

*b(6) FOR NAMES & CONTACT INFO*

**From** [REDACTED]  
**To** Tousley, Michael CAPT  
**Cc** Fagan, Linda CAPT; Rendon, James CAPT; Hamel, Michael A. CAPT; Ryan, June CAPT; Darr, Charles; [REDACTED] (b) (6) CDR; Cashin, Charles CAPT; Lloyd, Anthony CAPT; Havranek, John; Smith, Scott  
**Subject** RE: SONS DECLARATION  
 CAPT, *b(6) ATTORNEY-CLIENT & DEBARMENT PROCESS FOR EMAIL TEXTS*

[REDACTED]

v/r,

LCDR [REDACTED]  
 Attorney-Advisor  
 Operations and Enforcement Law Division  
 Office of the General Counsel  
 Department of Homeland Security  
 [REDACTED]

**From:** Tousley, Michael CAPT  
**Sent:** Thu 4/29/2010 4:41 PM  
**To:** Cashin, Charles CAPT; Lloyd, Anthony CAPT  
**Cc:** Fagan, Linda CAPT; Rendon, James CAPT; Hamel, Michael A. CAPT; Ryan, June CAPT; [REDACTED] LCDR; [REDACTED] CDR  
**Subject:** RE: SONS DECLARATION

Hey Charlie:

[REDACTED]

v/r Mike T

-----Original Message-----

**From:** Cashin, Charles CAPT  
**Sent:** Thursday, April 29, 2010 4:20 PM  
**To:** Tousley, Michael CAPT; Lloyd, Anthony CAPT  
**Cc:** Fagan, Linda CAPT; Rendon, James CAPT; Hamel, Michael A. CAPT; Ryan, June CAPT  
**Subject:** SONS DECLARATION

Mike

[REDACTED]

Thanks, Charlie

*b(2)*

[REDACTED]

Captain Charles L. Cashin


Chief, U.S. Coast Guard National Command Center



b(6)



**From** Lederer, Calvin **Date** Thursday, April 29, 2010 1:14:32 PM  
**To** Havranek, John  
**Cc** Kim, Leezie; Fong, Ivan; Joseph Maher  
**Subject** Sons and NIC Issue Paper

 **Sons and NIC Issue Paper-(CG-0941) (2).docx** (28 KB HTML )

Press reporting says SecDHS has decided to declare SONS as discussed earlier. See attached talking paper that summarizes.

Cal Lederer  
Acting Judge Advocate General  
U.S. Coast Guard



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4. CHANGES.

- a. This Instruction provides guidelines for NIC roles and responsibilities and aligns the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and National Response Framework (NRF) concepts that apply to a SONS.
- b. This Instruction acknowledges Coast Guard modernization efforts. While guidance reflects current organizational responsibilities, it outlines future organizational roles as well.

5. ADMINISTRATIVE REMARKS.

- a. The hallmark of policy is the use of the terms “must” and “shall.” These are mandatory terms. They require compliance or action. The term “prescribe” encompasses the term “restricts.” Thus, other hallmarks of policy are the terms “must not” and “shall not.”
- b. By comparison, the hallmark of doctrine is the use of the terms “can” and “may.” These are permissive terms. The term “should” is a mandatory term unless justifiable reason exists for not complying. Since there is a significant degree of judgment included within its use, the term “should” is more associated with doctrine than policy.
- c. The term “will” is sometimes used in the place of “shall.” This is incorrect in the context of both doctrine and policy. “Will” applies only to a statement of future condition and should not be used in the place of “shall.”
- d. Items highlighted by ***bold/italic*** text are policy. This marking is based on the use of the terms “shall” and “must” (this includes, of course, “shall not” and “must not”).
- e. The reader should consider the term, “oil spill,” within this document to imply applicability to hazardous substance releases.

6. BACKGROUND.

- a. Since 1968 reference (a) has emphasized the federal roles and responsibilities for oil spill response. Congress has broadened the scope of the NCP over the years specifically tasking 16 Federal Departments and Agencies with preparing for and responding to Oil and Hazardous Substance incidents as a National Response Team (NRT). The U.S. Environmental Protection Agency (EPA) and Coast Guard were assigned to lead the NRT and National Response System (NRS) infrastructure.
- b. Until the early 1990's, the NCP relied almost exclusively on On Scene Coordinators (OSCs) to coordinate all federal, state, local and private sector efforts to respond to, mitigate, and recover from the adverse impacts of NCP incidents. OSCs were supported by a network of Regional Response Teams (RRTs) and the NRT charged with providing regional and national level support to an OSC depending on the size and complexity of a particular incident.
- c. This system worked well for most NCP incidents, but the EXXON VALDEZ catastrophic oil spill highlighted the need for additional support needed for extraordinary coordination. When the EXXON VALDEZ occurred, the OSC was a Coast Guard Commander, the Captain of the Port in Valdez, Alaska. The incident was an almost immediate national crisis. Senior governmental officials quickly arrived near the scene to represent the concerns of their organizations and equities in the response. The media also arrived on scene resulting in national and worldwide public attention. The OSC and his small staff, the RRT and NRT were all overwhelmed.

- d. Post EXXON VALDEZ, incident analysis documented in reference (b) identified that in a truly catastrophic incident, "involving spills of extreme severity or size that have the potential to greatly affect the public health or welfare of the United States, extraordinary coordination ...may be required." Reference (b) further validates the need at the national level for "a strategic management framework [led by a senior administration official] designed to assist the OSC in dealing with resource administration, government coordination, public relations and communications for a SONS. This [senior administration] official will simply fill the role for the OSC for specific, limited activities related to communications and coordination at the national level."
  - e. The 1994 revision to the NCP defined a SONS as an oil spill that due to its severity, size, location, actual or potential impact on the public health and welfare or the environment, or the necessary response effort, is so complex that it requires extraordinary coordination of federal, state, local, and responsible party resources to contain and clean up the discharge. It also added the authority for the EPA Administrator to name a Senior Agency Official for inland zone SONS and the Commandant to name a NIC for coastal zone SONS.
  - f. The NIC was intended to serve as the link between the President, the Secretary, and the Commandant of the Coast Guard with all stakeholders in a catastrophic spill event and will provide:
    - (1) The confident, reassuring explanation of strategic decisions, response asset prioritizations and distributions to the affected governors, senators, administration officials, media and the public.
    - (2) Strategic decisions related to availability and acquisition of resources from other agencies at the national and international levels.
7. DISCUSSION. A SONS classification provides additional support at the national level to the Federal On-Scene Coordinator (FOSC). Per 40 CFR 300.323 the Commandant holds the decision making authority to designate a SONS.
- a. Some or all of the conditions below will exist when classifying the spill a SONS:
    - (1) A spill of this size, magnitude and/or complexity presents significant challenges to the Coast Guard FOSC and RRT(s).
    - (2) Local and regional resource coordination or Unified Command (UC) incident management capability is exceeded.
      - (a) UC resource coordination capability is exceeded.
      - (b) The pre-designated FOSC is requesting regional support from the District.
      - (c) The Regional Response Team (RRT) is supporting the pre-designated FOSC in accordance with the Regional Contingency Plans (RCPs) as required by reference (a).
      - (d) Coast Guard LANTAREA/future OPCOM is coordinating requests for Coast Guard resources and support through PACAREA/FORCECOM.

- (e) The Office of Incident Management and Preparedness (CG-533) is coordinating with the NRT for interagency and international support. Commandant (CG-533) is providing updates to the Commandant and senior staff through the National Command Center (NCC) and appropriate chain of command.
    - (3) Multiple unified incident command posts (ICPs) have been established.
    - (4) One or more Unified Area Command(s) (UACs) has/have been established as directed in reference (c).
      - (a) Each UAC has established communications with regional level agencies, tribal and territorial emergency and environmental response management personnel, and regional level non-governmental stakeholders to help establish response priorities.
      - (b) The UAC organization will already include the elements of National Strike Force (NSF), the RRT Co-Chairs and the District Response Advisory Teams (DRATs).
  - b. The FOSC maintains all other authorities for response operations per reference (a).
  - c. The Commandant may choose to and has the authority to name a NIC and has pre-designated LANTAREA/Future OPCOM as the NIC for most cases to assist the FOSC with interagency and governmental/public affairs coordination. It is particularly noted that the:
    - (1) NIC responsibilities will require full-time attention to the SONS.
    - (2) Senior command positions (i.e. Deputy Commandant for Operations (DCO)), LANTAREA/future OPCOM, and PACAREA/FORCECOM) might not be able to relinquish their organizational responsibilities.
    - (3) Senior Coast Guard officers from outside the affected area should be considered because they would not be playing a direct role in the response organization.
    - (4) The NIC shall hold a rank equivalent to an Assistant Secretary (2-4 Star Admiral) given the possibility of national level briefs and hearings.
  - d. When an oil spill incident is an element of a larger response governed by a Stafford Act Presidential disaster declaration, it is unlikely that a SONS classification would be necessary. The national level response support will be coordinated by the Federal Emergency Management Agency (FEMA) Oil and Hazardous Materials Response Emergency Support Function (ESF #10) within a Joint Field Office (JFO) as per reference (d).
8. **PROCEDURES.** A SONS may be classified quickly or a spill may increase in magnitude and become a SONS over a period of time. The Commandant will receive information about the spill from the NCC, which shall adhere to procedures stated in the Quick Response Card (QRC) for pollution incidents.
- a. The Commandant shall consider the following when deciding whether to classify an oil spill as a SONS:
    - (1) The UAC(s) requests the assistance of a NIC to communicate national level issues.
    - (2) Critical Incident Communications (CIC) procedures in reference (e) are initiated due to a significant oil spill.
    - (3) The worst case discharge in the Area Contingency Plan (ACP) is met or exceeded.

- (4) The oil spill is reported on a national media outlet.
  - (5) The oil spill threatens or impacts an International border.
  - (6) One or more UAC is established.
  - (7) There is significant political interest.
  - (8) Significant threat to environmental, cultural and economic resources.
- b. If a SONS is declared, the Commandant shall assume the role of or name a NIC (see paragraph 6.c.).
  - c. The NCC shall send a notification message to LANTAREA/future OPCOM and the National Operations Center (NOC) conveying the SONS classification and naming of the NIC. Commandant (CG-533) shall draft and route a decision memo to the Commandant documenting the classification of a SONS and specifying the NIC using enclosure (1) as a template.
  - d. The Coast Guard NRT Vice-Chair shall notify the NRT Chair about the SONS designation and coordinate the transition to the role of the NRT Chair as directed in the NCP.
  - e. The Office of Public Affairs (CG-0922) shall process initial information and provide public announcements.
  - f. PACAREA/FORCECOM, as assisted by LANTAREA/future OPCOM and as needed by the NRT, shall identify personnel (Coast Guard and other agency) to fill the NIC Assist Team positions listed in Table 1 in section 9.j including personnel drawn from Coast Guard JFO support teams.

#### 9. ROLES AND RESPONSIBILITIES.

- a. **The Commandant of the Coast Guard (Commandant)** is responsible for ensuring the Coast Guard is prepared for a SONS response through strategic, capabilities, and operational planning. At any point during an oil spill response, the Commandant may classify the incident as a SONS and assume the role of or name a NIC. If the Commandant assumes the role of the NIC, he/she shall represent the multi-agency response organization in addition to the Coast Guard in this role. Although future OPCOM is pre-designated to fill the role of the NIC for the Commandant, the Commandant retains the authority to name a NIC.
- b. **The Deputy Commandant for Operations (DCO)**, with support from Assistant Commandant for Marine Safety, Security and Stewardship (CG-5) and Director of Response Policy (CG-53), shall:
  - (1) Provide a recommendation to the Commandant for SONS classification.
  - (2) Develop and oversee the execution of SONS policy and international engagement at the strategic level.
  - (3) They shall establish and maintain engagement with interagency partners and maritime stakeholders to support policy development, and resource needs.
  - (4) Ensure the alignment within mission areas to optimize mission execution.



