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Dated: January 5, 2016.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-HQ-SFUND-2014-0050; FRL-9940-20-OLEM]

RIN 2050-AG78

**National Oil and Hazardous Substances Pollution Contingency Plan Revisions To Align With the National Response Framework**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing revisions to the National Oil and Hazardous Substances Pollution Contingency Plan. These proposed revisions align the National Oil and Hazardous Substances Pollution Contingency Plan with the Department of Homeland Security’s National Response Framework and National Incident Management System. The revisions also update the descriptions of federal agency organizational structures and capabilities and how they operate, and recognize the establishment of the Department of Homeland Security.

**DATES:** Comments must be received on or before March 25, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2014-0050, to the Federal

eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jean Schumann, Office of Land and Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460, (202) 564-1977, [schumann.jean@epa.gov](mailto:schumann.jean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

The revisions primarily would affect the federal departments and agencies that participate in responding to incidents under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which primarily consist of the departments and agencies on the NCP National Response Team (NRT). The descriptions

and capabilities of these agencies have been updated, and some NCP terminology used by these agencies has been changed to be more consistent with the National Response Framework (NRF) and National Incident Management System (NIMS) issued by the Department of Homeland Security (DHS). Information has been added in notes to the regulation to explain that federal agencies follow the NRF and NIMS when appropriate.

Additionally, this rulemaking proposes a clarification to § 300.405(d) that affects persons who notify the National Response Center (NRC)<sup>1</sup> of an incident, including representatives of industry and federal, state, tribal, and local governments. Paragraph (d) of § 300.405 currently states that the NRC will generally need information that will help to characterize the release when people call to report an incident. Paragraph (d) of § 300.405 goes on to say that this information “will include, but is not limited to . . .” and provides a list of examples of the types of information the NRC will need. The current list of examples includes the “possible source of the release.” These revisions would clarify paragraph (d) to state “possible source and cause of the release.” The NRC already collects information regarding the cause of the release, so this is not a new requirement. Adding “cause” to paragraph (d) will better prepare people who notify the NRC that they will be asked for this information. This change is also addressed in section IV of this preamble, under the discussion for § 300.405.

Impacts on potentially affected entities, direct and indirect, are summarized in section V of this preamble. A summary of potentially affected entities is provided in the table below.

Type of entity	Affected entities
Industry .....	Industries that report to the NRC.
State, Local or Tribal Governments .....	State, local, or tribal governments that report to the NRC.
Federal Government .....	Federal departments and agencies that report to the NRC, and federal departments and agencies that are members of the National Response Team.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Others types of entities not

listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. What is the agency’s authority for taking this action?*

The NCP is required by section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9605, as amended by the Superfund Amendments and

<sup>1</sup> Reference is made in this preamble and in the NCP to both the Nuclear Regulatory Commission and the National Response Center. In order to avoid

confusion, the preamble and the NCP spell out the Nuclear Regulatory Commission and use the

abbreviation “NRC” only with respect to the National Response Center.

Reauthorization Act of 1986 (SARA), Public Law 99–499 (hereinafter CERCLA), and by section 311(d) of the Clean Water Act (CWA), 33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990 (OPA), Public Law 101–380. In Executive Order 12777 (56 FR 54757, October 22, 1991), the President delegated to the EPA the responsibility for the amendment of the NCP. Amendments to the NCP are coordinated with members of the NCP NRT prior to publication for notice and comment. The NCP is applicable to response actions taken pursuant to the authorities under CERCLA and section 311 of the CWA, as amended.

## II. Background

The DHS issued the NRF and NIMS under the authority of the Homeland Security Act of 2002 (HSA), the Post-Katrina Emergency Management Reform Act (PKEMRA), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), and Homeland Security Presidential Directive-5, *Management of Domestic Incidents* (February 28, 2003) (HSPD–5). The purpose of the NRF is to establish a comprehensive, national, all-hazards approach to domestic incident management. The purpose of the NIMS is to provide a consistent nationwide approach for federal, state, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. The NRF is built on the incident management concepts in NIMS. DHS issued the most recent version of the NRF in May 2013, and the most recent version of the NIMS in December, 2008, and may continue to update both documents periodically.

Federal agencies are to follow the NRF and NIMS pursuant to those authorities. HSPD–5 also directed federal agencies to modify existing interagency plans to align with the National Response Plan, which was the predecessor to the NRF. EPA is proposing this rule to align the NCP with the NRF and NIMS.

Other changes are being proposed to the NCP to update descriptions of federal department and agency organizations and capabilities and how they operate, and to recognize the establishment of the DHS, which was authorized by the HSA.

## III. Summary of This Action

### A. What is the scope of this proposed rule?

This rulemaking proposes changes to the NCP in two general areas: (1)

Changes that align the NCP with the NRF and NIMS; and (2) changes that update the descriptions and capabilities of the NRT federal agencies and how they operate, including the establishment of the DHS. EPA is not opening the NCP for comment on other types of changes, and the final rule will not address any comments received outside the scope of the proposed changes. Further, we are not taking comments on the substance of the NRF or the NIMS themselves, only on the changes made to the NCP to align with those documents.

EPA is not including any proposed changes to the NCP's "Appendix E to Part 300—Oil Spill Response" in this proposed rule. EPA proposed to remove appendix E from the NCP as part of a separate proposed rule on January 22, 2015 (80 FR 3380). If EPA decides not to remove appendix E from the NCP after considering the comments received on that January 22, 2015, rulemaking, EPA will engage in a rulemaking to revise appendix E in accordance with its final decisions on this rulemaking.

### IV. What are the proposed revisions to the NCP?

This section of the preamble explains the proposed revisions to the NCP by part and section number.

#### A. Part 300 Table of Contents and Authority

The proposed revisions would change the table of contents for part 300, subpart B, by changing the title of § 300.165 from "OSC reports" to "OSC after action reports." ("OSC" is the abbreviation for On-Scene Coordinator.) This change would make the title of these reports more consistent with the terminology commonly used in incident management systems for such post-incidents reports. The change would support the objectives of the NRF and NIMS for more consistency in national incident management systems. This change in terminology would also be carried forth into the proposed revision to § 300.165, as explained in this preamble under subpart B, § 300.165.

We are proposing to update the "Authority" citation for 40 CFR part 300 by revising the scope of the CWA citation from "33 U.S.C. 1321(d)" to "33 U.S.C. 1321" to make it parallel with the scope of the existing CERCLA citation. The existing CERCLA citation refers to all of the CERCLA authorities underlying the NCP, not just the specific CERCLA provision that authorizes the issuance of the NCP. The existing CWA citation (33 U.S.C. 1321(d)), however, refers only to the specific CWA provision that authorizes the issuance of

the NCP. This change would broaden the CWA citation to refer to all the CWA authorities that underlie the NCP, not just the specific CWA provision that authorizes the issuance of the NCP, by deleting "(d)" and referring only to "33 U.S.C. 1321."

#### B. Authority and Applicability (Section 300.2)

The existing § 300.2 states that amendments to the NCP are coordinated with members of the NRT prior to public notice and comment, and further explains that this includes the Federal Emergency Management Agency (FEMA) and Nuclear Regulatory Commission in order to avoid inconsistent or duplicative requirements in the emergency planning responsibilities of these agencies. The specific reference to FEMA and the Nuclear Regulatory Commission was based on language from Executive Order 12580, January 23, 1987. Executive Order 12580 was amended by Executive Order 12777, October 18, 1991. Executive Order 12777 kept the reference to consultation with the NRT on NCP amendments, but deleted the specific reference to FEMA and the Nuclear Regulatory Commission. The proposed revision to § 300.2 would therefore delete the sentence that refers to FEMA and the Nuclear Regulatory Commission to be consistent with Executive Order 12777. However, both FEMA and the Nuclear Regulatory Commission are members of the NRT, so EPA would continue to coordinate with both agencies on NCP amendments in their role as NRT members under the revised § 300.2.

#### C. Scope (Section 300.3)

The existing § 300.3(d) states that the NCP is in effect when the Federal Response Plan (FRP) is activated. The FRP is no longer in effect because it has been replaced by the NRF. The proposed changes would delete existing § 300.3(d), therefore, and add a note to § 300.3(a) that refers to the NRF instead of the Federal Response Plan. The note explains that the NRF was issued by DHS and is followed by federal departments and agencies. The NRF is a guide to how the Nation responds to domestic incidents under a variety of authorities at all levels, including response actions taken by federal, state, tribal, and local governments, communities, individuals, private sector organizations, and non-governmental organizations such as American Red Cross. The NRF addresses "all-hazards" incidents, such as natural disasters, terrorist attacks and other deliberate incidents, and accidents. The NCP

serves as an operational supplement to the NRF. The NRF is a guide to how the Nation responds to disasters and emergencies. While federal departments and agencies follow the NRF, it is not intended to alter or impede existing federal authorities, such as the CERCLA and CWA section 311 authorities that are the basis for the NCP. The NRF is publicly available on FEMA's Web site. (See this preamble under § 300.5 below for the Web site address.)

For some NCP responses, additional procedures under the NRF and supporting documents (*e.g.*, annexes) may apply. For example, the NRF explains that the Secretary of DHS may coordinate federal responses pursuant to presidential directive, or may activate specific NRF response mechanisms to support other federal departments and agencies without assuming coordination of the overall federal response. When additional NRF procedures are activated for an NCP response, the NCP response will follow the appropriate procedures of both the NCP and NRF. The NRF and supporting documents also include information on how the federal government responds under the Stafford Act. Additional information on how the NCP applies during responses under the Stafford Act in particular is provided in this preamble under subpart B, § 300.130. In cases where additional NRF procedures apply to NCP responses, those procedures are most likely to apply to NCP emergency removal actions rather than to NCP remedial actions because the NRF focuses on emergency and disaster types of incidents.

#### D. Abbreviations (Section 300.4)

The abbreviations in paragraphs (a) and (b) would be updated to include new department and agency title and operational abbreviations used in this rule and to delete abbreviations that are no longer used in this rule or no longer apply. The following abbreviations would be deleted: RSPA, ESF, FCO, FRERP, FRP, and RRC. The following abbreviations would be added to paragraph (a): DHS and PHMSA. The following abbreviations would be added to paragraph (b): AMS, CBRN CMAT, CMHT, CMRT, FRMAC, JIC, NARAC, NCERT, NIMS, NRF, RAP, REAC/TS, REOC, and SERT. The existing abbreviation for the U.S. Fish and Wildlife Service (USFWS) in paragraph (b) would be moved to paragraph (a). Since the USFWS is a distinct and significant component of the Department of the Interior (DOI), it is more appropriately listed in paragraph (a), which already includes some other

distinct components of federal departments.

#### E. Definitions (Section 300.5)

EPA is proposing to update the definitions section to include new definitions and delete definitions that no longer apply. New definitions would be added to § 300.5 for the terms "National Incident Management System" and "National Response Framework." A note would be added to § 300.5 with new definitions for the terms "Emergency Support Function #10—Oil and Hazardous Materials Response Annex" and "Emergency Support Function #15—External Affairs Annex." All of these definitions are derived from the NRF and NIMS, and readers are referred to the NRF and NIMS for additional information regarding these definitions. The NRF may be found at the DHS/FEMA Web site at [www.fema.gov/national-response-framework](http://www.fema.gov/national-response-framework) and NIMS may be found at [www.fema.gov/national-incident-management-system](http://www.fema.gov/national-incident-management-system).

The following definitions would be deleted: "Federal Radiological Emergency Response Plan" and "Federal Response Plan." These two plans have been replaced by the NRF and supporting documents, including supporting annexes.

In addition, a minor change is being proposed to the definition of a "Spill of National Significance" (SONS) to clarify that, under the NCP, this type of incident is so classified by the EPA for discharges occurring in the inland zone or by the United States Coast Guard (USCG) for discharges occurring in the coastal zone, so readers do not confuse a SONS determination with any type of declaration or determination that may be made by other federal officials or federal departments or agencies under the NRF. This proposed change is discussed in more detail in this preamble under subpart D, § 300.323.

Finally, the existing definition of "national response system" would be modified to correct a capitalization error.

#### F. General Organizational Concepts (Section 300.105)

A note would be added to § 300.105(d) to reflect that NIMS is issued by DHS, and that federal agencies follow the NIMS and have adopted it for appropriate use in NCP emergency removal actions. The existing § 300.105(d) explains that the NCP response management structure is a system that brings together the functions of the federal government, state government, and responsible party(ies) to achieve an effective and efficient

response, where the federal OSC retains his/her authority. The addition of the proposed note would provide further clarification that NIMS is the emergency preparedness and response management system adopted by federal departments and agencies for appropriate use in NCP emergency removal actions.

The Secretary of DHS required federal departments and agencies to submit their plans for adopting NIMS to DHS in December, 2004. Under HSPD-5, federal departments and agencies also were directed to make adoption of the NIMS a requirement, to the extent permitted by law, for providing federal preparedness assistance through grants, contracts, or other activities. HSPD-5 directed the Secretary of DHS to develop standards and guidelines for determining whether a state or local entity has adopted the NIMS. The DHS is responsible for developing standards and guidelines for determining whether federal, state, local, and tribal entities have adopted the NIMS.

The NIMS represents a core set of doctrines, concepts, principles, terminology, and organizational processes that enables effective, efficient, and collaborative incident management. It includes both preparedness and response components. Preparedness elements include establishing emergency operations plans and procedures; identifying response resources and establishing procedures for their use; training and credentialing response personnel; conducting exercises, evaluations, and corrective action programs; establishing and maintaining agreements for assistance; and planning for scientific support.

For managing the response to an incident, the NIMS uses the Incident Command System (ICS), which provides a flexible core mechanism for coordinated and collaborative incident management. The ICS integrates the facilities, equipment, personnel, procedures, and communications involved in a response within a common organizational structure. The ICS follows a number of key principles and concepts, including, but not limited to, the following:

- Field command and management functions are performed in accordance with a standard set of ICS organizations, doctrines, and procedures. Incident commanders, however, retain the flexibility to modify procedures or structures as needed to ensure a successful response to a specific incident.
- ICS is modular and scalable. It has a scalable organizational structure that is based on the size and complexity of the incident. Smaller incidents may be

handled by relatively few individuals who would perform all the necessary response functions and fulfill all of the ICS roles. Larger incidents may require many individuals, each fulfilling a specific position within the ICS. ICS can be used for incidents occurring within a single jurisdiction or being managed by a single agency, or for incidents occurring across multiple jurisdictions or involving many agencies.

