

CANUSPLAIN

Regional Annex for the Canada/United States Joint Inland Pollution Contingency Plan

**A Joint Plan of Environment Canada and the United States
Environmental Protection Agency
For Response to
Spills of Hazardous Materials
Along the Shared Inland Border Between
Alberta, Saskatchewan & Manitoba and
Montana, Minnesota & North Dakota**



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1.0 BACKGROUND

The CANUSPLAIN Regional Annex has been developed pursuant to the Canada-United States Joint Inland Pollution Contingency Plan (the Inland Plan), a cooperative mechanism between the United States and Canada for preparedness and response to spills and releases of oil and hazardous substances, which was signed on July 25, 1994 by the Minister of the Department of Environment for Canada and the Administrator of the Environmental Protection Agency for the United States of America. The implementation and maintenance of the Plan is a joint responsibility of both agencies.

The United States Environmental Protection Agency (US EPA) and Environment Canada (EC) regional offices were tasked to develop detailed multilateral plans for each region. CANUSPLAIN is a joint effort of EC's Prairie & Northern Region (Alberta, Saskatchewan & Manitoba) and the US EPA's Region V (Minnesota) and Region VIII (Montana & North Dakota).

2.0 PURPOSE and SCOPE

2.1 Purpose

The purpose of the CANUSPLAIN Regional Annex is to assist federal, state/provincial, Tribal/Aboriginal and local responders to mitigate the effects of on human health and safety, property and the environment by providing for an integrated response to environmental emergency incidents along the shared inland border between Canada and the United States.

The Annex outlines the procedures which would be used to initiate a federal government response on either side of the border in order to facilitate an effective joint response. The Annex outlines jurisdiction, notification and response procedures for both federal governments.

2.2 Scope

CANUSPLAIN may be invoked when a release or threat of release of pollutants presents an imminent and substantial danger to public health or welfare, or the environment on either side of the shared inland border that exists between Montana, North Dakota and Minnesota on the United States side and Alberta, Saskatchewan and Manitoba on the Canadian side.

The Regional Annex also applies when only one country is affected by a polluting incident, if the incident is of sufficient magnitude to require assistance from the other country.

CANUSPLAIN applies to radiological incidents in accordance with the provisions of the Canada Federal Nuclear Response Plan (FNERP, 1997) administered by Health Canada. In the United States, the response will be carried out in accordance with the USA Federal Radiological Emergency Response Plan of May 18, 1996.

3.0 AUTHORITY AND BACKGROUND

A Regional Joint Response Team (RJRT), composed of representatives from EC, EPA, state/provincial and other federal agencies and Tribal/Aboriginal peoples is responsible for the maintenance and implementation of CANUSPLAIN.

3.1 Environmental Protection Agency

Responsibilities of the US EPA for responding to spills or releases of hazardous substances are set out in the the National Oil and Hazardous Substances Contingency Plan (NCP), the *Comprehensive Environmental Response Compensation and Liability Act* (CERCLA), as amended, and the *Oil Pollution Act of 1990* (OPA 90). EPA is the lead federal agency for inland pollution incidents and therefore has responsibility for coordinating the overall American response and ensuring that an initial notification of designated officials immediately occurs on both sides of the border.

3.2 Environment Canada

Responsibilities of EC for responding to emergencies are set out in the Emergency Preparedness Canada Policy Document, Departmental Planning Responsibilities Emergency Preparedness. Under the Cabinet Directive 1973, EC is the federal environmental agency responsible for ensuring that the response to a spill in the federal jurisdiction is effective in protecting the environment. EC is also responsible for providing scientific and technical advice to other government agencies and the polluter regarding environmental sensitivity and spill countermeasures. EC administers the pollution control provisions of the *Fisheries Act* (section 36(3)) which prohibits the discharge of substances deleterious to fish and fish habitat. The *Canadian Environmental Protection Act* (CEPA) administered by EC regulates the release of substances designated as toxic under the provisions of the Act.

3.3 Applicable Agreements and Contingency Plans

3.3.1 Canada

- Canada-United States Joint Inland Pollution Contingency Plan
- Tariff Item No. 9993.00.00 and the *Goods for Emergency Use Remission Order* (Revenue Canada Memorandum D8-1-1, paragraphs 44 and 45 and Appendix G)
- Canada-United States Agreement on the Transboundary Movement of Hazardous Waste
- Canada-United States Agreement on Emergency Planning
- National Environment Canada Oil and Hazardous Spill Contingency Plan
- Canada Council of the Ministers of the Environment Memorandum of Understanding for Environmental Emergencies
- Canada -Alberta Administrative Agreement for the Control of Deposits of Deleterious Substances Under the *Fisheries Act*
- Canada-Saskatchewan Administrative Agreement for the Control of Deposits of Deleterious Substances Under the *Fisheries Act*
- Canada-Saskatchewan Administrative Agreement for the CEPA
- Canada-Manitoba Environmental Accident Response Agreement
- Souris River Water Quality Agreement

- Red River Contingency Plan

3.3.2 United States

- National Oil and Hazardous Substance Spill Contingency Plan (NCP)
- Federal Response Plan (FRP)
- Canada-United States Joint Inland Pollution Contingency Plan
- Region V and VIII Contingency Plans

4.0 OPERATING PROCEDURES

It is always the intent of this Plan that the Responsible Party (RP) take the lead role in the response to and cleanup of a polluting incident. This Plan provides for the oversight of the RP's response and/or management of response operations. It also provides for the coordination of and support for response efforts at the scene of the incident should the RP's response effort be inadequate (see Section 6.0 Roles and Responsibilities) or if the RP is unknown at the time of the release.

