Report of the
OCS Policy Committee
Oil Spill Recommendations Implementation
Subcommittee:

Follow-up on the Report of the
Subcommittee to Review Analyses of the
EXXON Valdez Oil Spill

Approved by the OCS Policy Committee
March 28, 1991

INTRODUCTION

On May 23, 1990, the OCS Policy Committee approved a report prepared by the Subcommittee to Review Analyses of the EXXON Valdez Oil Spill. This report included 24 recommendations to assist in developing a credible National oil spill prevention and response program for both OCS and non-OCS spills in the marine environment. Such a program was seen as necessary to improve public confidence in, and to foster the public support necessary for, a viable OCS oil and gas program in the wake of the EXXON Valdez oil spill.

In addition to approving the report, the Policy Committee also established a subcommittee to work with the Department and the Minerals Management Service (MMS) on implementation of the recommendations in the report. The charge to the subcommittee was to:

- Meet with Secretary Lujan and MMS officials to discuss actions taken and planned to implement recommendations regarding OCS and general oil spill issues contained in the report;

- Provide information on recommendations to others having authority over or interest in oil spill prevention and response measures;

- Review funding options and mitigation considerations for oil spill damages, response technology development, damage assessment, and other items included in the recommendations in the report; and

- Present a progress report at the Fall 1990 meeting and a final report at the Spring 1991 Policy Committee meeting.

The Fall 1990 meeting was canceled, although a progress report was sent to Committee members in advance of the scheduled meeting date. This is the final report of the implementation subcommittee. The subcommittee has five members, four of whom were also members of the original review subcommittee. (See Appendix I for a list of subcommittee members.)

Bob Grogan, chair of the Subcommittee to Review Analyses of the EXXON Valdez Oil Spill, and J.B. Jackson, past chair of the OCS Policy Committee, met with Secretary Lujan and Director Williamson on July 30, 1990. The subcommittee met three times and heard presentations from MMS, the Department of the Interior Office of Environmental Affairs, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration (NOAA), and the Chair of the Regional Citizens Advisory Council that works with Alyeska. One member of the subcommittee and MMS staff met with the Environmental Protection Agency (EPA).

The Chairman of the Policy Committee sent copies of the May 23 Policy Committee report to the Coast Guard, NOAA, EPA, members of the National Response Team

(NRT), and members of the House-Senate Conference Committee working on the bill that was eventually enacted as the Oil Pollution Act of 1990.

Passage of that law was the most important event affecting the subcommittee's work. As detailed in this report, this law dealt with most of the general recommendations in the May 23 Policy Committee report. A crosswalk between those recommendations and the provisions of the Oil Pollution Act may be found in Appendix II.

The Oil Pollution Act is a complex and comprehensive law. The following are the primary provisions regarding oil spill prevention and response:

- The President's power to take control of cleanup efforts is expanded, and the Federal Government's oil spill response capability is enhanced.

- Spiller liability is increased sharply, and stiffer civil and criminal penalties are imposed. States can continue to impose unlimited liability.

- Spillers are required to pay for cleaning up oil spills and compensate parties economically injured by them. An industry-financed $1 billion fund is authorized for clean up and compensation costs not covered by spillers.

- Shippers are required to draft worst-case oil spill response plans.

- A multi-agency oil pollution panel is established to coordinate federal research and development.

- Anti-drug and anti-alcohol laws for ship operators are stiffened by requiring testing for certain workers and threatening substance abusers with license revocation.

- New tanker safety requirements are established, including strict escort rules in certain areas; double hulls, bottoms, or sides for all oil carriers within 25 years; and new limits on the hours tanker crews can work.

Based on the meetings noted above, a written status report from MMS, and other information-gathering efforts, the subcommittee has identified seven issues from the May 23 Policy Committee report where Committee advice to the Secretary would be useful to help him implement the recommendations from that earlier report:

-- Public Involvement and Education

-- Pipelines

-- Testing New Response Methods

-- Adequacy of Environmental Information

-- Studies of the Long- and Short-Term Effects of Oil Spills

-- Oil Spill Drills

-- Interaction with Regional Response Teams

Most of the issues for further action are within the OCS area. Many of the recommendations in the general section of the May 23 report are addressed in the Oil Pollution Act of 1990. To the extent there are still questions or areas where the Secretary might take action, these are covered under the individual recommendations in the body of this report.

Funding for oil spill prevention and response remains a major concern, although not a separate recommendation in this report. Funding for MMS activities relevant to oil spill prevention and response appears to be adequate at this time. It is, however, subject to the annual budget planning and appropriations process, which may accord it a higher or lower priority in the future. To monitor funding levels, the Policy Committee should annually request information on funding for the MMS offshore inspection, enforcement, training, and drill programs; the Technology Assessment and Research Program; and the environmental studies and assessment programs.

While the Oil Pollution Act authorizes funding for most of the activities covered in the Policy Committee's recommendations, most of these funds are subject to the annual appropriations process. Thus, while the new law sets up what should be a more effective system, its actual effectiveness will depend upon the budget situation on a yearly basis. **Without funding, there is no effective system for oil spill prevention and response.**

The subcommittee recommends that individual members, particularly the States, follow the changes being made to the National Contingency Plan (NCP) pursuant to the Oil Pollution Act and that the Policy Committee request a status report at its fall 1991 meeting on the NCP and implementation of the Oil Pollution Act in areas of concern identified in the May 23, 1990, report, including funding.

The following recommendations are discussed in detail in the body of the report. These recommendations are lettered, to differentiate them from the numbered recommendations in the May 23 Policy Committee report. The numbers in parentheses at the end of each lettered recommendation refer to the recommendations in that earlier report. Recommendations in the body of this report are presented in the order in which they appeared in the May 23 Policy Committee report.

IMPLEMENTATION RECOMMENDATIONS

PUBLIC INVOLVEMENT

RECOMMENDATION A: MMS should look at the citizen involvement demonstration projects in Prince William Sound and Cook Inlet and determine whether there are aspects of those programs that might be applicable to the OCS program in areas where operations exist. While there are problems with applying this model directly to the OCS, examination of the projects should yield some ideas for meaningful public involvement. MMS should look seriously at the role Regional Technical Working Groups (RTWG's) could play in this area and any changes that may be necessary to enable them to play this role. (Recommendation 8)

RECOMMENDATION B: MMS should involve the public in rulemaking dealing with safety beyond simply publication of notices in the Federal Register. Public information and education meetings should be held on rulemaking efforts to explain what is proposed and why, and to encourage informed input. (Recommendation 8)

RECOMMENDATION C: The Secretary should inform the public about and request comments on OCS safety and response reviews, consistent with the new emphasis of MMS on public involvement and education. (Recommendation 9)

RECOMMENDATION D: MMS should issue summaries of all technical and scientific publications that are accessible to the general public in a timely fashion. Such publications should be brief, written in non-technical terms, and focused on the concerns of the target audience. There should also be public involvement initiatives in this area. These would include meetings with people who are asked to comment on lease sales and exploration and development and production plans to explain in simple terms the MMS safety program. A good example of information that should be more widely available and more accessible is the work MMS has done on the Piper Alpha accident. (Recommendation 10)

RECOMMENDATION E: MMS should investigate the use of personnel exchanges with States, local governments, and industry to increase the knowledge and understanding among these players and stakeholders in the OCS program. (Recommendations 9 and 10)

PIPELINES

RECOMMENDATION F: Uniform regulations should apply to all offshore pipelines, and a single agency, preferably the Department of the Interior, should be responsible for regulation of such pipelines. Whatever Agency has this responsibility should have adequate funding and staffing to carry out these regulatory responsibilities. The Secretary should give resolution of the division of responsibility for regulating offshore pipelines a high priority. (Recommendation 2)

TESTING NEW RESPONSE METHODS

RECOMMENDATION G: The Secretary should aggressively and rapidly pursue ways to break the stalemate on the issue of an experimental spill in U.S. waters, including filing an application for a permit from EPA for an experimental spill to test new spill response methods and products. The Secretary should pursue this as a joint effort with the States and industry. Once an application has been filed, Secretarial attention should continue to ensure that the EPA reviews the application in a timely fashion. The Policy Committee should receive an update report on this effort at its fall 1991 meeting. (Recommendation 20)

ADEQUACY OF ENVIRONMENTAL INFORMATION

RECOMMENDATION H: The Secretary should consult the Policy and Scientific Committees for advice on the issue of what constitutes an adequate level of environmental information for decisions in all phases of the OCS program, including oil spill contingency planning. (Recommendation 5)

STUDIES OF THE LONG- AND SHORT-TERM EFFECTS OF OIL SPILLS

RECOMMENDATION I: The Secretary should work with the other Trustee Agencies to develop a plan for Trustee actions regarding damage assessments comparable in level of detail and organization to the plans developed by the response Agencies under the NCP and the Regional Contingency Plans. Such plans should provide for coordination of damage assessment activities and research opportunities with oil spill response activities and should provide for continuation of Trustee Agencies' activities until restoration is complete. Also, as a member of the Interagency Committee on Oil Pollution Research, the Department of the Interior should advocate funding of long-term effect studies beyond those deemed legally necessary for damage assessment purposes, as part of both the Oil Pollution Effects Research Program and the regional

research program authorized under Title VII of the Oil Pollution Act. (Recommendation 21)

OIL SPILL DRILLS

RECOMMENDATION J: MMS should maintain the current higher level of surprise drills. (Recommendation 16)

INTERACTION WITH THE REGIONAL RESPONSE TEAMS

RECOMMENDATION K: The MMS regions should meet periodically with the appropriate Regional Response Team (RRT) to discuss oil spill response contingency plans, both those for OCS operations and those under the purview of the RRT, to ensure that oil spill response plans in each region reflect a common understanding of the resources at risk and available and appropriate response methods. (Recommendation 3)

STATUS OF MAY 23, 1990 POLICY COMMITTEE RECOMMENDATIONS

Recommendation 1: NATIONAL POLICY ON OIL SPILL PREVENTION

Prevention of oil spills from exploration, production, and transportation needs to have a higher profile and priority within the Federal Agencies that manage and regulate the OCS program, for the public, for operators, and for the States.

