

Financial Assurance Requirements – Alternative Solution Guideline

For Industrial Waste Works Results-Based Regulation

The Ministry of Environment’s results-based regulatory framework defines the expected environmental outcomes to be achieved, leaving determination of how those outcomes are achieved to the proponent. Section 9 (1) of *The Environmental Management and Protection (General) Regulations* requires a person who intends to construct, alter, operate, temporarily close or decommission a facility to obtain a permit and provide financial assurance in the form and amount acceptable to the ministry. Facilities requiring permits are listed in Table 1.

Table 1: Facility Types and Activities Requiring an Industrial Waste Works Permit

<ul style="list-style-type: none"> • 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; 	<ul style="list-style-type: none"> • 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 than 10,000 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.
---	--

A detailed Decommissioning and Reclamation (D&R) Plan, including costing, will be used to determine the amount of financial assurance required. The purpose of the assurance is to ensure adequate funds are in place to complete the accepted D&R Plan, should the proponent be unable or unwilling to do so. Following the results-based regulatory framework, proponents may follow the acceptable solution or propose an alternative solution to fund their financial assurance.

1. **Acceptable Solution** – The proponent’s D&R Plan 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.
2. **Alternative Solution** – The proponent’s D&R Plan 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 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). The cost estimate to carry out the D&R Plan 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 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

<ul style="list-style-type: none">• cash;• sinking fund;• qualified environmental trust;	<ul style="list-style-type: none">• irrevocable letter of credit; or• surety bond.
--	---

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

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 for the decommissioning and reclamation of all facilities, operations or activities permitted as an industrial waste works.

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