

POLICY DIRECTION

AUGUST 2019

LAND
REMEDIATION
SECTION



Identification of Contaminated Sites



Ministry of
Environment and
Climate Change Strategy

THIS PAGE IS INTENTIONALLY LEFT BLANK

IDENTIFICATION OF CONTAMINATED SITES – POLICY DIRECTION

TABLE OF CONTENTS

1. Introduction	1
2. Current Legal Provisions and Issues with the Process for Identifying Contaminated Sites in BC	1
3. Regulatory Review and Consultation Process	3
4. BC’s Relationship with Indigenous Peoples.....	3
5. ENV POLICY DIRECTION – Approved and Proposed Changes to Legal Provisions.....	4
5.1. Approved EMA Amendments	4
5.2. Proposed Changes to the CSR.....	5
5.2.1 Completion and submission of a site disclosure statement	5
5.2.2 Exemptions to submitting a site disclosure statement.....	6
5.2.3 Automatic requirement for site investigation.....	7
5.2.4 Process for site closure or insolvency proceedings.....	8
5.2.5 Update and amend Schedule 2	9
5.2.6 Offences and penalties.....	10
5.2.7 Additional housekeeping amendments	10
6. Next Steps Toward Proposed Regulatory Change	11
Appendix 1 – Summary Table of Proposed Regulatory Changes.....	A-1
Appendix 2 – Checklists for Owners & Operators and Local Government.....	A-2
Appendix 3 – Summary of Regulatory Development Process	A-4

1. INTRODUCTION

The British Columbia (BC) Ministry of Environment and Climate Change Strategy (ENV) is updating the provisions of BC's contaminated sites legal regime.

This policy direction paper summarizes approved and proposed regulatory changes to the process for identifying contaminated sites in BC.

The changes establish a consistent province-wide process for identifying contaminated sites, clarify and simplify legal obligations of site owners and operators, and support monitoring and enforcement.

This paper:

- Summarizes legal provisions and issues with the current site identification process;
- Outlines the review and consultation process used to develop the changes;
- Confirms our commitment to working together with Indigenous Peoples in BC;
- Describes the proposed changes; and
- Describes planned next steps toward proposed regulatory change.

2. CURRENT LEGAL PROVISIONS AND ISSUES WITH THE PROCESS FOR IDENTIFYING CONTAMINATED SITES IN BC

2.1 CURRENT LEGAL PROVISIONS FOR CONTAMINATED SITE IDENTIFICATION

The *Environmental Management Act* (EMA) and Contaminated Sites Regulations (CSR) establish the process for identifying contaminated sites in BC.¹ The “site profile process” involves a series of legal provisions intended to: bring potentially contaminated sites to the attention of the ENV; and to ensure that sites are investigated and remediated following shutdown, or before reuse or redevelopment. This process has been in effect since 1997.

The provisions established in the EMA and CSR apply to lands used for specific commercial and industrial activities or purposes. The EMA sets out actions which may trigger the requirement for submission of a site profile to the ENV either directly (for site decommissioning or foreclosure proceedings) or via local government (for applications for subdivision, development, development variance, zoning, demolition, or soil removal). The CSR sets out several exemptions to the site profile submission requirements, one of which allows local governments to opt out of the site profile process.

¹ See the BC Laws website (www.bclaws.ca) for full text of the EMA and CSR. Site identification (termed “site profile”) provisions are addressed primarily under Sections 39 through 43 of EMA and Part 2 of the CSR. The ENV [site profile website](#) provides links to additional information about the process.

A “site profile” is a form that includes readily available information about past and present uses of a site, as well as a basic description of the land. Public access to this basic information is provided through the provincial Site Registry.

Under the EMA and CSR, the ENV and local governments have separate but integrated duties to ensure that: (1) site profiles are submitted and satisfactorily completed; and (2) triggering local government authorizations are not approved until the requirement for site investigation is met.

