

## § 300.5

## 40 CFR Ch. I (7-1-02 Edition)

NSFCC—National Strike Force Coordination Center  
O&M—Operation and Maintenance  
OSC—On-Scene Coordinator  
OSLTF—Oil Spill Liability Trust Fund  
PA—Preliminary Assessment  
PIAT—Public Information Assist Team  
RA—Remedial Action  
RCP—Regional Contingency Plan  
RD—Remedial Design  
RERT—Radiological Emergency Response Team  
RI—Remedial Investigation  
ROD—Record of Decision  
RPM—Remedial Project Manager  
RRC—Regional Response Center  
RRT—Regional Response Team  
SAC—Support Agency Coordinator  
SERC—State Emergency Response Commission  
SI—Site Inspection  
SMOA—Superfund Memorandum of Agreement  
SONS—Spill of National Significance  
SSC—Scientific Support Coordinator  
SUPSALV—United States Navy Supervisor of Salvage  
USFWS—United States Fish and Wildlife Service

### § 300.5 Definitions.

Terms not defined in this section have the meaning given by CERCLA, the OPA, or the CWA.

*Activation* means notification by telephone or other expeditious manner or, when required, the assembly of some or all appropriate members of the RRT or NRT.

*Alternative water supplies* as defined by section 101(34) of CERCLA, includes, but is not limited to, drinking water and household water supplies.

*Applicable requirements* means those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that specifically address a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance found at a CERCLA site. Only those state standards that are identified by a state in a timely manner and that are more stringent than federal requirements may be applicable.

*Area Committee (AC)* as provided for by CWA sections 311(a)(18) and (j)(4), means the entity appointed by the President consisting of members from qualified personnel of federal, state,

and local agencies with responsibilities that include preparing an area contingency plan for an area designated by the President.

*Area contingency plan (ACP)* as provided for by CWA sections 311(a)(19) and (j)(4), means the plan prepared by an Area Committee that is developed to be implemented in conjunction with the NCP and RCP, in part to address removal of a worst case discharge and to mitigate or prevent a substantial threat of such a discharge from a vessel, offshore facility, or onshore facility operating in or near an area designated by the President.

*Bioremediation agents* means microbiological cultures, enzyme additives, or nutrient additives that are deliberately introduced into an oil discharge and that will significantly increase the rate of biodegradation to mitigate the effects of the discharge.

*Burning agents* means those additives that, through physical or chemical means, improve the combustibility of the materials to which they are applied.

*CERCLA* is the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986.

*CERCLIS* is the abbreviation of the CERCLA Information System, EPA's comprehensive data base and data management system that inventories and tracks releases addressed or needing to be addressed by the Superfund program. CERCLIS contains the official inventory of CERCLA sites and supports EPA's site planning and tracking functions. Sites that EPA decides do not warrant moving further in the site evaluation process are given a "No Further Response Action Planned" (NFRAP) designation. This means that no additional federal steps under CERCLA will be taken at the site unless future information so warrants. Sites given a NFRAP designation are placed in a separate archival data base. Inclusion of a specific site or area in the CERCLIS data base does not represent a determination of any party's liability, nor does it represent a finding that any response action is necessary.

## Environmental Protection Agency

## § 300.5

*Chemical agents* means those elements, compounds, or mixtures that coagulate, disperse, dissolve, emulsify, foam, neutralize, precipitate, reduce, solubilize, oxidize, concentrate, congeal, entrap, fix, make the pollutant mass more rigid or viscous, or otherwise facilitate the mitigation of deleterious effects or the removal of the pollutant from the water. Chemical agents include biological additives, dispersants, sinking agents, miscellaneous oil spill control agents, and burning agents, but do not include sorbents.

*Claim* for purposes of a release under CERCLA, means a demand in writing for a sum certain; for purposes of a discharge under CWA, it means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from an incident.

*Claimant* as defined by section 1001 of the OPA means any person or government who presents a claim for compensation under Title I of the OPA.

*Coastal waters* for the purposes of classifying the size of discharges, means the waters of the coastal zone except for the Great Lakes and specified ports and harbors on inland rivers.

*Coastal zone* as defined for the purpose of the NCP, means all United States waters subject to the tide, United States waters of the Great Lakes, specified ports and harbors on inland rivers, waters of the contiguous zone, other waters of the high seas subject to the NCP, and the land surface or land substrata, ground waters, and ambient air proximal to those waters. The term coastal zone delineates an area of federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in federal regional contingency plans.

