

Identification of Contaminated Sites Process

Update on Regulatory Review

Kelli Larsen, Sr. Contaminated Sites Officer
Land Remediation Section
March 2017

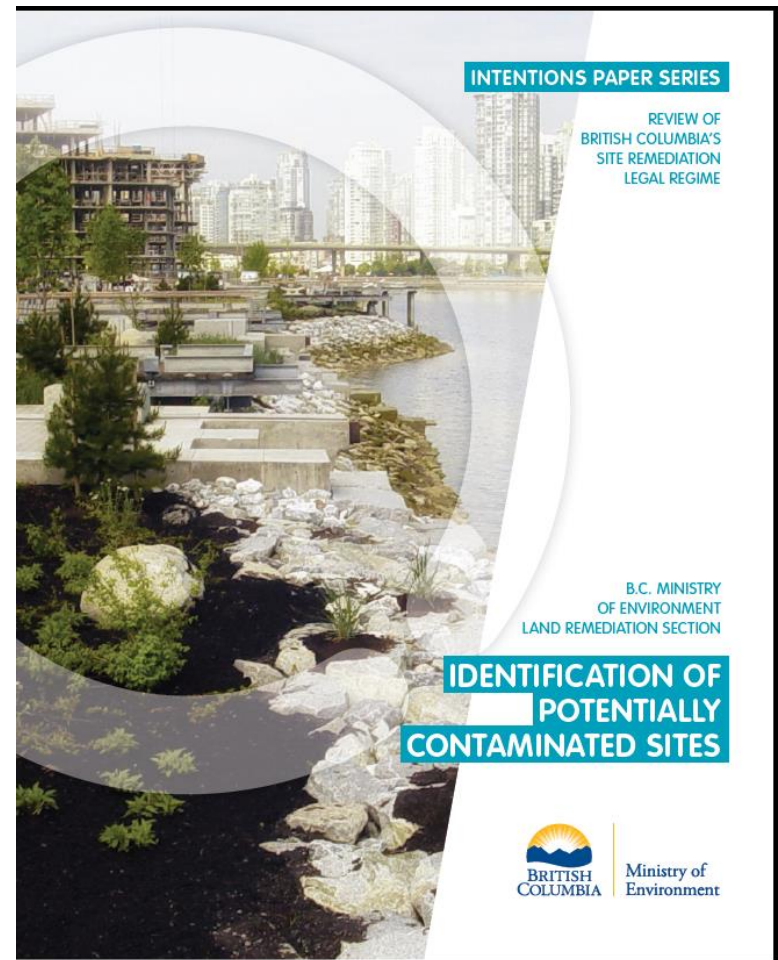


Ministry of
Environment

IDENTIFICATION OF CONTAMINATED SITES

Discussion Points:

- Omnibus 101
- History of site identification provisions
- Consultation process
- Summary of Comments relating to Intentions paper
- Implications for local government
- Discussion



OMNIBUS 101

- **Minister's Order – Stage 10 (Omnibus) Amendment**
 - Revised CSR Schedules of Numeric Standards
 - Revised CSR text – various sections
- **Lt. Governor in Council Order – Consequentials to:**
 - Hazardous Waste Regulation
 - Organic Matter Recycling Regulation



Omnibus & Consequential Amendments will come into legal effect Nov 1, 2017

****Does NOT include amendments to the Identification of Contaminated Sites legal provisions****

OMNIBUS SUMMARY OF CHANGES

1. Update all soil, water and vapour numerical environmental quality standards of the CSR (NB - the omnibus will not update sediment quality standards – left for OM3)
2. Set four new (consolidated) schedules for: soil, water, vapour and sediment standards (NB - the omnibus will repeal CSR Sch 4, 5, 6, 7, 9, 10 & 11)
3. Establish two new Residential landuses (Low Density RL & High Density RL) and two new Wildlands landuses (Natural WL & Reverted WL)
4. Add new Parkade vapour standards
5. Convert all DW standards to tox-based standards (e.g. change aesthetic-based DW standards)
6. Prescribe new standards for a number of new substances (Emerging Contaminants of Concern)
7. Change Contaminated Soil Relocation regime (i.e. repeal Sch 7 and allow use of all CSR soil standards to determine when CSRA needed to relocate contaminated soil)
8. Provide Director's authority to set new "Carcinogenic Substances" and new "Leachate" protocols and set new "Leachate test" analytical methods
9. Authorise a 1 year "Transition period" and provisions related to the coming into legal force of the Omnibus and Consequential HWR/OMRR amendments
10. Commit government to an ongoing 5 year CSR standards review/revision

SITE IDENTIFICATION (SITE PROFILE) PROCESS

What is the current process?