MMS RESPONSE

Minerals Management Service (MMS) regulations have always stressed prevention of accidents and pollution on the OCS as our primary goal. Because of this commitment, MMS regulations have been gradually strengthened and finally totally reissued in 1988.

The process of strengthening regulations continues at this time with several significant changes in various stages of development. Among these are the following:

(1) A final rule has been prepared to expand the well control training requirements to include personnel involved in well workovers/completions and well servicing operations. This rule also contains provisions that allow MMS to randomly test workers at a training institution or at a worksite.

(2) A proposed rule has been published that will require greater detail in the information to be recorded during blowout preventer testing. This information will help to insure that the required tests are being performed.

(3) A proposed rule has been prepared to implement the new civil penalty authority included in the Oil Pollution Act (OPA) of 1990. Prior to passage of the OPA, the Secretary could impose a civil penalty for noncompliance on an offshore operator only if the operator had not taken corrective action after being given time for such action.

(4) A proposed rule was published on August 16, 1990, outlining procedures to be followed by the MMS when investigating apparent violations reported by the public.

(5) A proposed rule is being prepared to address the proposed assumption by MMS of regulatory responsibility for OCS pipeline segments that are presently under the jurisdiction of the Department of Transportation (DOT). (See recommendation 2, below.)

(6) An advance notice of proposed rulemaking (ANPR) was prepared to request information concerning possible new requirements for shutdown valves on pipelines.

All of these regulatory efforts include solicitation of public comments through the Federal Register. Public hearings were also held on the proposal for increased training requirements.

In an effort to prevent the recurrence of similar events, MMS is expanding its program for accident and spill investigations. Accident investigation specialists will be given specialized training and support. All recommendations will be independently formulated by the investigation teams with no organizational review. The responsible office will be expected to implement each recommendation or respond in detail to the Associate Director for Offshore Minerals Management as to why the recommendation should not be implemented. Reviews of historical oil spill and blowout data are underway. Published reports will be issued and will serve as the basis for further improvements in accident and spill prevention programs.

In a related effort, MMS established a Safety Review Task Group to review the circumstances surrounding the Piper Alpha platform fire in the North Sea and the South Pass 60 Platform "B" fire in the Gulf of Mexico. Based on this review, the task group will recommend revisions to the regulations concerning platform and pipeline safety.

In addition to the regulatory efforts of the MMS to prevent oil spills, the Agency's Technology Assessment and Research Program has been focusing on operational safety issues for years. In conjunction with contract researchers in government, private industry, and academia, the MMS has studied a wide range of operational issues with the goal of increasing safety and reducing the threat of oil spills on the OCS. Among the past and current studies that have been funded by the MMS are the following: 1) studies on structural safety and the effects of seismic events; 2) blowout prevention and control procedures for offshore operations; 3) forces on OCS structures generated by wind, waves, and ice; and 4) the safety of aging steel jacket platforms on the OCS.

The MMS has also shifted the emphasis of the OCS program since the EXXON VALDEZ accident. Safety of operations, always an important item within the Agency, has assumed an even more visible role. The OCS inspection program has been scrutinized by an internal task force which recommended a number of improvements. An internal reorganization has restructured the headquarters operations staff to be more responsive in identifying and correcting potential safety deficiencies. Analysis of inspection trends and accidents will be stressed under this new organization.

The MMS is working closely with other Agencies involved in the OCS program. The MMS has proposed the transfer of jurisdiction over all OCS pipelines up to the Federal/State seaward boundary to the MMS. The U.S. Coast Guard and Environmental Protection Agency (EPA) are working closely with MMS on oil spill research as well as other operational items. For example, MMS now conducts some inspections for the EPA during our regular inspections offshore. The Coast Guard and MMS share responsibilities for investigation of accidents from OCS offshore facilities or operations with the lead Agency being decided by the type of accident.

The Secretary supported passage of the OPA. This Act will require significant improvement in the vessels that transport petroleum products to our nation's ports as well as improved navigation facilities.

COMMENT

MMS has made significant efforts in oil spill prevention and is to be commended for them. Consistent with the new MMS emphasis on public involvement and education discussed under recommendation 8 below, the public should be more involved in rulemaking efforts, reports should be issued in a form accessible to the public, and internal reviews should be subject to external scrutiny. These are discussed further under recommendations 8, 9, and 10.

Recommendation 2: PIPELINE SAFETY

As part of the general analysis of the safety of marine transport of oil, the Secretary should reevaluate the integrity and safe operation of offshore pipelines carrying OCS production and implement necessary improvements.

MMS Response

Since 1976, regulatory authority over OCS pipelines has been divided between MMS and DOT. This has hampered efforts to efficiently regulate pipeline safety. MMS has proposed assuming regulatory responsibility for all OCS pipelines seaward of the Federal/State boundary.

Because platforms and pipelines are components of an interactive production system, regulatory agencies must focus their attention on the entire system and not just the components. The 167 fatalities from the July 6, 1988, accident at Piper Alpha (North Sea) are largely attributable to secondary pipeline explosions as were the 7 fatalities at the South Pass 60 "B" Platform in the Gulf of Mexico. Many of the fatalities at Piper Alpha might have been prevented had the pipelines automatically shut in rather than continue to deliver fuel to the accident scene. All of the major OCS oil spills over the

past 10 years were the result of pipeline leaks or ruptures. Leak detection, production shutdown, and internal pipeline inspection capabilities must be fully integrated into the overall production system design and operation.

Changing Departmental jurisdictions can benefit the program in several ways. The much larger MMS inspection program can dedicate more resources to approval and inspection of offshore pipelines than DOT. Merging responsibility for OCS pipelines into one Agency will lead to uniform regulations and consistent enforcement. Consistent jurisdictional responsibility will lead to a higher priority for pipeline research in the MMS budget.

Already, funding is planned for a study by the Marine Board of the National Academy of Sciences titled "Safety of Subsea Pipelines." Other studies in the planning stage include a study of leak detection technology and an analysis of internal pipeline inspection methods. Also, MMS review and analysis of the Piper Alpha and South Pass 60 Platform "B" accidents has led to the preparation of an ANPR to request information from the public concerning requirements for shutdown valves on pipelines.

COMMENT

Because the greatest risk of oil spills is from transportation and pipelines are an important part of OCS operations, the Secretary should give resolution of this matter the highest priority and his personal attention. A recommendation is proposed to encourage the Secretary to do this:

RECOMMENDATION F: Uniform regulations should apply to all offshore pipelines, and a single agency, preferably the Department of the Interior, should be responsible for regulation of such pipelines. Whatever Agency has this responsibility should have adequate funding and staffing to carry out these regulatory responsibilities. The Secretary should give resolution of the division of responsibility for regulating offshore pipelines a high priority.

Recommendation 3: CONSULTATION WITH RRT'S

The Secretary should consult with RRT's as part of the review of oil spill contingency plans (OSCP) for OCS operations.

MMS RESPONSE

Although RRT's are not formally involved in the review of oil spill contingency plans, in frontier areas most of the individual members are involved in the process. In all

Regions except the Gulf of Mexico, OSCP's are routinely reviewed by affected States, and Federal Agencies such as EPA, NOAA, the National Marine Fisheries Service, the National Park Service, and the Fish and Wildlife Service. (In the Gulf of Mexico OCS Region, only Exploration Plans offshore Florida are handled in this manner.) A Memorandum of Understanding (MOU) between MMS and the Coast Guard allows them a more comprehensive commenting role should they so desire. The commenting period is often short and it is often difficult to assemble a diverse group for the sole purpose of reviewing an OSCP.

