

Environmental Emergency Regulations

made under Sections 74, 136 and 171 and subsection 122A(3) of the Environment Act

S.N.S. 1994-95, c. 1

O.I.C. 2013-17 (January 22, 2013), N.S. Reg. 16/2013

Citation

1 These regulations may be cited as the Environmental Emergency Regulations.

Definitions

2 In these regulations

“Act” means the Environment Act;

“Administrator” means a person appointed by the Minister under Section 3 to administer these regulations;

“environmental emergency” means an emergency situation in which there is a release or an impending release of a substance in such quantities that mitigation of the release is beyond the capability of the person responsible because the person responsible lacks the resources, is unknown, or is otherwise unwilling or unable to control and manage the release;

“environmental emergency area” means a property, habitat, land, watercourse or other area that is established by an inspector under Section 10 as an area that has been affected or is likely to be affected during an environmental emergency;

“remediate”, in relation to an area affected by a released substance, means to clean up the released substance in accordance with a standard or regulation, or as directed by an inspector;

“reportable release” means a release into the environment of a substance in an amount specified in Column 3 of Schedule A for that substance;

“unauthorized release” means a release of a substance into the environment that is any of the following:

(i) prohibited by the Act or a regulation or standard made under the Act,

(ii) in excess of an amount specified in an approval or by the Act or a regulation or standard made under the Act,

(iii) a release described in subclause (i) or (ii) that is reasonably expected to occur in the foreseeable future.

Application of regulations

3 (1) These regulations apply to a release of a substance or impending release of a substance into the environment, including all of the following:

(a) an environmental emergency;

(b) a reportable release;

(c) an unauthorized release;

(d) a release of a substance or impending release of a substance into the environment on lands owned or claimed by Her Majesty in the right of Canada.

(2) The notice and reporting requirements in Sections 6 to 8 do not apply to a release of a substance

(a) in an amount that is permitted in an approval; or

(b) for which a reporting requirement is included in an approval for the release.

(3) The notice and reporting requirements in Sections 6 to 8 do not eliminate the requirement to comply with a notice or reporting requirement in another enactment.

Administrator

4 The Minister may appoint a person as Administrator to administer these regulations.

Qualifications for appointment as emergency responder

5 A person who is not an employee of the Department and who meets all of the following qualifications may apply to the Minister to be appointed under subsection 21(2) of the Act as an inspector for environmental emergencies, to be known as an emergency responder:

(a) the applicant is a member of either a fire or police service for a municipality within the Province;

(b) the applicant has successfully completed the requirements of a national emergency responders certification program;

(c) the municipality where the applicant is a member of a fire or police service is satisfied with the certification of the applicant and provides a written recommendation to the Minister for the applicant's appointment.

Duty to report unauthorized release or reportable release

6 (1) A person with a duty to report under Section 69 of the Act must report an unauthorized release as soon as that person knows or ought to know of it.

(2) A person responsible for a reportable release must report that release as soon as that person knows or ought to know of it.

Verbal notice of unauthorized release or reportable release

7 A person who is reporting a release of a substance under Section 6 must verbally notify all of the following:

(a) the Minister, through the Department's emergency telephone number;

(b) if the person reporting is not the owner, the owner of the parcel of land where the release occurred;

(c) any person who the person reporting knows or ought to know may be directly affected by the release, including the owner or occupant of any parcel of land to which the substance has migrated or is likely to migrate from the location of the release.

Written report of unauthorized release or reportable release

8 In addition to the verbal notice required by Section 7, the Administrator or an inspector may demand in writing that a person required to report an unauthorized release or a reportable release under Section 6 submit, within the time period specified in the request, a written report to the Department that includes all of the following:

(a) the name, address and telephone number of the owner of the property where the release occurred;

(b) the name, address, telephone number and signature of the person who is submitting the report;

(c) the location of the release, including the parcel identification number and civic address;

(d) if any substance has migrated or is likely to migrate from the location of the release, a general description of the nature of the migration or likely migration of the substance;

(e) the name, address, and telephone number of the owner of any parcel of land to which any substance has migrated or is likely to migrate from the location of the release, and the location, including the parcel identification number and civic address, of that parcel of land;

(f) a general description of measures taken or to be taken to address the release;

(g) the action taken to identify the cause of the release;

(h) the action taken to prevent a recurrence of the release;

(i) an assessment of the adequacy of the response to the release by a person or agency involved in the response;

(j) the action taken or to be taken to dispose of the substance.

