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The Marine Safety Council of the United States Coast Guard

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Theme: "Funding a Cleaner Environment: The National Pollution Funds Center"

Champion: LCDR Ralph Malcolm

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Assistant Commandant's Perspective

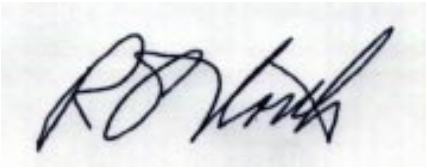
by RADM Robert C. North
Assistant Commandant For Marine Safety & Environmental Protection

As you will see in this volume of *Proceedings*, the Coast Guard's National Pollution Funds Center (NPFC) is a unique organization not only in the Coast Guard but in the whole of the federal establishment. Most of its missions were born of the Exxon Valdez incident, but its Certificate of Financial Responsibility (COFR) program started in the early seventies.

Since its inception the NPFC has focused on customer service and its customer base is broad and extensive, encompassing a multitude of federal and state agencies as well as over 21,000 vessel owners and operators.

As a former District Commander, and now responsible for the Coast Guard's Marine Safety and Environmental Protection Program, I know first hand what a valuable contribution NPFC makes to the protection of the environment. Their stewardship of the COFR program and the Oil Spill Liability Trust Fund, as well as the management of the Coast Guard's apportionment of the Superfund, exemplifies professionalism.

I am pleased to have this opportunity to utilize the *Proceedings* to provide an in-depth picture of the valuable services that NPFC performs.



Marine Safety Council Has New Chairman

Rear Admiral John E. Shkor will begin serving as Chief Counsel of the U.S. Coast Guard in early July and will also be the new chairman for the Marine Safety Council. RADM Shkor began his career on USCGC BERING STRAIT, serving from 1966 to 1968 as a Deck Watch Officer, Weapons Officer, and First Lieutenant. During this period, BERING STRAIT operated as part of the Seventh Fleet in Vietnam, conducting maritime barrier patrols and naval gunfire support missions.

His field experience in the counternarcotics arena includes service as Legal Officer, Seventh Coast Guard District, Miami, FL, from 1979 to 1983, where he developed at-sea operational policy for Coast Guard and Navy drug interdiction forces and coordinated the federal prosecution of the maritime drug smuggling cases. Other assignments include Chief of Operations for the Coast Guard Pacific Area Command; Acting Deputy Director and Associate Deputy Director for Supply Reduction, Office of National Drug Control Policy; Chief Counsel of the Coast Guard, command of Marine Safety Office, Savannah, Georgia; and Chief, Programs Division, U.S. Coast Guard Headquarters. On January 19, 1996, RADM Shkor became the Commander, Joint Interagency Task Force East, Key West, Florida.

RADM Shkor is a graduate of the United States Coast Guard Academy from which he received his Bachelor's degree in Engineering. He also has earned a Juris Doctor degree from the Georgetown University Law Center and a Master of Science degree in Management from the Massachusetts Institute of Technology. His military awards include the Legion of Merit and four awards of the Meritorious Service Medal.

Rear Admiral Shkor is married to the former Sheila O'Neil of San Antonio, Texas. They have two sons, Matthew and John.

Hail & Farewell

On behalf of the *Proceedings* staff, I would like to say, "Farewell and Accolades for contributing to the success of the magazine," to RADM Blayney. It was indeed a pleasure working with the Rear Admiral and his staff. RADM Blayney's comments and input were greatly received and appreciated. As always, his comments helped the magazine keep our readers informed about all aspects of the maritime industry.

Again, on behalf of the *Proceedings* staff, I would like to say to RADM John E. Shkor, the new Marine Safety Council chairman, "Hail and Welcome. You are already familiar with the uniqueness of the magazine and we look forward to working together."

CHERYL ROBINSON, EDITOR

BY THE WAY

EDITOR'S POINT OF VIEW

by Cheryl Robinson

Proceedings magazine, as always, strives to keep you informed about all aspects of the maritime industry.

I am Editor for *Proceedings of the Marine Safety Council* magazine and the *Marine Safety Newsletter*, as well as Administrator for the U. S. Coast Guard World Wide Web site at the National Maritime Center. All of these have undergone many changes in the last two and a half years – some highly visible and others not so visible – but all equally important in the making of one of the top professional journals in the maritime industry.

During that time, we have continued to reorganize the way we do business and produce this magazine. We've said "Hail and Farewell" to various members of our technical support staff.

However, our biggest and most visible change was adding full color to the magazine. Our current format of shorter more visually appealing articles on a wider variety of topics seems to appeal to more readers than ever. As a result, our mailing list database has tripled in two years.

I am extremely proud of our high percentage of customer satisfaction – 95%! Our surveys and focus group discussions and improvements as a direct result of reader input have all made a difference.

Proceedings is not the only magazine in the maritime community with a rolling calendar, but I am proud to report that we are the only magazine that everyone in the maritime community calls to check on open dates before scheduling their events. Our rolling calendar (for both *Proceedings* and the *Marine Safety Newsletter*) has events scheduled well into the 21st century. Our audience includes just about everyone in the maritime industry – government, public and private sectors. We do our best to serve all of you!

Your contributions – articles, input, and feedback – are all welcome. The calls, faxes, and e-mails each day are greatly appreciated.

This is the last issue of *Proceedings of the Marine Safety Council* magazine that I will contribute to. I will move on and work with another publication at a different agency. I will miss *Proceedings* and of course, all of you.

A HEARTFELT THANK YOU!

Cheryl Robinson

NEXT ISSUE:

REGULATORY REINVENTION & STANDARDS DEVELOPMENT

UPCOMING ISSUES:

HAZARDOUS MATERIALS

Funding a Cleaner Environment: The National Pollution Funds Center

Director's Message

It is clear from the first U.S. Coast Guard pollution report (following) for the Exxon Valdez spill that no one at the time could have predicted the impact that this single casualty would have on the shipment of oil worldwide. The resulting 11,000,000 gallon spill, one of the costliest in U.S. history, not only prompted a gigantic and expensive clean-up operation, but forever changed the way our environment would be protected from oil spills, and the way that future oil spill cleanups would be managed by our nation. The most immediate effect was to provide an impetus for initiating over forty legislative proposals which would ultimately form the provisions of the Oil Pollution Act of 1990, or OPA90. When the Act was signed into law on August 18, 1990 it was the culmination of some of the most intense negotiations ever made between the Executive and Legislative branches of the Federal government, the national and international maritime shippers, the oil industry, and the environmental community. The conference Committees that finalized the legislation were comprised of Congressional legends in both the House and Senate. The bill, though complex and multifaceted, was passed unanimously (535 to 0). OPA greatly increased Federal oversight of oil transportation while providing for greater environmental safeguards as well. It set new requirements for vessel construction, crew licensing, and manning. It mandated contingency planning; enhanced Federal response capability; broadened enforcement authority; increased penalties; created a new research and development program; increased potential liabilities; and significantly increased financial responsibility requirements. The Oil Spill Liability Trust Fund (OSLTF or "the Fund") was also established as assurance to all Americans that the Federal Government was committed to providing adequate funding to keep our environment clean.

OPA90 and implementing delegations assigned the administration of the OSLTF to the U.S. Coast Guard. As the Coast Guard response community began preparations to carry out its responsibilities, we were struck by the sheer magnitude of the effort, as well as the number of things we had never done before. The greatest number of unknowns or unfamiliar territory dealt with the implementation of Title I of OPA90, "Liability and Compensation." At the time, the Coast Guard managed the nation's Certificate of Financial Responsibility (COFR) program and administered several pollution funds. None of these funds were of significant size compared to what we now had to manage. I recall making the comment, after listening to the description of what was involved in the implementation of Title I, "Not only are we being asked to run the COFR program, we now need to be a bank, an insurance company, and a collection agency...we don't know how to do that!" Needless to say, we all learned fast.

In order to carry out all of these functions, the recommendation was made to establish a separate Coast Guard unit. On February 20, 1991, the National Pollution Funds Center (NPFC) was commissioned to perform this function as an independent Headquarters unit reporting directly to the Chief of Staff of the Coast Guard. As you will learn from this issue of *Proceedings*, we have an extensive and diverse customer base, both inside and outside the government. The NPFC serves a broad range of constituents, including ship owners and operators, Coast Guard and Environmental Protection Agency Federal On-Scene Coordinators, claimants damaged by an oil spill, Trustees for our natural resources, and ultimately, the American public—with an interest in protecting the environment and in the wise use of their taxes to do so.

The NPFC is both a challenging and gratifying place to work, and our achievements could not be possible without the very dedicated and talented staff that is committed to serving the public. We are proud of our organization and its endeavors. I wanted to take the opportunity through this issue of *Proceedings* to provide you with some in-depth information about the National Pollution Funds Center and the role that we play in "funding a cleaner environment."

Dan Sheehan
Director, National Pollution Funds Center

How NPFC Began...

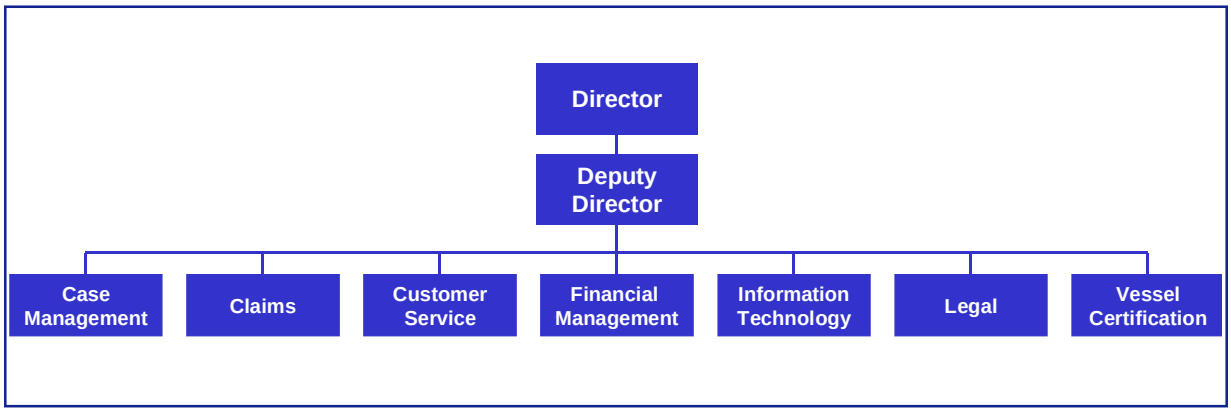
Initial Pollution Report for *Exxon Valdez*

T/V EXXON VALDEZ OSC PWS POLREP 1, 24 MARCH 1989

1. SITUATION:
A. 240028V MARCH 89 (ALL TIME LOCAL) RECEIVED NOTIFICATION FROM EXXON VALDEZ REPORTING VESSEL HARD AGROUND AT POSITION 60-51.4N, 146-52.3W VESSEL LOADED WITH 1,264,155 BBLS OF NORTH SLOPE CRUDE. APPROX 150,000 BBLS OF CRUDE OIL INITIALLY RELEASED. VESSEL DRAFT 55FT FOR AND AFT. WHILE MANEUVERING SLOWLY TO AVOID GLACIAL ICE VESSEL STRAYED FROM TANKER LANES AND STRUCK BOTTOM ON 36 FOOT SHOAL, BLIGH REEF, VALDEZ ARM.
B. INITIAL REPORT OF POLLUTION COVERAGE AND SHORELINE IMPACT UNCERTAIN DUE TO DARKNESS.
C. AGENCY JURISDICTION: USCG
D. WX: WINDS NORTH AT 10 KNOTS, SLIGHT DRIZZLE RAIN/SNOW MIXED, VISIBILITY 10 MILES, 33 DEGREES F.
2. ACTION TAKEN:
A. 240030V COTP CLOSED PORT VALDEZ TO ALL TRAFFIC. TUG STALWART DISPATCHED FROM ALYESKA MARINE TERMINAL TO ASSIST T/V EXXON VALDEZ. BARRIER BOOM, CLASS V AND VII SKIMMER BEING PREPARED AT ALYESKA MARINE TERMINAL (AMT) FOR DELIVERY AND DEPLOYMENT.
B. 0100V PILOT BOAT TO TRANSPORT COAST GUARD AND ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION (ADEC) POLLUTION PERSONNEL TO EVALUATE THE SITUATION.
C. 0148V CONTACTED AIRSTA KODIAK REQUEST HELO OVERFLIGHT AT FIRST LIGHT.
D. 0206V HIGH TIDE (PLUS 12.8) FAILED TO REFLOAT T/V EXXON VALDEZ. LOW TIDE AT 0821V (-0.3) NEXT HIGH TIDE AT 1433V (PLUS 11.4)
E. 0227V M/V SHERIKOFF REPORTS OIL SLICK TO HALF MILE SOUTH OF T/V EXXON VALDEZ.
F. 0249V PACAREA STRIKE TEAM ASSISTANCE REQUESTED. FOUR PERSONNEL TO ARRIVE CORDOVA AIRPORT 1530V 24 MARCH 89.
G. 0323V COAST GUARD PERSONNEL ONBOARD T/V EXXON VALDEZ GAUGED TANKS AND REPORTED APPROXIMATELY 138,000 BBLS OF CRUDE LOST. CARGO LOSS NOTED IN WING TANKS NR 1, 3, 5 STARBOARD, STARBOARD SLOP TANK, AND NR 5 CENTER TANKS.
H. 0414V T/V EXXON BATON ROUGE CONTACTED. ENROUTE SCENE TO INITIATE LIGHTERING OPERATIONS. ETA 1100V.
I. 0500V LIGHTERING FENDERS BEING PREPARED FOR DELIVERY FROM AMT WITH ADDITIONAL 6 INCH CARGO TRANSFER HOSES.
3. FUTURE PLANS AND RECOMMENDATIONS:
A. CONTINUE TO ASSESS SITUATION. DEPLOY BOOM AROUND VESSEL. CONDUCT OVERFLIGHT FIRST LIGHT.
4. CASE PENDS

THE NATIONAL POLLUTION FUNDS CENTER

The NPFC is located across the Potomac River from Washington, DC, in a bustling commercial district of Arlington, Virginia. Its offices occupy all of the 10th floor and about half of the 6th floor of an office tower astride Ballston Commons Mall. Approximately 90 full-time federal service employees and 13 contractors work at the NPFC; 60% of the government employees are civilian Federal Service and the rest are active duty Coast Guard officers and enlisted personnel. The NPFC is comprised of seven divisions: Case Management, Claims Adjudication, Financial Management, Vessel Certification, Information Technology, Legal, and Customer Services.



BY JOHN BAKER
CUSTOMER SERVICES DIVISION

MISSION

The NPFC is the trustee for the Oil Spill Liability Trust Fund (OSLTF or the "Fund") and the portion of the Superfund accessible to the U.S. Coast Guard for cleaning up hazardous material spills within its area of jurisdiction. (The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) established this national "Superfund" for response to and remediation of hazardous waste incidents in 1972.) Both of these funds are federally-managed funds that distinctly support liability and compensation regimes pertaining to pollution from oil or hazardous substances, respectively. The NPFC, in accordance with the provisions established in OPA and other pertinent laws and regulations, executes programs to accomplish the following five principal objectives:

Provide Funds For Removal Actions

When an oil or hazardous substance spill occurs in U.S. navigable waters, or there is a substantial threat of such a spill, the Responsible Party is expected to respond promptly; either by cleaning up the spill or hiring someone else to do it for them. In any case, the Federal On-Scene Coordinators (FOSCs) need funds immediately to monitor or supervise the Responsible Parties' actions or take over the response directly if necessary. The NPFC provides these funds 24 hours a day to ensure that cleanup operations are not halted for lack of money.

Provide Funds for the Initiation of Natural Resource Damage Assessments

For oil spills potentially affecting natural resources, the Natural Resource Trustees may need immediate funds to initiate an assessment of damage to such resources. Procedures have been established that allow the Trustees, acting through a Lead Federal Trustee, to access OSLTF funds. The purposes of initiation or pre-assessment are to scope the extent of the natural resource damage caused by the discharge of oil in order to decide what type of assessment is warranted and to preserve evidence which would support the assessment. The complexity of the tasks will be a function of the scope and complexity of the discharge and likely injuries to the ecosystem. In other words, a gallon of oil spilled in an environmentally sensitive area may be much more "costly" in terms of damage than an equal volume spilled in a less environmentally sensitive area.

Adjudicate Claims

The Fund may be used to pay certain claims for uncompensated removal costs and damages resulting from an oil pollution incident. This enables parties damaged by an oil pollution incident to obtain payment without having to wait through years of litigation. Two principal criteria are:

- Incident-specific actions. All claims must be for removal costs or damages that resulted from a particular oil pollution incident.
- Generally, all claims must be presented to the Responsible Party first.

When a Responsible Party refuses to pay or when the Responsible Party is unknown, claims can be submitted to the NPFC for consideration. A claim may be submitted for uncompensated removal costs; damages to natural resources; damages to real/personal property; loss of subsistence use of natural resources; net loss of revenues of Federal, State, or Local government; loss of profit/earning capacity; or net costs of a state or local government for increased public services.

Recover Costs

An underlying goal of OPA90 is to reduce the probability of oil spill incidents from occurring. Congress intended to motivate potential Responsible Parties to act more carefully by holding them strictly liable for costs and damages resulting from their oil spills. Such motivation is encouraged through enforcement of cost recovery and prompt fulfillment of damage claims established under OPA90. It is the goal of the NPFC to ensure that parties responsible for oil pollution or the substantial threat of oil pollution are accurately identified; that all removal and damage costs incurred by the OSLTF are accurately documented in a timely manner; and that such costs are recovered from by the Responsible Party.

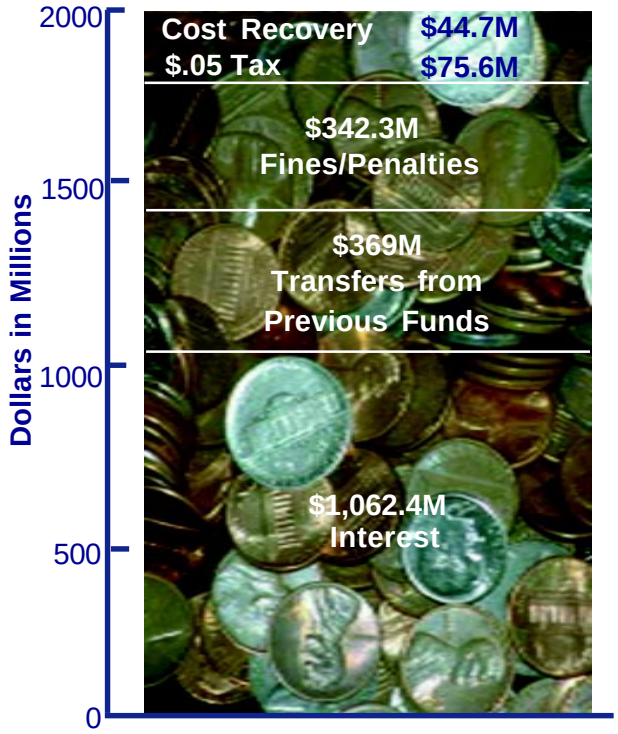
Certification of Financial Responsibility for Vessels

OPA90 substantially increased the scope and limits of liability for vessel owners and operators. Operators of U.S. and foreign-flag vessels are prohibited from operating in U.S. waters without first demonstrating the financial ability to pay for pollution damages up to their limits. The NPFC is responsible for issuing Certificates of Financial Responsibility (COFRs) in accordance with OPA90 and CERCLA. A vessel over 300 gross tons may not lawfully operate in the navigable waters of the U.S. without a valid COFR. COFRs are required for vessels of any size when using the waters of the U.S. Exclusive Economic Zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States. Coast Guard and Customs Service field units enforce this requirement. Currently, over 18,000 vessels carry valid COFRs.

THE OIL SPILL LIABILITY TRUST FUND

OPA90 basically consolidated the liability and compensation regimes of other federal oil pollution laws and merged the funds supporting those regimes into the OSLTF. Those other laws include the Federal Water Pollution Control Act (FWPCA), Trans-Alaska Pipeline Authorization Act, Deepwater Port Act, and Outer Continental Shelf Lands Act. OPA90 also has made two important changes to the previous funds by increasing both the size and, generally, the uses of the OSLTF beyond the scope of previous funds then in effect, such as the FWPCA "311k fund." First, the size of the fund was increased to one billion dollars. Second, the purposes for which the new fund could be used were expanded to include access to the Fund by the States; payments to Federal, State, and Native American Tribe trustees to carry out natural resource damage assessments and restorations; and payment of claims for uncompensated removal costs and damages.

FY90-97 CUMULATIVE REVENUE SOURCES



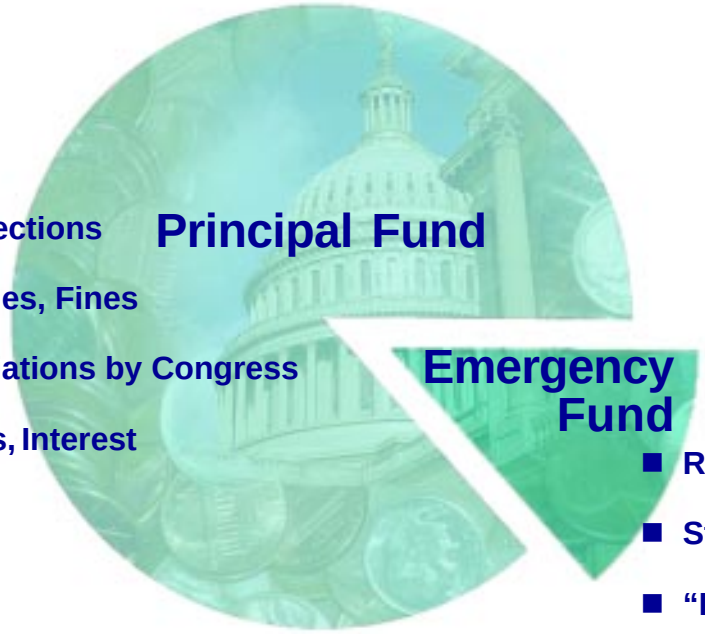
Total = $1,903.9M

REVENUE (WHERE THE MONEY COMES FROM)

The OSLTF receives both recurring and nonrecurring revenue from four primary sources:

- Taxes: Initially, an oil tax (5¢ a barrel on domestically produced or imported oil). The tax, when authorized by Congress, was to be suspended when the Fund reached one billion dollars with provisions for reinstatement if the Fund fell below one billion dollars. It was turned off indefinitely on December 31, 1994 when a "sunset" provision in the law became activated.
- Interest on fund principal: Most of the unused balance in the Fund accrues interest in U.S. Treasury investments. Currently, this huge interest accrual is the largest recurring source of revenue into the Fund.
- Cost recovery from Responsible Parties: The person(s) responsible for oil spills are liable for costs and damages. Monies recovered are used to replenish the Fund.
- Penalties: In addition to paying cleanup costs, responsible parties may incur civil penalties. Certain civil penalty payments are deposited into the Fund.

FUND COMPONENTS



- Claims
- Tax Collections
- Recoveries, Fines
- Appropriations by Congress
- Penalties, Interest

- Removal Activities
- State Access
- "Initiation" of NRDAs

FUND COMPONENTS AND USES (WHERE THE MONEY GOES)

The OSLTF has two major components: an Emergency Fund for funding immediately needed activities and a Principal Fund for all other authorized uses. OPA90 requires these components to be used for separate and distinct purposes. Expenditures from the Fund for any one oil pollution incident are limited to $1 billion, and natural resource damage assessments and claims in connection with any single incident are limited to $500 million.

EMERGENCY FUND

To ensure rapid and effective response to oil spills, the President has been given the authority to make available, without further Congressional appropriations, up to $50,000,000 each year to fund immediate removal activities and to initiate natural resource damage assessments. This increment is commonly called the Emergency Fund. Funds not used in a fiscal year may be carried over into subsequent years. The Emergency Fund may be used for a number of activities, including containing and removing oil from water and shorelines; preventing or minimizing oil pollution where there is a substantial threat of discharge; and taking other related actions to minimize the damage to public health and welfare.

