



Remediation Process Guide: Comments on the draft 2019 edition

This table lists the comments received on the *Draft Remediation Process Guide* that was published for public comment in February 2019 and the CER responses to these comments. All references to the Guide in the responses refer to the *CER 2020 Remediation Process Guide*.

Commenter	Section	Comment	CER response
1. L'Union des producteurs agricoles (UPA)	Reporting Contamination	Recommend any immediately reportable event be reported to the Board	<p>All Incidents must be reported to the CER as described in section 52 of the <i>Onshore Pipeline Regulations</i> and further clarified in the CER Event Reporting Guidelines.</p> <p>The Remediation Process Guide does not address reporting requirements for immediately reportable events as Releases that meet the definition of an Incident are already reported through the Online Event Reporting System (OERS) in accordance with incident reporting requirements.</p> <p>Reporting of Contamination that is not linked to a recent Release is addressed in section 6 of the Guide.</p>
2. L'Union des producteurs agricoles (UPA)	Reporting Contamination	NEB use qualified environmental specialists to carry out its mandate. In addition, the NEB should publish a list of environmental specialists by province.	<p>The CER Environmental Analyst assigned to a Remediation event (i) has expertise and experience in the field of Remediation and</p> <p>(ii) is also an Inspection Officer. The Inspection Officer holds all the responsibilities and authority of an Inspection Officer as defined in section 102 of the <i>Canadian Energy Regulator Act</i>.</p>

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			Although the CER does not publish a list of all CER Environmental Analysts, the contact information of the assigned CER Environmental Analyst can be obtained for a specific Remediation event by email to remediation@cer-rec.gc.ca.
3. L'Union des producteurs agricoles (UPA)	Notification and engagement	Other regulators continue to be required to participate in these cases to ensure that the remediation process is consistent with the laws and regulations at the contaminated site.	The CER requires that other regulators are notified and engaged in remedial activities in accordance with applicable laws, which may include provincial laws, and the CER may exercise its discretion to involve other regulators at any time. Please see section 3: <i>Regulatory Approach</i> and section 6 <i>Reporting Contamination to the CER</i> of the Guide, for further information.
4. L'Union des producteurs agricoles (UPA)	Environmental site assessment	The Guide should provide guidelines for determining the type of assessment to be conducted (I, II, or III)	The type of assessment completed will be reviewed by the CER Environmental Analyst during the evaluation of the Remedial Action Plan, Risk Management Plan or Closure Report. If sufficient information is not provided to the CER in these reports, further assessment will be required by the company.
5. L'Union des producteurs agricoles (UPA)	Contamination identified on company-owned lands	We believe that this new provision of the Guide is inappropriate. An agricultural or forestry producer could own land near a contaminated site owned by the company. The producer could suffer significant harm given that in the absence of a remedial	Even if a Remedial Action Plan is not submitted to the CER, companies are required to prevent Adverse Effects on the environment through Remediation and Risk Management measures. Contamination on Company Owned or Leased Lands must be managed to prevent off-site migration through appropriate remedial and risk management measures. This includes identifying the Contamination, reporting it to the CER and remediating accessible Contamination.

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		<p>action plan, soil and groundwater could be contaminated following an event beyond the company's control, for example an exceptional weather event (heavy precipitation, landslide erosion, migration of contaminants into the groundwater, etc.) even though the company must continue to meet all regulatory requirements on contamination according to Article 48 of the National Energy Board Onshore Pipeline Regulations or Article 14 of the National Energy Board Processing Plant Regulations, as proposed in the Guide.</p>	<p>Should complete Remediation not be feasible due to existing infrastructure at the facility, companies must implement Risk Management measures to anticipate and prevent off-site migration. Should free product be identified in groundwater monitoring wells located on Company Owned or Leased Lands, the company must demonstrate that Risk Management activities are sufficient to prevent off-site migration through the submission of a Risk Management Plan. Refer to section 12.3 of the Guide for more information on requirements related to reporting and managing Contamination on Company Owned and Leased Lands.</p>
<p>6. L'Union des producteurs agricoles (UPA)</p>	<p>Contamination identified on company-owned lands</p>	<p>Alternatively, an agricultural or forestry producer whose land is adjacent to a contaminated site may experience a devaluation of that land or be held liable by a future purchaser if that fact had not</p>	<p>The CER requires companies to notify the landowner, as well as any other potentially affected persons, if any Contamination migrates off the Company Owned or Leased Lands onto private land. The CER requires companies to confirm that this step has been taken.</p>

