Disturbance Standard for Temporary Seasonal Docks and other Mooring Structures for Personal Recreational Purposes

April 2021

Classification: Public

Disturbance Standard for Temporary Seasonal Docks and other Mooring Structures for Personal Recreational Purposes

Preface

1 This Disturbance Standard is established under section 3 of the *Public Lands Administration Regulation.*

Purpose

2 The purpose of this Disturbance Standard is to set the maximum acceptable footprint for temporary seasonal docks, temporary seasonal boat lifts and associated structures for personal recreational purposes on vacant public land.

Definitions

3(1) All definitions in the *Public Lands Act*, RSA 2000, c P-40 and the *Public Lands Administration Regulation* apply except where expressly stated in this Disturbance Standard.

(2) In this Disturbance Standard,

(a) "anchor" means a weighted object placed on the bed or shore of a water body for the purpose of fixing a buoy, temporary seasonal dock or swimming platform to the bed or shore of a water body;

(b) "associated structures" includes temporary seasonal boat lifts and swimming platforms, including an anchor if an anchor is used, that are constructed and installed in a way so that they can be removed from the bed and shore of a water body before the end of the open water part of the year without cause disturbance to the bed and shore. A boathouse is not an associated structure;

(c) "bank" means the natural boundary where the bed and shore of a water body cease; unless coincidental, it is not a historic high water mark, a flood line, or the current waterline;

(d) "bed and shore" means the submersed and exposed part of a water body that is bounded by its bank;

(e) "boathouse" means a permanent structure used for the storage of a vessel and associated materials and includes any structure that is enclosed on all sides, has a roof or walls or any combination of the two;

(f) "buoy" means a floating marker that is placed in a water body, excluding the anchor;

(g) "Disturbance Standard" means the *Disturbance Standard for Temporary, Seasonal Docks and other Mooring Structures for Personal Recreational Purposes*, as established under section 3 of the *Public Lands Administration Regulation* and as amended or replaced from time to time;

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(h) "dock" means any pier, wharf or other structure constructed or maintained in a water body, whether floating or not, used for the purposes of mooring a vessel and includes any walkway, terminal platform, or anchor if an anchor is used;

(i) "line of navigation" means an imaginary line located at a distance below the current water line that will afford sufficient draft for a vessel customarily in use on a particular water body, and at the point where the depth reaches 1.5 metres;

(j) "littoral drift" means the sedimentary material that is transported in the water along the bed and shore by waves and current;

(k) "maximum acceptable footprint " means the extent and nature of a permitted activity as set out in this disturbance standard;

(l) "mooring area" means the area of the water body apportioned to a waterfront holder or semi-waterfront holder or municipal waterfront holder as set out in section 7 of this disturbance standard;

(m) "mooring buoy" means a buoy installed or used for the purpose of offshore moorage of a vessel, excluding the anchor;

(n) "municipality" means a municipality as defined under the *Municipal Government Act*;

(o) "municipal waterfront holder" means a municipality that is registered under the *Land Titles Act* as the owner of the fee simple estate in the land directly adjoining the bank of a water body;

(p) "open water part of the year" the period of time during the year when the water in a water body is not covered with ice;

(q) "permitted activity" means the construction, placement and use of a temporary seasonal boat lift or a temporary seasonal dock for a recreational purpose as defined under Part 2 of the *Public Lands Administration Regulation*, which may include any seasonally used associated structures, mooring buoys and anchors, but does not include:

(i) construction, placement and use of a community dock; or
(ii) construction, placement and use of a temporary seasonal dock for a commercial purpose as defined in Part 2 of the *Public Lands Administration Regulation;*

(r) "personal watercraft" means any motorized recreational water vehicle that has as its primary source of propulsion an inboard motor powering a jet pump, and is capable of carrying one or more persons in a sitting, standing or kneeling position on or astride the vessel.

(s) "semi-waterfront holder" means:

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(i) the person who is registered under the *Land Titles Act* as the owner of the fee simple estate in the land directly adjoining a municipal reserve or environmental reserve, where the municipal reserve or environmental reserve directly adjoins the bank of a water body; or

(ii) the holder of a disposition according to the records of the Department for land directly adjoining a municipal reserve or environmental reserve, where the municipal reserve or environmental reserve directly adjoins the bank of a water body; or

(iii) the holder of a legal interest in the land directly adjoining a municipal reserve or environmental reserve, where the municipal reserve or environmental reserve directly adjoins the bank of a water body.

