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# PACPLAN

## PACIFIC ISLANDS REGIONAL MARINE SPILL CONTINGENCY PLAN 2019

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Developed by Secretariat of the Pacific Regional Environment Programme under the auspices of:

**PACPOL - the Pacific Ocean Pollution Prevention Programme**

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## GLOSSARY OF TERMS

AIP	Australian Institute of Petroleum
AMSA	Australian Maritime Safety Authority
AMOSC	Australian Marine Oil Spill Centre
OSRL	Oil Spill Response Limited
FUND Convention	International Convention for the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992-
	Hazardous and Noxious Substances
HNS	International Maritime Organisation
IMO	International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969
INTERVENTION	International Tanker Owners Pollution Federation
ITOPF	Entity that has operational responsibility for managing the response to a particular marine spill. The Lead Agency will vary according to the size and location of the spill.
Lead Agency	(International) Law of the Sea
	PACPLAN addresses all types of marine spills including oil and HNS
LOS	Pollution Adviser
Marine Spill	National Marine Pollution Fund
PA	National Marine Spill Contingency Plan
POLFUND	Convention for the Protection of the Natural Resources and Environment of the South Pacific Region and related protocols
NATPLAN	Protocol for the Prevention of Pollution of the South Pacific Region by Dumping
Noumea Convention	Protocol concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region
	International Convention on Oil Pollution Preparedness, Response and Co-operation 1990
Noumea Dumping Protocol	Protocol on Preparedness, Response and Co-ordination to Pollution Incidents by Hazardous and Noxious Substances 2000
	Oceania Regional Contingency Plan
Noumea Pollution Emergencies Protocol	Oceania Regional Response Team
	Pacific Islands Regional Marine Spill Contingency Plan
OPRC	Pacific Ocean Pollution Prevention Programme
	Pollution Report
OPRC-HNS	Government department or authority which has responsibility for administering and enforcing the national marine pollution legislation and for the overall management of the NATPLAN-
	Situation Report
ORCP	The Pacific Community
ORRT	Secretariat of the Pacific Regional Environment Programme
PACPLAN	The 14 independent and semi-independent and the seven territories (Pacific Island territories)
PACPOL	The SPREP non Pacific Island Members - Australia, France, New Zealand, United Kingdom and the United States of America-
POLREP	Spills that are within the response capability and resources of an individual port or oil terminal.
Responsible Authority	Spills that are within the national capability and resources of the individual SPREP member where the spill occurs and the impact or potential impact is limited to the waters within the jurisdiction of that SPREP member only.
	Spills that are of a magnitude and/or severity that is beyond the response capability and resources of the individual SPREP member where the spill occurs, and/or spills that impact or threaten to impact within the jurisdiction of two or more SPREP members. <b>PACPLAN is limited to addressing Tier Three spills</b>
SITREP	United Nations Convention on the Law of the Sea
SPC	United States (of America)
SPREP	United States Coast Guard
SPREP Pacific Island and Territory members	
SPREP Metropolitan Members	
Tier One Spill	
Tier Two spill	
Tier Three spill	
UNCLOS	
U.S.	
USCG	

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# 1. INTRODUCTION

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## 1.1 Background

Marine pollution is widely recognised as one of the four major threats to the world's oceans, along with climate change, habitat destruction and over-exploitation of living marine resources. Spills of oil and other chemicals into the marine environment, both from ships and land-based sources, is a significant source of pollution.

In a region sometimes called 'Oceania', the health of the ocean is fundamental to the sustainability of all aspects of Pacific island life. The importance of coastal and marine environments to every aspect of the lives of Pacific islanders cannot be overstated, and the impacts of marine spills constitute a major concern for Pacific island peoples. Because of a lack of major land-barriers throughout the Pacific, combined with a complex pattern of trans-oceanic currents, the Pacific Ocean is perhaps the most highly connected and continuous ocean, in terms of water movement, on the planet. This compounds the seriousness of marine pollution for the region. Events in one area can have implications for other areas, as pollutants and contaminants are carried from their sources by ocean movements.

The region is not immune to the challenges of sustainable development and faces the pressures of economic development. Throughout the region there are activities associated with gas and oil exploration, and refineries are situated along the coastline or served by seagoing tanker vessels.

Pacific islands therefore need to work together, through regional arrangements, to address marine pollution. No single country in the region can address this problem in isolation. There are a number of agreements, conventions, instruments, policies and other initiatives that require countries to work co-operatively to address marine pollution and protect the marine environment. At the international level these include: the international *Law of the Sea* (LOS), the *International Convention on Oil Pollution Preparedness, Response and Co-operation 1990* (OPRC 90) and the *OPRC HNS Protocol*. At the regional level they include the *Convention for the Protection of the Natural Resources and Environment of the South Pacific Region* (the Noumea Convention 1986) and associated Protocols.

The *Secretariat of the Pacific Regional Environment Programme* (SPREP), as part of its role to assist island members to address environmental issues and in accordance with the SPREP Strategic Plan, has developed a comprehensive programme to address marine pollution. This is delivered through the *Pacific Ocean Pollution Prevention Programme* (PACPOL current version).

A primary mechanism for the provision of assistance under PACPOL is the *Pacific Islands Regional Marine Spill Contingency Plan* (PACPLAN) which was first endorsed in 2000. PACPLAN provides the framework for co-operative regional responses to major marine spills in the Pacific Islands region, and provides guidance on the roles and responsibilities of relevant organisations, regional linkages, and mechanisms for accessing regional and international assistance for pollution incidents.

## 1.2 Mandate

The primary mandate for PACPLAN stems from regional and international conventions as outlined below.

Nothing in this PACPLAN is intended to give rise to rights or obligations under international law.