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		been declared at the time of sale (hidden defects).	<p>The CER requires that companies must prevent conditions that would adversely affect the environment. This includes preventing off-site migration of Contamination.</p> <p>Refer to section 6.3: <i>Company's Off-Site Contamination</i> of the Guide for requirements related to reporting and subsequent actions should Company's Off-Site Contamination be identified.</p>
7. L'Union des producteurs agricoles (UPA)	Contamination identified on company-owned lands	In our view, when contamination occurs as a result of a release or spill, the Remediation process must be initiated without delay, whether on company property or not.	Any Release must be reported as an Incident to the CER immediately as stated in section 52 of the <i>Onshore Pipeline Regulations</i> and further described in the CER Event Reporting Guidelines. No matter when or where a release happens, the CER requires companies to anticipate, prevent, manage and mitigate conditions that could adversely affect the environment (section 48 of the OPR). These conditions would include a Release. Under the Incident Process, a CER Environmental Analyst is assigned to the Release to verify that companies are taking appropriate measures to respond to and remediate the Contamination.
8. Canadian Energy Pipeline Association (CEPA)	General	Throughout the document there are multiple references to "company owned property". CEPA recommends that "company owned" be revised to "company controlled" (to include leased land) and that the wording in Section 1 should include meter stations and valve sites in the	<ul style="list-style-type: none"> The wording in the Guide was revised to be consistent with the CER Filing Manual and to incorporate stakeholder feedback, from 'company-owned property' to 'Company Owned or Leased Lands'; Included examples of meter stations and valve sites in Company-Owned or Leased Lands definition; Clarified that company-owned or leased lands does <i>not</i> include lands upon which the applicant holds an easement only. Company owned or leased lands does <i>not</i> include the Right-of-Way (RoW).

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		examples of company owned property. Furthermore, CEPA members would like clarification on whether company owned property includes the right of way.	
9. Canadian Energy Pipeline Association (CEPA)	General	Throughout the document there is non-standard use of 'site specific'. Throughout the CCME and provincial guideline documents, 'site specific criteria' refers to the use of modified generic guidelines based on site specific conditions (For example Tier 2 guidelines based on pathway elimination or recalculated guideline).	Revisions were completed to avoid the use of 'site-specific' in the context other than Site Specific Remediation Objectives.
10. Canadian Energy Pipeline Association (CEPA)	Reporting Contamination	Draft Guide: The Remediation Process applies to: "1. clean-up of Contamination from an event that has occurred in the past but has been recently	Yes, the Remediation Process Guide applies to situations where Contamination from an event in the past was previously cleaned up to previous standards of the day but per current standards, residual Contamination remains.

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		<p>identified and has not yet been remediated.”</p> <p>Comment:</p> <p>Clarity required to indicate that this would also include situations where contamination from an event in the past was previously cleaned up to previous standards of the day but per current standards, residual contamination remains.</p>	<p>Refer to section 6.1: <i>Notice of Contamination</i> for further details on reporting Contamination and section 4.2 <i>The Management System</i> for details on identifying, assessing and managing Contamination.</p>
11. Canadian Energy Pipeline Association (CEPA)	Reporting Contamination	Clarity is also required to indicate if companies are responsible to report third party Contamination discovered during a project.	Companies are required to report Third Party Contamination discovered during a project. See section 9: <i>Third Party Contamination</i> of the Guide for requirements related to Third Party Contamination.
12. Canadian Energy Pipeline Association (CEPA)	Reporting Contamination	<p>Draft Guide:</p> <p>“Once a company notifies the NEB of a contaminated site, the NEB assigns a Remediation file number (REM) to the site and appoints an Environmental Specialist to</p>	<p>If residual Contamination is identified within a Detailed Incident Report, OERS will automatically send a link to complete a Notice of Contamination (NOC) and this event will be assigned a Remediation (REM) event number and entered into the Remediation process. A NOC may be filed prior to the submission of a DIR. Requirements as to when an NOC are required are set out at Section 6.1 <i>Notice of Contamination</i> of the Guide.</p>

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		<p>act as a liaison with the company throughout the Remediation project.”</p> <p>Comment:</p> <p>It states in previous section that a site isn't a "contaminated site" unless residual contamination remains after filing the DIR</p> <p>[Detailed Incident Report]; however, this implies that a site is considered a contaminated site once the NOC is filed.</p> <p>Typically, a NOC is filed prior to a DIR.</p>	
<p>13. Canadian Energy Pipeline Association (CEPA)</p>	<p>Reporting Contamination</p>	<p>CEPA members recommend providing clarity regarding the process in the event that a NOC is filed in error, due to incorrect analysis or lab error. It would be more effective if the</p>	<p>If a NOC is filed in error, the company should notify the CER at remediation@cer-rec.gc.ca and the CER will mark the event as 'mis-reported'. The 'misreported' status means that the event was reported in error and no further compliance or enforcement actions will be taken for this event.</p>

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		NOC report could be edited if the details change	
14. Canadian Energy Pipeline Association (CEPA)	Environmental site assessment	<p>Draft Guide:</p> <p>1 a) A summary of the data collected during ESA site characterization and delineation investigation, including complete surface and subsurface site characterization and contaminant characterization.</p> <p>Comment:</p> <p>It may not be practical/feasible to obtain complete delineation of contaminants, especially if a risk assessment is employed.</p>	Refer to section 10 in the Guide for expectations regarding the contents of an ESA. The CER requires the best available and most useful information to be included in the summary of an ESA.
15. Canadian Energy Pipeline Association (CEPA)	Notification and engagement	Clarity required around when private landowners should be notified (1) immediately (even if information is limited) or (2) after sample results are received and impacts to their property are known.	<p>If confirmatory sampling of Contamination is required, provided there is no Risk or potential Risk to human health or safety, companies may wait to notify landowners until the sampling results are obtained in order to provide details on contaminant type to the landowner(s). All potentially affected persons and communities must be notified of the Contamination at the same time as the Contamination is reported to the CER.</p> <p>Analytical sampling must be conducted in prompt manner following identification of the potential Contamination. If the Contamination poses an</p>

