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Activities that Require a Water Licence and Types of Water Licences

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NUNAVUT WATER BOARD

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LIST OF NWB GUIDANCE DOCUMENTS

Guide 1 – The Nunavut Water Board
Guide 2 – Terminology and Definitions
Guide 3 – Activities that Require a Water Licence and Types of Water Licences
Guide 4 – Completing and Submitting a Water Licence Application for a New Licence
Guide 5 – Processing a Water Licence Application
Guide 6 – Electronic Documentation: Submission and Registry
Guide 7 – Licensee Requirements following the Issuance of a Water Licence
Guide 8 – Community Consultation (under development)
Rules of Practice and Procedure for Public Hearings
Water Licensing Process Flowcharts and Time Charts (in colour and black and white)

Important Notes

1. *This Guide presents information about the Nunavut Water Board (NWB or Board) and its process in a plain language format for the purpose of public education and assistance to parties involved in the process. However, it should be noted that the legal responsibilities of parties involved in the water licensing process are as established under the Nunavut Land Claims Agreement (NLCA), the Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWNSRTA or Act), and the applicable regulations. All parties are responsible for ensuring they comply with the applicable legal responsibilities imposed under these provisions. To the extent that this Guide is inconsistent or in conflict with the applicable legal requirements, the obligations as set out in the relevant acts and regulations shall govern. Any descriptions of the responsibilities of the parties contained in this Guide are of a general nature only and are not offered or intended as a substitute for professional legal advice or the specific direction of the NWB in any given case.*
2. *In the event of a conflict between the Guides and the NLCA, the NWNSRTA or the applicable regulations, the NLCA, NWNSRTA, and the applicable regulations prevail.*
3. *The abbreviations ‘NWB’ and ‘Board’ are used interchangeably throughout this document to refer to the Nunavut Water Board.*
4. *Versions of the NWB Guides are available in English from the NWB electronic public registry. Translated versions will be made available upon request. (See NWB Contact Information at the end of this Guide.)*

1. What is a water licence?

A water licence is an authorization issued by the NWB for the use of waters or the deposit of waste that may enter water, or both, in Nunavut. A water licence may be a type A or B licence in accordance with the criteria prescribed by the *Northwest Territories Water Regulations* (NTWR or Regulations). A type A licence is generally required for projects with the potential to cause a relatively larger qualitative or quantitative effect due to the use of water or deposit of waste that may enter into water than that potentially caused by a project requiring a type B licence. The differences between type A and B licences are described in more detail in section 5 of this Guide.

The Board’s authority to issue a water licence applies to inland waters, meaning those waters in a liquid or solid state (ie. ice and permafrost), on or below the surface of land (ie. surface water and groundwater). In addition, the Board’s jurisdiction applies to waste that may enter waters, meaning any substance that, by itself or in combination with other substances found in water, would have the effect of altering the quality of any water to which the substance is added to an extent that is detrimental to its use, or any water that would have that effect because of the quantity or concentration of the substances contained in it or because it has been treated or changed. Refer to the NWB’s *Guide 2: Terminology and Definitions* for the complete definitions of water and waste.

Persons or organizations wishing to use water or deposit waste in Nunavut must contact the NWB.

2. What activities do not require a water licence from the NWB?

The following types of water use activities do not require of a water licence:

- a) Water used for domestic purposes, which means:
 - i. A person using water for household requirements, such as sanitation, and fire prevention;
 - ii. The watering of domestic animals; or
 - iii. The irrigation of a garden that adjoins a dwelling house and is not ordinarily used in the growth of produce for market.
- b) Water use for the purpose of extinguishing a fire;
- c) Water use on an emergency basis, controlling or preventing a flood;
- d) Water use or deposit of waste in a national park; and
- e) Instream use of water that does not consume water nor impairs the water quality.

In addition, the use of water for navigation or shipping does not require a water licence and the Board's jurisdiction does not extend to marine areas.

