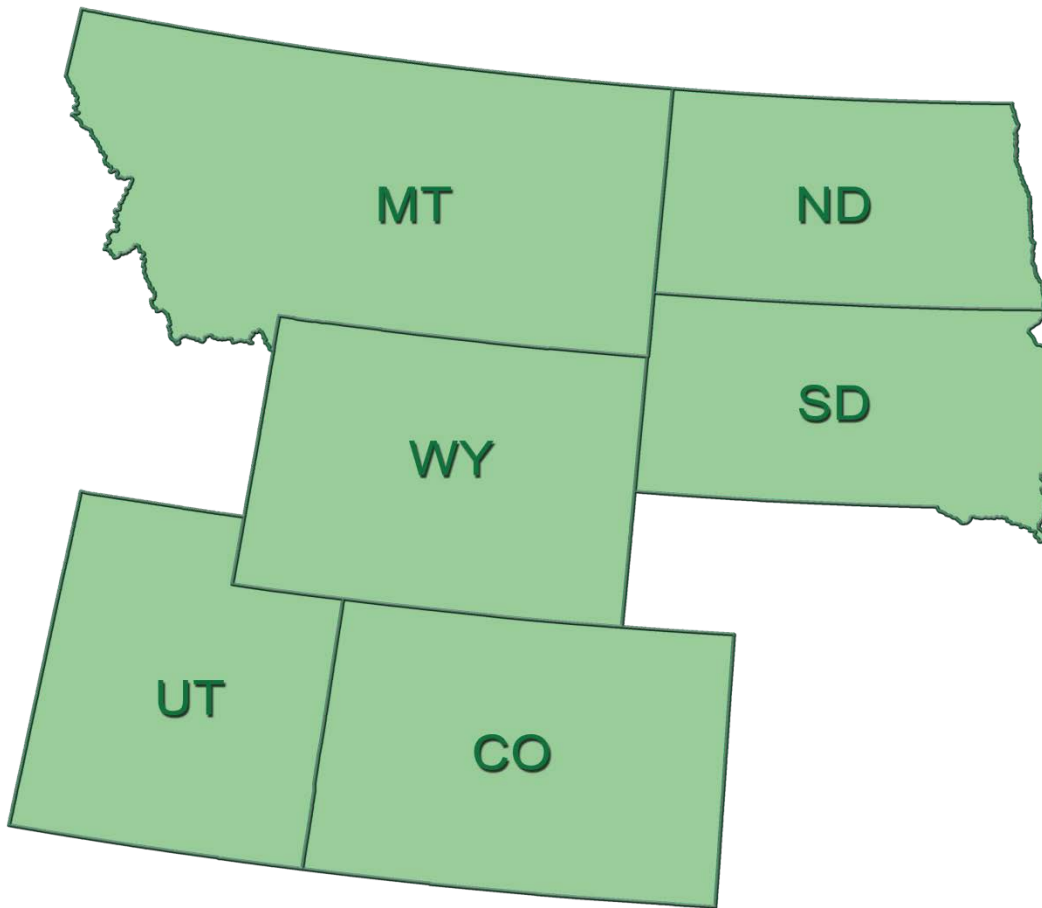


**FEDERAL REGION 8
REGIONAL CONTINGENCY PLAN**



**THIS DOCUMENT COMBINES REQUIREMENTS NEEDED FOR REGION 8'S:
REGIONAL CONTINGENCY PLAN &
AREA CONTINGENCY PLAN**

*FINAL VERSION
June 30, 2016*

**REGION 8
REGIONAL CONTINGENCY PLAN
TO REPORT A SPILL OR RELEASE**

**National Response Center
Emergency Response
24 Hour Emergency Number
(800) 424-8802**

National Response Center
United States Coast Guard Headquarters
Washington, DC

**EPA Region 8 Emergency Operation Center
Emergency Response
24-Hour Emergency Number
(303) 293-1788**

United States Environmental Protection Agency
Emergency Response Branch
1595 Wynkoop Street
Denver, Colorado 80212

**Colorado Department of Public Health and the Environment
Hazardous Materials and Waste Management Division
24-Hour Emergency Number
(877) 518-5608 or 303-692-2030**

4300 Cherry Creek Drive South
Denver, Colorado 80222-1530

**Montana Department of Environmental Quality
Disaster and Emergency Services Division
24-Hour Emergency Number
(406) 324-4777**

1520 East Sixth Avenue
P.O. Box 200901
Helena, Montana 59620-0901

North Dakota Department of Emergency Services
24-Hour Emergency Number
(701) 328-8100 or (Out-of-State) (701) 328-9921

P.O. Box 5511
Bismarck, North Dakota 58506

South Dakota Department of Public Safety
Office of Emergency Management
24-Hour Emergency Number
(605) 773-3231

State Capitol Building
Pierre, South Dakota 57501-3181

Utah Department of Environmental Quality
Division of Environmental Response and Remediation
24-Hour Emergency Number
(801) 536-4123

168 North 1950
Salt Lake City, Utah 84116

Wyoming Department of Environmental Quality
Wyoming Emergency Management Agency
24-Hour Emergency Number
(307) 777-7781

5500 Bishop Boulevard
Cheyenne, Wyoming 82009

Three Affiliated Tribes
24-Hour Emergency Number
(701) 627-3618
404 Frontage Road
New Town, North Dakota 58763

R E G I O N 8

LETTER OF PROMULGATION

In accordance with the provisions of the Federal Water Pollution Control Act of 1972 as amended by the Clean Water Act (CWA) of 1977, and Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, a National Oil and Hazardous Substances Contingency Plan was developed by the United States Environmental Protection Agency (EPA). Section 300.41 of the National Contingency Plan (NCP) states that regional contingency plans (RCP) shall be prepared for each standard federal region. The Region 8 RCP has been developed with cooperation of all designated federal agencies and state governments. This plan provides a mechanism for coordinating responses to releases of oil or hazardous materials within the States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming, and within the Tribal lands of the 27 federally recognized Native American Tribes in Region 8.

This plan is effective upon receipt and supersedes the previous plans in their entirety. Changes to this plan will be noted and consecutively numbered. Comments and recommendations regarding this plan should be addressed to Region 8 Regional Response Team (RRT). Requests for amendments and changes will be addressed during regularly scheduled RRT meetings.

Copies of this plan may be obtained from the Region 8 RRT website www.rrt8.nrt.org or:

Gina Cristiano, RRT Coordinator
U.S. Environmental Protection Agency
1595 Wynkoop, Mail Code 8EPR-SA
Denver, Colorado 80202-1129

Martin Hestmark
Assistant Regional Administrator
U.S. Environmental Protection Agency
Office of Ecosystems Protection and Remediation

David Ostrander, Director
Emergency Response & Preparedness Program
U.S. Environmental Protection Agency
Co-Chair, Region 8 RRT

Michael Sams
Eighth District USCG
Co-Chair Region 8 RRT

DISTRIBUTION

Copies of this plan and all amendments and changes will be distributed to the following: United States Environmental Protection Agency (EPA) Chairman of the National Response Team (NRT) in Washington, D.C. for NRT distribution; each of the member agencies of the Region 8 Regional Response Team (RRT) listed in [Annex I](#) of this plan; the EPA Office of Emergency Management; the National Response Center; and the State, Tribal, and Federal Natural Resources Trustees.

PLAN MAINTENANCE

Section 311(j)(4)(C)(viii) of the Clean Water Act (CWA) requires that the Regional Contingency Plan (RCP) be updated periodically by the RRT. The RRT also functions as the Area Committee for Region 8 and fulfills those responsibilities set forth in Section 300.205(c) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This plan serves as the Regional Contingency Plan and the Area Contingency Plan (ACP) for Region 8. It has been determined that the RCP will be reviewed in its entirety annually starting January 1, 2015. Changes/corrections will be made as identified in this annual review.

The RRT is responsible for maintenance of the RCP as needed to incorporate federal, state, regional, and local policy and procedural changes based on lessons learned from exercises and actual incidents. Changes include additions of new or supplementary material and deletions. Proposed changes should be made in consultation with RRT stakeholders to ensure no conflicts exist with plans or authorities that may impact the RCP. The RCP and related Subparts were developed with input from the Region 8 RRT. Each of the RRT stakeholders will review the RCP and recommend changes to the RRT.

This plan will be kept under review, and changes, additional information, or corrections will be promulgated as necessary and will be consecutively numbered. Once published, the changes will be considered part of the RCP for operational purposes pending a formal revision and re-issuance of the entire document. Any changes that result from reviews will be circulated to all affected jurisdictions and agencies.

CORRECTIONS AND UPDATES FORM

Corrections, updates, or suggested additions to the Region 8 Regional Contingency Plan should be provided to Gina Cristiano, Emergency Response & Planning Coordinator (303-312-6688), Cristiano.Gina@epa.gov.

Please complete the following information to effect a change in the Regional Contingency Plan:

Page # of the plan: _____

Section and subsection numbers of the paragraph to be changed: _____

Other description: (e.g., third sentence, in second full paragraph on page) _____

Corrections or suggested changes: _____

Address:

Gina Cristiano, Emergency Response & Planning Coordinator
Emergency Response & Preparedness Program
U.S. Environmental Protection Agency
1595 Wynkoop Street.
Denver, Colorado 80212
Cristiano.Gina@epa.gov

RECORD OF CHANGE

The most current copy of this document, including any changed pages, is available through the Region 8's Regional Response Team website at the following link:

http://www.rrt8.nrt.org/production/NRT/RRHome.nsf/Web+Pages/rrt_viii_ricp.htm. All changes will be made in conjunction with the United States Coast Guard, 8th Coast Guard District Office, Hale Boggs Federal Building, 500 Poydras Street, Room 1330, New Orleans, LA 70130-3319.

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REGIONAL CONTINGENCY PLAN

Date: June 30, 2016

Version:

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REGION 8 CONTINGENCY PLAN

PREFACE

TO REPORT A SPILL OR RELEASE
 LETTER OF PROMULGATION
 DISTRIBUTION
 PLAN MAINTENANCE
 CORRECTIONS AND UPDATES FORM
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SUBPART A INTRODUCTION

300.1 Purpose and Objectives

This Regional Contingency Plan (RCP), which has been developed for Federal Region 8, provides the organizational structure and objectives necessary to prepare for and respond to a discharge of oil or release of hazardous substances, pollutants, and contaminants. It provides for timely and effective coordination and direction of federal, state, and local response systems, and supports development of capability by the private sector to handle such incidents.

This Region 8 RCP fulfills the requirements of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) for both RCP and Area Contingency Plans (ACP), and includes references to relevant portions of the National Response Framework (NRF), particularly Emergency Support Function (ESF) #10 Hazardous Materials. The RCP implements the NCP and the ESF #10 component of the NRF at the regional level and is the chief working document of the Regional Response Team (RRT) and the Area Committee (AC). The RRT has been appointed by the U.S. Environmental Protection Agency (EPA) Region 8 Assistant Regional Administrator (ARA) for the Office of Ecosystems Protection and Remediation in accordance with delegation 2-91 to serve as the AC for development of the Region 8 RCP. The RRT also functions as the AC for Region 8 and fulfills responsibilities set forth in 40 *Code of Federal Regulations* (CFR) 300.205(c) of the NCP.

300.2 Authority and Applicability

The NCP is required by Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, (42 *United States Code* [U.S.C.] 9605), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, [Public Law (P.L.) 99-499], and by Section 311 of the Clean Water Act (CWA), [33 U.S.C. 13219(d)], as amended by the Oil Pollution Act of 1990 (OPA), [P.L. 101-380]. The President delegated to EPA responsibility for amendments to the NCP (40 CFR Part 300).

40 CFR Section 300.120 of the NCP calls for establishment of a nationwide system of RCPs based on federal standards. This plan is applicable to response operations of all federal, state, local, tribal agencies, and private entities within Federal Region 8, pursuant to the authorities under CERCLA and Section 311 of the CWA, as amended.

