

## MEMORANDUM OF AGREEMENT

### INTER-REGIONAL EMERGENCY RESPONSE AND REMOVAL SUPPORT REGIONS III, IV, & V

#### U.S. ENVIRONMENTAL PROTECTION AGENCY

The purpose of this memorandum is to establish a mutual aid agreement for cross-regional emergency and removal response activities among, EPA Regions III, IV, and V.

#### **I. Authorities**

The mutual aid provided under this agreement will enhance the Agency's response to releases of oil, hazardous substances, pollutants, and contaminants; and, which is done pursuant to the authorities vested in EPA under the Clean Water Act, as amended by the Oil Pollution Act of 1990 (OPA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) and further defined in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 CFR 300 et. seq. This agreement also encompasses responses which the Regions may undertake pursuant to the Stafford Disaster Relief Act and amendments, and as further defined in the National Response Plan Framework.

#### **II. Pre-Designation and Location of FOSCs**

Pursuant to 40 CFR 300-120(a), each EPA Regional Administrator has predesignated Federal On-Scene Coordinators (FOSCs) for the Inland Zone. The names of the predesignated FOSCs are documented in each respective Regional Contingency Plan (RCP).

Region III predesignated FOSCs are presently duty-stationed in the following locations:

- ☐ Philadelphia, Pennsylvania
- ☐ Bethlehem, Pennsylvania
- ☐ Wheeling, West Virginia

Region IV predesignated FOSCs are presently duty-stationed in Atlanta, Georgia. Region V predesignated FOSCs are presently duty-stationed in the following, locations:

- ☐ Chicago, Illinois
- ☐ Carterville, Illinois
- ☐ Grosse Ile, Michigan
- ☐ Westlake, Ohio
- ☐ Cincinnati, Ohio

The distribution of FOSCs among these duty-stations facilitates timely response activities on the part of EPA throughout the three Regions. Each FOSC is able to perform response activities outside of the proximity of his/her immediate duty-station area, and by virtue of this agreement, across EPA regional

boundaries should circumstances warrant such involvement. Examples of such circumstances are described in Section IV of this agreement.

### **III. On-Scene Coordinator Response Activities**

Under CERCLA/SARA and OPA, pre-designated FOSC's perform emergency and removal response activities where: (a) there is a release or substantial threat of release of hazardous substances; (b) there is a release or substantial threat of release into the environment of any pollutant, or contaminant which may present an imminent and substantial danger to public health or welfare; and (c) there is a discharge or substantial threat of a discharge of oil to the waters or to the adjoining, shorelines of waters of the United States. These responses can be determined necessary in response to a variety of situations including but not

### **IV. Mutual Aid Cross-Regional Response Activities**

It is hereby agreed by the signatories that the three EPA regional offices represented in this agreement will upon request endeavor to assist each other in cross-regional response activities in the following circumstances.

Provision of First Federal Official (FFO) and/or Federal On-Scene Coordinator (FOSC): A cross- boundary response can be performed where the closest FOSC is from another region, or where the magnitude of the response is such that additional assistance is warranted. In accordance with 40 CFR 300.135 (b), the FOSC providing a cross-boundary response can serve as the First Federal official (FFO) on scene. As FFO, the FOSC providing the cross-boundary response, shall initiate and carry out all FOSC responsibilities, in consultation with the lead region's pre-designated FOSC. The FFO would carry out actions until a pre-designated FOSC from the lead region arrives on scene, or until the incident no longer warrants a federal response action.

Provision of FOSC Representative for Limited Duration Site Coverage: Very large, unexpected events can result in a level of response work in a region beyond the FOSC resource base. This could be due to a regional disaster such as flood or hurricane or simply due to the magnitude of the site or incident at a time when the region's resources are limited or otherwise committed to other regional priorities. In these situations cross-regional assistance can be provided by any of the signatory regions; in which case the FOSC from the supporting region would serve as FOSC representative for the lead region. The FOSC representative would then implement work directed by the lead FOSC and would not be expected to take independent action.