The *Nunavut Waters Nunavut Surface Rights Tribunal Act* (NWNSRTA or Act) also permits the use of water or the deposit of waste without a licence where authorized by regulations, however, no authorizing regulations currently exist¹.

3. What activities require a water licence from the NWB?

All water use or waste disposal activities other than those described above in section 2 of this Guide require a licence from the NWB.

Schedule II of the Regulations lists eight (8) classifications of undertakings for licensing purposes. These classifications are shown in Table 1.

¹ The NWB passed SOR/2002-253 dated July 12, 2002, stipulating that Regulations do not permit water use or deposit of waste into water, except for those activities listed in the Act, to occur without a licence.

Table 1: Classifications of Undertakings

Undertaking	Description
1. Industrial	Any industrial undertaking other than mining and milling, including manufacturing processes, hydrostatic testing, fluming, the exploration for, and production and transportation of oil and gas, cooling systems, food processing, tanneries, smelters, sawmills, pulp mills, metal finishing and tailings reprocessing
2. Mining and Milling	Operation of a mine within the meaning of the <i>Canadian Mining Regulations</i> or the <i>Territorial Coal Regulations</i> , and any associated milling. ²
3. Municipal	Any activity (a) in a municipality, or in a settlement comprising a multiplicity of residential units, that uses only a municipal water and sewage system, including domestic, horticultural, fire protection, commercial or industrial activities, or (b) in a camp or lodge. ³
4. Power	Authorized hydro or geothermal electrical generation of: Class 0 - 150 or fewer kilowatts Class 1 - more than 150 kW but less than 5,000 kW Class 2 - more than 5,000 kW but less than 10,000 kW Class 3 - more than 10,000 kW but less than 20,000 kW Class 4 - more than 20,000 kW but less than 50,000 kW Class 5 - more than 50,000 kW but less than 100,000 kW Class 6 - 100,000 or more kW
5. Agricultural	Nourishing crops or providing water for livestock
6. Conservation	Construction of works for the preservation, protection, or improvement of the existing natural environment.
7. Recreational	A commercial or public recreational development.
8. Miscellaneous	Any other undertaking.

4. What type of water licence (B or A) does my activity require?

For each classification of undertaking listed in Table 1, the licensing activities are further divided into two types of licensing criteria defined as type A and B. The differences between type A and B are described in section 5 of this Guide. The licensing activities are divided into type A and B as determined by the criteria provided in columns III and IV of schedules IV to VIII of the Regulations and summarized in Table 2.⁴

If one component of a project requires a type A licence, the entire project will be reviewed as a type A licence. The Board is not in favour of splitting projects into multiple licences, except in cases where the Board issues interim, short term approvals for water uses related to exploration or developmental work for proposals under development impact review. In such cases, the interim short term approvals may be incorporated into the project's overall type A water licence.

² The Board considers activities associated with mineral exploration, including mineral exploration camps, to be classified as mining and milling undertakings. Activities associated with oil and gas exploration are considered as industrial undertakings.

³ Camps associated with exploration are classified as mining and milling undertakings.

⁴ The NWB passed SOR/2002-253 dated July 12, 2002, stipulating that Regulations do not permit water use or deposit of waste into water, except for those activities listed in the Act, to occur without a licence.

5. What are the differences between type A and type B water licences?

Both type A and B water licence applications are subject to review by the NWB before the NWB may approve the application and issue the licence. Generally, type B water licence applications do not require a public hearing, unless the NWB considers a public hearing warranted due to public interest.

If a public hearing is held in relation to a type B water licence application, the hearing will be conducted to the extent appropriate, using the same procedures as required for a type A water licence application. This may involve additional steps for guideline development by the NWB, preparation of a water licence application in accordance with the guidelines by the applicant, a more complex technical review phase consisting of technical meetings and a pre-hearing conference, a public hearing and Ministerial approval of the NWB's decision.

