

CHANGES COMING TO THE BRITISH COLUMBIA CONTAMINATED SITES REGULATION

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The British Columbia provincial government has been contemplating a significant update to the Contaminated Sites Regulation B.C. Reg. 375/96 (the “CSR”) for some time now. Historically, the government has adopted an ad hoc approach to updating the CSR, which has, in some cases, resulted in outdated standards. In order to address this issue, the provincial government will be implementing an “Omnibus” update to the CSR – known as the “Stage 10 (Omnibus) amendments to the CSR”. The new CSR standards will be effective as of November 1, 2017.

The purpose of the Omnibus update to the CSR is to address new science related to toxicology, exposure and other related topics for deriving standards. The update is extensive (approximately 8,500 environmental quality standards have been updated) and, in some cases, quite complex.

Below are five key changes that will be effective as of November 1, 2017:

1. New Schedules/Standards for Soil, Water and Vapour

All of the existing soil, water and vapour standards are updated under the new CSR standards to reflect a contemporary scientific approach. From a practical perspective, the existing schedules (11 schedules) will be consolidated into four new schedules that will be organized by the environmental media – i.e. soil, water, vapour and sediment. The purpose of this change is to simplify the format and to allow subsequent amendments to be made more easily.

With respect to the updates to the standards for the various media, it appears that soil standards are becoming more stringent, although most of these apply to substances that are relatively uncommon and would only apply to few sites. On the other hand, vapour standards appear to be moving towards a less stringent standard. As indicated above, approximately 8,500 environmental quality standards have been updated under the new regime. This means that consulting with a qualified environmental consultant will be critically important for individuals impacted by the CSR regime.

2. Expanded Land Use Categories for Soil

The CSR updated will introduce a new exposure/land use scenarios for soil – namely, high and low density residential land uses. “High density” residential land use will encompass multiple-unit dwelling or institutional facilities with three or more storeys. By contrast, a “low density” residential land use will encompass a single residence or a multi-unit dwelling or institutional facility of less than 3 storeys.

The addition of different soil standards for high and low density residential land use is intended to address the fact that these two different types of land uses present very unique and discrete exposure scenarios for contaminants in soil. The standards will be more stringent for low density residential use. On the other hand, the standards will be less stringent for high density residential land use, where it is less likely that individuals will be exposed.

3. New Category of Vapour Standards for Parkades

The new CSR standards will incorporate a specific set of standards that apply to portions of a building that are being used as a “parkade” (at-grade or below-grade). Under the new regulations, a parkade will be defined as an “enclosed building, storey of a building or other construction used for the parking of multiple motor vehicles, but does not include the parking of motor vehicles associated with a single family residence”. This means that, for example, under the new regime in a residential high-rise with an underground parkade, the new parkade standards will apply to the parkade area, while residential standards will apply to the remainder of the building.

4. Fixed Cycle for Updates

Under the Omnibus update, the provincial government has adopted a mandatory review of the environmental quality standards in the CSR on a fixed term cycle of every five (5) years. What this means is that the director will complete a review of the CSR standards every five yearS with recommendations provided to the Ministry on any changes to be made. The new fixed term cycle will work towards ensuring a regime that is up to date with the relevant science, as well as creating more consistency and predictability for parties impacted by the CSR and the contaminated sites regime, more generally.

5. Emerging Contaminants

The amendments will include a number of new substances added as “Contaminants of Emerging Concern” to the water and soil standards schedule. The Ministry has stated that most of the new contaminants appear to relate to soils.¹

In summary, the breadth and complexity of the changes coming to the CSR are significant. It is therefore critical that individuals that may be impacted by the new CSR standards seek appropriate advice.

¹ See, http://www2.gov.bc.ca/assets/gov/environment/air-land-water/site-remediation/docs/presentations/omnibus-2016/webinar_1-presentation.pdf

If you have any questions regarding this paper or about the changes coming to the British Columbia contaminated sites regulation, please contact Adam at 604 895 2820 or away@harpergrey.com



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