

U.S. Department of
Homeland Security

United States
Coast Guard



Technical Operating Procedures for Determining Removal Costs under the Oil Pollution Act of 1990



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United States
Coast Guard



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Subj: TECHNICAL OPERATING PROCEDURES FOR DETERMINING REMOVAL COSTS
UNDER THE OIL POLLUTION ACT OF 1990 (OPA90)

1. PURPOSE. The enclosed Manual establishes procedures necessary to determine oil spill removal costs.
2. ACTION. Military and civilian employees of the NPFC shall follow these procedures to review and approve removal costs. Other government agencies and employees, and Coast Guard field units, are strongly encouraged to follow these procedures for timely and consistent removal cost reimbursement.
3. DIRECTIVES AFFECTED. NPFCINST M7300.1A is hereby cancelled.
4. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is intended to provide operational guidance for Coast Guard personnel and is not intended to, nor does it impose legally-binding requirements on any party outside the Coast Guard.
5. MAJOR CHANGES. This instruction has been comprehensively rewritten and reformatted.
6. DISCUSSION. This Manual has been updated and sets forth roles and activities involved in removal cost issues.
7. REQUEST FOR CHANGES. The NPFC desires comments concerning these technical operating procedures. Please address comments via email to HQS-SG-NPFC-CM-Regional-Managers@uscg.mil

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CHAPTER 1. OIL SPILL LIABILITY TRUST FUND (OSLTF) COSTS OVERVIEW

A. General.

Responsible Parties (RPs) are liable for “all removal costs” incurred by the government that result from the RP’s oil pollution incident. Removal costs must be “consistent with the NCP” to be payable from the OSLTF. Federal On-Scene Coordinators (FOSCs) are responsible for exercising effective financial management and cost control during the response, including verification of removal costs and certification of consistency with the NCP, as outlined in these Technical Operating Procedures.

B. Basic Criteria for Removal Costs.

1. The prerequisites which must be met before a removal cost incurred by a FOSC can be paid from the OSLTF are:
 - a. The removal costs must result from an Oil Pollution Act (OPA) incident. OPA defines an “incident” to mean “any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the discharge or substantial threat of discharge of oil.”
 - b. The removal costs must result from removal of an oil discharge or the mitigation of a substantial threat of an oil discharge: (1) into or on the waters of the United States (WOTUS); (2) on the adjoining shorelines to the WOTUS; (3) into or on the waters of the exclusive economic zone; or (4) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.
 - c. The action giving rise to the removal costs must be consistent with the NCP.
2. If the prerequisites are met, any action necessary to contain or remove oil from water or shorelines, or otherwise necessary to minimize or mitigate damage to the public health and welfare may be deemed a removal cost payable from the OSLTF. This includes ancillary support and administrative activities necessary for the response. It should be recognized, however, that all costs, and particularly any unusual costs, will usually be scrutinized closely by the RP. As with any Government funds, spending should be sensible, whether or not the costs may ultimately be recovered from the RP.
3. Examples of removal costs included in this TOPs are presented with the assumption that the actions and resulting costs comply with the fundamental requirements set out above.

C. Consistency with the National Contingency Plan (NCP).

1. The National Contingency Plan (40 CFR 300), Subpart D, Operational Response Phases for Oil Removal, outlines the scope of activities which constitute a response to an oil incident to conduct removal. The four phases of response are as follows:
 - I. Discovery or Notification.
 - II. Preliminary Assessment and Initiation of Action.
 - III. Containment, Countermeasures, Cleanup, and Disposal.
 - IV. Documentation and Cost Recovery.

- a. The concept of consistency encompasses carrying out the purpose of the NCP and substantially complying with the NCP process, specifically: The removal activity was deemed necessary for the cleanup or the prevention of an oil spill and not otherwise contrary to the NCP (e.g. the limitations on use of dispersants or in-situ burning).
 - b. The removal activity was authorized by a federally approved response plan, the FOSC, or the RP, or was condoned by the FOSC or RP.
 - c. The removal activity was within the scope of the tasking, either in the federally approved response plan or given by the FOSC or RP. Absent clear tasking, it must be shown that the activity conducted was a customary removal action under the circumstance or there was good cause for the deviation from the norm. The FOSC may terminate authorized activities and may ratify unauthorized ones for good cause if they are otherwise consistent with the NCP.
2. Not all the response phase activities qualify for funding from the OSLTF as removal costs, e.g., Phase I, Discovery or Notification.

CHAPTER 2. ROLES AND RESPONSIBILITIES IN DETERMINING REMOVAL

A. The Federal On-Scene Coordinator's Role.

1. The FOSC has been delegated the authority to ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge of oil into the WOTUS (including the Exclusive Economic Zone). The FOSC verifies whether a particular cost was incurred for removal and was consistent with NCP. The FOSC should not incur costs which are not necessary for the removal or are inconsistent with the NCP. In other words, the FOSC removal activities should be as effective and economical as possible under the circumstances.
2. In making the determination regarding removal actions and resulting costs, the FOSC is guided by the criteria in Chapter 1 and should be prepared to document the following:
 - a. Why a particular action was necessary to contain or remove oil pollution, or necessary to minimize or mitigate oil pollution damage to the public's health and welfare.
 - b. That the action falls within Subpart D, Operational Response Phases for Oil Removal, Phases II-IV.
3. NCP Sections 300.315 and Appendix E, paragraph 5.7 require the FOSC to collect and maintain documentation "to support full cost recovery". Such documentation should include both reimbursable and non-reimbursable Government costs allocable to the removal effort (non-reimbursable costs are those costs which cannot be reimbursed to the agency because it has already received appropriated funds for that purpose). When the purpose of the cost is not clear, however, the FOSC may be required to provide further explanation (e.g., Decision Memorandum) of the determination made regarding removal actions.

B. National Pollution Funds Center Role.

1. The NPFC has been solely delegated authority to pay removal costs. The NPFC is located at Coast Guard Headquarters and partners with CG-MER on the training of field personnel on the use of the OSLTF. The NPFC has a responsibility to establish and enforce appropriate limits on the use of the OSLTF, balanced against the operational requirements of the FOSC.
2. The Case Officer represents the NPFC for all incident specific matters. However, claims and natural resource damages issues are coordinated with the respective Division once these elements are recognized for any particular incident. The Case Officer and the Case Team support the operational requirements of the FOSC while also ensuring that the uses of the OSLTF are appropriate. They are tasked with verifying that the resource/cost documentation meets all the guidelines herein.