REMOVAL COSTS/SERVICES

Removal costs (including costs of monitoring removal actions and abating substantial threat) consistent with the National Contingency Plan (NCP) include:

- ☐ contract services (e.g., cleanup contractors and administrative support);
- ☐ salaries for government personnel not normally available for oil spill responses, and for temporary government employees hired for the duration of the spill response;

- equipment used in removals; and
- chemical testing required to identify the type and source of oil; and proper disposal of recovered oil and oily debris.

INITIATION OF NATURAL RESOURCE DAMAGE ASSESSMENT

In response to an OPA90 incident, the Emergency Fund can be used to pay for the initiation of natural resource damage assessments or pre-assessments conducted by designated natural resource trustees. It is a process that allows for a separate funding source to be used to acquire baseline data which might be lost if quick action is not taken to capture it. The designated Federal Lead Administrative Trustee submits a funding request to the NPFC for initiation on behalf of the affected federal, state, Native American tribe or foreign trustees.

STATE ACCESS

State access to the OSLTF is provided by OPA90 and is a process for states to directly receive Federal funds for immediate removal costs in their response to an actual or substantial threat of a discharge of oil, after coordination with and approval by the Federal On-Scene Coordinator. As described in OPA90, states are limited to $250,000 per incident for removal costs consistent with the National Contingency Plan. “State Access” does not supersede or preclude the use of other Federal payment methods. In fact, historically, these other access avenues have proven to be more attractive for state environmental program managers. For example, states may also obtain Federal funding for their oil spill cleanup operations by simply acting as a contractor to the FOSC or by using the claims process after the fact. Neither of these other methods are subject to the $250,000 limit per incident.

PRINCIPAL FUND

The Principal Fund (the remaining portion of the OSLTF exclusive of the Emergency Fund) can be used to pay for any activity for which Congress appropriates the funds, or for specific additional action without congressional appropriation. Such additional activities include: costs incurred, and submitted as a claim, by the Trustees for conducting natural resource damage assessments (beyond the initiation) and developing and implementing plans to restore, rehabilitate, replace or acquire equivalent natural resources consistent with the NCP. Claims for uncompensated removal costs consistent with the NCP and for uncompensated damages are authorized uses of the Fund and have been appropriated by Congress in the past. Federal administrative and operational costs must be appropriated, including R&D for response systems development.

All photos courtesy USCG PIAT.

by LCDR Ralph Malcolm
Customer Services Division

The NPFC is an information and knowledge-based organization. The overarching nature of our business involves the critical and timely task of internally and externally sharing, transferring and implementing information and knowledge. How best can we do this? There are many strategies out there designed to help an organization do business better, but it would be risky for them to assume that just because the strategies are available that they will be able to apply them effectively. The strategy we found most effective in our knowledge-based, information-sharing environment is the team-based management approach. The first step in this approach is to ensure that the organization has articulated a clear idea of where it wants to go with a strategic plan.

STRATEGY

Strategic planning involves taking a snapshot of where your organization is today, identifying where it wants to be in 3-5 years and then developing an action plan that will allow the organization to close the gap between the current state and the desired state. The strategic management process involves taking the steps necessary to implement that action plan and then monitoring the situation and making adjustments on a recurring basis to ensure that the direction to which you are heading is the direction you really want to be heading.

The NPFC's Vision, Mission and Values are the starting points for our journey.

Our vision statement looks forward into the future and articulates where we see ourselves.

VISION STATEMENT:

The National Pollution Funds Center will be a model of excellence for the public and private sectors in that:

1. Customers respect the NPFC as a uniquely independent organization providing equitable, timely and effective services.
2. The NPFC is viewed as a high quality, professional organization.
3. The programs of the NPFC will play a vital role in the protection of the environment, will motivate initiatives to find and implement effective prevention measures, and will enhance intergovernmental coordination.

Our mission statement describes what we do for a living.

MISSION STATEMENT:

1. Act as the fiduciary agent and fund administrator for the Oil Spill Liability Trust Fund (OSLTF).
2. Provide funding for oil and hazardous materials spills.
3. Compensate claimants for uncompensated removal costs and damages.
4. Recover costs from responsible parties.
5. Certificate financial responsibility for vessels.

Our values talk to those things that are important to us as we do business.

STANDARD OF VALUES:

1. Our people are our most important asset: fully empowered, accountable, supported and rewarded.
2. We are committed to teamwork to ensure success.

3. We will have a balanced Work-Life environment which fosters diversity, challenge, commitment, wellness, and personal growth.

4. We are committed to maximizing productivity through the use of emerging technology.

5. We will conduct our activities with the highest standards of professionalism and ethics.

6. We seek and respect the input of those with whom we deal.

7. We will treat our customers promptly and fairly while being innovative and flexible.

8. We strive for continuous improvement in our processes.

STRATEGIC ALIGNMENT

Strategic Alignment is a deceptively simple process to understand but it is a major challenge to achieve. Alignment of strategy, processes, customers and people all focusing on the NPFC's mission is critical to the successful deployment of our strategic plan. Our people are aligned vertically within their division business plans, the divisions within the NPFC's Strategic Business Plan, the NPFC within the Coast Guard (USCG) Strategic Plan, and the USCG within the Department of Transportation Strategic Plan. As we continue to work in cross-functional teams, we also maintain horizontal alignment and management across division boundaries as we move in the same direction.

The NPFC Strategic Business Plan was developed using a bottom-up approach. Each of the seven functional divisions was facilitated through a business plan development process using a standardized organization planning model. They identified trends emerging in their functional areas and proposed an approach to address the issues involved. These division-level business plans originally contained a total of 32 goals that were boiled down into one unit-wide strategic business plan consisting of 8 unit-wide strategic goals. Specifically by aligning ourselves with the three goals of: a. ensuring safety; b. maintaining mobility; and c. protecting natural resources contained within both the Coast Guard and the Department of Transportation Strategic Plans enabled us to use the NPFC Strategic Business Plan as our road map and our Quality Leadership & Management approach as the vehicle to help us move more smoothly towards accomplishing our unit goals.

> *"Leadership is critical at all levels in an organization, but the greatest positive effect on employee performance will be realized the lower one goes in the organization."*
>
> - Michael Burr

LEADERSHIP

Michael Burr (1977) in his paper said that "Leadership is critical at all levels in an organization, but the greatest positive effect on employee performance will be realized the lower one goes into an organization." The 1995 GAO Audit to OPM, Federal Quality Management: Strategies for Involving Employees, described practices common to award-winning organizations. The report's four highlighted strategies help set the framework for operationalizing quality at the NPFC:

a. Promoting, supporting and rewarding teamwork.

b. Increasing communications within the organization.

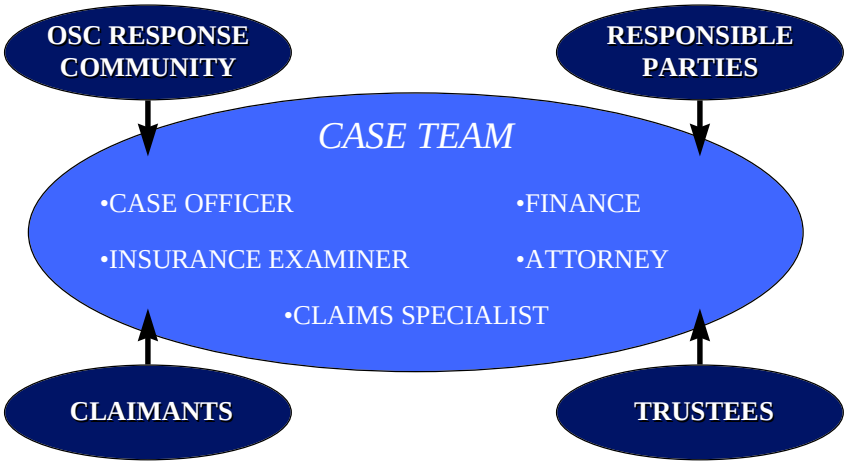
c. Empowering employees by involving them.

d. Implementing a comprehensive training program for employees.

TEAMS

So how do we do what we do? In a word - teams! As an operating unit, we are organized primarily into functional areas, but we also have a number of smaller permanent or chartered teams that operate as natural working groups across those functional lines. Teamwork is a norm at NPFC. Everywhere you turn, you'll see a Quality Action Team (QAT) or Natural Working Group (NWG) working on implementing some portion of our strategic goals. What are some of our teams doing? We've had a number of success stories that

CASE TEAM AND ITS CUSTOMERS



demonstrate our use of a quality leadership and management approach to the work process.

Our four regional Case Management Teams are a classic example of this concept. The teams are comprised of technical experts from each functional area. Every oil spill incident has a Case Officer assigned so that there is a single point of contact for our customers. The Case Officer is the central internal coordinator and external contact with the response community and responsible parties. Each team consists not only of a Case Officer as the team leader but also an insurance examiner, a finance and claims specialist, an attorney, and other specialists as required.

We also have a staff of facilitators, another team that helps the working groups and teams manage their processes and tasks. To ensure that we're following current organizational policies and are achieving the highest performance and productivity from our facilitator staff, they attend a monthly Facilitator's Training & Development Breakfast to review lessons learned from recent facilitating jobs as well as to share new ideas for group learning. We also have the very popular monthly Leadership & Quality Management "Brown Bag Luncheon" which delivers recurrent training and provides an opportunity for all NPFC workers to discuss current issues in a facilitated open forum.

PEOPLE

Rewards hold much promise in managing performance and improving morale. The power of rewards comes out of recognition for accomplishment. We reward our people for their efforts through our Tangible Recognition Program which allows a division chief to recognize high performance and excellence in an employee. The employee publicly receives a formal certificate along with a small gift in recognition of their achievement. This year over 40 NPFC employees were recognized for their outstanding performance through this program.

CUSTOMER SERVICE

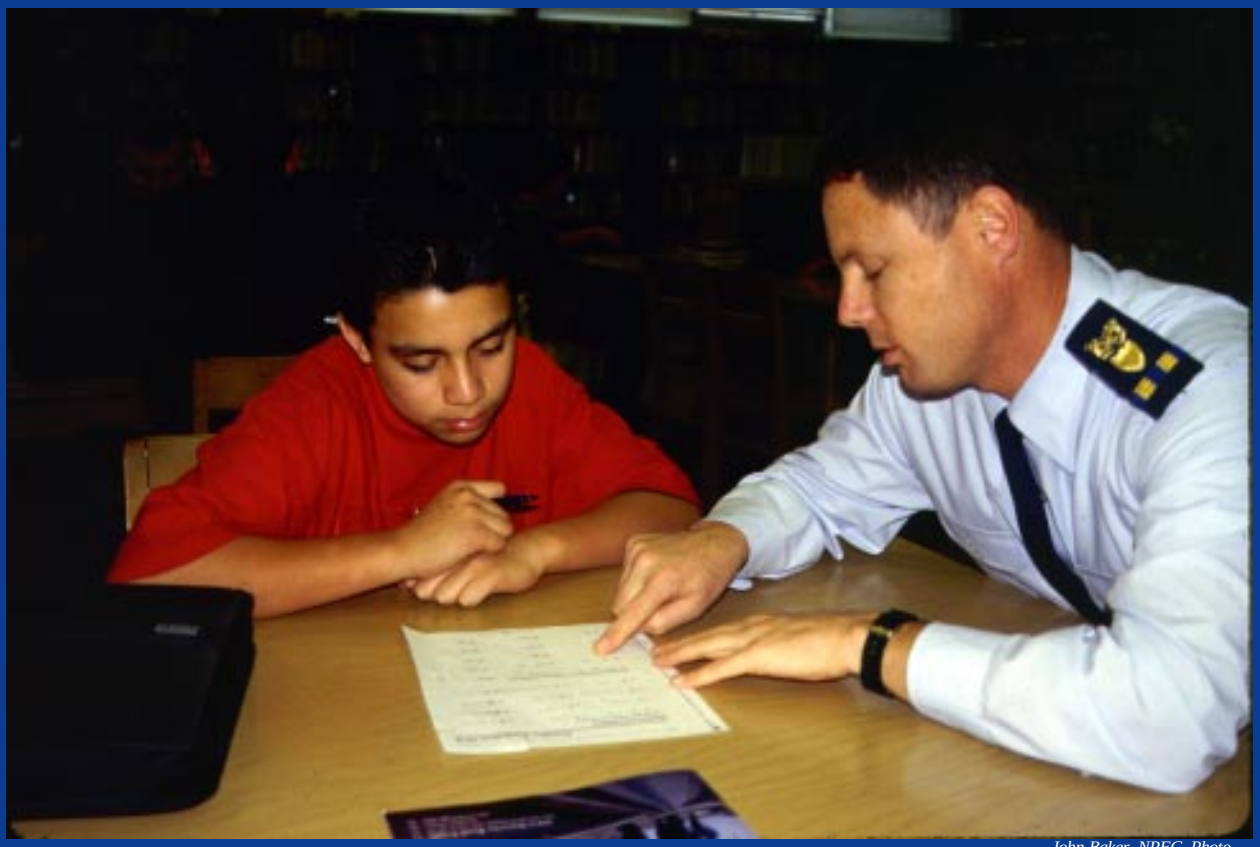
Organizations exist to serve customers, and the NPFC is no exception. The Government Performance and Review Act (GPRA) of 1993 not only mandated government agencies to serve their customers faster, better and cheaper, but to also establish measurable customer service standards. Here, by sending out a survey, we carefully listened to what the maritime community needed from us and translated that into a meaningful set of standards. Two staff members from the Customer Service Division recently presented a published paper on "How to Develop Customer Service Standards on a Shoestring" to over 1000 people at the recent 10th Annual Federal Quality Conference held in Washington, DC. This insightful presentation explained to an eager audience how we developed our vessel certification standards. We plan to revisit this process very soon in order to develop both the claims processing and outreach standards for our customers.

Looming on the horizon is another major challenge for the NPFC, the implementation of the Natural Resource Damage (NRD) claims process and the associated staffing, training and development of support personnel. This effort will add a significant work load to our already tapped resources and will need to be managed carefully, effectively and efficiently. This looks like another perfect opportunity to apply our team-based management approach.

NPFC Partners with Kenmore Middle School

The NPFC has developed a long-term relationship with nearby Kenmore Middle School in the unit's participation in the *Partnership in Education Program*. Since 1992, over a dozen military and civilian employees at NPFC have volunteered their time weekly to tutor and mentor students in a one-to-one pairing during school and occasionally after hours. The purpose of the program is to increase the students' academic performance, motivation and self-confidence and to help them apply learning to the world beyond their classroom and for their future lives as productive citizens.

CWO Vern Hinkley tutors Nelson Castellanos in the Partnership in Education Program at Kenmore Middle School, Arlington, Virginia.



John Baker, NPFC, Photo

The NPFC's Many Flavors of Money

by Allen R. Thuring
Chief, Funds Operations
Financial Management Division

One of the NPFC's unique capabilities is the wide range of different funds it manages for responding to the many challenges of environmental pollution. While it is great to be able to use these funds to solve problems, financial managers must know the different rules and guidelines that govern each fund. To help his or her operational customer, the financial manager must navigate through the interplay of authorizing statute conditions, appropriation language, Comptroller General guidance, funding agency guidance through interagency agreements; and satisfy the press of real time operational decisions. There's an "S" in "Funds Center" because the NPFC manages a total of seven different "Funds." Each is considered a separate "Appropriation," with various funding limits, duration periods, and special rules. These are in addition to NPFC unit operating funds from the Coast Guard annual budget.

1. Funding Oil Removal

Most people associate the NPFC with oil spill cleanups and the Oil Spill Liability Trust Fund (OSLTF), set up by the Oil Pollution Act of 1990 (OPA 90).

The Emergency Fund is appropriated annually from the larger OSLTF, but does not require Congressional action. A special provision in Title I of OPA90 provides $50 million each year to the Emergency Fund. These funds are available until expended—so that balances at the end of each fiscal year are carried forward and remain available for future spills.

Unquestionably, one of the NPFC's major customer groups are Coast Guard Federal On-Scene Coordinators (FOSCs) who respond to oil spills in the coastal zone and on major inland rivers. But did you know that we support EPA FOSCs too? Since 1990, the NPFC has provided more than $115 million to EPA FOSCs responding to more than 600 inland oil spills. This is more than a third of all OSLTF funds used for oil spill response. Each year the NPFC and EPA negotiate an Inter-Agency Agreement (IAG) to provide funds for these responses. In addition, for large inland cases spanning more than one fiscal year the NPFC may set up an incident specific IAG with the respective EPA Regional Office to facilitate the continuity of funding and flow of cost documentation, so the NFPC can commence billing the responsible parties while the cleanup is still ongoing.

In addition, the NPFC can also provide OSLTF funds to State On-Scene Coordinators who are responding to spills, normally inland, where the Coast Guard or EPA determine that an FOSC presence is not needed, and the respective state can manage the cleanup. OPA limits these responses to no more than $250,000 per incident, and the NPFC enters into Cooperative Agreements (under the Federal Grants and Cooperative Agreements Act) with the respective state on an incident-by-incident basis.

Finally, the NPFC funds Natural Resource Trustees who are authorized by OPA90 to Initiate Natural Resource Damage Assessments (INRDAs) in the aftermath of oil spills. These funds are obligated through reimbursable agreements with the lead Federal Trustee, who then divides the funds among all the trustees (Federal, State, Native American Tribes). Since 1993 the NPFC has funded 18 INRDAs for nearly $2 million.

Each year OPA automatically provides a $50 million appropriation to the Emergency Fund, even if

Congress can't agree on a budget. What isn't spent at the end of the fiscal year (September 30) is automatically carried over to the next year—there is no "Use or Lose" situation. That allows the Emergency Fund to "bank" savings from years with low expenditures to pay the costs for large spills—such as the 1994 Berman spill in Puerto Rico, which cost over $83 million.

2. Funding Claims Payments

When an oil spill occurs, a removal may not be possible but damages may result. OPA90 permits the OSLTF to pay claims for damages, and exempted this fund use from Congressional appropriations. The resulting "Claims Fund" is the formal name for the rest of the OSLTF. Together, the "Claims Fund" and the "Emergency Fund" comprise the OSLTF.

OPA90 defines a wide range of damages. Examples are property, the environment, people's livelihoods, local government's tax revenue, and unpaid removal costs incurred by public organizations or private companies responding to oil spills. In essence, the Claims Fund is an insurance fund, and the "policyholders" are any United States citizens injured by an oil spill. Under certain circumstances, foreign claimants may also be "policyholders." Injured parties file a "Claim" with the NPFC, specifying the circumstances of the damage and the basis of the monetary amounts requested. These "Claims" are reviewed by a special staff at the NPFC, and if they are found to fall within the criteria of OPA90 they may also be paid.

The NPFC has paid more than 2,500 claims since 1993, with total disbursements exceeding $20 million. The Claims Fund is even more unusual in the budgetary arena. Claims are paid directly from the OSLTF. There is no annual appropriation or fixed apportionment by OMB. If a claim is valid, it can be paid, so long as there is money in the OSLTF. With a current balance of nearly $1 billion, no claim has ever been denied due to lack of funds.

Due to a recent interpretation of OPA90 by the Department of Justice, the Coast Guard and the NPFC will shortly commence a major undertaking to accept, review, and, if appropriate, pay a special type of claim—for Natural Resource Damages. Only designated Federal, State, and Native American Tribe trustees for natural resources may submit such claims.

3. Funding Research

In 1996, Congress modified OPA90 slightly to provide special funds, for ten years, to the Prince William Sound Oil Spill Recovery Institute established under Title V of OPA90. The amount of funds provided was to equal the interest earned on funds transferred to OPA90 from the Trans-Alaska Pipeline Fund (TAPS). Each year the NPFC, working with the Department of the Treasury, determines the amount of interest earned the preceding 12 months and transfers those moneys to the Institute, located in Cordova, Alaska. The Institute then issues grants and contracts to study the aftermath of the EXXON VALDEZ oil spill of 1989.

4. OSLTF - Accounts Receivable - Costs and Penalties.

Not all the NPFC's "Funds" are for spending. Whenever OSLTF funds are spent and a responsible party (RP) can be identified, NFPC sends the RP a bill. In 1997 the NPFC sent out bills for more than $24 million covering over 450 Coast Guard and EPA cases. At present there are about 600 open accounts receivable with a total value of around $80 million. If

responsible parties do not pay promptly, they are assessed substantial late charges. The NPFC has the option of forwarding the debt to the Department of the Treasury's Debt Management Service, or, alternately, referring the case to the Department of Justice for civil litigation.

This Fund also receives the penalties that are assessed by the Coast Guard and EPA for violations of the Clean Water Act regulations. So, every time a penalty is assessed and collected under CWA, those funds also flow into the OSLTF.

5. Funding Hazardous Substance Response

When the NPFC was established, it assumed a function previously performed at Coast Guard Headquarters—funding Coast Guard MSOs and Strike Teams when they responded to hazardous substance incidents under the National Contingency Plan and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Just as EPA FOSCs respond to oil spills in the inland zone, Coast Guard FOSCs respond to hazardous substance incidents in the coastal zone. This work load is growing each year—there were over 150 incidents in 1997. Many are the ubiquitous "abandoned drum" cases, but not all are as mundane. In 1996 MSO Savannah responded to a fire and explosion at a waterfront facility that lasted more than a month, cost over $1 million, and required the evacuation of nearby residents from their homes for weeks at a time. Just as when they respond to oil spills, Coast Guard FOSCs need funds to hire contractors, arrange disposal, pay for strike team travel and assistance, and all the other types of costs a complicated, time sensitive, and dangerous mission can entail.

In addition, EPA FOSCs know the value of the Coast Guard Strike Teams, and their ready availability under the National Contingency Plan. Each of the ten EPA Regions maintains ready funding to pay for immediate deployment of strike team personnel and equipment for inland emergencies. Because there are different rules governing CERCLA Fund use, the EPA can also put the strike teams on standby, in a city, in anticipation of a possible hazardous materials incident. This happened during the Atlanta Olympic Games, and also during the 1997 International Economic Summit in Denver.

Once again, the funding vehicles are Interagency Agreements negotiated with the NFPC. Currently, over $8 million is available in FY98 for this purpose.

6. Funding Hazardous Substance Response Preparedness

Funding for Hazardous Substance incident response is important, but the capability must exist before it can be used. Since 1983 the EPA has provided CERCLA Funds to the Coast Guard to "maintain the firehouse." These funds pay for billets, equipment, training, drills, medical monitoring of response personnel, computers and their associated information management systems, and all the other aspects of a fully functioning system.

The NPFC manages these funds with four other "Superusers" in the Coast Guard: Commandant G-MOR (MSOs, Strike Teams), Commandant G-OPF (National Response Center), Commandant G-WKS (Medical Programs), and Reserve Training Center Yorktown (Marine Safety School). Together, they formulate the annual request to EPA. When the

Interagency Agreement providing funding is received from EPA, billet costs are reserved by the Chief of Staff and the remaining funds are then allocated.

Once again, the funding vehicle is an Interagency Agreement negotiated with the NFPC. About $5 Million is available in FY98 for this purpose.

7. Funding Pollution Response During Natural Disasters.

When natural disasters are declared by the President, they often involve the Coast Guard. As a major responder under the Federal Response Plan, CG units may find themselves supporting the Federal Emergency Management Agency (FEMA). When those response actions involve oil or hazardous substances, Emergency Support Function 10 (ESF 10) may be invoked. This puts the Coast Guard, EPA, and FEMA in a close relationship that is both operational and financial. The NPFC, with its experience in funding both oil spill removals and hazardous substance responses, is tasked with supporting CG units involved in these operations.

Rather than expect response forces to understand the esoteric rules that govern these various funding paradigms, in 1992 the NPFC and the Coast Guard adopted the policy that responding field units would do their financial business "as usual." The NPFC, working with Chief of Staff elements, the Environmental Protection Agency, and if necessary FEMA, makes sure the financial systems accurately track the funding flows.

