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BC MINISTRY OF ENVIRONMENT AND CLIMATE CHANGE STRATEGY

ENVIRONMENTAL PROTECTION DIVISION

ENVIRONMENTAL EMERGENCIES PROGRAM

Summary of requirements in new regulations

INTRODUCTION

New regulations bring [Division 2.1 Spill Preparedness, Response and Recovery](#)¹ of the *Environmental Management Act* into force on October 30, 2017. The regulations are: (1) [Spill Preparedness, Response and Recovery Regulation](#); (2) [Spill Reporting Regulation](#); and, (3) [Spill Contingency Planning Regulation](#).²

The following content is a summary of the new requirements in the legislation and regulations. Additional materials, including fact sheets and other guidance documents, are being developed to help explain the new requirements and support newly regulated entities in meeting them. As they are prepared they will be available on the Environmental Emergencies Program website under the [New Requirements section](#).

Those who are interested and impacted by the new requirements are encouraged to check this web site regularly for new information, including regarding upcoming engagement activities for the new phase of regulations to support enhancing the management of environmental emergencies in B.C.

To receive email updates on the enhancements please [subscribe here](#).

¹ Link to bill 21 will be provided once it is posted to BC Laws website as the new *Environmental Management Act*, 2016, this link will be updated. Is the old link provided now?

² Link to PDF of regulations on Environmental Emergencies Program website, once regulations are posted to BC Laws website these links will be updated.

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NEW REQUIREMENTS

- Regulated Persons

Three parameters define the threshold for a regulated person. First, the individuals must be rail, pipeline and highway transporters of liquid petroleum products. Second, for rail or highway transporters, they must be in possession, charge or control of 10,000 litres or more of liquid petroleum products. A pipeline transporting any quantity of liquid petroleum products is considered a regulated person. Regulated persons will be required to develop and test spill contingency plans (see headings below for more details).

- Director request for information on substances

The regulated person is required to provide information if ordered by a director or an officer. The expenses associated with this fall to the regulated person and may include a copy of the spill contingency plan, as well as any information related to operations and activities of the regulated person's industry and spill response. The director may also order the regulated person to provide information about any of the substances being used, produced, or transported by the regulated person.

- Spill contingency planning

Regulated persons are required to produce, develop and maintain spill contingency plans based on a worst-case scenario spill. Before preparing the plan, the regulated person must ensure that investigations, tests and surveys are undertaken to determine the magnitude of the risk to the environment, human health, and infrastructure resulting from a spill. A director may order a non-compliant plan to be amended, and can specify a time and manner for any plan to be tested. The following table indicates the dates that the regulated persons must have a contingency plan ready. Regulated persons will have the ability to apply for a six-month extension to the date identified in the table below should they have a clear rationale as to why a contingency plan cannot be provided in the specified time frame.

Table1. Contingency plans regulatory activation date.

	<u>Activation Date (date to have a spill contingency plan ready)</u>
Pipeline Transporter	<u>April 30 2018</u>
Rail Transporter	<u>April 30 2018</u>
Highway Transporter (Trucking)	<u>October 30 2018</u>

- Drills and exercises

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The new regulatory requirements require regulated persons prepare and test spill contingency plans through drills and exercises in a three-year cycle. Tests consist of the performance of duties, tasks or operations very similar to the way they would be performed in a real emergency.

The tests must cover a prescribed list of the contingency plan components. The pipeline and railway industry must conduct: operations-based tests, discussion-based tests; and worst-case scenario tests, while the highway transporters are exempt from worst-case scenario testing.

The three-year testing cycle starts with the date that the regulated persons must have a contingency plan ready (Table 1).

- Spill response actions

The regulations redefine and increase some of the responsibilities of responsible persons to clean up the spill or take any preventative actions necessary. This includes providing any information an officer may request, ensuring persons with the skills and resources necessary to properly deal with the spill are deployed, and submitting or amending a recovery plan according to the regulation.

