

CHAPTER 10

OIL AND HAZARDOUS SUBSTANCE SPILLS

10-1 Scope

This chapter identifies Navy requirements to plan for and respond to oil discharges and hazardous substance releases (OHS spills) from Navy vessels and shore facilities worldwide. This chapter summarizes Navy planning and response requirements for Navy and non-Navy OHS spills. Chapter 12 describes the comprehensive management of hazardous materials and hazardous waste. Chapters 9 and 19 discuss the prevention and minimization of oil pollution at shore facilities and aboard ship, respectively. Chapter 18 covers Navy policy for overseas activities, and chapter 27 identifies Navy responsibility with respect to Natural Resource Damages in the aftermath of OHS spills.

10-1.1 References.

- a. 29 CFR 1910.119 and 120, Hazardous Waste and Emergency Response;
- b. 40 CFR 117, 302 and 355, Reportable Quantities of Hazardous Substances.
- c. 40 CFR 300, National Oil and Hazardous Substances Pollution Contingency Plan.

10-2 Legislation

10-2.1 Federal Water Pollution Control Act of 1972 (FWPCA) as amended by the Oil Pollution Act of 1990 (OPA 90), 33 USC § 1321

- a. The FWPCA prohibits the discharge of oil and hazardous substances in such quantities as may be harmful into or upon the navigable waters of the United States, including the contiguous zone, exclusive economic zone and adjoining shorelines.
- b. The FWPCA provides the authority for the establishment of the National Response Team, the National Response Center and the National Contingency Plan (NCP).
- c. The NCP establishes the roles and responsibilities of various Federal agencies to provide for efficient, coordinated and effective action to minimize damage from oil discharges and hazardous substance releases.
- d. The FWPCA, as amended by OPA 90, provides for the preparation and submission of response plans for tank vessels, offshore facilities, and onshore facilities that could reasonably be expected to cause substantial harm to the environment by discharging into or upon the navigable waters, adjoining shorelines, or the exclusive economic zone. The FWPCA must be read carefully as it contains different requirements for commercial and public vessels. The OPA 90 amendments to the FWPCA call for the periodic inspection of response equipment and drills. These amendments also establish new administrative and civil penalties for violations of the FWPCA and expand administrative provisions under the FWPCA.
- e. Under the FWPCA, the NCP and Executive Order 12777, the Federal On-scene Coordinator (OSC) is the Federal official pre-designated by the Environmental Protection Agency (EPA) or the Coast

Guard to coordinate and direct response to OHS spills. The OSC has authority to enforce the administrative and criminal provisions of the law. The FWPCA also requires vessels and facilities to report OHS spills.

10-2.2 Oil Pollution Act of 1990 (OPA 90), 33 U.S.C. §2701 *et seq.*:

a. OPA 90 revises the FWPCA and other statutes to expand Federal and State involvement in the nation's oil and hazardous substances spill prevention, preparedness, and response activities. Public vessels are exempt from the provisions of OPA 90. Navy shore facilities must comply.

b. OPA 90 also establishes the Oil Spill Liability Trust Fund (OSLTF) as a source for funding removal costs, including the cost of monitoring removal actions, consistent with the NCP. The OSLTF is administered by the Coast Guard and consists of the Emergency Fund and the Principal Fund. The Emergency Fund is to fund removal actions by Federal OSCs, initiate Natural Resources Damage Assessments, and fund immediate removal actions by States. The Principal Fund is used to pay claims against the OSLTF and for congressional appropriations to carry out other OPA 90 requirements.

c. OPA 90 provides for natural resource trustees to act on behalf of the public to assess damages and to develop and implement a plan for restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources injured, lost or destroyed as a result of a discharge of oil. For additional discussions of trustee responsibilities and natural resource damage assessment procedures, refer to chapter 27.

10-2.3 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601 *et seq.*

a. CERCLA provides the government with authority to compel persons to clean up releases of hazardous substances (HS). It also contains provisions which make responsible parties liable for the costs of clean-up, and the creation of the hazardous substance Superfund which enables an OSC to conduct clean-up.

b. CERCLA also requires facilities to report the release of any of the more than 700 listed hazardous substances to the National Response Center. CERCLA exempts oil from the list of hazardous substances created by the FWPCA/Clean Water Act (CWA) and the Toxic Substances Control Act, among others.

c. CERCLA gives the EPA (for inland zones) and the Coast Guard (for coastal zones) the authority to designate an OSC to direct emergency response and OHS removal activities. The OSC is provided with administrative and enforcement authority to implement the provisions of CERCLA. Under the NCP (40 CFR 300.120), the Department of Defense (DOD) is required to provide the OSC for releases of hazardous substances from DOD facilities or vessels.

10-2.4 The Emergency Planning and Community Right-to-Know Act of 1986, (EPCRA), 42 U.S.C. §11001, *et seq.* EPCRA requires industry and Federal (by subsequent Executive Order), State and local governments to report hazardous and toxic chemical releases to the public. EPCRA requires these entities to identify potential risks to a surrounding community from a facility or operation that handles hazardous substances and sets forth community notification procedures. (See chapter 4.)

10-2.5 Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901, *et seq.*

a. RCRA establishes requirements for facilities which generate, transport, treat, store, or dispose of solid and hazardous wastes. RCRA has several programs, including very detailed and specific requirements for facilities that deal with hazardous wastes, non-hazardous solid wastes, underground storage tanks and used oil. In general, the RCRA regulations address the day-to-day management of hazardous wastes.

b. RCRA requires contingency plans designed to minimize hazards to human health and the environment. These plans should provide information on facility emergency equipment, evacuation, and coordination (40 CFR Parts 260-282). Activities must submit a copy of these plans to all local police and fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services.

