

## Security for Contaminated Sites

When issuing a contaminated sites legal instrument under the *Environmental Management Act* (such as an Approval in Principle, Certificate of Compliance, Remediation Order or Voluntary Remediation Agreement), the Director of Waste Management may require the responsible person to post security. Security is a guarantee that the undertaking in question will address actual and potential impacts at a high risk site.

[Protocol 8 – Security for Contaminated Sites](#) has detailed provisions on when security is typically required, how it is calculated, and under what circumstances it might be “called” – that is, used by the ministry.

### Why might security be required?

Security helps to ensure that significant risks to the environment and human health at contaminated sites will be appropriately managed by responsible persons. The amount of security can offset some of the cost that government would incur if it had to step in and pay for remediation where a responsible person failed to do so.

### How is the need for security decided?

The Director is responsible for determining whether security is required for a site. In making the decision, he or she typically considers:

- Is the site a high risk contaminated site?
- Is security already in place under the *Mines Act*?
- Is the only responsible person a government body? Generally government bodies are exempt from the requirement for security.

- Has remediation been approved for the site?
- Is remediation being implemented effectively?
- Does the remediation require ongoing management and monitoring of contamination?
- Could a significant risk arise at the site because remaining contamination requires ongoing management and monitoring?
- Is a covenant unlikely to be effective in ensuring necessary remediation?

### How is security calculated?

Security is calculated according to one of two formulas, depending on circumstances.

Formula 1 applies where the Director has not approved remediation or where remediation approved by the Director is not progressing as required. The amount of security is based on:

- one-time capital costs to build and install contaminant management and monitoring systems; and/or
- recurring and periodic costs to operate and monitor and maintain any management and monitoring systems; and/or
- the removal and disposal costs of contaminants that must be removed so the site can be remediated to acceptable standards.

Formula 2 is used when ongoing management or monitoring is required for contamination left onsite and it is being implemented in accordance with a plan approved by the ministry. Security under Formula 2 is based on 100% of the following costs:

- one-time capital costs to build and install management and monitoring systems; and
- recurring and periodic costs to manage, monitor, and maintain any systems developed.

### **What are the accepted forms of security?**

Security may be financial or in the form of real and personal property. Financial security includes irrevocable letters of credit, security deposits, registered bonds, treasury bill notes, bank drafts, money orders, and certified cheques. Other types of security may also be used provided they are acceptable to the Director.

### **When might security be called?**

The conditions that would prompt the ministry to call security vary depending on the nature of the site. The contaminated sites legal instrument would specify these conditions.

Common conditions include:

- for reasons within his or her control, the responsible person misses three successive deadlines set out in the schedule of requirements in a contaminated sites legal instrument;
- progress to comply with conditions of a legal instrument is unsatisfactory;
- the legal instrument or any other order or statute in relation to the site has been violated;
- the responsible person or guarantor becomes bankrupt; or
- a notice of proposed cancellation or non-renewal of security and an acceptable alternative have not been arranged.

*Note: This summary is solely for the convenience of the reader. The current legislation and regulations should be consulted for complete information.*

*For more information, contact the Environmental Management Branch at [site@gov.bc.ca](mailto:site@gov.bc.ca).*