

**NISGA'A LISIMS GOVERNMENT**

**WILP SI'AYUUKHL NISGA'A**

**NISGA'A EMERGENCY PROGRAM ACT**

Wilp Si'ayuukhl Nisga'a enacted this law on

*15 October 2004*

Dr. Joseph Gosnell, President of the Nisga'a Nation, signed this law on

Certified Original: \_\_\_\_\_

Law Clerk, Wilp Si'ayuukhl Nisga'a

**REGISTRY OF NISGA'A LAWS**

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Nisga'a Emergency Program Act

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Date 15/10/04 Signed [Signature]

**Explanatory Memorandum**

This Act establishes a program for prevention of, preparedness for, response to and recovery from emergencies and disasters on Nisga'a Lands.



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## 1. Definitions

In this Act:

**"authorized representative of the Provincial Emergency Program"** means a person who has been given the authority to act on behalf of the Provincial Emergency Program in respect of the assessment of whether a situation constitutes an emergency or disaster, and to make commitments in respect of the provision of funds to address emergencies and disasters;

**"Chief Administrator"** means, depending on the context, the chief executive officer, or the chief administrator of a Nisga'a Village Government;

**"Commercial Arbitration Act"** means the *Commercial Arbitration Act*, R.S.B.C. 1996, c. 55;

**"Compensation and Disaster Financial Assistance Regulation"** means the *Compensation and Disaster Financial Assistance Regulation*, B.C. Reg. 124/95, made under the *Emergency Program Act*;

**"declaration of a state of local emergency"** means a declaration by the executive or the President under section 19;

**"Director"** means the person appointed under the *Emergency Program Act* as the director of the Provincial Emergency Program;

**"disaster"** means a calamity that

- (a) is caused by accident, fire, explosion or technical failure or by the forces of nature, and
- (b) has resulted in serious harm to the health, safety or welfare of people, or in widespread damage to property;

**"emergency"** means a present or imminent event or circumstance that

- (a) is caused by accident, fire, explosion or technical failure or by the forces of nature, and
- (b) requires prompt coordination of action or special regulation of persons or property to protect the health, safety or welfare of a person or to limit damage to property;

**"Emergency Coordinator"** means a person designated as an emergency coordinator under section 2;

**"emergency management"** means prevention of, preparedness for, response to and recovery from emergencies and disasters;

**"Emergency Operations Centre"** means an emergency operations centre identified in an Emergency Plan in accordance with section 12;

**"Emergency Operations Centre Group"** means an emergency operations centre group established under section 14;

**"Emergency Plan"** means an emergency plan approved under section 6, and includes any updates to the plan approved under section 7;

**"Emergency Planning Committee"** means an emergency planning committee established under section 5;

**"Emergency Program Act"** means the *Emergency Program Act*, R.S.B.C. 1996, c. 111;

**"Fire Chief"** means a person designated as a fire chief under section 3;

**"Lieutenant Governor in Council"** means the Lieutenant Governor in Council as defined in the *Interpretation Act*, R.S.B.C. 1996, c. 238;

**"Lisims Emergency Coordinator"** means the person designated as an emergency coordinator by the executive under section 2;

**"Lisims Emergency Operations Centre Group"** means the emergency operations centre group established by the executive under section 14;

**"Lisims Emergency Plan"** means the emergency plan prepared by the Lisims Emergency Planning Committee, as approved under section 6, and includes any updates to the plan, as approved under section 7;

**"Lisims Emergency Planning Committee"** means the emergency planning committee established by the executive under section 5;

**"minister"** means the minister of the government of British Columbia having responsibility for the administration of the *Emergency Program Act*;

**"Order"** means a written statement or instruction, bearing the signature and printed name and title of the issuer, and the date of its issuance;

**"Provincial Emergency Program"** means the Provincial Emergency Program continued under the *Emergency Program Act*;

**"Provincial emergency plan"** means an emergency plan prepared by the minister under the *Emergency Program Act*;

**"Public Information Officer"** means a person designated as a public information officer under section 4;

**"village"** means the Nisga'a Village Lands that are owned in fee simple by a Nisga'a Village;

**"Village Emergency Operations Centre Group"** means an emergency operations centre group established by a Nisga'a Village Government under section 14;

**"Village Emergency Plan"** means an emergency plan prepared by a Village Emergency Planning Committee, as approved under section 6, and includes any updates to the plan, as approved under section 7;

**"Village Emergency Planning Committee"** means an emergency planning committee established by a Nisga'a Village Government under section 5.

