

NRT-RRT Factsheet

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Prepared by the
National Response Team
Response Committee



WHO DECIDES WHAT PRODUCTS CAN BE USED DURING AN OIL SPILL RESPONSE?

The first line of defense in cleaning up oil spills on surface waters consists of mechanical countermeasures such as booms and skimmers. However, when the limitations of mechanical measures are met and oil threatens the public welfare or the environment, other response techniques and technologies, such as chemical or biological countermeasures, including dispersants, may be considered.

The purpose of this factsheet is to inform all parties that may be involved in emergency response efforts of the requirements under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) to obtain approval for the use of chemical and biological countermeasures in navigable waterways. In most cases, the Federal On-Scene Coordinator (OSC) must first obtain concurrence of the incident-specific EPA representative to the Regional Response Team (RRT) and, as appropriate, the RRT representatives from the state(s) with jurisdiction over the navigable waters threatened by the release or discharge, and as practicable, in consultation with the Department of Commerce and Department of the Interior, as natural resource trustees. More specific details of the process for obtaining this approval, either before or during a response, are outlined below.

Decision-Making Before a Response

What is the NCP Product Schedule?

Under the Clean Water Act, the U.S. Environmental Protection Agency (EPA) is responsible for preparing a schedule of chemicals, and other substances, including dispersants that may be used to remove or control oil discharges. Subpart J (40 CFR 300.910) of the NCP governs the use of chemical and biological agents that may be listed on this schedule. EPA prepares and maintains this schedule, known as the NCP Product Schedule. Vendors, response personnel, other federal agencies, state agencies, and the public can request and use NCP Product Schedule information.

The listing of a product on the NCP Product Schedule indicates only that the technical product data submission requirements have been satisfied. It does *not* indicate that a product is recommended or endorsed by EPA or the NRT for use on an oil spill. However, in most situations, products must be listed on the NCP Product Schedule to be used in response to an oil spill.

How Do Products Get Listed on the NCP Product Schedule?

To get a product listed on the NCP Product Schedule, a manufacturer must submit technical data on the product to EPA. Specific guidelines for vendors are contained in 40 CFR part 300, Subpart J, "Use of Dispersants and Other Chemicals" (40 CFR 300.915). In order to be listed, a dispersant must obtain an effectiveness value of 50% + or – 5% for the Dispersant Effectiveness Test. Most products must be tested using a standard toxicity test. Bioremediation agent submissions must include the successful results of a 28 day Bioremediation Agent Effectiveness Test. Following the submission of data, EPA reviews the data to confirm completeness and determine whether the specified procedures were followed. The Product Schedule is updated every two months or as needed.

For More Information. . .

- ◆ On the NCP Product Schedule, or to obtain a copy of the NCP Product Schedule visit the EPA website at www.epa.gov/oilspill/ or contact the NCP information line at 202.260.2342.

What are the Preparedness Roles of the RRT, Area Committee, and SSC?

The Oil Pollution Act of 1990 encourages RRTs and Area Committees to assess the desirability of using agents listed on the NCP Product Schedule and develop pre-authorization plans (also called pre-approval agreements) in advance of an incident. The EPA representative to the incident-specific RRT, the incident-specific RRT representatives from the state(s) with jurisdiction over the navigable waters to which the pre-authorization plan applies, and the Department of Commerce and Department of the Interior representatives to the incident-specific, as natural resource trustees, must review and either approve, disapprove, or approve with modification these pre-authorization plans.

Scientific Support Coordinators (SSCs) support the RRT and the Area Committee in preparing pre-authorization plans and in conducting spill training and exercises. In these roles, the SSC provides leadership and assistance in synthesizing and integrating technical and scientific information required for spill response decisions.

What are Pre-Authorization Plans?

The RRT and Area Committees can develop a pre-authorization plan for a product or technology regulated by the NCP Product Schedule. With a pre-authorization plan in place, the OSC can proceed with the product's use according to the pre-authorization plan without obtaining concurrence from the RRT or trustee agencies during emergency response to an incident. Typically, such pre-authorization plans outline zones where or conditions under which products may be used. These are generally based on geographic area, distance from the shoreline, water depth, and/or season.

Decision-Making During a Response

What is the Role of the Federal On-Scene Coordinator?

The NCP (40 CFR 300.105) gives the Federal OSC primary responsibility for directing response efforts and coordinating all other efforts at the scene of an oil discharge to or which threatens navigable waters. The OSC is charged with initiating defensive actions as soon as possible to prevent, minimize, or mitigate threat(s) to the public health or welfare of the United States or the environment. For oil discharges, this may include the use of chemicals, such as dispersants, and other materials that restrain the spread of the oil and mitigate its effects. This primarily consists of products listed on the NCP Product Schedule.

How are Scientific and Technical Assistance Obtained?

Because the use of chemical or biological countermeasures requires scientific and technical expertise, the OSC will typically ask for assistance

from an SSC, who serves on the OSC's staff and may coordinate input from the scientific team. The SSC can also integrate expertise from governmental agencies, universities, community representatives, and industry to assist the OSC in developing response strategies.

What are the Roles of the RRT and Area Committee?

Although the OSC has primary responsibility for directing response efforts, the OSC is typically *not* the sole decision-maker regarding a product's use for mitigating a spill (see "Exceptions to the Rule" below). Unless the OSC has a pre-authorization plan, the OSC must first obtain concurrence of the incident-specific EPA representative to the RRT, and, as appropriate, the RRT representatives from the state(s) with jurisdiction over the navigable waters threatened by the release or discharge. In addition, as practicable, the OSC should consult with the Department of Commerce and the Department of the Interior, as natural resource trustees. If there is no incident-specific RRT activated, the appropriate RRT members must be convened for an incident-specific authorization.

The Area Committee will typically have included appropriate measures for mechanical recovery and potential non-mechanical countermeasures in the ACP. As a result, the Area Committee may be able to help the OSC coordinate with Federal, state, and local officials to expedite decisions for the use of non-mechanical countermeasures and other mitigating substances and devices.

Are There Any Exceptions to the Rule?

The OSC may authorize the use of any chemical or biological countermeasure, including products not listed on the NCP Product Schedule, without obtaining the concurrence of the incident-specific RRT when the OSC believes that use of the product is necessary to substantially reduce a hazard to human life.

When the OSC authorizes the use of a product under the safety exception, the OSC must inform the EPA representative to the RRT, the RRT representatives from the state(s) with jurisdiction, and the natural resource trustees as soon as possible. Once the

threat to human life has subsided, the continued use of additional products must follow the standard approval process described above.

The decision flow chart on the next page shows how decisions are made to use chemical and biological countermeasures during a response.

What About Local Government Responders?

Decisions on public safety issues are typically under the purview of the local lead public emergency response agency. Under the safety exception previously noted, fire departments and hazardous materials teams have the authority to treat a spill using a chemical countermeasure if they determine that the spilled oil could cause an explosion and/or threaten human health. If a chemical countermeasure is used, responders should make every attempt to contain the fuel/chemical mixture (runoff) and prevent it from entering storm drains or other environments where 100 percent product/oil recovery is not possible.

However, if local responders use firefighting foam or "surface washing agents," which are defined in Subpart J and listed on the NCP Product Schedule, in situations where they may be discharged into a navigable waterway, OSC authorization and RRT concurrence should be sought.

For More Information. . .

- ◆ About the National Response System, including the role of the Federal OSC, National Response Team, and Regional Response Teams, and the use of non-mechanical response technologies, visit www.nrt.org.

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Decision Flow Chart for Using Chemical Counter-measures or Dispersants