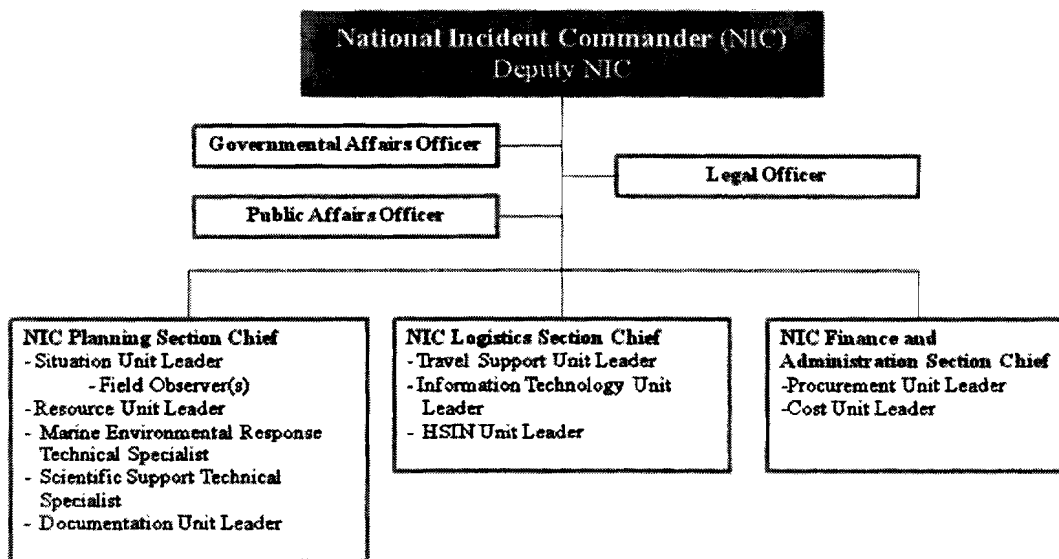
- c. **The Office of Incident Management and Preparedness (CG-533)** is the lead component for the management, oversight, and execution of the SONS Program and shall:
  - (1) Provide programmatic oversight, strategic guidance, exercise support guidance, deployment coordination, and Coast Guard Headquarters-level logistical support to the NIC when named.
  - (2) Provide training to potential NIC candidates prior to an incident.
  - (3) Develop and update SONS response policy and guidance.
  - (4) Develop the decision memo, using enclosure (1) as a template, for signature by the Commandant to officially name a NIC.
  - (5) Conduct outreach activities to help potential NICs gain awareness by Federal, State, Territory, local, private sector, and Non-Governmental Organization (NGO) stakeholders prior to an incident.
  - (6) Provide technical assistance to the NIC Assist Team as needed (e.g. request a Vessel Response Plan if applicable from Commandant (CG-5431)).
  - (7) Collect lessons learned after a SONS or SONS exercise and enter them in the Contingency Planning System (CPS) as an After Action Report (AAR) or an Incident Specific Preparedness Review (ISPR), if directed by the Commandant.
  - (8) Identify the funding source for NIC and NIC Assist Team when a spill is classified as a SONS.
  
- d. **The National Response Team (NRT)**, vice-chaired by Commandant (CG-533), is responsible for strategic planning and oversight of operational and capabilities planning through the RRTs that are co-chaired by a Coast Guard designated representative.
  - (1) The NRT is mandated by 40 CFR 300.110 to maintain national preparedness for response to a major discharge of oil that is beyond regional capabilities. The following responsibilities apply specifically to a SONS response:
    - (a) Coordinate a national program to assist member agencies and enhance preparedness program coordination.
    - (b) Assist in developing a national exercise program.
    - (c) Recommend legal, policy, or doctrinal additions, deletions, or modifications to the NIC Program (exercises, training, and policy).
  - (2) The preparedness roles and responsibilities for the NRT Vice-Chair (Commandant (CG-533)) include:
    - (a) Work with the NIC to incorporate NRT specific lessons learned in the AARs following each incident or exercise, and identify and implement corrective actions.
    - (b) Establish measures for PACAREA/FORCECOM to use when conducting a needs assessment and subsequent training and exercises for potential NICs.
    - (c) Facilitate communications between the Coast Guard Liaisons at FEMA and the FEMA Federal Coordinating Officer (FCO) cadre before a SONS.
    - (d) Coordinate with the Office of Contingency Exercises (CG-535) for SONS exercise support.

- (3) During a coastal SONS, the Coast Guard will chair the NRT with the EPA as Vice-Chair. As with a major oil discharge or hazardous substance release, when activated for a SONS, the NRT shall meet as directed in 40CFR300.110(k) by the Chair to:
- (a) Monitor and evaluate reports from the FOSC and provide strategic recommendations on actions to mitigate the discharge to the FOSC via the RRT.
  - (b) Coordinate resources from the national level under their existing authorities to mitigate a discharge, or to monitor response operations.
  - (c) Strategically coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts.
- e. **The National Response Center (NRC)** is the sole federal point of contact for reporting oil and hazardous substance spills. The NRC operates 24 hours a day, 7 days a week, 365 days a year. Specifically, during a SONS incident they communicate information to all stakeholders including:
- (1) Oil spill responders when a spill is classified as a SONS and the details associated with that classification.
  - (2) Provide the NRT (including the NIC Marine Environmental Response Technical Specialist) with regular updates on incident reports, incident summaries, and statistics.
- f. **The Coast Guard National Command Center (NCC)**, a future OPCOM resource, facilitates vertical communications with the Commandant and LANTAREA/future OPCOM as well as horizontal communications to the Department of Homeland Security (DHS) NOC to:
- (1) Implement the NCC QRC for pollution incidents to communicate the magnitude of the incident to the Commandant, either as an initial notification or as the response evolves into a SONS.
  - (2) Facilitate verbal requests or recommendations from UAC(s), Commandant (CG-533), Commandant (CG-53), Commandant (CG-5) and Commandant (DCO) to Commandant for a SONS classification.
  - (3) Notify appropriate agencies and stakeholders of a SONS classification.
- g. **PACAREA/FORCECOM** shall:
- (1) Recruit, train, and maintain a qualified NIC Cadre available for immediate activation and deployment as applicable (see section 8.b. in this document).
  - (2) Ensure availability of the NSF resources including all Strike Team and Public Information Assist Team personnel to assist the affected FOSC(s).
  - (3) Implement requirements based on program policy to schedule, host, and conduct NIC training.
  - (4) Develop doctrine for NIC policy implementation.
  - (5) Establish requirements, schedule, host, and conduct pre-designation NIC training.
  - (6) Maintain a NIC go-kit to support NIC staff requirements when deployed.
- h. **LANTAREA/future OPCOM** is predesignated as the NIC for when a spill is classified a SONS and shall:

- (1) Ensure District Commanders fully leverage the RRT Co-Chairs (District Response Chiefs) and DRATs when staffing and tasking UAC(s) (i.e. an enhanced Incident Management Team).
  - (2) Provide oversight for SONS exercise design and NIC training.
  - (3) Develop operations orders for deploying the NIC and NIC Assist Team.
  - (4) Select and designate administrative support.
- i. **The NIC shall assume the FOSC role of communicating with affected parties and the public on national level issues, and coordinate national and international resources.**
- (1) The NIC augments the existing response organization as shown in enclosure (2).
  - (2) The NIC shall not maintain other roles or responsibilities.
  - (3) The NIC does not have Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or the Oil Spill Liability Trust Fund (OSLTF) spending authority or the authority to exercise operational control over federal, state, territory, or UAC(s).
  - (4) The NIC shall choose a geographic location for the NIC Assist Team based on the nature of the SONS. For instance, the NIC may choose Washington, D.C. to facilitate communication with the Administration, Agency, and Congress and the Assist Team may be “home based” out of another location.
  - (5) During a SONS, the NIC shall assume the following communication and coordination roles of the FOSC at the national level:
    - (a) Establish briefing schedules and communicate with affected parties and the public at the national level.
      1. Act as the primary federal spokesperson representing the multi-agency response organization for media and public communication.
      2. Serve as the primary point of contact for the Administration, Congress and Agency Officials.
      3. Ensure strategic coordination with the NRT, RRTs, the governors of affected states, other government and agency executives and the RP.
      4. Maintain a common operating picture and situational awareness for the Coast Guard, DHS, and NRT.
      5. Manage and coordinate information flow vertically and horizontally to ensure that adequate connectivity is maintained with UAC(s), JFO(s) when established, NOC, NRT, RRTs, state/territory, relevant elements of the private sector, and if necessary, the RP.
    - (b) Coordinate resources at a national level.
      1. Interface with federal, state, territory, tribal, and local officials regarding the overall federal incident management strategy and execution.
      2. Assist the FOSC in resolving all national level policy issues including but not limited to: public safety, waterways recovery, places of refuge, response plan waivers, etc.

3. Promote collaboration and resolve any federal interagency conflicts that may arise at the national level by leveraging the relationship with the NRT.
  4. Monitor the deployment and application of national assets and resources through the UAC(s), or applicable chain of command, in support of the FOSC and in collaboration with other federal officials identified in existing plans
- (c) Conduct a “hot wash” after each incident or exercise with appropriate Coast Guard senior leadership and officials including but not limited to senior members of the NRT, UAC(s), NIC Assist Team, NOC, PACAREA/FORCECOM, LANTAREA/future OPCOM (including the NCC), Commandant (CG-533), representatives from Director of Prevention Policy (CG-54), and incident FOSC.
- (d) Ensure a complete record of the incident and response actions are maintained in accordance with reference (f).
- j. **The NIC Assist Team** is a flexible staff that reports directly to the NIC. It adapts to the magnitude and complexity of the incident using NIMS principles including span of control and unity of effort.

**Figure 1:** Potential NIC Assist Team Organization



Deployed personnel may begin as a small support staff, and then may expand to increase capability. Figure 1 depicts a recommended NIC Assist Team organization. Table 1 lists the NIC Assist Team positions. As the situation dictates, the NIC may invite liaisons onto the staff from other Coast Guard components, the RP, or other federal departments or agencies. Personnel assigned to the NIC Assist Team may be full-time government employees or contractors whose job description specifically includes supporting deployed NIC Assist Team operations. Contractors assigned to a NIC Assist Team shall not have directive authority over government employees.

**Table 1. Potential NIC Assist Team Positions**

Potential NIC Assist Team Positions
Deputy NIC
Legal Officer
Governmental Affairs Officer
Public Affairs Officer
NIC Planning Section Chief
- Situation Unit Leader
- Field Observer(s)
- Resource Unit Leader
- Marine Environmental Response Technical Specialist
- Scientific Support Technical Specialist
- Documentation Unit Leader
NIC Logistics Section Chief
- Travel Support Unit Leader
- Information Technology Unit Leader
- Homeland Security Information Network (HSIN) Unit Leader
NIC Finance and Administrative Section Chief
- Procurement Unit Leader
- Cost Unit Leader

- (1) **The Deputy NIC** operates under the authority and direction of the NIC and manages the NIC Assist Team on behalf of the NIC to achieve the Commandant’s intent. This enables the NIC to interact with the senior leadership, the media, and to be present at critical times and places to communicate important messages. The Deputy NIC’s responsibilities include, but are not limited to:
- (a) Provide the NIC with overarching observations for enhancing national interagency prevention, protection, preparedness, and response coordination.
  - (b) Provide guidance to the NIC Assist Team and resolve any issues involving priorities or use of internal resources.
  - (c) In the absence of the NIC, execute the NIC’s duties.
  - (d) When delegated by the NIC, serve as a federal interface to state, territory, local, and tribal officials, the media, and the private sector.
  - (e) Oversee efficient functioning of all NIC Assist Team elements.