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			immediate risk to human health or safety, both the CER and the landowner must be notified immediately.
16. Canadian Energy Pipeline Association (CEPA)	Notification and engagement	Clarity is required regarding what is included in a communication protocol. It is not clear whether this is for each project or a general company process.	The CER expects that a company has a company-wide engagement program that establishes a systematic, comprehensive and proactive approach for the development and implementation of project specific plans such as a communication protocol. The project specific communication protocol should be developed in accordance with the guidance in section 3.4 of the CER Filing Manual. The communication protocol should describe activities in accordance with the scope of the project.
17. Canadian Energy Pipeline Association (CEPA)	Notification and engagement	<p>Require clarity on whether there are requirements for specific types of records of engagement (letter, email, signed report).</p> <p>CEPA recommends engagement with impacted or affected Indigenous groups, consistent with requirements for landowners and other parties; and that persons notified for interest or courtesy should not be required to be engaged on the plan for Remediation.</p>	<p>The CER expects that communication of site information is carried out in a format and manner that is appropriate to the audience. The means of communicating should be determined in discussion with the potentially affected persons or communities. See Chapter 3.4 of the Filing Manual for examples of acceptable engagement methods. There is no requirement for specific types of records of engagement.</p> <p>Any persons identified as a potentially affected persons, as defined in the CER Filing Manual, must be notified and engaged on the plan for Remediation.</p>

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18. Canadian Energy Pipeline Association (CEPA)	Notification and engagement	<p>Draft Guide:</p> <p>“Companies should accommodate the desired land use of those affected when it is reasonable to do so.”</p> <p>Comment:</p> <p>Companies are only able to accommodate the current land use. It is not reasonable to accommodate a "desired" or potential future land use.</p>	The CER expectation is that companies hear, consider, and address, as appropriate, any concern that is raised by potentially affected persons.
19. Canadian Energy Pipeline Association (CEPA)	Notification and engagement	<p>Draft Guide:</p> <p>“Commit to undertaking remedial activities that have the best possible outcomes, which consider the concerns of regulators, potentially-impacted Indigenous groups and other interested parties;”</p> <p>Comment:</p> <p>Clarity is required regarding what is determined as the best possible outcome (economic, environmental, social) and</p>	See section 7 of the Guide for requirements related to notification and engagement. The CER expects that the concerns of potentially affected persons will be heard, considered and addressed, as appropriate.

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		how will this be assessed by the NEB.	
20. Canadian Energy Pipeline Association (CEPA)	Notification and engagement	<p>Draft Guide:</p> <p>“Maintain a record of communication related to remedial activities with landowners, rights holders, and interested third parties.</p> <p>Comment:</p> <p>CEPA recommends engagement with impacted or affected third parties; this will facilitate timely and effective implementation of remedial strategies. Interested third parties are not defined.</p>	The wording in the Guide has been changed to be consistent throughout the document and aligned with the CER Filing Manual. A record of engagement with potentially affected persons and communities is required.
21. Canadian Energy Pipeline Association (CEPA)	Notification and engagement	<p>There are references to ‘interested parties’ and ‘potentially impacted’ within the document that create uncertainty. CEPA recommends clarity is provided and/or the references are replaced with ‘affected</p>	The wording has been changed to be consistent throughout the document and aligned with the CER Filing Manual. Refer to Guide L of the CER Filing Manual for guidance on identifying potentially affected persons and communities.

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		parties' and 'impacted' respectively.	
22. Canadian Energy Pipeline Association (CEPA)	Remediation criteria	<p>Throughout the document CCME guidelines allow the use of less stringent criteria (e.g. Industrial) based on actual land use, whereas provincial guidelines base land use criteria on zoning. As such, the application of the most stringent of the two results in the use of zoning-based land use criteria. CEPA recommends including wording that it is appropriate to use industrial criteria on industry operating facilities.</p> <p>Clarity is requested on if/how existing remediation files that are in progress will be grandfathered, or whether they will be subject to the updated guideline.</p>	<p>The CER expectation is that Contamination is remediated to the most stringent criteria of the federal vs provincial for the equivalent land use. Refer to section 11.4 for additional detail on requirements related to Remediation Criteria.</p> <p>The version of the Guide that is current at the time that remedial activities begin must be used. Should a RAP already be accepted by the CER but remedial activities not yet commenced, the RAP should be amended and re-submitted to the CER to reflect requirements in the 2020 Remediation Process Guide.</p> <p>Contact the assigned CER Environmental Analyst to discuss questions on specific Remediation events via email to remediation@cer-rec.gc.ca.</p>

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23. Canadian Energy Pipeline Association (CEPA)	Remediation criteria	<p>The document as drafted is not clear that modified generic guidelines can be used.</p> <p>Please define the 'most stringent applicable remediation standards' to include modified generic guidelines based on site specific conditions (e.g. Tier 2 guidelines).</p>	<p>Clarification was added that Site Specific Remediation Objectives may be acceptable, with justification. Refer to section 11.6: <i>Site Specific Remediation Objectives</i> of the Guide.</p> <p>The more stringent of federal vs provincial criteria refers to generic Remediation Criteria. The CER may also accept modified generic Remediation Criteria.</p>
24. Energy Pipeline Association (CEPA)	Remediation criteria	<p>Draft Guide:</p> <p>"If contamination is cleaned up immediately upon detection and a detailed ESA is not completed, the company must provide an appropriate level of site information in the Closure Report to justify the selected remediation criteria and to demonstrate that the criteria have been met. Justification for the omission of an ESA must be provided and more conservative Remediation criteria might be required than</p>	<p>The wording in the Guide was revised and now states:</p> <p>If Contamination is cleaned up immediately upon detection and a detailed ESA is not completed, the company must provide an appropriate level of site information in the Closure Report to be able to justify the selected Remediation Criteria and to demonstrate that the Remediation Criteria have been met. Companies must be able to provide justification acceptable to the CER, for the omission of an ESA.</p>

