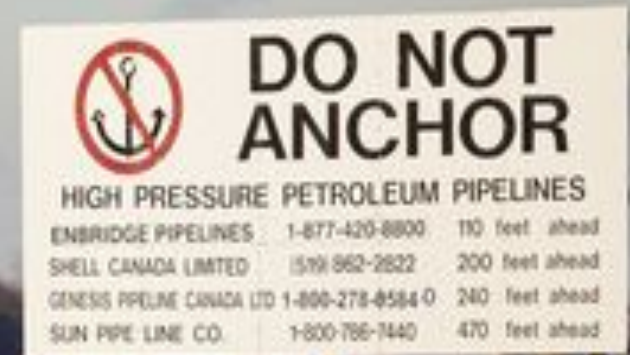


Assessment of Oil Spill Response and Cleanup Activities in the Great Lakes

**Report to Congress
Progress update for**

Regional Response Team Five (RRT 5)



Jerry Popiel

RRT 5 Co-Chair

Ninth Coast Guard District

jerome.a.popiel@uscg.mil

216-902-6112

Assessment of Oil Spill Response

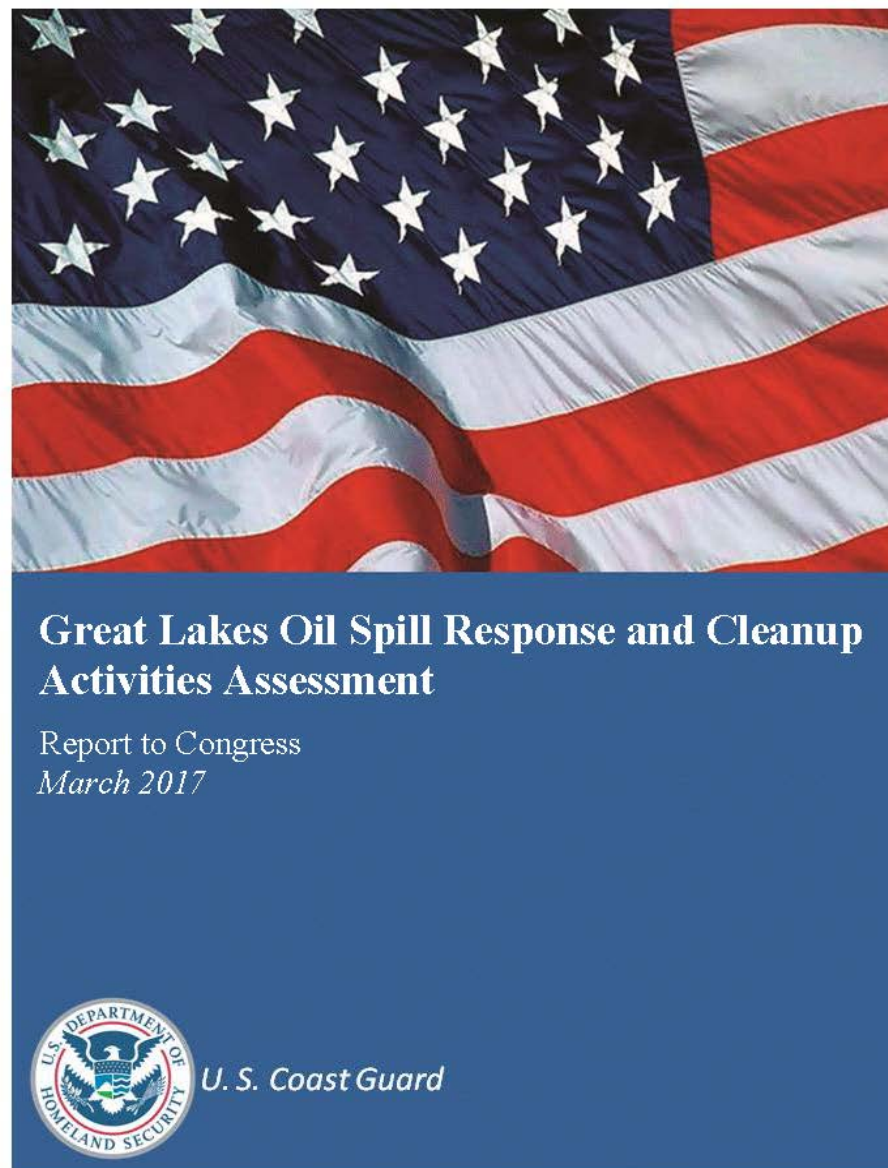
Legislative Language – CG Authorization Act of 2015

SEC. 607. ASSESSMENT OF OIL SPILL RESPONSE AND CLEANUP ACTIVITIES IN THE GREAT LAKES.

