



Ministry of  
Environment and  
Climate Change Strategy

# Responsible Person

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## CONTEXT

This guidance document is intended to assist a responsible person in understanding and complying with requirements as outlined in Part 7 of the *Environmental Management Act 2003* (EMA) when a spill occurs, or when there is the imminent threat of a spill. A spill is the unauthorized introduction of a substance or thing to the environment that has the potential to cause adverse effects to the environment, human health or infrastructure. The person who has possession, charge or control of the substance or thing at the time of a spill, or at the time there is an imminent risk of a spill is a responsible person.

Division 2.1 Spill Preparedness, Response and Recovery under Part 7 of EMA came into force on October 30, 2017. Section 91.2 of EMA outlines what a responsible person must do when a spill occurs, or when there is the imminent risk of a spill. These requirements are further supported by the Spill Reporting Regulation (SRR), Spill Contingency Planning Regulation (SCPR) and the Spill Preparedness, Response and Recovery Regulation (SPRRR). This document will provide an overview of what a responsible person must do when there is the imminent risk of a spill, or when a spill occurs.

This guidance document is solely for the convenience of the reader and is intended to clarify the requirements of EMA and the associated regulations as they relate to the management of environmental emergencies. It is the responsibility of regulated persons, responsible persons, and the owners of regulated substances to understand and comply with EMA and the associated regulations.

This guidance document is not a legal document and the information contained within it does not constitute legal advice or impose any legally binding requirements. This guidance document does not replace EMA, the associated regulations, or any other applicable law. Amendments to EMA, its regulations, or other legislation referred to in this guidance document may impact the provisions contained within it; in the event of an inconsistency, EMA or other applicable legislation will prevail. Failure to comply with EMA and/or the regulations may result in fines and/or convictions.

## ACRONYMS

CSR	Contaminated Sites Regulation
EERO	Environmental Emergency Response Officer
EMA	Environmental Management Act
NEBA	Net Environmental Benefit Analysis
SCPR	Spill Contingency Planning Regulation
SPRRR	Spill Preparedness Response and Recovery Regulation
SRR	Spill Reporting Regulation

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## 1. INTRODUCTION

In relation to a spill, a responsible person is the person who 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. All responsible persons are required to ensure that the necessary actions are taken when responding to a spill, or the imminent risk of a spill.

The response phase immediately begins when a spill occurs, or when there is an imminent risk of a spill. During the response phase, a responsible person is required to report the spill or the imminent threat of a spill in accordance with the SRR and ensure that all necessary actions to address the threat or hazard caused by a spill are taken. Spill response actions can include steps to address containment and cleanup of the spilled substance, as well as actions taken to protect and restore the surrounding and receiving environment. A responsible person must ensure that the necessary actions to address the threat or hazard of a spill are taken. EMA outlines categories of actions that can be taken to address the threat or hazard, but a responsible person is not limited to these actions. If the director is not satisfied that the actions taken are sufficient to adequately deal with the threats and impacts of the spill, the director (or delegated authority) may order the responsible person to conduct specified response actions.

If a spill occurs and there is no clear responsible person, government may conduct spill response actions to address the spill. A responsible person may also request that government take over a spill, or an Environmental Emergency Response Officer (EERO) may identify the need for government to take over an incident. If government conducts spill response actions or takes over an incident, government will recover costs incurred from these actions. Government is able to recover costs for spill response actions whether or not government takes over an incident. The responsible person and the owner of the substance will jointly and separately be held liable for all costs incurred by government spill response actions.

## 2. DEFINITIONS

**Adverse effect** means a change to the environment, environmental component, environmental value, or resource that is serious, of consequence, injurious, or damaging.

**Body of water** includes

- a stream, as defined in the Water Sustainability Act 2014;
- an aquifer, as defined in the Water Sustainability Act 2014;
- fish habitat, as defined in the Water Sustainability Regulation; and
- any of the following that could drain or empty directly into a body of water:
  - a naturally formed pool of water other than one referred to in the points above and
  - a ditch

**Environment** as defined in EMA includes air, land, water, and all other external conditions or influences under which humans, animals, and plants live or are developed. This includes:

- flora and fauna, and
- for certainty, animal, fish and plant habitat.

