

Mark Zacharias, Assistant Deputy Minister
Ministry of Environment
PO Box 9342 Stn Prov Govt
Victoria BC, V8W 9M1

23 December 2015

Dear Mr. Zacharias,

Re: Provincial Response Organization Concept for land based spill response in British Colombia

On behalf of the Canadian Association of Petroleum Producers, Canadian Energy Pipeline Association, Canadian Fuels Association, Chemistry Industry Association of Canada and Railway Association of Canada we would like to thank the B.C. Ministry of Environment for the opportunity to provide an industry vision for the development of a Provincial Response Organization (PRO). Industry is committed to working collaboratively with all levels of government and other stakeholders to further earn the trust of Canadians. This includes acknowledging the need for a world leading spill response system for the province.

We are pleased to submit this Concept Paper to the Ministry as a practical first step in achieving the Ministry's vision for a PRO in a cost effective manner with a goal of minimizing the costs to all potential stakeholders. If the Ministry agrees in principle with this proposal, we request that industry be given the appropriate time and mandate to further develop the specifics of the concept and further interpret, in a practical context, the operational requirements.

Once again thank you for allowing industry to help develop a vision for the PRO. We would welcome the opportunity to discuss the attached proposal with you in the New Year. In the meantime, please do not hesitate to contact us if you have and question or require further clarification.

Sincerely,



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Canadian Association
of Petroleum
Producers



Jim Donihee
Chief Operating Officer
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cc: Anthony J Danks, Executive Director
Jim Hofweber, Project Executive Director



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OF PETROLEUM PRODUCERS
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ASSOCIATION

ASSOCIATION
canadienne des carburants

**Preparedness and
Response Organization
Concept for land based
spill response in British
Columbia**

**Final
December 23, 2015**

PRO Concept for land based spill response in British Columbia

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PRO Concept for land based spill response in British Columbia

INTRODUCTION

The BC Ministry of Environment (MoE) has announced its vision for the establishment of a province-wide Preparedness and Response Organization (PRO) to be implemented by 2017 as part of a world leading spill response regime.

The MoE's design principles for the Land-Based Spill Preparedness and Response regime are industry supported and include:

1. Polluter pays
2. Risk-based requirements
3. Avoid duplication
4. Fair and transparent process
5. Opportunities for First Nations and communities in preparedness, response and recovery
6. Strong government oversight
7. Continuous improvement

Industry has been given an opportunity to help provide an industry perspective of the PRO and on behalf of the Canadian Association of Petroleum Producers (CAPP), Canadian Fuels Association (CFA), Canadian Energy Pipeline Association (CEPA), Railway Association of Canada (RAC), and Chemistry Industry Association of Canada (CIAC) (hereafter referred to as 'Industry') we are pleased to submit this Concept Paper to the BC MoE as a practical first step in achieving the Ministry's vision.

Industry wishes to collaborate with the MoE to establish a PRO framework that:

- avoids duplication and extracts maximum leverage and benefit from existing systems;
- recognizes current provincial and federal regulatory requirements;
- incorporates a unified Industry voice across multiple sectors;
- helps demonstrate world-leading practices for land based spill preparedness and response;
- manages and mitigates the risks and costs of spills;
- recognizes input and participation by First Nations;
- recognizes Industry's existing commitments, best practices and actions which are already in place;
- helps to preserve the highest standards for the protection of the environment and human health and safety; and
- supports harmonized, efficient and effective implementation in concert with evolving policies and regulations of other provinces and of the Federal Government.

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Industry suggests that the PRO will be most effective if it is designed to be a hub for coordination, information and data management, such as location and availability of equipment and response resources, and communication among Industry sectors, government, First Nations and other key stakeholders.

DISCLAIMER

This Industry driven proposal has been compiled from a number of sources including MoE reports and documents, notes from the Working Committees, Association and Industry position papers, research papers and other related documents, sometimes verbatim, in an effort to capture Industry perspective as accurately as possible.

PRO FRAMEWORK

In keeping with the accepted view that BC will avoid duplication and extract maximum leverage and benefit from existing systems, Industry contemplates that the MoE will utilize existing requirements to establish a harmonized PRO.

Major industries are already robustly regulated by various provincial and federal legislation and regulators with respect to spill preparedness and response. Thus the PRO is envisioned to be a co-ordinator to address any gap amongst existing regulated sectors and bring into the fold industries or individual entities that pose a spill risk which are not currently regulated.

Also in keeping with the accepted view that there will be no duplication of regulatory governance, Industry contemplates that the PRO would focus on preparedness and coordination and leverage the capacity and capability of company and response collectives (such as WCSS, ERAC).

The PRO should be mandated to fundamentally do three things:

1. Support planning and coordination by providing assurance that world leading response capacity exists in the province of BC.
2. Support incident response by confirming if a responsible party (RP) is: a) identifiable and b) willing and capable of responding.
3. Support incident response in the event that a responsible party is not identified or capable of responding. The PRO is not expected to be responsible for covering the costs associated with response efforts.

WHAT THE PRO SHOULD DO

The purpose of building a world class BC PRO is to provide for effective preparedness and response, in concert with other

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responding local, provincial/state, federal and North American governments, Industry, First Nations, and communities.