CHAPTER 3. PHASE I – DISCOVERY OR NOTIFICATION – ACTIVITIES AND REMOVAL COSTS

A. Phase I Activities.

These activities are conducted to discover oil spills or to notify appropriate authorities of oil spills, for example, patrols, notifications to the National Response Center, and notification to the predesignated FOOSC. With the exception of the costs incurred by the FOOSC to notify appropriate Federal, State, and local officials of an OPA incident, these costs are not directly chargeable to the OSLTF as removal costs but are funded through normal operating appropriations (e.g., Coast Guard OE).

CHAPTER 4. PHASE II – PRELIMINARY ASSESSMENT AND INITIATION OF ACTION – ACTIVITIES AND REMOVAL COSTS INCLUDING ASSESSMENT PHASE COSTS

A. Phase II Activities.

These activities are conducted to gather information about the reported incident and plan appropriate actions. These activities are necessary whether or not the RP is taking action. The costs incurred in this phase are eligible for funding from the OSLTF subject to thresholds for access to the Fund defined in subparagraph 4.C.2 below. Phase II also includes the “initiation of action” activities which would immediately follow the determination by the FOSC that further action is required.

B. Assessment Phase.

Phase II includes the “assessment phase” between notification of a discharge and the determination by the FOSC: i) that either nothing beyond initial assessment needs to be done; or, ii) that further action or presence is required. Pollution responses are dynamic and rapidly evolving events requiring the mobilization of multiple resources. The FOSC should document the costs of every resource mobilized, even if the resource is de-mobilized sometime soon thereafter. The NPFC will coordinate with the FOSC at a later date to determine if all the resources or part of the resources were strictly for assessment purposes. The NPFC will make the final determination whether to bill for all or part of the assessment costs. FOSCs should not discuss with RPs whether or not charges will be billed. Any questions RPs may have regarding billing should be referred to the NPFC Case Officer.

C. Use of OSLTF for Phase II Costs.

The FOSC should obtain a Federal Project Number (FPN) and corresponding ceiling (and begin documenting all Federal removal costs) when one or both of the following occur:

1. The FOSC expects to incur direct costs to conduct the assessment phase or any part of the response. Direct costs are unit funds that are needed to send personnel to conduct the assessment, i.e. TDY Orders. Direct costs are obligated against the project ceiling.
2. The FOSC determines that a continued presence is required to ensure proper removal actions (the initiation of action part of Phase II) and no direct costs are expected, but indirect costs (costs based on the Standard Rates of CG personnel and equipment) are expected to exceed \$3,500. Indirect costs are tracked on the CG-5136 but NOT obligated against the project ceiling. Examples of indirect costs and their rates are found at Commandant Instruction 7310.1 (series)- Reimbursable Standard Rates - and include such things as: CG Personnel, CG Equipment, CG Boats, CG Aircrafts, Coast Guard Vehicles, and Marine Safety Lab analysis.

D. Examples of Phase II Activities are as follows:

1. Assessment.

- a. Evaluate the magnitude/severity of the incident.
 - b. Assess feasibility of removal.
2. Initiation of action.
- a. Identify the RP. A generic list of documents to be acquired or incorporated into the statement of work to determine liability can be found in Appendix A of this TOPs.
 - b. Notify affected natural resource trustees and other affected agencies. Plan further action. Indicate whether or not the RP will be cleaning up the discharge.
 - c. Issue Administrative Orders.
- E. Some Examples of Costs Eligible for Charge to the OSLTF for Phase II Activities: Assessment (though these costs may be recovered from the RP as discussed in Subparagraph 4.B. above):
- 1. Temporary duty (TDY) per diem, travel and transportation in accordance with Federal Travel Regulations.
 - 2. Contractor costs.
 - 3. Consumables or services specifically purchased during the response (e.g., copy paper, file folders, etc.).
 - 4. Replacement, repair, renovation or cleaning of equipment (whichever is most cost effective) to the extent that the loss or damage is due to the specific response and not the result of improper maintenance, improper use of the equipment, or the actions of others unrelated to the removal.
 - 5. Cost of transporting and staging of response supplies and equipment.
 - 6. Long distance telephone charges (authorized on TDY orders).
- F. Some Examples of Costs Eligible under the OSLTF for Phase II Activities: Initiation of Action and Subsequent Recovery from the RPs.
- 1. Local and TDY travel, transportation, and per diem.
 - 2. Contractor costs, such as outside consulting for cleanup expertise.
 - 3. Consumables or services specifically purchased during the response, such as sorbent supplies, incident specific vehicle and equipment leases/rentals.
 - 4. Replacement, repair, renovation or cleaning of equipment to the extent that the loss or damage is due to the specific response and not the result of improper maintenance, improper use of the equipment, or the actions of others unrelated to the removal.
 - 5. Reservist orders.

6. Auxiliarist orders.
7. Government personnel assigned, such as scientific support, FOSC personnel, Strike Team personnel, under standard rate costs.
8. Government facility use, such as office space under standard rate costs or negotiated contract rates.
9. Government vehicles, boats, aircraft use under standard rate costs.
10. Costs of transporting and staging required supplies and equipment.

CHAPTER 5. PHASE III – CONTAINMENT, COUNTERMEASURES, CLEANUP, AND DISPOSAL – ACTIVITIES AND REMOVAL COSTS

A. Phase III Activities.

These activities are the traditional cleanup activities. If the RPs are taking proper action, the FOSC only conducts those activities necessary to ensure that immediate and effective removal takes place. Monitoring activities should be limited to those necessary to ensure proper removal and should not become so onerous as to discourage RPs from conducting their own cleanups. Again, the costs incurred in this phase are eligible for funding from the OSLTF subject to the thresholds for access to the Fund specific in paragraph 4.C.

B. Examples of Federal Phase III Removal Activities when the RP performs cleanup:

1. Analyze water samples to determine source.
2. Analyze water samples to determine spread.
3. Measure and sample.
4. Monitor fate and effect of oil.
5. Restrict access to area; control traffic.
6. Review and direct actions by the RP.

