

## **National Schedule Coordination Committee's (NSCC) Response to August 2000 PREP Workshop Comments**

Enclosed is the NSCC's response to comments received from the August 2000 PREP Workshop. Note: The NSCC consists of representatives from the US Coast Guard, US Environmental Protection Agency, US Office of Pipeline Safety, and US Minerals Management Service with responsibility for oversight of the industry's preparedness to respond to oil spill incidents in or near US navigable waters.

More than 90 comments were received from 18 commenters covering a variety of concerns related to PREP. Comments fall in to two general categories: suggestions for clarifying language in the PREP Guidelines themselves, and concerns over sufficiency of the guidelines as a tool in governmental assessment of industry response capabilities. Specific issues of concern by category include, but are not limited to:

- Government initiated Unannounced Exercises – number, scope, credit issues, possible sanctions for unsatisfactory planholder performance.
- Spill Management Team Exercises – number, who participates, where they are held, government participation in, who credits.
- Area Exercises – scale, industry participation.
- Equipment Deployment exercises – quantities and types of equipment, operating environments, relation to planning strategies.
- Lessons learned – methods for capturing and sharing, tracking implementation, ties between implementation and credit.
- Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).
- Exercise objectives - adequacy of Appendix B of the PREP Guidelines.
- Hazardous Substance Exercises – consistency with PREP Guidelines.
- Status of actions stemming from the 1997 PREP workshop.

The agencies remain fully committed to maintaining the integrity of the PREP Guidelines and the exercise process as a primary tool in fostering government/industry cooperation in continually validating response preparedness nationwide. If you have any questions or comments, please feel free to contact any of the four agency PREP coordinators: Bob Pond (CG - 202-267-6603, [rpond@comdt.uscg.mil](mailto:rpond@comdt.uscg.mil)), Bud Hunt (EPA - 703-603-8736, [hunt.bud@epamail.epa.gov](mailto:hunt.bud@epamail.epa.gov)), Larry Ake (MMS -703-787-1567, [larry.ake@mms.gov](mailto:larry.ake@mms.gov)), or Melanie Barber (OPS – 202-366-4560, [melanie.barber@rspa.dot.gov](mailto:melanie.barber@rspa.dot.gov)).

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

#	Topic Area	Comment	Response
1	Area Exercises – scale, industry participation.	One commentor strongly recommended that Area Committee, local stakeholders, and state and local agencies be involved in selection of industry players for both industry-led and government-led area exercises as well as in scenario development and selection of exercise objectives.	Concur. A fundamental precept for area exercises in the existing PREP Guidelines is that area committee members should be involved to the maximum extent possible in all aspects of exercise design, execution and evaluation. This includes identification of all exercise participants, selection of scenario, and exercise objectives. Area exercises are the primary opportunity for the entire response community to validate area contingency plan effectiveness. We will draft revisions to the Guidelines to reemphasize and clarify this responsibility to Area Committees
2	Area Exercises – scale, industry participation.	One commentor suggested that the new Oil Pollution Response Area (OPRA) concept being considered by the CG in the context of the OSRO guidelines, should result in planholders being required to conduct separate exercises in each OPRA.	The NSCC is addressing concerns regarding exercise scope and location by exercise type as noted by response to comments on topic areas 5, 8, 19, 22, and 34.
3	Area Exercises – scale, industry participation.	One commentor stated that the PREP Guidelines need to provide more guidance concerning size and scope expectations for government and industry-led area exercises. Industry plan holders remain very reluctant to participate due to potential cost of the exercise.	The four agencies are working with the National Strike Force Coordination Center to develop a model for area exercises, including size and scope expectations. The model will recognize need for cost control and emphasize the opportunity to use the annual SMT and equipment deployment exercises as the core for the area exercise. Once the model is drafted, it will be disseminated widely to the public. The model will not be mandatory but will serve as an example of one way that credible industry-led or government-led area exercises may be developed.
4	Area Exercises – scale, industry participation.	One commentor suggested that the PREP Guidelines be amended to include definitions for two types of tabletop exercises: Role Playing and Facilitated	The general definition of a tabletop contained in the PREP Guidelines accommodates both role playing and facilitated discussion type exercises. Both are legitimate means to achieve the goal of preparedness. Plan holders should consider a mix of exercise

