United States Coast Guard

MARINE SAFETY MANUAL

Marine Environmental Protection

Volume IX

COMDTINST M16000.14

Chapter 1
Authorities and Responsibilities

This Chapter provides an overview of the statutes (legislation) from which the authority and responsibility for Coast Guard action is based. All authority comes from statutes passed by Congress.

The statutes noted in this Chapter are divided into three sections:

(1) International Conventions

(2) United States Domestic Legislation

(3) International Agreements

Statutory provisions passed by Congress come from various sources. These include ratification of multinational treaties or conventions which articulate broad international standards, smaller bilateral or multilateral agreements which usually address more specific topics and the largest section, domestic issues considered important to the national good.

All statutes are codified in the U.S. Code. Most statutes affecting the Coast Guard's Marine Environmental Protection program are found in 33 and 46 U.S. Code (U.S.C.).

Regulations are promulgated by Executive Branch agencies charged with the enforcement of statutes. Generally, before any regulation is imposed, the public has the opportunity to comment on all proposed regulations. Regulations are found in the Code of Federal Regulations. Most Coast Guard marine environmental protection program regulations are found in Title 33 and Title 46, Code of Federal Regulations (CFR).

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Authorities and Responsibilities

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Section 1.A
International Conventions

International Law: The international political system is loose and decentralized. Its fundamental components are states (countries or nations) that retain their sovereignty or essential autonomy. There is no "world government" or central legislature. Many people are thus skeptical of the legal quality and enforceability of "international law." But international law is essential to the relationship between sovereign states because it provides restraints against arbitrary state action and guidance on international relations.

International law is based on its acceptance by the sovereign states that constitute the international political system. International law is made in two principal ways—by the general practice of states ("customary law") and by express agreement among states (i.e., law by convention). While international law has historically been customary law, treaties and conventions are now the principal vehicle used to develop international law. More and more, international treaties and conventions are being used to codify customary law. An excellent example of this trend is the 1982 United Nations Convention on the Law of the Sea, which, in 1983, the United States recognized as containing provisions with respect to traditional uses of the oceans that generally confirmed existing maritime law and practice.

Enforcement of International Law: Many people believe that international law is weak and ineffective because there is no police authority to enforce it. While effective police authority deters violations of law, there are many other inducements for states to comply with international law standards. Generally, states comply with international law standards because they recognize the need for order and because they recognize that it is in their best interest to do so. Maritime law in particular, because of the mutual need of flag and port states to protect their interests, has been a fertile area for development of international standards. Environmental law,

because of the global implications of particular pollution issues, is becoming more and more subject to international standards.

The fact that, under international law, a state must accept the law, make it applicable on its own, interpret the international law for its own guidance, and respond to interpretations and actions by other states, makes for a complex process with legal, political and diplomatic overtones. However, in general, even the most broadly stated rules and principles of international law are respected and observed. In many cases, a particular convention or treaty will establish enforcement mechanisms for violations of the international standards by states that are parties to the convention or treaty.

Constitutional Treatment in the United States: International law applies to the international conduct of the United States and its relations with other states. The conduct and the relations of the United States are subject also to domestic law and the Constitution of the United States.

International law and the domestic law of the United States are two different and distinct bodies of law, but they often address the same conduct, relations and interests.

Article VI of the Constitution of the United States directs that "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be made the supreme Law of the Land." In general, international treaties and conventions, once they are signed by the United States and, if necessary, ratified by the Senate, are Federal law. This means that the international standards established through these treaties and conventions become enforceable as U.S. domestic law.

The Relationship Between Domestic Law and International Law. There is a complex relationship that exists between domestic law and international law. International agreements to which the United States is a party are subject to the prohibitions, restrictions and requirements of the Constitution and cannot be given effect in the

United States in violation of the Constitution. It is the responsibility of the United States to determine how it will carry out its obligations under international law.

The intention of the United States at the time it becomes a party to an agreement or convention determines whether the agreement will be self-executing or non-self-executing. If an international agreement is self-executing, it can be given effect as domestic law without further domestic legislation. If the agreement is non-self-executing, the United States must enact or adjust domestic law to give effect to the agreement. Domestic legislation relating to international agreements or conventions will frequently limit application of an international agreement or convention, establish jurisdictional limits for enforcement of the international standards, or establish enforcement schemes and sanctions. Therefore, it is impossible to implement or enforce the provisions of international agreements or conventions without thorough knowledge of related domestic legislation.

The Role of International Organizations in Developing International Law. International organizations play an increasingly important part in making international law. The United Nations Charter authorizes formation of autonomous organizations, which are created by separate agreements that constitute the charters of the organizations, but which are linked to the United Nations by agreements entered into between states and the United Nations. These organizations are becoming the primary vehicles for the development of multilateral treaties and conventions that are the basis of international law. The list of international organizations continues to grow. Included among these autonomous organizations created under the auspices of the United Nations is the International Maritime Organization.

The International Maritime Organization. Because of the international nature of the shipping industry, it was recognized that action to improve safety in maritime operations would be more effective if carried out at an international level rather than by individual countries acting on their own without coordination with other maritime nations. Thus, in 1948, the United Nations adopted a convention establishing the International Maritime Consultative

Organization as the first international body devoted to maritime matters. The convention entered into force on March 17, 1958. The name of the organization was changed in 1982 to the International Maritime Organization (IMO).

The purpose of the IMO, as stated by the Organization, is "to provide machinery for cooperation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade [and] to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships." IMO is responsible for developing and amending the majority of international conventions involving marine safety and control of marine pollution from ships to which the United States is signatory, including the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL), and the International Convention on Standards of Training, Certification and Watchkeeping (STCW).

The Organization has established Committees to deal with specific issues under its cognizance. Issues related to prevention of pollution from ships are primarily addressed by the Marine Environment Protection Committee (MEPC). The United States and the Coast Guard are heavily involved in the workings of the IMO and its committees. A more detailed discussion of the IMO structure, and the role of the United States and the Coast Guard in the IMO, occurs in Chapter 6 of this volume.

1.A.1. MARPOL 73/78-International Convention for Prevention of Pollution from Ships, 1973, as Modified by the 1978 Protocol Relating Thereto

MARPOL is the international Convention governing the prevention of pollution from ships.

1.A.1.a. Organization and Content

MARPOL specifies standards for stowing, handling, shipping, and transferring pollutant cargoes, as well as standards for discharge of ship-generated operational wastes.

Annexes to the Convention set out regulations covering the various sources of ship-generated pollution. Annex I and II are mandatory

for all signatories to MARPOL. Annexes III, IV, and V are considered optional. The five Annexes are:

- Annex I — Regulations for the Prevention of Pollution by Oil;
- Annex II — Regulations for the Prevention of Pollution by Noxious Liquid Substances (NLS);
- Annex III — Regulations for the Prevention of Pollution by Harmful Substances in Packaged Forms;
- Annex IV — Regulations for the Prevention of Pollution by Sewage (not in force on the date this manual was published); and
- Annex V — Regulations for the Prevention of Pollution by Garbage.

1.A.1.b. Authority and Responsibilities

The Coast Guard is delegated authority to conduct both flag state and port state activities for the U.S. under MARPOL.

(1) A flag state that ratified an international Convention like MARPOL must ensure that vessels registered under its flag comply with the requirements of the international Convention. (Congress enacted the Act for the Prevention of Pollution by Ships in 1980 to implement MARPOL 73/78 Annexes I and II, and the Marine Plastic Pollution Research and Control Act of 1987 [MPPRCA] to implement Annex V. The Hazardous Materials Transportation Act of 1974 was amended to incorporate the provisions of Annex III. The U.S. is not a party to Annex IV.) The Coast Guard carries out this responsibility for the United States.

NOTE

IMO Certification

(2) With respect to port state control activities, a foreign vessel calling at a United States port must possess either an IMO certificate issued by the flag state or an equivalent certificate accepted by the U.S. Port states provide a secondary means of control, mostly through routine examinations that verify the validity of the international certificates when a ship arrives in a foreign

port. A vessel carrying a valid MARPOL certificate for the appropriate MARPOL Annex is assumed to be in compliance with applicable international standards for pollution prevention. A MARPOL certificate attests to the vessel's fitness to operate in international waters. Normally, the Coast Guard examines most foreign vessels to the degree necessary to ensure the safety of U.S. citizens, U.S. ports, and the environment. An examination may be as basic as checking the vessel's certificates. The Coast Guard, depending on the vessel's history, may give foreign tank vessels a comprehensive examination to assure the Officer in Charge of Marine Inspections (OCMI) or the Captain of the Port (COTP) that the vessel complies with the MARPOL pollution prevention requirements and any other applicable regulations.

1.A.1.c. MARPOL Annexes

A brief discussion of the major provisions of each MARPOL Annex is presented below.

REFERENCES

MARPOL Annex I
APPS
33 U.S.C. 1901-1912
33 CFR Parts 126, 151, 154, 155, 157 and 158
COMDTINST 16000.6, 16000.7, 16450.27, 16450.32
NVIC - yes

(1) MARPOL 73/78 Annex I addresses oil pollution prevention. APPS makes the Coast Guard responsible for implementing Annex I requirements.

(a) The international regulations in Annex I set requirements for:

- Oil abatement equipment, such as oil-water separators and monitoring equipment;
- Oil discharges allowed at sea;
- Construction of ballast tanks, crude oil washing systems, and inert gas systems;
- Shipboard Oil Pollution Emergency Plans (SOPEPs).

(b) The Coast Guard surveys, when required, U.S. tankships of 150 gross tons and over for compliance with this Annex. If a vessel meets Annex I requirements, the flag state issues an

International Oil Pollution Prevention (IOPP) Certificate, which is valid for five years. Vessels must also undergo additional surveys to ensure that required systems are maintained in good order and that the IOPP Certificate remains valid.

(c) Navigation and Vessel Inspection Circulars (NVICs) give guidance to Coast Guard personnel for issuing IOPP Certificates to U.S. flag vessels under MARPOL 73/78 Annex I. The Coast Guard may board U.S. ships and foreign vessels in U.S. waters in port or at offshore terminals to verify whether the ship complies with MARPOL.

(d) If its flag state has ratified MARPOL Annex I, a foreign ship entering U.S. waters must have an IOPP certificate. If the flag state is not party to the Convention, the ship must carry evidence of compliance with MARPOL. A Coast Guard examination may include checking the vessel's certificates (e.g., IOPP certificate), records (e.g., oil record book), documents (e.g., SOPEP), and oil transfer procedures. The examination also includes verifying that the vessel is properly equipped with oily water separators. (If non-Party ships call at offshore terminals subject to U.S. jurisdiction or operate in U.S. navigable waters, the Coast Guard is obligated to ensure that non-Party ships get treatment no more favorable than that of ships of Party states.)

REFERENCES

MARPOL Annex II
APPS
33 U.S.C. 1901-1912
33 CFR Part 151
40 CFR Part 117 and 153
46 CFR Part 153 and 158
COMDTINST 16000.7, 16450.29
NVIC - yes

(2) MARPOL 73/78 Annex II addresses discharge criteria and measures for controlling pollution caused by noxious liquid substances carried in bulk. About 250 substances have been evaluated and included in a list appended to the Convention. Annex II limits at sea discharges by requiring that discharge of residues be made to reception facilities, except under specified conditions. Parties to the Convention must issue detailed requirements for the design, construction, and operation of chemical tankers. At a minimum, these requirements must incorporate provisions of the Code for the Construction and Equipment of Ships Carrying

Dangerous Cargoes in Bulk. Operations involving substances to which Annex II applies must be recorded in a Cargo Record Book, which can be inspected by the authorities of any Party to the Convention. APPS makes the Coast Guard responsible for implementing Annex II requirements.

REFERENCES

MARPOL Annex III
HMTA
46 U.S.C. 2101
49 CFR 171-174 and 176
COMDTINST 16000.7

(3) MARPOL 73/78 Annex III applies to all ships carrying harmful substances in packaged forms, or in freight containers, portable tanks or road and rail tank wagons. Annex III requires the issuing of standards on packaging, marking, labeling, documentation, stowage, quantity limitations, exceptions and notifications for preventing or minimizing pollution by harmful substances. To help implement this requirement, the International Maritime Dangerous Goods Code (an IMO publication) was amended to cover pollution aspects. The Hazardous Materials Transportation Act of 1974 ratifies MARPOL Annex III for the United States.

NOTE

MARPOL 73/78 Annex IV applies to discharges of sewage at sea. The U.S. is not party to Annex IV.

(4) MARPOL 73/78 Annex IV applies to discharges of sewage at sea. Annex IV applies to ships of over 200 tons with 10 or more people on board, and it requires installing holding tanks or approved sewage treatment devices (which are roughly the equivalent of USCG-certified Type II MSDs). As of the publication date for this manual, the U.S. has not ratified Annex IV, which has not yet entered into force. (See the Federal Water Pollution Control Act (FWPCA), the Water Quality Act of 1987, and implementing regulations at 40 CFR part 140 for the U.S. equivalent to Annex IV.)

REFERENCES

MARPOL Annex V
MPPRCA
33 U.S.C. 1901 *et seq.*
33 CFR Parts 151 and 158
46 CFR Part 25
COMDTIST 16000.7,
16450.30, 16450.31

(5) MARPOL 73/78 Annex V applies to ship-generated garbage, and aims to reduce the amount of garbage—both plastics and other persistent wastes—that ships dump into the oceans. Annex V prohibits all ships from dumping plastics into the sea anywhere in the world. MPPRCA makes the Coast Guard responsible for implementing Annex V requirements. These requirements include:

- Requiring adequate waste reception facilities at U.S. ports,
- Requiring manned ships of certain sizes to display pollution prevention placards,
- Requiring certain ships to develop a waste management plan, and
- Requiring certain manned ships to maintain waste disposal records.

1.A.1.d. Recent Amendments to MARPOL

Amendments to MARPOL will make it possible for foreign ships to be inspected when in the ports of parties to the Convention to ensure that crews are able to carry out essential shipboard procedures relating to marine pollution prevention. Extending port state control to operational requirements is seen as an important way to improve the efficiency with which international safety and anti-pollution conventions are implemented. These amendments will affect Annexes I, II, and V and will enter into force on March 3, 1996, unless they are rejected by one-third of the Parties or by Parties whose combined merchant fleets represent 50 percent or more of the gross tonnage of the world's merchant fleet.

1.A.1.e. New Annexes

An Annex VI is being considered to address Air Emissions from vessels. IMO is also looking at ways to control the spread of non-indigenous species sometimes carried inside cargo tanks and discharged at foreign ports.

1.A.1.f. Marine Environment Protection Committee

The MEPC is the IMO committee which reviews and updates MARPOL 73/78. The United States' participation on the MEPC is coordinated through the Coast Guard's Marine Safety and Environmental Protection Directorate (G-M).

1.A.2. London Convention - 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

London Convention, entered into force on August 30, 1975. This Convention addresses the unregulated dumping of non-ship generated waste materials into ocean waters, and creates a regime to prevent or strictly limit dumping that degrades or endangers human health or the marine environment. The Convention bans the dumping of certain hazardous materials and requires permits for the dumping of other identified materials and other wastes or matter. "Dumping" is defined as the deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures. In addition, the Convention controls the incineration of wastes on board ships, sets out criteria for the selection of dumping and incineration sites at sea, and has provisions to promote regional cooperation.

REFERENCES

London Convention
MPRSA
33 U.S.C. 1401 *et seq.*
33 CFR 151
COMDTINST 16000.7

1.A.2.a. Covered Substances

Covered substances include organohalogen compounds, mercury cadmium, plastics, mineral oils, and radioactive waste. Exempt from the Convention are wastes derived from the exploration and exploitation of sea-bed mineral resources and dumping in order to secure the safety of human life.

1.A.2.b. Authority and Responsibilities

Signatories to the Convention are required to designate an authority to deal with permits, keep records, and monitor the condition of the sea. In the United States, the Convention is implemented by the Marine Protection, Research, and Sanctuaries Act (MPRSA) as amended (codified at 33 U.S.C. §1401 *et seq.*) and is administered by the EPA. The Coast Guard has been delegated responsibilities under MPRSA for conducting surveillance and enforcement of EPA permitted waste dumping and U.S. Army Corps of Engineers (USACE) permitted dredge material disposal operations.

1.A.3. OPRC-International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990

The OPRC Convention was adopted on November 30, 1990, and entered into force on May 13, 1995. The purpose of this Convention is to provide a global framework for international cooperation in combating major incidents or threats of marine pollution. Parties to the Convention will be required to establish measures to address pollution incidents, either nationally or in cooperation with other countries. The Convention establishes requirements in the following main areas:

NOTE

OPRC has no U.S. Code citation.

- International cooperation and mutual assistance,
- Pollution reporting,
- Oil pollution emergency plans,
- National and regional preparedness and response capability,
- Technical cooperation and transfer of technology, and
- Research and development.

1.A.4. ICLL - International Load Line Convention of 1966

REFERENCES

ICLL
46 App. U.S.C. 86-86i, 88-88i
46 CFR Subchapter E
COMDTINST 16000.6, 16000.7, 16000.9, 16000.10
NVIC - yes

1.A.4.a. Overview and Organization

The International Load Line Convention of 1966 is implemented by the International Voyage Load Line Act of 1973, 46 App. U.S.C. 86-86i, for vessels in foreign trade and the Coastwise Load Line Act of 1935, 46 App. U.S.C. 88-88i, for coastwise and Great Lakes vessels. Coast Guard regulations implementing the Convention are codified in various parts of Title 46 CFR, Subchapter E. The Convention established standards for determining loading limits for vessels, the structure of vessels, protection of openings, guard rails, freeing ports, and means of access to crew's quarters. Title 46 CFR parts 42 and 44-46 contain the Load Line Regulations as follows:

- Part 42 Domestic and foreign voyages by sea
- Part 44 Variance for certain vessels
- Part 45 Great Lakes load lines
- Part 46 Subdivision load lines for passenger vessels

Part 43 is reserved.

1.A.4.b. Applicability

The Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509) requires all vessels 79 feet long or more to comply with the International Voyage Load Line Act of 1973, except in cases where safety does not justify the additional requirements. The International Voyage Load Line Act of 1973 applies to U.S. and foreign vessels that arrive at or depart from any port or place within U.S. jurisdiction and U.S. vessels traveling between foreign ports. The Act excludes warships, pleasure craft not used in trade or commerce, fishing vessels, and vessels that navigate exclusively on the Great Lakes. (The Coastwise Load Line Act of 1935 applies to all U.S. and foreign merchant vessels more than 150 gross tons that are loading at or proceeding from any U.S. port for a "coastwise voyage by sea," or a voyage between any ports on the Great Lakes.)

1.A.4.c. Authority and Responsibilities

The Secretary of Transportation delegated the responsibility and authority for enforcing the Convention to the Commandant of the Coast Guard. The American Bureau of Shipping (ABS), as authorized by the Commandant, administers the provisions of the Convention. The District Commander of the Coast Guard District and the District Director of U.S. Customs jointly enforce load line regulations. While performing their routine duties, U.S. Customs service officers acting as agents of the Coast Guard conduct routine checks of vessels and report any apparent violations to the Coast Guard. In turn, Coast Guard personnel conduct detailed inspections of the vessel for a valid Load Line Certificate, prominently marked load lines, draft marks, proper log entry, and compliance with the Load Line Certificate and marks. The Coast Guard or U.S. Customs service officer may refuse clearance of a vessel violating load line regulations.

1.A.5. SOLAS - 1974 International Convention for the Safety of Life at Sea

SOLAS prescribes a wide range of international standards pertaining to ship stability, structure, safety equipment, and machinery for protecting human life at sea, including passengers and crew. SOLAS applies to ships (except ships not propelled mechanically) engaged on international voyages, including tank ships of 500 gross tons or more. Satisfactory SOLAS inspections or surveys result in issuing SOLAS certificates. The principal SOLAS certificates are the:

- Safety Construction Certificate (for safe hull, machinery, and equipment);
- Safety Equipment Certificate (for life-saving appliances and related equipment); and
- Safety Radio Telegraphy Certificate and the Cargo Ship Radio Telephone Certificate (for proper ship radar and radio installations).

Marine Safety Manual Volume II provides detailed information.

REFERENCES

SOLAS
33 CFR parts 155 and 164
46 CFR parts 2, 31, 33-35, 71, 75, 91, 94, 160, 169, 176, 189, and 192
COMDTINST 16000.7, 16210.2
NVIC - yes

NOTE

Coast Guard inspects U.S. vessels for SOLAS compliance; and issues SOLAS certificates. ABS may also issue SOLAS certificates.

1.A.5.a. Authority and Responsibilities

The Coast Guard is delegated authority to conduct both flag state and port state activities for the U.S. under SOLAS.

(1) With respect to flag state activities, the Coast Guard is responsible for inspecting U.S. flag vessels for compliance with SOLAS standards; the American Bureau of Shipping (ABS) has been delegated the authority to issue certain SOLAS certificates. Title 46 CFR sets out regulations for implementing SOLAS, except for Federal Communication Commission (FCC) administered requirements for radio equipment. U.S. flag ships must undergo a mandatory annual survey carried out through a mid-period inspection program. (The FCC conducts annual SOLAS inspections of radio equipment aboard tankers. These FCC inspections normally occur in conjunction with the Coast Guard inspection for certification or the mandatory annual survey.)

(2) With respect to port state activities, the Coast Guard performs a limited examination of foreign flag vessels to ensure that these vessels have valid SOLAS certificates on board. For tankers, the Coast Guard conducts a detailed examination including a review of vessel systems to ensure that the vessel complies with the general safety and control provisions of SOLAS, the International Load Line Convention, and any other

applicable U.S. regulation. If a vessel passes this inspection, the Coast Guard issues a Tank Vessel Examination Letter, which is reissued annually after subsequent examinations.

1.A.6. Cartegna Convention - Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region

September 6, 1984, the "Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region" (Cartegna Convention) was ratified. The Cartegna Convention entered into force on October 11, 1986. Many states have signed this convention, including Barbados, Grenada, Mexico, Panama, Jamaica, Antigua, St. Lucia and the United States. (Usually, neighboring countries are parties to a convention. For the Cartegna Convention, some non-neighboring countries have signed the convention on behalf of their possessions, territories, or interests in the Caribbean area.)

1.A.6.a. Convention Overview

NOTE

The Cartegna Convention has no U.S. Code citation.

The parties to the Cartegna Convention intend to guard the special ecological marine environment of the wider Caribbean region from pollution. The Cartegna Convention covers the Gulf of Mexico, the Caribbean Sea, and the areas adjacent to the Atlantic Ocean south of 30 north latitude and within 200 nautical miles of the U.S. Atlantic coast. Parties to the Cartegna Convention agree to take appropriate measures to prevent, reduce, and control pollution from:

- ships,
- land-based sources,
- sea-bed activities, and
- dumping and airborne sources.

The parties further agree to develop individual and joint contingency plans, take appropriate measures to protect and preserve rare or fragile ecosystems, conduct environmental impact assessments, and share emergency and technical information.

1.A.6.b. Protocol Concerning Cooperation in Combating Oil Spills in the Wider Caribbean Region

Through the Cartegna Convention, the parties adopted this Protocol Concerning "Cooperation in Combating Oil Spills in the Wider

Caribbean Region." This Protocol expands upon the directives in the Convention, and pertains primarily to oil spills that threaten the marine and coastal environment of the wider Caribbean region. Under the Protocol, parties agree to:

- Cooperate and take all necessary measures within their means including developing contingency plans and periodically exchanging information;
- Report spills to other potentially affected parties, and upon request, to render assistance within each party's capabilities; and
- Develop bilateral and multilateral, subregional agreements to facilitate operational response and assistance.

If there is a spill, the parties further promise to:

- assess and report the incident;
- determine the ability to respond effectively to the incident;
- consult with other concerned party countries to determine the most suitable response to an incident; and
- take measures to prevent, reduce, or eliminate the effects of the incident.

1.A.6.c. Contingency Plan Based on the Protocol

The principal contingency plan under the Protocol is the Caribbean Island States and Territories Sub-Regional Oil Spill Contingency Plan (Caribbean Plan). The Caribbean Plan is a supplement to each country's own contingency plan for spills of more than 50 barrels.

1.A.6.d. Responsibilities

In the U.S., the Coast Guard is the lead agency for implementing this Convention and its associated Protocol. The IMO's Regional Consultant on Marine Pollution, Port Safety and Security (Wider Caribbean) administers the Caribbean Plan. The U.S. has an individual contingency plan for San Juan and the U.S. Virgin Islands administered by the U.S. Coast Guard Marine Safety Office, San Juan, Puerto Rico.

1.A.7. Salvage Convention - International Convention on Salvage, 1989

International Convention on Salvage, 1989, (Salvage Convention) is best described as an environmental initiative which creates economic incentives for salvors and shipowners to conduct their operations in an environmentally sound manner. In addition, the Convention serves to strengthen the maritime industry by increasing salvage compensation and by ensuring rewards for salvors who respond to situations that threaten the environment.

NOTE

The Salvage Convention has no U.S. Code citation.

Salvage Convention offers increased protection for the marine environment in four primary ways. First, it imposes reciprocal obligations upon both the vessel owner and the salvor to use "due care" to protect the marine environment. Second, the "skill and efforts of the salvor in preventing or minimizing damage to the environment" has been added as a new factor to be considered along with the traditional criteria in determining the amount of the salvage reward. Third, under current law, in situations involving a threat of damage to the environment, salvors have little incentive to conduct their operations in an environmentally sound manner because there is no means to compensate them for actions taken to prevent or minimize damage to the environment. As a result, salvage efforts are not always consistent with environmental protection. The Salvage Convention addresses this problem by providing economic incentives that guarantee expenses to the salvor for services rendered to a vessel which threatens environmental damage, as well as an additional bonus if the salvor successfully prevents or minimizes damage to the environment. Finally, the Convention introduces a new provision encouraging State Parties to consider the "need for cooperation between salvors, other interested parties and public authorities" in ensuring successful salvage operations "for the purpose of saving life or property in danger as well as preventing damage to the environment."

1.A.8. Intervention Convention - International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969

The Torrey Canyon disaster in 1967 revealed certain doubts with regard to the powers of States, under public international law, concerning incidents on the high seas. In particular, questions were raised as to the extent to which a coastal State could take measures to protect its territory from pollution where a casualty threatened that State with oil pollution, especially if the measures necessary were likely to affect the interests of foreign shipowners, cargo owners and even flag States.

The Convention which resulted affirms the right of a coastal State to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate danger to its coastline or related interests from pollution by oil or the threat thereof, following upon a maritime casualty.

REFERENCES

Intervention Convention
IHSA
33 U.S.C. 1471 *et seq.*
COMDTINST 16000.7, 16451.5

- The coastal State is, however, empowered to take only such action as is necessary, and after due consultations with appropriate interests including, in particular, the flag State or States of the ship or ships involved, the owners of the ships or cargoes in question and, where circumstances permit, independent experts appointed for this purpose.
- A coastal State which takes measures beyond those permitted under the Convention is liable to pay compensation for any damage caused by such measures.
- Provision is made for the settlement of disputes arising in connection with the application of the Convention.

The Convention applies to all seagoing vessels except warships or other vessels owned or operated by a State and used on Government non-commercial service.

The Protocol of 1973 extended the Convention to cover substances other than oil. Substances covered were listed in Annex A to the Protocol and were subsequently amended in 1991.

Provisions of the Convention were implemented by the Intervention on the High Seas Act of 1974 (33 U.S.C. § 1471).

1.A.9. CLC Convention - International Convention on Civil Liability for Oil Pollution Damage, 1969

A major legal issue raised by the Torrey Canyon incident of 1967 related to the basis and extent of the ship or cargo owners' liability for damage suffered by States or other persons as a result of a marine casualty involving oil pollution.

The aim of the Civil Liability Convention is to ensure that adequate compensation is available to persons who suffer oil pollution damage resulting from maritime casualties involving oil-carrying ships.

NOTE

The CLC Convention has no U.S. Code citation.

The Convention places the liability for such damage on the owner of the ship from which the polluting oil escaped or was discharged.

Subject to a number of specific exceptions, this liability is strict; it is the duty of the owner to prove in each case that any of the exceptions should in fact operate. However, except where the owner has been guilty of actual fault, he may limit his liability in respect to any one incident to slightly over $125 for each ton of the ship's gross tonnage, with a maximum liability of about $14 million for each incident.

The Convention requires ships covered by it to maintain insurance or other financial security in sums equivalent to the owner's total liability for one incident.

The Convention applies to all seagoing vessels actually carrying oil in bulk as cargo, but only ships carrying more than 2,000 tons of oil are required to maintain insurance in regard to oil pollution damage.

- This does not apply to warships or other vessels owned or operated by a State and used for the time being for Government non-commercial service.
- The Convention, however, does apply, in respect to the liability and jurisdiction provisions, to ships owned by a State and used for commercial purposes. The only exception regarding such ships is that they are not required to carry insurance. Instead they must carry a certificate issued by the appropriate authority of the State of their registry stating that the ship's liability under the Convention is covered.

The Protocols of 1984 and 1992, neither one of which has come into force, seek to raise the compensation limits.

1.A.10. Fund Convention - International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971

Although the 1969 Civil Liability Convention provided a useful mechanism for ensuring the payment of compensation for oil pollution damage, it did not deal satisfactorily with all the legal, financial and other questions raised during the Conference.

- Some States objected to the regime established, since it was based on the strict liability of the shipowner for damage which he could not foresee and, therefore, represented a dramatic departure from traditional maritime law which based liability on fault.
- On the other hand, some States felt that the limitation figures adopted were likely to be inadequate in cases of oil pollution damage involving large tankers. Therefore they wanted an unlimited level of compensation for a very high limitation figure.

NOTE

The Fund Convention has no U.S. Code citation.

In the light of these reservations, the 1969 Brussels Conference considered a compromise proposal to establish an international fund, to be subscribed to by the cargo interests, which would be available for the dual purpose of, on the one hand, relieving the shipowner of the burden imposed on him by the requirements of the new convention and, on the other hand, providing additional compensation to the victims of pollution damage for cases in which compensation under the 1969 Civil Liability Convention was either inadequate or unobtainable.

The Fund is supplementary to the 1969 Civil Liability Convention. Its purposes are:

- To provide compensation for pollution damage to the extent that the protection afforded by the 1969 CLC is inadequate.
- To give relief to shipowners in regard to the additional financial burden imposed on them by the 1969 CLC, such relief being subject to conditions designed to ensure compliance with safety at sea and other conventions.
- To give effect to the related purposes set out in the Convention.

Under the first of its purposes, the Fund is under an obligation to pay compensation to States and persons who suffer pollution damage, if such persons are unable to obtain compensation from the owner of the ship from which the oil escaped or if the compensation due from such owner is not sufficient to cover the damage suffered.

Under the Fund Convention, victims of oil pollution damage may be compensated beyond the level of the shipowner's liability. However, the Fund's obligations are limited so that the total payable to victims by the shipowner and the Fund shall not exceed $30 million for any one incident. In effect, therefore, the Fund's maximum liability for each incident is limited to $16 million.

Where, however, there is no shipowner liable or the shipowner liable is unable to meet his liability, the Fund will be required to pay the whole amount of compensation due. Under certain circumstances, the Fund's maximum liability may increase to not more that $60 million for each incident.

With the exception of a few cases, the Fund will be obliged to pay compensation to the victims of oil pollution damage who are unable to obtain adequate or any compensation from the shipowner or his guarantor under the 1969 Convention.

The Fund's obligations to pay compensation is confined to pollution damage suffered in the territories including the territorial sea of Contracting States. The Fund is also obliged to pay compensation in regard to measures taken by a Contracting State outside its territory.

The Fund can also provide assistance to Contracting States which are threatened or affected by pollution and wish to take measures against it. This may take the form of personnel, material, credit facilities or other aid.

In connection with its second main function, the Fund is obliged to indemnify the shipowner or his insurer for a portion of the shipowner's liability under the Liability Convention. This portion is equivalent to $100 per ton or $8.3 million, whichever is less.

The Fund is not obliged to identify the owner if damage is caused by his willful misconduct or if the accident was caused even partially because the ship did not comply with certain conventions.

The Convention contains provisions on the procedure for claims, rights and obligations, and jurisdiction.

Contributions to the Fund should be made by all persons who receive oil by sea in Contracting States. The Fund's Organization consists of an Assembly of States, a Secretariat headed by a director appointed by the Assembly; and an Executive Committee.

The Protocols of 1984 and 1992, neither one of which has come into force, seek to raise the compensation limits.

1.A.11. Early Notification - Convention on Early Notification of a Nuclear Incident

Article 2 of the Convention on Early Notification of a Nuclear Accident requires the International Atomic Energy Agency (IAEA) to play a specific role in the obligations placed on state parties. These are *inter alia* to:

- forthwith notify, directly or through the IAEA, those states which are or may be physically affected as specified in article 1 and the IAEA of the nuclear accident, its nature, the time of its occurrence and its exact location where appropriate; and
- provide the states referred to in the sub-paragraph above, directly or through the IAEA, and the IAEA with such available information relevant to minimizing the radiological consequences in those states, as specified in Article 5.

REFERENCES

Early Notification Convention
No U.S.C. or CFR cites
NVIC - yes

The IAEA is required, under article 5 of the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (Assistance Convention), to *inter alia*:

- make available to the state party or a member state requesting assistance in the event of a nuclear accident or radiological emergency appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency;
- offer its good offices to the state parties or a member state in the event of a nuclear accident or radiological emergency; and
- establish and maintain liaison with relevant international organizations for the purposes of obtaining and exchanging

relevant information and data, and make a list of such organizations available to state parties, member states and the aforementioned organizations.

The Vienna International Center - Security Control Center (SCC) is the primary point of communication dealing with the Conventions and provides a 24-hour alert service for the IAEA. During off-duty hours, the SCC officers can quickly contact an on-call IAEA Duty Officer who will initiate appropriate IAEA actions.

Section 1.B
United States Domestic Legislation

The Coast Guard's authority flows from domestic legislation, some broadly worded and others aimed at specific issues. The broader legislation includes:

> 14 U.S.C. 2 is the specific statutory basis for the Coast Guard law enforcement mission. The environmental protection program is considered an enforcement area within this mission.
>
> 14 U.S.C. 89 is the principle source of Coast Guard enforcement authority. It provides authority for Coast Guard active duty commissioned, warrant, and petty officers to enforce applicable U.S. law. It authorizes such personnel to enforce all applicable federal law on waters subject to U.S. jurisdiction, and in international waters, as well as on all vessels subject to U.S. jurisdiction.
>
> 14 U.S.C. 141 provides for other federal, as well as state and local, agencies to request Coast Guard assistance when Coast Guard facilities and persons are especially qualified to perform a particular activity. Under this statute, the Coast Guard may provide assistance to foreign governments.

The above statutes establish the authority of the Coast Guard to enforce and assist in the enforcement of all Federal laws on the high seas and waters over which the U.S. has jurisdiction as well as the authority of the Coast Guard to make inquiries, examinations, inspections, searches, seizures and arrests to prevent, detect and suppress violations of U.S. laws. Specific legislation with application to the Coast Guard’s environmental protection program is discussed within this section.

1.B.1. OPA 90 - Oil Pollution Act of 1990

The Oil Pollution Act of 1990 (OPA 90) was signed into law on August 18, 1990, largely in response to growing concern, stemming from the Exxon Valdez incident, about the nation's oil spill response capability. OPA 90 contains provisions amending the

Federal Water Pollution Control Act (FWPCA) and other statutes, and provisions that create new statutory structures without amending an existing law.

1.B.1.a. OPA 90 Amendments to the FWPCA

As discussed in Section 1.B.2., OPA 90 revised the FWPCA to strengthen and expand the nation's oil and hazardous substances spill prevention, preparedness, and response activities. It further required the President to promulgate an amended National Oil and Hazardous Substances Pollution Contingency Plan (NCP) that expands the Federal government's removal authority, increases the responsibility of Federal OSCs during responses, and broadens coordination and preparedness planning requirements. OPA 90 requires that the NCP describe the duties and responsibilities assigned to new OPA 90-created entities like the National Strike Force Coordination Center (NSFCC), for better coordination and execution of Federal response efforts. Under OPA 90, vessel and facility owners and operators must develop oil and hazardous substances response plans.

REFERENCES

OPA 90 amends parts of FWPCA/CWA.
33 U.S.C. 2701 *et seq.*
33 U.S.C. 1223
33 U.S.C. 1321
33 U.S.C. 2712
33 U.S.C. 2716
46 U.S.C. 4107
46 U.S.C. 3703
46 U.S.C. 3715
33 CFR Parts 1-3, 20, 26, 150, 155-157, 160-62, 164 and 165.
46 CFR Parts 10, 12, 16 and 30-32
COMDTINST 16450.32
NVIC - yes

(1) OPA 90 amended the FWPCA to require owners and operators to develop oil spill response plans for certain tank vessels, certain onshore marine transportation-related facilities, and deepwater ports. In 1993 the Coast Guard published interim final oil response plan rules for vessels and transportation-related onshore facilities. The response plan regulations for tank vessels are codified at 33 CFR Part 155; the regulations for marine transportation-related facilities—including deepwater ports—are codified in 33 CFR Parts 150 and 154.

(2) A major feature of the OPA 90 spill response plans is the requirement for covered vessel and facility owners and operators to identify and ensure the availability of — by "contract or other approved means" — private personnel and equipment necessary to remove the "worst case discharge" to the "maximum extent practicable." The Coast Guard created an oil spill removal organization (OSRO) classification process administered by the NSFCC to assist vessel and facility owners and operators in meeting this requirement.

(3) The OPA 90 amendments to the FWPCA also require that the President conduct periodic drills of removal capability for the areas covered by ACPs, and for relevant tank vessel and facility response plans. The Coast Guard has been delegated this responsibility for the coastal zone, and it fulfills this responsibility through the National Preparedness for Response Exercise Program (PREP). PREP is the framework for conducting Area drills and exercises, and provides a means for covered vessel and facility owners and operators to satisfy their internal drill requirements.

1.B.2. FWPCA - Federal Water Pollution Control Act

The Federal Water Pollution Control Act (FWPCA) was amended by the Clean Water Act (CWA) and both names are now in general use for the statute. The FWPCA was further amended by the passage of OPA 90. It is codified at 33 USC § 1251 *et seq.* This legislation prohibits discharges of oil or hazardous substances, in such quantities as may be harmful, (1) into or upon the navigable waters of the U.S., adjoining shorelines, or into or upon the waters of the contiguous zone or (2) which may affect natural resources in the U.S. Exclusive Economic Zone (EEZ).

REFERENCES

FWPCA was amended by CWA.
33 U.S.C. 1251 *et seq.*
33 CFR Parts 151, 154, 156 and 159
40 CFR Parts 100-149 and 300
COMDTINST 16000.6, 16000.7

Under the FWPCA, the Coast Guard has two closely-related principal responsibilities. One is as vice-chair of the National Response Team (NRT), with leadership in administering the National Response System for events occurring in the coastal zone. (EPA has primary responsibilities for the inland zone.) The second principal responsibility under the FWPCA involves developing and implementing pollution prevention, preparedness and response regulations for certain vessels and facilities under Coast Guard jurisdiction. (EPA, Research Special Programs Administration [RSPA], and Minerals Management Service [MMS] assume this role for facilities in other jurisdictions.)

1.B.2.a. Authority and Responsibilities Within the National Response System

The National Response System is established under the NCP-the Federal government's "blueprint" for responding to releases of oil and hazardous substances. The NCP, codified at 40 CFR Part 300, was developed originally more than 20 years ago to implement section 311 of the FWPCA. Initially, the NCP addressed oil and FWPCA hazardous substances only. However, after Congress

passed the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund), the NCP was revised to address prevention, preparedness and response planning for an expanded list of hazardous substances. (CERCLA is discussed later in this section.) The most recently revised NCP reflects changes required by OPA 90, and was published on September 15, 1994.

NOTE

Hazardous Material/ Hazardous Substance Distinction.

(1) A central feature of the National Response System is the process by which the Federal government is notified of oil and hazardous substances releases. This notice is the first step in the response process. A spill of a harmful quantity of oil that causes a sheen or emulsion in the water, or a release of a reportable quantity of an FWPCA hazardous substance (or a CERCLA hazardous substance) must be reported to the National Response Center (NRC). The NRC is located at Coast Guard Headquarters and is staffed 24 hours a day by Coast Guard personnel. These personnel immediately forward incident reports to the predesignated Federal On-Scene Coordinator (OSC) —a Coast Guard COTP in the coastal zone or an EPA OSC in the inland zone— for further action. The boundary between inland and coastal zones is pre-determined by agreement between EPA and USCG. These boundaries are described in the Regional Contingency Plans.

(2) Under the provisions of the NCP, the Coast Guard also is assigned the following major responsibilities:

- Act as vice-chair of the National Response Team and co-chair of the Regional Response Teams (RRTs), and take the lead in activations of the NRT or an RRT in the coastal zone;
- Ensure effective and immediate removal of discharges and threats of discharges of oil and hazardous materials in the coastal zone;
- Develop and implement Area and Regional oil and hazardous substances contingency plans;
- Designate Areas, form Area Committees, and develop and review Area Contingency Plans (ACPs)

in the coastal zone (added under OPA 90). There are currently 46 Coastal Zone Areas for which ACPs have been developed. An updated list can be obtained through the Navigation Information System (NIS) Bulletin Board Service (BBS). See Chapter 4, "Preparedness," for access details.

(3) The NCP addresses special units to support the National Response System, including the National Strike Force and District Response Groups, which are operated by the Coast Guard.

1.B.2.b. Authority and Responsibilities for Pollution Prevention and Response

(1) Under the FWPCA, the Coast Guard has responsibility for developing, implementing, and enforcing regulations related to pollution prevention, preparedness, and response for vessels and marine transportation-related facilities.

(2) The Coast Guard has developed regulations establishing procedures, methods, equipment, and other requirements to prevent and contain discharges of oil and hazardous substances from vessels, marine transportation-related facilities, and deepwater ports. These regulations are codified at 33 CFR Parts 151 through 159.

(3) Other Coast Guard responsibilities under the amended FWPCA include inspection of vessels carrying cargoes of oil and hazardous substances.

1.B.3. CERCLA - Comprehensive Environmental Response, Compensation and Liability Act

CERCLA (Superfund) was enacted by Congress in 1980, and last substantially amended in 1986 by the Superfund Amendments and Reauthorization Act (SARA). CERCLA, codified at 42 U.S.C. § 9601 *et seq.*, creates a structure and authority to regulate hazardous substances. Coast Guard Authority and Responsibilities for CERCLA funded responses are contained in the NCP .

REFERENCES

CERCLA
42 U.S.C. 9601 *et seq.*
40 CFR Parts 110-117 and 300-302
COMDTINST 16000.6, 16465.29, 16465.30

1.B.3.a. Access to the Superfund

Although the Superfund is administrated by EPA, the funds authorized by CERCLA are also available to the Coast Guard. Coordination is attained by means of an MOU between EPA and Coast Guard. The Coast Guard may use these funds to finance an immediate response or remedial action to an actual or threatened hazardous materials release. (Under the FWPCA, removal costs for a CERCLA hazardous substance include costs to the Federal or state governments to restore or replace natural resources.)

1.B.3.b. Coast Guard Authority and Responsibilities Under IHSA

The Coast Guard's authority under the Intervention on the High Seas Act (IHSA, 1974) also relates to CERCLA. Under IHSA, the Commandant of the Coast Guard, acting for the Secretary of Transportation, may take physical control of any non-military vessel on the high seas, if a collision, stranding, or other incident results in material damage or the threat of such damage. In turn, this damage must create a "grave and imminent danger" of a pollution hazard to the U.S. coastline or "related interests." The Coast Guard may act regardless of the vessel's flag. The Commandant may act following a series of consultations and notifications among the State Department, EPA, and the IMO. CERCLA authorizes using funds for high seas intervention activities.

1.B.4. RCRA - Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976 as an amendment to the Solid Waste Disposal Act, defines and regulates the management of solid wastes, hazardous wastes, medical wastes, and certain substances in any environment, including stored in underground storage tanks. It is established a “cradle to grave” system for governing the generation, transport, storage, treatment, and disposal of hazardous wastes. RCRA is codified at 42 U.S.C. § 6901 *et seq.* The primary goals of RCRA are to:

REFERENCES

RCRA
42 U.S.C. 6901 *et seq.*
40 CFR Parts 122-124 and 260-299
49 CFR Parts 171-177
COMDTINST 16478.1

- protect human health and the environment,
- reduce waste and conserve energy and natural resources, and
- reduce or eliminate the generation of hazardous waste.

NOTE

Under Subtitle D, the term "solid waste" is used almost exclusively to refer to nonhazardous solid waste.

1.B.4.a. Responsibilities for Handling Solid Wastes

Solid waste is managed in accordance with Subtitle D of RCRA. In 1988, EPA proposed new criteria for solid waste disposal facilities. The proposed rule revised criteria for landfill design and operation, groundwater monitoring, and closure and post-closure care requirements for municipal landfills. Currently, state and local officials are responsible for promulgating regulations for managing Subtitle D wastes. Some states require permits for solid waste landfills, and may encourage product separation, source reduction, and recycling.

1.B.4.b. Responsibilities for Handling Hazardous Wastes

Subtitle C of RCRA establishes a "cradle-to-grave" system for the management of hazardous wastes, as defined in 40 CFR Part 261. RCRA Subtitle C regulations include specific provisions for facilities that generate, transport, treat, or dispose of hazardous wastes. Treatment, storage, or disposal facilities are required to apply for operating permits; however, permits are not required for generators and transporters of hazardous wastes. Instead, generators and transporters have requirements related to documenting, recordkeeping and reporting, and handling wastes prior to its treatment, storage, or disposal. All generators—unless they are conditionally exempt small quantity generators—must treat, store, or dispose of their wastes at RCRA-permitted facilities.

1.B.4.c. Responsibilities for Underground Storage Tanks

Subtitle I of RCRA regulates petroleum products and hazardous substances stored in underground tanks. Under this program, EPA has developed performance standards for new tanks and regulations for notification requirements, performance standards, leak detection, prevention, closure, financial responsibilities, and corrective action

at underground storage tank sites. Unless exempted, any owner or operator who stores petroleum products or a substance defined as hazardous under Superfund (exclusive of Subtitle C hazardous wastes) must meet EPA's regulatory requirements.

1.B.5. HMTA - Hazardous Materials Transportation Act of 1974

REFERENCES

MARPOL Annex III
HMTA
49 U.S.C. 1801-1813
46 CFR subchapters D and O
49 CFR Parts 171-174 and 176
COMDTINST 16000.6

A variety of hazardous materials incidents prompted Congress to pass the Hazardous Materials Transportation Act of 1974 (HMTA) to provide for the safe transportation of hazardous materials in all modes. This Act improved the authority of the Department of Transportation to regulate hazardous materials transportation. This Act addresses the carriage of bulk liquids and liquefied gases, bulk solids, and packaged cargoes. For bulk transportation, 46 U.S.C. 2101 (14) defines hazardous material as any liquid material or substance that is flammable or combustible, or designated as a hazardous substance by EPA or by the HMTA. Bulk means a cargo that is carried or loaded on a vessel without containers; packaged means a cargo that is carried in separate containers with labels. This Act has been amended to incorporate the provisions of MARPOL 73/78 Annex III.

1.B.6. Refuse Act - The Rivers and Harbors Act of 1899

REFERENCES

Refuse Act
33 U.S.C. 401 *et seq.*
33 CFR Parts 320, 325, 326, 329 and 330

In response to the widespread use of rivers and streams as open trash dumps at the turn of the century, the Rivers and Harbors Act (33 U.S.C. § 401, *et seq.*) was passed in 1899, and included a section which came to be known as the Refuse Act. The purpose of the Act was to prevent the obstruction of navigation and the interference with waterway development. The Act prohibited the throwing, discharging, or disposing of any refuse other than street run-off or sewage into the navigable waters of the U.S. Although the original intent was to keep shipping channels free from obstruction, the law has since been used to enforce environmental concerns. Originally, the Refuse Act was enforced by the Army Corp of Engineers, but since 1966 it has also been enforced by the Coast Guard. The main weakness of the law is the lack of civil penalty provisions. The passage of more targeted environmental laws such as the FWPCA has reduced the need for Refuse Act authority in enforcement of environmental compliance.

1.B.7. Abandoned Barge Act of 1992

REFERENCES

Abandoned Barge Act
46 U.S.C. 4701-4705
and 12301(b)
COMDTINST 16465.43

The Abandoned Barge Act of 1992, codified at 46 U.S.C. §§ 4701-4705 and 12301(b), was enacted in 1992 to prevent future marine pollution from abandoned barges. The Act contains the following provisions.

- Barges over 100 gross tons may not be abandoned on the navigable waters of the United States.
- The Coast Guard may assess civil penalties of up to $1,000 per day for an abandoned barge.
- The Coast Guard may remove an abandoned barge.
- All undocumented barges over 100 gross tons must be numbered.

Commandant Instruction 16465.43, Abandoned Vessels, provides policy and guidance for enforcement of the Abandoned Barge Act.

