KPMG

cutting through complexity

PS 3260 Liability for contaminated sites

Top ten things to think about

July, 2013

Today's agenda

1. Introductions
2. Potential impact of implementation of PS 3260 "Liability for Contaminated Sites"
3. Top 10 actions to take now
4. How we can help?
5. Questions

Action 1:

Understand the basics of PS 3260

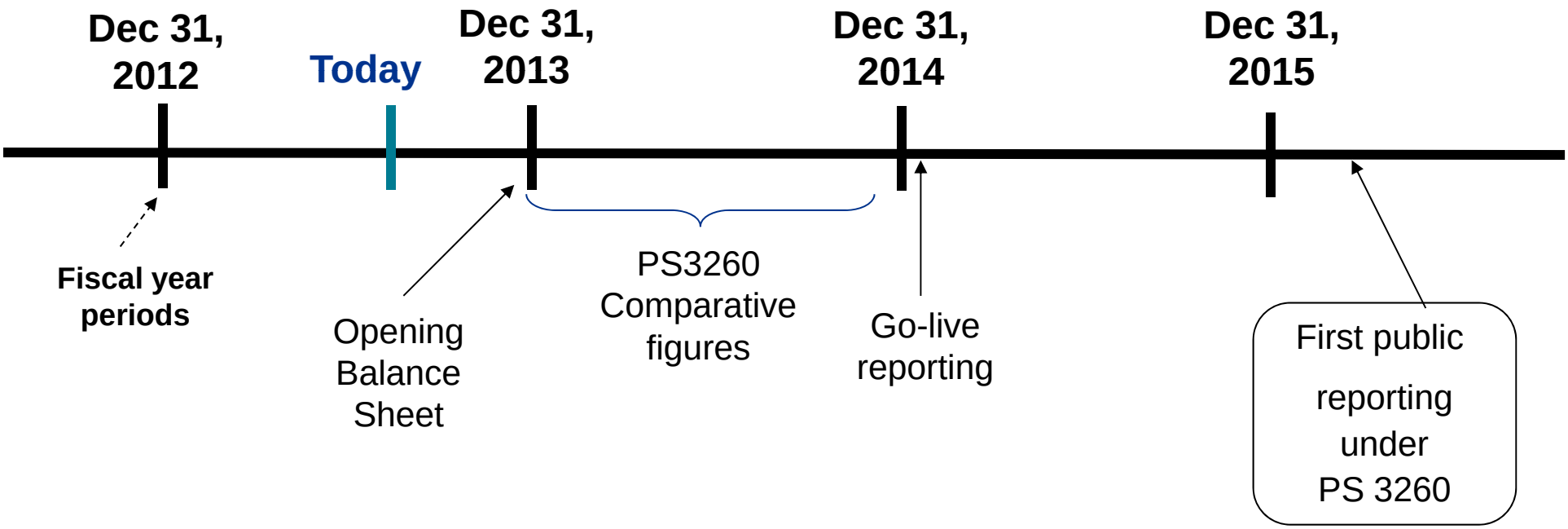
Basics of the standard – who is affected

- Wide reaching:
  - Applies to all governments and government organizations who apply CICA Public Sector Accounting Handbook.
  - Will impact governments, and also universities, school boards, and hospitals reporting under the PSA standards.
- PS3260 provides guidance on applying the existing definitions of a liability in the PSA Handbook.
- It does not redefining the definitions and principles specified in FINANCIAL STATEMENT CONCEPTS, Section PS 1000, and the general recognition and disclosure standards in LIABILITIES, Section PS 3200.

Basics of the standard - timeline

Adoption date

- **Periods beginning on or after April 1, 2014. For the City, this would be the fiscal year beginning January 1, 2015. Early adoption is encouraged**



Year end 2015 may feel like a long time away but … it's closer than you think!

Basics of the standard – defines contamination

For the purposes of PS3260;

- Contamination is the introduction into air, soil, water or sediment of a chemical, organic or radioactive material or live organism that exceeds an environmental standard.
- A contaminated site is a site at which substances occur in concentrations that exceed the maximum acceptable amounts under an environmental standard.
- A contaminated site does not include airborne contamination or contaminants in the earth's atmosphere unless such contaminants have been introduced into soil, water bodies or sediment.