This plan follows, to the greatest extent possible, the format of the NCP and was developed to be implemented in conjunction with applicable sub-area contingency plans (SACP), state emergency response plans, and SARA Title III local emergency plans. Local plans and SACPs include data on vulnerable resources, potential pollution sources, cleanup equipment, environmental features, and other information that will allow Local Incident Commanders, State On-Scene Coordinators (OSC), and/or Federal OSCs to quickly plan and organize a response to a discharge of oil or release of hazardous substances, pollutants, and contaminants.

Geographic Description and Jurisdictional Guidance

The geographic scope of this RCP is Federal Region 8, which encompasses the States of Colorado, Wyoming, Montana, North Dakota, South Dakota, Utah, and Tribal Lands. Generally, the responsibility to provide a Federal OSC for incidents or potential incidents is placed upon the EPA and the United States Coast Guard (USCG). However, all areas within Federal Region 8 are considered “inland zone” and within the jurisdiction of EPA. Therefore, USCG 8th District maintains a presence as co-chair of the RRT and participates with various preparedness and response items in Federal Region 8, but does not respond to incidents within this geography. If requested by EPA Region 8, USCG will assist the pre-designated EPA OSC where a release of hazardous substances or oil discharge occurs or a threat of such a discharge or release is posed into or on a navigable water. Upon written delegation from EPA Region 8, the USCG may act on behalf of EPA, assuming the role and responsibilities of the EPA OSC. One of the other agencies (e.g., Department of Defense [DOD], Department of Energy [DOE]) may also be the lead agency for a response as defined in 40 CFR Section 300.175 of the NCP.

300.3 Scope

This RCP expands upon the planning and response requirements set forth in the NCP, augments coordination with local and state authorities, and allows for integration into Tribal, local, state, and private-sector plans.

This RCP applies to and is in effect for the following cases:

- Discharge or threats of discharge of oil into or upon navigable waters of the United States and adjoining shorelines or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States;
- Releases or substantial threats of releases of hazardous substances into the environment; and pollutants or contaminants that may present an imminent and substantial danger to public health or welfare;
- Activities taken pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).

300.4 Abbreviations

Federal Department and Agency Title Abbreviations

DHS – Department of Homeland Security
 FEMA – Federal Emergency Management Agency
 USCG – United States Coast Guard

DOC – Department of Commerce
 NOAA – National Oceanic and Atmospheric Administration

DOD – Department of Defense
 USACE – United States Army Corps of Engineers
 SUPSALV – United States Navy Supervisor of Salvage

DOE – Department of Energy

DOI – Department of the Interior
 USFWS – United States Fish and Wildlife Service
 NPS – National Park Service
 BIA – Bureau of Indian Affairs
 USGS – United States Geological Survey
 BLM – Bureau of Land Management
 BuRec – Bureau of Reclamation

DOJ – Department of Justice

DOL – Department of Labor
 OSHA – Occupational Safety and Health Administration

DOS – Department of State

DOT – Department of Transportation

EPA – United States Environmental Protection Agency

GSA – General Services Administration

HHS – Department of Health and Human Services

ATSDR – Agency for Toxic Substances and Disease Registry

USDA – United States Department of Agriculture

NRCS – Natural Resources Conservation Service

APHIS-WS- Animal and Plant Health Inspection Service-Wildlife Services

(Note: Reference is made in the NCP to both the Nuclear Regulatory Commission and the National Response Center. To avoid confusion, the NCP and this RCP spell out Nuclear Regulatory Commission and use the abbreviation “NRC” only to specify the National Response Center).

Other Abbreviations

Other abbreviations used throughout this document include the following:

AC – Area Committee

ACP – Area Contingency Plan

ARA – Assistant Regional Administrator

ARAR – Applicable or relevant and appropriate requirement

CDPHE – Colorado Department of Public Health and Environment

CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act

CFR – *Code of Federal Regulations*

CWA – Clean Water Act (Federal Water Pollution Control Act)

DEQ – Department of Environmental Quality

EPCRA – Emergency Planning and Community Right-To-Know Act (SARA Title III)

ESA MOA – Interagency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act

ESF – Emergency Support Function

FOSC – Federal On-Scene Coordinator

FRERP – Federal Radiological Emergency Response Plan

FRP – Facility Response Plan

GIS – Geographic information system

GUIE – Government Initiated Unannounced Exercises

IAG – Interagency Agreement

LEPC – Local Emergency Planning Committee

MOA – Memorandum of Agreement

MOU – Memorandum of Understanding

Mt DEQ – Montana Department of Environmental Quality

NCP – National Oil and Hazardous Substances Pollution Contingency Plan

NDDOH – North Dakota Department of Health
NPFC – National Pollution Funds Center (USCG)
NPL – National Priorities List
NRC – National Response Center (USCG)
NRDA – Natural Resources Damage Assessment
NRF – National Response Framework
NRT – National Response Team
NSFCC – National Strike Force Coordination Center (USCG)
O&M – Operation and Maintenance
OCA – Off-site Consequence Analysis
OPA – Oil Pollution Act of 1990
OSC – On-Scene Coordinator
OSH – Occupational Safety and Health
OSLTF – Oil Spill Liability Trust Fund
P.L. – Public Law
PREP – National Preparedness for Response Exercise Program
PRFA – Pollution Removal Funding Authorization
PRP – Potentially Responsible Party
RCP – Regional Contingency Plan
REOC – Regional Emergency Operations Center
RMP – Risk Management Plan
RP – Responsible Party
RPM – Remedial Project Manager
RRT – Regional Response Team
SACP – Sub-Area Contingency Plan
SARA – Superfund Amendments and Reauthorization Act of 1986
SDDENR – South Dakota Department of Environment and Natural Resources
SERC – State Emergency Response Commission
SHPO – State Historic Preservation Office
SOW – Statement of Work
T.E.R.A. – The Emergency Response Application
UDEQ – Utah Department of Environmental Quality
U.S.C. – *United States Code*
WCD – Worst-Case Discharge
Wy DEQ – Wyoming Department of Environmental Quality

300.5 Definitions

Terms used herein are defined in 40 CFR Section 300.5 of the NCP, Section 311 (a) of the CWA 33 U.S.C. Section 1321(a), OPA 90 (“Definitions”), 33 U.S.C. Section 2701, P.L. 93-288, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.A. Sections 9601 of CERCLA, and the regulations promulgated thereunder.

SUBPART B RESPONSIBILITY AND ORGANIZATION FOR RESPONSE**300.100 Duties of President Delegated to Federal Agencies**

In Executive Orders 12580 and 12777, the President delegated certain functions and responsibilities vested in him by the CWA, CERCLA, and OPA to the Administrator of the EPA for the inland zone. These functions and responsibilities include designating Areas, appointing RRT members, determining the information to be included in SACPs, and reviewing and approving SACPs. The EPA shall assign a Federal OSC to each inland zone Area to carry out these functions and responsibilities.

300.105 General Organization Concepts

A listing of federal agencies, responsibilities, functions, and resources is addressed in [Sections 300.170](#) and [300.175 of this RCP](#). Federal agencies should plan for emergencies and develop procedures for dealing with oil discharges and releases of hazardous substances, pollutants, or contaminants. Agencies should coordinate their planning, preparedness, and response activities with one another, and with affected states, local governments, and private entities.

Three fundamental activities are performed pursuant to the NCP:

1. Preparedness, planning, and coordination for response to a discharge of oil or a release of hazardous substance, pollutant or contaminant.
2. Notification and communications.
3. Response operations at the scene of a discharge or release.

300.110 National Response Team

National planning and coordination are accomplished through the NRT. The NRT consists of representatives from the USCG, EPA, Federal Emergency Management Agency (FEMA), DOD, DOE, United States Department of Agriculture (USDA), Department of Commerce (DOC), Department of Health and Human Services (HHS), Department of the Interior (DOI), Department of Justice (DOJ), Department of Labor (DOL), Department of Transportation (DOT), Department of State (DOS), General Services Administration (GSA), and Nuclear Regulatory Commission. Additionally, for more information concerning the NRT, [refer to 40 CFR Section 300.110 of the NCP](#).

300.115 Regional Response Team

Region 8 RRT membership consists of a designated representative from each federal agency participating in the NRT, with designated representatives from each of the six states: Colorado, Utah, Wyoming, Montana, North Dakota, and South Dakota. Indian Tribes are invited to participate as members of the RRT and may designate representatives as they decide appropriate. Non-governmental entities may participate in RRT meetings and working groups but do not have membership status.

The principal components of the RRT are a standing RRT and incident-specific RRTs. The standing RRT consists of designated representatives from each participating federal agency listed above, each state, and Tribal representatives as designated. [Annex I](#) includes the Region 8 RRT Roster and Contact List. Each incident-specific RRT is formed from the standing team when the RRT is activated for a response. Incident-specific RRTs consist of representatives of affected state and federal agencies, Indian Tribes, and may include appropriate local governments.

Each member agency should designate one member and at least one alternate member to the standing RRT. Agencies with regional subdivisions that do not correspond to the federal regions may designate additional representatives to the standing RRT to ensure appropriate coverage of the standard federal region. Other interested parties may attend and observe RRT meetings. The usual process by which the RRT reaches its decisions is by consensus. However, in instances where a decision is reached by means of a vote, the voting capacity of each federal, state, and Tribal agency is limited to one vote per member agency.

Standing RRT

The role of the standing RRT includes communications and procedures planning, coordination, training, evaluation of responses, preparedness, and related activities on region- and area-wide bases. These activities include, but are not limited to:

- Providing technical assistance for preparedness and conducting and participating as necessary in training and exercises to encourage preparedness activities of the response community within the region;
- Reviewing and updating the RCP;
- Discussing, modifying, and adopting procedures to enhance the various aspects of response coordination among local, tribal, state, regional, and federal response efforts;

- Reviewing and commenting on local emergency response plans (required by SARA, Title III). Such reviews are conducted upon the request of the state RRT representative. The standing RRT may also review and comment on other issues concerning preparation or implementation of related response plans;
- Providing guidance to sub-area committees to ensure inter-area consistency and consistency of individual SACPs with the RCP and NCP;
- Reviewing, evaluating, and commenting on regional and local responses to discharges or releases, and recommending improvements, as appropriate;
- Encouraging the state and local response community to improve its preparedness for response;
- Planning for use of dispersants, surface collection agents, burning agents, biological additives, or other chemical agents; and approving chemicals and techniques for response upon request, following established procedures;
- Meeting twice annually to review response actions, address preparedness and pre-response activities, and consider changes to the RCP;
- Providing reports on RRT activities to the NRT;
- Integrating ongoing planning and preparedness activities with RRT preparedness initiatives, and with all RRT agencies;
- Recommending revisions of the NCP to the NRT, based on observations of response operations;
- Evaluating preparedness of participating agencies and effectiveness of federal response to discharges and releases;
- Preparing an annual work plan to coordinate emergency response and preparedness activities; and
- Coordinating planning and preparedness with RRTs in adjacent regions.

Incident-Specific RRT

Each incident-specific RRT is formed from the standing team when the RRT is activated for a response, and consists of representatives of appropriate local governments, affected state and federal agencies, and Indian Tribes.

The incident-specific RRT chair shall be from the member agency providing the Federal OSC. In Region 8, the Federal OSC will be provided by EPA, unless it is a CERCLA incident under the jurisdiction of DOD, DOE, or other federal agency, as defined by 40 CFR 300.120(c) and (d) of the NCP. The EPA co-chair may designate another EPA employee to act as the co-chair. The role of the incident-specific team is determined by the operational requirements of the response to a specific discharge or release.

