
**Hazardous Waste Regulation
Financial Security Guideline**

This guideline was developed to help explain the ministry's need for financial security from owners of facilities that store hazardous waste, outline a process for assessing the amount of security and provide information on acceptable forms of the security.

Section 17(2) of the Hazardous Waste Regulation states:

A director may require an owner of a short term storage facility to give security for performance of the owner's obligations under the Act and this regulation in the amount and form and subject to the conditions the director may specify.

Section 35(8) is the same, except that it applies to the owner of a long term storage facility.

Need for Security

Hazardous waste storage facilities have the potential to become environmental and financial liabilities for government and landowners when those responsible for the facilities fail to comply with environmental requirements or when the responsible parties abandon the facilities because of financial problems, bankruptcies or criminal actions. Financial security is a means for the ministry to ensure there are funds available to resolve problems that arise when a facility owner does not fulfil obligations to manage the hazardous waste during its operation or after the owner has abandoned the site.

Normally, private companies or individuals that are in the business of receiving hazardous waste would be expected to provide security before receiving hazardous waste at their storage facility. It is the director's decision whether or not a hazardous waste storage facility must provide financial security.

Amount of Security

Since the security is required to ensure protection of the environment, the amount should reflect the worst-case scenario where the owner has abandoned the facility which was filled to capacity. The security amount should consider the closure plan for the facility and all relevant information to determine the cost of restoring the environment to a "non-hazardous state". This would include characterization of the various wastes at the site including bottom sludges and waste water from tanks/drums, removal and transportation of the stored waste by a licensed hazardous waste transporter to an authorized management facility, clean up of the site after the waste was removed, and assessment of the site to ensure it no longer constitutes an environmental problem. The amount of security should include consultant fees and the GST. There would be additional costs to pay for ministry involvement in the restoration.

Financial Security Guideline

Financial information for these assessments must be provided by companies or consultants who are in the business in order to have a meaningful assessment. There are two options to determine the amount of security at a hazardous waste storage facility:

1. The proponent provides three cost estimates from other hazardous waste management companies for the assessment, removal and clean-up of the facility, plus estimates for assessment of the site after wastes were removed and cleaned up. The estimates should be based on the worst-case scenario where the facility is filled to capacity. The amount of security imposed will not necessarily be the median or average of the estimates.
2. The proponent hires an independent qualified professional licensed in the Province of B.C. to estimate the cost of waste characterization, hazardous waste removal, clean-up and assessment of the facility. The estimate should be based on the worst-case scenario where the facility is filled to capacity. The professional should include information about his/her qualifications and ability to provide an independent estimate of the financial security required for the facility.

The ministry will review the information provided and may contact the companies to confirm the information. The ministry will then add an amount for the ministry's involvement in assessing and overseeing the cleanup, which may be in the order of an additional 20%.

The hazardous waste company may be required to provide a periodic review of financial security estimates to ensure that posted security remains adequate for protection of the environment.

Forms of Security

Acceptable forms of security:

- An irrevocable letter of credit, issued by a chartered bank, credit union or trust company, payable to the Minister of Finance. This is the most common form of security provided to the ministry for hazardous waste storage facilities. The letter of credit (LoC) must contain an "evergreen clause", which allows it to be automatically renewed until the Director, *Environmental Management Act*, authorizes it to be cancelled. If the financial institution does not intend to renew the LoC, the institution must give the director time to withdraw the funds from the LoC.
- Negotiable securities held by a Safekeeping Agreement (short-term deposits, t-bills and Federal/Provincial bonds with maturity of not longer than 3 years). These must be registered in the name of the Province of British Columbia.
- Surety bonds, bank drafts, money orders, cash.

The following are **not acceptable**: bearer bonds and notes, Canada Savings Bonds, certified cheques, assignable bonds and notes if not accompanied by a power of attorney.