- (f) Assign tasks and establish priorities for staff members.
  - (g) Develop and communicate emergency procedures that are consistent with the safety and security plans.
- (2) **The Legal Officer** provides specialized legal assistance and support to the NIC on matters including, but not limited to: applicable laws and regulations pertaining to media access, legal authorities and responsibilities, relevant statutes, and Executive Orders. Additional Legal Advisor responsibilities include:
- (a) Review documents developed by the NIC or NIC staff to ensure they meet the legal requirements of participating agencies and organizations.
  - (b) Ensure NIC and NIC Assist Team documentation control system is appropriate.
  - (c) Identify what documents and information is releasable.
  - (d) Monitor compliance with national level agreements relevant to the response (i.e. Bilateral Agreements between the US and Mexico and/or Canada).
  - (e) Advise the NIC on incident management authorities.
  - (f) Review outgoing public affairs talking points to ensure messaging meets applicable legal requirements.
  - (g) Provide subject matter expertise support from Judge Advocate General and Chief Counsel (CG-094).
  - (h) Assist the UAC Law Specialist(s) to establish links with the Facility/Vessel owner, state, and other applicable legal representatives if applicable.
  - (i) Coordinate with the respective District Senior Judge Advocate (SJA) and/or FOOSC legal office.
- (3) **The Governmental Affairs Officer** shall serve as a conduit for information between key state, local, and federal officials and the NIC, as well as provide the NIC with background on important political issues associated with the incident. The Governmental Affairs Officer will normally be selected from the staff of the Office of Congressional Affairs (CG-0921) or have governmental affairs experience. Duties of the Governmental Affairs Officer are as follows:
- (a) Coordinate actions and workload with each appropriate element of the UAC Command Staff.
  - (b) Review background information about pertinent Members of Congress, their prior relationship with the Coast Guard, and their congressional districts. Inform the NIC of congressional concerns relevant to spill response operations.
  - (c) Advise the NIC on operations, issues, and trends that might generate congressional or governmental interest.
  - (d) Establish recurring conference calls with DHS Office of Legislative Affairs (OLA), Commandant (CG-0921), and the UAC action officer(s) to coordinate responsibilities and activities.

- (e) Make initial contact and develop a relationship with congressional staff. Arrange initial calls from NIC (or appropriate senior leadership) to affected members.
  - (f) Establish contact and coordinate with the legislative affairs offices of other departments and agencies involved in the incident in conjunction with Commandant (CG-0921).
  - (g) Provide congressional offices with materials and information for their constituents. Coordinate and/or conduct congressional briefings/office visits.
  - (h) Manage communication with congressional offices; keep them up to date on response operations. Develop tailored distribution lists for passing information to affected committee and member staffs. If needed, establish recurring conference calls between Commandant (CG-0921), DHS Office of Legislative Affairs (OLA), and pertinent congressional staff. Ensure the NIC is passing information quickly, clearly, and consistently.
  - (i) Manage communication with local, tribal, state and federal government offices in conjunction with the UAC Legislative Affairs Officer(s). Brief officials as needed.
  - (j) Facilitate timely responses to Congressional inquiries.
  - (k) Plan and facilitate Very Important Person (VIP) visits. Manage all logistical details in coordination with supporting component offices. Ensure Commandant (CG-0921) has approved trip itineraries prior to finalizing the schedule.
  - (l) Refer legislative/appropriations inquiries to Commandant (CG-0921).
- (4) **The Public Affairs Officer** shall serve as a conduit of information between the NIC and the national media. The Public Affairs Officer will normally be selected from the staff of Commandant (CG-0922) or have a public affairs background. Duties of the Public Affairs Officer are as follows:
- (a) Provide guidance and expertise to the NIC on the release of strategic messages and other information to the media.
  - (b) Provide media, messaging, and communication support to the NIC.
  - (c) Advise the NIC concerning response operations, issues, and trends that might generate media interest.
  - (d) Coordinate the release of information with the NIC and UAC Legislative Affairs Officer(s). If possible, arrange for congressional members/staff and DHS leadership to receive information before releasing it to the media.
  - (e) Arrange and facilitate press briefings. Coordinate the handling of national media with DHS Public Affairs and Commandant (CG-0922). Schedule appropriate personnel to conduct interviews.
  - (f) Prepare and provide relevant materials (press kits) for the media emphasizing strategic messages. Ensure the NIC is passing information quickly, clearly, and consistently.
  - (g) Respond to media requests. Draft press responses and coordinate release with Commandant (CG-0922) and the DHS Office of Public Affairs (OPA) as per the CG Public Affairs Manual, COMDTINST M5728.2D, and the National Response

Framework. Utilize support from Commandant (CG-0922) and DHS OPA to handle large volumes of requests.

- (h) Monitor media stories, pieces, and releases. Brief the NIC on all materiel that may affect the incident.
- (i) Manage the response to sensitive or potentially controversial information.
- (5) **The NIC Planning Section Chief (PSC)** shall develop a battle rhythm for the NIC and the NIC Assist Team members that support the UAC planning cycle.
- (6) **The NIC Situation Unit Leader** shall:
  - (a) Compile and display incident status information from the NIC Field Observer(s).
  - (b) Enter input for Spot Reports (SPOTREPs) and Blue Force Updates into HSIN's Common Operating Picture (COP).
- (7) **The NIC Field Observer** is a liaison to the UAC planning section to facilitate information flow between the UAC(s) and the NIC.
- (8) **The NIC Resource Unit Leader** shall:
  - (a) Help coordinate national level resources.
  - (b) Determine the need for specialized equipment.
  - (c) Track the location of all NIC Assist Team members and equipment and maintain a roster for the NIC Assist Team member contact information and points of contact.
- (9) **The Marine Environmental Response (MER) Technical Specialist** will provide experienced technical support to the NIC on environmental issues and shall:
  - (a) Confer with the NIC and provide subject matter expertise on marine environmental response issues.
  - (b) Coordinate with internal and external stakeholders as the NRT liaison.
  - (c) In conjunction with the Planning Section, manage collection and analysis of marine environmental response data from the UAC(s) to the NIC.
- (10) **The Scientific Support Technical Specialist** will help interpret the trajectory and spill information and provide technical expertise on over-flight and Shoreline Cleanup Assessment Team (SCAT) data.
- (11) **The NIC Documentation Unit Leader** will serve as a recorder and historic document custodian for the NIC and NIC Assist Team. They shall:
  - (a) Facilitate the collection, evaluation, and dissemination of information about the incident.
  - (b) Serve as the primary collector for after-action issues and ISPR recorder if directed by the Commandant.
  - (c) Establish location without public access (e.g. Homeport) to post all documents for the NIC Assist Team and as a historic reference.
  - (d) Draft meeting minutes for routing through the NIC Deputy.



- (12) **The NIC Logistics Section Chief** shall: (a) Communicate and coordinate logistical requirements with LANTAREA/future OPCOM and PACAREA/FORCECOM for the NIC and NIC Assist Team members. (b) Work with the NIC PSC and MER Technical Specialist to facilitate any NRT requests for assistance.
- (13) **The Travel Support Unit Leader** shall:
  - (a) Coordinate NIC Assist Team movements with the Deputy.
  - (b) Work with the planning staff to make flight reservations and reserve hotel rooms for the NIC Assist Team.
  - (c) Follow government travel card rules and regulations.
- (14) **The Information Technology (IT) Unit Leader** shall:
  - (a) Set up the NIC go-kit. The go-kit will consist of portable computers, projectors, printers, screens, whiteboards, and surge protectors/extension cords.
  - (b) Establish and maintain Video Telephone Conference (VTC) and Secure Video Telephone Conference (SVTC) capability in support of the NIC Assist Team.
  - (c) Establish internet and phone capabilities as needed for NIC Assist Team members to maximize connectivity.
  - (d) Suggest and provide IT solutions to enhance interoperability and facilitate communications. Establish management, operational, and technical controls on the IT systems supporting the incident response.
  - (e) Establish and maintain HSIN and COP connectivity.
- (16) **The NIC Finance and Administrative Section Chief** will coordinate tasking from the Documentation Unit Leader and Procurement Unit Leader to track NIC Assist Team costs.
- (17) **The NIC Procurement Unit Leader** will purchase equipment for the NIC and NIC Assist Team only.
- (18) **The Cost Unit Leader** is responsible for collecting overall response cost data and performing cost effectiveness analysis.

10. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. This action is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act (NEPA) of 1969. The proposed action has been reviewed by the USCG and has been determined to be categorically excluded from further environmental documentation under current USCG Categorical Exclusion #33 in accordance with COMDTINST M16475.1D, Figure 2-1.

11. TRAINING. Commandant (DCO) will develop and conduct a triennial SONS Exercise in coordination with the EPA in accordance with reference (a). Training and qualifications in Incident Area Command will be in accordance with reference (c).

12. FORMS/REPORTS. None.

BRIAN M. SALERNO  
Rear Admiral, U. S. Coast Guard  
Assistant Commandant for Marine Safety,  
Security and Stewardship

Enclosures: (1) Spill of National Significance (SONS) Classification and National Incident Commander (NIC) Designation Memorandum  
(2) The NIC Role During A SONS Response  
(3) SONS Response Policy List of Acronyms  
(4) Spill of National Significance (SONS) Response Policy Concurrent Clearance Themes with Commandant (CG-533) Responses

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

2100 2nd ST SW STOP 7363  
Washington, DC 20593-7363  
Staff Symbol: CG-533  
Phone: (202) 372-2234

16451

## MEMORANDUM

From: CG DCO

Reply to CG-53

Attn of: 2-2011

To: CCG  
Thru: VCG

Subj: SPILL OF NATIONAL SIGNIFICANCE (SONS) CLASSIFICATION AND  
NATIONAL INCIDENT COMMANDER (NIC) DESIGNATION

Ref: (a) National Oil and Hazardous Substances Pollution Contingency Plan (NCP)  
(40CFR300)  
(b) Critical Incident Communications, COMDTINST 3100.8 (series)  
(c) Spill of National Significance (SONS) Response Policy, COMDTINST 16465.1A

1. **ISSUE:** This memo requests your decision to classify incident name as a Spill of National Significance (SONS) and to designate a National Incident Commander (NIC) or retain the duty for this incident.

2. **BACKGROUND:**

a. Reference (a) defines a Spill of National Significance (SONS) as a spill that due to its severity, size, location, actual or potential impact to public health and welfare or the environment, or the necessary response effort, is so complex that it requires extraordinary coordination of federal, state, local, and responsible party resources to contain and cleanup the discharge. Some potential triggers for SONS consideration include:

- (1) The Unified Area Command(s) (UAC) requests the assistance of a NIC to communicate national level issues.
- (2) Critical Incident Communications (CIC) procedures in reference (b) are initiated due to a significant oil spill.
- (3) The worst case discharge in the Area Contingency Plan (ACP) is met or exceeded.
- (4) The oil spill is reported on a national media outlet.
- (5) The oil spill threatens or impacts an International border.
- (6) One or more UAC is established.
- (7) There is significant political interest.
- (8) The potential significant threat to environmental, cultural and economic resources.

Subj: SPILL OF NATIONAL SIGNIFICANCE (SONS )  
CLASSIFICATION AND NIC DESIGNATION

16451

3. **DISCUSSION:**

a. Reference (a) establishes that for a SONS in the coastal zone, the Commandant *may* name a NIC. Reference (c) pre-designates LANT/future OPCOM as the NIC and establishes roles and responsibilities for this position. Once named in this memo, the NIC will assume the roles and responsibilities as indicated in reference (c).

4. **RECOMMENDATION:**

a. Recommend CCG classify the incident name as a SONS.

\_\_\_\_\_

Concur Nonconcur

b. Recommend CCG name a NIC.

