

**NAME OF GUIDELINE:** ISSUING OF WATER LICENCE AMENDMENTS

**APPLICATION:** To provide assistance to technical and processing staff involved with water licence amendments

**ISSUANCE:** Director, Policy and Economic Development Branch

**IMPLEMENTATION:** Service Centres and Field offices  
Land and Water Management Division

**REFERENCES:** Water Programs – Policy and Procedures Manual

**RELATIONSHIP TO  
PREVIOUS GUIDELINE:** N/A

---

## **Background**

In practice, it has been discovered that the nature and authorized use of water described in a water licence often does not accurately portray the actual use of water by the licensee. The water being diverted may be used for a purpose or diverted in a manner which is not consistent with the licence. The location of works or the quantity of water being diverted may also be different than that authorized under the licence. In some cases, enforcement is the appropriate action. However, in many cases, amending a water licence is all that is necessary to ensure that the actual use of water is consistent with the terms and conditions set out in the water licence. Amendments can be initiated as a result of an investigation or new information brought forward or as a result of an application by the licensee.

There are two categories of water licence amendments; minor amendments and complex amendments. A minor amendment, carried out under Section 18 of the *Water Act*, is the amendment of 1 or 2 basic conditions of a water licence through the issue of an Order or licence signed by the Comptroller or Regional Water Manager. Although reference to a plan may appear in more than one clause in a water licence, referring to the amended plan is considered to be a change to only one basic condition of the licence. A complex amendment is generally when 3 or more basic conditions of the licence require changes or when an apportionment or transfer of appurtenancy is also necessary. Under all complex amendments a new licence is issued in substitution of an existing licence, and often requires the rewording of existing clauses to modern language.

Amendments under section 18(1) require notice be given to all persons whose rights would be injuriously affected and that the Comptroller or Regional Water Manager consider any objections filed to an amendment application. Except for correcting an error in the licence, a fee is payable for the amendment of a water licence.

## **Processing amendments**

When investigating amendments of water licences an effort should be made to determine the actual nature and use of water which is occurring. As on-site inspections are time consuming for staff, an emphasis on alternative methods of gathering information should be considered. Reference materials which may prove useful in assessing and processing amendments include:

- 'Training Guidelines for Water Processing', Eileen Wright & Val Berggren, March 2003.
- 'Draft Water Allocation Guidelines', Water Management, Program Planning and Legislation, Water Rights Branch, June 1993.
- 'BC Sprinkler Irrigation Manual', Ted Van der Gulik, 1989.

SUBSECTION  
.03.02.03 D

---

Collecting as much relevant information over the telephone can be an efficient use of time which may allow decisions to be made without the necessity of an on-site inspection.

Examples of types of amendments which may be processed without the necessity of an on-site inspection include, but are not limited to:

- Sec. 18 (1) (b) Extensions of time on non-controversial sources (ie. large lakes and streams);
- Sec. 18 (1) (e) Correcting administrative errors in a licence or to amend the appurtenancy of a licence when it has been redescribed; and
- Sec. 12 (1) (b) Amendments which qualify under the Quick Licensing procedures.

**Declaration of Use**

Where practical, the use of the 'Declaration of Use' forms should be used in order to obtain information from licensees and interested parties. Section 22.01 requires licensees to submit signed declaration forms to the Comptroller, Regional Water Manager or Engineer when directed to do so. The Declaration of Use form requires licensees and interested parties to make a statutory declaration describing the actual use of water being diverted. The form can also include an abandonment request attachment to facilitate those individuals not making beneficial use to abandon their interest in the licence.

Where an abandonment form is received, further investigation may be required in order to determine the state or condition of existing works. There may also be public safety concerns, joint work issues or the requirement for decommissioning of works which need to be addressed.

