

ANNEX A:

*Interregional U.S. Environmental Protection Agency
Memorandums of Understanding*

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Lines

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGION IV
AND
THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGION III**

The purpose of this memorandum is to confirm the geographical areas and limits of responsibility for the predesignated On-Scene Coordinator (OSC) for pollution responses. Responses include oil and hazardous substances pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and the Oil Pollution Act of 1990.

Regional Contingency Plans (RCP) and Area Contingency Plans (ACP) of the signatory agencies will reflect the following geographical boundaries.

For the purpose of emergency response, the common state boundary of Kentucky, North Carolina, Tennessee, Virginia and West Virginia will serve to define the predesignated OSC. The centerline of the Big Sandy River continues as the boundary between West Virginia and Kentucky and Environmental Protection Agency (EPA) Regions III and IV.

I. U. S. Environmental Protection Agency, Region IV:

All discharges or releases, or a substantial threat of such a discharge or release of a pollutant originating west of the centerline of the Big Sandy River will be the responsibility of EPA Region IV. Included are discharges or releases from unknown sources or those classified as "mystery spills". Additionally, EPA Region IV has responsibility for:

- a. Notification or assuring notification of downstream water users.
- b. Coordinating with the Ohio River Sanitation Commission (ORSANCO) for other notifications and warnings.
- c. Notification of EPA Regions III and V and U. S. Coast Guard (USCG) Second District.
- d. Providing the predesignated OSC for spills within its jurisdiction.

II. U. S. Environmental Protection Agency, Region III:

All discharges or releases, or a substantial threat of such a discharge or release of a pollutant originating east of the centerline of the Big Sandy River will be the responsibility of EPA Region III. Included are discharges or releases from unknown sources or those classified as "mystery spills". Additionally, EPA Region III has the responsibility for:

- a. Notification or assuring notification of downstream water users.
- b. Coordinating with ORSANCO for other notifications and warnings.
- c. Notification of EPA Regions IV and V and USCG Second District.
- d. Providing the predesignated OSC for spills within its jurisdiction.

III. General. a. If specifically requested, either Region may assume the functional OSC role and carry out all OSC responsibilities for a particular incident on behalf of the other Region. The final decision on acceptance of the functional OSC role will rest with the Region providing the support to the predesignated Region and will be made on an incident specific basis.

b. If EPA Region III is the first agency notified of a spill west of the centerline of the Big Sandy River, EPA Region III will notify Region IV and assist as requested in assessing the situation and determining the need for a Federal response. Likewise, EPA Region IV will be expected to notify and assist, as requested, EPA Region III on any spill east of the centerline of the Big Sandy River if they are the first agency notified.

c. Boundary lines do not preclude mutual assistance between the two agencies. Each Region can provide the first Federal official on-scene and can carry out the duties detailed in the NCP on behalf of the other Region, pending the arrival of the predesignated OSC.

IV. Previous Memorandums of Understanding or agreements are replaced by this document.

V. This agreement will be subject to review and amendment coincident with each periodic review of a RCP and an ACP, and any other time at the request of either of the parties. It will remain in effect until modified or terminated by mutual agreement.

Detrick M. Jones, for

Date: 2-24-74

JOHN H. HANKINSON, JR.
Regional Administrator
U. S. Environmental Protection
Agency, Region IV
Atlanta, Georgia

Stanley L. Laskowski

Date: 3-14-74

STANLEY L. LASKOWSKI
Acting Regional Administrator
U. S. Environmental Protection
Agency, Region III
Philadelphia, Pennsylvania

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U. S. ENVIRONMENTAL PROTECTION AGENCY REGION IV
AND
THE U. S. ENVIRONMENTAL PROTECTION AGENCY REGION V**

The purpose of this memorandum is to establish the geographical areas and limits of responsibility of the pre-designated On-Scene Coordinator (OSC) for pollution responses. Responses will be made to incidents involving oil and hazardous substances pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and the Oil Pollution Act of 1990.

For the purpose of emergency response, the common regional boundary is the Ohio River, and is described as:

The boundary is delineated by the Ohio River and mileage markers published by the U. S. Army Corps of Engineers. Beginning at Mile 317.2 (confluence of the Ohio and Big Sandy Rivers), hence westerly to Mile 981.2 (confluence of the Ohio, Lower Mississippi, and Upper Mississippi Rivers).

U. S. Environmental Protection Agency (EPA), Region IV: EPA Region IV is responsible for discharges or releases, or a substantial threat of discharges or releases of a pollutant from a source originating from EPA Region IV into the Ohio River. Responsibility begins at the water line on the Right Descending Bank (RDB), extending to the south. Included are discharges or releases from unknown sources or those classified a "mystery spills".

U. S. Environmental Protection Agency (EPA), Region V: EPA Region V is responsible for discharges or releases, or a substantial threat of discharges or releases of a pollutant from a source originating from EPA Region V into the Ohio River. Responsibility begins at the water line on the RDB, extending to the north. If a discharge or release enters the water, EPA Region V will be responsible for the response effort.

General: a. Both regions have additional responsibilities when performing duties as the OSC. Included are:

- 1) Notification of:
 - a.) Downstream water users.
 - b.) Ohio River Valley Water Sanitation Commission.

- c) U. S. Coast Guard Second District.
- d) U. S. Army Corps of Engineers.

2) Notification of each other when a response event has occurred or is anticipated.

b. Either Region, when requested by the other, may assume the functional OSC role for a particular incident. The decision to accept will rest with the Region being requested, on an incident specific basis.

c. When a Region is notified of a discharge or release, or a substantial threat of a discharge or release of a pollutant not in its area of responsibility, the Region will notify the responsible Region. The reporting Region should assist in assessing the situation and to determine the need for a Federal response.

d. When a representative of either Region is the first Federal official arriving on-scene of a discharge or release not in the area of response responsibility, the representative will notify the responsible Region. The representative will accomplish duties detailed in the NCP pending arrival of the predesignated OSC.

e. Boundary lines do not preclude mutual assistance between the two agencies.

f. Previous Memorandums of Understanding or agreements are replaced by this document. Regional and Area Contingency Plans of the signatory agencies will be amended to reflect the response boundary.

g. This agreement is subject to review and amendment at any time, by request of either party. It will remain in effect until modified or terminated by mutual agreement.

Patrick M. Thomas for

Date: 2-24-94

JOHN H. HANKINSON, JR.
Regional Administrator
U. S. Environmental Protection
Agency
Atlanta, Georgia

David A. Adamkus

Date: 3/14/94

VALDAS V. ADAMKUS
Regional Administrator
U.S. Environmental Protection
Agency
Chicago, Illinois

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U. S. ENVIRONMENTAL PROTECTION AGENCY REGION IV
AND
THE U. S. ENVIRONMENTAL PROTECTION AGENCY REGION VI

The purpose of this memorandum is to establish the geographical areas and limits of responsibility of the predesignated On-Scene Coordinator (OSC) for pollution responses. Responses include oil and hazardous substances pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and the Oil Pollution Act of 1990.

Regional Contingency Plans (RCP) and Area Contingency Plans (ACP) of the signatory agencies will be amended to reflect the following responses boundaries.

For the purpose of emergency response, portions of the regional boundaries are changed. The common boundaries of Arkansas, Louisiana, Mississippi, and Tennessee are established as shown in:

- Section I. Lower Mississippi River (LMSRV), Mile 828 to Mile 504. Boundary common to the LMSRV, Arkansas, Mississippi, and Tennessee.
- Section II. Lower Mississippi River (LMSRV), Mile 504 to Mile 305. Boundary common to the LMSRV, Louisiana, and Mississippi.
- Section III. Boundary common to Louisiana, Mississippi, and the Pearl River
- Section IV. Boundary common to Louisiana, Mississippi, and the Pearl River.

Section I. The boundary is delineated by the LMSRV and mileage markers published by the U. S. Army Corps of Engineers (USACE). Beginning at the point of Mile 828 (intersection of the regional boundary between Environmental Protection Agency (EPA) Regions VI and VII on the LMSRV), hence southerly to Mile 504 (intersection of the state boundary between Arkansas and Louisiana on the LMSRV).

the river or to the levee of the LDB. All discharges or releases, or a substantial threat of such a discharge or release of a pollutant originating west of the water line or levee of the LDB will be the responsibility of EPA Region VI. Included are discharges or releases from unknown sources or those classified as "mystery spills". Additionally, EPA Region VI has responsibility for:

- a. Notification of downstream water users.
- b. Notification of EPA Region IV and USCG Eighth District.
- c. Coordinating with the USACE for other notifications and warnings.

U. S. Environmental Protection Agency, Region IV:

EPA Region IV has the responsibility for all discharges of releases, or a substantial threat of such a discharge or release originating east of the water line or levee on the LDB. If a discharge or release reach and/or enter the water, EPA Region IV will be responsible for the response effort. Additionally, EPA Region IV has the responsibility for:

- a. Discharges and releases identified as the responsibility of EPA Region IV in Section I that may enter the Section II area.
- b. Notification of downstream water users.
- c. Notification of EPA Region VI and USCG Eighth District.
- d. Coordinating with the USACE for other notifications and warnings.

Section III. Continuing from the water line or levee at Mile 305, LMSRV, hence easterly to the Pearl River. This portion of the Louisiana and Mississippi boundary is changed only from the intersection of the boundary and center-line of the Pearl River to the intersection of the boundary and the water line on the RDB of the Pearl River.

Section IV. Continuing from the intersection of the Louisiana and Mississippi boundary and the water line on the RDB of the Pearl River, hence southerly to the southern limit of the Right-of-Way on U. S. Highway 90.

U. S. Environmental Protection Agency, Region IV:

This section of the Pearl River will be the responsibility of EPA Region IV, to include all response actions necessary and/or required to the water line on the RDB of the river. All discharges or releases, or substantial threat of such a discharge or release of a pollutant originating east of the water line on the RDB will be the responsibility of EPA Region IV. Included are discharges or releases from unknown sources or those classified as "mystery spills". Additional responsibilities are the same as for the LMSRV.

U. S. Environmental Protection Agency, Region VI:

This section of the Pearl River, EPA Region VI has the responsibility for all discharges or releases, or a substantial threat of such a discharge or release origination west of the water line on the RDB of the Pearl River. If a discharge or release reach and/or enter the water, EPA Region VI will be responsible for the response effort. Additional responsibilities are the same as for the LMSRV.

General. a. Either Region, when specifically requested by the other Region, may assume the functional OSC role and carry out all OSC responsibilities for a particular incident. The decision for acceptance will rest with the Region being requested to perform the OSC role, on an incident specific basis.

b. When either Region is notified of a discharge or release, or a substantial threat of such a discharge or release of a pollutant not in its area of responsibility, will notify the responsible Region. The responsible Region will assume the OSC role.

1. When a representative of either Region is the first Federal official arriving on-scene of a discharge or release crossing the response boundary, the representative will notify the responsible Region. The representative will accomplish the duties detailed in the NEP pending arrival of the predesignated OSC.

2. Boundary lines do not preclude mutual assistance between the two agencies.

3. Previous Memorandums of Understanding or agreements are replaced by this document.

4. This agreement will be subject to review and amendment coincident with each periodic review of the RCP and ACP and any other time at the request of either of the parties. It will remain in effect until modified or terminated by mutual agreement.

Patrick M. Towns for

Date: 2-24-94

JOHN H. HANKINSON, JR.
Regional Administrator
U. S. Environmental Protection
Agency, Region IV
Atlanta, Georgia

J. N. Saginaw

Date: 3-24-94

for JANE N. SAGINAW
Regional Administrator
U. S. Environmental Protection
Agency, Region VI
Dallas, Texas

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U. S. ENVIRONMENTAL PROTECTION AGENCY REGION IV
AND
THE U. S. ENVIRONMENTAL PROTECTION AGENCY REGION VII**

The purpose of this memorandum is to establish the geographical areas and limits of responsibility of the predesignated On-Scene Coordinator (OSC) for pollution responses. Responses include oil and hazardous substances pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and the Oil Pollution Act of 1990.

The common regional boundary is the center line of the Lower Mississippi River (LMSRV). For the purpose of emergency response, the boundary is described as:

The boundary is delineated by the LMSRV and mileage markers published by the U. S. Army Corps of Engineers (USACE). Beginning at Mile 953.8 (confluence of the LMSRV, Ohio River, and the Upper Mississippi River), hence southerly to Mile 828 (intersection of the regional boundary of Environmental Protection Agency (EPA) Regions VI and VII, and the LMSRV).

U. S. Environmental Protection Agency, Region IV:

EPA Region IV is responsible for discharges or releases, or the substantial threat of discharges or releases of a pollutant from a source originating from EPA Region IV into the LMSRV. Responsibility begins at the water line or levee on the Right Descending Bank (RDB), extending to the east. Included are discharges or releases from unknown sources or those classified as "mystery spills".

U. S. Environmental Protection Agency, Region VII:

EPA Region VII is responsible for discharges or releases, or a substantial threat of discharges or releases of a pollutant from a source originating from EPA Region VII into the LMSRV. Responsibility begins at the water line or levee on the RDB, extending to the west. If a discharge or release enters the water, EPA Region VII will be responsible for the response effort.

General: a. Both regions have additional responsibilities when performing duties as the OSC. Included are:

- 1) Notification of:
 - a) Downstream water users.
 - b) U. S. Coast Guard Second District.
 - c) USACE.

2) Notification of each other when a response event has occurred or is anticipated.

b. Either Region, when requested by the other, may assume the functional OSC role for a particular incident. The decision to accept will rest with the Region being requested, on an incident specific basis.

c. When a Region is notified of a discharge or release, or a substantial threat of a discharge or release of a pollutant not in its area of responsibility, it will notify the responsible Region. The reporting Region should assist in assessing the situation and to determine the need for a Federal response.

d. When a representative of either Region is the first Federal official arriving on-scene of a discharge or release not in the area of response responsibility, the representative will notify the responsible Region. The representative will accomplish duties detailed in the NCP pending arrival of the predesignated OSC.

e. Boundary lines do not preclude mutual assistance between the two agencies.

f. Previous Memorandums of Understanding or agreements are replaced by this document. Regional and Area Contingency Plans of the signatory agencies will be amended to reflect the response boundary.

g. This agreement is subject to review and amendment at any time, by request of either party. It will remain in effect until modified or terminated by mutual agreement.