C. Examples of Costs Eligible under the OSLTF for Phase III Removal Activities when the RP performs cleanup:

1. Local and TDY travel, transportation and any per diem.
2. Contractor costs, such as security contractors, technical assist team contractors.
3. Consumables or services specifically purchased during the response, such as supplies, sorbents, incident specific vehicle and equipment leases/rentals.
4. Replacement, repair, renovation or cleaning of equipment – to the extent that the loss or damage is due to the specific response and not the result of improper maintenance, improper use of the equipment, or the actions of others unrelated to the removal.
5. Long distance telephone charges (authorized on travel orders).
6. Reservist orders.
7. Auxiliarist orders.
8. Government personnel assigned, such as scientific support, FOSC personnel, Strike Team personnel using standard rates.
9. Government or leased facility use, such as office space at standard cost, mobile command post lease/rental.
10. Government vehicles, boats, aircraft using standard rates.
11. Government system use, such as telecommunications systems (e.g. INMARSAT), computer systems.
12. Government or contract lab sample analysis, such as the Coast Guard Marine Safety Laboratory (MSL) services using standard rates costs or calculated costs by the MSL.
13. Costs of transporting and staging required supplies and equipment.

D. Examples of Federal removal activities in addition to those listed in 5.B when the RP is not known or fails to perform immediate and effective removal:

1. Controlling the source of discharge.
2. Controlling the spread of oil.
3. Placement of physical barriers to deter the spread of the oil and to protect the natural resources and sensitive ecosystems.
4. Controlling of the water discharged from upstream impoundment.
5. Capturing, cleaning, and emergency care of oiled animals.
6. Cleaning oil from beaches, shoreline, piers, boats, private and public property.
7. Excavating contaminated soils.
8. Providing alternative drinking water (meeting requirements as described below):

Excerpt from FRMM (COMDTINST M7100.3 (series), Section 5.6.10.1

Bottled or potable water cannot be purchased using appropriated funds unless a local health official or the applicable safety and environmental health officer (SEHO) determines that the water is unfit due to noncompliance with recommended maximum contaminants levels (MCL) from the EPA Primary Drinking Water Regulations. All water testing must be completed at an accredited laboratory. Tainted, discolored, or odorous water (including EPA Secondary Drinking Water Regulations) is not a basis for authorizing the purchase of bottle water.

Useful guidance may be found in Comp Gen B-147622 12/7/61, i.e. bottled water may be purchased with appropriated funds only on the grounds of necessity which include:

1. No potable water is available within 200 feet of the place where people normally work.
2. The water is contaminated (described above).
3. There is an urgent need for water that could not otherwise be met.

Conditions may exist where drinking water is not unfit based on primary drinking water standards, but it may not be palatable due to maintenance or repairs to a water system. Under these conditions, temporary (not to exceed 60 days) authorization to purchase bottled water may be requested, provided that the SEHO or Commandant (CG-113) provide written justification supporting the necessity to temporarily provide a suitable water source to maintain mission effectiveness.

Units shall actively pursue permanent solutions to ensure that adequate drinking water is available for employees. Units are required to revalidate all bottle water requests quarterly.

9. Providing for temporary relocation or evacuation where necessary to protect public health.
10. Removing debris from shorelines prior to oiling to facilitate later cleanup.
11. Removing and, if necessary, destroying a vessel to limit discharge when properly authorized. For further guidance on vessel destruction, refer to Chapter 10.D. of the Marine Environmental Response and Preparedness Manual. COMDTINST M16000.14 (series).
12. Using chemicals and other materials in accordance with Subpart J of the NCP to restrain the spread of oil and mitigate its effects.
13. Properly disposing of recovered oil and contaminated materials.

E. Examples of costs eligible for charge to the OSLTF in addition to those listed in 5.C. for Phase III Removal Activities when the FOSC determines it necessary to arrange for removal, in addition to, or instead of, a RP's removal efforts:

1. Purchase of equipment, such as boom, skimmers, transfer systems, pumping systems, vapor analyzers, gas indicators, and protective gear. Purchase of nonexpendable equipment (generally those items of value greater than \$3,000 with useful life greater than 1 year), see "TOPs – Incident and Cost Documentation for FPN, CPN, & DPN Cases", Chapter 8.
2. Government equipment inventory use at standard rate cost, such as boom, skimmers, transfer systems, piping systems, vapor analyzers, gas indicators, protective gear.
3. Purchase of water as alternative drinking water (see item # D.8 above).
4. Contract for temporary lodging of CG responders.
5. Contract for temporary feeding of CG responders.
6. Contract for cleanup labor.
7. Contract for diving, and when necessary, to control the source or spread of oil.
8. Contract for disposal.
9. In special circumstances, contract for temporary docking of vessel.
10. Rental/purchase of fencing, barricades, and security material.
11. Traffic control.
12. Contract for capturing, cleaning and emergency care of oiled animals, such as costs to capture, clean, temporarily care for, and release birds oiled by a spill, or dispose of dead animals. (This service is usually coordinated through the Wildlife Branch in the ICS Organization, through a state agency or contracted service (e.g., Tri-State Bird Rescue or International Bird Rescue & Rehabilitation).
13. Repair of damages caused by cleanup activities, such as damage to lawns by vehicles. (Note that such costs may also be the subject of a claim for property damage by CG contracted services or per standard NPFC claims procedures if not handled as part of the removal)
14. Replacement of oiled equipment and property that cannot be cleaned cost-effectively.
15. Decontamination of oiled equipment.
16. Replacement of excavated soils.

CHAPTER 6. PHASE IV – GOVERNMENT DOCUMENTATION AND COST RECOVERY – ACTIVITIES AND REMOVAL COSTS

A. Phase IV Activities.

These activities are the documentation and reporting activities necessary to support cost recovery and record uses of the OSLTF. The costs incurred in this phase are also eligible for funding from the OSLTF to the extent that they can be identified with and attributed to specific incidents. NPFC Instruction 16451.2 (series) – “TOPs for Incident and Cost Documentation on FPN, CPN, and DPN Cases” provides more guidance on incident cost documentation.

B. Examples of Phase IV Activities:

1. Collect and safeguard information, samples, and reports.
2. Consolidate information and prepare reports.
3. Transmit reports to appropriate officials.
4. Verify report information.
5. Bill RPs.

C. Examples of costs eligible for charge to the OSLTF for Phase IV Removal Activities:

1. Local and TDY travel and transportation.
2. Reservist orders.
3. Government personnel services.
4. Government and leased facility use, such as office space.
5. Leased/purchased computer systems.
6. Government systems used at standard rate cost.
7. Overnight/express delivery services.
8. Warehousing/storage services, such as the cost to store records, samples.
9. Contract clerical services.
10. Contract documentation services.
11. Government or lease communications system (e.g. INMARSAT), paging systems, cell phones, and facsimile equipment normally charged at standard rates plus any identifiable direct costs.

