



## **PLEASE NOTE**

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This document is *not* the official version of these regulations. The regulations and the amendments printed in the [Royal Gazette](#) should be consulted to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the [Table of Regulations](#).

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**CHAPTER E-9**

**ENVIRONMENTAL PROTECTION ACT**

**WATERCOURSE AND WETLAND PROTECTION REGULATIONS**

Pursuant to section 25 of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9, Council made the following regulations:

PART I - DEFINITIONS

- |   |                          |
|---|--------------------------|
| 1. (1) In these regulations   | Definitions              |
| (a) “Act” means the <i>Environmental Protection Act</i> ;   | Act                      |
| (b) “agricultural crop” means any crop that is cultivated for the production of food, fibre or pharmaceuticals, and without limiting the generality of the foregoing, includes row crops;   | agricultural crop        |
| (c) “authorization” means an authorization in respect of an intensive livestock operation, granted pursuant to section 10, and includes an amended authorization, and an authorization varied or confirmed by the Commission pursuant to section 13;          | authorization            |
| (d) “bog” means a wetland covered by <i>sphagnum</i> mosses, with peat underneath;  | bog                      |
| (e) “buffer zone” means the 15-metre-wide area referred to in section 3;  | buffer zone              |
| (f) “certificate” means a valid and current Watercourse, Wetland, and Buffer Zone Activity Certificate granted pursuant to section 4;   | certificate              |
| (g) “cultivate” means to dig, plant, cut, prune, irrigate, fertilize, tend, till, manage, farm, maintain, spray, plough, harvest or engage in any other activity related to growing or harvesting, and “cultivation” means the act of doing any of the above; | cultivate                |
| (h) “Department” means the Department of Environment, Energy and Forestry;  | Department               |
| (i) “emergency field order” means an order issued pursuant to subsection 11(5), and includes an emergency field order varied or confirmed by the Commission pursuant to section 13;   | Emergency Field Order    |
| (j) “grass headland exemption” means a grass headland exemption granted pursuant to section 7 and includes an amended grass   | grass headland exemption |

	headland exemption, and a grass headland exemption varied or confirmed by the Commission pursuant to section 13;
grass headland variance	(k) “grass headland variance” means a Grass Headland Variance granted pursuant to section 7, and includes an amended variance and a variance varied or confirmed by the Commission pursuant to section 13;
heavy equipment	(l) “heavy equipment” includes <ul style="list-style-type: none"> <li>(i) excavators, mechanical tree harvesters, porters, skidders, and wood processors,</li> <li>(ii) tractors over 50 horsepower, and</li> <li>(iii) graders, front-end loaders, and bulldozers</li> </ul> but does not include wheeled and tracked equipment when being used in the active suppression of wildfire;
highway	(m) “highway” means every road, street, lane, or alley which has been created by and is maintained by the federal, provincial or a municipal government, and is used by the general public for the passage of vehicles, and includes any bridges over which every such road, street, lane, or alley is laid;
inspector	(n) “inspector” means <ul style="list-style-type: none"> <li>(i) a person who has been appointed as an environment officer pursuant to the Act or appointed as a conservation officer pursuant to the <i>Wildlife Conservation Act</i> R.S.P.E.I. 1988, Cap. W-4.1, or who is an <i>ex officio</i> conservation officer pursuant to that Act,</li> <li>(ii) a person who has been appointed as a peace officer pursuant to the <i>Police Act</i> R.S.P.E.I. 1988, Cap. P-11, or</li> <li>(iii) a person who has been appointed as a natural resources inspector pursuant to the <i>Wildlife Conservation Act</i>;</li> </ul>
landlocked pond	(o) “landlocked pond” means an excavated depression or hole in the terrain, that holds water some or all of the time, and does not have any of the following characteristics <ul style="list-style-type: none"> <li>(i) an inlet or outlet,</li> <li>(ii) hydric soil, or</li> <li>(iii) aquatic or water-tolerant vegetation;</li> </ul>
license	(p) “license” means a Watercourse, Wetland and Buffer Zone Activity Business License granted pursuant to section 5, and includes an amended license;
licensee	(q) “licensee” means a person who holds a license;
management plan	(r) “management plan” means a management plan as defined in subsection 9(1), and includes an amended management plan and a

management plan varied or confirmed by the Commission pursuant to section 13;

- (s) “meadow” means a wetland that has fluctuating water tables, lacks trees, and is covered in water-tolerant *Graminoid* vegetation; meadow
- (t) “Minister” means the Minister of Environment, Energy and Forestry; Minister
- (u) “motor vehicle” means a vehicle that is powered, drawn, propelled or driven by any means other than muscular power; motor vehicle
- (v) “officer” means officer
- (i) a person who has been appointed as an environment officer pursuant to the Act,
- (ii) a person who has been appointed as a conservation officer pursuant to the *Wildlife Conservation Act*, or who is an *ex officio* conservation officer pursuant to that Act;
- (w) “permit” means a Watercourse or Wetland Activity Permit or a Buffer Zone Activity Permit granted pursuant to section 6, and includes an amended permit and a permit varied or confirmed by the Commission pursuant to section 13; permit
- (x) “permittee” means a person who has a permit granted pursuant to these regulations; permittee
- (y) “Prince Edward Island Wetland Inventory” means the geographic information system database of wetlands on Prince Edward Island maintained by the Department; Prince Edward Island Wetland Inventory
- (z) “provincial parcel of land” means a parcel of land having a parcel identifier number assigned by the Provincial Treasury of Prince Edward Island; provincial parcel of land
- (aa) “row crop” means any crop planted in rows that are wide enough apart to allow for inter-row cultivation, and without limiting the generality of the foregoing, includes potatoes, carrots, rutabagas, onions, cole crops, string beans, dry beans, sugar beets, beets, sweet potatoes, parsnips, pumpkins and lettuce; row crop
- (bb) “seasonally flooded flats” means a wetland formed by rivers overflowing their banks to a depth of at least 12 inches annually during spring, winter and late fall; seasonally flooded flats
- (cc) “sediment bed” means a depression or low area of mud, silt, sand, gravel, rock or bedrock, or a combination thereof, which has a defined path which was formed or apparently formed by flowing water; sediment bed

