



Ministry of
Environment

PROTOCOL 6 ***FOR CONTAMINATED SITES***

Eligibility of Applications for Review by Approved Professionals

Version 9.0

Prepared pursuant to Section 64 of the
Environmental Management Act

Approved:

Mike Macfarlane
Director of Waste Management

December 7, 2015
Date

Effective Date: February 1, 2016

1.0 Definitions

The following words, acronyms and expressions used in this protocol are defined in the ministry procedure "Definitions and Acronyms for Contaminated Sites".

Act	performance verification plan
approval	qualified professional
Approved Professional	Regulation
contaminated sites legal instrument	responsible person
contingency plan	risk-based standards
Director	Risk-based Standards Approved Professional
high risk site	risk assessment
legal instrument	risk control
non-high risk site	screening level risk assessment
numerical standards	site-specific risk-based concentration
Numerical Standards Approved Professional	site risk classification
operations and maintenance plan	site monitoring report
parcel	source parcel (or site)
	toxicity reference value

2.0 Introduction

The purpose of this protocol is for the Director, pursuant to sections 42 (1) and 64 of the *Environmental Management Act*, to designate the classes of activities, reports, and recommendations which are required to be performed, prepared or made by Approved Professionals.

In this protocol, sites referred to as low or moderate risk sites in sections 43, 47 and 49 of the Contaminated Sites Regulation (the Regulation) are considered non-high risk sites, while sites considered medium, intermediate or high risk sites under sections 47 and 49 of the Regulation are considered high risk sites.

3.0 Qualifications

3.1 Only specifically qualified Approved Professionals may make recommendations to a Director that an application for a contaminated sites legal instrument be approved.

- (a) Numerical Standards Approved Professionals are qualified to make recommendations for Determinations of Contaminated Site, Approvals

in Principle and Certificates of Compliance based on the numerical standards and, where applicable, on screening level risk assessments. Numerical Standards Approved Professionals are also qualified to make recommendations for Contaminated Soil Relocation Agreements based on the numerical standards.

- (b) Risk-based Standards Approved Professionals are qualified to make recommendations for Approvals in Principle and Certificates of Compliance based on screening level and detailed risk assessments.

3.2 Approved Professionals making a

- (a) submission of a site monitoring report,
- (b) statement of satisfactory performance of risk controls, or
- (c) endorsement of a performance verification plan

required to be submitted to a Director as a condition of a contaminated sites legal instrument must have the appropriate professional experience and qualifications for that work. If not, the Approved Professional must obtain and document that the submission has been supported by a qualified professional with the appropriate experience and training.

4.0 Applications for contaminated sites legal instruments

- 4.1 In this section, when the phrase “the recommendation by an Approved Professional” is used, it refers to the recommendation by an Approved Professional that an application for a contaminated sites legal instrument be approved by the Director.
- 4.2 Any application for a contaminated sites legal instrument with or without an approval under this protocol must be accompanied by complete supporting documentation and application material before it is considered. Applications which are not complete must be returned to the applicant with advice that for the application to be considered, the ministry’s application requirements must be met.
- 4.3 A Director may require that any application for a contaminated sites legal instrument for a non-high risk site must be reviewed by the ministry without a recommendation by an Approved Professional.
- 4.4 A Director may consider an application for a contaminated sites legal instrument for a high risk site that is accompanied by a recommendation of an Approved Professional.

- 4.5 Subject to section 4.3, applications for contaminated sites legal instruments for the classes of sites listed in Table 1 must be accompanied by the recommendation by an Approved Professional.

Table 1. Classes of sites with contaminated sites legal instrument applications which must be accompanied by a recommendation by an Approved Professional

Column I	Column II
Legal Instrument	Site Risk Classification
Determination of Contaminated Site	high risk non-high risk
Approval in Principle (remediation within five years)	non-high risk
Certificate of Compliance	non-high risk
Contaminated Soil Relocation Agreement (non risk-based)	high risk* non-high risk*

* Applies to source site.

- 4.6 If, under this protocol, there is no requirement for application to be accompanied by the recommendation of an Approved Professional, the application must be submitted directly to the Ministry.
- 4.7 Subject to section 4.9, with respect to an application for a Determination of Contaminated Site, Approval in Principle or Certificate of Compliance, any applicant who is a responsible person for contamination at a parcel is responsible for the delineation and remediation of the entire area of contamination including contamination at the parcel and any contamination which has migrated from that parcel to neighbouring parcels.
- 4.8 Subject to section 4.9, with respect to an application for a Determination of Contaminated Site (site contaminated), an Approval in Principle or a Certificate of Compliance, any applicant who is not a responsible person for contamination that may be present at the site or that may exist beyond the boundary of the site need only have satisfactorily delineated and (if applicable) remediated the entire area of contamination at the site which is the subject of the instrument application.
- 4.9 A Director's approval is required before the submission of a legal instrument application which would use any of the approaches listed in Table 2. After adjudication by a Director, if the approval is not granted, any subsequent application for a contaminated sites legal instrument which is the subject of the approval will not be considered until the approval is obtained or the application is amended so that approval is not required under Table 2.