CHAPTER 7. REMOVAL COST ISSUES AND SPECIFIC LIMITATIONS

A. Removal Costs.

Generally, removal costs incurred should be appropriate under the circumstance and should generally be proportionate to the size of the spill. This chapter provides guidance on specific situations or types of removal costs.

B. Definition of a WOTUS.

1. The OSLTF may fund a FOSC's response when there has been either an actual oil discharge or a substantial threat of an oil discharge onto the WOTUS. The types of waterways included within this definition include:
 - a. The territorial seas, and waters which are currently used or were used in the past, or may be susceptible to use in interstate or foreign commerce, including waters which are subject to the ebb and flow of the tide;
 - b. Tributaries;
 - c. Lakes and ponds, and impoundments of jurisdictional waters; and
 - d. Adjacent wetlands.
2. The following are not WOTUS:
 - a. Waters or water features not identified above in 7.B.1.;
 - b. Groundwater, including groundwater drained through subsurface drainage systems;
 - c. Ephemeral features, including ephemeral streams, swales, gullies, rills, and pools;
 - d. Diffuse stormwater run-off and directional sheet flow over upland;
 - e. Ditches other than waters identified above in 7.B.1.a. or 7.B. 1.b. of the above, and those portions of ditches constructed in adjacent wetlands that fail to satisfy the applicable regulatory definition;
 - f. Prior converted cropland;
 - g. Artificially irrigated areas, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease;
 - h. Artificial lakes and ponds, including water storage reservoirs and farm, irrigation, stock watering, and log cleaning ponds, constructed or excavated in upland or in non-jurisdictional waters, so long as those artificial lakes and ponds are not impoundments of jurisdictional waters that satisfy the regulatory definition for adjacent wetlands.
 - i. Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non-jurisdictional waters for purposes of obtaining fill, sand, or gravel;
 - j. Stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater run-off;
 - k. Groundwater recharge, water reuse, and wastewater recycling structures, including detention, retention, and infiltration basins and ponds constructed or excavated in upland or in non-jurisdictional waters; and
 - l. Waste treatment systems.
3. If a disagreement arises between NPFC and an EPA FOSC on whether a particular

waterway satisfies the definition of a WOTUS, then NPFC will attempt to resolve the dispute by elevating the issue for review by senior legal counsel at EPA Headquarters.

C. Substantial Threats of Discharge.

The OSLTF may be used to respond to a substantial threat of a discharge to prevent and/or minimize oil pollution from such an incident. The OPA does not define the phrase “substantial threat.” Nevertheless, Congress intended for the OPA to address cases where the threat of oil pollution was substantial and more than a mere potential of discharge. In the OPA’s legislative history, the House Committee on Merchant Marine and Fisheries explained with the following how a substantial threat of oil discharge ought to be distinguished from the mere possibility of a discharge:

“The Committee intends that liability for removal costs resulting from a threat of a discharge of oil should attach in the event that the threat is substantial. Thus liability may exist if a vessel were aground and actions were taken to prevent the vessel from breaking up and spilling oil. No liability would result, however, from the presence of tanker traffic alongside waterfront property resulting in reduced property values because of the potential for a discharge of oil.”

H.R. Rep. No. 101-242, Part 2, 101st Cong., 1st Sess. 56 (1989).¹

A totality of the circumstances will control whether a “substantial threat” has been established. Although the OPA does not impose any temporal requirement for a “substantial threat”, a threat of oil discharge will not be “substantial” if the facts of the case simply show that an oil discharge may occur someday. By itself, the mere fact that a dilapidated onshore facility can be found within a 100-year floodplain will generally fail to establish a “substantial threat” of discharge eligible for OSLTF funding. However, additional factors could support making OSLTF funding available.

1. When considering whether OSLTF funding should be made available to address a “substantial threat” of discharge, the following factors should be considered:
 - a. The likelihood of a discharge under the circumstances; that the situation presents an unacceptable risk that a discharge will occur without FOSC intervention.
 - b. The proximity of the vessel or facility to a WOTUS (for land-based discharges only).
 - c. The potential flow path from the vessel or facility to a WOTUS (for land-based discharges only). For example, a potential flow path might consider the following: (1) geographical slope; (2) soil permeability; (3) water table; (4) storm drains; (5) curtain drains; (6) natural or manufactured conduits; (7) the presence or lack of barriers that would prevent the oil from reaching a WOTUS; (8) other facts showing how the oil

¹ See also, Section-By-Section Analysis, H.R. 3394, The Oil Pollution Act of 1989, 135 Cong. Rec. H7898, H7900 (dailey ed. Nov. 1, 1989)(“Thus liability may exist if a vessel were aground and actions were taken to prevent the vessel from breaking up and spilling oil. No liability would result, however, from the presence of tanker traffic alongside waterfront property resulting in reduced property values because of a perceived potential for an oil spill.”)

- may reach a WOTUS.
- d. Volume of oil that might be discharged (for land-based discharges only). Because OPA's definition of the term "discharge" includes "any emission", the amount of oil is only relevant to the extent it relates to the likelihood of reaching or impacting a WOTUS.
 - e. The type of oil creating the risk of discharge.
 - f. Condition of the vessel or facility. For example, a vessel or facility with a poor material condition (listing, holed, bad gauging, etc.), no care taker, expired insurance or inspection certificates could amount to a substantial threat of discharge.
 - g. Environmental factors or weather conditions. A weather forecast, river flooding, or a harsh winter might be relevant.
 - h. The potential impact of a discharge on the particular WOTUS, including proximity to environmentally sensitive areas, populous areas, etc.
2. As outlined in Chapters 1 and 2, the FOSC must document the factors considered and the basis for the decision that a specific situation presented a substantial threat of discharge. The preferred method of documentation, in addition to the required summaries in Pollution Reports, is a decision memo signed by the FOSC articulating the factors considered and rationale behind the decision.