shrub swamp	(dd) “shrub swamp” means a wetland containing nutrient-rich, highly decomposed woody plant and organic material and has as its dominant cover shrubs and herbaceous vegetation, including but not limited to alders;
watercourse	(ee) “watercourse” means an area which has a sediment bed and may or may not contain water, and without limiting the generality of the foregoing, includes the full length and width of the sediment bed, bank and shore of any stream, spring, creek, brook, river, lake, pond, bay, estuary or coastal body, any water therein, and any part thereof, up to and including the watercourse boundary;
watercourse boundary	(ff) “watercourse boundary” means (i) in a non-tidal watercourse, the edge of the sediment bed, and (ii) in a tidal watercourse, the top of the bank of the watercourse, and where there is no discernible bank, means the mean high water mark of the watercourse;
wetland	(gg) “wetland” (i) an area which contains hydric soil, aquatic or water-tolerant vegetation, and may or may not contain water, and includes any water therein and everything up to and including the wetland boundary, and (ii) without limiting the generality of the foregoing, includes any area identified in the Prince Edward Island Wetland Inventory as open water, deep marsh, shallow marsh, salt marsh, seasonally flooded flats, brackish marsh, a shrub swamp, a wooded swamp, a bog or a meadow;
wetland boundary	(hh) “wetland boundary” means where the vegetation in a wetland changes from aquatic or water-tolerant vegetation to terrestrial vegetation or water-intolerant vegetation;
wooded swamp	(ii) “wooded swamp” means a wetland dominated by water-tolerant trees or shrubs growing in a muck soil and covered by a moss layer at least 30 centimetres thick.
Reference	(2) In these regulations, any reference to a certificate, license, permit, authorization, grass headland variance or grass headland exemption or management plan, being required, means a valid and current certificate, license, permit, authorization, grass headland variance, or grass headland exemption or management plan, as the case may be. (EC720/08)

## PART II – WATERCOURSES AND WETLANDS

Prohibition	<b>2.</b> (1) No person shall, without a license or a Watercourse or Wetland Activity Permit, and other than in accordance with the terms and conditions thereof, alter a watercourse or a wetland, or any part thereof,
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or water flow therein, in any manner, or engage in any of the following activities in or on a watercourse or a wetland:

- (a) drain, pump, dredge, excavate, or remove soil, water, mud, sand, gravel, stones, rubbish, rocks, aggregate or material or objects of any kind;
- (b) dump or infill, or deposit soil, water, mud, sand, gravel, stones, rubbish, litter, rocks, aggregate or material or objects of any kind;
- (c) construct or place, repair or replace, demolish or remove, buildings or structures or obstructions of any kind, including but not limited to bridges, culverts, breakwaters, dams, wharves, docks, slipways, decks, or flood or erosion protection works;
- (d) operate heavy equipment or a motor vehicle on the sediment bed, beach or bank of a watercourse, with the exception of the operation of a motor vehicle on a beach for the conduct of activities related to the legal harvesting of a fishery resource or the legal removal of beach material, and the exception of the launching of a boat;
- (e) operate heavy equipment or a motor vehicle on a wetland, except a boat on the water of a wetland;
- (f) disturb, remove, alter, disrupt or destroy the ground in any manner;
- (g) disturb, remove, alter, disrupt or destroy vegetation in any manner, including but not limited to the cutting of live trees or live shrubs; or
- (h) carry out any type of watercourse or wetland enhancement activity, including but not limited to debris removal, habitat development, or placement of structures.

(2) No person shall, without a license or a Watercourse or Wetland Activity Permit, and other than in accordance with the terms and conditions thereof, cause or permit the engaging in any of the activities listed in subsection (1). *Idem*

(3) The cutting of live trees and live shrubs in a wooded swamp is exempted from the prohibition in clause (1)(g). *Exemption*

(4) Notwithstanding clause 2(1)(a), a person may remove sand, gravel, stones, rocks, aggregate or material from a beach if the sand, gravel, stones, rocks, aggregate or material is *Exception*

- (a) removed from below the high water mark;
- (b) utilized for personal domestic non-commercial purposes;
- (c) transported directly from the beach to the point of use;
- (d) hauled with a motor vehicle that has a load capacity not larger than a single axle light duty truck;
- (e) loaded manually through the use of hand tools; and

(f) of a volume that does not exceed one cubic meter. (EC720/08; 553/09)

### PART III – BUFFER ZONES

Application of  
prohibitions

- 3.** (1) Where a watercourse is solely a landlocked pond
- (a) the prohibition in subsection (3) does not apply to cultivating an agricultural crop; and
  - (b) the prohibitions in clauses (4)(d), (f), (g), and (h) do not apply.

*Idem*

- (2) Where a wetland is solely a landlocked pond or solely or a combination of seasonally flooded flats, a shrub swamp, a wooded swamp, a bog or a meadow
- (a) the prohibition in subsection (3) does not apply to cultivating an agricultural crop; and
  - (b) the prohibitions in clauses (4)(d), (f), (g), and (h) do not apply.

*Idem*

- (3) No person shall, without a license or a Buffer Zone Activity Permit, and other than in accordance with the conditions thereof, alter or disturb the ground or soil within 15 metres of a watercourse boundary or a wetland boundary, or cause or permit the alteration or disturbance of the ground or soil, therein, in any manner.