Table 2. Types of contaminated sites legal instrument applications requiring approval

No.	Intended Approach
<i>Involving the extent of the area of contamination delineated and remediated</i>	
1	Where the applicant is a responsible person for a source parcel and the entire area of contamination, including contamination at the source parcel and contamination which has migrated from that parcel to a neighbouring parcel or parcels, would not be delineated and/or remediated and would not be included in the contaminated site instrument application or applications ¹ .
<i>Involving background substance concentrations²</i>	
2	Where local background substance concentrations derived by any methods for surface water, sediments or vapour would be adopted.
<i>Involving orders</i>	
3	If the application refers to a parcel currently subject to a preliminary or detailed site investigation order (excluding an order in response to the submission of a site profile under section 7.1 of the Contaminated Sites Regulation), remediation order, pollution prevention order or pollution abatement order under the Act.
<i>Involving risk assessments³</i>	
4	Where a risk assessment would be used which includes <i>de novo</i> derivation of toxicity reference values.
5	Where a risk assessment would be used which includes derivation or use of a site-specific risk-based concentration.

¹Section 53 (6) of the Act provides that a Director may issue an Approval in Principle or Certificate of Compliance for a part of a contaminated site.

Administrative Guidance 15, "Approvals Not to Delineate or Remediate the Entire Area of Contamination at a Site" provides guidance on the process and supporting documentation for applications to the Director for approval not to delineate or remediate the entire area of contamination at a site.

²The determination of local background substance concentrations in soil and groundwater is subject to the requirements of Protocol 4, Determining Background Soil Quality, and Protocol 9, Determining Background Groundwater Quality, respectively. Approval of the Director is required.

³The management of hazardous waste is subject to the requirements of the Hazardous Waste Regulation. Where historical hazardous waste is proposed to be managed with an *in situ* management facility, prior approval of the Director is required under Section 2(11) of the Hazardous Waste Regulation.

4.10 The application form provided in Appendix 1 must be used to apply for an approval under this protocol.

5.0 Submissions not involving applications for contaminated sites legal instruments

5.1 Site monitoring reports and statements of satisfactory performance

5.1.1 Subject to subsection 5.1.2, site monitoring reports and statements such as the following required to be submitted to a Director as a condition of a contaminated sites legal instrument must be accompanied by a recommendation by an Approved Professional that the site monitoring report or statement be accepted by the Director:

- a summary of remedial activities at a site;
- an assessment of overall remediation progress;
- an interpretation of current or cumulative monitoring results; and
- an evaluation of the performance of risk controls and other remedial measures including whether the measures are meeting conditions imposed in the legal instrument and the applicable remediation standards.

5.1.2 Subsection 5.1.1 does not apply if the requirement for the site monitoring report or statement was established either

- without the support of a recommendation by an Approved Professional, or
- without the requirement being imposed by a Director.

5.1.3 With respect to conditions included in Approvals in Principle and Certificates of Compliance, when monitoring objectives have been achieved or changes to monitoring requirements imposed by the Director are desired, Approved Professionals may recommend that on receipt of an application, a Director amend an Approval in Principle or Certificate of Compliance.

5.2 Additional recommendations, reports and opinions

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," and this Protocol, Approved Professionals (subject to the professional experience and qualifications requirements of section 3.2 of this Protocol) may provide recommendations, reports and opinions to a Director in relation to the following:

- changes over a period of time in the concentrations of substances at a parcel;
- the appearance or discovery of new substances at a parcel;
- the adequacy of investigations at a parcel;
- site risk classification;

- performance verification, contingency, and operations and maintenance plans;
- the ability of a remediation plan to appropriately manage contamination, when implemented at a parcel;
- the ability of a parcel to be remediated before specific administrative endpoints or events such as the issuance of a building permit, occupancy permit, or completion of a building inspection;
- the design of any works and implementation of other measures required to prevent recontamination of a previously contaminated parcel;
- summaries of remedial activities;
- assessments of remediation progress including evaluations in comparison with actions and schedules set out in remediation plans;
- once remediation is complete, confirmation that a parcel will meet applicable standards and criteria in the Regulation and would be eligible for a contaminated sites legal instrument; and
- the extent of delineation of contamination at and migrating from a parcel.

For more information, contact the Environmental Emergencies and Land Remediation Branch at site@gov.bc.ca.

Revision history

Approved Date	Effective Date	Document Version	Notes
December 7, 2015	February 1, 2016	9.0	

Appendix 1

Approval Application Form



Ministry of
Environment

PROTOCOL 6 APPROVAL APPLICATION

Land Remediation Section
PO Box 9342 Stn Prov Govt
Victoria B.C. V8W 9M1
Telephone: (250) 387-4441
Fax: (250) 387-8897
E-mail: site@gov.bc.ca

This application may be sent to the Ministry of Environment by paper mail, fax or courier. It may also be scanned and e-mailed to: csp_cio@Victoria1.gov.bc.ca.