- A series of legal provisions used to identify potentially contaminated sites and ensure these sites are investigated and, if necessary, remediated prior to redevelopment
- Provisions in *Environmental Management Act*, *Contaminated Sites Regulation*, *Local Government Act*, *Vancouver Charter*, *Land Title Act*, *Islands Trust Act*, *Petroleum and Natural Gas Act*
- ❖ Provisions were established (1997) following extensive consultation with local governments to address concerns about the redevelopment of contaminated sites
- ❖ Approximately 42 local governments have opted out of site profile administration

SITE IDENTIFICATION (SITE PROFILE) PROCESS

How does it work?

- Only applies to sites where commercial/industrial activities have occurred as listed in Schedule 2 of the Contaminated Sites Regulation
- Process triggered by decommissioning, foreclosure or application for specific local government approvals (e.g., demo, zoning, subdivision, development)
- If the Director requires a site investigation based on responses on a site profile form, local government approvals cannot be approved until the Director's requirements are fulfilled.

legal instrument (COC/Determination)

release letter

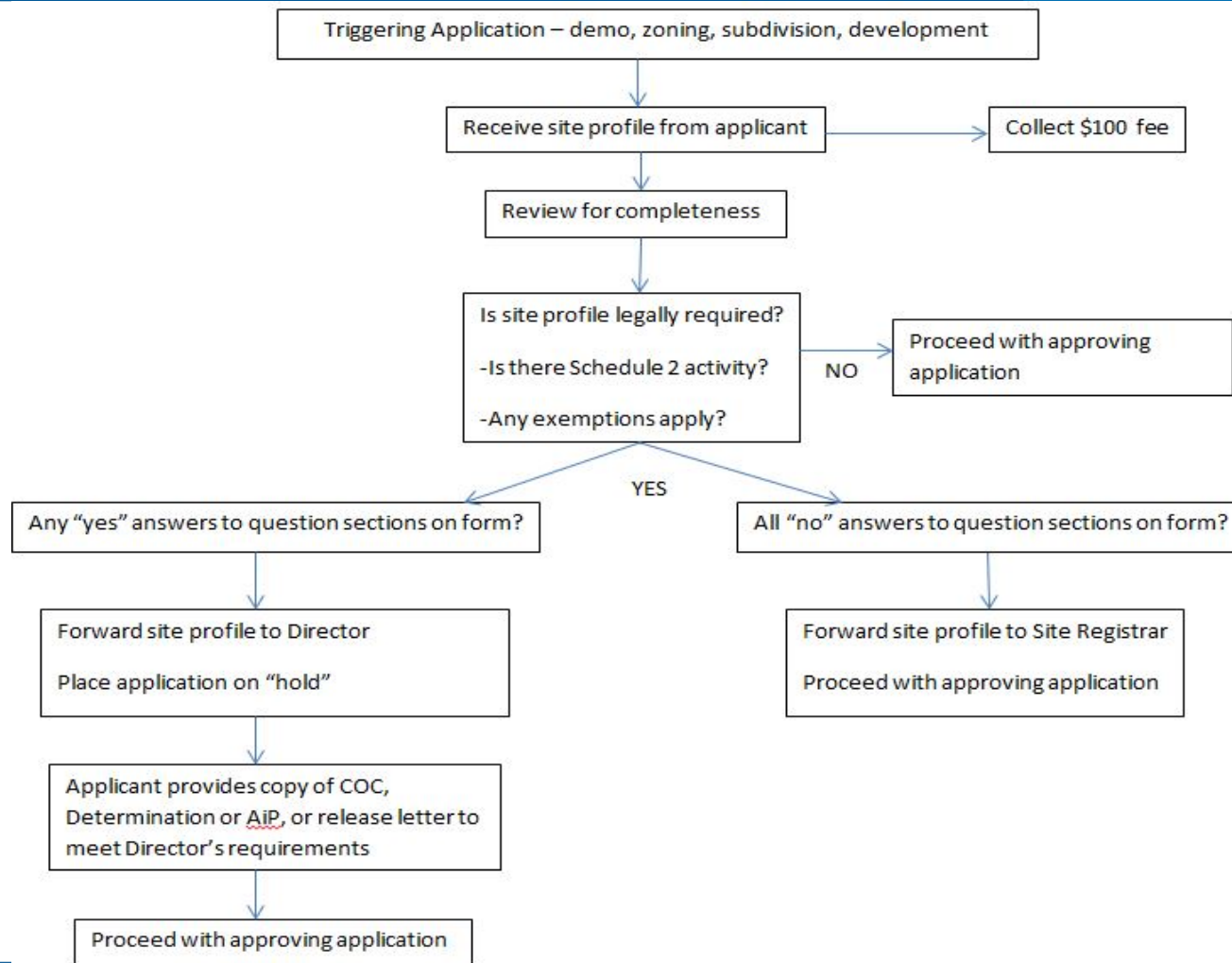
SITE IDENTIFICATION (SITE PROFILE) PROCESS