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

		Discussion	
5	Area Exercises – scale, industry participation.	One commentor stated that in recent years, government participation in industry-led exercises has reduced. The commentor suggested that there is a need for more government involvement, not less and therefore we should consider fewer industry-led and more government-led area exercises.	formats that best ensures their preparedness. During the development of the original guidelines, government and industry participants established a regimen of 6 government-led and 14 industry-led area exercises. These numbers were based on the recognition that both government and industry are resource constrained, and were intended to establish an equitable mix between government and industry. The total number of area exercises, 20 per year, is consistent with approximately 60 major Coast Guard and EPA planning areas established under OPA 90. Twenty exercises yearly equates to one exercise in each area every 3 years. The intent was that government plan holders at the regional and area levels would be as actively involved in industry-led exercises as they are in government-led exercises. The distinction between government-led and industry-led was intended to identify who would have planning and funding lead. Participating agencies are encouraging their field offices to be more proactive in working with industry to identify industry-led area exercises leaders and in working with those leads to plan and execute effective exercises.
6	Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).	One commentor recommended that OSROs be required to submit exercise documentation annually, to each agency having jurisdiction on or before December 31.	This is a regulatory issue not a PREP Guidelines issue. In the regulatory development process the agencies required plan holders to retain exercise records (including OSRO exercise records) and to make those records available for agency review upon request. This is a typical oversight regimen, which allows the agencies to spot-check compliance without overburdening either the agencies or the industry. It does rely on the assumption that the industry is generally in compliance and that the government is diligent in conducting oversight. Any changes to these record-keeping requirements, especially imposition of a requirement on the currently unregulated OSROs would require a regulatory and or legislative change which does not appear

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

			warranted at this time.
7	Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).	One commentor suggested that EPA and USCG facility record keeping requirements be made the same, e.g., 3 years. EPA currently requires records to be retained for 5 years while the USCG requires they be retained for only 3. The same commentor requested that plan holders be allowed to determine the most effective location to keep drill documentation.	Record-keeping is outside the scope of the PREP Guidelines. Plan holders are required to maintain records in accordance with the individual federal oversight agency regulatory requirements. As a general rule, agencies follow standard record-keeping requirements for the full set of rules and regulations they enforce. However, the agencies that make up the NSCC will consider these concerns as part of their internal regulatory reviews.
8	Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).	One commentor stated that one agency does not think that a facility should be permitted to take credit for an equipment deployment exercise unless the involved OSRO deploys equipment at that facility.	The PREP Guidelines do not currently require that an OSRO equipment deployment exercise be conducted at every facility every year. This is because an OSRO may have tens or even hundreds of plan holder clients and to exercise at each facility would require many OSROs to engage in continuous exercises. The original drafters of the PREP Guidelines recognized this and endorsed the concept of allowing OSROs to engage in a regional equipment deployment concept. This regional concept recognized that topography, hydrology, oceanography, etc. in a given region only vary to a limited extent. If an OSRO exercises in each operating environment specified in the PREP Guidelines (fully protected, sheltered, and unsheltered), in a given region, that OSRO has provided sufficient demonstration of the capabilities of its personnel and equipment to operate throughout the entire region. However, the NSCC agrees that the concept of “region” is too imprecisely defined and will propose a more precise definition in the draft revision to the PREP Guidelines.
9	Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual	One commentor noted that at least one agency is asserting authority to issue credit for some industry internal exercises while other federal agencies allow	The PREP Guidelines clearly indicate that plan holder initiated internal exercises are self-certified. Government agencies conduct periodic audits of these plan holder exercise certifications to confirm compliance. Only government-initiated external exercises are

