



# Action Plan 2002

---

## Status Report

---

Reports on the activities of working groups arising from Action Plan 2002 of the Mines Ministers' Conference submitted for consideration at the 60<sup>th</sup> Mines Ministers' Conference

Halifax, Nova Scotia • September 2003



# Introduction

---

---

The Status Reports contained hereunder reflect the actions taken on the major issues affecting the mining industry in Canada, under the direction of the provincial, territorial and federal ministers of Mines at the Mines Ministers' Conference 2002.

The reports were prepared either by working groups established by the Intergovernmental Working Group on the Mineral Industry (IGWG) or by officials responsible for a specific issue.

Therefore, the views contained in the reports do not necessarily reflect those of IGWG as a whole.

Enquiries about these reports should be directed to:

IGWG Secretariat  
c/o Strategic Policy Division  
Minerals and Metals Sector  
Natural Resources Canada  
580 Booth Street, 10th Floor  
Ottawa, Ontario  
K1A 0E4

Telephone: (613) 992-4409  
Facsimile: (613) 992-8581  
E-mail: [jbunge@nrca.gc.ca](mailto:jbunge@nrca.gc.ca)

# Orphaned and Abandoned Mine-Site Rehabilitation

---

*Ministers agreed with stakeholder and industry representatives that continued emphasis on the development, in the short term, of strategies related to rehabilitation of orphaned and abandoned mine sites adapted to the needs of each jurisdiction is a priority.*

*In continuing the mandate of the multi-stakeholder advisory committee, Ministers asked that:*

- Issues related to regulatory and institutional barriers to collaboration be studied;*
- Guiding principles and a best practices guide to foster meaningful community involvement be developed;*
- Accurate data management and a prioritization process be developed; and*
- Funding approaches and preferred options be documented.*

*Furthermore, Ministers asked to obtain specific recommendations related to these issues for their next conference.*

## **BACKGROUND**

At the 2001 Mines Ministers' Conference in Québec City, Ministers agreed on the importance of a large-scale program for reclaiming orphaned/abandoned mine sites (O/AMs). They asked that a multi-stakeholder advisory committee on orphaned/abandoned mines be established to study various issues and initiatives pertaining to the development of partnerships in the implementation of remediation programs across Canada. Ministers stated that each provincial and territorial government will develop its own implementation strategy adapted to its specific needs.

The National Orphaned/Abandoned Mines Advisory Committee is a cooperative partnership of the Canadian mining industry, federal/provincial/territorial governments, environmental non-government organizations and First Nations. Work of the committee is jointly funded by industry and government organizations. The first meeting of the Advisory Committee was held in Toronto in March 2002 and first reported to Mines Ministers in September 2002 in Winnipeg.

At that time, Ministers agreed with stakeholder and industry representatives that continued emphasis on the development, in the short term, of strategies related to the rehabilitation of orphaned and abandoned mine sites adapted to the needs of each jurisdiction is a priority. In continuing the mandate of the multi-stakeholder advisory committee Ministers asked that:

- Issues related to regulatory and institutional barriers to collaboration be studied;
- Guiding principles and a best practices guide to foster meaningful community involvement be developed;

- Accurate data management and prioritization processes be developed; and
- Funding approaches and preferred options be documented.

Furthermore, Ministers sought specific recommendations related to these issues for their next conference.

## **STATUS**

Key outcomes of work over the past year include:

- Workshop and recommendations to promote and enhance voluntary reclamation;
- Report on funding models and recommendations for implementation;
- Development of a two-tier structure for defining abandoned mines and related mineral sites, which will permit proper classification of mineral sites;
- Development of a pamphlet to guide community engagement and participation in rehabilitation initiatives; and
- Development of the NOAMI web site ([www.abandoned-mines.org](http://www.abandoned-mines.org)) to foster information exchange and technology transfer.

Status reports and specific recommendations of each Task Group are available on the NOAMI web site.

