

**Trans Mountain Pipeline ULC (Trans Mountain)  
Onshore Pipeline Regulations and Filing Manuals Update  
Phase 2 – Engagement Overview  
Due Date: March 31, 2025**

### **C. OPR – Emergency Management Topic Paper**

This paper describes potential amendments to the OPR to improve the CER's oversight of emergency management (EM). Any suggestions for improvement regarding this topic are welcome, and in particular, the CER seeks your comments on proposed improvements related to:

- CSA Z246.2 (incorporation by reference);
- priorities to be considered within the EM Program;
- consolidation of current regulatory framework requirements within the OPR;
- liaison activities and the continuing education program; and
- the involvement of Indigenous peoples in EM.

#### **Background: Emergency Management**

CER-regulated companies must do everything they can to keep things safe, which includes being ready in case of an emergency. In an emergency, the CER verifies that companies respond in a way that protects people, property, and the environment. The CER requires them to take the action needed to stop spills, manage an incident, and clean up and pay for any damage done.

Companies need processes in place to identify, manage, and mitigate risks. When they apply to the CER for approval to build and operate a project, they must submit information regarding their EM Program.

When developing an emergency management program, it's important that companies:

- **Prepare:** companies must be able to respond to an incident of any size or duration;
- **Cooperate:** companies must speak with everyone who needs to know of an emergency and may be involved in the response. The CER requires them to build relationships with those potentially involved in an emergency response role;
- **Educate:** a continuing education program must be in place for police, fire departments, medical facilities, and other organizations and agencies and the public living nearby; and
- **Train:** develop training and exercise programs for employees who need to respond to an incident.

#### **Subtopic 1: CSA Z246.2 – Incorporation by Reference**

Emergency management specialists, company representatives, and regulators across Canada have worked over the past few years to develop a standard for emergency preparedness and response for petroleum and natural gas industry systems. The CER has been a leader and contributor in the development of this standard – Canadian Standards Association (CSA) Standard Z246.2 Emergency preparedness and response for petroleum and natural gas industry systems. CSA Z246.2 allows a standardized approach to be taken across jurisdictions when developing an emergency preparedness and response program.

In the first phase of engagement on the OPR Review, the CER heard that the OPR should clarify whether CSA Z246.2 is a mandatory or discretionary requirement. CSA Z246.2 is not listed in OPR section 4, but is referenced in NEB Order MO-006-2016 and OPR Guidance Notes – Annex A.

In response to feedback received, as well as knowledge gained during the implementation of the OPR, the CER intends to introduce new requirements to enhance its oversight of emergency management.

### **Objectives for Improvement**

The objectives of new requirements will be to help ensure:

- that companies are clear about the CER's requirements regarding CSA Z246.2; and
- timely updating of requirements via CSA's regular internal review and publication process, which the CER is invested in through representation on the CSA Technical Committee.

### **Proposed Option**

To meet the objectives outlined above, the CER is considering incorporating CSA Z246.2 into the OPR by reference.

### **Discussion Questions**

c.1) What is your feedback on incorporating CSA Z246.2 by reference in the OPR?

#### **Response:**

Trans Mountain supports incorporation of CSA Z246.2 into the OPR by reference alongside the other CSA standards listed in section 4(1).

### **Subtopic 2: Priorities to be Considered within the EM Program**

The OPR states in subsection 32(1): "A company shall develop, implement and maintain an emergency management program that anticipates, prevents, manages and mitigates conditions during an emergency that could adversely affect property, the environment or the safety of workers or the public."

In the first phase of engagement on the OPR Review, the CER heard extensive comments from Indigenous groups regarding the need to identify and protect sites of Indigenous significance during emergency management activities.

In response to feedback received, as well as knowledge gained during the implementation of the OPR, the CER intends to clarify the priorities to be considered within a company's EM Program. The CER also intends to clarify that the EM Program must consider broader impacts to people (e.g., financial impacts) as well as safety

### **Objectives for Improvement**

The objectives of new requirements will be to help ensure that companies:

- are clear that the CER requires sites of historic and cultural significance, both Indigenous and non-Indigenous, to be considered in a company's EM Program; and
- consider all relevant impacts on people within their EM Program.

### **Proposed Option**

The CER is considering the following options to meet the objectives outlined above:

- replacing the term "safety of workers or the public" with "people"; and
- including adverse effects on sites of historic and cultural significance in subsection 32(1). For example, the revised provision could be worded as follows:
  - A company shall develop, implement and maintain an emergency management program that anticipates, prevents, manages and mitigates conditions during an emergency that could adversely affect people, property, sites of historic and cultural significance, or the environment.

### Discussion Questions

- c.2) What is your feedback on replacing the term “safety of workers or the public” with “people” in subsection 32(1)?

#### Response:

Trans Mountain supports the proposed change.

