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## NEWS RELEASE

For Immediate Release

Ministry of Environment and Climate Change Strategy

2018ENV0003-000115

Jan. 30, 2018

### **Additional measures being developed to protect B.C.'s environment from spills**

VICTORIA – The provincial government is proposing a second phase of regulations to improve preparedness, response and recovery from potential spills.

The first phase of the regulations, approved in October 2017, established a standard of preparedness, response and recovery necessary to protect B.C.'s environment. With some exceptions for B.C. oil and gas regulated entities, the phase-one regulations apply to pipelines transporting any quantity of liquid petroleum products, and rail or trucking operations transporting over 10,000 litres of liquid petroleum products.

For the second phase, the province will be looking for feedback in five areas:

- Response times, to ensure timely responses following a spill;
- Geographic response plans, to ensure resources are available to support an immediate response that take into account unique characteristics of a given sensitive area;
- Compensation for loss of public and cultural use of land, resources or public amenities in the case of spills;
- Maximizing application of regulations to marine spills; and
- Restrictions on the increase of diluted bitumen ("dilbit") transportation until the behaviour of spilled bitumen can be better understood and there is certainty regarding the ability to adequately mitigate spills.

"The people of B.C. need to know that there is effective spill management across the province and, in particular, for our most environmentally sensitive areas, including coastlines," said George Heyman, Minister of Environment and Climate Change Strategy. "We believe spills should not happen. But if hazardous pollutants have potential to spill, our government will ensure that spillers must be prepared and able to fully mitigate the environmental damage before they proceed."

An independent scientific advisory panel will be established to make recommendations to the Minister of Environment and Climate Change Strategy on if and how heavy oils can be safely transported and cleaned up, if spilled.

"The potential for a diluted bitumen spill already poses significant risk to our inland and coastal environment and the thousands of existing tourism and marine harvesting jobs," Heyman said. "British Columbians rightfully expect their government to defend B.C.'s coastline and our inland waterways, and the economic and environmental interests that are so important to the people in our province, and we are working hard to do just that."

The process to receive feedback on the proposed regulations will feature engagement with First Nations, to begin as soon as possible. To ensure the views of the broad range of

stakeholders are heard, government will meet with industry, local governments and environmental groups over the coming weeks and months.

As well, the general public will be able to provide input online through written comments, once an intentions paper is released. The intentions paper will provide an overview of the proposed regulations, and is expected to be posted before the end of February 2018.

A backgrounder follows.

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## BACKGROUND

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Ministry of Environment and Climate Change Strategy

### **Proposed regulations under the Environmental Management Act**

The following are proposed regulations under the Environmental Management Act (EMA) to improve liquid petroleum spill response and recovery:

#### **1. Response times**

Response times are the established timeframes within which response resources will be activated and arrive at a spill site. Currently, the Ministry of Environment and Climate Change Strategy does not regulate in this area. Establishing response-time requirements would align with practices of other regulators, and those in neighbouring jurisdictions.

#### **2. Geographic response plans**

Geographic response plans (GRPs) identify sensitive, natural, cultural, or significant economic resources at risk from spills. They outline the response actions that are appropriate for that site to minimize impacts to these resources, should a spill occur. GRPs are map-based, and each one has a variety of information that is useful to responders, particularly in the first 48 to 72 hours of a response.

#### **3. Loss of public use**

Loss of public use refers to the requirement that spillers provide some form of restitution for the impacts of spills on the use and/or enjoyment of public spaces and resources. These include the use of beaches, parks and forests, the enjoyment of wildlife, wilderness spaces, food resources, recreation and drinking water, as well as the intrinsic value of archaeological and cultural sites.

#### **4. Marine application**

The Province seeks to broaden existing ministry authority to ensure provincial interests are fully addressed in marine spill prevention, preparedness, response and recovery. While the primary responsibility for marine spills lies with federal agencies, a spill of any significance will impact and involve all orders of government. The provincial government has a responsibility to ensure there is a regulatory framework in place that protects its coastal resources.