A release letter allows local government to proceed with approval of specific applications instead of the property owner obtaining a ministry instrument

A release letter from the Director of Waste Management will indicate one of the following:

- Site investigation is deferred until sometime in the future
- Sufficient site investigation has been completed and the applicant will proceed with independent remediation following approval of the application

LOCAL GOVERNMENT RESPONSIBILITIES



PROBLEMS WITH THE CURRENT PROCESS

- Inconsistency across the province
 - opt-out option: human health & environment safety issue in areas that are not addressing contaminated sites issues consistently or at all
 - differences in local government permitting processes, some sites are being missed
- Triggers – often identifies sites and blocks approvals at inappropriate times (i.e. Not during redevelopment)
- Confusing - consequences of triggering the process are unclear



REVIEW OF LEGAL REGIME: WORK UNDERTAKEN TO DATE

- Discussion Paper posted for public comment in October 2014 (multiple options presented)
- Intentions Paper posted for public comment in May 2016 (specified path forward based on Discussion Paper feedback)
- Summary of Comments Report for Intentions Paper awaiting approval to post to web

SUMMARY OF COMMENTS - HIGHLIGHTS

- Majority of respondents stated the proposed list of historical searches required to complete a site identification form (to determine historical site uses) was problematic.
- Majority of respondents expressed concern about the changes to the triggering local government approvals, specifically removal of subdivision and addition of building permits.
- Majority stated they were against the proposal to not “freeze” triggering applications, but to require completion of site investigation and remediation (confirmed by Determination or Certificate of Compliance) at final building inspection/occupancy stage.

KEY POINTS FOR LOCAL GOVERNMENT

- Ministry of Environment is responsible for compliance with the process
- Local government immunity protection will remain as is
 - Municipalities, approving officers and other public officials are “protected persons” under the EMA
 - For example: protected persons are not liable for damages arising from reliance on a determination, approval or certificate
- No longer able to “opt out” of administration process

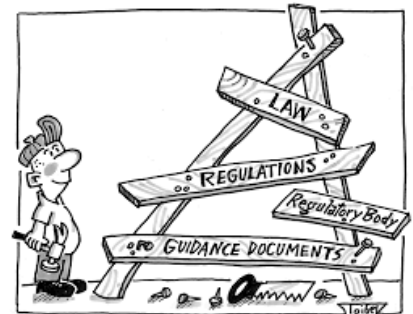
“OPTING OUT” OF ADMINISTRATIVE PROVISIONS

Remove “opt-out” exemption – Unclear why local governments were given the authority to not follow a provincial law

- Human Health and Environment safety gap: many opted out local governments incorrectly assumed that this meant did not have to address contaminated sites issues at all
- Having a clear, consistent, flexible process across the province promotes development
- For many opted out communities – this change likely will not have a significant affect due to limited industry

THE PATH FORWARD...

- Local government working group – participants selected based on conversations with UBCM, invitations recently sent out
- Working group will discuss adjustments to the intentions paper proposal based on comments received; iron out details of the process and create an education/implementation plan for training local government staff
- Additional consultation is required for changes to Schedule 1 and 2 of the CSR



Discussion

Please forward additional questions/comments
to kelli.larsen@gov.bc.ca



Ministry of
Environment