000 for a company or organization. Anyone seeing a water-related activity that could be illegal should contact Alberta Environment.

Please call the **Alberta Environment Emergency and Complaint Hotline at 1-800-222-6514** to report water-related activities or diversions you suspect are unauthorized.