

ILLINOIS POLLUTION CONTROL BOARD
March 21, 1984

IN THE MATTER OF:)
) R84-5
ILLINOIS CONTINGENCY PLAN)

ORDER OF THE BOARD (by J. Anderson):

On February 9, 1984 the Board established a docket in this proceeding for the promulgation of regulations which are "identical in substance" to the "National Oil and Hazardous Substances Pollution Contingency Plan" (40 CER 300, as amended July 16, 1982.) Section 22.1(a) of the Environmental Protection Act, as amended by P.A. 83-0938, mandates that the Board adopt this "identical in substance" plan within 180 days or by June 9, 1984.

The Board has prepared the attached regulatory proposal to provide a basis for comment and discussion on the particulars of such a plan.

The Board hereby authorizes Inquiry Hearings to be scheduled for consideration of this proposal or any other proposals on this subject which may be filed with the Board at least 10 days prior to such hearings. Inquiry Hearings will be held in both Chicago and Springfield at a date and time to be set by the Hearing Officer.

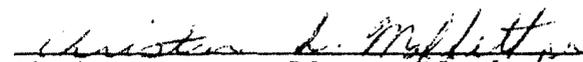
The Board particularly solicits comment on the following points:

- 1) The appropriate role for local governments in Contingency Planning and Response Actions;
- 2) The appropriate role for state agencies other than the Illinois EPA;
- 3) The desirability and legal authority for addressing oil discharges in this Plan;
- 4) The desirability and legal authority for establishing a State Priorities List;
- 5) The coordination of emergency response actions, particularly those of the IEPA, as the lead agency under this Plan, with those of the Illinois Emergency Services and Disaster Agency; and

6) The desirability and legal authority for Illinois to pursue a response action at sites which are on the Federal Priorities List or which are otherwise subject to a Federal response action.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 21st day of March, 1984 by a vote of 6-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board

PART 300—NATIONAL OIL AND
HAZARDOUS SUBSTANCES
POLLUTION CONTINGENCY PLAN
Subchapter J—Superfund Programs

Subpart A—Introduction

§ 300.1 Purpose and objectives.

The purpose of the National Oil and Hazardous Substances Pollution Contingency Plan (Plan) is to effectuate the response powers and responsibilities created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the authorities established by section 311 of the Clean Water Act (CWA), as amended.

§ 300.2 Authority.

The Plan is required by section 105 of CERCLA, 42 U.S.C. 9605, and by section 311(c)(2) of the CWA, as amended, 33 U.S.C. 1321(c)(2). In Executive Order 12316 (48 FR 42237) the President delegated to the Environmental Protection Agency the responsibility for the amendment of the NCP and all of the other functions vested in the President by section 105 of CERCLA. Amendments to the NCP shall be coordinated with members of the National Response Team prior to publication for notice and comment. Amendments shall also be coordinated with the Federal Emergency Management Agency and the Nuclear Regulatory Commission in order to avoid inconsistent or duplicative requirements in the emergency planning responsibilities of those agencies.

§ 300.3 Scope.

(a) The Plan applies to all Federal agencies and is in effect for:

(1) The navigable waters of the United States and adjoining shorelines, for the contiguous zone, and the high seas beyond the contiguous zone in

connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976). (See sections 311(b)(1) and 502(7) of the Clean Water Act.)

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

(b) The Plan provides for efficient, coordinated and effective response to discharges of oil and releases of hazardous substances, pollutants and

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

PART 747

ILLINOIS OIL AND HAZARDOUS SUBSTANCES POLLUTION
CONTINGENCY PLAN
SUBPART A: INTRODUCTION

Section 747.101 Purpose and Objectives

The purpose of the Illinois Oil and Hazardous Substances Plan [Plan] is to effectuate the response powers and responsibilities of State authorities for the taking of preventive or corrective action, including but not limited to removal or remedial action, that is necessary or appropriate whenever there is a release or a substantial threat of a release of a hazardous substance or a discharge of oil.

Section 747.102 Authority

The Plan is required by Section 22.1 of the Environmental Protection Act [Act] (Ill. Rev. Stat. ch. 1114, par. 1022.1). Amendments to the Plan shall be provided to members of the State Response Team for comment prior to final adoption by the Board. Amendments shall also be provided to the Emergency Services and Disaster Agency and The Department of Nuclear Safety for comment prior to final adoption by the Board in order to avoid inconsistent or duplicative requirements in the emergency planning responsibilities of those agencies.

Section 747.103 Scope

(a) The plan applies to all State agencies and is in effect for:

(1) The navigable waters of the State and adjoining shorelines and any activities which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the State.

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

(b) The Plan provides for efficient, coordinated and effective response to discharges of oil and releases of hazardous

contaminants in accordance with the authorities of CERCLA and the CWA. It provides for:

(1) Division and specification of responsibilities among the Federal, State and local governments in response actions, and appropriate roles for private entities.

(2) The national response organization that may be brought to bear in response actions, including description of the organization, response personnel and resources that are available to respond.

(3) The establishment of requirements for Federal regional and Federal local contingency plans, and encouragement of pre-planning for response by other levels of government.

(4) Procedures for undertaking removal operations pursuant to section 311 of the Clean Water Act.

(5) Procedures for undertaking response operations pursuant to CERCLA.

(6) Designation of trustees for natural resources for purposes of CERCLA.

(7) National policies and procedures for the use of dispersants and other chemicals in removal and response actions.

(c) In implementing this Plan, consideration shall be given to the Joint Canada/U.S. Contingency Plan; the U.S./Mexico Joint Contingency Plan and international assistance plans and agreements, security regulations and responsibilities based on international agreements, Federal statutes and executive orders. Actions taken pursuant to this Plan shall conform to the provisions of international joint contingency Plans, where they are applicable. The Department of State should be consulted prior to taking any action which may affect its activities.

§ 300.4 Application.

The Plan is applicable to response taken pursuant to the authorities under CERCLA and section 311 of the CWA.

§ 300.5 Abbreviations.

(a) Department and Agency Title Abbreviations.

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
HHS—Department of Health and Human Services
NIOSH—National Institute for Occupational Safety and Health
NOAA—National Oceanic and Atmospheric Administration
OSHA—Occupational Safety and Health Administration
USCG—U.S. Coast Guard
USDA—U.S. Department of Agriculture

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substances, pollutants and contaminants. The portion of the Plan, adopted pursuant to Section 22.1(a) of the Act (Ill. Rev. Stat. Ch. 114, Par. 1022.1(a)) is intended to be identical in substance to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). It provides for:

(1) Division and specification of responsibilities among the State agencies in response actions, and appropriate roles for private entities and local governments.

(2) The State response organization that may be brought to bear in response actions, including description of the organization, response personnel and resources that are available to respond.

(3) The encouragement of pre-planning for response by other levels of government.

(4) Procedures for undertaking removal operations which are identical in substance to those undertaken pursuant to Section 311 of the Clean Water Act (33 USC 466 et seq.), as amended (CWA).

(5) Procedures for undertaking response operations which are identical in substance to those undertaken pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510), as amended (CERCLA).

(6) Designation of State trustees for State natural sources which are identical in substance to those designated for purposes of CERCLA.

(7) State policies and procedures for the use of dispersants and other chemicals in removal and response actions.

Section 747.104 Application

The Plan is applicable to response taken at sites which are not the subject of a federal response taken pursuant to CERCLA or Section 311 of the CWA.

Section 747.105 Abbreviations

(a) Department and Agency Title Abbreviations.

IAG - Illinois Attorney General's Office
IDOA - Illinois Department of Agriculture
IDCCA - Illinois Department of Commerce and Community Affairs
IDC - Illinois Department of Conservation
IDENR - Illinois Department of Energy and Natural Resources
IDL - Illinois Department of Labor

(b) Operational Title Abbreviations.

ERT--Environmental Response Team
FCO--Federal Coordinating Officer
NRC--National Response Center
NRT--National Response Team
NSF--National Strike Force
OSC--On-Scene Coordinator
PAAT--Public Affairs Assist Team
PIAT--Public Information Assist Team
RRC--Regional Response Center
RRT--Regional Response Team
SSC--Scientific Support Coordinator

§ 300.6 Definitions.

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

Claim, as defined by section 101(4) of CERCLA, means a demand in writing for a sum certain.

Claimant, as defined by section 101(5) of CERCLA, means any person who presents a claim for compensation under CERCLA.

Coastal zone, as defined for the purpose of this Plan, means all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on the inland rivers, waters of the contiguous zone, other waters of the high seas subject to this Plan, 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/USCC agreements and identified in Federal regional contingency plans.

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.

Discharge, as defined by section 311(a)(2) of CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil. For purposes of this Plan, discharge shall also mean substantial threat of discharge.

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 (a) the navigable waters of the United States, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the U.S. under the Fishery Conservation and Management Act of 1978, and (b) 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.

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IDLE - Illinois Department of Law Enforcement
IDMM - Illinois Department of Mines and Minerals
IDNS - Illinois Department of Nuclear Safety
IDPH - Illinois Department of Public Health
IDOT - Illinois Department of Transportation
IESDA - Illinois Emergency Services and Disaster Agency
IEPA - Illinois Environmental Protection Agency
IPCB - Illinois Pollution Control Board

(b) Operational Title Abbreviations.

SERT - State Environmental Response Team
SRC - State Response Center
SRT - State Response Team
SOSC - State On-Scene Coordinator
SPIAT - State Public Information Assistance Team

Section 747.106 (b) Definitions

Terms not defined in this section have the meaning given by the Act and Board regulations unless otherwise defined by CERCLA and the CWA.

"Claim" means a demand in writing for a sum certain.

"Claimant" means any person who presents a claim for compensation under CERCLA.

"Coastal zone" means all waters of the State, and the land surface or land substrata, ground waters and ambient air proximal to those waters.

"Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil. For purposes of this Plan, discharge shall also mean substantial threat of discharge.

"Drinking water supply" 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, USC, as amended) or as drinking water by one or more individuals.

"Environment" means (a) the waters of the State, and (b) any other surface water, ground water, drinking supply, land surface and subsurface strata, or ambient air within the State or under the jurisdiction of the State.

"Facility" means (a) 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

Facility, as defined by section 101(9) of CERCLA, means (a) 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 (b) 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.

Federally permitted release, as defined by section 101(10) of CERCLA, means (a) discharges in compliance with a permit under section 402 of the Federal Water Pollution Control Act; (b) discharges resulting from circumstances identified and reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Federal Water Pollution Control Act and subject to a condition of such permit; (c) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the Federal Water Pollution Control Act, which are caused by events occurring within the scope of relevant operating or treatment systems; (d) discharges in compliance with a legally enforceable permit under section 404 of the Federal

Water Pollution Control Act; (e) releases in compliance with a legally enforceable final permit issued pursuant to section 3005 (a) through (d) of the Solid Waste Disposal Act from a hazardous waste treatment, storage, or disposal facility when such permit specifically identifies the hazardous substances and makes such substances subject to a standard of practice, control procedure or bioassay limitation or condition, or other control on the hazardous substances in such releases; (f) any release in compliance with a legally enforceable permit issued under section 102 or section 103 of the Marine Protection, Research and Sanctuaries Act of 1972; (g) any injection of fluids authorized under Federal underground injection control programs or State programs submitted for Federal approval (and not

disapproved by the Administrator of EPA) pursuant to part C of the Safe Drinking Water Act; (h) any emission into the air subject to a permit or control regulation under section 111, section 112, title 1 part C, title 1 part D, or State implementation plans submitted in accordance with Section 110 of the Clean Air Act (and not disapproved by the Administrator of EPA), including any schedule or waiver granted,

promulgated, or approved under these sections: (1) any injection of fluids or other materials authorized under applicable State law (1) for the purpose of stimulating or treating wells for the production of crude oil, natural gas, or water, (2) for the purpose of secondary, tertiary, or other enhanced recovery of crude oil or natural gas, or (3) which are brought to the surface in conjunction with the production of crude oil or

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stock, or aircraft, or (b) 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.

"Federally permitted release" means (a) discharges in compliance with a permit under section 402 of the Federal Water Pollution Control Act; (b) discharges resulting from circumstances identified and reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Federal Water Pollution Control Act and subject to a condition of such permit; (c) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the Federal Water Pollution Control Act, which are caused by events occurring within the scope of relevant operating or treatment systems; (d) discharges in compliance with a legally enforceable permit under section 404 of the Federal Water Pollution Control Act; (e) releases in compliance with a legally enforceable final permit issued pursuant to section 3005 (a) through (d) of the Solid Waste Disposal Act from a hazardous waste treatment, storage, or disposal facility when such permit specifically identifies the hazardous substances and makes such substances subject to a standard of practice, control procedure or bioassay limitation or condition, or other control on the hazardous substances in such releases; (f) any release in compliance with a legally enforceable permit issued under section 102 or section 103 of the Marine Protection, Research and Sanctuaries Act of 1972; (g) any injection of fluids authorized under Federal underground injection control programs or State programs submitted for Federal approval (and not disapproved by the Administrator of EPA) pursuant to part C of the Safe Drinking Water Act (h) any emission into the air subject to a permit or control regulation under section 111, section 112, title 1 part C, title 1 part D, or State implementation plans submitted in accordance with Section 110 of the Clean Air Act (and not disapproved by the Administrator of EPA), including any schedule or waiver granted, promulgated, or approved under these sections; (i) any injection of fluids or other materials authorized under applicable State law (1) for the purpose of stimulating or treating wells for the production of crude oil, natural gas, or water, (2) for the purpose of secondary, tertiary, or other enhanced recovery of crude oil or natural gas, or (3) which are brought to the surface in conjunction with the production of crude oil or natural gas and which are reinjected; (j) the introduction of any pollutant into a publicly-owned treatment works when such pollutant is specified in and in compliance with applicable pretreatment standards of section 307 (b) or (c) of the CWA and enforceable requirements in a pretreatment program submitted by a State or municipality for Federal approval under section 402 of such Act, and (k) any release of source, special nuclear, or by-product material, as those terms are defined in

natural gas and which are reinjected; (j) the introduction of any pollutant into a publicly-owned treatment works when such pollutant is specified in and in compliance with applicable pretreatment standards of section 307 (b) or (c) of the CWA and enforceable requirements in a pretreatment program submitted by a State or municipality for Federal approval under section 402 of such Act, and (k) any release of source, special nuclear, or by-product material, as those terms are defined in the Atomic

Energy Act of 1954, in compliance with a legally enforceable license, permit, regulation, or order issue pursuant to the Atomic Energy Act of 1954.

Fund or Trust Fund means the Hazardous Substance Response Trust Fund established by section 221 of CERCLA.

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, as defined by section 101(14) of CERCLA, means (a) any substance designated pursuant to section 311(b)(2)(A) of the CWA; (b) any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA; (c) 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 has been suspended by Act of Congress); (d) any toxic pollutant listed under section 307(a) of the CWA; (e) any hazardous air pollutant listed under section 112 of the Clean Air Act; and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The terms do not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) 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).

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

Lead agency means the Federal agency (or State agency operating pursuant to a contract or cooperative agreement executed pursuant to section 104(d)(1) of CERCLA) that provides the on-scene coordinator or the responsible official.

Natural Resources, as defined by section 101(16) of CERCLA, 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 fishery conservation zones established by the Fishery Conservation and Management Act of 1976), any State or local government or any foreign government.

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the Atomic Energy Act of 1954, in compliance with a legally enforceable license, permit, regulation, or order issue pursuant to the Atomic Energy Act of 1954.

"Fund" means the Hazardous Waste Fund established by Section 22.2 of the Act (Ill. Rev. Stat. ch. 1114, par. 1022.2).

"Ground water" means water in a saturated zone or stratum beneath the surface of land or water.

"Hazardous substance" means (a) any substance designated pursuant to section 311(b)(2)(A) of the CWA; (b) any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA; (c) any hazardous waste; (d) any toxic pollutant listed under section 307(a) of the CWA; (e) any hazardous air pollutant listed under section 112 of the Clean Air Act; and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The terms do not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) 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).

"Inland zone" means the environment inland of the coastal zone.

"Local Government" means a "unit of local government" as defined in Article VII of the Constitution of the State of Illinois, that is, counties, municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts.

"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 fishery conservation zones established by the Fishery Conservation and Management Act of 1976), the State of Illinois, or any State or local government or any foreign government.

"Offshore facility" means any facility located in, on, or under the waters of the State; and any facility which is subject to the jurisdiction of the State and is located in, on or under and other waters, other than a vessel or a public vessel.

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 U.S. and any facility of any kind which is subject to the jurisdiction of the U.S. 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 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 pollution fund means the fund established by section 311(k) of the CWA.

Onshore facility, (a) as defined by section 101(16) 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 (b) as defined by section 311(a)(10) of 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-Scene Coordinator means the Federal official pre-designated by the EPA or the USCG (or a State official acting pursuant to a contract or cooperative agreement executed pursuant to section 104(d)(1) of CERCLA) to coordinate and direct Federal responses under this Plan; provided, however, that with respect to releases from DOD facilities or vessels, the OSC shall be designated by DOD.

