

LAND BASED SPILL PREPAREDNESS AND RESPONSE IN B.C.

POLICY INTENTIONS PAPER FOR CONSULTATION – APRIL 2014

SUMMARY OF PUBLIC COMMENTS

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Land Based Spill Preparedness and Response in B.C. Review April 2014 Consultation Paper – Summary of Public Comments

Table of Contents

Land Based Spill Preparedness and Response in B.C. Review	ii
April 2014 Consultation Paper – Summary of Public Comments.....	ii
Table of Contents	ii
Land Based Spill Preparedness and Response in B.C. Review	1
Introduction 1	
Background to the consultation process.....	1
Purpose and format of the <i>Summary of Public Comments</i> document	2
Description of responses received	2
Summary of Public Comments	3
A. British Columbia's Current Spill Preparedness and Response Regime	3
B. Protection of Human Health and the Environment – Meeting Ministry Principles.....	5
C. Ministry Intention 1: Preparedness, Response and Restoration Requirements	7
1. General Comments	7
2. Geographic Response Plans	14
3. Evaluating the ability of companies to meet legislated requirements	15
4. Involvement of communities and First Nations in plans and preparation for spill response	16
5. Legislated requirements, including response actions and times.....	17
6. Addressing significant impacts on parks, public beaches and other public properties	21
D. Ministry Intention 2: Provincial Preparedness and Response Organization.....	22
1. Comments on establishing a provincially regulated preparedness and response organization	22
2. Factors in determining threshold for membership.....	24
3. Involvement of local government, First Nations and other stakeholders.....	26
4. Industry based funding mechanisms	28
5. Access to funds for immediate spill incident response	30
E. Ministry Intention 3: Enhanced Provincial Environmental Emergency Program	32
1. Comments on industry funding of an enhanced provincial Environmental Emergency Program.....	32
2. Percentage of general and industry funding of an enhanced Environmental Emergency Program.....	34
3. Fair and equitable funding mechanisms for the provincial Environmental Emergency Program.....	35
F. Additional comments	36
Appendix A: Acronyms and Abbreviations	38

Land Based Spill Preparedness and Response in B.C. Review

Introduction

The Ministry of Environment (the Ministry) is proposing amendments to strengthen British Columbia's land based spill preparedness and response regime, in support of its business goals of pollution prevention; continuous improvement in air, land and water quality; and fully engaged partners. Land based spill refers to any spill impacting the terrestrial environment, including coastal shorelines, regardless of the source. The Ministry's policy intentions will help achieve the objective of effective and timely response to all spills.

To date the consultation process has included an initial intentions paper posted in 2012; a symposium in March 2013 attended by approximately 200 people; research reports; three technical working groups; an advisory committee; and comments heard during presentations to conferences, local governments, First Nations, industry and environmental groups.

This report is a summary of stakeholder and First Nation comments received in response to a second policy intentions paper that was posted in the Spring and Summer of 2014. This summary document is intended to give respondents and the public a general sense of the type of comments received during the consultations period. It is not intended to capture every comment received or to summarize the roughly two years of outreach and information gathering conducted by Ministry staff to date. Staff have carefully read in full each individual submission received during the consultation process, are considering those comments in developing legislative and regulatory changes and will consult further with stakeholders during the design and implementation of any changes.

Background to the consultation process

The second policy intentions paper was posted for public review and comment on the ministry's website (http://www.env.gov.bc.ca/epd/codes/spr_eep/response.htm) from April 25 through July 25 of 2014. The intentions paper provided background information regarding the Ministry's intentions. A separate response form for providing comments or suggestions, as well as further information, was also posted on the Ministry's website. At the request of stakeholders, the length of the consultation period was extended to July 25 from an initial June closing date.

The Ministry of Environment has recently either led or participated in a number of projects aimed at improving spill response, preparedness and prevention for hazardous materials spills both on land and in the marine environment. The second intentions paper built on substantial research and consultation as well as an initial intentions paper released in November 2012. It took into consideration the large volume of technical information and stakeholder feedback gathered by the Ministry, including: consultation comments on the initial intentions paper; a symposium in March 2013 which involved approximately 200 people; research reports; three technical working groups; an advisory committee; and comments heard during Ministry presentations to conferences, local governments, First Nations and environmental groups.

Purpose and format of the *Summary of Public Comments* document

This document has been prepared for the Ministry of Environment by C. Rankin & Associates, contracted by the ministry to independently receive, compile and review feedback on strengthening spill preparedness and response in British Columbia.

The complete set of responses received through the consultation process has been compiled and passed to the Ministry for detailed review and consideration. All comments and references submitted through this process, through independent submissions and through direct consultations with stakeholders, will be reviewed and carefully considered by the Ministry.

The summary of comments is arranged by topic as presented in the intentions paper and reflects comments received from April through July 2014.

Description of responses received

One hundred and one responses to the intentions paper were received (by e-mail, on-line response form and attached file). Government agency respondents (about 20% of total responses) included local government staff and elected officials and a detailed submission from the Union of British Columbia Municipalities (UBCM). Eight substantive submissions were received by First Nations Councils, Nations, organisations or individuals. Submissions from public sector organisations (about 10% of the total) included responses from several health authorities, as well as BC Hydro and the Islands Trust. Respondents from chemical or petroleum products production or transportation sectors (about 20% of total) included companies and associations (including the Canadian Association of Chemical Distributors, Canadian Energy Pipeline Association, Railway Association of Canada, B.C. Trucking Association and the Canadian Association of Petroleum Producers). Responses from non-government environment or community interest organizations (slightly more than 10% of the total submissions) included submissions from the Oiled Wildlife Society of B.C., Georgia Strait Alliance and Living Oceans. About one-third of respondents were individuals (“citizens”) or did not self-identify as part of a particular sector or interest.

Many of the responses included substantive comments or submissions to supplement responses to discussion topics set out in the intentions paper. This information has been documented and transferred to the ministry for review and consideration.

Summary of Public Comments

A. British Columbia's Current Spill Preparedness and Response Regime

Question A: In your view, do you feel that British Columbia's current spill preparedness and response regime is effective? What are the reasons for your choice?

No respondents who commented on this question indicated that British Columbia's current spill preparedness and response regime is "very effective". The vast majority of those who commented indicated "significant gaps" in the regime or felt that the current regime is "not effective at all".

The most common gaps identified by respondents were: lack of clarity and insufficient coordination among parties and agencies responsible for responding to an incident; gaps in the ability to respond (depending on the region of the province, the material and the means of transport involved); local government and first responder resources and training; lack of resources in the provincial Environmental Emergencies program; lack of oversight ("compliance and enforcement") of demonstrated preparedness and response capacity on the part of transporters; and informing and engaging local communities in preparation and spill response. Many respondents commented on local government being "on the front line [for] public engagement [and first response]" and pointed to a need for increased access for fire departments and other local agencies to training and equipment, as well as funds for timely first response and subsequent activities.

Specific examples cited by respondents included: "delayed and somewhat confused... response... for some previous spills"; "there has not been adequate training and resourcing for local governments"; "there is a lack of experienced spill responders from the Ministry and very few resources that they can bring to bear during an actual spill"; "no regional continuity in prevention, preparedness and recovery from land based spills"; "uncertain jurisdictional authority over many activities on City lands (pipelines, port... [and] rail activity)"; "there is a gap in communications between governments, industry and First Nations"; "most of the time local governments are first on scene and end up finishing the response and remediation at their own cost"; "an administrative gap related to protocol, evaluation and mobilization of... resources, particularly when response time is vital"; "access to reliable information concerning the risks posed by [and effective clean up strategies for] the transport of unconventional oils, including both the very light and the very heavy products"; "lack of local, geographic response plans"; "centralized and inadequate caches of equipment"; "inadequate facilities, equipment, personnel and training to deal with impacted wildlife"; "shortage of trained personnel to respond effectively to large spills"; "lack of clear standards for restoration and remediation; and "effective ecological restoration".

A number of respondents pointed to the importance of prevention, as well as, or prior to, preparation. For example, "prevention should be the highest priority and the... best way to prevent toxic spills is to reduce and eliminate the use of the toxins"; "the focus really needs to be more on the PREVENTION OF SPILLS"; and "the emphasis in spill response must be prevention through the volume reduction of dangerous product shipping".

Several respondents recommended increased coordination and cooperation through, for example, joint committees and/or mutual aid agreements. One respondent, for example, noted that “the process initiated by the Ministry of Environment has fostered the spirit of continuous improvement and collaboration and has encouraged [our group] to work with other industry partners to develop mutual aid agreements and enhance their approaches to developing geographic response plans in British Columbia”. Another respondent supported “the recommended Industry Steering Committee [proposed by a number of production, processing and transport sector respondents] [as] the best option for improving the existing system in a collaborative manner”.

Additional specific comments on this topic included:

- ◆ “B.C. has an ‘Inland Oil Spill Response Plan’ (July-2013) that defines the scope and structure of the provincial government involvement when responding to a major inland oil spill”
- ◆ “[First Nations] should be included in the first response hierarchy”
- ◆ “There is currently no integrated plan to perform the baseline ecological mapping required to assess the potential impacts of spills, or to assess the success of recovery efforts”
- ◆ “In the rare cases of large spills... where the response necessitates formation of a formal EOC [Emergency Operations Centre] and joint-command structure the results have been less than ideal”
- ◆ “There is considerable industry capacity in place, that could be enhanced with a coordinated steering committee that includes transporters, shippers, Ministry of Environment, response organizations”
- ◆ “The current regime... has suffered from significant staff and resource cutbacks within several key oversight agencies (Environment Canada, Fisheries and Oceans Canada, Coast Guard, etc.) concurrent with significant increases in the volume of a variety of hazardous substances being transported by truck, rail, and pipeline”
- ◆ “Clean up of spills from home heating tanks – it would be useful to have access to records of where these tanks are... the insurance industry has this information but do[es] not release it”
- ◆ “Transport Canada is the weak link... [and] does not have a complete picture of the organizations transporting dangerous goods”
- ◆ “Companies that go bankrupt and leave the province on the hook [for response, recovery and restoration costs]... enforcing or checking preparedness effectiveness... [and] there is no coordination between the patchwork of cleanup services that do exist”
- ◆ “Jurisdictional issues between the federal and provincial government.. still need to be sorted out”
- ◆ “Need to include ecological restoration as a significant part of the spill response”
- ◆ “Transmission pipeline companies should not be subject to measures that are required to address other transporters that are not otherwise captured through regulations – other energy transportation industries, that lack equipment, regular exercises, cooperative agreements and other tools that the transmission pipeline industry has at its disposal, may benefit from enhanced requirements”

B. Protection of Human Health and the Environment – Meeting Ministry Principles

Question B: In your view, how effectively do the Ministry's intentions support the principles (described on page 4 of the intentions paper) guiding B.C.'s land based spill preparedness and response regime? What are the reasons for your choice?

