



Canada's Marine Oil Spill Preparedness and Response Regime

Lines of Inquiry -- topics for discussion

General:

Question # 1: Does the current oil spill response preparedness and response regime meet today's needs? What about future needs? What elements of the current regime could be improved to make it world class?

The key words in the question above are “preparedness and response”. Although one impacts the other it is important to look at the strategies surrounding each separately from an Industry, Government and then industry /government integration standpoint.

Canada has a model that others around the world look at as a world class template. The thing that is lacking is the coordination and cooperation between industry and government to complete the final stages of implementation that would really make it “World Class”. The biggest missing is an overall “National Plan” that integrates the Federal Government Agencies, Provincial Agencies, Industry Response Organizations and International Mutual Aid partners. The plan must also address all the misgiving around countermeasures and ensure all tools are in the toolbox to assist with mitigating any impacts from a spill.

Secondly, Response Organizations are held back by the lack of Governments (Federal and Provincial) ability to work together and make decisions on key preparedness and response strategies. This has to change.

Finally, there is a lack of knowledge within the governing bodies and as a result there is a lack of leadership and inconsistency in applying strategies.

Answer to #1: What elements of the current regime could be improved to make it world class? Points 1-19

1. Creation of Regional and National Plan with Steering Committee Over site :

The lack of regional plans that can merge into a clear overriding national plan is an issue in Canada today. As a result there is no cohesive approach to integrating resources and ensuring all response tools are available as part of Canada's preparedness strategy today. This needs to be worked in collaboration between industry response leaders and government.

What should be included in both Regional and the National Plan? Examples are highlighted below.

- I. The “how to” for integrating government and industry into one response team for a spill of national significance. Roles and responsibilities defined and team developed from industry and government. Regional and national approach (i.e., ICS team regionally that feeds national team).
- II. The management structure/system in which a spill response for Canada would be managed – one consistent approach (e.g., Incident Command System -- ICS) which allows for consistent training and

- the movement of trained resources across the country. This is a worldwide recognized management system and would not only allow for Canadian trained resources but also the smooth integration of international trained resources that may be required to supplement the workforce.
- III. A Regional and National Team of trained resources made up from both the Government and Industry to fill the ICS roles for a spill of national significance.
 - IV. A clear Delegation of Authority Guide for all ICS positions --- ensures rapid decision making ability.
 - V. Regional and national training and exercise plans to ensure resources are kept up to date and response ready. This could be done annually on a regionally basis and every three years on a national basis.
 - VI. Clear documented plans for Offshore versus Near-shore response – resource and equipment plans.
 - VII. A regional and national inventory database of equipment that may reside with both industry and government. This includes but is not limited to the response organizations, oil handling facilities, private land contractors, Department of National Defense, Canadian Coast Guard, etc... industry and government would be responsible for updating this database on an annual basis, maybe as part of a certification process.
 - VIII. National Land Base spill strategy for Federally regulated product transfer modes(e.g., pipeline, rail)
 - IX. Cross border protocols and implementation / exercise plan – in the event of a spill that may impact foreign waters
 - X. Clear countermeasure strategies by regional geographic response plans and delegated authority within the ICS structure to implement such strategies.
 - XI. Port of Refuge Plan that can be exercised within the regions.
 - XII. Identified waste disposal sites within GAR.
 - XIII. National Wildlife Management Plan – clear policies and the ability to make quick decisions on non-endangered versus endangered species. Regional database of species and habitats. Draft decision trees / flow charts and manuals exist today but no one from a government will actually make a timely decision during an exercise and/or real spill.
 - XIV. National Research and Development plan & committee involving Industry and government together. Focus on continuous improvement initiatives, new technologies and funding opportunities.

2. **Government Leadership** – simple tasks seem to unnecessarily become complex. This needs to change.

There is a need for a dedicated team or national response steering committee that is empowered to ensure a state of readiness exists across Canada and is encouraged to break down barriers in the development of common tools.

For example, a simple but very effective tool in response is a detailed mapping system that includes government sign off on top sensitivities within each Geographic Response Plan (GRP – area [plan]). This system should include:

- Documented remedial strategies (REET) to be applied if they are impacted,
- Response strategies identified (R.O.'s) to address protection of these sensitivities,
- Identification of preapproved areas where countermeasure applications can be applied within each geographic area of response.
- Logistical resources, etc..

However, in order to do this there needs to be a commitment by government (provincial and federal) to support this undertaking as a priority together. By implementing this one example, it would make the response to any incident quicker and would place us one step closer to the “World Class” category. However, the key to this is the leadership commitment and cooperation required between agencies to accomplish this as a priority.

This steering committee should include a representative from the Federal Agencies, Provincial Agency and Industry and/or Industry Response Organizations that are empowered to make change happen.

The partnership and leadership from, and between, the Canadian Coast Guard, Transport Canada, Environment Canada and the Provincial Ministries of Environment is critical to the success of the regime. Unfortunately this has been lacking and needs to be addressed as we move forward. Whether it is through letters of understanding, consistent policies that effect response and preparedness and or through steering committees that are empowered, it doesn't matter as long as the leadership / cooperation are in place.

3. **Umbrella Legislation:** -- include non-ship source spills under responder immunity legislation and create the opportunity to multi- function equipment and personnel resources.

