

Frequently Asked Questions – Management of Environmentally Impacted Sites

- **Q: Regarding ‘adverse effect’ and reportable quantities. If there is a spill of 200 litres (of fuel) to the ground (the Code considers that as adverse effect), so is that reportable?**
 - In accordance with S.2(1)(b) of [The Environmental Management and Protection Act, 2010](#) (EMPA, 2010), “adverse effect” means impairment of or damage to the environment or harm to human health, caused by any chemical, physical or biological alteration or any combination of any chemical, physical or biological alterations;
 - In accordance with S.2(2) of EMPA, 2010, exceeding any permissible limit, standard, criteria or condition that is prescribed or that is set out in the code is deemed to cause an adverse effect.
 - In accordance with the [Discharge and Discovery Reporting Standard](#) of the [Saskatchewan Environmental Code \(Code\)](#), depending on the substance, 200 litres off-site is a reportable limit, and therefore could cause an adverse effect.
 - The ministry expects the person(s) responsible to then complete an assessment and propose corrective actions to address any impacts from this discharge. The ministry will not direct this work to be completed within any fixed timeline unless there are/may be serious risks to environmental or human health.
 - Although subsequent assessments may use different (less stringent) criteria to quantify risk, the person(s) responsible must still report the initial discharge using the criteria set out in Table 2 of the Code’s Discharge and Discovery Reporting Standard.
 - Low-volume spills which can be cleaned up immediately may not have an adverse effect, but person(s) responsible should be aware of signs of adverse effects (i.e. stressed vegetation) and proximity to sensitive receptors. For example, 5 L of oil is not reportable in accordance with the Table 2 of the Code’s Discharge and Discovery Reporting Standard; however, if it’s close to a drinking water well, this could cause an adverse effect or potential to cause adverse effect, therefore it is reportable.
 - If you’re in doubt, call the spill line - If you’re in doubt, give us a shout. If you don’t think it’s fine, call the spill line.” It’s always better to report, than to not report. When you call, a Provincial Hazardous Materials Coordinator (PHMC) will assist you in what to do next. To report a spill, call **1-800-667-7525**

- **Q: Can I apply Tier 2 Saskatchewan Environmental Quality Guidelines (SEQG) to non-Petroleum Hydrocarbon (PHC) contaminants? What is the process expected by the ministry?**

When will the SEQG guidelines be updated? Will the Endpoint Selection Standard be updated to include non-PHC?

- Tier 2 SEQGs can be used for contaminants other than PHCs. The Code's [Endpoint Selection Standard](#) indicates it is for PHCs; however, it can be used as guidance for other contaminants but will need additional justifications as to how you are applying the standard to non-PHC contaminants.
 - Section A (1) of the Endpoint Selection Standard states, *Elimination of exposure pathways in this standard typically deal with PHC's and benzene, toluene, ethylbenzene, xylenes (BTEX), however, the standard may be used as guidance when eliminating exposure pathways for other substances of potential concerns (SOPC's).*
 - We recognize the SEQG have not been updated since 2017, but we are working on a plan to update them. Where discrepancies are found between SEQG and the source material (e.g. Health Canada), the person(s) responsible should use the source material and provide rationale in reports. If you notice any errors or omissions, you can contact the [Ministry of Environment Client Service Office](#) or log your concern online.
 - We currently don't have plans to update the existing Endpoint Selection Standard to include non-PHCs.
- **Q: Can Tier 2 endpoints be used in Phase II Environmental Site Assessments? If Tier 1 endpoints are used in a Phase II Environmental Site Assessment, and Tier 2 or 3 are proposed in Corrective Action Plan (CAP), do we need to update the National Classification System for Contaminated Sites (NCSCS) score?**

- There is a difference between (a) Delineation criteria, (b) Assessment criteria and (c) Endpoint criteria.