Participation is relative to the technical nature and geographic location of the discharge or release. The standing RRT EPA co-chair coordinates with the RRT membership and the Federal OSC for the incident to determine the appropriate level of RRT member activation. Member agencies and states participating with the RRT must ensure that designated representatives or alternates can function as resource personnel for the Federal OSC during incident-specific events.

When activated, members of an incident-specific RRT may:

- Provide resources and special or technical expertise;
- Provide advice and recommend courses of action for consideration by the Federal OSC;
- Advise the Federal OSC on the duration and extent of federal response, and recommend to the Federal OSC specific actions to respond to a discharge or release;
- 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;
- Recommend a change of Federal OSC to the standing RRT co-chairs, if circumstances warrant (e.g., substantial movement of the pollution into the predesignated area of another Federal OSC lead agency);
- Ensure continual communication with the National Response Center (NRC) as significant developments occur; and
- Monitor and evaluate reports from the Federal OSC.

Activation of the RRT

An incident-specific RRT may be activated in accordance with the NCP and/or Region 8 policy when a discharge or release:

- Exceeds the response capabilities available to the Federal OSC in the place where it occurs;
- Transects state, regional, or international boundaries;
- Poses a substantial threat to public health, welfare, or to the environment, or to regionally significant amounts of property;
- Is a worst-case discharge (WCD);
- Necessitates chemical countermeasures.

The RRT will be activated upon request from the Federal OSC or from any RRT representative to the chair of the RRT. Requests can be made by phone, email, or other means.

Requests for RRT activation shall subsequently be confirmed in writing and/or in email. Local requests for RRT activation must be made through the state RRT member. An incident-specific RRT activation may take place by telephone, by assembly, or by email. Levels of activation are listed below:

- Alert: Notification of RRT members that an incident has occurred.
- Standby: Notice to some or all RRT members that their services may be needed and they are to assume a readiness posture and await further instructions.
- Partial: Notice to selected RRT members that their services are required in response to a discharge of oil or release of hazardous substances, pollutants, and contaminants. The activation notice will specify the services requested and the services that will be required.
- Full: Notice to all RRT members (except representatives of non-affected states) that their services are requested in response to a discharge of oil or release of hazardous substances, pollutants, and contaminants. The activation notice will specify the services requested from each RRT member. Services of some members may be limited to advising the Federal OSC on general matters. The incident-specific RRT can be deactivated by the chair when the chair determines that the Federal OSC no longer requires RRT assistance.

300.120 Federal On-Scene Coordinators – General Responsibilities

The Federal OSC directs response efforts and coordinates all other efforts at the scene of a discharge or release in accordance with the NCP and this RCP. EPA Region 8 has pre-designated Federal OSCs (see [Annex II](#) and [Annex II, Attachment A](#) for a list of those OSCs). In Region 8, the Federal OSC will be provided by EPA, unless it is a CERCLA incident, and under the jurisdiction of DOD, DOE, or other federal agency, as defined by 40 CFR 300.120(c) and (d) of the NCP. Other federal agencies are responsible for non-emergency removals, as stated in 40 CFR 300.120 (c)(2) of the NCP.

The Federal OSC is responsible for overseeing development of the SACP in the area of the Federal OSC's responsibility. SACP's shall, as appropriate, be developed in cooperation with the RRT, and designated state, local, Tribal, and private-sector representatives. SACP's are discussed further in [Section 300.210 of this RCP](#). In contingency planning and response incidents, the Federal OSC coordinates, directs, and reviews the work of other agencies, Area Committees, states, responsible parties, and contractors to assure compliance with the NCP and this RCP.

300.125 Notification and Communications

Anyone who identifies or observes a discharge or release should report the spill to the NRC; however, it is the spiller's legal responsibility to report all spills. Notice of an oil discharge or release of a hazardous

substance in an amount equal to or greater than the reportable quantity must be made immediately in accordance with the CWA and CERCLA under 33 CFR Part 153, Subpart B, and 40 CFR Part 302, respectively. The NRC is the national communications center for handling activities related to response actions. The NRC acts as the single point of contact for all spill reporting. In Region 8, NRC notifications are sent to EPA, DOI, USDA/United States Fish and Wildlife Service (USFWS), affected states, and other potentially impacted agencies.

The NRC will notify a Federal OSC through the Region 8 Emergency Operations Center (REOC)—the regional site for notification, communication, and interagency coordination during a pollution incident. If NRC notification is not practicable, the responsible party (RP) should notify the EPA REOC and the appropriate state environmental agency. Such reports will be promptly relayed to the NRC. Addresses and phone numbers are provided on the report spill notification cover page of this RCP.

If the EPA REOC is the first to be notified of a discharge or release, the REOC will notify the NRC, the states impacted by the incident, the appropriate trustees for natural resources and other RRT members, as stated throughout this RCP and [Annex III](#) – Region 8 Fish and Wildlife and Sensitive Environments Plan (referred to hereafter as the "Fish and Wildlife Sensitive Environments Plan"). For spills of significance, if the state or other agency is the first to be notified, it shall also notify the appropriate federal agencies.

In addition, facilities may be required to report releases of specified hazardous substances to the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC) under Section 304 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. Section 11004.

300.130 Determinations to Initiate Response and Special Conditions

In accordance with the CWA and CERCLA, the Administrator of EPA and as delegated by EPA Region 8 authorized to act for the United States to take response measures deemed necessary to protect public health or welfare or the environment from discharges of oil or releases of hazardous substances, pollutants, or contaminants, unless otherwise delegated to other federal agencies. In some instances, EPA Region 8 is required to initiate and direct response activities. [Refer to 40 CFR 300.130 of the NCP](#) for more information.

300.135 Response Operations

To the extent practicable, response operations shall be consistent with federal, state, and local plans, including this RCP, SACPs, and Facility Response Plans (FRP).

In the event that the Federal OSC is not the first to arrive at the scene, the first qualified federal official associated with an RRT member agency to arrive at the scene of a discharge or release should coordinate activities under this RCP. This qualified federal official is authorized to initiate, in consultation with the OSC, any necessary actions normally carried out by the Federal OSC, until the arrival of the predesignated Federal OSC. The qualified federal official may initiate Federal Fund-financed actions for CERCLA incidents only as authorized by the Federal OSC or, if the Federal OSC is unavailable, an authorized representative of the lead agency. [Refer to Section 300.335 of this RCP](#) for funding associated with oil discharges.

The Federal OSC should ensure that any person designated to act as an on-scene representative is adequately trained and prepared to carry out actions under the NCP, RCP, and applicable SACPs to the extent practicable.

EPA Region 8 Federal OSC-Specific Notification and Operational Responsibilities

In this section, the term “notification” refers to actions by the Federal OSC to immediately alert appropriate federal and affected state agencies of a discharge or release.

Upon notification from the NRC, the Federal OSC will investigate the report to determine the threat posed to public health or welfare or the environment. NRC notifications, distributed as described in Section 300.125, serve as initial notification to natural resource trustees and other stakeholders that a release or discharge has occurred as required by NCP Section 300.135(j)(1). Additional notifications and coordination required by the NCP, such as those defined in 300.135(k), will occur as appropriate, involving the appropriate state, federal, tribal, natural resource trustees, and other affected parties to ensure pertinent facts are relayed. This includes notifications to other EPA Regions via their 24 hr Emergency Operations Centers if it is anticipated the incident could affect other regions defined in section 300.140. The downstream region can and should make whatever additional notifications it deems necessary. This includes contacting their states, regional management and elected officials.

For spills in Wyoming, the FOOSC will ensure notification of downstream water users is made (see Section 300.180).

Additionally, the Federal OSC will notify the Department of Health and Human Services and Occupational Safety and Health Administration (OSHA) representative to the RRT for assistance in determining public health threats and for advice on worker health and safety problems. If radioactive substances are present in a release, the EPA Radiation Program Manager should be notified for evaluation and assistance.

The Federal OSC may direct response efforts and coordinate all other efforts at the scene of a discharge or release. During a response to a discharge or release, the Federal OSC shall, to the extent practicable:

- Collect pertinent facts about the discharge or release, such as its source and cause;
- Identify the potentially responsible parties, and the nature, amount, and location of discharged or released materials;
- Determine the probable direction and time of travel of the discharged or released materials;
- Determine if discharge is WCD or if it poses a substantial threat to the public health or welfare of the United States;
- Determine the pathways to human and environmental exposure;
- Collect and provide cost documentation;
- Ensure the trustees for natural resources are promptly notified of discharges or releases;
- Determine potential impact on natural resources and property that may be affected, and priorities for protecting human health and welfare and the environment;
- Coordinate response activities with natural resource trustees and other appropriate federal, state, local, and private response agencies. This includes FEMA in the event of a major disaster situation. Consult regularly with RRT and the National Strike Force Coordination Center (NSFCC). Affected trustees shall be consulted concerning appropriate removal options;
- Submit pollution reports to the RRT and other appropriate agencies as significant developments occur;
- Ensure that all appropriate public and private interests are kept informed, and that their concerns are considered throughout a response.

Threatened/Endangered Species or Sensitive Habitats

As stated above, the Federal OSC shall ensure that natural resource trustees and natural resource managers are promptly notified in the event of a discharge or release. In addition, if federally-listed threatened or endangered species or their habitats could be affected by response operations, the Federal OSC or Remedial Project Manager (RPM) must consult with the USFWS, as provided in the Fish and Wildlife and Sensitive Environments Plan ([Annex III](#)) and the Interagency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act (referred to hereafter in this RCP as the "ESA MOA") ([Annex IV](#) – ESA MOA). Per Section V.A., of the ESA MOA, as part of developing SACP, Federal OSCs have coordinated with USFWS and other Area Committee members to identify threatened/endangered species and sensitive habitats. Where specific information is available/provided, it has been documented in the applicable SACP text and/or The Emergency Response Application (T.E.R.A.), which is an EPA Region 8 managed web-based application. T.E.R.A. is discussed in more detail in [Section 300.210 of this RCP](#). However, due to seasonal and other variations among sub-areas evaluated (the river systems in particular), and the numerous scenarios that could develop when a spill occurs, USFWS and land management entities prefer to conduct ESA MOA consultation (in accordance with Section V.B. of the MOA) at the time of the incident based on incident-specific activities and conditions. Thus, no pre-approval (or disapproval) of response activities has occurred to date.

The Federal OSC, trustees, and natural resource managers shall coordinate assessments, evaluations, investigations, and planning with respect to appropriate removal actions. The Federal OSC shall consult with the affected trustees on the appropriate removal action to be taken. The trustees will provide timely advice concerning recommended actions regarding trustee resources potentially affected.

Note: The ESA MOA applies only to oil spill response actions taken pursuant to the CWA/OPA. Endangered Species Act considerations relative to hazardous substance response actions under CERCLA will be coordinated in accordance with CERCLA provisions.

Cultural and Historic Properties

As stated above, the Federal OSC shall ensure that natural resource trustees and natural/historic resource managers are promptly notified in the event of a discharge or release, to the maximum extent practicable. In addition, if cultural, historical, or archaeological sites could be affected by response operations, the Federal OSC or RPM must consult with the State Historic Preservation Office (SHPO) and other appropriate entities as defined by the Programmatic Agreement on Protection of Historic Properties

During Emergency Response Under the NCP ([Annex V](#)). Identification of culturally, historically, or archaeologically sensitive sites in the vicinity of a spill can be accomplished by contacting the appropriate SHPO or land management agency's cultural resource specialist or other appropriate contact. This individual is generally associated with the SHPO or organization that may or may not be within a department of state government. Contacts for individual states are as follows:

- Colorado State Historic Preservation Officer (Archaeology & Historic Preservation) – (303) 447-8679 or <http://www.historycolorado.org/>
- Montana State Historic Preservation Officer (Montana Historical Society) – (406) 444-7715 or <http://mhs.mt.gov/shpo/>
- North Dakota State Historic Preservation Officer (North Dakota Historical Society) – (701) 328-2666 or <http://www.history.nd.gov/hp/>
- South Dakota State Historic Preservation Officer (South Dakota Historical Society) – (605) 773-3458 or <http://history.sd.gov/preservation/>
- Utah State Historic Preservation officer (Utah Historical Society) – (801) 245-7225 or <http://heritage.utah.gov/history/historical-society>
- Wyoming State Historic Preservation officer (Wyoming Historical Society) – (307) 777-6421 or <http://wyoshpo.state.wy.us/>

Note: The Programmatic Agreement on Protection of Historic Properties During Emergency Response Under the NCP applies to oil response actions pursuant to the CWA/OPA and to hazardous substance response actions pursuant to CERCLA.