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

	responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).	plan holders to self-certify.	certified by government agencies.
<b>10</b>	Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).	One commentator stated that some government agencies are not authorizing plan holders to take exercise credit for actual spills.	The PREP Guidelines allow plan holders to claim credit for certain <u>internal</u> exercises in the event of an actual discharge. Credit for <u>external</u> exercises can not be taken by a plan holder. For example, to take credit for an equipment deployment exercise during an actual discharge, the facility owner or operator must document completion of the appropriate exercise requirements including an assessment of the spill response. For external exercises such as the government initiated unannounced exercise, the government is the crediting entity. Therefore a plan holder can only receive credit for participation in a government initiated unannounced exercise as the result of an actual spill response if the response is evaluated by and credit is given by the appropriate government agency.
<b>11</b>	Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).	One commentator suggested that the PREP program relies too heavily on self-certification. As an alternative the commentator recommended that a third party, (representative from the state, local or federal agency) evaluate at least one tabletop exercise and one equipment deployment exercise every three years for each plan holder.  Conversely, two commentators stated PREP exercises were never intended as a test but rather a validation. Therefore, self-certification should	The self-certification regimen established in the PREP guidelines was based on the recognition of the following: <ul style="list-style-type: none"> <li>• It is in the best interest of every plan holder to conduct periodic validation of their response preparedness capabilities;</li> <li>• The PREP exercise schedule provides a logical mix of exercise types over a manageable but effective timeframe to accomplish that validation;</li> <li>• Ideally every exercise would involve both government and industry participants for design, execution and evaluation; and</li> <li>• That neither government or industry has the resources to participate in more than one or two exercise evolutions with other players on a yearly basis.</li> </ul> There are approximately 9,000 vessel and facility response plan holders in the US. To

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

		<p>continue as originally conceived: i.e., PREP should continue to allow plan holders to take credit for exercises when all objectives are evaluated, and a proper record is generated.</p>	<p>meet this requirement the agencies would have to coordinate with the states to observe almost 9,000 equipment deployments and 3,000 tabletop exercises each year. Government resources are not sufficient to carry out that kind of oversight nor do we believe that such oversight is necessary. The prime purpose of the exercises is to ensure plan holder familiarity with response and their OSRO capabilities. Further, an underlying goal of PREP is to foster government/industry cooperation which is fundamental to successful response. Government regulatory oversight is better carried out through other interactions with the planholder, including periodic plan review, periodic vessel/facility site visits, the OSRO classification program, triennial area exercises and the government-initiated unannounced exercise program.</p>
<p><b>12</b></p>	<p>Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).</p>	<p>One commentor suggested that some oversight agencies have no effective mechanism to check exercise compliance. For example, the commentor stated that PREP is written so that plan holders only have to exercise equipment and personnel in areas where the personnel are located, not in areas where they may be required to respond. The commentor recommended that PREP be modified to enable agencies to verify that planholder’s response equipment can be delivered to specific areas they claim to be able to cover.</p>	<p>Each of the four federal oversight agencies has a program that uses a number of tools in interacting with the regulated community, including, but not limited to:</p> <ul style="list-style-type: none"> <li>• The PREP program which allows for cooperative interchanges between government and industry, as well as government verification of industry capabilities during joint exercises.</li> <li>• The OSRO classification process which applies standards to participating OSROs nationwide in order to determine their capabilities. This assists both government and industry plan holders in evaluating adequacy of their response equipment providers.</li> <li>• Regular plan holder inspections and examinations. Each of the four agencies visit regulated facilities/vessels to determine compliance with a myriad of pollution prevention, preparedness and response requirements, including exercise requirements. These periodic visits provide opportunities for agencies to verify plan holder exercise records.</li> </ul>

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

13	Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).	Appendix A of the PREP Guidelines includes sample exercise documentation forms. One commentor recommended that these forms should be more detailed, i.e.: <ul style="list-style-type: none"> <li>• National Response System/ICS forms completed</li> <li>• Plans generated for the exercise to show specific objectives tested</li> <li>• Complete list of attendees</li> <li>• Detailed records of exercise decisions and actions</li> <li>• List of equipment exercised.</li> </ul>	The NSCC is interested in keeping the forms relevant but does not want to be overly prescriptive . The NSCC will review the forms and consider some modifications. The PREP program is based largely on mutual partnership between government and industry based in part on the recognition that the government must employ its limited time and resources judiciously in overseeing industry exercises, and that industry has sufficient liability incentives to exercise in earnest.
14	Exercise credit – who gives credit, when should it be taken, on what should it be based, credit for actual responses, adequacy of credit documentation (Appendix A of the PREP Guidelines).	One commentor stated that the PREP Guidelines do not specify a timeframe for completion of exercise documentation and recommended that a timeline be established, e.g., 30 day equipment deployment exercise, 60 days SMT TTX.	Plan holder documentation of an exercise is the primary evidence that an internal exercise has been completed. It is therefore in the best interest of the plan holder to complete the documentation as quickly as possible to demonstrate continuing adherence to the three-year exercise cycle. Unless specific problems have arisen from lack of timely documentation, imposition of a submission deadline appears to be unnecessary. Nevertheless, The NSCC will propose a change to the PREP Guidelines recommending that exercise documentation be completed in a timely fashion (e.g. 30-60 days)
15	Equipment Deployment Exercises – quantities and types of equipment, operating environments, relation to planning	Several commentors suggested that PREP should provide access to the Oil Spill Liability Trust Fund (OSLTF) to relieve high cost of exercises on small companies and to defray cost of equipment deployment exercises.	Section 6002 of the Oil Pollution Act requires that any Oil Spill Liability Trust Fund (OSLTF) monies for activities other than emergency response be provided in the individual appropriations acts of each of the federal agencies. To date, the agencies have not gained authorization for increased OSTLF funds without offset from existing agency operating funds. However, we will continue to explore funding options to

