



**Land Remediation Intentions  
Paper Consultation**

**IDENTIFICATION OF  
CONTAMINATED SITES**

**Summary of Public Comments**

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## Review of British Columbia’s Site Remediation Legal Regime

### INTENTIONS PAPER – IDENTIFICATION OF CONTAMINATED SITES

#### SUMMARY OF PUBLIC COMMENTS

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## 1 Introduction

The B.C. Ministry of Environment (the ministry) plans to update some aspects of British Columbia's contaminated sites legal regime, including the mechanism for identifying contaminated sites (presently called the site profile process).

See the [ministry's site remediation website](#) for further information on the current site profile process.

This report provides a summary of comments received as part of the consultation process regarding the mechanism for identifying contaminated sites. The ministry will take into account the opinions expressed in this report as it considers revisions to the mechanism for identifying contaminated sites in B.C.

This document has been prepared for the Ministry of Environment by Margaret Shaw, Writer/Editor/Consultant, contracted by the ministry to independently receive, compile and review comment on the ministry's review of the legal regime related to identifying contaminated sites.

### 1.1 Background to the consultation process

#### 1.1.1 Discussion paper – 2014 to 2015

The Land Remediation Section of the Ministry of Environment posted a discussion paper, *Discussion Paper Series: [Site Profile Process – Identification of Potentially Contaminated Sites](#)*, on the ministry's land remediation website for public review and comment from October 7, 2014, to February 2, 2015. The discussion paper presented background information, concerns with the existing process for identifying contaminated sites, ministry priorities and objectives and options for amending the process for identifying potentially contaminated sites. A separate response form for providing comments or suggestions to the ministry was also posted on the website.

The ministry hosted webinars on October 15, 2014, and January 14, 2015, to inform and update interested stakeholders on the consultation process. Also, face-to-face meetings that included ministry presentations and questions from participants were held in Victoria, Vancouver and Kelowna in October and November 2014. In total, these events involved close to 100 participants.

All written responses received through the consultation process were compiled into two documents, both prepared by C. Rankin & Associates, contracted by the ministry to independently receive, compile and review comments on the ministry's discussion paper:

- *Land Remediation Discussion Paper Consultation: Identification of Potentially Contaminated Sites – Site Profile Process: Compilation of Public Comments*
- *Land Remediation Discussion Paper Consultation: Identification of Potentially Contaminated Sites – Site Profile Process: Summary of Public Comments*

These reports were provided to the ministry for detailed review and consideration.

### **1.1.2 Intentions paper – 2015 to 2016**

All comments submitted through the discussion paper process were carefully reviewed by the ministry, who then drafted an intentions paper, [\*Intentions Paper Series: Identification of Contaminated Sites\*](#), dated June 2016. The intentions paper was posted for public review and comment on the ministry's land remediation website from July 6, 2016, to August 31, 2016. The intentions paper presented background information, concerns with current site profile provisions, ministry objectives and priorities, a review of other jurisdictions, proposed changes to the process for identifying contaminated sites, compliance and enforcement, and education and training.

The ministry hosted two webinars on June 15, 2016, to explain the intentions paper and answer questions. One was for all interested parties and one specifically for local government. In total, these two webinars involved close to 100 participants.

## **1.2 Contents and format of this *Summary of Public Comments* document**

This document summarizes the comments received through the 2015–2016 consultation process. It first summarizes overall comments and then is arranged in order of the five questions posed by the ministry.

The contents of this report were drawn from individual responses received from the public. The individual responses have been transferred to the ministry.

### **1.2.1 Description of responses received**

38 responses to the intentions paper were received and have been recorded for this summary of comments. The vast majority of respondents were from regional and local governments. Others were from the resource development and delivery sector, the land development or redevelopment sector, those providing professional services to private companies or government, a public sector organization, and a professional association.

## 2 Respondent Comments

### 2.1 Comments on the overall proposed process

A dozen respondents commented on the overall process. Of these, half made statements in favour of the changes, and the other half expressed only concerns.