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		would otherwise be applicable.”	
		<p>Comment:</p> <p>Clarity required regarding the requirement of conservative remediation criteria.</p>	
25. Canadian Energy Pipeline Association (CEPA)	Remediation criteria	<p>Draft Guide:</p> <p>“For each contaminant of concern, the applicable provincial or territorial and CCME criteria should be identified, and the more stringent of the two selected as the Remediation criterion.”</p> <p>Comment:</p> <p>CEPA recommends that the remediation criteria should correlate to the standards that are incorporated in the provinces or territories in which the Contamination occurred as some jurisdiction’s requirements may conflict with CCME.</p>	The CER expectation is that the most stringent of the provincial vs CCME Remediation Criteria is followed, for the equivalent land use. Contact the CER Environmental Analyst assigned to the REM event to discuss conflicting requirements and the best approach for resolving this conflict.

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26. Canadian Energy Pipeline Association (CEPA)	Remediation criteria	<p>Draft Guide:</p> <p>“less conservative remediation criteria may be acceptable only where sufficient site-specific is provided to demonstrate that environmental and human health protection goals will be met without ongoing management or restriction of site use. In the case of a RoW, the most stringent applicable criteria based on the current land use crossed by and adjacent to the RoW must be followed both on and off the RoW.”</p> <p>Comment:</p> <p>Requires clarity regarding whether site specific criteria will be considered on a RoW. The statement does not clearly identify whether site specific data, when demonstrating an equivalent level of protection for ecological and human</p>	On the RoW, Site specific Remediation Objectives may be acceptable to the CER when the data demonstrates an equivalent level of protection for ecological and human health receptors.

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		health receptors, is acceptable.	
27. Canadian Energy Pipeline Association (CEPA)	Remedial Action Plan	<p>Clarity required regarding the Process Framework, specifically whether a company can proceed with RAP and RMP activities prior to the NEB's acknowledgement.</p> <p>CEPA members recommend an established review timeline so companies can efficiently close out related responsibilities.</p>	<p>A company can proceed with RAP and RMP activities prior to the CER's acknowledgement of the plan. Companies should use their discretion as to whether the CER should be notified that activities are commencing via email to remediation@cer-rec.gc.ca. If activities are initiated prior to CER acceptance of the RAP or RMP, the CER does not provide any assurance that activities or the selected environmental criteria will be acceptable to the CER. See section 11.3 <i>CER Acceptance of the RAP</i> in the Guide for further guidance on this topic.</p>
28. Canadian Energy Pipeline Association (CEPA)	Remedial Action Plan	<p>Draft Guide:</p> <p>"2 b) ii. Rationale for selection. If site specific objectives have been established, attached the risk assessment as an appendix to the RAP."</p> <p>Comment:</p> <p>In some cases, a company may want NEB feedback or endorsement of the risk</p>	<p>The CER encourages companies to contact the CER Environmental Analyst assigned to the REM event to discuss the Risk Assessment and/or Site-Specific Remediation Objectives. For the quickest response, an email should be sent to remediation@cer-rec.gc.ca with the REM event number in the subject line of the email. The company can also upload a document to OERS and choose the appropriate report type. The CER Environmental Analyst will review the report and respond via OERS.</p>

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		<p>assessment prior to RAP submission.</p> <p>A mechanism to get a formal (or informal) NEB response on the risk assessment and/or site-specific guidelines prior to RAP submission should be available</p>	
<p>29. Canadian Energy Pipeline Association (CEPA)</p>	<p>Remedial Action Plan</p>	<p>Draft Guide:</p> <p>“Upon submission of the RAP to the NEB, the ES assigned to the contaminated site will conduct a review of the document. If the RAP is found to be acceptable based on the site specific information provided and the information is consistent with the NEB’s knowledge of the site, the NEB will send an email notification through OERS that the RAP has been accepted.”</p>	<p>The CER implemented an electronic system for submission of Remediation-related information in August 2018. The NEB will also use this system for reviewing and responding to submissions. One of the goals of implementing the electronic system is to increase the response timeframe. At any time, the company can communicate with the CER via email to remediation@cer-rec.gc.ca and request a status update on the RAP assessment</p>

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		<p>Comment:</p> <p>CEPA recommends an identified timeframe for response.</p>	
<p>30. Canadian Energy Pipeline Association (CEPA)</p>	<p>Remedial Action Plan</p>	<p>Draft Guide:</p> <p>“A RAP is a document that describes in sufficient detail how Remediation of a contaminated site will occur. Unless Contamination is minimal and can be cleaned up quickly, contaminated sites will require the development and implementation of a RAP.”</p> <p>Comment:</p> <p>Clarity required regarding the meaning of “cleaned up quickly”. This could mean cleaned up prior to the submission of a DIR [Detailed Incident Report]; However, above it is suggested that it i the timing for when a site is</p>	<p>The decision of whether or not a RAP is submitted to the CER should be assessed by the company and the rationale provided to the CER as to why or why not a RAP is required. This justification should be provided in the annual update, specifically in the first annual update following the submission of the NOC. See Appendix C for guidance on when a RAP is required. The CER will make the final decision on whether a RAP is required based upon:</p> <ul style="list-style-type: none"> • The information provided in the NOC; • The CCME Site Classification spreadsheets; • The responses to questions in Appendix C; • Information submitted in the annual updates; • CER Environmental Analyst’s professional judgement on a case by case basis. The CER may require supplemental information from the company in order to make this determination.

