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TASK FORCE ON MOTORIZED OIL TRANSPORT

TASK FORCE MEETING

September 20, 2000
8:30 A.M.

Held at
Legislative Information Office
716 West Fourth Avenue, 5th Floor
Anchorage, Alaska

Brian Rogers, Facilitator

Steering Committee:

Senator Drue Pearce
Denise Henderson (for Representative Pete Kott)
Commissioner Michele Brown, Chair

Task Force members present:

Ed Page
Terry Murphy
David Owings
Doug Lentsch
Lee Egland
Jeff Thompson
Paul Fuhs
Charlotte MacCay
Scott Carter
Kris Mullan
Stephanie Madsen
Gene Burden
Simon Lisiecki
Mike O'Hara
Jim Carter
Ernie Piper
Russell Dick
Heather McCarty
Eric Britten

Ex Officio:

Representative Beth Kerttula

ANCHORAGE, ALASKA; SEPTEMBER 20, 2000

DEC TASK FORCE ON MOTORIZED OIL TRANSPORT

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COMMISSIONER MICHELE BROWN: Are we all ready? Good morning, everybody.

Do you want me to start, Brian?

BRIAN ROGERS: Okay.

COMMISSIONER MICHELE BROWN: Good morning, everybody. I'm Michele Brown from DEC. Welcome. I understand there's been incredible amounts of work done by the work groups. Larry has been keeping me well briefed, and I really appreciate all the hard work that everyone has put into this. And I also especially appreciate that you all have followed up on the request that Senator Pearce and I made to you, and that is to do outreach to people who are in your various industries and similarly situated, to make sure that you're really getting the full flavor of everybody's involvement, and then bringing that back into the groups, so I really appreciate that.

I thought we'd go around the room and reintroduce, make sure everybody knows who is here; and then, Senator Pearce, you may want to say a few welcoming remarks. And then we'll turn it over to Brian who has given us a very, very full agenda here.

SCOTT CARTER: Scott Carter with Alaska Nitrogen Products in Kenai, representing the spot charter fleet.

JEFF THOMPSON: Jeff Thompson with Alaska Maritime Agencies. Vessel agents.

GENE BURDEN: Gene Burden, Tesoro, representing noncrude shipping.

BRIAN ROGERS: Brian Rogers from Info Insights, facilitator. We've also got Judy Erickson on the facilitation team and Deborah Vogt on the facilitation team with me.

TERRY MURPHY: Terry Murphy, Alaska Chadux, filling in for Bob Heavilin, with the OSROs.

HEATHER McCARTY: Heather McCarty. I work for the At-Sea Processors Association, which are catcher-processors in the Bering Sea. We have about 38 vessels affected by this law. And I also help, along with a couple of other people, represent the fishing industry.

KRIS MULLAN: I'm Kris Mullan with -- I guess I'd be representing Ground Fish Forum, which is a fishing association, and also port engineer for a commercial fishing company, and represent the fishing industry.

PUBLIC PARTICIPANT: This is Juneau. We can

just barely hear what anybody is saying up there. Thank you.

ERIC BRITTEN: Good morning. I'm Eric Britten, with CSX Lines, representing the container and trailer shipping industry.

JIM CARTER: Jim Carter with the Cook Inlet Regional Citizens' Advisory Council, representing the citizens' state perspective.

KIM BEHRENS: I'm Kim Behrens, I'll be transcribing.

MIKE O'HARA: Michael O'Hara, pilot.

DAVID OWINGS: Dave Owings with SEAPRO.

PAT CARTER: Pat Carter with Senator Pearce's office.

ERNIE PIPER: Ernie Piper, Alaska Railroad.

PAUL FUHS: Paul Fuhs, on contract with DEC.

COMMISSIONER MICHELE BROWN: Are there any Task Force members on the teleconference line?

BETH KERTTULA: This is Beth Kerttula. I'm in Juneau. I'm, what do we call it, ex officio member.

COMMISSIONER MICHELE BROWN: Welcome, Beth.

BETH KERTTULA: Thanks.

RUSSELL DICK: This is Russell Dick with SeaAlaska Corporation in Juneau.

COMMISSIONER MICHELE BROWN: Good morning. Any

other Task Force members on line? Can everyone hear now who is on line? Guess not. Are you working on the sound?

JUDY ERICKSON: Everyone needs to speak up.

COMMISSIONER MICHELE BROWN: And there are mikes so you might move them closer when you need to.

SENATOR DRUE PEARCE: And the less you move your paper, the better the mikes can pick up whomever is speaking. They pick up the most minute noises.

COMMISSIONER MICHELE BROWN: Drue, would you like to say a few words?

SENATOR DRUE PEARCE: Sure, sure. I'm Drue Pearce, I also want to thank everybody for all the work you've done. I've been keeping track of it through all of the e-mails, and also through Pat Carter. And it's very gratifying to see people come to the table and discuss the issues, come up with solutions and ideas and share them with one another, and I think we're making great strides. And that's certainly going to be useful as we go back to Juneau in January with recommendations.

COMMISSIONER MICHELE BROWN: Thank you. So with that I'll turn it over to you, Brian.

BRIAN ROGERS: Thanks. And I'm going to be using the overhead projector for a lot of this. All the overheads have been sent off to Juneau and anyone who

wants copies of these after the meeting, they will be posted to the website. What I want to do is first go over what the agenda is today, how we're going to proceed. We'll talk about the decision making process for the Task Force, we'll report on what the work group activities have been, and outline a draft final report of the Task Force. We'll then go into a more detailed report, first on the RPS Work Group, dealing with the RPS for nontank vessels, dealing with the RPS for the Alaska Railroad.

We'll then take action on the RPS Work Group recommendations, and proceed to the Prevention Work Group. We'll go over what Prevention Work Group has come up with. Mandatory and recommended prevention measures, research on prevention credits. Then take action on the Prevention Work Group recommendations. On the Contingency Plan Work Group, we'll get a report of the subcommittee meeting of the Contingency Plan Work Group.

Finally, we'll go over the Task Force schedule, with the additional meeting plans, currently scheduled work groups, we'll set a date for the next meeting of the Task Force, and discuss timing of approval of the final report by the Task Force, which is due to be completed by December 1. And we'll have public comment,

a final opportunity for public comment at the end.

But as part of the decision making process, first, as we go through agenda items we'll have an opportunity for all of the members of the Task Force to speak. We'll follow that with public comment on items before this final action on the items, which is the same process that was used at the first Task Force meeting. Because we are on teleconference and because we are transcribing this meeting, I would ask every member when you speak to identify yourselves first. That makes it easier on the transcriber. Make sure that we don't ascribe your comments to someone else, or someone else's to you.

The process that we'll be using for decision making is to attempt consensus on all of the recommendations. The consensus process is a more challenging process than legislative voting by majority, but the goal here is to try to reach a series of recommendations that have broad acceptance. And so the attempt will be, if there are objections to recommendations, to try to work through for the group to understand what those objections are and to see if the objections can be accommodated.

Now, we will not force consensus. If we are unable to achieve consensus, we will go to a vote by

Task Force members at the next meeting. If we're unable to achieve consensus. But the goal, again, is to try to reach something that is broadly acceptable. That's the charge of this group.

Now, we're in a relatively small meeting, meeting room, so we will take breaks if it gets too hot, either in terms of temperature or in terms of discussion over the course of the day. We will also break at 12:00 sharp. We have several people, including the facilitator, that have places they have to be at lunch. And we will break no later than 5:00 at the end of the day. There are a number of people who would like to get out earlier, so if we're able to move through quickly, we can get out earlier than 5:00.

Does anyone have any questions about the meeting process or the decision making process before we move on? Well, if not, let me just review what's gone on with the Task Force since the July 11th meeting. Response Planning Standard Work Group has been the most active work group so far, with three meetings of the work group and two subcommittee meetings or brainstorming sessions of that work group. Prevention Work Group has had one meeting and one subcommittee meeting, and some side discussion trying to develop an initial list. And then the Contingency Plan Work Group,

which we had planned on actually starting up after this meeting, we went and had a subcommittee meeting to try to get some things ready so that we'd be ready to discuss a couple of them. And some of the C-plan issues were reviewed in general by the RPS committee.

We also have the nontank website up and are trying to make sure that every document referred to in any of our meetings is posted to that website as quickly as possible after the meeting. We also have a series of other background information on there. So all the notices, agendas, summaries, background information is there for members of the public or members of the Task Force to get to.

The equipment data base is basically completed, and is available. We did not print copies of the reports of that equipment data base for everyone, but that's been used by the RPS committee in their deliberations. The vessels and waters data base has turned out to be a bigger challenge. That was one of the significant requests by the group. We've built a data base. It is incomplete in terms of its data. The vessel and waters data base, first we looked at marine pilot reports and Task Force member reports. And the marine pilot reports are very good in that they tell us what vessels are in what waters. And for each vessel,

tell us what kind of vessel it is, what the size of the vessel is, and how frequently it has been in those waters with a marine pilot on board. But those reports don't tell us how much fuel they carry and they don't tell us anything about vessels that don't use marine pilots.

Second, the Task Force member report, some of the Task Force members were able to report on the data for their member vessels that would include the size of the vessel, what's the fuel capacity, who owns it, et cetera, but generally not how frequently they were in which waters.

The second stage of the data base was to look at the financial responsibility forms filed with DEC and due the 1st of September. And we've entered all but about 30 of them as of noon yesterday, and all of them over 10,000 barrels have been entered. Those forms show owner, we've got the e-mail address of the owner so we can do further contact. It shows how much persistent fuel and nonpersistent fuel there are in barrels, metric tons, gallons or some other measure. Different people have reported different measures. But these forms do not tell us where the vessels go. We just know they're in Alaska waters. So we're going back out now to Task Force members, Jeff in particular, to try to make sure

that we've assessed what vessels are likely to be in waters that might affect the largest vessel in the area. But I'd say, and we'll get into this later today, with about 90 percent confidence we know the largest vessel by region of the state at this point, and are ready to make recommendations tentatively based on those sizes. In addition, we've had some research on work group issues ranging from some liability issues to tax issues, et cetera, for the specific work groups.

