

*Canadian Wildlife Service
Environmental Conservation Branch
Environment Canada Atlantic Region*

OIL SPILL RESPONSE PLAN



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1.0 INTRODUCTION

1.1 Purpose of the Plan

This plan defines the role of the Atlantic Region of the Environmental Conservation Branch, particularly the Canadian Wildlife Service (CWS) in response to oil spills involving Migratory Birds and Species at risk. It has the intention of increasing the understanding of the complex but ordered activity of an oil spill response by defining the roles and activities of CWS participants and specifying CWS concerns and conservation priorities.

The plan will be complemented by a *Oil Spill Response Procedures Manual* which will specify, in detail, the functions and responsibilities of CWS personnel in a variety of spill scenarios.

1.2 Philosophical and Legal Background

The Canadian Wildlife Service is charged with the administration of the *Migratory Birds Convention Act* (MBCA), a responsibility that requires management and conservation of migratory bird species. There is an additional responsibility for the federal government under the *Species at Risk Act* for all listed species at risk on federal lands and waters. The *Canada Wildlife Act*, also administered by CWS, broadens responsibility even further, requiring conservation of biodiversity and providing mechanisms for habitat conservation.

The administration of these responsibilities is complex, and the policies developed to discharge them are presented in *A Wildlife Policy for Canada* (1990). In the introduction to that document it is clearly enunciated that "Wildlife is an integral and vital component of Canada's heritage", and among the guiding principles for conservation of this heritage are two which are particularly relevant to the Canadian Wildlife Service's function in responding to oil spills involving migratory birds:

- the maintenance of viable natural populations of wildlife always takes precedence over their use by people; and,
- all Canadians share the costs of conserving wildlife. Those whose actions result in additional costs should bear them.

This plan specifies how CWS will discharge its responsibilities and implement these policies in the context of oil spills and oiled wildlife in Atlantic Canada.

1.3 The Scope of This Plan

This plan specifies actions to be taken by CWS Atlantic Region in the event of an oil spill or the presence of oiled migratory birds. Both large and small events are addressed, with no attempt to concentrate on the "mega-spill". This plan does not replace any element of the *REET Atlantic Region Contingency Plan* (1999), but elaborates and complements those parts of it which pertain to migratory birds.

All migratory bird species which may be affected by oil spills, and their terrestrial, fresh water, marine and inter-tidal habitats, are within the purview of this plan. The plan addresses oil spill response requirements for species managed by the Canadian Wildlife Service, but combined with response plans of other agencies it forms a blueprint for dealing with all wildlife species affected by oil spills.

It is not within the scope of the plan to identify all potential participants in migratory bird-related oil spill response, but information and reporting paths are specified, and responsible officers in the Canadian

Wildlife Service are identified. Contacts in other organizations with interests in or responsibility for wildlife will be set out in the *CWS Oil Spill Response Procedures Manual*.

1.4 Definition of Terms

Some terms used below have a specific meaning in the context of this plan.

1. **Canadian Wildlife Service:** Part of the Environmental Conservation Branch of Environment Canada, Atlantic Region, responsible for the conservation and management of migratory birds.
2. **Migratory Birds:** Those species identified in the *Migratory Birds Convention Act* of 1917, whose management is the responsibility of the Canadian Wildlife Service. In general, this includes all native birds except for Starlings, Pigeons, Pheasants, Cormorants, Grouse, Owls, Eagles, Hawks, Crows, Ravens, Jays and Kingfishers, which are managed by provinces.
3. **Species at Risk:** Those species given the status of Endangered, Threatened, or Vulnerable by COSEWIC (Committee on the Status of Endangered Wildlife in Canada) or listed under the federal Species at Risk Act.
4. **Wildlife:** All free-living mammals, birds and reptiles which are native to North America (does not include all flora and fauna as defined in the Wildlife Policy for Canada).

1.5 Canadian Wildlife Service Oil Spill Response Priorities and Functions

With the Migratory Bird Convention, an empire treaty signed with the United States in 1916, and the subsequent *Migratory Birds Convention Act* of 1917 the Government of Canada undertook responsibility for the protection, conservation and management of migratory birds. CWS administers that act and is responsible for the management of migratory birds involved in oil pollution incidents.

