

PROVINCE OF BRITISH COLUMBIA
REGULATION OF THE MINISTER OF ENVIRONMENT
AND CLIMATE CHANGE STRATEGY

Environmental Management Act

Ministerial Order No. M 328

I, George Heyman, Minister of Environment and Climate Change Strategy, order that, effective October 30, 2017, the attached Spill Contingency Planning Regulation is made.

September 14, 2017

Date



Minister of Environment and Climate Change Strategy

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Environmental Management Act, S.B.C. 2003, c. 53, ss. 92.1 and 139*

Other: _____

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SPILL CONTINGENCY PLANNING REGULATION

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PART 1 – INTERPRETATION

Definitions

- 1 In this regulation:
 - “**3-year period**”, in relation to a spill contingency plan, means
 - (a) the period of 3 calendar years beginning with the calendar year immediately after the calendar year in which the plan is first prepared, and
 - (b) each subsequent period of 3 calendar years;
 - “**Act**” means the *Environmental Management Act*;
 - “**breakout tank**” means a tank, attached to a pipeline, used to relieve surges in the pipeline and store the substance being transported for reinsertion into the pipeline;
 - “**contact information**”, in relation to a person, means the address, telephone number and, if any, email address of the person;
 - “**discussion-based test**” means an exercise or drill, based on a simulated spill of a regulated substance, that is not an operations-based test;

- “disposal”**, in relation to waste, includes the treatment, recycling, storage and destruction of the waste;
- “heritage feature”** means a heritage site or heritage object designated under section 9 (1) [*heritage designation*] of the *Heritage Conservation Act*;
- “highway”** has the same meaning as in the *Transportation Act*;
- “highway transporter”** means a regulated person referred to in section 2 (1) (b) (ii) [*regulated person*] of the Spill Preparedness, Response and Recovery Regulation;
- “means of containment”** has the same meaning as in the *Transportation of Dangerous Goods Act, 1992* (Canada);
- “operations-based test”** means an exercise or drill, based on a simulated spill of a regulated substance, that involves
- (a) the deployment of equipment, personnel and other resources, or
 - (b) the implementation of spill response procedures;
- “pipeline”** has the same meaning as in the Spill Preparedness, Response and Recovery Regulation;
- “pipeline transporter”** means a regulated person referred to in section 2 (1) (a) of the Spill Preparedness, Response and Recovery Regulation;
- “protected area”** means an area of land set out in Column 1 of the Schedule that is established, named, designated or otherwise prescribed under the Act listed opposite in Column 2;
- “railway transporter”** means a regulated person referred to in section 2 (1) (b) (i) of the Spill Preparedness, Response and Recovery Regulation;
- “regulated substance”**, in relation to a regulated person or the regulated person’s spill contingency plan, means the substance in respect of which the regulated person is a regulated person;
- “specified quantity”** has the meaning set out in section 2;
- “spill response equipment”** has the same meaning as in the Spill Preparedness, Response and Recovery Regulation;
- “spill response planning zone”**, in relation to a regulated person and a regulated substance, means
- (a) the area in which the person transports the substance, and
 - (b) the surrounding area that could be affected by the worst case scenario of a spill of the specified quantity of the substance at a location within the area described in paragraph (a);
- “wildlife”** means any of the following, including eggs and juvenile stages, but excluding controlled alien species as defined in the *Wildlife Act*:
- (a) any of the following, as defined in the *Wildlife Act*:
 - (i) raptors;
 - (ii) threatened species;
 - (iii) endangered species;
 - (iv) game;

- (b) species of vertebrates prescribed as wildlife under the *Wildlife Act*;
- (c) fish from or in the non-tidal waters of British Columbia;

“**worst-case-scenario test**” means an operations-based test that is based on a simulation of the worst case scenario of a spill of the specified quantity of a regulated substance.

Specified quantity

- 2 (1) The specified quantity in relation to the transportation of a regulated substance is the following, as applicable:
- (a) in the case of transportation through a pipeline, the greatest of
 - (i) the quantity of the largest historic spill from the pipeline,
 - (ii) the volume of the largest breakout tank, or battery of breakout tanks, without a secondary containment system, and
 - (iii) the quantity calculated in accordance with subsection (2);
 - (b) in the case of transportation by railway, the greater of
 - (i) the maximum quantity that could be transported by a single rail car operated by the regulated person, and
 - (ii) 20% of the maximum quantity that could be transported by a train operated by the regulated person;
 - (c) in the case of transportation on a highway, the maximum quantity that could be transported by a single motor vehicle, including trailers, if any, attached to the motor vehicle operated by the regulated person.