1.B.8. Clean Air Act

The U.S. passed clean air statutes in 1955 and 1967, but our current national air pollution control program is based on the 1970, 1977, and 1990 versions of the law. The Clean Air Act as amended is codified at 42 U.S.C. §§ 7401 *et seq.* Among the purposes of the CAA is "to protect and enhance the quality of the Nation's air resources so as to promote public health and welfare and the productive capacity of its population...". The CAA creates a mandate for Federal and state cooperation.

REFERENCES

CAA
42 U.S.C. 7401 *et seq.*
40 CFR Parts 50
through 88

1.B.8.a. Major Provisions

Under CAA authority, EPA has established National Ambient Air Quality Standards (NAAQSs)—which define how clean air must be—for six "criteria" air pollutants (carbon monoxide, lead, ozone (formed by photochemical reactions of volatile organic compounds and nitrogen dioxide), nitrogen dioxide, sulfur dioxide, and particulate matter). EPA has also developed New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPS), and standards for mobile sources such as automobiles. Clean Air Act regulations are found at 40 CFR Parts 50 through 88.

1.B.8.b. State Implementation Plans

Air quality standards are achieved by states through Federally-approved State Implementation Plans (SIPs), which define how the standards discussed above will be met. Among other things, the SIPs specify emission limits and compliance schedules for pollution sources. SIPs are tailored to the needs of different air quality control regions that have been established by EPA. Generally, SIPs:

- Assign specific emission limitations to individual sources and establish timetables for compliance by those sources;
- Set up procedures to review new sources; and
- Set up systems to monitor air quality and provide for enforcement.

1.B.8.c. Authority and Responsibilities

Although EPA was granted authority to develop most of the regulations under the CAA, the Coast Guard shares some responsibility for ensuring compliance with applicable air quality standards as related to tank vessel loading and offloading. Also, Coast Guard units must comply with Federal, state, and local air pollution control requirements.

(1) Because vessel emissions can adversely affect local air quality, the CAA permits states or the EPA to control vapor emissions from the loading and unloading of tank vessels. Historically, the Coast Guard and EPA have had joint authority in requiring compliance with marine vessel loading and unloading operations emissions standards, under CAA § 183(f) (42 U.S.C. 7511 b). Coast Guard jurisdiction for facility vapor control system (VCS) regulations is based upon the Ports and Waterways Safety Act, the FWPCA, and limited enforcement authority under CAA §7511(b). Section 183(f) of the CAA as amended jointly authorizes the Coast Guard and EPA to issue standards applicable to volatile organic compounds and other air pollutants from loading and unloading of tank vessels. EPA and the Coast Guard are in the process of coordinating their responsibilities in this area.

(2) As a Federal agency, the Coast Guard must comply with Federal, state, and local air pollution control requirements. Under the CAA the Coast Guard must conform with the SIP.

1.B.9. PWSA - Ports and Waterways Safety Act of 1972

The Ports and Waterways Safety Act of 1972 (PWSA) is codified at 33 U.S.C. § 1221 *et seq.* As vessel traffic increased in the U.S. ports and waterways, Congress established a regime to ensure that vessels operating in these areas meet standards for construction, equipment, manning, and operation.

REFERENCES

PWSA
33 U.S.C. 1221 *et seq.*
33 CFR Parts 126 and 157
46 CFR various parts
COMDTINST 16000.7, 16000.11

1.B.9.a. Authority and Responsibilities

To meet the statutory objectives, the Coast Guard, as delegated by the Secretary of Transportation, may take "necessary" actions to protect U.S. navigable waters and resources in navigable waters from harm associated with vessel damage, destruction, or loss. In exercising this authority, the Coast Guard controls vessel movement, directs the handling and movement of hazardous materials, and orders the emergency removal of dangerous cargoes (including oil). Coast Guard regulations implementing the PWSA are codified in various parts of Titles 33 CFR and 46 CFR.

1.B.10. PTSA - Port and Tanker Safety Act of 1978

The Port and Tanker Safety Act of 1978 (PTSA) was enacted to expand equipment and operating requirements for vessels, especially tankships, to coincide with international initiatives. This Act provided the authority for the navigation safety regulations that required navigational equipment, charts, steering, and other operational tests for foreign and domestic vessels entering or leaving U.S. ports. This Act also:

REFERENCES

PTSA
33 U.S.C. 1221-1232
46 U.S.C. 3701-3718
33 CFR Parts 157 and 164
COMDTINST 16000.11
NVIC - yes

- Provided for the establishment of the Marine Safety Information System;
- Required tankships to install inert gas systems and crude oil wash systems; and
- Expanded tankship construction standards.

1.B.11. Clean Vessel Act of 1992

The Clean Vessel Act of 1992 (33 U.S.C. § 1322) was passed in response to what Congress believed was an inadequate number of pumpout stations for type III marine sanitation devices (MSDs), where recreational vessels normally operate. Congress had

determined that this inadequate number of pumpout stations was causing a substantial degradation of U.S. water quality, due to sewage discharge by recreational vehicles. The purpose of the Clean Vessel Act is to provide funds to states for the construction, renovation, operation, and maintenance of pumpout and dump stations. Key elements of the Act include:

REFERENCES

Clean Vessel Act
33 U.S.C. 1322
50 CFR Part 85

- Required state surveys and plans;
- Technical and grant guidance;
- Educational outreach programs; and
- A schedule of funding and criteria for awarding grants.

1.B.11.a. Authority and Responsibilities

Under the Act, the Federal aid grant program is administered by the U.S. Fish and Wildlife Service within the Department of Interior.

1.B.12. MPRSA - Marine Protection, Research, and Sanctuaries Act of 1972

The Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA or the Ocean Dumping Act), is codified at 33 U.S.C. §1401 *et seq.* MPRSA implements the 1972 International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the London Dumping Convention). The London Dumping Convention commits party states to promoting effective control of pollution into the marine environment from all sources. This Convention specifically targets dumping waste and other matter likely to create a human health hazard, to harm living resources and marine life, or to interfere with legitimate uses of the sea. MPRSA was amended in 1988 by Public Law 100-688, Title I of which is the Ocean Dumping Ban Act of 1988, and Title IV of which is the Shore Protection Act. The purpose of MPRSA is to regulate the transportation of material from the U.S. or by U.S. vessels, aircraft, or agencies for the purpose of dumping the material into ocean waters, and the dumping of material transported by any person from a location outside the U.S. if the dumping occurs in the territorial sea or the contiguous zone of the U.S.

REFERENCES

London Convention
MPRSA
33 U.S.C. 1401 *et seq.*
33 CFR 151
40 CFR 125 and 229
COMDTINST 16000.6, 16000.11

1.B.12.a. Authority

MPRSA establishes the statutory authority to:

- Regulate ocean dumping beyond the territorial sea line (three mile limit) from U.S. flag vessels and of material from the U.S.; and
- Regulate dumping by any vessel in the U.S. territorial sea and contiguous zone.

1.B.12.b. Dumping Restrictions

Under MPRSA, no dumping is allowed in U.S. waters except some sewage, sludge, dredge materials, and fish wastes.

The EPA may issue a permit for dumping of other materials under extraordinary circumstances.

1.B.12.c. Responsibilities

The Coast Guard shares responsibility under MPRSA with several other federal agencies.

(1) EPA issues ocean dumping permits, and the U.S. Army Corps of Engineers (USACE) issues permits for the dumping of dredge materials. NOAA monitors the effects of waste dumping.

(2) Coast Guard responsibilities are to conduct surveillance and other appropriate enforcement activity to prevent unlawful transportation of material for dumping, or unlawful dumping. Such enforcement activity includes enforcement of regulations relating to safe transportation, handling, carriage, storage, and stowage. The Coast Guard does not conduct litigation under this title but does provide supporting information for such litigation, as appropriate.

(3) In addition, the Coast Guard provides the State Department with information on domestic implementation of the Ocean Dumping Act and advises the State Department on the feasibility of proposals

affecting Coast Guard responsibilities. G-MOR collects quarterly data from all Districts that have monitored ocean dumping activities, which EPA uses in developing its annual report to Congress.

REFERENCES

London Convention
MPRSA
ODBA
33 U.S.C. 1401 *et seq.*
40 CFR 125
COMDTINST 16000.11

1.B.12.d. Ocean Dumping Ban Act of 1988

The Ocean Dumping Ban Act (ODBA) is Title I of Public Law 100-688 amending the Marine Protection, Research, and Sanctuaries Act of 1972. It is codified at 33 U.S.C. §1401 *et seq.* ODBA regulates dumping of wastes into ocean waters.

REFERENCES

MPRSA
16 U.S.C. 1431 *et seq.*
14 U.S.C. 89
15 CFR 922
COMDTINST 16004.3

1.B.12.e. National Marine Sanctuaries

The National Marine Sanctuaries program is Title III of Public Law 100-688 amending the Marine Protection, Research, and Sanctuaries Act of 1972. It is codified at 16 U.S.C. §1431 *et seq*. The Coast Guard enforces marine sanctuary laws and regulations under general enforcement authority provided in 14 U.S.C. 89. Several national marine sanctuaries have been designated and others are proposed.

1.B.12.f. Oceans Act of 1992

The Oceans Act of 1992 amends Title III of MPRSA, also known as National Marine Sanctuaries, to reauthorize the National Marine Sanctuary Program through Fiscal Year 1996. The Oceans Act of 1992 also amends NMSA by:

REFERENCES

MPRSA
Oceans Act
P.L. 102-587
50 CFR Part 85
COMDTINST 16004.3

- Streamlining the sanctuary designation process;
- Improving enforcement of NMSA;
- Requiring interagency consultation prior to undertaking activities that may damage sanctuary resources;
- Providing deterrents to damaging sanctuary resources;
- Strengthening the roles of research and monitoring as components of sanctuary management;
- Providing greater flexibility in obtaining private funding and cooperative ventures to improve the designation and management of marine sanctuaries; and

- Providing for the establishment of sanctuary advisory councils.

(1) The Act authorizes the Secretary of Commerce to designate discrete areas of coastal, ocean, and Great Lakes waters under U.S. jurisdiction as national marine sanctuaries. To qualify for status as a national marine sanctuary, an area must be of special national significance. The Secretary must also determine that existing authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area. The National Marine Sanctuary Program is administered by the National Oceanic and Atmospheric Administration (NOAA). NOAA is responsible for identifying, designating, and managing national marine sanctuaries for long-term benefit, use, and enjoyment of the public.

REFERENCES

London Convention
MPRSA
SPA
33 U.S.C. 2601 *et seq.*
33 CFR 151

1.B.12.g. The Shore Protection Act of 1988

The Shore Protection Act (SPA) is Title IV of Public Law 100-688 amending the Marine Protection, Research, and Sanctuaries Act of 1972. It is codified at 33 U.S.C. §2601 *et seq.* SPA regulates transportation of waste in coastal waters.

1.B.12.h. Permit Program

The Coast Guard is required to administer a permit program for vessels engaged in transporting wastes.

(1) The Coast Guard issued an interim final rule codified at 33 CFR Part 151, to allow vessels to continue to operate without interrupting the business of waste transportation during start-up for the permit program. The interim final rule requires an owner or operator of each vessel having the purpose of transporting municipal or commercial waste, to apply for a conditional permit, and to display a vessel number. Since May 1989, the Coast Guard has been issuing such permits. In general, permits fall within one of the following three categories:

- Garbage barges in the NY/NJ harbor area, Alaska, and the West Coast;
- Sewage sludge barges from NY; and
- Vessels hauling drilling mud in the Gulf of Mexico.

(2) When EPA formalizes guidance on waste handling procedures, the Coast Guard will:

- Draft final regulations on permit issuance; and
- Coordinate with EPA on joint permit review procedures and enforcement issues, including the development of an enforcement rulemaking.

EPA's rule will have the effect of broadening the category of vessels subject to the permitting program to include offshore supply vessels (OSVs). These vessels transport municipal and commercial waste from offshore development and production facilities to reception facilities.

1.B.13. NANPCA - Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990

Nonindigenous aquatic nuisance species such as the Zebra mussel are invading our waters at an alarming rate, causing significant environmental and economic impacts. NANPCA was enacted to prevent the introduction of and control the spread of nonindigenous aquatic species into the Great Lakes and contiguous zone. The Act mandated the establishment of the Aquatic Nuisance Species Task Force co-chaired by NOAA and the USFWS and names Commandant as a member. The goal of the task force is to implement a program to:

- prevent the introduction and spread of aquatic nuisance species;
- monitor, control, and study such species; and
- disseminate related information.

REFERENCES

NANPCA
16 U.S.C. 4701 *et seq.*
33 CFR 151

1.B.13.a. Authority and Responsibilities

Under the Act, the Coast Guard was delegated responsibility to:

- Develop a ballast water management program for the Great Lakes and the Hudson River, north of the George Washington bridge;
- Develop a mariner education and assistance program for the Great Lakes regions;
  - — Developed on national scale in 1994, "Ballast Exchange Program, Shipping Agents Guide".
- Issue ballast management regulations for the Great Lakes and the Hudson River north of the George Washington Bridge;
  - — Promulgated regulations in May, 1993, requiring ballast water exchange for vessels bound for U.S. Great Lakes.
  - — Promulgated regulations in December, 1993 requiring ballast water exchange for vessels bound up the Hudson River north of George Washington Bridge.
- Monitor the effectiveness of the ballast management program; and
- Conduct a study on the extent to which shipping is a vector for the introduction of aquatic nuisance species.
  - — Released to the public in 1995.

The Coast Guard has issued regulations at 33 CFR Part 151, and is working with ASTM to draft standardized methods for ballast water management.

1.B.14. Deepwater Port Act of 1974

REFERENCES

Deepwater Port Act
33 U.S.C. 1501 *et seq.*
30 CFR Parts 148-150
COMDTINST 16000.6, 16000.11
NVIC - yes

The Deepwater Port Act of 1974, codified at 33 U.S.C. § 1501 *et seq.*, creates a structure and authority to regulate any port or terminal for loading and unloading oil in waters off the coast and beyond the territorial sea of the U.S. when the oil is transported to any state in the U.S. The regime Congress established under this statute provides for protecting the marine and coastal environment from the effects of deepwater port operations and for regulating deepwater port location, ownership, construction, and operation.

1.B.15. IHSA - Intervention on the High Seas Act of 1974

The Intervention on the High Seas Act of 1974 (33 U.S.C. § 1471, *et seq.*) is among a number of United States statutes aimed at preventing or responding to oil pollution from vessels. This statute authorizes the Coast Guard (through the Secretary of Transportation) to take action to prevent, mitigate, or eliminate the danger of vessel oil pollution on the high seas.

REFERENCES

Intervention Convention
IHSA
33 U.S.C. 1471 *et seq.*
COMDTINST 16451.5

The IHSA authorizes action in the following circumstances:

- There is "material damage or the imminent threat of material damage" to a ship or its cargo;
- This damage or threat results from a ship's collision, stranding, or other incident; and
- This damage or threat "creates a grave and imminent damage" to the U.S. coastline or related interests.

1.B.16. ESA - Endangered Species Act of 1973

The Endangered Species Act (ESA) of 1973, codified at 16 U.S.C. § 1531 *et seq.*, was enacted to conserve, protect, and facilitate propagation of endangered fish and wildlife species. This statute authorizes Federal action to encourage the establishment of state endangered species conservation programs. Under the Act, the Secretaries of Interior and Commerce may list species that either are endangered or likely to become endangered, and establish an Advisory Committee regarding the list. These Secretaries also may: use certain existing legislation for acquiring land; managing endangered and threatened species under Federally-approved state plans; and providing financial aid to state wildlife management agencies.

REFERENCES

ESA
16 U.S.C. 1531 *et seq.*
50 CFR 222

1.B.16.a. Responsibilities

The Coast Guard must consult with the National Marine Fisheries Service (NMFS) on Coast Guard activities in the critical habitats of endangered or threatened species. Before this consultation, the Coast Guard must develop a Biological Assessment on Coast Guard activities.

1.B.17. NEPA - The National Environmental Policy Act of 1970

The National Environmental Policy Act of 1970 (NEPA) is codified at 42 U.S.C. §4321 *et seq.* NEPA addresses the national need to ensure that Federal agency decision making gives the environment the same consideration as other factors. NEPA contains three essential elements:

- A declaration of national environmental policy and goals,
- The establishment of "action-forcing" provisions for Federal agencies to implement those policies and goals, and
- The establishment of the Council on Environmental Quality (CEQ).

NEPA was introduced because Congress believed that much of the country's environmental degradation stemmed from the Federal government's failures and unresponsiveness. A principal feature of the statute is its requirement that Federal agencies write an Environmental Impact Statement (EIS) for major Federal actions significantly affecting the quality of the human environment. An EIS must include an assessment of alternatives to the proposed Federal action. EISs help Federal officials make informed decisions based on an understanding of the environmental consequences of various actions and the reasonable alternatives available.

REFERENCES

NEPA
42 U.S.C. 4321 *et seq.*
33 CFR Part 230
46 CFR Parts 2, 12, 31 and 105
COMDTINST 16475.1

1.B.17.a. Overview of the EIS Process

A Federal agency proposing a major action must conduct a review of the proposed action to determine whether to expect significant environmental impacts — favorable or adverse. If there may be adverse impacts, the agency should assess whether to change the proposed action to minimize or eliminate those impacts. If an agency knows an action falls under NEPA criteria for conducting an EIS, the agency should prepare the EIS. Sometimes, however, the

agency may be uncertain whether its action requires an EIS. In those circumstances the responsibility for determining whether to prepare, and preparing the EIS belongs to the lead Federal agency. The lead Federal agency may delegate the responsibility to prepare an EIS to a state agency, as long as the responsible Federal official offers guidance, participates in the preparation, and independently evaluates the EIS prior to its approval and adoption. The review begins with an Environmental Assessment (EA), which is used as a screening document to determine whether an agency must prepare an EIS. If the EA shows that preparing an EIS is not required the agency should make a Finding of No Significant Impact (FONSI). Whether an EIS or a FONSI is prepared, the document should be filed with EPA.

1.B.17.b. Responsibilities

As a Federal entity, the Coast Guard must comply with the requirements of NEPA.

(1) Coast Guard personnel should be aware of programs or projects that could "significantly affect the environment" including programs or projects that:

- interfere with reasonable peaceful enjoyment of property or use of property;
- Interfere with visual or auditory amenities;
- Limit multiple use management programs for an area;
- Pose a danger to human health, safety, or welfare; or
- Cause irreparable harm to animal or plant life in an area.

(2) Commanding Officers are responsible for:

- Assisting in the review of potential environmental impacts associated with a proposed action at the initial planning stage,
- Participating in the formulation of necessary assessments as described above and any mitigation and monitoring requirements established, and

- Encouraging a sense of environmental responsibility and awareness among personnel to implement the spirit of NEPA.

1.B.17.c. Categorical Exclusions

The "National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts" (COMDTINST 16475.1 series) establishes the Coast Guard's policy and procedures for implementing NEPA. Section 2.B.2.e of this instruction lists the agency actions which do not individually or cumulatively have a significant effect on the human environment. Under NEPA, these actions are categorically excluded from the requirement that the proposed action undergo the additional analysis that accompanies an EIS or EA.

The Commandant periodically reviews its agency actions that have been categorically excluded (CE). The Commandant's latest revisions to the list of categorically excluded actions included a CE for "Operations to carry out maritime safety, maritime law enforcement, search and rescue, domestic ice breaking, and oil or hazardous substance removal programs."

Therefore, pollution response and removal activities, and other maritime safety operations, are excluded from the EIS and EA requirements of NEPA. However, this CE does not affect the Coast Guard's responsibility to fully comply with NEPA before engaging in any of the above activities. The CE can only be applied if there are no extraordinary circumstances, as described in section 2.B.2.b of COMDTINST 16475.1 (series), that would limit its application.

1.B.18. OSH Act - Occupational Safety and Health Act of 1970

REFERENCES

OSH Act
29 U.S.C. 654(a)(1)
29 CFR Parts 1910 and 1926
COMDTINST 6260.2, 6260.25, 6260.31

All personnel (including Coast Guard, other public agencies' staffs and private contractors' staffs) involved with pollution response activities may encounter serious safety and occupational health hazards when conducting these activities. Federal law *requires* public and private personnel engaged in emergency cleanup operations to have taken safety and other training. The primary federal regulations are the Occupational Safety and Health Administration (OSHA) standards for hazardous waste operations and emergency response fund in 29 CFR 1910.120. This is for cleanup operations at an "uncontrolled hazardous waste site." OSHA classifies an area impacted by oil as such a site; however, the regulations do not automatically apply to an oil spill cleanup.

There must be a reasonable possibility for employee exposure to safety or health hazards.

1.B.18.a. Overview

In a response taken under the NCP by a lead agency, an occupational safety and health program should be made available for the protection of workers at the response site, consistent with, and to the extent required by, 29 CFR 1910.120. Contracts relating to a response action under the NCP should contain assurances that the contractor at the response site will comply with this program and with any applicable provisions of the Occupational Safety and Health Act of 1970 and state laws with plans approved under Section 18 of the OSH Act.

1.B.18.b. Impact on Planning and Response

Requirements, standards, and regulations of the OSH Act and of state OSH laws must be complied with where applicable. Federal OSH Act requirements include, among other things, Construction Standards (29 CFR Part 1926), General Industry Standards (29 CFR Part 1910), and the general duty requirement of section 5(a)(1) of the OSH Act (29 U.S.C. 654(a)(1)). No action by the lead agency with respect to response activities under the NCP constitutes an exercise of statutory authority within the meaning of section 4(b)(1) of the OSH Act. All governmental agencies and private employers are directly responsible for the health and safety of their own employees.

Worker health and safety as relates to pollution and environmental response activities is addressed in subsection 5.A.5.

1.B.19. APPS - Act to Prevent Pollution from Ships of 1980

The Act to Prevent Pollution from Ships of 1980 (APPS), codified at 33 U.S.C. § 1901-1912, implements MARPOL 73/78 Annexes I, II, and V for U.S. flag vessels and foreign flag vessels in U.S. waters. APPS requires the Coast Guard to issue regulations and enforce the provisions of these MARPOL 73/78 Annexes. (See the discussion of MARPOL 73/78 in Section 1.A of this chapter.)

REFERENCES

MARPOL Annex I
APPS
33 U.S.C. 1901-1912
33 CFR Parts 151, 154 and 158
46 CFR 25
COMDTINST 16000.6, 16000.7, 16450.27, 16450.32
NVIC - yes

1.B.19.a. Authority and Responsibilities Under Annex I

Annex I of MARPOL 73/78, titled Regulations for the Prevention of Pollution by Oil, requires all covered oil tankers and ships to carry on board an approved Shipboard Oil Pollution Emergency Plan (SOPEP) in the navigable waters of the U.S. Annex I also requires covered oil tankers and ships that engage in voyages to ports or offshore terminals under the jurisdiction of other parties to MARPOL 73/78 to have a valid International Oil Pollution Prevention (IOPP) certificate or equivalent. Coast Guard Marine Inspectors conduct the MARPOL 73/78 Annex I surveys and issue the IOPP certificates for U.S. ships. The Coast Guard also receives for review and approval the SOPEPs for U.S. ships.

REFERENCES

MARPOL Annex II
APPS
33 U.S.C. 1901-1912
33 CFR Parts 151, 154 and 158
46 CFR 25
COMDTINST 16000.7, 16450.29
NVIC - yes

1.B.19.b. Authority and Responsibilities Under Annex II

Annex II of MARPOL 73/78, Regulations for the Control of Pollution by Noxious Liquid Substances (chemicals) in Bulk, sets out a regime for the design and construction of chemical tankers carrying category A, B, or C substances. (These categories represent the potential hazard to the marine environment and human health, with category A substances as the most hazardous.) Annex II requires building vessels in accordance with the IMCO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk. This Code was developed primarily by the USCG. Annex II also requires "adequate" reception facilities at all ports, which are able to receive chemical waste generated by visiting ships that normally do business with the terminal or port.

REFERENCES

MARPOL Annex V
MPPRCA
33 U.S.C. 1901 *et seq.*
33 CFR Parts 151 and 158
46 CFR Part 25
COMDTINST 16000.7, 16450.30, 16450.31

1.B.19.c. Authority and Responsibilities Under Annex V

Annex V of MARPOL 73/78, "Regulations for the Prevention of Pollution by Garbage from Ships," sets out a regime to regulate "garbage" pollution from ships. Annex V defines "garbage" broadly, and includes nearly any kind of waste generated during a ship's normal operations. Annex V includes a general ban on dumping plastics and synthetic materials at sea; it specifically designates places where dumping other garbage is prohibited and sets conditions for dumping other garbage at sea.

(1) U.S. regulations to implement Annex V apply to all inspected or uninspected marine craft, regardless of flag,

on U.S. navigable waters and within the 200 mile U.S. Exclusive Economic Zone (EEZ); and to U.S. ships wherever they are located. Ships subject to Annex V are limited in discharging floating dunnage, lining and packing materials, paper, rags, glass, metal, bottles, crockery, and similar refuse. Parties to Annex V must supply ports and terminals that are "adequate" reception facilities for receiving ship-generated garbage. Ships exempt from Annex V include foreign flag warships; naval auxiliaries; and other ships owned and operated by a country and engaged in non-commercial service.

(2) The Coast Guard has authority to board ships to check for Annex V compliance. In boarding, Coast Guard personnel:

- Review the Animal and Plant Health Inspection Service (APHIS) boarding report to determine whether it indicates a MARPOL V violation,
- Review shipboard garbage handling practices, and for U.S. vessels only,
- Check for MARPOL Annex V Placards and Waste Management Plans.

The FWPCA does not apply to discharges permitted under MARPOL 73/78.

REFERENCES

MARPOL Annex V
APPS
MPPRCA
33 U.S.C. 1901 *et seq.*
33 CFR Parts 151 and 158
46 CFR Part 25
COMDTINST 16000.7, 16450.30, 16450.31

1.B.19.d. MPPRCA - Marine Plastic Pollution Research and Control Act of 1987

The Marine Plastic Pollution Research and Control Act of 1987 (MPPRCA), codified at 33 U.S.C. § 1901 *et seq.*, was enacted in response to growing international concern over dumping plastics at sea. MPPRCA amends the Act to Prevent Pollution from Ships and implements MARPOL 73/78 Annex V to prohibit vessels at sea from disposing of plastic and synthetic material, and to regulate the disposal of other types of "garbage." In addition to implementing the MARPOL Annex V requirements, MPPRCA:

- Applied garbage regulations to uninspected vessels in 46 CFR Part 25;

- Required that the U.S. Navy comply with dumping restrictions for plastics and other types of garbage by 1994, now extended to 1999; and
- Required the establishment of public education programs on plastic pollution and citizen pollution patrols.

(1) Authority and Responsibilities

The USCG has the lead responsibility for implementing MPPRCA and has published regulations at 33 CFR Parts 151 and 158. (See the discussion of MARPOL Annex V requirements in Section 1.A of this chapter and the Act to Prevent Pollution from Ships.)

1.B.20. Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990

REFERENCES

Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act
33 U.S.C. 2732

1.B.20.a. Overview

The Oil Pollution Act of 1990 created the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, codified at 33 U.S.C. 2732. The Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act established oil terminal environmental monitoring and oversight programs for the oil terminal operations in Prince William Sound, Alaska, and Cook Inlet, Alaska. Congress passed this Act in response to the EXXON VALDEZ oil spill. The Act created Advisory Committees comprised of industry representatives, state and local officials, and public citizens to monitor terminal operations that affect the environment and to assist in contingency planning. The Act aims to improve measures for the prevention and mitigation of oil spills through increased interaction and cooperation between local citizens, vessel and terminal operators, and governmental officials.

1.B.20.b. Authority and Responsibilities

For each program, the Act established an Oil Terminal Facilities and Oil Tanker Operations Association comprised of four individuals to represent the owners and operators of the terminal facilities, the owners and operators of the crude oil tankers, the State government of Alaska, and the Federal government. The Associations must review policies relating to the operation and maintenance of oil terminal facilities and crude oil tankers that may affect the environment near the applicable terminal.

For each program, the Act established a Regional Citizens' Advisory Council composed of voting and non-voting members. The Governor of Alaska appoints the voting members, who are Alaskan residents and represent identified interests. The Coast Guard and other Federal agencies are represented by one non-voting member. Each Advisory Council provides advice and recommendations to the Associations, monitors the environmental impacts sustained from operating the terminal facilities and crude oil tankers, and reviews the adequacy of the terminal facility's and crude oil tanker's oil spill prevention and contingency plans.

Section 1.C
International Agreements

This section addresses the significant bilateral agreements between the United States and its neighboring countries. In a general sense, bilateral agreements between two countries are brokered through the State Department and administered by the appropriate government agency. Most of these agreements and conventions require countries to develop a Joint Contingency Plan (JCP). A JCP ensures that the countries are prepared for spills. Although there are different JCPs for each agreement and convention, these plans are similar, because the format of the newer plans is the same as the format of the older plans. Traditionally, JCPs create Joint Response Teams (JRTs) to direct a spill response. As a result of recent JCP discussions, the trend is toward replacing JRTs with Joint Preparedness Teams (JPTs). The function of the JPT is largely a planning one. Each party country has members on the JRT/JPT. The countries may also agree to identify an On-Scene Coordinator (OSC) in each country who will be the field officer in charge of a response. Some agreements address establishing Joint Response Centers (JRCs) where the JRT/JPT may meet. (The Agreements and JCPs address "pollution incidents." For simplicity, this section uses "spill" in place of "pollution incident.") Coast Guard Headquarters policy administrator for JCP issues is G-MOR.

1.C.1. Bilateral Agreement Between the United States and Mexico

On June 3, 1979, Ixtoc I, an exploratory oil well thirty-eight miles off the coast of Mexico, blew out, producing history's largest oil spill from human errors. Over nine months, an estimated 10 to 30 thousand barrels of crude oil spilled daily into the waters of the Gulf of Mexico. Some of this oil traveled more than 800 miles to Texas, and an estimated 3,000 to 4,000 metric tons of oil reached Texas shores and beaches. To address this type of threat, the U.S. and Mexico signed an agreement of cooperation on July 24, 1980.

1.C.1.a. Agreement Overview

The "Agreement of Cooperation between the United States of America and the United Mexican States Regarding Pollution of the Marine Environment by Discharges of Hydrocarbons and other Hazardous Substances" entered into force on March 30, 1981. The Agreement and its Annexes provide the framework for U.S.–Mexico cooperation in responding to spills that pose a significant threat to U.S.–Mexico coastal waters and coastal areas. The Agreement also covers any spills that affect the waters of one country only, but may justify or require the other country's assistance.

1.C.1.b. Contents of the Agreement

The parties agree to establish a U.S.–Mexico JCP, both to address any spills that may affect the marine environment, and to ensure adequate response to those spills. The two countries also promise to develop national systems to detect polluting incidents, and to eliminate those threats or minimize their adverse effects to the highest degree possible. The Agreement also provides for the U.S. and Mexico to exchange information, and to cooperate in spill planning and response. Annexes also address operational issues, provide for response and communication, and list the coordinating agencies in each country.

1.C.1.c. Responsibilities

Under the Agreement, the Coast Guard and the National Response Team are the primary entities responsible in the U.S. for the JCP. In Mexico, the Secretariat of the Mexican Navy has primary responsibility; however, appropriate Secretariats of other specific agencies (such as the Secretariat of Foreign Relations or the head of Mexico's government-owned petroleum industry, PEMEX) may also have primary responsibilities.

1.C.2. Bilateral Agreement Between the United States and Canada

On June 19, 1974, the United States and Canada signed an agreement to create a contingency plan to address actual or threatened spills of oil and other noxious substances. This Agreement entered into force immediately. It can be found at 25 United States Treaties 1280; TIAS 7861.

1.C.2.a. Agreement Overview

The parties agreed to establish a JCP for waters of mutual interest. The U.S. Coast Guard and the Canadian Ministry of Transport administer the JCP, which creates a response plan for both countries to follow in case of a major accidental spill of oil or other hazardous material. The JCP Annexes identify the boundary waters of the Great Lakes System, Atlantic Coast, Pacific Coast, Beaufort Sea, and the Dixon Entrance as waters covered in the Plan.

1.C.2.b. Contents of the Agreement

The JCP provides a framework for U.S.–Canadian cooperation during a response to a spill. Through the JCP, the parties intend to:

- create an effective system for discovering and reporting spills within the waters designated under the plan,
- promptly restrict the spread of oil and minimize the threat posed by a noxious substance, and
- provide adequate resources to respond to a spill.

1.C.2.c. Responsibilities

The U.S. Coast Guard and the Canadian Coast Guard are the lead agencies responsible for administering the JCP. Through the JCP, the parties establish a U.S. and Canadian OSC for each region, a JRT including representatives from both countries, and a JRC. The JCP also sets out guidance on alerting and notification procedures, command structure, post-clean-up requirements, and financing operations.

1.C.3. Bilateral Agreement Between the Russian Federation and the United States

On May 11, 1989, the United States and the then Union of Soviet Socialist Republics signed an "Agreement Concerning Cooperation in Combating Pollution in the Bering and Chukchi Seas in Emergency Situations." (This agreement can be found at 23 United States Treaties 845; TIAS 11446.) The Agreement entered into force on August 17, 1989. The United States and the Russian Federation currently administer the Agreement.

1.C.3.a. Agreement Overview

The parties entered into this agreement as a result of their growing concern that "exploration, exploitation, and production of natural resources, (and) related marine transport, pose a threat of significant pollution by oil or other hazardous substances in the Bering and Chukchi Seas." The parties agree to establish a JCP to ensure an adequate response to spills.

1.C.3.b. Responsibilities

The U.S. Coast Guard and the Russian Marine Pollution Control and Salvage Administration are the lead agencies responsible for implementing the JCP. Through the JCP, the parties agree to designate a U.S. and Russian OSC for each region, a JRT, and a JRC.

Chapter 2
Prevention

Pollution prevention issues are under the purview of the Office of Compliance (G-MOC).

Chapter 3
Enforcement

Pollution investigation issues are under the purview of the Office of Investigations and Analysis (G-MOA).

Chapter 4
Preparedness

NOTE

Preparedness is an iterative and dynamic process involving a cycle of contingency planning, training, exercising and evaluating.

A key Marine Safety mission, Preparedness is a process intended to ensure response capability and organization for prompt and effective response to discharges or substantial threat of discharges of oil and releases of hazardous substances, thereby minimizing the impacts. The Oil Pollution Act of 1990 (OPA) established Preparedness as a cornerstone of effective pollution response. Based on identified risks, response resource needs are identified, plans are developed and personnel are trained in their response roles. The plans are tested in exercises and real time pollution events, and are revised as appropriate, based on the lessons learned, thereby continuously improving preparedness. (See Sections 311 (c)(1) and 502(7) of the Clean Water Act).

Preparedness must be achieved at a variety of levels in the National Response System (NRS) for effective response. Local needs and capabilities must be coordinated effectively with those at the overlying levels. Incident reviews and evaluations of drills such as Preparedness for Response Exercise Program (PREP) exercises pay particular attention to the implementation of Area Contingency Plans (ACPs), Facility Response Plans (FRPs) and Vessel Response Plans (VRPs). PREP exercises help evaluate how well the plans were implemented and determine areas in which they can be improved.

Each turn of the planning, training, exercise and revision cycle serves to fine-tune Preparedness. Throughout this chapter, the reader should remain aware of the interrelationships of its sections and the need for feedback or lessons learned to be incorporated into the planning process.

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Preparedness

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Section 4.A Planning

Plans serve to formalize and document activities to be undertaken in the event that a contingency occurs. Plans minimize confusion in emergent conditions by presenting information derived through a deliberate planning process. To ensure consistency in preparedness planning, and to allow effective utilization of assets within and between levels, preparedness activities are controlled by a hierarchy of directives. The Federal Response Plan (FRP) and National Contingency Plan (NCP) address the national response structure and identify requirements for regional and area preparedness development. Regional and Area contingency plans developed under the guidelines of the NCP, address preparedness through a process involving the Area Committee. Composed of federal, state and local governmental representatives, the Area Committee develops an Area Contingency Plan (ACP) for responses to oil discharges and hazardous substance releases within their geographic area. Vessel Response Plans (VRPs) and Facility Response Plans (FRPs), developed by owners and operators, are designed to be consistent with the applicable ACP. **Figure 4-1** depicts the relationship of these plans.

4.A.1. Federal Response Plan

The Federal Response Plan (FRP), developed under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended), is an agreement signed by 27 federal departments and agencies for response to disasters. In the event of a declaration of a major disaster by the President, the Federal Emergency Management Agency (FEMA) may activate the FRP. A Federal Coordinating Officer (FCO), designated by the President, may implement the FRP and coordinate and direct emergency assistance and disaster relief. Delivery of federal assistance is facilitated through 12 functional annexes to the FRP known as Emergency Support Functions (ESFs). EPA coordinates activities under ESF #10 - Hazardous Materials, which addresses

preparedness and response to hazardous material and oil incidents. When the FRP is activated the On-Scene Coordinator (OSC) shall coordinate response activities with the FCO, through the incident-specific ESF #10 Chair, to ensure consistency with federal disaster assistance activities. In the coastal zone USCG will be the OSC.

Activation of ESF #10 follows specific procedures which usually includes a formal request from the Governor(s) of the affected state(s), to the President, to declare a disaster or emergency. The FRP does not supplant other plans (i.e., the NCP). It may, however, be used to supplement other plans and authorities to provide an effective response. Because FRP activities are funded differently than NCP activities, the activation of ESF #10 may impact pollution removal funding and cost recovery. When ESF #10 activities are being considered, close coordination with Commandant and The National Pollution Fund Center (NPFC) will be required to ensure appropriate funding sources are utilized.

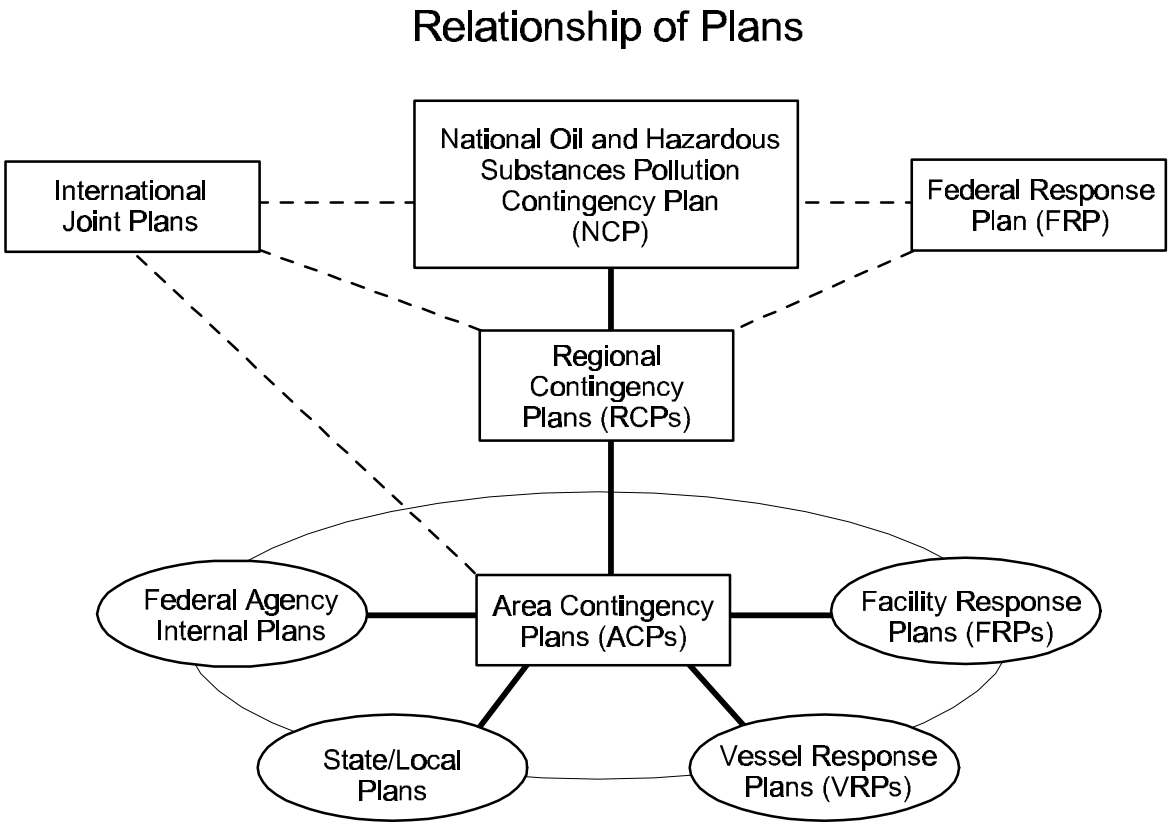

Figure 4-1

4.A.2. National Contingency Plan

To ensure an efficient response to either an actual or potential pollution incident, OPA 90 mandated the revision of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR, Part 300). The blueprint for the national response system, the NCP describes the interaction among Federal agencies, state and local governments, industry, and other private parties during an emergency involving oil or hazardous substances. The NCP defines the role of each of the National Response Team agencies and defines the composition, roles and responsibilities of the Regional Response Teams and Area Committees. The NCP's Appendix E consolidates all the NCP information pertaining to response coordination and operations during an oil spill. Appendix E is available in a "pocket" edition.

NOTE

The Environmental Protection Agency serves as the NRT's Chair and the Coast Guard as Vice-Chair. During activities for a response action, the Chair shall be the member agency providing the OSC/RPM.

4.A.2.a. National Response Team (NRT)

The NRT consists of 16 federal agencies with responsibilities, interests, and expertise in various aspects of emergency response. Primarily a national planning, policy, and coordination body, the NRT does not respond directly to incidents; it provides policy guidance in *planning* for an incident and any assistance (through the Regional Response Team) an On-Scene Coordinator requests *during* an incident. Usually NRT assistance comes in three forms:

- technical assistance,
- access to additional resources and equipment, and
- coordination among Regional Response Teams.

The Environmental Protection Agency serves as the NRT's Chair and the Coast Guard as Vice-Chair. During activation for a response action, the Chair shall be the member agency providing the OSC or Remedial Project Manager (RPM).

4.A.3. International Agreements and Joint Contingency Plans

The United States has separate bilateral agreements with Mexico, Canada and the Russian Federation regarding pollution incidents. An overview of these Agreements is provided in Chapter 1 of this Volume. Joint Contingency Plans (JCPs) containing more detail on coordinated marine response arrangements are in various stages of

development/approval. Under the JCPs, Districts are responsible for maintaining operational Appendices with detail on local resources, notification procedures and transboundary issues.

4.A.4. RRTs and Regional Contingency Plans

With increased federal experience in dealing with and planning for responses came the realization that good local planning is necessary for federal-level plans and activities to be successful. The National Contingency Plan's (NCP) 40 CFR §300.210(b) requires development of a Regional Contingency Plan (RCP) to guide an On-Scene Coordinator in obtaining assistance within a region for incidents beyond a local plan's scope.

(1) More than simply restating the material in the NCP, a thorough RCP should enable an OSC to implement the ACP and coordinate a multi-organizational response effort. To accomplish these objectives the RCP should address:

- appropriate disposal site locations,
- access to barges and other vessels for response-related salvage operations,
- assistance in making environmental damage assessments,
- access to aircraft or trucks with heavy lifting capability,
- coordination of waterfowl conservation efforts,
- identification and prioritization of natural resources requiring protection, and
- forecasting services including weather, currents, and pollutant movement predictions,
- information on all potentially useful resources in the region from government, commercial, academic and other sources,
- coordination with state emergency response plans and Area Contingency Plans
- lines of demarcation between the inland and coastal zones as mutually agreed upon by USCG and EPA.

(2) Because an RCP must develop a response across organizations, its format should follow the NCP's as closely as possible.

4.A.4.a. Regional Response Team

The NCP, 40 CFR §300.115, describes the organization and responsibilities of the Regional Response Team (RRT). The RRTs are co-chaired by the Environmental Protection Agency and Coast Guard and charged with comparable policy-making and planning responsibilities. The RRTs are required to develop Regional Contingency Plans for:

- each of the standard federal regions,
- Alaska,
- Oceania (the Pacific Basin), and
- the Caribbean.

There are several significant distinctions between the geographic responsibilities of the RRT and the Area Committees that impart unique and essential functions to the two entities. Regions are envisioned to have multiple areas. In its planning and coordination role, the RRT provides oversight and consistency review for areas within a given region. This includes facilitating the process of ensuring that Area Committees within a region are mutually supportive and that links to extra-regional response concerns, considerations, and capabilities are maintained. This regional/area approach allows local area personnel to focus on specific issues such as risks, sensitive area prioritization, and response strategies that need to be tailored to a smaller, more manageable geographic scale.

Regional Response Team membership includes representatives of the 16 NRT agencies at the regional level. State representatives are also included on the RRTs. As co-chair of the standing Regional

NOTE

During activation for a response action, the RRT Chair shall be the member agency providing the OSC/RPM.

Response Team, the Coast Guard district (m) officer coordinates the Coast Guard's input to the Regional Plan. During activation for a response action, the RRT Chair shall be the member agency providing the On-Scene Coordinator/Remedial Project Manager.

(1) If an OSC so requests, RRTs can activate during specific incidents; if the incident is beyond an RRT's scope, it can in turn request National Response Team assistance. The OSC must consult the relevant RRT(s) to gain its approval before employing alternative treatment methods such as chemical countermeasures to respond to a spill if that option has not been pre-approved. Note: The terms of some pre-approvals may require RRT notification/consultation.

4.A.5. Area Contingency Plan

Area contingency planning is the based on the premise that proper planning is essential to safe and effective response. Planning is the key to enhancing the response community's ability to successfully abate substantial threats or actual incidents. The purpose of planning is to define roles, responsibilities, resources and procedures necessary to ensure a coordinated, cooperative and effective response capability. During an emergency situation, the importance of pre-planning cannot be overstated. The fundamental logic of pre-planning is that all matters must be addressed before a response occurs. Given this rationale, all parties who may participate in the response should be involved in the planning process. Commandant Notice 16471 issued in September, 1992, gave guidance on the establishment of Area Committees and development of ACPs. The focus of most ACPs developed under this guidance was on oil. Commandant Notice 16471.2 was prepared to provide specific guidance on the development of ACPs to address hazardous substance response. Commandant Notice 16471.2 also addressed reformatting the ACP to parallel the National Interagency Incident Management System (NIIMS), Incident Command System (ICS) structure, adopted by the Coast Guard as the response management system of choice.

4.A.5.a. Area Committee/Area Committee Responsibilities

The Oil Pollution Act of 1990 (OPA) directed that Area Committees (ACs) be established to plan for community response to oil discharges and hazardous substance releases. OPA required that ACs be comprised of qualified members of federal, state, and local government agencies. ACs should identify Local Emergency Planning Committees (LEPCs), and State Emergency Response Commissions (SERCs) and other key stakeholders in the Area to participate in the planning process. ACs replace the Emergency Task Forces that were required under Section 311(c) (2) (c) of the Federal Water Pollution Control Act.

Federal Register Notice (FR57 15001) of April, 24 1992, designated the coastal zone areas for which the Coast Guard has AC responsibility. Since that time, various areas have been subdivided or consolidated as noted in subsequent FR notices. Each coastal COTP zone is designated as an Area where an AC must be established. Areas may be further divided or consolidated upon approval of the District Commander, to address significant local requirements or concerns. If an Area is subdivided, each designated Area will have a separate AC and ACP. The Environmental Protection Agency is responsible for inland ACP development.

The predesignated On Scene Coordinator (OSC) will chair the AC, and direct and coordinate the ACs efforts. The OSC shall designate an individual from each agency other than the Coast Guard to serve as vice-chair of the AC. The OSC may designate multiple vice-chairs, if appropriate.

The OSC is responsible for appointing government officials to serve as members of the AC. Federal agency members should be selected in consultation with the Regional Response Team (RRT). Primary state representatives to the AC should be selected from the lead agency and designated by each governor for pollution preparedness and response. For States with more than one agency involved in pollution related missions, the OSC should consider representatives from each of these agencies, in consultation with the representatives of the lead agency.

The representative(s) should be able to present and defend state interests in response to related programs, e.g., historic preservation and Coastal Zone Management. For local membership, the OSC may appoint representatives from local counties, cities, and towns who are responsible for coordinating environmental issues and emergency response operations. Coordination with Local Emergency Planning Committees (LEPCs) and State Emergency Response Commissions (SERCs) is paramount for a successful oil and hazardous substance Area plan. Other individuals chosen to serve on the AC should represent agencies with an environmental responsibility within the Area and should be representative of all levels of government. The AC does not constitute a formal Federal Advisory Committee, and as such, each agency is responsible for funding it own participation in Committee proceedings.

ACs are strongly encouraged to solicit advice, guidance and expertise from all appropriate sources, and establish subcommittees as needed to assist with the preparedness and planning responsibilities. The subcommittee participants may include such individuals as facility and vessel owners/operators, cleanup contractors, emergency response officials, marine pilots, local chemical manufacturers, etc. The OSC shall appoint members from these and other organizations, as appropriate, to subcommittees. Input from subcommittees to the AC will be through the respective subcommittee chairman. The subcommittee chairman must be a member of the AC. The OSC shall ensure the AC cooperates with the state and local officials to enhance the contingency planning efforts of those officials and to ensure planning of joint response efforts. Joint planning efforts shall include appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive areas, disposal of contaminated waste, and protection, rescue, and rehabilitation of fisheries and wildlife.