Under the current regime, response organizations are responsible for responding to ship source spills as outlined in the Canada Shipping Act. With this legislation (CSA) comes the protection of responder immunity. However, over the years the R.O.'s have been requested to respond to various sources of spills (e.g., pipeline to marine environment, derailments into marine environment, oil handling facility into a marine environment, truck rollover into a marine environment, canola oil / vegetable oils into a marine environment, etc.) which are not covered under the CSA legislation and/or on the current MARPOL list of products.

The Response Organizations have the equipment base, personnel and practical knowledge to respond but are doing so without the protection of formal legislation. Furthermore, there is confusion on whether or not the R.O.'s can be “directed” by CCG, Environment Canada and/or another Government agency to respond to non-ship source spills. By law, “directing” would also grant the responder immunity protection.

There is also an opportunity under umbrella legislation to gain the synergy of coordinating resources and spill response management personnel between the various sources of spills, as well as share funding costs for preparedness.

4. **Regional and National Training and Exercise Plan:** --- this relates back to a regional and national plan (spill of significance) for response.

The plan should include different competency levels of training and exercising components that would be required to manage both regional and a potential spill of national significance. For example:

- i. Training in the overall Spill Mgt. System (suggest– ICS) for the roles to be filled by various organizations and / or government agencies.
- ii. Crisis Mgt. training for those managing impacts outside of the direct spill response organization. (e.g., political impacts, community impacts, international interface, media, etc.)
- iii. Define roles that government will fill and define roles that industry will fill within the regional and national plan / ICS structure and a commitment to support these through annual budgetary planning.

- iv. Regional response ICS organizations should be able to support the National ICS structure (i.e., consistency in structure (ICS) and basic competency training programs).
- v. Regional Exercises have to be at a minimum annually, with national exercises every two to three years.
- vi. Exercises need to test all facets of response – from call out and mobilizing to countermeasure applications and wildlife management. There needs to be clear objectives outlined in each exercise plan that builds on past exercises and tests protocols / policies.
- vii. Cross border exercises have to be real and issues worked to resolution. – the model used today (e.g., CANUSPAC, CANUSLAC, CANUSDIX, etc.) needs major enhancements and stronger ownership from CCG..
- viii. There should be a mechanism for sharing exercise debriefs and suggestions for improvement. Suggest a regional and national committee to steward and address regional & national shortfalls and/or continuous improvement initiatives.

5. Focus on Geographic Response Plans – versus one response size for a geographic area of response (GAR).

Geographic response plans (GRP's) or area plans can be defined as a select area within the Response Organizations Geographic Area of Response (GAR). They can vary in size, but try to capture areas of similar risk and are usually identified by landmarks (e.g., Fraser River, Douglas Channel, Juan de Fuca Strait). In the end the GAR can be made up of as many GRP's as the response organization sees fit to match the environment they are working in. As an enhancement to the current regime, we suggest focusing on GRP's and the planning standards that may apply based on the risks and probability within the area.

For example, Juan de Fuca Strait, may have an enhanced planning standard due to the traffic convergence, type of vessels moving through the strait, product movement through the strait, cross border considerations and the sensitivities within the area. This enhance planning standard may translate into additional equipment and personnel on stand- by within the area, more frequent exercises within the area, enhanced response times and possibly an enhanced community outreach program. Whereas, an area in B.C. such a Campbell River which has less overall traffic, different vessel & product movements within the area may have a standard response package with planning standards applicable for the risk and probability within that area. This concept builds on the current tiered response planning standards and strengthens the response strategies in a documented area plan/GRP.

In the end the geographic response plans should roll into regional plans and in turn into the National Plan (for any spill of significance) and there should be a clear transition / handover plan as the significance evolves.

6. Spill Preparedness and Response Capacity – is 10,000 tonnes enough?

The simple answer is for some areas it may be enough and for others it isn't. This is back to the point that one size does not fit all anymore. There are regional differences across Canada and differences within each region of Canada that need to be considered as we move forward with the next evolution of the regime.

The original regime was built on a number of basic principles (which still apply) and a generic liter of oil, not product specific by area. However, it was also not based on risks and scientific evidence to support assumptions and equipment capacity requirements within specific areas.

When you look at the different regimes around the world today, there are a number of risk models and assessment tools used in identifying the most probable spill scenarios versus worse case scenarios. We can utilize these models as part of GRP development to help us strategically place equipment and personnel.

In most cases there would probably be little change, as over the years all the response organizations have looked at the risks and exposures within their GAR and as the environment around them has changed they have also changed and raised the level of response capacity. It is safe to say that all R.O.'s in Canada exceed the planning standards for equipment today.

Further to the point above (5), consideration could be given to a multi-tiered system that can apply by geographic area and not penalize areas where the risk and potential for a spill is small. For example, on a national basis, in the Great Lakes 10,000 tonne may be more than applicable. Whereas, for a high volume designated Port and/or a highly sensitive Enhanced Response Area (ERA), the planning standard may be a 10,000 tonne capability within "x" hours and an additional (?) tonnes within the next xx hours through cascading or contractual arrangements.

Above and beyond the planning standards that exist today (and in the future) and in the spirit of continuous improvement there should also be recognition for those Response Organizations that exceed the standards.

