Standard Federal Region I Response Team

Regional Oil and Hazardous Substances Pollution Contingency Plan

Report Oil and Chemical Spills
1-800-424-8802

http://www.rrt1.nrt.org

LETTER OF PROMULGATION

The Region I Regional Oil and Hazardous Substances Pollution Contingency Plan was developed in accordance with the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Clean Water Act of 1977 and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP, 40 CFR 300), which require the Regional Response Team (RRT) in each federal region to develop a Regional Contingency Plan to coordinate effective response to oil spills and hazardous substance releases into the environment of the United States within the six New England states that make up Region I.

The Regional Contingency Plan (RCP) was developed in cooperation with the designated representatives from organizations that make up the Region I Regional Response Team: fifteen federal agencies, ten federally recognized tribes, and six New England states.

The RCP is organized according to key functions of the RRT. To promote ease of use, the revised RCP had been published electronically and is available for viewing or download from the RRT I website: http://www.rrt1.nrt.org/production/NRT/RRT1.nsf/AllPages/rrt1.html.

The seven main sections of the RCP are as follows:

- Section 1: Introduction (aligns RCP with NCP organization)
- Section 2: Relationship To and Consistency with the NCP
- Section 3: Strategic Plan
- Section 4: Regional Response Policies
- Section 5: RRT Operations and Administration
- Section 6: RRT Agency Roles, Capabilities and Support
- Section 7: Related Plans

Updates to this plan will be considered at RRT semiannual meetings and changes will be distributed in electronic form. Full review with letters of promulgation will take place every four years. Future changes to the plan will be consecutively numbered and designated as such. Any changes or comments to the Region I RCP should be submitted to:

EPA RRT Coordinator
U.S. EPA Region I
5 Post Office Square - Suite 100
Boston, MA 02109-3912

USCG RRT Coordinator
First Coast Guard District (drmp)
408 Atlantic Avenue
Boston, MA 0211

This plan is in effect upon signature, and supersedes and replaces previous Region I Regional Contingency Plans.

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SECTION 1: Introduction

A. Purpose and Objectives

The purpose of the Region I Regional Oil and Hazardous Substances Pollution Contingency Plan (RCP) is to provide the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants. The RCP fulfills this purpose by providing a framework in which Area Contingency Plans (ACPs) in Region I fit with each other, with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and with other federal emergency response plans. The RCP also describes the mechanisms by which the Region I Regional Response Team (RRT I) assists On-Scene Coordinators (OSCs) before a response, through planning and training activities; and during a response, through organizational and coordination assistance. Lastly, the RCP serves as a compilation of RRT I policies and guidance pertaining to oil and hazardous substances responses.

B. Scope

The RCP applies to response operations taken by all federal, tribal, state, and local agencies within the Standard Federal Region I area that are covered under the provisions of the NCP. Region I includes the following geographical areas.

- State of Connecticut.
- State of Maine.
- Commonwealth of Massachusetts.
- State of New Hampshire.
- State of Rhode Island and Providence Plantations.
- State of Vermont.
- All lands of federally recognized tribes located within the geographical boundaries of Region I
- Boundary with Canada

In subject areas where RRT policy and structure mirror that laid out in the NCP, the RCP's scope is limited to Region-specific information as described in Section 2.

SECTION 2: Consistency with the NCP

The NCP requires that RCPs follow the format of the NCP to the greatest extent possible. Policies and operating procedures of the RRT are consistent with the NCP, as much as they are described therein. In an effort to create the most streamlined and user-friendly document possible, information from the NCP that applies to policies and procedures in Region I without modification was excluded from the RCP. Responders can reference the NCP for that information. The RCP includes only information whose scope and applicability are limited to Region I.

The following table lists all sections of the NCP, and states whether information pertaining to any specific section has been included in this RCP, or in the Area Contingency Plans (ACPs) for areas within Region I. Sections of the NCP for which RRT policy and operating procedures are identical to that laid

out in the NCP are marked NRM, or 'No Regional Modifications'.

For NCP sections pertaining to aspects of response procedure or policy on which the RRT has supplemented, or deviated from information in the NCP, Section 2 provides a brief description of the differences between the RCP and the NCP, and identifies the section in the RCP in which information can be found. Section information is not provided for ACPs.

PART 300:			
NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN **Subpart A -- Introduction**		**Regional Modifications**	**Location**
300.1	Purpose and objectives	The RCP limited to Region I	Sec. 1
300.2	Authority and applicability	No Regional Modifications	See NCP
300.3	Scope	The RCP is limited to Region I	Sec. 1
300.4	Abbreviations	NCP and region-specific abbreviations included to facilitate use.	Att. 1
300.5	Definitions	No Regional Modifications	See NCP
300.6	Use of number and gender	No Regional Modifications	See NCP
300.7	Computation of time	No Regional Modifications	See NCP

Subpart B -- Responsibility and Organization for Response		**Regional Modifications**	**Location**
300.100	Duties of the President delegated to federal agencies	No Regional Modifications	See NCP
300.105	General organizational concepts	No Regional Modifications	See NCP
300.110	National Response Team	No Regional Modifications	See NCP
300.115	Regional Response Teams	A description of Region I RRT operations and administration is included.	RCP Sec. 5
300.120	On-scene coordinators and remedial project managers: general responsibilities	No Regional Modifications	See NCP
300.125	Notification and communications	No Regional Modifications	See NCP
300.130	Determinations to initiate response and special conditions	A description of the different emergency response plans that apply to oil and hazardous substances incidents is included.	RCP Sec. 7

300.135	Response operations	The RRT follows guidance set forth in the NRT Incident Command System/Unified Command guidance document.	RCP App. 7
300.140	Multi-regional responses	Region-specific geographic information included.	RCP Sec. 4
300.145	Special teams and other assistance available to OSCs/RPMs	No Regional Modifications	See NCP
300.150	Worker health and safety	No Regional Modifications	See NCP
300.155	Public information and community relations	The RRTs public information and community relations procedures follow the NRT JIC Model. The NRT JIC model guidance document can be found on the NRT website.	RCP App. 7
300.160	Documentation and cost recovery	No Regional Modifications	See NCP
300.165	OSC Reports	Information regarding when OSC Reports are completed is included. Information regarding the format of OSC Reports is in the ACP.	RCP Sec. 5
300.170	Federal agency participation	No Regional Modifications	See NCP
300.175	Federal agencies: additional responsibilities and assistance	Regional offices have more clearly defined their roles and capabilities.	RCP Sec. 6
300.180	State and local participation in response	Tribal and State information is specific to Region I	RCP Sec. 6
300.185	Nongovernmental participation	No Regional Modifications	See NCP

Subpart C -- Planning and Preparedness		**Regional Modifications**	**Location**
300.200	General	No Regional Modifications	See NCP
300.205	Planning and coordination structure	An overview and information on SERCs and LEPCs are included.	RCP Sec. 7

300.210	Federal contingency plans	A description of the different emergency response plans that apply to oil and hazardous substances incidents is included.	RCP Sec. 7
300.211	OPA vessel and facility response plans	No Regional Modifications	See NCP
300.212	Area response drills	No Regional Modifications	See NCP
300.215	Title III local emergency response plans	Information on SERCs and LEPCs within Region I is included.	RCP Sec. 7
300.220	Related Title III issues	No Regional Modifications	See NCP

Subpart D -- Operational Response Phases for Oil Removal		**Regional Modifications**	**Location**
300.300	Phase I - Discovery and Notification	No Regional Modifications	See NCP
300.305	Phase II - Preliminary assessment and initiation of action	No Regional Modifications	See NCP
300.310	Phase III - Containment, countermeasures, cleanup, and disposal	No Regional Modifications	See NCP
300.315	Phase IV - Documentation and cost recovery	No Regional Modifications	See NCP
300.317	National response priorities	No Regional Modifications	See NCP
300.320	General Pattern of response	No Regional Modifications	See NCP
300.322	Response to substantial threats to the public health or welfare of the United States	No Regional Modifications	See NCP
300.323	Spills of National Significance	No Regional Modifications	See NCP
300.324	Response to Worst Case Discharges	No Regional Modifications	See NCP
300.330	Wildlife conservation	This is covered by a national MOA between the Federal natural resource trustees and Federal response agencies.	RCP Sec. 4 and App. 11
300.335	Funding	No Regional Modifications	See NCP

Subpart E -- Hazardous Substance Response		**Regional Modifications**	**Location**
300.400	General	No Regional Modifications	See NCP
300.405	Discovery or notification	No Regional Modifications	See NCP
300.410	Removal site evaluation	No Regional Modifications	See NCP
300.415	Removal action	No Regional Modifications	See NCP
300.420	Remedial site evaluation	No Regional Modifications	See NCP

300.425	Establishing remedial priorities	No Regional Modifications	See NCP
300.430	Remedial investigation/feasibility study and selection of remedy	No Regional Modifications	See NCP
300.435	Remedial design/remedial action, operation and maintenance	No Regional Modifications	See NCP
300.440	Procedures for planning and implementing off-site response actions	No Regional Modifications	See NCP

Subpart F -- Hazardous Substance Response		**Regional Modifications**	**Location**
300.500	General	No Regional Modifications	See NCP
300.505	EPA/State Superfund Memorandum of Agreement (SMOA)	No SMOAs between EPA and States in Region I have been signed that pertain to emergency response or removal activities. Region I SMOAs apply only to remedial work at sites listed on the National Priorities List and are therefore outside the scope of this plan.	
300.510	State Assurances	No Regional Modifications	See NCP
300.515	Requirements for state involvement in remedial enforcement response	No Regional Modifications	See NCP
300.520	State involvement in EPA-led enforcement negotiations	No Regional Modifications	See NCP
300.525	State involvement in removal actions	No Regional Modifications	See NCP

Subpart G -- Trustees for Natural Resources		**Regional Modifications**	**Location**
300.600	Designation of federal trustees	Specific geographic areas entrusted to various agencies are listed in the ACPs.	See ACPs
300.605	State trustees	State Trustees are specific to Region I.	RCP Sec. 6
300.610	Indian tribes	Tribal Trustees are specific to Region I.	RCP Sec. 6
300.612	Foreign trustees	Region I borders Canada.	RCP Sec. 7

300.615	Responsibilities of trustees	Region I RRT policy with regard to environmentally sensitive areas is guided by a national MOA between Federal natural resource trustees and Federal response agencies.	RCP Sec. 4

Subpart H -- Participation by Other Persons		**Regional Modifications**	**Location**
300.700	Activities by other persons	No Regional Modifications	See NCP
Subpart I -- Administrative Record for Selection of Response Action		**Regional Modifications**	**Location**
300.800	Establishment of an administrative record	No Regional Modifications	See NCP
300.805	Location of the administrative record file	No Regional Modifications	See NCP
300.810	Contents of the administrative record file	No Regional Modifications	See NCP
300.815	Administrative record file for a remedial action	No Regional Modifications	See NCP
300.820	Administrative record for a removal action	No Regional Modifications	See NCP
300.825	Record requirement after the decision document is signed	No Regional Modifications	See NCP

Subpart J -- Use of Dispersants and Other Chemicals		**Regional Modifications**	**Location**
300.900	General	No Regional Modifications	See NCP
300.905	NCP Product Schedule	No Regional Modifications	See NCP
300.910	Authorization of use	The States of Region I, EPA, and USCG have instituted pre-authorization plans and memoranda of understanding that dictate RRT policy on the use of chemical countermeasures and in-situ burning.	RCP App. 2, 4, 5
300.915	Data requirements	No Regional Modifications	See NCP
300.920	Addition of products schedule	No Regional Modifications	See NCP

Subpart K -- Federal Facilities [Reserved]

Subpart L -- Involuntary Acquisition of Property by the Government Regional Modifications		Regional Modifications	Location
300.1105	Involuntary Acquisition of Property by the Government	No Regional Modifications	See NCP

SECTION 3: Strategic Plan

[Reserved.]

SECTION 4: Regional Response Policies

A. Objectives

This section serves as a source for regional response policies that have been instituted by members of the response community in Region I and are specific to response operations in Region I. Some of the policies are specific to geographic areas within Region I and the boundaries between these areas are described in this section. Some of the documents that set these policies, including memoranda of understanding or agreement (MOU or MOA) and policy documents, are included at the end of this section.

B. Regional Boundaries

From the perspective of a Federal-led response to a discharge of oil or a release of hazardous substances, the most significant geographic boundary in Region I is that between the inland and coastal zones. The U.S. Environmental Protection Agency (EPA) provides the OSC for all responses in the inland zone. The U.S. Coast Guard (USCG) provides the OSC for all responses in the coastal zone. These functions were delegated to EPA and USCG in Executive Order Nos. 12580 and 12777. Links to these documents are included in Appendix 8. The boundary between the two zones was established by EPA and USCG using recognizable landmarks (usually roads) that can be identified in the field. The inland/coastal boundary can be changed with the concurrence of the First Coast Guard District and Sector Commander in which the change is to take place, and the Chief of the Emergency Planning and Response Branch of EPA Region I. This boundary is defined as described in Appendix 9.

As per 40 CFR 300.120 (1), the USCG provides the OSC for oil discharges within or threatening the coastal zone. The USCG shall also provide OSCs for the removal of releases of hazardous substances, pollutants, or contaminants into or threatening the coastal zone. EPA generally provides the OSC for longer-term removal or remedial actions in response to releases of hazardous substances (except in response to releases from vessels). This policy is documented in the Instrument of Re-delegation between the Department of Transportation (DOT) and the EPA signed on 29 November 1987 and on 27 May 1988. A copy of this document is included in Appendix 10.

For planning and response purposes, the inland zone is considered to be one area and is covered under one ACP. In the future, EPA Region I may define sub-areas within the inland area. The coastal zone is divided into four separate areas covered by four different ACPs. These areas coincide with the boundaries of the four Sectors in the First Coast Guard District (Northern New England, Boston, Southeastern New England and Long Island Sound).

For response purposes, pre-designated OSCs are provided within each of these zones. An incident-specific EPA OSC is provided for a discharge or release from a group of OSCs home-based at the EPA Region I office in Boston, MA. USCG OSCs are the Sector Commander of each of the Sectors in Region I (Northern New England, Boston, Southeastern New England and Long Island Sound). The OSC for multi-area responses is generally from within this group as described in the following Multi-Area Response section. Precise geographic boundaries are defined in 33 CFR Part 3.05 (see www.ecfr.gov).

C. Multi-Area Responses

General: Oil discharges and hazardous substance releases may cross regional or area boundaries, potentially adding complexity to the response. The compact nature of jurisdictions within Region I heightens the importance of detailing responses to boundary incidents. This section describes the approach to spills that cross boundary areas within the region to ensure a consistent approach to both OSC leadership and efficient Regional Response Team support to the OSC, regardless of the location of an incident. It defines the system of activating the response mechanisms of multiple ACPs or RCPs in boundary incidents as called for by 40 CFR 300.140(a).

The following tenets apply to boundary situations:

- One OSC: There shall be only one OSC at any time during the course of a response operation to a single incident per 40 CFR 300.140(b), regardless of the various types of zones within the U.S. it may cross (COTP, inland/coastal, Area, Regional). Plans for joint response with Canadian equivalents of the U.S. OSC are detailed in international boundary contingency plans.
- Incident Origin is the initial determinant of the OSC: The OSC will generally be provided based on the location of the incident origin, although this may shift based upon the area most vulnerable to the greatest threat.
- OSC use of NIMS and Unified Command: National Incident Management System (NIMS) structures, most notably Incident Command System/Unified Command will be used to coordinate an effective response. Other NIMS tools for complex incident management may be required in such complex incidents.
- Single Incident Specific RRTs: A single incident specific Regional Response Team, or the international equivalent, most effectively supports the OSC, even if this incident-specific team draws upon multiple regional representatives of an agency.
- Disagreements addressed by RRT then NRT: The Regional Response Team Co-Chairs will designate the OSC if RRT agencies with jurisdiction within affected areas disagree on the OSC designation in a boundary incident, or will refer the matter to the National Response Team if it cannot.

Specific Boundaries:

Intra Regional Boundaries. Boundaries within the Region that determine the pre-designated On-Scene Coordinator consist of the Inland/Coastal Boundary between EPA and the USCG and the USCG Sector Boundaries within the coastal zone. Intra regional boundaries all fall within the area of responsibility of the Regional Response Team (RRT) and are supported by incident specific activation of RRT I as needed.

Inland-Coastal Zone Boundary. EPA and the USCG will carry out general agency and incident-specific responsibilities under the NCP, National Response Framework (NRF), RCP, and the applicable Area Contingency Plan. Both agencies will assist each other to the fullest extent possible to prevent or minimize the impacts of actual discharges or releases or threats of discharges of oil onto navigable waters or adjoining shorelines and actual releases or threats of releases of hazardous substances into the environment.

Appendix 9 of this plan defines the inland/coastal zone boundary as required by 40 CFR 300.210(b) specifying the inland zone where the EPA provides OSCs, and the coastal zone where the USCG provides OSCs. Appendix 9 further describes responses to incidents crossing the inland/coastal zone boundary, with the lead generally based upon the zone containing the source.

For certain incidents, a complete transfer of OSC responsibility may be more practical than providing expertise and resources to the primary agency through mutual support. A formal agency transfer may be appropriate based on the incident impact, the agency with greater expertise for the incident specifics, or because of workloads or other situational factors. A mechanism is provided in Appendix 9 for this transfer.

Coastal Area Contingency Plan/Coast Guard Sector Boundary. Within Region I, Coast Guard Sectors provide the pre-designated OSC and chair the Area Committee representing the same geographic area. If an incident crosses a Coast Guard Sector boundary, the original OSC will generally retain OSC for the duration of the spill, unless the adjacent area is vulnerable to the greatest threat. Multiple impacted Sectors will consult with First District (drmp)/RRT Co-chair, who will seek consensus or make the determination on the single OSC if greatest vulnerability is in question.

Significant discharges or releases may require shifting OSC and/or establishing a Unified Area Command (UAC) to support OSCs, prioritize critical resources, and provide strategic objectives. Execution of tactical operations and coordination remains the responsibility of the OSC/Unified Command (UC).

Regional Boundary. The principal characteristics of the Regional boundary that influence oil and hazardous substance response are inland/coastal and domestic/international. Both characteristics influence both the pre-designated OSC and the mechanism of RRT support. Certain Area Contingency Plans and International Plans span the Regional boundary and capture information related to international response.

Regional boundary with Canada

Bi-national contingency plans address oil and hazardous substance response along the U.S./Canadian Border. The mechanisms for the Inland border response are addressed under the Joint Inland Pollution Contingency Plan, with details in the CANUSEAST and CANSUQUE operational annexes that apply to New Brunswick and Quebec, respectively. The Joint Marine Pollution Contingency Plan covers the coastal boundary with the CANUSLANT operational annex applying to the Gulf of Maine/Bay of Fundy boundary. Both inland and coastal plans have an international equivalent of the Regional Response Team.

Coastal Region I/Region II Boundary

This coastal boundary area divides Long Island Sound following the CT/NY state boundary line. Coast Guard Sector Long Island Sound's zone crosses this boundary area, ensuring a consistent OSC and Area Contingency Plan. The Coast Guard First District is co-chair of both RRT I and II,

and will chair incident specific activations of the RRT along this boundary, drawing appropriate representation from both RRTs.

Inland Region I/Region II Boundary

The inland boundary area separates EPA Regions 1 and 2, which mirrors the New York/Vermont, New York/Massachusetts, New York/Connecticut state borders. A discharge/release crossing this boundary would lead to an incident specific RRT activation and assignment of the OSC initially based on the origin of the discharge/release. Initial actions to spills impacting the Regional boundary area between EPA Regions 1 and 2 would be conducted in accordance with the ACP based on the origin of the discharge/release. A specific sub-contingency plan is in development for the waters of Lake Champlain, which also has an international boundary.

D. In-Situ Burning

RRT policy on the use of in-situ burning in the waters in, or off the coast of Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont is defined in an MOU among EPA, USCG, and affected federal and state natural resource trustees. This MOU is included at the end of this section. The MOU does not apply to incidents that occur in Connecticut or off the coast of Connecticut (Long Island Sound). Decisions to use in-situ burning in those areas are made on a case-by-case basis in accordance with Subpart J of the NCP.

An In-Situ Burn Unified Command Decision Verification Checklist (Appendix 3) has been developed by the RRT that includes necessary steps and considerations in making the decision to use in-situ burning in a response.

E. Chemical Countermeasures

RRT policy on the use of chemical countermeasures varies by area.

- Use of chemical countermeasures during response operations within the zone of Sector Northern New England is governed by the Maine and New Hampshire ACP.
- Use of chemical countermeasures during response operations within the zones of Sector Boston and Sector Southeastern New England is governed by the Massachusetts/Rhode Island Dispersant Pre-Authorization Policy. These policies have been approved by all responsible natural resource trustees.
- Decisions to use chemical countermeasures in Long Island Sound are made on a case-by-case basis in accordance with Subpart J of the NCP.
- Additionally, the RRT has developed a unified command decision worksheet to aid responders in making the decision to use dispersants throughout Region I. The two final dispersant policies and the Unified Command Dispersant Worksheet are Appendices 4-6.

F. Dispersant and In-Situ Burning Monitoring Program

To monitor the effectiveness and results of chemical countermeasures and in-situ burning, the RRT uses the Special Monitoring of Applied Response Technologies (SMART) program. SMART is a cooperatively designed monitoring program jointly developed by the National Oceanic and Atmospheric Administration (NOAA), USCG, EPA, the Centers for Disease Control (CDC), and the

Bureau of Safety and Environmental Enforcement (BSEE). SMART relies on small, highly mobile teams to collect real-time data using portable, rugged, and easy-to-use instruments during dispersant and in-situ burning operations. Data are channeled to the Unified Command to assist in decision making and to address critical questions such as the following:

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

General descriptions of SMART monitoring during dispersant use or in-situ burning are included below. For a more detailed discussion of SMART, refer to the SMART Guidance Document, which can be found at http://response.restoration.noaa.gov/smart.

1. In-situ Burning

For in-situ burning operations, SMART recommends deploying one or more monitoring teams downwind of the burn, at sensitive locations such as population centers. The teams begin sampling before the burn begins to collect background data. After the burn begins, the teams continue sampling for particulate concentration trends, recording them manually at fixed intervals and automatically in the data logger, and reporting to the Monitoring Group Supervisor if the level of concern is exceeded. The Scientific Support Team forwards the data, with recommendations, to the Unified Command.

2. Dispersants

To monitor the efficacy of dispersant application, SMART recommends three options, or tiers.

Tier I: A trained observer, flying over the oil slick and using photographic job aids or advanced remote sensing instruments, assesses dispersant efficacy and reports back to the Unified Command.

Tier II: Tier II provides real-time data from the treated slick. A sampling team on a boat uses a fluorometer to continuously monitor for dispersed oil 1 meter under the dispersant-treated slick. The team records and conveys fluorometer data to the NOAA Scientific Support Team, which forwards it with recommendations to the Unified Command. Water samples are also taken for later analysis at a laboratory.

Tier III: By expanding the monitoring efforts in several ways, Tier III provides information on where the dispersed oil goes and what happens to it. Two fluorometers are used on the same vessel to monitor at two water depths. Monitoring is conducted in the center of the treated slick at several water depths, from 1 to 10 meters. A portable water laboratory provides data on water temperature, pH, conductivity, dissolved oxygen, and turbidity.

G. Endangered Species

Region I policy, with respect to environmentally sensitive areas, is set by an MOA between EPA, USCG, the Department of the Interior (DOI) Office of Environmental Policy and Compliance, U.S. Fish and Wildlife Service, NOAA, the National Marine Fisheries Service, and the National Ocean Service.

This MOA coordinates the consultation requirements specified in the Endangered Species Act regulations, 50 CFR 402, with the pollution response duties outlined in the NCP, to establish a general framework for cooperation and participation between the parties in the exercise of their spill planning and response duties. The primary goal of the MOA is to emphasize that adequate planning and active involvement of all participants can minimize or obviate damage to listed species and critical habitats, and the resulting need for a formal consultation under Section 7(a)(2) of the Endangered Species Act. The text of the MOA is included in Appendix 11.

H. Culturally Sensitive Areas and Sites of Historical Significance

Region I policy pertaining to culturally sensitive areas and sites of historical significance is set by a national programmatic agreement between the National Park Service (which operates the National Registry of Historic Places), the Advisory Council on Historic Preservation, the National Conference of State Historic Preservation Officers, EPA, USCG, the DOI Office of Environmental Policy and Compliance, NOAA, the Department of Energy (DOE), the Department of Defense (DOD), and the Department of Agriculture (USDA). The primary contact for seeking information and expertise on local culturally sensitive areas is the State Historic Preservation Officer for the applicable state. Federally recognized Tribes in Region I may also have culturally sensitive areas in the vicinity of an incident, and should be contacted if an incident threatens to affect tribal holdings. Contact information for the Tribes and for the State Historic Preservation Officers can be found in local ACPs. A copy of the programmatic agreement is available at http://www.achp.gov/ NCP-PA.html.

SECTION 5: Regional Response Team Operations and Administration

A. RRT Activation Procedures

An incident-specific RRT may be activated as an inter-governmental coordination team when an actual or potential discharge or release occurs that:

- Exceeds the response capability available to the federal OSC in the place where it occurs.
- Transects tribal lands.
- Transects state boundaries.
- Poses, or potentially poses, a substantial threat to the public health, welfare, environment, or to regionally significant amounts of property.
- Meets the definition of a major discharge as defined in the NCP.

The incident OSC or any RRT representative may request the activation of an incident-specific RRT during any discharge or release. The request should be made to the member agency providing the OSC, typically the USCG for coastal incidents, and the EPA for inland incidents. The request may be transmitted verbally, by facsimile, by email, or in writing.

Once a Co-Chair determines it is appropriate to activate the incident-specific RRT, the other Co- Chair will be notified of the decision. The Chair of the incident-specific RRT shall be the member agency providing the OSC/RPM, typically the USCG for incidents in the coastal zone and the EPA for incidents in the inland zone. Notification of the appropriate RRT members will be the responsibility of the Chair of the incident-specific RRT, but may be delegated to the RRT Coordinator or other staff representatives.

When activated, the incident-specific RRT may meet in person or convene by teleconference at the call of the Co-Chair, and may perform the following activities:

- Monitor and evaluate reports from the OSC. The incident-specific RRT may advise the OSC on the duration and extent of the federal response and may recommend to the OSC specific actions for responding to the discharge or release.
- Request other federal, tribal, state or local governments, and/or private agencies to provide resources under their existing authorities to assist the OSC's response efforts.
- Help the OSC prepare information releases for the public and for communications with the National Response Team (NRT).
- Submit reports to the NRT as significant developments occur.

Arrangements for meeting locations and/or teleconferences will be the responsibility of the Chair of the incident specific RRT, or designated representative. Prior to the meeting or conference call, the Chair

may provide reports or fact sheets to participating RRT members. Recording and distribution of summaries of meetings or teleconferences conducted upon incident-specific RRT activation shall be the responsibility of the RRT Coordinators, or other designated representative.

The RRT will be deactivated by agreement between the Co-Chairs or their representatives. The Chair, or his/her representative, will notify RRT members of the deactivation. The dates and times for activation and deactivation should be included in reports generated, and/or documented in minutes of meetings or teleconferences of the RRT.

B. Cross-Boundary Incident-Specific RRT

Incidents that affect two or more regions may require the activation of a cross-boundary incident-specific RRT, which will be chaired by the lead agency providing the OSC for the incident. If the incident OSC transitions to another Region or District, the incident-specific chair should likewise transfer. Participation by other federal and state agencies will be determined based on the location of the incident, the potentially impacted states, and the agency expertise that is required to address response issues and conditions, etc.

It is important for a cross-boundary incident-specific RRT to recognize that there may be differences and inconsistencies between the affected regions' plans, protocols and guidance documents. The purpose of the incident-specific RRT is to identify and resolve such issues, and to provide the OSC with technical assistance and support to address such cross-boundary issues. For example, in the event the OSC requests consultation and concurrence on the use of chemical countermeasures in a cross-boundary incident, members of the incident-specific RRT need to consider their respective regional plans and policies, while also identifying any differences in the involved regions' plans and policies. The incident-specific RRT should meet and deliberate jointly, and consensus should be reached that meets the requirements and preferences of the affected states and agencies involved.

C. RRT Committees and Work Groups

The RRT may establish committees to address various issues of concern to the RRT and the OSCs. In addition, the RRT may create additional work groups to accomplish a specific task. The Chairs of each committee, subcommittee, and working group are responsible for developing goals, objectives, and desired outcomes for their committees based upon the direction provided by the Co-Chairs. Each committee will meet as frequently as required to meet their goals, objectives, and desired outcomes. The RRT Coordinators, upon the request of the committee Chair, will assist in arranging these meetings. The committee Chairs also have the option of holding their meeting concurrently with the main RRT meeting. The Chairs are responsible for both the development and transmission of the committee agendas and meeting minutes.

The RRT currently maintains one standing committee: the Management Committee. The Management Committee consists of the EPA and USCG RRT Co-Chairs, Alternate Co-Chairs, and Coordinators, and is responsible for the development of and adherence to the RCP. The committee will also be responsible for ensuring the submission of information from the committees for inclusion in the RRT annual reports; ensuring that pertinent information regarding the NRT and activities of other RRTs is distributed to the RRT membership; highlighting significant issues to the Co-Chairs; and recommending modifications to RRT operations to the Co-Chairs. The committee will meet, at a minimum, on a semi-annual basis prior to, and in preparation for, the semi-annual RRT meetings.

D. RRT Meetings

As required by the NCP, the RRT meets at least twice a year, with the goal of rotating meeting locations among all member tribes and states. The RRT meets to review and comment on recent response actions or other issues related to the preparation, implementation, or exercise of region and/or area plans; to recommend revisions of the RCP and the NCP; to review OSC actions to ensure that RCP and the ACPs are effective; to conduct advance planning for use of dispersants, surface collection agents, burning agents, biological additives, or other chemical agents, in accordance with Subpart J of the NCP; and to conduct or participate in training and exercises as necessary to encourage preparedness activities of the response community within the region. The meetings are also a forum for the OSCs to interact with the RRT in a non-response setting, and for the RRT to ensure that it is prepared to adequately support OSCs in planning and response activities.

1. Preparing for Meetings

EPA and USCG will share the responsibility for arranging meeting locations. In instances where a charge will be incurred for meeting facilities, the RRT Coordinators will determine which agency has available budgetary resources to pay for the meeting facilities.

At each RRT meeting, a concluding item will be to establish the dates for the next semi-annual meeting. The Coordinators will be responsible for developing and finalizing the agenda for the next meeting and will send the agenda to RRT members and other interested parties prior to the meeting.

2. Conducting Meetings

The Co-Chairs will coordinate moderation of the semi-annual RRT meetings, with the assistance of the RRT Coordinators. Meeting moderation includes introducing speakers, maintaining adherence to the agenda and its time frame, determining appropriate times for breaks, and adjusting the agenda to fit changing schedules of speakers and other similar "last minute" changes.

In addition to making opening remarks and introductions, reviewing the summary of the previous meeting, and finalizing the agenda, the following activities will be conducted at each semi-annual meeting:

- An update from each Sector Commander, or his/her representative, in Region I will be presented and discussed.
- An update from the EPA Region I Emergency Response Section Chief or his/her representative will be presented and discussed.
- An update from each State representative will be presented and discussed.
- Update from each RRT Member Agency representative will be presented and discussed.
- Each Committee or Work Group Chair, or his/her representative, shall present a report on project progress and status.
- The Co-Chairs will propose a tentative date for the next semi-annual meeting.