The MMS feels it would be appropriate, as a planning tool, to address Gulf of Mexico OCS Region RRT's once each year on the status of MMS OSCP review procedures, oil spill cleanup drill results, and oil spill research developments. In less active regions, briefings could be provided upon request.

COMMENT

While it is encouraging that MMS already works informally with RRT members, the most important part of the recommendation was consultation with RRT rather than just briefing them. The latter approach seems to be inconsistent with the direction of MMS to have greater involvement of the stakeholders and constituents in MMS activities. Meetings with the RRT may not have to be as often as yearly, but they should involve consultation, that is, the opportunity for the RRT to have input on a sample of contingency plans, on the general approach taken, on the structure and content of plans, and on requirements for plans. This would not involve review of every plan but rather periodic involvement to ensure that people involved in contingency planning by the RRT and on the OCS are communicating and that the latest information is being used and the most effective planning is being done. Such an exchange may help improve regional contingency plans as well as OCS oil spill contingency plans.

RECOMMENDATION K: The MMS regions should meet periodically with the appropriate RRT to discuss oil spill response contingency plans, both those for OCS operations and those under the purview of the RRT.

Recommendation 4: COORDINATION AND DISSEMINATION OF TECHNOLOGY RESEARCH

The Secretary should ensure that Federal oil spill response technology research and assessment is coordinated. Federal Agencies should agree on who should do what research, should share results, and should not duplicate efforts. Adequate funding for necessary work must be available. A clearinghouse is needed on research and assessment being done by the States, by private entities, and in other countries.

MMS RESPONSE

The Oil Pollution Act established an interagency committee to insure that oil spill containment and cleanup research is conducted in a comprehensive, coordinated, and cost-effective manner. Twelve agencies are authorized to initiate or expand existing research efforts to improve oil spill prevention and response capabilities. The total level of funding authorized for research, development and demonstration is $27,250,000 per year for five years.

The committee has prepared a draft research plan that was sent to the RRT's for comment in December and was reviewed by the National Academy of Sciences in January 1991. This draft plan calls for MMS to oversee approximately $4 million of oil spill research in FY 1992 in addition to MMS funding and funds contributed by private industry. At this time however, neither the OPA funding nor funding from the American Petroleum Institute (API) has been finalized. A final Federal research plan will be submitted to Congress in February 1991.

The Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) is a facility for performing marine oil spill and hazardous materials research. The facility is a 200-meter long open air towing tank with all-year operating capability and a wave maker and water purification system. The OHMSETT is located at the U.S. Naval Station Earle, Leonardo, New Jersey.

The former EPA facility, now closed, is the property of the U.S. Navy which, by means of a Memorandum of Agreement, has permitted MMS to refurbish and operate it. The MMS is completing the restoration and is anticipating opening the facility for research about July 1991. An operations contractor will be selected by means of a request for proposals which is expected to be announced in the Commerce Business Daily in February 1991. The operations contractor will maintain and operate the facility and assist in conducting experiments. The operator will report to an MMS technical officer in the Technology Assessment and Research (TA&R) Branch of MMS. This officer will administer the operating contract and interact with other agencies and private entities which may desire to make use of the facility. Scheduling will be on a priority basis, the

priorities being established by the Federal agencies (United States and Canada) that jointly sponsor the operations costs and the cooperative research program at the facility. This group has been known as the OHMSETT Interagency Coordinating Committee since it first convened a decade ago.

It appears, at this writing, that perhaps one-quarter of the first year's operating schedule will be dedicated to non-Government interests and that pro rata funding will be required from them to maintain and operate that facility.

The OHMSETT facility will be used to test oil spill response equipment and procedures and for performing research into innovative strategies.

With regard to booms, standardized test procedures are being devised using oils in a tank and at sea for evaluating boom performance. The new protocol will permit sea tests to be accomplished without releasing oil. For skimmers, a protocol is being devised for evaluating performance by testing in the tank in the presence of oil, sea tests being necessary only for skimmers too large to evaluate in a tank. The OHMSETT research will include remote sensing, chemical treating agents, and new type skimmers and booms.

COMMENT

While the coordination mechanism established in the new law meets the concerns identified by the Policy Committee, funding for needed research is, as indicated in the MMS response, still an open question. Research funding is subject to annual appropriations and thus to competition with other budget priorities. Continuing reports from the Department to the Policy Committee on the status of the research program, including funding, would be appropriate.

Recommendation 5: ENVIRONMENTAL INFORMATION FOR OIL SPILL RESPONSE PLANNING AND OCS DECISIONMAKING

The Secretary should work with the OCS Advisory Board to reach a better understanding of what constitutes an adequate level of environmental information for oil spill contingency planning and response as well as for all OCS decisionmaking and should ensure that environmental studies to gather such information are funded well in advance of decisionmaking.

MMS RESPONSE

While the joint Policy/Scientific Committee Subcommittee on Scientific Information and OCS Decisionmaking has suspended its evaluation of environmental information and the OCS decisionmaking process, it has been asked by the Policy and Scientific Committees to review the recently announced draft proposed Comprehensive Program. That review should indicate whether the concerns behind this recommendation have been resolved by the new Area Evaluation and Decision Process set forth in the draft proposed Comprehensive Program or whether there are remaining issues.

COMMENT

This issue is significant and deserves MMS attention. If the 5-year OCS leasing program or other changes going on in MMS deal with this issue, the Policy and Scientific Committees should be consulted before the 5-year program or other program changes are finalized. If the issue is not addressed in the 5-year program, it should be added. The MMS should support the efforts of the joint subcommittee to deal with this issue.

RECOMMENDATION H: The Secretary should consult the Policy and Scientific Committees for advice on the issue of what constitutes an adequate level of environmental information for decisions in all phases of the OCS program, including oil spill contingency planning.

Recommendation 6: INFORMATION ON OIL TRANSPORTATION IN LEASE SALE DECISIONS

The Secretary should give a higher level of attention both in planning the leasing program and in individual lease sales to information about the size of the risk to the environment from transporting existing imports of oil into a region and from transportation of OCS production to shore. This information should also receive significantly more attention in public education efforts.

MMS RESPONSE

Impacts associated with the transportation of oil and gas are analyzed as part of the impact analysis in the environmental impact statement (EIS) prepared for each lease sale. Reasonable assumptions concerning the transportation of oil and gas are

developed based on a review of technological constraints, environmental preferences, economic considerations, and the current transportation network.

Providing the public with a meaningful risk analysis that compares OCS production with tankered oil imports for each lease sale is a difficult task because of the number of assumptions that must be made at the time of the EIS preparation. The type and amount of hydrocarbons that might be discovered and produced are unknown, as are their the location and water depth. The amount of onshore treatment needed before further shipment is also a matter for conjecture.

Nevertheless, MMS conducts oil spill assessments for all OCS lease sales. In general, a lease sale oil-spill risk assessment includes the following:

--the chance of spills occurring, estimated by using historical Federal OCS data for platform and pipeline spills and production levels, and worldwide data for tanker spills;

--the probability of oil contacting sensitive resources, using trajectory analyses;

--oil spill risks from production in the proposed lease areas, as well as the risks of transporting the oil from the production areas via pipelines and/or tankers; and

--oil spill risks for the cumulative case, including existing imports of oil by tanker.

The MMS also conducts special oil-spill risk assessments for site-specific concerns such as analyzing risk of exploratory drilling off Florida south of 26 degrees (for the State of Florida/MMS Task Force), or analyzing the risks from activities proposed in a Development and Production Plan.

In order to better inform the public as to the risks of OCS activities compared with oil imports, the MMS is increasing its education efforts. Staff from the External Affairs Office met with the Oil Spill Recommendations Implementation Subcommittee to explain MMS initiatives in this area.

COMMENT

At a minimum, lease sale EIS's should present a generic comparison of the risks of importation of crude and refined oil relative to the risks of production and transportation of OCS oil. Further, confusion about the relative risks of tankering imports and OCS production should be a focus of MMS public education efforts because of the confusion in the public mind about where the risks lie. This was discussed in the May 23 Policy Committee report:

"Although the oil spilled by the EXXON Valdez was not from the OCS, the spill reinforced public fears about the entire issue of oil and water, including OCS activities. One politician commented, 'The distinction between sources of spills is a distinction without a difference in political terms.' This appears true of public perception also."

Recommendations on public involvement and education may be found under recommendations 8, 9, and 10 below. No further action on this recommendation is necessary at this time.

Recommendation 7: OIL SPILL IMPACT ANALYSIS

The Secretary should ensure that, before an exploration plan in a lease sale area is approved, adequate plans, information, and protocols are developed for studying the economic, environmental, and social effects of oil spills, including short and long-term effects and lessons to be learned for dealing with future spills. This should include the steps needed to begin a damage assessment under the CWA or CERCLA immediately after a spill. These should be developed by Interior in consultation with the other natural resource trustee agencies and the RRT and should be included in all oil spill contingency plans for operations in that area.