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		considered a contaminated site.	
31. Canadian Energy Pipeline Association (CEPA)	Remedial Action Plan	<p data-bbox="657 354 1003 954">Draft Guide: “The intent of a RAP amendment is to encourage engagement and transparency between the company and the NEB. An amendment should be submitted as soon as possible. Prior to submitting a RAP amendment, all affected landowners, potentially-impacted Indigenous groups and other interested third-parties should be consulted on the proposed changes.”</p> <p data-bbox="657 995 1003 1422">Comment: CEPA recommends engagement with impacted or affected Indigenous groups, landowners and other parties. Broad engagement requirements for amendments could cause delay in remedial work, specifically if third-parties cannot reach</p>	Prior to submitting a RAP amendment, engagement with all potentially affected persons and communities must be conducted regarding the proposed changes in compliance with section 7 of the Guide.

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		<p>consensus (this has associated cost and could potentially affect remedial outcomes, e.g. further migration).</p>	
<p>32. Canadian Energy Pipeline Association (CEPA)</p>	<p>Remedial Action Plan</p>	<p>Draft Guide:</p> <p>Companies are encouraged to consult the ES to discuss the complexity and detail required in a RAP prior to its development.</p> <p>Comment:</p> <p>CEPA recommends standardization of the RAP requirements to avoid subjective and varying requirements; this would improve the process significantly as well as company participation and NEB review times.</p>	<p>The CER supports the standardization of RAP requirements and has included a checklist for RAP content in Appendix F of the Guide. It is the amount of detail that may vary depending on site complexity.</p>
<p>33. Canadian Energy Pipeline</p>	<p>Remedial Action Plan</p>	<p>Draft Guide:</p> <p>“3) b) Corrective action plan to mitigate any concerns or</p>	<p>The CER recognizes that companies cannot predict all corrective actions that may be required at the onset of monitoring. The CER expects that companies will identify corrective actions for outcomes that can be</p>

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Association (CEPA)		<p>issues identified during monitoring.</p> <p>c) Contingency plans for changes to site conditions identified during a long term monitoring program.</p> <p>e) Reclamation plans may be required to return the site to a productive or natural state. It may not be possible to include reclamation results in the Closure report since. several growing seasons are often required to stabilize the site.”</p> <p>Comment:</p> <p>If a RAP is required, it may not be possible for the company to assess with certainty what corrective actions might be required at the outset. There are contingencies associated with ongoing monitoring.</p> <p>Some outcomes may come to fruition, others may not. There may still be other items that</p>	<p>reasonably predicted and contingency plans updated, as required. The contents of the RAP are now listed in Appendix F of the Guide.</p>

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		could not be reasonably anticipated that require corrective action. In cases where it may not be possible to anticipate all potential effects or where the likelihood of a particular outcome occurring is so remote it would be more effective to have companies identify relevant corrective actions and require a commitment during monitoring. The Board could also require companies to update their contingency plans and execute corrective actions as necessary.	

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34. Canadian Energy Pipeline Association (CEPA)	Risk management	<p>Draft Guide:</p> <p>“Risk management strategies involving controls such as zoning designations, land use restrictions or bylaws are unlikely to be acceptable to the NEB as they involve measures that are outside the NEB’s jurisdiction and limit future land use.”</p> <p>Comment:</p> <p>The definition of reclamation in the Guide provides that disturbed lands are restored to a state comparable with the surrounding environment and consistent with current land use, which should include consideration of provincial or municipal land use requirements. Future land use is not within the federal jurisdiction once the ROW is abandoned.</p>	<p>Risk Management strategies involving controls such as zoning designations, land use restrictions or bylaws are unlikely to be acceptable to the CER as they involve measures that are outside the CER’s jurisdiction. See section 12: <i>Risk Management</i>.</p>

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35. Canadian Energy Pipeline Association (CEPA)	Risk management	<p>Draft Guide:</p> <p>“A long term risk management approach may be acceptable for sites where Contamination is inaccessible due to the presence of operating energy infrastructure. In such circumstances, risks would be managed pending alteration to or abandonment of the infrastructure.”</p> <p>Comment:</p> <p>CEPA recommends a risk management until abandonment approach for sites where Contamination is inaccessible due to the presence of operating energy infrastructure; however, there are other circumstances when long term risk management may be the best approach to minimize further impact on the environment (e.g.: waterbodies and wetlands where further disturbance would be</p>	<p>The wording was revised to reflect that Risk Management, on a case by case basis, may be the best approach in situations not only limited to the presence of operating infrastructure. Changed word 'alteration' to 'removal'.</p>