Possible scenarios:

- a) An R.O. could be certified to as a "tier +" response organization if they exceed the requirements for their GAR. For example, if:
 - 1) They have additional equipment and personnel in place.
 - 2) They carry as part of their inventory and/or have contractual arrangement in place for the immediate (practical timeframe to be determined) supply of countermeasure materials (e.g., fire boom for in-situ burning, dispersants, shoreline cleaner (Corexit))
 - 3) They have bi-lateral agreements in place with Mutual Aid partners for additional personnel and equipment resources.

7. Partnerships in Response -- no one is ever in it alone so why not formalize the partnerships?

Currently response organizations are defined by their Geographic Area of Response (GAR) and on Canada's east and west coasts ECRC and WCMRC are responsible for waters out to the 200 nautical mile limit. In Canada today we do not have large ocean going response vessels other than our barges. To purchase this type of vessels and have them sit 99% of the time at a dock just doesn't seem practical. However, to partner with CCG and/or others and have the vessels designed for multi-purpose use makes sense. On the west coast it could be a vessel that is used for response as well as maintenance of navigational aids and/or for research. On the east coast it could be supply vessels for the rig's that are outfitted with response gear and under agreement to the R.O.. The key is we need to open discussions, especially with the government to find ways to be efficient, cost effective and practical in our approach to the day to day operations. This could also be a revenue stream for the government who is always looking for funding.

Other partnerships that could be explored and recognized within the response planning standards are Vessels of Opportunity (VOO). Response Organizations could have recognized arrangements in place with barge operators for storage, which again is a huge cost to the organizations when the asset sits in non commercial use 99.9 % of the time. In this case R.O.'s may be required to meet a minimum standard for primary storage (owned asset) and then meet standards through retainers with barge operators to supply storage within "xx" number of hours. In this case, the money would be spent wisely on additional equipment and/or personnel rather than being tied up at a dock.

Mutual aid needs to be recognized as an asset to response. The response world is working together and sharing knowledge. Canada could be a world leader in recognizing the "Mutual Aid Agreements" (also known as bi lateral agreements around the world) as a key component in our response. We develop and share certain aspects of response and in exchange through mutual aid we receive other types of support. A good example of this is the bi lateral agreement WCMRC and OSRL (UK) are working on for support – we receive potential dispersants (if approved for use) and their aircraft and in exchange we supply trained ICS personnel to assist with the management of a spill. Picture the Government of Canada entering the same agreement with T.C's aerial surveillance aircraft and having that capability available in exchange for a dispersant aircraft and supplies from others. Through partnerships we would not have to invest in stockpiles of dispersants / aircraft contracts, large vessels, etc., but instead create a win-win scenario for both partners.

8. **Countermeasures** – if we are in the game make sure we have the tools in place and available!

We have talked about this in general terms in a number of points above but bottom line is that Canada does not have all the tools in the "response toolbox" today. By Geographic Area Plan (GRP), there should be a clear protocol in place for a go – no go scenario around the use of *in-situ burning & dispersants*.

There are models (including draft Canadian) around the world today that we can utilize as our template. The point is we need to take pro-active action and get an approved plan in place.

Again as an example, a simple map of the area with denoted "green for approval" and "red for no go – mechanical recovery only" would allow pre plans to be in place to address any spill within that area.

It is recognized that the use of dispersants / in-situ burning cannot take place in all areas but it is also recognized today around the world that quick action using these countermeasures can prevent costly and long term impact on the shoreline. A spill off the west coast of Vancouver Island were there may be an opportunity to in-situ burn and save the product from coming ashore may be the best environmental net benefit. However, the window of opportunity to perform such a burn is limited and pre approval for that area may be a tool in the toolbox that saves shorelines, wildlife and costly site remediation.

9. **Outreach and Community Involvement** – communities that may be impacted should be involved in planning

We have found that those that could be impacted by a spill want to be involved and feel apart of the solution. As such, as geographic response plans (GRP's) and regional plans are developed communities within the boundaries of these plans should be engaged. It is not only the engagement of the response personnel / emergency planners in the community (who can bring other logistical support) but also representatives from public health, politicians, public utilities, veterinary support and small community services that may be of assistance during an event.

Whenever there is an exercise being conducted within a GRP an invitation should go out to all stakeholders. Involving them up front in the planning stages will assist if and/or when there is an implementation phase.

WCMRC is conducting a world-wide benchmark study which includes “outreach programs” – results of this should be considered when modeling what the Canadian approach should be.

We suggest that there should be an industry outreach program as a component of the regime...

10. **Cross Border / International Responder Immunity** – correct past errors in the Act / Regulations and upgrade capability.

In July 2007, there was an unintentional elimination of responder immunity / indemnity clause for cross border responders when the new CSA was introduced. Key word “unintentional”, this was an error by the drafter and as a response organization we have been struggling to have this reintroduced ever since. Back to point #2 – a simple task becomes a complex issue.

Not only does this need to be corrected but the wording needs to be clear that it applies to those under a bi lateral / mutual aid agreement and/or general support agreement with a certified Canadian Response Organization or Government Agency. Immunity should not be an open invitation to anyone applying, only those that have been vetted through & could potentially be working for the response organizations or a government agency should be considered.

11. **Canadian Coast Guard** – role in preparedness, role in cross border exercises / lack of training in spill Mgt and in the role of on scene commander, inability to sign a response agreement with R.O.'s in Canada; certification requirement.