The default delineation criteria, as stated in Section 1-7 of the [Site Assessment Code Chapter](#), are the Table 2 reportable concentrations of the Discharge and Discovery Reporting Standard. Delineation criteria is meant to show the reportable extents of the entire plume (which may extend off-property from an on-property source).

- Delineation criteria does not mean a person(s) responsible will have to remediate to that criteria. For example, the delineation criteria can be the reportable concentrations as shown in Discharge and Discovery Reporting Standard. However, the subsequent assessment and/or endpoint criteria can be Tier 1, Tier 2 or Tier 3.

The Discharge and Discovery Reporting Standard states that *[Table 2] reportable concentrations are intended as a trigger for further assessment and analysis at a potentially impacted site.* Delineation to Table 2 reportable concentrations establishes the zone to which further science can be applied to quantify and document the potential for adverse effect.

Once the reportable limits of the contaminant plume are known, risk-based endpoints can be applied to address the site-specific needs of each affected property of the reportable plume.

In some cases, the Tier 1, 2 or 3 endpoints will establish that there is no risk to receptors at the fringes of the reportable plume. In such cases, the Corrective Action Plan (CAP) will document the rationale. Affected landowner's acceptance of the endpoints will be required to achieve a [Closure and Notice of Site Condition Certificate \(NSC\)](#) for those areas of the reportable plume.

- The use of Tier 1, Tier 2 or Tier 3 criteria can be proposed for alternative delineation criteria. If you are using alternative delineation criteria you will need to explain why it was used and report that to all affected landowners and to the ministry.

NOTE – You do not need PRIOR approval from the ministry. However, it must be clear in the submitted reports why the person(s) responsible has chosen not to delineate to Table 2 (default) reportable concentrations. It is important for affected landowners to know the extent of any reportable contamination on their property and to accept any work being done on their property.

- Endpoint criteria are outlined in the Code's [Corrective Action Plan Chapter](#). If delineation criteria are also used as endpoint criteria, the Code's CAP Chapter is applicable, and therefore all the requirements of the CAP chapter must be met. The person(s) responsible can select different endpoints for on-property and off-property impacts.
- A [National Classification System for Contaminated Sites \(NCSCS\)](#) score needs to be updated with every Site Assessment and CAP submission, and whenever there is new information added to the site. In accordance with the Code chapters, a complete NCSCS spreadsheet needs to be submitted to the ministry. Not just the summary score sheet. This way, the ministry can review all the information as to how the NCSCS score was generated.
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- **Q: If Tier 2 endpoints are selected, can they be used for contaminants other than PHC? Can they be used to define the area(s) to be delineated, including potential off-property areas which may be above Tier 1, but below Tier 2?**
 - As stated previously, Tier 2 SEQG and Tier 2 endpoints can be used for contaminants other than PHCs. The Endpoint Selection Standard was written for PHC impacts. However, the methodologies within this standard can be used as guidance for other contaminants. Additional justifications as to how you are applying the standard to non-PHC contaminants will be required.
 - A CAP that proposes Tier 2 endpoints/SEQGs for non-PHC contaminants needs to be submitted to the ministry as an alternative solution CAP. Alternative solution CAPs will be reviewed upon submission. The proposed corrective actions need to comply with the requirements of the [Code's CAP chapter](#).

- As stated previously, you can use delineation criteria other than the Table 2 (default) reportable concentrations. Alternative delineation criteria will need to be proposed to the ministry for approval; however, PRIOR approval is not required. Any alternative criteria applied off property will need to have written acceptance from all affected landowners.
- **Q: If a Site has an old clearance letter, or an old Phase II site assessment, showing compliance with criteria prior to 2015 (pre-Code) – should the case always be closed? Or should old reports/clearance letters always be re-evaluated for possible non-conformance with current Code standards which may be stricter?**
 - The ministry no longer issues traditional closure letters, acknowledging the achievement of proposed endpoints. Closure letters were what the ministry issued when we received a closure report. The traditional closure letters did not absolve a person(s) responsible from future legal liability.

