



Reference: 196323

*June 27, 2013*

Captain Gordon Houston  
Chair, Tanker Safety Expert Panel  
Tanker Safety Panel Secretariat  
330 Sparks Street, Place de Ville Tower C (AAM)  
Ottawa ON K1A 0N5

Dear Captain Houston:

The Government of British Columbia was pleased by the Government of Canada's March 18, 2013 announcement regarding the formation of your panel. The recommendations you make to the Minister of Transport, Infrastructure and Communities will hopefully set the stage for building on the marine oil spill preparedness and response regime so that it is world class for not only the west coast, but for all of Canada. We welcomed the opportunity to discuss this regime in person with your panel on June 5, 2013, and are now providing a written submission on behalf of the Ministry of Environment and the Ministry of Transportation and Infrastructure that contains an overview of some of the topics we believe your recommendations should include.

The topics we raise are broader than your more focused scope. In working towards a world-class regime it is our view that all four pillars of emergency response should be considered: (1) prevention/mitigation; (2) preparedness/planning; (3) response; and (4) recovery. Further, we believe that a world class regime must address all the risks from marine traffic, rather than emphasizing tankers only.

While the regime may have common elements across Canada, for it to be world class it should be specific to the risks and opportunities here in BC. For example, regarding governance, it is important to British Columbia that we work with the federal government to find opportunities to link efforts from our land-based spill review with those being considered for the marine environment. If it is possible that these two systems can align we may be able to avoid confusion for communities, responders, and industry while ensuring seamless spill management from land to sea.

Important topics that should be addressed in your recommendations include:

- ***Polluter Pays***

In British Columbia, we believe strongly that those who bring the risk should have the capacity and capability to ensure robust prevention, preparedness and response is in place; and, in the event of an incident, pay to ensure proper clean up and recovery takes place.

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- ***Vessel traffic***

Multi-stakeholder risk analyses should be undertaken and used to determine requirements for additional navigational aids, vessel traffic control and other spill prevention and preparedness measures. In order to do this effectively vessel traffic data must be catalogued, archived, and analysed on an ongoing and transparent basis with periodic updating of the risk assessments to capture changes over time.

- ***Geographic response plans***

A strategy is needed for the development of multi-stakeholder and government (federal, provincial, First Nation, and local) geographic response plans for British Columbia's coast. Plans should identify resources at risk and protection priorities; provide initial response tactics; outline spill response equipment, personnel and logistical requirements; and ensure that suitable capability and capacity exists nearby to ensure an effective response can be immediately launched in the event of a spill. Consistent formatting of these plans within British Columbia is important, as is ensuring they are housed centrally and made publicly available. These plans should be established for the entire coastline of British Columbia.

- ***Response planning standards and associated contingency plans***

The current 10,000 tonne response planning standard for Canada's west coast and associated response times should be strengthened to align with what is required in world-class jurisdictions, including in neighbouring jurisdictions Alaska and Washington State. Planning and performance standards should be based on risk analyses, and the criteria used to determine if they are being met should be clear to all. Last, the contingency plans used to meet planning standards should integrate aspects of geographic response plans, be available for public review and be rigorously tested (exercised).

- ***Equipment caches and inventories***

Geographic response plans and contingency plans should be linked with strategically located and appropriately stocked response caches to ensure effective and timely response. Equipment requirements should be established to ensure an appropriate capability and capacity to respond in all operating environments for the full range of substances being transported as cargo or used for propulsion. A comprehensive centralized inventory record should be established for British Columbia that is kept up-to-date, includes both public and private equipment resources, and is publicly accessible.

- ***Emergency towing***  
Based on the outcomes of a thorough risk assessment a process should be established to determine the appropriate number and location of dedicated rescue tugs and emergency towing packages for British Columbia's coastal waters.
- ***Personnel***  
Risk analyses should be used to determine and ensure the required number of trained responders with the appropriate level of expertise is available to respond at all times in the event of an incident. Use of non-dedicated spill responders (example contractors, fishers, etc.) should be thoroughly assessed and planned to ensure that the availability of these types of responders at the time of an incident does not jeopardize a timely and effective response.
- ***Incident Command System***  
Additional details regarding the federal government's formal shift to the Incident Command System and the use of Unified Command are needed to ensure effective multi-agency coordination and management of marine spills. Once complete, ongoing joint training and exercises under this system between industry, regulators, trained responders, First Nations and local communities, and other key stakeholders will be critical.
- ***Federal leadership***  
A consistent and predictable approach to spill management at the federal level could be arrived at by designating one federal agency as the lead for all hazardous material spills. The federal government should also clearly delineate the roles and responsibilities of the lead federal agency and all potential supporting federal agencies. This process works well in British Columbia, where the Ministry of Environment is the lead provincial agency for all spills based on its environmental expertise, tying in other provincial agencies as required based on the spill source and incident specific factors.
- ***Recovery and restoration process***  
Canada's west coast requires a formal process to hold the Responsible Party accountable for identifying, prioritizing, developing, implementing and monitoring restoration projects to restore damage to wildlife and habitat following a spill. Loss of public access and use of Crown lands during and following a spill incident also need to be accounted for in the regime. The federal government should work with the Province to develop a harmonized approach to natural resource damage assessment and restoration that provides opportunities for engagement by local governments, First Nations and key stakeholders.

- ***Liability coverage***  
There is a need to reassess liability limits to ensure they reflect the full range of potential incident costs including salvage and recovery of debris so that impacts to Canadian governments, local governments and individuals are minimized. The federal government should clarify how any costs that exceed existing or future limits of liability will be addressed by the government of Canada so these costs are not borne by other levels of government.
- ***Continuous Improvement of Response Protocol***  
Generally, over time technologies and best practices improve; this is no different for spill prevention, preparedness, response and recovery. It is critical that for a regime to be world-class it consider how it can be continuously updated to perform as effectively as possible. One important example for the marine environment is to actively review and determine if pre-approvals can be granted for the use of certain response techniques in limited circumstances (for example, in-situ burning or the use of dispersants). It is essential that responders have ready access to all the available tools that could help mitigate environmental impacts following an incident.

As you know, we had requested a longer extension to the deadline for written submissions to allow us to complete our comprehensive assessment of what it would take to achieve a world-class regime on the west coast. This overview of topics should not be considered an exhaustive list. It represents some of the elements that form part of a world-class marine spill prevention, preparedness, response and recovery regime. Once we are in receipt of these final reports we feel that we will be in an even better position to have these types of conversations with federal government agencies.

We are confident that this will be an ongoing dialogue between our governments, where we work together in an open and coordinated manner to ensure that we have a world-class marine regime. Like the federal government, the Province is supportive of building upon the existing regime where the costs are borne by those who create the risk, as well as one that recognizes both the importance of marine vessel traffic to the British Columbian and Canadian economies and the need to continue to protect the west coast's pristine marine environment.

We look forward to continuing to work on this important issue with the Tanker Safety Expert Panel as well as all the relevant federal government agencies.

Sincerely,



W.H. (Wes) SHOEMAKER  
Deputy Minister  
Ministry of Environment