What I'd like to do next is to go over a proposed outline of draft report. This outline is in your agenda packet. It's the second thing. It's right behind the agenda in the agenda packet that was handed out and faxed. And we would like to get approval by the Task Force today of this as the outline for how the report would proceed. And the reason for that is that we'd like to give you a fairly complete draft report at your next meeting.

Begin with an executive summary that describes how the Task Force worked, what the work group process was, how we came to the conclusions we did. Second, we'd list the recommendations for marine vessels. Third, the recommendations for the Alaska Railroad, in a brief executive summary.

We follow that then with a more detailed

recommendations, focused on the areas laid out in Senate Bill 273 and the concurrent resolution. First, on achievement of the response planning standard, a discussion of the issues, preemption of federal law, and practical and cost-effective measures.

Second, practical measures to implement the response planning standard, with a particular focus on waters west to 157 West or north of 62 degrees North Latitude.

Third, under the recommendations, what the means of achieving the response planning standard would be, including use of fleet plans, use of vessel agents, generic contingency plan contents, streamlined contingency plans, primary response action contractors, and spill prevention measures. And finally under the recommendations, the inspection measures.

Now, if this language seems familiar to you, that's for a reason. We're trying to tag directly to the statute because this is a report to the legislature and we're trying to meet their requirements.

The third section of the report would be the proposed legislation. The fourth section would be under our proposal, a draft memorandum describing the regulations.

Now, our sense is, as your contractors, that it

doesn't make sense to draft the regulations in complete specificity before the legislature passes the bill, because the legislation could very well change and you don't want to go drafting twice. On the other hand, we sense from the group that there's a desire to have a pretty good idea of what the regulations would say. And so our proposal to you is that our report would be the memorandum that would be sent by the Department of Environmental Conservation to the Department of Law, describing what they want drafted into the regulations. And with enough specificity that the legislature and the members of the Task Force and others have a pretty clear idea of what's in these sections, what would be in statute, and what would be in regulations, without going through the whole public process for regulations, which of course takes place after passage of legislation.

Finally, some appendices, supporting data at the subarea level. That would include information about the vessels, the current response equipment, what we're looking at in terms of new response equipment, new hubs, and the oil spill scenarios. Supporting data for the Alaska Railroad, including the system risk assessment that we'll talk about later today, and their RPS and C-plan action plan and schedule, and then finally a bibliography of supporting information.

So with that, I've completed the first section here, and would like to pause and have some discussion -- lights are coming on -- of the proposed Task Force report outline to see if there are issues or organizational issues people would like to see differently in the Task Force report.

Any members of the Task Force have issues they'd like to address in the draft report we haven't dealt with already?

COMMISSIONER MICHELE BROWN: I think it looks good. I mean, it's tracking clearly what we were tasked to do.

SENATOR DRUE PEARCE: I think it's fine.

BRIAN ROGERS: Are there any objections?

CHARLOTTE MacCAY: I'm confused. How do we do this when we haven't discussed the contingency plan?

BRIAN ROGERS: All we're doing is adopting the outline of the report, not the contents of it, in terms of what the elements would be that we are attempting to write in the outline. So, basically, it's how we organize what we present to the legislature, not the content of what we present to the legislature.

CHARLOTTE MacCAY: I think there are various other suggestions we had made to achieve it. Use the vessel agents, there were other group ideas that we had

suggested that are not in the outline.

BRIAN ROGERS: Any other recommendations would be included in the recommendations section. These are specific issues we have to address in the report because they were included in the legislation asking us to describe these.

Yes, Jeff.

JEFF THOMPSON: Jeff Thompson. Charlotte, yesterday we had our first subcommittee meeting with the C-plan, and we discussed your memo.

CHARLOTTE MacCAY: Yes.

JEFF THOMPSON: And we're going to continue discussing it at the C-plan work plan.

CHARLOTTE MacCAY: Could I be invited to the next one, please?

JEFF THOMPSON: Certainly.

COMMISSIONER MICHELE BROWN: I think Charlotte is raising an issue. Are we having problems of notices getting out of meetings?

BRIAN ROGERS: All of the meetings of the work groups have been noticed. And we had discussion of that this was going to be a group of -- C-plan subcommittee meeting to just begin generating work so that we'd be ready for the first C-plan meeting. And so the subcommittee meetings we have not noticed in the same

fashion with notice to everyone. Those have been discussed at meetings of the work groups, and we have not treated those -- because there's no decision making being done at the subcommittee meetings, we haven't gone through full-blown notice of the C-plan meetings.

COMMISSIONER MICHELE BROWN: Sort of organizational meetings with chairs to figure out what to do?

BRIAN ROGERS: Correct.

JIM CARTER: Brian, where we say "streamlined contingency plan," wouldn't it be more appropriate to say "formation of contingency plans"?

BRIAN ROGERS: The only reason for using the term "streamlined" is that comes from the statute.

JIM CARTER: Comes from --

BRIAN ROGERS: It comes from SB273. That section under Recommendations section II, sub (iii), is word for word from the statute.

COMMISSIONER MICHELE BROWN: Brian, Drue and I just were talking. Maybe one way to deal with this would be to put a place marker 7 for just sort of other issues so that -- and as the work groups finish up, if they find that what the legislature asked was maybe not necessarily the exact right question, there's a place to put it in.

BRIAN ROGERS: Good.

And that would probably also argue under the recommendations after inspection measures, to also put another recommendations section (v), because there very well could be some other issues other than achievement, practical measures, means, and inspection.

Other suggestions for changes? Obviously, the actual report is subject to the Task Force decision and could easily change once we get further down the road, but this is primarily to allow us to have some marching orders.

One suggestion that was made yesterday was that we hold in abeyance approval of this until the end of the day today so that if anything comes up over the course of today, we could add it in. And if nobody would have an objection, maybe we could move that approval to the end of the day.

HEATHER McCARTY: Commissioner, I was wondering if you could talk a little about the place that prevention measures have in this. And the place that they have in the original bill, the original statute, 273.

COMMISSIONER MICHELE BROWN: Me? Or Brian?

HEATHER McCARTY: I was addressing it to Brian.

BRIAN ROGERS: Oh. You said "commissioner,"

and so -- say that again.

HEATHER McCARTY: The prevention measures that one of the subgroups is working on, I know that they're not dealt with directly in Senate Bill 273 as such, but could you tell us where they -- just prevention measures under 6.

BRIAN ROGERS: Under 6, yes.

HEATHER McCARTY: Okay. Could you talk a little about what the actual statute asks in that regard?

BRIAN ROGERS: We've got that.

JUDY ERICKSON: We've got copies of the bill.

BRIAN ROGERS: That would be useful.

HEATHER McCARTY: I wanted to make that clear to the group as to where that fit in.

CHARLOTTE MacCAY: Is that something extra that's come out of the work group?

HEATHER McCARTY: You mean the Prevention Work Group?

PAUL FUHS: The direct quote is, "response measures as a means of achieving response planning standard," is the specific language that was in the legislation.

JUDY ERICKSON: Could everybody -- this is Judy Erickson. Could you please say who you are before you

speak, so people on teleconference will know who is speaking. And also Kim, who is doing our transcription here.

BRIAN ROGERS: This is Brian Rogers. Judy, could you also pass out the resolution.

JUDY ERICKSON: Yes, I will.

BRIAN ROGERS: Anything else on the agenda before we -- excuse me -- on the draft outline before we move on? We'll come back to this at the end of the day.

What I want to do now, then, is to go through our report of what's been done in the RPS Work Group. This is a fairly -- because they've had a significant number of meetings -- and, Charlotte, you may want to move so you don't get blinded. Because they've had a significant number of meetings, this will take a bit. I'll try to run through it. This should be about 15, 20 minutes in total.

The work group process basically set a goal of -- the goals were that the approach to implementing the RPS be realistic, effective, feasible, and flexible. That's the goals set at the beginning of the work group. The issues and methodology the work group went through. First, to identify the nontank vessels with the largest fuel capacity in each subarea. To identify the response equipment by subarea. To establish equipment

requirements in relation to the largest vessel in the subarea. To identify gaps. And then to cost out equipment needed to fill the gaps. This is basically their process, not all the way through the process, but substantial progress made on each of those items. And we will go through.

Building the data base, I talked about earlier, with the marine pilot reports, proof of financial responsibility, and member expertise and knowledge. That's how we built it. We then cross matched the data base, developing a table that shows the vessel with the largest tank capacity by subarea. We're using the nine planning subareas, and I'll go through those -- excuse me, the ten, counting interior. I'll go through those in a little more depth.

Vessel data base, we have information on the persistent and nonpersistent, on how large the vessel is, what waters they go in, some cases, not in others. We've estimated for those we don't know the actual. Most of those estimates are not the largest vessel in the area.

The subarea vessel summary, then, we know the maximum size, the maximum fuel quantity. We know then what the subarea response planning standard is, which is 15 percent of that maximum fuel quantity. We know the

status of the response and cleanup equipment from Chadux, from SEAPRO, from CISPRI. We know what other equipment is available from DEC.

I'm going to go through the regions. I'm going to take us fairly quickly, but to give everyone a sense, but I would ask if you have knowledge that one of these numbers is wrong, say so now, because that will allow us to identify for the RPS Work Group whether we have a problem.

In Southeast, largest vessel is a 77,500 gross ton cruise ship with a fuel capacity of 21,000 persistent and 1500 nonpersistent.

MIKE O'HARA: O'Hara. You can expect 100,000-ton ships within a year.

BRIAN ROGERS: Good. Good to know.

The RPS then is 3200 barrels of persistent and 200 barrels of nonpersistent. I'm rounding there. SEAPRO meets the response equipment requirements for the response planning standard. Needs some cleanup in Yakutat -- that's on cleanup equipment in Yakutat. That's coming. Obviously, if we're moving up to 100,000 gross ton cruise ship, we'll need to revisit that issue shortly.

Region II, Prince William Sound, largest vessel, same thing. Same fuel capacity. Same RPS.

Chadux meets the equipment requirements for the response planning standard and for cleanup.

MIKE O'HARA: Again, probably within two years for 100,000 tons.