#### Generally in favour of the proposed process

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Six respondents made clear statements in favour of the proposed process, including one who cited its simplicity and efficiency and another who lauded the Ministry's goal of only identifying sites being redeveloped for a new use. Nevertheless, some of these respondents also voiced concerns about capturing the appropriate sites and about the need for training.

#### **Sample of positive respondent comments:**

"Proposed process appears to be simpler and more efficient, easier to understand and follow, and will save time when dealing with local government approvals."

"We believe [the proposed changes] will cost effectively speed up the current process to identify and remediate contaminated sites, while at the same time protecting British Columbia's environment. In fact, it may encourage more redevelopment of these sites..."

"[Local government] agrees that the proposed endpoints (final building inspection or occupancy permit) offer flexibility for proponents to conduct the site remediation and redevelopment concurrently. It would be beneficial if the Ministry considered a process to ensure CSAP sign off on the PSI, DSI and the confirmation of remediation reports upon their completion."

"It seems to make sense to consider easier releases of Local Government approvals through the rezoning process, and perhaps a staged or key milestone approach to other development triggers. In this way, remediation might happen in stages to spread the cost and risk throughout the development process rather than back end loading potentially unknown costs on to a development process."

#### **Sample of respondent concerns:**

"We appreciate and support the process improvements that are proposed, but not the changes to triggering activities or applications."

"If the criteria for preliminary site investigation (PSI) or detailed site investigation (DSI) is too broad, there may be too many sites that need to go through an unnecessarily expensive and lengthy process."

"In cases where it is reasonable, the Director should be able to override the proposed hardwired process."

### Concerns about the proposed changes

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Several respondents, particularly local governments, expressed only concerns about the overall proposed process, including the following:

- downloading too much responsibility or administrative burden to municipalities
- providing insufficient ministry oversight
- capturing too many sites
- removing the ability to opt out
- lack of consultation with Local Governments, UBCM, and professional organizations

#### **Sample of respondent comments:**

“Fundamentally, there is no-one else in the province with the regulatory authority and constitutional responsibility to oversee the protection for the environment and human health from the risks of contamination than the Ministry of Environment. Although resource limitations at the Ministry are recognized, making a reduction of oversight a stated priority of a regulatory change is not in the interest of local government, and does not increase confidence that the environment is being protected.”

“[Local government] suggests that changing the process to require municipalities to review and evaluate more information will result in a divergence in the policies and procedures across the province. [This variation] will likely slow the approval processes for development....”

“The proposal casts the net too widely, and the implications for those who are caught within this net may be needlessly severe and disruptive.”

## 2.2 Question 1: Historical searches

***Question 1: Section 5.1.1 – What is your opinion of the proposed list of historical searches that must be performed prior to completing a Site Identification form? What amendments, if any, do you believe are needed?***

The vast majority of respondents who answered this question (14 of 17) stated that the proposed list of historical searches was problematic. Concerns about the need for technical expertise and the risk of legal liability to the municipality were raised by several respondents. A minority stated that they were in favour of the proposed list of historical searches.

### Generally in favour of the proposed list of historical searches

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Three respondents stated that they were in favour of the proposed historical searches, of whom some added that detailed guidance, and proof of completion, would be required.

#### **Sample of respondent comments:**

“These seem reasonable. It is recommended that detailed guidance is provided, as some of the sources of information (i.e., city directories, spill records) may not be well known to site owners...”

“We believe the list of searches to be adequate, if they are all completed. There is concern regarding proof of completing the searches. We do not believe a signed declaration is adequate proof that they have been completed.”

“Simplifying the Site ID form to include only site identification and Schedule 2 activity information is an improvement.”

### Against the proposed changes

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Respondents' stated concerns included the following, variations of which were presented by several or many different respondents:

- Historical searches require technical expertise. It is not reasonable to expect proponents to do the searches without help from a consultant, and non-technical people may miss important information.
  - The availability and quality of information is variable; standardizing and meeting the requirements will be difficult.
  - Applications will be handed in with information missing, and this will cause delays and confusion for front-line staff.
  - Detailed guidance would be needed for proponents to follow.
  - An audit process will be necessary.
- The proposed process will impose an additional administrative burden and an additional risk of liability on local governments. Applications will be delayed weeks while municipalities review background information.
- Municipalities could be liable if they approve applications that are missing information or if they release personal information outside the Freedom of Information process. Minimizing this liability could add delays and administrative burden.
- The archival documents would be of no consequence if the site identification form identified that the site had had a Schedule 2 use.
- The discrepancy between this list and the Stage 1 report requirements may result in a move toward watered-down Stage 1 reports.



