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Environmental law: How to Comply with Manitoba's Amended Law on Contaminated Land

By Sheryl Rosenberg



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Does your company own a site that has been used for manufacturing for a long time? Has there ever been an environmental site assessment? Was the assessment report filed with Manitoba Conservation and Water Stewardship?

Depending on your answers, you likely need to comply with new requirements that came into effect in March of 2014, in the form of amendments to *The Contaminated Sites Remediation Act* and Regulation. Amendments include a new regulatory power to designate hundreds of sites that contain contamination resulting from historic activities (e.g. manufacturing, operation of underground gas storage tanks, small businesses that use chemicals). Moreover, owners impacted by amendments are now required to proactively file existing reports about their sites.

If you're planning a re-financing or sale of the site or business, you should be thinking about the environmental information required for the sale, whether you have it and what new reporting obligations may flow from creating it.

Along with changes to the law, a regulatory agency re-organization has created a centralized contaminated/impacted sites program. A team of specialized, experienced environment officers are reviewing information on roughly 2,800 sites in the "all sites" database and systematically designating certain sites as impacted. Owners of these sites will receive letters requesting they take action. Should you receive such a letter, it's important to understand what is required of you by law, who is responsible for the site investigation and who should be involved in paying for the investigation and/or remediation.

In most cases, there's little to worry about as long as owners understand the legal obligations that apply to them (and to previous site owners) and are prepared to comply with assessments and recommendations. Manitoba's approach is use driven and risk assessment oriented, meaning that the regulator's goal in enforcing the law is to achieve site management based on an understanding of what the site is used for and whether it poses a real risk to human health or safety or to other parts of the environment. It should be reassuring to business owners to know that the regulator has no appetite for forcing companies to undertake invasive remediation activities or to interrupt ongoing operations in the absence of such risks. In fact, remediation options can include the completion of a risk analysis that results in a decision to leave the contaminants in place.

The key to successful legal risk management is to understand your obligations and develop a compliance approach based on addressing genuine environmental concerns. Should you require assistance in understanding, responding to or complying with these new requirements, call Sheryl Rosenberg at Thompson Dorfman Sweatman LLP to learn more.

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Sheryl Rosenberg is a partner in TDS practicing primarily in the area of environmental law. She provides clients with advice concerning environmental approvals and licensing, mining and mine rehabilitation, natural resource development, regulatory compliance, contaminated sites and litigation of environmental matters.