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		<p>detrimental to a functioning system). Minor "alterations" to the site should not trigger Remediation for the same reasons that we postpone Remediation for operating infrastructure.</p>	
<p>36. Canadian Energy Pipeline Association (CEPA)</p>	<p>Risk management</p>	<p>Clarity required as to the contradictions with sections 4.2 and 6.4 of the guide which allow for risk based closure. This section could also create issues for areas of Provincial or Municipal land for which brown field development plans are approved.</p>	<p>The CER Remediation Process does not allow for closure of a Risk Managed site. At this time, a Remediation Closure Letter will not be issued for a contaminated site that is being Risk Managed. Should infrastructure no longer be regulated by the CER, the CER Remediation Process will no longer apply and the provincial or municipal legislation governing Remediation will apply.</p> <p>On the RoW, Site specific Remediation Objectives derived from a risk assessment may be acceptable to the CER when the data demonstrates an equivalent level of protection for ecological and human health receptors.</p>
<p>37. Canadian Energy Pipeline Association (CEPA)</p>	<p>Risk management</p>	<p>Draft Guide: “The CCME approach to risk assessment and management is recommended; however, provincial approaches may be considered in certain scenarios.”</p>	<p>The CER Environmental Analyst assigned to the specific REM event should be contacted to discuss the acceptability of a provincial approach to risk assessment and management, should they conflict with CCME guidance.</p>

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		<p>Comment:</p> <p>Clarification requested as to scenarios in which provincial approaches would be considered.</p>	
38. Canadian Energy Pipeline Association (CEPA)	Risk management	<p>Draft Guide:</p> <p>“A plan for monitoring and periodic site evaluation to verify that the assessment remains valid and that the applied controls remain effective; and,”</p> <p>Comment:</p> <p>Monitoring is not a reasonable approach as it may not be warranted based on risk or stability of the problem. CEPA recommends this be modified to a plan to verify the assessment is valid.</p>	The CER expects that monitoring in some form, to evaluate whether the risk management plan is still effective and appropriate, will occur for risk managed sites. The frequency and scope of monitoring should be determined on a basis specific to site conditions, as has been more clearly reflected in the text of the RPG.
39. Canadian Energy Pipeline Association	Risk management	<p>Draft Guide:</p> <p>“Risks to receptors are deemed to be acceptably low over the time period between</p>	The CER expects that monitoring, in some form, will occur for Risk Managed sites. The frequency and scope of monitoring should be determined based upon site conditions. All Risk Management Plans will be reviewed by a CER

Commenter	Section	Comment	CER response
Association (CEPA)		<p>the present and the future date at which the remaining Contamination is removed or contaminant levels naturally attenuate such that Remediation criteria are met.”</p> <p>Comment:</p> <p>Clarity required regarding monitored natural attenuation. Ongoing monitoring should not be required if natural attenuation (stable or decreasing plume) can be demonstrated and the data supports it.</p>	<p>Environmental Analyst and specific issues should be discussed with the CER Environmental Analyst.</p>
40. Canadian Energy Pipeline Association (CEPA)	Risk management	<p>Draft Guide:</p> <p>“a method for ongoing evaluation of current policies and guidance pertaining to risk assessment and management that apply to jurisdiction of the specific site.”</p>	<p>The CER expects that Risk Assessment and Risk Management approaches for a site would be re-evaluated and potentially amended if further site information or changes in policy or guidance indicate the conclusions reached may change. The CER does require that companies have a system for tracking and implementing legislative requirements.</p>

Commenter	Section	Comment	CER response
		<p>Comment:</p> <p>Environmental regulation and risk assessment is ever evolving, therefore the proponent should not be required to continually go back and evaluate a previous risk assessment. NEB approval should be appropriate for the vast majority of modern risk assessments</p>	
<p>41. Canadian Energy Pipeline Association (CEPA)</p>	<p>Company-owned lands</p>	<p>Clarification required regarding whether installation of a groundwater monitoring well network can replace the requirement to submit the CCME National Classification System for Contaminated Sites: Site Classification Worksheets.</p>	<p>Installation of a groundwater monitoring well network does not replace the requirement to submit CCME worksheets. If the worksheets have been submitted previously for a Remediation event with similar contaminant type at the same facility and site conditions do not vary at the facility, the worksheets may not need to be re-submitted. This should be discussed with the CER Environmental Analyst and the previous submission of the CCME worksheets should be noted in the NOC. If CCME worksheets have not been completed for the Facility or the site conditions change significantly dependent on the location within the facility, the CCME worksheets must be completed even if a groundwater monitoring network is in place.</p>

Commenter	Section	Comment	CER response
42. Canadian Energy Pipeline Association (CEPA)	Company-owned lands	<p>Draft Guide:</p> <p>“No free product is detected in the groundwater monitoring wells”</p> <p>Comment:</p> <p>Demonstration that plume is stable or decreasing is more important than the absence of free product. Free product in and of itself is not necessarily a great risk.</p> <p>Also, clarity required regarding situations where LNAPL [light non-aqueous phase liquid or free product] is contained.</p>	<p>The implementation of a groundwater monitoring program and lack of detection of free product indicates that there is no further requirement to submit reports to the CER beyond the CCME classification worksheets and the annual updates. Should free product be detected, even if the plume is stable or decreasing, and LNAPL is contained, the company will be required to submit a Risk Management Plan if full Remediation is not possible.</p>
43. Canadian Energy Pipeline Association (CEPA)	Company-owned lands	<p>Draft Guide:</p> <p>“Contamination identified at a monitored facility as described above is expected to be reported to the NEB as described in Section 4 of this Guide. An annual update should be provided to the NEB</p>	<p>This is referring to Contamination that has not been reported to the CER but is encountered during construction, operations, maintenance or abandonment activities.</p> <p>All Contamination must be managed in accordance with section 4 <i>Management System Requirements</i>.</p>

