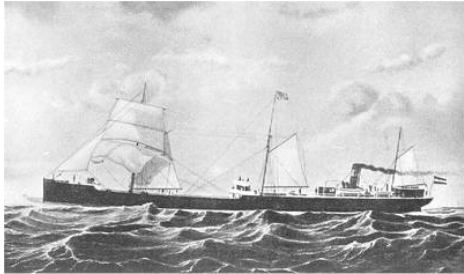


# OPA 90 timeline

## First oil tanker



The first modern ocean-going oil tanker was the 2,307 GRT coal-fired German ship **GLÜCKAUF**, launched in 1886. Unlike earlier tankers, the tanks were an integral part of the hull and oil was pumped directly into (and out of) the tanks rather than carried in containers loaded onto the ship. It operated primarily carrying petroleum from the United States to Europe (at the time, the United States was the largest producer and exporter of oil). Not long after it entered service, the price of petroleum in Europe was halved. On 24 March 1893, returning to New York in ballast, the tanker grounded off Fire Island and was a total loss. By then, there were a number of similar tankers in operation or under construction.

## Refuse Act of 1899

Refuse Act of 1899 (codified at 33 U.S.C. § 407) prohibits the deposit of "refuse" into navigable waters of the United States. The statute was originally applied only to intentional dumping of such material, but courts and agencies gradually began applying it to negligent and accidental discharges.

On 23 May 1966, the US Supreme Court ruled that the Refuse Act applied to the accidental discharge of commercially valuable gasoline into the navigable waters of the United States. United States v. Standard Oil Company, 384 U.S. 224 (1966).

## Early public attitudes regarding oil spills



The first recorded major oil spill in Australia (1,300 tons) occurred on 28 November 1903 when the tanker **PETRIANA** grounded on Portsea Back Beach in Port Phillip Bay. The tanker was carrying 1,330 tons of bulk oil from Borneo to Melbourne, as well as an unrecorded quantity of naphtha and benzene. The pilot decided to bring the ship into port in poor visibility, expecting the fog to lift before the ship reached the notorious Rip at the bay's entrance. The fog did not lift, and the ship grounded hard. When salvage attempts failed, the bulk oil was pumped overboard to lighten the ship. This too failed and the wreck was finally abandoned. Illustrating

how times have changed, the press reports of the oil jettison described "a film of great beauty, radiating all the colours of the rainbow."

## **FWPCA**

The Federal Water Pollution Control Act (FWPCA) was adopted in 1948 (Chapter 75, Pub. L. 80- 845, 62 Stat. 1155, June 30, 1948), and is currently codified at 33 U.S.C. §§ 1251-1376. It has been amended numerous times since. Responsibilities for its provisions were initially divided among a number of federal agencies. Reorganization Plan No. 3 of 1970 transferred most of these responsibilities to the newly-created Environmental Protection Agency (EPA), although the US Coast Guard was allocated responsibility for various marine pollution issues.

A major amendment to the FWPCA was enacted in 1972 (Pub.L. 92-500, 86 Stat. 816, October 18, 1972). Among other things, this amendment adopted Section 311 - Oil and Hazardous Substance Liability, codifying for the first time the obligation of owners and operators to remove spilled oil and hazardous substances from the waters of the United States; giving the federal government the authority to take over ("federalize") removal operations if not done properly by the responsible party; establishing limits of liability; requiring certificates of financial responsibility; and making insurers directly liable up to those limits. The amendment did not give the federal government authority to direct the removal process otherwise than by fully taking over the process. Because of this and because the limits of liability were low, the federal government was generally reluctant to federalize a spill, knowing that it would be unable to recover its costs.

## **Oil spills of note**

On 15 December 1976, the oil tanker **ARGO MERCHANT** grounded on Middle Rip Shoal in international waters approximately 25 nautical miles southeast of Nantucket Island. The tanker was en route from Venezuela to Boston carrying 7.7 million gallons of No. 6 fuel oil. The US Government refused to grant permission for the jettisoning of cargo in an attempt to lighten the ship. On 1 December, the **ARGO MERCHANT** broke into two pieces, spilling all of its cargo and bunkers. The Coast Guard sank the bow of the ship with gunfire. The prevailing wind and current carried the oil offshore and away from rich fishing grounds nearby. The spill was the largest in US history to that date. Publicity surrounding the casualty resulted in Congress adopting the Port and Tanker Safety Act of 1978, giving the Coast Guard increased authority to inspect and regulate tank vessels, foreign and domestic, operating in US waters.



