

**Terms and Conditions for changes in and about a stream specified by
MWLAP Habitat Officers, Omineca Region**

Section 42 (1) of the *Water Regulation* gives authority to a Habitat Officer to add specific conditions to ensure the protection of habitat in addition to the conditions of general application. Under this authority, MWLAP Habitat Officers, Omineca Region, require the following mandatory terms and conditions:

42 (1) To protect habitat, a person making a change in and about a stream under this regulation, other than under section 44(1)(o) to (s) or (2), must make that change in accordance with terms and conditions specified by the habitat officer with respect to

(a) The timing window or the period or periods of time in the year during which the change can proceed without causing harm to fish, wildlife or habitat,

The timing window of least risk to fish and fish habitat must be applied to all activities in fish streams as well as tributaries that have a risk of depositing sediment into fish streams. Windows of least risk are designed to protect all fish species known to occur in a stream. On way fish presence can be confirmed is through a fish inventory database¹. Please note if using this database that the lack of fish records for a particular area is not necessarily equivalent to fish absence. All streams are assumed to have both spring and fall spawners, until proven otherwise. White (non-shaded) areas in the Table represent time periods when in-stream work must be conducted. Numbers in the Table represent an approved start or end date for in-stream work.

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<i>Species</i>												
A. grayling			31					15				
Rainbow tr.				15				15				
Bull trout						15		15				
Dolly Vard.							15	31				
Kokanee						1		31				
M. whitefish						1			15			
Anadromous – Contact the DFO for appropriate timing window												
Salmon												

Localized exceptions to this table include:

- Bull trout – July 1st -August 15th in Arctic Watershed
- Mountain whitefish – July 15th -August 31st in Arctic Watershed
- Kokanee – June 1st -August 15th – Cluculz Creek watershed (Vanderhoof Forest District)
- Kokanee – June 1st - July 31st – Tsilcoh River watershed (Fort St. James Forest District)

¹ Fisheries Inventory site <http://www.bcfisheries.gov.bc.ca/fishinv/>

- Minimize the amount of time the work site is in a disturbed state by completing work as quickly as possible, while considering worker safety and minimizing environmental risk

Notwithstanding the above, if any one of the following conditions is met, the timing window is not applicable:

- If the stream channel is naturally dry (no flow) or frozen to the bottom at the worksite and the instream activity will not adversely impact fish habitat (e.g. result in the introduction of sediment into fish habitat).
- If construction of a winter crossing is proposed and such works does not adversely impact the stream channel (including stream banks), fish habitat or fish passage.

The instream work window for beaver dam removal is July 15 to September 14.² Opening plugged culverts or removing beaver dams and draining ponds between September 15th and March 15th can result in mortalities of both beavers and fish and will not normally be accepted. Special circumstances may warrant dam removal during this time. Beaver dam modification or removal between April 1 and July 14 is normally not accepted on known or default fish streams, in order to minimize adverse impacts on fish. Special circumstances may warrant dam removal during this time. Requests to modify or remove beaver dams, or unplug culverts outside the work window must be accompanied by a detailed request directed to a WLAP Habitat Officer. Such requests will be dealt with on a case-by-case basis, and approval may be given.

(b) The minimum instream flow or the minimum flow of water that must remain in the stream while the change is being made,

- The natural rate of water flow must be maintained upstream and down stream of the worksite during all phases of instream activity.

(c) The removal of material from the stream or stream channel in connection with the change,

- In fish streams, the permanent removal of stable, naturally occurring material from the stream or stream channel is not permitted.
- In non-fish streams, the permanent or temporary removal of stable, naturally occurring material must be minimized and completed only as necessary to make the change in accordance with Part 7 of the *Water Regulation*.
- The removal of material must not lead to stream channel instability or increase the risk of sedimentation into the watercourse.

² A beaver dam may be modified or removed only in order to protect property (e.g. a road base), as per Section 9(2) of the BC Wildlife Act. A "Habitat Officer" of the Ministry Water, Land and Air Protection (WLAP) establishes terms and conditions associated with the removal or modification of beaver dams, pursuant to Part 7, Sections 42 and 44(1)(v) of the BC Water Act Regulation and Section 9 of the BC Wildlife Act

- Any spoil materials must be placed in a location which ensures that sediment or debris does not enter the watercourse.

(d) The addition of substance, sediment, debris or material to the stream or stream channel in connection with the change,

- Instream activities must be conducted in the dry and the worksite must be isolated from water flowing in the stream channel.
- All equipment must be located and operated in the dry.
- Equipment used in close proximity to the wetted perimeter must be free of deleterious material (e.g. hydrocarbons) and in good mechanical condition (eg no fuel or hydraulic leaks).
- Measures must be taken to ensure that no harmful material (e.g. fuel and other hydrocarbons, soil, road fill, or sediment), which could adversely impact water quality, fish and other aquatic life, and/or fish habitat, can enter the wetted perimeter as a result of the project activities.
- Erosion and sediment control structures are to be available onsite and utilized as necessary.
- Do not work in weather conditions likely to contribute to sediment production to the stream
- If approved, beaver dam removal must occur slowly, a bit at a time, in order to minimize scouring and the addition of silt to downstream areas. Water flowing through a dam breach should normally not exceed 0.2 square metres in area (i.e., a typical breach could measure 1.0 metre x 20 centimetres in size). All material removed from a beaver dam must be side-cast in such a manner that it cannot re-enter the stream.

(e) The salvage or protection of fish or wildlife while the change is being made or after the change has been made,

- If dewatering of the worksite is necessary, fish salvage must occur on a fish-bearing stream prior to commencing works. A fish salvage permit must be obtained from MWLAP Fisheries (250-787-3411) prior to commencing salvage activities.
- If an area is de-watered as a result of beaver dam removal or modification and results in the stranding of fish, then these fish must be salvaged and returned to the stream.
- Measures must be taken to ensure that equipment (e.g. water pumps) does not harm aquatic life.
- Do not disturb wildlife and/or their residences (e.g. beaver lodges³) within the project area.

(f) The protection of natural materials and vegetation that contribute to habitat or stream channel stability,

³Beaver may only be removed by the registered trapline holder or contract problem beaver trappers (contact BC Trappers Association, c/o Trappers International (250-561-1602)). A permit issued by the Fish, Wildlife Science and Allocation Section Head is required to remove beaver outside the trapping season.

- Minimize disturbance to natural materials (eg embedded logs) and vegetation that contribute to habitat or stream channel stability.

(g) The restoration of the work site after the change has been made, and

- Complete restoration activities (including erosion control), as required, that will lead to natural pre-disturbance conditions.
- Any disturbed areas must be restored to function as they did in their pre-disturbance condition.

(h) The requirement to obtain an approval from the federal Department of Fisheries and Oceans in connection with the change.

- Proponents are responsible for complying with the federal *Fisheries Act*. No harmful alteration, disruption or destruction (HADD) of fish habitat is authorized by this document.
- Fisheries and Oceans Canada (DFO) Habitat technologists may authorize a net loss of fish habitat, or HADD, where a mitigation/compensation package can be negotiated between DFO and the proponent.
- Proponents are responsible for determining whether the federal Department of Fisheries and Oceans (DFO) must be consulted with and whether an authorization from DFO is required prior to making the change (Prince George office, 250-561-5366).

This document does not supersede the requirements of the ***Water Act*** and ***Regulations***, Federal ***Fisheries Act*** or any other related legislation. The proponent is obligated to comply with all applicable federal, provincial or municipal enactments.