

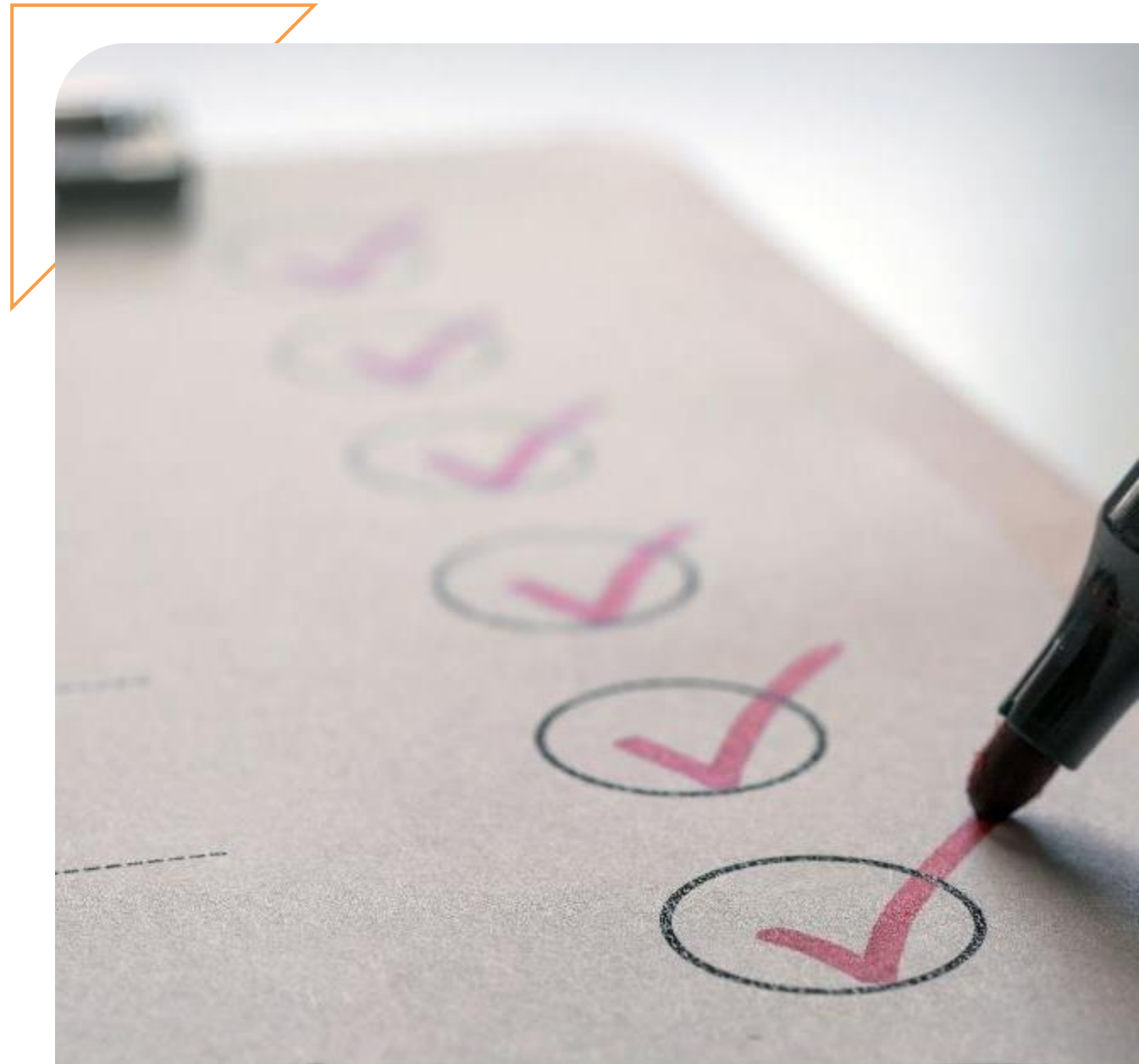
# Duty to Report Environmental Contamination


3.18.2026



# Agenda

1. Duty to Report Environmental Contamination (SK & AB)
2. Liability Arising from Breach of Duty to Report
  - Statutory & Civil Liability
  - Professional Obligations
3. Reporting Scenarios



An aerial photograph of a vast, dense forest of evergreen trees, likely spruce or fir, covering a hillside. The trees are tightly packed, creating a textured, dark green surface. The lighting is soft, suggesting an overcast day or late afternoon. The overall tone is natural and serene.

# I. Duty to Report Environmental Contamination (AB & SK)

# OVERVIEW

What is the duty to report and who does it apply to?

