

## Regulated Person

Division 2.1 Spill Preparedness, Response, and Recovery of the *Environmental Management Act* is effective as of October 30, 2017. This legislative amendment enables the ministry to set the threshold for who is required to meet spill preparedness requirements in British Columbia. Preparedness is the pillar of emergency management during which action is taken to ensure readiness for emergency response and recovery. Preparedness includes planning, training, exercises, public/ stakeholder education, maintenance and continual improvement. As defined by Division 2.1, preparedness is the responsibility of a regulated person.

### Regulated Person

A regulated person is the owner of a pipeline, rail or trucking operation that has possession, charge or control of liquid petroleum products – as defined in the Spill Preparedness, Response and Recovery Regulation – in the following defined quantities:

1. Any quantity being transported by pipeline
2. 10,000 litres or more transported by rail
3. 10,000 litres or more being transported by truck

Note: operations regulated by the B.C. Oil and Gas Commissions are exempt (see below on OGC exemption). These operations are governed by a comprehensive emergency preparedness and response system under the *Oil and Gas Activities Act*.

The benchmark for determining whether or not an individual is a regulated person is defined in Section 2 of the [Spill Preparedness, Response and Recovery Regulation](#). There are three variables to consider when

determining whether or not the threshold is met for becoming a regulated person:

1. method of transportation,
2. type of substance transported, and
3. quantity of substance transported.

Note: Any individual who spills—whether or not they meet the threshold as a regulated person—is required to report and respond to it.

### Method of Transportation

In order to be considered a regulated person, you must be transporting a substance in one of the following three methods: as a highway transporter, over a rail line, or in a pipeline.

### Type of Substance

The substances used to define a regulated person can be found in Schedule 1 of the current Spill Preparedness, Response and Recovery Regulation. This list is provided in Table 1 at the end of this fact sheet for convenience. In Table 1, the substances are classified in full by either their four-digit United Nations numbers (UN numbers) or Canadian General Standards Board (CGSB) number. The following is a listing by common names:

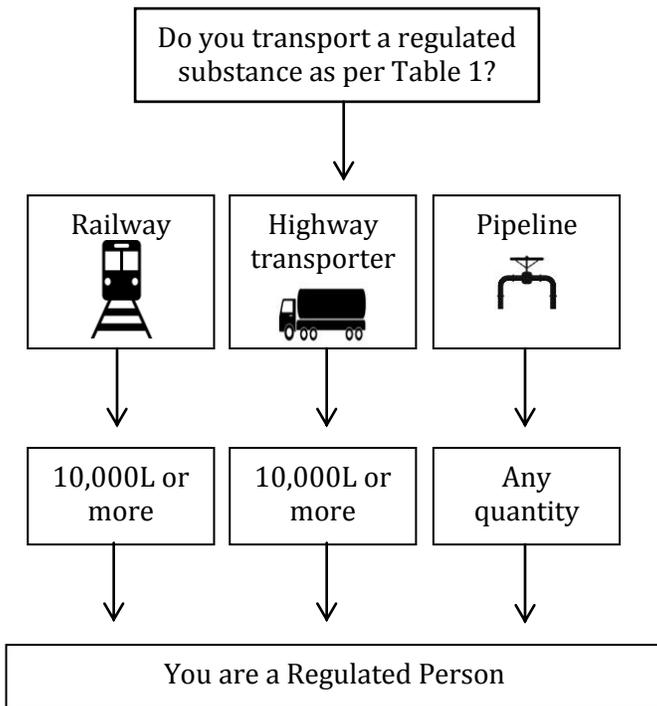
- Aviation fuel
- Bunker fuel
- Crude oil- sweet (including diluted bitumen)
- Crude oil- sour (including diluted bitumen)
- Diesel fuel
- Gasoline
- Kerosene
- Petroleum distillates

## Prescribed Quantities

While the ministry acknowledges that a spill of any size has the potential to cause damage to the environment, the prescribed quantity is meant to ensure preparedness is in place for significant spills that require a large response and mobilization. The prescribed substance list will apply to the volumes that meet or exceed these thresholds:

- 10,000 litres of a prescribed substance transported by rail or highways<sup>1</sup>
- Any quantity of a prescribed substance transported by pipeline used for oil and gas activities

Note: A listed substance of any quantity that is being transported through a pipeline is captured under new regulatory requirements. This also applies to substances stored in tanks to support transportation along the pipeline (i.e. “breakout tanks”). However, it does not apply to substances that are being transported through a pipeline at a facility that uses, produces, or refines the substance.



