

## § 300.211

and wildlife handling and rehabilitation permits necessary under federal and state laws; and provide guidance on the implementation of law enforcement requirements included under current federal and state laws and corresponding regulations. Requirements include, but are not limited to procedures regarding the capture, transport, rehabilitation, and release of wildlife exposed to or threatened by oil, and disposal of contaminated carcasses of wildlife.

(H) Identify and secure the means for providing, if needed, the minimum required OSHA and EPA training for volunteers, including those who assist with injured wildlife.

(I) Define the requirements for evaluating the compatibility between this annex and non-federal response plans (including those of vessels, facilities, and pipelines) on issues affecting fish and wildlife, their habitat, and sensitive environments.

### § 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:

(a) For tank vessels, these regulations are codified in 33 CFR part 155;

(b) For offshore facilities, these regulations are codified in 30 CFR part 254;

(c) For non-transportation related onshore facilities, these regulations are codified in 40 CFR 112.20;

(d) For transportation-related onshore facilities, these regulations are codified in 33 CFR part 154;

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(e) For pipeline facilities, these regulations are codified in 49 CFR part 194; and

(f) For rolling stock, these regulations are codified in 49 CFR part 106 et al.

### § 300.212 Area response drills.

The OSC periodically shall conduct drills of removal capability (including fish and wildlife response capability), without prior notice, in areas for which ACPs are required by § 300.210(c) and under relevant tank vessel and facility response plans.

### § 300.215 Title III local emergency response plans.

This section describes and cross-references the regulations that implement Title III. These regulations are codified at 40 CFR part 355.

(a) Each LEPC is to prepare an emergency response plan in accordance with section 303 of Title III and review the plan once a year, or more frequently as changed circumstances in the community or at any facility may require. Such Title III local emergency response plans should be closely coordinated with applicable federal ACPs and state emergency response plans.

(b) [Reserved]

### § 300.220 Related Title III issues.

Other related Title III requirements are found in 40 CFR part 355.

## Subpart D—Operational Response Phases for Oil Removal

SOURCE: 59 FR 47444, Sept. 15, 1994, unless otherwise noted.

### § 300.300 Phase I—Discovery or notification.

(a) A discharge of oil may be discovered through:

(1) A report submitted by the person in charge of a vessel or facility, in accordance with statutory requirements;

(2) Deliberate search by patrols;

(3) Random or incidental observation by government agencies or the public; or

(4) Other sources.

(b) Any person in charge of a vessel or a facility shall, as soon as he or she has knowledge of any discharge from

such vessel or facility in violation of section 311(b)(3) of the CWA, immediately notify the NRC. If direct reporting to the NRC is not practicable, reports may be made to the USCG or EPA predesignated OSC for the geographic area where the discharge occurs. The EPA predesignated OSC may also be contacted through the regional 24-hour emergency response telephone number. All such reports shall be promptly relayed to the NRC. If it is not possible to notify the NRC or predesignated OSC immediately, reports may be made immediately to the nearest Coast Guard unit. In any event such person in charge of the vessel or facility shall notify the NRC as soon as possible.

(c) Any other person shall, as appropriate, notify the NRC of a discharge of oil.

(d) Upon receipt of a notification of discharge, the NRC shall promptly notify the OSC. The OSC shall ensure notification of the appropriate state agency of any state which is, or may reasonably be expected to be, affected by the discharge. The OSC shall then proceed with the following phases as outlined in the RCP and ACP.

**§ 300.305 Phase II—Preliminary assessment and initiation of action.**

(a) The OSC is responsible for promptly initiating a preliminary assessment.

(b) The preliminary assessment shall be conducted using available information, supplemented where necessary and possible by an on-scene inspection. The OSC shall undertake actions to:

(1) Evaluate the magnitude and severity of the discharge or threat to public health or welfare of the United States or the environment;

(2) Assess the feasibility of removal; and

(3) To the extent practicable, identify potentially responsible parties.

(c) Where practicable, the framework for the response management structure is a system (e.g., a unified command system), that brings together the functions of the federal government, the state government, and the responsible party to achieve an effective and efficient response, where the OSC maintains authority.

(d) Except in a case when the OSC is required to direct the response to a discharge that may pose a substantial threat to the 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), the OSC may allow the responsible party to voluntarily and promptly perform removal actions, provided the OSC determines such actions will ensure an effective and immediate removal of the discharge or mitigation or prevention of a substantial threat of a discharge. If the responsible party does conduct the removal, the OSC shall ensure adequate surveillance over whatever actions are initiated. If effective actions are not being taken to eliminate the threat, or if removal is not being properly done, the OSC should, to the extent practicable under the circumstances, so advise the responsible party. If the responsible party does not respond properly the OSC shall take appropriate response actions and should notify the responsible party of the potential liability for federal response costs incurred by the OSC pursuant to the OPA and CWA. Where practicable, continuing efforts should be made to encourage response by responsible parties.

(1) In carrying out a response under this section, the OSC may:

(i) Remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;

(ii) Direct or monitor all federal, state, and private actions to remove a discharge; and

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

(2) If the discharge results in a substantial threat to the 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), the OSC must direct all response efforts, as provided in § 300.322(b) of this part. The OSC should declare as expeditiously as practicable to spill response participants that the federal government will