D. Groundwater Contamination.

As noted above, groundwater does not satisfy the definition for a WOTUS. Thus, the OSLTF is generally not available to fund the removal of oil from groundwater. However, oil in groundwater can sometimes migrate and discharge into a WOTUS. If oil in groundwater actually discharges into a WOTUS or poses a substantial threat of discharge into a WOTUS, then the OSLTF may be available to fund a response. Removal costs may be incurred and paid from the OSLTF to handle oil discharges in groundwater where the FOSC can show that the groundwater has a clear hydrological nexus to a WOTUS and oil in the groundwater poses a substantial threat of discharge to a WOTUS. The OSLTF is not available for removal actions to clean up groundwater when oil in the groundwater does not discharge into a WOTUS or pose a substantial threat of discharge into a WOTUS. Nor can the OSLTF be used to fund groundwater remediation activities after the oil discharge into a WOTUS has been removed or any substantial threat of oil discharge into a WOTUS has been eliminated.

E. Multi-mission Activities.

The federal response may include search and rescue, law enforcement, safety of navigation, port safety or security, in addition to marine pollution response. In those situations, when resources are employed principally for their missions, those costs should not be charged to the OSLTF. Only those actions, whose primary purpose is removal, (i.e., the containment or removal of oil pollution, or necessary to minimize or mitigate oil pollution damage to the public health and welfare) and which are consistent with the NCP, may be paid from or reimbursed by the OSLTF. In all multi-mission cases in which OSLTF funding is involved, FOSCs should document all costs while clearly identifying those relating to other mission activities and indicate why such costs should or should not be charged to the OSLTF. This

can be documented in the SITREP-POL or a Decision Memorandum. The following operative purposes' test should be applied: Would the actions taken in the response have been required absent marine environmental protection requirements? If the actions were not required for marine environmental protection, then the OSLTF may not be used to fund them. Examples of the operative purposes' test include:

1. When the Coast Guard interdicts a vessel carrying migrants or seizes a vessel carrying drugs, the cost of controlling that vessel including any costs to prevent pollution from that vessel should not be charged to the OSLTF.
2. When Coast Guard vessels enforce a safety zone around a grounded vessel in or near the entrance channel to a harbor area, the grounded vessel may pose a threat of pollution, but the primary purpose of the safety zone, and therefore the primary use of the resources enforcing it, is for the safety of the traffic navigating around the grounded vessel into and out of the port. These costs should not be charged to the OSLTF.

F. Assessment Phase Costs.

See Chapter 4.

G. Use of Reservists.

The OSLTF may be used to fund temporary active duty for Reservists related to a specific incident if they are engaged directly in the response. The OSLTF is not available to fund the use of Reservists to backfill unit personnel who are engaged on a response.

RPs are billed for the Reservist's standard rate costs captured on the CG-5136 as indirect costs. Type 71 or 72 orders are direct costs, charged directly against the line of accounting, but are not used for billing purposes.

If a Reservist on orders is injured during the course of the response, the OSLTF can be used to fund the Med Hold orders up to 180 days as per the Reserve Policy Manual, COMDTINST M1001.28D, Chapter 6.H.2. Anything past the 180 day mark will be funded by the military pay manager via the funds appropriated for military pay. In cases where a member is projected to remain incapacitated for more than six months, the member must be referred to PDES, unless the member has a Temporary Limited Duty designation, in accordance with Reference (q), Physical Disability Evaluation System, COMDTINST M1850.2 (series).

H. Acquisition of Property Items.

1. See NPFC Instruction 16451.2 (series) "TOPs for Incident and Cost Documentation on FPN, CPN & DPN Cases", and Chapter 8 – "Acquisition of Property Using OSLTF". Some general comments are provided below.
2. FOSCs should only purchase property with OSLTF funds when operational necessity

directly related to the removal dictates or when it is clearly more beneficial to the Government than leasing. The FOSC should offer the “Right of First Refusal” to an RP that is participating in the response as a member of the Unified Command before any purchase is initiated. When making the decision to buy versus lease property, and operational conditions permit, units should factor in the cost necessary to acquire, maintain, and dispose of the property, not just the purchase price versus the cost of leasing. Many of these considerations are appropriately addressed through the planning process before a spill occurs. Documentation of the factors considered in purchasing property during a spill are critical in cost recovery and litigation efforts and shall be documented to the greatest extent possible, usually through a Decision Memo. FOSCs should be aware that property purchased for removal activities using the OSLTF will be billed to the RP at 100% of the purchase price. Upon case completion, any property purchased and provided by the RP shall be returned to the RP. Property purchased with the OSLTF, however, shall be disposed of in accordance with the property disposition guidance of the Coast Guard.

3. All property purchased must be accounted for in the cost documentation portion of the FOSC completion report.
4. EPA FOSCs should refer to their agency guidance relating to proper purchase accounting, and disposal of property. Copies of all documentation related to the property purchased and disposal should be provided with the incident documentation.
5. Items which meet requirements for capitalization may be charged to the OSLTF but the amount charged to the specific incident shall be based upon an appropriate standard cost or allocation of the acquisition cost to the useful life. FOSCs should identify such items separately in the documentation. The NPFC shall make appropriate adjustments to the incident specific costs. Any such items purchased with the OSLTF belong to the government until properly disposed of as excess property.
6. Purchase of major property items (e.g., land, buildings, structures, etc.) or major pieces of equipment that will remain in use for long periods of time present special problems not only for disposition, but in planning for maintenance and operation as well. FOSCs contemplating such acquisitions should contact the cognizant NPFC Regional Manager prior to purchase to discuss available options and to ensure that proper financial planning and analysis is performed.

I. Overflights.

Aircraft overflights provide a valuable tool to the FOSC in assessing the extent and movement of the spilled oil and evaluating the progress of cleanup efforts. Such overflights, however, should be carefully scheduled to minimize avoidable charges. This could include the use of less expensive commercial aircraft when made available by the RP provided that Coast Guard policies governing the use of no-contract commercial aircraft are followed. Overflights primarily for VIP orientation, for example, should not be charged to the OSLTF.

J. Replenishment of Inventory.

See NPFC Instruction 16451.2 (series) TOPs for Incident and Cost Documentation on FPN, CPN, & DPN Cases, Chapter 8 for further guidance.

K. Use of Standard Rates.

The OSLTF may be used for the cost of Federal resources used in oil spill response. The costs of CG resources should be charged at standard rate costs published by the U.S. Coast Guard described in COMDTINST 7310.1 (series) – Reimbursable Standard Rates. Equipment replaced due to damage as a result of the response or purchased using OSLTF during the response should not be also charged at a standard rate. Other agencies presenting costs based on standard rates or surcharges should be able to show that such rates are the official rates of that agency, i.e. published in agency directives or set by appropriate authority. The agency must certify to the NPFC that it followed practices consistent with generally accepted accounting principles, and OMB and GAO guidance in developing its standard rates.

