



## CRS Report for Congress

# Environmental Activities of the U.S. Coast Guard

Jonathan L. Ramseur  
Analyst in Environmental Policy  
Resources, Science, and Industry Division

### Summary

The U.S. Coast Guard's (USCG's) environmental activities focus on prevention programs, accompanied by enforcement and educational activities. An important component is maritime oil spill prevention, which includes inspection of U.S. and foreign-flagged ships to ensure compliance with U.S. laws and international agreements. As required by the Oil Pollution Act and the Superfund law, the USCG's pollution preparedness and response activities aim to reduce the impact of oil and hazardous substances spills. USCG's National Pollution Funds Center manages the Oil Spill Liability Trust Fund, paying certain spill-related costs and certifying that vessels show evidence of financial responsibility. Another prevention effort, minimizing marine debris, addresses commercial items (e.g., lost nets and fishing lines), as well as trash from recreational fishing and boating (e.g., beverage cans, bottles, and pieces of foam plastic). The Administration estimates that the marine environmental protection mission will receive \$339 million in FY2009, a decrease of approximately \$12 million from the enacted amount estimated for FY2008.

Environmental activities of the U.S. Coast Guard (USCG) fall within the service's program for protection of natural resources, and consist of maritime oil spill prevention, marine debris, and pollution response preparedness. Protection of living marine resources and fisheries also falls in this category, but is not discussed here.<sup>1</sup> Marine environmental protection is one of six "non-homeland security missions" specified in the Homeland Security Act of 2002.<sup>2</sup>

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<sup>1</sup> CRS reports that discuss these issues include CRS Report RL33813, *Fishery, Aquaculture, and Marine Mammal Legislation in the 110<sup>th</sup> Congress*, by Eugene H. Buck; CRS Report RL32154, *Marine Protected Areas: An Overview*, by Jeffrey A. Zinn, Eugene H. Buck, and Harold F. Upton; and CRS Report RL32344, *Ballast Water Management to Combat Invasive Species*, by Eugene H. Buck.

<sup>2</sup> P.L. 107-296, Section 888 (6 U.S.C. 468). The other five are marine safety, search and rescue, aids to navigation, living marine resources (fisheries law enforcement), and ice operations.

**Marine Environmental Protection Budget.** Congressional appropriations for the Coast Guard are not broken down by specific mission (e.g., marine environmental protection), but are allocated to broader categories, such as “operating expenses.” The Coast Guard accounts for mission-specific funding by using a “sophisticated activity-based costing model.”<sup>3</sup> **Table 1** identifies the level of spending for the marine environmental protection mission in recent years.

**Table 1. U.S. Coast Guard Marine Environmental Protection Budget Estimates: FY2006-FY2009**  
(dollars in thousands)

	<b>FY2006 Enacted (% of budget authority)</b>	<b>FY2007 Enacted (% of budget authority)</b>	<b>FY2008 Enacted (% of budget authority)</b>	<b>FY2009 Proposed (% of budget authority)</b>
Marine Environmental Protection Mission	\$370,757 (4.6%)	\$298,329 (3.6%)	\$371,668 (4.3%)	\$359,283 (3.8%)
Total Coast Guard Adjusted Budget Authority	\$7,986,031	\$8,346,942	\$8,726,302	\$9,346,022

**Source:** U.S. Department of Homeland Security, 2008, *Budget-in-Brief, Fiscal Year 2009*, p. 58, available at [<http://www.dhs.gov/xabout/budget>].

**Note:** Although the FY2006, FY2007, and FY2008 funding amounts are labeled as “enacted,” the figures are estimates based on Coast Guard performance assumptions. The FY2006, FY2007, and FY2008 amounts are revised from estimates provided in earlier budget request submissions.