Except in very limited circumstances as set out in s. 174(1) of the NWNSRTA, type A water licence applications are subject to a public hearing process before the NWB may approve the application and issue the licence.

The NWB's *Process Flowchart*, Charts 2 and 3, illustrate the water licensing processes for both type B and A water licences.

For additional information on the NWB's water licensing process and public hearing procedures refer to the NWB's *Guide 5: Processing a Water Licence* as well as the NWB's *Rules of Practice and Procedure for Public Hearings*.

Table 2: Summary of Type B and A Water Licence Criteria pursuant to the Regulations

Item No.	Water Use/ Deposit of Waste	Water Use and Deposit of Waste Requiring a Type B Licence	Water Use and Deposit of Waste Requiring a Type A Licence
INDUSTRIAL UNDERTAKINGS			
1	Direct water use in respect of		
	(a) oil and gas exploration; and (b) any other industrial undertaking	Use of any amount of water ³ Use of less than 300 cubic meters per day ⁵	None Use of 300 cubic meters per day or more ³
2	* See Section at end of Table 2 entitled ITEM 2 FOR ALL UNDERTAKINGS		
3	Deposit of waste in conjunction with		
	(a) Oil and gas exploration	Deposit of drill waste to a sump	Deposit of drill waste in a manner other than to a sump
	(b) Oil and gas production, processing and refining	None	All deposits of waste
	(c) Quarrying and gravel washing	Any and all deposits of waste	None
	(d) Hydrostatic testing	Any and all deposits of waste	None
	(e) Cooling (f) Other industrial undertakings	Any and all deposits of waste All	None
MINING AND MILLING UNDERTAKINGS			
1	Direct water use	Use of water for milling at a rate of less than 100 tonnes of ore per day, use of water for leaching, other than production leaching, or use of any amount of water for undertakings other than milling or production leaching. ³	Use of water for milling at a rate of 100 or more tonnes of ore per day or use of water for production leaching
2	* See Section at end of Table 2 entitled ITEM 2 FOR ALL UNDERTAKINGS		
3	Deposit of waste in conjunction with		
	(a) placer mining; or (b) other mining and milling	Any deposit of waste Deposit of waste from milling at a rate of less than 100 tonnes per day, or any deposit of waste for undertakings other than milling.	None Deposit of waste from milling at a rate of 100 tonnes or more per day
MUNICIPAL UNDERTAKINGS			
1	Direct Water Use	Use of any amount of water ³	Use of 2,000 or more cubic meters per day ³
2	* See Section at end of Table 2 entitled ITEM 2 FOR ALL UNDERTAKINGS		

⁵ Does not include water taken from an artificial reservoir with no natural inflow.

Item No.	Water Use/ Deposit of Waste	Water Use and Deposit of Waste Requiring a Type B Licence	Water Use and Deposit of Waste Requiring a Type A Licence
3	Deposit of waste by		
	(a) municipalities or settlements	Deposit of waste by means of a sewage collection or treatment system serving a population of less than 2,000, or any deposit of waste other than by means of a sewage collection system.	Any deposit of waste by means of a sewage collection or treatment system serving a population of 2,000 or more
	(b) camps or lodges	Any deposit of waste	None
POWER UNDERTAKINGS			
1	Direct water use	Class 0	Classes 1-6
2	* See Section at end of Table 2 entitled ITEM 2 FOR ALL UNDERTAKINGS		
AGRICULTURAL, CONSERVATION, RECREATIONAL AND MISCELLANEOUS UNDERTAKINGS			
1	Direct water use	Use of less than 300 cubic meters per day ⁶	Use of 300 cubic meters per day or more ⁴
2	* See Section at end of Table 2 entitled ITEM 2 FOR ALL UNDERTAKINGS		
3	Deposit of waste	Any deposits of waste	None
*ITEM 2 FOR ALL UNDERTAKINGS⁷			
2	(1) Watercourse crossings including pipelines, bridges, and roads	Construction of a structure of any width across a watercourse.	None
	(2) Watercourse training, including channel and bank alterations, culverts, spurs, erosion control, and artificial accretion	All watercourse training	None
	(3) Flood control	Construction of a structure for flood control	None
	(4) Diversions	All diversions	None
	(5) Alteration of flow or storage by means of dikes or dams	Instream or offstream storage of a quantity of water less than 60 000 m ³ .	All other alterations of flow or storage

⁶ Does not include water taken from an artificial reservoir with no natural inflow.