(a) **ASSESSMENT.**—The Commandant of the Coast Guard, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the head of any other agency the Commandant determines appropriate, shall conduct an assessment of the effectiveness of oil spill response activities specific to the Great Lakes. Such assessment shall include—

- (1) an evaluation of new research into oil spill impacts in fresh water under a wide range of conditions; and
- (2) an evaluation of oil spill prevention and clean up contingency plans, in order to improve understanding of oil spill impacts in the Great Lakes and foster innovative improvements to safety technologies and environmental protection systems.

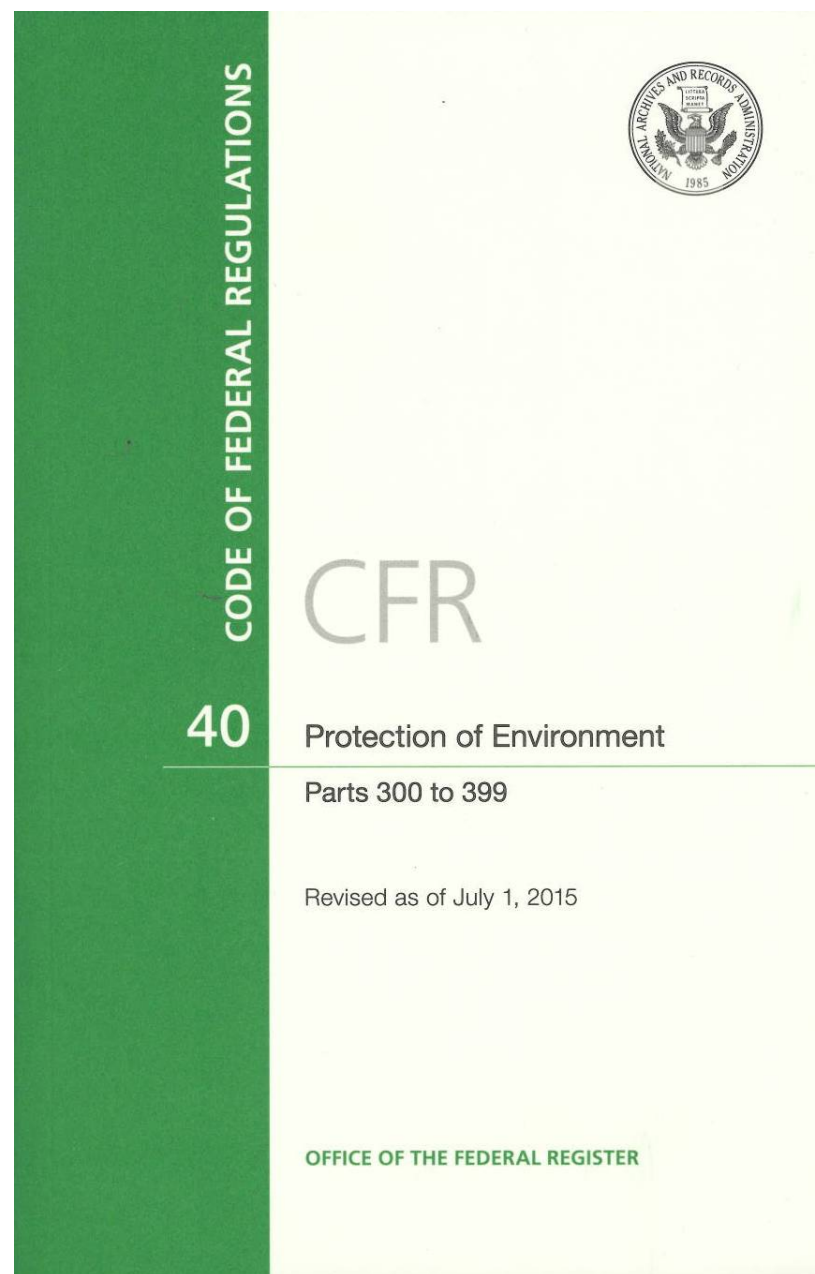
(b) **REPORT TO CONGRESS.**—Not later than 2 years after the date of the enactment of this Act, the Commandant of the Coast Guard shall submit to the Congress a report on the results of the assessment required by subsection (a).



