



**Yukon Water Board
Guidelines for Processing an Application for Emergency Amendment**

The following Guideline is based on the provisions of the *Waters Act* (“the Act”) and the Yukon Water Board Meeting Rules:

- The Act does not provide a definition of “emergency”. The Yukon Water Board Meeting Rules (section 28) indicate that dispensation for emergency purposes should be invoked only where there is some sudden condition calling for immediate action, and where there is some probability of adverse environmental impact.
- It is the practice of the Board to deliberate on applications for emergency amendment on type A and type B licences, since the Act is silent on this matter.
- There is no such thing as an emergency application for a licence, only an emergency application for amendment to an existing licence. Section 6(2) (c) of the Act provides for those who do not have a licence and need to use water for emergency purposes.
- Section 19(3)(c) of the Act allows the Board to dispense with the requirement to hold a public hearing on a type A licence pursuant to which the use, flow or quality of waters would be altered, where the Board, with the consent of the Minister, declares the amendment to be required on an emergency basis.
- Section 21 of the Act essentially allows the Board to dispense with the public notice requirements.
- Emergency applications are given highest priority by the Water Board office and the Board from the receipt of the application until the Board’s decision has been distributed.
- Although the Board requires a completed Schedule 4 Application and the application fee, the absence of one or both should not delay the process.

Staff Responsibilities:

1. Staff will notify both the Manager and Chairperson immediately.
2. The Chairperson will contact all Board members. If all Board members cannot be available at the meeting either in person or by telephone, those available will be used. The Chairperson will establish a quorum (minimum of 3 members) and will advise the Manager of the Board meeting date.
3. The Chairperson and Manager will read the application to determine adequacy.

4. Staff will create the water use register. Keep the exhibit list current. Include at a minimum:
 - application;
 - the current licence & reasons for decision;
 - if there have been amendments, use an office compilation if possible;
 - discuss with the Manager to see if there's anything else that should be in register;
 - if the Board is going to consider anything else (such as a similar amendment to another licence), then it should be put in the register.
5. In summary, Section 49 of YESAA indicates that no assessment is required of an activity being undertaken either under the *Emergencies Act*, or in response to an emergency when it is in the interest of public welfare, health or safety or of protecting property or the environment that the activity be undertaken immediately. The Water Board is satisfied that the provisions of YESAA are consistent with the Water Board's position of what constitutes an emergency and the Water Board may, if so inclined, proceed in deliberating on the application with the knowledge that a YESAA Decision Document will not be required. The application does not require an environmental assessment under YESAA for which the Board will require a Decision Document.
6. If time permits, the Manager/Staff will establish a distribution list which will include at a minimum, the Licensee, First Nations (based on project location and Traditional Territories) and potentially interested government agencies (DFO/EPS/GY).
7. The Manager/Staff will contact the distribution list by fax and/or email. The deadline for response will be dependant upon the date of the Board meeting which is determined by the Chairperson.
8. Staff will copy the register and provide copies to the Board members either by hard copy, by fax or electronically. Extra copies will be available at the Water Board office.
9. As interventions are received, staff will give each intervention an exhibit number, update the exhibit list, put the intervention in the register and provide copies to the Board members.
10. Staff will arrange a conference call, if needed.

During the Board Meeting:

11. During the Board meeting, the Board has a two step process:

Step 1: Is this an emergency?

- The Board has taken the position that the onus is on the Licensee to make this case.
- The Board has also said that an economic hardship is not, on its own, an emergency.
- The Board will allow the Licensee and intervening parties to be present (either in person or by conference call) during the meeting to provide additional information and/or clarification to assist the Board in this determination.

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- When the Board is satisfied that adequate information has been provided, the Licensee and parties will be excused from the meeting.
 - If the Board determines that there is no emergency, then the process ends.

Step 2: If it is an emergency, then the Board reviews the register and makes a decision.

12. The Manager will record the minutes of the Board meeting.

After the Board meeting:

13. If the Board determines that it is not an emergency, either the Chairperson or the Manager will write a letter to the applicant explaining the Board reasons for decision.
14. If it is an emergency, staff will give high priority to processing the Board decision by writing a letter to the Minister, explaining the Board's determination that it is an emergency which also requires the Minister's approval. The letter will be accompanied by the Board's amendment to the licence. The Licensee will be provided with a copy. The letter and licence amendment will be delivered by staff either by hand or by fax to expedite delivery.
15. If the Minister approves the amendment, the amendment will be signed by the Minister and returned to the Water Board office. The amendment will then be signed by the Chairperson. The original will be retained by the Water Board office and a copy will be issued to the Licensee and to the distribution list. A copy will be included in the register.
16. In an emergency, reasons for decision can be issued at a later date. However, the Manager/staff will work with the Chairperson to issue the reasons for decision in a timely manner. The original signed reasons for decision will be retained by the Water Board office and a copy will be sent to the Licensee and to the distribution list. A copy will be included in the register.

These guidelines were approved by the Board on February 4, 2009.
Bruce Willis, Chairperson.