

# Appendix A - Federal Natural Resource Trustees & ICS/UC

## Department of the Interior (DOI)

### I. *General*

This document addresses DOI emergency response and natural resource damage assessment and restoration (NRDAR) activities, as well as resources for which DOI is responsible, authorities under which DOI operates programs relevant to response, and information on response-related functions of the DOI Bureaus and Offices.

### II. *DOI Response and NRDAR Activities*

#### A. Response

##### 1. Activities

DOI, through its Bureaus and Offices, can perform the following three response functions during an oil discharge or release of hazardous materials:

- Provide scientific/technical assistance to OSC: DOI scientists and technical experts provide expertise and advice to support the Federal OSC and help to carry out operational decisions that will protect sensitive natural, recreational, and cultural areas and resources; mitigate collateral harm; and facilitate environmental recovery. This may include overseeing wildlife rescue and rehabilitation operations, and permitting requirements.
- Participate in incident-specific activations of the Regional Response Team (RRT): The DOI RRT member, who is the Regional Environmental Officer (REO) in the Office of the Secretary, supports the OSC, through the RRT Co-Chair, by providing advice and access to DOI Bureau resources and by representing the policies of the DOI. Based on input from appropriate DOI Bureaus, the REO provides formal concurrence for DOI, pursuant to the NCP, on the use of different spill countermeasures. The REO is ultimately responsible for ensuring coordinated DOI participation in response.
- Act as a First Federal Official on spills on DOI-managed lands: If a discharge or release affects land under DOI jurisdiction, the land manager may serve as the First Federal Official until the OSC arrives, as a member of the Unified Command and/or in appropriate sections of the ICS.

Response Notification: The REO is the OSC's point of contact for DOI trustee notification and is responsible for notifying DOI Bureaus and Offices, as appropriate.

## 2. DOI Bureau/Office Participation in the ICS/UC

Through the Planning Section:

- Provide technical expertise concerning natural and cultural resources under DOI jurisdiction or control.
- Identify permitting requirements and assist in obtaining necessary permits.
- Develop environmental monitoring plans.

Through the Operations Section:

- Oversee wildlife rescue and rehabilitation activities.
- Participate on team assessing clean-up.
- Assist in controlling site access for incidents on DOI-managed lands.
- Make DOI equipment available to assist in clean-up. For a spill on DOI-managed lands, this function may be accomplished through the Logistics Section.

When a member of the Unified Command, participate in decision-making on aspects of response that affect DOI-managed lands, resources, and facilities and help resolve any conflicts with federal land management policies, laws and/or regulations so that timely and effective response operations can occur.

## B. NRDAR Activities

DOI can perform the following *natural resource damage assessment and restoration* functions during an oil discharge or release of hazardous materials:

- Conduct activities relating to natural resource damage assessment and restoration. Damage assessment is carried out by DOI Bureau personnel responsible for the affected resource(s).
- Act as lead administrative trustee for spills on lands or affecting facilities or resources under DOI trusteeship. A Bureau representative, or a Natural Resource Damage Assessment and Restoration Regional Coordinator or the REO (both in the Office of the Secretary) may serve as the point of coordination between NRDAR and response activities.
- Provide technical assistance in developing the scientific understanding needed to properly quantify contaminant occurrence, fate, and transport, and potential effects on living and non-living natural resources.

## III. DOI Resources

Resources for which the DOI is responsible, either as sole or co-trustee with state, tribal, or other federal trustee agencies, include:

- All life stages, wherever they occur, of interjurisdictional fish (fish that begin life in fresh water and live part of their lives in the ocean, or that may be shared between two jurisdictions such as Canada and the U.S.);
- Migratory birds;

- Certain marine mammals (sea otters, polar bears, walrus, and manatee);
- Sea turtles when they are onshore;
- Federally endangered and threatened species, including designated critical habitat, for which DOI is responsible;
- Habitats supporting these resources; and
- The living, non-living, and cultural resources of lands under DOI jurisdiction, including but not limited to public lands managed by the Bureau of Land Management (BLM), National Fish Hatcheries, units of the National Park System and the National Wildlife Refuge System; and Indian country and treaty-protected and subsistence natural resources.

