



Ministry of  
Environment

# **Procedure 12**

## **Procedures for Preparing and Issuing Contaminated Sites Legal Instruments**

**Dr. John E.H. Ward**

**CSAP Society Professional Development Workshop  
October 26, 2011**

# Why has Procedure 12 been prepared?

---

## Lack of detailed guidance

- Insufficient detail in Administrative guidance
  - 3, “Applying for Contaminated Sites Services”
  - 5, “Approved Professional Recommendations Relating to Low and Moderate Risk Sites”
- Instruments prepared inconsistently
  - Current templates not always used
  - Even if used, changes to standard clauses not consistent
    - Missing guidance on how to modify clauses
- Results in
  - Inefficient instrument processing and delays
  - Slower ministry compliance & enforcement work

# What is Procedure 12 about?

---

## General requirements

- Screening and rejecting submissions
- Templates for instruments and cover letters
- General requirements for draft instruments
- Time tracking
- Preparing conditions in instruments
- Dealing with applications by source parcel owners for source and affected parcels
  - Communication requirements
- Signing instruments

# Who should be familiar with Procedure 12?

---

## Persons involved in instrument preparation

- Those who sign instruments
  - Director delegates
- Those who prepare draft instruments
  - Ministry staff – Senior Contaminated Sites Officers
  - Approved Professionals
  - Other environmental consultants
- Those who review instrument applications
  - Ministry Client Information Officer
  - CSAP Society staff

# Screening submissions

---

## Initial screen

- Are the basic submission requirements met?
- Are the fees included?
- Is the applicant authorized to apply?

# Screening submissions

---

## Detailed screen (examples)

- Services application form?
- Site Risk Classification Report?
- Summary of Site Condition?
- Required technical reports and plans?
- Draft instrument based on current template?
- Site Registry reports?
- CD or DVD with electronic files?

# Screening submissions

---

## Approved Professional applications

- Preapprovals required under Protocol 6?
- Requirements for arm's length review met?
  - In "Ministry Procedures for the Roster of Approved Professionals"
  - Arm's length review must be provided when required
  - Signoff section in Summary of Site Condition
- Check for additional items in Administrative guidance 3 and 5

# Screening submissions

---

## Rejection of submissions

- Submission may be rejected if
  - Applicant is ineligible
  - Application is incomplete, incorrect or improperly prepared
  - Arm's length Approved Professional review not carried out when required
- Consult Procedure 10, "Requirements for Service Application Resubmissions, Withdrawals and Amendments" (draft)



# Templates for instruments

---

## New instrument templates

- Available April 2011
  - For instruments
  - For cover letters
- Must be used
  - Older templates unacceptable
  - Expect to add version number to each page
  - Developing policy of returning submissions if current template not used
- New template currently for internal use
  - Designation of wide area site

# General requirements for instruments

---

## Procedure Section 7.2

- Lists of reports and remediation plans
- Site boundaries, plans and maps
- Land, water, vapour and sediments uses
- Substance lists
- Editorial requirements
- Time tracking
- Instrument conditions
- Source parcel owner applications for source and affected sites

# General requirements for instruments

---

## Lists of reports and plans

- If an Approval in Principle was issued for the site, list any reports from it in the list of reports and plans in the Certificate of Compliance
- List any reports or addenda from an Approved Professional performance review
- One complete copy of each report or plan must be provided
  - Extracts and synopses generally unacceptable unless we already have the full reports or plans
- Need amendments to Administrative guidance 3, "Applying for Contaminated Sites Services"

# General requirements for instruments

---

## Site boundaries, plans and location maps

- Please establish boundaries following Procedure 6, “Establishing the Boundaries of a Site”
- Ministry proposing to require preapproval for applications which merge parcels with different owners (Protocol 6)

