

Emergency Spill Regulations

made under Sections 74, 136, and 171 of the
Environment Act
S.N.S. 1994-95, c. 1
Order in Council 95-298 (April 11, 1995), N.S. Reg. 59/95

Citation

1 These regulations may be cited as the "Emergency Spill Regulations".

Definitions

2 In these regulations

- (a) "Act" means the Environment Act;
- (b) "Administrator" means a person appointed by the Minister pursuant to Section 3 to administer these regulations, and includes an acting Administrator;
- (c) "C.C.M.E." means the Canadian Council of Ministers of the Environment;
- (d) "contaminant" means a substance that causes or may cause an adverse effect;
- (e) "Department" means the Department of Environment and Labour;
- (f) "emergency responder" means a person appointed pursuant to Section 9 for the purpose of responding to and managing an environmental emergency;
- (g) "environmental emergency" means an emergency situation in which there is a release or an impending release of a contaminant 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;
- (h) "environmental emergency area" means a property, habitat, land, watercourse or other area which has been affected or is likely to be affected during an environmental emergency;
- (i) "Minister" means the Minister of Environment and Labour;
- (j) "process tank" means any tank which forms an integral part of a manufacturing process;
- (k) "release" means to spill, discharge, dispose of, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place or exhaust;
- (l) "remediate" means to clean up land which is impacted by the release of a contaminant to a level required by the Minister;
- (m) "spill" means a release of a substance
 - (i) into the environment,
 - (ii) from or out of an approved containment system, structure, aircraft, vehicle, vessel, process tank, pipeline, or other container,

- (iii) that is abnormal in quantity or quality in light of all the circumstances of the release, or
- (iv) in excess of an amount specified in these regulations or an approval.

Administrator

3 The Minister may appoint an Administrator to administer these regulations.

Application

4 (1) These regulations apply to an environmental emergency, an unauthorized release or an impending unauthorized release of a contaminant including an environmental emergency, an unauthorized release or impending unauthorized release on lands owned or claimed by Her Majesty in the Right of Canada.

(2) A release is deemed to be an unauthorized release or an impending unauthorized release if the release is prohibited by the Act or regulations made pursuant to the Act or exceeds or does not comply with what is authorized by the Act or regulations made pursuant to the Act.

(3) The reporting requirements prescribed in these regulations do not apply

(a) to a release that is permitted in an approval issued under the Act; or

(b) where a reporting requirement for the release is described in an approval issued under the Act.

Designated contaminants

5 A contaminant listed in Column 3 of Schedule "A" is designated a contaminant under these regulations.

Duty to report the release of a contaminant

6 A person responsible under Section 69 of the Act shall forthwith report an unauthorized release of a contaminant listed in Column 3 of Schedule "A" in quantities greater than those listed in Column 4 of Schedule "A" as soon as that person knows of the unauthorized release.

Verbal reporting requirements

7 (1) A person reporting an unauthorized release under Section 6 shall notify the Department by contacting the environmental emergencies reporting centre by telephone at (902) 426-6030 or at 1-800-565-1633.

(2) No person shall make a false report of an unauthorized release.

(3) No person shall refuse to provide information required under these regulations.

Written reporting requirement

8 An Administrator may request in writing that a person responsible under Section 69 of the Act submit a written report to the Administrator within a specified time period after an unauthorized release outlining the actions taken

(a) to identify the cause of the release;

- (b) to assess the adequacy of the response to the release by the person responsible under Section 69 of the Act or any other person or agency involved in the response;
- (c) to remediate any lands upon which by the unauthorized release has an impact;
- (d) to dispose of the contaminant; and
- (e) to prevent a reoccurrence of the unauthorized release.

Training for emergency responders

9 (1) The following persons may apply to be appointed by the Minister or an Administrator as an emergency responder under these regulations:

- (a) fire service personnel of a village, town, city or municipality in Nova Scotia, and
- (b) police service personnel of a village, town, city or municipality in Nova Scotia.

(2) Upon a person having successfully completed the requirements of a national certification program for emergency responders, the Minister or the Administrator may appoint that person as an emergency responder.

(3) A village, town, city or municipality described in subsection (1) shall determine whether a person who wishes to be appointed as an emergency responder has successfully completed the requirements referred to in subsection (2) and provide the name of the person to the Administrator.