L. Spills from Public Vessels or Federal Facilities.

While federal agencies cannot be held liable in court for discharges from public vessels or federal facilities, the NCP provides that a federal agency owning, operating, or supervising a vessel or a facility is responsible for funding the response. If the federal agency cannot fund or handle the removal activities, the FOSC may access the OSLTF to fund the clean up or prevention of a discharge.

1. If the OSLTF is used to clean up a discharge from a public vessel or federal facility, the NPFC will seek reimbursement from the responsible agency. FOSCs should immediately notify the appropriate NPFC Regional Manager whenever it appears necessary to use the OSLTF for a federal spill.
2. When the responsible agency is capable of funding the cleanup but lacks the resources to properly conduct the cleanup, the FOSC should attempt to establish a Military Interdepartmental Purchase Request (MIPR) or similar reimbursement agreement, as time permits, to establish direct upfront funding of the FOSC removal activities. FOSCs are encouraged to contact the cognizant NPFC Regional Manager as well as the Contracting Officer at the Director of Operational Logistics (DOL-92) in establishing such agreements.

M. Spills Involving Both Removal Costs and Potential Claims.

1. When an incident involves removal actions under the direction of the FOSC as well as potential removal costs and damage claims under OPA, the actions of the FOSC should be coordinated with the NPFC Case Officer & Claims Manager to ensure a cost-effective use of all OSLTF funds.

2. There may be overlaps between removal costs and damages. For example, the cost incurred by the FOSC for cleaning boats due to a spill is a valid removal cost while costs incurred by an individual for cleaning their own boats oiled due to a spill may also be subject to a removal cost claim. Further, a boat owner may have a property damage claim for damage to the boat even after the FOSC has cleaned it. In most cases, it is more efficient to handle boat cleaning as a removal cost because this ensures control over the disposition of the oil and the costs of the cleaning. Any property damage can be handled separately as a claim.
3. Additionally, there are situations where property is cleaned by the FOSC only to be later replaced as the result of a claim. An example might be oiled wooden piers which although cleaned by the FOSC as removal must still be torn out and replaced due to the residual damage. Close coordination allows the selection of the most cost-effective approach, which in some cases is to simply replace the property as a removal cost in the first place.

N. Mixed Substance and Commingled Substance Spills.

The OSLTF may be used to fund removal activities for a discharge or substantial threat of a discharge of oil. If an incident includes a distinct discharge of an OPA oil and a distinct discharge of a CERCLA hazardous substance, the cleanup of the discharge of oil may be funded from the OSLTF. The cleanup of CERCLA hazardous substances must be funded from CERCLA's Superfund. For instance, a vessel carrying containers of hazardous substances sinks and discharges its diesel. The cleanup of the diesel may be funded by the OSLTF; cleanup of the hazardous substance would be funded by CERCLA's Superfund. The FOSC should consult the "List of Petroleum and Non-petroleum Oils" (available on the CG-MER portal). However if the OPA oil and the hazardous substance have commingled before the cleanup begins, then its cleanup cannot be funded by the OSLTF.

O. Use of State and Local Response Resources.

Section 300.135 of the NCP requires FOSCs to coordinate response efforts with appropriate state agencies. It adds, "State and Local Governments, however, are not authorized to take actions under Subparts D and E of the NCP that involve expenditures of the Oil Spill Liability Trust Fund or CERCLA funds unless an appropriate contract or cooperative agreement has been established." To carry out this requirement, the following applies to funding of state and local participation in oil spill response.

1. The FOSC should establish from the outset whether state and local resources are necessary for removal actions for an incident. The FOSC, State OSC and local representation should integrate into a Unified Command. The development of an Incident Action Plan through the ICS planning process will define specific roles, responsibilities and scope of expected state and local actions. To the extent possible, appropriate state and local roles should be described in the Area Contingency Plan.
2. When a state or local government responds to a spill, either as stated in an Area

Contingency Plan or by specific FOSC request, a Pollution Removal Funding Authorization (PRFA) should be executed to ensure they are reimbursed for specific work performed at the request of the FOSC. As part of the PRFA, the FOSC must attach a Statement of Work to describe the required removal actions. See NPFC Instruction 16451.2 (series) "TOPs for Incident and Cost Documentation on FPN, CPN, & DPN Cases", Chapter 7 for further guidance on PRFAs.

3. When the FOSC determines that state or local resources were not necessary for an effective response, then the OSLTF is generally not available to pay the state or local government for its actions. There may, however, be some legitimate state or local costs incurred by the first government representative on scene which could be either funded directly through a PRFA or the subject of a claim. Costs incurred by government agencies prior to the FOSC's awareness and opening of an FPN are reimbursed through the claims process, not by a PRFA.
4. These provisions only apply to those incidents to which the FOSC actually responds. If a state or local government agency has properly coordinated a response with the predesignated FOSC and conducts oil spill removal actions consistent with the NCP, then the state or local governments are generally eligible for reimbursement of removal cost (compensation) through the OPA claims process and corresponding claims regulations.

P. Oil Wells/Pits/Facilities.

1. The OSLTF is available for removal of an oil discharge, or substantial threat of discharge from "abandoned" onshore facilities including wells, pits, and related oil production facilities. Like all types of property, onshore facilities cannot be both "owned" and "abandoned". These categories of property are mutually exclusive. If property is "owned", it cannot also be "abandoned". That's true even if owned property has not been used in a long time. Thus, the mere fact that a well has become derelict does not amount to voluntary relinquishment of all ownership interest in a fixture permanently attached to the land. Similarly, the mere fact that a state has classified an oil well as orphaned or as no longer in use does not conclusively show that it lacks a current owner. If an oil well is owned when an OPA incident occurs, it will not be considered an abandoned onshore facility under OPA.
2. The term facility has a very broad definition. A facility is any structure, group of structures, equipment or device used to explore for, drill for, produce, store, handle, transfer, process, or transport oil (except vessels). It includes, but is not limited to, oil wells, wellheads, boreholes, pits, pipeline, gathering lines, storage tanks, and tank batteries, pits, and containment areas.
3. The FOSC should begin appropriate research including title searches, tax records, and bills of sale, as early as possible to identify the RPs. This may require the hiring of appropriate services. The costs of such services may be charged to the FPN as removal costs. For advice and assistance, FOSCs should contact the appropriate NPFC Regional

Manager or Case Officer. A generic list of necessary documents for an RP search is provided in Appendix A of this TOPs.