Assessment of Oil Spill Response

Areas for Improvement

- **CFR compliance:** Some existing D9 ACPs cover both coastal and inland zones and are co-signed by EPA FOSCs, contrary to edicts in 40 CFR § 300.210 that indicate USCG ACPs should cover one zone (coastal only) and have one FOSC approving them.
- **Administration:** Some ACPs are out of date and have some administrative deficiencies (i.e., lack of promulgation letters, records of change, record of submittal to USCG D9, formal review, etc.).
- **Format:** Format of D9 ACPs vary from FOSC to FOSC and not all plans cover all of the elements required by the Clean Water Act, 40 CFR § 300 and USCG policy.
- **Review:** Some D9 FOSCs' ACPs have not been formally reviewed in recent years by D9 staff and RRTs and issued memos of approval/review.
- **Environmental and ESA:** Some D9 ACPs only minimally address issues relating to fish, wildlife, the Endangered Species Act (ESA) MOU and historic properties. Four other CG districts have been served intents to sue by the Center for Biological Diversity because of ACPs not sufficiently addressing ESA.



Assessment of Oil Spill Response

The Plan for Coastal Zone Updates

What is being done? The U. S. Coast Guard is leading an effort to renew coastal zone area contingency plans (ACPs) across the Great Lakes region. The Ninth Coast Guard District, with the cooperation of all area committee (AC) and regional response teams (RRT), is undertaking this initiative to ensure that all ACPs within the Great Lakes:

- Contain consistent, standard programmatic administrative guidance that applies to all ACs
- Conform to the laws and regulations contained in the Clean Water Act, Endangered Species Act, National Historic Preservation Act and 40 CFR 300
- Align with guidance emanating from the National Response Team on compliance and standardization
- Optimize the processes and systems by which coastal zone planners and responders protect our pristine Great Lakes waters and sensitive areas

Under this initiative, each Coast Guard Federal On-Scene Coordinator (FOSC) will be updating respective coastal zone ACPs to align with standard format and content, combining compulsory language and guidance with geographic response strategies, local responder and stakeholder concerns, and environmentally-sensitive area considerations, etc. generated by each AC.

U. S. Coast Guard Coastal Zone Area Contingency Plans 2016 Great Lakes Update

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Why is this being done? The Coast Guard, along with many cooperating AC stakeholders, has learned many lessons over the past decade from national incidents such as the responses to Deepwater Horizon, M/V COSCO BUSAN, Enbridge Marshall, Michigan, and many others. While some of these lessons have trickled their way into some ACPs, this is the first concerted, standardized effort in recent times to institutionalize within Great Lakes ACPs what we have collectively learned about preparedness for response to oil spills.

When will this be taking place? Coast Guard FOSCs will direct the effort to renew each coastal zone ACP during autumn, 2016. The Ninth Coast Guard District has produced a template with the required, essential language for all ACPs. This template has been provided to each coastal zone AC within the Great Lakes. Each FOSC will primarily draft the revisions, coordinating input from AC members, RRTs, LEPCs, NSFF and SSCs and then presenting updated draft ACPs at AC meetings during autumn and early winter 2016-2017. Our target for new, approved ACPs is February 1, 2017.

