



**Engaging on a new
Contaminants Regulation
What We Heard**

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Background

The Government of Yukon is working to modernize the contaminants regime to better protect the environment and human health. The Government of Yukon is proposing to repeal and replace the existing *Contaminated Sites Regulation* and *Spills Regulation* with a new *Contaminants Regulation* to unify the Yukon's approach to contaminated sites and spills into one regulatory regime.

From August 6 to September 30, 2024, the Government of Yukon conducted targeted engagement with Yukon First Nations governments and impacted stakeholders on the government's proposed new *Contaminants Regulation*.

The engagement followed previously held engagements with the broader Yukon public, industry stakeholders and Yukon First Nations in 2018. It provided an opportunity to re-engage on key topics and provide information on the direction of the new regulation.

This report summarizes feedback and comments we heard from Yukon First Nations governments and key stakeholders on the proposed new regulation during the government's 2024 engagement period.

Engagement process

We reached out to 172 representatives from 80 organizations seeking feedback and participation on the proposed updates to the contaminated sites regulatory regime. Participants included industry representatives, Yukon First Nations governments, Yukon government officials, municipalities, conservation societies and other groups. The engagement resulted in:

- written feedback from 14 participants on issues outlined in a discussion document that was posted on Yukon.ca and shared directly with stakeholders and partners.

- two online information sessions with a combined total of 35 participants, held on August 21 and September 10, 2024.
- one-on-one meetings/calls as requested.

Purpose

The main objectives of this round of engagement were:

- to solicit stakeholder and partner input on the choice of numerical contaminant standards to be adopted in the new regulation;
- to check in on the feedback received in 2018 and gather any new input on other proposed regulation changes; and
- to notify stakeholders of further technical amendments to the *Environment Act* (2002) and the *Act to Amend the Environment Act* (2014) that were required to support the development of the new Contaminants Regulation. These technical Act amendments were subsequently passed during the Fall 2024 session of the Yukon Legislative Assembly.

To help provide context and focus stakeholder input, a discussion paper was shared with stakeholders and Yukon First Nations ahead of the online information sessions. The discussion paper summarized the 10 key issues that were previously engaged on during the 2018 public engagement. You can view the discussion paper at

Yukon.ca/engagements/new-contaminants-regulation.

Respondents were specifically requested to provide input on whether the Yukon should adopt the numerical standards for contaminated sites outlined in British Columbia's Contaminated Sites Regulation (BC CSR) or adopt the Canadian Council of Ministers of the Environment (CCME) standards. For the remaining nine issues, the department provided a summary of each issue and what we heard in 2018, and respondents were invited to share their comments or concerns if they had any.

What we heard

Choice of numerical contaminants standards

During the 2018 public engagement, it was widely agreed that the Yukon's contaminated sites regulatory regime should be updated to better reflect the latest scientific knowledge.

When addressing the choice between adopting the BC CSR or CCME standards in 2024, most stakeholders preferred the BC CSR standards, with 43 per cent of respondents expressing support for their adoption into the new Contaminants Regulation.

Alternatively, 28.5 per cent were in favour of adopting CCME standards while the remaining 28.5 per cent did not express a preference. Those in favor of adopting the BC CSR standards further noted the need to regularly update the numerical standards to ensure that they remain relevant as the scientific landscape changes, as the Yukon's current standards have not seen an update for over 20 years. A few stakeholders requested additional information to inform their opinion on this issue.

Stakeholder comments on other issues outlined in the discussion paper

The discussion paper that was shared with stakeholders and partners for purposes of this re-engagement provided a summary of other proposed changes to the contaminated sites regulatory regime based on feedback received in 2018. Stakeholders were invited to share any additional feedback or considerations on the following aspects of the new regulation:

- transfer of responsibility for contamination;
- modernizing the process of designating a contaminated site;
- streamlining permitting and authorizations, including for remediation;
- authorizing certain restricted activities;

- issuing a Certificate of Compliance with conditions;
- providing additional guidance on remedial action plans;
- expanding site investigation and site assessment requirements to align with other jurisdictions and industry practice;
- streamlining relocation of contaminated soil already subject to another authorization; and
- developing land treatment facility regulations.

Overall, the majority of participants were supportive of the proposed changes to the regulations. Some respondents expressed additional considerations about specific proposals which are highlighted below:

Transfer of responsibility for contamination:

We heard concerns about the potential abuse of the transfer of responsibility provisions. Participants questioned whether some polluters could evade liability for contamination (e.g. by transferring responsibility to a shell corporation and dissolving it) which could result in increased environmental and public health risks. Participants felt that to ensure transparency and promote accountability, the transfer of responsibility process should be conducted in an open and transparent manner.

Streamlining permitting and authorization for remediation:

One respondent was concerned that a standardized authorization process would limit the use of tailored site-specific remediation, which could negatively impact the outcome of the remediation process. Further, a Yukon First Nation seeking to address illegal dumping of contaminated materials requested greater involvement when contaminants or contaminated materials were proposed to be moved across their Traditional Territory

Restricted activities:

We heard from one respondent that there is need to clearly define and limit the scope of allowable restricted activities to only those activities necessary for remediation.

Certificates of compliance with conditions:

We heard that the risk assessment approach used when issuing certificates of compliance with conditions should consider Indigenous land use including the exercise of Treaty rights. Further, one respondent expressed that all certificates of compliance should be public records, accessible on the contaminated sites registry.

Remedial action plans:

We heard from a Yukon First Nation that, given the unique risk posed to Indigenous rights and interests by contaminated sites and their remediation, the regulation should provide adequate opportunity for greater involvement of affected First Nations in the remediation process including the development of remedial action plans particularly for remediation of mine sites. Furthermore, where a responsible party enters receivership or bankruptcy or sells the site prior to completion of the work contemplated under a remedial action plan, there should be contingencies built into the regulation for insolvency or transferred responsibility.

Site investigations and site assessment requirements:

Some respondents were concerned that including more prescriptive standards for site assessment and site investigations in the new regulation could potentially prevent industry professionals from using new technologies and methodologies as regulations are not updated regularly. We also heard that the proposed approach could complicate the process for simpler sites, resulting in increased costs and prolonged timelines. Some respondents expressed that standards for site assessment or investigation should also include a requirement to analyze whether contamination has, or is capable of, migrating offsite.

Remediation facilities:

We heard that any protocol developed under the regulation respecting construction of remediation facilities must be sufficiently detailed to ensure adequate protection of

human health, the environment, and Indigenous rights. Additionally, compliance with the protocol must be certifiable, as with a conventional building code, and ultimate operation of the remediation facility must be contingent upon this certified compliance.

Next steps

The feedback gathered during this re-engagement will help inform the finalization of the new Contaminants Regulation. Once finalized, the regulation will take one year to come into effect to support the transition to the new regulatory regime.