Q. Endangered Species Act (ESA) Consultations.

During the removal action, if an emergency consultation under Section 7 of the Endangered Species Act is required, it can be funded by the FPN as a removal cost. Please see the “Interagency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act’s National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act” for details of the agreement and a sample PRFA and Statement of Work. See also NPFC Instruction 16451.2 (series) TOPs for Incident and Cost Documentation on FPN, CPN, & DPN Cases, Chapter 7 for further guidance on PRFAs.

R. Historical Properties Consultations.


During the removal action, if an emergency consultation to comply with Section 106 of the National Historical Preservation Act (NHPA) is required, it can be funded by the FPN as a removal cost. The “Programmatic Agreement on Protection of Historic Properties During Emergency Response Under the National Oil and Hazardous Pollution Contingency Plan” provides additional guidance on consultation and procedures for historical properties during emergency response to a spill or release. The Agreement can be found on the Commandant (CG-MER)’s Portal. A PRFA can be issued to the agency taking the lead on providing services to the FOSC for this activity. See also NPFC Instruction 16451.2 (series) TOPs for Incident and Cost Documentation on FPN, CPN, and DPN Cases, Chapter 7 for further guidance on PRFAs.

S. Site Remediation.

Discharges from storage tanks, oil wells or related facilities, and other similar facilities often may have caused extensive subsurface soil or groundwater contamination. Where such underground contamination has migrated and actually discharged into a WOTUS or substantially threatens to discharge into a WOTUS, the OSLTF may be used for removal. The OSLTF is available to remove oil pollution when it represents a substantial threat to a WOTUS, however, this does not extend to the remediation of contaminated soil or shoreline which no longer represents a substantial threat to a WOTUS. Once the necessary steps have been taken to eliminate the substantial threat of further discharge to a WOTUS, further actions to permanently remedy the effects of an oil pollution incident, including long term treatment of underground contamination, are beyond the scope of OSLTF emergency removal funding.

Appendix A

Documents for Identification of Owner/Operator for Onshore and Offshore Wells and Other Facilities

Department of Homeland Security US Coast Guard National Pollution Funds Center 2703 Martin Luther King Ave SE Washington, DC 20593-7605		Deed & Title Search Request CG NPFC-CM1 (Rev. May 20)	
PURPOSE: Federal On-Scene Coordinators may use this form to request the U.S. Coast Guard, National Pollution Funds Center to perform a deed and title search to identify the responsible party of a Federal project. Any cost incurred in the search will be charged against the project as a removal cost.			
FAX: Please fax the completed form to (202)272-8357, Attention: Case Management Division			
OSC POINT OF CONTACT		FPN	
PHONE NUMBER		DATE OF REQUEST	
FAX NUMBER		HAS REMOVAL BEEN COMPLETED? <input type="radio"/> YES <input checked="" type="radio"/> NO	
CHECK ONE <input checked="" type="radio"/> ON SHORE <input type="radio"/> OFF SHORE		DATE OF INCIDENT	
CHECK ALL THAT APPLY <input type="checkbox"/> FACILITY <input type="checkbox"/> OIL WELL <input type="checkbox"/> OTHER (Explain)			
WELL NUMBER	WELL NUMBER	WELL NUMBER	WELL NUMBER
WELL NUMBER	WELL NUMBER	WELL NUMBER	WELL NUMBER
List additional well numbers in the Other Pertinent information section below			
COUNTY/PARISH		STATE	
ADDRESS/LOCATION/BLOCK			
Complete the following, if known.			
FIELD NAME		FIELD NUMBER	
SECTION	TOWNSHIP	RANGE	
LAST OPERATOR			
LEGAL DESCRIPTION			
OTHER PERTINENT INFORMATION			
OSC SIGNATURE 			
This section to be completed by NPFC			
CASE OFFICER NAME			
ACCOUNTING DATA			

Previous edition can be used

Figure 1. Deed and Title Search Request Form.

Deed & Title Search – Statement of Work for Onshore Facilities.

The contractor is to prepare a Deed and Title Search Report and is to include information and documents covering the period 10 years prior to the drilling of the well or the construction of any other facility, up until the present. The report is to contain the following information, as indicated by the initials of the requestor as well as information for each facility (e.g. well, tank, tank battery, pit, etc.) listed on the Deed and Title Search Request form.

In the event that partial information has already been provided by the Federal On-scene Coordinator and is not required for this report, the requestor will initial “GFI” (Government Furnished Information) in the appropriate blocks.

Check Box	Description of Task
	1. The names, current or last known street addresses of all entities or individuals that have owner a surface interest, a mineral interest, and/or who have held a leasehold interest in the real property on which each of the facilities is located, and provide the time periods during which each such entity or individual owned the interest in question.
	2. A clearly marked section setting forth the author’s conclusions on who is (are) the current owner(s) of the surface rights, mineral interest, and leasehold interest in the real property on which each facility is located and who owns each such facility. Additionally, this section should also set forth the author’s conclusion as to who was or were the owner(s) of each such interest and each such facility on the date of the incident identified on the deed and Title Search Request. In situations where an oil discharge (e.g. a spill) occurred, the date of the incident for this purpose will be the date of the discharge. In situations where an oil discharge has not occurred, but the United States took steps to address a substantial threat of a discharge, the date of the incident for this purpose will be the date on which the response action commenced.
	3. A title analysis narrative, which clearly and fully explains the basis for each of the author’s conclusions identified in #2.
	4. With respect to each owner identified in #2: A. The phone number, fax number and, if available, e-mail address. B. If such owner is an individual who is deceased, so indicate, and provide information on the status of decedent’s estate (i.e. whether it is currently being administered or has been closed), and if it has not been closed, the name and address of the probate court, the caption of the probate proceedings, the docket number, the name, address and phone number of the executor, administrator or personal representative. C. If such owner is currently in bankruptcy (whether the owner(s) are individuals, partnerships or corporations), or has been in bankruptcy at any time during the 10 years prior to the date of the incident, provide the caption of the bankruptcy case, the docket number and the name and address of the bankruptcy court.
	5. With respect to each person or entity identified in #1 as owning or having owned a surface interest, a mineral interest, or holding or having held a leasehold interest during the 10-year period preceding the date of the

