

## CHAPTER 10

### OIL AND HAZARDOUS SUBSTANCES CONTINGENCY PLANNING

#### 10-1 Scope

This chapter identifies the requirements for the Navy to plan for, and respond to, oil discharges and hazardous substance (HS) releases (OHS spills) from Navy ships and shore facilities worldwide. Navy response to both its own spills and non-Navy spills is summarized in this chapter. The comprehensive management of hazardous materials (HM) and hazardous waste (HW) is described in Chapter 12. The prevention and minimization of oil pollution at shore facilities and aboard ships is discussed in Chapters 9 and 19, respectively. Navy policy for overseas activities is discussed in Chapter 18.

##### 10-1.1 References. Relevant references are:

- a. 29 CFR 1910.120, Hazardous Waste and Emergency Response;
- b. 33 CFR 150 and 154, Response Plans for Marine Transportation-related Facilities;
- c. 40 CFR 109, Criteria for State, Local, and Regional Oil Removal Contingency Plans;
- d. 40 CFR 110, Discharge of Oil;
- e. 40 CFR 112, Oil Pollution Prevention;
- f. 40 CFR 113, Liability Limits for Small Onshore Oil Storage Facilities;
- g. 40 CFR 117, Determination of Reportable Quantities for Hazardous Substances;
- h. 40 CFR 252, Guidelines for Federal Procurement of Lubricating Oils;
- i. 40 CFR 300, National Oil and Hazardous Substances Pollution Contingency Plan;

j. 40 CFR 302, Designation, Reportable Quantities, and Notification;

k. 40 CFR 355, Emergency Planning and Notification;

l. 49 CFR 170-176, Oil Spill Prevention and Response Plans for Mobile Facilities;

m. 49 CFR 194, Response Plans for Onshore Oil Pipelines;

n. 49 CFR 250, Response Plans for Offshore Oil Pipelines;

o. DoD Directive 5030.41 of 1 June 1977, Oil and Hazardous Substance Pollution Prevention and Contingency Planning; (NOTAL)

p. OPNAVINST 5400.24D, Jurisdiction of Area Coordinator; (NOTAL)

q. MARPOL Regulation 26, Navigation and Vessel Inspection Circular No. 2-93 (Mar 5, 1993), USCG, (NOTAL).

#### 10-2 Legislation

**10-2.1 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).** CERCLA, as amended by the Superfund Amendments and Reauthorization Act (SARA), requires the Environmental Protection Agency (EPA) to issue revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The NCP establishes the process for determining appropriate removal and/or remedial action for the nation's most serious (Superfund) waste disposal sites. Additionally, the NCP establishes the national framework for planning and response to oil discharges and HS releases. The NCP assigns responsibilities for

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OHS spill contingency planning and response to various Federal agencies, including DoD, and outlines State and local government and public and private interest group participation in these areas. The NCP also identifies Federal natural resource trustees that include DoD.

**10-2.2 Emergency Planning and Community Right-to-Know Act (EPCRA).** EPCRA focuses on the hazards associated with toxic chemical releases. Most notably, specific sections of EPCRA require immediate notification of off-site releases exceeding reportable quantities of extremely hazardous substances (EHS) and CERCLA-defined HS to State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs). See paragraph 4-5.1 for specific compliance requirements relative to the Navy.

**10-2.3 Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (CWA).** The CWA is the major Federal statute addressing improvement of the nation's water resources. Section 311 of the CWA deals with the prevention of, and response to, OHS spills into or upon the navigable waters or the contiguous zone. The CWA prohibits OHS discharges in quantities that are determined to be harmful to the public health or the environment. Oil discharges should be handled per applicable laws and regulations including reporting requirements for harmful discharges under reference (d). Any person in charge of a vessel or an onshore facility who has knowledge that such a discharge has occurred is required to immediately notify the appropriate Federal agency.

**10-2.4 Occupational Safety and Health Act.** The Occupational Safety and Health Act requires various levels of training for personnel involved in HW cleanup and emergency response operations (see Figure 24.1).

**10-2.5 Oil Pollution Act of 1990 (OPA 90).** OPA 90 amends Section 311 of the CWA to strengthen the National Response System, clarify Federal response authority, increase penalties for spills, require tank

vessel and facility response plans, and provide for additional prevention and preparedness measures in designated areas. OPA 90 provides new requirements for spill response planning and training, drills and exercises for both government and industry. OPA 90 establishes new construction, manning, and licensing requirements for tank vessels. Public vessels are exempt from the provisions of OPA 90, but under CNO policy, Navy shore facilities must comply. OPA 90 broadens the response and enforcement authority of the Federal government, preserves State authority to establish laws governing oil spill prevention and response, and requires identification of a qualified individual to initiate responses and to access funds. OPA 90 also provides for natural resource trustees to act on the behalf of the public to assess the damages and to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources under their trusteeship in the event natural resources are injured, lost, destroyed, or the loss of the use of natural resources occurs as a result of a discharge of oil (covered by OPA 90). For additional discussion of trustee responsibilities and natural resource issues, refer to Chapter 22.

**10-2.6 Resource Conservation and Recovery Act (RCRA).** RCRA was established to protect human health and the environment from the hazards associated with solid wastes and HW generation, transportation, treatment, storage and disposal. Subtitle C of RCRA imposes specific requirements for developing spill contingency plans on the owners and operators of HW facilities. The requirements must be included in a facility HW management plan. Navy regional and local OHS pollution contingency plans address HS releases in a broader context and are not restricted to HW operations.

**10-2.7 State and Local Programs.** State programs requiring OHS spill prevention, preparedness, and response vary widely. All States require notification of State and local authorities of OHS spills. Certain States, and coastal States in particular, have stringent requirements for vessel and facility spill response plans and prevention measures that exceed

Federal standards. DoD facilities, including Navy facilities, are subject to State and local facility prevention and response planning requirements. Naval vessel response plans must meet the requirements of 10-5.3.2 and are not subject to State requirements. Vessel response plans may be provided to State regulators for their information.

### 10-3 Terms and Definitions

**10-3.1 Area Committees.** Comprised of members appointed by the President from qualified personnel of Federal, State and local agencies. Each Area Committee is responsible for preparing an Area Contingency Plan and working with State and local officials to assure pre-planning of joint response efforts.