**Infrastructure** includes buildings, bridges, drinking water intakes, utility conduits, and wastewater treatment plants.

**Regulated person** means

- (a) a person who, in the course of operating an industry, trade or business, has possession, charge or control of a prescribed substance in prescribed quantities, or
- (b) a person referred to in paragraph (a) whose employee, under the person's direction, has possession, charge or control of a prescribed substance in prescribed quantities.

**Response action** means any action taken to address any imminent and/or actual threats or hazards caused by the spill.

**Responsible person** means a person who 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 plan** means a written plan that outlines the potential and actual impacts of the spill and the actions the responsible person plans to take to recover the environment to its pre-spill condition. A recovery plan must include quantifiable recovery targets (i.e. endpoints) and engagement and consultation with impacted parties.

**Spill** means the introduction into the environment, other than as authorized under this Act and whether intentional or unintentional, of a substance or thing that has the potential to cause adverse effects to the environment, human health or infrastructure.

### 3. DEFINITION OF A SPILL

A spill is the introduction of a substance or thing to the environment that has the potential to cause adverse effects to the environment, human health or infrastructure. A spill is an introduction to the environment that has not been authorized under EMA and may occur unintentionally or intentionally.

#### 3.1 Imminent risk of a spill

The imminent risk of a spill is the impending threat of a substance or thing being released into the environment. When a person has possession, charge or control of a substance or thing that has an imminent risk of spilling, they become a responsible person. A responsible person is obligated to take

measures to prevent the risk of a spill from occurring, while taking safety measures into consideration.

Examples of an imminent risk:

- Tanker truck rolls onto its side
- Rail car obtains a dent that may leak
- Gas cylinder with a damaged valve
- Vessel is sinking with fuel on board

## 4. RESPONSIBLE PERSON

A responsible person is a person who had possession, charge or control of a substance or thing at the time of a spill, or when there is an imminent risk of a spill. A responsible person is required to report the occurrence of a spill or the imminent risk of a spill, and to undertake spill response actions to address the threat or hazard caused by the spill.

A responsible person is any person that has possession, charge or control of a substance or thing that could cause adverse effects to the environment, human health or infrastructure if introduced to the environment. Examples of a responsible person are:

- A railway carrier whose derailed car has spilled hydrochloric acid onto the ground
- The owner of a tanker truck transporting jet fuel that is lying on its side after being in a motor vehicle incident
- A property owner whose home oil storage tank has rusted, causing oil to leak into the soil and migrate into a nearby creek via the storm drain system
- The owner and operator of a pipeline that is leaking
- The owner of a boat that spills gasoline into a body of water
- The owner of a tanker vessel that grounds and spills fuel

### 4.1 Possession, charge and control

For a person to be a responsible person, the person must have possession, charge or control of a substance or thing at the time of a spill, or when there is an immediate risk of a spill. Possession of a substance or thing is the intentional and exclusive ability to exercise physical control over a substance or thing. A person may have charge over a substance or thing when they have an obligation, liability or care over the substance or thing. Control means the power to influence or direct actions or the course of events relating to a substance.

## 5. SPILL REPORTING

Responsible persons must report a spill, or the immediate risk of a spill as required by section 4 of the SRR:

1. By immediately reporting the spill to the Emergency Management British Columbia (EMBC) Emergency Coordination Centre (ECC), formerly the Provincial Emergency Program, by calling **1-800-663-3456**<sup>1</sup>. Further information on reporting requirements may be found in the sections 5.1 to 5.6 of this document and in the fact sheet for [Spill Reporting](#).
2. Provide information about response activities in relation to a spill when requested by an officer
3. If cleanup of the spill is required, responsible persons must ensure that skilled personnel with the appropriate response equipment and resources address the spill

If a spill occurs, or there is the imminent risk of a spill occurring, the responsible person must determine what actions are necessary to address the threats and hazards of the spill. Spill response actions are listed and detailed in section 8 of this document.