Powers of an emergency responder during an environmental emergency

10 (1) Pursuant to Section 72 of the Act, during an environmental emergency an emergency responder may do the following:

- (a) restrict entry of any person into an environmental emergency area;
- (b) control traffic in the vicinity of the environmental emergency area;
- (c) determine unsafe areas;
- (d) enter any land or building within the environmental emergency area, excluding a private dwelling, without a warrant;
- (e) authorize entry by any person into any building or on any land within the environmental emergency area, excluding a private dwelling, without a warrant by any person; and
- (f) take such action the emergency responder considers necessary to contain, control, and manage the release, including the construction of any works.

(2) No person shall

- (a) hinder or obstruct an emergency responder in the lawful performance of the emergency responder's duties;
- (b) furnish any emergency responder with false information; or
- (c) refuse to furnish any emergency responder with information respecting an environmental emergency.

Emergency order

11 (1) Pursuant to Section 128 of the Act, the Administrator or an emergency responder may issue a verbal or written order to a person to take any emergency actions listed in Section 10 to contain, control, or manage an unauthorized release or an impending unauthorized release.

(2) An order issued under subsection (1) shall lapse 72 hours after issuance unless it is ratified and confirmed in writing by the Minister.

(3) The Minister may at any time revoke an order made by the Administrator or an emergency responder pursuant to these regulations.

Powers of the Minister/Administrator

12 (1) Pursuant to Section 128 of the Act, during and after an environmental emergency or an unauthorized release, the Minister or the Administrator may order the person responsible for the environmental emergency or the unauthorized release to

(a) take any action required to dispose of the contaminant which has been released;

(b) remediate any lands impacted by the release; and

(c) do all things necessary to repair any injury or damage directly or indirectly caused by or resulting from the release.

(2) The Administrator may determine the size of an environmental emergency area and identify the area on the ground.

(3) The Administrator may determine when an environmental emergency is finished.

(4) If the person responsible for an environmental emergency or an unauthorized release fails to comply with an order issued pursuant to subsection (1), the Minister or the Administrator may take any action required to remediate any lands or waters impacted by the release or repair any injury or damage directly or indirectly caused by or resulting from the release.

Recovery of costs

13 (1) Pursuant to Section 169 of the Act, the Minister may recover any reasonable costs, expenses, or charges supported by proper receipts that are incurred by the Minister, the Administrator or emergency responders while acting under the Act or these regulations

(a) by issuing an order against the person responsible for the environmental emergency, the unauthorized release or the impending unauthorized release for a claim less than \$5000; or

(b) by taking an action against the person responsible for the environmental emergency, the unauthorized release or the impending unauthorized release in a court of competent jurisdiction for a claim greater than \$5000.

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

Effective date

14 These regulations shall come into effect on, from and after April 11, 1995.

Schedule "A" - Spill Report Requirements

Column 1 Column 2 Column 3 Column 4

Item No. TDGA

Class Description of Contaminant Amount Spilled

1. 1 Explosives any amount
2. 2.1 Compressed gas (flammable) 100 L
3. 2.2 Compressed gas (non-corrosive, non-flammable) 100 L
4. 2.3 Compressed gas (toxic) any amount
5. 2.4 Compressed gas (corrosive) any amount
6. 3 Flammable liquids 100 L
7. 4.1 Flammable solids 25 kg
8. 4.2 Spontaneously combustible solids 25 kg
9. 4.3 Water reactant solids 25 kg
10. 5.1 Oxidizing substances 50 L or 50 kg
11. 5.2 Organic peroxides 1 L or 1 kg
12. 6.1 Poisonous substances 5 L or 5 kg
13. 6.2 Infectious substances any amount
14. 7 Radioactive substances any amount
15. 8 Corrosive substances 5 L or 5 kg
16. 9.1
(in part) Miscellaneous products or substances, excluding PCB mixtures 50 L or 50 kg
17. 9.1
(in part) PCB mixtures of 50 or more parts per million 0.5 L or 0.5 kg
18. 9.2 Environmentally hazardous substances 1 L or 1 kg
19. 9.3 Dangerous wastes 5 L or 5 kg
20. none Asbestos waste as defined in the Asbestos Waste Management Regulations 50 kg
21. none Used oil as defined in the Used Oil Regulations 100 L
22. none Contaminated used oil as defined in the Used Oil Regulations 5 L
23. none A pesticide in concentrated form 5 L or 5 kg
24. none A pesticide [in] diluted form 70 L
25. none Unauthorized sewage discharge into fresh water or sensitive marine water 100 L
26. none Ozone depleting substances as defined in the Ozone Layer Protection Regulations 25 kg

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