

Site Profile Freeze and Release Provisions

When the Director of Waste Management (the Director) determines that a site investigation is required based on a site profile submission, this decision suspends (or “freezes”) a local government’s ability to approve certain applications. This freeze will remain in effect until a release is obtained for the site. Releases can take several forms including a ministry contaminated sites legal instrument such as a Certificate of Compliance.

Local government applications affected by these provisions are listed in section 40 of the *Environmental Management Act* and include demolition, soil removal, zoning, subdivision, development and development variance.

What are the goals of the site profile system?

The site profile system was developed to create a legally defined, uniform process that provides a consistent and fair method to:

- screen for potentially contaminated sites;
- ensure that cleanup of a site is completed before re-use or redevelopment;
- ensure that offsite migration of contaminants is dealt with in a timely fashion; and
- provide basic site information to the public through the Site Registry.

For a detailed overview of the site profile system, see Fact Sheet 19, “The Site Profile System”.

Can my permit or approval be issued before I obtain a legal instrument for my site?

Yes. The local government or approving officer may approve an application if a “release” notice has been received from the Director under the:

- *Land Title Act* Section 85.1(2)(d)

- *Local Government Act* Section 946.2(2)(d)
- *Islands Trust Act* Section 34.1(2)(d)
- *Petroleum & Natural Gas Act* Section 84.1(2)(d)
- *Vancouver Charter* Section 571B(2)(d)

These sections state that “in the opinion of the director, the site would not present a significant threat or risk if the application were approved.” When the Director decides to release one of these applications using this release mechanism, it usually depends on the existence of local government administrative controls which ensure that contamination will be adequately addressed after the application is released, but before the site is used (i.e., before occupancy or reutilization). Normally the decision does not depend on the actual or potential level of risk posed by a site.

In order to determine whether to grant one of these releases, the ministry must receive a written request for a release from the property owner or applicant. For instructions on completing and submitting a request for release of a local government application, see Administrative Guidance document 6, “Independent Remediation Where Local Government Approvals are Required.”

When should I submit my application for a release?

A request for release of an application can be submitted to the ministry at any time. However, the request will not be processed until a site profile has been received by the ministry.

How long does it take for the ministry to process a release request?

The ministry has no legislated time requirements for responding to a release request. Applications are processed on a first come, first served basis. Sometimes significant staff resources are needed to facilitate discussions between the applicant and local government, which means it can take several weeks to process a request. To reduce delays, we recommend that applicants obtain support for the release from the local government before submitting a request.

How will I be notified if my release request has been approved?

The ministry will usually send you a form letter noting that a site investigation is required, and also adding that the local government may approve an application (as identified in section 40 of the Act) related to the proposed activities at the site.

Some approved releases may be subject to site-specific conditions imposed by the ministry. If so, these conditions, determined in consultation with the local government, will be outlined in the ministry's response letter.

What conditions does the ministry impose on a site owner if a release is approved?

Conditions will vary depending on the circumstances of the application (such as whether it is a site upgrade or a site redevelopment for a new land use). The most common condition requires that a determination or Certificate of Compliance be obtained before an occupancy permit for the site is issued.

What additional commitments may be required by the local government in order for my release request to be approved?

In some cases, local governments choose to impose additional requirements on an applicant to ensure the conditions of the release are met.

For example, you may be required to:

- register a restrictive covenant on the land title (under section 219 of the *Land Title Act*);
- provide a bond or other security; or
- provide a schedule for completion of the site investigation and remediation.

Can I request release of an application not related to a site upgrade or redevelopment?

The ministry will review release requests for any applications frozen by a site investigation decision. Approval will be based on the information made available to the ministry about the site and on the receipt of support from the local government.

Under what circumstances would the ministry deny a release request?

In general, release requests are not approved if:

- there will be no future local government applications for the site;
- the local government does not support release and wants to withhold an occupancy or building permit; or
- there is evidence of potential significant risk to human health or the environment.

Does the ministry charge fees for processing release requests?

Yes. Under section 9 (15) (b) and Schedule 3 of the Contaminated Sites Regulation, an hourly fee may be charged if processing requests takes longer than one hour to complete. This allows the ministry to recover its costs for facilitating discussions between the applicant and the local government. When a fee is charged, the applicant will be asked to submit a [Contaminated Sites Services Application form](#).

Note: This summary is solely for the convenience of the reader. The current legislation and regulations should be consulted for complete information.

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