#### IV. *Authorities*

DOI has numerous natural resource trustee, land management, and resource management authorities which could be in force during emergency response. The following is a partial list:

- *The Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (OPA)* - for receiving notifications of potential and actual spills, consulting on the fish and wildlife and sensitive environments annex of the ACP (which includes concurrence on specific countermeasures), consulting on removal actions during an incident, and implementing damage assessment activities.
- *The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 [SARA])* details the emergency response authority of response agencies (usually EPA or USCG) and damage assessment authority of trustees for releases of hazardous substances. Under this Act, the response agency must notify trustee agencies about releases which may affect their resources, so they can initiate a damage assessment investigation.
- *The National Oil and Hazardous Substances Pollution Contingency Plan (NCP; 40 CFR 300)* - details the responsibilities of Federal agency members of the National Response System, coordination and consultation between OSCs and natural resource trustees, and responsibilities of natural resource trustees.
- *Endangered Species Act (ESA)* - requires the federal agency taking the "action" (i.e., the OSCs) to consult with the delegated office (which is the U.S. Fish and Wildlife Service for certain protected species) on the potential effects that response activities might have on those species or their critical habitat. This extends to associated response activities such as increased vessel traffic or the presence of cleanup workers near nesting or haulout sites, etc. This is covered in the *Interagency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act*, available at [nrt.org](http://nrt.org).

- *Archeological Resources Protection Act (1979)* - defined archeological resources; required federal permits for their excavation or removal and set both criminal and civil penalties for violators; provided for preservation and custody of excavated materials, records, and data; provided for confidentiality of archeological site locations; encouraged cooperation with other parties to improve protection of archeological resources. Amended in 1988 to require, among other things, development of systems for reporting incidents of suspected violations.
- *Archeological and Historic Preservation Act* - amended the 1960 Reservoir Salvage Act, which had provided for the recovery and preservation of historical and archeological data (including relics and specimens) that might be lost or destroyed in the construction of dams and reservoirs. Amendments in 1974 extended preservation to include significant scientific, prehistoric, historic, and archeological materials and data that might be lost or destroyed as a result of federally sponsored projects; provided guidance on unanticipated discoveries and that up to one percent of authorized project costs could be applied for survey, data recovery, analysis, and publication.
- *Bald Eagle Protection Act of 1940* - Prohibits taking, possession, or commerce of bald and golden eagles, with certain exceptions.
- *Fish and Wildlife Act of 1956* - Directs the Secretary of the Interior to take steps required for the management, conservation, and protection of fishery resources.
- *Fish and Wildlife Coordination Act of 1934* --authorizes the Secretary of the Interior to study the effects of pollution on fish and wildlife, among other purposes.
- Indian Treaties and Executive Orders and legislation related to American Indians and Alaska Natives
- *Migratory Bird Treaty Act* - makes it unlawful, except as permitted by FWS regulations, "to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, ... transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or egg of any such bird .... "
- *Marine Mammal Protection Act of 1972*- Prohibits the taking of marine mammals.
- *National Historic Preservation Act of 1966* - declared a national policy of historic preservation; authorized the Secretary of the Interior to create and maintain a National Register of Historic Places; established the Advisory Council on Historic Preservation; required federal agencies to consider the effects of their undertakings on properties listed on or eligible for listing on the National Register

of Historic Places; required federal agencies to develop and maintain their own historic preservation programs. This is covered in the *Programmatic Agreement on Protection of Historic Properties during Emergency Response under the National Oil and Hazardous Substances Pollution Contingency Plan*, available at [nrt.org](http://nrt.org).

- *National Wildlife System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997* - broad prohibition against any activities on lands within refuge system except as permitted by FWS. Statute provides that no person shall enter, use, or otherwise occupy any refuge area for any purpose, unless such activities are permitted by FWS regulations, expressly permitted in the organic document creating the specific unit of the refuge system, or are management activities conducted under FWS authority.
- *Federal Land Policy and Management Act* - the "Organic Act" for the BLM, which articulates the policy that Public Lands should be managed for multiple use.
- *Organic Act of 1916 and amendments* - defines the NPS mission and the purposes of the parks which includes the requirement that protection, management, and administration of all units of the national park system are to be done in a way that protects and does not diminish the value and purposes for which each area was established, unless specifically and directly provided for by Congress.
- *Outer Continental Shelf Lands Act* - charges the US Department of the Interior with managing the exploration and development of mineral resources on the Federal Outer Continental Shelf. Under OCSLA, the Minerals Management Service issues oil and gas leases, assesses resource potential, and regulates operations to protect safety and prevent pollution.
- *Park System Resources Protection Act* - provides equal protection to any living or non-living resource located within the boundaries of a unit of the NPS. This includes terrestrial, aquatic, cultural (historic or archeological), and infrastructure resources. It provides for recovery of response costs, including the cost of actions taken by the Secretary of the Interior to prevent or minimize destruction, or loss of, or injury to park system resources; or to abate or minimize the imminent risk of such destruction, loss, or injury; or to monitor ongoing effects of incidents causing such destruction, loss or injury. The party responsible for destruction, loss of, or injury to park system resources is liable for response costs and damages.
- *Individual park legislation*

## **V. DOI BUREAU/OFFICE INFORMATION**

Response-related functions of the DOI Bureaus and Offices are as follows:

Bureau of Indian Affairs:

On request, assist in coordination of activities affecting Indian lands, and in identifying Indian Tribal government officials.