Commenter	Section	Comment	CER response
		<p>as described in Section 8 of this Guide.”</p> <p>Comment:</p> <p>Clarity required regarding whether this is referring to Contamination that wasn't previously identified.</p>	
<p>44. Canadian Energy Pipeline Association (CEPA)</p>	<p>Company-owned lands</p>	<p>Draft Guide:</p> <p>“Contamination that is confined to company owned property at a facility that does not have an implemented and established groundwater monitoring program will need to be further characterized through completion and submission of the CCME National Classification System for Contaminated Sites:”</p> <p>Comment:</p> <p>Clarity required regarding the expectations and/or requirements if a facility has a</p>	<p>Refer to section 12.3 <i>Contamination identified on Company-Owned or Leased Lands</i> in the Guide for CER expectations on company-owned or leased lands.</p>

Commenter	Section	Comment	CER response
		surface water monitoring program.	
45. Canadian Energy Pipeline Association (CEPA)	Company owned lands	<p>Overall, this section suggests that groundwater and surface water monitoring programs are required at all sites where</p> <p>Remediation has not been completed and an approved risk management plan is not in place. CEPA recommends that the need for groundwater, surface water monitoring and a risk management plan be determined based on the findings of the ESA.</p>	This section is stating that, if, groundwater and surface water monitoring programs are in place at a site, there may be a lower reporting requirement to the CER. The required monitoring programs and the need for a risk management plan will be specific to the site and based upon the findings of the ESA, as accepted by the CER Environmental Analyst.
46. Canadian Energy Pipeline Association (CEPA)	Site closure	<p>Draft Guide:</p> <p>“Once satisfied that remediation to acceptable criteria is complete, the NEB will issue a Remediation Closure Letter. The NEB will not provide assurance of Remediation being acceptable if conditions change at the site or if regulatory criteria,</p>	The CER implemented an electronic system for submission of Remediation-related information in August 2018. The CER will also use this system for reviewing and responding to submissions. One of the goals of implementing the electronic system is to increase the response timeframe. At any time, the company can communicate with the CER via email to remediation@cer-rec.gc.ca to request a status update on the assessment of the Closure Report.

Commenter	Section	Comment	CER response
		<p>standards or guidelines change in the future. Companies retain liability for further Remediation following site closure.”</p> <p>Comment:</p> <p>CEPA members recommend guidance and service standards be provided to companies in regard to timelines associated with the issuance of Remediation closure letters to improve regulatory certainty.</p>	
<p>47. Canadian Energy Pipeline Association (CEPA)</p>	<p>Site closure</p>	<p>Draft Guide:</p> <p>“Reclamation plans may be required to return the site to a productive or natural state. It may not be possible to include reclamation results in the Closure report since several growing seasons are often required to stabilize the site.”</p>	<p>See responses below</p> <p>Q: Will there still be an annual requirement for update?</p> <p>A: There will not be an annual update automatically required; however, there may be reporting requirements specified in the RAP acceptance letter or Remediation Closure Letter that extend beyond the date on which the Remediation event is closed.</p> <p>Q: Can proponents get closure on a site without reclamation?</p> <p>A: Since Reclamation may take multiple growing seasons beyond the date on which Remediation is complete, a Remediation Closure Letter may be</p>

Commenter	Section	Comment	CER response
		<p>Comment:</p> <p>Clarity required regarding a scenario where reclamation results cannot be provided in closure report:</p> <ul style="list-style-type: none"> • Will there still be an annual requirement for update? • Can proponents get closure on a site without reclamation? • Does site closure mean full closure? • Will a reclamation file still exist? • Does this change anything in relation as to how reclamation is currently managed? 	<p>issued for a site in advance of Reclamation being completed. The CER expects that plans for Reclamation are included in the RAP and any outstanding issues are identified in the Closure Report. The landowner must be engaged upon the plans for Reclamation and any concerns must be heard, considered, and addressed, as appropriate, prior to submission of the Closure Report.</p> <p>Q: Does site closure mean full closure?</p> <p>A: Yes; however, the CER will not provide assurance of Remediation being acceptable if conditions change at the site, or if regulatory criteria, standards, or guidelines change in the future. Companies retain liability for potential further Remediation following site closure.</p> <p>Q: Will a reclamation file still exist?</p> <p>A: At this time, Reclamation may be followed up as a compliance verification activity rather than through the Remediation Process. The Remediation event can be closed prior to Reclamation being complete.</p> <p>Q: Does this change anything in relation as to how reclamation is currently managed?</p> <p>A: No</p>
48. Canadian Energy Pipeline Association (CEPA)	Site closure	<p>Draft Guide:</p> <p>“The NEB requires that all contaminated sites are remediated prior to project</p>	<p>At the time of release of the 2020 CER Remediation Process Guide, the CER cannot confirm that its Remediation Closure Letter is accepted by the provinces and territories. The CER does plan to work with the provinces and territories in this area to increase efficiency within the Remediation process.</p>

