

# SETX & SWLA AREA CONTINGENCY PLAN

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## MSU Area Contingency Plan Section 1000 Introduction

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### 1000 Introduction

After the Exxon Valdez oil spill in Alaska, legislation was enacted to address many of the deficiencies identified in the response system at the time of the incident. Some of the major issues identified were the lack of a unified effort between local, state and federal stakeholders, no commonly defined response structure either federal, state or local, inadequate information

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management to the media, public and other affected parties and minimal information exchange between all parties.

This Area Contingency Plan (ACP) describes the strategy for a coordinated federal, tribal, state and local response to a discharge or substantial threat of discharge of oil, or a release or substantial threat of release of hazardous substance(s) within the boundaries Southeast Texas and Southwest Louisiana. This plan addresses response to a most probable discharge, a maximum most probable discharge, and a worst-case discharge. Planning for these scenarios covers the expected range of spills possible in this area.

For purposes of this plan, the most probable discharge is the size of the average spill in the area based on the available historical data. The maximum most probable discharge is also based on historical spill data, and is the size of the discharge most likely to occur taking into account such factors as the size of the largest recorded spill, traffic flow through the area, hazard assessment, risk assessment, seasonal considerations, spill histories and operating records of facilities and vessels in the area.

The explosion and fire on the Deepwater Horizon (DWH) offshore oil platform, located about 50 miles southeast of the Mississippi River delta on April 20, 2010, resulted in eleven deaths and millions of gallons of oil spilled into the Gulf of Mexico. The Deepwater Horizon sank in about 5,000 feet (1500m) of water on April 22, 2010. After a series of failed efforts to plug the leak, BP had capped the well on July 15, stopping the flow of oil into the Gulf after 86 days.

The Deepwater Horizon oil spill is the largest marine oil spill in history and covered as much as 28,958 square miles (75,000 square kilometers), an area about the size of South Carolina. The extent and location of the slick changed from day to day depending on weather conditions. Oil had come ashore in Louisiana, Mississippi, Alabama and Florida, with significant wildlife fatalities in Louisiana. Offshore fishing was banded in about 36% of federal waters, or 86,895 sq miles (229,270 sq km) of the Gulf. In the weeks following the accident, scientists discovered enormous oil plumes in the deep waters of the Gulf of Mexico, raising concerns about ecological harm far below the surface that would be difficult to assess. The DWH oil spill was drastically different than the Exxon Valdez spill as millions of gallons of oil poured from the floor of the Gulf 5,000 feet below in an open sea and 50 miles from the nearest land, which is made up of broken marshes, river deltas, open bays and barrier islands.

The U.S. Government established a “Unified Area Command” (UAC) structure to coordinate the response to the spill. This structure provided a link to all involved organizations responding to the incident and a forum for those organizations to make “consensus decisions”. The UAC employed the following resources: 6300 response vessels, 6.7 million feet of boom deployed (not including sorbent boom), 13.5 million gallons of dispersant, 37,000 responders, and 17 staging areas. Additionally, more than 25 million gallons of oily water was recovered and 13.5 million gallons of oil reported recovered at that time.

BP also performed the first controlled burn of surface oil, also known as an *in situ* burn. By June 22, more than 225 controlled burns have been conducted that removed more than 9.3 million gallons of oil from the open water.

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This plan shall be used as a framework for response mechanisms to evaluate shortfalls and weakness in the response structure before an incident, and as a guide for reviewing vessel and facility response plans required by the Oil Pollution Act of 1990 (OPA 90) <http://epw.senate.gov/text/envlaws/opa90.pdf>. The review for consistency should address, at a minimum, the economically and environmentally sensitive areas within the area, the response equipment (quantity and type) available within the area (this includes federal, state, and local government and industry owned equipment); response personnel available; equipment and personnel needs compared to those available, protection strategies, etc. This plan is written in conjunction with National Oil and Hazardous Substances Contingency Plan (NCP) <http://www.doi.gov/oepec/response/ncp.htm> and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) <http://www.epa.gov/superfund/policy/cercla.htm>.

While the cleanup continues and the Gulf communities return to normal operations, the full effect of the spill may not be realized for years to come as science and technology advances. The best practices and lessons learned are still being developed and will be addressed and incorporated into this plan when released, as appropriate.

## 1100 Introduction / Authority

Multi-agency (public agencies, nongovernmental organizations, industry, and general public) and multi-discipline responses are the norm in today's environment. The ability of local responders to conduct multi-agency response operations is absolutely essential to minimizing loss of life and damage to the environment, and to protecting property.

Pursuant to the National Contingency Plan (NCP; 40 CFR Part 300), Area Committees have been established for each area of the United States that has been designated by the President. The Area Committees are comprised of personnel from Federal and State agencies that coordinate response actions with tribal and local governments and with the private sector. Area Committees, under the coordinated direction of the Federal on- Scene Coordinators (FOSC), are responsible for developing Area Contingency Plans (ACP) for their respective designated areas. Area Committees are also required to work with the response community to develop procedures to expedite decisions for the use of alternative response measures.

The NCP also establishes the National Response Team (NRT) and 13 Regional Response Teams (RRT) who are responsible for the national and regional planning and preparedness activities before a response action and support the FOSC and State On-Scene Coordinator (SOSC) when activated during a response. RRT membership consists of designated representatives from key federal response and support agencies together with affected states. MSU Port Arthur is within the RRT 6 area of responsibility. Through membership on the SE TX & SW LA ACP Subcommittee, the following agencies assisted in the development of this SE TX & SW LA. While this plan does not function as an inter-agency agreement, each agency has agreed to coordinate operational activities, information exchange, and the use of operations centers, communications systems, messing and berthing facilities, transportation and other support activities for efficient and effective use of all agencies' resources to respond to an oil discharge.

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Any and all amendments and changes shall be developed and implemented with the cooperation of the above agencies and in accordance with the procedures specified in the Letter of Promulgation. The purpose of this SE TX & SW LA ACP is:

- To provide for orderly and effective implementation for response actions to protect the public, natural resources, and property of the coastal and inland zones of Southeast Texas and Southwest Louisiana from impacts of a discharge or substantial threat of discharge of oil or a release or substantial threat of a release of a hazardous substance from inland and marine sources.
- To promote the coordination of and describe the strategy for a unified and coordinated federal, state, tribal, local, potential responsible party, response contractor, response cooperative, and community response to a discharge or substantial threat of discharge of oil or a release or substantial threat of a release of a hazardous substance from inland and marine sources.
- To be consistent with the NCP and to seamlessly integrate alongside joint operations conducted in accordance with the SE TX & SW LA Area Maritime Security Plan
- To provide guidance to all Facility and Vessel Response Plan reviewers and plan holders to ensure consistency with the SE TX & SW LA ACP.
- To be a guidance manual for responders. Historically, the users of the ACP have been confronted with incidents that were caused by nature (hurricanes, floods, etc.) or from the unintentional actions of individuals (grounding, collision, etc.). In today's world where terrorism is a greater reality, the intentional release of a hazardous substance, oil, biological agent or radiation poses unique challenges to those who respond. Federal and State rules require oil spills, hazmat releases or responses to weapons of mass destruction (WMDs) be managed with a predestinated response management organization that accommodates a unified command structure in recognition of federal, state, tribal or local jurisdiction. The national importance of the Southeast Texas and Southwest Louisiana Ports and environmentally sensitive areas throughout Commander, MSU Port Arthur's Area of Responsibility requires strong partnerships between jurisdictional governments and industry to respond and, if necessary, prevent to incidents threatening the port.

Many Region Response Team members / SE TX and SW LA Area Committee member agencies have specific responsibilities during and following a WMD incident or other terrorist act. No one document or plan can serve as a response guide for a WMD/terrorist incident. The ACP is designed to ensure that the initial actions taken in response to a hazardous substance release, oil spill, radiological or biological incident that occurs in the maritime environment are effectively managed from the start and incorporate other agency plans and operating procedures as those agencies arrive on-scene. However incidents, like fingerprints, are never identical and once initial actions have been taken responders will assess the incident and tailor their strategies and match the reality of the situation on the ground.

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## 1110 Authority – Area Contingency Plans

Useful references:

**Federal Water Pollution Control Act (FWPCA)**

**Title 33 United States Code (USC) Section 1251 et seq**

**Oil Pollution Act (OPA) of 1990**

**Public Law 101-380, August 18, 1990**

**National Contingency Plan (NCP)**

**Title 40 Code of Federal Regulations (CFR) Part 300**

**Comprehensive Environmental Response, Compensation  
and Liability Act (CERCLA)**

**Title 42 United States Code (USC) Section 9601 et seq**

Section 4202 of the Oil Pollution Act of 1990 (OPA 90) amended Subsection (j) of Section 311 of the Federal Water Pollution Control Act (FWPCA) (33 United States Code 1321 (j)) to address the development of a National Planning and Response System. As part of this system, Area Committees are to be established for each area designated by the President. These Area Committees are to be comprised of qualified personnel from Federal, State, and local agencies.

### Area Committees:

Each Area Committee, under the direction of the Federal On-Scene Coordinator (FOSC) for the area, is responsible for developing an Area Contingency Plan (ACP) which, when implemented in conjunction with the National Contingency Plan (NCP), shall be adequate to remove a worst case discharge of oil or a hazardous substance, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the geographic area.

Each Area Committee is also responsible for working with State and local officials to pre-plan for joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife. The Area Committee is also required to work with State and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

The functions of designating these areas, appointing Area Committee members, determining the information to be included in Area Contingency Plans, and reviewing and approving Area Contingency Plans has been delegated by Executive Order 12777 of 22 October 1991, to the Commandant of the U. S. Coast Guard (through the Secretary of Department of Homeland Security) for the coastal zone, and to the Administrator of the Environmental Protection Agency for the inland zone. The term "coastal zone" is defined in the current NCP (40 Code of Federal Regulations 300.5) to mean all United States waters subject to the tide, United States waters of

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the Great Lakes, specified ports and harbors on inland rivers, and the waters of the Exclusive Economic Zone (EEZ). The Coast Guard has designated as areas, those portions of the Captain of the Port (COTP) zones which are within the coastal zone, for which Area Committees will prepare Area Contingency Plans. The COTP zones are described in Coast Guard regulations (33 CFR Part 3)

This ACP has been designed and written to meet the requirements and intent of the National Oil and Hazardous Substance Pollution Contingency Plan (NCP) (40 CFR 300) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, 42 U.S.C. 9601), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). The purpose of the ACP is to address responses to worst case discharges of oil or hazardous substances and mitigation or prevention of a substantial threat of a discharge from a vessel, and mitigation or prevention of a substantial threat of discharge from a vessel, offshore facility, or onshore facility.

In February 2003, the President of the United States issued Homeland Security Presidential Directive No. 5 (HSPD-5), Management of Domestic Incidents, which directed the Department of Homeland Security (DHS) to develop a National Response Framework (NRF) and a National Incident Management System (NIMS) to ensure coordination at all levels for a response to an incident of national significance. This ACP been updated to ensure alignment with the NRF incorporating the methodology of the NIMS.

### Inland and Coastal Zones:

The Coast Guard has directed Area Committees to prepare Area Plans based on coastal zone areas in the Captain of the Port (COTP) zones. The MSU Port Arthur COTP zone is described in Section 1400 of this plan.

The term "coastal zone" is defined in the current National Contingency Plan (NCP, 40 CFR 300.5) to mean "all United States waters subject to the tide, United States waters of the Great Lakes, specified ports and harbors on inland rivers, and the waters of the contiguous zone, other waters of the high seas subject to the NCP, and the land surface or land substrata, ground waters, and ambient air proximal to those waters."

On an island, with its extensive coastline, it would be unproductive to create detailed maps showing the boundary between the coastal and inland zones. Instead, the following criteria are used to determine if a specific location is within the inland or coastal zone:

Is the source of the spill in or immediately adjacent to waters used for commerce or waters affected by tide?

If the answer is yes, then it is in the coastal zone.

If the answer is no, it is in the inland zone.

An example of an "immediately adjacent" area would be a spill that threatens waters defined by these criteria originating from a waterfront facility.

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## 1120 Federal and State Authority for Oil and Hazardous Substance Incident Planning and Response

### U.S. Coast Guard

Executive Order 12777 of 22 October 1991 designated responsibilities for the Commandant of the U.S. Coast Guard (through the Secretary of Homeland Security (DHS)) for the coastal zone, and for the Administrator of the Environmental Protection Agency (EPA) for the inland zone. The term “coastal zone” is defined in the National Contingency Plan (NCP) (40 CFR 300.5) to mean all United States waters subject to the tide, United States waters of the Great Lakes, specified ports and harbors on inland rivers, and the waters of the Exclusive Economic Zone (EEZ). The Coast Guard has designated as areas, those portions of the Captain of the Port (COTP) zones, which are within the coastal zone, for which Area Committees will prepare Area Contingency Plans. The COTP zones are described in Coast Guard regulations (33 CFR 3).

The U.S. Coast Guard has enforcement and investigative authority for a significant array of potential federal violations, as well as enforcement actions under applicable international treaties. Federal laws and regulations associated with a discharge (or substantial threat of a discharge) of oil include applicable components of the Clean Water Act as amended; the Oil Pollution Act of 1990; the Ports and Waterways Act; The Port and Tanker Safety Act; The Act to Prevent Pollution from Ships (1980), as amended; and, Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78). In addition, the Coast Guard has authority pursuant to 46 USC 7701 and 46 USC 6101 related to personnel actions (licensed mariners), and marine casualties, respectively. Federal regulations associated with investigative or enforcement interest under these United States Codes include, though are not limited to: applicable sections of 46 CFR with particular attention to 4, 5, 16; 33 CFR 126, 130, 151, 153-160; and 40 CFR 116, and 117. Potential federal enforcement actions associated with a pollution discharge may include, but are not limited to: the collection of statements and evidence to determine the causes of the associated marine casualty, mandatory chemical testing of involved licensed personnel, and the collection of oil samples in the water and on suspect vessels

### U.S. Environmental Protection Agency

By statute, EPA is the pre-designated FOSC and Scientific Support Coordinators for inland spills of oil or discharges of hazardous materials. In most instances, EPA will not be the first responder on scene. EPA works in cooperation with other responders, but has delegated their authority of FOSC. In all spill situations, it is EPA’s intent to contribute to the response by working with local, state, tribal authorities, general public, and Federal agencies to ensure the information needed to maximize the effectiveness of the response effort is easily accessible. During a response to a release, the potentially responsible party (PRP), if known, available, and willing, is generally given the opportunity to adequately respond. The EPA works closely with PRPs when they are known and willing to take action to ensure the release reaches an adequate and rapid conclusion with a minimum impact on the environment. In the event of a release where the PRP is not identified, does not respond to contain or clean up the contamination, or does an inadequate job responding, EPA authority includes taking over the response or assuming a co-lead role in a unified command with state and local responders.

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## Texas General Land Office

The Oil Spill Prevention and Response Act of 1991 Chapter 40, Texas Natural Resources Code) (OSPRA) designates the Texas General Land Office (TGLO) as the state's lead agency in preventing and responding to coastal oil spills, and OSPRA is to support and complement OPA 90 and be interpreted and implemented in a manner consistent with other federal law.

The National Contingency Plan (NCP) for cleanup of oil and hazardous substance spills and discharges includes provisions relating to responsibilities of state agencies that have been designated as natural resource trustees, and the TGLO has been designated as one of the three state trustees for damage assessment and restoration of the state's natural resources which may be affected by a spill, discharge or release of oil.

The Coast Guard and TGLO recognize the critical roles each has within its respective areas of authority in preventing pollution and in planning for and responding to spills. The Coast Guard and TGLO recognize that cooperation between them in the implementation and exercise of their respective statutory and regulatory authorities is essential to avoid conflict and unnecessary duplication. So therefore the Coast Guard and TGLO agree, to the extent permitted by law, and as consistent with their respective policies and available resources, to cooperate and to coordinate their efforts in implementing and exercising their respective statutory and regulatory duties related to pollution prevention and response.