The Advisory Committee met in July 2003 to review actions to date and to synthesize recommendations for future activities. It was acknowledged that most Task Groups had met initial objectives and that the next steps involved developing an integrated action framework to guide future activities in each jurisdiction.

In that view, the Advisory Committee recommends that its mandate be extended to provide assistance and guidance to jurisdictions, as needed, in conducting jurisdictional reviews, particularly with respect to liability, funding approaches and inventorying. Key elements of a proposed Action Framework are summarized in Appendix I.

A cornerstone of the proposed Action Framework is the commitment of Mines Ministers that all jurisdictions will work in a cooperative manner toward consistent legislative and regulatory approaches, and related practices promoting reclamation actions that are clear, certain, coordinated and efficient. In developing the proposed Action Framework, the Advisory Committee and its Task Groups recognize the following:

- O/AMs are a serious problem across Canada that should be addressed in a coordinated, cooperative, transparent and efficient manner. Many of these sites pose environmental, health, safety, and economic concerns to local communities, the mining industry, environmental and conservation organizations, Aboriginal peoples and governments. The sharing of experiences between jurisdictions will provide opportunities for improvements in efficiency, efficacy and economy.

- The work of the Advisory Committee and Task Groups should be consistent with existing Aboriginal Treaty Rights (Section 35 of the *Constitution Act*, 1982). In addition, any relevant First Nations consultative policies, by-laws, codes, etc., will be recognized.
- Critical analysis of existing legislation, policies and practices across jurisdictions to promote coordinated, efficient, consistent and transparent actions by governments, communities, for-profit organizations and volunteers could provide opportunities to reduce or eliminate the negative human, environmental and social impacts caused by O/AMs.
- Voluntary action alone will not be sufficient to address the negative human, environmental and social impacts caused by O/AMs. Other mechanisms should be considered and applied.
- A realistic, results-based O/AM Action Framework should reflect common objectives; recognize the rights and responsibilities of all players, including the public; address the need for coordinated federal/provincial/territorial (F/P/T) regulatory and legislative approaches and appropriate funding commitments; and encompass industry/government partnerships.

## RECOMMENDATIONS

- Mines Ministers support the continuing work of the Advisory Committee and the initiatives that the Advisory Committee will undertake over the next year, including implementation of the O/A Mines Action Framework (or "Action Framework") (Appendix 1).
- Development of the Action Framework and associated guidelines will be overseen by the Advisory Committee.
- Adequate human and financial resources should be contributed to the development of, and to deliver, monitor and, as appropriate, revise, the Action Framework.
- Key elements of the Action Framework proposed for 2004 include:
  1. Development of a policy framework for reclamation standards that addresses legislative/regulatory issues associated with the specific environmental challenges presented by O/AMs. This will include collaborative work with a variety of environmental agencies, including the CCME.
  2. Development of intergovernmental cost-sharing arrangements to address remediation at high-priority sites. This would represent a significant first step in implementing a broad range of funding mechanisms to address the issue.
  3. Complete guidelines for jurisdictional legislative reviews with respect to collaboration, liability and funding to ensure that approaches are:

- ▶ consistent (e.g., provide similar rights and responsibilities to participants; use common definitions for key terms such as orphaned mine, abandoned mine, reclamation, remediation, volunteer; and have consistent voluntary reclamation standards);
  - ▶ certain, transparent, coordinated (e.g., to encourage jurisdictions to promote a “one-window” permit approach); and
  - ▶ efficient (e.g., simplifying approval, permitting, and licensing processes).
4. The evaluation process for each jurisdiction should be completed within six months and the subsequent consolidation by the Advisory Committee should be completed within three months.
  5. Establish guidelines for facilitation and coordination of voluntary reclamation.
  6. Complete assessment of inventory standards required for the development of a pan-Canadian inventorying capability.
  7. Establish guidelines for site assessment and prioritization.