- (2) For the purposes of subsection (1) (a) (iii), the quantity is to be calculated as follows:

$$\text{quantity} = (\text{detection time} + \text{shutdown time}) \times \text{flow rate} + \text{line drainage}$$

where

- detection time = the maximum time that is likely to be required to detect an unintentional release from the pipeline;
- shutdown time = the maximum time that is likely to be required to shut down the pipeline;
- flow rate = the maximum flow rate of the pipeline;
- line drainage = the maximum quantity that could be contained by the pipeline between any 2 shutoff valves.

PART 2 – CONTENTS OF SPILL CONTINGENCY PLAN

Contents of spill contingency plan

- 3 For the purposes of section 91.11 (1) (a) [*regulated persons – spill contingency planning*] of the Act, a spill contingency plan must address the worst case scenario of a spill of the specified quantity of the regulated substance and must contain all of the following:
- (a) the name and contact information of the regulated person;

- (b) a declaration that the spill contingency plan is true, accurate and complete, signed by any of the following, as applicable:
 - (i) if the regulated person is an individual, the regulated person;
 - (ii) if the regulated person is a corporation, a director or officer of the regulated person;
 - (iii) if the regulated person is a partnership,
 - (A) a partner who is an individual, or
 - (B) a director or officer of a partner that is a corporation;
- (c) the information required by the following sections:
 - (i) section 4 [*hazard assessment*];
 - (ii) section 5 [*spill response planning map*];
 - (iii) section 6 [*equipment, personnel and other resources*];
 - (iv) section 7 [*incident command system*];
 - (v) section 8 [*human health and safety*];
 - (vi) section 9 [*communication procedures*];
 - (vii) section 10 [*waste management*];
 - (viii) section 11 [*wildlife*];
 - (ix) section 12 [*spill response procedures*];
 - (x) section 13 [*training*].

Hazard assessment

- 4 (1) The spill contingency plan must contain the following information about the regulated substance:
 - (a) a description of the properties of the substance that are relevant to its potential to cause adverse effects to the environment, human health or infrastructure;
 - (b) a description of the types and sizes of the means of containment used
 - (i) to transport the substance, and
 - (ii) if the regulated person is a pipeline transporter, to store the substance incidentally to its transportation;
 - (c) an assessment of the magnitude of the risk to the environment, human health and infrastructure that would result from the worst case scenario of a spill of the specified quantity of the substance.
- (2) The assessment referred to in subsection (1) (c) must identify the aspects of the environment, human health and infrastructure that are at risk of being adversely affected by that spill.

Spill response planning map

- 5 (1) If the regulated person is a pipeline transporter or railway transporter, the spill contingency plan must contain a map of the spill response planning zone for the regulated substance that shows all of the following:
 - (a) the corridors along which the substance is transported;

- (b) the facilities used in or related to the transportation of the substance;
 - (c) roads;
 - (d) evacuation routes;
 - (e) topographical features relevant to the movement of or response to a spill of the substance;
 - (f) potential response staging sites and potential spill control points;
 - (g) locations of all of the following, as applicable:
 - (i) bodies of water;
 - (ii) wetlands;
 - (iii) protected areas;
 - (iv) heritage features;
 - (v) key infrastructure, including, without limitation, dams and major public and industrial water intakes;
 - (vi) areas of human habitation and recreation activities and areas that include hospitals, schools and other public facilities.
- (2) If the regulated person is a highway transporter, the spill contingency plan must contain a map of the area in which the regulated person regularly transports the regulated substance that shows all of the following:
- (a) if the regulated person uses a regular route, the roads along which the regulated person regularly transports the regulated substance;
 - (b) topographical features relevant to the movement of or response to a spill of the substance;
 - (c) bodies of water.

