1200 RESPONSE POLICY

TOOLS AND RESOURCES
General: • Statutory Guidance Tool • Laws, Regulations and Directives, Federal • EPA NCP Overview
REFERENCE LIBRARY
• FEMA National Response Framework • Idaho Hazardous Materials/WMD Incident Command and Response Support Plan • State of Oregon Emergency Management Plan

1210 National Response Policy

The National Response Policy is designed to ensure that all applicable laws and regulations are carried out. Those laws and regulations are intended to ensure effective and immediate removal of a discharge, mitigation, or prevention of a substantial threat of a discharge of oil or release of hazardous substances, and overall protection of human health and the environment.

1220 High Seas Policy

The Intervention on the High Seas Act (33 USC 1471 et seq.) applies as follows. Under the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, governments that are party to the convention may take measures necessary to prevent, mitigate, or eliminate grave and imminent danger to their coastline or related interests from pollution by oil or hazardous substances, or from the threat of such pollution. The pollution or threat of pollution may result from a maritime casualty or related acts that may reasonably be expected to cause major harmful consequences.

If a ship collision, stranding, or other incident on board or external to a ship outside U.S. territorial waters creates a potential threat of pollution by oil or hazardous substances, all available information shall be relayed to the USCG. The USCG will determine whether a grave and imminent danger to the coastline or related interests exists. If such a danger is found to exist, the designated FOSC shall take measures to prevent, mitigate, or eliminate the threat.

1230 Coast Guard Policy

The USCG will respond consistently with the policy outlined in the NWRCP. The USCG may elect not to dispatch representatives to reported discharges where representatives of another cognizant government agency are responding. However, if federal removal is indicated within the Coastal Zone, the USCG will respond. If the RP is conducting proper removal, the USCG FOSC will use best judgment in determining the need for the presence of USCG personnel on scene.

1240 United States Environmental Protection Agency Policy

By statute, EPA is the FOSC for inland spills of oil or hazardous substances. In most instances, EPA is not the first responder on scene. EPA works in cooperation with other responders but has not delegated its responsibility as the FOSC. 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, and federal agencies to ensure that the information needed to maximize the effectiveness of the response effort is easily accessible. During a response to a release, the PRPs, if known, available, and willing, are generally given the opportunity to adequately respond. EPA works closely with the PRPs when they are known and willing to take action to ensure that the release reaches an adequate and rapid conclusion with a minimum impact on the environment. In the event of a spill for which the PRP is not identified, does not respond to contain or clean up the spill, or does an inadequate job responding, EPA's responsibilities may include taking over the response or assuming a co-lead role in a UC with state and local responders.

1250 United States Department of Defense and Department of Energy Policies

In the case of DOD or DOE, when there is a response to a release or threat of a release of a hazardous substance, pollutant, or contaminant, or the sole source of the release is from any facility or vessel under the jurisdiction, custody, or control of DOD or DOE, those agencies shall provide FOSCs responsible for taking all response actions. DOD will be the removal response authority with respect to incidents involving DOD military weapons or munitions, or weapons or munitions under the jurisdiction, custody, or control of DOD. Per

40 CFR §300.120(a)(1) and (a)(2), for oil spills on DOD facilities, the USCG or EPA is the pre-designated FOSC, as appropriate.

1260 Tribal Policy

Tribes have the right to engage with federal agencies on a government-to-government basis. NWAC agencies seek meaningful Tribal engagement in the development, maintenance, and implementation of the NWRCP, and this Tribal Policy is intended to facilitate Tribal participation in all stages of contingency planning and response activities.

The NCP requires the FOSC to notify any natural resource trustee when any resources for which the trustee is responsible may be impacted by a release. Tribes are trustees for Tribal natural and cultural resources. Although the FOSC is legally responsible for Tribal notification, DOI may assist in identifying potentially impacted Tribes and locating appropriate contact information. When EPA or USCG responds to an emergency under FOSC authority, the FOSC will, as soon as practicable, notify and offer emergency coordination to all affected Tribes through appropriate Tribal natural and cultural resource staff, environmental staff, or other individual designated by the Tribe regarding oil spills and chemical releases that could potentially affect Tribal interests. On-scene coordination, either with the FOSC or in the ICP, can be performed directly with Tribal representatives.

Spill response can involve volunteers in addition to hired contractors. If a spill occurs on Tribal land, the Tribal government has the authority to decide whether volunteers will be included in the response.

