

Air & Waste Management Association
Coastal Plains & Alabama Chapter's
Joint Technical Conference

Environmental Emergencies
“All Hands On Deck”

Responding To An Environmental Emergency “From A Federal Perspective”

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EPA's Response Authority

- ❖ 40 CFR 300 National Oil and Hazardous Substances Pollution Contingency Plan “National Contingency Plan” or “NCP”
- ❖ The “NCP” is applicable to response actions taken pursuant to the authorities under CERCLA and the Clean Water Act, i.e. hazardous materials, hazardous wastes, oil, pollutants, contaminants, and hazardous substances (pretty well all encompassing).

Soooo, when the EPA shows up to your facility for an environmental emergency relative to the above mentioned substances, who is in charge????

We Are In Charge!!!

Note to self: project an evil government employee laugh towards all of those environment hating, good for nothing, polluting, industry representatives in the audience.....

Digging Deeper Into The NCP Relative to Environmental Emergencies

- ❖ The NCP denotes in 300.135 “OSC *SHALL* direct response efforts”
Coastal: USCG Captains of the Port (Sector Mobile), Inland: EPA OSC
- ❖ However, the NCP also denotes in 300.105(d): “The basic framework for the response management structure is a system (e.g., a unified command system) that brings together the functions of the Federal Government, the State Government, and the Responsible Party to achieve an effective and efficient response, where the OSC maintains authority.”
- ❖ *Although the OSC “shall” direct the response and maintains his/her authority, you, the Responsible Party have a seat at the table (unless you don’t play well with others). You, the RP, are a vital partner for ensuring success. Collectively with the State, “WE” (EPA, State, RP) are in charge. “We win together and we lose together, so let’s win!!!*

Keys To Success

- ❖ Manage Expectations
- ❖ Manage Relationships

Managing Expectations

- Ensure that everyone is on the same page. This can be accomplished by incorporating an Incident Action Plan (ICS tool) that is signed off by the Unified Command.
- Make sure that your goals and objectives are realistic and achievable. Challenges: how clean is clean, when does the emergency response phase turn into the long term recovery phase, how do you incorporate NGO concerns, etc.
- Be vocal and upfront about your expectations, don't assume others know your expectations. These expectations may be driven by regulations, Agency policies, corporate procedures, etc.
- Communicate, Communicate, Communicate....

Managing Relationships

- Recognize (and respect) each others roles and responsibilities. Understand that your response partner may be receiving pressure from above and/or below that can challenge your relationship.
- Be cognizant of perceptions: The Feds and State are in Unified Command with the RP, in turn they are in cahoots with each other.
- Try to overcome “Political Bombs” together, boot on neck statement at BP.
- Participate in LEPC’s, ACP Meetings, etc. try to get to know each other before an emergency.
- Industry: understand that the Government isn’t your enemy AND you have a vital role in the response process. Invite the regulatory/response agencies to participate in internal drills, training, etc.
- Government: treat the RP and other stakeholders as clients because they are.... If you do not feel that way, then you should probably find another career outside of being a **Public Servant**.

What Do You Do When You Get “THAT” Government Representative

- Don't be confrontational.
- Know your rights and responsibilities (where are they derived: NCP, State Regs, etc).
- If you just can't get along, ask if there is someone else that can come down and assist you all from that Agency.
- If they are “directing” you to do something you feel is unrealistic, inappropriate, etc. ask them to put it in writing. Explain that it will help you both fully understand his/her expectations.
- If all else fails, ask them for the contact info of their Supervisor. Contact the Supervisor and explain the situation and ask for another responder/regulator, etc. Be sure you are right before you do this, i.e. the responder is acting outside of their authority, making unrealistic demands, etc. Just because the representative has an unpleasant demeanor, it doesn't mean he/she isn't authorized to make the demands, etc that you may “personally” feel are incorrect.

Take Aways

- Industry is a vital partner in responding to environmental emergencies.
- Just because you are the Responsible Party, it doesn't mean you do not have rights. You should always have a seat at the table and be an integral partner in the response process.
- Getting to know your response partners ahead of time will help you during an emergency.
- The OSC is responsible for directing the response and retains the final decision authority (51% of the vote).
- Managing expectations and relationships is key to succeeding.

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It's your phone use it

Questions