#### **5. Diluted bitumen transportation restrictions**

The Province will create an independent scientific advisory panel to help address the scientific uncertainties outlined in the report, The Royal Society of Canada Expert Panel: The Behaviour and Environmental Impacts of Crude Oil Released into Aqueous Environments. The recommendations of the advisory panel will inform future regulatory development and

approaches to spill response.

In order to protect B.C.'s environmental and economic interests while the advisory panel is proceeding, the Province is proposing regulatory restrictions to be placed on the increase of diluted bitumen ("dilbit") transportation.

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## QUESTIONS AND ANSWERS

**Phase 2 Spills Regulations under the Environmental Management Act**  
Ministry of Environment and Climate Change Strategy  
February 2018

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### KEY MESSAGES:

- The people of BC need to know there is an effective spill management across the province, and in particular for sensitive environments, including coastlines.
- A second phase of regulations is proposed to build on the 2017 improvements and ensure we continue to strengthen spill management in B.C.
- The contemplated regulations would require spill response to occur in a timely fashion, ensure appropriate responses tailored to specific geography, require compensation for community impacts ensure provincial interests are protected in the event of marine spills and restrict increased transportation of diluted bitumen until the behaviour of spilled bitumen can be better understood and there is certainty regarding the ability to adequately mitigate spills.
- This is the latest step in a more robust spill response framework.
- The potential for a diluted bitumen spill already poses significant risk to our environment, particularly sensitive rivers, lakes, wetlands and coastlines, as well as the thousands of existing tourism and marine harvesting jobs.
- We're seeking feedback around placing a prohibition on any increase in the bulk transportation of heavy oil by rail and pipeline until we are satisfied these products can be safely cleaned up.
- We are convening an independent scientific advisory panel to make recommendations on how heavy oils can be safely transported and cleaned up if spilled.
- British Columbians rightfully expect their government to defend B.C.'s vulnerable areas and the economic and environmental interests that are so important to the people in our province.

### Questions and Answers:

1. **Are these regulations aimed at stopping the Kinder Morgan pipeline?**
  - The government is committed to protecting our vulnerable areas, including coastlines as well as our land environment.
  - These regulations, as well as our concern for the impacts of the Kinder Morgan project, derive from our commitment to strengthen provisions to protect the environment and human health.
  - Any project such as the proposed Kinder Morgan pipeline would be required to comply with these regulations.

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## QUESTIONS AND ANSWERS

2. **Are you not concerned Kinder Morgan will challenge this in court?**
  - We don't want to speculate what the company may or may not do.
  - Our job is to protect our vulnerable areas, including coastlines, and defend the interests of British Columbians, and that is what we're doing.
  - Part of the process is to hear directly from First Nations, stakeholders, and the general public about this proposed regulation.
3. **What gives you the legal authority to propose not allowing an increase in bulk shipments of bitumen?**
  - The Environmental Management Act provides this authority.
4. **How long would a potential prohibition last?**
  - The proposed prohibition against an increase in transportation of heavy oil by pipeline and rail would be in place while the Independent panel completes its work.
  - A potential prohibition could be lifted once government is satisfied that heavy oils can be safely transported and cleaned up.
5. **Reports suggest there have been advances in converting dilbit to solid form, including pellets. Would the proposed regulation apply to that type of product?**
  - The proposed regulation would only apply to heavy oil in spillable (liquid) forms. Solid forms of dilbit will not be included at this time.
6. **Are you confident the Advisory Committee will find solutions around recovering bitumen? What if they don't?**
  - Credible reports such as the report of the Royal Society of Canada Expert Panel on the Behaviour and Environmental Impacts of Crude Oil Released into Aqueous Environment (RSC Panel Report) in fall 2015 have concluded that the science is lacking or highly uncertain regarding the behavior, fate, and effects of diluted bitumen in certain conditions.
  - This made-in-B.C. advisory committee will study the behavior of bitumen under the conditions that would exist on B.C.'s coast and in rivers, watercourses, and wetlands.
  - We are confident that within two years the committee could provide findings based on scientific research applicable to B.C.
  - These recommendations would be the basis for further spills regulations to ensure adequate environmental protections are in place with respect to diluted bitumen.
  - A potential prohibition would be repealed once those measures were in place.
7. **Isn't the federal government/NEB already studying bitumen and ways to effectively address a spill? Isn't this new committee redundant?**
  - The new committee will study behaviour of bitumen in conditions that are specific to B.C.'s coast and in rivers, watercourses, and wetlands.
  - The federal and provincial work should complement one another and provide for a better understanding of the behaviour of bitumen a variety of environments.
  - The advisory committee will consider all relevant information, including the work of the federal government.