- ICS establishes common terms, standards, and procedures that enable diverse organizations to work together more effectively. ICS includes a standard set of predesignated organizational elements and functions, common names for resources used to support incident operations, and common identifiers for facilities and operational locations used to support incident operations.

- ICS uses measurable objectives. Incidents are managed by establishing overarching objectives for the response and more specific measurable objectives for various response activities; directing efforts to obtain those objectives; and documenting the results of those efforts to measure performance and support corrective action. Incident objectives are communicated throughout the on-scene level command structure through the development of incident action plans.

Under NIMS, an Incident Command Post (ICP) is established at the on-scene tactical level. This is the location from which tactical response operations are directed. The ICP organization has five major functions: Command, operations, planning, logistics, and finance/administration (with a potential sixth function to cover intelligence/investigations, when needed). The ICP is led by the Incident Commander, the individual with the authority to direct the response. (For smaller incidents, the ICP may be as simple as the response vehicle from which the Incident Commander directs the on-scene response.)

Where multiple Incident Commanders have jurisdiction over the response, the incident is led by a Unified Command. Unified Command enables agencies and organizations with different legal, geographic, and functional responsibilities to coordinate, plan, and interact effectively. Under Unified Command, Incident Commanders work together to establish the common objectives and carry out tactical response activities, with each Incident Commander retaining his/her regulatory authority. The exact composition of the Unified Command structure depends on the location and type of incident. If only one agency has jurisdiction or regulatory authority, Unified Command

may not be necessary. In that case, other assisting agencies and organizations can still provide input to incident objectives and raise questions or concerns by providing a Liaison Officer on the Command Staff or a technical specialist(s) in an appropriate ICS section.

An Area Command also may be established if needed, depending on the complexity of the incident and span-of-control needs. An Area Command may be needed to oversee the management of multiple incidents that are being handled by separate ICS organizations or to oversee the management of a very large incident that involves multiple ICS organizations. Area Command may be used when there are a number of incidents in the same area and of the same type (e.g., two or more hazardous substance releases), which may compete for the same resources. If the incidents being managed by the Area Command are multi-jurisdictional, a Unified Area Command may be established.

The NIMS also describes multi-agency coordination groups and centers, such as emergency operations centers, that may be established to support the ICP and coordinate incident-related response activities. The NRF is built on the incident management concepts in NIMS and describes additional federal multi-agency coordination groups and centers that may be activated or used during certain types of federal incident responses (e.g., the FEMA National Response Coordination Center may be used to support federal responses under the Stafford Act).

Readers are referred to the NIMS for additional details on the incident management system. As noted earlier in this preamble, EPA is not taking comments on the substance of the NIMS, only on the NCP changes to align with the NIMS.

The existing preparedness and response management structure for removal actions under the NCP national response system—which brings together the functions of the federal government, state government, and the responsible party to prepare for and achieve an effective and efficient response, where the OSC maintains his or her authority—is consistent with the NIMS. Appropriate preparedness elements of NIMS are used by the federal departments and agencies on the NRT to prepare for NCP responses.

Under the NCP national response system for removal actions, the federal Incident Commander—the individual with the authority to direct and coordinate a removal action at the on-scene level—is the federal OSC. Federal OSCs evaluate a potential or actual

release of hazardous substances, pollutants or contaminants or discharge of oil to determine whether a federal removal action is needed, in accordance with existing delegations of authority to OSCs. If a federal response is needed, the removal action may range from overseeing a response by another party, to providing technical assistance, to assuming direction of the response. The extent of the federal response may increase or decrease during the course of the response as needed. If a federal OSC works in a Unified Command with state, tribal, or local governments and/or the responsible party, the OSC maintains his/her NCP authorities.

As explained above, an ICP organization typically has five major functions: Command, operations, planning, logistics, and finance/administration. For NCP removal actions, the management of environmental data is often a crucial element of the response. This key function may be managed through the establishment of an Environmental Unit within the Planning Section of the ICP.

For federally-led NCP removal actions, the responsible party for a discharge or release (if identified) may be part of a Unified Command, if established, and provide the response assets necessary for an effective and efficient response. The responsible party may, however, be directed or re-positioned by the OSC if determined necessary for an effective and efficient response. Responsible party participation in the Unified Command is determined on an incident-specific basis by the OSC.

Multi-agency coordination centers and groups may also be used to support NCP removal actions. For example, the EPA and U.S. Coast Guard (USCG) have emergency operations centers in their headquarters and in EPA regional and USCG district offices that may be activated to support the on-scene response. The Regional Response Teams (RRTs) and the NRT described in the NCP are multi-agency coordination groups that also may be activated if needed to provide support to the on-scene response of the federal OSC and to coordinate interagency activities.

EPA developed a robust NIMS implementation plan, established training and certification requirements, and has used the ICS system for emergency responses. EPA has found NIMS ICS to be particularly beneficial in organizing large, complex, multi-jurisdictional emergency responses. Some removal actions have longer planning times before on-site removal activity must begin, while others require a quicker response. The detailed NIMS

ICS structure and process is used as appropriate for removal actions that are emergencies; these were the types of incidents for which the system was developed. OSCs typically use other on-site project management structures to conduct removal actions with longer planning times. (See preamble discussions in 53 FR 51396 and 51409, December 21, 1988, for a discussion about the types of removal actions, including emergencies and removal actions with longer planning times.) USCG and other NRT agencies have also adopted NIMS ICS for appropriate use in NCP emergency removal actions.

In developing the NIMS document, DHS drew upon the traditional ICS used by fire-fighting organizations, but revised it to form a system that is more appropriate for all-hazard emergency response and more flexible for integrating the range of government and private sector assets and authorities that might be included in a federal response. While EPA had not previously adopted the traditional type of ICS for removal actions under the NCP, EPA did have the opportunity to provide input into the modification and implementation of the DHS version of ICS to help ensure it can provide an effective structure for federal NCP emergency removal actions. The DHS NIMS document emphasizes that federal agencies maintain their authorities within the incident command structure, and provides for flexibility, which has addressed EPA's previous concerns about the traditional ICS (59 FR 47387, September 15, 1994). EPA has found that the DHS NIMS ICS can be tailored to provide appropriate coordination across multiple agencies and organizations leading and supporting NCP emergency removal actions.

In § 300.105(e)(1), the term "national response system" would be capitalized.

Several changes are being proposed to Figure 1a in § 300.105(e)(1). The term "Special Forces" would be changed to "Special Teams" to be consistent with the use of "special teams" elsewhere in the NCP. The list of "Special Forces" in Figure 1a would be revised to include the following additional special teams and assets:

- USCG Incident Management Assistance Team (CG-IMAT), which now includes the Public Information Assist Team (PIAT)
- USCG Salvage Engineering Response Team (SERT)
- EPA Chemical, Biological, Radiological, Nuclear Consequence Management Advisory Team (CBRN CMAT)
- EPA National Criminal Enforcement Response Team (NCERT)

- Occupational Safety and Health Administration (OSHA) Response Team
- Department of Energy (DOE) Aerial Measuring System (AMS)
- DOE Consequence Management Home Team (CMHT)
- DOE Consequence Management Response Team (CMRT)
- DOE National Atmospheric Release Advisory Center (NARAC)
- DOE Radiological Assistance Program (RAP)
- DOE Radiation Emergency Assistance Center/Training Site (REAC/TS)

The functions and capabilities of these teams are described in the proposed language in § 300.145. These are only some of the federal teams that may provide support for NCP responses. Additional teams may be described in other guidance and reference documents for use by OSCs and Remedial Project Managers (RPMs). Therefore, Figure 1a would also be revised to add a box that says "Others" in this list to be clearer that these are not the only teams available. The order of the teams in Figure 1a would be changed to match the order in which the teams are described in § 300.145.

The diamond in Figure 1a that currently asks "Federal Assistance Required?" would be changed to "Federal Response Required?" This change does not reflect any change in existing NCP authorities. The change is being made to more accurately describe existing NCP authorities. A federal OSC's response to a release or discharge may range from providing assistance (e.g., response support and advice to state and local responders), to directing and overseeing response activities by a responsible party or other entity, to directing a federal response. Similarly, an RPM may direct and oversee a remedial action by another party or direct a federal remedial action. It may not be clear that the word "assistance" was intended to capture all of these possible types of response. This NCP Figure is often used by EPA, USCG, and other NRT agencies when explaining to others how the NCP national response system works, so EPA is proposing this change to better describe existing NCP response authorities.

A new footnote also would be added to Figure 1a. The new footnote would explain that the NRC does not notify RPMs directly of incidents involving their sites. Rather, the NRC notifies the pre-designated OSC, who, in turn, notifies the cognizant RPM.

Original footnotes 1 and 2 in Figure 1a would become footnotes 2 and 3, respectively. The newly numbered

footnote 2 which currently reads "This includes local representation as well" would be changed to "This includes local and tribal representation as well" to correct a previous oversight. Tribal governments may also participate in the command structure.

Figure 1b in § 300.105(e)(1) would be revised to add the following new special teams to the list under "Sources of Input and Guidance to Area Committees," "Government":

- CG-IMAT
- USCG SERT
- EPA CBRN CMAT
- EPA NCERT
- OSHA Response Team
- DOE AMS
- DOE CMHT
- DOE CMRT
- DOE NARAC
- DOE RAP
- DOE REAC/TS
- Others

"Others" would be added to the end of the list to indicate that additional teams not listed in this Figure may be described in other documents. While existing NCP § 300.210(c)(1) states that Area Committees prepare Area Contingency Plans in consultation with certain special teams—the District Response Groups (DRGs), the National Strike Force Coordination Center (NSFCC), and Scientific Support Coordinators (SSCs)—Area Committees may also request assistance from any special team.

The order and the way in which the special teams are listed in Figure 1b would also be revised to be consistent with the order and way in which the special teams would now be listed in Figure 1a, which would follow the order in which the teams would be listed in revised § 300.145. The current special teams lists in Figure 1a and Figure 1b are slightly different and this change in Figure 1b is intended to avoid any confusion this difference may have caused.

The RRT section of Figure 1b would also be revised. The box that currently says "State(s)" would be revised to say "State(s)/Tribe(s)" to correct a previous oversight. As stated in existing NCP §§ 300.115(d) and (h) and § 300.180, tribal governments may also participate on RRTs.

The footnote to "RRT" on Figure 1b (indicated by an asterisk) would be revised to change "Standard Federal Regions" to "EPA Regions." The wording of § 300.105(e)(2) also would be revised to change "standard federal regional boundaries" to "EPA regional boundaries." In addition, the title of Figure 2 in § 300.105(e)(2) would be

revised to change “Standard Regional Boundaries for Ten Regions” to “EPA Regional Boundaries for Ten Regions.” These three revisions reflect a change made by the Office of Management and Budget (OMB). The ten standard federal regions were originally established by OMB Circular A–105, “Standard Federal Regions,” in April, 1974, and were required for all federal agencies. In 1995, OMB determined that a strict regional structure for all federal agencies was inefficient and unnecessary and rescinded the Circular (60 FR 15171, March 22, 1995). While this regional structure is no longer “standard” for all federal agencies, EPA still uses these original boundaries for its current regional structure, and these boundaries are still used to delineate RRT boundaries.

Figure 2 in § 300.105(e)(2) also would be corrected to change the current Region “V1” designation to “VI.” In addition, a footnote would be added to Figure 2 to describe the geographic boundaries of the RRTs.

#### *G. Regional Response Teams (Section 300.115)*

The existing sentence in § 300.115(j)(4)(v) that says RRTs may submit pollution reports to the NRC would be deleted because it is an outdated federal practice that is no longer followed or needed. OSC pollution reports are the key situation reports describing the status of NCP removal actions. These OSC reports are sent or made electronically available to RRTs and the NRT as needed when those teams are activated for an incident, rather than to the NRC. The RRTs and NRTs are the appropriate organizations to receive these reports when needed.

The term “Regional Response Center” in § 300.115(j)(5) would be changed to “Regional Emergency Operations Center” to use terminology for such centers that is more common in incident management systems, again, to aid responders in communicating and working together. This change supports the objectives of the NRF and NIMS for greater consistency in national incident management systems. The last sentence in § 300.115(j)(5) would be further revised by changing the word “provided” to “identified.”

The term “pollution reports” in § 300.115(j)(8) would be changed to “situation reports” to be consistent with DHS and NRF terminology for the periodic reports that describe incident response status and activities. The term “situation report” is also a more accurate description of the contents of

these reports and is therefore a more user-friendly name for the reports.

#### *H. Notification and Communications (Section 300.125)*

Changes are being proposed to § 300.125(a) and (b) to clarify the language, and to clarify the role and operation of the NRC. Language would be added to paragraph (a) to explain that the NRC also distributes notifications to state and tribal government agencies that have established a written agreement or understanding with the NRC. This is a current practice by the NRC; the language would be modified to better reflect current practice.

Paragraph (b) would be revised to change “The Commandant, USCG” to “The agencies that provide the NRT Chair and Vice Chair.” This change better reflects that both EPA and USCG provide significant support for NRC operations.

A sentence would be added to paragraph (b) to explain that the Director of the NRC is responsible for its operation and management. This does not represent a change in who manages the NRC; it simply helps to distinguish the role of the NRT Chair and Vice Chair from that of the Director and may be helpful information for members of NRT agencies who may need to work with the NRC.

#### *I. Determination To Initiate Response and Special Conditions (Section 300.130)*

The first three sentences in paragraph (f), and all of paragraphs (h) and (i), in § 300.130 would be deleted and replaced with a note that discusses the NRF. Current paragraphs (f), (h), and (i) refer to the Federal Radiological Emergency Response Plan (FRERP) and FRP. The FRERP described how federal radiological responses were conducted, and the FRP described how federal assistance was provided under the Stafford Act. The FRERP and FRP are no longer in effect. Both plans have been replaced by the NRF and supporting documents (e.g., annexes, federal interagency operational plans). Therefore, a note would be added to § 300.130 to refer to the NRF and supporting documents. As explained earlier in this preamble, the NRF is a guide issued by DHS under the authority of the HSA, PKEMRA, the Stafford Act, and HSPD–5. It is not intended to alter or impede other existing federal authorities, such as CERCLA and the CWA.

The NRF and supporting documents describe how the NCP may be used for radiological releases and how the NCP relates to Stafford Act assistance. The

NCP serves as an operational supplement to the NRF. As explained in this preamble under Subpart A, § 300.3, for some NCP responses, additional procedures under the NRF and supporting documents may apply. When additional NRF procedures are activated for an NCP response, the NCP response will follow the appropriate procedures of both the NCP and NRF.

