Environmental Management Areas

This fact sheet explains environmental management areas and how they fit into B.C.’s contaminated sites legal regime. It highlights the benefits available to owners of affected properties within environmental management areas (EM areas), specifically when trying to sell or develop their property.

**What is an EM area?**

Previously known as a wide area site, an EM area is a type of contaminated site designated by a Director of Waste Management (a Director) under section 14 of the Contaminated Sites Regulation (CSR). An EM area contains many properties covering an extensive geographic area that have been contaminated by one or more specified sources from an identified responsible person(s). An example of an EM area designation in BC is a former dry cleaning operation where contamination has migrated to many neighbouring properties.

The name wide area site was changed to EM area in 2019, but the name change did not affect the existing CSR provisions.

**What is the purpose of designating an EM area?**

EM areas are designated to facilitate the timely remediation of large, complex contaminated sites by reducing duplication of regulatory requirements needed for individual properties. The designation is important to clearly identify the responsible person(s) and to limit liability for affected property owners. Additional benefits for property owners are discussed below.

**What is a Wide Area Remediation Plan (WARP)?**

These are plans for remediating EM areas that are approved by the Director — they deal with one or more specific substances coming from sources specified in the plan. Owners and operators of the affected properties within an EM area need an approved WARP to benefit fully from the EM area designation. Approval of a WARP normally occurs concurrent to the Director designating the site as an EM area.

**Would the public be consulted on a WARP before a Director designates an EM area?**

Before approving a WARP and designating an EM area, the Director must consult with property owners and others that may be impacted by the proposed WARP and EM area designation (the “affected parties”) and allow the opportunity for affected parties to provide comments for consideration by the Director. Consultation would include providing affected
parties relevant information about the nature and extent of contamination, the potential risks from exposure to the contamination, and any restrictions on land and water use that may apply to their properties during and after remediation. Consultation could include public meetings, mailouts or online materials facilitated entirely by the Director, delivered by the responsible person for the EM area and communicated to the Director, or a combination of both.

**What are the benefits of designating an EM area and approving a Wide Area Remediation Plan?**

EM area designations and approvals of WARP s benefit communities and property owners by providing assurance that the people responsible for the wide area contamination are accountable for the remediation of those contaminants. Several key advantages for owners of lands located within EM areas or subject to an approved WARP are described below.

**Remediation liability exemption**

A current or previous owner or operator of a contaminated site included in a WARP is not responsible for remediation of their land if it is contaminated only by substances being managed in accordance with the plan. For example, an owner of a parcel contaminated by substances deposited from the stack at a metal smelter would not be responsible for paying the costs of remediation for those contaminants as long as they are specified in a WARP. This liability exemption does not apply to the person who caused the contamination.

**Advantages for lenders**

Prospective purchasers and lenders for affected properties within EM areas would be confident knowing that they are exempt from responsibility for remediation. Some lenders consider EM area designations helpful because they are perceived as eliminating their financial risk as mortgage providers.

**Advantages for land development**

A person is exempt from the duty to provide a site profile under section 40 of the *Environmental Management Act* (EMA) if the site is within an EM area for which

(i) a Director has approved a WARP or the scope of a proposed WARP, and

(ii) there are no other activities that may have contributed to contamination at the site beyond what is dealt with in the approved WARP.

This exemption removes potential barriers to landowners seeking local government authorizations for rezoning, demolition, subdivision and site development.

**Soil relocation and disposal exemption**

The relocation of contaminated soil is exempt from the requirement for a Contaminated Soil Relocation Agreement if soil will be relocated within an area subject to a WARP approved by a Director. Note that this exemption applies only with respect to the contaminants included in the WARP.
Increased certainty and transparency
The designation of an EM area and approval of a WARP identifies the source of contaminants and helps clarify who is responsible for remediation of the specified contaminants.

How would information on EM areas be made public?
The site registrar is responsible for providing public access to information about contaminated sites as described below.

Recorded on the site registry
A notation indicating that a site is designated an EM area, as well as the parcel identification numbers (PIDs) and addresses for individual properties within the area must be included in the site registry. Also, a notation about the approval of a WARP must be included. Consult Fact Sheet 20, “The Site Registry” for information on that system and its content. Information about sites on the site registry can be obtained by completing a site information request.

Registration on land title
EM area designations are not registered on title, but a covenant might be registered for an individual property within an EM area that has been classified as high risk, or if the entire EM area were classified as high risk.

Does a notation on the site registry mean that a parcel within an EM area is contaminated?
When an EM area is designated, it does not mean that every property within that area is contaminated — some are, some may have undergone remediation, others likely are but have yet to be evaluated, and others may not be contaminated. The site registry is not a registry of contaminated sites although many of the sites on the system are or were contaminated. Even after a contaminated site has been remediated, it will remain on the site registry with a notation indicating the date of site remediation.

What contaminated sites legal instruments are available for EM areas?
Typical contaminated sites legal instruments under EMA include Determinations of Contaminated Site, Approvals in Principle (AiP), and Certificates of Compliance (CoC).

Determinations of Contaminated Site
A Director could establish whether a property within an EM area is contaminated by issuing a Determination of Contaminated Site. The substances reviewed could include those specified in an EM area designation or wide area remediation plan but can also include other substances. For example, a parcel within an EM area where arsenic is the specified contaminant could also be the subject of a Determination of Contaminated Site where the contaminants include arsenic as well as certain gasoline components not related to the EM area designation.
Approvals in Principle
Sections 47 (4) and (5) of the CSR allow a Director to issue an AiP for a WARP. To apply for such an AiP the applicant must be a responsible person — usually the current owner or operator of the source of contamination specified in the WARP. Many of the benefits of an EM area designation and WARP do not come into effect until a WARP is approved under an AiP.

Certificates of Compliance
While there are no specific provisions in EMA or the CSR dealing with applications for CoCs for EM areas, a Director has the authority to issue a CoC for an EM area or an individual property within an EM area. When a Certificate of Compliance is issued, it certifies that the site meets the remediation standards of the CSR.

Note
A contaminated sites legal instrument such as a Certificate of Compliance for an EM area applies to all the properties within that EM area. There would be no need for an owner to obtain a separate Certificate of Compliance for an individual property within the EM area unless there are additional contaminants at that parcel that are not specified in the designation.

Voluntary Remediation Agreements
Section 39 (1) of the CSR enables a responsible person to request a Voluntary Remediation Agreement for an EM area. That section specifies the information that must be provided with the application.

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 site@gov.bc.ca.