What is expected of AC members? The Coast Guard simply requests AC members be reasonably available to review the updated draft ACPs and provide stakeholder input and corrections as necessary. AC members will not be expected to draft language for the revised plans (but such input will be of course gladly accepted). The revised ACPs will incorporate existing booming strategies, etc., so we do not anticipate that substantial field work and strategy validation will be required from this primarily administrative initiative. ACPs will continue to be updated and validated through the PREP and exercise cycles. This initiative is also limited to the coastal zone and it is not anticipated to affect adjacent inland zone ACP administration.

What if I have questions? Contact your respective coastal zone AC representative with questions. For programmatic questions, you may also contact Jerome A. Popiel, Incident Management and Preparedness Advisor, at (216) 902-6112 or jerome.a.popiel@uscg.mil.

Assessment of Oil Spill Response

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Questions?

A topographic map of the Great Lakes region, showing the five Great Lakes (Superior, Michigan, Huron, Erie, and Ontario) in blue. The surrounding land is depicted in shades of brown and tan, with contour lines indicating elevation. The text "Backup Slides" is overlaid in the center in a bold, red, sans-serif font.

Backup Slides

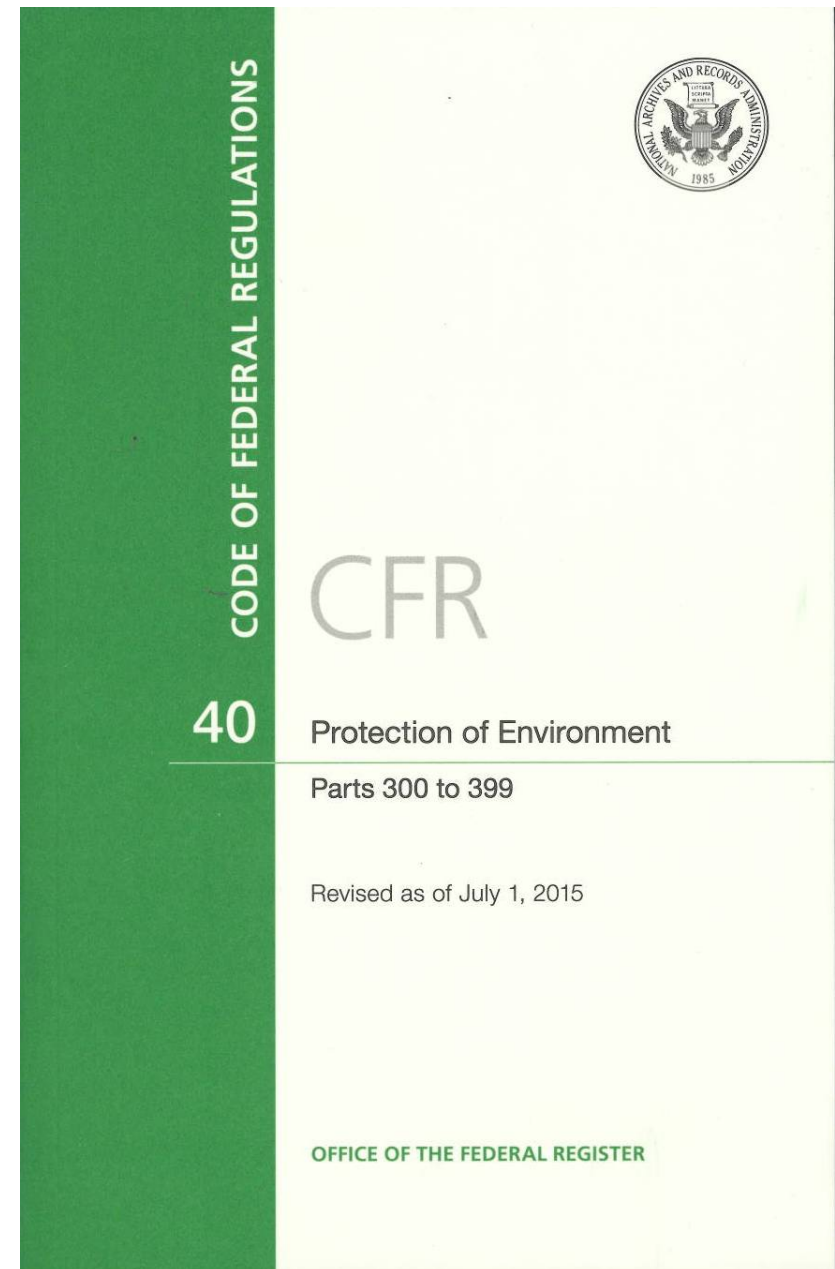
Assessment of Oil Spill Response

Federal Regulation - ACPs

What does the CFR say regarding leadership of ACs/ACPs?