In oil spill response the Canadian Wildlife Service and the Environmental Conservation Branch will:

- as a primary responsibility, assess the threat to migratory birds, and species at risk, and work to minimize spill impacts;
- present practical, informed and timely advice on migratory bird populations and environmental priorities to the lead agency and On-Scene-Commander through the Regional Environmental Emergencies Team (REET);
- coordinate response activities through the REET;
- coordinate input from wildlife agencies and groups;
- cooperate with agencies that work to remove oil from the environment, thus reducing the chances that migratory birds will come into contact with oil;
- make available a trained CWS response team to supervise and contribute to the wildlife component of oil spill response in the Atlantic Region;
- attempt to prevent or limit damage to wildlife populations, where this is feasible, by providing advice on bird hazing and bird exclusion techniques;

- issue permits, to capable and qualified persons or organizations, which allow the use of firearms or aircraft for dispersal of birds, and for bait stations which attract birds to non-polluted areas, and monitor the effectiveness of these operations;
- where it is feasible, document the impacts of a spill on migratory birds and species at risk for a possible later legal action, or to support negotiated environmental damage claims; and,
- in cooperation with other government agencies with jurisdiction, initiate investigations which could support subsequent prosecution of a polluter.

1.6 The Role of the Canadian Wildlife Service in Management of Oiled Birds

In all oil spills in the pelagic realm and in most spills in coastal waters, the major ecological damage is that sustained by populations of waterfowl and seabirds. In comparing the seriousness of damage to different components of an ecosystem and in setting priorities for response, **CWS uses the criterion of 'time to recovery'**. Species which are abundant and have short generation times are likely to re-establish population levels more rapidly after a spill, and are thus of lesser concern than species such as pelagic seabirds. Those birds have long generation times, and with a clutch of only one egg, have a restricted reproductive potential. Species at risk are those which may already have much reduced populations and a negative population trajectory, and are thus unlikely to recover naturally following a population reduction.

In the cold waters off eastern Canada most birds die if they encounter even the tiny amount of floating oil necessary to mat a small area of their plumage. Birds that come to land are usually those which have metabolized their energy reserves and are near death. The rehabilitation of oiled birds which come ashore is a difficult and costly task, and experience has shown that only a very small proportion of birds which are oiled and then cleaned survive to re-enter the wild breeding population.

The *Migratory Birds Convention Act* provides for protection and management of migratory birds in Canada. Regulations 4 and 5 of that act specify that no person may be in possession of a migratory bird unless issued a permit by CWS.

In management of oiled birds the CWS response will vary greatly with circumstances, but the following imperatives will guide its response:

- CWS will not normally undertake oiled-bird cleaning or rehabilitation unless species at risk are involved. In this circumstance a rescue and cleaning program may be initiated by CWS if it is feasible and likely to be effective. Any costs incurred by CWS for cleaning and rehabilitating oiled birds will be recovered from the party responsible for the spill;
- CWS will generally euthanise or recommend the euthanasiation of oiled birds unless the species is a listed species at risk, or if a wildlife rehabilitation organization licensed by CWS wishes to attempt cleaning and rehabilitation;
- Where oiled birds can be retrieved, CWS may issue permits to allow competent persons or organizations to hold oiled birds temporarily in captivity for rehabilitation, or to kill birds too badly oiled to survive;
- Permits for wildlife rehabilitation will be issued only if the applicant has the expertise to carry out that function humanely and competently, and if facilities and personnel for after-care are available;

- CWS will monitor the competence and effectiveness of agencies or groups involved in the assessment of oil impacts on birds, their collection, cleaning or euthanasiation;
- In situations where a polluter is known, or is likely to be identified, CWS may document wildlife and wildlife habitat damage accurately for possible subsequent claims from court damage awards or insurance companies;
- If significant numbers of migratory birds or species at risk are killed by oil, CWS will assess the biological and socio-economic consequences of the loss and seek appropriate restoration or compensation measures. CWS habitat and species restoration costs will be recovered from the party responsible for the spill or from the Ship Source Oil Pollution Fund; and
- CWS considers the presence of oiled wildlife (alive or dead) to be sufficient cause to initiate an investigation which may lead to legal action under Canadian laws and regulations.