\_\_\_\_\_

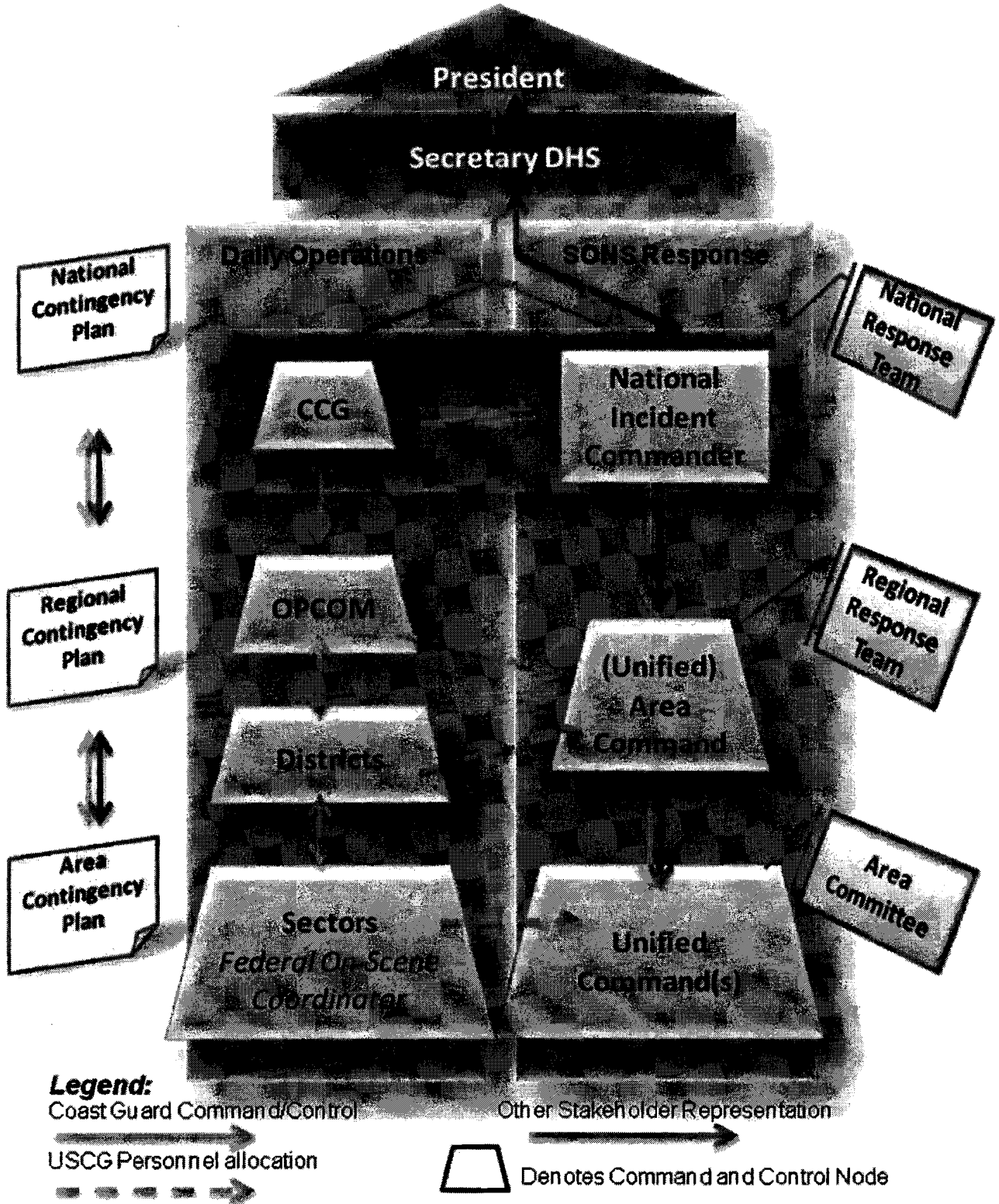
Concur Nonconcur/CCG assumes NIC roles and responsibilities.

c. \_\_\_\_\_ is named NIC and will assume the roles and responsibilities in COMDTINST 16465.1A.

#

# The NIC Role During a SONS Response

\*The Commandant may name a NIC or retain NIC responsibilities



## SONS Response Policy List of Acronyms

AAR	After Action Report
ACP	Area Contingency Plan
CERCLA	Comprehensive Environment Response Compensation and Liability Act
CG-0921	Office of Congressional Affairs
CG-0922	Office of Public Affairs
CG-094	Judge Advocate General and Chief Counsel
CG-5	Assistant Commandant for Marine Safety, Security, and Stewardship
CG-53	Director for Response Policy
CG-533	Office of Incident Management and Preparedness
CG-535	Office of Contingency Exercises
CG-54	Director of Prevention Policy
CIC	Critical Incident Communications
COP	Common Operating Picture
CPS	Contingency Planning System
DCO	Deputy Commandant for Operations
DHS	Department of Homeland Security
DRAT	District Response Advisory Team
EPA	Environmental Protection Agency
ESF	Emergency Support Function
FCO	Federal Coordinating Officer
FEMA	Federal Emergency Management Agency
FOSC	Federal On-Scene Coordinator
HSIN	Homeland Security Information Network
ICP	Incident Command Post
ISPR	Incident Specific Preparedness Review
IT	Information Technology
JFO	Joint Field Office
NCC	National Command Center
NCP	National Contingency Plan
NEPA	National Environmental Policy Act
NGO	Non-Governmental Organization
NIC	National Incident Commander
NIMS	National Incident Management System
NOC	National Operations Center
NRC	National Response Center
NRF	National Response Framework

NRT	National Response Team
NRS	National Response System
NSF	National Strike Force
OLA	Office of Legislative Affairs
OPA	Office of Public Affairs
OSC	On Scene Coordinator
OSLTF	Oil Spill Liability Trust Fund
QRC	Quick Response Card
RCP	Regional Contingency Plan
RP	Responsible Party
RRT	Regional Response Team
SCAT	Shoreline Cleanup Assessment Team
SJA	Senior Judge Advocate
SONS	Spill of National Significance
SPOTREP	Spot Report
SVTC	Secure Video Telephone Conference
UAC	Unified Area Command
UC	Unified Command
VIP	Very Important Person
VTC	Video Telephone Conference

**Spill of National Significance (SONS) Response Policy**  
**Concurrent Clearance Comment Themes with Commandant (CG-533) Responses**  
*December 23, 2009*

**1. What is the need for a National Incident Commander (NIC) when the National Response Framework (NRF) created a Principal Federal Official (PFO) position?**

A gap analysis was conducted recently that considered the 1994 National Oil and Hazardous Substances Pollution Contingency Plan (NCP) revision, the all-hazards NRF, and internal CG modernization plans. This analysis verified the need for a unique multi-agency oil and hazardous substance NIC that fills the gap between the strategic National Response System described in the NCP (40 CFR 300) and the organic unilateral operational commands during a SONS.

The Preamble to the National Contingency Plan (NCP) revisions explains this functional need as a “strategic management framework (led by a senior administration official) designed to assist the OSC in dealing with resource administration, government coordination, public relations, and communications for a Spill of National Significance (SONS).” “This (senior administration) official will **simply fill the role** of the OSC for **specific, limited activities** related to **communications and coordination at the national level.**” (59 FR 47416, September 15, 1994).

The following lessons learned from SONS exercises combined with numerous examples of NIC functions filled by CG Admirals (T/V Exxon Valdez, Hurricane Katrina, M/V COSCO BUSAN, T/V ATHOS I) over the last 16 years affirmed the need for a NIC during a rare catastrophic coastal zone oil spill or hazardous substance release:

- SONS 1997 exercise showed that there is a need for the NIC to, “act as a central media hub and conduct 3-4 press conferences per day.”
- SONS 1998 exercise evaluators thought NIC communications, “with Washington D.C. officials were very effective in communicating incident status.”
- SONS 2002 exercise determined, “the USCG should incorporate specifics on how a NIC should manage the strategic oversight of a SONS response into a standard operating procedures manual.”
- SONS 2004 exercise determined that “a NIC instruction should be developed that clearly defines the roles and responsibilities at the NIC level of coordination.”

Lastly, the PFO position, although modeled after the NIC, is not a firm position and is controlled by an all-hazards DHS authority instead of the authority granted directly to the Commandant for a SONS under 40 CFR 300.323.

**2. Reviewers were confused by the roles and responsibilities of the NIC in this new policy as compared with what they were used to seeing in current Regional Incident Command and National Incident Command guidance and past SONS policy that focused on Unified Area Command (UAC). Also, the role of ESF #10 in a Joint Field Office (JFO) added to their confusion.**

The NIC was intended to serve as the link between the President, the Secretary, and the Commandant of the Coast Guard with all stakeholders in a catastrophic spill event. The NIC will maintain and communicate strategic level situational awareness. The NIC will also



strategically coordinate the acquisition of resources from other agencies at the national and international levels.

Past guidance that equated the NIC to a UAC was incorrectly linking NIC functions with operational roles. This was most likely due to need for UAC guidance that is now available in NIMS ICS policy.

Lastly, it is assumed that there would not be a JFO unless a Stafford Act declaration is made due to a multi-hazard response requiring a broad spectrum PFO instead of a NIC. In this case, oil and hazardous substance response coordination and communication would fall under ESF #10 in conjunction with the other ESFs.

**3. Reviewers had a hard time conceptualizing the chain of command with respect to S1, NOC, NRCC, RRCC, JFO, OPCOM, NRT, JFO, CCG, NCC, and CG-533.**

The role of the NIC represents the S1 / Commandant positions but focused on the SONS incident.

- Organic operations chain of command:

White House > National Security Staff > S1 > CCG > *Operational*  
OPCOM > District > Sector

- SONS incident specific organization:

White House > National Security Staff > NIC > *Operational*  
UAC > UC(s)

**4. Reviewers believe OPCOM should be pre-designated as the NIC in this policy.**

The NCP authorizes the Commandant to name a NIC. Organically, the Commandant functions as the NIC for all spills. Pre-designating the CG OPCOM as the NIC is a good option. It embraces Modernization and helps define OPCOM's strategic role. CG OPCOM has sufficient senior staff to lead CG operations if/when NIC duties require OPCOM's full attention. OPCOM is relatively close to DC for in-person congressional or department meetings. Otherwise, OPCOM has a full suite of communications equipment to facilitate virtual meetings with the NRT, UAC, and HQ staff.

**5. Reviewers felt that FOSC authority guidance that was included in previous SONS policies should be included in this policy update.**

FOSC authority is outside the scope of the SONS Response policy but can be found in operational guidance found in 40 CFR 300. However, for purposes of discussion, it is important to note that the FOSC is the only one with the funding/authority/responsibility to direct operations. The FOSC is not automatically linked to the UC but the FOSC shifts there quickly during an oil spill or hazardous substance release. All plans should identify how FOSC authority would shift laterally or vertically when needed. The head of the operational command should be the FOSC.

**6. Reviewers were concerned with what was perceived as a “new third tier” command structure at the national level.**

This policy is written based a non-Stafford Act event. A non-Stafford Act incident assumes there will not be JFOs (functionality represented by the UAC), no PFO, and the RRCC will be limited to normal daily operations.

The NIC Assist team is established to support the NIC logistically with subject matter experts as needed. This team is focused on strategic level planning and coordination and not on operational tactics. This is highlighted with the absence of an operations section in the assist team.

**7. Reviewers felt the SONS classification indicator list did not represent realistic possibilities. Specifically, the possibility for multiple UACs seemed unrealistic.**

NIMS ICS allows for the flexibility that may lead to multiple UACs. This policy acknowledges this possibility and that this situation would indicate a response that there is the need for a NIC functionally. It might help to see the list of indicators as conditions that present a functional need for a NIC.

