

# **MODEL AREA CONTINGENCY PLAN**

## **VOLUMES I & II**

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

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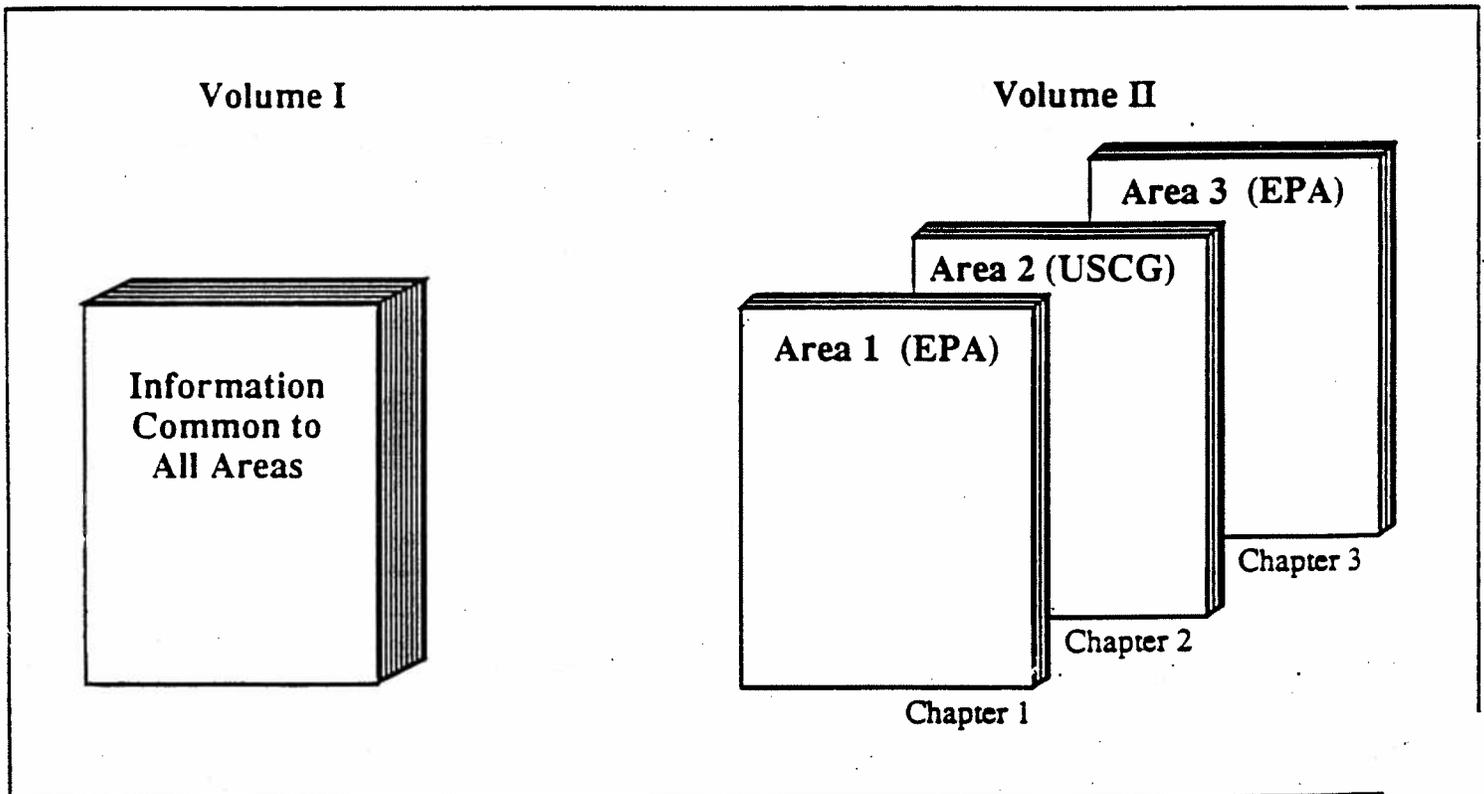
This document has been developed with the cooperation of Region X in order to assist Area Committees in the development of Area Contingency Plans (ACPs). Any references to Region X's Regional contingency plan are for illustrative purposes only.

We propose that Area Committees modify the Regional Contingency Plan, as appropriate and use it as the initial ACP.

**HOW TO USE THIS DOCUMENT:** This model ACP is divided into two volumes. The first volume contains generic language and planning information that applies to all designated Areas within a Region and draws upon the National Contingency Plan and relevant Regional Contingency Plan where appropriate. The contents of Volume I include authorities, abbreviations and definitions, and general language describing the National Response System to address discharges or the substantial threat of discharges of oil or hazardous substances. The text contained in Volume I of this model ACP is actual language that you can include in your ACP. In addition, recommendations are made where appropriate for other information to include in your ACP (e.g., applicable State and local laws and other, more Area-specific information).

The second volume of the ACP contains the Area-specific portions of the plan. Each chapter of Volume II is dedicated to one designated Area within a Region. The proposed outline for Volume II found in this model ACP is organized according to the OPA section 4202 statutory requirements for ACPs. Because of the Area-specific nature of this volume, this model ACP only provides an outline and some guidelines for preparing your ACP's Volume II, rather than actual language, as we have done for Volume I. To ensure consistency between USCG and EPA ACPs, the guidelines for preparing this volume include references to relevant annexes and appendices from USCG ACPs. In addition, to ensure consistency with local emergency plans prepared under SARA Title III, OSCs should use the planning categories outlined in Hazardous Materials Emergency Planning Guide (NRT 1).

The functional organization of the ACP is illustrated in the figure below.





# AREA CONTINGENCY PLAN

## VOLUME I

### I. INTRODUCTION

#### 1. Purpose and Objective.

The purpose of this Area Contingency Plan is to provide an action plan to respond to a release and to promote timely and effective coordination among the entire spill community, including Federal, State, tribal, local, and private entities in response to a discharge or substantial threat of discharge.

#### 2. Authority and Applicability.

This ACP is required by Title IV, section 4202 of the Oil Pollution Act of 1990 (OPA), which amends Subsection (j) of Section 311 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321 (j)) as amended by the Clean Water Act (CWA) of 1977 (33 U.S.C. 1251 et seq).

This ACP is written in conjunction with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300) and Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, 42 U.S.C. 9601), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA).

**RECOMMENDATION:** Insert applicable State and local laws here. **Example:** For the State of Washington, this plan satisfies requirements set forth in the Water Pollution Control Act (Chapter 90.48 RCW) as amended by the Oil and Hazardous Substance Spills Act of 1990 (HB 2494) and the Oil Spill Prevention Act of 1991 (ESHB 1027). For the State of Oregon, this plan satisfies requirements set forth in Oregon Revised Statutes 468B.495-500. It is intended to be consistent with all other existing plans and supplement Annex O of the Oregon Oil and Hazardous Materials Emergency Response Plan.

#### 3.2: Scope.

The ACP applies to and is in effect for:

(1) discharges of oil into or on the navigable waters, on the adjoining shorelines to the navigable waters, into or on the waters of the exclusive economic zone, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (OPA section 4201); and

(2) releases into the environment of hazardous substances, and pollutants or contaminants which may present an imminent and substantial danger to public

health or welfare in the Areas defined in each chapter of Volume II, Section 1 ("Geographic Description") of this ACP.

