

CSAP Members Summer Update 2016

MINISTRY UPDATES:

1. What obligation does an Approved Professional have to consider comments from affected parties beyond the 60 days indicated in AG#11?

The intent of AG-11 is to provide the Director with a record that all parties that may be affected by a Director's decision have been provided with appropriate information, and an opportunity to provide comment. It is the expectation that **complete** communication records are provided when an AP forwards a recommendation to the Ministry for issuance of a legal instrument. If comments are pending at the time of submission, the communication record would be deemed incomplete.

Not only does the complete communication record need to be provided, but it should be submitted in such a way that it is organized and follows a logical sequence to ensure that the flow of communication can be easily followed by the Director. Gaps in the communication record should be clearly identified and, for large communication records, they should be indexed for ease of reference. Best practices observed have included indexed records of all notifications sent, received and returned or rejected. For those notices returned or rejected, documentation of subsequent measures to serve notice and to engage with affected parties or parties with a registered interest should also be provided.

If a reasonable request for additional time in which to provide comment is made, in order to demonstrate that the Director has adjudicated the decision fairly, the additional time should be granted. Also, if additional information has been received prior to signoff of a ministry instrument this information should be forwarded to the director for due consideration.

The requirement for the Director to ensure all parties have been fairly consulted does not lie in AG-11; they come from administrative law and the concepts of procedural fairness and natural justice. Section 133 of the *Environmental Management Act* provides instruction on serving of notice.

CSAP has created an AG11 communications template which may assist you with preparing your summation and it is posted to the CSAP Website.

2. What happens when a notice of offsite migration is retracted?

Fact sheet #34 indicates that the suspect affected property owner should be notified in writing that migration has not occurred. This notification should be copied to the ministry and appropriate changes will be made to the site record for the source and affected parcel. This would normally consist of the addition of Case Management Item notations for both sites indicating that contaminant migrations are not known to have occurred.

3. Questions were raised with MOE about the requirements for arm's length review when a Preapproval has been applied for and the Director's decision is to grant relief from delineation and remediation of the entire extent of contamination. MOE has clarified that the arm's length requirements is a separate issue and the requirements as outlined below still apply to the AP conducting a review.

- Requirements for arm's length review of applications for CoCs are set out in Rows #4 and #5 of Table 1 of Procedure 3 (Ministry Procedures for the Roster of Approved Professionals).

- Protocol 6, V9 clarifies under Items 4.7 and 4.8 the requirements for submissions from applicants that are responsible persons and not responsible persons, respectively.

A CSAP Standards AP asked for clarification as to whether the arm's length provisions for the Review of Risk Based instruments applied to both the Risk AP and the Standards AP or only to the Risk AP. In response to the inquiry the following clarification was received from MOE.

The Ministry of Environment has recently clarified the "Ministry Procedures for the Roster of Approved Professionals" that it is not acceptable under Rows 2 and 5 of Table 1 (**Approved Professional Work and requirements for arm's length review**) for a numerical standards Approved Professional to self-review the numerical standards portion of a Protocol 6 submission (other than a screening level risk assessment) for a risk-based standards Approval in Principle or Certificate of Compliance. The arm's length review requirement applies whether or not the contamination extends off of the site.

4. Questions were raised about the use of SLRA as flow through sites.

MOE confirmed that if the site is a flow through site and the contamination is solely due to flow through contaminants and the owner is not a responsible person for the source site, SLRA can be used to obtain a risk based CoC without consideration of pathways beyond the boundaries of the affected property under HW-3, AW-3 and DF-2. The prohibition on groundwater migrating beyond the property boundary at concentrations >DW standards is also waived in this circumstance.

To use this approach, you need to 1) prove that conditions are "flow through" based on field evidence and records/statements regarding the owner's absence of responsibility for the source site 2) assess the affected property fully to meet CoC requirements and 3) show that there is no potential for concentrations coming onto the property to change in the future which could require monitoring in a PVP if the source site hasn't been investigated or remediated. You will need to indicate in the SoSC the flow through nature of the contamination as explanation for why delineation of the entire extent of contamination beyond the affected property boundaries has not been completed. The ministry also likes to see correspondence with the source site owner as there may be a need to follow up on notification requirements.