As a result, Coast Guard FOSCs use the same rules and financial systems (FPNs, ceilings, cost documentation) for oil spills whether it is a natural disaster or not. Their response to hazardous substance incidents remains unchanged.

For the NPFC, it involves close coordination with Commandant (G-CBU) and EPA over how the resulting costs will be reimbursed. What never is in question for the responding units is whether there is funding available for their actions.

Conclusion

The National Pollution Funds Center provides "one stop shopping" to Coast Guard units and many other federal agencies when they respond to oil spills and hazardous substance incidents. It provides funding to natural resource trustees and pays other claimants injured by oil spills. It serves as the Coast Guard's agent in requesting and managing CERCLA funds the Coast Guard receives each year for hazardous substance response preparedness. It supports research into the aftermath of the nation's largest oil spill - the EXXON VALDEZ spill in Prince William Sound, Alaska. Finally, it also serves as the Coast Guard's largest of Accounts Receivable managers, billing and collecting from responsible parties the costs of responding to oil spills and the penalties for violating Clean Water Act regulations.

This wide range of complementary financial activities is unique in the Coast Guard and has no counterpart in other agencies with similar missions. It is a model that is being considered by other international organizations involved in similar activities. It is why the NPFC truly is "Funding a Cleaner Environment."

The New COFR Regime

by John White
Senior Marine Insurance Examiner

Since the early 1970s, commercial vessel operators using U.S. waters have had to demonstrate that they possessed a certain level of financial wherewithal in the event they are involved in an incident that results in water pollution. For most of the next twenty years, this was accomplished by the operator's Protection and Indemnity (P & I) Club guaranteeing to pay up to the limits of liability for pollution established by the Federal Water Pollution Control Act (FWPCA). The Coast Guard would then issue a Certificate of Financial Responsibility (COFR) that is carried on board the vessel. After the Exxon Valdez oil spill, the passage of the Oil Pollution Act of 1990 (OPA90), and the publication of the OPA90 vessel financial responsibility regulations in July 1994, this long standing and amiable relationship was to undergo profound changes that have had global implications for the insurance and international maritime communities.

Changes in Liability Provisions

OPA90 continued the COFR requirement but increased the limits of liability and expanded the scope of damages for which the Clubs as guarantors would be liable. The increased liability provisions did not alarm the Clubs (Clubs provide limits of liability to their members far in excess of the OPA90 requirements). They really objected to several aspects of the fine print buried in the law. Foremost, was that potential claimants could take direct action against the Clubs, whereas in the past only the Federal government could take direct action to cover removal costs. The expanded scope of potential liability to include damages to natural resources (and subsistence use from those resources), personal property, revenues and profits, and the cost of public services also concerned the Clubs.

Yet another aspect of OPA 90 that alarmed the Clubs was that the Federal law did not entirely preempt the state laws. States were free to take their own action against the Clubs regardless of the Club's agreement to provide an insurance guaranty under OPA 90. Terence Coghlin, then Chairman of the International Group of P & I Clubs, in testimony to the U.S. Congress stated that the Clubs were unwilling to act as guarantors "without policy defenses and possibly without financial limit to a multitude of unknown potential claimants and in respect of strict liability for damages of unprecedented size and scope."[1] In short, the issue was a fear on behalf of the P & I Clubs that they would be drawn into what they perceived as an irrational and excessive U.S. legal system. As not all

Club members would be traveling in U.S. waters (and incurring the risks of OPA90 legal trouble), the Clubs felt that OPA90 undermined the mutual aspect of their organizations (all members would not be exposed to the same general risks). They were adamant in their opposition to continue to provide the oil pollution guaranties.

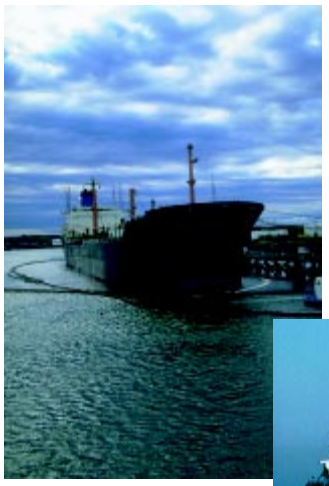
It is possible to view the standoff in another light: as the inevitable outcome of growing global awareness about the effects of oil pollution (and the need to pay for clean ups) coming up against the traditions of a well-established industry.

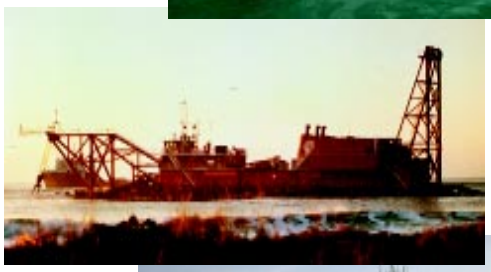
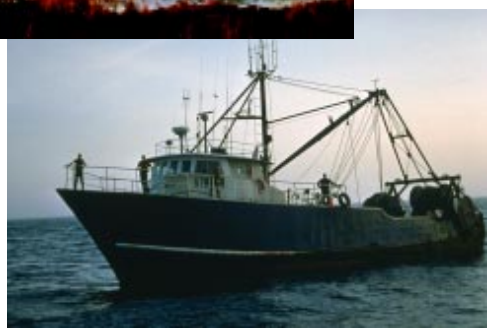
Industry Resistance

The Clubs' response was to state simply that they could not provide guaranties under OPA90. As 95 percent of all ocean going vessels use P & I cover for their insurance, this refusal left the Coast Guard (who had been tasked by Congress with OPA90 implementation) with something of a dilemma. The Clubs wanted OPA90 to go away but the Coast Guard had to move forward on one of the most important environmental protection laws in recent memory.

As the regulations implementing the OPA90 COFR requirements were written over the next three and a half years, the Clubs maintained their position that the law was fundamentally flawed and therefore, precluded them from extending guaranties to their members to meet the new requirements. The regulations were published on July 1, 1994, and had an implementation date for self propelled tank vessels (i.e. tankers) of December 27, 1994; a mere six months away. From this point on, the P & I Clubs probably assumed that their refusal would require that the date be pushed back or that the law would be amended to make it more palatable. The NPFC prepared for the busiest six months in its short history.

The newspapers of the maritime press were filled with alarmist headlines on a daily basis. Three days after the publication of the regulations *Lloyd's List* proclaimed "Gloves Come Off at Angry USCG". The implementation date of December 24, 1997 was depicted as the date of the impending "train wreck;" when foreign oil imports would stop and the U.S. consumer would see shortages or significantly higher prices. Two weeks before the implementation, The New York Times front page ran a headline, "Shift in Insurance to Cover Oil Ships May Disrupt Flow-U.S. Price Rise Feared." The NPFC was tasked

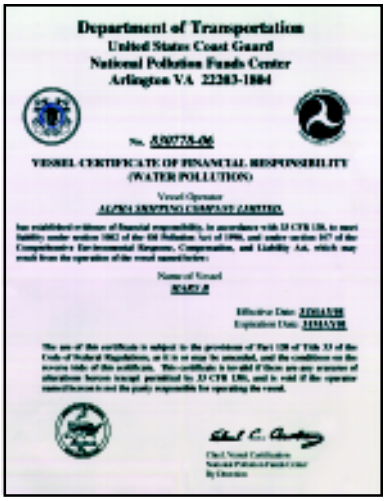


with making sure that this scenario did not come to pass. Ed Armstrong, the Chief of the Vessel Certification Division, then the assistant chief, recalls, "There was a real concern among everyone- shippers, carriers, insurers, government, really the entire industry- that this was going to be a disaster. I started with this program in 1973, and we had successfully accomplished two previous regulatory implementations, but I think everyone knew this was different."

Resolve

There were three factors that drove the resolution of the crisis. The first, and driving force behind the other two factors, was that the NPFC never seriously entertained the idea of trying to get the implementation date pushed back. Dan Sheehan, Director of the NPFC, publicly declared, "There will be no train wreck, the marketplace will find a solution and we're willing to help facilitate one."


Department of Transportation
United States Coast Guard
National Pollution Funds Center
Arlington VA 22203-1804

No. [illegible]

VESSEL CERTIFICATE OF FINANCIAL RESPONSIBILITY
(WATER POLLUTION)

Vessel Operator
[illegible]

Name of Vessel
[illegible]

Effective Date: [illegible]
Expiration Date: [illegible]

This use of this certificate is subject to the provisions of Part 138 of Title 33 of the Code of Federal Regulations, as it is or may be amended, and the conditions on the reverse side of this certificate. This certificate is invalid if there are any evasions of alterations hereon except permitted by 33 CFR 138, and is void if the operator named hereon is not the party responsible for operating the vessel.

Chief, Vessel Certification
National Pollution Funds Center
By Direction

This resolve allowed the second factor, the refusal of corporate America to allow this law to disrupt their operations, to build momentum. Once the major oil companies saw that the implementation was to occur as scheduled, they set their insurance and legal staffs to explore and develop alternatives. These companies would meet the OPA 90 requirements with or without P & I Club coverage. Once Mobil Oil Corporation's plan to create their own guarantor, a separate company that was created to just provide the OPA 90 financial guaranty, was approved by the NPFC in September 1994, the train wreck began to seem much less likely.

The third and final factor in averting the train wreck was the approval of new guarantors. Independent tanker operators still needed an alternative to the P & I Clubs. Once the rest of the insurance industry (those outside direct interest in P & I) saw that there really was going to be demand for OPA 90 guaranties in December of 1997, they began to plan how they would meet this demand. If the date had remained uncertain, no one would have been willing to risk the time, effort and capital to meet this need. The NPFC staff met continuously with these insurance entrepreneurs to ensure that their plans would meet the high standards established by OPA 90. With the approval of Stockton Re and Shoreline in early December 1994, the last piece had fallen into place.

December 27, 1994

The actual date of the implementation left the NPFC with one more major challenge. Every FWPCA tanker COFR was to be invalidated on midnight of December 27. Every tanker that was in or going to enter U.S. waters in the next 48 hours needed to have their COFR paperwork squared away by midnight on the 27th. Coast Guard field units were very aware of the date. The COFR staff worked virtually non-stop in the weeks leading up to the date, assisting operators, brokers and agents in complying with the law. The only casualty was a burned out fax machine. At 12:01 on December 28, 1994, the most contentious aspect of OPA 90 was in effect and the train wreck had been averted. On February 9, 1995, the Commandant of the Coast Guard presented the NPFC with a unit commendation for the successful implementation of the OPA 90 COFR requirements.

Non-Tanker COFR Implementation

After the successful implementation of the COFR rules for tankers, which was clearly the highest hurdle, the COFR staff had a few more obstacles to overcome to complete the full re-certification.

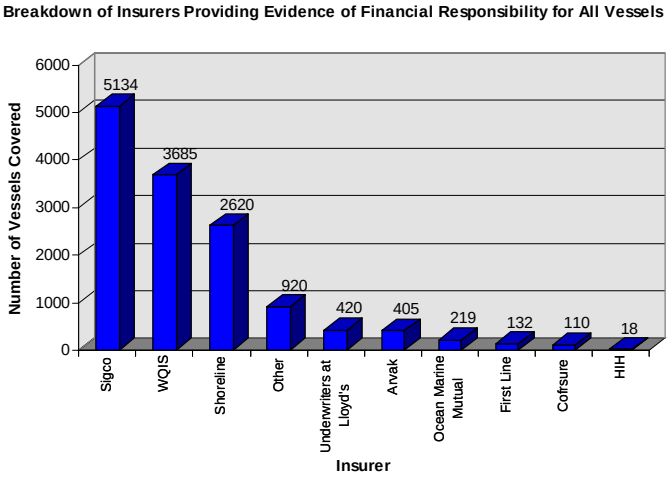
The next crucial date would be June 30, 1995. This was the date by which tank barge operators had to meet the OPA 90 requirements. Since many of the large U.S. barge fleet operators also carried P & I Club cover, it would seem that a similar problem would exist.

The difference was that the U.S. tank barge operators already had a viable alternative to P & I Club cover: the Water Quality Insurance Syndicate (WQIS). WQIS had been guaranteeing COFRs for years for smaller vessels (they were not approved to provide guaranties for larger vessels) and had developed a strong working relationship with the Coast Guard. Rich Hobbie, President of WQIS explains, "Section 1016(g) [of OPA 90 which explicitly limits guarantor liability] provided us with a statutory limitation we were comfortable with.

Accordingly, we were not concerned with direct action because we believed we could limit our liability. None of the previous water pollution laws had that explicit limitation and because of that, we thought OPA 90 was an even better law." The willingness of WQIS to meet this demand lessened, to a great degree, the anxiety of the barge community.

In addition, the self-insurance provisions of the COFR regulations allowed many of the large barge operators to provide their own COFR guaranties. Approximately 67 percent of the tank barge COFRs are backed by self-insurance or a financial guaranty. While the June 30, 1995 deadline was certainly a busy time for the NPFC, it certainly didn't compare to December of the previous year.

For the rest of the world's fleet; the bulkers, the reefers, the car carriers, tugboats and freight barges, the implementation was a much gentler experience. The operators of these types of vessels had to comply with the regulations when their previous FWPCA certificates expired. In other words, if an operator of a bulker had a FWPCA certificate that was issued on December 1, 1994, they didn't have to comply with the OPA 90 COFR regulations until December 1997. Quite unsurprisingly, the NPFC received numerous applications for new COFRs for these types of vessels in November and December of 1994. By the time they needed to get an OPA COFR, the OPA guaranty market was fully established and the pricing was much more reasonable. The maritime press described this grandfather provision for these vessels as a "loophole", but the result was that the gradual three-year transition of the COFR implementation resulted in much less chaos as the COFR staff could concentrate initially on the tank vessels which were the focus of the OPA 90 law.



The Post-OPA 90 COFR Environment

The sound and fury of the OPA 90 COFR rules implementation meant very different things to the players involved. For the Coast Guard, very little actually changed: the COFR program continued receiving documentation and continued issuing COFRs, albeit with higher limits of liability and a greater scope of covered damages. The COFR staff is simply dealing with a new set of players.

For the P & I Clubs, which are mutual organizations, the greatest effect has been that they have been unable to provide the basic service of providing COFR guaranties. What had been routine for Club members now requires a separate process and an additional premium to the COFR guarantors in order to operate in U.S. waters.

The prime beneficiaries of the P & I Clubs reluctance has been the new group of COFR guarantors who moved into the market niche vacated by the Clubs. Shipowners and managers now have close to a dozen alternatives to the Clubs and the premiums have rapidly declined as more players have entered the market. "The current COFR guaranty environment of low premiums, abundant capacity and reliable service appears to point to successful outcome of implementation of the COFR provisions of OPA 90," says Neil Clemens, President of Shipowners Insurance and Guaranty Company, one of the new COFR guarantors.

The ultimate beneficiary of the Coast Guard's resolve in implementing the OPA 90 COFR regulations has been the public who, in the wake of the Exxon Valdez tragedy, placed greater importance on preventing oil pollution and cleaning it up quickly when it occurs. By implementing the law and making oil pollution an even costlier risk, OPA90 has given the maritime community an incentive to increase their spill prevention efforts and to maintain the physical integrity of their fleets.

In so doing, the successful implementation of the OPA 90 COFR regulations raised worldwide standards for oil pollution financial responsibility and prevention.

FOOTNOTE: Mulrenan, Jim "P & I row threatens to upset US ocean trade" Lloyd's List, July 22, 1994, p. 1

NPFC'S CLAIMS

by Linda Burdette, Chief, Claims Adjudication Division

In the wake of the EXXON Valdez grounding, Congress mandated sweeping regulatory changes with the enactment of the Oil Pollution Act of 1990 (OPA 90). OPA 90 maintains that persons responsible for pollution incidents must pay for damages. However, it also provides a process for reimbursing claimants for certain uncompensated costs and damages resulting from an oil pollution incident. This process was further refined by Federal regulations promulgated by the NPFC after the President issued a series of Executive Orders which, in effect, granted authority and responsibilities directly to the National Pollution Funds Center (NPFC) for management of specific portions of the OSLTF. Therefore, when acting under the direction of the Director of the NPFC, the Claims Division acts to ensure that OPA covered claims are fairly compensated in a timely manner.

BASICS

This article, while not intended as legal analysis of the applicable law and regulation, is a general, overall review of the uncompensated cost and damages covered by OPA 90 which may be recovered through NPFC's claims process. Specifically, OPA covers incidents involving oil which is discharged into navigable waters or the U.S. or poses a substantial threat of discharge into navigable waters.

Generally, OPA claims must first be presented to the responsible party for resolution. The responsible party (RP) typically would be the owner or operator of the vessel or facility which is the source of a discharge. If the NPFC identifies that a potential for claims exists in an incident, it will issue a Notice of Designation. In this letter, the RP is required to advertise the procedure for submitting claims for at least 30 days in the area impacted by the spill. Depending on the circumstances of the oil spill, the advertisements may range from notices posted at marinas to daily legal notices published in area newspapers. Once the claimant submits the claim to the RP, the RP has 90 days to reach an agreed settlement with the claimant. After that, the claimant may submit the claim to NPFC. If no RP is identified or if the RP refuses to handle claims, the NPFC will advertise the claims procedures using the same advertising methods and will then adjudicate the claim..

As mentioned earlier, the OSLTF can be used to reimburse claimants for certain categories of uncompensated costs or damages. Although under other laws, the RP may be liable for any and all damages caused by the spill, OPA allows only seven strictly defined types of claims. Those categories and the respective numbers of claims received by NPFC in fiscal year 1997 are as follows:

Removal cost: "The costs of removal that are incurred after a discharge of oil has occurred; or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution."

Claims for oil removal costs may be presented by a State directly to the NPFC for payment from the Oil Spill Liability Trust Fund. To recover removal costs, a claimant must establish that the removal actions were determined by the Federal On-Scene Coordinator (FOSC) to be consistent with the National Contingency Plan, or were in fact directed by the FOSC. Coordination between a claimant and the designated FOSC is therefore critical to a successful claim reimbursement. A failure to coordinate may result in a denial of a removal cost claim.

Coordination may be most difficult when the State regularly responds to reports of minor oil spill without the on-site presence of an FOSC. The NPFC encourages States that may submit minor removal costs claims on a regular basis to plan ahead to document coordination with the FOSC at the time of the removal action. If you are having difficulty documenting coordination, contact the NPFC Claims Division at 1-800-280-7118.

Removal cost claims are clearly the most common of the claims received by the NPFC. State governments have the right under OPA to submit removal cost claims directly to the OSLTF without prior submission to the RP. Many states take advantage of this option. Of the 1516 removal cost claims received in fiscal year 1997, over 70% were in this category. Another relatively common removal costs claim involves what NPFC refers to as "stiffed contractors." Sometimes the responsible party will hire oil spill response organizations (OSRO) to conduct a clean-up and either they do not pay or pay them less than is billed. The OSRO may be considered like any other claimant and may submit a claim to the OSLTF for any uncompensated removal costs. The oil spill response industry is one of the few industries in the U.S. which has a "secondary insurer" that will respond when a customer fails to pay. OSROs responding to a spill know that they will at least be reimbursed for their costs, if not for the entire amount of their contract with the RP. They can then afford to safely respond whenever a clean-up is required, without the normal business concerns or delays incident to ensuing future payment. This approach is very much in line with long standing Coast Guard philosophy to "clean up first and ask questions later."

One requirement of OPA is that claims may be paid only for "acts…which are consistent with the National Contingency Plan." To satisfy this requirement, the Interim Claims Regulations (33CFR, parts 135, 136 and 137) provide that the actions taken must be "determined by the FOSC to be consistent with the National Contingency Plan or…directed by the FOSC." The most effective method for a potential claimant to use is to coordinate the removal activities beforehand with the FOSC, thus giving the appropriate Coast Guard or EPA officials the opportunity to assist in the response and/or to advise on the appropriate methods for removal.

Real or personal property damages: "Damages for injury to, or economic losses resulting from destruction of, real or personal property, which shall be recoverable by a claimant who owns or leases that property."

Damage to real or personal property is often the most straightforward of the damage claims. The most common examples include oiled boats and oiled beaches. Sometimes there is an overlap between

removal activities and damage claims. For instance, the Federal On-Scene Coordinator (FOSC) may hire an OSRO to remove the oil from the boat in a marina, but the owner of the boat may still need to undertake some stain removal and repainting. The latter activity may be submitted as a claim for damage to personal property, separate from the cost incurred for the oil removal.

Loss of profits or earnings capacity: "Damage equal to the loss of profits or impairment of earnings capacity due to injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant."

Loss of profits or earnings capacity claims (commonly referred to in the industry as business interruption claims) are by the far the most complex of the claims received by the NPFC. Examples include businesses closed by the spill and commercial fishermen who cannot fish because of government imposed fishing bans in response to the oil spill. The claimants' real or personal property need not have been injured or lost. It is enough that any property or natural resource were injured or lost as a result of the spill and that injury or loss caused the claimant to lose profits or earnings capacity.

One threshold issue to establish the claims is to determine that the damages were proximately caused by this incident; as opposed to other causes, such as a general economic downturn. Part of this analysis is to draw a connection between the claimant's damage and the spill. The further away from the spill in terms of time, distance or business practices, the harder it will be to make the connection. The fisherman who fishes the area impacted by the spill may have a clear connection, but the fisherman who fishes outside the area may have more difficult time proving any loss of profits or earning capacity resulted from the incident. Likewise, the seafood processors who buy product from both those fishermen may be able to show that the spill impacted their business, but one of the many retail outlets serviced by the seafood processors may have a more difficult time showing the connection.

After establishing the appropriateness of the claim, the first step in measuring the damages for the business interruption is to determine what the claimant's income profit or earnings would have been if the spill had not occurred. This step can be very difficult, complicated and contentious, especially when dealing with many of the maritime industries which depend upon natural resources such as fish and lobster. The claimants bear the burden of showing what their catch would have been, based on the their business history and potential. For instance, if the claimant purchased an additional boat just before the spill and expected to increase their catch, that fact must be factored into the estimate of what would have been caught during the spill. The next step is to back out any saved expenses or other costs not incurred. Clearly, these claims are fact-based and many difficult comparisons go into adjudicating them. The claim manager relies

heavily on the business history of the claimant and on business records such as tax returns, receipts, audits, etc.

Loss of subsistence: "Damage for loss of subsistence use of natural resources, which shall be recoverable by any claimant who uses natural resources which have been injured, destroyed, or lost, without regard to the ownership or management of the resources."

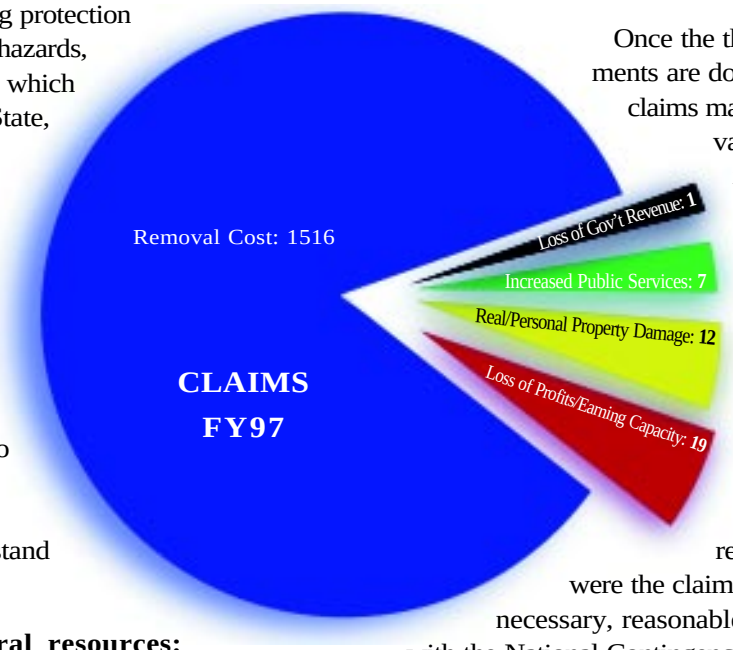
Loss of subsistence use of natural resources is an unusual claim type which has not been used. It is distinct from claims for damages to natural resources and claims for profit loss. Subsistence use is when an individual can show that he/she is a legitimate user of certain natural resources for subsistence, that is, to eat or make clothing for personal use. If the person takes the natural resource, for example, fish and then sells it, the claim that should be filed is for loss of profits, not loss of subsistence use of natural resources. Likewise, sport fishermen who may eat their catch are not eligible for this type claim since they engage in the fishing as a sport and not as a subsistence activity. The damage in this claim is the cost to the individual of replacing the items (for example, purchasing fish instead of catching them). Sport fishermen would not be a subsistence user.