CANUSPLAIN is based on the Principle of Escalation. Response to an incident will be led first by the municipal/community level, followed by the state/provincial level and finally the federal level as resources are required. Local spill responders will address those spills which are within their capacity to respond. If a spill exceeds the capacity of local responders, requests for assistance will be made at the provincial or state level. If the spill exceeds the provincial or state capability, requests are then made at the federal level. Federal governments may however, in accordance with applicable statutes, respond to a release without a request from a provincial, state or local level, if the incident is of significant magnitude or if the response is not proceeding in a satisfactory manner.

4.1 CANUSPLAIN Activation

Activation of CANUSPLAIN is a joint decision between the EPA and EC Co-chairs of the Regional Joint Response Team (RJRT) (TAB C) The Annex would be activated under the following circumstances:

- the polluting incident is accompanied by a substantial threat of impacting the other country, and/or
- the polluting incident is of sufficient magnitude to make a request for assistance necessary.

Activation of the Annex does not necessarily mean that there will be an escalation in cross-border response activities however, it does provide a framework for facilitating such activities.

4.2 General

The Annex can be verbally invoked upon discussion and concurrence by the RJRT Co-Chairs (EC's Regional Environmental Emergency Coordinator (REEC) and EPA's RRT Co-Chair) or their authorized representative(s). A written record of the decision to invoke the Plan including date, time, name and contact number of the requesting party, and a summary of the situation will be generated by the requesting party and relayed to the other party as soon as practicable.

It is the joint responsibility of the RJRT Co-Chairs to ensure that members of incident command and other appropriate agencies are informed of the decision to activate CANUSPLAIN as soon as possible.

Whenever possible, every effort will be made to communicate with and reach consensus with the relevant state and provincial governments prior to invoking the Plan. It is preferable that the decision to invoke the Plan be preceded by a verbal or written request for assistance from a state or provincial government; however, EPA and EC retain the right to activate the Plan without a prior request from a state or province.

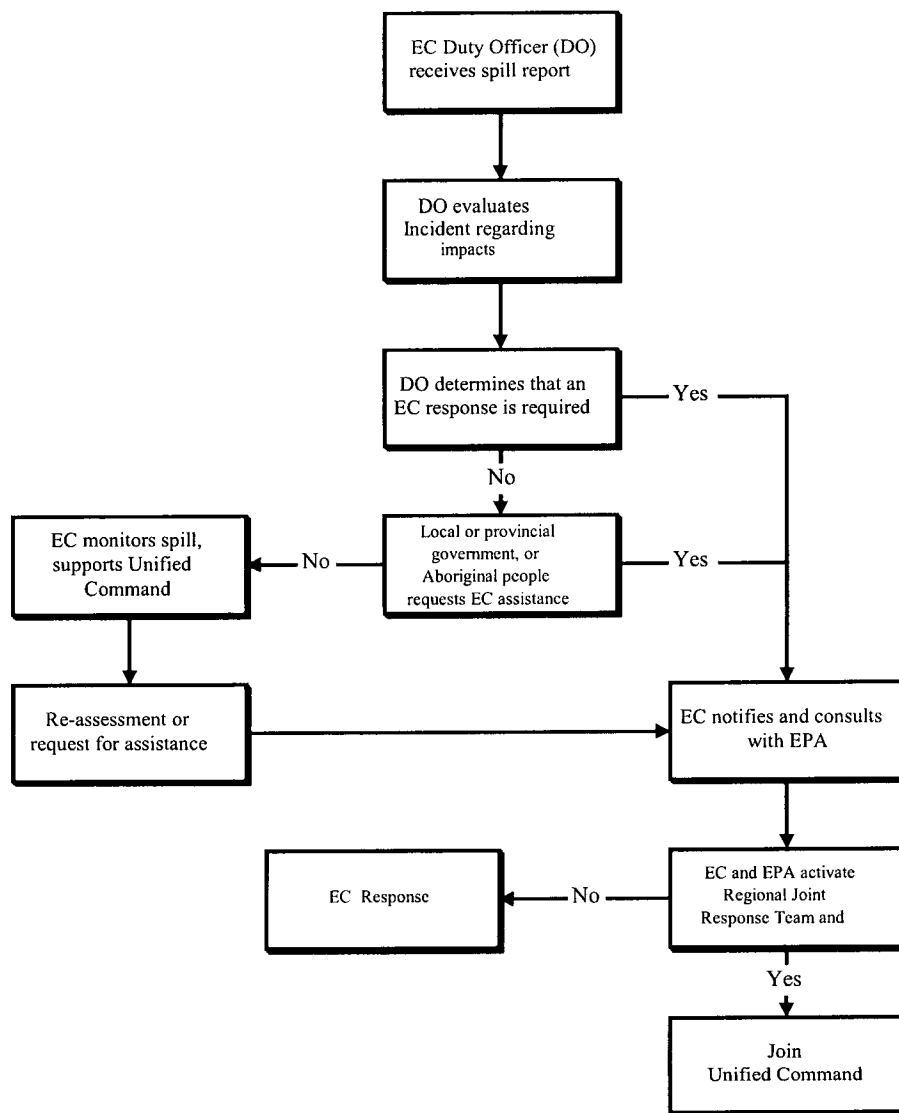
Steps outlining both Canada and United States activation procedures are listed below.