## APPENDIX 1

### National Orphaned/Abandoned Mines Initiative Action Framework

#### GUIDING PRINCIPLES

A cornerstone of the Action Framework must be the commitment of Mines Ministers that all jurisdictions work toward consistent legislative and regulatory approaches, and appropriate funding mechanisms and related practices to promote reclamation actions that are clear, certain, coordinated and efficient. In developing the Action Framework, the Advisory Committee and Task Groups recognize the following principles:

- O/AMs are a serious problem across Canada that must be addressed in a coordinated, cooperative, transparent and efficient manner. Many of these sites pose environmental, health, safety and economic concerns to local communities, the mining industry, environmental and conservation organizations, Aboriginal peoples and governments.
- The work of the Advisory Committee and Task Groups should be consistent with existing Aboriginal Treaty Rights (Section 35 of the *Constitution Act*, 1982). In addition, any relevant First Nations consultative policies, by-laws, codes, etc., will be recognized.
- There is a need to conduct critical analysis of existing legislation, policies and practices across all jurisdictions to promote coordinated, efficient, consistent and transparent actions by governments, communities, for-profit organizations and volunteers to reduce or eliminate the negative human, environmental and social impacts caused by O/AMs.
- Voluntary action alone will not be sufficient to address the negative human, environmental and social impacts caused by O/AMs. Other mechanisms must be considered and applied.
- There is a need for a realistic, results-based National O/AM Action Framework that: reflects common objectives; recognizes the rights and responsibilities of all players, including the public; addresses the need for coordinated F/P/T regulatory and legislative approaches and appropriate funding commitments; and encompasses industry/government partnerships.

## TASK GROUP RECOMMENDATIONS AND GUIDELINES

### Legislative and Institutional Barriers to Collaboration

#### *General Principles:*

- All relevant F/P/T legislation (acts and regulations), and related practices (such as permitting, licensing and approval processes) should encourage voluntary reclamation efforts by individuals, organizations and for-profit corporations to contribute funds, knowledge, equipment and/or time to reduce or eliminate the negative human, environmental and social impacts of specific O/AM sites.

#### *Recommended Actions:*

- All relevant F/P/T legislation and related practices must be reviewed and evaluated as soon as possible by the appropriate F/P/T authorities. Where necessary, actions must be commenced to amend existing or draft new legislation to encourage voluntary reclamation efforts, recognizing that this process may be lengthy.
- The Advisory Committee should facilitate the overall coordination and consolidation of the outcomes of the various jurisdictional review/evaluation initiatives to ensure that F/P/T legislation across jurisdictions is:
  - ▶ consistent (e.g., provides similar rights and responsibilities of participants; uses common definitions for key terms such as orphaned mine, abandoned mine, reclamation, remediation, volunteer; and has consistent voluntary reclamation standards);
  - ▶ certain, transparent, coordinated (e.g., to promote a “one-window” permit approach); and
  - ▶ efficient (e.g., simplifying approval, permitting and licensing processes).
- The evaluation process for each jurisdiction should be completed within *six months*, and the subsequent consolidation by the NOAMAC should be completed within *three months*.

#### *Guidelines for Regulatory Review:*

- All legislation and programs promoting voluntary reclamation efforts must incorporate the following principles:
  1. The level of effort associated with all aspects of voluntary reclamation activities, including planning, approvals, monitoring, reporting, documenting, public consultation, etc., is commensurate with the complexity of the site;
  2. For all voluntary reclamation efforts, plans must be provided to the appropriate regulatory authority. Where appropriate, a community notice and comment period is necessary prior to commencing work;

3. A preliminary assessment process by an appropriate regulatory authority to ensure that those undertaking voluntary reclamation efforts are capable, responsible and knowledgeable enough to complete the approved voluntary reclamation plan;
4. The legislation and programs must address the issues of indemnification and liability. It is incumbent upon the Advisory Committee to clarify the issues and options pertaining to indemnification and liability;
5. The legislation and programs must include monitoring procedures conducted by appropriate regulatory authorities; and
6. Those engaged in the voluntary reclamation effort must document and report on all activities completed.

