



Ministry of
Environment

PROTOCOL 6 ***FOR CONTAMINATED SITES***

Eligibility of Applications for Review by Approved Professionals

Version 8.0

Prepared pursuant to Section 64 of the
Environmental Management Act

Approved:

Michael W. Macfarlane

Director of Waste Management

March 11, 2013

Date

Effective Date: April 1, 2013

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	probabilistic risk assessment
affected parcel (or site)	qualified professional
Approved Professional	remediation order
arm’s length review	Regulation
contaminated sites legal instrument	responsible person
Director	risk-based standards
food chain modelling	Risk-based Standards Approved Professional
high risk site	risk assessment
in situ management facility	risk managed high risk site
legal parcel	risk management
non-high risk site	screening level risk assessment
numerical standards	site-specific risk-based concentration
Numerical Standards Approved Professional	site risk classification
parcel	site investigation order
pollution abatement order	site monitoring report
pollution prevention order	source parcel (or site)
preapproval	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, Certificates of Compliance and Contaminated Soil Relocation Agreements based, where applicable, on the numerical standards and on screening level risk assessments.
- (b) Risk-based Standards Approved Professionals are qualified to make recommendations for Approvals in Principle, Certificates of Compliance and Contaminated Soil Relocation Agreements based on screening level and detailed risk assessments;

3.2 Approved Professionals making a

- (a) submission of a monitoring report, or
- (b) statement of satisfactory performance of risk management measures

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 preapproval 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

- (a) for a non-high risk site must be reviewed by the ministry without a recommendation by an Approved Professional, and

(b) for a high risk site must be accompanied by a recommendation by an Approved Professional.

4.4 Subject to the requirements in section 4.6, 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	non-high risk
Certificate of Compliance	non-high risk
Contaminated Soil Relocation Agreement	high risk* non-high risk

* Applies to high risk source sites.

4.5 Subject to the requirements in section 4.6, any applicant who is a responsible person for the source of contamination with respect to an application for a Determination of Contaminated Site, Approval in Principle¹ or Certificate of Compliance¹ is responsible for the delineation and remediation of the entire area of contamination including contamination at a parcel and any contamination which has migrated from that parcel to neighbouring parcels.

4.6 Any application for a contaminated sites legal instrument of a type listed in Table 2 must be preapproved by a Director. After adjudication by a Director, if the preapproval is not granted, any subsequent application for the contaminated sites legal instrument which is the subject of the preapproval and which must be submitted with the recommendation of an Approved Professional under section 4.4 will not be considered until preapproval is obtained or the application package is amended so that preapproval is not required under Table 2.

4.7 The application form provided in Appendix 1 must be used to apply for a preapproval under this protocol.

4.8 If the requirement for an application for a contaminated sites legal instrument to be accompanied by a recommendation by an Approved Professional does not apply under this protocol, for the application to be considered, it must be submitted directly to the ministry for review.

¹Section 53 (6) of the Act provides discretion to a Director to approve an application for an Approval in Principle or Certificate of Compliance for an area less than the full extent of the area of contamination.

Table 2. Applications requiring preapproval by a Director of Waste Management

No.	Types of Applications for Contaminated Sites Legal Instruments Requiring Preapproval
<i>Involving the extent of the area of contamination delineated and remediated</i>	
1	If the applicant for a contaminated sites legal instrument is a responsible person for the source parcel and has not delineated and/or remediated the entire area of contamination including contamination at a parcel and contamination which has migrated from that parcel to neighbouring parcels.
<i>Involving background substance concentrations</i>	
2	If, under the application, local background substance concentrations in surface water, sediments or vapour were derived by any methods.
<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 Approvals in Principle</i>	
4	If the application is for an Approval in Principle under which remediation is not expected to be completed within five years of the anticipated date of issuance of the Approval in Principle.
<i>Involving risk assessments</i>	
5	If the application refers to a parcel where risk-based standards will be applied under a risk assessment and the parcel has or requires a hazardous waste <i>in situ</i> management facility authorization.
6	If the application is based on a risk assessment that includes any of the following: (a) probabilistic analysis; (b) toxicity testing of materials (soil, water, sediment), or organisms obtained at or from the parcel; (c) <i>de novo</i> modification of toxicity reference values; or (d) derivation or use of a site-specific risk-based concentration.

5.0 Submissions not involving applications for contaminated sites legal instruments

5.1 Monitoring reports and statements of satisfactory performance

5.1.1 Subject to subsection 5.1.2, 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 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 management 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 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 ministry 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 requirements

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 may provide recommendations and reports to a Director in relation to the following:

- 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; and
- the design of any works and implementation of other measures required to prevent recontamination of a previously contaminated parcel.

For more information, contact the Environmental Management Branch at site@gov.bc.ca.

Appendix 1

Preapproval Application Form



Ministry of
Environment

PROTOCOL 6 PREAPPROVAL 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

Instructions

The attached Preapproval Application form must be completed, signed and sent to the Ministry of Environment when preapproval is required under section 4.6 of Protocol 6, "Eligibility of Applications for Review by Approved Professionals." Once ministry preapproval is obtained, an application for a contaminated sites service based on the preapproval 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 preapproval application provide detailed rationale and information supporting your preapproval application including:

- The reasons why preapproval is being requested, for example, for legal and/or scientific reasons.
- Relevant site information at a level of detail appropriate to the requested preapproval.
- Complete rationale for the preapproval, 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 (e.g., for probabilistic risk assessment using United States Environmental Protection Agency methods cite "Risk Assessment Guidance for Superfund (RASS) Volume III – Part A: Process for Conducting Probabilistic Risk Assessment"), 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 a preapproval, a satisfactorily completed Preapproval 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 off the "Additional services/ functions" box in section C of the Contaminated Sites Service Application form and send them both to:

Client Information Officer
Ministry of Environment
PO Box 9342 Stn Prov Govt
Victoria, B.C. V8W 9M1

Fax (250) 387-8897
E-mail: csp_cio@Victoria1.gov.bc.ca

The ministry response time will depend on the nature of the preapproval requested and the adequacy of the information provided with the application. For properly completed applications dealing with a simple regulatory authorization (e.g., confirmation of an existing covenant under the *Land Title Act*, or approval to use a standardized alternate methodology in risk assessment) the ministry aims to respond within two weeks. More complex applications for preapproval (e.g., risk assessment based on nonstandardized or novel risk assessment methods) would likely require a longer period for ministry review and approval and may necessitate the submission of additional information by the proponent.

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 a preapproval under Protocol 6.

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



Ministry of
Environment

**PROTOCOL 6
PREAPPROVAL 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 preapproval for any of the items listed in Table 2 of section 4.6 of Protocol 6, "Eligibility of Applications for Review by Approved Professionals" under the *Environmental Management Act*. If a preapproval 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: Preapproval 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

HST Exempt? Yes No

Name

Address

Street

City

Province/State

Country

Postal /Zip Code

Phone

Fax

