



File 4689957

21 June 2024

**To: All Companies under Canada Energy Regulator Jurisdiction**

## **Industry Best Practices for Involvement of Indigenous Nations and Communities in Emergency Management**

The Canada Energy Regulator is issuing the attached best practices to support the involvement of First Nations, Métis and Inuit communities in emergency management (Appendix A). The CER recognizes the important role of Indigenous Nations and communities in emergency management to improve safety for their members, and to mitigate potential impacts on the environment and sites of significance to Indigenous Peoples. The best practices should be implemented in conjunction with the [“Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-Reportable Incidents”](#).

### **Background – What We Heard**

The CER developed the best practices in response to what it has heard from Indigenous Peoples across Canada while carrying out its regulatory mandate. The best practices address recommendations from the Enbridge Line 3 Indigenous Advisory and Monitoring Committee (IAMC) report titled [“Line 3 IAMC Summary Report: Issues and Recommendations”](#) and follows-up on the commitments made in the CER’s 14 May 2021 response. The report also included supplementary advice provided by the Manitoba Métis Federation. The CER also considered feedback arising from hearings, compliance oversight activities, work with the Enbridge Line 3 and Trans Mountain Expansion Project IAMCs and Indigenous monitors, and the first phase of engagement on the [Canadian Energy Regulator Onshore Pipeline Regulations](#) (OPR) Review. The CER sought input from the Enbridge Line 3 and Trans Mountain Expansion Project IAMCs, and regulated companies on a draft of the best practices.

### **The Existing Regulatory Framework**

Companies must consider Emergency Management Programs and emergency response plans at the application stage (as per the Filing Manual) and throughout the lifecycle of a project. Sections 32 to 35 of the OPR requires a company to implement an Emergency Management Program and develop an Emergency Procedures Manual. A company’s Emergency Management program should also include the management system processes in [section 6.5](#) of the OPR. Under Order [AO-001-MO-006-2016](#) and Order [AO-001-MO-002-2017](#), companies must publish Emergency Procedures Manuals and Emergency Management Program information online so that it is publicly accessible. Furthermore, the CER enforces the polluter pays principle under the *Canadian Energy Regulator Act*, which protects the public and Indigenous peoples from having to pay for clean-up of any potential pipeline spill. For additional information, see the CER’s [Fact Sheet highlighting Emergency Management and the Polluter Pay Principle](#).

.../2

The best practices are intended to complement existing legislation and regulatory requirements relating to emergency management. The existing legislation does not explicitly reference the involvement of Indigenous communities in emergency management. [Annex A](#) of the Guidance Notes for the OPR state that companies must establish and maintain a close working relationship with agencies that may be involved in an emergency response on a pipeline, which could include Indigenous Nations and communities.

### **CER's Commitment to Reconciliation**

The CER is committed to advancing Reconciliation and has developed a [Statement on Reconciliation](#). The CER recognizes that the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) provides a framework for advancing Reconciliation with Indigenous Peoples within its mandate.<sup>1</sup> The [United Nations Declaration on the Rights of Indigenous Peoples Act](#) guides the implementation of the UN Declaration and is supported by the UN Declaration Act [Action Plan](#). The Action Plan includes Action Plan Measure 34, which was co-developed by the Indigenous Caucus of the IAMC for the Trans Mountain Expansion Project, Natural Resources Canada, and the CER. The Action Plan Measure calls for First Nations, Métis and Inuit communities, governments, and organizations to work in consultation and cooperation to (i) enhance the participation of Indigenous Peoples in; and (ii) set the measures that could enable them to exercise federal regulatory authority in respect of, projects and matters that are currently regulated by the CER.

The best practices advance Reconciliation with Indigenous Peoples, providing a further opportunity for the CER, regulated companies, and First Nations, Métis and Inuit communities to foster stronger relationships in the area of emergency management.

The CER expects its regulated companies to begin implementing these best practices as soon as practicable. The CER's intent is to incorporate these best practices into its regulatory framework as part of the OPR Review.