Commenter	Section	Comment	CER response
		<p>abandonment. For projects which have reported contaminated sites to the NEB and have submitted an application to abandon, a Closure of an Abandonment Order will be issued only after a Remediation Closure Letter has been issued.”</p>	
		<p>Comment:</p> <p>CEPA members would appreciate confirmation that the NEB is working in conjunction with the provinces to ensure that its Remediation closure letter is accepted by the provinces so that a provincial or territorial remediation certificate can be issued, if necessary.</p>	
		<p>Service standard timelines for the issuance of Remediation Closure Letters should be established.</p>	

Commenter	Section	Comment	CER response
49. Canadian Energy Pipeline Association (CEPA)	Site closure	<p>[Section 7.1]</p> <p>CEPA recommends consistency with provincial jurisdictions (BC, AB, SK) which allow for risk-based closure with contamination to be left in place if it doesn't constitute an unacceptable risk.</p> <p>CEPA also recommends established timelines for review and acceptance of the RMPs.</p>	The CER Remediation Process will not issue closure for risk-managed sites, at this time.
50. Canadian Energy Pipeline Association (CEPA)	Site closure	<p>Draft Guide:</p> <p>"The Remediation Closure Letter confirms that the company sufficiently demonstrated that the applicable criteria have been met based upon the information submitted in the Closure Report, and that the remediation file for the site has been closed.</p>	<p>The wording in section 14 of the Guide was revised to state:</p> <p>The Remediation Closure Letter confirms that the company has sufficiently demonstrated that the acceptable criteria and all conditions, as outlined in the RAP and RAP acceptance letter have been met, based upon the information submitted in the Closure Report,</p>

Commenter	Section	Comment	CER response
		<p>Comment:</p> <p>CEPA recommends referencing that the 'conditions of the Remediation action plan' have been met, rather than the "applicable criteria" for clarity.</p>	
51. Canadian Energy Pipeline Association (CEPA)	Site closure	<p>Draft Guide:</p> <p>"the site was remediated to the applicable criteria."</p> <p>Comment:</p> <p>CEPA recommends identifying the applicable criteria as the criteria outlined in the RAP for clarity.</p>	<p>Site closure is achieved upon the CER's issuance of a Remediation Closure Letter. The Remediation Closure Letter confirms that the company has sufficiently demonstrated that the acceptable criteria and all conditions, as outlined in the RAP and RAP acceptance letter have been met, based upon the information submitted in the Closure Report, and that our Remediation event has been closed. If a RAP was not submitted, the Remediation Letter confirms that the company has sufficiently demonstrated that the acceptable criteria have been met based upon the information submitted in the Closure Report.</p>
52. Canadian Energy Pipeline Association (CEPA)	Abandonment	<p>Draft Guide:</p> <p>"Upon abandonment, remediate and site Closure"</p> <p>Comment:</p> <p>Clarity required regarding whether this refers to abandonment of individual pipelines or to the abandonment of the RoW.</p>	<p>The requirement to fully remediate upon abandonment applies once all pipelines in the RoW are no longer in operation. It is required that companies will remediate accessible Contamination upon decommissioning or abandoning a pipeline in an active RoW and risk manage residual Contamination to prevent Adverse Effects.</p>

Commenter	Section	Comment	CER response
		<p>There may be cases where one line is abandoned in a RoW, but the RoW remains active with other pipelines such that any historical Contamination cannot be remediated.</p>	
<p>53. Canadian Energy Pipeline Association (CEPA)</p>	<p>Abandonment</p>	<p>Draft Guide:</p> <p>“[Expected Action] 6. Full Remediation will be required pending removal of infrastructure in order to receive site closure.”</p> <p>Comment:</p> <p>Clarity required regarding expected actions in the event that the intent is to abandon in place and removal of infrastructure does not occur.</p>	<p>It is the CER’s requirement that <i>all above ground</i> infrastructure will be removed upon abandonment. It is expected that Remediation will be carried out along the full extent of the RoW. The presence of Contamination, and accessibility, should be described in the application to abandon and should factor into the decision of whether buried infrastructure will be removed or abandoned in place.</p>
<p>54. Anonymous</p>	<p>Notification and engagement</p>	<p>Notification needs to be tied to the applicable land registry office or system, to ensure that notification is provided to</p>	<p>The CER recognizes the need to collect better geospatial information on Contamination that is reported to the CER. Currently, geospatial information is included in the Remedial Action Plans and Closure Reports that are assessed by the CER Environmental Analyst.</p>

Commenter	Section	Comment	CER response
		<p>everyone with a registered interest in the affected parcels.</p> <p><i>This is an abbreviated version of the comment.</i></p>	
55. Anonymous	General	<p>Generally, I find this guideline well placed and at the appropriate level of detail. I am a bit concerned, however, that I have not found any additional information to show that the memorandum of understanding between the National Energy Board and the then Alberta Energy and Utilities Board (1995) has not been updated.</p> <p><i>This is an abbreviated version of the comment.</i></p>	The CER recognizes the importance of renewed collaboration with the provinces in this area of shared jurisdiction.