



# **A Green Paper on Environmental Pollution: Ignorance is No Defence**

## **November 2010**

# **ENVIRONMENTAL POLLUTION; IGNORANCE IS NO DEFENCE.**

## **SUMMARY**

The worldwide adoption of the Polluter Pays Principle with regard to environmental contamination and pollution makes it abundantly clear that ignorance is not a defence. However, from our extensive independent research we have been shocked to discover that 93% of Directors are under the misapprehension that the laws and the risks apply only to chemical companies.

## **ENVIRONMENTAL POLLUTION; IGNORANCE IS NO DEFENCE.**

The worldwide adoption of the Polluter Pays Principle with regard to environmental contamination and pollution makes it abundantly clear that ignorance is not a defence. Sadly from our extensive research in polling senior business figures, ignorance is widespread, 93% of Directors we polled mistakenly believe that the risks and legislation only apply to chemical companies. The truth is, any site which receives deliveries is open to the risk of diesel spills, 'harmless' substances like milk can devastate a river by removing oxygen, and virtually anything can become a contaminant in the event of a fire. Under the European Liability Directive 2004/35/EC, which came into force in March 2009, polluters will be fined and have to meet the full costs of returning the contaminated area to it's pre-spill condition. This can run into tens, hundreds of thousands or millions of Pounds, in extreme cases of negligence Directors even face imprisonment. In addition to the physical cost, there is the bad publicity which, as BP has found can come close to destroying your reputation and brand. And as many have found to their horror, standard insurance will not cover them, especially when it can be proved that they have failed to meet minimum precautionary standards of safety and containment.

Many businesses seem to take the absence of a visit from an EA inspector as evidence that their site doesn't have anything to worry about and that it

somehow fails to qualify for compliance with EU pollution guidelines. Combine this with the Environment Agency's estimation that 75% of all pollution incidents originate from non-regulated areas of industry and you have a fairly clear picture that industry simply isn't taking the matter seriously enough.

With so many companies striving to be seen as environmentally friendly it is astonishing to find such complacency. A great many companies are operating purely on luck or are weighing the cost of implementing a safe pollution and firewater containment system against the odds of having an accident, being caught and getting prosecuted. It's time industry realised that environmental pollution is a crime not a health and safety infringement. Companies have a moral and legal responsibility to ensure that they have taken all reasonable precautions to ensure that their staff, their site and their immediate environment are protected.

Many businesses don't have any spill equipment, and those that do still rely on spill Kits as the sole backbone of their accident prevention strategy, even though they have numerous significant limitations. They cannot cope with large scale spills, they put staff at risk during deployment, they are not a 24 hour solution, and they are not practical or effective in extreme weather conditions. They also fail the environmentally friendly test due to their disposable nature, they cannot be reused and until replaced, at additional cost, the site is without protection.

Accidents and fires can and do happen at anytime of the day or night, so the only truly safe way to protect a site is to have a fully automated system like those designed and manufactured by Environmental Innovations Limited. Their systems automatically monitor, deploy and alert 24/7 365 days a year. By automatically blocking the outflow from a site the entire drainage system is converted into a capacious containment vessel for spills, flooding or firewater and foam. Staff are not required to enter the area of the spill or fire to attempt to deploy spill kits and can retreat to a safe distance to allow Emergency Services to do their job. The powerful valves that seal the drain, are so well engineered that they are estimated to require 1/50th of the energy used to close an equivalent Penstock valve and even permit full operation via battery. This unique method of containment will buy precious time to have the contaminated material sucked out of the blocked drain, recycled and reused. As soon as the drains are clear the valve unlocks and allows normal flow to resume, the system then reverts back to it's monitoring stance in preparation for any future incident.

There is always a limit to the extent that accidents such as chemical spills can be prevented by the adoption of best practice, and firewater runoff is an unavoidable consequence of a fire. However, enforcement agencies are less than sympathetic, and all site owners and operators need to be aware that they are totally responsible for environmental damage. It's not possible to eradicate the incidents themselves, but it is possible to put in place a level of containment that will prevent them from escalating into disasters. Tolerance for environmental pollution is eroding faster and faster each day and with it will come ever more draconian legislation. There is an inevitable cost to implementing a serious containment system but it's something that all businesses need to implement if they care about their staff, their neighbours (aquatic and human) and their balance sheets. In these days of greater environmental awareness, adopting a fingers crossed approach is neither legally or morally acceptable.