Person, as defined by section 101(21) of CERCLA, means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, U.S. Government, State, municipality, commission, political subdivision of a State, or any interstate body.

Plan means the National Oil and Hazardous Substances Pollution Contingency Plan published under section 311(c) of the CWA and revised pursuant to section 105 of CERCLA.

Pollutant or contaminant, as defined by section 104(a)(2) 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 ingesting 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 deformation, in such organisms or their offspring. The term does not include petroleum, including crude oil and 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 synthetic gas).

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, but excludes (a) any

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"Oil" 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.

"Onshore facility," (a) for purposes of subpart F, means any facility (including, but not limited to motor vehicles and rolling stock) located in, on, or under any land or non-navigable waters within the State; and (b) for purposes of subpart E, means any facility (including, but not limited to, motor vehicles and rolling stock) located in, on, or under any land within the State other than submerged land.

"Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, U.S. Government, state, municipality, commission, political subdivision of a state, or any interstate body.

"Plan" means the Illinois Oil and Hazardous Substances Pollution Contingency Plan.

"Pollutant or contaminant" 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 ingesting 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 deformation, in such organisms or their offsprings. The term does not include petroleum, including crude oil and 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 synthetic gas).

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes (a) any release which results in exposure to person solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons; (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; (c) release of source, by-product 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, and (d) the normal application of fertilizer.

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; (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; (c) release of source, by-product 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, by-product, 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; and (d) the normal application of fertilizer. For the purposes of this Plan, release also means substantial threat of release.

Remove or removal, as defined by section 311(a)(8) of CWA refers to 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. As defined by section 101(23) of CERCLA, remove or removal means the clean-up 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 or the environment, which may otherwise result from such 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, and any emergency assistance which may be provided under the Disaster Relief Act of 1974.

Remedy or remedial action, as defined by section 101(24) of CERCLA, 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, clean-up of released hazardous substances or contaminated materials, recycling or reuse, diversion, destruction, segregation or reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President 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 offsite of hazardous substances or may otherwise be necessary to protect the public health or welfare. The term does

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[Note: This reflects the Act's definition of "release" as adopted in SB 143.]

"Remove" or "Removal," (a) for purposes of subpart E, means 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; and (b) for purposes of subpart F, means the clean-up 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 or the environment, which may otherwise result from such 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, and any emergency assistance which may be provided under the Illinois Emergency Services and Disaster Agency Act of 1975, P.A. 79-1084, as amended, or any other law.

"Remedy" or "Remedial Action" 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, clean-up of released hazardous substances or contaminated materials, recycling or reuse, diversion, destruction, segregation or reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the Governor and the Director determine 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 offsite of hazardous substances or may otherwise be necessary to protect the public health or welfare. The term does not include offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such hazardous substances or contaminated materials unless the Governor and the Director

not include offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such hazardous substances or contaminated materials unless the President determines that such actions (a) are more cost-effective than other remedial actions; (b) will create new capacity to manage in compliance with subtitle C of the Solid Waste Disposal Act, hazardous substances in addition to those located at the affected facility; or (c) are necessary to protect public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

Respond or response, as defined by section 101(25) of CERCLA, means remove, removal, remedy, or remedial action.

Responsible official refers to the Federal official (or State official acting pursuant to a contract or cooperative agreement executed pursuant to section 104(d)(1) of CERCLA), assigned by the lead agency, responsible for coordinating planned removals, remedial actions and related activities under Subpart F of this plan. Where reference is made to the responsibilities and authorities of an OSC, those responsibilities and authorities also apply to a responsible official.

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 E. They are not meant to imply associated degrees of hazard to public health or welfare, nor are they a measure of environmental damage. Any oil discharge that poses a substantial threat to the public health or welfare or results in critical public concern shall be classified as a major discharge regardless of the following quantitative measures:

(a) **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.

(b) **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.

(c) **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.

Trustee means any Federal natural resources management agency designated in Subpart G of this plan, and any State agency which may prosecute claims for damages under section 107(f) of CERCLA.

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determine that such actions (a) are more cost-effective than other remedial actions; (b) will create new capacity to manage hazardous substances in addition to those located at the affected facility; or (c) are necessary to protect public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

[Note: Changes reflect the Act's definition of "remedy" or remedial action" as adopted in SB 143.]

"Respond" or "Response" means remove, removal, remedy, or remedial action.

"Size Classes of Discharges" means the following size classes of oil discharges which are provided as guidance to the SOSC and serve as the criteria for the actions delineated in Subpart E. They are not meant to imply associated degrees of hazard to public health or welfare, nor are they a measure of environmental damage. Any oil discharge that poses a substantial threat to the public health or welfare or results in critical public concern shall be classified as a major discharge regardless of the following quantitative measures:

(a) **Minor discharge** means a discharge of less than 1,000 gallons of oil.

(b) **Medium discharge** means a discharge of 1,000 to 10,000 gallons of oil

(c) **Major discharge** means a discharge of more than 10,000 gallons of oil.

"State" means the State of Illinois.

"State On-Scene Coordinator" means the State employee or official predesignated by the IEPA to coordinate and direct State responses under this Plan.

"State Permitted Releases" means releases permitted under the Act or Board regulations or pursuant to a legally enforceable State permit.

"Trustee" means any State or Federal natural resources management agency designated in Subpart G of this plan.

"United States" means 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 U.S. has jurisdiction.

United States, as defined by section 311(2)(5) of CWA, refers to the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. As defined by section 101(27) of CERCLA, United States and State include 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

Volunteer means any individual accepted to perform services by a Federal agency which has authority to accept volunteer services (example: see 16 U.S.C. 742f(c)). A volunteer is subject to the provisions of the authorizing statute, and § 300.25 of this Plan.

"Volunteer" means any individual accepted to perform services by a State agency which has authority to accept volunteer services. A volunteer is subject to the provisions of the authorizing statute, and of this Plan.

"Waters of the State" means all open streams and lakes capable of being navigated by water craft, in whole or in part, for commercial uses and purposes, and all lakes, rivers, and streams which in their natural condition were capable of being improved and made navigable, or that are connected with or discharge their waters into navigable lakes or rivers within, or upon the borders of the State of Illinois, together with all bayous, sloughs, backwaters, and submerged lands that are open to the main channel or body of water and directly accessible thereto.

[Note: This definition taken from "An Act in relation to the regulation of the rivers, lakes and streams of the State of Illinois," approved June 10, 1911, as amended. (IRS Ch. 19, par. 65.)]

Subpart B—Responsibility

§ 309.21 Delegation of Functions Delegated to Federal Agencies

(e) In Executive Order 11735 and Executive Order 12316 the President delegated certain functions and responsibilities vested in him by the CWA and CERCLA, respectively. Responsibilities so delegated shall be responsibilities of Federal agencies under this Plan unless:

(1) Responsibility is redelegated pursuant to section 6(f) of Executive Order 12316, or

(2) Executive Order 11735 or Executive Order 12316 is amended or revoked.

§ 309.22 Coordination among and by Federal Agencies

(a) Federal agencies should coordinate their planning and response activities through the mechanisms described in Subpart C of this Plan and other means as may be appropriate.

(b) Federal agencies should coordinate planning and response action with affected States and local government and private entities.

(c) Federal agencies with facilities or other resources which may be useful in a Federal response situation should make those facilities or resources available consistent with agency capabilities and authorities.

(d) When the Administrator of EPA or the Secretary of the Department in which the Coast Guard is operating determines:

(1) That there is an imminent and substantial threat to the public health or welfare because of a discharge of oil from any offshore or onshore facility; or

(2) That there may be an imminent and substantial endangerment to the public health or welfare of the environment because of a release or threatened release of a hazardous substance from a facility; he/she may request the Attorney General to secure the relief necessary to abate the threat. The action described here is in addition to any actions taken by a State or local government for the same purpose.

(e) In accordance with section 311(d) of CWA, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare, because of a

discharge or an imminent discharge from a vessel of large quantities of oil or hazardous substances designated pursuant to section 311(b)(2)(A) of CWA, the United States may:

(1) Coordinate and direct all public and private efforts to abate the threat;

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. The authority for these actions has been delegated under Executive Order 11735 to the Administrator of EPA and the Secretary of the Department in which the Coast Guard is operating, respectively, for the waters for which each designates the OSC under this Plan.

SUBPART B: RESPONSIBILITY

Section 747 .201 Coordination Among and by State Agencies.

(a) IEPA should coordinate planning and response action with affected State and Federal agencies and local government and private entities.

(b) State agencies with facilities or other resources which may be useful in a State response situation should make those facilities or resources available consistent with agency capabilities and authorities.

(c) When the Director of the IEPA determines:

(1) That there is an imminent and substantial threat to the public health or welfare because of a discharge of oil from any offshore or onshore facility; or

(2) That there may be an imminent and substantial endangerment to the public health or welfare of the environment because of a release or threatened release of a hazardous substance, from a facility; he/she may request the Attorney General to secure the relief necessary to abate the threat. The action described here is in addition to any actions taken by a Federal or local government for the same purpose.

(d) Except when precluded by Section 747 .104, whenever a marine disaster in or upon the waters of the State has created a substantial threat of a pollution hazard to the public health or welfare because of a discharge or imminent discharge from a vessel of large quantities of oil or hazardous substances designated pursuant to Section 311(b)(2)(A) of CWA, the IEPA may:

(1) Coordinate and direct all public and private efforts to abate the threat;

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or expenditure of appropriated funds.

(e) Where appropriate, discharges of radioactive materials shall be handled pursuant to the appropriate State radiological plans.

Section 747 .202 Other Assistance by State Agencies

(a) Each of the State agencies listed in paragraph (b) of this section has duties established by statute or executive order

(f) Response actions to remove discharges originating from the Outer Continental Shelf Lands Act operations shall be in accordance with this Plan.

(g) Where appropriate, discharges of radioactive materials shall be handled pursuant to the appropriate federal radiological plans.

§ 309.23 Other assistance by Federal agencies

(a) Each of the Federal agencies listed in paragraph (b) of this section has duties established by statute, executive

order, or Presidential directive which may be relevant to Federal response action following or in prevention of a discharge of oil or a release of a hazardous substance, pollutant or contaminant. These duties may also be relevant to the rehabilitation, restoration, and replacement of damaged or lost natural resources. Federal regional contingency plans should call upon agencies to carry out these duties in a coordinated manner.

(b) The following Federal agencies may be called upon by an OSC during the planning or implementation of a response to provide assistance in their respective areas of expertise, consistent with their capabilities and legal authorities:

- (1) Department of Agriculture.
- (2) Department of Commerce.
- (3) Department of Defense.
- (4) Department of Energy.
- (5) Federal Emergency Management Agency.
- (6) Department of Health and Human Services.
- (7) Department of the Interior.
- (8) Department of Justice.
- (9) Department of Labor.
- (10) Department of State.
- (11) Department of Transportation.
- (12) Environmental Protection Agency.

(c) In addition to their general responsibilities under paragraph (a) of this section Federal agencies should:

- (1) Make necessary information available to the NRT, RRTs, and OSCs.
- (2) Inform the NRT and RRTs (consistent with national security considerations) of changes in the availability of resources that would affect the operations of the Plan.
- (3) Provide representative as necessary to the NRT and RRTs and assist RRTs and OSCs in formulating Federal regional and Federal local contingency plans.

(d) All Federal agencies are responsible for reporting releases of hazardous substances and discharges of oil from facilities or vessels which are under their jurisdiction or control in accordance with section 105 of CERCLA, and Subparts E and F of this Plan.

(e) Executive Order 12318 delegates to the USCG and EPA all authorities under sections 104 (e) and (b) and 101(24) of CERCLA subject to the following:

(1) HHS is delegated all authorities under section 104(b) of CERCLA relating to a determination that illness, disease or complaints thereof may be attributable to exposure to a hazardous substance, pollutant or contaminant. (In addition, section 104(f) of CERCLA calls upon HHS to: establish appropriate disease/exposure registries; conduct appropriate health surveys and studies; develop and provide appropriate testing for exposed individuals; develop, maintain and provide information on health effects of toxic substances; and maintain a list of areas restricted or closed because of toxic substance contamination.)

(2) FEMA is delegated the authorities vested in the President by section 104(a) of CERCLA to the extent they require permanent relocation of residents, businesses, and community facilities or

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which may be relevant to State response action following or in prevention of a discharge of oil or a release of a hazardous substance, pollutant or contaminant. These duties may also be relevant to the rehabilitation, restoration, and replacement of damaged or lost natural resources.

(b) The following State agencies may be called upon by an SOSC during the planning or implementation of a response to provide assistance in their respective areas of expertise, consistent with their capabilities and legal authorities:

- (1) Illinois Attorney General's Office
- (2) Illinois Department of Agriculture
- (3) Illinois Department of Commerce and Community Affairs
- (4) Illinois Department of Conservation
- (5) Illinois Department of Energy and Natural Resources
- (6) Illinois Department of Labor
- (7) Illinois Department of Law Enforcement
- (8) Illinois Department of Mines and Minerals
- (9) Illinois Department of Nuclear Safety
- (10) Illinois Department of Public Health
- (11) Illinois Department of Transportation
- (12) Illinois Emergency Services and Disaster Agency
- (13) Illinois Environmental Protection Agency
- (14) Illinois Pollution Control Board

(c) In addition to their general responsibilities under paragraph (a) of this section State agencies should:

- (1) Make necessary information available to the IEPA
- (2) Inform the IEPA of changes in the availability of resources that would affect the operations of the Plan.
- (3) Provide representatives as necessary to the SRT.

(d) All State agencies are responsible for reporting to IEPA releases of hazardous substances and discharges of oil from facilities or vessels which are under their jurisdiction or control in accordance with Subparts E and F of this Plan.

Section 247 .203 Local Participation

(a) Local government agencies are encouraged to include contingency planning for response consistent with this Plan in all emergency and disaster planning.

uninsured individuals not otherwise provided for. (FEDRA is also delegated authority under section 101(24) of CERCLA to the extent they require a determination by the President that "permanent relocation of residents and businesses and community facilities" is included within the terms "remedy" and "remedial action" as defined in section 101(24) of CERCLA.)

The President is delegated all authority of section 104(a) and (b) of CERCLA with respect to releases from DOD facilities or vessels, including vessels owned or bareboat chartered and operated.

(f) If the situation is beyond the capability of State and local governments and the statutory authority of Federal agencies, the President,

acting upon a request by the Governor, may declare a major disaster or emergency and appoint a Federal Coordinating Officer to assume responsibility for direction and control of the Federal response.

300.203 State and local participation.

(a) Each State government is requested to assign an office or agency to represent the State on the appropriate RRT. Local governments are invited to participate in activities on the appropriate RRT as may be provided by State law or arranged by the State's representative. The State's representative may participate fully in all facets of activities of the appropriate RRT and is encouraged to designate the element of the State government that will direct State supervised response operations.

(b) State and local government agencies are encouraged to include contingency planning for response, consistent with this Plan and Regional Contingency Plans, in all emergency and disaster planning.

(c) States are encouraged to use State authorities to compel potentially responsible parties to undertake response actions, or to themselves undertake response actions which are not eligible for Federal funding.

(d) States may enter into contracts or cooperative agreements pursuant to section 104(c)(3) and (d) of CERCLA or section 311(c)(2)(H) of the CWA, as appropriate, to undertake actions authorized under Subparts E and F of this Plan. Requirements for entering into these agreements are included in §§ 300.208 and 300.209 of this Plan.

300.204 Non-Government participation.

(a) Industry groups, academic organizations, and others are encouraged to commit resources for response operations. Specific commitments should be listed in Federal regional and Federal local contingency plans.

(b) It is particularly important to use the valuable technical and scientific information generated by the non-government local community along with those from Federal and State government to assist the OSC in devising clean-up strategies where effective standard techniques are unavailable, and to ensure that pertinent research will be undertaken to meet national needs.

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(b) Local Governments are encouraged to use local government authorities to compel potentially responsible parties to undertake response actions, or to themselves undertake response actions which are not eligible for State funding. All such response actions shall be consistent with this Plan.

(d) Local governments may enter into contracts or cooperative agreements or written delegation agreements with the IEPA pursuant to Section 4(r) of the Environmental Protection Act, as appropriate, to undertake actions authorized under Subparts E and F of this Plan.

Section 300.204 Non-Government Participation

(a) Industry groups, academic organizations, and others are encouraged to commit resources for response operations.

(b) It is particularly important to use the valuable technical and scientific information generated by the non-government local community along with those from Federal and State government to assist the IEPA in devising clean-up strategies where effective standard techniques are unavailable, and to ensure that pertinent research will be undertaken to meet national needs.

(c) IEPA should establish procedures to allow for well-organized, worthwhile, and safe use of volunteers. These procedures should provide for the direction of volunteers by the IEPA or by other State or local officials knowledgeable in contingency operations and capable of providing leadership. IEPA also should identify specific areas in which volunteers can be used, such as beach surveillance, logistical support, and bird and wildlife treatment. Unless specifically requested by the IEPA volunteers generally should not be used for physical removal or remedial activities. If, in the judgment of the IEPA dangerous conditions exist, volunteers shall be restricted from on-scene operations.