(t) "shared dock" means a dock that is shared by one or more waterfront holders or semi-waterfront holders whose mooring areas are adjacent to each other.

(u) "swimming platform" means a floating platform and its anchor, without railings, a roof or walls that is anchored to the bed of a water body and is only designed and used for swimming, diving and related activities that do not include the mooring of watercraft;

(v) "swing radius" of a vessel at anchor, means the distance from the anchor to the stern of the vessel that will form the circumference of a circle (the swing area as the vessel revolves about the mooring point). The length of the swing radius is equal to the length of anchor chain plus the total length of the vessel;

(w) "temporary seasonal boat lift" means a temporary structure used for lifting and storage of the vessel above the surface of the water, that is constructed and installed in a way so that it can be removed from the bed and shore of a water body before the end of the open water part of the year without causing disturbance to the bed and shore.

(x) "temporary seasonal dock" means a dock or shared dock that is constructed and installed in a way so that it can be removed from the bed and shore of a water body before the end of the open water part of the year without causing disturbance to the bed and shore;

(y) "terminal platform" refers to the portion of the dock connected to, and generally wider than the walkway, and used both for securing and loading a vessel;

(z) "vessel" means a motorized or non-motorized boat or pleasure craft, personal watercraft, or other similar vessel, but excludes a thing used as a temporary or permanent residence, floating or otherwise;

(aa) "walkway" refers to the portion of the dock that allows access to the terminal platform;

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(bb) "water body" means a permanent and naturally occurring body of water or a naturally occurring river, stream, watercourse or lake;

(cc) "waterfront holder" means:

(i) the person who is registered under the *Land Titles Act* as the owner of the fee simple estate in the land directly adjoining the bank of a water body; or
(ii) the holder of a disposition according to the records of the Department for land directly adjoining the bank of a water body;
(iii) the holder of a legal interest in the land directly adjoining the bank of a water body.

Application of this Disturbance Standard

4(1) Subject to section 4(2), this Disturbance Standard applies to beds and shores of all water bodies vested in the Crown in right of Alberta by virtue of section 3 of the *Public Lands Act*.

(2) This Disturbance Standard does not apply to beds and shores that are within a sanctuary as defined in section 3(qq) of the *Wildlife Regulation*, as amended.

General Permission

5(1) A waterfront holder or semi-waterfront holder may enter on and occupy the bed and shore for the purpose of a permitted activity subject to the following:

(a) the permitted activity shall only be temporary;
(b) the permitted activity shall only be seasonal;
(c) the permitted activity shall meet all of the requirements of the maximum acceptable footprint as set out in this Disturbance Standard;
(d) a permitted activity, with the exception of construction, placement and use of a mooring buoy and anchor and swimming platform, shall only occur within the mooring area as determined in accordance with this Disturbance Standard;
(e) the waterfront holder or semi-waterfront holder shall obtain all federal, provincial, municipal, and other permits and approvals, as applicable, with respect to the permitted activity;
(f) the permitted activity shall comply with federal and provincial laws, municipal bylaws and local government zoning restrictions;
(g) the permitted activity shall not cause loss or damage to public land; and
(h) the permitted activity shall not cause a hazard to swimming or navigation.

(2) A municipality may enter on and occupy the bed and shore for the purpose of placing one or more buoys and anchors subject to the following:

(a) the buoys and anchors are for the purpose of marking a defined swimming area, posting speed restrictions, for vessel navigational aids, or for marking a restricted area;
(b) the buoys and anchors shall be for temporary seasonal use;
(c) the municipality shall obtain all federal, provincial, municipal, and other permits and approvals, as applicable, with respect to the placement of buoys and anchors;

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(d) placement of buoys and anchors shall comply with federal and provincial laws, municipal bylaws and local government zoning restrictions;
(e) the municipality shall only construct the anchor for a mooring buoy in accordance with the following:
    (i) Anchors shall be composed of material that does not physically or chemically degrade when exposed to physical abrasion, chemical abrasion or water;
    (ii) Anchors shall not contain or consist of garbage, waste or debris; and
    (iii) Anchors shall not contain material that was intended for other uses; and
(f) the buoy and its anchor shall be removed from the bed and shore at the end of the open water part of the year.