More information on TGLO can be found on their website at <http://www.glo.texas.gov/> and more information on their response can be found in the TGLO toolkit <http://gisweb.glo.texas.gov/atlas/masterpage.pdf>

## 1130 Jurisdictional Scenarios

Many response situations that arise will fall within multiple jurisdictions and therefore pose the issue of which agency should take the lead. The following scenario is an example that can be used as guidance for determining Federal or State jurisdictional ownership.

### **Scenario: Abandoned drum on beach**

An abandoned drum filled halfway with unknown liquid is found in the Sabine Neches Waterway. The drum is well above the high water line and has no discernable markings but it is likely the drum contains a hazardous substance; the Coast Guard takes the lead and facilitates removal/disposal of the drum. If a drum is found on the beach or in close proximity to the ocean and it is unknown what substance is contained within, the Coast Guard will more than likely take the lead to remove / dispose of the drum due to its close proximity to the navigable waterway.

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## 1200 Geographic Boundaries

### 1210 ACP area covered

The information in this section defines the response boundary between the USCG District Eight and EPA Region Six based on a MOU finalized in September 2009.

[http://www.epa.gov/region7/cleanup/superfund/pdf/ricpannex\\_1.pdf](http://www.epa.gov/region7/cleanup/superfund/pdf/ricpannex_1.pdf)

**Inland Zone Boundary Designation:** The U.S. Environmental Protection Agency (EPA) Region 6 provides the pre-designated OSC for pollution response in the Inland Zone. All discharges or releases, or a substantial threat of such discharges or releases of oil or hazardous substances originating within the Inland Zone are the responsibility of the EPA. Included are discharges and releases from unknown sources or those classified as “mystery spills.” EPA Region 6 responsibilities for the Mississippi and Pearl Rivers are shared with EPA Region 4 as described in a Memorandum of Understanding between the two regions. The EPA OSC is the pre-designated OSC for all areas or pollution incidents within Region 6 that are not specifically addressed by the following Coastal Zone boundary designation descriptions, the general response provisions delineated within this document, or the EPA Region 6 MOU.

**Coastal Zone Boundary Designations:** The cognizant USCG COTP is the pre-designated OSC for pollution response in the Coastal Zone. All discharges or releases, or a substantial threat of such discharges or releases of oil or hazardous substances originating within the Coastal Zone are the responsibility of the USCG OSC. Included are discharges and releases from unknown sources or those classified as “mystery spills.” The Coastal Zone description for the USCG OSCs located within Federal Region 6 includes everything coastal of a line:

Commencing at the intersection of US 90 and the Mississippi State line, westerly along US 90. Continue along US 90 southwesterly to the intersection with I-510. Then south on I-510 and primary State Road 47 to the levee on the Left Descending Bank (LDB) of the Mississippi River. Then continuing upriver on the LDB to the US 90 highway bridge. Then across the US 90 bridge to the levee on the Right Descending Bank (RDB) of the Mississippi River. Then upriver on the RDB to the Harvey Locks on the Gulf Intracoastal Waterway (GIWW).

Then south and westerly along the GIWW to Morgan City, LA including the Atchafalaya River to the Texas and Pacific Railroad bridge in Melville, LA, Grand Lake, Six Mile Lake, and Berwick Bay. Continuing along the GIWW to the Calcasieu River, including the Calcasieu River to the Southern Pacific Railroad bridge and the following bodies of water: Moss Lake and Lake Charles, LA.

Continuing from the junction of the GIWW with the Calcasieu River westerly, into and including Sabine Lake, and the Neches River to its intersection with I-10 in Beaumont, TX. Then along the GIWW towards Port Arthur, TX including Taylor Bayou south of Highway 73. From Port Arthur, TX along the GIWW to, and including, East Bay, Galveston Bay, Clear Lake, Dickinson Bay, Moses Lake, Swan Lake, Jones Lake, Trinity Bay, and the Houston Ship Channel, to the turning basin in Houston, TX. The Houston Ship Channel includes: Buffalo Bayou to Highway 59, Brays Bayou to the Broadway Street Bridge, Sims Bayou to Highway 225, Vince Bayou to

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North Ritchie Street, Hunting Bayou to I-10, Greens Bayou to I-10, Boggy Bayou to Highway 225, Tucker Bayou to Old Battleground Road, Carpenter's Bayou to Sheldon Road, San Jacinto River to I-10, Spring Bayou, Goose Creek to Highway 146, and Cedar Bayou to Spur 55. Continuing at the junction of West Bay and the GIWW in Galveston, TX, westerly along the GIWW to the Port of Freeport, TX, including Chocolate Bay, the Old Brazos River and the New Brazos River up to the Missouri-Pacific Railroad Bridge in Brazoria, TX.

Then southerly along the GIWW through and including: the Colorado River to 28-52N Latitude, Lavaca River to 28-50N Latitude, Chocolate Bay to 96-40W Longitude, Cox Bay, Keller Bay, Lavaca Bay to 96-40W Longitude, Turtle Bay, Culver Cut (West Branch Colorado River to 28-42N Latitude and entire Middle Branch), Robinsons Lake, Crab Lake, Mad Island Lake, Salt Lake, Carancahua Bay, Tres Palacios Bay to 28-47N Latitude, Oyster Lake, Blind Bayou, Powderhorn Lake, LaSalle Bayou, Broad Bayou, Boggy Bayou, and Matagorda Bay. Continuing south through San Antonio Bay including: Corey Bay, Victoria Barge Canal, Guadalupe River to 28-30N Latitude, Goff Bayou, Hog Bayou, Green Lake, Buffalo Lake, Alligator Slide Lake, Mission Lake, Guadalupe Bay, Hynes Bay, Twin Lake, Mustang Lake, and Jones Lake.

Then, continuing through Mesquite Bay including: Dunham Bay, Long Lake, and Sundown Bay.

Continuing southerly through St. Charles Bay including: Burgentine Creek to 28-17N Latitude, Salt Creek to 28-16N Latitude, and Cavaso Creek to 97-01W Longitude. Then, through Copano Bay including: Mission River, Mission Bay, Chiltipin Creek to 97-18W Longitude, Aransas River to 97-18W Longitude, Swan Lake, Copano Creek, Port Bay, and Salt Lake. Then southerly including: Little Bay, Aransas Bay, Conn Brown Harbor, Redfish Cove, Redfish Bay, LaQuinta Channel, Nueces River to US 77, Rincon Industrial Channel, Rincon Bayou, Nueces Bay, Tule Lake, Corpus Christi Inner Harbor, Oso Creek, Oso Bay, and Corpus Christi Bay.

Continuing south through and including: Packery Channel, Cayo Del Grullo, Cayo Del Infiernillo, Laguna De Los Olmos, Laguna Salada, Petrolina Creek, Comitas Lake, Alazan Bay, Baffin Bay, Port Mansfield Harbor, Four Mile Slough, Arroyo Colorado River to 26-12N Latitude, Callo Atascosa, Arroyo Colorado Cutoff, Laguna Vista Cove, South Bay, Vadia Ancha, Bahia Grande, San Martin Lake, and the Brownsville Ship Channel. When the Coastal Area is defined by a body of water such as a bay or lake, it includes small bays or lakes encompassed therein, but does not include waters tributary thereto unless specifically named.

On the Mississippi River, commencing from river mile 504.0 south to the coastal boundary at New Orleans (down river of which will be considered USCG jurisdiction entirely), encompassing the area riverward between the levee on the LDB and the RDB, and including Lake Pontchartrain.

Any pollution incident taking place in an area outside the boundaries listed above fall under EPA FOSC jurisdiction.

The COTP's area of responsibility for the Southeast Texas and Southwest Louisiana Zone is defined by 33 CFR 3.40-20. Basically, the area of responsibility is from High Island, Texas, eastward to the Mermentau River in Louisiana.

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Responsibility extends to:

Ships and vessels,

Their cargo and crew,

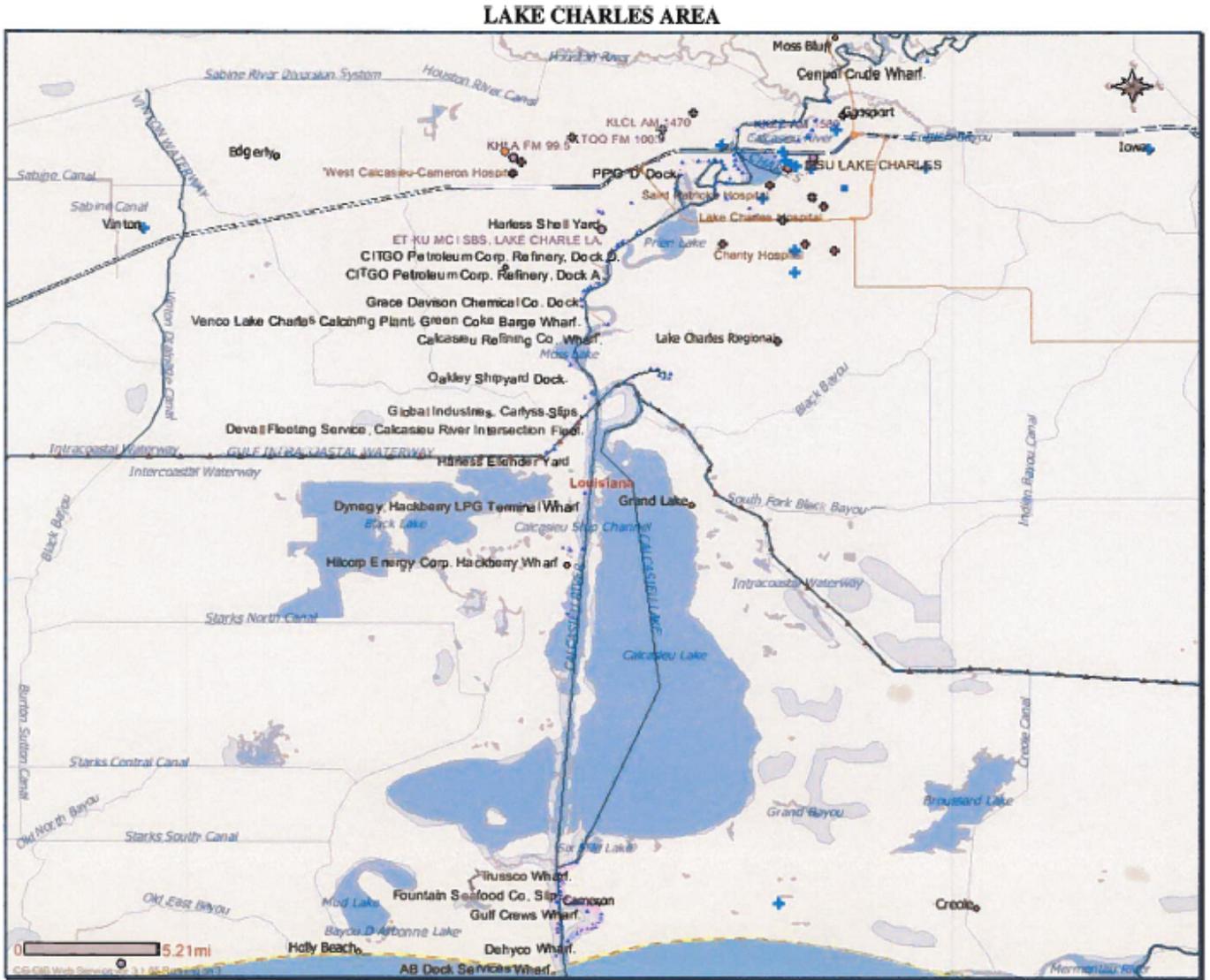
Structures in or immediately adjacent to navigable U.S. waters, or

Resources within such waters.



The Sabine and Neches Rivers have traditionally flowed into the Sabine Lake and on into the Gulf of Mexico, through the Sabine Pass. In the early 20<sup>th</sup> century, these rivers were excavated to allow the flow of “deep hulled” vessels and a channel was excavated west of Sabine Lake connecting these rivers to the outlet at the Gulf of Mexico. The Intra-Coastal Waterway is also shown in this picture, and serves as the east-west highway for barge traffic.

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## 1300 Area Committee

### **Mission Statement**

Our mission is to ensure the highest state of readiness of the spill response community. We will strive to accomplish this by developing comprehensive and useful contingency plans, preparing the response community through training and exercises, developing coordination mechanisms to facilitate effective responses, and educating our stakeholders and the public.

### **Vision Statement**

We will function as an efficient organization for ensuring effective response to environmental threats in our area. Our regulatory members and non-regulatory participants will include all stakeholders representing the federal, state, and local levels and the maritime, natural resource, and academic communities.

We will collaborate, sharing information and resources, to produce the best possible plans and creative solutions to problems. We will employ state of the art research and technology in both our problem solving and our decision making.

We will learn from our responses and activities, improve our processes and develop as individuals and as an organization. We will be proud of our accomplishments and make great contributions toward the environmental protection of the coastal zones.

## 1310 Purpose and Objective

This charter establishes the Southeast Texas and Southwest Louisiana Coastal Zone Area Committee pursuant to the OPA '90 and Texas and Louisiana State law. OPA '90 established Area Committees to serve as spill preparedness planning bodies responsible for developing strategies for coordinated responses to the discharge, or threat of discharge, of oil or hazardous substances, in pre-designated inland and coastal zones. This plan is a framework for responders to evaluate shortfalls and weaknesses in a response plan before an incident and, as a guide for reviewing vessel and facility response plans required by Oil Pollution Act of 1990 (OPA 90). This Area Committee was established to cover the coastal waters of the Gulf Coast, between High Island, Texas and West of Freshwater City, Louisiana.

## 1320 Organization and Contact Information

The Area Committee is comprised of representatives from federal, state, and local governments as members and representatives from the marine industry as advisors.

**Executive Steering Committee (ESC):** The ESC is the decision making body of the Area Committee. The ESC consists of the FOOSC, State On-Scene Coordinators, ICs, a local emergency coordinator representative, representatives from each of the committee's advisory subcommittees, and an executive secretary. The ESC leads the Area Committee by providing an agenda and guidance for the work of the Committee. The duties and responsibilities of the members of the ESC are to set the goals for the Area Committee, assign and monitor projects assigned to working subcommittees, vote on issues, and represent all entities who participate in the Area Committee. The ESC meets on a quarterly basis, although special meetings may be called when needed. There will be a combination of open meetings, open to all members of the Area Committee and the general public, and closed meetings, which only the ESC members will

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attend. It will be attempted to alternate meeting locations between Texas and Louisiana, to balance interests.

**Advisory Subcommittees:** Advisory Subcommittees have been established to allow non-regulatory participants in the Committee an opportunity to actively voice their concerns and comments. They provide comments to the Area Committee and the ESC. Each non-regulatory participant in the Committee is aligned in one of the Advisory Subcommittees: industry, OSRO, natural resources, and academia. Non-regulatory participants from each of the Advisory Subcommittees are selected for representation on the ESC. The interest of the Advisory Subcommittee is conveyed to the related ESC member and discussed at the ESC level. Advisory Subcommittees may meet as often as necessary to ensure their concerns are considered.

**Working Subcommittees:** These subcommittees will be established to work on functional items pertaining to the Area Committee. They are specifically tasked to complete assigned projects, tasks, and goals that are developed by the ESC. The number of working subcommittees can change as needed for the work projects established by the ESC.

**ESC Membership:** The following list shows the ESC membership:

	(3)	Federal	USCG COTP	(409)-723-6500
			NOAA SSC / Kyle Johnson	(206)-375-5697
			US EPA Rep	(800)-887-6063
b.	(5)	State	TGLO Regional Director / J.T. Ewing	(409) 727-7481
			TRRC District Director	(713) 869-5001
			LOSCO	(225) 925-6606
			LA DEQ	(337) 491-2804
			LA State Police	(337) 491-2511
c.	(1)	Local TX Member	Jefferson County EM Rep	(409) 835-8757
d.	(1)	Local LA Member	LA Parish EM Rep	(337) 491-1201
e.	(3)	Industry Members	Pipeline Representative	
			Facilities Representative	
			Trans Rep (deep draft/barge)	
f.	(1)	OSRO Member	Cleanup Contractor Rep	
g.	(4)	Nat Res Members	Federal Fish & Wildlife Rep	(409) 971-2909
			TX Parks & Wildlife Rep	(409) 983-1104
			LA Dep of Natural Resources	(337) 721-3600
			LA Fish & Game Rep	(225) 765-2800
h.	(1)	Academia Member	Specialized Representative	
i.	(1)	Executive	U.S.C.G. MSU Planning	(409) 284-5311

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	Secretary	
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**ESC Membership selection:** The regulatory agencies will fill the ESC positions by their agency positions (USCG COTP, TGLO Regional Director, etc.). Non-regulatory members will be selected by consensus vote of the ESC. For example, when a new OSRO member is needed, the OSRO Advisory Group would determine who volunteers to fill the position. The ESC would then determine, by consensus vote, who will fill the position from the list of volunteers.