MMS RESPONSE

The Scientific Committee has reviewed a series of proposed studies to establish response programs so that MMS could study the long-term effects of selected oil spills. These studies have been ranked against other proposed research in the Environmental Studies Program in both Fiscal Years 1991 and 1992. Their relative priority makes it unlikely that they will be funded at this time.

When possible, MMS will participate in discussions with the Natural Resource Trustee Agencies on the issues of starting data collection for damage assessment and having a plan in place to study short-and long-term effects beyond those needed for damage assessment. However, MMS is not a lead agency in this regard and therefore may have limited impact.

COMMENT

MMS participation in planning for damage assessments and in other planning activities regarding studies of spills that might occur from an OCS facility would be helpful in addressing this recommendation.

Recommendation 8: CITIZEN ROLE

The Secretary should ensure that people and organizations in areas most likely to be affected by OCS operations, including effects from oil spills, have roles in oversight to prevent oil spills, in contingency planning, and in response.

MMS RESPONSE

The MMS will continue to seek public input on oil spill contingency planning and spill response capabilities through the Exploration Plan and Development and Production Plan review process. The public, commenting directly to MMS or through their State coastal zone management agencies, has provided extensive input on oil spill preparedness, particularly for operations to be conducted in frontier areas.

To supplement the normal rulemaking process, MMS intends to solicit information from the public with regard to the effectiveness of MMS regulations in providing for safe and efficient operations. The request for comments will be published in the Federal Register and will also be sent to all interested parties. This process will supplement, not replace, the normal rulemaking process.

COMMENT

In his meeting with Bob Grogan and J.B. Jackson on the May 23 Policy Committee report, the Secretary expressed particular interest in the public involvement recommendations (8, 9, and 10 for the OCS program; 22 and 23 in the general section) and asked for advice from the Policy Committee on how the public could be more involved in the OCS program.

Subcommittee discussions with MMS on public involvement indicated that the Agency is taking a different approach to the role of the public in the OCS program than was done in the past. This new approach calls for much greater public involvement in the OCS program and a much greater acknowledgement of the importance of that involvement to the success of the program. Management is emphasizing consultation and negotiation with interested and affected parties as a basic component of program operation, according to the MMS report. The subcommittee believes that this is an important shift in MMS that should help to meet the needs identified in the May 23 Policy Committee report for public involvement. It further notes that it is important for management to recommit the organization to this change on a regular basis because organizations tend to slip back into the old way of doing things over time without reminders from the top.

To carry out this new MMS commitment, the Agency should be proactive in all its interaction with the public. Internal programs on topics that relate to or affect public

confidence in the OCS program should be open to public review. The public should be involved in rulemaking dealing with safety beyond simply publication of notices in the Federal Register and mailing such notices to interested parties. Public information and education meetings should be held on rulemaking efforts to explained what is proposed and why and to encourage informed input. Finally, existing mechanisms for identifying issues that may lead to conflict should receive greater emphasis. For example, the RTWG's, perhaps in a modified form, could serve this purpose. The Policy Committee should also be consulted for suggestions on public involvement projects.

Section 5002 of the Oil Pollution Act establishes two citizen involvement demonstration programs, one in Prince William Sound and one in Cook Inlet. The subcommittee met with the Chair of the Regional Citizens Advisory Commission working with Alyeska. This group has applied for status as the demonstration project in Prince William Sound under section 5002. A fact sheet about this group may be found in Appendix III. Among the salient points of the presentation were that the group is emphasizing oil spill prevention and public education because they see the greatest value in these activities. This is consistent with the Policy Committee's emphasis on the importance of prevention in its May 23 report. Also emphasized was the value of direct interaction between industry and representatives of the public affected by industry's activities. The value of this type of interaction was also a rationale behind recommendation 8. It was clear, however, that while aspects of the Prince William Sound group may be applicable to the OCS, it was not a directly transferable model.

Two recommendations are proposed to provide further guidance to MMS on the public involvement issue:

RECOMMENDATION A: MMS should look at the demonstration projects in Prince William Sound and Cook Inlet and determine whether there are aspects of those programs that might be applicable to the OCS program in areas where operations exist. While there are problems with applying this model directly to the OCS, examination of the projects should yield some ideas for meaningful public involvement. MMS should look seriously at the role RTWG's could play in this area and any changes that may be necessary to enable them to play this role.

RECOMMENDATION B: MMS should involve the public in rulemaking dealing with safety beyond simply publication of notices in the Federal Register. Public information and education meetings should be held on rulemaking efforts to explain what is proposed and why and to encourage informed input.

Recommendation 9: PUBLIC CONFIDENCE IN OPERATIONAL CONTROLS

The Secretary should inform the public about and request comments on OCS safety and response reviews to increase public confidence in the OCS program.

MMS RESPONSE

See response to recommendations 8 and 10.

COMMENT

As noted under recommendation 1, public scrutiny of internal reviews is an important way to increase public confidence in the OCS program. This is also an opportunity to implement the new MMS public involvement policy.

RECOMMENDATION C: The Secretary should inform the public about and request comments on OCS safety and response reviews, consistent with the new emphasis of MMS on public involvement and education.

Another way to increase confidence in the program and to foster greater understanding among the various constituencies involved is to have people in one group work in a different organization for a period of time. Exchanges among staff involved in the OCS program in local, State, and Federal government agencies and between government and industry could greatly facilitate communication and deepen understanding.

RECOMMENDATION E: MMS should investigate the use of personnel exchanges with States, local governments, and industry to increase the knowledge and understanding among these players and stakeholders in the OCS program.

Recommendation 10: TECHNOLOGY TRANSFER BEYOND THE TECHNICAL COMMUNITY

The Secretary should share oil spill avoidance and response technology innovations with the States and the public, and especially with members of the RRT's. The Secretary should ensure that a public information effort is undertaken on what is being done in oil spill avoidance and response technology research.

MMS RESPONSE

The transfer of technological information to the public is a continuing goal of the MMS. During the past 20 years, the development of offshore oil and gas technology has expanded from an insular American-dominated field to a truly international undertaking. The MMS's Technology Assessment and Research (TA&R) Program operates within this field, participating in joint projects with others and sometimes initiating projects in which others participate.

The program has pursued several basic means for accomplishing technology transfer. It sponsors a biennial seminar for the public wherein its researchers summarize their work. It sponsors, with industry and other groups, international workshops on areas of concern, such as operational safety. It disseminates reports and participates in Information Transfer Meetings of the MMS Environmental Studies Program and discusses the TA&R Program in whatever format becomes available.

Most of these technology transfer methodologies are advertised to the public in journals, the Federal Register, and by invitation. Of the various transfer methods, the program has determined the International Workshop to be the most effective vehicle and has accelerated its schedule to include over one per year over the next few years. Through methods such as this, the MMS will continue its practice of broadening the audience for MMS transfer of offshore technologies.

COMMENT

Consistent with MMS public education efforts, information in these important areas should be made available in a timely fashion to State and local government officials and those members of the public with an interest or a stake in OCS development. While it is true that general public interest in technology matters is limited, those members of the public with a stake in the OCS program are concerned about the safety of the program. A serious effort by MMS to provide information in a form accessible to this lay public may help to allay these concerns. Further, such an effort should assist MMS in meeting its public involvement goals by providing the opportunity for the public to become better informed about the OCS program.

RECOMMENDATION D: MMS should issue summaries of all technical and scientific publications that are accessible to the general public in a timely fashion. Such publications should be brief, written in non-technical terms, and focused on the concerns of the target audience. There should also be public involvement initiatives in this area. These would include meetings with people who are asked to comment on lease sales and exploration and development and production plans to explain in simple terms the MMS safety program. A good example of information that should be more widely available and more accessible is the work MMS has done on the Piper Alpha accident.

Recommendation 11: FUNDING FOR REGULATION OF OPERATIONS, OIL SPILL RESPONSE TECHNOLOGY RESEARCH, AND ENVIRONMENTAL STUDIES

***To ensure the good safety record of OCS operations continues, the* Secretary should assure that adequate funding is available for the MMS offshore inspection, enforcement, training, and drill programs; the TA&R program; and the environmental studies and assessment programs.**

MMS RESPONSE

Funding for these programs is as follows:

	FY90	FY91
Regulation of Operations	22,067,000	23,854,000
Oil Spill Research	986,000	1,183,000
Environmental Studies	20,016,000	23,335,000

The Secretary understands the importance of funding these programs which are important to the future of the OCS program and America's energy supplies. In making his difficult budget decisions, the Secretary has increased funding for these important items. Not reflected in the numbers above are significant budget expenditures for oil spill research that do not use MMS-appropriated funds. An agreement with API and funding from the OPA may significantly increase the total for MMS-directed oil spill research for FY 1991.

COMMENT

Increases in these areas are helpful, as is authorization of funding for these activities in the Oil Pollution Act. The key, however, is ongoing funding at a level sufficient to maintain an effective program. The Policy Committee should request information on funding for these activities on an annual basis, to monitor efforts in these areas.