**10-3.2 Area Contingency Plans (ACP).** A plan prepared by the Area Committee that includes worst case scenarios and lists of equipment and personnel available for the removal of worst case spills. ACPs also identify and prioritize sensitive areas and natural resources, identify strategies for protection, and provide for pre-approval of application of specific countermeasures or removal actions within the planning area. In the case of an oil spill, an ACP would be implemented in conjunction with the amended NCP.

**10-3.3 Contiguous Zone.** A zone of the high seas, established by the U.S. under the Convention on the Territorial Sea and Contiguous Zone, that is contiguous to the territorial sea and that extends 9 nautical miles (nm) seaward from the outer limit of the territorial sea.

**10-3.4 Discharge.** As defined by the CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil. It excludes:

- a. Discharges per a permit under the CWA
- b. Discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified

under the CWA, and subject to a condition in such permit

c. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under the CWA, that are caused by events occurring within the scope of relevant operating or treatment systems.

For NCP purposes, discharge also means threat of discharge.

**10-3.5 Dispersant.** Chemical agents that emulsify, disperse, or solubilize oil into the water column or promote the surface spreading of oil slicks to facilitate dispersal of the oil into the water column.

**10-3.6 Emergency Response Coordinator (ERC)/Qualified Individual (QI).** A designated individual identified in the Oil and Hazardous Substance Facility Response Plan (OHSFRP) who:

- a. Is available on a 24-hour basis and able to arrive at the facility in a reasonable time
- b. Is familiar with the implementation of the OHSFRP
- c. Is trained in the responsibilities of the QI/ERC under the OHSFRP
- d. Has authority to activate the oil spill removal organization
- e. Has authority to direct the obligation of funds required to carry out response activities
- f. Will act as a liaison with the predesignated Federal on-scene coordinator (OSC).

QI is the term used by the U.S. Coast Guard (USCG) and ERC is the term used in EPA regulations.

**10-3.7 Exclusive Economic Zone (EEZ).** A zone extending 200 nm from the territorial sea baseline, unless a maritime boundary with another country is closer than 200 nm.

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**10-3.8 Facility.** For OHS response planning, a facility is an activity or complex required to submit an OHSFRP under the OPA 90 implementing regulations. A Navy On-Scene Coordinator (NOSC) may combine adjacent activities within a geographic area so that one OHSFRP submitted by a Facility Incident Commander (FIC) will meet the regulatory requirements for all activities in that area. The assignment of facility designations should consider those factors that will insure the most effective and economical response to an OHS release. See paragraph 1-2.14 Host/Tenant Agreements for additional guidance.

**10-3.9 Facility Incident Commander (FIC).** Commanders or commanding officers (COs) of designated naval shore facilities or complexes pre-designated by the cognizant NOSC and required to prepare an OHSFRP covering the area assigned by the NOSC. FIC designations are made on the basis of OHS spill risk and response capability of the command to ensure rapid, effective response to OHS spills within the assigned area. The FIC replaces the Navy On-Scene Commander (NOSCDR) defined in earlier instructions to more accurately reflect assigned duties under OPA 90, and to effectively interface with the Federal OSC Incident Command System (ICS). The FIC will act as the QI for spills originating from within the assigned area and direct all Navy response action until relieved, if necessary, by the NOSC.

**10-3.10 Federal On-Scene Coordinator (Federal OSC).** The Federal OSC is the Federal official pre-designated by EPA or the USCG to coordinate and direct Federal responses under the NCP, except for DoD HS releases. In the case of HS releases from DoD facilities or vessels, the Federal OSC is pre-designated by DoD. The NOSC is the Federal OSC for Navy HS releases.

**10-3.11 Foreign Areas.** All countries except the U.S., its territories, and possessions.

**10-3.12 Hazardous Substance.** As defined by CERCLA, means:

- a. Any substance so designated by the CWA.

- b. Any element, compound, mixture, solution, or substance so designated by CERCLA.

- c. Any solid waste (SW) having the characteristics of, or listed as, a HW as defined under RCRA (but not including any waste that has been suspended by Act of Congress).

- d. Any toxic pollutant listed under the Clean Air Act (CAA).

- e. Any imminently hazardous chemical substance or mixture with respect to which the Administrator of the EPA has taken action under the Toxic Substances Control Act (TSCA).

The term does not include petroleum, including crude oil, or any refined product (such as gasoline, diesel, or fuel oil) that is not otherwise specifically listed or designated as a HS. A HS does not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), unless otherwise defined by State regulations.

**10-3.13 Incident Command System (ICS).** A response structure required by the Occupational Safety and Health Administration (OSHA) to be used by all organizations when responding to any emergency. It consists of an individual in charge of the incident (Incident Commander) and four functional groups (Operation, Logistics, Planning and Finance) that support the Incident Commander. During major oil spills the Federal agencies will establish an ICS under the National Response System. The State may also establish an ICS. When the Navy is the responsible party, and works jointly with the State and other Federal agencies, the entire organization is called the Unified Command System (UCS). The Navy Incident Commander, the State OSC, and the Federal OSC are collectively known as the Unified Command (UC).

**10-3.14 Navy On-Scene Coordinator (NOSC).** The NOSC is the Navy official pre-designated to coordinate Navy OHS pollution contingency planning and direct Navy OHS pollution response efforts in a

preassigned area. Shoreside NOSC's are normally regional environmental coordinators predesignated by the area environmental coordinators (AECs) (see Chapter 1). Fleet NOSC's are normally the numbered fleet commanders who direct fleet operations within assigned ocean areas. The NOSC is the Federal OSC for Navy HS releases. The NOSC will act as the QI and incident commander for spills outside areas assigned to FICs, and as incident commander for spills beyond the capability of a FIC.

**10.3.15 National Contingency Plan (NCP).** The National Oil and Hazardous Substances Pollution Contingency Plan provides the legal framework for Federal government OHS pollution contingency planning and response above the facility level. The NCP describes the National Response Team, the Regional Response Team, and the National Response Center, and designates the roles and responsibilities of DoD.

**10.3.16 National Response Center (NRC).** The 24-hour OHS spill notification center, located at USCG headquarters in Washington, D.C. The NRC is the single Federal notification point (outside the Navy chain of command) for emergency spill response, and no further Federal notifications are necessary. The NRC is responsible for notifying the predesignated Federal OSC of reported OHS pollution incidents.

**10.3.17 National Response Team (NRT).** The Federal response organization, consisting of the 15 Federal agencies shown on Figure 10.1, including DoD, was established to coordinate OHS spill planning and response efforts. The NRT is chaired by the EPA, with the USCG providing the vice chair.