2.2 ISSUES WITH CURRENT CONTAMINATED SITE IDENTIFICATION PROCESS

Since the site profile process has been in place, the following weaknesses and gaps have been identified:

- The multi-step process is confusing and inefficient, with significant administrative burden for all involved (provincial and local governments, applicants).
- Local governments can “opt out” of the site profile process, resulting in a patchwork system across the province – identification of potentially contaminated sites is taking place in many jurisdictions but not in others.
- The triggers for initiating the process often bring sites to ENV attention at an inappropriate time (for example, minor zoning changes, lot line adjustments, demolition of buildings). A [“release” procedure](#) has been developed to address the issue, however this delays the process.
- Provisions requiring the Director of Waste Management (Director) to review site profile forms – to determine if site investigation is required – can unduly delay the process.
- Schedule 1 (the site profile form) can be completed by any “person”. Applicants are not required to complete historical searches to determine past site use. Therefore, declarations on the form are not necessarily accurate or reliable.
- Exemptions to the process are not all clearly worded and some exemptions are outdated, leading to inconsistencies in the process.
- Options for enforcement of requirements imposed in release letters are limited.

3. REGULATORY REVIEW AND CONSULTATION PROCESS

The ENV has worked for more than five years to develop the proposed changes – confirming issues with the existing process, clarifying priorities and objectives, engaging in consultations, reviewing experience in other jurisdictions, and drawing on technical expertise for specific issues.

A summary of the review process and consultation comments, with links to associated documents, is provided in Appendix 3 of this policy direction paper.

4. BC'S RELATIONSHIP WITH INDIGENOUS PEOPLES

As part of committing to true and lasting reconciliation with Indigenous Peoples in BC, the Province is moving forward on the Truth and Reconciliation Commission Calls to Action. This includes reviewing policies, programs and legislation to find ways to bring the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) into action in BC. In May 2018, the Province released the Draft Principles that Guide the Province of BC's Relationship with Indigenous Peoples (draft principles). The draft principles will renew the Crown-Indigenous relationship and support the shift toward a government-to-government relationship with First Nations. The mandate and ministerial objectives for the ENV include commitments to UNDRIP. The ENV has embraced the draft principles, including the following specific points:

- Enable traditional Indigenous knowledge to be incorporated into resource management; and
- Build processes and approaches aimed at securing consent, as well as creative and innovative mechanisms that will help build deeper collaboration, consensus and new ways of working together.

The proposed changes to the process for identifying contaminated sites relate to private and provincial ("Crown") lands and not to federal lands or Indian Reserves. The requirements also apply to treaty lands that have adopted the site profile process under the EMA and CSR and related legislation.

The ENV is informing Indigenous groups about the proposed changes, offering information sharing webinars, and responding to additional requests for information from Treaty and non-Treaty Nations and Indigenous groups. This is in the spirit of and as part of the Province's commitment to reconciliation with Indigenous Peoples in BC.

5. ENV POLICY DIRECTION – APPROVED AND PROPOSED CHANGES TO LEGAL PROVISIONS

Changes to the site identification provisions involve amendments to both the EMA and the CSR. The approved and proposed changes are described in this section. Please note that the proposed regulatory changes remain subject to further modification as they are reviewed and finalized.

5.1. APPROVED EMA AMENDMENTS

Amendments to the EMA introduced and approved in the spring 2019 Legislative Session (Bill 17) provide for changes to the process for identifying contaminated sites in the province.

The term “site disclosure statement” replaces “site profile” to better reflect current practice and support public understanding of the site identification process. Provisions for site disclosure statements and subsequent site investigation have also been clarified and streamlined. Significant changes include:

- Clarified definition of operator and addition of a new definition for “specified industrial or commercial use” to highlight the connection between the requirements of EMA and the CSR.
- Simplifying the conditions under which a site disclosure statement is required to be submitted for specified industrial or commercial uses (i.e., when there is application for subdivision, change of use, development or building permits that involve soil disturbance or site closure).
- Specifying that every person who is required to provide a site disclosure statement must complete a site investigation and submit information in accordance with the regulation (removing the hurdle of requiring Director review and direction) and associated offences should this not occur.
- Including responsibilities of the “operator of the property” in addition to those of the “owner of [the] real property” – to ensure that whoever is responsible for the activity potentially associated with site contamination is captured in the requirements.
- Specifying that a site disclosure statement is to be submitted to the Site Registrar (and not Director) – to support a consistent and streamlined process for collection of information related to contaminated sites.
- Repealing exceptions to requirements that could lead to situations in which a contaminated site could be redeveloped without being remediated. All exceptions and exemptions to the submission requirements will be housed in the CSR.