⁷ As advised by DFO, these undertakings may require review and approval by DFO.

6. What term are water licences issued for?

The term of a licence is first proposed by the applicant in its application to the NWB for a water licence. In proposing a licence term, the applicant must consider a few matters. First, the applicant must be aware that the time and process to renew a licence is the same as that for a new licence. Second, a subsequent application may be made following the issuance of a water licence to amend or cancel the water licence. Finally, the proposed term of a licence does not influence the level of review required by the NWB (ie. whether a public hearing is required).

In proposing a licence term, the applicant must consider the reasonably foreseeable life of the project. If, for example, an exploration project is anticipated to continue over a period of several years at a relatively consistent level of use with no significant changes anticipated, the applicant must apply for a multi-year licence to avoid the burden of preparing and filing an annual renewal application. In doing so, it is understood that if project plans should change, an application may be made to amend or cancel the water licence.

In conclusion, the term of any licence will be determined by the Board and may vary depending upon the scope of the undertaking and the extent of the potential effects of the water used and waste deposited. Generally, exploration and municipal licences are issued for a term of up to 5 years and in all cases the term of a licence cannot exceed 25 years.

7. What subsequent applications may follow the issuance of a water licence?

The NWB's *Guide 7: Licensee Requirements following the Issuance of a Water Licence* provides information regarding applications that may follow the issuance of a water licence. As summarized in the following sections 7.1 to 7.3, the Board may upon application, or in certain circumstances, on its own initiative, renew, amend, cancel and/or assign a water licence. The Board does not grant licence extensions.

7.1. Renewals and Amendments

The Board may, upon application by the licensee, renew a licence. An application may be classified as a renewal only if all operations remain the same as previously licensed and only the term of the licence requires change. Any requests for changes to terms and conditions of a licence require an amendment.

The Board may, upon application by the licensee, amend a water licence. The Board may also amend a water licence on its own initiative to deal with a water shortage or where the Board considers the amendment to be in the public interest.

Renewal and amendment applications may be combined and processes together.

7.2. Cancellations

The Board may cancel a licence:

- a) On application by the licensee;
- b) Where the licensee, for three successive years, fails to exercise the licensee's rights under the licence; or
- c) Where the Board considers the cancellation to be in the public interest.

The expiry or cancellation of a licence does not relieve the holder from any obligations imposed by the licence.

7.3. Assignments

A sale or other disposition by a licensee of any right, title, or interest in an appurtenant undertaking constitutes, subject to the authorization of the Board, an assignment of the licence to the person to whom the sale or other disposition is made.

The Board, shall, on application, authorize the assignment of a licence if it is satisfied that the assignment and the operation of the appurtenant undertaking will not likely result in a contravention of any condition of a licence or any provision of the regulations.

8. How do I contact the NWB?

If you have any questions regarding the content of this Guide contact the NWB. The NWB's Licensing Administration department is the first point of contact and will direct inquiries accordingly. The NWB's contact information is:

Nunavut Water Board
P.O. Box 119
Gjoa Haven, Nunavut
X0B 1J0

Phone: (867) 360-6338

Fax: (867) 360-6369

E-mail: licensing@nunavutwaterboard.org

Website: <http://www.nunavutwaterboard.org/>

All correspondence with the NWB related to a water licence application or approved licence must reference the application or licence number, the project name and the applicant's name. E-mail correspondence must include this information in the e-mail subject line.

FTP Site: ftp://nunavutwaterboard.org/ Username: public Password: registry
