



## POLICY STATEMENT

Contamination of many sites in Nunavut occurred prior to the creation of the Territory when other parties were responsible for the use of and/or held tenure to these sites. The Government of Nunavut (GN) recognizes that contamination of territorial lands poses potential risks to human health and the environment. These risks have associated financial liability which must be accounted for following best practice and standards.

This policy outlines the GNs approach to managing liability for legacy contaminated sites on Commissioner's land or are the responsibility of the GN. It includes procedures for managing sites that pose a demonstrable risk to human health and/or the environment and for accounting and reporting of their associated financial liability.

The GN is committed to managing contaminated sites in a cost-effective and consistent manner, to reduce or eliminate, where possible, adverse effects on human health and the environment.

## PRINCIPLES

This Policy is guided by the following principles:

- a) The management and restoration of contaminated sites will be the responsibility of the polluter.
- b) Potential contaminated sites on Commissioner's Land and those which the GN accepts responsibility for are assessed to maintain an accurate accounting of their environmental liabilities.
- c) Contaminated sites will be managed using a risk-based approach to ensure that resources are allocated to the most high-risk sites.
- d) Contaminated sites must be managed in a cost-effective way, to minimize potential risks to the health of people and the environment.
- e) The implementation of this policy is guided by the Inuit Societal Values of:
  - i. Avatitinnik Kamatsiarniq - Respect and care for the land, animals and the environment; this policy will guide activities to reduce the impact of contaminated sites on the environment.
  - ii. Piliqatigiinniq - working together for a common cause; this policy will allow for improved collaboration between organizations to reduce the impact of contaminants on people and the environment.
  - iii. Aijiqatigiinniq - decision-making through discussion and consensus; this policy will allow for an increased understanding of GN and departmental responsibilities, which will facilitate more productive discussion on the management of contaminated sites.

## APPLICATION

This policy does not apply to the GN's tangible assets which are currently in productive use, but which may eventually incur retirement obligations, such as closure and reclamation costs. Contamination that occurs during productive use of an asset is managed in accordance with the *Environmental Protection Act* and associated regulations.

This policy applies to all departments, branches, and offices of the Government of Nunavut.

## DEFINITIONS

### Commissioner's Land

Land defined in Section 49 of the *Nunavut Act (Canada)*. There are five types of Commissioner's lands:

- i. Lands identified in Article 14 Part 1 subsection 14.1.1(b)(ii) of the Nunavut Agreement (otherwise known as the 100-foot strip) unless fee simple title or a reserve has been issued to another person or entity;
- ii. Lands identified in Article 14 Part 1 subsection 14.1.1(b)(iii) of the Nunavut Agreement (otherwise known as the Government Exemption List);
- iii. Lands identified in Article 14 Part 4 section 14.4.1 of the Nunavut Agreement (otherwise known as Untitled Municipal Land);
- iv. Block Land Transfer lands outside the municipal boundary; and,
- v. Lands owned in Fee Simple by the *Commissioner*.

### Contaminant

Any physical, chemical, biological, or radiological substances in air, soil, or water that has a potentially adverse effect on a receptor. Any chemical substance whose concentration exceeds background concentrations, or which is not naturally occurring in the environment.

### Contamination

The introduction of a chemical, organic or radioactive material, or live organism into soil, air or water that will adversely affect the quality of that medium.

### Contaminated Site

A site at which contaminants occur at concentrations:

- Above background levels and pose or are likely to pose an immediate or long-term hazard to human health and/or the environment or;
- That exceed remediation criteria, as defined by the latest version of the Canadian Council for Ministers of the Environment Canadian Environmental Quality Guidelines, or Nunavut specific standards created at a later date.

### Contaminated Sites Liabilities Working Group

An interdepartmental working group to implement the policy. The working group will consist of qualified representatives from the Departments of Community and Government Services, Economic Development and Transportation, Finance, Health, Justice, the Nunavut Housing Corporation, and the Qulliq Energy Corporation. Other departments may be included where relevant.