<sup>1</sup> As defined by the *Transportation Act*

## Frequently Asked Questions

- **Is the volume determined by the actual or potential capacity?**  
The volume of substance is determined by the actual amount and not the size of the container.
- **Will out-of-province highway transporters be considered regulated persons?**  
Yes. Any person who transports one of the prescribed substances by highway at the volume specified in the schedule within the province is considered a regulated person. A transporter moving a substance within the province but based outside of the province is subject to the same requirements.
- **What if I only transport above the threshold some of the time?**  
It is the responsibility of the regulated person to fulfil preparedness obligations each time the benchmark is met.

## Responsibilities of a Regulated Person

In order to fulfil provincial preparedness requirements, a regulated person has the following responsibilities.

- Prepare a spill contingency plan in the manner specified in the Spill Contingency Planning Regulations.
- Test the contingency plan through drills and exercises.
- Implement the contingency plan to the best of their capability when needed.
- Make their contingency plan available to their employees.
- Maintain records related to preparedness.
- Provide information to the ministry if requested by a director. This may be information related to operations and activities. The director may also request information about any substance being used, stored, treated, produced or transported.

## Oil and Gas Commission Exemption

Parties regulated by the Oil and Gas Commission (OGC) who meet the regulated person criteria are regulated persons. These parties are regulated by an existing provincial regulatory system and are therefore exempt from all the ministry preparedness requirements,

which are (1) spill contingency planning; (2) drills and exercises; and, (3) records keeping.

Parties are considered to be regulated by the OGC if they are regulated under the *Oil and Gas Activities Act* and its associated Emergency Management Regulation and Pipeline Regulation.

It remains the intent of the B.C. government for the OGC to be the “one window” for all provincially regulated oil and gas activities. Parties regulated by the OGC who would otherwise be regulated persons under the *Environmental Management Act* will continue to interact primarily with the OGC in order to fulfill the regulatory requirements of both.

## Record Keeping

The regulated person must maintain records demonstrating spill preparedness for five years:

- Records relating to the training completed by personnel;
- Records of equipment inspection and maintenance;
- Records of any third party service agreements; and
- Records relating to completion of and evaluation of drills and exercises.

## Who is Not Regulated?

A person in possession of prescribed substances at prescribed quantities is not a regulated person if the substance is:

- In an aircraft
- Stored or being transported fully within an airport
- In marine vessels or being stored or transported in the marine environment
- In watercrafts on rivers and lakes used for propulsion (e.g., fuel used to power an engine)
- Being stored at a site for use in a process solely within the property of that site, or
- Transported within federal lands, which includes airports, military installations, First Nations reserves and national parks

## 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)**

**Table 1. List of Regulated Substances**

<b>Common Name</b>	<b>Classification</b>
<b>Aviation Fuel</b>	CAN/CGSB-3.23-2012 Aviation Turbine Fuel (Grades JET A and Jet A-1)
	CAN/CGSB-3.22-2012 Wide-Cut Type Aviation Turbine Fuel (Grade JET B)
	CGSB-3.24-2012 Aviation Turbine Fuel (Military Grades F-34 and F-44)
<b>Bunker Fuel</b>	ISO 8217:2012 Petroleum products -- Fuels (class F) -- Specifications of marine fuels
	CGSB-3.11-2010 Naval Distillate Fuel
<b>Crude oil or diluted bitumen</b>	TDG UN 1267
	TDG UN 3494
<b>Diesel Fuel</b>	CAN/CGSB-3.517-2015 Diesel fuel
	CAN/CGSB-3.522-2015 Diesel fuel containing biodiesel (B6–B20)
	CAN/CGSB-3.18-2010 (R2016) Diesel Fuel for Locomotive-Type Medium-Speed Diesel Engines
	CAN/CGSB-3.520-2015 Diesel fuel containing low levels of biodiesel (B1–B5)
	CAN/CGSB-3.524 Biodiesel (B100) for blending in middle distillate fuels
<b>Gasoline</b>	CAN/CGSB-3.5-2016 Automotive gasoline
	CAN/CGSB-3.511-2016 Oxygenated automotive gasoline containing ethanol (E1-E10)
	CAN/CGSB-3.512-2013 Automotive ethanol fuel (E50-E85)
<b>Kerosene</b>	CAN/CGSB-3.3-2014 Kerosene
<b>Heating fuel</b>	CAN/CGSB-3.2-2015 Heating fuel oil
<b>Petroleum Distillates</b>	CAN/CGSB-3.27-2012 Naphtha Fuel