



9508 Dispersant Pre-Authorization

9508.1 Purpose

This Preauthorization Plan is designed to implement Subpart J of the National Contingency Plan (NCP) and implement the requirements of the Federal Water Pollution Control Act (FWPCA); see, amended, Title [33 U.S.C. Section 1321\(j\)\(4\)\(v\)](#); that the Area Contingency Plan (ACP) shall "describe the procedures to be followed for obtaining an expedited decision regarding the use of dispersants." This Plan provides preauthorization for the use of dispersants by the Coast Guard On-Scene Coordinator (FOSC). This preauthorization applies only in designated zones in the Coast Guard Captain of the Port Sector Northern New England geographic area of responsibility.

This Plan also implements Subpart J (Use of Dispersants and Other Chemicals) and Section 2 of the Standard Federal Region I Response Team Regional Oil and Hazardous Substances Pollution Contingency Plan ([RCP](#))

9508.2 Authority

FWPCA [Section 311\(d\)\(2\)\(G\)](#) requires the NCP; see, [33 U.S.C. Section 1321\(d\)\(2\)](#), include a schedule for identifying "dispersants, other chemicals, and other spill mitigating devices and substances, if any, may be used in carrying out" the NCP. These are referred to as "chemical countermeasures" and are listed on the NCP Product Schedule. The responsibility to maintain the NCP Product Schedule was delegated to the Administrator, Environmental Protection Agency, by Executive Order 12777, and is carried out under Subpart J of the NCP.

Subpart J of the NCP authorizes the Regional Response Team (RRT) representatives from EPA and the States with jurisdiction over the waters of the area to which a preauthorization plan applies, and the Department of Commerce (DOC) and Department of Interior (DOI) natural resource trustees, to approve in advance the use of certain products under specified circumstances as described in the preauthorization plan. Within the parameters of an approved pre-authorization plan, the FOSC may authorize the use of the products without obtaining the specific concurrences described above under Subpart J of the NCP.

Subpart J further provides that for spill situations that are not addressed by the preauthorization plans described previously, the FOSC, with the concurrence of the EPA representative to the RRT and the States with jurisdiction over the navigable waters threatened by the oil discharge, and in consultation with DOC and DOI natural resource trustees, may authorize the use of chemical and biological countermeasures on oil discharges; provided that such chemical and countermeasures are listed on the most current version of the [NCP Product Schedule](#).

Commandant, United States Coast Guard, has pre-designated the Coast Guard Captain of the Port Sector Northern New England as the FOSC for oil discharges in COTP Sector Northern



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New England Zone (as defined in 33 C.F.R. Part 3, and subject to joint response boundary agreements with the EPA) and has delegated to the COTP the authority and responsibility for compliance with the FWPCA.

The Legislature of the State of Maine has authorized the Commissioner of the Department of Environmental Protection (MEDEP) to designate a State Oil Spill Coordinator (SOSC), with the authority to approve the use of chemical countermeasures for the control of oil spills.

The Waste Management Division of the New Hampshire Department of Environmental Services (NHDES), under the authority of state law RSA 146A:4, assumes primary jurisdiction for response to oil spills in the state. Accordingly, the authority and responsibility for providing approval for the use of chemical countermeasures for control of oil spills rests with the State Oil Spill Coordinator designated by the Waste Management Division Director.

The US DOI and DOC/NOAA are designated Federal trustees of certain natural resources under Subpart G of the NCP and are to be consulted regarding the determination to apply dispersants to oil discharges in U.S. waters.

The Region I RRT representative from EPA, DOC/NOAA, DOI, ME DEP, and NH DES approve in advance the use of certain dispersants under specified circumstances as described in this Plan. As specified in this Plan, the FOSC, in consultation with these stakeholders, may authorize the use of these products without obtaining specific

9508.3 Scope

This preauthorization Plan is applicable to the marine waters of the COTP Sector Northern New England Zone (defined in 33 C.F.R. Part 3). These waters, for the purpose of this plan, are divided into three geographic zones and conditions under which dispersant use is preauthorized are as follows:

Zone 1: No Pre-authorization

Geographic scope:

Zone 1 is defined as waters that lie landward of the 3 nautical mile line or in a water depth of less than or equal to 10 meters (\cong 33 feet) as reflected on NOAA charts along the coast of Maine and New Hampshire.

