

**Terms of Reference
Minister's Advisory Panel
To Review
British Columbia's Waste Management Act (Part4)
and the Contaminated Sites Regulation (BC Reg. 375/96)**

Purpose:

The purpose of the Minister's Advisory Panel on Contaminated Sites is, under the direction of the Minister, to:

- 1) Conduct a review of the existing contaminated sites regime to consider but not be limited to:
 - Joint and several, absolute and retroactive liability; including a funding mechanism for government liability associated with contaminated sites
 - Government's service plan objective to limit direct government administration and oversight to high risk sites and the implications on private sector professional accountability, liability and insurability
 - Funding mechanisms, other than general revenue, to sustain Government's role in contaminated sites administration effective 2004-5.
 - Best practices in other jurisdictions
 - Mechanisms that will ensure standards are being met
 - Process for setting standards and whether those standards are fair, consistent and harmonious with other jurisdictions
- 2) Report on consultation findings; and
- 3) Provide recommendations on how the regime can be improved to address the concerns listed below and align with future government direction.

Panel recommendations will be used in their entirety, or in part, to:

- 1) Develop a new policy framework for the regulation of contaminated sites in British Columbia; and
- 2) To inform subsequent legislative changes required for the Spring 2003 sitting of the legislature.

Background:

Part 4 of the Waste Management Act and the Contaminated Sites Regulation (BC Reg. 375/96) came into force on April 1st 1997. The legislation was developed to address liability concerns raised by municipalities, land owners, developers and lending institutions. It was also intended that the legislation would provide uniform requirements for site investigations and remediation as the means to ensure that environment and human health would be adequately protected.

Problem:

There is concern expressed by some stakeholders that:

- The existing contaminated sites management model is:
 - Unnecessarily cumbersome, expensive and bureaucratic,
 - Overly prescriptive and stringent in application, and
 - Plagued by lengthy approval processes that must be completed before clean up and redevelopment of property can occur.
- Money is being spent unnecessarily on administrative proceedings, legal and consultant costs rather than on actually cleaning up contaminated sites.
- An excessive amount of time and resources are being spent on lawsuits and administrative proceedings to determine responsibility.
- The principle of absolute, retroactive, joint and several liability included in the legislation may lack fairness and has resulted in investors being fearful of investing in, or redeveloping contaminated land in British Columbia leading to the creation of numerous unproductive “brownfield” sites.

Future Government Direction:

The Ministry’s service plan directs the ministry to implement strategic shifts and changes to business methods that will: “reduce government costs, reduce the costs of those that must meet environmental standards, reduce conflict and litigation, eliminate service backlogs and focus efforts in areas where there is the greatest risk to the environment”

In accordance with this service plan, by fiscal year 2004-05, the Government is committed to the creation of an administratively effective and efficient contaminated sites regime that is performance based, less time consuming and reduces direct Government administration and oversight to only those sites that pose a high risk to the environment and human health.

Panel Members:

The Minister will appoint a four person panel, including one ministry staff person, of respected experts who are well qualified to advise the Minister on the legal, technical, business, financial and public policy aspects of contaminated sites administration.

Consultation:

The advisory panel review process will incorporate focused consultation with key stakeholders.

- In addition to receiving written submissions from key stakeholders, the advisory panel is encouraged to meet with as broad a range of stakeholders as their time and mandate allows. Their final report will document the comments and recommendations received by the panel.
- The panel will maintain close communication with the Ministry by means of bi-weekly updates and the Ministry will provide a point person to provide a single window contact for the Ministry. The point person will ensure that panel updates are reviewed by the appropriate government agencies to ensure the panel is provided with value added feedback. The existing Ministry contaminated sites review team will provide the panel with a package of all work completed to date and will meet with the panel to ensure a complete transfer of information occurs.
- The panel is encouraged to consult directly with other Ministries that have a direct interest in the contaminated sites review.

Key Timelines & Deliverables:

May 31 st 2002	Work plan submitted to WLAP
June 14 th 2002	First of ongoing bi-weekly status updates to WLAP
September 3 rd 2002	Final report including recommendations