### Environmental Site Assessment (ESA)

A phased assessment of the land to determine the likelihood of contaminants that pose a risk to human health or the environment and may include:

- a) A Phase 1 ESA: a desktop analysis of the historic and current land uses to identify potential contamination;
- b) A Phase 2 ESA: collection of samples to assess the nature and extent of contamination found in the Phase 1 ESA;
- c) A Phase 3 ESA: further collection of samples to estimate the volume of the contaminants identified in the Phase 2 ESA and the development of a remediation strategy.

### Municipal Lands

As defined in Part 1 of Article 14 of the *Nunavut Agreement*, for the purposes of this policy, “*Municipal Lands*” means all lands within a municipal boundary, but excluding:

*(a) Inuit Owned Lands;*

*(b) Crown Lands that are*

*(i) the beds of water bodies,*

*(ii) subject to Part 5, within a 100-foot strip along the shoreline of the seacoast, navigable rivers, and navigable lakes measured from the ordinary high-water mark,*

*(iii) identified in the Inventory of Government and Crown Agency Lands in Municipalities, deposited with the registrar, comprising lands required at present, or in the reasonable foreseeable future, for government facilities or operations, or*

*(iv) acquired by the Crown subsequent to the date of ratification of the Agreement;*

*(c) lands owned in fee simple other than lands owned by a Municipal Corporation; and*

*(d) mines and minerals, other than granular, quarry and construction materials.*

#### PS 3260 Liability for Contaminated Sites

The GN prepares its financial statements in accordance with Generally Accepted Accounting Principles for Governments as recommended by the Public Sector Accounting Board of Canada. PS 3260 provides guidance on the recognition and measurement of liabilities for contaminated sites.

#### Receptor

A receptor is any living organism or other component of the environment that may come into contact and potentially be harmed or otherwise negatively affected by a contaminant.

#### Remediation

The treatment, containment, removal or management of contaminants so that they no longer represent an actual or potential risk to receptors, considering the current and intended use of the site.

#### Responsible Department

GN departments and agencies that have responsibilities for managing assets that are contaminated sites.

#### Risk Assessment

The scientific examination of the nature and magnitude of risk to define potential effects of contamination on both human and environmental receptors. Risk assessment includes identifying contaminant(s) of concern, potential receptor(s) of such contaminant(s), and possible pathway(s) by which receptor(s) may be exposed.

#### Risk Management

A strategy to limit the risk identified in the Risk Assessment, followed by monitoring and evaluation of the effectiveness of that strategy. Risk management may include direct remedial actions or other strategies that reduce the probability, intensity, frequency or duration of exposure of humans or receptors in the environment to contamination. Implementation typically involves a commitment of resources and communication with affected parties.

#### Site Closure

A site will be closed once the remediation or risk management goals have been met and there is no longer an associated remediation or risk management cost.

## **ROLES AND RESPONSIBILITIES**

### Minister of Environment

The Minister is accountable to the Executive Council for the implementation of this policy.

### Deputy Minister of Environment

The Deputy Minister of Environment is accountable to the Minister of Environment for the administration of this policy.

The Deputy Minister of Environment, or their designated official(s), establishes and communicates clear and transparent procedures and criteria for the administration of this policy. This will include:

- i. Maintaining the GN's inventory of contaminated sites;
- ii. Ensure that all required information to comply with PS 3260 is collected and reported by the responsible department;
- iii. Chairing the Contaminated Sites Liabilities Working Group.

The Department of Environment will only undertake remediation or other clean-up of contaminated sites where it is the Responsible Department.