Therefore it is NOT

- costs for betterments of capital assets, or post remediation fair value; asset retirement obligations; or liabilities for closure and post-closure care of a solid waste landfill site

Basics of the standard - recognition

Recognition Criteria – all the following must apply;

1. An environmental standard exists
2. Contamination exceeds the environmental standards
3. The government is directly responsible or accepts responsibility
4. It is expected that future economic benefits will be given up
5. Reasonable estimate of the amount can be made

Basics of the standard – future economic benefit and uncertainties

- Liability is created only if loss in future economic benefit is “expected”
  - “Expected”: Reasonably anticipated based on available evidence and logic
- No liability if loss in future economic benefit is not expected
  - May require disclosure as contingent liability under PS 3300
- When there is uncertainty about whether or not government has responsibility
- Treated as a contingent liability

Basics of the standard – accepting responsibility

Direct

- By past government activities
- Activities on government-owned land and the responsible party lacks the means to remediate
- Legal obligations to remediate set by contracts and legislations

Accepting responsibility

- Constructive obligations may create liabilities based on interpretation
- Internal and external policies and past practice may establish expectation
- Whether government has discretion to alter policies

➢ **Have you created valid expectation to remediate sites? This may include**;

- Government committed to remediation plan
- Identified location of contamination
- Communication to those affected by contamination
- Contamination reduction target and time frame identified
- Evidence that expectation can be relied on

Basics of the standard – measurement

Liability includes ‘best’ estimate (i.e. payment to settle or extinguish the liability):

Estimation on information available at financial statement date

- Directly attributable costs (ie. payroll, benefits, legal etc.)
- Estimated costs of bringing site back to current minimum standards
- Integral cost involving
  - post-remediation operations,
  - maintenance and
  - monitoring
- Assets acquired to be used completely for remediation purposes are expensed over the life of the liability, assets acquired to be used partially for this purpose are expensed for portions use

Action 2:

Raise awareness throughout your organization

Action – *2*

Raise awareness throughout your organization

Mobilize organization for the requirements of the standard

- Alert senior management to the potential effect on reported financial results and business operations
- Engage all relevant functions in the business – Property, Operations, Procurement, Legal,
- Identify and involve the right people – core team, extended resources, project manager, steering group – and ensure they will be available
- Secure senior management's support – *essential early*

Action 3:

Establish a formal project plan

Action – 3
Establish a formal project plan

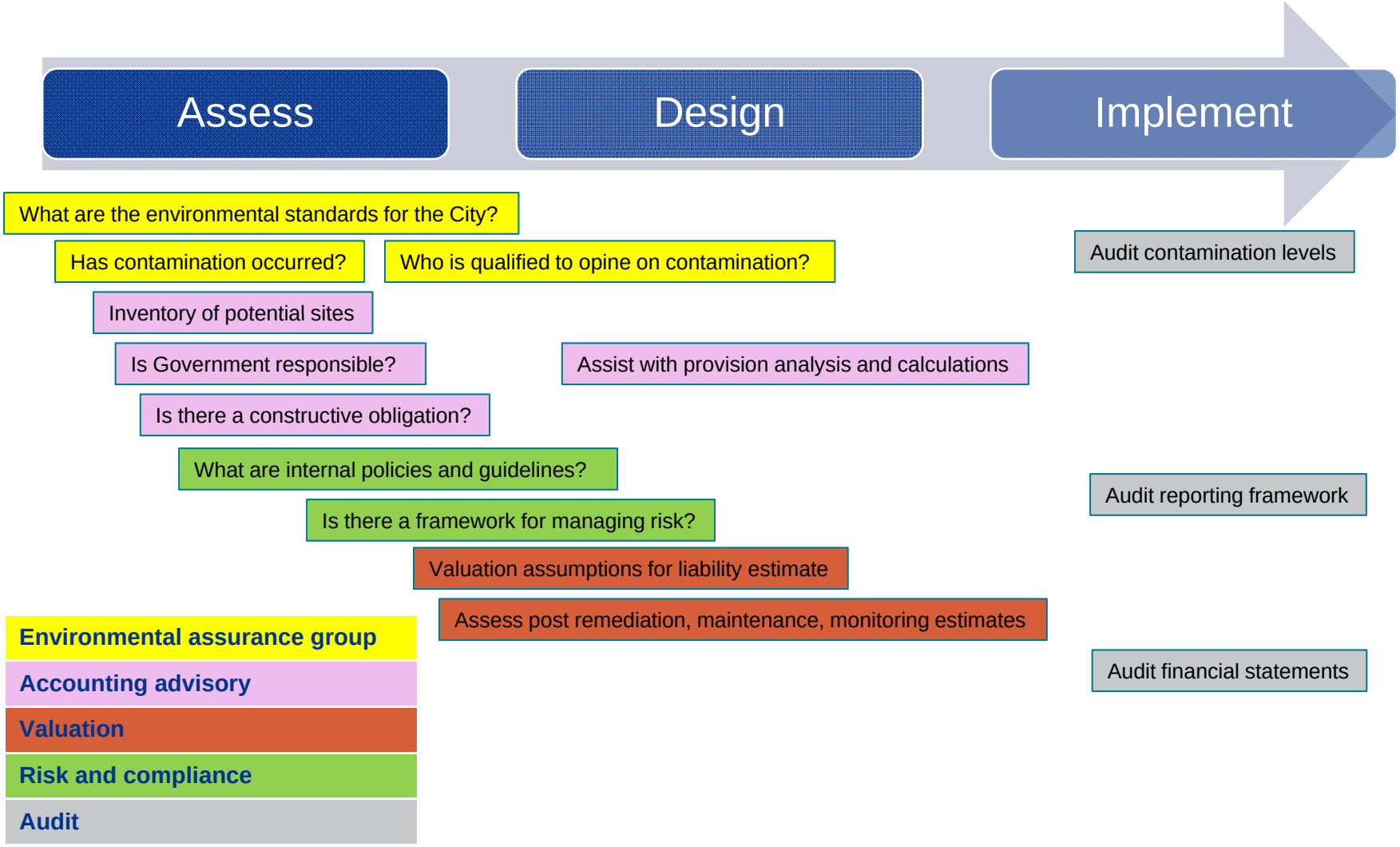
Assess impact and plan for standard implementation