# What is the duty to report?

- The duty to report is an obligation to report:
  - The **discharge** or **discovery** of a substance into the environment that **may cause or is causing** an **adverse effect** (SK)
  - The **release** of a substance into the environment that **may cause, is causing, or has caused** an **adverse effect** (AB)
- The specific requirements of this duty vary by jurisdiction (i.e., province or territory)





## Why is there a duty to report?

- Alert proper authorities
- Determine next steps
- Prevent further harm

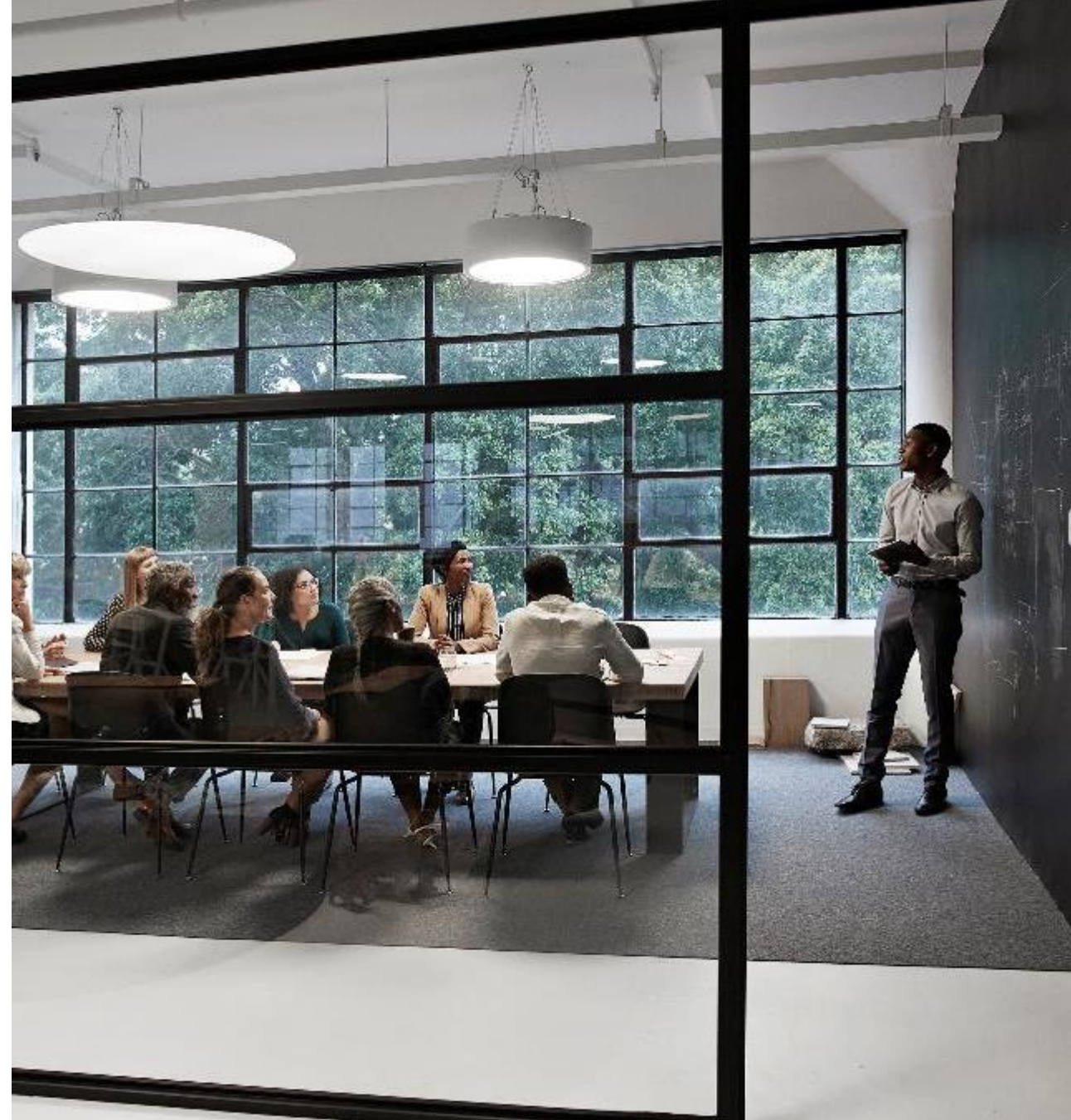
## Who has a duty to report? (Saskatchewan)

- Every person who:
  - Causes or allows a discharge;
  - Owns or occupies land and discovers a discharge; or
  - Discovers a substance while working
  - ***This includes consultants***
- Police officers, municipal employees, and employees of government agencies who are informed of or investigate a discharge or discovery (with some exceptions)



# Who has a duty to report? (Alberta)

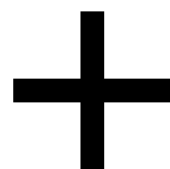
- Every person who:
  - Releases (or causes or allows the release of) a substance; or
  - Has control of a substance that is released (with some exceptions)
  - *This means anyone having charge, management, or control of the substance – **including consultants***
- Police officers, employees of a local authority, or other public authorities who are informed of or investigate a release (with some exceptions)



## When does the duty to report arise?

### **SUBSTANCE IS DISCHARGED (RELEASED) OR DISCOVERED**

Someone causes, allows, or discovers an unauthorized discharge (release) of a substance into the environment.