(d) To qualify for reimbursement from the Fund response actions must be undertaken by and under the direction of the IEPA.

(c) Federal local contingency plans should establish procedures to allow for well-organized, worthwhile, and safe use of volunteers. Local plans should provide for the direction of volunteers by the OSC, or by other Federal, State or local officials knowledgeable in contingency operations and capable of providing leadership. Local plans also should identify specific areas in which volunteers can be used, such as beach surveillance, logistical support, and bird and wildlife treatment. Unless specifically requested by the OSC, volunteers generally should not be used for physical removal or remedial activities. If, in the judgement of the OSC or an appropriate participating agency, dangerous conditions exist, volunteers shall be restricted from on-

(d) If any person other than the Federal government or a State or person operating under contract or cooperative agreement with the United States, takes response action and intends to seek reimbursement from the Fund, such actions to be in conformity with this Plan for purposes of section 111(a)(2) of CERCLA may only be undertaken if such person notifies the Administrator of EPA or his/her designee prior to taking such action and receives prior approval to take such action.

Subpart C—Organization.

§ 300.31 Organizational concepts.

Three fundamental kinds of activity are performed pursuant to the Plan: planning and coordination, operations at the scene of a discharge and/or release, and communications. The organizational elements created to perform these activities are discussed below in the context of their roles in these activities.

§ 300.32 Planning and coordination.

(a) National planning and coordination is accomplished through the National Response Team (NRT).

(1) The NRT consists of representatives from the agencies named in § 300.23. Each agency shall designate a member to the team and sufficient alternates to ensure representation, as agency resources permit. Other agencies may request membership on the NRT by forwarding such requests to the chairman of the NRT.

(2) Except for periods of activation because of a response action, the representative of EPA shall be the chairman and the representative of USCG shall be the vice chairman of the NRT. The vice chairman shall maintain records of NRT activities along with national, regional, and local plans for response actions. When the NRT is activated for response action, the chairman shall be the representative of the Federal lead agency.

(3) While the NRT desires to achieve a consensus on all matters brought before it, certain matters may prove unresolvable by this means. In such cases, each cabinet, department or agency serving as a participating agency on the NRT may be accorded one vote in NRT proceedings.

(4) The NRT may establish such by-laws and committees as it deems appropriate to further the purposes for which it is established.

(5) When the NRT is not activated for a response action, it shall serve as a standing committee to evaluate methods of responding to discharges or releases, to recommend needed changes in the response organization and to recommend revisions to this Plan.

(6) The NRT may consider and make recommendations to appropriate agencies on the training, equipping and protection of response teams and necessary research, development, demonstration, and evaluation to improve response capabilities.

(7) Direct planning and preparedness responsibilities of the NRT include:

(i) Maintaining national readiness to respond to a major discharge of oil or release of a hazardous substance or pollutant or contaminant which is

SUBPART C: ORGANIZATION

Section ~~747~~ .301 Organizational Concepts

Three fundamental kinds of activity are performed pursuant to the Plan: planning and coordination, operations at the scene of a discharge and/or release, and communications. The organizational elements created to perform these activities are discussed below in the context of their roles in these activities.

Section ~~747~~ .302 Planning and/Coordination

(a) State planning and coordination is accomplished through the State Response Team (SRT).

(b) The SRT consists of representatives from the agencies named in Section ~~747~~.202. Each agency shall designate a member to the team and sufficient alternates to ensure representation, as agency resources permit. Other agencies may request membership on the SRT by forwarding such requests to the chairman of the SRT.

(c) The representative of the IEPA shall be the chairman of the SRT and shall maintain records of SRT activities along with State, regional, and local plans for response actions.

(d) While the SRT desires to achieve a consensus on all matters brought before it, certain matters may prove unresolvable by this means. In such cases, each department or agency serving as a participating agency on the SRT may be accorded one vote in SRT proceedings.

(e) The SRT may establish such bylaws and committees as it deems appropriate to further the purposes for which it is established.

(f) When the SRT is not activated for a response action, it shall serve as a standing committee to evaluate methods of responding to discharges or releases, to recommend needed changes in the response organization and to recommend revisions to this Plan.

(g) The SRT may consider and make recommendations to appropriate agencies on the training, equipping and protection of response teams and necessary research, development, demonstration, and evaluation to improve response capabilities.

(h) Direct planning and preparedness responsibilities of the SRT include:

(1) Maintaining State readiness to respond to a major discharge of oil or release of a hazardous substance or pollutant or

beyond regional capabilities:

(ii) Monitoring incoming reports from all RRTs and activating when necessary;

(iii) Reviewing regional responses to oil discharges and hazardous substance releases, including an evaluation of equipment readiness and coordination among responsible public agencies and private organizations; and

(iv) Developing procedures to ensure the coordination of Federal, State, and local governments and private response to oil discharges and releases of hazardous substances, pollutants or contaminants.

(8) The NRT may consider matters referred to it for settlement by an RRT.

(b) The RRT serves as the regional body for planning and preparedness actions before a response action is taken and for coordination and advice during such action. The RRT consists of regional representatives of the participating agencies and representatives of State governments (and local governments as agreed upon with States).

(1) Except when the RRT is activated for a removal incident, the representatives of EPA and USCG shall act as co-chairmen.

(2) Each participating agency should designate one member and at least one alternate member to the RRT. Participating States may also designate one member and at least one alternate member to the Team. All agencies and

States may also provide additional representatives as observers to meetings of the RRT.

(3) RRT members should designate representatives from their agencies to work with OSCs in developing Federal local contingency plans, providing for the use of agency resources, and in responding to discharges and releases (see § 300.43).

(4) Federal regional and Federal local plans should adequately provide the OSC with assistance from the Federal agencies commensurate with agencies' resources, capabilities, and responsibilities within the region. During a response action, the members of the RRT should seek to make available the resources of their agencies to the OSC as specified in the Federal regional and Federal local contingency plans.

(5) Affected States are encouraged to participate actively in all RRT activities (see § 300.24(a)), to designate representatives to work with the RRT and OSCs in developing Federal regional and Federal local plans, to plan for and make available State resources, and to serve as the contact point for coordination of response with local government agencies whether or not represented on the RRT.

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contaminant which is beyond regional capabilities;

(2) Monitoring incoming reports of oil discharges or releases of hazardous substances and activating when necessary;

(3) Reviewing responses to oil discharges and hazardous substance releases, including an evaluation of equipment readiness and coordination among responsible public agencies and private organizations; and

(4) Developing procedures to ensure the coordination of Federal, State, local government and private response to oil discharges and releases of hazardous substances, pollutants or contaminants.

(6) The RRT serves as a standing committee to recommend changes in the regional response organization as needed, to revise the regional plan as needed, and to evaluate the preparedness of the agencies and the effectiveness of local plans for the Federal response to discharges and releases. The RRT should:

(i) Make continuing review of regional and local responses to discharges or releases, considering available legal remedies, equipment readiness and coordination among responsible public agencies and private organizations.

(ii) Based on observations of response operations, recommend revisions of the National Contingency Plan to the NRT.

(iii) Consider and recommend necessary changes based on continuing review of response actions in the region.

(iv) Review OSC actions to help ensure that Federal regional and Federal local contingency plans are developed satisfactorily.

(v) Be prepared to respond to major discharges or releases outside the region.

(vi) Meet at least semi-annually to review response actions carried out during the preceding period, and consider changes in Federal regional and Federal local contingency plans.

(vii) Provide letter reports on their activities to the NRT twice a year, no later than January 31 and July 31. At a minimum, reports should summarize

recent activities, organizational changes, operational concerns, and efforts to improve State and local conditions.

(c) The OSC is responsible for developing any Federal local contingency plans for the Federal response in the area of the OSC's responsibility. This may be accomplished in cooperation with the

RRT and designated State and local representatives (see § 300.43). Boundaries for Federal local contingency plans shall coincide with those agreed upon between EPA, DOD and the USCG (subject to Executive Order 12316) to determine OSC areas of responsibility and should be clearly indicated in the regional contingency plan. Where practicable, consideration should be given to jurisdictional boundaries established by State and local plans.

(d) Scientific support for the development of regional and local plans is organized by appropriate agencies to provide special expertise and assistance. Generally, the Scientific Support Coordinator (SSC) for plans encompassing the coastal area will be provided by NOAA, and the SSC for the inland area will be provided by EPA or DOI. This delineation of responsibility may be modified within a region by agreement between DOC, DOI, and EPA representatives to the RRT. SSCs may be obtained from other agencies if determined to be appropriate by the RRT.

[300.33 Response operations.

(a) EPA and USCG shall designate OSCs for all areas in each region provided, however, that DOD shall designate OSCs for releases from DOD facilities and vessels. DOD will be the immediate removal response authority with respect to incidents involving DOD military weapons and munitions. Immediate removal actions involving nuclear weapons should be conducted in accordance with the joint Department of Defense, Department of Energy, and Federal Emergency Management Agency Agreement for Response to Nuclear Incidents and Nuclear Weapons Significant Incidents, of January 8, 1961. The USCG will furnish or provide OSCs for oil discharges and for the immediate removal of hazardous substances, pollutants, or contaminants into or threatening the coastal zone except that the USCG will not provide pre-designated OSCs for discharges and releases from hazardous waste management facilities or in similarly chronic incidents. EPA shall furnish or provide OSCs for oil discharges and hazardous substance releases into or threatening the inland zone and, unless otherwise agreed, for all planned removals and remedial actions.

(b) The OSC directs Federal Fund-financed response efforts and coordinates all other Federal efforts at the scene of a discharge or release subject to Executive Order 12316. As part of the planning and preparation for response, the OSCs shall be pre-designated by the regional or district head of the lead agency.

(1) The first official from an agency with responsibility under this plan to arrive at the scene of the discharge or release should coordinate activities under this Plan until the OSC arrives.

(2) The OSC shall, to the extent practicable under the circumstances, collect pertinent facts about the discharge or release, such as its source and cause; the existence 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 exposure; potential impact on human health, welfare and safety; the potential impact on natural resources and property which may be affected; priorities for protecting human health, welfare and the environment; and appropriate cost documentation.

(3) The OSC shall direct response operations (see Subparts E and F for descriptive details). The OSC's effort shall be coordinated with other appropriate Federal, State, local and private response agencies.

(4) The OSC shall consult regularly with the RRT in carrying out this Plan and will keep the RRT informed of activities under this Plan.

(5) The OSC shall advise the appropriate State agency (as agreed upon with each State) as promptly as possible of reported discharges and

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 Section 747 .303 Response Operations

(a) IEPA shall designate an SOSC for each response operation.

(b) The SOSC directs State Fund-financed response efforts and coordinates all other State efforts at the scene of a discharge or release. As part of the planning and preparation for response, the SOSCs shall be pre-designated by the IEPA.

(1) The first official from an agency with responsibility under this plan to arrive at the scene of the discharge or release should coordinate activities under this Plan until the SOSC arrives.

(2) The SOSC shall, to the extent practicable under the circumstances, collect pertinent facts about the discharge or release, such as its source and cause; the existence 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 exposure; potential impact on human health, welfare and safety; the potential impact on natural resources and property which may be affected; priorities for protecting human health, welfare and the environment; and appropriate cost documentation.

(3) The SOSC shall direct response operations (see Subparts E and F for descriptive details). The SOSC's effort shall be coordinated with other appropriate Federal, State, local and private response agencies.

(4) The SOSC shall consult regularly with the SRT in carrying out this Plan and will keep the SRT informed of activities under this Plan.

(5) The SOSC shall advise affected local governments as promptly as possible of reported discharges and releases.

(6) The OSC shall evaluate incoming information and immediately advise FEMA of potential major disaster situations. In the event of a major disaster or emergency, under the Disaster Relief Act of 1974 (Pub. L. 93-286), the OSC will coordinate any response activities with the Federal Coordinating Officer designated by the President. In addition, the OSC should notify FEMA of situations potentially requiring evacuation, temporary housing, and permanent relocation.

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

(8) All Federal agencies should plan for emergencies and develop procedures for dealing with oil discharges and releases of hazardous substances (designated under section 311(b)(2) of the CWA) from vessels and facilities under their jurisdiction. All Federal agencies, therefore, are responsible for designating the offices that can coordinate response to such incidents in accordance with this Plan and applicable Federal regulations and guidelines. If, in the opinion of the OSC, the responsible Federal agency does not act promptly or take appropriate action to respond to a discharge or release caused by a facility or vessels under its jurisdiction, the OSC in charge of area where the discharge or release occurs may conduct appropriate response activities. With respect to discharges or releases from Department of Defense (DOD) facilities and vessels, the OSC shall be furnished by the DOD.

(9) The OSC should advise the affected land managing agency and trustees of natural resources, as promptly as possible, of releases and discharges affecting Federal resources under its jurisdiction.

(10) The OSC is responsible for addressing worker health and safety concerns at a response scene, in accordance with §§ 300.57 and 300.71 of this Plan.

(11) The OSC shall submit pollution reports to the RRC and appropriate agencies as significant developments occur during removal actions.

§ 300.54 ~~Special Forces and Teams~~

(a) The National Strike Force (NSF) consists of the Strike Teams established by the USCG on the Atlantic, Pacific and Gulf coasts and includes emergency task forces to provide assistance to the OSC.

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(6) The SOSC shall evaluate incoming information and immediately advise IESDA of a potential disaster emergency situation. In the event of a disaster emergency, under The Illinois Emergency Services and Disaster Agency Act of 1975, as amended, the SOSC will coordinate any response activities with the State Coordinating Officer designated by the Governor. In addition, the SOSC should notify IESDA of situations potentially requiring evacuation, temporary housing, and permanent relocation.

(7) In those instances where a possible public health emergency exists, the SOSC should notify the IDPH representative to the SRT. Throughout response actions, the SOSC may call upon the IDPH representative for assistance in determining public health threats and for advice on worker health and safety problems.

(8) All State agencies should plan for emergencies and develop procedures for dealing with oil discharges and releases of hazardous substances (designated under section 311(b)(2) of the CWA) from vessels and facilities under their jurisdiction. All State agencies, therefore, are responsible for designating the offices that can coordinate response to such incidents in accordance with this Plan and applicable State regulations and guidelines. If, in the opinion of the SOSC, the responsible State agency does not act promptly or take appropriate action to respond to a discharge or release caused by a facility or vessels under its jurisdiction, the SOSC in charge of area where the discharge or release occurs may conduct appropriate response activities.

(9) The SOSC should advise the affected land managing agency and trustees of natural resources, as promptly as possible, of releases and discharges affecting State resources under its jurisdiction.

(10) The SOSC is responsible for addressing worker health and safety concerns at a response scene, in accordance with Sections 747.507 and 747.614 of the Plan.

(11) The SOSC shall submit pollution reports to the SRT and appropriate agencies as significant developments occur during removal actions.

Section ~~747.304~~³⁰² Special Forces.

(a) IEPA shall establish a State Emergency Response Team (SERT) to assist the SOCS. The SERT shall provide:

(1) Personnel trained in ship salvage, damage control and diving;

(1) The Strike Teams can provide communication support, advice and assistance for oil and hazardous substance removal. These teams also have knowledge of ship salvage, damage control, and diving. Additionally, they are equipped with specialized containment and removal equipment, and have rapid transportation available. When possible, the Strike Teams will train the emergency task forces and assist in the development of regional and local contingency plans.

(2) 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 USCGC member of the RRT, the appropriate USCG Area Commander, or

the Commandant of the USCG through the NRC.

(b) Each USCGC 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 clean-up contractor, or other response personnel.

(c)(1) The Emergency Response Team (ERT) is established by EPA in accordance with its disaster and emergency responsibilities. The ERT includes expertise in biology, chemistry, hydrology, geology and engineering.

(2) It 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; clean-up techniques and priorities; water supply decontamination and protection; application of dispersants; environmental assessment; degree of clean-up required; and disposal of contaminated material.

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

(4) OSC or RRT requests for ERT support should be made to the EPA representative on the RRT; the EPA Headquarters, Director, Office of Emergency and Remedial Response; or the appropriate EPA regional emergency coordinator.

(d) When requested by the OSC, the SSC shall serve as a member of the OSC's staff and assist the OSC in fulfilling responsibilities in support of response actions. The extent and nature of SSC involvement in the operational mode shall be determined by the OSC. The SSC may:

(1) Coordinate response from the scientific community to OSC requests for assistance and to requests from the OSC, as appropriate, for performance of environmental assessment.

(2) Serve as the principal liaison for scientific advice from the scientific community to the OSC. The SSC shall ensure that differing scientific views within the scientific community are communicated to the OSC in a timely

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(2) Specialized containment and removal equipment;

(3) Personnel trained to evaluate, monitor and supervise pollution responses;

(4) "Initial Aid" response capability to deploy equipment prior to the arrival of a clean-up contractor or other response personnel;

(5) Access to special decontamination equipment for chemical releases;

(6) An up-to-date inventory as to the location of response and support equipment, including private and commercial equipment as well as government resources;

(7) Advice on hazard evaluation; risk assessment; multimedia sampling and analysis program; on-site safety; clean-up techniques and priorities; water supply decontamination and protection; application of dispersants; environmental assessments; degree of clean-up required; and disposal of contaminated material;

(8) Expertise in biology, chemistry, hydrology, geology and engineering;

(b) IEPA shall establish a Public Information Assistance Team (PIAT) to meet the demands for public information and participation during major responses.