- c.3) What is your feedback on including adverse effects on sites of historic and cultural significance in subsection 32(1)?

#### Response:

Trans Mountain supports the inclusion of sites of historical and cultural significance in subsection 32(1), where such information has been provided by Indigenous communities to companies. Trans Mountain offers that to understand sites of historical and cultural significance, meaningful relationships need to exist between the companies and the Indigenous communities with which it interfaces. Please also see the response to Paper I, request i.1).

In relation to non-Indigenous sites of historical and cultural significance, Trans Mountain suggests that such data is limited to that available in municipal or regional public registries.

### **Subtopic 3: Consolidation of current regulatory framework requirements within the OPR**

The CER uses various tools within its regulatory framework to oversee a company’s EM Program. For example, the CER requires submission and publication of Emergency Management Program information through:

- [26 March 2015 letter](#) compelling submission of Emergency Procedures Manuals;
- Board Orders [AO-001-MO-006-2016](#) “Compelling Publication of Emergency Procedures Manuals” and [AO-001-MO-002-2017](#) “Compelling Publication of Emergency Management Program Information on Company websites”; and
- an annual letter requesting submission of a company’s emergency response exercise plans.

Further, the CER provides guidance to companies through the 22 January 2024 [Information Advisory CER IA 2024-001](#) – CER Expectations for Emergency Preparedness and Response for a Potential Fire Incident at Liquid Storage Tank Facilities.

The CER has also published [Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-reportable Incidents](#) and intends to publish Best Practices for the Involvement of Indigenous Nations and Communities in Emergency Management.

The notification Best Practices state: “The CER is also conducting a review of the Canadian Energy Regulator Onshore Pipeline Regulations (OPR), including engagement with Indigenous peoples and industry, wherein one or more of the Best Practices discussed in this letter may be incorporated explicitly into the regulatory framework depending on the outcome of that regulatory review.”

In the first phase of engagement on the OPR Review, the CER heard that:

- The CER should bring clarity to its overall regulatory oversight including associated compliance verification activities; this may include a review of requirements referenced in various regulations and guidance documents.
- The OPR should provide clarity on what the CER expects to be contained in an Emergency Procedures Manual and/or an Emergency Response Plan, as well as provide clarity as to which documents must be submitted to the regulator, which documents must be publicly posted, and which documents require public consultation and awareness.

- The CER could reconsider the appropriateness of requiring companies to post Emergency Response Plans (“ERP(s)”), which are prepared for the company and responding agencies, and consider whether there are more suitable mechanisms for sharing a subset of this information with Canadians. Publishing redacted ERPs online does not inform Canadians particularly well about how they are to respond to or identify an emergency situation. The requirement to inform all individuals who may be associated with an emergency response is already addressed through Sections 34 and 35 of the OPR generally, with specific materials created to be easily understood and processed by the public. This information may be more appropriate and useful for public consumption than an ERP or general information describing the Emergency Management Program.

In response to feedback received, as well as knowledge gained during the implementation of the OPR, the CER intends to consolidate current regulatory framework requirements within the OPR.

### **Objectives for Improvement**

The objective of new requirements will be to consolidate EM requirements specified outside the OPR into the OPR.

### **Proposed Option**

To meet the objective outlined above, the CER is considering adding to the OPR the requirements contained in the above-noted CER letters, Amending Orders, Best Practices, and Information Advisory.

### **Discussion Questions**

c.4) What is your feedback on this proposal?

#### **Response:**

Trans Mountain is generally supportive of the consolidation of the regulatory instruments into OPR requirements, potentially as an extension of section 32. In relation to Information Advisory 2024-001, Trans Mountain is mindful that the technical requirements that support the emergency preparedness and response for a potential fire incident at liquid storage tank facilities are detailed in CSA Z246.2 (please see the response to request c.1), above), and the *National Fire Code of Canada* and National Fire Protection Association standards, which are incorporated by reference in CSA Z662. As CSA Z662 is currently referenced by section 4(1) of the OPR, the inclusion of Information Advisory 2024-001 into the OPR is redundant.

Trans Mountain is of the view that the *Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-reportable Incidents* offers valuable guidance to industry. However, section 32 of the OPR in combination with external communication requirements section 6.5(1)(m) of the OPR require the notification of Indigenous communities regarding CER-reportable incidents. Trans Mountain supports *Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-reportable Incidents* to continue as a best practice. Please also see response to c.8), below.

c.5) Are there elements of the above-noted documents that should be included in OPR-related guidance rather than in the OPR itself?

#### **Response:**

Not applicable.

c.6) What is your feedback on elements of the Best Practices that could be incorporated into the OPR versus related Guidance?

#### **Response:**

Not applicable.

#### **Subtopic 4: Liaison Activities and the Continuing Education Program**

Regarding emergency preparedness and response, the CER has received feedback from Indigenous Peoples, first responders, and others that there is a desire for greater understanding of, and involvement in, a company's emergency management processes.

