



Role of Approved Professionals - Release Requests, Monitoring Reporting for COC Schedule B, Protocol 6 Pre-Approvals

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Additional Roles & Responsibilities for Approved Professionals

- Protocol 6 (Sec. 5) defines additional AP roles
- Monitoring reports and statements of satisfactory performance
 - Submissions not involving applications for contaminated sites legal instruments
- Additional requirements
 - changes over a period of time in the concentrations of substances at a parcel
 - the appearance of new substances at a parcel
 - the adequacy of investigations at a parcel
 - site risk classification
 - the ability of a remediation plan to appropriately manage contamination when implemented at a parcel

Approved Professional's Roles – Complementary to MOE & Expanded

- APs are required to complete / signoff documents
- MOE “.. focuses on the remediation of brownfields, orphan sites and complex, high risk contaminated sites, and facilitates the remediation of low and medium risk sites...” (Land Remediation Section website)
- “In relation to ministry procedures, policies, and protocols such as the ministry’s “Procedures for Processing Site Profiles” and Protocol 12, “Site Risk Classification, Reclassification and Reporting,” Approved Professionals may provide recommendations and reports to a Director .. (Protocol 6, Sec. 5.2)

Regulatory Provisions & Authority

- *Environmental Management Act (Sec. 42)*
 - (1) A director may designate classes of persons who are qualified to perform classes of activities...
 - (2) The director may establish a roster of persons.....
- **Contaminated Sites Regulation**
 - “.. assist in the review of reports or plans..” (Sec. 10)
 - a SoSC, together with a recommendation by an (S. 7.1)
 - Determination (S. 15)CSRA (S. 43); AIP (S. 47); COC (S. 49)
- **Protocol 6 (Eligibility of Applications for Review by Approved Professionals)**
 - Recommendations for regulatory instruments (Determination, AIP, COC, CSRA) & may require pre-approval
 - Monitoring reports and statements of satisfactory performance
 - Additional requirements

Additional Roles & Responsibilities

- **Site Profile Submissions**
 - Supporting documents – MOE decision on further investigations
 - Release applications
 - Adequacy of investigations
- **Site Risk Classification**
 - Site Risk Classification Reports
 - Exposure Pathway Questionnaires
- **Assessment & Opinion Associated with AIP or COC Recommendations**
 - Ability of a remediation plan to manage contamination
 - Protocol 6 Preapproval requirements / Preapproval application
- **Conditions in AIPs, COCs**
 - Monitoring reports, e.g., annual
 - Statement of satisfactory performance
 - Recommended changes to conditions, e.g., monitoring

Site Profile Submissions

- Site Profiles – Identification / screening of potential contaminated sites
 - Schedule 2, CSR – Sites requiring site profiles & Part 2– Requirements & referrals
- Requirements & limitations – municipal approvals
 - Local Government Act , Vancouver Charter, Island Trust Act
 - Land Titles Act
- Provisions in Statutes
 - LGA S.946.2(2) A municipality or regional district must not approve an application ...unless at least one of the following is satisfied:
 - No further investigation OR final determination, AIP, COC , VRA
 - (d) .. has received notice from a director ...may approve an application under this section because, in the opinion of the director, the site would not present a significant threat or risk if the application were approved;
 - (e) ...has received notice from a director ... director has received and accepted a notice of independent remediation with respect to the site
 - Parallel provisions in VC, ITA, LTA

Site Profile Submission – Previous Case

- Vancouver Island City
 - Commercial /Residential Development
 - Multiple parcels, some buildings to demo, below grade parkade
- Process involving Site Profile Submission
 - Site Profile → Municipality → Referral to MOE per LGA
 - Demolition Permit application → MOE Release (Stage 1 & 2 PSI, etc.)
 - DP application & excavation permit → Site Profile Referral MOE
 - Further Investigation, Reporting, COC prior to occupancy
 - Municipality → Restrictive LU Covenant; COC prior to construction above grade
 - All reporting, COC application and COC to be issued before major portion of construction

Site Profile Submission – Previous Case

- Vancouver Island – Regional District
 - Rural residential subdivision planned
 - One parcel, zoning as allowed, not in ALR
- Process involving Site Profile Submission
 - Subdivision application → MOT Approving Officer → Referral to MOE per LTA
 - Owner submits Site Profile (Incorrect, Incomplete); Further Investigation
 - Investigations in process
 - Site Profile completed by Approved Professional → MOT → MOE
 - Application for Release for MOE
 - Release for subdivision granted - Further Investigation, Reporting, COC
 - COC prior to Building Permit Approval
 - Municipality advises MOT it cannot monitor / withhold building permit
 - MOT refuses subdivision approval pending COC
 - Investigations, reporting, COC before subdivision approval