(c) The SRT may be activated during any pollution emergency by a request from the Director of the IEPA. During a prolonged removal action the SRT may not need to be activated or may need to be activated during prolonged removal or remedial action, the SRT may not need to be activated or may need to be activated only in a limited sense, or have available only those members of the SRT who are directly affected or can provide direct response assistance.

When the SRT is activated for a discharge or release, agency representatives shall meet at the call of the chairman and may:

(1) Monitor and evaluate reports from the SOSC. The SRT may advise the SOSC on the duration and extent of State response and may recommend to the SOSC specific actions to respond to the discharge or release.

(2) Request other Federal, State or local government, or private agencies to provide resources under their existing authorities to respond to a discharge or release or to monitor response operations.

(2) The OSC will assist in responding to requests for information from State and Federal agencies regarding scientific studies and environmental assessments. Details on provision of access to scientific support shall be included in regional contingency plans.

(c) The USCG Public Information Assist Team (PIAT) and the EPA Public Affairs Assist Team (PAAT) may help OSCs and regional or district offices meet the demands for public information and participation during major responses. Requests for these teams may be made through the NRC.

(R1) The RRT should be activated by the Chairman as an emergency response team when a discharge or release:

(i) Exceeds the response capability available to the OSC in the place where it occurs;

(ii) Transsects regional boundaries; or
(iii) May pose a substantial threat to the public health, welfare or to the environment, or to regionally significant amounts of property. Regional contingency plans shall specify detailed criteria for activation of RRTs.

(2) When the RRT is activated for an immediate removal action, the chairman shall be the representative of the lead agency. When the RRT is activated for a Fund-financed planned removal or remedial action, the chairman shall be the representative of EPA.

(3) The RRT may be activated during any pollution emergency by a request from any RRT representative to the chairman of the Team. Request for RRT activation shall later be confirmed in writing. Each representative, or an appropriate alternate, should be notified immediately when the RRT is activated.

(4) During prolonged removal or remedial action, the RRT may not need to be activated or may need to be activated only in a limited sense, or have available only those members of the RRT who are directly affected or can provide direct response assistance.

(5) When the RRT is activated for a discharge or release, agency representatives shall meet at the call of the chairman and may:

(i) Monitor and evaluate reports from the OSC. The RRT may advise the OSC on the duration and extent of Federal response and may recommend to the OSC specific actions to respond to the discharge or release.

(ii) Request other Federal, State or local government, or private agencies to provide resources under their existing authorities to respond to a discharge or release or to monitor response operations.

(iii) Help the OSC prepare information releases for the public and for communication with the NRT.

(iv) If the circumstances warrant, advise the regional or district head of the agency providing the OSC that a different OSC should be designated.

(v) Submit Pollution Reports (POLREPS) to the NRC as significant developments occur.

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(3) Help the SOSC prepare information releases for the public.

(4) If the circumstances warrant, advise the IEPA different SOSC should be designated.

(5) Submit Pollution Reports (POLREPS) to the Director of the IEPA as significant developments occur.

(6) When the RRT is activated, affected States may participate in all RRT deliberations. State government representatives participating in the RRT have the same status as any Federal member of the RRT.

(7) The RRT can be deactivated by agreement between the EPA and USCG team members. The time of deactivation should be included in the POLREPS.

(g) The RRT should be activated as an emergency response team when an oil discharge or hazardous substance release:

(1) Exceeds the response capability of the region in which it occurs;

(2) Transsects regional boundaries;

(3) Involves significant population hazards or national policy issues, substantial amounts of property, or substantial threats to natural resources; or

(4) Is requested by any RRT member.

(h) When activated for a response action, the NRT shall meet at the call of the chairman and may:

(1) Monitor and evaluate reports from the OSC. The NRT may recommend to the OSC, through the RRT, actions to combat the discharge or release.

(2) Request other Federal, State and local governments, or private agencies, to provide resources under their existing authorities to combat a discharge or release or to monitor response operations.

(3) Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts.

§ 306.36 Multi-regional responses.

(a) If a discharge or release moves from the area covered by one Federal local or Federal regional contingency plan into another area, the authority for removal or response actions should likewise shift. If a discharge or release or substantial threat of discharge or release affects areas covered by two or more regional plans, the response mechanisms of both may be activated. In this case, removal or response actions of all regions concerned shall be fully coordinated as detailed in the regional plans.

(b) There shall be only one OSC at any time during the course of a response operation. Should a discharge or release affect two or more areas, the EPA, DOD and USCG, as appropriate, shall give prime consideration to the area vulnerable to the greatest damage. The RRT shall designate the OSC if EPA, DOD and USCG members are unable to agree on the designation. The NRT shall designate the OSC if members of one RRT or two adjacent RRTs are unable to agree on the designation.

(c) Where the USCG has provided the OSC for emergency response to a release from hazardous waste management facilities located in the coastal zone, the responsibility for response action shall shift to EPA, in accordance with EPA/USCG agreements.

§ 306.37 Response equipment.

The Spill Cleanup Inventory (SKIM) system is available to help OSCs and RRTs and private parties gain rapid information as to the location of response and support equipment. This inventory is accessible through the NRC and USCG's OSCs. The inventory includes private and commercial equipment, as well as government resources. The RRTs and OSCs shall ensure that data in the system are current and accurate. The USCG is responsible for maintaining and updating the system with RRT and OSC

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Section 747 .305 Communications.

§ 304.30 Communications.

(a) The NRC is the national communications center for activities related to response actions. It is located at USCG Headquarters in Washington, D.C. The NRC receives and relays notices of discharges or releases to the appropriate OSC, disseminates OSC and RRT reports to the NRT when appropriate, and provides facilities for the NRT to use in coordinating a national response action when required.

(b) The Commandant, USCG, will provide the necessary communications, plotting facilities, and equipment for the NRC.

(c) Notice of an oil discharge or a 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 section 103(a) of CERCLA, respectively. Notification shall be made to the NRC Duty Officer, HQ USCG, Washington, D.C. telephone (800) 424-8802 (or current local telephone number). All notices of discharges or releases received at the NRC shall be relayed immediately by telephone to the OSC and State.

(d) The RRC provides facilities and personnel for communications, information storage, and other requirements for coordinating response. Each regional plan will specify the location for the RRC.

(a) The SRC is the state communications center for activities related to response actions. It is located at IEPA Headquarters, 2200 Churchill Road, Springfield, Illinois. The SRC receives and relays notices of discharges or releases to the appropriate SOSC, disseminates SOSC reports to the SRT when appropriate, and provides facilities for the SRT to use in coordinating a state response action when required.

(b) The IEPA will provide the necessary communications, plotting facilities, and equipment for the SRC.

(c) Notice of an oil discharge or a release of a hazardous substance in an amount equal to or greater than the reportable quantity must be made immediately. Notification shall be made to the SRC at IEPA at Headquarters, telephone (217) . All notices of discharges or releases received at the SRC shall be relayed immediately by telephone to the Director of IEPA, the SRT, and the designated SOSC.

SUBPART D

[RESERVED]

**Subpart E--Operational Response
Phases for Oil Removal**

**§ 300.51 Phase I--Discovery and
notification.**

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

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

(2) Deliberate search by patrols; and

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

(b) Reports of discharges should be made to the NRC or the nearest USCG or EPA office. All reports shall be promptly relayed to the NRC if not previously reported to the responsible OSC. Federal regional and Federal local plans shall provide for prompt reporting to the NRC, RRC, and appropriate State agency (as agreed upon with the State).

(c) Upon receipt of a notification of discharge, the NRC shall promptly notify the OSC. The OSC shall proceed with the following phases as outlined in Federal regional and Federal local plans.

**§ 300.52 Phase II--Preliminary
assessment and initiation of action.**

(a) The OSC for a particular area is responsible for promptly initiating 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 and welfare and the environment;

(2) Assess the feasibility of removal;

(3) Determine the existence of potential responsible parties; and

(4) Ensure that jurisdiction exists for undertaking additional response actions.

(c) The OSC, in consultation with legal authorities when appropriate, shall make a reasonable effort to have the discharger voluntarily and promptly perform removal actions. 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 shall so advise the responsible party. If the responsible party does not take proper

**SUBPART E: OPERATIONAL RESPONSE PHASES
FOR OIL REMOVAL**

Section 747 .501 Phase I--Discovery and Notification.

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

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

(2) Deliberate search by patrols; and

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

(b) Reports of discharges should be made to the SRC.

(c) Upon receipt of a notification of discharge, the SRC shall promptly notify the SOSC. The SOSC shall proceed with the following phases.

Section 747 .502 Phase II--Preliminary Assessment and Initiation of Action.

(a) The SOSC for a particular area is responsible for promptly initiating preliminary assessment.

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

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

(2) Assess the feasibility of removal;

(3) Determine the existence of potential responsible parties; and

(4) Ensure that jurisdiction exists for undertaking additional response actions.

(c) The SOSC, in consultation with legal authorities when appropriate, shall make a reasonable effort to have the discharger voluntarily and promptly perform removal actions. The SOSC 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 SOSC shall so advise the responsible party. If the responsible party

removal actions, or is unknown, or is otherwise unavailable, the OSC shall, pursuant to section 311(c)(1) of the CWA, determine whether authority for a Federal response exists, and, if so, take appropriate response actions. Where practicable, continuing efforts should be made to encourage response by responsible parties.

(d) The OSC should ensure that the trustees of affected natural resources are notified, in order that the trustees may initiate appropriate actions when natural resources have been or are likely to be damaged (see Subpart G).

§ 300.53 Phase III--Containment, countermeasures, clean-up, and disposal.

(a) Defensive actions should begin as soon as possible to prevent, minimize, or mitigate damage to the public health or welfare or the environment. Actions may include: analyzing water samples to determine the source and spread of the oil; controlling the source of discharge; measuring and sampling; damage control or salvage operations; placement of physical barriers to deter the spread of the oil or to protect endangered species; control of the water discharged from upstream impoundment; and the use of chemicals and other materials in accordance with Subpart H, to restrain the spread of the oil and mitigate its effects.

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

(c) Oil and contaminated materials recovered in clean-up operations shall be disposed of in accordance with Federal regional and Federal local contingency plans.

§ 300.54 Phase IV--Documentation and cost recovery.

(a) Documentation shall be collected and maintained to support all actions taken under the CWA and to form the basis for cost recovery. In general, documentation should be sufficient to prove the source and circumstances of the incident, the responsible party or parties, and impact and potential impacts to the public health and welfare and the environment. When appropriate, documentation should also be collected for scientific understanding of the environment and for the research and development of improved response

methods and technology. Damages to private citizens (including loss of earnings) are not addressed by this Plan. Evidentiary and cost documentation

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does not take proper removal actions, or is unknown, or is otherwise unavailable, the SOSC shall, determine whether authority for a State response exists, and, if so, take appropriate response actions. Where practicable, continuing efforts should be made to encourage response by responsible parties.

(d) The SOSC should ensure that the trustees of affected natural resources are notified, in order that the trustees may initiate appropriate actions when natural resources have been or are likely to be damaged (see Subpart G).

Section 747 .503 Phase III--Containment, Countermeasures, Clean-up, and Disposal.

(a) Defensive actions should begin as soon as possible to prevent, minimize, or mitigate damage to the public health or welfare or the environment. Actions may include: analyzing water samples to determine the source and spread of the oil; controlling the source of discharge; measuring and sampling; damage control or salvage operations; placement of physical barriers to deter the spread of the oil or to protect endangered species; control of the water discharged from upstream impoundment; and the use of chemicals and other materials in accordance with Subpart H, to restrain the spread of the oil and mitigate its effects.

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

(c) Oil and contaminated materials recovered in clean-up operations shall be disposed of in accordance with State regional and State local contingency plans.

Section 747 .504 Phase IV--Documentation and Cost Recovery.

(a) Documentation shall be collected and maintained to support all actions taken under this Subpart and to form the basis for cost recovery. In general, documentation should be sufficient to prove the source and circumstances of the incident, the responsible party or parties, and impact and potential impacts to the public health and welfare and the environment. When appropriate, documentation should also be collected for scientific understanding of the environment and for the research and development of improved response methods and technology. Damages to private citizens (including loss of earnings) are not addressed by this Plan. Evidentiary and cost documentation

procedures and requirements are specified in the USCG Marine Safety Manual (Commandant Instruction M1600.3) and 33 CFR Part 153.

(L) The OSC shall ensure the necessary collection and safeguarding of information, samples, and reports. Samples and information must be gathered expeditiously during the response to ensure an accurate record of the impacts incurred. Documentation materials shall be made available to the trustees of affected natural resources where practicable.

(c) Information and reports obtained by the EPA or USCG OSC shall be transmitted to the appropriate offices responsible for follow-up actions.

§ 300.56 General pattern of response.

(a) When the OSC receives a report of a discharge, actions normally should be taken in the following sequence:

(1) Immediately notify the RRT and NRC when the reported discharge is an actual or potential major discharge.

(2) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, or the environment, the type and quantity of polluting material, and the source of the discharge.

(3) Officially classify the size of the discharge and determine the course of action to be followed.

(4) Determine whether a discharger or other person is properly carrying out removal. Removal is being done properly when:

(i) The clean-up is fully sufficient to minimize or mitigate damage to the public welfare (removal efforts are "improper" to the extent that Federal efforts are necessary to prevent further damage).

(ii) The removal efforts are in accordance with applicable regulations and guidelines, including this Plan.

(5) Determine whether a State or political subdivision has the capability to carry out response actions and a contract or cooperative agreement has been established with the appropriate fund administrator for this purpose.

(6) Notify the RRT (including the affected State), SSC, and the trustees of affected natural resources in accordance with the applicable regional plan.

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procedures and requirements are specified in the USCG Marine Safety Manual (Commandant Instruction M1600.3) and 33 CFR Part 153.

(b) The SOSC shall ensure the necessary collection and safeguarding of information, samples, and reports. Samples and information must be gathered expeditiously during the response to ensure an accurate record of the impacts incurred. Documentation materials shall be made available to the trustees of affected natural resources where practicable.

(c) Information and reports obtained by the SOSC shall be transmitted to the appropriate offices responsible for follow-up actions.

Section 747 .505 General Pattern of Response.

(a) When the SOSC receives a report of a discharge, actions normally should be taken in the following sequence:

(1) Immediately notify the SRT and SRC when the reported discharge is an actual or potential major discharge.

(2) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, or the environment, the type and quantity of polluting material, and the source of the discharge.

(3) Officially classify the size of the discharge and determine the course of action to be followed.

(4) Determine whether a discharger or other person is properly carrying out removal. Removal is being done properly when:

(A) The clean-up is fully sufficient to minimize or mitigate damage to the public welfare (removal efforts are "improper" to the extent that State efforts are necessary to prevent further damage).

(B) The removal efforts are in accordance with applicable regulations and guidelines, including this Plan.

(5) Determine whether a local government or political subdivision has the capability to carry out response actions and a contract or cooperative agreement or written delegation agreement has been established with the IEPA for this purpose.

(6) Notify the SRT and the trustees of affected natural resources.

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that no discharge exists, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the responsible party taking proper removal action, contact should be established with the party. The removal action should be monitored to ensure continued proper action.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken:

(i) An immediate effort should be made to stop further pollution.

(ii) The responsible party shall be advised of what action will be so considered appropriate.

(iii) If the responsible party does not properly respond, he shall be notified of his potential liability for Federal response performed under the CWA. This liability includes all costs of removal and may include the costs of assessing and restoring damaged natural resources and other actual or necessary costs of a Federal response.

(iv) The OSC shall notify appropriate State and local officials, keep the RRT advised and initiate Phase III operations as conditions warrant.

(v) Information shall be collected for possible recovery of response costs in accordance with § 300.54.

(4) When the investigation shows that an actual or potential medium oil discharge exists, the OSC shall follow the same general procedures as for a minor discharge. If appropriate, the OSC shall recommend activation of the RRT.

(5) When the investigation shows an actual or potential major oil discharge, the OSC shall follow the same procedures as for minor and medium discharges.

§ 300.56 Pollution reports.

(a) Within 60 days after the conclusion of a major discharge or when requested by the RRT, the EPA or USCG OSC shall submit to the RRT a complete

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that no discharge exists, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the responsible party taking proper removal action, contact should be established with the party. The removal action should be monitored to ensure continued proper action.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken:

(A) An immediate effort should be made to stop further pollution.

(B) The responsible party shall be advised of what action will be considered appropriate.

(C) If the responsible party does not properly respond, he shall be notified of his potential liability for State response performed under this Subpart. This liability includes all costs of removal and may include the costs of assessing and restoring damaged natural resources and other actual or necessary costs of a State response.

(D) The SOSC shall notify appropriate local officials, keep the SRT advised and initiate Phase III operations as conditions warrant.

(E) Information shall be collected for possible recovery of response cost in accordance with Section 747.504.