Incident Response – Federal Facilities

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

“Lead agency” means the agency that provides the OSC to plan and implement response action under the NCP. For discharges of oil in EPA Region 8, EPA is the only lead federal agency.

For any removal action that is not an emergency, a federal agency other than EPA, DOD, or DOE shall provide the OSC. All subsequent paragraphs in this section are specific to CERCLA response.

In the event DOD (including the Department of the Army) or DOE provides the Federal OSC for removal operations in response to an off-post/off-site or potential off-post/off-site release, the Federal OSC may ask the EPA co-chair to provide support by facilitating OSC/RRT coordination and communication. Decisions regarding RRT agencies support would, however, be made as usual by the Federal OSC. DOD will be the removal response authority with respect to incidents involving DOD military weapons and munitions or weapons and munitions under the jurisdiction, custody, or control of DOD.

For releases of hazardous substances, pollutants, or contaminants, EPA OSCs may be requested to provide technical assistance to the lead agency OSC responding to the releases or threatened release. In the event of a “classic emergency” on federal agency property, other than DOD or DOE, EPA retains response authority and EPA OSCs may respond and later initiate cost recovery actions against the potentially responsible party (PRP).

For off-site radiological releases from federal facilities, DOE will coordinate the federal radiation monitoring activities during the emergency phase. Then EPA assumes this responsibility from DOE during the intermediate and long-term phase of assessment and monitoring. This hand-off will be negotiated between the two agencies. If the incident is severe, the long-term phase could extend beyond 1 year. EPA response will involve emergency-response-trained individuals from the two national laboratories in Las Vegas, Nevada, and Montgomery, Alabama. The lead federal agency handles on-site radiological releases under the Federal Radiological Emergency Response Plan (FRERP). If CERCLA authority is used, the response action will be carried out in accordance with the NCP, and will be limited to cleanup of certain releases of radionuclides including sites containing manmade radiation.

Responsible Party Policy

The RP has primary responsibility for cleanup of a discharge or release. The response shall be conducted in accordance with the RP’s applicable response plan unless otherwise directed by the Federal OSC. If directed by the Federal OSC at any time during removal activities, the RP must act accordingly.

300.140 Multi-Regional Responses

A Memorandum of Understanding (MOU) among EPA Regions 8, 9, and 10 establishes a system of regional backups for times of telephone failures and staffing shortfalls. In addition, the regions have flexibility to seek assistance from other regions for staffing shortfalls. The MOU provides backups as follows:

Regions	Primary Backup	Secondary Backup
Region 8	Region 10	Region 9
Region 9	Region 8	Region 10
Region 10	Region 9	Region 8

There shall be only one Federal OSC at any time during the course of a response operation. During a multi-regional response, oil discharges or releases of hazardous substances that occur within Region 8 may originate in or affect Region 5 (Minnesota), Region 6 (Oklahoma, New Mexico), Region 7 (Iowa, Kansas, Nebraska), Region 9 (Arizona, Nevada), or Region 10 (Idaho). The lead region responsibility will normally be based on the location of the origin of the discharge or release.

If a discharge or release affects areas covered by two or more RCPs, the response mechanisms of both may be affected. In this case, response actions of all regions concerned shall be fully coordinated as detailed in the RCPs.

Should a discharge or release affect two or more areas, EPA, USCG, DOD, DOE, or other lead agency, as appropriate, shall give prime consideration to the area vulnerable to the greatest threat in determining which agency should provide the Federal OSC or RPM. The RRT shall designate the Federal OSC or RPM if the RRT member agencies with response authority within the affected area are unable to agree on the designation. The NRT shall designate the Federal OSC or RPM if members of one RRT or two adjacent RRTs are unable to agree on the designation.

300.145 Special Teams and Other Assistance Available to Federal OSCs

[Refer to 40 CFR Section 300.145 of the NCP](#) for special teams and other assistance available to Federal OSCs during a release or discharge.

300.150 Worker Health and Safety

Response actions will comply with provisions for response action worker safety and health as defined in 29 CFR 1910.120, with Section 126 of Title I of SARA of 1986, and with other requirements of the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 651 et seq.), OSH Act of 1910, and state OSH laws. Title I directs OSHA and EPA to publish regulations to ensure the health and safety of all workers potentially exposed to risks present during hazardous waste operations and emergency response.

These worker protection standards also apply to employers whose employees are engaged in these activities.

In states having an OSHA-approved state plan, the state regulations apply to state, local, and private employers. In Region 8, Wyoming and Utah have approved state plans. In states that do not have an OSHA-approved state plan, OSHA has jurisdiction only over federal and private employers. EPA's workers' protection regulations cover state and local government employees without OSHA-approved plans. The same OSHA regulations also apply indirectly to state and local government employees (compensated or non-compensated) through the provisions of 40 CFR 311. When a state or political subdivision of a state without an OSHA-approved state plan is the lead agency for a response, the state or political subdivision must comply with standards in 40 CFR Part 311, promulgated by EPA according to Section 126(f) of SARA. Compliance with requirements, standards, and regulations of the OSH Act and of state laws with plans approved under Section 18 of the OSH Act (state OSH laws) must occur where applicable. In a response action taken by an RP, the RP must ensure that an occupational safety and health program consistent with 29 CFR 1910.120 is made available for protection of workers at a response site. Agencies and individuals involved in the response must comply with OSHA requirements, including training requirements. All governmental agencies and private employers are directly responsible for health and safety of their own employees.

The Federal OSC will consult as needed with the site safety coordinator and/or OSHA to ensure:

- Safety of all response personnel on scene, including private contractors;
- Identification and communication of potential hazards to health and safety in all response operations; and
- Compliance with EPA and OSHA requirements, including training requirements.

300.155 Public Information and Community Relations

The lead agency designates a spokesperson who informs the community of actions taken, responds to inquiries, and provides information concerning the response action. All news releases or statements by participating agencies shall be jointly coordinated and funneled through the spokesperson/public information office. Federal OSCs may consider use of the RRT to assist in media relations and other community involvement activities. RPs may also implement community involvement activities.

Information dissemination relating to Natural Resources Damage Assessment (NRDA) activities shall be coordinated through the lead trustee for natural resources. The lead trustee for natural resources may assist the Federal OSC by disseminating information on issues relating to NRDA activities.

300.160 Documentation and Cost Recovery

Refer to [Sections 300.315](#) and [300.335 of this RCP](#) for documentation and types of funds that may be available to remove discharges of oil. Additionally, Section 112 of CERCLA outlines the claims procedures for a release of hazardous substances, pollutants, or contaminants.

300.165 OSC Reports

OSC reports will be submitted when requested by the RRT or NRT. OSC reports shall document the situation as it developed, actions taken, resources committed, and problems encountered.

300.170 Federal Agency Participation

Federal agencies listed in 40 CFR Section 300.175 of the NCP have duties established by statute, executive order, or Presidential directive that may apply to federal response actions to prevent or to respond to discharge of oil or release of a hazardous substance, pollutant, or contaminant. Federal agencies may be called upon by an OSC during response planning and implementation to provide assistance in their respective areas of expertise. Some of these agencies also have duties relating to restoration, rehabilitation, replacement, or acquisition of natural resources equivalent to those damaged or lost as a result of such discharge or release.

Specifically, federal member agency responsibilities include:

- Assisting the RRT and OSCs in formulating the Region 8 RCP;
- Informing the RRT of changes in availability of their respective response resources;
- Reporting discharges and releases from facilities under their jurisdiction or control.

Additional federal agency responsibilities are described in [Section 300.170 of the NCP](#).

300.175 Assistance by Federal Agencies

During preparedness planning or in an actual response, various federal agencies may be called upon to provide assistance in their respective areas of expertise, as described in 40 CFR Section 300.175 of the NCP. Those federal agencies are:

Environmental Protection Agency

United States Coast Guard

Department of Defense

United States Army Corps of Engineers

United States Navy Supervisor of Salvage (SUPSALV)

Department of Energy

Department of Agriculture

Forest Service

Agriculture Research Service

Natural Resource Conservation Service

Animal and Plant Health Inspection Service (see MOU in [Annex VI](#))

Food Safety and Inspection Service

Department of Health and Human Services

Public Health Service

Agency for Toxic Substances and Disease Registry

Centers for Disease Control

Indian Health Service

National Institutes of Health

National Institute for Environmental Health Sciences

Department of the Interior

Bureau of Land Management

United States Fish and Wildlife Service

United States Geological Survey

Office of Surface Mining

National Park Service

Bureau of Reclamation

Bureau of Indian Affairs

Department of Justice

Department of Labor

Occupational Safety and Health Administration

Department of State

Federal Emergency Management Agency

General Services Administration
National Oceanic and Atmospheric Administration
Nuclear Regulatory Commission

300.180 State and Local Participation in Response

State Response

The Governor of each state in Region 8 is requested to designate a lead agency that will coordinate state-lead response operations. That agency is responsible for designating the state's representative to the RRT. Each state representative may participate fully in all activities of the RRT. RRT members should be familiar with existing MOUs and interagency agreements (IAG) among RRT member agencies. State RRT representatives are expected to coordinate with the SERCs in their respective states in order to communicate and coordinate preparedness and pre-response planning activities between the state and the RRT. State and local government agencies are encouraged to coordinate state contingency planning efforts regarding oil and response to hazardous material events with this plan and with requirements of SARA Title III.

Each state in Region 8 has a state disaster plan and laws that specify each state's authority and organization for a technical response to environmental emergencies. All states can provide technical expertise to assess environmental and public health threats and damage, as well as to advise local responders. Under specific circumstances, states may provide additional response capabilities in the form of contractors and funding. State emergency notification contacts and protocols are included in [Annex VII](#).

In the event of an incident, the state RRT member/representative organization will be notified via the NRC. NRC notifications are sent to the appropriate state response agency per protocols developed by the state and are defined in the paragraphs below and in Appendix VII of this RCP. The state response agency will ensure completion of the following actions, as appropriate:

- Notify known downstream water users (municipal, industrial, and agricultural) within its jurisdiction of all discharges and releases that may threaten them.
- Notify and coordinate with other state and local agencies, as appropriate, including state trustees for natural resources ([Annex III – Attachment A](#): Fish and Wildlife and Sensitive Environments Plan).
- Be responsible, in conjunction with the EPA representative, for:

- Assisting EPA in determining and providing advice on the degree of hazard of the discharge or release to public health and safety;
- Assisting EPA in assessment of the environmental damage caused by the discharge or release; and

Note: The state of Wyoming is not delegated to implement Safe Drinking Water Act (SDWA) regulations specific to Public Water Supplies. If a spill is reported, notifications are made to the local officials (county, municipality) but there is no state-level program overseeing SDWA. Therefore, the FOOSC shall ensure notification to EPA's Drinking Water Program personnel who will make necessary notifications to potentially impacted downstream water users.

The State of Colorado

The Colorado Department of Public Health and Environment (CDPHE) is the state agency that provides a representative to RRT.

The State of Montana

The Montana Department of Environmental Quality (Mt DEQ) is the state agency that provides a representative to RRT. Mt DEQ is assigned responsibilities associated with Emergency Support Functions (ESF) #10 and #12, and fully assists the Montana Disaster and Emergency Services division, as well as local responders, in assuring that the RRT duties are met.