No property

6(1) For the purpose of this section, "holder" includes waterfront holder, semi-waterfront holder and municipal waterfront holder.

(2) Notwithstanding any rule of law or equity, the rights and privileges conveyed in this Disturbance Standard do not constitute personal property or any exclusive privileges or right of use on public land, nor does it authorize any injury to property or infringement of rights or federal, provincial or local laws and regulations.

(3) A holder engaging in any activities permitted in this Disturbance Standard must keep the Minister indemnified against all actions, claims and demands brought or made against the Minister, by the holder or by any third party, for any losses arising directly or indirectly from activities permitted in this Disturbance Standard.

Defined Mooring Area

7(1) For the purpose of this section, "holder" includes waterfront holder, semi-waterfront holder and municipal waterfront holder.

(2) A holder's mooring area is bounded by:
    (a) the current water line;
    (b) the line of navigation; and
    (c) setbacks, as set out in section 7(4), from the holder's projected property lines determined in accordance with section 7(3).

(3) The projected property lines are determined by drawing straight lines from the intersection of the property lines of the holder's lot with the bank to the line of navigation according to one of the following methods:

    (a) *Extended lot line method:* Project a straight line with the same alignment as the property line from the intersection of the property line with the bank to the line of navigation (Figure 1).

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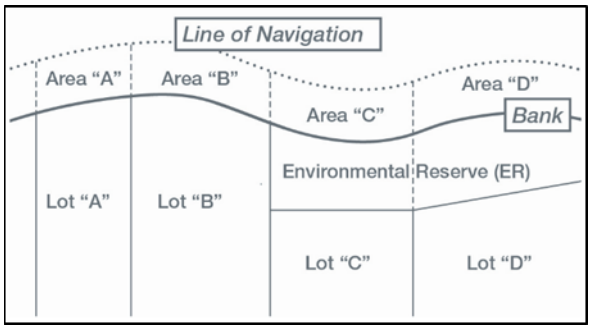

Figure 1. Extended Lot Line Method

(b) *Coterminous line method:*

1. Using a subdivision plan, locate the holder's lot;
2. Draw a straight line (the "extended bank line") between the two points where the property lines of the holder's lot intersect with the bank;
3. Repeat step 2 above to determine the extended bank line for the lots that are adjacent to the holder's lot;
4. Equally bisect the angle between the extended bank lines of the holder's lot and the extended bank lines of the lots that are adjacent to the holder's lot;
5. Project a straight perpendicular line from the bisected angles in step 4 out to the line of navigation as shown in Figure 2 to determine the coterminous lines.

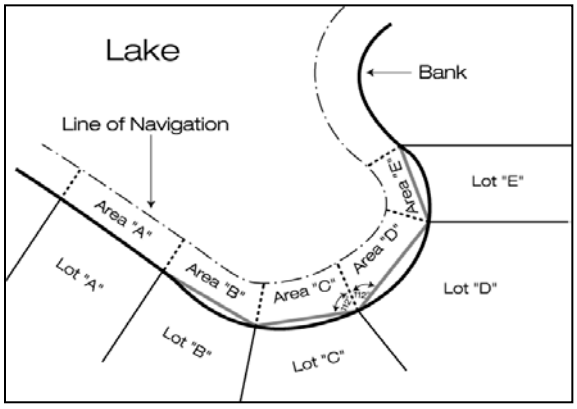

Figure 2. Coterminous Line Method

(c) If projected property lines intersect before the line of navigation is reached, another method of apportionment may be used subject to approval in writing from the director.

(d) If the methods in 7(3)(a) and (b) cannot be used to accommodate non-linear subdivision designs, another method of apportionment may be used subject to approval in writing from the director.

(4) **S**etbacks from the projected property line shall be:

(a) Not less than 3 meters from any projected property line; and

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(b) Zero (0) meters where a temporary seasonal dock that is a shared dock, associated structures, or mooring buoy and anchor for a recreational purpose is shared and is located adjacent to or on both sides of a shared property line as agreed to by the affected waterfront holder, semi-waterfront holder or municipal waterfront holders.

