

DTSC's Financial Assurance Quick Reference Guide

What is financial assurance?

Proponents working with the Department of Toxic Substances Control (DTSC) under voluntary agreements are required by statute and regulation to provide adequate financial resources to pay for the long-term operation of certain types of cleanup systems. These financial resources are known as financial assurance mechanisms. These mechanisms ensure that financial resources are available for DTSC to take over the management and stewardship of a cleanup in case a Proponent fails to meet its obligations due to financial insolvency or other reasons. DTSC can ensure that human health and the environment are protected without placing a burden upon California taxpayers.

When is financial assurance required for voluntary agreements?

DTSC requires financial assurance for projects where a long-term cleanup system is required to maintain environmental and human safety. Examples include (but are not limited to):

- Vapor barriers
- Sub-slab depressurization systems
- Certain types of in-situ treatment
- Certain types of engineered caps
- Systems that have an option for conversion from passive to active cleanup
- Systems that require routine sampling to ensure long-term efficacy and effectiveness

A financial assurance mechanism is required to be submitted to DTSC within 90 days of DTSC's approval of an operation and maintenance plan.

What are the allowable financial assurance mechanisms?

The regulations allow for the use of the following forms of financial assurance mechanisms (as per California Code of Regulations, Title 22, Section 66265.143):

- Trust fund
- Letter of credit
- Financial test
- Alternative financial mechanism
- Payment bond
- Insurance
- Corporate guarantee

DTSC's Financial Responsibility Unit has experts who will work with Proponents to set up the required mechanisms and ensure regulatory compliance.

How is the financial assurance amount calculated?

DTSC reviews and approves the Proponent's financial assurance estimates on a case-by-case basis. The estimate must include costs associated with managing, operating, inspecting, and maintaining cleanup system(s), including Land Use Covenants, for a minimum of 30 years and/or until the remedial goals are met, as described in the cleanup plan and in coordination with the Proponent's technical team and DTSC staff.

When can the financial assurance mechanism be dissolved?

DTSC's Financial Responsibility Unit will work with the Proponent on a financial assurance mechanism release when:

- A Proponent submits an approved replacement of the mechanism
- The cleanup system is adjusted and requires significant modifications
- DTSC determines that the cleanup is complete and the system is no longer required for the protection of human health and the environment

As a matter of practice, long-term cleanup systems are reviewed by DTSC every five years.

For more information contact:

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Refer to Division 4.5 of Title 22 of the California Code of Regulations