

SECTION 12.0 CONTINUED COORDINATION WITH RELEVANT AGENCIES AND PORTLAND HARBOR COMMUNITIES

The federal and state natural resource agencies responsible for trust resources in the Portland Harbor have been involved in the development of the PHSMP through participating in work groups and ongoing communication with DEQ. DEQ has contacted and is working with the Native American tribes with potential interests in Portland Harbor to address their trustee interests as well. DEQ acknowledged early in the development of the PHSMP that the involvement of the natural resource trustees was critical.

DEQ is committed to ensuring the same level of participation by the natural resource agencies during implementation. An agreement is under development between DEQ and the natural resource trustees that will ensure the trustees' full participation in implementation and ensure that cleanups in the Harbor will be protective of the trust resources. The agreement will guarantee that the agencies have extensive opportunities to participate and comment as the work in the Harbor proceeds. A similar approach will be taken with tribes identified as having a significant interest in Portland Harbor issues. An EPA decision to defer NPL listing would not abrogate resource agency or tribal rights to natural resource protection.

The public involvement process may identify additional stakeholders who want an ongoing role as implementation unfolds. These stakeholders could include local agencies and environmental and community organizations. Participation on the technical and policy work groups will be open to representatives of these additional stakeholder groups. The public involvement process outlined in the Public Involvement Plan provides additional ways for involving and coordinating with affected stakeholders in the investigation and cleanup process.

Coordination during implementation will need to consider that there are several ongoing issues along the Willamette River that could affect the work in Portland Harbor. Coordination with dredging activities is discussed in Section 13. Other issues that will require coordination include Heritage River Designations, Endangered Species Act listings, and water quality and other TMDL issues. Coordination with internal DEQ programs (i.e., water quality, waste management) will also occur. DEQ will also work with consultants to ensure their understanding of the technical and policy approaches outlined in the PHSMP.

12.1 Meeting Other Federal, State, and Local Requirements

The following sections describe the federal, state, and local agencies, and tribes, which will be involved during implementation of the PHSMP.

12.1.1 Other State Agency Roles and Responsibilities

Department of Environmental Quality (DEQ): In addition to the Environmental Cleanup Law, DEQ administers several other statutory programs that are applicable or relevant to remediation of hazardous substances. These include but are not limited to:

- Hazardous Waste, ORS 466.005 through 466.225
- Water Quality, ORS Chapter 468B
- Air Quality, ORS Chapter 468A
- Solid Waste, ORS Chapter 459
- Underground Tanks, ORS 466.706 through 466.845

These programs are integrated into DEQ's remedial decision making under the Environmental Cleanup Law, as a matter of agency practice and by virtue of the law's provisions regarding administrative implementability, exposure pathways, hot spots, and onsite substantive compliance.

Department of Fish and Wildlife (ODFW): ODFW manages the State's fish and wildlife re-sources pursuant to ORS Chapter 496 and other laws. It also administers the state's threatened or endangered species statutes. (ORS 496.171 through 496.192)

Division of State Lands (DSL): DSL manages submerged and submersible lands of the State, such as riverbeds and banks. Removal and fill activities in state waters might require a permit from DSL in accordance with ORS Chapter 196.

Natural Resource Trustees: By Governor's designation dated November 30, 1993, DEQ and ODFW are natural resource trustees for the State of Oregon for purposes of CERCLA § 107 (f). It is DEQ's practice to notify federal natural resource trustees in accordance with 40 CFR § 300.430 (b)(7) when NCP consistency is desired.

12.1.2 Federal Agency Roles and Responsibilities

U.S. Environmental Protection Agency (EPA): EPA administers several statutory programs that might be pertinent to the PHSMP, including:

- CERCLA, 42 USC § 9601 et seq., authorizing EPA to undertake site assessments, ranking, and removals, and, at sites designated on the National Priorities List, to undertake remedial actions for a release of a hazardous substance.
- Clean Water Act, 33 USC § 1251 et seq., authorizing EPA to regulate discharges of pollutants to navigable waters (which program, in Oregon, is delegated to DEQ and overseen by EPA), to review Corps of Engineers permitting of discharges of dredged or fill materials, and to develop guidelines for dredged material disposal.
- Resource Conservation and Recovery Act, 42 USC § 6901 et seq., authorizing EPA to regulate management and disposal of hazardous waste (which program, in Oregon, is delegated to DEQ and overseen by EPA), and to require corrective action at certain hazardous waste facilities.