**10.3.18 Navigable Waters.** As defined in reference (d), Section 110.1, "Navigable Waters" means the waters of the United States, including the territorial seas. The term includes:

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate

or foreign commerce, including all waters that are subject to the ebb and flow of the tide.

b. Interstate waters, including interstate wetlands.

c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) That are or could be used by interstate or foreign travelers for recreational or other purposes

**NATIONAL CONTINGENCY PLAN CONCEPT**

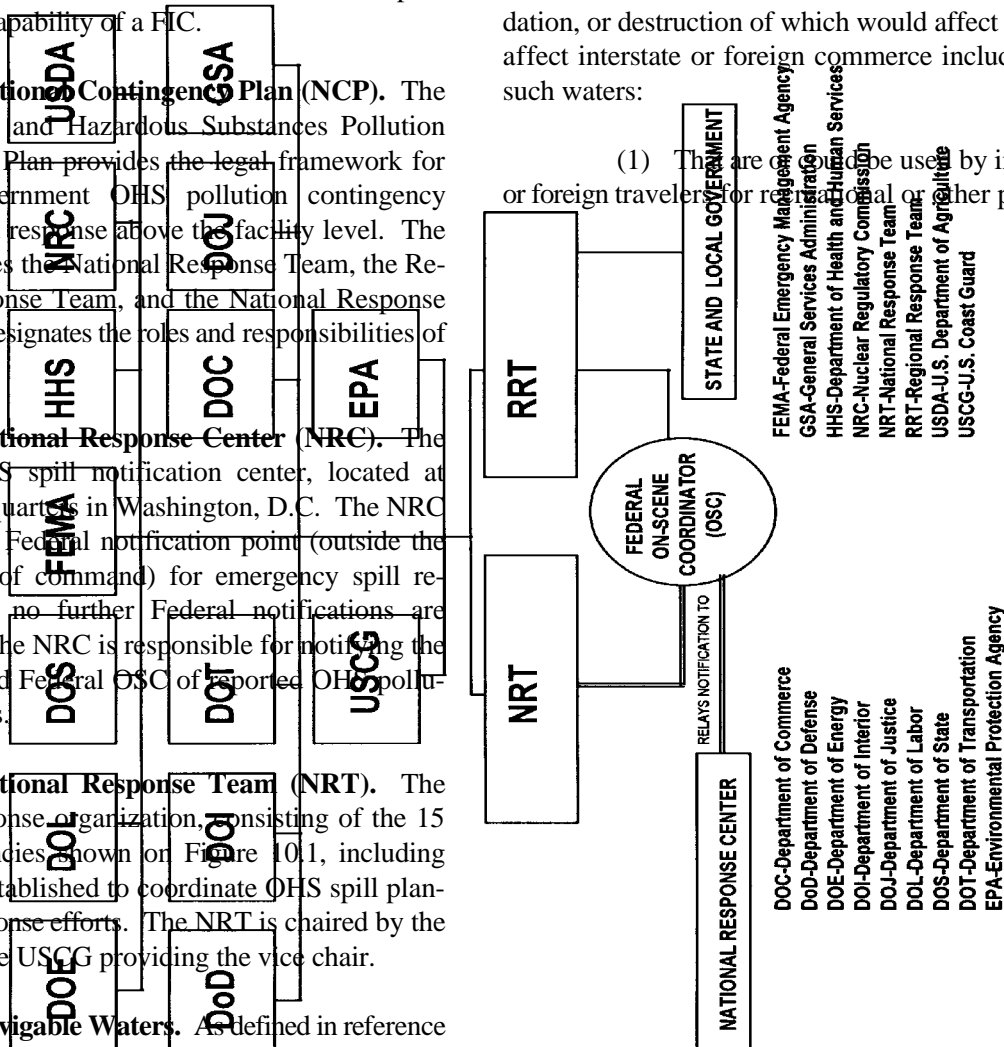


Figure 10.1

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(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce

(3) That are used or could be used for industrial purposes by industries in interstate commerce.

d. All impoundments of waters otherwise defined as navigable waters under this section

e. Tributaries of waters identified in paragraphs 10-3.18a through d of this section, including adjacent wetlands

f. Wetlands adjacent to waters identified in paragraphs 10-3.18a through e of this section: Provided, "That waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States....".

**10-3.19 NOSC Response Plans.** A plan developed by the NOSC to respond to Navy OHS spill incidents within their assigned area that are either beyond the capability of a facility, or ship, or outside the area assigned to a facility.

**10-3.20 Oil.** Oil, as defined by the CWA, means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. In practice, this includes refined products such as gasoline, diesel, and jet fuel.

**10-3.21 Oil and Hazardous Substances Facility Response Plans.** Plans required by OPA 90 that provide a plan of action for tiered spill scenarios, identify notification procedures, response and cleanup operations, response capabilities, management information, sensitive areas and protection strategies per ACPs, and measures to protect human health and safety.

**10-3.22 Public Vessel.** Owned or bareboat chartered and operated by the U.S., or by a State or

political sub-division thereof, or by a foreign nation, except when such vessel is engaged in commerce.

**10-3.23 Regional Contingency Plans (RCPs).** Developed by the RRTs, RCPs provide guidance on how the OSC can obtain assistance from within the region for incidents beyond the capability of an ACP. The RCP sets forth the provisions for use of alternative response techniques.

**10-3.24 Regional Response Team (RRT).** The Federal response network under the NRT, consisting of regional Federal agency and State representatives. There are 13 RRTs, one for each of the 10 standard Federal regions, and one each for Alaska, Oceania (Hawaii and the U.S. Pacific islands), and U.S. Caribbean islands. The RRT has the authority to approve or disapprove the use of alternative techniques, such as the use of dispersants, in-situ burning, and bioremediation.

**10-3.25 Release.** As defined by CERCLA, means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any HS or pollutant or contaminant). On water, an oil release occurs when there is a visible sheen. It excludes:

a. Any release that results in exposure to persons solely within a work place, with respect to a claim that such persons may assert against the employer of such persons.

b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.

c. Release of source, byproduct, or special nuclear material from a nuclear incident if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission or any release of source, byproduct, or special nuclear material from any processing

site designated under the Uranium Mill Tailings Radiation Control Act of 1978.

d. The normal application of fertilizer and herbicides.