BRIAN ROGERS: That was Mike O'Hara. Two years we're up to larger cruise ships.

Region III was Cook Inlet. Largest vessel is a 66,000 gross ton LNG carrier, with a fuel capacity of roughly 25,000 barrels persistent, 10,000 barrels nonpersistent fuel, so an RPS of 3700 and 1500 barrels respectfully. Chadux in Kenai and CISPRI in Nikiski meet the equipment requirements for the response planning standard, except that the Task Force believes we will need some additional equipment in a secondary hub in Seward. And they meet the cleanup requirements. So good shape there.

Region IV, Kodiak. Now, this one is one that we're unsure of. It appears so far that the largest is a 19,000 gross ton bulk carrier, with a fuel capacity of 10,000 barrels of persistent, RPS of 1500 barrels of persistent fuel. And Chadux meets the equipment requirements for response planning standard and the cleanup.

JEFF THOMPSON: I'm Jeff Thompson. I'm not sure the statistics on the Sea-Land D7 class, but want

to make sure those vessels don't exceed.

CAPTAIN ED PAGE: That's what I was thinking. They're right about that.

JEFF THOMPSON: Sea-Land Tacoma, Sea-Land Kodiak, and Sea-Land Anchorage.

BRIAN ROGERS: Okay, I have those three vessels in the data base with unknown waters. I'll double-check. If I remember right, those are larger marginal.

Okay. Region V, which is the Aleutians. For response planning purposes, we've divided into Dutch Harbor and the rest of the Aleutians, because the shipping characteristics are so different.

So, excluding Dutch Harbor, it appears on the data base so far that the largest vessel is an 18,000 gross ton fishing vessel. The question we have is we're not sure if any of the larger container ships or other vessels might come close to waters within the three-mile. At this point we think that's the largest vessel, but this is the area that personally I'm least comfortable that we have good knowledge so far.

KRIS MULLAN: This is Kris Mullan. Does anyone know which that is? Is that the OCEAN PHOENIX?

BRIAN ROGERS: I can look it up during the break and see which one that is. Let's see. Actually,

why don't I do it right now.

KRIS MULLAN: If I remember correctly, the next largest vessel would be right around 5,000 gross tons.

BRIAN ROGERS: OCEAN PHOENIX is the largest. And the next largest, in terms of capacity, would be the NORTHERN EAGLE, with a reported persistent of 11,000 barrels.

MIKE O'HARA: This is O'Hara. Are you just talking about fishing ships?

BRIAN ROGERS: On that one, yes.

MIKE O'HARA: Container ships are much bigger.

BRIAN ROGERS: Container ships are much bigger, but outside of Dutch Harbor are the container ships calling? This is excluding Dutch Harbor.

MIKE O'HARA: Except Dutch Harbor, gotcha.

PUBLIC PARTICIPANT: Does this exclude the ferry system also?

SENATOR DRUE PEARCE: Ferry system should be in.

JIM CARTER: Should be in.

PAUL FUHS: Dutch Harbor is in line for the ferries.

PUBLIC PARTICIPANT: But as far as the Aleutians, because they go into Cold Bay and Chignik.

MIKE O'HARA: Both of those are on the

peninsula. Do they go to Akutan?

BRIAN ROGERS: And I don't know that the State has filed financial expenditure responsibility forms for that.

HEATHER McCARTY: This is Heather McCarty. Just for clarification purposes, I might say that when we say fishing vessels, many of these are actually fishing vessels. Some are just processing vessels. But fish processing vessels. We're kind of lumping those two categories together.

BRIAN ROGERS: Actually, we've had -- we've used what people self-reported, and I want to do some cleanup because some report as fishing, some as factory trawler, some as trawler. And as of today, the data base we've been doing, focusing on data entry telling people, enter what they said. We've got some cleanup to do of the data base to get consistency, and I'd like to review with you some of those names to make sure we are consistent.

So we're dealing with 20,000 barrels persistent and 4,000 barrels of nonpersistent in likelihood in the Aleutians unless the ferry is larger, in terms of its capacity. So our response planning standard of 3,000 barrels persistent and 600 barrels nonpersistent. And the committee says we need additional containment

equipment at three secondary hubs: Adak, Atka, and Akutan. And Chadux is scheduled to meet the response planning standard in that area. Once we add these, the secondary hub stages, and I'll get into some detail later on what the recommendations are there.

PAUL FUHS: This is Paul Fuhs. I don't think Chadux is scheduled to meet this. I mean, we're only now talking about these new requirements and, I mean, they were at the meeting.

BRIAN ROGERS: Excuse me. Other than Adak, Atka, Akutan, they're scheduled to meet.

PAUL FUHS: All right. As long as that's clear.

BRIAN ROGERS: Dutch is the unique circumstance, of course, largest vessel being a 65,000 gross ton container vessel carrying 52,000 barrels of persistent fuel. So a response planning standard of 7,800 barrels. That would be the APL. Chadux meets the RPS and cleanup requirements for that vessel.

PAUL FUHS: That's incorrect, Brian.

BRIAN ROGERS: That's incorrect, okay? Chadux does not meet it?

PAUL FUHS: There's no persistent oil skimming capacity in Dutch Harbor that needs to be added.

BRIAN ROGERS: Okay.

PAUL FUHS: That was Paul Fuhs speaking.

BRIAN ROGERS: And that would be under -- and that's a significant volume of skimming equipment for persistent then.

Region VI, Bristol Bay, largest vessel -- and this one, because we don't know the waters on all of these, we believe it's a 12,500 gross ton reefer, refrigerated tramper, with a fuel capacity of 21,700 barrels persistent, and 10,800 barrels nonpersistent. Total of 30,000 barrels.

Response planning standard, obviously we've got an extra digit in there, 3300 and 1600 barrels. We'll need containment equipment in Dillingham. The proposal is that the skimmer be based in Anchorage for Bristol Bay, Western and Northwest. Other than that, Chadux is scheduled to meet the response planning standard for Bristol Bay under their rollout agreement with the APD&T, but there will need to be some new equipment.

Yes?

SUSAN HARVEY: Susan Harvey from DEC. In terms of the primary and secondary hubs, we still had a little bit more work to do. I know it was left as an open issue from the last meeting, and at our next session I know we were going to talk a little bit more. There had been some preliminary recommendations, but I wanted to

through work through that.

BRIAN ROGERS: The preliminary was secondary at Dillingham and, yes, there was some more work on when a secondary becomes a primary, when that change needs to be made.

SUSAN HARVEY: So we don't want to decision that today because I think the work group needs to do some more work there.

BRIAN ROGERS: No, we're not, and we do have an issue on that. That one I sense that different people had a different sense of what the -- that work group ended, so we'll have some discussions when we get to that point. That's the same issue on the next two regions.

Western Alaska, same size vessel, and fuel capacity. And same issue with containment equipment in Bethel, secondary hub in St. Paul, and skimmer in Anchorage, same issue. Chadux is otherwise scheduled to meet the response planning standard.

And what we can see throughout the Western area, this is the area where there's going to be the most challenging, both in terms of equipment and obviously in terms of logistics, given remoteness, given weather conditions, given sea conditions.

SENATOR DRUE PEARCE: Brian?

BRIAN ROGERS: Yes.

SENATOR DRUE PEARCE: Senator Pearce. Can you go back to the previous slide, please.

BRIAN ROGERS: Yes. It's slow. Easier said than done with this remote.

SENATOR DRUE PEARCE: Well, I can probably ask the question without seeing it.

BRIAN ROGERS: Go ahead.

SENATOR DRUE PEARCE: At the very bottom you were talking about skimming capacity in Anchorage for these western areas. And the way that reads, the way you said it, it sounded as though you expected that more skimmers would have to be in Anchorage. I would assume that Chadux -- that there's enough skimming capacity in Anchorage, either Chadux or through the memorandums with other folks, that they wouldn't have to buy more to sit in Anchorage. It's just that they're here.

BRIAN ROGERS: We'll get into that in some more depth. The issue is skimmers sufficient to handle the quantity that are DC-6 loadable.

SENATOR DRUE PEARCE: Okay.

BRIAN ROGERS: So you can get into most small airports in rural Alaska, to get the skimmer as close as you can to the site of a spill. And that's the reason -- there are two reasons. One, logistics for

basing the skimmer in Anchorage rather than one in Dillingham, one in Bethel and one in Nome.

SENATOR DRUE PEARCE: Sure.

BRIAN ROGERS: And the second, expense. Because persistent oil skimmers are not inexpensive pieces of equipment, and to deal with -- to spread that cost over a broader base was a thought there. But it's really the logistics issue of how do you get a skimmer. And so I'm not sure whether Chadux has the right skimmers for persistent oil that are DC-6 or equivalent loadable.

TERRY MURPHY: Terry Murphy with Chadux. the majority of our skimmers here are nonpersistent skimmers.

SENATOR DRUE PEARCE: Okay.

BRIAN ROGERS: Northwest Arctic, the largest vessel in Kivalina, 36,000 gross ton freighter, with a fuel capacity of nearly 17,000 persistent and 1,000 nonpersistent. Response planning standard, 2600 barrels of persistent and 200 nonpersistent.

CHARLOTTE MacCAY: I don't think any freighters go to Kivalina, and Cominco doesn't bring freighters in. We bring barges within, but everything else stays outside three miles.

BRIAN ROGERS: Okay. Those are showing up in

the vessel data base.

CHARLOTTE MacCAY: But they do not come within state waters.

BRIAN ROGERS: So next to that would be a 12,000 -- it would be the same as, then, Western Alaska, or possibly even smaller, because I don't know exactly where those refrigerated ships go. So we'll pull that one off, then.

TERRY MURPHY: They go into Norton Sound.

BRIAN ROGERS: Yeah, so it would be fishing industry-related vessels in Norton Sound.

MIKE O'HARA: O'Hara. I have two questions. I thought that Cominco was bringing the ships to the dock. That's what the simulation was all about. And number 2, most of the ships --

BRIAN ROGERS: If I could ask there not be side conversations. It's difficult for the transcriber and for the folks on teleconference.

MIKE O'HARA: Number 2 is, has there been any thought given to the fact that the ships can't operate up there in the wintertime, the seasonal factors for this response?