Almost three-quarter of respondents who commented on this topic felt that there are “significant gaps” in the Ministry’s intentions to support guiding principles or that the intentions are “not effective at all”. About one-quarter of respondents who commented felt that the Ministry’s intentions are “adequate” or “quite effective”.

Many respondents expressed “support for” or “recognized” the set of principles and Ministry intentions commenting, for example, that “the “second intentions paper is a well thought out and outlines the fundamental components for an enhanced program”; “the Ministry [has made] extensive effort to solicit meaningful dialogue with stakeholder groups over the past 18 months”; and “we want to applaud in particular the emphasis on meaningfully involving communities, First Nations and local governments”. Respondents however, also commonly expressed a desire for “more clarity” or “additional details” on specific aspects of the principles and how the Ministry would proceed with intentions. Several respondents commented that the Ministry should better define what a “world leading spill response and recovery regime” would entail.

Specific comments, recommendations or requests from respondents included:

- ◆ “Standards and requirements are great but the ‘how’ and ‘to what extent’ are key pieces – partnerships should be created and maintained so all parties are informed and part of a network”
- ◆ “Why is ‘a larger role for communities’ considered part of background context rather than a guiding principle?”
- ◆ “Sectors that already meet high standards under other regulatory authorities should be limited to ‘coordination, collaboration and communication’ ”
- ◆ “We believe the establishment of an Industry Steering Committee (ISC) [proposed by a number of production, processing and transport sector respondents] meets the Ministry’s guiding principles”
- ◆ “The ‘soft’ prevention functions, such as education and stewardship, will be critical in contributing to the mitigation of spills... we recommend [that] the Ministry coordinates and consults with [our industry association] regarding education and stewardship initiatives”
- ◆ “We are disappointed that the human health impacts of hazardous material spills are not clearly acknowledged... one necessary and essential component... is the inclusion of the local public health authority in incident notification protocols... [as well as] risk assessment and risk mitigation decisions... and the authority to direct the response to adverse human health effects”
- ◆ “No Ministry principles have been directly expressed regarding the protection of human health”

- ◆ “The exclusion of gaseous spills from consideration in this process is insupportable, in a province where inflow/outflow wind patterns and inversions are so common – human health is placed directly at risk of exposure to carcinogens and neurotoxins when gaseous spills occur; and while no cleanup may be possible, there is certainly a need for monitoring and warning regimes for the chemicals released and the compounds that will form – there is also a need for public education, to prevent unnecessary exposures to gaseous spills”
- ◆ “The language of ‘100% polluter pay’ has been replaced with ‘polluter pays for prevention, preparedness, response and recovery’ to a ‘cost effective’ level – not the 100% we were seeking ; there is mention of requirements based on risk but little explanation of what defines risk; although there is mention of continuous improvement, there is little mention of how continuous improvement will be established”
- ◆ “Clarity is required on the ‘polluter pays...’ [principle]... roles and responsibilities for ‘public safety’, ‘addressing loss of access to public amenities’, recognition of alternative response measures to remedy impacts from a release and defined endpoints for effective remediation”
- ◆ “The oil and gas industry in the North East already [has] requirements for ERP’s [emergency response plans] for not only the main compan[ies] but also their contractors – why reinvent the wheel?”
- ◆ “Without enforcement and inspection officers conducting routine assessments of the large (and many small to medium) potential spill offenders, the potential [of a spill] remains high”
- ◆ “Further clarity is needed on the polluter pays principle... it is not clear to the extent the polluter will pay and to what endpoint during an incident, e.g. remediation – also it is unclear how the new program will determine risk and participants such as trucking companies and owner-operators who are responsible for many spill incidents... [and] what type of hazardous materials or incident levels will be included in this ‘first phase’... there is no information about the ‘second phase’ – the lack of information on the inclusion of hazardous material incidents presents a significant gap”
- ◆ “[Our organization] would like to reiterate the important role that mandating electronic on-board recorders and speed limiters could play in spill prevention involving trucks”
- ◆ “B.C. has many derelict and non insured vessels, although amount of fuel is relatively small the local impacts are important – BUT there is no way to collect for clean up. A fund similar to lower mainland transit tax on fuel may assist in funding cleanup”
- ◆ “What exactly is ‘significant spill’? And what is ‘world leading’ response?”
- ◆ “The current proposal has the potential to have a positive impact by filling gaps in the regulatory regime – however, there is also a risk that the province will re-invent what already exists and, in doing so, add unnecessary costs (time and money)... it is not clear what needs to be changed in order for B.C. to have a ‘world leading preparedness and response regime for land based spills and other hazardous materials’ – apart, perhaps, from taking steps to ensure additional coordination (e.g., incident command) and communication”
- ◆ “The scope as to what falls under the definition of heavy oil needs to be further defined – the terms ‘toxic’ and ‘persistent’ need to be clearly defined to capture dangerous goods, hazardous waste and polluting substances”

C. Ministry Intention 1: Preparedness, Response and Restoration Requirements

1. General Comments

Question C 1.1: Do you have any general comments about the proposed requirements?

In response to this question respondents commonly provided comments that were amplified in subsequent, more detailed portions of their response. Themes of general comments included:

- ◆ Harmonization and coordination
- ◆ Local government and local community role in preparation and response, funding and training
- ◆ Funding – provincial spill fund, funding of the provincial Environmental Emergency Program and determining thresholds for funding requirements
- ◆ Risk assessment

With respect to harmonization and coordination, several respondents representing industries that cross provincial borders noted that “harmonization across Canada is essential to ensure a consistent approach to managing the transportation of dangerous goods” and encouraged the Ministry “to avoid duplication and work with existing regulatory requirements and best practices established by industry”. Several respondents also suggested or supported Ministry participation in “an industry steering committee [proposed by a number of production, processing and transport sector respondents] that includes governments, transporters, shippers and responders... [to] facilitate the closure of gaps, such as those parties who do not have access to a robust preparedness and response program”. More broadly, a number of respondents expressed “support for... increased obligations for coordination, collaboration and communication”.

Respondents from local government also commonly called for harmonization and increased involvement of local agencies in planning and training, as well as additional funding and training. One respondent, for example, cited an example where the “Emergency Response Plan of the railway [that transects several communities in the region] lists fire departments as initial responders to an event, however, the fire departments [in the communities] are only trained to the ‘Hazard Awareness Level’ and not to response [level]”. The respondent, among others, commented that “reliance on local government and First Nations is unacceptable without compensation and funding for planning, training and response”. Another respondent commented that “local governments are simply not funded to address the new types of spill, human health, and environmental hazard being presented by these new large hydrocarbon-related activities, nor do the local taxes generated by these activities on federally-regulated lands (Port, Railways, etc.) allow the local government to train up or equip up adequately”.

Respondents expressed divergent comments or suggestions regarding funding. Many respondents from production, processing and transportation sectors expressed concern regarding industry funding of the provincial Environmental Emergency program, commenting, for example, that “it is not clear what this program is or if it is necessary – it can be interpreted that this is Ministry work and... the funding should come from public sources and be broad based (i.e., taxation or perhaps fees)”. In contrast, other respondents strongly supported

industry funding, with comments such as “[our governing body has] urged the Province to secure on-going revenue from industry for a sustained increase in provincial spill prevention, preparedness, mitigation and response resources and to establish a permanent B.C. spill response fund... industrial and commercial sectors that pose a risk to the environment and public safety [should] take responsibility to address the risks and impacts to human health and the environment”; and “we do not consider the existing [and] proposed expanded federal spill funds [to be] adequate to address the needs of British Columbia”. Several respondents also recommended “funding for research... [and] improved clean-up methods”.

A number of respondents raised a need for additional attention to risk assessment in the context of land based spill preparedness and response. One respondent, for example, suggested “that risk assessment be treated as an overarching framework rather than a discrete principle... a sophisticated, rigorously analytical and transparent risk assessment framework, that takes into account the magnitude and probability of an event/loss/impact and incorporates cost-effective management options in determining risk acceptability, would be a substantial step forward. The process and outcomes would support planning and prevention – if we know the level of risk, mitigation can be more easily identified. It is a logical role for government to determine where to focus limited resources to manage risk and how best to provide appropriate oversight. Smart risk policy can help to avoid duplication and make clear the relevant accountabilities by identifying the responsibility for action and facilitating continuous improvement... effort should be made to adapt the existing 2012 Risk Management Guidelines for the B.C. Public Sector to enable their use within the spills management framework.”

Additional comments and suggestions included:

- ◆ “If First Nations are impacted by a spill then First Nations should have meaningful input into restoration... and environmental monitoring efforts... [to ensure that] those efforts directly address the loss to First Nation values”
- ◆ “Companies operating oil and gas infrastructure should have full insurance coverage for the costs of any potential spill response and this insurance policy area should have conditions set that allow for rapid [response]”
- ◆ “There is no clear standard by which B.C.’s spill response will... achieve world leading status”
- ◆ “Working relationships between the provincial Environmental Emergency Program and the regulated response organization needs to be more clearly defined”
- ◆ “[Our members have sought] legislation that includes wildlife rescue and recovery”
- ◆ “The manufacturer and distributor of... polluting substances should be required to ensure that they have clearly predetermined [contaminants of concern and associated response considerations]... to ensure the availability of this information during the emergency response, remediation and recovery phases”
- ◆ “Environmental damage assessments need to be conducted by independent consultants”
- ◆ “Members [of our organization] are concerned that non-harmonized and duplicative requirements will create uncertainty and inefficiencies. These inefficiencies increase as jurisdictions continue to develop and implement differing reporting and regulatory

systems. Consistency, based on recognized standards and systems, is critical to strengthening performance across all jurisdictions nationwide.”

