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Name of procedure:

Procedures for determining if a Director should require the submission of a Site Risk Classification Report under Protocol 12

Staff affected:

Ministry of Environment staff responsible for administering Protocol 12

Authority:

Environmental Management Act (Section 64 (2))
Protocol 12, "Site Risk Classification, Reclassification and Reporting"

Purpose of procedure:

To provide guidance to Ministry of Environment staff, acting on behalf of the Director, who administer decisions under Protocol 12 requiring the submission of a Site Risk Classification Report.

Relationship to previous procedure:

None

Issued by: Director, Environmental Management Branch

Director's Approval:

Michael W. Macfarlane
 Environmental Management Branch

Date: March 13, 2013

1.0 Definitions

The following words, acronyms and expressions used in this document are defined in the ministry procedure “Definitions and Acronyms for Contaminated Sites”:

Act	orphan site
authorization	owner
contaminated site	parcel
contaminated sites legal instrument	protocol
decommission a site	receptor
Director	Regulation
facility	responsible person
high risk site	SITE
independent remediation	Site Registry
ministry	source parcel
	SRCR

2.0 General

Protocol 12, “Site Risk Classification, Reclassification and Reporting” was developed under Section 64 of the Act to use administrative procedures to classify site risk based on simple, objective measurements. Protocol 12 identifies conditions for classifying sites as high risk, notification procedures for all sites and reporting and reclassification requirements for high risk sites. The protocol’s Site Risk Classification Report was created as a standard form to be completed by stakeholders and reviewed by the ministry to determine if a site contains high risk conditions.

This procedure focuses on two administrative areas dealing with Protocol 12:

- Decisions by a Director to impose the requirement for a Site Risk Classification Report submission in the absence of a submission under any of the other five triggers in the protocol; and
- Criteria used for internal ranking of high risk site priority.

2.1 Legal and regulatory authority

Relevant provisions under the contaminated sites regime are summarized in Appendix 1 of this procedure.

2.2 Guiding principles

The following principles guide the application of this procedure:

- This procedure is to be read in harmony with the Act, its regulations and protocols, and associated policies, procedures and guidance documents. They are to be applied in accordance with the overriding purpose of protecting human health and the environment.
- This procedure serves as guidance to a Director and is not intended to be binding. Each site presents a unique set of circumstances which shall be considered when a Director is determining whether to require the submission of a Site Risk Classification Report.

2.3 General requirements

Decisions and requirements of a Director should be communicated using standard letters following templates approved by the Director. Those templates must be maintained and updated regularly by ministry staff. Notice of a Director's decision regarding a site risk classification must be entered into SITE and the Site Registry, as authorized by section 8 (1) (o) of the Regulation.

3.0 Procedure

A Director should be guided by the procedures in this document in administering the risk classification of sites.

4.0 Director's decisions on requiring Site Risk Classification Reports

The steps below should be followed to determine if the submission of a Site Risk Classification Report under Trigger 5 of Protocol 12 (Imposition of the requirement for a Site Risk Classification Report submission by the Director) should be required by the Director for a contaminated site. They are also shown in the decision tree in Figure 1.

Step 1: Information received by the ministry suggests a site is high risk

The ministry may receive or have information about a known or likely high risk site by means such as the following:

- Receipt of site monitoring reports required for submission to the ministry that suggest a site is known or likely high risk. Monitoring reports may be submitted under requirements imposed under independent remediation, a waste discharge authorization, a hazardous waste facility registration or a contaminated sites legal instrument.
- The ministry has prior knowledge or involvement with a site that is known or likely high risk.
- Notification from a consultant, site owner, third party, government agency (for example, a referral from the ministry's Environmental Emergency Program) or other source that known or likely high risk conditions exist at a site. Information received under these types of referrals must be supported by reliable information and must demonstrate that known or likely high risk conditions exist at a site.

Step 2: Decision: Is there another trigger under Protocol 12 requiring the submission of a Site Risk Classification Report or is submission under another trigger expected within an acceptable time frame?

If a site is subject to another trigger defined in Table 1 of Protocol 12, or submission under one of these other triggers is expected within an acceptable time frame of the Director identifying a known or likely high risk site through Step 1 of this procedure, the site would not be subject to the requirement for submission of a Site Risk Classification Report under this procedure.

If there is no other current or expected trigger under Protocol 12 for a site then a Site Risk Classification Report may be required.

Note that the Director should not require the submission of a Site Risk Classification Report if a site qualifies for an exemption to provide a Site Risk Classification Report under Protocol 12.

Step 3: Decision: Are any of the following criteria for the Director requiring a Site Risk Classification Report met?

If either of the following criteria is met, the Director should require the submission of a Site Risk Classification Report:

- A parcel contains known or likely high risk conditions.
- A neighbouring parcel affected by a source parcel contains known or likely high risk conditions.

If neither of the above criteria is met, the Director should not require the submission of a Site Risk Classification Report under this procedure.

Step 4: Decision: Site Risk Classification Report required by the Director.

If, based on the above criteria, a Site Risk Classification Report is required, the person responsible for the site should be informed of his or her responsibility to provide a Site Risk Classification Report by a ministry form letter, as described in Section 2.3 of this procedure.

5.0 Site risk classification for orphan sites

Under section 58 of the Act, a Director may determine whether a contaminated site is an orphan site and whether that orphan site is a high risk orphan site.