The MOE has also confirmed that an application for a risk-based CoC for a property affected by flow through contamination and made on behalf of the affected property owner with no responsibility for the source site. This would fall into the "Ministry Procedures for the Roster of Approved Professionals" Table 1 row 4, column 3 (i.e. "no offsite contaminant migration") category of AP review and arm's length review would not be required.

Please note a summary of MOE Clarifications is available ([Ministry Updates from Summer 2016 to Summer 2012 inclusive](#)).

If you have any questions or comments, please contact the ministry at site@gov.bc.ca.

CSAP COMMITTEE UPDATES:

Performance Assessment Committee

As part of our continued efforts to improve the Performance Assessment (PA) process, the Performance Assessment Committee has revised the PA Guidelines to include the following options for responding to Stage 1 PA Findings:

- Submission of a Response Plan. A Response Plan is recommended when additional investigation is planned, and should outline how the identified issues will be addressed through the additional investigation. If submitted, the Response Plan will be reviewed by the PA panel, and the DM will advise the submitting AP if a follow-up discussion (typically via conference call) with the PA panel is required.
- Submission of a Draft Stage 1 Addendum. If no additional investigation is planned, a Draft Stage 1 Addendum that outlines responses to the issues raised by the PA panel is submitted. The Draft Stage 1 Addendum is reviewed by the PA panel. This is consistent with the PA process to date.
- Meeting with the DM and the PA panel members. A meeting with the DM and PA panel members is highly recommended prior to the finalization of the Stage 1 Addendum to clarify the Stage 1 Findings. If requested by the submitting AP, a meeting with the DM and PA panel is scheduled, and the Draft Stage 1 Addendum is submitted for the panel to review prior to the meeting date. This is also consistent with the PA process to date.

The submitting AP may select how they would like to respond, however, regardless of the option(s) selected, the Final Stage 1 Addendum is due to the CSAP 2 months following the receipt of the Stage 1 Findings unless a formal request for an extension is made.

Detailed Screening

The Detailed Administrative Screening (DAS) is continuing to evolve and CSAP would like to recognize that MOE has indicated that the quality of submissions continues to improve under this process. Please note that the primary issues resulting from the DAS continue to be:

- Issues with the SoSC where DW is indicated not to apply. Please review the additional guidance contained in the updated Annotated SoSC ([here](#)) and refer to Protocol 21.
- Administrative Guidance 11 requirements for communications with offsite affected parcels. Please review the AG11 Communications Template posted to the CSAP Website ([here](#)) and refer to AG11.

Determination Covering Letters and Interested Parties: MOE has clarified who should be copied on the Determination Cover Letters as a party with an “interest” in the Site.

- Parties listed on the land title and considered to have an “interest” in the property should include Statutory Right of Way Holders (i.e. Telus, Terasen, etc.) and not just those with a “financial interest” (such as banks).

Metes and Bounds Survey and Legal Lots.

- Submitting AP's should be aware that instruments where the Site is defined by a metes and bounds survey still also require the PID, legal description and land title report for any legal parcel which may be totally or partly encompassed by the metes and bound surveyed area. This information must be included in the site identification area in the instrument.

The Detailed Screeners appreciate your cooperation with the process which is expediting the release of instruments for your clients. Please fill out and return the Detailed Screening feedback sheets to identify problem areas and to make suggestions to improve the screening process.

Technical Review Committee

The Ministry of Environment comment period for comments on TG10 and TG11 expired the end of June. The new TG10 and 11 are based on the CSAP guidance document. Although we are still required to submit the old version with our applications, this will hopefully change.

Non-chlorinated phenols in groundwater can be tested by colorimetric (gross parameters) or the specified phenol list. The specified list includes 2,4-dimethylphenol, 2,4-dinitrophenol, 2-methyl 4,6-dinitrophenol, 2-nitrophenol, 4-nitrophenol, phenol, cresol (o-cresol, m-cresol, p-cresol), 3-hydroxyphenol, and 4-hydroxyphenol. Some laboratory reports from 2015 did not include the hydroxyphenols. Please check the analysis list in your reviews.

