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1100 Introduction/Authority

Section 4202 of the Oil Pollution Act of 1990 (OPA 90) amended Subsection (j) of Section 311 in the Federal Water Pollution Control Act (FWPCA) [33 U.S.C. 1321 (j)] to address the development of a National Planning and Response System. As part of this system, Area Committees were established for each area designated by the President. These Area Committees are comprised of qualified personnel from Federal, State, and local agencies. Each Area Committee, under the direction of the area's Federal On-Scene Coordinator (FOSC), is responsible for developing an Area Contingency Plan (ACP) which, when implemented in conjunction with the National Oil & Hazardous Substance Pollution Contingency Plan, or National Contingency Plan (NCP), shall be adequate to remove a worst case discharge of oil or a hazardous substance, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the geographic area. Each Area Committee is also responsible for working with State and local officials to pre-plan for joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife. The Area Committee is also required to work with State and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

Executive Order 12777 of 22 October 1991 delegated the functions of designating areas, appointing Area Committee members, determining the information to be included in ACPs, and reviewing and approving Area Contingency Plans to the Commandant of the U.S. Coast Guard (through the Secretary of Homeland Security) for the coastal zone, and to the Administrator of the Environmental Protection Agency (EPA) for the inland zone. The term "coastal zone" is defined in the current NCP (40 CFR 300.5) to mean all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on inland rivers, and the waters of the Exclusive Economic Zone (EEZ). The Coast Guard has designated areas as those portions of the Captain of the Port (COTP) zones that are within the coastal zone. The COTP zones are described in Coast Guard regulations (33 CFR Part 3).

1110 Pollution Investigation Authority

Several Federal, State, and local agencies have a direct role in the enforcement of applicable laws and regulations associated with a discharge, or substantial threat of a discharge, of oil into the navigable waters of the U.S. The investigation into alleged violations of the many applicable laws and regulations requires a coordinated effort among the many agencies involved. As a preliminary step to enhance the effectiveness of investigative activities and limit the potential negative impact of these activities upon the cleanup and removal actions associated with an incident, the following agencies have been identified as having a direct, field-oriented role in the initial stages of these events.

1120 Involved Agencies

The United States Coast Guard. The U.S. Coast Guard has enforcement and investigative authority for a significant array of potential violations of Federal laws and regulations, as well as enforcement actions under applicable international treaties. The principal, though not exclusive, Federal laws and regulations associated with a discharge or a substantial threat of a discharge of oil include: applicable components of the Clean Water Act as amended; the Oil Pollution Act of 1990; the Ports and Waterways Act; the Port and Tanker Safety Act; the Act to Prevent Pollution from Ships (1980), as amended; and, Annex I of the International Convention for the Prevention

of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78). In addition, authorities pursuant to 46 USC 7701 and 46 USC 6101 relate to personnel actions (licensed mariners), and marine casualties, respectively. The Federal regulations associated with potential investigative or enforcement interest under these circumstances include, though are not limited to, applicable sections of 46 CFR with particular attention to Parts 4, 5, 16; 33 CFR Parts 126, 130, 151, 153-160; and 40 CFR Parts 116 and 117. Potential Federal enforcement actions associated with a pollution discharge may include but are not limited to: collection of statements and evidence to determine the causes of the associated marine casualty, mandatory chemical testing of involved licensed personnel, and the collection of oil samples in the water and on suspect vessels. Additional Federal regulations under 33 CFR Part 1.01-30 through 1.01-90 and 33 CFR 1 Subpart 107 define the roles, responsibilities, of the Coast Guard and its authority to enforce civil and criminal penalties.

