

Protocol 12, Site Risk Classification, Reclassification and Reporting

Document Section(s)	Issue	Stakeholder Comments/Recommendations	Ministry Response
3.0	Not enough explanation for what the Ministry considers sufficient information to classify a site.	<p>In the final line of the first paragraph, the Ministry states that Protocol 12 is intended to allow the classification of sites on the basis of “limited and readily obtainable site data”. The term “limited” is subjective and contrasts with our experience of what is expected, namely that risk classification will be supported by appropriate site information obtained in accordance with procedures, protocols, and guidance. There are many cases, especially when remediation is incidental to small maintenance or construction projects, where a site risk classification based on information such as stockpile results, and not a more extensive site investigation, is appropriate in the circumstances and has been accepted. This is often the case where remediation occurs on only a small part of a site.</p> <p>The Ministry should revise this section to provide more detailed guidance on the level of information considered adequate for classification of part of sites where remediation is driven by activities other than contaminated site and when only limited testing has taken place.</p>	<p>This was previously addressed in the Q&As section of our website in some detail.</p> <p>Additional guidance can also be found in the revised version of Administrative Guidance 10, “Site risk Classification.”</p>
4.1.2	Wording change might create uncertainties	<p>Sec. 4.1.2, re UC concentrations, significant change has been made from: “Where notifications to the Director are triggered under the reporting procedures of this protocol and detailed investigations have not yet been completed, the presence or absence of UC concentrations must be established.” to “Where notifications to the Director are triggered under the reporting procedures of this protocol and detailed investigations have not yet been completed, the presence or absence of UC concentrations if known must be indicated.” We note that uncertainties appear to be created:</p> <ul style="list-style-type: none"> • Sentences following address only the situation if concentrations are known (i.e., exceeded or not exceeded) • If it is reported that concentrations are not known, can it be understood that further investigation for the purpose of risk classification according to UC concentrations can wait until further investigations are done for other purposes, or is it to be understood that further investigations are required to determine conditions relative to UC concentrations? (see Site Risk Classification Report Section V) • If it is reported that concentrations are not known so UC concentrations cannot be evaluated, can it be understood that exposure pathway evaluation should not and need not be 	<p>It is the ministry’s intent that if UC concentrations are not known, additional investigations are required to determine their presence or absence. If concentrations are not known, a schedule of investigations must be provided in Section V of the Site Risk Classification Report.</p> <p>Once investigations are completed, a revised Site Risk Classification Report must be submitted indicating the presence or absence of UC concentrations, including the Exposure Pathway Questionnaire section or the report completed with current information.</p>

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		completed?	
4.2	High risk site classification Figure 1 and Exposure Pathway Questionnaire HW-1	<p>Section 4.2 states that SRC is based on <i>current</i> water use. However Figure 1 and Exposure Pathway Questionnaire HW-1 ask whether drinking water use applies. This may cause sites to be classified high risk without detailed hydrogeological assessment to prove drinking water standards do not apply.</p> <p>Consider rewording Figure 1 and Exposure Pathway Questionnaire HW-1 to ask if groundwater or surface water is currently used for drinking water. This would be align with section 4.2</p>	The Section, Figure and Exposure pathway have not been changed from the previous version of Protocol 12. Technical Guidance 6, “Water Use Determination” and Technical Guidance 15, “Concentration Limits for the Protection of Aquatic Receiving Environments” provide guidance on which water uses should be determined, in the context of Protocol 12.
5.2	Wording	Sec. 5.2, phrase in parenthesis, needs correction / clarification “(both for high risk conditions only)”	This has been corrected in the new version (the word “both” has been deleted)
5.3.3	Volume of soil exemption	<p>We appreciate this exemption for small remediation work. A volume of 10 m³ (about 1 truck load) would seem reasonable. In the field it is much easier to identify a “truck load” volume than a 5 m³ volume. One truckload would capture many small excavation or housekeeping/ clean-up projects. These situations are not as high risk as leaking tanks from residential homes, which are exempt for residential heating oil tanks in section 5.3.6</p> <p>We ask that the Ministry consider increasing the volume exemption to 10 m³ for the purpose of the Protocol 12.</p> <p>If the Ministry supports the “truck load” volume exemption, consider using a similar small quantity exemption for Protocol 17 Notice of Independent Remediation initiation and completion for alignment purposes.</p>	The Contaminated Sites Regulation currently has a 5 m ³ exemption for Contaminated Soil Relocation Agreements. At a time in the future when the Regulations are amended, the ministry would consider increasing the exemption volume to 10 m ³ for those agreements and also for Site Risk Classification Reports.
5.3.3	Soil quantity	<p>If 5 m³ or less of soil is to be remediated during the entire course of remediation of a site by independent remediation, then the reporting requirements do not apply. Several questions may arise and require clarification:</p> <ul style="list-style-type: none"> • Is the 5m³ meant to apply only to remediation of high risk conditions, or remediation of all contamination, high risk or not? 	The 5 m ³ refers to remediation of all contamination.