This ACP expands upon the requirements set forth in the NCP, augments coordination with State and local authorities, and integrates existing State, local, and private sector plans for the Area.

4. Abbreviations.

Abbreviations as defined in the NCP are as follows:

Department and Agency Title Abbreviations:

ATSDR -- Agency for Toxic Substances and Disease Registry  
DOC -- Department of Commerce  
DOD -- Department of Defense  
DOE -- Department of Energy  
DOI -- Department of the Interior  
DOJ -- Department of Justice  
DOL -- Department of Labor  
DOS -- Department of State  
DOT -- Department of Transportation  
EPA -- Environmental Protection Agency  
FEMA -- Federal Emergency Management Agency  
GSA -- General Services Administration  
HHS -- Department of Health and Human Services  
NIOSH -- National Institute for Occupational Safety and Health  
NOAA -- National Oceanic and Atmospheric Administration  
RSPA -- Research and Special Programs Administration  
USCG -- United States Coast Guard  
USDA -- United States Department of Agriculture

(Note: Reference is made in the NCP to both the Nuclear Regulatory Commission and the National Response Center. In order to avoid confusion, the NCP and this ACP will spell out Nuclear Regulatory Commission and use the abbreviation "NRC" only with respect to the National Response Center.)

Operational Abbreviations:

ARARs - Applicable or Relevant and Appropriate Requirements  
CERCLIS -- CERCLA Information System  
CRC -- Community Relations Coordinator  
CRP -- Community Relations Plan  
ERT -- Environmental Response Team  
FCO -- Federal Coordinating Officer  
FS -- Feasibility Study  
HRS -- Hazard Ranking System  
LEPC -- Local Emergency Planning Committee

NCP -- National Oil and Hazardous Substances Pollution Contingency Plan  
NPL -- National Priorities List  
NRC -- National Response Center  
NRT -- National Response Team  
NSF -- National Strike Force  
O&M -- Operation and Maintenance  
OSC -- On-Scene Coordinator  
PA -- Preliminary Assessment  
PLAT -- Public Information Assist Team  
RA -- Remedial Action  
RAT -- Radiological Assistance Team  
RCP -- Regional Contingency Plan  
RD -- Remedial Design  
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  
SSC -- Scientific Support Coordinator

Other applicable abbreviations include the following:

AC -- Area Committee  
ACP -- Area Contingency Plan  
CAMEO -- Computer-Aided Management of Emergency Operations (a software program)  
CERCLA -- Comprehensive Environmental Response, Compensation, and Liability Act of 1980  
COTP -- Captain of the Port (USCG)  
CWA -- Clean Water Act (33 USC 1321)  
DRAT -- District Response Advisory Team (USCG)  
FOSC -- Federal On-Scene Coordinator  
FWPCA -- Federal Water Pollution Control Act  
HAZMAT -- Hazardous Materials  
ICS -- Incident Command System  
LOSC -- Local On-Scene Coordinator  
PRP -- Potentially Responsible Party  
SARA -- Superfund Amendments and Reauthorization Act of 1986  
SOSC -- State On-Scene Coordinator  
Title III -- The Emergency Planning and Right-to-Know Act of 1986 (Title III of SARA)  
USFWS -- United States Fish and Wildlife Service

Area-specific acronyms and abbreviations are listed in each chapter of Volume II, Section II ("Organization"), Appendix A.

5. Definitions.

Definitions contained herein, unless otherwise specified, are the same as those contained in the NCP, Section 300.5 ("Definitions") and OPA section 1001 ("Definitions").

Additional definitions are listed below:

**Area Committee:** As defined by sections 311(a)(18) and (j)(4) of CWA, as amended by OPA, means the entity appointed by the President consisting of members from Federal, State, and local agencies with responsibilities that include preparing an Area Contingency Plan for the area designated by the President. The Area Committee may include ex-officio (i.e., non-voting) members (e.g., industry and local interest groups).

**Area Contingency Plan:** As defined by sections 311(a)(19) and (j)(4) of CWA, as amended by OPA, means the plan prepared by an Area Committee, that in conjunction with the NCP, shall address the removal of a discharge including a worst-case discharge and the mitigation or prevention of 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.

**Coastal waters:** The waters of the coastal zone (except for the Great Lakes and specified ports and harbors on inland rivers). Precise boundaries are identified in USCG/EPA agreements, Federal Regional Contingency Plans and Area Contingency Plans.

**Contingency plan:** (1) A document used by Federal, State, and local agencies to guide their planning and response procedures regarding spills of oil, hazardous substances, or other emergencies; (2) a document used by industry as a response plan to spills of oil, hazardous substances, or other emergencies occurring upon their transportation vehicle, or at their facilities.

**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) 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; and any other surface water, ground water, drinking water supply, land surface and subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

**Environmentally sensitive area:** An especially delicate or sensitive natural resource that requires protection in the event of a pollution incident. Designations of areas considered to be sensitive can be found in Appendix D of the proposed Facility Response Plan rule. In addition to this definition, Area Committees may include any areas determined to be "sensitive" for OPA planning purposes.

**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.

**Hazardous substance:** Any nonradioactive solid, liquid, or gaseous substance which when uncontrolled, may be harmful to human health or the environment. The precise legal definition can be found in section 101(14) of CERCLA.

**Inland waters:** Those waters of the United States in the inland zone, waters of the Great Lakes, Lake Champlain, and specified ports and harbors on inland rivers.

**Inland zone:** The environment inland of the coastal zone excluding the Great Lakes, Lake Champlain, and specified ports and harbors on inland rivers. The term inland zone delineates an area of Federal responsibilities for response actions. Precise boundaries are determined by EPA/USCG agreements and identified in Federal Regional Contingency Plans.

**Local Emergency Planning Committee (LEPC):** A group of local representatives appointed by the State Emergency Response Commission (SERC) to prepare a comprehensive emergency plan for the local emergency planning district, as required by the Superfund Amendments and Reauthorization Act's Title III.

**National Pollution Funds Center (NPFC):** As defined by section 7 of Executive Order 12777, the NPFC is the entity established by the Secretary of the department in which the USCG is operating whose function is the administration of the Oil Spill Liability Trust Fund (OSLTF). This includes access to the OSLTF by Federal agencies, States, and designated trustees for removal actions and initiation of natural resource damage assessments, as well as claims for removal costs and damages.

**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, oil mixed with ballast or bilge water, vegetable oil, animal oil, coal oil, and oil mixed with wastes other than dredged spoil.

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

**On-Scene Coordinator (OSC):** The government official at an incident scene responsible for coordinating response activities.

**Regional Response Team (RRT):** The Federal response organization (consisting of representatives from selected Federal and State agencies) which acts as a regional body responsible for planning and preparedness before an oil spill occurs and for providing advice to the OSC in the event of a major or substantial spill.

**State Emergency Response Commission (SERC):** A group of officials appointed by the State governor to implement the provisions of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). The SERC coordinates and supervises the work of the Local Emergency Planning Committees and reviews local emergency plans annually.

