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States/British Columbia  
Oil Spill Task Force

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Mutual Aid Agreement

For the:

State of Alaska

Province of British Columbia

State of Washington

State of California

**States/British Columbia Oil Spill Task Force  
Mutual Aid Agreement and Statement of Authority**

The West Coast States and British Columbia are committed to assuring a best achievable response to oil spills in our coastal and inland waters. In order to further this goal, it may be necessary to rapidly move spill response resources from one jurisdiction to another during spill events. Therefore, the following Task Force member agencies agree to:

1. Implement the attached mutual aid policy with the intent of maximizing the availability of private and public sector response resources during oil spills where assistance is requested by another Member;
2. Maintain relative equivalency between Members' approaches to mutual aid, to assure effective reciprocity; and
3. Keep other Task Force Members apprised of policy and procedural changes affecting this Mutual Aid Agreement.

This agreement is adopted pursuant to, and follows the intent of, the *Oil Spill Memorandum of Cooperation of 1989* and is adopted by the States/British Columbia Oil Spill Task Force as represented by the following Members:

State of Alaska  
Gene Burden   
Alaska Department of Environmental Conservation

Date 1/22/86

  
Province of British Columbia  
Thomas Gunton  
BC Ministry of Environment, Lands and Parks

96.01.10  
Date

(Continued Next Page)

(Statement of Authority, continued:)

*Pete Bontadelli*

State of California  
Pete Bontadelli  
Office of Spill Prevention and Response

*Jan 11, 1996*

Date

*Mary Riveland*

State of Washington  
Mary Riveland  
Department of Ecology

*1/3/96*

Date

*Barbara Herman*

State of Washington  
Barbara Herman  
Office of Marine Safety

*1/3/96*

Date

*Langdon Marsh*

State of Oregon  
Langdon Marsh, Director  
Department of Environmental Quality

Date *12/20/96*



**States/British Columbia Oil Spill Task Force  
Mutual Aid Agreement**

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**States/British Columbia Oil Spill Task Force  
Mutual Aid Agreement**

**SECTION 1.0 - PURPOSE, SCOPE, AND BACKGROUND**

**1.1 Purpose**

The purpose of the policies and procedures established in this Agreement is to set specified conditions whereby certain contingency plan holders may be allowed to meet temporarily reduced response standards in order that their response equipment may be available for mutual aid. This agreement thereby assures that most of the spill response equipment on the West Coast will be available to respond rapidly in the event of a major spill.

**1.2 Background**

The Task Force adopted a Mutual Aid Plan in July 1993, in which the members agreed to expedite all decisions relating to mutual aid requests among members. Under this Plan, mutual aid requests by Task Force members can result in assistance ranging from technical assistance and sample analysis to extensive cross-boundary deployment of state/provincial personnel and equipment. However, the plan was limited to reciprocal efforts by the Task Force member agencies and did not affect private sector response resources.

The West Coast states and the Canadian and United States Coast Guards set response standards for spill response plan holders and require that the contingency plan holders prepare plans to implement these standards. During some spills, it may be necessary to expedite the transfer of additional response capabilities which are only available through private contractors. Many of these contractors have signed commitments with facility and/or vessel plan holders which, if released, could place the plan holder out of compliance with their federal and state approved spill contingency (response) plans. This situation could result in delays in the "cascading" of response equipment and personnel.

At the time of the adoption of the 1993 Mutual Aid Plan, it was recognized that in order to cascade response resources into other jurisdictions, some Task Force members might have to release some local facility and vessel owners (plan holders) from full compliance with their response plans. Such a release would allow a portion of the plan holder's response capabilities to be moved to the site of the spill. However, when the 1993 Agreement was

signed not all Task Force members had a mechanism in place to expedite or pre-approve the release of plan holders from compliance with regulatory response standards. It was agreed that decisions on such releases would have to be made on a case-by-case basis until a more refined policy could be adopted.

The Task Force established a Mutual Aid Work Group which consisted of private and public sector participants (Please refer to Appendix D) to evaluate options and draft a policy and procedures which maximize the opportunity for rapid mutual aid. The Mutual Aid Work Group found that the varied legal authorities of the West Coast States, the Province of British Columbia, federal agencies, and the complex network of private sector response contracts and agreements complicates establishing a streamlined policy and procedure. The consensus recommendation of the work group was that, if possible, mutual aid policies in each jurisdiction should pre-approve the release of private response equipment with a minimum of conditions beyond establishing requirements for resident equipment which would always remain available for immediate access by the plan holder. The underlying concepts of this Agreement are the product of the Work Group's recommendations.