For NCP purposes, release also means threat of release.

**10-3.25.1 Federally Permitted Release.** As defined in CERCLA, discharges in compliance with Federal laws including the CWA, the CAA, the Solid Waste Disposal Act (SWDA), the Marine Protection, Research, and Sanctuaries Act (MPRSA), and the Atomic Energy Act. Federally permitted releases also include any injection of fluid authorized under Federal underground injection controls or State programs submitted for Federal approval, and any injections of fluid or other material authorized under applicable State law associated with crude oil or natural gas production.

**10-3.26 Reportable Quantity.** A release of a CERCLA-listed HS or an EPCRA-listed EHS exceeding the limit for that substance. HS or EHS releases that equal or exceed these limits must be reported immediately to Federal, State, and local authorities.

**10-3.27 Territorial Seas.** The zone established by the U.S. under the Convention on the Territorial Sea and Contiguous Zone. For the purposes of this chapter, the territorial sea extends 3 nm seaward from the mean low water line of the U.S. shoreline. (This definition is applicable to most Federal legislation passed before 1989. For international law purposes, however, the "territorial sea" extends out 12 nm.)

**10-3.28 Twelve Nautical Mile Zone.** Contains the Territorial Sea Zone plus the Contiguous Zone and equals 12 nm.

**10-3.29 United States (U.S.).** U.S. includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands,

and any other territory or possession over which the U.S. has jurisdiction.

**10-3.30 Vessel.** As defined in the CWA and related Federal regulations, every type of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the U.S.

## **10-4 Requirements**

**10-4.1 Facility Response Plans (FRP).** OHS FRPs are required to be submitted by a broad range of activities. Four Federal agencies regulate the different categories of facilities required to submit FRPs. The USCG regulates deepwater ports and marine transportation-related (MTR) facilities. These regulations are specified in reference (b). EPA regulates non-transportation-related onshore facilities and these regulations are found in reference (e). The Department of Transportation's Research and Special Programs Administration (RSPA) regulates mobile facilities (tank trucks, railroad cars, and portable tanks) and these regulations are found in reference (l). RSPA also regulates offshore facilities and pipelines. The regulations for these facilities are found in reference (n). The Minerals Management Service (MMS) regulates offshore platforms.

Most Navy facilities fall under either USCG or EPA jurisdiction. Facilities that meet the criteria for more than one type of facility are called "complex facilities." Many Navy facilities fall under this category. A few Navy facilities may also fall under the RSPA's jurisdiction for pipelines that leave the facility. Additionally, there may be some Navy facilities that fall under RSPA's jurisdiction for mobile sources. No facility is required to have more than one OHSFRP. However, that OHSFRP must be submitted to every Federal agency that has jurisdiction over that facility. The requirements for the OHSFRP vary widely depending on the type of facility. For example, the information required for a mobile facility is not as extensive as that required for a non-transportation-related facility. There are certain key elements common to all regulations. These include:



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- a. An individual who can be reached on a 24-hour basis and has the authority to take necessary response action
- b. An emergency section of the plan that provides a concise response citation
- c. Extensive drills and exercise requirements with specified documentation and record-keeping
- d. A provision for regular updates and reviews.

**10-4.2 Notification for OHS Pollution Incidents in U.S. Waters.** CERCLA and the CWA specify that all reportable quantity OHS discharges or releases occurring within U.S. waters be immediately reported directly to the NRC at USCG headquarters at 1-800-424-8802 or 202-267-2675 by voice communication. An incident or casualty that raises the probability of a discharge or release will also be reported to the NRC. NRC notification will not be delayed for lack of information. Immediate voice notification to the NRC fulfills Federal notification requirements and ensures that the predesignated EPA or USCG Federal OSC will be notified. If the NRC cannot be reached by voice immediately, then the spiller/spill discoverer is required to immediately notify the closest EPA office or USCG station.

EPCRA requires that reportable quantity EHS and OHS releases outside the facility boundary or to the atmosphere be reported to State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) (see paragraph 4-5.1). Reportable quantity OHS spills occurring within State waters, or with the potential to impact the U.S. shoreline, must be reported to applicable State environmental authorities by voice where required by State statute. Periodic follow-up reports and after-action reports must also be made where required.

**10-4.3 Internal Navy Reporting.** Shoreside NOSCs, along with other affected Navy commands, will be notified as follows:

- a. All OHS spills will be reported immediately to the applicable Navy facility by voice communication, followed by a confirming OHS spill report via message (Appendices H and I).

- b. For situations where spills occur outside pre-assigned Navy facility jurisdiction, or where such jurisdiction cannot be determined, the cognizant NOSC will be notified by voice and then by message report. Facilities will notify the cognizant NOSC as specified in the NOSC Regional Response Plan.

- c. For OHS spills with the potential to cross NOSC boundaries, all affected NOSCs will be notified.

**10-4.4 OHS Spill Notification for Non-U.S. Waters.** Under international agreements, OHS spills that impact, or have the potential to impact a foreign shoreline, or any incident or casualty that might result in a spill, must immediately be reported to the nearest affected nation. Spills that impact or have the potential to impact shorelines of Canada or Mexico fall within the scope of U.S./Canada and U.S./Mexico bilateral agreements and must also be reported immediately to the NRC. Additionally, OHS spills in Puerto Rico, the Panama Canal Zone, and the U.S. Virgin Islands must also be reported to the NRC.

**10-4.5 OHS Pollution Response.** CWA and CERCLA prohibit the discharge of oil in harmful quantities and HS in reportable quantities into U.S. waters. When discharges or releases by a Federal agency do accidentally occur, the responsible party must take all necessary actions to remove the oil or HS and mitigate adverse environmental impacts (see paragraph 10-5.1). The roles and responsibilities of the DoD in responding to DoD OHS spills are explained in the NCP. For DoD HS releases, the DoD assumes the role of the Federal OSC. As a Federal OSC, the DoD is required to direct the Federal response effort, including coordination with the RRT and with other Federal, State, and local authorities.

For oil discharges from DoD facilities or vessels, the DoD is responsible for cleaning up the oil, minimizing

the damage, and assessing and mitigating the injury to national resources. However, in this case, either EPA or the USCG assumes the broader role of the Federal OSC. Typically, the EPA or USCG Federal OSC will monitor the response efforts of the DoD and advise DoD of appropriate actions. If the EPA or USCG Federal OSC determines that DoD response is inadequate or inappropriate, then the Federal OSC may assume direct operational command of all response efforts, though DoD remains financially responsible for cleanup and damage costs, and COs and masters of public vessels remain in command of and are responsible for their vessels and personnel. OPA 90 specifies that the USCG or EPA Federal OSC will direct the response to spills of national significance (SONS).