Tribes may elect to send a TOSC for any incident over which they have governing interests. Governing interests are defined within each treaty or Executive Order. The FOSC(s) should defer to a Tribe's interpretation of its governing interests if there is doubt. If further clarification of a treaty right is requested, legal counsel for the FOSC agency should work with legal counsel for the impacted Tribe. Governing interests include reservation land; Tribal trust land; U&A fishing, hunting, food, and medicinal gathering areas; and culturally significant areas. Governing interests may exist within or beyond ceded lands.

Each Tribe with governing interests within an impacted area may elect to send its own TOSC to UC. In cases where multiple Tribes have governing interests, there may be multiple TOSCs in UC. When a Tribe has governing interests but does not send a TOSC to participate in UC, the FOSC retains trust responsibility within the UC for Tribal interests. In the role, the FOSC should seek to understand Tribal Ecological Knowledge, cultural knowledge, and current use of the affected area.

Generally, each TOSC shall have delegated authority to make decisions on behalf of their Tribe and shall have governing interests within the impacted area. Each TOSC would ideally have a working knowledge of and adequate training in NIMS/ICS, consistent with the requirements in Section 2010. The FOSC may facilitate the engagement of Tribal representatives by identifying a Tribal Coordination Specialist (TCS), a specialized member of the Liaison Officer's staff, who provides support in ensuring that representatives from a potentially impacted Tribe(s) not only have a forum to communicate their priorities and concerns, but also an opportunity to successfully integrate into the response command structure. In situations that require additional support (e.g., a TOSC requests assistance in navigating NIMS/ICS), a deputy TCS might also be activated to help fulfill the TCS's responsibilities. This role is further defined in the Liaison Manual, Annex B. The TCS is not intended to be a spokesperson for the Tribe.

Regardless of whether a Tribe has a TOSC in UC, Tribal representatives can provide valuable support to the response in a variety of ways. Effective response actions require local knowledge and a comprehensive understanding of the resources at risk. Tribal representatives may choose to support the response as a subject matter expert in the Logistics, Planning, or Operations Sections or the EU; or an Agency Representative under the Liaison Officer. If an NRDA is conducted, Tribes may also participate in that effort to help define the injury done by the release. NRDA is separate and distinct from the response effort. The level of Tribal participation will depend on a number of factors, including the individual circumstances of the incident and the level of training and/or experience the representative(s) bring to the response. As with the TOSC role, the FOSC may facilitate the

engagement of a TCS (specialized Assistant Liaison Officer) who will assist Tribal representatives in navigating NIMS/ICS.

When incidents occur beyond areas of Tribal governing interests but nonetheless present a concern to a Tribe, the Tribe may interact directly with the response through the incident Liaison Officer.

1270 State Response Policy

1271 Washington State Response Policy

Ecology is the pre-designated SOSC for all oil and hazardous substance spills in state waters. In this role, Ecology represents the interests of all state agencies and citizens, supports federal response, and supports a coordinated approach with state partners as it responds to any significant discharge or threatened discharge. Ecology provides local geographic and environmental information; identifies and prioritizes vulnerable resources with other resource agencies through the EU; and funds cleanup of orphan oil spills through the Oil Spill Recovery Act.

Washington law sets high standards for environmental protection. Chapter 90.48 RCW makes it unlawful to cause or permit the discharge of pollutants into the waters of the state and establishes Washington's participation in the federal permit program. State statutes on water pollution and marine transportation safety meet or exceed federal requirements.

It is the state's policy to use the UC system to co-manage significant spills or threats of spills, ensuring close cooperation with federal, Tribal, and local governments to protect public health and safety, natural resources, and private property.

1272 Oregon State Response Policy

ODEQ maintains 24/7/365 watch staff and can be notified through the Oregon Emergency Response System. ODEQ's duty officers triage and direct incidents, as appropriate, to protect human health and Oregon's environment. ODEQ responds to every call received through the Oregon Emergency Response System.

The first emergency responder to arrive at the scene becomes the IC until relieved, or until the incident is over. ODEQ, through its designated SOSC, is the Lead Agency of the State of Oregon during the cleanup phase of oil and hazardous material incidents. ODEQ may relieve the IC (typically fire or HAZMAT Team) when the life safety portion of the emergency response is complete and the focus of the effort is on containment and cleanup of oil or hazardous materials. ODEQ recognizes that the USCG and EPA are the lead federal agencies within their AORs for oil and hazardous materials incidents.

