Environmental Safety Spill Reporting and Response

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Workers at a farm coop accidentally drop a pallet containing a toxic cleaning agent, crushing two containers and causing a spill. Workers dilute the spilled solution with water and flush the contaminated water down a storm drain. Nobody tells management of the incident. A few days later, a government biologist notices dead fish floating in the creek where the storm drain discharges. He goes to the plant and asks the manager about the spill. The manager says he doesn't know anything about it. And he's telling the truth. But after the biologist leaves, the manager does a little checking and learns what happened. The workers involved reassure the manager that "they took care of" the spill. But, of course, they've done anything but. The company reports the spill belatedly and is fined not just for failure to report but for not training its workers how to respond to spills properly [R. v. Agrifoods International Co-operative Ltd.].

The spill in Agrifoods is the kind of incident that can happen anywhere, at any time to any company. And when it does, a prompt and effective response by workers is crucial to contain the damage and ensure compliance with reporting requirements. Yet, lawyers say that few companies do a good job of preparing workers in spill response. "It's not that they don't try," says one lawyer. "It's that spill response planning tends to be patchy and ineffective." For example, the employer in Agrifoods did train workers to use water to dilute spilled chemicals. But it forgot to tell them to keep diluted chemical out of drains, sewers and surface waters and to report all spills immediately to management. The company paid dearly for these oversights.

This article will tell you how to create effective spill response

and containment procedures for your workers. There's also a Model Policy on page x and a Spill Report Form on page x that you can adapt and use as part of your own spill response contingency plan.

What the Law Requires

Environmental laws require organizations to take response measures to reduce potential harm caused by hazardous spills. Smaller spills generally require containment, clean up and disposal. Larger spills may require the help of government and/or private spill remediation contractors.

Many states and Canadian provinces also require a spill contingency plan setting methods for containing different kinds of spills that are reasonably foreseeable at the site. Organizations might also have to file the plan with the government, depending on the kind of operations it conducts.

Why You Need a Spill Response Plan & Policy

Just about any organization that uses, stores or handles hazardous substances should create a contingency plan even if the law doesn't specifically require it to. Explanation: Lawyers say that preparing a contingency plan represents an informal benchmark or "best practice" of environmental management. Consequently, judges, prosecutors and regulatory officials are likely to consider the existence of a plan a crucial factor in determining if a company's spill response meets the standards of due diligence, even if creating such a plan isn't mandated by a specific environmental regulation. "We recommend anyone who stores any quantity of contaminants prepare a plan," says one government official.

A key element of a contingency plan is an organizational policy and set of procedures telling workers how to react to spills. A spill response plan:

- Helps you contain the harmful effects of spills to health and the environment;
- Makes it easier to investigate and gather the information you need to document the spill and its impact under environmental regulations; and

- Tells workers how to report spills properly and in a timely manner and thus heads off incidents like the one in the Agrifoods case.

What to Include in Your Policy

Policies will vary depending on your operations, the hazardous substances you handle, the laws of your province, etc. But lawyers say that all policies should include some basic provisions:

Purpose Clause: Tell workers that prompt response and reporting of spills isn't just a legal requirement but a vital matter affecting public health and the environment [Model Policy, Sec. I].

Spill Response Procedures: List steps workers should take in response to a spill [Model Policy, Sec. II(a)].

Cover both minor and major spills. "Minor spills typically involve a known substance that doesn't threaten the safety of the environment or other people," explains an Ontario lawyer. Many organizations let workers clean these spills themselves, provided they receive adequate cleanup training. Major spills that threaten health or environmental damage say should be handled by a specialized cleanup crew [Model Policy, Sec. II(c)].

Additional actions your policy should require for all spills include:

- Warning others about hazards associated with the spilled substance;
- Helping others that may have been contaminated;
- Controlling potential ignition sources if the spill involves flammable materials;
- Activating the fire alarm if the spill poses an immediate health threat; and
- Evacuating the area, if necessary.

[Model Policy, Sec. II(b)].

Reporting Requirements: "Every company should have at least one point person who is responsible for handling a spill, no matter how small it is" says a BC environmental lawyer. Tell your workers

who that contact is. This person should make sure that the spill is contained and cleaned up properly and be responsible for notifying the authorities and handling media inquiries, if necessary. Other people who should be notified include the company president, department managers and others directly affected by the spill.

Pointer: The law requires the reporting of spills that could harm the environment. But the laws vary as to which spills must be reported and to whom. Check the laws of your state and province and make sure your policy requires your spill response coordinator or another employee to notify the proper authorities. [Model Policy, Sec. III].

Spill Report Form: Some states and provinces require organizations to complete a spill report form for every spill that occurs on their property. Saskatchewan even gives you a model reporting form. Requiring your workers to complete a spill report form is a good idea even if your organization isn't located in a jurisdiction that requires one. "You need to have a record of the incident and how the spill was contained," explains a lawyer [Model Policy, Sec. IV].

Conclusion

Improper spill response is one of the few environmental violations that are easy to avoid. But to do it you must document and implement your spill response and reporting procedures. With prosecutions on the rise, this is a task no company can afford to ignore.

SHOW YOUR LAWYER

1. v. Agrifoods International Co-operative Ltd., [1993] B.C.J. No. 2320, Oct. 8, 1993].

MODEL POLICY

Here’s a Spill Response and Reporting Policy and Form that you can use to ensure that your employees report and respond to spills appropriately. Be sure to adapt it to meet the needs of your company and the requirements of your province before using it at your organization.