### 5.1 Reportable spills of natural gas

A spill of natural gas is reportable if the following occur:

- The spill has been caused by a break in a pipeline or fitting operating above 100 psi that results in a sudden or uncontrollable release of natural gas
- The quantity of natural gas spilled is, or is likely to be, equal or greater than the listed quantity for natural gas (listed below in table 1)

### 5.2 Initial Report

Section 4 of the SRR (see below) requires responsible persons to immediately report the occurrence of a spill, or the imminent threat of a spill in accordance with the SRR.

- (1) If a spill occurs or is at imminent risk of occurring, a responsible person must ensure that the actual or potential spill is immediately reported to the Provincial Emergency Program by calling **1-800-663-3456**

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<sup>1</sup> Reporting a spill by calling the spill reporting line only satisfies the Initial Report requirement of the SRR. Responsible persons may be required to complete additional reports in relation to the spill incident in order to satisfy the SRR and other provincial or federal regulatory requirements. It is the responsibility of the responsible person to be aware of other spill reporting requirements that may be required at the time of an incident.



A spill of a listed substance must be reported if:

- The spill enters, or is likely to enter a body of water; or
- The quantity of the substance spilled is, or is likely to be, equal to or greater than the listed quantity for the listed substance; a table of the SRR's listed substances and their reportable quantities can be found below in Table 1:

Table 1: Prescribed substances and quantities for immediate reporting

Item	Column 1 Substances Spilled	Column 2 Specified Amount
1	Class 1, Explosives as defined in <a href="#">section 2.9 of the Federal Regulations</a> <sup>2</sup>	Any quantity that could pose a danger to public safety or 50 kg
2	Class 2.1, Flammable Gases, other than natural gas, as defined in <a href="#">section 2.14 (a) of the Federal Regulations</a>	10 kg
3	Class 2.2 Non-flammable and Non-toxic Gases as defined with <a href="#">section 2.14 (b) of the Federal Regulations</a>	10 kg
4	Class 2.3 Toxic Gases as defined in <a href="#">section 2.14 (c) of the Federal Regulations</a>	5 kg
5	Class 3, Flammable Liquids as defined in <a href="#">section 2.18 of the Federal Regulations</a>	100 L
6	Class 4, Flammable Solids as defined in <a href="#">section 2.20 of the Federal Regulations</a>	25 kg
7	Class 5.1, Oxidizing Substances as defined in <a href="#">section 2.24 (a) of the Federal Regulations</a>	50 kg or 50 L
8	Class 5.2 Organic Peroxides as defined in <a href="#">section 2.24 (b) of the Federal Regulations</a>	1 kg or 1 L
9	Class 6.1, Toxic Substances as defined in <a href="#">section 2.27 (a) of the Federal Regulations</a>	5 kg or 5 L
10	Class 6.2, Infectious Substances as defined in <a href="#">section 2.27 (b) of the Federal Regulations</a>	1 kg or 1 L, or less if the waste poses a danger to public safety or the environment
11	Class 7, Radioactive Materials as defined in <a href="#">section 2.37 of the Federal Regulations</a>	Any quantity that could pose a danger to public safety and an emission level greater than the emission level established in section 20 of the "Packaging and Transport of Nuclear Substances Regulations"

<sup>2</sup> 'Federal regulations' refer to the Transportation of Dangerous Goods Regulations under the *Transportation of Dangerous Goods Act 1992*  
'Hazardous Waste Regulation' refers to B.C. Reg. 63/88