10-2.6 Clean Air Act Amendments of 1990 (CAA), 42 U.S.C. §7401, *et seq.*

a. One of the goals of the CAA Amendments was to prevent the accidental release of regulated substances and other extremely hazardous substances into the air and to minimize the consequences of those releases. The amendments focus on preventive measures for those chemicals that pose the greatest risk.

b. Section 112(r) establishes a general duty for stationary facilities to identify hazards that may result from the release of regulated substances, to design and maintain a safe facility, and to minimize the consequences of releases when they occur.

c. In 1992, The Occupational Safety and Health Administration (OSHA) issued a Process Safety Management of Highly Hazardous Chemicals Rule, reference (a), under the CAA Amendments. Reference (a) directs employers to establish a process safety management program to prevent or mitigate catastrophic chemical workplace emergencies and requires employers to have an emergency action plan.

10-2.7 Occupational Safety and Health (OSH) Act, 29 U.S.C. §651, *et seq.*

a. OSHA is primarily responsible for protection of worker health and safety under the OSH Act. OSHA has several standards that cover emergency response planning for facilities that handle, store, or transport hazardous substances. These requirements serve to protect facility employees and emergency responders.

b. Reference (a) also includes provisions to clean up uncontrolled hazardous waste sites, implement corrective action and establish routine and emergency hazardous waste operations.

c. OSH is applicable to Federal employees by Executive Order. Employers must implement a program that includes a written safety and health program, site evaluation and control, training, personal protective equipment, monitoring, medical surveillance, decontamination procedures and an emergency response program. Title 40 CFR 302 (Designation, Reportable Quantities, and Notifications) lists reportable quantities of HS. Title 40 CFR 261.3 defines hazardous waste.

10-2.8 State and Local Programs

a. State programs requiring OHS spill prevention, preparedness, and response vary widely. All States require notification of State and local authorities of OHS spills. Certain States, and coastal States in particular, have stringent requirements for vessel and facility spill response plans and prevention measures that exceed Federal standards. DOD facilities, including Navy facilities, are subject to State and local facility prevention and response planning requirements.

b. Navy Shipboard Spill Contingency Plans (SCP) are not subject to State regulations. Commands may, however, provide courtesy copies of SCPs to State regulators to promote strong, cooperative relationships with the local community.

10-3 Terms and Definitions

10-3.1 Area Committees. The Federal, State and local agencies who cooperate to prepare an Area Contingency Plan and work with State and local officials to pre-plan joint response efforts.

10-3.2 Area Contingency Plans (ACP). A plan prepared by the Area Committee to respond to worst case OHS spill scenarios, which identifies equipment and personnel available for such response activities. The ACP also identifies and prioritizes sensitive areas and natural resources, identifies strategies for their protection, and pre-approves specific countermeasures and removal actions within the planning area.

10-3.3 Contiguous Zone. A zone of the high seas that is contiguous to the territorial sea (see section 10-3.29) and extends 9 nautical miles (nm) seaward from the outer limit of the territorial sea.

10-3.4 Discharge. Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil. It excludes:

- a. Discharges by permit under the CWA.
- b. Discharges resulting from circumstances identified, reviewed and made a part of the public record regarding a permit issued or modified under the CWA, and subject to a condition in such permit.
- c. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under the CWA and caused by events occurring within the scope of relevant operating or treatment system.

The NCP defines discharge to include a substantial threat of discharge.

10-3.5 Dispersant. Any of several chemical agents that emulsify, disperse, or make soluble oil into the water column or promote the surface spreading of oil slicks to facilitate dispersal of the oil into the water column.

10-3.6 Exclusive Economic Zone (EEZ). A zone extending 200 nm from the territorial sea baseline, or to the maritime boundary of another country closer than 200 nm.

10-3.7 Facility. Any structure, group of structures, equipment or device (other than a vessel) used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing or transporting OHS. This term includes any motor vehicle, rolling stock or pipeline used for one or more of these purposes.

10-3.8 Facility Incident Commander (FIC). Commanders or commanding officers (COs) of designated naval shore facilities or complexes pre-designated by the cognizant Navy On-Scene Coordinator (NOSC) and required to prepare an OHS Facility Response Plan covering the area assigned by the NOSC. FIC designations are based on OHS spill risk and response capability of the command to ensure rapid, effective response to OHS spills within the assigned area.

10-3.9 Federal On-Scene Coordinator (Federal OSC). The Federal official pre-designated by the U.S. Environmental Protection Agency (EPA) or the United States Coast Guard (USCG) to coordinate and direct Federal responses under the NCP, except for DOD HS releases. In the case of HS releases from DOD facilities or vessels, DOD pre-designates the Federal OSC. The NOSC is the Federal OSC for Navy HS releases.

10-3.10 Hazardous Substance

- a. Any substance so designated by the FWPCA.
- b. Any element, compound, mixture, solution, or substance so designated by CERCLA.
- c. Any solid waste having the characteristics of, or listed as, a hazardous waste as defined under RCRA (but not including any waste suspended by an Act of Congress).
- d. Any toxic pollutant listed under the CAA.
- e. Any imminently hazardous chemical substance or mixture upon which the Administrator of the EPA has acted under the Toxic Substances Control Act (TSCA).

The term *does not* include petroleum, crude oil or any refined product (such as gasoline, diesel or fuel oil) not otherwise specifically listed or designated as a hazardous waste. Title 40 CFR Part 261.3.