The existing paragraph (f) refers to the FRERP as the applicable plan for coordinating some federal radiological responses. The FRERP has been replaced with the NRF and its supporting documents, with most of its provisions located in an annex called the Nuclear/Radiological Incident Annex. Most radiological incidents that historically have been carried out under the NCP will continue to be handled under the NCP alone, but when the Nuclear/Radiological Incident Annex is activated for an NCP response, NCP lead and support agencies will conduct their NCP activities consistent with the Nuclear/Radiological Incident Annex. When the Annex is activated for a response to which the NCP also applies, the OSC continues to carry out OSC responsibilities under the NCP, but coordinates those activities with NRF activities as described in the Nuclear/Radiological Incident Annex. For example, under the Annex, the Secretary of DHS may coordinate a federal NCP response to a radiological release under presidential directive. The Annex also describes some additional specific federal response assets that are not listed in the NCP but may be requested by the OSC to assist with a federal NCP response to a radiological release, such as the Advisory Team for Environment, Food, and Health.

The existing fourth sentence in paragraph (f), which is a paraphrase of a portion of the CERCLA definition of release in 42 U.S.C. 9601(22)(C), would be deleted and replaced with the exact statutory language for additional clarity.

The federal government may also provide assistance for disasters and emergencies under the Stafford Act. Existing paragraphs (h) and (i) in § 300.130 refer to the Stafford Act and activation of the FRP to provide federal assistance under the Stafford Act. The FRP has been replaced by the NRF and supporting documents, so those paragraphs are being replaced with a note that discusses the NRF.

If an incident is of such severity and magnitude that effective response is beyond the capabilities of the state and local governments and/or federally recognized Indian tribal governments, the President may, under the Stafford Act, act upon a request by the governor

or Chief Executive of an affected Indian tribal government and declare a major disaster or emergency. In certain circumstances, the President may declare an emergency without a request from a governor or Chief Executive when the primary responsibility for response rests with the United States because the emergency involves a subject area for which the United States has exclusive or preeminent responsibility and authority under the Constitution or laws of the United States.

In the event of a declaration of a major disaster or emergency by the President under the Stafford Act, FEMA coordinates the overall federal response and the President appoints a Federal Coordinating Officer (FCO) for each affected state or territory to coordinate federal disaster assistance activities. Delivery of federal assistance for Stafford Act responses is facilitated through annexes to the NRF called Emergency Support Functions (ESFs).

EPA and/or USCG may be requested to provide support to address oil and hazardous materials releases under the ESF #10—Oil and Hazardous Materials Response Annex, which further describes how EPA and USCG OSCs and other EPA and USCG personnel would coordinate their response actions with the FCO and FEMA. In general, EPA and USCG OSCs respond at the on-site level to carry out actions to address oil and hazardous materials releases. EPA and USCG also provide ESF #10 representatives to FEMA and other coordination centers as needed, such as the FEMA Joint Field Office(s), Regional Response Coordination Center(s), and National Response Coordination Center. RRTs and the NRT may also be activated to provide support to the OSC for the ESF #10 response. EPA and USCG OSCs also maintain the authority to respond under the NCP if necessary. In this case, coordination with the FCO and FEMA would still occur as described above.

It is important to note that the NRF states that nothing in the NRF is intended to alter or impede the ability of any federal government department or agency to carry out its authorities or meet its responsibilities under applicable laws, executive orders, and directives.

Paragraph (g) in § 300.130 also would be deleted. Paragraph (g) refers to a Memorandum of Understanding (MOU) between the Department of Defense (DOD), DOE, and FEMA. While the MOU is still in effect, the signatory agencies agreed it is not necessary to reference this MOU in the NCP.

#### *J. Response Operations (Section 300.135)*

Paragraph (e) would be revised to delete “and NSFCC” because the USCG believes this is an unnecessary burden on OSCs and RPMs during a response.

The phrase “pollution reports” would be changed to “situation reports” in paragraph (m) to be more consistent with terminology used for such status reports under the NRF. This change would also be consistent with the change from “pollution reports” to “situation reports” proposed in § 300.115(j)(8).

#### *K. Special Teams and Other Assistance Available to OSCs/RPMs (Section 300.145)*

Some of the descriptions of existing special teams would be updated or clarified. In paragraph (b)(4), the title “Director, Emergency Response Division” would be changed to “Chief, Environmental Response Team” to address a reorganization in EPA headquarters. The description of EPA’s Radiological Emergency Response Team (RERT) in paragraph (f) would be divided into two separate subparagraphs and updated. EPA would make minor changes to the activation methods for all of the EPA special teams in this section, including EPA Scientific Support Coordinators (SSCs), to make the activation methods consistent across the EPA teams. Each EPA special team would be able to be contacted via: The EPA Headquarters Emergency Operations Center, EPA representative on the RRT, or EPA manager of the team.

Several additional special teams or resources would be added to the list of assets available to assist OSCs and RPMs. Some of these are new resources, while some were existing resources that were not previously listed in the NCP. Descriptions of the following resources would be added to new paragraphs (i) through (n) of § 300.145:

- CG-IMAT
- USCG SERT
- EPA CBRN CMAT
- EPA NCERT
- OSHA Response Team
- DOE AMS
- DOE CMHT
- DOE CMRT
- DOE NARAC
- DOE RAP
- DOE REAC/TS

The proposed language in § 300.145 paragraphs (i) through (n) describes the capabilities of these teams. Additional federal teams that can support NCP responses may be described in other guidance and reference documents.

Paragraph (e) would also be modified to add the USCG SERT to the list of resources that OSCs/RPMs may contact for assistance with marine salvage operations.

#### *L. Public Information and Community Relations (Section 300.155)*

The acronym “(JIC)” would be added after “Joint Information Center” in paragraph (a).

In paragraph (b), the term “on-scene news office” would be changed to “JIC” to make it consistent with the existing reference to the JIC in paragraph (a) and with NIMS. Under NIMS, a JIC coordinates incident-related public information activities, including acting as the central point of contact for the news media near the scene of an incident. Language would also be added noting that the federal OSC/RPM consults with other appropriate response organizations in locating the JIC to reflect actual practice. “On-scene” would be replaced by “near the location of the incident” to allow flexibility to establish the JIC in a safe location with appropriate support capabilities. The word “federal” would be deleted, as well as a sentence about the facility being headed by a representative of the lead agency, to be consistent with the purpose of a JIC established under the NCP, which is to coordinate public information activities at the tactical level across multi-jurisdictional responding agencies. The JIC would be headed by a single Public Information Officer, who may appoint as many assistants (Assistant Public Information Officers or JIC Specialists) as necessary and the assistants may represent assisting agencies, jurisdictions, and/or other response partners.

A note would be added to § 300.155 that explains that additional NRF public information procedures may be activated and implemented for an NCP response. The NRF contains additional procedures for coordinating federal public information activities in the Emergency Support Function (ESF) #15—External Affairs Annex and supporting documents, which also would be followed as appropriate when ESF #15 is activated for an NCP response. For example, while a JIC may be established by the OSC and other incident commanders near the incident scene under NIMS for an NCP removal action, if the ESF #15 Annex is also activated, the federal government may also establish a national-level JIC. The national-level JIC would coordinate its activities with the local JIC and any other JICs established for the incident. Other ESF #15 communications mechanisms may also be used, such as

the State Incident Communications Conference Line (SICCL) and Private Sector Incident Communications Conference Line (PICCL). Again, it is expected that when it does occur, an ESF #15 activation would be for an NCP removal action rather than for a remedial action. Note that EPA is not taking comment on the NRF public affairs procedures, only on the NCP changes to align with those procedures.

#### *M. OSC After Action Reports (Section 300.165)*

The term “OSC report” would be expanded to “OSC after action report” in the title of § 300.165 and in paragraphs (a) and (b) of the section to be more consistent with terminology commonly used in incident management systems for such post-incident reports. This change supports the objectives of the NRF and NIMS for greater consistency in national incident management systems.

#### *N. Federal Agency Participation (Section 300.170)*

A sentence would be added to the introductory paragraph of § 300.170 to recognize that some NRT agencies also may have specific land management laws, policies, and regulations that could inform or affect NCP response actions on federal lands managed by those agencies. For example, proposed § 300.175(b)(9)(i) describes the authority of the DOI USFWS to authorize entry to, and activity on, refuge system lands. The new sentence in § 300.170 would not be a new requirement placed on NCP response actions; it is merely a clarification of roles and authorities that NRT agencies already have. In the next sentence in that paragraph, the phrase “of these agencies” would be deleted because it is repetitive and not needed.

The introductory paragraph in § 300.170 currently uses the word “duties” in each of the three sentences in that paragraph. The proposed rule would delete the word “duties” in these three sentences and replace it with the phrase “certain authorities and responsibilities.” The purpose of this change is to conform the language in the introductory paragraph of § 300.170 with the relevant language in the remainder of § 300.170 and with the title of § 300.175 and the language in § 300.175(a).

Paragraph (b)(1) would be revised to delete the phrase “the Secretary of” because it is an unnecessary level of detail and does not reflect the real intention of paragraph (b)(1), which is to make information available to NRT members, not just “the Secretary.” This is parallel to the intention in paragraph

(b)(1) of making information available to RRTs and Area Committees. (In any case, the NRT does not currently have a “Secretary”; it has an Executive Director. Federal agencies typically provide information to the NRT Executive Director for subsequent distribution to NRT members.)

#### *O. Federal Agencies; Additional Responsibilities and Assistance (Section 300.175)*

Like the introduction to § 300.170, paragraph (a) in § 300.175 would be modified to recognize that some NRT agencies also may have specific land management laws, policies, and regulations that could inform or affect NCP response actions on federal lands managed by those agencies. Again, this is not a new requirement being placed on NCP response actions; it is merely a clarification of roles and authorities these agencies already had.

Paragraph (b) of § 300.175 would be revised to update and clarify the current responsibilities, organizations, and capabilities of all of the federal agencies listed in paragraph (b), as described in the proposed language.

These revisions include updating the descriptions of USCG and FEMA to show that they are part of DHS. The DHS was established in November 2002 by the passage of the HSA. USCG and FEMA were integrated into the DHS at that time. DHS develops and coordinates the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks, major disasters, and other emergencies. DHS coordinates collection and analysis of threat information and domestic activities of terrorists or terrorist groups. DHS coordinates federal resources used in the prevention of, preparation for, response to, or recovery from terrorist attacks, major disasters, or other emergencies within the United States in accordance with its authorities. DHS, through FEMA, administers the NRF and NIMS. DHS and FEMA work with federal, state, tribal and local agencies and private entities in performing these functions.

In addition to USCG and FEMA, the DHS organization includes components responsible for policy, infrastructure protection, intelligence and analysis, domestic nuclear detection, science and technology, customs and border protection, immigration and customs enforcement, and transportation security.

In paragraph (b)(5), which describes DOE’s roles and capabilities, the reference to the “FRERP” would be deleted because the FRERP was

replaced by the NRF and supporting documents. However, it is not necessary to reference the NRF in this paragraph because DOE can provide support and assistance for NCP responses directly as a member of the NRT, without going through the NRF.

Federal agencies described in § 300.175 may have additional roles and responsibilities, as outlined in the NRF and supporting documents, for incidents that are managed under the NRF.

#### *P. Planning and Coordination Structures (Section 300.205)*

Figure 4, under paragraph (g) in § 300.205, would be revised to change the current reference to the “Federal Response Plan (FRP)” to the “National Response Framework (NRF)” because the NRF has replaced the FRP. A dotted line would be added between the NRF and the Area Contingency Plans to reflect an additional point of coordination between the two. A footnote would be added to “Facility Response Plan” and “Vessel Response Plan” that would refer readers to § 300.211 for examples of facility and vessel response plans.

#### *Q. OPA Facility and Vessel Response Plans (Section 300.211)*

A technical correction would be made to paragraph (f) of § 300.211. Paragraph (f) currently states that the federal regulations that implement the response plan requirements under CWA section 311(j)(5) for rolling stock are codified in “49 CFR part 106 et al.” These regulations are found in 49 CFR part 130, so paragraph (f) would be changed to refer to 49 CFR part 130.

A table would be added to the end of § 300.211 that would summarize the information on response plan regulations in paragraphs (a) through (f) of that section for easier readability. The table would also identify the federal department or agency that issues those regulations, and the names of the response plans under those regulations, to provide readers with additional useful information. The last sentence in the introductory paragraph to § 300.211 would be revised to add the phrase “and summarized in Table 1” to introduce the new table.

#### *R. Spills of National Significance (Section 300.323)*

Section 300.323(a) would be amended to add the word “by” before “the Commandant of the USCG” for clarity. The phrase “spill of national significance” would also be deleted from paragraph (a), and only the acronym “SONS” used, because the

acronym would now be spelled out earlier in the NCP in the new text that is proposed to be added to the USCG description in § 300.175(b)(1). Additionally, a note would be added after § 300.323(c) to clarify that the EPA Administrator and USCG Commandant have the authority to declare an oil spill as a SONS under the NCP.

The note after § 300.323(c) would be added to highlight the distinction between the EPA inland zone and USCG coastal zone authority under the NCP to declare a SONS, and any declaration or determination that may be made by other federal officials or other departments and agencies under the NRF. This would include any determinations that may be made by DHS to implement HSPD-5 authorities. For example, under HSPD-5, the Secretary of DHS has the authority to assume overall coordination responsibilities for a federal response to an incident. The Secretary may or may not assume overall federal coordination responsibilities under HSPD-5 for an incident that EPA or USCG declare as a SONS under the NCP. That decision is made by the Secretary. The EPA Administrator and USCG Commandant maintain the authority to designate an incident as a SONS under the NCP. (The USCG Commandant, subject to the Secretary's oversight, direction, and guidance, may declare a SONS and designate a National Incident Commander. See Commandant Instruction 16465.6, Spill of National Significance (SONS) Response Management, May 23, 2012.) If the Secretary assumes overall coordination responsibilities for the federal response to a SONS under HSPD-5, or activates NRF elements in response to a request for support from the EPA or USCG without assuming overall coordination responsibilities, the response is conducted concurrently under the appropriate NCP and NRF procedures.