## 2. Emergency Coordinators

The executive, and each Nisga'a Village Government, must designate a person as an emergency coordinator to perform the duties of that position set out in this Act and in the applicable Emergency Plan.

## 3. Fire Chiefs

The executive, and each Nisga'a Village Government, must designate a person as a fire chief to perform the duties of that position set out in this Act and in the applicable Emergency Plan.

**4. Public Information Officers**

The executive, and each Nisga'a Village Government, must designate a person as a public information officer to perform the duties of that position set out in this Act and in the applicable Emergency Plan.

**5. Emergency Planning Committees**

- (1) The executive, and each Nisga'a Village Government, must establish an emergency planning committee consisting of
  - (a) the applicable Chief Administrator, who is the chair of the committee,
  - (b) the applicable Emergency Coordinator,
  - (c) the applicable Fire Chief, and
  - (d) any other person that the executive or the Nisga'a Village Government, as the case may be, appoints.
- (2) The executive, and each Nisga'a Village Government, must invite the Royal Canadian Mounted Police and the Nisga'a Valley Health Board to each nominate a representative for appointment to the emergency planning committee that the executive or the Nisga'a Village Government, as the case may be, establishes under subsection (1).

**6. Emergency Plans**

- (1) The Lisims Emergency Planning Committee must prepare an emergency plan that sets out a general direction and framework for emergency management in respect of Nisga'a Lands other than villages, and must submit that plan for approval to the executive.
- (2) Each Village Emergency Planning Committee must prepare an emergency plan that sets out a general direction and framework for emergency management in respect of the applicable village, and must submit that plan for approval to the applicable Nisga'a Village Government and the executive.



- (3) The emergency plan prepared by the Lisims Emergency Planning Committee under subsection (1) comes into effect as and when it is approved by the executive.
- (4) An emergency plan prepared by a Village Emergency Planning Committee under subsection (2) comes into effect as and when it is approved by the applicable Nisga'a Village Government and the executive.

#### **7. Review and updating of Emergency Plans**

- (1) Each Emergency Planning Committee must meet to review the applicable Emergency Plan at least once every six months.
- (2) At least once every year, the Lisims Emergency Planning Committee must prepare any updates to the Lisims Emergency Plan it considers necessary, and must submit those updates for approval to the executive.
- (3) At least once every year, each Village Emergency Planning Committee must prepare any updates to the applicable Village Emergency Plan it considers necessary, and must submit those updates for approval to the applicable Nisga'a Village Government and the executive.
- (4) Any updates to the Lisims Emergency Plan prepared by the Lisims Emergency Planning Committee under subsection (2) come into effect as and when they are approved by the executive.
- (5) Any updates to a Village Emergency Plan prepared by a Village Emergency Planning Committee under subsection (3) come into effect as and when they are approved by the applicable Nisga'a Village Government and the executive.

#### **8. Coordination of Emergency Plans**

The Chief Administrators must meet at least once every six months to ensure the coordination and consistency of Emergency Plans and the provision of mutual assistance by Emergency Operations Centre Groups in the event of an emergency or disaster.

**9. Compilation of emergency master plan**

The Lisims Emergency Planning Committee must compile an emergency master plan in respect of Nisga'a Lands that incorporates as subplans the Lisims Emergency Plan and the Village Emergency Plans.

**10. Duties of Nisga'a public officers**

Each Nisga'a public officer must perform all duties assigned to that Nisga'a public officer under an Emergency Plan.

**11. Additional duties of Emergency Coordinators**

Each Emergency Coordinator must, in addition to performing all duties assigned to that Emergency Coordinator under the applicable Emergency Plan,

- (a) ensure that a current copy of that Emergency Plan is maintained by every other Nisga'a public officer assigned duties under that Emergency Plan,
- (b) ensure that all detailed plans prepared by Nisga'a public officers for the performance of their duties under that Emergency Plan are coordinated and consistent,
- (c) encourage public involvement in emergency management in the geographic area covered by that Emergency Plan,
- (d) collect and maintain information on actual and potential hazards that may cause disasters or emergencies in the geographic area covered by that Emergency Plan, and
- (e) conduct studies and exercises to ensure the effectiveness and readiness of that Emergency Plan.