John H. Hankinson, Jr.

Date: 3-9-94

JOHN H. HANKINSON, JR.
Regional Administrator
U. S. Environmental Protection
Agency, Region IV
Atlanta, Georgia

Dennis Grams

Date: 3-21-94

DENNIS GRAMS, P.E.
Regional Administrator
U. S. Environmental Protection
Agency, Region VII
Kansas City, Kansas

ANNEX A:

***Intraregional U.S. Environmental Protection Agency
Memorandums of Agreement***

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1850 Arch Street
Philadelphia, Pennsylvania 19103-2029

APR 24 2000

SUBJECT: Cross Boundary Support - Backup MOA

FROM: Abe Ferdas, Director 
Hazardous Site Cleanup Division - Region III

TO: Dick Green, Director 
Waste Management Division - Region IV

Bill Muno, Director
Superfund Division - Region V

Purpose

The purpose of this memo to seek your signature on the attached Memorandum of Agreement (MOA) which formally establishes that our three Regions will provide inter-regional support to each other, upon request, during emergency incidents and other removal actions.

Background

Our three respective Regions have an extensive history in supporting each other during emergency response and removal actions. That support has been provided based upon informal requests among the Removal Managers. Under the Agency's Core Emergency Response (Core ER) initiative, Element #3, the Regions were expected to better define backup arrangements with other Regions; to ensure sufficient resources are available to manage emergencies and other large scale incidents. Consequently, in implementing Core ER, our Removal Managers agreed to team together as backup regions, and to work together to develop a Memorandum of Agreement which formalizes our willingness to provide mutual aid to each other.

The Core ER initiative envisioned backup support primarily for large emergency/removal actions where the magnitude of the incident(s) was overwhelming the resources of the lead region. Some examples would include responses to large natural disasters, such as hurricanes and floods, as well as extremely resource intensive removals, such as the methyl parathion cleanups. This MOA outlines a process for providing backup support during these large events. However, because of the extensive common boundaries between our regions, a novel feature in our MOA is that we have also included a protocol for performing cross-boundary responses to classic emergencies. In these situations, the supporting region would, upon request, perform the initial response, serving as the First Federal Official, until the region in which the incident occurred can actually get the

predesignated OSC to the scene. While some classic emergency support has occurred in the past, we can expect that with this MOA, and our past and planned efforts to out-station On Scene Coordinators within our regions, that more cross-boundary support will be requested and provided in the future. This approach should, in turn, enhance EPA's performance, and reputation among the states and local governments, for providing timely response to incidents warranting federal assistance.

Implementation

Upon finalization of the MOA, the Removal Managers will immediately implement the process outlined in the MOA for requesting and providing inter-regional OSC support. In addition, it is expected that cross-boundary support to each other would be further improved by ensuring that the OSCs responding can use whichever contract resources are most readily available to provide a timely and thorough response. To implement that concept may require some modifications to existing START and ERRS contracts and/or the procedures used to enable zone crossovers of regional contracts. Our signatures on this MOA will authorize our Removal Managers to begin working among themselves and with the regional contracting offices to develop appropriate contract modifications and procedures.

Action Required

All three Removal Managers for our Regions have concurred with this final version of the MOA. I, in turn, have signed the MOA and would recommend that after a review each of you also sign the MOA. I have enclosed three originals, and would ask that you sign all three. After all the signatures are in place, each Region will have one original for its files and to copy for distribution.

To facilitate a timely review and signature process, I am sending the MOA first to Region IV via express mail. I would ask that Region IV after signature then express mail the material to Region V. Region V after signature can then keep one original, and express mail one original each to Regions III and IV.

Conclusion

I appreciate the patience and support your Regions have provided to Region III during the drafting and editing of this MOA. Further discussions on the MOA, and its introduction to the States and other Federal agencies, will be occurring at the special Joint Regional Response Teams III, IV & V meeting which is scheduled to be held in Cincinnati, May 16-18, 2000.

If you have any questions or concerns regarding the MOA, please feel free to call me at (215) 814-3143. Thank you.

Attachment - 3 Original Copies of MOA

MEMORANDUM OF AGREEMENT

INTER-REGIONAL EMERGENCY RESPONSE AND REMOVAL SUPPORT REGIONS III, IV, & V U.S. ENVIRONMENTAL PROTECTION AGENCY

The purpose of this memorandum is to establish a mutual aid agreement for cross-regional emergency and removal response activities among EPA Regions III, IV, and V.

I. Authorities

The mutual aid provided under this agreement will enhance the Agency's response to releases of oil, hazardous substances, pollutants, and contaminants; and, which is done pursuant to the authorities vested in EPA under the Clean Water Act, as amended by the Oil Pollution Act of 1990 (OPA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) and further defined in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 CFR 300 et. seq. This agreement also encompasses responses which the Regions may undertake pursuant to the Stafford Disaster Relief Act and amendments, and as further defined in the Federal Response Plan.

II. Pre-Designation and Location of OSCs

Pursuant to 40 CFR 300.120(a), each EPA Regional Administrator has predesignated On-Scene Coordinators (OSCs) for the Inland Zone. The names of the predesignated OSCs are documented in each respective Regional Contingency Plan (RCP).

Region III predesignated OSCs are presently duty-stationed in the following locations:

- Philadelphia, Pennsylvania
- Bethlehem, Pennsylvania
- Wheeling, West Virginia.

Region IV predesignated OSCs are presently duty-stationed in Atlanta, Georgia.

Region V predesignated OSCs are presently duty-stationed in the following locations:

- Chicago, Illinois
- Carterville, Illinois
- Grosse Ile, Michigan
- Westlake, Ohio
- Cincinnati, Ohio

The distribution of OSCs among these duty-stations facilitates timely response activities on the part of EPA throughout the three Regions. Each OSC is able to perform response activities outside of the proximity of his/her immediate duty-station area, and by virtue of this agreement, across EPA regional boundaries should circumstances warrant such involvement. Examples of such circumstances are described in Section IV of this agreement.

III. On-Scene Coordinator Response Activities

Under CERCLA/SARA and OPA, pre-designated OSC's perform emergency and removal response activities where: (a) there is a release or substantial threat of release of hazardous substances; (b) there is a release or substantial threat of release into the environment of any pollutant, or contaminant which may present an imminent and substantial danger to public health or welfare; and (c) there is a discharge or substantial threat of a discharge of oil to the waters or to the adjoining shorelines of waters of the United States. These responses can be determined necessary in response to a variety of situations including but not limited to accidental spills, transportation accidents, facility explosions, dumping, criminal actions, terrorism, hurricanes, earthquakes, floods, or other forms of natural disasters.

Pre-designated OSC's can also perform response activities under the direction of other federal agencies, including:

FEMA Emergency Support Function #10 (ESF-10) Activations
Stafford Act Federal Disaster Declarations
FBI Counter Terrorism Responses per PDD 39

IV. Mutual Aid Cross-Regional Response Activities

It is hereby agreed by the signatories that the three EPA regional offices represented in this agreement will upon request endeavor to assist each other in cross-regional response activities in the following circumstances.

- **Provision of First Federal Official (FFO) and/or On-Scene Coordinator (OSC):** A cross-boundary response can be performed where the closest OSC is from another region, or where the magnitude of the response is such that additional assistance is warranted. In accordance with 40 CFR300.135(b), the OSC providing a cross-boundary response can serve as the First Federal Official (FFO) on scene. As FFO, the OSC providing the cross-boundary response, shall initiate and carry out all OSC responsibilities, in consultation with the lead region's pre-designated OSC. The FFO would carry out actions until a pre-designated OSC from the lead region arrives on scene, or until the incident no longer warrants a federal response action.
- **Provision of OSC Representative for Limited Duration Site Coverage:** Very large, unexpected events can result in a level of response work in a region beyond the OSC resource base. This could be due to a regional disaster such as flood or hurricane, or

simply due to the magnitude of the site or incident at a time when the region's resources are limited or otherwise committed to other regional priorities. In these situations cross-regional assistance can be provided by any of the signatory regions; in which case the OSC from the supporting region would serve as OSC representative for the lead region. The OSC representative would then implement work directed by the lead OSC and would not be expected to take independent action.

- **Coordinated Multi-Regional Responses:** The region in which an incident originates will respond as the lead region, provide a predesignated OSC, and initiate response operations including the notification of all appropriate government agencies, RRT's, and affected parties within the anticipated area of impact. Furthermore, if the discharge or release moves from one region to another, the authority for leading the response will also shift between the regions. Conversely, should the incident affect an area that encompasses multiple-regions, the involved region should all commit OSC resources to a unified incident command structure which would conduct response activities pursuant to NCP Section 300.135. Pursuant to NCP Section 300.140 there shall be only one OSC in charge of response operations. The RRT Co-Chairs from the affected EPA regions will consult and reach agreement on which region should provide the lead OSC. In selecting the lead region the RRT Co-Chairs shall give prime consideration to the region vulnerable to the greatest threat. Should the consultation among regions result in a change in the lead region, it is agreed that all parties will work together to ensure the transition has minimal impact on response operations.

V. Existing Memoranda of Agreement (MOAs)

This MOA is based upon MOAs already in place, which confirm the geographic areas and responsibilities for predesignated OSCs for pollutant responses. This MOA does not replace the existing MOA's, but rather outlines a process, which when applied to the situations noted in this memorandum, further enhances EPA's collective ability to adequately respond to oil and hazardous materials incidents in a timely and thorough fashion.

VI. Budget and Contracts

The signatory regions recognize the benefits of the OSC in an emergency, tasking the contractor(s) most readily available to mobilize to the incident scene. This may require the use of another region's contractor resources. EPA START and ERRS contracts currently provide the authority to support other regions through zone crossover. This MOA endorses the use of contract resources, wherever available, to respond at the direction of a warranted OSC to any emergency situation. Specific protocols to expedite the zone crossover will be developed as an output of this MOA.

The lead region is responsible for funding the response action and furnishing, as appropriate, the regional and site-specific accounting and appropriation data to the OSC from the supporting region who is serving as either FFO or OSC representative. When the OSC providing the cross-

boundary response is requested by the lead region to assume the role of designated OSC, the lead region shall establish, as necessary, appropriate authority and/or procedures to enable the OSC providing the cross-boundary response to utilize the lead region's contract resources for the duration of the incident.

VII. Process for Activating Cross-Regional Support under this Agreement

- Requests for cross-boundary support in response to an emergency incident should be made to the phone duty officer. In requesting the support the lead region should specify the type of support required, such as a FFO or merely the provision of technical assistance. In implementing this MOA, each Region shall develop and apply procedures, as appropriate, that authorize and provide for the immediate dispatch of an OSC by the duty officer in support of the lead region. The phone duty officers from each respective Region are expected to notify and brief their management concerning actions taken pursuant to the request.
- Requests for site coverage support and/or support during an ESF #10 activation should generally be made during business hours, initiated by the lead Region, and by contact between the respective Removal Managers or their designees. In the event that the Removal Managers are not available and/or the support becomes apparent as an immediate need during non-business hours, the respective duty officers will discuss the request and make the decision. Any procedures needed to implement this provision of the MOA will be included with those required above.

VIII. Effective Date

This agreement will be effective upon signature by all the parties, and shall remain in effect until termination by any of the parties. Any party may terminate this agreement upon 90 days written notice to the other parties. The provisions may be reviewed, amended, or supplemented upon agreement of all the parties.

IX. Distribution

Final signed copies of this agreement shall be distributed as follows:

Removal Managers, Regions III, IV, and V

OSCs, Regions III, IV, and V

USCG Districts

USCG - National Pollution Fund Center

Regional Contracting Officer(s), Regions III, IV, and V

Regional Project Officer(s), Regions III, IV, and V

EPA Headquarters, OSWER/OERR Regional Centers III, IV, and V

Regional Contingency Plan (RCP), Regions III, IV, and V

X. Signatures



Abraham Ferdas, Director
Hazardous Site Cleanup Division
EPA Region III

4/21/00

Date



Richard D. Green, Director
Waste Management Division
EPA Region IV

4/25/00

Date



William E. Muno, Director
Superfund Division
EPA Region V

5/8/2000

Date

**MEMORANDUM OF AGREEMENT REGARDING
EMERGENCY RESPONSE ACTIONS
BETWEEN
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AND
THE STATE OF FLORIDA**

This Memorandum of Agreement (MOA) coordinates efforts between the United States Environmental Protection Agency Region IV (EPA) and the state of Florida, Department of Environmental Protection (FDEP) in response to oil discharges and releases of hazardous substances under the provisions of the Clean Water Act (CWA) as amended by the Oil Pollution Act of 1990 (OPA 90) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended. The objective of this MOA is to define coordination and first response procedures and guidelines related to oil spills and hazardous substance releases in the inland zone between EPA and FDEP.

PART I

GENERAL PROVISIONS

- A. Response to discharges of oil and certain hazardous substances are governed by the CWA, 33 U.S.C. 1251 et seq. as amended by OPA 90 and CERCLA, 42 U.S.C.A. 9675 et seq.
- B. The following planning documents are cited for reference and establish the authorities and procedures under which FDEP and EPA conduct responses to oil and hazardous substances.
 - 1. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, establishes the response organizations within the United States and requires a tiered contingency planning effort.
 - 2. EPA's Region IV Regional Contingency Plan (RCP) and Area Contingency Plan(s) (ACP) implement the NCP at the regional level and govern EPA's response to discharges to oil and hazardous substances.
 - 3. The National Pollution Funds Center (NPFCC) Instruction 16451.2, "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990" defines the procedures for requesting funds, seeking removal costs, submitting pollution reports (and the frequency of their issuance), payment, conducting litigation, entering into cooperative agreements, and submitting claims for reimbursement.
 - 4. The Memorandum of Understanding between the United States Environmental Protection Agency and the United States Coast Guard (USCG)

for use of the Oil Spill Liability Trust Fund (OSLTF), dated 28 October 1996, establishes the parameters by which EPA and other eligible entities can access the OSLTF.

5. The FDEP, Bureau of Emergency Response (BER) Emergency Response Plan details the state responsibilities, policies, and response actions to discharges of pollutants and hazardous substances onto the waters and lands of the state of Florida.