The State of North Dakota

The North Dakota Department of Emergency Services is the state agency that serves as the Primary RRT member and is responsible for coordinating response in conjunction with appropriate agencies. The North Dakota Department of Health (NDDOH) serves as an Alternate RRT member and is responsible for assessing public health and environmental impacts and cleanup requirements. In addition, NDDOH is responsible for ensuring proper cleanup actions have been taken, and for coordinating with EPA as necessary. The North Dakota State Fire Marshal also serves as an Alternate RRT member and provides technical assistance regarding hazardous materials.

The State of South Dakota

The South Dakota Department of Environment and Natural Resources (SDDENR) is the state agency that provides a representative to the RRT, enforces environmental laws, and coordinates response to spills. If a threat to public safety or the environment exists, SDDENR coordinates requested assistance from local and state agencies, and acts as the liaison with federal officials. Agency personnel are available 24 hours

a day for technical assistance to abate exposure of citizens to hazardous materials, and for investigation of pollution incidents and assessment of environmental damages. Requests for waste disposal sites should be coordinated through SDDENR.

The State of Utah

The Utah Department of Environmental Quality (UDEQ) is the state agency that provides a representative to RRT.

The State of Wyoming

The Wyoming Department of Environmental Quality (Wy DEQ) is the state agency that provides a representative to RRT.

Natural Resources

Each state conservation department, through its state representative on the RRT, shall coordinate fish and wildlife preservation measures with USFWS in accordance with [Annex III](#) – Fish and Wildlife and Sensitive Environments Plan. When necessary because of health hazards, the appropriate state agency will close areas to commercial and recreational fishing.

Local Response

The focus of local responders is usually abating immediate public safety threats. The degree of local response will depend upon the training and capabilities of local responders relative to the needs of the specific emergency. In some cases, the need may be identifying the nature and scope of the hazard. This information is then passed on to state and federal responders with specific expertise and/or capabilities who are activated to address the situation. Often, local agencies take defensive mitigating actions to contain incidents and protect the public. In many instances, RPs or local agencies are capable of an aggressive response and quick abatement of immediate hazards. In these cases, local authorities usually rely on state and federal responders to ensure that cleanup is complete and remediation is technically sufficient.

A major role of local organizations during all emergency incidents is to provide security for all on-scene forces and equipment. For large incidents, help is often requested through the state emergency management agencies. Activities include establishing local liaison with hospital, emergency services, and police personnel, as well as restricting entrance to hazardous areas to all but essential personnel.

300.185 Non-governmental Participation

Industry groups, academic organizations, and others are encouraged to commit resources for response operations. This plan anticipates and encourages representation from industry, landowners, volunteer groups, and other stakeholders.

Landowners are a valuable resource due to their local knowledge. The landowner, to the extent practical and based on the Federal OSC's judgment, may be included in the planning and response activities, under direction of the Federal OSC. Landowners who provide access to or are affected by a spill have jurisdiction over their lands, and warrant special consideration by the responding agency, RP, or unified command.

In Region 8, use of volunteers is encouraged. However, this should be handled in accordance with NCP provisions and NRT guidance (Use of Volunteers Guidelines for Oil Spills, September 2012). Specifically, volunteer groups shall have provided proof of training for site-specific duties. Generally, volunteers will not be used for hazmat operations and cleanup, but should be used for other duties such as:

- Wildlife Cleanup (in accordance with appropriate wildlife management agency policies/procedures and [Annex III](#) – Fish and Wildlife and Sensitive Environments Plan)
- Construction
- Crowd Control
- Administrative / Logistical Work
- Community Liaison
- Public Relations.

Where SACPs have been developed, the SACPs will detail specific volunteer uses (if these have been identified for the sub area).

SUBPART C PLANNING AND PREPAREDNESS**300.200 General**

The RRT serves as a planning and preparedness body to support the Federal OSC, and includes membership from the Federal Government, state and local governments, and private entities (as ex-officio members).

300.205 Planning and Coordination Structure

This section discusses the planning and coordination structure from the national to the local level.

National: The NRT is responsible for national planning and coordination.

Regional: The RRTs are responsible for regional planning and coordination.

Area: This RCP covers the Standard Federal Region 8: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. Planning for sub-areas includes the 10 sub-areas identified by watershed boundaries within EPA Region 8. The EPA Region 8 sub-areas are further discussed below.

State: The SERC of each state, appointed by the Governor, is to designate emergency planning districts, appoint LEPCs, supervise and coordinate their activities, and review local hazardous materials response plans. SERCs and LEPCs are further discussed in [Section 300.215 of this RCP](#).

Local: Emergency planning districts are designated by the SERC to facilitate preparation and implementation of emergency plans. Each LEPC is to prepare a local hazardous materials response plan for the emergency planning district, and receive and process requests from the public for information generated by Title III reporting requirements. LEPCs are further discussed in [Section 300.215 of this RCP](#).

On-Shore Facilities: Facilities that could reasonably be expected to cause substantial harm to the environment by discharging oil into or on navigable waters are required to prepare and submit FRPs. An FRP demonstrates a facility's preparedness to respond to a WCD. Currently, FRP facilities within Region 8 are considered on-shore related, and regulatory authority falls within EPA's jurisdiction. FRPs are discussed further in [Section 300.211 of this RCP](#).

300.210 Federal Contingency and Response Plans

40 CFR Section 300.210 of the NCP identifies three levels of federal contingency plans for oil discharges and hazardous substance releases: National, Regional, and Area.

Summaries of EPA Region 8 SACPs, the Fish and Wildlife Sensitive Environments Plan, Risk Management Plans, and State-level Response Plans appear below. Also detailed below are state contacts for identification of cultural resources and sites that can be utilized during a response.

Sub-area Contingency Plans

EPA Region 8 has adopted the concept of sub-area planning. To facilitate planning, the planning strategy discussed below has been established in accordance with the CWA Section 311(j)(4), as amended by OPA. The SACP development strategy was approved by the Region 8 RRT in October 2013.

The main goal of Region 8 sub-area planning is to develop an oil response planning approach that adequately addresses the region-wide potential for a significant oil spill to inland waters, given the significant oil infrastructure across the Region. To achieve this goal, Region 8 oil response planning is strategically focused on large oil threats to address the large geographic area that makes up Region 8 (much of which consists of rural and remote areas), and to address CWA Section 311(j)(4) requirements. The Region's ability to respond to both oil discharges and hazardous substance releases will be enhanced by successful completion of oil response planning, development of the geographic information system (GIS) tool discussed below, and planned updates to the RCP.

Three key aspects of the Region 8 sub-area planning strategy are:

1. Focus on oil response planning including identification/prioritization of key sensitive areas and pre-planned response strategies.
2. Establish watershed-based SACP boundaries.
3. Systematically use interactive, web-based GIS Viewer technology to facilitate timely and effective response, and allow for efficient updates and distribution.

For Region 8, the watershed-based planning areas listed below have been established. These 10 planning areas cover the entire Region. For reference, the boundaries were developed based on the standardized USGS Hydrologic Unit Maps, and include the following watersheds:

- Upper Missouri/Clark Fork
- Yellowstone
- Mid-Missouri
- Lower Missouri
- Red/Souris
- Cheyenne/North Platte
- Utah/Great Basin
- Green
- Colorado
- South Platte/Arkansas/Rio Grande.

[Annex VIII](#) includes the strategy document discussed above, titled “EPA Region 8 Area Planning Strategy,” as well as a map of the 10 sub-area planning areas. Planning activities for the listed sub-areas are ongoing. When complete, final versions of SACPs will be available at the Region 8 RRT website: www.rrt8.nrt.org

EPA Region 8 has developed the T.E.R.A. Viewer, an interactive, web-based application. The Viewer will be the primary method of disseminating response strategies and other tactical SACP information; SACP documentation will be made available on the RRT website listed above. The T.E.R.A. Viewer, at the link provided below, will allow the sub-area committee and RRT members to update and maintain response-related information. The T.E.R.A. Viewer is available to sub-area committee members, RRT members, and government agency personnel; however, a username and password must be obtained through EPA Region 8 from Barbara Nisley at Nisley.Barbara@epa.gov.

EPA Region 8 T.E.R.A. Viewer link: https://epar8gis.net/TERA_external

EPA Region 8 Worst-Case Discharge

CWA Section 311(d)(2)(J) requires the Area Contingency Plan (ACP) (for Region 8, this RCP) to include procedures and standards for removing a WCD of oil, and for mitigating or preventing a substantial threat of such a discharge.

Region 8 defines a “WCD” as any discharge in sufficient quantities to impact public health, welfare, or the environment. Releases of oil from FRP facilities, pipelines, and railroads are considered to pose the highest threats to sensitive receptors within Region 8. A typical WCD scenario applicable to R8 is presented below. The WCD scenario involves a large spill of petroleum product from a fixed oil storage facility adjacent to the Missouri River in North Dakota. Heavy oiling of the river banks and pooling in backwater areas would occur.

Assumptions: The RP and federal/state/local agencies will respond to the spill in an appropriate manner. Immediate containment of the spill would not be feasible because of the remoteness of the area.

Hazard Assessment: During a response effort, safety of human life is the highest priority. Stabilizing the situation is the next priority, which involves a hazard assessment. For this WCD scenario, the hazard assessment would identify critical infrastructure and resources that could be impacted as a result of the WCD. The river system within EPA Region 8 is a valuable resource for multiple reasons, among which are its provision of water for domestic and irrigation purposes, provision of critical habitat for threatened and endangered species, inclusion of cultural and historically significant areas, and economic importance based on the recreational opportunities it provides.

Vulnerability Analysis: Consideration of particular points of environmental and economic sensitivity will include drinking water and irrigation water intakes, federally protected lands/parks/refuges, Tribal lands, etc.

Seasonal/Geographic Considerations: North Dakota, as all other states within Region 8, is vulnerable to widespread or localized flooding due to heavy rains, flooding caused by ice jams, rapid snow melt in mountain drainages, any snow melt reaching major rivers, and high winds or tornados. Other considerations could be severe weather (tornadoes) and natural disasters (i.e., Wasatch Fault in Utah).

Response Priorities

As stated above, safety of human life is the highest priority during a response. Stabilizing the situation is the next priority. Stabilizing the situation includes securing the source of the spill and/or removing the remaining product from the container (tank, pipeline, etc.) to prevent additional oil spillage, to reduce need for follow-up response action, and to minimize adverse impact on the environment.

The following should be considered when attempting to minimize effects of an oil spill:

Health and safety are the first priorities. Responders should be alert to:

- Fire and explosion potential from vapors at or near the spill site;
- Potential toxic effects from the spill and chemical countermeasures;
- Proper use of safety equipment;
- Hyperthermia, hypothermia, frostbite, or sunburn;
- Small boat safety;
- Helicopter and aircraft safety.

Speed is essential in recovery efforts. Responders should keep in mind the following:

- Oil spreads and drifts rapidly; delays will rapidly increase the area needing cleanup.
- If in-situ burning is a desirable alternative and a viable option, begin the ignition as early as possible to minimize potential for evaporation and emulsification.
- Oil is usually easier to deal with on water than after it has contacted the shore.
- Because any proposal for in-situ burning requires consultation with the Federal OSC, the State's member of the RRT, federal and state natural resource trustees, and the State's air permitting agency, development of a comprehensive proposal early in the spill response phase is desirable.

Cleanup Priorities

Nine oil spill remediation steps in response to a WCD are:

1. Stop the discharge.
2. Contain and remove spilled oil at the source to the extent possible.

3. Assess the amount and type of spilled oil via surveillance and tracking.
4. Follow procedures defined in contingency plans; modify them as needed; document all actions.
5. Protect threatened resources and monitor shore-bound oil.
6. Contain and remove offshore oil that has escaped the primary control operation at the source.
7. Skim oil that has pooled in natural collection areas such as sloughs and coves.
8. Clean up shorelines where oil has stranded, to the extent possible and advisable.
9. Dispose of collected materials in accordance with applicable regulations.