Loss of government revenues: "Damage equal to the net loss of taxes, royalties, rents, fees, or net real property, personal property, or natural resources which shall be recoverable by the Government of the United States, a State, or a political subdivision."

Government entities are allowed to submit claims for loss of revenue they would normally receive, such as loss of entrance fees for a beach closed because of a spill. As with loss of profits claims, these claims are based on historical data as well as the facts of the incident. The claimant must establish what the income would have been but for the spill and must show a connection between the lost revenue and the spill.

Cost of increased public services: "Damage of net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by discharge or oil, which shall be recoverable by a State, or a political subdivision."

State and local governments may submit claims for the costs of public services provided during response to an oil spill. Such costs include the expense of having additional police on duty to control traffic or the costs of having fire department personnel and equipment stand by at the oil spill site.



Damages to natural resources: "Damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing the damages, which shall be recoverable by a United States trustee, an Indian tribe trustee, or a foreign trustee."

Initially, the U.S. Comptroller General issued an opinion in 1995 that OPA's provisions on uses of the OSLTF did not allow payment of claims for damages to natural resources without further appropriation by Congress. In November 1997, the Department of Justice issued an opinion that OPA does allow payment of claims for natural resource damages directly from the OSLTF without further appropriation. NPFC is developing a process to begin adjudicating these claims in early 1999. [See NRD article in this issue.]

CLAIMS PROCESSING

Once a claim is received in the Claims Division within NFPC, it is first checked to ensure that certain basic requirements for OSLTF reimbursement have been met (this is the threshold review). Some key questions should be answered: Does this incident involve oil? Is there an oil discharge (or substantial threat) into navigable waters? Has the claim been submitted within the time requirements of OPA? Claims not satisfying the threshold requirements are either denied or returned to the claimant for additional information depending on the specifics of the information submitted.

Once the threshold requirements are documented, the claims manager then validates the information for each specific claim. Is the proof of payment for the incurred costs acceptable? Do the costs or damages result from the incident? For removal cost claims, were the claimants' actions necessary, reasonable and consistent with the National Contingency Plan and were the removal actions coordinated with the Federal On-Scene Coordinator? Even though the claims manager may request additional information, the claimant continues to be responsible for demonstrating that the claim satisfies the requirements of OPA and the claims regulations.

Following the evaluation, the claims manager makes a determination of the amount of damage to be offered to the claimant. An offer letter is mailed to the claimant, explaining the methods used to measure the damages. Attached to this letter is a release form,

which subrogates to the U.S. Government the claimant's rights to recover from the RP. The claimant must sign and return this release to accept the offer in settlement of the claim. Upon receipt of this form, the claims manager transfers the approved claim to the U.S. Treasury (via U.S. Coast Guard Finance Center) for payment. When the claim is paid, the claims manager completes the circle of OPA responsibility by notifying NPFC's Case Management Division so that they may bill the Responsible Party for all appropriate costs, including the payment of the claim, as well as the costs of measuring and processing the claim.

If the determination is made that the claimant has not suffered any damages, the claim is denied and a letter is sent informing the claimant of this. A claimant may request NPFC to reconsider a denial of a claim. Reconsidered claims are reviewed by the claims supervisor and NPFC's Legal Division, and adjudication of reconsidered claims is considered "final agency action."

THE CLAIMS DIVISION

Since 1996, the claims division has adjudicated over 2000 claims. Of these, approximately 75% were under $1000 each and 15% were in an amount greater than $5000. The adjudication process occurs under the direction of a Division Chief and a claims supervisor who is supported by five claims managers. Also, since some claims are based on the use of highly technical skills or applications, the Claims Division has occasionally needed to secure the services of independent claims adjusters or technical experts to validate uncompensated losses or damages.

The ability to track both the claims and their supporting documentation continues to be a challenge. Continued refinement of claims computer systems will prepare us to track large volumes of information required for the adjudication of these claims and to provide quick, accurate, reliable and comprehensive information to the leadership, the claims manager and the claimant.

Natural Resource Damage Claims

by Linda Burdette

The fact that one of the tragedies of an oil spill is the damage done to the environment is no secret to anyone who has seen the ravaging effects of an oil slick on a bird sanctuary, protected wetland or other environmentally sensitive area. An even bigger tragedy is not having the resources available to restore the damaged area after the environmental disaster occurs. While the NPFC has provided (and will continue to provide) limited funding to Trustees to initiate natural resource damage assessments, it has not paid Natural Resource Damage (NRD) claims,

relying on a Comptroller General opinion, issued in late 1995, that the Oil Pollution Act (OPA) provides for payment of NRD from the Oil Spill Liability Trust Fund (OSLTF) only by appropriation. NPFC pays other damage and removal cost claims direct from the OSLTF without appropriation. In late 1997, the Department of Justice, Office of Legal Counsel, adopted a different interpretation of OPA to the effect that natural resource damages are payable from the OSLTF without further appropriation, like other damages and removal costs. This interpretation cleared the way for the NPFC to adjudicate and pay NRD claims as it pays other damage and removal cost claims.

The NPFC immediately formed a Project Implementation Team with members from Coast Guard, NOAA, and Department of the Interior, with advice and assistance from Department of Justice and other agencies as needed. This team is developing a draft outreach guide explaining the adjudication of natural resource damage claims by the NPFC and is assisting the NPFC in determining the resources needed to carry out this program, especially the qualifications of the personnel necessary to evaluate these claims. As soon as possible, the guide will be sent out to all identified natural resource trustees for their information and comment. Additionally, NPFC may conduct some workshops to familiarize the trustees with OPA and the Interim Claims Regulations, provision of which are summarized below.

Under OPA, "Natural Resources" include land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including resources of the exclusive economic zone), any state or local government or Native American Tribe, or any foreign government.

Federal, state, Native American and foreign trustees are designated pursuant to OPA. Federal trustees are designated by the President; the governor of each state shall designate state and local officials as state trustees. The head of a foreign government may designate the trustee who shall act on behalf of that government. The governing body of any Native American tribe shall designate tribal officials who may act on behalf of the tribe or its members. Further, the tribe must be recognized as eligible for the special programs and services provided by the United States because of their status as Native Americans and must have governmental authority over lands belonging to or controlled by the tribe.

Only designated Trustees may submit OPA Natural Resource Damage Claims. Notice of designation should be provided to the NPFC to establish the authority of the claimant who is submitting the claim.

The measure of OPA NRD is:

- the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of, the damaged natural resources (hereinafter abbreviated to "restoration");
- the diminution in value of those natural resources pending restoration; plus
- the reasonable cost of assessing those damages.

The threshold procedure for submission of the claim to the NPFC is the same for Trustees as it is

for other claimants. For example, the NRD claim the trustee presents to the NPFC for payment from the OSLTF must first have been presented to the responsible party (RP) or its guarantor. The RP is generally the owner or operator of the vessel or facility which was the source of the discharge. The NPFC accepts claims when the source of the discharge has not been identified (mystery spill), when there is no RP, or when the RP fails to settle the claim within 90 days of the date the claim was presented.

Under OPA, the Trustees assess NRD and develop and implement plans to restore damaged natural resources. The costs of damage assessment and restoration must be determined with respect to plans adopted by the Trustee. The plans must be developed and implemented only after adequate public notice, opportunity for a hearing and consideration of all public comment. A Trustee may choose to develop separate assessment and restoration plans. Accordingly, the claims regulations permit a Trustee to choose to submit a separate claim for assessment costs, the advantage being the opportunity to finance the assessment cost in advance rather than out of the Trustee's operating budget. The restoration claim must be submitted in the form of an incident-specific restoration plan or a regional restoration plan. Trustees may consider using a plan for an existing restoration project. Any restoration plan must fulfill all OPA requirements for NRD claims. It must restore, rehabilitate, replace or acquire the equivalent of the damaged natural resources.

OPA provides that the right to recover for NRD belongs to trustees who manage or control the affected resources, and to trustees to whom the natural resource "appertain." OPA also expressly provides that there shall be no double payment for NRD. The NPFC will pay only once to compensate a damaged natural resource. Because of the obvious potential for overlapping jurisdiction, payment to one trustee could preclude compensation to a co-trustee for the same natural resource damage. Coordination between the affected trustees is therefore very important and to the benefit of all trustees. The Interim Final Claims Regulations encourage the trustees to name a Lead Administrative Trustee to coordinate between the trustees and to act as the liaison with the NPFC.

Any amounts recovered, whether from a responsible party or from the Oil Spill Liability Trust Fund under the NPFC claims regulations, must be retained by the trustee in a revolving trust account for use only to reimburse and pay costs incurred by trustees to assess the damage to natural resources and develop and implement plans to restore, replace, rehabilitate or acquire the equivalent of the damaged natural resources. Any recovered amount that remains after the project or plan is completed must be deposited into the Oil Spill Liability Trust Fund.

The Statute of Limitations (SOL) under OPA 90 for the filing of NRD claims with the NPFC is the later of three years from the date the injury and connection with the discharge was reasonably discoverable with due care, or three years from the date an assessment is completed in accordance with the damage assessment regulations published by the National Oceanic and Atmospheric Administration at Title 15 Code of Federal Regulations Part 990. Following the U.S. Comptroller General's decision that the NPFC could not adjudicate claims for natural resource damages under OPA, any NRD claims previously received were rejected or are being held at the NPFC. If those rejected claims were originally submitted within the SOL, they can be resubmitted for adjudication.

As the oil spill response community moves forward in this area, the NPFC is confident that the availability of the claims process will enhance the ability of the trustees to respond efficiently and effectively to the damage caused by an oil pollution incident.

Recreational Boaters and Homeowners—They Too Can Be Liable!

by John M. Baker

Everyone knows that recreational boating can be a relaxing and pleasurable activity, as well as an expensive one. But what might not be realized is just how truly expensive it can become, from a perspective which might not have been considered. Of the many costs associated with the responsible operation of a vessel on U.S. waters, oil pollution insurance might very well be added as a wise investment. Even knowledgeable boaters may be unaware of their potential financial liability for oil discharges from their craft under provisions of the Oil Pollution Act of 1990 (OPA).

OPA establishes specific limits of pollution liability for vessels. Under the law, the financial liability for all non-tank vessels is $600 per gross ton, or $500,000, whichever is greater. The law does not explicitly require owners or operators of pleasure craft below 300 gross tons to demonstrate financial responsibility (a system to prove potential financial coverage, much like an automobile insurance policy). However, it does hold them responsible for the costs related to an oil pollution incident which they have caused or contributed to. These potentially substantial costs may include recovery for the cost of Coast Guard or other federal actions taken to remove oil, prevent an imminent spill, or to pay for damage claims resulting from an oil spill for which they are deemed responsible. Damage claims, which are a unique component of OPA, may include damage to property, loss of profits, loss of subsistence, loss of government revenues and increased cost of public services. The law, of course, applies the same regardless of who actually caused the oil spill.

What does this mean to the recreational or small-boat operator? Well, if they are an owner or operator of a craft that sinks or spills oil in some manner, they could potentially be liable for up to $500,000 to reimburse the government for the cost of cleanup, monitoring, assessing damage to natural resources and compensating claimants damaged by their spill. In addition, they might also have to reimburse the government for costs incurred to prevent their vessel from polluting, even if not one drop of oil was spilled! This is a central tenet of the

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Oil Pollution Act: "The Polluter Pays" for all costs and damages of an oil spill or the substantial threat of a spill.

The goal of strict financial responsibility for oil spills has proven to be good for the marine environment. So far, the implementation of OPA has significantly reduced the number of oil spills occurring in U.S. waters. Diligent cost recovery from responsible parties has saved millions of dollars in federal, state and local government expenditures as well. Since the implementation of OPA in 1990, the owners or operators of 854 recreational pleasure craft and small fishing boats have been pursued for cost recovery on oil spills—totaling over $16,000,000.

What can the pleasure boater do to avoid this potentially high financial risk? These costs can be assumed or defrayed through the purchase of liability insurance for their personal vessel. While this insurance may be an additional expense, it should also be considered a precautionary necessity. Many recreational boaters may not now hold insurance policies that provide for adequate liability coverage to meet the requirements of OPA. Even those who do may find that their current insurance policy's oil pollution clause is vague on the scope of coverage. As a result, many boaters might find themselves in a financial bind. Could they afford to lose their vessel in addition to incurring debt of up to half a million dollars? If not, they may want to consider securing pollution insurance for their boat that will meet this potential risk. Some companies, such as USAA, Boat US, and others now incorporate coverage into their policies for this purpose. For more specific information on oil spill liability or compensation questions, boaters can contact their own insurer to determine if they are protected.

There are liability risks from oil pollution to consider as a homeowner as well. If oil is used as a home heating fuel, the homeowner is also liable to pay for cleaning up a spill that has impacted, or poses a substantial threat to, a navigable waterway. In this case, a "navigable waterway" could be a surface culvert running off the property into a stream, which in turn flows directly into a navigable river. Several oil companies offer "spill coverage" as part of their oil delivery contracts. Greater piece of mind and protection of your financial assets may be worth the additional expense of this type of coverage.

Financing A Spill of National Significance

CAPT Joseph Bridger, III and Mr. John Baker

A Spill of National Significance (SONS) is an oil spill that may cause significant impact by threatening the public health and welfare, wildlife, the economy or property over a large geographic area, involve multiple Federal On-Scene Coordinator (FOSC) zones of responsibility, or even spread across international borders. It may involve a protracted period of discharge and expected cleanup and more than likely, significant public concern and demand for action generating the potential for a high level of political and media interest. The quintessential oil spill of such a magnitude is the Exxon Valdez incident which occurred in Prince William Sound, Alaska, in 1989.

Recently, the Coast Guard adopted the National Interagency Incident Management System (NIIMS) Incident Command System (ICS) as the response management structure for major oil and hazardous substance responses. A product of this initiative is a newly published protocol found in the Spills of National Significance Response Management System (Commandant Instruction 16465.1), that uses the ICS Area Command concept to establish an effective response management organization to deal with nationally or regionally significant spills.

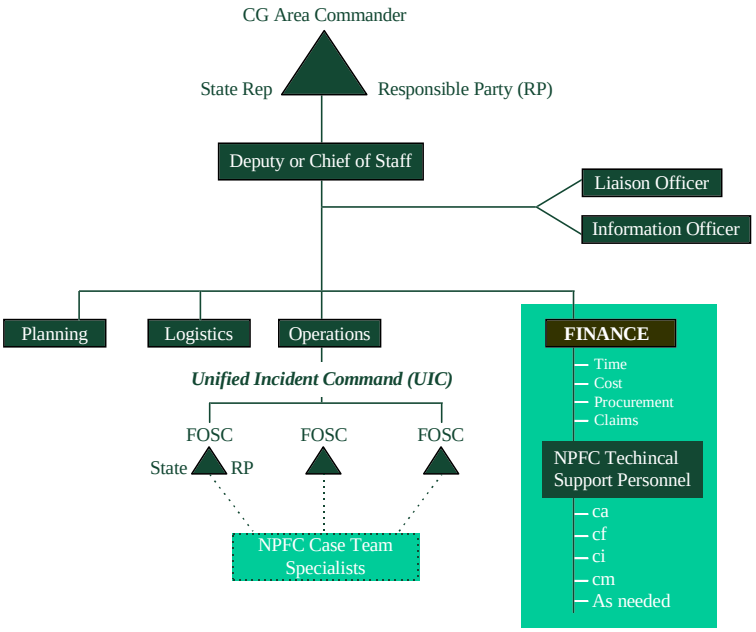
The first SONS exercise using this new protocol was held September 16-18, 1997, simultaneously in Philadelphia and Washington, DC. The exercise, sponsored by the Coast Guard's Marine Safety and Environmental Protection Directorate, was designed to examine industry and government response capabilities, and in particular, to evaluate the Area Command concept. Additionally, a need existed to assess interagency policy and cooperation with regard to emergency response. To accomplish this, a multifaceted approach was taken involving seminar discussions, existing exercise methods, and video-teleconferencing technology.

The Players

In Philadelphia, the Pollution Response Exercise Program (PREP) exercise tested the Area Contingency Plan (ACP) for Marine Safety Office (MSO) Philadelphia, Activities New York, and MSO Hampton Roads zones. Having a SONS-type catastrophe resolved in a NIIMS/ICS organization context greatly enhanced an examination of the operational and support issues involved in the response, containment, and removal of the millions of gallons of oil that this exercise illustrated. In this context, individual FOSCs could more easily respond and clean up the spill with the unified command, more effectively coordinating many of the support needs of planning, supplying and financing for the various jurisdictions, while addressing and balancing the environmental, political and economic concerns.

A separate seminar in Philadelphia focused on issues pertinent to FOSC, state and local authorities, as well as identifying industry roles in a catastrophic response effort. This seminar, hosted by VADM Roger Rufe, Commander, Atlantic Area, and representing the Unified Area Command (UAC), was linked through video-teleconferencing with the Washington seminar and the National Response Team. An integral part of the ICS is the Area Command concept, which provides a level of

Unified Area Command (UAC)



strategic management and support for the existing Federal On-Scene Coordinator (FOSC) response organization. The Unified Area Command structure is intended to enhance the local response organization and relies upon using the applicable Area Contingency Plan (ACP) as the basis for the strategic direction of response actions.

The PREP exercise was integrated with another seminar discussion format designed to engage executive level representatives from eight federal agencies, six states, and three industry participants. This seminar, held in Washington, DC, was hosted by the Commandant, and discussion focused on national level issues directly affecting federal response capabilities. The Secretary of Transportation, Mr. Rodney Slater, and Congressman Bob Clater, of Tennessee, were among those who participated in the discussions.

NPFC's Role in a SONS

Although not a first responder unit, the experience and expertise of the Case Teams from the NPFC has long been recognized and direct participation by NPFC in support of Oil Pollution Act (OPA) matters in a multitude of spills has continued to grow. NPFC has a tradition of being proactive in outreach training and assisting the environmental protection community. With the broad range of Oil Spill Liability Trust Fund (OSLTF) liability, financial and cost recovery issues stemming from the hundreds of cases that both EPA and Coast Guard monitor each year, it is natural that the FOSC readily relies on NPFC for guidance. This is evident in every major case where the OSLTF is opened.

When the planning and preparation for the Philadelphia SONS Exercise began in earnest, the Coast Guard Environmental Response Program Managers asked for help in framing the financial issues and participation in the exercise from the NPFC. From the NPFC prospective, the complexity and magnitude of the funding issues wrought by a SONS and subsequent FOSC, Area Unified Commander, Headquarters and DOT involvement would serve as an excellent vehicle to further educate and assist Coast Guard, national, state, local and industry personnel and other agencies in the use of OPA processes. Furthermore, it was clear a separate team of specialists were needed to respond to the Area Commander's request to handle the myriad of responsibilities coordinating and managing the ICS Financial Section. This quickly shaped up to be more than the normal exercise to deal with ceiling management, funding authorizations and cost documentation issues.

As with any incident the NPFC responds by providing advice and assistance, whenever called by the FOSCs, on access to the OSLTF, allowable removal costs, Responsible Party (RP) liability and claims issues. Even in this incident where the exercise is tailored to respond to the rare, catastrophic spill, the same initial basic financial activi-

ties must occur. As the pace and magnitude of the response pick up and financial issues and complexity increase, the FOSC will often ask for a NPFC case officer who works day-to-day with his case team on other incidents to travel to the Incident Command Post and assist. This happened in this exercise. A case officer with a team of functional specialists of a claims manager, financial manager and case attorney participated at the Incident Command (IC) level supporting the FOSC within the Finance Section at Philadelphia. They reported to coordinate financial issues faced by the responders ranging from who to designate as the source of pollution, to what pollution removal funding authorizations were needed to the coordination of Natural Resource Assessment Initiation funding agreements.

The Chief of the Case Management Division was also deployed to serve as the Area Commander's Financial Section Chief. The Chief of the Claims Management Division went to monitor, advise and coordinate damage claims related issues with RPs, FOSC and third party claimants. The Chief of Financial Management Division went to advise on ceiling management, fund availability and provide cost analysis expertise. A Case Management Deputy Division Chief also went to serve as Deputy Financial Section Chief, as well as, advise, assist and coordinate issues among the Incident Command Finance Sections in arranging and consolidating funding agreements with other government agencies, assisting in developing and submitting daily cost documentation and ceiling management reports.

Meanwhile back at NPFC, calls for support came in from two other FOSCs; MSO Hampton Roads and Activity New York. Teams were formed and assigned to assist and address OSLTF issues in those areas of responsibility as they arose. However, these personnel did not actually need to deploy. As noted earlier, the Commandant held a National Issues SONS Seminar at Coast Guard Headquarters. Senior agency policy makers from 14 different federal agencies attended. The Deputy Director of NPFC provided advice and guidance on OSLTF matters, as well as, participated in the discussions and the various teleconferences addressing interagency issues arising from a SONS.

Key OSLTF Financial Processes Framed in a SONS Context

Initially, the question of who will pay for what and for how long was addressed and settled up-front by the RPs and FOSCs during the first phase of the exercise. The RP agreed to pay up to their limit of liability. As commerce will be impacted by halting or delaying of shipping traffic, the economy will be

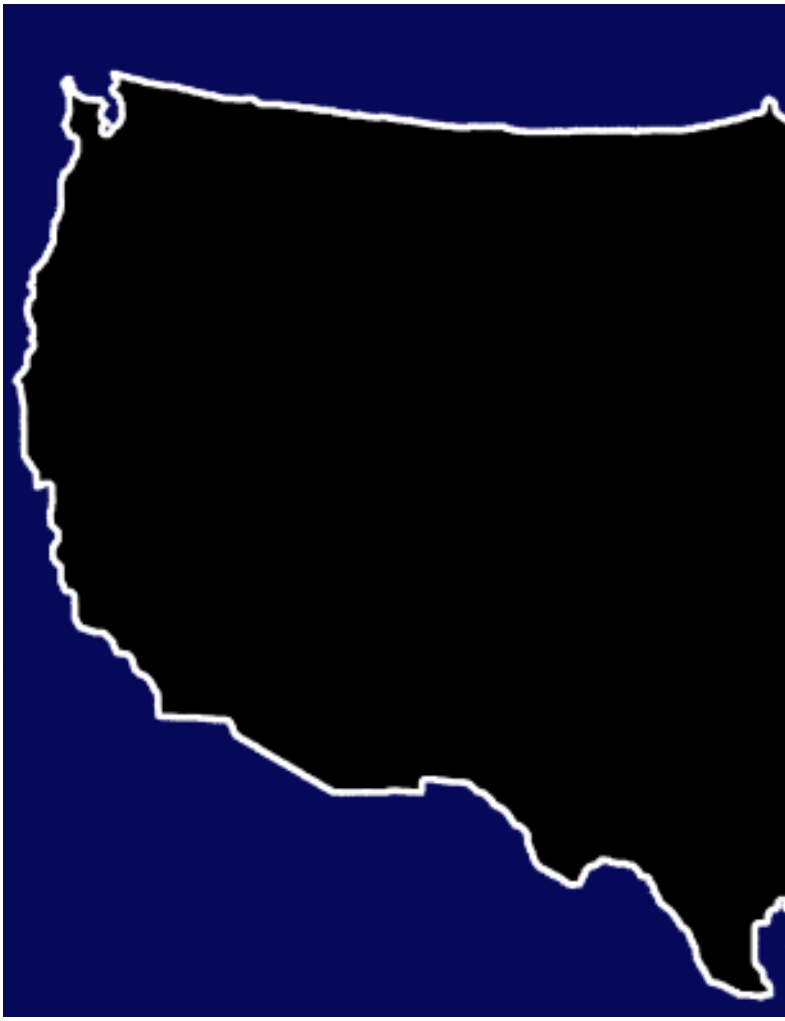
impacted by preventing fisherman from working or the halting of normal business in the harbors or on the beaches.