- Revising requirements for sites regulated under the *Oil and Gas Activities Act* and associated regulations, recognizing that the Oil and Gas Commission is responsible for the management of oil and gas sites, including remediation of those sites under separate legislation and regulations.
- Consequential amendments to the *Local Government Act*, *Land Title Act*, *Islands Trust Act* and *Vancouver Charter*, to ensure alignment with the EMA amendments, clarify definitions, and allow the approving authority some discretion with regard to issuance of approvals.
- Transitional provisions were created for implementation of the amendments.

The amendments relating to the site identification process will not take effect until the associated changes to the CSR are completed and approved. These changes are described in detail in the following sub-sections of this paper.

5.2. PROPOSED CHANGES TO THE CSR

5.2.1 COMPLETION AND SUBMISSION OF A SITE DISCLOSURE STATEMENT

Current law: Any person can submit a site profile form completed “to the best of their knowledge”.

The current version of the form (CSR Schedule 1) allows an applicant to qualify the risk of a Schedule 2 activity by answering more specific questions about current and historical use of the site. This additional qualification step determines whether site investigation will be required at a site. Forms with all “no” answers are forwarded to the Site Registrar for entry on the Site Registry only. Forms with any “yes” answers are forwarded to the Director for review and decision (whether to require site investigation).

Proposed changes: The name of the form will be changed in the CSR (consistent with Bill 17 EMA amendment) to “site disclosure statement”. The owner of the site or their designated agent (rather “a person”) will be required to complete the statement. Specific questions pertaining to current and historic site use will be deleted. The statement will include sections for contact information, legal site description, declaration of use for one or more Schedule 2 purposes or activities, additional information, and declaration and signature. Site disclosure statements will be required to be submitted either directly to the Site Registrar, or to the Site Registrar via the approving authority upon application of triggering local government approvals. The ENV is also considering options for electronic completion and submission of forms.

Discussion: The proposed changes are intended to streamline the site identification process, provide clarity for local government and those submitting a statement, and improve the accuracy of information contained in statements.

The persons most knowledgeable about the site (i.e., the owner or designated agent) should fill out the statement. Answers to questions in the current site profile forms regarding historical site use are often inaccurate, as the historical record is not available or appropriately researched. This can result in some properties being redeveloped without appropriate site investigation being conducted. Removal of the specific questions from the form will improve certainty of the information disclosed.

Submission of the site disclosure statement to the Site Registrar reduces confusion for those submitting statements and speeds initiation of site investigation where warranted.

Proposed changes to the existing site profile form (CSR Schedule 1) dated May 2018 are posted on the [ENV site profile webpage](#).

5.2.2 EXEMPTIONS TO SUBMITTING A SITE DISCLOSURE STATEMENT

Current law: Exemptions from the requirement to submit a site profile for particular situations are provided in the CSR Section 4. The exemptions are applied after a triggering action has occurred and it is confirmed that the subject site has a history of Schedule 2 uses. If an exemption applies, the applicant does not need to submit a site profile to the applicable authority. The use of an exemption is not approved by the ministry; it is up to the applicant to demonstrate to the applicable authority that the exemption applies.

The CSR also includes a provision that a municipality may choose to not receive site profiles and therefore to “opt out” of site profile administration.

Proposed changes: ENV will revise the list of exemptions from the requirement to submit a site disclosure statement to ensure that exemptions are relevant and clear.

The “opt out” exemption will be removed. Additional exemptions will also be added, for example:

- For rezoning, where there is no change to the active Schedule 2 activity (e.g., a zoning text amendment that allows for an existing use to conform with a zoning bylaw);
- For a subdivision, where the subdivision is for the purposes of a minor lot line adjustment or lot consolidation;
- For decommissioning and ceasing operations, in the case of a landfill subject to an EMA authorization and undergoing closure/abandonment not requiring local government approval; and
- For development or building scenarios limited to installation or replacement of underground utilities, fencing, signage, paving, or landscaping.