### 1.3 Scope

This Agreement establishes policies and implementation procedures whereby mutual aid, if requested through Unified Command<sup>1</sup>, can be pre-approved during responses to West Coast spills. This Agreement also includes related recommendations and encourages evaluation of a more consistent approach to requests from non-member entities. This Agreement represents the policy of the signatory agencies and is not intended to supersede federal, state, or provincial laws and regulations. This Agreement does not address mutual aid by federal agencies and does not supersede any private contractor emergency response plans currently in place. In addition, any private sector response resources over and above those committed to fulfilling the legal requirements of a facility/vessel response plan are not affected by this Agreement. Task Force members do not have authority to require that private spill response contractors provide mutual aid assistance.

<sup>1</sup> The term "Unified Command" as used in this Agreement means that the federal On-Scene Coordinator (FOSC), state or provincial OSC, and the Responsible Party's OSC share command decision-making in an Incident Command System.

## **2. POLICY AND PROCEDURES**

### **2.1 Task Force Policy Statement**

It is the policy of the States/British Columbia Oil Spill Task Force member agencies to maximize the availability of private sector response resources during oil spills both by streamlining the process necessary to approve mutual aid between member agencies, and by establishing conditions under which plan holders can be relieved from full responsibility for response plan compliance during mutual aid requests.

To implement this policy, Task Force members have adopted minimum requirements for resident, non-cascadable response resources (see member specific sections below). These minimum requirements for resident response systems assure the continued ability of plan holders to initiate effective response action at their facility/vessel, should a spill occur while a portion of their response capability is out of the region for purposes of mutual aid. This policy applies to all facility (both inland and marine) and vessel response plans approved by the member agencies.

This Agreement provides for reciprocal mutual aid among the Task Force member jurisdictions during oil spills; it does not authorize pre-approved aid to other coastal states and provinces except those who are signatories to this Agreement. Decisions on requests for aid from other jurisdictions will continue to be made on a case-by-case basis.

Specific response standards have been established by each Task Force member jurisdiction consistent with their unique legal and policy environments. However, it is the Task Force's intention that the specific resident equipment standards be as liberal as possible and provide relative equivalency between members to assure effective reciprocity.

### **2.2 Mutual Aid Procedures**

The Task Force members hereby adopt the following procedure to expedite mutual aid decisions during West Coast oil spills. This procedure is illustrated in the decision tree shown in Appendix A. This procedure and decision tree provide a uniform West Coast decision making process for initiating requests for mutual aid and implementing the individual state/provincial policies for resident response system requirements:

1. **Pre-approval** - Mutual aid requests for response resources can be pre-approved according to the specific jurisdictional policy conditions outlined in the following sections.
2. **Notification** - After a decision by a Unified Command (UC) on the West Coast to request additional response resources, there will be direct and concurrent notifications as follows:
  - From the Task Force member requesting mutual aid to the Task Force Member who is allowing a regulated contractor to provide mutual aid. This notification will formally invoke this Agreement.
  - From the Responsible Party (RP) or other UC member to the OSRO(s) whose assistance is requested. (Note that plan holders must provide for applicable regulatory notifications.)
3. **Non Task Force Member Requests** - Requests for mutual aid responses from non-signatories will be handled on a case-by-case basis by the member agencies. The Task Force will encourage other states and provinces to review and consider becoming a party to this Agreement.
4. **Cross Border Spills** - An exception to this Agreement may occur in cases where a spill in one jurisdiction is likely to impact waters of an adjacent jurisdiction. In such cases the Unified Command requesting mutual aid will collaborate with their counterparts on system deployment and may not invoke this agreement with the adjacent jurisdiction. The Members will assure a coordinated response action using all necessary resources.
5. **Time Frame** - There will be a consultation within 30 days after mobilization between the Task Force representatives affected to discuss the continued need to deploy the response resources.
6. **Demobilization** - First priority will be given to the demobilization of equipment provided through Mutual Aid unless this equipment has proven to operate more effectively than other equipment.

7. Post Response Evaluation - After each event, the Unified Command will forward a brief report on the effectiveness of the mutual aid process and policy to those entities providing mutual aid. The Task Force will review the report and determine if changes to the mutual aid procedures should be instituted.

### 2.3 Jurisdictional Policy Statements

#### **Alaska Specific Policy**

The Alaska Department of Environmental Conservation fully supports mutual aid. The Department promulgated regulations several years ago acknowledging the need to have a system in place that allows contingency plan holders to drop below statutorily mandated response capabilities during spill events in other areas. The regulations also reflect that the public demands enhanced spill prevention efforts in certain instances when response capability is temporarily reduced. The regulations preceded Task Force discussions on mutual aid and are intended to support mutual aid. The Department has a system in place to pre-approve, or to rapidly approve on a case-by-case basis, the release of equipment to other jurisdictions which will support the intent of the mutual aid agreement.

