

Review of Onshore Pipeline Regulations and Filing Manuals Review
C. Filing Manuals – Emergency Management Topic Paper

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BACKGROUND

The Canadian Energy Regulator (CER) is seeking feedback on potential modifications to the Emergency Management section of the Filing Manuals. The CER's primary focus is to enhance its oversight of Emergency Management, specifically as it relates 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.

Below are the responses to the questions posed within the topic paper.

Subtopic 1 - CSA Z246.2's Potential Inclusion into the OPR by Reference

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

Incorporating CSAZ246.2 into the OPR only makes sense if it is written in a way that all parties involved (specialists, company representatives, regulators, and Indigenous Peoples) can understand, implement and report on and/or speak to.

It does not matter where CSAZ246.2 resides (either within the OPR or as a stand-alone policy) if it is not easy to understand and incorporate. CSAZ246.2 should be designed in a way that companies can properly implement, track and report on. Accountability should be one of the top priorities of CSAZ246.2 and companies should be held and/or penalized if they are found to be in breach of CSAZ246.2 no matter where it resides. CSAZ246.2 should include the opportunity for Indigenous Peoples involvement in all emergency mock response exercises and should include reasonable funding for Indigenous groups to participate if they are required to review and comment on material(s) or be present at any mock exercise or gathering (including any planning, training, review, post incident meetings/information sessions, etc.).

CSAZ246.2 MUST include at a minimum a 72-notification period to inform all Indigenous communities included on the CER Consultation list of any events that happen on site. The Duty to Consult resides with the CER, and each Indigenous community should receive the notification from both the CER and the Company. Indigenous communities understand that when an incident of some magnitude occurs the company's priority is to understand what the incident is and then to stop it from continuing. However, companies work diligently to create holding statements and update county's, local municipalities, government officials, and senior leaders so why can't that information be shared with Indigenous communities?

Companies should be mandated to follow up with Indigenous communities on the consultation list to inform Indigenous groups of the findings of the incident investigation(s) and discuss steps being taken to correct (if possible) the previous action and/or preventative measures being taken in the future to prevent (as best possible) this type of incident from happening again (either at the same location or another company location).

All too often companies take a path of least resistance and fall back on the idea that if they stay quiet and say nothing that it will not upset Indigenous communities. These companies are taking advantage of the understaffed and underfunded Indigenous communities by hoping the Indigenous communities will either forget about the incident and/or be pushed to new priorities and not have time to follow up with the company about the incident.

Recommendations:

- The CER should condition companies to seek Indigenous community input and involvement in all aspects of Emergency Management (Proper Inclusion).
- The CER should standardize reporting templates for everyone's benefit. This would help with reporting, comprehension and tracking/auditing to ensure accountability.
- The CER should create a scalable system for the type of incidents and their reporting/notification timelines and detail to ensure that companies are accountable and that they are penalized in a manner that ensures if companies aren't following the regulations they are penalized in a way that will prevent them from skirting the regulations in the future. Not all incidents are created equal, and not all incidents are caused by the company or their contractors (i.e. acts of nature), and not all incidents will require monitoring or potential mitigations that involve Indigenous communities. All incidents can be reported on, and Indigenous communities can be informed.

Subtopic 2 – Priorities to be Considered within the EM Program

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

Replacing the term “safety of workers or the public” with “people” is fine (this change appears to be very minor). The Nation suggests that if any definition changes are considered that the CER fully develops the definition for reference and understanding.

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

Adverse effects on historic sites and cultural significance should be included in subsection 32(1). However, if Indigenous communities are not aware, able, or willing to identify all sites of historic and cultural significance,

- How will companies know they exist?
- Will the CER create a database to keep records of all known sites of historic and cultural significance?

Subtopic 3 – Consolidation of current Regulatory Framework Requirements with the OPR

C 4. What is your feedback on the proposal?

The proposal should simplify the process of finding **all** related information.

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

Best Practices should be included in OPR-related guidance and **not** in the OPR itself.