OPR sections 33-35 contain requirements regarding liaison activities and the continuing education program.

In the first phase of engagement on the OPR Review, the CER heard about the importance of communication and engagement activities with those that could be impacted by, or involved in, an emergency response on a CER-regulated facility. This includes Indigenous Peoples, emergency responders, municipalities, and potentially impacted public.

As a result of its compliance oversight activities, the CER has also recognized the need for clarity in sections 33-35 of the OPR. For example, there is often misunderstanding regarding the parties to be engaged as part of liaison versus continuing education, and what the difference is between these activities.

In response to feedback received, as well as knowledge gained during the implementation of the OPR, the CER intends to clarify requirements regarding a company's liaison activities and the continuing education program.

#### **Objectives for Improvement**

The objective of new requirements will be to help ensure that companies are clear about what is required for liaison activities and a continuing education program.

#### **Proposed Option**

To meet the objective outlined above, the CER is considering clarifying requirements for "liaison activities" and "continuing education programs" by deleting those terms and replacing them with new Emergency Response Coordination and Emergency Management Information provisions. **Emergency Response Coordination** would focus on company interactions with those that may be involved in a response, and **Emergency Management Information** would focus on those that may be impacted during an emergency.

#### **Discussion Questions**

- c.7) What is your feedback on clarifying the requirements in sections 33-35 of the OPR, regarding liaison activities and the continuing education program?

#### **Response:**

Trans Mountain is of the view that long-standing industry terms have created definitional clarity through consistent operationalization by the industry. Introducing new terms may cause some level of uncertainty and it may be more instructive for the CER to issue explanatory guidance to the industry on the nature and meaning of *existing* terms, rather than developing new terminology.

#### **Subtopic 5: Involvement of Indigenous Peoples in EM**

Regarding emergency preparedness and response, the CER has received feedback from Indigenous Peoples, first responders, and others that there is a desire for greater understanding of, and involvement in, a company's emergency management processes.

In December 2019, the Indigenous Advisory and Monitoring Committee (IAMC) for Line 3 submitted the Line 3 IAMC Summary Report: Issues and Recommendations (L3 IAMC Report) to the CER. The report

also included supplementary advice provided by the Manitoba Métis Federation. The report identified specific areas the CER should focus on to improve its processes to be more transparent and more inclusive of Indigenous Peoples. The report also advised how the CER can take concrete steps toward Reconciliation.

In November 2022, the CER published the “[Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-Reportable Incidents](#)”. These best practices are a first step towards addressing the L3 IAMC Report and are intended to improve the flow of information from companies to Indigenous Peoples who could be impacted by immediately reportable incidents. The CER also intends to publish Best Practices for the Involvement of Indigenous Nations and Communities in Emergency Management.

In the first phase of engagement on the OPR Review, the CER heard:

- extensive comments from Indigenous Peoples that they have a desire for increased involvement in a company’s EM Program;
- there needs to be clearer regulations about who is notified in the case of a spill (groups, public land users, Indigenous Peoples, etc.), regardless of whether the spill is on private land or crown land; and
- there must be proactive planning before an incident occurs that involves consultation, engagement and participation of potentially impacted Indigenous Peoples.

In response to feedback received, as well as knowledge gained during the implementation of the OPR, the CER intends to introduce new requirements to enhance its oversight of the involvement of Indigenous Peoples in EM.

### **Objectives for Improvement**

The objective of new requirements will be to help ensure that companies appropriately involve Indigenous Peoples in their EM Program.

### **Proposed Option**

To meet the objective outlined above, the CER is considering adding a requirement for a plan to involve Indigenous Peoples in the EM Program.

### **Discussion Questions**

- c.8) What is your feedback on clarifying the CER’s requirements within the OPR regarding the Involvement of Indigenous Peoples in a company’s EM Program?

### **Response:**

Trans Mountain supports the CER’s *Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-reportable Incidents*, and is of the view that it is important for companies to have an understanding of the Indigenous territories that are overlapped by the right-of-way, contact information for those communities, a common understanding of the types of reportable events that are of interest or concern to the community, and in the event of an event, timely reporting to the community. Trans Mountain routinely invites potentially impacted communities to its full-scale emergency response exercises.

Trans Mountain is of the view that section 32 of the OPR already addresses the requirement for Indigenous (and non-Indigenous) involvement in the EM program as it requires the development, implementation and maintenance of an emergency management program, and resides under the governance structure of the management system, which requires the company to establish and implement a process for external communication of information relating to safety, security and protection

of the environment (s.6.5(1)(m)). Under this structure, flexibility exists to capture the scope of the varied engagement necessary to cultivate and maintain robust relationships with Indigenous communities.

For these reasons, Trans Mountain is of the view that the *Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-reportable Incidents* should remain in its current form – as a best practice.