

Lesson 1 Objectives

At the end of this lesson, you will be able to:

1. List the authorities that led to the creation of the National Oil & Hazardous Substances Pollution Contingency Plan (NCP).
2. Describe the NCP and how it fits into the response mission area of Presidential Policy Directive 8 (PPD-8).
3. Describe the principles and coordinating structures under the NRF for delivering the core capabilities required to plan for, respond to, and recover from environmental incidents.



CWA Section 311 (33 U.S.C. § 1321), as amended by OPA



CERCLA, as amended by SARA

1. Response to:

- Discharge or substantial threat of discharge into/on navigable waters and shorelines; exclusive economic zone (i.e., certain ocean waters); or affecting US natural resources
 - Of oil or listed CWA hazardous substances

2. "Polluter pays" & enforcement authorities

3. Planning & preparedness



National Oil & Hazardous Substances Pollution Contingency Plan (NCP)
Regulation at 40 CFR Part 300 that implements the oil/hazardous substance response authorities in these laws.

1. Response to:

- Release or substantial threat of release into the environment (includes land, air, water) of:
 - Listed CERCLA hazardous substances; or
 - Pollutants or contaminants that may pose imminent and substantial endangerment to public health/welfare.
 - Petroleum and natural gas not included; additional exclusions may apply.

2. "Polluter pays" & enforcement authorities

3. Planning & preparedness



CERCLA:

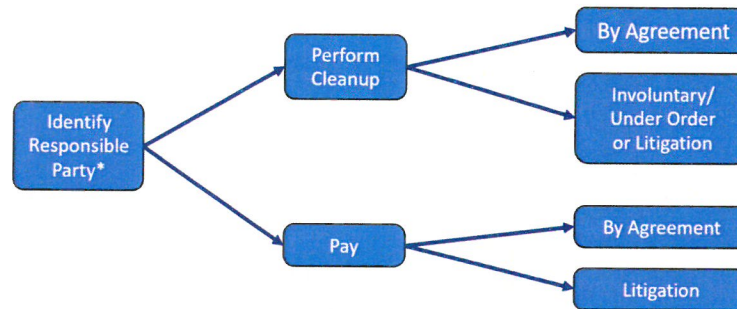
- Is broader than OPA in that it addresses releases to the environment in general, which would include land, water, and air. It applies to a broader list of regulated hazardous substances – the CERCLA list of hazardous substances includes the CWA list as well as other hazardous substances.
- Allows a federal response to other "pollutants and contaminants" that are not specifically listed in federal regulations, but the threshold for responding to these substances is higher – there must be an imminent and substantial endangerment to public health/welfare.
- Excludes petroleum – responses to oil spills are addressed under CWA/OPA authorities – and excludes natural gas and has some other exclusions that could limit the Federal Government's authority to respond to certain types of hazardous substance situations under CERCLA.
- Established two programs to clean up hazardous waste sites – a "removal" program which allows quick response, and a "remedial" program targeted at longer-term, often more complex, cleanups. Today's presentation focuses primarily on the "removal" program under CERCLA, which encompasses the emergency response part of CERCLA.

Authorities of the NCP, cont.

- In general, the purpose of these laws is to address releases or threatened releases into the environment of oil and other hazardous substances in order to protect public health, welfare, and the environment.
- The CWA/OPA addresses authorities with regard to oil, while CERCLA addresses authorities with regard to hazardous substances, excluding oil.
 - CWA/OPA also covers certain hazardous substances, but in practice, CERCLA is usually used to address those substances.
 - CERCLA is broader than OPA in that it addresses releases to the environment in general, which would include land, water, and air.
 - CERCLA allows a federal response to other “pollutants and contaminants” that are not specifically listed in federal regulations, but the threshold for responding to these substances is higher – there must be an imminent and substantial endangerment to public health/welfare.
- Both laws give the Federal Government enforcement authorities over the parties responsible for spills and require polluters to pay for cleanup.
- Both laws have planning and preparedness components, and established Trust Funds that can pay for federal responses (and some other costs) when needed.
- CERCLA established two programs to clean up hazardous waste sites – a “removal” program which allows quick response, and a “remedial” program targeted at longer-term, often more complex, cleanups.
- The implementing regulations for these statutes are found in the NCP.

Key CERCLA and CWA/OPA Enforcement Authorities

Both CERCLA and CWA/OPA promote identification of the responsible party (RP) for the incident and provide the Federal Government with the authority to either make that party clean up the spill, or to pay for the costs of cleanup.



Process of Determining RP Liability



Each law defines which costs the RP is liable for:

Note

- CERCLA – response costs, natural resource damage assessment and restoration
- CWA/OPA – response costs, certain damages including natural resource damage assessment and restoration

Three defenses to liability:

1. Act of God
2. Act of War
3. Act or omission of third party (no relationship)



Note

*Responsible Party (RP): The responsible party is responsible for cleaning up the spill, paying for the response, paying for certain damages as a result of the spill, and environmental restoration following the response.

- In some cases, the RP may voluntarily perform or pay for the cleanup, and in others, the Federal Government may have to order them to perform the cleanup or go to court to compel them to perform or pay for the cleanup.
- Under both laws, the RP is liable for paying for response costs, as those costs are defined under each law. Under CWA/OPA, the RP is also liable for certain types of “damages,” such as property damage and loss of income. The Environmental Protection Agency (EPA) leads the cost recovery process for CERCLA responses and United States Coast Guard (USCG) leads the cost recovery process for CWA/OPA responses.
- Under CERCLA and CWA/OPA, the Federal Government can recover triple their costs under certain circumstances when the Federal Government undertakes the cleanup.

- In addition, both laws provide for civil and criminal penalties for non-compliance with requirements as specified in CERCLA and CWA/OPA.
- Under both laws, the RP is liable for paying for damages to natural resources and can be required to implement natural resource restoration activities. This is managed through a separate process reviewed in more detail later.
- Both laws provide three defenses to liability for payment: Act of God; Act of War; and Act or Omission of a Third Party, as long as there was no relationship (contractual, employee, agent) between the RP and the third party.
- A few points to keep in mind:
 1. For some incidents, it may not be possible, or easily possible, to identify the RP;
 2. In some cases, the RP may be unable to perform or pay for the cleanup – they may not have the technical expertise to conduct the cleanup, and/or may not be able to perform or pay for the cleanup; and
 3. In emergency situations, if the RP is not already adequately responding or if a viable RP cannot be quickly identified, the Federal Government will typically undertake a federal response and follow up with RP identification and cost recovery later.

[Full description \(alt text\) of the key CERCLA and CWA/OPA enforcement authorities process flow.](#)

National Oil & Hazardous Substances Pollution Contingency Plan (NCP)

- The NCP, 40 Code of Federal Regulations (CFR) Part 300, is administered by the EPA and the USCG with assistance from other federal departments and agencies that have a role in supporting this mission.
- NCP describes the national preparedness and response system for oil and hazardous substances.
 - Includes chemical, biological, radiological, and nuclear (CBRN) releases to the environment; and
 - Both accidental and intentional (including terrorist) releases.

NCP Background

- Incidents involving oil and hazardous substance releases to the environment are reported across the United States on a daily basis.
- When federal support is needed to address these commonly occurring releases, the NCP is the primary authority and plan for the federal response.
- The NCP describes the organizational structure and procedures for “preparing for” and “responding to” an oil or hazardous substance incident – this system is called the NRS.
- The NCP applies to incidents involving the potential or actual discharge of oil (per CWA/OPA) or release of a hazardous substance, pollutant, or contaminant including biohazards and radiological contamination (per CERCLA).
- Many federal agencies that respond to public emergencies have emergency response plans, but few are codified in a regulation and have the force of law – the NCP is unique in that regard.

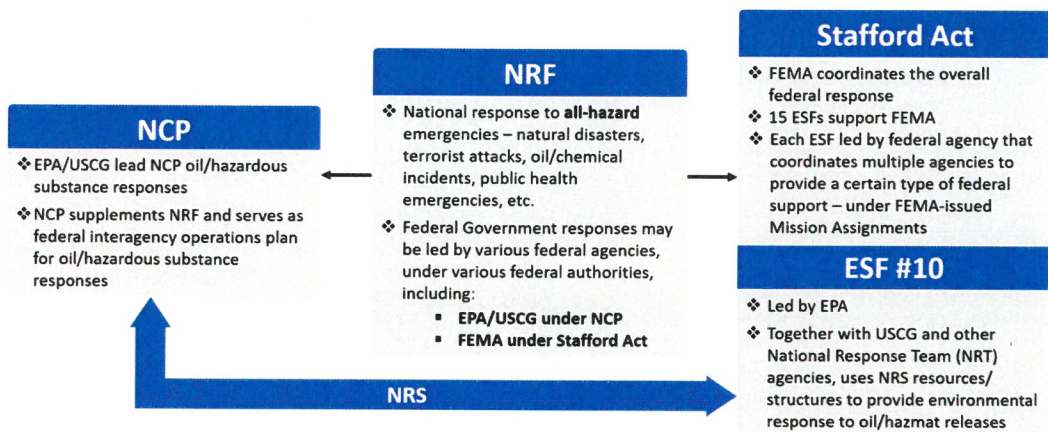
National Preparedness System as defined by PPD-8

- PPD-8 is a presidential policy directive signed by President Barack Obama in 2011. It created a comprehensive system of planning documents to describe and guide how the Nation manages emergency incidents.
- The National Preparedness Goal describes five mission areas – prevention, protection, mitigation, response, and recovery – and 32 core capabilities that address the greatest risks to the nation.
- Agencies have various roles and responsibilities under this PPD-8 framework.
- The following slides describe the comprehensive National Preparedness System established by PPD-8 and how the NCP fits into this system.

[Full description \(alt text\) of the National Preparedness System graphic.](#)



NCP and the National Response System



- For the Federal Government, the NRF recognizes that federal responses may be led by various federal agencies, under various federal authorities, including responses to oil and hazardous substance incidents led by EPA/USCG under the NCP (as discussed previously). The NCP serves as the federal interagency operations plan for oil and hazardous substance responses.
- The NRF also recognizes that FEMA may coordinate federal responses under the Stafford Act. In this case, the NRS may also have a role to play in providing support to FEMA through activation of ESF #10: Oil and Hazardous Materials Response.
- When FEMA coordinates a federal response under the Stafford Act, FEMA is supported by a broad spectrum of federal agencies, whose support is organized into ESFs, each providing a different type of federal support during an incident. ESFs are led by the federal agency with the most expertise or authority in providing that type of support, but the lead agency is supported by other federal agencies that also have authorities and expertise in that area.
 - As the lead agency for ESF #10, EPA leverages the resources, capabilities, and expertise of the federal member agencies involved in NRS planning and response to provide the ESF #10 response. ESF #10 is usually activated multiple times each year for natural disasters that result in oil/hazardous substance releases, such as Hurricanes Sandy and Katrina.
- One difference to note between an NCP response and an ESF #10 Stafford Act response:
 - Under the Stafford Act, states or tribes ask FEMA for the specific types of federal help they need, FEMA then activates the ESFs that can provide that support by issuing Mission Assignments that task the ESFs to do the specific work requested. FEMA then reimburses the ESF agencies from the Stafford Act disaster fund. So when ESF #10 is activated, the Federal Government is responding to the specific tasks assigned by the FEMA Mission Assignment at the request of the state, territory, or tribe.
 - Regardless of the circumstances of the release, EPA and USCG still maintain their ability to exercise their independent NCP authorities if needed during a Stafford Act response. So it is possible to have both an ESF #10 and NCP response to a Stafford Act incident. However, in an NCP response, the Federal Government can respond to a release without a specific request from a state or tribe, and does not need to wait for specific tasks to be assigned from FEMA.

