Response to the Canada Energy Regulator's Onshore Pipeline Regulations and Filing Manuals Update: Topic Papers B, C, D, G, and H

The Environmental Emergency Branch (EEB) of the British Columbia Ministry of Environment and Parks makes the following submission in response to the Canada Energy Regulator's (CER's) Phase 2 review of the "Onshore Pipeline Regulations (OPR) and the Environmental and Socio-Economic Assessment and Lands portion of the Filing Manual (FM)". This submission contains feedback on questions from the Topic Papers which could influence the ways in which EEB carries out its mandate – to act as the provincial lead in preparing for and responding to environmental emergencies and disasters. EEB welcomes CER's desire to support the highest level of environmental protection and provide clarity about regulatory requirements to regulated companies and the public.

Topic Paper B – Deactivation and End of Life Cycle

B2. Do you have feedback on how section 45.1 of the Onshore Pipeline Regulation (OPR) could be improved to address the comments received; for example, what elements should be included in a decommissioning plan?

- The BC Ministry of Environment and Parks conducted policy research on decommissioning requirements/triggers, impact to the rights of Indigenous Peoples, and proposed elements to be included in a decommissioning and closure plan for industrial projects in BC. A proposal was shared for public feedback in a 60-day

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consultation. The feedback will be used to inform future provincial policy and regulation development.

- More on this website: Public Interest Bonding Strategy - govTogetherBC

Topic Paper C – Emergency Management

C1. What is your feedback on incorporating CSA Z246.2 by reference in the OPR?

- Implementing a singular standard could be helpful in terms of unifying interpretations of regulation across multiple jurisdictions.
- The costs associated with accessing CSA standards are a barrier. If CSA Z246.2 were to be used as the standard for emergency preparedness and response for petroleum and natural gas industry systems, it should be included directly into the OPR, not by reference.
- The incorporation of mandatory response time planning standards in the 2023 version of the CSA Z246.2. is a positive addition. Response times will ensure that the overall environmental impacts of hazardous materials spills will be mitigated and reduced.
- There is concern that the 2023 CSA standard does not include a requirement for Geographic Response Plans (GRPs). GRPs ensure that resources are available to support an immediate response to a hazardous materials spill.

C3. What is your feedback on including adverse effects on sites of historic and cultural significance in subsection 32(1)

- Adverse effects and potential adverse effects to sites of historic and cultural significance should be included in subsection 32(1) of the OPR.

- Sites of historic and cultural significance should be clearly defined in alignment with existing legislation. Factors to consider:
    - Inclusion of previously identified sites as well as unknown or undiscovered sites.
    - If permitting or other processes are required by other legislation.

Topic Paper D - Environmental Protection

D8. What are the costs or benefits of adding a requirement to develop an Environmental Protection (EP) Plan that is scalable to the scope of the work for all construction, operations and maintenance activities?

- There could be minor cost increases to be borne by regulated companies, but those costs do not outweigh the positives regarding improved response capacity.
- If Spill Contingency Plans and EPs remain difficult to access (i.e. no centralized database hosted by CER), changes to the requirement may be hard to evaluate.
    - The CER should consider how these scalable plans can be assessed for compliance and enforcement actions.
- If implemented, this requirement should include provisions for notification of provincial and territorial governments regardless of incident scale.
- This requirement should include obligations/responsibilities of past owners to share project and plan histories, including previous contamination and any ongoing obligations related to long term recovery, with new owners.
- Response times can be adapted based on incident scale which could make spill response more tailored and efficient.
- Climate readiness needs to be incorporated at all levels of incident scale.

- Due to the ongoing nature of maintenance, updating plan requirements to be inclusive of all activity stages could be costly.
    - Specific guidance and thresholds would be needed to mitigate that impact.
- It is unclear whether this scalable plan would involve a single all-inclusive plan that requires updating in each new scenario, or a multitude of scenario-specific plans to be implemented as needed. Clarification is needed as each method would have varying cost and resource requirements.