*Coast Guard District Response Group (DRG)* as provided for by CWA sections 311(a)(20) and (j)(3), means the entity established by the Secretary of the department in which the USCG is operating, within each USCG district, and shall consist of: the combined USCG personnel and equipment, including marine firefighting equipment, of each port in the district; additional prepositioned response equipment; and a district response advisory team.

*Community relations* means EPA's program to inform and encourage public participation in the Superfund process and to respond to community concerns. The term "public" includes citizens directly affected by the site, other interested citizens or parties, organized groups, elected officials, and potentially responsible parties (PRPs).

*Community relations coordinator* means lead agency staff who work with the OSC/RPM to involve and inform the public about the Superfund process and response actions in accordance with the interactive community relations requirements set forth in the NCP.

*Contiguous zone* means the zone of the high seas, established by the United States under Article 24 of the Convention on the Territorial Sea and Contiguous Zone, which is contiguous to the territorial sea and which extends nine miles seaward from the outer limit of the territorial sea.

*Cooperative agreement* is a legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose in which substantial EPA involvement is anticipated during the performance of the project.

*Damages* as defined by section 1001 of the OPA means damages specified in section 1002(b) of the Act, and includes the cost of assessing these damages.

*Discharge* as defined by section 311(a)(2) of the CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil, but excludes discharges in compliance with a permit under section 402 of the CWA, discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of the CWA, and subject to a condition in such permit, or continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the CWA, that are caused by events occurring within the scope of relevant operating or treatment systems. For purposes of the NCP, discharge also means substantial threat of discharge.

*Dispersants* means those chemical agents that emulsify, disperse, or solubilize oil into the water column or promote the surface spreading of oil slicks to facilitate dispersal of the oil into the water column.

*Drinking water supply* as defined by section 101(7) of CERCLA, means any raw or finished water source that is or may be used by a public water system (as defined in the Safe Drinking Water Act (42 U.S.C. 300 et seq.) or as drinking water by one or more individuals.

*Environment* as defined by section 101(8) of CERCLA, means the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

*Exclusive economic zone*, as defined by OPA section 1001, means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as "eastern special areas" in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990.

*Facility* as defined by section 101(9) of CERCLA, means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or any site or area, where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel. As defined by section 1001 of the OPA, it means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: Exploring for, drilling for, producing, storing, handling, transferring, processing, or

transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes.

*Feasibility study* (FS) means a study undertaken by the lead agency to develop and evaluate options for remedial action. The FS emphasizes data analysis and is generally performed concurrently and in an interactive fashion with the remedial investigation (RI), using data gathered during the RI. The RI data are used to define the objectives of the response action, to develop remedial action alternatives, and to undertake an initial screening and detailed analysis of the alternatives. The term also refers to a report that describes the results of the study.

*Federal Radiological Emergency Response Plan* (FRERP) means the inter-agency agreement for coordinating the response of various agencies, under a variety of statutes, to a large radiological accident. The Lead Federal Agency (LFA), defined by the FRERP, activates the FRERP for any peacetime radiological emergency which, based upon its professional judgment, is expected to have a significant radiological effect within the United States, its territories, possessions, or territorial waters and that could require a response by several federal agencies.

*Federal Response Plan* (FRP) means the agreement signed by 27 federal departments and agencies in April 1987 and developed under the authorities of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) and the Disaster Relief Act of 1974 (42 U.S.C. 3231 et seq.), as amended by the Stafford Disaster Relief Act of 1988.

*First federal official* means the first federal representative of a participating agency of the National Response Team to arrive at the scene of a discharge or a release. This official coordinates activities under the NCP and may initiate, in consultation with the OSC, any necessary actions until the arrival of the predesignated OSC. A state with primary jurisdiction over a site covered by a cooperative agreement will act in the stead of the first federal official for any incident at the site.

## Environmental Protection Agency

## § 300.5

*Fund or Trust Fund* means the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986.

*Ground water* as defined by section 101(12) of CERCLA, means water in a saturated zone or stratum beneath the surface of land or water.

*Hazard Ranking System (HRS)* means the method used by EPA to evaluate the relative potential of hazardous substance releases to cause health or safety problems, or ecological or environmental damage.