Mail or Fax: Land Remediation Section
PO Box 9342 Stn Prov Govt
Victoria BC V8W 9M1
Fax: (250) 387-8897

Courier: Client Information Officer
Environmental Emergencies and
Land Remediation Branch
Ministry of Environment
2975 Jutland Rd
Victoria BC

For further information, please e-mail us at site@gov.bc.ca, or contact us by phone at (250) 387-4441.

Instructions

The attached Approval Application form must be completed, signed and sent to the Ministry of Environment when approval is required under section 4.9 of Protocol 6, "Eligibility of Applications for Review by Approved Professionals." Once Director's approval is obtained, an application for a contaminated sites legal instrument based on the approval and accompanied by a recommendation by an Approved Professional that the application be approved, is eligible for submission to the ministry.

Protocol 6 appears on our website at:

http://www.env.gov.bc.ca/epd/remediation/policy_procedure_protocol/protocols/pdf/protocol_6.pdf

In Section VII of the Approval Application provide detailed rationale and information supporting your application including:

- The reasons why approval is being requested, for example, for legal and/or scientific reasons.
- Relevant site information at a level of detail appropriate to the requested approval.
- Complete rationale for the approval, including any additional supporting information and data interpretation.
- Scientific citations:
 - ⇒ if proposing to use standardized and recognized methodology – fully cite the source of the standardized methodology, or
 - ⇒ If proposing new scientific methodology – provide full details of the method with scientific assessment and all relevant supporting literature.

Please attach additional information if there is not enough space in Section VII of the form.

When applying for an approval, a satisfactorily completed Approval Application form must be accompanied by a Contaminated Sites Service Application form (see: <http://www.env.gov.bc.ca/epd/remediation/forms/pdf/csrs.pdf>). Check the "Additional services/ functions" box in section C of the Contaminated Sites Service Application form.

The ministry response time will depend on the nature of the approval requested and the adequacy of the information provided with the application. For properly completed simple applications for approval, the ministry aims to respond within two weeks. More complex applications would likely require a longer period for ministry review and approval and may necessitate the submission of additional information.

Please note that hourly fees under the Contaminated Sites Regulation will be invoiced to applicants for the time persons are engaged on behalf of the ministry in responding to any application for an approval under Protocol 6.

For further information regarding approvals under Protocol 6, please e-mail us at site@gov.bc.ca.



Ministry of
Environment

**PROTOCOL 6
APPROVAL APPLICATION**

Land Remediation Section
PO Box 9342 Stn Prov Govt
Victoria B.C. V8W 9M1
Telephone: (250) 387-4441
Fax: (250) 387-8897
E-mail: site@gov.bc.ca

Submission of this form is required to obtain approval for any of the approaches listed in Table 2 of section 4.9 of Protocol 6, "Eligibility of Applications for Review by Approved Professionals" under the *Environmental Management Act*. If an approval is required under Protocol 6, it must be submitted with any Approved Professional application for the issuance of a contaminated sites legal instrument under the *Environmental Management Act*.

Section I Ministry Use

Application number: Approval Application form

Associated Service Application form

Section II Land Description

Site ID Number (if known)

PID

or PIN

Legal Description

Latitude

Degrees

Minutes

Seconds

Longitude

Degrees

Minutes

Seconds

Site Civic Address

Street

City

Postal Code

Section III Applicant

Name

Address

Street

City

Province/State

Country

Postal /Zip Code

Phone

Fax

Section IV Property Owner and/or Operator (if applicable)

Name

Address

Street

City

Province/State

Country

Postal /Zip Code

Phone

Fax

Section V Billing Contact

GST Exempt? Yes No

Name

Address

Street

City

Province/State

Country

Postal /Zip Code

Phone

Fax

Section VI Approval Requested

Check the applicable approaches listed in Table 2, section 4.9 of Protocol 6 being submitted for approval:

1. Where the applicant is a responsible person for a source parcel and the entire area of contamination, including contamination at the source parcel and contamination which has migrated from that parcel to a neighbouring parcel or parcels, would not be delineated and/or remediated and would not be included in the contaminated site instrument application or applications.
2. Where local background substance concentrations derived by any methods for surface water, sediments or vapour would be adopted.
3. If the application refers to a parcel currently subject to a preliminary or detailed site investigation order (excluding an order in response to the submission of a site profile under section 7.1 of the Contaminated Sites Regulation), remediation order, pollution prevention order or pollution abatement order under the Act.
4. Where a risk assessment would be used which includes *de novo* derivation of toxicity reference values.
5. Where a risk assessment would be used which includes derivation or use of a site-specific risk-based concentration.

Section VII Rationale and Supporting Information (attach additional information if insufficient space below)**Section VIII Applicant Signature**

Name: _____ Signature: _____ Date: _____
 print name mm/dd/yyyy

I am acting as agent for the applicant Yes No Telephone Fax
 E-mail

For further information regarding approvals under Protocol 6, please e-mail us at site@gov.bc.ca.