



OCEANS PROTECTION PLAN PLAN DE PROTECTION DES OCÉANS

WHAT WE HEARD REPORT: ENGAGEMENT ON RESPONDING TO OIL SPILLS WITH ALTERNATIVE RESPONSE MEASURES (ARMS)

Executive Summary

From March 2022 to October 2022, the Government of Canada engaged Indigenous partners, provincial and territorial governments, industry and interested stakeholders on possible changes to Canadian laws that would allow alternative response measures to be used for oil spills. In support of this engagement, the Government of Canada posted the Alternative Response Measures Intentions Paper on the Oceans Protection Plan (OPP) *Let's Talk Transportation* website and conducted multiple virtual engagement sessions.

The virtual engagement sessions provided information on the science related to alternative response measures, gave an overview of the current oil spill response regime in Canada across all sectors, and presented an outline of the Government of Canada's proposed legislative intentions for enabling the use of alternative response measures in Canada.

The Government of Canada received feedback during the engagement activities and through written submissions on the Intentions Paper regarding a wide range of issues. Much of the feedback focused on themes related to the science, policy and operational use of these measures.

This Report strives to respond to this important feedback, while acknowledging that they will be explored in more detail during future engagement activities should the possible legislative changes be approved by Parliament.

All of the feedback received has been gathered, reviewed and compiled into the following common themes in the Report to help enable a shared understanding and transparency of the initiative:

- *Engagement and participation in decision-making*, which included feedback that underscored the importance of meaningful engagement with Indigenous peoples as well as the need for their participation and the involvement of all levels of government in the development and implementation of a framework to allow for the use of alternative response measures.
- *Integration with other planning, decision-making and engagement processes*, which included feedback that emphasized the need to develop and implement a framework to allow for the use of alternative response measures with consideration of other planning, decision-making and engagement processes.
- *Specific protection priorities and interests within decision-making– Understanding Net Environmental Benefit Analysis (NEBA)*, which included interest in obtaining additional information on the net environmental benefit analysis process including how it works, what is considered, and who conducts the analysis.
- *Responsibilities and authorities for alternative response measures implementation*, which included feedback that emphasized the need to better understand the respective roles and responsibilities across various jurisdictions, including decision-making processes.
- *What alternative response measures will be eligible and their potential impacts*, which included feedback that sought to understand which alternative response measures are being considered, their potential risks, and the underlying science.
- *Operational implementation of alternative response measures and ensuring compliance*, which included feedback that sought to understand how alternative response measures will be operationalized.
- *Alternative response measures should not undermine the use of conventional response measures*, which included feedback that underscored alternative response measures should not undermine the use of conventional response measures.

- *Alternative Response Measures Framework must provide for continuous improvement of capabilities*, which included feedback that highlighted that the decision-making tools and processes should be continuously improved based on past experiences and by working with local authorities and knowledge holders, including Indigenous peoples and government experts.
- *Use of alternative response measures in non-marine environments and land-based spills*, which included an interest to better understand how alternative response measures could be used for land-based spills and spills into freshwater environments.
- *Questions on the broader environmental response system*, which included an interest to better understand Canada's environmental response approach.

Going forward, there will be opportunities for further discussion during the development and implementation of the various elements to support the use of alternative response measures including regulatory, program and operational implementation.

We thank all those who participated in this engagement process. Your contributions have been and continue to be valuable in informing next steps with possible legislative amendments and future engagement. We look forward to continuing to work together on the development of the proposed legislative intentions.

Introduction

Access to alternative response measures would support the Government of Canada's efforts to create a world-leading response system by expanding the range of oil spill response options available across multiple sectors that include marine shipping, pipelines, and offshore oil and gas. Alternative response measures are oil spill response tools and techniques used to remove oil and mitigate spill impacts. The Government of Canada is considering expanding the oil spill response "toolbox" in Canada beyond the current conventional response measures to include alternative response measures.

The potential use of alternative response measures in Canada would:

- Be underpinned by a number of safeguards, including legislation, regulations, guidelines and additional scientific research;
- Improve oil spill response by taking advantage of well-established methods and technologies, and allow consideration of emerging and proven techniques and technologies; and,

- Allow for the consistent use of alternative response measures across the oil supply chain, including marine shipping, offshore exploration and production operations and federally regulated pipelines.

