

Requirements for Responding to Offsite Contaminant Migration

Environmental investigations and independent remediation are undertaken for a variety of reasons. They may, for instance, be voluntarily initiated as part of due diligence practices or be required by ministry processes.

If, during such an investigation or remediation efforts, it is determined that one or more substances have migrated (or are likely to have migrated) to a neighbouring property and are causing (or are likely to cause) contamination of that property, the neighbouring property owner and ministry must be notified within 15 days of the responsible person becoming aware of the situation.

Who is the responsible person in a case of offsite contaminant migration?

The responsible person can be a property owner, business operator, leaseholder, or anyone responsible for a release of a substance that results in contamination. If a responsible person, while undertaking a site investigation or independent remediation determines that offsite contaminant migration is occurring or is likely to occur, then that person must provide written notice of that in keeping with sections 57 and 60.1 of the Contaminated Sites Regulation (the Regulation).

Who must receive written notification?

Any owner of a neighbouring property that is potentially or actually affected by the migration

of contaminants must be provided with written notification including owners of neighbouring roadways, easements and utility corridors. A copy of the notification must also be submitted to the Director of Waste Management (see sections 57 (1.1) and 60.1 (2) of the Regulation).

The responsible person should also advise any other affected persons, such as owners of utilities, of contamination that could cause an adverse impact (for example, on underground wiring).

What information must be included?

Notifications must include the following information:

- the name and address of the person or persons who investigated the site;
- the name, address, and telephone number of the person to contact regarding the investigation; and
- a general description of the nature of the migration or likely migration of each substance.

The civic address of the source property, a site plan outlining the location of the site, the site latitude and longitude, and a Land Title record should also be included. This will help provide a complete record for the site on our Site Registry. Please use the [notification form](#) available on our website.

What are the expectations of the ministry?

Our primary goal is to ensure the protection of human health and the environment, and safety. In a situation where the offsite migration of contaminants has been determined, the ministry and the Regulation require all responsible persons to determine the full extent of contamination and to prepare and implement a remediation plan. We strongly encourage exchange of information and discussions among all affected persons so that a mutually satisfactory remediation plan can be implemented.

What other requirements are associated with the offsite migration of contaminants?

In most cases it is acceptable for a responsible person to conduct a site cleanup under the independent remediation process. About two thirds of the sites cleaned up in B.C. are remediated using this approach. Little ministry intervention is required if the responsible person follows a remediation plan agreed to by all affected parties. For information about the notification requirements associated with starting and completing independent remediation, please refer to Fact Sheet 21, "Requirements for Independent Remediation."

Although the ministry generally relies on responsible persons to carry out remediation appropriately, for site considered or classified high risk, the ministry is commonly more directly involved and, if necessary, the Director of Waste Management may issue a Remediation Order in accordance with section 48 of the *Environmental Management Act* (the Act).

What can neighbouring parties do once contaminant migration is determined?

To ensure that remediation of offsite contaminants is carried out promptly, neighbouring parties are encouraged to contact the responsible person to discuss a remediation strategy and to request site investigation reports and remediation plans and schedules. A site information request may also be sent to the ministry to obtain any information contained on the Site Registry and in our paper records. Note that the ministry does not become involved in settling disputes between private parties.

Who must pay for cleanup?

The Act embodies the "polluter pays" principle. In addition, the Act empowers whoever incurred a cost in cleaning up a site (including a responsible person) to seek compensation from one or more other responsible persons in court. Under the Regulation, a responsible person (or persons) named as a defendant in a previous court action may also seek compensation from other responsible persons.

What if it is later determined that offsite migration has not occurred?

In some cases, further investigation where there has been a notification of the potential for offsite contaminant migration reveals that it has not occurred. We recommend that the owners of the neighbouring properties who originally received the notification of potential offsite migration be notified in writing by the owner of the source property of the result that offsite migration has not occurred.

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.