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		<ul style="list-style-type: none"> If 5m³ is an amount that is important, why does the exemption only apply to independent remediation? 	This exemption only applies to independent remediation as it is assumed that this is the trigger most likely used if there is only a small amount of soil to be remediated.
5.3.7 1	Spill response	<p>In practice, it is challenging to obtain resources, consult with affected property owners, obtain access and fully remediate a site or respond to a spill within 30 days, even on small low risk spills. Several matters, particularly access and timeliness of a property owner's response, is out of the responsible person's control.</p> <p>Consider extending the 30 day clean-up to 90 days. This better reflects and addresses practical barriers in the field and aligns with the period provided for the remediation of high risk conditions.</p>	This subsection has been amended to indicate that the ministry does not wish to receive routinely Site Risk Classification Reports for any type of spill, reportable or not, at the time independent remediation is initiated. The stakeholder's comment is no longer applicable.
5.3.7 1	Sampling	<p>"Sampling and testing" may restrict to a very narrow clean-up approach (Technical Guidance 1) which may not always be required or appropriate in the circumstances. For example, risk management would not be allowed under this language.</p> <p>Consider removing "sampling and testing results indicate". A possible replacement for "sampling and testing" may be "assessment".</p>	This subsection has been amended to indicate that the ministry does not wish to receive routinely Site Risk Classification Reports for any type of spill, reportable or not, at the time independent remediation is initiated. The stakeholder's comment is no longer applicable.
5.3.7.2 (b)	Volume exemption	<p>We appreciate this exemption for small remediation work. See comments above for section 5.3.3.</p> <p>Consider increasing the volume exemption to 10 m3, which aligns with truckload quantity.</p>	See ministry's response above (Section 5.3.3).
5.3.7.2 (e)	Spill in a containment system	<p>A spill held within a containment system has not been released to the environment and does not meet the definition of 'spill' in EMA s. 80 or the Spill Reporting Regulation.</p> <p>Suggest rewording ss. 2(e) to clarify that a contained release is not a spill and is thus exempt.</p>	The ministry agrees with this suggestion and the section has been deleted.
5.4	Reporting for off-site migration	We disagree that the Site Risk Classification Report for the source parcel should be provided to other affected parcel owners. We suggest	The ministry agrees and has deleted that paragraph.

