



ADMINISTRATIVE BULLETIN FOR CONTAMINATED SITES

September 29, 2017

Version 4

Errata for the Stage 10 (Omnibus) Amendment to the Contaminated Sites Regulation

Purpose

The Stage 10 (Omnibus) amendment to the Contaminated Sites Regulation (CSR) updated over 8,500 environmental quality standards. Although every effort was made to ensure that the amended standards were accurate and correct, invariably some typographical, transcription and other errors are inevitable in such a large revision.

This erratum lists currently known errors in the Stage 10 amendment. The errata will be updated and reissued throughout the year of transition as new errors are identified. It is the intention to correct all errors identified during the year of transition in a final “house-keeping” amendment to be made to the regulations immediately prior to the new standards coming into force on November 1, 2017.

This version of the errata describes the details of how the error of removing Schedule 7 without a replacement trigger mechanism for soil relocation is corrected. A consolidated erratum with all corrections to the Stage 10 amendment will be released prior to November 1, 2017.

Should you identify additional errors, or suspected errors, in addition to those contained in this erratum please direct inquiries to site@gov.bc.ca.

Details of Notice

I. Errors related to the Stage 10 (Omnibus) amendment to the CSR

CSR triggers for soil relocation

Previously identified errors carried over from Errata version 2

(MO 426 pages: 4 and 5)

The Stage 10 (Omnibus) amendments to CSR Part 8 and the repeal of CSR Schedule 7 have inadvertently altered the requirement for CSRAs in certain scenarios. The current CSR Section 40 defines “source site” and “receiving site” for purposes of establishing requirements for CSRAs. These provisions have the effect of not requiring CSRAs in scenarios which include: 1) soil meeting the Residential land use standards at the source site, for relocation anywhere except to an Agricultural land use site; and 2) soil meeting the Agricultural land use standards at the source site, for relocation to an Agricultural land use site.

The recent amendments to the CSR (i.e. Stage 10 Amendment coming into force on November 1, 2017) repealed CSR 40 (2) items (a), (b), (d) and (e) which had the effect of not requiring a CSRA when relocating soil from a source site to a receiving site in the case that the soil to be relocated was of equal or better quality to the standards included in Columns II and III of Schedule 7, which generally equate to Residential land use standards and Agricultural land use standards respectively. In its place, the amendment redefined “source site” as a contaminated site from which soil will be relocated under a CSRA. This results in only contaminated sites being subject to CSRAs when, in fact, the requirement for CSRAs may apply to non-contaminated sites as well.

It is the Ministry’s intention to preserve the essence of the current CSR triggers and thresholds for CSRAs including the intent to eliminate the need for a CSRA when moving soil to a receiving site of the same or better quality and we intend to pursue amendments to this effect prior to the CSR coming into force on November 1, 2017.

New information on the correction to CSRAs

Section 55 of the *Environmental Management Act* (EMA) governs contaminated soil relocation. Section 55(1) states that, subject to certain exceptions, a person must not relocate contaminated soil from a contaminated site unless the person enters into a CSRA and complies with its terms and conditions. Schedule 7 has remained untouched since 1996. When the CSRA scheme was developed, there were only 5 land uses (agricultural, urban park, residential, commercial and industrial) and the triggers in section 40 and Schedule 7 focussed on the soil quality at the receiving site by setting a conservative threshold for when a CSRA would be required.

The Stage 10 amendments included a re-work of Section 40(1) and repealed Schedule 7 in an effort to provide exemptions to CSRAs for relocation of soil that would qualify as not contaminated at the receiving site and to mimic, as closely as possible, the existing triggers. However, the amendments have resulted in CSRA triggers that capture some soils that would currently be exempt from a CSRA and do not capture other soils that could pose risks at receiving sites and should require a CSRA.

For example:

1. **AL plus (+)/ RL minus (-) soil being moved from AL site to RL site** (i.e. Substance concentrations in soil to be relocated are higher than the agricultural land use standards but lower than the residential land use standards): Currently the relocation of RL- soil to a RL site would not trigger the requirement for a CSRA because the soil quality meets the concentration limits in Column II (based on RL standards) of Schedule 7. As amended in Stage 10, a CSRA would now be required because the source site is a contaminated site (substance concentrations exceed AL standards) which is the trigger for a CSRA. This is the case even though the soil being relocated is of acceptable quality for use on a residential receiving site (substance concentrations are less than the RL standards).

Problem: this scheme is inconsistent with the objective of exempting soil of acceptable quality for use at a receiving site from a CSRA, regardless of whether the soil quality is acceptable for use at the source site or not.

2. **IL minus (-) soil being moved from IL site to RL site** (i.e. Substance concentrations are less than the industrial land use standards and may or may not be higher than the residential land use standards): Currently IL- soil cannot be moved to a RL site without a CSRA. However, under the Stage 10 amendments this soil would not trigger a CSRA because the IL- soil meets the IL standard at the industrial source site and is therefore not coming from a contaminated site.

Problem: The potential relocation of soil that is not of acceptable quality for use at the receiving site is not acceptable to the ministry.

3. **CL minus (-) soil being moved from CL to IL site** (i.e. Substance concentrations are less than the commercial land use standards and the industrial land use standards): Currently the relocation of any soil with substance concentrations exceeding the RL standard (Column II, Schedule 7) requires a CSRA prior to movement. As amended in Stage 10, there would be no such trigger because the source site is not a contaminated site (based on commercial use). Because the soil is being moved to an IL site which is subject to less stringent standards than CL sites, the objective of not requiring a CSRA for relocation of soil that is of acceptable quality for use at the receiving site is met.

No problem: This is acceptable to the ministry.

The ministry is recommending that a CSRA be required for soil being relocated from a source site (regardless of whether the source site is contaminated) to a receiving site unless the soil being relocated does not contain any substance with a concentration greater than

or equal to the following standards/conditions applicable to the land use at the receiving site:

- the lowest value of the vapour standards applicable to the land use, or other use, of the receiving site set out in Schedule 3.3, or,
 - a director's interim standard for vapour;
- the lowest value of the soil standards applicable to the land use(s) of the receiving site set out in Part 1, 2 or 3 of Schedule 3.1, or,
 - if the soil to be relocated exceeds a Schedule 3.1, Part 1 soil to groundwater protective standard (this includes those site-specific factors in Schedule 3.1 Part 1 titled: groundwater used for drinking water, groundwater flow to surface water used by aquatic life, groundwater used for livestock watering, groundwater used for irrigation), but the concentrations resulting from a leachate test performed in accordance with a director's protocol do not exceed the applicable Schedule 3.2 standards for the receiving site, or,
 - if the soil to be relocated exceeds a Schedule 3.1, Part 1 soil to groundwater protective standard, but a site specific soil standard protective of groundwater, derived in accordance with a director's protocol, is not exceeded, or,
 - a director's interim standard for soil, or,
 - the background concentration in the soil of the receiving site, determined in accordance with a director's protocol;
- the risk based standards set out in section 18, or section 18.1 if a receiving site is a wide area site, or,
 - a background risk for the receiving site, as set out in section 18 (5), or 18.1 (5.1) if the receiving site is a wide area site.

This recommended correction is intended to be an interim solution while the soil relocation intentions paper is finalized, providing a proposed revision to the comprehensive soil relocation scheme.