2.0 ROLES AND RESPONSIBILITIES OF PARTICIPATING AGENCIES

2.1 Regional Environmental Emergencies Team (REET)

The Environmental Protection Branch (EPB) of Environment Canada is the federal government agency responsible for ensuring that appropriate reporting, surveillance and response mechanisms are in place to deal effectively with environmental emergencies. The Regional Environmental Emergencies Team coordinates the efforts of government and industry in their response to environmental emergencies and it advises the on-scene commander and Federal Monitoring Officer of the Canadian Coast Guard on environmental priorities and response strategies. The REET consists of representatives of federal, provincial, municipal and industrial organizations which have a role and mandate in emergency response. Within Environment Canada, the Atmospheric Environment Branch provides weather, sea state and ice information, slick and airborne contaminant trajectories; the Environmental Conservation Branch / Canadian Wildlife Service has expertise on migratory birds and species at risk; and the Environmental Protection Branch has responsibility for preparing REET contingency plans, undertaking emergency countermeasures, chairing REET and coordinating and delivering environmental advice.

2.2 Lead Agency Concept

In all circumstances where a polluter is identified the burden of cleanup and response lies with the polluter. However, responsibility for government overview of a response to an oil spill depends on the source of the spill. The identified lead agency has responsibility to monitor an oil spill response and to take control if an appropriate response is not undertaken by a polluter or their agent. Lead agency responsibilities are assigned as listed below:

- Spills from land-based sources - Provincial Departments of Environment;
- Spills from ships - Canadian Coast Guard;
- Spills from offshore oil installations during drilling phase - Offshore Petroleum Board;
- Spills from offshore oil installations outside drilling phase- Canadian Coast Guard;
- Spills from land-based oil facility, land side of the flange - Province within which a spill occurs;
- Spills from land-based oil facility, ship side of the flange - Canadian Coast Guard;
- Spills in harbors controlled by Ports Canada - Canadian Coast Guard;

- Spills from Federal Government vessels - Environment Canada;
- Spills from federal facilities or on federal land- Environment Canada; and
- Discharges at sea of unknown origin - Canadian Coast Guard.

The REET cooperates with, and offers advice to, the identified lead agency, and CWS' cooperation with, and input to, a lead agency will be mediated by the REET.

Resource Agencies responsible for providing advice to the Lead Agency in the event of oiled wildlife are listed below:

- Migratory birds - Canadian Wildlife Service
- Marine mammals - Fisheries and Oceans Canada
- Terrestrial mammals, non-migratory birds, reptiles - Provincial Wildlife Agencies
- Species at Risk - depending on species - Canadian Wildlife Service, Parks Canada, Fisheries and Oceans Canada, Provincial Wildlife Agencies.

2.3 CWS Regional Authorities and Expertise

Ultimate responsibility for CWS's response to oil spills in the Atlantic Region lies with the Regional Director, Environmental Conservation Branch / Canadian Wildlife Service. Delegation of this authority recognizes a Maritimes District and a Newfoundland and Labrador District. This is in keeping with geographic realities, as well as the organizational structures of major REET players including Environment Canada and the Canadian Coast Guard. For purposes of reacting to marine oil spills and dealing with REET, the Regional Director has delegated regional responsibility to an Atlantic Region Manager. A Maritimes District Coordinator and a Newfoundland and Labrador Coordinator report to the Atlantic Region Manager. These coordinators act as the first line of contact in the event of an emergency and will be accountable for all CWS input to REET. Other CWS Atlantic staff have in-depth knowledge of specific parts of the Region and its biota and may be called upon to give advice through the district coordinator.

2.4 CWS National Strike Team for Oil Spill Response

The Canadian Wildlife Service has developed oil spill response expertise in most of its Regions. In the event of an emergency of such magnitude that it cannot be managed with only regional resources, experts and equipment from other CWS Regions may be requested to assist CWS Atlantic. This response mechanism has been formalized into a CWS National Strike Team for Oil Spill Response.