The term *does not* include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

10-3.11 Incident Command System (ICS). An emergency response structure required by OSHA consisting of an individual in charge of the incident (Incident Commander) and four functional groups (Operations, Logistics, Planning and Finance) that support the Incident Commander. During major oil discharges, Federal agencies establish an ICS under the National Response System. State agencies may also establish an ICS. An ICS becomes a "Unified Command System" when the party responsible for the spill works jointly with State and Federal agencies. Where Navy is the potentially Responsible Party, the Navy Incident Commander, the State OSC, and the Federal OSC make up the Unified Command.

10-3.12 Navy On-Scene Coordinator (NOSC). The Navy official pre-designated to coordinate Navy OHS spill contingency planning and to direct Navy OHS spill response efforts in a pre-assigned area.

Shoreside NOSCs are normally Regional Environmental Coordinators (RECs) pre-designated by the cognizant Area Environmental Coordinator (AEC). (See chapter 1.) CINCPACFLT, CINCLANTFLT and CINCUS- NAVEUR pre-designate fleet NOSCs for assigned ocean areas. The NOSC is the Federal OSC for all Navy HS releases. The NOSC also acts as the incident commander for OHS spills beyond the FIC's assigned Area of responsibility (AOR), and as incident commander for spills which exceed the response capability of the FIC.

10-3.13 National Contingency Plan (NCP). The legal framework for Federal government OHS pollution contingency planning and response above the facility level. The NCP describes the National Response Team, the Regional Response Team and the National Response Center and designates the roles and responsibilities of DOD in national OHS spill response planning.

10-3.14 National Response Center (NRC). (800-424-8802 or 202-267-2675). The 24-hour OHS spill notification center, located at USCG headquarters in Washington, DC. The NRC is the single Federal notification point (outside the Navy chain of command) for emergency spill response. Having reported a spill to the NRC, an activity need make no further Federal notifications. The NRC is responsible for notifying the pre-designated Federal OSC of reported OHS pollution incidents.

10-3.15 National Response Team (NRT). The Federal response organization, consisting of 15 Federal agencies (including DOD), that coordinates OHS spill response and contingency planning efforts. The EPA chairs the NRT and the USCG sits as vice chair.

10-3.16 Navigable Waters. The surface waters of the United States, including the territorial seas. The term includes:

- a. All waters currently used, used in the past, or susceptible to future use in interstate or foreign commerce, including all waters subject to the ebb and flow of the tide;
- b. Interstate waters, including interstate wetlands;
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, and wetlands, the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;or
 - (3) That are used or could be used for industrial purposes by industries in interstate commerce;
- d. All impoundments of water otherwise defined as navigable waters under this sub-section;
- e. Tributaries of waters identified in paragraphs a through d of this sub-section, including adjacent wetlands; and

f. Wetlands adjacent to waters identified in paragraphs a through e of this sub-section: provided that waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not navigable waters of the United States.

10-3.17 NOSC Response Plan. The Navy plan to respond to OHS spill incidents within the NOSC's pre-assigned AOR that are beyond the capability of the spilling facility or vessel.

10-3.18 OHS Facility Response Plan. A plan of action for facility spill scenarios (coordinated with the local ACP) which identifies notification procedures, response and cleanup capabilities, management information, environmentally sensitive areas, natural resource protection strategies and measures to protect human health and safety.

10-3.19 Oil. Animal, vegetable or petroleum-based oil of any kind or in any form, including, but not limited to, fuel oil, sludge, oil refuse, oil mixed with wastes other than dredge spoils and refined products such as gasoline, diesel, jet fuel, and cooking oil.

10-3.20 Public Vessel. A vessel owned (or bareboat chartered) and operated by the U.S., or by a State or political sub-division thereof, or by a foreign nation, except when such vessel is engaged in commerce.

10-3.21 Qualified Individual (QI). The term used by the Coast Guard and EPA to designate the individual identified in the Oil and Hazardous Substance Facility Response Plan (OHS FRP) and NOSC OHS Spill Contingency Plan who:

- a. Is available on a 24-hour basis and able to arrive at the facility in a reasonable time;
- b. Is familiar with the implementation of the plan;
- c. Is trained in the responsibilities of the QI under the plan;
- d. Has authority to activate the OHS spill response organization;
- e. Has authority to direct the obligation of funds required to carry out response activities; and
- f. Will act as a liaison with the pre-designated Federal OSC.

10-3.22 Regional Contingency Plans (RCPs). RCPs are developed by the Regional Response Team to assist the OSC in the event that an incident exceeds the response capabilities identified in the ACP. The RCP sets forth the criteria permitting the use of alternative response techniques such as dispersants and in-situ burning.

10-3.23 Regional Response Team (RRT). The Federal response network under the NRT, consisting of representatives from regional Federal and State agencies. There are 13 RRTs, one for each of the 10 standard Federal Regions, and one each for Alaska, Oceania (Hawaii and the U.S. Pacific islands), and U.S. Caribbean islands. The RRT has the authority to approve or disapprove the use of alternative response techniques, such as dispersants, in-situ burning, and bioremediation.

10-3.24 Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, of any hazardous substance (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any HS or pollutant or contaminant). The term “release” *excludes*:

- a. Any spilling, leaking, etc. that results in exposure to persons solely within a work place.
- b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.
- c. Spilling, leaking, etc. of source, byproduct, or special nuclear material from a nuclear incident subject to the jurisdiction of the Nuclear Regulatory Commission, or any spilling, leaking, etc. of source, byproduct, or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978.
- d. The normal application of fertilizer and herbicides.

