
**RESPONSES TO QUESTIONS REGARDING THE KLEEN ENERGY SYSTEMS
INTEGRATED CONTINGENCY PLAN (ICP)
June 2011, Revision 0**

Revision 1 Replacement Pages:

Please note, that as a result of addressing the Siting Council's comments and questions regarding the Kleen Energy Integrated Contingency Plan (ICP), the following pages of the ICP have been changed and should replace corresponding pages from Revision 0: cover, i, 1-2; II-2, 3, 6, 9, 10, 11, 12, 14, 16, 21, 22, 25, 26, 30, 32; III-Annex 3-3, 4, 8, 9, 10, 20, 34, 37, 38; III-Annex 5-11; III-Annex 11-2; III-Annex 15-1, 2, 3, 4, 15

Comments/Responses:

1. Please describe how the ERC chooses the person to transfer incident command to (see Section I, p. 2; Annex 3, pp. 1, 3; and elsewhere) in a situation when more than one outside response organization is on the scene, and where no single person can be identified as "senior." For instance, at various times in the ICP, the Oil Spill Removal Organization is described as taking over, but in an actual emergency the State Police or the local Fire Department are likely to be present also, or the DEP, the state Public Health Department, the regional EPA, or perhaps others. What determines which top official of several groups likely to be present would become the new IC? Would a municipal official such as the local Mayor ever be the new IC?

Response:

All outside emergency response organizations from Fire Department to the Oil Spill Removal Organization (OSRO) are trained in the Incident Command System (ICS) which follows the National Incident Management System (NIMS) protocols for organizational responsibility and transition of command. The OSRO is described as taking over only in the containment, recovery and cleanup of small spills with limited potential to progress to become a threat to life and health or damage the environment. In an emergency requiring Fire Department, Police Department or regional/state/national agency involvement, those agencies having jurisdiction would assume Incident Command upon arrival at the site and transition of command from the site ERC/IC.

If the facility calls 911 for assistance, the decision is made by the trained 911 call center staff to deploy the appropriate lead response agency to the facility that would assume command in an emergency. For example, in a fire, explosion, or hazardous materials emergency, the senior member of the responding Fire Department assumes the roll of Incident Commander (IC) upon arrival at the site. In the event of actual or threat of violence, the Police would assume command. In the event of an actual or threatened terrorist act, the FBI would assume the IC roll upon their arrival.

Only when an incident expands in scope is the IC likely to transition from the initial responding agency to other arriving agencies. For example, in a "Spill of National Significance", the US Coast Guard Commandant may name a National Incident Commander (NIC). In such a major incident, multi-agency involvement will be through the Unified Command System, also defined in the NIMS.

The decision to transition command is made by the IC and newly arriving agencies with jurisdiction based on NIMS protocols, regulation and regional and national response plans. The coordination of local, regional and national response agencies and

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As detailed in Annex 15, the primary objective of the quarterly QI Notification and annual Emergency Procedures and semi-annual Equipment Deployment internal exercises is to build facility staff proficiency in notification, ICP procedures and the use of on-site equipment. The External and Area exercises clearly involve outside responders, but they are initiated by external agencies (EPA and/or USCG) in either a "surprise" or planned manner and those agencies determine participation. The OSRO is also required to independently conduct its own annual equipment deployment exercise within its region of service and provide Kleen Energy with documentation of its completion.

The annual Spill Management Team Tabletop Exercise cycle is the "internal" exercise that is most appropriate to involve the OSRO and outside agencies. The OSRO was already noted and **Kleen Energy has revised Annex 15, page 15** to specifically reference inviting the Middletown South Fire District in addition to the OSRO at the discretion of the facility based upon the exercise scenario magnitude and the frequency of prior OSRO involvement in exercises and actual responses. In accordance with PREP guidelines, the annual tabletop rotates through small, medium and worst-case discharges. The small and medium discharge scenario exercises may not warrant Fire District involvement depending upon scenario developed, but the worst-case discharge will clearly warrant it. The District will be invited to the larger scenario exercises. In all cases, participation is at their discretion.