The State of California, Department of Fish and Game, Office of Oil Spill Prevention and Response (OSPR). The [Lempert-Keane-Seastrand Oil Spill Prevention and Response Act of 1990 \(SB 2040\)](#) details the role of OSPR in spill investigations. OSPR is the lead investigative unit for State and local governments. As the lead agency, OSPR will coordinate the investigative efforts for these government agencies. Government Code Section 8670.7 specifically requires the OSPR Administrator to determine the cause and the amount of a discharge. The investigative goals of OSPR are: to take samples and secure evidence relevant to the spill; conduct interviews of any person with special knowledge as to the facts of the spill and make arrests, if necessary and appropriate; determine and document the facts related to the cause of the spill; secure evidence relevant to determining the volume of oil spilled and the amount recovered; determine if a responsible party exists and whether or not the responsible party will take financial responsibility for the cleanup and containment of the spill; and, make an initial determination as to whether or not the facts of the investigation indicate a violation of state or local laws or regulations, and if they do, initiate criminal or civil actions through the appropriate legal jurisdiction(s). State authority extends anywhere within the State and out to three miles from the shoreline. However, "hot pursuit" and other legal principles allow OSPR to operate outside of this narrow area of authority.

State of California, State Lands Commission. The Lempert-Keane-Seastrand Oil Spill and Response Act of 1990 (SB 2040) details the role of the State Lands Commission (SLC) in spill investigations within the jurisdictional boundaries of the State of California. The investigative role of the SLC following a spill will be to assist the OSPR Administrator in determining the cause and amount of the discharge in accordance with California Government Code, Title 2, Chapter 7.4, Article 2, Section 8670.7(e). In addition, the SLC will be assessing the cause of the spill to determine the effectiveness of its regulations and spill prevention programs. The goal will be to change these regulations or programs as necessary to prevent or reduce the risks of similar occurrences in the future.

SLC's jurisdiction applies to marine terminals and offshore platforms within three miles of shore. Investigative activities may be necessary onboard a vessel if the circumstances are such that a vessel is involved in a discharge at or involving a marine terminal or offshore platform within three miles of shore.

Other Federal, State, or local agencies may have a direct, field-oriented investigative role concerning a discharge or substantial threat of a discharge of oil, as circumstances dictate. 40 CFR 300.175 provides direction on the roles and additional responsibilities and assistance of Federal agencies during preparedness planning or actual response.

1130 Guiding Principles

The following general statements summarize the primary guiding principles associated with these direct, field-oriented investigations.

Investigative and response actions must interfere with each other as little as possible. Investigative efforts often involve the collection of evidence in a timely manner. This requires investigative efforts and evidence gathering during the high-intensity emergency phase of removal actions. Every effort must be made to coordinate investigative activities to minimize the impact on response and removal efforts. Simply separating investigative and removal functions amongst distinct and different individuals or groups serves to mitigate any potential interference one activity may have on the other. Conversely, individual investigators must understand the concerns of those directing response efforts to minimize the impact of the incident on public health, welfare, and the environment.

Coordination of investigative activities is very important where possible. Any number of mechanisms exist to coordinate efforts on-site during an incident.

Periodic coordination meetings greatly enhance command, control, and communications amongst different parties. Lead agencies may carry the dual role of conducting an investigation and coordinating these meetings.

For example, investigations into cause, liability, and violations of applicable laws and regulations are a reality. The various Federal, State, and local agencies discussed above will be involved in an investigative role as applicable.

Investigative roles, efforts, and degree of interest will vary from incident to incident. Investigative interest and activity will be a function of the scope, size, impact, location, and causes of the incident.

Understanding each agency's role increases the efficiency of investigative activities. There is a need for a strong commitment to develop necessary interagency understandings and working agreements which contribute towards this goal. In addition, these efforts would facilitate the smooth acquisition of necessary information and evidence on an ongoing basis. The emphasis on this element is to make these improvements before an incident occurs.

Refer to each Coast Guard Sector or individual agency's Standard Operating Procedures (SOP) for clarification with regards to the appropriate investigative and enforcement procedures and/or concurrent response activities for each organization.

All references to "Section" alone refer to this Area Contingency Plan.

1200 Geographic Boundaries

1210 COTP San Diego

In District 11, the San Diego Area consists of one planning area (defined in 33 CFR 3.55-15(b)) that is consistent with the Coast Guard COTP San Diego Area of Responsibility (AOR). The Coast Guard COTP San Diego is the pre-designated FOSC for oil discharge and hazardous substance release in the coastal zone from the boundary of San Diego County, California, starting and ending at the sea, including the California Islands south and east of a line that is

drawn 255 Degrees True from latitude 33 Degrees True 22.5' North longitude 117 Degrees 35.7' West (San Mateo Point). The FOSC zones are described in Sections 1220 and 1230 below.