This will soon shift attention to funding damage claims. These damage claims may very well exceed removal costs and be presented long after the clean-up is completed. Claims submissions, adjudication and payments will garner political interest especially after the acute emergency phase of removal is past.

Fundamental to the spill response management process is for the RP to receive and adjudicate damage claims. After 90 days if the RP has not adjudicated the claim, a claimant may present it to the NPFC for processing. Since the limits of liability surely will be exceeded, a claim for uncompensated damage and removal costs will be presented to the OSLTF. This remains the same whether the RP performs this function from the beginning of the spill to the end, or if the operation is turned over to the NPFC because the RP cannot or will not pay. The economic demands for compensation could easily climb into the billions of dollars from economic impacts stretching over several years.

From a financial management and accounting perspective, having the SONS Area Command organization in place allows each individual FOSC and the Incident Command Staff to focus on containment and clean-up processes by having as many administrative and overhead functions consolidated as possible. In the end, it provides a much more streamlined approach, which will reduce the costs that RPs and taxpayers pay for a catastrophe such as this. At every opportunity contracts will be consolidated, claims operations centralized and overall costs compiled, tracked and analyses performed to keep costs down. Likewise, resource and financial issues beyond the Area Command's capabilities can be identified and coordinated by the Commandant and other federal agencies much more efficiently. This will make the management of scarce and often competing equipment, personnel and financial resources easier.

Not all financial functions can be passed up to the Area Command. Each FOSC will still need to be prepared to manage the onslaught of commercial and government personnel and equipment resources on scene. It is still necessary for the FOSC to certify that costs incurred for removal were consistent with the National Contingency Plan (NCP). To do this, the IC Financial Sections must track costs against their allocated funding ceilings, obligate funds used to procure what's needed to supply their operations and compile costs for personnel and equipment responding to spill operations. Not all functions can nor should be conducted at the Area Command. For example, validated uncompensated removal cost claims from claimants within an area of operations need to have been consistent with the NCP. The local FOSCs, not decision-makers in the Area Command, have to make that determination, as well as, documenting and certifying those removal actions and costs were necessary to support later cost recovery efforts.



EXXON VALDEZ discharge transposed

Keeping the Bank Solvent and Operating

From a Oil Pollution Act (OPA) perspective, keeping the coffers filled for oil spill cleanup operations is quite an undertaking. There are many dimensions to the Area Command level of incident management. Responding and funding containment and clean-up operations, managing funding ceilings,

d on the East Coast of the United States.

adjudicating claims, initiating Natural Resource damage assessments are just a few key financial activities.

The Commandant of the Coast Guard, upon declaring the SONS Exercise, gave the Area Commander two specific orders:

- ☑ Provide specific resource requirements - what personnel & equipment are needed.
- ☑ Provide an assessment of projected costs, the extent of the Responsible Party's liability and the difference (shortfall).

Even with the knowledge of available emergency funds from both the RPs and the OSLTF, the ability to fund the response activities in the SONS exercise was a major concern. At all levels of government (federal, state and local), the issue of keeping contractors working on scene as the funding ran out was no small matter.

The RP's "burn rate" was estimated to average $10,000,000 per day after the third day of removal operations. They held combined Certificates of Financial Responsibility (COFRs) of just over $200 million and were estimating to spend that amount in less than 20 days. The RPs committed early to be responsive partners and fund response operations up to their $200 million limit, but could not commit to funding beyond their limits of liability. Even though they each had pollution insurance up to $700 Million, their were no assurances the funding would be available. Furthermore, federal government obligations were estimated to be charged to the OSLTF at a conservative rate of $4 million per day! It was clear that the OSLTF "bank" would be empty in less than eight days. The OSLTF had only $30 million available to draw on at the beginning of this exercise for emergency removal operations.

Using Exxon Valdez as a benchmark, (estimated costs over three billion dollars), it is clear that the combined available funding of $230 million would not sustain continued operations. Plans had to be developed for Coast Guard take over of the response after 20 days. Resources had to be in place to assume those operations now being funded by the RPs. Granted, under OPA provisions, costs incurred by the Responsible Party over their Limit of Liability could eventually be billed back to the OSLTF as a claim. However, prior experience has demonstrated that the RP's control of funding of the response results in a more efficient funding mechanism. In either case, it would be prudent for NPFC, CG Headquarters, DOT, OMB and the White House at the onset to immediately orchestrate a supplemental request to Congress to keep the government bank,

OSLTF, solvent and to provide contracting officers with funds to procure services ordered by the FOSC.

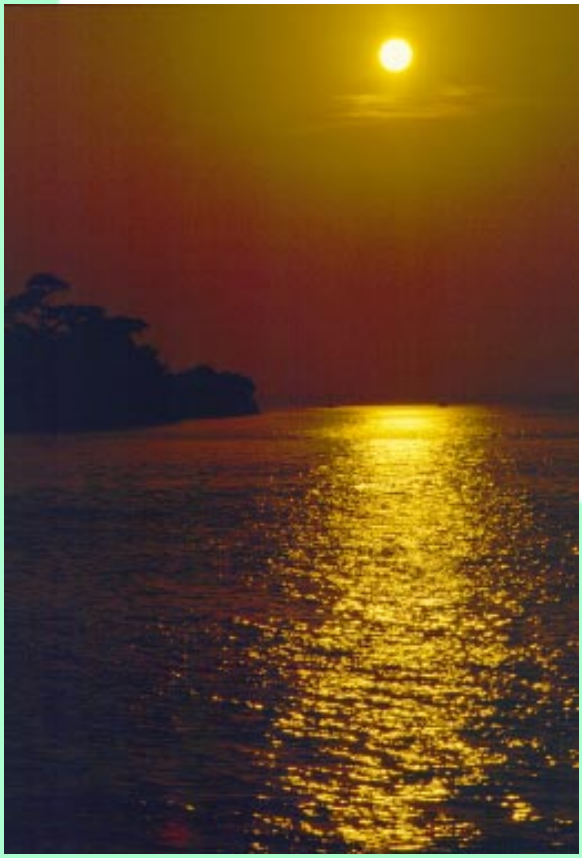
Bank Busters - Costs That Can Impact the OSLTF?

Removal operations at a glance:

The Emergency Fund with $30 million balance could be spent within eight days!

$1 billion (per incident) in the Parent Fund would not be enough to fund this incident!

It's clear that funds in the government's checkbook for emergency response will deplete quickly. A request to Congress would not only have to include the above projections, but projections were needed for funding of other spills responses that may occur daily in other parts of the country. As a result of this exercise experience, NPFC has recommended that the cap on the Emergency Fund be raised to $100 Million in order to remove the constraint of inadequate funding during the initial emergency phase of such an incident.



Claims

The "Parent" portion of the OSLTF is the source of funds to pay damage claims to third parties for a number of losses specified in OPA. Although the demand for funds to pay damage claims will not be immediate, the demand will most surely be greater than the removal costs. Within weeks after the spill, claimants will be submitting claims for economic damages to the RP's. This will in turn increase their obligation rates and further impact the OSLTF as these costs are in turned presented to the NPFC.

Damaged parties who may have immediate need for economic assistance are a major economic and political consideration. Claimants are likely to be impatient to wait for RPs or government claims adjudication. A SONS incident will severely test any system to rapidly pay claims. Payments from the NPFC are only available after the RP has denied or considered each claim for up to 90 days after submission. Therefore, the monitoring and coordinating of these issues within the SONS Area Command organization becomes critical. The appropriate functional elements need to be alerted to mobilize state or local sources for low-cost loans or grants for those not content to use the OPA Claims processes. For example, following the North Cape, Rhode Island spill in 1995, a multi-agency Presidential task force, headed by the Department Commerce, provided emergency funding to states economically impacted by the spill. During the SONS Exercise, this was one of the many issues addressed and NPFC played an integral role in offering solutions. Once a loan or grant program is approved and in place, resources to coordinate and resolve problems, if only to advertise and educate claimants on the differences between various support programs, will be necessary.

Natural Resource Damages

The other large liability, natural resource damage claims, garners more controversy and misunderstanding among RPs, environmental advocacy organizations and National Resource Trustees than any other facet of an oil spill. Why is this? Many answers to questions raised during an oil spill concerning natural resource damages cannot be known in the midst of the clean-up. However, decisions and actions taken during the clean-up

most certainly impact natural resources. Trustees and RPs work closely together with the FOSC to coordinate removal operations to minimize the impact on natural resources and assessment activities. As with the claims process, the trustees first present their requests for NRD funding to the RP. This will drive obligation rates up and further impact the OSLTF, since their costs in turn can now be presented to the NPFC. A SONS incident could easily result in millions of dollars in natural resource damages very quickly.

Efforts to minimize natural resource damage in removal operations will pay dividends later. The magnitude of damages with subsequent assessment and restoration plans (this was a 14 million gallon discharge scenario) may overshadow the cost of removal operations. Due to the time lag in doing assessments and developing restoration plans, claims may very well be presented to the OSLTF years after the clean-up has stopped. Thus, coordination between removal activities and natural resource assessment personnel is critical. The SONS Area Command can facilitate this role.

Summary

What's the impact of not managing a spill of this magnitude beyond the environmental and economic catastrophes? The results would be unimaginable and unacceptable if the FOSC could not provide the resources nor access the funds necessary to support clean-up. Legitimate damage claims could not be paid properly. Natural resources would not be restored. Funding relief of this magnitude to support cleanup operations and provide relief to claimants can't be expected until weeks into the incident. Several solutions have been identified to address these issues and are being considered for legislative resolution. They are:

- Raising the cap on the Emergency Fund from $50 million to $100 million, or,
- Making the full OSLTF available for removal costs by eliminating the distinction between Emergency Fund and the "Parent" OSLTF.
- Reinstating the authority to tax
- Reinstating the authority to borrow from Treasury's General Fund
- Raising the $1 Billion per incident cap
- Establishing a 2 cents per barrel tax (vs. a 5 cents per barrel) without a limit on the OSLTF balance.

As it appears, the President's 1999 federal budget proposes reinstating the 5 cents per barrel oil excise tax, which would increase the OSLTF by an estimated $1.2 Billion over the next 5 years. The President's proposal also recommends raising the level of the OSLTF to $5 Billion. Based on the EXXON VALDEZ spill, which cost nearly $3 Billion, and the illustrative nature of the Philadelphia SONS exercise, funding that will need to exceed the current $1Billion amount available is a given.

The SONS 97 Exercise was an invaluable experience. It allowed for close interaction among most of the federal agencies likely to be involved in a large spill response, as well as executive involvement from state and industry representatives. This forum provided a vehicle to discuss and address many vital issues pertaining to all aspects of a nationally significant spill without waiting for a real disaster to occur. Not only were the costs of the spill examined, but broader economic, environmental and political issues of the impacts on fisheries, ocean resources, commercial maritime mobility and quality of life were aired. It has lead to enhanced response capabilities at many levels of government.

Putting together a multi-million dollar "corporation" overnight to respond, operate, plan, supply, finance and account to shareholders (and taxpayers) alike is no easy feat. While safety of personnel, protection of public health and welfare and minimizing the damage the environment and natural economic resources are paramount considerations in a response, they are only part of the response. Effective and efficient spill response management in the stewardship of costly resources and assets is also critical. Both industry and government recognize this. Events like the Philadelphia SONS 97 Exercise bring these fundamentals to light. As the oil spill banker and cost recovery partner in this enterprise, NPFC will always be an enthusiastic and engaged member of the ICS team towards funding a cleaner environment.

M/V KUROSHIMA

Lessons Learned: A Look at the Financial Side

LT Steve McCleary, MSO Anchorage
CWO Carl Moberg, NPFC

On Wednesday, November 26, 1997, the M/V KUROSHIMA, a 370-foot refrigerated cargo ship, was anchored at Dutch Harbor, Alaska. At about 3 o'clock in the afternoon (local time) the ship began to drag anchor in sustained winds of 40 knots, with gusts to over 100 knots. The master sent four crewmen forward to reset the anchors. As they began work, a wave came over the bow, slamming the crewmen against the machinery on the foc'sle. One crew member was killed instantly, a second died several hours later. As the injured crewmen were retrieved, the ship continued to drag anchor, setting directly towards a rocky area of shoreline. Within thirty minutes the ship was hard aground. It was soon lifted from the rocks by the surf and pushed broadside onto a sandy beach a few hundred yards further up the shore. In the process, three fuel tanks containing #6 fuel oil breached, spilling approximately 40,000 gallons along the shore. An additional 80,000 gallons remained in the tanks of the grounded vessel. This article will touch upon some of the financial problems experienced and lessons learned in this incident.

A Call for NPFC Involvement

By the early evening of the 26th, representatives of the vessel's owner, the Responsible Party (RP), and a local Oil Spill Response Organization (OSRO) were at the Marine Safety Office(MSO) in Anchorage. That night the RP and the OSRO reached a verbal agreement for the OSRO to undertake cleanup efforts as soon as possible. Thursday, November 27, Thanksgiving Day, the OSRO mobilized personnel and equipment from Anchorage to Dutch Harbor as well as all of their assets already in Dutch Harbor. The Federal On-Scene Coordinator (FOSC) - the Commanding Officer of MSO Anchorage, MSO personnel, and Coast Guard Pacific Strike Team members left for Dutch Harbor the same morning, as did representatives of the RP.

Despite harsh weather conditions and the logistical complications that one would expect when operating from one of Alaska's remote Aleutian Islands, cleanup crews began work on the 27th, and proceeded very effectively through the 29th. On the 29th, the OSRO voiced concern to the FOSC that although they had reached a verbal agreement with the RP three days earlier, no written contract was in place and the OSRO, despite having already committed itself to a very significant financial outlay, had received no money from the RP. The OSRO also stated that they were unable to determine from the RP when money would be available. The RP's representative advised the FOSC they were working in good faith to make the necessary arrangements with the OSRO, but there were delays in dealing with the vessel owners overseas.

At this point, the FOSC became concerned that the OSRO would refuse to continue work or that the RP may decide to decline to participate in the cleanup, in either case this would result in the spill being funded by the Oil Spill Liability Trust Fund (OSLTF). The FOSC then requested that an NPFC Case Officer come up to Dutch Harbor to see if the relationship between the RP and OSRO could be salvaged, and if not, to assist with setting up a federally-funded cleanup. On December 1, a Case Officer arrived in Dutch Harbor.

NPFC's Role On-Scene:

The FOSC and Case Officer established and prioritized the following objectives :

- Evaluate the Responsible Party's financial status and structure.
- Evaluate the potential for claims.
- Evaluate the cost-capturing methods for government expenses.
- Identify the need for and assist in the preparation of Pollution Removal Funding Authorizations to other government agencies.

The RP's Financial Status/ Structure

During an early evening briefing on December 1, an OSRO Foreman notified the Unified Command of operational problems that he felt needed immediate attention. The FOSC quickly identified that a common denominator to all of the problems appeared to be the lack of money and logistical support. The FOSC focused on the lack of funds as a problem, that should not have been identified as late as six days into the response, and directed the RP to correct the situation by the following day. As part of the role worked out with the FOSC, the NPFC Case Officer met with the RP's representatives to review their financial structure for the response. The Case Officer identified numerous problems:

The RP and their OSRO had not reached a written contractual agreement. The draft agreement was basically a reimbursement based agreement, which provided for a sum of "up-front" operating money for the OSRO. The OSRO did not have sufficient funds to finance a reimbursement based response and, as of December 1, had not received any "up front" money.

Personnel from the OSRO used their personal credit cards to establish accounts with local vendors for needed response supplies. By December 1, the majority of those cards had reached their credit limit.

4. The intentions of the Responsible Party upon reaching their COFR limit of liability had to be known.

In the early morning hours of December 2, 1997, the RP and the OSRO executed a written contract. Over the next two days, the RP's financial structure was established, and a spill management team, contracted by the RP, began to integrate into the Unified Command Structure (UCS). Included in that team was a Chief of Finance.

No one representing the RP could write a check on behalf of the RP. No bank account had been established in Alaska for the spill. The RP's representatives that were on-scene had to wire overseas for funding approval.

An apparent miscommunication occurred between the RP and the OSRO. For several subcontractors, the OSRO assumed the RP would be paying them directly while the RP's representative(s) assumed the OSRO would pay all subcontractors and later bill the RP.

The RP was fast approaching the M/V KUROSHIMA's OPA 90 limit of liability. The Case Officer advised the RP's representative(s) that the following actions were necessary:

1. Contract negotiations between the RP and their OSRO needed to be expedited immediately, to avoid operational distractions and disruption of cleanup.

2. A bank account needed to be established by the RP in Alaska to avoid future funding delays. The recommended deposit amount was the limit of liability of the M/V KUROSHIMA's Certificate of Financial Responsibility (COFR).

3. A person on-scene needed to have the authority to expend those funds.

The FOSC acknowledged the RP's initial efforts and progress, but also realized the situation was not fully stabilized. In the event the RP proved unable to make contract payments, the FOSC requested a Coast Guard Contracting Officer come to Dutch Harbor. The FOSC further emphasized that if operations were affected, and if money flow became a problem, the spill would be federalized.

Throughout the week, the RP's representatives continued to make progress stabilizing their financial structure: checks were flown in that could be drawn against an Alaskan bank, the Finance Chief established new accounts with local vendors to be directly funded by the RP vice its OSRO, and funds to provide "cash-on-hand" were requested from overseas.

From December 4-6, the RP demonstrated, through contract payments and fund commitments, that they had established a working financial structure. They also emphasized that they had no intention of walking away from the spill once they had reached their OPA limit of liability.

With these positive actions taken by the RP, the Coast Guard Contracting Officer was demobilized. The RP contracted with a local marine company that was leading the vessel

lightering operations, allowing the FOSC's government contract to be terminated. Arrangements were also made for the RP to work directly with the state and city government agencies involved to provide direct reimbursement for expenses incurred.

Lessons Learned: Financial Structure

Establish funding early: An RP should immediately establish a local bank account, regardless of contractual arrangements. A person on-scene must have the authority to obligate and spend funds from that account.

Ensure financial stability: It should be the top priority of an NPFC Case Officer to ascertain the RP's financial stability in detail. The best way to to obtain the necessary information is by being assigned to the Finance Section, and also by communicating directly with the RP's "Qualified Individual" or lead representative.

Project ahead: What the RP's intentions are upon reaching their COFR limit of liability must be known. Knowing this will influence demobilization or mobilization of necessary government financial personnel.

Set goals and objectives: There are many common goals the NPFC Case Officer and the Responsible Party's Finance Chief have, focusing on these goals will allow the Finance Section to function as a government/industry team. For example, both have a need to ensure priority contracts, vendors, and purchase orders. Having these contacts established ensures that funding does not interrupt cleanup operations.

Mobilize financial resources: On large spills, the FOSC should consider mobilizing an NPFC Case Officer and a Contracting Officer, if RP financial stability is suspect.

The Potential For Claims

Claims anticipated in this incident ranged from damaged rescue vehicles and personal clothing, to the possible interruption of use of affected natural resources for subsistence by the local population. The RP provided public notification of the claims process by creating a generic bulletin that was posted at local stores, aired on the local cable TV community bulletin board, and through a newspaper advertisement. This information was coordinated with NPFC's Claims Division. The information was scheduled for publication and broadcast during the first few weeks of the spill, and again during spring thaw when cleanup operations resumed.

Lessons Learned: Claims

Effective public notice: Public notice does not have to be expensive. Community messages at stores and on the local cable TV bulletin board were at no cost (An Alaska lesson-good for small communities).

The NPFC Claims Division: The Claims Division should be requested to review any advertisement(s), to ensure that OPA 90 provisions are met.

Capturing Government Costs

The FOSC's staff from the MSO and personnel from the Pacific Strike Team were assigned by their established UCS roles to capture government costs. To accomplish this, the Planning Section provided daily resource and personnel information to the Finance Section. This system of incorporating cost-related information in the Planning Section's daily output allowed government costs to be accurately tracked, enabling effective federal project ceiling management and, eventually, cost recovery.

Pollution Removal Funding Authorizations (PRFA)

The FOSC issued several PRFA's to other federal agencies: National Oceanic and Atmospheric Administration (Scientific Support), U. S. Navy Supervisor of Salvage (Lightering and Salvage Support), U.S. Fisheries and Wildlife Service (oiled wildlife rehabilitation) and the U.S. Army Corps of Engineers (contaminated soil treatment). PRFA's were not necessary for the State of Alaska or the City of Unalaska, since both coordinated direct reimbursement with the Responsible Party.

Lessons Learned: PRFA's

Direct reimbursement: It may be a financial advantage to the RP and other government agencies involved to work out a direct reimbursement process. In this case, by dealing with the RP directly, the City of Unalaska received quicker payments, and they were able to establish standard rates for heavy equipment in the event additional services were needed.

PRFA vs. Claim: A state may not want a PRFA for a number of reasons. In the KUROSHIMA case, the State of Alaska concluded they could not sign the PRFA due to the "hold harmless and indemnification" provision. Alternatively, a state can seek reimbursement from the RP directly or may seek reimbursement from the fund by filing a claim.

Be flexible: If another government agency has a resource that is needed for the response, find a way to fund it. In this incident the U.S. Army Corps of Engineers had a hazardous material incinerator in place on Unalaska, and the Unified Command had a need to treat oil-contaminated soils rapidly. The Corps' Alaska District had never worked for an FOSC under a "PRFA" before and required additional funding information. The situation was solved when NPFC's Financial Division created a page of supplemental information so the Corps' financial people could process the agreement.

Summary

When a spill occurs, people and organizations will respond, but even the best trained and motivated responders in the world cannot operate without available funds. If financial arrangements are not in place on a large response within a few days, then money and contracting issues can threaten to slow or stop cleanup efforts. If after three or four days, contractors are doing work but the RP has not arranged for funding or completed contracts, it is time to sit down with the RP and the contractors to resolve any funding problems so that they do not interfere with cleanup.

Cleanup operations cannot be interrupted by funding issues. OPA 90 established financial responsibilities for those who discharge oil, and the Oil Spill Liability Trust Fund as a resource to ensure funds are immediately available to FOSCs for removal actions. Any funds that must be expended are in turn billed to the identified RP. This financial relationship drives all parties in a response to communicate and coordinate in order to manage all aspects of cleanup activities, effectively and efficiently.

As the M/V KUROSHIMA case demonstrates, the NPFC can be a valuable resource in instances where funding problems arise during a spill. The unit's experience and focus, specific to the financial aspects of spill response, enables it to quickly recognize finance related problems, and makes it well equipped to deal with them. Through the use of the NPFC's unique "Case Team" concept, one representative on-scene can bring the entire NPFC to you, offering a wide range of funding expertise and assistance.

OSLTF:

AN EXCELLENT PREVENTION TOOL

CDR William Grawe and LT Lloyd Banks
Case Management Division

Substantial Threats:

Typically, the Oil Spill Liability Trust Fund (OSLTF) is used to fund "removal" activities after an oil spill occurs. However, it is also accessed by Federal On-Scene Coordinators (FOSC) to prevent oil from being discharged into the environment. Under section 1002(a) of the Oil Pollution Act of 1990 (OPA 90), "each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages…." The "removal costs" described in OPA 90 include "the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident." (33 USC 2701) In addition to responding to actual oil spills, OPA 90 and the National Contingency Plan (NCP) (40 CFR Part 300) charge FOSCs with initiating appropriate response activities when they determine a substantial threat of a discharge exists. Deciding when a substantial threat exists, and what appropriate activities are needed to eliminate or mitigate that risk, are decisions that Coast Guard and Environmental Protection Agency (EPA) FOSCs face every day.