## **Funding Approaches**

### *General Principles:*

- Funding mechanisms should embrace the principles of: polluter/beneficiary pays; fairness; openness, accessibility and participation; and sustainable development.
- The effectiveness of funding mechanisms should be evaluated against the following criteria: revenue-generating capacity; administrative ease; economic impacts; ability to address existing and future orphaned sites; ability to discourage future site contamination; emergency response; and public perception.
- Administering entities will have to bring to the task the expertise that resides within mines and environment departments as well as industry.
- Decision-making processes should include public input, oversight, accountability and be free from conflict of interest.
- Funding regimes should be designed to substantially eliminate the backlog of O/AMs in the jurisdiction.
- No single funding approach will constitute a complete solution; a combination of the following approaches will likely be required:
  - Government funding from general revenues coming from a single level of government;
  - Federal-provincial (or federal-territorial) government-funded cost-sharing arrangements from general revenues, where appropriate;
  - Levies on mining industry production;
  - Government-industry partnerships;
  - Government re-direction of a portion of existing mining tax revenue and a reduction of existing incentives to the mining industry, and application of both streams to orphaned/abandoned mine cleanup; and

- ▶ Fund interest, fines and administrative penalties imposed on the mining industry, donations by individuals or others, etc.
- Different approaches require differing degrees of legislative reform; programs funded from general revenues require the least amount of legislative change, while those imposing a levy on industrial production and the establishment of a dedicated fund could require significant legislative reform.

*Recommended Actions:*

- Development of intergovernmental cost-sharing arrangements to address remediation at high-priority sites. This would represent a significant first step in implementing a broad range of funding mechanisms to address the issue and can be accomplished without significant legislative amendment. This could be kick-started by an immediate contribution of federal funding, to be matched by provinces and territories where possible.
- All F/P/T legislation and related practices must be reviewed by appropriate authorities with a view to amending existing policy and, if necessary, amending existing legislation or enacting new legislation adopting and implementing a broad-based funding regime for the cleanup of orphaned/abandoned mines in their respective jurisdictions.

*Guidelines for Regulatory Review:*

In establishing a funding regime, the following guidelines/options should be considered:

1. The funding regime adopted in each jurisdiction include establishment of an Orphaned/Abandoned Mine Cleanup Fund ("OAMCF" or "Fund") into which general government revenue, industry levies, and other monies also are deposited on an annual basis.
2. Specification of the minimum annual financial appropriation to be made by the government and the period over which that level of appropriation is to continue.
3. Specification of an annual levy or levy range to be imposed on each mining company, mining industry sector, or classes within a sector as a cost attributable to its activities in the jurisdiction and the period over which that level of contribution is to continue.
4. Basis for government-industry partnerships and what effect, if any, they will have on an annual levy noted in (3) and tax and incentive measures noted in (5).
5. Amendment of federal and provincial tax laws to specifically identify: (1) the annual quantum of mining tax revenue being re-directed to the Fund, and (2) the annual quantum reduction of existing incentives to the mining industry being re-directed to the Fund.

6. Specific legislation enacted to facilitate remediation of orphaned/abandoned mines should:
  - ▶ Articulate the purposes of established funding regimes;
  - ▶ Specify the lands and water eligible for cleanup;
  - ▶ Identify the administering entity for the funding regime. The authors recommend that this entity be either a department of government or special government agency created by the legislation establishing the funding regime;
  - ▶ Authorize promulgation of rules and regulations addressing matters pertaining to administration of the funding regime; and
  - ▶ Specify priorities under which the funding regime will operate.
7. In conjunction with the establishment of a funding regime, the process of cleanup of O/AMs should be facilitated through measures designed to eliminate barriers and facilitate community involvement.