The Government of Canada is considering changes to Canadian laws to support the careful and appropriate use of alternative response measures. More information on these possible legislative changes can be found in the Alternative Response Measures [Intentions Paper](#) on the Oceans Protection Plan *Let's Talk Transportation* website.

From March 2022 to October 2022, the Government of Canada engaged Indigenous partners, provincial and territorial governments, industry, and interested stakeholders on possible legislative changes that would allow alternative response measures to be used for oil spills.

This Report summarizes the questions and comments that were received. It also provides answers to common questions that were raised by multiple participants in a consistent way that is accessible by all. Comments received will also inform the possible legislative changes and guide future engagement on this topic.

Our engagement approach

In 2018, the Government of Canada provided an early introduction to the alternative response measures initiative as part of the first phase of the Oceans Protection Plan. At that time, we heard a mix of reactions including:

- Some who were supportive, some opposed, but most were cautious, wanting to learn more about:
 - What alternative response measures are and their potential impacts;
 - The underlying science;
 - How alternative response measures could be implemented, including how oil spill response currently works in Canada;
- There was an emphasis on oil spill prevention, a precautionary approach and the involvement of Indigenous peoples was vitally important; and,
- Recognition that to be able to achieve better outcomes for the environment, alternative response measures would need to be used carefully and appropriately.

In response, the Government of Canada sought to renew dialogue on alternative response measures with Indigenous peoples, provincial, territorial and local governments or agencies, environmental organizations, industry, and interested stakeholders that may be directly involved or affected by an oil spill. From March to October 2022, the Government of Canada made available additional information and offered multiple opportunities for anyone interested in alternative response measures to provide their views on the possible legislative changes being considered.

To make information on the possible changes to Canadian laws accessible to as many people as possible, the Government of Canada posted an on-line Intentions Paper that described the possible legislative changes and the types of alternative response measures that are being considered.

In addition, a series of engagement sessions were held in May and June 2022. These sessions shared information on the science of alternative response measures, the current oil spill response regime in Canada, and the Government of Canada's possible legislative changes to allow their use in Canada. Nine virtual engagement sessions were held between May and June 2022. These included four sessions that were open to a broad range of stakeholders and interested Indigenous groups, and five regional sessions that were intended for Indigenous peoples. Funding was available throughout this engagement period to support Indigenous peoples' participation and comments.

Throughout the engagement period, the Government of Canada offered to meet directly with interested Indigenous groups and stakeholders to discuss their specific questions and comments on alternative response measures and the possible legislative changes.

If the possible legislative changes are approved, there will be additional dialogue and collaboration on how alternative response measures would be implemented.

Who we heard from

The following table summarizes the participants who attended our engagement. In all, 52 participants attended the engagement sessions, and separate meetings were held with two Indigenous organizations. As well, 12 submissions were received on the Intentions Paper. These submissions focused on a wide range of topics from Indigenous peoples, industry, and provincial governments of which the feedback is included in this Report.



Table 1: Summary of engagement session participation

Date	Region	Number of participants	Type of participant(s)
May 17, 2022	National (English language)	20	Government, Industry, Indigenous peoples
May 19, 2022	National (French language)	1	Non-governmental organization
May 31, 2022	Ontario	3	Indigenous peoples
June 1, 2022	Atlantic	1	Indigenous peoples
June 14, 2022	Pacific	5	Indigenous peoples
June 15, 2022	Arctic	2	Indigenous peoples
June 16, 2022	Québec	3	Indigenous peoples
June 28, 2022	National (English language)	11	Industry
June 29, 2022	National (French language)	6	Government

* Originally three more sessions were scheduled (in the Prairie and Atlantic regions), but these were cancelled after no participants registered.

What we heard

During this engagement, the Government of Canada received comments and questions on a wide range of issues including science, policy and operations, as well as the broader oil spill response system in Canada. In particular, participants were very interested in how the initiative would be put into operation, and how they can participate in its implementation.

In this Report, feedback has been grouped by themes, which are listed below. Specific questions and comments are not noted.