Equipment, personnel and other resources

- 6 (1) The spill contingency plan must contain the following information:
- (a) a list of the equipment, personnel and other resources that the regulated person intends to use in responding to and cleaning up the worst case scenario of a spill of the specified quantity of the regulated substance;
 - (b) for each piece of spill response equipment listed for the purposes of paragraph (a) that is maintained by or on behalf of the regulated person,
 - (i) a copy of records evidencing the inspection and maintenance of the equipment, or
 - (ii) a copy of any agreement under which a person other than the regulated person agrees
 - (A) to be responsible for the inspection and maintenance of the equipment, and
 - (B) to maintain, and produce to the minister on request, records evidencing the inspection and maintenance of the equipment.
- (2) Without limiting subsection (1) (a), the list must include equipment, personnel and other resources to be used for the following purposes, if applicable:
- (a) if the regulated substance is flammable, firefighting;

- (b) if the regulated substance is harmful to human health, first aid;
- (c) if the regulated substance is volatile and harmful to human health, air-quality monitoring.

Incident command system

- 7 (1) If the regulated person is a pipeline transporter or railway transporter, the spill contingency plan must identify the following:
 - (a) the roles in the incident command system, which must include at least the following:
 - (i) incident commander;
 - (ii) information officer;
 - (iii) liaison officer;
 - (iv) safety officer;
 - (v) chiefs of the following sections:
 - (A) administration / finance;
 - (B) logistics;
 - (C) operations;
 - (D) planning;
 - (b) for each of those roles, the job titles of one primary and 2 alternate individuals who are to fill the role.
- (2) If the regulated person is a highway transporter, the spill contingency plan must identify the following:
 - (a) the roles in the incident command system, which must include at least the following:
 - (i) incident commander;
 - (ii) information officer;
 - (iii) liaison officer;
 - (iv) safety officer;
 - (b) for each of the roles, the job titles of one primary and one alternate individual who are to fill the role.

Human health and safety

- 8 The spill contingency plan must include procedures for
 - (a) protecting the health and safety of individuals involved in spill response actions, and
 - (b) controlling access to and ensuring safety at locations where spill response actions are carried out.

Communication procedures

- 9 (1) The spill contingency plan must include procedures for
 - (a) communications among spill response personnel, and

- (b) communications with the public about the spill, including, without limitation, procedures for
 - (i) providing information to the public, and
 - (ii) gathering information from the public.
- (2) Subsection (1) (b) does not apply in relation to a highway transporter.

Waste management

- 10** (1) The spill contingency plan must include waste management procedures for waste resulting from a spill of the regulated substance that identify all of the following:
 - (a) locations at which the waste might be stored temporarily before being transported to a facility referred to in paragraph (c);
 - (b) persons who might transport the waste;
 - (c) facilities at which the waste might be received for disposal.
- (2) If the waste resulting from a spill of the regulated substance is likely to be hazardous waste,
 - (a) the persons identified for the purposes of subsection (1) (b) must include persons licensed under the Act to transport the waste, and
 - (b) the facilities identified for the purposes of subsection (1) (c) must include facilities authorized under the Act to receive the waste for disposal.
- (3) Subsection (1) (a) does not apply in relation to a highway transporter.

Wildlife

- 11** (1) If the assessment referred to in section 4 (1) (c) [*hazard assessment*] identifies potential adverse effects to wildlife, the spill contingency plan must describe the following:
 - (a) procedures to deter the wildlife from the spill site, reduce attractants to the wildlife at the spill site or otherwise reduce the presence of the wildlife at, or manage the access of the wildlife to, the spill site;
 - (b) potential sites at which the wildlife could be tended to;
 - (c) persons with relevant expertise who could be called on to assist with tending to the wildlife.
- (2) Subsection (1) (b) does not apply in relation to a highway transporter.

Spill response procedures

- 12** (1) The spill contingency plan must, in accordance with this section, include spill response procedures that address the following topics:
 - (a) initial assessment of the spill;
 - (b) notification of persons about the spill;
 - (c) spill response actions;
 - (d) monitoring and documenting of
 - (i) the spill, and
 - (ii) actions described in paragraphs (a) to (c).