*Idem*

- (4) No person shall, without a license or a Buffer Zone Activity Permit, and other than in accordance with the conditions thereof, engage in or cause or permit the engaging in any of the following activities within 15 metres of a watercourse boundary or a wetland boundary:
- (a) drain, pump, dredge, excavate, or remove soil, water, mud, sand, gravel, stones, rocks, or aggregate;
  - (b) dump or infill, or deposit soil, water, mud, sand, gravel, stones, rubbish, litter, rocks, aggregate or material or objects of any kind;
  - (c) construct or place, repair or replace, demolish or remove, buildings or structures or obstructions of any kind, including but not limited to bridges, culverts, breakwaters, dams, wharves, docks, slipways, decks, or flood or erosion protection works;
  - (d) operate heavy equipment or a motor vehicle, other than
    - (i) upon a highway,
    - (ii) upon a private road, right-of-way, or driveway which was approved prior to the enactment of these regulations by the provincial government or a municipal government in a building permit or a subdivision plan, or
    - (iii) for the conduct of activities directly related to the legal harvesting of a fishery resource, the legal removal of beach material, or the cultivating of an agricultural crop;
  - (e) disturb, remove, alter, disrupt or destroy the ground in any manner;

- (f) cut down live trees or live shrubs;
- (g) cultivate an agricultural crop;
- (h) spray or apply pesticides in any manner.

(5) The land within 15 metres of a watercourse boundary or a wetland boundary referred to in subsections (3) and (4) shall be known as a buffer zone. Measurement

(6) For the avoidance of doubt, clause (4)(f) does not prohibit the pruning of trees or shrubs in a buffer zone, provided it is undertaken without engaging in any of the other activities prohibited by subsections (3) and (4). Permitted activities

(7) The planting of grass, trees or shrubs is exempted from the prohibitions in subsection (3) and clause (4)(e), provided it is undertaken without engaging in any of the other activities prohibited by subsections (3) and (4), and provided that only hand tools are used. Exemption

(8) The use of a ride-on lawn mower to cut grass in a buffer zone is exempted from the prohibition in clause (4)(d). (EC720/08) Idem

#### PART IV – WATERCOURSE, WETLAND AND BUFFER ZONE ACTIVITY CERTIFICATE

4. (1) For the purposes of subsection (2), “person” does not include a corporation. person, defined

(2) The Minister may grant a Watercourse, Wetland, and Buffer Zone Activity Certificate to a person who provides Certificate

- (a) a completed application, on a form approved by the Minister, accompanied by the application fee of \$200;
- (b) satisfactory proof of successful completion, within four years prior to the date of submission of the application, of a watercourse, wetland and buffer zone activity and alteration training course acceptable to the Minister; and
- (c) any further documentation requested by the Minister.

(3) A certificate expires on the earlier of Expiry

- (a) two years from the date of issuance; or
- (b) on the revocation by the Minister, for good and sufficient reason, after providing the holder of the certificate with an opportunity to be heard, in writing.

(4) A person who holds a certificate is exempt from the requirement to obtain a permit under subsections 2(1) and (2), 3(3) and (4), provided that Exemption

- (a) the person has a license or is employed by a corporate licensee, and complies with the terms and conditions of that license;



- (b) the person complies with the requirements of the Department's Construction Standards for Activity in Watercourses and Wetlands in carrying out the activity; and
- (c) the person supervises and directs the activity. (EC720/08)

**PART V – WATERCOURSE, WETLAND AND BUFFER ZONE  
ACTIVITY BUSINESS LICENSE**

- License application **5.** (1) The Minister may grant a Watercourse, Wetland, and Buffer Zone Activity Business License
- (a) to a natural person who holds a Watercourse, Wetland, and Buffer Zone Activity Certificate, and who provides a completed application, on a form approved by the Minister, accompanied by the application fee of \$200, and any further information or documentation requested by the Minister; or
  - (b) to a corporation which employs at least one person who holds a Watercourse, Wetland, and Buffer Zone Activity Certificate, and which provides a completed application, on a form approved by the Minister, accompanied by the application fee of \$200, and any further information or documentation requested by the Minister.
- Exemption (2) A licensee which is a corporation is exempt from the requirement to obtain a permit under subsections 2(1) and (2), 3(3) and (4), for the activities listed in Schedule A, provided that the licensee ensures that
- (a) an employee who holds a Certificate personally directs and supervises all watercourse, wetland, and buffer zone activities and alterations undertaken by the corporation pursuant to the license;
  - (b) no watercourse, wetland or buffer zone activity or alteration is carried out other than that which is specifically listed on the license; and
  - (c) all activities are carried out in compliance with the Department's Construction Standards for Activity in Watercourses and Wetlands, and these requirements are conditions of the license.
- Idem* (3) A licensee who is a natural person is exempt from the requirement to obtain a permit under subsections 2(1) and (2), 3(3) and (4), for the activities listed in Schedule A, provided that the licensee
- (a) personally directs and supervises all watercourse, wetland and buffer zone activities and alterations undertaken by the person pursuant to the license;
  - (b) ensures that no watercourse, wetland or buffer zone activity or alteration is carried out other than that which is specifically listed on the license; and
  - (c) ensures that all activities are carried out in compliance with the Department's Construction Standards for Activity in Watercourses and Wetlands,

and these requirements are conditions of the license.

(4) At least 24 hours prior to commencing an alteration or activity undertaken pursuant to a license, the licensee shall complete and file with or fax to the Department a notification form provided in Schedule B and this requirement is a condition of the license.

Notification form

(5) The Minister may include such additional terms and conditions in a license as the Minister considers necessary or advisable for the protection or benefit of the environment.

Additional terms  
and conditions

(6) A license expires on the earlier of

- (a) two years from the date of issuance;
- (b) the licensee, if a natural person, ceasing to hold a certificate; or
- (c) the license being revoked by the Minister.

Expiry

(7) The Minister may

- (a) amend a license or vary the terms or conditions thereof, where the Minister considers it necessary or advisable for the protection or benefit of the environment; or
- (b) revoke a license where the Minister determines there is good and sufficient reason.