- ◆
- ◆ “What is the mechanism to ensure that responsible parties that do not currently meet the requirements are brought up to the appropriate standard?”
- ◆ “Requirements need to be supported, by the Province, in the form of education and guidance documents utilizing best practices”
- ◆ “If only requirements could prevent spills!”
- ◆ “Limitations of the preparedness and response regime must be clearly stated and considered against the direct and cumulative risks posed by any proposed or existing project and the consequences to public and environmental health and safety... Standardized social, economic and environmental risk assessments including cumulative risk assessments are required to inform all decisions. Cumulative risk assessments must include the consequences and costs to local municipalities of the upstream and downstream activities related to heavy oil development and use.”
- ◆ “‘Restitution’ is a difficult issue, and one of fundamental importance when assessing new projects – recovery of losses through the courts is not a viable approach for most residents or small business owners... restitution responsibility cannot be outsourced to the (already overburdened) court system, but should exist in a separate legislation to be administered by an entity that answers to government and is accountable to the public. This includes the loss of access to a public amenity, and loss to third party businesses in the event of a major spill.”
- ◆ “It would be... useful to assess the type, sector, consequence and post incident responses completed.. [of spills reported in B.C.] in order to pinpoint... gaps in regulatory oversight”
- ◆ “Most industry and government plans involve mobilizing personnel who are not dedicated to spill response – this contrasts with other first responders (ambulance, fire, even forest fire fighters) who are largely dedicated... oil spill response scenarios are anything but [‘immediate response’] – action plans for the first 48 hours should not be limited to geographic response plans”
- ◆ “Attention to response times for responders and equipment [is good] but it is missing a key point... limiting the time gap between the initial report of the spill, and the first announcement by someone in authority confirming the spill and what is being done about it – this a highly vulnerable moment that is rarely handled well, and the negative public reaction is inevitable and confounding to the response”
- ◆ “Restoration requirements underplay the role of damage assessment; this will be the basis for claims against the polluter – this must be done well and follow scientifically accepted protocols – a Natural Resources Damage Assessment protocol exists in the US [United States] – [the Ministry should] review it and adapt those parts appropriate for B.C.”

Question C 1.2: Are there any gaps in the preparedness, response or restoration requirements identified by the Ministry? Do you feel that any of the proposed requirements are unnecessary or duplicate existing regulations? Please be specific.

Gaps frequently identified by respondents included “coordination across industry sectors”, requirements addressing oiled wildlife, integrated “risk based” geographic response plans, a more explicit role for communities and First Nations in requirements, “real time” information on materials being transported and improved spill notification requirements.

Respondents who commented that proposed requirements duplicated existing regulations were most commonly from production, processing and transport (industry) sectors. These respondents commented, for example, that “all [our members] have a spill response plan as mandated by various federal and provincial legislative requirements”. Specific comments regarding duplication from industry sector respondents have been separated from comments about gaps received from all respondents, and summarized in separate lists below.

Comments and suggestions regarding gaps in the preparedness and response requirements proposed by the Ministry included:

- ◆ “Real-time access to the types of products being shipped by rail and pipeline for local first responders, response contractors [and others];... identification of local environmental indicators and collection of baseline data;... oiled wildlife preparedness, response and recovery plan, and associated resources;... volunteer management plans;... public and responder health monitoring and resources;... Natural Resource Damage Assessment (NRDA); ... clear definitions for recovery, restoration and remediation; ... [and] specific standards for response and recovery”
- ◆ “The proposed requirements still do not reflect mitigating imminent risks to human health as a priority”
- ◆ “The B.C. Government should not trust the adequacy of the ‘hard’ prevention requirements of [other] agencies – most senior governments are committed to industry self-regulation... ‘soft’ measures are useful in involving stakeholders, but I don't know how effective they are”
- ◆ “Where is the federal government role in all this?”
- ◆ “Oversight of contractors... oversight with legislation established so that everyone is aware of the possible financial and future impacts involved...”
- ◆ “The Ministry’s reliance on local government and First Nations is unacceptable without compensation and funding for planning, training and response”
- ◆ “A mechanism available to local governments to recover cleanup and restoration costs in cases where... a responsible party... cannot be identified”
- ◆ “Sampling and monitoring protocols and methodology... identified by the Ministry”
- ◆ “An integrated and fully funded program of baseline data collection to understand the productivity and value of threatened ecological areas, the economic value of threatened resources and the community value of ecological and infrastructure assets”
- ◆ “Given the comprehensive policy and regulatory oversight that currently exists for our sector and for other industry sectors, the primary gap identified in our analysis is the lack of

effective coordination across industry sectors which are regulated under their own respective individual frameworks... the focus of the Ministry's role should be on ensuring effective coordination and collaboration across industry sectors. The Ministry is in a unique position to facilitate coordination and collaboration across multiple industry sectors (via their operational regulators) with local authorities and with First Nations. To support this function it would be reasonable to focus on the development of risk based Geographical Response Plans (GRPs) for the prevention, preparedness, response and recovery of land-based spills... for clarity [our organization] is of the view that the Ministry of Environment (not industry) should take the lead in coordination across sectors and with stakeholders."

- ◆ "Greater focus on industries that are not as well regulated or those with little oversight"
- ◆ "Assets [in place for spill response] can also take the lead in Provincial Emergency Response (tsunami response), removal of plastics from beaches, etc."
- ◆ "Communications plans appear to be only public communication, [also] need to consider technical communications plans... as the communications systems are... not interoperable"
- ◆ "Proper training and certification... [of anyone working in clean up and containment]"
- ◆ "Monitoring [of] incident response around the world to gather critical information on what works what does not, what the impacts of the response techniques are, and what the immediate and long term costs of a spill are"
- ◆ "Recommendations... (1) First Nations should be incorporated in emergency fan-out, and incorporated into the Incident Command... (2) develop websites for operations and environmental information (Ministry of Environment/Environment Canada)... linked to each other to post incident photos and a public checklist of what agencies are doing... (3) a list of qualified wildlife and other experts to be called upon on short notice... (4) an operational strategy to accommodate involvement by politicians (local, provincial, federal)... (7) annual Regional Environmental Emergency Team (REET) meetings [as well as] regular interagency meetings... (11) [an understanding of] current and future resource uses by First Nations (and other stakeholders) throughout the year to ensure priorities for protection and clean-up are not missed..."
- ◆ "[our First Nation] must be contacted in the event of an oil spill... in 24 hours or less;... response organizations [must] have the capacity to address extreme events;... the Province must develop a program that regulates and certifies response organizations' planning, capacity and training;... additional enforcement and oversight tools [for the Province] to ensure response organizations meet mandated requirements;... full funding [provided by industry] to the Province to carry out the program"
- ◆ "Gaps in the proposed regime: (1) insufficient access to reliable information; ... (2) insufficient public education; ... (3) lack of geographic area response plans;... (4) centralized and inadequate caches of response equipment; ... (5) lack of response equipment suited to the nature of the oils being transported;... (6) lack of co-ordination among the various levels of government; ... (7) lack of training and co-ordination of emergency response personnel at a local level; ... (8) inadequate facilities, equipment, personnel and training to deal with impacted wildlife; ... (9) inadequate facilities, equipment, personnel and training to deal with oil spill response waste products and recovered oil;... (10) shortage of trained personnel to respond effectively to large spills; ... (11) lack of clear standards for restoration and remediation; ... (12) uncertainty and inadequacy of compensation for losses consequent on a spill;

[and]... (13) finding effective means of exercising provincial jurisdiction to leverage change at the federal level”

- ◆ “Missing... any commentary on spill registration and spill registry... mapping spills geographically to better understand the cumulative impacts”
- ◆ “Include regional health authorities in the notification process”

Comments from industry respondents with respect to existing requirements and avoiding duplication included:

- ◆ “Preparedness requirement should not overlap with the Transportation of Dangerous Goods Regulations (TDGR) [and] Emergency Response Assistance Plan (ERAP) – the ERAP describes specialized response capabilities, equipment and procedures... [and] addresses emergency preparedness, including personnel training, response exercise and equipment maintenance... TDGR... requires immediate reporting in the event of an accidental release of dangerous goods from a means of containment by a person who has possession of the dangerous goods at the time of release... [and] a 30-day follow-up report on the original spill... these TDGR reporting requirements are triggered by specific quantities of different commodities – the [provincial] framework should align with TDGR’s reporting requirements”
- ◆ “[Our company] has a companywide environment management system (EMS) that models ISO 14001:2004 [International Standards Organization]. The blueprint of the EMS provides the foundation for the management of environmental aspects and improved environmental performance. As part of our EMS, we have a spill preparedness and response program which is in line with the Ministry’s proposed program... the proposal to set clear standards for spill reporting and monitoring will strengthen the spill response program. It is crucial to ensure companies are held accountable for the remediation and restoration work. Technical guidance documents and best practices will ensure industries have a performance framework.”
- ◆ “All B.C. pulp mills have a spill response plan as mandated by various federal and provincial legislative requirements. All plans contain, as a minimum, a list of chemicals, quantities on site, spill equipment available for emergencies and emergency phone numbers for responding personnel, chemical suppliers’ emergency information as well as other resources... all mills maintain a record of training, which is often subject to auditing.”
- ◆ “The Ministry’s preparedness, response or restoration requirements are covered by the National Energy Board (NEB) requirements and the Project’s conditions – however... there is a need for increased coordination to ensure B.C. is best positioned to deal with emergency preparedness in a collaborative manner”
- ◆ “B.C. Oil and Gas Commission (OGC) Emergency Response Plan Requirements (OGC-OD-C&E-2700)... require companies have a plan in place to address a release of any liquid product onto land or water from a well, pipeline, or facility. Furthermore, a company that is not a member of an oil spill cooperative must either join the cooperative or submit its own spill response contingency plan and obtain separate approval from the OGC. As provided in existing regulations, the polluter pays for costs associated with spill response and recovery operations... given the provisions of the current regulatory framework, the Ministry’s Second Intentions Paper has not demonstrated that there are inconsistent levels of preparedness and response for major industry sectors, nor has it been shown that there are substantive gaps in the current matrix of regulatory regimes that warrant the creation of an

incremental industry-funded provincial preparedness and response organization. The recommendations in the Ministry's paper appear to pre-suppose a case for broad change that does not align with the supporting analysis. Accordingly, [our organization] is concerned that this proposal will create redundancies and/or conflicting requirements, resulting in unnecessary cost burden for our industry and creating operational uncertainty as it pertains to spill preparedness and response"

Question C 1.3: Are there some requirements that you feel should be a priority for the Ministry? If so, which ones?

Respondents frequently reiterated points made in response to other questions and suggested a range of priorities including: increased involvement of communities, First Nations and health authorities in spill planning; and increased coordination and communications among sectors.