Decision Making Process:

As in any incident, when determining the existence of a substantial threat, the FOSC must examine the same general categories of data and information. The specifics of this analysis will determine what action, if any, is required. The NCP tasks FOSCs with considering the potential size of an oil discharge, the character of the potential discharge, the potential threat to public health, and the welfare of the environment to determine if a substantial threat exists. In addition, FOSCs are advised to consult with other

agency officials, special federal teams (e.g., Coast Guard Strike Teams, Navy Supervisor of Salvage, NOAA Scientific Support Coordinators, EPA Environmental Response Teams,...etc.), and readily available authorities to learn more about the substantial threat a particular situation would pose. NPFC's Technical Operating Procedures provide additional decision criteria for FOSCs to consider when making a substantial threat determination. Those decision criteria ask the following questions:

(1) What is the likelihood of a discharge under the circumstances? Does the situation present an unacceptable probability that a discharge will occur without FOSC intervention?

(2) What is the proximity of the potential spill to a navigable waterway?

(3) What is the potential amount of oil which may be discharged?

(4) Are there any barriers to stop oil from flowing into a navigable waterway?

(5) What is the potential flow path of the oil to surface waters (for land based discharges) as indicated by slope, soil permeability, water table, storm drains, curtain drains, natural or manufactured conduits, or the like?

(6) What is the condition of or damage to the source of the potential spill?

(7) How might a change in environmental factors (e.g., weather, tides, etc.) affect the probability of a spill?

(8) If a spill did occur, what would be the potential impact on the local environment? What is the proximity to environmentally sensitive areas, populated areas, etc.?

(9) How promptly must action be taken to prevent a spill?

Recent Examples:

Once the FOSC examines the myriad issues associated with a substantial threat case and determines that response actions are, in fact, required, those actions must be executed promptly and effectively to ensure that the threat of a spill does not become an actual discharge. In the recent incidents outlined below, the FOSCs effectively used the OSLTF to prevent a substantial threat of an oil spill from deteriorating into environmental disaster.

On July 24, 1997, the 306-foot Panamanian flag freight ship, Motor Vessel FORTUNA REEFER grounded on a reef in the vicinity of the remotely located and environmentally sensitive Mona Island, 50 miles west of Puerto Rico. At the time of the grounding, M/V FORTUNA REEFER was carrying approximately 100,000 gallons of fuel oil. Based on the grounded vessel's exposed nature, proximity to environmentally sensitive areas, and a report of underwater hull damage, the FOSC quickly determined that a substantial threat of an oil spill existed. The OSLTF was opened and an $800,000 funding ceiling was established to help mitigate the threat. Response efforts continued for eight days and involved off-loading fuel, pre-staging response equipment (e.g., boom, skimmers,…etc.), and bringing oil dispersants to the scene to be available for immediate deployment. Eventually, the vessel was safely towed off the reef without a discharge of oil.

On November 6, 1996, the 464-foot German flag tanker, Motor Vessel IGLOO MOON went hard aground three miles off Key Biscayne, Florida in Biscayne National Park. This park is the largest marine sanctuary in the National Park System and protects over 180,000 acres of coral reefs, keys, shallow bay waters and mangrove forests. The vessel was carrying 6,500 metric tons of butadiene and approximately 180,000 gallons of fuel oil at the time of the grounding. Due to the stranded vessel's unsheltered position, reported damage to double bottom tanks, and the proximity to sensitive areas, the FOSC promptly determined that a substantial threat of an oil discharge existed, as well as a potential release of a hazardous substance. An OSLTF ceiling was established for $250,000 to mitigate the oil discharge threat and $355,000 in Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) funds were issued to mitigate the threat of a butadiene discharge. Response efforts continued for 16 days and included oil and hazardous cargo lightering operations and boom deployment. In addition, laboratory tests were conducted on the cargo to ensure that chemical inhibitors used to keep the butadiene stable would continue to be effective until the shipment could be successfully delivered. The vessel was safely refloated on November 21, 1996, without incident.

Conclusion:

While the OSLTF is a powerful tool for preventing oil spills from entering waters in the coastal environment, as demonstrated in each of the above incidents, it is equally effective assisting the EPA with preventing discharges into navigable waters in the inland zone. The OSLTF is routinely accessed to eliminate substantial threats posed by decaying oil transfer facilities, derelict barges, and hundreds of neglected oil wells. However, the use of the OSLTF for these purposes does not come without a cost to the polluter. NPFC pursues an aggressive cost recovery program against responsible parties to ensure OSLTF expenditures are recouped, including those expenses incurred to prevent, rather than clean up spills.

All photos courtesy USCG PIAT.

NON-MARITIME OIL POLLUTION:

A LARGE PART OF OUR BUSINESS

When most of us think of oil pollution we picture a large vessel spilling thousands of tons of oil on waterways and shores. Certainly, catastrophic tanker pollution incidents have played a major role in the development of oil pollution prevention laws. It was the disastrous grounding and discharge from the Exxon Valdez in Prince William Sound, Alaska, that spurred passage, after years of debate and delay, of both the Oil Pollution Act of 1990 (OPA) and the tax on oil that helped fill the coffers of the Oil Spill Liability Trust Fund.

But Federal authority to respond to oil pollution is not limited to pollution from vessels affecting waterways. Generally, Federal On-Scene Coordinators (FOSC) are authorized to remove any discharge of oil, and mitigate or prevent any substantial threat of a discharge, from vessels or facilities, into or on the navigable waters of the United States, adjoining shorelines and the exclusive economic zone. The term "navigable waters" has consistently been defined broadly by the courts to include tributaries to navigable waters. Thus a discharge or substantial threat of discharge of oil from a land-based oil storage tank facility to a drainage ditch, that connects to a creek, which in turn connects to a river, is within the scope of Federal removal authority. And under OPA, the owner and operator of the facility are responsible parties, strictly liable for resulting removal costs and damages.

The bulk of these "non-maritime" oil spills fall under the authority of the Environmental Protection Agency, which provides FOSCs for spill response in the inland zone in accordance with the National Contingency Plan. Typical non-maritime oil spill scenarios involve refineries, other industrial facilities that may store or use oil, fuel service stations, oil wells and even home heating oil tanks. The facility may be in active operation. But often, the facility has long been inactive and the discharge or threat is the result of neglect and deterioration. The facility owner at the time of the discharge or threat of discharge may have acquired ownership of the property long after the facility shut down, but is nonetheless liable for any resulting removal costs or damages.

Responses to these non-maritime spills can present challenges not generally found in the maritime context. Many involve hazardous substance contamination, as well as oil pollution. This is often the case with refineries and other industrial sites. In such "mixed pollution" situations, separate portions of the response project must be funded from separate sources; Superfund for hazardous substance removal and remediation, and the OSLTF for oil removal. The need to separately account for the proper expenditure of the two funds can complicate project planning and execution. Also, rights of those damaged by spills and liabilities of polluters are determined under more than one statute; CERCLA for the hazardous materials and OPA for the oil. Differences between these laws may create confusion or conflict. The class of potentially responsible parties under CERCLA is quite broad, including generators, transporters and owners that contributed to the hazardous contamination in the past. The class of responsible parties under OPA is considerably narrower: the owner and operator of the facility at the time of the discharge or substantial threat of discharge of oil. Owners or contributors of oil, and former facility owners and operators, are not liable under OPA. OPA provides for payment to claimants, public and private, from the OSLTF to compensate a wide range of damages caused by an oil discharge or threat of discharge. The same compensation scheme is not available under CERCLA, from the Superfund, for damages caused by hazardous substances.

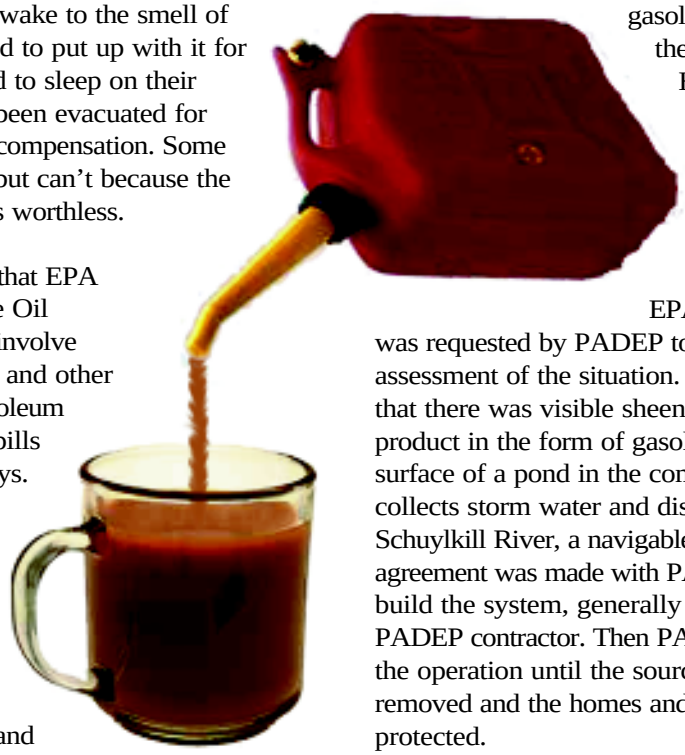
Non-maritime spill responses can take longer to complete and cost more than maritime responses. Generally, the bulk of the oil is discharged from the facility to the ground and not directly into the navigable water or tributary. An effective response therefore requires more than just absorbent pads and booms on the water. It must address the gradual but continuous leaching of oil into water from the oiled grounds. In such cases, the response may require extensive soil excavation and long term pump-and-treat operations. These oil removal methods can be extremely expensive and take years to complete. Recent National Pollution Funds Center statistics tend to roughly illustrate the point. While only 18 percent (688 of 3735) of the reported federal removal projects to date under OPA have been managed by EPA, they account for about 40 percent of outstanding commitments from the OSLTF ($115 million of the $294 million total). Average time to complete EPA managed projects is roughly a year compared to about 30 days for other, usually maritime-related spills.

As the financier for oil spill removal and damage compensation when the responsible party(ies) cannot or will not accept responsibility, the National Pollution Funds Center works closely with the FOSC during a response. This coordination is particularly important for non-maritime spill responses, which can involve mixed pollutants, mixed law and expensive and time-consuming removal projects. The next two articles, authored by EPA FOSC's, provide some examples of successful non-maritime oil spill response and removal financed from the OSLTF.

WAKE UP
and smell the gasoline?

by Richard M. Fetzer, Federal On-Scene Coordinator, U.S. EPA Region III

With the invention of the automatic coffee makers that turn on while you sleep and get your coffee ready to drink just when you awake, many Americans smell coffee when they jump out of bed in the morning. But, there are some who have the misfortune of living too close to a corner gas station whose tanks were leaking for years and years. They not only wake to the smell of gasoline, but have had to put up with it for years. Some have had to sleep on their porches. Some have been evacuated for months, without any compensation. Some would like to move, but can't because the value of their home is worthless.



Many oil spills that EPA responds to under the Oil Pollution Act (OPA) involve tankers and pipelines and other inland carriers of petroleum products who have spills to navigable waterways. However, EPA and states are finding a growing number of poorly maintained gasoline stations where their tanks' contents have found their way into the inland streams as well. I have recently completed the installation of a pump and treat system at one of these locations.

The name of the site is the Hometown Gas Site, located in the residential community of Rush Township, Schuylkill County, Pennsylvania, approximately 15 miles south of Hazleton. Not only did the residents in this community have gasoline odors in their homes, but their drinking water wells were contaminated, and there was gasoline coming to the surface on a stormwater pond located in the community.

In 1991 the Pennsylvania Department of Environmental Protection (PADEP) responded to the problem and connected some residents to a water line, but others could not be connected due to local limitations. PADEP also installed some ventilation systems on the sewage pipes, which acted as a conduit for the gasoline odors. PADEP contractors had developed a preliminary design for a treatment system which would recover the gasoline and prevent the gasoline from getting into the receiving stream. However, PADEP eventually did not have the resources to build the system.

In April 1996, EPA OSC Jerry Heston was requested by PADEP to perform an assessment of the situation. The OSC confirmed that there was visible sheen of a petroleum product in the form of gasoline coming to the surface of a pond in the community. This pond collects storm water and discharges to the Little Schuylkill River, a navigable waterway. An agreement was made with PADEP that EPA would build the system, generally as designed by the PADEP contractor. Then PADEP would assume the operation until the source was properly removed and the homes and stream were protected.

Construction of the treatment system began in the fall of 1996 with the installation of the conveyance pipe running from the recovery wells and sump to the gas station building, where the treatment system was installed in the fall of 1997. The system can treat approximately 60,000 gallons of contaminated water per day. EPA spent approximately $1.5 million of OPA funds to install the overall pump and treat system.

On February 26, 1998, the official start-up of the system was celebrated with a wide variety of

participants, including: a representative from U.S. Congressman Timothy Holden's office, Pennsylvania and Rush Township elected officials, EPA and PADEP officials, private citizens, and the press. PADEP will take over operation of the system as soon as contracts can be awarded through the state procurement system. They originally estimated the need to run the system for at least five years to attain the water quality discharge goals.

Due to the actions described above, the smell of gasoline is gone, both in the homes and at the pond. But it is not easily forgotten. One reminder of the gasoline spill is the remaining orange colored boom which stretches across the pond. Hopefully as the years pass the memory of the spill will fade at Hometown. However, this OSC knows that there will be other communities where people will wake to the smell of gasoline instead of coffee. Hopefully they will be as fortunate to receive the help that the people in Rush Township got from the Commonwealth of Pennsylvania and the U.S. Government.

OPA and the Flood of 1997: Indiana's Perspective

by Patrick Colcord
Indiana Department of Environmental Management

An unheralded story occurred in the spring of 1997 when the swollen Ohio River flooded an abandoned refinery and the Indiana Department of Environmental Management (IDEM) and U.S. Environmental Protection Agency (EPA) joined forces in a concerted clean up effort. Indiana's southern border received national attention when flood waters ravaged all thirteen of its Ohio River counties.

The former Somerset Refinery is located in Spencer County, approximately one mile from the remote town of Troy, Indiana. The small refinery lies next to the Ohio and Anderson rivers and is divided by State Road 66. Transportation from the facility operated along the Ohio River while production operated north of the highway. Built in the 1920's, the facility was once part of the Town of Maxville. Maxville resembles a ghost town with only the old refinery structures remaining. The floods of 1937 and 1964 forced people away and they never returned. Maxville can be spotted on road maps, but not along the highway. Long before the Town of Maxville was established, a young Abraham Lincoln operated a ferry boat that transported travelers across the Anderson River at this location, The Lincoln-Ferry Park offers a grand view of the Ohio River and the remnants of Maxville.

When the refinery was built, flooding and environmental concerns were certainly not considered. Today, regulations covering flood-way construction and the environment would never allow a refinery to be built so low and close to the

river. During the floods of 1937 and 1964, the site was under water and untold volumes of petroleum were lost to the river. The refinery survived the floods but could not survive the petroleum economy. Somerset closed in the late 1980's and lay dormant for several years.

In May 1996, Somerset Refinery was sold to an out-of-state salvage dealer for $50,000. The new property owner had an extensive history in Indiana for creating mountains of scrap tire piles before regulations governing scrap tires were enacted.

In June 1996, the owner began dismantling the refinery. Several underground storage tanks and pipes had been removed for salvage. In the following months, several complaints were made to the Spencer County Health Department about oil spills and scrap tire dumping. Nearly 6,000 scrap tires were found at the Somerset site before the operator was stopped. The local fire department responded to four storage tank fires at the property. The owner claimed that the tanks accidentally caught fire while cutting them with an acetylene torch. After the third and fourth fires, the local conservation authorities arrested him on open burning charges.

IDEM inspected the site and the owner was instructed to clean up the property. A settling basin holding thousands of gallons of petroleum sludge was to be solidified by him. IDEM has an "enforcement first" policy that forces the responsible party to clean up an environmental mess before spending public funds.

The State's discovery of the National Pollution Funds Center, enacted under the Oil Pollution Act of 1990, could not have come at a better time. Indiana's Hazardous Substances Response Trust Fund that deals with petroleum and hazardous waste sites is being depleted by operation and maintenance costs at state Superfund sites and at state funded projects. Additionally, a portion of these monies has been allocated to brownfields redevelopment. These commitments to Indiana's environment make it critical that IDEM find additional funding sources to help meet our commitment to Indiana citizens. OPA takes a big burden off of the State by allowing for reimbursement for petroleum cleanups to our navigable water ways.

On March 7, 1997, IDEM received news of the flooding on the Ohio. A crew immediately went to the site and found most of the site under water. Oil and petroleum sludges were floating on the backwaters. The owner was showing his insurance agent his excavation equipment, in chest-high flood waters. State Road 66 acted as a partial levee on the north side of the property and kept that part of the property from fast currents. On the south side, a fueling station with five large above ground storage tanks were only accessible by boat. The flood waters rose to a level just inches from overtaking the containment area surrounding of the tanks. The containment area had filled with water from underneath and several feet of oil were floating on top. No oil was observed in this containment area during previous inspections, leading IDEM to believe that the valves on the tanks had been opened prior to the flood.

The property owner failed to comply with IDEM demands and with the flood waters rising, quick decisions had to be made. IDEM immediately contacted U. S. EPA Region 5. Indiana and the Region 5 Remedial Response Section have enjoyed a

long and successful partnership. In recent years, this partnership has been formalized with the Environmental Performance Partnership Agreement, a program designed to streamline state and federal environmental programs.

IDEM and EPA agreed that the emergency project in Spencer County was an ideal candidate for reimbursement from the National Pollution Funds Center under the Oil Pollution Act. The State of Indiana accessed OPA funding through EPA Region 5. IDEM contractors immediately responded by placing mechanical booms around the oil floating on the backwaters of the property. A vacuum truck parked on the Anderson River Bridge vacuumed the contained oil from the river just a few feet below. Absorbent booms were strategically placed to soak up oil and prevent it from moving down river.

USCG PIAT Photo

The refinery was under water except for the upper halves of the storage tanks and some operating equipment. The petroleum had been lifted from the settling basin and the containment areas and was floating on the backwaters of the flood. Sand bags were boated to the containment area and a temporary levee was built the keep the river out.

No one knew the level that the Ohio River would crest or if the containment area would be overtaken. The crew waited and watched as the waters crested 12.4 feet above flood stage. The river seemed to fall as fast as it rose. As the water fell, oil and oily solids contained by the booms settled to the ground.

After the flood receded and the initial mess was cleaned up, IDEM took the next step and arranged for the removal of all of the petroleum products in the storage tanks on-site. IDEM found oily water and sludge in the tanks. The water was pumped out and treated at a nearby facility. The sludges were solidified and disposed in a nearby special waste landfill.

While conducting the Somerset project, IDEM worked closely with EPA Region 5. Betty Lavis, On-Scene Coordinator from Region 5, acted as the primary contact. Her assistance, patience, and guidance to the State of Indiana were greatly appreciated and enhanced the positive relationship between IDEM and the EPA. Additional federal assistance was received from Commander Tom Tansey of the U.S. Coast Guard National Pollution Funds Center.

Indiana was a major producer of petroleum until the 1960's. Indiana ranks as a leading state in the storage of petroleum and as "the crossroads of America" in the transportation of petroleum products. In the past, Indiana had large petroleum spills but had always called in federal officials to manage the cleanup. Today, with reimbursement available from the National Pollution Funds Center, Indiana is capable of managing future petroleum spills on its own.

The State of Indiana has set a number of strategic goals for the future to protect the State's environment. OPA funding will play an important role in helping IDEM meet its goals.

AUDITS AND INTEGRATED SYSTEMS: KEYS TO SUCCESSFUL FINANCIAL MANAGEMENT

by Darrell Neily, Chief, Financial Management Division

When NPFC opened its doors for business in 1991, it broke new ground in operating procedures and mission. NPFC "plank owners" developed an organization and policies that, at least on paper, would meet the many requirements of Title I of the new Oil Pollution Act and other laws and regulations. In order to focus on customer service and field support, NPFC adopted a case management structure. At the same time, financial management still depended largely on use of the Department of Transportation's accounting system (DAFIS–Departmental Accounting and Financial Information System).

The Promise of Integrated Financial Systems

Managing a billion dollar pollution trust fund is complex. The financial aspects of hundreds of simultaneous oil spill responses require the use of robust automated financial systems. Money flows in many directions and must be accurately tracked.

- Funding and tracking requirements in response to a pollution incident include the following:
- On-Scene Coordinators and Natural Resource Trustees must have immediate access to funding to buy equipment and services for their response efforts.
- Claimants proven to have been damaged by oil spills need to be paid to cover their losses.
- Fund managers must know how much money is available, especially when funds are limited and spread among many users nationwide.
- Federal coffers must be replenished by recovering funds spent when parties responsible for a spill are known.

To meet these demands and other fiduciary responsibilities, NPFC must have accurate financial data that withstands scrutiny of annual financial audits.

Initially, to bridge the information needs of both management and accounting, NPFC implemented the Lotus Notes groupware application. The Notes system served both to organize financial data by case, and served as a "feeder system" for DAFIS.

However, as case and billing activity grew, we learned that we also needed a true accounting system with relational database features to effectively manage our financial data. The solution was to develop a customized off-the-shelf accounting system for NPFC's unique business practices. A custom version of Oracle Federal Financial applications was then developed and implemented.

Over the past year, NPFC has been implementing the customized Oracle Federal Financial System as the cornerstone of the NPFC Expert Management Information System (NEMIS). Federal spending captured in DAFIS is downloaded daily to the Oracle system. This spending data becomes the source of what we bill and recover from responsible parties. The Oracle system serves many purposes. Among the most important are:

- tracking fund use nationwide, including payments to claimants;
- producing exception reports when amounts that should match don't;
- alerting case officers at predefined points to preparing bills, dunning letters, and referrals to debt collection;
- allowing us to measure and monitor performance;
- allowing us to easily meet our many reporting requirements; and

- ensuring compliance with the Chief Financial Officers Act.

In the future, if development funding is available, we would like to pursue further integration of relevant financial systems, including:

- integration with Coast Guard and other agency financial systems,
- new uses of the Internet,
- document imaging, and
- workflow technology.

Our goals are to capture data once, import the data into a financial system, and provide common access to the data by all organizations that need access to it. This will allow us to operate at maximum efficiency and effectiveness.

Audits at NPFC: Challenges Lead to Improvement

When responsible parties (RPs) are found, NPFC bills the RPs for costs incurred by the federal government for each pollution response. Currently about $80 million in "accounts receivable" is owed. This amount is over half of the accounts receivable reported in the financial statement of the Department of Transportation.

The Chief Financial Officers Act of 1990 requires an annual audit of the Department's financial statement. So naturally, the NPFC's accounts receivable records get extra scrutiny in these audits.

NPFC records for the Oil Spill Liability Trust Fund have been audited every year since 1993. For the first few years, NPFC spent considerable time and effort preparing for these audits. Most of the case team members spent several weeks reviewing spending, billing, accrual of late fees, and collections for each open case. The lessons learned in these audit preparations and in the audits themselves prompted development of the Oracle system described above. The Oracle system has provided the accuracy, integrity and controls needed to eliminate the need for extensive audit preparation. No longer does NPFC need to launch a major project each year to review and reconcile case financial activity.

In 1996, a "program audit" was conducted to review cycle times for billing and recovering federal spill response and damage claims expenses. This audit found that billing and dunning letters should be more timely. As a result, NPFC implemented new criteria for prompt interim billing as expenses were incurred, and for scheduled dunning letters to delinquent responsible parties.

Similar improvements resulted from annual audits of our management of Superfund for Coast Guard hazardous materials cases. Problems identified in these audits led to tightening of policies in a Memorandum of Understanding with the Environmental Protection Agency, the administrator of Superfund. The NPFC improved coordination with the field by establishing a network of "Macro-users", program coordinators to assist in planning and executing on-going Coast Guard-wide Superfund activity. New guidance to Coast Guard fund users strengthened property management, funds management and reporting. The Oracle system offers similar benefits to our management of Superfund.