4.3 Canada

- (i) The Environment Canada Duty Officer (EC DO) receives notification of a spill incident which may present a potential threat to the USA. Depending on the location of the incident within Prairie & Northern Region, Alberta Environmental Protection, Saskatchewan Environment and Resource Management or Manitoba Environment will likely have received the initial report and then contacted EC.
- (ii) The EC DO evaluates the incident to make a determination regarding the potential for any cross-border impacts.
- (iii) If the EC DO determines there is a potential for cross-border impacts, the EC DO notifies EPA, NEEC, OFGD's, the REEC and the EC Divisional Manager. Depending upon the particular incident, the EC DO may contact provincial and/or local responders and other federal government departments (OFGD's) to determine if a federal presence is necessary.
- (iv) The EC DO evaluates the severity of and the current response to the spill and determines whether an alerting message should be sent to the EC RJRT Co-chair.
- (v) If a determination is made that an EC representative should respond, the EC DO will notify EPA of that decision.
- (vi) If the EC RJRT Co-chair or designate determines the polluting incident to be moderate or major, an alerting message will be originated by the RJRT Co-chair (or designate) to be sent to the EPA RJRT Co-chair.
- (vii) A decision not to activate the RJRT would generally mean that no federal support to the incident is deemed necessary. When new information becomes available or conditions deteriorate, the decisions will be reconsidered. In some cases the local or provincial responders may request EC technical support without activation of the RJRT. EC would evaluate each request and when appropriate respond on a case-by-case basis.
- (viii) A decision by the Environment Canada Co-Chair of the RJRT (or designate), with the concurrence of the EPA co-chair, to activate the Annex would necessitate the activation of the EC REEC and EPA RRT.
- (ix) Upon activation of the Plan, the EC RJRT Co-Chair will notify NEEC. The initial notification will be verbal followed by a written (faxed) or electronic(e-mail) confirmation.

Figure 3.

Canada CANUSPLAIN Activation



Issues for consideration for EC response include but are not limited to the following:

- Request for federal assistance by provincial and/or local responders;
- Level of risk posed by the release or potential release to public health and/or the environment;
- Safety of the responders and the public and steps taken to assure adequate safety precautions have been implemented or planned;
- Professional judgment of the Duty Officer regarding the effectiveness of the response or planned response.

4.4 United States

- (i) EPA Duty Officer (DO) receives spill report.
- (ii) DO notifies appropriate Regional Response Center (RRC) of the incident
- (iii) RRC assigns an FOSC
- (iv) the FOSC will notify the appropriate state agencies
- (v) FOSC evaluates incident and makes a determination regarding the potential for any cross-border impacts.

If determination is made that an EPA On-Scene Coordinator (OSC) should respond, the EPA DO will notify Environment Canada of that decision. A decision not to respond to the site or not to activate the RJRT would generally mean that no federal support to the incident is deemed necessary. When new information becomes available or conditions deteriorate, the decisions will be reconsidered. In some cases the local or state responders might request EPA technical support without activation of the RJRT. EPA would evaluate each request and when appropriate respond on a case-by-case basis.

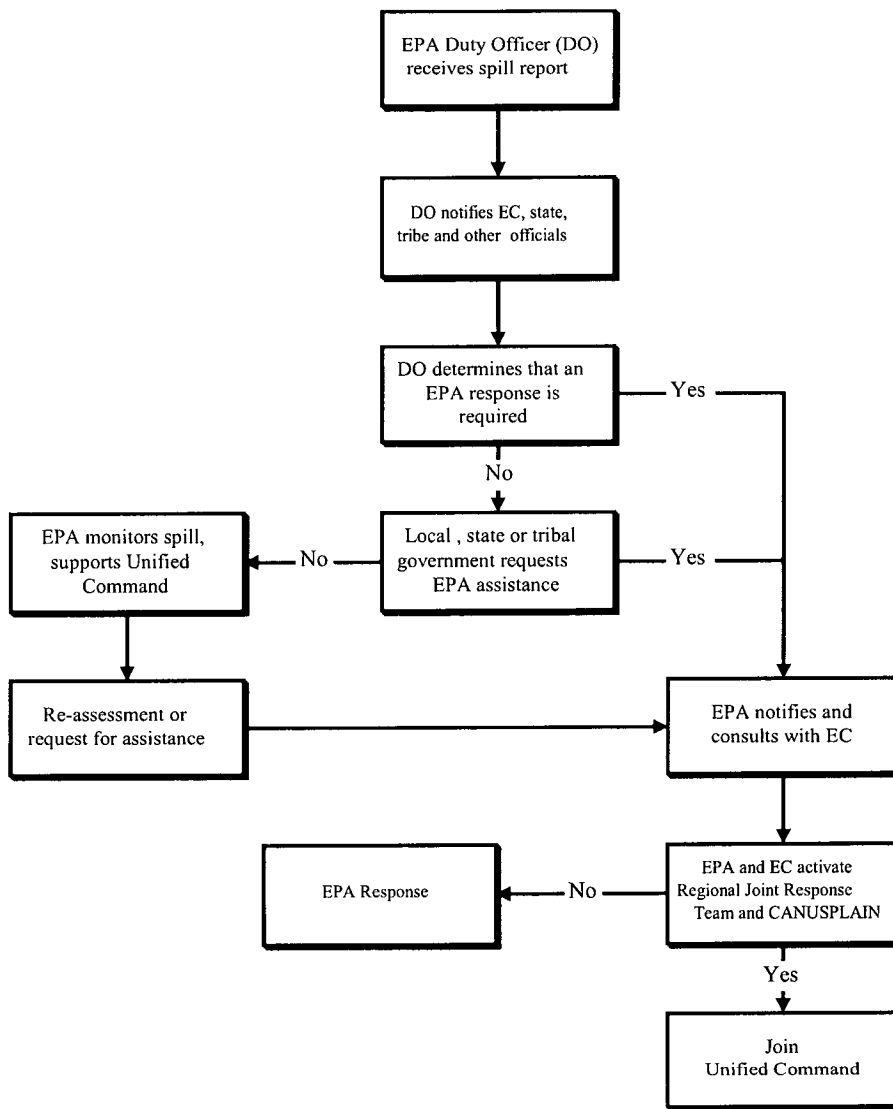
A mutual decision by the EPA RRT Co-Chair and the REEC to activate the Plan would necessitate the activation of the RJRT. Upon activation of the Plan the EPA RJRT Co-Chair will notify the International Joint Advisory Team of Plan activation. The initial notification will be verbal followed by a written (faxed) or electronic (e-mail) confirmation.