Topic Paper G – Pipeline Integrity

G1. Please provide feedback on the proposed change to the definition of onshore pipeline to include hydrogen and carbon dioxide in a gaseous state.

- EEB is supportive of this change – more regulatory oversight is needed for these products. Concerns only arise in scenarios where substance-specific considerations are missed due to definitional generalization.
- The CER needs to clarify if including gaseous hydrogen and carbon dioxide in the definition of onshore pipeline will lead to other gaseous substances being included in the regulation.
- The definition of an onshore pipeline should be inclusive of all substances related to energy production, gaseous or liquid. Developing subcategories to identify specific risks and requirements are recommended.
- In BC, there are companies looking to transport anhydrous ammonia, which would require a completely different response plan in the event of a release.

- Hydrogen gas can escape through welds in pipelines, as such, very specific engineering standards would be required for its transportation.
    - E.g. Constructing hydrogen pipeline could carry less risk of release than retrofitting existing pipelines that were not purpose-built.
- The "Objective for Improvement" statement in subtopic #1 of Topic Paper - G mentions several other substances that will continue to be regulated on a case-by-case basis – it is unclear whether hydrogen and carbon dioxide are also to be regulated in this way.
- If hydrogen and carbon dioxide are added to the definition, quantitative measures like pH, need to be taken into consideration – especially regarding safety and emergency response planning. For example, Gaseous carbon dioxide can create acidic conditions when dissolved in water – emergency response and environmental impact need to be considered when transporting carbon dioxide near water or in regions of high precipitation.

<u>G5. Please provide feedback on the impact of these new requirements on safety throughout the lifecycle of the pipeline.</u>

- Understanding risk and geohazards improves the safety to workers, the public, and the environment throughout the lifecycle of the pipeline.
- All three options help ensure that companies appropriately assess, mitigate, and manage risk from pipeline design, through construction and operation and finally, abandonment:
    1) adding a requirement for pipeline design to include supporting risk assessment

2) adding a requirement for companies to perform geohazards assessments to determine potential risks to the pipeline; and
3) adding a requirement for companies selecting trenchless technology for pipeline installations to notify the CER if the installation occurs under a water body or if the installation is large and occurs over land.

- Requirements one and two encourage spill mitigation and preparedness by informing pipeline routing and design, response and environmental recovery planning, and staff training competencies.
- Risk assessments and geohazard assessments can inform emergency response and recovery planning to promote responder safety.

- The CER should consider revaluation requirements after a set amount on time (e.g., 15 years) for risk assessments to account for pipeline degradation and changing environmental conditions.
- There could be some difficulty ensuring compliance with these recommendations post-construction.

Topic Paper H – Reporting Harm

H2. Based on industry experience and best practices, describe where improvements to the OPR definition of "incident" can complement areas of overlapping federal, territorial and/or provincial legislation and/or reduce reporting redundancies?

- The ambiguity of 'significant' within the definition of 'incident' can be problematic:
    - Either remove or clearly define the word 'significant' so there is less room for interpretation.

- Make the definition more concise to capture more potential impacts.
- The BC Environmental Management Act (EMA) uses wording like “alters the usefulness of the environment” and utilizes strong language specific to ‘polluting substances’ and these can be useful parameters to adopt in OPR’s definition.
- There is need for harmonization; CER should conduct a jurisdictional scan of Canadian reporting requirements.
- The definition of “incident” needs to include impacts to archaeological sites, heritage sites, and locations of Indigenous cultural importance.
- Currently, the CER definition does not align well with British Columbia spill regulations and reporting limits outlined in section 91.1 of the *Environmental Management Act* and Spill Reporting Regulation. For situations where an ‘incident’ is reportable to federal authorities but not provincial or territorial, consider applying the more stringent standards and definitions to reduce confusion
- ENV, the BC Energy Regulator and the CER should consider an inter-agency spill reporting and notification agreement. ENV has similar mutual reporting agreements with Transport Canada.
- Units of measure discrepancies exist in provincial and federal spill reporting definitions which can result in confusion for the regulated person (e.g. reporting in m^3 versus kg).