The NCP defines discharge to include a substantial threat of discharge.

10-3.25 Release, Federally Permitted. Any release of HS in compliance with Federal law including the CWA, the CAA, the Solid Waste Disposal Act (SWDA), the Marine Protection, Research, and Sanctuaries Act (MPRSA), and the Atomic Energy Act.

10-3.26 Reportable Quantity. A release of a CERCLA-listed HS or an EPCRA-listed Extremely Hazardous Substance (EHS) exceeding the limit for that substance. HS or EHS releases that equal or exceed these limits must be reported to Federal, State, and local authorities immediately upon discovery. See reference (b) for a list of Reportable Quantities.

10-3.27 Responsible Party. The person or persons who have caused, or could potentially cause an HS release or oil discharge, including the following categories:

- a. Vessels: Any person owning, operating, or bareboat chartering a vessel;
- b. Onshore Facilities (other than a pipeline): Any person owning or operating the facility, except where possession and right to use Navy property has been transferred to another person by lease, assignment, or permit;
- c. Offshore Facilities (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 USC §1501 *et seq.*)): The lessee or permit holder of the area in which the facility is located or the holder of a right of use or easement granted under applicable State law.

10-3.28 Spill of National Significance. A spill which, due to its severity, size, location, actual or potential impact on the public health and welfare, or the environment, or due to the necessary response effort, is so complex that it requires extraordinary coordination of Federal, State, local, and Responsible Party resources to contain and cleanup the discharge.

10-3.29 Sunken Navy Vessel. For the purposes of this chapter, a sunken Navy vessel, is an older, historic vessel that has been sunk due to armed conflict, act of God, or other reason. Such a vessel, for which the U. S. Navy retains title, may be located anywhere in the world.

10-3.30 Territorial Sea. For the purposes of this chapter, the territorial sea extends 3 nm seaward from the mean low water line of the nearest U.S. shoreline, including islands. (For international law purposes, however, the "territorial sea" extends 12 nm from shore.) See also sub-section 10-3.3 of this chapter.

10-3.31 United States (U.S.). The several States, District of Columbia, Commonwealth of Puerto Rico, Commonwealth of the Northern Marianas Islands, Guam, American Samoa, U.S. Virgin Islands, and any other territory or possession over which the U.S. has jurisdiction.

10-3.32 Vessel. Every type of watercraft or other artificial conveyance used, or capable of being used as a means of transportation upon the navigable waters of the U.S.

10-4 Requirements

10-4.1 Facility Response Plans (FRP)

a. Facilities must submit FRPs for a broad range of activities. Four Federal agencies regulate the different categories of facilities required to submit FRPs.

(1) The USCG regulates deepwater ports and marine transportation-related facilities. See Title 33 CFR 150, Deep Water Port Operations, and 33 CFR 154, Facilities Transferring Oil or Hazardous Material in Bulk.

(2) The EPA regulates non-transportation-related onshore facilities. See Title 40 CFR 112, Oil Pollution Prevention.

(3) The Research and Special Programs Administration (RSPA) of the Department of Transportation regulates mobile facilities (tank trucks, railroad cars, and portable tanks). See Title 49 CFR 130, Oil Discharge Prevention and Response Plans for Oil Transportation. RSPA also regulates onshore pipelines. See Title 49 CFR 194, Response Plans for Onshore Oil Pipelines.

(4) The Minerals Management Service regulates offshore platforms and offshore pipelines. See Title 30 CFR Parts 250 and 254, Response Plans for Offshore Oil Pipelines.

b. Most Navy facilities fall under either USCG or EPA jurisdiction. Facilities meeting the criteria for more than one type of facility are "complex facilities." Many Navy facilities fall under this category. A few Navy facilities with pipelines that leave the facility may also fall under the RSPA's jurisdiction. Additionally, Navy facilities with mobile sources may also fall under RSPA's jurisdiction. No facility requires more than one OHS FRP. However, each facility must submit an OHS FRP to each Federal agency that has jurisdiction over it. The requirements for the OHS FRP vary widely depending on the type of facility. For example, the information required for a mobile facility is not as extensive as that required for a non-transportation-related facility. There are certain essential elements common to all. These include:

- (1) An individual who can be reached on a 24-hour basis and has the authority to take necessary response action.
- (2) An emergency section of the plan that provides concise response direction.
- (3) Extensive drills and exercises with specified documentation and record-keeping.
- (4) A provision for regular update and review of FRPs.

10-4.1.1 Integrated Contingency Plan (ICP). A 1990 revision of the Clean Air Act required a Presidential Review of Federal statutes that addressed prevention, mitigation, and response to hazardous materials releases. The Presidential Review concluded that multiple laws and regulations, developed independently within the regulatory agencies, resulted in an expansive contingency planning structure. Additionally, the costs associated with developing multiple facility contingency plans, including reviews, updating, and plan re-submissions, represent a heavy financial requirement for plan holders. The NRT recommended consolidating the multiple requirements and revising the formats into a single Integrated Contingency Plan (ICP). The ICP offers a format for combining facility response planning documents into a single response document. An ICP is a single OHS spill response plan that fully complies with the OPA 90 regulations and, in addition, covers applicable response plan requirements from USCG, RSPA, OSHA, and EPA. Activities may elect to develop an ICP instead of a dedicated FRP.

10-4.1.2 ICP Replacement of FRP. Facilities with multiple planning requirements may elect to adopt the ICP format to take advantage of potential cost savings. Facilities should do so when submitting their various plans for agency approval.