**10-4.6 Non-DoD Spills.** The DoD also has certain responsibilities to assist in the response to non-DoD spills. As shown in Figure 10.1, the DoD is 1 of 15 Federal agencies that comprise the NRT. As a participating NRT member, the DoD and its components are obligated to provide any assistance they can in responding to OHS spills upon request by the Federal OSC, to the extent that it does not impair DoD mission capabilities. Additionally, the Naval Sea System Command's Supervisor of Salvage (SUPSALV) is highlighted within the DoD component of the NCP as one of the nation's Federal response assets. Specifically, for large or salvage-related pollution incidents, SUPSALV personnel, equipment, and expertise may be requested directly by the Federal OSC. To facilitate mobilization and funding of SUPSALV equipment and personnel for a non-DoD spill, SUPSALV and USCG have established an Inter-agency Agreement for Pollution Response.

**10-4.7 Natural Resource Trustee Responsibilities.** The NCP assigns responsibilities to certain Federal agencies for protecting natural resources that are held in trust by the Federal government for the U.S. public. Responsibilities for natural resources protection are primarily divided among the Department of the Interior, the Department of Agriculture, the DoD, and the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA).

Individual States also assume trust responsibilities for natural resources protection. For natural resources located on DoD owned or leased property, the DoD is responsible for protecting these resources from any environmental damage, including OHS spills. Should such damage occur as a result of a spill, the DoD is responsible for determining the extent of the damage and restoring or replacing the damaged resource. For more details on Natural Resource Trustee Responsibilities, see 22-5.5.

**10-4.8 Natural Resource Damage Assessments.** If, as a result of a spill or release, natural resources are injured, an investigation and evaluation must determine the extent of destruction, injury, and loss of the resource and assess damages for that injury and the loss of use of the resource.

## **10-5 Navy Policy**

**10-5.1 Navy Organization for Planning and Response.** The Navy shall fully prepare for OHS pollution incidents, and where such incidents do occur, undertake immediate, direct action to minimize the harmful effects of OHS on the environment. The Navy OHS pollution contingency planning and response organization has been established to carry out this policy. The organization uses existing chains of command and regional coordination authorities and satisfies the requirements and intent of Federal and State regulations.

Figure 10.2 shows the Navy OHS pollution response organization. AECs, assigned Navy area wide coordination authority by OPNAVINST 5400.24D, and Fleet commanders in chief (CINCs) shall establish OHS pollution contingency planning and response policies in their areas, consistent with this instruction. AECs shall predesignate the shoreside NOSCs. Shoreside NOSCs are generally regional environmental coordination authorities who represent senior Navy commanders for environmental matters within that region (see Chapter 1). Shoreside NOSCs shall ensure that all facilities are covered under an appropriate plan or plans. The shoreside NOSCs may direct that a comprehensive FRP for Navy geographi-

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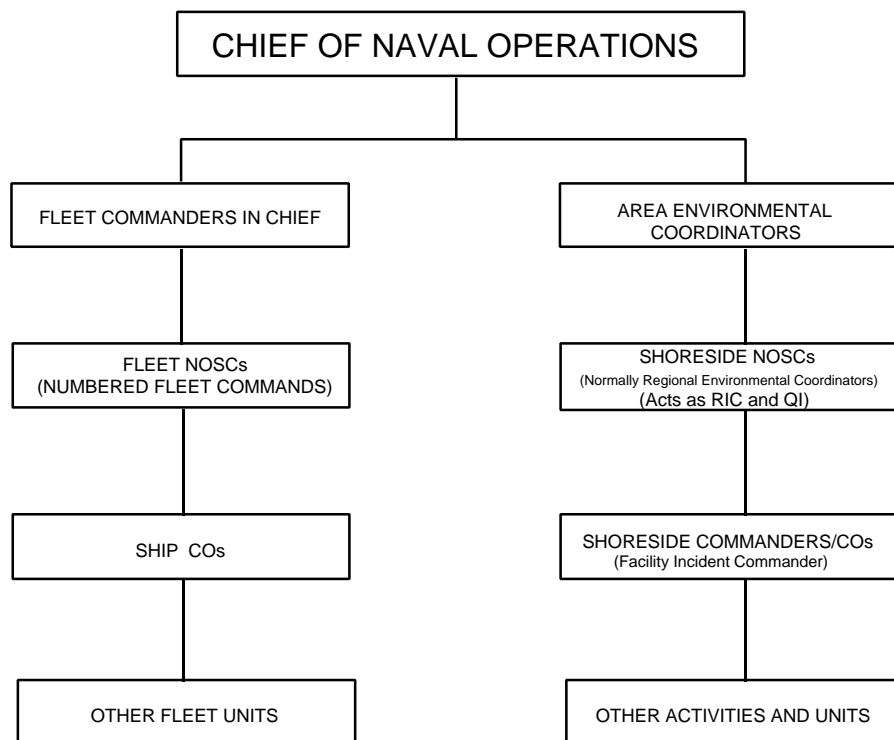
cally-adjacent complexes be submitted. The shoreside NOSC shall ensure Navy facilities shall have the capability to control, contain, and clean up OHS spills, and evaluate impacts to natural resources. Facilities shall provide immediate response assets. The NOSC should consider activating SUPSALV for all oil spills that exceed local capabilities. SUPSALV maintains and operates an extensive inventory of oil spill containment and recovery equipment with the requisite knowledge and expertise to support these operations.

Another option is to have the NOSC approve alternatives for individual activities to meet their readiness requirements. The Navy has obtained use of USCG Basic Ordering Agreements (BOA) to provide additional resources to meet OPA 90 "worst case" spill scenarios and rapid response in some areas. An activity CO may access a BOA per procedures established with the ordering office. Authorized ordering offices for BOAs are NAVFACENGCOM Engineering Field Divisions (EFDs), Public Work Centers (PWCs) and Naval Facility Engineering Service Center (NFESC), Port Hueneme, CA. Major claimants/activities are responsible for all payments to BOA contractors. In other areas, an oil pollution response cooperative is the only, or best, means of meeting worst case requirements. Navy participation in commercial spill response cooperatives may have legal, financial, and technical concerns that need to be carefully assessed. Therefore all requests by Navy shore commands to participate in a spill cooperative shall be submitted to COMNAVFACENGCOM, via the chain of command and the appropriate EFD, for review and approval.