Spill Response and Reporting Policy

1. **PURPOSE.** Federal and provincial laws require ABC Company and its employees to respond to environmental spills immediately and, if necessary, report them to the proper authorities. Failure to comply with these laws could result in significant harm to the environment and ABC Company’s employees, as well as stiff governmental penalties, including jail time.

ABC Company (“Company”) is adopting this spill response and reporting policy to ensure the safety of the environment, employees, and other persons affected by a spill, as well as to describe the procedures that all employees must follow in the event of any unexpected release of any contaminant into the workplace or surrounding environment.

1. **SPILL RESPONSE PROCEDURES**

1. **Spill Response Coordinator.** Company has identified a Spill Response Coordinator (insert name of person in charge of handling spills) and backup (insert name of backup response coordinator) who shall be responsible for ensuring that spills are contained, cleaned up, and reported properly and for handling media inquiries.
2. **Notification and Safety.** Employees with knowledge of a spill must notify the Spill Response Coordinator about all unanticipated spills at Company’s facility or off-site locations, no matter how small. Additionally, they must also notify all people in the immediate area about the spill and warn them about any hazards associated with the spilled product.

To the extent they can do so without jeopardizing their own safety, employees must also:

1. Attend to any persons that may have been contaminated, removing contaminated clothing and applying first aid where appropriate.
2. Control sources of ignition if the spill contains flammable material.
3. Activate the fire alarm, if the spill poses an immediate health threat.
4. Evacuate the immediate area, closing doors to the affected area on the way out.

2. **Spill Clean Up.** Employees should be familiar with the information on the Material Safety Data Sheets for the materials they normally work with and should understand the hazards associated with each of those materials. It shall be the responsibility of each department supervisor to ensure that sufficient quantities and appropriate types of spill control materials and protective equipment, as prescribed in each relevant MSDS, are available and readily accessible to contain and clean up spills.

Minor Spills: After notifying a supervisor and the Spill Response Coordinator of a spill, an employee may clean up a minor spill, provided that the employee has been trained on proper cleanup procedures.

A minor spill is defined as a spill that: (1) is of a known material and quantity, (2) does not pose a significant safety or health hazard to employees or others in the immediate vicinity, (3) does not pose a significant threat to the environment, and (4) does not have the potential to become an emergency within a short time frame.

Typical clean up procedures for minor spills include:

1. Wear appropriate protective equipment and avoid breathing harmful vapours.
2. Use appropriate spill control material to contain and absorb the spill in conformance with

MSDS requirements. In most instances, loose spill control material should be distributed over the entire spill area, working from the outside and circling to the center. This reduces the chance of splashing or spreading of the spill. DO NOT ALLOW SPILLED MATERIAL TO ENTER FLOOR OR SINK DRAINS.

3. For spills of acids and bases, use a brush or scoop (spark-resistant if the spill involves flammable material) to place materials in an appropriate container. Store the container in a secure ventilated area and contact the Spill Response Coordinator for disposal instructions.
4. Decontaminate the surface where the spill occurred before allowing normal work activities to resume in the area.

Major Spills: All spills that are not minor must be cleaned up under the direct supervision of the Spill Response Coordinator

III. REPORTING REQUIREMENTS. If a contaminant is spilled in a greater quantity than that identified in British Columbia's Spill Reporting Regulations Schedule (a copy of which is attached), the Spill Response Coordinator shall immediately notify the following persons:

1. State/Provincial Emergency Program
2. Company president
3. Relevant department managers
4. All other persons who may be directly affected by the spill

1. **SPILL REPORT FORM.**The Spill Response Coordinator shall also be responsible for ensuring the completion of a Spill Report Form, a copy of which is attached. In the case of minor spills, the form may be completed by the employee responsible for cleaning up the spill.

[Attach copy of provincial spill reporting regulations]

SPILL REPORT FORM

This form is to be completed by the Spill Response Coordinator or the employee(s) responsible for cleaning up an unanticipated minor spill. Once completed, this form must be forwarded to the Spill Response Coordinator, if that person does not already have a copy, and Company's President. Additionally, the Spill Response Coordinator may forward this form to the proper governmental authorities as required by law.

Name and contact number of person completing report: _____

Date of spill: _____

Time and duration of spill: _____

Identify whether spill occurred in:

Air Land Water Building or room

Description of area and/or property impacted by spill: _____
_____
_____
_____
_____

Description of incident: _____
_____
_____
_____
_____
_____

Product(s) and quantities involved in spill: _____
_____

_____
_____
_____

Name of product owner: _____
_

Weather conditions at the time of spill and during response phase: _____
_____
_____

Identify all parties and individuals exposed to the spill or involved in the spill response. _____
_____
_____
_____
_____
_____

Were there any health treatments or tests conducted on any of the above-named individuals?
_____
_____

If yes, please provide a description of each test, on whom it was performed, and the test results. _____
_____
_____
_____
_____
_____
_____
_____
_____

What methods were used to contain the spill? _____

_____
_____
_____
_____

What clean-up techniques were used? _____
_____
_____
_____
_____

Please describe the methods used to dispose of the spilled product. _____
_____
_____
_____
_____

What are the short and long term impacts of this occurrence? _____
_____
_____
_____
_____

What measures should be implemented to prevent any recurrence of this kind of spill? _____
_____
_____
_____
_____

Identify all individuals notified about the spill. _____
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_____
_____
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