



PREVENTION POLICY, PLANS & PRACTICES

Environmental Protection Act – Contingency Plans and Prevention
 Section 18 –Regional Director may issue orders requiring those with a potential for spills to: prepare contingency plans, to train staff, install monitoring, detection and spill alarm devices, and to construct spill prevention facilities.

Environment Canada Spill Prevention
 The Environmental Emergency Regulation created under section 200 of CEPA 1999 contains provisions for Spill Prevention planning. The regulation applies to companies with certain quantities of some substances (174 currently on the list) and mandates preparation of Environmental Emergency (E2) plans. E2 plans are to be implemented and tested by November 18 2004.
http://www.ec.gc.ca/ceparegistry/documents/ras/a2-13719_r1.pdf

Ministry of Environment, Preparing for Spills Contingencies (April 2003)

- Includes planning considerations for municipalities, their properties, criteria for a Municipal Spill Contingency Plan, and how the Spill Plan links to Emergency Plan
- Response considerations, the legal framework, municipal interests and the MOE's involvement, and shared efforts and coordination issues
- Outlines the MOE's role in spills, emergencies, and emergency plans
- Summarizes the *Environmental Protection Act*, *Ontario Water Resources Act*, and the *Pesticides Act*, and summarizes applicable Federal Legislation and agency responsibilities for Environment Canada, the Canadian Coast Guard and Transport Canada (CANUTEC)

Municipal Spill Prevention: Municipal officers perform site inspections. Industries with wastewater processes and manufacturers of wet or dry chemicals are targeted for inspections. During inspections the officer will attempt to identify deficiencies in procedure, equipment, or storage practices that may lead to spill situations. Common concerns include: open floor drains, lack of containment for bulk chemicals, tank valves without lock-outs, inadequate impact protection for chemical tanks or drums, unstable or dangerous storage of bulk chemicals, poor internal chemical transport practices, absence of berms at entrances to areas with bulk chemicals, lack of pump shut-down sensors or tank level alarms, poor employee training and awareness. Spill containment procedures include a posted spills plan with well trained employees, a spills kit, floor drain plugs or drain cover mats, catch basin cover mats for all loading docks, adsorbent booms or temporary reusable berms, sand or sand bags, sumps designed to collect and contain spills.

EVENT

Environmental Protection Act – Responsibility of the Discharger

- Sections 14, 18, 92 – Any person who discharges a substance into the natural environment which causes, or is likely to cause, adverse effects to the natural environment has the legal responsibility to clean it up and to have a plan in case of such an emergency
- Section 92 – Establishes prompt and broad notification requirements for the individual who caused the spill, the person who had control of the material immediately before the spill, and for employees of public authorities.
- The discharger has responsibility for notification (Section 15), clean-up (Section 93), and prevention of spills (Section 17)

Environmental Protection Act – Right of Entry to Stop Adverse Effects
 Section 95 stipulates that any person with a duty and / or their agents has the right of entry to a site and to do everything they can to stop the adverse effects on the natural environment.

Environmental Protection Act – Municipal Rights
 Section 100 – A municipality has the right of entry and to seek compensation from the owner and the person having control of the pollutant

Environmental Protection Act – Contaminant definition
 Section 1 defines a contaminant as any solid, liquid, gas, odour, sound, vibration or radiation resulting from the activities of man that may:

- impair the quality of the natural environment,
- cause injury or damage to property, or to plant or animal life,
- cause harm or material discomfort to any person,
- adversely affect the health of any person,
- impair the safety of any person
- render any property or plant or animal life unfit for use by man,
- cause loss or enjoyment of normal use of property, or
- interfere with the normal conduct of business