OPA requires that each AC prepare an ACP which, when implemented, shall be adequate to remove spills ranging from most probable to a worst case discharge, and to mitigate or prevent a substantial threat or release from a vessel, offshore facility, or onshore facility operating in the Area.

The ACP should provide a comprehensive source of information for the Coast Guard, area organizations and industry to utilize in responding to substantial threats of or an actual discharge or release

within the Area. It is important to note that the ACP is a plan for use in responding to an incident. Information found in the plan relating to such items as response resources should not be viewed as performance standards. These are planning criteria based on a set of assumptions that may not exist during an actual incident.

As part of the planning activities, the AC shall address the desirability of using appropriate dispersants, surface washing agents, surface collecting agents, bioremediation agents or miscellaneous oil spill control agents listed in the NCP Product Schedule and the desirability of using appropriate burning agents. The ACPs shall, as appropriate, include applicable preauthorization plans and address the specific contexts in which such products should and should not be used. RRTs shall have the authority to review and approve, disapprove, or approve with modification the preauthorization plans, as appropriate. Preauthorization plans approved by the RRT shall be included in the ACP. For dispersants and other mitigating substances, devices or technologies not pre-approved, the ACP will outline the process established by the RRT for that region for an expedited decision regarding the use of these items.

Recognizing the importance of an effective and standardized response management system, the Coast Guard has adopted the NIIMS based ICS for response to all oil and hazardous substance incidents. ACPs shall use the ICS structure in their response organization and management procedures. ACPs will be required to be formatted in the functional format that parallels NIIMS ICS in the 1997 revision cycle.

OCSs shall have copies of their approved plans available for dissemination if requested and be available to discuss information contained in the plan.

The Area Committee shall forward the completed ACP to the cognizant District Commander via District(m) for review and approval. District(m) will be responsible for distributing a copy of the ACP to the National Strike Force Coordination Center (NSFCC) and the Regional Response Team (RRT) for comment, in accordance with 33 CFR Parts 115 and 145, within a prescribed time frame (30-60 days). The ACP review process should verify all areas are addressed, including consistency with the NCP, adjacent coastal and inland zone ACPs and other federal, state and regional

plans. The NSFCC will review each plan to ensure that Strike Force resources can be utilized during a response. RRTs will review plans with particular attention to interagency coordination issues, use of alternate response techniques and the need for regional asset coordination. District(m) will review ACPs for consistency with this guidance, review NSFCC and RRT comments and recommend that the District Commander approve the plan or return it for necessary revisions. District(m) shall ensure copies of the approved plan are distributed to commandant (G-MOR-2), NSFCC and the RRT, including all changes, updates and modifications.

4.A.5.b. Area Contingency Plans

The ACP as defined by the Federal Water Pollution Control Act (FWPCA) section 311 (a) (19) and (j) (4), means the plan prepared by the AC that is developed to be implemented in conjunction with the NCP and RCP, to address removal of incidents ranging from a most probable to a worst case discharge. ACP format requirements in the 1997 revision cycle will be a functional format that parallels NIIMS ICS. Detailed outline of this format is in COMDTNOTE 16471.2.

OPA required the ACPs to address the following information:

(1) A description of the area covered, including sensitive areas.

(2) Detailed description of the responsibilities of the owner/operator and the federal, state and local agencies in removing a discharge and in mitigating or preventing a substantial threat of a discharge.

(3) A list of equipment, to include fire fighting, dispersants, and other mitigating devices.

(4) A list of personnel available to an owner/operator or federal, local and stage agencies.

(5) Procedures for obtaining an expedited decision regarding the use of dispersants.

(6) A description of how the plan is integrated into other response plans.

(7) A detailed annex, prepared in consultation with National Oceanic and Atmospheric Administration (NOAA) and U.S. Fish and Wildlife Service (USFWS), to provide a coordinated, immediate and effective protection, rescue and rehabilitation of, and minimum risk to fish and wildlife resources and habitat.

Area Contingency Plans shall identify NIIMS ICS as the response organization and management system for oil and hazardous substance incidents. If the OSC is directing a response, NIIMS ICS will be used to manage the response. However, if a responsible party is using a comparable system that is producing effective results then the monitoring personnel will work within the responsible party's response management system.

The recommended outline for a functional plan that parallels NIIMS ICS is outlined below:

Annexes and appendices should be presented and named as they are in this guidance. Applicable tab subjects should be addressed but tabs may be reorganized, reserved, combined or further delineated at the discretion of the Area Committee. The proposed format will standardize the location of information yet allow maximum flexibility to Areas for development of, and the degree of detail needed in each appendix.

Annex A -- Introduction to Combined ACP Response Strategy

Appendix I: Authority

II: Definitions and Acronyms

III: Area Committee Purpose and Objective

IV: Geographic Boundaries

V: Response Organization and Policies

Annex B -- Planning Section

Appendix I: Planning Organization

Annex C -- Finance Section

Appendix I: Finance Section Organization

Annex D -- Operations Section

Appendix I: Operations Section Organization

Appendix II: Required Letters and Reports

Annex F -- Logistics Section

Appendix I: Logistic Section Organization

Appendix II: Summary of Area Equipment

Appendix III: Summary of Area Support

Appendix IV: Summary of Personnel and Resources Support

Appendix V: Special Forces

Annex G - Command Staff

Appendix I: Command/Unified Command

II: Health and Safety local, private

III: Public Affairs Information

IV: Legal Officer

Following the functional format under Commandant policy, the following items need to be addressed:

Annex B - Planning Section

Appendix I: Planning Organization

Within this section, National Response Team, regional response team, AC roles, AC membership and ICS roles and responsibilities need to be addressed. Response roles are important and must clearly be defined in the ACP.

This section must also detail a communications plan, command center organization, general protection strategies to include center organization, general protection strategies to include environmental sensitivity maps and surface water intakes.

ACs should pre-identify various options for command centers. Consideration should be given to handling vendors and other interested parties making requests for or soliciting information outside of the command center.

National Historical Preservation Act (NHPA) and cultural resource issues should be considered in the plan. All ACs need to identify historical, cultural and archeological sites in their Area which could be affected during an incident. ACPs should address procedures for contacting experts regarding removal on these sites. The ACP must also address Cultural/Heritage Resources issues. Endangered Species Act (ESA) considerations should be addressed as well. Policy guidance regarding these issues is presently under development and applicable Memorandums of Agreement will be incorporated into Volume X of the MSM.

Annex C - Finance Section

This section should address Section Chief's responsibilities, OSC access to the Oil Spill Liability Fund (Fund), state access to the Fund, Natural Resource Damage Assessment (NRDA), Federal Lead Trustee issues, claims, cost and procurement unit.

Commandant policy is to mount an aggressive, timely and efficient response and the ACP should clearly address this policy regarding the use of emergency contracting procedures for responding to discharges or substantial threats of a discharge which pose a substantial threat to public health or welfare. OSCs need to be aware of the policy (COMDTINST 16460.5) that FWPCA Section 311(c) (2) (B) is intended to provide the OSC with emergency authority to bypass the Federal Acquisition Regulations (FAR) and the normal agency contracting process and to execute contracts with response resources when it is necessary to protect human health and welfare from substantial harm, or threat of substantial harm, caused by a discharge of oil or release of a hazardous substance. It is contrary to the intent of Congress to use this authority to bypass the contracting process for responding to a discharge or release

which does not substantially harm or pose a substantial threat to public health or welfare.

OSCs should be aware of the National Pollution Funds Center User Reference Guide, this guidance document is a good source of information on access to the Fund, removal funding, funding mechanisms, claims, cost documentation and NRDA funding.

Annex D - Operations Section

This functional section of the ACP should address salvage issues, decontamination, vessel operations, wildlife recovery, air operations, containment and cleanup issues. Also in this section, warning systems and emergency public notification, evacuation procedures, disposal and required letters and reports.

Annex F - Logistics Section

This functional section of the ACP should include a summary of equipment to include, but not limited to, booms, skimmers, government agency resources, support vessels, work boats, aircraft, storage, ocean tugs and harbor tugs.

This section should also address area support capabilities including staging areas, airports, fueling facilities, maintenance facilities and portable facilities.

A summary of personnel support should also be included. This section should list, but is not limited to, clean up contractors (BOA and Non-BOA), Coast Guard personnel (reserve and active duty), wildlife cleanup companies, volunteers, law enforcement agencies, hospital, etc.

Commandant policy is to mount an aggressive, timely and efficient response and the ACP should clearly address this policy regarding the use of federal and commercial response equipment. While it is the policy of the federal government to be aggressive in utilizing resources and equipment to respond to an incident, or substantial threats of an incident, OSCs must be ever mindful that the use of Government - owned equipment and resources is not to compete with the use of commercial resources.

Government resources should only be used under specific circumstances:

- For "first aid" spill response until contracted commercial resources arrive on scene and are operating.
- When commercial resources are not available. This assumes that the Responsible Party, Qualified Individual, Incident Commander or cleanup contractor has sought commercial resources but they are not available.
- Government resources can supplement commercial resources. Government resources are not to be used for the convenience of the spiller.

Annex G - Command Staff

This section of the ACP should address site safety and health plans, public affairs and Joint Information Center issues, legal issues.

4.A.6. Facility Response Plans, Vessel Response Plans, and Shipboard Emergency Response Plans

4.A.6.a. General

(1) The Oil Pollution Act of 1990 (OPA 90) amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) to require the preparation and submission of oil spill response plans by the owners or operators of certain facilities and vessels as identified in references (a) and (b). It also requires that the vessel or facility be operated in compliance with its submitted response plan. Failure to have submitted a response plan, and to have received approval of that plan or authorization from the Coast Guard to operate in accordance with the submitted plan, results in the prohibition of that vessel or facility from the handling, storing, or transporting of oil. An Interim Final Rule was published in the Federal Register on February 5, 1993, setting forth the vessel and facility response plan requirements and identifying the classes of vessels and facilities to which the requirements apply. The VRP final rule was published on January 12, 1996, with a effective date of April 11, 1996. The FRP final rule was published on February 29, 1996, with a effective date of May 29, 1996. Neither final rule requires that vessels or facility owner/operators revise their plans to conform with the requirements of the final rules until the plan's resubmission date.

(2) The Act to Prevent Pollution From Ships was amended to incorporate the requirements regarding SOPEPs of Annex I of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978, as amended (MARPOL 73/78). Title 33 CFR part 151 contains the implementing regulations. These rules became effective on April 4, 1993, for new vessels and on April 4, 1995 for existing vessels. In general, all oil tankers of 150 gross tons and above and all other ships 400 gross tons and above must carry on board an approved SOPEP.

(3) Questions regarding implementation policy for vessel and facility response plan requirements should be directed to Commandant (G-MOR). Enforcement related questions should be directed to (G-MOC).

4.A.6.b. Facility Response Plan (FRP) Receipt and Review

(1) Part 154 of 33 CFR requires that the owner or operator of a "substantial harm" or "significant and substantial harm" facility, as defined in 33 CFR part 155, submit a response plan to the local COTP. Section 4202(b)(4)(B) of OPA 90 precludes a facility from handling, storing, or transporting oil unless a response plan has been submitted to the Coast Guard. "Significant and substantial harm" facilities are further required to have their plans approved by the Coast Guard. For all marine transportation-related facilities, reviews and approvals will be done by the local COTP.

(2) Federal and other government facilities are not exempt from the requirements of the FWPCA, including the requirements for FRP. (33 U.S.C. §1323)

(3) There is a need for consistency in the review and approval of a plan; however, this effort will be tempered by the fact that a facility response plan is intended for the use of the facility's personnel and its owner or operator to increase their level of preparedness. The plans may be presented in a manner consistent with other guidance and plans used by the

facility. The information contained in these plans is based upon national planning standards and the response scenarios are intended to be used to develop a planning document and not establish a performance document or standard.

(4) COTPs shall ensure the continuous tracking of all response plans received, and maintain a response plan log that allows for the unique identification of submitted plans. This plan number can be the same as the facility's Marine Safety Information System (MSIS) facility identification number, or some other number uniquely generated by that COTP. This log should contain key information such as (1) facility name, (2) date received, (3) review status (preliminary sat/unsat and comprehensive pends/sat/unsat), (4) date authorized by COTP to operate under submitted plan, (5) date authorization letter expires, (6) date plan was approved, and (7) plan approval expiration date. When a field unit receives a response plan for a facility under its jurisdiction, it should log in the plan, conduct a preliminary review of the plan for legal sufficiency, provide confirmation of receipt of the plan to its submitter, conduct a comprehensive review and upon satisfactory completion of that review issue an approval letter.

NOTE

A reviewer should look at the plan's overall effectiveness, workability, and organization for ease of use toward the goal of preparedness.

(5) The emphasis in reviewing response plans should be on ensuring that the owner or operator has gone through the planning process to prepare facility personnel to respond, to the maximum extent practicable, to an actual or threatened discharge of oil. OPA 90 identifies a number of elements considered key to effective preparedness. These include: identifying properly trained personnel, prearrange private response resources, and a system to allow the timely and efficient activation and employment of equipment and personnel. A reviewer should look at the plan's overall effectiveness, workability, and organization for ease of use toward the goal of preparedness. Keep in mind that a plan preparer may employ approaches that would vary

from the Coast Guard's. A number of formats may be employed in plan preparation.

One format may use bullets to outline the information and remind the users of their responsibilities while another uses detailed information to lay out planned actions. The Coast Guard's objective however, is to see if the owner or operator has realistically prepared for the different spill scenarios; not to see if the planned response is identical to the Coast Guard's plan. Appendix 4-A contains a critical area review checklist that is intended to allow for flexibility in the form and format of a plan, while ensuring that issues critical to preparedness are adequately addressed within the plan.

(6) All response plans should undergo a preliminary review to determine if the statutory elements prescribed by OPA 90 and the implementing regulations are present. During this preliminary review, the following items must be checked. The plan includes: (1) an outline of the notification procedures, (2) identifies the qualified individual and alternate qualified individual, (3) identifies the worst case discharge scenario, (4) identifies the resources ensured available to respond to a worst case discharge (although at this time, the response capability of the resources is not evaluated), and (5) describes required training and drills.

(7) If a plan does not pass the preliminary review, a letter should be sent notifying the owner or operator that their plan does not contain the essential elements required within a response plan and that the missing elements must be included before the plan can be accepted and/or further reviewed for approval. The letter should also remind the owner or operator that as their plan is lacking the elements required of a plan, the facility is not permitted to handle, store, or transport oil.

(8) If a plan passes the preliminary review, a letter should be sent to the owner or operator advising them that the plan has been accepted and, if a "significant and substantial harm" facility, that the plan will be undergoing a comprehensive review for approval. In addition, if an owner or operator has certified the

adequacy and availability of the response resources, in accordance with the provisions of 33 CFR 154.1025(c), the COTP may authorize the handling, storage, or transporting of oil, for up to 2 years from the date of plan submission, pending the Coast Guard's approval of the plan.

NOTE

Absence of information regarding a facility response plan should be viewed as the facility not being in compliance with the requirement to have a plan.

(9) Once the COTP has authorized operation under the plan, an entry must be made in the Facility File Status Summary (FFSS) of MSIS. For a significant and substantial harm facility, the "Response Plan: Plan Approval Letter" field should be updated to show a current status code of "Pending Approval (PA)" and the date the authorization letter expires entered in the "valid until" field. For a substantial harm facility, the status code should be current and the "valid until" field should be dated for five years from the date of the plan's submission.

(10) After the preliminary review, a comprehensive review is conducted on response plans submitted by facilities defined as a "significant and substantial harm" facility in 33 CFR 154.1020. As was indicated earlier, the checklist contained in enclosure (1) is intended to allow a reviewer to conduct a comprehensive analysis of a plan while allowing the plan preparer latitude in the plan's form and format. The checklist is designed fur use by personnel familiar with, and having a good working knowledge of, the facility response plan regulations. In addition, the checklist is appropriate for significant and substantial harm facilities with Groups I-IV petroleum oils. For facilities handling Group V and non-petroleum oils, review and analysis beyond that indicated by the checklist may be appropriate.

(11) Non-petroleum and Group V oils are treated differently for planning purposes. Parts 154.1047 and 154.1049 of Title 33 of the Code of Federal Regulations, require the owner or operator to identify the procedures and equipment necessary to respond to a worst case discharge of these oils. There are no specific requirements for identifying the amount of response resources. Regulations allow the owner or operator to

determine the type and amount of equipment needed to respond to a worst case discharge of non-petroleum oils. The Coast Guard's review is designed to determine if the response scenario is appropriate for the identified oil's characteristics and the resources identified are satisfactory in type and consistent with the volume of oil that may be spilled as a result of the worst case discharge. For Group V oils, the plan must also include procedures, strategies, and identification of equipment to locate, recover, and mitigate discharges.

NOTE

"Does the plan demonstrate that the owner or operator has gone through the planning process and is now better prepared to respond to a spill?"

(12) During the comprehensive review process, the reviewer should keep in mind that these response plans are not written for use by an OSC, but are developed to assist the owner or operator in preparing themselves and their people for an oil spill. During review, each item on the checklist should be in the plan in sufficient detail to permit the plan to be useful prior to and during a spill response. "Does the plan demonstrate that the owner or operator has gone through the planning process and is now better prepared to respond to a spill?"

(13) If deficiencies are noted during the comprehensive review, a letter is sent to the owner or operator describing each deficiency and what is required to correct it. This letter must specify the time allowed to correct the deficiencies. The time period is left to the discretion of the COTP based on consideration of the nature of the deficiency and how useful the plan is as presently written. Generally, 30 to 60 days should be allowed to correct deficiencies. Provided that any operating authorization has not expired, the facility may continue to operate during this period. COTPs are also encouraged to assist facility owners or operators towards achieving compliance with the OPA 90 response plan requirements.

(14) When all deficiencies have been corrected, or if no deficiencies are noted during the comprehensive review, the COTP will send an approval letter. The response plan approval letters must be signed by the

COTP. In accordance with 33 CFR 154.1060(c), plan approval may be for a period of up to 5 years from the date of the plan's submission. COTPs may approve plans for a period of less than 5 years in an effort to manage their future review work load because these plans will be up for review in 5 years. However, this discretion should be applied judiciously, and most approvals should be for 5 years (from the date of the submission). It is expected that plan approvals will stagger themselves naturally due to the plan review process and changes in owners, operators, and other significant events that require plan revision and resubmission for approval. After final approval for the plan has been granted, the MSIS record should be updated to reflect the results of the review. For approved plans, an entry should be made showing the status to be "valid" and the date the approval expires. Plans which fail to obtain approval should have the status of "expired."

4.A.6.c. One-plan/Integrated Contingency Plans

(1) To provide relief for the redundant and overlapping federal response planning requirements faced by facility operators, guidance on an integrated planning approach resulting in one response plan, has been developed through a cooperative effort among numerous National Response Team agencies, state and local officials, and industry and community representatives. Response plans developed in accordance with the one-plan guidance will be acceptable to the federal agencies responsible for reviewing and, or approving plans response plans developed to comply with the following regulations:

- EPA's Oil Pollution Prevention Regulation (SPCC and Facility Response Plan Requirements) - 40 CFR part 112
- MMS's Facility Response Plan Regulation - 30 CFR part 254
- RSPA's Pipeline Response Plan Regulation - 49 CFR part 194

- USCG' Facility Response Plan Regulation - 33CFR part 154, Subpart F
- EPA's Risk Management Programs Regulation - 40 CFR part 68 (proposed)
- OSHA's Emergency Action Plan Regulation - 29 CFR 1910.38(a)
- OSHA's Process Safety Standard - 29 CFR 1910.119
- OSHA's HAZWOPER Regulation - 29 1910.120
- EPA's Resource Conservation and Recovery Act Contingency Planning Requirement - 40 CFR part 264, Subpart D, 40 CFR part 265, Subpart D, and 40 CFR 279.52

The integrated contingency planning approach is an effective way to ensure response procedures are coordinated throughout the facility and avoid duplicative and potentially conflicting plans. The one-plan format option however does not change actual planning requirements of the various agencies. The Coast Guard intends that any hazardous substance response planning requirements resulting from this regulatory initiative could be satisfactorily addressed within a facility's "one plan".

4.A.6.d. Vessel Response Plan Review (VRP)

(1) VRPs are required for all vessels that are constructed or adapted to carry oil in bulk as cargo or cargo residue except: vessels exempted in 33 CFR 155.1015 and fishing and fish tender vessels of not more than 750 gross tons when engaged only in the fishing industry (see Public Law 103-206).

(2) Due to the transitory nature of vessel operations, all vessel response plans are reviewed at the national level by Commandant (G-MOR-2). These reviews are conducted against the national planning standards set

forth in 33 CFR 155. Further, due to the transitory nature of operations, the geographic specific appendices in a vessel's response plan are not as detailed as is the geographic information section within a facility plan. For these reasons, more reliance will be placed on the Area Contingency Plan (ACP) for guidance on resources at risk and other response considerations in the event of an oil spill involving a vessel.

(3) VRPs undergo a review process that is similar to that applied to facilities. The plans are given a preliminary review upon receipt, and upon passing this review are given a comprehensive review for approval. All plans are logged into a VRP database that tracks the plan throughout the review and approval process.

(4) After a response plan is accepted for review and approval, Commandant (G-MOR-2) enters information on the plan into MSIS. This information is contained in the Vessel File List of Documents (VFLD). An indication of "In Process" in the status block means the vessel has been granted continued operating authorization until the indicated expiration date. An indication of "Valid" means the vessel's plan has been approved for the period indicated. If a vessel has no entry in this field, units should contact G-MOC-2 for the most current status.

4.A.6.e. Shipboard Oil Pollution Emergency Plans (SOPEP)

(1) Approved SOPEPs are required to be carried on board all oceangoing oil tankers of 150 gross tons and above and all other vessels of 400 gross tons and above, when operating in the navigable waters of the United States by April 4, 1995.

(2) SOPEPs are required to be reviewed and approved by the vessel's flag state administration. For US flag vessels 33 CFR 151.27 requires that the Coast Guard review and approve the plan. To provide consistency in the review of SOPEPs, all plans will be reviewed by

Commandant (G-MOR-2). A review at the national level will also help to accommodate those plan holders that wish to utilize their OPA 90 VRPs to meet the SOPEP requirements. This dual approval of a plan can be made where an owner or operator has amended their vessel response plan to include the required additional information to meet the international notification and coordination requirements.

(3) The purpose of a SOPEP is different than that of the vessel and facility response plans mandated by OPA 90. A SOPEP provides guidance to the ship's master and officers with respect to the onboard emergency procedures followed when a pollution incident has occurred or is likely to occur. These plans will often be in a checklist type format.

(4) When a SOPEP has satisfactorily completed a comprehensive review, the plan is stamped approved and returned to the owner or operator submitting the plan along with a plan approval letter. The approved plan and the approval letter are required to be retained aboard the vessel.

(5) There is no entry made into MSIS regarding the status of a SOPEP. For vessels that have and International Oil Pollution Prevention (IOPP) Certificate, this plan is only a part of the information required for this issuance of that certificate. For other vessels, this plan is viewed in much the same manner as are the vessel's oil transfer procedures or oil record book. No separate MSIS entry is made regarding this plan's review and approval.

4.A.6.f. Waivers and Alternative Means of Compliance

(1) The planning standards contained in vessel and facility response plan regulations are national standards. In developing these standards, it was recognized that they may not be appropriate for all areas in which a vessel may operate, nor for all facilities. For this reason, provisions exist for an owner or operator to request the

acceptance of an alternate planning criteria. This action must be initiated by the owner or operator of the facility or vessel.

- Waiver and alternative compliance requests should set forth the details of the alternative being proposed, including: (1) alternative response methodologies (i.e., chemical countermeasures), (2) alternative response equipment including type and quantity, (3) an assessment of the increased or decreased risk posed by the facility or vessel if the waiver/alternative is granted, (4) an assessment of the efficiency of the proposed alternative/waiver relative to strict compliance with the regulations, and (5) any operational restrictions proposed to limit the risk.
- A facility owner or operator should submit requests for consideration of a waiver or alternative planning standard directly to the COTP for the zone in which the facility is located.
- A vessel owner or operator should submit a request for acceptance of a waiver or alternative planning standard 90 days before the vessel intends to operate under the proposed waiver or alternative. These requests must be submitted to Commandant (G-MOR-2) via the COTP for the geographic area(s) affected. The COTP should advise Commandant (G-MOR-2) of their evaluation and recommendation regarding the acceptability of the proposed alternative planning criteria.

(2) In cases where a facility owner or operator is objecting to a facility's classification as a "substantial harm" or "significant and substantial harm" facility, the appeal procedures are set forth in 33 CFR 154.1075.

(3) Where an alternative planning standard has been granted to a vessel or facility, this fact should be clearly identified in the response plan.

(4) Vessels are required to include a list of geographic areas within a COTP zone in which the vessel intends to handle, store or transport oil.. The identification of these areas establishes a set of self-imposed operating parameters that apply to that vessel and the identified response resources that were evaluated for applicability based on that information. This list of geographic areas within a COTP zone does not constitute a waiver. Where a plan preparer fails to identify any specific geographic areas, the plan is reviewed for the appropriateness of the response resources for the entire COTP zone.

4.A.6.g. One Time Port Visit Not Covered by an Approved Response Plan

(1) A vessel may be authorized a one voyage port visit to a port not covered by their response plan, as outlined in 33 CFR 155.1025(e). COTPs should establish a log to ensure that vessels that choose this option are not allowed to reenter the COTP zone until they have an approved VRP for that COTP zone.

(2) Before any oil transfer can occur from a vessel requesting a one time port visit the vessel owner or operator must accomplish four things: (1) provide the COTP certification that they have contracted with the necessary resources to respond to a worst case discharge, (2) certify in writing that a response plan meeting the regulatory requirements or a SOPEP approved by the flag state is onboard, (3) operate in full compliance with the submitted response plan, and (4) receive interim operating authorization from the COTP.

4.A.6.h. Facility Response Plan Enforcement Policy

(1) Civil penalty violation reports and orders to cease operations will be initiated against “significant and substantial harm” MTR facilities, as classified by 33 CFR 154.1015(c) and defined in 33 CFR 154.1020 that

NOTE

"Substantial harm" facilities do not need response plan approval by the COTP. Mobile MTR facilities only need the response plan while conducting a transfer with a vessel with a total oil capacity of 250 barrels or more.

are either handling, storing, or transporting oil and do not have approved response plans or have not received authorization for continued operation pending approval of their plans. In this respect, a broad literal interpretation of handling, storing, or transporting oil should be used, but only for the portion of the facility for which the Coast Guard requires response plans. Civil penalties will also be initiated against "substantial harm" facilities handling, storing, or transporting oil that have not submitted a response plan to the COTP. "Substantial harm" facilities do not need response plan approval by the COTP. Mobile MTR facilities only need the response plan while conducting a transfer with a vessel with a total oil capacity of 250 barrels or more.

(2) If an MTR facility (1) has not submitted a response plan as required or (2) is a "significant and substantial harm" facility operating without an approved FRP or authorization to operate under a submitted plan as previously described, the following actions are to be taken:

- The facility shall be ordered to cease operations. For a complex facility, this order will only apply to that MTR section over which the Coast Guard exercises jurisdiction.
- All transfer lines to and from the waterfront shall be made gas-free and product free.
- The facility's letter of adequacy shall be revoked.
- For each day the facility is in violation of the regulations, a report of violation (ROV) shall be submitted citing 33 CFR §154.1025.

(3) As was mentioned earlier, federal facilities are not exempt from the provisions of OPA 90 or the requirements of 33 CFR part 154. COTPs should advise federal facility managers or operators of the need to submit plans and advise them of the plan's review status and/or non-receipt, but should not initiate civil penalty actions against the facility. Each federal agency

will take its own enforcement actions against facilities that are failing to comply with the requirements.

4.A.6.i. Vessel Response Plan Enforcement Policy

(1) The law is clear on what action must be taken in cases where: (1) no response plan has been submitted as required; or (2) the vessel is operating without an approved response plan; or (3) without authorization to continue operations under a submitted plan. As stated in 33 CFR 155.1025(b), the vessel is not permitted to transfer, transport, handle, store, or lighter oil.

(2) To assist units in determining the status of vessel plans, plan data is entered into MSIS. Information on the VRP status can be found in the "VFLD" product. The data fields are set up with the identification number being the VRP control number, the issue date being the date the plan was submitted, the expiration date being the date the authorization letter expires, and the status being "in process" which indicates the plan is being reviewed, "valid" for approved plans, and "expired" for invalid plans.

(3) During vessel boardings, field personnel shall determine whether the sections of vessel response plans required by 33 CFR 155.1030(i) are carried on board oil tank vessels. In particular, check the accuracy of the notification information contained in the geographic specific appendix for that port. Field offices should also ensure that the vessel is operating in compliance with any operational restriction identified in the plan and that the required drills and training are being conducted.

(4) The vessel checks should be made by field offices during pollution prevention compliance visits on U.S. and foreign flag tank vessels during bulk liquid transfers, annual tank vessel exams, letter of compliance examinations, and inspections for certification or mid-period inspections, as appropriate. Field offices should not make a special examination to check for the presence of a response plan.

(5) Field offices shall submit reports of violations for those vessels handling, storing, or transporting oil and found without response plans during routine examinations or inspections. If the vessel owner or operator purports to have submitted a response plan to Commandant (G-MOR-2), confirm this with Commandant (G-MOC-2), but still initiate civil penalty action for failure to carry the proper sections of the response plan on board.

(6) Some common enforcement scenarios for vessels without approved response plans and the appropriate COTP actions are:

- Oil vessel laden or in ballast with cargo residue en route to U.S. port: Deny entry to the port and process a ROV citing 33 CFR 155.1025 if the vessel is within U.S. jurisdiction.
- Oil-laden vessels discovered in port: Unit should shut down any cargo operations being undertaken and detain vessel in port until it has an approved plan or authorization to operate under a submitted plan. A unit may allow a one time port visit after imposing any situation-specific pollution prevention measures deemed necessary by the COTP and allow cargo operations to proceed. In all cases, the unit should process a ROV citing 33 CFR 155.1025.
- Unladen vessel, discovered in port, anticipating cargo operations: (1) if gas-free, deny authorization to load cargo until plan requirements are met; (2) if in ballast with cargo residue, authorize to load cargo after the conditions for a one time port visit are met or after imposing any situation-specific pollution prevention measures deemed necessary by the COTP. In the second situation, the unit should process a ROV citing 33 CFR 155.1025.
- Vessel has an approved plan or the authorization to operate pending approval of the vessel's plan, but it does not have the response plan sections required by 33 CFR 155.1030(i) on board: This required

NOTE

MSIS does not indicate what COTP zones are included in a plan.

information may include the geographic specific information for the zone in which the vessel is located. Vessels without the appropriate response plan sections on board can be allowed to complete their present transfer operation only after the vessel owner or operator meets the requirements for a one voyage port visit as outlined in 33 CFR 155.1025(e). Generally, the preferred enforcement action is to issue a letter of warning by the COTP or the Officer in Charge of Marine Inspections (OCMI) as appropriate. The operator should also be issued a requirement to correct the deficiency prior to the next U.S. port visit or transfer operation in the navigable waters, adjoining shorelines, or the exclusive economic zone of the United States. These vessels will normally be allowed to complete their present transfer operation. A deficiency will be noted in MSIS for these vessels. While a civil penalty action will not normally be initiated, if a vessel makes a return visit, arriving or departing with oil cargo or cargo residue, to the same COTP zone without a response plan, or makes calls to multiple U.S. COTP zones without the required sections on board, the COTP or OCMI should initiate civil penalty proceedings and prohibit the vessel from engaging in cargo operations until the required plan sections are on board.

(7) Units should apply the guidance in the Marine Safety Manual, Volume I, Section 4.D.2.c.(3) regarding Letters of Undertaking and Surety Bonds, when ROVs are initiated.

4.A.6.j. Shipboard Oil Pollution Emergency Plans Enforcement Policy

(1) In accordance with 33 CFR 151.27, all new and existing vessels must have on board an approved SOPEP after April 4, 1995, when operating in the navigable waters of the United States.

(2) Vessel checks should be made by field offices during pollution prevention compliance visits on U.S. and foreign flag vessels, annual tank and freight vessel exams, letter of compliance examinations, and inspections for certification or mid-period inspections, as appropriate. Field offices should not make a special examination to check for the presence of a SOPEP.

NOTE

SOPEPs are in the working language of the master and officers of the vessel.

(3) As was mentioned earlier, an approved plan is required for the issuance of an IOPP Certificate. Evidence of a valid IOPP in MSIS can be considered satisfactory evidence that a vessel's SOPEP has been approved. While MSIS may indicate the vessel has a valid IOPP, field units should check that the vessel has an approved SOPEP on board during a vessel boarding. SOPEPs are in the working language of the master and officers of the vessel.

(4) Enforcement for situations where a vessel does not have a copy of the approved SOPEP on board should mirror those followed for a vessel which fails to have adequate oil transfer procedures.

(5) Vessels which have not submitted or do not yet have an approved SOPEP should be treated in the same manner as those without an approved vessel response plan and the same conditions for allowing a transfer apply. An ROV shall be processed against U.S. flag vessels for failure to have a SOPEP. For foreign flag vessels, an ROV shall be processed and notification of the deficiency shall be made to the flag state.

4.A.6.k. Captain of the Port Orders

The Coast Guard will generally not issue COTP orders under 33 CFR 160.111 or 33 CFR 160.113 to vessels and facilities solely for being out of compliance with the response plan requirements. Rather, COTP units should take the appropriate enforcement action for vessels and facilities without response plans and should pursue Class I administrative civil penalties, prescribed in COMDTINST 16200.3 (series).

4.A.6.l. Oil Spill Removal Organization (OSRO)

In most cases, the vessel's owner or operator will rely on an OSRO; a commercial firm which specializes in oil cleanup, to provide resources. OSROs must be able to mobilize and deploy equipment and trained personnel and remove, store, and transfer recovered oil in accordance with their classification. OSROs are classified based on the area where they operate and the amount of oil they are capable of recovering daily as shown in **Figure 4-2**.

OSRO Class	Environment				
	River and Canal		Inland	Great Lakes	Oceans
A	Barrels	50	50	50	50
B		1,250	1,250	1,250	1,250
C	Per	1,500	10,000	5,000	10,000
D		3,000	20,000	10,000	20,000
E	Day	6,000	40,000	20,000	40,000

OSRO Classification
Figure 4-2

Purpose

The Oil Spill Removal Organization (OSRO) classification process was developed to facilitate the preparation and review of vessel and facility response plans. Section 4202 of the Oil Pollution Act of 1990 (OPA 90) amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) to require the preparation and submission of response plans for all vessels defined as "tank vessels" under 46 U.S.C. 2101 and for certain oil-handling facilities. An owner or operator who is required to submit a response plan must, among other things, identify and ensure by contract, or other means approved by the President, the availability of private personnel and equipment necessary to remove, to the

maximum extent practicable, a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge. The magnitude of the investment in specialized oil recovery equipment, temporary storage capacity, transporting oil for disposal, and in training sufficient numbers of personnel to remove such a discharge, in all foreseeable locations and operating environments, is unprecedented for marine environmental response preparation. The system for assembling, mobilizing, and controlling these resources is extremely complex. To meet the statutory requirements, each response plan must identify the means for accomplishing these tasks.

The OSRO classification process represents standard guidelines by which the Coast Guard and plan preparers can evaluate an Oil Spill Removal Organization's potential to respond to and recover oil spills of various sizes. Plan holders that arrange for the services of a Coast Guard classified OSRO do not have to list their response resources in their plans.

4.A.7. Spills of National Significance (SONS)

A Spill of National Significance (SONS) is a rare, catastrophic spill which captures the nation's attention due to its actual or potential adverse impact to the environment, public health or safety. A SONS is defined as a spill which greatly exceeds the response capability at the local and regional level and which, due to its severity, size, location and widespread environmental, economic and public health impact, is so complex it requires extraordinary coordination of federal, state, local government and private resources to mitigate, contain, and clean up where possible.

Only the Commandant can declare a SONS for discharges in the coastal zone. The Commandant may name a National Incident Commander (NIC) who will assume the role of the OSC in communicating with affected parties and the public. The NIC will also serve as the national level coordinator for federal, state, local and international resources. This strategic coordination will involve, as appropriate, the NRT, RRT(s), the Governor(s) of affected state(s) and officials of local governments.

4.A.7.a. Spills of National Significance Protocol

A Commandant Note was published, in March of 1994, that established a National Incident Task Force (NITF) to provide strategic management and support to execute a SONS response. This Commandant Note was canceled in March of 1995 and should not be referred to for a SONS response organization. A new SONS protocol is under development. The SONS protocol will incorporate the National Interagency Incident Management System (NIIMS) Incident Command System (ICS) as the response management organization. The new protocol will be published as a Commandant directive and eventually be incorporated into the Marine Safety Manual.

4.A.8. District Response Group (DRG)/District Response Advisory Team (DRAT)

OPA 90 requires a District Response Group (DRG) and District Response Advisory Team (DRAT) in each Coast Guard District to assist in the preparation of Area Contingency Plans which address local response needs, examines environmental issues, identifies local response shortfalls, and corrects any noted deficiencies. The DRAT serves as the DRG's dedicated staff. This organization is designed to ensure that the Coast Guard applies all its district resources most efficiently to an oil spill or other pollution emergency and assists the OSC in responding to an actual or substantial threat of discharge from a vessel or facility. This section addresses DRG and DRAT roles and capabilities with respect to preparedness. Additional information on DRG and DRAT response related roles and capabilities are discussed in Chapter 5, Response.

4.A.8.a. District Response Group

A framework within which districts organize their response resources, the DRG includes:

- all Coast Guard units, personnel (including reservists and auxiliarists), and equipment (vessels, aircraft, other material) within the district's geographic boundary;
- all pre-positioned response equipment strategically cited in the district (and, on request, equipment from other districts); and

- the DRAT, three to six technical experts added to the District (m) division staff.

The DRG also identifies the location of marine firefighting resources, particularly if a fire poses a threat of a release of oil or a hazardous substance and is of sufficient magnitude to overwhelm a local port's capabilities to fight it.

(1) The district commander is responsible for the DRG's organization, functional responsibility, and response readiness, with the district Chief of the Marine Safety Division serving as the DRG's commander. Since the district furnishes the first assistance, including trained personnel, its response should be planned thoroughly. In preparing the DRG's work plan, the district commander should amend Standard Operating Procedures to include DRG preparedness and response activities across traditional program lines in:

- preparedness;
- providing technical assistance;
- helping in plan development;
- reviewing ACPs;
- coordinating use of all district assets, including vessels, aircraft, and personnel (including reservists and auxiliarists); arranging pre-negotiated releases and accounting;
- identifying non-district Coast Guard resources located in the district's Area of Response and the ways to gain access to them;
- identifying and inventorying other district response equipment, including fire fighting resources; the DRG should coordinate its inventory with the NSFCC to avoid duplication;
- planning logistics of rapidly deploying district and NSF resources, including coordinating transport of response equipment to the spill site within the district or to or from an adjoining one and obtaining needed transportation permits;

- ensuring that response and safety training is provided to all district Coast Guard personnel;
- response;
- maintaining and deploying Coast Guard-owned or -controlled response equipment;
- providing the additional technical personnel an OSC requires on-scene at a spill response; and
- arranging for a contract/finance officer to serve on the OSC's staff if funds are spent from the:
  - — Oil Spill Liability Trust Fund; and
  - — Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Fund.
- Using the deliberate planning process in developing response plans to support ACPs in the event of major spills. Area Commanders and MLCs should be consulted to provide out-of-district personnel to augment the OSCs response organization during major spills. Specific procedures for obtaining out-of-district personnel should be included in District SOPs.
- District SOPs should provide a mechanism for sustaining the spill response with intra-district personnel resources and identify the point that out-of-district resources will be required. These portions of DRG mobilization plans need to be exercised.

4.A.8.b. District Response Advisory Team (DRAT)

The DRAT acts as the DRG's coordinating body and facilitates its functions. In those roles it:

- serves as a readily accessible, easily deployable team dispatched to support an OSC or another unit dealing with a large, complex spill requiring additional resources;

- enhances pollution response preparedness at the port/district level;
- maintains a liaison with the National Strike Force Coordination Center (NSFCC);
- monitors and tracks state activities in redefining and expanding their marine safety and environmental protection programs; each district commander is developing a Memorandum of Agreement (MOA) under Headquarters and National Pollution Funds Center assistance with each State in the district. (The district commander may ask the DRAT to support the MOA drafting team.);
- coordinates state and Coast Guard international, domestic, regional, state, and local agendas;
- provides the foundation for cooperating on a full range of marine pollution-related activities;
- executes DRG duties involving pollution response and preparedness as a section of the district Marine Safety Division's Marine Environmental Protection Branch located in the district office; generally they will perform routine collateral duties and remedial cleanup on a very limited basis; and
- conducts the response and safety training the DRG prescribes.

4.A.9. Database Support

4.A.9.a. General

The Spill Planning, Exercise, and Response System (SPEARS) has been developed to leverage expertise, coordination, planning, information management, and resources to upgrade the nation's level of preparedness and capability to successfully mitigate pollution incidents. A cooperative development between G-M and NOAA, SPEARS is intended to be an integrated, interactive information management and decision support tool to assist in:

- comprehensive planning,
- conducting exercises, and
- responding to oil and hazardous material pollution incidents.

4.A.9.b. SPEARS as a Planning Tool

SPEARS may be used as a planning tool to gain information on Area resources, spill history and identification of sensitive areas. It can also produce aerial plume models for airborne release planning. As part of the planning cycle, SPEARS information should be updated following plan review, exercise and actual response. Detailed information on SPEARS is located in Chapter 5, Response.

Section 4.B Exercises

4.B.1. Preparedness for Response Exercise Program (PREP)

The cornerstones of the OPA 90 legislation focused on prevention, preparedness, and response. The response plans required by industry, as well as government, are designed to prepare for an incident and, in the event of an oil spill, ensure the response is conducted to minimize damage to public health and the environment. To ensure these response plans and Area Contingency Plans (ACPs) will be executed well during an actual oil spill, OPA 90 and response plan regulations require that they are exercised. To that end, the Preparedness for Response Exercise Program (PREP) was developed.

PREP was developed to provide a mechanism for compliance with the exercise requirements, while being economically feasible for the government and oil industry to adopt and sustain. The PREP is a unified federal effort and satisfies the exercise requirements of the Coast Guard, the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA), Office of Pipeline Safety (OPS), and the Minerals Management Service (MMS).

In August 1994, the PREP Guidelines were published. These guidelines are a culmination of more than one and one-half years of workshops with federal, state, and local government agencies and private companies, as well as other interested parties. The Guidelines outline the frequency and types of exercises a plan holder should conduct to meet the exercise requirements of the appropriate response plan regulations.

The types of exercises are divided into two categories: internal and external. The internal exercises are:

- quarterly Qualified Individual notification exercises;

- quarterly Emergency Procedures exercises for vessels and barges;
- annual Emergency Procedures exercises for facilities (optional);
- annual Spill Management Team tabletop exercises;
- semi-annual Equipment Deployment exercises for facility-owned equipment, and
- annual Equipment Deployment exercises for OSRO or CO-OP equipment.

All internal exercises are self-evaluated and self-certified.

The external exercises are:

- Area exercises; and
- Government-initiated unannounced exercises.

This manual will not duplicate the information in the PREP Guidelines. It is intended to supplement the information about Area exercises and what may be needed to conduct the exercise.

4.B.2. Credit for PREP Exercises

The PREP Guidelines describe how plan holders can take credit for internal exercises when they respond to an actual incident. The Guidelines also describe how the National Scheduling Coordinating Committee (NSCC) will give credit to industry and government when they request credit for an actual spill response.

4.B.2.a. External Exercise Credit

When a government or industry requests credit for an actual spill response, the plan holder needs to evaluate the response in terms of the PREP objectives. Generally, a Joint Evaluation Report will be written by representatives from primary agencies responding to the spill, i.e., Coast Guard, industry, and State. The report will be written in the lessons learned format consist with the other government-led exercises. If an Incident Specific Preparedness Review report is written for the oil spill, then this report can be submitted in lieu of the Joint Evaluation Report.

4.B.2.b. Government-Initiated Unannounced Exercise Credit

As discussed in the PREP Guidelines, the Government-Initiated Unannounced Exercises are designed to give the Coast Guard an opportunity to evaluate, on a random basis, their Area's response preparedness. There may be situations when the industry plan holder wants to use the Government-Initiated Unannounced Exercise to meet the requirements for internal exercises (i.e., internal unannounced spill management team tabletop exercise). Because these Government-Initiated Unannounced Exercises are used by the COTP to determine industry preparedness, to take internal exercise credit, an industry plan holder must request approval from the COTP.

At the completion of the exercise, the plan holder must formally request the COTP to allow them to take credit for an internal exercise. The industry participant should demonstrate that the objectives of the internal exercise are similar to the objectives of the external exercise and that the exercise was evaluated internally. Where problems were encountered , the response plan will be amended.

The COTP can decide to allow the industry participant to take credit if, in the opinion of the COTP, the plan holder performed well during the exercise. If the COTP believes that the plan holder exercised in good faith and will amend the response plan based on the results of the Government-Initiated Unannounced Exercise, as well as the internal exercise, then the COTP should allow the plan holder to take credit.

4.B.2.c. Internal Exercise Credit

Although the internal exercises are self-evaluated and self-certified, questions may arise regarding what is considered an appropriate exercise and should receive credit for an internal exercise.

The question has been raised with respect to Spill Management Team (SMT) Tabletop exercises, especially when the SMT is not within the plan holders corporation. Although the exercise is called SMT Tabletop exercise, the plan holder is the entity that takes credit for the exercise. The intent of the exercise is to ensure the SMT can integrate into the plan holders organizational structure. This exercise requirement ensures familiarity with sources, sizes,

and locations of potential spill scenarios they will be responsible for managing. For the exercise to be effective, the members from the plan holders organization participating in the exercise, must be the decision-makers during an incident. The plan holder must be actively engaged in the decision-making process during the exercise. For foreign plan holders, the Coast Guard encourages the plan holders participate in person at the exercise, but understanding the economic burden of this requirement, the plan holder should participate via telephone if that is the manner they would engage during an actual spill.

4.B.3. Area Exercises

The following describes how to plan an area exercise. The differences between government and industry-led exercises are the roles filled by the lead plan holder. The steps to developing an exercise are: planning, execution, and evaluation. The complexity of the planning and execution is dependent on the exercise Director and the design team. The evaluation phase will vary very little between exercises.

4.B.3.a. Government-Led Area Exercises

All PREP exercise participants have roles and responsibilities; **Figure 4-3** below details these responsibilities. Where an office changes title or does not exist, a functional equivalent should execute the role.

EXERCISE SPONSOR - Commandant (G-MOR)

- ensures that exercise scope and content meet program goals
- selects Areas to conduct an exercise
- provides funding to support exercise to Exercise Director; funds used for
  - — administrative costs
  - — travel costs, including lodging and *per diem* for Cost Guard participants
  - — equipment deployment, including OSRO hiring cost if appropriate
  - — facility rental
  - — telephone installation and service
- monitors exercise design, execution, evaluation

↓

EXERCISE DIRECTOR - District (m)

- ensures exercise meets District concerns
  - — identifies issues
  - — develops goals
  - — establishes objectives
- provides overall direction to exercise participants
- assigns District representatives to exercise design, control, and evaluation teams
- works with lead plan holder to identify additional exercise participants
- appoints the exercise Evaluation Director

↓

EXERCISE COORDINATOR - National Strike Force Coordination Center (NSFCC)

- provides expertise on exercise design, execution, evaluation
- guides exercise design and control teams
- coordinates, guides evaluation process for Joint Evaluation Team
- leads exercise support team
- with Exercise Control Team conducts actual exercise execution

↓

LEAD PLAN HOLDER - OSC for the Area conducting the exercise

- works with Exercise Director to identify Area issues, develop goals
- with NSFCC and Exercise Director, determines which objectives address the identified issues
- identifies industry, other agency participants in exercise
- solicits participants at Area Committee meetings
- provides exercise design, execution, evaluation support teams

PREP Roles and Responsibilities
Figure 4-3

Although the Exercise Director and design team establish the exercise's size and scope, the exercise usually lasts 8 to 12 hours. An exercise should challenge as many of the 15 core components (listed in **Figure 4-4**) as possible. Although the PREP guidelines require equipment deployment, it is an optional function during an Area Exercise.

1. Notification	6. Containment	12. Personnel Support
2. Staff Mobilization	7. Recovery	13. Equipment Maintenance and Support
3. Operate within Management System	8. Protection	14. Procurement
4. Discharge Control	9. Disposal	15. Documentation
5. Assessment	10. Communications	
	11. Transportation	

PREP Core Components
Figure 4-4

(1) Planning

Generally three meetings are sufficient to plan a one-day (8 to 12 hours) exercise, though more may be necessary for very complex exercises. NSFCC develops and maintains the meeting and exercise schedule; if a conflict arises, the Exercise Director or Lead Plan Holder should notify the Exercise Sponsor and NSFCC as soon as possible to resolve any issues.

