



Is Ontario Serious About No New Brownfields? Canadian Brownfields 2009

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Outline

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Context

- Ontario is one of the oldest industrial economies in Canada
- Its strong industrial base has been hit hard by the economic downturn and the strong Canadian dollar
- Between 2007 and 2008, manufacturing sales in Ontario decreased by 4.6%¹
- This trend will likely lead to more brownfield sites in Ontario

¹<http://www.statcan.gc.ca/pub/11-621-m/11-621-m2009077-eng.htm>



Context

- Province initiated current approach to managing brownfields with *Brownfields Statute Law Amendment Act (Bill 56)* in 2001
- Introduced some clarity in how contamination is managed on brownfield sites, liability protection, a public registry of Records of Site Condition



Proposed Regulatory Changes

- MOE has proposed reforms and updates to the Record of Site Condition (RSC) Process, including
 - Reformed/Updated RSC process
 - New requirements for Phase I ESAs
 - New requirements for Phase II ESA
 - Changes to Site Condition Standards
 - Site Condition Standards would become more stringent for a number of parameters
 - Three Tiered System
 - Proposed New RSC process
 - Tier 2 Risk Assessment Model and Process



Proposed Regulatory Changes

- Proposed clean-up standards are defensible and based on currently accepted science, but will result in more sites being considered brownfields
- “Expiry dates” are proposed for Phase I and II ESAs
- Risk assessment will become more common as more stringent standards will negatively affect the feasibility of remediation
- The current risk assessment approach is an inefficient, lengthy process with uncertain outcomes
- Tier 2 Model provide some relief for certain parameters, but often only with risk management measures (e.g., capping)
 - Process efficiency is the key – *brownfield development in Ontario will depend on MOE getting process issues right*



What is Ontario Doing to Move to Objective of No New Brownfields?

- The unfortunate answer is not enough
- There is no provincial program designed to prevent properties from becoming brownfield sites
 - e.g., Quebec's *Land Protection and Rehabilitation Regulation*, which requires industries to assess and remediate industrial lands when facilities close
- Ontario's brownfields initiatives are back end loaded (e.g., liability relief and financial incentives after an RSC is filed), and do not provide preventative mechanisms



It's Not All Bad News ...

- Some programs will have spin-off benefits that may help decrease the number of brownfields sites
 - *Toxics Reduction Act* – will require regulated facilities to track and quantify toxics, develop plans to reduce toxics, and make plan summaries available to public
 - *Guidelines for Environmental Protection Measures at Chemical and Waste Storage Facilities* (May 2007) – long overdue update of 1978 document
 - *O.Reg.224/07 Spill Prevention and Contingency Plans* – applies to industries in sectors covered by Municipal Industrial Strategy for Abatement (MISA) (e.g., power, mining, etc.)
 - *Clean Water Act* – designed to protect drinking water supplies. Will require risk management for potential contaminant sources in high risk areas



It's Not All Bad News ...

- Government and industry are working to develop frameworks to address specific situations
 - *Redevelopment Framework for Former Service Stations in the Province of Ontario* – still a back end program
 - *Industry focused Environmental Management Systems, such as the chemical industry's Responsible Care* – provides a commitment to improvement in health, safety and environment performance



Conclusions

- The changing Ontario economy and proposed changes to clean-up standards will increase the number of brownfields sites
- Ontario's brownfields programs are back end loaded, and are not designed to prevent new brownfields sites
- Limited assistance is provided by some other provincial and industry initiatives, but they are not specifically designed to address the issues associated with brownfields
- More work needs to be done to prevent new brownfields



Questions and Discussion