Item	Column 1 Substances Spilled	Column 2 Specified Amount
12	Class 8, Corrosives as defined in <a href="#">section 2.40 of the Federal Regulations</a>	5 kg or 5 L
13	Class 9, Miscellaneous Products, Substances or Organisms as defined in <a href="#">section 2.43 of the Federal Regulations</a>	25 kg or 25 L
14	Waste containing dioxin as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a>	1 kg or 1 L, or less if the waste poses a danger to public safety or the environment
15	Leachable toxic waste as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a>	25 kg or 25 L
16	Waste containing polycyclic aromatic hydrocarbons as defined in <a href="#">section 1 of the hazardous Waste Regulation</a>	5 kg or 5 L
17	Waste asbestos as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a>	50 kg
18	Waste oil as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a>	100 L
19	Waste containing a pest control product as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a>	5 kg or 5 L
20	PCB Wastes as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a>	25 kg or 25 L
21	Waste containing tetrachloroethylene as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a>	50 kg or 50 L
22	Biomedical waste as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a>	1 kg or 1 L, or less if the waste poses a danger to public safety or the environment
23	A hazardous waste as defined in <a href="#">section 1 of the Hazardous Waste Regulation</a> and not covered under items 1 – 22	25 kg or 25 L
24	A substance, not covered by items 1 to 23, that can cause pollution	200 kg or 200 L
25	Natural gas	10 kg, if there is a breakage in a pipeline or fitting operated above 100 psi that results in a sudden and uncontrolled release of natural gas

The information provided in Table 2 is required when the responsible person is providing the Initial Report to EMBC ECC as outlined in section 4 (2) of the SRR.

Table 2: Initial Report content

Report information	Description
1. Contact information of the individual making the report	First and last name, phone number, and email address
2. Contact information of the responsible person	First and last name, phone number, and email address
3. Contact information for the owner of the substance spilled	First and last name, phone number, and email address
4. Location, date, and time of the spill	Provide as much location specific information as possible, including: general directions, description of how to approach the area, latitude and longitude if available, street address, and the date and time in 24-hour clock format
5. Description of the spill site and surrounding area	Provide a description of the receiving environment of the spilled material (for example, the area is wooded and the ground is soft; there are sensitive riparian areas that are at risk of contamination)
6. A description of the source of the spill	The container from which the material spilled (for example, fishing vessel, above- or below-ground storage tank, tanker truck, pipeline, or railcar)
7. Type and quantity of the substance spilled	An estimate of the amount of product spilled and a description of the product type, including product name, UN number, and Safety Data Sheet [SDS] (for example, diesel, UN 1202, 50 liters). If unknown, a description of the spill (for example, sheen or slick approximately 20 meters by 20 meters)
8. Cause and impact of the spill	The circumstances leading to the spill; the immediate cause as well as any contributing factors. May be a combination of the activity and the incident (for example, motor vehicle accident derailment, equipment failure, fire, human error, intentional/unauthorized release, natural occurrence, or unknown)

Report information	Description
9. Details of the actions taken or proposed	Provide any necessary/ helpful details of the actions taken or planned (for example, what steps have been taken to contain the spill, which responders have been deployed, and when they will be on scene)
10. The details of further action contemplated or required	Provide any necessary/ helpful details regarding next steps, including response actions, deployment of additional resources, and monitoring activities
11. The names of agencies on scene	Any persons, government, federal government, local government, or Indigenous agency
12. The names of other persons or agencies advised concerning the spill	Any persons, government, federal government, local government, or Indigenous agency

### 5.3 Updates to Minister Report

Responsible persons are required to submit written reports updating the minister on the spill as outlined in section 5 of the SRR. The Update to Minister Report must be submitted every 30 days until the emergency response completion date is met, on request of the Minister, or at any time that the information provided in the Initial Report becomes inaccurate or incomplete. The report must be written in accordance with section 5(3) of the SRR; an Update to Minister Report template is available on the Environmental Emergency Program website at [www.gov.bc.ca/ReportaSpill.com](http://www.gov.bc.ca/ReportaSpill.com).

Refer to the [Spill Reporting](#) fact sheet for further information on the Updates to Minister Report requirements.

### 5.4 End-of-Spill Report

Responsible persons are required to submit a written End-of-Spill Report on all reportable spills within 30 days of the emergency response completion date for the spill. This report must be written in accordance with section 6 of the SRR; an End-of-Spill Report template is available on the Environmental Emergency Program website at [www.gov.bc.ca/ReportaSpill.com](http://www.gov.bc.ca/ReportaSpill.com).