Specific comments or recommendations included:

- ◆ "Adequate compensation to local First Nation governments for costs and services"
- ◆ "Geographic response plans in partnership with industry and other key stakeholders such as local and First Nation governments"
- ◆ "Development of an Industry Steering Committee, [proposed by a number of production, processing and transport sector respondents] to further discuss... proposed requirements and... ensure that any potential duplication is avoided"
- ◆ "Evaluate, in consultation with industry through the Industry Steering Committee, [proposed by a number of production, processing and transport sector respondents] the preparedness and response requirements against the proposed functions of the provincial response organization (PRO)"
- ◆ "First priority of the Ministry should be to develop a more detailed and comprehensive plan with concrete actions, measurables, and draft legislation to allow for a fulsome and detailed consultation process with all stakeholders"
- ◆ "Winter conditions capabilities"
- ◆ "Reducing risk"
- ◆ "Coordinating with local government and health personnel"
- ◆ "Ministry should ensure that there is social license for transporting coal and dilbit"
- ◆ "More staff, training, exercises, etc. [for the provincial Environmental Emergency Program]"
- ◆ "Mandate one company to oversee readiness"
- ◆ "Spills on water - detection and leak stoppage combined with quick response times are key"
- ◆ "Prioritize polluter pays principle on the municipal level as [a] component of the industrial tax base (including for First Nations)"
- ◆ "Education regarding spill prevention, response planning and training as well as provincial support of funding and establishment of community led spill programs"
- ◆ "All the requirements are important"

2. Geographic Response Plans

Question C 2: Who should lead development of geographic response plans?

Most respondents commenting on this question saw a clear role for the Ministry (and/or the provincial government) to lead development of geographic response plans, working with consultation and input from local governments, industry, First Nations and other stakeholders. Some respondents suggested establishing regional committees (or “Regional Citizens Advisory Councils”) for development and updating of geographic response plans. Others recommended working “in association with the... Industry Steering Committee” (proposed by several respondents from the production, processing and production sector) or with “the provincial response organization” (proposed by the Ministry in the intentions paper). Several respondents pointed to the challenges involved in incorporating input from diverse stakeholders in preparing plans and the need for clearly defined standards for plan contents and the consultation/development process.

Specific comments and recommendations included:

- ◆ “The parties that develop Geographic Response Plans would preferably be the same parties that would action the response within their jurisdiction or project area, and be knowledgeable of Project-specific risks and resources at risk in those areas”
- ◆ “The lead for this program should be un-biased and committed with resources that are not literally or figuratively associated with the industry”
- ◆ “The framework for geographic response plans is already in place within the transmission pipeline industry with internal geographical plans already a part of existing emergency plans – [our organization’s] members have also agreed to the establishment of the Mutual Emergency Assistance Agreement”
- ◆ “We recommend the Washington State Geographic Response Plans model as it identifies sensitive natural, cultural or significant economic resources and then describes and prioritizes response strategies that could minimize injury to sensitive natural, cultural, and certain economic resources at risk from oil spills”
- ◆ “Geographic Response Plans are excellent vehicles for risk assessment and emergency response scenario development – however, we need to understand the level of stakeholder engagement expected as this could get unwieldy and ineffective if becomes too localized”
- ◆ “Geographic response plans should be developed by Regional Citizens Advisory Councils or similar community-based response planning groups... the model [presented in the intentions paper]... should not be adopted... industry should not be shareholders of a response organization: legal obligations to shareholders create an inherent conflict of interest... the public interest must be tantamount [regional citizen advisory councils] should be funded by industry, but should be community led”
- ◆ “An expert in the field who has a solid foundation in all the local industry, provincial and federal government agencies, and all other parties involved in a land based oil spill [should lead development of geographic response plan]”
- ◆ “Each Community in B.C. needs to have an Emergency Response Coordinator in place who can work with the Provincial Team in setting up geographic response teams”

3. Evaluating the ability of companies to meet legislated requirements

Question C 3: Unannounced drills, as well as regular training and field exercises, are tools for assessing preparedness and response. Do you have any comments or suggestions for the Ministry with respect to evaluating the ability of companies (or the proposed provincial preparedness and response organization) to meet legislated requirements?

Some respondents from production, processing and transport sectors commented that “unannounced drills are an unnecessary burden, ... are not effective and can be disruptive”. These respondents pointed out that “significant costs and resources are associated with mobilizing people and equipment to respond to incidents... [and] existing verification, training and testing programs... including mock [and] tabletop exercises and full... drills... provide assurance of readiness to respond”. Respondents also commented that “unannounced drills are as onerous on the government as on industry”.

In contrast, many other respondents (from local government, First Nations, environmental organizations and unidentified sectors/interests) supported “meaningful oversight” of spill preparedness planning and resources, commenting, for example, that “unannounced drills are an important element of testing response”.

Specific comments or suggestions included:

- ◆ “[Something similar to] a professional reliance model – companies and [the provincial response organization] will be expected to have the necessary aspects in place to respond according to the province’s expectations – auditing of response preparedness can be done... [with] sufficient legislated penalties for delayed and/or insufficient response in order to make compliance with response preparedness a priority for companies”
- ◆ “Use [existing] National Energy Board and Oil & Gas Commission requirements”
- ◆ “An annual reporting structure that [includes]... planning activities conducted... training ... and exercises held... locations of nearest trained responding agencies... and an updated emergency response communication matrix”
- ◆ “Reporting of these [exercises and drills] should be... public and easily accessible”
- ◆ “There are some tools that exist to enable assessment and evaluation of oil spill response preparedness... the Province [should] review the Proposed International Guide for Oil Spill Response Planning and Readiness Assessment tool (Taylor et al. 2008)”
- ◆ “If each Community had a provincially paid Emergency Response Coordinator, this person would be responsible for working with Fire Departments, Police Departments, Ambulance and Health Centres and the Companies to ensure that all of the Drills, Training and Field Exercises are of the ‘World Leading Standard’ ”
- ◆ “I specialize in site specific planning, I find that there needs to be ‘encouragement’ for site specific industries – legislation and regulations are only as strong as the enforcement – fines are not the answer, the presence of auditors and educators can help encourage companies”

- ◆ “Individual companies also have active spill prevention programs that are mandated by federal and/or provincial legislations in additions to programs that are followed through commitments to industry best practices “

4. Involvement of communities and First Nations in plans and preparation for spill response

Question C 4: Do you have any comments or suggestions on how communities (including First Nations) should be involved or consulted in plans or other preparation for spill response?

The Ministry’s efforts and intentions to support community, local government and First Nation involvement in spill response planning and training was broadly supported by respondents. Comments included [our organization] supports...the intention to enhance local engagement through Geographic Response Plans that reflect input from local communities, First Nations and other stakeholders”; “as a general principle, First Nations should be as involved as possible at every step in the process”; and “communities should have a leading role in the decisions made in creating plans or other preparation”. Some respondents cautioned that involvement and/or consultation can be complex and lead to delays, and recommended, for example, that the Ministry develop “a framework that standardizes methods for involving and engaging communities... with input sought from Aboriginal groups, community representatives and the... Industry Steering Committee” [proposed by a number of production, processing and transport sector respondents].

A number of respondents commenting on this topic noted that financial support is an important consideration in enabling, strengthening and sustaining involvement. Comments and recommendations on this subject included: “volunteer in training but get paid in a real situation”; “financial compensation should be considered for the time and resources that response planning and preparation could cost a government body”; “our concern... is that industry funds would be available to any and all for any sort of related costs surrounding a release event – this would seem to include everything from preventive elements to remediation”; and “the Province should collect funding to flow through to local governments in recognition of the public service they provide”.

Specific comments included:

- ◆ “There should be general recognition that some communities are more directly involved in planning and response than others and more targeted discussions should occur with those communities”
- ◆ “Regulation should clearly require that communities and First Nations have their own current and tested Community Emergency Response Plan (the scope of which would include all emergencies and not just releases) and that these plans would be in harmony and plug into the geographical spill response plans”
- ◆ “Aboriginal government representatives should sit on the Incident Command Team to relay information to and from their respective communities”

- ◆ “We find this question troubling in light of the lack of formal and meaningful consultation with First Nations on this policy intentions paper – we reiterate our request that First Nations are meaningfully involved throughout the entire development of this policy”
- ◆ “[Our organization] supports the intention [for] the B.C. Oil and Gas Commission to collect, store and publish spill data”
- ◆ “Communities should consider participating in TRANSCAER® [Transportation Community Awareness and Emergency Response] events and should register their respective Emergency Planning Officials with CANUTEC [Canadian Transport Emergency Centre] so that they can receive additional information about dangerous goods transported through their respective communities”
- ◆ “Regional Districts, municipalities and First Nations should be represented on the planning committee; this could be achieved by having one or two representative(s) appointed for each region which may be impacted by the movement of hazardous materials”
- ◆ “Larger municipalities and First Nations will have staff that the PRO [provincial response organization] can work with – for smaller communities and First Nations, the PRO may need to take time to develop relationships and capacity of the governments they are working with”
- ◆ “Local government can provide significant support in local engagement”
- ◆ “A community should have full knowledge of the risk such as average exposure to particular hazards (type of hazard, typical amounts and frequency of transport through a community) and disclosure of risks and access to additional information regarding the incident should an event occur”

5. Legislated requirements, including response actions and times

Question C 5.1: Do you have any comments about including spill response times in legislated requirements?

Many respondents who commented on this topic felt that including response times in legislated requirements is “a good idea” or “absolutely imperative” with the rationale that “time is critical in a real situation”. A number of respondents across sectors however, voiced caution noting, for example, that “setting exact times for response, while laudable, may be unachievable in remote and rural locations, especially during inclement weather conditions”. Comments in this vein included: “there are too many variables that can influence how quickly a response can be mobilized – rather than legislate response times, consideration should be given to developing response times for planning purposes”; and “developing too rigid a requirement for response is likely to result in failure to comply – a situation no one wants – the plan should provide for a range of acceptable response times based on best and worst case scenarios”.

In support of legislated time requirements, one respondent suggested that while recognizing constraints that may arise, “reasonable... minimum requirements [could be established] for: time from first warning to dispatch [of] trained responders to the site; distance of trained responders to sites; distance between response supply... caches; time to [inform]... provincial and local government and First Nations; and time to provide public information”. Other comments in support of legislated time requirements included: “spill response times are

excellent metrics that should be included in legislated requirements”; “sooner is always better”; and “consultation should occur before time lines are established – we support the creation of time lines – time lines should be realistic, but also promote a rapid response”.