*Hazardous substance* as defined by section 101(14) of CERCLA, means: Any substance designated pursuant to section 311(b)(2)(A) of the CWA; any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA; any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) has been suspended by Act of Congress); any toxic pollutant listed under section 307(a) of the CWA; any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. 7521 et seq.); and any imminently hazardous chemical substance or mixture with respect to which the EPA Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.). The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

*Indian tribe* as defined by section 101(36) of CERCLA, means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. "Indian tribe," as defined by OPA

section 1001, means any Indian tribe, band, nation, or other organized group or community, but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and has governmental authority over lands belonging to or controlled by the tribe.

*Inland waters*, for the purposes of classifying the size of discharges, means those waters of the United States in the inland zone, waters of the Great Lakes, and specified ports and harbors on inland rivers.

*Inland zone* means the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors on inland rivers. The term inland zone delineates an area of federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in federal regional contingency plans.

*Lead administrative trustee* means a natural resource trustee who is designated on an incident-by-incident basis for the purpose of preassessment and damage assessment and chosen by the other trustees whose natural resources are affected by the incident. The lead administrative trustee facilitates effective and efficient communication during response operations between the OSC and the other natural resource trustees conducting activities associated with damage assessment, and is responsible for applying to the OSC for access to response operations resources on behalf of all trustees for initiation of a damage assessment.

*Lead agency* means the agency that provides the OSC/RPM to plan and implement response actions under the NCP. EPA, the USCG, another federal agency, or a state (or political subdivision of a state) operating pursuant to a contract or cooperative agreement executed pursuant to section 104(d)(1) of CERCLA, or designated pursuant to a Superfund Memorandum of Agreement (SMOA) entered into pursuant to subpart F of the NCP or other agreements may be the lead agency for a response action. In the case of a release of a hazardous substance, pollutant, or contaminant, where the release is on, or

the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of Department of Defense (DOD) or Department of Energy (DOE), then DOD or DOE will be the lead agency. Where the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of a federal agency other than EPA, the USCG, DOD, or DOE, then that agency will be the lead agency for remedial actions and removal actions other than emergencies. The federal agency maintains its lead agency responsibilities whether the remedy is selected by the federal agency for non-NPL sites or by EPA and the federal agency or by EPA alone under CERCLA section 120. The lead agency will consult with the support agency, if one exists, throughout the response process.

*Management of migration* means actions that are taken to minimize and mitigate the migration of hazardous substances or pollutants or contaminants and the effects of such migration. Measures may include, but are not limited to, management of a plume of contamination, restoration of a drinking water aquifer, or surface water restoration.

*Miscellaneous oil spill control agent* is any product, other than a dispersant, sinking agent, surface washing agent, surface collecting agent, bioremediation agent, burning agent, or sorbent that can be used to enhance oil spill cleanup, removal, treatment, or mitigation.

*National Pollution Funds Center* (NPFC) means the entity established by the Secretary of Transportation whose function is the administration of the Oil Spill Liability Trust Fund (OSLTF). Among the NPFC's duties are: providing appropriate access to the OSLTF for federal agencies and states for removal actions and for federal trustees to initiate the assessment of natural resource damages; providing appropriate access to the OSLTF for claims; and coordinating cost recovery efforts.

*National Priorities List* (NPL) means the list, compiled by EPA pursuant to CERCLA section 105, of uncontrolled hazardous substance releases in the

United States that are priorities for long-term remedial evaluation and 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.

*National Strike Force* (NSF) is a special team established by the USCG, including the three USCG Strike Teams, the Public Information Assist Team (PIAT), and the National Strike Force Coordination Center. The NSF is available to assist OSCs/RPMs in their preparedness and response duties.

*National Strike Force Coordination Center* (NSFCC), authorized as the National Response Unit by CWA sections 311(a)(23) and (j)(2), means the entity established by the Secretary of the department in which the USCG is operating at Elizabeth City, North Carolina with responsibilities that include administration of the USCG Strike Teams, maintenance of response equipment inventories and logistic networks, and conducting a national exercise program.

*Natural resources* means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the exclusive economic zone defined by the Magnuson Fishery Conservation and Management Act of 1976), any state or local government, any foreign government, any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe.

