

GUIDELINE

Environmental Incident Reporting

This guideline outlines the legislative requirement for reporting environmental incidents under Section 29 of the Mining Management Act.

INTRODUCTION

In order to assist operators in meeting their environmental incident reporting requirements under section 29 of the *Mining Management Act* (MMA), the Department of Mines and Energy (DME) has developed this guideline.

An environmental incident is defined as an unplanned event that causes environmental harm (i.e. where an activity or procedure not contained in or contemplated by the approved Mining Management Plan occurs and its impact is harmful to the environment).

LEGISLATION

In accordance with section 29 of the MMA operators are required to report an environmental incident or serious environmental incident:

- (1) *As soon as practicable after the operator for a mining site becomes aware of the occurrence of an environmental incident or serious environmental incident on the site, the operator must notify the Chief Executive Officer of the occurrence.*

Maximum penalty: 200 penalty units.

Section 29 of the Act also states:

- (2) *An operator who gives notice orally must, as soon as practicable after doing so, give a written notice to the Chief Executive Officer.*

Maximum penalty: 200 penalty units.

- (3) *An offence against subsection (1) or (2) is an offence of strict liability.*

Operators should also be aware of section 33 of the MMA, which states:

- (1) *A person commits an offence if:*

- (a) *the person releases waste or a contaminant that is from a mining site; and*
- (b) *the release is not authorised by the mining management plan for the site.*

Maximum penalty: 200 penalty units.

- (2) *An offence against subsection (1) is an offence of strict liability.*

- (3) *It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.*

- (4) *Subsection (1) applies regardless of whether the release:*
- (a) *occurs on or outside the mining site; or*
 - (b) *causes, or has the potential to cause, environmental harm.*

REPORTING AN INCIDENT

Assess the Incident

When assessing an incident and making decisions about reporting on an environmental incident or serious environmental incident an operator should have regard to the definition of “environment” in the MMA.

“Environment” is defined under section 4 of the MMA as follows:

land, air, water, organisms and ecosystems on a mining site and includes:

- (a) *the well-being of humans;*
- (b) *structures made or modified by humans;*
- (c) *the amenity values of the site; and*
- (d) *economic, cultural and social conditions.*

Operators should conduct an appropriate assessment of the incident in order to determine the severity of the incident and whether the operator will be required to report the incident to the Chief Executive Officer of DME.

For the purpose of classifying the severity of an incident and determining whether a report is required an operator may be **guided** by the assessment matrix in Table 1.

Operators should also have regard to the obligations set out in section 16 of the MMA, the conditions of authorisation, the permitted activities and the relevant procedures contained in the operator’s own management plan, including its associated systems.

It is not always necessary for there to have been an environmental impact for the requirement to report an incident to be triggered. The *potential* for any incident to have an impact on the environment should also be taken into account when considering whether to make a report to the Chief Executive Officer. The definition of “environment” is broad and careful consideration should be given to each aspect of the environment before a determination is made.

Table 1. Guide to severity classification.

Severity Class	Physical Environmental Consequence	Social/Cultural Environmental Consequence	Appropriate Actions
1	<p>Unplanned low level impact on the physical environment, health of humans, structures or amenity of site, which was of short duration with no enduring actual or potential harm to the environment.</p> <p>No lasting effect observed or measured.</p> <p>For example:</p> <p>Minimal and reversible impact on any aspect of the environment.</p> <p>No impact on well-being of humans.</p> <p>All products of incident capable of being immediately retrieved or neutralised.</p> <p>No risk of further escape, contamination or injury.</p>	<p>Unplanned low-level impact on social, cultural, heritage conditions or amenity of community, which was of short duration with no enduring actual or potential harm to the environment;</p> <p>For example:</p> <p>Minimal disturbance to heritage items or structures;</p> <p>Minimal disturbance to local community, social or cultural conditions.</p> <p>No lasting effect observed or measured.</p>	<p>Obligation to inspect, assess, monitor for ongoing impact, rehabilitate physical damage, mitigate any damage.</p> <p>Obligation to record in register of incidents and include in annual report to DME.</p> <p>Unlikely to require investigation by Regulator.</p>
2	<p>Unplanned minor environmental impact with some minor actual or potential harm to the environment.</p> <p>For example:</p> <p>A discernible but reversible impact on non-threatened species and their environment, the</p>	<p>Unplanned minor impact on social, cultural, heritage conditions or amenity of community, which was of short to medium duration with some enduring actual or potential harm to the environment.</p> <p>For example:</p> <p>People affected by minor loss</p>	<p>Identify non-compliance with MMA, authorisation, MMP, or operators own management system.</p> <p>Identify procedures to be followed, take appropriate action to contain/minimise impact or harm resulting from incident</p> <p>Obligation to inspect and</p>