**Sample respondent comments:**

“Ministry support for municipalities, including training and detailed guidance, will be very important.

“[Municipality] would be negligent if they did not retain an Approved Professional to interpret the data and provide a ruling that says a site need not be investigated further.”

“Significant effort will be required to prove that the information is not available and judgment on the part of the municipality is required to be able to make a decision on the basis of the partial information at hand.”

“The data list presented falls short of established standards that would provide adequate site history for industrial and commercial areas in developed regions.”

“Requiring less information from the applicant in combination with less review by the Ministry is a weakening of oversight.”

“We do not believe these requests from land owners can be done informally [without Freedom of Information requests], which has been suggested by the province, if we are to protect the personal information of residents contained within our files.”

**Additional suggestions and questions about the details of conducting historical information searches**

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Eight respondents offered various additional comments, suggestions, and occasional questions related to the advantages and details of conducting historical information searches, including the following:

- Completion of site history information by a proponent is sometimes the most efficient means that local governments have for completing a property record.
- If a site has gone through an historical review, future proponents should be able to focus on what occurred on the site since the previous review.
- Clarification is needed regarding the level of detail needed for the site history review.

**Sample comments:**

“The list of Schedule 2 activities initiating the requirement for site assessment/remediation should be listed on the Site ID form as a table of checkboxes for the proponent to specify.”

“Regional Districts were not created until the 1960’s and many did not have building inspection until the 1970’s. The site profile therefore may have provided critical information on historic land use that local government staff may not otherwise have ability to identify, such as historic mine sites, log sort areas, service stations, etc.”

“We support the Schedule 1 questions about site uses being removed although further discussions on the extent of the proposed review are needed.”

## 2.3 Question 2: Trigger activities

*Question 2: Table 1 and Section 5.2 – What comments or concerns do you have regarding the changes to the trigger activities (for example, removal of demolition and addition of building permit)?*

Many detailed comments were received about the changes to the trigger activities, a majority of which expressed concern. A minority of respondents stated that they were in favour of the proposed changes.

### *In favour of the proposed changes to trigger activities*

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Seven respondents made statements in favour of the proposed changes to trigger activities. One or more respondents specifically supported each of the following:

- retention of site decommissioning and foreclosure
- retention of zoning, development, or development variance permit
- removal of subdivision, demolition, and soil removal
- addition of building permit

#### **Sample comments:**

“The changes to the triggers makes sense, especially for demolition, soil removal, and rezoning. In practice, the release of these permits was essentially a paper pushing exercise. Good job on removing this level of red tape.”

“[Respondent] generally agrees with adding a trigger tied to applications for building permit to local governments.”

### *Most commonly stated concerns: Removing subdivision and adding building permits*

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The majority of respondents (more than 20) expressed concern about the changes to the triggers. Most of the stated concerns were about removing subdivision as a trigger and adding building permits. These concerns were expressed mainly by local governments (who also constituted the majority of the respondents) and included the following:

- Subdivision, soil removal and demolition are very often related to development, and contaminated soil is commonly identified during these three activities. Removing these triggers seems to run counter to the goal of remediating sites prior to land development.
- Subdividing lots without triggering site identification could lead to a greater number of sites and a loss of information regarding contamination:

- Because each subdivided property will need to be addressed, the number of sites requiring investigation and remediation will increase, and more parties will be involved.
- The contaminated portion of a site may be left undeveloped while the uncontaminated sites are developed. This may present a risk to local government where heavily contaminated orphan sites may revert to local government if taxes are unpaid. Similarly, lots subdivided from a larger contaminated property may get lost and not caught in future site identification processes.
- On a now-subdivided parcel, contamination may have migrated from offsite, but the site use for the present parcel will not flag this.
- The use of building permits could over-capture or under-capture sites, be difficult to enforce, compromise public safety, add costs, and increase the burden on local government:
  - Over-capture: The number of building permits that a local government issues is very large compared with other permits (rezoning, subdivision, and development), so the number of “triggering” permits will increase substantially unless exemptions are made for minor alterations.
  - Under-capture: In rural areas, land is commonly subdivided and used without subsequent development; such properties do not require a building permit or development permit, so the trigger for identifying contamination will be lost. The same is true for some public (transportation-related) lands.
  - Under-capture: Some local governments do not have zoning and/or building permits, so there would be no trigger for new lots. Some may not use the term “building permit” or “occupancy permit.”
  - Enforcement/difficulty: Allowing building permits to be issued delays the assurance of public safety prior to commencing redevelopment, and a substantially completed development/ building could be very difficult and costly to remediate.
  - Enforcement/burden: If an owner or developer has not completed site remediation and an occupancy permit or building permit cannot be issued, enforcement and follow up on the status of remediation will now seemingly rest with the local government where it did not before.
  - Burden: In areas with widespread contamination across numerous properties, for example from historical industrial use, for each and every building permit application, a site identification and subsequent investigation would be required. This would place a considerable burden on the building department for tracking compliance.
- Adding building permits as a trigger could cause delays to the proponent.

***Sample comments about removing subdivision and adding building permits:***

“Clarity of the goals of initial screening for contaminated sites is required, such that the Ministry can work with local governments to determine what permits or other activities are best to trigger screening to achieve those goals. Further consultation with local governments is required.”

“Lifting the freeze on local applications removes local government decision-making power, which may not be consistent with local government powers afforded by the Local Government Act.”

“Tying an assessment of the site to a building permit may not address immediate needs, especially in circumstances where development may not be planned for a period of time, yet the site having the potential of being contaminated.”

“Removing subdivision as a trigger for submission of a site identification form is of concern to the [local government] as we often receive dedicated lands through subdivision and we require the land to have a MOE Instrument.”

“Allowing proponents to continue with development approvals concurrent to completion of site investigation and remediation requirements may result in land development processes that have incurred enormous cost to the local government and the proponent while not addressing the issue of contamination and result in such developments having to be revised or refused on such grounds. If such an instance was to occur, this would be at a cost to the public, local government and proponent in potential litigation.”

**Other concerns about the proposed changes to trigger activities**

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A small number of respondents expressed one or more of the following concerns about other aspects of the proposed changes to trigger activities. Some of these concerns were expressed by several respondents:

- Triggers need to be at the start of the development process because the remediation requirement can have an impact on the viability of a development. Thus, soil removal and demolition should be kept as triggers, along with subdivision.
- Site identification should be required only when rezoning from commercial/industrial to more sensitive uses, such as residential or park.
- Development variance permits should be removed as a trigger because the Local Government Act prohibits the variance of use or density of land by such permits.
- Soil removal and demolition should be retained as triggers to prevent contaminated soil being moved to multiple sites and/or onto agricultural land and to protect workers and the public.
- Local governments should have the authority to require site identification.

- The proposed changes could make it more difficult to resolve site issues.

**Sample comments:**

“We do not support the removal of soil removal/deposit as a trigger because of the risk associated with contaminated soils being distributed to multiple sites. Our concern here is contamination that pre-dates or is not documented in the site registry could be taken offsite and be improperly deposited elsewhere.”

“Adding building permit for a trigger makes sense, but not removing the other triggers. What if a use does not require a building (e.g., storage or composting facility)?”

**Additional queries and comments about the details of the proposed changes to trigger activities**

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Respondents provided many additional observations and asked many questions about the details of the proposed changes to triggers. Examples of the kinds of details asked about are as follows:

- definition/explanation of terms such as *decommissioning*, *development*, and *site investigation*, and clarification of requirements for decommissioning and for oil and gas
- liability under various scenarios
- how the Province would know whether land is contaminated before it is transferred to the Province
- strata considerations and zoning
- responsibilities of approving officers under the Land Title Act
- requirements and procedures for reporting

**Sample comment:**

“What problems, if any, have been created over the past two decades because [respondent] and others did not participate in the process? How will [respondent] benefit from being required to opt into the process?”