Each Regional Director is expected to appoint a National Strike Team Coordinator who will mediate regional input to the National Strike Team and maintain data on regional oil spill response expertise, and capability. In the Atlantic Region this is the Maritimes District coordinator. The National Strike Team may be mobilized by the CWS Director General at the request of the Regional Director, Environmental Conservation Branch / CWS, and in consultation with the Regional Director General, Environment Canada. Funding for Strike Team response will come from an emergency fund administered by the Director General, CWS and from the Region which requests Strike Team mobilization.

2.5 Shared Response with Other CWS Regions

2.5.1 Québec Region

Oil spills will occur, and birds will be oiled, in waters adjacent to both the Atlantic and Québec Regions of Environment Canada. Such scenarios are possible at Baies des Chaleurs, between Prince Edward Island and Iles de la Madeleine, and between the Québec "North Shore" and Newfoundland and Labrador. In these cases CWS Atlantic authorities will function in cooperation with CWS Québec Region authorities.

2.5.2 Prairie and Northern Region

Atlantic Region has no land linkage to Prairie and Northern Region, but oil spills affecting marine wildlife in the northern Labrador Sea and Hudson Strait will require the CWS Atlantic authorities to function in cooperation with Prairie and Northern Region authorities.

2.6 Contributing Agencies

Many agencies, in addition to CWS, have an interest in the protection of migratory birds and other wildlife in the event of an oil spill. These include government agencies with legislated mandates for wildlife and habitat management, and wildlife interest groups.

2.6.1 Provincial Agencies

Although the administration of the *Migratory Birds Convention Act* is assigned to CWS, provinces have considerable involvement in management of migratory bird populations. Provincial involvement in oil spill response also derives from ownership of habitat. The major part of the habitat critical for migratory birds is provincially controlled, and a significant proportion enjoys provincially legislated protection. Provincial governments have responsibility for management of non-migratory birds. The provinces also have responsibility for terrestrial mammals such as otters, mink and reptiles. All these species are threatened by marine oil spills. Provincial wildlife and environment agencies also have widely distributed field staff who can play an important role in oil spill reporting, investigation and response. It is necessary therefore, that in an oil spill and wildlife response CWS must work closely with provincial wildlife agencies to coordinate federal/provincial actions and promote free exchange of information. It is anticipated that there will be a substantial reliance on provincial staff in the execution of oil spill countermeasures.

2.6.2 Heritage Canada (Parks)

The participation of Heritage Canada in oil spill response efforts is coordinated through its representative on REET. An oil spill contingency plan has been prepared by each national park which details that park's oil spill response commitments and strategy. In general, park staff will be extensively involved in the response to oil spills that have a real or potential impact on any national park. In a major oil spill situation in the vicinity of a park, it is expected that park staff will become involved in the REET response and that park equipment such as boats and snowmobiles may be mobilized to assist. Where there is a requirement for an oiled bird management program to be set up, parks facilities may become available for oiled bird triage, treatment and euthanasiation centres.

2.6.3 Oil Spill Response Organizations

Amendments to the *Canada Shipping Act* in 1994 confirmed that the responsibility for responding to marine oil spills lies with the polluter. Fees levied on oil transshipments were directed to financing private oil spill response organizations and it became a legal requirement for all ships over 400 tonnes, and shippers of oil to have a contractual arrangement with a response organization for oil spill clean-up. These organizations contract their services to a polluter, and CWS dealings with them will be primarily through REET. Response organizations are to provide a wildlife response capability to a polluter by contracting with a wildlife response agency. If a response organization, through its contracted wildlife responder, wishes to mount a bird cleaning and rehabilitation operation CWS may license that operation if the contractor has a demonstrated capability. The CWS will monitor the bird rescue operation to ensure that it is carried out effectively, humanely and in accordance with the terms of the permit. CWS oil spill responders will work

with wildlife response agency crews on the beaches, supervising their activities and ensuring that there is appropriate documentation of birds removed from the beach.

2.6.4 The Canadian Cooperative Wildlife Health Centre, Charlottetown

This cooperative has an Atlantic regional office located at the Atlantic Veterinary College in Charlottetown, and can provide expert advice and diagnosis of wildlife health and animal care problems.