## **10-5.2 Shoreside Contingency Planning**

**10-5.2.1 NOSC Plans.** Commanders designated as NOSC shall have an OHS pollution contingency plan providing geographic coverage for the assigned area. NOSC plans shall conform to the contingency planning instructions issued by AECs and shall identify Navy facility assignments and responsibilities within the NOSC region. NOSC plans shall establish procedures to incorporate Navy natural resource expertise

in spill response and to evaluate and mitigate injury to natural resources. They shall provide guidance for coordination with other appropriate natural resource trustees. These plans shall be coordinated and consistent with both RCPs and ACPs. They shall also be coordinated with other DoD component OSC plans, including Marine Corps plans, to the extent specified by the DoD or as required by any Navy/DoD component inter-service agreement. NOSC OHS pollution contingency plans shall be prepared in a format determined by COMNAVSEASYSCOM and shall be kept current at all times. They shall undergo, as a minimum, a thorough annual review and, if necessary, revision. COMNAVSEASYSCOM shall assist the NOSC in developing NOSC plans in the proper format and shall assist in major plan revisions and updates. The NOSC plan shall address the worst case scenario in the NOSC area of responsibility and shall be coordinated with all applicable OHS FRPs.



NAVY OHS POLLUTION RESPONSE ORGANIZATION

FIGURE 10.2

**10-5.2.2 Oil and Hazardous Substances Facility Response Plans.** Facilities meeting the requirements for submission of the FRPs as defined in this chapter or as designated by the NOSC shall have a facility OHS spill response plan providing geographic coverage for the response area preassigned to the facility by the NOSC. Facility plans shall be coordinated with the NOSC spill contingency plan and follow the general format prescribed by COMNAVSEASYSCOM. Facility plans shall be coordinated with the State and local authorities, kept current, and reviewed and updated annually.

### **10-5.3 Fleet Contingency Plans**

**10-5.3.1 NOSC Plans.** Each numbered fleet command shall have a NOSC plan covering the operational area for that fleet. Fleet NOSC plans shall comply with the cognizant Fleet CINC instruction for OHS pollution contingency planning. NOSC plans shall be developed in the format prescribed by COMNAVSEASYSCOM and shall be as consistent as possible with Federal, State and foreign agencies. Fleet NOSC plans shall be kept current and reviewed and updated annually.

Fleet NOSC OHS spill contingency plans can be developed either as a stand-alone document or as a chapter or annex to fleet operational orders (OPORDs), provided the format complies with COMNAVSEASYSCOM guidance. Fleet plans shall contain information consistent with adjacent shoreside NOSC plans.

**10-5.3.2 Shipboard Plans.** Each Navy vessel shall develop OHS spill contingency plans per guidance provided by COMNAVSEASYSCOM. Such plans shall be coordinated with fleet-wide NOSC plans and shall be consistent with adjacent shoreside NOSC plans and applicable Senior Officer Present Afloat (SOPA) instructions.

### **10-5.4 Response Operations**

**10-5.4.1 Health and Safety.** Health and safety shall be the top priority for all Navy OHS pollution response operations. The health and safety of response personnel shall not be compromised at any point during on-scene response. All response actions shall be in compliance with the requirements of reference (a), as required by the NCP and OPA 90 regulations.

**10-5.4.2 Navy Response.** The Navy shall respond promptly to all Navy OHS spills. For Navy HS releases, the Navy, as the predesignated Federal OSC, shall direct all cleanup actions required. For Navy oil discharges, either EPA or the USCG is the predesignated Federal OSC and has statutory authority to assume control of the response if Navy actions are ineffective or inadequate. COs and masters of public vessels, however, remain in command of and are responsible for their ships and personnel. The Navy policy for response to oil discharges is to contain and mechanically recover the oil. Other current and developing response methods, including chemical applications such as dispersants, gelling agents, piston films, open-sea burning, bioremediation, and other similar techniques shall only be used in the special cases where requested by an NOSC, and endorsed by an EPA or USCG Federal OSC, and an approved RRT in U.S. waters, except where such methods are necessary to protect human life. For offshore or salvage-related OHS response, COMNAVSEASYSCOM shall evaluate the possible use of developing technologies and recommend changes in operational response strategies, as appropriate. Likewise, for inland or harbor oil spill response or on-shore HS spill response, COMNAVSEASYSCOM shall review the possible use of developing technologies, recommend changes in operational response strategies, as appropriate, and maintain expertise for assisting in the investigation and mitigation of injury to natural resources. Navy policy is to retain control of all Navy OHS pollution responses.

**10-5.4.3 Military Sealift Command (MSC) Spills.** Spills from MSC ships or ships chartered by MSC shall be handled as follows:

a. MSC ships that have a United States Naval Ship (USNS) designation are public vessels of the United States. The NOSC has the same responsibility for response to a spill from a U.S. naval ship (USNS) as from any other Navy ship. The Master of a USNS shall notify the appropriate fleet or shoreside NOSC of any OHS spill that occurs or has the potential to impact in their area of responsibility. MSC shall be requested to provide funding and technical assistance as necessary for response operations.

b. Vessels maintained and owned by the U.S. Maritime Administration (MARAD) and operating under MSC control are public vessels. The NOSC has the same responsibility for response for a spill from a MARAD vessel under MSC control as a spill from a Navy ship. The Master of a MARAD ship operating under MSC control shall notify the appropriate fleet or shoreside NOSC of any OHS spill that occurs or has the potential to impact in their area of responsibility. MSC shall be requested to provide funding and technical assistance as necessary for response operations.

c. Vessels under time or voyage charter to MSC are not public vessels and are required to comply with all international, Federal, and State pollution prevention and control regulations. Response to any OHS incident is the responsibility of the vessel's owner. The Navy shall monitor any such event to ensure that the interests of the U.S. are not unnecessarily prejudiced.

**10-5.4.4 Non-Navy Spill Response.** Navy response assistance may be requested for non-Navy spills by the Federal OSC. Under the terms and conditions of the NCP and the Navy SUPSALV - Coast Guard Interagency Agreement for Pollution Response, the Navy shall respond to such requests.