**8. Reviewers corrected a statement that each RRT Co-Chair position is filled by the District Commander.**

We will change this wording to more accurately represent the NCP’s more generalized direction that, “representatives from the EPA and Coast Guard shall co-chair RRTs except when the RRT is activated. When the RRT is activated for response actions, the chair shall be the member agency providing the OSC/RPM.”

**9. Reviewers were unclear about the practical application of the NIC’s national resource coordination role?**

Part of the NIC’s role is to strategically coordinate the acquisition of resources from other agencies at the national and international levels. They will coordinate this with the National Response Team’s 16 member agencies and leverage them when necessary.

**10. Some reviewers wanted to add subject matter expert positions under the planning section for the NIC Assist Team (e.g. Marine Transportation System Tech Specialist)**

The positions in the NIC Assist Team listed in the policy are the most likely positions that will be filled in the event of a SONS. However, as the NIC organization is compliant with and based on NIMS ICS, the organization can be expanded or contracted as required. Additional positions can be filled based on incident specifics.

**11. Reviewers familiar with Incident Typing thought the SONS policy should refer to these types when referring to staffing and training for a SONS.**

Incident typing will be defined in future NIMS ICS policy. The SONS NIC specific national level strategic role is not addressed in the current typing approach.

DEPARTMENT OF  
HOMELAND  
SECURITY  
U. S. COAST GUARD  
CG-4229 (Rev. 3-03)

# DIGEST

APPROVAL:

SIGNATURE:

INFORMATION:

From: CG-533

To: DCO

Thru: CG-53  
CG-5

Subj: Recommendation for Spill of National Significance (SONS) Classification and Designation of a National Incident Commander

1. Enclosed for your endorsement is a CCG Decision Memo that proposes to declare the current DEEPWATER HORIZON spill a Spill of National Significance (SONS) and to designate a National Incident Commander, in accordance with the National Oil and Hazardous Substance Contingency Plan, existing SONS policy, and the draft COMDTINST 14645.1A (as exercised in SONS 2010).

2. As of 0600 on 28 April 2010, the DEEPWATER HORIZON spill has produced a 60x100 mile oil slick on the waters of the Gulf of Mexico, threatening near shore and onshore environments from New Orleans, LA to Pensacola, Florida. Oil continues to discharge from the leaking well, 5,000 feet below the surface, at an estimated rate of 1,000 bbls/day. If final efforts to actuate blow out preventers fail, the discharge is projected to continue for 45 to 90 days. Local, regional, and national media, political and public interest is high and is expected to be sustained until the spill situation is effectively mitigated.

3. Currently, the Commandant and S-1 are jointly performing the role and functions envisioned for the National Incident Commander in existing and draft policy. At best, they will be able to continue this daily optempo demanded by the incident for several more days. However, while the demand load will remain high, both the S-1 and Commandant will need to divert their attention back to the day-to-day demands of running the Department and the Coast Guard. Therefore, a NIC, and a NIC support team should be stood up to sustain high level, strategic interaction with the following: other Departments and Agencies with roles and responsibilities; Congress; our International partners; private sector; and National level environmental and other non-governmental organizations that have a stake in this incident. By establishing the NIC to engage at the strategic level, we will reduce the burden on the Unified Area Command, the Federal On-Scene Coordinator, and Commander, Atlantic Area, in managing and directing their operational and tactical functions for this spill.

4. POC is Mr. [REDACTED] of my staff at [REDACTED] 6 (6)

SIGNER'S COMMENTS

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

2100 2nd ST SW STOP 7363  
Washington, DC 20593-7363  
Staff Symbol: CG-633  
Phone: [REDACTED] b(6)

16451  
29 Apr 2010

## MEMORANDUM

From: *[Signature]*  
ECC

Reply to: CG-53  
Attn of: RADM Zukunft  
[REDACTED] b(6)

To: Distribution

Subj: SPILL OF NATIONAL SIGNIFICANCE (SONS) CLASSIFICATION

Ref: (a) National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300)  
(b) Critical Incident Communications, COMDTINST 3100.8 (series)  
(c) Spill of National Significance (SONS) Response Management Policy, COMDTINST 16465.1A (DRAFT)

1. Pursuant to 40 CFR 300.323, I have classified the continuous release of crude oil from the Mobile Offshore Drilling Unit DEEPWATER HORIZON occurring at Mississippi Canyon Block 252, about 52 miles southeast of Venice, Louisiana, as a Spill of National Significance.

#

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

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JANUARY 23 2007  
COMDTPUB P167004A  
NVIC 01-07

NAVIGATION AND VESSEL INSPECTION CIRCULAR (NVIC) 01-07

Subj: GUIDANCE ON VESSEL AND FACILITY RESPONSE PLANS IN RELATION TO OIL SPILL REMOVAL ORGANIZATION (OSRO) RESOURCE MOVEMENTS DURING SIGNIFICANT POLLUTION EVENTS

1. PURPOSE. This document provides guidance to Coast Guard units, vessel and facility plan holders, Oil Spill Removal Organizations (OSROs), and other members of the public in connection with spill removal resource movements after an oil spill associated with a significant pollution event such as a Spill of National Significance (SONS) or an Incident of National Significance (INS).
2. DIRECTIVES AFFECTED. None
3. ACTION.
  - a. Captains of the Port (COTPs) and Officers in Charge, Marine Inspection (OCMIs) are encouraged to bring this guidance to the attention of the maritime industry within their area of responsibility.
  - b. This NVIC is available on the World Wide Web at [www.uscg.mil/hq/g-m/nvic/](http://www.uscg.mil/hq/g-m/nvic/). Within the Coast Guard, it will be distributed by electronic means only.

DISTRIBUTION - SDL No.139

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NON-STANDARD DISTRIBUTION: (See page 6)

## NAVIGATION AND VESSEL INSPECTION CIRCULAR 01-07

### 4. BACKGROUND.

a. A major feature of the National Response System under the Federal Water Pollution Control Act (FWPCA) is the requirement that owners or operators of certain facilities and vessels have approved response plans that identify and ensure the availability of personnel and equipment, by contract or other approved means, to remove to the maximum extent practicable a worse case discharge or to mitigate or prevent a substantial threat of such a discharge.

b. Following Hurricanes Katrina and Rita, vessel owners were concerned whether they would be in compliance with statutory and regulatory oil spill response plan requirements if they were to remain in operation while contracted OSROs were responding to spills and thus unable to provide full coverage to meet Average Most Probable Discharge (AMPD), Maximum Most Probable Discharge (MMPD) and Worst Case Discharge (WCD) provisions of their vessel response plans. Some vessel owners and operators took the position that continuing to conduct operations was an unacceptable risk and began to cease operations. This threatened to reduce critical petroleum transportation in the Gulf of Mexico; a significant national concern.

c. Based on concerns over limited OSRO ability to fulfill pre-existing spill response agreements after Hurricanes Katrina and Rita, vessel owners submitted to the Coast Guard requests for relief from response plan requirements. In response, the Coast Guard accepted temporary amendments to vessel response plans. Following the emergency, a Coast Guard-Industry workgroup was established to review lessons learned and to explore ways to improve the process for approving departures from established plans during extra-ordinary circumstances.

### 5. DISCUSSION.

a. General. The FWPCA requires that a response plan "identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge," (33 USC § 1321(j)(5)(D)(iii)). When response plan requirements were implemented as mandated by the Oil Pollution Act of 1990, the final rule established three levels of response coverage to address the FWPCA statute. Specific response resources and arrival times for worst case discharge (WCD), maximum most probable discharge (MMPD) and average most probable discharge (AMPD) scenarios were promulgated in 33 CFR § 154 Subpart F (Facilities) and § 155 Subpart D (Tank Vessels). Owners or operators of vessels and facilities are required to ensure to the Coast Guard, by contract or other approved means, the availability of WCD, MMPD and AMPD response resources. In the event of a significant national or regional pollution incident, these planned for response resources may be deployed away from the COTP zone in which they are normally assigned. Depending upon how these response resources are relied upon by planholders, (WCD, MMPD or

## NAVIGATION AND VESSEL INSPECTION CIRCULAR 01-07

AMPD) there are important planning distinctions that should be understood by all and which are discussed below. As experienced with the aftermath of Hurricanes Katrina and Rita in the summer and fall of 2005, the maritime industry may experience problems with the "availability" of these response resources. The Coast Guard is committed to taking a flexible approach to compliance in these circumstances that will enable commerce to continue, while meeting the mandates of OPA 90. Considerations in exercising flexibility include:

- i. **Planning vs. Performance Standards.** A plan holder must ensure by contract or other approved means that response resources are available to respond, however, the response criteria specified in the regulations (*e.g.*, quantities of response resources and their arrival times) are planning criteria, not performance standards, and are based on assumptions that may not exist during an actual oil spill incident, 33 CFR § 154.1010 and 155.1010. Compliance with the regulations is based upon whether a covered response plan ensures that adequate response resources are available, not on whether the actual performance of those response resources after a spill meets specified arrival times or other planning criteria. Failure to meet specified criteria during an actual spill response does not necessarily mean that the planning requirements of the FWPCA and regulations were not met. The Coast Guard will exercise its enforcement discretion in light of all facts and circumstances.
  - ii. **Federal Direction and Monitoring.** In certain circumstances, the Coast Guard may assist in the allocation of response resources to multiple discharges or threatened discharges. The FWPCA specifically authorizes the President to remove or arrange for the removal of a discharge and direct or monitor all Federal, State and private actions to remove a discharge (33 USC § 1321(c)(1)(B)).
  - iii. **Exemptions Authorized.** If warranted, the U.S. Coast Guard will give consideration to requests for temporary exemptions from specific response plan requirements on a case-by-case basis as authorized by 33 CFR § 154.108 and § 155.130 where:
    - a. compliance with a specific requirement is economically or physically impractical;
    - b. no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of protection from pollution; and
    - c. the likelihood of discharges occurring as a result of the exemption is minimal.
- b. **Worst Case Discharge (WCD).** A WCD is defined as, "a discharge in adverse weather conditions of a vessel's entire oil cargo (33 CFR § 155.1020) or the largest foreseeable discharge of a facility in adverse weather conditions (33 CFR § 154.1029). The WCD planning requirement set forth in the FWPCA and implementing regulations states that a response plan must "identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge" (33 USC § 1321(j)(5)(D)(iii), 33 CFR § 155.1050(f), and § 155.1052).

## NAVIGATION AND VESSEL INSPECTION CIRCULAR 01-07

- i. **Availability.** There is no requirement that the equipment identified in a response plan to respond to a worst case discharge must remain within the specific Captain of the Port (COTP) Area as specified in the response plan. However, the resources necessary to respond to a worst case discharge must be available to meet the response times for the applicable geographic area(s), unless exempted under 33 CFR § 154.108 and § 155.130.
  - ii. **Short Notice Plan Amendments.** During response operations associated with significant pollution events such as a SONS or INS, the Coast Guard may consider requests for WCD requirement relief similar to those provided following Hurricanes Katrina and Rita (described above). Specifically, that the U.S. Coast Guard facilitated temporary amendments to response plans without applying the 30 day advance submission requirement of 33 CFR § 155.1070(d) or § 154.1065(b), provided proposed amendments were submitted in writing.
  - iii. **Secondary or Cascading<sup>1</sup> Resources.** If planned-for WCD response resources are not available, or have traveled beyond the required response times, secondary or cascading resources may be relied upon if approved by the Coast Guard. This may mean compliance with any one of the alternatives provided within the definition of contract or other approved means. (33 CFR § 154.1028 and § 155.1020). The WCD planning requirement may be met through a number of means as referenced above, and the Coast Guard will exercise discretion in implementation and enforcement of the requirements commensurate with the circumstances (as it did following Hurricanes Katrina and Rita). There are permissible alternatives to signing formal contracts with OSROs (33 CFR § 154.1028 and § 155.1020). As long as: the required response equipment has been readily identified; the resource provider has agreed and intends to commit its resources in the event of a response; the availability of these response resources can be verified by the Coast Guard; and the agreement is referenced in the response plan. The Coast Guard may deem such an arrangement to be consistent with the FWPCA language “other means approved by the President” (58 FR 7376, 5 February 1993).
- c. **Maximum Most Probable Discharge (MMPD).** For a vessel, MMPD means, “a discharge of 2,500 bbls of oil for vessels with a cargo capacity equal to or greater than 25,000 bbls or 10 percent of the cargo capacity, (33 CFR § 155.1020). For facilities, MMPD means, “a discharge of the lesser of 1,200 bbls or 10 percent of the volume of a worst case discharge (33 CFR § 154.1020). The MMPD planning requirement set forth in the regulations states that the owner or operator of a vessel or facility must identify in the response plan and ensure the availability of, through contract or other approved means, the response resources necessary to respond to a discharge up to a vessel or facility’s MMPD.
- i. **Required COTP Notification for Vessels.** During the rulemaking establishing the implementing regulations for vessel response plans, “[t]hirty-five comments were submitted concerned with the vessel owner’s or operator’s potential liability if the

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<sup>1</sup> A “cascade” plan contains an OSRO’s strategy to meet planning arrival times and the availability of response resources for dependent plan holders due to the deployment of response resources.