	<p>duration of which is likely to be < 1 month.</p> <p>Minor impact on the well-being of humans which may be left untreated or require only minor short term treatment.</p> <p>All products of incident capable of being safely contained, retrieved or neutralised in short term.</p> <p>Low risk of further escape, contamination or injury.</p>	<p>of amenity or minor reduction of usual conditions;</p> <p>Minor repairable damage to cultural or heritage sites, structures, property and items.</p> <p>Minor disturbance to community, social, cultural conditions, where it is possible to restore conditions in short term.</p> <p>Short term effect observed or measured.</p>	<p>assess impact of incident, monitor for ongoing impact, rehabilitate physical damage, mitigate any damage.</p> <p>Obligation to record in register of incidents and include in annual report to DME.</p> <p>Obligation to report incident to CEO of DME.</p> <p>Possibility that an Investigation by Regulator will be required.</p>
3	<p>Unplanned moderate environmental impact >1 month duration to non-threatened species in their natural environment.</p> <p>Unplanned moderate impact on the well-being of humans.</p> <p>For example:</p> <p>A moderate impact on non-threatened species and the environment, the duration of which is likely to be > 1 month.</p> <p>A moderate impact on the well-being of humans which requires treatment.</p> <p>All products of incident capable of being safely contained, retrieved or neutralised in medium term.</p>	<p>Unplanned moderate impact on social, cultural, heritage conditions or amenity of community, which was of medium duration with some enduring actual or potential harm to the environment.</p> <p>For example:</p> <p>People affected by moderate loss of amenity or moderate reduction of usual conditions;</p> <p>Moderate repairable damage to cultural or heritage sites, structures, property and items.</p> <p>Moderate disturbance to community, social, cultural conditions, where it is possible to restore conditions in medium term.</p> <p>Medium term effect observed</p>	<p>Identify non-compliance with MMA, authorisation, MMP, or operators own management system.</p> <p>Identify procedures to be followed, take appropriate action to contain/minimise impact or harm resulting from incident.</p> <p>Obligation on operator to investigate incident, including inspection and assessment of impact of incident.</p> <p>Obligation to rehabilitate physical damage to environment, mitigate any other damage, including by provision of treatment/services.</p> <p>Obligation to provide continued monitoring for</p>