## 2.4 Question 3: Activities that should be exempted

**Question 3: Section 5.3 – Please provide examples of activities other than those listed in Section 5.3 that you believe should be exempted from the proposed process.**

About half of the respondents replied to this question, of whom three stated that they had no further suggestions.

**Exemptions.** One strongly supported the proposed exemption for upgrading an existing facility currently used for an activity or purpose listed in Schedule 2, and one supported removing obsolete exemptions and not requiring a site identification form if one is already filed on the Site Registry and accurately reflects current knowledge.

Respondents suggested some **additional exemptions:**

- if zoning changes but the site's Schedule 2 use does not
- for very small operations or if the activity or operations do not conform to the intention of the Schedule 2 list
- for development variance permits

Additional comments about exemptions included the following:

- No exemptions should be granted for properties zoned commercial or industrial, if triggered.
- Resubmitting site identification forms should not be required to for every trigger activity (e.g., rezoning, development permit, building permit).
- Section 4(2) of the Regulation should be retained.
- One respondent asked for clarifying information about sites whose use will not change.

#### **Opting out of the process**

- A few respondents stated that they are in favour or strongly in favour of removing the ability to opt out as a way to standardize requirements across the province. One of these noted the need for training.
- One respondent asked about the inability to opt out, specifically about what is expected of municipalities in terms of staffing, reporting, and file management.
- One stated that the Province should not eliminate the opt-out mechanism for local governments or that, if the ministry does eliminate the provision, the universal requirement for site identification should only apply when changing (rezoning) from commercial/industrial to non-business uses such as residential or public park.

#### ***Sample comments:***

"The proposed changes to the exemptions are appropriate."

"Exemptions from the requirement to submit a site identification form are critical and must be spelled out clearly."

"The same form needs to be used for both identification of Schedule 2 and claiming absence of former Schedule 2 uses on a property."

"Overall the exemption section of the paper is rather unclear and provides little information on the range of proposed exemptions."

“We ask that the Ministry makes sure that this occurs by limiting the ability of municipalities to set their own standards and processes above and beyond Ministry ones. This will ensure that we have one approach in British Columbia and that there are not policy conflicts.”

“Consistent and known redevelopment process is important to our members. To this end, we support the provision ending the opt-out option for local government.”

## 2.5 Question 4: Endpoint for remediation – final building inspection

*Question 4: Table 1, Section 5.4.1 and Section 5.4.2 – What comments or concerns do you have regarding the selected endpoint for remediation for sites being redeveloped (i.e., what do you think of the endpoint being prior to final building inspection)?*

Twenty-six respondents answered this question, most of them in detail. A few stated that they were in favour of the endpoint being final building inspection, while the vast majority stated that they were against this endpoint.

### In favour of final building inspection as an endpoint

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A few respondents stated that they support the choice of endpoint (final building inspection).

#### **Sample comments:**

“I support the remediation endpoint being moved to the final building inspection stage.”

“We strongly support the Ministry proposing that proponents obtain a CoC before the final building inspection and occupancy stage.”

“[Local government] is supportive of this proposed change [no freezing of local government authorizations; remediate before final building inspection or occupancy] as it will provide a clear and more consistent process for permit applicants, and will streamline the process for applicants, the ministry, and local governments.

“The occupancy endpoint seems reasonable if the site is redeveloped for a newer, more stringent land use (industrial to residential).”

### Against final building inspection as an endpoint

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The vast majority of respondents stated that they were against having the endpoint be prior to final building inspection (or occupancy). The reasons stated included the following. Many of these objections were stated by several or many respondents.

#### **Burden on local government**

- Local governments may incur increased risk exposure, legal and financial liability, and administrative costs for ensuring that compliance with remediation

requirements resulting from contaminated site identification are met at the final building inspection or occupancy permit stage of redevelopment.