BRIAN ROGERS: The RPS Work Group is aware of seasonal factors, and certainly there would not need to be equipment standing by in the off-season. But the

discussion was we need to be able to meet the response planning standards during that season.

And Northwest Arctic is a real problem area because we have a small number of vessels, we have a small operating season, and the costs are high, and so trying to come up with a cost-effective method there is probably the biggest challenge, from my viewpoint as a watching the process. Northwest Arctic is going to be a problem, unless we can find ways of minimizing the amount of equipment that has to be staged locally and prepping out of Anchorage, which I think the skimmer process attempts to address.

MIKE O'HARA: This is O'Hara again. What about the first question?

BRIAN ROGERS: The first question again?

MIKE O'HARA: Was Cominco going -- were ships going to the dock?

CHARLOTTE MacCAY: This is Charlotte MacCay. At this point in time there is no ability to do that. There is a proposal to investigate the feasibility of building another dock and dredging for two to three miles to create a direct loading facility. But you've got feasibility studies, permitting, funding, absolute dredging which is a few years. Five years would be -- you know. You don't know that that's coming. So it's

very uncertain.

BRIAN ROGERS: But that brings up the issue that will be addressed, is how to do we revisit what this standard would be and what triggers a change in the maximum -- in terms of what equipment needs to be staged, and whether what might be a secondary hub today gets upgraded to a primary hub, which this is -- this is a circumstance that would probably cause that to happen.

Region IX, the North Slope. We don't know what the largest vessel is. The largest we have right now, we've been told there are some drill ships that might be the largest. There is one small cruise ship that's been in those waters in the last year. But if it's a drill ship, we'd be looking at a fuel capacity of perhaps 8,000 barrels persistent. The largest cruise ship in those waters, fuel capacity slightly larger than that. Excuse me, slightly smaller than that. Response planning standard is going to be about 1200 barrels. And Chadux is scheduled to meet the RPS and cleanup needs at that level. The one issue there again may be whether there's need for persistent skimmers. We don't know that until we have a better fix on the largest vessel.

SENATOR DRUE PEARCE: I think Alaska Clean Seas may cover any drilling ships up there because, as I

remember, they have to bring them in under their areawide plan. So I think they're already a drilling ship or any --

CAPTAIN ED PAGE: Probably wouldn't cover the ARCTIC SUNRISE in protest.

SENATOR DRUE PEARCE: You're correct about that. I'd suspect they don't. But the drill ships, I am sure, reasonably sure, are covered under present law.

BRIAN ROGERS: So then we would be dealing with the WORLD DISCOVERER with a gross ton of 3700 gross tons, cruise ship, and we don't know the quantity that the WORLD DISCOVERER carries, we don't have a financial responsibility form for them.

MIKE O'HARA: The HANSIATIC also.

BRIAN ROGERS: Okay. I have them, but not shown in those waters yet. So HANSIATIC.

SENATOR DRUE PEARCE: The HANSIATIC is the one that did the Northwest Passage transit this summer.

BRIAN ROGERS: Okay.

SENATOR DRUE PEARCE: Captain Gurray (ph) just came off of it.

BRIAN ROGERS: And we did not have marine pilot data in this area.

SUSAN HARVEY: Susan Harvey, DEC. Senator Pearce --

BRIAN ROGERS: You need to come up closer.

SUSAN HARVEY: Most of the drill ships that do come in are paying members in Alaska Clean Seas. The only exception to that would be if they aren't a participating member, which I think they readily do join, typically, so that should cover it.

BRIAN ROGERS: Region X is Interior Alaska. We have no vessel information on Interior Alaska in terms of fuel capacity, largest vessel, or response planning standard, as to whether there are any vessels in excess of 400 gross tons. And we're looking through the data base trying to see if we see any vessels that anyone would recognize. Again, from the financial responsibility forms, we don't know.

TERRY MURPHY: The biggest boats are the cruise ships right there in Fairbanks.

BRIAN ROGERS: Yes, the river boat DISCOVERY crew.

TERRY MURPHY: Yeah.

BRIAN ROGERS: And the DISCOVERY 1, 2 and 3 have not filed financial responsibility forms. Whether that means they're under 400 gross tons or that they just haven't filed them, I don't know.

CAPTAIN ED PAGE: Probably not.

BRIAN ROGERS: They're below. That was Captain

Ed Page.

The response equipment data base, we have all the equipment from Chadux, from CISPRI, from SEAPRO on that equipment data base. We also have DEC's equipment, but of course I would note that their equipment does not count toward meeting the response planning standard, but we have their data available on the equipment data base.

We also know about what additional equipment is currently scheduled. This is under the Alaska Petroleum Distributors & Transporters agreement with DEC. Dillingham, a hub in July of 2001. Bethel, a hub in July of 2002. Nome, a hub in July 2002. And North Slope, a hub in July of 2003. This schedule is one that you'll see later in the recommendations, that this group has recommended for nontank vessels we use the same rollout schedule.

Planning standards, we've got the response planning standard in SB273, which is to contain and control 15 percent within 48 hours, and cleanup in the shortest possible time while protecting the environment. That's what we're trying to achieve here. It is a planning standard and not a performance standard. I think that's been an important concept that the work group has wanted to keep in mind throughout this process.

I'm looking at response requirements versus capabilities or review. We've got good coverage in Southeast, Prince William Sound, Cook Inlet and Kodiak. The result of this is the unit cost to coverage is likely to decline as we add more vessels, spreading the fixed costs of operations. Some additional variable cost that deals with the cost of the co-op dealing with more members. There are some variable costs associated with that, but the fixed costs are pretty good.

The areas with coverage gaps, then, Seward, Adak, Atka, Akutan, St. Paul, Dillingham, Bethel, Nome, and certainly needs for some persistent skimmers where we only have nonpersistent today.

The cost. How much is this going to cost? Good question. We're still working on it. Who will pay? Good question. Group still working on that in terms of what that process will be, and we'll come back. Ultimately, that's going to be market decisions, but we should have some answers that help the Task Force and the Task Force members understand what the likely new fixed costs are likely to be and how many vessels those fixed costs will be spread across. That does not mean that we know how much it will cost, because that's an independent market decision.

The future issues for the RPS Work Group. The

issue of upgrading hubs. Which hubs need to be upgraded. More importantly, what are the criteria for what's a primary and what's a secondary hub. How do you determine how much of that is cost based, how much is it risk based, how much of it is based on vessel size, et cetera. So the RPS group continues to work on that issue. And then changes in the vessel data base, how do we make sure that as that data base, which will be maintained by DEC, changes we know what that means in terms of the hub and response process.

What I want to do now is go through each of the recommendations of the RPS Work Group. And what I'd like to do is I'm going to go through them one at a time, and if people have issues they want to raise on these recommendations, let's try to get them out and identify what those issues are; and later today we'll want to take action on as many of these as the group by consensus is ready to do.

Senator Pearce?

SENATOR DRUE PEARCE: Thank you, Brian. I have a question. When you're talking about primary and secondary hubs, why is that something that the Task Force would need to decide? I would think that where primary versus secondary hub ends up being would be driven more by the response action contractors based on

where they can -- because they've got the local knowledge of where they can best base equipment and where they've got the trained people, and vessels of opportunity and whatever else they need to be able to move the equipment where it needs to go. I don't know why we need to make that decision.

BRIAN ROGERS: Let me see if I can capture the discussion so far, and members, please tell me if I've got this wrong. And that would be first, in order that we can get a sense of costs, we needed to put out a sort of draft of what we thought the likely equipment staging would need to be. So that the Task Force can get a sense of total equipment cost and how much new equipment is going to be required.

Second, DEC has to ultimately sign off on whether the equipment is adequate, and to meet the response planning standard, and this was an attempt to say first order, is this about right? Is DEC going to be comfortable that this equipment can meet it? And, is this cost going to be within reason to the nontank vessel owners? The concern being if we go in with this still being an unknown, how much equipment, the cost concerns could drive some people to real concern over the legislation.

On the other hand, completely leaving it up to

the co-ops, DEC then needs clearer criteria for what demonstrates that it can meet the response planning standards. So it's an attempt, Larry calls it, I guess, a straw man, an opportunity to say, is this within reason, so that DEC is comfortable that they're meeting their standards or obligations, and the nontank vessel community is comfortable that the costs are something that is reasonable to bear. And let me turn and see if others have --

TERRY MURPHY: Terry Murphy with Alaska Chadux. Part of the concept of the primary and secondary hub is that a secondary hub would be primarily containment, and meeting some of the -- in line with what APD&T was having to put in the secondary hubs. And the philosophy behind that would be that the persistent skimmers and the temporary storage would be in kits or units in Anchorage and be able to be flown in, versus actually putting those expensive items in each of those secondary hubs. And that was basically the difference. The primary hub would have all of the equipment and everything in place.

SENATOR DRUE PEARCE: If I could ask one other question. Larry, is your system for looking at contingency plans within the department such that there's consistency region to region? In other words,

are the people who are looking at these and deciding how much is enough, if you will, does that bump up high enough that one person looks at what you're requiring in Southeast to what you're requiring in some other part of the state, so we've got consistency?

LARRY DIETRICK: Yes. Larry Dietrick with DEC. For the current regulated facilities, we do business the same way across the state. To meet what's unique now is different facilities have different response planning standard whether you're a pipeline or crude oil tanker, et cetera, but we otherwise go through the review process the same way.

I think for the nontank vessels here, what was part of the discussion here was that for them we need a new approach. And we talked about it in terms of a primary hub being a full kit to meet the response planning standard for the nontank vessels, the 15 percent. And that that full kit would include the containment boom, the recovery device, and fundamentally down to storage capacity. And then we talked about the tradeoffs between having that as a primary hub. A primary hub, in other words, would have all the capacity you need to respond. And then we got into discussion, okay, where should those be, and if we, particularly in the remote areas, because of the costs of maintaining

that equipment, should we have such a thing as a secondary hub, which would only include containment boom but would be the item that would be positioned in a remote location, and we call that a secondary hub. But the idea is that can get out there right away, and then the equipment that's in the primary hub that might be located somewhere else can cascade in.