[Full description \(alt text\) of the NCP/National Preparedness System graphic.](#)

National Response Framework

- The NRF guides the response to all types of disasters and emergencies.
- It describes the principles, roles and responsibilities, and coordinating structures for delivering the core capabilities required to respond to an incident.
- Elements of the NRF can be implemented at any level and at any time according to the unique needs, capabilities, and circumstances of the jurisdiction where the incident is occurring.
- Under the NRF, coordination of the federal incident response is accomplished through the Emergency Support Functions (ESFs).
 - ESFs bring together the capabilities of federal departments and agencies and other national-level assets that work together to support an effective response.

Stafford Act

- The Robert T. Stafford Disaster Relief Act (Stafford Act) provides federal resources and funds to support the response and recovery to disasters and emergencies.
- If a state, locality, or tribe anticipates its resources may be exceeded during a response, the Governor (or Tribal Chief Executive) may request federal assistance through a Stafford Act Declaration.
 - Before a declaration is made, the state or tribal emergency plan must be activated and all appropriate state, local, or tribal actions must have been taken or initiated.
- Under the NRF, federal assistance may be requested without a Stafford Act declaration through the individual authorities and funding of federal departments or agencies, or through mutual aid agreements. The NCP provides one such framework. For example, local and tribal governments can request assistance directly from the EPA and USCG under CERCLA.



Note

Under the Stafford Act, tribes can directly request their own emergency declaration and major disaster declaration, or they can request assistance under a state request.

Oil/Chemical Incident Annex

- This annex supports and provides hazard-specific supplemental information to the Response Federal Interagency Operational Plan (FIOP) and the Recovery FIOP.
- It describes the process and organizational constructs that will be utilized by federal departments and agencies for responding to threats or incidents causing oil spills or chemical releases (oil/chemical), whether resulting from deliberate acts of terrorism or crime, accidents, or natural disasters.
 - This annex provides the process and constructs to utilize the NRS processes within the larger framework of the NRF.
- It also describes how federal interagency partners will respond and transition to recovery from oil/chemical incidents under federal authorities in a lead role or in support of state, local, tribal, territorial, and insular-area governments.

ESF #10: Oil and Hazardous Materials Response

- ESF #10 provides federal support in response to an actual or potential discharge and/or release of oil or hazardous materials.
- Led by the EPA, ESF #10 resources are activated by FEMA under a Stafford Act (reviewed on the next slide) response or under a request for federal agency mutual aid.
- Federal response to oil and hazardous materials incidents can also fall under the NCP. This can occur under a Stafford Act response, in conjunction with, or separate from a Stafford Act response.
- Full details of the functions of ESF #10 can be found in the [ESF #10 Annex](#).

ESF #10 & NCP Authorities

- The NCP addresses federal authorities for both "removal" and "remedial" responses. The NRF generally addresses oil and hazardous materials incidents that are considered "removal" responses.
- Federal NCP "removal" authorities differ from Stafford Act authorities in that per the NCP:
 - The Federal Government makes an independent evaluation of the need for federal response rather than waiting for a local, state, tribal, territorial, or insular area government request.
 - Requests for Federal assistance from local, state, and tribal governments do not have to be made from the level of the Governor.
 - The Federal Government may, and in some circumstances must, lead the response.
 - The Federal Government has tactical, on-scene command authorities.
 - The Federal Government has enforcement authorities over the parties responsible for oil discharges and hazardous substance releases.
- The Federal Government has authority on federal as well as non-federal land.

Lesson 1 Summary

In this lesson, you learned about the:

- Authorities of the NCP
- NCP
- Comprehensive system established by PPD-8
- NRF and Stafford Act
- ESF #10 and the NCP Authorities
- How the NCP fits into the system established by PPD-8

Lesson 1 Objectives Review:

At the end of this lesson, you will be able to:

1. List the authorities that led to the creation of the NCP.
2. Describe the NCP and how it fits into the response mission area of PPD-8.
3. Describe the principles and coordinating structures under the NRF for delivering the core capabilities required to plan for, respond to, and recover from environmental incidents.

Lesson 2 Objectives

At the end of this lesson, you will be able to:

1. Describe the NRS authorities and responsibilities for oil and hazardous substance preparedness and response at all levels of government.
2. Define oil and hazardous substances spills.
3. List the key NRS components.
4. Identify plans associated with the implementation of the NCP.
5. Describe exercise activities associated with preparing for oil and hazardous substances spills.

National Response System

NCP actions are carried out through the NRS, which is an organized network of agencies, programs, and resources with authorities and responsibilities in oil and hazardous substance preparedness and response at all levels of government.

- The NRS provides for a coordinated response to a real or potential oil or hazardous substances incident.
- The NRS functions through a network of interagency, intergovernmental, and private sector relationships and plans.
- The NRS is divided into local, regional, and national organizational levels.
- Participants include federal, state, tribal, local, and private sector agencies and organizations, with interests in or responsibilities for oil and hazardous substances emergencies.
- Federal agencies in the NRS provide on-site response capability at the local level.
- A primary mission of the NRS is to be able to provide federal response resources at the on-site level.
- The NRS provides an important safety net that can support state and local response activities.

Definition: Oil and Hazardous Substances Spills

Oil is defined as:

Any kind or in any form, including petroleum, fuel oil,

Hazardous substances is defined as:

sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include any substance which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601).

Elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States, adjoining shorelines, or the waters of the contiguous zone under the exclusive management authority of the United States, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

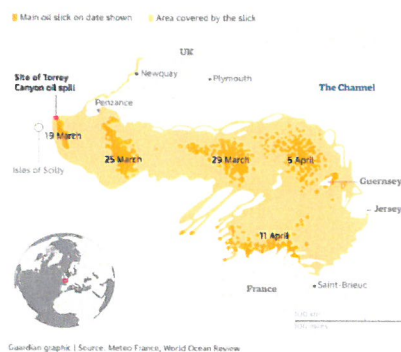
The term does not include petroleum or crude oil, or natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Torrey Canyon Oil Spill

- The first NCP – called the “National Multi-Agency Oil and Hazardous Materials Contingency Plan (1968)” – was developed and published in response to a massive oil spill from the oil tanker Torrey Canyon off the coast of England. More than 37M gallons of crude oil spilled into the water and eventually washed ashore on English and French beaches, causing massive environmental and economic damage and concern for public health.
- To address the problems faced by response officials involved in this incident, under President Lyndon B. Johnson’s direction, the US developed a coordinated approach to cope with potential spills in US waters. The 1968 plan, applicable to oil spills in navigable waters of the US, provided the first comprehensive national system for oil spill reporting and response.
- The original NCP was just a federal plan, not a regulation, and was not developed under any legislative mandate.

[Full description \(alt text\) of the Torrey Canyon Oil Spill Map.](#)

Covering some 1,000 square kilometres, the Torrey Canyon oil spill caused massive coastal pollution around Cornwall, the Channel Islands and Brittany



The Oil Response Landscape

- It is largely transportation that poses the greatest risk of accidental oil spills. The energy sector transports an enormous quantity of oil and other fossil fuels.
- With the recent domestic production energy renaissance, the risks are changing and the response community is adapting to those changes. For example, transportation by rail and pipeline has increased dramatically.
- New products have entered the market, including highly volatile shale oils – that have resulted in numerous explosive accidents – like the devastating train derailment that destroyed downtown Lac Megantic, Quebec in 2013 killing over 40 people and destroying 30 buildings.
- Non-floating oils, like the diluted bitumen for example, from the Athabasca Oil Sands, pose new response challenges and can result in environmentally devastating spills. For example, a pipeline rupture in 2010 spilled an estimated one million gallons of diluted bitumen in a tributary to the Kalamazoo River in Michigan at a clean up cost of over \$750M and penalties of \$177M.
- In Fiscal Year (FY) 2019, more than 16,000 oil spills were reported to the National Response Center.

[Full description \(alt text\) of the oil landscape graphic.](#)

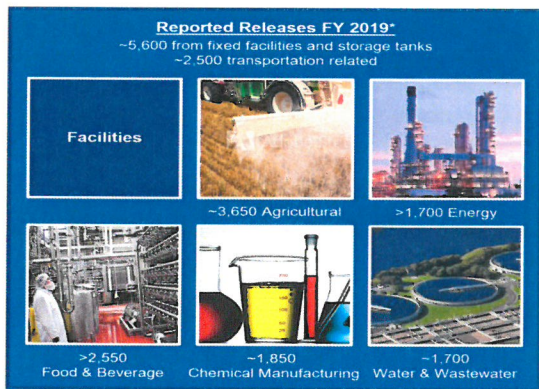


*As reported to the National Response Center

The Hazardous Substances Response Landscape

- In contrast to reported oil spills, which are most commonly associated with transportation, hazardous substance releases are most frequently reported from fixed manufacturing or other types of processing facilities. This slide shows just some of the facilities in the US that manage hazardous substances. The Clean Air Act (CAA) requires facilities that manage certain hazardous chemicals, in quantities above a certain amount, to have plans for managing those chemicals safely in order to prevent accidental releases.
- The slide shows the types and numbers of facilities that come under this CAA requirement and provides an example of the range of facilities that could potentially cause hazardous substance releases.
 - There are also 660 additional CAA/Risk Management Plan (RMP)-regulated facilities that do not fall into any of the categories listed on the slide.
- A recent example of a significant chemical release was the West Fertilizer Company ammonium nitrate explosion in 2013. That explosion killed 15 people, injured more than 160 people, and damaged or destroyed more than 150 buildings.
- In FY19, over 8,300 releases of hazardous substances and other non-oil pollutants were reported to the National Response Center.

