

# How to Create Spill Response Contingency Plan for Workers



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 Department of Fisheries 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 tell the Insider that few companies do a good job of preparing workers in spill response. "It's not that they don't try," says an Ontario 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 [Policy](#) and a [Spill Report Form](#) on that you can adapt and use as part of your own spill response contingency plan.

The company paid dearly for these oversights. Here's how to create effective spill response and containment plan.

## **WHAT THE LAW REQUIRES**

Provinces 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.

Some jurisdictions (including ON, NT/NU and YK) 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. For example, NT/NU require filing by organizations that store contaminants in an underground facility with a capacity of 4,000 or more litres or kilograms or an aboveground facility with a capacity of 20,000 or more litres or kilograms. (See "LAWSCAPE" chart below to find what your jurisdiction requires.)

## **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 NT 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*

## What to Include in Your Plan

Plans 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.

# Spill Response Procedures

List steps workers should take in response to a spill. 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. Additional actions your plan 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 contains flammable or combustible materials;
- Activating the fire alarm if the spill poses an immediate health threat; and
- Evacuating the area, if necessary.

## Reporting Requirements

'Every company should have at least one point person who's 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.

**Compliance Strategy:** Every province 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 jurisdiction](#) and make sure your policy requires your spill response coordinator or another employee to notify the

proper authorities.

# Spill Report Form

Some jurisdictions require organizations to complete a spill report form for every spill that occurs on their property. 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 an Alberta lawyer.

## 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

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

Here's what the provinces require in terms of spill contingency plans:

Jurisdiction	SPILL CONTINGENCY PLAN REQUIREMENTS
British Columbia	No spill contingency plan required, but government may require organizations to file plan at its discretion.
Manitoba	No spill contingency plan required, but government may require organizations to file plan at its discretion.

Jurisdiction	SPILL CONTINGENCY PLAN REQUIREMENTS
New Brunswick	Particular organizations must prepare spill contingency plan; government may require other organizations to file plan at its discretion.
Newfoundland/Labrador	Particular organizations must prepare spill contingency plan; government may require other organizations to file plan at its discretion.
Northwest Territories	Particular organizations must prepare spill contingency plan; government may require other organizations to file plan at its discretion.
Nova Scotia	Particular organizations must prepare spill contingency plan; government may require other organizations to file plan at its discretion.
Nunavut	Particular organizations must prepare spill contingency plan; government may require other organizations to file plan at its discretion.
Ontario	All organizations filing environmental permits must prepare contingency plan.
PEI	Particular organizations must prepare spill contingency plan; government may require other organizations to file plan at its discretion.
Quebec	Spill prevention and response laws do not mention spill contingency plans.
Saskatchewan	Particular organizations must prepare spill contingency plan; government may require other organizations to file plan at its discretion.

<b>Jurisdiction</b>	<b>SPILL CONTINGENCY PLAN REQUIREMENTS</b>
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- In the federal jurisdiction, response organizations and oil and gas handling and production facilities must prepare a spill contingency plan.
- In AB, owners of oil and gas wells or facilities must prepare spill contingency plans.
- In NB, owners of pipelines and pesticide storage areas must prepare spill contingency plans.
- In NL, owners of oil and gas facilities must prepare spill contingency plans.
- In NT/NU, facilities with storage capacities of 4,000 litres or kg underground and 20,000 litres or kg aboveground must prepare and file spill contingency plans.
- In NS, facilities capable of storing 2,000 kg of dangerous goods or waste and owners of petroleum plants and pipelines must prepare spill contingency plans.
- In PEI, organizations involved in waste resource management or used oil collections must prepare spill contingency plans.