### **Information Gathering**

- The principal activity was to develop consensus on the definitions and prepare recommendations for future work. The definitions of orphaned and abandoned sites vary between jurisdictions and the Task Group realized that a “national” definition for NOAMI’s use would be essential for the successful creation of a national inventory.
- To avoid complex and lengthy definitions, the Task Force proposes a two-tier structure for defining abandoned mines and related mineral sites, namely, a general or generic all-inclusive definition for abandoned and/or orphaned mineral sites and a series of definitions for more specific mineral sites.
- A set of “common parameters” and qualifiers will be needed for designing and constructing a suitable database (or linkages among existing databases) on abandoned and orphaned mineral sites. General parameters will include basic information such as type of mine, location, etc. More specific parameters will qualify the sites (risks associated, etc.).

#### *Recommended Actions:*

- Contract a consultant to summarize information received from each jurisdiction, develop consensus on "national" definition(s), and develop a list of parameters required to enable national inventorying;
- Develop a proposal for a "one window" portal to access available databases; and
- Develop guidelines for risk assessment and prioritization.

## **ACTION FRAMEWORK**

Key elements of the action framework are summarized in Table 1. Implementation of the Action Framework and the development of associated guidelines will be overseen by the Advisory Committee. Ongoing work of the Task Groups would be focused on providing assistance and guidance to jurisdictions in conducting jurisdictional reviews, particularly with respect to liability, funding approaches and inventorying.

### **Activities and Timelines**

1. Development of a policy framework for reclamation standards that addresses legislative/regulatory issues associated with the specific environmental challenges presented by orphaned/abandoned mines. This will include collaborative work with a variety of environmental agencies, including the CCME.

Timeline: 1 year - report back to Mines Ministers, 2004  
Responsibility: NOAMI and/or other senior-level intergovernmental committee to initiate discussions

2. Development of intergovernmental cost-sharing arrangements to address remediation at high-priority sites. This would represent a significant first step in implementing a broad range of funding mechanisms to address the issue.

Timeline: 1 year (for development of program) - report back to Mines Ministers, 2004  
Funding in place 2005/06  
Responsibility: NOAMI/IGWG and/or other senior-level intergovernmental committee to initiate discussions

3. Complete guidelines for jurisdictional legislative reviews with respect to collaboration, liability and funding to ensure that legislation across jurisdictions is:

- ▶ consistent (e.g., provides similar rights and responsibilities to participants; uses common definitions for key terms such as orphaned mine, abandoned mine, reclamation, remediation, volunteer; and has consistent voluntary reclamation standards);
- ▶ certain, transparent, and coordinated (e.g., to promote a “one-window” permit approach); and
- ▶ efficient (e.g., simplifying approval, permitting and licensing processes).

Timeline: The evaluation process for each jurisdiction should be completed within six months, and the subsequent consolidation by the Advisory Committee should be completed within three months

Responsibility: Jurisdictions with guidance from NOAMI

4. Establish guidelines for facilitation and coordination of voluntary reclamation.

Timeline: 1 year to 18 months, submitted to Mines Ministers, 2005  
 Responsibility: NOAMI

5. Establish guidelines for site assessment and prioritization.

Timeline: 1 year to 18 months, guidelines submitted to Mines Ministers, 2005  
 Responsibility: NOAMI

6. Implement legislative/policy framework following completion of legislative review, item 3.

Timeline: Following completion of legislative review, 2005, through to Mines Ministers, 2006  
 Responsibility: Jurisdictions

7. Develop ongoing process/mechanisms for technology transfer and best practices.

Timeline: Launch of web site - September 2003  
 Annual workshops - 2005-2007+  
 Responsibility: NOAMI

## FUNDING REQUIREMENTS

The current funding formula for NOAMI is summarized below. Members of the advisory committee participate on a voluntary basis. To date the initiative has been funded through annual contributions from participating government and industry organizations.