(5) For the purpose of section 5(1) of this Disturbance Standard, the mooring area for a semi-waterfront holder shall be determined in accordance with sections 7(2), 7(3) and 7(4) where the projected lot line shall extend through the land held by the municipal waterfront holder.

Maximum Acceptable Footprint for Permitted Activity – Temporary Seasonal Dock

8(1) The maximum acceptable footprint in this section shall apply to the construction, placement and use of a temporary seasonal dock by a waterfront holder or semi-waterfront holder.

(2) The waterfront holder or semi-waterfront holder shall not construct or place more than one temporary seasonal dock within their mooring area.

(3) A semi-waterfront holder shall not construct or place a temporary seasonal dock if a municipal waterfront holder has already constructed or placed a dock in the mooring area in front of the municipal waterfront parcel.

(4) The waterfront holder or semi-waterfront holder may only use or allow the use of a temporary seasonal dock to support mooring for a recreational purpose as defined in Part 2 of the *Public Lands Administration Regulation.*

(5) The waterfront holder or semi-waterfront holder may only construct a temporary seasonal dock in accordance with the following:

(a) The width of the walkway for a temporary seasonal dock shall not exceed 1.5m;
(b) The total size of the temporary seasonal dock, including the terminal platform and walkway, in any configuration, shall not exceed 50% of the waterfront holder's lot width or semi-waterfront holder's lot width, as measured from the holder's projected property lines closest to the current water line;
(c) If the temporary seasonal dock is being constructed or placed on a water body that is a river, the temporary seasonal dock shall not extend out into the river more than 10% of the total width of the river as measured at a point where the temporary seasonal dock is to be placed; and
(d) A temporary seasonal dock shall not completely enclose any portion of a water body.

(6) The waterfront holder or semi-waterfront holder shall only construct a temporary seasonal dock using biologically inert and non-reactive materials, including but not limited to factory pressure treated, non-toxic, marine grade wood, untreated wood or plywood, metal, fiberglass, or plastic.

(7) The waterfront holder or semi-waterfront holder may only remove aquatic vegetation if:

(a) cutting of the aquatic vegetation is directly incidental to the permitted activity; or
(b) the aquatic vegetation is a Freshwater Dwelling Invasive Plant listed under Item 2 of the Schedule in the *Fisheries (Alberta) Act.*

(8) Where cutting of aquatic vegetation is directly incidental to the permitted activity, the waterfront holder or semi-waterfront holder may only cut aquatic vegetation in accordance with the following:

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(a) aquatic vegetation may only be cut once per year;
(b) aquatic vegetation may only be cut between July 15 and September 15;
(c) the area from which aquatic vegetation may be cut is restricted as follows:
    (i) the length of the area from which aquatic vegetation is cut may only consist of a single lane from the bank in a direct path perpendicular to the shore;
    (ii) the width of the single lane in (i) shall be a maximum of 4 meters;
    (iii) the single lane in (i) must remain in the same location every year;
    (iv) the depth of cutting of aquatic vegetation shall not be greater than 1 meter below the water surface; and
    (v) aquatic vegetation may only be cut by manual or mechanical means;
(d) all aquatic vegetation that is cut shall be immediately removed from the bed and shore and disposed of such that nutrients and debris will neither accumulate on the bed and shore nor re-enter the water body.

(9) The waterfront holder or semi-waterfront holder shall only construct floats for the temporary seasonal dock using materials that do not physically or chemically degrade when exposed to physical abrasion, chemical abrasion, water or petroleum products.

(10) The waterfront holder or semi-waterfront holder may only apply preservatives to the temporary seasonal dock while the temporary seasonal dock is located above the bank.

(11) The waterfront holder or semi-waterfront holder shall not place the temporary seasonal dock beyond the bank unless and until previously applied preservatives are completely dried;

(12) The waterfront holder or semi-waterfront holder may only use synthetic or metal containers not originally intended for flotation devices for construction of the temporary seasonal dock, provided they have been cleaned of all product residues, are corrosion resistant, and watertight.

(13) The waterfront holder or semi-waterfront holder shall only construct the anchor for a temporary seasonal dock in accordance with the following:

(a) Anchors shall be composed of material that does not physically or chemically degrade when exposed to physical abrasion, chemical abrasion or water;
(b) Anchors shall not contain or consist of garbage, waste or debris; and
(c) Anchors shall not contain material that was intended for other uses.