### **ADVERSE EFFECT**

The substance that has been discharged (released) causes, may cause, or has caused an adverse effect.



### **DUTY TO REPORT**

Duty to report in the manner set out in the legislation arises.

# REPORTING

Who needs to be notified, and when?

# When does a report need to be made?

## Saskatchewan

- Discharge = immediately, plus a follow-up report within 30 days
- Discovery = immediately for “serious” risks, otherwise within 30 days

## Alberta

- Initial report = as soon as the person required to report knows, or ought to know, of the release
- Follow-up report = within 7 days following the initial report (unless waived by the Director)



# Who needs to be notified?

## Saskatchewan

- The Ministry of Environment
- Third parties (e.g., adjacent landowners)
- Any other persons as identified by the Minister

## Alberta

- Ministry of Environment and Protected Areas
- Owner of substance (if readily identifiable)
- Anyone who the reporter reports to in an employment capacity
- Person in control of substance (if readily identifiable and not the reporter themselves)
- Any other person the reporter knows, or ought to know, may be directly affected



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## II. Liability Arising from Breach of Duty to Report

# LIABILITY

Statutory & civil liability (negligence)

## Statutory Liability – Penalties

- Administrative monetary penalties (AMPs)
  - Fines imposed by regulators to promote compliance with statutes, regulations, or bylaws (alternative to criminal offence system)
- Offences
  - Fines or imprisonment for contraventions of environmental protection legislation
- Failure to comply with reporting requirements can result in:
  - The issuance of environmental protection orders or fines up to \$1,000,000 per day (SK)
  - Fines up to \$50,000 (individuals) or \$500,000 (corporations) (AB)

## Example: *R v Chem-Security (Alberta) Ltd.*

- A hazardous waste treatment facility reconfigured its furnace to address a possible leakage of PCBs
- Steel plate failed, allowing the (unintentional) release of PCBs and other harmful substances into the air
- Facility was charged under Alberta's environmental protection legislation for causing the release and failing to report the same
- Total penalty of \$625,000 (\$225,000 resulted from failure to report)

**Takeaway:** Report contamination *immediately* – do not wait!



# Negligence

- Negligence requires the plaintiff (i.e., person initiating a lawsuit) to prove that the defendant (i.e., person who the lawsuit is brought against):
  - Owed the plaintiff a duty of care;
  - Breached that duty; and
  - That the breach caused the plaintiff to suffer damages
- Failure to report environmental contamination could potentially lead to liability in negligence



# PROFESSIONAL OBLIGATIONS

Bylaws & Codes of Ethics

# Engineers & Geoscientists

- Governed by provincial regulatory bodies (APEGS & APEGA) and applicable bylaws, regulations, and codes of ethics
- In Saskatchewan, must:
  - Hold paramount the safety, health, and welfare of the public and the protection of the environment (Bylaws, s. 20(2)(a))
  - Be aware of, and ensure that clients and employers are made aware of, environmental consequences of actions or projects (Bylaws, s. 20(2)(h))
- In Alberta, must:
  - Hold paramount the health, safety, and welfare of the public and have regard for the environment (Code of Ethics, rule 1)
  - Understand and comply with applicable environmental laws in their practice (Code of Ethics, rule 4; Ethical Practice Guideline, s. 4.1.3)
  - Identify and report conditions that present a material, immediate, or anticipated threat to the environment (Ethical Practice Guideline, s. 4.1.4)

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# III. Reporting Scenarios

A top-down view of various surveying tools on a wooden surface. On the left, there are several yellow work gloves. In the top left corner, a white rolled-up blueprint is visible with some technical drawings and text. Below the gloves, there are black straps and a white circular object, possibly a lens cap or a small container. At the bottom, there are several white measuring tapes and a yellow and black tool, likely a level or a similar surveying instrument.

## Scenario #1

You are surveying unoccupied/agricultural land in rural Saskatchewan on a sunny day when you notice a 30-cm (1-foot) patch of stressed vegetation and darkened soil. You observe no obvious chemical odours. As far as you can tell, there are no streams or other water bodies nearby. You have not noticed any wildlife in the area, either. You are working alone and your next check-in is scheduled for a few hours from now (when you are back in cell service range).

## Scenario #2

A commercial property owner in Saskatchewan is developing a hotel on a former service station site. During excavation for a new foundation, the contractor uncovers soil that has a strong petroleum odour and visible staining.

There were no fuel spills during construction. There are no records of whether underground storage tanks had been located on the site or whether any historical contamination had previously been reported to the Saskatchewan Ministry of Environment.



# Q&A

# Thank you

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