- i. **Role in preparedness...** what is their role and should this be reviewed in conjunction with Response Organization growth since the beginning of the regime? There is an opportunity to focus CCG resources to “off shore response” and/or Arctic Response or both. Under the off shore option, CCG would be responsible for waters 25 nautical miles and out to the 200 nautical mile limit with the R.O.'s managing all near shore response requirements. This option may force multi purpose vessels into use. If they remain in all facets of response than a clear mandate and a commitment for funding to an upgrade program needs to be in place.
- ii. **Role in Cross border exercises** ... CCG has not demonstrated the Leadership that is required to manage a cross border incident. On the West Coast CCG does not understand the ICS system and calls WCMRC to interface with USCG during exercises. This is not the fault of local resources but is the result of the lack of leadership and planning on a national basis.

CCG needs to implement a training program that starts with level 100 – 300 of ICS for all staff and 400 plus for senior managers / OSC's. It is critical that this program includes annual practical workshops and mini exercises to test and practice learning's.

- iii. **Inability to sign a response agreement** with Response Organizations... Treasury Board policy does not allow CCG to sign a Single Sourcing Agreement that may exceed their dollar value limit for single sourcing. The R.O. agreement is a membership agreement (\$650.00) that is only triggered by signing a work order at the time of a spill. Membership comes with a discount on daily equipment charge out rates.

The response organizations are the only game in town with the resources to assist CCG if, under their mandate, they take over or are forced to take over a spill from a responsible party. At that time a third party agreement with the R.O. would have to be signed (at no discount) and / or CCG would be required to direct the R.O. again at full charge out rates.

CCG should be allowed to sign a membership agreement with Canadian R.O.'s to ensure a smooth transition and /or call out process.

- iiii. **CCG to be certified** just like the Response Organizations... if the decision is that CCG will remain in the response business than they should be responsible for submitting a response plan for Canada by region and be certified under the same program as the Response Organization. This would ensure that their preparedness meets the level of expectation of the Canadian public and industry.

12. Reciprocity Agreement for Juan de Fuca Strait... back to point # 2, simple tasks become complex issues.

In 1995 the Response Organization (BCO – WCMRC) put into place an interim reciprocity agreement with Washington State Response organization (WSMC) until such time as CCG and USCG could formalize an agreement. The agreement was to cover vessels inbound or outbound that had to travel in the other countries waters on route to Port through the Strait of Juan de Fuca. Eighteen years later a formal agreement has never been developed by the government agencies.

13. Development of Formal Incident Command Posts (East /West coasts) / Training Facility ...

Consideration should be given to the development of one or two response ready (with ICS structure layout in place & all necessary supplies) Incident Command Posts (ICP) that are strategically located for both coasts. These ICP's could become the regional training / coordination centers, include test tank facilities and house key response personnel from both government and the R.O. staff on an on-going basis.

This could be a joint Industry & Government venture or funded from the liability fund. This would be "world class".

14. Aerial Surveillance Program through Transport Canada – leading edge surveillance that can't be used directly by R.O.'s

WCMRC has had discussions with Transport Canada Ottawa (Surveillance Program Managers/Legal) about the possibility of signing a letter of agreement to support aerial surveillance during a spill and feed the data into the Incident Command Post for tracking purposes and to assist with the development of key response assignments. Unfortunately, T/C legal advised that there are some major policy and liability concerns about contracting out a government asset to private industry, when that same asset will be used to monitor the incident and provide situational awareness to the Government of Canada. Response organizations are hired by the responsible party (RP) but are implementing Incident Action Plans that have been approved by the R.P. and either the Unified Command and / or Federal Monitoring Officer. In the end, we want the same information but possibly for different reasons.

The expectation is that, in the event of a spill, TC will be there anyway in support of Departmental or Governmental activities, so why duplicate a resource. Whether the letter of agreement to support is between Transport and CCG or Transport and the R.O., this valued asset should be available and the data readily

distributed to all parties involved in the management of the spill. T/C and the Government of Canada can still own the data.

This is another opportunity for Industry and the Government to work together for the betterment of the environment and ensure there is a surveillance program that is tested within the regime.

15. **Wildlife Management during spill response** – history has shown this is always a contentious issue. .

Why is it contentious? The simple answer is because those in authority appear to be afraid to make the tough decisions. It is easy to spend money day after day but is it being spent wisely?

Response organizations in conjunction with industry, government and wildlife organizations have worked together to build a framework for wildlife management in each of the regions. However, in Western Canada this framework and accompanying decision trees have never been signed off by Environment Canada and the Province.

Spending money wisely; --- by this we do not mean letting the polluter off from any fines or charges. However, for non-endangered species that are heavily oiled and/or wildlife meeting the criteria as defined in the response protocols, a decision has to be made to euthanize. The dollars that would have been spent trying to managing the rehab of species that may be beyond rehab and the fines associated with the polluter should be spend on wildlife centers, stream management projects, etc. etc. – were the dollars will make a difference.

Should wildlife fall under the Response Organizations? Answer: only if clear regulations and protocols are in place and funding mechanisms are defined. .

This relates back to point # 2, Leadership of Government.

16. **Funding Options** – evaluate funding models that exist in other response regimes, what options are available?