- Local governments may come under intense political pressure if occupancy is withheld where a developer has not timed things correctly towards the end of a project.
- A greater number of property owners may choose to occupy homes without an occupancy permit or a final inspection, and local government will see increased costs in the enforcement of occupancy permit requirements and/or final inspection requirements.
- If a site has been identified as containing contaminated soil, the local government is not going to be willing to issue a building permit until a Certificate of Compliance (CoC) is issued. Thus, leaving the CoC until building permit inspection is not workable for local governments.
- Some local governments may not use the terms “Final Building Permit” or “Occupancy Permit.”

#### **Risk to the public and to developers**

- Unsophisticated developers or owners may not start the necessary remediation work until very late in the process. Development permits may expire if construction is held up because of remediation efforts, and problems will arise if an occupancy permit cannot be obtained because contamination remains beneath a new building.
- Developers may well proceed with occupancy in spite of not having local government sign-off, given the limited enforcement options that local governments have.
- Without the subdivision trigger, the burden may well pass to the new owner of a new lot. Contaminated land could be subdivided and sold to individual homeowners without them knowing it was contaminated. It is not clear who would be responsible for the remediation costs.
- The final building inspection would be a suitable trigger in addition to the existing triggers (to identify sites that did not require any of the other permits), but not as the only trigger.

#### ***Sample comments:***

“Remediation of sites by developers at the planning stage has been working effectively in the [municipality]. The reasons given for abandoning this approach are not compelling.”

“Without the power to freeze an application, the local government will require identification of a site sooner in the process and will simply deny an application if there is no alternative.”



“Moving the site profile approvals from the rezoning and subdivision phase to the final building/occupancy permit phase is problematic as it puts a great deal of pressure on what is already a pressure-filled phase for local government building officials.”

“Not requiring an instrument until the final steps does open the door for non-sophisticated owners/developers to get very far down the process before doing what needs to be done. I foresee cases where occupancy is held up because the owner has not anywhere near the level required.”

“Triggering remediation at the time of building permit issuance indicates that a proponent has likely already modified or removed potential contaminated soils as part of site preparation with no way of identifying where such soil has been relocated ....”

“Final building inspection and occupancy is too late in the process. It gives the developers the sense that there are no conditions to be met until later; there is too much reliance on expecting environmental consultants to be competent and following due diligence.”

“If the intention is that [the CoC] should only be received before final building inspection then there should be some type of notice on title that would act to flag the site.”

“Staff are of the opinion that leaving the requirement as a condition of building occupancy is too late in the process to hold up development and shows a lack of understanding from the province with respect to the work that local governments do.”

“Local Government will be perceived as the body withholding occupancy or final building inspection even though the holdup will be Ministry of Environment requirements for either a Determination or issuance of a Certificate of Compliance.”

#### Additional questions and comments regarding building inspection as an endpoint

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Some respondents asked questions about, or commented on, the details of the proposed endpoint (building inspection), as follows:

- One respondent asked how the certification at final inspection would occur, how local government staff would be involved, and whether building inspectors would need more training.
- One respondent stated that the inapplicability of using an Approval in Principle as an endpoint would render the AIP obsolete.
- Additional questions and comments were related to topics and concerns including the following: financing, contingencies if timelines are not achievable, offsite migration of contaminants, annual progress reporting, phased development, local government’s responsibility for tracking properties that require ministry instruments, controlled substance use houses (grow ops), and the definition of *occupancy*.

#### **Sample comments:**

“Staff would like clarification from the Ministry regarding local government liability in the situation where a building is occupied without a final building inspection or occupancy permit being issued and the local government is unaware of the occupancy, or is aware but does not take enforcement action.”

“It does add risk to the developer for unforeseen delays related to remediation and administrative timelines related to obtaining a Certificate of Compliance.”

“A flow chart of a few typical development scenarios would be very helpful.”

“The key is that the developer be fully aware (and there is evidence that the government did what is reasonable to make them aware) of the risk that they incur when proceeding to develop without a CoC. Having flexibility to remediate while developing is good, but there will be big pressure when the gears jam at the end of the process with much spent (either in ignorance or trying for forgiveness instead of permission).”