[Full description \(alt text\) of the hazardous substance response landscape graphic.](#)



*Reports of "non-oil" releases to National Response Center



Top 15 Most Frequently Reported Releases of Non-Oil Materials

Note

- Unknown Material
- Natural Gas
- Ammonia, Anhydrous
- Sewage
- Refrigerant Gases
- Ethylene Glycol
- Benzene
- Oxides of Nitrogen
- Carbon Monoxide
- Polychlorinated Biphenyls
- Sulfuric Acid
- Raw Sewage

- Hydrogen Sulfide
- Sulfur Dioxide
- Paint
- Chlorine
- Butadiene
- Drilling Brine (with Zine Salts)

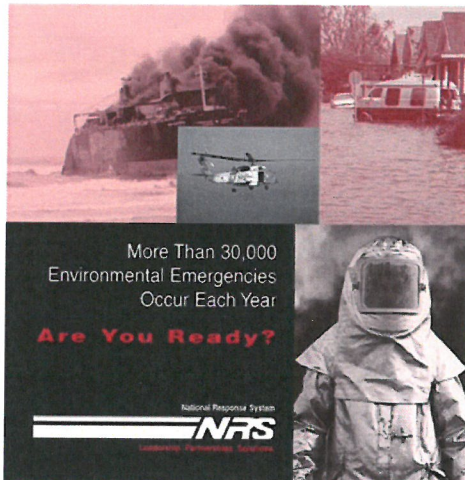
(Based on FY19 NRC REPORT DATA)

Key NRS Components

These are the primary entities that support the NRS:

- National Response Center (NRC)
- Federal On-Scene Coordinators*
- Regional Response Teams (RRTs)*
- National Response Team (NRT)*
- Area Committees
- State Emergency Response Commissions (SERCs)
- State/Local Governments
- Tribal Emergency Response Commissions (TERCs)
- Local Emergency Planning Committees (LEPCs)
- NRS Special Teams*
- Joint Response Teams with neighboring countries
- Regulated Industry

*Federal On-Scene Coordinators, RRTs, NRT, and NRS Special Teams are reviewed in Unit 3.



Note

The NRT and RRTs work with Canada, Mexico, and Cuba on coordinating responses that have cross-border impacts and have developed joint contingency plans with those countries as well as with Russia. They also have multi-lateral agreements with the Arctic Nations, Caribbean nations, and Oceania Pacific Island Countries and Territories.

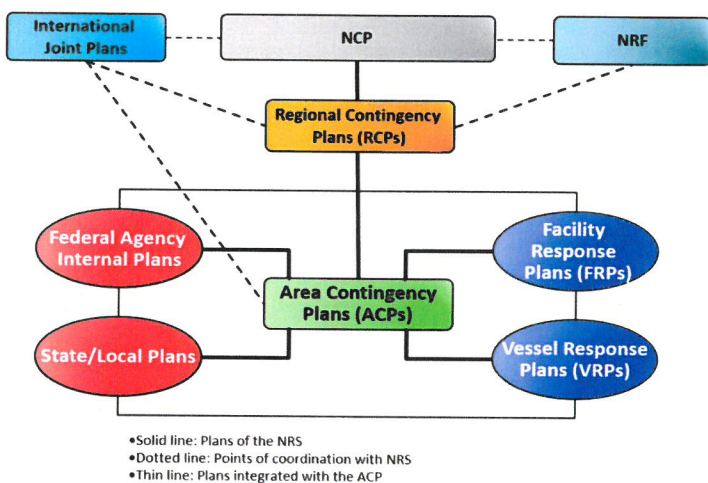
National Response Center (NRC)


- The NRC serves as the notification core of the NRS.
- It is located at USCG headquarters and staffed 24x7.
- The NRC receives reports of oil and hazardous substances releases that trigger federal notification requirements, including those related to infrastructure security breaches, suspicious activities, and terrorist-related events.
 - Approximately 30,000 incident notifications each year.
 - For oil, the notification trigger is any spill that results in a visible sheen. For hazardous substances, the notification trigger varies by substance.
- NRC watch officers generate reports and relay them to the appropriate on-scene coordinators at USCG Captain of the Port commands and EPA Regional Offices and to State Emergency Response Commissions.

NRS Family of Plans

- The NRS provides a framework for coordination among federal, state, tribal, and local responders and responsible parties to respond effectively on-scene to oil discharges and releases of hazardous substances – whether accidental or deliberate. Coordinating planning requires integrating elements of a host of federal and state statutes and implementing regulations with different purposes.
- The NRS accomplishes this through the development and maintenance of a family of layered and interlocking contingency plans. Plans required under the NRS authorities are shown here with solid lines. These plans are required under regulation to be consistent. The family of plans includes multiple levels to provide an integrated approach to responding to oil/hazardous substance incidents.
- The Area Contingency Plan (ACP) is the center of the solar-system of plans and the ACP and its associated Area Committee is where the agency-industry relationship is nurtured (though industry reps are not “members” of Area Committees).
- Industry plans, which must be compatible with ACPs, are an integral component of the NRS, and the NCP provides for unique responsibilities of entities responsible for a spill – referred to as the RP.
- This family of oil/hazardous substance plans integrates with and supports the NRF.

[Full description \(alt text\) of the Family of Plans graphic.](#)



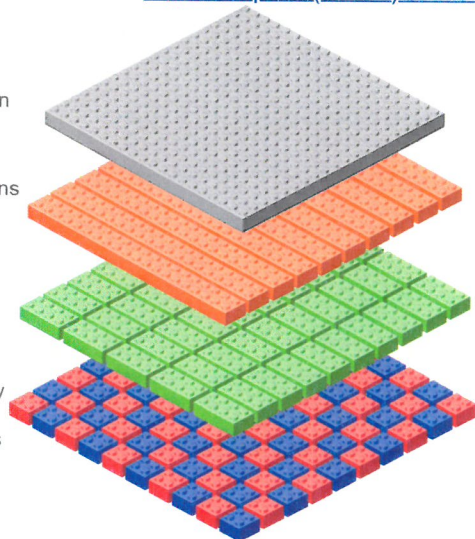
 **Note** The NRT has issued guidance on an Integrated Contingency Plan (ICP), or “One Plan” as a method for consolidating numerous plans into one functional plan. Guidance includes information on how to develop an ICP while maintaining compliance with the various regulatory requirements.

NRS Planning Groups

An illustration of the NRS Plans and their associated Planning Groups. Each is intricately connected - fitting together like interconnected layers of blocks. [Full description \(alt text\) of this graphic.](#)

NRS Plans

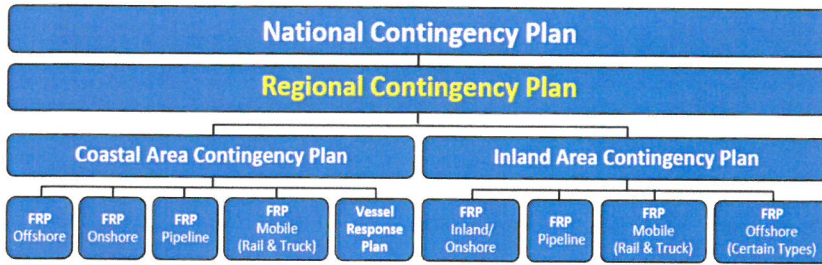
- National Contingency Plan
- Regional Contingency Plans
- Area Contingency Plans
- Local Emergency Planning Committee Plans
- Industry Plans



Planning Groups

- National Response Team
- Regional Response Teams
- Area Committees
- State Emergency Response Commissions
- Tribal Emergency Response Commissions
- Local Emergency Planning Committees
- Industry

Regional Contingency Plans



- Regional Contingency Plans (RCPs) are maintained by the RRTs and provide for effective regional response coordination.
- RCPs ensure clear roles and responsibilities, provide the common elements for local and area planning within each region, and follow NCP format.
- There are 13 RCPs, one for each RRT (the 10 EPA Regions plus Oceania, Caribbean, and Alaska).
- The RCP covers both inland and coastal zones.
- Include information on government, commercial, and academic facilities and resources in each region.
- Coordinate with ACPs, SERCs, TERCs, and LEPC plans.
- Designate the boundary between the coastal and inland zones.
- Include applicable preauthorization plans for the use of dispersants and other oil spill control agents listed on the NCP Product Schedule, and burning agents for in-situ burning operations.

[Full description \(alt text\) of the RCP graphic.](#)

- Developed by Area Committees led by Federal On-Scene Coordinators which include federal, state, and local agencies with responsibilities for developing ACPs.
- Areas of responsibility may include several local planning districts and/or parts of such districts.
- Provides for effective response coordination for worst case discharges.
- There are 37 Coastal ACPs and 13 Inland ACPs.
- In addition, ACPs contain special plans such as response protocols for:
 - Pre-authorized use of dispersants and other alternative countermeasures;
 - Firefighting;
 - Places of refuge;
 - Wildlife response; and
 - Use of volunteers.
- ACPs contain information on:
 - Geographic area covered by the plan;
 - Responsibilities of public and private entities;
 - Procedures for obtaining an expedited decision regarding the use of chemical and biological countermeasures;
 - How the plan integrates with other ACPs and response plans;
 - Booming strategies;
 - Equipment available; and
 - Fish and Wildlife and Sensitive Environments Annex.

[Full description \(alt text\) of the ACP graphic.](#)



State, Territorial, Tribal, and Local Preparedness

Emergency Planning and Community Right-to-Know Act (EPCRA) (or SARA Title III)

- Purpose: To help communities prepare for chemical emergencies.
- EPCRA was a 1986 amendment to CERCLA. It was passed after a toxic gas leak from a chemical plant tank in Bhopal, India killed about 3,800 people and injured many others. The incident raised concerns about the adequacy of state and local planning for an incident of this magnitude in the US.
- Resulted in SERCs, TERCs, and over 2,000 LEPCs – These are integral components of the NRS. The SERC is appointed by the Governor of each state.
 - The SERC designates emergency planning districts, appoints LEPCs, supervises and coordinates their activities, and reviews local emergency response plans.
 - The Chief Executive Office of a Tribe appoints the TERC. TERCs have the same responsibilities as SERCs.
 - Each LEPC prepares a local emergency response plan for its community and establishes procedures for receiving and processing requests from the public for information generated by requests under Title III reporting requirements.
- Requires the development of local emergency response plans for responding to releases of extremely hazardous substances.
- Under the NCP, RCPs/ACPs are integrated with state and local plans.



Note

- SERC and TERC establish local planning districts, which must then form LEPCs. SERCs, TERCs, and LEPCs must perform threat assessments based on required reports from industries operating in their jurisdictions (Tier II and III reports) and develop plans to address those threats. A relatively common practice is that those plans are considered an annex to the community's All Hazard plans required by FEMA under some circumstances. Membership of SERCs, TERCs, and LEPCs are mandated by EPCRA although many of these organizations may include other entities besides the mandated members. EPCRA also created a federal requirement for responsible parties to report incidents to local authorities.
- Additional preparedness activities related to OPA include vessel response plans (VRP) and facility response plans (FRP). The VRP outlines what a vessel will do in case of an offshore spill and is required for maritime operators which carry certain types and quantities of hazardous substances or oil. Similar to the VRP, the FRP is a preparedness measure for those facilities who store or use oil to demonstrate a discharge response.
- Resources for SERCs and LEPCs:
 - The [Hazardous Materials Emergency Planning Guide](#) (NRT-1 Update) (2001) includes references to guidance on developing state and local emergency response plans. Brief references to legislation have been incorporated to encourage plan integration and coordination. This updated version of NRT-1 includes guidance on integrating local emergency response plans prepared and updated by Local Emergency Planning Committees (LEPCs).
 - NOAA's [CAMEO](#) software suite is available to assist emergency planning and response — especially for those events related to hazardous chemicals.