PART II

PARTIES

- A. The parties to this MOA are Region IV EPA, Emergency Response and Removal Branch (ERRB) and FDEP. The EPA on-scene Coordinator (OSC), as defined by the NCP and as pre-designated by the RCP, is the lead official in directing and monitoring all oil discharges or hazardous substance releases within the inland geographic area of Region IV.
- B. The Governor of the state of Florida has designated the FDEP to act on behalf of the state to oversee responses to discharges of oil and hazardous substances. Employees of BER are pre-designated as state on-scene coordinators (SOSC). The Chief of the BER is the sole designated state official who may request access to the OSLTF by the state of Florida.
- C. The EPA Region IV ERRB, and the FDEP, enter into this MOA to the extent permitted by law and as consistent with their respective policies and resources to facilitate notification and coordination of response actions to oil discharges and hazardous substances releases under the NCP and the RCP/ACP, and to facilitate the processing and payment of claims by the NPFC to the state of Florida.
- D. Nothing in this MOA shall detract from the existing responsibilities or authority of each party hereto.

PART III

PROGRAMMATIC PROVISIONS

- A. RESPONSE, PREPAREDNESS AND PLANNING.
 1. Three fundamental kinds of activities are performed pursuant to the NCP:
 - a. Preparedness, coordination, and planning for response to a discharge of oil or a release of a hazardous substance or pollutant contaminant;
 - b. Notification and communication; and
 - c. Response operations at the scene of a discharge or release.

The National Response System as outlined in Part 300 of the NCP is the response management structure that brings together the functions of the federal government, the state government, the local authorities, and the responsible party to achieve an effective and efficient response.

2. The EPA is the primary federal agency tasked with responding to discharges of oil and hazardous substances in the inland zone as defined in the NCP and described by the EPA and USCG MOU. The specific MOU designating EPA's area of response and the USCG area of response in the state of Florida is found in Annex M of the RCP.
3. The EPA OSC is the predesignated federal official responsible for preliminary assessments, containment, countermeasures, cleanup, disposal and planning for response operations for the inland zone. Under the authority of the CWA/OPA, CERCLA, and the NCP, the OSC may direct or monitor and provide technical support and assistance to all federal, state, local and private actions in response to an oil discharge or hazardous substance release. Limitations of resources and geographical distances make it impracticable for an EPA OSC to respond to the scene of every reported oil discharge or hazardous substance release. The EPA relies on FDEP BER to respond and coordinate the response activities to most incidents in the state of Florida.
4. The state of Florida is a member of the EPA Region IV Regional Response Team (RRT) and is involved in the planning, preparedness and response under the National Response System as outlined in the CWA/OPA, CERCLA and the NCP. Chapters 376 and 403, Florida Statutes, designates the FDEP as the responsible agency for coordinating oil and hazardous substance response and cleanup efforts in the state of Florida. The OSC will consult, as required by the NCP, with the SOSC concerning oil and hazardous substance response activities. Through this MOA, the parties agree to work together within the framework of the NCP and the RCP/ACP and their respective authorities to ensure a coordinated effort is undertaken in response to discharges of oil and hazardous substances.

B. NOTIFICATION AND COORDINATION REQUIREMENTS.

1. ~~The FDEP BER will request the responsible party for the release to~~ immediately notify the National Response Center for any release of a designated hazardous substance that meets or exceeds the established reportable quantity under 40 CFR Part 302. If the responsible party for the release is unknown, the FDEP BER will ensure this notification requirement is met.
2. The FDEP BER will request the responsible party for the discharge to immediately notify the National Response Center per 40 CFR Part 110, whenever an oil spill discharge occurs, or threat of a discharge occurs, into

inland navigable waters of the United States. If the responsible party for the discharge is unknown, the FDEP BER will ensure this notification requirement is met as follows:

- a. For any discharge or threat of a discharge, into inland navigable waters that is less than 250 gallons, FDEP is not required to report to EPA. However, if the FDEP intends to file a claim for reimbursement from the OSLTF, the receipt of the FDEP Preliminary Pollutant Discharge Report by the EPA OSC is considered sufficient notification and coordination. The report will be completed and signed by the SOSC, and transmitted by fax to EPA Region IV within one working day. Upon receiving the report, the EPA OSC will sign the report and fax it back to the SOSC by close of business of the next working day. This report, when executed by the FDEP BER and EPA OSC, will be sufficient evidence of state coordination of the removal actions to meet the requirements of 33 CFR Sections 136.203 and 136.205, and the policies and procedures of the NPFC.
 - b. For any discharge into inland navigable waters that is equal to or greater than 250 gallons, a timely oral telephonic notification to the EPA OSC to coordinate response activities followed by transmission of the completed FDEP Preliminary Pollutant Discharge Report will satisfy the notification and coordination requirement.
3. The EPA telephone duty OSC shall notify, or ensure notification is made, immediately to the appropriate BER District Office, via Florida's State Warning Point, for every incident report received in the EPA Region IV Regional Response Center from either the National Response Center or other party.

C. FEDERAL RESPONSE

Upon receipt of notification of any actual or threatened discharge of oil into navigable waters within the inland zone or any actual or threatened release of any hazardous substances to the environment, the EPA telephone duty OSC will make an independent decision (consistent with EPA Region IV's "Emergency Response Team Standard Operating Procedures") whether to dispatch an OSC to the scene of the incident. The EPA OSC may or may not choose to respond, depending upon the specific circumstances of the incident; the state, local, and/or the responsible party's capability to mitigate the incident; and whether or not assistance is requested. If the EPA OSC determines a response necessary, EPA will inform and coordinate with the SOSC and provide appropriate details. A response by an EPA OSC does not preclude the state of Florida from requesting reimbursement from the NPFC for state incurred expenses.

RIMBURSEMENT PROCESS

BER personnel regularly respond to oil discharges that impact or threaten to impact navigable waters within the inland zone in accordance with 40 CFR Sections 300.305 and 300.310. Options for reimbursement include filing a claim with the NPFC at the conclusion of the response or entering into a Pollution Removal Funding Authorization (PRFA) with EPA.

1. Claims

Section 1012(a) of OPA 90 provides that the OSLTF is available for the payment of removal costs to state governments resulting from a discharge or a substantial threat of a discharge of oil to navigable waters, the response and removal actions are conducted in a manner consistent with the NCP, and the removal actions are coordinated with the EPA OSC. The specific procedures for making a claim to the NPFC are documented in the NPFC Instruction 16451.2, "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990".

All the following criteria established by both parties to this MOA, for use by designated FDEP representatives to respond to discharges of oil, must be met if the state intends to seek reimbursement from the OSLTF:

- a. The discharge is in navigable waters or poses a substantial threat to navigable waters.
- b. The discharge will harm the environment or threaten to harm the environment by damaging or destroying state or federal resources.
- c. The actual or substantial threat of a discharge involves oil, but does not include CERCLA hazardous substances.
- d. Response actions by state personnel are in accordance with any directions received from an EPA OSC and are consistent with the NCP.

2. Pollution Removal Funding Authorizations

A PRFA is a financial obligation document that commits the OSLTF to payment, by reimbursement, for costs incurred in pollution response activities undertaken by another government agency working on behalf of the EPA OSC. The EPA OSC may enter into a PRFA with the state of Florida to supplement EPA resources whenever deemed necessary. To establish a PRFA, the EPA OSC and the state of Florida must agree upon and document the specific goods and services to be provided and provide a good faith estimate of the total anticipated costs. This agreement may initially be reached verbally, but should be reduced to writing as soon as practicable during a response by execution of a Non-Federal Agency Pollution Removal Funding Authorization form.

Whenever a PRFA is issued to the state of Florida, the EPA OSC shall specify in writing to the BER the required documentation and the associated deadlines for all pollution reports (POLREPs), costs of personnel and equipment, invoices, final reports, etc. Problems, real or anticipated, should be immediately brought to the attention of the OSC.

It is essential that the EPA OSC and the National Pollution Funds Center case officer be kept informed about the financial and work related progress of the removal. POLREPs are a logical and effective way to accomplish this. Every POLREP should show the financial status of the removal, current ceiling, obligations to date, an estimate of all other costs to date, and any other facts and figures that explain the current status or have value for planning subsequent activities. In general, and unless not otherwise specified, the state shall submit weekly POLREPs until final cleanup/stabilization is accomplished. For short-term incidents (less than one week long) only one POLREP is necessary, unless specified by the EPA OSC. When possible, the state of Florida shall identify the name and address of the responsible party and report this information to the EPA OSC to support cost recovery efforts.

Upon completion of the removal activities, the recipient agency shall submit a cost documentation package to the issuing EPA OSC with detailed records of expenditures and activities for which reimbursement is sought. The recipient agency must submit the final request for reimbursement, supported by the required documentation, within 60 days following the receipt of the final invoice for the response. If at the end of 60 days from the receipt of said final invoice, there are any costs for which reimbursement has not been requested, written notice will be sent to the issuing OSC of the recipient agency. After 30 days, the federal government will deobligate any balance remaining in the account. The NPFC Instruction 16451.2 "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990", defines all cooperative agreements, and procedures for claims for reimbursement.

PART IV

EVALUATION OF THIS MOU

~~The parties to this MOA will independently evaluate the effectiveness of this MOA in light of the purpose and scope, particularly with respect to the underlying principles of cooperation and coordination of each other's response operations. Periodically, the parties will present their written findings and any proposals to revise this MOA.~~

PART V

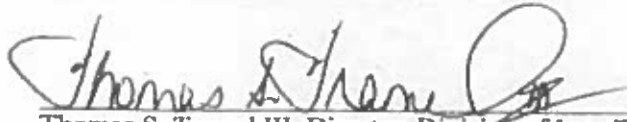
MISCELLANEOUS PROVISIONS

- A. This MOA represents a voluntary understanding between EPA and FDEP.

- B. This MOA will be effective when executed by the Director of the Waste Management Division, EPA, and the Director of the Division of Law Enforcement, FDEP, or their designated officials. This MOA will remain in effect until rescinded by either party in writing.
- C. The terms of this MOA may be changed at any time when both parties agree to do so in a written, executed amendment hereto with or without notice to any third person. This MOA may be terminated by either party at any time by providing written, signed notice to the other party thirty days prior to the intended termination date. Any action to amend, modify or terminate this MOA may only be taken by the Director of the Waste Management Division, EPA, or the Director of the Division of Law Enforcement, FDEP, or by persons to whom this authority is subsequently delegated.
- D. This MOA does not create, alter, modify, abridge or in any way affect any rights, duties, obligations or liabilities of any person under the laws of the United States or the state of Florida. No legal action or claim based on this MOA may be brought against the United States, EPA or the state of Florida by any person.
- E. In the event that individual and severable portions of this MOA are found to be in conflict with either State or Federal law, regulations or policies, they shall be deemed to be of no effect, and the remaining terms of the MOA will remain in effect without those provisions unless either party notifies the other in writing pursuant to Part V, C, that the entire agreement is terminated.

Executed this 29th day of AUGUST, 2000


Richard D. Green, Director, Waste Management Division
Environmental Protection Agency, Region IV


Thomas S. Tramel III, Director, Division of Law Enforcement
Department of Environmental Protection

**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AND
THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY**

This Memorandum of Agreement ("MOA") coordinates efforts between the United States Environmental Protection Agency Region IV ("EPA") and the State of Mississippi, Department of Environmental Quality (MDEQ) in response to oil discharges and releases of hazardous substances under the provisions of the Clean Water Act ("CWA") as amended by the Oil Pollution Act of 1990 (OPA 90) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended. The objective of this MOA is to define coordination/response procedures and guidelines related to oil spills and hazardous substances releases between EPA and MDEQ.

PART I

GENERAL PROVISIONS

- A. Responses to discharges of oil and certain hazardous substances are governed by the Clean Water Act (CWA), 33 U.S.C. 1251 et seq. as amended by OPA 90 and the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C.A. 9601 to 9675 et seq.
- B. The following planning documents are cited for reference and establish the authorities and procedures under which MDEQ and EPA conduct responses to discharges of oil and hazardous substances.
1. The National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. part 300, establishes the response organizations within the United States and requires a tiered contingency planning effort.
 2. EPA's Regional Contingency Plan ("RCP") and Area Contingency Plan(s) ("ACP") implement the NCP at the regional level and govern EPA's response to discharges of oil and hazardous substances.
 3. The National Pollution Funds Center ("NPFC") Instruction 16451.2, "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990" defines the procedures for requesting funds, removal costs, pollution reports (and the frequency of their issuance), payment, litigation, cooperative agreements, and claims for reimbursement.

4. The Memorandum of Understanding (MOU) between the United States Environmental Protection Agency (EPA) and the United States Coast Guard (USCG) for use of the Oil Spill Liability Trust Fund, dated 28 October 1996, establishes the parameters by which EPA and other eligible entities can access the Oil Spill Liability Trust Fund "OSLTF".
5. The Mississippi Emergency Operations Plan, details State responsibilities, policies and response actions to spills in the environment of the State.

PART II

PARTIES

- A. The parties to this MOA are Region IV EPA Emergency Response and Removal Branch ("ERRB") and MDEQ. The EPA On-Scene Coordinator ("OSC"), as defined by the NCP and as predesignated by the RCP, is the lead official in directing and monitoring all oil discharges or hazardous substance releases within the geographic area of Region IV which includes the State of Mississippi.
- B. The Governor of the State of Mississippi has designated MDEQ to act on behalf of the State to oversee responses to discharges of oil or hazardous substances. Employees of Emergency Services Branch ("ESB") are predesignated as state emergency on scene coordinators ("SOSC") or technical representatives.
- C. The Regional Administrator of the U.S. EPA Region IV and the Executive Director of the MDEQ of the State of Mississippi enter into this MOA to the extent permitted by law and as consistent with their respective policies and resources to facilitate notification and coordination of response actions to oil discharges and hazardous substances releases under the NCP and the Regional Contingency Plan/Area Contingency Plan.
- D. Nothing in this MOA shall detract from the existing responsibilities or authority of each party hereto.

PART III

PROGRAMMATIC PROVISIONS

A. RESPONSE, PREPAREDNESS AND PLANNING

1. Three fundamental kinds of activities are performed pursuant to the NCP:
 - a. Preparedness, coordination, and planning for response to a discharge of oil or a release of a hazardous substance or pollutant or contaminant;
 - b. Notification and communication; and
 - c. Response operations at the scene of a discharge or release.