Issues for consideration for EPA response include, but are not limited to the following:

- Request for federal assistance by state and/or local responders;
- Level of risk posed by the release or potential release to public health and/or the environment;
- Timeliness of response by responsible party or state and local responders;
- Safety of the responders and the public and steps taken to assure adequate safety precautions have been implemented or planned;
- Professional judgment of the OSC regarding the effectiveness of the response or planned response.

Figure 2.

United States CANUSPLAIN Activation



5.0 EMERGENCY CONTACTS AND NOTIFICATION

Any release or threat of release of oil or a hazardous substance, pollutant or contaminant affecting or potentially affecting both Canada and the U.S. must be reported to both countries immediately. The emergency telephone numbers for reporting spills in the U.S. and Canada are listed below. Additional emergency telephone numbers are listed in TAB A.

5.1 CANADA

To report spills in Canada, the Environment Department of the province in which the spill occurred, or is likely to impact upon, must be contacted. The provincial offices will then notify the appropriate government agencies.

Alberta

Alberta Environmental Protection (AEP)	1-800-222-6514 (24 hr) cellular #7378 (Canada only)
Alberta Transport and Utilities (AT&U)	1-800-272-9600 (24 hr)
Alberta Energy and Utilities Board (AEUB)	1-403-297-8311

Saskatchewan

Saskatchewan Environment and Resource Management (SERM)	1-800-667-7525 (24 hr)
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Manitoba

Manitoba Environment	(204) 944-4888 (24 hr)
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5.2 UNITED STATES

Spills originating in the United States near the Canada/US border must be reported to the National Response Center or the appropriate EPA Regional Office.

National Response Center	1-800-424-8802 (24 hr)
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EPA Region VIII	1-800-227-8914 (24 hr)
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EPA Region V	1-312-353-2318 (24 hr)
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Montana	1-406-841-3911 (24 hr)
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North Dakota	1-701-328-2121 (24hr)
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Minnesota	1-800-422-0798 (24 hr)
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6.0 RESPONSE MANAGEMENT ORGANIZATION

A standard Incident Command System (ICS) and Unified Command Structure (UCS) based on the U.S. National Interagency Incident Management System (NIIMS) will be used to manage the incident. In the United States, all responders must operate under the Incident Command System.

Depending upon the particular incident, the ICS Organization may be made up of five major functional area sections: Incident Command (IC); Operations; Planning; Logistics; and Finance/Administration. The IC's Command Staff will consist of a Safety Officer, a Liaison Officer, and a Public Information Officer.

The UCS will generally be made up of the U.S. Federal On-Scene Coordinator (FOSC), the Canadian Federal On-Scene Coordinator (FOSC), the State OSC, the Provincial OSC, the local OSC, the Responsible Party Incident Commander and, where appropriate, Tribal/First Nations OSC. The members of the UC will operate within the framework and constraints of the applicable federal, state, and provincial laws.

The decision-making process in UCS will strive for consensus however, when consensus cannot be reached, the U.S. and Canada will operate under their respective legislative mandates and standard operating procedures to make final decisions related to activities in their respective countries.

7.0 ROLES AND RESPONSIBILITIES

7.1 Regional Joint Response Team (RJRT)

The RJRT acts as a policy and planning body and provides support to the operational activity only. It does not exercise operational control over the Unified Command. During an incident the advisory and support functions of the RJRT include the following:

- providing advice and/or assistance to the UC upon request,
- monitoring incoming reports, reviewing environmental/health impacts,
- coordinating the actions of the various agencies in supplying the necessary resources and assistance to the UC,
- ensuring that the UC has adequate public information support,
- reviewing actions taken by the UC and making recommendations for additional measures needed to support the response,
- promoting efficient communications to ensure effective information flow,
- assure there is a discussion of the response and a document prepared which describes the lessons learned from the response,
- Section 302 of the Plan outlines additional functions of the RJRT.

The makeup of the RJRT will be dictated by the nature of the incident but will include representatives from Environment Canada's Regional Environmental Emergency Team (REET) and, depending on the location of the release, from the US EPA's Region 5 or Region 8 Regional Response Team (RRT). Other members of the RJRT may include some or all of the representatives identified in TAB C.

7.2 Federal On-Scene Coordinator

The Federal On-Scene Coordinator (FOSC) for Canada or for the U.S may assume either a support or a lead role. In the support role the FOSC may provide response oversight, technical assistance, and other support to the Responsible Party, local, state or provincial incident commander. In addition, the FOSC may provide coordination and direction to the federal government activities at the scene.

In the case where the overall lead role is assumed, the FOSC shall be responsible for the overall control and direction of the response and countermeasures operations and is the final authority for all decisions. The FOSC shall obtain proper authorization and necessary permits, in accordance with appropriate national, provincial, state and local laws, to call upon and direct the deployment of resources to initiate and continue countermeasures, cleanup, temporary storage and disposal functions.

In all cases the FOSC shall strive to:

- determine the pertinent facts about a particular incident such as: the identity of the RP; the nature, amount, and location of pollutant spilled; probable direction and time of travel of the pollutant; resources available and needed; and the potential effects on public health and welfare, the environment and natural resources and property;
- develop public health and safety and environmental goals and objectives for the response;
- provide for the safety of the responders and the potentially affected public;

- assure that adequate information is provided to the public;
- ensure that comprehensive and consolidated environmental advice and technical support information is being provided to address the needs of the response operations. This should be done through the REET for Canada or the OSC for the U.S.;
- document response actions;
- maintain an up-to-date and accurate information flow to the RJRT to ensure the maximum effectiveness of the joint effort in protecting the public health and welfare, the environment and property from pollution damage;
- arrange for a debriefing and or critique session for all participants which will include a discussion of lessons learned;
- submit reports and recommendations to the RJRT following an incident.