- Before the first meeting:
  - District (m) representatives work with the OSC and Area representatives to determine which exercise objectives of the 15 core components will be challenged, and
  - the Exercise Director and Lead Plan Holder contact all the potential exercise players including industry participants.
- The first meeting is the Coordinators' Consult where NSFCC meets with the players and design team participants. The exercise scenario design requires at least two meetings—initial and final—and perhaps more for complex, lengthy exercises.

Exercise Planners can use SPEARS to develop PREP scenarios in a number of different ways. SPEARS can be used to identify the following types of information:

— location to conduct an Area Exercise or simulate an event for a Spill Management Tabletop Exercise;

— types of oil transported into and away from a location, and;

— locations where a high frequency of incidents occur.

- During the second and third meeting, the design team decides on the scenario, primary and secondary players, controllers, evaluators, and the exercise inputs (actions). During government-led exercises, very little is simulated. If an agency or company wants to include their highest corporate office in the play, then they have to participate fully. The role of media and the public (citizens) is usually simulated. At this time, the Evaluation Director is appointed to head the Joint Evaluation Team.

(2) Exercise Execution

The NSFCC and Exercise Control Team manage the actual exercise execution.

- The Team's primary participants are Area response infrastructure members, controllers, evaluators or data collectors.

  — These members may be selected from the District (m), NSFCC, National Pollution Funds Center (NPFC), the DRGs, OSC's staff, state(s), Regional Response Team members, Area Committee members, industry participants, and others as appropriate. Headquarters planning personnel and G-MOR also may perform these functions on the exercise if necessary.

The most viable way to ensure consistency among data collectors is to use the District PREP Coordinators as a core group of exercise controllers. There are some distinct advantages to this approach. The District PREP Coordinators possess program knowledge, familiarity with Coast Guard issues, and can most effectively and consistently collect data with minimal training requirements. Additionally, using the District PREP Coordinators will improve overall knowledge of exercises for the Coast Guard, increase exposure to lessons learned and dissemination to District and units, which, in turn should create greater uniformity in exercise control.

- The NSFCC will conduct the briefing and training for controllers, evaluators, and data collectors for their responsibilities in the exercise.

(3) Exercise Evaluation

- The NSFCC coordinates the exercise evaluation process, working closely with the Evaluation Team leader and the Joint Evaluation Team. The Joint Evaluation team is composed of representatives from the Federal, state, and industry players. The NSFCC will assist District (m) or the Evaluation Director in preparing the Joint Evaluation Team Report. The Joint Evaluation Team report includes, but is not limited to, a description of the scenario, the objectives chosen for evaluation, observations, lessons learned, and recommendations.

  G-O-2 will assist the Evaluation Team when developing the lessons learned. Data collectors focus on the response *process*, including:

  — the effectiveness of government/industry interaction,

  — the practicality of the Area Contingency Plan and the industry response plan, and

  — how conduct during the exercise relates to what was planned to happen.

Lessons Learned Format and Procedures

A lesson learned describes a better way of accomplishing a task or overcoming a problem. It should describe: (1) a successful action that should be noted for future reference; (2) a problem encountered that has service-wide significance, and the positive action the participants took to bypass or alleviate that problem; or (3) a problem that was encountered for which no solution was found.

For the PREP to be effective, lessons learned must be submitted for all government-led PREP exercises. Even if the information appears to be relevant only to the submitting Joint Evaluation Team, it may prove beneficial when shared with others.

Each lesson learned must stand alone (i.e., it must make sense without reference to any other lesson learned in the database or to any other document). Paragraphs should be written so that they can be understood and properly interpreted by someone not involved with the exercise. All acronyms and abbreviations must be spelled out the first time they are used in each lesson learned report.

The following describes the type of information for each category listed in the lessons learned format.

(1) Paragraph 1 contains the unique PLLS Number which is automatically assigned by the PLLS software and used to identify the report. Next list the name of the organization preparing the report, then the name of the individual who will serve as the point of contact for the report.

(2) Paragraph 2 contains the type and nickname of the exercise and the exercise director. For PREP exercises, the type of exercise may be Area or Spill Management Team Tabletop Exercise. The exercise director depends on the responsible person. For example, the exercise director for a Government-led Area Exercise is the District representative.

(3) Paragraph 3 is where the “KEYWORDS” are listed. Keywords should be specific to the lesson learned and sufficient in number to allow retrieval of the record when it is part of the database.

(4) Paragraph 4 is the "TITLE" of the lesson learned. It should reflect both the subject area and the nature of the lesson learned. This data field allows up to 75 characters which should be typed in upper and lower case letters.

(5) Paragraph 5 is the "OBSERVATION". This block should contain a brief factual statement of the observed success or problem. This statement can be: (1) positive, or about procedures used that should be advertised or shared; or (2) negative, something that happened that was not supposed to occur or something that did not occur, but should have. Each lesson learned should be limited to a single observation.

(6) Paragraph 6 is the "DISCUSSION", in which better describes or clarifies the success or problem described in the observation statement by answering the "who, what, where, when, why, and how" questions.

(7) Paragraph 7 is the "LESSON LEARNED" or on-site adjustment. This paragraph contains: (1) a statement of the positive action, if any, taken to generate success; or (2) a statement of the action that should have been taken to avoid or alleviate the problem. Enter the word "none" if no solution or work around was identified.

(8) Paragraph 8 is the "RECOMMENDED ACTION", in which a statement of how to repeat the success or permanently correct the problem, and who should make the correction.

The recommendation could result in a requirement for new or modified publications, procuring new equipment, revising contingency plans or industry response plans, etc. This should not be a restatement of paragraph 7.

(9) Paragraph 9 is the "COMMENTS" section where additional pertinent information by any participant is included.

PLLS LONG REPORT FORMAT

1. PLLS NUMBER:* _____, submitted by _____

2. TYPE** conducted by _____ on _____ mm/dd/yy

3. KEYWORDS:

4. TITLE:

5. OBSERVATION:

6. DISCUSSION:

7. LESSONS LEARNED:

8. RECOMMENDED ACTION:

9. COMMENTS:

— SUBJECT:

— INTEROPERABILITY:

* PLLS Number is automatically assigned by the software when a new record is created.

** TYPE refers to type of exercise conducted (i.e., SMT)

Figure 4-5

A few weeks after the evaluation team drafts the Joints Evaluation Report, the NSFCC completes report. Then submits it to the District (m) and COTP for review. The COTP forwards the report to District (m). District (m) sends the final version to G-MOR. G-MOR then has the report put into the PREP Lessons Learned System (PLLS) computer database.

PLLS is available on an electronic bulletin board, 703-313-5910, or Internet at http:\\www.navcen.uscg.mil\prep\prep\.htm.

4.B.3.b. Industry-Led Exercises

There are approximately 11 industry-led exercises held annually; the OSC and staff shall participate in all phases of exercise design, execution, and evaluation. The industry and District (m) are responsible for ensuring that the exercise occurs as scheduled. In accordance with the VRP and FRP regulations, the OSC may direct an industry to lead an industry-led exercise.

(1) If industry representatives notify the National Scheduling Coordinating Committee that they want to participate in an exercise, the NSCC forwards this notification to District (m), which with the OSC's staff decides whether to include the industry and calls the NSCC, which then adds the industry to the schedule. If the industry notifies the COTP about participating in an exercise, the OSC's staff notifies District (m) and G-MOR whether they want that industry; G-MOR adds the industry representative to the schedule.

(2) The industry lead plan holder:

- is the Exercise Sponsor,
- names the Exercise Director and Design Team, and
- designs, develops, and executes the industry-led exercise.

(3) The Coast Guard will play an active role in coordinating with the industry during the exercise design phase to ensure that the Area response mechanism is adequately challenged.

(4) If Coast Guard resources are available, District (m) may authorize their participation in unscheduled industry exercises, which may be credited as an Area exercise.

A Joint Evaluation Report should also be written for industry-led exercises. The industry lead should provide the evaluation director and the report should be written in the same format as the lessons learned report format for Government-led exercises. Once the report is completed, District (m) may forward it to G-MOR for inclusion into the PLLS database.

4.B.3.c. Internal PREP Exercises

Three exercises test different portions of the Area Contingency Plan (ACP). **Figure 4-6** provides a summary of these exercises. District (m) is the Exercise Sponsor and the OSC is Exercise Director. If resources are available, District Planning and the appropriate Strike Team provide assistance, the latter particularly for equipment deployment.

Exercise	Tests
Quarterly Notification	Test communications among critical members of the Unified Command during initial response
Annual Spill Management Tabletop (SMT TTX)	Government participation within the ACP-identified Unified Command System; OSCs should encourage state and industry participation
Equipment Deployment	Deployment of Coast Guard-owned first aid and prepositioned equipment

Internal PREP Exercises
Figure 4-6

(1) Several sources of assistance are available for those who wish to hold exercises.

- The NSFCC has information available to assist in exercise development, execution, and evaluation.
- Marine Safety School at RTC Yorktown has designed a model exercise to walk an Area spill management team through its responsibilities to further refine interaction and improve the Unified Command System.

4.B.3.d. Government-Initiated Unannounced Exercises

When determining preparedness, the Government-Initiated Unannounced Exercises are a useful tool to the COTP. The development of the scenario is flexible enough so that the COTP can

determine if the plan holder can implement all parts of the response plan. For example, if the COTP believes there is a discrepancy between the information in a response plan and the capabilities of the referenced co-op or Oil Spill Removal Organization (OSRO), then the COTP can use an unannounced exercise to highlight the issue and the plan holder can make corrections to accurately reflect the capabilities. Unannounced exercises conducted to date have been successful in highlighting problems in the industry response plans and, in turn, better preparing the area for a spill.

As discussed in the PREP Guidelines, the Government-Initiated Unannounced Exercises are designed to give the agency with primary regulatory responsibility for an industry the opportunity to evaluate, on a random basis, their response preparedness. For Coast Guard-regulated vessels and facilities, there are several issues to be considered.

- The exercises are limited to four per area per year.
- The exercise is limited to 4 hours in duration.
- A plan holder, directed to participate in a Government-Initiated Unannounced Exercise, is required to participate.
- The exercise scenario involves a response of an average most probable discharge scenario, if deploying equipment; however, the scenario can involve a larger quantity if no equipment is deployed.
- The PREP Guidelines state that equipment deployment is involved in the exercise. However, unannounced exercises have been conducted where equipment deployment was simulated. Whether equipment is deployed depends on the objectives of the COTP.

When conducting an unannounced exercise, the cost is borne by the industry plan holder. For this reason, the length of the exercise should not exceed 4 hours. The COTP should insure that the exercise objectives are met and the plan holder is well prepared to respond to an oil spill.

When an exercise is conducted, the industry plan holder is not required to participate in another Federal Government-Initiated Unannounced Exercise for at least 36 months.

The plan holder must maintain documentation of this participation for three years. The documentation should be available to the Coast Guard upon request.

There may be situations when the industry plan holder wants to use the Government-Initiated Unannounced exercise to meet the requirements for internal exercises (i.e., internal unannounced spill management team tabletop exercise). Because these Government-Initiated Unannounced Exercises are used by the COTP to determine industry preparedness, to take internal exercise credit, an industry plan holder must request approval from the COTP.

At the completion of the exercise, the plan holder must formally request the COTP to allow them to take credit for an internal exercise. The industry participant should demonstrate that the objectives of the internal exercise are similar to the objectives of the external exercise and that the exercise was evaluated internally. Where problems were encountered, the response plan will be amended.

The COTP can decide to allow the industry participant to take credit if, in the opinion of the COTP, the plan holder performed well during the exercise. If the COTP believes that the plan holder exercised in good faith and will amend the response plan based on the results of the Government-Initiated Unannounced Exercise, as well as the internal exercise, then the COTP should allow the plan holder to take credit.

4.B.4. Exercise Review

The exercise evaluation process focuses on plan feedback, identifying the plan's strengths and weaknesses, and how well the plan works and coordinates its various elements. Evaluation results are lessons learned that the Coast Guard and industry can apply nationwide to improve plan quality, the planning process, and participant response to a pollution incident. We do not know what the overall results are, but hope that as a result of exercises, there will be reductions in the threat of illness, improved survival of wildlife and environment, costs saved, and general improvement in quality of life.

Section 4.C
Incident Review

4.C.1. Incident-Specific Preparedness Review

An Incident-Specific Preparedness Review (ISPR) occurs at the direction of Coast Guard Headquarters following the completion of the initial response phase of a specifically selected incident. Commandant (G-M), in consultation with the cognizant District Commander, determines when an incident and the ensuing response warrant the convening of an ISPR Team. It is anticipated that no more than four ISPRs will be convened during any given fiscal year.

4.C.1.a. General

The goal of the ISPR is to document a thorough assessment of the Coast Guard preparedness processes. This review will focus on the objective review of response actions undertaken following an incident compared to the planning assumptions in effect during the time of the occurrence. The primary mission of an ISPR team is not to grade or critically evaluate the actual response efforts undertaken, but instead, study the implementation and effectiveness of the ACP and its integration with vessel response plans, facility response plans and other relevant and applicable plans in effect at the federal, state, and local levels.

The ISPR does not, and shall not be relied upon to create any rights, privileges, duties or benefits, either substantive or procedural, enforceable at law by any person or entity in any administrative, civil, criminal, or other matter. An ISPR report is intended to identify strengths and weaknesses in the planning methodology to produce positive, effective preparedness improvements where determined to be appropriate.

ISPRs are not considered administrative investigation as defined by COMDTINST M5830.1 (Administrative Investigations Manual) although this document may be used as a general reference.

Except as determined by the chairman on the advice of the other members of the ISPR team, none of the deliberations of the ISPR team will be conducted in public. The availability of agency records, including notes or other documents, arising from the ISPR's work are subject to the applicability of the Freedom of Information Act, 5 U.S.C. 552(a), and Administration policy. All notes and other records generated by an ISPR team during the course of a review shall be submitted to Commandant (G-MOR) along with a copy of the report when completed. Commandant (G-MOR) shall maintain these records on file for one year from the date of submission.

All travel associated with an ISPR must be authorized by the ISPR chair. Commandant (G-MOR) provides accounting data and TONOs to Coast Guard members, who must submit properly documented travel claims through their local PERSRU and then submit copies of the processed travel voucher summaries to Commandant (G-MOR). State, industry, and other representatives invited to participate on an ISPR team will receive invitational orders. Commandant (G-MOR) is responsible for funding travel and lodging expenses. The Coast Guard will not compensate other representatives for their time spent on the review.

4.C.1.b. ISPR Team

(1) Formation

Upon determination that an ISPR will be convened, Commandant (G-M) will designate the members of the team in writing. An ISPR team will normally consist of a chairman, two to four additional team members and one recorder. Actual team membership will depend on the circumstances surrounding the specific incident under review. Given that the type of experience required by an ISPR team will vary from incident to incident, specific teams members will accordingly be

selected to reflect necessary experience. ISPR members shall include state and or industry representatives as appropriate. Industry representative will be selected from candidates compiled from responses received to federal register notices soliciting participation. Generally, members of an ISPR team will be selected from individuals not involved with the response to an incident.

(2) Responsibilities

An ISPR team shall examine the implementation and effectiveness of the ACP, as well as the ACP's integration with vessel or other appropriate plans. Therefore, information gathering efforts such as interviews of personnel, examination of available records, message traffic, and contingency plans will be necessary. Members of a team do not have federal subpoena authority, so voluntary cooperation of federal, state, and local agency employees and the public must be sought. Coast Guard personnel are required to fully cooperate with an ISPR team.

An ISPR team shall not interfere with any Coast Guard casualty investigation, National Transportation Safety Board investigation, or local board of inquiry which are being conducted separately. Furthermore, while an ISPR and its members have access to all publicly available information from such investigations or inquiries, the ISPR team will not have access to such information which is not publicly available. In addition, an ISPR team shall not identify fault, blame or violation of federal or state laws or regulations, or identify the cause of a casualty. If information or evidence of such violations are acquired during a review, they should be provided to the proper investigative body.

The ISPR member designated as recorder is responsible for:

- Assembling and providing documentary information required by the team (e.g., ACP, relevant State/Local Contingency Plans, Industry Response Plans, POLREPS/Correspondence, lab results, etc.)
- Coordinating travel, interview, meeting space, and report generating arrangements
- Assimilates teams work into final draft document for ISPR Chair's signature

4.C.1.c. ISPR Report

When the ISPR team has completed its review of the incident, the chair shall submit a final report to Commandant (G-M), with a copy to Commandant (G-MOR), the affected AREA and District (m), and the appropriate OSC within 3 months from the convening date. This report shall contain: an executive summary including the teams review process, identification of areas of focus, comments relating to the focus areas, and document lessons learned obtained from the review. If the reporting deadline cannot be met, the chairman shall submit a letter to Commandant (G-M) explaining the reasons for the delay along with the anticipated completion date. Specific lessons learned shall be reported using the PREP Lessons Learned System (PLLS) format identified in the PREP section of this Chapter.

An ISPR team may find it beneficial to review previous ISPRs for process, form, and content. ISPRs are expected to be clear and succinct reports such that readers may quickly ascertain the areas of focus relative to the incident, with lessons learned that will foster an improved future preparedness posture. Presently, a Standard After Action Reporting System (STAARS) is being developed as a COMDTINST 3010.19 (series) and designed to capture universal lessons learned across all program areas. The format of ISPRs will be required to incorporate lessons learned in accordance with such an instruction in the future.

As suggested from an actual ISPR, teams may find it useful to generate the following types of products as the review process is

initiated and conducted, as well as aiding with compilation of the final report:

- Event Chronology
- Point of Contacts List
- Focus Issue Areas
- Interview Guide (outline to ensure focus & comprehensiveness)
- Reference Document Bibliography

Section 4.D Training and Education Programs

In addition to Marine Safety School courses which cross several program boundaries, the Coast Guard has four primary training programs for the field of marine environmental protection. These programs are:

- Marine Environmental Protection Industry Training (MEPIT),
- Direct Commission Environmental Manager (DCEM) Program,
- Environmental Management Post Graduate Training, and
- On Scene Coordinator's Crisis Management Course.

4.D.1. Marine Environmental Protection Industry Training (MEPIT)

4.D.1.a. MEPIT Program

The MEPIT program is a nine- to twelve-month-long industry and governmental internship established in response to the growing need for marine safety officers with expertise in marine environmental protection and response. MEPIT offers four different areas of emphasis:

(1) Spill response organizations (Marine Spill Response Corp., National Response Corp., etc.)

(2) Shipping and industry/facility operators (pollution prevention, preparedness and response)

(3) States issues (contingency planning, regulatory development)

(4) International Organizations (Pollution Prevention Preparedness Response and Training)

4.D.1.b. Applicant Background

Applicants compete annually for available Training allowance billets. The MEP program especially desires applicants who have an operational background in Marine Safety Office port operations, Strike Teams, or staff tours at District (mep) or DRATs. Outstanding applicants, with a broad base of MSO experience, should not hesitate to apply even if they have not had a Port Operations assignment.

4.D.1.c. Internship

Candidates for the MEPIT spill response organizations program may complete an internship with a number of response organizations. For the MEPIT shipping and industry/facility operators program, the intern will usually be based in Washington, DC and may travel to several major ports for TAD assignments with facility operators and vessel owners. The states issues internship provides an important insider's view of state environmental concerns and a better appreciation for the state/Federal coordination process. Travel fund limitations have prevented the program from sending candidates overseas for the international pollution training internship, but there has been considerable interest from international organizations in sponsoring an intern.

(1) Past candidates have completed internships with the Marine Spill Response Corporation, the Coastal States Organization, the Environmental Protection Agency, the Department of Interior and the American Petroleum Institute, all located in Washington, DC. Follow-on tours can be expected at G-MOR, District (mep), DRATS, MSOs, Strike Teams, or the Marine Safety School with at least one tour at Headquarters.

(2) The MEPIT program is an opportunity to gain a new perspective and insight into domestic and international oil spill and hazardous material response directly from

professional organizations that perform this function on a daily basis. It exposes our officers to alternative cleanup and response methodologies from domestic and international organizations. It also teaches our officers the policy concerns of state organizations so that our officers can in turn be more effective in setting and implementing Coast Guard environmental policy and regulations.

4.D.2. Direct Commission Environmental Manager (DCEM)

4.D.2.a. Participants

Program participants are college graduates who qualify for the Direct Commission Officer (DCO) program and meet specific education and work experience as discussed below.

4.D.2.b. Eligibility Requirements

Eligibility Requirements

(1) For Lieutenant:

- Age:
  - Must not have reached the age of 38 as of DCO class convening date.
- Education and experience:
  - One full year of work experience in environmental management, environmental economics, the environmental sciences, environmental regulatory preparation, interpretation/analysis, pollution contingency planning AND a doctorate from an accredited university.
  - Additional considerations will be given those candidates with a doctoral degree in public policy or public administration, with specialties in environmental management, environmental economics, or environmental sciences or a law degree in environmental management, environmental economics, or environmental sciences.
  - Three full years of work experience in environmental management, environmental

economics, the environmental regulatory preparation, interpretation/analysis, pollution contingency planning AND a law degree Juris Doctorate (JD) or Environmental Law (EL) from an accredited university. Additional considerations will be given those candidates with a bachelor's degree in public policy or public administration with specialties in environmental management, environmental economics, or the environmental sciences.

— Five full years of work experience in environmental management, environmental economics, the environmental sciences, environmental regulatory preparation, interpretation/analysis, pollution contingency planning AND a master's degree in public policy or public administration with specialties in environmental management, environmental economics, or in the environmental sciences.

(2) For Lieutenant (junior grade):

- Age:

  — Must not have reached the age of 34 as of DCO class convening date.

- Education and experience:

  — No work experience in environmental management, environmental economics, the environmental sciences, environmental regulatory preparation, interpretation/analysis, pollution contingency planning AND a law degree (JD OR EL) from an accredited university.

  — One full year of work experience in environmental management, environmental economics, the environmental sciences, environmental regulatory preparation, interpretation/analysis, pollution contingency planning AND a master's degree from an accredited university. Additional considerations will be given those candidates with a master's

degree in public policy or public administration with specialties in environmental economics, or the environmental sciences.

— Five full years of work experience in environmental management, environmental economics, the environmental sciences, environmental regulatory preparation, interpretation/analysis, pollution contingency planning AND a bachelor's degree from an accredited university. Additional considerations will be given those candidates with course work completed towards a master's degree in public policy or public administration with specialties in environmental management, environmental economics, or the environmental sciences.

4.D.3. Environmental Management Post Graduate Training

The Marine Environmental Protection Program also provides the opportunity for a select number of officers to attend graduate school full time for an advanced degree in environmental management.

(1) To be eligible for consideration, applicants should have had a prior tour in marine safety and should be tour complete the following year after application.

(2) Selection Boards for past graduate training usually occur in late spring.

(3) After completion of graduate school, graduates should expect a follow-on tour in G-MOR.

(4) Personnel interested in applying for this program should consult the Training and Education Manual for guidance in submitting an application.

Appendix 4-A
Recommended Procedures for Conducting Comprehensive Reviews of Facility Response Plans

One of the objectives of facility response plans (FRP) regulations is that sufficient flexibility be permitted for the plan to reflect an owner's or operator's corporate structure and existing operating procedures. We have also stressed the point that these are their plans. Evaluation of a FRP using a structured line item checklist may not be the best approach for plans which were not prepared in a specified boilerplate fashion.

This Appendix provides information of an alternative method of plan review and is consistent with how vessel response plans (VRP) comprehensive reviews are currently being conducted. It proposes a list of critical areas to be thoroughly examined during the comprehensive review process. We recognize that some plans will be better or more comprehensive than others, yet we propose that plans be approved or rejected based on this critical area review, which focuses on items that are essential for the plan to meet the intent of the response plan regulations. (Process, Risk, Preparedness, Responsibility).

Rather than applying a lengthy detailed checklist and hunting throughout a plan for language to fulfill each requirement, it is recommended that reviewers read the entire plan to get a feel for the workability of the document. (This action will also allow for greatest flexibility in the structure of the plan.)

Figure 4-A-1 is a multiple page sample checklist of the criteria that should be checked.

Using the above approach, the following items would be evaluated comprehensively, using a review sheet and a planning volume calculation spreadsheet.

- Identification of the facility covered by the plan
- Identification of the owner and operator
- QI and AQI; information including contact procedures
- Notification procedures
- Spill Management Team: identification of members, team organization and description of duties
- Oil Spill Removal Organizations (OSROs), checked against the facility's requirements for each spill scenario, operating environment and COTP zone
- Sensitive Areas: identification, information, and maps
- Specific information including contact lists and OSROs to protect areas of environmental sensitivity or economic importance
- Facility specific information, including the physical layout
- Site Specific Safety and Health Plan
- Spill Mitigation Procedures: verifying that they are in the plan or that reference is made to separate manual(s)
- Training: review to verify a training program exists for required personnel and the training and records are being maintained
- Drills: review to verify a drill and exercise program exists and that drill records are being maintained

Reviewing FRPs in this manner can significantly speed the review process while ensuring emphasis is placed on the critical planning elements. Figure 4-A-2 is a sample plan review approval letter. It is also well suited for permitting the Coast Guard to make plan review comments for improvement of the plan, without withholding plan approval until those items are addressed. Figure 4-A-3 is a sample plan review letter in which a plan has deficiencies to be corrected

prior to approval, as well as recommended changes to be made to the plan.

Figures 4-A-4 through 4-A-7 are copies of enclosures currently being placed, when appropriate, in plan review letters for VRPs. These enclosures are intended to assist an owner or operator in correcting deficiencies in those areas of the response plan by providing additional guidance.

Plan approval letters must encourage industry personnel to continue to refine their plans and must advise them that when plans are reevaluated in four to five years, we will expect the plans to be more comprehensive and refined. This is consistent with our expectations that:

- Plans will be revised and improved upon frequently with the benefit of lessons learned in exercises and actual spills.
- Plans must be regarded as living documents to be referred to frequently and modified when necessary.

Figure 4-A-1 Sample Checklist

Critical Area Review Checklist

FACILITY RESPONSE PLAN EVALUATION DOCUMENT

Facility Plan #: _____

Facility Type: Substantial Harm _____
Significant and Substantial Harm _____

1st Reviewer: _____ Date: _____

2nd Reviewer: _____ Date: _____

The purpose of a facility response plan is to enhance the preparedness of the owner/operator and facility's personnel to respond to an actual or threatened discharge of oil. The key elements in effective preparedness are properly trained personnel, prearranged private response resources, and a plan for timely and efficient activation and employment of equipment and personnel. With this purpose in mind, comment on the plan's overall effectiveness, workability and organization for ease of use toward the goal of enhancing preparedness.

Critical Area Review Checklist

Applicability (33 CFR 154.1015(b); NVIC 7-92, Sec. 2))

Yes	No	Pg.	
___	___	___	Fixed facility capable of transferring oil to or from a vessel with a capacity of 250 bbls or more of oil.
___	___	___	Deepwater Port
___	___	___	Mobile MTR facility used or intended to be used to transfer oil to or from a vessel with a capacity of 250 bbls or more of oil.
___	___	___	Complex facility (Required to submit a response plan to more than one regulatory agency.)

Comments:

Waivers

___	___	___	Have waivers or alternate compliance variances been granted for any vessel under this plan?

(Note: If waivers or alternate compliance variances have been granted for this facility, revisions to that effect must be in the plan. Indicate in the comments the type of waiver or alternative and whether the required amendments have been made to the plan.)

Comments:

Plan Format (33 CFR 154.1035(a); NVIC 7-92, Sec. 8j(a))

Yes	No	
___	___	Is the plan prepared in accordance with NVIC?
___	___	If yes, does the plan include a statement that it was prepared using the guidance contained in NVIC 7-92?
___	___	Is the plan prepared in accordance with the FR?

(Note: The plan must indicate if it was prepared using the guidance contained in NVIC 7-92.)

Comments:

Facility Identification and Owner/Operator Identification (33 CFR 154.1035(a); NVIC 7-92; Sec. 8(A))

Yes	No	Pg.	Does the plan contain the
___	___	___	Facility name, address, telephone number and fax number (if equipped);
___	___	___	Facility's location;
___	___	___	Name of facility owner or operator
___	___	___	Address of owner or operator
___	___	___	Procedures for contacting the owner or operator on a 24-hour basis

(Note: The owner/operator may be the Qualified Individual.)

Comments:

Qualified Individual and Alternate Qualified Individual (33 CFR 154.1026; NVIC 7-92, Ch. I, Sec. 5.4))

Yes	No	Pg.	
___	___	___	Does the plan identify a Qualified Individual by name?
___	___	___	Does the plan identify an Alternate Qualified Individual by name?
___	___	___	Is the Qualified Individual located in the U.S.?
___	___	___	Is the Alternate Qualified Individual located in the U.S.?
___	___	___	Are 24-hour means of contact identified for the Qualified Individual?
___	___	___	Are 24-hour means of contact identified for the Alternate Qualified Individual?

Comments:

Notification Procedures (33 CFR 154.1035(b) (1); NVIC 7-92, Sec. 8(B)(1))

Yes	No	Pg.	
___	___	___	Does the plan include a prioritized checklist with all notification to be made? (Section to include name, telephone #, and role in the plan.)

(Note: Indicate in the comments if the notifications are in a checklist, flow diagram, or text format.)

At a minimum, the checklist must include notification to the:

___ ___ ___ Qualified Individual

___ ___ ___ National Response Center

___ ___ ___ State notifications

___ ___ ___ Federal On-scene Coordinator

___ ___ ___ OSRO(s)

Comments:

___ ___ ___ Does the plan describe how the QI is notified?

___ ___ ___ Does the plan specify that notification to the National Response Center is by telephone?

___ ___ ___ Does the plan state the toll-free number to the National Response Center?

___ ___ ___ Does the plan state the direct number to the National Response Center?

Comments:

___ ___ ___ Does the plan contain details of reporting information on a reporting information form?

___ ___ ___ Does the reporting information form contain the following information: the name, address, and telephone number of the reporting and responsible parties; the source, cause, date and time of incident; location of incident; facility and tank capacity; material released, including total quantity and quantity in the water; actions being taken to mitigate or remediate the incident; impact, including injuries, fatalities, evacuations and damages; notifications made.

(Note: If no, circle the items missing from the checklist. A sample form is contained in the NVIC and the IFR.)

___ ___ ___ Does the team contain a prominent statement that **initial notification must not be delayed pending collection of all information?**

Comments:

Facility Spill Mitigation Procedures (33 CFR 154.1035(b)(2); NVIC 7-92, Sec. 8(B)(2))

Does the plan describe the volume(s) of persistent and non-persistent oil and oil group(s) that would be involved in the --

Yes	No	Pg.	
___	___	___	Average Most Probable Discharge?
___	___	___	Maximum Most Probable Discharge? Quantity _____
___	___	___	Worst Case Discharge? Quantity _____

Does the plan include procedures for facility personnel to mitigate or prevent any discharge resulting from operational activities associated with internal or external facility transfers including specific procedures to shut down affected operations, in the event of

___	___	___	Failure of manifold
___	___	___	Transfer system leak
___	___	___	Tank overflow
___	___	___	Piping rupture
___	___	___	Piping leak
___	___	___	Explosion or fire or both
___	___	___	Equipment failure

(Note: These events may be combined in the plan's discussion. Reference to a manual or standing orders satisfies this requirement.)

Comments:

Shore-Based Response Activities/Spill Management Team
(33 CFR 154.1035(b) (3); NVIC 7-92, Sec. 8(B)(3))

Yes	No	Pg.	
___	___	___	Does the plan discuss how facility personnel will initiate and supervise a response pending arrival of the Qualified Individual?
___	___	___	Does the plan discuss the Qualified Individual's responsibilities and authority including immediate communication with the Federal On-Scene Coordinator (OSC) and notification of the OSRO(s)?

Comments:

Yes	No	Pg.	
___	___	___	Does the plan discuss the procedures for coordinating the actions of the facility owner or operator or Qualified Individual with the predesignated Federal OSC responsible for overseeing or directing those actions?

Comments:

___	___	___	Does the plan discuss the organizational structure of the spill management team?

Comments:

Critical Area Review Checklist

Yes	No	Pg.	
___	___	___	Does the plan discuss the source of personnel, in-house or contracted, to fill the functions of the spill management team?
			Does the plan discuss the team's duties and responsibilities that will be used to manage the response actions:
___	___	___	Command and control (spill manager, incident coordinator)
___	___	___	Public information (public relations, media or press director)
___	___	___	Safety (occupational health supervisor, OSHA officer)
___	___	___	Liaison with government agencies (regulatory affairs officer)
___	___	___	Spill response operations
___	___	___	Planning
___	___	___	Logistics support (transport./supply officer)
___	___	___	Finance (treasurer, accounting)

(Note: Two similar functions may be combined but at lease one person should be assigned to each function.)

___	___	___	Does the organization structure and description of responsibilities go beyond the first tier of personnel (e.g., Does the plan identify and describe the responsibilities of anyone working under the spill manager or incident coordinator)?

Comments:

Contact List (33 CFR 154.1035(g)(2); NVIC 7-92, Sec. 8(F)(2)

Yes	No	Pg.	
			Does the plan include information for 24-hour contact of --
___	___	___	Qualified Individual and Alternate
___	___	___	Oil Spill removal organization
___	___	___	Spill management team
___	___	___	Federal, state and local agencies?

Comments:

Equipment List and Records (33 CFR 154.1035(g) (30; NVIC 7-92 Sect. 8(F)(3))

Yes	No	Pg.	
___	___	___	Are the OSROs listed in the plan classified by the Coast Guard?
___	___	___	If the OSRO is not classified is a detailed equipment list provided?
			Does each the plan identify the oil spill removal organization(s) identified and ensured available, through contract or other approved means, to respond to the following spill scenarios:
	(Note: 33 CFR 154.1050; NVIC 7-92, Sec. 11)		
___	___	___	AMPD, if required (50 bbl)
___	___	___	Maximum most probable discharge (lesser of 1,200 bbl or 10% of WCD)
___	___	___	Worst case discharge

Critical Area Review Checklist

Sensitive Areas (33 CFR 154.1035(b)(4); NVIC 7-92 Sect. 8(B)(4))

Yes	No	Pg.	
			Does the plan contain a list of --
___	___	___	Environmentally sensitive areas?
___	___	___	Economically important areas?
___	___	___	Does the plan contain a map marked with the environmentally sensitive and economically important areas?
___	___	___	Does the plan describe response actions to protect these areas?
___	___	___	Does the plan identify the equipment and personnel contracted to protect these areas for the number of days required?

(Note: See table 2 of Appendix C of 33 CFR Part 154 or NVIC 7-92 for the number of days required.)

Comments:

Facility-Specific Information Appendix (33 CFR 154.1035(g)(1); NVIC 7-92, Sec. 8(F))

Yes	No	Pg.	
___	___	___	Does the plan include a facility-specific information appendix?
			Does the appendix include a description of the facility showing --
___	___	___	Mooring areas
___	___	___	Transfer location
___	___	___	Control Stations
___	___	___	Location of safety equipment
___	___	___	Location and capacity of all piping and storage tanks
___	___	___	Size, type and number of vessels that can transfer simultaneously
___	___	___	Identification of first valve which separates the MTR portion of the facility from the on-MTR portion
___	___	___	A MSDS or equivalent for each product handled, stored, or transported in bulk.

Comments:

Training (33 CFR 154.1035(e)(1); NVIC 7-92, Sec. 12)

Yes	No	Pg.	
			Does the plan identify the training regimens including specific training courses, company developed programs, or lesson or video tape series for:
___	___	___	Facility personnel,
___	___	___	QI/AQI,
___	___	___	Members of the spill management team?
___	___	___	Does the plan identify OSHA training requirements for the above personnel?
___	___	___	Does the plan identify the method of training of any volunteers or casual laborers employed during a response to comply with the requirements of 29 CFR 1910.120 (OSHA)?

Comments:
List the training courses and programs discussed in the plan for:

Facility personnel

Qualified Individual/Alternate Qualified Individual

Members of the spill management team

Yes	No	Pg.	
___	___	___	Does the plan indicate that records of training are maintained and available to the Coast Guard for a minimum of 3 years?
___	___	___	Does the plan specify where the training records are located?

Comments:

Drills (33 CFR 154.1035(e)(2); NVIC 8-92, Sec. 13)

___	___	___	Does the plan identify a drill program including announced and unannounced drills?
			Does the plan address the applicable required drill frequencies for:
___	___	___	Facility personnel and qualified individual notification drills -- monthly
___	___	___	Spill management team -- yearly
___	___	___	OSRO equipment deployment -- yearly
___	___	___	Facility equipment deployment drills Announced - Semi-annual Unannounced - Annual
___	___	___	Entire plan -- every 3 years
___	___	___	Unannounced drills as directed by COTP
___	___	___	Annual unannounced drill

Comments:

Critical Area Review Checklist

Yes	No	Pg.	
___	___	___	Does the plan identify a method to ensure records sufficient to document drills?
___	___	___	Does the plan state that drill records will be maintained and available to the Coast Guard for 3 years following completion of the drills?
___	___	___	Does the plan discuss participation in Coast Guard's PREP program?

Comments:

Figure 4-A-2 Sample Plan Review Approval Letter

16471

Mans King
King Oil Terminal
123 Water Street
Rivertown, TN 11111

RE: King Oil Terminal

Dear Mr. King:

Your facility response plan, Control Number RT107SS, submitted to meet the requirements of the Oil Pollution Act of 1990 is approved.

I commend your efforts in developing a response plan that reflects your company's operating procedures and organizational structure. I remind you that your plan is a vital working document and that implementing the plan will help ensure effective oil spill response and mitigation. Please be sure that all parties with responsibilities under the plan are familiar with the plan's procedures and requirements.

Your are reminded that the King Oil Terminal is prohibited from handling, storing, transporting, transferring, or lightering oil unless it is operating in full compliance with this plan. Compliance includes ensuring that the required resources are in place and available through contact or other approved means. In addition, the facility must have a copy of the plan at the marine-transportation related portion of your facility. It is recommended that this copy be placed with your facility's operations manual.

Your plan's approval will remain valid until 5 years from the date of this letter. Your must review your plan annually and resubmit the plan to the Coast Guard for reapproval 6 months before the end of the approval period as required by 33 CFR 154.1065.

A copy of this letter shall be with the plan.

Sincerely,

I. M. Wright
Captain U.S. Coast Guard
Captain of the Port
Rivertown, TN

Figure 4-A-3 Sample Plan Review Letter Noting Deficiencies

16471

XXXXXXXXXXX
XXXXXXXXXXX
XXXXXXXXXXX
XXXXXXXXXXX

RE: FRP Control Number 00000

Dear Sir/Madam/Capt.:

We have completed a comprehensive review of the facility response plan referenced above submitted by your organization to comply with the requirements of the Oil Pollution Act of 1990. Based upon our review, revision of your plan is necessary prior to our approving it. The areas requiring review and revision are noted in enclosure (1).

You should note there are both required and recommended revisions that we have identified from our review. The revisions noted as being "required" for your plan should be submitted within 45 days of the date of this letter.

As a result of recent changes within our system, only one copy of these changes need be submitted. It is requested, however, that the pages being revised have the date and number of the revision placed in the bottom right hand corner of the page. This will help to ensure that we have the latest revisions entered into your plan.

The letter previously provided by this office authorizing your facility to operate under your submitted plan remains valid and should be retained.

If you should have any questions regarding the requirements of this letter or any other issue dealing with facility response plans, please feel free to contact LTJG C. Waters of my staff at 1-800-123-4567.

Sincerely,

I. M. Wright
Captain, U.S. Coast Guard
Captain of the Port
Roaming, NJ

Encl: (1) Areas for FRP Revision
(2) Information Sheet on Spill Management Team
(3) Information Sheet on Training Programs
(4) Information Sheet on Drill Programs

Figure 4-A-4 Sample Enclosure

Enclosure (1): AREAS FOR FRP REVISION 16471

REQUIRED REVISIONS

The revisions listed below need to be incorporated into your plan before it is approved.

1. Your plan must specify training regimens for the Qualified Individual, alternate Qualified Individual, member of the spill management team, and facility personnel who are assigned responsibilities under the plan. Your plan's training section fails to covey how the elements contained in enclosure ## are effectively addressed in a training program. Although your plan's training section prescribes that the Qualified Individual and Alternate Qualified Individual will attend OSHA training, this course in itself does not prepare an individual to effectively execute **your** plan. Please amend your plan to include an outline of specific training courses, company developed program, or lesson or video tape series that describe how personnel will acquire the knowledge and familiarity to carry out their responsibilities under your response plan.
   (33 CFR 155.1035 (e); NVIC 7-92 Section 12)

2. Your plan must discuss the organizational structure of the spill management team including the responsibilities and duties of personnel that will be responsible for managing response actions. The source of personnel, in-house or contracted, to fill the functions should be identified. Your plan should also identify the various organizational layers that exist below key team positions. Enclosure ## discusses recommended spill management team organization and functions.
   [33 CFR 154.1035 (b); NVIC 7-92 Section 8 (b) (3)]

RECOMMENDED REVISIONS

The Coast Guard suggests the following changes to improve your plan.

a. The notification checklist to be made by facility or shore-based personnel does not include telephone numbers. For ease of use, we recommend telephone numbers be added to the checklist.

b. Your plan includes the toll-free number to the U.S. Coast Guard National Response Center. We recommend that you amend your plan to add the direct number, which is (202) 267-2675.

Figure 4-A-5 Sample Enclosure

SPILL MANAGEMENT TEAM REQUIREMENTS FOR RESPONSE PLANS

Owners and operators of vessels and facilities must recognize that a spill management team is the heart of a response. It will be that team's ability to manage an event that will play the biggest role in determining the success or failure of the company's response. In recognition of this fact, the vessel and facility response plan rules establish a requirement to identify the organizational structure that will be used to manage an oil spill response. These plans also require a description of the duties and responsibilities of each of the members of that organization.

A clear identification of key positions coupled with a functional job description is of great importance to a well-developed response plan. The regulations identify certain key functional areas of the organization that must be included in the organizational structure that the plan preparer has developed for managing an oil spill. These functional areas are:

Command and control
Public information
Safety
Liaison with government agencies
Spill response operations
Planning
Logistics support
Finance

As the regulations indicate, the above are areas **required to be included**, but the rules should not be construed as stating those are the only functional areas of the organization to be identified. A good response plan should also identify a number of the functional positions that would normally be expected to exist within each of the above areas. Examples of some of these areas are:

Salvage/lighter operations
Open water recovery operations
Beach cleanup/protection operations
Staging Site operations to support incoming gear
Resource manager (situational oversight)
Waste stream manager (disposal)
Communications
Air operations
Environmental resource assessment

This section of the response plan should further identify a logical progression that could be expected in the development of the response organization. This would include identifying the various organizational layers that would exist within the organization, and the duties ascribed to each of those layers. This progression may be tied to the various spill scenarios that are identified in the response plan or some other method that would indicate to the user how and when the

response organization should be expanded. A good response organization will have the ability to expand and contract along some logical lies as conditions warrant, and should be of such a design that it is capable of being used from the smallest to the largest of incidents that it might be required to respond to. It can be seen that a spill management team for a worst case discharge will of necessity consist of more than just one or two persons. It is also true that a response to a spill of only a few gallons could be managed by only one or two persons. It is also true that a response to a spill of only a few gallons could be managed by only one or two persons.

The spill management section of the response plan must also contain a description of the duties and responsibilities of the various members of the organization. In come cases, the functional job descriptions provided can be fairly specific (i.e., for the individual in charge of the operations functional area). In other cases, the functional job description will be directed more toward identifying the level of authority and responsibility that exist at that level of the organization. It will describe basic job functions that are expected to be accomplished as well as describing the position's relationship within the organization's command structure.

A critical element to all of the above is to ensure that the development of this section of the response plan promotes an efficient response operation. The response organization should be structured so that while it may differ from the organization in use by other responding resources, all of these resources can blend rapidly to mount an effective coordinated response effort.

It is important to remember that the responsibility for management of the response is that of the owner/operator. While the Coast Guard has the authority to direct response operations, plan preparers **should not develop their plan on the assumption that the Coast Guard will be serving as their spill management team**.

The information provided above is intended to assist plan preparers in revising, modifying, or developing that section of their response plan dealing with the issue of the spill management team. What we have tried to do is convey some of the concepts that should be considered in developing this section of the plan. It must be remembered, however, that the information given above is only meant to assist the plan preparer. It may be more comprehensive than is needed for some vessels or facilities, and not comprehensive enough for others. **Each plan preparer must determine the needs of his or her organization's spill management team.**

Figure 4-A-6 Sample Enclosure

TRAINING REQUIREMENTS FOR RESPONSE PLANS

The portion of the plan dealing with training is one of the key elements of a response plan. This concept is clearly expressed by the fact that Congress, in writing the Oil Pollution Act of 1990, specifically included training as one of the sections required in a vessel or facility response plan. In reviewing, it has been noted that the plans often do not provide sufficient information in the Training Section of the plan for either the **User** or the reviewer of the plan. In some cases, plans simply state that the crew and others will be trained in their duties and responsibilities, with no other information being provided. In other plans, information is simply given that required parties will receive the necessary worker safety training (HAZWOPER).

The training section of the plan need not be a detailed course syllabus, but it must contain **sufficient information** to allow the user and reviewer or evaluator to have an understanding of those areas that are believed to be critical. Plans should identify key **skill areas** and the training that is required to ensure that the individuals identified will be capable of performing the duties prescribed to them. It should also describe how the training will be delivered to the various personnel. Further, this section of the plan **must work in harmony** with those sections of the plan dealing with drills, the **spill management team**, and the **qualified individual**.

To assist in the preparation of the training section of a facility response plan, some of the key elements that should be addressed are indicated below. Again, while it is not necessary that the comprehensive training program for the company be included in the response plan, **it is necessary for the plan to convey the elements that define the program, as appropriate**. An effective spill response training program should consider and address:

- Notification requirements and procedures.

- Communication system(s) used for the notifications.

- Procedures to mitigate or prevent any discharge or a substantial threat of a discharge of oil resulting from:

  Operational activities associated with oil transfers
  Failure of manifold
  Transfer system leak
  Explosion or fire
  Tank failure
  Tank overflow
  Equipment failure

- Procedures for use of equipment which may be used to mitigate an oil discharge.

- Procedures for transferring responsibility for direction of response activities from facility personnel to the qualified individual/spill management team.

- Familiarity with the operational capabilities of the contracted oil spill response organizations (OSRO) and the procedures to notify/activate the OSRO(s).

- Familiarity with contracting/ordering procedures to acquire OSRO resources.

- Familiarity with the Area Contingency Plans.

- Familiarity with the organizational structure that will be used to manage the response actions.

- Responsibilities and duties of the spill management team members, in accordance with designated job responsibilities.

- Responsibilities and authority of the qualified individual as described in the vessel response plan and company response organization.

- Responsibilities of designated individuals to initiate a response and supervise shore-based response resources.

- Actions to take, in accordance with designated job responsibilities, in the event of a transfer system leak, tank overflow, or suspected tank leak.

- Information on the cargoes handled by the facility, including familiarity with the cargo material safety data sheets, chemical characteristics, special handling procedures, health and safety hazards, spill and fire fighting procedures.

- Occupational Safety and Health Administration requirements for worker health and safety (29 CFR 1910.120).

In drafting the training section of the plan some things to consider are given below. These points are raised simply as a reminder.

The training program should focus on training provided to facility personnel.

An organization is made up of individuals, and a training program should be structured to recognize this fact by ensuring that training is tailored to the needs of the individuals involved in the program.

An owner or operator may identify equivalent work experience which fulfills specific training requirements.

The training program should include participation in periodic announced and unannounced drills or exercises. This participation should approximate the actual roles and responsibilities of individuals as specified in the response plan.

Training should be conducted periodically to reinforce the required knowledge and to insure an adequate degree of preparedness by individuals with responsibilities under the facility response plan.

New employs should complete the training program prior to being assigned job responsibilities, which require participation in emergency response situations.

It is hoped that the information provided above will assist plan preparers in reviewing what is in their plan and modifying the training section of their response plan. It should be remembered, however, that the information given above is only meant to assist the plan preparers in reviewing their process in developing the section of their response plan dealing with training. It may be more comprehensive than is needed for some facilities, and not comprehensive enough for others. In addition, it is expected that each plan preparer has determined the training needs of his/her organization, created by the development of the response plan and the action identified as necessary to increase the company's and its personnel's preparedness for responding to actual or threatened discharges of oil from their facility.

Figure 4-A-7 Sample Enclosure

DRILL REQUIREMENTS FOR RESPONSE PLANS

That portion of the plan dealing with drills is one of the key elements of a response plan. This concept is clearly expressed by the fact that Congress, in writing the Oil Pollution Act of 1990, included drills as one of the sections required in a vessel or facility response plan. In reviewing submitted response plans, it has been noted that the drill section of response plans have generally been complete, but they have been so only in the fact that they have identified the drill requirements as contained in the interim final rules for vessel and facility response plans.