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

	strategies.		support certain equipment deployment evolutions associated with both government-led and industry-led area exercises.
16	Equipment Deployment Exercises – quantities and types of equipment, operating environments, relation to planning strategies.	Several commentors expressed concern that the USCG was not able to contract an Oil Spill Removal Organization (OSRO) through its standard Basic Ordering Agreement (BOA) process for a recent exercise in the Gulf of Mexico. They recommended that the USCG modify its BOA process to allow USCG to contract with an OSRO for equipment deployment during exercises.	The CG is examining the issue to determine whether access to response contractor support during exercises can and should be made routine.
17	Equipment Deployment exercises – quantities and types of equipment, operating environments, relation to planning strategies.	Two commentors recommended an increased requirement for quantities and types of equipment to be deployed during equipment deployment exercises. Equipment deployment exercises should require deployment of booms, skimmers, connection of all the necessary hoses, operation of transfer pumps, connection to storage devices and demonstration of capability to perform other relevant procedures including but not limited to decanting, air monitoring, and decontamination procedures. One commentor suggested that no further definition of scope and scale of equipment deployment exercises is necessary. Two commentors	We agree that the quality of and attention to equipment deployment exercises has been inconsistent. The current PREP Guidelines only require deployment of certain quantities of boom and skimmers. Equipment deployments should include all auxiliary equipment necessary to the effective operation of that equipment in a real incident. Additionally, to the maximum extent practicable, equipment deployments should be conducted to assess equipment condition, personnel capability, and planning strategy effectiveness. Therefore, The NSCC will recommend changes to the guidelines to provide more on Page 2-9 <b>Minimum of Equipment for Deployment</b> to include: an introductory statement to specify that equipment deployments should include booms, skimmers and all appropriate auxiliary equipment; adding fast water booms and skimmers to boom and skimmer types, and adding specific minimum spill countermeasures requirements (e.g., dispersant, in situ burning, and bioremediation) and hazardous substance equipment type list.

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

		recommended that the PREP Guidelines be amended to specify fast water equipment deployment requirements. One commentor specifically opposed a fast water equipment deployment requirement.	
<b>18</b>	Equipment Deployment Exercises – quantities and types of equipment, operating environments, relation to planning strategies.	One commentor pointed out that the PREP Guidelines state that “The equipment (for equipment deployment exercises) should be selected... with the ultimate goal of eventually exercising all of the OSRO’s equipment and personnel.” The commentor urged that the statement include a time frame during which an OSRO would exercise all equipment and personnel under their control (e.g., at least once every three years).	The equipment deployment exercise is only one element in an overall program of ensuring equipment and personnel preparedness. Along with equipment deployment exercises, each plan holder is expected to ensure their OSROs engage in personnel training, periodic equipment maintenance, and use of equipment during actual spill response. This plan holder oversight results in all required equipment and personnel being deployed or at least determined operational at least once every three years.
<b>19</b>	Equipment Deployment Exercises – quantities and types of equipment, operating environments, relation to planning strategies.	One commentor suggested that the PREP Guidelines be amended to reduce equipment deployment exercise requirements for facility owned equipment to once per year to be consistent with OSRO owned equipment requirements.	A fundamental purpose of the equipment deployment exercise is to verify that response equipment is being maintained in good working order and that personnel responsible for deployment are competent to do so. The semi-annual equipment deployment frequency for facility-owned equipment was based on the assumption that the equipment would be stored at the facility and would only be deployed twice per year unless an emergency occurs. The semi-annual equipment deployment ensures that the equipment is maintained in good working order and that deployment personnel remain competent. OSRO-owned equipment is only exercised once per year because that equipment is used routinely for response throughout the year and deployment personnel engage in deployment activities as

