

USCG/EPA Jurisdictional Boundaries for Puerto Rico & the US Virgin Islands

CRRT MEETING; CAGUAS, PR

DECEMBER 9-10, 2015

Regional Boundaries

Responsibilities were delegated to EPA and USCG in Executive Order Nos. 12580 and 12777.

EPA provides the OSC for responses in the ***Inland Zone***.

USCG provides the OSC for responses in the ***Coastal Zone***.

Boundary established by EPA and USCG using recognizable landmarks (usually roads) that can be identified in the field.

Can be changed with the concurrence of USCG-D7 and EPA Region 2.

Appendix in the RCP.

Roadways and Waterfront Facilities

For spills in areas where boundaries are designated by a highway or road, the roadbed or right of way shall be the responsibility of the cognizant EPA FOSC.

The place of origin of the spill, regardless of movement of the discharged product caused by tide, current, wind, gravity etc., will determine which FOSC has jurisdiction.

On commercial waterfront facilities, the spill response jurisdictional boundaries will follow the same USCG/EPA pollution prevention regulations boundary for the enforcement of pollution prevention regulations:

- USCG: Spills originating from the "transportation-related" portion of the facility
- EPA: Spills originating from the "non- transportation related" portions of the facility.

DOD & DOE Facilities and Vessels

When an incident is on,
or the sole source of the release is from,
any facility or vessel under the jurisdictional
custody or control of DOD or DOE,
then DOD or DOE will provide an OSC/RPM as
appropriate.

Emergency vs. Long-Term Hazardous Substances Incidents in the Coastal Zone

USCG provides the OSC for ***emergency response actions*** for hazardous substances releases in the coastal zone

EPA generally provides the OSC for ***longer-term removal or remedial actions*** in response to releases of hazardous substances (except in response to releases from vessels).

This policy is documented in the boundary agreement.

Multi- Area Responses

There shall be only one Federal On-Scene Coordinator (FOSC) at any time during response to a single incident, regardless of whether the spill covers multiple areas and Area Contingency Plans (ACPs).

If a discharge or release moves from the area covered by one ACP into another area, the authority for response actions may shift.

Should a discharge affect two or more areas with different lead agencies having response authority (for example EPA and USCG), the agency whose area is vulnerable to the greatest threat should provide the FOSC.

If the agencies cannot agree, the CRRT will designate the FOSC, or refer the matter to the NRT.

NIMS structures, most notably Incident Command System/Unified Command (ICS/UC) will be used to coordinate an effective response. Other NIMS tools for complex incident management may be required in such complex incidents.

In all instances, the decision to designate the FOSC in a multi-area response, ***or to transfer FOSC responsibility,*** should be documented and clearly communicated to other incident response agencies and organizations.

Transfer of FOSC Authority

It may be necessary to transfer FOSC responsibility from one agency to another. Examples include:

- When a response changes from an emergency response to a remedial action.
- When one FOSC or agency is better suited to coordinate the response to a specific incident. For instance, the EPA may request the Coast Guard FOSC for oil spills near the boundary that will impact navigable waters, or the Coast Guard may request an EPA FOSC on certain hazardous materials cases.
- When the FOSC's emergency response workload is beyond his/her capability.
- When an FOSC is first on scene of an incident outside of his/her jurisdiction and starts response actions before the pre-designated FOSC arrives.

When FOSC duties are transferred, the agreement will be confirmed in writing by utilizing the applicable form letter included in the boundary agreement.

On larger cases, both the USCG and EPA FOSC may assist in a unified command regardless of who the designated FOSC is. There will always be a pre-designated FOSC for all cases involving federal resources.

**Statement of Agreement
Between the
FOSC Marine Safety Office San Juan
and an
EPA Region II FOSC**

WHEREAS, the UNITED STATES COAST GUARD is the predesignated Federal On Scene Coordinator (FOSC) for the discharge or release which occurred at _____
_____ from _____
on or about (time) _____, (date) _____ 20____, the following is agreed:

That the below listed FOSC EPA Region II hereby assumes all FOSC responsibilities in accordance with the National Oil and Hazardous Substances Contingency Plan (40 CFR Part 300) for the above outlined discharge or release.

That this transfer of FOSC responsibilities is COMPLETE and will include all associated investigation, cleanup or removal, disposal, public relations, incidental paperwork and filing of required reports.

That this transfer will further remain in effect until such time as the FOSC has determined that there is no further danger to the public health or welfare.

That this agreement does not preclude continued USCG support for the EPA FOSC agreed upon for this incident as deemed appropriate.