40 CFR § 300.210

(c) *Area Contingency Plans.* (1) Under the **direction of an OSC** and subject to **approval by the lead agency**, each Area Committee, in consultation with the appropriate RRTs, Coast Guard DRGs, the NSFCC, SSCs, LEPCs, and SERCs, **shall** develop an ACP for **its designated area**. This plan, when implemented in conjunction with other provisions of the NCP, shall be adequate to remove a worst case discharge under §300.324, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating **in or near the area**.



Assessment of Oil Spill Response

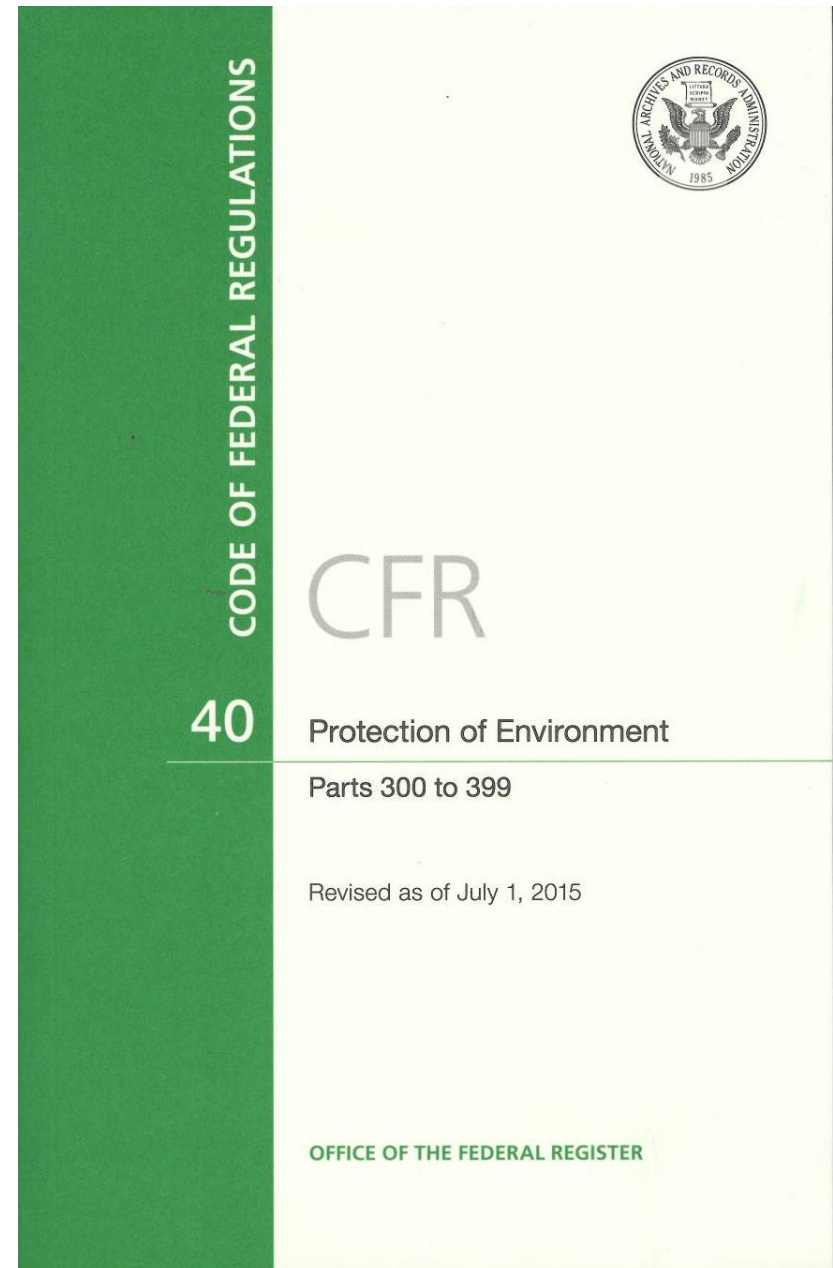
Federal Regulation - ACPs

What does the CFR say regarding inland and coastal zones?