2.6.5 Offshore Petroleum Boards

In Atlantic Canada two offshore petroleum boards have been established. The first by the Canada-Newfoundland Offshore Petroleum Resources Accord Implementation Act of 1987 and the second by the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act of 1988. These boards were set up to provide industry with a “single window” to government in order that cost and revenue sharing agreements could be implemented and development of offshore resources expedited. They have responsibility to develop agreements with agencies which have administrative and regulatory responsibilities in the offshore, assuming administration of environmental, engineering, safety and labour codes. Oil spills from offshore petroleum facilities will be the responsibility of the polluter, but their clean-up response will be monitored by the offshore board and by Environment Canada.

2.6.6 Non-Government Wildlife Response Agencies

Oil spill response organizations may contract wildlife response agencies to provide a response mechanism for oiled wildlife. If there is a need for this service and if it is not provided by the polluter, CWS will either provide a wildlife response or contract a wildlife response agency to assist. In both cases the costs will be charged back to the polluter. CWS will license such agencies to gather and clean oiled birds where they have a demonstrated capability. Where a wildlife response agency is contracted to provide bird scaring capability, CWS may license the use of firearms or aircraft if these techniques are considered appropriate, and if the agency has capability. CWS will monitor wildlife hazing activities.

2.6.7 Wildlife Interest Groups

The Canadian Wildlife Service may take advantage of the expertise and resources that exist in non-government wildlife interest groups, particularly those with a migratory birds orientation. However, volunteers may not be used on the beaches for safety and liability reasons. Where members of the public are engaged in an oil spill response they will be in the employment of the lead agency, the response organization or its contractor. A contractor engaged to undertake a bird cleaning program may hire members of wildlife interest groups who have experience in handling birds. However, provincially based bird or naturalist organizations, and local committees of Ducks Unlimited can provide personnel with an extensive knowledge of local bird distributions and coastal wetlands which may be affected by oil spills.

2.7 International Linkages

2.7.1 State of Maine (USA)

Oil spills in the outer Bay of Fundy and in the George's Bank area may affect migratory birds in waters under both Canadian and United States jurisdiction. In such events coordination with US agencies will be established under the REET mechanism. However, direct contacts with US wildlife agencies may be established by CWS to facilitate the exchange of data and to coordinate the wildlife response.

2.7.2 St. Pierre et Miquelon (France)

Oil spills involving the waters of southern Newfoundland and St. Pierre et Miquelon can have a serious impact on migratory birds shared by Canada and France. In such events coordination with French agencies will be established under the REET mechanism. Direct contacts with the Services de l'Agriculture may be established by CWS to facilitate exchange of data and to coordinate the wildlife response.

3.0 OPERATIONS

3.1 Reporting and Communications

3.1.1 Reporting Within the REET Structure

Departmental reporting procedures for oil spills are detailed in the *Regional Environmental Emergency Team Atlantic Region Contingency Plan for Environmental Emergencies (1999)*. Reporting procedures outlined here are intended to be an amplification of these procedures, rather than a substitute for them.

Response to major oil spills requires the formal convening of the REET to provide advice and to coordinate response. CWS has a representative on the REET whose duty it is to transmit wildlife data and priorities to the on-scene commander through the REET chairman. In the event of a major oil spill at an offshore location, CWS will provide advice to REET on seabird numbers, distributions and vulnerabilities, and on strategies to keep birds away from the slick. Over all, however, **chronic oil pollution of the oceans takes a heavier toll of marine birds** than do the major, well publicized catastrophic events. Though these many small marine oil spills may not trigger a formal assembly of the REET, the REET consultative and reporting function is operative for all marine oil spills and regular reporting and alerting procedures are followed.

The impact of a spill on marine birds depends not only on spill size, but on the time, place and the type of oil spilled. If a relatively small spill, one which would not normally precipitate a full REET response, is recognized by CWS as potentially very damaging to marine birds because of its timing and location, the CWS REET representative will inform the REET Coordinator of its potential for damage and recommend an enhanced activation of the REET process.