Unfortunately, the drill section of the response plan is often well covered in a mechanical sense. By this it is meant that the plan identifies all of the key drills set forth in the regulations, but it **does not really identify that the intent is to enhance the preparedness of the vessel's crew** or others identified in the plan. This section of the plan needs to not only give the drills to be conducted and their scheduled frequency, but it must also give the sense that this is an integral part of the response preparedness program for that vessel. There should be a logical tie-in between this section of the response plan and the section dealing with training. The plan is more than just the paper it is written on, and this section of the plan helps to define the commitment of the owner and/or operator to the viability of the plan. A well written drill section will include a discussion of the various drill objectives and expectations of a satisfactory/realistic drill. **(Note: With the advent of the National Preparedness for Response Exercise Program (PREP), and industry's wide acceptance of it, we expected that a number of plans would be changed to incorporate the PREP guidelines. Incorporating the concepts of PREP in your response plan would satisfy all of the above issues.**

It is hoped that the information provided above will assist plan preparers in reviewing their process in developing the section of their response plan dealing with drills. It is expected that each plan preparer has determined the needs of his or her organization as created by the development of the response plan and the actions identified as necessary to increase the company's and its personnel's preparedness for responding to discharges or substantial threats of a discharge of oil.

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Response

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Section 5.A
National Response System

5.A.1. Overview

The Oil Pollution Act of 1990 (OPA 90), in part, amended the Federal Water Pollution Control Act (FWPCA) to address the development of a National Planning and Response System. This and other applicable laws and regulations are summarized in **Figure 5-1**.

The National Response System (NRS), diagrammed in **Figure 5-2**, was developed to coordinate all government agencies with the responsibility for environmental protection in a focused response strategy for the immediate and effective cleanup of an oil discharge or hazardous substance release. The NRS is a response and preparedness mechanism that supports the predesignated Federal On-scene Coordinator (FOSC) in coordinating national, regional, local government agencies, industry, and the Responsible Party during response.

The NRS supports the responsibilities of the On-Scene Coordinator (OSC), under the direction of the FWPCA's federal removal strategy. The OSC plans and coordinates response strategy on-scene, using the support of the National Response Team (NRT), Regional Response Team (RRT), the Area Committees, and responsible parties as necessary, to supply the needed trained personnel, equipment, and scientific support to complete an immediate and effective response to any oil discharge or hazardous substance release.

The NRS is designed to support the OSC and facilitate responses to a discharge or threatened discharge of oil or a hazardous substance. The NRS is used for all spills, including a Spill of National Significance (SONS). When appropriate, the NRS is designed to incorporate a unified command and control support mechanism (unified command) consisting of the OSC, the State's Incident Manager, and the Responsible Party's Incident Manager. The unified command structure allows for a coordinated response effort which takes into account the federal, state, local and Responsible Party

concerns and interests when implementing the response strategy.

Applicable Law or Regulation	Legal Effect
Federal Water Pollution Control Act (FWPCA), as amended, Section 311 (33 U.S.C. 1321)	A principal authority for federal response to pollution incidents
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601, et seq.)	A principal authority for federal response to pollution incidents
National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300)	Contains procedures and standards for conducting a response
Outer Continental Shelf Lands Act (OCSLA), as amended (43 U.S.C. 1331 et seq.)	Response procedures for incidents occurring on Outer Continental Shelf (OCS); also establishes Offshore Oil Pollution Compensation Fund to handle third-party claims against Responsible Party
Intervention on the High Seas Act, as amended (33 U.S.C. 1471-1487)	Authorizes Coast Guard intervention when a vessel casualty seaward of the territorial sea poses grave, imminent danger to U.S. coastlines or related interests or when a marine disaster in or upon navigable waters creates a substantial threat of a pollution hazard to the U.S. public health or welfare
Resource Conservation and Recovery Act (RCRA)	Establishes regulations for proper storage, treatment, and disposal of materials recovered during response and removal actions

Applicable Law or Regulation and Legal Effects
Figure 5-1

A unified command establishes a forum for open, frank discussions on problems that must be addressed by the parties with primary responsibility for oil discharge and hazardous substance release removal. A unified command helps to ensure that a coordinated, effective response is carried out and that the particular needs of all parties involved are taken into consideration.

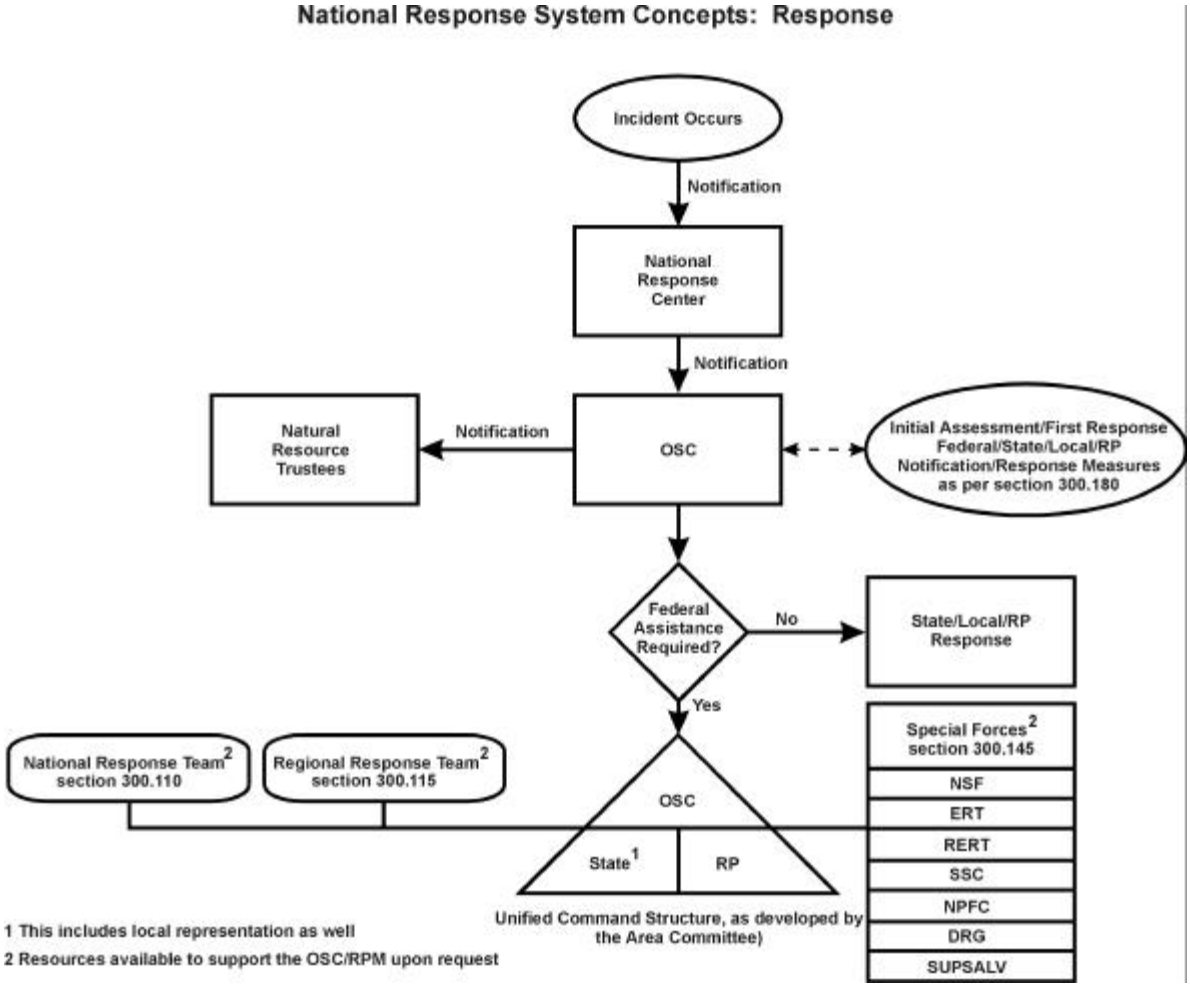

Figure 5-2

The OSC has the ultimate authority in a response operation and shall ensure an effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge of oil or a hazardous substance. During hazardous substance release responses in which local agencies usually assume a leading role, the local agency may assume one of the unified commander roles when a unified command is used. During responses to oil discharges, local agencies are not usually involved as part of a unified command, but provide agency representatives who communicate with the command structure through the Liaison Officer or the State representative. All responders (federal, state, local and private) should be incorporated into the OSC's response organization at the appropriate level.

5.A.2. Oil Spill Response Policy and Operations

5.A.2.a. National Response Policy

Section 4201 of OPA 90 amended Subsection (c) of Section 311 of the FWPCA, to require the Federal OSC to:

> "in accordance with the National Contingency Plan and any appropriate Area Contingency Plan, ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance—
>
> (i) into or on the navigable waters;
>
> (ii) on the adjoining shorelines to the navigable waters;
>
> (iii) into or on the waters of the exclusive economic zone; or
>
> (iv) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States."

Section 502(7) of the FWPCA broadly defines navigable waters as "waters of the United States." This includes waters "traditionally" recognized as navigable, along with streams, creeks, lakes, and ponds which form their tributaries. Storm drains and other artificial systems are extensions of waterways when an effluent could flow through them into the tributary system without passing through a treatment plant. "Waters of the U.S." also include seasonally dry watercourses when there is water standing or flowing. The mere existence of a channel or bed through which water could flow is, however, insufficient without the actual presence of water or potential presence of water in the near future due to tidal fluctuations, seasonal flooding, or other occurrences. Therefore, "navigability" is not the controlling factor. Definitions of jurisdictional terms are contained in 33 CFR 2.05.

In carrying out these functions, the OSC may:

"(i) remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;

(ii) direct or monitor all federal, state, and private actions to remove a discharge; and

(iii) recommend to the Commandant that a vessel discharging or threatening to discharge, be removed and, if necessary, destroyed."

If the discharge or substantial threat of a discharge of oil or hazardous substance is of such size or character as to be a substantial threat to the public health or welfare of the United States (including but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States), the OSC shall direct all federal, state, and private actions to remove the discharge or to mitigate or prevent the threat of the discharge.

5.A.2.b. Responsible Party Response Policy

NOTE

Under OPA 90, the Responsible Party has primary responsibility for cleanup of a discharge.

Under OPA 90, the Responsible Party has primary responsibility for cleanup of a discharge. The response shall be conducted in accordance with their applicable vessel or facility response plan. Section 4201(a) of OPA 90 states that an owner or operator of a tank vessel or facility participating in removal efforts shall act in accordance with the National Contingency Plan and the applicable response plan required. Section 4202 of OPA 90 states that these response plans shall:

“(i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;

(ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);

(iii) identify, and ensure by contract or other means

approved by the President, the availability of private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;

(iv) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;

(v) be updated periodically; and

(vi) be resubmitted to approval of each significant change."

Each owner or operator of a tank vessel or facility required by OPA 90 to submit a response plan shall do so in accordance with applicable regulations. Facility and tank vessel response plan regulations, including plan requirements, are located in 33 CFR Parts 154 and 155, respectively.

(1) As defined in OPA 90, each Responsible Party for a vessel or a facility from which oil is discharged, or which poses a substantial threat of a discharge, into or upon the navigable waters or adjoining shorelines or the Exclusive Economic Zone is liable for the removal costs and damages specified in Subsection (b) of Section 1002 of OPA 90. Any removal activity undertaken by a Responsible Party must be consistent with the provisions of the NCP, the Regional Contingency Plan (RCP), the Area Contingency Plan, and the applicable response plan required by OPA 90. If directed by the OSC at any time during removal activities, the Responsible Party must act accordingly.

(2) Each Responsible Party for a vessel or facility from which a hazardous substance is released, or which poses a substantial threat of a discharge, is liable for removal costs as specified in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

(CERCLA) (42 U.S.C. 9601 et seq.).

5.A.2.c. Role of On-Scene Coordinator

NOTE

Coast Guard designates OSCs for coastal zone incidents, EPA designates OSCs for inland zone incidents.

The On-Scene Coordinator (OSC) is the predesignated federal official responsible for ensuring immediate and effective response to a discharge or threatened discharge of oil or a hazardous substance. The U.S. Coast Guard designates OSCs for the U.S. coastal zones, while the U.S. EPA designates OSCs for the U.S. inland zones.

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

NOTE

One individual may fill several of the designated positions in the NRS incident level response organization.

(1) The OSC shall:

- establish, an Incident Command System (ICS) and where appropriate, a unified command consisting of the OSC, the State Incident Commander, and the Responsible Party Incident Manager (RPIM). The OSC shall activate the response actions and organization as specified in the Area Contingency Plan. The OSC is responsible for assigning individuals from within the response community (federal, state, local or private), as necessary, to fill the designated positions in the NRS incident level response organization. It should be noted, however that one individual may fill several of the designated positions. These assignments will be predicated on the nature of the spill and the need for extensive manning. See **Figure 5-3**;

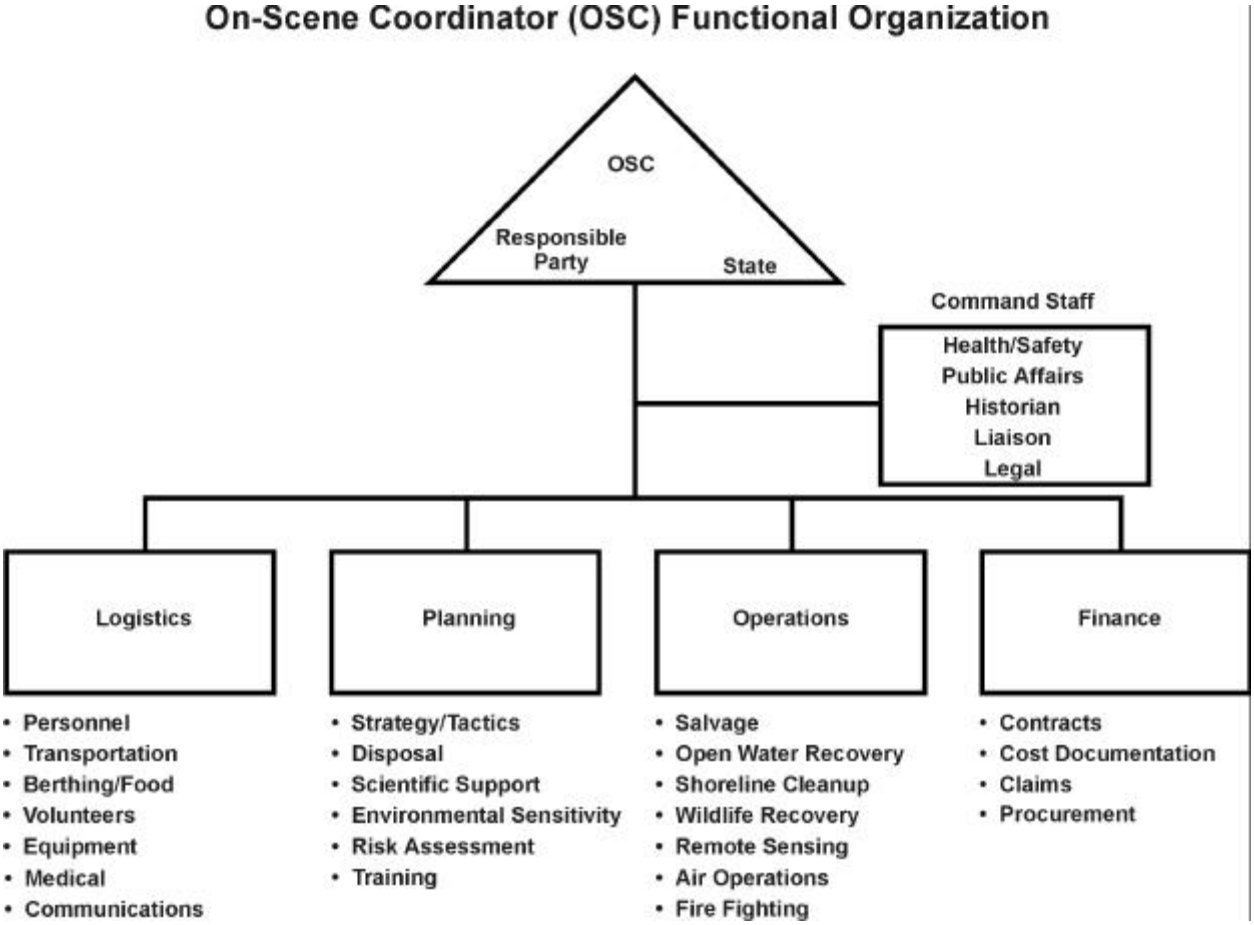

Figure 5-3

- collect, to the extent practicable, and as soon as possible after the incident occurs, pertinent facts about the discharge, such as its source and cause; the identification of Responsible Parties; the nature, amount, and location of discharged materials; the trajectory of discharged materials; the pathways to human and environmental exposure; the potential impact on human health, welfare, safety and the environment; whether the discharge poses a substantial threat to the public health or welfare; the potential impact on natural resources and property which may be affected; priorities for protecting human health and welfare and the environment; and appropriate resource documentation;

- coordinate efforts with other appropriate federal, state, local, and private response agencies. An OSC may designate capable individuals from federal, state, or local agencies to act as her/his on-scene representatives. State and local governments, however, are not authorized to take actions under Subpart D of the NCP that involve expenditures of the Oil Spill Liability Trust Fund unless an appropriate contract or cooperative agreement has been established;

- ensure prompt notification of discharges to the trustees for natural resources. The OSC shall coordinate all response activities with the affected natural resource trustees and shall consult with the affected trustees on the appropriate removal action to be taken. Where the OSC becomes aware that a discharge may affect any endangered or threatened species, or their habitat, the OSC shall consult with the appropriate Natural Resource Trustee; and

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

(2) The OSC *should*:

- consult with the RRT, when necessary, in carrying out the requirements of the NCP and keep the RRT informed of activities under the NCP;

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

- ensure that all appropriate public and private

interests are kept informed and that their concerns are considered throughout a response, to the extent practicable;

- consult with the Responsible Party on all response actions but should not delay taking action due to inability to contact the Responsible Party or while awaiting a consensus. When an OSC believes time is a critical factor in a response, he or she is expected to act, although this may require action without conferring with the Responsible Party. The OSC is responsible for taking those actions deemed to be in the environment's best interests, which occasionally may include obtaining resources without prior consultation with the Responsible Party. The OSC is expected to continuously evaluate response actions in all cases; and

- be kept fully informed by the Responsible Party of all activities and action plans. In turn the OSC should convey the specific response objectives the responsible party should accomplish and review and concur with the Responsible Party's action plans. Three factors will dictate the degree of the OSC's direct involvement:

  — the severity of the event,

  — the complexity of the response operations, and

  — the Responsible Party's actions.

NOTE

The Coast Guard expects an OSC will function in a "direct" mode throughout a pollution incident.

Thus, an OSC's direction of a response simply may entail receiving and evaluating response activities or may be as complex as providing detailed orders. The Coast Guard expects an OSC will function in a "direct" mode throughout a pollution incident.

5.A.2.d. Notice of Federal Interest

The OSC should make every reasonable effort to have the Responsible Party, when identified, perform voluntary, prompt removal operations. Where the identity of the Responsible Party is known, the OSC should take these actions:

(1) The OSC should present a Notice of Federal Interest for an Oil Pollution Incident, sample shown in **Figure 5-4**,

to inform every suspected discharger of a potential FWPCA violation for which the discharger possibly is liable up to $25,000 per day or up to three times the costs the OSLTF incurs. The OSC also should present a Notice if a *potential* discharger takes insufficient action to correct a threatened spill and the OSC contemplates federal action. (However, an OSC's failure to present the Notice does not affect liability for damages.) The OSC (or OSC representative) should bring witness(es) when serving the Notice and retain the OSC's Notice copy after the suspected discharger (or discharger representative) has signed and dated it. If the discharger refuses to sign, the OSC:

— should note the circumstances on the copy,

— sign and date it,

— have the witness(es) sign and date it, and

— consider the Notice as having been served.

(2) If an owner/operator or representative is not available, the OSC should send the Notice by certified mail, return receipt requested.

SAMPLE NOTICE OF FEDERAL INTEREST

_____

_____

_____

Gentlemen:

On or about _____, a pollution incident occurred or threatens to occur at _____ located at _____. You may be financially responsible for that incident. Under federal statutes, the United States Government may take appropriate action to minimize or mitigate damage to the public health or welfare that is threatened or that may be caused by this incident.

Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from the incident. The failure or refusal of the responsible party to provide all reasonable cooperation and assistance requested by the Federal On-Scene Coordinator (OSC) will eliminate any defense or entitlements to limited liability which otherwise might be available under the Act.

You are advised that your failure to properly carry out the removal of the discharge as ordered by the OSC or to comply with any administrative orders necessary to protect the public health and welfare, might subject you to additional penalties. For such failure, owners, operators, or persons in charge of the vessel or facility from which the oil is discharged are subject under the Federal Water Pollution Control Act (FWPCA), as amended, to a civil penalty of up to $25,000 per day of violation or up to 3 times the cost incurred by the Oil Spill Liability Trust Fund.

Should you require further information concerning this matter, please contact _____ at the above address and telephone.

As long as the OSC determines that you are taking adequate measures in this matter, Federal removal action will usually be limited to monitoring the progress of your actions and providing guidance as necessary. Under the FWPCA, as amended, your response actions may be taken into account in determining the amount of any penalty assessed as a result of the discharge.

Sincerely,

_____

(OSC or Representative)

Received and acknowledged:_____ Date/Time:_____

Witness:_____ Date:_____

Figure 5-4

5.A.2.e. Designating the Source

The Director, National Pollution Funds Center or OSC can designate the source or sources of an actual or threatened oil discharge and provide notice of such designation to the Responsible Party(ies). OPA 90 serves as the statutory authority to name the source(s) and, if the source is a vessel or facility, requires notice be given to the Responsible Party and guarantor (when known). A sample notice of designation is provided as **Figure 5-5**.

OPA 90 also enables injured parties to make claims for uncompensated removal costs or damages. The Act contains provisions to disseminate information through advertisements about an incident so potential claimants will know of the opportunity and procedures for submitting claims.

(1) In fulfilling the law's requirement, designating a source must be done where is it "possible and appropriate."

(2) If the source is known, is it "possible" to identify it? The source of an actual or threatened discharge is the actual entity from which it comes (e.g., ship, motorboat, railcar, fuel storage tank, etc.). The OSC normally notifies the NPFC expeditiously (e.g., facsimile message, electronic mail, or in routine cases rapidraft or similar letter) of the source's identity. Where the source is unknown and there is not enough information to identify it, further investigation, possibly including sample analysis, may be necessary.

SAMPLE NOTICE OF DESIGNATION OF SOURCE (FROM THE NPFC)

NOTICE TO:_____
_____
_____

In the matter of the above referenced incident, you are hereby notified that the _____ is designated as the source pursuant to the Oil Pollution Act of 1990, 33 USC 2714. You have been identified as the _____ of this designated source. You are liable for removal costs and damages as specified in 33 USC 2702. You must advertise the procedures by which persons who have claims for removal costs and damages may submit their claims to you, as specified in 33 U.S.C. 2714.

You may deny this designation within 5 days of receipt of this Notice of Designation. Such denial must be in writing, must identify this Notice of Designation, must give the reasons for the denial and provide a copy of all supporting documents, and must be submitted to _____ at the above address.

If you do not deny this designation you must advertise this designation and the procedures by which claims may be presented. The advertisement must begin within 15 days of the date of this Notice of Designation and must continue for no less than 30 days. Enclosures (1) and (2) outline the required scope and content of this advertisement.

You are directed to inform us of the method, geographical scope, and frequency of publication, as appropriate, for your advertising. Send us copies of the advertisements as soon as they are available. Advise us in writing that you have begun advertising and send us samples of the advertising copy within 20 days of receipt of this letter; otherwise we will assume that you did not comply with these requirements. If you do not comply with these requirements, the National Pollution Funds Center will advertise for claims.

Figure 5-5

(3) Where it is likely any potential claimant (including either a person or the government) can recover damages or uncompensated removal costs, it is "appropriate" to name the source. When in doubt, an OSC should consider a claim possible. When determining the potential for claims, an OSC should consider:

- the spill's magnitude,
- the type of oil spill,
- effectiveness of removal activities,
- proximity to environmentally sensitive areas, including those used for subsistence,
- actual or potential impact on real or personal property,
- disruption or interference with commercial activities or entities, and/or
- the need to provide increased or additional public services.

(4) Where the OSC identifies the source and reasonably believes there are potential claimants which the Responsible Party and/or the guarantor may not be able to fully compensate, the NPFC will designate the source in writing, notify the Responsible Party and guarantor, and establish advertising requirements. The OSC may designate and notify under unusual circumstances, such as a high level of visibility or public concern (contacting the NPFC beforehand if possible). The NPFC then contacts the Responsible Party and/or guarantor to list the advertising requirements. The notifying letter should provide the following information:

- the vessel or facility name designated as the source,
- the incident's location, date, and time,

- the type and quantity of oil involved,
- the body(ies) of water affected or threatened,
- the date of the designation,
- procedures to accept or deny designation, and
- the name, address, telephone number, and if available telefax number of the responsible federal official the Responsible Party/guarantor should contact for additional information or denial of designation.

(5) The NPFC ensures that the Responsible Party or guarantor meets OPA 90 requirements. Therefore if an OSC designates a source or notifies a Responsible Party, he or she must provide a copy of the notification, any other correspondence, and any denial of designation to the NPFC case officer. In all cases the NPFC notifies the guarantor.

(6) If a source is not known for an incident which may result in claims, the OSC immediately notifies the NPFC, which then advertises as the Act requires.

(7) The NPFC defines the advertising's scope and content. All ads must contain the following information or say where a reader can obtain it:

- incident location, date, and time;
- geographical affected area, as either the OSC or Director, NPFC, determines;
- name or other description of the source the OSC or NPFC has designated;
- name of the Responsible Party and its guarantor; and
- name, address, telephone number, office hours, and work days of the person(s) to whom claims will be

presented or from whom claim information can be obtained.

5.A.2.f. Notice of Federal Assumption

If an OSC believes a response effort can be expedited and/or made more efficient, he or she is legally empowered and bound to ensure the necessary actions are taken and/or additional resources used.

NOTE

Conditions under which an OSC may assume total or partial control of removal activities:

(1) The OSC may assume total or partial control of removal activities under any of three conditions:

- The polluter's identity is not known or the polluter is not acting responsibly.
- The polluter's removal effort is inadequate.
- Assuming control would prevent the discharge or alleviate the substantial threat of a discharge.

(2) If the OSC intends to assume response activities, he or she notifies the polluter (if known) with a Notice of Federal Assumption of Response Activities, even if the polluter has taken no action. A sample Notice of Assumption is provided as **Figure 5-6**. This Notice refers to the Notice of Federal Interest for an Oil Pollution Incident and states the date and time the federal response will begin. An OSC should follow the same procedures to issue and obtain signatures for this Notice as for the Federal Interest for an Oil Pollution Incident. An OSC's failure to present the Notice does not affect the polluter's liability for damages. In some cases the OSC may determine the polluter's efforts should continue but that some federal assistance is needed to augment them because the polluter cannot or will not provide certain cleanup resources. When the federal government must spend funds on cleanup operations (other than monitoring) the OSC should:

NOTE

In these cases, the Notice of Federal Assumption should state specifically what activities or resources the OSLTF will pay for.

- declare what part or parts of the response activities that he or she is taking control over (if it is not a total federal assumption of response activities).
- activate the Oil Spill Liability Trust Fund (OSLTF)

to cover expenses, and

- take whatever actions are needed to ensure a proper cleanup.

In these cases the Notice of Federal Assumption should state specifically what activities or resources the OSLTF will pay for

5.A.2.g. Administrative Order Under FWPCA

The Oil Pollution Act of 1990 amended the Federal Water Pollution Control Act and provided more authority to FOSCs to direct the removal actions in response to discharges of oil or FWPCA hazardous substances. Under 33 U.S.C. 1321 (c) and (e), an FOSC may now issue orders to responsible parties to ensure effective and immediate removal of a discharge or the mitigation or prevention of substantial threat of a discharge of oil or a FWPCA hazardous substance. An FOSC may also issue administrative orders "that may be necessary to protect public health and welfare."

Guidance on the issuance and enforcement of administrative orders under the authority of 33 U.S.C. 1321 (c) and (e) is being developed. FOSCs needing to issue an administrative order under the FWPCA can contact (G-MOR-3) for interim guidance and examples.

5.A.2.h. Response Operations

Appendix E to the National Contingency Plan (NCP), available in a "pocket" edition, outlines several steps in responding to an oil discharge. Among them are:

- Discovery or Notification,
- Preliminary Assessment and Initiation of Action,
- Patterns of Response,
- Disposal, and
- Documentation and Cost Recovery.

SAMPLE NOTICE OF FEDERAL ASSUMPTION FOR AN OIL POLLUTION INCIDENT

_____ Commanding Officer
_____
_____ _____
_____
_____

Gentlemen:

My letter of _____, delivered to you or your representative _____ at _____, notified you of Federal interest in a pollution incident for which you are considered to be financially responsible.

You are hereby given notice that your actions to abate this threat or to remove the oil from the waters, or adjacent shoreline have been evaluated as being unsatisfactory by the U.S. Coast Guard's On-Scene Coordinator (OSC), _____.

Effective_____, the U.S. Coast Guard will conduct all response/removal activities under the authority of one or more Federal statutes, including, but not limited to Section 311 of the Federal Water Pollution Control Act and the Intervention on the High Seas Act.

Should you require further information concerning this matter, you should contact _____ at the address and telephone number listed above.

Sincerely,

_____

Received and Acknowledged:

Witness(es): _____

_____

Figure 5-6

(1) Discovery or Notification

- The Coast Guard may receive reports of an actual or potential oil discharge from a variety of sources: vessels, facilities, aircraft, private citizens, other government agencies, the news media, or the National Response Center (NRC).

- The OSC ensures notification of the appropriate state agency of any state which is, or may reasonably be expected to be, affected by the discharge. The OSC then proceeds with the phases as outlined in the ACP.

- A coastal spill is one which reaches, or threatens to reach, U.S. navigable waters that are subject to the ebb and flow of the tide and waters of the Great Lakes, generally an area over which the Coast Guard has jurisdiction. A coastal spill falls into one of three classifications:

MINOR	Fewer than 10,000 gallons of oil
MEDIUM	10,000 to 100,000 gallons of oil
MAJOR	More than 100,000 gallons of oil

Coastal Spill Classification
Figure 5-7

- An inland spill is one that reaches or threatens to reach U.S. navigable waters or their tributaries which are not subject to tidal ebb and flow. The EPA or the Coast Guard will generally respond to an inland oil spill, depending on its location. These spills too are divided into three classifications:

MINOR	Fewer than 1,000 gallons of oil
MEDIUM	1,000 to 10,000 gallons of oil
MAJOR	More than 10,000 gallons of oil

Inland Spill Classification
Figure 5-8

(2) Preliminary Assessment and Initiation of Action

- Paragraph 5.A.2.c. of this chapter provides a detailed version of the text provided in Annex E to the NCP.

- Once the spill's location is ascertained, determination of the predesignated OSC should be made in accordance with the RCP. If it is not in the coastal zone, notify the EPA OSC and be prepared to assist and direct the response until the EPA OSC arrives on-scene.

- After receiving a report of an oil spill and notifying the appropriate entities, the OSC should begin planning the proper level or response and resource allocation. Use a chart of the area—one which covers the smallest practical area so the greatest detail is visible—and database to evaluate the details. Consult a good road map to determine the best access route for responders.

- Evaluate the actual or threatened discharge's magnitude and severity and assess the effectiveness of possible removal operations. This may require on-scene verification and evaluation, consulting the ACP or SPEARS database for a hazard and area environmental vulnerability assessment, and an overflight to determine the size, location, and movement of the discharge. The OSC should base an assessment on objective consideration of these factors. If a discharge threatens, decide how substantial the threat is according to FWPCA guidelines. Using federal funds may depend on such

a determination. The optimum time for completing an evaluation is within one hour of receiving the report of the spill.

- After identifying the spill's geographic area, consult the ACP or SPEARS to ascertain:
  - — the location of pre-arranged staging areas, command posts, and equipment;
  - — the availability of boat ramps in the area; and
  - — vulnerable resources in the area, including water intakes, marina, marshes, and wildlife.

The OSC must ensure an adequate surveillance of the spill response. If the Responsible Party does not take prompt, efficient action or is unknown, the OSC must take necessary actions to eliminate the threat or remove the discharge.

- General patterns of response when the OSC receives a report of a discharge normally are taken in the following sequence:
  - — investigate;
  - — officially classify the size (i.e., minor, medium, major) and type (i.e., substantial threat to the public health or welfare, worst case discharge) of the discharge and determine the course of action;
  - — determine if the Responsible Party can achieve effective removal, mitigation or prevention, and if so, determine whether removal is being done properly;
  - — determine, where appropriate, whether a state or political subdivision has the capability to carry out any or all removal actions; and
  - — make prompt notifications of the trustees.
- If the initial evaluation indicates an actual or potential medium or major discharge, the OSC should advise the Regional Response Team (RRT)

of the need to initiate further federal response actions. After assessing the hazards the OSC should advise the RRT of at least this information:

— whether cleanup or preventive action is necessary;

— whether RRT activation is required;

— whether additional resources are needed;

— whether the Responsible Party is taking responsibility for the cleanup operation and whether the response is immediate and effective; and

— whether containment, countermeasures, cleanup, and disposal are required.

(3) Patterns of Response

- Containment, countermeasures, and cleanup are defensive response actions. The OSC must ensure that initial response action begins as soon as possible after either an actual or threatened oil discharge is discovered. The goal of initial response is to protect public health and welfare and may require the following actions:

  — controlling the source of the discharge,

  — limiting the spread of the pollution, and

  — mitigating the effects of the pollution.

- Mitigating the pollution's effect may include recovering oil from the water and affected lands, which may require using equipment such as sorbents or oil skimmers, either the cleanup contractor's or prepositioned according to the Area Contingency Plan. The OSC must ensure that the Responsible Party is cleaning up the spill promptly and effectively and mitigating its effects. If not, the OSC must assume federal responsibility and hire and directly supervise the cleanup contractor.

- The OSC must recognize that each habitat or milieu possesses unique qualities which may require

different cleanup techniques to accomplish the two goals of removing as much pollutant as possible while minimizing environmental damage from the cleanup technique and further weigh these goals against such constraints as the technology, equipment, and personnel available.

- While recoverable quantities of oil in the water should be contained and removed if practical, oftentimes immediate containment is not possible, necessitating a shoreline cleanup. Nonetheless cleanup forces should examine the feasibility of open water containment and removal—especially if they can achieve containment before a potential spill becomes an actual one.

- Dispersants or chemicals may mitigate pollution damage more effectively than mechanical or physical methods. The NCP's Subpart J describes the criteria for using dispersants and other chemicals. The NCP Product Schedule, SPEARS database, and product bulletins periodically update the latest list of EPA-accepted chemical agents and additives, including technical data, application criteria, effectiveness, and toxicity.

- If shoreline contamination is expected, the OSC should ask several questions to determine if cleanup is an appropriate response.
  - Will cleanup activities cause more damage than leaving the oil to natural recovery or dissipation?
  - Will cleanup activities severely disrupt shoreline bird or mammal colonies?
  - Does the oil have a relatively low toxicity?
  - Will storms or seasonal erosion cycles remove the oil from the shoreline?
  - Does the oil degrade rapidly or slowly?
  - Does the shoreline have a high energy level?
  - Is the oil present on the surface of the substrate

and likely to remain there rather than being incorporated into sediments or buried by seasonal cycles?

— Is it likely the oil will migrate to adjacent shoreline or near-shore areas?

- Determine removal completeness. Whether the polluter or the federal government conducts the removal, the OSC determines removal completeness and authorizes termination of operations. Where uncertainty exists, the OSC may seek the advice of the RRT in making this determination. Generally, for oil discharges, removal is "complete" when:

  — There is no longer any detectable oil present on the water, adjoining shorelines, or places where it is likely to reach the water again; or

  — Further removal operations would cause more environmental harm than the oil to be removed; or

  — Cleanup measures would be excessively costly in view of their insignificant contribution to minimizing a threat to the public health or welfare, or the environment; and

  — Activities required to repair unavoidable damage resulting from removal actions have been performed.

(4) Disposal

- Oil recovered in cleanup operations shall be disposed of in accordance with the RCP, ACP, and any applicable laws, regulations, or requirements. RRT and ACP guidelines may identify the disposal plans to be followed during a spill response and may address: sampling, testing, and classifying of recovered oil and oiled debris; segregation and stockpiling of recovered oil and oiled debris; prior state disposal approvals and permits; and the routes; methods (e.g., recycle/reuse, on-site burning, incineration, landfilling, etc.); and sites for the disposal of collected oil, oiled debris, and animal

carcasses.

NOTE

For more complete discussion of funding, please see Section 5.B of this chapter.

(5) Documentation and Cost Recovery

All OSLTF users need to collect and maintain documentation to support actions taken under the FWPCA. For a spill in which the federal government assumes responsibility for cleanup operations, documenting federal response efforts is essential so it can recover its costs from parties responsible for the spill to replenish the revolving fund. Documentation serves several other useful purposes as well.

- Through POLREPS, it informs response personnel at other organizational levels and agencies.
- It provides evidence to support imposing civil or criminal sanctions.
- It documents federal expenditures to recover costs from the Responsible Party.
- It documents OSC decisions and actions throughout the incident.
- It forecasts program resource levels needed for pollution response.

(6) Reports

- Pollution Reports (POLREPS) should be drafted in accordance with District requirements. Commandant (G-MOR) should be an info addressee on all major and significant, high-profile medium pollution incidents. POLREPs for minor incidents, including those that are federally directed and funded, do not have to be transmitted to Commandant.
- An MSIS Marine Casualty Product Set must be completed for every pollution report or incident.
- Incident Specific Preparedness review (ISPR) - See Section 4.C.

- On-Scene Coordinator's Report - See NCP (40 CFR 300.165).

5.A.3. Spill of National Significance (SONS)

A Spill of National Significance (SONS) is a rare, catastrophic spill which captures the nation's attention due to its actual or potential adverse impact to the environment, public health or safety. A SONS is defined as a spill which greatly exceeds the response capability at the local and regional level and which, due to its severity, size, location and widespread environmental, economic, and public health impact, is so complex it requires extraordinary coordination of federal, state, local government and private resources to contain and clean up.

Only the Commandant can declare a SONS for discharges in the coastal zone. The Commandant may name a National Incident Commander (NIC) who will assume the role of the OSC in communicating with affected parties and the public, coordinating federal, state, local and international resources at the national level. This strategic coordination will involve, as appropriate, the NRT, RRT(s), the Governor(s) of affected state (s) and officials of local governments.

5.A.3.a. Spill of National Significance Protocol

A Commandant Note was published, in March of 1994, that established a National Incident Task Force (NITF) to provide strategic management and support to execute a SONS response. This Commandant Note was canceled in March of 1995 and should not be referred to for a SONS response organization. A new SONS protocol is under development. The SONS protocol will incorporate the Incident Command System (ICS) as the response management organization. The new protocol will be published as a Commandant Instruction and eventually incorporated into the Marine Safety Manual.

5.A.4. Hazardous Materials Spill Response Policy and Operations

In several respects Coast Guard activities in responding to a hazardous material or substance (HAZMAT) release parallel those for an oil discharge. However, there are significant differences.

- Because the perils involved in a hazardous substance release are different—and sometimes unknown—the cleanup approach is necessarily more cautious than for an oil spill.

- More extensive cooperation with the Environmental Protection Agency (EPA) than is common for oil spills may be desirable due to its greater expertise in dealing with toxic or unusual (such as vapors) substances.

- While oil spill responders may, in an emergency, require as few as four hours of specialized training, workers who perform hazardous substances cleanup must have, by OSHA requirements, at least 40 hours of technically-oriented training

5.A.4.a. Discovery or Notification

Vessels, facilities, aircraft, citizens, other government agencies, the news media, or the NRC all can report actual or potential HAZMAT releases. The OSC must report all releases to the NRC unless it is not practical to do so. Like oil discharges, hazardous substance releases are classified. Size classes of releases refers to the following size classifications which are provided as guidance to the OSC for meeting pollution reporting requirements of the NCP. The final determination of the appropriate classification of a release will be made by the OSC based on consideration of the particular release (e.g., size, location, impact, etc.):

(1) Minor release means a release of a quantity of hazardous substance(s) that poses minimal threat to public health or welfare of the United States or the environment.

(2) Medium release means a release not meeting the criteria for classification as a minor or major release.

(3) Major release means a release of any quantity of hazardous substance(s), pollutant(s), or contaminant(s) that poses a substantial threat to public health or welfare of the United States or the environment or results in significant public concern.

5.A.4.b. Preliminary Assessment and Initiation of Action

(1) On receiving a report the OSC must assess the situation promptly in the same way as for an oil spill. In addition to oil spill considerations, a HAZMAT assessment must include a decision whether the Coast Guard or EPA will

be the lead response agency. If the assessment indicates:

- action is needed, the OSC must decide whether immediate removal is required; and if
- federal action is needed, but not that which the Coast Guard usually undertakes (except for marine matters), the OSC should advise the appropriate EPA regional office *immediately* and confirm this message with a request for an EPA OSC.

(2) In all cases, the Coast Guard logs the report.

(3) When notifying the EPA, the OSC should be sure to include all pertinent information gathered for the assessment to assist the EPA OSC.

(4) For releases which do not require prompt attention, Coast Guard OSC is not the federal official responsible for determining to begin a planned removal or remedial action. Also, the OSC will not issue administrative orders requiring corrective measures for such releases. The assessment should include:

- the source and nature of the real or threatened release;
- notification to other federal, state, or local agencies so they can evaluate the threat to public health and safety; these may include:
  - NOAA HAZMAT team,
  - Scientific Support Coordinator,
  - state and county emergency services directors,
  - local fire departments and HAZMAT teams, and
  - state, county, or city public health agencies.
- the magnitude of the potential threat;
- a decision whether removal is recommended or necessary; and

- a decision whether a non-federal party is undertaking prompt, efficient response.

(5) The OSC does not need to extensively investigate a release before determining the need for a response and may call on a broad range of resources to assist in determining the risks associated with a released hazardous substance:

- RRT members
- Special Forces
- state and/or local agencies
- industry personnel
- SPEARS, CHRIS, or other information systems

(6) If the release poses an obvious threat to public health or welfare or the environment, the OSC should take appropriate actions as immediately as circumstances dictate.

(7) CERCLA authorizes a federal removal for a HAZMAT incident when all of the following elements of jurisdiction exist:

- there was a *release* or a substantial threat of one,
- there has been introduced into the environment a *hazardous* substance (see CERCLA §101 (14)), *pollutant*, or *contaminant* that may present an imminent and substantial danger to the public health or welfare, (see CERCLA § 104 (a)(2))
- and the responsible party *is not* taking prompt, efficient removal actions.

NOTE

A "substantial threat" means:

A "substantial threat" means there is a reasonable probability a release will occur and in the near future,

but does not refer to the magnitude of the release's effect. The key criterion in judging is the "threat of a release." Occasionally an OSC might find that the likelihood of a fire, explosion, or impending structural failure due to damage, construction deficiencies, or corrosion (which would cause a release if it occurs) constitutes a "substantial threat" of a release.

A "hazardous substance" includes:

- any element, substance, compound, or mixture including disease-causing agents which, after release, and upon
- exposure, ingestion, inhalation, or assimilation into any organism, either directly or indirectly (by ingestion) through the food chain, will cause or reasonably may be anticipated to cause
- death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including those in reproduction) or physical deformities in that organism or its offspring.

It *does not* include petroleum-based products.

In the "environment" CERCLA includes:

- "the waters of the United States including the territorial seas," including sewers, culverts, and drainage piping where there exists a continuous flow of water to a natural, flowing tributary to these waters and no fixed treatment facility is responding to the particular pollutant;
- the Contiguous Zone; the high seas, nine nautical miles wide adjacent to and seaward of U.S. territorial waters;
- ocean waters whose natural resources are managed exclusively by the U.S. under the Fishery Conservation and Management Act (FCMA) of

1976;

- surface waters at any depth of lakes, steams, rivers, and the ocean as opposed to ground waters;
- any ground water;
- any drinking water supply;
- any land surface, including artificial surfaces external to buildings;
- any subsurface strata;
- any ambient air, which the Coast Guard defines as that outside enclosed spaces (e.g., buildings, vessels, etc.).

(8) CERCLA §104 (a)(1) grants the OSC authority to assess releases of any size and initiate response whenever a release might require Federal removal. This authority exists regardless of the amount of substance potentially or actually released.

Unless an OSC can exactly gauge the release's extent, magnitude, and the nature of its dangers—which rarely is the case in the first few hours or days after a release—most often the OSC only will be able to:

- review the hazard characteristics of the released substance,
- judge if a material presenting such hazards may harm the environment or the public health or welfare in the locality, and
- determine, based on his or her experience and training and in conjunction with the counsel of Special Forces and state and local response organizations' representatives, whether to initiate action.

These considerations apply to an evaluation:

- Using CERCLA authority to prevent harm to the environment extends to the environment in general and not merely to easily identified components such as wildlife refuges or parks.

- The potential for latent harm to the environment or public health or welfare merits removal as the potential for acute harm; for example, releasing a persistent, bio-accumulative carcinogen or toxin may be far more serious than releasing a flammable substance.

- A substance's quantity is not a strict criterion in evaluating the need for a cleanup. A 1,000-gallon release in coastal waters may cause far less damage than the same quantity released in a small stream. Consider the environment the release affects as well as its quantity.

(9) An OSC need not determine with certainty that a hazardous substance has been released before beginning removal measures under CERCLA authority. When confronted by an unidentified material and prompt action is needed, the OSC should consider the available information and decide whether there is (or not) a reasonable basis for believing a release, or substantial threat of one, of a pollutant or contaminant. OSCs should rely on their own best judgment, based on training, experience, or common sense. Follow up as soon as possible with analyses, tests, or surveys to identify the substance.

NOTE

MSOs must maintain a Level "D" level unless a higher level can be justified to Commandant (G-M) and approved.

(10) HAZMAT Response Policy

- MSOs must maintain a Level "D" personnel protection (non-entry) level unless a higher level can be justified to Commandant (G-M) and approved. Annual testing and "certifying" of units with protection levels above Level "D" will be required.

- Coast Guard OSCs are expected to initiate a rapid response to any environmental emergency, actual or potential, in their area of responsibility (AOR).

  Vessel incidents, regardless of pollutant, remain the Coast Guard's responsibility from start to finish.

NOTE

- Local Emergency Planning Committees (LEPCs), District Response Advisory Teams (DRATs) and Area Committees must be fully employed in planning for hazardous substances incidents. There may be a "first response" organization within the AOR with Level "A" entry capability but it may lack experience or knowledge of shipboard configuration, operation, or cargo stowage. The MSO should work closely with such organizations and the LEPC before an emergency. MSOs should consider arranging joint familiarization boardings with local responders coordinated through local shipping companies. The goal is, to the extent practicable, to assist the local community in maintaining Level "A" posture with sufficient shipboard capability to stabilize a vessel incident pending arrival of special forces. This approach is consistent with area contingency planning guidance.

- The NSF is the primary Coast Guard site entry coordinator for HAZMAT incidents. OSCs are strongly encouraged to request NSF assistance at the earliest indications of Coast Guard on-site involvement in a HAZMAT incident.

(11) When a preliminary assessment indicates response personnel must enter a hazardous area, the OSC must formulate an incident-specific response plan which includes:

- the objectives of the on-scene entry
- on-scene organization and coordination
- identifying the hazards present on-scene
- personal protective equipment required
- work plans
- communication procedures
- emergency contingency plans
- decontamination procedures
- on-site safety and health plans

NOTE

Four circumstances justify an OSC's referral of an incident to the EPA for action:

(12) There are four circumstances in which it is proper for an OSC to refer an incident to the EPA for action.

- The release originates from a Hazardous Waste Management Facility.
- The release does not require beginning an immediate removal action.
- A removal has been secured before cleanup is complete; at that point the OSC should consult with state and EPA regional officials to add the scene to the National Priorities List for contaminant removal.
- Coast Guard policy requires that removal be secured when prompt action is no longer necessary and substantial cleanup methods must be used to completely remove the remaining contamination.

(13) An OSC can conclude an assessment upon deciding

that:

- there is no actual or threatened release;
- the source is neither a vessel or facility;
- the release is not a hazardous substance, pollutant, or contaminant;
- the amount, quantity, and concentration released does not warrant a federal response; that is, it does not meet the EPA's listed reportable quantity for the given hazardous substance;
- the responsible party or another agency is responding promptly and efficiently, so that federal on-scene monitoring is not required.

NOTE

Coast Guard definition of "consumer products in consumer use" is:

(14) While the hazardous substance source must be either a vessel or facility, CERCLA excludes from response authority (as a facility) "consumer products in consumer use." The Act does not define these products; the Coast Guard defines them as any article serving a personal, family, or household use while being used for that purpose in a manner which diminishes or destroys its utility (e.g., pesticides, fertilizers, detergents, etc.).

5.A.4.c. Containment, Countermeasures, and Cleanup

(1) Action is appropriate when the OSC decides:

- prompt action is required to control the release or mitigate its associated damages, or;
- the extent of harm or potential harm is sufficient to warrant removal; and
- using an administrative order to require the Responsible Party to remove the substance is inappropriate or proves unsuccessful (or stayed pending appeal).