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

			a regular part of their jobs.
20	Equipment Deployment Exercises – quantities and types of equipment, operating environments, relation to planning strategies.	One commentor expressed concern that the minimum amount of equipment required to be deployed in the PREP Guidelines was too prescriptive. Boom should be a “representative sample” rather than 1000 ft. The commentor was concerned that some plan holders may need less than 1000 feet of boom to meet their response requirements.	The equipment deployment requirements in the PREP Guidelines are intended to establish reasonable minimums which would enable preparedness evaluation. In cases where a facility’s or vessel’s approved plan includes lesser equipment amounts, only those lesser amounts need to be exercised. The NSCC will propose changes to the guidelines to clarify this issue.
21	Equipment Deployment Exercises – quantities and types of equipment, operating environments, relation to planning strategies.	One commentor stated that there is no provision in PREP for holding plan holders accountable for exercising their equipment. One commentor suggested an appropriate sanction might be suspension of the plan holder’s operations until the particular problem is resolved.	While it is true that the PREP Guidelines do not include sanctions for failure to comply with the program, the regulations of each of the four oversight agencies do. The individual agency regulations allow plan holders to cite adherence to PREP in their plans as evidence of having an adequate exercise program. If a plan holder asserts compliance with PREP in a response plan, but fails to carry out all facets of the PREP program that plan holder is subject to sanctions by the oversight agency. Under the response plan regulations, these sanctions include, but are not limited to civil penalties and ordering suspension of vessel or facility operations.
22	Equipment Deployment Exercises – quantities and types of equipment, operating environments, relation to planning strategies.	One commentor expressed concern that the PREP Guidelines state that “OSROs do not have to conduct equipment deployment exercises in each specific area of the various plan holders they cover.” OSROs should be familiar with geographic areas in which they operate.	The PREP Guidelines currently authorize OSROs to conduct “regional equipment deployment exercises”. The regulatory agencies agree that the concept of “region” is imprecisely defined and will propose a more precise definition in the draft revision to the PREP Guidelines.  The equipment deployment exercises does not focus on area familiarity. Plan holders are responsible for requiring the OSROs on which they rely to be familiar with the specific geographic areas in which they operate. The unannounced exercise program intends to allow agencies to verify that plan

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

23	Exercise objectives - adequacy of Appendix B of the PREP Guidelines.	One commentor offered a summary description of the overall intent of PREP. PREP emphasizes the need for government/industry cooperative assessment of response capabilities. While we recognize the need for the government to provide regulatory oversight as well, oversight programs should not hamper the cooperative spirit and intent of the original guidelines. Government and industry should be more interested in the lessons learned from exercises and in cooperative implementation of substantive lessons learned rather than focusing on how many exercises should be required.	holders are fulfilling that responsibility. The NSCC concurs with this comment.
24	Exercise objectives - adequacy of Appendix B of the PREP Guidelines	Several commentors recommended that Appendix B of the PREP Guidelines be reviewed and validated or amended to include more appropriate exercise objectives. Appendix B includes the core components of a response plan. Specific recommendations included change objective numbering so that sub objectives can be easily identified, eliminate or modify objectives which only apply to facility plan holders and reconcile differences in description of response management system concepts between	Appendix B provides a general outline of important elements to consider in an exercise, it is not intended to be all-inclusive and should not be overly prescriptive. However, the NSCC will review the objectives in Appendix B in light of these comments and draft recommended changes to the PREP guidelines if appropriate.