Kleen Energy maintains active coordination with the Fire District and will continue to conduct joint exercises suggested by the District beyond the minimum exercises required by the ICP. For example, a regular joint Confined Space Rescue exercise is planned for the site.

The first annual tabletop exercise was conducted in May. Because this was a "small" discharge scenario, the OSRO participated. As we progress to the medium and large discharge scenarios, we will invite the Middletown South Fire District and consult with them on the scope and participation of other organizations.

The participants in every drill and exercise will be directly involved in reviewing the results of the exercise and lessons learned, typically in an after-action debrief held immediately following small field drills and tabletop exercises. The specific content of actual drills and exercises is developed on an ongoing basis outside of the ICP as part of an active "living" emergency preparedness program. The scenarios and exercise/drill documentation are maintained in the facility ICP training and exercise records. There are forms in the ICP to document the exercise, evaluate the results and recommend emergency preparedness improvements, including to the ICP. There are also regular annual reviews of the ICP and updates to improve performance will be made on an ongoing basis where deficiencies are observed.

Large scale field exercises are generally performed at the discretion of local or regional response agencies and they follow standard practices for exercise documentation, evaluation and debrief.

5. Section III.5.c (Annex 5, pp. 9-10) "Emergency Action/Response Plan (Federal, OSHA)" mentions employee training in Hazwoper awareness. A subsequent sentence mentions

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8. Per Annex 3, p. 8, "If any agency or organization listed above refuses to respond in an emergency, that refusal will be documented by the facility." Where does "listed above" refer back to? To the OSRO and the US EPA Region 1, Regional Administrator? Or to the other agencies, not named, who must request a copy? Please clarify. Also, please explain the purpose of documenting the refusal. Is the documentation required by some authority other than Kleen?

Response: This sentence is not necessary and has been deleted from **Annex 3, p. 8**.

9. Under what circumstances would Kleen become a Hazardous Waste Large Quantity Generator? Is a special permit required for that designation? From what agency? Why would the ICP only be sent to the listed responders under those circumstances, given that those responders are currently identified as, or expected to be, responders in an emergency situation anyway (see #6 above)? Please explain.

Response: Kleen is not currently a Large Quantity Generator (LQG) and does not foresee becoming an LQG in the future. As the Siting Council is aware, LQG is a term that is defined under the federal Resource Conservation and Recovery Act (RCRA). This text was only included in the ICP to alert the future plan administrators that the plan distribution would have to change in the unlikely event that the facility's generator status changes. Simply becoming a LQG does not require a special permit so long as waste is not stored longer than 90 days and the facility meets certain waste management standards (40 CFR 262.34(a)). Under EPA hazardous waste regulations, a LQG must prepare a Contingency Plan (40 CFR 265 Subpart D) or an ICP meeting the National Response Team's Integrated Contingency Plan Guidance (40 CFR 265.52(b)) and submit a copy to "all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services." While Police and hospitals understand the generator obligation to submit these plans, they generally do not seek out individual facility emergency plans because they can generally perform their public safety duties without such information. Also refer to the response to item #7 above.

10. Annex 3, p. 8 ends the section on "Local Emergency Response Organizations" by saying "In the event that the content of these submittals changes significantly, modified portions will be provided to the appropriate agencies." What does "these submittals" refer to? The ICP? The facility and hazardous substance emergency information? Other? What are the appropriate agencies to whom the modified portions will be provided? Please explain.

Response: This sentence on **Annex 3, p. 8** has been revised to provide greater clarity. This sentence does refer to the ICP. Modified portions of the ICP will be sent to those on the ICP distribution list at the front of the plan (**page i**).

11. Why doesn't the ICP include a section on communications with the public and the media? Specifically, for instance, why is the "Public Information" part of the system identified in Section II, p. 16, not given any functions, and why is it eliminated altogether from the list of system components in Annex 3, p. 1? Why doesn't the Emergency Notification Phone List

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12. Annex 15, pp. 5-6, under "Response Management System", includes 1 part of the system—Public Affairs—which may or may not be the same as the part of the system earlier identified as Public Information (Section II, p. 16). The Public Information part of the system has no functions listed under it, however. Would its functions be the ones described in Annex 15, p. 6? Would its functions also include liaison with municipal and state officials and/or with the public directly? Please explain.