**Non-regulatory ESC membership terms:** Terms will be determined by the interest of those members to continue serving and the interest of others to serve. Terms will last three years.

**Executive Secretary Duties:** Record meeting minutes, draft meeting minutes for review by the USCG COTP and mailing by the USCG, prepare ESC meeting agenda notices approximately two weeks prior to meetings for distribution by the USCG, and make notifications of date and time changes to ESC meetings.

**Chairperson:** The USCG COTP, as pre-designated FOOSC, shall be the Chairperson of the Area Committee. The lead state agency representatives, TGLO Regional Director, and Louisiana Oil Spill Coordinator, shall serve as Vice Chairpersons. The Chairperson shall conduct each meeting of the ESC and provide an opportunity for participation by each regulatory member, each non-regulatory participant, and by any public attendees; ensure adherence to the agenda; maintain order; and review recommendations submitted to the ESC. In the absence of the Chairperson, these duties shall be performed by the Vice-Chairpersons.

**Board Members:** Eight Board Members were selected with diverse backgrounds to help facilitate the Area Committee meetings. The Board Members are representatives of oil spill response companies, industry and local law enforcement agencies. The job of the Board Member is to make the meetings more effective and to solicit more buy in. The Board Members will also serve to represent the whole committee by voting on topics when they arise.

**Structure:** The meeting structure is based on the following format. A specific concentration on each topic is discussed briefly, or the topic is at least planned for discussion/lessons learned.

- Safety
- Preparedness
- Initial Response and Investigation Actions
- Notifications and Communications
- Volunteer
- Documentation and Incident Management
- All Hazards, All Threats

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## 1400 National Response System

National Response System section is on the Area Committee work list, and will be improved as part of the 2014 annual update cycle. Please refer to the 2013 ACP work list.

The National Response System (NRS) was developed to coordinate all government agencies with responsibility for environmental protection, in a focused response strategy for the immediate and effective clean up of oil or hazardous substance discharge. The NRS is a three tiered response and preparedness mechanism that supports the predesignated Federal On-scene Coordinator (FOSC) in coordinating national, regional, local government agencies, industry, and the responsible party during response. There are three levels of contingency plans under the national response system: The National Contingency Plan, Regional Contingency Plans, and Area Contingency Plans.

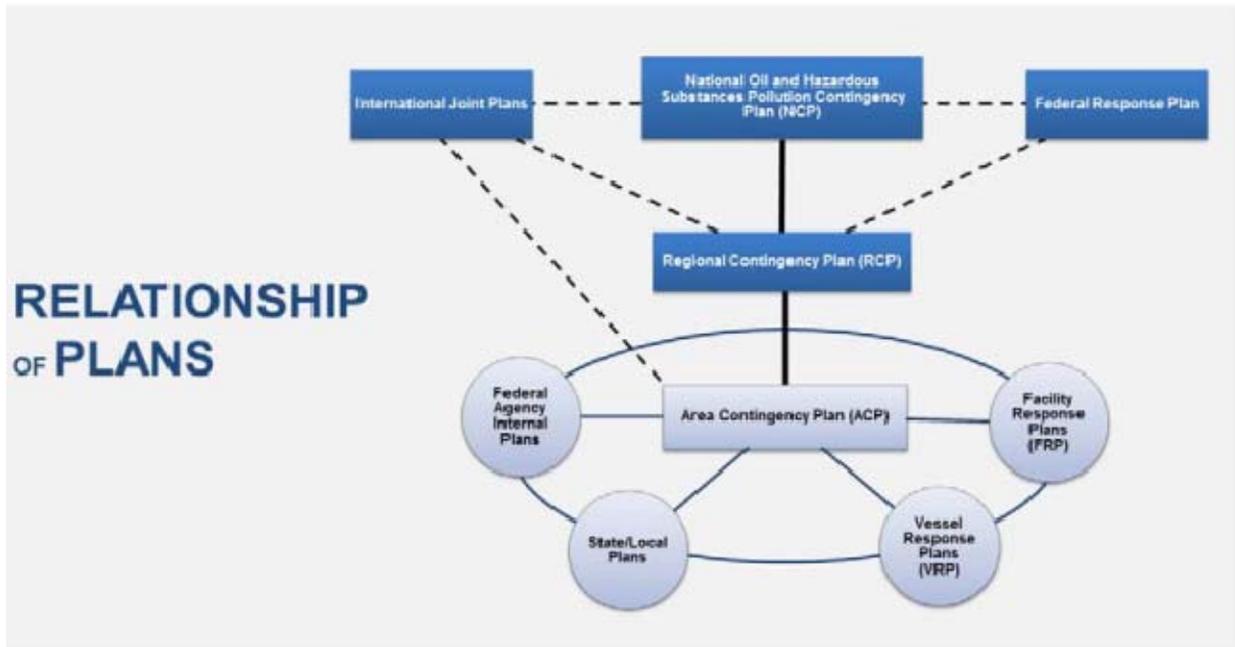
The NRS supports the responsibilities of the FOSC, under the direction of the Federal Water Pollution Control Act's federal removal authority. The FOSC plans and coordinates response strategy on scene, using the support of the National Response Team (NRT), Regional Response Team (RRT), Area Committees, and responsible parties as necessary, to supply trained personnel, equipment, and scientific support to complete an effective response to any oil or hazardous substance discharge.

The NRS is designed to support the FOSC and facilitate responses to a discharge or threatened discharge of oil or a hazardous substance. The NRS is used for all spills, including a Spill of National Significance (SONS). When appropriate, the NRS is designed to incorporate a unified command and control support mechanism (unified command) consisting of the FOSC, the State's OSC, and the Responsible Party's Incident Commander. The unified command structure allows for a coordinated response effort that takes into account the Federal, State, local and responsible party concerns and interests when implementing the response strategy. A unified command establishes a forum for open, frank discussions on problems that must be addressed by all parties with primary responsibility for oil and hazardous substance discharge removal. A unified command helps to ensure a coordinated, effective response is carried out and the particular needs of all parties are taken into consideration. The FOSC has the ultimate authority in a response operation and will exert this authority only if the other members of the unified command are not present or are unable to reach consensus within a reasonable time frame. During hazardous substance release responses in which a local agency assumes a leading role, the local agency may assume one of the unified commander roles when a unified command is used. During responses to oil spills, local agencies are not usually involved in the Unified Command; however they provide agency representatives who interface with the command structure through a Liaison Officer or the State representative. When a Unified Command is used, a Joint Operations Center and Joint Information Bureau shall be established. The Joint Operations Center should be located near and convenient to the site of the discharge. All responders (Federal, State, local and private) should be incorporated into the FOSC's response organization at the appropriate level.

Plans serve to formalize and document activities to be undertaken in the event that any information derived through a deliberate planning process. To ensure consistency in preparedness planning, and to allow effective utilization of assets within and between levels, preparedness activities are controlled by a hierarchy of directives. The National Response

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Framework (old Federal Response Plan) and National Contingency Plan (NCP) address the national response structure and identify requirements for regional and area preparedness development. Regional and Area contingency plans developed under the guidelines of the NCP, address preparedness through a process involving the Area Committee. Composed of federal, state and local governmental representatives, the Area Committee develops an Area Contingency Plan (ACP) for responses to oil discharges and hazardous substance releases within their geographic area. Vessel Response Plans (VRPs) and Facility Response Plans (FRPs), developed by owners and operators, are designed to be consistent with the applicable ACP. The below diagram depicts the relationship of these plans.



## 1410 National Response System

The NRS was developed to coordinate all government agencies with the immediate and effective clean up response strategy for environmental protection in a focused response strategy for the immediate and effective clean-up of oil or hazardous substance discharge. The NRS is a three tiered response and preparedness mechanism that supports the predestinated FOSC in coordinating national, regional, state, and local government agencies, industry and the RP during responses.

**The United States Coast Guard (USCG)** provides the National Response Team (NRT) vice-chair, co-chairs the RRTs, and serves as predestinated FOSC for the coastal zone, as described in 40 CFR 300.120 (a) (1). The USCG is tasked with responding to all oil and hazardous substance releases into, or threatens to go into, navigable waters within the coastal zone. Additionally, offers expertise in domestic and international fields of port safety and security, maritime law enforcement, ship navigation and construction, and the manning, operation, and safety of vessels and marine facilities.

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**The Environmental Protection Agency (EPA)** vice-chairs the NRT and co-chairs the RRTs with the USCG and serves as predestinated FOSC for the inland zone, as described in 40 CFR 300.120 (a) (1). EPA provides expertise on environmental effects of oil discharges or releases of hazardous substances, pollutants, or contaminants, and environmental pollution control techniques.

**The Federal Emergency Management Agency (FEMA):** Provides guidance, policy, and program advice, technical assistance in hazardous materials, chemical and radiological emergency preparedness activities (including planning, training, and exercising). FEMA is a primary point of contact for administering financial and technical assistance to state and local governments to support their efforts to develop and maintain an effective emergency management and response capability. In the event of a declaration of a major disaster or emergency by the President, FEMA will activate the Federal Response Plan. The Federal Coordinating Officer, designated by the President, will implement the Federal Response Plan and coordinate and direct emergency assistance and disaster relief efforts. At a hazardous materials response site, FEMA's Federal Coordinating Officer will coordinate all disaster or emergency actions with the FOSC. FEMA shall also provide relocation of residents and community facilities or temporary evacuation and housing of threatened individuals not otherwise provided for under Section 104 (a) of CERCLA.

**Department of Defense (DOD):** Plans and handles all spills and releases from any facility or vessel under DOD control. In addition, DOD may also, upon request of the FOSC, provide locally deployed U.S. Navy oil spill equipment and provide assistance to the FOSC. The following two branches of DOD have particularly relevant expertise.

The U.S. Navy is the federal agency most knowledgeable and experienced in ship salvage, shipboard damage control, and diving. The Superintendent of Salvage (SUPSALV) has an extensive array of specialized equipment and personnel available for use in these areas, as well as specialized containment, collection, and removal equipment specifically designed for salvage-related and open sea pollution incidents.

The U.S. Army Corps of Engineers (USACOE) has specialized equipment and personnel for maintaining navigation channels, removing navigation obstructions, accomplishing structural repairs, and performing maintenance to hydropower electric generating equipment.

**Department of Energy (DOE):** Generally provides advice and assistance for emergency actions essential for the control of immediate radiological hazards.

**Department of Agriculture (DOA):** Is the federal resource manager. Several agencies within this department may play an important role during certain spills.

1. Forest Service
2. Soil Conservation Service
3. Food and Safety Inspection Service
4. Animal and Plant Health Inspection Service

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**Department of Commerce (DOC):** Through National Oceanographic Atmospheric Administration (NOAA), DOC has jurisdiction over and provides scientific support for response and contingency planning in coastal and marine areas, including assessment of hazards that may be involved, predictions of movement and dispersion of oil and hazardous substances through trajectory modeling, and information on the sensitivity of coastal environments to oil and hazardous substances. NOAA provides expertise on and has jurisdiction over living marine resources and their habitats, including endangered species. NOAA also provides information on actual and predicted meteorological, hydrological, and oceanographic conditions for marine, coastal, and inland waters. NOAA is a federal trustee for living and non-living natural resources in coastal and marine areas. Natural resources of concern to NOAA include:

1. All life stages, wherever they occur, of fishery resources of the EEZ and continental shelf,
2. Anadromous and catadromous species throughout their ranges, rivers and tributaries to rivers that historically or presently support an adromous species,
3. Federally “endangered” or “threatened” species including designated critical habitat and marine mammals for which NOAA has assigned responsibility,
4. Tidal wetlands, salt marshes, estuaries, and other important habitat supporting fishery and marine resources, and
5. Living and non-living resources of the National Marine Sanctuaries and National Estuarine Research Reserves.

**Department of Health and Human Services (HHS):** Provides health risk assessment support, including field response personnel. This support is provided through the Agency for Toxic Substances and Disease Registry (ATSDR). Their emergency response personnel are available 24 hours a day throughout the week to provide this support. Questions related to suspected acute overexposures can be addressed by the ATSDR in order to determine facilities which are properly staffed and equipped to evaluate such cases and to coordinate medical evaluation procedures with local health care facilities.

**Department of the Interior (DOI):** Of particular interest to community response organizations is DOI who has expertise on (and jurisdiction over) a variety of natural resources, federal lands, federal waters, certain aspects related to Native American lands, and certain jurisdictions related to United States territories. The following bureaus and offices have relevant expertise as listed.

1. Fish and Wildlife Service – anadromous and certain fish and wildlife, including endangered and threatened species; migratory birds; certain marine mammals; waters and wetlands; contaminants affecting habitat resources; and laboratory research facilities.
2. Geological Survey – geology, hydrology (ground water and surface water), and natural hazards.
3. Bureau of Indian Affairs – coordination of activities affecting Indian lands and assistance in identifying Indian tribal government officials.
4. Bureau of Land Management – minerals, soils, vegetation, wildlife, habitat, archaeology, wilderness, and hazardous materials.
5. The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) is

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headquartered in Washington, D.C., with regional offices in Anchorage, Alaska; Camarillo, California; and New Orleans, Louisiana. BOEMRE is the Federal agency that manages the nation's natural gas, oil and other mineral resources on the outer continental shelf (OCS). The agency also collects, accounts for and disburses more than \$8 billion per year in revenues from Federal offshore mineral leases and from onshore mineral leases on Federal and Indian lands.

6. National Park Service – provides biological and general natural resources expert personnel at park units.
7. Bureau of Reclamation – operation and maintenance of water projects in the west, engineering, and hydrology.

**Department of Justice (DOJ):** Can provide expert advice on complicated legal questions arising from discharges or releases and federal agency responses. In addition, the DOJ represents the federal government in litigation relating to such discharges or releases.

**Department of Labor (DOL):** Through OSHA, DOL has authority to conduct safety and health inspections of hazardous waste sites to assure that employees are being protected and to determine if the site is in compliance with OSHA regulations. OSHA regulations related to spill response can be found in Title 29 CFR 1910.120 (Hazardous Waste Operator (HAZWOPER) regulations).

**Department of Transportation (DOT):** Provides response expertise pertaining to transportation of oil, or hazardous substances, by all modes of transportation. Through the Research and Special Programs Administration (RSPA), DOT offers expertise in the requirements for packaging, handling, and transporting regulated hazardous materials.

**Department of State (DOS):** Leads in development of international joint contingency plans. DOS will also help to coordinate an international response when discharges or releases cross international boundaries or involve foreign flag vessels. Additionally, DOS will coordinate requests for assistance from foreign governments and proposals from the United States for conducting research at incidents that occur in waters of other countries.

**Nuclear Regulatory Commission (NRC):** Responds as appropriate to releases of radioactive materials and is the key agency in dealing with radiological pollution.

**General Service Administration (GSA):** Plays an essential role in providing facility and related logistical support for the response organization.

**Federal On-Scene Coordinator (FOSC):** The NRS supports the responsibilities of the FOSC under the CWA's federal removal authority. The FOSC plans and coordinates response strategy on scene, using the support of the NRT, RRT, and responsible party, to supply the needed trained personnel, equipment and scientific support to complete an immediate and effective response to any oil or hazardous substance discharge.

