

**Terms and Conditions for changes in and about a stream specified by
MWLAP Habitat Officers, Peace 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, Peace 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. Windows of least risk for the Peace Region are as follows:

FISH AFFECTED	WINDOWS OF LEAST RISK
Both spring and fall spawners or unknown	July 15 – August 15
Fall spawners (e.g. Bulltrout, Kokanee and Mountain Whitefish)	June 15 – August 15
Spring spawners (e.g. Arctic Grayling, Rainbow Trout, Minnows, Suckers, Stickleback and Walleye)	July 15 – March 31
Anadromous Salmon (e.g. Chum Salmon)	Please contact DFO for site-specific timing windows

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.

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

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

- The natural rate of water flow must be maintained at the worksite during all phases of instream activity. Instream activities must be conducted in the dry and the worksite must be isolated from water flowing in the stream channel.

(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.
- Any spoil materials must be placed to ensure 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,

- 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.
- 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).
- Erosion and sediment control structures are to be available onsite and utilized as necessary.

(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.
- 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 lodges²) within the project area.

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

- Minimize disturbance to natural materials and vegetation that contribute to habitat or stream channel stability.

² If notification is for the removal of a beaver dam, a permit is required from MWLAP and guidelines for dam removal will be provided to the proponent.

(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.