**Maritime Spill Response and Prevention/Preparedness.**<sup>4</sup> Protecting the marine environment from accidental oil and chemical spills is an important mission of the Coast Guard. Along with representatives of 15 other federal departments and agencies, the Coast Guard and the Environmental Protection Agency (EPA) comprise the National Response Team<sup>5</sup> and 13 Regional Response Teams. EPA serves as the chair, and the Coast Guard is the vice-chair of these teams. The National Contingency Plan<sup>6</sup> (NCP) provides the organizational structure and procedures for preparing for and responding to discharges of oil and hazardous substances on both water and land.

<sup>3</sup> U.S. Department of Homeland Security, 2007, *Budget-in-Brief, Fiscal Year 2008*, p. 52 (footnote 1).

<sup>4</sup> For more information, see CRS Report RL33705, *Oil Spills in U.S. Coastal Waters: Background, Governance, and Issues for Congress*, by Jonathan L. Ramseur.

<sup>5</sup> The National Response Team “coordinates a program of preparedness, planning, and response to oil and hazardous materials incidents at the local, regional, and national levels; facilitates research to improve response activities; and provides assistance for responses to specific incidents as needed.” U.S. Dept. of Homeland Security, *National Response Plan, Oil and Hazardous Materials Annex*, p. 3.

<sup>6</sup> 40 CFR Part 300. The full title of the NCP is the National Oil and Hazardous Substances Pollution Contingency Plan.

USCG responsibilities can be divided into two categories: (1) spill response and cleanup and (2) spill prevention/preparedness. As the primary response authority in maritime waters,<sup>7</sup> the Coast Guard has the ultimate authority to ensure that a spill is effectively removed and that actions are taken to prevent further discharge from the source. During response operations, the Coast Guard coordinates the efforts of federal, state, and private parties.

Preventing and preparing for spills is also a Coast Guard responsibility, and the Coast Guard's jurisdiction covers vessels; onshore, transportation-related facilities; and deepwater ports.<sup>8</sup> The Coast Guard's prevention/preparedness duties are based on international agreements and federal standards and regulations. Recent oil spills in San Francisco Bay (November 2007) and the Mississippi River (July 2008) have generated further interest and debate concerning oil spill policy issues, such as oil spill response and prevention.

The Coast Guard represents the United States at the International Maritime Organization (IMO), which, through treaties, sets international environmental and safety standards for vessels. Important treaties cover the following topics:

- accidental and operational oil and chemical pollution;<sup>9</sup>
- the right of a coastal state to take measures on the high seas to prevent, mitigate, or eliminate danger to its coastline from pollution by oil;<sup>10</sup>
- a global, cooperative framework for combating major incidents or threats of marine pollution from oil and hazardous and noxious substances;<sup>11</sup> and
- pollution from the dumping of wastes and other materials.<sup>12</sup>

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<sup>7</sup> The EPA has response authority for inland oil spills. The terms inland and coastal are defined in the NCP (40 CFR Section 300.5). The coastal zone covers all waters subject to the tide, the Great Lakes, and all seaward waters (extending 200 nautical miles beyond shore). The inland zone covers all other U.S. waters.

<sup>8</sup> Other federal agencies oversee other potential sources of spills (pipelines, offshore facilities). For more information, see CRS Report RL33705, *Oil Spills in U.S. Coastal Waters: Background, Governance, and Issues for Congress*, by Jonathan L. Ramseur.

<sup>9</sup> The IMO International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), implemented in the United States by the Act to Prevent Pollution from Ships, P.L. 96-478.

<sup>10</sup> The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, implemented in the United States by the Intervention on the High Seas Act, P.L. 93-248. A 1973 protocol extended the convention to cover substances other than oil, and was implemented in the United States by P.L. 95-302. Amendments in 1991, 1996, and 2002 added additional substances.

<sup>11</sup> The International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990, implemented in the United States by P.L. 102-241. A protocol to this convention (HNS Protocol, 2000) covers marine pollution by hazardous and noxious substances.

<sup>12</sup> Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, generally known as the London Convention; seven amendments from 1978 to 1996 addressed such things as incineration, low-level radioactive wastes, and industrial wastes.