Recommendation 12: RESPONSIBILITY FOR MARINE TRANSPORTATION SAFETY

The Secretary should encourage the President to give the Coast Guard a priority mission to ensure the safe transport of oil, just as the Federal Aviation Administration has as its primary mission the safety of air traffic. The Coast Guard should receive adequate funding and staffing to carry out this mission.

MMS RESPONSE

The U.S. Coast Guard has written, and the MMS has reviewed, the Executive Order to implement the OPA. The concerns of the Policy Committee were taken into account during this review.

If the draft Executive Order becomes effective, the MMS will be responsible for drafting regulations on the following topics: (a) financial responsibility requirements for offshore operators; (b) pollution contingency planning, inspection and enforcement; and (c) civil penalty authority under the OCS Lands Act. The recommendations and concerns of the Policy Committee will be considered when the MMS drafts regulations for those parts of the Act determined to be under its jurisdiction.

The Coast Guard will draft all regulations dealing with the safe tankering of oil. The MMS will consider the concerns of the Policy Committee when reviewing and commenting on the draft Coast Guard regulations.

COMMENT

Information the subcommittee received from the Coast Guard indicates that there is support from Congress and from the Commandant of the Coast Guard for an increased emphasis on marine traffic safety. The message is that all missions of the Coast Guard are equally important in terms of the national agenda, and that resources should not be taken from one to support others. The Coast Guard believes that a marine safety/environmental protection career track exists now. The greatest need is to expand the knowledge base so that Coast Guard personnel outside that track can

participate in disaster response. In view of this information and the MMS response, no further Committee action is necessary on this recommendation.

Recommendation 13: TANKER AND TRAFFIC SAFETY IMPROVEMENTS

The Secretary should encourage the Administration to pursue improvements in factors that affect tanker movement in congested and hazardous areas, tanker personnel, and vessel design and equipment. Improvements should be pursued nationally and internationally, and U.S. unilateral action should be considered where prompt international agreement is unlikely.

MMS RESPONSE

The U.S. Coast Guard (USCG) published a notice of proposed rulemaking concerning double hulls for tank vessels carrying oil in the December 5, 1990, Federal Register. The comment period for the proposed rule closes on April 1, 1991. The proposed rule, when issued in final form, will implement section 4115 of the OPA.

Although not required by OPA, the USCG published another proposed rulemaking on September 19, 1990, that would change the present requirements for deepwater port radar beacons. The proposed rules would improve the effectiveness of radar beacons as navigational aids.

The Executive Order to implement the OPA has not yet been approved. Some regulatory requirements that are not clearly the responsibility of the USCG may await this approval before actions are initiated.

COMMENT

No further Committee action is necessary regarding this recommendation.

Recommendation 14: COMMAND OF OIL SPILL RESPONSE

A single Federal or State agency should be in charge of directing the response to major spills, depending on the magnitude, geographical extent, and location of the spill. The spiller should not be in charge of directing the response to a major oil spill. In most cases, response to major oil spills should be under Federal control immediately, with an established process for delegating control to the State as warranted. The Secretary should urge the Administration to support legislation to permit this.

MMS RESPONSE

This recommendation requested the Secretary's support for the then-pending OPA. The Act has been passed, with the Secretary's support.

COMMENT

The Oil Pollution Act provides for government direction of oil spill response, as called for in this recommendation. Thus, no further Committee action on this recommendation is necessary.

Section 4201 of the Oil Pollution Act requires the President to take affirmative action to deal with an oil spill. This compares to permissive rather than directive language in previous law (the Clean Water Act). The law is clear that the party responsible for the spill is also responsible for the cleanup, including the costs of cleanup, and for natural resource damages, regardless of who directs or does the actual work. This section also calls for establishment or designation of Coast Guard Strike Teams who are trained to carry out the National Contingency Plan, have adequate equipment and material, and have detailed plans for their work, including measures to protect fisheries and wildlife (section 4201(b)). Section 4202 covers the National Planning and Response System, including how national, regional, and local groups will work together.

The Coast Guard is developing a catastrophic spill organization, and is looking at the incident command system as a model to meet the requirements of the Oil Pollution Act and the specific requirements of spill response: e.g., defined written roles for specific players.

Funding for oil spill response is covered generally in Title I. Section 1012 makes the Oil Spill Liability Trust Fund available for "the payment of removal costs, including the costs of monitoring removal actions" by Federal or State authorities and "the payment of Federal administrative, operational, and personnel costs and expenses reasonably necessary for and incidental to the implementation, administration, and enforcement of [the Oil Pollution] Act," including most of the new programs called for in the law. Funding is discussed in more detail under recommendation 24, below.

Recommendation 15: IMPROVE OIL SPILL CONTINGENCY PLANS

Contingency plans at all levels should be complete and regularly updated and practiced. All responsible and affected parties should participate in development of national, State, local and vessel- and facility-specific contingency plans.

MMS RESPONSE

We believe the planning provisions of the OPA are responsive to this recommendation.

COMMENT

The Oil Pollution Act significantly changed the contingency planning process. The Act includes most of the things outlined in this recommendation, particularly in the newly required Area Response Committees. "Significant oil spill" has not been defined, and the Coast Guard believes this will have to be done on a case-by-case basis. Under the Act, the Coast Guard can require an operator to develop a contingency plan and have the necessary equipment and qualified personnel to carry out the plan. The structure in the Oil Pollution Act makes States full partners in oil spill prevention and response. *No further Committee action is necessary regarding this recommendation.*

Recommendation 16: DRILLS AND TRAINING

Full scale drills, involving everyone in the chain of command and everyone who would be involved in actual response should be required. The Secretary should urge the Administration to support legislation to permit such drills. To prepare for drills and actual response efforts, all appropriate personnel should be fully trained. What is learned from drills should be incorporated immediately into the plans.

MMS RESPONSE

Demonstration of the workability of oil spill contingency plans through the use of drills is one of the most important factors of the MMS inspection program. It does not appear feasible, however, to require a successful drill prior to plan approval.

A successful drill requires that equipment and personnel be in place and in a "ready to perform" mode. This requires a substantial investment on the part of the operator who often must purchase or lease equipment, rent storage facilities, and hire subcontractors to fulfill the obligations cited in the plan. This is an unreasonable burden to require of an operator for consideration of a plan that might never be approved or implemented.

The Regional Supervisor is responsible for insuring that all facets of the plan are workable and that equipment is in place prior to the commencement of operations under the Exploration Plan or the Development and Production Plan (or Development Operations Coordination Document in the Western Gulf of Mexico). MMS regulations require that a drill be conducted when the oil spill cleanup equipment is initially put in

place and at least once every 12 months thereafter. The Regional Supervisor may also initiate unscheduled drills at any time in order to simulate realistic oil spill conditions and to insure that operators maintain their equipment properly and have sufficient properly trained personnel at all times. The Regional Supervisor can require changes in the operator's response equipment, procedures, or strategies at any time based on the results of these drills.

Since the Exxon Valdez spill, the MMS has increased its emphasis on surprise oil spill drills. The Gulf of Mexico OCS Region, which prior to the Valdez spill had never conducted a surprise drill, has conducted 5 surprise drills in the last year including one nighttime drill. The Pacific OCS Region has conducted some 30 surprise drills over the past year. Because of logistical considerations, the Alaska OCS Region has emphasized inspections of pre-staged oil spill cleanup equipment and full scale announced drills.

Appropriate regulatory personnel from affected States and the Coast Guard have participated in the oversight of these surprise drills. Although State and public participation is often constrained by safety and space considerations, the MMS will continue to provide for such participation to the extent feasible.

COMMENT

The Oil Pollution Act increases oil spill response drill and training requirements. The subcommittee is encouraged by the increased number of surprise drills conducted by MMS, recommends that this increased level be maintained, and encourages MMS to ensure that State and public participation is facilitated, within safety and space constraints, through timely notification of drills. Further, the subcommittee assumes that what is learned from such drills is applied to development of future plans.

RECOMMENDATION J: MMS should maintain the current higher level of surprise drills.

Recommendation 17: DOD ROLE

The Department of Defense (DOD) should be involved in oil spill preparedness and response under the direction of the Coast Guard.

MMS RESPONSE

Although this recommendation contains no action for MMS or the Secretary, DOD has been active in spill response deliberations pursuant to the OPA.

COMMENT

No further Committee action is necessary regarding this recommendation. The Coast Guard works with the military, particularly the Navy Superintendent of Salvage and, currently, the Army Corps of Engineers on conversion of dredges for use as skimmers. They also work with the Director of Military Support for support services such as air lift and heavy lift. The Coast Guard does not anticipate a more formal role for DOD.