**RECOMMENDATION:** Insert definitions from your State and local plans in this section. Under definition of State lead agency, list the State branch within the State government whose authority and responsibilities are to respond to oil spills and releases of hazardous substances. **Example:** Washington Department of Ecology (WDOE), the lead State agency for Washington cleanup response. Oregon Department of Environmental Quality (ODEQ), the lead agency for Oregon cleanup response. Idaho Department of Environmental Quality (IDEQ), the lead agency for Idaho cleanup response.

## II. RESPONSIBILITY AND ORGANIZATION FOR RESPONSE

### 1. Duties of President Delegated to Federal Agencies.

In Executive Order 12777, the President delegated certain functions and responsibilities vested in him by the OPA to the Administrator of EPA for the inland zone and the Commandant of the USCG through the Secretary of Transportation for the coastal zone. These functions and responsibilities include designating Areas, appointing Area Committee members, determining the information to be included in ACPs, and reviewing and approving ACPs. For the coastal zones and inland zones, respectively, the USCG and EPA shall assign a Federal OSC to each Area to carry out these functions and responsibilities.

### 2. General Organization Concepts.

The Area Committees, in conjunction with the National Response Team (NRT) and the Regional Response Teams (RRTs), serve a spill planning and preparedness role within the National Response System. Each Area Committee shall be comprised of Federal, State and local agency personnel. Under the direction of the Federal OSC, each Area Committee for its assigned Area shall:

- (a) Prepare and submit for approval an ACP;
- (b) Work with State and local officials to integrate contingency planning and response efforts; and
- (c) Work with State and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

### 3. National Response Team.

National planning and coordination is accomplished through the NRT. The NRT consists of representatives from the USCG, EPA, FEMA, DOD, DOE, USDA, DOC, HHS, DOI, DOJ, DOL, DOT, DOS, GSA, and Nuclear Regulatory Commission. For details, see the NCP at 40 CFR 300.175(b).

4. Regional Response Team.

Regional planning and coordination of preparedness and response actions is accomplished through the RRT. The RRT agency membership parallels that of the NRT but also includes State and local representation.

5. Area Committee.

Area planning and coordination of preparedness and response actions is accomplished through the Area Committee. The Area Committee membership includes Federal, State, and local representation. Members of the Area Committee are appointed by the Regional Administrator.

6. On-Scene Coordinators: General Responsibilities

The NCP at 40 CFR part 300.120 describes the general responsibilities of OSCs. The OSC directs response efforts and coordinates all other efforts at the scene of a discharge or release. OSCs are predesignated by the Regional or district head of the lead agency. EPA and the USCG predesignate OSCs for all areas in each region except for any facility or vessel under the jurisdiction, custody, or control of other Federal agencies. The USCG designates Federal OSCs for the coastal zones, while EPA designates Federal OSCs for the inland zones.

Under OPA, the Federal OSC has responsibilities related to the establishment of Area Committees and the development of ACPs. The Federal OSC chairs the Area Committee and provides general direction and guidance for the committee as it prepares the ACP.

7. Notification and Communications.

The National Response Center (NRC) is the national communications center for handling activities related to response actions. The NRC acts as the single point of contact for all pollution incident reporting. Notice of an oil discharge or release of a hazardous substance in an amount equal to or greater than the reportable quantity must be made immediately in accordance with 33 CFR part 153, subpart B, and 40 CFR part 302, respectively. Notification shall be made to the NRC Duty Officer, HQ USCG, Washington, DC, telephone (800) 424-8802 or (202) 267-2675. All notices of discharges or releases received at the NRC will be relayed immediately by telephone to the appropriate predesignated Federal OSC.

For each Area, a detailed Notification List for Federal, State, and local contacts is contained in section 2 of Volume II of the ACP.

8. Determinations to Initiate Response and Special Conditions.

OPA section 4201 states that the President shall, in accordance with the NCP and any appropriate ACP, ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge of oil or hazardous

substance. In carrying out this mandate, the President may direct or monitor all Federal, State, and private actions to remove a discharge. The NCP at 40 CFR 300.130 states that EPA or the USCG is authorized to act for the United States to take response measures deemed necessary to protect public health or welfare or the environment from discharges of oil or releases of hazardous substances, pollutants, or contaminants except with respect to such releases on or from vessels or facilities under the jurisdiction, custody, or control of other Federal agencies. The assigned Federal OSC may initiate a response. Upon approval by the Federal OSC, State or local governments may initiate a government response. Initiation of a response by private parties is addressed in Section VIII below.

9. Response Operations.

To the extent practicable, response operations shall be consistent with Federal, State, and local plans, including ACPs and facility response plans.

The OSC shall direct response efforts and coordinate all other efforts at the scene of a discharge or release. As part of the planning and preparation for response, the OSCs are predesignated by the Regional or district head of the lead agency.

The OSC, consistent with §§ 300.120 and 300.125 of the NCP, shall direct response efforts and coordinate all other efforts at the scene of a discharge or release. As part of the planning and preparation for response, the OSCs shall be predesignated by the Regional or district head of the lead agency.

The first Federal official affiliated with an NRT member agency to arrive at the scene of a discharge or release should coordinate activities under the ACP and is authorized to initiate, in consultation with the OSC, any necessary actions normally carried out by the OSC until the arrival of the predesignated OSC. This official may initiate Federal Fund-financed actions only as authorized by the OSC or, if the OSC is unavailable, the authorized representative of the lead agency.

The OSC shall, to the extent practicable, collect pertinent facts about the discharge or release, such as its source and cause; the identification of potentially responsible parties; the nature, amount, and location of discharged or released materials; the probable direction and time of travel of discharged or released materials; the pathways to human and environmental exposure; the potential impact on human health, welfare, and safety and the environment; the potential impact on natural resources and property which may be affected; priorities for protecting human health and welfare and the environment; and appropriate cost documentation.

The OSC's efforts shall be coordinated with other appropriate Federal, State, local, and private response agencies. OSCs may designate capable persons from Federal, State, or local agencies to act as their on-scene representatives. State and local governments, however, are not authorized to take actions under Subparts D and E of the NCP that involve expenditures of CWA section 311(k) or CERCLA funds unless an appropriate contract or cooperative agreement has been established.

The OSC should consult regularly with the RRT in carrying out the NCP and ACP and keep the RRT informed of activities under the NCP and ACP.

The OSC shall advise the support agency as promptly as possible of reported releases.

The OSC shall immediately notify FEMA of situations potentially requiring evacuation, temporary housing, or permanent relocation. In addition, the OSC shall evaluate incoming information and immediately advise FEMA of potential major disaster situations.

In those instances where a possible public health emergency exists, the OSC should notify the HHS representative to the RRT. Throughout response actions, the OSC may call upon the HHS representative for assistance in determining public health threats and call upon the Occupational Safety and Health Administration (OSHA) and HHS for advice on worker health and safety problems.

All Federal agencies should plan for emergencies and develop procedures for dealing with oil discharges and releases of hazardous substances, pollutants, or contaminants from vessels and facilities under their jurisdiction. All Federal agencies, therefore, are responsible for designating the office that coordinates response to such incidents in accordance with the NCP and applicable Federal regulations and guidelines.