WCMRC is conducting a benchmarking study with response organizations from around the world. One component of this is funding for the organizations. These results will be available by early September and could be shared with the panel.

Options could include:

- b) Government / industry funded partnerships for off shore response
- c) Government / industry funded research projects
- d) Fees for vegetable oils (e.g., canola oil)
- e) Liability fund fee – annual contribution
- f) Funding for research through liability fund
- g) Fund increased R.O. capacity from liability fund – one time to meet a new planning standard.
- h) Response Organization Fee's
 - 1) Volume threshold fee's as part of BOCF
 - 2) CALF – capital asset loan fee
 - 3) Annual capital and operational expenditures combined into one fee
 - 4) Tanker fee's
 - 5) Domestic versus foreign vessel fee's

- 6) Barge versus vessel fee's
- 7) Pipeline fee
- 8) Membership fee's – better balance between ships and OHF's
- 9) Non ship source member fee's (Subscribers)
- 10) Designated Port Fee for potential 24 x 7 coverage (if required for high risk areas)
- 11) Service fee charged to government or vice versa charged to R.O.'s if:
 - a) R.O. replaced CCG for near shore response conducted by CCG today (e.g., salvage support, derelict vessels)
 - b) CCG Navigational vessels multi function as response vessels for industry.

17. Development of Subject Expert Teams from Government & Industry as part of ICS National Response Team / Planning (pt – 1)

Subject expert teams on:

- i. In-situ burning
- ii. Use of dispersant – applications
- iii. Off shore response protocols
- iv. ICS
- v. Surveillance technologies

18. Enhanced training programs for Government Inspectors / Regulators

Example: T/C inspectors; National Review Board – (who certify R.O.'s)

19. Vessel of Opportunity Program – FOSET (Fishermen's oil spill emergency team) and Marine Contractors

The Canadian Regime was based on being able to obtain back up resources from both CCG (which has never materialized) and from the Vessel of Opportunity program where fishermen and marine contractors are trained in various roles. The fishermen also bring the value of their local knowledge and vessels which can be used for boom tendering, logistical supplies and even housing for remote areas. However, in general terms, with recent changes to the fishing regulations the vessel & skippers are now restricted on where they can operate and what the function of the vessel can be. As such, this has taken away the flexibility of a program that has worked for years.

WCMRC in conjunction with other response organizations have asked T/C for an exemption similar to SAR for vessels and skippers participating in oil spill emergency response and for training opportunities. To date there is no resolution to this issue.

This program also allowed us the opportunity to engage the various coastal communities as part of an outreach program and supplement our workforce at the same time.

Question: #2. Does Canada's current regime, which is based upon a public-private response model in which industry funded Response Organizations take the lead in preparing for and responding to an oil spill, continue to make sense for Canada? What changes, if any, would improve the model to world class status?

Answer:

Yes, the current model works and is effective for Canada. Industry has the ability and flexibility to make changes and meet the immediate demands of the day. When the regime was first introduced the response organizations were to ensure a state of readiness for their GAR's with the Government (CCG) to be there as back up with an additional 25,000 tonnes of capability. This has never happened and in fact CCG capability has decreased over the years as the response organizations have grown.

A decision has to be made whether CCG is in the response business or not. CCG's role needs to be defined: are they to carry a capacity to supplement response organizations? Can they focus their resources on off shore and response organizations on near shore? Do they only fill a Federal Monitoring role and become experts in Incident management (ICS) in the event of a spill of national significance?

As discussed in points #1, 2, 3, 4 and 11 there are a number of issues around governments involvement and CCG in particular that will need to be clarified as we move forward.

Once those decisions are addressed the next step is to understand what equipment is available on national basis (Regional and National Inventory list) and how, or can, that be integrated into a National Plan. See point # 1 – vii.

The key is to build on existing resources and the original guiding principles and create the next evolution that will move Canada to the world class status.

Question: # 3: In terms of oil spill preparedness and response, are the current roles and responsibilities for government and industry clear? Are the appropriate? What changes would you suggest to improve roles and responsibilities under the current regime?

Answer:

Industry is clear and under the current regime the R.O.'s must submit a response plan to address the R.O. related regulations and planning standards. Response organizations are measured against this and certified every three years.

Government: Although each Government agency has a defined mandate there is little cooperation between agencies and as a result issues and continuous improvement initiatives never get addressed. Whether it is a result of budgetary constraints or lack of leadership, the knowledge base of the government agencies as it relates to "world class response" is missing. This needs to be a focus as we move forward.

Please reference "General – Question 1 areas for improvement" for further enhancement ideas.

Question: # 4: What future trends or emerging developments (e.g., new products, new response techniques or increased traffic) should be taken into account to enhance the current regime to world class status?

Answer:

- I. New aerial surveillance technologies – what is being used in other regimes?
- II. Adoption of ICS as mandated incident management system for Canada
- III. Development of a common ICS operating system for Canada that meets our needs but is user friendly. This should be done in conjunction with Response Organizations, Industry partners and with Provincial input.
- IV. Pre-approval for the use of dispersant, shoreline cleaners and In-situ burning in designated areas and authority to execute quickly. Protocols developed and agreed on by all parties.
- V. Inclusion of vegetable oils (e.g., canola) within the MARPOL list of products
- VI. Establishment of clear protocols for Mutual Aid assistance under the Response Organizations and/or a Government agency.