Alaska's minimum response equipment retention levels are defined in statute by response planning standards. Each standard is based on the type of regulated oil industry operation and its size. Based on the largest standards and the largest vessels currently operating in Alaska, minimum resident equipment and personnel levels for each of the three Alaskan Captain of the Port zones could be approximated as follows:

#### **COTP ZONE JUNEAU:**

Boom, skimming, pumping, storage, and personnel capability to contain, control and clean up 44,000 barrels of non crude oil in 48 hours.

#### **COTP ZONE VALDEZ:**

Boom, skimming, pumping, storage, and personnel capability to contain, control and clean up 300,000 barrels of crude oil in 72 hours.

#### **COTP ZONE ANCHORAGE:**

Boom, skimming, pumping, storage, and personnel capability to contain, control and clean up 50,000 barrels of crude oil in 72 hours.

### **Alaska Specific Policy, continued**

The emergency transfer of response resources between contingency plan holders within Alaska, or to another person (including a person outside Alaska), is regulated under 18 AAC 75.470. To facilitate mutual aid with other signatories of this agreement and comply with 18 AAC 75.470, Alaska contingency plan holders should request pre-approval from the Department of an emergency transfer. Alaskan contingency plan holders must clearly identify, in advance, the specific response resources intended for emergency transfer.

If a proposed equipment transfer would reduce the quantity or quality of response resources used by a plan holder (or group of plan holders) for demonstration of compliance with an approved contingency plan, then the Department may attach temporary terms and conditions where practicable, as compensating measures to prevent spills or to reduce the magnitude of potential discharges (18 AAC 75.470(b)(1)(E)). To expedite mutual aid in the event of an emergency outside Alaska, contingency plan holders should negotiate these terms and conditions in advance with the Department as part of their mutual aid proposal. Contingency plan holders are encouraged to consult Appendix C of this agreement for a partial listing of temporary compensating measures that may be included with their proposal.

## **British Columbia Specific Policy**

The 1993 amendments to the Canada Shipping Act have established a comprehensive spill preparedness and response regime. This regime is essentially comprised of rules requiring vessels and shore-based oil handling facilities to have Oil Pollution Emergency Plans (OPEP) and to subscribe to a Canadian Coast Guard Certified Response Organization (RO). Standards for preparing OPEPs and establishing a RO have been prepared and are referenced under Chapter 36 of the Canada Shipping Act.

- Publication (gazetting) of vessel OPEPs occurred on April 4, 1995 and the regulation (rule) is in effect. Final rules are completed, and designated oil handling facilities have 90 days to submit a OPEP, and companies seeking RO status can submit their plans for certification by the Canadian Coast Guard.

The British Columbia Ministry of Environment, Lands and Parks agrees to actively support the cascading of any federally mandated response capabilities in order to achieve a high level of marine oil spill preparedness on the Pacific West Coast. Pursuant to Unified Command or Task Force Member requests and where spilled oil affects shared US/Canadian waters, the amount and types of response equipment allowed to be cascaded will be a joint Unified Command decision by the federal and provincial on-scene commanders. Pursuant to Unified Command or Task Force Member requests and where spilled oil does not threaten Canadian waters, the cascading of any surplus response capabilities above that needed to meet the federal 10,000 tonne recovery standard is a matter for industry and the Canadian Coast Guard to decide. The Ministry of Environment, Lands, and Parks will coordinate with the Canadian Coast Guard and industry to encourage and facilitate a decision compatible with the spirit of this Agreement.

## **California Specific Policy**

### **Non-cascadable Equipment Requirements**

Marine facility and vessel owners/operators are responsible for ensuring that non-cascadable oil spill response equipment is maintained at all times within the risk zone where they are located or navigate. The capability of the non-cascadable equipment shall be the lesser of:

1. The owner's/operator's Response Planning Volume, or
2. The regulatory non-cascadable equipment requirement for the risk zone in which the facility is located or the vessel navigates.

California regulations define the risk zones and set non-cascadable response equipment requirements for each zone. These requirements are illustrated in the table below.

### **Notification - Invoking the Mutual Aid Agreement**

This agreement must be invoked before the Unified Command in charge of an oil spill response in another member state or province can directly request cascadable oil spill response resources located in California. To invoke this agreement the OSPR Administrator shall be notified by the affected state or province that is party to this agreement, specifically the:

1. Alaska Department of Environmental Conservation
2. British Columbia Ministry of Environment, Lands and Parks
3. Washington Department of Ecology, or the
4. Oregon Department of Environmental Quality

The notification shall be made by telephoning the OSPR Administrator. The Administrator can be reached during business hours at (916)445-9326 and at (916) 445-0045 during non-business hours.