The OSC shall promptly notify the trustees for natural resources of discharges or releases that are injuring or may injure natural resources under their jurisdiction. The OSC shall seek to coordinate all response activities with the natural resource trustees.

Where the OSC becomes aware that a discharge or release may adversely affect any endangered or threatened species, or result in destruction or adverse modification of the habitat of such species, the OSC should consult with the DOI or DOC (NOAA).

The OSC is responsible for addressing worker health and safety concerns at a response scene, in accordance with § 300.150 of the NCP.

The OSC shall submit pollution reports to the RRT and other appropriate agencies as significant developments occur during response actions, through communications networks or procedures agreed to by the RRT and covered in the RCP.

OSCs should ensure that all appropriate public and private interests are kept informed and that their concerns are considered throughout a response, to the extent practicable, consistent with the requirements of § 300.155 of the NCP.

**RECOMMENDATION:** Add relevant language from your RCP regarding response operations.

10. Multi-Area Responses.

**RECOMMENDATION:** Reference your RCP's discussion of multi-Regional responses in this section, changing references from Region to Area. Include language regarding multi-Regional responses as well. **Example:** There shall only be one OSC at any time during the course of response operations. If a pollution incident transects or moves across Federal, Regional, or local boundaries, the response mechanism of each [Region] Area will be activated and authority will rest with the predesignated OSC of the area most impacted or vulnerable to the greatest threat by the incident. If there is disagreement as to the area most impacted, then the RRT, in consultation with the natural resource trustees and the Scientific Support Coordinator, will decide who the OSC should be. The NRT shall designate the OSC if members of one RRT or two adjacent RRTs are unable to agree on the designation.

11. Special Teams and Other Assistance Available to OSCs.

Strike Teams, collectively known as the National Strike Force (NSF), are established by the USCG and located on the Atlantic, Pacific, and Gulf coasts. The Strike Teams provide specialized assistance to the OSC. The NSF may be accessed through the National Response Center at (800) 424-8802.

Strike Teams can provide communications support, advice, and assistance for oil and hazardous substances removal. These teams also have knowledge of shipboard damage control, are equipped with specialized containment and removal equipment, and have rapid transportation available. When possible, the Strike Teams will provide training for emergency task forces to support OSCs and assist in the development of RCPs and ACPs.

The OSC may request assistance from the Strike Teams. Requests for a team may be made directly to the Commanding Officer of the appropriate team, the USCG member of the RRT, the appropriate USCG Area Commander, or the Commandant of the USCG through the NRC.

Each USCG OSC manages emergency task forces trained to evaluate, monitor, and supervise pollution responses. Additionally, they have limited "initial aid" response capability to deploy equipment prior to the arrival of a cleanup contractor or other response personnel.

The Environmental Response Team (ERT) is established by EPA in accordance with its disaster and emergency responsibilities. The ERT has expertise in treatment technology, biology, chemistry, hydrology, geology, and engineering.

The ERT can provide access to special decontamination equipment for chemical releases and advice to the OSC in hazard evaluation; risk assessment; multimedia sampling and analysis program; on-site safety, including development and implementation plans; cleanup techniques and priorities; water supply decontamination and protection;

application of dispersants; environmental assessment; degree of cleanup required; and disposal of contaminated material.

The ERT also provides both introductory and intermediate level training courses to prepare response personnel.

OSC or RRT requests for ERT support should be made directly to the Edison, New Jersey office. The 24-hour phone number for ERT is (908) 321-6660.

Scientific support coordinators (SSCs) are available, at the request of OSCs, to assist with actual or potential responses to discharges of oil or releases of hazardous substances, pollutants, or contaminants. The SSC will also provide scientific support for the development of RCPs and ACPs. Generally, SSCs are provided by NOAA in coastal and marine areas, and by EPA (ERT) in the inland zone. In the case of NOAA, SSCs may be supported in the field by a team providing, as necessary, expertise in chemistry, trajectory modeling, natural resources at risk, and data management. NOAA SSCs may be contacted through the following phone number: (206) 526-6317.

During a response, the SSC serves under the direction of the OSC and is responsible for providing scientific support for operational decisions and for coordinating on-scene scientific activity. Depending on the nature of the incident, the SSC can be expected to provide certain specialized scientific skills and to work with governmental agencies, universities, community representatives, and industry to compile information that would assist the OSC in assessing the hazards and potential effects of discharges and releases and in developing response strategies.

If requested by the OSC, the SSC will serve as the principal liaison for scientific information and will facilitate communications to and from the scientific community on response issues. The SSC, in this role, will strive for a consensus on scientific issues surrounding the response but will also ensure that any differing opinions within the community are communicated to the OSC.

The SSC will assist the OSC in responding to requests for assistance from State and Federal agencies regarding scientific studies and environmental assessments. Details on access to scientific support shall be included in the RCPs and ACPS.

For marine salvage operations, OSCs with responsibility for monitoring, evaluating, or supervising these activities should request technical assistance from DOD, the Strike Teams, or commercial salvors as necessary to ensure that proper actions are taken. Marine salvage operations generally fall into five categories: afloat salvage; offshore salvage; river and harbor clearance; cargo salvage; and rescue towing. Each category requires different knowledge and specialized types of equipment. The complexity of such operations may be further compounded by local environmental and geographic conditions. The nature of marine salvage and the conditions under which it occurs combine to make such operations imprecise, difficult, hazardous, and expensive. Thus, responsible parties or other persons attempting to perform such operations without adequate knowledge, equipment, and experience could aggravate, rather than relieve, the situation.

Radiological Assistance Teams (RATs) have been established by EPA's Office of Radiation Programs (ORP) to provide response and support for incidents or sites containing radiological hazards. Expertise is available in radiation monitoring, radionuclide analysis, radiation health physics, and risk assessment. Radiological Assistance Teams can provide on-site support including mobile monitoring laboratories for field analyses of samples and fixed laboratories for radiochemical sampling and analyses. Requests for support may be made 24 hours a day to the Radiological Response Coordinator in the EPA Office of Radiation Programs. Assistance is also available from the Department of Energy and other Federal agencies.

The USCG Public Information Assist Team (PIAT) is available to assist OSCs and regional or district offices to meet the demands for public information and participation. Its use is encouraged any time the OSC requires outside public affairs support. Requests for the PIAT may be made through the NRC.

The National Pollution Funds Center (NPFC) is responsible for implementing those portions of the OPA that have been delegated to the USCG. The NPFC is responsible for addressing funding issues arising from discharges and threats of discharges of oil. The phone number for the NPFC is (703) 235-4756.

## 12. Worker Health and Safety.

Response actions under the ACP will comply with the provisions for response action worker safety and health in 29 CFR 1910.120.

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

In a response taken under the ACP by a lead agency, an OSH 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 ACP should contain assurances that the contractor at the response site will comply with this program and with any applicable provisions of the OSH Act (OSHA) and State OSH laws.

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.

Requirements, standards, and regulations of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (OSH Act) and of State laws with plans approved under section 18 of the OSH Act (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 ACP 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.

Health and safety limitations shall apply during Incident Command System emergencies.

**RECOMMENDATION:** Identify State lead agencies for OSHA, if applicable. **Example:** The State is the lead OSHA representative in Washington and Oregon, but not in Idaho.