NOTE

Sample Notice of Federal Assumption is provided as **Figure 5-9.**

SAMPLE NOTICE OF FEDERAL ASSUMPTION FOR A CERCLA INCIDENT

(Name/Address)

Gentlemen:

My letter of _____ (date) notified you of federal interest in an actual or potential pollution incident at _____ (vessel/facility) at _____ (location and body of water) for which you are presently considered financially responsible.

You are hereby given notice that your actions to mitigate this incident have been evaluated as unsatisfactory by the U.S. Coast Guard On-Scene Coordinator (OSC), _____ (name).

Effective _____ (date/time), the Coast Guard will conduct response activities under the authority of Section 104(a)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

Removal will be effected in accordance with the criteria of the National Oil And Hazardous Substances Pollution Contingency Plan and federal regulations. You may then be liable for all removal costs incurred by the federal government as set forth in Section 107(a) of CERCLA.

Should you require further information concerning this matter, contact: _____
_____
(Name/address, and telephone number of OSC).

Sincerely,

_____
(OSC or Representative)

Received and acknowledged: _____ Date/Time: _____

Witness: _____ Date: _____

Figure 5-9

(2) Action encompasses the following activities:

- physical cleanup,
- limiting access to the site,
- recommending evacuation or temporary relocation to the appropriate authorities,
- collecting samples to determine the source and extent of removal, and
- disposing of all hazardous substances, pollutants, or contaminants recovered during a removal action.

(3) The OSC may determine that immediate action is not necessary but an extensive removal or remedial action nonetheless may be, as may be the case where the release poses no immediate threat but action is necessary to reduce or eliminate potential future harm. In these cases, if vessels are not involved, the OSC should refer the incident to the appropriate EPA regional office. The OSC must be prepared to take action immediately if the situation deteriorates before remedial action can be accomplished.

(4) The OSC may take these actions, among others, in responding to a hazardous substance release:

- erecting fences or warning signs or taking other security or site control precautions to prevent human or animal access to the release;
- controlling drainage when precipitation run-off may cause an off-site release;
- constructing or stabilizing berms, dikes, or impoundments;
- capping contaminated soils to reduce migration of the hazardous substances back into the environment;
- using chemicals and other materials to retard the spread, mitigate the effects, or neutralize hazardous

substances;

- removing highly contaminated soils from drainages that cause hazardous substance releases into the coastal zone environment;

removing drums, barrels, tanks, or other bulk containers that contain hazardous substances if removing them will reduce the likelihood of spillage; leakage; exposure to humans, animals, or the food chain; or fire and/or explosion.

NOTE

The COTP has authority to evacuate the general public from coastal and navigable waters an the immediate waterfront.

(5) When necessary to protect public health or welfare, the OSC will coordinate temporary relocations or evacuations with local fire and police jurisdictions and the Federal Emergency Management Agency (FEMA), which alone has the statutory authority to order temporary relocations or evacuations. The OSC does not have authority to order evacuation. A COTP has authority to evacuate the general public from coastal and navigable waters and the immediate waterfront. If time permits the COTP should request FEMA to conduct such an evacuation if necessary, although the COTP should offer all assistance possible to local authority in an emergency in a port or on a navigable waterway.

(6) The Coast Guard does not conduct damage assessment to prepare a claim for damages against the Response Trust Fund or conduct restoration activities for damages to natural resources caused by releases. However,

- responders may conduct activities of this nature;

- an OSC may conduct limited damage assessment actions to prioritized cleanup actions if a large release will affect numerous areas or to support efforts to determine the appropriate extent of a removal; and

- an OSC may repair unavoidable damages to natural resources and/or private property if damages resulted from *necessary removal actions*.

(7) Once determined that a release needs remedial action, the OSC will oversee orderly transition from removal to remedial actions. Remedial actions permanently prevent or minimize the release of hazardous, polluting, or contaminating substances so they do not migrate to cause substantial danger to present or future public health or welfare or the environment. Fund-financed remedial action may be taken only at sites listed on the National Priorities List. The Coast Guard OSC is the Remedial Project Manager (RPM) *only for vessels* on the National Priorities List; in most other remedial situations the EPA will provide the RPM.

5.A.4.d. Disposal

(1) An OSC in an immediate removal, or an RPM in a remedial action, must dispose of by-products according to Resource Conservation and Recovery Act (RCRA) provisions and local and state regulations managing HAZMAT disposal, since these associated products themselves *are hazardous substances*:

- contaminated soils,
- dredge spoils,
- drums,
- tanks,
- refuse,
- water, and
- other materials as appropriate.

(2) Where possible the OSC should attempt by administrative order to compel the Responsible Party to dispose of facility waste. Otherwise the OSC may employ removal actions which make him or her responsible as a hazardous waste generator. These wastes are subject to "cradle-to-grave" manifesting procedures currently in effect under RCRA regulations.

The OSC must ensure that hazardous wastes generated from removal actions are transported by an approved hazardous waste hauler to an approved hazardous waste facility. Moreover, this creates another dilemma: the OSC simply has relocated the problem to some other geographic area where eventually it may develop into some other OSC's problem.

(3) The OSC should consider employing approved, effective, on-site treatments to eliminate both the waste and the dilemma. These treatments include:

- incineration,
- biological treatments,
- chemical treatments, and
- waste stream treatment methods.

(4) As a general rule an OSC should complete any removal operation; that is, reduce the hazardous substance to the point at which its harm or potential harm is insignificant. Removal is preferable to isolating a pollutant or containing it in place. However, this does not necessarily mean the OSC is obliged to remove all traces of the pollutant. Apply the following guidelines:

NOTE

Apply the following guidelines for level of pollutant removal:

- Air. Apply the Threshold Limit Values promulgated by the American Conference of Governmental Industrial Hygienists and the Permissible Exposure Limits OSHA has established. However, these have flaws; consult state officials, RRT members, the EPA ERT, or the National Institute of Occupational Safety and Health for additional safety factors to apply in determining cleanup adequacy.

- Surface Water. Select and apply guidelines or standards according to the water's primary use.

- Drinking Water. Use the primary drinking water enforcement authority's recognized maximum contaminant level.

- If air or water guidelines are unavailable, use:

— any water quality standard which may have been developed under FWPCA's § 303, or

— standards from the EPA's Office of Drinking Water, Health Effects Branch.

- Conservation. For agricultural, recreational, industrial, or wildlife conservation uses, use the applicable state water quality standard. However these standards often are *goals* and their recommended limits, especially for carcinogens, may be so low no available technology can achieve them.

NOTE

The data and standards the EPA developed during regulatory development under RCRA, FWPCA, and CERCLA may also be used.

- Sediment. Treat contaminated sediment as a real or potential source of release into the water column or food chain.

- Ground Water. The OSC should consider contaminated ground water as a source of release to surface waters if there is rapid interchange between the two. Pursue cleanup to the point contaminated ground water does not adversely affect surface water, using surface water cleanup standards depending on use. If the aquifer does not fall into any of these categories the State should justify Coast Guard removal and standards for determining cleanup adequacy.

- Soil. Where soil contamination could migrate and degrade surface or ground water or the atmosphere, the OSC should clean it to the standards of the affected medium. When a release which may be a contact hazard occurs on property the source owns or operates on, the OSC should:

— take measures to minimize the public's chance contact, and

— refer the matter to EPA's appropriate Regional Office, Solid Waste Management Branch for RCRA enforcement action.

5.A.4.e. Documentation and CERCLA Cost Recovery

(1) CERCLA reimburses Coast Guard (and other government agency) funds incurred during a preliminary assessment or while monitoring the Responsible Party's removal operations. Therefore an OSC must maintain complete documentation supporting vendor costs and invoices and submit Cost Summary sheets to the National Pollution Funds Center (NPFC) (copy to the District Commander) for forwarding to the EPA.

NOTE

(2) CERCLA frequently is called by its colloquial name, "Superfund," or its Public Law number, 96-510. Its program goal is to ensure the Responsible Party undertakes proper measures to mitigate damages from releases, or, if federal action is required, the Coast Guard or other appropriate OSC manages and coordinates it.

CERCLA is also referred to as “Superfund” or by its Public Law number, 96-510.

(3) It is important to read CERCLA §§ 101 through 111, particularly §§ 104 (a), 104 (b), 104 (c)(1), 106 (b), 107 (a), 107 (b), and 107 (c)(3) and the Act's definitions for:

- environment,
- facility,
- hazardous substance,
- release,
- removal, and
- response.
  - — CERCLA specifies that response includes both removal and remedial actions. Removal includes all response actions permitted in FWPCA's (as amended) § 311 plus certain others. Remedial actions are "consistent with permanent remedy" and may require considerable planning or a protracted commitment of resources (§ 101 (24)). "Removal" and "remedial" actions may be identical or intertwined; in the Act there is considerable overlap of both intent and the kinds of response measures authorized. "Remedial" action, however, generally refers to responses that are relatively costly or lengthy but not

urgent; most often "remedial" actions are those associated with long-term cleanup of waste sites. CERCLA funds are limited to $2 million or 12 months' duration per response unless:

— continued response would immediately prevent, limit, or mitigate an emergency;

— there is an immediate risk to the public health or welfare or environment; or

— such assistance will not otherwise be provided promptly.

(4) Activities which investigate, collect information, survey, test, monitor or otherwise identify the extent, source, and nature of a release and the magnitude of its threat are not included in the limitation.

(5) The MOU between the Coast Guard and EPA addresses Superfund funding.

5.A.4.f. Administrative Order Under CERCLA

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) gave FOSCs the authority to issue administrative orders for CERCLA “hazardous substance” releases which may create an imminent and substantial endangerment to the environment or to the public health and welfare. Under 42 U.S.C. 9606 (a), an FOSC may issue orders upon release, or threat of release, of a CERCLA “hazardous substance” from a “facility.” In CERCLA, the definition of a “facility” excludes vessels of any kind.

Guidance on the issuance and enforcement of administrative orders under the authority of 42 U.S.C. 9606 (a) is being revised. FOSCs needing to issue an administrative order under the CERCLA can contact (G-MOR-3) for interim guidance and examples.

5.A.5. Worker Health and Safety

NOTE

Federal law requires public and private personnel engaged in emergency cleanup operations to have taken safety and other training.

5.A.5.a. General

All personnel (including Coast Guard, other public agencies' staffs, and private contractors' staffs) involved with pollution response activities may encounter serious safety and occupational health hazards when conducting these activities. Federal law *requires*

public and private personnel engaged in emergency cleanup operations to have taken safety and other training. The primary federal regulations are the Occupational Safety and Health Administration (OSHA) standards for hazardous waste operations and emergency response found in 29 CFR 1910.120. This is for cleanup operations at an "uncontrolled hazardous waste site". OSHA classifies an area impacted by oil as such a site; however, the regulations do not automatically apply to an oil spill cleanup. There must be a reasonable possibility for employee exposure to safety or health hazards.

5.A.5.b. Need for Training

Inadequate training can have a severe impact on the individual, other team members, and response to the incident.

- Lack of personnel with the required training may hinder or delay response to an incident.
- Lack of required training may negatively affect personnel health and safety.
- OSHA rules also mandate required training for emergency workers to inform them of the potential hazards they may encounter and provide the necessary knowledge and skills to perform their work with minimal risk to their safety and health. OSHA is empowered to take enforcement actions against public or private employers whose employees have not taken the required training.

5.A.5.c. Cleanup Workers

Coast Guard cleanup workers fall into three categories and must have the following minimum training:

- First Response: 8 hours
- HAZMAT Cleanup: 40 hours
- Emergency Workers: the 8/40-hour requirement can be waived in an emergency to enable personnel with 4 hours' prior training to engage in cleanup.

5.A.5.d. Safety Roles

The role of the site safety and health supervisor (the Coast Guard District Occupational Health and Safety Coordinator) is to assess the site, determine the safety and health hazards present, and determine if OSHA regulations apply. If an OSHA field compliance officer is on-scene, he or she should be consulted. Disputes should be referred to the Department of Labor representative on the RRT. Public Health Advisers from the Department of Health and Human Services' Agency for Toxic Substances and Disease Registry (ATSDR), who usually work in the Environmental Protection Agency's regional offices, are available to assist Coast Guard OSCs during response actions. Their expertise includes advising on the adequacy of personnel protection measures within the response area.

5.A.6. Response Checksheet

5.A.6.a. Checksheet Guide

The OSC and staff will need to address a variety of issues—all of them more or less immediately—on learning of an oil discharge or hazardous substance release. **Appendix 5-A** to this chapter contains a checksheet showing some of the types of issues the OSC should address. Use this as a guide to develop your own checksheet or contingency plan.

5.A.7. Intervention Guidelines

5.A.7.a. Legal Authority

The federal government has designated the Coast Guard as the agency which enforces international agreements and domestic U.S. laws regarding marine pollution.

(1) Two such agreements grant authority to intervene and take necessary steps to protect U.S. interests in response to a ship-related pollution incident:

- the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, and
- the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil.

The U.S. Intervention on the High Seas Act (IHSA), as amended,

"Invention" is "any detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator" in regard to an actual or threatened pollution incident.

implements both the Convention and Protocol, to which the U.S. is a party. IHSA, the FWPCA, the Oil Spill Liability Trust Fund, and CERCLA all provide legal authority to mitigate pollution disasters on the high seas and U.S. navigable waters. As a party to the Convention, the U.S. agrees to follow certain internationally prescribed procedures when intervening on the high seas. Coast Guard policy is to follow IHSA and Intervention Convention procedures on the high seas as much as possible and to the maximum extent feasible for incidents occurring in U.S. navigable waters.

(2) Under these procedures, before an actual intervention action is conducted, consultation must take place with:

- the flag country of the ship involved and other countries affected by the maritime casualty, through the U.S. Department of State,
- the EPA, and
- other persons, physical or corporate, known to have interests which reasonably may be expected to be affected.

Views received in response to these consultations will be considered before intervention takes place. In an extreme emergency intervention may take place before consultation, but notification and consultation then should occur as soon as possible thereafter.

5.A.7.b. Intervention Conditions

NOTE

"Intervention" is "any detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator" to prevent, mitigate, or eliminate grave and imminent danger to coastlines or related U.S. interests from actual or threatened pollution of the sea by oil or other hazardous substances. The Intervention Protocol contains a list (not exhaustive) of substances having the potential to cause serious pollution, but their mere presence on board a vessel does not justify an intervention.

(1) The IHSA applies when *all* the following conditions exist:

- the ship is outside the territorial sea;
- a ship collision, grounding, other navigation incident, or other occurrence, either on the ship or external to it, has resulted in material damage or the imminent threat of material damage to the ship or its cargo;
- the situation creates grave, imminent dangers to the U.S. coastline or related interests from real or potential pollution of the sea by oil or other hazardous substances which may be expected to result in major harmful consequences; and

Intervention may be taken against a ship whether or not its flag state is a party to the Intervention Convention of Protocol.

- the oil constituting the threat is one of four original "Convention oils":
  - — crude
  - — fuel
  - — diesel
  - — lubricating

  or is an oil, noxious substance, liquefied gas or radioactive substance which either is enumerated in the Protocol's list or the Commandant otherwise determines to be hazardous under the IHSA, and

- the ship is not a warship or other government-owned or -operated ship engaged in non-commercial (i.e., military) service.

(2) If a shipowner or master takes no action to prevent a shipboard pollution incident or the actions taken are unsatisfactory or insufficient, intervention may include these actions, among others:

NOTE

- salvage operations necessary to remove pollution or a pollution threat on a vessel or its cargo,
- transferring oil or hazardous substances to other tanks, other ships, or barges,

The Coast Guard will avoid unnecessary interference and cease intervention as soon as the threat has been eliminated or mitigated.

- deploying equipment to contain or deal with an oil spill,
- removing or destroying a vessel,
- disposing of or destroying the cargo on board, for example, by burning, and
- orders to the ship's owner, operator, or master.

(3) Intervention actions do not include:

- "cooperation" between the Coast Guard and interested persons such as the master, shipowner, or a salvor in these or similar pollution abatement measures;
- actions taken by vessel interests either on their own initiative or the Coast Guard's advice, or
- Coast Guard actions which do not adversely affect the vessel or its cargo or, if they do, are taken with the owner's or operator's consent.

(4) If a vessel poses a grave, imminent danger on the high seas or a substantial threat of a pollution hazard in U.S. navigable waters, the Coast Guard may take action to eliminate the threat. The Coast Guard will take only those measures needed to prevent, mitigate, or eliminate the threat. The Coast Guard will avoid unnecessary interference and cease intervention as soon as the threat has been eliminated or mitigated. Under IHSA, funding is available under both the FWPCA and CERCLA. Use the latter if the threat is a hazardous substance (but *not* oil, liquefied natural gas, or a radioactive substance; the Commandant will provide funding information for the latter two hazardous materials). The government must pay compensation for damage caused by measures which exceed those reasonably necessary to prevent, mitigate, or eliminate a pollution threat.

NOTE

(5) If ongoing public or private efforts are under way to eliminate a threat the Coast Guard may, if needed,

direct these efforts. When time permits, the Coast Guard will press the master, owner, or operator to take action to mitigate the condition which required the intervention. If these actions are slow, inefficient, or otherwise unsatisfactory, the Coast Guard may hire contractors to conduct intervention operations. If such commercial enterprises are not available, the Coast Guard may need to use federal resources.

(6) Persons who willfully obstruct actions or willfully refuse or fail to comply with lawful orders pursuant to the Intervention Act face criminal sanctions.

(7) In many intervention cases, search and rescue operations may precede or occur concurrently with intervention. The Coast Guard should ensure that the intervention does not interfere with efforts to protect the safety of life at sea.

(8) The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters (1972, London Dumping Convention) regulates disposing of a vessel on the ocean. The U.S. is a party to this treaty; the EPA has issued implementing regulations which grant a general permit to federal agencies to transport vessels for ocean disposal and set conditions for emergency and non-emergency disposal sites. If vessel disposal is contemplated, consult the EPA member of the RRT.

5.A.7.c. Intervention on U.S. Internal Waters and Territorial Seas

(1) FWPCA § 311(d) includes authority to:

- intervene whenever marine disaster in or on U.S. navigable waters—including the territorial sea and internal waters—creates a substantial threat of a pollution hazard to the public health or welfare;
- coordinate and direct all public and private efforts to remove and eliminate such a threat;

Commandant (G-C) makes the final intervention on requests for intervention

- summarily remove or, if necessary, destroy such a vessel by whatever means available without regard to employing personnel or spending funds.

The authority includes incidents involving oil and hazardous substances.

The Coast Guard may take only those measures reasonably necessary to prevent, mitigate, or eliminate the threat; they must cease as soon as the threat has been eliminated or mitigated.

(2) Funding is available for incidents involving oil only under FWPCA § 311(k). Funding for incidents involving hazardous substances is available under FWPCA §§ 311(c) and (d) and CERCLA § 104(a). While the latter does not provide explicit authority, its broad language implies it. Use CERCLA when the pollution is a substance other than oil but not liquefied natural gas or a radioactive substance. (The Commandant will provide funding information at the same time as intervention authorization.) The Commandant will cite the appropriate section in notifying the flag country and other interested parties and the intervention authorization.

(3) Commandant (G-C) will:

NOTE

- make final determination on requests for intervention; and
- respond to such requests as soon as possible, defining the scope of intervention action to be taken.

(4) Commandant (G-M) will:

- provide specific recommendation to Commandant (G-C) and a draft message reply when the Area or District Commander requests authority to intervene;
- immediately notify Commandant (G-CI) and the Secretary of Transportation of the situation;

- immediately activate and convene, if needed, the National Response Team whenever an intervention is under consideration or under way, and

- consult with the EPA and NOAA for an incident in which a hazardous substance not listed is involved; they will determine in a manner analogous to listed materials' hazards whether the substance is likely to create a hazard to human health, harm living resources, damage amenities, or interfere with other legitimate uses of the sea.

(5) Commandant (G-CI) will:

- before intervention, consult with the vessel's flag state and those countries affected by the casualty through the Department of State except in extremely urgent cases; in extremely urgent cases, Commandant G-CI will notify and consult with the countries involved as soon as possible;

- notify the International Maritime Organization's (IMO) Secretary-General through the Department of State of all U.S. interventions on the high seas; and

- cite relevant legal authority as appropriate in the notification.
  - For interventions on the high seas, cite the Intervention Convention, IHSA, FWPCA, § 311(c), and/or CERCLA § 104(a).
  - For interventions on U.S. internal waters or the territorial seas, cite FWPCA §§ 311(c) and (d) and/or CERCLA § 104(a).

(6) Area and District Commanders will:

- promptly notify Commandant (G-M) when they believe they will need to intervene because:
  - an incident on the high seas poses a threat of

grave, imminent danger to the U.S. coastline or related interests from real or threatened pollution of the sea by oil or a hazardous substance which reasonably may result in major harmful consequences; or

— a marine disaster on U.S. navigable waters poses a substantial threat of a pollution hazard to the U.S. public health or welfare.

- whenever it appears they may need to intervene, request authority to do so from the Commandant (G-C) through Commandant (G-M). Accompany the request with amplifying operational information about the pollution potential, including at least:

  — the specific type and quantity of oil or hazardous substance involved;

  — for incidents which involve a hazardous substance not listed in the Intervention Convention Protocol, whether CERCLA lists the substance; include also the OSC's or RRT's opinion whether, under the incident's circumstances, the substance is liable to create a hazard to human health, harm living resources, damage amenities, or interfere with other legitimate uses of the sea similar to hazards posed by substances listed in the Intervention Convention Protocol;

  — the vessel's position, specifically whether or not it is in U.S. territorial waters;

  — details on the specific U.S. endangered coastline, estuary, beach area, or other related interest;

  — real or proposed actions the cargo owners, shipowners, master, or agents have taken;

  — an evaluation of those actions taken or proposed by the cargo owners, ship owners, master or agents;

  — the recommended actions to take if the Commandant grants intervention authority;

— the parties or interests already notified and any views they have submitted in response;

— the vessel's flag state and type; and

— other pertinent matters.

- immediately activate and consult with the RRT whenever considering intervention to determine whether the substance is liable to pose a hazard to human health, harm living resources, damage amenities, or interfere with other legitimate uses of the sea; the Regional Response Plan should contain intervention strategies implementing the IHSA, FWPCA § 311, and CERCLA § 104(a);

- notify the nearest consul, if one exists, in the Area or District of the vessel's flag state;

- notify vessel masters, owners, and agents of the intervention under consideration and its anticipated scope (e.g., full control of salvage operations, removing cargo without vessel salvage, removing or destroying the vessel, etc.); and

- proceed as Commandant (G-C) authorizes if intervention authority is approved and intervention still is considered necessary.

5.A.8. Assistance to Foreign Governments

Occasionally, the United States receives requests from foreign governments for assistance during significant pollution incidents or other environmental emergencies and for training. When providing assistance as an individual agency, Coast Guard guidance pertains. Multiagency assistance is provided under the National Response Team and its particular guidance.

5.A.8.a. Coast Guard Assistance

It is the Coast Guard's policy to provide assistance to foreign governments on an as-available, not-to-interfere, cost-reimbursable basis whenever providing such assistance is determined by the U.S. Department of State to be in the national interest. In addition, providing assistance may be in the Coast Guard's interest as a

Requests for assistance must be made on a

NOTE

training opportunity to maintain or enhance experience levels and response posture for major pollution incidents.

(1) Receiving requests for assistance.

- All requests for assistance must be made on a government-to-government basis through established diplomatic channels. If an initial request is received informally by a Coast Guard unit, the person initiating the request should be advised to make a formal request through the appropriate U.S. Embassy or Consulate. The request should contain at least the following information:
  - a full description of the situation;
  - the type and estimated duration of assistance requested;
  - commercial and governmental resources currently responding;
  - names of international organizations assisting, such as the International Maritime Organization (IMO), International Tanker Owners Pollution Federation (ITOPF), etc.; and
  - whether the U.S. will be reimbursed for the costs of assistance if provided.
- Information concerning any informal request should be promptly passed to Commandant (G-M) for coordination and to enable the request to be rapidly processed once formally received.

(2) Requests for assistance from foreign governments will be granted only if providing the service will not seriously interfere with readiness for response within the U.S. When requests for assistance include the need for NSF equipment, Commandant (G-M) will ensure that sufficient information is available to determine that providing equipment will not necessarily conflict with private enterprise, and that the requesting government is advised that NSF equipment will be available only for such time as to allow for adequate response by the commercial sector. In any case, experience has shown

that the best practice is to initially provide two Coast Guard advisors who will evaluate the actual needs of the requesting country and the effectiveness of providing Coast Guard equipment.

(3) Personnel. Since requests are normally for persons with expertise in mitigation and countermeasures of pollution incidents, persons selected to respond will normally be members of the National Strike Force (NSF).

(4) Briefings. Whenever possible, personnel identified to provide assistance will receive a briefing prior to departure. Commandant (G-M) will coordinate the briefing with Commandant (G-CI) and the appropriate Desk Officer at the U.S. State Department and A.I.D. Mission or U.S. Embassy staff of the requesting country upon arrival and departure. Requests for training usually allow sufficient time for briefings, logistics, and other coordination activities to be handled in a less time-critical manner. Upon completion of the

response, the senior member will return via Washington, D.C. and be debriefed. If logistics or dates of release make this impractical, the senior member will submit an incident summary report via message immediately upon returning to his unit. This report is especially important if the circumstances of the incident indicate that return visits to provide additional assistance may be requested by the foreign government.

(5) Reports. A Headquarters liaison officer will be designated by Commandant (G-M) for each deployment of response personnel. While deployed, response personnel will normally contact their operational commander every three days. Oftentimes this may not be possible or changes in the situation may not warrant it. The senior member, however, will at a minimum send a weekly report via the U.S. Embassy or Consulate.

Operational commanders will advise Commandant (G-M) of all response status updates upon receipt. These reports will include a verbal or written summary of the

activities and effectiveness of the response team, and of any problems encountered relating to the commercial sector, the host government, and/or other organizations. In addition, the senior response member shall submit a written report within 60 days of return. **Figure 5-10** contains criteria for the written report.

Personnel conducting training missions will make periodic reports as the situation warrants. However, problems of any kind will be reported immediately to the operational commander who will in turn advise Commandant (G-M). Personnel conducting training will also submit the written report required of response personnel. Travel claims tabulating all expenses incurred will be submitted within five working days of return. This is essential for the timely processing of government-to-government reimbursements, and to ensure that the actual data is available to be included within the final written report.

(6) Operational Control. For pollution response, the Area Commander who is the operational commander of the senior response person will normally assume operational command of the response contingent. Administrative control will remain with the parent command. However, due to the necessary interaction among the State Department, foreign governments, and the Coast Guard, and in view of the extraordinary operational support demands of an international response, Commandant (G-M) will of necessity coordinate many aspects of the response. Area Commanders should inform Commandant (G-M) of an appointed liaison officer early in the response in order to keep the Commandant (G-M) liaison officer routinely informed of the mission status. A similar relationship will be formed for training missions depending on the parent command of the personnel involved and the impact on their normal mission.

(7) Passports. Each NSF strike team CO, XO, OPS Officer, and reasonable number of other team personnel as determined by the CO will maintain current

passports.

(8) Fiscal Procedures and Considerations

- The Coast Guard has authority to provide assistance to foreign governments for pollution response and training under 14 U.S.C. 141 (a), when the Department of State requests that such assistance be provided. It is Coast Guard policy that the Coast Guard must, except in extraordinary cases as determined by Commandant (G-M), be reimbursed for assistance provided. Reimbursement will usually be limited to out-of-pocket costs, including only travel, per diem, and equipment expenses.

NOTE

Coast Guard policy is that the Coast Guard must, except in extraordinary circumstances, be reimbursed for assistance provided.

CRITERIA FOR WRITTEN REPORT

The written Incident Summary Report will use the following format:

1. Summary of Events - A chronological narrative of events including:

   a. The cause of discharge or release;
   b. The initial situation, including location;
   c. The organization of the response. This section should include the name of the OSC, or the equivalent, his position in the government, and any other items that may be of interest.

2. Effectiveness of Response and Removal Actions

   a. The use of U.S. contingent, and where they were used within the organization;
   b. The resources committed and a detailed analysis of their use and effectiveness. This section should include a list of commercial sources on scene and an evaluation of their organization.

3. Political considerations, if any

4. Problems encountered

5. Recommendations for improving U.S. assistance to foreign governments or for improving this document

6. Summary of Costs to the U.S. Government in meeting the request for assistance. Summary should include:

   a. List of personnel responding, their actual time spent on response in man days, and salary in accordance with current CG standard cost guidance.

   b. Travel and per diem costs. Copies of travel claims shall be attached.

   c. List of equipment, if applicable, and cost in accordance with current CG standard rates. Costs of repair or replacement of equipment damaged or lost as a result of use during response shall be included.

   d. Cost of expendable items used during response.

Figure 5-10

- The Coast Guard does not have the legal authority to accept reimbursement directly from the foreign governments to which assistance is provided. Reimbursements may be obtained directly from the Department of State under 31 U.S.C. 1535, or indirectly from the foreign government, through the Department of State, under section 607 of the Foreign Assistance Act, 22 U.S.C. 2357.

- Indirect reimbursements under 22 U.S.C. 2357 is contingent upon a determination by the Trade and Development Program, International Development Cooperation Agency (TDP), in the Department of State, that the provision of the assistance on an advance of funds or reimbursement basis is consistent with and in furtherance of the proposal and within the limitations of Part I of the Foreign Assistance Act (a “607" determination). Experience has demonstrated that determination normally takes a week or more to obtain. Consequently, this indirect reimbursement procedure is not normally used where the assistance is required on an emergency basis.

- Ordinarily, reimbursement is obtained in accordance with 31 U.S.C. 1535, by which the Department of State “places an order” with the Coast Guard for its services. The Office of Foreign Disaster Assistance of the Agency for International Development (OFDA) is normally the office within the Department of State which “places the order” for the required assistance either on a case-by-case basis by telephone or message, or in accordance with a Participating Agency Service Agreement (PASA). Reimbursement to the Coast Guard is made from amounts available to the Department of State.

- Commandant (G-M) in consultation with Commandant (G-CI) will take the necessary steps to:

  — assure that the proper authority in the Department of State has requested the required

assistance;

— recommend, in appropriate cases, to Commandant (G-M) that the Coast Guard not seek reimbursement for assistance in that case;

— except where Commandant (G-M) determines reimbursement is not appropriate, determine whether reimbursement should be sought directly from the Department of State through OFDA, or indirectly from the Foreign Government pursuant to a TDP “607" determination;

— assure that appropriate financing arrangements and procedures are established, including arrangements as necessary with the local embassy or consulate; and

— authorize assistance requests and maintain a ledger of costs incurred in providing the assistance.

- It is important that unit funds not be used for foreign assistance, since it will not normally be possible to return reimbursed funds to the unit or program. A unit providing response assistance will use the unit or program. A unit providing response assistance will use reimbursable accounting data provided by Commandant (G-M). The accounting data and a block of travel order numbers (TONOs) will be maintained in the National Response Center and will be provided to the unit when the assistance is authorized by Commandant (G-M). A duplicate set of accounting data and TONOs will also be maintained in (G-M).

NOTE

It is important that unit funds not be used for foreign assistance.

- A description of the normally expected course of events in the decision to provide assistance would be as follows:

  After the occurrence of a pollution incident, a foreign government seeking emergency assistance would be advised that they must make a government-to-government request through the closest U.S. Embassy or Consulate. The request

must be "hard copy" and must agree to reimburse the U.S. for costs. The Coast Guard will probably receive advance telephone notice of the request either directly from the government or through a U.S. Embassy. Commandant (G-M) or (G-CI) will contact the appropriate country desk officer or duty officer at the Department of State (DOS) and advise on whether or not we have the resources available and are willing to provide assistance.

Commandant (G-M) or (G-CI) will request DOS provide a recommendation on assistance. This is necessary to bring the DOS mechanism into play so that the requesting country will reimburse DOS and the Coast Guard can bill DOS for its costs. In cases where the country cannot pay for the requested assistance, Commandant (G-M) will contact U.S.A.I.D. to determine if AID is willing to fund the assistance from the existing AID/USCG Interagency Agreement (PASA). These contacts with DOS and AID will be done quickly by telephone. Commandant (G-M), once assured reimbursement is authorized, will release travel order numbers to the Coast Guard component which will provide the assistance.

(9) Criteria for Selection of Response Personnel

- The selection of NSF representatives will be made by Area Commanders after consultations with Commandant (G-M). General considerations for selection will be:
  - NSF ongoing operations and the particular government making the request.
  - Senior representatives will be selected from the NSF team closest to the requesting country. A second person, if needed, will normally be from another NSF team. On occasions when political conditions warrant it, Commandant (G-M) may encourage selection of personnel who have previously been on international assignments or may provide a senior officer to act as liaison

between the on-scene team and the U.S. Embassy in the country receiving assistance and that country.

— When requests are specifically for training, Commandant (G-M) will consult with, and personnel will be selected from, the organizations best suited for performing the mission. The Coast Guard will agree to provide this assistance only with the full concurrence of the command selected to provide the personnel resources.

  The specific details for training requests will be coordinated with G-CI as the manager of all Coast Guard international training activities.

— A primary consideration in all assignments will be to use the minimum number of personnel needed to carry out the mission.

(10) Actions to Be Taken by CG Personnel in Support of Foreign Governments

- Coast Guard personnel assigned to provide international pollution response assistance will, where appropriate, assist foreign governments by evaluating existing contingency plans; developing incident-specific plans if current plans are inadequate or nonexistent; and advise them on appropriate mitigation measures and efficiency of efforts already undertaken, including the need for and evaluation of equipment. If the circumstance so warrants, and the assisted government is willing to bear the fiscal burden, they may arrange for the transport of Coast Guard owned equipment to the scene and operate that equipment while on scene (subsequent to a determination by the Commandant (G-M) on commercial sector considerations). They may also recommend planning and training efforts that may be taken by the government to improve response to future incidents.

- Training. Personnel assigned to provide pollution response training will normally be selected to meet the training needs identified by the requesting

government, modified in some cases by consultation with Commandant (G-M). In addition to meeting the identified needs, they should be prepared to evaluate the current training capabilities of the requesting government and to make recommendations for future needs, and how that government can best acquire the additional training that is needed. This evaluation will be shared with G-CI to coordinate the programming of appropriate training.

- On any assistance case, response or training, the senior Coast Guard representative will keep his operational commander (and thereby the Commandant (G-M)) apprised of his/her assessment on the continued usefulness of Coast Guard involvement. While Coast Guard presence may provide a government with a feeling of security, this in itself should not justify continued or long term Coast Guard assistance.

5.A.8.b. Multiagency Assistance

Multiagency assistance to foreign governments is handled by the National Response Teams (NRT) agencies. It is NRT policy to provide assistance, generally on a cost-reimbursable basis, to foreign governments when it is determined by the U.S. Government to be in the national interest. The following guidelines have been developed for multiagency assistance to foreign governments.

(1) Receiving requests for assistance.

- All requests for assistance must be made on a government-to-government basis through established diplomatic channels. If an initial request is received informally by an NRT agency, the person initiating the request should be advised to make a formal request through the appropriate U.S. Embassy or Consulate. The Department of State (DOS) NRT representative should be immediately informed of any such informal request. The request should contain at least the following information:

  — a full description of the situation;

— the type and estimated duration of assistance requested;

— commercial and governmental resources currently responding;

— international organizations assisting, such as the International Maritime Organization (IMO), International Tanker Owners Pollution Federation (ITOPF), etc.; and

— whether the U.S. will be reimbursed for the costs of assistance if provided.

- Information concerning any informal request should be promptly passed to NRT members for coordination and to enable the request to be rapidly processed once formally received.

(2) The decision to provide assistance should be made by the affected agencies with the concurrence of the DOS.

(3) NRT special team equipment (e.g., National Strike Force, SUPSALV or Emergency Response Team equipment) will not normally be provided if the use of such equipment will unnecessarily conflict with private enterprise. A request for assistance should include enough information for the agency under which the special team operates to determine whether it is appropriate to use their equipment in lieu of commercial resources. The requesting nation should be advised that government-owned equipment will only be provided until adequate commercial resources are available.

(4) Designation of the lead agency will normally follow the National Response System as outlined in the National Contingency Plan (40 CFR part 300). Under the National Response System, the Environmental Protection Agency (EPA) is normally the lead agency for incidents in the inland zone and the Coast Guard is normally the lead agency for coastal and maritime incidents. However, if the foreign assistance involves special concerns, another agency may be designated as the lead agency. For example, if the incident primarily involves a threat of biological harm or special health

concerns, the National Oceanic and Atmospheric Administration (NOAA) or the Department of Health and Human Services (HHS) may be designated as the lead agency if appropriate. Designation of a lead other than the EPA or Coast Guard will be made as a consensus decision among the agencies involved.

(5) Each individual NRT agency will determine the personnel and resources to send to the foreign response. The lead agency should coordinate personnel and resources and designate a response team leader.

(6) A country clearance from the U.S. Embassy in the country requesting assistance is generally needed before the response team leaves the U.S. The lead agency should request a clearance for the entire team rather than each agency requesting its own. The lead agency should work directly with the DOS who will coordinate with the U.S. Embassy.

(7) Briefings and reports

- Pre-brief. Whenever possible, the response team will receive a briefing prior to departure. The lead agency should coordinate the briefing with other NRT agencies, the DOS NRT representative and the appropriate DOS Desk Officer. Conference calling is cost effective and, often, most expedient. The team should be provided with the desired goals and objectives of the assistance.

- Arrival brief. The team leader should brief the U.S. Embassy or Consulate upon arrival.

- Situation reports. Depending on the nature and scope of the response, the team leader should either contact the lead agency weekly or send a weekly official situation report via the U.S. Embassy or Consulate. These situation reports should include a summary of activities, an evaluation of the effectiveness of the team's efforts, and a description of problems encountered. The agency receiving the report should further disseminate the report to the

NRT as necessary.

- Departure brief. The team leader should brief the U.S. Embassy or Consulate upon departure.

- Debrief. When the response is completed, the team leader should debrief the lead agency, the DOS NRT representative, and representatives of other involved NRT agencies. The debrief should include the following information:

  — the date and time the response was completed and date and time reporting back to the U.S.;

  — a brief summary of circumstances and assistance provided;

  — estimated cost of response;

  — problems encountered and recommendations; and

  — whether or not further assistance is needed or anticipated.

- The team leader should submit a written synopsis of the response to the lead agency within 30 days of the response. The report will be provided to NRT members through the NRT chairmanship.

(8) Funding. Procedures for reimbursement for assistance may vary from agency to agency. Each agency should ensure that a funding mechanism is established prior to providing assistance. Reimbursement is usually limited to out-of-pocket costs, including travel, per diem, and equipment expenses.

Section 5.B
Funding and Logistics

5.B.1. Purpose

All users of the Oil Spill Liability Trust Fund (OSLTF) and the appropriate Superfund portion of the Hazardous Substance Response Trust Fund must maintain detailed records of all resources and costs incurred in responding to a pollution incident. Failure to submit timely and complete documentation can result in delays in reimbursement for removal costs and payments to contractors.

5.B.2. National Pollution Funds Center (NPFC)

5.B.2.a. The National Pollution Funds Center

The Oil Pollution Act of 1990 (OPA 90) became law in response to the need for legislation to govern the discharge or substantial threat of discharge of oil into the navigable waters, adjoining shorelines, and exclusive economic zone of the United States. The Oil Spill Liability Trust Fund (OSLTF) was designated by OPA 90 as a funding source to carry out the Statute, and its administration and management was delegated to the United States Coast Guard. In response to this fiduciary responsibility, the National Pollution Funds Center (NPFC) was established February 20, 1991. The NPFC is an independent Coast Guard Headquarters Unit reporting directly to the Chief of Staff.

(1) Roles and Missions. The NPFC is the fiduciary agent for the OSLTF, and the portion of the Superfund used by the U.S. Coast Guard for response to hazardous substances released in the coastal zone. In accordance with OPA 90 and other pertinent laws and regulations, the NPFC executes programs to accomplish the following five principal objectives:

- provide funding to permit timely removal actions;
- provide funding for the initiation of natural resource damage assessments (NRDA) for oil spill incidents;
- compensate claimants who demonstrate certain types of damages caused by oil pollution;

- recover funds owed by parties responsible for oil pollution costs and damages; and
- certify the financial responsibility of vessel owners and operators.

Assisting the Coast Guard with the administration of the OSLTF is the Treasury Department which is the Trustee for the Fund, the Environmental Protection Agency (EPA) which coordinates the cleanup of inland oil spills, and trustees who oversee the restoration of natural resource damages.

5.B.3. Oil Spills/Incident Specific Funding

5.B.3.a. Prerequisites and Costs Paid

OPA 90 authorizes payment of "removal costs, including the costs of monitoring removal actions, consistent with the National Contingency Plan (NCP)." The prerequisites which must be met before removal costs, including the costs of monitoring a responsible party's cleanup, can be paid from the Fund are as follows: (i) the costs must result from an OPA incident—a discharge or the substantial threat of a discharge, of oil into U.S. surface waters (including the exclusive economic zone); and (ii) the action giving rise to the costs must be consistent with the NCP. If the prerequisites are met, the Fund may pay:

- costs of containment and removal of oil from water and shorelines;
- costs to prevent, minimize, or mitigate oil pollution where there is a substantial threat of discharge of oil; and
- costs of taking other related actions necessary to minimize or mitigate damage to the public health or welfare including, but not limited to, damage to fish, shellfish, wildlife, public and private property, shorelines, and beaches.

(1) While it is no longer necessary for the FOSC to determine the adequacy of a responsible party response before federal funds can be expended, the FOSC should strive to avoid duplicating responsible party efforts.

(2) Some examples of possible incident-specific federal

removal costs which may be paid or reimbursed by the OSLTF, if they further the purpose of removal (i.e., the containment or removal of oil pollution necessary to minimize or mitigate damage to public health and welfare) and are consistent with the NCP include: out-of-pocket expenses (e.g., per diem and travel: vehicle mileage, rental cars, and field consumables); contracted costs (e.g., cleanup contractors, accounting support, etc.); government-owned equipment costs; costs of EPA technical assistance teams; salary costs for temporary government employees hired or activated specifically for the spill response (e.g., reserve personnel activated for monitoring); and specific salary costs for federal employees. See the NPFC's Technical Operating Procedures (TOPs) for Removal for more information.

(3) Salary costs for a federal employee are based on the number of hours the specific employee spent on the response. To determine costs for Coast Guard personnel, use the published standard rates. For more detailed information, refer to the NPFC's TOPs for Resource Documentation.

(4) The FOSC is the key individual responsible for financial management of federal funds during incidents, whether oil or a hazardous substance. Every direction the FOSC issues, every resource the FOSC calls upon, uses funds from the ceiling that have been issued for removal for the incident.

5.B.4. Oil Spill Liability Trust Fund (OSLTF)

The OSLTF consists of the Emergency Fund and the Principal Fund, which together may reach $1 billion. Annually the Emergency Fund is provided with $50 million no-year money to fund removal action by the FOSC, initiation of NRDAs by federal trustees, and immediate removal actions by states. The Principal Fund, the remainder of the OSLTF, is comprised of monies from tax collections, recoveries, fines, penalties, and interest. It is used to pay claims, and for Congressional appropriations to carry out other OPA requirements.

5.B.5. CERCLA/ Superfund

The NPFC also serves as the Coast Guard's Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)/Superfund manager for funds provided by EPA for hazardous substance incident response. CERCLA funding is used to

provide Coast Guard FOSCs with the training and equipment to respond to hazardous substance incidents.

5.B.6. Case Teams

The NPFC operates on a case team basis, for incident-specific action. There are four case teams assigned to the geographic areas of the United States, specifically: the Southeast, the Gulf Coast, the West Coast, and the Northeast. The case team includes legal, financial, and policy specialists. In any incident, the case team is responsible for carrying out NPFC missions which include fund management, cost recovery, and OPA 90 claims adjudication.

(1) An NPFC regional manager and case team work directly with the FOSC to carry out NPFC responsibilities and to assist the FOSC. Case officers are available to provide advice and assistance 24 hours a day. Information relating to specific cases may be obtained from the cognizant regional manager. Refer to the latest addition of the National Pollution Funds Center User Reference Guide for names and numbers.

5.B.7. NPFC User Reference Guide

5.B.7.a. Reference Guide Overview

NPFC guidance on the use of the OSLTF/CERCLA along with applicable regulations and background information is published in the NPFC User Reference Guide. Due to its extensive nature, the Guide is published separately to supplement the Marine Safety Manual, Volume IX. It can be obtained for official use by contacting the NPFC's Customer Service Office at (703) 235-4717. The Reference Guide is divided into a series of topics briefly explained as follows:

NOTE

Copies of the NPFC User Reference Guide can be obtained for official use by contracting the NPFC's Plans, Policy and Coordination Office.

(1) Organizations Using Pollution Funds—Provides information on entities able to access the Funds including: MSOs, G-M, Coast Guard Districts, FOSCs, Strike Teams/PIAT, EPA-CERCLA, MLC's, FINCEN, other Federal Agencies, States, and Trustees.

(2) Introduction to NPFC—Addresses the origins, roles, missions, case teams and regions, functional contacts, and frequently used acronyms.

(3) Removal Actions—Oil and Hazardous Substances—Provides procedures for accessing the Funds for oil and hazardous substances. Includes FOSC financial management checklists, guidance on mystery spills, ACP guidance, and reports. The Technical Operating Procedures for Removal Costs and Resource and Cost Documentation are also included in this Chapter.

(4) Investigative Considerations—Generally, addresses liability limits, proximate cause, designation of source, notification and advertising, and potential responsible parties.

(5) State Access—Provides State Access Technical Operating Procedures and regulations as required by (OPA 90, Section 1012(d)(1)). Addresses procedures on requesting funds, removal costs, pollution reports, payment, litigation, and cooperative agreements.

(6) Natural Resource Damage Assessments—Includes the NRDA/Initiate Technical Operating Procedures which contain initiation criteria, reporting, and requests for reimbursement.

(7) Claims—Provides claims regulations and the Claimant's Information Guide explaining compensation available, filing a claim, notice of designation, advertising, and the settlement process.

5.B.8. Cost Data

5.B.8.a. Coast Guard Rates

Standard rates have been developed to charge for the cost of Coast Guard-furnished equipment and personnel, both within and outside the government.

5.B.8.b. U.S. Navy Supervisor of Salvage (SUPSALV) Rates

SUPSALV facilities, discussed in Section 5.C of this chapter, have established rates for services provided. The NPFC will ensure that current information is available.

5.B.8.c. Federal On-Scene Coordinator (FOSC) Financial Management Checklist

The FOSC checklist for oil spills and the FOSC checklists for Oil and for Hazardous Materials (for Coast Guard FOSC financial management only) are contained in **Appendix 5-A** to this chapter.

5.B.9. Civilian and Reimbursable Overtime

5.B.9.a. General

During an incident the OSC directly manages all resources used to remove and respond to the pollution and has great statutory authority to employ whatever federal, state, or private personnel and equipment are necessary to address the incident rapidly. Coast Guard OSCs are pre-designated Commanding Officers of Marine Safety Offices and Captains of the Port (COTP). EPA OSCs, assigned to EPA Regional Offices, may request Coast Guard support through the District Commander (m). OSCs, who manage civilian overtime the same way as all other obligations incurred in the incident, are the approving officers for overtime.

(1) For non-Coast Guard OSCs, a Coast Guard civilian employee's supervisor can approve overtime *provided* the supervisor:

- ensures that the OSC has authorized it and set aside funding from the incident's authorized ceiling, and
- coordinates these actions with the District Commander (mep).

(2) Overtime is documented in both the incident records to reflect the obligation and its costs, and in the civilian pay system to ensure that the employee is paid and to record the amount required for reimbursement.

- Form CG-5136B, "Pollution Incident Daily Resource Report—Government Personnel," is used to document government employee costs in the incident. This form includes total hours by employee by day and verifies overtime for any given day for every civilian Coast Guard employee who works under the OSC's direction.

- To document official approval, an OSC should use Form CG-829, "Summary of Overtime Services." Where the form asks for "PORT" at the top, the command serving as the OSC is entered, or agency and region if the OSC is from another agency. In the title line headed, "During the pay period," write, "Pollution Response Overtime for Federal Project Number _____." With Form CG-829 include a copy of Form CG-5136B to document overtime approval and give both to Payroll in time to meet customary processing deadlines. Also send a copy of both to the Director, National Pollution Funds Center (cfl) and Commandant (G-WPC).

5.B.9.b. OSC Approval

OSC overtime approval constitutes an obligation of funds for the incident which the OSC should apply against the approved ceiling and record on appropriate ceiling management forms (CG-5136F or 5136F-1). The OSC should follow NPFC Technical Operating Procedures in billing. The Commandant (G-WPC) in coordination with the NPFC Director on receiving supporting documentation, initiates a Change in Financial Plan (CIFP) to reimburse AFC-08 for overtime amounts paid for pollution incidents.

