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* See USCG Daily Operation Cycle of the UC below.

Marine oil spills in the US – planning, response, and consequences – a visual understanding of the overall system

In August, 1990, the US embarked on the development of its own system, creating a somewhat unique framework for dealing with the tasks of planning for, and responding to, oil spills at sea. In the years since, a complex web of statutory and regulatory systems has emerged to form the structure of the overall scheme.

Published 08 September 2014

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Much has been written during this time about the various segments of the system, sometimes in great detail. But seldom have there been attempts to describe the overall organization and relationship of the various parts of the total structure, from what procedures are first triggered when a vessel owner decides to send a ship to the USA, to pre-spill planning and preparation, to the exercise of those plans when a spill unfortunately occurs, and finally what happens in the aftermath of a significant oil spill event.

This is an attempt, through a visual approach, to present to the reader a 'bird's eye view' of the US marine oil spill response system, in all its phases. There is a trade-off in doing so, because while wishing to avoid oversimplification, it is acknowledged that each of the boxes in the main diagram describe an area about which volumes could be written, in describing all of the important details and nuances of the particular topic, which should be borne in mind by the reader. Also, the system continues to develop and change over time, and so in the future, such a diagram would have to be modified accordingly, to account for such alterations and changes.

[Click to enlarge and print the above diagram.](#)

Overview of planning, response, and consequences of marine oils spills in the US As can be seen, the above diagram is divided into two vertical columns and three horizontal rows. The columns present the two major divisions of parties in a US spill event, the governmental sector and the vessel interest sector.

While the relative size of the two columns is different – the vessel interests column has been deliberately afforded a more detailed view, and the government column a more cursory treatment – in actual operations, the practices and procedures generated by the government can make up the majority of actions. It should also be noted that agencies of individual states within the United States can be active in all phases, particularly in response activities. This is not included as the myriad of different practices of various states would add too much detail. But the reader should be aware that any of those boxes contained within the government and federal agencies column could, and would in a real event, include agencies from individual states impacted in a spill event (and occasionally local county or municipal authorities).

The three rows indicate the three major phases of the US marine oil spill system, beginning at the top with those events that occur before a spill, if any, which may apply to a particular vessel and its owners.

The middle row deals with the core of US oil spill response, beginning with the initial reporting of the spill itself, and relevant to the entire span of time when the active, in-the-field, spill response activities are occurring.

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The bottom row shows the events that come to the fore when the most active phase of spill clean-up is finishing, although some of these in a particularly long clean-up operation could begin while active recovery of pollutants is still ongoing.

A key for abbreviations/terms used QI = Qualified Individual – a person/organization required to be designated in the vessel response plan (VRP) filed with the USCG, who is pre-authorized by the vessel owner to call out the pollution response when notified by the vessel that a spill has occurred.

COFR = Certificate of Financial Responsibility –this is the document filed by vessel interests with the USCG, demonstrating financial capability, via insurance or otherwise, of payment for pollution clean-up costs up to the tonnage limitation figure contained within the Oil Pollution Act of 1990 (OPA 90).

ICS = Incident Command System – this is the uniform set of practices and procedures that comprise the structure of the spill response team that arises after a spill has occurred. The reader should be aware that whenever a vessel/Responsible Party and/or an individual state is involved in the response effort, the executive part of the ICS is called the Unified Command (UC).¹ This shows that in the top management of the ICS the executive/command decisions are made together with the three major parties – the federal government, the individual state(s) involved, and the vessel interests, with the federal on-scene coordinator (FOSC) having the overriding authority to render decisions even if the state officials and vessel representatives disagree.

ITOPF = International Tanker Owners Pollution Federation – this London based organization can offer on-the-scene attendance at oil spills, offering independent technical and scientific advice and information on pollution clean-up and response techniques, as well as alleged damages occurring to natural resources in the impacted areas of an oil spill.