Question: #5: There are six regional advisory councils (RAC) and one National Advisory Council (NAC) which provides advice and feedback to the Government of Canada on the current regime. What could be done to improve this feedback?

Are the roles and responsibilities of the RAC and the NAC clear? Is this structure a best practice?

In italics below is the role and mandate as posted:

“The central role and mandate of the RACs is:

- *to advise on an adequate level of oil spill preparedness and response in each region; and*
- *to promote public awareness and understanding of issues and measures with respect to preparedness.*

The RACs serve as an advisory body to the Minister of Transport and to the Assistant Deputy Minister of Safety and Security (ADMSS), Transport Canada (TC) and shall advise and may make recommendations related to marine Oil Spill preparedness and response in accordance with Part 8 of the Canada Shipping Act, 2001 (CSA 2001).

The RAC is purely an advisory body, with no authority to make policy, direct operations, approve plans, review technical standards or resolve disputes. It may, however, make recommendations on the full range of policy issues affecting regional preparedness and response.

The RACs mandate is significant, and through its unusual ability to report to the Minister of Transport, it has the power to make its voice heard.”

The issue the current RAC’s face is twofold:

- I. When they forward suggestions / comments to the Ministers office, a general acknowledgment of receipt is made but the issues never seem to get resolved.
- II. There is no or little budget to allow RAC members to participate in Response Organization exercises, training sessions and or Government Cross Border Exercises. How can they evaluate if they can’t participate?

The second part of the mandate to “promote public awareness and understanding with respect to preparedness” is something I don’t think in the west has been a focus. Is there a national / regional strategy around this? What message and through what avenues is this to be undertaken. Have them been given guidelines from Transport Canada?

Question: # 6: Canada's current regime is standardized across the country, with all ports, ship-owners, oil handling facilities and Response Organizations operating under the same legislation, regulations and guidelines. Is this an appropriate model for Canada? What improvements could be made to the current model?

Answer:

Please reference "General – Question 1 areas for improvement" for further enhancement ideas.

– Point #3; need for "umbrella legislation"; and Point #5 "Focus on Geographic Response Plans" --

Other improvements for the model are highlighted throughout this document.

Question# 7: Does the current preparedness and response regime clearly define how it interacts and links with Canada's liability and compensation regime? What changes, if any, would improve the current framework to world-class status?

Answer:

It may be well defined but it is not clearly understood by industry and the public. The fund ends up being a last chance fund once all other avenues have been exhausted. Not that this isn't correct but it does leave the Response Organization carrying the costs for years. There should be a mechanism that allows the R.O.'s to access the funds if the R.P. walks from an arrangement and then pay the fund back if and/or when the courts resolve the dispute.

The fund should also be expanded, both from a payment into and recovery from, to include non-ship source spills.

Again, WCMRC as part of the benchmarking study underway is looking at this element and can share results at a later date.

Question # 8: Canada currently has two regimes for marine oil pollution: one for ship-source oil pollution and one for oil pollution from oil exploration activities and offshore platforms. What are the benefits to having two separate regimes? What are the risks to having two separate regimes?

There is no benefit in creating a separate spill response regime for similar /same product. The confusion lies with the interface between the Federal Agencies and/or lack of cooperation and overriding legislation.

Back to one National Plan and Regional Plans that can integrate into the national picture. Off shore is just one more regional plan to be included.

Risks of separating:

- Duplication of resources, training programs, liability fund, etc.
- Confusion if there is a spill of national significance
- Lack of coordination on critical policies – in-situ burning, dispersants, etc.
- Public perception – disjointed? Lack of coordinated coverage for Canada?

Preparedness:

Question #1: Are the preparedness requirements for ports, ship-owners, oil handling facilities and Response Organizations adequate? What changes, if any, would improve the system to make it world-class?

- A. **Ports** – on the west coast most ports are prepared and exercise to test their response readiness. However, there is an opportunity for the larger ports to partner with the city and R.O. and share resources such as communications trailers, barges dedicated to the port that house both firefighting and response equipment, an equipment warehouse the and/or share costs for port response exercises. The Port of Vancouver is developing the concept of a “Center of Excellence” that would share information and bring together experts in various port related activities including spill response. This is an excellent idea and one that WCMRC will help with wherever we can.
- B. **OHF preparedness:** there are prescriptive planning standards in place for oil handling facilities under the CSA today. It is our understanding that these are currently under further review by Transport Canada. No comment....
- C. **Response Organizations:** as noted previously the response organizations in Canada have continually improved their capacity and capabilities since 1995. All the R.O.’s have strong training programs, exercise programs and have continued to on crease their equipment inventories over the years. On the west coast WCMRC has a capacity of about 26,000 tonnes versus our 10,000 certification and we are continuing to grow.

One of the key concept as discussed in the “general section” is the flexibility that is built into the system. The one size template fit’s all areas for response doesn’t work. Saint John New Brunswick does not have to be the same as Prince Rupert British Columbia as long as the risks and sensitivities of the area are covered off and a well thought out GRP (area plan) is in place.

Areas that are being addressed to continually raise the bar to world class are:

- I. Refinements in our ICS program and mini exercise sessions.
- II. Coastal mapping – a huge undertaking to bring old data up to 2013 standards.
- III. Development of the GRP’s – detailed strategies to protect sensitivities, knowledge of additional resources within the area, logistical data by layer within the mapping database, etc.. .