No advance approval for Zone 1:

There is no advance or expedited approval or preauthorization for the use of dispersants within Zone 1. The use of dispersants within this zone will be authorized by the FOSC with the



concurrence of the EPA representative, concurrence of the RRT representative of the states with jurisdiction over the navigable waters threatened by the release and consultation with the DOC and DOI resource trustees, when practicable, in accordance with Subpart J of the National Contingency Plan.

Zone 2: Partial Pre-authorization

Geographic Scope:

Zone 2 is defined as waters that lie seaward of the 3 nautical mile line and landward of the 12 nautical mile line (outer boundary of the territorial sea) and in a water depth of greater than 10 meters (\cong 33 feet) as reflected on NOAA charts along the coast of Maine and New Hampshire.

Expedited approval for Zone 2:

There is expedited approval or preauthorization for the use of dispersants within Zone 2. The use of dispersants within this zone will be authorized by the FOSC in consultation with the RRT1 EPA representative, concurrence of the RRT representative of the states with jurisdiction over the navigable waters threatened by the release and in consultation with the DOC and DOI resource trustees, when practicable.

Zone 3: Pre-authorization

Geographic Scope:

Zone 3 is defined as waters that lie seaward of the 12 nautical mile line (outer boundary of the territorial sea) out to the extent of the Exclusive Economic Zone (200 mile limit) and in a water depth of greater than 10 meters (\cong 33 feet) as reflected on NOAA charts along the coast of Maine and New Hampshire.

Advance approval for Zone 3:

There is approval or preauthorization for the use of dispersants within Zone 3. The use of dispersants within this zone will be authorized by the FOSC in consultation with the RRT1 EPA representative, RRT representative of the states with jurisdiction over the navigable waters threatened by the release and with the DOC and DOI resource trustees, when practicable.

9508.4 Protocols

As attested by the approval of this Preauthorization Plan, the RRT I representatives from EPA, MEDEP, and NHDES, and the DOI and DOC/NOAA natural resource trustees, agree that the



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pre-designated FOSC has the authority and may order the use of dispersant on oil discharges using the guides found in Subpart J of the NCP, Section 2 of the Region I RCP, and this section subject to the following conditions:

The FOSC may authorize the use of dispersants on a release or discharge to prevent or substantially reduce a hazard to human life without obtaining concurrence from EPA, affected States, DOI, and DOC/NOAA, without following protocols established in this Plan, and without following the guides in the RCP and ACP. If dispersants are used in this manner, notification to EPA, affected States, DOI, and DOC/NOAA shall be made as soon as practicable. Once risk to human life has subsided, these exceptions no longer apply.

Any dispersants used must be listed on the most current version of the NCP Product Schedule.

If a decision is made by the FOSC to use dispersants, under the provisions of this Plan, the FOSC will notify key stakeholders of that decision as soon as possible. This initial notification will include, but is not limited to, the following information to the extent available:

- Type and amount of oil discharged.
- Areas affected.
- The projected area of impact of the oil if not dispersed.
- Type of chemical agent to be used.
- Application rate and method.
- On scene weather.

Whenever possible, approval for use of dispersants will be proceeded by completion of a:

- Dispersant Use Application by the Responsible Party or other applicant,
- Incident-Specific Resources at Risk form by the natural resource trustees,
- FOSC Dispersant Use Decision Checklist and
- Agency Dispersant Use Decision Document.

If dispersants are used as described in this Plan or for the protection of human life, a post incident debriefing will take place within 45 days to gather information concerning the effectiveness of the chemical agents used and whether any changes to this Plan are necessary. The results of the debrief will be included in the FOSC report.

Monitoring for dispersants application and effectiveness will be conducted. An inability to implement a Monitoring Plan in a timely manner will not revoke the FOSC's authorization to use dispersants under this Plan. However, the FOSC should make all attempts to implement a Monitoring Plan as soon as practical.



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9508.5 Amendments

A list of dispersant resources can be found in Appendix I of the Maine Department of Environmental Protection Marine Oil Spill Contingency Plan at:

<https://www1.maine.gov/dep/spills/publications/documents/contplan.pdf>

9508.6 Unified Command Dispersant Worksheet

Utilize the New England Region Oil Dispersant Authorization Guide. This document is currently under consideration by Regional Response Team 1. A draft copy is attached.

A map delineating the 3 general dispersant pre-authorizations zones follows:

Zone 1: No pre-authorization

Zone 2: Partial pre-authorization

Zone 3: Pre-authorization



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