### Department of Environment, Environmental Protection Division

The GN Department of Environment (ENV) is responsible for the overall management of contaminated sites, through its Environmental Protection Division. This will include:

- Conducting Phase 1 and 2 ESAs for sites that the GN is responsible for or has accepted responsibility;
- Remediating or risk managing contaminated sites for which Environment is the responsible department;
- Managing the GN Contaminated Sites Database;
- Tracking work done by all departments to assess, manage, or remediate GN contaminated sites;
- Providing technical assistance to responsible departments for site assessments, risk management, and remediation, as requested; and
- Notifying other parties, where there is a shared liability, to coordinate efforts and ensure that there are adequate resources available.
- Chair of the Contaminated Sites and Liabilities Working Group

### Contaminated Sites Liabilities Working Group

The working group will provide a forum for decision-making on all matters related to the GN's management of contaminated sites and associated environmental liabilities.

### Department of Finance

The Department of Finance is the GN's primary point of contact with the Office of the Auditor General of Canada (OAG). This involves coordinating the GN's response to requests for information from the OAG and reviewing the GN's contaminated sites inventory annually to ensure the GN's public accounts are prepared in accordance with PS3260.

## Responsible Department

Where the GN has recognized a liability, the responsible department will be required to remediate or risk-manage the site.

The responsible department will provide to the Department of Environment:

1. All relevant ESA, risk-management, and remediation documents;
2. Site identification in sufficient detail to locate the site;
3. Documentation and assessment of ownership of the site;
4. An assessment of the likelihood that the GN is or will be responsible for clean-up;
5. An estimated cost for further investigation and remediation; and
6. The cost incurred on a particular site by fiscal year

## **PROVISIONS**

### 1. Recognition of Liabilities

A liability for remediation of a contaminated site is recognized in the public accounts when all the following criteria are met:

1. An environmental standard exists;
2. Contamination exceeds the environmental standard;
3. The Government is directly responsible or accepts responsibility;
4. It is expected that future economic benefits will be given up; and
5. A reasonable estimate of the amount can be made

If the government is directly responsible or has accepted liability of a contaminated site, but the criteria above have not been met – a note will be made in the public accounts, but the liability will not be recognized.

Where the contamination is due to actions by a third party, the GN will pursue further discussions to recover either wholly or partially, the remediation costs.

Conducting an ESA for the purpose of determining if contamination exists for the purpose of PS 3260 does not mean that the GN will accept responsibility for a site.

### 2. Shared Responsibility

Responsibility for contamination, as well as associated financial liability at each site, is determined on a case-by-case basis. Responsibility for contamination of a given site may be shared amongst two or more parties.

Based on the 1999 Division of Assets and Liabilities Agreement, the GN accepts that it may have sole or shared liability for contaminated sites that meet all the following criteria:

- The site is in the territory of Nunavut;
- The activities at the site that resulted in contamination were conducted by the GNWT or an agent of the GNWT prior to the GN taking possession under the 1999 Agreement on Assets and Liabilities;
- The site is no longer in productive use;

- Where there is a demonstrable risk to human health and/or the environment; and
- The activities at the site were permitted by the GNWT and the original polluter cannot be pursued.

Each contaminated site requires specific assessment of ownership and history to determine each party's portion of total liability associated with the contamination. In most cases, the parties include the Government of Canada, the Government of the Northwest Territories, and the Government of Nunavut. However, reasonable efforts will be made to ensure other responsible parties are also identified and included in all proceedings.

The GN will pursue further discussions with the Government of Canada, the Government of the Northwest Territories, and other parties as required to ensure the necessary resources are secured for appropriate risk management measures at each contaminated site. An implementation plan would be developed in concert with all responsible government departments and parties to address contamination once agreement has been reached regarding respective parties' portions of liability for each site.

### 3. Contaminated Sites on Municipal Lands

The municipalities is responsible for the management, remediation, and/or risk management of contaminated sites that are owned by a municipality or sites that were contaminated as a result of activities carried out by, or on behalf of municipalities. On a case-by-case basis the GN may decide to assist to manage or remediate the site at the request of the municipality.

### 4. Contamination by Government Corporations

Government Corporations are responsible for the monitoring, remediation and/or risk management if necessary of sites owned and that were contaminated as a result of activities carried out by, or on behalf of a Government Corporation.