## 2.6 Question 5: Additional comments and suggestions

*Question 5: What additional comments or suggestions do you have regarding our proposed changes to the process for identifying potentially contaminated sites in B.C.?*

Most of the respondents provided at least one additional comment or question, and several provided detailed comments. For the most part, each of the comments or questions was stated by only one or two respondents. Some of the comments and suggestions were as follows:

### Additional concerns

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Respondents stated the following additional concerns regarding the proposed changes to the process for identifying contaminated sites in B.C.:

- Because the comment period was during the summer, affected local governments have not had an opportunity to consult effectively. A request was made to extend the comment period to December 31, 2016.
- Unintended consequences could include the following:
  - There may be an increase in the number of brownfields.
  - Large properties with many buildings could end up with a patchwork of legal instruments for their site.
  - It will be extremely difficult to set up exceptions and limitations that are not overly conservative and cannot not be abused (by individuals finding loopholes).

- **Other:** Concerns were also expressed about the information and education that will be required by municipalities that currently opt out, how to flag residential sites where Schedule 2 activities occur, the need for extra staff or resources to follow up on problem sites, additional costs to a municipality as a result of numerous requests for information, possible delays to allow for risk mitigation (e.g., soil vapour extraction) before occupancy, the risk of over-capturing sites without underground works, the effect of the proposed changes on brownfield development.

***Sample comments and questions:***

“...municipalities will want to have an opportunity to work on these issues and have a meaningful, coordinated response.”

“Why was the proposed Regulation not circulated for comment at the same time as the Intentions Paper?”

***Additional suggestions or statements***

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Respondents made suggestions or statements including the following:

- It is worthwhile evaluating whether a consistent process across the province is appropriate. ...a process that can adjust to best serve different scales of local government may be better.
- It is recommended that consultation be provided before issuing amendments to Schedule 2.
- One respondent offered to help increase awareness of the proposed changes by holding educational seminars.
- **Other:** Suggestions or statements were also made about the review of other jurisdictions, particularly Oregon; Schedule 2, an education portal on the MOE website, having the proposed process reviewed by finance authorities, the contents of Site Identification forms, Site Risk Classification Reports and the requirements associated with them, and the need for education and training.

***Sample comments:***

“[Respondent] supports that the Regulation will state when a PSI is required. We believe this will promote consistency and clarity.”

“The value of the current system is that there is a spot in the process in which somebody on the MOE staff must look at the information provided and either accept or reject it. If the system is truly automatic, then it becomes easier to exploit weaknesses and beat the system. Furthermore, without a human component on the MOE’s side evaluating decisions, there is not an effective way for the MOE to know that people are exploiting loopholes.”

### Questions and requests for details

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Respondents asked numerous questions and made numerous requests for details or government action.

- **Questions were asked or details requested** about properties outside municipal boundaries, flow-through contamination, Approvals in Principle, the format of annual progress reporting, fees payable to local governments under the proposed process, whether the existing process is overly conservative, specific guidelines and public information regarding underground residential heating oil tanks, liability for contamination remaining on properties transferred to the Ministry of Transportation and Infrastructure, local government's role in accepting and managing Site Identification Forms, long-idle sites for which no site profile has been submitted,
- **Requests were made** to expand the definition of Approved Professional to include all qualified professionals, including applied scientists and technologists
- **Requests to comment or to consult with the ministry** were made about the revised Schedule 2 and the proposal that if a Schedule 2 activity has occurred on a site, an investigation will have to occur.

#### ***Sample comments and questions:***

"If a property is not redeveloped or no final building inspection or occupancy permit is required, is this a loophole that could allow sustained existence of a contaminated site[?]"

"Obtaining an instrument can be prohibitively expensive, especially in rural areas. Has this policy change been considered in the context of brownfields?"

"It would be beneficial if the Ministry provided additional information with respect to sites with a Schedule 2 activity operating only on a portion of a large property. In particular, would a site identification form be required if a redevelopment is planned for the non-Schedule 2 activity portion, and would a site investigation be required prior to the redevelopment?"