The Secretary may make a determination that it is not necessary to assume responsibility for coordinating the federal response to a SONS under HSPD-5. Further, EPA and USCG may determine that adequate federal resources are being provided under NCP coordination mechanisms for the response and there is no need to request DHS to activate additional elements of the NRF. In that case, the SONS response may be carried out under the NCP without activating additional federal NRF elements (such as Emergency Support Functions). EPA or USCG, however, would keep DHS informed of its response activities as appropriate to support DHS situational awareness.

It is also possible that the President could make a Stafford Act declaration for a SONS, or that the President could make a Stafford Act declaration for a broader incident that contributes to causing a SONS, such as a catastrophic earthquake that results in widespread impacts, including a SONS. (See the preamble under Subpart B, § 300.130 for a more detailed explanation of the Stafford Act.) In such cases, the SONS response would be carried out under the appropriate NCP and NRF procedures.

#### *S. Discovery or Notification (Section 300.405)*

This rule proposes a clarification to § 300.405(d). Paragraph (d) currently says that when people contact the NRC to report a release, the NRC will generally need information that will help to characterize the release. Paragraph (d) says this information “will include, but is not limited to. . .” and goes on to provide a list of examples of the types of information the NRC will need. The current list of examples includes the “possible source of the release.” The proposed revisions would clarify paragraph (d) to state “possible source and cause of the release.” The NRC already collects information regarding the cause of the release, even though “cause” is not currently specifically cited as an example in § 300.405(d), so collecting “cause” information would not be a new requirement. The proposed revisions would add “cause” as another specific example in the rule language to better prepare people who notify the NRC that they will be asked for this information. As already stated in § 300.405(d), however, reporting should not be delayed due to not having complete notification information.

Paragraph (f)(3) currently states that if radiological substances are present in a release, the OSC should notify the EPA Radiological Response Coordinator for evaluation and assistance directly or via the NRC, consistent with §§ 300.130(e) and 300.145(f). Paragraph (f)(3) would be revised to: (1) Replace “EPA Radiological Response Coordinator” with “RERT”; (2) change the methods for notification from “directly or via the NRC” to “the EPA Headquarters Emergency Operations Center, EPA representative on the RRT, or on-duty EPA RERT Team Commander in the Office of Radiation and Indoor Air”; and (3) delete the reference to § 300.130(e). “EPA Radiological Response Coordinator” would be replaced with “RERT” because EPA no longer has a position called a “Radiological Response Coordinator.” The notification methods would be changed to be

consistent with the changes to notification methods being proposed to the RERT description in § 300.145(f). The reference to § 300.130(e) would be deleted because it is no longer appropriate.

The reference to § 300.130(e) is no longer appropriate because: (1) The existing NCP reference to § 300.130(e) is incorrect; it was intended to be a reference to § 300.130(f) instead; and (2) the FRERP that is cited in the existing § 300.130(f) has been replaced by the NRF, including the Nuclear/Radiological Incident Annex, and the NRF does not contain specific language about an OSC contacting the RERT for assistance with NCP removal actions involving a radioactive substance. Paragraph 300.130(e) in the existing NCP refers to discharges originating in the Outer Continental Shelf, which was not the original intention for that reference in § 300.405(f)(3). The original intention in § 300.405(f)(3) had been to refer to § 300.130(f), which refers to the old FRERP in the existing NCP. The NCP final rule issued on March 8, 1990, correctly cited § 300.130(f) in § 300.405(f)(3) (55 FR 8842, March 8, 1990). However, when other revisions to the NCP were published on September 15, 1994, the § 300.130(f) citation in § 300.405 was erroneously changed to § 300.130(e) (59 FR 47448, September 15, 1994). So, the existing NCP reference to § 300.130(e) in § 300.405(f)(3) is an inadvertent error; it should have been a reference to § 300.130(f), which references the FRERP in the existing NCP. However, as explained earlier in this preamble under the changes to § 300.130, the FRERP has been replaced by the NRF and supporting documents, including the Nuclear/Radiological Incident Annex. The NRF and Nuclear/Radiological Incident Annex do not contain specific language stating that an OSC should notify the EPA Radiological Response Coordinator (or the RERT) for assistance with NCP removal actions involving a radioactive substance, so it would not be appropriate to cite the NRF here in § 300.405(f)(3).

#### *T. Removal Action (Section 300.415)*

Paragraph (f) of § 300.415 would be revised to change “FEMA” to “EPA” and “shall” to “may.” FEMA was delegated the authority to conduct temporary relocations for CERCLA responses under Executive Order 12580, Section 2(c), but FEMA re-delegated that authority to EPA in 1990. The proposed revisions, therefore, explain that the NCP lead agency may ask EPA to conduct a temporary relocation or request that state or local officials conduct an evacuation, where necessary

to protect public health or welfare. (If another federal agency is the lead agency for a CERCLA removal action and requests EPA to conduct a temporary relocation using CERCLA funds, Section 9(j) of Executive Order 12580 provides that the CERCLA fund must be reimbursed by that agency.) The change from “shall” to “may” would provide the lead agency with more flexibility to determine the appropriate action.

## V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

### B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2050–0046. EPA is not revising the existing notification requirements that are contained in 40 CFR part 302; it is merely clarifying in § 300.405(d) that the NRC asks callers about both the source and cause of a release, if known. The NRC already collects information regarding the cause of the release, even though “cause” is not currently cited as an example in § 300.405(d), so collecting “cause” information would not be a new requirement. The proposed revisions would add “cause” as another specific example in the rule language to better prepare people who notify the NRC that they will be asked for this information.

### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This rule

adds no new burden on small entities. EPA is not revising the existing NRC notification requirements that are contained in 40 CFR part 302; it is merely clarifying in § 300.405(d) that the NRC asks callers about both the source and cause of the release, if known. The NRC already collects information regarding the cause of the release, even though “cause” is not currently cited as an example in § 300.405(d), so collecting “cause” information would not be a new requirement. The proposed revisions would add “cause” as another specific example in the rule language to better prepare people who notify the NRC that they will be asked for this information. We have therefore concluded that this action will add no new regulatory burden on all directly regulated small entities.

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandates as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

This action imposes no enforceable duty on any state, local, or tribal governments or the private sector. That is, this action proposes changes that align the NCP with the NRF and NIMS and updates the descriptions and capabilities of the NRT federal agencies and how they operating, including the establishment of DHS.

### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This rule does not significantly or uniquely affect the communities of Indian tribal governments, nor would it impose substantial direct compliance costs on them. Thus, Executive Order 13175 does not apply to this action. Although this action does not have impacts on tribes, it does propose to add language that would reflect existing NCP practices regarding coordination with tribes for activities occurring on tribal lands, such as adding language to NCP Figures to show that tribal governments may

participate in the incident command structure and on RRTs.

### G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

### H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

### I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action does not affect the level of protection provided to human health or the environment. EPA is proposing an alignment of the NCP with the DHS’s NRF and NIMS and an update of federal department and agency organizations and capabilities. These proposed changes are primarily administrative and procedural in nature. They look to provide a consistent nationwide approach for federal, state, and local governments to work effectively and efficiently together to prepare for and respond to domestic incidents, regardless of cause, size, or complexity, and to more accurately describe federal department and agency capabilities.

### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous materials, Hazardous substances, Incorporation by reference, Intergovernmental relations, Natural resources, Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements, Superfund,

Waste treatment and disposal, Water pollution control, Water supply.

Dated: January 7, 2016.

Gina McCarthy, Administrator.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 300 as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

1. Revise the authority citation for part 300 to read as follows:

Authority: 33 U.S.C. 1321; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Revise § 300.2 to read as follows:

§ 300.2 Authority and applicability.

The NCP is required by section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9605, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law 99–499, (hereinafter CERCLA), and by section 311(d) of the Clean Water Act (CWA), 33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990 (OPA), Public Law 101–380. In Executive Order (E.O.) 12777 (56 FR 54757, October 22, 1991), the President delegated to the Environmental Protection Agency (EPA) the responsibility for the amendment of the NCP. Amendments to the NCP are coordinated with members of the National Response Team (NRT) prior to publication for notice and comment. The NCP is applicable to response actions taken pursuant to the authorities under CERCLA and section 311 of the CWA, as amended.

3. Amend § 300.3 by:

- a. Adding a note to paragraph (a); and
b. Removing paragraph (d).

The addition reads as follows:

§ 300.3 Scope.

\* \* \* \* \*

Note to paragraph (a): The National Response Framework (NRF) is issued by the Department of Homeland Security (DHS) and followed by federal departments and agencies. When NRF procedures are activated for an NCP response, the response is conducted concurrently under the appropriate NCP and NRF procedures.

\* \* \* \* \*

4. Amend § 300.4 by:

- a. In paragraph (a) by:
i. Revising the term “CDC”;
ii. Adding in alphabetical order the terms “DHS” and “PHMSA”;

- iii. Removing the term “RSPA”; and
iv. Adding the term “USFWS”; and
b. In paragraph (b) by:
i. Adding in alphabetical order the terms “AMS”, “CBRN CMAT”, “CG-IMAT”, “CMHT”, “CMRT”;
ii. Removing the terms “ESF”, “FCO”, “FRERP”;
iii. Adding in alphabetical order the term “FRMAC”;
iv. Removing the term “FRP”;
v. Adding in alphabetical order the terms “JIC”, “NARAC”, “NCERT”, “NIMS”, “NRF”, “RAP”, “REAC/TS”, “REOC”;
vi. Removing the term “RRC”;
vii. Adding in alphabetical order the term “SERT”; and
viii. Removing the term “USFWS”.
The additions and revisions read as follows:

§ 300.4 Abbreviations.

- (a) \* \* \*
CDC Centers for Disease Control and Prevention
DHS Department of Homeland Security
PHMSA Pipeline and Hazardous Materials Safety Administration
USFWS United States Fish and Wildlife Service
(b) \* \* \*
AMS Aerial Measuring System
CBRN CMAT Chemical, Biological, Radiological, Nuclear Consequence Management Advisory Team
CG-IMAT Coast Guard Incident Management Assistance Team
CMHT Consequence Management Home Team
CMRT Consequence Management Response Team
FRMAC Federal Radiological Monitoring and Assessment Center
JIC Joint Information Center
NARAC National Atmospheric Release Advisory Center
NCERT National Criminal Enforcement Response Team
NIMS National Incident Management System
NRF National Response Framework

RAP Radiological Assistance Program
\* \* \* \* \*

REAC/TS Radiation Emergency Assistance Center/Training Site
REOC Regional Emergency Operations Center
\* \* \* \* \*

SERT Salvage Engineering Response Team
\* \* \* \* \*

- 5. Amend § 300.5 by:
a. Removing the definitions “Federal Radiological Emergency Response Plan” and “Federal Response Plan”;
b. Adding in alphabetical order definitions for “National Incident Management System” and “National Response Framework”;
c. Revising the definitions “National response system” and “Spill of National Significance”; and
d. Adding a note to the end of § 300.5.
The additions and revisions read as follows:

§ 300.5 Definitions.

\* \* \* \* \*
National Incident Management System (NIMS) is a consistent nationwide template for the management of domestic incidents, issued by the DHS under the authority of the Homeland Security Act of 2002 (HSA), Post-Katrina Emergency Management Reform Act (PKEMRA), Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), and Homeland Security Presidential Directive 5 (HSPD–5). NIMS provides a systematic, proactive approach to guide government departments and agencies at all levels, nongovernmental organizations, and the private sector to work together seamlessly to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, in order to reduce the loss of life or property and harm to the environment. To provide for interoperability and compatibility among responding organizations, the NIMS includes a core set of concepts, principles, procedures, organizational processes, and terminology. These include the incident command system; multi-agency coordination systems; training; identification and management of resources; qualification and certification; and the collection, tracking, and reporting of incident information and incident resources.
\* \* \* \* \*

National Response Framework (NRF) is a guide to how the Nation conducts all-hazards response, issued by the DHS under the authority of the HSA,

PKEMRA, Stafford Act, and HSPD-5. The NRF documents the key response principles, roles and responsibilities, and coordinating structures that organize national response. It describes how communities, all levels of government, and private-sector and nongovernmental partners apply these principles for a coordinated, effective national response.

*National Response System* (NRS) is the mechanism for coordinating response actions by all levels of government in support of the OSC/RPM. The NRS is composed of the NRT, RRTs, OSC/RPM, Area Committees, and Special Teams and related support entities. The NRS is capable of expanding or contracting to accommodate the response effort required by the size or complexity of the discharge or release.

\* \* \* \* \*

*Spill of National Significance* (SONS) means a spill of oil that due to its severity, size, location, actual or

potential impact on the public health and welfare or the environment, or the necessary response effort, as determined by the EPA Administrator or by the Commandant of the USCG, is so complex that it requires extraordinary coordination of federal, state, local, and responsible party resources to contain and clean up the discharge.

\* \* \* \* \*

**Note to § 300.5:**

1. *Emergency Support Function #10—Oil and Hazardous Materials Response Annex* is an annex to the NRF. It describes how federal support for environmental response to an actual or potential discharge and/or release of oil or hazardous materials is provided under the NRF when the annex is activated.

2. *Emergency Support Function #15—External Affairs Annex* is an annex to the NRF. It describes how federal support for external affairs is provided under the NRF when the annex is activated. It includes components for

public affairs, congressional affairs, intergovernmental affairs, and communications with the private sector.

- 6. Amend § 300.105 by:
- a. Adding a note to paragraph (d);
- b. Revising paragraph (e)(1) and Figures 1a and 1b; and
- c. Revising paragraph (e)(2) and Figure 2.