**Unified Command (UC):** The NRS is designated to support the FOSC and facilitate responses to a discharge or threatened discharge of oil or a hazardous substance. The NRS is used for all spills, including a Spill of National Significance (SONS). When appropriate, the NRS is

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designated to incorporate a UC and control support mechanism consisting of FOSC, SOSC, and the RP's IC. The UC structure allows for a coordinated response effort, which takes into account the federal, state, local, and RP concerns and interests when implementing the response strategy. A UC establishes a forum for open, frank discussions on problems that must be addressed by the parties with primary responsibility for oil and not usually who interface with the command structure through the Liaison Officer (LNO) or the state representative. When a UC is used, the Joint Operations Center and Joint Information Center (JIC) is established. The Joint Operations Center should be located near and convenient to the site of the discharge. All responders (federal, state, local, and private) should be incorporated into the FOSC's response organization at the appropriate level. Spill of National Significance (SONS): If a discharge occurs in the coastal zone and is classified as a substantial threat to the public health or welfare of the United States (40 CFR 300.320 (a)(2)), or the necessary response effort is so complex that it requires extraordinary coordination of federal, state, local, and responsible party resources to contain and clean up the discharge, the Commandant of the Coast Guard may classify the incident as a Spill of National Significance (SONS) under the National Oil and Hazardous Substance Contingency Plan (NCP) 40 CFR 300.5. For more information on the SONS concept see COMDTINST M3121.15.

### 1410.1 Spill of National Significance (SONS)

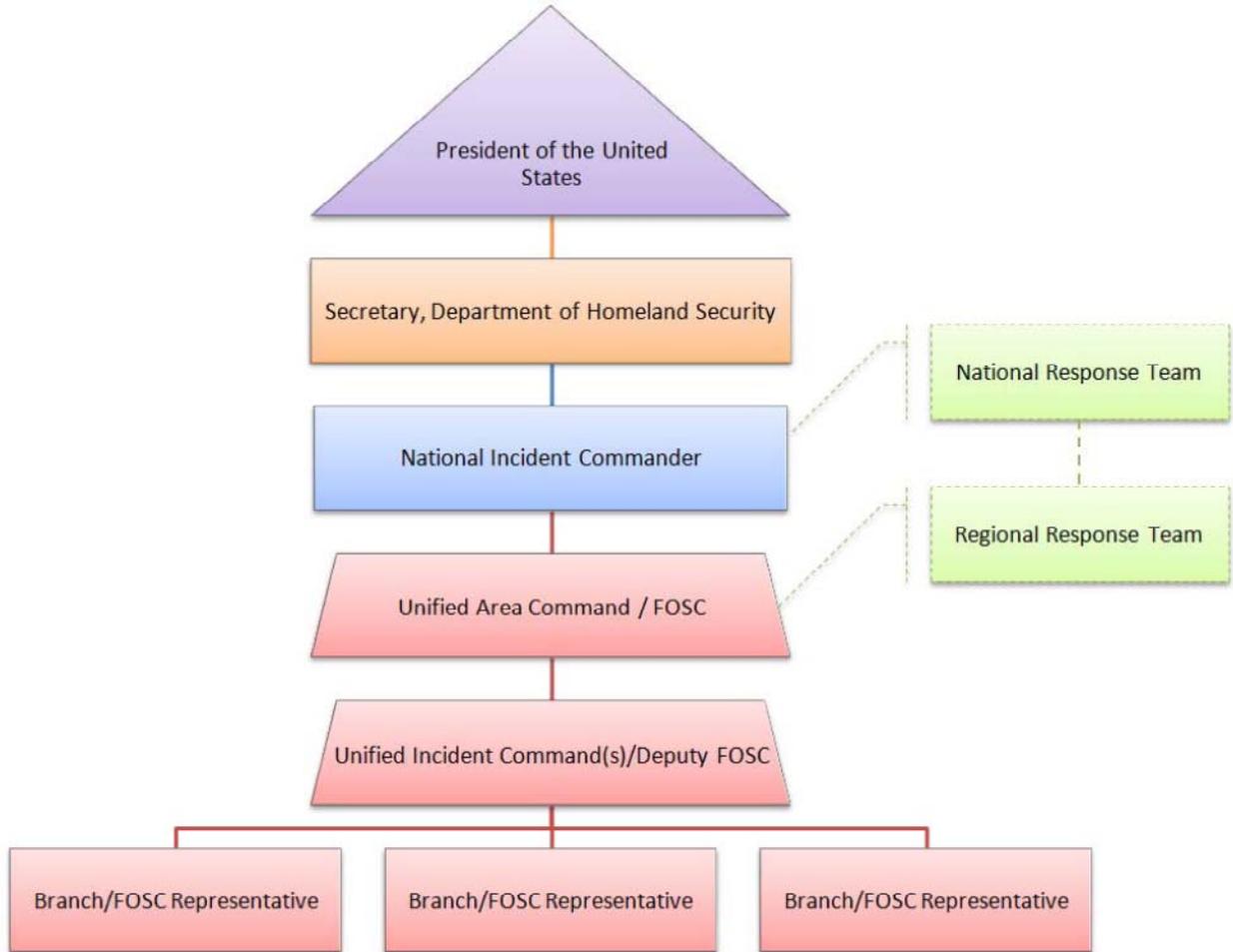
A Spill of National Significance (SONS) is defined as a spill which greatly exceeds the response capability at the local and regional levels and which, due to its size, location, and actual or potential for adverse impact on the environment is so complex, it requires extraordinary coordination to contain and clean up. Only the Commandant of the Coast Guard or the Administrator of the EPA can declare a SONS taking into account environmental risks, weather conditions, response capabilities, and the amount, or potential amount, of product spilled. The response to a SONS event must be a coordinated response that integrates the OSCs response organization with the SONS response organization. A Coast Guard Area or District Commander may recommend to the Commandant that a SONS be declared. Factors to be considered in declaring a SONS might include:

- Multiple OSC zones, districts, or international borders;
- The actual or potential worst case discharge in Area Contingency Plan (ACP) or Oil Spill Response Plan for offshore facilities is met or exceeded;
- Significant impact or threat to the public health and welfare, wildlife, economy and/or property over a broad geographic area;
- Protracted period of discharge and/or expected cleanup;
- Significant public concern and demand for action; and,
- The existence of, or the potential for, a high level of political and media interest.

The below diagram represents the SONS Response Organization;

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The response to a SONS event must be a coordinated response that integrates the FOSC's response organization with the SONS response organization. Initially, the Incident Command System/Unified Command will be established in accordance with the SETX SWLA Area Contingency Plan. However, as the response progresses, the SONS organizational structure will likely be implemented. The most critical administrative task is getting the representatives from the many government agencies on line and briefed on the circumstances of this disaster so there is a minimum delay in implementing the initial response strategies.

## 1410.2 National Incident Commander (NIC)

Following the Deepwater Horizon catastrophe, Commandant Instruction 16465.6 promulgated May 23, 2012 updated and further clarified the classification of a SONS within the coastal zone and designating a National Incident Commander. The following contains excerpts of the Instruction.

Where appropriate, the National Incident Commander (NIC) will likely be a Coast Guard Flag Officer/Senior Executive Service (SES) corps member. The NIC can expect to be committed full time to the response.

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The NIC will utilize Clean Water Act § 311 (c) and (e) authorities which allow the NIC to legally direct Responsible Party (RP) actions, authorize removal actions, and approve expenditures against the Oil Spill Liability Trust Fund (OSLTF). The use of these authorities allows the NIC to assist other agencies in carrying out their authorities in directing the RP to execute activities associated with the response (such as well control). The Commandant will coordinate the NIC designation with the Secretary of Homeland Security, and the President when appropriate. The Coast Guard shall notify the National Response Team (NRT) regarding the SONS declaration and the NIC designation and assume the role as NRT Chair during the response.

General role and responsibilities of the NIC include:

- The NIC is responsible for coordinating national level resource and strategy policy with the White House and DHS leadership to assist the FOSC.
- Although not normally expected, if circumstances warrant, the NIC may provide guidance to the FOSC on operational matters. Any NIC decisions regarding operational or tactical oil spill removal actions should be carefully coordinated with the FOSC to ensure unity of effort.
- The NIC shall maintain a national level strategic communications plan.
- The NIC shall promote unity of effort by:
  - Interfacing with senior Federal, State, territory, tribal officials regarding the overall Federal incident management strategy and execution;
  - Assisting the FOSC in resolving national level policy issues, in consultation with the Secretary of Homeland Security, as appropriate
  - Promoting collaboration and resolving Federal interagency issues that may arise at the national level by leveraging the relationship with the NRT and, if appropriate, the NRT Emergency Support Function Leadership Group (ESFLG);
  - Monitor the need for and support the deployment and application of national assets and resources through the Unified Area Command(s) in support of the FOSC and in collaboration with other Federal officials identified in existing plans;
  - Coordinating international resources, as appropriate, to support the response.

For further information regarding the NIC refer to Commandant Instruction 16465.6 dated May 23, 2012.

### **1420 National Response Teams (NRT)**

The NRT consists of 15 federal agencies with responsibilities, interests, and expertise in various aspects of emergency response to pollution incidents including WMD. The EPA serves as Chair and the Coast Guard as Vice Chair of the NRT, except when activated for a specific incident, when the lead response agency representative serves as Chair. The NRT is primarily a national planning, policy, and coordination body and does not respond directly to incident. The NRT provides policy guidance prior to an incident and assistance as requested by an FOSC via the Regional Response Team (RRT) during an incident. NRT assistance usually takes the form of technical advice, access to additional resources/equipment, or coordination with other RRTs. Additional NRT resources can be found at <http://www.nrt.org>

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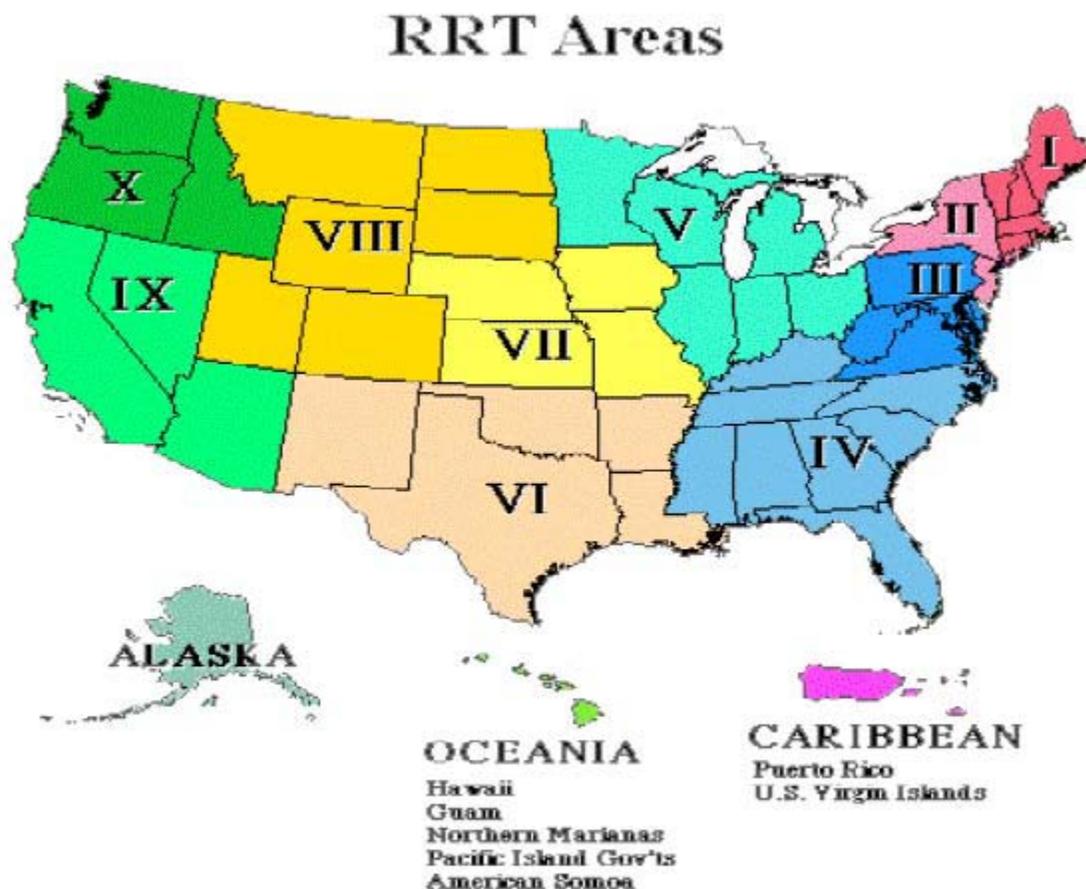
### **National Response Team Membership**

#### **1420.1 Regional Response Teams (RRT)**

There are 13 RRTs, one for each of the ten federal regions and Alaska, the Caribbean and the Pacific Basin. Each RRT has Federal and State representation. EPA and the Coast Guard co-chair the RRTs.

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## **Regional Response Team(s) Area(s) of Responsibility**

Like the NRT, RRTs are planning, policy and coordinating bodies, and do not respond directly to incidents. The RRTs develop Regional Contingency Plans for their regions. These plans address region specific issues and provide guidance to the OSCs for developing their area plans. The RRTs also provide one level of review for the Area Contingency Plans. The RRTs may be activated for specific incidents when requested by the OSC. If the assistance requested by an OSC exceeds an RRT's capability, the RRT may request assistance from the NRT. During an incident the RRT may either be alerted by telephone or convened. The cognizant RRTs will also be consulted by the OSC on the approval/disapproval of the use of chemical countermeasures when that decision has not been pre-approved.

More information about Region VI can be found at  
[http://www.epaosc.org/site/site\\_profile.aspx?site\\_id=5083](http://www.epaosc.org/site/site_profile.aspx?site_id=5083)

## **1420.2 Area Response Management System**

The Area Response Management System is Area level of the National Response System that assists the FOSC with preparing for and responding to pollution incidents. The goal of the Area Response Management System is to identify how those participating in the response management structure can best communicate and coordinate with each other for planning,

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logistics, finance, operations, and communications to ensure effective response coordination. Because the key players differ from area to area, Area Committees must have the flexibility to tailor systems to their basic organization for the specific area. An Area Command is established when the complexity of the incident and incident management span-of-control considerations so dictate. Generally, the administrator(s) of the agency having jurisdictional responsibility for the incident makes the decision to establish an Area Command.

The response management structure is a system (e.g., a unified command system), that brings together the functions of the federal government, the state government, and the responsible party to achieve an effective and efficient response, where the FOSC maintains authority. The SE TX SW LA Area Committee shall adopt the National Incident Management System for this purpose.

NIMS Area Commands are established when the complexity of an incident and incident management span-of-control considerations so dictate. NIMS Area Commands are distinct from, and not to be confused with, Coast Guard Area Commands. For the purpose of this discussion, the term Area Command refers to the Area Command under NIMS and the NRF. Where both the NIMS and USCG Area Commands are mentioned, an appropriate clarification is included in the text.

Generally, the administrator(s) of the agency having responsibility over the incident make(s) the decision to establish an Area Command. The establishment of this Area Command may not involve activation of the NRF.

The purpose of an Area Command is either to oversee the management of multiple incidents that are being handled by a separate Incident Command System (ICS) organization or to oversee the management of a very large or complex incident that has multiple interagency incident management team assigned. The NIMS Area Command is generally used when there are a number of incidents in the same geographic area and of the same type, such as multiple HAZMAT releases or fires as these kinds of incidents that may compete for the same resources. When incidents are of different types and/or do not have similar resource demands, they are usually handled as separate incidents or are coordinated through an Emergency Operations Center (EOC). If the incidents under the Area Command span multiple jurisdictions, a Unified Command should be established. This allows each agency or organization involved to have appropriate representation in the Area Command.