Amendment of  
license

(8) No amendment or revocation shall be made to a license without prior notice and an opportunity to be heard, in writing, being given to the licensee. (EC720/08)

*Idem*

#### PART VI – WATERCOURSE, WETLAND AND BUFFER ZONE ACTIVITY PERMIT

6. (1) The registered owner of a provincial parcel of land is exempt from the requirement to obtain a permit under subsections 2(1) and (2), 3(3) and (4), for the activities listed in Schedule A, provided that the owner engages a person who has a license to do the activity or alteration, and that the owner permits and facilitates access to and inspection of the parcel upon which any activity authorized by the license occurs.

Exemption

(2) The Minister may grant a Watercourse or Wetland Activity Permit or a Buffer Zone Activity Permit or a permit pertaining to a combination thereof, to a person who provides a completed application, and any further information or documentation requested by the Minister, including, but not limited to, plans and documents, mitigation procedures, and proof of ownership of the land on which the activity is to take place.

Permits

(3) The Minister may include such terms and conditions in a permit as the Minister considers necessary or advisable for the protection or benefit of the environment.

Terms and  
conditions

- Expiry (4) A permit expires on the earlier of  
 (a) the date indicated on the permit; or  
 (b) the permit being revoked by the Minister.
- Extension, amendment (5) The Minister may  
 (a) extend the expiry date on a permit, upon request, prior to the expiry date;  
 (b) amend a permit or vary the terms or conditions thereof, where the Minister considers it necessary or advisable for the protection or benefit of the environment; or  
 (c) revoke a permit where the Minister determines there is good and sufficient reason.
- Amendment (6) No amendment or revocation shall be made to a permit without prior notice and an opportunity to be heard, in writing, being given to the permittee.
- Notice (7) In issuing or amending a permit, the Minister may require that notice of the application be given to the public or particular members thereof, and the manner and content of such notice shall be as directed by the Minister. (EC720/08)

#### PART VII – GRASS HEADLANDS

- Application of section 7. (1) The requirements of this section do not apply  
 (a) where the row crop being cultivated is corn;  
 (b) where there is a management plan for the parcel or parcels of land being cultivated, and the cultivation is being done in accordance with that management plan; or  
 (c) where the boundary referred to in subsection (2) pertains to  
 (i) a watercourse that is solely a landlocked pond, or  
 (ii) a wetland that is solely a landlocked pond, or solely or a combination of seasonally flooded flats, a shrub swamp, a wooded swamp, a bog or a meadow.
- Prohibition (2) No person shall, without a grass headland variance or grass headland exemption, and other than in accordance with the terms and conditions thereof, cultivate a row crop within 200 metres of any watercourse boundary or wetland boundary unless every row that ends within 200 metres of any watercourse boundary or wetland boundary ends at  
 (a) a grass headland; or  
 (b) a buffer zone.
- grass headland, defined (3) In subsection (2), “grass headland” means an area of live perennial grass

- (a) which was planted prior to the calendar year in which the row crop was planted;
- (b) which is at least 10 metres in width, measured commencing at the end of each row and continuing in the same direction as each row; and
- (c) no part of which is contained within a buffer zone.

(4) For the avoidance of doubt, if both ends of a row of a row crop are within 200 metres of a watercourse boundary or a wetland boundary, then the requirements herein apply to both ends of the row, unless a grass headland variance or grass headland exemption is obtained. *Idem*

(5) In any prosecution for a violation of subsection (2) or (6), the burden of proving that a grass headland was planted prior to the year in which the row crop was planted is on the defendant, to establish on a balance of probabilities. *Burden of proof*

(6) No person shall assist or cause or permit the cultivation of a row crop in violation of subsection (2). *Prohibition*

(7) The Minister may grant a grass headland variance or grass headland exemption to a person who provides a completed application, and any further information or documentation requested by the Minister, including, but not limited to, plans and documents, and proof of ownership of the land on which the activity is to take place. *Application*

(8) The Minister may include such terms and conditions in a grass headland variance or grass headland exemption as the Minister considers necessary or advisable for the protection or benefit of the environment. *Terms and conditions*

(9) A grass headland variance or grass headland exemption expires on the earlier of *Expiry*

- (a) the date indicated in the variance or exemption; or
- (b) the variance or exemption being revoked by the Minister.

(10) The Minister may *Extension, amendment*

- (a) extend the expiry date on a grass headland variance or grass headland exemption, upon request prior to the expiry date;
- (b) amend a grass headland variance or grass headland exemption or the terms or conditions thereof where the Minister considers it necessary or advisable for the protection or benefit of the environment; or
- (c) revoke a grass headland variance or grass headland exemption where the Minister determines there is good and sufficient reason.

(11) No amendment or revocation shall be made to a grass headland variance or grass headland exemption without prior notice and an *Notice*

opportunity to be heard, in writing, being given to the holder thereof.  
(EC720/08)

#### PART VIII – CULTIVATING ON SLOPED LAND PROHIBITION

Definitions	<b>8. (1)</b> In this section,
Prince Edward Island Sloped Land Inventory	(a) “Prince Edward Island Sloped Land Inventory” means the database layer produced by the Department’s Geographic Information System Database, which identifies land in the province having a slope greater than 9%; and
row crop Prohibition	(b) “row crop” does not include corn.
	(2) No person shall, on any provincial parcel of land, cultivate one or more hectares of row crop on any area of that parcel which has a slope which is greater than 9%, unless there is a management plan for that area and the cultivation of the row crop is done, pursuant to, and in accordance with, that management plan.
Identified land	(3) Where land is identified in the Prince Edward Island Sloped Land Inventory, it is deemed to <ul style="list-style-type: none"> <li>(a) have a slope greater than 9%; and</li> <li>(b) be one hectare or more in size,</li> </ul> unless the contrary is proven on a balance of probabilities. (EC720/08)