## NAVIGATION AND VESSEL INSPECTION CIRCULAR 01-07

Coast Guard “directed” response resources to another spill.” In response to those comments, the preamble explained that required [WCD] resources must be capable of meeting the planned arrival times, but may be located in an adjacent COTP zone. It noted that, as to the lesser regulatory “maximum most probable discharge” planning requirements under 33 CFR § 155.1050(e), the COTP must be notified when response resources are not capable of meeting planned arrival times. If the COTP is notified, a response plan will remain valid and the Coast Guard will not require a plan holder to identify alternate sources of MMPD spill response capability within their plan, but cautioned that:

*“...it may be prudent for a vessel owner or operator to plan for alternate sources of spill response capability with a response resource identified in the plan. We cannot exclude owners or operators from their statutory responsibility to clean up a spill or from potential liability if their identified resources are unavailable.”* (58 FR 7376, 5 February 1993).

- ii. Facilities. The COTP may determine that mobilizing MMPD response resources to an area beyond the response times required invalidates the response plan. In this event, the COTP may impose additional operational restrictions (e.g., limitations on the number of transfers at a facility) or, at the COTP’s discretion, may operate with temporarily modified response plan development and evaluation criteria (e.g., modified response times, alternate response resources, etc.), 33 CFR § 154.1045(d)(4).
- d. Average Most Probable Discharge (AMPD). For a vessel, AMPD means “the lesser of 50 bbls of oil or 1 percent of the cargo from the vessel during cargo transfer operations to or from the vessel.” For a facility, AMPD means “a discharge of the lesser of 50 bbls or 1 percent of the volume of the worst case discharge.” (33 CFR § 154.1020 and § 155.1020). The AMPD planning regulations set forth planning standards for the owner or operator of a vessel or facility to meet response times and to ensure the availability of, through contract or other approved means, the response resources necessary to respond to a discharge up to a vessel or facility’s AMPD.
- i. Different by Design. For vessels and facilities, as opposed to the required WCD or MMPD coverages, AMPD coverage is normally arranged for just prior to when a cargo transfer is taking place. For vessels, the regulations allow for the switching of an AMPD provider on a case-by-case basis without formal notification to the Coast Guard (33 CFR § 155.1070(c)(5)). For facilities, a formal COTP notification and response plan amendment is required when changing AMPD providers. When routine AMPD response resources are moved in response to a significant spill event, it is anticipated that plan holders identify and ensure by contract or other approved means, alternate AMPD resource providers.
  - ii. Possible Exemptions. During response operations associated with significant pollution events such as a SONS or INS, the Coast Guard may consider requests for AMPD requirement relief similar to those provided following Hurricanes Katrina and

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Rita, assuming that local AMPD response resources are not available. Specifically, the U.S. Coast Guard would consider requests for temporary exemptions from equipment and response time requirements as authorized by 33 CFR § 154.108 and § 155.130, provided proposed amendments were submitted in writing (See paragraph 5.a.iii on this NVIC).

- e. **OSRO Availability.** The Coast Guard expects that OSRO will honor their contracts or commitments to plan holders. In general, most OSROs we communicated with indicated they would do this by calling on additional response resources or strategically moving their own resources from other locations. As noted above, the Coast Guard intends to allow the flexibility to substitute planned resources with equivalent capability, in exigent circumstances.
- f. **Action Based Process for Response Plan Stakeholders.** Enclosure 1 to this NVIC provides an action based process guide for response stakeholders to follow after a significant pollution incident has occurred. In particular, this guide provides the Coast Guard, plan holders and OSROs with information for ensuring the availability of response resources after a SONS or INS despite the fact that a respective OSRO may dispatch a large amount of response resources to a discharge for one of its plan holders.
6. **DISCLAIMER.** This document provides guidance to Coast Guard units, vessel and facility plan holders, OSROs, and other members of the public in connection with spill removal resource movements after an oil spill associated with a significant pollution event. The guidance is not a substitute for applicable legal requirements nor is it a regulation. It is not intended to and does not impose legally binding requirements on the Coast Guard or any other entity.

  
C. E. BONE

Rear Admiral, U.S. Coast Guard  
Assistant Commandant for Prevention

Encl: (1) Action Based Process Guidance for Response Plans following a SONS or INS.

**Non-Standard Distribution:**

- D:1 CG Liaison Officer COMSC (Code N-7)  
CG Liaison Officer RSPA (DHM-22)  
CG Liaison Officer American Samoa  
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MARAD (MAR-630) (5)  
NOAA Fleet Inspector (1)  
World Maritime University (2)  
CG Liaison, U.S. Merchant Marine Academy, Kings Point, NY (1)

**Action Based Process for Response Plan Stakeholders  
during Significant Pollution Events**

The following establishes a recommended process for response plan stakeholders to evaluate the state of oil spill response resources during and after a significant pollution event.

<p><b>Stage 1</b>  A Significant Oil Spill has occurred</p>	<p>This process becomes applicable upon declaration of a major spill, Spill of National Significance or an Incident of National Significance as deemed so by the Commandant of the Coast Guard. It is anticipated that numerous response resources will be called in to respond to a SONS or INS.</p>
<p><b>Stage 2</b>  OSROs and plan holders assess ability to maintain Response Plan Coverages</p>	<p>Based upon the movement of a large amount of OSRO equipment in response to a SONS or INS, it is recognized that this movement has the potential to have significant impact on vessel or facility response plan compliance to ensure the availability of response resources to respond to an average most probable, maximum most probable or a worst-case discharge. In order to maintain the necessary response coverage, it is anticipated that OSROs will strategically position response resources or backfill departed response equipment to maintain the necessary coverage. If these actions are not taken, it is anticipated that response plan holders will be immediately notified accordingly that their planned resources are no longer available.</p>
<p><b>Stage 3</b>  OSROs Communicate Significant Changes to Response Resource Capabilities to USCG</p>	<p>The 2003 OSRO Classification Guidelines provides that OSROs are to report any significant changes to their response resource capabilities to the National Strike Force Coordinating Center (NSFCC) and local Coast Guard Captain of the Port (COTP) within 72 hours. The OSRO Classification Guidelines are available at: <a href="http://www.uscg.mil/hq/nswfweb/nsfcc/ops/OSRODoc/FinalOSROGuidelines.pdf">www.uscg.mil/hq/nswfweb/nsfcc/ops/OSRODoc/FinalOSROGuidelines.pdf</a> Significant changes are defined in the OSRO Classification Guidelines as “a reduction in the OSRO’s classified capacity by a factor of 10% or greater, for a period of 48 hours or longer.”</p>
<p><b>Stage 4</b>  USCG Assessment of OSRO Response Coverages</p>	<p>Upon receipt of an OSRO’s cascade plan or response resources assessment, USCG National Strike Force Coordination Center (NSFCC) will review the “significant changes” within 24 hours of receiving the plan and evaluate the level of other OSRO resources remaining in the impacted COTP zones. NSFCC will provide a written report detailing gaps in local COTP, regional and national response coverage to the OSRO, applicable COTP zones and USCG Headquarters (CG-3P &amp; CG-3R).</p>
<p><b>Stage 5</b>  Management of Response Plan Compliance Issues</p>	<p>Based upon the result of OSRO notifications and NSFCC assessments, plan holders and COTPs may be faced with response plan compliance issues that may necessitate USCG assistance. Plan holder requests for relief due to OSRO and/or response equipment non-availability problems will be evaluated on a case-by-case basis.</p>

<p><b>Stage 6</b>  Coast Guard Coordination of Response Resources</p>	<p>In the absence of identified response resources, the Coast Guard may assist plan holders, through the NSFCC in identifying available response resources. In the case where a proposed alternate coverage proposal does not address the need for required response coverage and no other response resources are available in a timely manner, the Commandant may direct the movement of USCG assets and resources to provide the necessary coverage.</p>
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**Functional Assignments and Responsibilities of Stakeholders to the Process**

In support of the stages discussed above, the following action items should be followed to expedite the resolution of response plan concerns associated with OSRO movements following a SONS or INS.

**A. For OSROs:**

1. Coast Guard classified OSROs should review their inventory and response capability and report any significant changes to the Coast Guard as soon as possible.
2. Every effort should be made to backfill unavailable response resources to prevent gaps in regional and national response coverage. This may be accomplished through a variety of methods such as subcontracting or mutual aid agreements.
4. OSROs should notify all COTPs in areas where the OSRO anticipates shortfalls in meeting plan holder coverage needs.
5. OSROs should inform contracted plan holders of their abilities to meet planning requirements, particularly any shortfalls in ability to meet plan holder needs.
6. The submission of cascade plans, repositioned and/or backfilled equipment to the NSFCC is highly recommended to assist with the assessment of national response coverage following a significant oil spill response.
7. In the event that an OSRO is unable to maintain, or obtain, the required response equipment, an OSRO may develop and submit to the NSFCC, an alternative means to temporarily address plan holder response equipment needs. A copy of the submission should be provided to the COTP. Guidance on requesting alternative standards is provided in the Alternative Compliance Methods section of the OSRO Classification Guidelines at Chapter 3. Additionally, the Coast Guard will consider allowing dispersants to be used as an "alternative means." If the response resource alternative is deemed sufficient by the NSFCC and COTP, the NSFCC or COTP will provide written confirmation to the OSRO.

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8. The OSRO should inform its plan holders of any action taken by the Coast Guard on response resource alternatives.

B. For Plan Holders:

1. Plan holders should review their response plans to ensure that AMPD, MMPD, and WCD equipment is ensured available as required.
2. Plan holders may take action to replace or backfill response resources by temporarily updating their CG approved Facility (FRP) or Vessel Response Plans (VRP) as outlined in this NVIC. For example, a plan holder may potentially switch to another OSRO that has enough equipment to provide for full planning to meet AMPD, MMPD and WCD scenarios. The process to make temporary plan changes is as follows.
  - a. For Vessel Plan Holders:
    - i. For AMPD ONLY: A vessel plan holder does not need CG approval to change their AMPD OSRO (33 CFR 155.1070(c)(5)) provided that it has been ensured available by contract or other approved means.
    - ii. For MMPD/WCD: Send temporary VRP updates for Port Specific Annex changes to USCG Commandant (Command Center). The Commandant will expedite review on an immediate basis.
  - b. For Facility Response plan holders: Temporary FRP revision requests should be submitted to the cognizant COTP showing, by contract or other approved means, resources are available to respond to an oil spill (AMPD, MMPD or WCD). COTPs will expedite review on an immediate basis.
3. If the scope of a SONS or INS prevents a plan holder from utilizing an OSRO due to deployment, or prevents required resources from being fully available, a plan holder may submit a request to the cognizant COTP to use alternative response resources. A plan holder may submit to the COTP a plan for temporary alternative response planning criteria (33 CFR §154.107(a) or 33 CFR § 155.1065(f)), outlining alternative measures to respond to an AMPD, MMPD and/or WCD. If the OSRO already has an approved alternative plan, the Coast Guard will automatically temporarily amend plans and a separate notification is not required.
4. A plan holder may, in exceptional circumstances, request a temporary exemption from specific vessel response plan requirements on a case-by-case basis if warranted under 33 CFR § 154.108 or § 155.130.