The RRT Coordinators and Co-Chairs will strive to finalize and distribute meeting summaries within 60 days of the meeting. The EPA and USCG RRT Coordinators will be responsible for recording each semi-annual meeting, preparing the summary of the meeting, and distributing the summaries to RRT members and participants. Each summary will include a list of Action Items to be addressed by the RRT, with completion date, as indicated by the responsible individual. The RRT Coordinators will assist each other in the review and editing of the meeting summary. The meeting summaries will be made available on the RRT I website to all RRT members and other interested parties.

E. RRT Annual Reports

The RRT is requested to submit annual reports to the NRT each calendar year. The report should summarize recent activities, organizational changes, operational concerns, and efforts to improve state and local coordination.

The EPA and USCG RRT Coordinators shall be responsible for preparing the annual report in accordance with NRT guidance. The annual report will be published on the RRTI website. .

F. RRT Requests for OSC Reports

The September 15, 1994 National Contingency Plan revisions changed the requirement that OSC reports be prepared for every major pollution incident to a requirement that such reports be prepared "as requested by the NRT or RRT." OSCs may also issue OSC reports on their own initiative, independent of an RRT or NRT request.

G. RRT Call-Down Exercises

To test RRT responsiveness, the RRT Coordinators have the responsibility to conduct RRT Call-Down exercises annually. A Call-Down list will be used to facilitate the notifying of RRT agency contacts and the recording of exercise results.

H. Joint Work with the Canadian Government

Regional planning and coordination for response actions involving territory or waters in both the U.S. and Canada is conducted by the Canada-U.S. Atlantic Joint Response Team (for coastal incidents) and the Regional Joint Response Team (for inland incidents). These bodies are similar to the RRT, but also involve the Canadian Coast Guard and Environment Canada. Environment Canada and the Canadian Coast Guard are the Canadian agencies primarily responsible for oil and hazardous substance incident response. The general functions of the Canada-U.S. Atlantic Joint Response Team and Regional Joint Response Team include planning, preparedness, and monitoring response operations, and are outlined below.

- Provide advice and assistance to the U.S. OSC and Canadian OSC or Environment Canada Environmental Emergencies Officer during trans-boundary pollution incidents.

- Develop procedures, including legal, financial, customs, immigration, and other administrative procedures, to promote a coordinated trans-boundary response by all agencies to pollution incidents.

- Review lessons learned from U.S. and Canadian federal officials charged with directing federal response.

- Forward to respective federal, tribal, First Nations, state, and provincial authorities the relevant reports and recommendations.

- Evaluate and report on regional Joint U.S.-Canada exercises.

SECTION 6: Regional Response Team Agency Roles, Capabilities, and Support

A. Federal Agencies

During preparedness planning or during an actual response, various federal agencies may be called upon to provide assistance in their respective areas of expertise. Descriptions of the expertise and capabilities of the 15 Federal RRT member agencies are listed below.

1. U.S. Environmental Protection Agency co-chairs, with the USCG, the standing RRT and provides pre-designated OSCs for the inland zone. EPA provides expertise on ecological and environmental pollution control techniques and the ecological effects of oil discharges or releases of hazardous substances, pollutants, or contaminants. Access to EPA's scientific expertise can be facilitated through the EPA representative to the Research and Development Committee of the NRT; the EPA Office of Research and Development's Superfund Technical Liaisons or Region I Scientists located in EPA Region I offices in Boston, Massachusetts; or through EPA's Environmental Response Team. EPA also provides legal expertise on the interpretation of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and other environmental statutes. EPA may enter into a contract or cooperative agreement with the appropriate state in order to implement a response action.

2. Department of Homeland Security (DHS) has 2 member agencies within its organization.

a. U.S. Coast Guard (USCG), as provided in 14 U.S.C. 1-3, is a military service and an agency within DHS. The USCG provides the standing RRT co-chair and pre-designated OSCs for the coastal zone. The USCG maintains continuously manned facilities which can be used for command and control, and for surveillance of oil discharges and hazardous substance releases occurring in the coastal zone. The USCG also 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. The USCG may enter into a contract or cooperative agreement with the appropriate state in order to implement a response action. Where appropriate, the USCG may transfer lead-agency responsibilities to EPA for response to non-emergency hazardous substance releases within the coastal zone of Region I.

b. Federal Emergency Management Agency (FEMA) requires the development, evaluation, and exercise of all-hazard contingency plans for all FEMA-funded jurisdictions at the state and local levels. Superfund Amendments and Reauthorization Act (SARA) Title III plans are often annexes of these all-hazard plans. FEMA monitors and provides technical assistance regarding public sector emergency response training and planning for incidents involving hazardous substances. The Office of Protection and National Preparedness, supported by the Office of Response and Recovery, is FEMA’s 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. During a response, FEMA provides advice and assistance to the lead agency on coordinating relocation assistance and mitigation efforts with other federal agencies; tribal, state, and local governments; and the private sector.

FEMA will assume the role of lead federal agency when the President declares a Major Disaster or Emergency under the Stafford Act. FEMA-led federal response activities will follow the National Response Framework (NRF); and all federal NRF signatory agencies will be coordinated by a Federal Coordinating Officer (FCO)supplied by FEMA. FEMA's National and Regional Incident Management Assistance Teams support the FCO's coordination of FEMA-led federal response. In addition, under Presidential Decision Directive 39, FEMA will be the lead federal agency for consequence management for all domestic terrorism incidents, including those involving nuclear, biological, or chemical materials or weapons. FEMA-led federal response activities are in support of state and local response agencies.

3. Department of Defense has responsibility to take all action necessary with respect to releases where either the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of DOD. In addition to those capabilities provided by the USN Supervisor of Salvage, DOD may also, consistent with its operational requirements and upon request of the OSC, provide locally deployed USN oil spill equipment and provide assistance to other federal agencies on request. The following branches of DOD have particularly relevant expertise:

a. U.S. Army Corps of Engineers has specialized equipment and personnel for maintaining navigation channels, for removing navigation obstructions, for accomplishing structural repairs, and for maintaining hydropower electric generating equipment. The U.S. Army Corps of Engineers can also provide design services, perform construction, and provide contract writing and contract administrative services for other federal agencies. Where appropriate, the U.S. Army Corps of Engineers can also assist the OSC in organizing and carrying out the relocation of residents whose persons or residences are actually or potentially affected by a discharge or release.

b. U.S. Navy has extensive experience and trained personnel for the performance of search and rescue/recovery activities. Search and rescue/recovery operations generally include the use of aircraft and surface vessels. Joint USN/USCG search and rescue/recovery operations are coordinated by the relevant Navy Fleet Command and First Coast Guard District. **USN Supervisor of Salvage** is most knowledgeable and experienced in responding to salvage-related and open-sea pollution incidents.

4. Department of Energy generally provides designated OSCs that are responsible for taking all response actions with respect to releases where either the release is on, or the sole source of the release is from, any facility or vessel under its jurisdiction, custody, or control, including vessels bareboat-chartered and operated by DOE. In addition, under the Federal Radiological Emergency Response Plan (FRERP), DOE provides advice and assistance to other OSCs for emergency actions essential for the control of immediate radiological hazards. Incidents that qualify for DOE radiological advice and assistance are those believed to involve source, by-product, or special nuclear material or other ionizing radiation sources, including radium and other naturally occurring radio nuclides, as well as particle accelerators. Assistance is available through direct contact with the appropriate DOE Radiological Assistance Program Regional Office.

5. U.S. Department of Agriculture has scientific and technical capability to measure, evaluate, and monitor, either on the ground or by use of aircraft, situations where natural resources including soil, water, wildlife, and vegetation have been impacted by fire, insects and diseases, floods, hazardous

substances, and other natural or man-made emergencies. The USDA may be contacted through the U.S. Forest Service emergency staff officers who are the designated members of the RRT. Agencies within USDA have relevant capabilities and expertise as follows:

a. U**.S. Forest Service** is the designated USDA representative to the RRT. The U.S. Forest Service also has responsibility for protection and management of national forests and national grasslands; for prevention and control of fires in rural areas, in cooperation with state foresters and other federal agencies; and for emergency production, availability, and utilization of timber and timber products, in cooperation with the Department of Commerce (DOC). The agency has capabilities to provide and operate emergency communications systems, specialized aircraft, and human support facilities for large groups of people, and has specially trained incident management teams experienced in dealing with a variety of natural and man-made disasters. In addition, the U.S. Forest Service has personnel, laboratory, and field capability to measure, evaluate, monitor, and control releases of pesticides and other hazardous substances on lands under its jurisdiction.

b. **Agriculture Research Service** administers an applied and developmental research program in animal and plant protection and production; the use and improvement of soil, water, and air; the processing, storage, and distribution of farm products; and human nutrition. The Agriculture Research Service has the capabilities to provide regulation of, and evaluation and training for, employees exposed to biological, chemical, radiological, and industrial hazards. In emergency situations, the Agriculture Research Service can identify, control, and abate pollution in the areas of air, soil, wastes, pesticides, radiation, and toxic substances for Agriculture Research Service facilities.

c. **Natural Resource Conservation Service** has personnel in nearly every county in the nation who are knowledgeable in soil, agronomy, engineering, and biology. These personnel can help to predict the effects of pollutants on soil and their movements over and through soils. Technical specialists can assist in identifying potential hazardous waste sites and provide review and advice on plans for remedial measures.

d. **Animal and Plant Health Inspection Service** can respond in an emergency to regulate movement of diseased or infected organisms to prevent the spread and contamination of non-affected areas.

e. **Food Safety and Inspection Service** has responsibility to prevent meat and poultry products contaminated with harmful substances from entering human food channels. In emergencies, the Food Safety Inspection Service works with other federal and state agencies to establish acceptability for slaughter and disposal of exposed or potentially exposed animals and their products. In addition, the Service is charged with managing the Federal Radiological Emergency Response Program for the USDA.

f. **Food and Nutrition Service**, through the Food Distribution Program, provides food as part of emergency assistance to disaster victims. In appropriate emergency situations, the Food and Nutrition Services will authorize state agencies to issue food stamps based on emergency procedure.

g. **Agricultural Stabilization and Conservation Service**, in cooperation with the U.S. Forest Service, the Natural Resources Conservation Service, and the U.S. Army Corps of Engineers, is responsible for emergency plans and preparedness programs for food processing, storage, and distribution through the wholesale level.

h. **National Agricultural Statistics Service** serves as a source of data on crops, livestock, poultry, dairy products, and labor. State Statistical Offices collect and publish local information on these topics.

6. Department of Commerce, through the National Oceanic and Atmospheric Administration, provides scientific support for response and contingency planning in coastal and marine areas, including assessments of the 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 and associated clean-up and mitigation methods; provides expertise on living marine resources and their habitats, including endangered species, marine mammals and National Marine Sanctuary ecosystems; provides information on actual and predicted meteorological, hydrological, ice, and oceanographic conditions for marine, coastal, and inland waters, and tide and circulation data for coastal and territorial waters and for the Great Lakes. DOC and NOAA have access to research ships and aircraft based at the Atlantic Marine Center in Norfolk, Virginia. The NOAA National Environmental Satellite Data and Information Service resource trustee resource and provide satellite imagery and remote sensing capabilities as well. DOC, through NOAA, fulfills its responsibilities through three roles under the NCP: as an RRT member, as a natural resource trustee, and as a Scientific Support Coordinator.

NOAA represents the DOC on the RRT and assists the OSC by providing advice and access to DOC resources and by representing the policies of the DOC. The DOC RRT representative provides the formal DOC concurrence as a natural resource trustee on the use of chemical countermeasures and in-situ burning and is responsible for notifying NOAA's Damage Assessment Center and National Marine Sanctuary program as appropriate.

NOAA, as National Resource Trustee of marine resources and fisheries in accordance with the NCP, provides scientific expertise on living aquatic resources for which it is responsible (through the National Marine Fisheries Service); provides current and predicted meteorological, hydrologic, ice, and limn logical conditions [through the NOAA National Weather Service]; provides charts and maps; and provides communication services to the general public, various levels of government, and the media via its NOAA weather wire and NOAA weather radio systems; and performs Natural Resource Damage Assessments through the Damage Assessment and Restoration Program of the Damage Assessment Center.

NOAA also provides the Scientific Support Coordinator to the OSC for responses in the coastal zone. The NOAA Scientific Support Coordinator provides scientific advice to support the OSC in operational decisions that will protect the environment, mitigate collateral harm, and facilitate environmental recovery. The Scientific Support Coordinator advises on other technical issues (as requested by the OSC) after consulting with the appropriate NOAA Office of Response and Restoration resources or other federal, state, or academic networks. These consultation activities include considering advice from the trustee agencies (including the NOAA Office of Response and Restoration RRT member), and any divergent opinions.

7. The U.S. Department of Health and Human Services (U.S. DHHS) is the lead federal agency responsible for public health and medical response to emergencies. The Office of the Assistant Secretary for Preparedness and Response (ASPR) is responsible for emergency response within the agency and the lead for all such activities.

ASPR has a number of capabilities to plan for and respond to emergencies. There are Regional Emergency Coordinators (RECs) assigned throughout the country in each of the 10 DHHS regions (the same regional structure as FEMA); there is also an REC assigned in the National Capitol Region (NCR). There are three RECs assigned to Region I (New England). The RECs plan for and then provide the leadership for responses in the region. Nationally there is the capability to deploy command and control personnel in the form of an Incident Response Coordination Team (IRCT). ASPR maintains the Secretary's Operations Center (SOC) as a 24-hour emergency monitoring and command center in Washington DC.

DHHS ASPR can reach out to any DHHS subordinate agency to plan for and then respond to emergencies. A number of agencies have day-to-day responsibilities and emergency response functions. These include the Centers for Disease Control and Prevention (CDC), Food and Drug Administration (FDA), Administration for Children and Families (ACF), Centers for Medicare and Medicaid Services (CMS), the Substance Abuse and Mental Health Services Administration (SAMHSA), the Indian Health Service (IHS), and the Public Health Service (PHS).

DHHS ASPR directly controls the National Disaster Medical System assets, which principally involve civilians who can be mobilized as federal employees and deployed in a variety of teams. These teams include Disaster Medical Assistance Teams (DMATs), Disaster Mortuary Teams (DMORTs), and National Veterinary Response Teams (NVRTs).

The U.S. Public Health Service, under the Office of the Assistant Secretary for Health (ASH), U.S. DHHS, has several thousand commissioned PHS officers working in a variety of positions throughout the federal and state governments. These PHS officers are deployable for emergencies, in a variety of individual roles and teams.

The Agency for Toxic Substances and Disease Registry (ATSDR) is a DHHS agency directly funded through and in support of the EPA. ATSDR representatives are assigned to Region I. Regional representatives assist in emergency response events that involve RRT issues by coordinating with ATSDR Headquarters Emergency Response Program.

Under CERCLA Section 104(I), ATSDR is required to:

- Establish appropriate disease/exposure registries.
- Develop, maintain, and provide information on health effects of toxic substances.
- Conduct research to determine relationships between exposure to toxic substances and illness.
- Together with EPA, develop guidelines for toxicological profiles for hazardous substances.
- Develop educational materials related to health effects of toxic substances for health

professionals.

Any agency can reach out to the RECs in their region for further information on federal medical emergency resources or for operational issues.

8. Department of the Interior (DOI) – Designated as a ***Natural Resource Trustee*** under the NCP, the Regional Environmental Officer is DOI's representative on the RRT. Department land managers have jurisdiction over the National Park System, national wildlife refuges and fish hatcheries, and public lands. In addition, bureaus and offices have relevant expertise as follows:

a. **Office of Environmental Policy and Compliance -** Represents the DOI on the RRT and is responsible for coordinating RRT/DOI activities. The Office of Environmental Policy and Compliance operates within the Office of the Secretary, and is responsible for policy development and coordination of the diverse interests of DOI. The Regional Environmental Officer, in addition to being DOI's RRT representative, provides a number of services, including the DOI position on chemical countermeasure and in-situ burn decisions, liaison for technical assistance requests from the OSC, administrative details to secure response cost reimbursement approval from the OSC, and ensures the DOI ***Office of Restoration and Damage Assessment (ORDA)*** is notified of incident details. The ORDA coordinates the designation of a DOI bureau official, whose bureau's resources have been affected, as the DOI Authorized Official. This official acts on behalf of the Secretary of Interior to coordinate and conduct DOI incident specific natural resource damage assessment and restoration (NRDA) activities

b. **U.S. Fish and Wildlife Service -** Manages, protects, and provides expertise on migratory birds, federally-listed threatened and endangered species and their designated critical habitats, certain anadromous fish, inland waters and wetlands, and certain federal lands (***National Wildlife Refuges, Waterfowl Production Areas,*** and ***National Fish Hatcheries***). The Service can provide responders with information concerning these resources, as well as technical assistance concerning the effects of oil on these resources. In addition, the Service will help coordinate wildlife rescue and rehabilitation efforts in conjunction with the state natural resource trustee(s). U.S. Fish and Wildlife Service is responsible for assessing damages to natural resources as a result of discharges of oil or releases of hazardous substances into the environment, and issues federal Migratory Bird Permits to qualified individuals and/or organizations that may be available to conduct wildlife rehabilitation operations related to oil spill incidents.

c. **U.S. Geological Survey -** Provides advice and information concerning geohydrologic, geologic, and geochemical data; ground and surface water data; biological resources; and maps. The U.S. Geological Survey maintains stream flow gauges throughout Region II and can provide historical stream flow information, assist with predicting the time/travel/trajectory of spills, and collect and analyze surface and groundwater samples.

d. **Bureau of Land Management -** Has expertise in minerals, soils, vegetation, archeology, and wildlife habitat.

e. **Bureau of Safety and Environmental Enforcement (BSEE) -** Is responsible for safety and environmental oversight of offshore oil and gas operations, including permitting and inspections, of offshore oil and gas operations. Its functions include the development and enforcement of safety and environmental regulations, permitting offshore exploration, development and production, inspections, offshore regulatory programs, oil spill response and newly formed training and environmental compliance programs.

f. The **Bureau of Ocean Energy Management (BOEM)** manages the exploration and development of the nation's offshore resources. It seeks to appropriately balance economic development, energy independence, and environmental protection through oil and gas leases, renewable energy development and environmental reviews and studies.

g. **Office of Surface Mining -** Has expertise in coal mine wastes and land reclamation.

h. **National Park Service -** Provides general biological, natural, and cultural resource managers to evaluate, measure, monitor, and contain threats to park system lands and to resources including national parks, lake shores, monuments, national historic sites, rivers, and recreation areas. The National Park Service also provides expertise on historic, archeological, architectural, and recreational resources and sites on the ***National Register of Historic Places***. A Programmatic Agreement between the National Park Service, several historic preservation organizations and several response agencies guides Region II policy regarding protection of historic properties.

i. **Bureau of Reclamation -** Has expertise regarding engineering, hydrology, and reservoirs.

j. **Bureau of Indian Affairs -** Is responsible for protecting tribal trust resources, and facilitating an active role in planning and response for tribal governments who wish to do so. The Bureau of Indian Affairs coordinates activities affecting tribal lands, and provides assistance in identifying tribal government officials.

9. Department of Justice can provide expert advice on complicated legal questions arising from discharges or releases, and federal agency responses. In addition, the Department of Justice represents the federal government, including its agencies, in litigation relating to such discharges or releases. In this capacity, the role of the Department of Justice representative might include: providing general legal advice; reviewing and commenting on regional planning and procedural documents; and providing incident-specific assistance, including assigning staff attorneys when the incident may result in litigation or raise difficult issues of interagency coordination. Other legal issues or questions will be directed to the lead agency in-house counsel.

a. In addition, the Department of Justice, through the **Federal Bureau of Investigation** is the lead federal agency for crisis management response to all domestic terrorism incidents.

10. Department of Labor, through the Occupational Safety and Health Administration (and States operating plans approved under Section 18 of the Occupational Safety and Health Act) 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 safety and health standards and regulations promulgated by the Occupational Safety and Health Administration [(OSHA) or the states] in accordance with section 126 of SARA and all other applicable standards regulations promulgated under the Occupational Safety and Health Act and its general duty clause. OSHA inspections may be self-generated, consistent with its program operations and objectives, or may be conducted in response to requests from EPA or another lead agency, or in response to accidents or employee complaints. OSHA may also conduct inspections at hazardous waste sites in those states with approved plans that choose not to exercise their jurisdiction to inspect such sites. On request, OSHA will provide advice and consultation to EPA and other NRT/RRT agencies, as well as to the OSC, regarding hazards to persons engaged in response activities. OSHA may also take any other action necessary to assure that employees are properly protected at such response activities. Any questions about occupational safety and health at these sites may be referred to the OSHA Regional Office.

11. Department of Transportation provides response expertise pertaining to transportation of oil or hazardous substances by all modes of transportation. Through the Office of Pipeline Safety's Research and Special Programs Administration, DOT offers expertise in the requirements for packaging, handling, and transporting regulated hazardous materials. DOT, also through the Research and Special Programs Administration, establishes oil discharge contingency planning requirements for pipelines, for transport by rail, and for containers used for bulk transport of oil. DOT also provides access to federal highway resources and the Federal Aviation Administration.

12. Department of State will lead in the development of international joint contingency plans. The Department of State will also help to coordinate an international response when discharges or releases cross international boundaries or involve foreign flag vessels. Additionally, the Department of State will coordinate requests for assistance from foreign governments and U.S. proposals for conducting research at incidents that occur in waters of other countries. Finally, the Department of State will also coordinate any foreign offers of assistance in the event of an incident in U.S. waters.

13. Nuclear Regulatory Commission will respond, as appropriate, to releases of radioactive materials by its licensees, in accordance with the Nuclear Regulatory Commission Incident Response Plan (NUREG-0728), to monitor the actions of those licensees and assure that the public health and environment are protected and adequate recovery operations are instituted. The Nuclear Regulatory Commission will keep EPA informed of any significant actual or potential releases in accordance with procedural agreements. In addition, the Nuclear Regulatory Commission will provide advice to the OSC when assistance is required in identifying the source and character of other hazardous substance releases where the Nuclear Regulatory Commission has licensing authority for activities utilizing radioactive materials.

14. General Services Administration provides logistic and telecommunications support to federal agencies. During an emergency situation, the General Services Administration quickly responds to aid state and local governments as directed by other federal agencies. Services might include leasing and furnishing office space, setting up telecommunications and transportation services, and providing advisory assistance. Depending on the specific requirements of the OSC or the emergency situation, services may be furnished through General Services Administration personnel who are located at the scene of the oil discharge or hazardous substance release, or at their regular duty stations. Expenses incurred by the General Services Administration while providing requested assistance to other agencies must be reimbursed.

B. Federally Recognized Tribes

According to § 300.610 of the NCP, the head of the governing body of any federally recognized tribe is the designated natural resource trustee for lands and resources belonging to that tribe. As such, the tribes are full participants in RRT activities. In New England, there are 10 federally recognized Tribes with an approximate land base of 260,000 acres. Throughout Indian Country, Tribes have primarily elected to place environmental activities within their Natural Resource Departments. The New England Tribes have done likewise. Currently, all the New England Tribes have Tribal environmental management programs. The Tribes have developed capability to assess environmental quality through monitoring, data collection, and reporting. Most of the Tribes are conducting air and water monitoring, and a few have approved assessments and Best Management Practices for non-point source pollution. The Mashpee Wampanoag Tribe, which received federal recognition in 2007, is just beginning to develop an environmental capability. The New England Tribes run across a spectrum from upland blueberry barrens to large and sophisticated gaming operations and resort hotels. Agriculture contributes to non-point pollution in rural areas whereas tribal gaming enterprises generate vehicle trips which generate air emissions. Ozone generation from upwind sources, atmospheric deposition of toxic contaminants, accumulation of persistent, bio-accumulative and toxic (PBT) compounds, and water quality are specific concerns of the tribes.

Tribal members rely on natural resources to a greater extent than the general population to provide the Tribe with food and spiritual sustenance. Many tribal members engage in hunting, fishing, and gathering. Medicine men and women and ethno-biologists gather plants, herbs and animals as part of cultural practices on tribal land and other traditionally occupied areas. Therefore, Tribal members are at greater risk due to a higher level of environmental exposures than the general population. In addition, with regard to climate change, because the New England Tribes often live in coastal or riverine areas and rely on specific ecological settings for their cultural existence and subsistence any changes in sea level or climate will be particularly felt. The Tribes also have continuing concerns about environmental contaminants and their impact on tribal health

The federally recognized tribes and their lands are described below.

1. **Houlton Band of Maliseet Indians**: The lands of the Houlton Band of Maliseet Indians are comprised of four tracts totaling approximately 1325 acres located in Houlton, Monticello and Littleton, Maine with a majority of the tribal land holdings along the Meduxnekeag River. The Houlton Band of Maliseet Indians does not currently have a comprehensive emergency response plan; however, the tribe is working with the USCG, the Maine Department of Environmental Protection (ME DEP), and EPA to formulate one.

2. **Narragansett Indian Tribe**: The Narragansett tribal lands consist of approximately

2,000 acres located in Charlestown, Rhode Island approximately 2 to 3 miles from the Atlantic Coast. The Narragansett Indian Tribe does have an oil and hazardous substances response plan in place that is currently being updated.

3. **Passamaquoddy Tribe of Indians - Indian Township Reservation**: The Indian Township Reservation is located in Indian Township, Maine and occupies approximately 27,000 acres. Currently, no tribal oil or hazardous substances response plan is in place; however, the tribe is working with the Washington County Local Emergency Planning Committee (LEPC) to develop a countywide response plan.

4. **Passamaquoddy Tribe of Indians - Pleasant Point Reservation**: The Pleasant Point Reservation is located on 400 acres of land on Pleasant Point in Perry, Maine, immediately north of Bar Harbor. The Passamaquoddy Tribe has recently started a hazardous materials response program under the direction of the Tribal Emergency Measures Coordinator and is in the process of completing an oil and hazardous substances response plan.

5. **Penobscot Indian Nation**: According to the Penobscot Indian Nation, the lands of the Penobscot Nation extend along the Penobscot River, from Indian Island to a point approximately 200 miles upstream. These lands include the riverbed, banks, islands, and all branches joining that reach of the Penobscot River. The Penobscot Indian Nation is currently working with area municipalities and Penobscot County authorities to establish a coordinated County Response Team.

6. **Mashantucket Pequot Tribal Nation**: The Mashantucket Pequot tribal lands are located in Mashantucket, Connecticut, which is part of Ledyard, Connecticut. The Mashantucket Pequot Tribal Nation's Fire & Emergencies Services is staffed with 28 fulltime employees, 24 of which are trained to the haz-mat technician level. The Mashantucket Tribal Fire & Emergency Services is also part of the regional hazardous materials response team and is part of the State of CT mutual aid plan. The Mashantucket Pequot Tribal Nation has developed a Multi-Jurisdictional Hazard Mitigation Plan.

7. **Wampanoag Tribe of Gay Head (Aquinnah)**: The lands of the Wampanoag Tribe of Gay Head (Aquinnah) consist of approximately 600 acres in Aquinnah, Massachusetts (formerly Gay Head, Massachusetts) on the western side of Martha's Vineyard. The Wampanoag Tribe of Aquinnah has no emergency response plan in place to date; however, representatives of the Tribe have been involved in coordinated planning efforts with USCG, NOAA, and DOI.

8. **Aroostook Band of Micmacs**: The lands of the Aroostook Band of Micmacs consist of 982 acres on six tracts located on and around former Loring Air Force Base in Bridgewater, Caribou, Limestone, and Presque Isle, Maine. The Aroostook Band of Micmacs does not presently have an oil or hazardous substances response plan in place.

9. **Mohegan Tribe**: The Mohegan tribal lands cover approximately 600 acres and are located in Uncasville, Connecticut. The Mohegan Tribe has an emergency oil and hazardous substances response plan in place through the Tribal Fire Department.

10. **Mashpee Wampanoag Tribe:** A newly recognized tribe located in the Mashpee section of Cape Cod, MA.

C. <u>States</u>

The six States in Region I all have agencies with personnel, equipment, and expertise to assist in a response effort. These States and their capabilities are listed below.

1. **Connecticut**: The Connecticut Department of Energy and Environmental Protection (CT DEEP), Emergency Response and Spill Prevention Division (ERSPD), is the designated representative to the Region I RRT for the State of Connecticut and is the lead agency for the state in addressing spills. The ERSPD of the CT DEEP Bureau of Materials Management and Compliance Assurance is responsible for protecting the public and the environment from emergencies resulting from a release or discharge. The division also develops oil spill contingency plans for emergency situations, maintains a 24-hour statewide emergency response capability, and supervises cleanup mitigation activities and contracts with cleanup response contractors (or OSROs) as necessary. Within the ERSPD, there are five program areas:

- Emergency Response Program - Assists communities by providing a 24- hour statewide emergency response network for spill incidents and releases of hazardous materials and petroleum products.

- Marine Terminal Program - Provides terminal spill prevention training for private oil spill cooperative operators.

- Environmental Health and Safety Actions Program - Executes mitigation spill cleanup by containing releases and removing hazardous materials.

- Spill Incident Preparedness and Prevention Program - Provides training and technical assistance to fire departments and municipal, industry, and business response groups. This program also maintains Long Island Sound spill response equipment.

- Outreach Program - Maintains communications with federal, state, and local agencies involved in spill mitigation and cleanup activities by providing technical expertise and services for containment and removal.

According to Section 22a-449 of the Connecticut General Statutes, whenever there is a discharge of oil, petroleum, or chemical products, or a release of hazardous wastes upon any land or waters of the state or into any off-shore or coastal waters, which may result in pollution, the Commissioner of the Department of Energy and Environmental Protection will determine the best and most expedient method to remove or contain the discharge. Connecticut environmental law establishes "strict liability" for discharges or releases of most pollutants into the environment. The responsible party or potentially responsible party (RP/PRP) and the owner of the property on which the incident occurs are responsible to contain the release or discharge and report it immediately to CT DEEP ERSPD.

The commissioner is responsible for determining the RP/PRP(s) who caused the discharge and notifying, in writing, the chief executive officer and the local director of health of the municipality in which the discharge occurred. This notification must be provided in a timely manner.

According to the Connecticut General Statutes, Section 22a-453, "The commissioner shall represent the state in its relations with the federal government and with any municipality and with any regional or interstate authority in all matters relating to oil; petroleum; chemical liquids; solid, liquid, or gaseous products; hazardous wastes pollution or contamination; or emergency resulting from the discharge, spillage, uncontrolled loss, seepage, or filtration of such substance or material or waste."