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

		the National Oil and Hazardous Substances Contingency Plan (NCP) and the Field Operations Guide (FOG) published by the USCG.	
25	Government-initiated Unannounced Exercises – number, scope, credit issues, possible sanctions for unsatisfactory planholder performance.	One commentor recommended that the government-initiated unannounced exercises require planholder personnel to implement a full response to a specific scenario contained in the plan.	The PREP Guidelines do require a plan holder to fully implement its plan to respond to a specified spill scenario (e.g. average most probable discharge as specified by the exercising agency.) As described in previous responses, the unannounced exercise is an element of regulatory oversight and therefore must remain flexible to accommodate each of the federal agencies.
26	Government-initiated Unannounced Exercises – number, scope, credit issues, possible sanctions for unsatisfactory planholder performance.	One commentor suggested that unannounced exercises should include exercise of shoreline protection requirements.	Testing of shoreline protection strategies should be an integral part of equipment deployment exercises done in conjunction with Area and SMT exercises. The critical factor in shoreline protection is whether the selected strategies (as established in area contingency plans) are feasible and practicable given local geographic and oceanographic conditions. It may be appropriate to add greater specificity regarding equipment deployment exercises to encourage or require that they include shoreline protection strategy testing. See proposed changes to the draft PREP Guidelines.
27	Government-initiated Unannounced Exercises – number, scope, credit issues, possible sanctions for unsatisfactory planholder performance.	One commentor requested clarification of the intent of PREP related to EPA and USCG government-initiated unannounced exercises. Specifically, does timely response to an average most probable discharge exercise mean that the equipment needs to be on scene within one hour or deployed and operating within one hour? The commentor was concerned that it would be	In accordance with both CG and EPA response plan regulations, containment boom and the means to deploy and anchor that boom must be at the spill site within one hour. Oil recovery devices and storage capacity must be at the spill site within 2 hours. The regulation does not prescribe a time by which deployment must be completed. However, for exercise purposes a reasonable person can expect that boom deployment would commence upon arrival and would be completed approximately coincident with the arrival of skimmers and storage capacity so that recovery operations

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

		<p>difficult, if not impossible for planholders to have equipment operating in one hour. If planholders cannot possibly achieve the response planning standards then maybe the standards are unfair or inappropriate.</p>	<p>should begin within 2 hours of notification. Note that these response planning standards are established in the regulatory regimes implemented by each of the individual agencies and are outside the purview of the PREP program.</p>
28	<p>Government-initiated Unannounced Exercises – number, scope, credit issues, possible sanctions for unsatisfactory planholder performance.</p>	<p>Several commentors stated that all 4 agencies should adopt a single unannounced exercise standard and increase the number of government-initiated unannounced exercises conducted annually. Government agencies should coordinate unannounced exercises so that each plan holder participates in 1 unannounced exercise every 3 years.</p>	<p>Unannounced exercises play a key role in allowing federal agencies to continually assess preparedness. The unannounced exercise is a primary tool in demonstrating that the plan holders and their OSROs in a given area are ready and able to carry out responses to which they are committed. Each of the agencies has adopted an unannounced exercise program that best fits its overall regulatory enforcement and oversight regime. We believe that the 100 + unannounced exercises the four federal agencies conduct on a yearly basis coupled with the 1,000's of actual spill responses we participate in generally provide ample opportunity to conduct continuing assessment of plan holder/OSRO capabilities in the US. However, there is a disparity in the number of plan holders from area to area. Some areas have less than 20 plan holders while other areas have several hundred plan holders. Because EPA's planning area is so large geographically compared to the USCG, the current number of government- initiated unannounced exercises in the PREP Guidelines may not allow for an appropriate level of oversight in areas that have high numbers of plan holders. Therefore, The NSCC will propose a change to the PREP Guidelines authorizing EPA to conduct government-initiated unannounced exercises with up to 10% of the plan holders in a given area in any one year. The number of Coast Guard conducted unannounced exercises will remain the same, four per area per year MMS and OPS government-initiated unannounced exercise frequency will not change. The agencies are committed to</p>

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

			<p>coordinating unannounced exercises to avoid duplication.</p>
<b>29</b>	<p>Government-initiated Unannounced Exercises – number, scope, credit issues, possible sanctions for unsatisfactory planholder performance.</p>	<p>Two commentors requested clarification of the exercising agency’s options if a plan holder does not perform satisfactorily during a government-initiated unannounced exercise?</p>	<p>The PREP Guidelines acknowledge that each of the regulatory agencies will use government-initiated unannounced exercises described in the guidelines as one of their tools in providing regulatory oversight. Failure to fully meet the exercise objectives during an unannounced exercise is addressed by the agency and the specific plan holder. A variety of options are available to the agency including, but not limited to, requiring the plan holder to repeat the exercise, requiring response plan changes within a specified timeframe, ordering suspension of plan holder operations, etc. Unannounced exercises are one of the primary enforcement tools envisioned by the Oil Pollution Act of 1990 and these enforcement options exist whether the plan holder participates in PREP or not.</p> <p>Credit for government-initiated unannounced exercise will not be granted by the exercising agency until the plan holder has demonstrated they can meet or exceed the objectives of the exercise. The exercise objectives include “timely” deployment of equipment specified in each agency’s response planning regulations. Plan holders that do not satisfactorily complete the exercise may have to conduct additional exercises to demonstrate compliance with the response planning regulation. The act of participating in the exercise is not sufficient; successful achievement of the stated objectives is the goal.</p>
<b>30</b>	<p>Hazardous Substance Exercises – consistency with PREP Guidelines.</p>	<p>Several commentors supported inclusion of hazardous material exercise requirements in the PREP Guidelines to ensure they are as compatible with the oil exercise requirements as possible. Commentors</p>	<p>The NSCC concurs. The sense of the participants in the process since its inception in 1993 has been that hazardous material exercise requirements should mirror oil requirements to the maximum extent practicable. For example, this includes recognition that if a plan holder uses the same spill management team for both oil and</p>