In addition, your ACP should state that all persons at the response scene must have received OSHA training and certification.

13. Public Information and Community Relations.

During an incident, it is imperative to give the public prompt and accurate information on the nature of the incident and the actions underway to mitigate the damage. OSCs 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. At the discretion of the OSC, an information coordination center should be established or a person designated to assist in this effort.

**RECOMMENDATION:** Reference agency directives for Federal, State and local agencies in this section.

14. Documentation and Cost Recovery.

Section 300.58 of the NCP outlines the types of funds which may be available to remove certain oil and hazardous substances discharges. For releases of oil or 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 ACP 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 NPFC. Copies can then be forwarded to the NRT, members of the RRT, and others as appropriate.

15. OSC Reports.

[RESERVED]

16. Federal Agency Participation.

Federal agencies listed in the NCP at 40 CFR 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. Federal agencies may be called upon by an OSC during response planning and implementation to provide assistance in their respective areas of expertise. Refer to the NCP at 40 CFR sections 300.170 and 300.175 for a description of agency capabilities and authorities.

Under OPA section 4201(b), the United States Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) also have duties with respect to Federal response actions following, or in prevention of, discharges of oil or releases of hazardous substances. These two agencies, and other interested parties (including State fish and wildlife conservation officials), should be consulted in the preparation of a fish and wildlife response plan.

17. State and Local Participation in Response.

The NCP at 40 CFR 300.180 describes generally State and local participation in response. Appropriate local and State officials will be identified and participate as part of the response structure as provided in Volume II of the ACP under "Organization".

**RECOMMENDATION:** Request State and local governments to identify the State and local roles, respectively, and include a description of these roles in Volume II, Section II of the ACP ("Organization").

18. Non-governmental Participation.

Industry groups, academic organizations, and others are encouraged to commit resources for response operations. Specific commitments should be listed in the ACP, RCP and OSC contingency plans.

This plan anticipates and encourages representation from industry, landowners, volunteer groups, and other stakeholders. Non-governmental participants will have an ex-officio role (see OPA, section 4202(a)).

**RECOMMENDATION:** Lift specifics from RCP. Reference Volume II of your ACP for Area Committee membership (official and non-official).

III. **PLANNING AND PREPAREDNESS**

Flowcharts and diagrams of the descriptions of planning and coordination structure, Federal contingency plans, and Title III local emergency response plans are

located in the NCP. The Area Committee should be added to the flowcharts and diagrams where appropriate. The Area Committee serves as a planning and preparedness body to support the Federal OSC and is encouraged to include membership from Federal, State, and local governments and private entities (as ex-officio members). Area Committees are not response support bodies, and are not required to participate in response efforts, but should be comprised of response personnel.

1. Planning and Coordination Structure.

National. As described in § 300.110 of the NCP, the NRT is responsible for national planning and coordination.

Regional. As described in § 300.115 of the NCP, the RRTs are responsible for regional planning and coordination.

Area. Section 4202(a) of the OPA amends section 311(j) of the CWA to require that the Area Committee, under the direction of the Federal OSC for its Area, shall be responsible for: (1) preparing an Area Contingency Plan for its Area; (2) working with State and local officials to enhance the contingency planning of those officials and to assure preplanning of joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife; and (3) working with State and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

State. As provided by sections 301 and 303 of SARA, the State emergency response commission (SERC) of each State, appointed by the Governor, is to designate emergency planning districts, appoint local emergency planning committees (LEPCs), supervise and coordinate their activities, and review local emergency response plans. The SERC also is to establish procedures for receiving and processing requests from the public for information generated by Title III reporting requirements and to designate an official to serve as coordinator for information.

Local. As provided by sections 301 and 303 of SARA, emergency planning districts are designated by the SERC in order to facilitate the preparation and implementation of emergency plans. Each LEPC is to prepare a local emergency response plan for the emergency planning district and establish procedures for receiving and processing requests from the public for information generated by Title III reporting requirements. The LEPC is to appoint a chair and establish rules for the LEPC. The LEPC is to designate an official to serve as coordinator for information.

2. Federal contingency plans.

There are three levels of Federal contingency plans: the NCP, RCPs, and ACPs. These plans are available for inspection at EPA regional offices or USCG district offices. Addresses and telephone numbers for these offices may be found in the United States Government Manual, issued annually, or in local telephone directories.

The National Contingency Plan. The purpose and objectives, authority, and scope of the NCP are described in §§ 300.1 through 300.3.

Regional Contingency Plans. The RRTs, working with the States, shall develop Federal RCPs for each standard Federal region, Alaska, Oceania in the Pacific, and the Caribbean to coordinate timely, effective response by various Federal agencies and other organizations to discharges of oil or releases of hazardous substances, pollutants, or contaminants. RCPs shall, as appropriate, include information on all useful facilities and resources in the region, from government, commercial, academic, and other sources. To the greatest extent possible, RCPs shall follow the format of the NCP and coordinate with State emergency response plans, ACPs, which are described in § 300.210(c) of the NCP, and Title III local emergency response plans, which are described in § 300.215 of the NCP. Such coordination should be accomplished by working with the SERCs in the region covered by the RCP. RCPs shall contain lines of demarcation between the inland and coastal zones, as mutually agreed upon by USCG and EPA.

Area Contingency Plans. In order to provide for a coordinated, effective Federal, State, and local response, each OSC shall direct the Area Committee to develop an ACP for response in the Area. ACPs shall be developed for all Areas, because OSCs in the designated Areas have responsibility for discharges and releases, which often exceed the jurisdiction and capabilities of other responders. Boundaries for Areas are determined by EPA Regional Administrators for the inland zone; Areas are the COTP areas for the coastal zone. Jurisdictional boundaries of local emergency planning districts established by States, described in § 300.205(c) of the NCP, shall, as appropriate, be considered in determining geographical boundaries of the designated Areas. The designated Areas may include several such local emergency planning districts, or parts of such districts. In developing the ACP, OSCs shall direct the Area Committees to coordinate with SERCs and LEPCs in the affected Area.

The ACP shall provide for a well-coordinated response that is integrated and compatible with all appropriate response plans of State, local, and other non-Federal entities, and especially with Title III local emergency response plans, or in the Area Committee's area of responsibility. The ACP shall, as appropriate, identify the probable locations of discharges or releases; the available resources to respond to multi-media incidents; where such resources can be obtained; waste disposal methods and facilities consistent with local and State plans developed under the Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.; and a local structure for responding to discharges or releases.

The Federal lead agency, EPA or USCG, shall periodically conduct drills of removal capability, without prior notice, in areas for which ACPs are required and under relevant tank vessel and facility response plans. The drills may include participation by Federal, State, and local agencies, the owners and operators of vessels and facilities in the area, and private industry.

ACPs should integrate approved vessel, offshore facility, onshore facility, pipeline, and bulk transportation response plans. A detailed description of the relationship between ACPs and these response plans is provided in Volume II of the ACP under the section on "Organization".

3. Title III local emergency response plans.

The regulations that implement SARA Title III are codified at 40 CFR Part 355.