The intent of the ICP option is not to create a new document, but to fold existing plans into a basic ICP format as they require resubmission. Facilities do not need to convert all current response plans to the ICP format at one time. A phased approach is encouraged to space the cost of conversion over a period of years.

10-4.2 Reporting OHS Spills

10-4.2.1 Within the U.S. Federal law requires that responsible parties immediately report to Federal authorities all OHS spills within U.S. jurisdiction (including U.S. waters, territories and possessions). Federal law provides criminal penalties for failure to report OHS spills.

a. **Quantities to Report.** Navy commands shall report by voice to the National Response Center at USCG Headquarters (NRC):

- (1) Any discharge of oil which causes a sheen upon (or discoloration beneath) the surface of the navigable waters of the United States;
- (2) Any discharge of oil which threatens to reach the navigable waters of the United States;
- (3) Any release of a hazardous substance in the United States (its territories, possessions or navigable waters) in excess of quantities proscribed by reference (b).

(4) When in doubt call the NRC.

b. **Facilities.** Navy facility commanders shall immediately report the fact and nature of any OHS spill from Navy installations by voice to the NRC at 1-800-424-8802 or 202-267-2675. Facility commanders shall also comply with State and local reporting requirements immediately thereafter.

c. **Vessels.** While public vessels are generally exempt from State and Federal reporting requirements, commanding officers and masters of Navy vessels shall immediately report the fact and nature of an OHS spill from their vessel by voice to the NRC at 1-800-424-8802 or 202-267-2675.

d. **Excess Navy Property.** Caretakers shall continue to report OHS spills from excess Navy property until the property passes to the management and control of local reuse authorities.

e. **Immediate Voice Report.** Activities should not delay NRC notification in order to obtain more detailed information about the incident. Immediate voice notification to the NRC fulfills all Federal notification requirements. If reporting activities cannot reach the NRC by voice on the first attempt, they shall immediately notify the nearest EPA office or USCG station.

f. **Sheen Sightings.** Responsible environmental stewardship and longstanding maritime tradition require that commanding officers report to proper authorities any oil on the water's surface discovered in the course of daily operations— whether at sea or in port—whether attributable to Navy sources or not. Accordingly, commanding officers shall submit voice and Navy message reports to appropriate Federal, State, local and military authorities for any oil sheen discovered by naval personnel—even if the cause or source of the spill is unknown. Such reports, however, should *not speculate as to cause or source* and *clearly indicate that a Responsible Party cannot be identified* from information then currently available.

g. **Extremely Hazardous Substances.** In addition to the reporting requirements set forth above, EPCRA requires all activities to report to State Emergency Response Commissions and Local Emergency Planning Committees any release of a reportable quantity of an Extremely Hazardous Substance that crosses the facility boundary or escapes to the atmosphere. See chapter 4.

10-4.2.2 Outside the U.S. For host nation reporting requirements, facility commanders should refer to the final governing standards applicable to overseas installations.

10-4.2.3 Internal Navy Reporting. Commanding officers shall immediately report the fact and nature of any OHS spill from Navy vessels or installations (in any amount, at any location, worldwide) to their chain of command and cognizant NOSC as follows:

a. By voice immediately upon discovering the release.

b. By official Navy Message in the format provided at appendices H and I to this instruction as soon as practicable.

c. By update SITREP message as soon as the reporting activity becomes aware of new information concerning the origin, quantity, type, operation under way or cause of the spill. Similarly, *if the final estimate of the amount released differs substantially from the amount initially reported*, the reporting

activity must send an update SITREP message to all action and info addresses on the original spill message.

d. By sending a copy of every OHS spill report and follow-up message, including SITREPS and “after action reports” (where required by local instruction), to Chief of Naval Operations (CNO) (N45) and the Naval Facilities Engineering Service Center as addressed in appendices H and I.

NOTE

If you call the NRC, send a Navy message. If you call the State or local authorities, send a Navy message. If you are in doubt, send a Navy message.

10-4.2.4 OHS Release Report Message Format, Appendix H requires

a. Provided that prior voice reports have been made to the USCG National Response Center and the reporting command’s chain of command, the reporting command shall use “Routine” precedence for Oil Spill Report Messages. If the command has not made both voice reports, it shall use “Priority” precedence on the written message.

b. To advise the NOSC and Navy leadership of the magnitude of the spill, reporting activities shall enter the following volume classifications on the Subject line of each Oil Spill Report Message:

SUBJ: OIL SPILL REPORT, X GALLONS, [ACTIVITY NAME] ; or

SUBJ: OIL SPILL REPORT, UNKNOWN VOLUME, [ACTIVITY NAME]; or

SUBJ: OIL SPILL REPORT, SHEEN SIGHTING

c. Estimates of volume spilled using sea level visual observation of oil on water are unreliable. To take the uncertainty out of volume estimation, reporting activities should examine loss at the source (i.e. through tank soundings or flow rate calculations). Message writers shall not report estimates of volume by visual observation alone.

d. To remove speculation from the Navy spill reporting process, commanding officers are directed to report only “Unknown” for the following report elements until such time as definitively established: source of spill, volume spilled, type of oil discharged, operation underway when spill occurred/discovered and spill cause. Commands should issue updating SITREP messages as soon as better information becomes available.

e. In the case of unknown volume or type of oil discharged, reporting activities should give particular attention to paragraph 8 in the message on “Slick Description and Movement.”

f. Reporting activities should classify the cause of the spill by citing one or more of the following categories and ***then providing a narrative description of specific spill cause:*** Structural; electrical; hose; valve/fitting; tank level indicator; oil/water separator/oil content monitor; other equipment (specify component that failed); collision/grounding/sinking; valve misalignment; monitoring error; procedural or communications error; chronic or recurring discharge; or weather related.