The Oil Pollution Act of 1990 (OPA) and the international treaty MARPOL 73/78 require the owners and operators of vessels that carry oil and designated hazardous substances to submit to the Coast Guard “Vessel Response Plans” and/or “Shipboard Oil Pollution Emergency Plans.” These vessel-specific plans address such matters as spill mitigation procedures, training requirements for the crew, and spill mitigation equipment required to be carried on board. The USCG must approve the plans for a ship to operate legally in U.S. waters. Under these authorities vessel operators also must submit to regular inspections, and the USCG’s inspection program is a key component of their oil spill prevention effort.

***Inspection of Foreign Ships (Port State Control Program).*** The Coast Guard conducts “certificate of compliance” examinations — both on a random and targeted basis — on foreign vessels that make port calls in the United States.<sup>13</sup> The inspection program emphasizes compliance with environmental and safety standards and, particularly since September 2001, is concerned with port security as well. The inspecting officers verify that the vessels and their crews are in substantial compliance with international conventions and applicable U.S. laws. The pollution prevention examination covers the various waste streams onboard and related record keeping, which vary for different types of ships, and may include the following:

- *Oil pollution prevention systems* include the oily water separator and the sludge containment system. The oily water separator is a high-maintenance device, and ships sometimes alter their piping to bypass the system. Further, pumping oily sludge ashore is expensive and ships have been known to take illegal steps to avoid it.
- The *black water system* includes marine sanitation devices and other systems to treat, store, and discharge sewage.
- *Hazardous waste* includes paints, thinners, and cleaning solutions that contain hazardous substances. The types and volumes of hazardous waste vary depending on the technology and processes used aboard.<sup>14</sup>
- *Non-hazardous waste* is shipboard garbage, including food waste, plastics, and other synthetic materials, as well as recyclables like glass, and aluminum and steel cans.
- The *gray water system* includes discharges from the galley, sinks, showers, and baths.

In recent years, cruise ships, most of which are registered in foreign countries, have gained attention. These very large vessels carry up to 5,000 passengers who generate a large amount of sewage and gray water. (For additional information, see CRS Report RL32450, *Cruise Ship Pollution: Background, Laws and Regulations, and Key Issues*, by Claudia Copeland.)

***Inspection of Domestic Ships.*** The domestic inspection system is similar to the port state control program in assuring compliance with applicable laws and treaties.

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<sup>13</sup> In 2006, 8,178 individual vessels, from 79 different flag States, made 78,668 port calls to the United States. U.S. Coast Guard, 2007, *Port State Control in the United States: Annual Report 2006*, p. 2.

<sup>14</sup> Cruise ships, for example, will have dry cleaning and photo processing wastes.

Rules vary according to size and type of vessel (e.g., tanker, passenger, cargo, and mobile offshore drilling units), and the number of passengers carried. In 1996, the Coast Guard initiated its Alternate Compliance Program (ACP), under which “classification societies”<sup>15</sup> can perform inspections that satisfy certain periodic USCG test and inspection requirements. The ACP allows the service to shift its emphasis from providing a quality control service (inspections) to evaluating the human factors in maritime operations (which account for more than 80% of marine accidents), and to port state enforcement.

**National Pollution Funds Center.** The Coast Guard created the National Pollution Funds Center (NPFC) in 1991 to carry out many of the requirements of Title I of the Oil Pollution Act of 1990 (OPA).<sup>16</sup> The NPFC manages the Oil Spill Liability Trust Fund (OSLTF), as well as the Coast Guard’s use of the Superfund Trust Fund. The OSLTF is primarily used to finance prompt responses to oil spills and to reimburse parties for applicable costs associated with oil spills (e.g., cleanup costs, natural resource damages, economic losses).