3.1.2 Reporting Within CWS

All oil spills with a potential for affecting migratory birds should be reported to the appropriate CWS district coordinator who will inform the Atlantic Region Manager. In situations where the potential impact on migratory birds is judged to be severe, the Manager will inform the Regional Director who, in turn, will decide if information is to be passed to the Regional Director General (Halifax) and/or Director General of the Canadian Wildlife Service (Ottawa). The Atlantic Regional Director may also liaise with the CWS Director General and the Directors of other CWS Regions to initiate mobilization of the CWS National Strike Team for Oil Spill Response. As appropriate, the district coordinators or the Atlantic Regional Manager will contact their counterparts in neighboring jurisdictions including Québec and Prairie & Northern Regions of CWS, the State of Maine and the government of St. Pierre et Miquelon.

3.1.3 Communications With Newspapers, Radio and Television

Where a lead agency is identified in a response, there will be a designated media contact person. It is possible that this person will not communicate the concerns and activities of the Canadian Wildlife Service accurately and completely, but Environment Canada will also have communications specialists assigned to the task. It is important that individual biologists working on an oil spill response do not conduct media interviews without first consulting the Environment Canada media specialist. This is especially important in situations where data assembled by a biologist may be used later for enforcement purposes.

3.2 Functions of CWS Personnel in an Oil Spill and Oiled Wildlife Response

3.2.1 Atlantic Region Manager

The Atlantic Region Manager assumes responsibility for provision of an appropriate wildlife response in an oil spill. Information from the Environmental Protection Branch will normally flow to the Maritimes or Newfoundland District Coordinators directly. In the absence of either of these, the Manager will assume responsibility for initiating and directing a CWS response. Where either district coordinator is directing a response, the Manager will be kept fully informed and briefed at all times. If the scale of the response requires resources beyond those of the Region, the Manager will recommend to the Regional Director the requirement for assistance from other regions as specified in the National Strike Team for Oil Spill Response agreement.

3.2.2 District Coordinators

District coordinators will receive reports of spills which come from the Environmental Protection Branch, Canadian Coast Guard or the public and will have the responsibility of initiating an appropriate CWS response. They will coordinate and direct the activities of CWS oil spill responders, will ensure effective dissemination of information to others in CWS and cooperating agencies. At the operational level each coordinator will have the responsibility of ensuring an adequate CWS response to oil spills involving or threatening wildlife.

3.2.3 CWS Oil Spill Responders

CWS oil spill responders will, under direction of the district coordinators, represent CWS interests in the field in response to an oil spill. They will be guided by this response plan, and by the *Oil Spill Response Procedures Manual*. They will be responsible for making field assessments, supervising the wildlife response activities of response organization and wildlife-interest-organization beach crews, ensuring that usable oil samples and accurate data on bird mortality are gathered, and that the district coordinators are fully informed of activities. They will also, where directed, be responsible for humane termination of living birds that come ashore but which will not be cleaned. If a polluter or his agent wishes to organize a program of oiled bird cleaning the CWS oil spill responders will oversee the gathering and shipping of birds, but unless species at risk are oiled, the responder will not have the responsibility of arranging for the packaging and shipping of oiled birds.

3.2.4 Communications Specialist

In consultation with the district coordinators and the Atlantic Region Manager, the Communications Specialist will plan and coordinate media relations and communications during response to an oil spill. Their role in an oil spill response is not to restrict information flow to the media, but rather to do the opposite, to ensure that CWS concerns and actions are presented to the public. To do this effectively it is necessary that the Communications Specialist be aware of, and involved in, all media contacts to the greatest extent possible. The Specialist will work with all CWS personnel involved to ensure that those interviewed by media are able to reflect the broader concerns and objectives of our organization, and present a balanced summary of the situation, rather than just a local or restricted view.

3.2.5 Head, Wildlife Enforcement

The Head, Wildlife Enforcement will, on receiving information from the Maritimes or Newfoundland District Coordinators, detail enforcement personnel to assist in the CWS response if needed. Then, in

consultation with enforcement personnel in the Environmental Protection Branch, Canadian Coast Guard, Transport Canada and other enforcement agencies determine if an investigation is warranted or likely, and if so which agency will lead. He/she will recommend to the district coordinators procedures for evidence gathering which are appropriate to the situation. When, in the course of an oil spill response, Migratory Bird Permits are issued by CWS, copies will be sent to the Head, Enforcement.