	Moderate risk of further escape, contamination or injury.	or measured.	ongoing impact. Obligation to record in register of incidents and include in annual report to DME. Obligation to report incident to CEO of DME. Investigation by Regulator will be required.
4	<p>Unplanned major impact on environment > 1 year duration on ecosystem</p> <p>Unplanned impact on a threatened species or its habitat.</p> <p>Possible, irreversible damage to ecosystem.</p> <p>Unplanned major impact on well-being of humans.</p> <p>For example:</p> <p>A major impact on non-threatened species and the environment, the duration of which is likely to be > 1 month.</p> <p>Any impact on a threatened species or its habitat whether reversible or not.</p> <p>A serious impact on the well-being of humans which requires urgent or long-term treatment.</p> <p>Likelihood of safely containing, retrieving or neutralising products of</p>	<p>Unplanned major impact on social, cultural, heritage conditions or amenity of community, with some enduring actual or potential harm to the environment.</p> <p>For example:</p> <p>People affected by significant loss of amenity or significant reduction of usual conditions;</p> <p>Significant repairable or irreparable damage to cultural or heritage sites, structures, property and items.</p> <p>Significant disturbance to community, social, cultural conditions, where it is possible to restore conditions in the longer term, or where it may not be possible to restore conditions.</p> <p>Long term effect observed or measured.</p>	<p>Identify non-compliance with MMA, authorisation, MMP, or operators own management system.</p> <p>Identify procedures to be followed, take appropriate action to contain/minimise impact or harm resulting from incident.</p> <p>Obligation on operator to investigate incident, including inspection and assessment of impact of incident.</p> <p>Obligation to rehabilitate physical damage to environment, mitigate any other damage, including by provision of treatment/services.</p> <p>Obligation to provide continued monitoring for ongoing impact.</p> <p>Obligation to record in register of incidents and include in annual report to DME.</p>

	incident is limited or will require long term action. High risk of further escape, contamination or injury.		Obligation to report incident to CEO of DME. Investigation by Regulator will be required.
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Section 29 reporting is required for all incidents identified as being within severity class 2, 3 or 4.

Incident Reporting

Incidents likely to be the subject of a section 29 incident report may include, but are not limited to, the following:

- (a) Escape (by any means such as a spill or leak) of a fuel, chemical, product or residue in solid, liquid or gaseous form including fumes, smoke, vapours, contaminated water, or dust;
- (b) Emissions of noise (beyond reasonable permitted levels);
- (c) Uncontrolled or accidental fire on any land, structure or infrastructure;
- (d) Unauthorised, uncontrolled, or both, discharge of controlled waters to surface or ground waters;
- (e) Damage to a Sacred Site, Aboriginal Protected Area, other protected area, archaeological or heritage site;
- (f) Unauthorised mining, whether the activity is undertaken on or off an authorised mining site;
- (g) Unauthorised clearing of vegetation or disturbance of the ground on or off an authorised mining site; and,
- (h) Harm to human well-being.

If it is possible to identify any one or more of the aspects of an incident set out within a severity class the operator should consider taking the appropriate actions for that class.

If an incident fits within the descriptions contained in different classes of severity, the operator should classify the incident by the highest level observed.

If an operator is in doubt about whether a report is required then the operator should contact the Executive Director of Mines for further guidance on this procedure.

All written reports to the Chief Executive Officer of DME should include clear descriptions (and where appropriate diagrams, photographs and maps) of the incident and affected area of the mining site. In the case of any unauthorised mining activities, including land clearing (on or off site), the report should include details of the affected area including all dimensions, and should include a site plan showing the approximate location of the area concerned in relation to the boundaries of the mining site.

The initial report to the Chief Executive Officer should be made as soon as possible after the incident has come to the attention of the operator (including any person employed or contracted by the operator) and can be made by telephone, facsimile or email.

Where the initial report is provided to the Chief Executive Officer of DME by oral communications the operator is also required to provide written notification of the incident on the approved form as soon as practicable after the initial report. Preferably this should be provided within 48 hours of the initial notification.

Written reports should be submitted by email to mineral.info@nt.gov.au.

The 'Notification of an Environmental Incident' form can be found on the Department's website: www.minerals.nt.gov.au/mining under 'Reporting'.