#### PART IX – MANAGEMENT PLANS

Definitions	<b>9. (1)</b> In this section
management plan	(a) “management plan” means a plan that is approved by a management specialist and contains a soil and crop management component that addresses crop sequences, tillage practices, planting of cover crops, and any other soil conservation practices that may be prescribed by a management specialist;
management specialist	(b) “management specialist” means a person who has been appointed as a management specialist pursuant to subsection (2).
	(2) The Minister may appoint as a management specialist a person whom the Minister is satisfied has expertise in agricultural engineering and who is registered <ul style="list-style-type: none"> <li>(a) as an agrologist pursuant to the provisions of the <i>Agrologists Act</i> R.S.P.E.I. 1988, Cap. A-10; or</li> <li>(b) as an engineer pursuant to the provisions of the <i>Engineering Profession Act</i> R.S.P.E.I. Cap. E-8.1.</li> </ul>

(3) The appointment of a management specialist may be for such term and be subject to such conditions as stipulated in the appointment, and may be revoked by the Minister at will. *Idem*

(4) An application for approval of a management plan may be made in the form as set out in Schedule C. Application

(5) A management specialist may approve a management plan upon receipt of a completed application, and any further information or documentation requested by the management specialist, including, but not limited to, plans and documents, and proof of ownership of the land on which the activity is to take place. Approval

(6) A management specialist may include such terms and conditions in a management plan as the management specialist considers necessary or advisable for the protection or benefit of the environment. *Idem*

(7) A management specialist may amend the terms or conditions of a management plan where the management specialist considers it necessary or advisable for the protection or benefit of the environment. Extension, amendment

(8) No amendment shall be made to a management plan without prior notice, in writing, and an opportunity to be heard, being given to the owner of the land and any person cultivating the land. Notice

(9) A management specialist shall file a management plan, and any amendment thereof, with the Resource Inventory and Modelling Section of the Department. Filing of plan

(10) A management plan expires on the date indicated in the management plan or upon cancellation by the Minister. Expiration

(11) The Minister may cancel a management plan Cancellation

(a) for good and sufficient reason, after providing the owner of the land, and any person cultivating the land, with an opportunity to be heard, in writing; or

(b) upon application by the owner of the land and any person cultivating the land.

(12) The Minister's office shall notify the Resource Inventory and Modelling Section of the Department of the cancellation of a management plan. (EC720/08) Notification

#### PART X – INTENSIVE LIVESTOCK OPERATIONS

**10. (1)** In this section, Definitions

(a) “intensive livestock operation” means a place where livestock are found in a density greater than seven animal units per acre of intensive livestock operation

	living space, with the calculation of animal units to be determined by reference to Column 2 of Schedule D;
livestock	(b) “livestock” means cattle, horses, swine, poultry, sheep, goats, fox and mink;
livestock waste	(c) “livestock waste” means <ul style="list-style-type: none"> <li>(i) feces and manure or manure and associated feed losses,</li> <li>(ii) urine from livestock and associated livestock bedding and waste water, litter, or wash water or water contaminated by either urine or feces,</li> <li>(iii) wasted feed, milkhouse waste, hair, feathers or other debris associated with an agricultural operation, or</li> <li>(iv) any combination of the above;</li> </ul>
living space	(d) “living space” means any confined area to which livestock have access.
Determination of density	(2) For the avoidance of doubt, <ul style="list-style-type: none"> <li>(a) whether an operation contains one type of livestock or a combination of two or more, the density is to be determined by reference to the total animal units, as set out in Column 2 of Schedule D; and</li> <li>(b) where there is more than one living space on a provincial parcel of land, the density of each living space is to be calculated separately and each one which contains more than seven animal units per acre constitutes an intensive livestock operation.</li> </ul>
Prohibition, discharge	(3) The owner and operator of an intensive livestock operation shall ensure that no livestock waste from the operation enters a watercourse or a wetland.
Burden of proof	(4) Where livestock waste from an intensive livestock operation enters a watercourse or a wetland, the burden of proof is on the owner and operator of the intensive livestock operation to establish due diligence, on a balance of probabilities.
Determining due diligence	(5) In determining whether an owner or operator exercised due diligence, the following are among the factors which may be taken into account <ul style="list-style-type: none"> <li>(a) whether the operation had earthen berms or other types of physical barriers to prevent the livestock waste from entering the watercourse or wetland; and</li> <li>(b) whether the operation had a self-contained watertight holding facility into which the livestock waste is diverted.</li> </ul>

(6) Within 90 metres of a watercourse boundary or a wetland boundary, no person shall, without a written authorization from the Minister Prohibition

- (a) construct an intensive livestock operation, or any part thereof, or add livestock, structures or facilities to any existing intensive livestock operation;
- (b) commence an intensive livestock operation or any activity connected thereto; or
- (c) assist in or cause or permit clause (a) or (b).

(7) The requirements of subsection (6) do not apply where the boundary referred to in subsection (6) pertains to Exemption

- (a) a watercourse that is solely a landlocked pond; or
- (b) a wetland that is solely a landlocked pond, or solely or a combination of seasonally flooded flats, a shrub swamp, a wooded swamp, a bog or a meadow.

(8) The distance between a watercourse boundary or a wetland boundary and an intensive livestock operation shall be measured from the wetland boundary or watercourse boundary to the nearest point of living space. (EC720/08) Measurement

#### PART XI – INSPECTIONS AND ORDERS

**11.** (1) It is a condition of every license, permit, authorization, management plan, grass headland variance and grass headland exemption under these regulations that the holder thereof shall permit and facilitate access to and inspection of any property upon which the holder carries on any activity authorized by the license, permit, authorization, management plan, grass headland variance or grass headland exemption. Condition, access and inspection

(2) To ensure or determine compliance with these regulations, an inspector or an officer may Powers of inspectors and officers

- (a) enter upon and pass through or over private property without being liable for trespass, including but not limited to land where agricultural crops are being cultivated or may be cultivated;
- (b) enter and inspect any premises, excluding a private dwelling house;
- (c) inspect and conduct tests, and take photographs, surveys, measurements, and samples of soil and vegetation or other matter, and samples of water or any other liquid;
- (d) require a landowner or lessee to produce for inspection any survey plans, leases, agreements, estimates, statements of account, or other documents or records that pertain to activity carried out on the land;



- (e) require any person to produce for inspection any certificate, license, permit, authorization, management plan, grass headland variance or grass headland exemption that person has, claims to have, or would, in the opinion of the inspector or officer, be required to have to carry out the activity or operation; and
- (f) receive copies of any records or documents produced under clauses (d) and (e), and retain the same for the purpose of copying and returning them.