40 CFR § 300 Appendix E

3.3 Area.

3.3.1 *On-scene coordinator.* The OSC is the federal official predesignated by EPA or the USCG to coordinate and direct federal responses under subpart D of the NCP. The **USCG shall provide OSCs for oil discharges, including discharges from facilities and vessels under the jurisdiction of another federal agency, within or threatening the coastal zone. EPA shall provide OSCs for discharges into or threatening the inland zone.** In carrying out a response, the OSC may direct or monitor all federal, state, and private actions to remove a discharge. In contingency planning and removal, **the OSC coordinates, directs, and reviews the work of other agencies, Area Committees, responsible parties, and contractors to assure compliance with the NCP**, decision document, consent decree, administrative order, and lead agency-approved plans applicable to the response.



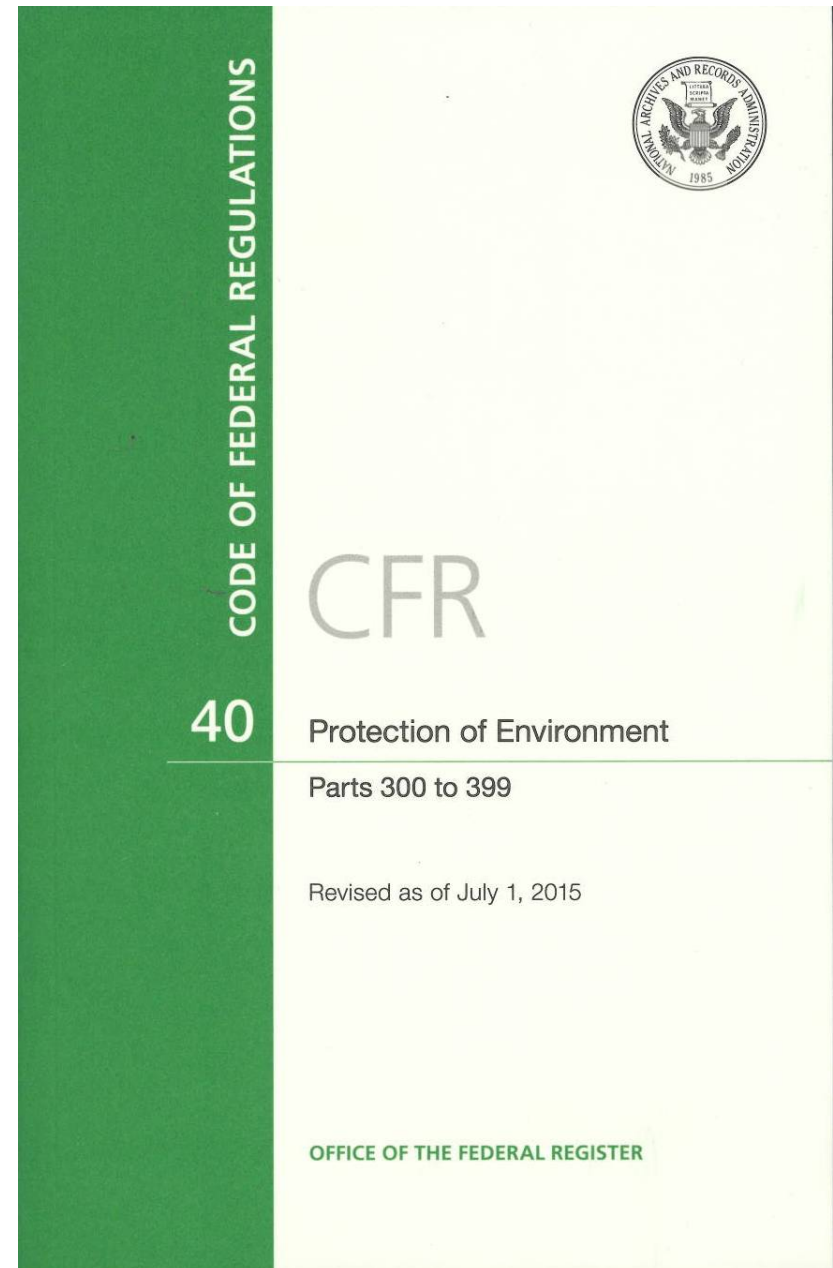
Assessment of Oil Spill Response

Federal Regulation - ACPs

Continued

3.3.2 *Area committees.* (a) Area Committees shall be responsible for: (1) preparing an ACP for their areas; (2) **working with appropriate federal, state, and local officials to enhance the contingency planning of those officials and to assure pre-planning of joint response efforts**, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife; and (3) working with appropriate federal, state, and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

(b) The **OSC is responsible for overseeing development of the ACP in the area of the OSC's responsibility**. The ACP, when implemented in conjunction with other provisions of the NCP, shall be adequate to remove a worst case discharge, and to mitigate and prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the area.



Assessment of Oil Spill Response

1999 USCG D9/EPA Region V MOU

What does the 1999 MOU say?

- USCG will provide FOSC to assist w/each ACP
- USCG will assist with digital mapping for each coastal county
- EPA RV will provide OSC to assist w/each ACP
- EPA RV will provide assistance and funding for digital mapping for any county
- Both USCG & EPA RV retain all responsibilities assigned to them under any statute or regulation, including the National Contingency Plan
- For each coastal zone plan, the USCG and EPA RV will define the boundaries, identify roles during responses and perform risk assessment to determine WCD, MMPD and MPD for area covered by ACP

MEMORANDUM OF UNDERSTANDING BETWEEN
