



OCEANS PROTECTION PLAN PLAN DE PROTECTION DES OCÉANS

Marine Pollution Preparedness, Response and Recovery

Discussion Paper

Prepared by:

Transport Canada

Introduction

Through the [Oceans Protection Plan](#), we're improving our ability to work together with Indigenous communities, the marine industry, and other partners to respond to marine pollution incidents that involve oil and/or hazardous and noxious substances. As part of this work, the Government of Canada proposes to develop a single system to respond to all such marine pollution incidents, regardless of their source.

In this paper, a **marine pollution incident** means that pollution has suddenly been released (or "spilled") into the marine environment. Incidents may release oil and/or hazardous and noxious substances and pose a threat to the marine environment. They need to be acted on and responded to immediately. These incidents don't include natural disasters like tsunamis or landslides, as they're managed separately.

The goal of this paper is to:

- outline the Government of Canada's intent to create a single, seamless, national system for marine pollution incidents, and
- collect feedback on the approach we're proposing

The approach we're proposing is based on 6 years of work with Indigenous communities, the marine industry and other response partners. This paper builds on our partners' feedback received and the lessons we've learned through this process.

Proposal overview

Marine pollution incidents are complex and often involve notifying many partners, fast decisions, mobilizing and dispatching different response resources, and trying to minimize how a spill impacts the environment and human health.

While Canada already has plans in place for many kinds of pollution incidents from different sources (like tankers or pipelines) and different kinds of pollution (like oil) there are still areas we can improve to make sure that our response to marine pollution is seamless and effective.

In particular, having the organizations involved coordinate their response could improve response times and make sure resources are used in a timely and effective way.

The rules that govern how we respond to spills are spread through multiple pieces of legislation, including the:

- *Fisheries Act*
- *Canada Shipping Act, 2001*
- *Canada Oil and Gas Operations Act, Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*
- *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*
- *Canadian Environmental Protection Act*
- *Oceans Act*
- *Transportation of Dangerous Goods Act*, and
- *Wrecked, Abandoned or Hazardous Vessels Act*

These laws set out roles and responsibilities for environmental protection, different obligations and powers for many different agencies, on top of responsibilities for other levels of government and communities.

While governments and organizations have been able to manage the challenges of this system of laws, there are places we can improve.

The path forward - a single national system

To improve the federal government's ability to respond to marine pollution incidents, we want to create a cohesive, national system that will make sure we're prepared for all marine pollution incidents, regardless of source.

This system would clearly define the roles and responsibilities for all partners to make sure that our response to marine pollution incidents is timely, efficient, and minimize the pollution's impact on human health and the environment.

Creating a single national system will also allow us to make improvements that will apply to multiple sources and types of pollution. This includes helping to develop a formal role for Indigenous communities to prepare for and respond to marine pollution incidents.

The system would be built on the "polluter pay principle". This means that the existing laws and regulations that outline industry's financial and response responsibilities would remain.

Over the next few years, we will review existing federal requirements to make sure they align with the national system. We also want to make sure Canada's national pollution response plans link to and work well with the pollution regimes of other jurisdictions (like the provinces and territories). We will accomplish this by working together with other jurisdictions as the national system is created.

As we move forward, the following key principles will guide our decisions about the new system. The national system should:

- limit the impact of marine pollution incidents on communities and the environment
- place the responsibility for paying for clean-up on those who create the risk of pollution
- create a single, coordinated response system that will improve how we prepare for, respond to and recover from all marine pollution incidents, regardless of source
- create a pollution response framework that recognizes the role of Indigenous communities at the national, regional and local levels, and
- be based on evidence

The Government of Canada will continue exploring the development of a post-incident recovery framework, with the understanding that recovery is multi-faceted with longer-term issues and considerations beyond the environment. This framework will require diverse sets of expertise and coordination between federal departments and agencies, other levels of government, Indigenous groups, and industry. This framework would clearly articulate a consistent and coordinated approach to using authorities related to recovery, as well as provide collaborative opportunities for Indigenous communities and local stakeholders in its development and implementation.

The Government of Canada is also looking for ways to fund preparedness, response and recovery work that doesn't currently have dedicated funding. The goal is to make sure we are prepared and well-equipped at the national, regional and local level to respond to, and recover from, marine pollution incidents. We want to make sure that there is a way to immediately fund these activities, without affecting our existing liability and compensation structures.

Strong federal leadership

The Government of Canada plays a key role in responding to marine pollution incidents. Over the past 6 years, federal departments and agencies have invested to make sure that they're ready to respond when the marine environment is threatened by pollution.

The partner departments supporting this proposal and related engagement activities include the Canadian Coast Guard, Environment and Climate Change Canada, Fisheries and Oceans Canada, Health Canada, Natural Resources Canada, and Transport Canada.