For the incidents under its jurisdiction, the NIMS Area Command:

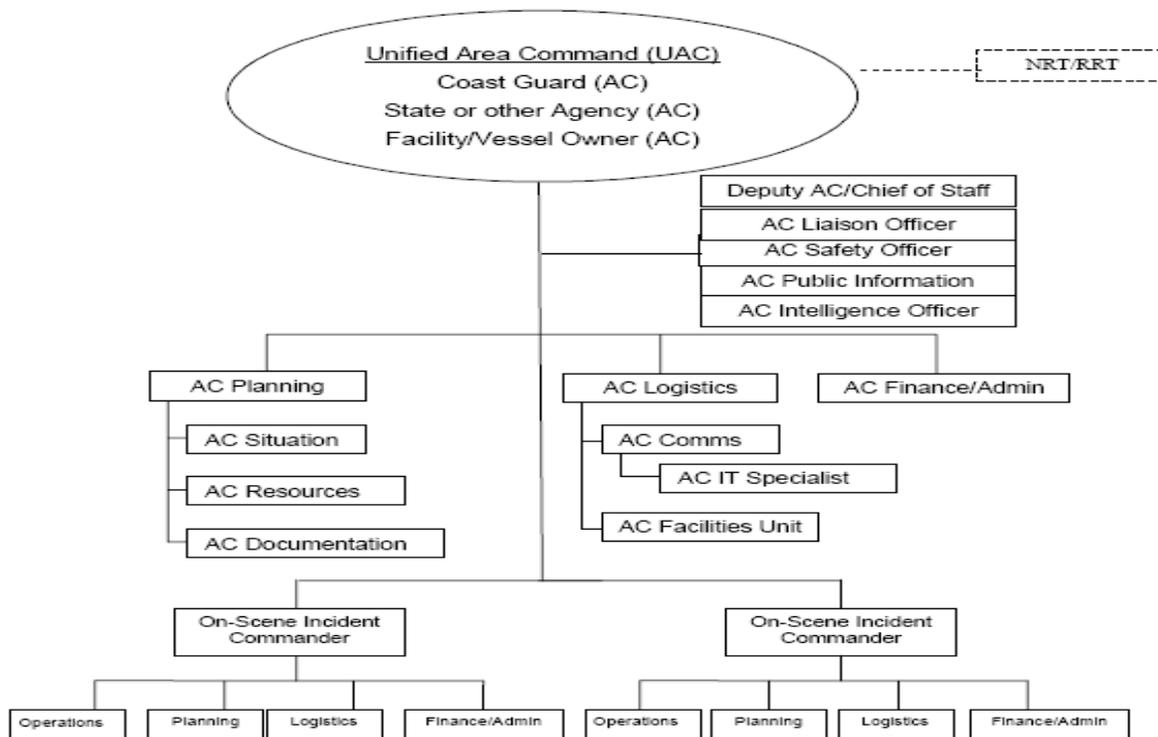
- Sets overall incident-related priorities;
- Allocates critical resources according to established priorities;
- Ensures that incidents are properly managed;
- Ensures effective communications;
- Ensures that incident management objectives are met and do not conflict with each other or with other agency policies;
- Identifies critical resource needs and reports them to the interagency coordination system (i.e., USCG Command Centers, county, and state EOCs, JFO);
- Ensures that short-term “emergency” recovery is coordinated to assist in the transition to

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- full recovery operations; and
- Provides for personnel accountability and a safe working environment.

The NIMS Area Command develops an action plan detailing incident management priorities, needs, and objectives. This plan should clearly state policies, objectives, and priorities; provide a structural organization with clear lines of authority and communications; and identify management functions to be performed by the Area Command (i.e., support, public communications). The purpose of an Area Command is either to oversee the management of multiple incidents that are each being handled by a separate ICS organization or to oversee the management of a very large or complex incident that has multiple incident management teams engaged.

The structure of the Area Command follows standard ICS organization except there is no operations section. An example is provided below:



## 1420.3 Area Response Management System

A basic premise of the ACP is that incidents are generally handled at the lowest jurisdictional level possible. Police, fire, public health and medical, emergency management, and other personnel are responsible for incident management at the local level.

In some instances, a Federal agency in the local area may act as a first responder and may provide direction or assistance consistent with its specific statutory authorities and responsibilities. In the vast majority of incidents, State and local resources and interstate mutual aid normally provide the first line of emergency response and incident management support.

## SETX & SWLA AREA CONTINGENCY PLAN

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When an incident or potential incident is of such severity, magnitude, and/or complexity that it is considered an Incident of National Significance according to the criteria established in National Response Plan, the Secretary of Homeland Security, in coordination with other Federal departments and agencies, initiates actions to prevent, prepare for, respond to, and recover from the incident.

These actions are taken in conjunction with State, local, tribal, non-governmental, and private-sector entities as appropriate to the threat or incident. In the context of Stafford Act disasters or emergencies, DHS coordinates supplemental Federal assistance when the consequences of the incident exceed State, local, or tribal capabilities.

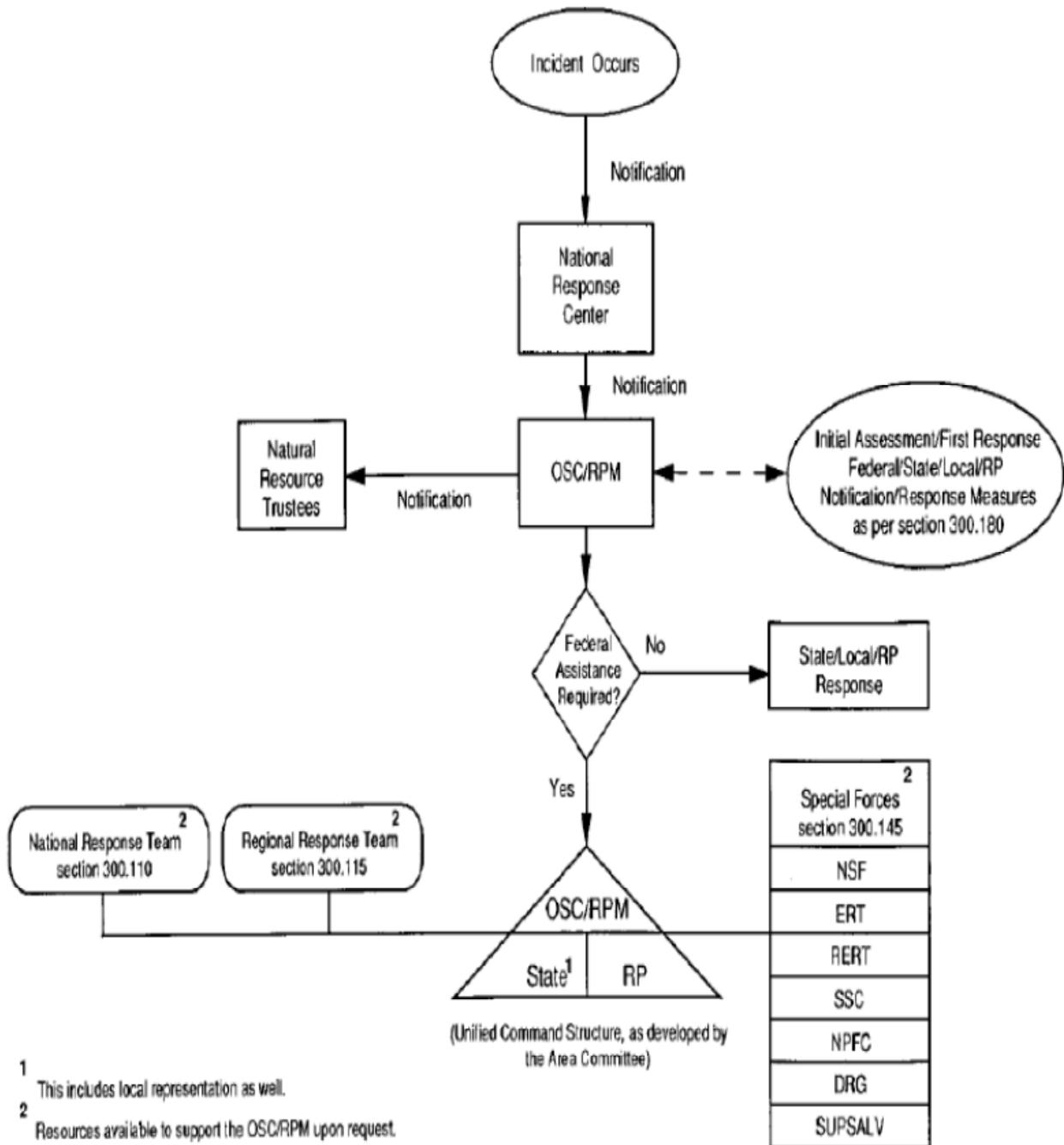
### **1420.4 Federal Role in Incident Management**

The Homeland Security Act of 2002 established DHS to prevent terrorist attacks within the United States; reduce the vulnerability of the United States to terrorism, natural disasters, and other emergencies; and minimize the damage and assist in the recovery from terrorist attacks, natural disasters, and other emergencies. The act also designates DHS as “a focal point regarding natural and manmade crises and emergency planning.”

# SETX & SWLA AREA CONTINGENCY PLAN

Figure 1a

## National Response System Concepts: Response



### National Response System

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The Secretary of Homeland Security is responsible for coordinating Federal operations within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies when any of the following four conditions applies:

- A Federal department or agency acting under its own authority has requested DHS assistance;
- The resources of State authorities are overwhelmed and Federal assistance has been requested under the Stafford Act;
- More than one Federal department or agency has become substantially involved in responding to the incident; or
- The Secretary has been directed to assume incident management responsibilities by the President.

Some Federal agencies with jurisdictional authority and responsibility may participate in the Unified Command at the Incident Command Post (ICP). Several Federal agencies have independent authorities to declare disasters or emergencies within federal lands and properties. These authorities may be exercised concurrently with or become part of a major disaster or emergency declared under the Stafford Act.

## 1420.5 State Role in Incident Management

Upon notification of a spill, each designated respective response agency may act as the SOSC and ensure that response activities are consistent with the NCP, the State Contingency Plan, the ACP, and any other applicable plans.

### **Texas General Land Office (TGLO)**

The TGLO is the lead state agency for response to oil spills that enter or threaten to enter the coastal waters of Texas. TGLO also coordinates the activities of other state agencies and provides scientific support for response and contingency planning in coastal and marine areas, including predictions of movement and dispersion of oil through trajectory and hydrologic modeling, and information on the sensitivity of coastal environments to oil and hazardous substances.

### **Texas Commission of Environmental Quality (TCEQ)**

The TCEQ is the state's lead agency in spill response to certain inland oil spills (crude oil spills emanating from oil or gas exploration, development, or production facilities are Railroad Commission jurisdiction), all hazardous substance spills (except those from exploration and production facilities), and spills of other substances which may cause pollution or adversely impact air quality in Texas. The TCEQ and the Texas Department of Transportation (TXDOT), as provided in 25.264 (f) of the Texas Water Code, have developed a contractual agreement whereby TXDOT personnel, equipment, and materials may be used in state-funded cleanup actions. All expenses and costs resulting from cleanup activities are subject to reimbursement from the Texas Spill Response Fund.

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## **Railroad Commission of Texas (TRRC)**

Until September 1, 2003, a spill of crude oil into the coastal waters of Texas may involve both the TRRC and the TGLO, depending on the volume and origin of the spill. After September 1, 2003, the TGLO is the lead agency for all spills of oil, including crude oil, into coastal waters or that pose an imminent threat to coastal waters as per amendments to Texas Natural Resource Code 40.008. These amendments will not change the current TRRC requirement to report spills in accordance with Statewide Rule 20.

TRRC has jurisdiction over waste generated by oil and gas exploration and production activities, permits the drilling of oil and gas wells in Texas, including bay and offshore wells, and is responsible for protecting surface and subsurface water from pollution caused by exploration and production activities. Spills or discharges, whether hazardous or non-hazardous from crude oil or natural gas pipelines, are also within the jurisdiction of the TRRC; but spills from refined petroleum product pipelines are not. Products not under the jurisdiction of the TRRC include gasoline, diesel, and other fuel oil.

## **Texas State Support Structure**

The Governor's Division of Emergency Management (DEM) will ensure that all state resources are available for use by the lead agency. When required, DEM will ensure the staffing and activation of the State Emergency Operation Center in Austin. This operation center will serve as the primary support network for the SOSC. The SOSC in turn can provide the support necessary to assist the FOSC and the spiller. Within the emergency operations center structure, the disaster districts will be utilized as a conduit to and from the local community. Examples of the support that can be provided are: meteorological information provided by the TCEQ, legal and criminal enforcement assistance provided by the Attorney General's office, heavy equipment provided by the Texas Department of Highways, and aerial assistance provided by the Aircraft Pooling Board.

## **1420.6 Local Role in Incident Management**

### **Local Response Structure**

The local response structure consists of the agencies below the state level, including counties and cities. When their representatives respond to an oil spill they should coordinate their activities through the Liaison Officer in an ICS response.

### **1420.7 Public vs. Private Resource Utilization**

While it is the policy of the Commandant to mount an aggressive, timely, efficient response, the FOSC must be mindful that the use of government-owned equipment and resources is not to compete with the use of commercial resources. Government resource should only be used under specific circumstances:

- For "first aid" spill response until contracted commercial resources arrive on-scene and are operating.
- When commercial resources are not available, this assumes that the RP, Qualified Individual, Incident Commander, or cleanup contractor has sought commercial resources but they are not available.

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- Government resources can supplement commercial resources. Government resources are not to be used for the convenience of the responsible party.

### Best Response Concept

Best Response depends on the best efforts of the three components of the National Response System.

- Companies – those responsible for producing, handling, storing, and transporting oil and hazardous materials, and for arranging for mitigation of an accidental discharge or release;
- Contractors – those who carry out response and cleanup in the event of a discharge or release; and
- Government – those Federal, state, and local agencies with oversight responsibility for the safe handling of oil and hazardous materials and for ensuring protection of the public and the environment in the event of a discharge or release.

Best Response protects our national interests. Each component must act responsibly, effectively, and cooperatively to accomplish the shared goal of minimizing the consequences of pollution incidents. Finally, Best Response demands that a response community build an ability to measure its own capability to achieve success. To do this kind of self-assessment the community must be able to recognize success. Key Business Drivers are the major categories within a Best Response model of things that have to be done if we are to accomplish the goal of Best Response – minimize the consequence of pollution incidents – and to be perceived as successful. Critical Success Factors are the specific things that a response must accomplish to be considered successful. The critical success factors suggested here were compiled from expert-based surveys, which generated lists of things in a response that must go right. (Harrald, 1993; Walker, 1995). There are a number of critical success factors for each Key Business Driver. An oil spill response that achieves all or most of these factors will, according to the Best Response precepts, be judged as a success.

### 1420.8 Industry Response Plans/Worst Case Discharges

The Oil Pollution Act of 1990 (OPA 90) amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) to require the preparation and submission of oil spill response plans by the owners or operators of certain facilities and vessels. It also requires that the vessel or facility be operated in compliance with its submitted response plan. Failure to have submitted a response plan, and to have received approval of that plan, results in the prohibition of that vessel or facility from the handling, storing, or transporting of oil.

A major feature of the OPA90 spill response plans is the requirement for vessel and facility owners and operators to identify and ensure the availability of, by contract or other approved means, personnel and equipment necessary to remove the “worst case discharge” to the “maximum extent practicable”.

Chapter 9000, Appendix B contains planning scenarios for the Worst Case Discharges within the NOAC boundaries.

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## 1420.8.1 Industry Response Plans/Worst Case Discharges

Owners and/or Operators of an oil handling, storage, or transportation facility, and is located seaward of the coast line, must submit a spill-response plan to BSEE for approval. The spill-response plan must demonstrate that the owner/operator can respond quickly and effectively whenever oil is discharged from their facility. The requirements for Off-shore Oil Spill Response Plans can be found in 30 CFR Part 254.

## 1420.8.2 on-Shore Facility Response Plans

33 CFR Part 154 requires that the owner or operator of a “substantial harm” or “significant and substantial harm” facility, as defined in 33 CFR Part 155, submit a Facility Response Plan (FRP) to the local Captain of the Port. Section 4202(b)(4)(B) of OPA 90 precludes a facility from handling, storing, or transporting oil unless a FRP has been submitted to the Coast Guard. For all marine transportation-related facilities, reviews and approvals will be done by the local Coast Guard Captain of the Port. Information contained in the FRPs is based upon national planning standards and the response scenarios are intended to be used to develop a planning document and not establish a performance document of standard.

## 1420.8.3 Vessel Response Plans

Due to the transitory nature of vessel operations, all Vessel Response Plans (VRPs) are reviewed at the national level. Information contained in the VRPs is based upon national planning standards and the response scenarios are intended to be used to develop a planning document and not establish a performance document of standard.