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		that notifying the owner of the neighboring site of potential for migration from source site and development of a risk management plan for source site to curtail offsite migration should be sufficient.	
5.4	Reporting for off-site migration	Wording very confusing with multiple terms (neighbouring parcel, affected site) to describe source and affected parcels. Use terminology consistent with Procedure 8 - Definitions	This section has been amended and the wording made more consistent.
5.5	Reporting for high risk sites for independent remediation	<p>The last paragraph of Sec. 5.5 sets out new requirements, namely: "If at any time during independent remediation activities at a site, a new high risk condition is identified, all information required at the initiation of Independent Remediation under Column III of Table 3 must be provided to a Director within 30 days of the new condition being identified. This requirement does not apply to sites under independent remediation being remediated in less than 90 days of initiating independent remediation." Questions arising include:</p> <ul style="list-style-type: none"> • Does the exemption apply to the new high risk condition if it too is being remediated within 90 days? • Will the original 90 day period end-date apply to the new remediation (i.e., a shorter allowed period) or will another end date and a new 90 day period apply? 	<p>The exemption applies if the new high risk conditions are being remediated within the original 90 day period.</p> <p>Yes, the original 90 day period applies for the new high risk condition (i.e., shorter allowed period).</p>
5.5	Reporting for Independent Remediation where high risk conditions are not eliminated in 90days	For a site undergoing Independent remediation (IR) where the high-risk condition is not eliminated within 90 days, the reporting section appears to require a revised Site Risk Classification Report and an updated completion schedule within 30 days. In most cases, 30 days is not reasonable. Furthermore, the opportunity for development of site-specific reporting requirements (i.e. Director's discretion) for longer-term remediation at large complex sites should be included in the revised draft of Procedure 12.	This paragraph was not changed from the previous version because the 30 day reporting requirement applies only if a new high risk condition is identified during remediation. The ministry considers 30 days from the moment a new high risk condition is identified a reasonable time frame. Note that if independent remediation at the site is not completed within 90 days, a revised Site Risk Classification Report and updated completion schedule is due at the 90 day mark.
Figure 1		The answer to questions HW-2, AW-2 and LIW-2 do not provide for a "no" response. Boxes HW-2, AW-2 and LIW-2 should be followed by a	Figure 1 has not been amended, but to clarify, HW-2, AW-2 and LIW-2 do not provide a no

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		“no” rather than an “or”.	response as they refer to groundwater, HW-3, AW-3 and LIW-3 refer to “surface” water, so both should be answered.
Table 1 and Table 2		<p>Tables 2 & 3 (Column IV and Note #6 to Table 2; Column III and Note #6 to Table 3) use the term “Summary of current site conditions” which does not correspond to the reference to requirements in Sec. 5.2 of this version of Protocol 12 nor to CSR Sec. 7.1 of CSR Schedule 1.1. This raises questions needing clarification, for example:</p> <ul style="list-style-type: none"> • Is yet another form (e.g. subset of SOSC) intended? • Is another form of Summary of current site conditions required that is not a completed SOSC? 	The tables have been amended to clarify that the documents required are the Summary of Site Condition. It is expected that they will be completed with the current conditions at the site.
Table 1		<p>Column IV heading (“Persons with the Duty to Submit Site Risk Classification Information”) raises some questions, for example:</p> <ul style="list-style-type: none"> • Is it the intent by Protocol or does it specify new legal duties / responsibility, and what responsibility is included in Column IV that is not included in EMA or CSR? Whereas EMA and the CSR do refer to duties of responsible persons re. NIR, NLAM, etc. only Protocol 12 specifies requirements for a Site Risk Classification Report and related information. • Is it intended that the actual site owner / responsible person provide the information, or is signed documentation to be included with a submission that confirms that an owner / responsible person has authorized an agent to make a submission on his or her behalf? (e.g., EMA Sec. 54(1) states: “A responsible person may carry out independent remediation...” and 54(2) states: “Any person undertaking independent remediation of a contaminated site...”); CSR Sec. 57(1) and (1.1) regarding NIR and NLAM specifically refer to “A responsible person”? 	<p>The duties referred to in column IV of Table 1 refer to the duty under the protocol to submit Site Risk Classification Report information. Those duties are not specified currently in the Act or Regulation.</p> <p>Section III of Part 1 of the Site Risk Classification Report is to be used by the agents and environmental consultants who are acting on behalf of property owners and operators — the latter have the duty under the protocol to submit information to the ministry.</p>
Table 1 Row no. 6	Wording	<p>Wording is confusing with multiple terms to describe source and affected parcels. What specifically is meant by “associated site”?</p> <p>Use terminology consistent with Procedure 8 throughout Protocol 12.</p>	The terms have been changed to make them consistent throughout the document