So the secondary hub is to get into the remote areas to provide initial response and be backed up by a primary hub that would have the full kit that could then be deployed in and en route -- well, it would be activated the same time, but the containment boom from the secondary hub would go out right away because it was pre-positioned in that area, and the rest of the equipment would be mobilized out of the primary hub in Anchorage or perhaps even in another subarea.

And we're wrestling with the last piece that we need, the way I understand it, is to figure out, okay, what are the criteria now for where and when we should pre-position a primary hub and a secondary hub, based on what Brian has been showing us where the risks are, where the vessel activity is, and where we need to have it.

SENATOR DRUE PEARCE: Thank you.

BRIAN ROGERS: Other questions? Susan Harvey.

SUSAN HARVEY: Susan Harvey, DEC. Just to add a little bit to what Larry had said. One of the issues here in terms of a primary versus secondary is in Southeast we have about the same RPS volume that we have under Brian's current data, say, in Bristol Bay for the Dillingham area, is about 3200 barrels in both places. Southeast will have a persistent skimmer, so it will be a primary hub, as he went through. What's being proposed potentially is making Dillingham a secondary hub. They have equivalent fuel volume so it would be a little inconsistent. One could also say you could stage a persistent skimmer out of Anchorage and fly it down to Southeast in an event. So just keeping it consistent across the state is why the discussion about primary and secondary hubs probably warrants further work. Thank you.

BRIAN ROGERS: I think the discussion of the Task Force included that consistency also has to deal with volumes of vessels as well. And there are some differences. When you look at Norton Sound, for example, where if I remember right we have 16 vessels so far, and so whatever costs we have to amortize over those 16 vessels, that could be of concern, and that's probably the biggest area that could be -- Charlotte?

CHARLOTTE MacCAY: This is Charlotte MacCay. I

think one other thing with consistency is some places may have above and beyond what's deemed necessary by the group, so trying to compare one area to another just because this area has it doesn't mean that it's necessary that an area of that size have it.

HEATHER McCARTY: Heather McCarty. Will you also take into consideration frequency of trips into areas when you're discussing risk factors and the rest of it?

BRIAN ROGERS: We don't know frequency yet because that is not data that is reported on a financial responsibility form, which is the data that we have the most vessels. Out of roughly 1,050 vessels on the data base so far, about 700 we have financial responsibility forms on, about 450 came from the marine pilot reports, so there's an overlap of about 150 where we actually have fairly complete data. And it's only from the marine pilot reports that we really know frequency, and again that's only on some vessels.

But certainly that becomes a factor in likelihood of a spill and that gets -- that also gets into the cost factors as well. So that you've got a multitude of issues that need to be considered, which is why the criteria for what would require a secondary versus a primary hub has been slated for additional

discussion by the RPS Work Group.

HEATHER McCARTY: Thank you.

GENE BURDEN: This is Gene Burden. Just a further comment on your question. I think the answer at this point is clearly no, I don't know that this group is going to be in a position to try to factor in a tweaking of the RPS standards based on frequency of traffic in any particular area. I think we've at this point worked on what's the largest and what is the RPS for the largest, and getting into calculations based on frequency probably is going beyond the scope and capability of this group.

CAPTAIN ED PAGE: This is Ed Page from the Coast Guard. I think Heather's point and your point are good, and I would say what we're really trying to do, I believe the legislature and the senators are trying to do, is manage the risk, and part of that risk is exposure. So right now, the existing form we have, one ship, large quantity volume would have to meet that planning standard for that one ship even if it comes once a year. When you look at Southeast Alaska, the cruise ships are ubiquitous for about four months a year, numerous transits, and so -- I think some discussion on that, to answer the senator's question as far as is it equitable, we talked about the distances in

the Arctic versus Southeast Alaska, and primary versus secondary, cash and equipment, I think you'd have to look at again some of that exposure, maybe in some type of formula, or at least consider that, and see the exposure is different and that's why we have a different answer for Southeast versus Northwest Arctic. Leaning toward more equipment, but the opportunity for something to go wrong is substantially higher so it warrants that additional risk management tool.

BRIAN ROGERS: Clearly the issue of the secondary versus primary in those areas warrants further discussion, and we don't yet have, you know, final closure, and so what's coming, there's not a final recommendation on those criteria coming to the Task Force for action today. We would hope that we would have that at your next meeting.

PAUL FUHS: Paul Fuhs. The other thing we talked about is maybe having a periodic review rather than completely strict standards, because partly what we tried to do in this with the committee to is to apply common sense. Even though we didn't have the complete data set, people sitting around the table, they know what's going on out there. We know what ships are going back and forth. So that's why we picked Akutan, Atka, Adak, Pribilofs and Seward.

Now, one thing we didn't discuss, I think we need to, what should be the scheduling of that equipment? And, you know, the two highest priorities are the Pribilofs and Seward. That's where your greatest level of activity is right now. There's really not much happening in Adak and Akutan and Atka, could come further down the line. We need to talk about that scheduling. But that's how we came up with that. We really tried to apply some common sense to what were the vessels and trades operating in the area.

BRIAN ROGERS: It's 9:45 now. I'd like to go through the recommendations before we break, but if it does take longer we'll break when we're partway through the recommendations. What I'd like to do now is to go through those and see where there are any issues of concern.

The first recommendation is that the nontank vessel RPS and the whole program have a relationship with the tank vessel program. That is, we use the tank vessel equipment where there's good coverage and add equipment in the gap areas. So in terms of that recommendation -- yes, Heather.

HEATHER McCARTY: This is Heather McCarty. I need a little clarification on this element here. The tank vessel needs are being met by Chadux, in particular

now in western Alaska, and some of those places where gaps have been identified. And there seems to be -- since I haven't been to all the subgroup meetings, I'm not sure. There seems to be a schedule for adding equipment to some of those areas even before the nontank vessel discussion began. Is that correct?

BRIAN ROGERS: Yes, and that was the Dillingham in July of 2001, Bethel in July of 2002, Nome in July of 2002, and North Slope in July 2003, are all currently scheduled rollouts of equipment by Chadux. In addition, I think there are ongoing purchases by Chadux of equipment elsewhere.

HEATHER McCARTY: So there's tank vessel gaps already --

BRIAN ROGERS: Yes.

HEATHER McCARTY: -- that are being met on a preestablished schedule that's under way.

BRIAN ROGERS: Correct.

HEATHER McCARTY: Okay, thank you.

BRIAN ROGERS: So basically what we're saying in this recommendation is follow their lead, don't try to go out and put new equipment out ahead of them. You know, they're dealing with larger volumes, let's try to work in synch, have a relationship with the tank vessel program.

Does anyone have concerns about trying to keep these two programs in relationship? If not, we'll take that as tentative acceptance subject to final approval on that recommendation.

The second one is the identification of the gap areas. First, that Seward is a gap. Second, that in Western Alaska, on the western coast, the Aleutians, Bristol Bay, Western Alaska, and Northwest regions, that we have gaps identified. Anyone disagree that those are gaps?

Third recommendation.

MIKE O'HARA: I have a question. Doesn't Crowley and Foss run up to those -- if you go back -- to all those places that -- how does Dillingham, for example, get fuel other than barge?

BRIAN ROGERS: It gets its fuel by barge, but there is a gap in equipment as of today in that, A, there's not response equipment in Dillingham yet; and B, there is not equipment for persistent fuel even scheduled to be there.

CHARLOTTE MacCAY: The fuel barge falls under the different regulation.

MIKE O'HARA: But they're talking about sharing the same equipment.

TERRY MURPHY: Terry Murphy with Chadux. Some

of the requirements that the transferring vessels are meeting is some of that equipment is on board the barge, thereby the nontank vessels would not have the same equipment, so they're part of the gap that they're seeing.

BRIAN ROGERS: Third recommendation is for a cascading response system, with primary hubs having control, containment and portable recovery equipment, and secondary hubs with basically what we're calling a starter kit, with control and containment equipment, and then we would deploy additional equipment from the primary hubs into the secondary hubs. And this is basically, I see it, as more cost-driven to try to keep the costs reasonable, but also to recognize the unique logistics in the waters west of 157 and north of 62.

LEE EGLAND: Brian?

BRIAN ROGERS: Yes.

LEE EGLAND: Lee Egland. I apologize for being a little late this morning.

One thing I might just note for interest and discussion is for our primary hubs, I don't think we want to lose sight of potentially adding that second line item as far as additional equipment being cascaded in from other areas because of the fact that, you know, the control and containment equipment and portable

recovery equipment in those primary hubs is going to be, should I say, somewhat marginal if there's a larger spill. So, you know, understanding that once we get through with our recommendation, it needs to be very clear as to what the expectations are as far as what the equipment needs to be in each of the primary and secondary hubs, as well as anything else that may be required to be brought in. Thank you.

BRIAN ROGERS: Anyone else have an item? We'll make sure that we address that in the written report.

Fourth, the containment equipment in secondary hubs, that we have sufficient boom for three times the length of the largest vessel in that subarea, and that there be a deployment means for that containment equipment. So that's basically what we're dealing with in terms of containment at the secondary hubs. Anyone have comments on that?

The fifth recommendation, the cleanup equipment. At the primary hubs we have cleanup appropriate to the type of oil. That it be mobile, designed to fit in a DC-6 or equivalent to reach the maximum number of runways. That the planning standard use a wave height of three feet. Again, in order to achieve that we needed some level of sea conditions.

Skimmers. A lot of discussion on this as to

what should be the recovery capacity of skimmers required to meet the (inaudible) and a daily nameplate recovery capacity of 15 percent of the capacity of the largest vessel. Now, that's the nameplate recovery capacity, recognizing that the actual effective may be 20 percent of that. So we would end up with 20 percent of 15 percent being the likely -- the effective daily recovery capacity. And then finally, temporary storage equal to that skimmer's effective daily recovery capacity. So effectively there we're dealing with 3 percent of the capacity of the vessel daily as being the amount of skimmer capacity that would be required in a primary hub, or in a primary hub to meet a region. Yes?