- Identify inventory of all sites in the organization – not just those potentially contaminated
- Understand process of staged review from all sites to key risk sites
- Do a "gap analysis"– accounting policies, procedures
- Understand management approach to risk and risk framework
- Agree on timelines and determine priorities
- Evaluate reporting requirements
- Evaluate information and disclosure requirements & any demand on IT system
- Develop master conversion plan and resource requirements
- Conduct training needs assessment

Project planning and governance

- Dedicated project management is a critical success factor for your project
- Ensure the plan is realistic in terms of timescales and specific accountabilities for all tasks – allow for slippage
- Revisit the plan regularly …or else it will quickly become redundant
- Most significant challenge will be managing a virtual team over an extended time-period and maintaining the momentum of the project
- If you start doing work on contamination assessments without a clearly defined plan and approach – you run the risk of missing key aspects of what project should cover
- Get this project ‘RIGHT FIRST TIME’

Plan in overview



Action 4:

‘Policy before action’

Policy before action

- Get this project ‘RIGHT THE FIRST TIME’

- Policies over critical issues for contamination;
  - ‘Gold-standard’ or a minimalist approach to remediation?
  - Accepting responsibility of others on your lands?
  - Judgement of how ‘likely’ the provision is?
  - Risk analysis management policy?
  - Sustainability - how often is this updated?
  - Costs of remediation – policy for assets acquired?

- Document policies – the auditor needs them!

Action 5:

Risk - Develop an approach

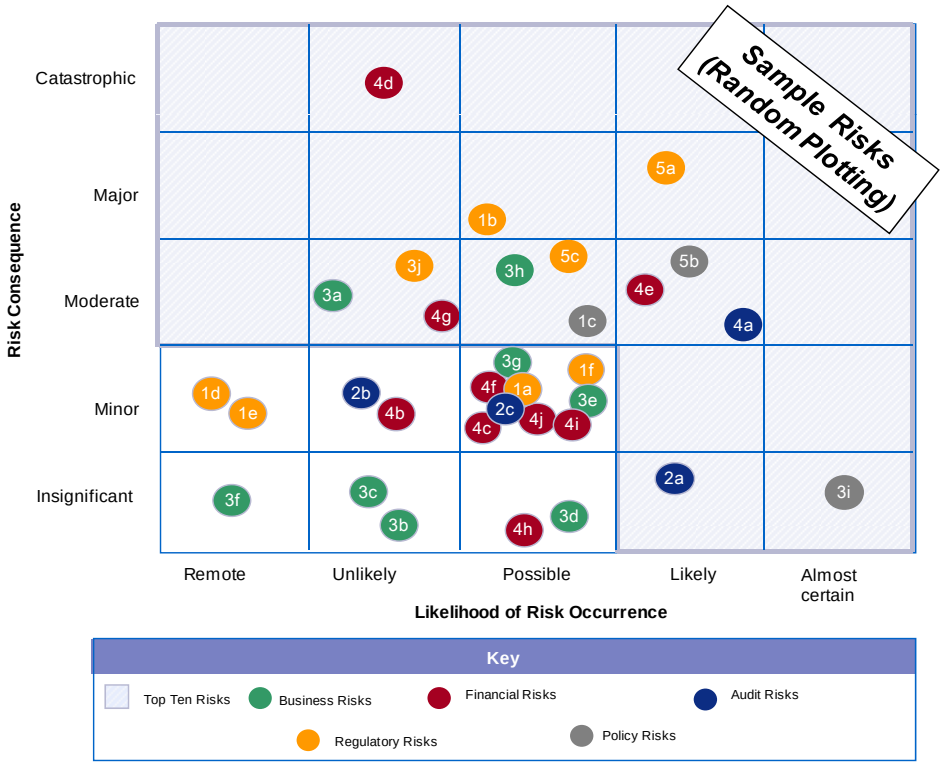
Approach to risk for PS 3260

Risk approach is key - Potentially the crux of the project.