10-4.3 OHS Spill Response. The NCP describes the roles and responsibilities of DOD in responding to DOD OHS spills.

a. In the case of a Navy HS release, the Navy assumes the role of the Federal OSC. As a Federal OSC, Navy will direct the Federal response effort, including coordination with the Area Committee and with other Federal, State, and local authorities.

b. In the case of oil, however, either EPA or the USCG assumes the broader role of the Federal OSC—depending upon the location of the spill. Typically, the EPA or USCG Federal OSC will merely monitor the Navy response effort and advise appropriate action, if necessary. If the EPA or USCG Federal OSC determines, however, that Navy response is inadequate or inappropriate, then the Federal OSC will assume command of response efforts. (In any case, COs and masters of public vessels remain in command of their vessels and personnel.)

c. The USCG or EPA Federal OSC will generally direct the response to a Spill of National Significance.

d. In the event of an OHS release from a Navy facility or vessel, the Navy will always assume initial responsibility for clean-up.

10-4.4 Non-DOD Spills. The Navy also responds to non-DOD spills. As one of 15 Federal agencies that comprise the NRT, DOD and its component Services must provide any response assistance they can upon request of the Federal OSC, insofar as such assistance would not impair DOD mission readiness. Additionally, the Naval Sea System Command's Supervisor of Salvage (SUPSALV) is one of several National Special Teams named in the NCP as available to provide assistance to the OSC. (See reference (c).) In the case of a large or salvage-related pollution incident, the Federal OSC may specifically request SUPSALV personnel, equipment, and expertise. To facilitate mobilization and funding of SUPSALV equipment and personnel for a non-DOD spill, SUPSALV and USCG have established an Interagency Agreement for Pollution Response.

10-4.5 Natural Resource Trusteeship. The NCP assigns responsibilities to certain Federal and State agencies for protecting natural resources held in trust for the U.S. public. In the aftermath of an OHS spill, The Secretary of Defense is responsible for protecting natural resources within Navy management and control. For further details on Natural Resource Trusteeship, see chapter 27 of this instruction.

10-5 Navy Policy

10-5.1 Navy Spill Response Planning

a. The Navy shall prepare to respond to Navy OHS spill incidents and undertake immediate, direct action to minimize the effect of a Navy OHS spill upon the environment. The Navy's OHS pollution contingency planning and response organization executes this policy. This organization uses existing chains of command and regional coordination authorities to satisfy the requirements and intent of applicable statutes and regulations.

b. In addition to response assets available from local Navy activities, commercial oil pollution response assets (available through Basic Ordering Agreements pre-negotiated by the USCG) may be a commanding officer's best means of meeting the response requirements of more significant spill scenarios.

When engaging commercial spill response assets, Navy commands should carefully assess and monitor legal, financial and technical factors.

c. The NOSC should consider activating SUPSALV for all OHS spills that exceed local capabilities. SUPSALV maintains and operates an extensive inventory of oil discharge containment and recovery equipment with the requisite knowledge and expertise to support such operations.

d. Membership in oil spill cooperatives potentially exposes the Navy to the risk of significant liability. Accordingly, Navy activities considering membership in an oil spill cooperative shall forward to CNO (N45) a request to participate.

10-5.2 Health and Safety. The health and safety of Navy personnel and the public shall be the highest priority of all Navy OHS spill response operations. Responders shall comply with all requirements of reference (a) and OPNAVINSTs 5100.19D and .23E.

10-5.3 Navy Spills. The Navy will respond immediately and effectively to all Navy OHS spills. Navy policy is to conduct all Navy OHS pollution responses in such a manner as to retain control of the response. Should the Federal OSC assume control of an oil spill response—upon a determination that Navy response actions are ineffective or inadequate—commanding officers and masters of Navy vessels will remain in command of and responsible for their vessel and crew.

10-5.4 Military Sealift Command (COMSC). The Navy will manage response to OHS spills from vessels, owned operated or chartered by COMSC, as follows:

a. Any vessel carrying the designation of United States Naval Ship (USNS) is a public vessel of the United States. The NOSC will respond to an OHS spill from a USNS vessel just as it would a spill from any other Navy vessel.

b. Any vessel owned by the U.S. Maritime Administration (MARAD) and operated under MSC control is a public vessel of the United States. The NOSC will respond to an OHS spill from an MSC controlled MARAD vessel just as it would a spill from any other Navy vessel.

c. Vessels under bare-boat charter (or long term build-to-charter lease) to MSC **and operated by MSC exclusively for the benefit of the United States**, are public vessels of the United States for the purposes of this instruction. The NOSC will respond to an OHS spill from such a vessel just as it would a spill from any other Navy vessel.

d. Commercial vessels under time or voyage charter to MSC are **not** public vessels and must comply with all international, Federal and State pollution prevention and control regulations. Such regulations generally do not permit commercial vessels to cite or rely upon Navy response assets in their OHS spill contingency plans.

10-5.5 Non-Navy Spills. The Federal OSC may request Navy response assistance for non-Navy spills. The Navy will respond to such requests under the terms and conditions of the NCP and the Navy SUPSALV/Coast Guard Interagency Agreement for Pollution Response.

10-5.6 Salvage-Related Spills. The Navy shall direct response efforts to pollution incidents resulting from Navy vessel casualties such as grounding and collision. Fleet salvage forces shall take all reasonable precautions to reduce the threat of OHS pollution from stricken Navy vessels.