Recommendation 18: EQUIPMENT INVENTORIES AND STOCKPILES

The Coast Guard should develop, maintain, and make widely available a computerized, international inventory of oil spill response equipment, including information on its location and appropriate use. Stockpiles should include equipment appropriate for the area in question, in amounts appropriate to deal with a worst-case spill, with information on proper use and repair of likely breakdowns. Finally, equipment stockpiles maintained by different groups should be complementary, so they can be used together in the event of a catastrophic spill.

MMS RESPONSE

The Coast Guard is developing a national equipment data base. Also, pursuant to a November 1990 international convention, the International Maritime Organization (IMO) will be developing an international system. The Coast Guard and IMO are also addressing the issue of equipment compatibility.

COMMENT

This is adequately handled by the Oil Pollution Act, so no further Committee action is required. The subcommittee is encouraged that this is being done on an international scale. Some States, such as California, are developing statewide inventories to be included in national and international inventories.

Recommendation 19: RESEARCH AND DEVELOPMENT NEEDED

Research and development is needed on the recovery, treatment, and containment of spilled oil by Federal and State Governments and by industry, and incentives are needed to encourage testing of new approaches that are developed.

MMS RESPONSE

The concerns of the Policy Committee were addressed by the OPA. The MMS is encouraging the testing of new response equipment at the OHMSETT facility.

As discussed under Recommendation 20, some research is not being conducted because of the inability to obtain permits for the at-sea testing of cleanup procedures.

COMMENT

The Oil Pollution Act covers this recommendation, so long as sufficient funding is appropriated to support the research program it authorizes. See also the response to recommendation 4, above. No further Committee action is necessary regarding this recommendation.

Recommendation 20: EXPEDITE APPROVAL OF NEW OIL SPILL RESPONSE METHODS

The Secretary should work with all appropriate agencies and groups, including the States, to identify the barriers to introduction of new products and techniques to respond to oil spills and find ways to reduce or remove these barriers.

MMS RESPONSE

The MMS has experienced regulatory roadblocks while trying to conduct research on oil spill cleanup equipment and chemicals in U.S. waters. Because of this, most useful testing of spill response methods has been conducted in foreign waters in conjunction with foreign regulatory agencies.

The MMS has also experienced some difficulties in obtaining pre-approval for dispersant application through the RRT's. Work will continue in both of these areas.

COMMENT

The subcommittee discussed this issue with appropriate officials from MMS and EPA. Regulations have been in place since 1970 regarding permits for intentional spills in the ocean for research purposes. The EPA advised that no application for such a spill has been filed in the past 10 years. A stalemate seems to exist on the issue of getting permits for an experimental spill in U.S. waters. Spills have been held off Canada and Norway but not off the U.S. Because all current OCS production is in waters warmer than those found off these two countries, such spills are not sufficient to meet U.S. needs. Resolution of this problem needs high level attention within the Department

because of the long history of difficulties and apparent inability of staff to resolve the stalemate.

RECOMMENDATION G: The Secretary should aggressively and rapidly pursue ways to break the stalemate on the issue of an experimental spill in U.S. waters, including filing an application for a permit from EPA for an experimental spill to test new spill response methods and products. The Secretary should pursue this as a joint effort with the States and industry. Once an application has been filed, Secretarial attention should continue to ensure that the EPA reviews the application in a timely fashion. The Policy Committee should receive an update report on this effort at its fall 1991 meeting.

Recommendation 21: STUDIES OF OIL SPILL EFFECTS

The Secretary should urge the trustee agencies under CERCLA to develop plans for studies that would produce a comprehensive picture of each major oil spill's short- and long-term effects and of lessons to be learned to reduce the effects of future spills. These would be in addition to studies necessary to conduct a damage assessment.

MMS RESPONSE

The MMS agrees with the Policy Committee that advance planning is necessary to allow scientific research to be conducted in the event of oil spills. The NRT Research Committee and the RRT's will be encouraged to develop national and regional assessment plans that could be implemented if a spill should occur. Comments under recommendation 7, above, are also applicable here.

COMMENT

The Oil Pollution Act gave the responsibility for rulemaking on damage assessments on oil spills in the ocean to NOAA. The Department of the Interior damage assessment rule is to be used until the NOAA rule is promulgated. The NOAA published an ANPR December 28, 1990, and expects the rule to be completed by August 1992. Part of the NOAA effort is development of a handbook on how to do damage assessments which they believe will address the concern in the Policy Committee recommendation regarding the need to start a damage assessment as soon as a spill occurs. The Policy Committee may wish to request briefings from NOAA on the status of rulemaking on damage assessments at future meetings.

NOAA has taken the position that it cannot legally require the responsible party to fund studies of long- and short-term effects other than those necessary for a damage assessment. It would be helpful for NOAA and the Trustee Agencies to look at damages over the long term, which would allow them to obtain funding for long-term studies from the responsible party. Further, it may be possible for the Trustee Agencies to negotiate with responsible parties to fund such studies as part of recompense for lost resources. Funding is also available under section 7001 of the Oil Pollution Act for research on the environmental effects of oil spills.

RECOMMENDATION I: The Secretary should work with the other Trustee Agencies to develop a plan for Trustee actions regarding damage assessments comparable in level of detail and organization to the plans developed by the response Agencies under the NCP and the Regional Contingency Plans. Such plans should provide for coordination of damage assessment activities and research opportunities with oil spill response activities and should provide for continuation of Trustee Agencies' activities until restoration is complete. Also, as a member of the Interagency Committee on Oil Pollution Research, the Department of the Interior should advocate funding of long-term effect studies beyond those deemed legally necessary for damage assessment purposes, as part of both the Oil Pollution Effects Research Program and the regional research program authorized under Title VII of the Oil Pollution Act.

Recommendation 22: CITIZEN ROLE

The Secretary should encourage the States to give people in areas likely to be affected by an oil spill a role in oil spill prevention, contingency planning, and oversight.

MMS RESPONSE

Staff from the External Affairs Office met with the Subcommittee to explain MMS initiatives in this area. Proposed regulations have been published for comment in the Federal Register outlining procedures that will be followed by the MMS when investigating apparent violations (such as oil spills) reported by the public.

COMMENT

No further Committee action is necessary regarding this recommendation. Further action in this area would belong to DOT, which is the responsible agency for the demonstration public involvement projects authorized under section 5002 of the Oil Pollution Act. Further, the new contingency planning system established under the

Act, including the use of Area Response Committees, provides an opportunity for local government and citizen involvement and the potential for development of public involvement mechanisms on a local level.

Recommendation 23: VOLUNTEERS

Volunteers should have a defined role--including what is appropriate and inappropriate--in oil spill response efforts. A training program for volunteers should be in place for implementation immediately in the event of a spill. Plans for crowd control are also needed.

MMS RESPONSE

We concur that volunteers can provide valuable assistance. We will continue to seek clarification from OSHA regarding training requirements for the various categories of response personnel.

COMMENT

No further Committee action is necessary regarding this recommendation. The subcommittee notes, however, that volunteers to deal with oil spill response are an issue for the National Park Service and the Fish and Wildlife Service as well as MMS. Both the MMS response and the Coast Guard noted that volunteers would have to be trained. The Coast Guard indicated that training for volunteers could be a State role. States may wish to pursue this in working with the Coast Guard on Regional and Area Response Plans. The Coast Guard noted that untrained volunteers who just show up to assist in an oil spill might impede the progress of clean up and suggested that dealing with this might also be a State or local government responsibility.

Recommendation 24: FEDERAL FUNDING FOR PREPAREDNESS ACTIVITIES AND OIL SPILL RESPONSE

Federal funding, whether that funding comes from appropriations or other sources, should be available for preparedness activities, response, and emergency assistance.

MMS RESPONSE

This recommendation contains no action for the MMS or the Secretary at this time.

COMMENT

Funding for oil spill response is covered generally in Title I of the Oil Pollution Act, which establishes a $1 billion Oil Spill Liability Trust Fund through a 5 cent a barrel tax on oil; through consolidation of other, existing oil spill-related funds; and from recovery of costs and penalties from spillers and responsible parties. The fund is to be used for "the payment of removal costs, including the costs of monitoring removal actions" by Federal or State authorities and "the payment of Federal administrative, operational, and personnel costs reasonably necessary for and incidental to the implementation, administration, and enforcement of this Act." States may receive up to $250,000 from this fund for immediate removal efforts. Of this $1 billion, the Oil Pollution Act appropriates $50 million per annum for response and natural resource damage assessments, among other activities. The Coast Guard is working with the Natural Resource Trustees to estimate an appropriate level of funding to have available for Trustees to initiate a damage assessment. If more than $50 million is needed for oil spill response and "other uses of the fund" in a year, further appropriations must be sought.

The Act authorizes appropriations from the Fund for a number of other activities. The Coast Guard is authorized $25 million per annum for operating expenses under the Act and $30 million over a multi-year period for capital expenses connected with the National Response System created by the Act (e.g., acquisition of equipment.) Finally, $27.25 million is authorized for research, including both technology-related and environmental research. Two important points about this funding:

> First, other than response activities, Federal Agencies with responsibilities for oil spill prevention or response must seek annual appropriations; **passage of the Act did not guarantee that the oil spill response system it authorized would be funded.** Congress intended that individual appropriations committees make these determinations for participating Agencies.
>
> Second, the response funding (the $50 million) is available for reimbursement of *costs of response to incidents, not for hiring, training, or maintaining staff* between incidents.