Site Profile Submission – New Procedures & Guidance

- MOE Procedure
 - May 31, 2010 - Procedures for Processing Site Profiles
- MOE Guidance
 - June 2010 – Revised, Administrative Guidance 6 - Site Profile Decisions and Requesting Releases Where Local Government Approvals are Required
- Revised Process
 - Defined Roles & Responsibilities for APs
 - Template documents to guide submissions
 - Scenarios to compare, categorize, define process

Site Profile – Recent Case

- Vancouver Island City
 - Crown agency property - Transportation facility leasehold improvement; DP required by City; Site Profile triggered
 - Leasehold improvement over & adjacent to sediment / foreshore
 - Equivalent of Stage 1 & 2 PSI and DSI for others in last 10 years
- Process involving Site Profile Submission
 - Site Profile (AP completed) → City → Referral to MOE per LGA
 - Supplementary letter to MOE requesting Release for City
 - MOE template Release letters just developed
 - MOE required AP to
 - Document site investigations
 - Complete Release request
 - MOE actions / decision
 - Evaluated Release request and AP submission
 - Released City for DP processing
 - Future further Site Profile – Further Release, AIP or COC

Site Profile Submission – Recent Case

- **Coastal Community / Municipality**
 - Commercial /Resort /Residential Development
 - Several parcels; building demo; DP required; Site Profile triggered
 - Previous site works
 - Phase I ESA / Stage 1 PSI; Stage 2 PSI
 - UST removals; Confirmatory sampling/analyses; No vapour assessment
- **Process involving Site Profile Submission**
 - Site Profile → Municipality → Referral to MOE per LGA
 - Supplementary letter →MOE requesting Release for DP processing
 - MOE template Release letters just developed
 - MOE requested AP to
 - Document site investigations
 - Complete Release request
 - Confirm adequate investigation, remediation, likelihood of vapour compliance
 - Scenarios in AG#6 not fully applicable
 - MOE Template letters to be adapted to site with prior investig. / remediation
- **Release issued for demo & DP; COC not a required prerequisite**

Site Risk Classification

- Site Risk Classification (Protocol 12)
 - Assists MOE focus on high risk sites
 - Used to define sites for APs per Protocol 6
 - Various Triggers
 - Notification of Independent Remediation
 - Submission of investigation report ordered
 - Notification of Offsite Migration
 - Application for CS Services – Tables 2 or 3, Schedule 3
 - Requirement for a Site Risk Classification report
 - High Risk at a neighbouring site indicated per above
- Approved Professionals
 - Cannot recommend Determination, AIP, COC, CSRA if High Risk
 - Signoff Site Risk Classification report confirming a site is not longer high risk (< 90 days and > 90 days for remediation)
 - Likely involvement : Site Risk Classification; Exposure Pathway Q

Site Profile Submission – Recent / Implications

- Reporting shall be completed as follows:
 - Up-to-date records of monitoring, inspections and maintenance of works shall be maintained by the Approval Holder or his or her agent. The records shall be available for inspection by the Director or Director's delegate.
 - A statement signed by an Approved Professional shall be submitted to the Director on an annual basis within 90 days of the anniversary of the date of issue of this Approval. The Approved Professional statement shall indicate whether the Approval terms and conditions were met during the reporting period. Where Approval terms and conditions were not achieved, the submission shall specify remedies and a schedule for implementation.
 - A report shall be prepared annually within 90 days of the anniversary of the date of issue of this Approval. The report shall be signed and sealed by an Approved Professional and shall include supporting documentation and the following:
 - Interpretation of current and cumulative monitoring results from the <groundwater>, <surface water>, <soil>, <sediment>, <air>, <vapour>, <invertebrate and fish tissue> monitoring program;
 - A summary of remedial activities undertaken during the reporting period;
 - An assessment of overall remediation progress;

Satisfying Conditions of Regulatory Instruments – Approval in Principle - Monitoring

- Current AIP template has conditions
 - May be applicable and included in an AIP
 - Typically included in AIPs for Remediation Plans using risk based standards
- AIP templates are under revision
- Current template
 - “Monitoring, inspections and maintenance of works shall be undertaken as specified in the approved remediation plan. The plan to which this condition applies is contained in:
 - Provide title (*italicized*), authors, name of firm and document date>”

Satisfying Conditions of Regulatory Instruments – Certificate of Compliance - Monitoring

- Current COC template has conditions
 - May be applicable and included in a COC
 - Typically included in COCs for remediation using risk based standards
- COC templates are under revision
- Current Template
 - “Monitoring, inspections and maintenance of works shall be undertaken as specified in the risk management plan. The plan to which this condition applies is contained in:
 - Provide *titles (italicized)*, authors, name of firm and date of document (ideally, there should be only one document but if not, list the most recent documents first>”

