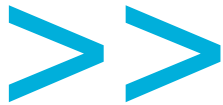


FACT SHEET

Alberta Wetland Policy Implementation in the White Area – Agriculture April 2015



Purpose of this Document



This document provides an overview of the Alberta Wetland Policy for agricultural operators in the White Area of Alberta. Please visit the Alberta Wetland Policy Implementation home page at www.waterforlife.alberta.ca/03356.html for additional information.

What is a Wetland?

The Alberta Wetland Classification System defines a wetland as “land saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic vegetation, and various kinds of biological activity that are adapted to a wet environment”.



Wetland Policy Background and Development

- In the fall of 2013, the Government of Alberta announced a new Wetland Policy for the province. The goal of the Policy is to conserve, restore, protect and manage Alberta’s wetlands to sustain the benefits they provide to the environment, society and the economy.
- The Policy represents a significant shift in wetland management and considers not only the physical area of a wetland but also the relative value it provides. Relative wetland value is based on relative abundance on the landscape, supported biodiversity, ability to improve water quality, importance to flood mitigation, and human uses.
- The Alberta Wetland Policy can be found online at www.waterforlife.alberta.ca/documents/Alberta_Wetland_Policy.pdf
- The Alberta Wetland Policy does not affect Crown ownership of permanent and naturally occurring water bodies (including wetlands) under Section 3 of the *Public Lands Act*.



Legislative Background

Water Act:

- Under the provincial *Water Act*, the property in and right to the diversion and use of all water is vested in the Province.
- The *Water Act* is the enabling legislation for the Alberta Wetland Policy; the Act is not affected or altered by the Policy.

Public Lands Act:

- Under the *Public Lands Act*, title to the beds and shores of:
 - all permanent and naturally occurring bodies of water, and;
 - all naturally occurring rivers, streams, watercourses and lakes, is vested in the Crown in right of Alberta.



Wetland Policy Implementation

- Implementation of the Alberta Wetland Policy for the White (settled) Area is currently underway; as of June 1st, 2015, proponents will be expected to submit wetland-related *Water Act* applications in accordance with new requirements established under the Alberta Wetland Policy.
- The timing of White Area implementation coincides with the beginning of the field season for conducting wetland field assessments. Full Green Area implementation will be completed in June 2016.
- A key objective of policy implementation is to enable a consistent, transparent, and predictable process for proponents and regulatory approval writers.
- Implementation timelines, tools and guidelines can be found online at www.waterforlife.alberta.ca/03356.html

Drainage

- Under the *Water Act* (Section 36), drainage (including tile drainage) of a wetland constitutes an “activity” within a water body and requires *Water Act* approval. This requirement was in place prior to implementation of the Alberta Wetland Policy. In addition, activities in or near a wetland may be subject to the Alberta Wetland Policy. Activities may include:
 - Surface ditches
 - Buried tile
 - Buried slotted pipes
 - Infilling
 - Modifications
 - Alterations
 - Drainage



- It is the landowner's responsibility to ensure all regulatory requirements are met, prior to commencing work in or near a wetland.
- To begin the regulatory process, please contact your regional approval office: <http://esrd.alberta.ca/about-esrd/contact-esrd/environment-and-water-office-contacts.aspx>
- Approval officers will work with landowners to ensure all applicable regulatory requirements are considered.
- The Alberta Wetland Policy is a go-forward policy; wetlands drained in the past will not be subject to replacement requirements. However, landowners should be aware that under both the *Water Act* and *Public Lands Act* compliance action can be taken for unauthorized wetland drainage.
- Ephemeral water bodies are subject to the *Water Act* and to the Alberta Wetland Policy.
 - An ephemeral water body is an upland area that can be saturated or hold water for a short period of time, typically contains a mixture of upland and water-tolerant plant species. Crops are usually present if the area has been tilled, although these might not be as robust as those on higher ground.
 - Although ephemeral water bodies are not be subject to a replacement requirement under the Alberta Wetland Policy, avoidance and minimization of impacts to ephemeral water bodies is still expected.
 - Under the *Water Act*, regulatory approval is required for drainage of any type of water body, including ephemeral water bodies.

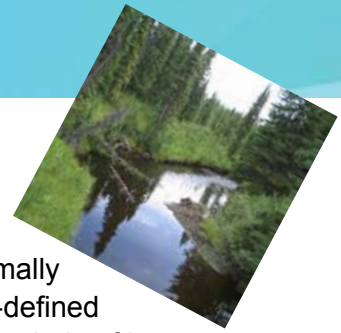


Landowners and Municipalities

- Wetland restoration on private land is voluntary; landowner interests will not be compromised by the implementation of the Policy.
- Priority will be to replace wetlands near the point of original wetland loss.
- Ducks Unlimited will remain the primary restoration agent for the immediate future. By 2016, Alberta Environment and Sustainable Resource Development will have established a certification program for wetland replacement agents. This designation will replace the existing restoration agency role.
- Municipalities, Environmental Non-Governmental Organizations, consultants, and other organizations can apply to become replacement agents, once a certification system has been established.