Refer to the fact sheet for [Spill Reporting](#) for further information on the End-of-Spill Report requirements.

## 5.5 Lessons-Learned Report

A director may order a responsible person to write a Lessons-Learned Report on the spill. If ordered by a director, the report must be written in accordance with section 7 of the SRR; there are additional requirements for responsible persons who are also regulated persons.

Refer to the fact sheet for [Spill Reporting](#) for further information on the lessons-learned report requirements.

## 5.6 Exemption for oil and gas permit holders

Persons who are oil and gas permit holders to which the Emergency Management Regulation, B.C. Reg. 217/2017 is applicable are exempt from submitting the Update to Minister Report, the End-of-Spill Report, and the Lessons-Learned Report.

## 6. OFFICER REQUESTS FOR INFORMATION PERTAINING TO SPILL RESPONSE ACTIONS

A responsible person must provide any information pertaining to response activities taken during a spill incident when requested by an officer. Section 91.2(1)(b) of EMA authorizes an officer to request information pertaining to response activities for a spill:

- (1) A responsible person in relation to a spill must, in accordance with the regulations
  - (b) Provide any information to an officer that the officer requests respecting response activities in relation to the spill

## 7. SPILL CONTINGENCY PLAN

If a spill occurs and the responsible person is also a regulated person, the responsible person is required to implement their Spill Contingency Plan (SCP).

For further information regarding regulated persons, see the Ministry of Environment and Climate Change Strategy fact sheet for [Regulated Persons](#).

## 8. SPILL RESPONSE ACTIONS

**If a spill occurs, the responsible person is required by law to ensure that a person with the appropriate skills, experience, resources and equipment conduct spill response actions that will address the spill, or the imminent risk of a spill.**

A responsible person who has possession, charge or control of the substance at the time of a spill, or the imminent risk of a spill, may not be qualified to respond to the spill themselves. However, they are required to ensure that the appropriate person arrives at the incident site to take the appropriate spill response actions. Section 91.2(2) of EMA outlines the spill response actions that may be taken but are not limited to. Spill response actions required in the EMA are as follows:

- (a) assess, monitor and prevent, or prevent the continuation of, the threat or hazard caused by the spill;
- (b) stabilize, contain, remove and clean up the spill;
- (c) identify and evaluate the immediate risks to and impacts on the environment, human health or infrastructure and, as necessary,
  - (i) advise persons to take protective action in relation to the spill,
  - (ii) protect infrastructure, and
  - (iii) protect, recover and restore the environment;
- (d) identify and evaluate the long term impacts of the spill;
- (e) take steps to resolve or mitigate those immediate and long term impacts

### **Assessment**

Assessment of a spill is the process to evaluate and predict the threat or detrimental effects caused by the spill, or that are an imminent risk. An assessment should include careful examination of the incident and determine any human safety concerns. Additionally, an environmental assessment should be conducted that: 1) identifies potential and actual adverse environmental effects; 2) proposes measures to mitigate adverse environmental effects; 3) predicts whether there will be significant adverse environmental effects after implementation of mitigation measures (recovery actions); 4) the development of a follow-up monitoring and assessment program to verify the accuracy of the environmental assessment and the effectiveness of mitigation measures.

## **Monitoring**

Monitoring a spill allows the responsible person to better understand and respond to threats caused by the spilled substance and changes to the environment. Spill monitoring includes processes and activities to characterize and monitor the severity of the spill and quality of the environment. Monitoring strategies and programs must be planned and designed to establish the status of the spill incident and the impacted environment, including the establishment of trends in relevant environmental parameters. Environmental monitoring is used in the preparation of environmental impact assessments.

## **Prevention**

Once the threat and impacts of a spill have been identified, steps must be taken to prevent the escalation of the incident so that the identified threats and impacts can be minimized and mitigated. When a spill occurs, efforts to prevent the continuation of the spill must be taken, which involves addressing the source of the spill. An example of a preventative action is the installation of leak detection equipment to prevent the occurrence of spill, or lessen the amount spilled.