The activities called for in recommendation 24 are covered in the Oil Pollution Act, but Agencies must still go through the annual appropriations process. Funding is critical for implementing recommendations 14, 15, 15, 19, and 21.

Appendix I

OIL SPILL RECOMMENDATIONS IMPLEMENTATION SUBCOMMITTEE MEMBERS

Patricia Hughes, Chair
OCS Coordinator
Massachusetts

Charles G. Groat*
Executive Director, American Geological Institute

Mark McClellan
Deputy for Environmental Protection
Pennsylvania

Jerry Box
Vice President
Oryx Energy Company

Burr Heneman
Consultant
Center for Marine Conservation

Staff to the Subcommittee:

Jan Thorman
Chief, Office of OCS Advisory Board Support

*Bob Grogan, Policy Committee representative from the State of Alaska, was a member of the subcommittee May to December 1990. Dr. Groat, who was a member of the Subcommittee to Review Analyses of the EXXON Valdez Oil Spill and is Chair of the Policy Committee, replaced him when he left State Government.

APPENDIX II

OIL POLLUTION ACT OF 1990
CROSSWALK WITH OCS POLICY COMMITTEE
OIL SPILL PREVENTION AND RESPONSE RECOMMENDATIONS

OIL POLLUTION ACT OF 1990
CROSSWALK WITH OCS POLICY COMMITTEE
OIL SPILL PREVENTION AND RESPONSE RECOMMENDATIONS

Recommendation	Provision in Oil Pollution Act
4. Coordination and dissemination of technology research	Title VII, section 7001, Oil Pollution Research and Development Program, establishes an Interagency Coordinating Committee on Oil Pollution Research, requires an Oil Pollution Research and Technology Plan, marine simulation research, demonstration projects, simulated environmental testing, and regional research programs. Money to come from the Oil Spill Liability Trust Fund, authorized at $21.25 million per annum (P/A), of which not less than $2.25 million P/A is to go for demonstration projects in FY 1992-95, and not more than $5 million in FY 91 and $3.5 million in subsequent years is to go to studies of oil spill effects (see recommendation 21, below). All funds subject to annual appropriations.
5. Environmental information for oil spill response planning and OCS decisionmaking	Title VII, section 7001(c)(2)(E) calls for the Oil Pollution Research and Development Program to include "research to improve information systems for decisionmaking, including the use of data from coastal mapping, baseline data, and other data related to the environmental effects of oil discharges, and cleanup technologies." Section 7000(c)(4), on oil pollution effects research, includes devlopment of improved models and methods to predict the fate, transport, and effects of oil discharges, research to identify "the types of ecologically sensitive areas at particular risk to oil spills; preparation of scientific monitoring and evaluation plans for each of several types of ecological conditions, to be implemented in the event of a major oil spill; and collection of environmental baseline data in ecologically

	sensitive areas at particular risk to oil discharges where such data are insufficient. Funding for such research is discussed under recommendation 21, below.
13. Tanker and traffic safety improvements	Title IV, Prevention and Removal, Subtitle A--Prevention, covers the improvements called for in this recommendation in detail. Vessel Traffic Systems are covered in section 4107, which calls for a 1-year study of whether additional authority to control traffic is needed and to determine and prioritize U.S. ports needing new, upgraded, or expanded VTS's. Pilotage is in section 4116, which adds a requirement for pilots in certain areas of Prince William Sound. Escort vessels are covered in the same section, which requires escort vessels for certain areas off Washington and in Prince William Sound. Section 4111 calls for a 1-year study on tanker navigation safety standards, which includes evaluation of possible tanker-free zones as well as manning requirements, crew qualifications and training requirements, evaluation of the emergency capabilities of crews, etc. Manning requirements are also covered in sections 4106 (for foreign vessels) and 4114 (for U.S. vessels). Issues related to drug and alcohol testing and use are covered in sections 4101 - 4105. Tanker equipment and design, including double hulls, are covered in sections 4109, 4110, and 4115.
14. Command of oil spill response	Title IV, Subtitle B--Removal; section 4201, Federal Removal Authority, requires the President to take affirmative action to deal with an oil spill. In the Clean Water Act, the Federal Government was allowed to take over cleanup. In the new law, "The President **shall** [emphasis added] . . . ensure effective and immediate removal of a discharge, and

mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance . . . . " Actions are to be taken in accordance with the National Contingency Plan (NCP) or as directed by the President. The law is clear that the party responsible for the spill is also responsible for the cleanup, including the costs of cleanup, and for natural resource damages, regardless of who directs or does the actual work. This section also calls for establishment or designation of Coast Guard Strike Teams who are trained to carry out the NCP, have adequate equipment and material, and have detailed plans for their work, including measures to protect fisheries and wildlife (section 4201(b)). Section 4202 covers the National Planning and Response System in more detail, including how the different groups (national, regional, local) will work together.

Funding for oil spill response is discussed under recommendation 24, below.

15. Improve oil spill contingency plans

Section 4201 (d) covers the NCP and section 4202 the National Planning and Response System. Except where otherwise noted, the sections referred to below concern the NCP, section 4201. The Act provides no funds for development of the required plans beyond the $25 million authorized for Coast Guard operating expenses.

Plans should include:

--Clear lines of authority and divisions of responsibility for all aspects of spill response

Section 4201(b), amending section 311(d) of the Federal Water Pollution Control Act, requires the NCP to include:

-- "Assignment of duties and responsibilities among Federal departments and agencies in

	coordination with State and local agencies and port authorities . . . "; -- Establishment of a national center to provide coordination and direction of operations; and -- Establishment of procedures to coordinate the activities of the different groups and individuals with oil spill response duties. Section 4202, on the National Planning and Response System, in section (a)(4)(B), Area Contingency Plans, requires coordination with State and local officials.
--Detailed information on oil spill response equipment and supplies	The NCP is also to include "identification, procurement, maintenance, and storage of equipment and supplies." Section 4202(a)(4)(C)(iv) also requires Area Contingency Plans to include lists of equipment and supplies available to deal with a spill.
--Details of recommended and permitted response, containment, and cleanup methods	The NCP is to include "Procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances. The law also requires the NCP to include a schedule, developed in cooperation with the States, of "dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used," and where and how much can be used. Related sections include 4202(a)(4)(C)(iv) and (v).
--Provisions for communications in the response effort	Section 4118 covers vessel communications equipment regulation.
--A public information plan	

--A list and the precise location of high priority environmental and economic resources to be protected and what steps are to be taken and equipment used to do so	Section 4202 (a)(4)(C)(ii) calls for Area Contingency Plans to describe the area covered by the Plan, including areas of special economic or environmental importance that might be damaged by a discharge.
--Detailed policies and procedures on wildlife rescue and rehabilitation	Section 4201(b) requires the NCP to include Coast Guard Strike Teams with a detailed oil and hazardous substance pollution and prevention plan, including measures to protect fisheries and wildlife. The same section requires a fish and wildlife response plan as part of the NCP. Preparing such a plan and including this in the NCP are new and will mean that the Coast Guard and EPA will have oversight, rather than just the Fish and Wildlife Service.
--Details on disposal of waste from the cleanup effort	While not specifically provided for in the Act, this will be included in contingency plans, according to the Coast Guard.
--Plans for studying the economic, environmental, and social effects of spills, including short and long-term effects and lessons to be learned	Section 7001(c)(4) establishes a research program to monitor and evaluate the environmental effects of oil discharges. See recommendation 21.
--Standards for what would constitute an adequate cleanup	Section 1011 provides that removal is complete when determined by the President in consultation with the Governor(s) of any affected State(s).

16. Drills and training	Section 4202(a) requires surprise drills for areas where Area Contingency Plans are required and for relevant tanker and facility response plans. Section 5005 requires practice exercises not less than twice a year to test the capacity of equipment and personnel required under this section for vessels operating on Prince William Sound or facilities permitted under the Trans-Alaska Pipeline Authorization Act.
18. Equipment inventories and stockpiles	Section 3004 calls for the President to "encourage appropriate international organizations to establish an international inventory of spill removal equipment and personnel. Section 4202(a) calls for the National Response Unit to "compile and maintain a comprehensive computer list of spill removal resources, personnel, and equipment that is available worldwide and within the areas designated by the President . . . which shall be available to Federal and State agencies and the public. The National Response Unit is also to "coordinate use of private and public personnel and equipment to remove a worst case discharge."
19. Research and development needed	Section 7001(c)(2) calls for the Oil Pollution Research and Development Program established under this section to cover innovative oil pollution technology, including "research, development, and demonstration of new or improved technologies."
20. Expedite approval of new oil spill response methods	Section 7001(c)(3) calls for the same research program to "provide for oil pollution prevention and mitigation technology evaluation." Efforts are to include establishment of standards and testing protocols and the use of controlled field testing.
21. Studies of spill effects	Section 7001(c)(2)(E) calls for "research to improve

information systems for decisionmaking, including the use of data from coastal mapping, baseline data, and other data related to the environmental effects of oil discharges, and cleanup technologies." Section 7001(c)(4) calls for "a research program to monitor and evaluate the environmental effects of oil discharges." This section also provides for monitoring and scientifically evaluating the long-term environmental effects of oil spills in certain cases. Research under the Oil Pollution Research and Technology Plan developed by the Interagency Coordinating Committee on Oil Pollution Research is authorized at $21.25 million per annum. Of this amount, $5 million is authorized for this environmental research in FY 91 and $3.5 million P/A in subsequent years.