Feedback grouped by themes:

- Engagement and participation in decision-making
- Integration with other planning, decision-making and engagement processes
- Specific protection priorities and interests within decision-making – Understanding Net Environmental Benefit Analysis (NEBA)
- Responsibilities and authorities for alternative response measures implementation
- What alternative response measures will be eligible and their potential impacts
- Operational implementation of alternative response measures and ensuring compliance
- Alternative response measures should not undermine investment in and use of conventional response measures
- Alternative Response Measures Framework must provide for continuous improvement of capabilities
- Use of alternative response measures in non-marine environments and land-based spills
- Questions on the broader environmental response system

Engagement and participation in decision-making

Indigenous rights and obligations

Summary of feedback: The importance of respecting Indigenous rights through engagement and participation in decision-making was a common theme throughout this engagement. Indigenous peoples and stakeholders felt that meaningful engagement with Indigenous peoples is a key part of successfully implementing alternative response measures. Participants stated that Indigenous peoples should or must be part of co-developing future regulations, policies, and processes on the use of alternative response measures.

Our response: The Government of Canada is committed and obligated to uphold the principles of the [United Nations Declaration on the Rights of Indigenous Peoples Act](#). In addition, the Government of Canada is aligned with the guiding *Principles respecting the Government of Canada's Relationship with Indigenous peoples*.

These principles have guided the engagement approach on the possible legislative changes and will continue to guide future engagement. As a result, the Government of Canada invited Indigenous peoples and groups to submit feedback on the Intentions Paper and participate in sessions intended only for Indigenous peoples. Throughout this engagement, the Government of Canada emphasized its availability to meet with Indigenous groups to explore their interests in relation to the possible legislation changes for alternative response measures, as well as the availability of funding to support their review and comment on the Intentions Paper.

The engagement conducted thus far establishes a common foundation of shared information and understanding, where further dialogue and collaboration with Indigenous peoples will be necessary to implement alternative response measures, should Parliament approve the possible legislative changes.

Importantly, the cornerstone of implementing alternative response measures and a key part of the possible legislative changes is that no alternative response measure would be authorized without first determining that its use is likely to result in better outcomes for the environment than when not used (i.e., net environmental benefit). Environmental, social, cultural, and economic considerations will be taken into account when conducting the analysis to support an authorization. Depending on the incident specific situation, the interests and participation of Indigenous peoples will be included in such an analysis to inform decision-making.

The possible legislative changes are intended to enable the use of alternative response measures as additional response tools, where their consideration and implementation would be from within existing oil spill response systems. For example, deciding which alternative response measures to use would be done from within current processes to manage the response to an incident, such as the Incident Command System. These response systems include opportunities for Indigenous peoples to play an active role.

If the possible legislative changes are approved, the Government of Canada will continue to work with Indigenous partners to implement alternative response measures, including how the net environmental benefit would be determined. It is through this work and the broader efforts of the Oceans Protection Plan that the Government will continue to reflect Canada's commitment to Indigenous peoples.



Provinces and territories

Summary of feedback: The feedback received stressed the need to make sure all levels of government coordinate and cooperate in the development and implementation of a framework to allow the use of alternative response measures. This would allow them to assess the potential impacts to their areas of jurisdiction.

Our response: The possible legislative changes for alternative response measures would apply to federal legislation and would not affect the application of provincial and territorial laws or regulations that may prevent the use of an alternative response measure¹. For the alternative response measures to be used, provinces and territories will have to identify and develop ways to address their unique jurisdictional needs and context.

Even if provinces or territories don't have legislation or regulations that would prevent the use of an alternative response measure, coordination and cooperation in response actions across jurisdictions continues to be vitally important, such as through the Incident Command System response structures and regional planning efforts that include local communities and all levels of government.

As a result, the federal, provincial and territorial governments will need to work together to make sure that alternative response measures are considered and used safely, effectively and efficiently. The Intentions Paper provides a valuable foundation to support these conversations.

Integration with other planning, decision-making and engagement processes

Summary of feedback: Comments received stressed that any future regulations, programs, or processes for alternative response measures should be developed and implemented within or with consideration of other planning, decision-making and engagement processes.

Our response: The possible legislative changes are focused on enabling the use of alternative response measures as additional oil spill response tools. While their use would require additional safeguards to be developed, deciding on whether to use an alternative response measure and then using them would be done through existing processes.

¹ The Governments of Nova Scotia and Newfoundland and Labrador have respective agreements with the federal government to jointly manage the offshore oil and gas sector in the areas adjacent to those provinces. Federal offshore oil and gas legislation, if amended, would be done in coordination with both governments.