(4) When the investigation shows that an actual or potential medium oil discharge exists, the SOSC shall follow the same general procedures as for a minor discharge. If appropriate, the SOSC shall recommend activation of the SRT.

(5) When the investigation shows an actual or potential major oil discharge, the SOSC shall follow the same procedures as for minor and medium discharges.

Section 747.506 Pollution Reports.

(a) Within 60 days after the conclusion of a major discharge or when requested by the SRT, the SOSC shall submit to the SRT a complete report on the response operation and the actions taken.

report on the response operation and the actions taken. The OSC shall at the same time send a copy of the report to the NRT. The RRT shall review the OSC's report and prepare an endorsement to the NRT for review. This shall be accomplished within 30 days after the report has been received.

(b) The OSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The OSC's recommendations are a source for new procedures and policy.

(c) The format for the OSC's report shall be as follows:

(1) Summary of Events--A chronological narrative of all events, including:

- (i) The cause of the discharge;
- (ii) The initial situation;
- (iii) Efforts to obtain response by responsible parties;
- (iv) The organization of the response;
- (v) The resources committed;
- (vi) The location (water body, State, city, latitude and longitude) of the oil discharge and an indication of whether the discharge was in connection with activities regulated under the Outer Continental Shelf Lands Act (OCSLA), the Trans-Alaska Pipeline Authority Act or Deepwater Port Act; or whether it might have or actually did affect natural resources managed or protected by the U.S.;

(vii) Comments on Federal or State efforts to replace or restore damaged natural resources and damage assessment activities; and

(viii) Details of any threat abatement actions taken under section 311 (c) or (d) of the CWA.

(2) Effectiveness of Removal Actions--A candid and thorough analysis of the effectiveness of removal actions taken by:

- (i) The responsible party;
- (ii) State and local forces;
- (iii) Federal agencies and special forces; and

(iv) (If applicable) contractors, private groups and volunteers.

(3) Problems Encountered--A list of problems affecting response with particular attention to problems of intergovernmental coordination.

(4) Recommendations--OSC recommendations, including at a minimum:

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(b) The SOSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The SOSC's recommendations are a source for new procedures and policy.

(c) The format for the SOSC's report shall be as follows:

(1) Summary of Events--A Chronological narrative of all events, including:

(A) The cause of the discharge;

(B) The initial situation;

(C) Efforts to obtain response by responsible parties;

(D) The organization of the response;

(E) The resources committed;

(F) The location (water body, state, city, latitude and longitude) of the oil discharge and an indication of whether the discharge was in connection with activities regulated by the State or the United States or whether it might have or actually did effect natural resources managed or protected by the State.

(G) Comments efforts to replace or restore damaged natural resources and damage assessment activities; and

(H) Details of any threat abatement actions taken under this Subpart.

(2) Effectiveness of Removal Actions--A candid and thorough analysis of the effectiveness of removal actions taken by:

(A) The responsible party;

(B) Authorized Local government or other forces;

(C) State agencies and special forces; and

(D) (If applicable) Authorized contractors, private groups and volunteers.

(3) Problems Encountered--A list of problems affecting response with particular attention to problems of intergovernmental coordination.

(4) Recommendations -- SOSC recommendations, including at a minimum:

(i) Means to prevent a recurrence of the discharge.

(ii) Improvement of response actions;

(iii) Any recommended changes in the National Contingency Plan or Federal regional plan.

§ 300.57 Special considerations.

(a) *Safety of Personnel*—The OSC should be aware of threats to human health and safety and shall ensure that persons entering the response area use proper precautions, procedures, and equipment and that they possess proper training. Federal local plans shall identify sources of information on anticipated hazards, precautions, and

requirements to protect personnel during response operations. Names and phone numbers of people with relevant information shall be included.

Responsibility for the safety of all Federal employees rests with the heads of their agencies. Accordingly, each Federal employee on the scene must be apprised of and conform with OSHA regulations and other deemed necessary

by the OSC. All private contractors who are working on-site must conform to applicable provisions of the Occupational Safety and Health Act and standards deemed necessary by the OSC.

(b) *Waterfowl Conservation*—The DOI representative and the State liaison to the RRT shall arrange for the coordination of professional and volunteer groups permitted and trained to participate in waterfowl dispersal, collection, cleaning, rehabilitation and recovery activities (consistent with 16 U.S.C. 703-712 and applicable State laws). Federal regional and Federal local plans will, to the extent practicable, identify organizations or institutions that are permitted to participate in such activities and operate such facilities. Waterfowl conservation activities will normally be included in Phase III response actions (§ 300.53 of this subpart).

§ 300.58 Funding.

(a) If the person responsible for the discharge does not act promptly or take proper removal actions, or if the person responsible for the discharge is unknown, Federal discharge removal actions may begin under section 311(c)(1) of the CWA. The discharger, if known, is liable for the costs of Federal removal in accordance with section 311(f) of the CWA and other Federal laws.

(b) Actions undertaken by the participating agencies in response to pollution shall be carried out under existing programs and authorities when available. This Plan intends that Federal agencies will make resources available, expend funds, or participate in response to oil discharges under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through interagency agreements. Specific interagency reimbursement agreements

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(A) Means to prevent a recurrence of the discharge;

(B) Improvement of response actions;

(C) Any recommended changes in the Illinois Contingency Plan.

Section 747 .507 Special Considerations.

(a) *Safety of Personnel*--The SOSC should be aware of threats to human health and safety and shall ensure that persons entering the response area use proper precautions, procedures, and equipment and that they possess proper training. Responsibility for the safety of all State employees rests with the heads of their agencies. Accordingly, each State employee on the scene must be apprised of and conform with OSHA regulations and other State and Federal regulations deemed necessary by the SOSC. All private contractors who are working on-site must conform to applicable provisions of the Occupational Safety and Health Act and State statutes and regulations and standards deemed necessary by the SOSC.

(b) *Waterfowl Conservation*--The IDC representative shall arrange for the coordination of professional and volunteer groups permitted and trained to participate in waterfowl dispersal, collection, cleaning, rehabilitation and recovery activities (consistent with 16 U.S.C. 703-712 and applicable State laws).

Section 747 .508 Funding

(a) If the person responsible for the discharge does not act promptly or take proper removal actions, or if the person responsible for the discharge is unknown, State discharge removal actions may begin under this Subpart. The discharger, if known, is liable for the costs of State removal in accordance with this Plan and other State laws.

(b) Actions undertaken by the participating agencies in response to pollution shall be carried out under existing programs and authorities when available. This Plan intends that State agencies will make resources available, expend funds, or participate in response to oil discharges under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through interagency agreements. Specific interagency reimbursement agreements may be signed when necessary to ensure that the State resources will be available for a timely response to a discharge of oil.

available for a timely response to a discharge of oil. The ultimate decision as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures.

(c) The OSC shall exercise sufficient control over removal operations to be able to certify that reimbursement from the following funds is appropriate:

(1) The oil pollution fund, administered by the Commandant, USCG has been established pursuant to section 311(k) of the CWA. Regulations governing the administration and use of the fund are contained in 33 CFR Part 153.

(2) The fund authorized by the Deepwater Port Act is administered by the Commandant, USCG. Governing regulations are contained in 33 CFR Parts 136 and 150.

(3) The fund authorized by the Outer Continental Shelf Lands Act, as amended, is administered by the Commandant, USCG. Governing regulations are contained in 33 CFR Parts 136 and 150.

(4) The fund authorized by the Trans-Alaska Pipeline Authorization Act is administered by a Board of Trustees under the purview of the Secretary of the Interior. Governing regulations are contained in 43 CFR Part 29.

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

(e) The funding of a response to a discharge from a Federally operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

(f) The following agencies have funds available for certain discharge removal actions:

(1) EPA may provide funds to begin timely discharge removal actions when the OSC is an EPA representative.

(2) The USCG pollution control efforts are funded under "operating expenses." These funds are used in accordance with agency directives.

(3) The Department of Defense has two specific sources of funds which may be applicable to an oil discharge under appropriate circumstances. (This does not consider military resources which might be made available under specific conditions.)

(i) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Works Appropriations, Operations and Maintenance, General.

(ii) The U.S. Navy may conduct salvage operations contingent on defense operational commitments, when funded by the requesting agency. Such funding may be requested on a direct cite basis.

(4) Pursuant to section 311(c)(2)(H) of the CWA, the State or States affected by a discharge of oil, may act where necessary to remove such discharge and may, pursuant to 33 CFR Part 153, be reimbursed from the pollution revolving

The ultimate decision as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures. The ultimate decision as to the appropriateness of expending monies from the Fund rests with the IEPA.

(c) The SOSC shall exercise sufficient control over removal operations to be able to certify that reimbursement from the Fund is appropriate.

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

(e) The funding of a response to a discharge from a State operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

[Note: Is it the intent of Illinois law that State agencies would reimburse the HW Fund for discharges from their own facilities? "Supervised" facilities?]

(f) The following agencies have funds available for certain discharge removal actions:

(1) _____

(2) _____

(3) _____

[Note: What other State agencies have funds for discharge removal?]

(4) Local governments affected by a discharge of oil, may act where necessary to remove such discharge and may, be reimbursed from the Fund for the reasonable costs incurred in such a removal only if such action is taken pursuant to a contract, cooperative agreement or delegation agreement with the IEPA.

(A) Removal by a local government is necessary within the meaning of this section when the SOSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs does not effect removal properly, or is unknown, and that:

(i) Local government action is required to minimize or mitigate significant damage to the public health or welfare which State action cannot minimize or mitigate, or

(i) Removal by a State is necessary within the meaning of section 311(c)(2)(H) of the CWA when the OSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs does not effect removal properly, or is unknown, and that:

(A) State action is required to minimize or mitigate significant damage to the public health or welfare which Federal action cannot minimize or

(B) Removal or partial removal can be done by the State at a cost which is less than or not significantly greater than the cost which would be incurred by the Federal departments or agencies.

(ii) State removal actions must be in compliance with this Plan in order to qualify for reimbursement.

(iii) State removal actions are considered to be Phase III actions, under the same definitions applicable to Federal agencies.

(iv) Actions taken by local governments in support of Federal discharge removal operations are considered to be actions of the State for purposes of this section. Federal regional and Federal local plans shall show what funds and resources are available from participating agencies under various conditions and cost arrangements. Interagency agreements may be necessary to specify when reimbursement is required.

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(ii) Removal or partial removal can be done by the local government at a cost which is less than or not significantly greater than the cost which would be incurred by the State departments or agencies.

(B) Local government removal actions must be in compliance with this Plan in order to qualify for reimbursement.

(C) Local government removal actions are considered to be Phase III actions, under the same definitions applicable to State agencies.

Subpart F--Hazardous Substance Response

§ 300.61 General.

(a) This subpart establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA when any hazardous substance is released or there is a substantial threat of such a release into the environment, or there is a release or substantial threat of a release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare.

(b) Section 104(a)(1) of CERCLA authorizes removal or remedial action unless it is determined that such removal or remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

(c) In determining the need for and in planning or undertaking Fund-financed action, response personnel should, to the extent practicable, consider the following:

(1) Encourage State participation in response actions (see § 300.63).

(2) Conserve Fund monies by encouraging private party clean-up.

(3) Be sensitive to local community concerns (in accordance with applicable guidance).

(4) Rely on established technology when feasible and cost-effective.

(5) Encourage the participation and sharing of technology by industry and other experts.

§ 300.62 State role.

(a) States are encouraged to undertake actions authorized under this subpart. Section 104(d)(1) of CERCLA authorizes EPA to enter into contracts or cooperative agreements with the State to take response actions authorized under CERCLA, when EPA determines that the State has the capability to undertake such actions.

(b) EPA will provide assistance from the Fund to States pursuant to a contract or cooperative agreement. The agreement can authorize States to undertake most actions specified in this Subpart.

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SUBPART F: HAZARDOUS SUBSTANCE RESPONSE

Section 747.601 General

(a) This subpart establishes methods and criteria for determining the appropriate extent of response when any hazardous substance is released or there is a substantial threat of such a release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare:

(b) Removal or remedial action is authorized unless it is determined that such removal or remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

(c) In determining the need for and in planning or undertaking Fund-financed action, response personnel should, to the extent practicable, consider the following:

(1) Encourage local government participation in response actions (see Section 747.603).

(2) Conserve Fund monies by encouraging private party clean-up.

(3) Be sensitive to local community concerns (in accordance with applicable guidance).

(4) Rely on established technology when feasible and cost-effective.

(5) Encourage the participation and sharing of technology by industry and other experts.

Section 747.602 Local Government Role.

(a) Local governments are encouraged to undertake actions authorized under this Subpart. IEPA may enter into contracts or cooperative agreements or delegation agreements with the local government to take response actions when IEPA determines that the local government has the capability to undertake such actions.

(b) IEPA may provide assistance from the Fund to local governments pursuant to a contract or cooperative agreement. The agreement can authorize local governments to undertake most actions specified in this Subpart.

CERCLA, before any Fund-financed remedial action may be taken, the affected State(s) must enter into a contract or cooperative agreement with the Federal government.

(2) Included in such contract or cooperative agreement must be assurances by the State consistent with requirements of section 104(c)(3) of CERCLA.

(d) Prior to remedial design activity, the State must make a firm commitment, through either a cooperative agreement or a new or amended State contract, to provide funding for remedial implementation by:

(1) Authorizing the reduction of a State credit to cover its share of costs;

(2) Identifying currently available funds earmarked for remedial implementation; or

(3) Submitting a plan with milestones for obtaining necessary funds.

(e) State credits allowed under section 104(c)(3) of CERCLA must be documented on a site-specific basis for State out-of-pocket, non-Federal eligible response costs between January 1, 1978, and December 11, 1980. Prior to remedial investigation activity at a site, the State must submit its estimate of these costs as a part of the pre-application package when a cooperative agreement is used, or as a part of the State contract. State credits will be applied against State cost shares for Federally-funded remedial actions. A State cannot be reimbursed from the Fund for credit in excess of its matching share.

(f) Pursuant to section 104(c)(2) of CERCLA, prior to determining any appropriate remedial action, EPA shall consult with the affected State or States.

§ 300.63 Phase I--Discovery or notification.

(a) A release may be discovered through:

(1) Notification in accordance with sections 103(a) or (c) of CERCLA;

(2) Investigation by government authorities conducted in accordance with section 104(e) of CERCLA or other statutory authority;

(3) Notification of a release by a Federal or State permit holder when required by its permit;

(4) Inventory efforts or random or incidental observation by government agencies or the public;

(5) Other sources.

(b) If not reported previously, a release should be promptly reported to the NRC. Section 103(a) of CERCLA requires any person in charge of a vessel or facility to immediately notify the NRC as soon as he has knowledge of a release (other than a federally permitted release) of a hazardous substance from such vessel or facility in an amount equal to or greater than the reportable quantity determined pursuant to section 102(b) of CERCLA. The NRC shall convey the notification expeditiously to appropriate government agencies, and in the case of notices received pursuant to section 103(a), the NRC shall also notify the Governor of any affected State.

(c) Upon receipt of a notification of a release, the NRC shall promptly notify

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(c) Before any Fund-financed remedial action may be taken by a local government, that local government must enter into a contract, cooperative agreement or delegation agreement with IEPA.

Section ⁴¹⁰~~747~~ ⁵⁰³ Phase I--Discovery or Notification.

(a) A release may be discovered through:

(1) Notification pursuant to a statutory requirement;

(2) Investigation by government authorities;

(3) Notification of a release by a Federal or State permit holder when required by its permit;

(4) Inventory efforts or random or incidental observation by government agencies or the public;

(5) Other sources.

(b) If not reported previously, a release should be promptly reported to the SRC. Any person in charge of a vessel or facility should immediately notify the SRC as soon as he has knowledge of a release (other than a State or federally permitted release) of a hazardous substance from such vessel or facility in an amount equal to or greater than the permitted quantity. The SRC shall convey the notification expeditiously to appropriate government agencies.

(c) Upon receipt of a notification of a release, the SRC shall promptly notify the appropriate SOSC.

Section ⁴¹⁰~~747~~ ⁵⁰⁴ Phase II--Preliminary Assessment.

(a) A preliminary assessment of a release identified for possible State response should be undertaken by the IEPA. If the reported release potentially requires immediate removal, the preliminary assessment should be done as promptly as possible. Other releases shall be assessed as soon as practicable. The IEPA should base its assessment on readily available information. This assessment may include:

(1) Evaluation of the magnitude of the hazard;

(2) Identification of the source and nature of the release;

(3) Determination of the existence of a non-State party or parties ready, willing, and able to undertake a proper response; and

§ 300.64 Phase II--Preliminary assessment.

(a) A preliminary assessment of a release identified for possible CERCLA response should be undertaken by the lead agency. If the reported release potentially requires immediate removal, the preliminary assessment should be done as promptly as possible. Other releases shall be assessed as soon as practicable. The lead agency should base its assessment on readily available information. This assessment may include:

(1) Evaluation of the magnitude of the hazard;

(2) Identification of the source and nature of the release;

(3) Determination of the existence of a non-Federal party or parties ready, willing, and able to undertake a proper response; and

(4) Evaluation of factors necessary to make the determination of whether immediate removal is necessary.