Additional comments included:

- ◆ “The Kalamazoo spill continued for 17 hours after the first leak was detected – this is simply unacceptable and cannot be allowed to happen here in B.C. – the pipeline should be shut down immediately upon any detected leak by remote sensors or otherwise”
- ◆ “Formalizing spill reporting and the use of the incident command unit management system in the field are welcome additions”
- ◆ “Regulations and standards for response times should, in [our company’s] opinion, be coordinated federally and provincially to ensure a common practice is achieved (i.e., common set of practices and standards)”
- ◆ “As with fire departments, we need regional and provincial mutual aid agreements, so that those handling a spill can access the right materials in a timely manner and have pre-thought out plans on how to get them there”
- ◆ “There should be appropriate penalties instituted for not meeting response times and contingency plans for picking up the slack when a sufficient response is not proceeding quickly enough”
- ◆ “A system should be set up so that responder agencies in each region have a current, regularly updated list of hazardous materials transported through the area. This system should be able to immediately identify the hazardous substance(s) involved in a spill at any given time and be able to convey the information in real time to responder agencies. A regularly updated list of hazardous materials will also allow local responders to tailor exercises, response plans and equipment specific to the substances being transported through the region.”
- ◆ “Legislated requirements and stipulated, meaningful consequences are clearly required to ensure compliance”
- ◆ “[Does] B.C. [have] the legislative authority to ensure an appropriate response? Is there any issue around overlaps of federal and provincial legislation?”
- ◆ “In heavily populated and relatively well-equipped areas like Burrard Inlet, initial response time should be 30 minutes or less”
- ◆ “We urge the Ministry to create legislated spill response times, equipment requirements and workforce capacities”
- ◆ “With regards to wildlife, an oiled wildlife response should be activated immediately in order to minimize the impact of the spill on local wildlife”

Question C 5.2: What response actions would you recommend attaching time requirements to (e.g., cascading levels of response action)?

Many respondents echoed or pointed to their response to the previous question (including spill response times in legislated requirements) when commenting on this question.

Specific comments and recommendations included:

- ◆ “Reporting – to the community, regulators and the impacted public”
- ◆ “An overreaction and scaling back is easier to manage than an initial under reaction... a culture of safety response would have agencies and governments coming [to a reported spill site] as objective assessors of the situation with specific expertise”
- ◆ “Emergency response is progressive (i.e., not static) – considerations in developing preparedness & response scenarios will include population density, nature of activities in the area, receptors that will be impacted, response capability – response scope will cascade from the carrier, local support, response organization, contracted responders, third party support, based on local assessment of the release conditions”
- ◆ “Tied to [each] specific response plan... it should be explicit on reporting, first (on-site) response and establishment of incident command”
- ◆ “A time requirement should be attached to all response actions”
- ◆ “Immediate shut down of operations upon even a small detected variance in product flow”
- ◆ “The province must be able to initiate a response if the spiller or local government is unable or unwilling to attend”
- ◆ “Timelines associated with remediation and recovery should exist but may be set to action benchmarks rather than specific times”
- ◆ “A clear definition of a ‘response’ needs to be established before response actions and or associated requirements can be established”
- ◆ “The response time should be incorporated in the best practices guide rather than in the regulations... pressure to meet a legally binding response time may interfere with the health and safety protocol”
- ◆ “Regulations and standards for response times should, in [our company’s] opinion, be coordinated federally and provincially to ensure a common practice is achieved”
- ◆ “Time to arrive on site and time that mitigation measures are commenced”
- ◆ “Current response times for responders and equipment [are] insufficient – having responders and equipment on-scene is not enough response times for operationalizing resources and equipment at the site must be included, especially for highly sensitive areas”
- ◆ “On site review should be immediate with a communication control centre established on site”

Question C 5.3: What additional factors or criteria would you recommend for consideration in determining appropriate and effective response times?

Respondents recommended a range of factors for the Ministry to consider. Some respondents reiterated their concern that many factors beyond control of the responsible party (e.g., remote location, extreme weather conditions) can impact planned response times. Other respondents highlighted “risk” (e.g., risk to sensitive environmental, cultural and/or economic values) as a key factor in determining appropriate response times.

Specific recommendations included:

- ◆ “[More stringent] levels... in sensitive areas like rivers”
- ◆ “Permanent and mobile units dedicated to wildlife rehabilitation”
- ◆ “Contingencies should be in place to ensure that weather conditions and access are not significant impediments to response during all seasons”
- ◆ “Provide for a range of acceptable response times based on best and worst case scenarios and commensurate with the level of risk to human health and the environment”
- ◆ “[Our organization] does not support a one-size-fits-all approach to establishing response times – rather, proper consideration needs to be given to the multitude of variables that can affect an organization's ability to mobilize resources and respond effectively”
- ◆ “[Our organization] supports the concept of a single window regulator, cost recovered by industry – additional regulations proposed by the B.C. Ministry of Environment should not be applied to the transmission pipeline industry... a single energy regulator with consolidated responsibilities for oversight of land oil spill prevention, preparedness, and response and recovery requirements... ensures that there are clear requirements that enhance compliance, resulting in better protection of the environment and human health and safety”
- ◆ “Factors should include type of incident, risk association with impacts (size, toxicity, consequences), geographic area, worst case scenarios, as well as multiple incidents”
- ◆ “Reporting requirements that ensure public transparency and public access to this information [within 24 hours of a spill]... of any size”
- ◆ “Geographic area, stream flow, spill type, geology”
- ◆ “Identification and protection of environmentally sensitive areas”
- ◆ “Season of the year... [summer] warmer and drier conditions [may involve] added fire hazards... [while] it may be difficult to respond to a spill [in]... heavily snow laden territory”
- ◆ “Proximity to a body of water or sensitive ecosystems”
- ◆ “First responding agencies need enhanced ability to obtain rapid sample results [to help] in assessments of harmful exposure and public health hazard”
- ◆ “Proximity to local drinking water sources, fish habitat, residential areas... accessibility restrictions”

6. Addressing significant impacts on parks, public beaches and other public properties

Question C 6: How should significant impacts on parks, public beaches, etc. be dealt with to ensure satisfactory outcomes?

Several respondents expressed concerns about the risks posed by spills to public amenities (such as parks and beaches) and environmentally significant or valuable resources (e.g., fisheries) and commented, for example, that “so-called enhancements and alternate opportunities rarely reflect the full value of a public space”. Recommendations to address these concerns included: “direct consultation with [local government] managers, (e.g., ... General Manager of Parks, Recreation and Culture)”; “the province needs to ensure... up to date inventories of public lands... and baseline environmental inventories [and] criteria to compare any proposed enhance[ments]... or [suggested] alternatives”; “consultation and discussions with area First Nations, landowners, range and other affected natural resource users, NGOs [non-governmental organizations] and local authorities... before compensation level is finalized”; and “the public should also help to determine when [an] adequate level of compensation is met”.

Respondents from production, processing and transportation sectors frequently cited examples of existing procedures and past examples of satisfactory restoration outcomes. One respondent, for example, commented that “[our sector] has a proven track record of restoring affected areas to their previous condition, without additional costs borne by the public and/or government – [additional] legislative requirements in this context [could prove] a hindrance to restoring affected areas rather than a catalyst for achieving optimal outcomes”.

Related comments included: “[while] the proposed restoration requirements are welcome... we are not supportive of a formulaic model to determine the monetary value of restoration activities for smaller or less complex spills”; “each event [needs] to be assessed based on its own circumstances”; “once a remediation plan is agreed to, end points need to be established for transparency”; “discussion [of] ‘monetary values for restoration’ and ‘intrinsic loss to communities’ are civil issues and unique to each situation – it is not productive to establish public policy that will require challenges for compliance and enforcement”; and “consultation with industry through the Industry Steering Committee [proposed by a number of production, processing and transport sector respondents] and with communities to create [a matrix of potential and practical measures linked to types of public properties and amenities]... may be [useful] for determining practicable measures and defining ‘satisfactory outcomes’ ”.

D. Ministry Intention 2: Provincial Preparedness and Response Organization

1. Comments on establishing a provincially regulated preparedness and response organization

Question D 1: Do you have any comments or suggestions regarding establishment of a provincially regulated preparedness and response organization?

The majority of respondents, across sectors and interests, who commented on this topic expressed “support” or recognized a “need” for a “provincially regulated industry funded preparedness and response organization” (PRO). Several respondents from the production, processing and transport sector suggested that “support and consideration should also be given to the development of an Industry Steering Committee to ensure that efforts... are consistent... and complementary to existing arrangements or strategies”.

A limited number of respondents commented that they “do not support” establishment of an organization as described in the intentions paper, reasoning that, for example, that it “would be redundant [as] industry sectors have mature preparedness and response regimes in place”. One respondent commented, for example, that “a government led or regulated, industry funded spill response organization is neither necessary nor optimum. Cooperative organizations have proven to be an effective vehicle for prompt availability of response equipment, technical training, and the development and maintenance of contingency plans to complement the existing expertise, equipment and financial support for prevention, emergency response, and recovery that pipeline and railway companies maintain in-house”.

Respondents expressing support for establishment of a provincially regulated preparedness and response organization provided a range of reasons for their support, commenting, for example, that “[an] enhanced provincial spill response regime will bring other companies up to the same environmental performance standards, holding our contractors and competitors accountable for the same environmental requirements... a [PRO] can achieve cost savings for... members while streamlining resources”. Another respondent commented that “a government regulated PRO could be a useful tool for holding industry accountable for spill response and recovery and for ensuring that public expectations are met with regards to preparedness and response”.

Respondents provided differing recommendations with respect to the structure and governance of the proposed organization. Many commented that the role of government is critical for operation and public support, with government providing oversight, operating the organization (e.g., “by the Ministry”), or as a member of the governing committee. Some respondents noted the potential for conflicts of interest, either from an entirely industry governed model (such as the two examples cited in the intentions paper), or from the Ministry involved in the organization’s governance. Many respondents suggested that as well as industry and government representation, the organization should “include local governments and First Nations representatives”, for example, “on regional boards”.