### 1.2.1 *Noumea Pollution Protocol*

**Table One: Regional conventions**

Regional convention	Application to PACPLAN
<p><i>Convention for the Protection of the Natural Resources and Environment of the South Pacific Region</i> (the Noumea Convention) 1986.</p> <p><i>Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region</i></p>	<p>Provides context to:</p> <ul style="list-style-type: none"> <li>• take initial action at the national level to respond to pollution incidents (marine spills);</li> <li>• co-operate with other Parties in the response to pollution incidents;</li> <li>• establish and maintain, within their respective capabilities, the means of preventing and responding to pollution incidents, including; <ul style="list-style-type: none"> <li>• enacting relevant legislation;</li> <li>• developing and maintaining contingency plans; and</li> <li>• designating a Responsible Authority.</li> </ul> </li> <li>• exchange information with each other and report all pollution incidents to relevant authorities and other parties whose interests are likely to be affected;</li> <li>• provide assistance, within their capabilities, to other Parties who request such assistance, based on an agreement with the requesting Party or Parties and taking into account the technological means available;</li> <li>• facilitate the movement of personnel and materials needed for response; and</li> <li>• develop and maintain, where appropriate, sub-regional and bilateral arrangements for preventing and responding to pollution incidents.</li> </ul>

### 1.2.2 *International maritime conventions*

There are several international maritime liability conventions that would allow Pacific Island Countries and Territories countries to draw on liability funds for marine pollution incidents. These are listed below:



**Table Two: International conventions**

International convention	Application to PACPLAN
<p><i>International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990</i></p> <p><i>Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol)</i></p>	<p>Provide context for:</p> <ul style="list-style-type: none"> <li>• developing a national system for pollution response</li> <li>• maintaining adequate capacity and resources to address oil and hazardous and noxious substances (HNS) incidents</li> <li>• facilitating international cooperation and mutual assistance in preparing for and responding to major oil and HNS incidents, and</li> <li>• notifying without delay neighbouring countries or territories whose interests are affected or likely to be affected by an oil or HNS pollution incident.</li> </ul>
<p><i>International Convention for the Prevention of Pollution from Ships (MARPOL)</i></p>	<p>Provides ships' construction and operational requirements to prevent pollution from ships. Requires ships greater than 400 gross tonnes and above to have pollution emergency plans.</p> <p>Provides for exemptions from discharge restrictions (and prosecution) where:</p> <ul style="list-style-type: none"> <li>• a discharge is necessary to secure the safety of a ship or save a life at sea, or prevent a larger spill or</li> <li>• it is necessary during a spill response to discharge oil or HNS or use dispersants to minimise the overall damage from pollution, and is approved by the relevant government.</li> </ul>
<p><i>United Nations Convention on the Law of the Sea, 1982</i></p>	<p>Article 221 provides general powers for parties to take and enforce measures beyond the territorial sea to protect their coastline or related interests from pollution or the threat of pollution following a maritime casualty or acts relating to such a casualty, which may reasonably be expected to result in major harmful consequences.</p> <p>Article 198 provides that "when a State [neighbouring country] becomes aware of cases in which the marine environment is in imminent danger of being damaged ... by pollution, it shall immediately notify other States it deems likely to be affected by such damage."</p>
<p><i>International Convention Relating to Intervention on the High Sea in Cases of Oil Pollution Casualties, 1969</i></p> <p><i>Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances Other Than Oil, 1973</i></p>	<p>Provides general powers for parties to take measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from the threat of pollution by oil or hazardous and noxious substances following a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.</p>
<p><i>International Convention on Civil Liability for Oil Pollution Damage, 1992</i></p>	<p>Provides for the recovery of pollution costs and payment of compensation from owners/operators of oil tankers.</p>
<p><i>International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992</i></p>	<p>Provides for additional compensation and costs where the tanker owners'/operators' liability limits are exceeded, using funds provided by the oil industry.</p>

<i>International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001</i>	Provides for the recovery of pollution costs and payment of compensation from owners/operators of all vessels using oil as bunker fuel and references the liability arrangements in the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC) and its 1996 Protocol.
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### 1.3 PACPLAN Purpose

The purpose of PACPLAN is:

To prevent/minimise damage to marine and coastal environments, and resources, from marine spills, and to provide systems, frameworks and guidelines to assist with response and recovery of the environment and resources damaged by marine spills in the Pacific islands region.

PACPLAN is intended to:

1. promote and implement regional co-operation in planning and training for marine spill response, and in the actual prevention of, and response to, marine spills;
2. facilitate actions and cooperation consistent with international conventions at the operational level (including domestic legislation) by all SPREP members, including those that are not yet parties to these; and
3. outline arrangements for maintenance of PACPLAN and associated systems by SPREP.

### 1.4 Technical Scope & Tiered Response

Traditionally, spill response plans tend to focus exclusively on oil spills. Internationally, there is increasing recognition that it is more effective and efficient to integrate oil spill response arrangements with those for all pollutants, including hazardous and noxious materials (HNS) as defined in the OPRC-HNS Protocol.

PACPLAN therefore covers the response to spills into the marine environment of all forms of pollutants from a vessel, or marine port facility.

As a regional plan, PACPLAN applies only to spills where regional co-operation and/or supra-regional assistance are needed. Under PACPLAN, such spills are classified as Tier Three responses. PACPLAN does not cover Tier One and Tier Two responses.

For the purposes of PACPLAN, Tier One, Two and Three spills are defined as follows:

#### Tier One response

- A response to a spill incident that is within the response capability and resources of industry (as the polluter).

Tier One spills should be covered by individual companies, port administrators and vessel operators who should develop, implement and maintain contingency plans.

#### Tier Two response

- A response to a spill incident that is beyond the capacity of the industry operator acting alone and the response is led by the lead authority as defined in the National Plans (NATPLAN) within the

national capability and resources of the individual SPREP island member government where the spill occurs.