Stakeholders must now complete an application for [Notice of Site Condition \(NSC\)](#) to receive acknowledgement of the achievement of a proposed endpoint.

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 - The ministry will only revisit sites that have had old closure letters, if there is a reason to do so (e.g. a complaint from the public or submission of a NSC application for the site). If a person(s) responsible plans on revisiting a site to do more work, that is their business decision.
 - If you are applying for a NSC and the Assessment and/or Corrective Actions were conducted prior to the June 2015 enactment of EMPA, 2010, the Minister may consider the reported information to have inherent limitations that may not comply with current legislation (EMPA, 2010). The minister can still issue a NSC; however, where any subsequent environmental investigation disproves or contradicts the reported information, the Minister is then authorized to strike this NSC from the public registry.
 - If NSC is being sought for a site that has already received a traditional closure letter, the Minister would need a qualified person (QP) to sign off on any work completed after the June 2015 enactment of EMPA, 2010.
- **Q: If on-site and off-site impacts are cleaned up to Tier 2 within city limits, due to elimination of selected human and/or ecological exposure scenarios, do adjacent landowners have the right to demand the more stringent Tier 1 clean up?**
 - Yes, all affected landowners must consent to the proposed CAP for the site. If the CAP proposes Tier 2 endpoints for their property, then they may not consent to the CAP. Person(s) responsible will need to negotiate with all affected landowners to decide which endpoint is appropriate for the impacted site. The ministry can provide comments regarding compliance with the Code or issue a conditional approval of the Tier 2 endpoints in principle, contingent upon written consent by the affected landowner(s).
 - The ministry may never expect remediation to non-detectable or reportable (default) concentrations. Those are not endpoints, as defined in the Endpoint Selection Standard

and they certainly are not in the spirit of risk-based environmental management principles. The ministry supports and encourages a risk-based approach to impacted site remediation and management.

- Regardless of landowner wishes, the most protective endpoint criteria the ministry will require will be Tier 1 SEQG.
- **Q: In 2019, the ministry only required the person(s) responsible to notify off-site affected landowners of a proposed corrective action plan. Now, the ministry is requiring written consent from all affected landowners – why?**
 - The ministry has transitioned away from issuing traditional closure letters and are now reviewing applications for NSC for sites. An application for a NSC will trigger a comprehensive review of the site to ensure that every submission complies with every section of the Code.
 - In accordance with, S.1-9(1) the Code's Corrective Action Plan chapter, *Every person required to prepare a corrective action plan shall attach to the corrective action plan the written consent of any person who: (a) owns any portion of an environmentally impacted site with respect to which the corrective action plan is being prepared; and (b) is not a person responsible.*
 - Third-party written consent has always been a requirement of the Code, and now the ministry is enforcing it due to the NSC applications. It is important that all affected parties be engaged as soon as possible. Affected landowners need to understand and accept the proposed corrective actions, or any future controls/land use restrictions being proposed on their property.
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- **Q: Do we need to submit a Discovery report(s) along with a Site Assessment report?**

- A [Historical Discovery Report](#) is required to be submitted to the ministry within 30 days of being aware of a discovery (i.e. an historical discharge).

In accordance with S.1-6(1) of the Code's [Discharge and Discovery chapter](#), *Subject to subsection (2), every person required to report a discovery pursuant to clause 1-3(a) or (c) shall:*

- (a) report the discovery to the Minister within 30 days by providing the Minister with a completed Saskatchewan Discharge or Discovery Report Form; and*
- (b) provide the Minister with any other information or material respecting the discovery that the Minister may reasonably require.*

- The laboratory certificate of analysis should be included with discovery reports to show exceedances of the applicable criteria.
- In accordance with the Code's [Discharge and Discovery Standard](#), *There is no obligation to report a discovery in instances where a site assessment identifies a substance of potential concern above the level set out in Table 2 of the Discharge and Discovery*

Reporting Standard at a site for which a report had been previously provided to the Minister. If the discovery is unrelated to the original report (e.g., because of a discharge that occurred after the original assessment/report) then a new report as set out in S.1-6 of the Discharge and Discovery Reporting Chapter is required.