UC/ICs can utilize these plans to assist with a response to a Tank or Non-tank vessel. The following information should be available in a VRP.

- Tank Diagrams
- Emergency Contacts
- Contracted Response Resources

## 1420.8.4 Tank Vessel Response Plans

Vessel Response Plans (VRPs) are required for all Tank Vessels that are constructed or adapted to carry oil in bulk as cargo or cargo residue except: vessels exempted in 33 CFR Part 155.1015 and fishing and fish tender vessels of not more than 750 gross tons when engages only in the fishing industry. The requirements for these plans can be found in 33 CFR Part 155 Subpart D

## 1420.8.5 Non-Tank Vessel Response Plans

On August 9, 2004, the President signed the Coast Guard Maritime Transportation Act of 2004 (CGMTA 2004). Section 701(a) and (b) of the CGMTS amend sections 311(a) and (j) of the FWPCA to require the Coast Guard to issue regulations that require an owner or operator of a non-tank vessel to prepare and submit to the Coast Guard a plan for responding to the maximum extent practicable to a worst case discharge, of oil, and to a substantial threat of such discharge.

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NVIC 01-05, Change 1 provides voluntary guidance to owners and operators of non-tank vessels for preparing and submitting plans for responding to a discharge or threat of a discharge of oil from their vessel and for receiving interim operating authorization from the Coast Guard.

### 1420.8.6 Shipboard Oil Pollution Emergency Plan (SOPEP)

The Act to Prevent Pollution from Ships was amended to incorporate the requirements regarding Shipboard Oil Pollution Emergency Plan (SOPEPs) of Annex I of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978, as amended (MARPOL 73/78). SOPEPs are required to be carried on board all oceangoing oil tankers of 150 gross tons and above and all other vessels of 400 gross tons and above. SOPEPs are required to be reviewed and approved by the vessel's flag state (country) administration. For U.S. flag vessels 33 CFR Part 151.27 requires that the Coast Guard and approve the plan. To provide consistency the review of SOPEPs, all plans will be reviewed nationally by the Coast Guard.

The purpose of a SOPEP is different than that of the vessel and facility response plans mandated by OPA 90. A SOPEP provides guidance to the ship's master and officers with respect to the onboard emergency procedures followed when a pollution incident has occurred or is likely to occur. These plans will often be in a checklist type format.

### 1420.8.7 Pipeline Response Plans

Owners and/or Operators of an onshore oil pipeline than, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the a navigable waterway of the United States or adjoining shoreline must poses a Oil Spill Response Plan. The requirements for Pipeline Oil Spill Response Plans can be found in 49 CFR Part 194.

### 1430 National Responsible Party Policy

Under the FWPCA as amended by OPA 90, the responsible party has primary responsibility for cleanup of a discharge. Per FWPCA Section 311 and OPA90 Section 4201, an owner or operator of a tank vessel or facility participating in removal efforts shall act in accordance with the NCP and the applicable response plan. FWPCA Section 311(j)(5)(C) as implemented by OPA90 Section 4202 states that these response plans **SHALL**:

- Be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;
- Identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate UC official and the persons providing personnel and equipment pursuant to this clause;
- Identify, and ensure by contract or other means approved by the President, the availability of private personnel and equipment necessary to remove to the maximum extent practicable a worst-case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;
- Describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or facility, to be carried out under the plan to ensure the

# SETX & SWLA AREA CONTINGENCY PLAN

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safety of the vessel or facility and to mitigate or prevent a substantial threat of such a discharge;

- Be updated periodically; and
- Be resubmitted for approval of each significant change.

Each owner or operator of a tank vessel or facility required by OPA90 to submit a response plan shall do so in accordance with applicable regulations. Facility and tank vessel response plan regulations, including plan requirements for the Coastal Zone, are located in 33 CFR Parts 154 and 155, respectively; 30 CFR Part 254 for Off-shore facilities, and 49 CFR Part 194 for Pipeline. Facility response plan regulations for the inland zone are located in 40 CFR Part 112.

Each responsible party for a vessel or a facility from which oil is discharged, or which poses a substantial threat of a discharge, into or upon the navigable waters, adjoining shorelines or the Exclusive Economic Zone of the United States, is liable for the removal costs and damages specified in Subsection (b) of Section 1002 of OPA90. Any removal activity undertaken by a responsible party must be consistent with the provisions of the NCP, the Regional Contingency Plan (RCP), the SETX and SWLA ACP, and the applicable response plan required by OPA90. If directed by the Unified Command at any time during removal activities, the responsible party must act accordingly.

## 1430.1 Pipeline Response Plans

Specific responsibilities of the RP include, but are not limited to:

- Assessment of discharge or release;
- Establishment of a command post, in concurrence with the other On-Scene Coordinators (OSCs)
- Documentation/identification of type and quantity of oil or hazardous substance discharged or released;
- Containment of the oil or hazardous substance spilled or released and protection of the environment, with a particular emphasis on sensitive areas;
- Provisions of input relative to cleanup priorities (i.e. waste minimization)
- Timely and effective cleanup;
- Disposal of oil, oily waste, and Hazardous substances;
- Restoration of damaged environmental/natural resources;
- Communication with local, state, and federal response agencies and organizations;
- Communication with the media;
- Payment for damages;
- Steps to prevent reoccurrence of discharges or releases; and
- Wildlife collection and care in conjunction with responsible state, local, and federal agencies.

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

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## 1430.2 Responsible Party Responsibly

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 discharge, of oil or a hazardous substance. These response plans are required to be consistent with the SETX and SWLA ACP.

The requirement for vessel, on-shore facility, offshore facility, and pipeline response plans to be consistent with the SETX and SWLA ACP applies to:

- 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 SETX and SWLA ACP 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 SETX and SWLA ACP that the unified command 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 unified command structure;
- Provide an organization which is compatible with NIMS ICS;
- Provide regular communication and documentation that assures adequate response resources are bring 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 unified command.

## 1430.3 Pipeline Response Plans

The SETX and SWLA ACP shall plan for an aggressive, timely, and efficient, early response to an incident to provide adequate equipment and trained personnel to effectively respond to the highest quantity of product that can 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 responsible party and responding agencies.

In launching an aggressive, timely, and efficient response take the following into account:

- It is often difficult to obtain precise information on the quantity of oil or hazardous material, which has actually been released and is likely to continue to be released until the source is controlled;
- Notification may be delayed;
- There is a tendency of some responsible parties to be very conservative in estimating the quantity of oil spilled due to liability considerations;

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- Miscommunication can occur as to the actual extent of personnel and equipment which has been ordered, and as to the time of arrival. Similarly, estimated are sometimes overly optimistic;
- Response contractors may experience difficulty in mobilization in a timely fashion a portion of their response resources for various reasons; and
- In some cases, state and federal on-scene coordinators are cautious in making sure responsible parties do not mobilize unnecessary resources, which would needlessly increase the cost of the response action.

However, adequate response resources must be rapidly mobilized if initial source control, containment, and cleanup efforts are to be successful. Spill response is more cost-effective and far less damaging to natural resources to contain a spill rather than to remove it from the water and beaches.

If the responsible party fails to respond in a manner deemed reasonably consistent with this policy and the SETX and SWLA ACP, the FOSC or SOSC may assume the lead for a portion or of the entire spill. The agency proposing to assume lead for the cleanup will closely coordinate with other members of the unified command prior to taking such action.

Another reason that rapid response and contamination is important is that, there are certain weaknesses in the response community's ability to mount a fully effective response. These weaknesses are:

- **Coastal Response.** During certain times of the year, it is very difficult to mount an effective response action for spills in the outer coastal environment. Once equipment arrives on-scene in the coastal environment, sea state and meteorological conditions (such as fog, wind, and rain) may dramatically limit or terminate effective oil booming and on-water recovery efforts;
- **Response in Shallow Marine Embayments.** Diversions and containment booming and intertidal shoreline cleanup is very difficult in many of the SETX and SWLA areas sensitive shallow marine estuaries. Once oil enters these intertidal areas, extensive environmental damage is likely and recovery technology has minimal effectiveness. In these environments, conventional shoreline clean-up activities themselves can cause extensive damage and are therefore seldom used; and
- **Response to Catastrophic Oil Spills** Should a catastrophic oil spill occur, it is likely that there will not be adequate response resources in the SETX and SWLA area to manage and clean-up the spill. Therefore, the SETX and SWLA area will rely in part on mutual aid from Gulf Coast States, and other jurisdictions to provide much of the necessary response resources in the event of a catastrophic spill.

### 1440 Incident Command System

The unified incident command structure allows for a coordinated response, which takes into account the federal, state, tribal, local and responsible party concerns and interests when implementing the response strategy. The FOSC has the ultimate authority in a response operation and will only exert this authority, consistent with the NCP, if the other members of the unified incident command are not present or are unable to reach consensus quickly.

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During responses to oil and hazardous substance spills, local agencies may be involved as part of the incident response, and may provide agency representatives who interface with the command structure through the Liaison Officer or the SOSC, or within the incident structure itself. When a UC is used, an Incident Command Post (ICP) and Joint Information Center (JIC) shall be established. The ICP shall be as near as practicable to the spill site. All responders (federal, state, tribal, local, and private) should be incorporated into the response organization at the appropriate level.

## **1450 Area Exercise Mechanism**

The FOSC shall periodically conduct drills of removal capability, without prior notice, in areas for which ACPs are required. This action will allow effective assessments of such plans and relevant vessel, and facility response plans. These drills may include participation by federal, state, local agencies, owners and operators of vessels and facilities in the area, and private industry. The National Strike Force Coordination Center (NSFCC) will act as a clearinghouse for exercises, participating in the development, execution, and evaluation to the fullest extent practicable, with the cognizant program managers of the USCG and EPA. The NSFCC may, in conjunction with the cognizant program managers of the USCG and EPA, impose unannounced area or multi-area exercises. [NOTE: The NSFCC is responsible for executing the National Preparedness for Response Exercise Program (PREP). All USCG participation in exercises will be coordinated with and/or through the NSFCC.]

### **1450.1 National Preparedness for Response Exercise Program (NPREP)**

The National Preparedness for Response Exercise Program (NPREP) was developed to establish a workable exercise program which meets the intent of Section 4204(a) of OPA 90, amending Section 311 (j) of the FWPCA, by adding a new subsection (6) and a new subsection (7) for spill response preparedness.

The NPREP was developed to provide a mechanism for compliance with the exercise requirements, while being economically feasible for the government and oil industry to adopt and sustain. The NPREP is a unified federal effort and satisfies the exercise requirements of the Coast Guard, the EPA, the Pipeline and Hazardous Materials Safety Administration (PHMSA) Office of Pipeline Safety, and the Bureau of Safety and Environmental Enforcement (BSEE). Completion of the NPREP exercise will satisfy all OPA 90 mandated federal oil pollution response exercise requirements.

NPREP addresses the exercise requirements for oil pollution response. There are additional industry planning and exercise requirements contained in other federal statutes, which are not address in the NPREP Guidelines. The NPREP represents the minimum guidelines for ensuring adequate response preparedness. If personnel with an organization believe additional exercises or an expansion of the scope of the NPREP exercises are warranted to ensure enhanced preparedness, they are highly encouraged to conduct these exercises.

The NPREP exercise should be viewed as an opportunity for continuous improvement of the contingency/response plans and the response system. Plan holders are responsible for addressing

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any issue that arise from evaluation of the exercise and for making changes to the contingency/response plans necessary to ensure the highest level of preparedness.

### 1450.2 Participation in NPREP

Industry Plan holders are required to meet the pollution response exercise requirements mandated by the federal agency with regulatory oversight for the specific type of industry involved (e.g., vessel, marine transportation-related facilities, onshore and certain off-shore non transportation-related facilities, pipelines, offshore facilities). The NPREP satisfies these requirements. The NPREP is voluntary program. Plan holders are not required to follow the NPREP guidelines and, if they choose not to, may develop their own exercise program that complies with the regulatory exercise requirements. The NPREP guidelines can be found online at [http://www.uscg.mil/hq/nsfweb/download/REP/REP\\_GLNS\\_Aug\\_02.pdf](http://www.uscg.mil/hq/nsfweb/download/REP/REP_GLNS_Aug_02.pdf)

#### Applicability:

The NPREP is applicable to all industry response plan holders who elect to follow these guidelines.

Industry plan holders electing not to adopt the NPREP as their exercise program will be responsible for developing and documenting an exercise program that satisfies the appropriate federal oversight agency. If an industry plan holder has developed one response plan that covers a fleet of vessels or regional operations of offshore platforms, this plan holder would only be required to conduct on “set” of exercises for the plan, with the exception of the Qualified Individual notification exercises and the emergency procedure exercises, which are required for all manned vessels and unmanned barges as specified in 33 CFR Part 155.1060

The Eighth Coast Guard District coordinates the NPREP. For detailed information on the NPREP, the National Preparedness for Response Exercise Program (NPREP) handbook can be found online at: <http://www.uscg.mil/hq/g-m/nmc/response/msprep.pdf>

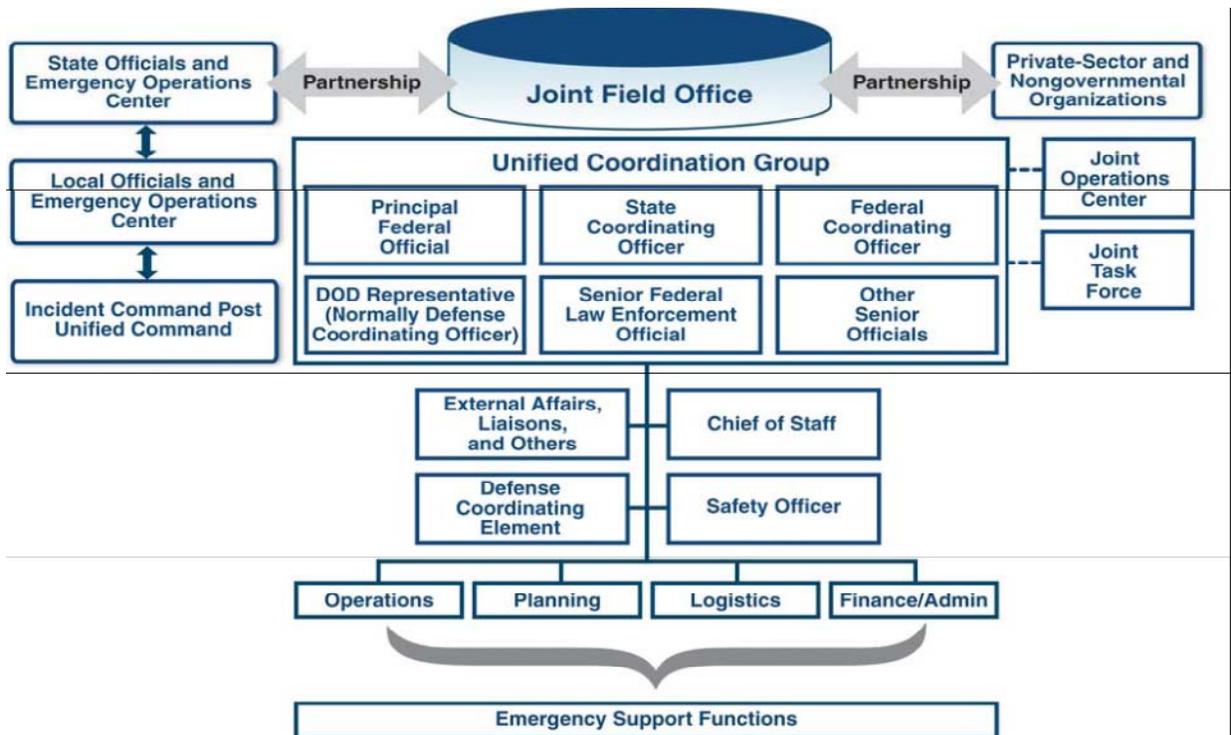
A three year NPREP Schedule for both the coastal and inland zones can be found on the National Strike Force Coordination Center (NSFCC) Webpage at: <http://www.uscg.mil/hq/nsfweb/nsfcc/rep/repexerciseske05.html>

### 1460 National Response Framework

After close collaboration with state and local government officials and representatives from a wide range of public safety organizations, The U.S. Department of Homeland Security (DHS) issued the National Incident Management System (NIMS) which provides a consistent nationwide approach for Federal, State, local, and local governments and private sector and non-governmental organizations (NGOs) to work effectively and efficiently together to prepare for, prevent, response to, and recover from domestic incidents, regardless of cause, size, or complexity. The incident management system outlined in the SETX and SWLA ACP is consistent with NIMS.