5. In accordance with 33 CFR 155.1050(e)(4), a plan holder must notify the cognizant COTP whenever MMPD response resources are not capable of meeting the planned arrival times.

C. For the U.S. Coast Guard:

COTPs should:

1. Immediately inform Commandant (Command Center) via their chain of command, and the appropriate Regional Response Team (RRT), if there is a shortage of response resources in their AOR.
2. If a Facility plan holder requests a temporary plan amendment, the COTP should expedite review to within 24 hours to help facilitate commerce.
3. COTPs will review and respond in writing to:
  - a. An alternative response resource plan submitted by an OSRO.
    - i. If the COTP approves an OSRO's proposed response resource alternative, the letter will include language that grants to all of the OSRO's contracted plan holders temporary approval/amendments of their response plan. In this case, the plan holders will not need to individually request an alternative to the COTP.
    - ii. In addition to the confirmation letter, COTP will generate official message traffic indicating the temporary amendments.
  - b. A temporary alternative Facility Response Plan IAW 33 CFR 154.107(a).
  - c. A temporary alternative planning criteria revision to the Port Specific Annex of Vessel Response Plans IAW 33 CFR 155.1065(f).
  - d. A plan holder's request for an exemption as per 33 CFR § 154.108 or § 155.130.
4. COTPs are to engage Sector, District, Area and Headquarters to request the deployment of regional National Strike Force (NSF) assets and resources to provide necessary coverage when gaps in national response coverage threaten the movement and transfer of oil in the United States. If all resource availability has been explored and determined to be inadequate, COTPs may request the deployment of Coast Guard response assets such as the NSF, air and afloat platforms to provide necessary coverage. The use of these resources should only be considered if, (1) the CG is able to validate that commercial backfill of OSRO resources and alternative equipments are not available, and (2) the CG assets are available.

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USCG Districts/Areas:

1. In the event that the impact of a SONS or INS crosses COTP zones, the cognizant Districts or Area should coordinate with COTPs to provide consistency in approach where possible.
2. Notify Commandant (Command Center) immediately of any OSRO shortcoming and any actions taken.

USCG National Strike Force Coordination Center:

1. Review any significant changes to OSRO equipment capabilities and the equipment analysis, within 24 hours of receipt. Report the review findings in writing to the local COTPs, appropriate plan holder or OSRO and Commandant (Command Center). The written notification should indicate if proposed capabilities, cascade plans, response times, availability of response resources and the planning requirements for AMPD, MMPD, and WCD for the impacted or assessed areas are adequate.
2. NSFCC will also provide a status report of OSRO resources for relevant COTP zones to Commandant (Command Center). This status report will summarize response resources by OSRO name and a sense of its available resources by COTP zone.
3. NSFCC will provide their subject matter expertise as requested to COTP's/Districts/Areas/Commandant in the review of alternative response planning criteria and temporary equipment alternatives. NSFCC, as the managers of the Coast Guard OSRO classification program are highly knowledgeable in these areas and are available to provide recommendations and guidance on the adequacy of the short-term proposals to address potential risk of oil spills.

USCG Commandant:

1. Upon receipt of a request to revise a Port Specific Annex to a Vessel Response Plan (to change to an OSRO with full capabilities), CG-3PCV should expedite review with the goal of providing a written response to the plan holder within 24 hours.
2. Commandant (CG-3RPP) should make appropriate notifications to the National Response Team and Department of Homeland Security as deemed necessary.
3. If OSROs are unable to locate commercial resources to "back fill" their inventory, the USCG should verify resource availability within the impacted region and notify OSRO associations of regional response coverage voids.



Commandant (CG-3RPP and CG-3PCV) will complete this task by contacting OSROs listed in the NSFCC Response Resource Index database and other relevant organizations.

4. In the case where an OSRO's alternate coverage proposal does not address the need for required response coverage and no other response resources are available in a timely manner, the Assistant Commandant for Response (CG-3R) may direct the movement of Coast Guard response assets such as the NSF air and afloat platforms to provide the necessary coverage.
5. The Assistant Commandant for Prevention (CG-3P) will evaluate the state of WCD response plan compliance following a significant oil spill. This Commandant (CG-3P) evaluation is dependent upon the voluntary reporting by OSROs and the evaluation and assessment by the U.S. Coast Guard NSFCC. Upon notification from the NSFCC of a critical shortage of oil spill recovery resources for a given area, Commandant (CG-3P) in coordination with the respective Area Commander will assess the impacts to response plans.

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# OFFICE OF INCIDENT MANAGEMENT & PREPAREDNESS ISSUE PAPER

## Spill of National Significance and the National Incident Commander

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### Sons Definition

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- A SONS is a catastrophic release of oil or hazardous substances (e.g., the EXXON VALDEZ in 1989) that requires the sustained involvement of senior officials in assuring Congress and the public that the Government is taking all appropriate action to mitigate the adverse impacts to public health, the environment, and the economy. Any of the following conditions may lead to a SONS classification:
  - A spill of a size, magnitude and/or complexity presents significant challenges to the Coast Guard FOSC and RRT(s).
  - Local and regional resource coordination or Unified Command (UC) incident management capability is exceeded.
  - UC resource coordination capability is exceeded. Multiple Unified Incident Command Posts (ICPs) have been established.
  - One or more UAC has been established. The UAC requests the assistance of a NIC to communicate national level issues.
  - Critical Incident Communications (CIC) procedures have been implemented.
  - The worst case discharge in the Area Contingency Plan (ACP) is met or exceeded.
  - The oil spill is reported on a national media outlet.
  - The oil spill threatens or impacts an International border.
  - Significant threat to environmental, cultural and economic resources.
- The NCP recognizes that there is a need (at the national level) for "a strategic management framework (led by a senior administration official) designed to assist the FOSC in dealing with resource administration, government coordination, public relations and communications for a Spill of National Significance (SONS)". "This (senior administration) official will simply fill the role for the FOSC for specific, limited activities related to communications and coordination at the national level" (Preamble to the NCP Revisions (59 FR 47416, September 15, 1994). There is no additional funding or authority that comes with a SONS designation.

### Background

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- The National Oil and Hazardous Substance Pollution Contingency Plan (NCP) is a federal regulation that specifically tasks 16 Federal Departments and Agencies with preparing for and responding to Oil and Hazardous Substance incidents. The NCP established the roles and responsibilities of each of these agencies in performing and supporting the National Response Team (NRT), the Regional Response Team (RRT), and On-Scene Coordinator (OSC) activities. The CG and EPA were assigned to lead the NCP infrastructure. The NCP designates USCG as lead agency for all oil spill incidents occurring in the coastal zone of the United States.
- Up until the early 1990's, the NCP relied almost exclusively on its On Scene Coordinators (OSCs) to coordinate all federal, state, local and private sector efforts to respond to,

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mitigate, and recover from the adverse impacts of oil and hazardous substances discharges. The OSCs were supported by a network of RRTs and the NRT, which were charged with providing regional and national level support to an OSC depending on the size and complexity of a particular incident.

- The heads of each NCP member agency assigned their responsibilities to Divisions within Offices within Directorates of their organizations.
  - **There were no routine senior Department or Agency interactions with these activities except for administrative and budgetary oversight.**
  - There was no legislative or regulatory authority that empowered more senior levels of any of these organizations to act on behalf of the nation in the event of a catastrophic event.
  - **The OSC was vested with responsibility on behalf of, and directly from the President.**
- When the EXXON VALDEZ occurred, the OSC was a Coast Guard Commander, the Captain of the Port in Valdez, Alaska. They were the tip of the spear for all response activities under the NCP. The incident was an almost immediate national crisis. The Governor of Alaska mobilized forces, the Secretary of the Department of Transportation, Department of Interior, and several 3-star DOD officers all scrambled to or near the scene to represent the concerns of their organizations and equities in the response. Along with all of these senior government officials came the national media and national and worldwide public attention.
- Everyone was looking for that National level single point of contact, that single person who could speak with authority and reassure the nation that all that could be done was being done, while the FOSC could continue to focus on the operational and tactical priorities. What they got instead was a procession of agencies and officials, each with a piece of the response, but none with the overall picture and responsibility.
- The OSC and his small staff, the RRT and NRT were all overwhelmed from the start. While all responders were competent and experienced professionals, they had to exhaust critical hours and days just gaining the attention of the national levels of their organizations to explain the NCP and the systems in place intended to handle the incident.
- Amidst the chaos of "battle", Governors, Senators, National News Anchors, and the President of the World Wildlife Fund, could not be expected to look far enough down into the response organization to find the O-5, or to the Chairs of the RRTs or even the NRT to address their issues. As a result, they inundated the President and the Secretary of Transportation with their issues and concerns, or they assumed leadership roles for their narrow slices of the response, resulting in contending and ineffectual factions of the response effort.
- The initial perceptions of confusion as to who was in-charge and under what authority lingered long into the incident. The national impression was that there was no one in charge and that the federal government had somehow failed.
- Post EXXON VALDEZ incident analysis led to the conclusion that, in a truly catastrophic incident, "involving spills of extreme severity or size that have the potential to greatly affect the public health or welfare of the United States, extraordinary coordination ...may be required".
- The conclusion was made that there is a need (at the national level) for "a strategic management framework (led by a senior administration official) designed to assist the OSC in dealing with resource administration, government coordination, public relations and communications for a Spill of National Significance (SONS)". "This (senior

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administration) official will **simply fill the role for the OSC for specific, limited activities related to communications and coordination at the national level"** (Preamble to the NCP Revisions (59 FR 47416, September 15, 1994).

- The 1994 revision to the NCP added the authority for the EPA Administrator to name a Senior Agency Official for inland zone oil SONS and the Commandant to name a National Incident Commander (NIC) for coastal zone SONS.
- The NIC was intended to serve as the link between the President, the Secretary, and the Commandant of the Coast Guard with all stakeholders in a catastrophic spill event and will provide:
  - The confident, reassuring explanation of strategic decisions, response asset prioritizations and distributions to the effected governors, senators, administration officials, media and the public.
  - Strategic decisions related to availability and acquisition of resources from other agencies at the national and international levels.
- Ten years later, DHS recognized the same national level support needs for all incidents/hazards and designated the Secretary as Principle Federal Official (PFO) in the National Response Framework (NRF).
  - The evolution of public policy thinking related to the broader spectrum of all incident hazard response has followed a very similar path. For years, federal response support to catastrophic events was guided by the Federal Response Plan.
  - Just like the EPA and USCG in the NCP, as lead agencies under the FRP and later the NRF, DHS and FEMA maintain authority and responsibility for expending federal funds (Stafford Act instead of CERCLA/OSLTF) in an emergency to support all federal, state and local response and mitigation efforts.
  - Just like the NRT and RRT in the NCP, FEMA maintains national and regional planning bodies focused on maintaining cooperative interagency and federal state preparedness dialogue between emergencies to facilitate more efficient and effective response during emergencies.
  - Just like EPA and USCG OSCs in the NCP, FEMA has a network of Federal Coordinating Officers (FCOs) at the regional level, responsible for leading federal all incident/hazard response efforts.
  - Just like the EPA and USCG in the NCP, these FCOs are career emergency response management professionals, trained and focused on tactical response, getting the job done.
  - Just as with the EPA and USCG during the EXXON Valdez, DHS and FEMA immediately discovered at the World Trade Center, Katrina and other truly catastrophic events that, in the early days of an incident and throughout the event, the public, the media and the government all demanded a single, unified, authoritative response leader. That single individual must be instantly recognized as being empowered and possess sufficient seniority and authority to speak not only for his/her own organization, but for the entire federal government.
- The intended NIC function in spill events is equivalent to the PFO function in an all hazard event. The NIC sits at the nexus between information flowing up from the field to the National Response Team and the National Operations Center and the information flowing down from the President and the other federal agencies through the National Security Staff. The NIC's job is to ensure the integrity of these two way communications and to identify and resolve any discontinuities between the upward and downward flows.

