

## Environmental Protection Agency

## § 300.155

(3) Provides equitable compensation to claimants who sustain costs and damages from oil discharges when the responsible party fails to do so;

(4) Recovers monies from persons liable for costs and damages resulting from oil discharges to the full extent of liability under the law; and

(5) Provides funds to initiate natural resource damage assessments.

### § 300.150 Worker health and safety.

(a) Response actions under the NCP will comply with the provisions for response action worker safety and health in 29 CFR 1910.120. The NRS meets the requirements of 29 CFR 1910.120 concerning use of an incident command system.

(b) In a response action taken by a responsible party, the responsible party must assure that an occupational safety and health program consistent with 29 CFR 1910.120 is made available for the protection of workers at the response site.

(c) In a response taken under the NCP by a lead agency, an occupational safety and health program should be made available for the protection of workers at the response site, consistent with, and to the extent required by, 29 CFR 1910.120. Contracts relating to a response action under the NCP should contain assurances that the contractor at the response site will comply with this program and with any applicable provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) (OSH Act) and state laws with plans approved under section 18 of the OSH Act.

(d) When a state, or political subdivision of a state, without an OSHA-approved state plan is the lead agency for response, the state or political subdivision must comply with standards in 40 CFR part 311, promulgated by EPA pursuant to section 126(f) of SARA.

(e) Requirements, standards, and regulations of the OSH Act and of state OSH laws not directly referenced in paragraphs (a) through (d) of this section, must be complied with where applicable. Federal OSH Act requirements include, among other things, Construction Standards (29 CFR part 1926), General Industry Standards (29 CFR part 1910), and the general duty

requirement of section 5(a)(1) of the OSH Act (29 U.S.C. 654(a)(1)). No action by the lead agency with respect to response activities under the NCP constitutes an exercise of statutory authority within the meaning of section 4(b)(1) of the OSH Act. All governmental agencies and private employers are directly responsible for the health and safety of their own employees.

### § 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 bringing together resources from federal and state agencies and the responsible party.

(b) An on-scene news office may be established to coordinate media relations and to issue official federal information on an incident. Whenever possible, it will be headed by a representative of the lead agency. The OSC/RPM determines the location of the on-scene news office, 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 an on-scene news office 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

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shall be through the lead administrative trustee.

(c) The community relations requirements specified in §§ 300.415, 300.430, and 300.435 apply to removal, remedial, and enforcement actions and are intended to promote active communication between communities affected by discharges or releases and the lead agency responsible for response actions. Community Relations Plans (CRPs) are required by EPA for certain response actions. The OSC/RPM should ensure coordination with such plans which may be in effect at the scene of a discharge or release or which may need to be developed during follow-up activities.

#### **§ 300.160 Documentation and cost recovery.**

(a) For releases of a hazardous substance, pollutant, or contaminant, the following provisions apply:

(1) During all phases of response, the lead agency shall complete and maintain documentation to support all actions taken under the NCP and to form the basis for cost recovery. In general, documentation shall be sufficient to provide the source and circumstances of the release, the identity of responsible parties, the response action taken, accurate accounting of federal, state, or private party costs incurred for response actions, and impacts and potential impacts to the public health and welfare and the environment. Where applicable, documentation shall state when the NRC received notification of a release of a reportable quantity.

(2) The information and reports obtained by the lead agency for Fund-financed response actions shall, as appropriate, be transmitted to the chair of the RRT. Copies can then be forwarded to the NRT, members of the RRT, and others as appropriate.

(3) The lead agency shall make available to the trustees of affected natural resources information and documentation that can assist the trustees in the determination of actual or potential natural resource injuries.

(b) For discharges of oil, documentation and cost recovery provisions are described in § 300.315.

(c) Response actions undertaken by the participating agencies shall be car-

ried out under existing programs and authorities when available. Federal agencies are to make resources available, expend funds, or participate in response to discharges and releases under their existing authority. Interagency agreements may be signed when necessary to ensure that the federal resources will be available for a timely response to a discharge or release. The ultimate decision as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures. Further funding provisions for discharges of oil are described in § 300.335.

(d) The Administrator of EPA and the Administrator of the Agency for Toxic Substances and Disease Registry (ATSDR) shall assure that the costs of health assessment or health effect studies conducted under the authority of CERCLA section 104(i) are documented in accordance with standard EPA procedures for cost recovery. Documentation shall include information on the nature of the hazardous substances addressed by the research, information concerning the locations where these substances have been found, and any available information on response actions taken concerning these substances at the location.

#### **§ 300.165 OSC 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 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 report shall record the situation as it developed, the actions taken, the resources committed, and the problems encountered.

#### **§ 300.170 Federal agency participation.**

Federal agencies listed in § 300.175 have duties 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 duties relating to the restoration,