For oil spills occurring in offshore oil and gas operations and federally regulated pipelines, Natural Resources Canada and the Canada Energy Regulator will work with partners and stakeholders through existing governance and dialogue mechanisms to implement alternative response measures in these sectors.

For oil spills from ships, the Oceans Protection Plan is advancing many activities to strengthen Canada's preparedness and response to marine pollution incidents. Engagement and implementation of alternative response measures will not duplicate these activities, but rather leverage them to the greatest extent possible. For example, Indigenous peoples, governments and stakeholders would participate in the collection of baseline data or regional response planning, which are foundational activities to implementing alternative response measures.

Specific protection priorities and interests within decision-making – *Understanding Net Environmental Benefit Analysis (NEBA)*

Summary of feedback: There was an interest for more information on net environmental benefit analysis process, namely:

- How it works;
- What's considered;
- If and how Indigenous knowledge and socio-economic-cultural information will be included;
- Who would conduct the analysis;
- The need for guidance and best practices; and
- The need to gather relevant information before an incident (and protecting this sensitive information).

There was interest in prioritizing conventional response measures (e.g., booms and skimmers) over alternative response measures (e.g., dispersants).

There were also concerns around how alternative response measures could impact the marine ecosystem, animals within the water column, and sensitive life stages.

Our response: The cornerstone of the potential use of an alternative response measure is that the net environmental benefit analysis would provide conclusions on whether the measure is likely to result in better outcomes for the environment and the activities that depend on a healthy environment when compared to when not using that measure (i.e., net environmental benefit).



A net environmental benefit analysis would support the appropriate government authority in making an incident specific determination. This type of analysis is an internationally recognized approach that compares the advantages, disadvantages, and tradeoffs of using or not using a response measure to help manage the spill, including any risk mitigation strategies. It would:

- Consider specific environmental, cultural and economic resources;
- Integrate knowledge from subject matter experts, including Indigenous peoples who are best placed to identify and evaluate resources of importance to their communities;
- Consider the properties of oil and possible impacts on sensitive species and habitats;
- Consider the benefits, as well as risks of using an alternative response measure on sensitive species and habitats;
- Inform a discussion on which resources to prioritize and how to protect them; and,
- Address uncertainties while still being able to respond effectively, including the use of the precautionary approach.

A net environmental benefit analysis is most effective when it considers a diversity of views and pulls together relevant environmental and socio-economic information. As such, this analysis may include input from:

- Indigenous peoples;
- Government authorities;
- Science experts;
- Industry;
- Contractors with response-related expertise; and,
- Local communities.

A net environmental benefit analysis must be able to respond to evolving conditions during an incident. It is possible that as the oil spill incident progresses, the use of a specific alternative response measure will no longer provide an overall benefit to the environment. If that is the case, its use would be reconsidered. An adaptive approach that allows for new information and evolving conditions will minimize risks from spilled oil or from using alternative response measures.

The use of alternative response measures would be supported by many safeguards, in addition to existing environmental protections and the current robust oil spill response systems, to ensure that these measures are used carefully and appropriately.

Collectively, this response system would include many activities undertaken before an incident, as well as during the event, to support the net environmental benefit safeguard, including:



- *Existing emergency response regimes* – where alternative response measures would be integrated as an additional tool in an existing toolbox to be considered as part of a broader, strategic approach to respond to an oil spill. The existing emergency response regimes have structures in place to conduct planning, coordination and decision-making, including engagement mechanisms with response partners.
- *Ongoing Research* – to support all aspects of regime implementation by continually reviewing and evaluating existing and new response measures as well as the environmental impacts from spilled oil to support all aspects of regime implementation.
- *Preparedness and planning* – identify sensitive resources and potential impacts, as well as which response measures should be considered in the event of a spill through discussion and sharing of information among response partners.
- *Regulations listing the alternative response measures available for authorization* – response measures to be listed in regulations, and subsequently eligible for consideration in a response, will need to be assessed to ensure that they are effective in being able to achieve treatment objectives. In addition, toxicity testing and analysis will be conducted on response measure products to ensure that only products of low toxicity would be listed. Importantly, inclusion in regulations is not pre-authorization for use, as an alternative response measure would still require authorization based on incident specific circumstances.
- *Net environmental benefit determination and incident specific authorization* – to be made by the designated government authority with consideration of the incident specific circumstances. Such an authorization would include conditions to reinforce the goal of achieving a net environmental benefit as they are used for a specific incident.
- *Technical Guidelines* – establish procedures for why, when, how to use response measures, including net environmental benefit considerations and risk mitigation strategies.
- *Monitoring and Review* – to ensure that the details, rationale and assumptions supporting the net environmental benefit determination remain valid throughout the incident, and to identify when conditions change sufficiently so as to require adjustment or reconsideration of alternative response measures use.