- **Q: Can the ministry share the checklist they use to review Closure and Notice of Site Condition applications?**
 - We are working to get the NSC checklist published, but we can still provide the blank checklist upon request prior to the checklist being published.
- **Q: Industrial land lease holders may also maintain preliminary decommissioning plans and preliminary decommissioning cost estimates. Are these considered as part of the Notice of Site Condition, as they are updated typically on a 5-year basis?**
 - Industrial facilities and industrial activities are regulated under [The Environmental Management and Protection \(General\) Regulations](#). Decommissioning and Reclamation Plans for industrial facilities are not related to Notice of Site Conditions.
- **Q: Is there a template or any suggestions on the third-party approval attachment for the CAP. Would this be a letter or legal agreement or would an email suffice?**
 - We currently don't have a template for third-party approval. A signed letter or legal agreement would suffice.
- **Q: For a release from a saddle tank of a truck in the ditch of a highway/roadway, does the code require notification of the landowner? If the responsible party calls the provincial spill line, does this cover off notification to the Crown given the highway is Crown land.**
 - In accordance with S.1-7 of the Code's [Discharge and Discovery Chapter](#), every person required to report a discharge shall, as soon as is reasonably practicable, report the discharge to any owner of land that is affected by the discharge, and in consultation with the minister, report it to any person who may be affected by the discharge.
 - Person(s) responsible must notify all affected landowners including the Ministry of Highways and Infrastructure. Calling the Ministry of Environment's provincial spill line does not cover notification to the Ministry of Highways and Infrastructure.
 - It is the responsibility of the person(s) responsible to notify affected landowners.
- **Q: Lab Qualified Persons**
 - a) **Why is the laboratory required to sign off as a QP if they are already following an approved standard (i.e. Canadian Association for Laboratory Accreditation Inc. (CALA) certified)?**
 - In accordance with 1-4(1)(d) of the Code's [Corrective Action Plan chapter](#), a qualified person means *for the purposes of certifying a laboratory analysis, an individual who is*

designated by the ministry, or who is a member of a class of persons, designated by the Minister pursuant to the Act to undertake the activity.

- Professional chemists do not have a legislated governing body in Saskatchewan. Therefore, all persons checking off the third box within the Corrective Action Plan section of the [QP certificate form](#) stating that...*The laboratory analysis procedures produce accurate, precise and reliable results* are required to have minister designation to be considered a qualified person. It is an extra level of acknowledgement required by the ministry to ensure qualified persons are actually reviewing the work conducted to support registration of NSC at a Site.
 - In accordance with the [Qualified Person Guidance Document](#), a qualified person is required to certify laboratory analysis. Where selected endpoints have been achieved and laboratory analysis is provided to the ministry to confirm endpoints, it is important that the analysis was done with proper quality assurance and quality control procedures.
- b) Why is the laboratory required to sign off as a QP that results are reliable, if a QP has already checked off the fourth box within the CAP Chapter part of the QP certificate form, stating that QA/QC, sampling, and analytical procedures produce accurate, reliable and precise results?**
- Checking off the fourth box within the Corrective Action Plan Chapter section of the [QP certificate form](#) stating that *The quality assurance and quality control for sampling and analytical procedures produce accurate, precise and reliable results* is only needed where no standard-setting organization (i.e. CSA, ASTM, USEPA) method exists for the work completed. The qualified person is needed to certify that the quality assurance and quality control for sampling and analytical procedures used produce accurate, precise and reliable results.
 - If you check this box, the ministry will look to see which non-standard method was used, so please reference this method within the report. However, if you used a standard method, as mentioned above, you do not need to check this box.
- c) Why would someone designated to oversee all other aspects of the environmental work not be qualified to review the quality of laboratory results?**
- The identification of a person as a qualified person (e.g. P.Eng) does not entitle that person to engage in an activity, if that activity is within the exclusive scope of practice of a profession and that person is not a member of that profession.