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Table 2 Column V	Clarification of notes	It is not clear whether Notes 1, 2, 3 and 4 apply to all line items. Is this the intent? Clarify which notes apply to which line items.	A notation has been added to the footnotes to clarify that the first four notes apply to all the items.
Appendix 1 Part 1	Not enough information to complete the Site Risk Classification Report form	We suggest that the form includes a comment section to indicate rationale, such as the form can be completed without leaving sections blank	A new Part 6 (Section X – Additional information) has been added to the Site Risk Classification Report form and can be used for this purpose.
Appendix 1, Site Risk Classification Report (SRC) – Part 1		<p>The current form does not allow one to specify if it is being completed and submitted for part of a site, as done on the NIR. This lack of context on the forms may create misunderstanding regarding what they portray.</p> <p>Consider modifying the SRC Report form to clarify whether the report is being completed for part of a site or for an entire site.</p>	The Site Risk Classification Report is to be completed with respect to classification of an entire site, even if it is completed from the perspective of a part of site. The new Section X of the Site Risk Classification Report allows for any additional information or clarifications to be included in the report.
Appendix 1, Site Risk Classification Report (SRC) – Part 1		<p>Form should be modified to clarify whether it is being completed by a land owner or operator, for a source or affected site. This would provide context for situations where the SRC Report is not fully completed. An example would be where the SRC is submitted for NIR where contaminated soil is excavated during road work adjacent to gas station, and where BC Hydro would be the operator (not the landowner) and BC Hydro is working on the affected parcel only.</p> <p>Part 1 of the form should be modified to highlight whether contamination is related to sources off-site relative to the area under remediation. This applies where the remediation is not being carried out on an affected parcel.</p> <p>Section II of the SRC report should be modified to be able to distinguish whether the report is being filed on behalf of an owner of operator of the property.</p>	Section X – Additional information, allows for any clarification to be provided in that section.
Appendix 1, Site Risk Classification Report – Part 3, Section V		Many small projects involving excavation on part of a site are done for the purpose of capital upgrade, maintenance or repairs. These projects are not undertaken to conduct remediation of the site. In such cases a PSI/DSI is not always required as long as soil has been adequately characterized for management/disposal purpose. The NIR	Section 5.6 explains that a Site Risk Classification Report can be submitted for part of a site. There is no trigger for investigation of the entire site; the only requirement is that if there is a known high risk area at the site, a

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A.		<p>is thus incidental to the project. In these cases, “end of life” timing for scheduling on-site or off-site investigation should be considered/ accepted, even if the adequacy of completed site investigations is deemed insufficient to determine a site risk classification. This would often be the case for construction work on part of a site.</p> <p>Consider including a provision for partial site classification that would not trigger site investigation for the overall site, and/or allow for end of life investigation schedules.</p>	<p>schedule needs to be provided in relation to remediation of that area.</p>
Appendix 1, Site Risk Classification Report Section VI 1.		<p>There is no box to allow for a “not investigated” response. For instance, in the case of NIR related to maintenance work, groundwater quality would properly not always be assessed and the professional completing the SRC Report could not responsibly or correctly answer yes or no.</p> <p>Consider addition of “not investigated” check box</p>	<p>This was previously addressed in the Q&As section of our website in some detail.</p> <p>Additional guidance can also be found in the revised version of Administrative Guidance 10, “Site risk Classification.”</p>
Appendix 1, Site Risk Classification Report Section IX		<p>There could be offsite high risk conditions that are not related to the contamination of the site that the Site Risk Classification Report is being completed for. For instance the offsite parcel has unrelated BTEX contamination.</p> <p>Consider explicitly stating that the questions of section IX are being answered in terms of the contamination which may have migrated from the source site, not for unrelated contaminants which may already be present on the off-site property.</p> <p>There should be a box added for a “not investigated” answer when the investigation of the source site is too limited to assess off-site condition, for instance when no groundwater investigation has been carried out on the source site.</p>	<p>Section X allows for any additional comments to be added if needed.</p> <p>As explained in the Q&As section of our website and in Administrative Guidance 10, “Site Risk Classification,” investigation of all media is not always required. The ministry encourages the use of professional judgement in determining if there is sufficient information to classify a site.</p>