Preparedness for Response Exercise Program (PREP)

- Exercise is one of the primary mechanisms for validating plans and an integral part of preparedness. PREP is the guidebook as to how partner agencies do this.
- Co-owned by four agencies (USCG, EPA, Department of the Interior (DOI)/Bureau of Safety and Environmental Enforcement (BSEE), and Department of Transportation (DOT)/ Pipeline and Hazardous Materials Safety Administration (PHMSA) - PREP are the OPA exercise requirements and associated policies consolidated into one guidebook.
- The PREP Guidelines address two exercise domains: FRP and VRP plan holder exercises and area exercises to test ACPs.
- Under EPCRA, LEPCs are required to conduct exercises to test and validate their community response plans. Exercises are also a part of FEMA's Emergency Management Performance Grant Program.

Facility/Vessel Plan Holder Exercises

- Qualified Individual (QI) notification exercises
- Remote assessment and consultation exercises (Salvage and Marine Fire Fighting) for vessels
- Emergency procedures exercises for vessels
- Emergency procedures exercises for facilities (optional)
- Incident Management Team (IMT) exercises
- Shore-based salvage and shore-based marine firefighting management team exercises for vessels

Area Exercises (On-Scene Coordinator driven)

- Quarterly Area Notification Drill
- Annual Area Incident Management Team Table Top Exercise (TTX)
- Annual Equipment Deployment Drills
- Quadrennial Area Full Scale Exercise (FSE)

- Equipment deployment exercises
- Government-Initiated Unannounced Exercises (GIUEs)

Spill of National Significance (SONS) Exercise and Training Program

- Led by USCG Director of Emergency Management
- Revised focus from full-scale operational deployments to strategic seminars and tabletops, aimed to familiarize senior-level decision-makers with:
 - NCP response doctrine and policy;
 - Interagency coordination; and
 - Strategic communication challenges.
- Participants include:
 - NRT Member Agency Executives;
 - National Security Council staff; and
 - State organizations.

[Additional information about the SONS Exercise and Training Program.](#)

National Level Exercise

- [National Level Exercise \(NLE\)](#) is congressionally mandated in the Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006, and requires that the FEMA Administrator conduct biennially national exercises “to test and evaluate the capability of Federal, State, Local and Tribal governments to detect, disrupt and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction,” and “to test and evaluate the readiness of Federal, State, local, and tribal governments to respond and recover in a coordinated and unified manner to catastrophic incidents.”
 - NLEs are how the Federal Government validates progress toward achieving the national culture of preparedness required to prepare for and respond to catastrophic events.
- NLEs use a building block approach over two-year cycles that culminate in a full-scale exercise.
- All levels of government, the private sector, nongovernmental organizations, and community groups participate in some facet of NLE.
- NLE scenarios include all types hazards to include natural disasters and man-made attacks.
- More than 12,000 individuals participated in NLE 2018 across the whole community and more than 450,000 individuals participated in personal preparedness activities and accountability drills as part of the exercise.
- NLEs may contain oil and hazardous substance exercise play (e.g., oil and hazardous substance following an earthquake) or use oil/hazardous substance as the exercise scenario (e.g., large refinery explosion and oil spill near a major population center and infrastructure).

Lesson 2 Summary

In this lesson, you learned about the:

- NRS
- Definitions of oil and hazardous substance spills
- Current NCP environment
- Key NRS components
- National Response Center
- NRS Plans and Planning Groups
- Preparedness exercises

Lesson 2 Objectives Review:

At the end of this lesson, you will be able to:

1. Describe the NRS authorities and responsibilities for oil and hazardous substance preparedness and response at all levels of government.
2. Define oil and hazardous substances spills.
3. List the key NRS components.

4. Identify plans associated with the implementation of the NCP.
5. Describe exercise activities associated with preparing for oil and hazardous substances spills.

Lesson 3 Objectives

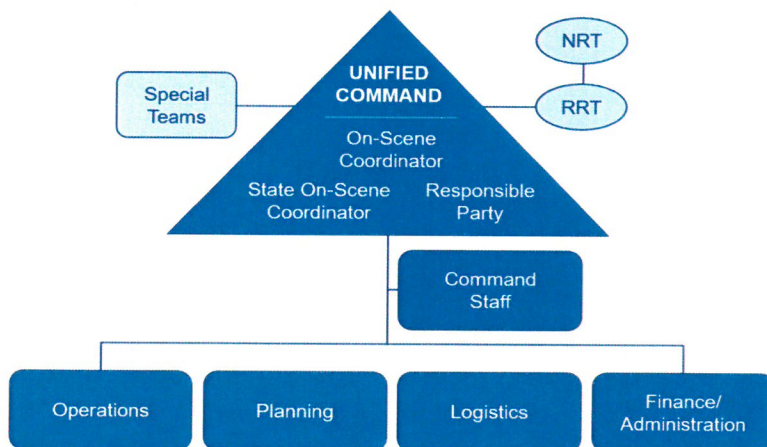
At the end of this lesson, you will be able to:

1. Recall the basic construct of command and control in response to an environmental incident.
2. Describe the role of the Federal On-Scene Coordinator.
3. List the composition and responsibilities of the Regional Response Teams (RRTs), National Response Team (NRT), and federal "special teams" that support Federal On-Scene Coordinators.
4. Explain the responsibilities of the "responsible party" as identified in the NCP.
5. Define Spill of National Significance (SONS).
6. Compare the NCP and NRF as they apply to responding to environmental incidents.

Response Structure in the Field

- The NRS employs the National Incident Management System (NIMS) which includes using the Incident Command System (ICS) for organizing a response.
- ICS is a scalable, flexible construct not unique to pollution response. ICS is a standardized approach to the command, control, and coordination of emergency response providing a common hierarchy within which responders from multiple agencies can be effective.
- All NRT agencies have personnel trained and certified to plug into the ICS structure as needed during a response.
- The Unified Command is responsible for overall incident management and is typically made up of the Federal On-Scene Coordinators, State On-Scene Coordinators, and RP.
- NRS uses ICS for emergency responses under NCP and ESF #10 activations under NRF.
- Federal On-Scene Coordinator coordinates oil/hazardous substance response from Incident Command Post level. Tribes can also lead a response on their jurisdictional lands.

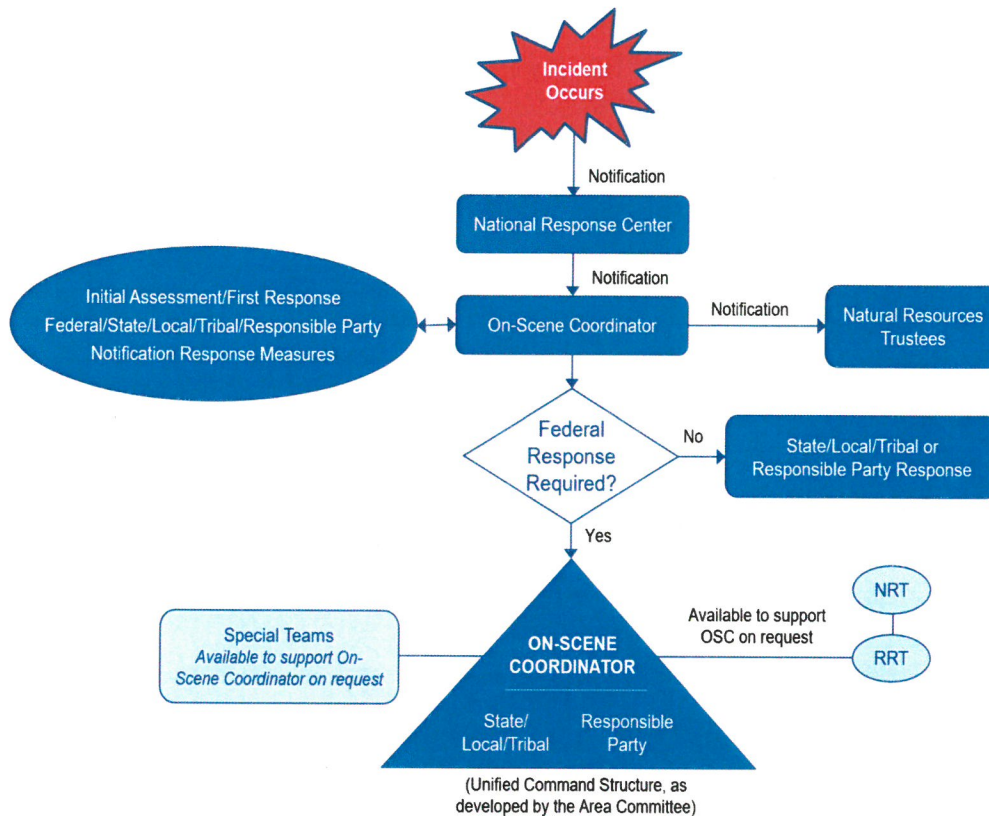
[Full description \(alt text\) of the response structure example graphic.](#)



Response Information Management

- During a major spill event, managing the integrity and timeliness of response information are critical parts of a successful response.
- The NRT also follows NIMS for information management.
- For large incidents, a web-based Common Operating Picture (COP) will be utilized.
- The lead agency will establish the process for information sharing and management.
- COP and scheduled briefings provide most reliable response information.
- NRT Members can advise national-level executives on information coordination protocols for an incident.