1220 Coastal

33 CFR 3.55-15(b) states that the coastal zone consists of all ocean waters and islands contained therein, starting at the intersection of the Orange-San Diego County lines (approximately 33 degrees True 22.5' North latitude) and the California coast proceeding seaward to the outermost extent of the EEZ (Exclusive Economic Zone) and southerly to the intersection of the maritime boundary with Mexico. The coastal zone no longer includes the land seaward of the Demarcation Lines, just the water.

1230 Inland

Region 9 Regional Contingency Plan (RCP) delineates the Coast Guard and EPA OSC's boundaries as: "Beginning at the International border and the sea, east and north along the eastern limits of Border Field State Park to the mouth of the Tijuana River; across the river's mouth to the eastern limit of the Silver Strand State Beach to Palm Ave.; east to I-5; north to Harbor Drive; north to Scott St.; South to Talbot St.; West to Hill St.; West to Sunset Cliffs Blvd.; north to I-8; east on I-8 to I-5; north to Grand Ave.; west to Mission Blvd.; north to La Jolla Blvd.; north to Prospect St.; North to Torrey Pines Rd.; north along Torrey Pines Rd. to Route S21 (North Torrey Pines Rd.); S21 north to I-5 (Oceanside); north on I-5 to the San Diego/Orange County Line."

EPA has created the [EPA/USCG Jurisdictional Boundary Application](#) (JBA), which is a GIS-based tool designed to quickly help emergency responders determine if a response situation falls within EPA's or the Coast Guard's jurisdiction.

1300 Area Committee

1310 Purpose

The primary role of the Area Committee is to act as a preparedness and planning body to develop, maintain, and exercise ACPs.

Refer to [Section 1340](#) of the Region 9 RCP to view a listing of California's six area committees.

1320 Organization

Area Committees are made up of experienced environmental/response representatives from Federal, State and local government agencies with definitive responsibilities for the area's environmental integrity. Each member is empowered by their own agency to make decisions on behalf of the agency and to commit the agency to carrying out roles and responsibilities as described in this plan. The pre-designated FOSC for the area will serve as Committee chairman. He/she will designate the vice-chairman (usually the area state OSC), select the Committee members, and provide general direction and guidance for the Committee. The OSC should solicit the advice of the Regional Response Team (RRT) to determine appropriate representatives from federal and state agencies. The Area Committee is encouraged to solicit advice, guidance, or expertise from all appropriate sources and establish subcommittees as necessary to accomplish the preparedness and planning tasks.

In San Diego, the Area Committee's FOSCR is the Chief of the Incident Management Division at Sector San Diego and can be reached at the Joint Harbor Operation Center (JHOC) at (619) 278-7033.

1400 National Response System

The National Response System (NRS) is the U.S. government mechanism for emergency response to oil discharges and chemical release into U.S. navigable waterways and territories. The NRS functions through a network of interagency and intergovernmental relationships formally established and described in the National Response Framework. As the Framework defines the objectives, authority, and scope of ACPs, NRS is also applicable to the San Diego ACP.

1410 National Response Structure

Refer to [Section 1355](#) of the Region 9 RCP.

In the RCP, this section explains the role of the National Response Structure, specifically in how it supports the FOSC and the National, Regional, and other response teams.

1410.1 Spill of National Significance (SONS)

A Spill of National Significance (SONS) is that rare, catastrophic spill event that captures the nation's attention due to its actual damage or significant potential for adverse environmental impact. A SONS is defined as a spill which greatly exceeds the response capability at the local and regional levels and which, due to its size, location, and actual or potential for adverse impact on the environment is so complex, it requires extraordinary coordination of Federal, State, local, and private resources to contain and mitigate.

1420 Regional Response Team (RRT) Structure

Refer to [Section 1330](#) of the Region 9 RCP.

In the RCP, this section defines and identifies the RRT.

1430 Area Command Structure - Spill of National Significance (SONS)

Refer to [Sections 1323](#) of the Region 9 RCP.

