

Procedure 12 - “Procedures for Preparing and Issuing Contaminated Sites Legal Instruments”

Document Section(s)	Issue	Stakeholder Comments/Recommendations	Ministry Response
7.1.1	Administrative	It is understood that CSAP is assisting in the screening process, should this be reflected in this Procedure document?	The “CSAP Administrative Screening” is a CSAP process, and should not be included P.12.
7.2.3	Question	It is understood that this checklist is not a requirement when submitted through an Approved Professional.	Completed CS application forms including Part E are required for all submissions, including CSAP submissions.
7.2.3	Editorial	typo	Corrected
7.2.3	Question	Suggest more clarity, is an unsigned or draft covenant acceptable or even possible?	Depending on the complexity of issues at a site, the Director may consider applications that include a draft covenant for Ministry review of High Risk sites. For CSAP applications that require covenants, final covenants should be in place before a recommendation is made to the director. A draft may be acceptable under an AIP application.
7.2.3	Clarification	Section 7.2.3 is confusing and the intent and wording is not understood. Further discussion with the Ministry is requested.	Agree, clarification included in new draft
7.4.4	Question	For clarity, could the Ministry provide examples to support this statement? Is the statement referring to legal non-compliance, or instances of non-CSR compliance?	Agree. Suggest the following change: If there are instances of deviation from practice guidelines, Approved Professionals are expected to communicate the need for compliance to their clients and/or if an Approved Professional decides to recommend that the legal instrument be approved, to inform the Director of the details of the aforementioned deviation.
7.5.1	Administrative	Section 7.5.1 is inconsistent with “remediation plan” as defined	Amend the language to reflect a “ <i>specified</i> ”

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		in Procedure 08 – Definitions Draft, which does not specify completion in 5 years. We recommend that guidance should state that approved remediation plans be reviewed by site owners every 5 years, and amended if warranted by the review.	<i>time limit (e.g., 5 years for typical non high risk sites)</i> . There is no conflict with the definition of remediation plan in the CSR or Procedure 8 which are silent on remedial time frames. For remediation of large or complex sites, the 5 year time limit can be amended.
7.5.1	Clarification	Suggest this statement needs more clarity	Agreed, text amended
7.6	Administrative	If an application for a legal instrument is rejected, that the Director must notify all parties listed herein and also including the Approved Professional.	Agreed. Text amended.
9.2.9	Administrative	Suggests this revision as per comment below	See next.
9.2.11	Administrative	For 9.2.9 – 9.2.11, we submit it is not appropriate for the legal instrument document to have detailed site drawings/information which will have already been included in the supporting environmental reports.	If different land uses, standards, or risk assumptions are made for different portions of a site, it is important to provide clarity in the legal instrument; hence the referenced information in sections 9.29-9.2.11.
9.3.3, 9.3.4		Suggest the revisions as per comment above	See previous.
9.3.6	Clarification	Request further clarification supported by examples of “sufficiently established”.	As stated, in the following clause “to allow for remediation to be confirmed in accordance with applicable remediation standards”.
9.4.5	Clarification	Request clarity on if the Ministry will be requesting components of the non-aqueous phase liquids.	Many components of NAPLs are already included in CSR Schedules 4-11. This is simply a reference to the NAPL standard in Schedule 4.
11.3	Administrative	Concern about a potentially unreasonable burden being imposed on a proponent by a directive regarding a neighboring parcel.	Compliance with EMA and CSR by responsible persons is not considered to be unreasonable. If the aforementioned

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			compliance is achieved, the Director would have no justification for imposing any potential “unreasonable burden” on a source parcel owner.
	Question	When city land is contaminated from an offsite source, source sites typically enter into a contract with the city to obtain a CoC to City Streets Policy standards (RL even for roads). Will requirements proposed in Section 9.3.6 affect this target remedial standard regardless of the future use?	The Director is limited to requirements of EMA and CSR when adjudicating applications for legal instruments. Accordingly, if roads and highways are remediated to CSR industrial land use standards, a proponent would be in compliance with provincial legislation.
	Question	Is there a process to confirm risk management systems proposed in CoCs are installed as proposed/designed? This could easily be an issue for sites that occur in Phases (e.g., over 15yrs) as it would not be unusual for the Developer to either change the plan or have changes forced upon them that were unforeseen. Perhaps this is where the advantages (at least for the City) of an AIP shine.	Sites which require future risk management measures to meet acceptable risks under the CSR are not eligible for Certificates of Compliance until risk management has been implemented and are confirmed to be effective as per EMA s53(3)(c).