Additional specific comments or recommendations included:

- ◆ “This entity must be properly resourced and staffed and have the legislated mandate to act and enforce regulations – it needs to be an independent entity”
- ◆ “A successful PRO would be developed and managed by government and funded by industry... PROs should operate at the direction of a multi-stakeholder oversight committee that includes local authorities, First Nations, ENGOs [Environmental Non-governmental Organizations], environmental experts, local health authorities, response experts, and industry experts – the model used to develop the North West Area Plan for Washington State and Oregon is one example of a multi-stakeholder process that has resulted in strong preparedness and response requirements... the Cook Inlet Response plan in Alaska is another example worth considering”
- ◆ “If WCMRC [Western Canada Marine Response Corporation] is to play any role, there must be a new board structure which includes positions for provincial government staff, First Nations, and [organizations such as the Oiled Wildlife Society], so they can be held accountable and not just report to an industry board”
- ◆ “The organization should be subject to audits by the Auditor General's office as well, to ensure revenue be[ing] funneled to the new organization is above board at all times”
- ◆ “The PRO would have to be resourced (staffing, funding) and provided with mandates and legislation to support the activities that are holistic in nature... [it] would be independent and yet integrated and communicating with multiple Ministries that are stakeholders on this topic [and] would need to involve communities/stakeholders/First Nations from development to implementation of the organization... more than one PRO may be established for different types of polluting or dangerous substances or for different regions of the Province”
- ◆ “The public perception may be that the chicken coop is being handed to the wolves to tend”
- ◆ “Legislation in this case should enable the PRO and its mandate and should not be overly proscriptive in terms of PRO activities or funding... proper consideration should be given to existing entities and/or other organizations that can provide assistance in this context – multiple PROs or strategies to address incidents related to specific commodities should not be ruled out... a summary of the recently constructed and highly complementary initiative with the LPG Emergency Response Corp. [should be considered]”
- ◆ “[The intention] ‘funds’ to cover costs of ‘Provincial, Local, and First Nations’ support to a response... requires considerable clarification and understanding, especially, if the role of the province, local government, and First Nations is expected to go beyond public safety and service”
- ◆ “The paper lacks sufficient details regarding the overall PRO structure within the current Ministry organizational structure... although industry should be engaged in providing input and feedback on the proposed structure...the Ministry needs to provide a clearer design of the PRO so that input can align and complement the cross-departmental work spill response requires – we recommend that the PRO would best be designed as a Division within the Ministry as opposed to a crown corporation/independent regulator... a divisional model would allow more oversight by the Ministry leading to better overall alignment with industry”
- ◆ “An Industry Steering Committee [proposed by a number of respondents from the production, processing and transport sector] in collaboration with regulators and

stakeholders could be another viable option to enhance the spill preparedness and response capability in the province”

- ◆ “The two PRO's referenced in this document that could respond to land based spills in B.C. are not adequately resourced either with equipment or staff – there would need to be a significant injection of funds, staff and equipment to ensure they could provide an adequate response for B.C.”
- ◆ “There are already emergency response teams set up in nearly every region of the province – [it] might make good sense to expand their scope and capacity”
- ◆ “It is our position that the existing provincial cost recovery mechanisms for spills must be extended to the health authorities and must cover the full costs of responding to spills of all sizes ... from a spills prevention perspective, it is reasonable that industry be required to fund health impact assessments when a new or an expansion of an existing hazardous material transport operation is proposed... in addition to short term mitigation, the PRO must be required when directed to monitor and evaluate the long term human health and environmental impacts of large or highly hazardous spills”
- ◆ “Where practical along utility corridors, industry may wish to establish new cooperatives to provide efficient services – this model is currently being explored by the... multi-stakeholder Industry Steering Committee [proposed by a number of respondents from the production, processing and transport sector]”
- ◆ “Although the PRO would be an ideal partner in the development of best practices, the province should expect a single company or private response group to respond at the same level and meet the same goals as the PRO – failing to meet response times, protection of human health and the environment, and the restoration of a spill site, should also carry penalties – otherwise there s no incentive to use the PRO”
- ◆ “A key issue that will need to be addressed through legislation is the ability to hold the PRO accountable if it fails to meet response standards”
- ◆ “More should be said about consequences for parties who prove unwilling to respond to spills they have created than simply ‘cost recovery’ – there should be strong financial and criminal consequences involved when responsibilities for responding to spill damage have been ignored”

2. Factors in determining threshold for membership

Question D 2: If the Ministry proceeds with the establishment of a provincial preparedness and response organization, what criteria, risk levels and other factors should be considered in determining the threshold for mandatory membership?

The most common response to this question – universal from respondents from government regulatory agencies – was that membership (and/or funding of the organization) “should be mandatory... [for] any industry body that produces, stores, transports or disposes of hazardous materials (or polluting substances)”. “Sliding scales [for fees]” and/or “criteria [for mandatory membership]” recommended by respondents included: “product toxicity and volatility, volumes of product moved/stored, persistence of materials in the environment, scope/scale of the

potential spill, low/medium/high [hazard] rating of the substance, a [fee] structure that reflects risks, impacts of potential spill (social, environmental, economic) [and] levels determined by each community [with input from] provincial authority”.

Several respondents suggested requirements based on “risk” or “risk assessment”. Consideration of “track record”, “effectiveness of a company’s preparedness and response plans” and/or “very low spill frequency” was often associated with this suggestion. One respondent recommended that “consideration [be] given to the jurisdiction of each entity – the entities that are provincially regulated may be required to join while federally regulated entities could be included through the Industry Steering Committee [proposed by a number of respondents from the production, processing and transport sector] to ensure a coordinated approach”. Another respondent recommended “a ‘stress test’ evaluation of an entity’s... spill response capacity, operational and locational risks, transportation operations, pipeline integrity, environmental considerations and... other key spill metrics... entities with low stress test values under a pre-defined threshold would [be subject to] mandatory membership and would fund the PRO based on a ratio of dollars to stress test value”.

One respondent commented that “[the term] risk can be confusing and... should be more definite – risk is a product of the potential for a spill to occur and the level of harm that may be caused – from a public health perspective potential harm... can occur from the physical cause of the spill... acute illness... and longer term exposure leading to chronic illness... these impacts... should be considered in any proposed risk levels”.

Several respondents commented that consideration of mandatory membership should not be limited to only those industries involved with persistent and toxic products. For example, one respondent noted that “while non-persistent toxic products such as natural gas present different risks, they require a strong and timely response in the event of a spill, and the risks of fire, explosion and acute environmental and human health effects could be significant”. Another commented that “all that are engaged in resource extraction and marketing should be members... the fact is natural gas and other materials have and will have accidents that cause damage”.

Additional comments and suggestions included:

- ◆ “There will need to be some consideration of what quantities of products and types constitute a reasonable threshold”
- ◆ “There are [already] established [voluntary] levels... for response companies... TEAP [Transportation Emergency Assistance Program] certification, for example”
- ◆ “Some restrictions should be applied, otherwise everyone would expect to partake possibly bogging it down”
- ◆ “Risk levels should be considered coupled with the community's capacity to respond”
- ◆ “Given the low volumes of oil and hazardous materials transported by the trucking industry, [our organization] assumes that trucking companies would only be eligible for voluntary participation in the PRO”

- ◆ “Relative to other sectors, [our organization’s] operations involve the storage, handling and transport of comparatively small volumes of oil and other hazardous materials that are located largely within secure facilities with existing spill preparedness and response plans – [we] provide spill preparedness and response training for internal and external front line first responders, and engages external consultants and contractors to assist with spill response and restoration as required – for these reasons, it is requested that [our] operations be positioned below any high risk thresholds that trigger legislated spill preparedness, response and restoration requirements, and mandatory membership in a provincial preparedness and response organization”
- ◆ “The response organizations should be based on expertise, not on who is carrying the risk. Where are the social scientists? The public health professionals?”
- ◆ “This is a biased question towards the acceptance of pipelines and fracking corporations”
- ◆ “There is no need for such an organization”

3. Involvement of local government, First Nations and other stakeholders

Question D 3: Do you have any comments or suggestions about how local government, First Nations and other stakeholders should be engaged or integrated into the activities of the proposed provincial preparedness and response organization?

A number of respondents provided comments relevant to this question in other portions of their response. For example, one respondent suggested that “the first task of a provincial preparedness and response organization is to engage First Nations and the public in a discussion to define acceptable risk – this task is not trivial and should not be left to industry”. Another respondent commenting on another question suggested “mandatory membership must include local authorities, local First Nations, local government and the governing agency – industry reps should be included in an advisory role from each industry sector but should not be the team leader”.

While almost all respondents providing comment on this topic noted that communities, First Nations, local government and other interests (beyond industry interests) have an important, if not essential, role to play – there were differing views on how they would be involved with a provincial preparedness and response organization. Some respondents recommended that the PRO “play a coordination role with relevant stakeholders”, others suggested that “the Industry Steering Committee [proposed by a number of respondents from the production, processing and transport sector] would provide coordination and communications with... stakeholders”, while others commented that “[individual member companies] have developed and continue to develop good working relationships with First Nations [and other stakeholders]”.

Many respondents recommended a substantive role for community and First Nations representation within a provincial response organization. One respondent, for example, commented that “local government and First Nation representatives should be an integral part of such an organization and should be considered a contributing party to [it]”. Another respondent provided the following rationale and comments: “local government and First

Nations face direct risks and costs in the event of a spill – and must have opportunity to be fully engaged in risk assessment, planning and preparation, communication, response and recovery activities – local government and First Nations in the region **DO NOT** have the capacity to provide these services... reliance on local governments and First Nations is unacceptable without compensation and funding for planning, training and response... there needs to be an assurance that emergency planning for hazardous material spills take into account the lack of capacity of rural first responders... local government, First Nations, and other stakeholders should have representatives on the board and committees of the Preparedness and Response Organization at the expense of industry, these activities should not be funded by local governments and First Nations”.

Many respondents commented on the importance of local government and the role of local emergency responders (such as fire departments) in spill response. One respondent, for example, recommended that “local government and in particular first responders and local emergency and environmental managers... be closely tied to the PRO – funding should be made available to local government to ensure that responders can participate in regular training and exercises – local government is the best positioned to represent public interest within their communities, and they must be granted authority for decision making with respect to spill response planning within their communities”.

Additional comments or recommendations included:

- ◆ “There needs to be absolute clarity on the roles and responsibilities of the local governments in context of the provincial emergency response system – this is needed to avoid potential duplication of service (e.g., with local emergency response) and, more importantly, confusion in the incident command structure during a spill response”
- ◆ “We reiterate that we believe that First Nations groups and other stakeholders should form RCACs [Regional Citizens Advisory Councils], which can work with the Province, federal agencies, and the PRO to ensure that local concerns are identified and that effective spill response strategies are developed”
- ◆ “Local government, First Nations, and other stakeholders need to be informed of hazardous material moving through their lands... and participate in exercises for preparedness and response – in addition, they should have access to information when a release occurs... however, local first responders should not be expected to exceed their mandate [and have to] implement measures for public safety [beyond those for which they have been] appropriately trained”
- ◆ “Local governments, First Nations and other stakeholders [should] be included in the development of GRPs and geodatabases of resources at risk to ensure a response program that reflects the interest of those that utilize those areas – existing community emergency plans should identify members to sit in Unified Command”
- ◆ “First Nations have the right to determine what happens on their territory and government must accept them as equal partners in planning – local governments must [also] be consulted, involved and respected”
- ◆ “These entities should be engaged at all stages of the development of the program. In addition there should be local representatives on any advisory committees to provide a local perspective – the communities will need to be engaged and educated about the program”

- ◆ “The Ministry should provide an opportunity for members of the community, including local government to take part in preparedness and training programs. Courses such as the Oiled Wildlife First Responders training... should be made available to the community in high-risk areas”
- ◆ “Local Governments should have a seat at the table for Strategic Advisory Committees or other ongoing consultation committee within the PRO”
- ◆ “In communities that could be impacted by pipeline or rail incidents, one or more funded PRO liaison positions could help ensure that the PRO was operating in concert with local authorities – in some cases, it may be preferable to embed the PRO completely with local response agencies as fully funded units”
- ◆ “There should be representation of local government, First Nations and other stakeholders in an oversight committee that provides review and recommendations to ensure that spill responses are reviewed against lessons learned from exercises and spills elsewhere in the world”

4. Industry based funding mechanisms

Question D 4: What industry based funding mechanisms should the Province consider in establishing a proposed fund within the response organization? How should the Province ensure fairness and equity across all the industry sectors whose spills could impact provincial lands or resources?

