



Memorandum

Date: March 8, 2021

To: The Special Committee on Civil Emergency Legislation

From: John L. Bailey, PhD
Deputy Minister of Environment

Subject: Department of Environment's review response on the *Civil Emergency Measures Act*

Detailed below are the Department of Environment's observations and experiences for consideration to modernize and strengthen the *Civil Emergency Measures Act* (CEMA). The following themes have been identified from the Department of Environment's experiences and observations:

1. enforcement clarity and efficiency;
2. modernized language; and
3. consideration of First Nations and communities within the act.

1. Enforcement clarity and efficiency could be improved:

The definition of "enforcement officer" could be clearer as it pertains to the act and orders under the act. This hinders determination of the appropriate qualifications for those being recruited as enforcement officers. There is no direction on the necessary authorities required to do the job and what legal protection is in place if something were to go wrong.

Recent experience in enforcing border control highlighted the inconsistencies of an order with authorities normally granted to peace officers. Enforcement officers were ordered not to detain, arrest, search, or pursue individuals, which misaligns with regular duties and powers of peace officers. This inconsistency lead to hesitation when faced with decision making on the front line. In addition to more consistent authorities, the authority to evict a non-Yukoner from entering the territory would have benefitted enforcement efforts.

Section 3 of the act allows the Minister to appoint or designate officers, technicians and employees necessary to assist the civil emergency planning officer in carrying out the duties of office; however, the civil emergency planning officer does not have the same authority. Experience has identified the need in granting the civil emergency planning officer the authority to designate officials and delegate duties to ensure a more efficient and streamlined process in responding to emergencies and enforcing measures.

2. Modernized language:

Department of Environment staff report a lack of modernized language in the act, specifically in relation to acknowledging climate-related emergencies. We recommend climate-related emergencies be included as a form of emergency under the act.

3. Consideration of First Nations and communities:

CEMA does not reference the Umbrella Final Agreement and/or any emergency response measures that may be linked to the implementation of First Nations Final and Self-government Agreements. The Department of Environment received feedback from municipalities and Yukon First Nations indicating the act lacks support for collaboration between Yukon communities in response to climate-related emergencies. For example, currently no process exists to allow for joint emergency measures plans. Joint plans would benefit communities such as Teslin and the Teslin Tlingit Council who are reliant on their own joint emergency plan, developed outside of CEMA.

In closing, some general concerns identified by the department regarding implementation of CEMA include:

- the requirement to dedicate staff time to border enforcement required immediate redirection of staff away from delivering other priority services such as animal protection, which already has limited capacity;
- some essential government work was halted due to unclear guidance on travel within the territory for government employees; and
- the inconsistency in what was deemed essential; for example, fishing was deemed essential while hunting was not.

These concerns highlight the need to test the emergency system in non-emergency times. A review on lessons learned to refine and improve our approach to an emergency and address concerns brought up through recent experiences would be highly beneficial. For prolonged

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emergencies such as the pandemic, reviews should take place at multiple times throughout the emergency in order to adapt approaches when necessary.

We thank the committee for this opportunity to review and respond.

Sincerely,



John L. Bailey, PhD
Deputy Minister of Environment