Canadian Environmental Protection Act, 1999 (CEPA, 1999, Federal)
 Prohibits unlawful discharges, provide timely notification, and to do everything reasonable to stop adverse effects. An officer (federal) has the power to enter and cause the spiller to stop and clean up in order to avoid negative impacts upon the environment (sec. 95)
 (Section 201(1)) *Subject to any regulations made under subsection 200(1), where there occurs an environmental emergency in respect of a substance on the list established under the regulations, any person described in subsection (2) shall, as soon as possible in the circumstances, (a) notify an enforcement officer or any other person designated pursuant to the regulations and provide a written report on the environmental emergency to the enforcement officer or other person; (b) take all reasonable emergency measures consistent with the protection of the environment and public safety (i) to prevent the environmental emergency, or (ii) to repair, reduce or mitigate any negative effects on the environment or human life or health that result from the environmental emergency or that may reasonably be expected to result from it; and (c) make a reasonable effort to notify any member of the public who may be adversely affected by the environmental emergency.*
 Also see Application (2) Subsection (1)

Fisheries Act, Sections 34-36, and section 38
 (Section 36(3)) *Subject to subsection (4), no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water.*
 (Section 38(5)) *Every person referred to in paragraph (4)(a) or (b) shall, as soon as possible in the circumstances, take all reasonable measures consistent with safety and with the conservation of fish and fish habitat to prevent any occurrence referred to in subsection (4) or to counteract, mitigate or remedy any adverse effects ..."*

Municipal Sewer Use By-laws (similar provisions in Peel, York, Durham, and Toronto)

- Stipulate that the person responsible or the person having the charge, management, and control of the spill immediately notify the Commissioner and provide any information with regard to the spill
- The person shall do everything reasonably possible to contain the spill, protect the health and safety of citizens, minimize damage to property, protect the environment, clean up the spill and contaminated residue and restore the affected area to its condition prior to the spill.
- The person shall provide a detailed report on the spill immediately after the spill.
- Industries at whose premises a spill has occurred have to submit an updated response plan

Regional Spills Response Offices

- Inspecting, locating, and containing illegal discharges to sewers and spills to the natural environment
- Spill coordinator informs owner / manager of a spill about their legal responsibilities, arrives on scene (with some containment equipment), and follows up on billing for the cost of cleanup

RESPONSE, CONTAIN, CLEAN-UP

LEGAL PROCESS
 Investigation, Charges, Prosecution, Penalties

Environmental Protection Act – Powers of Provincial Officers
 Part XV, Sections 156-168
 Inspection, samples or copies, seizure, use of force, warrantless searches

Environmental Protection Act – Part II (General Provisions) Part X (Spills)

Canadian Environmental Protection Act, 1999

- Officer may lay a charge unless they believe that a warning, ticket, direction, environmental compliance order, or order from the Minister is sufficient.
- Part 10, 272-274 outlines penalties for "negligently" causing spills.

Fisheries Act

- Subsection 36(3) of the Fisheries Act states: *Subject to subsection (4), no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water.*
- Subsection 40(2) of the Fisheries Act states: *Every person who contravenes subsection 36(1) or (3) is guilty of (a) an offence punishable on summary conviction and liable, for a first offence, to a fine not exceeding three hundred thousand dollars and, for any subsequent offence, to a fine not exceeding three hundred thousand dollars or to imprisonment for a term not exceeding six months, or to both; or (b) an indictable offence and liable, for a first offence, to a fine not exceeding one million dollars and, for any subsequent offence, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years, or to both.*
- Subsection 78.2 of the Fisheries Act states: *Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted.*

City of Toronto Sewer Use By-law Penalties

- Persons who do not report are liable - \$5000
- Penalties for contravening sewage works provisions: Individuals may be subject to a \$10,000 first offence fine and \$20,000 for subsequent offences. Corporations are liable for first offence fines of \$50,000 and \$100,000 for subsequent convictions.

RESTORATION

MONITORING EVALUATION

Environmental Commissioner of Ontario
 Environmental Registry, *Environmental Bill of Rights*, Annual Reports

TRCA

- Regional Monitoring Network survey sites
- Spills communication protocol – 2000

Community-based Watershed Groups (Etobicoke & Mimico Creek Watersheds Coalition, Humber Alliance, Don Council, Rouge Park Alliance, Duffins and Carruthers Creek Task Forces, Black Creek Conservation Project, Highland Creek Stewardship Project)

Watershed Councils are important advocates of healthy river systems. Addressing spills management has been identified as a key action in community-based watershed planning documents, report cards and strategies.