Discussion: At present, forty-two municipalities in BC are opted-out of the site profile process. While the ENV expects opted out communities to have an alternate process for dealing with contaminated site identification and management, this is not always the case. Removing this exemption will ensure that there is a consistent process across the

province for the protection of human health and the environment. As well, provision of a provincial scale program in which local government participates relieves local government resources associated with establishing and managing individual processes.

See Appendix 2 which provides a checklist for local government when receiving applications.

Many exemptions as currently worded are unclear in when they would apply, or are not well understood by local government and property owners. As a consequence, the exemptions are not being used consistently as intended. Many sites are caught in the site profile process when only minor upgrades or simple lot line adjustments are being undertaken. In these instances, the ENV is providing “release letters” that defer site investigation requirements.

The revised list of exemptions will ensure that only sites being redeveloped for a new use, or undergoing significant upgrades to a current use, are captured by the process. This is in keeping with the main purpose of identifying sites during a major upgrade – to deal with offsite migration issues at long established commercial/industrial sites. The changes will also reduce reliance on “releases” from the ENV for situations where sites are not being redeveloped and should not be captured by the process.

5.2.3 AUTOMATIC REQUIREMENT FOR SITE INVESTIGATION

Current law: Following site closure or when specific approvals are sought from the local government, a site profile form may be required. If required, the form is forwarded to the ENV. If there are any “yes” answers on the form, site investigation is required. This decision puts a “hold” on local government applications until either a legal instrument (i.e., Certificate of Compliance, Determination or Approval in Principle) or release is obtained by the applicant.

Proposed changes:

Following site closure or when specific approvals are sought from the local government, a site disclosure statement may be required. If so, the statement will be forwarded to the Site Registrar, and submission will automatically trigger requirements in the CSR to complete a site investigation.

The proposed changes will:

- Align the CSR with relevant EMA amendments (to sections 6 and 7) contained in Bill 17;
- Set out timeframes for completing site investigation upon site closure (described in sub-section 5.2.4 below); and
- Set out exceptions to the automatic requirement (i.e., allow the Director the discretion to not require automatic site investigation in exceptional circumstances).

Discussion: The proposed changes are intended to streamline the site identification process by automating some requirements while retaining flexibility for specific exceptions. For example, if a site owner applies for a local government approval and a Schedule 2 activity is associated with the site, the owner would automatically be required to complete site investigation. The Director would not have to write a decision letter in response to submission of the site disclosure statement. The proposed changes provide clarity and consistency for local government, as well as for industry operators and owners, and property developers.

The streamlined process continues to allow remediation during construction via the issuance of “release” letters. However, it should be noted that multi-phased developments and high risk sites, will no longer be eligible for a “Scenario 5 release”. For these types of sites, it is recommended to obtain an Approval in Principle (AiP) followed by a Certificate of Compliance in lieu of a release. For sites that are not high risk, a Scenario 5 release remains as an option (i.e., a COC would not be required following remediation, while a remediation report with AP Statement would be).

5.2.4 PROCESS FOR SITE CLOSURE OR INSOLVENCY PROCEEDINGS

Current law: When a Schedule 2 activity “decommissions”, or a property forecloses, a site profile is submitted to the Director for review, and a site investigation may be required. This blocks local government approvals. There is no required timeframe to complete a site investigation, which can lead to sites being left idle indefinitely. Currently, by policy, the Director imposes a requirement to submit site investigation and site risk classification reports within one year of the Director’s review.

Proposed changes:

(1) The term “decommissioning a site” will be revised and a new definition for “ceasing operations” will be added, meaning that all Schedule 2 activities have stopped operating on the site for a period of twelve months or longer.

(2) An owner or operator will be required to submit a “site disclosure statement” within six months of decommissioning a site or ceasing operations. Site investigation would have to be completed and a site risk classification report submitted to the Director within one year of submission of the site disclosure statement. The Director would retain the discretion to amend the required time period for submission of prescribed information.

For sites regulated under the *Oil and Gas Activities Act* and Dormancy and Shutdown Regulation, site disclosure statements will be submitted directly to the Site Registrar with a copy submitted to the (Oil and Gas) Commission. However, these sites will not be subject to the site investigation and reporting requirements described above. EMA and CSR requirements for site investigation and remediation will still apply in the event that a legal instrument is sought for an oil and gas site. Oil and gas sites designated as high

priority by the Commission will continue to be referred to ENV for oversight of remediation of high risk conditions.