Shortfalls

Potential shortfalls that could be encountered in response to a WCD include:

- Equipment:
 - Logistics of staging and maintaining operable equipment;
 - Limited availability and shelf life of specialized cleanup and/or monitoring equipment;
 - Inaccessibility of discharge or release by use of the equipment available.
- Personnel:
 - Possible immediate unavailability of skilled personnel;
 - Unfamiliarity of personnel from outside the area with the terrain or available equipment;
 - Need to integrate personnel from various agencies and areas and with various experiences into an effective response.
- Funds:
 - Possible exceedance by cleanup costs of funds available to the RP;
 - Dependence of availability of funds through the National Pollution Funds Center (NPFC) on knowledge of the Federal OSC and the State's OSC.
- Delay in response by some or all parties because of the remoteness of the spill location.

As previously mentioned, sub-area planning is occurring to more thoroughly address WCD scenarios throughout each Region 8 sub-area. In preparation for a WCD within each sub-area, the planning process includes, but is not limited to, identification/prioritization of key sensitive areas, identification of response equipment, and development of pre-planned response strategies. As part of the sub-area planning process, participation with applicable federal, state, Tribal, and local agencies, as well as private industry, has promoted exchanges of response-related information, and will further strengthen communication vital for an effective response to a WCD.

Adequacy to Remove a WCD

This RCP (and more appropriately the SACPs), when implemented in conjunction with the NCP, is adequate to mitigate and/or prevent a substantial threat of a WCD. Private industry and local emergency responders provide the front-line defense in response to all spills, including a WCD. Refer to [Section 300.210 of this RCP](#) for a more detailed discussion of Region 8 SACPs and how they are being developed to address WCD scenarios.

This RCP outlines federal resources available to the Federal OSC from RRT agencies, and conveys regional response policies. Local emergency contingency plans outline resources available from outside RRT agencies.

Fish and Wildlife Sensitive Environments Plan

OPA amended Section 311(d) of the CWA, 33 U.S.C. Section 1321(d), to include a fish and wildlife response plan, developed in consultation with USFWS, NOAA, and other interested parties (including natural resource managers and state fish and wildlife conservation officials), for immediate and effective protection, rescue, and rehabilitation of, and minimization of risk of damage to, fish and wildlife resources and their habitat that may be harmed or jeopardized by a discharge or planned response operations. The Region 8 Fish and Wildlife Sensitive Environments Plan is included as [Annex III](#).

Risk Management Plans

Risk Management Plans (RMP) are required for any covered facility, which is any stationary source using more than a threshold quantity of a 40 CFR Section 68.130 chemical in a process. This regulation requires each covered facility to develop and implement a risk management program that includes analyses of off-site consequences of accidental chemical releases to the air, a five-year accident history, a prevention program, and an emergency response program. As part of the risk management program, covered facilities are required to submit RMPs to the EPA's Central Data Exchange. The RMPs are available to federal, state, and local officials for purposes of emergency planning.

To assure sharing of information in RMPs regarding identities and amounts of chemicals stored, the Preparedness Unit is placing RMPs without the Off-site Consequence Analysis (OCA) into the T.E.R.A. Viewer. Interested parties can also obtain more RMP information by direct access after completing the proper procedures. For more information on RMPs or OCAs, or access to these data, contact Kathie Atencio, the Preparedness Unit Leader, at Atencio.kathie@epa.gov.

State-level Response Plans

In Region 8, each state maintains state-level operations plans to coordinate roles and responsibilities of state agencies, departments, and offices. The following state plans have been identified:

- *Colorado Emergency Operations Plan*. On-line address: <http://dhsem.state.co.us/emergency-management/operations/state-emergency-operations-plan>
- *Montana Emergency Response Framework*. On-line address: <http://montanadma.org/montana-emergency-response-framework-core-document>
- *North Dakota State Emergency Operations Plan*. The plan is not publically available online.
- *South Dakota State Emergency Operations Plan*. The plan is not publically available online.
- *Utah Emergency Operations Plan*. On-line address: <http://publicsafety.utah.gov/emergencymanagement/documents/UtahEOP2013Final.pdf>
- *Wyoming Response Plan*. On-line address: http://wyohomelandsecurity.state.wy.us/Library/Wyoming%20Response%20Plan_07.pdf

300.211 Facility Response Plans

Facilities reasonably expected to cause substantial harm to the environment by discharging oil into or on navigable waters are required to prepare and submit FRPs. FRPs, as defined by Section 311(j)(5)(A) of the CWA, 33 U.S.C. Section 1321(j)(5)(A), shall be reviewed for approval and consistency with this RCP. The RRT/AC will review the effectiveness and integration of all plans based on actual response experiences, exercises, and all other relevant information that will lead to enhancement of these plans.

An FRP demonstrates a facility's preparedness to respond to a WCD. A facility may pose substantial harm in R8 if it:

- Has a total oil storage capacity greater than or equal to 1 million gallons, and meets one of the following conditions:
 - Does not have sufficient secondary containment for each aboveground storage area;
 - Is located where a discharge from the facility could cause "injury" to fish, wildlife, and sensitive environments;

- Is located where a discharge from the facility would shut down a public drinking water intake;
- Has had within the past 5 years a reportable discharge greater than or equal to 10,000 gallons.

An EPA Regional Administrator determines if a facility, because of its location, could cause significant and substantial harm to the environment by discharging oil into or on navigable waters. This is determined by consideration of factors similar to the substantial harm criteria, as well as by age of tanks, proximity to navigable waters, discharge frequency, or other information. Facilities that pose significant and substantial harm must have their plans reviewed and approved by EPA. All FRPs are reviewed to verify that these indicate availability of adequate resources to respond to a WCD. For more information related to FRPs in EPA Region 8, e-mail Payan.Melissa@epa.gov.

300.212 Area Response Drills

To check ability of a facility to remove a WCD, the federal lead agency, EPA Region 8, shall periodically conduct Government Initiated Unannounced Exercises (GUIE) and drills of removal capability, without prior notice. Additionally, drills are to be conducted under the National Preparedness for Response Exercise Program (PREP), and may include participation by federal, state, and local agencies; owners and operators of facilities in the area; and other elements of private industry. EPA may coordinate with RRT members, Sub-Area Committee members, and other relevant stakeholders when planning for response drills as appropriate.

This RCP shall integrate approved vessel, onshore facility, pipeline, and bulk transportation response plans. Regional response policies and preparedness activities concerning inland issues are currently addressed through the RRT, and outlined in this RCP, which has been approved by both the EPA and USCG co-chairs.

300.215 EPCRA Local Emergency Response Plans

The regulations that implement EPCRA are codified at 40 CFR Part 355. The plans are developed by LEPCs with stakeholder participation. Each LEPC is to prepare an emergency response plan in accordance with Section 303 of EPCRA, and to review the plan once a year, or more frequently as changed circumstances in the community or at any subject facility may require. Every community in the United States must be part of a comprehensive plan. Such local emergency response plans should be

closely coordinated with applicable SACPs and state emergency response plans. SERC and LEPC plans can be obtained via the following:

SERC websites are available at: <http://www2.epa.gov/region8/state-emergency-response-commission-and-local-emergency-planning-committees-region-8>

LEPCs contact information is available by contacting Kathie Atencio, EPA Region 8 Preparedness Unit Leader, at: atencio.kathie@epa.gov

SUBPART D OPERATIONAL RESPONSE PHASES FOR OIL REMOVAL**300.300 Phase I – Discovery and Notification**

The provisions of [Section 300.125 of this RCP](#), including notification to federal and state natural resource trustees, are also applicable to reports involving a discharge of oil.

300.305 Phase II – Preliminary Assessment and Initiation of Action

The Federal OSC is responsible for promptly initiating a preliminary assessment, which includes, but is not limited to, determining whether or not proper response actions have been initiated. If the RP for the discharge does not act promptly or does not take appropriate actions, or if the RP is unknown, the Federal OSC may respond in accordance with provisions of the NCP and agency guidance, and coordinate activities as outlined in this RCP.

- In carrying out a response under this section, the Federal OSC may:
 - Remove or arrange for removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time.
 - Direct or monitor all federal, state, and private actions to remove a discharge.
- If the discharge results in a substantial threat to the public health or welfare of the United States (including, but not limited to, fish, shellfish, wildlife, and other natural resources), the Federal OSC must direct all response efforts, as provided in Part 300.322 of the NCP. The OSC may act without regard to any other provision of the law governing contracting procedures of employment of personnel by the Federal Government in removing or arranging for removal of such a discharge.
- The Federal OSC shall ensure that the natural resource trustees and natural/historic resource managers are promptly notified in the event of any discharge of oil, to the maximum extent practicable as provided in the Fish and Wildlife and Sensitive Environments Plan ([Annex III](#)), the ESA MOA ([Annex IV](#)), and the Programmatic Agreement on Protection of Historic Properties During Emergency Response under the NCP ([Annex V](#)).

For response operations, coordination and consultation activities among the Federal OSC, trustees, and natural/historic resource managers concerning a discharge of oil shall be conducted as described in [Section 300.135 of this RCP](#). Trustees shall ensure that the Federal OSC is informed of their activities via a Natural Resource Damage Assessment that may affect response operations. The trustees will assure that all data from Natural Resource Damage Assessment activities that may support more effective operational decisions are provided in a timely manner to the Federal OSC. The Lead Administrative Trustee facilitates effective and efficient communications between the Federal OSC and the other trustees

during response operations, and is responsible for applying to the Federal OSC for non-monetary federal response resources on behalf of all trustees. The Federal Lead Administrative Trustee is also responsible for applying to NPFC for funding for initiation of damage assessment for injuries to natural resources.

300.310 Phase III – Containment, Countermeasures, Cleanup, and Disposal

Defensive actions shall begin as soon as possible to prevent, minimize, or mitigate threat(s) to the public health or welfare of the United States or the environment. Actions may include sampling and analysis, efforts to control the source of a discharge, source and spread control or salvage operations, placement of physical barriers to deter spread of oil and protect natural resources and sensitive ecosystems, control of water from upstream impoundment, and use of chemicals.

Physical removal of oil is the preferred method in Region 8. However, chemical agents can be helpful and approved under certain circumstances. *No preauthorizations* for chemical agent use have been established; any entity interested in using these techniques must follow the provisions specified below, which are also specified in [Subpart J of this RCP](#) and in the NCP.

Additional authorities are available to the Federal OSC during response actions conducted under the NCP, specific to CWA regulations. In accordance with 40 CFR, Section 122.3(d), a Federal OSC may direct a discharge to water without a National Pollutant Discharge Elimination System (NPDES) permit. It should also be noted that actions subject to CWA 404 permit requirements are authorized under Nationwide Permit 20.

Disposal

Oil and contaminated materials recovered in cleanup operations shall be disposed of in accordance with applicable laws, regulations, or requirements. Any localized disposal requirements identified by sub-area committees will be described in the SACPs.

Additionally, disposal assistance, including answers to questions about spill cleanup, may be obtained via the EPA RCRA National Hotline at (800) 424-9346 or EPA Region 8 hotline at (800) 227-8917 or <http://www2.epa.gov/region8/contact-region-8>.

300.315 Phase IV – Documentation and Cost Recovery

All Oil Spill Liability Trust Fund (OSLTF) users must collect and maintain documentation to support all actions taken under the CWA. Overall, documentation shall be sufficient to support full cost recovery for

resources utilized, and shall identify the source and circumstances of the incident, the RP or RPs, and impacts and potential impacts on public health and welfare and the environment. Documentation procedures are specified in 33 CFR Part 136 and on the NPFC website: <http://www.uscg.mil/npfc> .