*Navigable waters* as defined by 40 CFR 110.1, means the waters of the United States, including the territorial seas. The term includes:

(1) All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters

## Environmental Protection Agency

## § 300.5

that are subject to the ebb and flow of the tide;

(2) Interstate waters, including interstate wetlands;

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters;

(i) That are or could be used by interstate or foreign travelers for recreational or other purposes;

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;

(iii) That are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as navigable waters under this section;

(5) Tributaries of waters identified in paragraphs (a) through (d) of this definition, including adjacent wetlands; and

(6) Wetlands adjacent to waters identified in paragraphs (a) through (e) of this definition: Provided, that waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

(7) Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

*Offshore facility* as defined by section 101(17) of CERCLA and section 311(a)(11) of the CWA, means any facility of any kind located in, on, or under any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel.

*Oil* as defined by section 311(a)(1) of the CWA, means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than

dredged spoil. Oil, as defined by section 1001 of the OPA means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act.

*Oil Spill Liability Trust Fund (OSLTF)* means the fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

*On-scene coordinator (OSC)* means the federal official predesignated by EPA or the USCG to coordinate and direct responses under subpart D, or the government official designated by the lead agency to coordinate and direct removal actions under subpart E of the NCP.

*Onshore facility* as defined by section 101(18) of CERCLA, means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land or non-navigable waters within the United States; and, as defined by section 311(a)(10) of the CWA, means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States other than submerged land.

*On-site* means the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action.

*Operable unit* means a discrete action that comprises an incremental step toward comprehensively addressing site problems. This discrete portion of a remedial response manages migration, or eliminates or mitigates a release, threat of a release, or pathway of exposure. The cleanup of a site can be divided into a number of operable units, depending on the complexity of the problems associated with the site. Operable units may address geographical portions of a site, specific site problems, or initial phases of an action, or

may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of a site.

*Operation and maintenance (O&M)* means measures required to maintain the effectiveness of response actions.

*Person* as defined by section 101(21) of CERCLA, means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States government, state, municipality, commission, political subdivision of a state, or any interstate body. As defined by section 1001 of the OPA, "person" means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, or any interstate body.

*Pollutant or contaminant* as defined by section 101(33) of CERCLA, shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under section 101(14) (A) through (F) of CERCLA, nor does it include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas). For purposes of the NCP, the term pollutant or contaminant means any pollutant or contaminant that may present an imminent and substantial danger to public health or welfare of the United States.

*Post-removal site control* means those activities that are necessary to sustain the integrity of a Fund-financed removal action following its conclusion. Post-removal site control may be a removal or remedial action under CERCLA. The term includes, without

being limited to, activities such as re-lighting gas flares, replacing filters, and collecting leachate.

*Preliminary assessment (PA)* under CERCLA means review of existing information and an off-site reconnaissance, if appropriate, to determine if a release may require additional investigation or action. A PA may include an on-site reconnaissance, if appropriate.

*Public participation*, see the definition for community relations.

*Public vessel* as defined by section 311(a)(4) of the CWA, means a vessel owned or bareboat-chartered and operated by the United States, or by a state or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

*Quality assurance project plan (QAPP)* is a written document, associated with all remedial site sampling activities, which presents in specific terms the organization (where applicable), objectives, functional activities, and specific quality assurance (QA) and quality control (QC) activities designed to achieve the data quality objectives of a specific project(s) or continuing operation(s). The QAPP is prepared for each specific project or continuing operation (or group of similar projects or continuing operations). The QAPP will be prepared by the responsible program office, regional office, laboratory, contractor, recipient of an assistance agreement, or other organization. For an enforcement action, potentially responsible parties may prepare a QAPP subject to lead agency approval.

*Release* as defined by section 101(22) of CERCLA, means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes: Any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons; emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; 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, or, for the purposes of section 104 of CERCLA or any other response action, any release of source, byproduct, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.); and the normal application of fertilizer. For purposes of the NCP, release also means threat of release.

*Relevant and appropriate requirements* means those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or facility siting laws that, while not “applicable” to a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance at a CERCLA site, address problems or situations sufficiently similar to those encountered at the CERCLA site that their use is well suited to the particular site. Only those state standards that are identified in a timely manner and are more stringent than federal requirements may be relevant and appropriate.