Response: Annex 15 is based on the PREP guidance, as called for in the federal regulations (40 CFR 112.20 and 112.21(c)). The terminology used in the PREP guidance differs slightly from that used in the ICS guidance, but use of the PREP terminology is considered appropriate since these are a listing of the standard PREP exercise objectives and the deviation from PREP guidance requires the approval of EPA (40 CFR 112.21(c)). The readers should be aware that the PREP guidelines are applicable to exercises for the entire spectrum of incidents up to incidents of national significance. This particular goal is applicable to major incidents involving multiple response agencies that would require formation of a larger "Unified Command System". The Kleen "internal" exercises would not generally meet this objective and the lead response agency would not want the Kleen PIO to command a Joint Information Center and represent the response organizations in communications with the media although they may participate in providing information to support that function. The larger Area exercises conducted by EPA and the US Coast Guard will typically exercise these objectives.

As noted in the response to item 11 above, Kleen Energy has added a section describing the PIO responsibilities as part of the Command function on Annex 3, p. 11. In a major incident, the Kleen Energy Emergency Response Coordinator/Qualified Individual will be the liaison with outside agencies that are part of the ICS. The PIO may support liaison with officials outside of the ICS, if requested by the IC.

13. Annex 15, pp. 5-6, under "Response Management System", includes 2 parts of the system—Safety Affairs, Legal Affairs—that are not earlier identified as being part of the system (see Section II, p. 16; Annex 3, p. 1). Please explain.

Response: As noted for item 12 above, Annex 15 is based on the PREP guidance, as called for in the federal regulations (40 CFR 112.20 and 112.21(c)). The terminology used in the PREP guidance differs slightly from that used in the ICS guidance, but use of the PREP terminology is considered appropriate since these are a listing of the standard PREP exercise objectives and the deviation from PREP guidance requires the approval of EPA (40 CFR 112.21(c)).

The ICS protocols in NIMS calls for a Safety Officer, but only suggests a Legal Counsel support to the IC at the discretion of the IC.

As stated in Annex 3, p. 10, Section III.3.b.3, the ERC will serve as the Safety Officer in the Kleen Energy organization. Since Kleen Energy is relying on outside organizations for emergency response, Kleen Energy's safety function is more limited and includes the activities listed in Section III.3.b.3. The figure on Section II, p. 16 has been revised to show that the **ERC** also serves as the Kleen Energy Safety Officer.

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Procedures and semi-annual Equipment Deployment internal exercises provide the flexibility to address all other hazard scenarios. The scenario objectives for the Annual Emergency Procedures exercise (Annex 15, p. 13) specifically calls for ensuring that "mitigation measures for all contingencies at the facility are addressed at some time (e.g., fire, tank rupture during a flood) by changing the scenario each year."

As discussed in the response to item 4 above, Kleen Energy actively coordinates with local emergency response agencies and is conducting exercises beyond the minimum defined in the ICP (e.g., the Confined Space Rescue exercise). We will continue this coordination and will conduct additional exercises beyond the ICP whenever they are appropriate to familiarize staff with the full range of anticipated hazards.

16. Why doesn't the ICP include coordination with NRG in all emergency scenarios, as opposed to only the scenario of an oil spill going into the river?

Response: This was determined by the likelihood of the incident potentially affecting NRG and oil spill prevention regulatory requirements. Fire, explosion, violence and most other types of incidents are near field hazards and are unlikely to have off-site effects. The likelihood of any material spill reaching the river, including oil, is low because of the secondary containment and prevention procedures. Oil spill prevention regulations require assuming that both the storage tank and the secondary containment fail in developing planning and response measures and the NRG river intake would be directly affected by an oil spill that would reach the river intake should the above-referenced containment areas both fail. Chemical storage areas are more remote to the river, have secondary containment and storage quantities are far lower. Should such an unlikely outcome occur, facility staff understand the implications and the need to notify NRG.