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

		<p>recommend that hazardous material exercise requirements consider several issues including:</p> <ul style="list-style-type: none"> <li>• Whether twice/yr equipment deployment exercises of facility owned hazardous material response equipment is warranted.</li> <li>• Will equipment deployment requirements be different for different chemicals?</li> <li>• The vessel hazardous substance rulemaking is proceeding forward but the facility rule is being delayed. Should exercise requirements for facilities in PREP be delayed as well;</li> <li>• Cooperative public workshops should be held to draft and finalize PREP hazardous material language.</li> <li>• Boom exercise requirements should be determined based on chemical characteristics.</li> <li>• Number and types of exercises an individual plan holder is required to undertake should be dependent upon the types of chemical included in the plan.</li> <li>• Oil response plan holders who handle chemicals should not be required to duplicate exercises as long as</li> </ul>	<p>hazardous substance response that team need only be exercised once each year. It also recognizes that seaparate equipment deployment exercises will be required for hazardous substance specific equipment.</p> <p>Currently, only the CG is proposing HAZSUB response plan and exercise requirements under Federal Water Pollution Control Act and the Oil Pollution Act of 1990. While the PREP guidelines are not intended to constrain HAZSUB exercises in place under other statutes, every effort will be made to recognize and give credit for those existing exercise programs.</p> <p>The NSCC will consider all of these issues in drafting proposed changes to the PREP Guidelines to incorporate hazardous material exercise criteria.</p>
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**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

		they rely on substantially the same spill management team structure, response procedures and response equipment.	
<b>31</b>	Lessons learned – methods for capturing and sharing, tracking implementation, ties between implementation and credit.	Several commentors stated that capturing and sharing lessons learned is important. They would like to have Internet access to agency PREP databases. They recommended more effort on part of regulators, plan holders, and stakeholders to develop a method of capturing and sharing lessons learned. This should include a means to collect and distribute lessons learned throughout the response community.	Concur that capturing, sharing, and acting upon lessons learned are fundamental to exercise success. The CG has established a database at <a href="http://www.cgsails.uscg.mil">www.cgsails.uscg.mil</a> , which is accessible to the general public. All NSCC agencies are aware of, and may use this system at their discretion. The National Response Team is examining this system for broader application. The site allows both government and industry plan holders to input lessons learned from any exercise in which they participate. It also allows interested persons to review and learn from all lessons learned in the system. Additionally, PREP related information including Area Exercise Schedules are made available through the Federal Register and individual NSCC agency websites.
<b>32</b>	Lessons learned – methods for capturing and sharing, tracking implementation, ties between implementation and credit.	Two commentors expressed concern about proposals to require all lessons learned to be incorporated in a plan prior to awarding exercise credit. They argued that it is not realistic to expect that all lessons learned will result in changes to a plan or should even impact approval of that plan.	Concur. Not all lessons learned will result in changes to a specific plan. However, it is important that all lessons learned be annotated with specific corrective actions to be taken based on those lessons, such as additional training needed, equipment restock or repair.
<b>33</b>	Lessons learned – methods for capturing and sharing, tracking implementation, ties between implementation and credit.	One commentor suggested that exercise evaluations must include a schedule for addressing lessons learned. Exercise credit should be withheld until the lessons learned are implemented in accordance with the schedule.	Implementation of lessons learned is a critical element of the preparedness cycle of planning, exercise, evaluation and improvement. Government agencies have the opportunity to monitor plan holder adoption of changes based on lessons learned through periodic review of plan holders' plans and exercise records. The response community has the opportunity to review implementation of lessons learned related to Area Contingency plans through the area