*Remedial design (RD)* means the technical analysis and procedures which follow the selection of remedy for a site and result in a detailed set of plans and specifications for implementation of the remedial action.

*Remedial investigation (RI)* is a process undertaken by the lead agency to determine the nature and extent of the problem presented by the release. The RI emphasizes data collection and site characterization, and is generally performed concurrently and in an interactive fashion with the feasibility study. The RI includes sampling and monitoring, as necessary, and includes the gathering of sufficient information to determine the necessity for remedial action and to support the evaluation of remedial alternatives.

*Remedial project manager (RPM)* means the official designated by the

lead agency to coordinate, monitor, or direct remedial or other response actions under subpart E of the NCP.

*Remedy or remedial action (RA)* means those actions consistent with permanent remedy taken instead of, or in addition to, removal action in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances and associated contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, on-site treatment or incineration, provision of alternative water supplies, any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment and, where appropriate, post-removal site control activities. The term includes the costs of permanent relocation of residents and businesses and community facilities (including the cost of providing “alternative land of equivalent value” to an Indian tribe pursuant to CERCLA section 126(b)) where EPA determines that, alone or in combination with other measures, such relocation is more cost-effective than, and environmentally preferable to, the transportation, storage, treatment, destruction, or secure disposition off-site of such hazardous substances, or may otherwise be necessary to protect the public health or welfare; the term includes off-site transport and off-site storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials. For the purpose of the NCP, the term also includes enforcement activities related thereto.

*Remove or removal* as defined by section 311(a)(8) of the CWA, refers to containment and removal of oil or hazardous substances from the water and

shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare of the United States (including, but not limited to, fish, shellfish, wildlife, public and private property, and shorelines and beaches) or to the environment. For the purpose of the NCP, the term also includes monitoring of action to remove a discharge. As defined by section 101(23) of CERCLA, remove or removal means the cleanup or removal of released hazardous substances from the environment; such actions as may be necessary taken in the event of the threat of release of hazardous substances into the environment; such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances; the disposal of removed material; or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare of the United States or to the environment, which may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under section 104(b) of CERCLA, post-removal site control, where appropriate, and any emergency assistance which may be provided under the Disaster Relief Act of 1974. For the purpose of the NCP, the term also includes enforcement activities related thereto.

*Removal costs* as defined by section 1001 of the OPA means the costs of removal that are incurred after a discharge of oil has occurred, or in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

*Respond or response* as defined by section 101(25) of CERCLA, means remove, removal, remedy, or remedial action, including enforcement activities related thereto.

*Responsible party* as defined by section 1001 of the OPA, means the following:

(1) *Vessels*—In the case of a vessel, any person owning, operating, or demise chartering the vessel.

(2) *Onshore Facilities*—In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a federal agency, state, municipality, commission, or political subdivision of a state, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit.

(3) *Offshore Facilities*—In the case of an offshore facility (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.)), the lessee or permittee of the area in which the facility is located or the holder of a right of use and easement granted under applicable state law or the Outer Continental Shelf Lands Act (43 U.S.C. 1301–1356) for the area in which the facility is located (if the holder is a different person than the lessee or permittee), except a federal agency, state, municipality, commission, or political subdivision of a state, or any interstate body, that as owner transfers possession and right to use the property to another person by lease, assignment, or permit.

(4) *Deepwater Ports*—In the case of a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501–1524), the licensee.

(5) *Pipelines*—In the case of a pipeline, any person owning or operating the pipeline.

(6) *Abandonment*—In the case of an abandoned vessel, onshore facility, deepwater port, pipeline, or offshore facility, the person who would have been responsible parties immediately prior to the abandonment of the vessel or facility.

*SARA* is the Superfund Amendments and Reauthorization Act of 1986. In addition to certain free-standing provisions of law, it includes amendments to CERCLA, the Solid Waste Disposal Act, and the Internal Revenue Code. Among the free-standing provisions of law is Title III of SARA, also known as the “Emergency Planning and Community Right-to-Know Act of 1986” and Title IV of SARA, also known as the “Radon Gas and Indoor Air Quality Research Act of 1986.” Title V of SARA

## Environmental Protection Agency

## § 300.5

amending the Internal Revenue Code is also known as the "Superfund Revenue Act of 1986."

*Sinking agents* means those additives applied to oil discharges to sink floating pollutants below the water surface.