(3) A company that owns or operates on a potentially contaminated site and has made an application for protection under the *Companies' Creditors Arrangement Act* (CCAA) or files a proposal under the *Bankruptcy and Insolvency Act*, would be required to complete a site disclosure statement for all applicable land parcels – within 30 days of the application for protection or filing a proposal. As well, the company would be required to submit all existing pertinent site investigation reports.

Discussion: The proposed changes are intended to: clarify requirements for site identification; ensure that site investigation and determination of site risk takes place in a timely manner; and minimize creation of brownfields or orphan sites (and associated public exposure to remediation costs).

See Appendix 2 for a checklist of items and steps for owners/operators.

5.2.5 UPDATE AND AMEND SCHEDULE 2

Current law: CSR Schedule 2 lists industrial and commercial uses and purposes that could result in contamination of a property. If an activity listed in Schedule 2 occurred at a property and a “triggering” action (such as redevelopment or rezoning) occurs, a site profile form must be completed and submitted to the applicable authority (see 5.2.1 and 5.2.3 above).

Proposed changes: Schedule 2 will be updated to improve clarity and consistency, and reduce redundancy. For example, “shipping” and “handling” of chemicals, adhesives and explosives will be added to existing listed activities of “manufacturing” and “bulk storage”.

The updates to Schedule 2 will include exclusions for specific activities to avoid over-capturing sites where the risk of contamination is low. The updates also include additional purposes and activities to address situations where potentially contaminated sites are not currently being captured (e.g., fire training facilities).

Discussion: No significant amendments have been made to Schedule 2 since 1997. A clear, current and consistent list of Schedule 2 activities will be essential in supporting effective utilization of the revised site disclosure statement (as owners or operators completing the statement will be required to declare whether the site has been used for a Schedule 2 activity or purpose which will initiate automatic site investigation requirements).

Proposed changes to Schedule 2 (dated May 2018) are posted on the [site profile website](#). Comments previously received by ENV will be considered in finalization of the Schedule.

5.2.6 OFFENCES AND PENALTIES

Current law: There is limited opportunity for application of administrative penalties under the CSR.

Proposed changes: Failure to submit a site disclosure statement or complete site investigation in accordance with requirements set out in the revised CSR (e.g., when warranted by nature of activity or purpose on the land, when applying for creditor protection, when undertaking redevelopment or rezoning) will be subject to administrative penalties. The maximum amount of applicable penalties will be specified by the ENV in regulation.

Discussion: Improving the clarity of direction and wording in the CSR, and establishing a consistent process for identification of contaminated sites across the province, supports monitoring and enforcement, as well as understanding among those involved with the process.

5.2.7 ADDITIONAL HOUSEKEEPING AMENDMENTS

In addition to the proposed changes to the process for identifying contaminated sites, several other amendments are being considered as part of the Stage 13 CSR amendments. These include:

- Revised methanol standard for soil protective of groundwater due to changes made to the degradation rate constant;
- Correction of typographical and transcription errors to substance names and CAS numbers in Schedule 3.1, 3.2 and 3.3; and
- Removal of “Summary of Site Condition” from Schedule 1.1 of the CSR and placing it under a Protocol.

6. NEXT STEPS TOWARD PROPOSED REGULATORY CHANGE

The ENV is planning to host information webinars in September 2019 to support communication and understanding of the approved and proposed changes. The changes will be brought forward to the Minister and Cabinet for consideration in Spring 2020.

Transitional provisions were incorporated into Bill 17 EMA amendments to ensure that existing (in process) applications satisfy regulatory requirements as they come into force. Additional transitional provisions will be detailed in the CSR if necessary, to ensure a smooth transition from the former site identification scheme to the new requirements.

Following confirmation of the amendments to the site identification legal regime, the ENV will support an outreach and training program for involved interests and Indigenous groups. Updated materials and information will be posted on the ENV website and webinars conducted specific to differing interests (e.g., local government, property owners). Updates will also be distributed through the contaminated sites CS e-link message mailing list. Directions for subscribing to the mailing list are posted on the [CS e-link webpage](#).