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

			committee process. We consider these to provide adequate opportunity, in conjunction with other oversight tools (see #11), for the government to monitor implementation of lessons learned and enhancement of preparedness.
34	Spill Management Team (SMT) Exercises – number, who participates, where they are held, government participation in, who credits.	<p>One commentator stated that the PREP Guidelines authorize the conduct of a single spill management team (SMT) exercise to satisfy the requirement for multiple plan holders. Many SMTs conduct these exercises overseas to accommodate foreign-based planholder participation. The commentator recommended that the PREP Guidelines be changed to specify conditions under which these exercises should be conducted, including:</p> <ul style="list-style-type: none"> <li>• 60 day advance notice to the oversight federal and state agency</li> <li>• approval of the exercise plan in advance by the oversight agency based on review of exercise objectives and evaluation criteria</li> <li>• All participating plan holders' plans should clearly identify that the SMT and response management organizations are separate from the facility/vessel operations.</li> </ul>	<p>Regarding the issue of participation in SMT exercises, the PREP Guidelines (pages 2-4 and 2-5) are clear that the exercise should focus on the spill management team itself, with inputs from the plan holders. Spill management teams who represent multiple plan holders are authorized to conduct exercises for multiple plan holders as long as the core management procedures employed by the SMT are common to all plan holders. In designing these exercises, the SMT must ensure it is familiar with each response plan for which they are responsible, including specific spill scenarios identified in each plan as well as specific operations of each of the vessels/facilities covered by those plans.</p> <p>The PREP Guidelines recognized that it may not be practicable to require an SMT to conduct a separate exercise each year for every vessel covered by a plan, and especially not for every port in which every vessel/facility listed in a plan may operate. It also recognized that if an SMT represents multiple plan holders, then it makes sense for those plan holders to take credit for a single exercise, which addresses the core component issues in their plans. Plan holders should provide oversight to these exercises, to ensure that the planning and response management procedures implemented by the SMT satisfy their preparedness needs. Direct participation as players in these exercises by every plan holder and vessel master/facility manager is not required unless they are specifically designated as members of the spill management team.</p>
35	Status of actions following the 1997 PREP	Several commentators suggested that outstanding issues from the 1997 PREP	<p>Outstanding issues from the 1997 Workshop are addressed in this document.</p> <ul style="list-style-type: none"> <li>• The Administrative Procedures Act</li> </ul>

**National Schedule Coordination Committee (NSCC) Response to August 2000  
PREP Workshop Comments**

	workshop.	<p>workshop need to be addressed, including:</p> <ul style="list-style-type: none"> <li>• Recommendation to establish a steering committee with non-government participation.</li> <li>• Recommendation to consider changing definition of worst case discharge for purposes of PREP.</li> <li>• Recommendation that periodic PREP Workshops be held.</li> <li>• Recommendation that future workshops be held in various locations around the country to encourage state involvement.</li> <li>• Recommendation to consider changing the mix of government-led and industry-led area exercises.</li> </ul>	<p>makes it difficult to establish a government/non-government steering committee because this could be construed as an advisory group. The four agencies are committed to maintaining PREP as a cooperative venture with the entire response community using the Federal Register to publish annual exercise schedule updates and frequent public meetings to ensure continuous process assessment.</p> <ul style="list-style-type: none"> <li>• Worst case discharge is defined in each agency's regulations and as such can not be amended through the PREP program.</li> <li>• Concur that on-going assessment of PREP is essential to ensuring its continuing viability. EPA, USCG, OPS, and MMS are committed to frequent workshops (at least biennially).</li> <li>• Workshop announcements are distributed to states either directly or through regional or area planning committees. Experience has demonstrated that workshop location has had little impact on state participation.</li> <li>• Government participation in industry-led exercises must be balanced with the need to maintain preparedness for a broad range of emergencies and interested parties. This was a fundamental tenet of the original PREP Guidelines and the primary reason that PREP relies largely on internally directed and certified exercises. This is also the reason that every effort should be made to ensure that government-led area exercises involve as many industry plan holders as possible either as participants or observers. Also, government plan holders are expected to rotate participation in industry exercises among the full population of industry plan holders in an area.</li> </ul>
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