Power to stop  
vehicle

(3) For the purposes of enforcing these regulations, an officer may signal or request any person driving a motor vehicle to stop, and thereupon the person shall bring the vehicle to a stop and shall not proceed until permitted to do so by the officer.

Standards

(4) For the avoidance of doubt, the standards established herein are minimum standards and nothing contained herein, nor compliance with these regulations and the standards incorporated herein, nor compliance with the terms and conditions of any license, permit, authorization, management plan, grass headland variance or grass headland exemption precludes the issuance of an order pursuant to subsection (5), or an environmental protection order pursuant to sections 7 or 7.1 of the Act where the Minister believes, on reasonable and probable grounds, that a threat to the environment or environmental health is occurring or has occurred.

Verbal order,  
emergency field  
order

(5) Where an officer believes, on reasonable grounds, that an activity is occurring or has occurred which is a violation of these regulations and time is of the essence to take remedial action to protect the environment, the officer may issue a verbal order or an emergency field order, as set out in the form in Schedule E, to the person committing or apparently committing the violation, or to the person in charge or apparently in charge of the activity which constitutes the violation, or to the registered owner of the property on which it is or has occurred, to cease the activity and commence remedial measures as directed.

Prohibition

(6) No person shall fail or refuse to comply with a verbal order or an emergency field order. (EC720/08)

## PART XII - GENERAL

Delegation

**12.** (1) The Minister may delegate to any Minister of the Crown in right of the province or to a Director or other employee within the Minister's Department any power conferred on the Minister under these regulations, and the Minister, Director or other employee to whom the power is delegated may then exercise the power subject to any terms and conditions that the Minister prescribes.

(2) A person to whom a license, permit, authorization, grass headland variance or grass headland exemption is granted, or for whom a management plan is approved, shall be deemed to have accepted responsibility for all work done pursuant thereto.

Completion of work

(3) The granting of a certificate, license, permit, authorization, grass headland variance or grass headland exemption or the approving of a management plan, does not exempt the person to whom it is granted or for whom it is approved from the provisions of any Act of the Legislature or the regulations under such Act, or any Act of the Parliament of Canada or the regulations made under such Act.

Effect of granting

(4) Neither the Minister, the Department nor any employee or officer of the Crown is liable for any loss or damage caused or occasioned by

Exemption from liability

(a) any activity or alteration for which a license, permit, authorization, grass headland variance or grass headland exemption was granted or for which a management plan was approved pursuant to these regulations;

(b) the revocation of any certificate, license, permit, authorization, grass headland variance or grass headland exemption or management plan; or

(c) the amendment of any certificate, license, permit, authorization, grass headland variance or grass headland exemption or management plan.

(5) No action or other proceeding for damages lies or shall be instituted against

No action lies

(a) the Minister or any person acting for the Minister pursuant to a delegation of power under subsection (1);

(b) an inspector or an officer; or

(c) any person lawfully assisting or acting under the direction of any person referred to in clauses (a) and (b),

for anything done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under these regulations, or for any neglect or default in the performance or exercise in good faith of any such duty or power.

(6) The issuance of a certificate, license, permit, authorization, grass headland variance or grass headland exemption and the approval of a management plan pursuant to these regulations are conditional on

Conditions

(a) all material facts in the application having been disclosed; and

(b) the facts, representations and other information contained in the application being true, accurate and complete.

(7) No person shall give false or misleading information in an application, report or statement or any other document submitted or made to the Minister under these regulations.

Prohibition

Grounds for refusal,  
revocation

(8) Grounds for refusing or revoking a certificate, license, permit, authorization, grass headland variance or grass headland exemption or management plan, include, but are not limited to

- (a) current or prior non-compliance by the holder with the Act or any regulations made thereunder, or with any term or condition of a certificate, license, permit, authorization, grass headland variance, grass headland exemption or management plan;
- (b) discovery of relevant information not disclosed or not available at the time the certificate, license, permit, authorization, grass headland variance or grass headland exemption was granted or the management plan was approved;
- (c) information being received that the activity being carried on pursuant to the certificate, license, permit, authorization, grass headland variance, grass headland exemption or management plan is affecting the property in question in a way not anticipated, or the property of other persons; and
- (d) discovery of a threat to the environment or environmental health that is, or is apparently, being caused by or exacerbated by the activity being carried on pursuant to the certificate, license, permit, authorization, grass headland variance, or grass headland exemption or management plan.

Prosecution

(9) In any prosecution for a violation of these regulations

- (a) the registered owner of the property upon which any activity prohibited or regulated by these regulations occurs is deemed to have caused or permitted the activity, unless it is established, on a balance of probabilities, that the registered owner did not cause or permit the activity, and the burden of proof is on the registered owner to so prove, on a balance of probabilities;
- (b) where an area is identified as open water, deep marsh, shallow marsh, brackish marsh or salt marsh in the Prince Edward Island Wetland Inventory, that is *prima facie* evidence that the area comes within the requirements of these regulations, unless the contrary is proved on a balance of probabilities, and the burden is on the defendant to so prove;
- (c) no exception, exemption, proviso, excuse or qualification prescribed by these regulations is required to be set out or negated, as the case may be, in an information or summary offence ticket laid with respect to a charge under these regulations; and
- (d) the burden of proving that any exception, exemption, proviso, excuse or qualification prescribed by these regulations operates in favour of the defendant is on the defendant, to prove on a balance of probabilities, and the prosecutor is not required, except by way of rebuttal, to prove that the exception, exemption, proviso, excuse, or qualification does not operate in favour of the defendant, whether or not it is set out in the information or summary offence ticket.