According to the RCP, response to a SONS event must be a coordinated response that integrates the FOSC's response organization with the SONS response organization. This strategic coordination will involve, as appropriate, the NRT, RRT(s), the Governor(s) of affected State(s), and the mayor(s) or other chief executive(s) of Local government(s). The Commandant of the Coast Guard classifies coastal zone discharges as SONS; for inland discharges, the EPA Administrator may declare a SONS.

1440 Incident Command System

Refer to [Section 1360](#) of the Region 9 RCP.

In the RCP, this section defines and explains the purpose of the National Incident Management System (NIMS) Incident Command System and how it relates to emergency response and incident management.

1450 Preparedness for Response Exercise Program (PREP)

The PREP was developed to provide a mechanism for compliance with the exercise requirements, while being economically feasible for the government and oil industry to adopt and sustain. The PREP is a unified federal effort and satisfies the exercise requirements of the Coast Guard, EPA, the Research and Special Programs Administration (RSPA) Office of Pipeline Safety, and MMS. Completion of the PREP exercises will satisfy all OPA 90 mandated federal oil pollution response exercise requirements. Refer to the “National Preparedness for Response Exercise Program (PREP) Guidelines” for extensive information on the PREP.

Also refer to [Section 9610](#) of the Region 9 RCP.

In the RCP, this section provides explanation of PREP, including participation, exercises, requirements, and lessons learned.

1460 National Response Framework

The National Response Framework (NRF) is a guide that details how the Nation conducts all-hazards response— from the smallest incident to the largest catastrophe. This document establishes a comprehensive, national, all-hazards approach to domestic incident response. The Framework identifies the key response principles, as well as the roles and structures that organize national response. It describes how communities, States, the Federal government and private-sector and nongovernmental partners apply these principles for a coordinated, effective national response. In addition, it describes 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. It lays the groundwork for first responders, decision-makers and supporting entities to provide a unified national response.

In addition to releasing the NRF base document, the Emergency Support Function Annexes and Support Annexes are available on-line at the [NRF Resource Center](#). The annexes are a total of 23 individual documents designed to provide concept of operations, procedures and structures for achieving response directives for all partners in fulfilling their roles under the NRF.

1470 Federal Radiological Response Plan (FRERP)

The Federal Radiological Response Plan (FRERP) was integrated into the NRF (above).

1480 MEXUS Plan

In the event an incident could affect or threaten the marine environment of Mexico, the Unified Command needs to review the [MEXUS Plan](#) and the [MEXUSPAC Annex](#). This plan and annex provide standard operational procedures to coordinate bilateral responses.

1500 State/Local Response System

Refer to [Section 1400](#) of the Region 9 RCP.

In the RCP, this section defines the statutory requirements, policy, and guidance for Region 9 State response systems (Arizona, California, Nevada, and the Hawaiian and Pacific Islands).

1600 National Policy and Doctrine

Refer to [Section 1350](#) of the Region 9 RCP.

In the RCP, this section provides explanation and information on the various response policies and authorities, including the National Response System, Incident Command System, Federal requirements and guidelines, and various laws and legislation.

1610 Public vs. Private Resource Utilization

The basic principle that the primary source of an oil spill preparedness and response system in the U.S. should be implemented and maintained by the private sector. It is not, nor should it be, the Coast Guard's intent to compete with the commercial oil and hazardous materials pollution response industry.

1620 Best Response Concept

The term "Best Response" means that a response organization will effectively, efficiently, and safely respond to oil spills, minimizing the consequences of pollution incidents and to protect our national environmental and economic interests.

1630 Cleanup Assessment Protocol (How Clean is Clean)

40 CFR 300.165 provides requirements for OSC reports on removal operations and actions taken and 40 CFR 300.800 defines the establishment of an administrative record that forms the basis for the selection of response actions, including remedial and removal actions.

The [International Tanker Owners Pollution Federation \(ITOPF\)](#) is a not-for-profit organization involved in all aspects of preparing for and responding to ship-source spills of oil, chemicals and other substances in the marine environment. ITOPF offers a broad range of technical services to its members and associates, their pollution insurers, and other groups around the world concerned with marine spills. Technical staff advise and assist all parties on the most appropriate cleanup response (with the aim of mitigating any damage) and monitor the clean-up in order to provide subsequent reports of events and of the technical merit of the actions taken.