The additions and revisions read as follows:

**§ 300.105 General organization concepts.**

\* \* \* \* \*

(d) \* \* \*

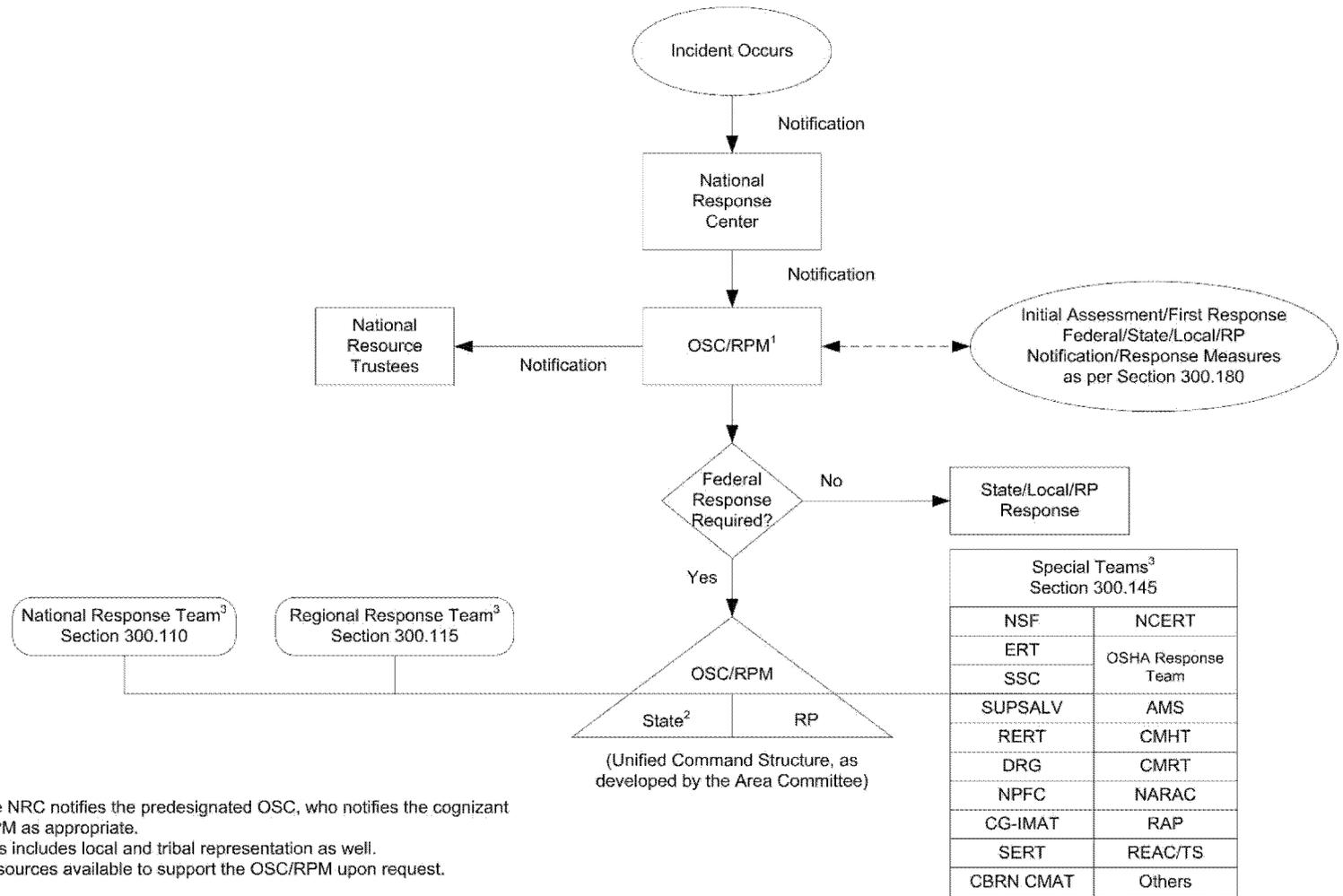
**Note to paragraph (d):** The National Incident Management System (NIMS) is issued by DHS. Federal departments and agencies follow NIMS and have adopted it for appropriate use in NCP emergency removal actions.

(e)(1) The organizational concepts of the National Response System (NRS) are depicted in the following Figures 1a and 1b:

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Figure 1a

National Response System Concepts: Response

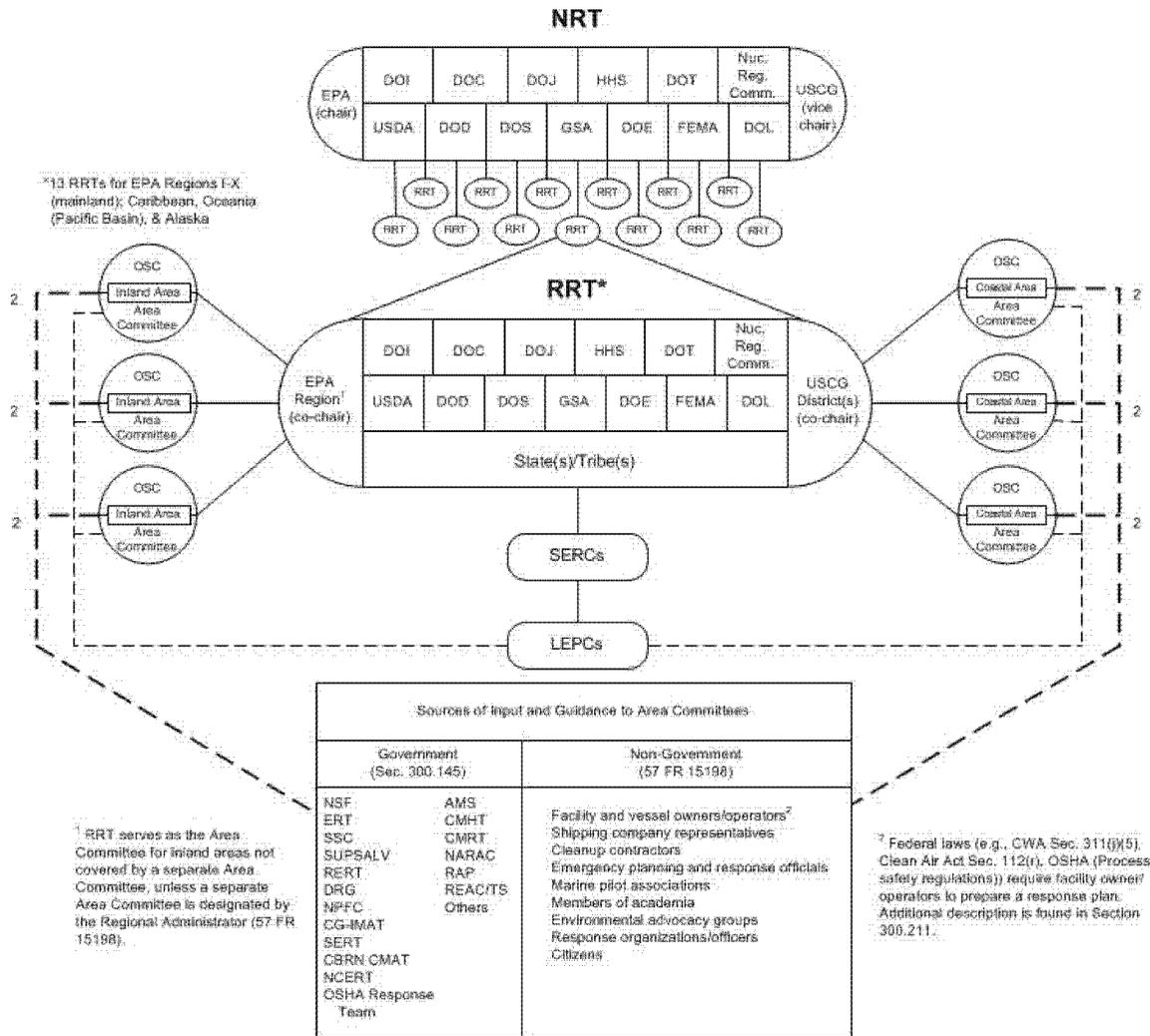


<sup>1</sup> The NRC notifies the predesignated OSC, who notifies the cognizant RPM as appropriate.

<sup>2</sup> This includes local and tribal representation as well.

<sup>3</sup> Resources available to support the OSC/RPM upon request.

Figure 1b  
National Response System Concepts: Planning



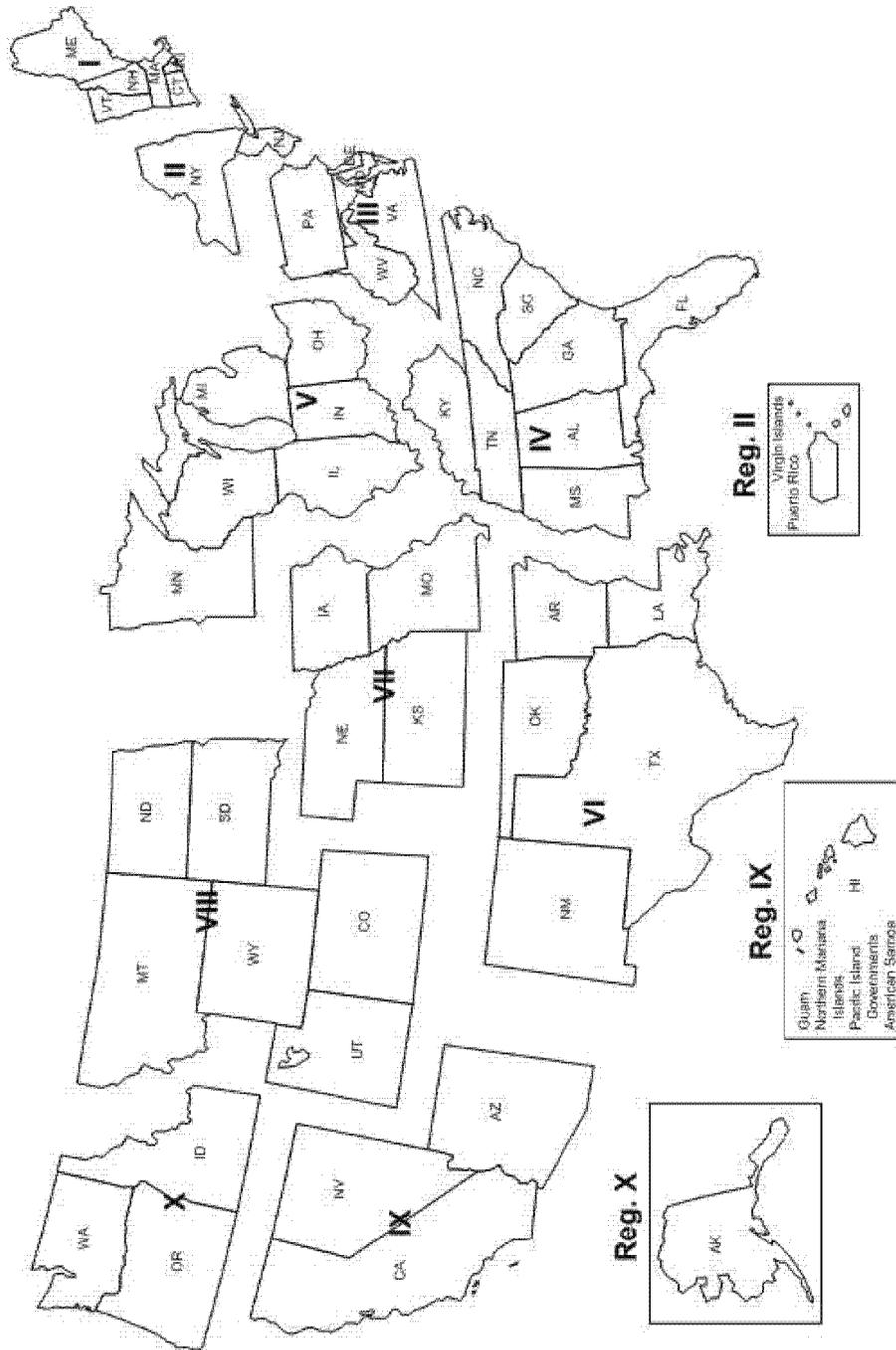
(2) The EPA regional boundaries (which are also the geographic areas of

responsibility for the RRTs) are shown in Figure 2:

\* \* \* \* \*

Figure 2

EPA Regional Boundaries for Ten Regions<sup>1</sup>



<sup>1</sup>Geographic boundaries for 13 RRTs are EPA Regions I-X (mainland), Caribbean, Oceania (Pacific Basin), & Alaska

■ 7. Amend § 300.115 by revising paragraphs (j)(4)(iii) and (iv), removing paragraph (j)(4)(v), and revising paragraphs (j)(5), and (j)(8) to read as follows:

**§ 300.115 Regional Response Teams.**

\* \* \* \* \*

(j) \* \* \*

(4) \* \* \*

(iii) Help the OSC/RPM prepare information releases for the public and for communication with the NRT; and

(iv) If the circumstances warrant, make recommendations to the regional

or district head of the agency providing the OSC/RPM that a different OSC/RPM should be designated.

(5) At the regional level, a Regional Emergency Operations Center (REOC) may provide facilities and personnel for communications, information storage, and other requirements for coordinating response. The location of each REOC should be identified in the RCP.

\* \* \* \* \*

(8) Notification of the RRT may be appropriate when full activation is not necessary, with systematic communication of situation reports or

other means to keep RRT members informed as to actions of potential concern to a particular agency, or to assist in later RRT evaluation of regionwide response effectiveness.

\* \* \* \* \*

■ 8. Amend § 300.125 by revising paragraphs (a) and (b) to read as follows:

**§ 300.125 Notification and communications.**

(a) The National Response Center (NRC) is a component of and serves the National Response System, and is located at USCG Headquarters. It serves

as a national communications center, continuously manned, for handling activities related to response actions. The NRC provides communications support for the NRT. The NRC acts as the single point of contact under the NCP for receiving and disseminating reports of pollution incidents. Notice of discharges and releases must be made telephonically through a toll free number or a special local number. (Telecommunication Device for the Deaf (TDD) and collect calls are accepted). (Notification details appear in §§ 300.300 and 300.405.) The NRC receives and immediately relays telephone notices of discharges or releases to the appropriate pre-designated federal OSC. The telephone report is also distributed to any interested NRT member agency, federal entity, or state or tribal government agency that has established a written agreement or understanding with the NRC. The NRC evaluates incoming information and immediately advises FEMA of a potential major disaster situation.

(b) The agencies that provide the NRT Chair and Vice Chair, in conjunction with other NRT agencies, shall provide the necessary personnel, communications, plotting facilities, and equipment for the NRC. The operation and management of the NRC is the responsibility of the Director of the NRC.

- \* \* \* \* \*
- 9. Amend § 300.130 as follows:
  - a. Revise paragraph (f);
  - b. Remove paragraphs (g), (h), and (i); and
  - c. Add a note to the end of § 300.130.

**§ 300.130 Determinations to initiate response and special conditions.**

\* \* \* \* \*

(f) Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act, is excluded from the definition of release in 42 U.S.C. 9601(22)(C).

**Note to § 300.130:** The NRF and supporting documents describe how the NCP, and other federal authorities, may be used to respond to radiological releases. The NRF and supporting documents also describe how the NCP may be used in the event of a declaration of a major disaster or emergency by the President under the Stafford Act. The FEMA coordinates the federal response under the Stafford Act. The NRF and supporting documents,

including the Emergency Support Function #10—Oil and Hazardous Materials Response Annex, describe how NCP response structures and activities integrate with FEMA structures and activities during these responses. The NRF does not alter NCP authorities.