2. **Maine**: The Maine Department of Environmental Protection (ME DEP) is the designated representative to the Region I RRT for the State of Maine and is the lead agency for the state in addressing spills, and providing a 24-hour response capability. ME DEP, through the Division of Response Services, provides technical assistance to the RP/PRP and the responding personnel, and ensures compliance with Maine spill regulations and other pertinent federal and state rules and regulations. Technical assistance takes the form of chemical identification, handling, and hazard information; evaluation of the threat to environmental and public safety; personal protection recommendations; containment and cleanup methods; and resource identification and location. On large spills, or where the spiller fails to respond adequately, ME DEP staff will respond to the site to assist in the response effort, assuming the role of incident commander, or participating in a Unified Command if necessary. Disposal of recovered material that is classified as a "special waste" or "non-

recoverable oily waste" is referred by Division of Response Services staff to appropriate personnel in ME DEP. Other Maine state agencies may provide assistance to response efforts as follows:

a. Bureau of Remediation and Waste Management - The Bureau of Remediation and Waste Management will respond as necessary when notified of an oil spill. Bureau staff will be available to provide guidance on proper treatment, storage, and disposal of oil and oil-contaminated debris. The Bureau will also coordinate recovery damages and cleanup costs.

b. Bureau of Land and Water Quality - The Bureau of Land and Water Quality will assist, at the direction of the state Oil Spill Coordinator, in the assessment of damages to natural resources. Staff will be able to provide information on the use of chemical countermeasures (i.e., herding agents, dispersants, and bioremediation).

c. Bureau of Air Quality - The Bureau of Air Quality is responsible for monitoring and licensing air pollution and toxic emissions. In addition, bureau staff will provide guidance if in-situ burning is being considered as a response action.

d. Office of Management Services - The Office of Management Services provides support on the use of Geographic Information System to identify sensitive areas subject to possible contamination in the event of a spill along the coast of Maine.

e. Department of Inland Fisheries and Wildlife - The Department of Inland Fisheries and wildlife will assist the state Oil Spill Coordinator with identifying sensitive areas and resources within the marine and inland environments that may be threatened by oil spills. The Department will orchestrate activities related to the implementation of the wildlife rehabilitation plan, including issuance of permits to handle oiled birds. The Department of Inland Fisheries and Wildlife, is a State Trustee of Natural Resources under the OPA for birds and some mammals (seals) in or near the marine environment.

f. Department of Marine Resources - The Department of Marine Resources will monitor and assess the damage to the marine environment caused by oil spills, and will assist in delineating habitat areas for priority protection and cleanup. The Department of Marine Resources is the State Trustee of Natural Resources under the OPA for marine fish, marine mammals (except seals), and other marine resources.

g. Department of Conservation - The Department of Conservation is the State Trustee of Natural Resources under OPA for state lands, parks, and preserves.

h. Maine Emergency Management Agency The Maine Emergency Management Agency is responsible for carrying out a program for emergency preparedness. The program covers a broad range of functions, such as firefighting; police; medical and health services; rescue; engineering; evacuation and transportation; and emergency welfare.

i. Governor's Office - In the event of a disaster beyond local control, an oil spill proclamation may be issued by the Governor. Once the proclamation is issued, the Governor may use all available resources of the state government and transfer the direction, personnel, or functions of state departments and agencies for the purpose of expediting emergency services.

j. Maine Historic Preservation Commission - The Maine Historic Preservation Commission will assist in identifying sensitive coastline segments that contain or may contain significant

archeological sites. The Commission will also assist by recommending protection and cleanup methods for sensitive coastline areas. The Maine Historic Preservation Commission will assist in federal agency responsibilities under Section 106 of the National Historic Preservation Act during a major oil spill cleanup.

k. Maine National Guard - The Maine National Guard has formed a Weapons of Mass Destruction Civil Support Team which can respond to large-scale hazardous substances incidents with specialized equipment and expertise.

3. **Massachusetts**: Through the Executive Office of Energy and Environmental Affairs (EEA), the Massachusetts Department of Environmental Protection (MA DEP) is the designated representative of Region I RRT for the Commonwealth of Massachusetts. MA DEP is the Trustee for Natural Resources in Massachusetts under OPA. "First responder" activities are conducted by local units of government and the various Hazardous Material Response teams located throughout the state. MA DEP's responsibilities, carried out through the Emergency Response section, include overseeing and approving response actions to oil discharges and hazardous material releases to the environment, and ensuring protection of the environment and public safety, health, and welfare. The RP/PRP must notify the MA DEP of all releases or threats of release of oil and hazardous materials.

The Secretary of EEA has been designated as the Commonwealth's Natural Resources Trustee. Within EEA, the MA DEP administers the Natural Resource Damages Program. Scientific and technical advice to spill responders and the Trustee can be provided by the Department of Fish and Game, Department of Conservation and Recreation, and Coastal Zone Management. The Trustee and its agencies can provide can provide: information concerning the lands and resources specifically under their jurisdiction; scientific expertise and oversight for handling and rehabilitating oil-contaminated wildlife; Shoreline Cleanup and Assessment (SCAT); Natural Resources Damage Assessment (NRDA); and habitat restoration oversight.

4. **New Hampshire:** The New Hampshire Department of Homeland Security and Emergency Management is the designated representative to the Region I RRT for the State of New Hampshire. However, the New Hampshire Department of Environmental Services (NH DES) has primary jurisdiction over the cleanup of oil and hazardous substance releases. State of New Hampshire regulations for reporting and removing oil discharges and hazardous substance releases are set forth in State Regulations: RSA 146-A; RSA 147-A; Env-OR 600; and Env-HW 500. NH DES is one of two natural resource trustees in the State of New Hampshire (see also NH Fish and Game)

Personnel from the Spill Response and Complaint Investigation Section of NH DES assume lead clean up responsibilities in the event of a discharge of oil, or hazardous materials. NH DES maintains a pre-designated incident command post that can be used to coordinate a response. This facility is located at 222 International Drive in Portsmouth, New Hampshire.

Within NH DES, there are three divisions that have a major role in oil and hazardous substance response. These divisions are as follows:

- Waste Management Division - This division provides direction on proper treatment, storage, and disposal of waste from oil or hazardous substance incidents and serves as the liaison to EPA

during hazardous waste incidents. The Waste Management Division administers the New Hampshire State Hazardous Waste Clean Up Fund and can provide access to licensed waste transporters and cleanup contractors. Within the Waste Management Division is located the Spill Response and Complaint Investigation Section (SRCIS). The SRCIS covers a wide variety of functions including emergency response to petroleum and hazardous waste spills, and investigating complaints related to improper handling and disposal of petroleum, hazardous and solid wastes onto the ground or into surface waters of the state.

- Air Resources Division (ARD) - This division is responsible for achieving and maintaining air quality in New Hampshire that is protective of public health and the natural environment. The ARD regulates and limits air emissions from a variety of sources in New Hampshire through a Statewide Permitting Program. The ARD Air Toxics Control Program is designed to promote public health by controlling and regulating releases of toxic air pollutants to the ambient air, thus reducing human exposure to these toxic chemicals. The Environmental Health Program within ARD investigates, prevents and reduces impacts that may result from exposures to chemical contaminants in the environment.

- Water Division (WD) – The Water Division conducts a variety to programs designed to ensure the protection of New Hampshire's surface water and ground water. The Division oversees the operation, protection and emergency response for public water supplies throughout the state. It conducts regular water quality sampling, water facility inspections, and provides technical assistance. They also train water supply operators on responding to emergencies at their facilities. The WD is responsible for mapping locations of all public water supplies. NH DES protects the state's surface water through its active lakes and rivers monitoring programs and it biological and chemical analyses of rivers and water bodies.

Nine other units of state government also have resources and expertise to aid response efforts. These units are as follows:

a. New Hampshire Homeland Security and Emergency Management (NH HSEM) – This office assists in notification and coordination of other state agencies and their activities. NH HSEM also maintains am Incident Planning and Operations Center, at 110 Smoky Bear Blvd in Concord, NH. NH HSEM is responsible for coordinating the State's response to major disasters. This includes natural disasters such as hurricanes, floods and severe winter storms and human caused disasters, such as nuclear power plant accidents or chemical spills. In its Homeland Security function NH HSEM also works on planning and training to prepare for terrorist attacks. NH HSEM assists in training and volunteer efforts during a response and is responsible for evacuation procedures should evacuation become necessary. If the Governor of New Hampshire declares the incident to be a state emergency, NH HSEM will assume the role of lead state agency.

b. Department of Safety - This department assists in response efforts through the Division of State Police, Fire Marshall's Office, the Division of Fire Safety, Division of Emergency Services and Communications, Marine Patrol, and the Division of Fire Standards and Training and Emergency Medical Services. The Department of Safety provides 24-hour-notification communications facilities, and back-up response communications infrastructure.

Site security and crowd control, as well as evacuation and transportation-related logistics, are handled by the Department of Safety. The Department of Safety can also provide technical assistance to local first responders and can assume incident command at the request of local public safety officials.

c. Department of Fish and Game – This department works in partnership with the public to: conserve; manage; and protect the state's fish, wildlife and marine resources and their habitats. Fish and Game also educates the public about these resources and provides the public with opportunities to use and appreciate them. Within Fish and Game is the Marine Fisheries Division which is responsible for the regulation and promotion of both recreational and commercial marine fishing in the salt waters of the state. State waters include all waters within 3 miles of the coastline. The Division conducts scientific investigations to monitor marine resources and habitat as well as the harvest of fishery resources within the state waters and monitors and assesses damage to fish and other aquatic life, and can assist in the collection of water samples. Fish and Game is a natural resource trustee for the State of New Hampshire. Fish and Game would be integrally involved in any natural resource damage assessment relating to spills. Fish and Game works in concert with NH DES to write and maintain the NH Oiled Wildlife Contingency Plan.

d. Department of Transportation (NHDOT) - This department provide safe and secure travel options for all the state's residents, visitors and goods movement. Within NHDOT is the Bureau of Highway Maintenance. During state emergencies or accidents this Bureau is often called up on to assist in clearing roads of washout debris, fallen trees and repairing roads so vehicles can safely pass. They can also provide personnel and heavy equipment to assist in containment and cleanup of spilled oil, hazardous substances, and contaminated debris. The Department of Transportation also maintains the NH Transportation Management Center (TMC). The TMC mission is to detect, verify and respond to incidents that affect the state transportation network and assist in traffic control and backup communications. The Division of Aeronautics, Rail and Transit located within the NHDOT is responsible for working with aviation agencies at the federal, state and local levels to preserve and promote a system of airports. They are also responsible for the state's railroad network.

e. New Hampshire National Guard (Guard) - The Guard's mission is to maintain well trained, well equipped units available for prompt mobilization during war and provide assistance during emergencies such as natural disasters or civil disturbances. Units of the National Guard may be mobilized by the Governor during an emergency. Located within the Guard is the 12th Civil Support Team (CST). The mission of the 12th CST is to support civil authorities at a domestic chemical, biological, radiological, nuclear or high explosive incident site. The CST is capable of identifying CBRNE agents/substances, assessing current and projected consequences, advising on response measures and assist with appropriate requests for state support.

f. Governor's Office - The Governor has the power to declare a state emergency and to marshal federal assistance. The Governor may also involve any other state agency not

mentioned above in a response.

g. Department of Resources and Economic Development (DRED) – This department manages, maintains and controls activities at all state owned parks, beaches and historic sites. The four divisions consist of: Forests and Lands; Parks and Recreation; Travel and Tourism Development; and Economic Development. DRED will be an integral partner in any natural resource damage assessment.

h. Department of Health and Human Services (NHDHHS) – The NHDHHS is responsible for the health, safety and well-being of the citizens of New Hampshire. NHDHHS provides services for individuals and administers programs and services such as mental and public health. Within NHDHHS is the Emergency Services Unit which provides public health guidance and assistance to individuals and other agencies during emergencies. Also, within NHDHHS is the state laboratory unit which provides laboratory support services for the analysis of environmental and waste samples. The Department of Health and Human Services provides consultation and training on health-related radiological issues.

i. Division of Ports and Harbors (DPH) – The DPH provides planning for the maintenance and development of the ports, harbors and tidal rivers the state of New Hampshire. The DPH Market St. Marine terminal, located on the Piscataqua River, is the only public access general cargo terminal on the river. Charter boats operate from three of the DPH's facilities: Hampton Harbor; Rye Harbor; and Market St. Marine Terminal. The DPH will be integral in the management of vessel traffic and river access during a spill event.

5. **Rhode Island:** The RI Department of Environmental Management (RI DEM) Office of Emergency Response is the designated representative to the Region I RRT for the State of Rhode Island and Providence Plantations. RI DEM, through the Emergency Response Team, is the lead agency for the state in addressing oil and hazardous substances incidents and provides a 24-hour emergency response capability. The responsibilities of RI DEM are to oversee the cleanup and remediation of areas affected by a hazardous discharge and to judge when an area has been remediated according to federal and state guidelines. In the event of a discharge, the Director may require the initiation of monitoring, remedial, and cleanup actions. These actions may include, but are not limited to, removing oil from surface waters, placing containment devices, monitoring to determine water quality, restoring impacted areas, and removing all oil-contaminated debris. Other Rhode Island state agencies may assist in response activities as follows.

a. The Rhode Island Emergency Management Agency - This agency serves as the coordination and communications center for Rhode Island state agencies in emergency situations.

b. The Rhode Island Fire Marshal - The Fire Marshal has expert knowledge and is available to advise responders on explosive and reactive spills.

c. The Rhode Island Department of Health - This department has expert knowledge and is available to advise responders on radioactive incidents.

6. **Vermont:** The Vermont Agency of Natural Resources, Department of Environmental

Conservation (VT DEC), is the designated representative of Region I RRT for the State of Vermont. The VT DEC provides a state representative to the Unified Command. The VT DEC official will concentrate on for assessing environmental impacts that could result from spills, and on directing the cleanup of areas affected by an oil discharge and/or a hazardous substance release. Other Vermont state agencies may assist in response activities as follows.

a. The Vermont Department of Public Safety, Department of Emergency Management and Homeland Security (DEMHS) - VT DEMHS is the coordination and communication center for the State of Vermont in the event of an emergency. The Vermont Hazardous Materials Response Team (VHMRT) is also operated out of the DEMHS. The VHMRT provides additional resources (personnel, equipment, and materials) during an incident as needed when requested by the IC.

b. The Vermont Agency of Transportation - This agency is responsible for road safety in the event of an emergency.

SECTION 7: Related Plans and Programs

A. National Response System Plans

This RCP works in concert with other contingency plans at the federal, tribal, state, and local levels. The three National Response System contingency plans interact in a hierarchical fashion as described in the NCP. The NCP sets standards for RCPs and ACPs and provides a framework in which those plans, and the activities that they describe, can be organized. The RCPs provide more geographically specific information regarding regional response policies and operations. The ACPs provide information regarding specific response resources and environmentally or economically sensitive receptors in specific areas and on area-specific response policies.

B. Joint Canada-U.S. Plans

Region I is bordered by Canada to the north and west. The International Joint Advisory Team and the Canada-U.S. Atlantic Joint Response Team or Regional Joint Response Team play much the same role in joint Canada-U.S. response planning and operations that the NRT and RRT play in domestic response actions. A number of joint response plans have been prepared by U.S. and Canadian authorities to plan for responses to incidents that have the potential to affect waters or lands in both the United States and Canada. Response operations conducted in the coastal zone affecting both Region I and Canada are covered in the Atlantic Geographic Annex to the Canada-U.S. Joint Maritime Pollution Contingency Plan (CANUSLANT). CANUSLANT is maintained by First Coast Guard District and the Canadian Coast Guard Maritimes Region. Copies of the Canada-U.S. Joint Maritime Pollution Contingency Plan and CANUSLANT are available from the USCG website at http://www.uscg.mil/d1/response/jrt/. Response operations conducted in the inland zone affecting Region I and Canada are covered under the Canada-U.S. Joint Inland Pollution Contingency Plan. Two regional annexes to this plan are applicable to Region I: Regional Annex IV (CANUSQUE), for responses involving Region I and the Province of Quebec; and Regional Annex V (CANUSEAST), for responses involving Region I and the Province of New Brunswick. These plans are maintained by EPA Region I and Environment Canada. Information on Joint U.S. - Canada Border Programs and a copy of the Canada-U.S. Joint Inland Pollution Contingency Plan can be obtained from the EPA website at http://www.epa.gov/emergencies/content/canada_border.html.

C. The National Response Framework (NRF)

The National Response Framework presents the guiding principles that enable all response partners to prepare for and provide a unified national response to disasters and emergencies – from the smallest incident to the largest catastrophe. This document establishes a comprehensive, national, all-hazards approach to domestic incident response by defining key principles, roles, and structures that organize the way we respond as a nation. It describes how communities, tribes, states, the Federal Government, and private-sector and nongovernmental partners apply these principles for a coordinated, effective national response. It also identifies special circumstances where the Federal Government exercises a larger role, including incidents where federal interests are involved and catastrophic incidents where a state would require significant support. The response organizations of the NCP are recognized by the NRF as occurring on a routine basis, however when they are implemented concurrently, such as during declared disasters or emergencies, they are subordinated to its overarching coordinating structures, processes, and protocols. Emergency Support Function #10 is the coordination mechanism for joining the National Response System to the National Response Framework structure as described in the ESF

#10 Annex to the NRF and 40 CFR 300.130 in the NCP.

D. Title III State and Local Emergency Response Plans

Response plans are also prepared on the state and local level, most notably by the State Emergency Response Commissions (SERCs), and the LEPCs established under the Title III of SARA. The level of development and activity of SERCs and LEPCs varies widely among the states and localities of Region I. Each of the six states in Region I have organized SERCs. LEPCs have been organized in each state based on different geographic areas that vary by state. Contact information for Region I SERCs can be obtained from the EPA website at http://www.epa.gov/ceppo/serclist.htm. Information about LEPCs can be obtained from the SERC.

E. Reimbursement for Services

Pollution Removal Funding Authorization (PRFA): According to 40 CFR 300.335(b), where the OSC requests assistance from a federal agency, that agency may be reimbursed in accordance with the provisions of 33 CFR part 136. Specific interagency reimbursement agreements may be used when necessary to ensure that the federal resources will be available for a timely response to a discharge of oil. The PRFA is a tool available to OSCs to quickly obtain needed services and assistance from other government agencies (federal, state, or local) in oil spill and hazardous materials response actions. There are two types of PRFA forms, one for Federal agencies and one for non-federal agencies.

More information can be found in the National Pollution Funds Center (NPFC) INSTRUCTION 16451.2 "Technical Operating Procedures for Resource Documentation under The Oil Pollution Act of 1990" (Cost Doc TOPs), Chapter 8 – Pollution Removal Funding Authorizations (PRFAS). A link NPFC Cost Doc TOPs Instruction can be found on the NPFC website at: http://www.uscg.mil/npfc/response/Cost%20Documentation/prfa.asp

Local Government Reimbursement (LGR) Program: The Federal Government may reimburse local governments for expenses incurred during response actions by local response agencies through the LGR Program. This mechanism for reimbursement is particularly important because local agencies are usually the first responders on-scene and are almost always involved in emergency response actions. Up to $25,000 may be available to local governments for expendable materials and supplies; equipment rentals or leasing; special technical or laboratory services; evacuation services; equipment decontamination; overtime pay for employees; and replacement of lost or destroyed equipment. More information is available on the Local Government Reimbursement program on the internet at http://www2.epa.gov/emergency-response/local-governments-reimbursement-program.

ATTACHMENT 1: Abbreviations

ACP	Area Contingency Plan
App.	Appendix
ATSDR	Agency for Toxic Substances and Disease Registry
Att.	Attachment
CANUSEAST	Regional Annex V to the Canada-U.S.- Joint Inland Pollution Contingency Plan
CANUSLANT	Atlantic Geographic Annex to the Canada-U.S.-Joint Maritime Pollution Contingency Plan
CANUSQUE	Regional Annex IV to the Canada-U.S.- Joint Inland Pollution Contingency Plan
CDC	Centers for Disease Control
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CT DEEP	Connecticut Department of Energy and Environmental Protection
DOC	Department of Commerce
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOT	Department of Transportation
EPA	U.S. Environmental Protection Agency
FEMA	Federal Emergency Management Agency
JIC	Joint Information Center
LEPC	Local Emergency Planning Committee
MA DEP	Massachusetts Department of Environmental Protection
ME DEP	Maine Department of Environmental Protection
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NCP	National Oil and Hazardous Substances Pollution Contingency Plan or National Contingency Plan

NH DES	New Hampshire Department of Environmental Services
NH HSEM	New Hampshire Office of Homeland Security and Emergency Management
NOAA	National Oceanic and Atmospheric Administration
NPFC	National Pollution Funds Center
NRC	National Response Center
NRF	National Response Framework
NRT	National Response Team
PRFA	Pollution Removal Funding Authorization
OCSRD	Oil and Chemical Spill Response Division
OPA	Oil Pollution Act of 1990
OSC	On-Scene Coordinator
OSHA	Occupational Safety and Health Administration
RCP	Regional Oil and Hazardous Substance Pollution Contingency Plan
RI DEM	Rhode Island Department of Environmental Management
RPM	Remedial Project Manager
RRT	Regional Response Team
SARA	Superfund Amendments and Reauthorization Act
Sec.	Section
SECTOR	Coast Guard Sector
SERC	State Emergency Response Commission
SMART	Special Monitoring of Applied Response Technologies
USCG	U.S. Coast Guard
USDA	U.S. Department of Agriculture
USN	U.S. Navy
VT DEC	Vermont Department of Environmental Conservation

APPENDICES

Note: Many appendices that are part of the Region I RCP are available online and have not been duplicated in this version of the plan. The controlled version of this document is the electronic version viewed online only. If this is a printed copy of the document, it is an uncontrolled version and may or may not be the version currently in use. Updates to appendices may be made to maintain currency and are therefore subject to change.

APPENDIX 1 RRT I PRIMARY CONTACT LIST

APPENDIX 2 REGION I IN-SITU BURNING MEMORANDUM OF UNDERSTANDING

APPENDIX 3 IN-SITU BURN UNIFIED COMMAND DECISION VERIFICATION CHECKLIST

APPENDIX 4 MASSACHUSETTS/RHODE ISLAND DISPERSANT PRE-AUTHORIZATION POLICY

APPENDIX 5 MAINE AND NEW HAMPSHIRE AREA CONTINGENCY PLAN, ALTERNATIVE COUNTERMEASURES

APPENDIX 6 UNIFIED COMMAND DISPERSANT WORKSHEET

APPENDIX 7 NATIONAL RESPONSE TEAM REFERENCES

APPENDIX 8 EXECUTIVE ORDERS 12580 & 12777

APPENDIX 9 COAST GUARD/ENVIRONMENTAL PROTECTION AGENCY RESPONSE JURISDICTION BOUNDARY

APPENDIX 10 INSTRUMENT OF REDELEGATION BETWEEN USCG AND EPA, SIGNED 29 NOVEMBER 1987 AND 27 MAY 1988.

APPENDIX 11 INTER-AGENCY MEMORANDUM OF AGREEMENT REGARDING OIL SPILL PLANNING AND RESPONSE ACTIVITIES UNDER THE NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN AND THE ENDANGERED SPECIES ACT

APPENDIX 12 FEDERAL RESPONS PLAN: EMERGENCY SUPPORT FUNCTION #10: HAZARDOUS MATERIALS ANNEX

APPENDIX 1: RRT I PRIMARY CONTACT LIST

2015 RRT1 PRIMARY CONTACT LIST

[as mandated by 40 CFR 300.175(b)(1-15)]

Federal Region I – Regional Response Team Agency Representation		
Federal Agencies		
Agency	**Contact**	
EPA	**Primary Contact** Emergency Planning and Response Branch Ms. Carol Tucker RRT I EPA Co-Chair 5 Post Office Square Suite 100 (OSRR02-2) Boston, MA 02114-2023 Office: (617) 918-1251 Cell: (617) 413-5052 tucker.carol@epa.gov	**Alternate Contact** Emergency Planning and Response Branch Mr. Cosmo Caterino RRT I EPA Alternate Co-Chair 5 Post Office Square Suite 100 (OSRR02-2) Boston, MA 02114-2023 Office: (617) 918- Cell: (617) Caterino.cosmo@epa.gov
USCG D1	**Primary Contact** Mr. Joseph Boudrow USCG Co-Chair 408 Atlantic Ave Boston, MA 02110 Office: 617-223-4812 Cell: 617-406-9042 Joseph.a.boudrow@uscg.mil	**Alternate Contact** Mr. Cornell Rosiu USCG Alternate Co-Chair 408 Atlantic Ave Boston, MA 02110 Office: 617-223-8471 Cell: 617-406-9011 cornell.j.rosiu@uscg.mil
DHHS	**Primary** Mr. Gary Kleinman PHS Emergency Coordinator 99 High Street, 5th Floor Boston, MA 02110 Office: 617-565-1159 24 hour: 202-619-7800 Cell: 617-777-6444 Gary.kleinman@dhs.gov	**Alternate Contact** Mr. Gregory T. Banner MS, CEM Regional Emergency Coordinator 99 High Street, 5th Floor Boston, MA 02110 Office: 617 565-1485 Cell: 617-777-6404 Fax: 617-565-1491 Gregory.Banner@hhs.gov
DOD	**Primary** COL Charles Maskell Defense Coordinating Officer 99 High Street 3rd floor Boston, MA 02110 24 hr: 210-247-8968 charles.f.maskell3.mil@mail.mil	**Alternate Contact** LTC Keith Carter Deputy DCO 99 High Street (3rd Floor) Boston, Ma 02110 Phone: 210-383-5345 keith.j.carter4.mil@mail.mil

2015 RRT1 PRIMARY CONTACT LIST

Federal Region I – Regional Response Team Agency Representation		
Federal Agencies		
Agency	**Contact**	
DOE	**Primary Contact** Mr. Mark Parsons U.S. Department of Energy 53 Bell Ave Building 464 Upton, NY 11973 Office: 631-344-7978 Cell: 631-466-1927 PARSONS@BNL.GOV	**Alternate Contact** Ms. Kathleen McIntyre Brookhaven National Laboratory Building 750A Upton, NY 11973 Office: 631-344-5868 Cell: 631-872-7897 MCINTYRE@BNL.GOV
DOI	**Primary Contact** Mr. Andrew Raddant Regional Environmental Officer 15 State Street, Suite 400 Boston, MA 02109 Office (617) 223-8565 Home: (508) 655-6102 Cell: (617) 592-5444 andrew_raddant@ios.doi.gov	**Alternate Contact** Mr. Lindy Nelson Regional Environmental Officer Custom House Room 244 200 Chestnut Street Philadelphia, PA 19106 Office: 215-597-5378 Cell: 215-266-5155 lindy_nelson@ios.doi.gov
DOJ	**Primary Contact** Ms. Patricia McKenna PO Box 7611 601 Dog NW Benjamin Franklin Station Room 2121 Washington, DC 20044 Office: 202-514-5413 PMcKenna@enrd.usdoj.gov	**Alternate Contact** Mr. Keith Tashima PO Box 7611 601 Dog NW Benjamin Franklin Station Room 2121 Washington, DC 20044 Office: 202-514-4352 KTashima@enrd.usdoj.gov
DOL/OSHA	**Primary Contact** Ken Shedden 15 New Sudbury St. Boston, MA 02203 Phone: 617-565-2555 shedden.kenneth@dol.gov	**Alternate Contact** Amee Bhatt Assistant Regional Administrator 15 New Sudbury St. Boston, MA 02203 Office: 617-565-9859 bhatt.amee@dol.gov

2015 RRT1 PRIMARY CONTACT LIST

Federal Region I – Regional Response Team Agency Representation		
Federal Agencies		
Agency	**Contact**	
DOS	**Primary Contact** Mr. Robert Mearkle 2201 C Street NW Suite 2665 Washington, DC 20520 Phone: 202-647-3879 Cell: 202-534-8743 mearkler@state.gov	**Alternate Contact** Mr. Marc Zlomek 2201 C Street NW Suite 2665 Washington, DC 20520 Office: 202-647-3946 zlomekma@state.gov
DOT	**Primary Contact** Mr. Terry Sheehan 55 Broadway Cambridge, MA 02142 Office: 617-494-3047 Cell: (617) 519-8637 Fax: (617) 494-3260 sheehant@Volpe.dot.gov	**Alternate Contact**
FEMA	**Primary Contact** Mr. Matthew McCann 99 High Street., 5th Floor Boston, MA 02110 Office: (617) 956-7594 Other 24 hrs. : (978) 461-5501 matthew.mccann@fema.dhs.gov	**Alternate Contact** Mr. Michael Brazel 99 High Street Boston, MA 02110 Office: 617-956-7561 Cell: 617-894-7014 Mike.brazel@dhs.gov
GSA	**Primary Contact** Mr. Michael Stec 10 Causeway Street Boston, MA 02222 Office: (617) 565-7142 Other: BBPin#16116060 Fax: (617) 565-7372 Cell: (617) 549-3842 mike.stec@gsa.gov	**Alternate Contact** Mr. Russell Cornelia 10 Causeway Street Boston, MA 02222 Office: 617-565-6206 Cell: 857-202-1631 russell.cornelia@gsa.gov
NOAA	**Primary Contact** Mr. Steve Lehmann 10 George St, Suite 220 Lowell, MA 01852-2293 Office: 978-654-6385 Cell: 617-877-2806 24 hr: 206-526-4911 steve.lehmann@noaa.gov	**Alternate Contact** Mr. Edwin Levine 1 South Street Room 329 New York, NY 10004 Office: 212-232-3886 Cell: 206-849-9941 24 hr: 206-526-4911 Ed.Levine@noaa.gov

2015 RRT1 PRIMARY CONTACT LIST

Federal Region I – Regional Response Team Agency Representation		
Federal Agencies		
Agency	**Contact**	
NRC	**Primary Contact** Ms. Felicia Hinson Emergency Response Coordinator Office: 610-337-5391 Email: felicia.hinson@nrc.gov	**Alternate Contact**
USDA	**Primary Contact** USDA Fire Operations, Safety Officer Mr. Robert Hartlove 11 Campus Blvd Suite 200 Newtown Square, PA 19073 Office: 610-557-4161 Cell: 610-742-7593 rhartlove@fs.fed.us	**Alternate Contact** USDA – Forest Service Mr. Tom Brady Supervisors Office 71 White Mountain Drive Campden, NH 03223 Office: (603) 536-6208 tbrady@fs.fed.us

State Agencies		
Agency	**Contact**	
Connecticut	**Primary Contact** Mr. Mark DeCaprio 79 Elm Street 4th floor Hartford, CT Office: 860-424-3024 Cell: 860-539-3235 24 hr: 860-424-3338 mark.decaprio@po.state.ct.us	**Alternate Contact** Mr. Peter Zack 79 Elm Street 4th Floor Hartford, CT Office: 860-424-3337 Cell: 860-306-7880 24hr: 860-424-3338 Email: peter.zack@ct.gov
Maine	**Primary Contact** Mr. Peter Blanchard 17 State House Station Augusta, ME 04333 Office: 207-287-7190 Cell: 207-446-9892 peter.j.blanchard@maine.gov	**Alternate Contact** Mr. Stephen Flannery 312 Canco Road Portland, ME 04103 Office: 207-822-6337 Cell: 207-446-9880 stephen.j.flannery @maine.gov
Massachusetts	**Primary Contact** Mr. Benjamin Ericson One Winter Street 7th Floor Boston, MA 02108 Office: 617-556-1121 benjamin.ericson@massmail.state.ma.us	**Alternate Contact** Mr. Albe Simenas One Winter Street 7th Floor Boston, MA 02108 Office: 617-292-5507 Cell: 617-947-2241 albe.v.simenas@massmail.state.ma.us

2015 RRT1 PRIMARY CONTACT LIST

State Agencies		
Agency	**Contact**	
New Hampshire	**Primary Contact** Mr. Carroll Brown, Jr. 29 Hazen Drive Concord, NH 03301 Office: 603-271-3000 Cell: 603-724-0624 24 hr: 603-685-3341 carroll.brownjr@des.nh.gov	**Alternate Contact** Mr. David Leathers 29 Hazen Drive Concord, NH 03301 Office: 603-271-3624 Cell: 603-724-0628 david.leathers@des.nh.gov
Rhode Island	**Primary Contact** Mr. James Ball 235 Promenade Street Providence, RI 02908 Office: 401-222-1360 x 7129 Cell: 401-255-2904 Fax: 401-222-1025 James.ball@dem.ri.gov	**Alternate Contact** Mr. John Leo 235 Promenade Street Providence, RI 02908 Office: 401-222-1360 x 7127 Cell: 401-255-2906 Fax: 401-222-1025 John.leo@dem.ri.gov
Vermont	**Primary Contact** Mr. Tim Cropley 103 S. Main Street West Waterbury, VT 05671 Office: 802-241-3874 24 hr: 800-641-5005 tim.cropley@state.vt.us	**Alternate Contact** Mr. Richard Spiese 103 S. Main Street West Waterbury, VT 05671 Office: 802-241-3880 Fax: 802-241-3296 richard.spiese@state.vt.us

Federally Recognized Tribes		
Agency	**Contact**	
Mashantucket Pequot Tribal Nation	**Primary Contact** Andrew Verraneault Mashantucket, CT 860-396-6621 860-449-3698 averaneault@mptn.org	**Alternate Contact** Rick Tougas Mashantucket, CT 860-396-6658 860-449-2852 rtougas@mptn.org
Mohegan Tribe	**Primary Contact** Rob Jessop Uncasville, CT 860-862-7494	**Alternate Contact**
Mashpee Wampanoag Tribe	**Primary Contact** Robert Hendricks Mashpee, MA 508-477-0208 774-238-6378 rhendricks@mwtribe.com	**Alternate Contact** Jason Steiding Mashpee, MA 508-477-0208 774-238-9967 jsteiding@mwtribe.com

2015 RRT1 PRIMARY CONTACT LIST

Aroostook Band of Micmacs	**Primary Contact** John Ouellette 8 Northern Road Presque Isle, ME 04769 207-764-1972 Joullette@micmac-nsn.gov	**Alternate Contact**
Houlton Band of Maliseet Indians	**Primary Contact** Mike Carlos 88 Bell Road Littleton, ME 04730 207-532-4273 ext 101	**Alternate Contact**
Passamaquoddy Tribe of Indians (Indian Township)	**Primary Contact** Alex Nicholas Princeton, ME 207-796-2367 a.nicholas81@gmail.com	**Alternate Contact**
Passamaquoddy Tribe of Indians (Pleasant Point)	**Primary Contact** Newell Lewey Perry, ME 207-853-2600 ext. 281 newell.lewey@gmail.com	**Alternate Contact**
Penobscot Indian Nation	**Primary Contact** Joseph Loring Old Town, ME 207-356-2611 joseph.loring@penobscotnation.org	**Alternate Contact**
Wampanoag Tribe of Gay Head (Aquinnah)	**Primary Contact** Brett Stearns Aquinnah, MA 508-645-9265 x141 bstearns@wampanoagtribe.net	**Alternate Contact**
Narragansett Indian Tribe	**Primary Contact** Dinalyn Spears Charleston, RI 401-364-1100 x210 dspears@nitribe.org	**Alternate Contact** Phyllis Cotto-Santiago Charleston, RI 401-364-1100 ext 203 401-450-5646 cottosantiago@sbcglobal.net

APPENDIX 2: REGION I IN-SITU BURNING MEMORANDUM OF UNDERSTANDING

Memorandum Of Understanding

Among

U.S. Coast Guard District 1 (USCG)

and

U.S. Environmental Protection Agency Region I (EPA)

and

U.S. Department of the Interior (DOI)

and

U.S. Department of Commerce /

National Oceanic and Atmospheric Administration (DOC/NOAA)

and

State of Maine (ME) Department of Environmental Protection

and

Commonwealth of Massachusetts (MA)

Executive Office of Environmental Affairs

and

State of New Hampshire (NH) Department of Environmental Services

and

State of Rhode Island and Providence Plantations (RI)

Department of Environmental Management

and

State of Vermont (VT) Agency of Natural Resources

PURPOSE

The USCG, EPA, DOI, DOC/NOAA and the States of ME, MA, NH, RI, and VT recognize that the effectiveness of physical removal of spilled oil may be limited by the dynamic nature of the environment in which the oil is spilled. In such circumstances, timely and effective containment, collection, and mechanical removal of the oil may not provide an adequate response. The burning of oil in place as a removal technique (*in-situ* burning), alone or in conjunction with mechanical removal methods and/or chemical countermeasures, may be considered as a means to enhance removal and reduce harm to public health and welfare, or the environment.