KRIS MULLAN: This is Kris Mullan. Just one question. How would the skimmer get to the spill site? Would that be by DC-6 or barge, or --

BRIAN ROGERS: It depends on where the spill is, obviously, and that's the biggest concern in Western Alaska, is how we're going to get skimmers there. And fortunately, we have folks here from the response action contractors who can tell us how you get a skimmer there.

TERRY MURPHY: Well, we've thought about parachuting, but that was -- Terry Murphy with Alaska Chadux. Typically, if it was mobilized out of Anchorage, it would be by aircraft first, and then,

depending on where the spill would be, it would be boats, vessel of opportunity, or anything that might be available to move it out. And that's why the equipment needs to be of a size -- I mean, I have a skimmer, for instance, that can do persistent here. It's too big to fit in a DC-6 to some degree and too big to go on vessels of opportunity.

KRIS MULLAN: What about the weather conditions for a skimmer that's going to fit in a plane? Is that --

TERRY MURPHY: Yeah, the three feet, that's basically a protected water skimmer. That's not an ocean. And there are quite a few of those out there that can be do both persistent and nonpersistent.

KRIS MULLAN: But can they fit in a DC-6?

TERRY MURPHY: Yes, definitely.

KRIS MULLAN: Really? Okay.

BRIAN ROGERS: Other comments, questions, concerns?

The sixth recommendation, again, the issue of primary and secondary hubs. And the initial cut at this is that the primary could be Anchorage and Dutch Harbor for the regions 5-9, Aleutians to North Slope, with secondary hubs in Adak, Atka, Akutan, St. Paul, Dillingham, Bethel, Nome, and then a new secondary hub

in Seward.

Again, subject to verification of the numbers and some discussion as to whether any of these would need to be upgraded to primary based on the completed vessel data. Which we are finding that while September 1st was the deadline for financial responsibility forms, not everyone has filed on time, and certainly some vessels don't need to file until they're ready to enter the waters, and so we may find new data out there.

Number 7, the schedule for new equipment. We follow the tank vessel schedule -- oops, go back one -- which we laid out earlier of basically a three-year rollout for that. There still is work to do on the schedule for the secondary hubs.

So that basically completes the recommendations of the RPS Work Group that are ready for action by the Task Force today. Seven recommendations, those are contained beginning on the second page of the written report. Lights are coming back on. That was the third item in your agenda packet. And I think it might be a good point to see if there are any concerns that would lead us not to tentatively approve those seven recommendations by the RPS Work Group. Commissioner?

COMMISSIONER MICHELE BROWN: This is Michele Brown. I just had a question. I know there have been

comments earlier that there are a couple issues that are still being worked in each of the work groups. Is there a statement of those issues? Are they defined, clearly enough so that people with questions can see where they know the work still has to go forward?

BRIAN ROGERS: Yes, they are defined in the draft reports from each of the three work groups.

COMMISSIONER MICHELE BROWN: In the discussion section?

BRIAN ROGERS: In the discussion section. And we were working on this Power Point until 11:00 last night, so I'm pretty sure we've also got a section in here where we also talked about what's left to be done. Actually, not on the RPS Work Group. I'm sorry. But it was at the very beginning, we talked about the issue of primary versus secondary, it's still to be dealt with. The issue of schedule for the deployment. And third --

LARRY DIETRICK: Future issues.

BRIAN ROGERS: Future issues. It's on the last page of the report but third in the agenda packet. Thanks.

Gene?

GENE BURDEN: Just one general comment. Gene Burden. The effort has been to identify what's available and what's going to be available in each of

the areas. And although we have Chadux and SEAPRO predominantly seen as the alternatives available, I think that the Task Force shouldn't -- I would suggest that the Task Force not be viewed as presenting an endorsement or any kind of ratification of any particular spill response group in terms of their capability or their readiness. That this is what we understand is available as an option, and basically that's it.

BRIAN ROGERS: And actually, that is the other item. I knew there was another one. Which is, under what standards would DEC do the review of adequacy of meeting the response planning standard for someone who is not a co-op member of either one of the existing co-ops, or how would DEC review the creation of a new co-op? So, basically, how do we ensure that there are other avenues and this isn't sort of a sole source process, but we have -- the RPS Work Group has said this is one way that clearly will meet the standard, and has not said, specifically not said that's the only standard. Both for the response planning standard and for contingency planning.

CHARLOTTE MacCAY: Charlotte MacCay. Is there also room in there for later when you're deciding if an area is covered, that, say, if Red Dog ever gets the

direct loading facility built, and we decide to have our own containment equipment, which is probably likely, that's what we've always done to date for on-shore, that you're not still going to hold that geographic area to the standard for Red Dog, are you? Because right now you're going on the largest vessel in the area. If that largest vessel chooses to take care of itself, you don't want to hold the rest of the area to that standard.

BRIAN ROGERS: That's a really good point. One we had not considered is downgrading of an area, which is what would happen if -- in several areas one or two vessels set the standard and the next vessel is substantially smaller.

CHARLOTTE MacCAY: Yeah.

BRIAN ROGERS: And so part of our discussion needs to be, can the equipment be unstaged from areas, if needed.

CHARLOTTE MacCAY: I don't think we've even investigated yet the ones we have listed as the largest, are they going through the spill response contractor or do they have their own. And I'm not sure anyone else does that besides us.

PAT CARTER: Pat Carter, Senator Pearce's office. We may see that also in Southeast with the barges that have been staged down there for the cruise

ships. And if they continue that sort of a trend and maybe bring in more equipment, but I know they do have their own skimmer aboard one of the barges, so we may think about how that affects our planning standards for Southeast as well.

LEE EGLAND: Lee Egland. Charlotte, that's a good point. I think what we've done by setting the three times the length of the largest vessel plus the effective daily recovery capacity, that will help to lower those limits as far as in the particular areas that we've identified. Because that volume, for example, we know the boom is going to be three times the length of the largest vessel, so if the vessel gets smaller, the largest vessel gets smaller, that boom length goes down, as well as the skimming capacity because of that response planning volume is going to go down, as well as the storage. So I think there's a mechanism built into that formula to address it.

What it doesn't have, what -- it kind of speaks for itself -- if for some reason vessels stopped calling in a particular area, there would no longer be a commercial need for that equipment to be in a particular location, so it could get redeployed or go somewhere else, but it's very good point to consider. But I think there's some issues that we've got to address in those

volumes for equipment size and type that might help address that concern.

CHARLOTTE MacCAY: I didn't recall that.

BRIAN ROGERS: Heather.

HEATHER McCARTY: What I'm thinking about also is if, for instance, the fishing industry decided to do their own plan, and in certain areas, clearly most of these areas, the fishing vessels or the fishing industry vessels are much, much smaller than the largest vessel for which these response planning standards are laid out. If we do a fleet plan, let's just say we're going to, then the response planning standard would clearly be the largest of that fleet, would be tailored to that, and all the needs would then be extremely different.

BRIAN ROGERS: Correct.

HEATHER McCARTY: Okay. And how is that going to be -- is that going to be clear in these recommendations?

BRIAN ROGERS: The seven recommendations we have already done don't include the issue of how do we deal if you're not a member of a co-op, how does DEC determine the adequacy. That's one of the things left to be done. It has to be done.

HEATHER McCARTY: Yes.

BRIAN ROGERS: Before our work is done, as a

Task Force, we have to have laid out what the process is for determining adequacy of a fleet plan, or determining adequacy of an individual company's plan to meet the response planning standard independent of a co-op.

HEATHER McCARTY: Because -- excuse me, this is Heather again. As this develops and we see that the planning standards are perhaps quite a bit higher than they would be for most of the people in the fishing industry, then we might be more and more likely to move to that legislative solution.

BRIAN ROGERS: And that's one of the reasons we broke Dutch Harbor out from the rest of the Aleutians, was that Dutch set such a high planning standard that it would be a concern elsewhere. And it may be other areas, certainly the issue of Kivalina if it does become something within three miles, would have a dramatic impact on the planning standard for that region otherwise.

CHARLOTTE MacCAY: Just for clarification, Kivalina is not the Red Dog port. It's down the coast. There are two separate places.

BRIAN ROGERS: Okay. But we have large vessels going in to Kivalina, according to the data base, so somebody may be reporting badly.

CHARLOTTE MacCAY: They don't have a dock.

BRIAN ROGERS: We've got folks in those waters, so maybe they're not docking and they're just going close to shore, but it was in the marine pilot reports.

CHARLOTTE MacCAY: It's misreported.

MIKE O'HARA: No. There are ships that stand off Kivalina. I've been off Kivalina. FISH AND CHIPS (ph), go to White Mountain. Unalakleet.

CHARLOTTE MacCAY: That's quite a ways from Kivalina.

MIKE O'HARA: But we go around the corner.

BRIAN ROGERS: Gene?

GENE BURDEN: This is Gene Burden. I think in response to the comment about separate plans for a smaller fishing fleet, I think the parameters that I think we've reached consensus on, the three-foot seas, the three times the length, the rating of the skimmers and so forth, I would propose that we just use that as the criteria in directing DEC to evaluate independent response plans and add that as a number 8 and have that covered.

BRIAN ROGERS: Discussion back here. Larry?

LARRY DIETRICK: Larry Dietrick with DEC. I agree with Gene. That is how we do it. What we're trying to do here is describe the criteria that we would use to judge what you needed, regardless of whether

you're an individual vessel or a fleet operator or whether you're just wanting to operate from one of the preexisting hubs that's set up for APD&T.

The last missing piece we need to be able to do that, that the group is working on, that's listed here in the future issues, is some criteria now for deciding when and where you need to have the primary and secondary hubs, and I think the discussion to this point has centered around perhaps two sets of criteria to make that call. One is that the product type, the volume, the vessel of activity or transits that are in any given area. And the second then is the logistics of what it will take then to deliver equipment to that area and whether or not that delivery should be done through a primary or secondary hub pay per building. That gets down to where you operate, whether or not you've got the right airstrip, whether it can be moved fast from Anchorage, so on and so forth.

BRIAN ROGERS: In terms of the first seven recommendations, recognizing there we've still got at least three more to go, on those seven is there any dissent from those seven recommendations?

JIM CARTER: Jim Carter. If what you're doing is asking for a consensus, I would recommend that the Task Force give the consensus, subject to the completion

of the other task at hand.