The National Response Framework and NIMS documents may be accessed at <http://www.fema.gov/emergency/nrf/mainindex.htm>

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*Note: Per Notice of Change of the National Response Plan to the National Response Framework the Interagency Incident Management Group is now the Unified Coordination Group and the Homeland Security Operations Center is not the National Operations Center.*

Initial response to an act of terrorism from chemical warfare agents or radiological materials may not likely differ greatly from a response to other hazardous material incidents. Terrorism response for biological agents and explosives may differ significantly from typical hazardous materials incidents. It may be unclear at the initial on-set of a response whether the cause was accidental or an act of terrorism. Local responders will be the first to arrive on scene to assess the situation and possibly take initial response measures to contain or stop the release. A terrorist incident will always be treated as a crime scene and preservation of evidence is critical. Coordination is required between law enforcement who view the incident as a crime scene, and other first responders who view the incident as a hazardous materials problem or disaster site. Although protection of life remain paramount, the protection and processing of the crime scene is imperative so that perpetrators may be identified and apprehended.

The responsibilities for response to a WMD incident lie with multiple agencies and the SETX and SWLA Committee, which should be prepared to provide resources under the National Response Framework (NRF) during a response to a terrorist incident. It is possible that a major public health and environmental incident could be the result, perhaps the intent, of this type of incident. The SETX and SWLA ACP may be needed to address critical short-term issues while a larger response infrastructure is developed under the full National Response Framework. Parallel response actions by SETX and SWLA Committee member agencies may be on-going under the NRS prior to and during NRF activation.

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## **1470 Nuclear/Radiological Incident Annex to the NRF**

The Nuclear/Radiological Incident Annex (NRIA) to the NRF describes the policies, situations, concepts of operations, and responsibilities of the Federal departments and agencies governing immediate response and short-term recovery activities for incidents involving release of radioactive materials to address the consequences of the event. These incidents may occur on Federal-owned or –licensed facilities, privately owned property, urban centers, or other areas and may vary in severity from the small to the catastrophic. The incidents may result from inadvertent or deliberate acts. The NRIA applies to incidents where the nature and scope of the incident requires Federal response to supplement the State, Tribal, and/or Local incident response.

There are no nuclear plants located in the Southeast Texas or Southwest Louisiana area.

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## 1500 State and Local Response System

### 1510 National Response Policy

The National Response Policy is 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/release, 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.

### 1520 Federal

#### **Coast Guard**

The Coast Guard will respond consistent with the policy outlined in the NCP and this Area Contingency Plan. The Coast Guard 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 Coast Guard will respond. If the responsible party is conducting proper removal, the Coast Guard FOSC will use best judgment in determining the need for the presence of Coast Guard personnel on scene. In the event of a spill where there is no responsible party or their response efforts are inadequate, Coast Guard responsibilities may include assuming the response actions, partial response actions, or assuming a joint leadership in a unified command with state and local responders. General Coast Guard policy for pollution response is provided in Volume VI of the Coast Guard Marine Safety Manual.

#### **Environmental Protection Agency Policy**

By statute, the 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 their responsibility as FOSC. In all spill situations, it is EPA's intent to contribute to the response by working with the local, state, tribal authorities, general public and Federal agencies to ensure the information needed to minimize the effectiveness of the response effort is easily accessible. During a response to a release, the potential responsible party (PRP), if known, available, and willing, are generally given the opportunity to adequately respond. The EPA works closely with PRPs when they are known and willing to take action to ensure that the release reaches and adequate and rapid conclusion with a minimum impact on the environment. In the event of a spill where the PRP is not identified, does not respond to contain or clean up the spill, or does an inadequate job responding, EPA responsibilities may include taking over the response or assuming a co-lead role in a unified command with state and local responders.

#### **Bureau of Safety and Environmental Enforcement**

The Bureau of Safety and Environmental Enforcement (BSEE) is responsible for ensuring comprehensive oversight, safety, and environmental protection in all offshore energy activities. BSEE handles safety and environmental enforcement functions including, but not limited to, the authority to inspect, investigate, summon witnesses and produce evidence, levy penalties, cancel or suspend activities, and oversee safety, response, and removal preparedness.

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## **Department of Defense and Department of Energy Policies**

In the case of the Departments of Defense (DOD) or Department of Energy (DOE), when a response to a release or threat of release of a hazardous substance, pollutant, or contamination is on DOD or DOE property, 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 respects to incidents involving DOD military weapons or munitions or weapons and munitions under the jurisdiction, custody, or control of the DOD.

## **Department of Defense (DOD) facilities**

Military Sealift Command:

P.O.Box3643

Beaumont, TX77704

409/833-0769

## **Army Corp of Engineers:**

201PleasurePierBlvd

PortArthur,TX77640

409/985-4383

## **U.S. Army**

U.S. Surface Deployment and Distribution Command

842nd Transportation Battalion

201 Pleasure Pier Blvd.

Port Arthur, TX 77640

409/985-4383

## **U.S. Department of Transportation**

Maritime Administration

550 Fannin Street, Ste 1320

Beaumont, TX 77701

409/813-2263

## **1530 State of Texas Response Structure**

Upon notification of a spill, each designated respective response agency may act as the SOSC and ensure that response activities are consistent with the NCP, the State Contingency Plan, the ACP, and any other applicable plans.

### **1530.1 Texas General Land Office (TGLO)**

The TGLO is the lead state agency for response to oil spills that enter or threaten to enter the coastal waters of Texas. TGLO also coordinates the activities of other state agencies and provides scientific support for response and contingency planning in coastal and marine areas, including predictions of movement and dispersion of oil through trajectory and hydrologic

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modeling, and information on the sensitivity of coastal environments to oil and hazardous substances.

### **1530.2 Texas Commission of Environmental Quality (TCEQ)**

The TCEQ is the state's lead agency in spill response to certain inland oil spills (crude oil spills emanating from oil or gas exploration, development, or production facilities are Railroad Commission jurisdiction), all hazardous substance spills (except those from exploration and production facilities), and spills of other substances which may cause pollution or adversely impact air quality in Texas. The TCEQ and the Texas Department of Transportation (TXDOT), as provided in 25.264 (f) of the Texas Water Code, have developed a contractual agreement whereby TXDOT personnel, equipment, and materials may be used in state-funded cleanup actions. All expenses and costs resulting from cleanup activities are subject to reimbursement from the Texas Spill Response Fund.

### **1530.3 Railroad Commission of Texas (TRRC)**

Until September 1, 2003, a spill of crude oil into the coastal waters of Texas may involve both the TRRC and the TGLO, depending on the volume and origin of the spill. After September 1, 2003, the TGLO is the lead agency for all spills of oil, including crude oil, into coastal waters or that pose an imminent threat to coastal waters as per amendments to Texas Natural Resource Code 40.008. These amendments will not change the current TRRC requirement to report spills in accordance with Statewide Rule 20. TRRC has jurisdiction over waste generated by oil and gas exploration and production activities, permits the drilling of oil and gas wells in Texas, including bay and offshore wells, and is responsible for protecting surface and subsurface water from pollution caused by exploration and production activities. Spills or discharges, whether hazardous or non-hazardous from crude oil or natural gas pipelines, are also within the jurisdiction of the TRRC; but spills from refined petroleum product pipelines are not. Products not under the jurisdiction of the TRRC include gasoline, diesel, and other fuel oil.

### **1530.4 Texas State Support Structure**

The Governor's Division of Emergency Management (DEM) will ensure that all state resources are available for use by the lead agency. When required, DEM will ensure the staffing and activation of the State Emergency Operation Center in Austin. This operation center will serve as the primary support network for the SOSC. The SOSC in turn can provide the support necessary to assist the FOSC and the spiller. Within the emergency operations center structure, the disaster districts will be utilized as a conduit to and from the local community. Examples of the support that can be provided are: meteorological information provided by the TCEQ, legal and criminal enforcement assistance provided by the Attorney General's office, heavy equipment provided by the Texas Department of Highways, and aerial assistance provided by the Aircraft Pooling Board.

### **1540 State of Louisiana Response Structure**

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### 1540.1 Louisiana Oil Spill Coordinator's Office/Office of the Governor (LOSCO)

The Louisiana OSPRA of 1991, L.R.S. 30:2475 created the LOSCO within the Office of the Governor to provide a centralized authority for all matters related to oil spill response and prevention. The Act designated LOSCO as the lead State agency for the prevention of and response to unauthorized discharges of oil in the State of Louisiana. LOSCO's primary function is to ensure effective coordination and representation of the state interests in all matters related to spill response and prevention. Principal goals are:

1. Minimize unauthorized discharges of oil,
2. Provide for an effective spill response,
3. Compensate the public for damages to the natural resources, and
4. Assist the public through education, service, and public outreach.

The Louisiana Department of Environmental Quality, under the direction and control of the Oil Spill Coordinator, is lead technical agency of the state for response to actual or threatened unauthorized discharges of oil and for cleanup of pollution from unauthorized discharges of oil. However, under L.R.S. 30:2462, "in the event of an unauthorized discharge of oil, nothing in the OSPRA shall preclude the Department of Environmental Quality from, at the earliest time practicable, assuming response and cleanup duties for the discharge of oil pursuant to L.R.S. 30:2001 et seq., provided, however, the Oil Spill Coordinator is notified within 24 hours." Other response agencies include:

1. Louisiana Department of Agriculture and Forestry
2. Louisiana Department of Culture, Recreation and Tourism
3. Louisiana Department of Health and Hospitals
4. Louisiana Department of Natural Resources
5. Louisiana Department of Public Safety and Corrections
6. Louisiana Department of Wildlife and Fisheries
7. Louisiana Office of Emergency Preparedness

For more information regarding the State of Louisiana response structure, see the State of Louisiana Oil Spill Contingency Plan. To obtain a copy of the Plan, contact LOSCO at (225) 219-5800.

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## **1540.2 Louisiana Department of Environmental Quality (LDEQ)**

The LDEQ is the primary state agency that responds to reports of discharges of oil and chemicals into the waterways, wetlands, and natural drainages of the state. LDEQ conducts investigations and field analyses of potentially harmful effects of a spill. LDEQ maintains a staff of field biologists and chemists with expertise in water quality analysis. LDEQ sets water quality standards for the state, determines admissible discharges from agriculture and industry, and is responsible for collection of damages in the event of a spill. The first agency on scene for spills functions as the SOSC until and unless the LOSCO takes over the role or designates another agency as SOSC.

## **1540.3 Louisiana Department of Natural Resources/Office of Conservation (LDNR/OC)**

LDNR/OC enforces state regulations concerning oil and gas exploration, both inshore and offshore. LDNR/OC also regulates production and transportation of crude oil and natural gas.

## **1540.4 Louisiana Office of Emergency Preparedness**

1. Operates the state emergency operation center.

Coordinates and provides logistic support during disaster emergencies including communications in air and on ground, water transportation support, equipment and supplies, facilities, fuel and food, and assists with these functions for smaller spills at the request of the SOSC.

2. Establishes, maintains, and staffs emergency equipment depots.

3. Establishes and trains a volunteer response corps.

4. Maintains the Louisiana Emergency Operation Plan.

5. Participates and oversees the development of local and inter-jurisdictional disaster plans.

6. Maintains a roster of trained personnel skilled in disaster prevention, preparedness, response and recovery.

7. Provides direct support to local communities in declared emergencies including spills.

## **1540.5 Louisiana Department of Health and Hospitals (LDHH)**

The Department of Health and Hospitals (LDHH) directs and coordinates the State's emergency medical and health services. The authority of LDHH is found in the Sanitary Code of the State of Louisiana at L.R.S. 40:4 et seq. LDHH.

1. Evaluates incident implication for public health.

2. Recommends public health protection methods.

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3. Determines status of medical services.
4. Determines availability and condition of health facilities.
5. Coordinates public health information.
6. Issues public health news releases and advisories.
7. Advises on response activities as they relate to public health.
8. Collects and analyzes samples to identify human health problems in coordination with LDEQ, LDWF, LDAF, as well as other state and federal agencies.
9. Assesses damages to human health.
10. Responds to disease and sanitation problems caused by overcrowding and stress on facilities and systems.
11. Provides disaster mental health systems.

### **1550 Local Response Structure**

The local response structure consists of the agencies below the state level, including counties and cities. When their representatives respond to an oil spill they should coordinate their activities through the Liaison Officer in an ICS response.

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## 1600 National policy & Doctrine

### 1610 National Response Doctrine

The National Incident Management System (NIMS) Incident Command System is the recognized standard with which management systems must demonstrate compatibility and is the measure by which regulatory agency plan reviewers, exercise evaluators, and spill responders will gauge the adequacy of response actions. While this system allows considerable operational flexibility, it included a collaborative planning process that delineates key management position responsibilities, common use of forms, essential Incident Action Plan elements and response personnel and equipment resource tracking methods.

Under the NIMS Guidance, Incident Resource typing, for both equipment and overhead personnel typing protocols will be forthcoming. Resource typing, which is based upon capability, will provide a basis for which resources can be requested to support response to incidents nationwide. For example, the Coast Guard Sector will provide trained and qualified Type III Command and General Staff personnel, with some key Type III Unit Leader Positions within the Sections.

Section 4201 of OPA 90 amended Subsection I of Section 311 of the FWPCA, to require the Federal OSC to “in accordance with the National Contingency Plan and any appropriate Area Contingency Plan, ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance – (i) into or on the navigable waters; (ii) on the adjoining shorelines to the navigable waters; (iii) into or on the waters of the exclusive economic zone; or (iv) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.” “In carrying out these functions, the OSC may: (i) remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time; (ii) direct or monitor all Federal, State, and private actions to remove a discharge; and (iii) recommend to the Commandant that a vessel discharging or threatening to discharge, be removed and, if necessary, destroyed.” If the discharge or substantial threat of discharge of oil or hazardous substance is of such size or character as to be a substantial threat to the public health or welfare of the United States (including but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States), the OSC shall direct all Federal, State, and private actions to remove the discharge or to mitigate or prevent the threat of the discharge.

### 1620 Regional Response Doctrine

The Regional Response Doctrine is comprised of two principle components. These are a standing team which consists of designated representatives from each participating federal agency, state government, and local governments (as agreed upon by the state) of the RRT; and incident specific teams formed from the standing team when the RRT is activated for a response. On incident-specific teams, participation by the RRT Member agencies will relate to the technical nature of the incident and its geographic location.

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The RRT VI Standard Operating Procedures can be found in the Texas General Land Office's (TGLO) Oil Spill Tool Kit at [www.glo.texas.gov/caring-for-the-coast/](http://www.glo.texas.gov/caring-for-the-coast/).

## **1630 Area Response Doctrine**

Pursuant to the National Contingency Plan (NCP; 40 CFR Part 300), area committees have been established for each area of the United States that has been designated by the President. The area committees are comprised of personnel from Federal and state agencies who coordinate response actions with tribal and local governments and with the private sector. Area committees, under the coordinated direction of Federal On-Scene Coordinators (FOSC), are responsible for developing Area Contingency Plans (ACPs). Area committees are also required to work with the response community to develop procedures to expedite decisions for the use of alternative response measures.

This plan serves as the SETX and SWLA Committees Area Contingency Plan, and the Area Response Doctrine in regards to Oil discharges and Hazardous Substance releases.