This Memorandum of Understanding (memorandum) is designed to implement sections of the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan) [40 CFR §300.210 (c)(4)(ii)(D) and §300.115 (a)] and the requirements of 33 USC 1321 (j)(4)(B)(ii), the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. This memorandum provides the primary decision makers in oil spill response (the Federal On-Scene Coordinator (OSC) and the State On-Scene Coordinator (SOSC)) with the authority to use *in-situ* burning in certain zones under the jurisdiction of the Region I Regional Response Team without additional consultation or concurrence. The Responsible Party, another key player in spill response, will also be a part of the decisionmaking process.

Because the jurisdictional boundary between Regions I and II divides Long Island Sound, the State of Connecticut will pursue a separate agreement on the use of this technique. When developed, this agreement will be included in Appendix III, Boundary Area Guidance and Agreements. References to Region I throughout this document apply to all Region I states except Connecticut.

This memorandum constitutes consultation under the National Contingency Plan with DOC/NOAA and DOI for the use of *in-situ* burning as an oil spill removal technique in the "B" Zone and consultation with DOC/NOAA and DOI, and concurrence of the States of ME, MA, NH, and RI in the "A" Zone (both zones defined under **Scope** below). It is anticipated an ignition source will be sufficient to light oil that is inherently combustible, provided a spill receives timely response action. This memorandum applies to *in-situ* burns that are lit using ignition sources (e.g., small quantities of burning gelled gasoline or kerosene released from a helotorch or a hand-held ignition pack). This memorandum does not apply to *in-situ* burns where the combustibility of the oil must be enhanced using a burning agent (e.g., through the direct addition of a flammable hydrocarbon prior to ignition or the addition of a wicking agent to enhance combustibility). Use of burning agents to enhance the combustibility of oil is subject to the approval requirements described in Subpart J of the National Contingency Plan (§300.910(c)).

This memorandum applies only to response operations within Region I where federal assistance is required. This agreement does not expand or otherwise modify the jurisdiction of any of the signatories to this agreement in matters that are the subject of this agreement.

This memorandum will be incorporated into the Region I Regional Contingency Plan and Area Contingency Plans within Region I.

AUTHORITY

Subpart C of the National Contingency Plan directs the Regional Response Teams to conduct regional planning and coordination of preparedness and response actions in conjunction with Area Committees in the case of oil discharges. Area Contingency Plans, written by Area Committees, should provide pre-approval of specific countermeasures or removal actions that, if expeditiously applied, will minimize adverse spill-induced impacts to fish and wildlife resources, their habitat, and other sensitive environments. (40 CFR §300.210 (c) (4) (ii) (D)).

Commandant, USCG, has designated the USCG Captains Of The Port (as defined in 33 CFR Part 3) as the OSCs for coastal oil discharges (subject to joint response boundary agreements with EPA), and has delegated to these OSCs the authority and responsibility for compliance with the Federal Water Pollution Control Act and its amendments (33 USC 1221, et seq., as amended).

The U.S. EPA Administrator has designated EPA Regional Administrators as OSCs for inland oil discharges (subject to joint response boundary agreements with USCG), and has delegated to these OSCs the authority and responsibility for compliance with the Federal Water Pollution Control Act and its amendments (33 USC 1221, et seq., as amended). EPA Regional Administrators have further delegated the duties of OSC to members of their Regional staffs.

The DOI and DOC/NOAA are designated federal trustees of certain natural resources under Subpart G of the National Contingency Plan and are to be consulted regarding appropriate removal actions in an oil spill, including the determination to burn oil *in-situ* in United States waters, and must concur with pre-approval plans for the application of specific countermeasures or removal actions (Subpart C of the National Contingency Plan).

In the State of Maine, the State Oil Spill Coordinator from the Department of Environmental Protection has the authority to approve the use of *in-situ* burning for the control of oil spills.

In the Commonwealth of Massachusetts, the Department of Environmental Protection has the authority to approve the use of *in-situ* burning for the control of oil spills.

In the State of New Hampshire, the Commissioner of the Department of Environmental Services has the authority to approve the use of *in-situ* burning for the control of oil spills.

In the State of Rhode Island and Providence Plantations, the Commissioner of the Department of Environmental Management has the authority to approve the use of *in-situ* burning for the control of oil spills.

In the State of Vermont, the Secretary of the Department of Environmental Conservation has the authority to approve the use of *in-situ* burning for the control of oil spills.

SCOPE

This memorandum establishes decision authority for use of *in-situ* burning (absent the use of burning agents) within zones within Region I. The geographic zones and conditions are described below, and a map of the zones is attached as Appendix II.

1) "A" Zones — OSC decision to burn

Geographic Scope:
Zone "A" is defined as all waters subject to the jurisdiction of the United States located seaward of a line measured six miles from the mean low waterline along the coasts and islands of ME, MA, NH, and RI, that are not specifically defined as "Special Consideration Areas" (see paragraph 4 below).

Approval for *in-situ* burning in Zone "A":
Within Zone "A," the decision to use *in-situ* burning rests solely with the OSC. No further concurrence or consultation on the part of the OSC is required with EPA, DOC/NOAA, DOI, or the states of ME, MA, NH, and RI *(please refer to Special Consideration Areas that modify the "A" zone).* However, if threatened or endangered species are present in the immediate burn area, the trustee agency for that species must be consulted prior to initiating burning operations.

The OSC will immediately notify EPA, DOC/NOAA, DOI, and the applicable state(s) of a decision to conduct burning within the "A" zone via each agency's Regional Response Team representative.

2) "B" Zones — Unified Command decision to burn

Geographic Scope:
Zone "B" is defined as all waters subject to the jurisdiction of the United States located seaward of a line measured one mile and terminating six miles from the mean low water line along the coasts and islands of ME, MA, NH, and RI, that are not specifically defined as Special Consideration Areas (see paragraph 4 below).

Approval for *in-situ* burning in Zone "B":
Within Zone "B," the decision to use *in-situ* burning rests with the OSC and SOSC(s) within the Unified Command. Cases may arise where a state potentially affected by a smoke plume is not represented in the Unified Command because it may not be affected by the unburned oil. Therefore, the SOSC(s) from the state(s) within 6 miles of the burn source must also concur with the decision to burn (unless a Special Consideration Area has been established to reduce this distance). In Zone "B" no further concurrence or consultation on the part of the OSC is required with EPA, DOC/NOAA, DOI, or other states not within 6 miles of the burn source. If threatened or endangered species are present in the immediate burn area, the trustee agency for that species must be consulted prior to initiating burning operations. The SOSC is responsible for any additional concurrence/consultation requirements that apply at the state level.

The OSC will immediately notify EPA, DOC/NOAA, DOI, and applicable state(s) of a decision to conduct burning within the "B" zone via each agency's Regional Response Team representative.

3) "C" Zones — Unified Command decision to burn following additional consultations/concurrence

Geographic Scope:
Zone "C" is defined as waters and lands subject to the jurisdiction of the United States and within the geographic responsibility of Regional Response Team I that are shoreward

of a line measured 1 mile seaward of the mean low water mark along the coasts and islands of ME, MA, NH, and RI, that are not specifically defined as Special Consideration Areas (see paragraph 4 below).

Approval for *in-situ* burning in Zone "C":

Within Zone "C," the decision to use *in-situ* burning rests with the OSC (USCG or EPA) and SOSC(s) within the Unified Command. The OSC must consult with DOC/NOAA and DOI on the appropriateness of *in-situ* burning as a removal action, and gain concurrence of states with land within 6 miles of the burn source (unless this distance has been reduced in a Special Consideration Area). The SOSC is responsible for any additional concurrence/consultation requirements that apply at the state level.

The OSC will immediately notify EPA, DOC/NOAA, DOI, and applicable state(s) of a decision to initiate a burn within the "C" zone via each agency's Regional Response Team representative.

4) "Special Consideration Areas"

Geographic Scope:

Special Consideration Areas are specific geographic areas where the level of approval/concurrence granted in Zones "A," "B," and "C" is modified by the any of the following agencies/entities within their authority, jurisdiction, and areas of responsibility: Area Committees, pre-designated OSCs, DOC/NOAA, DOI, and the states of ME, MA, NH, RI, and VT. These areas will be identified in writing to the Regional Response Team co-chairs and listed in Appendix I. Upon receipt of a Special Consideration Area, the Regional Response Team co-chairs shall solicit comments from signatories to this memorandum with jurisdiction over the area and any areas within 6 miles of the Special Consideration Area. Absent objection, Special Consideration Areas are effective 30 days from their receipt by the Regional Response Team co-chairs.

Approval for *in-situ* burning in Special Consideration Areas

Each defined Special Consideration Area shall contain specific restrictions or permissions that alter pre-approval or pre-consultation otherwise defined by this memorandum in Zones "A," "B," or "C". The restriction placed or authority granted by a Special Consideration Area may be defined to apply only under certain conditions, such as certain wind directions or in certain seasons. Special Consideration Areas shall specify what additional or lesser action, consultation, or concurrence is necessary to

proceed with *in-situ* burning in that area. Means of contacting primary or alternate points-of-contact for Special Consideration Areas should be identified for work and non-working hours.

5) Boundary Areas - Region I Boundary

In areas where burning will have an impact across a Region I border into Canada or Region II (e.g., within 6 miles of the border), the concurrence of the applicable parties on the opposite side of the border must be obtained prior to use of *in-situ* burning. Specific cross-border guidance documents and agreements regarding near-border *in-situ* burning, when developed, will be included in Appendix III.

PROTOCOLS

The signatories to this memorandum agree that the decision to use *in-situ* burning lies with either the OSC or the OSC and the SOSC, based on the location of the burn as detailed in **Scope**. The SOSC is responsible for any additional concurrence/consultation requirements that apply at the state level. The decision to use *in-situ* burning should be made with guidance from the Region I *In-situ* Burning Policy (Information Section) and applicable Area Contingency Plans and is subject to the following conditions:

1. The OSC may authorize the use of *in-situ* burning on a discharge of oil to prevent or substantially reduce the hazard to human life without obtaining concurrence from EPA, DOI, DOC/NOAA, or the affected states, without following protocols established in this memorandum, and without following the guidelines in the Regional Contingency Plan and Area Contingency Plan. If *in-situ* burning is used in this manner, notification of EPA, USCG, DOC/NOAA, DOI and the affected state(s) via Regional Response Team representatives shall be made as soon as practicable. Once the risk to human life has subsided, this exception no longer applies.

2. The decision to use *in-situ* burning shall rest solely with the pre-designated OSC or jointly with the SOSC in certain zones as described under the **Scope** of this memorandum. This responsibility of the OSC may not be delegated.

3. If a decision has been made to use *in-situ* burning under the provisions of this memorandum, the OSC will immediately notify EPA, DOI, DOC/NOAA and the applicable state(s) of that decision via Regional Response Team representatives. This

initial notification should include, but is not limited to, the following information to the extent available:

Type and amount of oil discharged

Area affected

The projected area of impact of the oil if not burned

Reasons why *in-situ* burning has been selected as a mitigation technique

On-scene weather

4. *In-situ* burning will be conducted by trained professionals using recognized techniques and technology. Burning will be conducted in a way that allows for safe and effective control of the burn to the maximum extent feasible, including the ability to stop the burn if necessary. Containment and control using fire-resistant boom is recognized as the preferred method of *in-situ* burning in open-water situations. In this situation, all practical efforts to limit the potential for igniting the source or adjacent, uncontained, or uncontrollable slicks will be made.

5. *In-situ* burning is advised only when the meteorological and sea conditions are operationally favorable for a successful burn. The OSC will give due consideration to the direction of the wind and the possibility of the wind blowing the smoke plume over population centers or sensitive resources onshore.

6. Health and Safety Concerns

(a) OPERATORS: Worker health and safety is of paramount concern. Each employer and OSC must comply with all applicable Occupational Health and Safety Administration regulations. Prior to any *in-situ* burn operations, a site safety plan must be prepared.

(b) GENERAL PUBLIC: Burning should be stopped if it becomes an unacceptable health risk to the general public. If at any time during burning operations exposure limits are observed to exceed National Ambient Air Quality Standards in nearby populated areas as a result of the burn, the OSC shall modify or suspend the burn operation as appropriate. Additionally, the OSC and the Unified Command should consider the potential effects of short term exposure of the public to high levels of particulates which may still meet National Ambient Air Quality Standards. Specifically, the OSC should consider the current short term *in-situ* burning exposure guideline recommended by the

National Response Team (at the time of signature, the NRT guideline for short term particulate exposure from *in-situ* burning is 150 $\mu g/m^3$ of particulates less than 10 μm diameter (PM-10) averaged over one hour; the current National Ambient Air Quality Standard for particulates is the same concentration averaged over 24 hours. The NRT guideline will be revised when more stringent particulate standards are adopted). OSCs in Region I shall factor this guideline on public exposure to *in-situ* burn emissions into burn initiation and continuation decisions. Public notification is advisable prior to initiating a burn.

7. The OSC shall ensure *in-situ* burning is conducted in accordance with any biological opinions rendered under Section 7 of the Endangered Species Act. Seasonal, spacial, or other similar restrictions identified in biological opinions shall be listed as Special Consideration Areas and placed in Appendix I. If threatened or endangered species are present in the immediate burn area, the trustee agency for that species must be consulted prior to initiating burning operations.

8. The OSC will make every reasonable effort to continuously evaluate the decision to burn, and allow Regional Response Team agencies and affected states the opportunity for comment. The OSC shall provide a mechanism to receive information from authorized representatives of the following entities that may necessitate termination of an *in-situ* burn: EPA, affected states, natural resource trustee agencies, and cognizant health agencies. Any verbal recommendations to terminate an *in-situ* burn must be followed up immediately in writing.

9. Representatives of the OSC shall monitor *in-situ* burning operations. The trustee agencies, the affected states, the Occupational Safety and Health Administration, and the responsible party may monitor *in-situ* burning operations, when feasible.

(a) Monitoring to establish "continue / modify / discontinue" information for input to the OSC shall accompany a burn. Visual monitoring may be sufficient provided the smoke plume is not predicted to affect human populations or highly sensitive areas. If smoke plumes are predicted to or may cross over populated areas, real-time PM-10 monitoring (a protocol is identified in Regional Response Team I *In-situ* Burning Policy — Information Section) is advisable and, when practicable, should be in place prior to the start of burn operations to gather baseline data.

(b) All burns must incorporate observations (typically visual) to monitor smoke plume behavior. A trial burn may be conducted to better estimate plume behavior prior to operational burning. Conditions under which the burn should be stopped, such as a threat of plume contact with the ground in populated or environmentally sensitive areas, shall be clearly identified to the maximum extent practicable to those conducting burn operations prior to starting the burn.

12. Mechanical recovery equipment shall be mobilized on-scene when feasible for backup and complimentary response capability. Provisions should be made for collection of burn residue following the burn(s).

13. If *in-situ* burning is used, a post incident debriefing will take place within 45 days to gather information concerning its effectiveness and to determine whether any changes to this memorandum are necessary. The debriefing will be chaired by the OSC, who will also arrange the time, place, and date of the debrief.

AMENDMENTS

This Memorandum of Understanding may be amended in writing in whole or in part as is mutually agreeable to all signatories.

Special Consideration Areas submitted to the Regional Response Team as outlined in paragraph 4 of the **Scope** of this memorandum will be promptly distributed to signatories and included in Appendix I.

CANCELLATION

Each signatory to this Memorandum of Understanding may withdraw their agreement to the memorandum in whole or in part by submitting a letter of withdrawal to the Regional Response Team co-chairs; withdrawal from this memorandum will take effect no earlier than 30 days after receipt of this letter. The Regional Response Team co-chairs shall promptly notify other document signatories. Withdrawal by signatories shall not have any effect on this agreement with respect to remaining signatories.

SIGNATURES

Captain Thomas M. Daley
First Coast Guard District (m)
Acting Regional Response Team Co-Chair

May 19, 1998
Date

Ms. Dennisses Valdés
US EPA Region I
Regional Response Team Co-Chair

5/19/98
Date

Commander Burton Russell, USCG
Captain of the Port Portland
Federal On-Scene Coordinator

5/19/98
Date

Captain John Grenier, USCG
Captain of the Port Boston
Federal On-Scene Coordinator

MAY 20 1998
Date

Captain Peter A. Popko, USCG
Captain of the Port Providence
Federal On-Scene Coordinator

5/19/98
Date

Mr. Andrew Raddant
Regional Environmental Officer/Northeast
U.S. Department of Interior
Regional Response Team Representative

1/26/99
Date

Gerald E. Wheaton

Commander Gerald Wheaton
NOAA/Hazmat
U.S. Department of Commerce
Regional Response Team Representative

5/19/98
Date

David C. Sait

Mr. David C. Sait
State of Maine
State Oil Spill Coordinator

5/19/98
Date

Trudy Coxe

Ms. Trudy Coxe
Commonwealth of Massachusetts
Secretary of Environmental Affairs

10-6-98
Date

Robert W. Varney

Mr. Robert W. Varney
State of New Hampshire
Commissioner, Department of Environmental Services

1-25-99
Date

Andrew H. McLeod

Mr. Andrew H. McLeod
State of Rhode Island and Providence Plantations
Director, Department of Environmental Management

7/9/98
Date

MOU applies outside of Vermont – see attached letter

Ms. Barbara Ripley
State of Vermont
Secretary, Agency of Natural Resources

Date

State of Vermont

Department of Fish and Wildlife
Department of Forests, Parks and Recreation
Department of Environmental Conservation
State Geologist
RELAY SERVICE FOR THE HEARING IMPAIRED
1-800-253-0191 TDD>Voice
1-800-253-0195 Voice>TDD

AGENCY OF NATURAL RESOURCES
Department of Environmental Conservation
Office of the Secretary
103 South Main Street
Waterbury, Vermont 05671-0404
(802) 241-3600
FAX (802) 244-1102

March 4, 1999

Captain Thomas Daley
Ms Dennisses Valdes
Region I Regional Response Team
C/O Scott Lundgren
First Coast Guard District
408 Atlantic Ave
Boston MA 02110-3350

RE: IN SITU BURNING MEMORANDUM OF UNDERSTANDING (MOU)

Dear Captain Daley and Ms. Valdes:

After careful consideration, I have decided not to sign the In Situ Burning MOU developed by the Region I Regional Response Team at this time.

The MOU mainly addresses issues related to open water burns. It is certainly in the best interest of the other New England states to sign the MOU, as the other states have seaports that handle large, petroleum carrying vessels, in areas close to the borders of other states. Vermont does not share these characteristics; indeed, since the cessation of petroleum transporting barge traffic on Lake Champlain, the likelihood of a spill warranting open water in situ burning is negligible.

As members of the In Situ Burning Working Group, we certainly appreciate the hard work put into this project, and appreciate the opportunity to sign the MOU. However, without the benefit of expedited decisions established by the MOU in marine coastal states, we feel that any protocols developed regarding this countermeasure would be best if designed for our risks and location. We understand that all other participants have signed the MOU, and we have no objection to its use in the Region. Do not take our abstention as finding fault with the MOU; it is simply felt that the MOU is not a vital tool for oil spill response in our state.

We look forward to further participation in Regional Response Team endeavors. If you have any questions regarding this letter, please contact me at 802.241.3600.

Sincerely,

John Kassel, Secretary
Vermont Agency of Natural Resources

cc: David C. Sait, ME Oil Spill Coordinator
Ms. Trudy Coxe, MA Secretary of Environmental Affairs
Robert Varney, NH Commissioner of Environmental Services
Timothy Keeney, RI Commissioner of Environmental Management
Canute Dalmasse, VT Commissioner of Environmental Conservation
P.H. Flanders, VT Director of Waste Management Division
Marc Roy, VT Regional Response Team Designee

mr/spills/cdisb.ltr

Appendix I: Special Consideration Areas

State of Maine Special Consideration Area **Year-round**

The OSC shall gain concurrence of the Maine State On-Scene Coordinator for *in-situ* burns within 12 miles of the Maine coast.

State of Vermont Special Consideration Area **Year-round**

The State of Vermont elected not to sign the Memorandum of Understanding, but agree to use elsewhere in Region under the MOU as described in 4 March 1999 letter. Absent other agreements, normal National Contingency Plan procedures apply in Vermont.

20 foot water depth Special Consideration Area **Year-round**

The OSC must consult with DOI and NOAA Regional Response Team representatives when using *in-situ* burning in waters where the depth is less than 20 feet at mean low water. (Such consultation is already required in Zone C, which is inside 1 mile, so this only applies to any areas that may be less than 20 feet deep that are beyond 1 mile from shore.)

National Marine Fisheries Service Special Consideration Area Summary

Details of boundaries and conditions detailed in NMFS Northeast Section 7 consultation letter to First Coast Guard District dated November 18, 1997.

Case-by-case consultation with NMFS Northeast Region required for *in-situ* burning in:

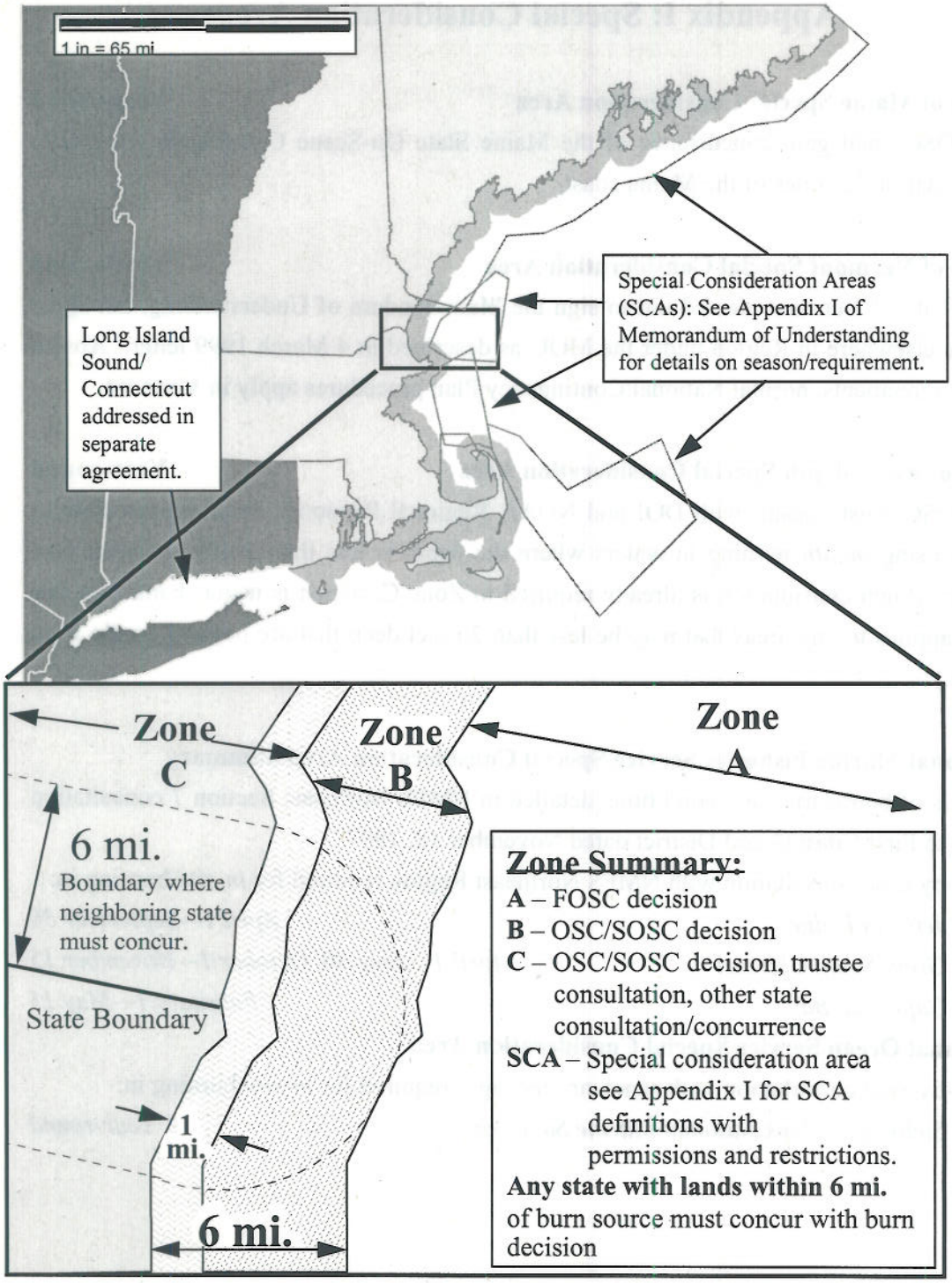
Jeffreys Ledge	*April 1—September 30*
Great South Channel	*April 1—June 30, October 1—November 15*
Cape Cod Bay	*February 1—May 15*

National Ocean Service Special Consideration Area

Case-by-case consultation with sanctuary manager required for *in-situ* burning in:

Stellwagen Bank National Marine Sanctuary	*Year-round*

Appendix II: Zone Boundary map and diagram



Appendix III: Boundary Area Guidance and Agreements

Boundary agreements or guidance developed (i.e. with Canadians, for Region II, Long Island Sound, etc.) may be attached here.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

NOV 18 1997

Captain T.M. Daley, USCG
Chief Marine Safety Division and
Co-chair, Region I Regional Response Team
408 Atlantic Avenue
Boston, MA 02110

Dear Captain Daley:

The Region I Regional Response Team has drafted a Memorandum of Understanding (MOU) for expedited procedures for using in-situ burning as an oil spill countermeasure within marine waters from Maine to Rhode Island. Because several species listed as endangered or threatened under the Endangered Species Act (ESA) may occur in the waters described by the MOU, you have initiated consultation with the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the ESA, regarding the MOU and potential effects on the listed species. Based upon previous correspondence and the discussion that follows, NMFS concurs that in-situ burning: 1) may mitigate many of the potential adverse effects of spilled oil and 2) is not likely to worsen any of the adverse effects of exposure to the oil and oil fractions. Therefore, NMFS concludes that the MOU and the expedited procedures authorized under the MOU are not likely to adversely affect the ESA listed species under NMFS jurisdiction.

The following species listed as endangered or threatened under the ESA may occur in the waters described by the MOU:

Species	Listing Status
Blue whale (*Balaenoptera musculus)*	Endangered
Fin whale (*Balaenoptera physalus)*	Endangered
Humpback whale (*Megaptera novaengliae)*	Endangered
Northern right whale *(Eubalaena glacialis)*	Endangered
Sei whale (*Balaenoptera borealis)*	Endangered
Sperm whale (*Physeter macrocephalus)*	Endangered
Green sea turtle *(Chelonia mydas)*	Endangered
Kemp's ridley sea turtle *(Lepidochelys kempii)*	Endangered
Leatherback sea turtle *(Dermochelys coriacea)*	Endangered
Loggerhead sea turtle *(Caretta caretta)*	Threatened
Shortnose Sturgeon *(Acipenser brevirostrum)*	Endangered
Harbor porpoise *(Phocoena phocoena)*	Listing proposed

Per Section 7 of the ESA, you and the NOAA Scientific Support Coordinator have consulted with NMFS regarding the MOU and the potential effects its implementation may have on the

Enclosure (2)

above listed species. Consultation has included many discussions and meetings as well as the development of Special Consideration Areas (SCA). The SCA's describe areas and seasons in which a relative abundance of endangered right whales and humpback whales exists. The SCA's are defined below.

SPECIAL CONSIDERATION AREAS

Jeffreys Ledge
April 1 through September 30
Area approximately described by:

42-41.0N, 070-00.0W
43-14.0N, 069-53.2W
43-16.8N, 070-00.0W
42-57.4N, 070-30.0W
42-46.7N, 070-36.2W
42-42.0N, 070-25.7W

Stellwagen Bank
Year-round
The legal description of the Stellwagen Bank National Marine Sanctuary (SBNMS) is available in the Federal Register Vol. 58, No. 200 (15 CFR Ch. IX § 940.2). Authorization for in-situ burning in the SBNMS requires consultation with the sanctuary manager.