(b) A preliminary assessment of releases from hazardous waste management facilities may include collection or review of data such as site management practices, information from generators, photographs, analysis of

historical photographs, literature searches, and personal interviews conducted as appropriate. In addition, a perimeter (off-site) inspection may be necessary to determine the potential for a release. Finally, if more information is needed, a site visit may be performed, if conditions are such that it may be performed safely.

(c) A preliminary assessment should be terminated when the OSC determines:

- (1) There is no release;
- (2) The source is neither a vessel nor a facility;
- (3) The release involves neither a hazardous substance, nor a pollutant or contaminant that may pose an imminent and substantial danger to public health or welfare;
- (4) The amount released does not warrant Federal response;
- (5) A party responsible for the release, or any other person, is providing appropriate response, and on-scene monitoring by the government is not recommended or approved by the lead agency; or
- (6) The assessment is completed.

§ 300.85 Phase III—Immediate removal.

(a) In determining the appropriate extent of action to be taken at a given release, the lead agency shall first review the preliminary assessment to determine if immediate removal action is appropriate. Immediate removal action shall be deemed appropriate in those cases in which the lead agency determines that the initiation of immediate removal action will prevent or mitigate immediate and significant risk of harm to human life or health or to the environment from such situations as:

- (1) Human, animal, or food chain exposure to acutely toxic substances;
- (2) Contamination of a drinking water supply;
- (3) Fire and/or explosion; or

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(4) Evaluation of factors necessary to make the determination of whether immediate removal is necessary.

(b) A preliminary assessment of releases from hazardous waste management facilities may include collection or review of data such as site management practices, information from generators, photographs, analysis of historical photographs, literature searches, and person interviews conducted as appropriate. In addition, a perimeter (off-site) inspection may be necessary to determine the potential for release. Finally, if more information is needed, a site visit may be performed, if conditions are such that it may be performed safely.

(c) A preliminary assessment should be terminated when the SOSC determines:

- (1) There is no release;
- (2) The source is neither a vessel nor a facility;
- (3) The release involves neither a hazardous substance, nor a pollutant or contaminant that may pose an imminent and substantial danger to public health or welfare;
- (4) The amount released does not warrant State response;
- (5) A party responsible for the release, or any other person, is providing appropriate response, and on-scene monitoring by the government is not recommended or approved by the lead agency; or
- (6) The assessment is completed.

Section ⁴³⁰ 747.685 Phase III--Immediate Removal.

(a) In determining the appropriate extent of action to be taken at a given release, the IEPA shall first review the preliminary assessment to determine if immediate removal action is appropriate. Immediate removal action shall be deemed appropriate in those cases in which the IEPA determines that the initiation of immediate removal action will prevent or mitigate immediate and significant risk of harm to human life or health or to the environment from such situations as:

- (1) Human, animal, or food chain exposure to acutely toxic substances;
- (2) Contamination of a drinking water supply;
- (3) Fire and/or explosion, or

(4) Similarly acute situations.

(b) If the lead agency determines that immediate removal is appropriate, defensive actions should begin as soon as possible to prevent or mitigate danger to the public health, welfare, or the environment. Actions may include, but are not limited to:

(1) Collecting and analyzing samples to determine the source and dispersion of the hazardous substance and documenting those samples for possible evidentiary use.

(2) Providing alternative water supplies.

(3) Installing security fencing or other measures to limit access.

(4) Controlling the source of release.

(5) Measuring and sampling.

(6) Moving hazardous substances off-site for storage, destruction, treatment, or disposal provided that the substances are moved to a facility that is in compliance with subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

(7) Placing physical barriers to deter the spread of the release.

(8) Controlling the water discharge from an upstream impoundment.

(9) Recommending to appropriate authorities the evacuation of threatened individuals.

(10) Using chemicals and other materials in accordance with Subpart H to restrain the spread of the substance and to mitigate its effects.

(11) Executing damage control or salvage operations.

(c) Immediate removal actions are complete when, in the opinion of the lead agency, the criteria in subsection (a) of § 300.65 are no longer met and any contaminated waste materials transported off-site have been treated or disposed of properly.

(d) Immediate removal action shall be terminated after \$1 million has been obligated for the action or six months have elapsed from the date of initial response to a release or threatened release unless it is determined that:

(4) Similarly acute situations.

(b) If the IEPA determines that immediate removal is appropriate, defensive actions should begin as soon as possible to prevent or mitigate danger to the public health, welfare, or the environment. Actions may include, but are not limited to:

(1) Collecting and analyzing samples to determine the source and dispersion of the hazardous substance and documenting those samples for possible evidentiary use.

(2) Providing alternative water supplies.

(3) Installing security fencing or other measures to limit access.

(4) Controlling the source of release.

(5) Measuring and sampling.

(6) Moving hazardous substances off-site for storage, destruction, treatment, or disposal provided that the substances are moved to a facility that is in compliance with Subtitle G of the Board's regulations (35 Ill. Adm. Code 700 et. seq.).

(7) Placing physical barriers to deter the spread of the release.

(8) Controlling the water discharge from an upstream impoundment.

(9) Recommending to appropriate authorities the evacuation of threatened individuals.

(10) Using chemicals and other materials in accordance with Subpart H to restrain the spread of the substance and to mitigate its effects.

(11) Executing damage control or salvage operations.

(c) Immediate removal actions are complete when, in the opinion of the lead agency, the criteria in subsection (a) of this Section are no longer met and any contaminated waste materials transported off-site have been treated or disposed of properly.

(d) Immediate removal action shall be terminated after \$1 million has been obligated for the action or six months have elapsed from the date of initial response to a release or threatened release unless it is determined that:

(1) Continued response actions are immediately required to prevent, limit or mitigate an emergency;

(2) There is an immediate risk to public health or welfare or the environment; and

(3) Such assistance will not otherwise be provided on a timely basis.

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(e) If the lead agency determines that the release still may require planned removal or remedial action, the lead agency or a State may initiate, either simultaneously or sequentially, Phase IV or V as appropriate.

§ 300.66 Phase IV--Evaluation and determination of appropriate response--planned removal and remedial action.

(a) The purpose of this phase is to determine the appropriate action when the preliminary assessment indicates that further response may be necessary or when the OSC requests and the lead agency concurs that further response should follow an immediate removal action.

(b) As soon as practicable, an inspection will be undertaken to assess the nature and extent of the release and to assist in determining its priority for Fund-financed response.

(c)(1) Pursuant to section 104 (b) and (e) of CERCLA, the responsible official may undertake investigations, monitoring, surveys, testing and other

information gathering as appropriate. These efforts shall be undertaken jointly by the Federal or State officials responsible for providing Fund-financed response and those responsible for enforcing legal requirements.

(2) A major objective of an inspection is to determine if there is any immediate danger to persons living or working near the facility. In general, the collection of samples should be minimized during inspection activities; however, situations in which there is an apparent risk to the public should be treated as exceptions to that practice. Examples of apparent risk include use of nearby wells for drinking water, citizen complaints of unusual taste or odor in drinking water, or chemical odors or unusual health problems in the vicinity of the release. Under those circumstances, a sampling protocol should be developed for the inspection to allow for the earliest possible detection of any human exposure to hazardous substances. The site inspection may also address:

(i) Determining the need for immediate removal action;

(ii) Assessing amounts, types and location of hazardous substances stored;

(1) Continued response actions are immediately required to prevent, limit or mitigate an emergency;

(2) There is an immediate risk to public health or welfare or the environment; and

(3) Such assistance will not otherwise be provided on a timely basis.

(e) If the IEPA determines that the releases still may require planned removal or remedial action, the IEPA may initiate, either simultaneously or sequentially, Phase IV or V as appropriate.

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Section 747 .606 Phase IV--Evaluation and Determination of Appropriate Response--Planned Removal and Remedial Action

(a) The purpose of this phase is to determine the appropriate action when the preliminary assessment indicates that further response may be necessary or when the SOSC requests and the IEPA concurs that further response should follow an immediate removal action.

(b) As soon as practicable, an inspection will be undertaken to assess the nature and extent of the release and to assist in determining its priority for Fund-financed response.

(c)(1) The SOSC may undertake investigations, monitoring, surveys, testing and other information gathering as appropriate. Employees of the Attorney General's Office may observe and advise the SOSC on these activities.

(2) A major objective of an inspection is to determine if there is any immediate danger to persons living or working near the facility. In general, the collection of samples should be minimized during inspection activities; however, situations in which there is an apparent risk to the public should be treated as exceptions to that practice. Examples of apparent risk include use of nearby wells for drinking water, citizen complaints of unusual taste or odor in drinking water, or chemical odors or unusual health problems in the vicinity of the release. Under those circumstances, a sampling protocol should be developed for the inspection to allow for the earliest possible detection of any human exposure to hazardous substances. The site inspection may also address:

(A) Determining the need for immediate removal action;

(B) Assessing amounts, types and location of hazardous substances stored;

(iii) Assessing potential for substances to migrate from areas where they were originally located;

(iv) Determining or documenting immediate threats to the public or environment.

(d) Methods for Establishing Priorities. (1) States that wish to submit candidates for the National Priorities List must use the Hazard Ranking System (included in Appendix A) to rank the releases.

(2) EPA will notify States at least thirty days prior to the deadline for submitting candidate releases for the National Priorities List or any subsequent revisions.

(3) Each State may designate a facility as the State's highest priority release by certifying, in writing signed by the Governor or the Governor's designee, that the facility presents the greatest danger to public health, welfare or the environment among known facilities in the State.

(e) National Priorities List. (1) Compiling the National Priorities List— EPA Regional Office will review State hazard rankings to ensure uniform application of the Hazard Ranking System and may add, in consultation with the States, any additional priority releases known to EPA. The States' priorities will be reviewed and consolidated by EPA Headquarters into a National Priorities List pursuant to section 105(8) of CERCLA. To the extent practicable, each State's designated top

priority facility will be included among the one hundred highest priority facilities.

(2) No facilities presently owned by the Federal Government will be included on the National Priorities List.

(3) EPA will submit the recommended National Priorities List to the NRT for review and comment.

(4) EPA will publish a proposed National Priorities List for public comment.

(5) The National Priorities List is presented in Appendix B.

(6) Ranking of Releases—Similar hazard ranking scores assigned to releases cannot accurately differentiate among risks represented by the releases. Thus, in order to avoid misleading the public that real differences in risk exist, similar scores may be grouped on the National Priorities List.

(7) EPA will revise and publish the National Priorities List at least once annually. In addition, revisions will give notice of the deletion (if any) of releases previously listed.

§ 300.67 Phase V—Planned removal.

(a) Planned removal may be undertaken pursuant to a contract or cooperative agreement when the lead agency determines that:

(1) There would be a substantial cost savings by continuing a response action with the equipment and resources mobilized for an immediate removal action taken pursuant to § 300.64, but terminate pursuant to § 300.64(c), or

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(C) Assessing potential for substances to migrate from areas where they were originally located;

(D) Determining or documenting immediate threats to the public or environment.

(d) Methods for Establishing Priorities.

(1) IEPA, in consultation with the SRT, shall prepare a State Priorities List. Such list shall be compiled using the Federal Hazard Waste Ranking System (40 CFR 300, Appendix A.) IEPA shall publish a proposed State Priorities List for public comment.

(2) No facilities presently owned by the Federal Government will be included on the State Priority List.

(3) Ranking of Releases--Similar hazard ranking scores assigned to releases cannot accurately differentiate among risks represented by the releases. Thus, in order to avoid misleading the public that real differences in risk exist, similar scores may be grouped on the State Priorities List.

(4) IEPA will revise and publish the State Priorities List at least once annually. In addition, revisions will give notice of the deletion (if any) of releases previously listed.

Section 747.607 ⁴⁶⁶ Phase V--Planned Removal.

(a) Planned removal may be undertaken pursuant to a contract or cooperative agreement or delegation agreement when the IEPA determines that:

(1) There would be a substantial cost savings by continuing a response action with the equipment and resources mobilized for an immediate removal action taken pursuant to Section 747.604, but terminated pursuant to Section 747.604(c); or

(2) The public and/or environment will be at risk from exposure to hazardous substances if response is delayed at a release not on the State Priorities List.

(b) Among the factors that IEPA will use to determine whether a planned removal is appropriate under Section 747.607(a)(2) are the following:

(1) Actual or potential direct contact with hazardous substances by nearby population;

(2) Contaminated drinking water at the tap;

(2) The public and/or environment will be at risk from exposure to hazardous substances if response is delayed at a release not on the National Priorities List.

(b) Planned removal must be requested by the Governor of the affected State or his designee. Requests must include:

(1) A description of the nature and extent of the release;

(2) A description of actions taken or underway at the site;

(3) A description of the proposed planned removal; and

(4) Assurances that the State will pay at least 10 percent of the costs of the action, including all future maintenance, or at least 50 percent or such greater amount as EPA may determine appropriate, taking into account the degree of responsibility of the State or political subdivision, of any sums expended in response to a release at a facility that was owned at the time of any disposal of hazardous substances therein by the State or a political subdivision thereof.

(c) Among the factors that EPA will use to determine whether a planned removal is appropriate under

(1) Actual or potential direct contact with hazardous substances by nearby population;

(2) Contaminated drinking water at the tap;

(3) Hazardous substances in drums, barrels, tanks, or other bulk storage containers, that are known to pose a serious threat to public health or the environment;

(4) Highly contaminated soils largely at or near surface, posing a serious threat to public health or the environment;

(5) Serious threat of fire or explosion; or

(6) Weather conditions that may cause substances to migrate and pose a serious threat to public health or the environment.

(d) Planned removal actions shall be terminated when the lead agency determines that the risk to the public health or the environment has been abated. In making this determination, the lead agency shall consider whether the factors listed in § 300.52(c) continue to apply to the release and whether any contaminated waste materials transported off-site have been treated or disposed of properly.

(e) Unless the EPA finds that (1) continued response actions are immediately required to prevent, limit or mitigate an emergency, (2) there is an immediate risk to public health or welfare or the environment, and (3) such assistance will not otherwise be provided on a timely basis, obligations from the Fund, other than those authorized by section 104(b) of CERCLA, shall not continue after \$1 million has been obligated for response actions or six months has elapsed from the date of initial response to the release.

§ 300.68 Phase VI--Remedial action.

(a) Remedial actions taken pursuant to this section (other than responses at Federal facilities) are those responses to releases on the National Priorities List that are consistent with permanent remedy to prevent or mitigate the migration of a release of hazardous substances into the environment.

(b) States are encouraged to undertake Fund-financed remedial actions in accordance with § 300.62 of this Plan.

(c) As an alternative or in addition to Fund-financed remedial action, the lead agency may seek, through voluntary agreement or administrative or judicial process, to have those persons

responsible for the release clean up in a manner that effectively mitigates and minimizes damage to, and provides adequate protection of, public health, welfare, and the environment. The lead agency shall evaluate the adequacy of clean-up proposals submitted by

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(3) Hazardous substances in drums, barrels, tanks, or other bulk storage containers, that are known to pose a serious threat to public health or the environment;

(4) Highly contaminated soils largely at or near surface, posing a serious threat to public health or the environment;

(5) Serious threat of fire or explosion; or

(6) Weather conditions that may cause substances to migrate and pose a serious threat to public health or the environment.

(c) Planned removal actions shall be terminated when the IEPA determines that the risk to the public health or the environment has been abated. In making this determination, the IEPA shall consider whether the factors listed in Section 747.606(c) continue to apply to the release and whether any contaminated waste materials transported off-site have been treated or disposed of properly.

(d) Unless the IEPA finds that (1) continued response actions are immediately required to prevent, limit or mitigate an emergency, (2) there is an immediate risk to public health or welfare or the environment, and (3) such assistance will not otherwise be provided on a timely basis, obligations from the Fund, shall not continue after \$1 million has been obligated for response actions or six months has elapsed from the date of initial response to the release.

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Section 747.608 Phase VI--Remedial action.

(a) Remedial actions taken pursuant to this section (other than responses at State or Federal facilities) are those responses to releases on the State Priorities List that are consistent with permanent remedy to prevent or mitigate the migration of a release of hazardous substances into the environment.

(b) Local governments are encouraged to undertake Fund-financed remedial actions in accordance with Section 747.602 of this Plan.

(c) As an alternative or in addition to Fund-financed remedial action, the IEPA may seek, through voluntary agreement or administrative or judicial process, to have those persons responsible for the release clean up in a manner that effectively mitigates and minimizes damage to, and provides adequate protection of, public health, welfare, and the environment. The IEPA shall evaluate the adequacy of clean-up proposals submitted

responsible parties or determine the level of clean-up to be sought through enforcement efforts, by consideration of the factors discussed in paragraphs (e) through (j) of this section. The lead agency will not, however, apply the cost balancing considerations discussed in paragraph (k) of this section to determine the appropriate extent of responsible party clean-up.

(d)(1) The lead agency, in cooperation with State(s), will examine available information and determine, based on the factors in paragraph (g) of this section, the type or types of remedial response that may be needed to remedy the release. This scoping will serve as the basis for requesting funding for a remedial investigation and feasibility study:

(i) In the case of initial remedial measures, a single request may be made by a State for funding the remedial investigation, feasibility study, design and implementation, in order that such measures may be expedited while continuing the remainder of the remedial planning process.