The National Response System as outlined in Part 300 of the NCP is the response management structure that brings together the functions of the Federal Government, the state government, the local authorities, and the responsible party to achieve an effective and efficient response.

2. The EPA is the primary Federal Agency tasked with responding to discharges of oil and hazardous substances in the Inland Zone as defined in the NCP and described by EPA and US Coast Guard Memoranda of Understanding (MOUs). The specific MOUs designating EPA's area of response (the Inland Zone) and the US Coast Guard areas of response (the Coastal Zone) in the State are found in Annex M of the RCP.
3. The EPA On Scene Coordinator (OSC) is the predesignated federal official responsible for preliminary assessments, containment, countermeasures, cleanup, disposal and planning for response operations for the inland zone. Under the authority of the CWA/OPA, CERCLA, and the NCP, the OSC may direct or monitor and provide technical support and assistance to all Federal, State, local and private actions in response to oil discharges or hazardous substances releases. Limitations of resources and geographical distances make it impractical for an EPA OSC to respond to the scene of every reported oil discharge or hazardous substance release. EPA relies on MDEQ, ESB to respond and coordinate activities to most responses to incidents in the State of Mississippi.
4. The State of Mississippi is a member of the Regional Response Team and is involved with EPA in planning, preparedness and response under the National Response System as outlined in CWA/OPA, CERCLA and the NCP. State law designates the MDEQ as the responsible agency for coordinating oil and hazardous substance spill cleanup efforts in the State of Mississippi. ~~The OSC will consult, as required by the NCP, with the MDEQ concerning oil and hazardous substances response activities.~~ Through this MOA, the Parties agree to work together within the framework of the NCP, RCP/ACP to ensure a coordinated effort is undertaken in response to discharges of oil and hazardous substances.

5. The NCP specifies that when an EPA OSC is notified of a significant discharge or release to the environment, the OSC shall notify the Governor, or designee, of the state affected by the discharge or release. The emphasis during spill response activities is on coordination and cooperation rather than on a more rigid system of command and control. The OSC, the state/local government representatives are all involved with varying degrees of responsibility. The OSC in every case retains the authority to direct the spill response, and must direct responses to spills that pose a substantial threat to the public health or welfare of the United States as required by the CWA. In many situations, however, the OSC will choose to monitor the actions of the responsible party and/or state/local governments and provide support and advice where appropriate. Throughout the duration of a spill, the OSC shall communicate and coordinate, to the extent practicable, with state and local authorities consistent with the RCP/ACP. Once the OSC determines (in consultation with the governor or his designated contact of the affected state) that the cleanup has been completed in a manner consistent with the NCP, state or local representatives may continue any specific cleanup with their own jurisdictions by using their own authority and funds. Through this MOA, the Parties agree to work together within the framework of the NCP and the RCP/ACP and their respective authorities to ensure a coordinated effort is undertaken in response to discharges of oil and hazardous substances consistent with the NCP.

B. RECIPROCAL COORDINATION AND NOTIFICATION REQUIREMENTS

1. Hazardous Substance Releases:

The MDEQ ESB will request the responsible party ("RP") of a release to immediately notify the National Response Center for any release of a designated hazardous substance that meets or exceeds the established reportable quantity under 40 CFR 302, and/or affecting or potentially affecting: (A) human health and safety (B) wildlife/aquatic life (C) any environmental media (water, soil, etc.). If the responsible party is unknown or fails to notify, the MDEQ ESB shall ensure that the NRC and the Regional Telephone Duty OSC is or has been immediately notified when the release of designated hazardous substances exceeds the established reportable quantities as established by this subpart. In the event that reportable quantity information cannot be established, or if it is not possible to immediately notify EPA, notification will be as soon as available communication and/or proper information is obtained.

2. Oil Discharges:

~~The MDEQ ESB will request the responsible party of a release to immediately notify the~~ National Response Center whenever an oil spill threatens or discharges into inland navigable waterways of the United States under 40 CFR Part 110. However, if the responsible party is unknown or fails to notify, the MDEQ ESB shall ensure that the notification requirement is met as follows:

For any discharge or threat of discharge of oil into inland navigable waters that is less than 250 gallons MDEQ ESB is not required to report to EPA. However, for those oil discharges less than 250 gallons for which MDEQ intends to file a claim for reimbursement from the OSLTF for response costs MDEQ must notify the EPA OSC by telephone or submit the Oil Discharge Report (ESB 9902) to the EPA OSC. The report will be completed and signed by the SOSC, and transmitted by fax to EPA Region 4 within one working day. Upon receiving the report, the EPA OSC will review and sign the report and fax it back to the SOSC within one working day. This report, when executed by the MDEQ ESB and EPA OSC, will be sufficient evidence of state notification and coordination of the removal actions to meet the requirements of 33 CFR, Sections 136.203 and 136.205, and the policies and procedures of the NPFC.

For any discharge or threat of discharge of oil into inland navigable waters that is greater than 250 gallons, upon verification, A timely telephone notification to the EPA OSC to coordinate response activities followed by transmission of the completed Oil Discharge Report (ESB9902) will satisfy the notification and coordination requirement. The Oil Discharge Report (ESB 9902) is to be signed by the SOSC and transmitted, by fax to Region IV ERB the next available working day. Upon receiving the report the EPA OSC will sign the report and fax it back to the SOSC within one working day. This report, when executed by MDEQ ESB and the EPA OSC, will be sufficient evidence of state coordination of the removal actions to meet the requirements of 33 CFR Sections 136.203 and 136.205, and the policies and procedures of the National Pollution Fund Center.

3. The EPA Telephone Duty Officer/On-Scene Coordinator shall notify and/or ensure notification is made immediately to the State for every incident report received in the Regional Response Center ("RRC") from either the National Response Center ("NRC") or any other party.

C. FEDERAL RESPONSE

Upon receipt of notification of any discharge of oil into or threatening navigable waters within the Inland Zone or the release of any hazardous substances to the environment, the EPA Telephone Duty OSC will make an independent decision (consistent with EPA-Region 4's Emergency Response Team-Standard Operating Procedures) whether to dispatch an OSC to the scene of the incident. EPA OSCs may or may not respond, depending upon the specific circumstances of the incident; the state, local, and/or the RP's capability to mitigate the incident; and whether or not assistance is needed or has been requested. If an EPA response is determined to be necessary, EPA will coordinate with the State and provide appropriate details. A response by an EPA OSC does not preclude the MDEQ from requesting reimbursement from the National Pollution Fund Center for state incurred expenses.

D. REIMBURSEMENT PROCESS FOR OIL DISCHARGE RESPONSES:

State expenditures for response actions to oil discharges may be reimbursed using two distinct mechanisms. Options for reimbursement include filing a claim with the NPFC at the conclusion of the oil spill or entering into a Pollution Removal Funding Authorization ("PRFA") with EPA.

1. Pollution Removal Funding Authorizations

A PRFA is a financial obligation document that commits the OSITF to payment, by reimbursement, for costs incurred in pollution response activities undertaken by another government agency (or state) working for the EPA OSC. The EPA OSC may enter into a PRFA with the state to supplement EPA resources whenever deemed necessary. To establish a PRFA, the EPA OSC and the state must agree upon and document the specific goods and services to be provided (scope of work) and provide a good faith estimate of total anticipated costs. This agreement may initially be reached verbally, but should be reduced to writing as soon as practical during a response.

Whenever a PRFA is issued to the State, the EPA-OSC shall specify in writing to the Recipient Agency the required documentation and the associated deadlines for all pollution reports (POLREPs), daily costs of personnel and equipment, invoices, final reports, and so forth. The State shall provide to the EPA-OSC a brief, written daily log of progress which outlines the work accomplished, personnel and equipment on site, and costs incurred. Problems, real or anticipated, should be brought to the attention of the OSC immediately.

It is essential that the EPA-OSC and the National Pollution Funds Center ("NPFC") Case Officer be kept informed about the financial and work-related progress of a removal. Pollution reports (POLREPs) are a logical and effective way to keep the officer informed. Every POLREP should show the financial status of the removal, current ceiling, obligations to date, an estimate of all other costs to date, and any other facts and figures that explain the current status or have value for planning subsequent activities. In general, and unless not otherwise specified, the State shall submit weekly POLREPs until the final cleanup/stabilization is accomplished. When possible, the State shall identify the name and address of the Responsible Party and report this information to the EPA OSC to support downstream cost-recovery efforts.

Upon completion of the removal activities, the Recipient Agency shall submit a SF-1080/1081 form to the issuing EPA-OSC with detailed records of expenditures and activities for which reimbursement is sought. ~~The Recipient Agency must submit the final request for reimbursement,~~ supported by the required documentation within 90 days following the removal completion date. If at the end of 90 days from the final removal activities, there are any costs for which reimbursement has not been requested, notice will be sent to the issuing OSC by the Recipient Agency. After 30 days, any balance remaining in the account will be deobligated by the Government. The NPFC Instruction 16451.2, "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990," defines all procedures for requesting funds, removal costs, POLREPs, payment, litigation, cooperative agreements, and claims for reimbursement.

2. Claims

MDEQ, Emergency Services personnel regularly respond to oil discharges that impact or threaten waters of the U.S. in accordance with 40 C.F.R. sections 300.305 and 300.310. Section 1012(a) of OPA 90 provides that the Oil Spill Liability Trust Fund is available for the reimbursement of uncompensated removal expenses to state governments when a spill of oil impacts, or poses a substantial threat to navigable waters and the response actions are conducted in a manner consistent with the NCP and are coordinated with the EPA OSC.

All of the following criteria, established by the Parties for use by designated MDEQ, Emergency Services representatives to respond to discharges of oil, must be met if the State intends to seek reimbursement from the OSITF.

- (a) The discharge is in navigable waters or poses a substantial threat to navigable waters.
- (b) The discharge will harm the environment or threaten to harm the environment by damaging or destroying state or federal resources.
- (c) There is no known RP, or the RP refuses to undertake or cooperate with the cleanup.
- (d) The actual or substantial threat of a discharge involves oil and does not include a CERCLA hazardous substance.
- (e) Response actions by State personnel are in coordination with the EPA OSC and are consistent with the NCP.

The specific procedures for making a claim to the NPFC are documented in the NPFC Instruction 16451.2. A response by an EPA OSC to an oil spill does not preclude the state from requesting reimbursement for its incurred expenses.

PART IV

EVALUATION OF THIS MOA

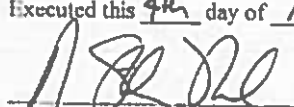
The Parties will independently evaluate the effectiveness of this MOA in light of the purpose and scope, particularly with respect to the underlying principles of cooperation and coordination of each other's response operations. Periodically the Parties will present their findings and any proposals to revise this MOA.

PART V

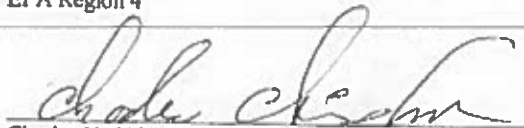
OTHER PROGRAM PROVISIONS

- A. This agreement represents a voluntary understanding between EPA and MDEQ.
- B. This MOA will be effective when executed by the Regional Administrator of EPA and the Executive Director of the MDEQ. This MOA will remain in effect until rescinded by either party in writing.
- C. Deviations to this MOA may be allowed if both parties agree to do so in writing. The terms of this MOA may be changed at any time when both Parties agree to do so in a written, executed amendment hereto with or without notice to any other person. This MOA may be terminated by either party at any time by providing written, signed notice to the other party thirty days prior to the termination date. Any action to amend, modify or terminate this MOA may only be taken by the Executive Director of the MDEQ or the Regional Administrator of EPA.
- D. This MOA does not create, alter, modify, abridge or in any way affect any rights, duties, obligations or liabilities of any person under the laws of the United States or the State of Mississippi. No legal action or claim based on this MOA can be brought by any person against the United States, EPA or the State of Mississippi by any person.
- E. In the event that individual and severable portions of this MOA are found to be in conflict with either State or Federal law, regulations or policies and therefore of no effect, the MOA will remain in effect without those provisions unless either party notifies the other in writing that the entire agreement is terminated.

Executed this 4th day of April, 2001.



Regional Administrator
EPA Region 4



Charles H. Chisolm, Executive Director
Mississippi Department of Environmental Quality

**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AND
THE STATE OF NORTH CAROLINA, DIVISION OF WATER QUALITY**

This Memorandum of Agreement (MOA) coordinates efforts between the United States Environmental Protection Agency Region IV (EPA) and the State of North Carolina Department of Environment and Natural Resources (NCDENR), Division of Water Quality (DWQ) in response to oil discharges and releases of hazardous substances under the provisions of the Clean Water Act (CWA) as amended by the Oil Pollution Act of 1990 (OPA 90), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended and the Oil Pollution and Hazardous Substances Control Act (NCGS 143-215.77 et. al.). The objective of this MOA is to define coordination/response procedures and guidelines related to oil spills and hazardous substance releases between EPA and NCDENR, DWQ.

PART I

GENERAL PROVISIONS

- A. Responses to discharges of oil and certain hazardous substances are governed by the Clean Water Act (CWA), 33 U.S.C. 1251 et seq. as amended by OPA 90 and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C.A. 9601 to 9675 et seq. Responses to discharges of oil and certain hazardous substances in the state of North Carolina are also governed by the Oil Pollution and Hazardous Substances Control Act (NGS 143-215.77 et. al.).
- B. The following planning documents are cited for reference and establish the authorities and procedures under which NCDENR and EPA conduct responses to discharges of oil and hazardous substances.
1. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. part 300, establishes the response organizations within the United States and requires a tiered contingency planning effort.
 2. EPA's Regional Contingency Plan (RCP) and Area Contingency Plan(s) (ACP) implement the NCP at the regional level and governing EPA's response to discharges of oil and releases of hazardous substances: EPA Region 4 General Guidelines for Federal Response.

MOA - USEPA & NCDENR, DWQ
Releases of oil and hazardous substances

3. The National Pollution Funds Center (NPFC) Instruction 16451.2, "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990" defines the procedures for requesting funds, removal costs, pollution reports (and the frequency of their issuance), payment, litigation, cooperative agreements, and claims for reimbursement
4. The Memorandum of Understanding (MOU) between the United States Environmental Protection Agency (EPA) and the United States Coast Guard (USCG) for use of the Oil Spill Liability Trust Fund, dated 28 October 1996, establishes the parameters by which EPA and other eligible entities can access the OSLTF.
5. The North Carolina Oil Spill Contingency Standard Operating Procedures (Department of Crime Control and Public Safety, Division of Emergency Management) details State responsibilities, policies and response actions to spills in the environment of the State.