Section 7000(c)(8) establishes a regional research program that may include "the effects of discharged oil on regional environments." This program is authorized at $6 million P/A in FY 91-95, with the possibility of additional grants from the $21.25 million authorized for the Oil Pollution Research and Technology Plan.

A related requirement is found in section 8302, Impact of Potential Spills in the Arctic Ocean on Alaska Natives, which calls for the Secretary of the Interior to conduct a study of the issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

22. Citizen role

Section 5002, the Oil Terminal and Tanker Environmental Oversight and Monitoring Act of 1990, establishes two oil terminal and tanker oversight and monitoring demonstration programs, in Cook Inlet

and Prince William Sound, which include Regional Citizens' Advisory Councils. Funding for these programs--$2 million for Prince William Sound and $1 million for Cook Inlet--is to come from industry.

24. Funding

Funding for oil spill response is covered generally in Title I of the Oil Pollution Act, which establishes a $1 billion Oil Spill Liability Trust Fund through a 5 cent a barrel tax on oil; through consolidation of other, existing oil spill-related funds; and from recovery of costs and penalties from spillers and responsible parties. The fund is to be used for "the payment of removal costs, including the costs of monitoring removal actions" by Federal or State authorities and "the payment of Federal administrative, operational, and personnel costs reasonably necessary for and incidental to the implementation, administration, and enforcement of this Act," including most of the new programs called for in the law.

The law appropriates $50 million per annum for oil spill response costs not paid for by the spiller or responsible party and damage assessments. The Coast Guard is working with the Natural Resource Trustees to estimate an appropriate level of funding to have available for Trustees to initiate a damage assessment. If more than $50 million is needed for oil spill response and "other uses of the fund" in a year, further appropriations must be sought. The $50 million is available for **reimbursement** of costs, not for hiring, training, and maintaining staff between incidents. States may receive up to $250,000 for immediate removal efforts.

The Act authorizes appropriations from the Fund for a number of other activities. The Coast Guard is

authorized $25 million per annum for operating expenses under the Act and $30 million over a multi-year period for capital expenses connected with the National Response System created by the Act (e.g., acquisition of equipment.) Finally, $27.25 million is authorized for research, including both technology-related and environmental research.

Federal Agencies assigned responsibilities under the law must seek annual appropriations to carry out these responsibilities, with the exception of the $50 million discussed above. The law gives approriations committees the flexibility to take these appropriations out of the Oil Spill Liability Trust Fund, or they may come from the General Treasury.

All of the points covered in the recommendation are included in the legislation as fundable activities, but Agencies must still go through the annual appropriations process. Funding is critical for implementing recommendations 14, 15, 15, 19, and 21.

FACT SHEET

REGIONAL CITIZENS ADVISORY COUNCIL

The Regional Citizens Advisory Council was formed following the EXXON VALDEZ oil spill. After the spill, the State of Alaska required Alyeska Pipeline Company, the operator of the Trans Alaska Pipeline Terminal at Valdez, to submit an aggressive new spill prevention and response plan for Prince William Sound. The establishment of an independent regional citizens' advisory group is included as part of this new plan.

The formation of the Regional Citizens Advisory Council (RCAC) was a cooperative effort between Alyeska and citizens of the region affected by the oil spill. This effort was guided by the recognition that participation of local citizens is essential if environmental impacts from the operation of the Trans Alaska Pipeline System (TAPS) Terminal are to be minimized.

Attached is a list of RCAC members. The group is chaired by Ann Rothe, Alaska regional representative of the National Wildlife Federation. The members include representatives of communities throughout the area impacted by the Exxon Valdez oil spill as well as Native villages and corporations, the commercial fishing industry and regional aquaculture associations, and tourism, recreation and environmental organizations. The members came together in June of 1989 for two purposes: to review Alyeska's revised oil spill prevention and response plan for Prince William Sound; and to develop a plan of action for the formation of a permanent citizens' oversight group to monitor operation of the TAPS Terminal and oil tanker traffic served by the terminal.

RCAC members provided Alyeska with comments on the Prince William Sound Oil Spill Prevention and Response Plan submitted to the Alaska Department of Environmental Conservation (ADEC) August 1, 1989. These comments were incorporated into major revisions to the plan released February 5, 1990. RCAC has completed its review of the February 5 revised plan and submitted its comments to Alyeska and the Alaska Department of Environmental Conservation. The Council is continuing to work with ADEC, Alyeska and the U.S. Coast Guard to ensure proper implementation of the Plan, including the review of spill drills and training exercises.

RCAC's chosen course of action for developing a permanent citizens' oversight group was to incorporate as a nonprofit organization and enter into a contract with Alyeska that requires Alyeska to provide funding for the citizens' group as well as access to the TAPS terminal and establishes a formal and verifiable process for insuring that the advice provided by the citizens' group is given serious consideration by the company.

RCAC was chartered as a nonprofit corporation by the State of Alaska on December 26, 1989. Contract negotiations with Alyeska were

completed February 7, 1990, and a contract was signed by members of RCAC and Jim Hermiller, president of Alyeska. The contract, which is in effect for as long as oil flows through the Trans Alaska Pipeline, provides RCAC with an annual funding appropriation of $2 million and the same level of access to the terminal that is provided to all state and federal regulatory agencies.

The contract specifies that RCAC will perform independent research and monitoring of oil spill prevention and response efforts, tanker safety, and environmental effects of Terminal operations. RCAC will use this information to develop recommendations for environmental safeguards to Alyeska and government regulatory agencies.

The research program will be designed to help gather baseline data on the Prince William Sound ecosystem, on vessel traffic systems and port management, and on spill prevention and response techniques. The monitoring program will be designed to evaluate the impacts of terminal operations on air and water quality, the effectiveness of current vessel traffic systems and spill prevention strategies, and the effectiveness of Alyeska's ongoing monitoring and research programs.

As its first priority, RCAC is continuing the task of building its organization. Four working committees have been established: Oil Spill Prevention and Response; Port Operations and Vessel Traffic Systems; Terminal Operations and Environmental Monitoring; and Scientific Research and Review. As part of this effort, RCAC held a series of public meetings in locations throughout the region represented by the Council to take public comment regarding the scope and purpose of these committees.

In addition, RCAC worked with members of the Alaska State Legislature to establish a statewide citizens' council to oversee oil and gas transportation, and with members of Congress to include language in the Oil Pollution Act of 1990 to establish a citizen's oversight committee for transport of oil in Cook Inlet as well as Prince William Sound. The Cook Inlet effort is particularly important as the risks of an oil spill there and the difficulties in containing oil once spilled far exceed those that exist in Prince William Sound.

The structure of RCAC was modeled in part on a successful citizens' oversight group that exists at Europe's largest oil terminal at Sullom Voe in the Shetland Isles west of the massive North Sea oil field. Members of RCAC have visited Scotland to meet with members of the Shetland Oil Terminal Environmental Advisory Group (SOTEAG) and members of SOTEAG recently visited Alaska to meet with members of RCAC.

REGIONAL CITIZEN ADVISORY COUNCIL MEMBERS

Ann Rothe, President	National Wildlife Federation Alaska Natural Resources Center
Chris Gates, Vice President for Port Operations and Vessel Traffic Systems	City of Seward
Tim Robertson, Vice President for Oil Spill Prevention and Response	City of Seldovia
Jason Wells, Vice President for Terminal Operations and Environmental Monitoring	City of Valdez
Linda Hyce, Vice President for Scientific Research and Review	City of Whittier
Marilyn Leland, Secretary	Cordova District Fishermen United
Bill Walker, Treasurer	City of Valdez
Charles Christensen	Kodiak Island Village Mayors Association
Wayne Coleman	Kodiak Island Borough
Gene Komkoff	Chugach Alaska Corporation
John McMullen	Prince William Sound Aquaculture Corporation
Frank Mullen	Kenai Peninsula Borough
Leslie Smith	City of Kodiak
Stan Stephens	Alaska State Chamber of Commerce
Scott Sterling	City of Cordova
Marge Tillion	City of Homer