

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

direct the response. The OSC may act without regard to any other provision of the law governing contracting procedures or employment of personnel by the federal government in removing or arranging for the removal of such a discharge.

(e) The OSC shall ensure that the natural resource trustees are promptly notified in the event of any discharge of oil, to the maximum extent practicable as provided in the Fish and Wildlife and Sensitive Environments Plan annex to the ACP for the area in which the discharge occurs. The OSC and the trustees shall coordinate assessments, evaluations, investigations, and planning with respect to appropriate removal actions. The OSC shall consult with the affected trustees on the appropriate removal action to be taken. The trustees will provide timely advice concerning recommended actions with regard to trustee resources potentially affected. The trustees also will assure that the OSC is informed of their activities in natural resource damage assessment that may affect response operations. The trustees shall assure, through the lead administrative trustee, that all data from the natural resource damage assessment activities that may support more effective operational decisions are provided in a timely manner to the OSC. When circumstances permit, the OSC shall share the use of non-monetary response resources (i.e., personnel and equipment) with the trustees, provided trustee activities do not interfere with response actions. The lead administrative trustee facilitates effective and efficient communication between the OSC and the other trustees during response operations and is responsible for applying to the OSC for non-monetary federal response resources on behalf of all trustees. The lead administrative trustee is also responsible for applying to the NPFC for funding for initiation of damage assessment for injuries to natural resources.

§ 300.310 Phase III—Containment, countermeasures, cleanup, and disposal.

(a) Defensive actions shall begin as soon as possible to prevent, minimize, or mitigate threat(s) to the public

health or welfare of the United States or the environment. Actions may include but are not limited to: Analyzing water samples to determine the source and spread of the oil; controlling the source of discharge; measuring and sampling; source and spread control or salvage operations; placement of physical barriers to deter the spread of the oil and to protect natural resources and sensitive ecosystems; control of the water discharged from upstream impoundment; and the use of chemicals and other materials in accordance with subpart J of this part to restrain the spread of the oil and mitigate its effects. The ACP prepared under § 300.210(c) should be consulted for procedures to be followed for obtaining an expedited decision regarding the use of dispersants and other products listed on the NCP Product Schedule.

(b) As appropriate, actions shall be taken to recover the oil or mitigate its effects. Of the numerous chemical or physical methods that may be used, the chosen methods shall be the most consistent with protecting public health and welfare and the environment. Sinking agents shall not be used.

(c) Oil and contaminated materials recovered in cleanup operations shall be disposed of in accordance with the RCP, ACP, and any applicable laws, regulations, or requirements. RRT and Area Committee guidelines may identify the disposal options available during an oil spill response and may describe what disposal requirements are mandatory or may not be waived by the OSC. ACP guidelines should address: the sampling, testing, and classifying of recovered oil and oiled debris; the segregation, temporary storage, and stockpiling of recovered oil and oiled debris; prior state disposal approvals and permits; and the routes; methods (e.g. recycle/reuse, on-site burning, incineration, landfilling, etc.); and sites for the disposal of collected oil, oiled debris, and animal carcasses; and procedures for obtaining waivers, exemptions, or authorizations associated with handling or transporting waste materials. The ACPs may identify a hierarchy of preferences for disposal alternatives, with recycling (re-processing) being the most preferred, and other alternatives preferred based