Tier Two spills should be managed through NATPLANs. Each SPREP island member government should develop, implement and maintain a NATPLAN, through a National Marine Pollution Committee or Disaster Response Committee. The committee should comprise as a minimum: the national administrations for maritime transport, environment, fisheries/marine resources and disaster management and the oil industry.

#### Tier Three response

- A response to a spill incident that is more complex, of longer duration and impact and beyond the response capability and resources of the individual SPREP island member where the spill occurs; and/or
- A response to a spill incident that impacts, or threatens to impact, two or more SPREP island jurisdictions.

Tier Three spills should initially be managed according to the relevant NATPLAN, then supported by PACPLAN. The response escalation process is to be detailed in respective SPREP island member government NATPLANs.

Set quantities and sizes of spills have intentionally not been used in the definition of Tiers. In some instances a relatively small spill may fit the Tier Two or even Tier Three category. Classification depends on the composition and source of the spill, the location and response capabilities and resources of the SPREP island member where the spill occurs, the prevailing conditions at the time of the spill, and the types of environments impacted or threatened.

It is important for NATPLANs to be able to identify priority issues and areas such as those relating human life, health and safety (highest priorities) and sensitive areas (environmental, cultural and economic). Guidance on how to conduct the grading is provided in the IPIECA/IMO publication *Sensitivity Mapping for Oil Spill Response 2011*.

Defining a particular Tier can only be done at the time of the spill, according to an assessment by the Responsible Authority of the SPREP island member where the spill occurs.

In reality spills do not fall into convenient categories, and the boundaries between Tiers will be blurred. Responsible Authorities, in consultation with the Lead Agency, should always be prepared to involve the next highest Tier from the earliest stages, as it is easier to stand down an alerted system than to escalate a response by calling up the next level of support.

### **1.5 Hazardous and Noxious Substance (HNS) Incident**

PACPLAN is designed to cover the response to spills into the marine environment of all types of pollutants, including hazardous and noxious substances (HNS).

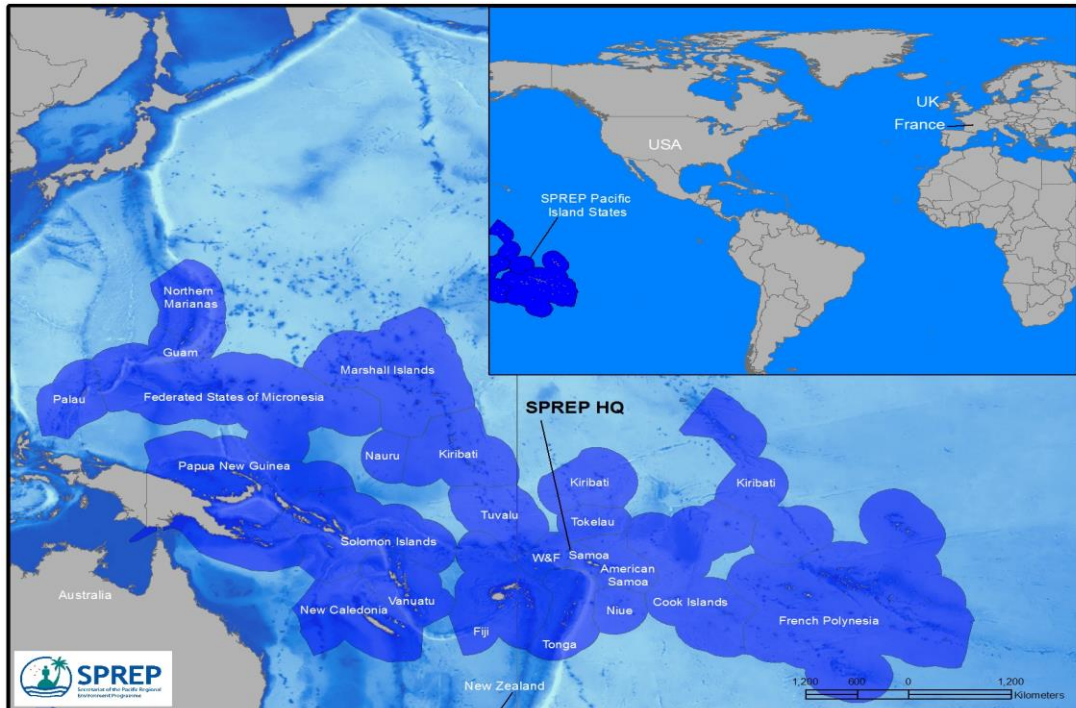
In the event of a HNS spill within the PACPLAN Area, the general procedures and arrangements of PACPLAN should be followed. In addition, the NATPLAN of each SPREP island member should cover the response to HNS spills. The NATPLANS or supporting documents should therefore outline the techniques and equipment available for HNS spill response in each country/territory.

Should a SPREP island member need technical advice and assistance with the response, this should be requested in accordance to PACPLAN.

## 1.6 Geographical Scope

The PACPLAN Area is the Pacific islands region, as defined by the coastlines and all marine waters within the EEZs of the 21 Pacific Island Countries and Territories which are members of SPREP, see Figure One below.

**Figure One: Pacific Islands Countries and Territories Region**



SPREP island members are grouped into two categories, the 14 independent and semi-independent countries (Pacific Island Countries) and the seven territories (Pacific Island territories - Table Three).

In addition to the 21 SPREP island members, there are five metropolitan countries that are also members of SPREP (Table Three). They do not constitute part of the PACPLAN area of response operations, but play a vital role in implementing and assisting with PACPLAN.