ODEQ has committed to protection of natural and cultural resources important to Oregon Tribes by completing pass-through of OERS notification of all incidents within their areas of interest. ODEQ also notifies Tribes directly before any disturbance of the subsurface (digging, drilling, etc.) and through the use of Inadvertent Discovery Plans in areas where cultural resources are not known, and direct engagement with Tribes for incidents in areas the presence of cultural resources are known or where Tribes express concern that they could be.

ODEQ monitors, assesses, and evaluates spills, releases, or threatened spills or releases of oil or hazardous material. ODEQ may directly contain a spill or release, or direct RPs or contractors to do so, as appropriate, to prevent, minimize or mitigate damage to public health, safety, welfare or the environment that may result if action is not taken. ODEQ oversees the environmental cleanup of spilled materials that threaten human health or the environment while coordinating with other state and local agencies within a UC. ODEQ conducts incident responses in accordance with the NIMS and requires RPs to follow NIMS protocols. Before assuming an incident command role under the NIMS ICS, the SOSC may provide technical advice to police, fire, and other first responders, and coordinate a cleanup response with state and local agencies. For significant spill incidents, ODEQ conducts response actions under UC, involving all appropriate federal, Tribal, state, local, and resource trustees along with the parties responsible for the release. If an incident has no identified RP, or if the identified RP is unwilling or unable to conduct and appropriate

response, ODEQ has authority to conduct the assessment and/or cleanup and seek cost reimbursement.

ODEQ has authority to assess, stabilize, and conduct cleanups of spills or threatened releases to Oregon waterways, soils, airsheds, or groundwater. ODEQ partners with adjacent states (Washington, Idaho, Nevada, and California) on incidents that threaten shared waterways and airsheds, or where contaminants may impact people or habitats across state boundaries.

ODEQ determines when cleanup of released hazardous materials meets state standards and when state oversight is complete. For cleanups conducted under emergency response authorities, returning contaminant levels to background concentrations is typically the appropriate standard.

1273 Idaho State Response Policy

Idaho uses a collaborative system in responding to hazardous materials incidents. A single phone call to the Idaho State EMS Communications Center provides immediate access to virtually any resource needed at a hazardous materials incident. The state plays a key role in facilitating and fostering the collaborative efforts, and the IOEM is responsible for ensuring that emergency response is timely and effective. Local, state, and federal responses are expected to be coordinated and supportive of local efforts.

UC and NIMS are the standard method of operation. The state's representative to command under emergency or disaster conditions is designated by the Idaho Military Division Office of Emergency Management instead of the Idaho Adjutant General. It is policy in Idaho that responders operate only within the scope of their training. The state has set clear training guidelines in the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. The IDEQ directs long-term site remediation efforts with the cooperation and support of other state and federal agencies.

1280 MULTINATIONAL POLICY

REFERENCE LIBRARY
• Canada-U.S. Joint Inland Pollution Contingency Plan • Canada-United States Joint Marine Pollution Contingency Plan

The geographic area covered by the NWRCP includes shared marine and inland borders with Canada: in particular, the northern terrestrial boundaries of Washington and Idaho adjoin the Canadian border, and the marine boundary between the United States and Canada transects the Strait of Juan de Fuca and the Georgia and Haro Straits waterbodies. For oil spills and other hazardous material releases, or potential releases that occur at or in the adjacent transboundary area, it is required that federal and state/provincial response leadership in both United States and Canada coordinate their respective responses on their sides of the border. Two documents outline how the UC members on each side of the border will coordinate spill response in the transboundary region: the Canada-United States Joint Marine Pollution Contingency Plan, Pacific Annex (CANUSPAC) for spills of oil and other harmful substances for marine spill responses; and the Canada-United States Joint Inland Pollution Contingency Plan (CANUSWEST) for inland spill response.

Any pollution incident in one country that poses a substantial threat to the other country shall be reported immediately to the Canadian National Environmental Emergencies Center (1-819-997-3742) or the U.S. NRC (1-800-424-8802), depending on the incident location. In addition, for spills threatening the marine zone, the U.S. Coast Guard Northwest District will immediately notify the Canadian Coast Guard Western Region emergency number and vice versa, in the event of an incident with cross-border threats or impacts.

