

# Qualified Professionals Working with the MSR and OMRR

## BULLETIN #1: THE APPROACH

In July of 1999, the Ministry of Water, Land and Air Protection enacted the Municipal Sewage Regulation (MSR). It incorporated a concept that was revolutionary at the time, and is becoming more common in today's government. The concept is that regulatory standards are set by the Ministry, and more reliance is placed on qualified professionals (QPs) to protect public health and the environment. In February of 2002, the Organic Matter Recycling Regulation (OMRR) followed suit. It is believed that this approach will use limited public resources more effectively.

The QP Steering Committee was created to address the 'grey' areas of the QPs' role in the regulations. Members include Ministry and other government staff, and representatives from various professional associations in BC. This partnership is working to identify the needs of the QP as this regulatory approach becomes common practice.

### **ROLES AND RESPONSIBILITIES**

There are four key players in implementing the MSR and OMRR: the Ministry, the QP, the associations, and the proponent.

**The Ministry** is responsible for setting clear environmental standards, and undertaking follow-up compliance and enforcement activities. The Ministry will no longer formally review or approve all work done up front, prior to a project being implemented. Reports written by QPs are expected to be comprehensive, although there are provisions for the Ministry to request more information if necessary. Through compliance checks, the Ministry will verify that the finished

project meets the specific discharge standards and level of environmental protection specified in the MSR and OMRR.

**The QP** must be familiar with the requirements in the regulations so they can confirm they have the qualifications necessary to produce a compliant product. QPs who perform and sign-off work will accept the associated responsibility and liability for their effort, and for the advice they provide to the proponent. They also have the responsibility of bringing to the attention of their client and the Ministry any situations or circumstances that do not adequately protect public health or the environment, and recommending measures to mitigate these situations. Their conduct is expected to meet the standards of their profession.

**The professional associations** hold their members accountable to meet their individual training and education needs (further discussed in Bulletin #2). The associations investigate complaints filed concerning questionable practice by their members, which may result in disciplinary action.

**The proponent** is accountable for the project outcome, and must ensure that a QP is engaged where required by the regulations. Under the MSR, the proponents are also responsible for the financial security of the facility. If non-compliance is discovered, the proponent will be held legally responsible by the Ministry. If the hired professional is deemed to be in violation of their contract, it will be the decision of the proponent whether to pursue legal action.

## **RESPONSIBILITY AND LIABILITY**

The professional in-charge must verify that a project meets all regulatory requirements before signing-off. It is the responsibility of the professional in-charge to make certain that all components, where required in the regulation, are signed off by the appropriate QP(s). Professionals may wish to create a list of the team members and their respective tasks, and record it with the final project documentation so that responsibility/accountability can be more easily determined. (This is common practice in most areas of professional activity.) Professionals need to work within accepted knowledge and practice to decrease their risk and related liability.

Liability issues may arise when a project, developed under the MSR or OMRR, is found to be non-compliant. It is the Ministry's responsibility to perform compliance-checks in the MSR and OMRR. In all cases where non-compliance is discovered, the proponent will be legally accountable. However if, after careful review, work signed-off by a professional is discovered to be contradictory to or insufficient to meet regulatory requirements, the professional's association **may** be notified.

Implications of the Ministry's increasing reliance on QP's and the shifts in accountability are being reviewed by the Ministry as part of a broad policy development initiative - beyond the MSR and OMRR alone. A component of the review includes research into issues of accountability and liability and includes discussions with representatives from the professional associations, insurance industry, proponents, and the Ministry.

## **HOW TO QUALIFY AS A 'QUALIFIED PROFESSIONAL' UNDER THE MSR AND OMRR**

A 'Professional' is defined as an applied scientist or technologist specializing in a particular applied science or technology and

is registered in British Columbia with their appropriate professional association, acting under that association's Code of Ethics and subject to disciplinary action by that association.

A 'Qualified' Professional (QP) is a professional who, through suitable education, experience, accreditation and knowledge may be reasonably relied on to provide advice within their area of expertise.

Professional associations recognized in the MSR and OMRR include:

- The Association of Professional Engineers and Geoscientists of BC (APEGBC)
- The BC Institute of Agrologists (BCIA)
- The College of Applied Biology (CAB)
- The Applied Science Technologists and Technicians of BC (ASTTBC), and
- The Association of BC Professional Foresters (ABCPF)

The MSR and OMRR have numerous references to the need for 'Qualified Professionals'. For each task, however, the skills needed by the QP may be different. The QP Steering Committee is creating 'skill sets' for use with the regulations to aid professionals and proponents in determining the qualifications required to perform particular tasks. For each task, or related groups of tasks, a guidance document outlining the skill sets will be developed.

Skill sets have been produced by the Joint Practice Board (ABCPF & APEGBC) for practice in the areas of Terrain Mapping and Watershed Assessments. These guidance documents define both 'essential' and 'recommended' skills and experience that should be held by the professional in order to complete a successful project. These will be used as a template for the skill set documents under development for the MSR and OMRR.

It will be the responsibility of the individual professional, under their Code of Ethics, to determine if they are adequately qualified to perform tasks under these regulations (discussed further in Bulletin #2). Professionals signing-off work as 'QPs' will be subject to the investigation and disciplinary process of their association if a valid complaint is made.

The professional in-charge of a project does not necessarily have to be qualified in all tasks. However, each task that requires a QP must be signed-off by a professional who is qualified in that particular area.

#### **EDUCATIONAL MATERIALS AVAILABLE**

Resources have been created to help QPs become familiar and proficient with the MSR and OMRR. These include guidelines which expand and clarify much of the written regulations in an easy-reading format. Workshops and online resources are presently under development. Further information will be available soon in Bulletin #2. Below is a summary of the guidelines available for each regulation.

##### *MUNICIPAL SEWAGE REGULATION (MSR)*

The MSR regulates sewage dischargers under the Waste Management Act. It stipulates requirements for facility design, operation and management, effluent quality, and environmental impacts. Guidelines are available at the Ministry website:

<http://wlapwww.gov.bc.ca/epd/epdpa/mpp/msrho> and include:

- Environmental Impact Study Guideline
- Compliance Guideline
- Code of Practice for the Use of Reclaimed Water, and
- Guidelines for Assurance Plans

##### *ORGANIC MATTER RECYCLING REGULATION (OMRR)*

The Organic Matter Recycling Regulation (OMRR) applies in British Columbia to the

construction and operation of composting facilities, and the production, quality, distribution, storage, sale and use or land application of biosolids and compost. Guidelines are available at the Ministry website:

[wlapwww.gov.bc.ca/epd/epdpa/mpp/omrreg](http://wlapwww.gov.bc.ca/epd/epdpa/mpp/omrreg) and over time will include:

- Reducing Contaminant Sources to Municipal Wastewater Treatment Biosolids: Dioxins / Furans and Mercury
- Land Application Best Management Practices
- Sampling Guidelines
- Compost Facility Management Guidelines

#### **LOOKING AHEAD**

Over the past several years, the Ministry of Water, Land and Air Protection has been moving away from the permitting system in favour of a regulatory approach. Qualified Professionals have an important role to play in this transition, as they are responsible and accountable for meeting the objective that a facility meets the standards specified in the regulation, as well as notifying the Manager where more stringent standards are necessary to protect human health and the environment.

The MSR's and OMRR's approach to regulation will undoubtedly evolve to mitigate problems or clarify areas of confusion. The Ministry is working closely with the associations to address concerns regarding the greater responsibilities being passed on to the professional community.

For further information, contact

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