## **Stabilization**

Stabilization of a spill occurs when the incident is brought under control and there are improvements to the incident. A spill can be stabilized by stopping the cause of the spill and by preventing the spill from spreading. An example of stabilization is seen by refloating and securing a floating vessel that has partially capsized that carries the imminent risk of spilling fuel.

## **Containment**

As a response action, containment means to encapsulate the threat or hazard caused by the spill. Containment measures can include preventing a spill from spreading, or by preventing a spill from occurring. Containment actions can be achieved by taking defensive response actions, which will depend on specific incident objectives. Types of defensive response actions include confinement methods (e.g. diking, damming, diverting, retention) and absorption. An example of this is to place a drum leaking gasoline in a larger steel overpack drum to prevent gasoline from spilling into the environment.

## **Remove and clean up**

Once a spill is stabilized and contained, actions to clean up the spill may occur. Spill cleanup may involve collection and the containment of any of the substance or thing spilled and any sites affected by the spill.

## **Identify and evaluate the immediate risks to and impacts on the environment, human health or infrastructure**

Immediate risks to and impacts on the environment caused by the spill incident can be identified and evaluated through preliminary observations and more formal methods. While some risks and impacts may be obvious to an untrained professional, such as oiled wildlife, or a substance entering a waterbody (potentially impacting aquatic plants and animals), there will be risks and impacts that can only be identified and quantified by a qualified professional using appropriate methods, such as environmental impact and risk assessments. The responsible person may hire a third party with the necessary qualifications and access to personnel to carry out related work but must ensure that the regulations relating to response actions are met.

Risks and impacts to human health should be identified and evaluated immediately, as well as throughout the response as the spill incident develops. Safety considerations should include not only the safety of the response personnel, but also the health of nearby community members. Risks and impacts to nearby communities and receiving communities (i.e. communities that may be impacted due to transport of a spilled substance down a waterway) could include the contamination of drinking water and/or food sources.

Risks and impacts to infrastructure are an additional safety concern and assessment of all potentially damaged infrastructure must be conducted. This includes damage caused by the spill incident (e.g. overturned truck or railcar that physically damages road infrastructure or river culverts) and damage that may arise during emergency response actions. Actions must be taken to:

- (i) advise persons to take protective action in relation to the spill,
- (ii) protect infrastructure, and
- (iii) protect, recover and restore the environment.

## **Identify and evaluate long-term impacts of the spill**

Long-term environmental impacts of the spill on the environment must also be identified and evaluated. This process can commence during the preliminary environmental assessment to identify immediate threats and risks. Once again, the use of a qualified professional is encouraged to undertake this work. Consideration of long-term environmental impacts is essential since many chemical substances can persist in the environment over time and have the potential to bioaccumulate and bio-magnify within a food chain. It is expected that the properties of the spilled substance (or thing), receiving environment, potential transport of the spilled substance (or thing), potential receptors, factors influencing persistence (e.g. dilution, volatilisation), and known chronic impacts are considered.



### **Take steps to resolve or mitigate those immediate and long-term impacts**

Once immediate and long-term impacts to the environment have been identified, it is the duty of the responsible person to take appropriate actions to resolve or mitigate those impacts.

Considerations:

- Actions for environmental protection and recovery must be planned, implemented, and monitored for effectiveness using scientific approaches
- A qualified professional should be hired to conduct environmental impact assessments (EIA) and/or risk assessments, when applicable
- Actions for environmental protection and recovery should be guided by a Net Environmental Benefit Analysis (NEBA)
  - NEBA weighs the advantages and disadvantages of different actions with each other, including natural attenuation, to determine the best course of action to minimize the impacts of the spill incident on both people and the environment
- The order of preference for recovery measures to rectify adverse effects on impacted environmental components is as follows:
  - Remediate – eliminate, limit, correct, or counteract any contamination and/or associated adverse effects of a contaminant on environmental components
  - Reclaim – ensure stabilization of the terrain and restoration of the functional utility of the ecosystem
  - Restore – return environmental components to original pre-existing structure, composition, pattern, ecosystem processes, productivity, and services
- Include transparency as to what residual impacts may remain following the actions for environmental protection and recovery to inform decisions on follow-up or long-term monitoring
- The responsible person is accountable for the costs of planning, implementing, and monitoring recovery actions