## **1640 Public vs. Private Resource Utilization**

The Oil Pollution Act of 1990 (OPA 90) reaffirmed the basic principle that the primary source of an oil spill preparedness and response system in the U.S. should be implemented and maintained by the private sector. It is not, nor should it be, the Coast Guard's intent to compete with the commercial oil and hazardous materials pollution response industry. The utilization of government resources in lieu of commercial resources can place the government in a competitive environment. This is not the intent of OPA 90, as it defeats the incentive for commercial enterprise to maintain equipment and trained personnel in a competitive market. The Coast Guard's pre-positioned response equipment, other publicly owned response equipment, and other initiatives under the Coast Guard's oil spill response program are only intended to supplement the oil and clean-up industry's response program or be used if the commercial industry does not have readily available resources, and only until such time that the Federal On-Scene Coordinator (FOSC) or the Unified Command decides to release the resources.

The FOSC has the authority and responsibility in accordance with the National Contingency Plan to contain, control, and carry out response activities for the removal of a discharge where a substantial threat to public health or welfare, or where natural resources are endangered. At the direction and discretion of the FOSC and the Unified Command, when the responsible party executes a suitable response, any government equipment deployed should be withdrawn as commercial equipment becomes available and is placed into service.

The FOSC may consider using Coast Guard/Department of Defense (DOD) or Oil Spill Cooperative resources in such instances when the spill has been federalized and/or private sector resources cannot respond to the incident in a timely manner, or there are certain specific resources not available from the private sector.

While it is the policy of the Commandant to mount an aggressive, timely, efficient response, the FOSC must be mindful that the use of government-owned equipment and resources is not to compete with the use of commercial resources. Government resource should only be used under specific circumstances:

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- For “first aid” spill response until contracted commercial resources arrive on-scene and are operating.
- When commercial resources are not available. This assumes that the RP, Qualified Individual, Incident Commander, or cleanup contractor has sought commercial resources but they are not available.
- Government resources can supplement commercial resources. Government resources are not to be used for the convenience of the responsible party.

### 1650 Best Response Concept

Best Response depends on the best efforts of the three components of the National Response System.

- Companies – those responsible for producing, handling, storing, and transporting oil and hazardous materials, and for arranging for mitigation of an accidental discharge or release;
- Contractors – those who carry out response and cleanup in the event of a discharge or release; and
- Government – those Federal, state, and local agencies with oversight responsibility for the safe handling of oil and hazardous materials and for ensuring protection of the public and the environment in the event of a discharge or release.

Best Response protects our national interests. Each component must act responsibly, effectively, and cooperatively to accomplish the shared goal of minimizing the consequences of pollution incidents. Finally, Best Response demands that a response community builds a method to measure its own capability to achieve success. To do this kind of self-assessment the community must be able to recognize success. Key Business Drivers are the major categories within a Best Response model of things that have to be done if we are to accomplish the goal of Best Response – minimize the consequence of pollution incidents – and to be perceived as successful. Critical Success Factors are the specific things that a response must accomplish to be considered successful. There are a number of critical success factors for each Key Business Driver. An oil spill response that achieves all or most of these factors will, according to the Best Response precepts, be judged as a success.

### 1660 Cleanup Assessment Protocol

When spilled oil contaminates shoreline habitats, responders must survey the affected areas to determine the appropriate response. Although general approvals or decision tools for using shoreline cleanup methods can be developed during planning stages, responders’ specific cleanup recommendations must utilize field data on shoreline habitats, type and degree of shoreline contamination, and spill-specific physical processes. Cleanup endpoints must be established early so that appropriate cleanup methods can be selected to meet the cleanup objectives. Shoreline surveys must be conducted systematically because they are crucial

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components of effective decisions. Also, repeated surveys are needed to monitor the effectiveness and effects of ongoing treatment methods (changes in shoreline oiling conditions, as well as natural recovery), so that the need for changes in methodology, additional treatment, or constraints can be evaluated.

The Shoreline Assessment Manual, August 2000, NOAA/HAZMAT outlines methods for conducting shoreline assessments. Shoreline assessment is a function conducted under the Planning Section of the Incident Command System (ICS).

NOAA's Shoreline Assessment Manual outlines methods that can be used to plan and conduct shoreline assessment after an oil spill; and can then be incorporated into assessment results of the UC's decision-making process for shoreline cleanup. The Shoreline Assessment Job Aid is a supplement to the manual. It contains visual examples of many of the terms you would use during shoreline assessments.

When to terminate specific oil spill cleanup actions can be a difficult decision; When is clean, clean enough? The increasing cost of the cleanup and the damage to the environment caused by cleanup activities must be weighed against the ecological and economic effects of leaving the remaining oil in place. The decision to terminate cleanup operations is site-specific. Cleanup usually cannot be terminated while the one of the following conditions exist:

- Recoverable quantities of oil remain on water or shores.
- Contamination of shore by fresh oil continues.
- Oil remaining on shore is mobile and may be refloated to contaminate adjacent areas and near shore waters.

Cleanup may normally be terminated when the following conditions exist:

- The environmental damage caused by the cleanup efforts is greater than the damage caused by leaving the remaining oil or residue in place.
- The cost of cleanup operations significantly outweighs the environmental or economic benefits of continued cleanup.
- FOSC, after consultation with the members of the Unified Command, determines that the cleanup should be terminated.

### 1670 Response Technologies

#### 1670.1 Dispersant Use

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The dispersant pre-approval is designed to provide for the timely use of dispersants along with mechanical techniques and in-situ burning for offshore oil spill response. No single response method is 100% effective, thereby establishing a need to consider the use of all available methods from the start of the spill response. Initially, the assumption needs to be made that all three methods (mechanical, in-situ burn, and dispersants) may be used and then adjustments are made to that assumption as information concerning the spill is received by the Federal On-Scene Coordinator (FOSC). The objective of the Regional Response Team VI (RRT VI) FOSC Dispersant Pre-approval Guidelines and Checklist is to provide for meaningful, environmentally safe, and effective dispersant operation. The programmed checklist approach allows the FOSC to quickly arrive at a logical “GO/NO GO” decision. This gives the dispersant operation the opportunity to begin in a timely manner that is consistent with attempting to maximize the effectiveness of dispersant use as a countermeasure to reduce the impact of oil spills. In this document the RRT VI Dispersant Pre-approval Overview, the FOSC Dispersant Use Checklist and the FOSC Dispersant Use Flowchart define the dispersant pre-approval requirements. If the dispersant pre-approval requirements are not met, the request for use of dispersant must follow the approval process as specified in the RRT VI Regional Contingency Plan Subpart H Authorization. VI (RRT VI) FOSC Dispersant Pre-approval Guidelines and Checklist is to provide for meaningful, environmentally safe, and effective dispersant operation. The programmed checklist approach allows the FOSC to quickly arrive at a logical “GO/NO GO” decision. This gives the dispersant operation the opportunity to begin in a timely manner that is consistent with attempting to maximize the effectiveness of dispersant use as a countermeasure to reduce the impact of oil spills. In this document the RRT VI Dispersant Pre-approval Overview, the FOSC Dispersant Use Checklist and the FOSC Dispersant Use Flowchart define the dispersant pre-approval requirements. If the dispersant pre-approval requirements are not met, the request for use of dispersant must follow the approval process as specified in the RRT 6 Regional Contingency Plan Subpart H Authorization. The RRT VI FOSC Dispersant Pre-Approval Guidelines and Checklist are found at <http://www.glo.state.tx.us/oilspill/>

Specific information regarding the use of dispersants in the SETX and SWLA COTP Zone can be found in Section 9000, Appendix C of this plan.

## **1670.2 In-situ Burn Approval/Monitoring/Decision Protocol**

Refer to in Section 9000, Appendix B for more information

## **1670.3 Bioremediation Approval/Monitoring/Decision Protocol**

Refer to in Section 9000, Appendix H for more information

## **1670.4 Fish and Wildlife Considerations**

Refer to in Section 9000, Appendix L for more information

## **1670.5 Special Monitoring of Applied Response Technologies (SMART)**

Special Monitoring of Applied Response Technologies (SMART) is a cooperatively designed monitoring program for in situ burning and dispersants. SMART relies on small, highly mobile teams that collect real-time data using portable, rugged, and easy-to-use instruments during

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dispersant and in situ burning operations. Data are channeled to the Unified Command (UC) (representatives of the spiller and the state and federal governments who are in charge of the spill response) to address critical questions:

- Are particulates concentration trends at sensitive locations exceeding the level of concern?
- Are dispersants effective in dispersing the oil?

Having monitoring data can assist the Unified Command with decision-making for dispersant and in situ burning operations.

The SMART program is a joint project of these agencies:

- U.S. Coast Guard
- NOAA
- U.S. Environmental Protection Agency
- Centers for Disease Control and Prevention
- Bureau of Safety and Environmental Enforcement

More information regarding SMART may be found in Chapter 9000, Appendix I.

### **1670.6 Alternative Response Tool Evaluation System (ARTES)**

During an oil spill or hazardous substance release, the OSC may consider using non-conventional alternative countermeasures (a method, device, or product that has not been typically used for spill response). To assess whether a proposed countermeasure could be a useful response tool, it is necessary to quickly collect and evaluate the available information about it.

To aid in evaluating non-conventional alternative countermeasures in particular, the Alternative Response Tool Evaluation System (ARTES) was developed. ARTES can also be used to evaluate proposed conventional countermeasures. It is designed to evaluate potential response tools on their technical merits, rather than on economic factors. ARTES is designed to work in concert with the National Contingency Plan Product Schedule and the Selection Guide for Oil Spill Applied Technologies.

For more information regarding ARTES refer to the NOAA Office of Response and Restoration Website.

## **1680 Statutory Guidance Federal**

### **1680.1 Comprehensive Environmental Response, Compensation and Liability Act, 1980**

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Enacted by congress in 1980, it is also known as the Hazardous Substance Superfund as defined by 42 U.S.C. 9601 et seq. Its purpose is to provide for liability, compensation, cleanup, and emergency response for hazardous substances, pollutants, or contaminants (as defined by the statute) released into the environment and the cleanup of inactive hazardous waste disposal sites. Emergency and time critical actions for pollutants or contaminants may only be taken when these releases pose an imminent and substantial threat to human health or the environment. The NCP outlines factors which shall be considered in determining the appropriateness of an emergency or time-critical response action. These factors include:

- Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants, or contaminants;
- Actual or potential contamination of drinking water supplies or sensitive ecosystems;
- Hazardous substance, pollutant, or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;
- High levels of Hazardous substance, pollutant, or contaminants in soils largely at or near the surface, that may pose a threat of release;
- Weather conditions that may cause hazardous substance, pollutant, or contaminants to migrate or be released;
- Threat of fire or explosion;
- The availability of other appropriate federal or state response mechanisms to respond to the release; and
- Other situations or factors that may pose threats to public health or welfare of the United States or the environment.

### **1680.2 Federal Water Pollution Control Action as amended by the Clean Water Act and the Oil Pollution Act of 1990**

As listed in 33 U.S.C. 1251 et seq., the objective of the act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The goals of the Act include:

- The elimination of pollutants discharged into navigable waters;
- Attain water quality, which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and around those waters;
- Prohibits the discharge of toxic pollutants;
- Provides Federal financial assistance to construct publicly owned waste treatment works;

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- Requires States to provide waste treatment management plans;
- Conducts research to develop technology in order to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and oceans; and
- Develop national policy for the control of non-point sources of pollution.

### 1680.3 National Historic Preservation Act

The National Historic Preservation Act of 1966 (Public Law 89-665) requires agencies using federal funds to identify, evaluate, and where significant, protect historic, archaeological, and traditional cultural properties. This Act also authorized the National Register of Historic Places, expanding Federal recognition to historic properties of local and State significance. The National Park Service in the DOI administers both programs. Regulations for these programs are contained in 36 CFR Part 60, National Register of Historic Places, and 36 CFR Part 65, national Historic Landmarks Program. Oil can contaminate archaeological, historic, and culturally sensitive resources. Such contamination can prevent carbon dating, damage the fragile artifacts, and make restoration and preservation extremely difficult or impossible. In addition, oil spill response activities (e.g., mechanical cleanup and staging area construction) can physically disturb or destroy artifacts and sites.

The primary contact for responders seeking information and expertise on local culturally sensitive areas is the State Archeologist in the State Historic Preservation Office for the State or the Tribal Historic Preservation Officer for the affected tribal lands. It is important that responders be aware of the types of archaeological, cultural, or historic materials that they are likely to encounter while responding to an incident and that they will immediately notify the FOSC/UC in the event that these types of materials are discovered.

The SETX & SWLA Committee will regularly review response strategies outlined in the GRPs to identify and revise any strategies that may adversely impact archaeological, cultural, or historic resources. These resources are protected under Federal, Tribal and State laws. In order to avoid any inadvertent impacts to cultural and historic resources, responders are required to utilize existing hardened access paths and paved areas, if available, when approaching shorelines and cleanup teams are to remain on beaches.

### 1680.4 Endangered Species Act

Oil spills or hazardous substance release response actions may impact species listed as “endangered” or “threatened” under the Endangered Species Act (ESA), 50 CFR Part 402.02, and in accordance with Section 7 of the ESA, Federal agencies must consult with NOAA’s National Marine Fisheries Service (NOAA Fisheries) and/or the U.S. Fish and Wildlife Service (USFWS) on activities that may affect a listed species. The FOSC is responsible for initiating consultation.

In 2001, the USCG, EPA, DOI’s Office of Environmental Policy and Compliance, USFWS, NOAA Fisheries, and the National Oceans Service (NOS) signed an Interagency Memorandum of Agreement (MOA) (<http://www.nrt.org/Production/NRT/NRTWeb.nsf/PagesByLevelCat/Level2ESAMOU?OpenDoc>)

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cument) regarding Oil Spill Planning and Response Activities under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and the ESA. In the MOA, NOAA Fisheries and USFWS determined that oil spill response activities qualify as an emergency action as defined by regulations implementing the ESA in 50 CFR Part 402.02. NOAA Fisheries and USFWS have developed emergency consultation procedures to allow action agencies to incorporate endangered species concerns into emergency response activities. Emergency consultation is initiated with a telephone call to NOAA Fisheries or USFWS to describe the emergency response and seek recommendations on any measures that could be implemented during the response to reduce or avoid impacts to listed species, the paperwork associated with emergency consultation under the ESA is completed after the removal actions are completed. NOAA Fisheries and USFWS are ready to assist the FOSC comply with section 7 of the ESA, and the NOAA SSC and DOI Regional Environmental Officer can help identify appropriate ESA section 7 consultation contacts for their respective Departments.

For Endangered Species Act Consultation Contacts:

- U.S. Department of the Interior
- Regional Environmental Officer 24-Hour (505) 766-3565
- National Oceanic & Atmospheric Administration
- Scientific Support Coordinator 24-Hour (206) 526-4911

Please refer to Appendix H for the SETX AND SWLA Wildlife Response Plan.

### **1680.5 Resource Conservation and Recovery Act**

Also known as the Solid Waste Disposal Act, it was enacted by congress as 42 U.S.C. 6901 et seq. The Congress declared it to be the national policy of the United States that, whenever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of as to minimize the present and future threat to human health and the environment.

### **1680.6 National Environmental Policy Act**

As defined in 42 U.S.C. 4321 et seq., the purposes of this act are:

- To declare a national policy which will encourage productive and enjoyable harmony between man and his environment;
- To promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man;
- To enrich the understanding of the ecological systems and natural resources important to the Nation; and
- To establish a Council on Environmental Quality.

# SETX & SWLA AREA CONTINGENCY PLAN

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## **1690 High-Seas Policy**

Application of the Intervention on the High Seas Act (33 USC 1471 et seq.): Under authority of the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, governments party to the present convention may take such measures on the high seas as may be necessary to prevent, mitigate, or eliminate grave and imminent danger to their coastline or related interests from oil or hazardous substance pollution or threat of pollution. The pollution or threat of pollution may result from a maritime casualty or acts related to such a casualty, which may reasonable be expected to result in major harmful consequences. In the event of a ship outside U.S. Territorial waters which creates a potential threat of pollution by oil of hazardous substances, all available information shall be relayed to the Coast Guard which will determine whether or not grave and imminent danger to the U.S. coastline or related interests exists. Once that determination is made, the designated FOOSC shall take measures to prevent, mitigate, or eliminate the threat.

## **1700 Reserved**

## **1800 Reserved**

## **1900 Reserved for Area/District**