# OFFICE OF INCIDENT MANAGEMENT & PREPAREDNESS

## ISSUE PAPER

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#### Sons Definition

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- A SONS is a catastrophic release of oil or hazardous substances (e.g., the EXXON VALDEZ in 1989) that requires the sustained involvement of senior officials in assuring Congress and the public that the Government is taking all appropriate action to mitigate the adverse impacts to public health, the environment, and the economy. Any of the following conditions may lead to a SONS classification:
  - A spill of a size, magnitude and/or complexity presents significant challenges to the Coast Guard FOSC and RRT(s).
  - Local and regional resource coordination or Unified Command (UC) incident management capability is exceeded.
  - UC resource coordination capability is exceeded. Multiple Unified Incident Command Posts (ICPs) have been established.
  - One or more Unified Area Commands (UAC) has been established. The UAC requests the assistance of a NIC to communicate national level issues.
  - Critical Incident Communications (CIC) procedures have been implemented.
  - The worst case discharge in the Area Contingency Plan (ACP) is met or exceeded.
  - The oil spill is reported on a national media outlet.
  - The oil spill threatens or impacts an International border.
  - Significant threat to environmental, cultural and economic resources.
- The NCP recognizes that there is a need (at the national level) for "a strategic management framework (led by a senior administration official) designed to assist the FOSC in dealing with resource administration, government coordination, public relations and communications for a Spill of National Significance (SONS)". "This (senior administration) official will simply fill the role for the FOSC for specific, limited activities related to communications and coordination at the national level" (Preamble to the NCP Revisions (59 FR 47416, September 15, 1994). There is no additional funding or authority that comes with a SONS designation.
- The FOSC remains in charge of and makes all operational decisions regarding the on-scene spill response.

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#### Background

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- The National Oil and Hazardous Substance Pollution Contingency Plan (NCP) is a federal regulation that specifically tasks 16 Federal Departments and Agencies with preparing for and responding to Oil and Hazardous Substance incidents. The NCP established the roles and responsibilities of each of these agencies in performing and supporting the National Response Team (NRT), the Regional Response Team (RRT), and On-Scene Coordinator (OSC) activities. The CG and EPA were assigned to lead the NCP infrastructure. The NCP designates USCG as lead agency for all oil spill incidents occurring in the coastal zone of the United States.

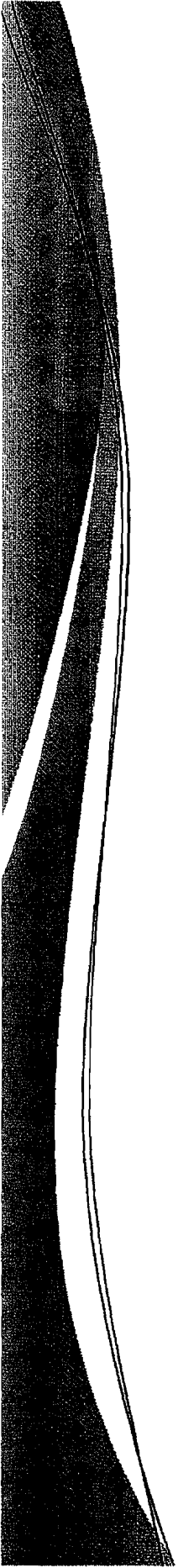
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  - The NIC was intended to serve as the link between the President, the Secretary, and the Commandant of the Coast Guard with all stakeholders in a catastrophic spill event and will provide:
    - The confident, reassuring explanation of strategic decisions, response asset prioritizations and distributions to the effected governors, senators, administration officials, media and the public.
    - Strategic decisions related to availability and acquisition of resources from other agencies at the national and international levels.
  - The NIC sits at the nexus between information flowing up from the field to the National Response Team and the National Operations Center and the information flowing down from the President and the other federal agencies through the National Security Staff. The NIC's job is to ensure the integrity of these two way communications and to identify and resolve any discontinuities between the upward and downward flows.

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### **Role of the NIC**

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- During a SONS, the NIC shall assume the following communication and coordination roles of the FOSC at the National Level:
  1. Establish briefing schedules and communicate with affected parties and the public at the national level.
    - a. Act as the primary federal spokesperson representing the multi-agency response organization for media and public communication.
    - b. Serves as the primary point of contact for the Administration, Congress and agency officials.
    - c. Ensure strategic coordination with the NRT, RRTs, governors of affected states, other government and agency executives and the Responsible Party (RP) or parties.
    - d. Maintain a common operating picture and situational awareness for the Coast Guard, DHS and NRT.
    - e. Manage and coordinate information flow vertically and horizontally with UAC(s), Joint Field Office(s), National Operations Center, NRT, RRT(s), states and territories, relevant elements of the private sector and the RP(s).
  2. Coordinates resources at a national level.
    - a. Interface with federal, state, territory, tribal and local officials regarding overall federal incident management strategy and execution.
    - b. Assist the FOSC in resolving national level policy issues such as, public safety, waterways recovery, response plan waivers, etc.
    - c. Promote collaboration and resolve federal interagency conflicts that may arise at the national level.
    - d. Monitors the deployment and application of national assets and resources in support of the FOSC and in collaboration with other senior federal officials.



# **Spill of National Significance (SONS)**


**National Incident Commander (NIC)**



# When is an oil spill a SONS?

- The National Contingency Plan (NCP) defines a SONS as a spill whose severity, size, location, actual or potential impact to public health and welfare or the environment, or the necessary response effort, is so complex that it **requires extraordinary coordination** of federal, state, local, and responsible party resources to contain and cleanup the discharge.
- If a SONS is declared, the Commandant shall assume the role of or name a NIC.





# Potential triggers for a SONS Classification

- Response organization at the CG Area/District requests the assistance of a NIC to communicate national level issues.
- Critical Incident Communications (CIC) have been initiated due to a significant oil spill.
- The worst case discharge in the Area Contingency Plan (ACP) is met or exceeded.
- The oil spill is drawing significant attention in national media outlets.
- The oil spill threatens or impacts an International border.
- One or more Unified Area Command is established.
- There is significant political interest.
- There are significant threats to environmental, cultural and economic resources.



# Procedure for classifying a spill as a SONS and designating a NIC

- COMDT has authority to classify a SONS based on the particulars of the incident
- CG NRT Vice-Chair shall notify the NRT Chair (EPA) & coordinate the transition to the role of the NRT Chair as directed in the NCP for the particular incident.
- The Office of Public Affairs (CG-0922) shall process initial information and provide public announcements.
- PACAREA/FORCECOM, as assisted by LANTAREA/future OPCOM/NRT, shall identify personnel (CG & other agency) to fill NIC Assist Team positions.

# National Response System for the

## National Contingency Plan (40 CFR 300)

### Plan

National  
Contingency  
Plan

Regional  
Contingency  
Plan

Area  
Contingency  
Plan

### National

### Regional

### Local

### Agent

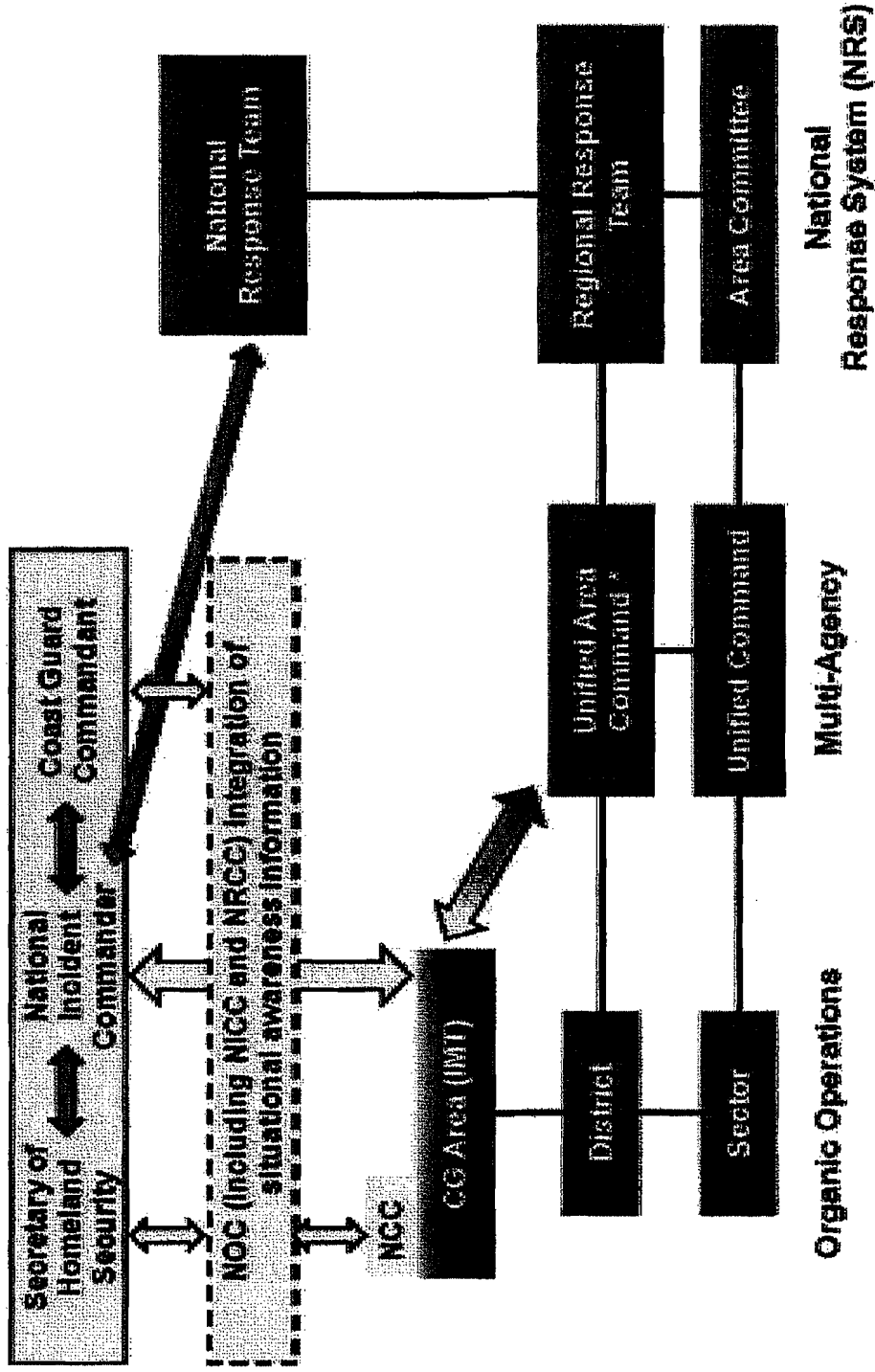
National  
Response  
Team

Regional  
Response  
Team

Federal  
On Scene  
Coordinator/Area  
Committee

# Integration into the National Response Framework

## Framework



Legend:



\* National Response Framework (NRF), if stood up (such as JFO), would connect with the UAC. 2