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

Any elements of the Best Practices that could be incorporated into the OPR need to be interpreted as a **minimum requirement** by companies. Anything that goes directly into the OPR should be set out as a minimum requirement that can be tracked and reported against and not a guideline.

Subtopic 4 – Liaison Activities and the Continuing Education Program

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?

The more clarity and understanding that the CER can put into sections 33-35 of the OPR the better it will be for everyone to understand and incorporate. If there is any ambiguity and/or opportunity for interpretation, then there is a greater risk that everyone does something different. There needs to be consistency across all companies so that Indigenous communities can meaningfully participate.

Subtopic 5 – Involvement of Indigenous Peoples in Emergency Management

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?

The more clarity that can be provided the better chance that companies can meaningfully involve Indigenous Peoples in EM. However, without clear requirements and potential penalties, companies typically find a way around including Indigenous peoples in their Emergency Management planning/implementation.

Areas Where CER Requirements Need Clarification

- Indigenous Involvement in Early-Stage Environmental Planning: The OPR does not clearly require Indigenous involvement at the early planning stage of a company's Environmental Management system.
 - Companies should formally engage Indigenous communities early when developing environmental risk assessments, baseline studies, and mitigation strategies.

- Indigenous Knowledge (IK) should be explicitly considered alongside Western scientific data in environmental impact assessments.
- The Impact Assessment Act (IAA) requires early Indigenous engagement—a similar requirement could be reflected in the OPR for environmental planning.
- Defining Indigenous Co-Management & Oversight in Emergency Management. The OPR does not specify how Indigenous Peoples should be involved in ongoing environmental decision-making after project approval.
- Companies should be required to establish Indigenous Advisory Committees that participate in environmental monitoring, emergency response planning, and adaptive management.
- The OPR should reference mechanisms for shared decision-making, such as co-management agreements or collaborative environmental monitoring programs. The Indigenous Advisory and Monitoring Committee (IAMC) for the Trans Mountain Expansion Project provides a model for collaborative oversight.

Indigenous-Led Environmental Monitoring Requirements

Section 48 of the OPR requires an Environmental Protection Program (EPP) but **does not** specify Indigenous involvement in monitoring.

- Indigenous monitors should be formally included in environmental monitoring programs to track:
 - Wildlife impacts
 - Water and soil quality
 - Vegetation and habitat restoration
- Companies should provide training and employment opportunities for Indigenous monitors.

The Yukon First Nations Environmental Monitoring Program provides a framework for Indigenous-led environmental monitoring.

Indigenous Participation in Emergency Response & Incident Management

The OPR lacks specific requirements for Indigenous participation in emergency response planning and incident management.

- Indigenous communities should be consulted and involved in emergency response drills.
- Indigenous responders should be included in spill response teams, especially in areas where their territories may be affected.
- Companies should work with Indigenous groups to develop culturally appropriate emergency communication strategies.

The Gitga'at First Nation works with BC spill response teams to ensure community-led emergency preparedness for marine oil spills.

Establishing Reporting & Accountability Mechanisms

Companies are not required to regularly report on Indigenous participation in their Environmental Management (EM) programs.

- The OPR should mandate public reporting on Indigenous involvement in environmental monitoring and decision-making.
- The OPR should require companies to demonstrate how Indigenous Knowledge was incorporated into environmental protection measures.

The Alberta Energy Regulator's Indigenous Inclusion Reports track and publish Indigenous engagement data.

To clarify CER's requirements, the OPR should be amended to include the following:

Proposed Additions to OPR Sections 6 & 48

- **Section 6.1 (Policy and Commitment):**
Require companies to commit to Indigenous participation in Environmental Management (EM).
- **Section 6.3 (Hazard Identification and Risk Assessment):**
Require formal integration of Indigenous Knowledge in environmental risk assessments.
- **Section 6.5 (Management Review & Continuous Improvement):**
Require companies to establish Indigenous Advisory Committees for environmental monitoring and oversight.
- **Section 48 (Environmental Protection Program):**
Explicitly require companies to:
 - Establish Indigenous-led environmental monitoring programs.
 - Ensure Indigenous participation in emergency response planning.
 - Report annually on Indigenous involvement in environmental protection.