- (2) Procedures for initial assessment of the spill must include procedures for the following:
 - (a) identifying and evaluating the immediate risks to and impacts on the environment, human health and infrastructure;
 - (b) classifying spills, which must be based on at least the following factors:
 - (i) the substance spilled;
 - (ii) the quantity of the substance spilled;
 - (iii) the location and circumstances of the spill;
 - (c) assessing
 - (i) what is to be done to protect the safety of spill response personnel and the public, and
 - (ii) whether evacuation is necessary.
- (3) Procedures for notifying persons about the spill must
 - (a) identify the following:
 - (i) the obligation to report the spill to the Provincial Emergency Program under section 4 (1) [*initial report*] of the Spill Reporting Regulation and the telephone number specified in that section for reporting;
 - (ii) directors, officers, employees and contractors of the regulated person who are to be notified, the order in which they are to be notified and their contact information;
 - (iii) governments and other public agencies that are to be notified and their contact information, and
 - (b) include procedures for notifying persons who might need to take protective action in relation to the spill.
- (4) Procedures for spill response actions must include procedures for the following:
 - (a) identifying and documenting the location and movement of, and the area covered by, the spill;
 - (b) assessing the current and potential adverse effects of the spill on the environment, human health and infrastructure;
 - (c) mobilizing, deploying and maintaining the ongoing sufficiency of equipment, personnel and other resources;
 - (d) establishing the incident command post;
 - (e) controlling the source of the spill;
 - (f) stabilizing, containing, removing and cleaning up the spill and waste resulting from the spill or spill response actions;
 - (g) protecting the aspects of the environment, human health and infrastructure
 - (i) referred to in section 5 (1) (g) or (2) (c) [*spill response planning map*], or
 - (ii) identified in the assessment referred to in section 4 (1) (c) [*hazard assessment*] as at risk of being adversely affected by a spill.

Training

- 13 (1) The spill contingency plan must describe the training that will be provided to the following individuals on the following topics and how frequently that training will be provided:
- (a) each individual who holds a job title identified for the purposes of section 7 (1) (a) or (2) (a) [*incident command system*], on the individual's role in the incident command system;
 - (b) each individual referred to in subsection (2) who might be involved in responding to a spill, on the procedures, referred to in the following sections, that are relevant to the involvement of that individual:
 - (i) section 8 [*human health and safety*];
 - (ii) section 9 [*communication procedures*];
 - (iii) section 10 [*waste management*];
 - (iv) section 11 [*wildlife*];
 - (v) section 12 [*spill response procedures*].
- (2) Subsection (1) (b) applies in relation to the following individuals:
- (a) if the regulated person is an individual, the regulated person;
 - (b) an individual employed or retained by the regulated person.

PART 3 – REVIEWING, UPDATING AND TESTING SPILL CONTINGENCY PLAN

Reviewing and updating spill contingency plan

- 14 (1) For the purposes of section 91.11 (1) (b) [*regulated persons – spill contingency planning*] of the Act, a regulated person who has a spill contingency plan must, at the frequency required by subsection (2) of this section, review the plan and make updates, if necessary, to
- (a) correct deficiencies in the plan, or
 - (b) adjust the plan to reflect changed circumstances.
- (2) The regulated person must review and update the spill contingency plan
- (a) at least once each calendar year, and
 - (b) within one month after any of the following events occur:
 - (i) a change in the regulated substances, or the quantities of the regulated substances, transported by the regulated person that could result in a material increase to the magnitude of the risk referred to in section 91.11 (2) of the Act;
 - (ii) a vacancy in one of the jobs that is noted by title in the plan for the purposes of section 7 (1) (a) or (2) (a) [*incident command system*];
 - (iii) spill response equipment noted in the plan is no longer available.

Testing spill contingency plan

- 15** (1) For the purposes of section 91.11 (1) (b) [*regulated persons – spill contingency planning*] of the Act, a regulated person who has a spill contingency plan must test the plan, in accordance with this section, every 3-year period by conducting
- (a) at least one worst-case-scenario test, and
 - (b) in every calendar year in the 3-year period that is not a calendar year in which the regulated person conducts a worst-case-scenario test,
 - (i) at least one discussion-based test, and
 - (ii) at least one operations-based test.
- (2) The tests conducted for the purposes of this section must
- (a) cover, in each 3-year period, at least the components of the plan that are referred to in section 16, so as to ensure that the plan demonstrates that the regulated person has the capability to effectively respond to a spill,
 - (b) involve individuals who, in the event of a spill, would be deployed or otherwise involved in implementing the components of the plan that are being tested but need not involve more than the minimum number of those individuals necessary to implement those components, and
 - (c) in the case of a worst-case-scenario test, be conducted in British Columbia.
- (3) A regulated person who has a spill contingency plan must, on request of the director,
- (a) inform the director of the dates of the tests that the regulated person has conducted, or plans to conduct, for the purposes of this section in the current 3-year period,
 - (b) give to the director information or records relating to the tests referred to in paragraph (a), and
 - (c) allow the director, or an individual authorized by the director, to observe any test that the regulated person plans to conduct for the purposes of this section.
- (4) Despite subsection (1) (a), a highway transporter is not required to conduct a worst-case-scenario test.
- (5) Despite subsections (1) and (2) (a), a regulated person is not required
- (a) to test a component of the plan in a 3-year period that was implemented in response to an actual spill in the 3-year period, or
 - (b) to carry out a worst-case-scenario test in a 3-year period if the regulated person suffers the worst case scenario of a spill of the specified quantity of the regulated substance in the 3-year period.

