

Requirement to Provide Information

Division 2.1 Spill Preparedness, Response, and Recovery of the *Environmental Management Act* (EMA) is effective as of October 30, 2017. Sections 91.11(5) and 91.71 provide the director with the ability to order information from regulated persons, as well as non-regulated persons under certain circumstances. The [Spill Preparedness, Response and Recovery Regulation](#) also allows the ministry to obtain information from regulated persons about preparedness records.

This fact sheet explains those circumstances when different types of information can be requested.

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*.

Obtaining information from a regulated person

Section 91.11(5) provides the director with the ability to order from regulated persons a copy of their spill

contingency plan and information about their operations, substances in their possession and their capacity to respond to a spill.

The [Spill Preparedness, Response and Recovery Regulation](#) sets out requirements for regulated persons to maintain records related to spill contingency plan development, drills and exercises and training of responders. Regulated persons must make these records available to the ministry if they are requested. Information about the records that must be kept can be found in the Spill Contingency Planning fact sheet.

Determining if a person is a regulated person

Section 91.71(2) enables a director to order information from a person who operates an industry, trade or business and has possession, charge and control of a substance prescribed for the purposes of the definition of “regulated” person. The information a director can request under section 91.71(2) is limited to details regarding the quantities of prescribed substances of which the person has, or intends to have, possession, charge or control.

This provision was included to assist the ministry in determining if a person is a regulated person. If as a result of reviewing information it is determined that the person has substances in quantities that makes them a regulated person, they may be further ordered to provide additional information under Section 91.11(5) of EMA and the Spill Preparedness and Response Regulation (as described under the previous heading).

Requesting information about non-regulated substances

Section 91.71(1) provides the director with the ability to order information about non-regulated substances if there is reasonable ground to believe that if spilled, the substance will cause harm to the environment, human health or infrastructure. A person operating an industry, trade or business that has possession, charge or control of a non-regulated substance may be ordered to provide:

- information respecting the substance and its properties,
- information respecting the potential adverse effects that would be caused to the environment, human health or infrastructure were the substance spilled,
- information respecting the quantities of the substance of which the person has, or intends to have, possession, charge or control, and
- prescribed information

How to provide information

If a director determines there is an information need, an order will be sent to the person from whom the information is required. The order will set out what information is needed, the time it is required by and the manner in which it must be submitted.

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