*Site inspection* (SI) means an on-site investigation to determine whether there is a release or potential release and the nature of the associated threats. The purpose is to augment the data collected in the preliminary assessment and to generate, if necessary, sampling and other field data to determine if further action or investigation is appropriate.

*Size classes* of discharges refers to the following size classes of oil discharges which are provided as guidance to the OSC and serve as the criteria for the actions delineated in subpart D. They are not meant to imply associated degrees of hazard to public health or welfare of the United States, nor are they a measure of environmental injury. Any oil discharge that poses a substantial threat to public health or welfare of the United States or the environment or results in significant public concern shall be classified as a major discharge regardless of the following quantitative measures:

(1) Minor discharge means a discharge to the inland waters of less than 1,000 gallons of oil or a discharge to the coastal waters of less than 10,000 gallons of oil.

(2) Medium discharge means a discharge of 1,000 to 10,000 gallons of oil to the inland waters or a discharge of 10,000 to 100,000 gallons of oil to the coastal waters.

(3) Major discharge means a discharge of more than 10,000 gallons of oil to the inland waters or more than 100,000 gallons of oil to the coastal waters.

*Size classes* of releases refers to the following size classifications which are provided as guidance to the OSC for meeting pollution reporting requirements in subpart B. The final determination of the appropriate classification of a release will be made by the OSC based on consideration of the particular release (e.g., size, location, impact, etc.):

(1) Minor release means a release of a quantity of hazardous substance(s),

pollutant(s), or contaminant(s) that poses minimal threat to public health or welfare of the United States or the environment.

(2) Medium release means a release not meeting the criteria for classification as a minor or major release.

(3) Major release means a release of any quantity of hazardous substance(s), pollutant(s), or contaminant(s) that poses a substantial threat to public health or welfare of the United States or the environment or results in significant public concern.

*Sorbents* means essentially inert and insoluble materials that are used to remove oil and hazardous substances from water through adsorption, in which the oil or hazardous substance is attracted to the sorbent surface and then adheres to it; absorption, in which the oil or hazardous substance penetrates the pores of the sorbent material; or a combination of the two. Sorbents are generally manufactured in particulate form for spreading over an oil slick or as sheets, rolls, pillows, or booms. The sorbent material may consist of, but is not limited to, the following materials:

(1) Organic products—

(i) Peat moss or straw;

(ii) Cellulose fibers or cork;

(iii) Corn cobs;

(iv) Chicken, duck, or other bird feathers.

(2) Mineral compounds—

(i) Volcanic ash or perlite;

(ii) Vermiculite or zeolite.

(3) Synthetic products—

(i) Polypropylene;

(ii) Polyethylene;

(iii) Polyurethane;

(iv) Polyester.

*Source control* action is the construction or installation and start-up of those actions necessary to prevent the continued release of hazardous substances or pollutants or contaminants (primarily from a source on top of or within the ground, or in buildings or other structures) into the environment.

*Source control maintenance measures* are those measures intended to maintain the effectiveness of source control actions once such actions are operating and functioning properly, such as the

maintenance of landfill caps and leachate collection systems.

*Specified ports and harbors* means those ports and harbor areas on inland rivers, and land areas immediately adjacent to those waters, where the USCG acts as predesignated on-scene coordinator. Precise locations are determined by EPA/USCG regional agreements and identified in federal Regional Contingency Plans and Area Contingency Plans.

*Spill of national significance (SONS)* means a spill 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, is so complex that it requires extraordinary coordination of federal, state, local, and responsible party resources to contain and clean up the discharge.

*State* means the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction. For purposes of the NCP, the term includes Indian tribes as defined in the NCP except where specifically noted. Section 126 of CERCLA provides that the governing body of an Indian tribe shall be afforded substantially the same treatment as a state with respect to certain provisions of CERCLA. Section 300.515(b) of the NCP describes the requirements pertaining to Indian tribes that wish to be treated as states under CERCLA.

*Superfund Memorandum of Agreement (SMOA)* means a nonbinding, written document executed by an EPA Regional Administrator and the head of a state agency that may establish the nature and extent of EPA and state interaction during the removal, pre-remedial, remedial, and/or enforcement response process. The SMOA is not a site-specific document although attachments may address specific sites. The SMOA generally defines the role and responsibilities of both the lead and the support agencies.