## **FURTHER ESSENTIAL READING**

### **The Full DEFRA Guidance on the New Environmental Civil Sanctions :**

The EA intends to start to use these new powers on 4th January 2011.

“<http://www.defra.gov.uk/environment/policy/enforcement/pdf/defra-wag-guidance.pdf>”

### **PPG7 : Refuelling Facilities :**

Advice on how to protect the environment through the safe delivery, storage and dispensing of fuels.

<http://publications.environment-agency.gov.uk/epages/eapublications.storefront>

### **PPG18 Managing Fire Water and Major Spillages**

These guidance notes have been drawn up to assist in the identification of the equipment and techniques available to prevent and mitigate damage to the water environment caused by fires and major spillages.

Download full Guidance at

“<http://publications.environment-agency.gov.uk/pdf/PMHO600BBUD-e-e.pdf>”

## **PPG21 : Pollution - Incident Response :**

Good practice guidance to produce incident response plans for dealing with accidents, spillages and fires, to help protect the environment.

<http://publications.environment-agency.gov.uk/epages/eapublications.storefront>

## **PPG22 : Incident Response – Dealing with Spills :**

Advice on how to deal with spillages to avoid pollution.

<http://publications.environment-agency.gov.uk/epages/eapublications.storefront>

## **PPG26 : Safe Storage -**

### **Drums and Intermediate Bulk Containers :**

The regulations apply to: tanks (can be permanent or temporary); drums greater than 200 litres capacity; intermediate bulk containers (IBCs); mobile bowlers.

All above PPGs are available for download at

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

## **ENVIRONMENTAL LIABILITY DIRECTIVE 2004/35/EC :**

The Directive establishes a strong framework for environmental liability based on the "polluter pays" principle, with a view to preventing and remedying damage to animals, plants, natural habitats and water resources, and damage affecting the land. Where the polluter is at fault or negligent powers exist to ensure that the costs as well as any fines are allocated, in extreme cases prison sentences can be enforced.

Download full Directive [www.europa.eu](http://www.europa.eu)

## **PPG28 Controlled Burn**

This guidance will help you decide when and how to use a controlled burn as part of a fire fighting strategy to prevent or reduce damage to the environment. You should consider this guidance on a site by site basis when developing an incident response plan for your site.

Download full Guidance at

["http://publications.environment-agency.gov.uk/pdf/PMHO1005BJIT-e-e.pdf"](http://publications.environment-agency.gov.uk/pdf/PMHO1005BJIT-e-e.pdf)

## **Fire Service Manual**

This Fire and Rescue Manual is the first manual within the Fire Service Operations series dedicated to the protection of the environment. This publication provides information and guidance designed to support firefighters, Fire Brigade Service managers, and trainers in their work at operational incidents, training events, and during day-to-day activities.

Download full manual here

["http://www.communities.gov.uk/publications/fire/environmentprotectvol2"](http://www.communities.gov.uk/publications/fire/environmentprotectvol2)

## **IS YOUR SITE RIGHT?**

**Use this Environment Agency 10-point checklist to help you make sure**

### ***Storing and handling oils, chemicals and other risky materials***

1. Are storage containers fit for purpose, regularly inspected and maintained?
2. Are storage areas and containers sited away from watercourses, drains and unsurfaced areas?
3. Do storage containers have secondary containment, such as a bund, to contain any leaks or spills?
4. Do you have procedures and training for safe delivery and handling of materials?

### ***Waste management***

5. Is your storage and handling of waste safe and does it comply with the law?
6. Do you know where your waste goes? Are you sure it's disposed of correctly?
7. Are you reducing and recycling your waste? Do it and save money.

## **Site Drainage**

8. Do you have an up to date drainage plan of your site?

9. Is your site drained correctly?

- only clean water, such as roof drainage, to surface water drains.
- all contaminated water, such as sewage and trade effluent, to foul drain.

## **Dealing with pollution emergencies**

10. Do you have a plan, equipment and training to deal with pollution emergencies?

*If you answered 'no' to any question, or are unsure, use the Environment Agency's "Pollution Prevention Pays – getting your site right" guidance available from their website or call us for advice **0800 731 9313***

**If you have any questions about how to make your business safer for your staff and the environment please call  
0800 731 9313**

**[www.environmental-innovations.biz](http://www.environmental-innovations.biz)**

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