### **Basis for Mutual Aid and Waiver**

Once notification has been made, the movement of cascadable oil spill response resources from California to another member state or province, consistent with the cascadable equipment policies delineated herein, shall be deemed to be approved by the Administrator. This movement shall also be deemed to have occurred under the approval of the Administrator for the purposes of California Law and the California Marine Oil Spill Contingency Plan. As a result of this consent, facility and vessel owners/operators that would otherwise be required to meet the Daily Recovery Rates, as set by regulations, are granted the necessary waiver from this obligation.

### Mutual Aid Policy

Once this agreement has been invoked, the Unified Command of the affected member state or province may directly request cascadable response resources located in California. This policy does not, however, effect private sector contractual obligations. It does not guarantee that the oil spill response organization(s) (OSRO) contacted by the Unified Command will respond to the request for mutual aid. After the agreement has been invoked, no further notifications to the Administrator are required by any party in regard to the movement of cascadable resources. This policy has no bearing, however, on any notification requirements that may exist in contracts between OSROs and owners/operators of marine facilities and vessels. Decisions on mutual aid beyond 30 days will be made on a case-by-case basis.

### Waiver

After this agreement has been invoked, California waives the 6-, 12-, 24-, 36-, 48-, 60- and 72-hour requirements for Daily Recovery Rates, as set by regulations, for those owners/operators of facilities and vessels whose OSRO(s) provide(s) cascadable oil spill response resources to Unified Command located in the affected member state or province.

### Measures to Offset Risk in California

California, through the Administrator, may require mitigation measures on a case-by-case basis to offset any identified risk created by oil spill response resources leaving any risk zone and subsequently leaving the State under this agreement. The OSPR Administrator shall consult with the affected USCG Captain(s) of The Port, the California Coastal Commission, the California State Lands Commission and the U.S. Minerals Management Service prior to instituting any mitigation measures. The purpose of the mitigation measures is to ensure that with the absence of oil spill response equipment in any risk zone, appropriate environmental safeguards are in place.

### Demobilization

Response resources residing in California shall be the first to be demobilized from the spill response area prior to resources that are located in another member state or province, except where specific pieces of equipment that are necessary to the response effort are available only from California.

**CALIFORNIA'S NON-CASCADABLE OIL SPILL  
RESPONSE EQUIPMENT REQUIREMENTS  
FOR CONTINGENCY PLANNING (bbls/day)<sup>2</sup>**

<b>USCG COTP LOCATION</b>	<b>EQUIPMENT REQUIREMENT</b>
<b>COTP ZONE ALAMEDA</b>	
Humboldt Bay	2,500
San Francisco Bay Area	10,000
<b>SubTotal</b>	<b>12,500</b>
<b>COTP ZONE LOS ANGELES/LONG BEACH</b>	
Estero Bay	2,500
Estero Bay	
Morro Bay	
Port of San Luis	
Avila Beach	
Santa Barbara Channel <sup>3</sup>	10,000
Gaviota	
Ellwood	
Mandalay Beach	
Port Hueneme	
Los Angeles/Long Beach Harbor	10,000
El Segundo	
Huntington Beach	
<b>Subtotal</b>	<b>22,500</b>
<b>COTP ZONE SAN DIEGO</b>	
Carlsbad/Encina	2,500
San Diego Harbor	2,500
<b>Subtotal</b>	<b>5,000</b>
<b>STATEWIDE EQUIPMENT REQUIREMENTS</b>	<b>40,000</b>

<sup>2</sup> The recovery capacities above must be supported by appropriate levels of boom, interim storage, personnel, and support equipment in derated capacity.

<sup>3</sup> The permit requirements of CCC, SLC, and MMS, place noncascadable equipment requirements on this area that far exceed OSPR's contingency planning noncascadable requirements as shown in this table.

## Washington Specific Policy

### Non-cascadable Equipment Requirements

Plan holders must meet the 12 hour and lower hourly response standards (6 hours, 2 hours, 1 hour) at all times. The 12 hour response standard is designated as the "resident" response capability. This resident capability will assure that an effective spill response will be maintained until additional resources are cascaded into the region, even though some resources may have temporarily left the area.

### Basis for Mutual Aid and Waiver

A waiver for the 24, 48 and 72 hour response standards is pre-approved for those facilities and vessels whose response contractor is affected by requests for mutual aid from a West Coast Unified Command. Decisions on mutual aid beyond 30 days will be made on a cases-by-case basis.

When a request for mutual aid comes to a Washington State private response contractor or Cooperative from a Unified Command in another West Coast jurisdiction, the contractor or Cooperative may respond directly to the spill with equipment beyond the 12 hours resident equipment capacity. This policy does not directly affect private sector contractual obligations, nor does it relieve planholders from notifying Ecology and the Office of Marine Safety within 24 hours of changes to their response capabilities.