❗ Importantly, just because an analysis concludes that using an alternative response measure is likely to result in a net environmental benefit doesn't mean that measure will be used. It only means a measure can be legally considered as part of a broader response to an incident.

Alternative response measures can address many challenges, but they're not the right fit for every situation.

The urgency of an incident creates many challenges, where the collection of information to support decisions may need to be actioned by a limited group of key response partners, including Indigenous representatives. To the greatest extent possible, doing a net environmental benefit analysis before an incident would allow more time for the necessary discussions and analysis to best inform a response. Within the offshore sector, spill-treating agents must be authorized through an approved contingency plan before they can be used for an incident. Such an approach works well when the activities either don't move or are restricted to the same path (e.g., pipelines). However, for marine vessels that are highly mobile, a regionally based net environmental benefit analysis approach may be more appropriate.

In all cases, net environmental benefit analyses developed before an incident would not be pre-approved use but may greatly help the ability to implement a rapid, informed response.

The Government of Canada is still considering guidance or requirements for net environmental benefit analysis to make sure these analyses are nationally consistent, but also flexible enough to reflect incident specific circumstances and community interests. As this work advances, the Government of Canada will engage with Indigenous peoples and interested stakeholders.

Responsibilities and authorities for alternative response measures implementation

Summary of feedback: There was an interest to better understand the proposed roles and responsibilities across jurisdictions and response partners. Comments further highlighted an interest to better understand the decision-making process for the use of alternative response measures and how it would work, as well as what information would be considered and by whom.

Our response: Several federal departments and agencies would be responsible for authorizing the use of alternative response measures, including:

- The Canadian Coast Guard, for oil spills from marine vessels, coastal oil handling facilities and marine oil spills of unknown origin;
- The Canada Energy Regulator, for spills from federally regulated pipelines; and,
- The Canada-Nova Scotia Offshore Energy Board, Canada-Newfoundland and Labrador Offshore Petroleum Board, and the Canada Energy Regulator for spills from offshore exploration and production operations.

Environment and Climate Change Canada would be able to authorize the use of alternative response measures in situations that are not already assigned to another government authority. In this way, they could provide a support role to federal, provincial and territorial response agencies by providing access to alternative response measures, such as for oil spills

from rail, trucks, or provincially regulated pipelines. In addition, Environment and Climate Change Canada would be responsible for assessing potential alternative response measures and developing regulations and technical guides to support their use.

While the possible legislative changes propose that specific federal departments or agencies would have the responsibility to authorize the use of an alternative response measure, they would rely on government and non-government experts, including Indigenous peoples such as to support the determination of net environmental benefit. In addition, provinces and territories may also need to consider any relevant legislation and regulations within their jurisdiction before an alternative response measure could be deployed.

The possible legislative changes would create a legal mechanism across federal laws to allow for the use of an alternative response measure and so responsibilities for authorizing the use of such measures are maintained as federal, or jointly managed by federal and provincial governments of the offshore petroleum exploration and production operations sector. The Government of Canada is supportive of working with the regulated response industry, emergency contractors, and Indigenous groups that are authorized and trained to deploy alternative response measures in response to oil spills in their community.

What alternative response measures will be eligible and their potential impacts

Summary of feedback: More information was sought on which alternative response measures are being considered, and their potential risks. In particular, a greater understanding of the science was identified as necessary, mostly related to dispersants and the ecological effects on the marine environment in general and in their particular areas of interest (e.g., cold water environments, freshwater, inland). Concerns were raised that using alternative response measures could have a socio-economic impact on fisheries.