- Spill reporting requirements

The *Spill Reporting Regulation* outlines that any release of substances must be reported immediately if (a) the release causes, is causing or has caused an adverse effect to the water, environment, human health or safety, or property, (b) the spill amount is equal to or greater than the minimum quantity set by the Spill Reporting Regulation, and (c) the spill is of any size and occurs near or on water. The amendments to the *Environmental Management Act* and the corresponding regulations stipulate that a responsible person -- who has possession, charge or control of a substance -- has the duty to provide three types of reports: initial-verbal report, updates to minister report and end-of-spill report. In addition, a post-incident lessons-learned report must be prepared, if a director orders.

- Initial-verbal report

A responsible person must immediately submit a verbal report to the Environmental Management BC (EMBC) Spill Reporting Hotline (1-800-663-3456). The report must include all the items addressed under the *Environmental Management Act*, as well as two NEW requirements which include (a) the owner of the substance spilled and (b) a description of the source of the spill. The *Environmental Management Act* stipulates that a responsible person must provide more information such as photography to an Environmental Emergency Response Officer when asked about spill response. The provision of providing an initial-verbal report by a responsible person is effective as of October 30, 2017.

- Minister-update report

After a spill, the responsible person must submit a written report. The report content includes, but is not limited to, the date and time and duration of spill, the spill location, the effects of the spill and details of the actions taken to respond to the spill. Submission of a Minister-update report by a

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responsible person is effective as of October 30, 2018, one year after activation of the *Environmental Management Act* amendment and the new regulations.

- End-of-spill report
Within 30 days of the emergency response completion date, a responsible person must submit an end-of-spill report. The report must contain a set of regulatory prescribed components including but not limited to the date and time and duration of spill, location, the effects of the spill and details of the actions taken to respond to the spill. Submission of an End-of-spill report by a responsible person is effective as of October 30, 2018, one year after activation of the *Environmental Management Act* amendment and the new regulations.
- Post-incident lessons-learned report (director-ordered)
A director may order the responsible person (spiller) to create a lessons-learned report if the spill meets a certain criteria. The report must be submitted within six months of the emergency response completion date. The director will determine the manner in which the report will be submitted and it must include information such as how the spill response was effective and actions that could be taken in order to improve it. This report is meant to guide future response actions and work towards continuous improvement. If the spiller is also a regulated person, any changes to the contingency plan should be noted. If necessary, the director may also chose to ask questions beyond what is outlined in regulation. The post-incident lesson-learned report requirement is effective as of October 30, 2017.

The following table summarizes the effective date for submission of the regulatory required reports.

Table2. Effective date for submission of the spill related reports.

	Effective Date
<u>Initial-verbal report</u>	October 30, 2017
<u>Minister-update report</u>	October 30, 2018
<u>End-of-spill report</u>	October 30, 2018
<u>Post-incident lessons-learned report</u>	October 30, 2017

- Recovery planning (director-ordered)
The director may order a Responsible Person to prepare a recovery plan when damage has occurred to the natural environment and recovery actions would have a net benefit. Recovery

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focuses on actions to restore the environment to its pre-spill condition. Recovery also addresses materials that could not be cleaned up, impacts on the environment caused by response actions, and restoring habitat. A recovery plan outlines how a Responsible Person intends to resolve or mitigate the impacts of a spill. The plan must be approved by the director.

- Government cost recovery

Cost to clean up a spill by government is debt due to the government jointly and separately by the responsible persons and owners of the substance or thing that spilled. If a decision is made to pursue these costs, a certificate of cost recovery will be issued to the responsible person and owner of the substance or thing that spilled.

SUMMARY

Additional materials, including detailed guidance on how to develop a spill contingency plan, guidance on recovery requirements and direction to EMBC on spill reporting information, will be released over the following months. The first version of the contingency plans guidance document will be released Dec. 1, 2017.

Ministry staff will engage with impacted/interested parties, including provincial partners, federal agencies and ministries, industry associations and First Nations, over the coming weeks and months to ensure that requirements are understood, and to answer any questions.