(14) The waterfront holder or semi-waterfront holder shall maintain the temporary seasonal dock in a safe operating condition at all times.

(15) The waterfront holder or semi-waterfront holder shall not cause or allow the construction, placement or use of a temporary seasonal dock in any way that:

(a) results or may result in in damage or modification to the bed and shore of the water body;
(b) obstructs or may obstruct public access along the bed and shore;
(c) interrupts or may interrupt the free movement of water; or
(d) causes or may cause the formation of land by deposition of littoral drift upon the bed and shore of a water body.

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(16) The waterfront holder or semi-waterfront holder may place temporary, readily removed accessories on the temporary seasonal dock but shall not place any fixed or covered structures including, but not limited to gazebos, storage sheds, shelters or other similar structures on the temporary seasonal dock.

(17) The waterfront holder or semi-waterfront holder shall not cause or allow the seasonal storage of fuel on a temporary seasonal dock.

(18) The waterfront holder or semi-waterfront holder shall remove the temporary seasonal dock before the end of the open water part of the year.

(19) Once the waterfront holder or semi-waterfront holder has removed the temporary seasonal dock in accordance with section 8(18), the waterfront holder or semi-waterfront holder shall not store the temporary seasonal dock on public land.

(20) A waterfront holder or semi-waterfront holder may share a temporary seasonal dock with other adjacent waterfront holders or semi-waterfront holders in which case all waterfront holders and semi-waterfront holders that use the temporary seasonal dock are jointly responsible for complying with this Disturbance Standard.

(21) The waterfront holder or semi-waterfront holder shall ensure that its guests and invitees comply with this Disturbance Standard and a failure to comply with any requirement of this Disturbance Standard by a guest or invitee of the waterfront holder or semi-waterfront holder shall be deemed a failure to comply by the waterfront holder or semi-waterfront holder.

Maximum Acceptable Footprint for Permitted Activity – Temporary Seasonal Boat Lift

9(1) The maximum acceptable footprint in section 8(5)(b) shall apply to the construction, placement and use of a temporary seasonal boat lift as an associated structure with a temporary seasonal dock or as a stand alone temporary seasonal boat lift.

(2) The waterfront holder or semi-waterfront holder shall not construct or place a temporary seasonal boat lift that is enclosed on all sides.

(3) The waterfront holder or semi-waterfront holder shall only construct or place a temporary seasonal boat lift within their mooring area.

(4) The waterfront holder or semi-waterfront holder shall maintain the temporary seasonal boat lift in a safe operating condition at all times.

(5) The waterfront holder or semi-waterfront holder shall remove the temporary seasonal boat lift before the end of the open water part of the year.

(6) Once the waterfront holder or semi-waterfront holder has removed the temporary seasonal boat lift in accordance with section 9(5), the waterfront holder or semi-waterfront holder shall not store the temporary seasonal boat lift on public land.

(7) The waterfront holder or semi-waterfront holder may only use or allow the use of a temporary seasonal boat lift for a recreational purpose as defined in Part 2 of the *Public Lands Administration Regulation.*

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Maximum Acceptable Footprint for Permitted Activity – Swimming Platform

10(1) The maximum acceptable footprint in section 8(5)(b) shall apply to the construction, placement and use of a swimming platform.

(2) The waterfront holder or semi-waterfront holder shall not construct or place more than one swimming platform.

(3) The waterfront holder or semi-waterfront holder may only use or allow the use of a swimming platform for personal use.

(4) The waterfront holder or semi-waterfront holder shall not construct a swimming platform greater than 10 m^2 in size.

(5) The waterfront holder or semi-waterfront holder shall place the swimming platform within the setbacks from the projected property line as set out in section 7 of this Disturbance Standard, provided it does not interfere with navigation.

(6) The waterfront holder or semi-waterfront holder shall not construct or place structures on the swimming platform with the exception of a ladder, slide or a bench for personal use.

(7) The waterfront holder or semi-waterfront holder shall not use or allow the use of a swimming platform for the mooring of a vessel.

(8) The waterfront holder or semi-waterfront holder shall maintain the swimming platform in a safe operating condition at all times.

(9) The waterfront holder or semi-waterfront holder shall place reflective markers on all corners of the swimming platform such that the reflective markers are visible at all times to vessels under navigation.