**12. Emergency Operations Centres**

- (1) The Lisims Emergency Plan must identify an emergency operations centre from which the responses of Nisga'a Lisims Government will be managed and coordinated during an emergency or a disaster.

- (2) Each Village Emergency Plan must identify an emergency operations centre from which the responses of the applicable Nisga'a Village Government will be managed and coordinated during an emergency or a disaster.

### 13. Implementation of Emergency Plans

- (1) Subject to subsection (2), the applicable Chief Administrator, or any other person designated in an Emergency Plan, may, whether or not a declaration of a state of local emergency has been made, order the implementation of the Emergency Plan if, in the opinion of the Chief Administrator or any other member of the applicable Emergency Operations Centre Group, an emergency exists or appears imminent or a disaster has occurred or threatens in
  - (a) Nisga'a Lands other than villages, in the case of the Lisims Emergency Plan, or the applicable village, in the case of a Village Emergency Plan, or
  - (b) any other area for which a responsible government has requested the assistance of Nisga'a Lisims Government or a Nisga'a Village Government, as the case may be.
- (2) Before ordering the implementation of a Village Emergency Plan, the applicable Chief Administrator, or other person designated in the Village Emergency Plan, must first contact the Lisims Emergency Coordinator and an authorized representative of the Provincial Emergency Program to ascertain whether the situation is an emergency or a disaster, and confirm whether financial support for dealing with the emergency or disaster will be provided by the Provincial Emergency Program or by any other provincial or federal government department or agency.
- (3) If a Village Emergency Plan is implemented in the absence of confirmation that financial support will be provided as referred to in subsection (2), the Nisga'a Nation will not be responsible for any costs or financial obligations incurred as a result of that implementation.
- (4) If a Provincial emergency plan is implemented under the *Emergency Program Act*, an Emergency Plan may be implemented or its implementation may be continued if and to the extent that the Emergency Plan is not in conflict with the Provincial emergency plan.

**14. Emergency Operations Centre Groups**

- (1) The executive, and each Nisga'a Village Government, must establish an emergency operations centre group consisting of
  - (a) the applicable Chief Administrator,
  - (b) the applicable Emergency Coordinator,
  - (c) the applicable Fire Chief,
  - (d) the applicable Public Information Officer, and
  - (e) any other person that the executive or the Nisga'a Village Government, as the case may be, appoints.
- (2) The executive, and each Nisga'a Village Government, must invite the Royal Canadian Mounted Police and the Nisga'a Valley Health Board to each nominate a representative for appointment to the emergency operations centre group that the executive or the Nisga'a Village Government, as the case may be, establishes under subsection (1).

**15. Alternate members of Emergency Operations Centre Groups**

- (1) Each member of an Emergency Operations Centre Group must
  - (a) identify a person who is prepared and able to temporarily act in the place of that member, and
  - (b) by written notice to the executive or the applicable Nisga'a Village Government, as the case may be, designate that person as an alternate member of that Emergency Operations Centre Group.
- (2) If a member of an Emergency Operations Centre Group is not able to perform their duties when the implementation of the applicable Emergency Plan is ordered, the person designated by that member under subsection (1) as an alternate member of that Emergency Operations Centre Group must perform the duties of that member until that member is able to do so.

**16. Responsibilities for implementation of Emergency Plans**

- (1) If the implementation of the Lisims Emergency Plan is ordered under section 13,
  - (a) the Lisims Emergency Operations Centre Group is responsible for the implementation of that Emergency Plan and for the coordination and direction of overall operations in respect of preparation for, response to, and recovery from the emergency or disaster, and
  - (b) the chief executive officer is responsible for the control of all operations within the Emergency Operations Centre identified in that Emergency Plan.
- (2) If the implementation of a Village Emergency Plan is ordered under section 13,
  - (a) the applicable Village Emergency Operations Centre Group is responsible for the implementation of that Emergency Plan and for the coordination and direction of overall operations in respect of preparation for, response to, and recovery from the emergency or disaster, and
  - (b) the chief administrator of the applicable Nisga'a Village Government is responsible for the control of all operations within the Emergency Operations Centre identified in that Emergency Plan.