5.B.10. Logistics

5.B.10.a. Logistics Considerations

The logistics function ensures prompt delivery of resources and supplies to support operations and manages requests for additional resources. Logistical considerations include:

- Advance activities to determine
  - Berthing availability
  - Messing
  - Local supply sources
  - Local airfields' capacity and location
  - Office and warehouse space
  - Equipment marshaling areas
  - Possible Command Post location
  - Communications needs
  - Boat launching sites and dock space
  - Site accessibility constraints;
- Personnel needs; requesting additional personnel as identified;
- Sufficient communications system
  - Radio needs
  - Telephone system (lines, sets, system, pagers, cellular phones)
  - Fax and copy machines
  - Computer needs (including electrical);
- Transporting response equipment and personnel to site;
  - Site or airport offloading capability
  - Personnel transit time
  - Beach and dock access;
- Need for legal and investigatory assistance
  - Civil

— Criminal investigation

— Guidance or advice to OSC

— USCG investigators

— Other agencies' investigators;

- Weather forecast center, including deployment of NOAA mobile stations;
- Other agency resources needed:

  — Protocol/liaison

  — Public Affairs mechanism, speaker;
- Overflight and boat surveillance;
- Command post, staff, watch routine, meeting space;
- Reference publications/databases needed;
- Means to properly document situation and actions; and
- Contracting officers from MLCPAC.

5.B.10.b. Logistics Areas

Logistics performs in four areas:

- *Support*—Establish and maintain facilities for work, communications, eating, sleeping, command posts, medical services, warehouses, portable rest rooms. Assist in acquiring and maintaining equipment and supplies. Coordinate and arrange ground, vessel, aircraft transport to and from response site. Maintain supply stocks including protective equipment and spare parts.
- *Service*—Manage dedicated medical and food service support facilities; coordinate personal legal services for response personnel.
- *Personnel*—Coordinate and document personnel assignments. Process incoming personnel. Account for assignments given individuals or agencies. Provide site-

specific training. Qualify, train, and certify any volunteers who assist in shoreline cleanup. Establish processing sites to keep volunteers informed about response requirements, especially safety concerns, throughout the response zone.

- *Contracting*—Manage contracts and procurement orders from Basic Ordering Agreement (BOA) and non-BOA contractors. Account for all contractual payments made.

5.B.10.c. OSC Efforts

In managing a federally-funded response to an oil discharge or hazardous substance release, an OSC should make every effort to

- minimize elapsed time from notification to equipment deployment;
- match equipment and personnel to spill characteristics;
- minimize the cost of labor, equipment, and materials; and
- rapidly secure those resources no longer needed.

(1) Each OSC should maintain quantities of the "first aid" oil pollution response equipment specified in the Area Contingency Plan. However, the Coast Guard does not attempt to compete with the private sector. Use Coast Guard equipment only when it:

- can be used faster than commercial equipment,
- includes a necessary containment or removal device most commercial sources usually don't, and
- significantly enhances removal activities.

When commercial equipment arrives, the OSC should remove Coast Guard-owned equipment, provided a smooth transition can be made.

Section 5.C
Support Resources

While an OSC can obtain assistance from numerous private, commercial, and governmental organizations, four resources were created solely to support national response efforts by augmenting the OSC's staff and providing specialized pollution response expertise. These are the National Strike Force, the Environmental Response Team, the Scientific Support Coordinator, and the Public Information Assist Team (PIAT). In addition the Agency for Toxic Substances and Disease Registry (ATSDR) has assigned Public Health Advisers to most EPA regional offices.

5.C.1. Special Forces

5.C.1.a. National Strike Force (NSF)

Congress mandated creating the NSF in the Federal Water Pollution Control Act of 1972 and further defined its mission and responsibilities in the Oil Pollution Act of 1990. Comprised of a coordinating center, three strike teams, and a reserve exercise support unit, the NSF is a unique, highly trained cadre of professionals who maintain their own specialized equipment and deploy rapidly to support OSCs preparing for and responding to oil and chemical incidents to prevent adverse impact to the public and reduce environmental damage. The Area of Responsibility for the NSF is shown in **Figure 5-11**. The NSF units are:

	Personnel	USCG Districts	EPA Federal Regions and Standing RRT Activities
National Strike Force Coordination Center (NSFCC), Elizabeth City, North Carolina	35		
Atlantic Strike Team (AST), Fort Dix, New Jersey	35	One, Five, Nine	I, II, III, V (except Caribbean Region)
Gulf Strike Team (GST), Aviation Training Center, Mobile, Alabama	35	Seven, Eight	IV, VI, VII Caribbean Region II
Pacific Strike Team (PST), Hamilton Field, Navato, California	35	Eleven, Thirteen, Fourteen, Seventeen	VIII, IX (including Pacific Basin), X (including Alaska)
Reserve Unit, National Strike Force Exercise Support (RU NSFES), Salt Lake City, Utah	90		

NSF Area of Responsibility (AOR)
Figure 5-11

(1) NSF Coordination Center

Designed for more varied purposes than the response-oriented strike teams, the NSFCC's primary duties are:

- administration and non-response operations; during an incident, the responding personnel's Operational Control (OPCON) becomes the OSC who directs the response;
- coordinating responses to international and those U.S. incidents which exceed individual Strike Teams' capability;
- evaluating Port and inland areas' preparedness by conducting multi-agency, multi-jurisdictional exercises;
- employing the PIAT to assist OSCs with public affairs during responses and conducting public affairs training for other units;

- maintaining the Spill of National Significance (SONS) Protocol and promoting preparedness by conducting national SONS exercises;
- assisting in preparing and reviewing all Area Contingency Plans (ACPs); maintaining ACP files;
- testing and evaluating existing and new products and systems used in the marine environmental protection mission; and
- developing and maintaining:
  - — a national and international inventory database of pollution response resources available; and
  - — a national transportation network to deliver this equipment to spill sites.

(2) Reserve Unit, National Strike Force Exercise Support

In addition to supporting active duty units in all mission areas, this unit's members augment the NSFCC's in conducting the National Exercise Program. The unit evaluates all National Response System components by planning, executing, and evaluating all pollution response exercises OPA 90 mandates. The unit is broken into functional divisions each of which deals with a particular exercise aspect:

- administration,
- planning,
- execution, and
- evaluation.

Each division contributes team members, the number depending on exercise type and size, to participate in each phase of an exercise the NSFCC conducts.

(3) Strike Teams

The Strike Teams' primary duty is to respond to oil spills and hazardous chemical releases; they

- advise and assist federal OSCs by providing 24-hour-a-day response capability of personnel and equipment to pollution incidents within their AOR;
- maintain a high state of preparedness through an aggressive internal training program to meet all mission standards;
- conduct annual training in pollution response techniques in their AOR for other Coast Guard personnel;
- maintain liaison with other Coast Guard commands and federal, state, and local agencies involved in environmental protection in their AOR:
  - — attend Regional Response Team meetings;
  - — liaison with industry, technical groups, cooperatives, cleanup contractors directly or indirectly involved in pollution response; and
  - — implement, maintain their AOR's area specialist program;
- test and evaluate existing and developing equipment as part of marine environment protection R&D program;
- conduct exercises to test Port preparedness;
- develop plans for response actions, on notification of an incident, and integrate into on-scene operations; and
- participate in area contingency planning.

(4) In addition to performing their daily duties, NSF personnel work in seven mission areas:

- response,

- equipment,
- preparedness,
- training,
- marketing/liaison,
- research and development, and
- overhead.

The NSF's primary purpose is responding to significant pollution incidents. Each team must be capable of dispatching members by the fastest means possible to an incident scene when an OSC requests assistance according to the numbers and time frame in **Figure 5-12**:

NSF Members	Sent Within
Two	One hour of notification by fastest means possible
Four	Two hours notification by fastest means possible
12 and Equipment	Six hours of notification by fastest means possible
Equipment	Four hours of notification by fastest means possible

NSF Response Time
Figure 5-12

A response team's members include:

- *Response Member* (RM)—Individuals at this level are authorized to respond to a pollution incident scene and respond as a team member.
- Emergency Medical Technician (EMT).
- Response Technician (RT)—They respond as a team member and additionally operate NSF equipment and systems.
- Response Supervisor (RS)—Besides responding as

an RM and RT, these individuals are authorized to supervise preparing and deploying NSF equipment and systems.

- Response Officer (RO)—Individuals at this level are authorized to coordinate all aspects of an NSF response.

NSF members undergo a formal qualifications process to fit them for their pollution response duties and periodically re-qualify for the duties they are authorized to perform.

NSF teams maintain their own equipment in "Ready Standby" status except for operational repairs and routine maintenance. Other NSF response equipment is kept in operating condition at all times and stowed so it can be moved from stowage to a "Ready Response" condition within 30 minutes. To fulfill this requirement NSF personnel clean, repair non-operational, and restow their equipment immediately on returning from deployment. If the team cannot repair equipment immediately due to lack of parts, the Coast Guard Casualty Reporting (CASREP) system is used to troubleshoot equipment, order required parts, and determine the cause of failure. NSF teams constantly evaluate their equipment inventory against operational experience and modify it accordingly.

To maximize other Marine Safety units' effectiveness, each strike team conducts annual training within its AOR on a “not to interfere basis.” Because many response incidents are highly visible, when circumstances permit the NSF PIAT offers public affairs training to other USCG units on a "not to interfere with operational missions" basis.

An OSC should use the National Strike Force (NSF) when:

- a medium or major discharge has occurred;
- controlling the discharge requires the NSF's special knowledge or equipment;
- removal operations will take more than two days to complete and NSF personnel will release overburdened local

forces to return to normal operations; or

- in the OSC's judgment NSF capabilities are necessary.

NSF strike teams can provide:

- communications support;
- oil and hazardous substance removal expertise;
- ship's damage control; and
- support in monitoring removal operations, documenting costs, and coordinating logistics.

The NSF is available to assist state and local governments if its assistance does not interfere with supporting federal OSCs or other federal agencies. An OSC can request assistance by directly calling a strike team, contacting the team through the National Response Center (NRC), or contacting the team through the area or district Commander.

Three events are required to activate the Response Team:

- *Notification.* Each unit establishes a notification procedure to ensure that all calls for assistance are processed promptly to permit meeting response standards.
- *Recall.* All NSF response personnel are assigned a recall status and must maintain current recall numbers and a pager or other means of contact on their person at all times.
- *Mobilization.* Once on scene the OSC directing the response operation controls the NSF team.

The NSF submits a brief, concise Incident Summary to the appropriate OSC, with copies to Commandant (G-MOR) and Commanding Officer (NSFCC) within 30 days of the team's release from an incident.

5.C.1.b. EPA Environmental Response Team (ERT)

With its members' disciplines including sanitary, environmental, and chemical engineering, chemistry, biology, environmental health, risk assessment, and analytical support, the EPA's ERT can provide an OSC technical expertise and equipment relating to the environmental effects of discharges or releases, including:

- safety precautions in removing hazardous chemicals,
- evaluating the nature and extent of contamination,
- identifying the hazards of pollutants not found in standard databases (e.g., CHRIS, SPEARS),
- assessing the degree of mitigation or removal required,
- identifying critical and sensitive areas requiring extraordinary protective efforts, and
- selecting the disposal method and appropriate disposal facilities.

(1) The ERT activates the Environmental Emergency Response Unit (EERU), whose specialized equipment can:

- remove pollutants from contaminated water,
- conduct treatment studies, and
- perform a wide range of scientific analyses.

(2) Request ERT assistance from the EPA's representative to the RRT and promptly follow up the request with a message to the Hazardous Response Support Division, EPA Headquarters, with the appropriate EPA regional office as an information addressee.

5.C.1.c. U.S. Navy Supervisor of Salvage

The U.S. Navy's Supervisor of Salvage (SUPSALV) maintains worldwide commercial contracts for a number of activities.

(1) Salvage, towing, and ocean engineering services can be implemented immediately in an emergency.

(2) Diving services and underwater ship repair can be obtained.

(3) Diving services contracts are available, which provide mixed gas and saturation diving capability to depths of 600 feet for:

- salvage;
- underwater wet and dry habitat welding;
- non-destructive testing;
- underwater inspection, maintenance, and repair;
- reports including underwater TV and photographic coverage; and
- waterborne cleaning of ships' hulls using power equipment.

(4) Search and recovery provides highly trained search specialists and commercial search equipment including:

- pinger locator system;
- a search and survey system equipped with a side scan sonar;
- real-time television;
- navigation subsystems to track and plot a vehicle to a depth of 20,000 feet of seawater (FSW);
- the SUPSALV Deep Drone remotely operated recovery vehicle equipped with two manipulators, three TV cameras, 35mm film camera, CTFM sonar, and an acoustic navigation system capable of work down to 8,000 FSW;
- the CURV III, similarly equipped to the Deep Drone and capable of working down to 20,000 FSW.

(5) For oil spill response, SUPSALV maintains a large

inventory of equipment on U.S. east and west coasts at designated response centers and a smaller inventory near Pearl Harbor, Hawaii. Along with contractors' operators, the following equipment is available worldwide:

- offshore oil skimmers,
- containment booms,
- support vessels,
- portable oil off-loading pumps,
- related equipment.

(6) The Navy has the authority to provide these services to other federal agencies who request them immediately in an emergency through a simple inter-agency funds transfer. Because these contracts are awarded competitively and activated by issuing task statements, an OSC avoids the time-consuming requirements of advertising for bids and awarding an independent contract for each operation. A current Inter-agency Agreement (IAA) between USCG and the Navy contains procedures to request and reimburse SUPSALV salvage and spill response support.

5.5.C.1.d. U.S. Coast Guard Marine Safety Center Salvage Team

The USCG Marine Safety Center's Salvage Teams can provide technical support to FOSCs in conducting technical analysis and making safety assessment recommendations of marine casualties and salvage operations. Salvage team members are trained to conduct technical analysis related to vessel stability, structural integrity, horse power requirements for removal of grounded vessels, and other technical determinations to assist in the safe resolve of hazardous or potentially hazardous conditions.

During an emergency, the Salvage Team has the ability to network with Coast Guard strike teams, Navy salvage teams, American Bureau of Shipping rapid response teams, and various naval architects and salvage operators. Upon request, the Salvage Team will readily assist or participate in casualty and pollution response drills conducted at field units. Salvage team members stay abreast

of technology and engineering safety practices to ensure the best possible safety recommendations are delivered to the customer. The Salvage Team is available to perform technical safety support 24 hours a day, seven days a week, both remotely and/or on-scene. They can be reached through Flagplot.

5.C.2. Scientific Support Coordinators (SSCs)

While local teams generally can respond immediately, are familiar with the area, and have a working rapport, oil and hazardous materials response may become extremely complex and require expertise and resources not usually available locally. Coast Guard OSCs should use SSCs, as they would other special forces, to augment (not replace) their local scientific team in a response. Generally the National Oceanic and Atmospheric Administration (NOAA) supplies the SSC, who serves under the OSC providing scientific support for operational decisions, coordinating on-scene scientific activity, and leading the Scientific Support Team (SST). Depending on the nature of the incident, the SSC works with government agencies, universities, and industry to compile information which assists the OSC to assess a spill's hazards and effects and develop response strategies.

(1) SSCs can assess adverse effects and mitigation strategies, assistance most helpful in the initial response phases, including:

- liaison with natural resource and chemical experts;
- spill trajectory modeling using three different computer models;
- assessment and advice on the nature, behavior, and fate of oil or hazardous materials under various environmental conditions and recommendation on how to deal with them;
- identification of areas of special biological importance;
- assistance in public relations efforts on scientific issues;
- advice on environmental toxicity and safety precautions for response personnel;
- compilation of technical information the OSC needs for the Departments of Interior and Commerce when the Endangered Species Act requires Section Seven

consultations; and

- recommendations for cleaning and treatment methods for contaminated birds and wildlife.

(2) SSCs can also provide access to NOAA's weather forecasting capabilities, including:

- field station monitoring data,
- NOAA temporary or mobile monitoring stations, and
- overflights with expert observers.

(3) In addition, SSCs assist in contingency planning. An SSC often can provide considerable information to help develop regional and local contingency plans before a spill or release, including:

- the probability of how spills originating from a given area will affect specific sites,
- the location of environmentally sensitive areas,
- characteristics of the pollutants known to be transported in a given location, and
- the possible environmental impact of various cleanup strategies.

(4) The Regional Contingency Plan should identify the regional SSC and provide information on contacting him or her. An OSC phone call activates the SSC who can provide preliminary information and then, if requested, depart immediately for the spill site, arriving within six hours of notification.

5.C.3. Pre-Positioned Oil Spill Response Equipment

5.C.3.a. Coast Guard Pre-Positioned Equipment

While the oil industry is primarily responsible for maintaining and using most spill response equipment, the Coast Guard has supplemented private resources and improved its initial response capability by pre-positioning oil spill removal equipment at 19 selected sites, **Figure 5-13**, around the country based on:

- storage and deployment ease within the region,
- oil transportation density, and
- the risk of oil spills.

5.C.3.b. NSFCC Responsibilities

The NSFCC's responsibilities for this equipment include:

- operational oversight of delivery, maintenance, training, and deployment;
- administration of the national maintenance contract performed by the existing SUPSALV contractor for Emergency Ship Salvage Material (ESSM), including developing a preventive maintenance plan for the equipment in which the contractor will perform scheduled maintenance requirements, repairs, and MEPALT installations; and
- implementation and management of a national integrated logistics system for the equipment including:
  - a three-tier spare parts system;
  - Level 1 parts, contained in equipment response containers, are used immediately (e.g., belts, filters, hoses, etc.);
  - Level 2 parts, maintained at the Strike Teams, support extended use (e.g., injectors, spare skimmer outriggers, boom, pumps);
  - Level 3 parts, maintained at an ESSM facility until needed, are used in overhauls;
  - post-deployment (including exercises and training) inspection and repair by the ESSM contractor; the NSFCC will coordinate training with District (m) to reduce maintenance and repair costs;
  - an information management system to track equipment by packaging quantities (by individual type and system); maximum number of systems

available; and drawings, part numbers, preventive maintenance system, spare part requirements, costs, MEPALTS, location, readiness status.

Figure 5-13

5.C.3.c. Equipment Storage and Maintenance

District (m) secures adequate storage facilities, either in its own or other federal agencies' unused space, or, as a last resort, in a commercial warehouse and assists the NSFCC in performing quality assurance inspections of equipment maintenance the national maintenance contractor has performed. The District reports casualties and ensures that the ESSM contractor repairs the equipment.

5.C.3.d. Training

The NSFCC will develop a training and qualification program for NSF, DRAT, and DRG personnel to supervise the equipment; District (m) will ensure that training takes place at each site and coordinate a transportation network to deploy spill resources rapidly to the incident scene.

5.C.3.e. Use of Government Equipment

When a spill occurs, the Coast Guard must take immediate action to control the source and contain the spill while the responsible party is identified and contacted. If commercial response resources are readily available, the responsible party (under the OSC's direction) should use them for control and/or containment. If not available, then an OSC should use Coast Guard and other government resources. As the responsible party executes a suitable response, the OSC should withdraw government equipment as commercial equipment is placed in service, subject to restrictions concerning safety and the need to protect the environment.

5.C.4. District Response Groups (DRGS) and District Response Advisory Teams (DRATS)

5.C.4.a. General

The DRG is not a traditional unit but rather provides a framework within which districts organize resources to respond to an incident, with the DRAT serving as its dedicated staff. A DRG includes:

- All Coast Guard units, personnel, and equipment within a district's geographical boundaries (all vessels, all aircraft, all CG equipment, all personnel including reservists and auxiliaries, and resources from nondistrict units);

- All pre-positioned response equipment strategically located in the district (and, as needed and by request, this pre-positioned equipment located in other districts); and
- The DRAT, three to six personnel, added to the District (m) staff.

(1) The framework the DRG provides to respond to pollution incidents ensures that all district Coast Guard assets can be brought to bear most efficiently to assist the OSC to respond to an actual or threatened discharge from a vessel or facility or other comparable emergency. The Chief of the Marine Safety Division is the district focal point for all activities involving the DRG; the district commander is responsible for the DRG's organization, functional responsibility, and response readiness.

NOTE

The DRAT serves as the DRG's coordinating body and as a deployable team.

(2) Serving as the DRG's nucleus, the DRAT serves as the DRG's coordinating body and as a readily accessible, easily deployed team who can be dispatched to support an OSC. The DRAT is dedicated specifically to increasing pollution response preparedness at the port/district level and providing expert assistance to the OSC during response operations before the NSF (if needed) arrives. Initial response personnel should come from within the affected district; an OSC should notify its commander if more personnel are needed; the District (m) commander then will seek suitable personnel.

(3) The DRAT, though part of the district staff, maintains liaison with the NSFCC, which must coordinate logistics for using private and public resources to remove worst case discharges and review and maintain the Area Contingency Plans. Close coordination with the DRAT is necessary for the NSFCC to accomplish these tasks.

(4) Although the DRG is tasked by statute to identify a port's marine fire-fighting equipment, the Coast Guard maintains its posture of coordinating planning with and providing assistance to local authorities on an as-needed basis in the event of a major fire which exceeds the local port's capabilities and threatens the release of an oil or

hazardous substance. The DRAT also monitors and keeps abreast of state incident response activities and plans.

(5) At an OSC's request during a pollution response, DRAT personnel will:

- stage or deploy pre-positioned equipment, including marine fire-fighting equipment,
- identify and coordinate the additional technically skilled district personnel the OSC requires on-scene,
- obtain information on other coastal and inland Area Contingency Plans, and
- furnish one member to serve as a contracting and finance officer on the OSC's staff if funds are spent from the OSLTF or CERCLA.

(6) The DRG structure cuts across traditional program lines; districts should revise and implement their Standard Operating Procedures to:

- coordinate using all district assets, including vessels, aircraft, and personnel in responding to an incident;
- identify non-district Coast Guard resources located in the district's geographical AOR and the procedures to gain access to it;
- maintain and deploy CG-owned or controlled equipment;
- identify and inventory other response equipment (including marine fire-fighting equipment) throughout the district, coordinating through the NSFCC to avoid duplication; and
- coordinate transport of response equipment to the spill site within the district or from or to an adjacent district.

5.C.5. Aviation Support

Coast Guard aircraft can provide a variety of support to the OSC. Aviation support for pollution response can be summarized by three broad categories: logistics, intervention and surveillance.

5.C.5.a. General

Both fixed wing and rotary aircraft can be used to transport personnel and deliver supplies and equipment in time critical situations. Helicopters can move mission essential items and personnel to and from remote locations and HU-25 and HC-130 aircraft can air drop items subject to size and weight limitations.

(1) In addition to providing direct logistical support to the OSC, Coast Guard aircraft may be called upon to conduct Congressional, Department, and other VIP overflights of the impacted area.

5.C.5.b. Intervention by Aircraft

Intervention by aircraft changes the nature of a situation. HC-130H aircraft are capable of applying dispersants using an Air Deliverable Dispersant System (ADDS). Use of Coast Guard aircraft to apply dispersants shall only be used if commercial resources are unavailable. Aerial deployment of boom by a helicopter, in a remote, inaccessible or shallow water location, is another example of intervention by aircraft.

5.C.5.c. Surveillance by Aircraft

Surveillance is the acquisition of data and includes patrolling, dedicated overflights and aerial mapping. It is not limited to human-based observation but also includes sensor data from the full electromagnetic spectrum.

(1) Coast Guard aircraft can be utilized by the FOSC for initial visual assessment, aerial mapping and identification of potential impact areas. Video or photographs may be taken during daylight hours. Response resources can also be directed from Coast Guard aircraft.

(2) Two HU-25B Falcons, stationed at CGAS Corpus Christi, are configured with the AIREYE. AIREYE holds the APS-131 Side Looking Airborne Radar (SLAR) and the RS-18C infrared/ultraviolet (IR/UV) line scanner. The SLAR effectively detects and maps surface irregularities on the water caused by oil pollution. Like other radars, the SLAR is not affected by cloud cover or darkness but rain can have a negative impact on its performance. It has a wide scanning width

and the sensor operator has real-time radar display and a continuous roll of film captures the image for analysis on the ground.

5.C.6. Volunteers

5.C.6.a. Volunteer Assistance

Volunteer assistance can be very useful during a spill response. In all cases it is extremely important to ensure that volunteers receive the required worker safety training. An OSC will *not* permit the employment or presence of volunteers on-scene when dangerous conditions exist.

- Several organizations, including the National Audubon Society, can assist in identifying, locating, and treating contaminated birds. Other organizations can assist in protective efforts to exclude wildlife from a polluted area. The U.S. Fish and Wildlife Service will coordinate these efforts with assistance from their state counterparts.

- Spills which affect recreation or other high public value areas often attract volunteers who offer assistance. Coast Guard personnel should refer these individuals to a designated coordinator, who will provide the volunteer with information.

- An OSC should encourage public surveillance; people who have information on contaminated areas or endangered resources immediately should relay that information to the OSC.

5.C.6.b. Volunteer Participation

A liaison officer usually directs volunteer efforts. The Local Response Team (LRT) normally includes a member who assumes the duties of Volunteer Coordinator and works for the Personnel Unit Leader. The Coast Guard should discourage direct volunteer participation in cleanup because of the hazards involved and complex training required and instead refer those interested in participating to cleanup companies for information on employment opportunities as a paid cleanup worker. Those volunteers who wish to assist in bird or wildlife protection or rehabilitation should be referred to the U.S. Fish and Wildlife Service or state Department of Wildlife activities coordinator.

5.C.7. Spill Planning, Exercise, and Response System (SPEARS)

5.C.7.a. General

SPEARS is a new system developed cooperatively by the Coast Guard and NOAA for use by Coast Guard OSCs. It is an integrated risk analysis, planning, exercise and response tool to aid decision making for incidents involving either hazardous materials or oil. SPEARS operates on off-the-shelf Apple Macintosh computers.

5.C.7.b. SPEARS Components

The SPEARS package contains the following:

- CAMEO (Computer-Aided Management of Emergency Operations) Program developed by EPA and NOAA:
  - chemical database of over 4,000 hazardous substances;
  - templates for tracking the chemical inventories of facilities, populations that could be at risk from an incident;
  - MARPLOT mapping program with Bureau of Census TIGER files; and
  - ALOHA air model;
- Spill Tools developed by the Coast Guard and NOAA:
  - database of over 1,000 oils with their chemical and physical characteristics,
  - database of available sorbent materials,
  - database of the NCP Products List,
  - calculators to assist with planning and implementation during potential in-situ burn and dispersant application situations, and
  - the oil weathering model ADIOS;
- Port Studies which include:
  - commodities transported within and through a port,
  - location and description of areas and other issues that could be of environmental concern during an incident, and
  - potential response strategies; and

- Data from MSIS which includes:
  - — facility information,
  - — contact information, and
  - — historical data from past incidents.

5.C.8. National Response Resource Inventory (RRI)

5.C.8.a. General

As OPA 90 requires, to support oil spill preparedness and response efforts, the NSFCC operates and maintains a national computer database of oil spill response equipment, the Response Resource Inventory (RRI). The NSFCC has collected and entered information from private contractors, government agencies, and Oil Spill Removal Organizations (OSROs).

5.C.8.b. RRI Sections

RRI enables Coast Guard and government, industry, research, and public interest users to locate equipment to respond to oil spills and marine fires or to use as a planning tool. RRI contains three sections:

- a floppy disk data collection program using an emulation package for IBM-compatible computers and Coast Guard standard workstations;
- a database into which the NSFCC enters the information collected on the floppy disks, and
- a dial-in bulletin board—whose computer modem number is (919) 331-6039—which makes various reports available to government and public users.

5.C.9. Other Government Resources

5.C.9.a. Other Agencies

Several other agencies from different departments can play a valuable role in responding to an oil discharge or hazardous materials release.

(1) Agency for Toxic Substances and Disease Registry (ATSDR)

While not specifically a special force or team, ATSDR

Public Health Advisers, assigned to EPA regional offices by the U.S. Department of Health and Human Services, have a wide range of expertise in health-related problems and are available to assist OSCs in a response. They can:

- assist in assessing the public health threats an incident poses,
- advise on the adequacy of personnel protection measures within the response area,
- investigate health complaints,
- advise whether to relocate nearby residents, and
- coordinate the appropriate health response with public health agencies and the private medical community.

Before a spill occurs, they can assist in contingency planning by:

- developing occupational safety and health considerations; and
- informing and advising on location and availability of laboratory services, expert consultants, and hospitals and other treatment facilities.

Contact regional ATSDR Public Health Advisers at the appropriate EPA Regional Office or directly at the ATSDR Emergency Response Coordination Branch, Atlanta, Georgia, (770) 452-4100 (24-hour number).

(2) National Marine Fisheries Service (NMFS)

This agency provides a broad variety of biological and oceanographic services to address the impact of spill contaminants and cleanup operations on marine organisms and the marine ecosystem. These services include access to:

- population assessments to determine mortality,
- laboratory facilities to determine a specific contaminant's impact at sub-lethal levels on marine organisms, and

- a nationally recognized group of marine pathologists.

(3) National Environmental Satellite Service (NESS)

NOAA's NESS supports OSCs by providing satellite data products, including synoptic scale coverage of surface oil contamination and tracking drogue buoys:

- polar orbiting satellites currently provide observations at resolutions of ± two (2) nautical miles twice daily, and
- geostationary satellites provide similar resolution at one-hour intervals.

The RRT usually should be able to contact NESS.

(4) Environmental Data Service (EDS)

EDS maintains the National Climatic Center, Asheville, North Carolina, and the National Oceanographic Data Center, Washington, D. C. These organizations will provide special consulting and analytic services and climatological data on:

- marine weather,
- oceanic conditions, and
- water column characteristics.

The RRT normally will contact EDS.

(5) Environmental Photographic Interpretation Center (EPIC)

This agency, at Vint Hill Farm Station, Warrenton, Virginia, provides excellent low-level, high-resolution aerial color photography.

The EPA's Region X or RRT can contact EPIC.

(6) Environmental Monitoring and Support (EMS) Laboratory

Within 12 to 24 hours of the Laboratory's receipt of

notification, its specialists will take and can provide rapid aerial color or color reversal photos or furnish night mapping using thermal IR scanners. The Laboratory's assigned on-scene Project Officer can provide a full briefing 24 to 30 hours after the overflight. These photos are helpful in assessing post-spill environmental damage and in day-to-day planning.

The RRT can contact EMS, located in Las Vegas, Nevada.

Appendix 5-A
OSC Oil Pollution Incident Checksheet and FOSC Financial Management Checklists (Oil and HAZMAT)

OSC OIL POLLUTION INCIDENT CHECKSHEET

Environmental Impact and Response

(1) Initially evaluate the discharge's/release's extent

(2) Rapidly determine whether the responsible party is responding promptly and adequately

(3) Examine all possible means to contain oil/substance and recover in open water

(4) Examine use of dispersants

(5) Determine need to activate Regional Response Team

(6) Consider using Coast Guard Reserve and National Guard resources or volunteers

(7) Consider having buoy tender place anchor for booms

(8) Determine salvage needs

- Pumps
- Lightening vessels
- Salvage master
- Navy SUPSALV
- Divers
- Cranes and work barges

(9) Establish boat cleaning stations for vessels leaving spill site

(10) Establish cleanup progress monitoring system and use throughout

(11) Identify areas to protect through defensive booming or other means. If containment is not possible, try to minimize impact.

(12) Obtain spill trajectories and tidal/current projections

(13) Consider environmental parameters and effects; attempt to minimize impact

(14) Determine most effective containment and cleanup strategy

Logistics and Staff Considerations

(1) Send advance Logistics Support Team to the site to determine

- Berthing availability
- Messing
- Availability of local supplies
- Local airfields' capacity and location
- Office and warehouse space
- Equipment marshaling areas
- Possible Command Post location
- Communications needs
- Boat launching sites and dock space
- Site accessibility constraints

(2) Request contracting officers from MLC

(3) Assess personnel needs; request additional personnel as identified

(4) Examine communications system for sufficiency

- Radio needs
- Telephone system (lines, sets, system, pagers, cellular phones)
- Fax and copy machines
- Computer needs (including electrical)

(5) Determine the means to transport response equipment and personnel to site

- Site or airport off loading capability
- Personnel transit time
- Beach and dock access

(6) Examine need for legal and investigatory assistance

- Civil
- Criminal investigation
- Guidance/advice to OSC
- USCG investigators
- Other agencies' investigators

(7) Establish weather forecast center; ask NOAA to deploy mobile stations

(8) Consider need to establish protocol/liaison staff position

(9) Determine other agency resources needed

(10) Establish overflight and boat surveillance

(11) Set up command post, organize staff, and assign watch routine

(12) Establish Public Affairs mechanism and speaker

(13) Determine Reference publications/databases needed

(14) Ensure sufficient meeting space to contain all on-scene personnel

(15) Establish means to properly document situation and actions

Health and Safety Concerns

(1) Evaluate need for and enforcement of

- Safety zone
- Airspace restrictions
- Site security
- Crowd control

(2) Identify public health issues

- Contract local hospitals, emergency medical services personnel
- Contact the Occupational Safety and Health Administration (OSHA)
- Contact Agency for Toxic Substances and Disease Registry (ATSDR)
- Contact local water officials to determine effect on water intakes
- Learn the hazards of the pollutant and/or its by-products

(3) Establish medical plan for response personnel

- EMT on site
- Receiving doctor, hospital, or other medical facility
- Coordinate transportation
- Ambulance availability

(4) Assign Safety Officer to address worker safety

- Obtain Material Safety Data Sheet (MSDS) on product
- Establish safety plan
- Protective clothing
- Respiratory protection
- Need for Marine Chemist or Industrial Hygienist
- Medical monitoring

(5) Determine need for foul weather and protective gear and other specific clothing

Navigation Issues

(1) Send Broadcast Notice to Mariners and POLREP

(2) Evaluate impact on commercial and recreational vessel traffic

(3) Consider need for vessel inspector or survey

OIL SPILLS
FOSC FINANCIAL MANAGEMENT CHECKLIST

(For financial management ONLY; operational steps are NOT included)

When The Spill Occurs

☐ Does OSLTF apply? ____yes ____no

If you answer **yes** to both of these questions, OSLTF funding applies.

1. Was there a discharge of oil, or a substantial threat of a discharge of oil: (i) into or on the navigable waters; (ii) on the adjoining shorelines to the navigable waters; (iii) into or on the waters of the exclusive economic zone; or (iv) such that it may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States?
2. Are further actions necessary to ensure effective and immediate removal, mitigation or prevention of the substantial threat?

☐ Collect incident information:

Name of incident: _____

Location (body of water, city, state): _____

_____

Latitude and longitude: _____

Type of oil: _____

____ Visual Observation
____ Field Testing
____ Lab analysis
____ Report by knowledgeable party
____ Other_____

Quantity of oil: _____

Description of substantial threat: _____

_____

_____

_____

Potential quantity of total discharge: _____

Date of incident: _____

Date of discovery: _____

☐ Collect source and responsible party information:

Vessel or facility: _____ vessel _____ facility

How was source identified?: _____ Visual Observation
_____ Reported
_____ Other_____

Who identified source?: _____
_

Responsible party (owner): name_____

address_____

_____
_

contact_____

Responsible party (operator): name_____

address_____

_____
_

contact_____

Responsible party (other): name_____

address_____

_____
_

contact_____

How was RP identified?: ____ OSC investigation

____ Report by RP
____ Report by third party

Who identified RP?: _____

☐ Estimate the OSLTF funding ceiling required: $_____

Estimate contractor costs:	_____
Estimated OSC personnel costs:	_____
Estimated OSC equipment costs:	_____
Estimated TDY/travel costs:	_____
Estimated miscellaneous costs:	_____
Estimated OGA costs:	_____
Estimated Reservist costs:	_____
Total ceiling required:	_____

☐ Contact your district for an FPN and authorized ceiling:

Federal Project Number:	_____
Authorized ceiling:	_____
Funding citation(s)	_____

Your DISTRICT will confirm by FAX or message and give verbal authorization.

Note: **If you are unable to reach the District, as the OSC, you are authorized to obligate up to $25,000 for response actions.**

☐ If NFPC assistance is needed, contact your NPFC regional case manager:

Gulf Coast and Midwest:	Team I	(703) 235-4770
Southeast (Philadelphia and South):	Team II	(703) 235-4771
West Coast, AK, HI:	Team III	(703) 235-4765
Northeast and Great Lakes:	Team IV	(703) 235-4775

On weekends, holidays, or after hours, you will hear recorded instructions for paging.

If your regional manager is not available, page the duty case officer by calling (800) 759-7243, PIN 2073906, **OR** call the duty case officer through the CGHQ Command Center (202) 267-2100 or (800) 424-8202.

☐ Obtain information from your NPFC regional manager:

Assigned case officer:_____

☐ Locate the proper forms for ceiling management and for documenting all costs.

In the *NPFC Fund Use Reference Guide,* turn to Section 3, Resource Documentation:

Ceiling Management Forms:

____ For a Level I spill (estimated ceiling under $50,000), use **CG-5136 Series, Pollution Incident Daily Resource Report - Ceiling Management & Incident Obligation Log - Short Form** (p. 17).

____ For a Level II spill (estimated ceiling $50,000-$200,000) or Level III spill (over $200,000), use **CG-5136F, Environmental Response Ceiling Management Form** (p. 9) to estimate and manage the ceiling. Record each activity as it occurs on **Daily Record Worksheets** (pp. 11-14).

Daily Cost Documentation Forms (all levels):

____ Use the appropriate **Pollution Incident Daily Resource Reports** (pp. 47-65), or the Excel versions of these forms, to consolidate daily totals.

____ Use your agency's approved alternative OPA / NPFC funding documentation (if any).

☐ Follow guidance in the NFPC Fund Use Reference Guide for use of funds and to arrange response actions, including contracting through appropriate MLC (fcp) and using Pollution Removal Funding Authorizations (PRFAs) for other government agencies.

During Cleanup, Every Day

☐ Monitor contractors.

____ Collect contractor **daily delivery tickets** and / or **Pollution Incident Daily Resource Reports.**

____ Within five days of receipt of invoices, certify that work as performed as ordered. (As OSC, you should not certify work that was not ordered.)

☐ Monitor Coast Guard units.

____	Consolidate all daily reports for your unit onto the **Pollution Incident Daily Resource Reports.** This should cover all unit resources involved in removal activity.
____	Collect **Pollution Incident Daily Resource Reports** or official records (i.e. **aircraft utilization records** and **cutter navigation logs**) from other Coast Guard units.

☐ Monitor other government agencies.

____	Issue **Pollution Removal Funding Authorizations** (PRFAs) to other federal and state agencies participating in the FOSC-directed response. (See *NPFC Fund Use Reference Guide*, Chapter 3, Resource Documentation pp. 68-76).
____	Collect OGA **SF-1080** or **SF-1081** vouchers and supporting documentation in accordance with the PRFA. (*NPFC Fund Use Reference Guide*, Chapter 3, Resource Documentation p. 79).
____	Review **SF-1080** vouchers from OGAs and certify that work was performed as ordered.

☐ Add up obligations and track them against the ceiling.

Use the **Ceiling Management** forms in the *NPFC Fund Use Reference Guide*, Section 3, Resource Documentation (p. 17 for Level I or p. 9 for Level II):

____	Include Type I Obligations: contract, removal authorizations, travel orders, direct expense...
____	Include Type II Obligations: **anticipated costs (estimates)** of Coast Guard resources (personnel, vehicles, aircraft, boats, cutters, and Strike Team pollution equipment) based on Coast Guard Standard Rates (See *NPFC Reference Guide*, Section 3, Resource Documentation).
____	Make sure that each POLREP includes the total ceiling authorized and cumulative obligations to date. (NPFC should be an INFO ADDEE for all POLREPs).

☐ If the ceiling must be increased, contact your District in advance.

For example, if you have reached $80K against a $100K ceiling, and you expect the total costs to exceed $100K, then contact your District.

☐ Contact your NPFC case officer any time you need assistance.

After the Response Action is Completed

☐ Certify contractor invoices within five working days of receipt of invoices.

> Insure that all certification for receipt of services is in accordance with standard MLC and Finance Center procedures. (Contact appropriate MLC contracting officer if questions arise, or if invoice cannot be certified. The OSC is certifying receipt of invoiced goods and services in quantities indicated. Costs are verified by the cognizant contracting officer).

☐ Forward certified contractor invoices to MLCLANT (fcp) or MLCPAC (fcp), as appropriate.

☐ Keep copies of all certified contractor invoices for the unit's files.

☐ Compile an inventory of all equipment purchases.

☐ Within 30 days, send the Financial Summary report to NPFC.

> See the *NPFC Fund Use Reference Guide,* Section 3, Resource Documentation, for a description of the Financial Summary report which includes:
> Incident Report (pp. 34-43); FOSC Pollution Incident Daily Resource Reports; Contractor Invoices; Other Government Agencies Resource Documentation (SF-1080 with invoices, Daily Resource Reports, Pollution Removal Funding Authorization); Out-of-Pocket Expense; Inventory of Equipment Purchased

> ____ Although all costs, including non-removal costs, should be included on the dailies, the final totals submitted should be for removal costs only. Therefore, after all costs (including non-removal costs) are added up on the dailies, adjust each day as follows:
> - Cross off the non-removal costs with a single line.
> - Cross off the total in the same manner and adjust it accordingly.
> - Include the adjusted dailies (with crossed off items) in the completion report.
>
> ____ If you are using Excel forms, DO NOT throw away the original handwritten invoices, dailies, and notes. In court, Excel sheets may not be considered "original' documentation.

HAZARDOUS MATERIALS
FOSC Financial Management Checklist

(*For Cost Guard FOSC financial management ONLY; operational steps are NOT included*)

When A Release Occurs

☐ Does CERCLA apply? ___ yes ___ no

If you answer **yes** to these three questions, CERCLA probably applies.

____ Has a hazardous material been released (or is there a substantial probability that it will be released)?

____ Does this present an imminent and substantial threat to the public health or welfare?

____ Is the responsible party failing to take appropriate action, or is it necessary to monitor its actions?

☐ Collect incident information:

Name of incident: _____

Location: _____

_____

Latitude and longitude: _____

Type of substance: _____

___ Visual Observation
___ Field testing
___ Lab analysis
___ Report by knowledgeable party
___ Other _____

Quantity of substance: _____

Description of substantial threat: _____

_____

_____

Potential quantity of total discharge: _____

Date of incident: _____

Date of discovery _____

☐ Collect source and responsible party information:

Name of facility vessel: _____

How was source identified? ____ Visual Observation
____ Reported
____ Other _____

Who identified source?: _____

Responsible party (owner): name _____

address _____

_____

contact _____

Responsible party (operator): name_____

address_____

_____

Responsible party (other):

contact_____

name _____

address _____

_____

contact _____

How was RP identified? ____ OSC investigation
____ Report by RP

____ Report by third party

Who identified RP? _____

☐ Estimate the CERCLA funding ceiling required: $_____

Estimated contractor costs:	_____
Estimated OSC personnel costs:	_____
Estimated OSC equipment costs:	_____
Estimated TDY / travel costs:	_____
Estimated miscellaneous costs:	_____
Estimated OGA costs:	_____
Estimated Reservist costs:	_____
Estimated Strike Team costs:	_____
Total ceiling required:	_____

☐ Contact the NPFC Case Officer / Regional Manager for CPN and authorized ceiling:

CERCLA Project Number:	_____
Authorized ceiling:	_____
CPN Accounting String:	_____
Document Control Number Construction:	_____

The NPFC will confirm by message

☐ If the estimated ceiling is greater than $250,000, contact your NPFC Regional Manager for assistance in submitting an Action Memorandum to EPA before obligating the amount. (See the *NPFC Fund Use Reference Guide*, Section 4, EPA Guidance.)

☐ For NPFC assistance:

Gulf Coast and Midwest:	Team I	(703) 235-4770
Southeast (Philadelphia and South):	Team II	(703) 235-4771
West Coast, AK, HI	Team III	(703) 235-4765
Northeast and Great Lakes	Team IV	(703) 235-4775

On weekends, holidays, or after hours, you will hear recorded instructions for paging.

If your regional manager is not available, page the duty case officer by calling (800) 759-7243, PIN 2073906, **OR** call the duty case officer through the CGHQ Command Center (202) 267-2100 or (800) 424-8202. Refer to the *NPFC Fund Use Reference Guide, Section 4*, for more information.

If you are not able to contact NPFC, as the OSC you may obligate up to $25K for response actions. Document all such obligations carefully, and contact NPFC the next business day to ensure OSLTF funding.

☐ Obtain information from NPFC regional manager:

Assigned case officer: _____

☐ Locate the proper forms for ceiling management and for documenting all costs.

> In the *NPFC Fund Use Reference Guide,* turn to Section 3, Resource Documentation:
>
> Ceiling Management Forms:
>
> For all responses, use CG-5136F, **Environmental Response Ceiling Management** from (p. 9) to estimate and manage the ceiling. Record each activity as it occurs on **Daily Record Worksheets** (pp. 11-14).
>
> Daily Cost Documentation Forms (all levels):
>
> Use the appropriate **Pollution Incident Daily Resource Reports** (pp. 47-65), or the Excel versions of these forms, to consolidate daily totals.

☐ Follow guidance in the *NPFC Fund Use Reference Guide* for use of funds and to arrange response actions, including contracting through appropriate MLC (fcp) and using Pollution Removal Funding Authorizations (PRFAs) for other governments agencies.

During Cleanup, Every Day

☐ Monitor contractors.

> ____ Collect contractor **daily delivery tickets** and / or **Pollution Incident Daily Resource Reports.**
>
> ____ Within five days of receipt of invoices, certify that work was performed as ordered. (As OSC, you should not certify work that was not ordered).

☐ Monitor Coast Guard units.

____ Consolidate all daily reports for your unit onto the **Pollution Incident Daily Resource Reports.** This should cover all unit resources involved in removal activity.

____ Collect **Pollution Incident Daily Resource Reports** or official records (i.e., **aircraft utilization records** and **cutter navigation logs**) from other Coast Guard units.

☐ Monitor other government agencies.

____ Issue **Pollution Removal Funding Authorities** (PRFAs) to other federal and state agencies participating in the FOSC-directed response. (See *NPFC Fund Use Reference Guide*, Chapter 3, Resource Documentation pp. 68-76)

____ Collect OGA **SF-1080** or **SF-1081** vouchers and supporting documentation in accordance with the PRFA. (See *NPFC Fund Use Reference Guide*, Chapter 3, Resource Documentation p. 79)

____ Review **SF-1080** vouchers from OGAs and certify that work was performed as ordered.

☐ Add up obligations and track them against the ceiling.

Use the **Ceiling Management** forms in the *NPFC Fund Reference Guide*, Section 3, Resource Documentation:

____ Include Type I Obligations: contracts, removal authorizations, travel orders, direct expenses...

____ Include Type II Obligations: **anticipated costs** (**estimates**) of Coast guard resources (personnel, vehicles, aircraft, boats, cutters, and Strike Team pollution equipment) based on Coast Guard Standard Rates (See *NPFC Reference Guide*, Section 3, Resource Documentation).

____ Make sure that each POLREP includes the total ceiling authorized and cumulative obligations to date. (NPFC should be an INFO ADDEE for POLREPs.)

☐ If the ceiling must be increased, contact your District in advance.

For example, if you have reached $40K against a $50K ceiling, and you expect the total costs to exceed $50k, then contact your District.

☐ Contact your NPFC case officer any time you need assistance.

After the Response Action is Completed

☐ Certify contractor invoices within five working days of receipt of invoices.

> Ensure that all certification for receipt of services is in accordance with standard MLC and Finance Center procedures. (Contact appropriate MLC contracting officer if questions arise, or if invoice cannot be certified. The OSC is certifying receipt of invoiced goods and services in quantities indicated. Costs are verified by the cognizant officer).

☐ Forward certified contractor invoices to MLCLANT (fcp) or MLCPAC (fcp), as appropriate.

☐ Keep copies of all certified contractor invoices for the unit's files.

☐ Compile an inventory of all equipment purchases.

☐ Within 30 days, send the Financial Summary report to NPFC.

> See the *NPFC Fund Use Reference Guide,* Section 3, Resource Documentation, for a description of the Financial Summary report which includes:
>
> Incident Report (pp. 34-43); FOSC Pollution Incident Daily Resource Reports; Contractor Invoices and Daily Resource Reports; Other Government Agencies Resource Documentation (SF-1080 with invoices, Daily Resource Reports, Pollution Removal Funding Authorization); Out-of-Pocket Expense; Inventory of Equipment Purchased

> ____ Although all costs including non-removal costs, should be included on the dailies, the final totals submitted should be for removal costs only. Therefore, after all costs (including non-removal costs) are added up on the dailies, adjust each day as follows:
>
> – Cross off the non-removal costs with a single line.
> – Cross off the total in the same manner and adjust it accordingly.
> – Include the adjusted dailies (with crossed off items) in the completion report.
>
> ____ If you are using Excel forms, DO NOT throw away the original handwritten invoices, dailies, and notes. In court, Excel sheets may not be considered "original' documentation.

Chapter 6
External Cooperation and Coordination

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Section 6.A International

6.A.1. Introduction

It has been only within the past 50 years that man has attempted to assert sovereignty, management, and the rule of law to our oceans. Previously, such issues had been applied only to land masses, but with the rise in the world's population the use of the oceans and its resources has increased along with the devastation that has resulted from the accumulation of accidental and intentional releases of pollutants into the marine environment. The recent decline in many fisheries, along with the decline of environmentally diverse ecosystems such as coral reefs, are partially, if not directly, linked to marine pollution. The threat of pollution to public health, costs associated with cleanup activities, impact on tourism, and loss of resources, have thrust marine environmental issues to the forefront of international concerns. If the oceans are to survive to support future generations, the people of the world must join together to protect them from pollution. However, countries at different stages of development and with different cultural needs depend on the oceans for different things. These differences can make solving the environmental issues requiring international cooperation complex and controversial.