- 10. Amend § 300.135 by revising paragraphs (e) and (m) to read as follows:

**§ 300.135 Response operations.**

\* \* \* \* \*

(e) The OSC/RPM should consult regularly with the RRT, as appropriate, in carrying out the NCP and keep the RRT, as appropriate, informed of activities under the NCP.

\* \* \* \* \*

(m) The OSC shall submit situation reports to the RRT and other appropriate agencies as significant developments occur during response actions, through communications networks or procedures agreed to by the RRT and covered in the RCP.

- \* \* \* \* \*
- 11. Amend § 300.145 by:
  - a. Revising paragraph (a) introductory text;
  - b. Removing paragraph (a)(3);
  - c. Revising paragraphs (b)(4), (c)(1), (e), and (f); and
  - d. Adding paragraphs (i) through (n).
 The additions and revisions read as follows:

**§ 300.145 Special teams and other assistance available to OSCs/RPMs.**

(a) The NSF is a special team established by the USCG, including the three USCG Strike Teams and the NSFCC. The NSF is available to assist OSCs/RPMs in their preparedness and response duties.

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(4) OSC/RPM or RRT requests for ERT support should be made through the EPA Headquarters Emergency Operations Center, EPA representative on the RRT, or EPA Headquarters, Chief, Environmental Response Team.

(c) \* \* \*

(1) Generally, SSCs are provided by NOAA in the coastal zone, and by EPA in the inland zone. OSC/RPM requests for SSC support can be made directly to the SSC assigned to the area or to the agency member of the RRT. EPA SSCs can also be requested through the EPA Headquarters Emergency Operations Center or the team-specific EPA point of contact designated in this section for the EPA special team whose type of expertise is needed. NOAA SSCs can

also be requested through NOAA's Office of Response and Restoration. NOAA SSCs are assigned to USCG Districts and are supported by a scientific support team that includes expertise in environmental chemistry, oil slick tracking, pollutant transport modeling, natural resources at risk, environmental tradeoffs of countermeasures and cleanup, and information management.

\* \* \* \* \*

(e) For marine salvage operations, OSCs/RPMs with responsibility for monitoring, evaluating, or supervising these activities should request assistance from the USCG Salvage Engineering Response Team (SERT), DOD, the Strike Teams, or commercial salvors as necessary.

(f)(1) The Radiological Emergency Response Team (RERT) is established by EPA in accordance with its radiological disaster and emergency responsibilities. The RERT can provide response and technical assistance to the OSC/RPM for incidents or sites containing radiological hazards. The RERT can provide technical advice and assistance to prevent or minimize threats to public health and the environment; provide advice on protective measures to reduce or minimize radiation exposure; provide assessments of dose; perform site assessment, contamination surveys, monitoring, sampling, laboratory analyses and data assessments to assess and characterize environmental impacts; and provide technical advice and assistance for containment, cleanup, waste management, restoration, and recovery following a radiological incident. The RERT directly supports EPA's participation in the Federal Radiological Monitoring and Assessment Center (FRMAC), when the FRMAC is activated.

(2) The OSC/RPM may request RERT support through the EPA Headquarters Emergency Operations Center, EPA representative on the RRT, or on-duty EPA RERT Team Commander in the Office of Radiation and Indoor Air.

\* \* \* \* \*

(i) The U.S. Coast Guard Incident Management Assistance Team (CG-IMAT) is a scalable resource designed to assist federal OSCs by providing highly trained personnel who can assist in: Major incident management activities; ongoing training and qualification of Coast Guardsmen throughout the United States; carrying out exercises which validate plans and procedures and build confidence in capabilities; and, for the Coast Guard in general, the ongoing development of competent and effective management capabilities at Coast Guard

field units. By maintaining this comprehensive functionality, the CG-IMAT has significant in-garrison responsibilities that actively support all-hazard training, exercises, and readiness assessments. The CG-IMAT has four distinct capabilities:

(1) Incident Management Capability—The CG-IMAT is a Type-1 IMAT that can assist operational commanders to successfully manage incidents and events through the deployment of highly trained individuals, four-person Away Teams, 15-person Deployable Elements, or the entire CG-IMAT. The structure provides adaptive force packages to best support the needs of the operational commanders.

(2) Training Support Capability—The CG-IMAT can assist USCG Areas, Districts, Sectors, and Force Readiness Command in the conduct of NIMS training and support ongoing efforts to certify individuals in position-specific qualifications.

(3) Exercise Support Capability—The CG-IMAT can employ specific personnel to assist in the development, training, conduct, and evaluation of exercises.

(4) The Public Information Assist Team (PIAT) is an element of the CG-IMAT that is available to assist federal OSCs to meet the needs for public information during a response or exercise.

(5) For non-USCG federal OSCs, requests for CG-IMAT support can be made through the USCG Headquarters National Command Center. Requests for PIAT assistance can be made through the CG-IMAT or NRC.

(j)(1) The USCG SERT can provide immediate salvage engineering support in response to vessel casualties and emergencies. This includes independent technical evaluation of the situation and assistance in formulating practical and effective solutions.

(2) The SERT can provide expertise in evaluating vessel casualties, reviewing and developing salvage plans, and providing salvage technical assistance directly to the OSC/RPM. The SERT has access to vessel plans and salvage engineering analysis software, and knowledge of commercial vessel construction and stability. The SERT is able to deploy and provide on-site assistance.

(3) The OSC/RPM may request support through the NRC, directly from the SERT, or through the USCG Headquarters National Command Center or USCG Marine Safety Center.

(k)(1) The EPA Chemical, Biological, Radiological, Nuclear Consequence Management Advisory Team (CBRN CMAT) can provide response and

technical assistance for incidents or sites involving chemical, biological, radiological and/or nuclear hazards. Scientific and technical expertise can be provided to the OSC/RPM for all phases of CBRN environmental response, including characterization, decontamination and cleanup, clearance, and waste management. The CBRN CMAT directly supports EPA's participation in the FRMAC, when a FRMAC is activated.

(2) The CBRN CMAT can provide specialized scientific support and technical expertise specifically for characterization, decontamination and cleanup, clearance, and waste management of buildings and building contents, public infrastructure, transportation systems, and outdoor spaces. The CBRN CMAT engages in evaluating, advising, leading, or collaborating on various applied research projects that can support CBRN field response.

(3) The CBRN CMAT maintains technologically advanced response assets and capabilities, including but not limited to, an airborne stand-off chemical and radiological detection, infrared and photographic imagery platform that provides results within minutes, and a mobile laboratory designed to detect chemical warfare agents and toxic industrial chemicals.

(4) The OSC/RPM may request CBRN CMAT assistance through the EPA Headquarters Emergency Operations Center, EPA representative on the RRT, or EPA Headquarters, Director, CBRN Consequence Management Advisory Division.

(l)(1) The EPA National Criminal Enforcement Response Team (NCERT) in the Office of Criminal Enforcement, Forensics, and Training supports environmental crime investigations involving chemical, biological, or radiological releases to the environment. The team can also provide specialized law enforcement services in support of the EPA's overall mission to protect human health and the environment.

(2) The NCERT provides specially trained Law Enforcement Officers with all-hazards response capability to collect forensic evidence within contaminated zones and serve as law enforcement liaisons with other law enforcement agencies. The NCERT maintains several strategically placed response platforms that contain safety and forensic equipment to properly process a contaminated crime scene.

(3) The OSC/RPM may request NCERT support through the EPA Headquarters Emergency Operations Center, EPA representative on the RRT, or EPA Headquarters, Director, Office of

Criminal Enforcement, Forensics and Training.

(m)(1) The OSHA Response Team can support the OSC/RPM in the area of response worker safety and health. The team can provide safety and health expertise and support for incidents involving toxic industrial chemicals, chemical warfare agents, biological agents, ionizing and non-ionizing radiation, collapsed structures, demolition and other construction-type activities. The team is comprised of certified industrial hygienists, certified health physicists, professional engineers, toxicologists, occupational physicians, and specialized safety experts.

(2) The OSHA Response Team is available to assist OSCs/RPMs in their preparedness and response duties. Requests for support should be made through the NRC, or directly to OSHA's Health Response Team Director, located at OSHA's Salt Lake Technical Center in Sandy, Utah or OSHA's Director, Directorate of Technical Support and Emergency Management located in OSHA's national office.

(n)(1) DOE has the following special teams:

(i) Aerial Measuring System (AMS) can provide a rapid survey of radiation contamination during a radiological emergency by using aircraft equipped to detect radioactive contamination on the ground.

(ii) Consequence Management Home Team (CMHT) can assist field assets in the support of federal, state, tribal, and local response organizations with modeling, radiological operations planning, field monitoring techniques, and the analysis, interpretation and distribution of radiological data. These reach-back capabilities can be activated quickly to support public safety and minimize the health and environmental impact of a nuclear or radiological incident.

(iii) Consequence Management Response Team (CMRT) can provide data collection, assessment, and interpretation for decision makers in the event of a radiological incident.

(iv) National Atmospheric Release Advisory Center (NARAC) can provide near real-time assessment of atmospheric releases for rapid decision-making during an emergency involving a nuclear or radiological release.

(v) Radiation Emergency Assistance Center/Training Site (REAC/TS) can provide reach-back radiation medical assistance or deploy personnel and equipment for direct medical care in support of a radiological emergency. The REAC/TS also conducts robust

radiation medicine training for healthcare providers.

(vi) Radiological Assistance Program (RAP) can provide first response radiological assistance in the detection and identification of radiological and nuclear threats, and responds to events involving the release of radiological materials in the environment.

(2) All DOE teams may be requested through the DOE Watch Office, DOE Headquarters (National Nuclear Security Administration, Office of Emergency Operations). All teams may be requested independently of any other response construct they support. For example, the CMHT, CMRT, or AMS may be requested independent of a request for a Federal Radiological Monitoring and Assessment Center (FRMAC), which those teams normally support as the DOE component of the FRMAC when a FRMAC is activated. Deployed CMRT and RAP teams are typically supported by the CMHT. An OSC/RPM request for a CMRT or RAP team would include the support of the CMHT when DOE determines such CMHT support is needed.

■ 12. Amend § 300.155 by revising paragraphs (a) and (b) and adding a note to the end of § 300.155 to read as follows:

**§ 300.155 Public information and community relations.**

(a) When an incident occurs, it is imperative to give the public prompt, accurate information on the nature of the incident and the actions underway to mitigate the damage. OSCs/RPMs and community relations personnel should ensure that all appropriate public and private interests are kept informed and that their concerns are considered throughout a response. They should coordinate with available public affairs/community relations resources to carry out this responsibility by establishing, as appropriate, a Joint Information Center (JIC) bringing together resources from federal and state agencies and the responsible party.

(b) A JIC may be established near the location of the incident to coordinate media relations and to issue official information on an incident. The OSC/RPM, in consultation with other response organizations as appropriate, determines the location of the JIC, but every effort should be made to locate it near the scene of the incident. If a participating agency believes public interest warrants the issuance of statements and a JIC has not been established, the affected agency should recommend its establishment. All federal news releases or statements by participating agencies should be cleared

through the OSC/RPM. Information dissemination relating to natural resource damage assessment activities shall be coordinated through the lead administrative trustee. The designated lead administrative trustee may assist the OSC/RPM by disseminating information on issues relating to damage assessment activities. Following termination of removal activity, information dissemination on damage assessment activities shall be through the lead administrative trustee.

\* \* \* \* \*

**Note to § 300.155:** NRF procedures for public affairs and external communications, including those in the Emergency Support Function #15—External Affairs Annex, may be activated and implemented in addition to NCP procedures.

■ 13. Revise § 300.165 to read as follows:

**§ 300.165 OSC after action reports.**

(a) As requested by the NRT or RRT, the OSC/RPM shall submit to the NRT or RRT a complete report on the removal operation and the actions taken. The RRT shall review the OSC after action report and send to the NRT a copy of the OSC report with its comments or recommendations within 30 days after the RRT has received the OSC report.

(b) The OSC after action report shall record the situation as it developed, the actions taken, the resources committed, and the problems encountered.

■ 14. Amend § 300.170 by revising the introductory paragraph and paragraph (b)(1) to read as follows:

**§ 300.170 Federal agency participation.**

Federal agencies listed in § 300.175 have certain authorities and responsibilities established by statute, executive order, or Presidential directive which may apply to federal response actions following, or in prevention of, the discharge of oil or release of a hazardous substance, pollutant, or contaminant. Some of these agencies also have specific land management laws, policies, and regulations that may inform or affect response actions on federal lands under the jurisdiction, custody, or control of the agency. Some also have certain authorities and responsibilities relating to the restoration, rehabilitation, replacement, or acquisition of equivalent natural resources injured or lost as a result of such discharge or release as described in subpart G of this part. The NRT, RRT, and Area Committee organizational structure, and the NCP, RCPs and ACPs, described in § 300.210, provide for agencies to

coordinate with each other in carrying out these authorities and responsibilities.

\* \* \* \* \*

(b) \* \* \*

(1) Make necessary information available to the NRT, RRTs, Area Committees, and OSCs/RPMs.

\* \* \* \* \*

■ 15. Revise § 300.175 to read as follows:

**§ 300.175 Federal agencies: additional responsibilities and assistance.**

(a) During preparedness planning or in an actual response, various federal agencies may be called upon to provide assistance in their respective areas of expertise, as indicated in paragraph (b) of this section, consistent with agency capabilities and legal authorities, including any federal land management laws, policies, and/or regulations that may inform or affect response actions taken on federally controlled land.

(b) The federal agencies include:

(1) USCG, as provided in 14 U.S.C. 1–3, is an agency in DHS, except when operating as an agency in the United States Navy in time of war. USCG provides the NRT vice chair, co-chairs for the standing RRTs, and predesignated OSCs for the coastal zone, as described in § 300.120(a)(1). USCG maintains continuously manned facilities which can be used for command, control, and surveillance of oil discharges and hazardous substance releases occurring in the coastal zone. USCG also offers expertise in domestic and international fields of port safety and security, maritime law enforcement, ship navigation and construction, vessel salvage, the manning, operation, and safety of vessels and marine facilities, and vessel environmental pollution control. USCG may enter into a contract or cooperative agreement with the appropriate state in order to implement a response action. USCG manages the Preparedness for Response Exercise Program (PREP) and a Spill of National Significance (SONS) exercise program to test spill response plans at all levels of industry and government. The USCG's NPFC manages the OSLTF.