When appropriate, documentation should also be gathered regarding scientific understanding of the environment, and research and development of improved response methods and technology. Funding for these actions is restricted by Section 6002 of the OPA.

Federal OSCs shall ensure necessary collection and safeguarding of information, samples, and reports. Samples and information shall be gathered expeditiously during the response to ensure an accurate record of resulting impacts. Documentation shall be made available to the trustees of affected natural resources. The OSC shall make available to trustees of the affected natural resources information and documentation in the OSC's possession that can assist the trustees in determination of actual or potential natural resource injuries.

Information and reports obtained by EPA shall be transmitted to the appropriate offices responsible for followup actions.

300.317 National Response Priorities

Safety of human life is the highest priority during a response. Stabilizing the situation to prevent worsening of the event is the next priority. The response must apply all necessary containment and removal tactics in a coordinated manner to ensure a timely, effective response that minimizes adverse impact on the environment. There are no EPA Region 8-specific modifications to the NCP. The National Response Priorities specified in [40 CFR 300.317 of the NCP](#) are detailed in this RCP,

300.320 General Pattern of Response

When the Federal OSC receives a report of a discharge, he/she will investigate the report to determine threats posed, officially classify the size and type of discharge, and assess capabilities of other parties (i.e., RP, states, locals) to carry out removal actions. Major and medium discharges will be reported to the RRT and, some will warrant RRT activation. The Federal OSC will also make appropriate notifications as described in [Section 300.135 of this RCP](#). For more information, [refer to 40 CFR 300.320 of the NCP](#).

300.322 Response to Substantial Threats to Public Health or Welfare of the United States

If the OSC determines a discharge poses a substantial threat to public health or welfare of the United States, he/she has additional responsibilities to direct and manage the response. For more information, [refer to 40 CFR 300.322 of the NCP.](#)

300.323 Spills of National Significance

There are no EPA Region 8-specific modifications to the NCP; [refer to 40 CFR 300.323\(A\) and \(B\) of the NCP.](#)

300.324 Response to Worst-Case Discharges

If the Federal OSC's investigation determines that a WCD, as defined in the RCP, has occurred or a substantial threat of such a discharge is posed, the Federal OSC shall take all of the following actions:

- Notify NSFCC.
- Require, where applicable, implementation of the worst-case portion of an approved tank FRP required by Section 311(j) (5) of the CWA.
- Implement the worst-case portion of this RCP (refer to applicable SACPs) required by Section 311(j)(4) of the CWA.
- Take whatever additional response actions are deemed appropriate.

Under direction of the Federal OSC, the NSFCC shall coordinate use of private and public personnel and equipment, including Strike Teams, to remove a WCD and mitigate or prevent a substantial threat of such a discharge.

300.335 Funding**Oil Spill Liability Trust Fund**

The USCG NPFC was created to implement Title I of OPA, which addressed issues associated with preventing, responding to, and paying for oil pollution. Title I of OPA established oil spill liability and compensation requirements, including the OSLTF to pay for expeditious oil removal and uncompensated damages.

Additional information concerning NPFC and OSTLF is available at:

http://www.uscg.mil/npfc/About_NPFC/osltf.asp

Accessing the “Oil Fund”

OSTLF can be accessed in two ways: (1) initiation by the EPA OSC of a Pollution Removal Funding Authorization (PRFA), or (2) submittal of a claim to NPFC.

Region 8 Federal OSCs are familiar with policies and procedures for accessing OSLTF via NPFC. The Federal OSC can use OSLTF to activate EPA contractors or other resources as necessary. The Federal OSC can also distribute funds to local, state, and federal agencies via a PRFA if the Federal OSC determines these entities can/must assist with specific response actions. A PRFA is handled very much like a contract. EPA will issue a PRFA Statement of Work (SOW) for the work to be performed and require regular updates of site conditions. Once these costs are invoiced, the EPA OSC must certify the package prior to sending it to NPFC for payment.

Claims for reimbursement from OSLTF can be submitted by local, state, Tribal, or federal agencies, as well as by private entities and individuals. To file a claim, contact the Director, National Pollution Funds Center, 4200 Wilson Boulevard, Suite 1000, Arlington, VA 22203-1804; telephone (703) 235-4756.

NPFC requires certain documentation to process claims. Required documentation includes but is not limited to:

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

SUBPART E HAZARDOUS SUBSTANCE RESPONSE**300.400 General**

This subpart establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA and CWA Section 311(c) when a release of a hazardous substance into the environment occurs, or when a release into the environment of any pollutant or contaminant may pose an imminent and substantial danger to the public health or welfare of the United States.

As indicated in 40 CFR 300.400 of the NCP, no federal, state, or local permits are required for on-site response actions pursuant to CERCLA Sections 104, 106, 120, 121, or 122. The term “on-site” is defined as the areal extent of contamination and all suitable areas in very close proximity to the contamination within which the response action must occur. Permits, if required, shall be obtained for all response activities off site.

Additionally, the lead and support agencies shall identify each requirement applicable to the release or remedial action contemplated based upon an objective determination of whether the requirement specifically addresses a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance at a CERCLA site. If, based upon paragraph 300.400(g) (1) of the NCP, it is determined that a requirement is not applicable to a specific release, the requirement may still be relevant and appropriate to the circumstances of the release. In an evaluation of relevance and appropriateness, specific factors defined in the regulation will be examined. Only state standards that are (1) promulgated, (2) identified by the state in a timely manner, and (3) more stringent than federal requirements may be applicable or relevant and appropriate.

40 CFR Section 300.400 of the NCP also includes other provisions pertinent to limitations on response, site access, and enforcement orders. No Region 8-specific changes to these items have occurred; [refer to 40 CFR Section 300.400 of the NCP](#) for more information.

300.405 Discovery and Notification

A release may be discovered through a report submitted in accordance with Section 103(a) of CERCLA (i.e., reportable quantities codified in 40 CFR Part 302 and various reports and investigations). The provisions of [Section 300.125 of this RCP](#) also apply to reports involving a release of hazardous substances, pollutants, or contaminants.

300.410 Removal Site Evaluation

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.410 of the NCP.](#)

300.415 Removal Action

At any release, regardless of whether the site is included on the National Priorities List (NPL), where the lead agency makes the determination, based on the factors in paragraph 300.415(b) (2) of the NCP, that a threat is posed to public health or welfare of the United States or the environment, the lead agency may take any appropriate removal action to abate, prevent, minimize, stabilize, mitigate, or eliminate the release or the threat of release. Such actions will begin as soon as possible to protect public health or welfare of the United States or the environment.

Fund-financed removal actions under CERCLA section 104 and removal actions pursuant to CERCLA section 106 shall, to the extent practicable considering the exigencies of the situation, attain applicable or relevant and appropriate requirements (ARAR) under federal environmental or state environmental or facility siting laws. Waivers described in §300.430(f) (1) (ii) (C) may be used for removal actions. Other federal and state advisories, criteria, or guidance may, as appropriate, be considered in formulating the removal action (see § 300.400(g) (3)). In determining whether compliance with ARARs is practicable, the lead agency may consider appropriate factors, including: (1) urgency of the situation and (2) scope of the removal action to be conducted. Refer to [40 CFR 300.415 of the NCP](#) for more details about removal actions.

300.420 Remedial Site Evaluation

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.420 of the NCP.](#)

300.425 Establishing Remedial Priorities

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.425 of the NCP.](#)

300.430 Remedial Investigation/Feasibility Study and Selection of Remedy

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.430 of the NCP.](#)

300.435 Remedial Design/Remedial Action, Operation and Maintenance

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.435 of the NCP.](#)

300.440 Procedures for Planning and Implementing Off-site Response Actions

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.440 of the NCP](#).

SUBPART F STATE AND LOCAL INVOLVEMENT IN HAZARDOUS SUBSTANCE RESPONSE

300.500 General

Subpart F of the NCP and this RCP addresses state involvement in hazardous substance response, and is incorporated herein by reference.

300.505 EPA/State/Local MOA/MOU

A federal, state, and local Memorandum of Agreement (MOA)/MOU establishes the nature and extent of EPA, state, and local interaction during EPA-lead, state-lead, or local-lead responses (including Indian Tribes). EPA shall enter into MOA/MOU discussions if requested by a state or local government.

[Refer to 40 CFR 300.505 of the NCP](#) for a discussion of state MOUs.

300.510 State Assurances

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.510 of the NCP](#).

300.515 Requirements for State Involvement in Remedial and Enforcement Response

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.515 of the NCP](#).

300.520 State Involvement in EPA-lead Enforcement Negotiations

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.520 of the NCP](#).

300.525 State Involvement in Removal Actions

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR 300.525 of the NCP](#).

SUBPART G TRUSTEES FOR NATURAL RESOURCES*Designation of Natural Resource Trustees*

CERCLA and OPA require designation of certain federal, state, and Indian Tribe officials to act on behalf of the public as trustees for natural resources that they manage or protect. As trustees, these officials are authorized to assess monetary damages for resources injured, lost, or destroyed as a result of a discharge of oil or release of hazardous substances. In addition, agencies are authorized to seek damages from the RP, and to devise and carry out restoration, rehabilitation, and replacement. Where more than one trustee has jurisdiction over a resource, these agencies are encouraged to coordinate and cooperate in carrying out the activities described herein.

RRT representatives from trustee agencies may also serve as contact points regarding agency policy on trustee resources (see [Annex I](#)).

Refer to [Section 300.135 of this RCP](#) for Federal OSC notification and consultation responsibilities involving natural resource trustees.

Definition of Natural Resources (CERCLA Sec. 101(16) and OPA Sec. 1001(20))

“Natural resources” include fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, any state or local government, or Indian Tribe.

300.600 Designation of Federal Trustees

The federal officials designated by the President as trustees for natural resources within Region 8 are summarized below.

The Secretary of the Interior

The Secretary of the Interior’s responsibilities include:

- NPS: National Parks, National Monuments, National Historic Sites, National Recreation Areas, Wild and Scenic Rivers, etc.;
- USFWS: National Wildlife Refuges, National Fish Hatcheries, and Waterfowl Production Areas; migratory birds; threatened and endangered species; and anadromous fish;

- BuRec: Lands and waters managed or protected in association with Reclamation dams, reservoirs, and water conveyance systems;
- BLM: Public lands, federally-owned minerals (underlying private as well as public lands);
- BIA: Indian reservations and other lands or natural resources held in trust for an Indian Tribe (including off-reservation natural resources);
- In cases where the United States acts on behalf of an Indian Tribe, the Secretary of the Interior also acts as trustee for natural resources for which an Indian Tribe would otherwise act as trustee.

Contact: DOI RRT Representative listed in [Annex I](#).

Secretary of Agriculture

The Secretary of Agriculture's responsibilities include:

- U.S. Forest Service: National Forests, National Grasslands.

Contact: USDA/Forest Service RRT representative listed in [Annex I](#).

Secretary of Defense

The Secretary of Defense's responsibilities include:

- Military Lands
 - Contact: DOD U.S. Army RRT representative listed in [Annex I](#).
- USACE Project Lands
 - Contact: USACE RRT representative listed in [Annex I](#).

Secretary of Energy

The Secretary of Energy's responsibilities include:

- DOE lands and facilities
 - Contact: DOE RRT representative listed in [Annex I](#).

300.605 State Trustees

The Governor of each state has designated state officials to act on behalf of the public as trustees for natural resources. Natural resources under state jurisdiction include all fish, wildlife, and biota including

a shared trusteeship with the Federal Government for certain plants and animals, air, surface water, groundwater, and land. In addition, the natural resource trustees listed below will be contacted in accordance with their state's emergency notification protocol. State trustees within Region 8 and their 24-hour emergency notification phone numbers are provided in [Annex III, Attachment A](#) and in [Annex VII](#).

