



CSAP TECHNICAL REVIEW COMMENTS

Administrative Guidance 5 Approved Professional Recommendations for Non-High Risk Sites

CSAP Technical Review # 58

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In response to the Ministry of Environment's request for comments on Administrative Guidance 5: Approved Professional Recommendations for Non-High Risk Sites

CSAP would like to thank Mr. Paul Webb of Hemmera and Mr. Bob Symington of Gandalf for completing this Technical Review of behalf of the CSAP Society.

Comments

This memo was created to outline the rationale for the proposed amendments to the revised document and accompanies the "track changes" version of this word document "AG05 - Updated Version 7.0 RS PW Track Changes April 20 2017." is included.

PAGE 1 Column 2 "Rejection of Submissions"

- The CSR under the referenced sections states that "(b) the professional association, in the Province, of which the approved professional is a member." The "professional association" is not defined under the CSR and for the purposes of the CSR the professional society should be the CSAP Society. As the CSAP Society regulates its members and the specific sections that reference section (b) above all indicate this is an application by an "approved professional". Any rejection of submission would be one made by a CSAP approved professional and who's appointment, training and discipline of its members it is administered by the CSAP Society. Sending a letter to APEGBC, CAB, BCIA or ACPBC creates confusion for these associations as they have no process to address such correspondence unless it comes in a form of a complaint against a member, which is not the intent or format of the rejection letter which MOE has supplied on at least on occasion to APEGBC.

PAGE 2 Column 2 "Basic Requirements"

Bullet

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- Since the last update of AG05 provisions have been added that a "sample borehole log" should be included in submission packages. This has been added to this section for clarity.

PAGE 3 Column 1 "Additional requirements for preparing Schedule "A" of contaminated sites legal instruments"

Bullet 1

- "Portions of legal parcels, such as portions of neighboring properties affected by contaminant migration" appears to conflict with the MOE's position that the instrument should not combine different owners on the same instrument Procedure 12 9.2.2 In accordance with the advice in Fact Sheet 48, "Remediation Liability and Combining Parcels with Different Owners", parcels with different owners should not be combined into one site or be assigned the same Site ID number unless that is agreed to in writing by each parcel owner. The added text

proposed seemed to add potential confusion although it could also be expanded to identify that the neighboring parcel owned by the same owner but it is likely best to remove this text.

Bullet 2

- This section has also been expanded to indicate that the metes and bounds area should be shown on Schedule A and that the “Legal Plan or Engineered Plan” showing the metes and bounds are should be included with the submission.

PAGE 3 Column 1 “Land, water, vapour and sediment uses”

Bullet 1

- A section has been added to provide clarity when establishing multiple uses under Protocol 18 including the provision to provide a metes and bound survey or engineering showing the areas to which the different uses apply.

Bullet 2

- “Legal instrument may contain multiple...” The areas of the site should be identified as submissions have been received by CSAP showing remediation to different standards but without specifying the areas of the site to which they apply and has been added for clarity

PAGE 3 Column 2 “Substance lists”

- The substance list was specified as being “ For substances remediated to the numerical standards in the Contaminated Sites Regulation, only those substances appearing in the Regulation”. It is our understanding that instrument to numeric or risk based standards can only be for substances in the CSR and the need to specify “numeric” was removed.

PAGE 3 Column 2 “Substance lists”

Bullet 1

- “The Approved Professional must submit the final determination documents to the ministry electronically and in hard copy, via the CSAP Society, after 30 days and before 60 days”. While not specified in the CSR this could be clarified here as being “calendar days”



ADMINISTRATIVE GUIDANCE ON CONTAMINATED SITES

Version 7 March 2017 (Draft for comment)

Approved Professional Recommendations for Non-High Risk Sites

This document explains the requirements and procedures Approved Professionals should follow when submitting recommendations to the Director of Waste Management for a non-high risk site to issue or approve any of the following contaminated sites legal instruments under the *Environmental Management Act* (the Act):

- a Determination of Contaminated Site,
- an Approval in Principle,
- a Certificate of Compliance, or
- a Contaminated Soil Relocation Agreement.