(ii) In the case of source control or off-site remedial action, the initial funding request should be for the remedial investigation and feasibility study. Requests for funding of design and implementation should be made after the completion of the feasibility study.

(2) As a remedial investigation progresses, the project may be modified if the lead agency determines that, based on the factors in 300.60(e), such modifications would be appropriate.

(e) In determining the appropriate extent of remedial action, the following factors should be used to determine the type or types of remedial action that may be appropriate:

(1) In some instances, initial remedial measures can and should begin before final selection of an appropriate remedial action if such measures are determined to be feasible and necessary to limit exposure or threat of exposure to a significant health or environmental hazard and if such measures are cost-effective. Compliance with § 300.67(b) is a prerequisite to taking initial remedial measures. The following factors should be used in determining whether initial remedial measures are appropriate:

(i) Actual or potential direct contact with hazardous substances by nearby population. (Measures might include fences and other security precautions.)

(ii) Absence of an effective drainage control system (with an emphasis on run-on control). (Measures might include drainage ditches.)

by responsible parties or determine the level of clean-up proposals submitted by responsible parties or determine the level of clean-up to be sought through enforcement efforts, by consideration of the factors discussed in paragraphs (e) through (j) of this section. The IEPA will not, however, apply the cost balancing considerations discussed in paragraph (k) of this section to determine the appropriate extent of responsible party clean-up.

(d)(1) The IEPA will examine available information and determine, based on the factors in paragraph (g) of this section, the type or types of remedial response that may be needed to remedy the release. This scoping will serve as the basis for requesting funding for a remedial investigation and feasibility study:

(A) In the case of initial remedial measures, a single request may be made by IEPA for funding the remedial investigation, feasibility study, design and implementation, in order that such measures may be expedited while continuing the remainder of the remedial planning process.

(B) In the case of source control or off-site remedial action, the initial funding request should be for the remedial investigation and feasibility study. Request for funding of design and implementation should be made after the completion of the feasibility study.

(2) As a remedial investigation progresses, the project may be modified if the IEPA determines that, based on the factors in subsection (e), such modifications would be appropriate.

(e) In determining the appropriate extent of remedial action, the following factors should be used to determine the type or types of remedial action that may be appropriate:

(1) In some instances, initial remedial measures can and should begin before final selection of an appropriate remedial action if such measures are determined to be feasible and necessary to limit exposure or threat of exposure to a significant health or environmental hazard and if such measures are cost-effective. Compliance with Section 747.607(b) is a prerequisite to taking initial remedial measures. The following factors should be used in determining whether initial remedial measures are appropriate:

(A) Actual or potential direct contact with hazardous substances by nearby population. (Measures might include fences and other security precautions.)

(B) Absence of an effective drainage control system (with an emphasis on run-on control). (Measures might include drainage ditches.)

(iii) Contaminated drinking water at the tap. (Measures might include the temporary provision of an alternative water supply.)

(iv) Hazardous substances in drums, barrels, tanks, or other bulk storage containers, above surface posing a serious threat to public health or the environment. (Measures might include transport of drums off-site.)

(v) Highly contaminated soils largely at or near surface, posing a serious threat to public health or the environment. (Measures might include temporary capping or removal of highly contaminated soils from drainage areas.)

(vi) Serious threat of fire or explosion or other serious threat to public health or the environment. (Measures might include security or drum removal.)

(vii) Weather conditions that may cause substances to migrate and to pose a serious threat to public health or the environment. (Measures might include stabilization of berms, dikes or impoundments.)

(2) Source control remedial actions may be appropriate if a substantial concentration of hazardous substances remain at or near the area where they were originally located and inadequate barriers exist to retard migration of substances into the environment. Source control remedial actions may not be appropriate if most substances have migrated from the area where originally located or if the lead agency determines that the substances are adequately contained. Source control remedial actions may include alternatives to contain the hazardous substances where they are located or eliminate potential contamination by transporting the hazardous substances to a new location. The following criteria should be assessed in determining whether and what type of source control remedial actions should be considered:

(i) The extent to which substances pose a danger to public health, welfare, or the environment. Factors which should be considered in assessing this danger include:

(A) Population at risk;

(B) Amount and form of the substance present;

(C) Hazardous properties of the substances;

(D) Hydrogeological factors (e.g. soil permeability depth to saturated zone, hydrologic gradients, proximity to a drinking water aquifer); and

(E) Climate (rainfall, etc.).

(ii) The extent to which substances have migrated or are contained by either natural or man-made barriers.

(C) Contaminated drinking water at the tap. (Measures might include the temporary provision of an alternative water supply.)

(D) Hazardous substances in drums, barrels, tanks, or other bulk storage containers, above surface posing a serious threat to public health or the environment. (Measures might include transport of drums off-site.)

(E) Highly contaminated soils largely at or near surface, posing a serious threat to public health or the environment. (Measures might include temporary capping or removal of highly contaminated soils from drainage areas.)

(F) Serious threat of fire or explosion or other serious threat to public health or the environment. (Measures might include stabilization of berms, dikes or impoundments.)

(G) Weather conditions that may cause substances to migrate and to pose a serious threat to public health or the environment. (Measures might include stabilization of berms, dikes or impoundments.)

463 (2) Source control remedial actions may be appropriate if a substantial concentration of hazardous substances remain at or near the area where they were originally located and inadequate barriers exist to retard migration of substances into the environment. Source control remedial actions may not be appropriate if most substances have migrated from the area where originally located or if the IEPA determines that the substances are adequately contained. Source control remedial actions may include alternative to contain the hazardous substances where they are located or eliminate potential contamination by transporting the hazardous substances to a new location. The following criteria should be assessed determining whether and what type of source control remedial actions should be considered:

(A) The extent to which substances pose a danger to public health, welfare, or the environment. Factors which should be considered in assessing this danger include:

(i) Population at risk;

(ii) Amount and form of the substance present;

(iii) Hazardous properties of the substances;

(iv) Hydrogeological factors (e.g. soil permeability depth to saturated zone, hydrologic gradients, proximity to a drinking water aquifer); and

(v) Climate (rainfall, etc.).

(B) The extent to which substances have migrated or are contained by either natural or man-made barriers.

(iii) The experiences and approaches used in similar situations by State and Federal agencies and private parties.

(iv) Environmental effects and welfare concerns.

(2) In some situations it may be appropriate to take action (referred to as offsite remedial actions) to minimize and mitigate the migration of hazardous substances and the effects of such migration. These actions may be taken when the lead agency determines that source control remedial actions may not effectively mitigate and minimize the threat and there is a significant threat to public health, welfare, or the environment. These situations typically will result from contamination that has migrated beyond the area where the hazardous substances were originally located. Offsite measures may include provision of permanent alternative water supplies, management of a drinking water aquifer plume or treatment of drinking water aquifers. The following criteria should be used in determining whether and what type of offsite remedial actions should be considered:

(i) Contribution of the contamination to an air, land or water pollution problem.

(ii) The extent to which the substances have migrated or are expected to migrate from the area of their original location and whether continued migration may pose a danger to public health, welfare or environment.

(iii) The extent to which natural or man-made barriers currently contain the hazardous substances and the adequacy of the barriers.

(iv) The factors listed in paragraph (e)(2)(i) of this section.

(v) The experiences and approaches used in similar situations by State and Federal agencies and private parties.

(iv) Environmental effects and welfare concerns.

(f) A remedial investigation should be undertaken by the lead agency (or responsible party if the responsible party will be developing a clean-up proposal) to determine the nature and extent of the problem presented by the release. This includes sampling and monitoring, as necessary, and includes the gathering of sufficient information to determine the necessity for and proposed extent of remedial action. During the remedial investigation, the original scoping of the project may be modified based on the factors in

(C) The experiences and approaches used in similar situations by State and Federal agencies, other states, and private parties.

(D) Environmental effects and welfare concerns.

4/64 (3) In some situations it may be appropriate to take action (referred to as offsite remedial actions) to minimize and mitigate the migration of hazardous substances and the effects of such migration. These actions may be taken when the IEPA determines that source control remedial actions may not effectively mitigate and minimize the threat and there is a significant threat to public health, welfare, or the environment. These situations typically will result from contamination that has migrated beyond the area where the hazardous substances were originally located. Offsite measures may include provision of permanent alternative water supplies, management of a drinking water aquifer plume or treatment of drinking water aquifers. The following criteria should be used in determining whether and what type of offsite remedial actions should be considered:

(A) Contribution of the contamination to an air, land or water pollution problem.

(B) The extent to which the substances have migrated or are expected to migrate from the area of their original location and whether continued migration may pose a danger to public health, welfare or environment.

(C) The extent to which natural or man-made barriers currently contain the hazardous substances and the adequacy of the barriers.

(D) The factors listed in paragraph (e)(2) (A) of this section.

(E) The experiences and approaches used in similar situations by State and Federal agencies, other states, and private parties.

(F) Environmental effects and welfare concerns.

4/65 (f) A remedial investigation should be undertaken by the IEPA (or responsible party if the responsible party will be developing a clean-up proposal) to determine the nature and extent of the problem presented by the release. This includes sampling and monitoring, as necessary, and includes the gathering of sufficient information to determine the necessity for and proposed extent of remedial action. During the remedial investigation, the original scoping of the project may be modified based

§ 300.68(e). Part of the remedial investigation involves assessing whether the threat can be mitigated and

minimized by controlling the source of the contamination at or near the area where the hazardous substances were originally located (source control remedial actions) or whether additional actions will be necessary because the hazardous substances have migrated from the area of their original location (offsite remedial actions).

(g) *Development of Alternatives.* A limited number of alternatives should be developed for either source control or offsite remedial actions (or both) depending upon the type of response that has been identified under paragraphs (e) and (f) of this section as being appropriate. One alternative may be a no-action alternative. No-action alternatives are appropriate, for example, when response action may cause a greater environmental or health danger than no action. These alternatives should be developed based upon the assessment conducted under paragraphs (e) and (f) of this section and reflect the types of source control or offsite remedial actions determined to be appropriate under paragraphs (e) and (f) of this section.

(h) *Initial Screening of Alternatives.* The alternatives developed under paragraph (g) of this section will be subjected to an initial screening to narrow the list of potential remedial actions for further detailed analysis. Three broad criteria should be used in the initial screening of alternatives:

(1) *Cost.* For each alternative, the cost of installing or implementing the remedial action must be considered, including operation and maintenance costs. An alternative that far exceeds (e.g. by an order of magnitude) the costs of other alternatives evaluated and that does not provide substantially greater public health or environmental benefit should usually be excluded from further consideration.

(2) *Effects of the Alternative.* The effects of each alternative should be evaluated in two ways: (i) Whether the alternative itself or its implementation has any adverse environmental effects; and (ii) for source control remedial actions, whether the alternative is likely to achieve adequate control of source material, or for offsite remedial actions, whether the alternative is likely to effectively mitigate and minimize the threat of harm to public health, welfare or the environment. If an alternative has significant adverse effects, it should be excluded from further consideration. Only those alternatives that effectively contribute to protection of public health, welfare, or the environment should be considered further.

(3) *Acceptable Engineering Practices.* Alternatives must be feasible for the

location and conditions of the release, applicable to the problem, and represent a reliable means of addressing the problem.

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on the factors in Section 747.608(e). Part of the remedial investigation involves assessing whether the threat can be mitigated and minimized by controlling the source of the contamination at or near the area where the hazardous substances were originally located (source control remedial actions) or whether additional actions will be necessary because the hazardous substances have migrated from the area of their original location (offsite remedial actions).

4/b (g) *Development of Alternatives.* A limited number of alternatives should be developed for either source control or offsite remedial actions (or both) depending upon the type of response that has been identified under paragraphs (e) and (f) of this section as being appropriate. One alternative may be a no-action alternative. No-action alternative are appropriate, for example, when response action may cause a greater environmental or health danger than no action. These alternatives should be developed based upon the assessment conducted under paragraphs (e) and (f) of this section and reflect the types of source control or offsite remedial actions determined to be appropriate under paragraphs (e) and (f) of this section.

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(3) *Acceptable Engineering Practices.* Alternatives must be feasible for the location and conditions of the release, applicable to the problem, and represent a reliable means of addressing the problem.

(i) Detailed Analysis of Alternatives.

(1) A more detailed evaluation will be conducted of the limited number of alternatives that remain after the initial screening in paragraph (h).

(2) The detailed analysis of each alternative should include:

(A) Refinement and specification of alternatives in detail, with emphasis on use of established technology;

(B) Detailed cost estimation, including distribution of costs over time;

(C) Evaluation in terms of engineering implementation, or constructability;

(D) An assessment of each alternative in terms of the extent to which it is expected to effectively mitigate and minimize damage to, and provide adequate protection of, public health, welfare, and the environment, relative to the other alternatives analyzed; and

(E) An analysis of any adverse environmental impacts, methods for mitigating these impacts, and costs of mitigation.

(3) In performing the detailed analysis of alternatives, it may be necessary to gather additional data in order to complete the analysis.

(j) The appropriate extent of remedy shall be determined by the lead agency's selection of the remedial alternative which the agency determines is cost-effective (i.e. the lowest cost alternative that is technologically feasible and reliable and which effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare, or the environment).

(k) Section 104(c)(4) of CERCLA requires that the need for protection of public health, welfare and the environment at the facility under consideration be balanced against the amount of money available in the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the need for immediate action. Accordingly, in determining the appropriate extent of remedy for Fund-financed response, the lead agency also must consider the need to respond to other releases with Fund monies.

§ 300.69 Phase VII--Documentation and cost recovery.

(a) During all phases, documentation shall be collected and maintained to support all actions taken under this Plan, and to form the basis for cost

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(i) Detailed Analysis of Alternatives.

(1) A more detailed evaluation will be conducted of the limited number of alternatives that remain after the initial screening in paragraph (h).

(2) The detailed analysis of each alternative should include:

(A) Refinement and specification of alternatives in detail, with emphasis on use of established technology;

(B) Detailed cost estimation, including distribution of costs over time;

(C) Evaluation in terms of engineering implementation, or constructability;

(D) An assessment of each alternative in terms of the extent to which it is expected to effectively mitigate and minimize damage to, and provide adequate protection of, public health, welfare, and the environment, relative to the other alternatives analyzed; and

(E) An analysis of any adverse environmental impacts, methods for mitigating these impacts, and costs of mitigation.

(3) In performing the detailed analysis of alternatives, it may be necessary to gather additional data in order to complete the analysis.

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(j) The appropriate extent of remedy shall be determined by the IEPA's selection of the remedial alternative which it determines is cost-effective (i.e. the lowest cost alternative that is technologically feasible and reliable and which effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare, or the environment).

(k) The need for protection of public health, welfare and the environment at the facility under consideration should be balanced against the amount of money available in the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the need for immediate action. Accordingly, in determining the appropriate extent of remedy for Fund-financed response, the IEPA also must consider the need to respond to other releases with Fund monies.

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Section 217 - 609 Phase VII--Documentation and Cost Recovery.

(a) During all phases, documentation shall be collected and maintained to support all actions taken under this Plan, and to

recovery. In general, documentation should be sufficient to provide the

source and circumstances of the condition, the identity of responsible parties, accurate accounting of Federal costs incurred, and impacts and potential impacts to the public health, welfare and environment.

(b) The information and reports obtained by the lead agency for Fund-financed response action should be transmitted to the RRC. Copies can then be forwarded to the NRT, members of the RRT, and others as appropriate.

§ 300.70 Methods of remedying releases.

(a) The following section lists methods for remedying releases that may be considered by the lead agency in taking response action. This list of methods should not be considered inclusive of all possible methods of remedying releases.

(b) *Engineering Methods for On-Site Actions.*—(1)(i) *Air emissions control.*—The control of volatile gaseous compounds should address both lateral movement and atmospheric emissions. Before gas migration controls can be properly installed, field measurements to determine gas concentrations, pressures, and soil permeabilities should be used to establish optimum design for control. In addition, the types of hazardous substances present, the depth to which they extend, the nature of the

gas and the subsurface geology of the release area should, if possible, be determined. Typical emission control techniques include the following:

- (A) Pipe vents;
- (B) Trench vents;
- (C) Gas barriers;
- (D) Gas collection systems;
- (E) Overpacking.

(ii) *Surface water controls.*—These are remedial techniques designed to reduce waste infiltration and to control runoff at release areas. They also serve to reduce erosion and to stabilize the surface of covered sites. These types of control technologies are usually implemented in conjunction with other types of controls such as the elimination of ground water infiltration and/or waste stabilization, etc. Technologies applicable to surface water control include the following:

- (A) Surface seals;
- (B) Surface water diversion and collection systems;
- (1) Dikes and berms;
- (2) Ditches, diversions, waterways;

form the basis for cost recovery. In general, documentation should be sufficient to provide the source and circumstances of the condition, the identity of responsible parties, accurate accounting of State costs incurred, and impacts and potential impacts to the public health, welfare and environment.