Components to be tested

- 16** The components of a spill contingency plan to be tested for the purposes of section 15 (2) (a) are the following:
- (a) section 12 (3) [*notification*];

- (b) section 12 (4) (c) [*mobilization, deployment and ongoing sufficiency*] as it relates to the mobilization and deployment of spill response equipment and spill response personnel;
- (c) section 12 (4) (c) as it relates to maintaining the ongoing sufficiency of equipment, personnel and other resources;
- (d) sections 7 [*incident command system*] and 12 (4) (d) [*incident command post*];
- (e) section 12 (4) (e) [*source control*];
- (f) section 12 (2) and (4) (b) [*initial and ongoing assessments*];
- (g) section 12 (4) (f) [*stabilizing, containing, removing and cleaning up*];
- (h) section 12 (4) (g) [*protection of aspects of environment, human health and infrastructure*];
- (i) section 12 (1) (d) [*monitoring and documentation*];
- (j) section 9 [*communication*];
- (k) section 10 [*waste management*].

PART 4 – GENERAL

Availability of spill contingency plan to employees

- 17 For the purposes of section 91.11 (1) (c) [*regulated persons – spill contingency planning*] of the Act, a regulated person who is a highway transporter and has a spill contingency plan must ensure that each motor vehicle used by the regulated person to transport the regulated substance contains a copy of the parts of the plan that address
- (a) the procedures referred to in section 12 (2) [*initial assessment*],
 - (b) the procedures referred to in section 12 (3) [*notification*], and
 - (c) the procedures referred to in section 12 (4) [*spill response actions*] in which a driver might be involved.

SCHEDULE

PROTECTED AREAS

Item	Column 1 Area	Column 2 Act
1	a national marine conservation area reserve	<i>Canada National Marine Conservation Areas Act</i>
2	a national park or a national park reserve	<i>Canada National Parks Act</i>
3	a public land required for wildlife research, conservation or interpretation	<i>Canada Wildlife Act</i>
4	a management area	<i>Creston Valley Wildlife Act</i>
5	an ecological reserve	<i>Ecological Reserve Act</i>

SCHEDULE
PROTECTED AREAS

Item	Column 1 Area	Column 2 Act
6	an area that is subject to an order the Lieutenant Governor in Council considers necessary or advisable in respect of the environment or land use for the preservation or maintenance of the natural environment	<i>Environment and Land Use Act</i>
7	the Flathead watershed area	<i>Flathead Watershed Area Conservation Act</i>
8	(a) an ungulate winter range or a wildlife habitat area in respect of which there is to be no timber harvesting, but not in respect of which there may be conditional timber harvesting, or (b) a fisheries sensitive watershed area	<i>Forest and Range Practices Act</i>
9	an old growth zone	<i>Forest Practices Code of British Columbia Act</i>
10	an area that is subject to an order by the minister responsible for administering the <i>Land Act</i> , which order establishes objectives in respect of old growth management	<i>Land Act</i>
11	a migratory bird sanctuary	<i>Migratory Birds Convention Act, 1994 (Canada)</i>
12	the Muskwa-Kechika Management Area	<i>Muskwa-Kechika Management Area Act</i>
13	(a) an ungulate winter range or a wildlife habitat area in respect of which there is to be no timber harvesting, but not in respect of which there may be conditional timber harvesting, (b) a fisheries sensitive watershed area, or (c) an old-growth management area	<i>Oil and Gas Activities Act</i>
14	(a) a conservancy, (b) a park, or (c) a designated wildland area within a recreation area	<i>Park Act</i>
15	(a) an ecological reserve, (b) a park, or (c) a conservancy	<i>Protected Areas of British Columbia Act</i>
16	an area identified as a critical habitat in respect of which the critical habitat approach is based on a site or area level, but not based on a landscape level	<i>Species at Risk Act (Canada)</i>
17	a wildlife management area	<i>Wildlife Act</i>