These audits have helped NPFC improve processes and internal controls, and thereby pass the audits. The road to improvement has been challenging, but in the end, very rewarding. NPFC now has systems and policies in place that provide efficient and effective management of the pollution trust funds.

Partnering With Other Federal Agencies

by CDR Liston A. Jackson

The National Pollution Funds Center (NPFC) recently partnered with Federal and State officials to address a long standing threat of pollution and hazard to navigation from derelict barges in Louisiana. The goal of this partnership is to clean, remove and dispose of barges by coordinating limited resources available to each partner. Ultimately, the State of Louisiana will derive great benefits from this initiative by improving the cleanliness of the environment and Federal officials will also benefit from their development of improved interagency cooperation.

Background

Substantial numbers of derelict barges exist in and around the navigable waters of Louisiana, many of which contain significant quantities of oil or hazardous substances. Left over from the decline of the oil industry in Louisiana in the mid-1980's, these barges continue to threaten navigable waters and serve as disposal sites for illegal midnight dumping operations. As early as 1990, the U.S. Coast Guard took steps to gauge the scope of the problem by conducting a survey known as Operation Snakepit. Aircraft overflights and ground reconnaissance discovered over 150 barges, some of which were apparently used for illegal dumping of oil and hazardous waste. Several removal actions took place as a result of Operation Snakepit.

The overall problem presented by numerous derelict barges still remained, however. In 1995, another survey of derelict vessels was completed by the State of Louisiana Oil Spill Coordinator's Office. Over 800 vessels were found; approximately 160 were barges containing significant quantities of oil and hazardous substances. Some of the barges posed a substantial threat due to their poor condition and proximity to navigable waters and environmentally sensitive areas.

Abandoned Barge Pilot Project

The U.S. Coast Guard, the U.S. Environmental Protection Agency (EPA) and the Louisiana Oil Spill Coordinator's Office (LOSCO) together decided a joint team approach was required to begin solving the stubborn problem of numerous oil and hazardous-substance-filled abandoned barges. After considering several alternatives, the affected Agencies determined that a coordinated team effort could reduce the pollution threat from the abandoned barges. Also, the extent of the problem required pooling together limited resources for greater efficiency and effectiveness and to avoid duplicating efforts. Partnering enhanced the ability of each agency to perform their statutory responsibilities. The long history and size of the abandoned barge problem necessitated an incremental problem-solving approach. Therefore, a pilot project was begun in March 1998 to test and refine a removal and disposal strategy. Barges cleaned and disposed of under the pilot project were to be limited to those without known owners or operators.

Outcome

The NPFC provided funding for removal (cleanup) costs from the Oil Spill Liability Trust Fund (OSLTF) for barges with discharges and those that presented a substantial threat of discharge. The Eighth Coast Guard District worked closely with EPA Region VI in Dallas, Texas, who provided the Federal On-Scene Coordinators (FOSCs) for the removal actions for both the coastal and inland zones. The U.S. Coast Guard Gulf Strike Team from Mobile, Alabama worked for the EPA FOSC providing contractor oversight, site safety, and preparing cost documentation. Once the oil was removed and the barges cleaned, the State of Louisiana Oil Spill Coordinator's Office took possession of the barges at no cost to the Federal Government for disposal under state law.

The NPFC felt gratified in the efforts to team up with the EPA, State of Louisiana, Coast Guard District Eighth and the Gulf Strike Team to prevent spills from derelict barges, and fully expects to continue this partnering agreement well into the future, not only in Louisiana, but in other States as well.

NEMIS: NPFC's Expert Management Information System

by Dana Compton

Throughout this issue of Proceedings, you will read about the many diverse functions of the NPFC, such as OSLTF funds management, cost recovery, claims adjudication, and vessel certification. The catalyst for the successful management of all of these functions is state-of-the-art information technology. NPFC's application of this technology is NEMIS - NPFC's Expert Management Information System. NEMIS is the overarching information resources management (IRM) system which both supports and integrates the business lines of NPFC. It provides the platform by which case team members can interactively participate during the prosecution of pollution cases. It provides a system for the management of the vessel certification function and the adjudication of third party claims. NEMIS will also provide the platform for NPFC's intranet, by which all NPFC employees have access to NPFC's Strategic Business Plan, internal Standard Operating Procedures (SOP's), Coast Guard and NPFC instructions, executive information, policy and legal guidance, and other shared data. It permits management to measure and analyze statistics for the purposes of internal and external reporting, Department of Transportation Inspector General (DOTIG) audit preparation and workload reallocation and distribution. It provides the tools through which Government Performance and Results Act (GPRA) measurements and progress toward GPRA goals can be measured and evaluated; tools which are critical to accomplishing our Total Quality Initiatives, especially for providing superior customer service and continuous process improvement.

NEMIS System Goal—
An integrated IRM system capable of meeting the rigorous auditing and reporting requirements of the CFO Act and supporting the business processes of NPFC.

NEMIS ARCHITECTURE

The NEMIS architecture is comprised of the following business modules and system-wide capabilities; all of which are in various phases of development:

Business Modules

- Case Management Information System
- Financial Management
- Claims Adjudication
- Vessel Certification
- Resource Management

System-Wide Capabilities

- NPFC Intranet/Executive (planned)
- Workflow and Imaging (planned)
- Internet/Electronic Commerce (under development)

NEMIS MODULES

Each of the 8 NEMIS modules are in a different phase of development, with some modules near completion and others in the early stages of development. The following is a summary of the status of the development and implementation of each NEMIS module:

1. Case Management

The NEMIS Case Management module is the focal point for all pollution funding and billing activity. It provides the platform by which multi-disciplinary case team members jointly access individual case files, enter financial data, create chronological logs on actions taken, and provide templates for debt collection, payment and follow-up. The case management system utilizes a Lotus Notes in Oracle Project Accounting System which is part of the suite of Oracle financials with direct interoperability with Oracle Accounts Receivable and General Ledger applications, which are also being implemented at the NPFC.

2. Financial Management

The Financial Management module in NEMIS is responsible for tracking and reporting on all funds movement in and out of the Oil Spill Liability Trust Fund (OSLTF) and the CG's use of Superfund. It must be able to accurately account for all pollution fund spending and receivables, and perform a number of financial management functions in accordance with Chief Financial Officer (CFO) Act requirements. The financial management module utilizes Oracle Accounts Receivable and General Ledger applications with direct interoperability with the Oracle Project Accounting application implemented as the NEMIS Case Management Module.

Commercial off-the-shelf (COTS) Financial Systems are being integrated into the existing Lotus Notes Case Management system to ensure successful management of all financial data. They are the Oracle Accounts Receivable, General Ledger and Project Accounting systems. All three Oracle systems went into production in October, 1997.

3. Claims Adjudication

The Claims Adjudication module provides a repository of all data associated with claims received by NPFC and supports the timely and equitable adjudication of claims. It supports the cost recovery and litigation processes by ensuring accurate and comprehensive documentation are maintained. It tracks claims to final resolution and documents source designation and advertising. It provides an interface of claims financial data with other NPFC financial systems such as DAFIS and NPFC's Oracle Accounts Receivable, General Ledger and Project Accounting system applications. The conversion of the Claims Adjudication module to an Oracle database, integrated with the Case and Financial NEMIS modules is in the development stage.

4. Vessel Certification

NPFC's Vessel Certification Division maintains a comprehensive interactive data base on over 18,000 certificates of financial responsibility for vessels transiting the waters of the United States. The division processes applications from vessel operators for Certificates of Financial Responsibility (COFRs), ensures vessels carry adequate insurance and issues COFRs to vessel operators. The COFR system module supports the data management and reporting aspect of these functions, and also supports CG field COFR enforcement efforts. Entries into the database are also uploaded to Marine Safety Information System on a nightly basis in order to provide timely information for enforcement purposes.

The COFR Database is being transitioned from a CTOS Progress Database format, which will no longer be supported by the Coast Guard, to an

Oracle database. The conversion of the COFR database is starting development.

5. Resources Management

The Resources Management NEMIS module maintains data on personnel, equipment inventories, and supplies. It stores training plans and records, performance evaluation data and military Officer Evaluation Reports (OERs). It is necessary to ensure efficient human resources management and reporting.

The current Resources Management module resides in Lotus Notes. The conversion to the Oracle database has not yet begun, and is not scheduled until after all the remaining modules and capabilities have been fully implemented.

6. NPFC Intranet/Executive Information System

A critical aspect of the NEMIS architecture is the development of an Executive Information System (EIS) where all employees have access via the NPFC intranet to the organizational strategic business plan, internal SOPs, CG and NPFC instructions, executive information and reporting, policy and legal guidance, Interagency Agreements and Memoranda of Understanding, and other shared data. The EIS will have roll-up features from other modules, permitting management to measure and analyze statistics for internal and external reporting, IG audit preparation and workload reallocation and distribution. It will provide the tool by which NPFC's Strategic Business Plan can be linked to performance outcomes and progress toward GPRA goals can be measured and evaluated.

The design of the NEMIS EIS has not yet begun. NPFC has recently been looking at several EIS commercial-off-the-shelf (COTS) applications for use in NEMIS.

7. Workflow and Imaging

NPFC performs a variety of interrelated, multistage business practices that require cooperative efforts and significant workflow interactions between the different Divisions and external customers. Claims processing, Certificates of Financial Responsibility (COFR) requests, cost recovery efforts, and financial management requirements all involve detailed processes that need to be monitored and tracked. Integration of an automated workflow and imaging system will provide NPFC with a mechanism to streamline these processes and allow for a more efficient use of resources. Additionally, in recent months, both the Secretary of Transportation and Office of Management and Budget (OMB) have shown a renewed interest in agency compliance with the target reduction levels of the Paperwork Reduction Act. Seventy-five percent of Coast Guard work falling under the Paperwork Reduction Act results from reporting requirements generated by the Oil Pollution Act. The Workflow and Imaging portion of NEMIS will substantially reduce the need to maintain duplicate paper records for case, claim, and COFR files by allowing documents to be stored electronically and will contribute to the Coast Guard's progress of meeting target reductions.

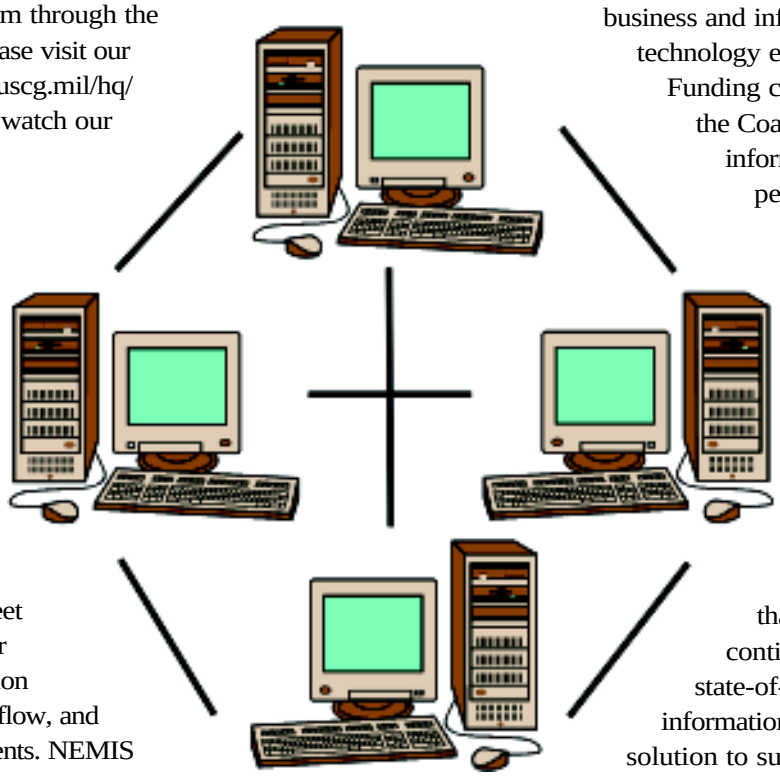
The design of the NEMIS Workflow and Imaging is still in the planning stage. NPFC has recently started reviewing COTS workflow and imaging software.

8. Internet/Electronic Commerce

Internet support and development enhances NPFC's Home Page on the World Wide Web for electronic commerce capability with the marine insurance industry, and supports NPFC's vessel certification, claims adjudication, cost recovery, ceiling requests, and other business processes. The goal of NPFC's Internet and electronic commerce capability is to allow NPFC's customers, regardless of their automation system capabilities, to access needed services and information from NPFC. For example, in the future we anticipate that a claimant, who has suffered some type of damage or loss of income from an oil spill incident, will be able to submit claims electronically and to easily determine the status of his/her claim at any time. A database which stores information on the COFR status of over 18,000 vessels is on our web-site (http://cofr.npfc.gov) for access by the marine insurance and transportation industry. We also plan to post a copy of the COFR application form

(CG 5585) on our page for downloading. Potential applicants will no longer have to call the NPFC to request a blank form through the mail or via fax. Please visit our site at http://www.uscg.mil/hq/npfc/npfc.htm and watch our progress as our capabilities grow.

The continued integration and development of the NEMIS modules will provide enhanced system capability and the versatility of data manipulation to meet NPFC's demand for increased information management, workflow, and reporting requirements. NEMIS will continue to be a very critical and essential aspect of our ability to accomplish our various missions. NEMIS system development has occurred in a time of rapid change in both our business and information technology environments. Funding constraints within the Coast Guard and information technology personnel shortages have presented new challenges throughout the implementation. However, as NPFC moves ahead with the next phase of NEMIS development, we are confident that we can continue to provide a state-of-the-art information technology solution to support and integrate the business lines and improve the business processes of the NPFC.



The scope of NEMIS is significant in that it supports NPFC's management of the billion dollar Oil Spill Liability Trust Fund and every source of income and expense coming into and out of the Fund.

- Since 1990, the NPFC has managed income into the Fund totaling **$1.9 billion** from five primary sources: the $.05 per barrel oil tax, fines and penalties, interest on Treasury investments, transfers from existing funds, and over $71 million in recoveries from responsible parties.

- The NPFC also provided oversight of over **$850 million** in expenditures from the Fund from FY90 through FY97 including appropriations and Emergency Fund expenditures.

- In addition, the NPFC has adjudicated over 5200 claims presented to the Fund totaling **$273.5 million** (including **$22.6 million** in claims payments) and collected over $3.9 million in fees for Certificates of Financial Responsibility.

ARE YOU TECH READY?

by LT Albert Wylie
Information Technology Division

At the most inconvenient time, your phone rings. You, as a Federal On-Scene Coordinator (FOSC), Qualified Individual, Operations Boss, or Clean-up Contractor, pick up the phone. You quickly come to realize you are receiving notification of the responsibility of cleaning up oil which is rolling in on the surf, impacting miles of pristine sandy beaches. You each begin the checklist process in your mind: What's the immediate fix? Can I stop any further pollution? Who should I call? How will I begin to recover the oil? What type of environment is this impacting? What is the sensitivity of this issue? Are my people ready? Is the equipment available and ready: boom, sweep, boats, skimmers, vacuum trucks, and technology? TECHNOLOGY? WHAT? Yes, technology! Do I have all my software up and running? Are work stations, printers and means for remote communications available to me and operating?

Prior to the introduction of our remote system capability, NPFC experienced many system "communication" problems, when personnel responded off-site to a pollution incident, including: no automated capability or communications with the home office; documentation of information slow and inaccurate; information was lost or unreadable; total cost information was delayed; and/or inadequate resource tracking.

A software platform(s) and a remote work station(s) can help with just about everything, and especially with documenting equipment, materials, and personnel usage during an oil spill response. This in turn will save your organization money. The National Pollution Funds Center (NPFC) is constantly working to stay in stride with current technology which will efficiently document and track expenses. The organization also has the capability of setting up a satellite office in the field, close to the action.

A Case Officer and/or Claims Manager is assigned to each spill. Depending on the size or cost of spill, a Case Officer and/or Claims Manager could be deployed to the scene of the spill to assist the FOSC and the Responsible Party in documenting costs. With our existing NPFC Expert Management Information System (NEMIS) database, it is easy to maintain communications with Case Officers and Claims Managers at the spill site. Messages go directly to the case file to keep the Case Officer current and all letters and forms are available on-line at the push of a button. Everything the Case Officer and Claims Manager needs is already a part of the electronic case file. The Case Officer via the NEMIS database at the spill site, can replicate every day back to NPFC in Arlington, VA to update the home office records which keeps everyone informed. This process was performed successfully during the 1994 MORRIS J. BERMAN tank barge spill in Puerto Rico.

More recently, NPFC implemented an Oracle off-the-shelf financial database to monitor the funds. This process, though not yet validated "under fire" during a significant spill, still has the capability of connecting from a satellite office. To facilitate the process, and ensure it is available in all future spills when NPFC is called to support the FOSC, NPFC has designed a portable configuration on laptops, available for immediate use by NPFC personnel.

In a large spill, the benefits of having an automated resource tracking and cost documentation system to support the FOSC can result in better spill management, saving of millions of dollars in the cost recovery phase of the incident, which was a cost well worth the investment.

OUTREACH
to the Environmental Community

by Dana Compton,
Customer Services Division

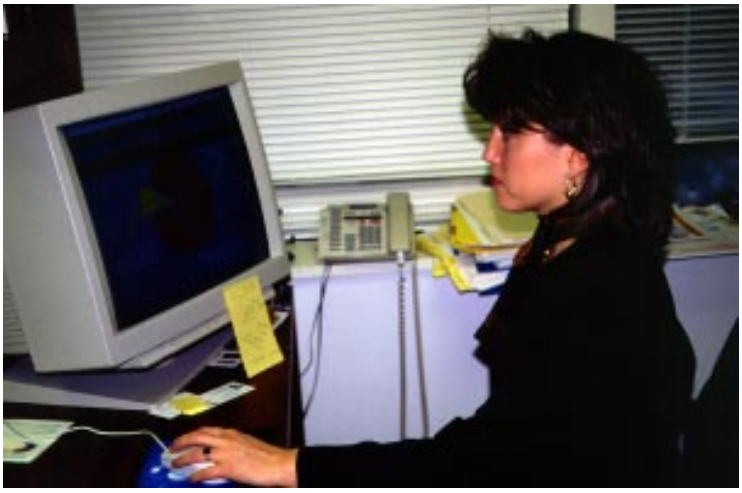
The NPFC has a dynamic outreach program designed to meet the demands of our various customers in the environmental response and maritime communities. These customers include USCG and EPA oil spill response personnel, other government agencies, Federal, state, and Indian natural resource trustees, the maritime industry, the fishing vessel community, international organizations, and the general public. NPFC's guiding principle in the execution of its outreach program is "helping our customers get the right thing done the first time." Our program includes a wide variety of innovative outreach initiatives and published guidance materials developed to meet our customers' specific needs.

The OSLTF User seminars are designed to provide information on the OSLTF to the environmental response community. The seminars cover a wide array of OSLTF topics including financial management of spill response, cost documentation, claims, contracting, and natural resource damage assessments. Since the first seminar held in July 1994, the NPFC has conducted nine seminars in various U.S. cities.

Over the past two years, the NPFC has partnered with the U.S. Naval Media Center to produce a series of training and educational videos. The first video, *Vessel Certificates of Financial Responsibility for Water Pollution* provides information and guidance on the Certificate of Responsibility program to Coast Guard and U.S. Customs Service field personnel. The second video, *Funding a Cleaner Environment*, was completed in FY97 and provides viewers with general information on the organization's roles and missions. NPFC is currently working on a third video for Coast Guard and EPA Federal On-Scene Coordinators on financial management issues during spill response.

An important part of NPFC's outreach program is our Case Officer visitation cycle to Coast Guard and EPA district and field offices. Each year, NPFC case officers visit each District and field office in their region to provide ongoing training to Federal On-Scene Coordinators and their financial management staffs. These visits ensure that field personnel are always current on NPFC policy changes and issues and keeps the NPFC in touch with the environmental response community.

NPFC has an extensive library of Microsoft PowerPoint presentations that are used by NPFC staff for internal and external briefings and are also made available for use by field personnel. Briefings range from the NPFC Standard Brief, which provides



an overview of the NPFC, OPA, and the OSLTF to cost documentation requirements for CG and EPA Federal On-Scene Coordinators.

The contents of our Internet home page include our annual *Year in Review*, introductory brochure, *Claimant Information Guide*, Vessel Certification information, OSLTF User Seminar announcements, and press releases. The NPFC home page address is: http://www.uscg.mil/hq/npfc/npfc.htm.

The NPFC has also developed an extensive library of guidance materials, including five Technical Operating Procedures (TOPs), which provide our customers with a wealth of information on the NPFC, our roles and missions, and Fund access and use. The following is a summary of the materials available:

- The TOPs serve as Coast Guard guidelines for Fund users. They provide an efficient means to compile and submit material by providing formats, forms, and instructions to submit documentation. Information about all of the NPFC's TOPs is provided below:
  - Removal Cost TOPs provide clear guidelines to determine valid and necessary removal costs for a substantial threat or actual oil discharges.
  - Initiation of NRDA TOPs describe the procedures for trustees who seek access to the Emergency Fund to initiate an assessment of natural resource damages.
  - Resource Documentation TOPs contain information developed to assist FOSCs in documenting and reporting resources associated with removal activities.
  - State access TOPs describe the procedures for states to access OSLTF, including requirements for documenting expenses, investigation requirements, and submitting documents for reimbursement.

- Designation of Source TOPs contain information for FOSCs in conducting investigations to identify sources of a substantial threat or actual discharge of oil, designating these sources, and duly notifying the responsible parties and their guarantors.

■ The NPFC BROCHURE describes the NPFC's organization, its roles, and missions.

■ The NPFC YEAR IN REVIEW provides and annual overview of NPFC operations and OSLTF use since its inception on February 20,1991, and for each fiscal year thereafter.

■ The CLAIMANT'S INFORMATION GUIDE provides information to potential claimants on how to file claims and what types of claims may be submitted.

■ The NPFC USER REFERENCE GUIDE serves as a single source book for various groups that may need to gain access to the OSLTF or the portion of the Superfund accessible to the Coast Guard. The User Reference Guide contains all of the TOPs listed above, the Claimant's Information Guide, and many other Fund access and financial management references.

NPFC's outreach program is designed to provide our customers with information on:

- NPFC missions and functions;
- Various ways to gain access to the OSLTF;
- Specific requirements for cost documentation to support cost recovery efforts;
- Process for submitting a claim to NPFC;
- Eligibility for compensation;
- Information on owner and operator financial responsibilities and limits of liability under OPA; and
- General information concerning Title I of OPA.

http://www.uscg.mil/hq/npfc/npfc.htm

Our Customers:

- U.S. Public
- USCG and EPA Oil Spill Response Personnel
- Other Government Agencies
- Federal, State, and Indian Natural Resource Trustees
- Maritime Industry
- Fishing Vessel Community
- International Organizations

A copy of any of our guidance materials or information on any aspect of NPFC's outreach may be obtained by calling Ms. Dana Compton at (703) 235-4743 or Mr. John Baker at (703) 235-4717.