## WASHINGTON'S NON-CASCADABLE OIL SPILL RESPONSE EQUIPMENT REQUIREMENTS

### USCG COTP ZONE

### EQUIPMENT REQUIREMENT

#### **COTP ZONE PUGET SOUND**

Boom (feet)	40,000
Recovery (derated bbls per day)*	36,000
Storage (bbls)	54,000

Personnel sufficient to deploy and operate above equipment

#### **COTP ZONE PORTLAND**

Boom (feet)	40,000
Recovery (derated bbls per day)*	15,000
Storage (bbls)**	22,500

Personnel sufficient to deploy and operate above equipment

\* Recovery volume is based on five percent of a plan holders worst case spill or 36,000 barrels per day whichever is less.

\*\* Storage is based on 1.5 times the recovery volume.

## Oregon Specific Policy

### Non-Cascadable Equipment Requirements

Plan holders must meet the 12 hour and lower hourly response standards (6 hours, 2 hours, 1 hour) at all times. The 12 hour response standard is designated as the "resident" response capability. This resident capability will assure that an effective spill response will be maintained until additional resources are cascaded into the region, even though some resources may have temporarily left the area.

### Basis for Mutual Aid and Waiver

A waiver for the 24, 48 and 72 hour response standards is pre-approved for those facilities and vessels whose response contractor is affected by requests for mutual aid from a Unified Command. Decisions on mutual aid beyond 30 days will be made on a case-by-case basis.

When a request for mutual aid comes to an Oregon State private response contractor or Cooperative from a Unified Command in another jurisdiction, the contractor or Cooperative may respond directly to the spill with equipment beyond the 12 hours resident equipment capacity. This policy does not directly affect private sector contractual obligations, nor does it relieve planholders from notifying the DEQ within 24 hours of changes to their response capabilities.

## OREGON'S NON-CASCADABLE OIL SPILL RESPONSE EQUIPMENT REQUIREMENTS

### USCG COTP ZONE

### EQUIPMENT REQUIREMENT

#### COTP ZONE PORTLAND

Boom (feet)	40,000
Recovery (derated bbls per day)*	15,000
Storage (bbls)**	22,500
Personnel sufficient for deployment and operation of the above equipment	

\* Recovery volume is based on five percent of a plan holders worst case spill or 36,000 barrels per day whichever is less.

\*\* Storage is based on 1.5 times the recovery volume.

### **3.0 - MUTUAL AID RECOMMENDATIONS**

#### **3.1 Mutual Aid Recommendations**

In order to improve West Coast mutual aid during major oil spills, the Task Force hereby adopts the following recommendations:

**Private Sector Agreements** - It is recognized by all parties that this procedure and policy will not be fully effective without the private sector establishing mutual aid agreements among U.S. Oil Spill Removal Organizations (OSROs) and Canadian Response Organizations (ROs) and between plan holders and their OSROs/ROs. The Task Force recommends that the private sector continue to pursue mutual aid agreements among major response contractors, and between plan holders and their response contractors. Several response cooperatives have already signed agreements and others have agreed to be designated as the "resident equipment." This designation of resident OSROs (usually oil industry cooperatives) will assist in the release of private contractors who wish to compete for the response work.