(10) The waterfront holder or semi-waterfront holder shall remove the swimming platform at the end of the open water part of the year.

(11) The waterfront holder or semi-waterfront holder shall only construct a swimming platform using material that does not physically or chemically degrade when exposed to physical abrasion, chemical abrasion, water or petroleum products, including but not limited to factory pressure treated, non-toxic, marine grade wood, untreated wood or plywood, metal, fiberglass, or plastic.

(12) The waterfront holder or semi-waterfront holder shall only construct the anchor for a swimming platform in accordance with the following:

(a) Anchors shall be composed of material that does not physically or chemically degrade when exposed to physical abrasion, chemical abrasion or water;
(b) Anchors shall not contain or consist of garbage, waste or debris; and
(c) Anchors shall not contain material that was intended for other uses.

(13) The waterfront holder or semi-waterfront holder shall only construct the swimming platform in a way that it can be removed from the bed and shore of a water body before the open water part of the year without causing disturbance to the bed and shore.

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Maximum Acceptable Footprint for Permitted Activity – Mooring Anchor and Buoy

11(1) The maximum acceptable footprint set out in this section shall apply to the construction, placement and use of a mooring buoy and anchor.

(2) The waterfront holder or semi-waterfront holder shall not construct or place more than one mooring buoy and anchor beyond the mooring area;

(3) The waterfront holder or semi-waterfront holder may only use or allow the use of a mooring buoy and anchor to support mooring of a vessel for a recreational purpose as defined in Part 2 of the *Public Lands Administration Regulation.*

(4) The waterfront holder or semi-waterfront holder shall only place the mooring buoy and anchor beyond the line on navigation and in accordance with setbacks from the projected property line as set out in section 7 of this Disturbance Standard.

(5) The waterfront holder or semi-waterfront holder shall not construct, place or use a mooring buoy and anchor in any way that interferes with or may interfere with navigation or becomes a safety hazard.

(6) The waterfront holder or semi-waterfront holder shall not place an anchor for a mooring buoy within 20 meters of any structure or within the swing radius of another mooring buoy.

(7) The waterfront holder or semi-waterfront holder may only construct or place a mooring buoy and anchor such that the swing radius of the vessel to be moored shall be at least 3 meters from the projected property line.

(8) The waterfront holder or semi-waterfront holder shall only construct the anchor for a mooring buoy in accordance with the following:

(a) Anchors shall be composed of material that does not physically or chemically degrade when exposed to physical abrasion, chemical abrasion, water or petroleum products;
(b) Anchors shall not contain or consist of garbage, waste or debris; and
(c) Anchors shall not contain material that was intended for other uses.

(9) The waterfront holder or semi-waterfront holder shall only construct the mooring buoy and anchor in a way that it can be removed from the bed and shore of a water body before the open water part of the year without causing disturbance to the bed and shore.

Transitional

12 Notwithstanding sections 5(1)(c) and 8(1) of this Disturbance Standard, a temporary seasonal dock that was constructed, placed and used by a waterfront holder or semi-waterfront holder on or before April 16, 2021:

(a) is not subject to sections 8(5)(a), 8(6), 8(9), 8(12) or 8(13) of this Disturbance Standard if the waterfront holder or semi-waterfront holder can prove to the satisfaction of the director that the temporary seasonal dock was constructed, placed and used prior to April 16, 2021; and

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(b) is subject to sections 8(2), 8(3), 8(4), 8(5)(b) to (d), 8(7), 8(8), 8(10), 8(11) and 8(14) through 8(21) of this Disturbance Standard;

If the waterfront holder or semi-waterfront holder does not prove to the satisfaction of the director that the temporary seasonal dock was constructed, placed and used prior to April 16, 2021, this section does not apply and the waterfront holder or semi-waterfront holder shall comply with subsections 8(1) through (21) in their entirety.

13 Sections 12 expires on April 16, 2026.

Guidelines

14 The Department may publish guidelines to assist in the interpretation of this Disturbance Standard, however, such guidelines do not form part of this Disturbance Standard and in the event of a conflict, the Disturbance Standard prevails.

Disturbance Standard Review and Amendment

15 The Minister may review and amend this Disturbance Standard at any time.

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