Provincial/Territorial Mines or Environment Agencies @ \$5,000	\$ 60,000.00
Federal Departments (NRCan, EC, INAC) @ \$5,000	\$ 15,000.00
The Mining Association of Canada	\$ 30,000.00
Prospectors and Developers Association of Canada	<u>\$ 5,000.00</u>
<b>Annual Total</b>	<b>\$110,000.00</b>

As NOAMI moves forward into the implementation stages it is anticipated that funding requirements will be incremental. Development of a series of guideline documents over the next two years will require assistance from external consultants in the implementation of multi-stakeholder processes to meet NOAMI objectives. In addition, enhanced meeting schedules are needed to develop the policy frameworks required to address reclamation standards and develop a F/P/T approach to partnership

funding. The bulk of this activity would take place in 2004/05 and 2005/06. Using the current funding formula as a guide, over the next two years, NOAMI would be anticipating the following level of contributions from participating agencies:

	<b>2004</b>	<b>2005</b>
Provincial/Territorial Mines or Environment Agencies @ \$15,000	\$180,000.00	\$180,000.00
Federal Departments (NRCan, EC, INAC) @ \$15,000	\$ 45,000.00	\$ 45,000.00
The Mining Association of Canada	\$ 90,000.00	\$ 90,000.00
Prospectors and Developers Association of Canada	<u>\$ 15,000.00</u>	<u>\$ 15,000.00</u>
<b>Annual Total</b>	<b>\$330,000.00</b>	<b>\$330,000.00</b>

Funding for subsequent years would be significantly reduced, with support required for web site, maintenance, administration and annual workshops. Using the current funding formula as a guide, it is anticipated that NOAMI would require the following level of contributions from participating agencies:

	<b>2006</b>	<b>2007</b>
Provincial/Territorial Mines or Environment Agencies @ \$2,500	\$30,000.00	\$30,000.00
Federal Departments (NRCan, EC, INAC) @ \$2,500	\$ 7,500.00	\$ 7,500.00
The Mining Association of Canada	\$15,000.00	\$15,000.00
Prospectors and Developers Association of Canada	<u>\$ 2,500.00</u>	<u>\$ 2,500.00</u>
<b>Annual Total</b>	<b>\$55,000.00</b>	<b>\$55,000.00</b>

APPENDIX 1: National Orphaned/Abandoned Mines Action Framework - TABLE 1								
Task/Activity/Milestone	2000*	2001*	2002*	2003*	2004*	2005*	2006*	2007*
Mines Ministers' 2000	X							
Winnipeg Workshop		X						
Mines Ministers' 2001		X						
First Meeting of NOAMI			X					
<i>Information-Gathering Task Group</i>								
Definitions				→				
Inventory Standards				→	→			
Populate Databases					→	→	→	
<i>Community Involvement</i>								
Case Studies			→	→				
Lessons Learned				→				
<i>Legislative Barriers</i>								
Legislative Review/Overview			→	→				
LIBC Workshop/Report				→				
Guidelines for Jurisdictional Review				→	→			
Jurisdictional Approaches to Voluntary Reclamation					→	→		
<i>Funding Approaches</i>								
Funding Models Report				→	→			
Guidelines for Jurisdictional Review				→	→			
Jurisdictional Approaches to Funding					→	→		
<i>OAM Action Framework</i>								
Policy Framework for Reclamation Stds. (with CCME)					→	→		
Policy Framework for Federal/Provincial/Territorial Partnerships					→	→		
Guidelines for Facilitation and Coordination of Voluntary Reclamation					→	→		
Guidelines for Site Assessment					→	→		
Guidelines for Prioritization					→	→		
Implement Legislative/Policy Framework					→	→	→	
Technology Transfer - Case Studies and Best Practices Approaches for Reclamation*					→	→	→	→
<i>Funding</i>								
Advisory Committee (000s)		45	110	110	330	330	55	55
Reclamation Projects (000 000s)								
-----▶ Jurisdictional Responsibility								
-----▶ NOAMI Responsibility								

\* Annual Workshops and Proceedings Publications