Satisfying Conditions of Regulatory Instruments – Approval in Principle - Reporting

- “Reporting shall be completed as follows:
 - Up-to-date records of monitoring, inspections and maintenance of works shall be maintained by the Approval Holder or his or her agent. The records shall be available for inspection by the Director or Director’s delegate.
 - A statement signed by an Approved Professional shall be submitted to the Director on an annual basis within 90 days of the anniversary of the date of issue of this Approval. The Approved Professional statement shall indicate whether the Approval terms and conditions were met during the reporting period. Where Approval terms and conditions were not achieved, the submission shall specify remedies and a schedule for implementation.
 - A report shall be prepared annually within 90 days of the anniversary of the date of issue of this Approval. The report shall be signed and sealed by an Approved Professional and shall include supporting documentation and the following:
 - Interpretation of current and cumulative monitoring results from the <groundwater>, <surface water>, <soil>, <sediment>, <air>, <vapour>, <invertebrate and fish tissue> monitoring program;
 - A summary of remedial activities undertaken during the reporting period;
 - An assessment of overall remediation progress;”

Satisfying Conditions of Regulatory Instruments – Certificate of Compliance - Reporting

- “Reporting shall be completed as follows:
 - Up-to-date records of monitoring, inspections and maintenance of works shall be maintained by the holder of this certificate or their agent. The records shall be available for inspection by the Director or the Director’s delegate.>
 - A statement signed by an Approved Professional shall be submitted to the Director on an annual basis within 90 days of the anniversary of the date of issue of this Certificate. The Approved Professional statement shall indicate whether the conditions or circumstances described in the risk assessment changed during the reporting period.>
 - A report shall be prepared annually within 90 days of the anniversary of the date of issue of this Certificate. The report shall be signed and sealed by an Approved Professional and shall include supporting documentation and the following:
 - An interpretation of current and cumulative monitoring results from the <groundwater> <surface water> <soil> <sediment> <air> <vapour> <invertebrate and fish tissue> monitoring program;
 - A summary of the results of inspection and maintenance of any risk management and treatment works;
 - A summary and evaluation of risk management and treatment works system performance.
 - The report described in (c) above shall be submitted for review if requested by the Director “

Satisfying Conditions of Regulatory Instruments – Certificate of Compliance – Recent Case

- **Multiple COCs issued for a large property**
- **Several of the COCs were for risk based remediation**
 - Contaminated soil > CSR concentration standards remains
 - Risk management measures are in place
 - Low permeable cap
 - Surface water interception / drainage diversion
 - Diversion and under-drainage water diversion
 - COC conditions reference a monitoring plan per the Remediation Plan approved in an AIP
 - Groundwater monitoring wells – Quarterly monitoring; annual reporting
 - Diversion and under-drainage – Monthly Monitoring; annual reporting
 - Low permeability cap - inspection / integrity confirmation – annual reporting
- **Approved Professional roles**
 - Inspection & documentation of risk management measures & site uses
 - Assessment of monitoring results and reporting
 - Review of monitoring program and recommendations re. changes

Pre-Approvals for Regulatory Instruments – Applications by Approved Professionals

Table 1. Applications requiring preapproval by a Director of Waste Management

No.	Types of Applications Requiring Preapproval
1	Where the application refers to a parcel currently subject to a site investigation order, remediation order, pollution prevention order, pollution abatement order, or hazardous waste in situ management facility authorization under the Act.
2	Where the application refers to a parcel currently subject to a covenant under the <i>Land Title Act</i> respecting the management of contamination.
3	Where local background substance concentrations were derived by methods other than adoption of regional background soil quality estimates in Table 1 of Protocol 4.
4	Where the application refers to a parcel where risk-based standards are or will be applied under a screening level risk assessment and the parcel contains hazardous waste.
5	Where the application is based on a risk assessment that includes any of the following: <ul style="list-style-type: none"> (a) probabilistic analysis; (b) toxicity testing of materials (soil, water, sediment), or organisms obtained at or from the parcel; (c) modification of toxicity reference values; (d) food chain modelling; (e) weight-of-evidence arguments; (f) assessments of the aquatic receiving environment.

Summary and Conclusions

- Activities and tasks relating to CS Mgt are increasing
- Increased focus of MOE is on High Risk / Complex Sites & Conditions
- Result & Direction → Increased roles and responsibilities for APs
 - Accountability – e.g., Performance & Monitoring Reporting
 - Anticipation of Issues, Systematic Review, Authorization – e.g., Preapproval for P6
 - Documentation
 - High Risk Classification
 - Exposure Pathway Questionnaire
- Awareness, Planning, Scheduled Completion of Tasks
 - Important to Successful CS Project
 - Important to AP Services