The NWRCP and applicable ACPs guide spill responses conducted on the U.S. side of the transboundary region, while the CANUSPAC Annex and CANUSWEST Joint Contingency Plan identify how the two nations will coordinate their individual response actions on their side of the border. These plans are designed to be complementary and promote effective international coordination. In addition to updating the cross-border plans, periodic meetings

and exercises involving both U.S. and Canadian response personnel are held to maintain relationships and ensure the plans can be enacted.

1290 Responsible Party Policy

The NCP requires that response plan holders "prepare and submit a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance. These response plans are required to be consistent with applicable Area Contingency Plans."

- The requirement for facility and vessel response plans to be consistent with the ACPs applies to: Vessel Contingency Plan and Facility Contingency Plan: content, review, and approval;
- The execution and evaluation of spill drills and exercises; and
- The management of spill response actions.

Failure to adequately conform to the ACPs may result in rejection of a spill contingency/response plan; non-credit for a drill; or federal and/or state agencies assuming direct control of a spill response action. However, it is also the policy of the RRT10 that the UC will encourage the party responsible for a spill incident to maintain the primary responsibility for managing the response action so long as they:

- Actively and cooperatively participate in the UC structure;
- Provide an organization that is compatible with NIMS/ICS;
- Provide regular communication and documentation that ensures adequate response resources are being rapidly mobilized in proportion to the size of the incident as discussed in the following section; and
- Follow their approved spill contingency/response plan (if applicable) unless otherwise directed, or a deviation is agreed to, by the UC.

Adequate response resources must be rapidly mobilized if initial source control, containment, and cleanup efforts are to be successful. Experience in the Northwest has

found that it is much more cost-effective and far less damaging to natural resources to contain an oil spill rather than remove it from the water and beaches.

Therefore, it is the policy of the RRT10 that the response to a spill incident should be promptly "ramped-up" to provide adequate equipment and trained personnel to effectively respond to the highest quantity of product that is most likely to be released. If it is determined that excessive response resources are ordered or mustered, they may be canceled or demobilized to help control the cost of the response action to the RP and responding agencies.

If an RP fails to respond in a manner deemed reasonably consistent with this policy and ACPs, the FOSC or SOSC may assume the lead for all or a portion of the spill. The agency proposing to lead the cleanup will closely coordinate with other members of the UC prior to taking such action.

In Washington and Oregon, vessel owners/operators may meet state contingency plan requirements by enrolling in a state-approved umbrella vessel contingency plan. Vessels enrolled in an umbrella plan are expected to follow the approved umbrella contingency plan throughout the duration of a spill response; any deviation must be approved consistent with the authorities of the FOSC and the appropriate SOSC. See the applicable Area Contingency Plans for details.

1291 Responsible Party Responsibilities

Specific responsibilities of the RP are as follows:

- Assess spill or release;
- Robustly staff the response with a spill management team;
- Establish a Command Post, in concurrence with the other OSCs;
- Document/identify the type and quantity of oil or hazardous substance spilled or released;

- Contain the oil or hazardous substance spilled or released and protect the environment, with a particular emphasis on sensitive areas;
- Provide input relative to cleanup priorities (i.e., waste minimization);
- Perform timely and effective cleanup;
- Dispose of oil, oily waste, and hazardous substances;
- Restore damaged environment/natural resources;
- Communicate with local, state, and national response agencies and organizations;
- Communicate with media;
- Pay for damages;
- Take steps to prevent reoccurrence of spills or releases; and
- Collect and care for wildlife, in conjunction with responsible state, local, and federal agencies.

The RP has the opportunity to conduct damage assessment when required by the state/federal agencies and/or when appropriate given the RP's available resources as determined by the UC.

1300 PLAN REVIEW AND PROCESS

1310 REVIEW AND APPROVAL PROCESSES

1311 Regional Contingency Plan

The NWRCP will be reviewed and updated annually by the Regionwide Planning Committee (RWPC). In addition, the RWPC has established a staggered approach for in-depth review of all NWRCP chapters over a period of five years. With each annual review, all significant updates will be published for public review and comment. Comments on the plan can be submitted at any time to the RWPC through the RRT/NWAC website.

The RWPC is responsible for conducting an annual review of select sections of NWRCP contents in accordance with a predetermined schedule. The goal is to review the plan in full over a 5-year period. RRT Co-Chairs facilitate RRT member review of the proposed RCP