Categories of actions for environmental protection and recovery that should be considered during a spill incident include, but are not limited to the following:

- Response personnel safety
- Human health hazards
- Sampling and monitoring
- Environmental impact assessment
- Risk assessment
- Spilled substance diversion, containment, clean up, and/or remediation
- Infrastructure protection
- Bank/ground stabilization
- Habitat restoration

- Wildlife safety
- Population monitoring
- Follow-up or long-term monitoring
- Natural attenuation

Examples of more specific potential actions for human health safety and environmental protection and recovery that could be taken in different scenarios are provided in Table 2. Please note, this table was created to provide examples and other actions may be deemed more appropriate under certain circumstances. Decisions related to response and recovery are encouraged to be conducted by a qualified professional. If a spill site is considered contaminated, as per the Contaminated Sites Regulation (CSR), the responsible person must take appropriate actions, as per the CSR: [http://www.bclaws.ca/civix/document/id/lc/statreg/375\\_96\\_01](http://www.bclaws.ca/civix/document/id/lc/statreg/375_96_01).

Table 3: Example scenarios and possible actions to protect and restore the environment

Scenario	Possible recovery action
Contaminated soils must be excavated	Clean soils are brought in to fill excavation
Possible contamination of drinking water well	Potable water supplied until state of well can be verified or remediated
Contaminants migrate under paved highway – not possible to excavate	Place an interceptor trench down gradient to collect product as it comes out the other side
Noxious fumes in a dwelling or structure	Stop product from entering an enclosed space, remove contaminants and have a hygienist assess the area for occupancy
Fuel contaminated, but non-hazardous level, soils on an embankment supporting a road or structure	Treat area with chemical treatment or ammonia and nitrogen to encourage natural attenuation
Large quantities of fuel contaminated soil	Create a bio cell near site
A truck rolled over and knocked down 5 trees	Damaged ground vegetation to be re-seeded and trees re-planted. Number of trees replanted are to ensure that at least 5 trees will reach maturity
Piles of insoluble product deposited to the ground	Mechanical removal of the product, re-vegetation if necessary
Piles of soluble product deposited to the ground	Mechanical removal of product prior to any precipitation, re-vegetation if necessary
Fuel has spilled into a water body	Sampling and monitoring of water quality parameters, e.g. polycyclic aromatic hydrocarbons

## 9. SPECIFIED RESPONSE ACTIONS ORDERS

### Section 91.2 (3)

- (3) If a director is satisfied on reasonable grounds that compliance with the regulations is not sufficient to fully deal with the adverse effects of a spill on the environment, human health or infrastructure, the director may order the responsible person to take specified spill response actions that the director considers are necessary or advisable in addition to the regulatory requirements.

It is the duty of the responsible person to conduct appropriate spill response actions that adequately address the adverse effects of the spill on the environment, human health or infrastructure, in addition to the necessary response actions required to clean up the spilled substance (e.g. containment and removal). The director (or delegated director) has the power to order the responsible person to take specified actions when compliance with EMA is considered insufficient.

Inappropriate actions include, but are not limited to:

- Circumstances where the responsible person takes no actions to protect, recover and/or restore the environment
- Circumstances where a chosen action is not directly related to the impacted environmental component and/or the logical environmental recovery outcome
- Actions that cause more harm/damage than alternative actions or natural attenuation

## 10. GOVERNMENT SPILL RESPONSE

While a responsible person is required to conduct spill response actions, the government may undertake spill response actions in certain circumstances. Government may undertake spill response actions when:

- There is no responsible person in relation to the spill
- An officer believes that government spill response action is required
- The responsible person requests that government assist with spill response and recovery actions

## 11. COST RECOVERY

In the instance where government action is needed to address a spill, EMA allows the government to recover for any costs incurred by government when conducting spill response and recovery actions. Costs

incurred by government become a debt due to government jointly and separately by the responsible person of the spill and the owner of the substance spilled.