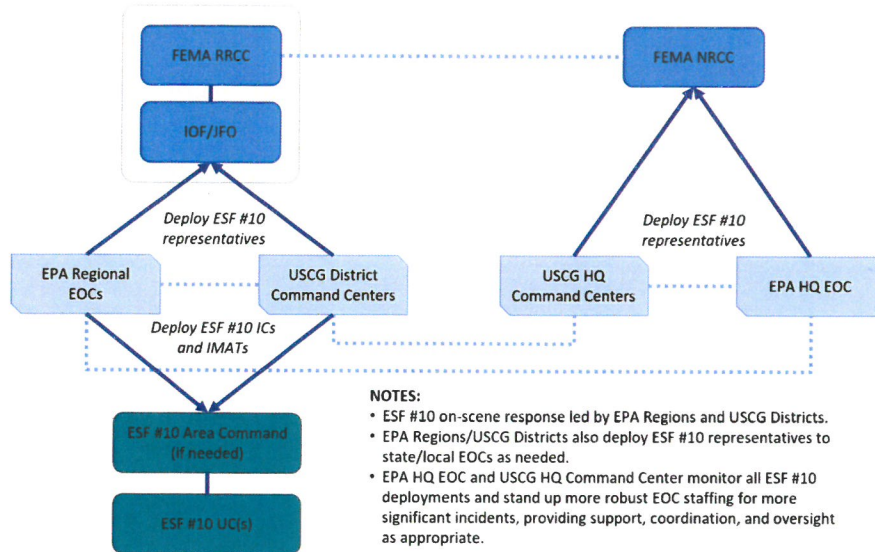
NRS Notification and Decision Process



- This is an overview of how some of the key NRS components at the local, state, tribal, and federal levels of government fit together during the incident notification and response processes.
- As explained earlier, federal law requires responsible parties to report spills of oil and hazardous substances to the NRC. The NRC then forwards these notifications to the pre-designated Federal On-Scene Coordinator assigned to the area for the incident.
- The NRC also forwards these notifications to other appropriate federal and state entities, including the DHS National Operations Center.
- The Federal On-Scene Coordinator gathers information about the incident in order to determine whether a federal response is warranted. The Federal On-Scene Coordinator may gather information via phone from state and local agencies and the responsible party, or may deploy to the site to collect information, depending on the incident.
- If the incident impacts resources overseen by a federal or state natural resource trustee, the Federal On-Scene Coordinator would also notify that trustee.
- A Federal On-Scene Coordinator may determine that a federal response is not required if appropriate actions are already being taken by a state or local agency or the responsible party and the release doesn't constitute a significant public health or environmental threat.
- If a federal response is warranted, the Federal On-Scene Coordinator typically enters into a unified command with responding state/local agencies, and possibly the responsible party when appropriate.
- The Federal On-Scene Coordinator may call upon other NRS assets for assistance as needed, including the federal special teams, the RRTs, and NRT.

[Full description \(alt text\) of the NRS Notification and Decision Process graphic.](#)

EPA/USCG ESF #10 Support for Stafford Act Response



- This is an overview of what an ESF #10 response looks like when it is activated by FEMA during a Stafford Act response.
- FEMA generally starts the process of coordinating a federal Stafford Act response by activating its Regional Response Coordination Centers (RRCCs) in the FEMA regional offices that are in the impacted area. ESFs that might be needed are deployed to the RRCC. The EPA Region and USCG District in the impacted area send ESF #10 personnel to the RRCC. (Both EPA and USCG respond if the incident impacts both the inland and coastal zones – and they coordinate their response at the field and headquarter (HQ) levels as needed.)
- If requested, EPA/USCG can also send ESF #10 representatives to state/local emergency operations centers (EOCs). During an ESF #10 response, EPA/USCG coordinate closely with our state environmental agency counterparts.
- As the response progresses, FEMA establishes an Initial Operating Facility (IOF)/Joint Field Office (JFO) in each State affected by the incident to assess the damage and determine the need for federal assistance. Again, EPA Regions and USCG Districts deploy ESF #10 representatives to the IOF/JFO if requested by FEMA.
- When ESF #10 receives a tasking from FEMA to conduct field work, the initial ESF #10 personnel are deployed by the EPA Regions/USCG Districts in the incident area – unless incapacitated by the incident – and additional support can be provided if needed by other EPA Regions/USCG Districts. At the incident scene level, EPA and USCG sometimes co-locate as an ESF #10 UC, and sometimes establish separate ESF #10 ICPs, but coordinate activities through a UC approach.
- For larger-scale incidents, FEMA may also activate its National Response Coordination Center (NRCC) to monitor or oversee a response. In that case, EPA and USCG HQ deploy ESF #10 representatives to the NRCC if requested by FEMA. EPA and USCG may also activate their HQ operations centers to monitor or oversee larger-scale ESF #10 responses.
- So, as you can see, EPA and USCG use a decentralized approach where ESF #10 on-scene deployments are led by EPA Regions/USCG Districts.
- The constructs of the NRS carry over to all hazards response under the NRF.

[Full description \(alt text\) of the ESF #10 Support for Stafford Act response flow chart.](#)

Federal On-Scene Coordinators

- The [Federal On-Scene Coordinator](#) is the federal incident commander during an emergency response.
- Federal On-Scene Coordinators are highly skilled personnel who conduct, direct, and coordinate emergency response actions as needed – taking whatever actions are necessary and consistent with federal law to remove the pollution or contamination threat.
- EPA and USCG are the primary agencies that coordinate NCP preparedness and response activities and provide Federal On-Scene Coordinators. Other agencies (Department of Energy (DOE), Department of Defense (DoD)) may have Federal On-Scene Coordinators dependent on the incident and their roles and authorities.
- Federal On-Scene Coordinators:
 - Are located in and deploy from EPA regional offices and USCG Sectors across the nation;
 - Have the authority to conduct, direct, and coordinate all response efforts at the incident scene protect the environment, public health, as well as worker safety and health; and
 - Are responsible for developing ACPs and chairing Area Committees.

EPA is the lead for inland zone



- ~ 230 pre-designated Federal On-Scene Coordinators

USCG is the lead for Coastal Zone

Note

- 36 pre-designated USCG Federal On-Scene Coordinators

Federal On-Scene Coordinator Response

- The Federal On-Scene Coordinator may:
 - Lead response (and sometimes must);
 - Provide assistance; and
 - Oversee response by state/local/tribal government and/or the RP.
- Typical response actions:
 - Sample/monitor to assess environmental contamination;
 - Stabilize/control release;
 - Treat/remove contamination and decontaminate environment/buildings; and
 - Manage waste.

Federal On-Scene Coordinator Response Assets

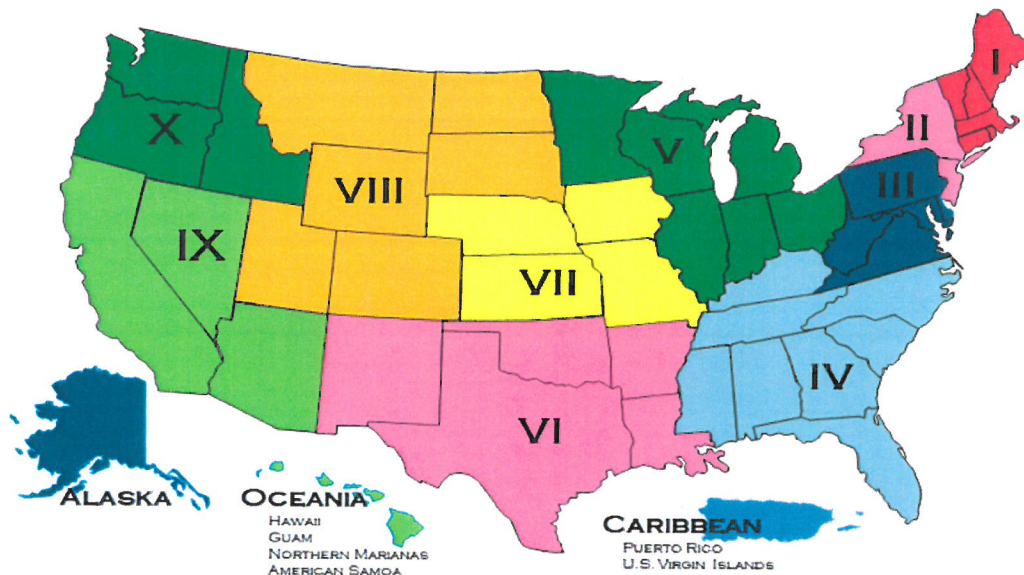
- Federal On-Scene Coordinators have enforcement authorities under CERCLA and the CWA to include the authority to request information, obtain access to an incident site, compel RPs to undertake cleanup actions, and obtain reimbursement of federal response costs.
- They have access to federal technical assistance and contractors for cleanup and salvage, and technical expertise and special equipment from federal agencies and specialized teams.
- Federal On-Scene Coordinators also have the authority to access Superfund and/or Oil Spill Liability Trust Fund (OSLTF) funding.

Regional Response Teams (RRTs)

While called a “response team,” RRTs do not typically deploy as a team to incident sites, but members reach back into their organizations to deploy and make available resources needed by the Federal On-Scene Coordinator. Individual RRT members may, however, deploy to the incident site as resources from their agencies. RRTs also provide technical advice and recommendations to the Federal On-Scene Coordinator.

- 13 RRTs (one for each EPA region, plus Alaska, Oceania, and the Caribbean) comprised of 15 federal agencies plus state/territorial and tribal representatives.
- RRTs are Co-chaired by EPA and USCG year-round, and during a response, the agency providing the Federal On-Scene Coordinator chairs the incident-specific RRT.
- Engage in preparedness, planning and training activities year-round.
- Coordinate decision making process for certain response strategies that have not been preapproved.
- Provide technical expertise and resources to the Federal On-Scene Coordinator during a response.

RRTs may be deployed in their entirety to the scene if so directed by the Chair of the incident-specific RRT or requested by a member agency. Usually only select agencies with an interest in specific concerns are deployed, but that is the choice of the RRT chair.




National Response Team (NRT)

NRT Mission: *To provide technical assistance, resources and coordination on preparedness, planning, and response activities for emergencies involving hazardous substances, pollutants and contaminants, hazmat, oil, weapons of mass destruction in natural and technological disasters and other environmental nationally significant incidents.*

- Member agencies have duties that may apply to federal response actions for a discharge or release. Some of these agencies also have duties relating to the restoration of injured or lost natural resources.
- They may be called upon by an On-Scene Coordinator during response planning and implementation to provide assistance in their respective areas of expertise, consistent with the agencies' capabilities and authorities. In addition to their general responsibilities, federal agencies should:
 - Make necessary information available to the Secretaries of the NRT member agencies, RRTs, Area Committees, and On-Scene Coordinator.
 - Provide representatives to the NRT and RRTs and otherwise assist RRTs and On-Scene Coordinators, as necessary, in formulating RCPs and ACPs.
 - Inform the NRT, RRTs, and Area Committees, consistent with national security considerations, of changes in the availability of resources that would affect the operations implemented under the NCP.
- The NRT meets regularly and has a robust organization of chartered committees and subcommittees preparing response guidance and other resources for the field and reviewing oil and hazardous substance responses to determine how to improve future responses.
- NRT members are the subject matter experts on national response policy and should be a key resource that Senior Executives in the agency rely on and coordinate with when an oil/hazardous substance incident is significant enough to warrant participation by senior leadership. During significant oil/hazardous substance incidents, regional or on-scene components may request the NRT convene to coordinate interagency actions at the Washington DC/HQ level, necessitating a linkage between NRT members and senior leadership within each agency.



 In addition to EPA (Chair) and USCG (Vice Chair), 13 other member agencies comprise the NRT:

Note

- Federal Emergency Management Agency
- Department of Defense
- Department of Energy
- Department of Agriculture
- Department of Commerce
- Health and Human Services
- Department of Transportation
- Department of Interior
- Department of Labor
- Department of Justice
- Department of State
- Nuclear Regulatory Commission
- General Services Administration

NRS Special Teams

- To help the Federal On-Scene Coordinators, the NRS includes a variety of federal “Special Teams” that can provide Federal On-Scene Coordinators with more in-depth expertise in certain technical and response capabilities. As you can see, these teams come from several of the federal agencies on the NRT.
- It is important to understand that during an NCP response, the Special Teams respond to support the Federal On-Scene Coordinators; they do not lead NCP responses. Additionally, these are “national” resources under the NRS and identified in the NCP.