# General requirements for instruments

---

## Site boundaries, plans and location maps

- Plans and maps must
  - Fit on single page
    - With street names and be able to serve as a road map
  - Be oriented north, where possible
  - Be free of logos and advertising
  - Have a heavy bolded line around the site perimeter and show parcels with dotted lines
  - Describe portions of parcels by metes and bounds (legal survey or engineered drawing)

# General requirements for instruments

---

## Site boundaries, plans and location maps

- Written requirements
  - Provide metes and bounds description in the draft instrument as required
  - Show which PID/PIN corresponds with each parcel
    - Show civic address and lot number beside each PID/PIN
  - For strata properties, list all PID numbers and strata lot numbers

# General requirements for instruments

---

## Land, water, vapour and sediment uses

- Normally instruments are restricted to single land uses
  - Primary land use at the site surface
  - If multiple uses do apply, designate by metes and bounds, e.g., riparian areas
- Instruments may contain multiple water, vapour and sediment uses
  - Must show each substance and applicable use
  - Use metes and bounds to describe applicable areas of the site

# General requirements for instruments

---

## Substance lists

- Group by environmental medium
- Group by substance class
- List alphabetically
- List only substances named in the Contaminated Sites and Hazardous Waste Regulations
  - Exception is for Certificates of Compliance (risk-based standards) but only if the site is a contaminated site
- Use substance spellings in those regulations



# General requirements for instruments

---

## Editorial requirements

- Follow embedded instructions in the templates
- Use consistent font and font size as used in the templates
- Justify text to the left
- Check punctuation carefully
- Verify geographical coordinates
- Use spelling and acronyms in Procedure 8, “Definitions and Acronyms for Contaminated Sites”

# General requirements for instruments

---

## Time tracking for Determinations

- Approved Professionals (and the CSAP Society on their behalf) must track the time between issuing a Preliminary and Final Determination of Contaminated Site
- Preliminary Determinations must be available at 30 days and before 60 days for public consultations

# General requirements for instruments

---

## Preparing conditions in instruments

*(To be discussed by Coleen Hackinen and  
Dave Lockhart)*

- Approvals in Principle
- Risk-based standards Certificates of Compliance
- Contaminated Soil Relocation Agreements

# General requirements for instruments

---

## Applications by source parcel owners for instruments for source and affected parcels

*(To be discussed by Peggy Evans)*

- Information for affected parcel owners
- Communication requirements
- Maintenance of communications records
- Director's response to communications records

# General requirements for instruments

---

## Sending signed instruments

- Institutional control (e.g., covenant) must be in place before instrument is issued
- Send cover letter to the applicant
- Where applicant is not a responsible person, copy the responsible person and any affected parcel owners

*“institutional control” means a method for controlling the potential for adverse effects on human health or the environment from contamination at a contaminated site by imposing legal or administrative requirements that limit*

- (a) the use of soil, water, sediment or a resource at the site, or*
- (b) access to the site.*

# General requirements for instruments

---

## Sending signed instruments

- For Determinations, if a person is a charge on the Land Title, provide name, address and charge number in the cover letter
- All cover letters must be completed in full
  - Full names and addresses of all persons
  - See templates for suggested persons to copy

# Appendices

---

## **Procedure has 4 appendices**

- List of instrument and cover letter templates
- Risk management conditions by remediation type
- Examples of principal risk management conditions or circumstances
- Communications requirements for source parcel owners and operators

# What's coming in the future?

---

- Naming conventions for submitted electronic files, e.g., for site investigations reports, remediation plans, instruments
- Review and update:
  - Administrative Guidance 3, "Applying for Contaminated Sites Services"
  - Administrative Guidance 5, Approved Professional Recommendations Relating to Low and Moderate Risk Sites
- New Services Application form
- New fillable pdf versions of all forms
  - Part of straightforward forms initiative



---

# Thank you!

[John.Ward@gov.bc.ca](mailto:John.Ward@gov.bc.ca)

<http://www.env.gov.bc.ca/epd/remediation/>