The Oil Pollution Response Framework in the Arctic

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The Arctic and oil spills

Source: sciencenordic.com
The Arctic and oil spills
Treaties adopted under the ‘Arctic Council System’

- 2011 Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic
- 2013 Arctic Marine Oil Pollution Preparedness and Response Agreement (MOSPA)
- 2017 Agreement on Enhancing International Arctic Scientific Cooperation
## Governance framework for oil pollution response

<table>
<thead>
<tr>
<th>Global agreements</th>
<th>UNCLOS</th>
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<tbody>
<tr>
<td>Regiona agreements</td>
<td>MOSPA</td>
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<td></td>
<td>Copenhagen Agreement</td>
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<td>Bilateral agreements</td>
<td>USA-Russia</td>
<td>Canada-Denmark</td>
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<td>US-Rus JCP</td>
<td>Canada-US JCP</td>
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2 Regulatory perspectives on joint actions

1. **Similarity of rules**
   - Notification
   - Information
   - National response system
   - Assistance & facilitation
   - Operational guidelines
   - Sharing of costs

2. **Implementation is key**

3. **Rights & obligations**
   - Affected coastal State
   - Other States
## Rights and duties to respond

<table>
<thead>
<tr>
<th></th>
<th>Terr. sea</th>
<th>EEZ</th>
<th>High seas</th>
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<tbody>
<tr>
<td><strong>Right</strong></td>
<td></td>
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<tr>
<td>Affected coastal state</td>
<td>Yes</td>
<td>Yes, unless limited to that state</td>
<td>Yes, if serious</td>
</tr>
<tr>
<td>Other state</td>
<td>No</td>
<td>No</td>
<td>Yes, freedom of high seas</td>
</tr>
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|                  |           |     |           |
| **Duty**         |           |     |           |
| Affected coastal state | Yes       | Yes, unless limited to that state | Erga omnes? (Note EU law) |
| Other state      | No        | No  | Erga omnes? |
3 Sharing costs and responsibilities

- Operational costs (MOSPA art. 10)
  - Allocation
  - Request
  - Choice of law

- Liability (unforeseen costs)

- The liability of the command centre
  - State liability under international law
  - Responder immunity
  - National law (liability, employers’ responsibility)

- Health and safety matters
Concluding observations

1. MOSPA clarifies rights and obligations in relation to oil pollution response among the Arctic States, but does not bring new rights or obligations.

2. Matters are sometimes regulated differently at lower levels, notably in JCPs.

3. Implementation is the relevant aspect of oil pollution response agreements at all levels.