We appreciate all of the input and feedback received, which have much improved the Toolkits and we look forward to future opportunities to continue these efforts towards Toolkits #3 and #4. Golder Associates' report on Toolkits for Evaluating MNA (Monitored Natural Attenuation) and NSZD (Natural Source Zone Depletion) technologies can be found: http://csapsociety.bc.ca/wp/wp-content/uploads/Monitored-Natural-Attenuation-Toolkit-for-Evaluation-1-and-2_combined-FINAL-.pdf

Membership Committee

[Click here](#) to view CSAP AGM Members Survey Results:

2016 CSAP Exam Candidates: Below is a chart summarizing prospective CSAP members who will be going through the examination process later this year.

Candidates	Numerical Exam	Regulatory Exam	Risk Exam
New	7	9	3
Rewriting	3	4	1
Total	10	13	4

Professional Development Committee

Please join us on November 23, 2016 for CSAPs annual Fall Professional Development Workshop, to be held at the Vancouver Convention Centre (West). This year's 6 hour professional development credits will focus on regulatory and technical innovation, and case studies. Presented by private and public sector industry leaders, topics will include changes and amendments to existing guidance and protocols, and practical application of existing protocols, with a focus on water resources, regional background assessments and vapour guidance. The performance assessment committee will also be presenting a session on lessons learned through the screening and auditing processes over that last year. Attendees are then invited to join us at a no hosted post workshop social, which will be held at a local establishment.

Upcoming CSAP PD Webinars

Based on feedback from the PD workshop and received by CSAP during the prior year, the following draft agenda has been put together for the CSAP webinar series for 2016/2017. CSAP is looking for volunteers who may have expertise in these areas and who are willing to volunteer 8 hours of time to prepare and present these webinars. Please contact CSAP, Andrew Sorensen (PD Committee Chair) or Bob Symington (Webinar Coordinator).

Date	Topic
September 2016	CSAP Detailed Screening and Performance Assessment Lessons Learned
November 2016	Groundwater - Determination of DW applicability, Groundwater models – SLRA and Bioscreen, Modelling of contaminant plumes (BTEX)
February 2017	Risk Conditions and PVPs, Risk Based CoCs, AG11 Communications
April 2017	Vapour Assessments and TG4

CSAP NEWS:

Message from the President

The AGM is over, summer is upon us, Pokemon Go is taking the world by storm and we have new directors on the Board. I would like to welcome the new members to the Board. I am looking forward to working with the new members and hearing new perspectives and opinions. I would also like to thank the directors who have stepped down, Jim Malick, Reidar Zapf-Gilje and Ross Wilson. Their contributions were immense and I for one will miss working with them. I will keep this short as I know most of you have fun summer things to do, and wish you all a great summer and the best of luck trying to catch Pikachu.

CSAP's new Board and Committee Chairs

Welcome to the new CSAP elected and appointed Board members.

Parent Organization Representatives:

- APEG BC - Tony Gillett, Chair Governance Committee
- BCIA - Eva Gerencher, Chair Discipline Committee
- CAB - Beth Power, Chair Technical Review Committee

Appointed Directors:

- Industry – Paul Gordon
- Environment - Andrea Akelaitis

Appointed Directors continuing in:

- Local Government – Patrick Johnstone
- Representing the Ministry – Vince Hanemayer

At Large Directors continuing on:

- CSAP Executive

- President, Robin Jones
- Vice President, Peter Reid
- Secretary Treasurer and Performance Assessment Committee Chair, Colin Dunwoody
- Membership Committee Chair, Scott Steer
- Professional Development Chair, Andrew Sorensen

Fall Industry Event Calendar

MoE Conference	Sept.21-22	Register Now
SAB Conference	Oct.26-27	Register Now
CSAP Fall PD Workshop	Nov.23	Register Now

In The News:

[B.C. government's liability for contaminated sites balloons to \\$508 million.](#)

[Bankrupt energy firms add to Alberta's abandoned well problems.](#)

[Increase in costs for cleaning up abandoned mine sites in British Columbia.](#)