



Government
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Saskatchewan

Ministry of Government Relations

PS 3260 – Liability for Contaminated Sites

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Note: This guide has been prepared by Government Relation’s staff and is for guidance purposes only. It is always advisable to consult with your auditor where necessary.

Introduction

Section 3260 in the CPA Canada Public Sector Accounting Handbook establishes standards on how to account and report a liability for the remediation of contaminated sites. PS 3260 specifically addresses:

- a) What activities would be included in a liability for remediation;
- b) When to recognize a liability for remediation;
- c) How to measure a liability for remediation; and
- d) The relevant financial statement presentation and disclosure requirements.

When Does PS 3260 Come Into Effect?

PS 3260 came into effect to all public sector entities for fiscal years starting on or after April 1, 2014. For municipalities in Saskatchewan, the standard would apply beginning on January 1, 2015.

What is Contamination?

For the purposes of this section, contamination is the introduction into air, soil, water or sediment of a chemical, organic or radioactive material or live organism that exceeds an environmental standard.

A contaminated site is a site at which substances occur in concentrations that exceed the maximum acceptable amounts under an environmental standard.

A contaminated site does not include airborne contamination or contaminants in the earth's atmosphere unless such contaminants have been introduced into soil, water bodies or sediment.



Airborne contamination is not included unless it is introduced in the soil, water, or sediment.

Where Does Contamination Normally Occur?

PS 3260 applies to the following:

- a) An operation of the municipality that is no longer in productive use, such as an abandoned maintenance yard;
- b) An operation that is no longer in productive use for which the municipality accepts responsibility, such as an abandoned gas station;
- c) Changes in environmental standards relating to a municipal operation no longer in productive use, such as stored chemicals; and
- d) An unexpected event, such as an accidental spill or natural disaster.

The Following Are Not Applicable

PS 3260 does not apply to the following:

- a) The removal of asbestos;
- b) Decommissioning of lagoons;
- c) Liabilities for the closure and post closure of landfill sites; and
- d) The retirement obligations of any tangible capital assets in productive use, such as buildings and leaseholds.



PS 3260 does not include closure and post closure costs for landfills or the retirement obligation for TCA in productive use such as buildings.



Recognition

A liability for remediation of a contaminated site should be recognized at the financial statement date, when:

- a) An environmental standard exists;
- b) Contamination exceeds the environmental standard;
- c) The municipality:
 - I. owns the land; or
 - II. is directly responsible; or;
 - III. accepts responsibility.
- d) It is expected that future economic benefits will be given up, such as the payment of cash or provision of services; and
- e) The liability can be reasonably estimated.

An obligation for the remediation of a contaminated site cannot be accrued as a liability unless **all** criteria above are satisfied.

A general policy intention to remediate is not sufficient to establish a liability where no public health or safety concerns or contractual arrangements, legislation, regulation or bylaw exist.

Environmental Standard

Any guidelines, objectives, criteria or other kinds of limits placed on the presence or discharge of a contaminant into the natural environment

An environmental standard is generally set out in the form of a statute, regulation, bylaw, order, permit, contract or agreement. As a result, it is legally enforceable and binding, and compliance is mandatory. Breaches may be enforced through prosecution, fines, jail and similar penalties, order, or loss of permit. Compliance may also be enforced through administrative proceedings. Municipalities should also be aware that it is possible for internal policies or guidelines to create an environmental standard, as these policies and guidelines may create constructive or equitable obligations.

Contamination Exceeds the Environmental Standard

The existence of an environmental standard does not in itself create a liability. Instead, it is the existence of contamination that **exceeds an existing environmental standard** at the financial statement date and is a necessary condition for the recognition of a liability. When determining if contamination exceeds the environmental standard all available historical and current information pertaining to the site or group of sites would need to be reviewed.

Section PS 3260 provides some examples of factors to consider such as:

- The nature of past activities at the site or adjacent properties;
- Site location, hydrology, and geology;
- Results from testing and field investigations;
- Similarities to and experience at other known contaminated sites;
- Significance of the site; and
- Cost versus benefit of conducting a detailed site assessment.

A municipality may be uncertain about whether or not contamination exceeds an environmental standard; however, this uncertainty does not eliminate the need for the municipality to determine whether or not it has to recognize a liability. Instead, this determination depends on the probability that future site investigations will confirm that contamination exceeding an environmental standard existed at the financial statement date. If the probability is likely and a reasonable estimate of the amount can be made then the municipality should recognize a liability.

Municipality Owns the Land

If the municipality owns the land, and all other recognition criteria have been satisfied, a liability for remediation should be recorded. If the municipality is not responsible for the contamination, and a recovery from the responsible party is likely, the recovery receivable should be recorded against the liability.