Click the links below to learn more about each special team.



[Environmental Response Team \(ERT\)](#)

[Radiological Emergency Response Team \(RERT\)](#)

[National Criminal Enforcement](#)



[National Strike Force \(NSF\)](#)

[NSF Strike Teams](#)

[Public Information Assist Team \(PIAT\)](#)



[Scientific Support Coordinators \(SSCs\)](#)



[OSHA - Specialized Response Team](#)



[Navy Supervisor of Salvage & Diving \(SUPSALV\)](#)



[BSEE - Source Control Support Coordinator \(SCSC\)](#)

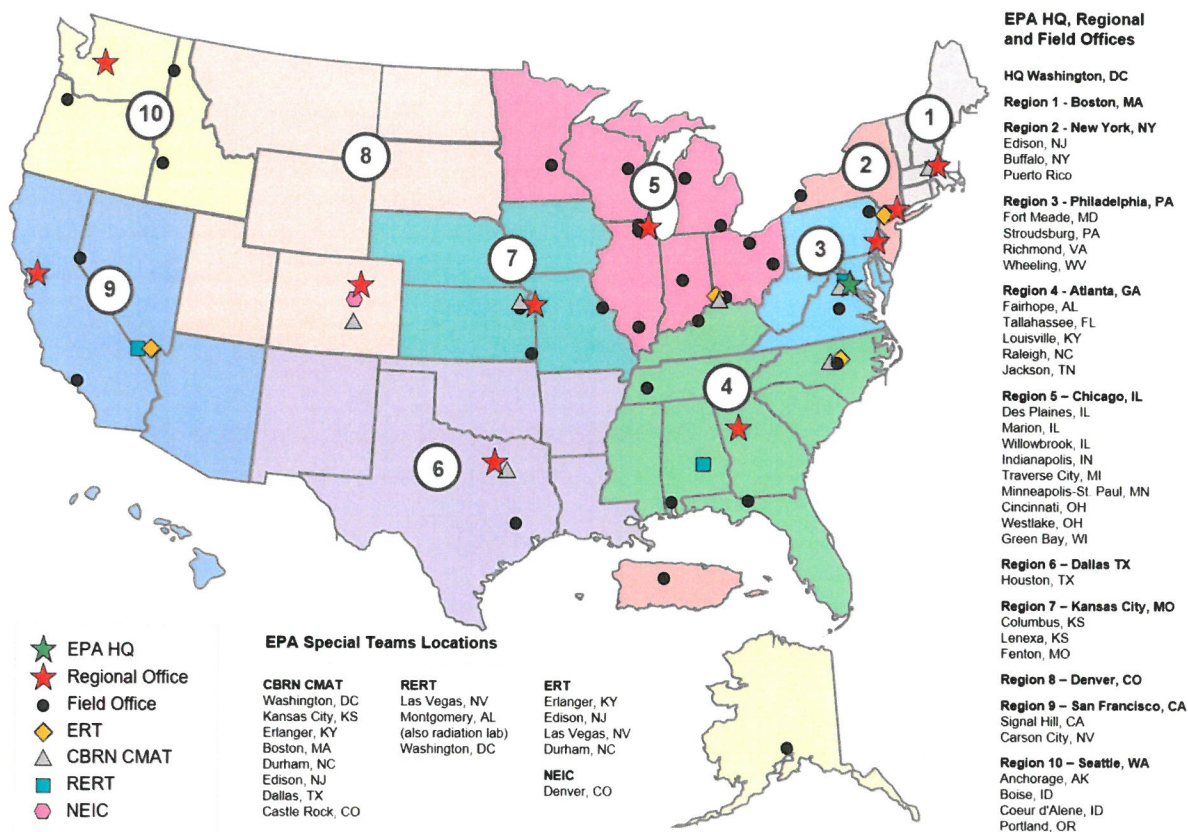
[Response Team \(NCERT\)](#)

[CBRN Consequence Management Advisory Team \(CMAT\)](#)

EPA Regions and Assets

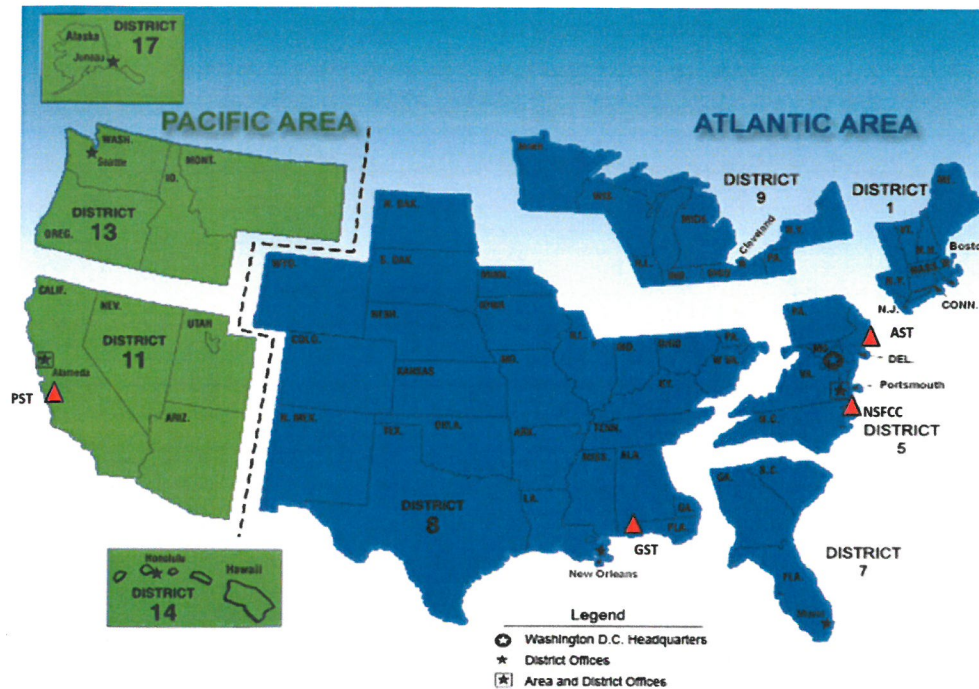
- EPA has a primary Regional office in each of these 10 regions.
- Most Regions have additional Federal On-Scene Coordinators out-posted to other field and satellite offices to reduce response times.
- EPA's Special Teams have personnel in various locations, as shown on the map.

[Full description \(alt text\) of the EPA Regions and assets map.](#)





USCG Districts and Strike Teams

The USCG has nine distinct Districts in two Areas – Atlantic and Pacific. Strike Teams are conveniently located along each coast, though any team can be deployed anywhere in the country as needed.



NRS Funding Mechanisms

- OPA and CERCLA provide a number of mechanisms and funding options to pay for emergency response activities.
- Most importantly, both laws hold the RP liable for paying for response costs – when the RP can be identified and is financially viable. However, both laws establish funds to ensure a rapid, effective response.
- The OSLTF is funded in several ways:
 - Investment interest on the Fund's principal;
 - Costs recovered from responsible parties;
 - Civil and criminal penalties from responsible parties;
 - Barrel tax on domestic and imported oil; and
 - Transfers from other legacy pollution funds.
- To date, the largest source of income for the OSLTF has been from the per-barrel excise tax on imported and domestic oil, originally 5-cents-per-barrel tax. [National Pollution Funds Center Oil Pollution Act \(OPA\) Frequently Asked Questions](#)
- CERCLA established a trust fund that was financed primarily by taxes on crude oil and certain chemicals, as well as an environmental tax assessed on corporations based upon their taxable income. [U.S. Government Accountability Office Report GAO-08-841R Superfund: Funding and Reported Costs of Enforcement and Administration Activities](#)






Note

Oil Spills

Oil Pollution Act of 1990 (OPA 90)

Oil Spill Liability Trust Fund (OSLTF)

Note

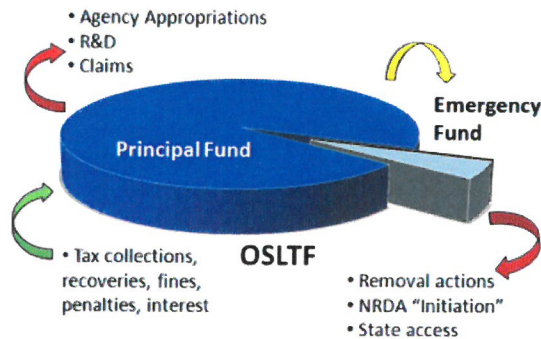
Hazardous Substances Releases

CERCLA

Oil Spill Liability Trust Fund

- The OSLTF, administered by the National Pollution Funds Center (NPFC) (USCG), is used for response to spills of oil and oil products.
- There are two primary components to the OSLTF, the Emergency Fund and the Principal Fund.
- The Emergency Fund is available to pay federal response costs (federal oil removal costs under CWA 311(c)) and for initiation of Natural Resource Damage Assessment (NRDA) by the Trustees.
- To ensure rapid, effective response to oil spills, the President has the authority to make the Emergency Fund available – without Congressional appropriation – up to \$50M each year to fund removal activities and initiate NRDAs.
- An additional \$100M annually can be advanced to the Emergency Fund from the Principal Fund if needed and reported to Congress.
- Emergency Fund amounts are available until expended.
- The Principal Fund contains the balance of the Fund.

[Full description \(alt text\) of the OSLTF graphic.](#)



Oil Spill Liability Trust Fund, Cont.

- Funds third party claims and annual appropriations to federal agencies; largest use of the fund has been for annual agency appropriations (e.g. USCG, EPA, DOI, DOT) to administer and enforce OPA and federal response authority.
- There are four primary ways the fund can be accessed:
 1. By the Federal On-Scene Coordinator directly - or by working as a contractor for the Federal On-Scene Coordinator.
 2. By submitting a claim to the USCG NPFC – Claims can be submitted by individuals, companies, state governments, or federal agencies requesting compensation for removal costs or damages, including natural resource damage.
 3. The OSLTF may be accessed for the initiation of natural resource damage assessments, to be submitted by a lead federal trustee for a particular incident.
 4. Through a state funding request for up to \$250,000 per incident. States still need to request funding through their Federal On-Scene Coordinator in order to obtain funding through this mechanism.
- Per incident expenditures from the OSLTF are limited to \$1B, of which NRDAs and Natural Resource Damage claims are limited to \$500M.