NRDA = Natural Resource Damage Assessment – this deals with the process that is provided to determine what impacts to the natural environment an oil spill may have caused, and how to restore the resource or otherwise compensate for the damage inflicted. This is initiated and performed mainly by state and federal representatives, called collectively Natural Resource Trustees or simply ‘Trustees’, but regulations provide that vessel interest representatives are to be invited to have involvement in this process.

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Limitation of Liability Action = this box refers to two possible legal moves. Firstly, the tonnage limitation of liability contained within OPA 90 itself, and there are various ways this could be asserted legally. Secondly, it also refers to a much older law, the Limitation of Liability Act of 1851, 46 U.S.C. secs. 30501-30512, which is traditionally invoked after a maritime casualty, to attempt to limit the vessel owner's liability to the value of the vessel post casualty and any pending freight monies. While this would not apply to oil pollution liabilities, in a maritime accident where there are other non-pollution related issues (e.g. a ship collision, where there is also personal injury, cargo loss, and hull and machinery damage), it still has relevance.

NPFC = National Pollution Funds Center – located in Arlington, Virginia, this is a branch of the USCG that administers VRP and COFR filings, and is also the steward of the Oil Spill Liability Trust Fund (OSLTF). The OSLTF is a cash fund of approximately average target balance of USD 1 billion, funded by a tax on crude oil imported into the US, and can be used to pay oil pollution clean-up costs incurred by the government or others. In cases of a known spilling party, the NPFC will seek reimbursement, and in situations of an unknown source of a spill, which occurs from time to time in small/medium size pollution incidents, the OSLTF will serve as a source of money to pay for the clean-up.

The USCG daily operation cycle of the Unified Command (UC)

This diagram shows in detail one of the boxes in the first diagram, namely the daily operation cycle of the UC. Of all of the areas, it was thought that this is the one which is the most critical for an understanding of how the US spill response operates, and should be covered in more detail. This is not to say that in practice this procedure is slavishly followed by the UC participants; it is a flexible process, which can be altered to suit a particular spill response situation. But it can be said that the basic format is used in most spill events. The daily 24 hour cycle begins in the lower right hand corner, with the starting time determined by the UC, the executive body controlling the overall response. The diagram shows that the process is rather natural and logical – first, goals and objectives for the upcoming 24 hour period are developed by the UC, then there is a meeting with the persons in the UC, where tactics to reach those goals are formulated and agreed. Next, those tactics are given to the planning section, and detailed plans for the upcoming day's activities are set forth in a daily Incident Action Plan (IAP), which is approved by the UC. Then an operations briefing takes place, where the field operatives are instructed on what to do that day, so as to effect the planned reaction to the spill, any questions answered or doubts clarified, and the actions are then carried out during the course of that day. The cycle begins all over again, when the events of the prior 24 hours are reported and assessed, and a new set of objectives are developed by the UC.

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Now you have a ‘road map’ The US oil spill response system can be confusing, particularly when looking at detailed procedures of a particular segment, yet being familiar with the details is essential to a full and complete understanding of the US system. But it is hoped that this overview of the system offers the reader some clarity of how the entire structure works and how different segments relate to each other, serving as a map to allow focus on particular issues of interest or concern. By understanding the entire system at a glance, one can more easily see those points where vessel interests, and Gard, might best be able to participate and have input and influence in the various events and decisions that make up the overall system in the US. While still the subject of criticism both within and outside of the US, it is safe to say that the system is here to stay, and in the years since 1990, parts of the system have, either in whole or in part, been adopted by other countries in their oil spill response regimes, which amounts to partial approval of the US approach to marine oil spill response. Questions or comments concerning this Gard Insight article can be e-mailed to the Gard Editorial Team. ¹ USCG Homeport Incident Command System - <https://homeport.uscg.mil/mycg/portal/ep/browse.do?channelId=-17668&channelPage=%252Fep%252Fchannel%252Fdefault.jsp&pageTypeId=11328>

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