Comments on this question often reflected previous related considerations and interpretations raised by respondents, for example, principles of “fairness”, “polluter pay” and “avoiding duplication”. Respondents from production, processing and transportation sectors commonly noted, for example, that “industry sectors currently have in place preparedness & response regimes that are funded based on the sector needs”. Other respondents reiterated their support for additional funding of spill preparation and response, particularly local capacity, and frequently commented that “industry should pay”.

The most common recommendation from respondents was adoption of a “volume based levy”. One respondent, for example, commented that “to minimize red tape and simplify the process, we recommend there only be one spill risk threshold used to determine industry’s funding responsibilities for all aspects of the land-based spill preparedness and response program – once the risk threshold is reached by a company, the funding mechanism should involve a volume based approach in the form of a per tonne levy – consistent with ensuring shipper responsibility, the levy should be collected from the shipper – this would incent shippers to closely examine and contract with trucking companies that exhibit a commitment to safety”. A more limited number of respondents suggested refinements or alternatives to a “purely volumetric” scale on the basis of “fairness” or “risk”, suggesting, for example, adjustments to account for past performance or general spill history (sources and impacts).

Respondents provided a wide range of specific recommendations or comments for consideration, including:

- ◆ “The province can make this a fair process by placing a flat rate (by a levy on per unit liters or barrels) of Dangerous Goods shipped – the levy should be based on risk of the subject product, (i.e., gasoline has a higher rating than lube oil, etc.) – the province also needs to ensure they carefully review their spill report data base to ensure they capture the correct industries that are causing the most spills, not just the large bulk movers of Dangerous Goods like pipeline and rail companies”
- ◆ “I like the models that you mentioned in your report – these ‘co-ops’ are industry funded and work well”
- ◆ “The fee structure should be sector specific, reflect the type and amount of product for which the company is responsible, and assess the equitability of flat rate vs. stepped rate vs. prorated (sliding scale) funding models – fees could count as corporate tax credits, providing an incentive for corporations to buy into the system proactively”
- ◆ “The largest consideration in developing a PRO is avoidance of duplication – the concern industry wide will be that of ‘double paying’ – having insurance and response plans paid for, while also funding a PRO”
- ◆ “The majority of spill responses that local governments encounter are those from the trucking industry... it is not clear if all trucking companies would be required to have a membership in the PRO”
- ◆ “Don’t assume all spills will come from the private sector – BC Ferries and BC Hydro represent some risk”
- ◆ “A percentage of expected revenues of the resource could be a guideline”
- ◆ “A flat percentage of total project costs should be put toward funding a response organization”
- ◆ “25% of funding should be contributed by the Government for key personnel (e.g., Incident Commanders) retainer fees”
- ◆ “An option could be to create a trust fund to support the PRO – e.g., companies put forward 100K into a trust that can be accessed in the event of a spill to fund immediate participation”
- ◆ “[We would] argue in favour of two separate approaches to spill preparedness and response: 1) establishing a response organization such as the one proposed and 2) establishing a fund to pay for administration of oversight of the whole regime, with sufficient resources that it can step in and finish the job of remediation where the polluter’s response is deemed inadequate; and to deal with claims for compensation – the US Oil Pollution Act of 1990 provides an example”
- ◆ “Determine what the risks are per area by having an environmental impact assessment and putting a value on the land, the ecosystem and the wildlife... the funding mechanism selected should seek to fairly place a financial burden on industry sectors that is proportional to the risk posed by that industry... each industry could pay an insurance premium to the Province, for which the rate be determined by the impact assessment”
- ◆ “Fairness & equity across industry sectors should be performance based and risk assessed. Based on exposure scenarios, industry needs to determine the level of exposure that a release will have. Alternatives for coverage then need to be established”

- ◆ “Overlap and ‘double-dipping’ needs to be avoided – if the Transportation Sector has to pay a levy on the material they transport, this cost will be passed on to the customer [it would be an overlap if the customer]... is [then] required to pay a[n additional] levy on material stored on site, [as] this material has already been the subject of the Transportation sector levy”
- ◆ “Funding should be limited to covering direct operating costs of the PRO... industry funding allocations should be determined on a risk-basis and cognizant of existing programs, initiatives and insurance requirements for each carrier”
- ◆ “In addition to the polluter-pays principle, the province should determine the resource gap between funding current levels of response activities and ideal levels – new industry-based funding mechanisms should address this gap so that the province has sufficient resources to completely fulfill its responsibilities”
- ◆ “Ensure that a portion of the provincial spill response fund would be dedicated to funding oiled wildlife response substantive enough to ensure adherence to internationally accepted response protocols, standards of care, and animal welfare”
- ◆ “WCMRC [Western Canada Marine Response Corporation] could be examined as a possible funding mechanism (all vessels that enter B.C. waters must be members)”
- ◆ “A PRO would need to look for synergies with... groups such as the Western Canada Spill Services cooperative or independent preparation, [whose] many industry members have built effective spill response capacity”
- ◆ “We encourage the B.C. government to work with the Federal government to ensure no duplication and create pathways to build on this new regulation provincially – this funding requirement should address the degree of risk, insurance coverage, and recognize ‘in kind’ support such as structured awareness and education programs, robust equipment and personnel spill response capability provided by companies”

5. Access to funds for immediate spill incident response

Question D 5: Do you have any comments about development of provisions that would enable local governments and/or First Nations access to the fund to recover costs and fund immediate participation in a spill incident response? What criteria and factors should the Ministry consider if establishing fair and appropriate provisions for access to a fund?

Many of the respondents commenting on this topic noted, or reiterated, that “local government and First Nations have the most at risk and should be able to respond immediately and be reimbursed promptly”. While some respondents commented that at present “even with a confirmed responsible party, local governments are not assured of cost recovery” others felt that “there are currently mechanisms in place to allow for prompt involvement of local authorities” and, for example, “the current model used by EMBC [Emergency Management BC] works”. Specific suggestions for use of existing funding mechanisms, and for improvements to these mechanisms, are included in the “additional comments” list below.

Some respondents from the production, processing and transportation sectors expressed concern that “the fund could be used by any/all” and recommended criteria or processes are needed to support appropriate expenditures for spill preparation or response. Respondents recommended, for example, that “terms and conditions for access to these funds should be negotiated with industry to ensure that funds are allocated efficiently and to the right activities”. One respondent suggested that “it should be required by regulation, that communities and First Nations all have their own current and tested Community Emergency Response Plan (covering all types of emergencies including spills) that dovetail with the geographical spill response plans”.

Additional comments included:

- ◆ “[Companies in our sector] are privately owned and self-funded companies that maintain adequate levels of insurance as determined by the Canadian Transportation Agency and or provincial government equivalents – when necessary, [companies] reimburse local governments and First Nations through corporate claims processes and or legal remedies as required”
- ◆ “Immediate access to funds is critically important for local government to ensure the health and safety of the public, first responders, and the environment during a response”
- ◆ “It is essential that PRO must agree to reimburse local governments, First Nations and other stakeholders for 100% of cost incurred for emergency response – there should not be any limiting criteria such as response supplies, staff regular and overtime costs”
- ◆ “The contingency fund should be B.C. -based – while the intentions paper states the contingency fund will be held by the PRO, it may be easier for local and First Nations governments to access the fund if it is held by the Province”
- ◆ “Province should assist in development of regional and local assessments through which costs are tested”
- ◆ “The existing emergency response reimbursement mechanism can be expanded to include spill incident costs – these costs could be drawn from the bond funding mechanism established”
- ◆ “The Funding model should enable the impacted community to be involved in the response/recovery/restoration. The funding model could be similar to the Disaster Financial Assistance program; however, it should enable a community to upgrade the impacted area versus returning to pre-impacted state. The funding must be easily and readily available during a response/recovery so that the local communities are not overwhelmed with paperwork (which is often a hidden impact to these types of events as staff time is taken from other projects to respond to the emergency). Ideally there will be more upfront costs for training, preparing, mitigating so that there is a reduction in the risk”
- ◆ “Local governments have existing mechanisms for cost recovery of spills... provisions can be made to recover costs and for funding immediate participation in a spill incident response – the Province should work with local governments to discuss their capacity of staff and supplies via development of a spill response agreement”
- ◆ “A bond by the company should be posted and held if a spill was to occur and made available to local First Nations and local government – however, this does not necessarily mean that the bond amount would be equal to the final compensation amount”

- ◆ “Public Safety and Emergency Preparedness Canada (PSEPC) [have] responsibilities [that] include support to lead agencies during an incident of any kind, this can be utilized during an incident”
- ◆ “The bulk of the cost for preparedness, equipment, training, drills, etc. is spent long before a spill event occurs, and much is (properly) directed toward reducing the risk and extent of spills. If all goes well, there should not be a ‘polluter’ – can we call this ‘user pay’ or another more representative term?”
- ◆ “[Our organization] does not support the proposal as outlined in the Intentions Paper. Communities are currently required to have an emergency plan and to maintain an emergency management organization. The addition of a spills chapter in an overall emergency response plan should not pose a significant incremental administrative burden, particularly if it is based on a proper risk assessment. In terms of paying for additional direct costs from participation in response and recovery activities, translating these from largely volunteer to paid activities is problematic.”
- ◆ “[Our organization] supports the polluter pays principle – our member companies have a strong track record of appropriate restoration of the environment subsequent to a spill, without any financial consequence borne by the public – this has always included consideration for loss of public use, repair of public and private property and other effects resulting from a spill incident

E. Ministry Intention 3: Enhanced Provincial Environmental Emergency Program

1. Comments on industry funding of an enhanced provincial Environmental Emergency Program

Question E 1: Do you have any comments or suggestions regarding the Ministry's intentions to require industry funding of an enhanced provincial Environmental Emergency Program?

Many respondents “supported”, “strongly supported” or “acknowledged the need for” additional funding for the provincial Environmental Emergency Program. Several respondents from the production, processing and transportation sectors, for example, noted their “support for the concept that the province’s Environmental Emergency Program should and must be funded and resourced appropriately for the increased demand by new developments and the potential for increasing numbers of spills and other events”. Similarly, many respondents from local government and other sectors or interests commented, for example, that “for years [we] have advocated for substantially more core funding and community engagement capacity for the provincial Environmental Emergency Program”.