PART II

PARTIES

- A. The parties to this MOA are EPA and NCDENR, DWQ. The EPA (Federal) On-Scene Coordinator (FOSC), as defined by the NCP and as pre-designated by the RCP, is the lead official in directing and monitoring all oil discharges or hazardous substance releases within the geographic area of Region IV which includes the State of North Carolina
- B. The Law of the State of North Carolina has designated NCDENR to act on behalf of the State to oversee the Oil Pollution and Hazardous Substances Control Act (NCGS 143-215.77 et. al.). The Secretary of NCDENR has further delegated this authority to the Director of the DWQ.
- C. The Chief, Emergency Response and Removal Branch, EPA and the Director of NCDENR, DWQ, ~~enter into this MOA to the extent permitted by law and as consistent with their~~ respective policies and resources to facilitate notification and coordination of response actions to oil discharges and hazardous substances releases under the NCP and the Regional Contingency Plan/Area Contingency Plan and the Oil Pollution and Hazardous Substances Control Act.
- D. Nothing in this MOA shall detract from the existing responsibilities or authority of each party hereto.

PART III

PROGRAMMATIC PROVISIONS

A. RESPONSE, PREPAREDNESS AND PLANNING

1. Three fundamental kinds of activities are performed pursuant to the NCP:
 - a. Preparedness, coordination, and planning for response to a discharge of oil or a release of a hazardous substance or pollutant or contaminant;
 - b. Notification and communication; and
 - c. Response operations at the scene of a discharge or release.

The National Response System as outlined in Part 300 of the NCP is the response management structure that brings together the functions of the Federal Government, the state government, the local authorities, and the responsible party to achieve an effective and efficient response.

2. The EPA is the primary Federal Agency tasked with responding to discharges of oil and hazardous substances in the Inland Zone as defined in the NCP and described by EPA and US Coast Guard Memoranda of Understanding (MOUs). The specific MOUs designating EPA's area of response (the Inland Zone) and the US Coast Guard areas of response (the Coastal Zone) in the State are found in Annex M of the RCP.
3. The EPA On Scene Coordinator (FOSC) is the predesignated federal official responsible for preliminary assessments, containment, countermeasures, cleanup, disposal and planning for response operations for the inland zone. Under the authority of the CWA/OPA, CERCLA, and the NCP the FOSC may direct or monitor and provide technical support and assistance to all Federal, State, local and private actions in response to oil discharges or hazardous substances releases. Limitations of resources and geographical distances make it impractical for an EPA FOSC to respond to the scene of every reported oil discharge or hazardous substance release. EPA relies on NCDENR, DWQ and other state and local agencies to respond and coordinate activities to most responses to incidents in the State of North Carolina.
4. The North Carolina Oil Spill Response Appendix of the State Emergency Operations Plan designates the Department of Crime Control and Public Safety, Division of Emergency Management Area Coordinator as the State On-Scene Coordinator (SOCS).

MOA - USEPA & NCDENR, DWQ
Releases of oil and hazardous substances

5. The State of North Carolina is a member of the Regional Response Team and is involved with EPA in planning, preparedness and response under the National Response System as outlined in CWA/OPA, CERCLA and the NCP. State law designates the NCDENR, DWQ as the responsible agency for ensuring oil and hazardous substances spill cleanup efforts in the State of North Carolina. The FOSC will consult, as required by the NCP, with NCDENR, DWQ concerning oil and hazardous substance response activities. The FOSC will also consult, as required by the NCP, with the SOSC concerning oil and hazardous substance response activities. Through this MOA, the Parties agree to work together within the framework of their respective authorities to ensure a coordinated effort is undertaken in response to discharges of oil and hazardous substances.

6. The NCP specifies that when an EPA FOSC is notified of a significant discharge or release to the environment, the FOSC shall notify the Governor, or designee, of the state affected by the discharge or release. The emphasis during spill response activities is on coordination and cooperation rather than on a more rigid system of command and control. The FOSC, the SOSC, the state/local government representatives are all involved with varying degrees of responsibility. The FOSC in every case retains the authority to direct the spill response, and must direct responses to spills that pose a substantial threat to the public health or welfare of the United States as required by the CWA. In many situations, however, the FOSC will choose to monitor the actions of the responsible party and/or state/local governments and provide support and advice where appropriate. Throughout the duration of a spill, the FOSC shall communicate and coordinate, to the extent practicable, with state and local authorities consistent with the RCP/ACP. Once the FOSC determines (in consultation with the governor or his designated contact of the affected state) that the cleanup has been completed in a manner consistent with the NCP, state or local representatives may continue any specific cleanup with their own jurisdictions by using their own authority and funds. Through this MOA, the Parties agree to work together within the framework of the NCP and the RCP/ACP and their respective authorities to ensure a coordinated effort is undertaken in response to discharges of oil and hazardous substances consistent with the NCP.

B. RECIPROCAL COORDINATION AND NOTIFICATION REQUIREMENTS

1. Hazardous Substance Releases:

Pursuant to 40 C.F.R. Part 302, Designation of Hazardous Substances and Reportable Quantities, the responsible party is required to notify the National Response Center whenever the release of designated hazardous substances meets or exceeds the established reportable quantities in the NCP, 40 C.F.R. Part 302. NCDENR, DWQ, to the extent possible, will inform the responsible parties, (RPs) of their responsibility to notify the NRC immediately or as soon as possible of any hazardous substance release exceeding the reportable quantity. Because NCDENR, DWQ does not respond to every incident, NCDENR, DWQ will also encourage other state and local agencies which may respond to the incident to notify the RPs of the RPs responsibility to notify the NRC.

In the absence of RPs or in, the event of significant incidences, NCDENR, DWQ will make every effort to notify or ensure that the NRC or the FOSC is notified. NCDENR, DWQ will also encourage other state and local agencies to notify the NRC or FOSC as soon as possible in the absence of a NCDENR, DWQ response

The Telephone Duty FOSC may be contacted through the Regional 24-hour emergency response phone number (404) 562-8700 or through the National Response Center (800) 424-8802.

2. Oil Discharges:

Pursuant to the Clean Water Act (CWA), 33 U.S.C. 1251 et seq. as amended by OPA 90, the RP is responsible for notifying the NRC or EPA Telephone Duty Officer/On-Scene Coordinator whenever an oil spill is threatening or discharging into navigable waters of the United States.

NCDENR, DWQ, to the extent possible, will inform RPs of their responsibility to notify the NRC immediately or as soon as possible of any oil spill which enters or threatens navigable waters. Because NCDENR does not respond to every incident, NCDENR, DWQ will also encourage other state and local agencies which may respond to the incident to notify the RPs of the RPs responsibility to notify the NRC.

NCDENR, DWQ is not required to immediately report to the NRC any minor discharge into waters of the State of North Carolina that is less than 250 gallons.

MOA - USEPA & NCDENR, DWQ
Releases of oil and hazardous substances

For discharges that are 250 gallons or more, which threaten or impact waters of the State of North Carolina, DWQ will make every effort to notify or ensure that an immediate telephone notification will be provided to the EPA Telephone Duty FOSC to coordinate response activities. This call will be followed by the transmission of the completed Oil Discharge Report (Attachment A) the next business day or as soon as practicable.

The Oil Discharge Report is to be signed by the DWQ inspector and transmitted, by fax (404-562-8699), to the Region IV Telephone Duty FOSC. This report when executed by DWQ and the EPA FOSC, will be sufficient evidence of state coordination of the removal actions to meet the requirements of 33 CFR Sections 136.203 and 136.205 and the policies and procedures of the National Pollution Fund Center. The telephone communication and the Oil Discharge Report, will satisfy the notification and coordination requirement.

NCDENR, DWQ will also encourage other state and local agencies to notify the NRC & FOSC as soon as possible in the absence of a NCDENR, DWQ response.

The Telephone Duty FOSC may be contacted through the Regional 24-hour emergency response phone number (404) 562-8700 or through the National Response Center (800) 424-8802.

3. State Notification

The EPA Telephone Duty Officer/On-Scene Coordinator shall notify and/or ensure notification is made immediately or as soon as possible to the State, for every incident report received in the Regional Response Center (RRC) from either the National Response Center (NRC) or other party. The State will put in place a written agreement or understanding with the NRC to receive notification from the NRC of reports received by the NRC in accordance with the NCP 40 CFR Part 300.125. This notification currently consists of faxing reports to the NCDENR, DWQ, Non-Discharge Compliance Enforcement Group and calling the Emergency Operations Center for significant or potentially significant events.

C. FEDERAL RESPONSE

Upon receipt of notification of any discharge of oil into or threatening navigable waters within the Inland Zone or the release of any hazardous substances to the environment, the EPA Telephone Duty FOSC will make an independent decision (consistent with EPA-Region 4's Emergency Response Team-Standard Operating Procedures) whether to dispatch an FOSC to the scene of the incident. EPA FOSCs may or may not respond, depending upon the specific circumstances of the incident; the state, local, and/or the RP's capability to mitigate the incident; and whether or not assistance is needed or has been requested. If an EPA response is determined to be necessary, EPA will coordinate with the State. This coordination initially includes the NCDENR, DWQ, Non-Discharge Compliance Enforcement Group Emergency Response Representative. On scene, this coordination should include the appropriate NCDENR, DWQ Regional Office.

D. REIMBURSEMENT PROCESS FOR OIL DISCHARGE RESPONSES:

State expenditures for response actions to oil discharges may be reimbursed using two distinct mechanisms. Options for reimbursement include filing a claim with the NPFC at the conclusion of the oil spill or entering into a Pollution Removal Funding Authorization (PRFA) with EPA. \

1. Pollution Removal Funding Authorizations

A PRFA is a financial obligation document that commits the Oil Spill Liability Trust Fund (OSLTF) to payment, by reimbursement, for costs incurred in pollution response activities undertaken by another government agency (or state) working for the EPA FOSC. The EPA FOSC may enter into a PRFA with the state to supplement EPA resources whenever deemed necessary. To establish a PRFA, the EPA FOSC and the state must agree upon and document the specific goods and services to be provided (scope of work) and provide a good faith estimate of total anticipated costs. This agreement may initially be reached verbally, but should be reduced to writing as soon as practical during a response.

MOA - USEPA & NCDENR, DWQ
Releases of oil and hazardous substances

Whenever a PRFA is issued to the State, the EPA-FOSC shall specify in writing to the Recipient Agency the required documentation and the associated deadlines for all pollution reports (POLREPs), daily costs of personnel and equipment, invoices, final reports, and so forth. The State shall provide to the EPA-FOSC a brief, written daily log of progress which outlines the work accomplished, personnel and equipment on site, and costs incurred. Problems, real or anticipated, should be brought to the attention of the FOSC immediately.

It is essential that the EPA-FOSC and the National Pollution Funds Center (NPFC) Case Officer be kept informed about the financial and work-related progress of a removal. Pollution reports (POLREPs) are a logical and effective way to accomplish this. Every POLREP should show the financial status of the removal, current ceiling, obligations to date, an estimate of all other costs to date, and any other facts and figures that explain the current status or have value for planning subsequent activities. In general, and unless not otherwise specified, the State shall submit weekly POLREPs until the final cleanup/stabilization is accomplished. When possible, the State shall identify the name and address of the Responsible Party and report this information to the EPA FOSC to support downstream cost-recovery efforts

Upon completion of the removal activities, the Recipient Agency shall submit a SF-1080/1081 to the issuing EPA-FOSC with detailed records of expenditures and activities for which reimbursement is sought. The Recipient Agency must submit the final request for reimbursement, supported by the required documentation, within 90 days following the removal completion date. If at the end of 90 days from the final removal activities, there are any costs for which reimbursement has not been requested, written notice will be sent to the issuing FOSC by the Recipient Agency. After 30 days later, any balance remaining in the account will be deobligated by the Government. The National Pollution Fund Center (NPFC) Instruction 16451.2, "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990," defines all procedures for requesting funds, removal costs, POLREPs, payment, litigation, cooperative agreements, and claims for reimbursement.

2. Claims

NCDENR personnel regularly respond to oil discharges that impact or threaten waters of the U.S. in accordance with 40 C.F.R. sections 300.305 and 300.310. Section 1012(a) of OPA 90 provides that the Oil Spill Liability Trust Fund is available for the reimbursement of uncompensated removal expenses to state governments when a spill of oil impacts, or poses a substantial threat to, navigable waters and the response actions are conducted in a manner consistent with the NCP and are coordinated with the EPA FOSC.

MOA - USEPA & NCDENR, DWQ
Releases of oil and hazardous substances

All of the following criteria, established by the Parties for use by designated NCDENR representatives to respond to discharges of oil, must be met if the State intends to seek reimbursement from the OSLTF.

- (a) The discharge is in navigable waters or poses a substantial threat to navigable waters.
- (b) The discharge will harm the environment or threaten to harm the environment by damaging or destroying state or federal resources.
- (c) There is no known responsible party (RP), *or* the RP refuses to undertake or cooperate with the cleanup.
- (d) The actual or substantial threat of a discharge involves oil and does not include a CERCLA hazardous substance.
- (e) Response actions by State personnel are in coordination with the EPA FOSC and are consistent with the NCP.

The specific procedures for making a claim to the NPFC are documented in the NPFC Instruction 16451.2. A response by an EPA FOSC to an oil spill DOES NOT preclude the state from requesting reimbursement for its incurred expenses.