**17. Expenditures in event of emergency or disaster**

If an Emergency Plan is implemented or a declaration of a state of local emergency is made, the executive may, subject to the provisions of the *Nisga'a Financial Administration Act*, authorize the expenditure of funds to meet the needs of the situation.

**18. Liaison with Director**

If a declaration of a state of emergency relating to all or any part of Nisga'a Lands is made under the *Emergency Program Act*, the chief executive officer must act as

the liaison between Nisga'a Government and the Director, or such other person as the minister may appoint under the *Emergency Program Act*, for the purpose of coordinating the measures to be taken in respect of the emergency or disaster, including the implementation or continuation of implementation of any Emergency Plan.

**19. Declaration of state of local emergency**

Notwithstanding any other provision of this Act, the executive or the President may, at any time that the executive or the President is satisfied that an emergency exists or is imminent in all or any part of Nisga'a Lands, declare a state of local emergency.

**20. Request for declaration**

A Nisga'a Village Government or a Chief Councillor may, at any time that the Nisga'a Village Government or the Chief Councillor is satisfied that an emergency exists or is imminent in the applicable village, request the executive or the President to make a declaration of a state of local emergency in respect of that village.

**21. Content and form of declaration or request**

- (1) A declaration of a state of local emergency and a request under section 20 must identify the nature of the emergency and the geographic area in which the emergency exists or is imminent.
- (2) A declaration of a state of local emergency must be in the form of
  - (a) a resolution, if made by the executive, or
  - (b) an Order, if made by the President.

**22. Procedure for President**

The President must,

- (a) before making a declaration of a state of local emergency, use best efforts to obtain the consent of the other members of the executive to the declaration, and
- (b) as soon as practicable after making a declaration of a state of local emergency, convene a meeting of the executive to assist in directing the response to the emergency.

**23. Procedure for Chief Councillor**

A Chief Councillor must,

- (a) before making a request under section 20, use best efforts to obtain the consent of the other members of their Nisga'a Village Government to the request, and
- (b) as soon as practicable after making a request under section 20, convene a meeting of their Nisga'a Village Government to assist in directing the response to the emergency.

**24. Publication of declaration**

As soon as practicable after making a declaration of a state of local emergency, the executive or the President, as the case may be, must

- (a) forward a copy of the declaration to each Nisga'a Village Government and to the minister, and
- (b) cause the details of the declaration to be published by a means of communication that the executive or the President considers most likely to make the contents of the declaration known to the population of the affected part of Nisga'a Lands.

**25. Expiry of declaration**

Subject to section 29(3), a declaration of a state of local emergency expires seven days from the date it is made unless it is earlier cancelled by the executive or the President under section 29(1), or by the minister or the Lieutenant Governor in Council under section 29(2).

**26. Extension of declaration**

- (1) Despite section 25, the executive may, with the approval of the minister or the Lieutenant Governor in Council, extend the duration of a declaration of a state of local emergency for further periods of not more than seven days each.
- (2) Sections 21 and 24 apply to each extension of the duration of a declaration of a state of local emergency under subsection (1).

**27. Powers during declaration**

After a declaration of a state of local emergency is made, and for the duration of the declaration, the executive may do all acts and implement all procedures that it considers necessary to prevent, respond to or alleviate the effects of an emergency or disaster, including any or all of the following:

- (a) acquire or use any land or personal property considered necessary to prevent, respond to or alleviate the effects of an emergency or disaster;
- (b) authorize or require any person to render assistance of a type that the person is qualified to provide or that otherwise is or may be required to prevent, respond to or alleviate the effects of an emergency or disaster;
- (c) control or prohibit travel to or from any part of Nisga'a Lands;
- (d) provide for the restoration of essential facilities and the distribution of essential supplies, and provide, maintain and coordinate emergency medical, welfare and other essential services in any part of Nisga'a Lands;
- (e) cause the evacuation of persons and the removal of livestock, animals and personal property from any part of Nisga'a Lands that is or may be affected by an emergency or disaster and make arrangements for the adequate care and protection of those persons, livestock, animals and personal property;
- (f) authorize the entry into any building or on any land, without warrant, by any person in the course of implementing an



Emergency Plan or if otherwise considered by the executive to be necessary to prevent, respond to or alleviate the effects of an emergency or disaster;

