

II. GENERAL RESPONSE PROTOCOL FOR SPILLS TO THE UPPER MISSISSIPPI RIVER

All spill incidents are unique in that the type of spill, location, time, and other environmental and human factors will vary for each incident. Since response procedures cannot be developed for every spill scenario, this protocol outlines the basic procedures that are to be used by state and federal personnel in responding to environmental and health threats presented by spills to the Upper Mississippi River (UMR). Due to the remoteness of most areas of the river, this protocol outlines the coordination which is deemed desirable by all in order to mitigate the effects of a spill.

As previously stated, this protocol is designed to be consistent with [the National Contingency Plan](#) (NCP), [National Response Framework](#) (NRF), and [National Incident Management System](#) (NIMS) – while providing additional information and direction to enhance the effectiveness of response on the UMR. In particular, while recognizing the federally-focused procedures and jurisdictions described in the [NCP](#), this UMR protocol also acknowledges that response on the River is most likely to be led initially at the local level, evolving to state or federal oversight dependent on the particular circumstances of the incident.

Notification

Spill notification and updates will be given to neighboring and downstream states and to federal agencies in accordance with the procedures outlined in the UMR Spill Notification Protocol. See Section III- Interstate Notification Protocol for details. This protocol does not override the need for spills to be reported to the [National Response Center](#), per the [NCP](#). Rather, the UMR protocol is intended to both accelerate initial communication among agencies and provide a method of ongoing communication during a response.

Initial Investigation

An initial spill report may be received by the local police or fire department, state or federal agencies, and/or the [National Response Center](#). Regardless of which agency receives the first call, the state where the spill occurs is responsible for determining if an investigation is warranted and, as needed, assuring it is initiated. The investigation may be led by the state where the spill occurred, a neighboring state, U.S. EPA, or U.S. Coast Guard, depending upon which agency is readily available or has the necessary resources. When a spill from an unknown source is discovered on the river, neighboring states will confer and agree on which state will determine the need for an investigation.

Determination of Necessary Spill Response Activities

In general, oversight and emergency response to a spill is encouraged at the most local level of government which has the necessary resources available. Moreover, a spiller or other responsible party is expected to provide all resources to complete an effective response and cleanup. However, certain incidents may justify the involvement of state and/or federal response agencies.

Factors to be considered in determining the appropriate level of effort of a response include:

- size of the spill
- type of material that is spilled

- location of the spill
- exposure/damage potential of vulnerable populations (human and environmental) and property
- willingness and ability of the spiller to respond
- cost of spill clean-up and containment compared to the effectiveness expected and the damage reduction anticipated
- availability of responding agencies capabilities
- media/political interest

An investigating state/federal agency will determine the extent of the spill and whether further response is necessary. This determination may be done by sending staff to the incident site or by receiving information via telephone reports from local police, fire, health, or environmental officials. The investigating agency will determine to the best of its ability the source of the spill, size of the spill, type of material spilled, the area affected, and the movement of the spill. The investigating agency will determine the necessary initial response and will expeditiously inform the designated coordinating state agency of its findings and actions to that point.

When a response justifies a continuing on-scene presence by a state or federal agency, an incident command system shall be established and the incident commander shall confer with the appropriate state and federal on-scene coordinators. The incident command systems established pursuant to this plan shall recognize that the pre-designated federal on-scene coordinators have ultimate authority and responsibility. See the Incident Command System Implementation Protocol in Section V for further details.

If a spill warrants it, the state or federal on-scene coordinator may request activation of the Regional Response Team(s). The degree of involvement and specific activities of the Regional Response Team(s) will be decided by their respective co-chairs.

If responsible parties are not apparent, or if the scope of the needed response is beyond their ability, or if the responsible party's response is insufficient, then the use of government funds to respond should be implemented by the incident commander and on-scene coordinators, depending upon their funding authority in a specific instance. Requests for federal assistance should be made through the states, or Native American tribes, unless the incident commander is the federal on-scene coordinator or his/her representative.

Federal On-Scene Coordinator (FOSC) Role and Jurisdiction

The federal on-scene coordinator (FOSC) directs federal response efforts and coordinates all other federal efforts at the scene of a discharge or release. The FOSC may monitor local, tribal state, or private actions to remove a discharge and may provide technical assistance to local, tribal, state or responsible party personnel.

If a response action is being conducted through local, tribal, state, or responsible party efforts, the FOSC will ensure adequate oversight. If local, tribal, or state agencies, or the responsible party cannot or will not initiate action to eliminate the threat, or if the removal is not being conducted properly, the FOSC should advise the government agency or responsible party and take appropriate actions to mitigate or remove the threat or discharge.

The FOSC can also access the [Oil Spill Liability Trust Fund](#) in cases where the responsible party has not been identified or cannot/is not immediately paying response costs. These funds can be used to reimburse other government agencies (state, local, tribal) through an FOSC-authorized [Pollution Removal Funding Authorization](#).

