

PSAB

At a Glance

Section PS 3260 - Liability for
Contaminated Sites

Section PS 3260 - *Liability for Contaminated Sites*

Effective Date
Fiscal years beginning on or after April 1, 2014

Scope

Does not apply to:

- Costs for acquisition or betterment of tangible capital assets that are within the scope of Section PS 3150, *Tangible Capital Assets*, to the extent that such costs do not exceed the future economic benefits related to the asset or post-remediation fair value of the asset if held for sale (e.g. redevelopment of a contaminated site for use or sale);
- Liabilities that are associated with asset retirement obligations, which are covered in Section PS 3280, *Asset Retirement Obligations*; and
- Liabilities associated with the disposal or sale of long-lived tangible capital assets (e.g. privatization of water utility).

Recognition

- A liability for contaminated sites must be recognized when, as at the financial reporting date:
 - An environmental standard exists;
 - Contamination exceeds the environmental standard;
 - The government:
 - Is directly responsible; or
 - Accepts responsibility;
 - It is expected that future economic benefits will be given up; and
 - A reasonable estimate of the amount can be made.
- An obligation for remediation of contaminated sites cannot be recognized as a liability unless all criteria above are satisfied.

Environmental standard

- Any guidelines, objectives, criteria or other kinds of limits placed on the presence or discharge of a contaminant into the natural environment.
- It is generally set out in the form of a statute, regulation, by-law, order, permit, contract or agreement.
- 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 be enforced through administrative proceedings.
- It may be quantitative or qualitative.
- It may be created by internal government policy or by guidelines developed by external organizations.
- A government evaluates the existence of an environmental standard based on existing or enacted legislation, contract or agreement that is in effect at the financial statement date. Future legislation changes are not taken into account.
- Voluntary compliance may create a liability. The individual circumstances and the criteria in Section PS 3200, *Liabilities*, would be taken into account and professional judgment would be required in determining if a liability existed in such a situation.

Contamination

- Contamination that exceeds an environmental standard at the financial reporting date is a necessary condition for recognizing a liability for remediation.
 - Assembling and reviewing all available historical and current information about a site / group of sites is necessary in order to determine if contamination exists that exceeds an environmental standard (refer to paragraph PS 3260.15).

Contamination (continued)

- The need to determine whether a liability exists and would be recognized is not eliminated by uncertainty about the existence or non-existence of contamination.
 - Instead, the probability that future site investigations will confirm that contamination exceeding an environmental standard existed at the financial statement date is what determines whether a liability exists.
 - If the probability is likely and an amount can be reasonably estimated a liability would be recognized.

Direct responsibility

- In the following situations a government may be directly responsible for remediation:
 - When its own past activities, even though they may have been consistent with environmental requirements at the time, have caused contamination; and
 - When activities such as mining or exploration occurred on government-owned land or land the government has since acquired, and a responsible party cannot be identified or if identifiable lacks the means to remediate the damage.
- A legal obligation establishes a clear duty or responsibility to another party that justifies recognition of a liability.
 - Under this Section, a legal obligation can result from:
 - Agreements or contracts;
 - Legislation of another government; or
 - A government's own legislation.

Accepting responsibility

- Through its own actions or promises a government may voluntarily assume responsibility for remediation of a contaminated site.
- Most liabilities for remediation arise from legal obligations; however, they can also be the result of constructive or equitable obligations.
 - Refer to paragraph PS 3260.28 for examples of evidence that a government may have a present obligation for remediation separate from legal documents.
- If a government announces its intentions between the financial statement date and completion of the financial statements this does not create a liability for remediation as the condition / situation did not exist at the financial statement date. However, this may create a subsequent event (refer to Section PS 2400, *Subsequent Events*¹).

Future economic benefits

- When contamination exists that exceeds an environmental standard the government may have a liability in spite of whether or not it chooses to perform remediation activities.
- The government may have a present obligation to remediate the contamination now or at some point in the future. The timing of the settlement does not relieve the government of its present obligation to recognize the liability; instead the timing would be taken into account in the measurement of the liability.
- However, if it is not expected that future economic benefits will be given up, it is possible the government would not record the liability.

Uncertain responsibility

- There may be uncertainty as to whether the government may be responsible in a situation where:
 - An environmental standard exists and contamination exceeds the standard; and
 - The government has determined it is not responsible and it does not accept responsibility.
- In this case, the government may have a contingent liability, because contamination that exceeds an environmental standard is an existing condition or situation.
- A future confirming event may be required to determine the government's responsibility. An assessment of the probability this future event will confirm the government's responsibility and professional judgment would be required.
 - If the future event confirming the government's responsibility is:
 - Likely - The government recognizes the liability if the amount can be reasonably estimated.
 - Unlikely - The government does not recognize the liability.
 - Not determinable - The government discloses the existence, nature and extent of the contingent liability.

¹ See also our publication PSAB At a Glance: Section PS 2400 - *Subsequent Events*.

Measurement

- Costs directly attributable to remediation activities must be included in the estimate of a liability.
 - These costs would include post-remediation operation, maintenance and monitoring costs that are an integral part of the remediation strategy for a contaminated site.
 - The estimate would include costs of assets acquired as part of remediation activities to the extent those assets have no alternative use.
- A liability for remediation must be estimated based on information that is available at the financial statement date.
 - It must be based on existing environmental standards and technology expected to be used in the remediation activities.
 - Professional judgment, management's best estimate at the time, and any previous experience the government has had in a similar situation would be used in estimating the liability.
 - If a reasonable estimate of the amount cannot be made, disclosure in the financial statements of the nature of the liability and its potential effects on the government's financial statements when it becomes measureable may be required.
 - When the estimate is based on a site assessment and a new site assessment is not completed each year, an extrapolation of the previously completed site assessment may be used in estimating the liability. However, when changes have occurred and the effect of the change is significant a new estimate may need to be recognized.
- The measurement technique used by the government must result in the best estimate of the amount required to remediate the contaminated site.
 - The best estimate would be the amount the government would rationally pay to settle or otherwise extinguish the liability at the financial statement date.
 - When the cash flows expected to settle / extinguish the liability occur over extended future periods, a present value technique may be the most appropriate technique.
- At each financial reporting date, the carrying amount of a liability for remediation must be reviewed. Any revision to the amount previously recognized by the government must be accounted for in the period in which the revisions are made.
 - When the estimate of the amount of the liability changes, the change is accounted for in accordance with Section PS 2120, *Accounting Changes*.
 - Until a liability is settled or otherwise extinguished it continues to be recognized in the government's financial statements.
 - When disbursements are made they are deducted from the liability.

Recoveries

- A recovery related to a liability for remediation of contaminated sites must be recognized when:
 - The recovery can be appropriately measured;
 - A reasonable estimate of the amount can be made; and
 - It is expected that future economic benefits will be obtained.
- A recovery cannot be netted against the liability.
- A contingent recovery would be disclosed in accordance with Section PS 3320, *Contingent Assets*.

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