PART IV

MISCELLANEOUS PROVISIONS

- A. This agreement represents a voluntary understanding between EPA and NCDENR, DWQ.
- B. This MOA will be effective when executed by the Regional Administrator of EPA and the Director of the NCDENR, DWQ, or their designated officials. This MOA will remain in effect until rescinded by either party in writing.
- C. The terms of this MOA may be changed at any time when both Parties agree to do so in a written, executed amendment hereto with or without notice to any other person. This MOA may be terminated by either party at any time by providing written signed notice to the other party thirty days prior to the termination date. Any action to amend, modify or terminate this MOA may only be taken by the Director of the NCDENR, DWQ or their designated official, or the Regional Administrator of EPA, or by persons to whom this authority is subsequently delegated, which specifically includes, the Chief, Emergency Response and Removal Branch (ERRB)
- D. This MOA does not create, alter, modify, abridge or in any way affect any rights, duties, obligations or liabilities of any person under the laws of the United States or the State of North Carolina. No legal action or claim based on this MOA may be brought against the United States, EPA or the State of North Carolina by any person.
- E. In the event that individual and several portions of this MOA are found to be in conflict with either State or Federal law, regulations or policies and therefore of no effect, the MOA will remain in effect without those provisions unless either party notifies the other in writing that the entire agreement is terminated.

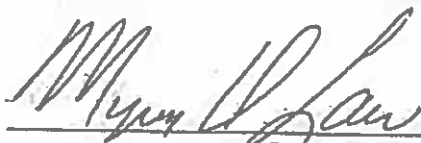
MOA - USEPA & NCDENR, DWQ
Releases of oil and hazardous substances

PART IV

EVALUATION OF THIS MOA

The Parties will independently evaluate the effectiveness of this MOA in light of the purpose and scope, particularly with respect to the underlying principles of cooperation and coordination of each other's response operations. Periodically the Parties will present their findings and any proposals to revise this MOA.

Executed this 2nd day of November, 2000.



EPA Region 4



Kerr T. Stevens, Director
NCDENR, Division of Water Quality

NC Oil Spill Discharge Report

To: EPA Region IV ERRB
Fax to: 404-562-8699

From: _____
Phone: _____

Spill Status: Actual Spill Potential Spill Substantial Threat to Navigable Water

Date of Incident _____ Time of Incident _____ County _____
Location _____

Incident Reported by: _____
Phone/pager Number _____

Initial Report Received By _____ Date/Time _____

Type of Oil _____ Estimated volume spilled _____
Source of oil _____ Discharge Reason _____

Does the petroleum product impact or have the potential to impact navigable waters? yes no
Name of Surface water _____

State Response yes no Primary Responder _____

Responsible Party Information:

Name of Contact: _____
Address _____
Phone: _____

FOSC Notified: EPA NRC Wilmington MSO Hampton Roads MSO
Date/Time _____ FOSC responding? yes no

Contractor: _____
Contractor hired by _____

Describe actions taken or anticipated in accordance with the National Contingency Plan.
Preliminary Assessment RP identified Booms/sorbents
Samples taken Monitor to verify dissipation

Comments:

State On-Scene Coordinator _____ Date/Time _____

Federal On-Scene Coordinator _____ Date/Time _____

**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AND
THE STATE OF SOUTH CAROLINA**

This Memorandum of Agreement (MOA) coordinates efforts between the United States Environmental Protection Agency Region 4 (EPA) and the state of South Carolina, Department of Health and Environmental Control (DHEC) in response to oil discharges and releases of hazardous substances under the provisions of the Clean Water Act (CWA) as amended by the Oil Pollution Act of 1990 (OPA 90) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended. The objective of this MOA is to define coordination and first response procedures and guidelines related to the emergency response to oil spills and hazardous substance releases in the inland zone between EPA and DHEC. This agreement does not apply to removal actions unassociated with emergency responses.

PART I

GENERAL PROVISIONS

- A. Response to discharges of oil and certain releases of hazardous substances are governed by the CWA, 33 U.S.C. 1251 et seq. as amended by OPA 90 and CERCLA, 42 U.S.C. 9601 to 9675 et seq.
- B. The following planning documents are cited for reference and establish the authorities and procedures under which DHEC and EPA conduct responses to oil and hazardous substances.
 - 1. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, establishes the response organizations within the United States and requires a tiered contingency planning effort.
 - 2. EPA's Regional Contingency Plan (RCP) and Area Contingency Plan(s) (ACP) implement the NCP at the regional level and govern EPA's response to discharges of oil and releases of hazardous substances.
 - 3. The National Pollution Funds Center (NPFC) Instruction 16451.2, "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990" defines the procedures for requesting funds, seeking removal costs, submitting pollution reports (and the frequency of their issuance), payment, conducting litigation, entering into cooperative agreements, and submitting claims for reimbursement.

4. The Memorandum of Understanding between the EPA and the United States Coast Guard (USCG) for use of the Oil Spill Liability Trust Fund (OSLTF), dated 28 October 1996, establishes the parameters by which EPA and other eligible entities can access the OSLTF.
 5. The State of South Carolina Contingency Plan for Spills and Releases of Oil and Hazardous Substances details the state responsibilities, policies, and response actions to discharges of pollutants and releases of hazardous substances onto the waters and lands of the state of South Carolina.
- C. The NCP specifies that when an EPA On-Scene Coordinator (OSC) is notified of a significant discharge or release to the environment, the OSC shall notify the Governor, or designee, of the state affected by the discharge or release. The emphasis during spill response activities is on coordination and cooperation rather than on a more rigid system of command and control. The OSC, the state/local government representatives are all involved with varying degrees of responsibility. The OSC in every case retains the authority to direct the spill response, and must direct responses to spills that pose a substantial threat to the public health or welfare of the United States as required by the CWA. In many situations, however, the OSC will choose to monitor the actions of the responsible party and/or state/local governments and provide support and advice where appropriate. Throughout the duration of a spill, the OSC shall communicate and coordinate, to the extent practicable, with state and local authorities consistent with the RCP/ACP. Once the OSC determines (in consultation with the governor or his designated contact of the affected state) that the cleanup has been completed in a manner consistent with the NCP, state or local representatives may continue any specific cleanup with their own jurisdictions by using their own authority and funds. Through this MOA, the Parties agree to work together within the framework of the NCP and the RCP/ACP and their respective authorities to ensure a coordinated effort is undertaken in response to discharges of oil and releases of hazardous substances consistent with the NCP.

PART II

PARTIES

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- A. The parties to this MOA are the EPA Emergency Response and Removal Branch (ERRB) and South Carolina Department of Health and Environmental Control, Environmental Quality Control (EQC). The EPA OSC, as defined by the NCP and as pre-designated by the RCP, is the lead official in directing and monitoring all oil discharges or hazardous substance releases within the inland geographic area of Region 4.

- B. The laws of the state of South Carolina have designated DHEC to act on behalf of the state to oversee responses to discharges of oil and releases of hazardous substances. Employees of DHEC EQC are pre-designated as state on-scene coordinators (SOSC). The Director of the Division of Waste Assessment and Emergency Response is the sole designated state official who may request access to the OSLTF by the state of South Carolina.
- C. The EPA ERRB, and DHEC EQC, enter into this MOA to the extent permitted by law and as consistent with their respected policies and resources to facilitate notification and coordination of response actions to oil discharges and hazardous substances releases under the NCP and the RCP/ACP, and to facilitate with the processing and payment of claims by the NPFC to the state of South Carolina.
- D. Nothing in this MOA shall detract from the existing responsibilities or authority of each party hereto.

PART III

PROGRAMMATIC PROVISIONS

A. RESPONSE, PREPAREDNESS AND PLANNING

- 1. Three fundamental kinds of activities are performed pursuant to the NCP:
 - a. Preparedness, coordination, and planning for response to a discharge of oil or a release of a hazardous substance, pollutant, or contaminant;
 - b. Notification and communication; and
 - c. Response operations at the scene of a discharge or release.

The National Response System as outlined in Part 300 of the NCP is the response management structure that brings together the functions of the federal government, the state government, the local authorities, and the responsible party to achieve an effective and efficient response.

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- 2. The EPA is the primary federal agency tasked with responding to discharges of oil and releases of hazardous substances in the inland zone as defined in the NCP and described by the EPA and USCG MOU. The specific MOU designating EPA's area of response and the USCG area of response in the state of South Carolina are found in Annex M of the RCP.
 - 3. The EPA OSC is the pre-designated federal official responsible for preliminary assessments, containment, countermeasures, cleanup, disposal and planning for response operations for the inland zone. Under the authority of the CWA/OPA,

CERCLA, and the NCP, the OSC may direct or monitor and provide technical support and assistance to all federal, state, local and private actions in response to an oil discharge or hazardous substance release. Limitations of resources and geographical distances make it impracticable for an EPA OSC to respond to the scene of every reported oil discharge or hazardous substance release. The EPA relies on DHEC Emergency Response Section (ERS) to respond and coordinate the response activities to most incidents in the state of South Carolina.

4. The state of South Carolina is a member of the EPA Regional Response Team (RRT) and is involved in planning, preparedness and response under the National Response System as outlined in the CWA/OPA, CERCLA and the NCP. State law designates DHEC as the responsible agency for coordinating oil and hazardous substance response and cleanup efforts in the state of South Carolina. The OSC will consult, as required by the NCP, with the SOSC concerning oil and hazardous substance response activities. Through this MOA, the parties agree to work together within the framework of the NCP and the RCP/ACP and their respective authorities to ensure a coordinated effort is undertaken in response to discharges of oil and releases of hazardous substances.

B. NOTIFICATION AND COORDINATION REQUIREMENTS

1. DHEC ERS will request the responsible party for the release to immediately notify the National Response Center for any release of a designated hazardous substance that meets or exceeds the established reportable quantity under 40 CFR Part 302. If the responsible party for the release is unknown, DHEC ERS will ensure this notification requirement is met.
2. DHEC ERS will request the responsible party for the discharge to immediately notify the National Response Center whenever an oil spill threatens or discharges into inland navigable waters of the United States under 40 CFR Part 110. If the responsible party for the discharge is unknown, DHEC ERS will ensure this notification requirement is met as follows:
 - a. For any discharge or threat of discharge of oil into inland navigable waters that is less than 250 gallons DHEC ERS is not required to report to EPA. However, for those oil discharges less than 250 gallons for which DHEC intends to file a claim for reimbursement from the OSLTF for response costs DHEC must notify the EPA OSC by telephone or submit the DHEC Environmental Quality Control Incident Report to the EPA OSC. The report will be completed and signed by the SOSC, and transmitted by fax to EPA within one working day. Upon receiving the report, the EPA OSC will review and sign the report and fax it back to the SOSC within one working day. This report, when executed by the DHEC ERS and EPA OSC, will be sufficient evidence of state notification and coordination of the removal actions to meet the requirements of 33 CFR, Sections 136.203 and 136.205, and the policies and procedures of the NPFC

- b. For any discharge or threat of discharge of oil into inland navigable waters that is greater than 250 gallons, timely telephone notification to the EPA OSC to coordinate response activities followed by transmission of the completed DHEC Environmental Quality Control Incident Report will satisfy the notification and coordination requirement.
3. The EPA Telephone Duty OSC shall notify and/or ensure notification is made immediately to DHEC ERS for every incident report received in the EPA Region 4 Regional Response Center from either the National Response Center or other party. The notification may be made by telephone or in writing in accordance with the DHEC ERS Notification Guidelines.

C. FEDERAL RESPONSE

Upon receipt of notification of any discharge of oil into or threatening navigable waters within the inland zone or release of any hazardous substances to the environment, the EPA Telephone Duty OSC will make an independent decision (consistent with EPA Region 4's "Emergency Response Team Standard Operating Procedures") whether to dispatch an OSC to the scene of the incident. The EPA OSC may or may not respond, depending upon the specific circumstances of the incident; the state, local, and/or the responsible party's capability to mitigate the incident; and whether or not assistance is requested. If an EPA response is determined to be necessary, EPA will inform and coordinate with the SOSC and provide appropriate details. A response by an EPA OSC does not preclude the state of South Carolina from requesting reimbursement from the NPFC for state incurred expenses.

D. REIMBURSEMENT PROCESS

DHEC personnel regularly respond to oil discharges that impact or threaten to impact navigable waters within the inland zone in accordance with 40 CFR, Sections 300.305 and 300.310. Options for reimbursement include filing a claim with the NPFC at the conclusion of the response or entering into a Pollution Removal Funding Authorization (PRFA) with EPA.

1. Claims

Section 1012(a) of OPA 90 provides that the OSLTF is available for the payment of removal costs to state governments resulting from a discharge or a substantial threat of discharge of oil into navigable waters and the removal actions are conducted in a manner consistent with the NCP and are coordinated with the EPA OSC. The specific procedures for making a claim to the NPFC are documented in the NPFC Instruction 16451.2, "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990".

All the following criteria established by both parties of this MOA, for use by designated DHEC representatives to respond to discharges of oil, must be met if the state intends to seek reimbursement from the OSLTF.

- a. The discharge is into navigable waters or poses a substantial threat to navigable waters.
- b. The discharge will harm the environment or threaten to harm the environment by damaging or destroying state or federal resources.
- c. The actual or substantial threat of a discharge involves oil, but does not include CERCLA hazardous substances.
- d. Response actions by state personnel are in coordination with the EPA OSC and are consistent with the NCP.

2. Pollution Removal Funding Authorizations

A PRFA is a financial obligation document that commits the OSLTF to payment, by reimbursement, for uncompensated costs incurred in oil discharge response activities undertaken by another government agency working in coordination with the EPA OSC. The EPA OSC may enter into a PRFA with the state of South Carolina to supplement EPA resources whenever deemed necessary. To establish a PRFA, the EPA OSC and the state of South Carolina must agree upon and document the specific goods and services to be provided and provide a good faith estimate of the total anticipated costs. This agreement may initially be reached verbally, but should be reduced to writing as soon as practicable during a response by execution of a Non-Federal Agency Pollution Removal Funding Authorization form.

Whenever a PRFA is issued to the state of South Carolina, the EPA OSC shall specify in writing to the ERS the required documentation and the associated deadlines for all pollution reports (POLREPs), costs of personnel and equipment, invoices, final reports, etc. Problems, real or anticipated, should be immediately brought to the attention of the OSC.

~~It is essential that the EPA OSC and the NPFC case officer be kept informed about the financial and work related progress of the removal. POLREPs are a logical and effective way to accomplish this. Every POLREP should show the financial status of the removal, current ceiling, obligations to date, an estimate of all other costs to date, and any other facts and figures that explain the current status or have value for planning subsequent activities. In general, and unless not otherwise specified, the state shall submit weekly POLREPs until final cleanup/stabilization is accomplished. For short-term incidents (less than one week long) only one POLREP is necessary, unless specified by the EPA OSC. When possible, the state of South Carolina shall identify the name and address of~~

the responsible party and report this information to the EPA OSC to support cost recovery efforts.