(10) All persons to whom a request is made by an inspector or an officer under these regulations shall provide all reasonable assistance to enable the inspector or the officer to carry out his or her functions under these regulations, and shall furnish the inspector or officer with all information reasonably required to administer or enforce these regulations.

Reasonable assistance

(11) No person shall impede or obstruct or knowingly make false or misleading statements to an inspector or an officer engaged in carrying out the inspector's or officer's functions under these regulations. (EC720/08)

Prohibition

### PART XIII - APPEALS

**13.** (1) In this section, "Commission" means the Island Regulatory and Appeals Commission established pursuant to section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11.

Island Regulatory and Appeals Commission

(2) A person may, within 21 days of

- (a) the refusal, revocation or amendment of a permit, grass headland variance, grass headland exemption, or authorization;
- (b) the refusal of approval of a management plan; or
- (c) the issuance of an emergency field order

appeal the same by filing a notice of appeal with the Commission, in the form prescribed by the Commission.

Notice of appeal

(3) A notice of appeal under subsection (1) may be filed only by a person who

- (a) is the holder of, or an applicant for, a permit, grass headland variance, grass headland exemption or authorization;
- (b) is the applicant for or is subject to a management plan; or
- (c) is subject to an emergency field order,

or by anyone else determined by the Commission to be personally or adversely affected by the matter so as to have standing.

*Idem*

(4) Subject to adherence to the rules of natural justice, the Commission shall determine its own procedure.

Procedure

(5) The Commission may vary, confirm, or rescind the decision being appealed.

Powers

(6) The initiation of an appeal does not abrogate the requirement to comply with the decision being appealed.

Duty to comply

(7) The Department shall implement an order made by the Commission. (EC720/08)

Implementation of order

PART XIV – OFFENCES AND PENALTIES

- Offence           **14.** (1) No person shall violate any provision of these regulations or the terms or conditions of any certificate, permit, license, authorization, grass headland variance, grass headland exemption, management plan or emergency field order.
- Offence, penalty       (2) Any natural person who violates  
                                   (a) any provision of these regulations, other than subsection 8(2); or  
                                   (b) any term, condition, or provision of any certificate, permit, license, authorization, grass headland variance, grass headland exemption, management plan or emergency field order,  
 is guilty of an offence and is liable, on summary conviction, to a fine of not less than \$3,000 or more than \$10,000, and to pay such restitution as the judge thinks fit to any person aggrieved or affected by the violation.
- Idem*                 (3) Any corporation which violates  
                                   (a) any provision of these regulations, other than subsection 8(2); or  
                                   (b) any term, condition, or provision of any certificate, permit, license, authorization, grass headland variance, grass headland exemption, management plan or emergency field order,  
 is guilty of an offence and is liable, on summary conviction, to a fine of not less than \$10,000 or more than \$50,000, and to pay such restitution as the judge thinks fit to any person aggrieved or affected by the violation.
- Idem*                 (4) Any officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in or participates in, the commission of an offence by that corporation under subsection (3) is guilty of an offence and is liable, in respect of the commission of an offence by the corporation under subsection (3), to any penalty set out in subsection (2).
- Idem*                 (5) Any natural person or corporation who or which violates subsection 8(2) of these regulations or the terms, conditions or provisions of a management plan, is guilty of an offence and is liable, on summary conviction, to a fine of \$1,000 per hectare of land cultivated in violation of subsection 8(2), and to pay such restitution as the judge thinks fit to any person aggrieved or affected by the violation.
- Separate offence       (6) Where a violation of any provision of these regulations or the terms or conditions of any permit, license, authorization, grass headland variance, grass headland exemption, management plan or emergency field order continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues. (EC720/08)

**SCHEDULE****SCHEDULE A****ACTIVITIES WHICH A LICENSEE MAY ENGAGE IN**

**SHORE STABILIZATION** - A licensee may, for the purpose of and in the course of, doing shore stabilization, and only to the extent necessary to secure shore stabilization equipment or materials, and for no other purpose or effect, do the following:

**IN A WETLAND OR A WATERCOURSE:** engage in any of the activities listed in subsection 2(1) of the regulations, with the exception of the activities listed in clause 2(1)(e);

**IN A BUFFER ZONE:** engage in any of the activities listed in subsection 3(3) of the regulations, and in any of the activities listed in subsection 3(4) of the regulations, with the exception of the activities listed in clauses 3(4)(b), (g) and (h).

**LANDSCAPING IN A BUFFER ZONE** - A licensee may, for the purpose of and in the course of, doing landscaping in a buffer zone, and only to the extent necessary to do landscaping in a buffer zone, and for no other purpose or effect, do the following:

**IN A BUFFER ZONE:** engage in the activities listed in subsection 3(3) of the regulations, and in any of the activities listed in subsection 3(4) of the regulations, with the exception of the activities listed in clauses 3(4)(b),(c), (f), (g), and (h).

**OPERATION OF MACHINERY ON A BEACH OR SHORELINE** - A licensee may, for the purpose of and in the course of, operating heavy equipment on a beach, and only to the extent necessary to perform maintenance on an existing shore access or the removal of beach material, and for no other purpose or effect, do the following:

**ON A BEACH:** engage in the activities listed in clause 2(1)(d) of the regulations;

**IN A BUFFER ZONE:** engage in the activities listed clause 3(4)(d) of the regulations.

**MINOR BRIDGE REPAIRS** - A licensee may do minor bridge repairs in a watercourse or wetland as outlined in clause 2(1)(c) of the regulations.

**FEDERAL WHARF REPAIRS** - A licensee may, for the purpose of and in the course of, doing federal wharf repairs and only to the extent necessary to do federal wharf repairs, and for no other purpose or effect, do the following:

**IN A WETLAND OR A WATERCOURSE:** engage in any of the activities listed in subsection 2(1) of the regulations, with the exception of the activities listed in clauses 2(1)(d), (e), (g) and (h);

**IN A BUFFER ZONE:** engage in any of the activities listed in subsection 3(3) of the regulations, and in any of the activities listed in subsection 3(4) of the regulations, with the exception of the activities listed in clauses 3(4)(b), (f), (g) and (h).