Initially, the primary source of revenue for the fund was a 5-cents-per-barrel fee on imported and domestic oil.<sup>17</sup> Collection of this fee ceased on December 31, 1994, because of a “sunset” provision in the law. However, in April 2006, the tax resumed as required by the Energy Policy Act of 2005 (P.L. 109-58). At the end of FY2006, the fund had approximately \$604 million; the NPFC projects it to have more than \$1 billion by the end of FY2008.<sup>18</sup>

To ensure that responsible parties can be held accountable for cleanup costs and damages in the event of an oil spill (thereby preserving the oil spill fund), OPA requires that vessels show evidence of financial responsibility, such as insurance. The NPFC carries out this mandate by issuing Certificates of Financial Responsibility (COFRs) to shipping vessel owners when owners demonstrate the ability to pay for oil spill cleanup and damages. In general, vessels over 300 gross tons are required to have a valid COFR to operate in U.S. waters.

The NPFC also takes action to recover cleanup costs from responsible parties. It documents ongoing costs and damages from the spill area, and bills the responsible party. About 40% of spills in U.S. waters are “mystery” spills, and the costs go unrecovered.

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<sup>15</sup> Classification societies are organizations that establish and apply technical standards in relation to the design, construction and survey of marine related facilities including ships and offshore structures.” For more information, see International Association of Classification Societies, “What Are Classification Societies?,” at [<http://www.eagle.org/company/Classmonograph.pdf>]. Examples include the American Bureau of Shipping and Lloyd’s Register.

<sup>16</sup> For more discussion on issues regarding management of the trust fund, see CRS Report RL33705, *Oil Spills in U.S. Coastal Waters: Background, Governance, and Issues for Congress*, by Jonathan L. Ramseur.

<sup>17</sup> Other revenue sources for the fund include interest on the fund, cost recovery from the parties responsible for the spills, and any fines or civil penalties collected.

<sup>18</sup> National Pollution Funds Center, Oil Spill Liability Trust Fund (OSLTF), Annual Report FY 2002 — FY 2006 (fund estimate prepared June 27, 2007).

**Marine Debris.** Marine debris (e.g., discarded fishing lines or nets) can endanger birds and marine animals, and cause damage to coral reefs. Even less lethal trash from recreational fishing and boating (such as beverage cans and bottles, food wrappers, and foam plastic pieces) degrades beaches, coral reefs, and the oceans. The Coast Guard's approach to debris is preventive, promoting compliance by boarding and inspecting vessels, and working with local port agencies to ensure there are facilities to receive garbage from vessels. The Coast Guard also coordinates with the Environmental Protection Agency (EPA), the National Marine Fisheries Service, the National Park Service, and the Ocean Conservancy<sup>19</sup> in monitoring and measuring amounts of marine debris. This activity is authorized in the Act to Prevent Pollution from Ships, 33 U.S.C. 1905 and 1915, as well as MARPOL Annex V.

**Marine and Environmental Science.** The Coast Guard has a history of scientific study of the oceans dating back to 1881, when it began Arctic cruises along the Alaska coast. Today the USCG role is that of a facilitator, supporting the scientific efforts of other groups. Moreover, many of the oceanographic and other scientific activities conducted by federal agencies, including the Coast Guard, were consolidated in 1970 with the creation of the National Oceanic and Atmospheric Administration (NOAA).

The Coast Guard operates three icebreakers in the Arctic and Antarctic, and provides supplies to remote stations. The USCG also participates in the International Ice Patrol, which monitors iceberg danger in the northwest Atlantic, particularly in the area of the Grand Banks of Newfoundland. The iceberg season is usually from February to July, but the Ice Patrol is logistically flexible and can commence operations when iceberg conditions dictate.

The Coast Guard is responsible for enforcing federal regulations governing commercial fisheries. The USCG carries out some 4,000-6,500 boardings per year to ensure compliance with gear and harvest regulations (see CRS reports referenced above).

**Environmental Compliance and Restoration.** This activity is concerned with Coast Guard compliance with environmental laws. Ongoing initiatives include meeting the more stringent emission requirements of the Clean Air Act Amendments of 1990, and developing strategies to minimize the generation of hazardous waste. There also are continuing efforts to design pollution prevention into shore facility improvement projects, and to conduct environmental audits at facilities to find and correct potential environmental violations.

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<sup>19</sup> Formerly the Center for Marine Conservation.