10-5.7 Collision with Navy Vessels. Where a collision between a Navy vessel and non-Navy vessel results in an OHS spill from the non-Navy vessel, the Navy will provide immediate spill response assistance, regardless of fault. In such situations, the cognizant Navy Fleet Commander shall report the spill, monitor the situation and offer appropriate support to the stricken vessel.

10-5.8 Non-Navy DOD Spills. In the case of large marine oil discharges, requests for Navy assistance from the Defense Logistics Agency, the Marine Corps or other DOD components are particularly likely. Navy response to such requests shall be consistent with procedures established by the DOD and any applicable inter-service agreement.

10-5.9 Oil Spills from Sunken Navy Vessels. The Navy retains title to a number of vessels that were sunk while in Navy service due to armed conflict, act of God or other reason. Navy response to oil spills from such vessels, or oil spills that are reported to be from such vessels, shall be conducted in accordance with the procedures in Appendix P.

10-5.10 Natural Resources Damages. In the case of a Navy OHS spill or a non-Navy spill which threatens natural resources within Navy management or control, the Navy will immediately undertake a preliminary assessment of the risk to natural resources and take all reasonable measures necessary to mitigate potential injury to same. Chapter 27 of this instruction details Navy policy on Natural Resource Damages.

10-5.11 Training. Navy activities shall train all Navy personnel involved in OHS spill contingency planning and response in accordance with chapter 24 of this instruction, and reference (a).

10-5.12 Drills and Exercises

a. Facilities. Navy shoreside facilities shall conduct one OHS spill notification drill during each calendar quarter. One of these emergency procedure drills shall be unannounced each year. Facilities with spill response equipment shall also conduct one equipment deployment drill in each 6-month period. Each shore facility shall conduct one spill management team table-top exercises each year, in accordance with its OHS Facility Response Plan. Facility spill management team personnel shall, once in each 3-year period, participate in NOSC or USCG sponsored "area exercises" designed to test worst-case spill response capabilities. Activities shall document each of these drills and exercises in accordance with the OHS Facility Response Plan. Navy facilities may take drill and exercise credit for actual spill events, if the events meet drill and exercise objectives. Facility commanders shall periodically evaluate their facility response plans in light of the lessons learned from drills and exercises.

b. NOSC. NOSC shall, once in each 3-year period, exercise regional spill management team personnel in NOSC or USCG sponsored "area exercises" designed to test worst-case spill response capabilities. NOSC shall document these exercises in accordance with the NOSC OHS Response Plan. NOSC may take credit for actual spill events, provided the events meet triennial area exercise objectives. NOSC shall periodically evaluate their NOSC OHS Response Plans in light of the lessons learned from these exercises.

10-6 Responsibilities

10-6.1 COMNAVSEASYSCOM shall

- a. Assist AECs in the development and update of the area-wide OHS spill contingency planning and response instructions.
- b. Develop and issue the NOSC plan format, and assist NOSCs in major OHS pollution response issues as they arise and in decision-making for major or offshore/salvage-related response operations.
- c. Assist NOSCs in the development and updating of NOSC plans to include worst case spill scenario planning.
- d. Assist NOSCs in meeting drill and exercise requirements for testing and exercising Navy capabilities to respond up to worst case spill scenarios.
- e. Provide expertise and equipment at the request of the NOSC for offshore or salvage-related OHS pollution incidents.
- f. Coordinate the dissemination of lessons learned from major drills, exercises and spill events.
- g. Determine requirements, budget for, and obtain investment category equipment for major and salvage-related spill response.
- h. With COMNAVFACENGCOM, assist major claimants' response training needs, and develop and provide associated training curricula and courses.
- i. Provide advice, personnel, and equipment, as appropriate for joint salvage/pollution operations.

10-6.2 COMNAVFACENGCOM shall

- a. Assist facility commanders and commanding officers with the development of OHS FRP plans.
- b. With COMNAVSEASYSCOM, assist major claimants and AECs in the determination of emergency response training needs, and develop and provide associated training curricula and courses.
- c. Determine requirements, budget for, and obtain investment category equipment for inland water and harbor oil discharge control.
- d. Coordinate Navy access to USCG Basic Ordering Agreements for response to spills beyond the capability of the facility.
- e. Review and, if appropriate, approve requests by Navy shore commands to participate in spill cooperatives.
- f. Provide Naval Oil and Hazardous Substance Spills Annual Report to CNO.

10-6.3 All Major Claimants shall

- a. Ensure that all staff personnel within their claimancy who have responsibilities under this chapter (including but not limited to safety, public affairs, logistics, legal, comptroller, security, communications and transportation personnel) receive the general environmental overview training specified in chapter 24 of this instruction and introductory or executive overview training in emergency response management and become familiar with the provisions of this chapter.
- b. Fund OHS spill response expenditures beyond the capability of the Navy subordinate activity ultimately responsible for the cost of spill clean-up.
- c. Ensure cognizant facilities fully comply with Federal, State and international/foreign, laws and regulations for spill prevention, readiness, and response.