Crown Ownership

- Wetlands that meet the Crown's criteria of being permanent and naturally occurring water bodies are owned by the Crown, unless historically titled or granted to the land owner.



- Permanent: The wetland must be permanent, (or reasonably so). The wetland feature must have a persistent inundation period but need not be perpetually or continuously inundated. Wetlands normally respond to changes in annual climate through a well-defined cycle and may from time to time become dry during periods of low precipitation followed by another period of inundation. Their boundaries will vary over time as well (ESRD Guide for Assessing Permanence of Wetland Basins).
- The *Public Lands Act* deems the following wetland types to be Crown claimable:
 - Semi-permanent: surface water is present throughout the majority of the growing season, but usually is dry by the end of summer (deep wetland).
 - Permanent: surface water is present through the year (open water).
- Seasonal wetlands (surface water is present throughout the majority of the growing season, but is usually gone by the end of the summer) may or may not be considered permanent, as determined by Alberta Environment and Sustainable Resource Development Water Boundaries Unit in accordance with criteria established through the “Guide for Assessing Permanence of Wetland Basins”.
- Regulatory approval under the *Public Lands Act* is required to alter or impact the bed or shore of a Crown-owned water body.
- A Crown claimable water body does not cease to be Crown claimable if it was drained or filled without authorization.



Wetland Stewardship

- Wetland stewardship is recognized in the Alberta Wetland Policy as an important component of effective wetland management.
- The Government of Alberta and its partners will continue to work with landowners to advance wetland stewardship through initiatives including education and awareness, voluntary programs, and/or incentives to encourage wetland conservation, restoration, and protection.

Value of Wetlands

- Wetlands are frequently considered of lesser economic value, relative to agricultural land or land that can be used for housing, industrial, or commercial development.
- Relative wetland value, which considers the contribution of a wetland to biodiversity, flood mitigation, water quality enhancement and human uses, is integral to the execution of informed wetland management decisions under the Alberta Wetland Policy.



Frequently Asked Questions

one

What is the definition of a wetland? An ephemeral water body?

Alberta Wetland Policy: Wetland Definition

A wetland is “land saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic vegetation, and various kinds of biological activity that are adapted to a wet environment”.

Alberta Wetland Classification System: Ephemeral Water Body Definition

An ephemeral water body is “an upland area that can be saturated or hold water for a short period of time, typically contains a mixture of upland and water-tolerant plant species. Crops are usually present if the area has been tilled, although these might not be as robust as those on higher ground.

two

Why did Alberta need a new provincial Wetland Policy?

Alberta is experiencing continued loss of wetlands throughout the province.

- Up to 70 per cent of wetlands have been lost in Alberta since European settlement.
- Alberta loses approximately 0.3-0.5 per cent of its wetlands each year
- Causes for wetland loss include: climate change, population growth, and industrial development, land use changes including agricultural drainage, and management practices and policies.

three

When does a landowner need a water license to drain land?

Under the *Water Act*, all activities impacting a water body require an approval. This includes surface and sub-surface (i.e., tile) drainage of a water body for agricultural purposes.

Tile drainage is not exempt from a *Water Act* approval. Prior to any type of drainage a Proponent must seek a *Water Act* approval. All water in Alberta is owned by the Crown and therefore is under provincial jurisdiction.

Alteration or occupation of the bed or shore of a Crown-owned water body requires regulatory approval under the *Public Lands Act*, prior to the activity.

four

What role do municipalities have in *Water Act* approvals and enforcement of the *Water Act*?

Wetland-related *Water Act* approvals are considered municipal interests. This will guide the proponent to additional considerations outside of the *Water Act* regarding the land use context around the wetland. Examples include municipal reserves, area structure plans, regional and sub-regional plans, and other provincial and/or federal legislation.

Enforcement of the *Water Act* and *Public Lands Act* is the responsibility of Alberta Environment and Sustainable Resource Development. Some municipalities may have by-laws around drainage or other environmental planning considerations.

Municipalities have a valuable role in identifying and notifying Alberta Environment and Sustainable Resource Development when violations have occurred, but compliance and enforcement of the *Water Act* is the responsibility of Alberta Environment and Sustainable Resource Development.

five

How will landowners be compensated for restoring wetlands?

Alberta Environment and Sustainable Resource Development is working with stakeholders to explore opportunities for enhanced wetland stewardship. Currently, this includes the creation of a wetland offset program.

Agriculture and Rural Development has the Growing Forward 2 program. Under that program there are grants available for restoring wetlands. A list of available programs can be found at www.growingforward.alberta.ca/.

six

Can landowners consolidate wetlands on a quarter section, for example, for operational efficiency?

Landowners are able to develop their privately held land however they wish, provided they comply with local, provincial and federal legislation and policies.

Any water bodies (including wetlands and ephemeral water bodies) drained or otherwise impacted are subject to a *Water Act* approval, and may be subject to the Alberta Wetland Policy.

Altering, draining, filling, or occupying the bed or shore of a Crown owned water body would require authorization under the *Public Lands Act* prior to the activity.

If any water body is drained or altered without regulatory approval, this is unauthorized use of a Crown resource, which will initiate a compliance response.