BRIAN ROGERS: Good suggestion. Is there anyone that would object to tentative approval of the seven recommendations, subject to the completion of the remaining three?

STEPHANIE MADSEN: I'm not objecting. This is Stephanie Madsen, and I also apologize for being late. Under the recommendation 7 for the schedule, I guess I agree conceptually about the schedule but, you know, I'm not -- I'd like to see a little bit finer resolution. I know we have, Susan shared with me the tank vessel schedule with the additional equipment that they're having. But given the fact that their regulatory start date was, you know, several years prior and now they've got the schedule, I'd just like a little bit of comfort level on what schedule we're talking about for the tank vessel equipment gaps. And that hasn't been clear to me, if we're on their schedule or we're going to look at the timing that the tank vessels had phased in, if that's the schedule we're looking at, or --

BRIAN ROGERS: And my understanding of this recommendation is that we're saying for the first order, basically the tank vessel equipment coming in on the July '01, '02, '03 schedule, that is an acceptable schedule for the nontank to begin meeting that. But we

have as one of the remaining three recommendations to determine, the schedule for bringing in nonpersistent skimmers if needed, and the schedule for rollout of the additional secondary hubs. So that will be 8, 9 or 10 in the recommendations. But basically that the movement in of the boom, storage, the boom into those four hubs, that's an acceptable schedule. Does that answer the question?

STEPHANIE MADSEN: I guess you're telling me that the gaps that we've identified even with the current tank schedule, is going to be on a different time line than what I've seen for the tank vessels.

BRIAN ROGERS: Correct.

STEPHANIE MADSEN: Okay.

BRIAN ROGERS: And we don't know what that is yet.

STEPHANIE MADSEN: Okay.

ERIC BRITTEN: Eric Britten, CSX. Just following up on Stephanie's comments. I guess Stephanie's comments were made with the assumption that after the tank equipment is positioned that there still remains a gap. Is that right?

STEPHANIE MADSEN: Yeah.

ERIC BRITTEN: Otherwise there is no concern, right?

STEPHANIE MADSEN: That's right.

BRIAN ROGERS: Further discussion. Heather?

HEATHER McCARTY: Once again -- this is Heather McCarty. I'm trying to look at these recommendations from the point of view of an industry that may or may not be part of a co-op. And if you look at the primary and secondary response hubs recommendation, for instance, that may or may not apply. If there's a person or persons or group or groups that do not want to be part of that particular system. For whatever reason. Because they don't need it all or because whatever. They had it already themselves, hypothetically.

Because a number of vessels that I represent personally already have a fleet plan. For instance, that they have worked on 24 vessels in Washington state, who have a fleet plan for a response plan, and they could probably do the same thing here. In which case their standards might be different, and the primary and secondary response hub layout might be entirely different based on their capacity, their travels, their operational areas and so forth. So if there's going to be a number 8, as Gene suggested, then clearly it will have effects on some of the other recommendations as part of that. And I think that still needs to be worked out.

BRIAN ROGERS: Yes.

HEATHER McCARTY: So if I, representing the industry, agree to these recommendations, I think it needs to be clear that these are based on a scenario that includes the use of current co-ops -- I don't know how exactly to put it.

BRIAN ROGERS: Basically the co-op scenario.

HEATHER McCARTY: It really is, which is great and very useful for most needs. But whether or not all of these people that are affected are going to end up using that scenario is another question, and one that is not yet known.

BRIAN ROGERS: Gene?

GENE BURDEN: Gene Burden. I appreciate your comment. I think it's really important that -- and it would certainly affect my view of the recommendations on the table if we were to say that we're making recommendations solely for plan holders to use co-ops. I think it's extremely important it be clear that it be, certainly the co-op's indicate a capability in the regions that we've examined, based on information that we've got. We think there's certain capabilities out there, but it clearly should be that the permit holders have the option to either strike agreements with those RACs or do just as you say, come up with alternative

means to meet the requirements and, sort of paralleling what Larry Dietrick has said, demonstrating that you're meeting that through whatever means you choose.

BRIAN ROGERS: Anything else for Task Force members before I go to the audience? Susan?

SUSAN HARVEY: Susan Harvey, DEC. Heather, I think what we're talking about is consistent standards across the board for the nontank vessels, but flexibility in achieving those standards. And that's real consistent with how we handle our current regulated community. There's lots of folks who come in the door and are members of the co-ops, and that's one choice. Another is they might provide their own equipment. We provide that flexibility, so we just need to be creative in how we come up with the ultimate resolution, but I think it can be accommodated.

HEATHER McCARTY: I do, too.

SUSAN HARVEY: Just come up with consistent --

HEATHER McCARTY: More generic than perhaps some of these. For instance, if we're recommending in number 6 that a secondary response hub be established at Seward, potentially there may be subgroups of the covered vessels who never go there. I mean, that's not true of my people, certainly, but it may be true of another subgroup; and if they decide to be a subgroup

for response planning purposes, then that would not apply to them. You see my point?

SUSAN HARVEY: Yes.

HEATHER McCARTY: So if we're consensing on these recommendations, we want to make it clear that that's part of the deal. There's caveats, in other words.

BRIAN ROGERS: So the proposal before the group is to tentatively adopt recommendations 1 through 7, with an understanding that, A, the recommendations that deal with primary and secondary hubs have to do with those folks who are being served by co-ops; and B, that this tentative approval is subject to final approval of three additional items. That being the standards for determining adequacy of response planning standards for vessels or fleets that are not members of co-ops, or standards for when secondary hubs and primary hubs need to be one or the other. And third, for a schedule for the rollout of additional equipment into the primary and secondary hubs to meet the persistent fuel RPS.

HEATHER McCARTY: This is Heather McCarty. I'd make one change to that and that's not just the recommendation 6, primary and secondary response hubs, is subject to the caveat. I think all of the recommendations, if I see it, may be -- that they need

to be more generic in language.

BRIAN ROGERS: Okay.

HEATHER McCARTY: For those people who may not participate in existing co-ops.

BRIAN ROGERS: Gene?

GENE BURDEN: Gene Burden. I think one of the ways we might be able to do that is put a definition of primary and secondary hubs at the outset of this, and in that definition focus on the equipment that we're talking about in each of these locations and identify that for purposes of primary or secondary, that that could be equipment cache or could be demonstrated that that equipment could be provided in a timely fashion if a plan holder chose to stand alone on -- or do a fleet plan.

HEATHER McCARTY: That's part of it, yeah.

BRIAN ROGERS: With Heather's caveat, are we ready. Charlotte?

CHARLOTTE MacCAY: This is Charlotte. I endorse some of Heather's concern here that I think it does kind of put everyone down the response contractor path. And it somehow could be written different so that it's not so directed that way. Because it may even be that, you know, there might be a private agreement between this subgroup and this owner of a private

equipment. There are a lot of different possibilities out there, and we just need to make sure it's really clear that those doors are open. I know that's the intent, but the language, all this focuses on the response contractor.

HEATHER McCARTY: That's my point.

CHARLOTTE MacCAY: Although we're both having a hard time articulating that.

BRIAN ROGERS: I think my sense is the group understands that these recommendations are focused on the primary response action contractor, the co-ops, and that the later recommendation number 8, which is going to deal with how you meet it otherwise, is going to basically follow -- be based on the same principles. But again, that's the discussion of the RPS Work Group, and I would certainly hope that both of you will be there at the RPS Work Group to help us ensure that we meet those issues.

KRIS MULLAN: This is Kris Mullan. Basically, you're going to have recommendations 1 through 7, and then, or recommendation 8, which would be other --

BRIAN ROGERS: Yes. Recommendation 8, 9 and 10, yes. And maybe more.

HEATHER McCARTY: For instance, in the wording under nontank vessel recommendation it could read, "The

RPS Work Group reached consensus on the following recommendations," or in this case it would be the Task Force, "for how nontank vessels will meet the response planning standard established in SB273 should they choose to join existing cooperatives."

BRIAN ROGERS: Yes.

CHARLOTTE MacCAY: Yes.

BRIAN ROGERS: Larry?

LARRY DIETRICK: Larry Dietrick with DEC. Clearly the intent, or just to avoid any confusion, we are trying to design a system that's an either/or system. The reason you see, I think, the heavy emphasis on the current hub system here, is because that's been the model that's been discussed all the way through the session as the model to look at, how to build it, because that's one we had information for. But clearly we're not trying to preclude the either/or option here. We've looked at it and the group's looked at it, because the vessel data we've had that's come from the data base, we've looked at it in context with the existing hub structure and how it might work, and that's why it has this kind of emphasis. But it is our, at least our intent that it be designed in such a way that requirements are clearly written so they can be applied to an individual basis. So we agree with what you're

saying there. To the extent we have to wordsmith this to get there, that's fine. But I don't think there's disagreement here with regard to the intent.

CHARLOTTE MacCAY: This is Charlotte. I think Heather and I both understand. We're just worried that anybody else reading this would not understand.

BRIAN ROGERS: Susan?

SUSAN HARVEY: Susan Harvey, DEC. I think one thing that we have to keep in mind we haven't got to yet because we are yet to do the C-plan Work Group, but there really is a tradeoff. One of the efficiencies in terms of being a member of a co-op is they already have on record with us a very extensive plan on how to address almost all of the issues for a response. What you buy by getting a co-op card is you get all of that written documentation that's already been approved by DEC. Heather, if you choose to do an alternative equivalency, that's where your C-plan gets thicker. Instead of showing us your co-op card, now you need to come in with your equivalent Washington state model, do an equivalency check. It's just a recognition that I think there would be a trade-off. I think we can be flexible, set consistent standards, the means by which you choose to achieve those standards you have an option in, but I think there are trade-offs that we have yet to

discuss in terms of documentation.

HEATHER McCARTY: I understand.

BRIAN ROGERS: One of the tools a facilitator has to achieve consensus is to hold a break until you reach consensus. Who had their hand up?

KRIS MULLAN: Both of us did. This is Kris Mullan. Part of the concern also is we really don't know what type of costs we're talking about here. There are some of us who have -- use Trident Seafoods as an example -- quite a few boats, and they're talking well over $100,000 a year, and so if in that instance it might be cheaper for them to go with their own instead of going joining a co-op. So I think that is part of the concern.