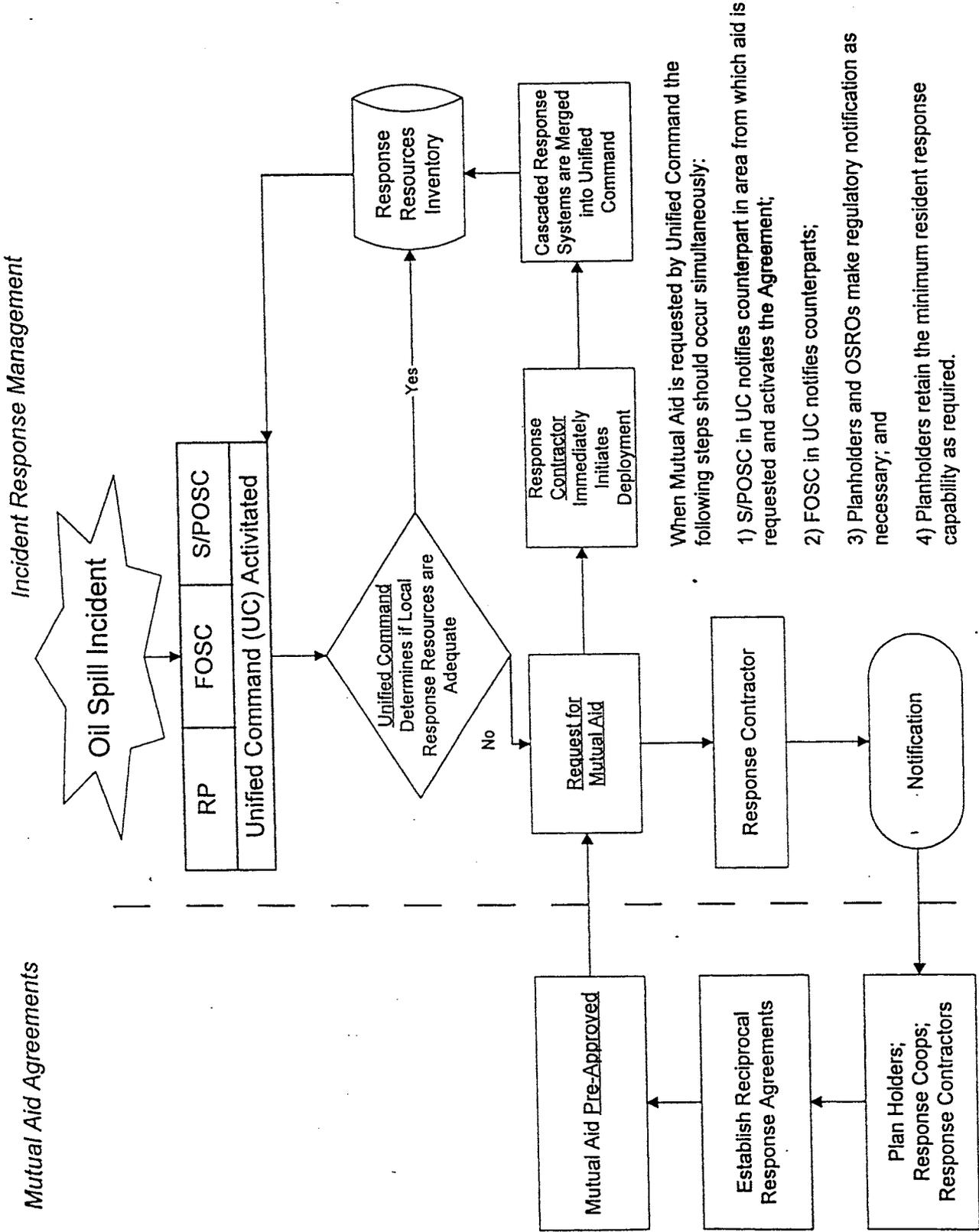
**Inventory of Response Equipment** - It is recommended that the private sector response organizations maintain an inventory of response capabilities on the West Coast which can be immediately accessed in the event of a need for mutual aid.

**Federal Spill Response Equipment Inventory** - Federal agencies – including but not limited to the Coast Guards, Navies, Environment Canada, and the Environmental Protection Agency - should identify public sector response equipment which could be made available to either "backfill" for private response systems which have left an area or which could be cascaded directly to a spill incident.

**International Transboundary Spills** - A number of issues of concern regarding international transboundary spills are listed in Appendix B. The Task Force should continue to advocate that the Canadian and United States Coast Guards and related federal agencies resolve these issues as soon as possible.

**Other States and Provinces** - This Agreement should be forwarded to other states and provinces for their review and consideration. Interested states and provinces should be encouraged to become parties to this Agreement if reasonable assurance of reciprocity is provided.

# Mutual Aid Flow Chart



## Appendix B

### US/CANADA TRANSBOUNDARY RESPONSE TO OIL SPILLS

The U.S. and Canada remain vulnerable to damages associated with oil spills near their border areas due to the existence of numerous legal, administrative and practical impediments to a mutual response and/or mutual aid response to oil spills that occur in or otherwise threaten both jurisdictions. Though officials from both the U.S. and Canada have recently reorganized the existence of these issues, much remains to be done to adequately address these matters. This was recently the subject of much discussion during the Canada/United States Workshop on Pollution Response and Preparedness held in Halifax, Nova Scotia on December 5-8, 1994. That workshop was the first in a series co-sponsored by the U.S. and Canadian Coast Guards to address transboundary issues. Both Coast Guards have been reviewing the Joint Contingency Plan (JCP) in light of changes necessitated for purposes of consistency with OPA 90 and the Chapter 36 amendments to the Canadian Shipping Act. A new Bilateral Agreement, facilitating implementation of the OPRC 1990 is planned, as well as a revised Joint Contingency Plan and new geographic appendices which clarify regional details.

Given the number and complexity of the identified impediments to effective mutual aid agreements between the U.S. and Canada, the States/B.C. Oil Spill Task Force Work Group on Mutual Aid has at this juncture only attempted to identify and generally define the issues that need to be resolved. However, the Mutual Aid Work Group does emphasize that resolution of transboundary issues that offer potential impediments to cooperative spill response between the U.S. and Canada are matters that deserve high priority. Resolution of these issues not only facilitates joint response to an oil spill which crosses international boundaries, but also facilitates mutual aid across international boundaries in the event of a spill of national significance in either nation's waters. In this regard the Work Group urges Task Force members to take a lead role in pushing for resolution of issues that they themselves cannot independently resolve, i.e., issues that require federal/national/regional/state governmental action.