Therefore, persons should not assume that since they are members of a class of persons referenced in the Code, that they can carry out activities that are within the exclusive scope of practice of another profession. A QP, such as a professional engineer, can confirm the proper laboratory analysis was conducted for the impacted site but cannot sign off on the performance of the analytical testing.

- There is no legislated governing body in Saskatchewan that oversees the work of these class of persons. Therefore, everyone who is carrying out work in this area is required to submit a QP application to the ministry. The ministry will evaluate the application and, based on the individual's core skills, competencies and education, will determine their designation. Once designated as a QP, these individuals can sign-off on this part of the QP certificate.
- This is only required to satisfy the Code's CAP Chapter. Therefore, any laboratory samples used to support a CAP or justify an impacted site endpoint must be signed off by an appropriate QP.

Q: Can a Notice of Site Condition (NSC) for on-property impacts, be registered if off-property monitoring intends to achieve the objectives of a monitored natural attenuation CAP?

- The ministry will only register a NSC for the on-property impacts in cases where:
 - A NSC has already been registered for off-property impacts (endpoints have been achieved and a NSC certificate has been issued).
 - An off-property Risk Management with Future Reclamation (RMFR) CAP and financial assurance has been accepted by the ministry and written consent has been provided by the affected landowner(s).
 - An RMFR CAP requires to be costed and assured. This means a financial assurance must be given to the ministry. This is done in order ensure that if the person(s) responsible does not complete the future reclamation, the ministry can complete the work instead, using the secured finances.
 - An off-property monitored natural attenuation (MNA) CAP and a financial assurance has been accepted by the ministry.
 - The MNA must come with a monitoring schedule, an estimated timeline to achieve an acceptable endpoint, and a financial assurance to cover the costs (i.e. regular monitoring). The ministry will also require periodic status reports showing trends in the substances of potential concern.
 - A Transfer of Responsibility for off-property impacts to another party, with financial assurance, has been accepted by the ministry.
 - In accordance with the [Transfer of Responsibility for an Environmentally Impacted Site](#) Code chapter, an agreement to accept responsibility for an environmentally impacted site must be: in writing, signed, dated and include provisions stating that the person accepting responsibility accepts full and complete responsibility for any environmental issues that are identified in the site assessment and corrective action plan, AND include an acknowledgment that the person accepting responsibility is aware of the requirements set out in EMPA, 2010.
 - A financial assurance must also be submitted to the ministry for a transfer of responsibility. The amount must be equal to the anticipated

costs of reclaiming the site and come with an additional contingency amount added.

- If you need more information regarding transfer of responsibility, you can refer to S.19 of EMPA, 2010, the Code chapter, and the [Impacted Sites Guidance Document](#).

Q: For off-property impacts, where an acceptable Risk Management with Future Remediation (RMFR) CAP is in place, what is the financial assurance required to cover?

Does it need to be cost-assured to Tier 1 criteria?

- The financial assurance is expected to cover what is proposed in the Corrective Action Plan. If the CAP proposed Tier 3 criteria, the financial assurance should cover remediation to Tier 3 criteria. As will all CAPs, CAPs for off-property impacts will need written consent from the affected landowner(s).
- Financial assurances should include 10-15 per cent contingencies to cover unexpected costs. The assurance must be in an amount and form acceptable to the ministry that will allow the proposed corrective action(s) to be completed. Some examples include irrevocable letter of credit, surety bond, cash and qualified environmental trust.

Useful Links:

1. Factsheet: [Managing Impacted Sites in Saskatchewan](#)
2. [Qualified Persons Application - FAQ](#)