In British Columbia we are lucky to have knowledgeable representatives form the government agencies who work with us day in and day out to ensure we are all prepared in the event of an incident. It is a very good working partnership on the west coast.

Question #2: Does research and development play a strong enough role in the current regime? Who should be responsible for funding and conducting research and development related to the oil spills?

No — There should be a National Research and Development Plan & committee involving Industry and government together. Focus on continuous improvement initiatives, new technologies and fate and effects of products.

Canada should have Response Centers that:

- I. Can facilitate classroom training options,

- II. Have field test tanks available for product fate and effects testing, responders conducting practical training with real oil vendors demonstrating equipment capabilities
- III. Can act as knowledge centers for the public.

These response centers could be part of the center of excellence concept or a Response Organization / Government Agency Facilities. If you build it they will come –Initial set up funding costs could come from the liability fund and or a one-time draw on industry and government.

Question# 3: Is there a need for a greater degree of coordination between government departments, between different levels of government (federal, provincial, municipal and international) and between government and the industry in respect to training, exercises and research and development? What could be done to make the coordination of these activities more effective? What steps should be taken?

Yes is the simple answer. From a federal agency standpoint, you have Environment Canada (who has just consolidated resources) Transport Canada and Canadian Coast Guard all with separate roles in response and all with different priorities. As such, you are left with a fragmented approach federally to response. Add into the mix the Provincial Ministry with their own agenda and we end up with conflicting priorities. By GAR the Response Organizations certification program for exercising brings them all together but that is not enough.

There should be:

- I. A separate regional response readiness committee that sets annual goals for the regions that all participants support and include in their budgets. E.g., coordinated ICS training, exercises with objectives for all agencies identified and stewarded through a debrief process, GRP development in conjunction with R.O.'s (one database), etc.
- II. A national response readiness committee that addresses national issue's, plans a national exercise and coordinates senior management ICS training across all agencies. Committee(s) should have a rep from each government agency and the R.O. for each area.

Question # 4: How should risk information related to the potential for an oil spill and its possible impacts be used to inform the elements of the regime? What other information should be taken into consideration when government and industry formulate their preparedness and response plans?

Risks should be identified but also understood. For example, volumes may be high within an area but there may also be significant controls in place that will minimize the probability of a spill (e.g., double hulled vessels, high level alarms, check valves, pipeline alarms, pilots, vessel inspections, vessel captain credentials, vetting of vessels, etc.).

Although not based on risks, the regime today accounts for risks (traffic convergence, volumes) within the tier system and this should continue. For a designated port, there are planning time standards plus a dedicated port package (150 tonne) and for the enhanced response area (ERA) there are planning time standards. These planning time standards translate into equipment and personnel that will need to be available within xx ours depending the tier.

Product type and fate & behavior of a product have never been a consideration in the planning standards.

One option related to risks and tankers is to consider an enhanced planning standard for only Designated Ports & ERA's handling a defined volume of black products. A second option is to expand mandatory Pilot coverage beyond current range.

Other information considered when formulating preparedness plans:

- Remoteness of the area

- Access to storage – shore tanks, tankers and/or barges working in the area that can be made available.
- Mutual Aid available, local trained resources that would be available
- Types of products shipped in the area
- Community Outreach / Stakeholders – User Group input for WCMRC
- Vessel types and traffic patterns
- Key sensitivities within the area
- Wildlife and seasonal differences.
- Volunteer exclusion zones
- OHF's within the area
- Foreign potential impacts (cross border considerations)
- Communities & community exposures (e.g., First Nation harvesting) within the area

Government / Port controls in place to reduce the risks associated with the safe transport of oil:

- Port vessel vetting, Transport Canada vessel vetting, Industry vessel vetting
- Navigational aid, vessel traffic
- T/C's Aerial surveillance program
- Response organizations strategically located – annual certification requirements
- REET – in proactively identifying key sensitivities for GRP strategies
- Mandatory Pilots and two for tankers
- TERMPOL process for new facilities
- Vessel captain – certification program
- Transport Canada vessel inspection program
- Marine Safety and Security program
- Canadian Coast Guard – Federal Monitoring Officer
- Acts, Regulations and planning standards

Question # 5: What other preparedness requirements should be incorporated into the regime?

- Please reference “General – Question 1 – areas for improvement” for further enhancement ideas. Points 1- 19 inclusive.

Response

Question # 1: What could be done to make the response to oil spills more effective and efficient?

1. Regional and national contingency plan
2. Regional / National coordinating committee's that include industry and government
3. Mandated incident management system --- ICS
4. Permanent ICP in place --- training facilities
5. Integrated ICS team – government and industry by region
6. Experienced / knowledgeable regulators
7. Mutual Aid / bi lateral agreement in place – responder immunity in place
8. Pre-approved countermeasures by geographic response plan (GRP) – area plan
9. Umbrella legislation for responder immunity
10. Regional and national inventory database
11. Stronger partnerships
12. Agreed on Wildlife Protocols by all government agencies - where decisions can be made quickly
13. Delegation of authority guide in place for all government and industry participants
14. Annual training & exercise plans for all responders

15. Certification program for response organizations and regulators (e.g., CCG, EC, Provinces)

Question # 2: Is there adequate oversight of the Response Organizations under the current regulatory framework? Are the current Response Organizations Standards adequate? What, if any, changes should be made? Is the certification process for Response Organizations adequate and is there sufficient expertise present during this process?