Great South Channel
April 1 through June 30, and October 1 through November 15
Area approximately described by:

41-00.0N, 069-05.0W
41-38.0N, 068-13.0W
42-10.0N, 068-30.8W
41-49.8N, 069-21.8W
42-11.2N, 069-47.8W
42-16.1N, 070-05.0W
42-05.6N, 070-02.1W
41-40.0N, 069-45.0W

Cape Cod Bay
February 1 through May 15
Area approximately described by:

41-47.0N, 070-30.0W
42-12.0N, 070-30.0W
42-12.0N, 070-15.0W
42-05.0N, 070-10.0W
and Cape Cod.

A determination regarding pre-authorization of in-situ burning use in the above described SCA's

can only be made after a formal Section 7 consultation with a complete biological assessment. Until that consultation is complete, you would be expected to consult with this office on a case by case basis regarding in-situ burning within the SCA's. This document and the findings below only refer to areas outside the above described SCA's.

The decision of whether or not to conduct in-situ burning presupposes that oil has been spilled in the marine environment. NMFS prefers the mechanical removal of oil from the marine environment, but acknowledges that under some conditions, collection and removal of oil may not be sufficiently effective or timely to protect marine resources, and responders must rely on innovative countermeasures. In-situ burning can effectively and quickly remove spilled oil from the surface of the water and thereby reduce the potential of listed species directly contacting the oil. Burning would take place only within a fireproof boom, and therefore marine effects are likely to be local. In-situ burning can eliminate most of the volatile fractions of the oil which would be toxic if inhaled by mammals and sea turtles. Most of the heat generated by a burn will go up into the atmosphere and only the top few centimeters of the water column will be warmed above the ambient water temperature. Burn residue generally floats and can be retrieved. Listed species may come into contact with residue that is not retrieved. The effects of the contact are unknown; however, since the volume of oil product in the water is so greatly reduced by the burn, the potential for exposure is likewise substantially reduced.

This consultation fulfills your responsibilities pursuant to Section 7 of the ESA. The MOU states that spill responders will take extra precautions to ensure the safety of ESA listed species during a burn and will suspend a burn should the animals be threatened by the operation of a burn. NMFS supports that provision (paragraph 7) of the MOU and insists that you contact the agency should ESA listed species under NMFS jurisdiction be observed during a spill event and in the vicinity of an in-situ burn area. Also, spill responders should be advised that members of the Northeast Marine Mammal Stranding Network are authorized to deter, handle, and remove listed species that have become oiled or are at risk of entering the spill and burn area.

In summary, NMFS concurs with your conclusion that the MOU for in-situ burning of spilled oil and the procedures authorized under the MOU, including the use of designated SCA's, are not likely to adversely affect endangered and threatened species under the jurisdiction of NMFS that may occur in the area. Should a need to change the MOU arise or should new information become available that changes the basis for this determination, then this consultation should be reinitiated. If you have any questions about this consultation or about protected species in the region, please contact Scott Sandorf at (978) 281-9388.

Sincerely,

Andrew A. Rosenberg, Ph. D.
Regional Administrator

cc:	F/PR3	Chu
	F/PR2	Payne
	F/NER3	Hartley
	SSC	Lehmann
	SSC	Levine
	SSC	Ott
	HAZMAT	Wheaton

File: 1514-05(A) USCG-Oil-RRTI

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Field Office
22 Bridge Street, Unit #1
Concord, New Hampshire 03301-4986

January 2, 1998

Captain T. M. Daley
Chief, Marine Safety Division
U.S. Coast Guard
408 Atlantic Avenue
Boston, Massachusetts 02110

Dear Captain Daley:

This responds to your December 3, 1997 request for concurrence that proposed *in-situ* burning of oil, under certain prescribed conditions, will not adversely affect federally-listed or proposed, threatened or endangered species under the jurisdiction of the U.S. Fish and Wildlife Service. Consultation is required for the subject action because development, approval, and implementation of area oil spill response plans are federal actions subject to the provisions of Section 7 (a)(2) of the Endangered Species Act.

The locations and conditions for which *in-situ* burning is advocated in an oil spill response, referred to as pre-approval areas, are described in your December 3, 1997 letter and the attached final draft, Region I *In-situ* Burning Memorandum of Understanding, dated July 15, 1997.

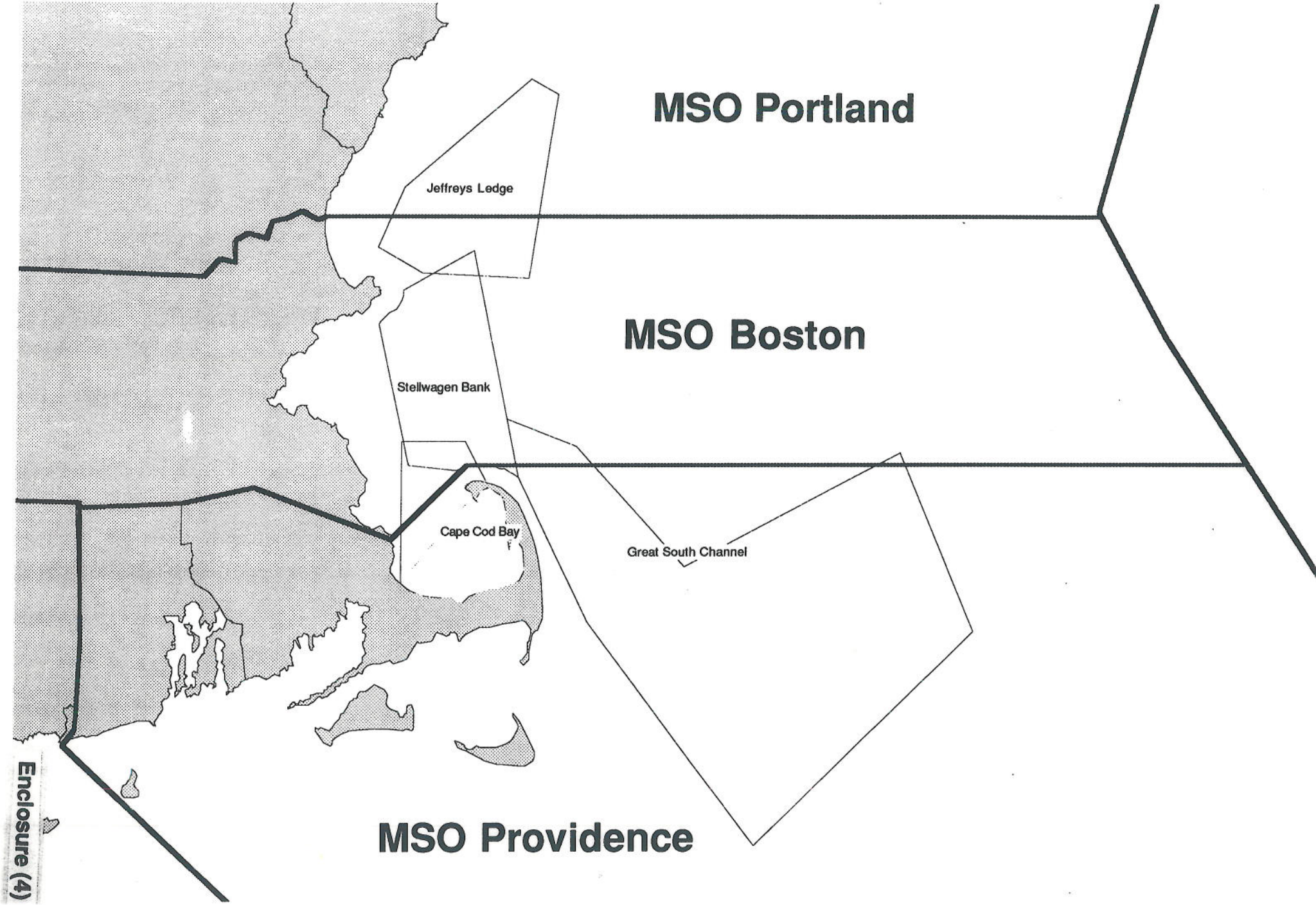
It is our understanding that the scope of this review includes all of New England and offshore waters, except Connecticut/Long Island Sound, which are addressed separately. Further, we note that the area considered for *in-situ* burning is limited to Zones A and B, which are marine waters one mile or greater from land. Consultation on a case-by-case basis will take place for oil spills on land and in water areas less than 20 feet in depth and one mile or less from shore. Lastly, the agreement requires that trustees be consulted if threatened or endangered species are present in the immediate burn area, regardless of the zone.

We concur that the final draft MOU adequately addresses threatened and endangered species concerns, and we do not have additional Special Consideration Areas to offer at this time. If new species are listed, or if new information becomes available that changes the anticipated effects of this proposal on threatened or endangered species for which we have responsibility, consultation pursuant to Section 7 of the Endangered Species Act will be reinitiated.

This letter supplements our August 1996 comments addressing informal Section 7 review of use of chemical countermeasures (dispersants) in an oil spill response. Questions can be directed to Michael Amaral or Phil Morrison of my staff at 603-225-1411.

Sincerely yours,

Michael J. Bartlett
Supervisor
New England Field Office


MSO Portland
Jeffreys Ledge
MSO Boston
Stellwagen Bank
Cape Cod Bay
Great South Channel
MSO Providence

Enclosure (4)

APPENDIX 3: IN-SITU BURN UNIFIED COMMAND DECISION VERIFICATION CHECKLIST

Purpose: *In-Situ* Burn Unified Command Decision Verification Checklist

The following checklist, created with input from the Region I RRT, provides a summary of important information to be considered by the Unified Command (consisting of the Federal On-Scene Coordinator (OSC), State On-Scene Coordinator (SOSC), and responsible party representative (RP)) when planning for the use of in-situ burning to respond to an oil spill in Region I that requires federal assistance. This checklist is intended to serve as Unified Command's verification and documentation of an in-situ burning decision, rather than as an information distribution sheet or an approval form.

Each section of the checklist provides a series of "limiting factors" questions for each of the decision points on the Region I In-Situ Burning Decision Flowchart. Some sections also contain a "worksheet" for important information that may be necessary to answer limiting factor questions; the user is encouraged to attach forms that contain this information, if available. The final section of the plan should be completed (in addition to the rest of the checklist) only for burns at the shoreline, in marshes, or on land.

Questions in the limiting factors section that are answered with a "Yes/Optimal" support the decision to conduct an in-situ burn. However, spill response involves numerous tradeoffs, and any less-than-ideal conditions that are represented by a "No/Sub-Optimal" answer may be balanced by other benefits of in-situ burning in a given situation. Not every question of the worksheet must be answered. It is acceptable for the Unified Command to make a decision based on incomplete information, provided the information gaps are understood and considered.

***In-situ* Burn Decision:**

Federal On-Scene Coordinator Decision:	_____	Approve	Signature: _____
State On-Scene Coordinator Decision:	_____	Concur	Signature: _____
Responsible Party Decision:	_____	Concur	Signature: _____
Fire Official Decision: *	_____	Concur	Signature: _____

* In Zone C and where else applicable. Under Region I MOU, additional consultation or concurrence is required in Zone C and in SCAs. Note additional concurrence/consultation per state and SCAs.

Agency/Contact	Concurrence/consultation	Time/Date	Method(verbal, written)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Recommendation by checklist preparers:

Points of Contact for the checklist:	**Name**	**Position**	**Telephone**
Federal _____	_____	_____	_____
State: _____	_____	_____	_____
Responsible Party: _____	_____	_____	_____
Scientific team: _____	_____	_____	_____
Other: _____	_____	_____	_____
Other: _____	_____	_____	_____

Fields may be left blank, limiting factors do not preclude burning. Please refer to checklist purpose.

Common Section (All Burns)

Incident information

Incident Name	
Current date/time	
Anticipated burn date/time	
Location of spill (descriptive)	
Location of burn (descriptive)	

Spill Location/Trajectory *(Resource for section: Scientific Support Team)*

Trajectory (Graphic Attached)	__Yes __ No
-or- Text:	
Overflight Map (Graphic Attached)	__Yes __ No
-or- Text:	

Resource for section: Scientific Support Team:

	Optimal Condition	Sub-Optimal Condition	
Oil Burnability	Yes or Probable	No or Unlikely	Comments
Anticipate oil to remain ignitable (fresh, not highly emulsified)?			
Attachments/Additional Information:			

Resource for section: Scientific Support Team:	Optimal Condition	Sub-Optimal Condition	
Weather/Sea Conditions	Yes or Probable	No or Unlikely	Comments
Weather forecast precipitation-free (affects ignition)?			
Winds/forecast winds less than 25 knots?			
Visibility sufficient for burn operations/observations (greater than 500 feet vertical, 1/2 mile horizontal)?			
Wave heights/predicted wave heights less than 2-3 feet?			
Attachments/Additional Information:			

Resource for section: Requesting Party:	Optimal Condition	Sub-Optimal Condition	
Operational feasibility	Yes or Probable	No or Unlikely	Comments
Is an operational plan written or in process? (if available, attach)			
Is needed air support available?			
Are personnel properly trained, equipped with safety gear, and covered by a site safety plan?			
Are all necessary communications possible (i.e. between aircraft, vessels, and control base in an open water burn)?			
Can all necessary equipment be mobilized during window of opportunity?			
If present, are ice and debris factored into plan?			
Can undesirable secondary fires be avoided?			
Can burn be safely extinguished or controlled?			
Can aircraft pilots/mariners be adequately notified, as necessary?			
Is equipment and personnel available for residue recovery?			
If ignition from a helicopter, FAA approved equipment?			
Attachments/Additional Information:			

Operational worksheet:

Product Type: Easily emulsified? _____ _____

Volume of product released: _____ _____

Burn method (at source, containment and towing to safe distance, onshore ignition):

Resource for section: OSC/SOSC staff in consultation with meteorologists/modelers as appropriate:	Optimal Condition	Sub-Optimal Condition	
Human and Environmental Impacts	Yes or Probable	No or Unlikely	Comments
Public exposure to PM-10 (particulates <10µm) not expected to exceed 150 $\mu g/m^3$ averaged over 1 hour as a result of burn? (current NRT planning **guideline**)			
Can burning be conduced at a safe distance from other response operations, and public, recreational, and commercial activities?			
Is particulate (hour-averaged PM-10) monitoring available if plume may cross over populated areas?			
Can public be adequately notified of burn?			
Is burn outside of identified Special Consideration Areas? (if no, additional restriction or permission exists inside area)			
Trustees consulted if endangered species in immediate burn area?			
Attachments/Additional Information:			

Fields may be left blank, limiting factors do not preclude burning. Please refer to checklist purpose.

Public Health/Plume Worksheet:

Distance/direction to nearest population relative to burn: _____ miles to the ____ (direction)
Distance/direction to nearest downwind population: _____ miles to the ____ (direction)
Forecast wind direction/speed (24 hour): _____ mph from the _____ (direction)
Forecast wind direction/speed (48 hour): _____ mph from the _____ (direction)
Estimated plume trajectory (text or attached graphic):

Visibility comment and forecast: _____
Other comments/issues: _____
_____
_____
_____
_____

Resource for section: OSC representative:

Decision to Initiate (Consultations/Concurrence)	Yes	No	Comments
Have MOU Zones been reviewed and zone burn location determined (A, B, C, Special Consideration Area)?			
Are consultations/concurrence called for by zone complete or in process? (Zone A=OSC, B=OSC/SOSC, C=OSC/SOSC/Trustee consultation and others required by state (i.e. fire official) Special Consideration Areas=specific requirement)			
Has SOSC received concurrence from or consulted/notified any additional agencies, if required by the state for *in-situ* burning?			
Have adjacent state(s) SOSC(s) concurred (land within 6 miles of burn) or been consulted (no land within 6 miles, but interested in decision)?			
If applicable, are other boundary concerns pre-planned/resolved by consultation/concurrence (Canadian, Region II, tribal)?			
Is oil to be lit with ignition source (i.e. helotorch), without the use of a burning agent to improve combustibility of oil?			
Only if no: Concurrence of State RRT representative?			
Concurrence of EPA RRT representative?			
Consultation with natural resource trustees?			
Notifications planned as described in MOU (EPA, DOI, NOAA, State(s))?			
Attachments/Additional Information:			

Fields may be left blank, limiting factors do not preclude burning. Please refer to checklist purpose.

Inshore Burn Section (Complete this section only for inshore burns):

Resource for section: Scientific Support Team:

	Optimal Condition	Sub-Optimal Condition	
Environmental Impacts	Yes or Probable	No or Unlikely	Comments
Does season or water/ice level minimize damage to oiled area (i.e. dormant plants and/or flooded root systems)?			
Does information in worksheet below and additional information available indicate that proposed inshore burn will result in net environmental benefits when compared to other alternative response countermeasures or of no action?			

Resource for section: SOSC representative:

Decision to Initiate ISB (Consultations/Concurrence)	Yes	No	Comments
Does fire official concur with decision to burn (per state requirements)?			
Local Air Quality Personnel consulted/concur on decision to burn? (Consult SOSC for particular state requirements)			
Landowner consulted on decision to burn?			

In-shore Environmental Worksheet:

Oil Thickness:

_____

Habitat/Substrate Type (e.g. salt marsh) and dominant Plant Species:

_____

_____

Description and size of Area to be Burned (include location of proposed burn with respect to spill source, an attached sketch, survey or picture of area is helpful):

_____

_____

Environmental Concerns and Recommendations, (include environmental trade-offs, water depth, past management practices, weather factors, presence of wildlife, alternate or additional clean-up methods):

_____

_____

Environmental Review Personnel (names and numbers):

_____

_____

Description of Operations (include how the fire will be contained, controlled and ignited):

_____

_____

Method to Recover Burn Residue, if expected:

_____

Monitoring to be Performed:

_____

_____

Fields may be left blank, limiting factors do not preclude burning. Please refer to checklist purpose.

APPENDIX 4: MASSACHUSETTS/RHODE ISLAND DISPERSANT PRE-AUTHORIZATION POLICY

MASSACHUSETTS/RHODE ISLAND
DISPERSANT PRE-AUTHORIZATION POLICY

MASSACHUSETTS/RHODE ISLAND
DISPERSANT PRE-AUTHORIZATION POLICY

PURPOSE

Sec. 1, This policy addresses the pre-authorization of the use of chemical dispersants for the purpose of responding to oil spills in the coastal waters of the Commonwealth of Massachusetts, the State of Rhode Island, and the United States, as a means of reducing the overall impact of such spills on coastal habitats and marine fauna.

SCOPE

Sec. 2, This policy covers the marine waters off the coasts of the Commonwealth of Massachusetts and the State of Rhode Island, extending seaward of the high water line to the outermost extent of the Exclusive Economic Zone.

ZONES

Sec. 3, The waters addressed in this policy, as defined above, will be delineated into two zones.

Conditional Approval Zone

(a) The use of any chemical agent in response to an oil spill in the coastal waters of the Commonwealth of Massachusetts and the State of Rhode Island within two nautical miles of the mainland or of designated islands (designation is addressed in Sec. 3, Special Consideration Areas) or has a mean low water depth of less than forty (40) feet will require approval under the methods and restrictions set forth in the latest National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300, Subpart J), unless otherwise pre-authorized.

Pre-Authorized Zone

(b) The use of chemical dispersants as listed in the most recent version of the National Oil and Hazardous Substances Pollution Contingency Plan Product Schedule in response to an oil spill in the coastal waters of the Commonwealth of Massachusetts, and/or the State of Rhode Island, and/or the waters subject to the authority of the U.S. Coast Guard Captains of the Port, Boston, Massachusetts and Providence, Rhode Island, which are seaward of two nautical miles of the mainland or of designated islands and have a mean low water depth of greater than forty (40) feet is pre-authorized under the supervision of the Pre-designated Federal On-Scene Coordinator with restrictions set forth below.

Special Consideration Areas

(1) Special Consideration Areas (SCA's) may be designated and described in writing by the Natural Resources Trustee (or his/her designated representative) for the Commonwealth of Massachusetts, the State of Rhode Island, the National Oceanic and Atmospheric Administration, or the Department of the Interior; or the manager of the Stellwagen Bank National Marine Sanctuary.

(2) Special Consideration Areas will consist of restrictions imposed on the use of chemical dispersants for a specific geographic area to be described in this policy (Annex A). These restrictions may range from outright prohibition to a requirement for consultation prior to deployment of the chemicals. They may be spatial, seasonal or species-specific in nature. Each Special Consideration Area submitted by the above mentioned individuals shall describe the specific restrictions to be applied on the use of chemical dispersants, including, as applicable, primary and alternate point-of-contact telephone numbers.

(3) Changes to any aspect of the Special Consideration Areas will be submitted, in writing, to the Chairperson of the appropriate Area Committee and will take effect thirty (30) days following receipt by the Chairperson. Upon receipt, the Chairperson shall forward copies of these changes, as soon as practical, to the membership of that Area Committee and to the Co-Chairpersons of the Region One Regional Response Team.

POLICY REVIEW

Sec. 4, This plan, along with the Special Consideration Areas in Annex A will be reviewed by the affected Area Committees annually at the first meeting of the full Area Committee following January 1.

DETERMINATION OF EFFECTIVENESS

Sec. 5 (a) The Pre-Designated Federal On-Scene Coordinator (FOSC) with authority over the oil spill in question will determine the effectiveness of the dispersant during the time of application. This effectiveness test will be conducted visually and qualitatively by the use of qualified and trained oil spill observers. Qualified observers will be individuals with oil observation experience from the FOSC's staff, the USCG National Strike Force, the NOAA Scientific Support Team or those identified by the FOSC at the time of the response. These individuals will conduct overflights to determine if the oil is being effectively dispersed. If it is determined by the FOSC, based on the report of the observers mentioned above, that the chemical dispersant is having minimal effect, application of that chemical dispersant will cease.

(b) If an authorized chemical dispersant application has been halted and conditions change which contribute positively to the effectiveness of re-application (for example, if a new release event occurs or weather conditions change), the FOSC, following consultation with his or her scientific support team, may attempt a new application of the chemical dispersant. This new application will be subject to the same effectiveness monitoring as described above.

DISPERSANT MONITORING PROTOCOL

Sec. 6 (a), As agreed upon by the Region One Regional Response Team, the FOSC will follow the Dispersant Monitoring Protocol, as outlined in Annex B. An inability to implement this plan in a timely manner will not revoke the FOSC's pre-authorization to apply chemical dispersants. However, the FOSC should make every attempt to implement this plan as soon as practical.

(b) As soon as practical, a post-application biological monitoring plan will be developed as a section of Annex B and will be implemented routinely following the use of dispersants. An inability to implement this plan in a timely manner will not revoke the FOSC pre-authorization to apply chemical dispersants. However, the FOSC should make every attempt to implement this plan as soon as practical.

NOTIFICATION

Sec. 7 (a) If a decision has been made by the FOSC to use chemical dispersants under the provisions of this policy, the FOSC, as soon as practical, will notify the Region One Concurrence Network, as set forth in the most recent version of the Federal Region One Oil & Hazardous Substances Pollution Emergency Contingency Plan, of that decision.

(b) If chemical dispersants are used as described in this policy or for the protection of human life, the FOSC will hold a post incident debriefing within forty-five (45) days after dispersant application to gather information concerning the effectiveness of the chemical agent used and to determine whether any changes to this agreement are necessary. This debriefing should include, but is not limited to, the Region One Concurrence Network, the Scientific Support Coordinator, and the State On-Scene Coordinator (SOSC), or their representatives. The results of the debrief will be included in the FOSC report.

Annex A

Special Consideration Areas

for MA/RI Dispersant Pre-authorization Policy

Summary: (see original letters for details)

Area/Situation:	Additional Condition:	Submitted by:
Dispersant types other than Corexit 9527 or 9500	Not pre-authorized (Other stockpiled dispersants must receive specific Section 7 approval from USF&WS and NMFS before they may be pre-authorized).	NMFS Section 7 conducted on 9527 and 9500, F&WS Section 7 conducted only on "Corexit formulations"
All pre-approval areas	Implementation of the 6-point Dispersant Monitoring Protocol, USF&WS Region 5 Bioassay protocol, and physiochemical data collection (temp, salinity, conductivity, pH) at each sampling location. (AST with EPA ERT may be able to provide such monitoring)	USF&WS Service Section 7 (see 8/22/96 memo) was conducted on an internal F&WS pre-approval policy (see 5/18/96 memo) that requires the mentioned conditions.
Areas where **baleen whales are present and feeding**	Suspend dispersant application	NMFS (See 8/2/96 Section 7 letter)
Jeffreys Ledge between 5/1—9/30	Consultation with NMFS	NMFS (See 8/2/96 Section 7 letter)
Stellwagen Bank between 5/1—11/15	Consultation with NMFS and SBNMS Manager	NMFS. (See 8/2/96 Section 7 letter)
Great South Channel between 5/1—6/30 and 10/1—11/15	Consultation with NMFS	NMFS (See 8/2/96 Section 7 letter)
Cape Cod Bay between 2/1—5/15	Consultation with NMFS	NMFS (See 8/2/96 Section 7 letter)

Annex B

Dispersant Monitoring Protocol

*** To Be Developed ***

(Interim protocol attached)

Concurrence Network Approval Letters

Massachusetts and Rhode Island
Dispersant Pre-Approval Policy

Agency	Approval of MA/RI Policy (dated Aug. 14, 1995)
EPA	August 28, 1996
Massachusetts	December 8, 1995
Rhode Island	November 13, 1996
Interior	January 24, 1997
USF&WS Section 7	August 22, 1996[1]
NOAA	November 14, 1995
NMFS Section 7	August 2, 1996[1]

[1] NMFS and USF&WS Section 7 letters contain Special Consideration Areas, restrictions to specific chemicals (those commonly available in quantity), and certain monitoring requirements. The pre-approval is subject to this set of conditions.

APPENDIX 5: MAINE AND NEW HAMPSHIRE AREA CONTINGENCY PLAN, ALTERNATIVE COUNTERMEASURES

4704 Alternative Countermeasures

References:

(a) 40 C.F.R. Part 300, National Contingency Plan
(b) The Environmental Protection Agency's INLAND AREA CONTINGENCY PLAN for Region I – New England
(c) EPA National Contingency Plan Product Schedule

The Maine and New Hampshire Area Committee strongly believes that the primary method of cleaning up oil spills should be the mechanical recovery of oil from the environment. However, successful oil spill response, particularly to a large oil spill, requires responders to combat the spill with as many "tools" as appropriate. Chemical countermeasures, in-situ burning and bioremediation agents are response options that have demonstrated usefulness in past oil spills. Guidance and agreements on in-situ burning and dispersants can be located in Section 9507. The Area Committee recognizes that in certain circumstances the utilization of chemical countermeasures, particularly dispersants, alone or in conjunction with other removal methods, may be considered as a more efficient means to minimize a substantial threat to public health or welfare, or minimize serious environmental damages. Thoughtful consideration must be given to all oil spill response options in order to maximize the response effort.

4705 Habitat Considerations

One of the primary concerns regarding the use of alternative countermeasures, particularly chemical countermeasures, is the potential for adverse impacts to habitats and organisms. The Maine and New Hampshire Area Committee participated in the development of the dispersant pre-approval plan to guide the Unified Command in the dispersant decision process. It is imperative that all trustees are involved in the dispersant use decision to ensure that the potential impacts of the various countermeasures are adequately assessed.

Though there have been attempts at quantitatively ranking environmental impacts associated with chemical countermeasures in the environment and there are numerous publications on the toxicity of dispersants, it is difficult to predict the response of a particular population or system to chemical countermeasures and oil in a specific geographic area. A review of case histories can provide guidance on situations where chemical countermeasures may not be appropriate.

The relative impacts of oil spill response chemical countermeasures to various habitats are summarized in the National Response Team's Selection Guide for Oil Spill Applied Technologies - Volume 1 Decision-Making

9508 Dispersant Preauthorization

9508.1 Purpose

This Preauthorization Plan is designed to implement Subpart J of the National Contingency Plan (NCP) and implement the requirements of the Federal Water Pollution Control Act (FWPCA); see, amended, Title 33 U.S.C. Section 1321(j)(4)(v); that the Area Contingency Plan (ACP) shall "describe the procedures to be followed for obtaining an expedited decision regarding the use of dispersants." This Plan provides preauthorization for the use of dispersants by the Coast Guard On-Scene Coordinator (FOSC). This preauthorization applies only in designated zones in the Coast Guard Captain of the Port Sector Northern New England geographic area of responsibility. This Plan also implements Subpart J (Use of Dispersants and Other Chemicals) and Section 2 of the Standard Federal Region I Response Team Regional Oil and Hazardous Substances Pollution Contingency Plan (RCP)

9508.2 Authority

FWPCA Section 311(d)(2)(G) requires the NCP; see, 33 U.S.C. Section 1321(d)(2), include a schedule for identifying "dispersants, other chemicals, and other spill mitigating devices and substances, if any, may be used in carrying out" the NCP. These are referred to as "chemical countermeasures" and are listed on the NCP Product Schedule. The responsibility to maintain the NCP Product Schedule was delegated to the Administrator, Environmental Protection Agency, by Executive Order 12777, and is carried out under

Subpart J of the NCP.

Subpart J of the NCP authorizes the Regional Response Team (RRT) representatives from EPA and the States with jurisdiction over the waters of the area to which a preauthorization plan applies, and the Department of Commerce (DOC) and Department of Interior (DOI) natural resource trustees, to approve in advance the use of certain products under specified circumstances as described in the preauthorization plan. Within the parameters of an approved pre-authorization plan, the FOSC may authorize the use of the products without obtaining the specific concurrences described above under Subpart J of the NCP.

Subpart J further provides that for spill situations that are not addressed by the preauthorization plans described previously, the FOSC, with the concurrence of the EPA representative to the RRT and the States with jurisdiction over the navigable waters threatened by the oil discharge, and in consultation with DOC and DOI natural resource trustees, may authorize the use of chemical and biological countermeasures on oil discharges; provided that such chemical and countermeasures are listed on the most current version of the NCP Product Schedule.

Commandant, United States Coast Guard, has pre-designated the Coast Guard Captain of the Port Sector Northern New England as the FOSC for oil discharges in COTP Sector Northern New England Zone (as defined in 33 C.F.R. Part 3, and subject to joint response boundary agreements with the EPA) and has delegated to the COTP the authority and responsibility for compliance with the FWPCA.

The Legislature of the State of Maine has authorized the Commissioner of the

Department of Environmental Protection (MEDEP) to designate a State Oil Spill Coordinator (SOSC), with the authority to approve the use of chemical countermeasures for the control of oil spills.

The Waste Management Division of the New Hampshire Department of Environmental Services (NHDES), under the authority of state law RSA 146A:4, assumes primary jurisdiction for response to oil spills in the state. Accordingly, the authority and responsibility for providing approval for the use of chemical countermeasures for control of oil spills rests with the State Oil Spill Coordinator designated by the Waste Management Division Director.

The US DOI and DOC/NOAA are designated Federal trustees of certain natural resources under Subpart G of the NCP and are to be consulted regarding the determination to apply dispersants to oil discharges in U.S. waters.
The Region I RRT representative from EPA,DOC/NOAA, DOI, ME DEP, and NH DES approve in advance the use of certain dispersants under specified circumstances as described in this Plan. As specified in this Plan, the FOSC, in consultation with these stakeholders, may authorize the use of these products without obtaining specific concurrences.

9508.3 Scope

This preauthorization Plan is applicable to the marine waters of the COTP Sector Northern New England Zone (defined in 33 C.F.R. Part 3). These waters, for the purpose of this plan, are divided into three geographic zones and conditions under which dispersant use is preauthorized are as follows:

Zone 1: No Pre-authorization

Geographic scope:

Zone 1 is defined as waters that lie landward of the 3 nautical mile line or in a water depth of less than or equal to 10 meters (≅33 feet) as reflected on NOAA charts along the coast of Maine and New Hampshire.