1640 Dispersant Approval/Monitoring/Decision Protocol

The RRT IX Dispersant Use Plan (DUP) for California, [Sections 4534](#) and [4600](#) of the RRT IX Regional Contingency Plan (RCP), details the agencies, authorities and process involved in making a dispersant use decision in US and State waters; a 2018 update to this document is in review. The most recently finalized dispersant use plan for California (2008, with 2014 minor edits) is available on the OSPR Contingency and Response Plans web page: <https://www.wildlife.ca.gov/OSPR/Contingency>.

Additional information is available in [Sections 4534](#) and [4600](#) of the Region 9 RCP.

At the time of an oil spill incident, the FOSC is authorized to evaluate the use of chemical dispersants. Currently, all dispersant use in Region 9 is governed by either the pre-authorization

process, or the incident-specific RRT authorization process. The DUP provides detailed information and checklists for dispersant use.

Note: The 2018 DUP and associated appendices and job aids will be available at the above website when finalized (anticipated late 2018). Some of the material below is excerpted from the 2018 update to the DUP.

1650 In-Situ Burn Approval/Monitoring/Decision Protocol

The RRT IX In-Situ Burn Plan (ISB Plan) for California, [Sections 4534](#) and [4800](#) of the RRT IX Regional Contingency Plan, details the agencies, authorities and process involved in making an ISB decision in US and State waters. The most current ISB Plan (1997, with 2008/2014 edits) is available on the OSPR Contingency and Response Plans web page: <https://www.wildlife.ca.gov/OSPR/Contingency>.

Additional information is available in [Sections 4534](#) and [4800](#) of the Region 9 RCP. In the RCP, these sections also provide explanation for when in-situ burning is authorized, the decision-making process involved, and a link to additional information in the RCP.

1660 Bioremediation Approval/Monitoring/Decision Protocol

Refer to [Sections 4534](#) and [4700](#) of the Region 9 RCP.

1670 Alternative Response Technology Evaluation System (ARTES)

Refer to [Section 4560](#) of the Region 9 RCP.

In the RCP, this section explains how On-Scene Coordinators (OSCs) can assess whether proposed countermeasures would be a useful tool in response efforts. In addition, the RCP provides several on-line resources that can be utilized to determine the effectiveness of a particular ART.

1680 Specialized Monitoring of Applied Response Technology (SMART)

Special Monitoring of Applied Response Technologies (SMART) is a cooperatively designed monitoring program for chemical dispersant and in-situ burning use. SMART relies on small, highly mobile teams that collect real-time data using portable, rugged, and easy-to-use instruments during dispersant and in-situ burning operations. The Coast Guard's National Strike Force Pacific Strike Team can provide oversight/effectiveness monitoring for SMART.

For more information, refer to [Section 4720.6](#) of this Plan and/or [Section 4319.1](#) of the Region 9 RCP. In the RCP, this section defines the SMART monitoring program and lists the three-tiered protocols for dispersant use.

1690 Natural Resource Protection Laws & Regulations

Refer to [Section 1600](#) of the Region 9 RCP.

In the RCP, this section defines an interagency Memorandum of Agreement to increase cooperation and understanding among agencies involved in Endangered Species Act compliance at every stage in oil spill planning and response.

16100 Protection of Historic Properties (National Historic Preservation Act)

The [National Historic Preservation Act of 1966](#) established the framework that focused local, State, and national efforts on a common goal – preserving the historic fabric of the United States. The Act created a national historic preservation partnership involving Federal, State, tribal, and local governments and the private sector to survey and identify sites, buildings, structures, and objects of historic significance and, where possible, preserve these historic places. Refer to Section 4630 and 9820 for more information on protection of State historic properties.

Also, refer to [Section 1700](#) of the Region 9 RCP. In the RCP, this section provides a brief explanation of the guidelines FOSCs must follow to protect historic properties during oil spill response efforts.