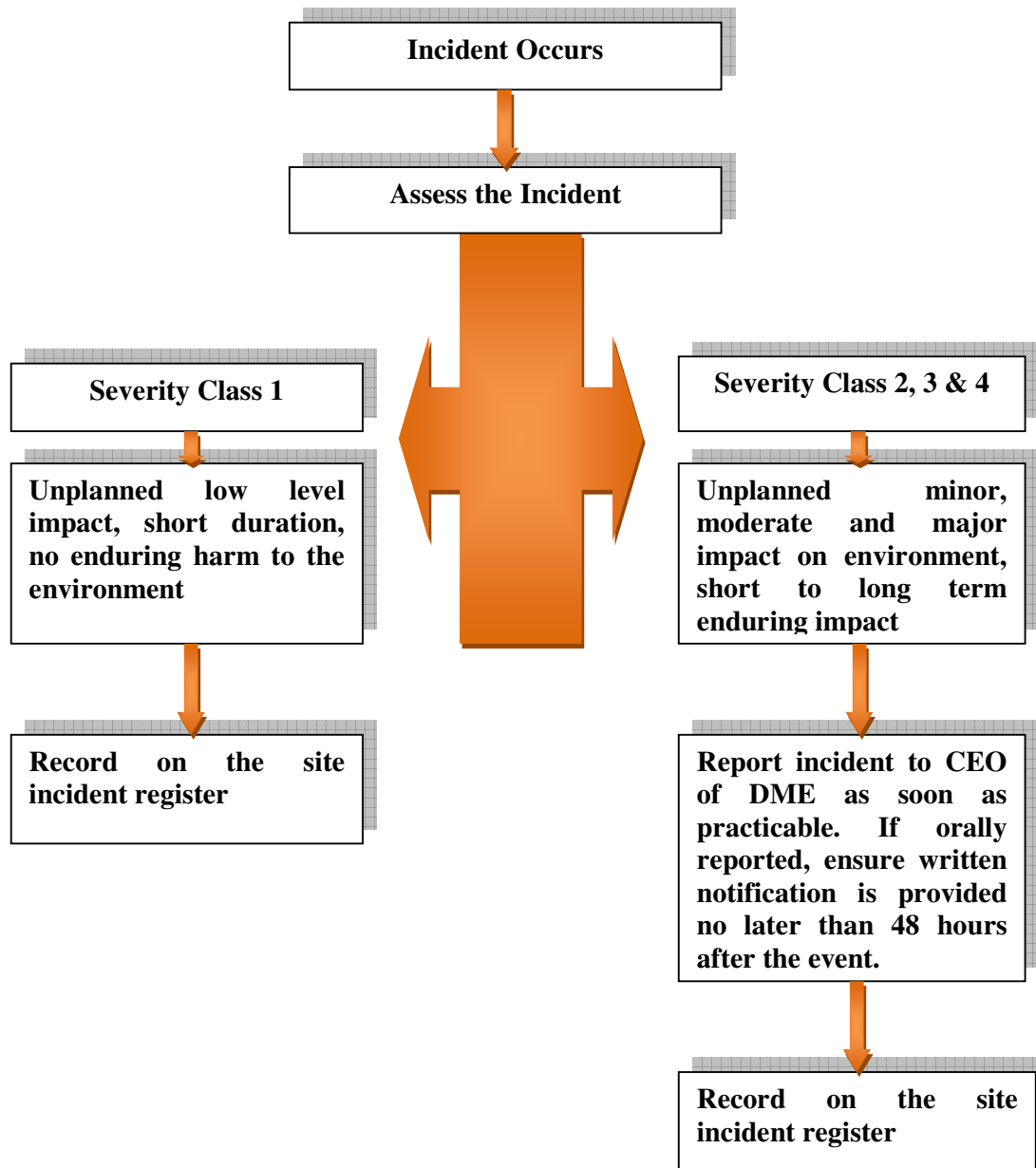
An incident reporting flowchart is located at the end of this document.

Register of Incidents

All environmental incidents that occur on the mining site should be recorded in a register located on site, photographed and location recorded (i.e. GPS coordinates). Environmental incidents that are not reported to the Chief Executive Officer under section 29 of the MMA (e.g. an event that had the potential to cause serious environmental harm even if actual material harm was not observed at the time of the incident) should also be recorded by the operator in the register, photographed and location recorded. The Register must be submitted annually with the Mining Management Plan (just the incidents pertaining to that reporting period).

The register should be available at all times for inspection by Mining Officers.

INCIDENT REPORTING FLOWCHART



All incidents should be inspected, assessed and monitored for ongoing impacts