**10-5.4.5 Salvage-Related Spills.** The Navy shall direct response efforts to pollution incidents resulting from Navy ship incidents, such as ship groundings. The cognizant fleet or shoreside NOSC shall direct these operations and coordinate closely with ongoing fleet salvage operations. Likewise, fleet salvage

forces shall take all reasonable precautions to reduce the threat of OHS pollution from stricken vessels or craft. Navy SUPSALV shall provide advice, personnel, and equipment, as appropriate, for joint salvage/pollution operations.

The Navy shall fulfill obligations outlined in the NCP for Navy support to non-Navy salvage/ pollution incidents.

**10-5.4.6 Spills Due to Collisions with Commercial Ships.** In instances where a collision between a Navy ship and a commercial ship results in a spill from the commercial ship, the Navy shall provide immediate response assistance, as appropriate. In such situations, the Navy fleet commander shall report the spill, monitor the situation, and offer appropriate support to responsible authorities.

**10-5.4.7 Navy Response to Other DoD Component OHS Spills.** Navy assistance for other DoD component OHS spills may be requested by the DoD, the DoD component, or by the Federal OSC. Requests for Navy assistance are particularly likely for large marine oil spills and may come from the Defense Logistics Agency, the Marine Corps, or other DoD components. Navy response to such requests shall be consistent with procedures established by the DoD and with any applicable Navy/DoD component inter-service agreement.

**10-5.4.8 Natural Resources Injury Evaluation and Mitigation.** The Navy shall act quickly to evaluate potential injury to natural resources from both OHS spills and potential response actions, to minimize such injury. In addition, for Navy spills, the Navy shall undertake to develop, propose, and carry out mitigation of any impacts in coordination with other natural resource trustees.

## **10-5.5 Training**

a. Every person involved in HW clean up and emergency response operations shall have received applicable NAVOSH Worker Right-to-Know Training on hazardous materials, shall receive the OSHA

First Responder Operations Level Course (8 hours) and shall receive job specific training regarding emergency response procedures (summarized in Figure 24.1) specific to their installation. Training curriculums shall be tailored to include State and local emergency response laws and regulations. Training records and documentation shall be maintained by each command as required by Federal, State and local regulations.

b. Every person involved in oil and HS contingency planning, supervision and management at naval shore facilities shall receive the general environmental overview training specified in Chapter 24 of this instruction, shall receive specific comprehensive training on Federal, State and local emergency response regulations related to their job assignment, and must be familiar with the provisions of this chapter.

c. Environmental professionals at NAVFACENGCOM EFDs/EFAs, Navy Regional Environmental Coordinators, major claimant and type commander environmental staffs, and legal environmental staff shall receive the general environmental overview training specified in Chapter 24 of this instruction, introductory or executive overview training in emergency response management, and must be familiar with the provisions of this chapter.

#### **10-5.6 Drills and Exercises**

OPA 90 requires quarterly spill notification and emergency response procedures drills and subsequent evaluations of the responsiveness of established plans. OPA 90 also requires annual tabletop and equipment deployment drills and triennial "area exercises" intended to demonstrate and test worst case spill response capabilities. Additionally, OPA 90 provides for unannounced drills that may be conducted as frequently as on an annual basis.

Navy shore facilities shall accomplish all quarterly and annual drill requirements. Navy facilities shall incorporate OPA 90 drill and exercise requirements into routine business or other emergency drills whenever practical. Navy facilities may take credit for notification, emergency response procedures, tabletop

and equipment deployment drills for actual spill events, provided the objectives of these drills are met.

NOSCs shall take the lead in coordinating triennial exercises as required by OPA 90. The NOSC shall coordinate a drill schedule for all facilities under his cognizance to effect cost savings and ensure uniformity and effectiveness of the exercises. Combined exercises, whenever appropriate, shall be used to reduce costs. The NOSC shall coordinate with SUP-SALV to ensure that oil spill removal organization (OSRO) drills conducted within the response area are credited to each facility within their cognizance.

### **10-6 Responsibilities**

#### **10-6.1 COMNAVSEASYS COM shall:**

a. Assist AECs in the development and update of the area-wide OHS spill contingency planning and response instructions.

b. Assist NOSCs in the development and update of NOSC plans, to include worst case spill scenario planning.

c. Develop, issue NOSC plan format, and assist NOSCs in major OHS pollution response issues as they arise and in decision-making for major or off-shore/salvage-related response operations.

d. Assist NOSCs in meeting OPA 90 drill and exercise requirements for testing and exercising Navy capabilities to respond to worst case spill scenarios.

e. Provide expertise and equipment at the request of the NOSC for major offshore or salvage-related OHS pollution incidents.

f. Assist CNO in establishing and manning a RRT to respond to worst case spill scenarios.

g. Ensure training and exercise requirements required by regulations of spill response organizations are met in a cost effective manner with results issued to all NOSCs.

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h. Determine requirements, budget for, and procure investment category equipment for major and salvage-related spill response.

**10-6.2 COMNAVFACENGCOM shall:**

a. Assist facility commanders and COs with the development of OHS FRP plans.

b. With COMNAVSEASYSCOM, assist major claimants and AECs in the determination of emergency response training needs, and develop and provide associated training curriculums and courses.

c. Determine requirements, budget for, and procure investment category equipment for inland water and harbor oil spill control.

d. Coordinate Navy access to USCG BOAs for response to spills beyond the capability of the facility.

e. Review and, if appropriate, approve requests by Navy shore commands to participate in spill cooperatives.

**10-6.3 Major claimants shall:**

a. Ensure Navy spill response personnel receive appropriate training for OHS spill contingency planning and response.

b. Fund OHS spill response expenditures that are beyond the capability of the Navy spiller.

c. Ensure cognizant facilities fully comply with Federal and State laws and regulations for spill prevention, readiness, and response.

**10-6.4 Fleet CINCs/AECs shall:**

a. Develop and periodically update an area-wide OHS spill contingency planning instruction specifying NOSC and facility responsibilities for OHS spill contingency planning and response in the region.

b. Predesignate shoreside NOSCs to plan for and direct response efforts to OHS spills from Navy ship and shore activities throughout the region.

c. Coordinate with SUPSALV for the development, revision and update of the area-wide OHS spill contingency planning instruction and the individual NOSC plans.

d. Establish contingency planning and response policies in their areas consistent with this instruction.

e. Establish a spill response training program consistent with this chapter and regulatory requirements.