Superfund Trust Fund

- The Superfund Trust Fund is administered by EPA, in cooperation with individual states and tribal governments. Additionally, the NPFC administers Superfund cases in the coastal zone through Regional Interagency Agreements.
- The Superfund Trust Fund is used for releases of hazardous substances – not oil.
- Can be accessed in three ways:
 1. By the Federal On-Scene Coordinator.
 2. Through the claims process.
 - Claims can be submitted by individuals or states
 - Response actions must be preauthorized for reimbursement
 3. Through the [Local Governments Reimbursement \(LGR\)](#) program.
 - Established in 1986, this program is frequently used by local governments to recover costs associated with necessary emergency actions for hazardous substance incidents. Tribes also eligible for reimbursement, but States are not.
 - Local governments can be reimbursed up to \$25,000 per incident for costs incurred while performing temporary emergency response measures, such as disposable materials and supplies; rental or leasing of

- equipment; special technical and laboratory services; evacuation services; decontamination of equipment; overtime pay for employees; and replacement of lost or destroyed equipment.
- Incidents involving releases of oil or oil-related products are not covered, unless the oil is mixed with a hazardous substance.

- Federally-funded “removal” responses are limited to \$2M and 12 months unless certain statutory findings can be made.

Stafford Act Funding

- A disaster declaration must be made by the Governor or Tribal Chief Executive.
- The total assistance provided under the Stafford Act for a single emergency is capped at \$5,000,000, unless:
 - Continued emergency assistance is immediately required;
 - There is a continuing and immediate risk to lives, property, public health, or safety; and
 - Necessary assistance will not otherwise be provided on a timely basis.
- The Stafford Act authorizes three types of assistance from the federal government.
 - **Individual Assistance:** Assistance directly given to individuals and businesses affected by an emergency/disaster.
 - **Public Assistance:** Funding and expertise allocated to state and local governments.
 - **Hazard Mitigation Assistance:** Funding aimed at eliminating or reducing the long-term effects of the disaster. (Pre-disaster)
- The President may authorize either one or a combination of FEMA assistance programs to support community recovery.

Role of the Responsible Party

- One of the unique characteristics of the NCP is the role of the RP.
- The RP is responsible for cleaning up the spill, paying for the response, paying for certain damages as a result of the spill, and environmental restoration following the response (for example, NRDA). If the RP cannot be identified or is not capable of conducting an adequate response, a federal response may be needed.
- Commonly, the RP works cooperatively with the Federal On-Scene Coordinator as a response partner – providing an integrated joint response effort.
- During the Deepwater Horizon Spill in 2010, BP played a prominent role in the response effort and claims payment.
- It is important to note that although the RP is responsible for the clean up, it is still the Federal On-Scene Coordinator that directs and oversees the response.
 - RP is commonly part of the Unified Command structure.

The “responsible party” is identified as the person owning or operating the vessel, facility, or pipeline which caused the incident.



Note

The Stafford Act also identifies liability of the RP. *Sec. 317. Recovery of Assistance (42 U.S.C. 5160) (a) Party Liable* - Any person who intentionally causes a condition for which Federal assistance is provided under this Act or under any other Federal law as a result of a declaration of a major disaster or emergency under this Act shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such person which caused such condition. Such action for reasonable costs shall be brought in an appropriate United States district court.

Oil Spill of National Significance

EPA Administrator (for inland oil spills) or USCG Commandant (for coastal oil spills) may declare a spill a “**Spill of National Significance**” (SONS): An oil spill of great complexity or scope.

- First (and only) declared SONS was the 2010 Deepwater Horizon spill.
- The Exxon Valdez spill (1998) was the impetus for writing SONS regulations into the NCP.
- During a SONS, EPA Administrator may name a Senior Agency Official to assist the Federal On-Scene Coordinator, or USCG may name a National Incident Commander to assume role of Federal On-Scene Coordinator, in the following tasks:
 - Communicating with affected parties and public;
 - Coordinating federal/state/local/international resources at national level; and
 - Conducting strategic coordination with governors/mayors, NRT, and RRTs.

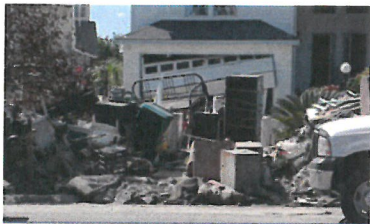
Designating a SONS

- The Federal On-Scene Coordinators is tasked with classifying the size of a spill. The size classes of an oil discharge, as noted below, are provided as guidance to the Federal On-Scene Coordinators and serve as the criteria for response actions.
 - Oil spills and hazardous materials releases are categorized by minor, medium, major classifications based on size and scope of the release.
- Those spills that are deemed a substantial threat to the public health or welfare of the US may be further classified as a SONS.

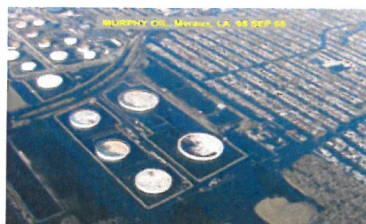
Hurricane Response Examples: NRS and the NRF

- These case studies represent typical examples of how oil and hazardous substance response activities are conducted during a natural disaster.
- NCP/NRS and Stafford Act/ESFs are parallel response structures that can be implemented simultaneously and independently.
- NCP/NRS structures and response mechanisms remain in place during a Stafford Act declaration, and coordinated alongside NRF mechanisms.
- Stafford Act/ESF mechanisms provide authorities and funding that enable the response to address environmental threats, at a larger scale.

Key Difference:
Under Stafford Act/NRF: Cost share exists between states and Federal Government; Missions Assignments are issued by FEMA from state or tribal requests for assistance.
Under NCP/NRS: The RP is liable for removal costs.



ESF #10 Response: White goods and household hazardous waste are collected by ESF #10 (under a Mission Assignment and funded by the Stafford Act) following a flood.



NCP/NRS Response: A hurricane results in an oil discharge from a storage facility and contamination of surrounding community. Even though a Stafford Act declaration is made, a RP can be identified and the Federal On-Scene Coordinator will respond using NCP authorities and funding mechanisms.



NCP/NRS Response: Oil discharge from a damaged offshore facility following an accident. RP can be identified and the Federal On-Scene Coordinator will respond under NCP authorities and funding mechanisms.



ESF #10 (If OPA, RP is liable for clean up): Various oil and hazardous substances are found onboard fishing



Depends on the Mission Assignment; ESF #10 (If OPA, RP is liable for clean up): Mystery sheen/spills can



Depends on the Mission Assignment; ESF #10: Orphan containers and drums following a natural disaster.

and recreational vessels displaced/damaged during a hurricane. If a Stafford Act declaration is made and the ESF #10 Mission Assignment includes damaged/displaced vessels, then the Federal Government may mitigate/respond to the oil and hazardous substances onboard or leaking from vessels. The Federal Government may take additional actions (e.g., dispose of vessels) if it is specified in the Mission Assignment. If a Stafford Act declaration is not made and the Federal On-Scene Coordinator responds under their CERCLA or CWA/OPA authorities, then the Federal Government will conduct a response to remove the threat (oil/hazardous substances) and seek reimbursement from the vessel owner. Vessel removal and disposal may not be possible by the Federal On-Scene Coordinator.

be complex. The Federal On-Scene Coordinator can use the authorities, resources, and funding mechanisms of the NCP to initiate a response and work to identify an RP. If a Stafford Act disaster is declared and the scope of the ESF #10 Mission Assignment includes oil spill responses, then the Federal On-Scene Coordinator responds using the CERCLA or CWA/OPA authorities but pay for the response using ESF #10 funding. If there is no Stafford Act declaration, then the Federal On-Scene Coordinator uses the authorities and funding mechanism provided under CERCLA or CWA/OPA.

This situation depends on whether a Stafford Act declaration is made and the scope of the ESF #10 Mission Assignment.

Key Differences between the NCP and NRF

NCP	NRF/Stafford Act
The EPA or the USCG is the lead agency for the response.	FEMA is the lead agency for the response.
The Federal Government makes an independent evaluation of the need for federal response.	Requests for federal assistance from state, local, and tribal governments need to be made from the state governor.
The Federal Government may, and in some circumstances must, lead the response.	The Federal Government plays a supporting roles to the state, local, tribal, territorial, or insular government.
The Federal Government has tactical, on-scene command authorities.	The arrangements by which departments and agencies participate are defined in the ESF Annexes and are coordinated through pre-scripted mission assignments.
The Federal Government has enforcement authorities over the parties responsible for all discharges and hazardous substance releases (or substantial threats of discharge/release), and will seek cost recovery.	The Act does not directly address the liability protections or immunities for responsible parties.
No state cost share for emergency response.	A state cost share may be required.

Examples of Typical Work

Under the Stafford Act/ESF #10

(Depends on Mission Assignment and Cost Share agreements)

- Collection and disposal of orphan (unknown chemical) containers;
- Collection and disposal of household hazardous waste;
- Initial assessments to determine if immediate health and safety threat exists;
- Removal and disposal of oil/hazmat to deal with immediate public health and safety threats under a Mission Assignment;
- Destruction of vessels, salvage, removal of vessels to pre-determined staging areas; and
- Any requested technical assistance to states.

Under the NCP/NRS

- Response activities related to regulated entities, preexisting Superfund sites, and OPA/CERCLA removal actions;
- Removal and disposal of oil/hazmat to deal with immediate public health and safety threats immediately after a disaster event; and
- Response activities can be initiated under CERCLA/OPA, but then can be funded after a disaster declaration is made.

Example: During Hurricane Katrina, cleanup of an oil spill occurring from a displaced storage tank at the Murphy Oil Facility was overseen under OPA authorities.

Lesson 3 Summary

In this lesson, you learned about the:

- ICS response structure associated with the NCP/NRS
- NRF and ESF #10
- Differences between NCP and Stafford Act responses
- Federal On-Scene Coordinator
- Regional Response Teams
- National Response Team
- NRS Special Teams
- Definition of Responsible Party
- SONS

Lesson 3 Objectives Review:

At the end of this lesson, you will be able to:

1. Recall the basic construct of command and control in response to an environmental incident.
2. Describe the role of the Federal On-Scene Coordinators.
3. List the composition and responsibilities of the RRTs, NRT, and federal "special teams" that support Federal On-Scene Coordinators.
4. Explain the responsibilities of the "responsible party" as identified in the NCP.
5. Define SONS.
6. Compare the NCP and NRF as they apply to responding to environmental incidents.

Lesson 4 Objectives

At the end of this lesson, you will be able to:

1. Describe environmental restoration post-oil or hazardous substance release and the Natural Resource Damage Assessment (NRDA).

National Disaster Recovery Framework

Under the National Preparedness System and in coordination with the NRF, FEMA has developed the [National Disaster Recovery Framework \(NDRF\)](#).