10-6.4 Fleet CINCs/AECs shall

- a. Develop and periodically update an area-wide OHS spill contingency planning instruction specifying NOSC and facility responsibilities for OHS spill contingency planning and response in the AOR.
- b. Pre-designate NOSCs to plan for and direct response efforts to OHS spills from Navy vessel and shore activities throughout their AOR.
- c. Coordinate with SUPSALV for the development, revision and update of the area-wide OHS spill contingency planning instruction and the individual NOSC plans.
- d. Establish contingency planning and response policies in their areas consistent with this instruction.
- e. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.5 Fleet NOSCs shall

- a. Develop area-wide fleet NOSC plans in a format prescribed by COMNAVSEASYSKOM and the AEC instructions. Coordinate these plans with adjacent shoreside NOSCs. Plan coverage shall provide for vessels under the Fleet NOSC's operational control and for vessels not under their operational control but outside any adjacent NOSCs AOR.
- b. Promptly notify Federal, State, regional, local, or foreign governments when required.
- c. Ensure that Operation Orders and instructions containing guidance or policy for fleet OHS pollution response are consistent with fleet NOSC plans and Senior Officer Present Afloat (SOPA) instructions.
- d. Coordinate shoreside NOSC plans with fleet planning and operations and ensure that Navy SOPA instructions contain guidance for fleet OHS spill response that is consistent with the shoreside NOSC plans.
- e. Direct response operations and coordinate closely with ongoing fleet salvage operations
- f. Ensure the health and safety of response personnel at any point during on-scene response

10-6.6 Shoreside NOSC (in U.S. Areas) shall

- a. Ensure Navy facilities can control, contain and clean up OHS spills, and evaluate impacts to natural resources. The shoreside NOSC may direct all major response efforts for Navy OHS spills within assigned shoreside boundaries to include coastal areas out to the 12 nm zone.
- b. Serve as the Federal OSC under the NCP for Navy HS releases within assigned geographic boundaries.
- c. Pre-designate shoreside FICs and pre-assign geographic areas for response.
- d. Coordinate response operations with adjacent NOSC, including fleet NOSC, for Navy OHS spills that may have an impact on more than one NOSC region.
- e. Ensure the health and safety of response personnel at any point during on-scene response.
- f. Develop, in the general format prescribed by COMNAVSEASYSCOM or the AEC's instructions, area-wide NOSC OHS spill response plans, and coordinate the development of the plans with the applicable RCPs and ACPs. Shoreside NOSC shall ensure that an appropriate plan or plans cover all facilities.
- g. Coordinate with other DOD component OSC plans, including Marine Corps plans, to the extent specified by the DOD or as required by any Navy/DOD component inter-service agreement.
- h. As a minimum, conduct a thorough annual response plan review for all facilities and, if necessary, revise the NOSC plan.
- i. Coordinate response operations with the DOD representative to the RRT.
- j. Direct and coordinate response operations closely with ongoing fleet salvage operations.
- k. Coordinate shoreside NOSC plans with fleet planning and operations.
- l. Take the lead in coordinating triennial exercises.
- m. Coordinate a drill schedule for all facilities under the NOSC's cognizance to effect cost savings and ensure uniformity and effectiveness of the exercises.
- n. Conduct combined exercises, whenever appropriate to reduce costs.
- o. Coordinate with SUPSALV to ensure that facilities within the NOSC's cognizance receive credit for oil spill removal organization drills conducted within the response area.
- p. Ensure that activities in their area of responsibility act in accordance with all Federal, State, and local OHS spill notification procedures. (See 10-4.2.)
- q. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.7 Shoreside NOSC (in Foreign Areas) shall

- a. Develop overseas NOSC OHS spill contingency plans in the format prescribed by COMNAV-SEASYS COM, consistent with AEC instructions and Final Governing Standards, and coordinate the development of these plans with applicable host nations.
- b. Oversee response operations for Navy OHS spills within assigned areas and coordinate response operations with adjacent NOSC and with applicable foreign nation agencies.
- c. Pre-assign geographic areas for response by USN shore facilities.
- d. Ensure that activities in their area of responsibility act in accordance with all required foreign country OHS spill notification procedures, within the guidelines established by the overseas environmental baseline guidance document (OEBGD) and applicable Final Governing Standards.
- e. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.8 Shoreside Commanding Officers (Designated FICs) shall

- a. Oversee response efforts for Navy OHS spills within pre-assigned areas until relieved by the NOSC, as well as support the NOSC for Navy response in areas outside the facility's boundaries.
- b. Develop, annually review, and periodically update facility plans in a format prescribed by COMNAVFACENGCOM and coordinate these plans with the NOSC spill contingency plan.
- c. Review FRPs for consistency with appropriate State and local environmental and emergency planning authorities.
- d. Make all required Federal, State, and local notifications for Navy OHS spills and make Navy chain of command notifications up to the NOSC level.
- e. Properly train assigned staff responsible for OHS response.
- f. Accomplish all quarterly and annual drill requirements.
- g. Incorporate drill and exercise requirements into routine business or other emergency drills wherever practicable.
- h. Tailor training curricula to include State and local emergency response laws and regulations.
- i. Maintain training records and documentation as required by Federal, State, and local regulations.
- j. Maintain the readiness of the Navy spill response capability assigned to the facility.

10-6.9 Shoreside Commanding Officers (Not Designated FICs) shall

- a. Develop, annually review and update activity OHS spill contingency plans in a format prescribed by COMNAVFACENGCOM.
- b. Coordinate OHS spill contingency plans with NOSC OHS Regional Response Plans.
- c. Properly train personnel who respond to or supervise the response to an OHS spill.
- d. Accomplish all quarterly, annual and triennial drill requirements.
- e. Incorporate drill and exercise requirements into routine business and emergency drills wherever practicable.
- f. Tailor training to include State and local emergency response laws, ordinances and regulations.
- g. Maintain training records and documentation as required by Federal, State and local regulations.
- h. Mitigate and clean up OHS spills from vessels and activities and reimburse, as appropriate, other commands that provide assistance.