No advance approval for Zone 1:

There is no advance or expedited approval or preauthorization for the use of dispersants within Zone 1. The use of dispersants within this zone will be authorized by the FOSC with the concurrence of the EPA representative, concurrence of the RRT representative of the states with jurisdiction over the navigable waters threatened by the release and consultation with the DOC and DOI resource trustees, when practicable, in accordance with Subpart J of the National Contingency Plan.

Zone 2: Partial Pre-authorization

Geographic Scope:

Zone 2 is defined as waters that lie seaward of the 3 nautical mile line and landward of the 12 nautical mile line (outer boundary of the territorial sea) and in a water depth of greater than 10 meters (≅33 feet) as reflected on NOAA charts along the coast of Maine and New Hampshire.

Expedited approval for Zone 2:

There is expedited approval or preauthorization for the use of dispersants within Zone 2. The use of dispersants within this zone will be authorized by the FOSC in consultation with the RRT1 EPA representative, concurrence of the RRT representative of the states with jurisdiction over the navigable waters threatened by the release and in consultation with the DOC and DOI resource trustees, when practicable.

Zone 3: Pre-authorization

Geographic Scope:

Zone 3 is defined as waters that lie seaward of the 12 nautical mile line (outer boundary of the territorial sea) out to the extent of the Exclusive Economic Zone (200 mile limit) and in a water depth of greater than 10 meters (≅33 feet) as reflected on NOAA charts along the coast of Maine and New Hampshire.

Advance approval for Zone 3:

There is approval or preauthorization for the use of dispersants within Zone 3. The use of dispersants within this zone will be authorized by the FOSC in consultation with the RRT1 EPA representative, RRT representative of the states with jurisdiction over the navigable waters threatened by the release and with the DOC and DOI resource trustees, when practicable.

9508.4 Protocols

As attested by the approval of this Preauthorization Plan, the RRT I representatives from EPA, MEDEP, and NHDES, and the DOI and DOC/NOAA natural resource trustees, agree that the pre-designated FOSC has the authority and may order the use of dispersanton oil discharges using the guides found in Subpart J of the NCP, Section 2 of the Region I RCP, and this section subject to the following conditions:

The FOSC may authorize the use of dispersants on a release or discharge to prevent or substantially reduce a hazard to human life without obtaining concurrence from EPA, affected States, DOI, and DOC/NOAA, without following protocols established in this Plan, and without following the guides in the RCP and ACP. If dispersants are used in this manner, notification to EPA, affected States, DOI, and DOC/NOAA shall be made as soon as practicable. Once risk to human life has subsided, these exceptions no longer apply.

Any dispersants used must be listed on the most current version of the NCP Product Schedule.

If a decision is made by the FOSC to use dispersants, under the provisions of this Plan, the FOSC will notify key stakeholders of that decision as soon as possible. This initial notification will include, but is not limited to, the following information to the extent available:

- Type and amount of oil discharged.
- Areas affected.
- The projected area of impact of the oil if not dispersed.
- Type of chemical agent to be used.
- Application rate and method.
- On scene weather.

Whenever possible, approval for use of dispersants will be proceeded by completion of a:

- Dispersant Use Application by the Responsible Party or other applicant,
- Incident-Specific Resources at Risk form by the natural resource trustees,
- FOSC Dispersant Use Decision Checklist and
- Agency Dispersant Use Decision Document.

If dispersants are used as described in this Plan or for the protection of human life, a post incident debriefing will take place within 45 days to gather information concerning the effectiveness of the chemical agents used and whether any changes to this Plan are necessary. The results of the debrief will be included in the FOSC report.

Monitoring for dispersants application and effectiveness will be conducted. An inability to implement a Monitoring Plan in a timely manner will not revoke the FOSC's authorization to use dispersants under this Plan. However, the FOSC should make all attempts to implement a Monitoring Plan as soon as practical.

9508.5 Amendments

This Preauthorization Plan shall be reviewed every five years by the Maine and New Hampshire Area Committee at the first meeting of the full Area Committee in the calendar year.

A list of dispersant resources can be found in Appendix I of the Maine Department of Environmental Protection Marine Oil Spill Contingency Plan at: http://www.maine.gov/dep/rwm/emergspillresp/marine.htm

9508.6 Unified Command Dispersant Worksheet

The worksheets for evaluating the potential use of dispersants during a response are currently being updated by a subcommittee of the Maine and New Hampshire Area Committee.

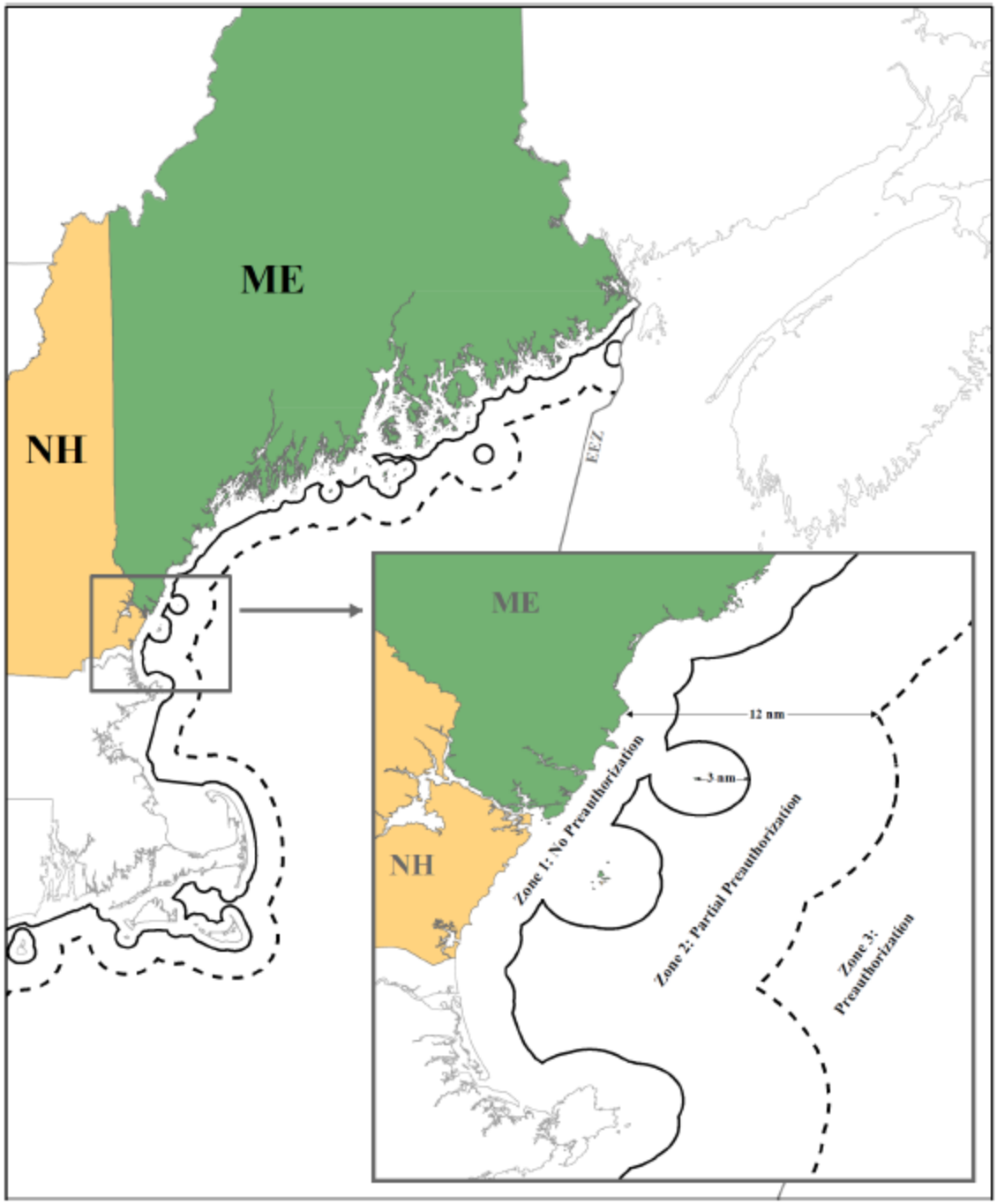
A map delineating the 3 general dispersant pre-authorizations zones follows:

Zone 1: No pre-authorization

Zone 2: Partial pre-authorization

Zone 3: Pre-authorization

ME/NH Dispersant Pre-authorization Zones



APPENDIX 6: UNIFIED COMMAND DISPERSANT WORKSHEET

Unified Command Dispersant Worksheet

To be coordinated by the FOSC Staff, Planning Section or R.P. (as practical).
This form should be completed to the degree that information is available, reliable and timely.

Federal On-Scene Coordinator:				
State On-Scene Coordinator:				
Responsible Party (R.P.):				
Points of Contact:	**FOSC Representative**			
	SOSC Representative R. P.			
	Representative Planning			
	Section Chief			
	NOAA SSC			
Information requested:	Date:		Time:	
Recommendations delivered:	Date:		Time:	

•••• Recommendations to the Unified Command ••••

(see Data Appendix for details)

MA/RI Area Committee
FOSC Pre-Authorizations
Approved: January 1997
FOSC
>2 N.Miles + 40 Ft Depth

Special Consideration Areas

Jeffreys Ledge (4/1-9/30)
Stellwagen Bank (4/1-11/15)
Great South Channel (4/1-6/30) & (10/1-11/15)
Cape Cod Bay (2/1-5/15)

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Data Appendix

SPILL DATA

Spill Name	Date	Time	Oil Type	**Additional Oil Info:**
				Attached:
Location of Spill: LAT:			LONG:	
Location of area to be treated (general)				

Pre-Approved	**YES**		**NO**	
Is the spill threatening a Special Consideration Area?		NO	YES	

Spill Volume: barrels tonnes meters3 gallons
(circle one)

Is the source expected to continue to discharge? Yes No Unknown

Rate of Discharge: per minute per hour per day
(circle one)

Surface Trajectory Prediction | Graphic Attached: YES NO

(CONSULT WITH THE NOAA SCIENCE SUPPORT TEM)

Dispersion Plume Prediction | Graphic Attached: YES NO

(CONSULT WITH THE NOAA SCIENCE SUPPORT TEAM)

CHARACTERISTICS OF THE SPILLED OIL (FRESH)

Susceptibility to mousse formation	High	Medium	Low	None
Susceptibility to naturally disperse	High	Medium	Low	None

Specific Gravity			API Grav.	
Viscosity		cSt at		degrees F
Pour Point		degrees F		

Trustees/States Potentially Impacted by Un-Treated Oil* (check appropriate box)

	DoD	TRIBAL	MAINE	NEW HAMP.	MASS.
	NOAA	DOI	RH. ISL.	CONN.	NEW YORK
Are Canadian Waters Potentially Impacted by Un-Treated Oil?				NO	YES

Trustees/States Potentially Impacted by Treated Oil* (check appropriate box)

	DoD	TRIBAL	MAINE	NEW HAMP.	MASS.
	NOAA	DOI	RH. ISL.	CONN.	NEW YORK
Are Canadian Waters Potentially Impacted by Treated Oil?				NO	YES

State		State On-Scene Coordinator

WEATHER and WATER CONSIDERATIONS
(at the time of anticipated treatment)

Weather (air)	Air Temp.:				
(Present Conditions On-Scene)	Wind:	Speed		Direction	
Weather (air)	Air Temp.:				
(Forecast Changes -- 12 Hours)	Wind:	Speed		Direction	
Tidal and Current Conditions:	Direction	MaxVelocity			
(FLOODING) Average			Seas in feet (Present)		
(EBBING) Average			Seas in feet (+12 hrs)		
Tides	High	Low	High	Low	Range:
Date:					
Time:					
Tidal Excursion (distance moved in one tidal cycle)				Oceanic	
				Estuarine	
Water	Depth	Temp.		Freshwater	

* As determined by the Scientific Support Team

CHARACTERISTICS OF THE AVAILABLE DISPERSANT AND DISPERSING EQUIPMENT

Name of proposed and/or available dispersant	

NCP National Product Schedule Information

Technical Product Bulletin #		
Revised Listing Date:		
Technical Bulletin Attached:	YES	NO

[www.epa.gov/oerrpage/oilspill/proover.htm]

CONSULT THE AREA PLAN FOR CHEMICAL & EQUIPMENT INFORMATION

Dispersant Availability

Arriving From:	E.T.A. (hrs)	Gallons Available

Total Gallons Available

Application Equipment Availability

Arriving From:	E.T.A. (hrs)	Equipment Available

Area of the spill that can be treated with total available dispersants	percent

Monitoring

Is SMART monitoring available?	YES	NO	ETA:		
SMART Team	AST	GST	PST	Other	
Team Leader:					

HABITAT AND RESOURCE CONSIDERATIONS SECTION

Comments:

Geomorphology of Impacted Beaches (for COASTAL applications or "beach cleaners")

Shoreline Type				
Energy of Beaches (waves)	High	Medium	Low	
Substrate Type				
Land Use				

Vulnerable Resources:

observed or known to be in the treatment impact area

Endangered/Threatened Species	NO	YES		**Was an Overflight Conducted?**	
Name of Lead Observer:					
Name of Resource Reference:				NO	YES
Resource(s) of Concern:				Date:	
				Time Out:	
				Time In:	

Observer or Resource Reference Notes: (include overflight information, if applicable)

Master ____ Copy _____ WITHOUT FOSC APPROVAL

Critical Species	NO	YES	Reference:
(marine mammals, sea turtles, potentially impacted terrestrial mammals and birds)			
Description/Notes:			
Recommendation/Restrictions:			

Waterfowl Considerations	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Aquiculture Facilities	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Shellfish Beds	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Marine or Estuarine Sanctuaries	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Industrial/Commercial	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Cultural/Historic	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Tribe:	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Tribe:	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Tribe:	NO	YES	Reference:
Description/Notes:			
Recommendation/Restrictions:			

Participants in preparing this worksheet:

Name	Title	Org.	Telephone

APPENDIX 7: NATIONAL RESPONSE TEAM REFERENCES

Note: This appendix is not duplicated in this Acrobat document or on the RRT I website. The above external link requires an internet connection and will take you to an online version of the contents of this appendix.

The National Response Team website provides numerous references that can be of assistance during a response. A few examples are listed below:

- Incident Command System/Unified Command Technical Assistance Documents
- Joint Information Center Model Guidance Document: Collaborative Communications during an Emergency Response
- Use of Volunteers Guidelines for Oil Spills
- Chemical Quick Reference Guides

APPENDIX 8: EXECUTIVE ORDERS 12580 & 12777

Note: This appendix is not duplicated in this Acrobat document or on the RRT I website. The above external link requires an internet connection and will take you to an online version of the contents of this appendix.

- Executive Order Number 12580: Superfund Implementation

- Executive Order Number 12777: Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as amended and the Oil Pollution Control Act of 1990

APPENDIX 9: COAST GUARD/ENVIRONMENTAL PROTECTION AGENCY RESPONSE JURISDICTION BOUNDARY

DEMARCATION OF THE INLAND AND COASTAL ZONES

BETWEEN

U.S. ENVIRONMENTAL PROTECTION AGENCY – REGION I

AND

U.S. COAST GUARD – FIRST DISTRICT

FOR

PRE-DESIGNATION OF ON-SCENE COORDINATORS

FOR POLLUTION RESPONSE

IN REGION I

THE STATES OF CONNECTICUT, MASSACHUSETTS, MAINE,

NEW HAMPSHIRE, RHODE ISLAND, AND VERMONT

FEBRUARY 2006

1. PARTIES. The parties to this amendment are the United States Coast Guard (USCG) and United States Environmental Protection Agency (EPA).

2. AUTHORITY. This amendment is authorized under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP; 40 CFR 300.210[b]).

3. PURPOSE. The purpose of this amendment is to revise the existing EPA Region I and USCG First District (Standard Federal Region I) Inland Zone (IZ) and Coastal Zone (CZ) geographical boundaries establishing responsibility for the pre-designation of On-Scene Coordinators (OSCs)[1] for pollution response pursuant to the NCP (30 CFR 300). This amendment clarifies the Inland and Coastal Zone boundaries for the Standard Federal Region I Regional Oil and Hazardous Substances Pollution Contingency Plan (RCP) required by the NCP section 300.210(b), and more precisely defines agency response jurisdiction as stated in the May 2002 Region I RCP. This amendment also establishes a formal mechanism by which OSC responsibility may be transferred between EPA and the USCG during an oil and/or hazardous substance pollution incident. Implicitly included in such a transfer of OSC responsibility is the responsibility for enforcement, as provided for in the USCG and EPA Memorandum of Understanding Concerning the Enforcement of Section 311 of the Clean Water Act, entered into on March 23, 1993.

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[1] The U.S. Coast Guard uses the term *Federal On-Scene Coordinato*r to prevent confusion with the *On-Scene Commander* in the Search-and-Rescue community. For the purposes of this document, only the NCP term *On-Scene Coordinator* and acronym *OSC* are used.

4. RESPONSIBILITIES. In the area covered under this amendment, EPA and the USCG will carry out general agency and incident-specific responsibilities under the NCP, the National Response Framework (NRF), RCP, and the applicable Area Contingency Plan (ACP), and will assist each other to the fullest extent possible to prevent or minimize the impacts of actual discharges or releases or threats of discharges of oil onto navigable waters or adjoining shorelines, and actual releases or threats of releases of hazardous substances into the environment. The terms of this amendment will be incorporated into the applicable RCP and ACPs.

Inland Zone

The Inland Zone for Standard Federal Region I consists of the environment inland of the geographical boundary line promulgated under the RCP and revised by this amendment. This area inland of the boundary line excludes specified ports and harbors on inland rivers as described in the RCP.

EPA provides the pre-designated OSC for pollution response in the Inland Zone. Response to discharges or releases, or a substantial threat of such a discharge of oil or release of a hazardous substance originating within the Inland Zone, including those from unknown sources, is the responsibility of the EPA OSC. Discharges and releases which originate within the Inland Zone but impact the Coastal Zone remain under the jurisdiction of the EPA OSC (for elaboration see below, "Mutual Response Support and Transfer of OSC Responsibility").

Incidents for which EPA does not provide the OSC are outlined in 40 CFR 300.120 (c) and (d):

- releases of hazardous substances, pollutants, or contaminants, when the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of the U.S. Department of Defense (DOD) and the U.S. Department of Energy (DOE);
- remedial responses to facilities owned or controlled by federal agencies other than DOD and DOE; and
- all responses involving DOD owned or controlled military weapons.

Coastal Zone

The Coastal Zone for Standard Federal Region I consists of the environment seaward of the geographical boundary line promulgated under the RCP and revised by this amendment. This area seaward of the boundary line consists of all United States waters subject to the tide, RCP-specified ports and harbors on inland rivers, 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.

The cognizant USCG Captain of the Port (COTP) is the pre-designated OSC for pollution response in the Coastal Zone. Response to discharges or releases, or a substantial threat of such a discharge of an oil or release of a hazardous substance originating within the Coastal Zone, including those from unknown sources, is the responsibility of the USCG OSC. Discharges and releases which originate within the Coastal Zone but impact the Inland Zone remain under the jurisdiction of the USCG OSC (for elaboration see below, "Mutual Response Support and Transfer of OSC Responsibility").

Incidents for which USCG does not provide the OSC are outlined in 40 CFR 300.120 (c) and (d):

- releases of hazardous substances, pollutants, or contaminants, when the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of the DOD and the DOE;

- remedial responses to facilities owned or controlled by federal agencies other than DOD and DOE; and
- all responses involving DOD owned or controlled military weapons.

The USCG hazardous substance response role is generally limited to the emergency actions in response to hazardous substance releases, as further defined in the NCP at 40 CFR 300.120(a)(1) and the Department of Transportation (DOT)/EPA Instrument of Redelegation dated May 27, 1988.

Mutual Response Support and Transfer of OSC Responsibility

The EPA/USCG response jurisdiction boundary lines do not preclude mutual assistance between the two agencies during an incident to best utilize the expertise and capabilities of each. For certain incidents, a complete transfer of OSC responsibility may be more practical than providing expertise and resources to the primary agency through mutual support.

A formal agency transfer of OSC responsibility may be appropriate when:

- a hazardous substance response changes from an emergency response to a removal or remedial action;
- one OSC or agency is better suited to coordinate the response to a specific incident based on field of expertise (e.g., the USCG for Inland Zone oil discharges near the boundary that require a navigable water response, or EPA for Coastal Zone releases involving certain hazardous substances);
- releases cross the boundary line and the scope of potential and/or actual environmental impacts in one Zone significantly exceeds the other;
- the OSC's or agency's emergency response workload exceeds existing capabilities; or,
- other incident-specific situations in which EPA or USCG determine that a formal transfer of OSC responsibility is appropriate.

A request for OSC responsibility transfer may be initiated verbally by the OSC. Any transfer initiated verbally should be followed up in writing utilizing the attached form letter. A copy of the signed transfer agreement shall be maintained with the incident file according to standard agency record-keeping procedures.

Incident Origin and Seepage Sites

When discharges of oil or releases of hazardous substances are discovered to have originated from the Zone other than the one originally supposed, the OSC with the responsibility for the source Zone will assume responsibility. A source may be unknown or may occur in both Zones. In that case, the OSC for the Zone most significantly impacted will assume responsibility.

A seepage site should remain under the responsibility of the pre-designated OSC for the zone of origin. OSC responsibility may be transferred when the discharge or release crosses or has the potential to cross the boundary line, and the two agencies agree that the scope of potential and/or actual environmental impacts in one Zone significantly exceeds the other.

Nuclear/Radiological Incidents

Please consult the to the National Response Plan for guidance on coordinating agency and other agency roles in a nuclear or radiological incident. On-Scene Coordinator authorities and responsibilities apply to releases of radionuclides designated as hazardous substances (40 CFR 302.4), except where specifically excluded from the hazardous substance definition (statutory exclusions related to the Atomic Energy Act and Uranium Mill Tailings Radiation Control Act). While a radionuclide release may be fully addressed under the NCP under FOSC authority, there are a number of situation-dependent authorities, responsibilities, and coordinating functions of other federal agencies that may apply. The National Response Plan Nuclear-Radiological Incident Annex reconciles these roles by defining a coordinating agency based on the circumstances of an incident (Table 1 of the Annex), and further defining agency roles and responsibilities for both Incidents of National Significance and lesser incidents. OSCs should implement their NCP authority in a radionuclide release consistent with the coordination mechanisms of the NRP when an incident beyond NCP-only coordination occurs.

Notifications following Transfer of OSC Responsibility

EPA and the USCG often work closely with state and local counterparts during oil and hazardous substance pollution responses. To facilitate federal coordination with the state and local response community following a formal transfer of OSC responsibility, a signed copy of the transfer agreement should be sent to the appropriate state and/or local emergency response department. However verbal notification to the states is required as soon as the transfer of OSC responsibility takes place followed by the signed copy. The lead for enforcement actions may also be determined by the agency providing the OSC under other agreements and procedures; therefore, a copy of the transfer agreement should be sent to USCG and EPA enforcement personnel as appropriate to adjust enforcement lead.

OSC Responsibility under National Response Framework Activation

During pollution responses to natural disasters, homeland security events, or other incidents under an NRF and Emergency Support Function (ESF) #10 activation, many areas within a region may be affected. In some cases, the OSC responsibility pre-designation may not be strictly adhered to in an effort to best utilize available resources in response to pollution issues. However, under ESF #10 activations, care shall be taken to provide OSCs for responses consistent with the parent agency's expertise.

5. POINTS OF CONTACT. Points of contact for coordination, support, and implementation of this amendment are as follows:

Chief, Emergency Planning and Response Branch
U.S. EPA – Region I
5 Post Office Square - Suite 100
Boston, MA 02109-3912

Commander (drm)
First Coast Guard District
408 Atlantic Avenue
Boston, MA 02210-2209
(617) 223-8480

Sector Commander
USCG Sector Northern New England
27 Pearl Street
Portland, ME 04101
(207) 767-0320

Sector Commander
USCG Sector Boston
425 Commercial Street
Boston, MA 02109
(617) 223-3027

Sector Commander
USCG Sector Southeastern New England

1 Little Harbor Road
Woods Hole, MA 02543
(866) 819-9128

USCG Sector Long Island Sound
120 Woodward Avenue
New Haven, CT 06512
(203) 468-4472

Sector Commander

Regional and Area Contingency Plans of the signatory agencies will be amended to incorporate the information and procedures contained herein. This amendment supersedes previous jurisdictional boundaries as stated in the May 2002 Region I RCP for oil and hazardous substance pollution response within Federal Standard Region I.

6. OTHER PROVISIONS. Nothing in this amendment is intended to conflict with current law or regulation or the directives of the USCG, DHS, or EPA. If any term of this amendment is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this amendment shall remain in full force and effect.

7. EFFECTIVE DATE. The terms of this amendment will become effective upon signature of all parties.

8. REVIEW AND MODIFICATION. This document will be subject to review and amendment coincident with each periodic review of the Regional, Area, and other applicable contingency plans and at any other time at the request of any of the signatory parties. The amendment may be modified upon the mutual consent of the parties.

9. TERMINATION. The terms of this amendment, as modified with the consent of both parties, will remain in effect indefinitely. Either party, upon 30 days written notice to the other party, may terminate this amendment.

STATEMENT OF AGREEMENT TO TRANSFER
ON-SCENE COORDINATOR (OSC) RESPONSIBILITY
BETWEEN
U.S. ENVIRONMENTAL PROTECTION AGENCY – REGION I
AND
U.S. COAST GUARD – FIRST DISTRICT*

Pursuant to the Demarcation of the Inland and Coastal Zones for Region I, this agreement documents the following transfer of OSC responsibility (check one):

❑ **from USCG _____ to EPA Region_____**
(Sector) (Region number)

—OR—

❑ **from EPA Region _____ to USCG_____**
(Region number) (Sector)

Responsibility is hereby delegated to the accepting OSC to take response measures deemed necessary to protect public health or welfare or the environment from the following threat or actual discharge or release:

at (location): _____

from (source): _____

description: _____

_____

_____

on or about (time): _____ (date): _____ (year): 20_____ and otherwise identified as (case name or number):_____.

It is hereby agreed:

That this delegation of responsibility is limited solely to the aforementioned incident.

That this transfer of responsibility to the accepting OSC is COMPLETE and will include all associated investigation, cleanup or removal, disposal, public relations, enforcement, incidental paperwork, filing of required reports, and all other responsibilities of the OSC under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

That this transfer will further remain in effect until such time as the accepting OSC has determined that there is no further danger to the public health or welfare.

That this agreement does not preclude continued mutual support between EPA and the USCG as deemed appropriate for this incident.

_____	_____
U.S. COAST GUARD Federal OSC	**U.S. EPA OSC**
_____	_____
DATE	**DATE**

* This document provided as a means, not the sole means, to document transfer of OSC responsibility. If this form is unavailable or OSCs are unable to exchange signatures due to incident circumstances, other communications can be used to effect and document a transfer.

COAST GUARD/ ENVIRONMENTAL PROTECTION AGENCY
RESPONSE JURISDICTION BOUNDARY
CONNECTICUT

In 1979 a continual boundary for the State of Connecticut, delineating inland and coastal areas, was agreed upon by the U.S. Coast Guard and EPA Region I. The boundary begins at the State line on US Rte 1 in Pawcatuck, and ends at the Byram River, between Greenwich, CT and Port Chester, NY.

BOUNDARY

- Starting at the State line, where US Rte 1 enters the State of Connecticut, in the village of Pawcatuck, the boundary follows US Rte 1 to the intersection of West Broad Street.
- The boundary follows West Broad Street, which becomes the Pequot Trail (CT Rte 234), westerly, to Taugwank Road.
- The boundary follows Taugwank Road, northerly to its intersection with 1-95.
- The boundary follows I-95, westerly to CT Rte 117.
- The boundary follows Rte 117, southerly, to US Rte 1.
- The boundary follows US Rte 1, westerly, to its intersection with CT Rte 12, in Groton.
- The boundary follows Rte 12, to its intersection with CT Rte 2, in Norwich.
- The boundary follows CT Rte 2, westerly, to its intersection with CT Rte 32.
- The boundary follows CT Rte 32, southerly, to its intersection with Rte 1-95, in New London.
- The boundary follows Rte I-95, westerly, to its intersection with CT Rte 156, in Lyme.
- The boundary follows CT Rte 156, northerly, to its intersection with Old Hamburg Road in Hamburg.
- The boundary follows Old Hamburg Road until it connects with Joshuatown Road (which becomes River Road). The boundary follows River Road northwesterly, to CT Rte 148, in Hadlyme.
- From Hadlyme, the boundary follows Rte 148, easterly, to the junction with CT Rte 82.
- The boundary follows Rte 82, northerly, to the intersection with CT Rte 149, in East Haddam.
- From East Haddam, the boundary follows Rte 149, northerly, to the junction with CT Rte 151, in Moodus.

CONNECTICUT

- The boundary follows Rte 151, northwesterly, to its intersection with CT Rte 66 in Cobalt.
- From Cobalt, the boundary follows Rte 66, westerly, to Portland, where it follows CT Rte 17A, northerly, to its intersection with CT Rte 17.
- The boundary follows Rte 17, northerly, to its intersection with Main Street, in Glastonbury.
- The boundary follows Main Street through Glastonbury to its intersection with CT Rte 2 in Hochanum.
- The boundary follows Rte 2, northerly, to Rte 1-84 in East Hartford.
- The boundary follows Rte 1-84 across the Connecticut River, then follows I-91, southerly through Hartford, to the intersection with CT Rte 99.
- The boundary follows Rte 99, southerly, to its intersection with CT Rte 9.
- The boundary follows Rte 9, to the Union Street interchange, in Middleton, and along Union Street to River Road.
- The boundary follows River Road, westerly, to Aircraft Road, within the Pratt & Whitney compound.
- The boundary follows Aircraft Road, westerly, to its intersection with CT Rte 154.
- The boundary follows CT Rte 154, southerly, to its intersection with CT Rte 9, in Deep River.
- The boundary follows Rte 9, to its intersection with Rte I-95, in Old Saybrook.
- The boundary follows Rte I-95 to its intersection with US Rte 1, at Exit 55 in Branford.
- The boundary follows US Rte 1, westerly, to Townsend Avenue.
- The boundary follows Townsend and Quinnipiac Avenue, northerly, to CT Rte 80.
- The boundary follows Rte 80, westerly to I-91.
- The boundary follows Rte I-91, southerly to Rte I-95.
- The boundary follows Rte I-95, westerly to the Milford Parkway.
- The boundary follows the Milford Parkway and CT Rte 15, westerly, to CT Rte 110, in Stratford.
- The boundary follows Rte 110, southerly, to Rte I-95.

COAST GUARD/ENVIRONMENTAL PROTECTION AGENCY
RESPONSE JURISDICTION BOUNDARY (Continued)

CONNECTICUT

- The boundary follows I-95, westerly, to Seaview Avenue.
- The boundary follows Seaview Avenue, northerly, to US Rte 1.
- The boundary follows Rte 1 and Chops Hill Road to CT Rte 8.
- The boundary follows CT Rte 8, southerly, to Rte I-95.
- The boundary follows Rte I-95, westerly, to East Street in Norwalk.
- The boundary follows East Street, northerly, to Wall Street.
- The boundary follows Wall Street, westerly, to West Street.
- The boundary follows West Street, southerly, to Rte I-95.
- The boundary follows Rte I-95, westerly, to Exit 5, where the boundary transfers to US Rte 1 Westerly.
- The boundary follows Rte 1, westerly, to Indian Trail, in Cos Cob.
- The boundary follows Indian Trail, southerly, to Rte I-95.
- The boundary follows Rte I-95, westerly, to Exit 2.
- From Exit 2, the boundary follows Delavan and Mill Street to the Byram River Bridge and Region II.