7.3 Federal/State/Provincial Agency Roles

Initial responsibility for responding to incidents rests with local authorities unless otherwise identified under federal jurisdiction or agreements. Accordingly, most environmental matters are governed by Provincial Acts and regulations administered by provincial agencies.

In Prairie & Northern Region, administrative agreements have been signed between the provincial and federal governments to address a variety of environmental issues. These agreements are essentially work-share arrangements between both levels of government to work cooperatively in ensuring effective and efficient protection of the environment such as spill reporting and response.

7.3.1 Canada

It is Environment Canada's responsibility to assure that all spills are responded to in a timely manner and that the response is adequate to ensure appropriate cleanup and protection of public health and the environment. In all spill situations it is EC's intent to contribute to the response by working with the local, provincial, and First Nation authorities, the general public, U.S. federal and state agencies, and other Canadian federal agencies to ensure the information needed to maximize the effectiveness of the response effort is readily available.

During a response it is both Canadian policy and EC's intent to require the RP to respond to the release or discharge, i.e. the polluter pays principle, and when EC is the lead Canadian response agency, to oversee that the response is conducted properly and in a timely manner. When the responsible party is unknown, unwilling or incapable of providing a proper and timely response, EC may assume a lead authority role. EC has significant in-house resources available which can be brought to bear during a major spill incident. It is EC's intent to encourage local and state authorities to handle spills within their jurisdictions whenever possible.

Emergency Preparedness Canada (EPC) is the federal department responsible for civil preparedness in Canada for all types of emergencies. EPC often coordinates the initial involvement of federal departments responding to an incident, however they would not provide an on-scene responder.

Emergency Preparedness Canada also chairs Federal Emergency Preparedness Coordinating Committees (FEPCC), which exist in Alberta, Saskatchewan and Manitoba. FEPCC is comprised of representatives from federal government departments that normally are involved in environmental and other emergency incidents.

7.3.2 Alberta

In Alberta, Alberta Environmental Protection (AEP) is the key provincial agency for hazardous material spills. AEP maintains a 24 hour environmental response toll free number and first response capability to attend all spills and releases of pollutants in Alberta excluding those of Federal jurisdiction. The Canada - Alberta Administrative Agreement for the Control of Deposits of Deleterious Substances Under the *Fisheries Act* provides the details as to how the province responds to incidents of federal interest and reports essential information to Environment Canada. Once a spill or release of a pollutant impinges or threatens to do so, on the United States-Canada boundary area it would be of "federal interest" and AEP is to inform EC as soon as possible.

Alberta Transport and Utilities (AT&U) is the provincial agency that regulates compliance with federal and provincial dangerous goods road transportation legislation. AT&U also maintains the Coordination and Information Centre which serves as an emergency response centre for all natural and man-made disasters in Alberta. The Centre is manned on a 24-hour basis and is a key element in the province's notification and fan-out system for emergencies.

The Alberta Energy and Utilities Board (AEUB) regulates petroleum activities (oil & gas, pipelines) in Alberta. Although not directly responsible for spill response, it works closely with oil spill cooperatives and can provide valuable input with respect to spill response activities.

7.3.3 Saskatchewan

Saskatchewan Environment and Resource Management (SERM) maintains a first response capability for environmental emergencies in the province. They would provide information back to the response team member in one of the regions who is on call. SERM maintains a 24-hour environmental emergency spill reporting. Spills and releases of polluting materials from federal facilities are also reported to SERM pursuant to the Canada - Saskatchewan Administrative Agreements. Once a spill or release of a pollutant impinges, or threatens to do so, on the Canada-U.S. boundary area, it would be of "federal interest" and SERM is to notify EC as soon as possible.

Saskatchewan Energy and Mines (SEM) regulate petroleum activities associated with releases from wells for production of petroleum or natural gas or flow lines and pipelines for gathering and distribution of natural gas. SEM field offices are able to provide information with respect to availability of local oilfield response and equipment as well as information regarding environmental standards.

Saskatchewan Emergency Planning (SEP) may become involved in a cross border emergency response by supporting local officials in functions such as evacuation and by providing information for appropriate inquiries.

7.3.4 Manitoba

In Manitoba, Manitoba Environment (ME) maintains a first response capability to attend all spills and releases of pollutants, including those of federal government interest. ME and EC have an Environmental Accident Response Agreement which provides the details as to how the Province responds to incidents of federal interest and reports essential information to EC. Once a spill or release of a pollutant impinges or threatens to do so, on the United States-Canada boundary area it would be of "federal interest" and ME is

to inform EC as soon as possible.

Manitoba Environment maintains a 24-hour environmental emergency spill reporting number and all spills or releases of hazardous materials must be reported to this number. Even spills and releases of polluting materials from federal government facilities ("federal interest") are to be reported to ME pursuant to the Canada-Manitoba Environmental Accident Response Agreement.

Manitoba Emergency Measurement Organization (MEMO) can become involved in a cross border response by supporting local officials and assisting in evacuations. MEMO can also be a valuable source of information during an emergency.

7.3.5 United States

EPA has the Federal responsibility for addressing spills of oil and hazardous substances in the inland zone. It is EPA's responsibility to assure that all inland spills are responded to in a timely manner and that the response is adequate to ensure appropriate cleanup and protection of public health and the environment while taking into account natural and cultural resource issues.

In all spill situations it is EPA's intent to contribute to the response by working with the local, state, and tribal authorities, the general public, Canadian federal and provincial agencies, and U.S. federal agencies to ensure the information needed to maximize the effectiveness of the response effort is readily available. During a response it is both U.S. policy and EPA's intent to require the RP to respond to the release or discharge and when EPA is the lead U.S. response agency, to oversee that the response is conducted properly, in accordance with the NCP and other appropriate response plans, and in a timely manner.