(b) The information and reports obtained by the IEPA for Fund-financed response action should be transmitted to the SRC. Copies can then be forwarded to the SRT and others as appropriate.

Section ⁴⁸⁰ 747 .610 Methods of remedying releases.--Engineering Methods for On-Site Actions.

(a)(1) Air emissions control--The control of volatile gaseous compounds should address both lateral movement and atmospheric emissions. Before gas migration controls can be properly installed, field measurements to determine gas concentrations, pressures, and soil permeabilities should be used to establish optimum design for control. In addition, the types of hazardous substances present, the depth to which they extend, the nature of the gas and the subsurface geology of the release area should, if possible, be determined. Typical emission control techniques include the following:

- (A) Pipe vents;
- (B) Trench vents;
- (C) Gas barriers;
- (D) Gas collection systems;
- (E) Overpacking.

⁴⁸¹ (2) Surface water controls--These are remedial techniques designed to reduce waste infiltration and to control runoff at release areas. They also serve to reduce erosion and to stabilize the surface of covered sites. These types of control technologies are usually implemented in conjunction with other types of controls such as the elimination of ground water infiltration and/or waste stabilization, etc. Technologies applicable to surface water control include the following:

- (A) Surface seals;
- (B) Surface water diversion and collection systems;
- (i) Dikes and berms;
- (ii) Ditches, diversions, waterways;

- (iii) Chutes and downpipes;
- (iv) Levees;
- (v) Seepage basins and ditches;
- (vi) Sedimentation basins and ponds;
- (vii) Terraces and benches;
- (C) Grading;
- (D) Revegetation.

482V (3) Ground water controls--Ground water pollution is a particularly serious problem because, once an aquifer has been contaminated, the resource cannot usually be cleaned without the expenditure of great time, effort and resources. Techniques that can be applied to the problem with varying degrees of success are as follows:

- (A) Impermeable barriers:
 - (i) Slurry walls;
 - (ii) Grout curtains;
 - (iii) Sheet pilings;
- (B) Permeable treatment beds;
- (C) Ground water pumping:
 - (i) Water table adjustment;
 - (ii) Plume containment.

(D) Leachate control--Leachate control systems are applicable to control of surface seeps and seepage of leachate to ground water. Leachate collection systems consist of a series of drains which intercept the leachate and channel it to a sump, wetwell, treatment system, or appropriate surface discharge point. Technologies applicable to leachate control include the following:

- (i) Subsurface drains;
- (ii) Drainage ditches;

- (3) Chutes and downpipes;
- (4) Levees;
- (5) Seepage basins and ditches;
- (6) Sedimentation basins and ponds;
- (7) Terraces and benches.
- (C) Grading;
- (D) Revegetation.

482V (III) Ground water controls--Ground water pollution is a particularly serious problem because, once an aquifer has been contaminated, the resource cannot usually be cleaned without the expenditure of great time, effort and resources. Techniques that can be applied to the problem with varying degrees of success are as follows:

- (A) Impermeable barriers:
 - (1) Slurry walls;
 - (2) Grout curtains;
 - (3) Sheet pilings.
- (B) Permeable treatment beds;
- (C) Ground water pumping:
 - (1) Water table adjustment;
 - (2) Plume containment.
- (D) Leachate control--Leachate control systems are applicable to control of surface seeps and seepage of leachate to ground water. Leachate collection systems consist of a series of drains which intercept the leachate and channel it to a sump, wetwell, treatment system, or appropriate surface discharge point. Technologies applicable to leachate control include the following:
 - (1) Subsurface drains;
 - (2) Drainage ditches;

(3) Liners.

(b)(1)

(iv) Contaminated water and sewer line.--Sanitary sewers and municipal water mains located down gradient from hazardous waste disposal sites may become contaminated by infiltration of leachate or polluted ground water through cracks, ruptures, or poorly sealed joints in piping. Technologies applicable to the control of such contamination to water and sewer lines include:

(A) Grouting;

(B) Pipe relining and sleeving;

(C) Sewer relocation.

(b)(2)

(2) Treatment technologies. (i)

Gaseous emissions treatment--Gases from waste disposal sites frequently contain malodorous and toxic substances, and thus require treatment before release to the atmosphere. There are two basic types of gas treatment systems:

(A) Vapor phase adsorption;

(B) Thermal oxidation.

(b)(2)

(ii) Direct waste treatment methods--

In most cases, these techniques can be considered long-term permanent solutions. Many of these direct treatment methods are not fully developed and the applications and process reliability are not well demonstrated. Use of these techniques for waste treatment may require considerable pilot plant work. Technologies applicable to the direct treatment of wastes are:

(A) Biological methods:

(1) Treatment via modified conventional wastewater treatment techniques;

(2) Anaerobic, aerated and facultative lagoons;

(3) Supported growth biological reactors.

(B) Chemical methods:

(1) Chlorination;

(2) Precipitation, flocculation, sedimentation;

(3) Neutralization;

(4) Equalization;

(iii) Liners.

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(4) Contaminated water and sewer lines--Sanitary sewers and municipal water mains located down gradient from hazardous waste disposal sites may become contaminated by infiltration of leachate or polluted ground water through cracks, ruptures, or poorly sealed joints in piping. Technologies applicable to the control of such contamination to water and sewer lines include:

(A) Grouting;

(B) Pipe relining and sleeving;

(C) Sewer relocation.

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(b) Treatment technologies. (1) Gaseous emissions treatment--Gases from waste disposal sites frequently contain malodorous and toxic substances, and thus require treatment before releases to the atmosphere. There are two basic types of gas treatment systems:

(A) Vapor phase adsorption;

(B) Thermal oxidation.

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(2) Direct waste treatment methods--In most cases, these techniques can be considered long-term permanent solutions. Many of these direct treatment methods are not fully developed and the applications and process reliability are not well demonstrated. Use of these techniques for waste treatment may require considerable pilot plant work. Technologies applicable to the direct treatment of wastes are:

(i) Treatment via modified conventional wastewater treatment techniques;

(ii) Anaerobic, aerated and facultative lagoons;

(iii) Supported growth biological reactors.

(B) Chemical methods;

(i) Chlorination;

(ii) Precipitation, flocculation, sedimentation;

(iii) Neutralization;

(iv) Equalization;

- (5) Chemical oxidation.
- (C) Physical methods:
- (1) Air stripping;
- (2) Carbon absorption;
- (3) Ion exchange;
- (4) Reverse osmosis;
- (5) Permeable bed treatment;
- (6) Wet air oxidation;
- (7) Incineration.

(ii) Contaminated soils and sediments—In some cases where it can be shown to be cost-effective, contaminated sediments and soils will be treated on the site. Technologies available include:

- (A) Incineration;
- (B) Wet air oxidation;
- (C) Solidification;
- (D) Encapsulation;
- (E) In situ treatment:
- (1) Solution mining, (soil washing or soil flushing);
- (2) Neutralization/detoxification;
- (3) Microbiological degradation.

(c) Offsite Transport for Storage, Treatment, Destruction or Secure Disposition.—(1) General—Offsite transport or storage, treatment, destruction, or secure disposition offsite may be provided in cases where EPA determines that such actions:

- (i) Are more cost-effective than other forms of remedial actions;
- (ii) Will create new capacity to manage, in compliance with Subtitle C of the Solid Waste Disposal Act,

- (v) Chemical oxidation;
- (C) Physical methods;
- (i) Air stripping;
- (ii) Carbon adsorption;
- (iii) Ion exchange;
- (iv) Reverse osmosis;
- (v) Permeable bed treatment;
- (vi) Wet air oxidation;
- (vii) Incineration.

(3) Contaminated soils and sediments--In some cases where it can be shown to be cost-effective, contaminated sediments and soils will be treated on the site. Technologies available include:

- (A) Incineration;
- (B) Wet air oxidation;
- (C) Solidification;
- (D) Encapsulation;
- (E) In situ treatment:
- (i) Solution mining, (soil washing or soil flushing);
- (ii) Neutralization/detoxification;
- (iii) Microbiological degradation.

Section 747.611 Methods for Remedying Releases--Offsite Transport for Storage, Treatment, Destruction, or Secure Disposition.

(a) General--Offsite transport or storage, treatment, destruction, or secure disposition offsite may be provided in cases where IEPA determines that such actions;

(1) Are more cost-effective than other forms of remedial actions;

(2) Will create new capacity to manage, in compliance with Subtitle G of the Board's regulations (35 Ill. Adm. Code 700

hazardous substances in addition to those located at the affected facility; or

(iii) Are necessary to protect public health, welfare, or the environment from a present or potential risk which may be

created by further exposure to the continued presence of such substances or materials.

(2) Contaminated soils and sediments may be removed from the site.

Technologies used to remove contaminated sediments on soils include:

(i) Excavation;

(ii) Hydraulic dredging;

(iii) Mechanical dredging.

(d) Provision of Alternative Water Supplies—Alternative water supplies can be provided in several ways:

(1) Provision of individual treatment units;

(2) Provision of water distribution system;

(3) Provision of new wells in a new location or deeper wells;

(4) Provision of cisterns;

(5) Provision of bottled or treated water;

(8) Provision of upgraded treatment for existing distribution systems.

(e) Relocation—Permanent relocation of residents, businesses, and community facilities may be provided where it is determined that human health is in danger and that, alone or in combination with other measures, relocation would be cost-effective and environmentally preferable to other remedial response. Temporary relocation may also be taken in appropriate circumstances.

300.71 Worker health and safety.

Lead agency personnel should be aware of hazards, due to a release of hazardous substances, to human health and safety and exercise great caution in

at seq.), hazardous substances in addition to those located at the affected facility; or

(3) Are necessary to protect public health, welfare, or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

(b) Contaminated soils and sediments may be removed from the site. Technologies used to remove contaminated sediments on soils include;

(1) Excavation;

(2) Hydraulic dredging;

(3) Mechanical dredging.

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Section .612 Methods of Remedying Releases - Provision of Alternative Water Supplies.

Alternative water supplies can be provided in several ways:

(a) Provision of individual treatment units;

(b) Provision of water distribution system;

(c) Provision of new wells in a new location or deeper wells;

(d) Provision of cisterns;

(e) Provision of bottled or treated water;

(f) Provision of upgraded treatment for existing distribution systems.

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Section 747 .613 Methods of Remedying Releases - Relocation

Permanent relocation of residents, businesses, and community facilities may be provided where it is determined that human health is in danger and that alone or in combination with other measures, relocation would be cost-effective and environmentally preferable to other remedial response. Temporary relocation may also be taken in appropriate circumstances.

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Section 747 .614 Worker Health and Safety

The SOSC should be aware of hazards, due to a release of hazardous substances, to human health and safety and

allowing civilian or government personnel into an affected area until the nature of the release has been ascertained. Accordingly, the OSC or responsible official must conform to applicable OSHA requirements and other guidance. All private contractors who are working at the scene of a release must conform to applicable provisions of the Occupational Safety and Health Act and any other requirements deemed necessary by the lead agency.

exercise great caution in allowing civilian or government personnel into an affected area until the nature of the release has been ascertained. Accordingly, the SOSC must conform to applicable OSHA requirements, IDL requirements, and other guidance. All private contractors who are working at the scene of a release must conform to applicable provisions of the Occupational Safety and Health Act, IDL requirements, and any other requirements deemed necessary by the SOSC.

Subpart G—Trustees for Natural Resources.

§ 300.73 Designation of Federal trustees.

When natural resources are lost or damaged as a result of a discharge of oil or release of a hazardous substance, the following officials are designated to act as Federal trustees pursuant to section 111(h)(1) of CERCLA for purposes of sections 111(h)(1), 111(b) and 107(f) of CERCLA:

(a)(1) *Natural Resource Loss.* Damage to resources of any kind located on, over or under land subject to the management or protection of a Federal land managing agency, other than land or resources in or under United States waters that are navigable by deep draft vessels, including waters of the contiguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence.

(2) *Trustee.* The head of the Federal land managing agency, or the head of any other single entity designated by it to act as trustee for a specific resource.

(b)(1) *Natural Resource Loss.* Damage to fixed or non-fixed resources subject to the management or protection of a Federal agency, other than land or resources in or under United States waters that are navigable by deep draft vessels, including waters of the contiguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence.

(2) *Trustee.* The head of the Federal agency authorized to manage or protect these resources by statute, or the head of any other single entity designated by it to act as trustee for a specific resource.

(c)(1) *Natural Resource Loss.* Damage to resource of any kind subject to the management or protection of a Federal agency and lying in or under United States waters that are navigable by deep draft vessels, including waters of the contiguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence, and upland areas serving as habitat for marine mammals and other species subject to the protective jurisdiction of NOAA.

(2) *Trustee.* The Secretary of Commerce or the head of any other single Federal entity designated by it to act as trustee for a specific resource; provided, however, that where resources are subject to the statutory authorities and jurisdictions of the Secretaries of the Departments of Commerce or the Interior, they shall act as co-trustees.

(d)(1) *Natural Resource Loss.*

Damages to natural resources protected by treaty (or other authority pertaining to Native American tribes) or located on lands held by the United States in trust for Native American communities or individuals.

(2) *Trustee.* The Secretary of the Department of the Interior, or the head of any other single Federal entity designated by it to act as trustee for

SUBPART G: TRUSTEE FOR NATURAL RESOURCES

Section 747 .701 Designation of State Trustee

When natural resources are lost or damaged as a result of a discharge of oil or release of a hazardous substance, the following officials are designated to act as State trustee:

(a)(1) *Natural Resource Loss.* Damage to resources of any kind located on, over or under land subject to the management or protection of a State land managing agency.

(2) *Trustee.* The head of the State land managing agency, or the head of any other single entity designated by it to act as trustee for a specific resource.

(b)(1) *Natural Resource Loss.* Damage to fixed or non-fixed resources subject to the management or protection of a State agency.

(2) *Trustee.* The head of the State agency authorized to manage or protect these resources by statute, or the head of any single entity designated by it to act as trustee for a specific resource.

(c)(1) *Natural Resource Loss.* Damage to resource of any kind subject to the management or protection of a State agency and lying in or under the waters of the State and upland areas serving as habitat for marine mammals and other species subject to the protective jurisdiction of the Department of _____.

(2) *Trustee.* The head of the Department of _____ or the head of any other single State entity designated by it to act as trustee for a specific resource; provided, however, that where resources are subject to the statutory authorities and jurisdictions of the Departments of _____ or _____ they shall act as co-trustees.

Section 747 .702 Federal Trustees

The United States may act as trustee for damage to resources within the boundary of the State which belong to, are managed by, are controlled by or appertain to the United States.

Section 747 .703 Responsibilities of Trustees

(a) The State trustees for natural resources shall be responsible for assessing damages to the resources, seeking

§ 300.73 State trustees.

Pursuant to section 111(h)(1) of CERCLA and for purposes of sections 111(h)(1), 111(b) and 107(f) of CERCLA, States may act as trustee for damage to resources within the boundary of a State belonging to, managed by, controlled by, or appertaining to such State.

§ 300.74 Responsibilities of trustees.

(a) The Federal trustees for natural resources shall be responsible for assessing damages to the resources accordance with regulations promulgated under section 301(c) of CERCLA, seeking recovery for the

from the person responsible or from the Fund, and devising and carrying out restoration, rehabilitation and replacement plans pursuant to CERCLA.

(b) Where there are multiple trustees, because of co-existing or contiguous natural resources or concurrent jurisdictions, they shall coordinate and cooperate in carrying out these responsibilities.

recovery for the losses from the person responsible or from the Fund, and devising and carrying out restoration, rehabilitation and replacement plans.

(b) Where there are multiple trustees, because of co-existing or contiguous natural resources or concurrent jurisdictions, they shall coordinate and cooperate in carrying out these responsibilities.

Subpart H—Use of Dispersants and Other Chemicals

§ 300.81 General

(a) Section 311(c)(2)(G) of the Clean Water Act requires that EPA prepare a schedule of dispersants and other chemicals, if any, that may be used in carrying out the plan.

(b) The OSC, with the concurrence of the EPA representative to the RRT and in consultation with the States, may authorize the use of dispersants and other chemicals on oil spills: provided, however, that such dispersants and other chemicals must be on the list of accepted dispersants prepared by EPA.

(c) In the case of dispersants and other chemicals not included on the list of accepted dispersants, EPA will continue to authorize use on a case-by-case basis. Case-by-case approvals will be made by the Administrator or her designee.

SUBPART H: USE OF DISPERSANTS AND OTHER CHEMICALS

Section ⁵⁶¹ ~~747~~ .801 General

(a) The SOSC with the concurrence of the IEPA representative to the SRT and in consultation with the affected local governments, may authorize the use of dispersants and other chemicals on oil spills; provided, however, that such dispersants and other chemicals must be on the list of accepted dispersants prepared by the United States Environmental Protection Agency pursuant to Section 311(c)(2)(G) of the Clean Water Act (33 USC 466 et seq.), as amended.

(b) In the case of dispersants and other chemicals not included on the list of accepted dispersants, IEPA will authorize use on a case-by-case basis not inconsistent with Federal requirements. Case-by-case approvals will be made by the Director or his designee.