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## QUESTIONS AND ANSWERS

### 8. What other regulations are being proposed?

- For Phase 2, the province will also be looking for feedback in four other areas:
  1. Response times, to ensure timely responses following a spill;
  2. Geographic response plans, to ensure resources are available to support an immediate response that take into account unique characteristics of a given sensitive area;
  3. Compensation for community impacts in the case of spills;
  4. Maximizing application of regulations to marine spills.

### 9. Who will be consulted?

- We will consult with First Nations as well as industry, local governments and other stakeholders.
- Additionally, an intentions paper will be posted for public comment.

### 10. How will government be consulting on these proposals?

- We will have several dedicated regional sessions around B.C. to facilitate First Nations input and engagement.
- We will provide a web function where the public can provide input for consideration.
- Where specific input is required on a particular topic, the ministry may establish short-term working groups comprised of invited representatives.

### 11. When do you expect these regulations would come into effect?

- Its expected Phase 2 regulations would come into effect in 2019.

### 12. Who would pay the costs to comply with these regulations?

- Regulated persons - the people and companies who transport potentially hazardous products - bear the responsibilities prior to a spill under these proposed regulations.
- Once a spill occurs, all Responsible Persons – the spillers and owners- are responsible for complying with regulations for all post spill response and recovery actions.
- The spill response regulations follow the “polluter pays” principle adopted by the B.C. government, the federal government, and other jurisdictions.

### 13. Will these regulations apply to the marine environment?

- The B.C. government will continue to develop a robust spill prevention, response and recovery program that improves spill response and recovery, and complements the federal marine spill regime to protect our coastal waters.
- The contingency planning elements do not apply to marine shippers, and marine shippers will not be Regulated Persons under the provincial regulations.
- However, aspects of the regulations such as recovery plans and lessons learned reports can be applied in marine spills.
- While the federal government is the lead for ship source spills, the Province typically supports spill response actions in order to protect provincial interests, such as shoreline impacts and wildlife.
- The new regulations help support marine spill response through enhanced response and recovery provisions.
- In November 2016, the federal government released their \$1.5 billion Oceans Protection Plan.

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## QUESTIONS AND ANSWERS

- As part of the federal plan, B.C. will also see enhanced resources for the Coast Guard along the entire coast including new rescue stations, increased tug capacity (two tugs for B.C.) and new communications equipment.

**14. Won't these regulations lead to increased costs, more red tape, and therefore decreased investment and job creation?**

- These regulations are about ensuring good decision making and proper oversight. There is no intent to hold up sustainable economic development.
- The regulations are intended to protect and uphold public trust while ensuring the environment and human health are protected.

**15. Why are only petroleum products covered: why not other potentially hazardous substances?**

- Liquid hydrocarbons represent the bulk of spill volume in British Columbia, and given the characteristics of liquid hydrocarbons (mobility, impact on environment) they are the top priority for the updated spills regulations.