**10-6.5 Fleet NOSC shall:**

a. Develop area-wide fleet NOSC plans in a format prescribed by COMNAVSEASYSCOM or the AEC instructions and coordinate these plans with adjacent shoreside NOSC for the 12 nm zone.

b. Ensure all required Federal, State, regional, local, or foreign government notifications are made promptly.

c. Ensure that OPORDs and instructions containing guidance or policy for fleet OHS pollution response are consistent with fleet NOSC plans and SOPA instructions.

d. Coordinate shoreside NOSC plans with fleet planning and operations and ensure that Navy SOPA instructions contain guidance for fleet OHS spill response that is consistent with the shoreside NOSC plans.

**10-6.6 Shoreside NOSC - U.S. areas shall:**

a. Direct all major response efforts for Navy OHS spills within assigned shoreside boundaries to include coastal areas out to the 12 nm zone.



b. Serve as the Federal OSC under the NCP for Navy HS releases within assigned geographic boundaries.

c. Predesignate shoreside FICs and preassign geographic areas for response.

d. Coordinate response operations with adjacent NOSC, including fleet NOSC, for Navy OHS spills that may impact more than one NOSC region.

e. Develop, in the general format prescribed by COMNAVSEASYSCOM or the AEC's instructions, area-wide NOSC OHS spill response plans and coordinate the development of the plans with the applicable ACPs.

f. Coordinate response operations with the DoD representative to the RRT.

g. Coordinate shoreside NOSC plans with fleet planning and operations.

h. Ensure that all Federal, State, and local OHS spill notification procedures are followed.

i. Establish a spill response training program consistent with this chapter and regulatory requirements.

**10-6.7 Shoreside NOSC - foreign areas shall:**

a. Develop overseas NOSC OHS spill contingency plans in the format prescribed by COMNAVSEASYSCOM and consistent with AEC instructions and the Overseas Environmental Baseline Guidance Document (OEBGD). Coordinate the development of these plans with applicable host nations.

b. Oversee response operations for Navy OHS spills within assigned areas and coordinate response operations with adjacent NOSC and with applicable foreign nation agencies.

c. Predesignate shoreside FICs and preassign geographic areas for response.

d. Ensure all required foreign country OHS spill notification procedures are followed, within the guidelines established by the OEBGD.

e. Establish a spill response training program consistent with this chapter and regulatory requirements.

**10-6.8 Facility incident commanders and commanding officers shall:**

a. Oversee response efforts for Navy OHS releases within preassigned areas until relieved by the NOSC, as well as support the NOSC for Navy response in areas outside of the facility's boundaries.

b. Develop, annually review, and periodically update facility plans in a format prescribed by COMNAVSEASYSCOM or policy direction and guidance provided by the NOSC.

c. Review FRPs for consistency with appropriate State and local environmental and emergency planning authorities.

d. Make all required Federal, State, and local notifications for Navy OHS spills and make Navy chain of command notifications up to the NOSC level.

e. Ensure that assigned staff responsible for OHS response receive appropriate training.

f. Maintain the readiness of the Navy spill response capability assigned to the facility.

**10-6.9 Commanding officers other than designated FICs shall:**

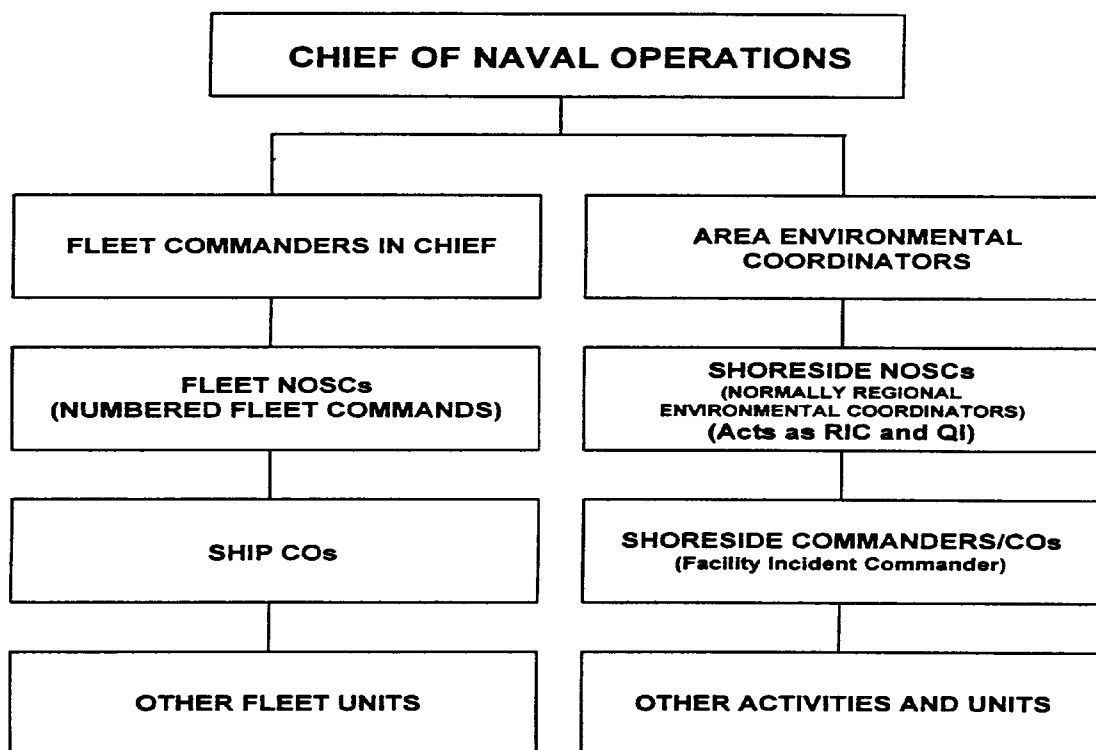
a. Develop, annually review and update, as appropriate, activity or shipboard OHS spill contingency plans in a format prescribed by COMNAVSEASYSCOM or COMNAVSEASYSCOM, and or with applicable FIC and NOSC plans, respectively.

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b. Ensure personnel who would respond to, or supervise the response to, an OHS spill receive required training.

c. Mitigate and clean up OHS spills from the ship or activity and reimburse as appropriate, other activities that provide assistance.



**NAVY OHS POLLUTION RESPONSE ORGANIZATION**

**FIGURE 10.2**

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