

Legal update

New spill reporting, response and recovery requirements in British Columbia

November 2017

Energy

Environmental

British Columbia recently brought into force a new land-based spills regime and three new regulations requiring transporters of liquid petroleum products to have provincial spill response plans, to test such plans and to report and clean up spills. The new regulations apply to two categories of people:

- “regulated persons,” which are rail and highway transporters in possession, charge or control of 10,000 litres (62.898 barrels) or more of liquid petroleum products and pipeline operators with any quantity of liquid petroleum products in their pipeline; and
- “responsible persons,” which are persons in possession, charge or control of a substance when a spill occurs or is imminent.

The three new regulations are the *Spill Contingency Planning Regulation*, the *Spill Preparedness Recovery Regulation* and the *Spill Reporting Regulation*.

Spill contingency planning

Regulated persons are required to develop and maintain spill contingency plans based on a worst-case scenario spill. Investigations, tests and surveys must be undertaken to determine the magnitude of the risks to human health, the environment and infrastructure from a worst-case spill. Pipeline and rail transporters must have their spill contingency plans in place by April 30, 2018, while trucking firms have until October 30, 2018.

It is important to note that, while the spill planning obligations may resemble transportation of dangerous goods-type plans, they impose new requirements.

Spill reporting

New spill reporting requirements require a responsible person to immediately report any intentional or unintentional spill of a substance into the environment that may cause, is causing or has caused an adverse effect to water, the environment, human health or property if the volume of the substance exceeds the amounts set out in a schedule to the *Spill Reporting Regulation* or if the substance has or is likely to enter a body of water, regardless of the volume. Natural gas spills greater than 10 kg and releases from breakages of pipelines or fittings operated above 100 psi must also be reported.

The new regulation expands the scope of spills that must be reported, as it removes the previous volume/quantity threshold for spills to water.

It also expands the information that must be reported.

If a spill occurs or is imminent, a verbal report must immediately be made to the BC Provincial Emergency Program's spill reporting hotline (1-800-663-3456) by the responsible person. New requirements stipulate the initial report must include the name of the owner of the spilled substance and a description of the source of the spill.

Starting on October 30, 2018, a written report must also be made within 30 days of the spill, or as soon as practicable on the minister's request. An end-of-spill report must also be made within 30 days of the end of a spill's emergency response activities.

Spill response

A responsible person must ensure persons with the skill, experience, resources and equipment arrive at the spill site within a prescribed period and activate an incident command system. They must also ensure actions are taken to address the threat or hazard caused by the spill, including assessing, monitoring and preventing the threat or hazard; stabilizing, containing and cleaning up the spill; identifying the immediate and long-term risks and impacts of the spill; and taking steps to resolve or mitigate such risks and impacts.

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