When the responsible party is unknown or is incapable of providing a proper and timely response, EPA may assume the role of lead government agency. In the case of an oil discharge posing a substantial threat to public health or welfare, EPA is required by law to initiate and direct an appropriate response. EPA has significant contractor and in-house resources available to it which can be brought to bear during a major spill incident. It is EPA's intent to allow spills to be addressed at the local and state levels whenever possible.

7.3.6 Montana

Montana's Constitution charges the state and its citizens to maintain a clean and healthful environment. In instances of hazardous material releases, it is incumbent on the responsible party (RP) to respond in a timely manner, secure the area and properly cleanup the release or discharge.

The Montana Emergency Operations Plan is a means for coordinating emergency and disaster responses and subsequent cleanup at the state level. It is Montana's intent to allow spills to be addressed at local and federal levels whenever possible. In release situations, the plan is aimed at providing a coordinated agency response to assist incident commanders, local, federal and tribal authorities, Canadian federal and provincial agencies, and U.S. federal agencies. In instances where the incident necessitates the formation of a joint command, state personnel may be part of the joint or unified command.

Unified command will generally be made up of the local incident commander from the appropriate responsible province/state. If needed, additional unified command members may be made up of the U.S. Federal On-Scene Coordinator (FOSC), the Canadian federal lead agency representative and/or E.C.; the

State O.S.C., the Provincial O.S.C.; and tribal/aboriginal peoples of Canada O.S.C. The members of the Unified Command will operate within the framework and constraints of the applicable federal, state and provincial laws.

In situations where the incident commander or other appropriate authority asks the state to assume the role of incident commander, the state may assume that role. Montana has the means for using contractor and state resources if requested to do so. When the RP is unknown or is incapable of providing a proper and timely response the state may assume the role of incident commander or be part of a joint command.

7.3.7 North Dakota

The State Emergency Operations Plan (SEOP) defines the emergency operations responsibilities of departments of state government and ensures a co-ordinated effort by federal, state and local governments in the management of emergencies or disasters of national, state, or local scope to save lives and protect property and the environment.

The responsibility for the containment, mitigation and clean-up of any hazardous material accident/incident in North Dakota shall belong to the facility/carrier of that substance. Local emergency management organizations shall assist in providing an initial assessment. Local fire, health, and law enforcement response organizations will provide Initial emergency response to any hazardous materials incident.

Any state and federal assistance provided to local response organizations is intended as a supplement to, not as a substitute for local emergency response. State and federal support is available as needed. When information provided indicates the situation is beyond the control of the local authorities, the State Co-ordinating Officer will co-ordinate the additional state response pursuant to the SEOP. Appropriate state agencies as indicated in the SEOP will respond as necessary to the incident. The state agencies will assess the need for federal assistance and co-ordinate any federal assistance requested.

7.3.8 Minnesota

Minnesota law requires discharges to be reported to the State Duty Officer, who is on duty in the Capitol building 24 hours per day. The various laws requiring reports include discharges to the air, land, and water, cover oil, hazardous substances, pesticides and fertilizers, and other materials which could cause pollution; and have no "reportable quantities" except for petroleum at 5 gallons. The Duty Officer numbers are (612) 649-5451 and (800) 422-0798.

Minnesota Statute Chapter 115E requires companies handling oil and hazardous substances to act to prevent releases and to be prepared for releases they may have. Chapter 115E requirements are similar to those of OPA, but cover protection of the public's safety and the environment, and cover pollution of the land air and waters of the State. A facility operator is to notify the Emergency Response Commission when their plan is completed, and must supply a copy upon request. Minnesota Pollution Control Agency Emergency Response Team (MPCA ERT) staff actively inspect the prevention and preparedness capabilities of major facilities, and will assist facility owners if requested. They conduct enforcement if the preparedness of a facility is found to be inadequate, especially if it contributed to a release or poor response.

State agencies, including MPCA, Natural resources, Transportation, Public Safety, and Health, operate under ICS principles. In incidents threatening the public's safety, Local commanders receive State support. In a major incident requiring Federal assistance, MPCA will generally be the liaison between State and Federal responders. DEM conducts incident command training for State, Local, and private responders. DEM and the State Fire Marshal contract with a number of Local jurisdictions to provide hazardous materials assessment and response teams to the various regions of the State. These teams are dispatched by DEM after the Duty Officer has received a request from a Local incident commander stating that Local capabilities are inadequate for the needed response.

8.0 RESPONDING FROM CANADA TO THE UNITED STATES

8.1 Customs and Excise Regulations

United States customs and excise regulations govern the movement of goods between Canada and the United States. During an emergency, U.S. Customs and Immigration Regulations- provide for the movement of manpower and equipment from Canada into the United States. Section 1322(b) of Title 19, United States Code, US states (in part):

Pursuant to this section, United States Customs Regulations allow rescue and relief equipment into the country without payment of duty.

8.1.1 Procedure

When federal involvement becomes necessary in a transboundary incident an EPA Official (RRT Co-Chair or FOOSC) notifies U.S. Customs, Port Director that the RJRT has been activated to deal with a release affecting or threatening the U.S. and that the Plan has been invoked. The telephone notification is confirmed with a FAX to Customs and a copy is provided to the FOOSC.

The U.S. Customs Port Director may authorize or direct the following:

- expedited entry/clearance for response equipment involved with emergency response with no duty or other fees to be collected;
- where equipment enters the U.S. at other than a port of entry, e.g., air or water, it must be reported to U.S. Customs within 10 days;
- material, equipment and supplies dispatched from Canada must remain under supervisory control of an appropriate Canadian authority;
- equipment brought into the U.S. must be returned to Canada within 90 days unless an extension is granted or other arrangements are made at the time of entry or during the response;
- consumables need not be brought back into Canada.

To facilitate the movement of equipment across the border into the U.S. and back into Canada, it is advisable to identify ahead of time which Ports of Entry are open at the time projected for crossing. It is also advisable to maintain a list of equipment and supplies for each vehicle to be taken across the border. This list will be presented to the U.S. Customs Agent when crossing the border. It will help re-entry into Canada if the list has been stamped by Canadian Customs prior to initially departing Canada.