U.S. EPA Region II FOSC

DATE

Commanding Officer USCG MSO San Juan

DATE

**Statement of Agreement
Between the
EPA Region II FOSC
and the
FOSC Marine Safety Office San Juan**

WHEREAS, the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY is the predesignated Federal On Scene Coordinator (FOSC) for the discharge or release which occurred at _____
_____ from _____
on or about (time) _____, (date) _____ 20____, the following is agreed:

That the FOSC MARINE SAFETY OFFICE SAN JUAN hereby assumes all FOSC responsibilities in accordance with the National Oil and Hazardous Substances Contingency Plan (40 CFR Part 300) for the above outlined discharge or release.

That this transfer of FOSC responsibilities is COMPLETE and will include all associated investigation, cleanup or removal, disposal, public relations, incidental paperwork and filing of required reports.

That this transfer will further remain in effect until such time as the FOSC has determined that there is no further danger to the public health or welfare.

That this agreement does not preclude continued EPA support for the USCG FOSC agreed upon for this incident as deemed appropriate.

U.S EPA Region II FOSC

DATE

Commanding Officer USCG MSO San Juan

DATE

Language in the Transfer Agreements:

WHEREAS, the UNITED STATES COAST GUARD is the predesignated Federal OnScene Coordinator (FOSC) for the discharge or release which occurred at _____ from _____ on or about (time) _____, (date) _____ 20____, the following is agreed:

That the below listed FOSC EPA Region II hereby assumes all FOSC responsibilities in accordance with the National Oil and Hazardous Substances Contingency Plan (40 CFR Part 300) for the above outlined discharge or release.

That this transfer of FOSC responsibilities is COMPLETE and will include all associated investigation, cleanup or removal, disposal, public relations, incidental paperwork and filing of required reports.

That this transfer will further remain in effect until such time as the FOSC has determined that there is no further danger to the public health or welfare.

That this agreement does not preclude continued USCG support for the EPA FOSC agreed upon for this incident as deemed appropriate.

Boundary Designations in Puerto Rico

The inland and coastal areas are divided mostly by road or thoroughfare:

Puerto Rico: The inland and coastal areas are divided mostly by road or thoroughfare, beginning at the intersection of Route 1, Munoz Rivera Avenue and Route 26 in San Juan. The boundary runs East on Route 26; then North on De Diego Avenue and east along Route 37, Calle Loiza to Route 187; then along 885 and continuing East along Route 187, Ave. Boca De Congrejos until Route 3 in Rio Grande.

Culebra, Vieques and the smaller islands of Puerto Rico: The EPA/USCG boundaries on Culebra and Vieques islands are delineated by an imaginary line that runs 100 meters inland from the water's edge. All of the Commonwealth's smaller islands, such as Mona Island, will be under the jurisdiction of the Coast Guard FOSC.

Boundary Designations in USVI

The inland and coastal areas are divided mostly by road or thoroughfare, except for St. John.

On **St. Croix**: The EPA/USCG jurisdictional boundary on St. Croix begins at Route 64 near the Airport and follows -Westward along Route 66, Melvin H. Evans Highway to Route 702, Fisher Street in Frederiksted. In Frederiksted the boundary line runs East along Fisher Street and then North along King Street to Route 631; then on to Route 63, Hans Bluff Road to and along

On **St. Thomas**: The boundary begins at the intersection of Route 30, Moravian Hwy. and Route 304 and runs West along Route 304; then North on Route 302, then Westward again on Route 30 along Brewers Bay Road; then North and East along Route 308, West End Road, Northeastward along Route 33, Crown Mountain Road to Route 333; then along Route 333 North on to Route

On **St. John**: The EPA/USCG jurisdictional boundary is delineated by an imaginary line that runs 100 meters inland from the water's edge.

Clarification Needed?

Language in the Boundary Agreement Document:

- The place of origin of the spill, regardless of movement of the discharged product caused by tide, current, wind, gravity etc., will determine which FOSC has jurisdiction.

Language in the RCP under “Multi-Area Responses:”

- Should a discharge affect two or more areas with different lead agencies having response authority (for example EPA and USCG), the agency whose area is vulnerable to the greatest threat should provide the FOSC.

Suggestion:

Keep boundary agreement language, and add to RCP Section 3.B., to clarify FOSC jurisdiction is based on origin of spill.

Modify language in RCP under Multi-Area Responses (3.C.), to clarify potential for FOSC transfer based on area of greatest vulnerability.

Modifications Needed:

- DOD/DOE Facilities & Vessels paragraph:
 - Currently under the USVI boundary narrative
 - Move to bottom of Page 1
- Change “Marine Safety Office” references to “Sector San Juan”
- Change “HOVIC” and “V.I. Oil Refinery” references in the St. Croix narrative
- Correct narrative for road boundaries and directions on St. Thomas
- Clarify boundary roads around Frederiksted, Christiansted and “HOVIC.”
- Any others?