**Table Three: SPREP Member Countries and Territories**

SPREP Island Members		SPREP Metropolitan Members
Pacific Island Countries	Pacific Island Territories	
Cook Islands	American Samoa (U.S.)	Australia France New Zealand United States of America United Kingdom
Fiji Islands	Northern Mariana Islands (U.S.)	
Kiribati	French Polynesia (France)	
Marshall Islands	Guam (U.S.)	
Federated States of Micronesia	New Caledonia (France)	
Nauru	Tokelau (NZ)	
Niue	Wallis & Futuna (France)	
Palau		
Papua New Guinea		
Samoa		
Solomon Islands		
Tonga		
Tuvalu		
Vanuatu		

## 1.7 Underlying Principles, Goals and Objectives

Every effort should be made by industry and government to **prevent** spills of oil and other hazardous and noxious substances from occurring, as the highest priority.

Despite prevention measures, spills will occur from time to time, therefore there is a need to have national contingency **plans** (NATPLANS) in place to deal effectively with such spills, at the local, national and regional/international level.

### 1.7.1 Principles

PACPLAN is designed to address Tier Three spills at the regional and international level in the most cost-effective, efficient and practicable way possible. PACPLAN is to be activated through a SPREP island member's NATPLAN, once it has been identified that external assistance may be required.

The principles of PACPLAN are;

- it is an enabling document that outlines cooperative arrangements in place for Tier Three spill responses in the Pacific i.e. PACPLAN is not a 'response plan';
- it takes a national, regional and international, cooperative and shared approach, for spill readiness and response activities; and
- spill response, must be, where possible, integrated within any regional and national disaster management response framework; and
- any marine spill response will adopt the most cost-effective, efficient and practicable response options available.

### 1.7.2 Goals

There are three main goals to PACPLAN:

Goal 1: SPREP island members have a Tier Two readiness and response capability that matches the scale of their responsibility and risk.

Goal 2: SPREP island members (with support) are able to undertake an effective Tier Three response to a significant marine spill incident.

Goal 3: SPREP to effectively enable SPREP island members to meet Goals 1 and 2 objectives.

### 1.7.3 Objectives

Goal 1 Objectives:

1. Each SPREP island member has an established marine spill response framework, including a National Marine Pollution Committee or Disaster Response Committee that enables a self-sustainable response capability for Tier One and Tier Two spills.
2. SPREP island members undertake readiness activities to maintain and enhance their Tier Two response capability.

3. SPREP island members ratify relevant international maritime conventions to ensure they have access to international compensation funds beyond limitations of the polluter.
4. SPREP island members have supporting domestic legislation to enable prosecution against polluters and access to international liability funds.

Goal 2 Objectives:

1. The National Marine Pollution Committee or Disaster Response Committee has the ability to identify and manage a request for assistance for a Tier Three spill.
2. SPREP island members undertake readiness activities to maintain and enhance their Tier Three response capability.
3. SPREP island members have supporting legislation in place to allow a metropolitan country to provide timely assistance, including timely access to the spill area.
4. When requested, Metropolitan countries to provide appropriate assistance to address a Tier Three spill.
5. Metropolitan countries to develop and maintain plans and procedures to provide assistance to their primary responsibility SPREP island members.
6. When requested, neighbouring SPREP island members have the ability to provide support to a Tier Three spill.
7. SPREP to provide assistance to SPREP island members and Metropolitan Countries to manage effective support during a Tier Three marine spill incident.

Goal 3 Objectives:

1. SPREP, with support from metropolitan countries, to deliver PACPOL activities to enable SPREP island members to develop their response capability and legal framework.
2. SPREP to establish and implement an effective monitoring and reporting system for determining SPREP island members' marine spill readiness.

### 1.8 Summary of Oil Spill Risk

The PACPLAN Area is host to several categories of seagoing shipping; transit, international, regional domestic, foreign and domestic fishing and miscellaneous (navy, research, private vessels etc.). Ship grounding is the most common casualty type with the loss of heavy fuel oil bunkers considered the greatest oil spill threat to the region.

Recent incidents include the *Solomon Trader*, Solomon Islands (2019), the *MV Southern Phoenix*, Fiji (2017), the *Kea Trader*, New Caledonia (2017), the *M/V Rena*, New Zealand (2011), the *M/V Forum Samoa II*, Samoa (2009); the, and the *M/V Pacific Adventurer*, Australia in 2009.

The risk of oil pollution from over 800 WWII wrecks is also of major concern to many Pacific island nations. The largest number of WWII wrecks can be found in Papua New Guinea, Solomon Islands, Federated States of Micronesia and Palau. The response to a pollution incident from a WWII wreck involves particular issues because of the risk of unexploded ordinance; sensitivity as most of the vessels

are war graves, and sovereign immunity. This requires coordination among the interested states (e.g. the flag state and the coastal state). SPREP can provide technical assistance upon request for incidents of this nature. The response to the USS *Mississinewa* at Ulithi Atoll in 2002 is a case study of the issues involved in such circumstances.

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## 2. ROLES & RESPONSIBILITIES

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### 2.1 SPREP Island Member Governments

Each SPREP island member government has the following roles and responsibilities under PACPLAN, in accordance with national capacity:

- to adopt relevant international and regional conventions that will strengthen their ability to enforce and seek redress from polluters for marine pollution incidents;
- enact relevant domestic legislation to reinforce powers and rights given to countries under the international and regional conventions including establishing POLFUNDS, and to ensure that industry meets domestic environmental requirements;
- develop and maintain a National Marine Pollution Committee or Disaster Response Committee whose tasks will include developing and maintaining a NATPLAN, and necessary sub-plans for local areas such as individual ports, designating a Responsible Authority and Lead Agency to coordinate a response to a marine spill incident;
- in the case of a marine spill incident;
  - take effective action to respond to marine spills that occur within its jurisdiction;
  - co-operate with and assist neighbouring countries and territories in the response to marine spills;
  - facilitate the provision and receipt of any external assistance that might be requested or provided by regional or metropolitan countries
- identify, participate in and maintain training and capacity (including maintenance of equipment) to manage a marine spill incident ;
- report all marine spills to SPREP (including Tier One and Tier Two spills);
- report on indicators for oil spill preparedness as determined by SPREP;
- report to SPREP any changes in circumstances, including levels of risk of marine spills, capability to manage marine spills, internal administrative arrangements and contact details; and
- participate in PACPOL activities including reviews and exercises.