17. To what extent would NRG be involved in table-top or actual training exercises involving a) oil spills; and b) all other emergencies?

Response: Kleen Energy did endeavor to engage NRG in more active coordination while developing the ICP, but NRG declined this invitation. NRG has its own Facility Response Plan designed to meet its regulatory obligations resulting from its oil unloading dock and storage tanks. NRG conducts exercises and drills independently that include deploying boom around their dock and intakes and they are aware that they would receive notification from Kleen Energy should there be a threat of a Kleen Energy spill reaching the river. We believe that NRG is adequately prepared to respond to protect its intakes in the event of this eventuality without participating in exercises. Other types of emergencies are unlikely to have off-site effects, as discussed in the response to item #16.

18. Annex 15 outlines drills and exercises only in terms of following procedures in the ICP. At what point would employees be trained in Hazard Recognition?

Response: Hazard recognition is built into both the guidelines in the ICP and the Kleen Energy training program. All operations and maintenance employees receive annual ICP training that integrates hazard recognition.

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items 19 and 20). **Section II, p. 21, p. 25, p. 26, p. 31** was revised for consistency with the above alarm changes and with each other, to the extent appropriate given the different types of incidents. **Annex 3, p. 3** was shortened and now refers back to Section II.

23. Under the red tab in Core Plan Section II, pp. 25-29, "Evacuation Aides" are mentioned in 3 scenarios, but they are not mentioned under the yellow or blue tabs, which relate to other scenarios, and they are not mentioned under the green tab, which gives a more complete description of the plan for evacuation. Who are these Evacuation Aides? Why are they not mentioned under the green tab or elsewhere in the ICP?

Response: Evacuation aides are potentially necessary if any employee is disabled and would require assistance in the event that elevators are impacted by the incident or normal means of egress is otherwise not accessible. If there are no disabled employees at any given time, this provision is not applicable. Evacuation Aides have been added to other applicable scenarios on **Section II p. 31 and p.33**.

24. After an evacuation, what guidelines would be followed in terms of when and how to allow evacuees to disperse?

Response: Dispersal of employees from the assembly area depends upon many factors (e.g., are they critical to advise emergency responders, how long will the plant remain evacuated, etc.) which are situation-specific and will be determined by the IC.

25. Sections III.3.c 1 & 2 (see Annex 3, p. 11) discuss "Operations." The text here (e.g. "Developing detailed mission assignments, and scheduling duty lists and operational assignments to accomplish the strategic response goals and tactical operations objectives") is so general that it's not clear how the "Operations" part of the Response Management System is related to an emergency at all, or, as a second option, is different from "Planning." Could examples be given to clarify the function of "Operations" re an emergency? Could another label be given to "Operations" that would make its functions clearer?

Response: The entire context of the ICP is emergency activities and the framework and vernacular must be consistent with the regulations which call for consistency with the ICS as defined in NIMS. This section is understood by those who have received ICP training which includes the ICS approach taken in managing emergencies by all emergency response agencies in the U.S.

The ICS approach defined in the NIMS is a management framework for response, which accounts for the sense that this section describing the Response Management System is "so general." This management systems approach is taken in recognition of the broad range of the type and magnitude of incidents which requires specific response goals, tactics and procedures to be developed and revised during each emergency.

The emergency responsibilities are divided up into standard ICS categories, one of which is "Operations", as defined in the NIMS. Renaming it would contradict the ICS and training received by all site employees and the specialized training received by the site Qualified Individuals. For a better understanding of the ICS, guidance documents

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7/26/11 Follow-up Email. Also, the site plans in Section III, Annex 1 do not depict the current site layout, (water treatment facility).

Response: As-built site plans are due to be provided to Kleen Energy by the General Contractor upon Final Completion of the project, and the ICP site plans will be updated to reflect the as-built site plans at that time.

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