Non-high risk sites and Protocol 6

[Protocol 6, Eligibility of Applications for Review by Approved Professionals](#) specifies where certain activities, reports and other documents, and recommendations must be performed by or provided to the Director by an Approved Professional. Under that protocol, Approved Professionals are generally restricted to making recommendations to the Director to issue or approve the above legal instruments for non-high risk sites.

On July 1, 2008, all service applications for eligible sites were required to be submitted directly to the Contaminated Sites Approved Professionals (CSAP) Society. It assesses applications for completeness before submission to the ministry. The ministry requires that all Approved Professionals use the templates

provided by the [CSAP Society](#) for the preparation of draft contaminated sites legal instruments.

Rejection of submissions

Complete submissions ensure that turnaround times and ministry review costs are kept to a minimum.

Thus, to facilitate the ministry's review of a recommendation by an Approved Professional, all pertinent information must be provided at the outset.

If submissions are incomplete or improperly prepared, they may be rejected. In that case, the [CSAP Society](#) and the applicant (in keeping with sections 15 (7), 43 (4), 47 (1.5), and 49 (8) of the Contaminated Sites Regulation) may be notified by the Director.

[Ministry Procedures for the Roster of Approved Professionals](#) indicate that the Director must not rely on the advice or recommendation of an Approved Professional unless he or she has been provided written evidence that an arm's length review has been provided where an arm's length review is required. The situations where an arm's length review by an Approved Professional is required appear in Table 1 of that document.

If there is insufficient evidence that an arm's length review has been carried out where one is

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Comment [RMS1]: The CSR under the referenced sections states that "(b) the professional association, in the Province, of which the approved professional is a member." For the purposes of the CSR the professional society should be the CSAP Society.

required, the service application and recommendation of the Approved Professional will be returned to the CSAP Society.

Submission package and formats required

Basic requirements

The following must be submitted to the CSAP Society with each application from an Approved Professional:

- a satisfactorily completed [Contaminated Sites Services Application Form](#) with payment. The checklist in Part E of the form lists the report sections, pages, and figures which must be provided, including those documents required for site risk classification. Note that an initial quality assurance review will be done to determine the completeness of the application, including the payment of applicable fees.
 - a completed [Summary of Site Condition](#).
 - all relevant technical reports (preliminary site investigation and detailed site investigation reports, remediation plan, remediation confirmation report). Refer to [Administrative Guidance 3, Applying for Contaminated Sites Services](#) for details.
 - completed checklists for a preliminary site investigation report and detailed site investigation report (see [Technical Guidance 10](#) and [11](#)).
 - using the current template, a completed draft Determination of Contaminated Site letter, Approval in Principle, Certificate of Compliance, or Contaminated Soil Relocation Agreement, along with appropriate cover letter, in hard copy and electronic version in Word®.
 - a current printout of the land title record (or records) pertaining to the site for which the Determination, Approval in Principle, Certificate of Compliance, or Contaminated Soil Relocation Agreement is being sought.
- current Land Title Office legal plan(s) for the site.
 - a current Selection List from an area-based Site Registry search (0.5 km radius) and site Detail Report for the site.
 - a sample borehole log (with disclaimer such as "For environmental purposes only") and BOTH an electronic and hard copy of a completed borehole log spreadsheet
 - a PC-formatted CD or DVD containing all of the information noted above as being required to be submitted in electronic form.

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Comment [RMS2]: Added by Paul Webb for clarity

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Additional requirements for preparing Schedule "A" of contaminated sites legal instruments

Site boundaries, plans and location maps

- Sites must be defined according to the requirements of the ministry procedure [Establishing the Boundaries of a Site](#).
- All site plans and location maps must fit onto a single page. The location map must show street names clearly so that it could be used as a road map to drive to the site.
- Site plans and location maps should, where possible, be oriented north and clearly labelled with a north arrow and scale.
- The site plans must be free of company logos and advertising.
- The boundaries of the site covered by the contaminated sites legal instrument must have a heavily bolded line around the perimeter of the site to clearly delineate the site and to distinguish it from other property boundaries that might appear on the site plan. Coloured site plans should be avoided to allow bolded lines to stand out when photocopied in black and white.
- Portions of legal parcels must be shown on the site plan along with a metes and bounds description. The area defined by the metes and bounds should also be shown and described on

