

Recovery Plan

Division 2.1 Spill Preparedness, Response and Recovery of the *Environmental Management Act* (EMA) came into effect on October 30, 2017. Sections 91.2, 91.21 and 91.3 of EMA set out the ability for the director to order responsible persons to develop and implement recovery plans to resolve or mitigate the impacts of a spill. Section 6 of the [Spill Preparedness, Response and Recovery Regulation](#) outlines the required content of recovery plans and section 7 outlines the content of the report that is required at the conclusion of the recovery process.

Responsible Person

A responsible person has possession, charge or control of a substance or thing when a spill of the substance or thing occurs or is at imminent risk of occurring

Recovery focuses on actions to restore the environment to its pre-spill condition, to the extent that this is feasible, after the freely available spilled material has been removed. Recovery also addresses materials that could not be cleaned up, impacts on the environment caused by response actions (e.g., digging scars, tire ruts, eroded work areas) and habitat restoration.

A recovery plan is a documented process or set of procedures that outline how a responsible person intends to resolve or mitigate the impacts of a spill.

A responsible person could be ordered by a director to prepare a recovery plan if the director believes there are steps that must be taken to eliminate, mitigate

and/or compensate for the damage caused by the spill. Examples of when a recovery plan would likely be ordered include large volume spills, a significant release of a hazardous substance to a fish-bearing waterbody, a spill that has impacted a public drinking water source.

Not all spills will require recovery plans - in some instances the responsible person may only be ordered to take recovery actions outside of a formal recovery plan. This approach could be employed when a minor amount of hazardous substance is spilled, when the spill has been contained to an isolated area, or when immediate mitigative action can reasonably eliminate adverse effects to the environment, human health or infrastructure.

Recovery plan contents

The contents of a recovery plan are outlined in Section 6 of the Spill Preparedness, Response and Recovery Regulation. In general, a recovery plan should include:

- A summary of the spill, including what was spilled and its relevant properties that could have potential adverse effects on the environment, human health and infrastructure. How much was spilled, and response actions carried out in relation to the spill;
- A description of the environment prior to the spill;
- An assessment of the potential impacts of the spill;
- An assessment of the actual impacts of the spill;
- A summary of proposed recovery actions, which identifies and weighs alternatives;
- A description of quantifiable targets and timelines for recovery actions;

- A description of what the post-recovery environment will be following the implementation of the recovery plan; and
- A summary of engagement and consultation with First Nations government, local government, residents, businesses and non-profit stakeholders impacted by the spill or with knowledge of the area.

Impacts

Section 6 of the Spill Preparedness, Response and Recovery Regulation states that a recovery plan must include a description of the actual and potential impacts of a spill, as well as the actual and potential impacts of spill response actions. Impacts are wide ranging and could include effects on the environment, human health, business profitability, cultural sites, or residential and business relocations. The assessments of potential and actual impacts must identify flora, fauna and human populations that could be affected, and the pathways contaminants could take to cause adverse effects. The recovery plan should be focussed on an end-state of returning the natural environment to its pre-spill condition, to the extent that this is feasible.

Recovery plan approval

The responsible person submits a completed recovery plan to the director. The director will then review the plan, and either approve it or require it to be amended. Once a recovery plan has been approved by a director, the responsible person must carry out the recovery plan by a date specified by the director.

Responsibilities for recovery

The B.C. Government's polluter-pay principle ensures that those who are responsible for spills are also responsible for cleaning them up. Therefore, the responsible person pays for preparing, carrying out and completing the recovery plan.

The responsible person is responsible for writing and implementing the recovery plan. The responsible person may hire a third party with the necessary qualifications and access to personnel to write the report or carry out related work, but must ensure that the regulations relating to the recovery plan are met.

When restoration is not reasonably achievable

If the director is satisfied that a spill's impacts cannot be completely or reasonably restored, they may order the responsible person to amend their recovery plan to provide for offsite mitigation or in-lieu payment. Refer to the Environmental Mitigation Policy (available at <http://www.env.gov.bc.ca/emop/>) for further guidance. Restoring the environment may not be achievable for reasons that could include safety issues or the potential for restoration activities to cause further damage to the environment or negatively affect human health. It could also include disproportionate costs or technical limitations.

Conclusion of the recovery process

According to Section 7 of the Spill Preparedness, Response and Recovery Regulation, once the recovery plan is implemented, a conclusion report must be submitted by the responsible person to the director. The conclusion report must include:

- A declaration and date that the recovery plan has been carried out;
- A description of the recovery actions carried out; and
- A description of the environment at the completion of the recovery process, with complete records and summaries of sampling, testing, monitoring and assessing that demonstrates the plan has been carried out.

Certificate of recovery

After review, if satisfied that the recovery plan has been carried out, the director may issue a Certificate of Recovery to the responsible person. A director may choose to not issue a certificate of recovery when: 1) it is too difficult to isolate the effects of one spill from a previous spill or contamination, 2) when multiple jurisdictions or stakeholders are impacted by the spill or have legislative authority, or 3) long term effects of the spilled substance are unknown, or 4) at the director's discretion

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
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