For Pacific region the answer is yes. We have an excellent T/C regulator who is very knowledgeable and works with us to ensure the environment is protected.

However, the NRB as a group should go through training and be accredited.

A "Peer review" using experienced responders and working with the local T/C regulator may be alternative to the NRB for certification.

Question # 3: Is the current regulated response capacity of 10,000 tonnes sufficient or should it be increased? What could be done to improve on this current model for regulated response capacity?

- Please reference "General – Question 1 areas for improvement" for details -- point #6.

Question # 4: What could be done to increase the capacity to respond to spills of unconventional oil products (e.g. diluted bitumen)?

Diluted bitumen has been moving off the west coast for years, it is nothing new. WCMRC has successfully responded to these spills with conventional mechanical equipment. Strategies and tactics are in place and we continue to upgrade our knowledge on the fate and behavior and use of new technologies.

However, unconventional oils are not listed within the MARPOL list of products.

Question #5: What role should the Canadian Coast Guard take during the response to an oil spill?

- Reference back to Question 1 -- point # 11

For domestic spills – continue their role as the Federal Monitoring Office but recognize Unified Command and join in decisions.

For International / cross border spills -- take a stronger lead.

Question # 6: What improvements could be made to better integrate government and non-government stakeholders into the overall management of a response?

Government: as per points raised in general section, government and industry should partnership by region to form an ICS organization that manages all spills.

Stakeholders; stakeholder should be identified in all GRP's and invited to exercises. During spills a Stakeholder group should be formed and facilitated by the Liaison Officer role within ICS. Their input is collected and prioritized by the group the forwarded to the Planning Section Chief, R.P. and Federal Monitoring Officer for further prioritization and inclusion in daily Incident Action Plan (IAP).

WCMRC exercises this during all area plan tabletop exercises and the outcome has been very positive.

WCMRC also has a “User Group” made up of representatives from all member groups (e.g., OHF’s, Council of Marine carriers, Chamber of Shipping, etc.) and Government / Port Authorities. Agenda’s include R.O. update on annual plans, capital investments, BOCF / CALF changes, Government Updates, training opportunities, etc.).

Question # 7: *Is there a role for other parties to play in the response to an oil spill, particularly in more remote areas of the country? What factors would need to be considered if there is an increased role for them?*

There is always a role but it should continue to be under the management of the Response Organizations to ensure consistency and a continued state of readiness. Currently Marine Contractors and FOSET member are trained in first response strategies and tactics. Many of these are from remote First Nation communities and the smaller remote communities along the B.C. Coast (e.g., Hartley Bay- FN, Shearwater -- marine community)

Disagree with creating any other supplemental response groups outside of the certification process. One plan, consistent training and consistent maintenance standards = preparedness.

Question # 8: The current response regime is based around mechanical recovery. Are there alternate response techniques that should be considered in addition to mechanical recovery for spill response? What are the pros and cons of these alternative mechanisms? How could these additional methods be included into the current regime?

See Question 1 “areas for improvement” ---- Point # 8 -- **Countermeasures**

Liability, Compensation and Funding

Question # 1: *How should a world class oil spill preparedness and response regime be funded?*

Please see point #16 in General Section

Further to those points, all costs associated with annual expenses plus a capital replacement fee (set annually) should be included in one fee (BOCF). Currently WCMRC charges a separate CALF (capital asset loan fee) to assist with capital requirements.

Question # 2: *Is the current fee structure fair, reasonable and transparent, and does it meet the current regime’s requirements?*

- Simple answer is yes, WCMRC hasn’t had an objection since the initial years of implementation – 1995.
- WCMRC reviews all audited fee changes with a “USER GROUP” prior to submission to gazette.
- If anything is added to the responsibility of the response organization this will be reflected in the BOCF and / or would require a new fee specifically for the additional requirement (e.g., wildlife mgt.).

Question # 3: *Canada’s liability and compensation regime provides coverage for the costs associated with responding to an oil spill from a ship. Are there specific costs where the coverage for responding to an oil spill is potentially not adequate? Are there current limitations on the coverage that may impact a response to a spill?*

- Please reference “General – Question 1 areas for improvement” – point #7.

Question # 4: There exist several models for funding the preparedness costs to an oil spill as well as providing access to emergency funds during an ongoing response. Would the dedication of a set amount of emergency funds similar to what is in place in the United States be an improvement to the capability to effectively manage a large spill? What improvements should be made?

WCMRC benchmarking may outline a number of options that could be looked at as alternatives. We would like to see these and compare alternatives before commenting on this point.

Question # 5: Could the Ship-Source Oil Pollution Fund be used more effectively for the purposes of preparedness and response?

- Please reference “General – Question 1 areas for improvement” -- Point #7

As noted previously, there may be a one-time opportunity as part of the regime review to use some of the Ship Source Pollution Fund (even the interest) into raising the preparedness level within each of the GAR’s in Canada.

For example:

- Investment in multi-purpose off shore vessels – east and west coasts
- Development of a combo Research, Training and permanent Incident Command Post – east and west coasts.