Any costs incurred by government when conducting spill response actions will become a debt due to government. The responsible person and the owner of the substance or thing spilled are jointly and separately financially responsible

Without limitation, government is able to financially recover for costs incurred for the following:

- The use of government employees or contractors in the response, including hourly rates and expenses, including food, accommodation and mileage
- The use of government vehicles, including mileage
- The use of consulting and other professional services
- The use, maintenance and repair of government equipment
- Private goods and services contracted, hired, rented or purchased
- Research and analytical services related to recovery actions, and
- Mitigating the effects of the spill on the public

Government is also able to recover a prescribed percentage of incurred costs to meet government's administrative costs. The prescribed percentage is currently 25%.

## 12. RECOVERY PLAN

Section 91.2 (4)

(4) A director may order a Responsible Person in relation to a spill to prepare, in accordance with the regulations, and submit to the director, in the time and manner specified by the director, a Recovery Plan, or an amended Recovery Plan, to resolve or mitigate the impacts of the spill.

In certain circumstances, a responsible person may be ordered to prepare and submit a Recovery Plan. A Recovery Plan outlines how a responsible person intends to resolve or mitigate the entirety of impacts caused by a spill incident, including quantifiable recovery targets, the actions planned to be taken to achieve the targets, and a summary of engagement and consultation with impacted parties. A recovery plan is prepared and submitted as a detailed report and must contain specific information related to the spill that is outlined in the SPRRR. The responsible person is accountable for developing and implementing the recovery plan, including the use of qualified professionals to draft and implement it.

### **Difference between actions taken to protect and recover the environment and a recovery plan**

- Actions for environmental protection and recovery commence when the threat of a spill is imminent or as soon as the spill occurs
- These actions will generally be conducted in the absence of a recovery plan order, as it is a requirement under EMA (details provided in section 8 above)
- Actions for protection and recovery of the environment should suffice to deal with the potential and actual environmental threats and impacts caused by the spill incident
- If the director (or delegated authority) orders a recovery plan, this plan must be written and implemented in addition to the actions taken for environmental protection and recovery that are conducted during the response phase
- Actions that commence during the response phase can and should continue throughout the writing and implementation of the recovery plan, and these actions can be included as “recovery actions”, which are required as part of the recovery plan (see section 6 (h) of the SPRRR). Additionally, data obtained during the response phase actions can and should be included in the Spill Impact Assessment (SIA) section of the recovery plan (see section 6 (d) and section 6 (e) of the SPRRR)

To learn more about what is required in a recovery plan, or what to do if ordered to prepare and submit a recovery plan, see the Ministry of Environment and Climate Change Strategy guidance document on “Preparing Recovery Plans” and the “Recovery Plan” fact sheet.

Recovery Plan fact sheet: [https://www2.gov.bc.ca/assets/gov/environment/air-land-water/spills-and-environmental-emergencies/docs/materials/recovery\\_plan\\_factsheet.pdf](https://www2.gov.bc.ca/assets/gov/environment/air-land-water/spills-and-environmental-emergencies/docs/materials/recovery_plan_factsheet.pdf).

Recovery Plan external guidance document: [https://www2.gov.bc.ca/assets/gov/environment/air-land-water/spills-and-environmental-emergencies/docs/materials/guidance\\_preparing\\_recovery\\_plans.pdf](https://www2.gov.bc.ca/assets/gov/environment/air-land-water/spills-and-environmental-emergencies/docs/materials/guidance_preparing_recovery_plans.pdf)

## **13. COMPLIANCE**

Failure to comply with the regulatory requirements outlined in section 91.2 (2) and 91.2 (3) of EMA may result in a written order for the responsible person to conduct specific response and/or recovery actions. Failure to comply with an order may result in charges under EMA.