Our response: The Government of Canada is considering four types or groups of alternative response measures:

- Spill-treating agents (products, including dispersants, that change how spilled oil behaves in the environment),
- Decanting (the process of separating water and oil after they're collected during booming and skimming),
- In-situ burning (removing spilled oil by igniting and burning it under controlled conditions), and
- Oil trans-location (the process of moving oil or oiled material from one location to another).

These are well established techniques commonly used in other countries.

The possible legislative changes propose that to be considered for use in spill response, an alternative response measure must first be listed in a regulation created by Environment and Climate Change Canada. Alternative response measures will be chosen from best-in-class, commercially available options with a track record of independent testing. Additional testing will be performed by Environment and Climate Change Canada to assess product effectiveness and toxicity to ensure that only the most effective products with the lowest toxicity are available. Such assessment will use testing methods established internationally, and by Environment and Climate Change Canada and industry, as appropriate to the specific product.

In addition, Environment and Climate Change Canada are developing technical guides to inform decision-makers on when alternative response measures could be considered, and how best they can be implemented to protect the environment and minimize risks.

Details and discussions on the specific alternative response measures products and techniques being considered, their uses, potential risks and approaches to mitigate those risks will be forthcoming as part of future engagement activities. References such as [*The Use of Dispersants in Marine Oil Spill Response*](#) from the National Academy of Sciences, Engineering and Medicine, 2020, as well as the collection of research generated through the [*Arctic and Marine Oilspill Program \(AMOP\) Technical Seminar on Environmental Contamination and Response*](#) or the [*International Oil Spill Conference*](#), provide an important foundation to understand the potential benefits and impacts from the use of alternative response measures.

Operational implementation of alternative response measures and ensuring compliance

Summary of feedback: Comments received expressed an interest to better understand how alternative response measures will be operationalized. There was interest in receiving more information on what implementation and oversight capabilities there would be to support the careful and appropriate use of alternative response measures and ensure compliance.

Our response: Alternative response measures would be additional tools for consideration, where these measures will be operationalized from within existing response authorities, structures and processes, such as:

- **The Incident Command System:** This is a common system for responding to incidents, ensuring collaborative decision-making across many response partners, and resolving differences of opinion towards a shared goal. The Incident Command System would also include systems for response planning and the monitoring of response actions.
- **Response authorities, such as to compel information:** Canadian law already has powers to force polluters to provide information on the type and amount of pollution,

and any other critical information that we would need to respond to a pollution incident.

- **Compliance and enforcement:** The Government of Canada would monitor the response to an oil spill to make sure it's dealt with and cleaned-up according to Canadian law. Anyone who does not comply with legislation and regulations would be subject to enforcement actions and could be issued a penalty.
- **Liability:** Canada's liability and compensation regime for oil spills is based on the polluter pays principle. This means that polluters are responsible for paying for the response, clean-up and damage caused by a spill.

The possible legislative changes would create additional requirements and safeguards, including an obligation to first determine a likely net environmental benefit and an incident specific authorization. The regulations that would be developed to list the alternative response measures may also include limitations for when and how a measure could be used. In addition, monitoring how alternative response measures are used and their effect on spilled oil and sensitive resources will be an important part of making sure that these measures are being used carefully and appropriately.

Many of the details for implementing alternative response measures will be the focus of future engagement.

Alternative response measures should not undermine investment in and use of conventional response measures

Summary of feedback: Concerns were raised that alternative response measures should not undermine the use of conventional response measures. It was suggested that even when alternative response measures are available, existing conventional measures should remain the primary response option to contain and recover oil and protect environmental resources. Comments also cautioned against suggesting alternative response measures as a “magic bullet” solution to pollution and there was concern that using alternative response measures may have a negative impact on the environment in ways that we don't yet fully understand.

Our response: Alternative response measures are not meant to replace conventional containment and recovery techniques but would be complementary. These measures would provide more tools and options that responders can use to reduce the impact of a spill and protect the environment.

When deciding how to respond to an incident, response agencies will determine which measures will have the best environmental outcomes. For most spills and particularly on larger ones, multiple response measures may be used. As much as possible, conventional techniques will be used to respond to a spill. However, in some cases, this may mean that an



alternative response measure will be used instead of a conventional technique. The response will make use of all tools available to best protect the environment and limit impacts from a spill.