Questions can be sent to site@gov.bc.ca.

Thank you for your time and interest.

APPENDIX 1 – SUMMARY TABLE OF PROPOSED REGULATORY CHANGES

The regulatory changes to the identification of contaminated sites: (1) establish a consistent process throughout BC; (2) clarify and simplify legal obligations of site owners and operators; and (3) support monitoring and enforcement.

A. EMA Amendments 2019 (Bill 17)
<ul style="list-style-type: none"> The term “site profile” is replaced with “site disclosure statement”. Provisions for preparation and submission of site disclosure statements and subsequent site investigation are clarified and streamlined.
B. Changes to the Contaminated Sites Regulation
1. Completion and submission of a site disclosure statement (CSR Schedule 1)
<ul style="list-style-type: none"> The form is streamlined and clarified, and must be completed by the owner or operator of the site.
2. Exemptions to submitting a site disclosure statement
<ul style="list-style-type: none"> Provisions are clarified to exempt minor lot line or zoning adjustments, utility maintenance, paving, fencing, signage, and landscaping from mandatory submission requirements. The ability of a local government to opt out of the site identification process will be removed.
3. Automatic requirement for site investigation
<ul style="list-style-type: none"> A site investigation will be mandatory upon site closure or when an application for subdivision, rezoning or redevelopment is made for a site used for CSR Schedule 2 activities or purposes. Local government may forward site disclosure statements directly to the Site Registrar, and exceptions to the mandatory requirement may be made by the Director in certain circumstances.
4. Process for site closure or insolvency proceedings
<ul style="list-style-type: none"> A site disclosure statement must be submitted within six months of decommissioning a site or ceasing operations. If a company is in insolvency proceedings, a site disclosure statement and all existing pertinent site investigation reports must be submitted within thirty days of filing or applying for protection. A site investigation must be completed within six months following submission of a site disclosure statement to the Site Registrar.
5. Schedule 2
<ul style="list-style-type: none"> The list of Schedule 2 activities and purposes has been updated and clarified.
6. Offences and penalties – oversight and enforcement
<ul style="list-style-type: none"> Failure to submit a site disclosure statement in a proper manner or to complete the required site investigation will be subject to administrative penalties. Monitoring and enforcement will be strengthened by the increased clarity of the revised regulatory provisions.
7. Additional housekeeping amendments
<ul style="list-style-type: none"> Updates to standards, correction of errors, Summary of Site Condition placed as Protocol.

APPENDIX 2 – CHECKLISTS FOR OWNERS & OPERATORS AND LOCAL GOVERNMENT

The following checklists are based on the proposed changes and outline the process for identifying contaminated sites for: (1) owners or operators of sites when operations cease or the site is under insolvency proceedings; and (2) local government when receiving applications.

1. Process for Identifying Contaminated Sites – Checklist for owner/operator when operations cease on a site, or the site/operation is under insolvency proceedings		
Item/Step		Notes
1. Has the site been used for a Schedule 2 purpose or activity?	Yes No	If no , the site identification process is not applicable.
2. Has the Schedule 2 activity on the site been decommissioned or ceased operations?	Yes No	“Cease an operation” means the activity has not occurred or operated on the site for a period of twelve months or longer.
2.a. If the answer to Question 2 is yes , the owner or operator must submit a Site Disclosure Statement (SDS) and Site Risk Classification Report (SRCR) to the Director.		The site disclosure statement must be submitted within six months of decommissioning or ceasing operations and the SRCR submitted one year after submitting the SDS. Site investigation and reporting requirements will not apply to sites regulated under the <i>Oil and Gas Activities Act</i> and associated regulations.
3. Has the owner or operator of the site made application for creditor protection and/or filed for bankruptcy?	Yes No	Application for protection under the <i>Companies’ Creditors Arrangement Act</i> or declaration of bankruptcy under the <i>Bankruptcy and Insolvency Act</i> .
3.a. If the answer to Question 3 is yes , the company must submit a Site Disclosure Statement for all properties in the province with Schedule 2 activities and submit any available site investigation reports.		The required information must be submitted within 30 days of making an application for protection or filing a notice of bankruptcy.
4. Is the site deemed “High Risk”?	Yes No	If yes , the site enters “Protocol 12” process.
5. Are local government approvals required for the proposed re-development?	Yes No	If yes , follow the “Process for Identifying Contaminated Sites – Checklist for Local Government when receiving applications”.