3.2.6 CWS Enforcement Officers

On instructions from the Head, Wildlife Enforcement a CWS enforcement officer will go to a spill site with oil spill responders. The officer will concentrate on gathering depositions from the polluter or witnesses, the gathering and maintaining custody of evidence and offering advice to responders, the district coordinator and the Head, Wildlife Enforcement on strategies for response. In addition, he/she will conduct and coordinate investigations in conjunction with Environmental Protection Branch, Canadian Coast Guard, Transport Canada or other federal or provincial agencies or investigative personnel. In cases where it is necessary to exclude the public from an oil spill or oiled bird site the CWS enforcement officer may maintain an exclusion zone or facilitate a police enforcement of an exclusion zone. Each enforcement officer will be capable of mobilizing enforcement resources such as boats to support the CWS response.

3.3 CWS Oil Spill Response Situations

The pattern of CWS response to an oil spill will vary somewhat depending upon whether or not oiled birds have been observed and, to a lesser extent, whether a polluter has been identified. If a polluter is identified it is expected that they will execute an appropriate cleanup and environmental response in consultation with the lead agency. Detailed summaries of the CWS response to a variety of oil spill scenarios are presented in the *Oil Spill Response Procedures Manual*.

An overview of CWS oil spill response patterns is provided below:

3.3.1 Spills of Known Origin

In such spills it will be necessary for CWS to discuss with the polluter or his agent a desirable strategy for oiled wildlife response. If oiled bird rehabilitation is desired, it is incumbent on CWS to provide advice on licensing requirements for rehabilitates and to monitor the operation of contracted wildlife responders. If the response is seen to be inhumane or ineffective the Canadian Wildlife Service will withdraw the permit granted to the contracted responding agency and undertake an appropriate wildlife response. In such cases the costs of the CWS response will be recovered from the polluter.

If a polluter does not initiate an appropriate oiled bird response the CWS will undertake an appropriate response and will recover the costs from the polluter. CWS will require a polluter to undertake an oiled bird rehabilitation program where there is a reasonable hope of rehabilitation succeeding or where species at risk, are involved. In situations where this is not the case the polluter will be expected to undertake an effective program of humane euthanasia and recovery of all dead birds as a part of impact assessment. CWS Oil Spill Responders will superintend this operation to ensure its effectiveness, and costs will be recovered from the polluter. If the responder departs from terms of permits issued by CWS, the Head, Wildlife Enforcement will consider prosecution for the offence.

3.3.2 Spills of Unknown Origin

For marine oil spills in which a polluter is not known Canadian Coast Guard will be the lead agency. In such situations CWS will design and carry out an oiled wildlife response and work in cooperation with

Canadian Coast Guard under the coordination of the REET. On completion of a response with no identified responsible party the Canadian Wildlife Service will, in conjunction with other agencies, attempt to get recompense for expenses incurred from the Ship Source Oil Pollution Fund.

3.4 Prosecutions and Damage Assessment

Every oil spill or oiled bird incident is potentially cause for a prosecution. The discharge of oil into the sea may be an offence under the *Migratory Birds Convention Act*, the *Fisheries Act*, the *Canadian Environmental Protection Act*, the *Fisheries Act* and/or the *Canada Shipping Act*. Even if a polluter is not initially identified, Canadian Wildlife Service Oil Spill Responders will gather information on its environmental effects with sufficient care and accuracy that they could be used to support an investigation and possible prosecution.

In addition to fines levied on a polluter there is the possibility of costs associated with environmental damage remediation being assessed against the polluter (or in the case of a "Mystery spill" the Ship Source Oil Pollution Fund). The damage assessment process will be mediated by the Environmental Emergencies Division of the Environmental Protection Branch of Environment Canada. The procedures and protocols for this process are detailed in the *REET Atlantic Region Contingency Plan (1999)*. It is incumbent upon the CWS district coordinators to consult with the Head, Wildlife Enforcement to ensure that evidence gathering protocols being used are sufficient for use in prosecution or damage assessment proceedings.