Each LEPC is to prepare an emergency response plan in accordance with section 303 of SARA Title III and review the plan once a year, or more frequently as changed circumstances in the community or at any subject facility may require. Such Title III local emergency response plans should be closely coordinated with applicable Area contingency plans and State emergency response plans. To assure coordination with the SARA Title III program, it is recommended that the Area Committee include appropriate LEPC or other Title III representation.

IV. OPERATIONAL RESPONSE PHASES FOR OIL REMOVAL

1. Response.

The phases of operational response for oil, including: (1) discovery and notification, (2) preliminary assessment and initiation of action, (3) containment, countermeasures, cleanup, and disposal, and (4) documentation and cost recovery, are outlined in the NCP (see 40 CFR sections 300.300 - 300.320). The relationship of the Federal agencies (RRT) is described in the RCP. A detailed description of the relationships between Federal, State, and local responding organizations is detailed in Volume II of the ACP.

The OPA provides additional authority for carrying out a response. Under section 4201 of the OPA, the OSC as the President's designate may:

- (1) remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;
- (2) direct or monitor all Federal, State, and private actions to remove a discharge; and
- (3) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

Furthermore, if a 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 shall direct all Federal, State, and private actions to remove the discharge or to mitigate or prevent the threat of the discharge.

2. Fish and Wildlife Response Plan.

OPA section 4201(b) amends subsection (d) of section 311 of the FWPCA (33 U.S.C. 1321(d)) to include a fish and wildlife response plan, developed in consultation with the USFWS, NOAA, and other interested parties (including State fish and wildlife

conservation officials), for the immediate and effective protection, rescue, and rehabilitation of, and the minimization of risk of damage to, fish and wildlife resources and their habitat that are harmed or that may be jeopardized by a discharge.

See Volume II of the ACP for the Fish and Wildlife and Sensitive Environments Annex.

**RECOMMENDATION:** The Area Committees may establish subcommittees, to be chaired by the USFWS or its designee pursuant to its responsibilities under the OPA, for the purpose of identifying Federal agencies responsible for fish and wildlife protection as well as State, local, and private party responsibilities. USFWS should take an active and productive role in the development of the fish and wildlife annex to the ACPs.

The Area Committee should review existing language in the RCP concerning notification protocols and revise that language according to the new requirements of the OPA. The Area Committee should establish protocols to notify natural resource agencies when possible in the event that an environmentally sensitive area is at risk.

Prior identification and ranking of fish and wildlife resources, their habitat, and other sensitive environments at risk from any discharges that may occur may be undertaken in a three-phased approach. The first phase is to obtain the information on the identification of sensitive areas. The second phase is to map locations and the third phase is to rank these according to their sensitivity. Each phase is described below:

**Phase I:** Area Committees should use the definition of environmentally sensitive areas that is described in Appendix D of the proposed Facility Response Plan rule.

Appendix B of the pre-decisional ERD Publication Guidance for the Development of Facility Response Plans (Publ. #9360.6-10) provides a detailed description on where to obtain information on each type of environmentally sensitive area. The Area Committee should use this reference once the draft guidance document is finalized.

Each Area OSC should task contractor support to develop a list of information on environmentally sensitive areas for use by the Area Committee.

Additionally, the location of certain critical habitats for endangered species, and archeological sites may not be made available because of their "confidential nature." In such instances, ACPs should contain information on the location of counties which host these types of areas and

classify the entire county as a "critical habitat." In such an example, the critical habitat would be accounted for and the "confidentiality" of its precise location would be preserved.

**Phase II:** The information obtained in Phase I could be stored in a GIS-based system. USGS quad maps may be scanned to serve as a base data layer. The use of such a GIS-based system would be primarily for the "storage" of this information.

**Phase III:** A subworkgroup of the Area Committee should be formed to rank the locations according to its sensitivity, as well as the practicality of protection.

The following approach was developed by a Port Area Committee Sensitive Environments subworkgroup for one of the USCG COTP areas:

#### Approach to Protection Priorities

- A priority scheme designating sensitivity should be simple and flexible. Area Committees may adopt a three-level approach, ranking an area of concern as "A" (most sensitive), "B" (sensitive), and "C" (least sensitive). Factors such as environmental sensitivity, natural recovery period, ease of cleanup, and political influences would be considered.
- Priorities should be adjusted for all four seasons (e.g., a resource having an "A" priority in the spring could have a lower priority in the fall).
- The prioritization scheme should have a clearly stated rationale for putting most commercial facilities at the lowest protection priority. This rationale would devote limited resources to protection of public resources and recognize that vulnerable private facilities should be protected by their operators.

#### Qualifiers on Priorities

- In addition to the A, B, and C designations, a 1, 2, or 3 would be assigned to each resource as a measure of the ability to protect ("1" for most able to be protected; "3" for most difficult to protect). For example, although a long stretch of sandy beach may have a high priority, there may not be an

effective response technique to protect it. In such a case, the area would have an "A3" designation.

- Once identified and categorized, the ACP should include booming strategies and other physical containment techniques, as well as access points.
- The ACP should contain the rationale for the prioritization designations so as to avoid the appearance of being arbitrary.

The RRT could be tasked to formulate a mechanism for the incident-specific RRT to devise a ranking of environmental areas. This ranking should take place during a response and take into consideration real-time data such as spawning, pupping, and migratory bird patterns. The ranking of environmentally sensitive areas therefore would be flexible and could change during the course of a response action. Although seasonal considerations would be accounted for in the prioritization scheme, a real-time verification needs to be made based upon available data during the time of a discharge. For example, the prioritization designations for seasonal consideration would be ambiguous during the change in seasons, or if a particular season is unusually mild or harsh. A mild winter may see migratory birds earlier than expected, for example.

Area Committees should make use of a Shoreline Cleanup Manual template prepared for inland shorelines. This manual is currently being developed through combined efforts of the Region V RRT and the American Petroleum Institute. The manual would provide a template for each RRT or Area Committee to outline the preferred removal and countermeasure techniques recommended for each shoreline type within its jurisdiction.

All components of the Fish and Wildlife and Sensitive Environments Annex should be evaluated by the Area Committee in order to identify areas of potential conflict with the needs of removal operations. The Area Committee should then work to integrate resources and field activities so as to ensure cooperative and complementary efforts for the wildlife protection and removal operations.

Include your Fish and Wildlife and Sensitive Environments Annex in Volume II of your ACP.

### 3. Funding.

The OPA effectively permits many other Federal agencies, the States and Indian Tribes access to the OSLTF for a variety of purposes. The Fund can be used following an incident for removal actions, natural resource issues, and damages. Access to the Fund is

partially governed by section 6002 of the OPA. Local, State, tribal, or Federal agencies may get funding for removal costs through the Federal OSC or by submitting a claim.

There are six basic categories of recoverable damages: (1) natural resource damages; (2) damages to real and personal property, including the loss of such property; (3) loss of subsistence use of natural resources; (4) loss of tax and other revenues; (5) loss of profit or earning capacity; and (6) increased cost of public services. Three of these categories- natural resource damage, loss of tax and revenue, and increased cost of public services- are receivable only by governments. The other categories are receivable by private parties as well as by governments.