H6. There are occurrences that may result in an adverse environmental effect and may not be considered an incident as defined in the OPR. Depending on their severity, they could be submitted to the CER as a new notification type with an extended timeline and used to assess company performance or trend analysis. What occurrences do you think the CER needs to be notified of?

- Occurrences where multiple spills occur below reporting thresholds but cause a cumulative adverse impact on the environment.
    - Similarly slow leaks that take longer periods of time to reach threshold quantities should be reported (at least for monitoring/accountability purposes).
- Below-threshold spills that move off federal property onto provincial crown land should require notification – specifically so CER can alert the relevant provincial authority.
- When substances spill into/onto containment vessels, it is considered an incident, but not always a spill (because it is not a spill to the environment). However, if wildlife can interact with the substance, it impacts the environment and is therefore a spill.
    - E.g. a petrochemical spilling into a secondary containment unit of a petrochemical storage facility may be argued as not having an adverse impact on the environment. However, if a bird could land in the secondary containment unit it does have an adverse impact. Therefore, clarification is needed to ensure these events are reported.
- Without more detail regarding the duration of an extended timeline, it is difficult to postulate if reportability or compliance would be positively impacted.
    - E.g. if it takes 72 hours for a slow leak to reach threshold volumes, it would then be reportable, vs the same leak over a 24-hour span.
    - E.g. giving more time to companies to respond to these occurrences and assemble the relevant information could increase likelihood of reporting or it could lead to companies not reporting the occurrences if they remediate the situation within the timeline.

H10. What criteria are of greatest importance when assessing the potential risk associated with a release of Low Vapour Pressure (LVP) or High Vapour Pressure (HVP) hydrocarbons? (e.g., product, location including proximity to a site of historic or cultural significance, volume, rate of release)?

- No single criteria can be of greater importance than all other criteria – all can be of vital importance depending on the scenario.
- Being prescriptive about the relative importance of risk criteria can overcomplicate the issue and inadvertently cause LVP and HVP releases with significant negative impacts to be overlooked if they don't meet thresholds for 'the most important criteria' of assessment.
- A risk matrix that considers multiple criteria should be developed.
- A risk matrix must include provisions for reassessment. Initial information is important for accurate risk ranking. However, risk ranking should be adaptable to account for new information as the situation evolves.

H16. Are you aware of existing best practices in historic or cultural site hazard identification that would clarify definitions and this proposed reporting requirement?

- Best practices are those that ensure sensitive information is not disclosed or recorded.
    - This typically involves no disclosure of what is at risk and including a buffer area surrounding the identified site.
    - Where potential impacts exist, the company hires a cultural monitor from the relevant Indigenous community – information is only shared as necessary.
    - A privacy or data-sharing agreement may be recommended in some contexts.

- Paper C, Subtopic 2 mentions “both Indigenous and non-Indigenous” sites of historical and cultural significance – in reference to including the new requirements for a company’s EM Program. Paper H Subtopic 7 mentions “Indigenous Peoples” but does not include non-Indigenous people.
    - CER should determine/clarify if the definition of “sites of historical and cultural significance” as referenced in Topic Paper H – Reporting Harm applies to both Indigenous and non-Indigenous peoples.

The Environmental Emergency Branch appreciates the opportunity to respond to CER’s Topic Papers regarding the Onshore Pipeline Regulations and the Environmental and Socio-Economic Assessment and Lands portion of the Filing Manuals. EEB welcomes continued collaboration to improve protection from the impacts of pipeline incidents in British Columbia. Specifically, EEB suggests further discussion on cost recovery/polluter pay linkages to ensure that both governments can cost recover to the maximum extent possible.

Sincerely,

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BC Ministry of Environment and Parks

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