

## Cost Recovery

Division 2.1 Spill Preparedness, Response, and Recovery of the *Environmental Management Act* (EMA) came into force October 30, 2017. Section 91.4 of EMA addresses cost recovery for environmental emergencies and outlines how expenses incurred by the government for spill response actions are a recoverable debt. Section 5 of the [Spill Preparedness, Response and Recovery Regulation](#) brings the cost recovery provisions into force.

Section 91.4 lists the actions that the ministry of Environment and Climate Change Strategy (the ministry) may follow with regards to emergency response and outlines which expenses can be recovered. The expenses are considered a debt due to the government by the responsible person and owner of the substance or thing that has spilled. The responsible person and the owner are jointly and separately liable for government's costs in relation to spill response actions.

### Responsible Person

A responsible person has possession, charge or control of a substance or thing when a spill of the substance or thing occurs or is at imminent risk of occurring

### Spill response actions

The ministry may carry out spill response actions if deemed necessary by response personnel. A response may be deemed necessary when one or more of the following apply:

- there is no responsible person in relation to the spill,

- the ministry has reasonable grounds to believe government action is necessary to address the consequences of a spill, and
- the responsible person requests assistance with response and recovery actions

Ministry's actions can also include:

- identifying and evaluating risks to the environment, human health, and infrastructure
- measures to recover and restore the environment, and
- steps to resolve or mitigate long term impacts.

### Recoverable costs

Recoverable costs are costs that the ministry has deemed to be reasonable and may include:

- the use of government employees or contractors in the response including hourly rates and expenses,
- the use of government vehicles including mileage,
- the use of external consulting or other professional services,
- the use, maintenance, and/or repair of government equipment,
- research and analytic services related to recovery, and
- any other costs related to mitigating the effects of the spill on the public.

### Intent to pursue cost recovery

As soon as practicably possible, an Environmental Emergency Response Officer (EERO) responding to an incident will verbally inform the responsible person of the intent to recover any government costs associated with the response. The ministry will also communicate the government's intent to pursue cost recovery with a letter sent by registered mail to both the responsible person and the owner.

## Letter of Demand for Cost Recovery

Once all response costs have been verified, a Letter of Demand for Cost Recovery will be sent issued via registered mail to the responsible person as well as the owner of the substance or thing that was spilled. The responsible person is required to identify the owner of the product that has spilled during the initial report (see the Spill Reporting Fact Sheet and [Spill Reporting Regulation](#)).

## Administration fee, minimum costs and interest

- An additional 25% administration fee will be charged to the responsible person and owner on top of all government costs,
- the minimum charge will be \$175 for government field response to any spill, and
- The rate of interest will be 3% above the prime lending rate of the principle banker of the Province, applied every 30 days that payment is not received, and compounded from the interest commencement date.

## Paying the letter of demand

Cheques for the total amount due are payable to the Minister of Finance and addressed to the attention of the financial officer specified on the Letter of Demand for Cost Recovery.

## Contesting a Letter of Demand for Cost Recovery

If a responsible person and/or owner wish to contest a Letter of Demand for Cost Recovery, they must notify the Cost Recovery Clerk and clarify the reason of the contention. An internal review by the Environmental Emergency Program Director or the Response Manager will take place and the outcome of this review will be communicated via registered mail to both the responsible person and the owner.

## Communication with the ministry

Any questions or concerns regarding the Letter of Demand for Cost Recovery can be directed to the Cost Recovery Clerk as indicated on the correspondence received.

## Fines and Penalties

It is the responsibility of regulated persons, responsible persons and the owners of substances or things to understand and comply with the *Environmental Management Act* and its associated regulations.

This document is solely for the convenience of the reader and is intended to assist in understanding the legislation and regulations, not replace them. It does not contain and should not be construed as legal advice. Current legislation and regulations should be consulted for complete information.

Failure to be in compliance can result in convictions of fines and imprisonment, as outlined in *Environmental Management Act* and its associated regulations.

## Additional Fact Sheets

Fact Sheets on other relevant topics are published by the Environmental Emergency Program (EEP) and available at:

<http://www2.gov.bc.ca/gov/content/environment/air-land-water/spills-environmental-emergencies/spill-preparedness-and-response-bc>

The complete list of available fact sheets:

- 01 Regulated Person
- 02 Responsible Person
- 03 Spill Reporting
- 04 Lessons-Learned Report
- 05 Cost Recovery
- 06 Requirement to Provide Information
- 07 Spill Contingency Planning
- 08 Testing Spill Contingency Plans
- 09 Recovery Plan

**For more information, contact Environmental Emergency Program at: [spillresponse@gov.bc.ca](mailto:spillresponse@gov.bc.ca)**