Upon completion of the removal activities, DHEC shall submit a Cost Documentation Package to the issuing EPA OSC with detailed records of expenditures and activities for which reimbursement is sought. DHEC must submit the final request for reimbursement, supported by the required documentation, within 60 days following the receipt of the final invoice for the response. If at the end of 60 days from the receipt of the invoice, there are any costs for which reimbursement has not been requested, written notice will be sent to the issuing OSC by DHEC. After 90 days from receipt of the invoice, any balance remaining in the account may be deobligated by the government. The NPFC Instruction 16451.2 "Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990", defines all cooperative agreements, and procedures for claims for reimbursement.

PART IV

EVALUATION OF THIS MOA

The parties of this MOA will independently evaluate the effectiveness of this MOA in light of the purpose and scope, particularly with respect to the underlying principles of cooperation and coordination of each other's response operations. Periodically, the parties will present their findings and any proposals to revise this MOA.

PART V

MISCELLANEOUS PROVISIONS

- A. This agreement represents a voluntary understanding between EPA and DHEC.
- B. This MOA will be effective when executed by the Regional Administrator of the EPA and the Deputy Commissioner for EQC of DHEC, or their designated officials. This MOA will remain in effect until rescinded by either party in writing.
- C. The terms of this MOA may be changed at any time when both parties agree to do so in a written, executed amendment hereto with or without notice to any other person. This MOA may be terminated by either party at any time by providing written, signed notice to the other party thirty days prior to the termination date. Any action to amend, modify or terminate this MOA may only be taken by the Regional Administrator of the EPA or the Deputy Commissioner for EQC of DHEC, or by persons to whom this authority is subsequently delegated.

- D. This MOA does not create, alter, modify, abridge or in any way affect any rights, duties, obligations or liabilities of any person under the laws of the United States or the state of South Carolina. No legal action or claim based on this MOA may be brought against the United States, EPA or the state of South Carolina by any person.
- E. In the event that individual and severable portions of this MOA are found to be in conflict with either State or Federal law, regulations or policies and therefore of no effect, the MOA will remain in effect without those provisions unless either party notifies the other in writing that the entire agreement is terminated.

Executed this 14th day of December, 2000



John H. Hankinson, Jr.
Regional Administrator, EPA Region 4



R. Lewis Shaw, P.E.
Deputy Commissioner for EQC, Department of Health and Environmental Control

**MEMORANDUM OF AGREEMENT
BETWEEN
U.S. COAST GUARD
FIFTH, SEVENTH, AND EIGHTH DISTRICTS
AND
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4
REGARDING
RESPONSE BOUNDARIES FOR OIL AND HAZARDOUS SUBSTANCES POLLUTION
INCIDENTS AND
FEDERAL ON-SCENE COORDINATOR RESPONSIBILITIES**

I. Purpose

The purpose of this document is to delineate the Region 4 inland and coastal zone geographical boundaries and to establish responsibility for the predesignation of on-scene coordinators (OSCs) for pollution response pursuant to the National Oil and Hazardous Substances Contingency Plan (NCP), Title 40, Code of Federal Regulations, Part 300.120 (40 CFR § 300.120).

II. Definitions

The following definitions will apply to this Memorandum of Agreement (MOA).

Commercial Vessels. Commercial vessels are vessels in commercial service that conduct any type of trade or business involving the transportation of goods or individuals, except combatant vessels. This includes tank vessels (ships and barges); freight vessels and barges; commercial fishing vessels; passenger vessels; and towing vessels. This definition excludes recreational vessels and permanently moored structures which, while they may appear to be vessels are not inspected by the Coast Guard, i.e. barges moored at facilities effectively used as part of a non-transportation-related facility complex.

Marine Transportation-Related Facility (MTR Facility). Any onshore facility or portion of a facility complex, as defined in 40 CFR § 112.2, including piping and any structure used or intended to be used to transfer oil to or from a vessel. The marine transportation-related portion of the complex extends from the facility oil transfer system's connection with the vessel to the first valve inside the secondary containment surrounding tanks in the non-transportation-related portion of the facility or, in the absence of secondary containment, to the valve or manifold adjacent to the tanks comprising the non-transportation-related portion of the facility, unless another location has been agreed to by the U.S. Coast Guard (USCG) Captain of the Port (COTP) and the appropriate federal official (33 CFR § 154.1020).

III. Boundary Descriptions

A - Inland Zone Boundary Designation

The U.S. Environmental Protection Agency Region 4 provides the predesignated OSC for pollution response in the inland zone. All discharges or releases, or a substantial threat of such discharges or releases of oil or hazardous substances, pollutants or contaminants originating

within the inland zone are the responsibility of the EPA. Included are discharges and releases from unknown sources or those classified as “mystery spills.”

The EPA Region 4 includes the eight Southern States/Commonwealths: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Responsibilities regarding inland waterways between the EPA Regions (i.e., Ohio River, Mississippi River, Pearl River, Big Sandy River and Tug Fork) are delineated in separate Memorandums of Understanding (MOU) between the EPA Regions. These MOUs are provided in Appendix 2 of this document.

B - Coastal Zone Boundary Designations

The cognizant USCG COTP is the predesignated OSC for pollution response in the coastal zone. All discharges or releases, or a substantial threat of such discharges or releases of oil or hazardous substances originating within the coastal zone are the responsibility of the USCG OSC except as described in section IV C of this document. Included are discharges and releases from unknown sources or those classified as “mystery spills.”

The coastal zone boundary description for the USCG OSCs located within the EPA Region 4 can be found in Appendix 1.

IV. General Response Provisions

These provisions apply to all of the EPA OSCs and USCG COTP/OSCs serving within Region 4. The designated boundary lines identified in Appendix 1 are intended to delineate the area of responsibility (AOR) for federal response action to a discharge of oil or a release of a hazardous substance, pollutant, or contaminant within Region 4 and describe the transition point from the coastal zone (USCG jurisdiction) to the inland zone (EPA jurisdiction). For ease of denotation, the boundaries were drawn following prominent state and federal highways, state boundaries, other landmarks, and as a general rule, the location of the source of the discharge will be the determining factor of which agency provides the OSC. However, this MOA recognizes the USCG’s primary mission and expertise for discharges and releases in or threatening navigable waters subject to the tide, and the EPA’s primary mission and expertise for discharges and releases that occur on or threaten land and non-tidal, navigable waters. Therefore, the boundaries do not preclude one agency from transferring to the other agency OSC responsibilities for releases and/or discharges which occur within its zone, as set forth below.

A.1 - Mutual Assistance

The USCG, through the cognizant COTP and the inland zone predesignated EPA OSC will assist each other consistent with agency expertise, resources, responsibilities and authorities.

The proposed boundary lines identified in Appendix 1 do not preclude mutual assistance between the two agencies. In addition to 40 CFR § 300.135(b), in this federal region, the EPA and the USCG will carry out agency and specific pollution response responsibilities under the NCP, the Regional Contingency Plan (RCP), and the applicable Area Contingency Plan, and will assist each other to the fullest extent possible to prevent or minimize the impacts of an actual

discharge or release, or a substantial threat of such a discharge or release, of an oil or hazardous substance into or on the waters of the United States or adjacent shorelines where each respective agency has jurisdiction.

Such mutual assistance will be provided based on formal notification and mutual consent that the assistance is desirable and necessary to respond to a release or threat of a release of oil or hazardous substances that poses imminent and substantial endangerment to public health or the environment. Notification will be provided by the COTP to the EPA OSC, or by the EPA OSC to the COTP, whenever a spill is discovered that appears to warrant the provision of mutual assistance. When it is mutually agreed that the provision of such assistance is beneficial, an OSC from either organization may serve as the OSC for that incident, serve as the Federal On-Scene Coordinator Representative (FOSCR) for the predesignated OSC, or perform OSC duties only until such time as the predesignated OSC may take over the response action.

The predesignated OSC will be advised of the response actions taken by the assisting agency OSC or FOSCR via periodic verbal reports and pollution reports (POLREPS) as appropriate.

A.2 - First Federal Official

Under 40 CFR § 300.135(b) of the NCP, an OSC from either EPA or the USCG may respond as the first federal official (defined in 40 CFR § 300.5) to either an inland or a coastal event. The first federal official is authorized to initiate, in consultation with the predesignated OSC, any necessary actions to respond until the arrival of the predesignated OSC.

B - Inland Zone Commercial Vessels and MTR facilities

USCG will provide the OSC for incidents that occur in the inland zone where the release, discharge, or threat of release or discharge, occur from commercial vessels or from MTR fixed facilities.

The USCG shall provide the OSC in response to an incident in EPA Region 4 inland zone when it involves a commercial vessel, or an oil or hazardous material transfer operation on the marine transportation-related portion of a MTR facility. The incident must result in an actual discharge or threatened discharge of oil or hazardous substances into or on navigable waters of the United States, its shoreline or the riverbank within the USCG Fifth, Seventh and Eighth Districts AOR in EPA Region 4 as defined in 33 CFR § 3.40-1. The COTP in each zone shall provide annually a list of fixed MTR facilities located in the inland zone of their AOR to the Co-Chairs of RRT4. EPA shall be advised of any response actions performed by the COTP within the inland zone via verbal notification and POLREPS. When the COTP is not notified via the National Response Center, EPA shall notify the COTP for all commercial vessel and MTR spills or releases in the inland zone.

C - Coastal Zone Fixed Facilities, Railroads, and Pipelines

EPA will provide the OSC for incidents that occur in the coastal zone where the release, discharge, or threat of release or discharge, occur from fixed facilities as defined by CERCLA other than MTR fixed facilities. EPA will also provide the OSC should the incident involve

non-marine transportation related incidents including railroad, highway, or pipeline owners/operators/carriers.

D - Unified Command

When spills originate in either the inland or coastal zones that appear to threaten the adjoining zone, the OSCs responsible for both zones will coordinate to determine the most effective response strategy. When either Agency provides the OSC in the AOR of the other Agency (EPA in coastal zone or USCG in inland zone) the host Agency shall be afforded the opportunity to participate in the Unified Command. Options available for OSC assignment are as stated previously in this section.

E - Drinking Water/Waste Water Infrastructure Incidents

As directed by Homeland Security Presidential Directive HSPD-7 regarding critical infrastructure, EPA will provide the OSC for all drinking water, waste water, and storm water attacks or upsets, regardless of the zone in which the utility is located.

Other Provisions

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

Anti-Deficiency Act

As required by the Anti-deficiency Act, 31 U.S.C. 1341 and 1342, all commitments made by EPA and the USCG in this MOA are subject to the availability of appropriated funds and budget priorities. Nothing in this MOA, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations. Any transaction involving transfers of funds between the parties to this MOA will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

V. Amendments and Effective Date

This agreement will be subject to review and amendment coincident with each periodic review of the Regional, Area, and other applicable contingency plans and any other time at the request of any of the parties. Amendments to this MOA or its appendices shall be accomplished through a Letter of Agreement specifying the agreed modification and signed by all parties. Points of contact for the coordination, support, and implementation of this agreement are as follows:


- EPA Region 4 – Chief, Emergency Response and Removal Branch, Atlanta, GA at (404) 562-8718; 24 hour Duty Officer (404) 562-8700
- Fifth Coast Guard District – Chief, Response Division, Portsmouth, VA at (757) 398-6676

- Seventh Coast Guard District – Chief, Incident Management Branch, Miami, FL at (305) 415-6841
- Eighth Coast Guard District – Chief, Response Division, New Orleans, LA at (504) 671-2229

Regional and Area Contingency Plans of the signatory Agencies will be amended to reflect the geographical boundaries established herein. This MOA supersedes other MOAs and/or MOUs previously enacted concerning the Federal predesignated OSC boundaries for purposes of pollution response within EPA Region 4. This document is effective upon signature by all parties. It will remain in effect until modified or terminated by mutual agreement of the parties.

USCG D5, D7, D8, and EPA R4 Inland / Coastal Boundary MOA
Signature Page USCG District 7

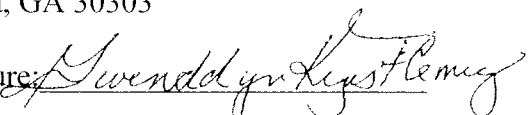
J. H. Korn
Rear Admiral, U.S. Coast Guard
Commander
Seventh Coast Guard District
909 S.E. First Ave
Miami, FL 33131-3050

Signature: 

Date: 10/10/13

**USCG D5, D7, D8, and EPA R4 Inland / Coastal Boundary MOA
Signature Page EPA Region 4**

Gwendolyn Keyes Fleming
Regional Administrator
U. S. Environmental Protection Agency
Region 4 (4XA)
61 Forsyth Street SW
Atlanta, GA 30303

Signature: 

Date: MAR 28 2013

**USCG D5, D7, D8, and EPA R4 Inland / Coastal Boundary MOA
Signature Page USCG District 5**

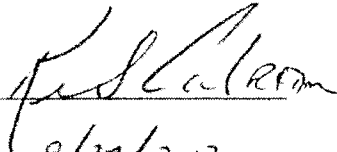
Steven H. Ratti
Rear Admiral, U.S. Coast Guard
Commander
Fifth Coast Guard District
431 Crawford Street
Portsmouth, VA 23704

Signature:  RADM, USCG

Date: 29 October 2013

**USCG D5, D7, D8, and EPA R4 Inland / Coastal Boundary MOA
Signature Page USCG District 8**

Kevin S. Cook
Rear Admiral, U.S. Coast Guard
Commander
Eighth Coast Guard District
500 Poydras Street
New Orleans, LA 70130-3396

Signature: 
Date: 9/27/2013

ANNEX A:

***2018 Region 4 – Coastal Boundary Line
Delineations***

**MEMORANDUM OF AGREEMENT
BETWEEN
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 4
AND
UNITED STATES COAST GUARD
REGARDING RESPONSE BOUNDARIES FOR
OIL AND HAZARDOUS SUBSTANCES POLLUTION INCIDENTS AND
FEDERAL ON-SCENE COORDINATOR RESPONSIBILITIES**

Section 1: PARTIES

The Parties to this Memorandum of Agreement (MOA) are the United States Environmental Protection Agency (EPA), Region 4 and the United States Coast Guard, Fifth, Seventh and Eighth District (USCG D5, etc.).