Coordinated Multi-Regional Responses: The region in which an incident originates will respond as the lead region, provide a pre-designated FOSC, and initiate response operations including the notification of all appropriate government agencies, RRT's, and affected parties within the anticipated area of impact. Furthermore, if the discharge or release moves from one region to another, the authority for leading the response will also shift between the regions. Conversely, should the incident affect an area that encompasses multiple-regions, the involved region should all commit FOSC resources to a unified incident command structure which would conduct response activities pursuant to NCP Section 300.135. Pursuant to NCP Section 300.140 there shall be only one FOSC in charge of response operations. The RRT Co-Chairs from the affected EPA regions will consult and reach agreement on which region should provide the lead FOSC. In selecting the lead region, the RRT Co-Chairs shall give prime consideration to the region vulnerable to the greatest threat. Should the consultation among regions result in a change in the lead

region, it is agreed that all parties will work together to ensure the transition has impact on response operations.

#### **V. Existing Memoranda of Agreement (MOAs)**

This MOA is based upon MOAs already in place, which confirm the geographic areas and responsibilities for predesignated FOSCs for pollutant responses. This MOA does not replace the existing MOA's, but rather outlines a process, which when applied to the situations noted in this memorandum, further enhances EPA's collective ability to adequately respond to oil and hazardous materials incidents in a timely and thorough fashion.

#### **VI. Budget and Contracts**

The signatory regions recognize the benefits of the FOSC in an emergency, tasking the contractor(s) most readily available to mobilize to the incident scene. This may require the use of another region's contractor resources. EPA START and ERRS contracts currently provide the authority to support other region through zone crossover. This MOA endorses the use of contract resources, wherever available, to respond at the direction of a warranted FOSC to any emergency situation. Specific protocols to expedite the zone crossover will be developed as an output of this MOA.

The lead region is responsible for funding the response action and furnishing, as appropriate, the regional and site-specific accounting and appropriation data to the FOSC from the supporting region who is serving as either FFO or FOSC representative. When the FOSC providing the cross-boundary response is requested by the lead region to assume the role of designated FOSC, the lead region shall establish, as necessary, appropriate authority and/or procedures to enable the FOSC providing the cross-boundary response to utilize the lead region's contract resources for the duration of the incident.

#### **VII. Process for Activating Cross-Regional Support under this Agreement**

Requests for cross-boundary support in response to an emergency incident should be made to the phone duty officer. In requesting the support, the lead region should specify the type of support required, such as a FFO or merely the provision of technical assistance. In implementing this MOA, each Region shall develop and apply procedures, as appropriate, that authorize and provide for the immediate dispatch of an FOSC by the duty officer in support of the lead region. The phone duty officers from each respective Region are expected to notify and brief their management concerning actions taken pursuant to the request.

Requests for site coverage support and/or support during an ESF # 10 activation should generally be made during business hours, initiated by the lead Region and by contact between the respective Removal Managers or their designees. In the event that the Removal Managers are not available and/or the support becomes apparent as an immediate need during non-business hours, the respective duty officers will discuss the request and make the decision. Any procedures needed to implement this provision of the MOA will be included with those required above.

#### **VIII. Effective Date**

This agreement will be effective upon signature by all the parties and shall remain in effect until termination by any of the parties. Any party may terminate this agreement upon 90 days written notice

to the other parties. The provisions may be reviewed, amended, or supplemented upon agreement of all the parties.

**IX. Distribution**

Final signed copies of this agreement shall be distributed as follows:

- ☐ Removal Managers, Regions III, IV, and V
- ☐ FOSCs, Regions III, IV, and V
- ☐ USCG Districts
- ☐ USCG - National Pollution Fund Center
- ☐ Regional Contracting Officer(s), Regions III, IV, and V
- ☐ Regional Project Officer(s), Regions III, IV, and V
- ☐ EPA Headquarters, OSWER/OERR Regional Centers III, IV, and V
- ☐ Regional Contingency Plan (RCP), Regions III, IV, and V

**X. Signatures**

Abraham Ferdas, Director

Date

Hazardous Site Cleanup Division EPA Region HI

Richard D. Green, Director

Date

Waste Management Division

EPA Region IV

William E. Muno, Director

Date

Superfund Division

EPA Region V