Canadians will be required to check equipment through U.S. Customs prior to leaving the U.S.

8.2 Employment and Immigration Regulations

The United States Immigration and Naturalization Service (INS) regulates when Canadian citizens can work in the United States. Canadian cleanup workers responding to an incident in the United States can stay for a maximum of one week. Prior to entry, it must be certified that no United States workers are available to respond in a timely manner.

8.2.1 Procedure

When U.S. federal involvement in a transboundary incident becomes necessary, an EPA Official (RJRT Co-chair or FOOSC) notifies U.S. Immigration and Naturalization Service (INS) of an international spill and the need for trained Canadian workers to support the emergency response. The official must specify that the RJRT has been activated and the PLAN has been invoked. Initial telephone notification will be followed up with a FAX to INS and the FOOSC.

- (i) The EPA Official certifies to the INS that insufficient trained response workers are available to respond in a timely manner.
- (ii) Response companies must complete INS Form I-94 for each worker.
- (iii) Response companies must provide safe transport for INS Inspector to inspect response operations.
- (iv) All personnel should have proper identification with them. In addition, non-Canadian citizens must have passport or visas with them.
- (v) Provide 24 hr advanced notice if possible.
- (vi) Workers from Canada may only work 90 days in the U.S. unless other provisions are made.
- (vii) Upon departing the US the Canadian workers must check out through an INS office.

8.3 Responder Training Requirements

The United States has specific Regulations detailing the training requirements for emergency response personnel. The Occupational Health and Safety Administration (OSHA) regulates worker protection.

OSHA health and safety standards for hazardous waste operations and emergency response are found in the Code of Federal Regulations Title 29 CFR 1910.120. This regulation outlines specific training requirements which are mandatory for emergency response personnel. Foreign workers must follow the OSHA rules when working in the U.S. Although U.S. and Canadian legislation governing worker safety are essentially similar, responders should be aware that there are no agreements in place between the U.S. and Canada stating that the U.S. will recognize Canadian training requirements.

29 CFR 1910.120 also requires that a written health and safety plan be prepared for all cross border responses prior to response action. If separate health and safety plans have been prepared by Canadian and U.S. responders, the safety officers from Canada and the U.S. will meet to resolve any differences. (See TAB D).

8.4 Liability and Insurance Issues

During emergency situations, the demand for services often exceeds local resources and there is often a reliance on government and the private sector to assist in a response. Volunteers and other responders who provide assistance in emergency situations often face substantial liability exposure when doing so.

During an emergency situation, some states may grant certain responders with "employee of the state" status which offers some protection against liability. Most states have Good Samaritan laws and/or volunteer immunity statutes which provide immunity from liability (e.g. property damage, wrongful death, personal injury) to those who provide services in connection with an emergency. These laws vary from state to state however, as does the degree of protection. The federal government has also passed the Volunteer Protection Act of 1997.

Most insurance companies offer extensive coverage to emergency response contractors (e.g. general liability insurance, pollution liability insurance). Responders are advised to check with their individual insurance companies to determine the extent of coverage. Responders who are members of mutual aid programs such as CHLOREP, CHEMTREC and others are often provided with some degree of liability protection as part of their agreement.

9.0 RESPONDING FROM THE UNITED STATES INTO CANADA

9.1 Customs and Excise Regulations

Customs and excise regulations govern the movement of goods between Canada and the United States. To avoid unnecessary delays in responding to an incident, it is recommended that customs and immigrations officials at the port(s) of entry into Canada be notified of any polluting incidents. To effect the movement of equipment into Canada, Tariff Item No. 9993.00.00 and the *Goods for Emergency Use Remission Order* (Revenue Canada Memorandum D8-1-1, paragraphs 44 and 45 and Appendix G) outlines the conditions under which goods for emergency use can be brought into the country without paying customs duties or taxes. The Order requires that any goods imported into Canada which are not consumed or destroyed during the emergency must be exported when no longer needed.

At the port of entry where the goods must be reported, a simple blotter record describing the goods in general terms will be made, without a security deposit, on a Temporary Admission Permit (Canada Customs Form E29B). This permit can be issued at the time of importation or after the fact, depending upon the circumstances. This record describing the goods imported can be canceled whenever an official or responsible person provides evidence that the goods were consumed or destroyed during the emergency, or were exported from Canada.

When goods are entered into Canada where there are no Customs Officers or Royal Canadian Mounted Police in attendance, a record kept by a responsible individual (i.e. municipal mayor, provincial government representative or other individual charged with responsibility of directing the emergency countermeasures) will be accepted for the purpose of completing form E29B.

Procedure

1. Customs Border Services at the port of entry should be contacted as soon as possible to inform them that emergency goods will be entering.
2. The driver of the vehicle/vessel/aircraft transporting goods to Canada must carry two copies of the equipment list which includes serial numbers and monetary value.
3. It is advisable to stop at U.S. Customs prior to departure to get a copy of the list stamped. This will assist when re-importing the goods back to the United States.
4. Present the list to Canada Customs for clearance approval. Should problems arise ask to speak to a Senior Officer (usually a Superintendent).
5. Report to Canada Customs when leaving Canada so that temporary admission permits can be canceled.

9.2 Employment and Immigration Regulations

Agreements between Canada and the United States make it possible for emergency response personnel from the U.S. to enter Canada without special documentation or permits. A visa or other proof of citizenship is advised however. Section 19(1)(j) of Canada's *Immigration Regulations* outlines the provisions for admission of personnel into Canada for the purpose of responding to an emergency. Unless an emergency exists, significant restrictions may apply.

