

Remediation Liability and Transportation

The Contaminated Sites Regulation, under the *Environmental Management Act*, states that transporters of contaminated substances are responsible for cleaning up contaminated sites. The remediation liability associated with transportation in general and in certain situations is summarized here.

General transporter immunity

Transporters, as defined above, are not responsible for remediation at a contaminated site if they:

- did not control the disposal, handling or treatment of the substance;
- merely adopted standards at the site that were intended to prevent contamination; or
- complied with the government's environmental laws and policies that applied when transportation of the substances was arranged or occurred.

Responsibility for spills and discharges that occur during transportation

A person who transfers the ownership and responsibility for a substance to a transporter is not responsible for remediation of a site that becomes contaminated by the substance if:

- the transporter intended to transport the substance to a third party who was legally entitled to accept the substance;
- the transporter spilled or discharged the substance after receiving it from the first person but before delivering it to a third party; and
- the first person had nothing to do with an action the transporter took that caused part or all of the spill or discharge.

Responsibility for the transportation of contaminated soil

A transporter of contaminated soil is not responsible for remediating a site contaminated by the soil if the person who arranged for the soil's relocation, or the person who was to receive the soil, misrepresented the degree of contamination to the transporter.

This protection from liability, however, applies only if the transporter is otherwise in compliance with the Act and Regulation and acted in good faith and without negligence.

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