### 2.2 SPREP Metropolitan Member Governments

Subject to their capabilities and the availability of relevant resources, each SPREP Metropolitan member government (Australia, France, New Zealand, United Kingdom and the United States), has the following roles and functions under PACPLAN:

- assist SPREP island members in preventing marine spills and planning and preparing for the response to marine spills; including;
  - to adopt relevant international and regional conventions that will strengthen their ability to respond to marine spills, enable access to insurance and compensation funds, and enforce



- and seek redress from polluters for marine pollution incidents;
  - adopt and implement related domestic legislation and develop NATPLANS ~~through the provision of model legislation and procedural advice~~; and
  - capacity building for the management of a spill response.
- when a request for assistance is received, assist SPREP island members with a Tier Three marine incident response. This response may include the provision of expert technical advice, assistance with coordination, trained personnel, and equipment;
  - have arrangements in place to seek assistance and support from other metropolitan members when unable to provide direct assistance to a primarily assistance country; and
  - participate in PACPOL activities.

### **2.3 Secretariat of the Pacific Regional Environment Programme**

Under PACPLAN, SPREP has the roles and responsibilities listed below. While SPREP is not an emergency response agency SPREP supports SPREP island members with their overall preparedness for marine spill incidents and can advise and assist with the activation of PACPLAN. SPREP should be contacted early once a Tier Three marine spill incident has been identified.

SPREP has the following roles and functions under PACPLAN;

- organise and deliver PACPOL activities and PACPLAN obligations that facilitate and assist the goals and intentions of PACPLAN, including assistance to develop NATPLANS, Oil Spill response equipment, development and distribution of model legislation, and capacity building;
- assist SPREP island members with requests for external assistance in the event of PACPLAN being activated and assist, where required, with the provision or coordination of advice to member governments in the event of a spill;
- maintain and update;
  - SPREP Guidelines and Templates; and
  - an inventory of Responsible Authorities for each SPREP island member.
- receive, co-ordinate and disseminate reports to affected parties and report on annual spill statistics;
- provide a platform for information sharing and identify and distribute relevant intelligence regarding oil spills including lessons learned, trends and risks;
- generally provide advice to SPREP island members in the prevention, planning and response to, marine spills;
- set indicators, and report, on preparedness for SPREP island members;
- maintain and update PACPLAN, including;
  - staying abreast of developments and changes that affect the content of the Plan and notifying member countries before amending the Plan;
  - managing the distribution of the Plan; and
  - ensuring that all participants of the PACPLAN receive updates to the Plan as they occur, and
- SPREP to develop and maintain the necessary staff and material resources to enable it to fulfil these

responsibilities, within the resources made available from the general PACPOL programme.

## **2.4 Industry**

Industry facilities such as oil terminals, ports and harbours, shipping and fishing companies operating in the region are expected to have appropriate arrangements in place to prevent, manage and respond to a marine spill incident. It is expected that Industry has the response capability to independently respond to a Tier One spill incident and will be an active and responsible participant in any Tier Two or Tier Three response for which they are responsible.

Industry should also provide assistance to the local government (and region more broadly) to assist with non-industry spills on a cost-recovery basis, with costs being recovered from the polluter.

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### 3. US OCEANIA REGIONAL CONTINGENCY PLAN (ORCP)

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Under the United States (U.S.) *Oil Pollution Act of 1990* (OPA 90), Regional Response Teams (RRT's) are established for various regions of the United States jurisdiction, including an *Oceania Regional Response Team* (ORRT) for the United States Pacific island territories. These comprise the Territory of American Samoa, the Territory of Guam, the State of Hawaii and the Commonwealth of the Northern Mariana Islands.

ORRT is an inter-agency team comprising U.S. Federal, State and Local government agencies chaired jointly by District 14 of the U.S. Coast Guard (USCG) in Hawaii and Region 9 of the U.S. Environmental Protection Agency (USEPA) in San Francisco. ORRT advises on response planning and actual responses to marine spills in the United States Pacific island territories.

ORRT has developed an Oceania Regional Contingency Plan (ORCP), and local Area Committees have developed Area Contingency Plans for Hawaii, American Samoa, and the Mariana Islands (Guam and CNMI). Responses to marine spills in the United States Pacific island territories are conducted under these plans, consistent with the federal National Contingency Plan, and not PACPLAN.

However, the United States Pacific island territories (excluding Hawaii) may request external assistance from non-U.S. participants under PACPLAN, in accordance with **Section 5**. Like-wise, non-U.S. participants may request assistance from the United States and/or United States Pacific island territories under PACPLAN, in accordance with **Section 5**.

## 4. POLLUTION REPORTING

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### 4.1 Pacific Regional Marine Spill Reporting

Under PACPLAN, SPREP maintains marine spill reporting through its office in Apia, Samoa.

All reports should be transmitted through the SPREP email address, providing a focal point for receiving and relaying information concerning any marine pollution incident in the region. This information will then enable:

- reporting through Pollution Reports (POLREPS) of all marine spills in the region;
- alerting of other entities potentially affected by a spill; and
- monitoring the progress of a spill through Situation Reports (SITREPS), allowing updates to be provided to affected parties.

SPREP is not an emergency response agency, and is only functional during normal business hours. The main purpose of this reporting to SPREP is for the collection, analysis and dissemination of spill data. The Responsible Authorities in each country/territory should ensure that national marine spill emergency reporting and alerting systems are established and maintained independently.