U.S. EPA and U.S. Coast Guard share the responsibility as pre-designated federal on-scene coordinators for the Upper Mississippi River, as follows:

- Per U.S. EPA/U.S. Coast Guard memoranda of understanding, **the Coast Guard serves as the FOSC for all commercial vessel incidents and marine transportation related facilities (MTRs), regardless of location.**
- Per the [National Contingency Plan](#), **U.S. EPA shall serve as the FOSC in all other federal responses on the UMR.** This responsibility is divided between Regions 5 and 7 as follows:
 - Region 5 will provide an FOSC for spills on the mainstem of the Upper Mississippi River totally within the State of Minnesota and where Minnesota, Wisconsin, or Illinois are the first principal responding state.
 - Region 7 will provide FOSCs for spills on the mainstem of the Upper Mississippi River when either Missouri or Iowa are the principal first responding state.

Resources permitting, the Coast Guard will investigate/respond as first federal official on-scene to all reported spills along the Upper Mississippi River. However, another federal or state agency may be the incident-specific on-scene coordinator (OSC) or first federal official on-scene.

Spill Mitigation, Containment, and Clean-up

The incident commander or on-scene coordinator will oversee spill mitigation efforts underway when he/she arrives at the scene or will initiate mitigation efforts using readily available resources. Many terminals on the river have small amounts of equipment that can be used for immediate spill containment. In addition, there are cooperation agreements among industries on several portions of the river that can provide individual facilities with access to larger quantities of spill containment and clean-up equipment. Most state and federal agencies working on the Upper Mississippi River have little or no spill containment or clean-up equipment other than the equipment of contractors under their control. See the list of available spill containment equipment on pages B-1 to B-13 of the Resource Manual for more information.

If the responsible party has assumed liability for the spill, the on-scene coordinator will work with the responsible party to mitigate the spill. If the responsible party is not known or is not willing or able to clean up the spill, the on-scene coordinator will pursue the options available to use government funds to hire a clean-up contractor. The on-scene coordinator will then direct the contractor in mitigation and clean-up efforts.

If the spill is beyond the resources of the responsible party's contractor and the local contractors, the federal on-scene coordinator may call in the Coast Guard's [National Strike Force](#). The Strike Force consists of teams that can provide communications support, advice, and assistance for oil and hazardous materials removal. The teams have expertise in ship salvage, damage control, diving, and removal techniques and methodology. They are equipped with specialized containment and removal equipment

and have rapid transportation available. The Gulf Strike Team, based in Mobile, Alabama, and the Atlantic Strike Team, based in Fort Dix, New Jersey, are the most likely Strike Force resources to be mobilized in response to a spill on the Upper Mississippi River. See the Strike Team phone numbers listed under "Additional Resources" in the notification protocol.

Spill mitigation will be conducted so as to minimize the risk to public safety and the environment. Evacuation of communities, closure of water intakes, and other public safety measures will be implemented by the appropriate local, state, or federal agency in accordance with appropriate emergency response plans. In consultation with the designated on-scene U.S. Fish and Wildlife Service or state biologist, the on-scene coordinator will attempt to protect critical fish and wildlife habitat of the river. See pages C-13 to C14 of the Resource Manual for a list of Fish and Wildlife Service contacts for each pool of the river.

Press Releases and Public Information

During an incident, it is essential that the emergency public information organization and activity be recognized as a coherent system and emergency information be released from a single point to ensure consistency and authenticity. Spill updates will be given to the media at intervals determined by the incident commander. Press releases will be coordinated with the affected local communities, states, and federal on-scene coordinator.

To facilitate dialogue with the media in an oil or hazardous material incident, the incident commander may appoint an information officer or establish a joint information center (JIC). The JIC is the single point to co-locate representatives from agencies and organizations to handle public information needs, help control rumors, and limit multiple release points for information about the incident. The JIC structure is designed to work equally well for large or small responses and can expand or contract to meet the needs of the incident. Under the Incident Command/Unified Command systems (ICS/UCS), the JIC is led by the Information Officer (IO), named by the Incident Commander. See the [National Response Team](#) (NRT) website for more information on the JIC model.

Incident Closure

Once the incident is over the on-scene coordinator (OSC) for the lead agency will send an incident closure notice to state and federal agencies with whom the OSC has engaged during the response. The on-scene coordinator may request incident reports from other agencies to provide a complete picture of the incident. When appropriate, enforcement action will be taken against the responsible party if known. If local, state, or federal agencies incurred costs due to the spill, cost recovery action will be considered. Any agency intending to initiate a cost recovery action should notify all other agencies on the notification roster as to their intent. Interested agencies can then coordinate their activities.

Critique

OSHA regulation 1910.120 provides for including a critique of a response and follow-up in an organization's emergency response plan. A critique can be a valuable tool in assessing how well a plan met the needs of responding agencies during an actual incident and can provide the basis for making important modifications and improvements to the plan.

Following an incident that results in the implementation of the UMR Spill Plan, any responding agency can request that the lead state or federal agency for the incident arrange for a critique. The lead agency will then consult with the other organizations that responded to the incident, and if the majority agrees to

participate, will proceed to make arrangements for a critique. If local agencies were involved in the response, they will also be asked to participate in the critique.

The incident commander for the particular response, whether from a local, state, or federal agency, should chair the critique. If a unified command was used for the incident, the lead officials from each level of government will decide among themselves who should chair the critique. The lead agency for the response should provide a summary of the critique to the Upper Mississippi River Hazardous Spills Coordination Group for the evaluation of changes and improvements in the UMR Spill Plan.