9.3 Responder Training Requirements

Unlike the United States, Canada does not have federal requirements similar to 29 CFR 1910.120, which regulates the type of training that emergency response personnel should have. Instead, Canadian requirements are mandated at both the federal (Part II of the Canadian Labour Code) and provincial (Occupational Health and Safety legislation) level.

It is therefore recommended that, in addition to specifying basic US training requirements 29 CFR 1910.120 and NFPA 472, US emergency response teams should supplement their training with Canada-specific training requirements such as Transportation of Dangerous Goods (TDG) and Workplace Hazardous Materials Information System (WHMIS) before entering the country.(See TAB D)

9.4 Liability and Insurance Issues

At common law, United States response teams responding to an incident can be held liable for any damages caused through negligence, nuisance or trespass. Some Canadian federal legislation, such as the *Fisheries Act*, *Canadian Environmental Protection Act*, *Canada Shipping Act* and *Transportation of Dangerous Goods Act*, can impose liability on responders.

Limited immunity from liability is available to private responders under federal statutes such as the *Transportation of Dangerous Goods Act* and to Crown employees under the *Crown Liability and Proceedings Act*.

10.0 INFORMATION

Internal

Internal communications within the ICS is the responsibility of every person operating within the ICS; however, it will be a primary responsibility of those individuals operating in the Unified Command and the Branch Chiefs to assure that communications are moving both up and down the command system. In order for staff to effectively fulfill their roles, they need to be informed of the issues and the response activities. In addition it is imperative that regular communication be established among the branch chiefs and between the branch chiefs and the command. The command will establish these communications links.

Internal agency communication is the responsibility of each participating agency. It is critical, however, that information which is being provided to each participating agency is consistent. The assurance of consistency of information is also the responsibility of each participating agency or organization.

11.0 DEMOBILIZATION

Demobilization of Federal participation in a Cross Border response will, if possible, be a decision which is agreed upon by both EPA and EC. It is possible, however, that resource availability, applicable laws or regulations or other factors may require one federal agency to cease further action at an incident. Such a decision by one federal agency will not preclude further action by the remaining agency. Note, it is also possible that federal agencies may demobilize from the site while state, provincial and local response continues. When demobilization decisions are made, all relevant responding organizations must be notified of the decision prior to the actual demobilization.

12.0 POST INCIDENT REVIEW and REPORT

At the conclusion of each Plan activation, the lead federal agency will conduct a Post Incident Review (PIR) and prepare a report which documents the actions taken during the response and identifies any operational problems. It is critical that all organizations participate in this PIR. The Cross Border Work Group shall then evaluate the PIR t and make appropriate changes to CANUSPLAIN to address any deficiencies.

13.0 PLAN REVIEW and UPDATE

13.12. Amendments

EPA and EC will ensure that periodic reviews of CANUSPLAIN are conducted and issue amendments as required.

14.0 GLOSSARY of ACRONYMS and TERMS

CERCLA	-	Comprehensive Environmental Response Compensation and Liability Act (U.S.)
EC	-	Environment Canada (Canada)
EPA	-	United States Environmental Protection Agency (U.S.)
ESM	-	Emergency Site Management (Canada)
FOSC	-	Federal On-Scene Coordinator
FRP	-	Federal Response Plan (U.S.)
IC	-	Incident Command
ICS	-	Incident Command System
IJAT	-	International Joint Advisory Team
INS	-	United States Immigration and Naturalization Service (U.S.)
MPCA	-	Minnesota Pollution Control Agency
NCP	-	National Oil and Hazardous Materials Contingency Plan (U.S.)
NEEC	-	National Environmental Emergencies Centre (Canada)
NIIMS	-	National Interagency Incident Management System (U.S.)
NRC	-	National Response Center (U.S.)
OSHA	-	Occupational Safety and Health Administration (U.S.)
OPA	-	Oil Pollution Act of 1990 (U.S.)
PIR	-	Post Incident Review
RCP	-	Regional Contingency Plan (U.S.)
REET	-	Regional Environmental Emergency Team (Canada)
RJRT	-	Regional Joint Response Team
RRC	-	Regional Response Center
RRT	-	Regional Response Team (U.S.)
RP	-	Responsible Party
UCS	-	Unified Command Structure

TAB C REGIONAL JOINT RESPONSE TEAM (RJRT)

Canadian Members

Environment Canada

Fisheries and Oceans Canada (Habitat Protection and Canadian Coast Guard)

Health Canada

Canadian Heritage (Parks Canada)

Indian and Northern Affairs Canada

Justice Canada

National Defence Canada (Emergency Preparedness Canada)

Public Works and Government Services

Revenue Canada

Transport Canada

Alberta Environmental Protection

Alberta Transport & Utilities

Saskatchewan Environment and Resource Management

Manitoba Environment

Aboriginal People Representatives

TAB C (CONT'D) REGIONAL JOINT RESPONSE TEAM (RJRT)

United States Members

Environmental Protection Agency
U.S. Coast Guard
Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Department of Health and Human Services
Department of Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Federal Emergency Management Agency
Food and Drug Administration
General Services Administration
Nuclear Regulatory Commission
State of Montana
State of North Dakota
State of Minnesota
Native American Tribe(s)

TAB D HEALTH AND SAFETY TRAINING REQUIREMENTS

			AB	SK	MB	MT	ND	MN
First Responder (Awareness Level)			NFPA 472	NFPA 472	NFPA 472			
First Responder (Operations Level)						8 hrs	8 hrs	8 hrs
HAZMAT Technician						24 hrs	24 hrs	24 hrs
HAZMAT Specialist						24 hrs	24 hrs	24 hrs
On-Scene Commander						24 hrs plus experience	24 hrs plus experience	24 hrs plus experience
Routine Site Workers						40 hrs HAZWOP	40 hrs HAZWOP	40 hrs HAZWOP
Refresher Training		8 hrs annual				8 hrs annual	8 hrs annual	8 hrs annual