### 5. Administration of Contaminated Sites

Once a liability has been disclosed, costs to manage, remediate, and/or risk manage the site will be estimated so that it can be recognized in the public accounts. The Responsible Department will take steps to remediate and close or otherwise manage sites where liability has been recognized.

Departments are required to send all appropriate records of sites that are contaminated or suspected of being contaminated to the ENV.

These records must contain sufficient information to permit the department to administer their contaminated sites. As a minimum, the following data must be maintained:

1. Copies of all relevant environmental site assessment and environmental audit reports, spill reports, regulatory compliance cautions and advisories and other information needed to properly assess status regarding environmental liabilities.

2. Site identification must be identified by departments in sufficient detail to permit location of the site;
3. Characterization of the site;
4. Estimated costs for further evaluation or remediation (date estimated, and method of quantifying the costs, including pertinent assumptions);
5. Documentation and assessment regarding the ownership of the site;
6. Assessment of the likelihood that the GN is, or will be, responsible for clean-up;
7. Costs incurred on a particular site by fiscal year; and
8. Other information considered significant. (For further guidance, see the policy on Accounting for Costs and Liabilities Related to Contaminated Sites, Treasury Board of Canada Secretariat)

Upon completion of remediation goals, a site closure report must be completed and submitted to ENV and Finance must be updated about the change in status of the site.

#### 6. Risk-Based Approach

The GN has adopted a risk-based approach to the management of contaminated sites. The objectives of a risk-based environmental management approach are to assess risks to human health and the environment and to implement risk management solutions considered to be protective of those risks. This involves identifying the contaminants of concern, identifying potential receptors, determining potential exposure pathways and estimating the level of risk based on the pathways. In addition, the risk-based approach implies a prioritized allocation of resources within the GN.

#### 7. Investigation and Prioritization of Contaminated Sites

The GN will consider a site to be contaminated if there is one or more contaminants present above Canadian Council of Ministers of the Environment (CCME) guidelines for contaminated sites. In the future, the GN may develop its own guidelines for contaminated sites. The GN will prioritize sites for investigation and management of contamination based on levels of risk to people and the environment.

In general, GN contaminated sites will be prioritized based on their National Contaminated Sites (NCS) Score. The GN may, in the future, modify the NCS risk tool or develop a separate risk tool to better reflect the considerations needed to evaluate risk levels of contaminated sites in Nunavut.

In addition to NCS scores, further priority may be given to:

- Sites close to drinking water sources, residences, community buildings (schools, daycares, health centres, offices, etc.);
- Sites where contamination is poorly delineated;
- Sites where risks are not easily recognized and/or avoided by community members;
- Sites to be re-developed and requiring investigation to inform planning and development for community priorities;
- Sites that may be unstable with risk of contamination spreading beyond the property;



- Sites with external political considerations;
- Logistical considerations to lower cost (efficient travel, heavy equipment availability, etc.).

Flexibility is assumed in these criteria, such that the risk management efforts of contaminated site may be prioritized in ways that do not exactly meet the criteria.

#### 8. Limitations:

Nothing in this policy shall limit or prevent the GN from taking action to address specific human health or environmental risks posed by any contaminated site, even if it does not meet the criteria herein.

Nothing in this policy shall be construed as to limit the authority of the Nunavut Agreement. The Nunavut Agreement shall take precedence over this policy.

### **PREROGATIVE OF EXECUTIVE COUNCIL**

Nothing in this directive shall in any way be construed to limit the prerogative of Executive Council to make decisions or act respecting the management of contaminated sites and associated environmental liabilities of the Government of Nunavut, outside the provisions of this directive.

### **SUNSET**

This policy will be effective from the date of signature and will terminate upon the devolving of administration and control of Public Lands and rights in respect of Waters in Nunavut to the Commissioner of Nunavut.

Six months prior to the date of transfer, a review of this policy will be initiated with the explicit goal of amending it to address the changes concomitant with the transfer of responsibilities to the Commissioner, and the management of Impacted Sites as described within the Nunavut Lands and Resources Devolution Agreement.

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Premier