All forms can be found at [www.sprep.org](http://www.sprep.org)

### 4.2 Initial Pollution Reports (POLREPS)

Any spill should be immediately reported to the SPREP island member's Responsible Authority (as identified in their NATPLAN).

The Responsible Authority should complete a POLREP for all spill types (Tier One-Three) for their own records and for reporting to SPREP.

The Responsible Authority in each country/territory should also disseminate POLREPS for significant spills to all affected parties, including those whose interests are potentially affected by the spill, such as neighbouring governments, if it appears likely that the spill may affect their sea areas and/or shorelines.

~~Attachment One provides contact details for the Responsible Authorities for each SPREP island member and metropolitan country.~~

### 4.3 Situation Reports (SITREPS)

In order to provide periodic updates on pollution incidents, the Responsible Authority in the country/territory where the spill has occurred, should transmit SITREPS to SPREP and metropolitan country and all affected parties via email at regular intervals throughout the spill.

### 4.4 Post-Incident Reports (POSTREPS)

After a pollution incident, the Responsible Authority of each government affected should prepare reports to cover:

- assessment of the response operation, including assessment of techniques engaged and equipment used and their effectiveness;
- documentation of clean-up costs (including staff hours);
- assessment of environmental and economic damage;
- details of problems encountered and lessons learned; and
- recommendations regarding amendment or revision of NATPLANs/PACPLAN.

When each government has compiled these individual reports, the Responsible Authority and other personnel should liaise with SPREP to review their collective experiences and compile an overall Post-incident Report (POSTREP) that will include the lessons identified for all SPREP members, including as appropriate, any recommendations for revising.

Post incident reporting is also important when preparing to recover costs from the polluter or via International Conventions' liability funds. It is important to record as much information as possible during a marine incident response to ensure that lessons can be learned from the incident and true costs are captured and reimbursement can be sought from the polluter.

## 5. ADMINISTRATION AND FINANCE

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### 5.1 Requests for Assistance

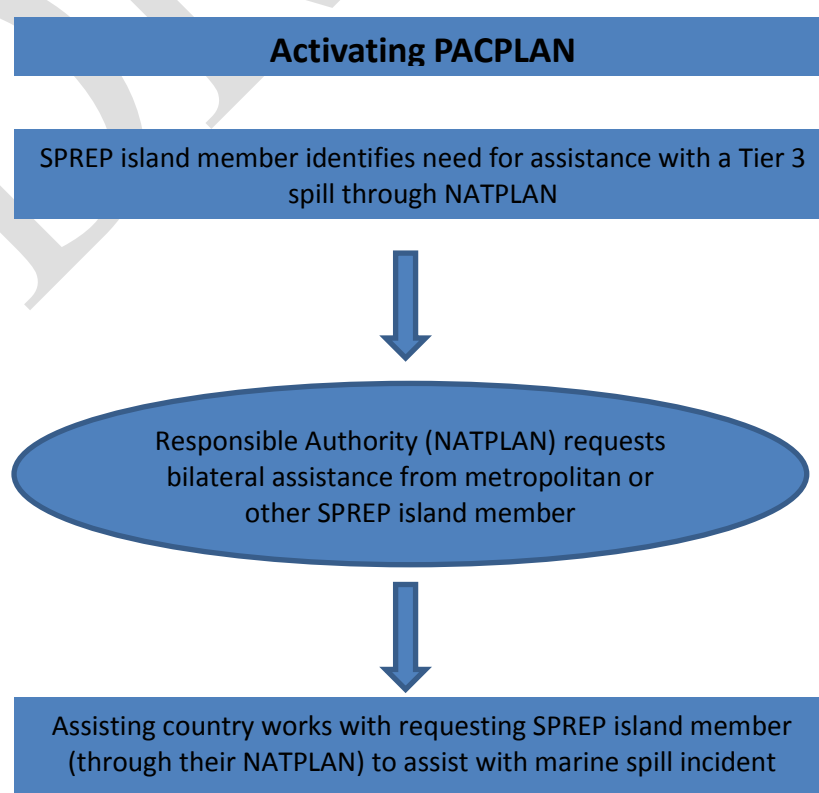
The Responsible Authority of each island member is the only authority authorised to initiate a request for external assistance under PACPLAN. Once the Responsible Authority assesses a spill to be a Tier Three spill they should contact the local embassy of the metropolitan country from which assistance is requested, and follow up with a Diplomatic Note and a Request for Assistance form.

The U.S. Pacific island territories (American Samoa, Guam and Northern Marianas), when requesting assistance from the U.S., should do so in accordance with the U.S. ORCP, and not PACPLAN. Likewise, French Pacific island territories (French Polynesia, New Caledonia and Wallis and Futuna) should seek assistance in accordance with the *'Orsec maritime contingency plan'* and not PACPLAN. The U.S. and France Pacific island territories should use the PACPLAN procedures when requesting assistance from non-U.S. or French participants respectively.

In requesting assistance, the requesting country/territory should provide as much information as possible about the nature of the spill and be as specific as possible about the type of assistance required. Determination of the most appropriate assistance package should be carried out through discussions/communications between the requesting country/territory and the assistance provider (which may be a metropolitan country, another SPREP island member or industry provider).

The onus is on the Responsible Authority in their country/territory to manage the overall spill response effort. This includes facilitating the activities of the assistance providers by ensuring customs, immigration, quarantine and logistics arrangements are in place and providing the command and control elements of the response. If the above responsibilities cannot be met the effectiveness of external assistance will be hampered.

**Figure Two: Request for Assistance**



Five sources of assistance are available: neighbouring SPREP island governments, SPREP, metropolitan governments, in-country industry organisations and external industry response companies. How these are engaged should be determined in SPREP island members' NATPLANs. A combination of sources may be required to manage a Tier Three marine spill incident..