- (g) cause the demolition or removal of any trees, structures or crops if the demolition or removal is considered by the executive to be necessary or appropriate in order to prevent, respond to or alleviate the effects of an emergency or disaster;
- (h) construct works considered by the executive to be necessary or appropriate to prevent, respond to or alleviate the effects of an emergency or disaster;
- (i) procure, fix prices for or ration food, clothing, fuel, equipment, medical supplies or other essential supplies and the use of any property, services, resources or equipment within any part of Nisga'a Lands;
- (j) subject to section 28, authorize, in writing, any person involved in the operation of an Emergency Plan to exercise, in relation to any part of Nisga'a Lands affected by the declaration, any power set out in paragraphs (a) to (i).

**28. Authority of minister**

- (1) If a declaration of a state of local emergency is made, the minister may order the executive to refrain or desist, either generally or in respect of any matter, from exercising any one or more of the powers referred to in section 27(a) to (j).
- (2) Immediately after the details of an order made under subsection (1) are communicated to the executive, the executive must comply with the order and must direct every person under its direction or control to refrain or desist from doing any act that the executive is ordered to refrain or desist from doing.
- (3) For the purposes of subsection (2), the details of an order are deemed to be communicated to the executive when those details are communicated to any one of the members of the executive.

**29. Cancellation of declaration**

- (1) The executive or the President must, when of the opinion that an emergency no longer exists in the part of the Nisga'a Lands in respect of which a declaration of a state of local emergency was made,
  - (a) cancel the declaration of a state of local emergency
    - (i) by resolution, in the case of the executive, or
    - (ii) by Order, in the case of the President, and
  - (b) promptly notify the Nisga'a Village Governments and the minister of the cancellation.
- (2) The minister or the Lieutenant Governor in Council may cancel a declaration of a state of local emergency at any time the minister or the Lieutenant Governor in Council considers appropriate in the circumstances.
- (3) A declaration of a state of local emergency in respect of a part of Nisga'a Lands ceases to have any force or effect on the making of a declaration of a state of emergency relating to that part of Nisga'a Lands by the minister or the Lieutenant Governor in Council under the *Emergency Program Act*.

**30. Termination of declaration**

A declaration of a state of local emergency is terminated when

- (a) it expires under section 25 or 26,
- (b) it is cancelled by the executive or the President under section 29(1),
- (c) it is cancelled by the minister or the Lieutenant Governor in Council under section 29(2), or
- (d) it ceases to have any force or effect under section 29(3) as a result of the making of a declaration of a state of emergency by the minister or the Lieutenant Governor in Council under the *Emergency Program Act*.

**31. Notification of termination**

Immediately after the termination of a declaration of state of local emergency, the executive or the President must cause the details of the termination to be published by a means of communication that the executive or the President considers most likely to make the contents of the termination or the fact of the termination known to the majority of the population of the affected part of Nisga'a Lands.

**32. Recovery of costs**

- (1) If an emergency or a disaster is caused in whole or in part by the acts or omissions of a person and expenditures are made by the Nisga'a Nation or a Nisga'a Village to prevent, respond to or alleviate the effects of the emergency or disaster, the person must, on the request of the President or the Chief Councillor of the applicable Nisga'a Village Government, pay to the Nisga'a Nation or the Nisga'a Village, as the case may be, the lesser of
- (a) the portion of the expenditures that is equal to the portion of the liability for the occurrence of the emergency or disaster that is attributable to the person, or
  - (b) the amount requested by the President or the Chief Councillor of the Nisga'a Village Government
- (2) Nothing in subsection (1) relieves a person from any other liability.

**33. Limitation of liability**

No person, including, without limitation, the executive or any of its members, a Nisga'a Village Government or any of its members, an Emergency Planning Committee or any of its members, an Emergency Operations Control Group or any of its members, a Nisga'a public officer, a volunteer or any other person appointed, authorized or required to carry out measures relating to emergencies or disasters, is liable for any loss, cost, expense, damage or injury to persons or property that results from

- (a) the person in good faith doing or omitting to do any act that the person is appointed, authorized or required to do under this Act, the regulations made under this Act or an Emergency Plan, unless,

in doing or omitting to do the act, the person was grossly negligent,  
or

- (b) any acts done or omitted to be done by one or more of the persons who were, under this Act, the regulations made under this Act or an Emergency Plan, appointed, authorized or required by the person to do the acts, unless in appointing, authorizing or requiring those persons to do the acts, the person was not acting in good faith.

