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of the United States may be further classified as a spill of national significance by the Administrator of EPA or the Commandant of the USCG. The appropriate course of action may be prescribed in §§ 300.322, 300.323, and 300.324.

(i) When the reported discharge is an actual or potential major discharge, the OSC shall immediately notify the RRT and the NRC.

(ii) When the investigation shows that an actual or potential medium discharge exists, the OSC shall recommend activation of the RRT, if appropriate.

(iii) When the investigation shows that an actual or potential minor discharge exists, the OSC shall monitor the situation to ensure that proper removal action is being taken.

(3) If the OSC determines that effective and immediate removal, mitigation, or prevention of a discharge can be achieved by private party efforts, and where the discharge does not pose a substantial threat to the public health or welfare of the United States, determine whether the responsible party or other person is properly carrying out removal. Removal is being done properly when:

(i) The responsible party is applying the resources called for in its response plan to effectively and immediately remove, minimize, or mitigate threat(s) to public health and welfare and the environment; and

(ii) The removal efforts are in accordance with applicable regulations, including the NCP. Even if the OSC supplements responsible party resources with government resources, the spill response will not be considered improper, unless specifically determined by the OSC.

(4) Where appropriate, determine whether a state or political subdivision thereof has the capability to carry out any or all removal actions. If so, the OSC may arrange funding to support these actions.

(5) Ensure prompt notification of the trustees of affected natural resources in accordance with the applicable RCP and ACP.

(b) Removal shall be considered complete when so determined by the OSC in consultation with the Governor or Governors of the affected states. When the OSC considers removal complete, OSLTF removal funding shall end. This determination shall not preclude additional removal actions under applicable state law.

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

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

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

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

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

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

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

(1) Assess opportunities for the use of various special teams and other assistance described in §300.145, including the use of the services of the NSFCC, as appropriate;

(2) Request immediate activation of the RRT; and

(3) Take whatever additional response actions are deemed appropriate, including, but not limited to, implementation of the ACP as required by section 311(j)(4) of the CWA or relevant tank vessel or facility response plan required by section 311(j)(5) of the CWA. When requested by the OSC, the lead agency or RRT shall dispatch appropriate personnel to the scene of the discharge to assist the OSC. This assistance may include technical support in the agency's areas of expertise and disseminating information to the public. The lead agency shall ensure that a contracting officer is available on scene, at the request of the OSC.

§ 300.323 Spills of national significance.

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

(b) For a SONS in the inland zone, the EPA Administrator may name a senior Agency official to assist the OSC in communicating with affected parties and the public and coordinating federal, state, local, and international resources at the national level. This strategic coordination will involve, as appropriate, the NRT, RRT(s), the Governor(s) of affected state(s), and the mayor(s) or other chief executive(s) of local government(s).

(c) For a SONS in the coastal zone, the USCG Commandant may name a National Incident Commander (NIC) who will assume the role of the OSC in communicating with affected parties and the public, and coordinating federal, state, local, and international resources at the national level. This strategic coordination will involve, as appropriate, the NRT, RRT(s), the Governor(s) of affected state(s), and the mayor(s) or other chief executive(s) of local government(s).

§ 300.324 Response to worst case discharges.

(a) If the investigation by the OSC shows that a discharge is a worst case discharge as defined in the ACP, or there is a substantial threat of such a discharge, the OSC shall:

(1) Notify the NSFCC;

(2) Require, where applicable, implementation of the worst case portion of an approved tank vessel or facility response plan required by section 311(j)(5) of the CWA;

(3) Implement the worst case portion of the ACP required by section 311(j)(4) of the CWA; and

(4) Take whatever additional response actions are deemed appropriate.

(b) Under the direction of the OSC, the NSFCC shall coordinate use of private and public personnel and equipment, including strike teams, to remove a worst case discharge and mitigate or prevent a substantial threat of such a discharge.

§ 300.335 Funding.

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

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

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

(d) Response actions other than removal, such as scientific investigations not in support of removal actions or law enforcement, shall be provided by the agency with legal responsibility for those specific actions.