U.S. Army Corps of Engineers: The U.S. Army Corps of Engineers has several statutory authorities that could be relevant to the PHSMP. Under the Rivers and Harbors Act the Corps maintains the 40 feet deep navigation channel for the Columbia and Lower Willamette Rivers. The current channel was authorized in 1962 and the Corps periodically dredges localized shoals that develop in the channel between the mouth of the Willamette River and the Broadway Bridge. The Corps of Engineers regulatory authority for Portland Harbor includes the administration of the permit program under Section 404, Clean Water Act (33 USC 1344), regulating discharge of dredged or fill material into waters of the United States. The Corps also regulates work in or affecting navigable waters of the United States under Section 10, Rivers and Harbors Act 1899 (33 USC 403). The Corps also has authority for ecosystem restoration under the Water Resources Development Act (WRDA). In particular, Section 312 of WRDA 90, as amended, authorizes removal of contaminated sediments from navigable waters either as part of operation and maintenance of the federal authorized navigation channel or for the purposes of environmental enhancement and water quality. Specific appropriation for this authority must be requested by a local sponsor and is cost shared with the sponsor.

U.S. Fish and Wildlife Service (USFW): The Department of Interior's USFW acts as a federal trustee for natural resources and supporting ecosystems, under CERCLA and the Clean Water Act. Under the Endangered Species Act, USFW must be consulted regarding federal agency projects that might affect threatened or endangered species.

National Oceanic and Atmospheric Administration (NOAA): NOAA (U.S. Department of Commerce) acts as a federal natural resource trustee for marine fishery resources, anadromous fish, and their supporting ecosystems under CERCLA and the federal Oil Pollution Act. In addition, the National Marine Fisheries Service (NMFS), a subagency of NOAA, administers the Endangered Species Act for anadromous and other marine species throughout their ranges.

12.1.3 Native American Tribes

Several tribes have been identified that potentially may have interests in the work in Portland Harbor—these include the Confederated Tribes of the Grand Ronde, the Siletz, and the tribes represented by the Columbia River Inter-Tribal Fish Commission: the Yakama, Nez Perce, Umatilla, and Warm Springs. DEQ has provided information about the PHSMP to these tribes, and is conducting discussions to determine how the tribes want to be involved during implementation. There may be a role as natural resource trustees for one or more of the tribes. DEQ has made an affirmative commitment to continuing tribal coordination as the PHSMP is implemented, and is willing to make resources available to facilitate further tribal involvement.

12.1.4 Local Agency Roles and Responsibilities

Port Of Portland: The Port of Portland is a regional government of Clackamas, Multnomah, and Washington counties in the State of Oregon. The Port's mission in the region is to provide passenger and cargo access and promote stability in industrial and commercial interests through improved transportation services. The Port, as a governmental land-owner, has authority over the rivers, harbors, and waterways within the Port's boundaries. It is a member of the Portland Harbor Group.

Metro: Metro is a directly elected regional government that provides a broad range of services to residents in 3 counties and 24 cities in the Portland metropolitan area. Pursuant to its home-rule charter, Metro has primary responsibility for regional land use and development in the region. The Metropolitan Greenspaces Master Plan, a component of the regional Framework Master Plan, identifies existing and proposed urban natural areas, trail and greenway corridors in the region. Land uses and development in the Portland metropolitan area, including the area along the lower Willamette River, must be consistent with Metro's regional plans.

City of Portland: The City of Portland provides a broad range of governmental services within the Portland City limits, including the Portland Harbor area. To prevent pollution of the city's streams and rivers, the city's Bureau of Environmental Services regulates non-residential discharges to the City's sanitary sewer through a pre-treatment program and to stormwater through an memorandum of agreement with DEQ. The City is implementing a combined sewer overflow program to separate sanitary and stormwater sewers. It actively searches for and eliminates process discharges to the City's stormwater system. Future developments must meet the requirements of the City's proposed stormwater manual and erosion control measures. Development activities must also be consistent with the City's zoning code and requirements of the Office of Planning and Development Review. The City is a member of the Portland Harbor Group.