**16. The initial legislation was passed by the former government, who were previously characterized as "inadequate caretakers of the environment." Isn't this a rubber stamp on their work?**

- These regulations do activate the broad legislation, passed in 2016, that was supported by both sides of the House.
- It is in the regulations where the government's commitment to a robust spill response mechanism is made clear.
- With the initial regulations announced in October I directed the Ministry to alter some of the provisions that were previously communicated in the Ministry's 2017 Policy Paper:
- For instance, under those regulations, the Minister reports to the legislature every year, rather than every 2 years.
- Many of those regulations will come into effect sooner than originally planned under the previous administration (e.g. an initial 6 month deadline for rail and pipe contingency plans – though a 6 month extension is available)
- The Phase 2 regulations continue to advance a robust spills regime that British Columbians want and deserve.

**17. National Energy Board recently took action to prevent Burnaby from slowing down construction with permits? Do you expect the NEB to take similar actions against the province?**

- We don't want to speculate what the NEB may or may not do.
- Our job is to protect our vulnerable areas, including coastlines, and defend the interests of British Columbians, and that is what we're doing.



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## QUESTIONS AND ANSWERS

### **18. How much heavy oil is currently being moved across B.C. by various means?**

- Part of the process of consulting on this regulation will be to refine and assess the data available on existing volumes being transported by rail and pipe in BC, so that we can limit any increases until we have determined whether this product can be transported safely and cleaned up effectively if spilled. For some context on volumes though:
  - We know that there were about 4,300 train car loads of heavier oils exported to the US, through BC in 2016. That's over 3 million barrels. Not all of that is dilbit, but much of it is.
  - By pipe, the Transmountain Pipeline transports approximately 17 million barrels of heavy oil per year. Once the Transmountain Pipeline is expanded, it will transport approximately 197 million barrels per year of heavy oil.
  - There are also other proposed projects that are proposing substantial increases in dilbit transportation. For example, the proposed Pacific Future Energy Refinery (north of Kitimat) and the Kitimat Clean project would both substantially increase heavy oil by rail shipments though both are in the early stages of the EAO process.
  - With respect to trucking, there were no recorded shipments of heavy crude oil imported or exported through BC by road in 2015/2016. Further data on heavy oil shipments by truck are not available.

### **19. Is B.C. still on track for developing and implementing a world-leading spill response regime?**

- Yes, the proposed regulations as well as those approved in October are another step in that direction.

**The Royal Society of Canada Expert Panel:**

**The Behaviour and Environmental Impacts of Crude Oil Released into Aqueous Environments  
November 2015**

- A panel of leading experts on oil chemistry, behaviour and toxicity reviewed the current science relevant to potential oil spills into Canadian marine waters, lakes, waterways and wetlands.
- The review, which examined spill impacts and oil spill responses for the full spectrum of crude oil types (including bitumen, diluted bitumen and other unconventional oils), is among the most comprehensive of its kind.
- It surveyed scientific literature, key reports and selected oil spill case studies, including tanker spills, an ocean rig blowout, pipeline spills and train derailments.
- The Panel also consulted industry, government and environmental stakeholders across the country.
- Despite the importance of oil type, the Panel concluded that the overall impact of an oil spill, including the effectiveness of an oil spill response, depends mainly on the environment and conditions (weather, waves, etc.) where the spill takes place and the time lost before remedial operations.
- The Panel recommends that this critical research should concentrate on seven general high-priority research needs:
  1. Better understand the environmental impact of spilled crude oil in high-risk and poorly understood areas, such as Arctic waters, the deep ocean and shores or inland rivers and wetlands.
  2. Increase the understanding of effects of oil spills on aquatic life and wildlife at the population, community and ecosystem levels.
  3. Develop an understanding of the environmental and ecological characteristics of areas that may be affected by oil spills in the future and to identify any unique sensitivity to oil effects.
  4. Better understand spill behaviour and effects across a spectrum of crude oil types in different ecosystems and conditions.
  5. Investigate the efficacy of spill responses.
  6. Improve spill prevention and develop/apply response decision support systems to ensure sound response decisions and effectiveness.
  7. Update and refine risk assessment protocols for oil spills in Canada.