If a responsible person can be found for an orphan site, and the Director wishes to have the site risk for that site classified, the Director should require the responsible person to provide a completed Site Risk Classification Report for the site.

If a responsible person cannot be found or is unwilling to provide the Site Risk Classification Report or information required as a basis for completing the report, where feasible, the Director should consider having the Site Risk Classification Report completed by ministry staff.

6.0 Criteria used for internal ranking of high risk site priority

The following factors should be used as a basis for prioritizing known or likely high risk sites :

- Known or likely high risk conditions present an immediate human health or environmental risk.
- Known or likely high risk conditions are directly adjacent to sensitive receptors.
- Contaminants are highly mobile and are not contained.
- The ministry has been informed that remediation of high risk conditions will not begin within a reasonable time frame (6 months).
- The ministry lacks a remediation plan or schedule for a known or likely high risk site.

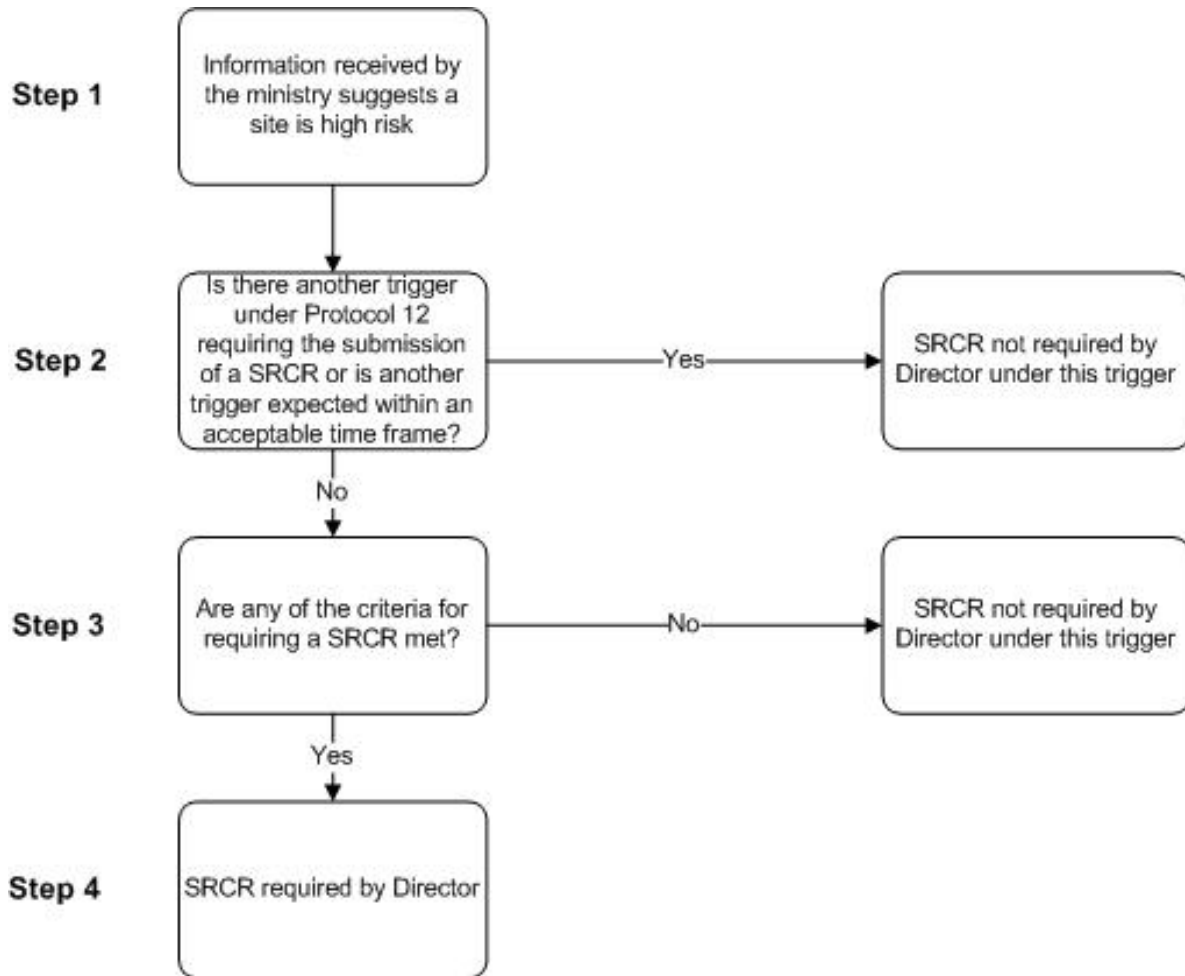


Figure 1. Decision tree for requirement for the submission of a Site Risk Classification Report by a Director.

Appendix 1.

Legal and Regulatory Authority for the Director requiring the submission of a Site Risk Classification Report in *Environmental Management Act* and Protocol 12

The following parts of the Act and Protocol 12 authorize a Director to require the submission of a Site Risk Classification Report.

Environmental Management Act

64 (2) For the purposes of protocols established under subsection (1), a director may establish protocols in respect of the following:

- (d) classifying sites as low, moderate, medium, intermediate or high risk sites based on an evaluation of risk to human health and the environment...

Protocol 12

S. 5.1 Table 1. Site risk classification notification triggers and timing of related reports

Column I (Notification Trigger) - Imposition of the requirement for a Site Risk Classification Report submission by the Director

Column II (Required Timing of Submission of Risk Classifications and Related Reports) - At the time the Director has specified for the submission