Notes: Incidents occurring seaward of the boundary are the responsibility of the U.S. Coast Guard to provide the On-Scene Coordinator. Incidents that occur on the boundary, or inland of the boundary are the responsibility of the U.S. Environmental Protection Agency to provide the On-Scene Coordinator.

Islands off the coast of Connecticut are within the U.S. Coast Guard's jurisdiction.

MAINE

In 1978 a continual boundary for the State of Maine, delineating inland and coastal areas, was agreed upon by the U.S. Coast Guard and EPA Region I. The boundary begins at the International Bridge, connecting Calais, Maine and St. Stephen, N.B., and ends at the ME Rte 101 Bridge (Eliot Bridge), connecting Maine and New Hampshire.

BOUNDARY

Starting at the International Bridge, Calais, Maine, the boundary follows Main Street to US Rte 1 South.

- The boundary continues, southerly, along US Rte 1 to ME Rte 200 in Sullivan.
- The boundary follows Rte 200, northerly, to its intersection with ME Rte 182, in Franklin.
- The boundary follows Rte 182, southwesterly, to its intersection with US Rte 1, near Ellsworth.
- The boundary follows US Rte 1, westerly, to its intersection with ME Rte 72, in Ellsworth.
- From Ellsworth, the boundary follows Rte 172, southerly, to the intersection with ME Rte 176, in Surry.
- The boundary continues along Rte 176, southerly, to Blue Hill.
- In Blue Hill, the boundary rejoins Rte 172 and continues, southerly, on Rte 172 to its intersection with ME Rte 175, in Sedgwick.
- From Sedgwick, the boundary follows Rte 175, northerly, to its intersection with US Rte 1, in Orland.
- The boundary follows Rte 1, westerly, to ME Rte 15, in Bucksport.
- From the intersection of US Rte 1 and Rte 15, in Bucksport, the boundary follows Rte 15, northerly, to the intersection with US Rte 1A in Brewer.
- From Brewer, the boundary follows Rte 1A into Bangor, then southerly to its intersection with US Rte 1 in Stockton Springs.
- The boundary continues, southerly, along US Rte 1, to its intersection with ME Rte 127 (In 1978 this was ME Rte 128), in Woolwich.
- The boundary initially follows Rte 127, then it follows Rte 128, northerly, to the intersection with ME Rte 197 in Dresden and Richmond Bridge.
- The boundary crosses the bridge, westerly, to ME Rte 24.
- From the intersection of Rte 24 and Rte 197, the boundary follows Rte 24, southerly, to its intersection with US Rte 201 in Topsham.

COAST GUARD/ENVIRONMENTAL PROTECTION AGENCY
RESPONSE JURISDICTION BOUNDARY (Continued)

MAINE

- From Topsham, the boundary follows US Rte 201, southerly, to Brunswick, and its junction with US Rte 1.
- The boundary follows US Rte 1, southerly, to Bucknam Road, in Falmouth.
- The boundary follows Bucknam Road, westerly, to ME Rte 9.
- From the intersection of Rte 9 and Bucknam Road, the boundary follows Rte 9, through Portland, to its intersection with US Rte 1, in South Portland.
- The boundary follows US Rte 1 southerly, to its intersection with Rte 9 in Saco. (In 1978, this intersection was misidentified as being in Biddeford.)
- The boundary follows Rte 9, southerly, to its intersection with US Rte 1 in Elms (part of Wells).
- The boundary follows US Rte 1, southerly, to its intersection with ME Rte 103, in Kittery.
- The boundary follows Rte 103, northerly, to its intersection with ME Rte 236.
- The boundary follows Rte 236, northerly, to ME Rte 101.
- The boundary follows Rte 101, westerly, across Eliot Bridge, to New Hampshire.

Notes: Incidents occurring on the boundary, or seaward of the boundary, are the responsibility of the U.S. Coast Guard to provide the On-Scene Coordinator. Incidents inland of the boundary are the responsibility of the U.S. Environmental Protection Agency to provide the On-Scene Coordinator.

MASSACHUSETTS

In 1978/1979 a continual boundary for the State of Massachusetts delineating inland and coastal areas was agreed upon by the U.S. Coast Guard and EPA Region I. The boundary begins at the New Hampshire/Massachusetts border and ends, initially, at the Westport, MA/Little Compton, RI town line. It resumes at the Tiverton, RI/Fall River, MA boundary and ends at the Seekonk, MA/East Providence, RI border.

BOUNDARY

- The boundary begins in Salisbury, MA, where US Rte 1 crosses into Massachusetts from New Hampshire.
- The boundary runs southerly along US Rte 1 to its intersection with MA Rte 1A, in Newburyport.
- From Newburyport, the boundary follows Rte 1A to the intersection of MA Rte 133 in Ipswich.
- The boundary follows Rte 133, westerly, to the intersection with MA Rte 127, in Gloucester, MA.
- From Gloucester, the boundary follows Rte 127, southwesterly to its intersection with MA Rte 62, in Beverly.
- The boundary follows Rte 62, westerly, through Beverly to MA Rte 128.
- The boundary follows Rte 128, southerly, to the intersection with MA Rte 114, in Peabody.
- From the intersection with Rte 128, the boundary follows Rte 114, southeasterly, to the intersection with MA Rte 129, in Marblehead.
- From Marblehead, the boundary follows Rte 129, southwesterly, to the intersection with MA Rte 1A, in Lynn.
- The boundary follows Rte 1A, southwesterly, to its intersection with Commercial Street, which is also in Lynn.
- The boundary follows Commercial, Bennett, Elmwood, West Neptune, and Minot Streets, generally, in a westerly direction, to MA Rte 107.
- The boundary follows Rte 107, southerly, through Revere, to its intersection with MA Rte 16.
- The boundary follows Rte 16, westerly, to MA Rte 28, in Malden, MA.
- From Malden, the boundary follows Rte 28, southerly, to the Edwin Land Boulevard (formerly Commercial Street) in Cambridge.
- In Cambridge, the boundary follows Edwin Land Boulevard, Monroe Street, and Third Street, in a westerly direction, to Broadway.

MASSACUSETTS

- The boundary follows Broadway, southerly, across the Charles River to Charles Street, in Boston.
- The boundary runs, southerly, through Boston on Charles Street (partially Storrow Drive) and I-93.
- The boundary follows MA Rte 3A from the intersection with I-93, southeasterly in Quincy, to MA Rte 53.
- The boundary follows Rte 53 southerly, to Commercial Street, in Weymouth.
- The boundary follows Commercial Street, northeasterly, to North Street, and then follows North Street, northerly, to Rte 3A.
- The boundary then follows Rte 3A, southeasterly, to the intersection with US Rte 6E in Bournedale.
- The boundary follows Rte 6E, southwesterly, to the intersection with Head of the Bay Road, in Bourne.
- The boundary follows Head of the Bay Road and Red Brook, northerly around Buttermilk Bay, to US Rte 6, in East Wareham.
- From Wareham, the boundary follows US Rte 6, westerly, to the intersection with Main Street, in Fairhaven.
- The boundary then follows Main Street, northerly, which becomes South Main Street, in Acushnet.
- The boundary continues northerly, on South Main Street, to the intersection with Main Street.
- The boundary follows Main Street, westerly, becoming Tar Kiln Road in New Bedford, to MA Rte 18.
- The boundary follows Rte 18 through New Bedford, becoming First Street, to the intersection with Cove Road, at Clark's Cove.
- The boundary follows Cove Road, westerly, to its intersection with Russell’s Mills Road at Bliss Corner.
- The boundary follows Russell's Mills Road, southwesterly, to its intersection with Horseneck Road, at Russell's Mills (Dartmouth).
- The boundary follows Horseneck Road to the intersection with Hix Bridge Road, in South Westport.

MASSACUSETTS

- The boundary runs westerly, along Hix Bridge Road to Drift Road.
- The boundary follows Drift Road southerly, to Main Road, at Westport Point. (This is not written in the boundary description, but shown on maps.)
- The boundary continues northerly, on Main Road, to its intersection with Cornell Road, at Sherman Hill.
- The boundary follows Cornell Road and Adamsville Road, westerly, to the village of Adamsville, in Little Compton, RI.
- The boundary re-enters Massachusetts at the State line, where RI Rte 138 enters Fall River, MA, from Tiverton, RI.
- The boundary follows Rte 138, northerly, to the intersection with MA Rte 79, in Fall River.
- The boundary extends, northerly, to the North Main Street interchange in Assonet, MA via Rte 79 and Rte 24.
- From Assonet, the boundary trends westerly, via North Main Street (Assonet), South Main Street (Berkeley), Elm Street, and Center Street (Dighton), to the intersection with MA Rte 138, in Segreganset (Dighton).
- The boundary follows Rte 138, southerly, to the intersection with US Rte 6, in Somerset.
- The boundary follows US Rte 6, westerly, to the State line with Rhode Island.

Cape Cod

- Starting with MA Rte 28 in Bourne (South of the Bourne Bridge), the boundary extends southerly and easterly, to its intersection with US Rte 6A, in Orleans.
- The boundary follows Rte 6A, westerly, to the intersection with US Rte 6W in Sandwich.
- From Sandwich, the boundary follows US Rte 6W, southwesterly, to the intersection with Rte 28, in Bourne.

Islands

Martha's Vineyard, Nantucket, and all other islands lying off the coast of Massachusetts are the responsibility of the U.S. Coast Guard for providing the predesignated Federal On-Scene Coordinator.

Note: Incidents occurring on the boundary, or seaward of the boundary, are the responsibility of the U.S. Coast Guard to provide the On-Scene Coordinator. Incidents inland of the boundary are the responsibility of the U.S. Environmental Protection Agency to provide the On-Scene Coordinator.

NEW HAMPSHIRE

In 1978 a continual boundary for the State of New Hampshire, delineating inland and coastal areas, was agreed upon by the U.S. Coast Guard and EPA Region I. The boundary begins at the Eliot Bridge across the Salmon Falls River that joins ME Route 101 with Gulf Road in New Hampshire, and ends on US Rte 1, at the New Hampshire/Massachusetts border.

BOUNDARY

Starting at the Eliot Bridge, the boundary follows the shore, southerly to US Rte-4 , at Dover Point.

- The boundary follows US Rte 4, westerly, to NH Rte 108 in Durham.
- The boundary follows Rte 108, southerly, to its intersection with NH Rte 33 (formerly NH Rte 101), in Stratham.
- From Stratham, the boundary follows Rte 33 (formerly NH Rte 101), easterly, to its intersection with US Rte 1, in Portsmouth.
- The boundary follows US Rte 1, southerly, to Massachusetts.

Note: Incidents occurring on the boundary, or seaward of the boundary, are the responsibility of the U.S. Coast Guard to provide the On-Scene Coordinator. Incidents inland of the boundary are the responsibility of the U.S. Environmental Protection Agency to provide the On-Scene Coordinator.

COAST GUARD/ENVIRONMENTAL PROTECTION AGENCY
RESPONSE JURISDICTION BOUNDARY (Continued)

RHODE ISLAND

In 1978 a continual boundary for the State of Rhode Island delineating inland and coastal areas was agreed upon by the U.S. Coast Guard and EPA Region I. The boundary begins on Adamsville Road at the State line in Adamsville, and initially ends where Rte 138 enters Massachusetts, at Tiverton. The boundary resumes at the State line where US Rte 6 enters Rhode Island, in East Providence, and ends at the US Rte 1 Bridge, between Westerly, RI and Stonington, CT.

BOUNDARY

- Starting at the State line, where Adamsville Road enters Rhode Island from Westport, MA, the boundary follows Adamsville Road, Rte 179 and Cold Brook Road, westerly, to the intersection of Cold Brook Road and Long Highway.

- The boundary follows Long Highway, southerly, to the intersection with John Sisson Road.

- The boundary then follows John Sisson Road, Maple Lane, Brownell Road, and Swamp Road, westerly, to RI Rte 77 (Sakonnet Point Road), in Little Compton.

- The boundary follows Rte 77, northerly, to Highland Avenue, in Tiverton, RI.

- The boundary follows Highland Avenue, northerly, to its intersection with Main Road (formerly RI Rte 77).

- The boundary continues northerly on Main Road, to its intersection with RI Rte 138, also in Tiverton.

- The boundary continues northerly, on Rte 138, to the State line with Massachusetts.

- The boundary re-enters Rhode Island on US Rte 6, at the State line in East Providence, and continues westerly to the intersection with RI Rte 114.

- The boundary follows Rte 114 northerly, to the intersection with Division Street in Pawtucket.

- The boundary follows Division Street, Pleasant Street, and Alfred Stone Road to the intersection with Blackstone Boulevard near the Pawtucket/Providence city line.

- The boundary follows Blackstone Boulevard and Butler Avenue, southerly to Waterman Street.

- The boundary follows Waterman Street, westerly, to the intersection with South Main Street.

- The boundary follows South Main Street, southerly, to its intersection with US Rte 44 (also US Rte 6), crossing the Providence River, westerly, via the Howard Street Bridge, to Dyer Street.

COAST GUARD/ENVIRONMENTAL PROTECTION AGENCY
RESPONSE JURISDICTION BOUNDARY (Continued)

RHODE ISLAND

- The boundary follows Dyer Street, southerly, to Eddy Street. (These streets no longer connect; therefore, the boundary must be assumed to be a rhumb line, connecting the closest points.)

- The boundary follows Eddy Street, southerly, through Cranston, to its intersection with Broad Street.

- The boundary follows Broad Street, southeasterly, across the Pawtuxet River to its intersection with the Narragansett Parkway.

- The boundary follows the Narragansett Parkway, southerly, to its intersection with
- RI Rte 117.

- Rte 117 forms the boundary, southerly, to Post Road.

- The boundary follows Post Road to its intersection with US Rte 1 South, in Apponaug.

- The boundary follows US Rte 1, southerly, to its intersection with RI Rte 1A in Wickford.

- From Wickford, the boundary follows Rte 1A, southerly, to US Rte 1 in Narragansett.

- The boundary follows US Rte 1, westerly, to Rte 1A in Haversham.

- From Haversham, the boundary follows Rte 1A, via Avondale, northerly, to Westerly, where it joins US Rte 1.

- The boundary follows US Rte 1, westerly, to Connecticut.

Notes: Block Island, Conanicut Island, Rhode Island, and all other islands lying off the coast of Rhode Island are the responsibility of the U.S. Coast Guard for providing the predesignated Federal On-Scene Coordinator.

Incidents occurring on the boundary or to seaward of the boundary are the responsibility of the U.S. Coast Guard to provide the On-Scene Coordinator. Incidents occurring inland of the boundary are the responsibility of the U.S. Environmental Protections Agency to provide the On-Scene Coordinator.

APPENDIX 10: INSTRUMENT OF REDELEGATION BETWEEN USCG AND EPA, SIGNED 29 NOVEMBER 1987 AND 27 MAY 1988

Full Text of The Instrument of Redelegation between the CG and EPA dated 11/29/87

INSTRUMENT OF REDELEGATION

1. Except as provided in paragraph 2 below, in accordance with Section 11(g) of Executive Order 12580 of January 23, 1987, the Secretary of the Department in which the Coast Guard is operating hereby delegates to the Administrator, Environmental Protection Agency (EPA), subject to the Administrator's consent:

   a. all functions specified in Sections 2(f), 4(c), and 5(b) of that Executive Order.

   b. the functions specified in Sections 2(i), 2(j)(2), 2(k), and 6(c) of that Executive Order to the extent that those functions relate to the functions specified in Section 2(f) of that Executive Order.

2. **The functions redelegated** under this Instrument of Redelegation **do not include**;

   a. functions related to responses to releases or threats of releases from vessels;

   b. functions related to emergency action concerning releases or threats of releases at facilities other than active or inactive "hazardous waste management facilities" (as defined in 40 CFR 270.2); and

   c. functions related to emergency action concerning releases or threats of releases at active or inactive "hazardous waste management facilities" when the Coast Guard On-Scene Coordinator (OSC) determines that such an action must be taken pending the arrival on scene of an EPA OSC. Unless otherwise agreed upon by the EPA and Coast Guard, this authority will not be exercised unless the EPA OSC is scheduled to arrive on scene within 48 hours of notification of the release or threat of release.

3. For purposes of this Instrument, the term "emergency action" includes any removal action which, in the view of the Coast Guard OSC, must be taken immediately to prevent or mitigate immediate and significant danger to the public health, welfare, or the environment. Situations in which such actions may be taken include, but are not limited to, fire, explosions, and other sudden releases; human, animal, or food chain exposure to acutely toxic substance, and the contamination of a drinking water supply.

4. All the functions described in this document, whether redelegated or retained, include the authority to contract for, obligate monies for, and otherwise arrange for and coordinate the responses included within such functions.

/s/ (Acting) 11/29/87
Secretary of Transportation

/s/ (Acting) 5/27/88
Administrator, Environmental Protection Agency

APPENDIX 11: INTER-AGENCY MEMORANDUM OF AGREEMENT REGARDING OIL SPILL PLANNING AND RESPONSE ACTIVITIES UNDER THE NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN AND THE ENDANGERED SPECIES ACT

Inter-agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act

I. INTRODUCTION

A. Parties. The Parties to this agreement are the U.S. Coast Guard (USCG), the U.S. Environmental Protection Agency (USEPA), the Department of the Interior (DOI) Office of Environmental Policy and Compliance, the U.S. Fish and Wildlife Service (USFWS), and the National Oceanic and Atmospheric Administration's (NOAA's) - National Marine Fisheries Service (NMFS) and National Ocean Service (NOS).

B. The Parties have conducted a review of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and associated oil spill response activities to coordinate their actions under Section 1321(d) of the Clean Water Act and Section 7(a)(1) of the Endangered Species Act, as amended (16 U.S.C. 1531 et seq.) (ESA). Section 1321(d) of the Clean Water Act establishes the NCP and assigns responsibilities to Federal agencies in mitigating damage from oil and hazardous materials spills, including the conservation of fish and wildlife. Section 7(a)(1) of the ESA requires all Federal agencies, in consultation with and with the assistance of the Secretaries of the Interior or Commerce, as appropriate, to review their programs and utilize their authorities in furtherance of the purposes of the ESA by carrying out programs for the conservation of listed species. As a result of this review, recommended procedures have been developed that will achieve better conservation of listed species and critical habitat during implementation of oil spill response activities.

C. This agreement provides a general framework for cooperation and participation among the Parties in the exercise of their oil spill planning and response responsibilities. Following the recommended procedures presented in this agreement will better provide for the conservation of listed species, improve the oil spill planning and response procedures delineated in the NCP, and ultimately streamline the process required by Section 7(a)(2) of the ESA.

II. PURPOSE

A. This agreement is intended to be used at the area committee level primarily to identify and incorporate plans and procedures to protect listed species and designated critical habitat during spill planning and response activities. Proactive regional planning may also take into consideration concerns for proposed and candidate species, as well as listed species' habitat not yet designated as critical.[1]

[1] Adverse effects on non-designated critical habitat used by listed species has a potential for having an adverse affect on these listed species. Therefore, planners should consider these areas if information is available.

B. This agreement coordinates the consultation requirements specified in the ESA regulations, 50 CFR 402, with the pollution response responsibilities outlined in the NCP, 40 CFR 300. It addresses three areas of oil spill response activities: pre-spill planning activities, spill response event activities, and post-spill activities. The agreement identifies the roles and responsibilities of each agency under each activity. By working proactively before a spill to identify potential effects of oil spill response activities on listed species and critical habitat, and jointly developing response plans and countermeasures (response strategies) to minimize or avoid adverse effects, impacts to listed species and critical habitat should be reduced or avoided completely. Should a spill occur, response plans and countermeasures will be used to implement response actions to minimize damage from oil discharges in a manner that reduces or eliminates impacts to listed species and critical habitat. In the event that oil spill response actions may result in effects on listed species or critical habitat, the agreement provides guidance on how to conduct emergency consultation under the ESA. It also describes the steps for completing formal consultation, if necessary, after the case is closed, if listed species or critical habitat have been adversely affected.

C. The goal of this agreement is to engage in informal consultation wherever possible during planning and response. With adequate planning and ongoing, active involvement by all participants, impacts to listed species and critical habitat and the resulting need to conduct subsequent ESA Section 7(a)(2) consultations will be minimized or obviated.

III. LEGAL AUTHORITIES

A. The Federal Water Pollution Control Act (FWPCA), 33 U.S.C. § 1321., requires that when a spill occurs, the President take such action as necessary to ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial risk of a discharge of oil into the waters of the United States. The National Contingency Plan (NCP), 40 CFR Part 300, prepared in accordance with the FWPCA, assigns duties to Federal agencies to protect the public health and welfare, including fish, wildlife, natural resources and the public. The NCP designates the Federal On Scene Coordinator (FOSC) as the person responsible for coordinating an oil spill response. (The abbreviation OSC is used in the NCP, while the abbreviation for Federal On Scene Coordinator is FOSC in this agreement.) Nothing in this agreement limits the authority of the Federal On Scene Coordinator as defined in the NCP.

B. The Endangered Species Act of 1973 (ESA), as amended, 16 U.S.C. §1531 et seq., provides a means to protect threatened and endangered species and the ecosystems upon which they depend. The ESA requires that Federal agencies insure that the actions they authorize, fund, or carry out do not jeopardize listed species or adversely modify their designated critical habitat. Regulations for conducting Section 7 consultation are set forth in 50 CFR Part 402.

IV. DEFINITIONS

The following definitions apply to this agreement and are taken from the definitions contained in either the NCP or the March 1998 USFWS & NMFS Endangered Species Consultation Handbook. For definitions of terms not listed below, refer to the USFWS & NMFS Endangered Species Consultation Handbook and the NCP as appropriate.

Area Committee - the entity appointed by the President consisting of members from qualified personnel of Federal, state, and local agencies with responsibilities that include preparing an area contingency plan for an area designated by the President. The chairs of the Area Committee are the USCG for coastal and Great Lakes plans, and the USEPA for inland plans. In some instances the Regional Response Team (RRT) may act as the Area Committee. In this MOA, the term Area Committee also includes the RRT acting as the Area Committee.

Area Contingency Plan (ACP) - the plan prepared by an Area Committee (or the RRT acting as the Area Committee) that is developed to be implemented in conjunction with the NCP and Regional Contingency Plan (RCP), in part to address removal of a worst case discharge and to mitigate or prevent a substantial threat of such a discharge from a vessel, offshore facility, or onshore facility operating in or near an area designated by the President. A detailed annex containing a Fish and Wildlife and Sensitive Environments Plan prepared in consultation with the USFWS, NOAA, and other interested natural resource management agencies should be incorporated into each ACP. In this MOA, the term ACP also includes sub-area ACP's, sub-area contingency plans, geographic response plans and geographic response strategies as per 40 CFR 300.210.

Biological Assessment - information prepared by or under the direction of the Federal action agency (USCG or USEPA) regarding: 1) listed and proposed species and designated critical habitat that may be affected by proposed actions; and, (2) the evaluation of potential effects of the proposed actions on such species and habitat.

Biological Opinion - document which includes: (1) the opinion of the USFWS or NMFS as to whether or not a Federal action is likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of designated critical habitat; (2) a summary of the information on which the opinion is based; and (3) a detailed discussion of the effects of the action on listed species or designated critical habitat. This document will also contain an incidental take statement, that, if appropriate, exempts the Federal actions from the ESA Section 9 take prohibitions.

Candidate species – plant and animal taxa considered for possible addition to the List of Threatened and Endangered Species.

Case is Closed – When removal operations are complete in accordance with 40 CFR 300.320(b).

Critical habitat - areas designated by the USFWS and NMFS pursuant to Section 4 of the ESA for the purposes of identifying areas essential for the conservation of a threatened or endangered species and which may require special management considerations.

Emergency Consultation – an expedited consultation process that takes place during an emergency (natural disaster or other calamity) (50 CFR 402.05). The Services have determined that oil spill response activities qualify as an emergency action. The consultation may be initiated informally. The emergency continues to exist until the removal operations are completed and the case is closed in accordance with 40 CFR 300.320(b). The FOSC will continue to conduct emergency consultations, if needed, until the emergency is over and the case is closed. Formal, or informal, consultation is initiated after the emergency is over, at which time the USFWS and/or NMFS evaluates the nature of the emergency actions, the justification for the expedited consultation, and any impacts to listed species and their habitats.

Federal On Scene Coordinator (FOSC) - the Federal official predesignated by USEPA or the USCG to coordinate and direct responses under the FWPCA as defined in the NCP.

Formal Consultation[2] - a process between USFWS or NMFS and the Federal action agency (USCG or USEPA) that: (1) determines whether a proposed Federal action is likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat; (2) begins with a Federal agency's written request and submission of a complete Section 7 consultation initiation package; and (3) concludes with the issuance of a biological opinion and incidental take statement, as appropriate, by either of the Services. If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Services concur, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat. See informal consultation).

Incidental Take - take of listed fish or wildlife species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by a Federal agency or applicant.

Informal Consultation - an optional process that includes all discussions and correspondence between the USFWS or NMFS and the Federal agency (USCG or USEPA) or designated non-Federal representative, prior to formal consultation, to determine whether a proposed Federal action may affect listed species or critical habitat. This process allows the Federal agency to utilize the Services' expertise to evaluate the agency's assessment of potential effects or to suggest possible modifications to the proposed action, which could avoid potential adverse effects. If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Services concur, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat).

[2] Formal consultation can occur during planning or after the conclusion of emergency consultation if listed species or critical habitat have been affected.

Listed Species – for the purposes of this MOA, any species of fish, wildlife or plant, which has been determined to be endangered or threatened under Section 4 of the ESA.

National Contingency Plan (NCP) – National Oil and Hazardous Substances Pollution Contingency Plan. The NCP is a national plan that provides the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants and contaminants. The NCP is set forth in 40 CFR 300.

National Response Team (NRT) - a national team, defined under the NCP, responsible for national planning, policy, and coordination for hazardous substance and oil spill preparedness and response, consisting of representatives from agencies named in 40 CFR 300.175(b).

Regional Response Team (RRT) - a regional team of agency representatives that acts in two modes: the standing RRT and incident specific RRT. The Co-chairs are the USCG and USEPA. The standing team is comprised of designated representatives from each participating Federal agency, state governments and local governments (as agreed upon by the states). Incident-specific teams are formed from the standing team when activated for a response. The role of the standing RRT includes establishing regional communications and procedures, planning, coordination, training, evaluation, preparedness and related matters on a region-wide basis. It also includes assisting Area Committees in coordinating these functions in areas within their specific regions. The role and composition of the incident-specific team is determined by the operational requirements of the response. During an incident, it is chaired by the agency providing the FOSC.

Services – Term used to refer to both the USFWS and NMFS.

V. PROCEDURES

Oil spill planning and response procedures are set forth in the NCP. This agreement is intended to facilitate compliance with the ESA without degrading the quality of the response conducted by the FOSC, to improve the oil spill planning and response process, and ensure continued inter-agency cooperation to protect, where possible, listed species and critical habitat.

A. PRE-SPILL PLANNING

(1) While drafting Area Contingency Plans themselves may not result in effects to listed species, actions implemented under the plans may. It is essential that the Area Committee engage USFWS and NMFS during the ACP planning process while developing or modifying the ACP and response strategies. This informal consultation can be used to determine the presence of listed species or critical habitat, and the effects of countermeasures, and to ensure that measures to reduce or avoid impacts to listed species and critical habitats during oil spill response activities are developed. By consulting on the anticipated effects prior to implementing response actions, decisions can be made rapidly during the spill, harm from response actions can be

minimized, and implementation of response strategies specifically designed to protect listed species and critical habitat can be achieved.

(2) The pre-spill planning process is shown as a flow chart in Appendix A. The Area Committee Chair will request, in writing, that endangered species expertise and a species list be provided by the Services.[3] The request should also describe the area and include a general description of the countermeasures being considered and the planning process to be used (e.g., a workgroup). In order to document the request for consultation and planning involvement, the request shall be sent to both NOAA and USFWS. To obtain NMFS assistance, a request should be sent to the Department of Commerce (DOC) RRT representative, with a copy to the NOAA Scientific Support Coordinator (SSC) and the NMFS Regional Field Office. For USFWS support, a request should be sent to the local USFWS field office(s), with a copy to the USFWS Regional Response Coordinator (RRC) at the appropriate USFWS Regional Office(s) and the DOI RRT representative. It is the responsibility of the USFWS RRC, acting through the Ecological Services Assistant Regional Director, and the NOAA SSC to act as a liaison between the respective Service and the Area Committee. USFWS and NMFS will orally respond to the request within 30 days of receipt and provide a written response within 60 days. The response should include designation of a listed species expert to assist the Area Committee.

(3) If listed species or critical habitat are present in the planning area being considered the Area Committee should use a planning process that ensures engagement of Service experts.[4] This process shall ensure that the appropriate participants jointly gather and analyze the information needed to complete the Planning Template in Appendix C. This planning process constitutes informal consultation.[5] The goals of this planning process are to identify the potential for oil spill response activities to adversely affect listed species and critical habitat and to identify for inclusion in the ACP information on sensitive areas, emergency response notification contacts, and any other information needed. Methods should be developed to minimize identified adverse effects and, where necessary, the plan should be modified accordingly. If specific sources of potential adverse effects are identified and removed, the Services will provide a concurrence letter and Section 7(a)(2) requirements will be deemed to have been met.[6]

(4) If, after the process in Appendix C has been followed, it cannot be determined that adverse effects will not occur during a response action, the USCG or USEPA, as appropriate, will initiate formal consultation using the information gathered in Appendix C; this information will be used by the Services to complete formal

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[3] 40 CFR 300.170(a).

[4] Process options include using an informal workgroup; formal workgroup, Environmental Risk Assessment process, or other process based on Area Committee needs.

[5] This process does not negate any regional consultations that have already occurred, nor alter the strategies/procedures in the ACP until the ACP is officially modified in consultation with USFWS or NMFS.

[6] Letter is required for the administrative record. See Appendix E.

consultation.[7] This will be a programmatic consultation that generally addresses oil spill response activities at issue in the plan area. At times when specific information is available about certain oil spill response methods and listed species and critical habitat, it may be possible to pre-approve particular activities that may be implemented in the event there is insufficient time to initiate emergency consultation before the need to take action. [8]

(5) All parties recognize that development and modification of the ACP is an ongoing process. Changes, including modifications to response actions or changes to the species list, should be addressed regularly through a dynamic planning process. The Services should contact the Area Committee or workgroup if they become aware of newly listed species that may be affected by planned response activities. The Area Committee should likewise notify the Services of changes to planned response activities. The Area Committee or workgroup should evaluate any changes and assess the need for additional consultation as needed.

B. OIL SPILL RESPONSE

During an oil spill event which may affect listed species and/or critical habitat, emergency consultations under the ESA are implemented (50 CFR 402.05) for oil spill response actions.[9] Emergency consultation may be conducted informally through the procedures that follow (See Appendix A). Emergency consultation procedures allow the FOSC to incorporate listed species concerns into response actions during an emergency. "Response" is defined in this agreement as the actions taken by the FOSC in accordance with the NCP. The FOSC conducts response operations in accordance with the NCP and agreement established in the ACP.