(2) EPA chairs the NRT and co-chairs, with the USCG, the standing RRTs; provides predesignated OSCs for all inland areas for which an ACP is required under CWA section 311(j) and for discharges and releases occurring in the inland zone and RPMs for remedial actions except as otherwise provided; and generally provides the SSC for responses in the inland zone. EPA provides expertise on human health and ecological effects of oil discharges or releases of hazardous substances,

pollutants, or contaminants; methods for determining the type and extent of environmental contamination; ecological and human health risk assessment methods; environmental pollution control techniques (*e.g.*, containment, decontamination, removal); and waste management and disposal. Access to EPA's scientific expertise can be facilitated through the EPA Headquarters Emergency Operations Center; the EPA representative to the Science and Technology Committee of the NRT; the EPA Office of Research and Development's Superfund Technical Liaison or Regional Scientists located in EPA Regional offices; the EPA representative to the RRT; or, for EPA special teams, as described in § 300.145. In addition, EPA can provide radiological monitoring and assessment assistance as part of the FRMAC, an interagency entity established under the NRF that may be activated by the lead agency to coordinate all federal environmental radiological monitoring and assessment activities for radiological or nuclear accidents or incidents. EPA augments the DOE-led FRMAC during the initial response (through RERT, CBRN CMAT, and other personnel) and assumes leadership of the FRMAC from DOE at a mutually agreed upon time. EPA also provides legal expertise on the interpretation of CERCLA and other environmental statutes. EPA may enter into a contract or cooperative agreement with the appropriate state in order to implement a response action.

(3) FEMA is an agency in DHS whose mission includes providing guidance, policy and program advice, and technical assistance in hazardous materials, chemical, and radiological emergency preparedness activities (including planning, training, and exercising). The FEMA Protection and National Preparedness Office administers financial and technical assistance to state and local governments to support their efforts to develop and maintain an effective emergency management and response capability.

(4) DOD has responsibility to take all action necessary with respect to releases where either the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of DOD. In the event of releases that are unrelated to DOD, DOD may, consistent with its operational requirements and upon request of the OSC, provide appropriate support to other federal agencies. In such event, the following components of

DOD may have particular relevance or expertise:

(i) United States Army Corps of Engineers (USACE) can provide design services, construction services, channel maintenance, removal of navigation obstructions, contract formation and administrative services, technical support for responses involving chemical, biological, radiological, or nuclear materials, and assistance in conducting temporary relocations. USACE has discretionary authority in an emergency situation to remove sunken vessels that are located in a federally-maintained navigable channel under 33 U.S.C. 403 and 409. USACE also has limited authority to remove debris from federally-maintained navigable channels and waterways under section 202 of the Water Resources Development Act of 1976 (Public Law 94-587). The USACE Regulatory Program administers Section 10 of the Rivers and Harbors Act of 1899, which requires Department of Army (DA) authorization for work or structures in, over, or under navigable waters of the U.S. or affecting the course, location, or condition of those waters; section 404 of the Clean Water Act, which requires DA authorization for the discharge of dredged or fill material into waters of the U.S., including wetlands; and section 103 of the Marine Protection, Research, and Sanctuaries Act, which requires DA authorization for the transportation of dredged material for ocean disposal.

(ii) The Pentagon office of Joint Director of Military Support allocates DOD resources in response to requests from civil authorities. Such requests for assistance are typically processed and acted upon after a written request via the DOD Executive Secretary.

(iii) U.S. Northern Command is the domestic combatant command which also has responsibility, when directed by the President or Secretary of Defense, to provide support and assistance to civil authorities, including consequence management operations.

(iv) U.S. Navy Supervisor of Salvage (SUPSALV) is the DOD component most knowledgeable and experienced in ship salvage, harbor clearance, towing, oil and hazardous spill response, underwater ship repair, and diving. The U.S. Navy has an extensive array of specialized equipment and personnel available for use in these areas as well as specialized containment, collection, and removal equipment specifically designed for salvage-related and open-sea pollution incidents. In addition to the capabilities provided by SUPSALV, DOD may also, consistent with operational commitments, provide

locally deployed Navy oil spill response equipment and operating personnel.

(5) DOE generally provides designated OSCs/RPMs that are responsible for taking all response actions with respect to releases where either the release is on, or the sole source of the release is from, any facility or vessel under its jurisdiction, custody, or control, including vessels bareboat-chartered and operated. In addition, DOE provides advice and assistance to other OSCs/RPMs for emergency actions essential for the control of immediate radiological hazards. Incidents that qualify for DOE radiological advice and assistance are those believed to involve source, by-product, or special nuclear material or other ionizing radiation sources, including radium, and other naturally occurring radionuclides, as well as particle accelerators. Radiological assistance is available as described in § 300.145(n). In addition, DOE can provide radiological monitoring and assessment assistance to the OSC/RPM as part of the FRMAC, when the FRMAC is activated. DOE leads the FRMAC for the initial response, then transitions FRMAC leadership to EPA at a mutually agreed upon time.

(6) Department of Agriculture (USDA) has scientific and technical capability to measure, evaluate, and monitor, either on the ground or by use of aircraft, situations where natural resources including soil, water, wildlife, and vegetation have been impacted by fire, insects and diseases, floods, hazardous substances, and other natural or man-caused emergencies. USDA may be contacted through Forest Service emergency staff officers who are the designated members of the RRT. Agencies within USDA have relevant capabilities and expertise as follows:

(i) Forest Service has responsibility for protection and management of national forests and national grasslands. Forest Service has personnel, laboratory, and field capability to measure, evaluate, monitor, and control as needed, releases of pesticides and other hazardous substances on lands under its jurisdiction. Forest Service can also provide Incident Management Teams and support logistics such as communications and personnel.

(ii) Agriculture Research Service (ARS) administers an applied and developmental research program in animal and plant protection and production; the use and improvement of soil, water, and air; the processing, storage, and distribution of farm products; and human nutrition. ARS has the capabilities to provide regulation of, and evaluation and training for, employees exposed to biological,

chemical, radiological, and industrial hazards. In emergency situations, ARS can identify, control, and abate pollution in the areas of air, soil, wastes, pesticides, radiation, and toxic substances for ARS facilities. ARS has a network of laboratories that can analyze samples of biologic select agents.

(iii) Natural Resources Conservation Service has personnel in nearly every county in the nation who are knowledgeable in soil, agronomy, engineering, and biology. These personnel can help to predict the effects of pollutants on soil and their movements over and through soils.

Technical specialists can assist in identifying potential hazardous waste disposal sites and provide review and advice on plans for remedial measures.

(iv) Animal and Plant Health Inspection Service (APHIS) can respond in an emergency to regulate movement of diseased or infected organisms to prevent the spread and contamination of non-affected areas and assist in animal carcass disposal. APHIS/Wildlife Services can also provide assistance in the assessment of wildlife impacts, hazing and wildlife capture and deterrence, and other wildlife-related services.

(v) Food Safety and Inspection Service (FSIS) has responsibility to prevent meat and poultry products contaminated with harmful substances from entering human food channels. In emergencies, FSIS works with other federal and state agencies to establish acceptability for slaughter of exposed or potentially exposed animals and their products.

(7) DOC, through NOAA, provides trust resource representation to the NRT and RRTs, consultations on protected and endangered species, and scientific and operational support for responding to emergency events and contingency planning in coastal and marine areas and the Great Lakes. NOAA resources are available through the regional NOAA SSC, RRT representative, or through the NOAA Desk at the DHS National Operations Center. Specific NOAA responsibilities and capabilities are:

(i) *Scientific support for oil and other hazardous materials spill operations, including weapons of mass destruction events:* on-scene SSCs; assessments of the hazards that may be involved; predictions of movement and dispersion of the pollutant through trajectory modeling; information on the sensitivity of coastal environments to oil; field assessments of oil distributions on water or shorelines; sampling and/or monitoring and analytical analysis; recommendations on best practices for

protection of resources; coordination on the development of cleanup endpoints; recommendations on cleanup or mitigation techniques; and information management for environmental data;

(ii) *Scientific Support Coordinators* as a special team, described in § 300.145(c); established in a nationwide network, providing direct assistance to federal OSCs, coordinating scientific information from federal, state, local agencies, academia, tribes and private industry, supporting all aspects of response operations;

(iii) *Expertise and consultation on living marine resources and their habitats and other trustee resources*, including endangered species, marine mammals, essential fish habitat, and National Marine Sanctuary ecosystems; ecological, historical, and cultural resources at risk; recommendations on best practices for protection of Endangered Species Act species, essential fish habitat, and marine mammals; on-scene or remote support for oiled wildlife recovery and rehabilitation practices for NOAA trust resources; access to user communities, local and state resource management agency partners and injury assessment staff; and natural resource damage assessment;

(iv) *Meteorological and oceanographic data and forecasts:* information on actual and predicted meteorological, hydrological, ice, and oceanographic conditions for marine, coastal, and inland waters, and tide and circulation data for coastal and territorial waters and for the Great Lakes; and on-scene or remote National Weather Service support to include Incident Meteorologists or Warning Coordination Meteorologists;

(v) *Dissemination of informational messages* associated with specific hazardous events through the use of NOAA All Hazards Radio and other NOAA alert broadcast methods;

(vi) *Rapid hydrographic surveys* to locate underwater obstructions and update navigational charts; and

(vii) *Satellite and aircraft remote sensing and photogrammetric data.*

(8) HHS assists with the assessment, preservation, and protection of human health and helps ensure the availability of essential human services. HHS provides technical and nontechnical assistance in the form of advice, guidance, and resources to other federal agencies as well as territorial, tribal, state and local governments.

(i) The principal HHS response is coordinated from the Office of the Assistant Secretary for Preparedness and Response (ASPR). Within HHS, the primary response to a hazardous

materials emergency comes from the Agency for Toxic Substances and Disease Registry (ATSDR) and Centers for Disease Control and Prevention (CDC). Both ATSDR and CDC have a 24-hour emergency response capability wherein scientific and technical personnel are available to provide technical assistance to the lead federal agency and state and local response agencies on human health threat assessment and analysis, and exposure prevention, recovery, and mitigation. Such assistance is used for situations requiring evacuation of affected areas, human exposure to hazardous materials, and technical advice on mitigation and prevention. CDC takes the lead during petroleum releases regulated under the CWA and OPA, while ATSDR takes the lead during chemical releases under CERCLA. Both agencies are mutually supportive and have a centralized point of contact for supporting NCP responses.

(ii) Other HHS agencies involved in support during hazardous materials incidents either directly or through the ASPR and/or ATSDR/CDC include the Food and Drug Administration, Health Resources and Services Administration, Indian Health Service, Administration for Children and Families, Substance Abuse and Mental Health Services Administration, and National Institutes of Health (NIH).

(iii) Statutory authority for HHS/NIH/National Institutes for Environmental Health Sciences (NIEHS) involvement in hazardous materials accident prevention is non-regulatory in nature and focused on two primary areas for preventing community and worker exposure to hazardous materials releases: worker safety training and basic research activities. Under section 126 of SARA, NIEHS is given statutory authority for supporting development of curricula and model training programs for waste workers and chemical emergency responders. Under Title IX, section 901(h) of the Clean Air Act Amendments, NIEHS also is authorized to conduct basic research on air pollutants, as well as train physicians in environmental health. Federal research and training in hazardous materials release prevention represents an important non-regulatory activity and supplements ongoing private sector programs.

(9) Department of the Interior (DOI) protects, manages, and provides access to U.S. natural and cultural resources and historic properties and to mineral resources in offshore waters of the U.S. Outer Continental Shelf (OCS). DOI protects and manages the Nation's natural resources and cultural heritage;

provides scientific and other information about those resources; and honors the Nation's trust responsibilities and special commitments to American Indians, Alaska Natives, and affiliated island communities. DOI manages the National Park System, national wildlife refuges and fish hatcheries, the public lands, and certain water projects in western states. DOI is responsible for migratory bird and wildlife conservation; historic preservation; endangered species conservation; surface-mined lands protection and restoration; mapping, geological, hydrological, and biological science for the Nation; and financial and technical assistance for the insular areas. DOI also regulates exploration, development, and production of mineral resources in the OCS and regulates offshore alternative energy activities. DOI should be contacted through the Office of Environmental Policy and Compliance (OEPC) Regional Environmental Officers (REOs), who are the designated members of RRTs. OEPC is the official DOI point-of-contact for oil and hazardous substances pollution emergency preparedness and response ([www.doi.gov/oepec](http://www.doi.gov/oepec)). OEPC represents DOI on the RRTs and NRT, providing coordinated DOI input to RRT and NRT preparedness and response documents and activities. OEPC REOs receive initial notification of actual (or potential) oil discharges and hazardous substances releases from OSCs and RPMs. OEPC subsequently contacts the appropriate DOI Bureau(s) and coordinates DOI participation in NRS activities. When necessary, OEPC serves as the DOI representative for incident-specific RRT and NRT activations and provides DOI input to decision-making on response actions to protect natural and cultural resources, which may address the use of chemical countermeasures and identification of places of refuge for vessels needing assistance. DOI bureaus and offices have relevant expertise as follows:

(i) United States Fish and Wildlife Service (USFWS): Provides expertise to protect threatened and endangered species and their habitats, migratory birds, anadromous fish, certain marine mammals, sea turtles on-shore, and historic properties, including input on appropriate cleanup techniques, actions and end points. Serves as the focal point within DOI for providing consultations to OSCs/RPMs regarding threatened or endangered species and their habitats. Coordinates all federal permitting for and oversight of bird hazing, collection, and treatment activities and coordination of all federal permitting

activities for hazing, collecting, rescuing, and holding migratory birds, certain marine mammals, and threatened and endangered species. Authorizes entry to, and oversees activities on, national wildlife refuge system lands.

(ii) National Park Service (NPS): Responsible for protection and management of units of the National Park System including, but not limited to, National Parks, National Recreation Areas, National Seashores, National Historic Sites, National Battlefield Parks, National Monuments, and Wild and Scenic Rivers. Provides advice on and participates in activities affecting historic properties and cultural resources. For incidents involving NPS lands and/or resources, NPS can participate in preparedness activities and response decision-making to address access, sensitive natural and cultural resources and historic properties, protection priorities, public health and safety, law enforcement, and other issues related to removal and remediation actions taken or planned on NPS-managed lands. NPS also has independent authority under the Park System Resource Protection Act 16 U.S.C. 19jj for recovery of costs on response actions taken to minimize the destruction, loss, or injury to park system resources.

