Financial Assurance Requirements – Guideline for Industrial Waste Works and Corrective Action Plans

Results-Based Regulation

The Ministry of Environment's regulatory framework sets specific environmental goals and the proponent decides how to achieve these goals. According to Section 9 (1) of *The Environmental Management and Protection (General) Regulations,* anyone planning to build, modify, operate, temporarily close, or shut down a facility must obtain a permit and provide a financial assurance in a form and amount approved by the ministry. Section 17(1) of *The Environmental Management and Protection Act, 2010* (EMPA, 2010) requires a corrective action plan (CAP) that includes risk management and future reclamation (RMFR) to ensure the site is eventually restored. Section 17(3) of EMPA, 2010 also allows the minister to demand financial assurance for other types of CAPs.

Table 1: Facility Types and Activities Requiring an IWW Permit

- mining or milling operations;
- pulp or paper mills;
- chemical plants;
- petroleum upgraders and refineries;
- coal-fired power generating plants;
- ethanol or biodiesel processing facilities;
- canola and oilseeds crushing facilities;
- wood treatment facilities;
- wood products manufacturing facilities;
- industrial or hazardous waste treatment facilities treating more than 10 000 kilograms annually;
- any facility that collects, contains, stores, transmits or generates more than 50,000 kilograms of industrial wastes above ground, or any volume underground;
- any facility that stores industrial waste in storage lagoons or ponds with an aggregate capacity of greater than10,000 cubic metres;
- any facility that permanently disposes of solid waste or industrial waste by placing it above or below ground;
- any facility that temporarily stores solid waste; or
- any facility that disposes of hazardous waste.

CAPs are strategies to address concentrations of substances that exceed the Saskatchewan Environmental Quality Guidelines (SEQG) at an environmentally impacted site. If a CAP includes actions that cannot be completed until an unknown future date, it is considered a Risk Management with Future Reclamation (RMFR) plan. For example, if contaminants remain under a roadway and the plan proposes removing them after utility work is finished, it is an RMFR plan. However, if the plan is to allow the contaminants to degrade through natural processes and predicts that the endpoints will be met in 10 years, it is not an RMFR plan because it has a clear timeline and measurable performance indicators. Financial assurances are required for RMFR plans but may also be requested for other CAPs at the minister's discretion.

A detailed Decommissioning and Reclamation (D&R) plan or CAP, including cost estimates, will be used to determine the required amount of the financial assurance. This assurance ensures that there are enough funds for the ministry to complete the approved D&R plan or CAP if the proponent is unable or unwilling to do so. Under the results-based regulatory framework, proponents can either follow the standard solution or propose an alternative method to provide their financial assurance.

1. Acceptable Solution – The proponent's D&R Plan or CAP describes the work required and provides an estimate for the costs using International Financial Reporting Standards or Generally Accepted Accounting Principles. The full amount of the financial assurance is then provided to the ministry upon acceptance of the D&R Plan or CAP.
2. Alternative Solution – The proponent's D&R Plan or CAP describes the work required and provides an estimate for the costs. The proponent then proposes a risk-informed solution for providing the financial assurance to the ministry over time.

Benefits of an Alternative Solution

The alternative solution accounts for the full cost of decommissioning and reclamation or corrective action while spreading the financial burden over time for proponents that do not pose a likely risk of default in the immediate term, and/or can demonstrate that risks can be reasonably managed over time as assurance funds accumulate. This approach balances the safeguarding of provincial funds and economic competitiveness, and acknowledges and incentivizes efforts to reduce social, economic and environmental impacts in the proponent's operations.

Requirements for an Alternative Solution

Proponents that want to propose an alternative solution will be required to:

1. Prepare a D&R Plan in accordance with The Guidelines for Decommissioning and Reclamation of Industrial Waste Works (April 2018) or a CAP in accordance with the Corrective Action Plan chapter B.1.3 of the Saskatchewan Environmental Code. The cost estimate to carry out the D&R plan or CAP becomes the amount of the assurance.

2. Complete a risk assessment, prepared by an experienced person, detailing the likelihood and magnitude of environmental, social, economic and human health and safety risk factors associated with the facility. This risk assessment will inform and provide justification for the alternative solution being proposed.

3. Propose an assurance instrument and remittance schedule appropriate for the risks associated with the operation. Proponents should ensure that sufficient details are provided to the ministry to justify the instrument and timing for payment of the assurance. Table 2 provides examples of financial instruments that may be considered.

Table 2: Examples of Financial Assurance Instruments

- cash;
- sinking fund;
- qualified environmental trust;
- irrevocable letter of credit; or
- surety bond.

Requirements for reviewing D&R Plans and associated financial assurances will be described in the IWW permit conditions and may include regular updates.

Requirements for reviewing financial assurances for CAPs will be described in the CAP approval and may include status reporting or regular updates to the financial assurance.

Facilities Exempted from Financial Assurance Requirements

- Government of Saskatchewan ministries and agencies, including Treasury Board Crown Corporations.

- Municipalities, as defined under The Municipalities Act, demonstrating maintenance of a dedicated financial reserve or the estimated cost (or liability as per PS3260) identified specifically in a financial statement each year. Each liability or site must be identified individually in the financial statement.

D&R plans and CAPs are still required where financial assurance requirements are exempted for determining liabilities for accounting purposes.

More info?

For information contact the Saskatchewan Ministry of Environment Client Service Office at
Tel: 1-800-567-4224
(toll-free in North America)
Email: centre.inquiry@gov.sk.ca