Section 2: PURPOSE AND AUTHORITIES

- A. The intent of this MOA is to delineate the Region 4 inland and coastal zone geographical boundaries establishing responsibility for the predesignation of the Federal On-Scene Coordinators (FOSC) for pollution response, pursuant to the Federal Water Pollution Control Act, as amended, also known as the Clean Water Act (CWA), 33 U.S.C. §§ 1251-1387; and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. § 300.120.
- B. This Agreement is established under the provisions of 33 U.S.C. §§ 1251-1387, 14 U.S.C. § 93(a) (20), 14 U.S.C. § 141, 40 C.F.R. § 300.120 and EPA Delegation 1-11.

Section 3: DEFINITION

Except where otherwise specifically defined in the context of its use herein, or where specifically set forth below, terms used in this MOA shall have the meaning set forth in federal law and regulation. The definition supplied below is meant to enhance and supplement the understanding of those terms.

- Commercial Vessels. "Commercial vessels" are vessels in commercial service that conduct any type of trade or business involving the transportation of goods or individuals, except service performed by combatant vessels.

Section 4: ENTITIES WITHIN THE GEOGRAPHICAL ZONE

- A. The EPA Region 4 geographical zone includes the following eight States/Commonwealths: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.
- B. The following USCG commands have areas of responsibility (AOR) which fall within the geographical zone under this MOA.
 1. USCG D5: Sector North Carolina: The Sector North Carolina Captain of the Port (COTP) AOR is detailed within 33 C.F.R. § 3.25-20.

2. USCG D7:
 - i. Sector Charleston: The Sector Charleston COTP AOR is detailed within 33 C.F.R. § 3.35-15, which includes concurrent COTP authority with Marine Safety Unit (MSU) Savannah.
 - ii. MSU Savannah: MSU COTP Savannah AOR is detailed within 33 C.F.R. § 3.35-15(b).
 - iii. Sector Jacksonville: The Sector Jacksonville COTP AOR is detailed within 33 C.F.R. § 3.35-20.
 - iv. Sector Miami: The Sector Miami COTP AOR is detailed within 33 C.F.R. § 3.35-10.
 - v. Sector Key West: The Sector Key West COTP AOR is detailed within 33 C.F.R. § 3.35-40.
 - vi. Sector Saint Petersburg: The Sector Saint Petersburg COTP AOR is detailed within 33 C.F.R. § 3.35-35.

3. USCG D8:
 - i. Sector Mobile: The Sector Mobile COTP AOR is detailed within 33 C.F.R. § 3.40-10.
 - ii. Sector Lower Mississippi River: The Sector Lower Mississippi River COTP AOR is detailed within 33 C.F.R. § 3.40-60.
 - iii. Sector Ohio Valley: The Sector Ohio Valley COTP AOR is detailed within 33 C.F.R. § 3.40-65.

Section 5: BOUNDARY DESCRIPTIONS

A. Inland Zone Boundary Designation

1. The EPA Region 4 provides the predesignated FOSC for pollution response in the inland zone. All discharges or releases, or a substantial threat of such a discharge of oil or threat of release of hazardous substances, pollutants or contaminants originating within the inland zone will be the responsibility of the EPA except as described in paragraph A.3 of this section. Included are discharges and releases from unknown sources or those classified as "mystery spills."
2. The EPA Region 4 AOR includes the States/Commonwealths listed in Section 4.A. Responsibilities regarding inland waterways between the EPA Regions (i.e., Ohio River, Mississippi River, Pearl River, Big Sandy River and Tug Fork) are delineated in separate Memorandums of Understanding (MOU) between the EPA Regions. These MOUs are provided in Appendix 2 of this document.
3. The EPA Region 4 predesignates the relevant USCG COTP as the FOSC in response to an incident in the inland zone when it:
 - i. Involves either:
 - (1) a commercial vessel;
 - (2) a commercial vessel transfer operation; or
 - (3) it is within or originating from the USCG regulated portion of a facility; and
 - ii. Results in a discharge or substantial threat of a discharge of oil or release or threat of a release of hazardous substances, pollutants or contaminants into or on the navigable waters of the United States or adjoining shorelines.

4. For the purposes of this MOA, the USCG regulated portion of a facility extends from the facility transfer system's connection with the vessel to the first valve inside the secondary containment surrounding tanks in the non-transportation-related portion of the facility or, in the absence of secondary containment, to the valve or manifold adjacent to the tanks comprising the non-transportation-related portion of the facility, unless another location has otherwise been agreed to by the COTP and the appropriate federal official.

B. Coastal Zone Boundary Designation

1. The relevant USCG COTP is the predesignated FOSC for pollution response within or threatening the coastal zone. All discharges or releases, or a substantial threat of such a discharge of oil, or threat of release of hazardous substances, pollutants or contaminants originating within the coastal zone will be the responsibility of the USCG. Included are discharges and releases from unknown sources or those classified as "mystery spills."
2. Incidents for which the USCG does not provide the FOSC are outlined in 40 C.F.R. § 300.120(c) and (d).
3. 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 C.F.R. § 300.120(a)(1) and the Department of Transportation (DOT)/EPA Instrument of Redefinition dated May 27, 1988.
4. The [coastal zone boundary description](#) for the USCG FOSCs located within the EPA Region 4 can be found in Appendix 1.

Section 6: GENERAL RESPONSE PROVISIONS

These provisions apply to all EPA FOSCs and USCG COTP/FOSCs serving within the EPA Region 4. The established boundary lines identified in Appendix 1 delineate the AOR for federal response action to a discharge of oil or a release of a hazardous substance, pollutant or contaminant within the EPA Region 4 and describe the transition point from the coastal zone (USCG jurisdiction) to the inland zone (EPA jurisdiction). For ease of denotation, the boundaries were drawn following prominent state and federal highways, state boundaries, and other landmarks. Therefore, the boundaries do not preclude one agency from transferring to the other agency FOSC responsibilities for releases and/or discharges which occur within its zone, as set forth below.

A. Inland Zone

1. The USCG, through the cognizant COTP and the inland zone predesignated EPA FOSC, will assist each other consistent with agency expertise, resources, responsibilities and authorities.
2. Such mutual assistance will be provided based on notification and mutual consent that the assistance is requested and necessary to respond to: (i) a discharge of oil, or a substantial threat of a discharge of oil, (ii) a release, or threat of a release of a hazardous substance, (iii) a release or threat of a release of pollutants or contaminants which may present an imminent and substantial endangerment to the public health or welfare. Notification will be provided by the COTP to the

EPA FOSC, or by the EPA FOSC to the COTP, whenever a spill is discovered that appears to warrant the provision of mutual assistance. When it is mutually agreed that the provision of such assistance is beneficial, a FOSC from either organization may serve in the following capacities:

- i. As the FOSC for that incident;
 - ii. As the Federal On-Scene Coordinator's Representative (FOSCR) for the predesignated FOSC; or
 - iii. Perform duties as first federal official as outlined in 40 C.F.R. § 300.135(b).
3. When the COTP is not notified via the National Response Center, the EPA shall notify the COTP immediately for all known commercial vessel and USCG-regulated facility discharges or releases in the inland zone. Additionally, the COTP shall ensure that all reported pollution incidents received by the COTP are promptly communicated to the EPA Region 4 duty officer.
 4. The USCG COTP shall inform the EPA Region 4 duty officer immediately when the reported discharge or release is an actual or potential medium or major discharge or release as defined in 40 C.F.R. § 300.5 and required by 40 C.F.R. § 300.320. Additionally, the COTP shall provide a verbal report or Situation Report (SITREP)/Pollution Report (POLREP) for all other response actions.
 5. The USCG COTP in each zone shall provide annually, a list of fixed USCG-regulated facilities (33 C.F.R. §§ 126, 127, and 154) located in the inland zone of their AOR to the Co-Chairs of the Regional Response Team and to the relevant District Incident Management and Preparedness Advisor.

B. Inland and Coastal Zone

1. The established boundary lines identified in Appendix 1 do not preclude mutual assistance between the two agencies. In addition to 40 C.F.R. § 300.135(b), in this federal region, the EPA and the USCG will carry out agency and specific pollution response responsibilities under the NCP, the Regional Contingency Plan (RCP), and the applicable Area Contingency Plan(s) (ACP), and will assist each other to the fullest extent possible to prevent or minimize the impacts of an actual discharge or release, or a substantial threat of such a discharge or threat of release, of an oil or hazardous substance into or on the waters of the United States or adjacent shorelines where each respective agency has jurisdiction. Per 40 C.F.R. § 300.140, should a discharge or release affect two or more areas, prime consideration to the area vulnerable to the greatest threat shall determine which agency provides the FOSC.
2. Regardless of any agreements within this MOA, it is the responsibility of the EPA and the USCG to ensure that the other agency has properly taken over FOSC responsibilities in its zone prior to relieving itself of any FOSC responsibility. Any verbal agreement to transfer FOSC responsibilities shall be followed up in writing, and/or documented in a SITREP or POLREP.
3. In addition, the agency responsible for the Regional Contingency Plan/Area Contingency Plan (RCP/ACP) in their AOR will notify the other agency of meetings to ensure both agencies have the opportunity for participation in the planning process (EPA within the inland zone; USCG within the coastal zone).

4. Unified Command: When spills originate in either the inland or coastal zones that appear to threaten the adjoining zone, the FOSCs responsible for both zones will coordinate to determine the most effective response strategy (cannot be more than one FOSC per incident). When either agency provides the FOSC in the AOR of the other agency (EPA in coastal zone or USCG in inland zone), the host agency shall be afforded the opportunity to participate in the Unified Command. Options available for FOSC assignment are as stated previously in this section.
- C. Drinking Water/Waste Water Infrastructure Incidents: As directed by Homeland Security Presidential Directive 7 (HSPD-7) regarding critical infrastructure, the EPA will provide the FOSC for all drinking water, water treatment system attacks or upsets, regardless of the zone in which the utility is located.

Section 7: OTHER PROVISIONS

- A. Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the USCG or the EPA, or any department in which these parties may be operating, nor any such laws, regulations or directives that may be promulgated hereafter. If a term of this Agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.
- B. Notwithstanding any terms of this Agreement, nothing herein shall be construed to diminish or supersede any rights or authorities available to the parties. This MOA neither amends nor repeals any other requirement or authority conferred by any other provision of law. Nothing in this MOA shall limit, deny, amend, modify or repeal any other requirements or authorities of agencies of the United States.
- C. This MOA does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this Agreement, against the EPA or USCG, their officers or employees, or any other person. This MOA does not direct or apply to any person outside of the EPA or USCG.
- D. Each party agrees that should a third-party claim arise under the terms and conditions of the Federal Tort Claims Act (FTCA), Title 28, U.S.C. §§ 1346 and 2671 et seq., or of the laws of any state based on negligence or a wrongful act or omission, the party whose employee(s)' conduct gave rise to the claim shall be responsible for the investigation and disposition of said claim. For claims involving conduct of employees of more than one party arising out of a joint activity conducted pursuant to this MOA, the parties agree to work cooperatively to determine which entity will be primarily responsible for the investigation and disposition of the claim.
- E. As required by the Anti-Deficiency Act, 31 U.S.C. §§ 1341 and 1342, all commitments made by the EPA and USCG in this MOA are subject to the availability of appropriated funds and budget priorities. Nothing in this MOA, in and of itself, obligates either party to expend appropriations or to enter into any contract, assistance agreement, interagency agreement or incur other financial obligations. Any transaction involving transfers of funds between the parties to this MOA will be handled in accordance with applicable laws, regulations and procedures under separate written agreements. This MOA will be incorporated by reference or included as an enclosure to any reimbursable agreement between the USCG and the EPA resulting from this MOA.

Section 8: EFFECTIVE DATE, MODIFICATION AND TERMINATION

This Agreement will become effective upon the signature of all parties. This Agreement 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 parties. It may be terminated by any party, effective 30 calendar days after providing written notice to all parties. It will remain in effect until modified by mutual agreement or terminated.

Section 9: POINTS OF CONTACT

Points of Contact for the coordination, support and implementation of this Agreement are as follows:

- EPA Region 4 – Chief, Emergency Response, Removal and Prevention Branch, Atlanta, GA at (404) 562-8769; 24-hour (404) 562-8700.
- Fifth Coast Guard District – Chief, Response Division, Portsmouth, VA at (757) 398-6676; 24-hour (800) 815-3171.
- Seventh Coast Guard District – Chief, Response Division, Miami, FL at (305) 415-6780; 24-hour (305) 415-6800.
- Eighth Coast Guard District – Chief, Response Division, New Orleans, LA at (504) 671-2229; 24-hour (504) 589-6225.

Section 10: SUPERSEDING POWER

Regional and Area Contingency Plans of the signatory agencies will be amended to reflect the geographical boundaries and agreements contained herein. This MOA supersedes other MOAs and/or MOUs previously in effect concerning the FOOSC boundaries for purposes of pollution response within the EPA Region 4.

Agreed to and entered into by the undersigned.

**USCG D5, D7, D8 and EPA R4 Inland/Coastal Boundary MOA
Signature Page EPA Region 4**


Trey Glenn
Regional Administrator
U. S. Environmental Protection Agency
Region 4
61 Forsyth Street SW
Atlanta, GA 30303

Signature: 

Date: 4/26/18


**USCG D5, D7, D8 and EPA R4 Inland/Coastal Boundary MOA
Signature Page USCG District 7**

Peter J. Brown
Rear Admiral, U.S. Coast Guard
Commander
Seventh Coast Guard District
909 S.E. First Ave
Miami, FL 33131-3050

Signature:  , Rear Admiral
Date: 11 APR 2018

**USCG D5, D7, D8 and EPA R4 Inland/Coastal Boundary MOA
Signature Page USCG District 5**


Meredith L. Austin
Rear Admiral, U.S. Coast Guard
Commander
Fifth Coast Guard District
431 Crawford Street
Portsmouth, VA 23704

Signature: 

Date: 27 March 2018

**USCG D5, D7, D8 and EPA R4 Inland/Coastal Boundary MOA
Signature Page USCG District 8**

Paul F. Thomas
Rear Admiral, U.S. Coast Guard
Commander
Eighth Coast Guard District
500 Poydras Street
New Orleans, LA 70130-3396

Signature: 
Date: 3/27/18