If you have questions or would like to provide feedback on these best practices, please contact the CER at 1-800-899-1265 or email [buops.ems-gmus@cer-rec.gc.ca](mailto:buops.ems-gmus@cer-rec.gc.ca). Feedback on the best practices can also be provided through the [OPR Review](#).

Best regards,

*Signed by*

Tracy Sletto  
Chief Executive Officer

.../3

c.c. Richard Aisaican, Co-Chair, Enbridge Line 3 Indigenous Advisory and Monitoring Committee  
[richard@iamc-line3.com](mailto:richard@iamc-line3.com)  
Anita Kuipers, Co-Chair, Enbridge Line 3 Indigenous Advisory and Monitoring Committee  
[nrcan.line3committee-comitecanalisation3.rncan@canada.ca](mailto:nrcan.line3committee-comitecanalisation3.rncan@canada.ca)

---

<sup>1</sup> Reconciliation and Implementing the UN Declaration is one of the CER's four interconnected Strategic Priorities within its 2024-2027 [Strategic Plan](#).

Ray Cardinal, Co-Chair, Trans Mountain Expansion Indigenous Advisory and Monitoring Committee [alberta1@iamc-tmx.com](mailto:alberta1@iamc-tmx.com)

Joanne Perereira-Ekstrom, Co-Chair, Trans Mountain Expansion Indigenous Advisory and Monitoring Committee [nrcan@iamc-tmx.com](mailto:nrcan@iamc-tmx.com)

David Chartrand, President, Manitoba Métis Federation [dchartrand@mmf.mb.ca](mailto:dchartrand@mmf.mb.ca)

Michael Vandergrift, Deputy Minister, Natural Resources Canada  
[michael.vandergrift@nrcan-rncan.gc.ca](mailto:michael.vandergrift@nrcan-rncan.gc.ca)

Enclosure

## Appendix A:

### Best Practices for Involvement of Indigenous Nations and Communities in Emergency Management

Companies should:

1. Determine which potentially impacted Indigenous Nations and communities to engage with in implementing the best practices and document the underlying rationale. This should be informed by:
  - a. The contact lists developed and maintained under the "[Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-Reportable Incidents.](#)"
  - b. A distinctions-based approach reflecting the distinct rights, interests and circumstances of First Nations, Métis and Inuit Peoples.
  - c. An assessment of the potential impact on Indigenous Nations, communities, and traditional territories by an emergency involving CER-regulated facilities.
  - d. The level of interest expressed by Nations and communities in ongoing involvement in the company's Emergency Management Program.

Review periodically to confirm that those engaged remain interested and check for any additional potentially impacted Indigenous Nations and communities who wish to be involved.
2. Engage with potentially impacted Indigenous Nations and communities to determine the types, format, and frequency of emergency management information they prefer to receive.
3. Engage with potentially impacted Indigenous Nations and communities to determine their capacity to participate in a pipeline emergency response, and the various roles and functions they are interested in being involved in.
4. Identify opportunities for participation in company emergency response training and exercises, and other direct involvement in emergency management related to the roles and functions Indigenous communities have expressed an interest in (e.g., Indigenous representative in Unified Command, Liaison, or the Environment Unit, within the Incident Command System).
5. Address within their Emergency Management Program, potential impacts on Indigenous Nations and communities including impacts to safety and protection of traditional, cultural, and heritage resources during pipeline emergencies.
6. Consider Indigenous Knowledge within their Emergency Management Program. Indigenous knowledge may be shared at the discretion of Indigenous Nations and communities through various sources. This includes direct communications and meetings with the company, information from representatives with a role in emergency response, or traditional land use studies. Companies must protect the confidentiality of Indigenous Knowledge if desired by the community.
7. Incorporate within their Emergency Management Program lessons learned from past incidents, emergencies, and exercises regarding the involvement of, and potential impacts on, Indigenous Nations and communities.
8. Discuss with potentially impacted Indigenous Nations and communities how a company's Emergency Management Program can support and align with a community's emergency response plans, including priorities for preparedness and response.