UNITED STATES COAST GUARD AND
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V
REGARDING AGENCY PARTICIPATION ON AREA COMMITTEES TO
EXECUTE THE NATIONAL CONTINGENCY PLAN

1. PARTIES. The parties to this Agreement are the United States Coast Guard (USCG) and the United States Environmental Protection Agency, Region V (Federal Region V).
2. AUTHORITY. This Agreement is authorized under the provisions of
 - a. Title 33, United States Code Section 1321
 - b. Title 14, United States Code Section 93
 - c. Executive Order 12580, Jan. 23, 1987 (52 Fed Reg. 2923)
 - d. Executive Order 12777, Oct. 22, 1991 (56 Fed Reg. 54737)
 - e. Designation of Areas and Area Committees, April 24, 1992 (57 Fed. Reg. 15198)
 - f. United States Environmental Protection Agency, Headquarters Delegation 2-91, Jan. 19, 1993
3. PURPOSE. The purpose of this Agreement is to execute the National Contingency Plan more effectively and to set forth terms by which USCG and Federal Region V will provide personnel, information, technical assistance and funding to Area Committees and appropriate sub-committees established by the seven Coastal Area Contingency Plans for coastal zones located within the geographic boundaries of Federal Region V.
4. SCOPE. This MOU pertains to the seven Coastal Area Contingency Plans within the geographic boundaries of Federal Region V which are currently maintained by the USCG for the coastal zone and to those inland zone areas adjacent to those coastal zones. The affected plans will continue to be known as the Coastal Area Contingency Plans.
5. BACKGROUND. Currently, the boundary between the coastal and inland zones may intersect a political jurisdiction such as a city or county. A portion of a city or county may lie in the inland zone and be covered by the Inland Area Contingency Plan maintained by Federal Region V while another portion may lie in the coastal zone and be covered by a Coastal Area Contingency Plan maintained by USCG. A city or county in such a location may participate in two Area Committees sponsored by USCG and Federal Region V. This MOU will obviate the necessity of the city or county from participating in two Area Committees.
6. RESPONSIBILITIES:
 - a. **U.S. Coast Guard**
 - i. USCG will provide a Federal On-Scene Coordinator (FOSC) to assist each Area Committee to maintain their Area Contingency Plan and to ensure the plan covers USCG responsibilities within any city or county covered by the Area Contingency Plan.