Municipality is Directly Responsible

In some cases, the municipality is directly responsible for remediation because of its own past activities that have caused the contamination

Example: *The municipality operated a transportation works yard.*

A municipality may also be directly responsible when activities occurred on municipal-owned land or land the municipality has since acquired, and a responsible party either cannot be identified or lacks the means of remediation.

Example: *The municipality “inherited” responsibility for abandoned mines on Crown land through bankruptcy proceedings and court decisions.*

Municipality Accepts Responsibility

A municipality may voluntarily assume responsibility for remediation of contaminated sites through its own actions or promises. However, only those assumed obligations for remediation that meet the definition of a liability at the financial statement date can be recognized.

Most liabilities for remediation arise from legal obligations which can be enforced by a court of law. It is possible, in the absence of a legally enforceable agreement that the municipality, through its own actions or promises, may have created a valid expectation among others that it will remediate a contaminated site (e.g. promissory estoppels). The municipality may have little or no discretion but to take action and a liability may need to be recorded. A legal opinion may be required in these cases.



Uncertain Responsibilities and Contingencies

There may be a situation where an environmental standard exists, contamination exceeds the standard, the municipality is not directly responsible and does not accept responsibility; however, there is uncertainty as to whether the municipality may be responsible. In such a case, the municipality may have a contingent liability.

A contingent liability requires an assessment of the probability that the outcome of a future event will confirm the responsibility of the municipality. If it is likely that the future event will confirm the municipality's responsibility, a liability should be recorded if the amount can be reasonably estimated. If the amount cannot be reasonably estimated, then the existence and nature of the liability should be disclosed in the notes to the financial statements. If the outcome of the future event cannot be determined, the existence and nature of the contingent liability should be disclosed in the notes to the financial statements. If it is unlikely that the municipality will be responsible then no disclosure is required.

It is important to remember that uncertainty about whether or not contamination exists (for example, due to a site assessment not yet being completed) is not the same type of uncertainty that characterizes a contingent liability.

Measurement

Eligible Costs

A liability for remediation should be estimated based on information available at the financial statement date and it should include costs required to bring a site up to the current minimum standard for its use prior to contamination. The estimate of a liability would include costs directly attributable to remediation activities such as:

- Post-remediation operation, maintenance and monitoring costs that are an integral part of the remediation strategy for a contaminated site, which would include costs such as payroll and benefits, equipment and facilities, materials, legal and other professional services costs;
- Costs of tangible capital assets acquired as part of remediation activities to the extent those assets have no alternative use; and
- Costs related to natural resource damage (e.g. revegetation outlays), but only if they are incurred as part of an environmental standard.

Estimating the Liability

A liability for remediation should be estimated based on information available at the financial statement date. It may often be necessary to estimate the amount of a liability in situations when a detailed site investigation has not been completed, but evidence suggests that contamination exists that exceeds an environmental standard. Consideration would be given to available site assessment information and experience gained at similar sites. In some cases an estimate of a liability may only be based on an individual site assessment that takes in characteristics unique to the site.

When the estimate is based on a site assessment, a municipality need not complete a subsequent site assessment in each reporting period due to the costs involved. In the years between site assessments, an estimate of the liability can be based on an extrapolation of previously completed site assessments.

Measurement Techniques

The measurement technique adopted by a municipality should result in **the best estimate of the amount to remediate the contaminated site.** This can be described as the amount a municipality would reasonably pay to settle the liability at the financial statement date. Professional judgment supplemented by experience, third party quotes and potentially reports of independent experts will be required to estimate the expenditures.

At each financial statement date, the municipality must review the carrying amount of any liability for remediation. Any adjustments to the liability would be accounted for in the period in

which the revisions are made. The liability continues to be recognized in the municipality's financial statements until it is settled or otherwise extinguished.

Whenever the cash flows required to settle the liability are expected to occur over extended future periods, a present value technique is often the best available technique to estimate the liability.

Disclosure

A financial statement should disclose information about:

- a) The nature and source of the liability;
- b) The basis for the estimate of the liability;
- c) When a net present value technique is used, the estimated total undiscounted expenditures and discount rate;
- d) The reasons for not recognizing a liability; and
- e) The estimated recoveries.

Financial Statement Presentation

Scenario	Action	Location in Financial Statements
A contaminated site has been identified for which the municipality is responsible or accepts responsibility	Recognize liability and related expense	Statement 1 and 2, Note 11
	OR Provide adequate note disclosure if an estimate of costs cannot be made	OR Note 11
A contaminated site has been identified, however the municipality is uncertain about its responsibility and potential costs	Provide adequate note disclosure for a contingent liability	Note 15

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**APPENDIX A
DECISION TREE — LIABILITY FOR CONTAMINATED SITES**

