§ 300.335 Funding.

(a) The OSLTF is available under certain circumstances to fund removal of oil performed under section 311 of the CWA. Those circumstances and the procedures for accessing the OSLTF are described in 33 CFR part 136. The responsible party is liable for costs of federal removal and damages in accordance with section 311(f) of the CWA, section 1002 of the OPA, and other federal laws.

(b) Where the OSC requests assistance from a federal agency, that agency may be reimbursed in accordance with the provisions of 33 CFR part 136. Specific interagency reimbursement agreements may be used when necessary to ensure that the federal resources will be available for a timely response to a discharge of oil.

(c) Procedures for funding the initiation of natural resource damage assessment are covered in 33 CFR part 136.

(d) Response actions other than removal, such as scientific investigations not in support of removal actions or law enforcement, shall be provided by the agency with legal responsibility for those specific actions.
(e) The funding of a response to a discharge from a federally owned, operated, or supervised facility or vessel is the responsibility of the owning, operating, or supervising agency if it is a responsible party.

(f) The following agencies have funds available for certain discharge removal actions:

(1) DOD has two specific sources of funds that may be applicable to an oil discharge under appropriate circumstances. This does not consider military resources that might be made available under specific conditions.

(ii) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Works Appropriations, Operations and Maintenance, General.

(ii) USN may conduct salvage operations contingent on defense operational commitments, when funded by the requesting agency. Such funding may be requested on a direct cite basis.

(2) Pursuant to Title I of the OPA, the state or states affected by a discharge of oil may act where necessary to remove such discharge. Pursuant to 33 CFR part 136 states may be reimbursed from the OSLTF for the reasonable costs incurred in such a removal.

§ 300.400  General.

(a) This subpart establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA and CWA section 311(c):

(1) When there is a release of a hazardous substance into the environment; or

(2) When there is a release into the environment of any pollutant or contaminant that may present an imminent and substantial danger to the public health or welfare of the United States.

(b) Limitations on response. Unless the lead agency determines that a release constitutes a public health or environmental emergency and no other person with the authority and capability to respond will do so in a timely manner, a removal or remedial action under section 104 of CERCLA shall not be undertaken in response to a release:

(1) Of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found;

(2) From products that are part of the structure of, and result in exposure within, residential buildings or business or community structures; or

(3) Into public or private drinking water supplies due to deterioration of the system through ordinary use.

(c) Fund-financed action. In determining the need for and in planning or undertaking Fund-financed action, the lead agency shall, to the extent practicable:

(1) Engage in prompt response;

(2) Provide for state participation in response actions, as described in subpart F of this part;

(3) Conserve Fund monies by encouraging private party response;

(4) Be sensitive to local community concerns;

(5) Consider using treatment technologies;

(6) Involve the Regional Response Team (RRT) in both removal and remedial response actions at appropriate decision-making stages;

(7) Encourage the involvement and sharing of technology by industry and other experts; and

(8) Encourage the involvement of organizations to coordinate responsible party actions, foster site response, and provide technical advice to the public, federal and state governments, and industry.

(d) Entry and access. (1) For purposes of determining the need for response, or choosing or taking a response action, or otherwise enforcing the provisions of CERCLA, EPA, or the appropriate federal agency, and a state or political subdivision operating pursuant to a contract or cooperative agreement under CERCLA section 104(d)(1), has the authority to enter any vessel, facility, establishment or other place, property, or location described in paragraph (d)(2) of this section and conduct, complete, operate, and maintain any