Under the proposed national system, Transport Canada would be the policy and legislative lead, while continuing its role in making sure the transportation industry is prepared to respond to marine pollution incidents.

The Canadian Coast Guard would lead the federal response to all marine pollution incidents, regardless of source. As such, they would direct and/or lead the response for all marine pollution incidents that may affect the marine environment.

For spills from offshore platforms or federally regulated pipelines, the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB), the Canada-Nova Scotia Offshore Petroleum Board (CNSOPB) and the Canada Energy Regulator (CER) would continue to lead.

The Coast Guard would also coordinate how we prepare for, and respond to, marine pollution incidents with help from a broadened network of responders, including Indigenous communities and traditional response partners like response organizations.

Environment and Climate Change Canada, Fisheries and Oceans Canada and Natural Resources Canada would continue to advise on the marine environment, coastal environments, and natural resources products, including petroleum.

Health Canada would share human health expertise with response partners including provincial and territorial health authorities.

Keeping potential polluters accountable

The “polluter pay principle” is a key part of Canada’s marine safety system and will continue to guide the national system. This principle means that polluters are responsible for paying for the clean-up and damage caused by a spill.

We will continue to expect the party responsible for the pollution to respond to the incident, either with their own resources and/or through contracted resources. If the polluter refuses, is unable or unknown, then the Canadian Coast Guard would direct resources, unless the spill was from offshore platforms or federally regulated pipelines, in which case the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB), the Canada-Nova Scotia Offshore Petroleum Board (CNSOPB), Canada Energy Regulator (CER) or other federal departments such as ECCC through its general environmental protection authorities, would lead the response.

We’re working to strengthen the preparedness requirements on industry for some types of pollution incidents. This includes proposing changes to the *Canada Shipping Act, 2001* to require certain hazardous and noxious substance handling facilities to be prepared to respond should pollution occur when cargo is being loaded or unloaded. The changes will also require vessels to have arrangements for firefighting and salvage services, and a response specialist to work with the Government of Canada and other partners to manage the incident.

Over the coming years, we will continue to review existing industry requirements to identify areas that can be improved and to make sure the requirements align with the national system. This review may result in changes but for now, there are no plans for other changes.

A clear role for Indigenous communities

Based on feedback received, many Indigenous communities want a meaningful role in preparing for, responding to, and recovering from all marine pollution incidents, regardless of the source.

Our discussions with Indigenous communities have found there’s broad support for improving how they’re involved in federal spill regimes. Specifically, feedback from Indigenous communities has noted they want:

- a formal role in governing how we prepare for, respond to and recover from pollution incidents
- training and equipment in communities to help protect coastal resources
- funding so community members can prepare for, and respond to, pollution incidents
- legal protections (civil and criminal) for response activities, and
- streamlined authorities to simplify how they engage and build partnerships

Over the next few years, we will work together with Indigenous communities to develop a formal role where they can – but aren’t required to – participate in managing marine pollution incidents.

This could include:

- long-term readiness by working together on planning, training, and exercises, and buying/maintaining equipment
- co-develop marine response plans including thresholds for when they activate and incorporate traditional knowledge and expertise
- building local response capacity in Indigenous communities, and
- funding for preparedness, response and recovery activities

Who is the focus of this proposal

We invite all Canadians to review this proposal and provide feedback. The following groups may be particularly interested:

- National and Regional Indigenous organizations
- Indigenous partners and communities
- Provincial and Territorial ministries, including Environment and Emergency Management
- Marine industry stakeholders
- Coastal communities involved in past work on marine topics

We are also reaching out directly to our Indigenous partners and communities, marine industry stakeholders, as well as our counterparts in the provinces and territories, to share this proposal and ask for feedback.

Gathering feedback on this proposal is the first of many steps in creating the proposed national system. There will be many other ways to engage on this topic as we start to develop the national system.



Key questions for discussion

We want your views on the new approach and directions we're considering. Please provide your comments on or before May 31st, 2023.

Here is how you can provide feedback:

- answer key questions using our online form, or
- provide general comments by email: OPPMPPRR-PIRCMPPO@tc.gc.ca

Key Questions:

- What are your perspectives on the Government of Canada's intention to develop a national system for marine pollution incidents in Canada?
- What could be done to make the response to marine pollution incidents more effective and efficient?
- How should a world-class system for responding to marine pollution incidents be funded?

Additional questions for consideration by Indigenous partners and communities:

- How should the Government of Canada collaborate with Indigenous groups to develop a formal role for indigenous communities in a national marine pollution, preparedness, response, and recovery in Canada?
- What kind of support and resources are required for Indigenous communities to successfully participate in the national system?

Additional question for consideration by Provinces and Territories:

- How can the Government of Canada work to integrate the national system with existing regimes for pollution that are provincial and/or territorial?

Contact us

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