Respondents differed however, in their views on whether the program should be enhanced through an industry funding mechanism. The rationale behind views also differed. Many respondents commented that “the taxpayer should not be funding this at all [in keeping with the polluter pay principle]”. Others reasoned that industry funding may lead to a public perception of industry influence and “the fox watching the chicken coop” when there is a need for government oversight and independence. Other respondents commented, for example, that

“the program is broader in scope than land based spills and therefore should be fully funded by the provincial government”.

Differences in suggestions crossed sectors. Several industry submissions expressed support for industry funding of the program recommending, for example, that “market based and performance based options should be the basis for funding [our organization] supports the Polluter Pay Principle and that the responsible parties that pose the increased risk should be those that fund the needs for increased government oversight, prevention, preparedness, and response capacity”. Others in the production, processing and transportation sector expressed strong concern about the Ministry’s intention. Comments included: “if the [Ministry] chooses to set up a separate funding mechanism for the [Environmental Emergency Program], there may be some pushback from industries that are being required to support [it, as well as the PRO] in addition to their own internal mechanisms”; and “direct industry funding to the B.C. Ministry of Environment is neither optimal nor efficient. Careful consideration is necessary before any additional collection of funding is proposed in order to ensure no duplication of regulatory oversight, efficient use of capital, and no increase in the administrative burden on transmission pipeline operators”.

Most respondents from regulatory agencies, local government, First Nations and other interests expressed support for increased funding and industry sourcing of funds for Environmental Emergency Program activities. Related comments included: “it is appropriate that the size of the program be appropriate and that there is an opportunity for funding to be provided to local governments as first responders to many land based spills”; “this is compatible with the principle of spiller pays”; and “it would be of interest to investigate current permitting programs for the transport of these materials and the permits for the development of transport infrastructure to see if existing sources of funds can be redirected toward this program”.

Additional comments and suggestions included:

- ◆ “Local governments are also in favour of additional spill related research and industry funded training for regional response teams and fire departments”
- ◆ “The working relationship between the PRO, industry and the Provincial Emergency Program (PEP) [and the provincial Environmental Emergency Program] needs to be more clearly defined”
- ◆ “The focus of this section is on the money, not the consequences”
- ◆ “Emergency Management BC is an asset that every person in B.C. should support”
- ◆ “We would suggest that the Natural Resource Permitting Project also be engaged before additional fees are levied on industry”

2. Percentage of general and industry funding of an enhanced Environmental Emergency Program

Question E 2: What percentage of the Province's Environmental Emergency Program should be funded by general revenue (tax dollars) and what percentage should be funded by industries that pose a risk to the environment?

Advice in response to this question ranged from “none... government oversight [should be] funded from general revenues” to “100%... general revenue tax dollars should not be used at all to fund the province’s environmental emergency response program”.

Examples of comments included:

- ◆ “100% of cleanup cost should be borne by industry – 75/25 split for industry/tax revenue for governance and development of plan[s]”
- ◆ “50/50”
- ◆ “Industry should fund 100% of the costs, 100% of the auditing, investigation, analysis, oversight, cleanup – everything should be funded by industry”
- ◆ “Should be paid for 100% by industry either through a flat tax on products shipped by volume, or through royalties received – the general tax payer should not be asked to subsidize the oil and gas industry risks”
- ◆ “Industry currently funds prevention, preparedness, and response regimes – the responsible party (polluter pay) funds impacts from releases – legislation insures that the polluter pay principle is directed to the responsible party – government oversight (compliance, enforcement, policy development) is funded by general revenues – a mathematical formula is not an appropriate or relevant process to determine funding for the Province's Environmental Emergency Program... funding, as is currently the case, should be broadly based, applied to the hazardous materials of concern, and funds collected should be spent on the intended outcomes (i.e., not general revenues)”
- ◆ “[Our industry members] pay a substantial amount of taxes to the province and contribute financial resources and in-kind support to emergency preparedness and response initiatives in B.C... [the] provincial government is responsible for determining the level of resources that are appropriate for the Environmental Emergency Program”
- ◆ “Companies make significant contributions to the land based preparedness and response regime in B.C. and should therefore not be subject to direct industry funding to the Ministry of the Environment – our companies’ contributions include levies and fees paid to provincial and federal regulators, corporate and property taxes and ‘in kind’ support”
- ◆ “I don't know if there is a magic number/percentage... it should reflect program outcome and performance – presuming the existing system is meeting [its] targets and isn't ‘fat’... then we could take a position that all additional burden/workload stemming from the industrial development from this point forward be covered by industry – a fee-for-service arrangement with operators contributing to a provincial spill response agency would provide the most direct and transparent means of accomplishing this”

- ◆ “In communities where the industries’ profits are not reinvested in or shared with the community (i.e., oil exported overseas), the industries should cover the entire cost of the oil spill preparedness and response program since the community does not gain benefits, but takes on the risk of becoming a victim of the devastating effects of an oil spill – wildlife response must also be mandatory and fully funded by the responsible party”

3. Fair and equitable funding mechanisms for the provincial Environmental Emergency Program

Question E 3: Do you have any comments or suggestions regarding fair and equitable industry based funding mechanisms that the Ministry should consider in establishing an appropriate level of funding for the provincial Environmental Emergency Program?

Many respondents pointed to their comments on previous questions (noting either “strong support for” or “disagreement with” the proposed intention) in response to this question.

Comments from responses to this question included:

- ◆ “An export flat tax on the volume amounts shipped – it is the cost of getting local energy to foreign markets – local economies should not be subsidizing the risk for foreign exports”
- ◆ “Is this [industry funding of government program] a standard of best practices in other jurisdictions? What are the alternatives? What are the requirements for Marine Based transportation funding models?”
- ◆ “It will be important to look at best practices in other jurisdictions around the world”
- ◆ “It is not clear on how this relates to spills that are created by federally approved or regulated industries such as NEB [National Energy Board] regulated projects”
- ◆ “[Our company] supports the polluter pay principle and recommends the Ministry review annual spill reports to determine their preparedness funding sources – [we are] required to fund a significant amount of preparedness planning related to National Energy Board requirements and project commitments – [we] recognize that a number of our Project conditions will require in-depth involvement from the B.C. Ministry of Environment and understand that all parties must be adequately trained and tested to make up a world class response team... [we] propose that a B.C.-Ministry of Environment funding model be developed to support [the Ministry’s] involvement in activities associated with [our company’s Project] conditions to ensure [the Ministry] has capacity to participate”
- ◆ “The B.C. Oil and Gas Commission can play a strong coordinating role to ensure all resources are used to maximum effect – [our organization] would support efforts to strengthen that important role – however, we do not support any additional funding mechanisms for the Province’s Environmental Emergency program that is applied to [our] industry”
- ◆ “[The program] could/should be funded under port charges related to enforcement of federal ‘Animal Health’ agriculture quarantine control regulations which dictate the technologies and procedures necessary for controlling all wastes arriving in an international port of entry”

- ◆ “A funding model based on cost per litre produced/stored or transported is a more equitable model than creating an arbitrary cut off for required membership in a funding system”
- ◆ “Considering that often the methods of transportation are shared (pipelines, rail lines, highways), and multiple carriers may be engaged (railcar companies, trucks, etc.) it may be a good exercise to review how these organizations create their billing schemes for the use of their infrastructure. Similar to environmental levies on certain products (such as tires and batteries) these organizations may present a way of creating an equitable user-pay approach levied as an extra fee through their existing fee structures”
- ◆ “It will be important to look at best practices in other jurisdictions around the world”
- ◆ “The Province must define the actual work of the [program] in meaningful detail, so it can be meaningfully costed – what is fair to pay in this instance is what is demonstrably required to ensure the safety of the British Columbia environment, including wildlife and the health of the population”
- ◆ “Have bonds much like the bonds used in the mining industry”
- ◆ “Industries must have an incentive to continue their good track record – a similar system to car insurance could be established where companies that have been risk-free and have a good track record in terms of adhering to... requirements for preparedness could receive more financial support from the Ministry if/when an oil spill occurs... [similarly], fines could be given to industries that do not perform well in these reviews”

F. Additional comments

Question F 1: Do you have any additional comments or suggestions for the Ministry regarding development of a world leading spill preparedness and response regime for B.C.?

Respondents provided many comments and suggestions for Ministry consideration both in response to this question and in cover letters or separate submissions accompanying their response form. In many cases, these comments reinforced or reiterated comments provided in response to consultation questions. This additional information has been compiled and documented for consideration by Ministry staff in the review process. Except where otherwise noted, these materials were submitted by their authors.

Substantive and separate submissions or reports were provided, including:

- ◆ An annotated compilation of relevant Union of British Columbia Municipalities (UBCM) resolutions
- ◆ A technical paper addressing restoration and reclamation: *Processes and Functions: A New Approach for Mine Reclamation* by David Polster
- ◆ A graph and diagram: *Pipelines: Prevention and Safety*, Natural Resources Canada (Submitted by the Canadian Energy Pipeline Association)
- ◆ A detailed submission and report: *World Leading Wildlife Response Standards*, Oiled Wildlife Trust

- ◆ An assessment report: *Status of Oiled Wildlife Preparedness in British Columbia* (Submitted by the BC SPCA)
- ◆ A regulatory analysis of oil spill preparedness, response and restoration standards in British Columbia, commissioned by the Canadian Association of Petroleum Producers
- ◆ The *Tsleil-Waututh Nation Stewardship Policy*
- ◆ Reference to Taylor, 2008, *IOSC Workshop Report: A Proposed International Guide For Oil Spill Response Planning And Readiness Assessment*. *International Oil Spill Conference Proceedings* (Available from: <http://dx.doi.org/10.7901/2169-3358-2008-1-1>) (Submitted by the Haisla Nation Council)

Appendix A: Acronyms and Abbreviations

Acronym or Abbreviation	Definition
B.C.	British Columbia
CANUTEC	Canadian Transport Emergency Centre
CSA	Canadian Standards Association
EMBC	Emergency Management BC
ENGO	Environmental Non-Government Organization
EOC	Emergency Operations Centre
ERAP	Emergency Response Assistance Plan
ERP	Emergency Response Plan
GRP	Geographic Response Plan
ISO	International Standards Organization
NEB	National Energy Board
NGO	Non-Government Organization
NRDA	Natural Resource Damage Assessment
OGC	Oil and Gas Commission (B.C.)
PRO	Provincial Preparedness and Response Organization
TEAP	Transportation Emergency Assistance Program
TDGR	Transportation of Dangerous Goods Regulations
Transcaer	Transportation Community Awareness & Emergency Response
UBCM	Union of British Columbia Municipalities
US	United States
WCMRC	West Coast Marine Response Corporation