On the world stage, the grounding of the supertanker **TORREY CANYON** on Pollard's Rock in the Seven Stones reef between Cornwall and the Scilly Isles is more significant than the 1989 **EXXON VALDEZ** oil spill. The **TORREY CANYON** was one of the first tankers large enough (120,000 tons capacity) to be designated a supertanker. It was also the first loaded supertanker to spill its entire cargo. After salvage efforts failed and the oil flow increased, the British

Government decided to bomb the ship in an attempt to burn the oil. This was a radical decision because the wreck was outside the three-mile territorial sea limit prevalent at that time. The Royal Air Force had difficulty hitting the ship, so the Royal Navy sent its planes in. They succeeded in striking the ship, but the bombs did not ignite the oil, which washed upon beaches throughout the British Isles and France. The actions of the British Government were subsequently ratified with the adoption of the International Convention relating to Intervention on the High Seas in cases of Oil Pollution Casualties, 1969. Liability of shipowners for such events was codified in the International Convention on Civil Liability for Oil Pollution Damage, 1969. By raising the awareness of both the industry and the public concerning the threat of marine pollution, the disaster was also a major factor in development of the International Convention for the Prevention of Pollution from Ships, 1973.



On 16 March 1978, the very large crude carrier (VLCC) **AMOCO CADIZ** lost steering in a Force 10 storm and grounded on Portsall Rocks off the coast of Brittany, France. As it broke up, the tanker lost its entire cargo of 1.6 million barrels of crude oil. The coastal areas in the vicinity were heavily impacted by the spill. After receiving limited compensation under the Civil Liability Compensation (CLC) and Funds Conventions, the Government of France brought suit in the United States against Amoco Oil Company, the parent company (twice removed) of the ship owner. The federal court awarded damages in favor of France, holding that the liability allocation and channeling provisions in the conventions were not applicable since the US was not party thereto. The CLC compensation limits were subsequently raised.



The **Santa Barbara oil spill** occurred in January and February 1969 in the Santa Barbara Channel, near the city of Santa Barbara in Southern California. It was the largest oil spill in United States waters at that time, and now ranks third after the 2010 Deepwater Horizon and 1989 Exxon Valdez spills. It remains the largest oil spill to have occurred in the waters off California. The source of the spill was a blow-out on January 28, 1969, 6 miles (10 km) from the coast on Union Oil's Platform A in the Dos Cuadras Offshore Oil Field. Within a ten-day period, an estimated 80,000 to 100,000 barrels (13,000 to 16,000 m<sup>3</sup>) of crude oil spilled into the Channel and onto the beaches of Santa Barbara County in Southern California, fouling the coastline from Goleta to Ventura as well as the northern shores of the four northern Channel Islands. The spill had a significant impact on marine life in the Channel, killing an estimated 3,500 sea birds, as well as marine animals such as dolphins, elephant seals, and sea lions. The public outrage engendered by the spill, which received prominent media coverage in the United States, resulted in numerous pieces

of environmental legislation within the next several years, legislation that forms the legal and regulatory framework for the modern environmental movement in the US.



On 24 March 1989 the single-hull tanker **EXXON VALDEZ** was departing the Port of Valdez, Alaska with a full load of North Slope crude oil (approximately 1.26 million barrels) destined for Long Beach when it grounded on Bligh Reef in Prince William Sound. The resulting oil spill (approximately 258,000 barrels), while not the largest in US history, was clearly the most important. It engendered much litigation. Public concern over the spill led directly to enactment of the Oil Pollution Act of 1990 (OPA90), which mandated double hulls for new tankers, response plans, and a number of other remedial measures. OPA 90 also significantly changed the liability and compensation scheme for oil spills in US waters. The amount of oil entering waters of the United States from ships drastically decreased following implementation of OPA90.

### **Enactment of OPA 90**

The Oil Pollution Act of 1990 (Pub.L 101-380, 103 Stat. 848, August 18, 1990) consisted of amendments to numerous existing laws, including those relating to vessel construction and operation. It required that owners and operators adopt detailed plans for spill response and submit those plans to the federal government for approval. It repealed the liability and compensation provisions of the FWPCA and replaced them with higher liability limits and narrower grounds for avoiding full liability for removal costs and compensation for damages. OPA 90 also gave the federal government full authority to direct spill removal and environmental cleanup without taking over the physical operation.