(EC720/08)

**SCHEDULE B**

**NOTIFICATION FORM**

by licensee of Activity in a Watercourse, Wetland, or Buffer Zone  
pursuant to subsection 5(4) of these regulations

Subsection 5(4) of these regulations requires that a licensee must, at least 24 hours prior to commencing an alteration or activity undertaken pursuant to a license, complete this form and file it with or fax it to the Department.

Personal information on this form is collected as it relates directly to and is necessary for the required notification to perform a watercourse and wetland activity. If you have any questions about this collection of personal information, you may contact the Director of Water Management, 11 Kent Street, Jones Building, Charlottetown, PEI C1A 7N8, Phone: (902) 368-5000.

<b>Licensee</b>	
Name:	
Company:	
Phone:	Fax:
Mailing Address:	
Province:	Postal Code:
E-mail:	
<b>Project Information</b>	
<b>Type of Project:</b>	
<input type="checkbox"/> Shore Stabilization	
<input type="checkbox"/> Shore Stabilization	
<input type="checkbox"/> Landscaping in a Buffer Zone	
<input type="checkbox"/> Operation of Machinery on a Beach or Shoreline	
<input type="checkbox"/> Federal Wharf Repairs	
<input type="checkbox"/> Minor Bridge Repairs	
<b>Description:</b>	
<b>Date work is to Commence (dd/mm/yyyy):</b>	
<b>Property Information:</b>	
Property Owner(s) Name:	
Property Owner(s) Address:	
Property Tax #:	
Community:	County:
Work location on Property (describe):	

Licensee Signature: ..... Date: .....

**Personally deliver or fax this Notification Form to:**

Department of Environment, Energy & Forestry  
Water Management Division  
Watercourse and Wetland Activity Program  
PO Box 2000, Charlottetown, PE C1A 7N8  
4th Floor Jones Building, 11 Kent Street  
Charlottetown, PE C1A 7N8  
Tel: (902)-368-5000 - Fax: (902) 368-5830  
(EC720/08)

**SCHEDULE C**

**FORM FOR APPLYING FOR APPROVAL OF A  
MANAGEMENT PLAN**

(Section 9 of these regulations)

**TO: THE DEPARTMENT OF ENVIRONMENT, ENERGY & FORESTRY**

1. Name of Applicant:.....

2. Address and telephone numbers of Applicant:  
.....  
.....

3. Location of the land: .....  
(Please attach map showing location.)

4. Provincial Parcel number(s):.....

5. Owner of the land (if different from applicant):.....

6. Reason for application [Check box or boxes that apply]:  
 To not require grass headlands [to come within exception in clause 7(1)(b)]  
 To be able to cultivate row crops on land with slope greater than 9% [to come within exception in subsection 8(2)]

**Signature of Applicant [and signature, address, and telephone number of landowner, if Applicant is not landowner].....**  
.....

(Management plan attachments)  
.....  
.....  
(EC720/08)



**SCHEDULE D**

**INTENSIVE LIVESTOCK OPERATIONS**

[Density of Livestock - subsections 10(1) and (2) of these regulations]

COLUMN 1 Animal	COLUMN 2 Animal Unit	COLUMN 3 Density which constitutes “Intensive Livestock Operation” more than:
horses	1 horse = 1 animal unit	7 horses per acre of living space
dairy cows	1 dairy cow = 1 animal unit	7 dairy cows per acre of living space
beef cows	1 beef cow = 1 animal unit	7 beef cows per acre of living space
beef feeders	2 beef feeders = 1 animal unit	14 beef feeders per acre of living space
dairy heifers	2 dairy heifers = 1 animal unit	14 dairy heifers per acre of living space
adult sheep	4 adult sheep = 1 animal unit	28 adult sheep per acre of living space
feeder lambs	10 feeder lambs = 1 animal unit	70 feeder lambs per acre of living space
adult goats	4 adult goats = 1 animal unit	28 adult goats per acre of living space
feeder goats	10 feeder goats = 1 animal unit	70 feeder goats per acre of living space
swine	4 swine = 1 animal unit	28 swine per acre of living space
laying hens	125 laying hens = 1 animal unit	875 laying hens per acre of living space
broilers	200 broilers = 1 animal unit	1400 broilers per acre of living space
turkeys	75 turkeys = 1 animal unit	525 turkeys per acre of living space
adult foxes*	40 adult foxes = 1 animal unit	280 adult foxes per acre of living space
adult mink*	80 adult mink = 1 animal unit	560 adult mink per acre of living space

\* Offspring are not to be included until they are market size. (EC720/08)

**SCHEDULE E**

**EMERGENCY FIELD ORDER**

pursuant to subsection 11(5) of these regulations

**WHEREAS I BELIEVE, ON REASONABLE GROUNDS, THAT**

On property located at or near .....  
County, Prince Edward Island, an activity is occurring or has occurred,  
namely.....  
.....(description  
of the activity), which activity is a violation of ..... of these regulations;

**AND WHEREAS I BELIEVE ON REASONABLE GROUNDS, THAT** time is of the  
essence for remedial action to protect the environment;

**AND WHEREAS,** I am an environment officer designated pursuant to the Act, and an  
officer pursuant to these regulations;

**I THEREFORE ORDER YOU,**

.....  
(name of person/corporation issued to), of .....  
(address of person/corporation) as

- the person committing or apparently committing the violation
- the person in charge or apparently in charge of the activity which constitutes the violation
- the registered owner of the property on which the activity is occurring or has occurred,

**TO IMMEDIATELY CEASE** the following activity  
.....  
and commence the following remedial measures.  
.....

on or before .....day, the ..... day of ....., 200....., at  
..... o'clock in the ..... (after or fore) noon.

**DATED AT** ....., ..... County, Prince  
Edward Island, this ..... day of ....., 200.....

.....  
Signature of Officer

.....  
Printed name of Officer