Among other issues, the most important issues identified that need to be resolved are:

1. Differences in Liability Exposure for Response Organizations. Immunity from liability arising from oil spill response operations in Canada and Canadian waters is significantly dissimilar from that in the U.S., where immunity is clearly provided under the Oil Pollution Act of 1990 and the laws of every coastal state. The current exposure to liability for private responders in Canada is a significant impediment to a private U.S. response organization's ability and willingness to respond to spills with personnel and equipment in Canadian waters. Canadian authorities need to address this issue and provide for limitations on responder liability comparable to those as provided under U.S. law.

2. **Customs and Excise Rules.** The movement of response equipment and supplies across international boundaries triggers customs and excise rules in both U.S. and Canadian jurisdictions. While some provisions exist to move goods to be used temporarily in an emergency, the approval process and specific clearance procedures need to be identified and made part of the U.S./Canada Joint Contingency Plan and geographic appendices to expedite these processes.

3. **Free Utilization of U.S. and/or Canada Flag Vessels in Both U.S. and Canadian Waters at the Time of a Spill Response.** For example, the coastwise laws of the U.S. prohibit the transportation of merchandise between points in the U.S. embraced with the coastwise laws, either directly or via a foreign port, in any vessel other than a vessel built and documented under the laws of the U.S. and owned by persons who are citizens of the U.S. 46 U.S. C.A. app. § 883 (West Supp. 1993) (commonly referred to as “the Jones Act”). The U.S. Customs Service has concluded that the term “merchandise” includes recovered oil and that the transportation or recovery of oil within U.S. waters falls within the Jones Act prohibitions. However, the use of non-coastal qualified vessels, a stationary facility for lodging, processing, storing or other such activities is not prohibited. (See Headquarters Ruling Letter 950197, dated June 4, 1993). Also, preliminary analysis of Canadian laws reveals that at a minimum some “authorization” or affirmative “waiver” appears to be required to use U.S. vessels in Canadian waters for spill response. The Task Force work group recommends that U.S. Customs provide for a regulatory exemption to their definition of “merchandise” which could be triggered if the Joint Contingency Plan is invoked; customs officials should be invited to join the JRTs to assure that such an exception mechanism functions appropriately. As a second option, we recommend that an annex to U.S./Canadian Bilateral Agreement with the force of law be added to exempt Canadian oil spill response vessels from this provision of the Jones Act.

4. **Worker Safety Training Requirements.** The U.S. has laws and regulations that establish specific detailed standards for worker safety and (in the case of the U.S.) requirements for persons engaged in oil spill response activities. In Canada, there are some general worker safety minimum standards, however no specific oil spill response worker safety standards exist (though we understand the Canadian Coast Guard is developing some specific guidelines). At present it is not clear that the requirements of the potentially affected jurisdictions (including state jurisdictions, e.g. Washington) are compatible so as to allow spill response personnel to engage in spill response activities across international boundaries. This seems to be particularly true with regard to Canadian responders in U.S. Waters and/or within Washington state jurisdiction.

5. **Volunteers.** The use and transboundary movement of volunteers on both sides of the border needs to be addressed in useful detail in the U.S./Canada Joint Contingency Plan. We understand that in Canada volunteers can register in Provinces and costs associated with volunteer use are reimbursed by the Federal Government, There are comparable requirements/funding mechanisms in the U.S. In any event, policies and procedures may vary from state to state and thus should be identified in advance.

6. Disposal of Recovered Oil and Oily Debris. Both the U.S. and Canada have legal regimes for the handling of wastes and/or hazardous wastes. However, under either jurisdiction it is not presently clear how recovered materials resulting from an oil spill would be handled or disposed of. This is also a matter that needs to be addressed in the U.S./Canada Joint Contingency Plan.
7. Response Funding. There should be a mechanism in the U.S./Canada Joint Contingency Plan and other laws (as needed) that specifically addresses how response activities will be paid for in a timely manner, and who will be responsible for paying. Policies and procedures need to be identified in either the revised Bilateral Agreement or the revised Joint Contingency Plan which clarify which nation's fund is liable for what damages and expenses and under what circumstances. Significant differences with regard to coverage exist between the U.S. and Canadian national funds and with the International Oil Pollution Fund as well. Advance planning is crucial to resolve these differences in the event of a spill. Private responders will not respond unless they have assurance that they will be paid in a timely manner for their services, and natural resource trustee relationships vary between the U.S. and Canada, so these issues must be resolved in advance.
8. Immigration Laws. The employment of foreign nationals in either the U.S. or Canada is subject to immigration laws requiring specific employment authorizations that could delay spill response. While it appears that U.S. response personnel would likely be exempt from Canadian Immigration regulations, Canadian emergency workers would be "paroled" by the U.S. INS for a period not to exceed one week, with certain certifications. Waiver procedures and contact persons should be pre-identified in the Contingency Plan.
9. Response Command Structures. The current Joint Contingency Plan between the U.S. and Canada fails to specifically address who is in command and control and how coordination between jurisdictions and with the responsible party is to be achieved during the various stages of an oil spill incident. The dual roles of the respective OSCs and their relationship to the responsible party needs to be clarified so that prompt decision making can be accomplished when necessary. The Task Force work group recommends that the Bilateral Agreement and Joint Contingency Plan outline a procedure for establishing one joint command center where U.S. and Canadian OSCs and the Responsible Party OSC can operate under Unified Command within the Incident Command Structure.