	incident: A. If such entity is a corporation, provide the legal status of the corporation (i.e. whether it is a corporation in good standing in its state of incorporation, whether it has been voluntarily or involuntarily dissolved). B. If such entity is a partnership, provide the names, current addresses, and phone number of each partner and the legal status of the partnership.
	6. Legal descriptions for the parcel on which each facility is located.
	7. Copies of title document including titles, deeds, mineral deeds, liens, leases, assignment, agreements, title transfers, satisfied and unsatisfied mortgages including deeds of trust and releases of deeds of trust, easements and encumbrances. If legible copies are not available, a description of the information conveyed in the document should precede the document.
	8. All documents filed with the applicable Secretary of State that related to any corporation, partnership, or limited liability company that owned or operated each facility on the date of the incident. If there was no apparent owner or operator of the facility on the date of the incident, then all documents filed with the applicable Secretary of State relating to any corporations, partnership, limited liability company that was the last apparent owner or operator of the facility. These documents should include, but not be limited to, articles of incorporation, partnership agreements, annual reports, voluntary or involuntary dissolutions papers, etc. However, if the expense of obtaining all relevant document exceeds \$500, then only those documents that relate to the formation and the dissolution of the companies should be obtained.
	9. All available documents from the local tax assessor's office that relate to the property on which each facility is located, including but not limited to all records for both real and personal property taxes assessed.
	10. All documents held by the state regulatory or licensing agency that relate to either the construction or the operation of each facility. These documents should include, but not be limited to, permits, applications for permits, documents submitted in support of an application for a permit, any historical file maintained by the agency for the oil well or other facility, etc.
	11. Any other documents relating to ownership of equipment, fixtures, and structures comprising of that are part of the facility or lease of such equipment, fixtures and structures.
	12. An ownership history table by parcel which details the owners of the surface interest, mineral interests, and leasehold interest of each parcel on which each facility is located with approximate percentages of interest.
	13. One Plat map which includes the searched parcel or parcels. This map should identify the parcels so that they can be identified on the ownerships table.
	14. A survey of the site, drawn to scale, identifying each facility (e.g. oil well, tank, pit, piping, etc.), the property lines, the current property owners and the threatened waterway.

Offshore Wells and Other Facilities

The types of information required to establish the RP are described below.

Source of information – State regulatory / leasing authority.

Owner identification:

Identify the owners of the submerged surface and mineral owners as of the date of the Federal On-Scene Coordinator (FOSC) discovers the discharge or determines that the facility poses a substantial threat of a discharge of oil to navigable waters; and

Identify current addresses, phone number and corporate status of each past and present lessee, permittee, and submerged surface and mineral owners. The addresses and phone numbers shall be verified and corrected by the contractor.

Provided **copies of the following documents** including:

- a. The lease under which the facility was last operated.
- b. The lease, covering the area where the facility is located, that is in effect on the date the FOSC discovers the discharge or determines that the facility poses a substantial threat of a discharge of oil to navigable waters. A copy of this lease is required, whether or not the facility was ever operated under this lease.
- c. Copies of all assignments of any interest for all leases noted above;
- d. Copies of all releases of any interest for all leases noted above;
- e. Copies of all subleases of all leases noted above;
- f. All documents held by the state regulatory or licensing agency that relate to either the construction or the facility. These documents shall include, but not be limited to, permits, applications for permits, document submitted in support of an application for a permit, any historical file maintained by the agency for the oil well, etc. (may be with state agency other than leasing agency);
- g. Copy of the plat shall be attached if it is not already with the permit or lease; and
- h. All documents filed with the applicable Secretary of State that relate to any corporation, partnership, or limited liability company that owned or operated the well at the time of the response. If there was no apparent owner/operator of the well at the time when the FOSC discovered the discharge or determined that the well posed a substantial threat of discharge, then all document filed with the applicable Secretary of State that related to any corporation, partnership or limited liability company that was the last apparent owner/operator of the well. These documents shall include, but not limited, articles of incorporation, partnership agreements, annual reports, involuntary dissolutions, etc. However, if the expense of obtaining all relevant documents exceed \$500, then only those documents relating to the formation and the dissolution of the company will be obtained.

Organization of the Deed and Title Search for Offshore Wells and Other Facilities

The Deed and Title search shall contain a table of contents to assist the user in locating tabbed documents.

The contractor shall provide the NPFC three (3) copies of the Deed and Title search. Two (2) copies shall be paper copies and be tabbed accordingly. The final copy shall be on a CD/DVD.

The Deed and Title search shall be sectioned and tabbed as outlined below:

Section I – Summary of the contractor’s findings. This summary shall include the legal description for the area where the facility is located, identification of past and present owners and operators of the facility including:

- a. Narrative describing the search results;
- b. Time periods during which the person or company owned or operated the facility;
- c. Complex title analysis narrative if necessary; and
- d. Current addresses, phone number and corporate status of each present owner.

Section II – Ownership History Table. This table shall identify all documents that detail the owners or operators of the facility with approximate percentages of interest. Copies of these document shall be tabbed as followed:

Section II A – lease under which the well was last operated.

Section II B – Copy of the area lease covering the area where the well was located, that was in effect on the date the FOSC discovered the discharge that the well posed a substantial threat of discharge into navigable waters. A copy of this lease is required, whether or not the well was ever operated under this lease.

Section II C – Copies of all oil and gas leases, mineral deeds, assignments of oil and gas interest, subleases of all oil and gas leases, releases of any oil and gas interest covering the area where the well was located. These documents shall be listed in reverse chronological order (the newest document will be first and the oldest document will be the last) and separated with numbered tabs.

Section III – Copies of the plat covering the area where the facility is located.

Section IV – Copies of all documents held by any state regulatory or licensing authority that relate to either the construction or operation of the facility. These documents shall include, but not be limited to, permits, applications for permits, documents submitted in support of an application for a permit, any historical file maintained by the agency for the oil well, etc.

Section V – All documents filed with the applicable Secretary of State that relate to any corporation, partnership, or limited liability company that owned or operated the well at the time of the response. If there is no apparent owner/operator of the well at the time when FOSC discovered the discharge or determined that the well posed a substantial threat of discharge, then all documents filed with the applicable Secretary of State relating to any corporation, partnership, or limited liability company that was the last apparent owner/operator of the well. These documents shall include, but not limited to, articles of incorporation, partnership agreement, annual reports, involuntary dissolutions, etc. However, if the expense of obtaining all relevant documents exceeds \$500, then only those documents relating to the formation and the dissolution of the company will be obtained.