The NPFC may be accessed through the NRC, which is responsible for implementing the Fund.

#### Liability Limitations:

OPA sets limits of liability which apply to all removal costs and damages sought under the Act. The limits may be adjusted for inflation every 3 years based upon the consumer price index. The limits set by OPA are:

- Tank vessels: \$1,200 per gross ton; \$10 million if 3,000 gross tons or greater; \$2 million if less than 3,000 gross tons
- Any other vessel: \$600 per gross ton or \$500,000
- Offshore facility except Deep Water Ports: \$75,000,000
- Onshore facility and Deep Water Port: \$350,000,000

There are certain exceptions to these limits of liability. The limits do not apply:

- If the incident was caused by gross negligence or willful misconduct;
- If the incident was a result of a violation of applicable Federal safety, construction, or operating regulations; or
- If the responsible party fails to report the incident, provide all reasonable cooperation and assistance required by a response official or comply with an order issued by the Federal OSC.

In addition, OPA does not preempt State laws regarding liability, so in areas where State law places a higher limit, compensation for damages up to the liability limit established by the State law may be pursued.

#### State Access to the Fund:

Coast Guard Commandant Instruction 16465.1 defines documentation for enforcement and cost recovery under section 1012(d)(1) of the OPA (See *Technical*

*Operating Procedures for State Access Under Section 1012(d)(1) of the OPA* (Enclosure (1) to NPFCINST 16451.1). Details of requirements for documentation and cost recovery can be found in Volume II of the ACP.

OPA allows State governors to request payments of up to \$250,000 from the OSLTF for removal costs required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of a discharge, of oil. Requests are made directly to the Federal OSC who will determine eligibility. A State that anticipates the need to access the Fund must advise the NPFC in writing of the specific individual who is designated to make requests. The designation must include the person's name, address, telephone number, and title or capacity in which employed.

**RECOMMENDATION:** Attach details of requirements for documentation and cost recovery as an appendix to Volume II of the ACP.

Eligibility for State Access:

The OSC will determine whether the State has the ability to respond based on the criteria specified by the NPFC. If the State is capable, the OSC will contact the USCG case officer to authorize access to the Fund. If the OSC denies State access to the Fund, he/she will detail the reason for denying access (i.e., which of the criteria were not met by the State).

Required Recordkeeping:

The State shall maintain records of expenditures of fund monies including, but not limited to:

- Daily expenditures for each individual worker, giving the individual's name, title or position, activity performed, time on task, salary or hourly rate, travel costs, per diem, out-of-pocket or extraordinary expenses, and whether the individual is normally available for oil spill removal.
- Equipment purchased or rented each day, with the daily or hourly rate.
- Miscellaneous materials and expendables purchased each day.
- Daily contractor or consultant fees, including costs for their personnel and contractor-owned or rented equipment, as well as that of any subcontractor.

The State shall submit a copy of these records and a summary document, stating the total of all expenditures made, to the NPFC within 30 days after completion of the removal actions. A copy of these documents shall also be submitted to the Federal OSC.

State Access to Other Funds:

**RECOMMENDATION:** Insert brief description of State access to various State funds here, and provide detail in Volume II of the ACP.

V. HAZARDOUS SUBSTANCE RESPONSE

1. General.

The NCP (Subpart G, 300.400 - 300.435) establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA and CWA section 311(c).

In general, the OPA fund is available primarily for the cleanup actions of an oil spill. The purposes of the fund are outlined in section 1012 of the OPA.

CERCLA funds are available for the payment of removal costs for incidents involving hazardous substances, contaminants or pollutants.

2. Response.

The relationship of the Federal agencies (RRT) is described in the RCP. A detailed description of the relationships between Federal, State, and local responding organizations is detailed in Volume II of the ACP.

In most instances, response personnel, equipment and resources involved in oil response and in hazardous substances response are the same for a given Area. Application of fund monies from CERCLA or OPA may require evaluation after the cleanup based on the documentation obtained during the response. Additional detail regarding joint OPA and CERCLA response may be addressed in the RCP and in Volume II, Section II of the ACP.

For hazardous substance response only, see appropriate Title III, SERC and LEPC HAZMAT response plans.

VI. STATE AND LOCAL INVOLVEMENT IN RESPONSE

1. General.

Subpart F of the NCP addresses State involvement in hazardous substance response and is incorporated herein by reference.

**RECOMMENDATION:** Reference appropriate sections of your RCP. Request State and local representatives to identify oil and hazardous substance response capabilities. Details should be provided in Volume II of the ACP, under the section entitled "Response Resource Capabilities".

2. EPA/State/Local MOA (MOU).

The Federal, State, and local MOAs (MOUs) may establish the nature and extent of EPA and State and local interaction during EPA-lead and State- or local-lead responses (including Indian tribes). EPA shall enter into MOA (MOU) discussions if requested by a State or local government.

Refer to the NCP (at section 300.505) for a discussion of State MOAs (MOUs).

**RECOMMENDATION:** Reference RCP and any MOAs (MOUs) in place. The State must identify when the State will assume the lead in a response, and when a Federal agency will assume the lead. In addition, the local body must identify when it will assume the lead, and when the State will assume the lead.

3. Requirements for State Involvement in Enforcement Responses and Site Remedy.

**RECOMMENDATION:** This section should be marked "Reserved". Enforcement procedures and protocol will be developed and detailed in Volume II of the ACP, under the section entitled "Organization".

4. State Involvement in EPA/USCG-lead Enforcement Negotiations.

EPA/USCG shall notify States of response action negotiations to be conducted by EPA/USCG with potentially responsible parties during each fiscal year.

The State must notify EPA/USCG of such negotiations in which it intends to participate.

The State is not foreclosed from signing a consent decree if it does not participate substantially in the negotiations.

**RECOMMENDATION:** Negotiate with USCG. You may also include detail in Volume II of the ACP.

5. State Involvement in Removal Actions.

For Fund reimbursement, the State must fulfill requirements established by the NPFC including PRP determination and documentation requirements.

**RECOMMENDATION:** Detail Fund requirements in Volume II. This paraphrasing will require discussion with USCG Districts.

VII. TRUSTEES FOR NATURAL RESOURCES

The OSC shall ensure that the trustees for natural resources are promptly notified of discharges. The OSC shall coordinate all response activities with the affected natural resource trustees and shall consult with the affected trustees on the appropriate removal

action to be taken. Where the OSC becomes aware that a discharge may affect any endangered or threatened species, or their habitat, the OSC shall consult with the appropriate natural resource trustee.

#### Designation of Trustees:

The President is required to designate in the NCP those Federal officials who are to act on behalf of the public as trustees for natural resources. Federal officials so designated will act pursuant to section 107(f) of CERCLA, section 311(f)(5) of the CWA, and section 1006 of the OPA. As defined in section 1001 of the OPA, natural resources includes 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).

The following individuals shall be the designated trustee(s) for general categories of natural resources: the Secretary of Commerce; the Secretary of the Interior; the Secretary for the land managing agency for natural resources located on, over, or under land administered by the United States (DOI, USDA, DOD, and DOE); and the head of authorized agencies for the management or protection of natural resources located in the United States but not otherwise described in this section or in the NCP.