- The NDRF provides context for how the whole community works together to restore, redevelop, and revitalize the health, social, economic, natural, and environmental fabric of the community.
- Recovery efforts focus on how best to restore, redevelop, and revitalize the health, social, economic, natural, and environmental fabric of the community and often begins while response is still occurring. The NDRF also emphasizes pre-disaster and post disaster planning.
- The NDRF requires Federal agencies to come together and organize in a structured and repeatable way that is focused on aligning Federal resources to help address state, tribal, territorial, regional and local needs. The NDRF suggests ways in which the community may organize to connect with these Federal resources.
- As mandated under the Stafford Act, EPA utilizes our own authorities such as the Clean Water Act and the Clean Air Act to support state and local recovery and mitigation efforts. These authorities are used in connection with the Agency's roles and responsibilities under the National Mitigation Framework (NMF) and National Disaster Recovery Framework (NDRF) to support Presidentially declared disasters, undeclared disasters, and to mitigate damage and impacts prior to disasters.

Natural And Cultural Resources Recovery Support Function

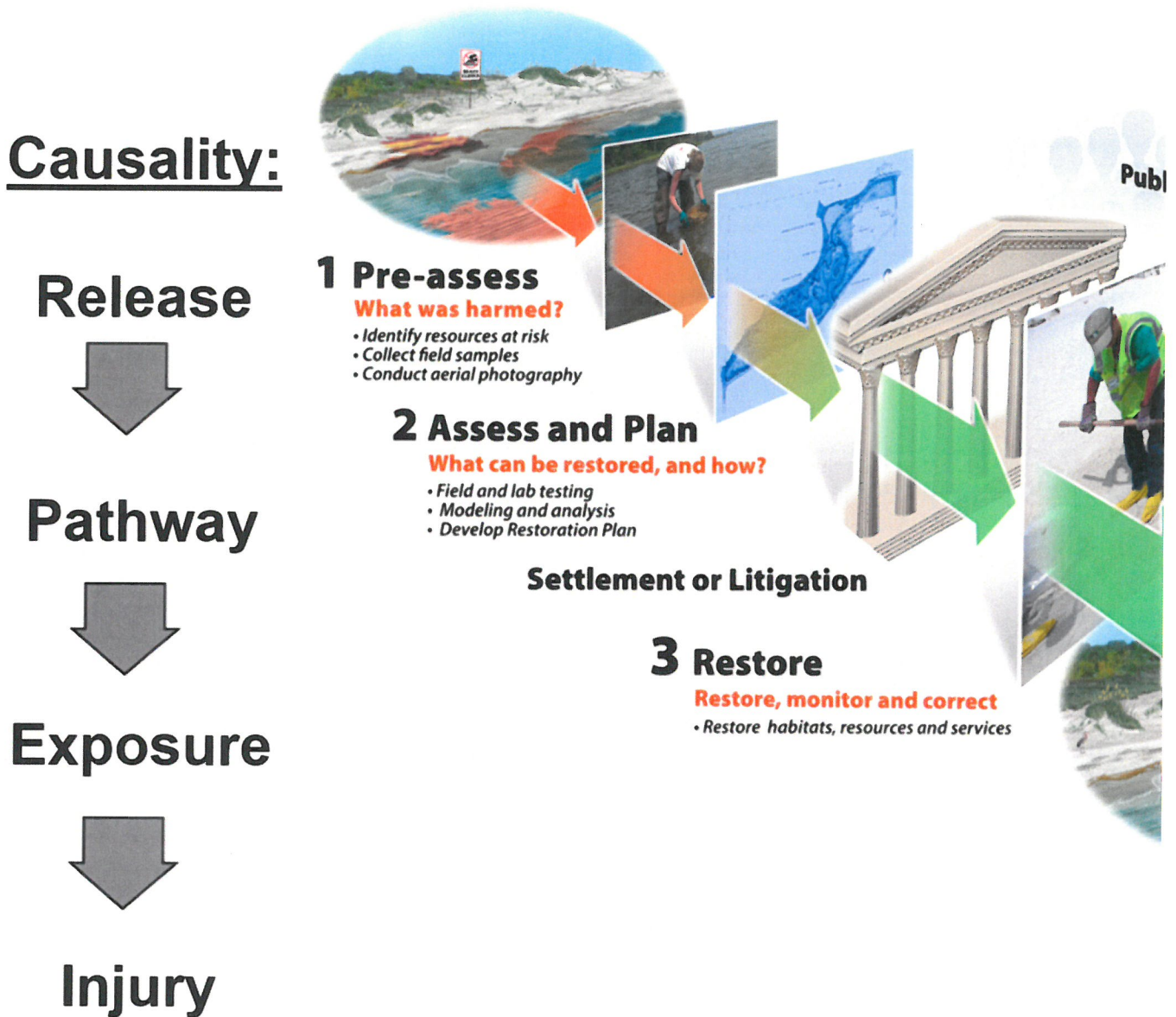
- One of the Recovery Support Functions under the NDRF is [NATURAL AND CULTURAL RESOURCES](#) Led by FEMA, DOI and EPA.
- Integrate Federal assets and capabilities to help State and Tribal governments and communities address long-term environmental and cultural resource recovery needs after large-scale and catastrophic incidents.
- "The Natural and Cultural Resources Recovery Support Function coordinates departments and agencies working together to provide information and assistance to communities seeking to preserve, protect, conserve, rehabilitate, recover and restore natural and cultural resources during recovery. Relevant agencies and partners are those with expertise and programs including, but not limited to, specific natural and cultural resource issue identification, assessment and management (e.g., fish and wildlife, historic and traditional cultural properties, hydrology); natural and cultural resource planning; environmental planning and historic preservation compliance under Federal laws and Executive Orders (specific to programs that provide funding for disaster recovery); and community sustainability."

Natural Resource Damage Assessment (NRDA)

- Under both OPA and CERCLA, as well as several other [authorities](#), the responsible party is liable for compensating the public for [harm/injuries to natural resources](#).
- Designated [natural resource trustees](#) use a process called NRDA to calculate the damages for resources under their trusteeship.
- Damages include the cost to restore, rehabilitate, replace, or acquire the equivalent of the damaged resources.
- Certain activities of NRDA may be conducted simultaneous with the response, however completion of an NRDA may take years and final restoration may take decades.

NRDA Process

Under both OPA and CERCLA, the trustees must show causality – that the discharge/release or the response efforts lead to the injury of public resources. Click each of the steps to learn more about the process.



NRDA Funding

In cooperation with the Trustees, the RP may agree to fund the trustees' NRDA and restoration directly. In the absence of timely RP funding, the trustees have different financial mechanisms for pursuing NRDA and damages under CERCLA and OPA.

For Hazardous Substances Releases (CERCLA):	For OIL SPILLS (OPA):
---	-----------------------

- | | |
|--|---|
| <ul style="list-style-type: none"> • There are no provisions in CERCLA for use of the Superfund Trust Fund for NRDA or to pay Natural Resource Damages (NRD) claims related to releases of hazardous substances. • Trustee agencies use internal agency funds for the NRDA and seek reimbursement from the RP through settlement or litigation for the NRD and the Assessment costs. | <ul style="list-style-type: none"> • The trustees can access funding from the OSLTF to initiate NRDA through an interagency agreement with the NPFC. • The trustees can file claims to the NPFC for the cost to conduct NRDA, for emergency restoration actions, and for the calculated NRDs. • The NPFC adjudicates claim requests and is responsible for seeking recovery of NRD and NRDA costs from viable RPs. |
|--|---|

NRDA and Disaster Declarations

A Stafford Act declaration does not alter an RP's liability under CERCLA or OPA for NRDs.

Potential relief for an RP:

In its defense, an RP may assert an:

- "Act of God";
- "Act of War"; or
- "Act or omission of a third party" defense to alleviate their liability for damages under both CERCLA and OPA.

For hazardous substance releases (CERCLA): When there is no viable RP, Superfund gives EPA the funds and authority to clean up contaminated sites. (This does not extend to funds to pay for NRDA.)

For oil discharges (OPA): If the NPFC concurs with the RP's defense under OPA, the OSLTF is still available to pay uncompensated NRDA claims. If the NPFC does not concur, the RP retains liability for NRDs.

Determining causality under CERCLA and OPA of a natural resource injury may be more challenging when issues such as flooding or fire also contribute to or compound the natural resource injuries.

New Carissa: A NRDA Case Study

- On February 4, 1999, the New Carissa, an empty 660-foot long cargo ship, went aground just north of the entrance to Coos Bay, Oregon. Pounded in the high surf and strong winds of a Pacific storm, the vessel began breaking up. An attempt was made to burn away some of its hundreds of thousands of gallons of fuel oil before the ship broke apart. The precise amount of oil released from the damaged ship is difficult to determine, but has been estimated by various sources at somewhere between 25,000 gallons and 140,000 gallons. Most of the spilled oil is something called "Bunker C," an extremely thick oil used for fuel by large ships.
- The bow section was eventually re-floated and towed offshore, only to break its tow in a storm and go aground again near Waldport, Oregon, releasing additional oil. The bow section was again re-floated, towed far out to sea and sunk by the Navy. The heavier stern section remains stranded in the surf near the entrance to Coos Bay.

[Citation](#)

New Carissa Damages

- In addition to private property, there were many publicly owned natural resources at risk from this oil including birds, marine mammals, fish, shellfish, outer beaches and rocky shores, and the estuaries from Coos Bay to Yaquina Bay. Studies determined that:
 - Four to eight western snowy plovers (a state- and federally listed threatened species) likely perished;
 - 672 other shorebirds were injured or killed;
 - 62 marbled murrelets (also a state- and federally listed threatened species) were killed;
 - 2,203 other seabirds and gulls were killed; and
 - About 29,000 recreation trips were lost or diminished (valued at approximately \$400,000).
- For the New Carissa spill, the natural resource trustees included the DOI, USDA, the State of Oregon, the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon and the Confederated Tribes of Siletz Indians of Oregon.
 - The responsible parties in this oil spill are the owners, operators and insurers of the New Carissa, as well as the master of the ship at the time of the incident.

New Carissa Recovery

In May 2004, a settlement agreement approved by a federal judge resolved several lawsuits related to the New Carissa spill. The part of the settlement agreement regarding natural resource damages requires the RPs to pay the US \$4M, but the settlement recognizes that is not full compensation for the natural resource damages. Under a separate agreement, the trustees are permitted to submit a claim to the NPFC for any additional money needed to restore the damages which manages the OSLTF that provides funding for cleanup and natural resource restoration costs for “uncompensated claims” resulting from oil spills in the US. The money in the fund comes from a tax on oil transported within the United States.

The [Damage Assessment Restoration Plan](#) sets forth a number of actions to restore the resources and services lost to the public because of this spill. The plan includes details of the actions to be taken, as well as all the changes made to the draft plan, and should be consulted for details.

Lesson 4 Summary

In this lesson, you learned about the:

- NRDA
- NRS funding mechanisms
- NRDA Case Study: New Carissa

Lesson 4 Objectives Review:

At the end of this lesson, you will be able to:

1. Describe environmental restoration post-oil or hazardous substance release and the Natural Resource Damage Assessment (NRDA).