2. Process for Identifying Contaminated Sites – Checklist for Local Government when receiving applications		
Item/Step		Notes
1. Has an application for zoning, development or building permit involving soil disturbance or subdivision been received by local government?	Yes No	If yes , move to the next steps in the checklist. If no , the site identification process is not applicable.
2. Has the site been used for a Schedule 2 purpose or activity?	Yes No	If no , the site identification process is not applicable.
3. Do any exemptions in CSR s.4 apply?	Yes No	If yes , the applicant is exempt from requirement to submit a site disclosure statement, site identification is not required at this point and there is no prohibition on approving applications.
4. If the site identification process is applicable, the owner or operator must submit a site disclosure statement to the approving authority (local government or approving officer). The approving authority then submits the statement to the Site Registrar.		Local government is prohibited from approving applications until the owner or operator (based on completing required site investigation and if necessary, remediation) receives a: <ul style="list-style-type: none"> (1) Certificate of Compliance (COC); (2) Approval in Principle (AiP); (3) Determination; <p style="text-align: center;">or</p> <ul style="list-style-type: none"> (4) Release notice. ENV maintains compliance and verification role through and following the local government application process.

APPENDIX 3 – SUMMARY OF REGULATORY DEVELOPMENT PROCESS

This policy direction paper has incorporated recommendations and comments received through a multi-year consultation process. Consultation documents (papers and summaries of comment) can be viewed and downloaded from the [site remediation – requests for comments](#) webpage.

DISCUSSION PAPER AND CONSULTATIONS – 2014-2015

A discussion paper and response form were posted for public review and comment from October 2014 through February 2015. The paper presented background information, ENV objectives and priorities, and options for amendments to the identification of contaminated sites process. As well as hosting two webinars to update interested stakeholders on the contents of the discussion paper, ENV staff held meetings and presentations in Vancouver, Victoria and Kelowna in October and November 2014.

Comments and responses received through the process were compiled and reviewed by the ENV. Common themes included: support for a consistent process across the province and concern about the “opt out” provisions for local government; cautions that both clarity and flexibility are needed in regulatory provisions; weaknesses in the site profile form; the importance of maintaining oversight by ENV; problems with clarity and delays and costs associated with ENV review; issues regarding the activities that trigger site profile requirements; issues with potential “freeze and release” provisions; and continued interest in being involved in the regulatory review process.

INTENTIONS PAPER, CONSULTATIONS & REVIEW OF OTHER JURISDICTIONS – 2016

The ENV considered comments received through the discussion paper consultations and conducted a review of site identification best practices in other Canadian and international jurisdictions. This information was used in preparing an intentions paper dated April 2016. The intentions paper outlined proposed regulatory provisions, including: clarifying the site identification process; updating and renaming forms and schedules; updating triggers for submission and exemptions from the requirement to submit; the process for local government approvals; and the process for decommissioning or foreclosure. Again, webinars were hosted to inform interested parties and seek comments on specific elements of the proposed provisions. Detailed responses were received through the process from a range of interested parties, including local government, the land development sector, and those providing professional services to private companies.

Detailed comments echoed those received through the first steps in the consultation. The comments included: support for a simple and efficient process; the need for effective oversight and monitoring for compliance with legal provisions; importance of the role of the [Society of Contaminated Site Approved Professionals of British Columbia](#)

(CSAP) in the process; concern about proposed changes to triggers for the process; (e.g., subdividing lots without triggering a site identification); questions regarding eliminating the opt out option for local government; and concern regarding using a final occupancy permit and building inspection as an endpoint for final remediation of a site being redeveloped.

LOCAL GOVERNMENT WORKING GROUP – 2017-2018

The ENV, in coordination with the Union of BC Municipalities, convened a working group of local government officials to provide input on specific issues and comments received on the 2016 intentions paper. The group convened six times, with their input considered and addressed in the proposed changes to the site identification process.