Remedial measures

9 For the purpose of clause 71(b) of the Act, an inspector may issue a directive to a person under Section 122A of the Act requiring the person to take any or all of the following measures as necessary to prevent, reduce or remedy adverse effects after a release of a substance:

(a) recognize an environmental emergency area;

(b) restrict a person or persons from entering into an environmental emergency area;

(c) restrict vehicle access into an environmental emergency area;

- (d) recognize an unsafe area established by an inspector;
- (e) construct works required to contain, control or manage the release;
- (f) any immediate action that the inspector considers necessary to contain, control or manage the release;
- (g) measures as directed by the inspector to remediate the area affected by the release.

Emergency measures

10 For the purpose of Section 72 of the Act, in an environmental emergency an inspector may take any or all of the following emergency measures as necessary to prevent, reduce or remedy the adverse effects of a release of a substance:

- (a) establish an environmental emergency area;
- (b) restrict a person or persons from entering into an environmental emergency area;
- (c) restrict vehicle access into an environmental emergency area;
- (d) establish an unsafe area;
- (e) construct works to contain, control or manage the release;
- (f) any immediate action that the inspector considers necessary to contain, control or manage the release;
- (g) any measures that the inspector considers necessary to remediate the area affected by the release.

Emergency orders

11 (1) An emergency order under Section 128 of the Act may be made by an inspector, including an emergency responder, during or after an environmental emergency or unauthorized release.

(2) An order referred to in subsection (1) may order a person to take any action authorized under Section 125 or 126 of the Act, including any or all of the following:

- (a) to take the action specified to dispose of the substance that has been released;
- (b) to remediate the environment impacted by the release;
- (c) to do all things identified as necessary to repair an injury or damage directly or indirectly caused by or resulting from the release.

(3) An order referred to in subsection (1) must be confirmed as required by subsection 128(2) of the Act.

(4) An inspector or the Administrator may determine when an environmental emergency has ended.

(5) If a person ordered to take action under subsection (1) fails to comply with the order, the Minister may act under Section 132 of the Act.

Recovering costs

12 (1) For the purpose of Section 169 of the Act, reasonable costs, expenses or other charges that are incurred by the Minister, the Administrator or an inspector in carrying out measures with respect to an environmental emergency or an unauthorized release and that are supported by proper receipts may be recovered by 1 of the following methods:

(a) for a claim of less than or equal to \$5000, by issuing an order to pay against the person responsible for the need to take the measures;

(b) for a claim of greater than \$5000 or greater, by taking an action in a court of competent jurisdiction against the person responsible for the need to take the measures.

(2) If the person against whom an order is issued under clause (1)(a) fails to pay, the Minister or the Administrator may file the order with the prothonotary of the Supreme Court and it has the same effect as an order filed under subsection 132(7) of the Act.

Schedule A

Reportable Release of Substance Amounts

Column 1

Column 2

Column 3

TDGA Class*

Description of Substance

Reportable Release Amount

1

All Class 1

explosive

any amount

2

2.1

compressed gas (flammable)

100 L or more

3

2.2

compressed gas (non-corrosive, non-flammable)

100L or more

4

2.3

compressed gas (toxic)

any amount

5

3

flammable liquid

100 L or more

6

4.1

flammable solid

25 kg or more

7

4.2

spontaneously combustible solid

25 kg or more

8

4.3

water reactant solid

25 kg or more

9

5.1

oxidizing substance

50 L or more

–or–

50 kg or more

10

5.2

organic peroxide

1 L or more

–or–

1 kg or more

11

6.1

poisonous substance

5 L or more

–or–

5 kg or more

12

6.2

infectious substance

any amount

13

7

radioactive substance

any amount

14

8

corrosive substance

5 L or more

–or–

5 kg or more

15

9 (in part)

miscellaneous product or substance, excluding PCB mixtures and environmentally hazardous substances

25 L or more

–or–

25 kg or more

16

9 (in part)

PCB mixture of 50 or more parts per million

0.5 L or more

–or–

0.5 kg or more

17

9 (in part)

environmentally hazardous substance

1 L or more

–or–

1 kg or more

18

n/a

asbestos waste as defined in the Asbestos Waste Management Regulations made under the Act

50 kg or more

19

n/a

used oil as defined in the Used Oil Regulations made under the Act

100 L or more

20

n/a

contaminated used oil as defined in the Used Oil Regulations made under the Act

5 L or more

21

n/a

pesticide in concentrated form

5 L or more

–or–

5 kg or more

22

n/a

pesticide in diluted form

70 L or more

23

n/a

unauthorized sewage discharge into fresh water or sensitive marine water

100 L or more

24

n/a

ozone-depleting substance as defined in the Ozone Layer Protection Regulations made under the Act

25 kg or more

(*“TDGA Class”, in relation to a substance, refers to the class of that substance as listed in the Schedule to the Transportation of Dangerous Goods Act (Canada).)