§ 300.322  Response to substantial threats to public health or welfare of the United States.

(a) As part of the investigation described in §300.320, the OSC shall determine whether a discharge results in a substantial threat to public health or welfare of the United States (including, but not limited to, fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States). Factors to be considered by the OSC in making this determination include, but are not limited to, the size of the discharge, the character of the discharge, and the nature of the threat to public health or welfare of the United States. Upon obtaining such information, the OSC shall conduct an evaluation of the threat posed, based on the OSC’s experience in assessing other discharges, and consultation with senior lead agency officials and readily available authorities on issues outside the OSC’s technical expertise.

(b) If the investigation by the OSC shows that the discharge poses or may present a substantial threat to public health or welfare of the United States, the OSC shall direct all federal, state, or private actions to remove the discharge or to mitigate or prevent the threat of such a discharge, as appropriate. In directing the response in such cases, the OSC may act without regard to any other provision of law governing contracting procedures or employment of personnel by the federal government to:

(1) Remove or arrange for the removal of the discharge;

(2) Mitigate or prevent the substantial threat of the discharge; and

(3) Remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

(c) In the case of a substantial threat to public health or welfare of the United States, the OSC shall:
§ 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.