The United States aims to work with international organizations to improve protection of the environment while providing for environmentally sustainable development.

6.A.2. Coast Guard's Role in International Environmental Protection

The world's oceans and marine ecosystems are resources vital to the continued social and economic well-being of the United States and, indeed, to the very survival of the global community. As the nation's primary maritime operating agency, the world's premier maritime service, and as a steward of the marine environment, the Coast Guard is working aggressively to enhance and extend its reputation. This is being accomplished by the Coast Guard's

energetic participation in international forums on world and regional levels. To meet its goals, the Coast Guard will continue to work with the international marine communities to:

- enhance maritime safety;
- promote environmental protection and safety at sea to reduce pollution, accidents and associated health care costs; and
- sustain the lead in developing international measures, standards and practices for furthering commercial vessel safety, marine environmental protection and national economic interests.

Working closely with the Department of State, which is the Federal agency responsible for ensuring that U.S. interests are advanced internationally, and in partnership with other federal agencies, the Coast Guard is involved in a multitude of international activities. These activities are coordinated through Coast Guard Headquarters, G-CI and G-M.

The Coast Guard's role in addressing international marine environmental issues is dynamic and continues to expand. Describing the number of international organizations and initiatives the Coast Guard works with is beyond the scope of this volume. This section contains a summary of a few of the international organizations and initiatives that field units may need to conduct business with in order to accomplish the Coast Guard’s environmental missions.

6.A.3. International Maritime Organization

Established by the United Nations in 1948, the International Maritime Organization (IMO) has the primary responsibility for addressing marine environmental protection and safety issues for vessels. (Section 1.A of this volume provides further discussion on IMO.) IMO consists of an Assembly, a Council and four main Committees.

- The Maritime Safety Committee
- The Marine Environment Protection Committee

- The Legal Committee
- The Technical Cooperation Committee

IMO also includes a Facilitation Committee and a number of subcommittees.

6.A.3.a. Participation in IMO

IMO is the primary organization that the U.S. works through to establish environmental and safety standards for the international maritime community. These standards often come in the form of international conventions, agreements, and technical guidance. The U.S. Coast Guard is the lead federal agency which represents the U.S. at IMO. In this capacity, the Coast Guard is often asked what mechanism exists that allows state governments, nongovernmental organizations, industry and the general public to participate. Citizens may participate by being members of a U.S. delegation or by getting involved in the intercessional activities that work toward establishing U.S. positions on IMO issues.

(1) U.S. Delegation: The size of the delegation to an IMO session is usually limited to about 10 persons. Delegation members are selected based on their expertise for representing the U.S. on the topics to be addressed. Representatives often must have a technical working knowledge in several of the subjects that will be covered at any one session. The agenda for each session is circulated approximately 6 months in advance of a meeting. The U.S. delegation has consisted of representatives from the government, nongovernmental organizations and industry along with other federal agencies.

(2) Public Notification and Participation: The public is often notified of IMO activities through the media and IMO mailings. Announcements of U.S. public meetings, called SPMP meetings, are also made in the Federal Register. The meetings take place just prior to an IMO committee session and soon after a committee session. SPMP meetings are held at Coast Guard Headquarters, Washington, DC and are intended to

inform the public of IMO activities and to facilitate public participation in the process. Most of the work on IMO issues is done through correspondence groups and the generation of U.S. position papers. The public is invited to contribute to the establishment of the U.S.'s position on a subject by contacting the U.S.'s coordinator for that issue. Another channel the public may use to provide input is through the nongovernmental organizations (NGO) in consultative status with IMO. Some of the NGOs represent industry while others are more focused on environmental concerns.

6.A.4. International Oil Pollution Compensation Fund (IOPC Fund)

The International Oil Pollution Compensation Fund (IOPC Fund) is an intergovernmental organization which was set up in October 1978 for the purpose of providing compensation for oil pollution damage resulting from spills of persistent oil from laden tankers. The IOPC Fund becomes involved in the payment of compensation if the aggregate of the proven damage exceeds the amount of the limits of the shipowner’s liability, which is established on the base of the tonnage of the ship.

(1) States which have ratified the International Convention on the Establishment of the International Fund for Compensation for Oil Pollution Damage, 1971 (Fund Convention) are Members of the IOPC Fund.

(2) The IOPC Fund has created procedures for the prompt payment of compensation to victims of oil pollution incidents. A total amount of approximately $83 million per incident is available to compensate victims (including any amount paid by the shipowner or his insurer). A victim may be a Government or other authority which has incurred cleanup costs for preventing or minimizing pollution damage, or a private entity or individual who has suffered damage (e.g., fisherman whose boats and nets have been polluted or who have suffered loss of income as a result of the pollution, or hoteliers at seaside resorts whose income has been reduced). The payment of compensation is independent of the flag of the tanker,

the ownership of the oil or the place where the incident occurred, provided that the damage is suffered within the territory, including the territorial sea, of a Member State.

6.A.5. Arctic Environmental Protection Strategy (AEPS)

The U.S. has been an Arctic nation, with important interests in the region, since the purchase of Alaska. National security, economic development and scientific research remain cornerstones of these interests. At the same time, the pace of change in the region—particularly political and technological developments—continues to accelerate, creating added interdependence and new challenges and opportunities for policy makers in Arctic nations. The U.S. Arctic policy reflects these elements of continuity and change. It emphasizes environmental protection, environmentally sustainable development and the role of indigenous people. Simultaneously, it recognizes U.S. national security requirements in a post cold-war world, as well as the need for scientific research and the importance of international cooperation for achieving Arctic objectives.

In 1989, the eight Arctic countries—the U.S., Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, and Sweden—began discussions on improving Arctic cooperation. In 1991 they reached agreement on the Arctic Environmental Protection Strategy (AEPS). The State of Alaska and indigenous peoples of Arctic countries also participate in AEPS proceedings. The Strategy is composed of principles, objectives and an action plan, with the following groups working to implement.

- Emergency Prevention, Preparedness and Response (EPPR): EPPR addresses the problems of man-made disasters. The Coast Guard (G-M) participates in the AMAP and PAME working groups described below, but is most active in the EPPR working group. One of the issues dealt with in the EPPR is response to spills of oil and hazardous materials in Arctic areas.
- Protection of the Arctic Marine Environment (PAME): PAME is studying national and international legislation to determine how these laws can be strengthened to further protect the Arctic marine environment. PAME is examining a range of sources and contaminants, including

offshore oil and gas development, ocean dumping of radioactive wastes and other matter, and land-based sources of pollution.

- Arctic Monitoring and Assessment Program (AMAP): AMAP is assessing the health and ecological risks associated with contamination from radiological waste, heavy metals, persistent organics and other contaminants, some of which originate many miles away from the Arctic region.

Conservation of Arctic Flora and Fauna (CAFF): CAFF is studying the adequacy of habitat protection and considering ways to strengthen wildlife protection, possibly through an international network of protected areas, more effective conservation practices and laws.

6.A.6. South Pacific Regional Environmental Program (SPREP)

One of the responsibilities of SPREP is the development of regional awareness on the issue of oil spills in the marine environment. This involves a sub-program covering activities in the following two areas:

- Development of national oil spill contingency plans, integrated with a regional contingency plan, to prepare for and minimize the impact of marine pollution on the environment; and
- Conduct of regional workshops to familiarize participants from Pacific Island nations with procedures and techniques for the abatement of oil spills and to create an awareness of the value of acceding to international conventions covering marine pollution matters.

(1) The wider aspects of marine pollution need consideration and although the primary concern is for pollution by operational and accidental oil discharges from ships, greater recognition is being given to pollution from shore-based sources and by discarded plastics and other types of refuse that ultimately enters the marine environment.

(2) The series of regional workshops on marine pollution prevention, planning and response is being conducted on a biennial basis to broadly cover the essential

aspects of legislation framed towards prevention, planning to provide effective organizations and response to reduce the impact of pollutants on the marine environment. These workshops are jointly organized by Australian Maritime Safety Authority, IMO and SPREP. The workshops program covers national and international contingency planning, reporting and alerting networks, practical response to marine oil spills, legal conventions and other instruments relating to marine environmental protection.

(3) In case of marine pollution emergencies, SPREP performs the following activities:

- to receive, collate and disseminate information on marine pollution emergencies; and
- to liaise with international, regional and national response organizations for response to marine pollution emergencies.

6.A.7. International Tanker Owners Pollution Federation Limited (ITOPF)

The International Tanker Owners Pollution Federation was established as a non-profit-making service organization in 1968 for the principal purpose of administering the Tanker Owners Voluntary Agreement concerning Liability for Oil Pollution (TOVALOP). While this remains an important function, great emphasis is now given to technical work. The Federation has had observer status at both IMO and the International Oil Pollution Compensation Fund (IOPC Fund) since 1980.

(1) The key function of the Federation's small team of technical staff is to respond to marine oil spills anywhere in the world. This service is not limited to tanker incidents where compensation may be sought under TOVALOP. Indeed, on occasions, the Federation responds to marine spills of oil or hazardous substances from other types of vessels, offshore oil installations or land-based sources. In addition to responding to spills, the Federation is frequently asked by IMO and various other organizations to assist with the preparation of contingency plans and to help run training courses. The Federation also produces various

technical publications and helped sponsor a series of training videos.

(2) As a result of the wide experience of the staff, who include marine biologists and chemists, the Federation is able to provide practical advice and assistance on the most appropriate and cost-effective clean-up response to spills of oil, with the primary aim of mitigating any damage. The staff are also able to investigate any adverse effects and damage caused to coastal resources such as fisheries, mariculture, industry and recreational areas.

(3) The service is normally performed at the request of one of the tanker owner members of the Federation and their oil pollution insurer. Both CRISTAL (the oil cargo owner's voluntary compensation agreement) and IOPC Fund (the intergovernmental equivalent of CRISTAL) also usually rely on technical services of the Federation for cases in which they are likely to be involved. Thus, there is every likelihood that the Federation will be involved with a major oil spill from a tanker. From time to time, Governments call upon the Federation to give advice and assistance, especially when faced with a major incident involving a source other than a tanker. Such requests are met, subject to the availability of technical staff and to priority being given to work for Federation members. Work for non-Federation members attracts a daily fee to cover staff costs and a proportion of overheads, as well as the full reimbursement of all travel, accommodation and out-of pocket expenses.

6.A.8. International Salvage Union (ISU)

Marine salvage companies are located throughout the world and a large number of them are members of the International Salvage Union (ISU), an organization which has its headquarters in London, the United Kingdom.

(1) ISU itself does not take an active role in salvage operations, nor does it own or operate salvage tugs or equipment. Its purpose is to provide a secretarial/administrative function and to act as a coordinator on behalf of its membership in relation to

national and international matters affecting the salvage industry.

(2) The actual membership of ISU consists of 44 companies located in 30 different countries throughout the world (September 1993). Each member company has a marine salvage capability. However, as in any multi-national organization, some companies have a greater depth and range of salvage equipment and expertise than others. ISU members monitor a schedule giving the names and addresses of companies.

(3) Some marine salvage companies operate ocean-going salvage tugs and other specialized vessels designed to deal with shipping casualties. They also employ specialist salvage officers and personnel with the necessary experience to undertake such operations. They own equipment for use in ship-to-ship transfer operations, such as inert gas generators, inflatable fenders, and dedicated emergency cargo transfer pumps. Much of this equipment is designed for transportation by air to enable it to be quickly brought to the site of the shipping casualty.

(4) Within the offices of such salvage companies are personnel experienced in handling the complex logistics of mounting a major salvage operation, including negotiations with national authorities, contractual and legal matters.

(5) The majority of salvage operations are carried out under Lloyd's Standard Form Salvage Agreement, which is a "No Cure, No Pay" contract entered into between the salvor and the owners of ship and cargo. The latest edition of this agreement, known as LOF 95, incorporates part of the International Convention on Salvage, 1989 (Salvage Convention).

(6) There are, however, situations in which such a contract may not be appropriate, for example wreck removal. In this event the salvage company may work under a daily rate contract, or an agreed lump sum price contract. New International Agreements, (lump sum and daily

rate) will shortly be published by BIMCO following negotiations between BIMCO and the ISU and these agreements will be known as WRECKCON (lump sum) and WRECKHIRE (daily rate).

While the salvage company will normally be engaged by the ship and cargo owner, it is equally possible for them to be employed by the insurers of the ship and/or cargo or by a port of other national authority.

6.A.9. International Group of Protection and Indemnity Clubs (P&I Clubs)

When an oil spill from a tanker occurs, whether TOVALOP or CLC applies, initial liability for clean-up costs and damage rests with the tanker owner. The P & I Clubs are mutual non-profit-making associations which insure their members (ships owners, charterers, managers and operators) against third party liabilities, including pollution liabilities. In addition, their cover extends to loss of life and personal injury to passengers, stevedores and other third parties; crew liabilities; loss, damage or responsibility in respect of cargo; damage to fixed and movable objects such as piers and jetties; one-quarter collision liability; wreck removal; liability under towage contracts; and fines and liabilities incidental to the business of owning, operating or managing ships.

(1) Members are rated for contributions (known as calls), in accordance with the risks they wish to cover, taking into account their past record and any deductible they may be prepared to bear. They contribute in respect of each policy year only towards the amount required to meet claims and expenses in that year. Members are protected against excessive losses by mutual pooling of large claims in London and the International Groups of P & I Clubs. Large claims are pooled by those Clubs which are members of the International Groups of P & I Clubs which also purchase further excess reinsurance on the world insurance markets.

(2) To assist members, the P & I Clubs maintain a network of both legal and commercial representatives (correspondents) throughout the world, some of whom deal exclusively with Club work. In addition, they have at their disposal doctors, surveyors, and other experts. It is usually the local correspondents who look after the members' and insurer's interest on-site when an

accident occurs. However, in the case of a major spill the Club concerned may send a manager or staff member, together with a member of the ITOPF Technical Department and such technical experts as are necessary, to cover other aspects of the incident such as salvage.

(3) Although the Clubs are indemnity insurers and pay only when the member has first paid in exceptional circumstances, for example where cleanup operations are protected or where heavy losses are incurred by third parties and large sums of money are involved, the P & I Clubs may be willing to make part payments prior to final settlement.

(4) If from the outset of the incident, it appears likely that the tanker owner's liability will be insufficient to meet all claims, then either CRISTAL or the IOPC Fund may become involved at an early stage. However, since neither of these organization has overseas agents, procedures exist whereby the P & I Clubs and their correspondents may act on their behalf throughout the incident.

6.A.10. Assistance Requests from Foreign Governments

The Coast Guard provides guidance for responding to requests from foreign governments for pollution response and training assistance. The mechanism for response to such requests is addressed in Chapter 5 of this Volume. Following is a general description of Coast Guard policy under these circumstances.

(1) Occasionally the U.S. Government receives requests from foreign governments for assistance during significant pollution incidents or threats of pollution, and for pollution response training.

(2) It is the Coast Guard's policy to provide assistance to foreign governments on an as-available, not-to-interfere, cost reimbursable basis whenever providing such assistance is determined by the U.S. Department of State to be in the national interest.

(3) All requests for assistance must be made on a government-to-government basis, that is, through established diplomatic channels.

(4) If an initial request is received informally by a Coast Guard unit, the person initiating the request should be advised to make a formal request to the U.S. Embassy or Consulate, preferably in his or her own country, and that the request should contain the following information:

- a full description of the situation necessitating the request;
- the type of assistance being requested;
- what commercial resources, if any, are responding and why such resources are considered inadequate;
- what international or transnational organizations are assisting, if any, such as the International Maritime Organization, International Tanker Owners Voluntary Pollution Fund (ITOPF), etc.;
- the estimated duration of needed U.S. assistance; and
- assurances that the requesting government will reimburse the United States Government for all, or a specified portion, of the costs associated with the assistance provided.

(5) Information concerning any informal request should be promptly passed to Commandant (G-CI) for coordination and to enable the request to be processed rapidly once formally received.

(6) Requests for assistance from foreign governments will be granted only if providing the service will not seriously interfere with readiness for response within the United States.

(7) When requests for assistance include the need for National Strike Force (NSF) equipment, Commandant (G-M) will ensure that sufficient information is available to determine that:

- providing equipment will not unnecessarily conflict with private enterprise, and that
- the requesting government is advised that NSF equipment will be available only for such time as to allow for adequate response by the commercial sector.

(8) In any case, experience has shown that the best practice initially is to provide two Coast Guard advisors who will evaluate the actual needs of the requesting country and the effectiveness of providing Coast Guard equipment.

Section 6.B
Domestic

6.B.1. Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) is a law established under the auspices of the National Oceanic and Atmospheric Administration (NOAA), which is responsible for its enforcement at a national level.

(1) The Coast Guard is responsible for ensuring that all USCG facilities and vessels comply with the law.

(2) The Act's purpose is to ensure consistency between states' coastal zone laws and the laws established on a national level regarding coastal zones.

- The Act provides flexible procedures which foster intergovernmental cooperation and minimize duplicative effort and unnecessary delay, while making certain that the objectives of the Federal consistency provisions of the Act are satisfied.
- The Act also provides procedures for mediation of serious disagreements that may arise between Federal and state agencies during the administration of approved coastal management programs.

Chapter 1 of this volume provides further discussion on CZMA.

6.B.2. Environmental Protection Agency/Coast Guard Memorandum of Understanding on CERCLA

In August of 1994 the Environmental Protection Agency and the Coast Guard issued a Memorandum of Understanding (MOU) which established funding coordination mechanisms for USCG access to Superfund, for the purpose of supporting Coast Guard implementation of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The National Pollution Funds Center serves as the Coast Guard's manager for these funds. This subject is further discussed in Chapter 5.

6.B.3. Marine Protection Research, and Sanctuaries Act of 1972

The purpose of the Marine Protection, Research, and Sanctuaries Act (MPRSA) is to regulate the transportation of material for the purpose of dumping into ocean waters, and the dumping of waste and other matter. MPRSA is composed of four titles:

- Title I - Ocean Dumping (33 U.S.C. 1411),
- Title II - Comprehensive Research on Ocean Dumping (33 U.S.C. 1441),
- Title III - National Marine Sanctuaries (33 U.S.C. 1431), and
- Title IV - Shore Protection Act of 1988 (33 U.S.C. 2601).

The Coast Guard shares responsibility under MPRSA with several other federal agencies. Chapter 1 of this volume provides further discussion on MPRSA.

6.B.4. State Coordination

OPA 90 affirmed the rights of states to protect their waters and shorelines by permitting each state to establish standards which could be more restrictive than federal standards. With the states so actively developing their own marine environmental protection regimes, and because regulation of the marine industry has vessel safety, as well as regional and international implications, it has become imperative that the Coast Guard and the states coordinate these federal and state programs.

- The Commandant directed that each District Commander, with guidance and assistance from headquarters program managers and the National Pollution Funds Center, develop an MOA with each state within the district.
  - — Each MOA is to be an umbrella agreement of broad scope, coordinating the agendas of the state and Coast Guard international, domestic, regional, and local entities, and providing the foundation for cooperation in the full range of marine pollution related activities.
- The “Guidance for Drafting a Coast Guard and State Memorandum of Agreement on Marine Environmental Protection” directive was provided to the field in May 1993 for use in framing a state/Coast Guard MOA for protection of the marine environment.

6.B.5. Coast Guard Membership in State Task Forces, Spill Cleanup Cooperatives, and Similar Organizations

USCG OSCs have been requested to become members of state task forces established to assess the state's ability to respond, or to become a member of the board steering committee of spill cooperatives. Coast Guard personnel, when requested to participate in response oriented organizations, must obtain the approval of the ethics officer (district legal officer) so that a determination can be made of whether there is a conflict of interest or other impediment such as a conflict of position that could affect the Coast Guard official's responsibilities at a later date.

6.B.6. Citizens Advisory Groups

The formation of Regional Citizens Advisory Groups (RCAGs) was authorized with the passage of the Oil Pollution Act of 1990 (OPA 90) for the purpose of encouraging members to join in a "partnership between industry, government, and the local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals" in Prince William Sound and Cook Inlet, Alaska.

(1) OPA 90 provided that voluntary advisory groups could be used instead of the formal councils called for by the Act, if the President certified that the advisory group met certain requirements under the Act.

- The criteria for certification requires that the voluntary advisory group must foster the general goals of the Act and must be broadly representative of the community interests in the vicinity of the terminal facilities.
- Certification is to be renewed each year based on annual reevaluation of the organization's performance and qualifications under Section 5002 of the Act.
- The applications for the yearly recertification are evaluated in accordance with established Coast Guard procedures which include consideration of comments from industry and government, as well as from the general public.

6.B.7. Coast Guard Auxiliary

The Chief Director, Auxiliary and the Chief, Marine Environmental Protection Division established a memorandum of understanding (MOU) and Joint Action Plan which institutionalizes Auxiliary involvement in Coast Guard marine environmental protection

missions. The Chief, Port and Environmental Management Division and the Chief, Auxiliary Operations Division are action officers for the purposes of coordinating and implementing the plan. The action plan establishes a dynamic framework by which both programs identify joint macro-level objectives and identify priorities and responsibilities for achieving the objectives. The plan is a living document, which is continually reviewed and updated to reflect changing priorities and initiatives. The plan is the binding element joining program resources and supporting agencies in action to protecting the environment.

The three key areas in which Auxiliary programs and Auxiliarists can contribute significantly to the reduction of marine pollution are:

- Education. The overall objective is to integrate the environmental protection message into established Auxiliary education and community outreach programs. The Center for Marine Conservation (CMC) has developed training and education materials to be used by Coast Guard Auxiliarists. The materials enable the Auxiliarists to present the environmental protection message to a wide audience in the recreational boating public and the general community.
- Field Support. The intent is to institutionalize Auxiliary support of marine environmental protection field offices in areas of administrative office support, inspections and examinations, planning and preparedness, surveillance and detection, and response.
  - Auxiliarists can gather information to measure general trends concerning compliance during courtesy marine examinations activities.
  - Auxiliarists with commensurate public or private sector experience and expertise should be included as members of Area Committees and area planning staffs, working closely with the local COTP and industry representatives in updating contingency plans for pollution incidents.
  - Auxiliarists should participate in the National Preparedness for Response Exercise Program (PREP). For example, Auxiliarists could be employed as evaluators or "red team" participants in PREP exercises.

— Auxiliarists could be employed during pollution incidents to perform port surveys and, if deemed necessary by the COTP, assist the National Pollution Funds Center by posting public notices and providing literature regarding claims to recreational boaters and associated businesses.

— Auxiliarists can perform harbor patrols, aerial surveillance support, and staff administrative support during surge and contingency operations.

— Auxiliarists can provide communications support during contingency operations.

— Under this action plan, Auxiliarists will not be employed in enforcement or in direct oil or chemical pollution response roles.

- Effectiveness Measurement. The Coast Guard Auxiliary can participate in the National Marine Debris Monitoring Program, a five year survey of marine debris in coastal regions of the U.S.

Section 6.C
Education and Outreach

6.C.1. Strategies to Achieve Compliance Through Education and Outreach

6.C.1.a. Compliance Through Education and Outreach

The terms "public outreach" and "public awareness" are sometimes used to describe educational programs, products, and activities geared toward the public on a particular issue or topic. Scarce resources and competing priorities within enforcement agencies increase the importance of achieving voluntary compliance with laws and regulations. Thus, education (or public awareness) of those affected by these laws and regulations becomes a keystone in achieving compliance.

(1) There is an important difference between a *public outreach campaign* and *public outreach products.*

- The *campaign* is the overall structure and vision under which outreach products (i.e., brochures, pamphlets, press releases, etc.) are developed and used.
- *Products* are the tools used to get across a particular message to a target audience.
- In the long run, developing and using outreach products within the context of an outreach campaign can be cost effective in terms of time and budget.

(2) There are five principal components, portrayed in **Figure 6-1**, that must be defined when developing and implementing a successful public outreach campaign:

- goal of the campaign
- target audience
- purpose or message of the outreach material

- outreach tools
- budget considerations

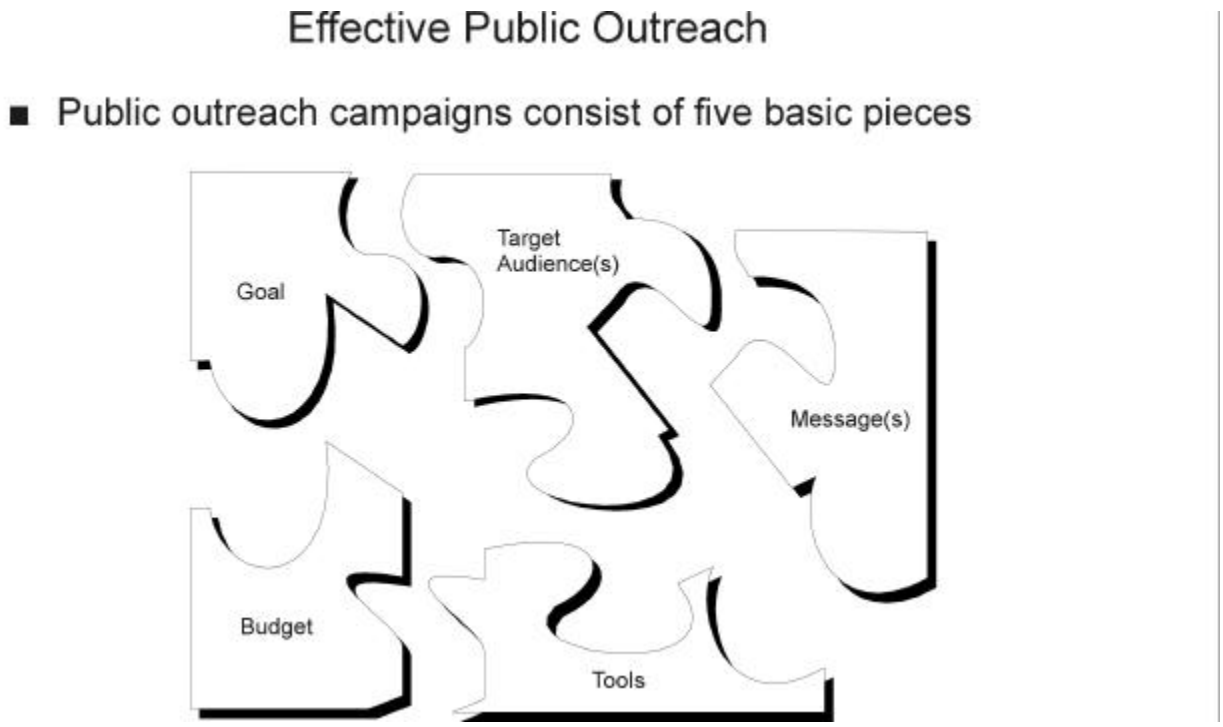


Figure 6-1

Effective campaign strategies fit these five components together.

(3) To reach its *goal*, a successful public outreach campaign combines the *message* selected for the targeted audience with the appropriate public outreach *tool*.

- *Budget* considerations affect the number of messages and the tools which can be used.

- The goal of a public outreach campaign promoting the protection of coastal waters from pollution is to increase compliance through public and industry awareness and understanding.

(4) There are a number of potential *target audiences* for public outreach campaigns promoting marine environmental protection.

- Campaigns of this kind usually speak to boaters, marina owners and operators, and various marine industry groups.

(5) Because each potential audience has a somewhat different role in solving the problem, the *purpose* of the public outreach will differ somewhat among these audiences. Public outreach products are developed to accomplish one or more of the following purposes:

- Motivate: The purpose here is to stimulate action or generate interest.
- Inform: This purpose involves providing background knowledge or other types of information which will facilitate compliance.
- Instruct: The purpose here is to teach so that learning can take place.

(6) Public outreach tools typically fall into one of four categories as shown in **Figure 6-2**.

Product Type	Examples
Print	Manuals, brochures, flyers, coloring books, fact sheets, pamphlets
Visual	Videotapes, display booths, posters, placards
Novelties	Bumper stickers, magnets, T-shirts, hats, pins
Formal Media	Press releases, Public Service Announcements, industry publications, paid advertising, public speaking engagements

Public Outreach Products
Figure 6-2

(7) To be effective, select the right message and outreach tool appropriate to the target audience. Some public outreach tools, such as pamphlets and thematic folders, are versatile enough to be used to motivate, inform, and/or instruct all types of audiences. Others are more limited in the type of message or the target audience for which they work well.

(8) *Budget considerations* are usually a primary concern in any public outreach effort. Whenever possible, existing materials that contain the desired message should be used. Many other agencies (such as EPA and NOAA), and non-governmental agencies (such as Center for Marine Conservation) have already produced appropriate materials and will provide them to the U.S. Coast Guard for distribution to target audiences. There are also many other materials available from state and local organizations that will help to localize the message. In addition to reducing costs, these types of partnerships also provide valuable networking that will enhance the effectiveness of the outreach efforts. Total costs of public outreach products correspond to the following four phases of developing and disseminating such materials.

- *Message development* is the phase during which the theme of the product is identified and the text copy prepared. The goal of this phase is to develop the message using a clear design.
  - Costs can be controlled and the outreach materials enhanced if a standard theme is established initially and used as the foundation for all outreach products developed on a particular topic.
  - A theme could be a logo, slogan, colors, personality character, or more likely a combination of these techniques.
  - The common thread throughout all the products makes them easily recognizable as part of an outreach campaign. The common theme is essential for maximizing the public's exposure to the issue.
  - Costs are controlled because the design process does not start over with each successive outreach product developed.
- *Product* is the phase during which the theme is developed into a public outreach product.
  - In this phase, it is important to remember that the number of colors chosen affects ultimate reproduction costs.
  - A maximum of two colors is recommended for the most cost-effective public outreach products.
- *Reproduction* is the phase in which the required number of copies of the product are made. For the reproduction phase, it is important to remember that typically the unit price of reproducing the product will decrease as the number of copies to be reproduced increases.
- *Distribution*. In this phase the product is distributed to the target audience. For the distribution phase it is important to remember that distribution costs can

be minimized by having other groups or organizations absorb some of the distribution costs.

— When direct mailing of materials is used for distribution, bulk mailings (using up-to-date and well-targeted mailing lists) can reduce costs.

— The distribution technique should be factored into the development of public outreach products from the beginning since the materials should be tailored to the method of distribution. For example, materials to be mailed should fit into standard-size envelopes or have the mailing panel incorporated into the layout or design.

— When matching target audiences, messages, and public outreach tools, the distribution technique to be used and the cost of the tool need to be considered.

— Public outreach products can be distributed to the target audience either directly or indirectly. Direct techniques include mailings and distribution at events, conferences, or other gatherings. With indirect distribution, the products are given to an intermediary, such as a trade association, to distribute to the target audience.

6.C.2. SEA PARTNERS Campaign

6.C.2.a. SEA PARTNERS

The SEA PARTNERS Campaign is the Coast Guard's primary environmental education and outreach program, and includes active duty, reserve and Coast Guard auxiliary member participation. Although education is used informally at many units to increase compliance in the port community, and the Coast Guard has promoted a citizen reporting campaign, the SEA PARTNERS Campaign has emerged as the most visible component of the Coast Guard's environmental public outreach efforts.

6.C.2.b. Objectives

The SEA PARTNERS Campaign focuses on three objectives:

- Protect the marine environment and preserve natural resources while promoting national well-being and economic prosperity.
- Raise public awareness of marine pollution issues and motivate public conservation of the marine environment.
- Help prevent the discharge of marine pollutants and increase the chances of timely detection, reporting, and cleanup of discharges which do occur.

6.C.2.c. Program Specifics

To achieve these objectives, the Campaign provides speakers to community, educational, government, and business groups that are interested in learning more about protecting the marine environment. The SEA PARTNERS objectives are directly linked with the Marine Environment Protection (MEP) Program goals as outlined in the Business Plans for Commandant (G-M).

(1) SEA PARTNERS Campaign will provide speakers to groups interested in ways of protecting the marine environment.

(2) The educational presentations are available at no charge.

(3) Sea Partners is a non-regulatory outreach and education campaign designed to target the following groups in port communities throughout the nation, trust territories, and commonwealths:

- commercial fishing vessel operators
- port and terminal operators
- marina operators
- shipping agents
- environmental organizations

- shipping companies
- waste haulers
- recreational boaters
- students and teachers
- private groups

(4) Traditionally, the approach of the Coast Guard Marine Environmental Protection program has been regulatory. However, since 1993 the Coast Guard has been developing educational programs designed to inform various groups in the marine industry how environmental protection standards apply to them and ways they can take action to protect the marine environment.

(5) SEA PARTNERS education efforts focus on:

- effects of oil, hazardous chemicals, waste, and debris on the marine environment;
- how marine environmental protection conventions, laws, and regulations apply to various marine users; and
- ways groups and individuals can take action to protect the marine environment.

(6) To be most effective, SEA PARTNERS Campaign efforts need to be strategically implemented in local port communities. **Figure 6-3** depicts the SEA PARTNERS public outreach process and shows how strategy, implementation and feedback components relate to each other.

Effective Public Outreach Process

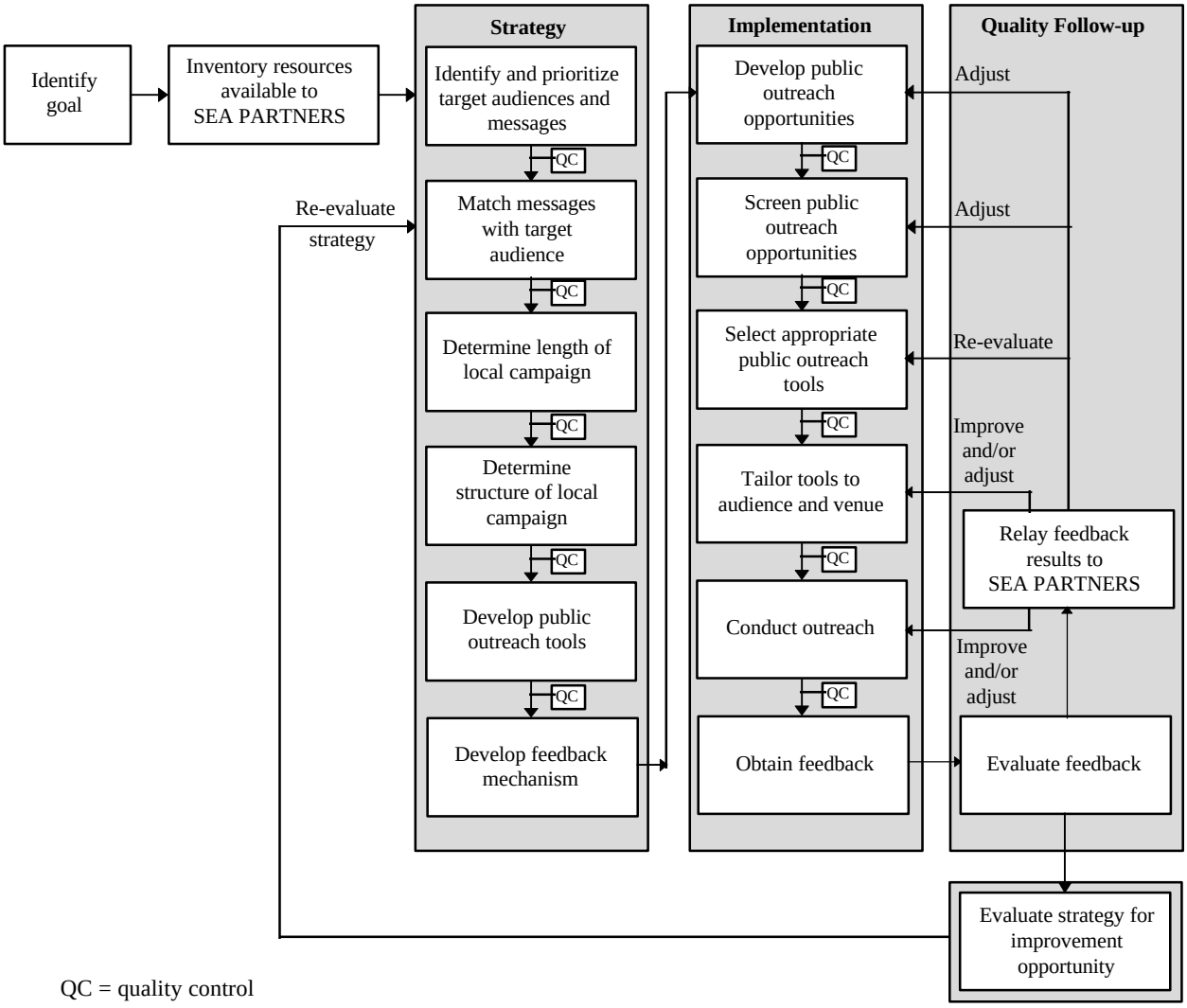


Figure 6-3

(7) **Appendix 6-A** provides guidelines that will assist units in developing a local strategy, screening opportunities, and tailoring specific presentations.

Appendix 6-A
SEA PARTNERS Guidelines

Worksheet for Developing a Local SEA PARTNERS Public Outreach Campaign Strategy

◆ Identifying the Goal of the Campaign

What is the problem (e.g., particular pollutant, marine pollution in general)? _____

What human behavior should be changed? _____

What human behavior should be promoted or reinforced? _____

What is the desired result of the campaign? _____

◆ Performing an Inventory of Available Resources

People

How many persons are willing and available to participate in SEA PARTNERS? _____

Which SEA PARTNERS are knowledgeable about (or interested in) each of the priority pollutants: oil, sewage, and garbage? _____

What is the availability/schedule of each person?_____

Does anyone have special ties with port user groups? _____

Who is in charge of the local SEA PARTNERS Campaign? _____

What role could each person best assume? There are at least four roles for SEA PARTNERS: presenters, administrative support, environment/logistical experts, and quality control. Specify who is assigned to each of the areas listed below. Note that more than one person can be assigned to each area.

Strategic planning _____
Administration (includes interface with NATIONAL SEA PARTNERS and local scheduling administration)_____
Equipment/Supplies _____
Quality Control _____
Public Outreach Presentations (include planning, tailoring, practice, and delivery)? ___
_____

Worksheet for Developing a Local SEA PARTNERS Public Outreach Campaign Strategy (cont'd)

Time

What is the total time horizon for the public outreach campaign? _____

Based on personnel availability, how many person-hours can be realistically accessed for **all** of the SEA PARTNERS activities (not just presentations)? _____

How will the public outreach activities be spread over the total time horizon (e.g., during the summer months or year-round)? _____

Budget

How many person-days are available to the local SEA PARTNERS campaign? _____
_____

Tools

What public outreach tools (e.g., pamphlets, off-the-shelf presentations, stickers) are currently stocked by the local SEA PARTNERS?_____

Can the supply of these tools be replenished easily?_____

What sources are being tapped to obtain new/additional public outreach tools? _____

Is someone willing to expend the time necessary to obtain these materials? _____

Once obtained, the tools need to be evaluated:

Is the information technically accurate? _____
Do the available SEA PARTNERS have the technical knowledge and presentations skills required to use the product? Is special presentation equipment required? _____
_____
Is adequate space available to store the product? _____

Worksheet for Developing a Local SEA PARTNERS Public Outreach Campaign Strategy (cont'd)

Equipment

What equipment (e.g., overhead projectors, VCRs, extension cords) are currently available to the local SEA PARTNERS? _____

Can more equipment be accessed? _____

Is adequate space available to securely store the equipment? _____

◆ Identifying and Prioritizing Target Audiences and Messages

Target Audiences

To fulfill the goal of the campaign, who must be reached? List all potential target audience categories. _____

Are there any important subsets in the categories (e.g., shrimpers are a subset of commercial fishermen)? _____

What audience, if reached and motivated, would produce the biggest impact on the goal?__
_____

How can each target audience be appealed to? Avoiding fines through compliance with MARPOL Annex V? Environmental concerns? Compliance makes good business sense?
_____

Do any of the target audience have "hot buttons?"
_____

Messages

What messages, if effectively communicated, would most directly affect the priority pollutants? List the messages for each pollutant?

Oil _____
Sewage _____
Garbage _____

Worksheet for Developing a Local SEA PARTNERS Public Outreach Campaign Strategy (cont'd)

What messages, if effectively communicated, would produce the biggest impact on the goal?_____

Which messages match with each target audience? Keep in mind that a message may apply to more than one target audience. _____
_____
_____

Quality Control

Have the messages and target audiences been reviewed by individuals with both technical expertise and familiarity with the port user groups?_____

◆ Determining the Length of the Campaign

How will the campaign run? As one discrete unit for the fiscal year or as part of a multi-year effort? _____

◆ Determining the Strength of the Campaign

How will the messages be ordered? What messages will be delivered first, second, third?
_____
_____
_____

◆ Selecting and Developing Public Outreach Tools

Are there gaps in the public outreach tools identified in the inventory of available resources? Is there a tool to promote every message, reach every target audience, and cover each priority pollutant?
_____
_____

If not, is anyone willing to develop appropriate public outreach tools? _____

Is the person in charge of the campaign willing to devote the person-hours needed to this effort? _____

Worksheet for Developing a Local SEA PARTNERS Public Outreach Campaign Strategy (cont'd)

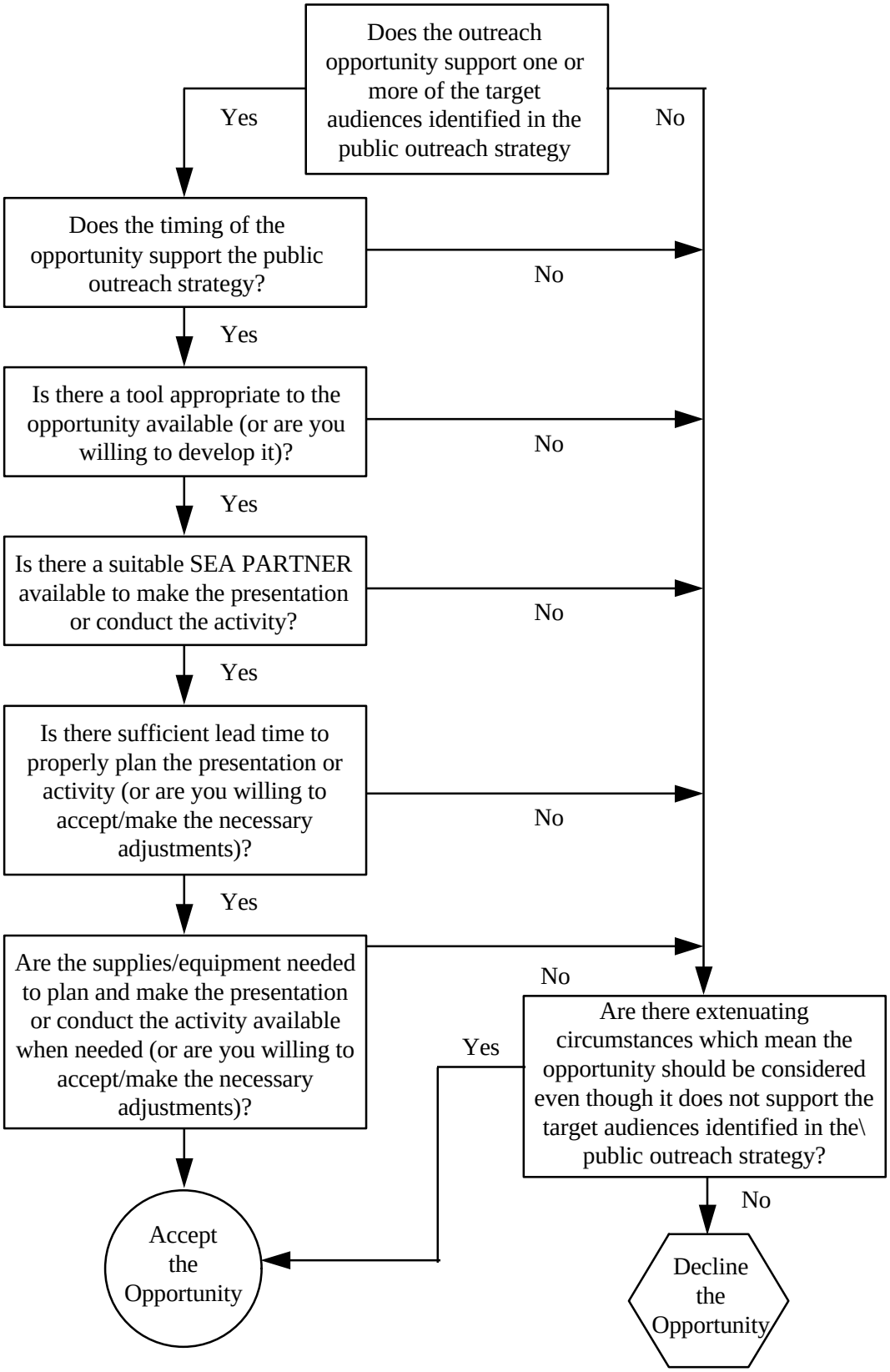
If developed, is there money to reproduce the tool? _____

◆ Developing a Feedback Mechanism

Is someone responsible for overall SEA PARTNERS quality control? Quality should be considered in terms of both internal quality control reviews and external feedback from the public. _____

Have quality control procedures been established (e.g., peer review, practice sessions for presentations)? _____
_____

Screening Public Outreach Opportunities



Points to Remember

- The campaign goal is trying to change and/or reinforce human behavior. Therefore, public outreach activities should be focused on quality communication rather than quantity.
- Before you can develop a strategy, you need to inventory your resources.
- All audiences are not equal; know who your target audience is.
- If you give an audience an inappropriate message, the public outreach will fail, or even worse, backfire.
- Every aspect of public outreach requires quality control.
- Be proactive—look for public outreach opportunities.
- Every public outreach opportunity will not further your strategy. Just because you are invited should not mean you have to go.
- Every public outreach tool is not appropriate for every venue.
- Practice. Practice. Practice.
- Listen to feedback.

Worksheet for Tailoring a Presentation

◆ Defining the Opportunity

The Audience

Who will be the audience? _____

What is their level of knowledge on the issue(s)? _____

How does the issue(s) affect them? _____

What are their "hot buttons" on the issue(s)? _____

Has this group had a SEA PARTNERS presentation previously? _____

If so, what was the topic and format? _____
How was it received? _____

How many people are expected? _____

Venue

What is the setting for the presentation? _____

Does the setting exclude the use of specific types of tools (e.g., a VCR in an outdoor setting without electricity)? _____

What else needs to be considered in tailoring a presentation given in the setting (e.g., logistics, weather, personnel needs)? _____

Time

How much time has been allotted for the presentation (including questions and answers, if appropriate)? _____

How much total time is needed for setup, the presentation, and breakdown/cleanup? ____
_____

Worksheet for Tailoring a Presentation (cont'd)

Equipment

What type of audiovisual equipment can be provided/is available? _____

Will it be SEA PARTNERS-provided, borrowed, rented, or sponsor-provided? _____

Is the equipment compatible with SEA PARTNERS training aids (e.g., slide carousel compatible with the slide projector to be used)? _____

The Message

What message(s) should be communicated during the presentation? _____

Does this support the local campaign strategy? _____

Does the message match with the target audience? _____

Tailoring Public Outreach Tools

What tools were identified in the strategy as relevant to this audience and the message to be communicated? _____

Given the venue, what tool(s) will work? _____

What tools will be used? _____
_____
_____
_____

Can they be used as is or will they need to be adjusted? _____

Does the message(s) in the tools to be used match the message(s) to be communicated to the audience? _____

Are there sufficient copies of the tools available to be used as handouts, if appropriate?
_____

Worksheet for Tailoring a Presentation (cont'd)

◆ Tailoring The Presentation

The Presentation

How will the presentation be structured? _____

How long will each part of the presentation last? _____

Will the presentation structure allow for interaction with the audience? _____

Personnel

How many SEA PARTNERS will be needed to make or assist with the presentation? _____

Who will be in charge? _____

Is there a learning/training opportunity in this presentation for other SEA PARTNERS? ___

If so, what is it? _____

Quality Control

Have the presentation content and structure been approved through the Quality Control mechanism? _____

Has the entire presentation been given in a dry run by the actual presenter(s)? _____

◆ Getting Ready

Do you have the directions to the site? _____

Do you know where to go once at the site?_____

Do you have the contact name and telephone number of the sponsoring group? _____

Do you have the contact name and telephone number of the on-site contact, if different from the sponsoring group contact? _____

Have you confirmed the date and time? _____

Worksheet for Tailoring a Presentation (cont'd)

Training aids needed for presentation (e.g., slides, handouts, pictures, props, demonstration aids)

_____

_____

_____

Are they ready to be used (e.g., slides in order in a carousel)? _____

Support supplies/equipment needed (e.g., markers, flip chart, slide projector, VCR) _____

_____

_____

_____

If the equipment is to be provided at the site, have you confirmed it with the sponsor? ____

If you are bringing equipment to the presentation:

Have you tried it to make sure it works and is compatible with the training aids you will be using? _____

Do you have extra light bulbs, extension cords, etc., if appropriate? _____

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