Section 300.600 of the NCP designates the natural resources for which each Federal trustee is responsible, and is incorporated herein by reference.

Pursuant to section 1006 of the OPA, the governor of each State shall designate State and local officials who may act on behalf of the public as trustee for natural resources and shall notify the President of the designation.

Under section 1006 of the OPA, the governing body of any Indian tribe shall designate tribal officials who may act on behalf of the tribe or its members as trustee for natural resources and shall notify the President of the designation.

The head of any foreign government may designate the trustee who shall act on behalf of that government as trustee for natural resources.

#### Functions of Trustees:

Under section 1006(c) of the OPA, natural resource trustees shall:

- Assess natural resource damages for the natural resources under their trusteeship; and
- Develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

In addition, the Federal trustees may, upon request of and reimbursement from a State or Indian tribe and at the Federal OSC's discretion, assess damages for the natural resources under the State's or tribe's trusteeship.

**RECOMMENDATION:** Provide details in Volume II of the ACP.

## VIII. PARTICIPATION BY OTHER PERSONS

NCP subpart H addresses participation by other persons and is incorporated herein by reference.

Participation by private parties in both planning and response is encouraged. PRPs are encouraged to undertake response actions in an adequate and timely manner, based on the judgment of the FOSC.

Landowners are also encouraged to participate in planning and response. The landowner is a valuable resource due to his/her local knowledge. The landowner, to the extent practical and based on the Federal OSC's judgment, may be included in the planning and response activities, under direction of the Federal OSC. Landowners that provide access to or are affected by a spill have jurisdiction over their lands, and warrant special consideration by the responding agency or unified command. In the event that an incident poses, or has the potential to pose an imminent threat to human health and/or the environment, it is in the best interest of the landowner to provide access to a Federal OSC.

In addition, OPA authorizes filing of claims against the OSLTF by other persons. To file a claim, contact the Director, NPFC, Suite 1000, 4200 Wilson Boulevard, Arlington, VA 22203-1804, telephone (703) 235-4756.

Detail on Area Committee non-governmental, ex-officio participants (e.g., industry, volunteer groups, landowners, etc.) is provided in Volume II of the ACP.

**RECOMMENDATION:** Insert appropriate language from RCP where applicable. **Example:** In a pollution incident, volunteer groups may provide their services for waterfowl cleaning and rehabilitation. The RRT DOI representative (through the U.S. Fish and Wildlife Service) and the State RRT representative (through the appropriate wildlife agency) shall arrange for and coordinate these groups. Any scientific support from other Federal and State agencies or private organizations will be considered by the Scientific Support Coordinator (SSC) working with the OSC. The SSC will coordinate non-Federal groups from the scientific community and representatives from commercial interests to assure that their research needs and products receive adequate consideration. The SSC will coordinate these activities with the Fish and Wildlife Service and State RRT representative.

**IX. ADMINISTRATIVE RECORD FOR SELECTION OF RESPONSE ACTION**

Subpart I of the NCP addresses administrative recordkeeping for selection of response actions and is incorporated herein by reference to the extent that it applies to emergency response.

**X. CHEMICAL COUNTERMEASURES**

Subpart J of the NCP addresses the use of dispersants and other chemical countermeasures, and is incorporated herein by reference. In addition, section 4202(a) of the OPA requires that each Area Committee work with State and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices. The process for expediting decisions regarding the use of dispersants and other chemical countermeasures on an Area basis are identified in Volume II of the ACP, section IV ("Chemical Countermeasures").

**XI. FEDERAL FACILITIES**

[RESERVED]



# AREA CONTINGENCY PLAN

## VOLUME II

### I. GEOGRAPHIC DESCRIPTION

Describes boundaries, special economic and environmental areas, natural resources, and topographic information, cross-referencing to databases and appendices as necessary. Includes vulnerabilities and hazards. Incorporates the Fish and Wildlife and Sensitive Environments Plan developed by the Area Committee.

This section of Volume II of the ACP includes the following annexes from USCG ACPs (Refer to the Area Contingency Plan Format in USCG Commandant Notice 16471):

- Geographic Boundaries (Annex A, Appendix IV, Tabs A-C)
- Area of Responsibility (Annex E, Appendix I)
- Area Spill History (Annex E, Appendix III)
- Sensitive Areas (Annex E, Appendix V) [see recommendations for Fish and Wildlife and Sensitive Environments Plan on pages 15-20]
- Disposal (Annex E, Appendix VI)

### II. ORGANIZATION

Describes roles and responsibilities of parties under the Plan (PRP, Federal, State, local, tribe, landowner). Area Committees should reference this information from facility response plans.

This section includes the following annexes from USCG ACPs:

- Response System and Policies (Annex A, Appendix V, Tabs C-H)
- Planning Organization (Annex B, Appendix I)
- Response Organization (Annex B, Appendix II)
- Operational Administration (Annex C)
- Area Committee Organization (Annex E, Appendix II)
- Operations (Annex J)
- Applicable MOAs/MOUs (Annex K)

### III. RESPONSE RESOURCE CAPABILITIES

Includes equipment and personnel (PRP, Federal, State, local, public sector, private sector). This section may take the form of a database, which should be referenced in this volume.

Cross-reference to the following annexes from USCG ACPs:

- Personnel and Information Resources (Annex F, Appendix III)
- Special Forces (Annex F, Appendix IV)
- Equipment (Annex F, Appendix I)

### IV. CHEMICAL COUNTERMEASURES

Includes decisionmaking and preapproval regarding uses of certain chemicals. Cross-reference to USCG annex regarding Chemical Countermeasures (Annex G).

The Workgroup recommends adding a reference to the appropriate sections of the RCP and the Dispersant Employment Evaluation Plan (DEEP), if available.

Reference expedited methods for use of dispersants and other chemicals.

### V. RELATIONSHIP TO OTHER PLANS

The Workgroup's conceptual view of the ACP's relationship to other plans is as follows:

Intragovernmental planning at the Federal, State and local level coordinates response and planning at the respective level. This plan incorporates planning at all levels and integrates the Federal, State and local response under the plans for the given Area listed in an attachment to the ACP.

This section also should reference facility response plans.

### VI. SCENARIOS

It is the opinion at the Workgroup level that the OSC is not required to prepare a worst-case discharge scenario for the ACP. However, the Workgroup believes it is appropriate to describe the strategies and tactics that will be followed for potential releases or classes of potential releases (e.g., derailments, bombings, etc.) in the Area.

The Workgroup sought to clarify its understanding that worst-case is not volume-related; rather, it is facility- and vessel-related. Consequently, this section should include a list of major facilities with a description of each facility's worst-case scenario.

In addition, the Area Committee, under the direction of the OSC, should prepare a shortfall analysis to be presented to the lead agency. Incorporate the shortfall analysis in this section of Volume II of your ACP.

## VII AREA INVENTORY

This section should include an inventory of facilities.

### APPENDIX 1

Area-Specific Abbreviations and Definitions

### APPENDIX 2

Other appendices as determined by the Area Committee

## RECORD OF AMENDMENTS

Volume II should include a Record of Amendments at the back of the document, which lists: date submitted, who submitted amendment, page and content, and date of amendment.