*Superfund state contract* is a joint, legally binding agreement between EPA and a state to obtain the necessary as-

surances before a federal-lead remedial action can begin at a site. In the case of a political subdivision-lead remedial response, a three-party Superfund state contract among EPA, the state, and political subdivision thereof, is required before a political subdivision takes the lead for any phase of remedial response to ensure state involvement pursuant to section 121(f)(1) of CERCLA. The Superfund state contract may be amended to provide the state's CERCLA section 104 assurances before a political subdivision can take the lead for remedial action.

*Support agency* means the agency or agencies that provide the support agency coordinator to furnish necessary data to the lead agency, review response data and documents, and provide other assistance as requested by the OSC or RPM. EPA, the USCG, another federal agency, or a state may be support agencies for a response action if operating pursuant to a contract executed under section 104(d)(1) of CERCLA or designated pursuant to a Superfund Memorandum of Agreement entered into pursuant to subpart F of the NCP or other agreement. The support agency may also concur on decision documents.

*Support agency coordinator (SAC)* means the official designated by the support agency, as appropriate, to interact and coordinate with the lead agency in response actions under subpart E of this part.

*Surface collecting agents* means those chemical agents that form a surface film to control the layer thickness of oil.

*Surface washing agent* is any product that removes oil from solid surfaces, such as beaches and rocks, through a detergency mechanism and does not involve dispersing or solubilizing the oil into the water column.

*Tank vessel* as defined by section 1001 of the OPA means a vessel that is constructed or adapted to carry, or that carries oil or hazardous material in bulk as cargo or cargo residue, and that:

- (1) is a vessel of the United States;
  - (2) operates on the navigable waters;
- or

## Environmental Protection Agency

## § 300.105

(3) transfers oil or hazardous material in a place subject to the jurisdiction of the United States.

*Threat of discharge or release*, see definitions for discharge and release.

*Threat of release*, see definition for release.

*Treatment technology* means any unit operation or series of unit operations that alters the composition of a hazardous substance or pollutant or contaminant through chemical, biological, or physical means so as to reduce toxicity, mobility, or volume of the contaminated materials being treated. Treatment technologies are an alternative to land disposal of hazardous wastes without treatment.

*Trustee* means an official of a federal natural resources management agency designated in subpart G of the NCP or a designated state official or Indian tribe or, in the case of discharges covered by the OPA, a foreign government official, who may pursue claims for damages under section 107(f) of CERCLA or section 1006 of the OPA.

*United States* when used in relation to section 311(a)(5) of the CWA, means the states, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the United States Virgin Islands, and the Pacific Island Governments. *United States*, when used in relation to section 101(27) of CERCLA and section 1001(36) of the OPA, includes the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

*Vessel* as defined by section 101(28) of CERCLA, means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water; and, as defined by section 311(a)(3) of the CWA, means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel.

*Volunteer* means any individual accepted to perform services by the lead

agency which has authority to accept volunteer services (examples: See 16 U.S.C. 742f(c)). A volunteer is subject to the provisions of the authorizing statute and the NCP.

*Worst case discharge* as defined by section 311(a)(24) of the CWA, means, in the case of a vessel, a discharge in adverse weather conditions of its entire cargo, and, in the case of an offshore facility or onshore facility, the largest foreseeable discharge in adverse weather conditions.

59 FR 47416, Sept. 15, 1994, as amended at 60 FR 16054, March 29, 1995]

### § 300.6 Use of number and gender.

As used in this regulation, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa, as the case may require.

### § 300.7 Computation of time.

In computing any period of time prescribed or allowed in these rules of practice, except as otherwise provided, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays, and federal legal holidays shall be included. When a stated time expires on a Saturday, Sunday, or legal holiday, the stated time period shall be extended to include the next business day.

## Subpart B—Responsibility and Organization for Response

SOURCE: 59 FR 47424, Sept. 15, 1994, unless otherwise noted.

### § 300.100 Duties of President delegated to federal agencies.

In Executive Orders 12580 and 12777, the President delegated certain functions and responsibilities vested in him by the CWA, CERCLA, and the OPA.

### § 300.105 General organization concepts.

(a) Federal agencies should:

(1) Plan for emergencies and develop procedures for addressing oil discharges and releases of hazardous substances, pollutants, or contaminants;