#### ***5.1.1 Assistance from Neighbouring SPREP Island Governments***

SPREP island governments can seek assistance from neighbouring island governments. Such requests for assistance should be made directly between the neighbouring governments, and copied to SPREP. Requests should be in accordance with any relevant Memorandum of Understanding or Technical Agreement between the neighbouring governments and any applicable joint response plan(s) that the neighbours may have in place.

#### ***5.1.2 Assistance from SPREP***

In the event of a marine spill in a SPREP island member country/territory, SPREP may be asked to provide or arrange technical advice in the following areas:

- The availability and application of spill trajectory prediction systems;
- The use of oil spill dispersants, including application of the SPREP Guidelines on the Use of Oil Spill Dispersants;
- Environmental sensitivity information and protection priorities;
- Oiled wildlife operations;
- Oily waste management; and
- Environmental and scientific matters relating to the spill response in general.

Such technical advice would generally be provided remotely by SPREP from its office in Samoa.

In addition to being able to provide technical advice in the above areas, SPREP should also be able to arrange for the provision of technical advice in other, non-environmental, areas. These include operational disciplines and assistance to countries and territories in requesting external assistance.

#### ***5.1.3 Assistance from SPREP Metropolitan Governments***

Should the spill be of a magnitude and/or severity that is beyond the response capability and resources of the individual SPREP island member then members should seek assistance from a Metropolitan member.

Under PACPLAN each SPREP island member is allocated a SPREP Metropolitan member as a ***primary and secondary source of assistance*** (see Table Four). This table should serve only as a guide as the decision to approach any Metropolitan member, or any other potential source of assistance, will be made depending on the circumstances of each spill and a particular Metropolitan member may not be able to provide the requested assistance.

**Table Four: Primary and Secondary Sources of Assistance - by Participant**

Assistance Source	Primary source of assistance for:	Secondary source of assistance for:
Australia	Nauru	Federated States of Micronesia
	Papua New Guinea	Fiji
	Solomon Islands	Guam
	Tuvalu	New Caledonia
	Vanuatu	Northern Mariana Islands
	Kiribati	Palau
		Tonga
		Marshall Islands
France	French Polynesia	Cook Islands
	New Caledonia	Niue
	Wallis & Futuna	Vanuatu
New Zealand	Cook Islands	American Samoa
	Fiji	Nauru
	Niue	Papua New Guinea
	Samoa	Solomon Islands
	Tokelau	Wallis & Futuna
	Tonga	
The United States	American Samoa	French Polynesia
	FSM	Kiribati
	Guam	Tokelau
	Marshall Islands	Tuvalu
	Northern Mariana Islands	Samoa
	Palau	

#### ***5.1.4 Assistance from the Oil Industry and spill response providers***

##### ***5.1.4.1 In-Country Industry***

In the first instance, SPREP island governments that desire assistance from industry providers should seek it from the industries that operate within its jurisdiction. Such requests for assistance should be made directly between the government and the industry provider, and be copied to SPREP. Requests should be in accordance with the relevant NATPLAN, which should outline the mechanisms for integration between in-country government and industry capabilities.

The industry should also provide assistance to government for the response to non-industry spills on a cost-recovery basis, with costs being recovered from the polluter.

##### ***5.1.4.2 Australian Marine Oil Spill Centre (AMOSC)***

AMOSC is an Australian industry funded Oil Spill Response Organisation based out of Geelong in Melbourne. The centre was created in 1991 for industry responses to oil spills. AMOSC holds the largest Tier Three stockpile of equipment in Australia and operates an industry based Core Group of around 100 prepared oil spill responders.

The role of AMOSC is to support and advise member companies on oil spill response and that includes conducting oil spill response training courses in IMO levels I, II and III. AMOSC also provides support and assistance to AMSA through the Australian National Plan for oil spill response. AMOSC can



provide training, advice and support to SPREP members as required and through fee-based courses either in Australia or the Pacific Islands.

AMOSC is also available to all oil companies operating in the Pacific Islands through membership or callout (acknowledging the applicable fees for non-members). Membership of AMOSC can be accessed through the Australian Institute of Petroleum (AIP): [www.aip.com.au](http://www.aip.com.au)

The AMOSC 24 hour callout number is; (0061) 0438 379328

The AMOSC office number is; (0061) 03 5272 1555

#### *5.1.4.3 Oil Spill Response Limited (OSRL)*

OSRL is a Tier Three response industry-owned cooperative which exists to respond effectively to oil spills wherever in the world they may occur. OSRL membership consists of over 120 environmentally responsible corporations (oil majors, national/independent oil companies, and companies operating in the oil supply chain) whose activities count for over 60% of global oil production.

OSRL has attended over 350 spill incidents in the past 25 years and holds the experience and expertise to deliver a wide range of preparedness services from bases in the UK, Singapore and Bahrain. OSRL services include technical advisory, provision of specialist personnel, equipment hire and maintenance, and oil spill response training.

OSRL is on standby, 24 hours a day, 365 days a year, with equipment capable of deployment inland, near shore and offshore environments. Containment and recovery equipment, dispersant application systems, *in-situ* burning equipment, and shoreline clean-up materials are available to respond to oil spill situations.

#### *5.1.4.4 Assistance from Other Entities.*

Pacific island countries/territories may wish to request assistance from sources which are not participants in PACPLAN such as the International Maritime Organization (IMO), United Nations Environment Programme (UNEP) and the Global Environment Facility (GEF), and international industry groups such as the International Tanker Owners Pollution Federation Ltd (ITOPF).

SPREP member governments should use normal diplomatic channels when requesting assistance from these sources. SPREP may be able to facilitate such requests, but only when efforts to secure assistance from PACPLAN participants are exhausted.