**Types of amendments**

**1. Extension of time - Section 18(1)a, b, and c**

The Comptroller or Regional Water Manager may extend the time to begin construction of the works, complete the works or make beneficial use of the water. Unless there are concerns, such as other applications awaiting decisions on a water short source or others rights being injuriously affected, these extensions can typically be granted with very little further investigation. Normally, an extension of time granted is for a further 1-year period, however, each case should be accessed individually and decided accordingly.

**2. Change of Works - Section 18(1)d**

The modification, relocation or addition to authorized works is considered to be a change of works and shall require authorization. Change of works may be associated with other amendments such as a change of purpose. It must be determined whether or not other licensee's rights are potentially impacted by these applications and whether or not there is an injurious effect. It must also be determined if other land owners are affected and whether or not the land is reasonably required for works.

**3. Correcting an error in the licence – Section 18(1)e**

This amendment is used to either correct an error in the licence made at the time of issuance or an error as a result of a situation created later, ie. official renaming of a source, re-describing of the authorized place of use through registration of a new survey, etc. This type of amendment rarely requires notification as others rights are normally not impacted. Once it has been determined that an error exists in a water licence, the correction should be carried out expeditiously.

**4. Removing Provisions Inconsistent With the Act – Section 18(1)f**

Occasionally it becomes necessary to amend a licence when a clause within the licence becomes redundant or is in conflict with existing legislation.

**5. Change of Purpose – Section 18(1)g**

This type of amendment is considered to change the purpose of the water diverted from that which is shown on a water licence. These changes are normally granted unless the proposed changes would injuriously affect the rights of others. Under this section a licence granted for a seasonal use would not normally be amended to a year-round use, nor would a licence for non-consumptive use be changed to a consumptive use. In cases where seasonal use is being considered for change to year-round use, the supply and demand on the stream would need to be assessed for the additional period of the year covered. Distributing the licensed quantity over a full year or longer season, would result in a corresponding reduction of the daily rate of diversion such that the total annual quantity is not increased.

In assessing a licensee's proposal for a change of purpose, it must be determined if the proposal is feasible and whether or not the subject land is able to support the intended purpose. In addition an assessment of the possible impacts on other licensee's rights may be required. Should the proposal have the potential to adversely impact the rights of other licensees, an option to consider is to request the abandonment of old rights subject to the issuance of a new water licence with a later priority date.

---

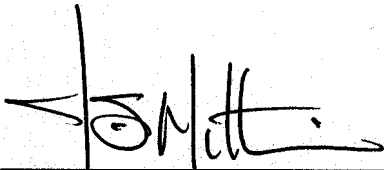
**6. Extending the term of a licence – Section 18(1)h**

These amendments refer to extending the duration of water licences which contain an expiry provision. Investigation of these types of amendments must determine whether or not others rights would be affected by the granting of such an application and whether or not those affects would be significant. The investigation must also determine the length of time suitable for an extending the term of a water licence, ie. equivalent time to a renewed lease agreement.

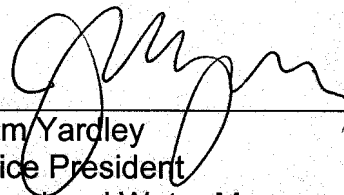
**7. Increase or reduce the quantity of water authorized to be diverted or stored where it appears to have been erroneously stated – Section 18(1)i**

Amendments under Section 18(1)i, can only be carried out where the quantity of water was erroneously estimated at the time the licence was issued. Such an analysis must be based on a foundation of detailed factual information.

An increase in quantity under this section is rare and must be clearly supported by facts indicating the original authorized quantity had been erroneously estimated, otherwise a new application is required for any increase in quantity. Other than cases where the quantity of water was erroneously estimated, reductions in the quantity of water are carried out by partial cancellation, abandonment or by the issuing of a final licence.

  
\_\_\_\_\_  
James S. Mattison  
Executive Director  
Strategic Initiatives Division

*November 5, 2003*  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jim Yardley  
Vice President  
Land and Water Management Division

*November 6, 2003*  
\_\_\_\_\_  
Date