Assist in obtaining access to Indian land areas as needed for response action.

Coordinate with the incident Public Information Director to ensure that pertinent information is made available to Tribal authorities on a timely basis.

Bureau of Land Management:

Provide advice on responses affecting lands or minerals administered by BLM.

Provide expertise in the field of oil and gas drilling, production, handling and transportation by pipeline.

Bureau of Reclamation:

Provide advice on operation and maintenance of dams, reservoirs, and water conveyance systems; engineering and hydrology; and design services, construction oversight, contract writing and administration.

Provide information on current and predicted channel flow volumes, where water courses are controlled by dams or other control structures under their management or control.

Will, to the extent possible, alter the channel flow volumes of water courses from control structures under their management authority to reduce the negative environmental effects of a pollution incident or assist in spill response operations.

Fish and Wildlife Service:

Authorize entry and any activity occurring on refuge system lands managed by the U.S.

Provide advice on migratory birds, anadromous fish, certain marine mammals, sea turtles onshore, and endangered and threatened species. This includes advice on appropriate clean-up techniques, resource protection actions, and clean-up end points.

Coordinate with State RRT representatives and appropriate wildlife management agencies in establishing bird collection, cleaning and recovery centers, and directing the actions of professional and volunteer groups who desire to assist in these activities.

Coordinate all Federal permitting activities for the collection, rescue, and rehabilitation of migratory birds, certain marine mammals, and threatened and endangered species for which FWS is responsible.

#### Geological Survey:

Provide expertise in geospatial analysis and mapping, geology, hydrology, and biological resources. This includes providing real-time streamflow flow data and time-of-travel estimates (surface water and ground water) to OSCs during spill response; providing geospatial analysis and map products to assist in response planning and response actions; providing information on the scope and extent of natural hazard events, e.g. earthquakes, volcanoes, hurricanes, tsunamis, floods, debris flow, wildfires, and landslides, and their potential for causing or contributing to accidental releases of oil products and hazardous substances; providing consultation on contaminant and degradation product analysis, fate, and transport; assessing the potential effects of contaminants and degradation products on biological communities; and applying predictive models to assess plume dispersion and transport in streams, rivers, lakes, reservoirs, wetlands, and aquifers.

#### Minerals Management Service:

Provide general technical and engineering expertise in the fields of offshore oil and gas drilling and workover activities, production operations, and pipeline transportation; and, specifics on DOI and DOT-regulated offshore energy infrastructure location, design, and operating parameters, excluding deepwater ports

During spills involving MMS-regulated facilities: assist the OSC in responsible party identification and notification; manage spill abatement; approve and monitor facility repair procedures and pollution prevention and containment plans; and approve resumption of operations of platforms and pipelines affected by the spill event

#### National Park Service:

Provide advice on or participate in response affecting National Park System lands (including but not limited to National Parks, National Monuments, National Seashores, National Recreation Areas, National Historic Sites, and National Trails), historic properties and cultural resources, and wild and scenic rivers.

Authorize entry and issue required permits for access to and response actions on NPS managed lands. Also, provide site security and issues any formal public land closures surrounding incident sites where necessary.

In consultation/coordination with OSC, ensure that response actions are consistent and in full compliance with any federal land management policies, laws, and regulations pertaining to park lands.

Use additional authority granted by Park System Resources Protection Act to recover costs of response actions that are taken on NPS lands to minimize destruction or loss of or injury to park system resources including all non-living resources within park units as well as natural and cultural resources.

Office of Surface Mining:

Provide advice in incidents involving surface coal mining; abandoned coal mined lands, coal outcrop fires, mine waste bank stability, and toxic mine drainage.

Office of Environmental Policy and Compliance

On behalf of the Office of the Secretary, receive, primarily through Regional Environmental Officers, initial DOI notification of oil discharges and hazardous substance releases and provide these to appropriate DOI Bureaus and Offices; ensure requests for DOI expertise or assistance in response activities reach the appropriate Bureaus/Offices; represent DOI in incident-specific activations of the NRT, RRTs, or JRTs; and, where necessary, coordinate DOI Bureau/Office participation in response activities and provide a unified DOI position on major response operations decisions.

Aviation Management Directorate of the National Business Center

Provide DOI-owned and approved aircraft, commercial aviation services, and other aviation-related services to support bureau programs. Provide inspection and certification teams to certify aircraft on-scene. Investigate all aircraft mishaps occurring in Departmental aviation operations, and represent the DOI on all aircraft accident investigations where DOI has involvement.