Colorado

24-Hour Emergency Notification
Department of Public Health and the Environment
Department of Natural Resources
Department of Law

Montana

24-hour Disaster and Emergency Service
Department of Environmental Quality (DEQ)
Department of Fish, Wildlife, and Parks
Department of Natural Resources and Conservation

North Dakota

24-Hour State Radio
Department of Health
North Dakota Game and Fish Department

South Dakota

24-Hour State Radio
Department of Environment and Natural Resources

Utah

24-Hour DEQ Emergency Response
Department of Environmental Quality

Wyoming

24-hour DEQ
Department of Environmental Quality
Game and Fish Department

300.610 Indian Tribes

The Tribal chairman or head of the Tribal governing body, or person designated by Tribal officials, acts as trustee of natural resources under Indian Tribal trusteeship including lands and other natural resources

belonging to, managed by, controlled by, or otherwise appertaining to the Tribe; or held in trust for the Tribe; or belonging to a member of the Tribe if subject to a trust restriction on alienation.

See [Annex III-Attachment B](#), Fish and Wildlife Sensitive Environments Plan, for a listing of designated Tribal natural resource trustee contacts.

300.612 Foreign Trustees

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR Section 300.612 of the NCP](#).

300.615 Responsibilities of Trustees

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR Section 300.615 of the NCP](#). Trustees, consistent with procedures specified in the Fish and Wildlife Sensitive Environments Plan, the ESA MOA, and Programmatic Agreement on Protection of Historic Properties During Emergency Response under the NCP, shall provide timely advice on recommended actions concerning trustee resources potentially affected by a discharge of oil or release of hazardous substances. This may include providing assistance to the Federal OSC in identifying/recommending preapproved response techniques, and in predesignating shoreline types and areas.

SUBPART H PARTICIPATION BY OTHER PERSONS**300.700 Activities by Other Persons**

Participation by private parties in both planning and response is encouraged. PRPs are encouraged and expected to undertake response actions in an adequate and timely manner. For more information, [refer to 40 CFR Section 300.700 of the NCP](#).

Responsible Party Policy

The RP has primary responsibility for cleanup of an oil discharge or release of hazardous substances. Section 311(c)(3)(b) of CWA, 33 U.S.C. § 1321(C)(3)(B) requires a facility owner or operator participating in removal efforts to act in accordance with the NCP and all other applicable response plans. [Sections 300.135 of this RCP](#) provides details of RP responsibilities.

SUBPART I ADMINISTRATIVE RECORD FOR SELECTION OF RESPONSE ACTION

Subpart I of the NCP details administrative record keeping.

300.800 Establishment of an Administrative Record

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR Section 300.800 of the NCP.](#)

300.805 Location of the Administrative Record File

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR Section 300.805 of the NCP.](#)

300.810 Contents of the Administrative Record File

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR Section 300.810 of the NCP.](#)

300.815 Administrative Record File for a Remedial Action

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR Section 300.815 of the NCP.](#)

300.820 Administrative Record File for a Removal Action

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR Section 300.820 of the NCP.](#)

300.825 Record Requirements after the Decision Document is Signed

No EPA Region 8-specific modifications to the NCP have occurred; [refer to 40 CFR Section 300.825 of the NCP.](#)

SUBPART J CHEMICAL COUNTERMEASURES

The terms “chemical countermeasures” and “Subpart J agents” are used interchangeably in this section and throughout this document. As defined by the NCP, chemical agents are elements, compounds, or mixtures that coagulate, disperse, dissolve, emulsify, foam, neutralize, precipitate, reduce, solubilize, oxidize, concentrate, congeal, entrap, fix, make the pollutant mass more rigid or viscous, or otherwise facilitate mitigation of deleterious effects or removal of the pollutant from the water. Chemical agents include biological additives, dispersants, sinking agents, miscellaneous oil spill control agents, and burning agents, but do not include sorbents.

Burning agents/additives used during in-situ burn operations are considered chemical countermeasures. If no burning agent is needed to ignite an in-situ burn, Subpart J does not apply and RRT authorization is not required; however, other requirements are detailed below. Notably, this section applies only to oil spill responses under CWA/OPA in EPA Region 8. Response actions to address hazardous substances (and use of chemical countermeasures during such actions) under CERCLA authorities are subject to ARARs, as specified by that statute and the NCP.

Use of chemical countermeasures is generally discouraged in EPA Region 8. Many water bodies within the Region are narrow, shallow streams or rivers that could sustain greater damage if oil would be dispersed throughout the water column, as is often the result of chemical countermeasure use. However, in some cases, chemical countermeasures may be appropriate. This may include, but is not limited to, bioremediation to avoid invasive and destructive mechanical response actions in wetland areas or other sensitive habitats. Sinking agents will not be used in EPA Region 8.

No preauthorizations for chemical agent use have been established; any entity interested in using these techniques must follow the provisions defined in this RCP and Subpart J of the NCP. Only products listed on the NCP Product Schedule are allowed. However, products not included on the NCP Product Schedule, as well as those products included on the Schedule, may be authorized for use by the Federal OSC without first consulting with natural resource trustees and obtaining the concurrence of the EPA RRT representative or the state RRT representative, when, in the judgment of the Federal OSC, use of the product is necessary to prevent or substantially reduce a hazard to human life (per 40 CFR 300.910(d)). If a product is approved under these conditions, and once the threat to human life has subsided, the Federal OSC shall inform the following of use of such dispersant or other chemicals: EPA RRT representative and, as appropriate, the RRT representatives from the affected states, and when practicable, the natural resource trustees.

Any/all other suggested use of Subpart J agents, other than as described in the preceding paragraph, must have prior RRT authorization. As defined in 40 CFR 300.910(b), the EPA representative to the RRT and, as appropriate, the RRT representatives from the affected states with jurisdiction over the navigable waters threatened by the release or discharge, are the individuals authorized to grant the approval. If practicable, the DOI natural resource trustees and other federal and state land management agencies will be consulted when consideration of use of chemical countermeasures occurs. The Federal OSC and RRT must consider the parameters for use of agents including, but not limited to, quantities to be used, duration of use, depth of water, distance from where such agents are to be used to shoreline, environmentally sensitive resources that might be impacted, agent inventory and storage locations, agent manufacturing capability, availability of equipment needed for agent use, availability of adequately trained operators, and appropriate means to monitor agent use. A Chemical Use Checklist is included in [Annex IX-Attachment A](#). This checklist can be used by a Federal OSC or other response personnel to organize the required information necessary to properly evaluate use of chemical countermeasures (including bioremediation additives).

Bioremediation

Bioremediation is a treatment technology that enhances existing biological processes to accelerate decomposition of petroleum hydrocarbons and some hazardous wastes. Benefits of bioremediation have not been adequately demonstrated via field applications. The promise of bioremediation in providing increased rates of oil and other contaminant degradation with minimal input of human effort is attractive. However, the technology can be time consuming, is unproven in open water environments, and is likely best suited to treatment of specific types of shorelines and marsh habitats. Biological additives are considered chemical countermeasures (as stated above), and the approval process for their use is the same as for any other Subpart J agent.

NCP Product Schedule

In accordance with Subpart J, EPA has compiled a list of dispersants and other chemicals that the Federal OSC may consider for use during a spill emergency called the NCP Product Schedule, which is available at the following link: <http://www.epa.gov/emergencies/docs/oil/ncp/schedule.pdf>

The most current NCP Product Schedule may also be obtained from the EPA Regional Office or the EPA Office of Emergency and Remedial Response in Washington, D.C. To obtain the schedule after hours, the Federal OSC may contact the NRC and ask for the Office of Emergency and Remedial Response Duty

Officer. As discussed above, the Product Schedule does not authorize or pre-approve use of any of the listed products.

The process for authorization of Subpart J agent use is further defined in [Annex IX of this RCP](#).

Additionally, [Annex IX](#) provides a list of items to be evaluated by the RRT that is not all inclusive; nor will every item on the list necessarily be available or applicable to a specific situation. Every evaluation should occur on a site-by-site, case-by-case basis. Evaluation of agent use and the authorization process should be a collaborative effort within the RRT (among the Federal OSC, EPA, the affected states, and the appropriate natural resource trustees), with each agency contributing its knowledge, priorities, and concerns.

Use of In-situ Burning

The in-situ burning protocols described below assume that burning agents are not used. If burning agents are considered, the burn is subject to authorization as described above.

Under certain specific conditions, in-situ burning may offer a logistically simple, rapid, inexpensive, and relatively safe means for reducing impacts of an oil spill. Burning can substantially reduce need for collection, storage, transport, and disposal of recovered material. Under certain circumstances, such as oil spilled under ice conditions, burning may be the only viable response technique. In-situ burning may have significant short-term impacts (e.g., airborne release of particulate matter and hazardous substances, etc.), but may actually produce the lowest long-term impact because it removes the oil quickly. In-situ burning should augment, not replace, other oil spill response techniques such as mechanical removal.

Use of in-situ burning as a response technique does not require RRT approval, again provided an agent is not required to sustain the burn. However, the Federal OSC and/or any other party wanting to conduct in situ burning must consult with affected natural resource trustees, land management agencies, and state representatives to the RRT prior to in-situ burning activities because other authorizations and/or permits (e.g., air quality) may be required. For more information concerning authorization and/or permits prior to in-situ burning activities, contact the respective states' 24-hour notification systems (listed in [Section 300.605 of this RCP](#) and [Annex VII](#)).

[Annex IX-Attachment B](#) is a checklist for site-specific in-situ burns of petroleum products affecting or threatening to affect waters of the United States. This checklist can be used to organize the required information necessary to properly evaluate use of in-situ burning.

ANNEX I

REGION 8 REGIONAL RESPONSE TEAM ROSTER

ANNEX II

REGION 8 FEDERAL ON-SCENE COORDINATOR CONTACT LIST

ATTACHMENT A

PRE-DESIGNATED ON-SCENE COORDINATOR MEMORANDUM

ANNEX III

REGION 8 FISH AND WILDLIFE AND SENSITIVE ENVIRONMENTS PLAN

ATTACHMENT A

NATURAL RESOURCE TRUSTEES

ATTACHMENT B

TRIBAL NATURAL RESOURCE CONTACTS

ATTACHMENT C

FEDERAL- AND STATE-LISTED THREATENED AND ENDANGERED SPECIES

ANNEX IV

**INTER-AGENCY MEMORANDUM OF AGREEMENT REGARDING OIL SPILL PLANNING
AND RESPONSE ACTIVITIES UNDER THE FEDERAL WATER POLLUTION CONTROL
ACT'S NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY
PLAN AND THE ENDANGERED SPECIES ACT**

ANNEX V

**PROGRAMMATIC AGREEMENT ON PROTECTION OF
HISTORIC PROPERTIES DURING EMERGENCY RESPONSE
UNDER THE NATIONAL OIL AND HAZARDOUS SUBSTANCE
CONTINGENCY PLAN**

ANNEX VI

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF HOMELAND SECURITY, UNITED STATES COAST GUARD, THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AND THE UNITED STATES ANIMAL AND PLANT HEALTH INSPECTION SERVICE WILDLIFE SERVICES REGARDING WILDLIFE RESPONSE ACTIVITIES DURING OIL OR HAZARDOUS SUBSTANCE POLLUTION INCIDENTS

ANNEX VII

REGION 8 STATE EMERGENCY NOTIFICATIONS CONTACTS AND PROTOCOLS

ANNEX VIII

REGION 8 AREA PLANNING STRATEGY

ANNEX IX

**REGION 8 CHEMICAL COUNTERMEASURE, BIOREMEDIATION, AND IN SITU BURN
AUTHORIZATION PROCESS AND GUIDE**

ATTACHMENT A

CHEMICAL COUNTERMEASURES USE CHECKLIST

ATTACHMENT B
IN-SITU BURN CHECKLIST