

October 5, 2018

Transport Canada  
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Email: TC.OPPLegis-LegisPPO.TC@tc.gc.ca

To Whom It May Concern:

**Re: Response to Transport Canada Discussion Paper “Potential Legislative Amendments to Strengthen Marine Environmental Protection and Response”**

Thank you for the opportunity to provide feedback on potential legislative amendments related to marine environmental protection and response under Canada’s Ocean Protection Plan.

The Canadian Association of Petroleum Producers (CAPP) represents companies, large and small, that explore for, develop and produce natural gas and oil throughout Canada. CAPP’s member companies produce about 80 per cent of Canada’s natural gas and oil. CAPP’s membership is comprised of companies involved in both onshore and offshore production. Although CAPP’s focus is primarily on the upstream side of the industry, some of our members are also owners of transshipment facilities and oil tankers, and many offshore operators contract tankers to transport their products. The Oceans Protection Plan and related legislative amendments is therefore important to CAPP and its members.

CAPP recognizes the Ocean Protection Plan is focused on building a world-leading marine safety system that will protect the marine environment and coastal communities from the potential impacts of shipping and navigation. CAPP supports this goal and believes that continuous improvement in environmental response capability is fundamental to ocean protection.

Before detailing specific comments on the Discussion Paper, CAPP would like to reinforce the importance of prevention of environmental incidents. Prevention is the primary focus of oil and gas companies operating in Canada’s offshore, and this focus extends to activities such as selecting contractors involved in transporting its products to transshipment facilities and/or to markets. Contractors must adhere to strict environment and safety practices defined by offshore operators, the Canada Shipping Act and International Maritime Organization. Canada’s offshore operators use experienced, credible companies that specialize in crude transport. Operators apply a vessel vetting process that evaluates and approves the use of tankers based on industry standards developed by the Oil Companies International Marine Forum and its Ship Inspection Report Programme.

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That being said, it is also important to be prepared to respond effectively in the event of an emergency, as is detailed below in CAPP's specific comments in response to the Discussion Paper questions outlined in sections 4.3 and 6.0.

#### **Section 4.3 Support more effective response to oil spills in water: Alternative Response Measures**

*Q1: From your perspective, what are the potential implications and impacts of allowing the federally-regulated use of Alternative Response Measures to clean up oil spills?*

The Discussion Paper outlines the importance of alternative response measures that can be used alongside conventional containment and recovery techniques to enhance the effectiveness of response. Such measures include burning the spilled oil off the surface of the water (in situ burning) and using products such as spill-treating agents. The Discussion Paper also notes that scientific research has found alternative response measures to be effective tools for cleaning up oil spills, and are currently being successfully used in other countries to respond to marine oil spills.

CAPP strongly agrees that increasing access to a broader range of response tools would enable those responding to an oil spill to provide a more effective response. Worldwide, research and experience has shown that response efforts should be tailored appropriately and appropriate response tools should be chosen based on the specific characteristics of a spill. Legislative amendments that allow the use of alternative response measures as additional tools to respond to oil spills are therefore strongly supported by CAPP.

With regard to the use of spill treating agents, CAPP supports potential legislative changes in this area as dispersants are considered an effective response option in the global oil and gas industry. The Government of Canada developed Regulations Establishing a List of Spill-treating Agents under the Canada Oil and Gas Operations Act, the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act and the Canada-Nova Scotia Atlantic Accord Implementation Act that came into force in 2016. Those regulations allow for the use of two specific types of dispersant in Canadian waters if there is a net environmental benefit. CAPP's submission during Gazette 1 of these regulations noted that while approval of these two types of dispersant is strongly supported by industry, the Government of Canada should also consider adding additional dispersants and other types of spill treating agents, including herders, to the list of approved spill treating agents in Canada. CAPP stands by this recommendation today and would offer the same suggestion to Transport Canada, as limiting the options to just one or two types of dispersant can result in available stockpiles of these products being exhausted, compromising the response to some oil spill scenarios.

With regard to other alternative response measures, CAPP strongly supports legislative amendments that would allow other response options to be used, including in situ burning (ISB). The use of ISB has been part of the response toolkit in the global offshore industry since the late 1960s when it was used in the United Kingdom. More recently ISB proved to be an important component of the response efforts employed during the Deep Water Horizon incident in the Gulf of Mexico. As with any response tool, responders must consider operational conditions before conducting ISB including the location of the spill, the type and thickness of the oil, the level of emulsification and weathering, as well as the states of the weather and the sea. Research indicates that this technique may prove especially valuable as a response option for both oil spilled on and under sea ice. Again, providing responders with a variety of response options is the best way to ensure an effective response.

CAPP notes that legislative amendments will allow the same range of Alternative Response Measures to be used to respond to oil spills from ships, oil handling facilities, pipelines, and offshore drilling platforms. CAPP is supportive of these amendments supposing the goal is to broaden the number of response tools available regardless of where the oil is spilled. The discussion paper also notes that allowing the use of alternative response options is contingent on a determination by the Minister of Fisheries and Oceans Canada that there is a net environmental benefit in doing so. CAPP cautions that some response options are most effective quickly after the oil has been spilled. As the Government of Canada considers potential legislative amendments, CAPP recommends that consideration should therefore be given to ensuring a prompt and efficient decision making process.

## **6.0 Support Research and Innovation**

*Q2: From your perspective, what are the potential implications and impacts of enabling the Government of Canada to permit research and testing in Canada's waters for the purposes of enhancing marine safety and environmental project?*

The Government of Canada is considering legislative amendments to enable the Minister of Environment and Climate Change to authorize the research and testing of substances, techniques, equipment and related processes and procedures for the purpose of enhancing scientific knowledge to support environmental emergency policy making and operational decision making. The Government of Canada is also considering legislative amendments to enable the Minister of Transport to provide time-limited exemptions from regulatory requirements and standards for the purpose of promoting innovation in, for example, vessel design, systems and on-board equipment to enhance marine safety and environmental protection.

CAPP and our members are committed to continuous improvement in all operational areas. Providing the appropriate conditions to enable valid research, development and innovation is fundamental to continuous improvement and will help ensure that Canada's marine safety and environmental protection regime remains fit for purpose and can adapt as needed as scientific knowledge evolves.

**Conclusion**

In conclusion, CAPP is generally supportive of the potential amendments noted above and looks forward to providing more comprehensive feedback as the Government of Canada moves forward with any potential legislative amendments.

Thank you sincerely for the opportunity to provide feedback as part of this process. If you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "R. Paul Barnes". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

R. Paul Barnes  
Director, Atlantic Canada & Arctic