### 34. Compensation for loss

- (1) Despite section 33, if as a result of the acquisition or use of a person's land or personal property, under section 27(a) or (f), the person suffers a loss of or to that property, the Nisga'a Nation or, if the acquisition or use was made, authorized or directed by a Nisga'a Village Government, the applicable Nisga'a Village, must, subject to the *Nisga'a Financial Administration Act*, compensate the person for the loss
  - (a) in accordance with any regulation made under this Act in respect of compensation for such loss, or
  - (b) if no regulation has been made under this Act in respect of compensation for such loss, in accordance with the provisions for compensation for such loss set out in Part 1 of the *Compensation and Disaster Financial Assistance Regulation*, with the necessary changes and so far as they are applicable.
- (2) Despite section 33, if a person suffers a loss of or to any land or personal property as a result of any other action taken under section 13 or 27, the Nisga'a Nation or, if the action was taken, authorized or directed by a Nisga'a Village Government, the applicable Nisga'a Village, may, subject to the *Nisga'a Financial Administration Act*, compensate the person for the loss
  - (a) in accordance with any regulation made under this Act in respect of compensation for such loss, or
  - (b) if no regulation has been made under this Act in respect of compensation for such loss, in accordance with the provisions for compensation for such loss set out in Part 1 of the *Compensation*

*and Disaster Financial Assistance Regulation, with the necessary changes and so far as they are applicable.*

- (3) If any dispute arises as to the amount of compensation payable under this section, the matter may, subject to the *Nisga'a Financial Administration Act*, be submitted for determination by one arbitrator or three arbitrators appointed under the *Commercial Arbitration Act* and
- (a) the person who is to be compensated must, in a notice served on the executive or the applicable Nisga'a Village Government, as the case may be, elect whether one or three arbitrators are to be appointed, and
  - (b) the *Commercial Arbitration Act* applies to the dispute.
- 35. Mandatory assistance**
- (1) If a person who is authorized to do so under section 27 makes an order requiring a person to provide assistance, the person named in the order must provide the assistance required by the order.
  - (2) A person's employment must not be terminated by reason only that the person is required to provide assistance under this section.
- 36. Conflict**
- Unless otherwise provided for in a declaration of a state of local emergency or in an extension of the duration of a declaration under section 26, if there is a conflict between this Act or the regulations made under this Act and any other Nisga'a enactment, this Act and the regulations made under this Act prevail during the time that the declaration of a state of local emergency and any extension of the duration of that declaration is in effect.
- 37. Offence**
- A person commits an offence who interferes with or obstructs any person in the exercise of any power or the performance of any duty conferred or imposed by this Act or the regulations made under this Act.

**38. Regulations**

- (1) The executive may make regulations it considers necessary or advisable for the purposes of this Act.
- (2) Without limiting subsection (1), the executive may make regulations
  - (a) assigning responsibility to any person, including any Nisga'a Village Government, or any committee or group established under this Act, for the preparation or implementation of all or any part of plans or arrangements to deal with emergencies or disasters,
  - (b) delegating to any person, including any Nisga'a Village Government, or any committee or group established under this Act, any of the powers vested by this Act in the executive, except the power to make a declaration of a state of local emergency or to make regulations,
  - (c) respecting the assessment of damage or loss caused by an emergency or disaster, the processing of claims for compensation for the damage or loss, and the payment of compensation for the damage or loss,
  - (d) respecting eligibility for the processing of claims for, and the payment of disaster financial assistance,
  - (e) respecting the registration, responsibilities and training of, and training exercises for volunteers and volunteer agencies,
  - (f) requiring any person to develop plans and programs in cooperation with one or more other persons, including Nisga'a Village Governments, or committees or groups established under this Act, to remedy, alleviate or meet any emergency that might arise from any hazard to persons or property and that is or may be created by
    - (i) the person engaging in any operation,
    - (ii) the person utilizing any process,
    - (iii) the person using property in any manner, or
    - (iv) any condition that exists or may exist on the person's land, and
  - (g) respecting the form and content of Emergency Plans.