



**FINANCE AND ADMINISTRATION CABINET
OFFICE OF THE CONTROLLER**

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Acting Controller

TO: Agency Heads

FROM: L. Joe McDaniel, Acting Controller

DATE: May 26, 2023

SUBJECT: GASB Statement No. 49 – Accounting and Financial Reporting for Pollution Remediation Obligations

The Governmental Accounting Standards Board (GASB) is the body responsible for setting accounting and financial reporting standards for governmental entities. GASB Statement No. 49 establishes accounting for liabilities related to pollution remediation obligations.

The requirements of GASB 49 are in effect for the Commonwealth's Comprehensive Annual Financial Report. The Controller's Office is seeking your help in identifying any **pollution remediation obligations**.

Definition of a Pollution Remediation Obligation

A pollution remediation obligation is an obligation to address the current or potential detrimental effects of existing pollution by participating in pollution remediation activities. For example, obligations to clean up spills of hazardous wastes or hazardous substances and obligations to remove contamination such as asbestos are pollution remediation obligations. Pollution remediation activities include the following:

- a. Pre-cleanup activities, such as performance of a site assessment, site investigation, and corrective measures feasibility study, and the design of a remediation plan;
- b. Cleanup activities, such as neutralization, containment, or removal and disposal of pollutants and site restoration;
- c. External government oversight and enforcement-related activities, such as work performed by an environmental regulatory authority dealing with the site and chargeable to the government;
- d. Operation and maintenance of the remedy, including required monitoring of the remediation effort (post remediation) monitoring.

It should be noted that some pollution remediation obligations will not involve all of the above activities. For example, asbestos removal may not involve post remediation monitoring. Furthermore, pollution remediation obligations do not include pollution prevention or control obligations with respect to current operations such as installing smokestack scrubbers to treat effluent or the use of environmentally friendly products.

A liability may need to be recognized for a pollution remediation obligation when any one of the following five events occurs:

- a. The government is compelled to take remediation action because pollution creates an imminent endangerment to public health or welfare or the environment, leaving it little or no discretion to avoid remediation action.
- b. The government is in violation of a pollution prevention-related permit or license, such as a Resource Conservation and Recovery Act (RCRA) permit or similar permits under state law.
- c. The government is named, or evidence indicates that it will be named, by a regulator as a responsible party or potentially responsible party for remediation, or as a government responsible for sharing costs.
- d. The government is named, or evidence indicates that it will be named, in a lawsuit to compel the government to participate in remediation.
- e. The government commences, or legally obligates itself to commence, cleanup activities or monitoring or operation and maintenance of the remediation effort. (Please note that if the commonwealth performs the cleanup activities there is a pollution remediation obligation even if a third party is responsible and will subsequently repay the Commonwealth).

The amount of the liability to be reported should be recognized as the ranges of their components, such as legal services, site investigation, and post remediation monitoring, become reasonably estimable. The estimated liability should be reviewed at each of the following stages:

Receipt of an administrative order compelling the government to take action even if that action is limited to site investigation.

- a. Participation, as a responsible party or potentially responsible party, in the site assessment or investigation.
- b. Completion of a corrective measures feasibility study.
- c. Issuance of an authorization to proceed.
- d. Remediation design and implementation, through and including operation and maintenance, and post remediation monitoring.

Upon receipt of the completed questionnaires, we will follow up with those agencies that report possible liabilities to ensure that an accurate liability is estimated and disclosed in accordance with the guidance of GASB Statement No. 49.

Should you have any questions, please contact Jessica Pinkston at (502) 564-8769. Thank you for your prompt response to this request.

Please complete the attached questionnaire and return by August 4, 2023.

APPENDIX A

Checklist for Assessing Pollution Remediation Obligations

Name of Agency: _____ Fund: _____

Completed by: _____ Date: _____

Telephone #: _____

GASB Statement No. 49, *Accounting and Financial Reporting for Pollution Remediation Obligations*, provides guidance on determining whether a liability exists for pollution remediation obligations. **All paragraph references in this checklist are to GASB 49.**

This questionnaire should be completed for each incident in which the expenditure is expected to be \$125,000 or greater and should reflect liabilities as of June 30, 2023.

Part 1 – Testing for Obligating Events

1. Are there any sites that the government knows or reasonably believes are polluted/contaminated?

YES _____ Go to Step 2.

NO _____ Go to Step 6.

2. Have any of the five obligating events occurred?

YES _____ Go to Step 3. If yes, please indicate which one by placing an “X” beside the appropriate event.

NO _____ Go to Step 6.

- i. _____ The government is compelled to take remediation action because pollution creates an imminent endangerment to public health or welfare or the environment, leaving it little or no discretion to avoid remediation action.
- ii. _____ The government is in violation of a pollution prevention-related permit or license, such as a Resource Conservation and Recovery Act (RCRA) permit or similar permits under state law.
- iii. _____ The government is named, or evidence indicates that it will be named, by a regulator as a responsible party or potentially responsible party for remediation, or as a government responsible for sharing costs.
- iv. _____ The government is named, or evidence indicates that it will be named, in a lawsuit to compel the government to participate in remediation.
- v. _____ The government commences, or legally obligates itself to commence, cleanup activities or monitoring or operation and maintenance of the remediation effort. (This includes cleaning up sites in which a third party is liable and will be responsible for repaying all expenses incurred by the Commonwealth.)

CHECK LIST CONTINUED

3. Is the range of one or more components, such as legal services, site investigation, and post remediation monitoring, of the pollution remediation obligation reasonably estimable?

YES _____ Go to step 4.

NO _____

4. Will a third party be responsible for repayment of the expenses incurred by the Commonwealth?

YES _____ If yes, is the amount collectible? _____ Go to step 5.

NO _____

5. Please provide a description of the nature of the pollution remediation activities.

6. Did you report pollution remediation liabilities in Fiscal Year 2022?

YES _____ If yes, please complete forms PRL 49A and PRL 49B.

NO _____

7. Are you reporting pollution remediation liabilities for Fiscal Year 2023?

YES _____ If yes, please complete forms PRL 49A and PRL 49B.

NO _____

8. The agency is not aware of any pollution remediation obligations. (Indicate with an "X" below)

_____ Stop here.