- As you inventory (potentially) many sites - framework needed of how you classify and account for risk which may drive the estimates for remediation.
- We need to understand what that means for you and how we document the approach to risk.
- What property contamination we have, what it's going to take to fix it and when
  - E.g. at a basic level risk categories include: cheap and now, cheap and in the future, expensive and now, expensive but able to be put off in the future etc).
- We need a framework of risk to benchmark against each site. How do we do this, who does it, what are the parameters, how often do you update it, and how do you measure progress over time as you rectify each site.
- Effective documentation for our audit also to consider.

Risk matrix – one approach

- Allows risks to be ranked using criteria (e.g. impact, probability of occurrence and control effectiveness).
- Risk assessment reflect assessment phase, combined with the contaminated site and industry experience and content. Typically, this takes the form of a ‘risk-grid’, an example of which is illustrated in Figure R3.3.
- Allows progress over time to be mapped and communicated easily



#	Potential Top 10 Risks
1	4d Incomplete or inaccurate remedial investigation/site characterization leading to Catastrophic Failure
2	4e Failure to adequately budget necessary resources to complete remediation plan to closure
3	5a Failure to meet required cleanup levels to bring sites to closure
4	5b Low or No acceptance of remediation plan by aboriginal communities
5	5c Incomplete or inaccurate feasibility assessment of remediation options
6	1c Failure to detect material error, omission, or misrepresentation in project reports
7	3j Failure to adequately engage aboriginal communities and related stakeholders
8	3h Remediation interferes with existing business operations
9	3a Exposure to litigation related to services offered (Business)
10	4g Adverse changes in regulations that significantly increase costs.

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Action 6:

Recognition – Inventory your Environmental standards

Recognition - Environmental standards

Environmental standards:

- Legally binding and enforceable regulations come in different forms
  - statute,
  - by-law,
  - order,
  - permit,
  - contract or agreement
- In force now (not proposed)
- Quantitative legal standards – stipulates acceptable levels of contamination
- Qualitative legal standards – prohibition of environmental impacts, will be judgmental
- Internal government policies and external industry guidelines – voluntary compliance may create a liability

Recognition - Environmental standards

Steps needed:

- Make an inventory of the rules you will be judged by.
- Make certain you have the skill-set to know all the applicable rules
- Determine whether an environmental engineer be brought in to document the rules
- Determine applicable quantitative & qualitative restrictions to ensure compliance
- Determine which internal policies and guidelines would require a liability to be recorded
- Document this all

Action 7:

Define site analysis approach - Inventory your sites

Recognition - Environmental standards

Steps needed:

- Make an inventory of all sites – not just those you know are contaminated
- Staged approach to site review
- Initial site assessments should act as a filter
- Use of environmental assessment checklists will be part (but not all) of this
- Drive to site specific reviews
- Understand when to bring in specialists for site specific reviews
- Define the measurement approach – how do we turn issues into liabilities?
- Document this all

Action 8:

Recognition – measurement of contamination

Recognition - Contamination

- Contamination must exceed environmental standard to create a liability
- If uncertainty about existence of contamination, recognize liability based on probability of contamination being confirmed in the future.
- If probability is ‘likely’ then recognize if reasonably estimated
- Helpful hints per PS3260.15
  “Necessary to review all historical information including;
  - Nature of past activities
  - Location, hydrology and geology
  - Results from testing and field investigations
  - Experience at other sites
  - Significance of sites”

Recognition - Contamination

Steps needed:

- Decide whether you have the skill-set to undertake to research and/or testing
- Determine whether an environmental engineer is brought in to either research or test or both
- Determine applicable quantitative & qualitative restrictions to ensure compliance
- Understand standards and develop strategies to ensure compliance
- Assess the uncertainty and probability of confirmation

Action 9:

Develop a strategy for environmental specialists

Role of environmental specialist

- Strategic role of the environmental specialist must be acknowledged
- Timing of external help – regular and often or in site-specific only issues?
- Benefits of professional opinions weigh against external help through a long-term project with associated costs

Action 10:

Develop a strategy for your auditor

Auditor involvement

- Explicit acknowledgement on the part of the reporting entity for frequent auditor involvement
- Audit involvement should be an integral part of the project governance process
- Clear specification is made of what is to be expected and when for all key deliverables, including timely Public Sector technical partner involvement

Overview:

Top ten issues for your PS3260 Project Plan

	Key Issues
1.	Understand the basics behind the standard
2.	Raise awareness
3.	Project plan
4.	Policy before action
5.	Risk
6.	Inventory of regulations
7.	Define site analysis approach - inventory of all sites needed
8.	Define measurement approach
9.	Role of environmental engineer
10.	Role of auditor
11.	***…..get started!***

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