



Flood Emergency Works Guidance for Local Governments Thompson Okanagan Region

Background

Sections 39 (1) (o) and (p) of the Water Sustainability Regulation allows for the following emergency works to be conducted without a change approval or other authorization:

- (o) the construction or placement, under the direction of the Crown in right of British Columbia, a municipality or a regional district, or an agent of any of them, of erosion protection works or flood protection works during an emergency declared under the *Emergency Program Act* that involves flooding
- (p) the clearing of an obstruction from a bridge or culvert by the Crown in right of British Columbia, a municipality or a regional district during a flood, if the obstruction is causing or has the potential to cause a significant risk of harm to public safety, the environment, land or other property

Section 38 (5) of the Water Sustainability Regulation states that a person who makes an authorized change described in Section 39 (1) (o) or (p) must (a) report the authorized change to a Habitat Officer within 72 hours after making the change, and (b) comply with the terms and conditions, if any, specified by a habitat officer in relation to matters described in section 44 (2) (i.e., for the protection of an aquatic ecosystem).

Intent

The intent of this document is to:

- clarify how a declaration of a flood emergency is made in Section 39 (1) (o)
- clarify the need to follow the terms and conditions of the Habitat Officer, and
- provide guidance on how to meet reporting requirements under Section 38 (5)

Declaration of a Flood Emergency

The declaration of a **flood emergency** can be made by any of the following methods:

- declaration under the *Emergency Program Act* (local state of emergency)
- declaration of a flood emergency by the Crown
- declaration of a flood emergency by the Crown's agents, or
- declaration of a flood emergency by a local government

The declaration of a flood emergency by any of the above agencies/methods is simply recognition of an emergency by the respective group and does not require any formal

documentation. Our requirements for reporting will allow us to refine this over time and help to recognize how this clause is used by the various agencies.

Terms and Conditions

The following Terms and Conditions are provided pursuant to 44 (2) of the Water Sustainability Regulation, and are in effect for extenuating circumstances related to flood emergencies. By adhering to the following Terms and Conditions the landowner or local government is hereby exempt from those provided by the Ministry of Forests, Lands and Natural Resource Operations dated April 2011¹.

1. Debris removed from the stream channel is to be placed above the high water mark such that it will not result in sediment delivery into the stream
2. Minimize the disturbance to riparian vegetation, and
3. Restore denuded lands such that they do not contribute additional sediment delivery to the stream

Damage to the environment resulting from emergency works must be remediated within six months from when the works occurred. Remediation works must be authorized under Section 11 of the *Water Sustainability Act* or Part 3 of the Water Sustainability Regulation.

Reporting Requirements

Works fall into two categories of reporting requirements. These two categories are the **only works which are permitted under a flood emergency**. Any other work will require a formal application and approval under Section 11 of the *Water Sustainability Act* or Part 3 of the Water Sustainability Regulation.

Category 1: Culvert/Bridge Obstruction

Category 1 is the clearing of an obstruction or pending obstruction, from a culvert or bridge during a flood emergency when there exists a potential danger to life or property (i.e., Water Sustainability Regulation Section 39 (1) (p)). Reporting is only required for work completed using machinery; work completed by hand does not require reporting.

Works within Category 1 require submission of a summary information sheet by July 31 at the latest for spring flooding in the same year. The following information should be provided in a brief summary for each site:

- name of staff submitting document, position and contact information
- date that works took place
- legal description and address of the work site
- nature of the work, and
- photo of the site

The above information can be in bullet form or in a table, and reporting from a single jurisdiction should be contained in a single submission. Reporting the removal of organic debris (trees, logs, branches, etc.) completed using machinery from a single site can be

completed as one line item (e.g., 12 logs removed from bridge XX). A Word document has been prepared for submission of data.

Category 2: Erosion/Flood Protection Works

Category 2 is the placement of erosion protection materials or flood protection works (i.e., Water Sustainability Regulation Section 39 (1) (o)). Works within Category 2 are considered higher risk and will require a more formal submission of information within 72 hours of the works being completed. The following information should be provided:

- name of staff submitting document, position and contact information
- name of agency making declaration of flood emergency
- date that works took place
- legal description and address of the work site
- latitude and longitude of the work site
- detailed description of works
- who supervised and who carried out the works
- equipment/machinery used
- length of works (m) and area impacted (m²)
- photos of the work site (pre-, during, and post-construction)

An Excel spreadsheet has been prepared for submission of data.

Submission of Summary Information

Send the completed forms to a Thompson Okanagan Habitat Officer for review:

- TOREcosystemsWSA@gov.bc.ca

The Habitat Officer will review the emergency works conducted under 39 (1) (o) and (p) and may follow up with additional terms and conditions once water levels recede.

Closing Statement

The information provided in this document only applies to flood emergencies under the Water Sustainability Regulation. Activities carried out in a flood emergency may still be subject to other provincial or federal legislation. It is the proponent's responsibility to ensure his/her activities are in compliance with all relevant legislation, including the *Water Sustainability Act*, the *Wildlife Act*, and the federal *Fisheries Act*.

¹http://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/working-around-water/terms_and_conditions_okanagan.pdf