Efforts to modernize response equipment across all sectors will ensure that response capacity remains current, is properly maintained through its lifecycle, and is in line with industry standards. The modernization of existing response equipment will continue to enable the effective and efficient use of conventional response measures to respond to oil spills. If the possible legislative changes to enable the use of alternative response measures are approved, their future use as additional response tools will be leveraged in addition to existing conventional response equipment.

Alternative Response Measures Framework must provide for continuous improvement of capabilities

Summary of feedback: Some comments noted that the decision-making tools and processes should be continuously improved based on past experiences and by working with local authorities and knowledge holders, including Indigenous peoples and government experts.

Our response: Continuous improvement is a foundational principle guiding the implementation of alternative response measures. For example, the development of net environmental benefit analyses depends on the best available knowledge, which can evolve over the course of an incident and over time. Emergency responders would also hold discussions following each spill incident to evaluate how the incident was managed and to identify any areas where improvements could be made.

In addition, the regulations that would list alternative response measures that may be used would be updated to include additional products, techniques and technologies over time and following rigorous research and testing. Potential regulatory updates would also include removing alternative response measures that do not meet expectations for responding to an oil spill and protecting the environment. Ongoing research, such as through the Multi-Partner Research Initiative and existing programs also helps the government continuously improve all parts of the Alternative Response Measures Framework.

Use of alternative response measures in non-marine environments and land-based spills

Summary of feedback: Some feedback noted that the information provided through the presentations and the Intentions Paper were generally focused on the coastal context. More



information on how alternative response measures could be used for land-based spills and spills into freshwater bodies was requested.

Our response: Many of the alternative response measures being contemplated would be appropriate for responding to spills in both fresh and coastal/salt water, including decanting, translocation, in-situ burning, and some spill treating agents such as shoreline cleaning agents. However, dispersants would not typically be considered because freshwater bodies are not sufficiently large, or spills are too close to shore to ensure their effective use. In addition, many of the current formulations of dispersants are tailored to saline/salt waters and would need to be assessed or reformulated for fresh water.

Of the current suite of alternative response measures being considered, perhaps only in-situ burning may be appropriate for spills on land where there is not a risk of oil entering water. In-situ burning is already an important part of the response toolbox for land-based spills and would only need an authorization, as enabled through the possible legislative changes, in cases where it may contravene important environmental protections, such as potential impacts to migratory birds.

However, regardless of the spill environment, an alternative response measure could only be used if it is determined that it will lead to a likely net environmental benefit. The determination will need to consider the benefits and limitations of each alternative response measure, including its suitability for use for fresh water or on land.

In addition, future regulations and operations will continue to take advantage of ongoing research and development, such as that conducted through the Multi-Partner Research Initiative and within federal capacities. These efforts will help to refine or identify new alternative response measures that may be appropriate for responding to oil spills across all types of environments.

Questions on the broader environmental response system

Summary of feedback: Comments also highlighted an interest to better understand Canada's environmental response system.

Our response: There are also many online resources available to answer general questions on Canada's oil spill response regime, including:

- [Transport Canada's National Oil Spill Preparedness and Response Regime](#)
- [Infographic: How Canada Responds to Ship-Source Oil Spills](#)
- [Canadian Coast Guard's Environmental Response](#)
- [Next Phase of the Oceans Protection Plan](#)
- [Canada Energy Regulator's Emergency Management](#)

- [Ship-source Oil Pollution Fund](#)
- [Canada - Newfoundland and Labrador Offshore Petroleum Board](#)
- [Canada-Nova Scotia Offshore Petroleum Board \(CNSOPB\)](#)

Alternative response measures would be implemented from within the existing environmental response systems.

Next steps

Through the Intentions Paper and engagement activities, the Government of Canada sought feedback on possible legislative changes to enable the future use of alternative response measures in Canada.

The Government of Canada will continue to analyze the feedback received through this engagement. Should the possible legislative changes be approved by Parliament, this feedback will help inform next steps in developing and engaging further on how alternative response measures may be implemented.

This would entail further engagement with Indigenous peoples, other levels of government, and interested stakeholders to shape future regulatory, operational and program activities. Such engagement will provide a focused opportunity to further explore and address many of the comments that were received during this engagement.

We hope that this Report accurately summarizes this initial phase of engagement, of what will be an ongoing conversation, to strengthen our shared knowledge and understanding so we can continue to explore your interests and comments we have received thus far.