## APPENDIX C

### PREVENTION & RESPONSE PREPAREDNESS MEASURES

The prevention and response preparedness measures listed below were identified by the Mutual Aid Workgroup as a possible means of minimizing the risk of oil spills. These measures may be implemented on a case by case basis as described in the state and province specific policies.

#### Facilities and vessels:

Preventative booming during fuel transfers.

#### Facilities:

Upgrade facility awareness and have response teams to be on-scene during all oil transfers.

Make all facility personnel aware of the major spill and the company's increased liability position.

Move equipment stored at facility to dock area and contact local contractor to be on alert and available for rapid response.

Include written procedure in contingency plan to cascade in additional resources if a major spill occurs which depletes local resources.

Put facility response team on standby.

Pre-stage additional equipment.

Reduce or take additional precautionary measures during oil transfer operations, such as doubling the number of dock operations personnel.

#### Vessels:

Increased tug escorts.

Daylight transits in confined waters.

Double hulled tank vessels.

Weather restrictions for entry.

Washington Office of Marine Safety's Best Achievable Protection (BAP) measures.

Eliminate open water bunkering and lightering.

Increase the number of personnel involved in bunkering and lightering operations (e.g. place a bargeman on all vessels being bunkered to coordinate the transfer operation).

## APPENDIX D

### *Mutual Aid Work Group Contact List*

Task Force Representatives:	Phone	Fax
• CA-OSPR - Bob Sands or Al Storm	(916) 323-4664 (916) 323-4726	(916) 327-0907 (916) 327-0907
• ADEC - Chris Pace	(907) 465-5231	(907) 465-5244
• OR-DEQ - Paul Slyman	(503) 229-5977	(503) 229-6124
• BC-MOE - Stafford Reid	(604) 356-9304	(604) 356-0742
• WA-OMS - Roy Robertson	(360) 664-9110	(360) 664-9127
• WA-Ecology - Jon Neel [ <i>Chair</i> ]	(360) 407-6905	(360) 407-6903
Industry, Response Contractor and Public Stakeholders:		
• MSRC - Barry Ogilby Mike Latorie (or Bill Park)	(213) 955-1288 (206) 252-1300	(213) 623-0032 (206) 339-1229
• Unocal Marine - Tom Murphy	(213) 977-6588	(213) 977-7411
• Clean Sound Coop - Roland Miller	(206) 774-0948	(206) 771-3244
• Burrard Clean, Vancouver, BC - Martyn Green	(604) 985-0855	(604) 985-0955
• Foss Environmental - Trygve Enger	(206) 768-1459	(206) 763-3725
• BP Oil - Ian Walker	(216) 586-8867	(216) 586-4557
• Texaco - Joe Haley	(360) 293-1517	(360) 293-0808
• Clean Seas Coop - Darryle Waldron	(805) 684-3838	(805) 684-2650
• Crowley Marine Services - Lee Eglund	(206) 443-7809	(206) 443-8026
Federal Government Representatives:		
• Canadian C G - Craig Dougans	(604) 666-0360	(604) 666-1650
• US Coast Guard - Lt. Don Noviella	(206) 220-7218	(206) 220-7225
• US EPA - Beth Feeley	(206) 553-0220	(206) 553-0175
• Environment Canada - Colin Wykes	(604) 666-0002	(604) 666-6858
• US Navy - Cmdr. Robert Frazier (or Lt. Cmdr. Ken Wagner)	(360) 526-3226	(360) 315-5260
Others on the mailing list:		
• CA Lands Commission - Kevin Mercier	(310) 499-6312	(310) 499-6317
• Clean Coastal Waters - Chris Gregory	(310) 432-1415	(310) 437-1510
• Greg Hannon	(206) 252-1300	(206) 272-2364
• Task Force - Jean Cameron	(503) 229-5720	(503) 229-6954
• Washington Ecology - Steve Hunter	(360) 407-6974	(360) 407-6903
• Chevron Shipping - William C. Rogers	(415) 894-4524	(415) 894-2900