(1) As per the NCP and ACP, the FOSC will notify the RRT representatives of DOI and DOC through the established notification process regardless of whether listed species or critical habitat is present. Upon notification, the DOC and DOI representatives shall contact the NOAA SSC and RRC, respectively, and other appropriate Service contacts as provided in internal DOC or DOI plans, guidance, or other documents. If established in the ACP, the FOSC may also contact the Service regional or field offices directly (see Section V(A)(3) above). If listed species and/or critical habitat are present or could be present, the FOSC shall initiate emergency consultation by contacting the Services. The NOAA SSC and RRC shall coordinate appropriate listed species expertise. This may require timely on-scene expertise from the Services' local field offices. These Service representatives may, as appropriate, be asked by the FOSC to participate within the FOSC's Incident Command System and provide information to the FOSC.[10]

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[7] Letter is required for the administrative record. See Appendix E.

[8] Due to time constraints associated with spill response, this does not mean that immediate spill response actions cannot occur to meet the requirements of 40 CFR 300.317. However, planning should address specific procedures for initiating emergency consultation for activities that are pre-approved and for those that have not been pre-approved.

[9] Based on pre-spill planning or discovered during the response.

[10] 40 CFR 300.175(b)(7) & (b)(9); 40 CFR 300.305(e).

(2) The ACP, including any agreed upon references cited in the ACP, should form the basis for immediate information on response actions. As part of emergency consultation, the Services shall provide the FOSC with any timely recommendations to avoid and/or minimize impacts to listed species and critical habitat.[11] The NOAA SSC should also be involved in these communications as appropriate. If incidental take is anticipated, and if no means of reducing or avoiding this take are apparent, the FOSC should also be advised and the incidental take documented. If available, the FOSC should consider this information in conjunction with the national response priorities established in the NCP.[12] The FOSC makes the final determination of appropriate actions.

(3) It is the responsibility of both the FOSC and the Services' listed species representatives to maintain a record of written and oral communications during the oil spill response. The checklist contained in Appendix B is information required to initiate a formal consultation in those instances where listed species and/or critical habitat have been adversely affected by response actions.[13] If it is anticipated that listed species and/or critical habitat may be affected, the FOSC may request that the USFWS and/or NMFS representative to the Incident Command System oversee and be responsible for the gathering of the required information in Appendix B while the response is still ongoing.[14] The FOSC may also choose to designate another individual to be responsible for collecting the information.[15] Although in some instances the drafting of information for Appendix B may be completed after field removal operations have ceased, it is anticipated that collection of the information should be complete before the case is officially closed and that no further studies will be necessary.

(4) It is the responsibility of the FOSC to notify the Services' representatives in the Incident Command System of changes in response operations due to weather, extended operations, or some other circumstance. It is the responsibility of the Services to notify the FOSC of seasonal variances (e.g., bird migration), or other natural occurrences affecting the resource. If there is no Service representative in the Incident Command System, the FOSC will ensure that the NOAA SSC and/or DOI representative to the RRT remains apprised of the situation. The Services will continue to offer recommendations, taking into account any changes, to avoid jeopardizing the continued existence of listed species or adversely modifying critical habitat, and to minimize the take of listed species associated with spill response activities.

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[11] See Section 8.1 of the USFWS & NMFS Endangered Species Consultation Handbook (http://endangered.fws.gov/consultations/s7hndbk/s7hndbk.htm).
[12] 40 CFR 300.317 National Response Priorities.
[13] See Section 8.2(B) of the USFWS & NMFS Endangered Species Consultation Handbook.
[14] If requested by the FOSC, the NOAA Scientific Support Coordinator (SSC) may coordinate this data collection.
[15] See Appendix D for example Pollution Removal Funding Authorization (PRFA) Statement of Work language.

C. POST RESPONSE

If listed species or critical habitat have been adversely affected by oil spill response activities, a formal consultation is required, as appropriate.[16] Informal emergency consultation shall remain active until the case is closed. The FOSC will initiate consultation on the effect of oil spill response activities (not the spill itself) after the case is closed. Every effort shall be made to ensure that relevant information generated as part of the consultation process is made available for use in the Natural Resource Damage Assessment (NRDA) process. (Note: NRDA activities are separate from this consultation.)

(1) After the FOSC determines that removal operations are complete in accordance with 40 CFR 300.320(b), the impacts of the response activities on listed species and critical habitat will be jointly evaluated by the FOSC and the Services.

(2) If listed species or critical habitat were adversely affected by oil spill response activities, the FOSC will follow the procedural requirements of 50 CFR 402.05(b) (see Appendix A). The document developed by following Appendix B, information required to initiate a formal consultation following an emergency, should be included with a cover letter to the Services requesting consultation and signed by the FOSC. The FOSC will work with the Services and the NOAA SSC, as appropriate, to ensure that Appendix B is complete.[17] This document comprises the FOSC's formal request for consultation.

(3) The Services normally issue a biological opinion within 135 days of receipt of the Section 7 consultation request (50 CFR 402.14). When a longer period is necessary, and all agencies agree, the consultation period may be extended. The final biological opinion will be prepared by the Services and provided to the FOSC, USFWS RRC, NOAA SSC, DOI and DOC RRT members, and the Area Committee Chair so that recommendations can be reviewed by the Area Committee, and where appropriate, implemented to minimize and/or avoid effects to listed species and critical habitat from future oil spill response actions.[18] The result of the consultation should be considered by the FOSC for inclusion in a lessons learned system so changes can be made to the ACP, as necessary, for the benefit of future oil spill response actions. If such changes to the ACP modify the anticipated effects to listed species or critical habitat, the Services should appropriately document the anticipated changes in future effects and complete any appropriate administrative steps.

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[16] If only proposed species or proposed critical habitat have been adversely affected, a formal consultation is not required; however, ESA conference procedures should be followed as appropriate. See the USFWS & NMFS Endangered Species Consultation Handbook for conference information.
[17] The NOAA SSC may also assist.
[18] Recommendations may also be provided for addressing effects caused by spill response actions. This information should be provided to the NRDA process as appropriate.

VI. Points of Contact. The following are the points of contact for each Party:

USCG: Chief, Office of Response, Coast Guard Headquarters (G-MOR), (202) 267-0516.

USEPA: Oil Program Center, U.S. Environmental Protection Agency, (703) 603-8823.

NOAA - NMFS: Section 7 Coordinator, Endangered Species Division, Office of Protected Resources, (301) 713-1401.

USFWS: National Spill Response Coordinator, U.S. Fish and Wildlife Service, Division of Environmental Quality, (703) 358-2148.

NOAA - NOS: Director, Office of Response and Restoration, (301) 713-2989 x101.

DOI: Office of Environmental Policy and Compliance, (202) 208-6304.

VII. Funding and Resources. This agreement is not a fiscal or funds obligation document. Nothing in this agreement shall be construed as obligating any of the Parties to the expenditure of funds in excess of appropriations authorized by law or otherwise commit any of the Parties to actions for which it lacks statutory authority. It is understood that the level of resources to be expended under this agreement will be consistent with the level of resources available to the Parties to support such efforts. Any activities involving reimbursement or contribution of funds between the Parties to this agreement will be handled in accordance with applicable laws, regulations and procedures. Such activities will be documented in separate agreements with specific projects between the Parties spelled out. The separate agreements will reference this general agreement.

VIII. Effective Date. The terms of this agreement are effective upon signature by all Parties.

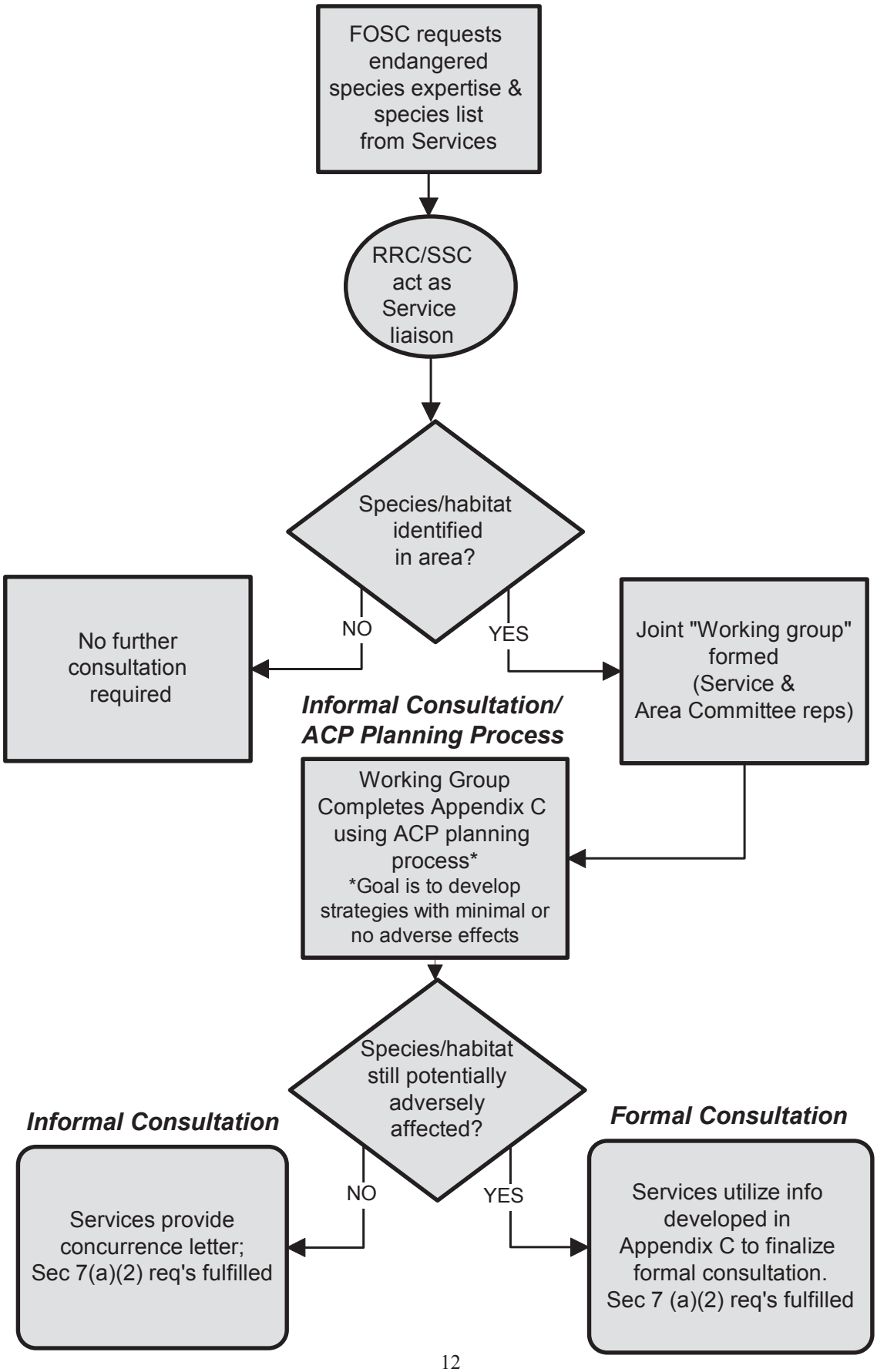
IX. Modification. This agreement may be modified upon the mutual written consent of the Parties.

X. Termination. The terms of this agreement, as modified, with the consent of all Parties, will remain in effect until terminated. Any Party upon 60 days written notice to the other Parties may terminate their involvement in this agreement.

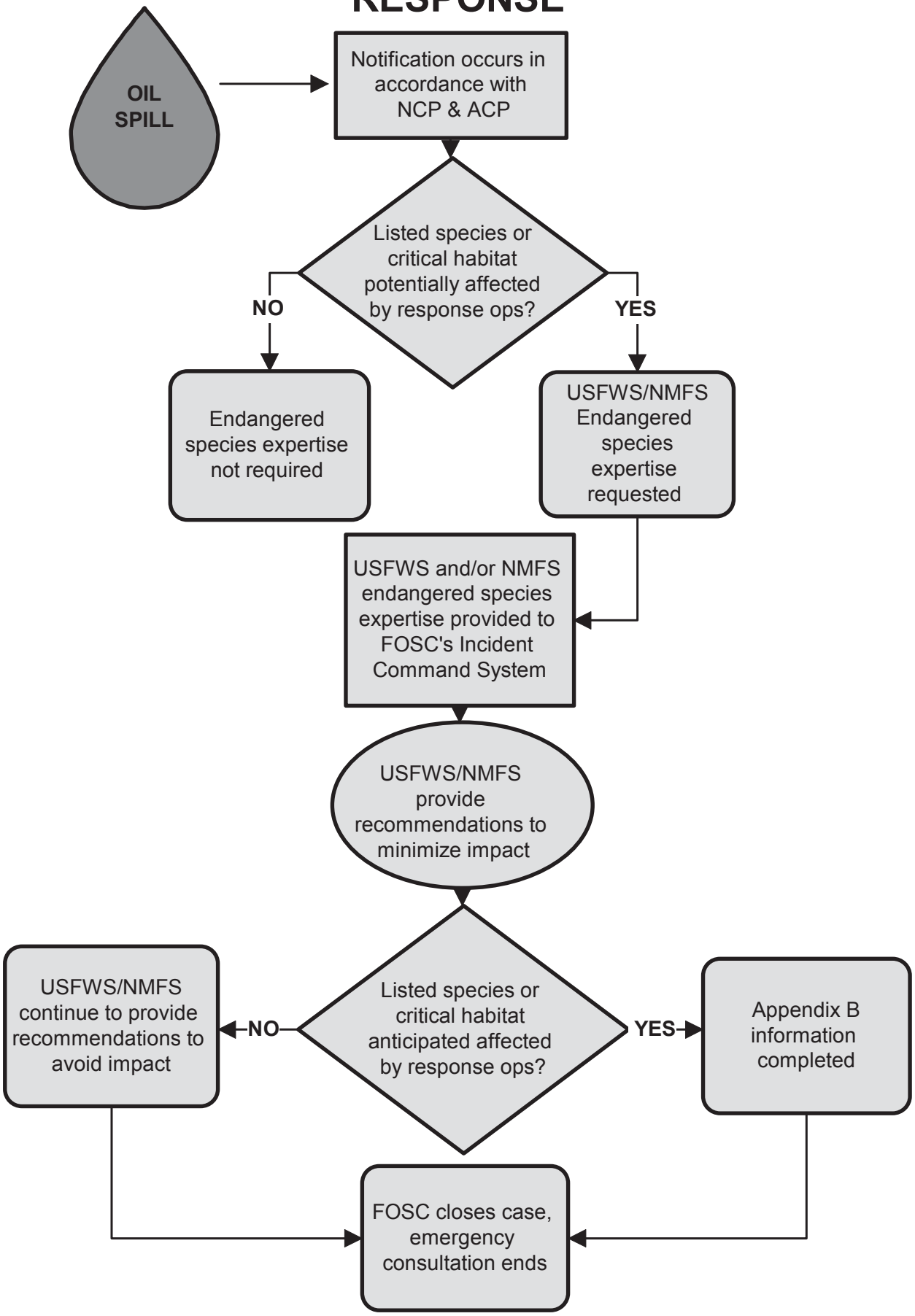
Inter-agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act

Approved By:	**Date:**
Assistant Commandant for Marine Safety and Environmental Protection U.S. Coast Guard	5/25/01
Acting Assistant Administrator Office of Solid Waste and Emergency Response U.S. Environmental Protection Agency	7/22/01
Acting Director U.S. Fish and Wildlife Service	8 June 2001
Acting Assistant Administrator for Fisheries National Marine Fisheries Service National Oceanic and Atmospheric Administration	5/15/01
for Assistant Administrator National Ocean Service National Oceanic and Atmospheric Administration	5/30/01
Director Office of Environmental Policy and Compliance Department of the Interior	6/13/01

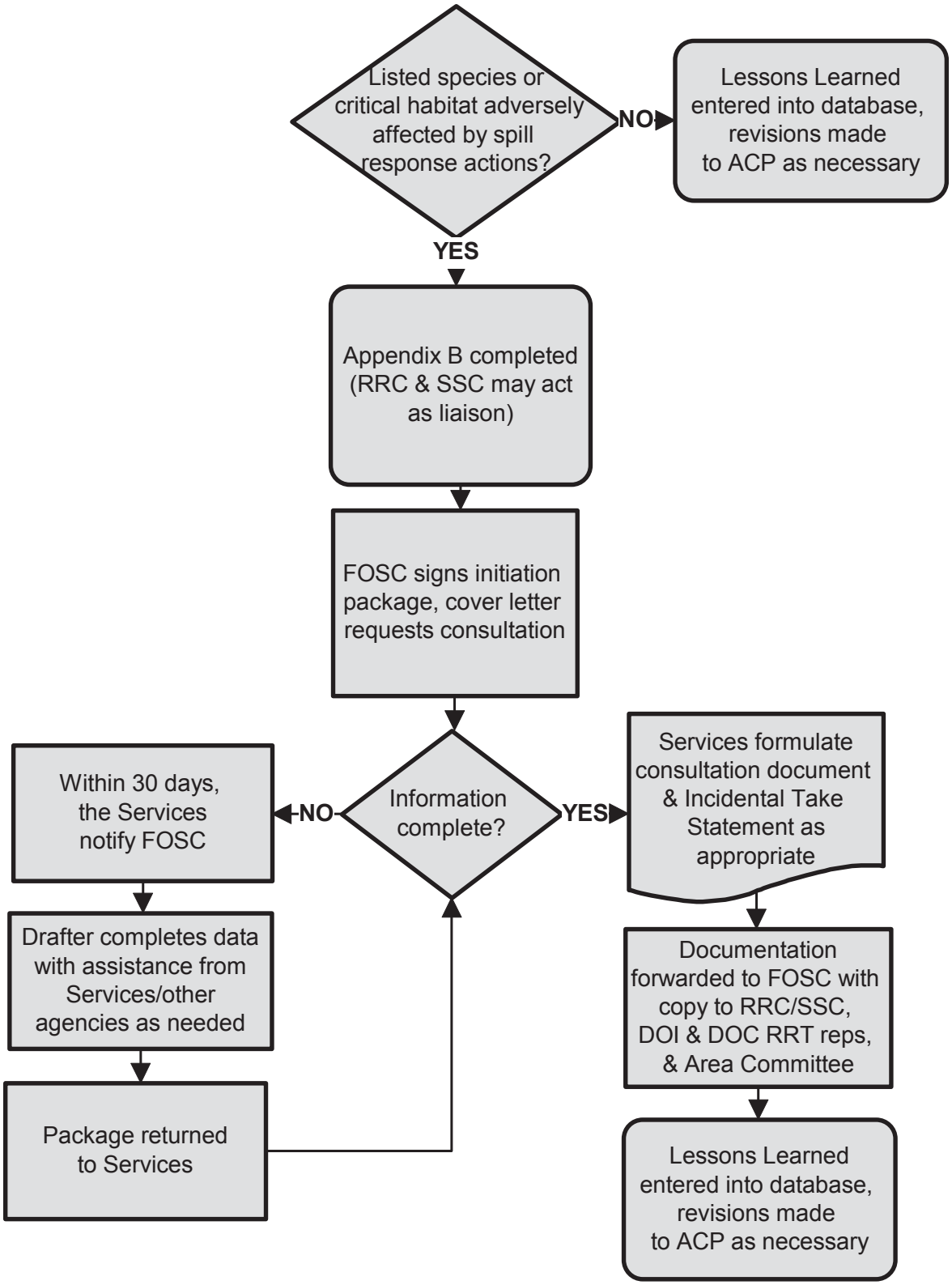
PRE-SPILL PLANNING



RESPONSE


OIL SPILL
Notification occurs in accordance with NCP & ACP
Listed species or critical habitat potentially affected by response ops?
NO
YES
Endangered species expertise not required
USFWS/NMFS Endangered species expertise requested
USFWS and/or NMFS endangered species expertise provided to FOSC's Incident Command System
USFWS/NMFS provide recommendations to minimize impact
Listed species or critical habitat anticipated affected by response ops?
NO
YES
USFWS/NMFS continue to provide recommendations to avoid impact
Appendix B information completed
FOSC closes case, emergency consultation ends

POST RESPONSE



APPENDIX B

EMERGENCY CONSULTATION INFORMATION CHECKLIST IN ANTICIPATION OF FOLLOW-UP FORMAL CONSULTATION (50 CFR 402.05)

As soon as practicable after the emergency is under control, which occurs when the case is closed, the FOSC initiates consultation (either formal or informal, as appropriate) with the Services if listed species and/or critical habitat have been affected. The FOSC should ensure that the following checklist is completed before the case is closed. After the case is closed, this information along with a cover letter requesting consultation will be sent to the Services.

1. Provide a description of the emergency (the oil spill response).

2. Provide an evaluation of the emergency response actions and their impacts on listed species and their habitats, including documentation of how the Services' recommendations were implemented, and the results of implementation in minimizing take.

3. Provide a comparison of the emergency response actions as described in #2 above with the pre-planned countermeasures and information in the ACP.

APPENDIX C

PLANNING TEMPLATE

One of the goals of the Area Contingency Plan (ACP) planning process is to develop strategies or actions that reduce the potential for planned oil spill response activities to adversely affect listed species and designated critical habitat. The planning process may also develop strategies that purposefully protect these resources. The following template is recommended for use by a working group of both Service and Area Committee representatives to develop a document that 1) is used to complete consultation pursuant to Section 7 (a)(2) of the Endangered Species Act of 1973, as amended, and 2) produces information to be included in the appropriate sections of the ACP. To streamline the consultation process, the various sections of this document could be drafted during the planning process and used to develop or modify the ACP.[19] This development process will assist all parties in gaining a thorough understanding of the actions under review and provide opportunities for any Section 7 consultation related issues to be raised and addressed in the planning process, rather than during the oil spill response action.

This template is intended to guide the thought process of creating consultation documents and incorporates content requirements set forth in 50 CFR 402.12 as well as information pertinent to the National Contingency Plan requirements under the Fish and Wildlife Annex; not every item will be applicable to every situation.[20]

Introduction

This section generally should be completed in one, or possibly two paragraphs.

- General overview of the response strategy including: (1) a brief description - one to two sentences; (2) background, history, etc. as appropriate; (3) purpose of the response strategy; (4) identification of the species and designated critical habitat that may be affected (for consultations that will address large numbers of species, it may be desirable to present this list in the form of a table either attached or presented in another section. Also, if species that may potentially occur in the area are not included in this document, explain why).
  This should be developed jointly by the action agency and the Services.

Description of the Proposed Response Strategy

- Provide a description of the response strategy being considered. This is likely to be a detailed description taken substantially from the ACP. It should include how the

[19] It is not required that this planning template be formally written or completed during informal consultation, especially if no modifications to the strategy are required. However, it can be very useful in documenting the [team's] thought process for the administrative record, serving as a guide, or providing additional documentation as needed.

[20] The guide on "Developing Consensus Ecological Risk Assessments" provides procedures which may be helpful in exploring and analyzing these issues. Copies can be obtained from USCG Headquarters (G-MOR-2).

response action will be implemented, including equipment and methods. Examples include use of dispersants to avoid shoreline impacts, and deployment of booms to protect sensitive areas. Include all known aspects of the action, such as time frames, why the action is appropriate, indirect effects, etc. An example of an indirect effect may be hauling boom on, or driving vehicles through, a sensitive dune area to gain access to a spill site.
This should be developed by the action agency with the assistance of the Services.

- Provide a description of specific area that may be affected by the response strategy (i.e. Sample Bay, 100-mile section of outer coastline, etc.). Include some measure of the area potentially impacted (i.e., "This plan addresses oil spill response activities that may be conducted out two miles from the coast throughout the 100 mile coastline area encompassed by this ACP"). If different activities are being proposed in different areas, identify this. The team should discuss the appropriateness of presenting this information in terms of the activities that will be conducted within each area, or the areas where each activity will be conducted. For example, "Dispersants may be applied throughout the 10 mile coastline length of Area A and the 25 mile coastline length of Area B." Maps may be useful.
This should be developed mainly by the action agency; however, modifications may be made with the assistance of the Services and subject to the approval process for chemical countermeasures in the NCP as appropriate.

- Identify how to quickly obtain species/habitat information during a spill (i.e. first refer to ACP and site summary sheet, call State FWS, check website, etc.).
This should be developed jointly by the action agency and the Services.

- Identify emergency response points of contact to be notified during a spill. Establish spill parameters for notification as necessary. These should be included in emergency notification numbers as well as on any site summary sheets, in geographic response plans, etc.
This should be developed jointly by the action agency and the Services.

Description of the Affected Environment

- Describe the listed species and designated critical habitat areas that may be affected by the action in terms of overall range and population status. Include the number and location of known subpopulations within and adjacent to the action area (i.e., identify the areas known to be used by the species and, if appropriate, identify the specific times periods of use, such as February - April). Discuss the action area in relation to the distribution of the entire population (e.g., edge of the range, center of population abundance, key reproductive area, etc.). Present views of Service recognized experts on the species, if appropriate.
This should be provided by the Services.

- Ensure that these sensitive areas are referenced in the ACP (i.e. via ESI maps, specially generated GIS maps, site summary sheets, or other digitized format, etc.).
  This should be completed by the action agency.

- Provide biological data on listed species: historical use, presence, and potential use of habitat areas within the action area. Literature and other documents containing such information may be incorporated by reference. Provide species observation information, and recent results of species surveys, including, if appropriate, a description of methods, time of year surveys were performed, level of effort, and confidence intervals. Again, literature and other documents containing such information may be incorporated by reference. Maps may be useful to depict this information.
  The Services should assist in developing this information. In many instances the Services will be able to supply this information from their records.

- Identify other designated sensitive areas, both adjacent to and within the proposed action area. These include National Wildlife Refuges, National Marine Sanctuaries, etc.
  This should be developed jointly by the action agency and the Services.

Analysis of the Effects of the Action

- Describe all effects of the response strategy relative to the listed species of concern and its habitat, including designated critical habitat. This should include direct, indirect, beneficial, and cumulative effects as well as effects from interrelated and interdependent actions, if any.
  This should be developed jointly by the action agency and the Services.

- Describe any measures that may avoid or lessen adverse effects as well as any measures that will enhance the species' present condition. If appropriate, delineate the locations of such measures. A discussion of environmental "tradeoffs" (including no action) may be appropriate. For example, "Dispersants may be toxic to the listed aquatic species when used in concentrations above 70%; however, oil coming ashore and smothering the listed species in tidal marshes is of greater concern due to the extremely poor conservation status of this species." Reference any already completed relevant reports, studies, biological assessments, etc.
  This should be developed jointly by the action agency and the Services.

Modification to Strategy (as needed)

If necessary, after joint analysis of the information, the action or strategy may be modified.

- Describe the new strategy or action. For example, "Dispersants will not be used in

concentrations above X% or in areas less than three feet deep. They may be used in Area A and Area B. A Service representative from Regional field office B will be contacted during an oil spill response during the months of February - April in Area B."
This should be developed jointly by the action agency and the Services.

Documentation

This template is a guide to help you through the planning process, however, when sections are written out as the process is completed, the final document serves the same purpose as a biological assessment. It may be used to complete consultation pursuant to Section 7 of the ESA.

- The document should be maintained on file by the Services and may be referred to during an oil spill response.

- The Area Committee will ensure that this document becomes part of the ACP as appropriate such as:
  - Included as an appendix to the Dispersant or In Situ Burn Operations Plan;
  - Included as a reference document in the appropriate section of the ACP;
  - Include relevant information in sections of the ACP such as Notifications, Site Summary Sheets, Geographic Response Plans, GIS maps, etc.

- The document should include points of contact from both the action agency and the Services.

APPENDIX D

SAMPLE POLLUTION REMOVAL FUND AUTHORIZATION (PRFA) LANGUAGE*

This Statement of Work (SOW) language is intended as sample language only. The language can be tailored to ensure that the FOSC is provided with the resources needed to meet the desired activities or functions required. Accordingly, more precise or succinct language may be used.

PRFA SOW additional/optional work elements to meet the FOSC's ESA mandated activities associated with removal actions:
…..
To arrange for, and as appropriate coordinate with, the resources needed to meet the conference and consultation requirements of the ESA.
Specific activities anticipated under this requirement include:
(a) Providing the expertise needed to make sensitive removal decisions which could potentially impact on listed species or critical habitats associated with this incident;
(b) Gathering and documenting the information needed to provide input into the aforementioned decisions and to document the resulting impact of removal actions; and
(c) As required, preparing the consultations required of the FOSC for the Service(s).

Funding under this agreement is provided for:
(a) Salaries, travel and per diem;
(b) Appropriate charges for use of equipment or facilities;
(c) Any actual expenses for goods and/or services reasonably obtained in order to provide the agreed upon support to the FOSC removal activities (including contracts.)

* Developed by the National Pollution Funds Center

APPENDIX E

SAMPLE LETTERS FOR REQUESTING CONCURRENCE OR FORMAL CONSULTATION

These sample letters have been developed to assist the Parties to this agreement in documenting the requirements of the Endangered Species Act. This is suggested wording only and may be used to complete the administrative record as needed. The request for concurrence can be used after the planning process for a particular area or countermeasure when it has been determined that no adverse effects will occur. The Services will provide a concurrence letter, as appropriate, for documentation. Alternatively, the request for formal consultation can be used after planning results indicate that adverse effects may still occur. If this is the case, the Services will evaluate the information developed jointly by the workgroup and issue a biological opinion.

Request for Concurrence Letter:

Mr./Ms. xxx
U.S. Fish and Wildlife Service/National Marine Fisheries Service
Division of Endangered Species

Dear Mr./Ms. xxx:

In accordance with the requirements of Section 7 of the Endangered Species Act, I am seeking your concurrence that the [Coast Guard's/EPA's] implementation of the [name of plan] is not likely to adversely affect the [identify the listed species and designated critical habitat that may be affected. Note, in cases where many listed species or critical habitat designations may be involved, it may be appropriate to refer to an attached list]. This [name of plan] has been developed with the assistance of [name of Service staff] of the U.S. Fish and Wildlife Service/National Marine Fisheries Service and in accordance with the procedures identified at 40 CFR Part 300, the National Contingency Plan. To assist in completing informal consultation, please find attached the Biological Evaluation that has been produced through the planning process described in the Inter-agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act using the Planning Template contained in Appendix C of that Agreement.

Thank you for your efforts in this matter. If you require additional information, please contact [provide a contact with a telephone number].

Sincerely,

Request for formal consultation:

Mr./Ms. xxx:
U.S. Fish and Wildlife Service/National Marine Fisheries Service
Division of Endangered Species

Dear Mr./Ms. xxx:

In accordance with the requirements of Section 7 of the Endangered Species Act, I am requesting the initiation of Formal Consultation on the effects of the [Coast Guard's/EPA's] implementation of the [name of plan]. Through informal consultation with your staff [or identify the appropriate Service office(s)], we have determined that implementation of spill response activities in accordance with the subject [name of plan] is likely to result in adverse effects to [identify the listed species and designated critical habitat that may be affected. Note, in cases where many listed species or critical habitat designations may be involved, it may be appropriate to refer to an attached list]. This [name of plan] has been developed with the assistance of [name of Service staff] of the U.S. Fish and Wildlife Service/National Marine Fisheries Service and in accordance with the procedures identified at 40 CFR Part 300, the National Contingency Plan. While these actions may result in short-term adverse effects, it is our belief that the species [and designated critical habitat areas] will ultimately benefit from them. To assist in completing Formal Consultation, please find attached the Biological Evaluation that has been produced through the planning process described in the Inter-agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act using the Planning Template contained in Appendix C of that Agreement.

Thank you for your efforts in this matter. If you require additional information, please contact [provide a contact with a telephone number].

Sincerely,

APPENDIX 12: NATIONAL RESPONSE FRAMEWORK: EMERGENCY SUPPORT FUNCTION #10: OIL AND HAZARDOUS MATERIALS RESPONSE ANNEX

Note: This appendix is not duplicated in this Acrobat document or on the RRT I website. The above external link requires an internet connection and will take you to an online version of the contents of this appendix.