Comment [RMS3]: This would seem to conflict with the MOE's position that the instrument should not combine different owners on the same instrument. Procedure 12 9.2.2 In accordance with the advice in Fact Sheet 48, "Remediation Liability and Combining Parcels with Different Owners", parcels with different owners should not be combined into one site or be assigned the same Site ID number unless that is agreed to in writing by each parcel owner. The added text proposed seemed to add potential confusion

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a more detailed site plan provided by a legal surveyor or an engineered drawing and included with the submission. The name of the survey or engineering firm and the date of the drawing must be provided.

- Where a legal instrument refers to more than one parcel of land and PID/ PIN, the instrument must clearly indicate which PID/ PIN belongs to each parcel.
- In the case of strata properties, all PID numbers and strata lot numbers must be listed. Long lists of strata lot numbers can be provided in an Appendix that is referenced in Schedule "A" of the instrument.

Land, water, vapour and sediment uses

- As described in Protocol 18, Establishing Multiple Land Uses at Sites, multiple land uses may be established at the surface of a site. If multiple land uses are established at a site, a list of each substance applying to a specific land use and area must be provided.
- When establishing multiple land uses the areas must be shown by a metes and bounds description and plan, provided by a legal surveyor or an engineered drawing indicating the metes and bounds description. The name of the survey or engineering firm and the date of the drawing must be provided.
- Legal instruments may contain multiple water, vapour and sediment uses for a site and indicate the area of the Site to which it applies. If this approach is used, a list of each substance applying to a particular water, vapour or sediment use must be provided.

Substance lists

- Substances should be listed alphabetically for each environmental medium as they appear in the Contaminated Sites Regulation. Only those substances appearing in the Regulation may be listed in a legal instrument, and the exact spelling of each substance as it appears in the Regulation must be used.

Site Risk Classification documents

- All applications for contaminated sites legal instruments must be accompanied by a Site Risk Classification Report, and if required, an Exposure Pathway Questionnaire. An exception to this requirement is an application for a Determination of Contaminated Site that the site is not contaminated. Consult Administrative Guidance 10, Site Risk Classification, for details.

Determinations of contaminated site

- It is the responsibility of the Approved Professional to track the time between the issuance of a preliminary determination and the final determination. The Approved Professional must submit the final determination documents to the ministry electronically and in hard copy, via the CSAP Society, after 30 days and before 60 days of the issuance of the preliminary determination.
- When a copy of a Determination is being sent to a party who appears as a charge number on the land title, the full name and mailing address must be provided and included on the Determination cover letter.

Director's Approvals under Protocol 6

- If your application is described by one of the types listed in Table 2 of Protocol 6, an approval to submit the application through Protocol 6 is required from the Director before it is submitted to the ministry with the recommendation of an Approved Professional.
- Note that requests for Protocol 6 approvals must come with a completed Contaminated Sites Services Application form with the "Additional Services/ Functions" box checked in the "Other Services" section in Part C of the form.

Editorial requirements – instructions, fonts and cover letters

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Comment [SCE4]: A revised P18 is available for comment in conjunction with this document

Comment [RMS7]: Could be clarified as "working days" or "calendar days"

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Comment [RMS5]: The areas of the site should be identified as submissions have been received by CSAP showing remediation to different standards but without specifying the areas of the site to which they apply and has been added for clarity

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Comment [PW6]: Not sure we need to specify that this only be done for numerical – risk stds should do the same. Why not eliminate it entirely?

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1. The instructions provided in instrument templates must be followed.
2. Instruments must be submitted in the same font that appears in the templates (Times New Roman size 12). Note that cutting and pasting document text can result in a font change.
3. All cover letters must be completed with names and addresses of all parties receiving copies of the correspondence.

Note: This document does not replace the Environmental Management Act or its regulations. It does not list all provisions for contaminated sites services. If there are differences or omissions in this document, the Act, Regulation and Protocols apply.

For more information, please direct inquiries to site@gov.bc.ca