Reference Guide
eview
NPFC Brochure

Nautical

Deck Questions

1. You must medevac a critically injured seaman by helicopter hoist. Which statement is TRUE?
   a. The ship's relative wind should be from dead ahead at 10 to 30 knots.
   b. The deck crew at the hoist point should not wear baseball hats.
   c. The helicopter's drop line should be secured to the ship not more than 15 feet from the hoist position.
   d. When using a "horsecollar", the bight of the loop should be around the chest of the injured seaman.
2. Damage to cargo caused by dust is known as
   a. contamination.
   b. oxidation.
   c. tainting.
   d. vaporization.
3. Your ship is steaming at night with the gyropilot engaged when you notice that the vessel's course is slowly changing to the right. What action should you take FIRST?
   a. Switch to hand steering.
   b. Shift steering to the emergency steering station.
   c. Call the Master.
   d. Notify the engineroom.
4. The "margin plate" is the
   a. outboard strake of plating on each side of an innerbottom.
   b. outer strake of plating on each side of the main deck of a vessel.
   c. plate which sits atop the center vertical keel.
   d. uppermost continuous strake of plating on the shell of a vessel.
5. For any given pedestal crane, when the boom is lengthened, the lifting capacity is
   a. unchanged.
   b. increased.
   c. eliminated.
   d. decreased.
6. A crack in the deck plating of a vessel may be temporarily prevented from increasing in length by
   a. cutting a square notch at each end of the crack.
   b. drilling a hole at each end of the crack.
   c. slot-welding the crack.
   d. welding a doubler over the crack.
7. A serving mallet is used in
   a. covering wire or fiber rope.
   b. forcing fids into a line.
   c. dogging hatches.
   d. splicing lines.
8. All of the following steps are taken in starting a centrifugal pump, EXCEPT to
   a. set the relief valve.
   b. check the lubrication system.
   c. vent the pump casing.
   d. open the pump suction and discharge valves.
9. Your enrolled vessel is bound from Baltimore, MD, to Norfolk, VA, via Chesapeake Bay. Which statement about the required Pilot is TRUE?
   a. The Pilot must be licensed by either Virginia or Maryland.
   b. The Pilot need only be licensed by the Coast Guard.
   c. The Pilot must be licensed by Virginia and Maryland.
   d. The Pilot must be licensed by Virginia, Maryland and the Coast Guard.
10. Generally, you can best keep a vessel under steering control when the vessel has
   a. headway.
   b. sternway.
   c. no way on, with engines stopped.
   d. no way on, with engines full ahead.

ANSWERS: 1-B, 2-A, 3-A, 4-A, 5-D, 6-B, 7-A, 8-A, 9-B, 10-A

l Queries

Engineering Questions

1. The primary purpose of the refractory in a marine boiler is to
   a. conduct the heat of combustion away from the water wall tubes.
   b. protect the furnace casing and retain furnace heat.
   c. support the outer casing.
   d. protect the superheater from convectional heat transfer.
2. According to Coast Guard Regulations (46 CFR), which of the following is the ONLY method allowed to ease the starting of emergency diesel generator engines?
   a. Bayonet-type electrical oil heaters
   b. Steam or hot water lube oil heaters
   c. Thermostatically controlled electric jacket water heaters
   d. Electric resistance heaters in the air intake manifold
3. If the approximate voltage to be measured in a circuit is not known, you should
   a. use the lowest voltage range on the voltmeter.
   b. connect the meter in series with the circuit.
   c. only have to calibrate the meter before using it.
   d. use the highest voltage range on the voltmeter.
4. Increasing the moisture content of conditioned air is known as
   a. moisturizing.
   b. dehumidification.
   c. dampening.
   d. humidification.
5. Exhaust pipes for separate diesel engines can be combined only when
   a. space limitations prevent separately run pipes.
   b. the engines are small auxiliary units.
   c. they are arranged to prevent gas backflow to each engine.
   d. a waste heat boiler is installed.
6. Insufficient air for combustion in a boiler furnace could result in a
   a. white incandescent flame.
   b. high flame temperature.
   c. black stack smoke emission.
   d. 0% carbon monoxide level.
7. The auxiliary exhaust system shown in the illustration can be supplied by steam from the
   a. fuel oil heaters.
   b. auxiliary steam system.
   c. main steam system.
   d. distilling plant.
8. Shrouding, with regards to steam turbines, is rolled to the curvature of the blade ends and fitted to the blade
   a. roots.
   b. tenons.
   c. seal strips.
   d. dovetails.
9. If while filling the boiler a newly installed gasket on a water-tube handhold plate weeps, you should
   a. coat the gasket with graphite.
   b. only need to tighten the stud nut with a slugging wrench.
   c. use a double gasket.
   d. center and tighten with correct size wrench.
10. In the illustrated motor, roller bearings are used because
    a. of their ability to absorb moderate thrust loads.
    b. they electrically insulate the rotor from the frame reducing cross-currents.
    c. the shafting and end bells do not require as close a tolerance to properly fit this type of bearing.
    d. the clearance between the rotor and stator is generally as close as mechanical tolerance will permit.

ANSWERS: 1 - B; 2 - C; 3 - D; 4 - D; 5 - C; 6 - C; 7 - B; 8 - B; 9 - D; 10 - D

MARINER'S SEABAG

Assessing Merchant Mariner's Knowledge

The purpose of the Coast Guard's license and document examination process is to assess the knowledge required by merchant marine applicants to hold a particular license or document. Shortcomings of the merchant mariner license examination process were addressed for the Commandant by the Coast Guard's then Chief of Staff, Vice Admiral Loy, in his response of June 1997 to the Department of Transportation's Assistant Inspector General. As pointed out by Admiral Loy, the development of a system to generate examinations by computer in the late 1980's which should have allowed more frequent revisions of the examinations was not accompanied by a method of rapidly deploying the examinations to the Regional Examination Centers (RECs). Without this essential link the Coast Guard was unable to prevent the capture of the examinations by the schools which were preparing the mariners to take the exams.

During 1997 a new system of examination generation and distribution, which is designed to correct this shortcoming, was deployed by National Maritime Center. The new system, entitled Random Generation Examination System (RGES), was developed by Dynamic Resources, Inc., an Alexandria, Virginia computer consulting firm in cooperation with the subject matter experts at National Maritime Center. RGES is designed to be used by the RECs as an integral part of a new Merchant Marine Licensing and Documentation (MMLD) computer program. MMLD will modernize and streamline the processing and recording of all the data that constitutes a mariners license and document history. The goal is to have REC personnel use the same computer workstation examination specifically for, and unique to, the individual, record the results, and print the desired document. There are several developmental steps to be taken to arrive at this goal. One step which has been for the most part successful is the introduction of our new examination generation and transmission process, RGES.

Previously, even when examinations could be generated electronically at random, examination booklets had to be prepared and proof read by at least three individuals, not only for subject matter accuracy, but for format, typographical errors, etc. When it was felt that an error free module was available it would be printed and numerous copies made to supply all the RECs with the same module, which was to be placed in use on a specified date at all examination sites. Arrangements would then have to be made to pack, address, and ship the proper number of booklets to each REC. This process involved many days of labor. During this entire process of development, production, shipment, and receipt, strict measures would have to be observed to ensure that none of the booklets "strayed". If a booklet was compromised or lost, it would have to be replaced. Until its replacement could be delivered to the RECs, they were faced with either continuing to use the compromised module or using fewer modules to test mariners. Because of the physical difficulties involved to produce and deliver modules to the RECs, the tendency was to develop "generic" modules which could be used by several licenses, i.e., all near coastal licenses, or all licenses for tonnages over 100 gross tons, etc. In addition, it was only possible, because of the large number of modules required to administer an examination system which supports the dozens of licenses issued by

the Coast Guard, to replace modules on a biennial basis. Some commonly used modules were replaced at more frequent intervals.

These built in systemic problems facilitated the practice used by some license prep course offerors to capture the modules in use by the RECs and to teach the module questions rather than ensure that the mariner was knowledgeable with respect to the subject matter. In the case of navigation modules which used a fixed sequence of questions to demonstrate the ability to navigate from one point on a chart to another, the mariner could memorize the entire sequence of answers. Another problem for the exam administrators was that if a faulty question were found on the module once in use, the module was kept in service until its scheduled rotation date, with all applicants given credit for a correct answer.

With the introduction of RGES it is now possible to remove old or faulty modules from service, and generate and most importantly, distribute new modules to all RECs in a matter of hours if required. In normal circumstances the distribution process takes place over the course of two days as the different computer terminals exchange data. Instead of the RECs keeping paper files of a limited number of exams, we now stock a central computer with an unlimited number of electronic modules. Rather than replace modules, as in the past, we now add to our existing stock. We remove exams from use when they are found to contain a faulty question. Due to the larger supply available, we have no need to keep these faulty modules in use as we did in the past. They are immediately deleted. The RECs are able to print exams from this ever increasing supply on the central computer and have a greater selection to choose from. The number of generic modules has now been increased tenfold. Forty people could be taking the same exam at the same time and each one would have a completely different module. They are assured that all the modules on the computer contain no known faulty items. This large selection makes it practically impossible for exams to be captured by any group.

Our selection of chart plots with sequential questions has increased as we have created new versions of the various modules. It is much more difficult to memorize the sequence of answers on chart plots since there are now several versions of the same voyage. We are now able to be much more responsive to constructive comments received from examinees, educators, and the public regarding exam question content. When a faulty item is identified it is quickly researched and corrective action taken in a timely manner. All modules using the faulty question can be replaced rather than crediting future examinees with a correct answer.

The ability of license prep course offerors to market their knowledge of actual exam contents has been ended. The Marine Personnel Division at NMC is committed to ensuring that a merchant mariner's requisite knowledge is properly assessed by a rigorous and challenging examination rather than testing an individual's ability to memorize module answer keys.

INVESTIGATOR'S CORNER
Pollution Casualties

by LT Brian Lincoln
Coast Guard Headquarters, G-MOA-2

STATISTICAL OVERVIEW

Last year we provided various national statistics covering vessel casualties, personnel casualties and pollution casualties for the Calendar Years 1993 through 1996 inclusive. Those statistics, and those included here, are derived from the U.S. Coast Guard Marine Safety Management System (MSMS) database at Coast Guard Headquarters, Washington, D C. Casualty information is downloaded into the MSMS database on a quarterly basis from our operational database, the Marine Safety Information System (MSIS). Last year's published statistics were based on a download date of December 31, 1996 and there were a number of 1996 cases that were not included because the investigations were still open and on-going. Therefore we have included 1996 in this overview again to show a more complete picture of the 1996 data. The 1997 information is based on a download date of December 31, 1997 and there are a number of 1997 cases that are open and on-going. We note that this year's 1997 data is at about the same level (order of magnitude) as what 1996 data was last year at this time and that there doesn't appear to be any significant increase or decrease in the overall numbers from 1996 to 1997.

Below is a presentation of pollution casualties that were reported to the Coast Guard for 1996 and 1997. Pollution casualties represent oil spill occurring on or upon the navigable waters of the United States and it's tributaries (excluding those spills within the EPA's jurisdiction). A follow-up article will contain an in-depth look at a variety of other marine casualties—vessel and personnel casualties.

POLLUTION SPILLS/CASUALTIES

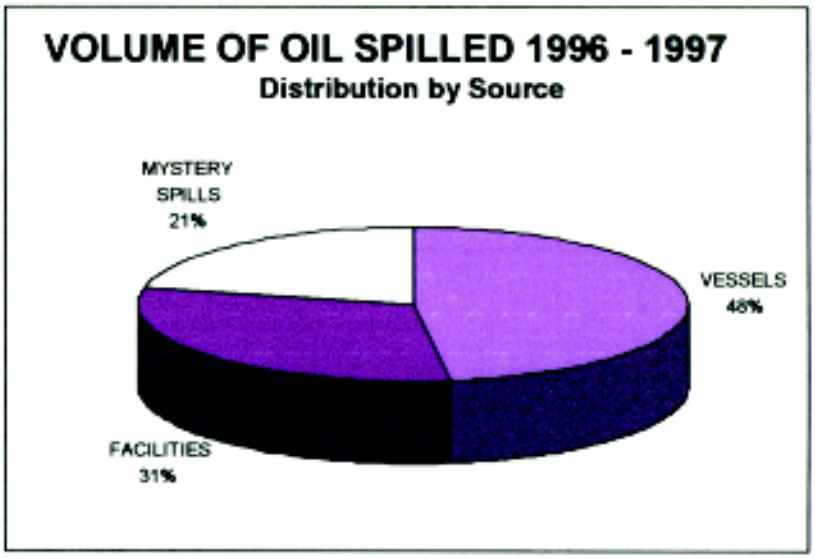
The Coast Guard responded to 18,602 pollution spills during 1996 and 1997. Of those, 18,064 were for oil, 320 were chemical spills, 10 were for garbage or MARPOL V violations. The remainder were either natural or unknown substances. These graphs focus on only the oil spills and contain the number of spills and the quantity spilled throughout the United States. The sources of the spills have been divided into 3 main categories: vessels, facilities, or mystery spills. A "facility" has been defined as anything that is not a vessel and includes traditional waterfront oil transfer facilities, shipyards, pipelines, marinas, aircraft, and bridges. Mystery spills are spills for which a source could not be identified. All volumes are listed as gallons.

VOLUME OF OIL SPILLED 1996 - 1997

SPILL SOURCE	SPILL VOLUME CATEGORY											
	0-10 GALS		11-25 GALS		26-60 GALS		61-100 GALS		101-1000 GALS		OVER 1000 GALS	
	# SPILLS	VOL SPILLED	# SPILLS	VOL SPILLED	# SPILLS	VOL SPILLED	# SPILLS	VOL SPILLED	# SPILLS	VOL SPILLED	# SPILLS	VOL SPILLED
VESSELS	4225	14,483	570	11,035	392	15,948	280	23,590	256	83,820	109	1,172,073
FACILITIES	4619	9,829	335	6,391	255	10,385	143	11,760	185	69,456	66	742,409
MYSTERY SPILLS	5754	12,697	314	6,190	254	10,712	140	12,047	143	48,603	24	502,360

SPILL SUMMARY 1996 - 1997

SPILL SOURCE	TOTALS			
	1996		1997	
	# SPILLS	VOL SPILLED	# SPILLS	VOL SPILLED
VESSELS	3182	948,510	2650	372,439
FACILITIES	3102	444,584	2501	405,646
MYSTERY SPILLS	3210	125,566	3419	467,043



Prevention Through People: Individual and Community Prevention

by Kriste Hall

Over and over you hear the slogans, "Only you can prevent forest fires," "Friends don't let friends drive drunk," "Life jackets—They float, you don't." The one thing that each of these sayings have in common is the idea of prevention. Prevention is a proactive approach to an event – any event – where there is the potential for an accident to happen. Being prepared in these situations is important. But people can also help prevent such disasters as spills of oil and other hazardous chemicals. How can you prevent oil spills? Very easily. We're not asking you to keep the Exxon Valdez from happening all over again, but you can keep oil out of the water on an everyday basis. And there are a lot of different groups around the country committed to this preventative effort.

The Coast Guard's Marine Safety Office (MSO) San Francisco has an on-line tutorial that covers the three most common small spills caused by recreational boaters - the automatic bilge pump spill, the sunken boat leaking fuel spill, and the boat on the beach leaking fuel spill. The URL is www.tcpet.uscg.mil/smosf/dstlrn/smspill.htm. When you go through the tutorial, you learn how to prevent these types of spills from happening, and what to do if they happen anyway.

Some innovative solutions to cleaning up oil spills have come from individuals. According to a recent report from CNN ("Science and Technology Week," May 23), a hairdresser from Alabama got the idea that hair trimmings from his salon's floor could be used to absorb oil out of the water after a spill. He tested out his idea at home and found that it worked. The hairdresser then approached a NASA facility with his idea. They conducted more sophisticated tests and found that human hair really will work very quickly to absorb oil out of the water and allow it to be reclaimed rather than simply thrown away as when using more common sorbents.

You aren't that creative? There are many other ways that you can help prevent oil spills in your community. Get involved in local risk management or response planning efforts. After the 1989 Exxon Valdez spill in Alaska, members of the local community, state and federal governments, and local industry conducted a risk assessment of Alaska's Prince William Sound to identify the hazards of the area and potential countermeasures. A similar study has since been conducted in the U.S. Coast Guard's First District. This study was also instituted in response to spills that had recently occurred.

In the state of Washington, a proactive preventive approach was taken when a risk assessment of Puget Sound was conducted before any major incidents had occurred. The people involved included members of the federal, state and local governments, local community and environmental groups, representatives of the industries who work in/on Puget Sound, and members of the Canadian government (since part of the area of concern is international waters). This broad cross-section of the users of Puget Sound met several times to identify the areas at greatest risk for damage, the areas that presented the greatest risk for damage to vessels transiting the Sound, and the countermeasures that could be instituted to reduce the hazards. The resulting report on the Puget Sound assessment, Protection Against Oil Spills in the Marine Waters of Northwest Washington State, is available from the NTIS by calling 1-800-553-NTIS (6847) and asking for PB97-205488 for the report and PB97-205470 for the technical appendices.

MSO Puget Sound serves as co-chair of the Northwest Area Committee, along with MSO Portland OR, EPA Region X, Washington Department of Ecology, Oregon Department of Environmental Quality and Idaho Emergency Response Commission. This group is committed to cooperative planning for oil and hazardous substance spill response in the Pacific Northwest, and holds several exercises a year to practice what to do in the event of a real emergency.

Not everyone can be the little Dutch boy of legend who kept his finger in the dike to prevent a flood, but each of us can work together to keep oil out of the water.

What is the NRC?

The National Response Center is the SOLE national point of contact for reporting Oil, Chemical, Radiological and Biological discharges.

In effect, we are like a federal 911 service for environmental incidents.

The NRC is the operations and communications center for the National Response Team (NRT), a planning, policy, and coordinating organization.

We are the operational link between the local Federal On-Scene Coordinator (FOSC) and the National/Regional Response Teams.

What does the NRC do?

The NRC does not actually respond to incidents. We pass the information to those who do.

The NRC takes pollution discharge reports and immediately passes the information, by phone and fax, to the FOSC and other affected FEDERAL and STATE agencies.

We manage the critical flow of information during crisis situations. The average time to process a report is less than 5 minutes.

We assist FOSC's by connecting them with CHEMTREC (1-800-424-9300) and other expert technical centers such as Poison Control and Centers for Disease Control.

The NRC answers the NATIONAL RAILROAD HOTLINE (1-800-424-0201).

We are the contact point for earthquakes and evacuations, closures of the major transportation arteries, and air space restrictions imposed because of pollution incidents.

How does the NRC affect you?

The responsible party of any oil or chemical discharge that meets federal reporting requirements MUST report the incident to the NRC immediately.

Calling the NRC meets all federal and initial reporting requirements. NOTE, additional state or local notifications may be required by law.

If you are not the responsible party you can, and should, call the NRC to report hazardous material incidents – your call may be the first.

Any agency taking an initial discharge report must either pass the information to the NRC or have the responsible party call the NRC.

In life threatening situations ALWAYS call your local EMS or 911 first.

What information does the NRC need?

Who you are:

- Your name, address and phone number.
- The name, address and phone number of the responsible party, if known.
- Anonymous calls are accepted.

What happened?

- What Material was released?
- How much was released?

Where it happened?

- Location, nearest street corner or landmark.

When it happened:

- When did it happen?
- When did you discover it?

Why it happened:

- How did it happen?
- What caused the discharge?

What if you do not have all the above listed information? We still want and need your call. You might be providing the NRC with the first indication that a major incident has occurred.

For more information:

If you need information regarding the NRC write to:
Duty Officer
National Response Center
RM 2611
2100 Second Street SW
Washington, DC 20593

For a Freedom of Information Act request write to:
US Coast Guard Headquarters
G-TPS-2 Attn FOIA
2100 Second Street SW
Washington, DC 20593

United States Coast Guard

National Strike Force

Information Sheet

The National Strike Force (NSF) was created in 1973 as a Coast Guard special force under the National Contingency Plan. The NSF provides highly trained, experienced personnel and specialized equipment to Coast Guard and other federal agencies to facilitate preparedness and response to oil and hazardous substance pollution incidents in order to protect public health, welfare and the environment.

Three Teams

These 35-member teams are: the Atlantic Strike Team in Fort Dix, N.J.: the Gulf Strike Team in Mobile, Ala.; and the Pacific Strike Team in Novato, Calif. The Strike Teams are managed by a fourth unit, the National Strike Force Coordination Center (NSFCC) in Elizabeth City, N.C.

Response, training and planning are the primary missions for the teams, who cover the entire country, including U.S. territories in the Caribbean and the Pacific.

First and foremost in these mission areas is response to pollution incidents—whether it's oil off the coast or a hazardous-material release in Iowa.

Holding a close second in missions is training units for major pollution incidents. Finally, the teams are involved in planning, such as area contingency plans.

When responding to incidents, strike team members join local emergency-response forces in eliminating the source of a discharge, collecting and storing spilled material, preventing impact to sensitive environmental areas and mitigating shoreline impact.

Response to a major incident can be via Coast Guard or commercial aircraft, or over the road by tractor trailer, pulling strike team response gear.

NSFCC

The National Strike Force Coordination Center provides support and standardization guidance to the three strike teams. The Center is home to the:

- Public Information Assist Team (PIAT)
- National inventory of oil spill response resources (RRI) and logistics network
- National Preparedness for Response Exercise Program (PREP)
- National Oil Spill Removal Organization (OSRO) Classification Program

NSF Capabilities

- Respond with trained personnel and specialized equipment to contain and/or remove spills at oil and releases of hazardous materials
- Response planning and consultation: conduct training in spill response techniques and equipment use
- Conducting exercises and drills to evaluate preparedness
- Identifying, locating and assisting in the transportation of specialized equipment needed for spill response
- Providing public affairs support personnel to FOSCs during spill responses

Spill management staffing

The NSF provides FOSCs with many areas of expertise, including:

- Operation of spill response equipment (barriers, skimmers, high-capacity pumps, temporary storage containers, Vessel of Opportunity Skimming System (VOSS). etc.)
- Supervision/monitoring of personnel at spill sites
- Initial assessment/site safety/monitoring capabilities at hazardous material incidents
- Cost documentation and report requirements
- Command, control and communications support
- Incident Command System trained personnel

Strike Team equipment

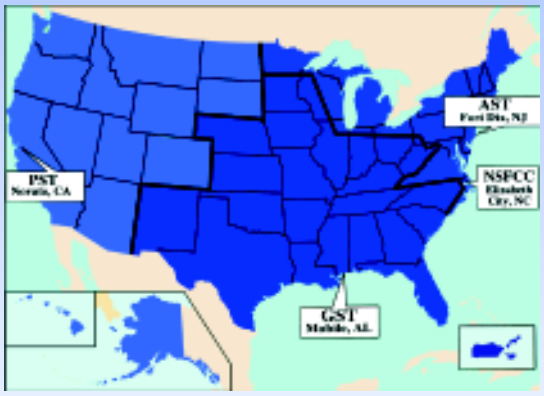
Equipment available includes: containment barriers, temporary storage containers, mobile command posts, hazardous material response vehicles, oil transfer equipment, boats, level "A" and "B" equipment, portable air compressors, generators, lighting equipment, monitoring equipment, communications equipment, personnel protection gear, and photographic gear.

PIAT

The NSF Public Information Assist Team provides public affairs specialists to assist FOSCs with public information demands before and during oil and hazardous material incidents. PIAT members are contacted through the NSFCC.

National Strike Force

Command addresses and telephone numbers



Attention PROCEEDINGS Readers

A PHOTO OP!

Proceedings Magazine is in need of good photographs of ships, people saving lives, lessons learned, preventing injuries, incidents, vessels, cruise ships, safety subjects and environmental protection alerts. The photos should be geared towards action and close-ups. Don't forget winter shots for those of you in cold climates.

If you have a good eye for action, detail and the unusual, try some shots for Proceedings. We will, of course, give credit to the photographers and units for any photos used in the magazine.

Your suggested themes are only limited by your imagination. So, if you have any topics you would like to see in the magazine, capture the idea in a photo and we will do the rest.

While any format is acceptable (color, black and white, photo, slides, or on disk), we prefer color slides, if possible. If you want any of the material back, let us know and we'll return it as soon as possible.

Contest winners will be announced in the Oct-Dec 98 issue. You may win recognition and prizes, too! So, all of you photo buffs, grab the old camera and shoot one for us. If you have an idea or a photo and you're in doubt about its publication value to us, call the Editor: Cheryl Robinson at (703) 235-1604.

Our address: Photo Contest
Proceedings Magazine
USCG/NMC
4200 Wilson Blvd., Ste. 510
Arlington, VA 22203-1804