### **5.2 Customs, Immigration & Quarantine**

For the effective provision of external assistance under PACPLAN, it is vital to move equipment, materials and personnel on-site without undue delay or formality. It is essential that each government participating in PACPLAN has in place administrative arrangements to expedite customs, immigration and quarantine procedures for equipment and personnel entering or leaving its territory for the purpose of assisting it, or another government, in responding to a marine spill. The IMO have developed guidelines for international assistance **in 2013** that will be useful for inclusion in NATPLANS.

Details of such arrangements should be included in each SPREP island member's NATPLAN and promulgated to all governments participating in PACPLAN, and to other parties which may be called upon to assist in the event of a pollution incident. Details should include the essential customs, immigration and quarantine information that is required by the appropriate national authority to facilitate special arrangements. Ideally, such arrangements should include provisions for the rapid issue or waiving of entry visas as well as the arrangements for temporary importation of spill response

equipment and material, free of duty and/or import taxes.

### **5.3 Funding of Spill Response**

There are several avenues to recover costs and seek reimbursement for a marine spill incident. These rely on SPREP island members having domestic measures and legislation in place and being party to maritime compensation and liability conventions. Not having these measures in place can expose a SPREP island member and any supporting country to significant financial risk.

The reimbursement of costs for external assistance is dealt with in accordance with the OPRC Convention and OPRC-HNS Protocol where applicable. Under Annexes to those agreements, unless otherwise agreed, SPREP island members bear the costs of action taken on their own initiative, and reimburse other Parties for action taken at their request.

A SPREP island member may ask an assistance provider to waive reimbursement of expenses that exceed the amount recovered from the polluter or via international conventions. In such cases, the OPRC Convention and OPRC-HNS Protocol requires assistance providers to give due consideration to the needs of developing countries.

Assistance may be sought from a metropolitan country that is not the primary source of assistance (i.e. a non-primary assistance metropolitan member). In such cases the primary source of assistance metropolitan member should formally request the assistance and as the requesting party, agree to reimburse the non-primary assistance metropolitan member the costs of any assistance it provides.

#### ***5.3.1 Pollution Fund (POLFUND)***

A SPREP island member may establish and use a POLFUND (or other financial mechanism) to fund initial response operations. The assistance provider should provide financial underwriting of any subsequent external assistance, with full cost recovery processed once response operations are completed.

#### ***5.3.2 Detention of Vessels to Secure Cost Recovery***

In accordance with Article 220 of UNCLOS, in some circumstances a suspected vessel can be detained in connection with a pollution incident in territorial waters. In regional countries like Australia this approach has been found to be very helpful in securing guaranteed monies for clean-up costs as well as criminal fines levied on the spiller.

When consistent with international law, the Responsible Authority can detain a suspected vessel and request a security in the form of a bank guarantee or Letter of Undertaking issued by the vessels P&I Club insurer. The level of the guarantee is an amount that in the Responsible Authority's opinion is equivalent to the amount of all penalties, other amounts of money, costs and expenses that could be payable by the master and owner of the vessel if found responsible for the pollution breach.

#### ***5.3.3 Insurers of vessels and international conventions***

Countries that are party to the maritime compensation and liability conventions such as the Civil Liability Convention (CLC), the 1992 Fund Convention and Bunkers Convention, can bring claims for compensation for oil pollution damage against the owner of the ship that caused the damage (or their insurer).

More than 90% of the world's shipping fleet are entered in a Protection and Indemnity Club (P&I Club), which provide coverage for liability relating to loss or damage directly caused by a ship-sourced pollutant.

Under the compensation and liability conventions such as the Civil Liability Convention (CLC), and Bunkers Convention, claims for compensation for oil pollution damage may be brought against the owner of the ship that caused the damage (or their insurer). In certain circumstances for spills from oil tankers, claims may be brought against the IOPC Fund, if the ship-owners liability is exceeded or the ship-owner is uninsured.

It is only possible to claim under these conventions if the SPREP island member is a party to these conventions. Government's that have not yet ratified relevant international and regional conventions need to address this as a high priority. It is not possible to retrospectively ratify and claim expenses incurred from a marine spill incident.

The Responsible Authority needs to maintain detailed financial records, including all supporting information required where a claim is to be made to P&I Club insurers of vessels. P&I insurers only repay expenses that are reasonable and can be satisfactorily supported by documentation.

#### **5.4 Maintenance of PACPLAN**

SPREP is responsible for maintaining PACPLAN and associated systems (including a toolbox for operational information). SPREP may seek additional resources and support to carry out these functions from SPREP island members and metropolitan countries.

As PACPLAN is focussed on implementing the Pollution Protocol of the Noumea Convention, member countries, through their annual voluntary contributions, contribute to the maintenance of PACPLAN. Alternatively, the maintenance of PACPLAN could also be financed through contributions from member POLFUNDS, proposed in the Regional Model Marine Pollution Prevention Legislation.

## 6. ADOPTION, CONTROL & REVISION OF THE PLAN

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### 6.1 Adoption of the Plan

[Pacific Islands Regional Marine Spill Contingency Plan 2019 has been adopted by consensus at the 29<sup>th</sup> intergovernmental meeting of the Secretariat of the Pacific Regional Environment Programme (SPREP) and contracting parties to the Noumea Convention held in Apia, Samoa in September 2019.]

*[brackets to be removed upon adoption]*

### 6.2 Control of the Plan

A controlled copy of the PACPLAN will be maintained on the SPREP website with the full contact details of focal points for each participant in the Plan in order to facilitate revision and updating.

### 6.3 Revision of the Plan

The main body of PACPLAN will only be revised by an intergovernmental meeting of SPREP and contracting parties to the Noumea Convention.

Proposed revisions of PACPLAN may be submitted by any SPREP member to SPREP for circulation to other members for consideration. To be considered for adoption at an intergovernmental meeting of SPREP, any proposed revision to the plan should generally be circulated at least 90 days prior to that meeting.