

## Policy on In Situ Burning and Chemical Oil Spill Treating Agents

This policy is applicable to the commercially navigable waters of the Upper Mississippi River, including backwaters, except for those areas that are covered by a Sub-Area Contingency Plan (SACP). Sub-Area Planning Committees may develop specific policies for in situ burning and other countermeasures, as long as they are consistent with local, state, and federal regulations.

Oil spill responders have a limited number of techniques available to them that will minimize environmental impacts and facilitate effective cleanup. These include mechanical methods, the use of certain chemical oil spill treating agents, and in situ burning. *All five states, local authorities, and federal agencies with jurisdiction over the Upper Mississippi River advocate the use of mechanical containment and cleanup as primary spill response methods.* These methods include the use of absorbent pads, containment boom, skimmers, and similar equipment. In general, the use of dispersants is not promoted within the boundaries of the Region 5 or Region 7 Regional Response Teams (RRTs).

### General Policy

The Federal On-scene Coordinator (FOSC) has the authority to utilize, or approve, any actions necessary to prevent, or substantially reduce, the threat to human life. This includes, but is not limited to, the use of chemical and oil spill treating agents (COSTAs) and in situ burning (ISB) (see 40 CFR 300.910(d)). The FOSC will inform the affected RRTs as well as the RRT representatives of any affected states of these actions. Other interested parties such as natural resource trustees should be informed as appropriate.

When there is no longer an immediate threat to human health and welfare, the use of COSTAs and/or ISB will be evaluated on a case by case basis, and is to be conducted in accordance with the remainder of this policy.

#### *COSTA Procedure*

For COSTAs the approving authority is the Federal On-Scene Coordinator (FOSC) when the FOSC has obtained the concurrence of both the Regional Response Team EPA co-chair and the affected state representative, and, to the maximum extent practicable, consulted with the federal natural resource trustees' representatives on the RRT (40 CFR 300.305(e) and 40 CFR 300.910(b)).

#### *ISB Procedure*

In situ burning, for the purposes of this guidance, is defined as the ignition of spilled oil that will burn due to its intrinsic properties, and does not include the adding of a separate burning agent to initiate or sustain the burn. The addition of burning agents requires the COSTA procedure approval because such agents are considered to be in the same category as COSTAs. In situ burning can be performed on the open water and near or on shore.

The use of in situ burning in these guidelines is not for disposal purposes; rather, it is a response technique to be employed when an oil slick has the potential to spread and contaminate additional areas. It is also considered as a cleanup technique for oiled shoreline habitats such as wetlands, where it is used in conjunction with other cleanup methods.

For in situ burns (ISB) on the Upper Mississippi River, the approving authority designated by this policy is the local Incident Commander (or Unified Command as applicable) and the State On-Scene Coordinator (SOSC), who may need to obtain internal permission.

- A. If the proposed burn is on a local, state, tribal, or federally owned or managed natural resource area, the concurrence of the land owner/manager must be obtained.
- B. Because state or federally listed threatened or endangered species, migratory birds, managed natural resource areas, or other natural resources could be affected, all responders and trustees share interest in timely and effective removal of spilled oil in ways that protect natural resources and the public's safety. Local incident commanders and state and federal on-scene coordinators shall consider the size, nature, and location of a spill, and the type and proximity of resources, and shall, to the maximum extent practicable, consult with state and federal, and, as appropriate, tribal, trustees before deciding to conduct in situ burning. It is the expectation of the members of the Region 5 and Region 7 RRTs that, except in extraordinary cases, a local incident commander or state or federal on-scene coordinator shall contact appropriate trustees before proceeding with any proposed in situ burn.

In addition, whenever the time available permits, the views of the FOSC should be sought and considered.

Because the time frame for making decisions regarding ISB is often very short, guidelines are included in Section F of the Resource Manual to assure that the most significant issues are considered. This decision-making methodology for burning is approved by the Upper Mississippi River Hazardous Spills Coordination Group, Region 5 Regional Response Team, and Region 7 Regional Response Team.

### **Special Policy for FOSC-Directed Burns**

In situ burns overseen by a Region 5 FOSC follow the COSTA procedure (above) as a matter of RRT policy. The Region 5 RRT has established ISB Guidelines to facilitate the approval process. Region 5 federal burns are governed by the Region 5 ISB Guidelines, the NCP, and state and local regulations. Burns overseen by an SOSOC or other parties in Region 5 must be in compliance with state and local regulations. Note that the Region 5 ISB Guidelines do not grant pre-approval to conduct an in situ burn. Rather, they are intended to provide consistent guidance throughout the region to facilitate decision-making on whether or not to conduct a burn during a spill incident.

Region 7 has also developed policy and guidelines for in situ burning, as well as COSTAs. Region 7 burns are governed by the Region 7 ISB Guidelines, the NCP and state and local regulations. It is Region 7 policy that all burns in Region 7 must comply with local, state, and federal regulations.

Consistent with both the Region 5 and Region 7 ISB policies, it is the Upper Mississippi River policy that all burns on the Upper Mississippi River must comply with local, state, and federal regulations.

The FOSC is authorized to use any countermeasure without requesting permission if he or she believes its use is necessary to prevent or substantially reduce a hazard to human life (40 CFR 300.910 (d)). SOSOCs may have similar authority under applicable state laws and regulations.