(iii) U.S. Geological Survey (USGS): Performs research in support of biological resource management; inventories, monitors, and reports on the status of and trends in the nation's biotic resources; and transfers the information gained in research and monitoring to resource managers and others concerned with the care, use, and conservation of the nation's natural resources. USGS biologic research laboratories can advise and support NCP responses. USGS can also provide support services related to geology, hydrology (ground water and surface water), geospatial information, and natural hazards.

(iv) Bureau of Land Management (BLM): Responsible for authorization of entry to, and resource protection of, the land and minerals managed by BLM. BLM provides expertise in emergency response, particularly for fire and hazardous materials incidents. Many BLM offices are equipped to provide assistance with sampling, investigation, surveillance, and security. BLM also has expertise in on-shore energy production, cadastral survey, cultural and historic properties, natural resources, and federal property acquisition and disposal.

(v) Bureau of Ocean Energy Management (BOEM): Promotes energy

independence, environmental protection, and economic development through responsible, science-based management of offshore conventional and renewable energy and marine mineral resources. BOEM's Office of Environmental Programs conducts environmental reviews, including National Environmental Policy Act analyses and compliance documents for each major stage of energy development planning. These analyses inform the bureau's decisions on its five year OCS oil and gas leasing program, and conventional and renewable energy leasing and development activities. Additionally, BOEM's scientists conduct and oversee environmental studies to inform policy decisions relating to the management of energy and marine mineral resources on the OCS.

(vi) Bureau of Safety and Environmental Enforcement (BSEE): Regulates and oversees the exploration, development, and production operations for oil and natural gas on the OCS to ensure that it is done in a safe and environmentally responsible manner. BSEE's functions include oil and gas permitting, facility inspections, regulations and standards development, safety research, environmental compliance and enforcement, and oil spill prevention and readiness for facilities located in both federal (OCS) and state waters seaward of the coastline that handle, store, or transport oil. BSEE reviews and approves producers' oil spill response plans, and conducts readiness capability assessments through unannounced oil spill exercises and inspection of oil spill response equipment. During oil spills from offshore facilities seaward of the coastline, BSEE provides expertise on source control activities under the direction of the federal OSC. BSEE also funds applied oil spill response research and manages Ohmsett—the National Oil Spill Response and Renewable Energy Test Facility—through its Oil Spill Response Research Program.

(vii) Bureau of Reclamation (BOR): Provides advice and information on operation, control, and maintenance of water systems and related resources, including dams, reservoirs, and channels. BOR has expertise in engineering and hydrology and can provide design services, construction, contracting, oversight and administration activity.

(viii) Office of Surface Mining Reclamation and Enforcement: Provides advice on surface coal mining, including abandoned coal mined lands, coal outcrop fires, coal mine wastes, waste bank stability, and toxic drainage.

(ix) Bureau of Indian Affairs (BIA): Assists in coordinating and communicating with, and obtaining access to, Indian lands and tribal officials. BIA has many programs to assist tribal governments and uphold Indian trust responsibilities.

(x) Office of Insular Affairs: Provides assistance to American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. May provide intergovernmental expertise to foster communications to implement the NCP in these areas.

(xi) Office of Aviation Services: Provides access to DOI-approved aircraft, including on-scene inspection and certification teams, and arranges for air traffic control via the Federal Aviation Administration.

(10) Department of Justice (DOJ) can provide expert advice on complicated legal questions arising from discharges or releases, and federal agency responses. In addition, DOJ represents the federal government, including its agencies, in litigation relating to such discharges or releases. Other legal issues or questions shall be directed to the federal agency counsel for the agency providing the OSC/RPM for the response. DOJ components, such as the Federal Bureau of Investigation, Bureau of Alcohol, Tobacco, Firearms and Explosives, and Drug Enforcement Administration, can coordinate with OSCs on investigative and enforcement activities.

(11) Department of Labor (DOL), through OSHA and the states operating plans approved under section 18 of the Occupational Safety and Health Act, has authority to conduct safety and health inspections of hazardous waste sites to assure that employees are being protected and to determine if the site is in compliance with:

(i) Safety and health standards and regulations promulgated by OSHA (or the states) in accordance with section 126 of SARA and all other applicable standards; and

(ii) Regulations promulgated under the Occupational and Safety Health Act and its general duty clause. OSHA inspections may be self-generated, consistent with its program operations and objectives, or may be conducted in response to requests from EPA or another lead agency, or in response to accidents or employee complaints. OSHA may also conduct inspections at hazardous waste sites in those states with approved plans that choose not to exercise their jurisdiction to inspect such sites. On request, OSHA will provide advice and consultation to EPA and other NRT/RRT agencies as well as to the OSC/RPM regarding hazards to persons engaged in response activities. OSHA may also take any other action necessary to assure that employees are properly protected at such response activities.

(12) DOT provides response expertise pertaining to transportation of oil or hazardous substances by all modes of transportation. Through the Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT offers expertise in the requirements for packaging, handling, and transporting regulated hazardous materials. DOT, through PHMSA, establishes oil discharge contingency planning requirements for pipelines, transport by rail and containers or bulk transport of oil.

(13) Department of State (DOS) plays a key role in supporting the development of international joint contingency plans. It will also help to coordinate an international response when discharges or releases cross international boundaries or involve foreign flag vessels. Additionally, DOS

will coordinate requests for assistance from foreign governments and U.S. proposals for conducting research at incidents that occur in waters of other countries.

(14) Nuclear Regulatory Commission will respond, as appropriate, to releases of radioactive materials by its licensees, in accordance with Nuclear Regulatory Commission incident response procedures to monitor the actions of those licensees and assure that the public health and environment are protected and adequate recovery operations are instituted. The Nuclear Regulatory Commission will keep EPA informed of any significant actual or potential releases in accordance with procedural agreements. In addition, the Nuclear Regulatory Commission will provide advice to the OSC/RPM when assistance is required in identifying the source and character of other hazardous substance releases where the Nuclear Regulatory Commission has licensing authority for activities utilizing radioactive materials.

(15) General Services Administration (GSA) provides logistical support for a variety of goods and services via its acquisitions capability to federal, state, tribal, local and non-governmental organization entities. GSA also provides leasing support for needed facilities; transportation services for air, land, or sea; and telecommunications support. GSA can provide advisory assistance to other government agencies to facilitate lodging, charter air, and vehicle rentals, among other items, off of its Federal Supply Schedules.

■ 16. Amend § 300.205 by revising Figure 4 in paragraph (g) to read as follows:

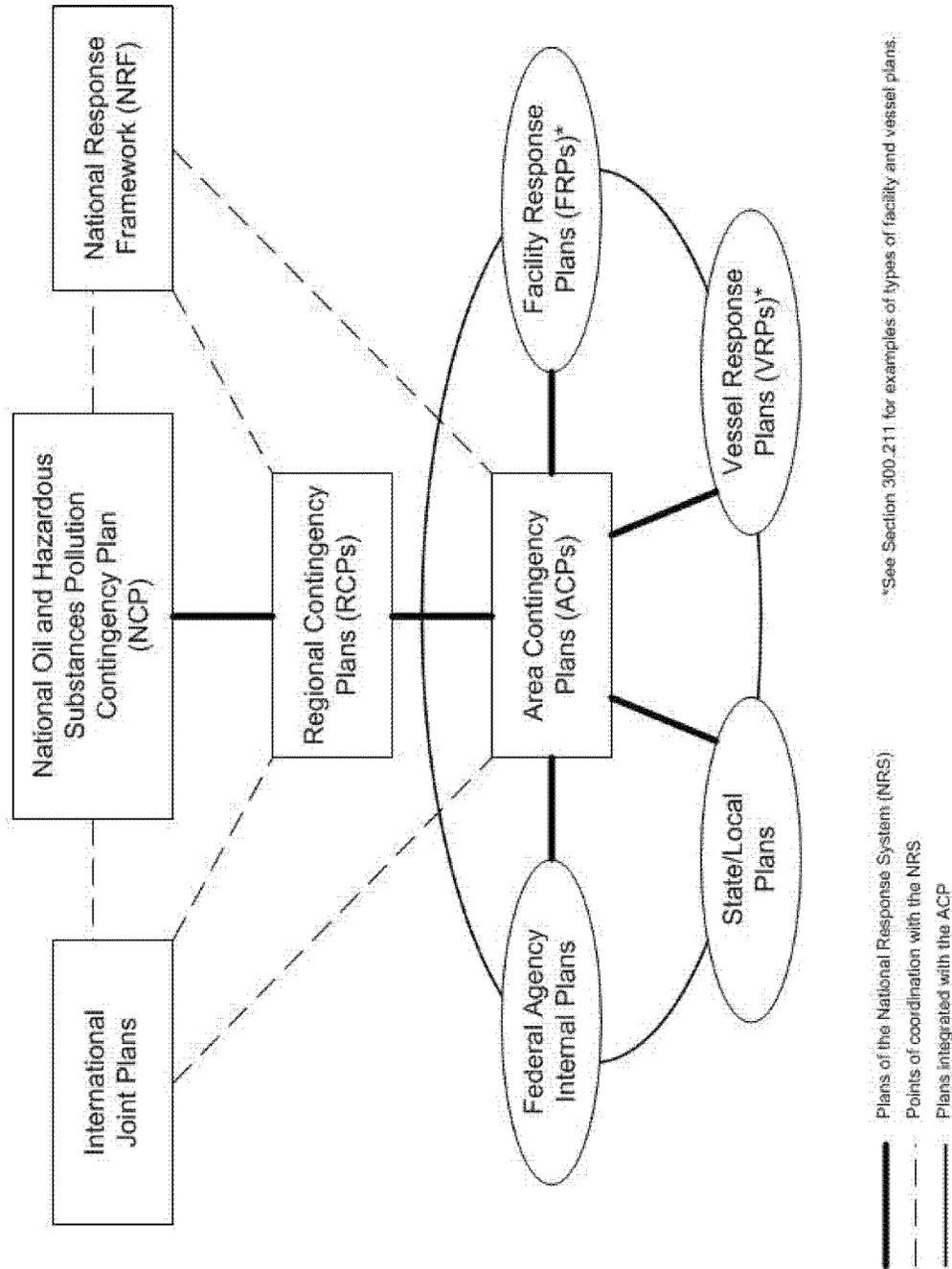
**§ 300.205 Planning and coordination structure.**

\* \* \* \* \*

(g) \* \* \*

Figure 4

**Relationship of Plans**



- 17. Amend § 300.211 by:
- a. Revising the introductory text;
- b. Revising paragraph (f); and
- c. Adding table 1 to § 300.211

The additions and revisions read as follows:

**§ 300.211 OPA facility and vessel response plans.**

This section describes and cross-references the regulations that implement section 311(j)(5) of the CWA.

A tank vessel, as defined under section 2101 of title 46, U.S. Code, an offshore facility, and an onshore facility that, because of its location, could reasonably expect to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or exclusive economic zone must prepare and submit a plan for responding, to the maximum extent practicable, to a worst case discharge,

and to a substantial threat of such a discharge, of oil or a hazardous substance. These response plans are required to be consistent with applicable Area Contingency Plans. These regulations are codified as follows and summarized in table 1 to § 300.211:

\* \* \* \* \*

(f) For rolling stock, these regulations are codified in 49 CFR part 130.

Planes of the National Response System (NRS)

Points of coordination with the NRS

Plans integrated with the ACP

\*See Section 300.211 for examples of types of facility and vessel plans.

**Table 1 to § 300.211—OPA Facility and Vessel Response Plan Regulations**

Facility/Vessel Type and Regulatory Name of Plan	Regulations	Federal Department/Agency Responsible for Regulations
Tank vessels – <i>Vessel Response Plan</i>	33 CFR part 155	USCG
Offshore facilities – <i>Oil Spill Response Plan</i>	30 CFR part 254	DOI/BSEE
Onshore facilities/Non-transportation related – <i>Facility Response Plan</i>	40 CFR 112.20	EPA
Onshore facilities/Transportation-related – <i>Response Plan (for Marine-Transportation-Related Facility)</i>	33 CFR part 154	USCG
Pipeline facilities (onshore oil pipelines) – <i>Response Plan</i>	49 CFR part 194	DOT/PHMSA
Rolling stock – <i>Response Plan (Comprehensive written plan, 49 CFR 130.31(b))</i>	49 CFR part 130	(Plans for cargo tanks are submitted to DOT/Federal Highway Administration. Plans for tank cars are submitted to DOT/Federal Railroad Administration.)

■ 18. Amend § 300.323 by revising paragraph (a) and adding a note to the end of § 300.323 to read as follows:

**§ 300.323 Spills of national significance.**

(a) A discharge may be classified as a SONS by the Administrator of EPA for discharges occurring in the inland zone and by the Commandant of the USCG for discharges occurring in the coastal zone.

\* \* \* \* \*

**Note to § 300.323:** The EPA Administrator and USCG Commandant maintain the authority to designate an incident as a SONS under the NCP. This authority is separate from other federal authorities that may be exercised by other federal officials and other federal departments and agencies under the NRF.

■ 19. Amend § 300.405 by revising paragraphs (d) and (f)(3) to read as follows:

**§ 300.405 Discovery or notification.**

\* \* \* \* \*

(d) The NRC will generally need information that will help to characterize the release. This will include, but not be limited to: Location of the release; type(s) of material(s) released; an estimate of the quantity of material released; possible source and cause of the release; and date and time of the release. Reporting under paragraphs (b) and (c) of this section shall not be delayed due to incomplete notification information.

\* \* \* \* \*

(f) \* \* \*

(3) If radioactive substances are present in a release, the RERT should be notified for evaluation and assistance through the EPA Headquarters Emergency Operations Center, EPA representative on the RRT, or on-duty EPA RERT Team Commander in the Office of Radiation and Indoor Air, consistent with § 300.145(f).

\* \* \* \* \*

■ 20. Amend § 300.415 by revising paragraph (f) to read as follows:

**§ 300.415 Removal action.**

\* \* \* \* \*

(f) Where necessary to protect public health or welfare, the lead agency may request that EPA conduct a temporary relocation or that state/local officials conduct an evacuation.

\* \* \* \* \*

[FR Doc. 2016–00663 Filed 1–22–16; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 20**

[WT Docket No. 15–285; DA 16–26]

**Fourteen-Day Extension of Time To File Comments and Reply Comments**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** In this document, the Federal Communications Commission