From an operational perspective, areas within the scope of the BC PRO may include:

COORDINATION

- a. Identify high risk areas and capacity issues throughout the system.
- b. Support spill report transparency in B.C.
- c. Support existing response capabilities at all levels - work with individual companies, spill co-ops, local governments and other stakeholders on coordinated spill response and volunteer management, waste management, communications and evacuation planning.
- d. Support the provision of equipment and responders to those that require it (i.e. find responders, mobilize equipment that has been pre-identified in the given location)
- e. Recognize unique First Nations and other local interests and needs by further incorporating them into the response plan development process.
- f. Convene and coordinate multi-industry field exercises to support response capacity.
- g. Support First Nations community preparedness and response capacity and increase awareness in those communities.
- h. Work in collaboration with existing Industry and government research avenues to support research and innovation in spill response.

INFORMATION MANAGEMENT

- a. Identify mutual aid agreements across industries where they exist (mutual aid agreements should still be developed, contracted and paid for at the company level).
- b. Catalogue member spill response equipment inventory, resources and capabilities.
- c. Share information regarding existing geographical (area) response plans, capability / capacity assessments and other common response information.
- d. Store and disseminate lessons learned from post-incident and post training exercise reviews.

COMMUNICATION

- a. Share emergency preparedness and response practices.
- b. Support and maintain communication resources to ensure information about spill preparedness and planning is collected and available.
- c. Gather and disseminate safety information, innovative ideas and best practice.

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- d. Support individual and collective efforts to improve the transparency of spill response in BC including providing current information about preparedness, capability, best practices and initiatives.

We understand and support the fact that the North American established Incident Command System (ICS) will be used to coordinate incident response in BC. The ICS organizational structure is designed to handle small to very large and complex incidents. Its modular structure and organization expands to meet emergency management demands.

A successful PRO should put an emphasis on preparedness. Preparedness is best thought of as a *process* – a continuing sequence of analyses, plan development, and the acquisition of individual and team performance skills achieved through training, drills, exercises and critiques [Plan-Do-Check-Act cycle].

Other potential features of a PRO could include:

- Having credible technical emergency preparedness and response expertise on hand to provide strategic advice to stakeholders and government on preparedness and response priorities, objectives and actions in concert with current regulations;
- Organizing and housing preparedness information including data management.
- Providing a forum for engagement and education for government, First Nations, Industry, local authorities and first responders.

WHAT THE PRO SHOULD NOT DO

Industry agrees that the PRO should NOT:

- a. Have any regulatory authority or duplicate the efforts of existing regulations and standards of regulators.
- b. Duplicate response capabilities/equipment that already exists in Industry.
- c. Be expected to take on environmental restoration (post recovery services). Gaps in this area should be addressed by the appropriate existing regulatory authority.
- d. Add duplicative administrative / costs to Industry.

GOVERNANCE STRUCTURE

Industry believes that the PRO should be led and coordinated by representatives from the major entities involved in the storage and movement of hazardous goods in British Columbia, with support from the BC MoE and regulators. First Nations,

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community representatives and relevant stakeholders would be involved in advisory roles to help direct the priorities of the PRO.

The PRO is envisioned to be a not-for-profit organization, and it would have to exercise fiduciary prudence to enable year over year operations. There should be no nebulous or 'catch all' funds that are unallocated aside from specific operational funds. The PRO financial management structure should be based on principles of clarity and transparency so that all stakeholders are clear where the funding is coming from and where/ how it is being deployed.

MEMBERSHIP/STRUCTURE & POTENTIAL FEES

Industry agrees to leverage synergies and work together with Government and other stakeholders to strengthen local emergency preparedness and response capability where appropriate and work with identified contractors in order to provide response assistance throughout the province.

It is important to point out when considering a fee structure that Industry currently bears the majority of the costs and liability as the system now stands - in many cases this is an existing regulatory responsibility.

Industry acknowledges that the funding mechanism to support the ongoing operations of the PRO could be shared across different regimes. Government should also play a role in supporting response capacity for incidents where a responsible party is unknown. Funding principles should address:

- Adequate annual program funding,
- Alignment with the polluter pays guiding principle,
- Fairness and transparency based on risk and performance, and
- The degree of risk and potential impact associated with different sources and types of spills.

FIRST NATIONS PARTICIPATION IN SPILL PREPAREDNESS AND RESPONSE

Industry promotes the concept of principled dialogue about spill preparedness and response with First Nations communities throughout British Columbia. Such dialogue can be accomplished, in conjunction with federal, provincial and local governments, through direct industry to community relationships or by convening conferences, workshops, and community forums to improve knowledge about Industry emergency management and lend support to existing programs.

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Industry recognizes that First Nations communities and their asserted traditional territories may be the most geographically proximate to incidents requiring response. Therefore, the PRO should engage those communities to promote the relevant emergency management systems that are in place, including spill preparedness and response.

PREPAREDNESS AND RESPONSE REGIME NEXT STEPS

If the Ministry agrees in principle with this proposal, we request that Industry be given the appropriate time and mandate in cooperation with BC MoE staff to further develop the specifics of the concept and further interpret, in a practical context, the operational requirements.

This would likely involve the following steps in 2016:

1. STEP ONE: DEFINE THE CONCEPT

Determine and confirm the governance model.

Determine and confirm the core funding model.

2. STEP TWO: REFINE THE CONCEPT

Through a collaborative Industry lead process, clearly articulate PRO scope and mandate.

- Undertake a gap analysis of existing response organizations, capabilities and regulatory requirements to better understand “the gap” and areas of focus.

Once established, the PRO could undertake an exercise to determine essential elements necessary for success and define options for a phased approach.

On a separate track in partnership with government, determine the PRO role in response to orphan spills.

3. STEP THREE: PILOT THE CONCEPT

Once step one and two are completed, develop and roll out pilots illustrating the functions of the PRO.