BRIAN ROGERS: Charlotte?

CHARLOTTE MacCAY: This is Charlotte MacCay. I think part of the discomfort here is we haven't done the C-plans yet, and doing the cart before the horse by approving this before you've done that. And part of what needs to be discussed in C-plans is if you are not going with the response contractor, you need a little flexibility in the time to develop this backup C-plan that you otherwise don't have given to you. Otherwise, you are forced into a response contractor, because you wouldn't have time to develop one. So I think that's

part of the discomfort, is we have a portion of this that we're being asked to approve and we haven't looked at what's probably the main part to most of us.

BRIAN ROGERS: And what we're doing is tentative approval of sections. Ultimately, before we finally approve the recommendation, everybody has to sign off on the whole package. But in order to try to get some building blocks in, we're trying to go through and take one step at a time. So with provisional. Are we okay on provisional acceptance?

CHARLOTTE MacCAY: Heavy on provisional.

BRIAN ROGERS: Heavy on provisional. Okay. With that, we're probably ready to take a break until 10:30.

(Short recess taken.)

BRIAN ROGERS: Call the meeting back to order. And ready to talk about the Alaska Railroad issues that came out of the RPS Work Group.

First, the response planning standard for the Alaska Railroad is the same response planning standard of 15 percent. And as noted by the Alaska Railroad, that's the primary thing that comes out of this legislation, in that the railroad has already been working on issues of planning and response and contingency plans. But what this legislation does is to

set a response planning standard. Their planning is for a 72-car train filled with fuel, basically. That's the volume of fuel that they're planning toward. But clearly there are some differences.

First, and this is probably self-evident, is that access is different on land than in the water, but there are some of the same issues of remoteness and difficulty of getting equipment to specific locations. And there are issues of spills on the land and freshwater rivers that have some issues that are different from spills in the ocean environment.

The work group came up with four recommendations for the Alaska Railroad. First, is an endorsement of the risk assessment process currently being undertaken by the Alaska Railroad. And included in your agenda packet is a copy of that risk assessment process. Now, that risk assessment process goes beyond purely dealing with fuel spills. It's looking at all of their risks in a very comprehensive fashion. They've brought on external contractors to assist and are making substantial progress, are not ready to report on. Judy?

JUDY ERICKSON: I have another handout that the railroad has given me, so if you would circulate these around, everybody take one.

BRIAN ROGERS: Second, the group is endorsing

the same kind of response planning methodology which goes to identify the volume, identify the response planning standard, identify where you have equipment, identify where you have gaps, fill the gaps. That's basically that same methodology. Show where you -- and that the railroad would show how they can meet that 15 percent response for containment and control within 48 hours at areas that a spill might occur.

Third, that the Alaska Railroad undertake a contingency plan review under the current law. That would be for the submission to DEC of their contingency plan and a review by DEC of the adequacy of that contingency plan.

And fourth, and perhaps most importantly, the Task Force felt that the Alaska Railroad should do a follow-up briefing to the complete Task Force at our next meeting. And that basically goes into the railroad's schedule, which is a sort of interim completion date on the risk assessment at the end of October. So an opportunity to report to this group on what they learned from that process, to lay out what their schedule is for their response planning and for their contingency plan submission to DEC. And that would be a major component at the next meeting, rather than being for the work group, for them to come to the

full Task Force.

So that forms the recommendations that came out of the Response Planning Standard Work Group railroad session. Let me turn the lights on. And you do have a briefing paper from the Alaska Railroad, recapping what they're doing on response planning standards and what they're doing on prevention measures. And Ernie, I don't know if you want to take a couple minutes and go over that, or if that's background information for members of the Task Force.

ERNIE PIPER: Just background information to let you know where we are. We're just completing now the track portion of that. That included the detailed track inspection of the entire line, and this week we're finishing the branch lines, which is particularly important because one of the branches goes out to the North Pole refinery. And also, all 168 bridges on the Alaska Railroad system as well. And that should be complete Saturday or Sunday. And then we'll be giving a mechanical and operating. So we're actually a little bit ahead of schedule.

BRIAN ROGERS: The recommendations then of the work group are laid out on Page 3 of the Response Planning Standard Work Group Draft Report that was in the agenda packet. Questions or issues?

KRIS MULLAN: Kris Mullan. Roughly what percentage of tracks follow the water?

ERNIE PIPER: Depends how you define "water." I mean, you got --

KRIS MULLAN: Saltwater.

ERNIE PIPER: Saltwater, very little.

KRIS MULLAN: It's inland.

ERNIE PIPER: Mostly. When we do our planning we kind of break it into Tanana/Nenana River issues. Susitna/Chulitna issues. Portage/Twentymile issues, which includes right there along the arm. Kenai Lake and Trail Lake. Those are the major ways that we look at doing that. Some freshwater lakes, some freshwater rivers. We have a small creek, small river response package, large river response package as well. So that's how we look at it. But we're near water almost all the time. I mean, in some drainage.

BRIAN ROGERS: For all the members of the Task Force who are more focused on marine vessels than on railroad cars, the briefing on the rail sciences system risk assessment really does show a number of different dynamics that are at play in terms of what causes derailments and the potentials for spills. And I think it seemed to members of the work group that the railroad is undergoing a pretty rigorous assessment here to

ensure that they've identified where their risks are.

Gene?

GENE BURDEN: Gene Burden. I just had a question on in terms of out of 386 cars, the railroad owns between 40 and 60 of the cars. I'm just curious, as far as the railroad's perception of its responsibility towards cars when it has those cars under its transportation, any difference, are there any contractual arrangements with the owners of the cars the railroad has, or --

ERNIE PIPER: Yeah, the governing interchange rules in the industry are the Association of American Railroad Interchange rules. And there are both federal railroad administration defects, class defects, and then above that are AAR classified defects. When a car is a foreign car in your care and you note (inaudible) defects, you repair it and you backbill the owner.

GENE BURDEN: But as far as the normal operation, they're considered pretty much interchangeable with those that you own?

ERNIE PIPER: Right. And actually, we don't -- our owned cars are really secondary use.

GENE BURDEN: Thank you.

BRIAN ROGERS: Other questions? If there aren't, then on the third page of the report are the

three recommendations and the request for the follow-up briefing at our next meeting. That's on the third page of the work group report. Are there any issues or questions, concerns? Is the group ready to provisionally adopt these recommendations for the Alaska Railroad, pending any further information we get at the follow-up briefing?

SENATOR DRUE PEARCE: Drue Pearce. I have one question for Ernie. I don't know how your contracts are written with your shippers and the owners of the actual fuel, but let's say you had a spill caused by a derailment and somehow you decided that that was caused by the rail car that wasn't owned by the railroad but was owned by the shipper or the owner of the fuel, however all that works. Under your requirements right now, the contracts that you have, is the railroad responsible for all of the cleanup, even if the owner's car was responsible for the spill as it were? Because with the tankers, responsibility for cleanup transfers after 72 hours.

ERNIE PIPER: No. It's our transportation -- Ernie Piper. The way we treat it, there may be some secondary liability issues that I'm out of my capability to address in terms of our shipper, I mean our customer, but when I have their fuel in a tank car on my system,

then I'm responsible for it. I take care of the cleanup.

SENATOR DRUE PEARCE: All of it?

ERNIE PIPER: And so we don't hand off. We just take that entire responsibility. Because it's the entire system.

SENATOR DRUE PEARCE: Okay.

BRIAN ROGERS: Just one issue for note. Most of the product is nonpersistent, as I recall.

ERNIE PIPER: Almost all of it is.

BRIAN ROGERS: With the exception of occasional asphalt cars.

ERNIE PIPER: Correct.

BRIAN ROGERS: Any objection to these four recommendations, then? Again, provisionally subject to the briefing at the next meeting.

In that case, we're ready to go on to the Prevention Work Group. It's unfortunate we can't have both the lights on and this projector.

HEATHER McCARTY: Can you open one of those blinds a little bit so we can write?

BRIAN ROGERS: Does that help?

HEATHER McCARTY: Yeah, just a little light maybe.

BRIAN ROGERS: Okay. As background, the

Prevention Work Group, which is trying to determine a prevention program -- and this was called for specifically by the senate concurrent resolution. What the group did was to look at what are the contributing factors to a spill, some discussion of that issue, discussion of issues surrounding prevention measures, and some of the different federal and international issues that affect what we can and can't do were discussed in some depth with the group. Basically, that primarily we're dealing with a voluntary system of prevention measures. There is one mandatory recommendation in the group that I'll get to when we get to the recommendation section.

Basically, the group went over what the current prevention requirements are, including the international oil pollution prevention certificate, the SOLAS safety requirements. The STCW is the Standards of Training, Certification & Watchkeeping by the U.S. Coast Guard. And finally, MARPOL. Those are the current agreements, the current international and federal requirements that affect in some fashion or another prevention by marine vessels.

KRIS MULLAN: This is Kris Mullan. I don't believe fishing vessels are required to have STCW.

CAPTAIN ED PAGE: This is Ed Page, from the

Coast Guard. Most cases they don't. And that list is not totally comprehensive. We talk about U.S. regulations in addition to the SOLAS. There are other regulations that apply to fishing vessels, and all vessels for that matter in the federal regulations, 154, 156, pollution regulations, and navigational safety regulations, and 164, and other regulation on construction vessels. But that's just kind of a thumbnail sketch of some of the things that are out there. It doesn't mention ISM either. International Ship Management, which applies to some vessels, or will be applying to most vessels here in 2002, larger vessels for sure.

BRIAN ROGERS: One of the pieces in terms of background information I think would be useful is to get a more complete listing. We tried to cover the ones that we understood from the group were the primary ones. And, yes, there are some vessels that aren't covered by certain of these. This was sort of to give some examples of the kinds of prevention requirements. Of course, the big issue out there is these are not subject to the jurisdiction of the State of Alaska, but rather --

CAPTAIN ED PAGE: I was asked about that and had my staff to come up with this list of regulations

and came up with two-inch thick and I said, forget it, stop, stop. It gets ridiculous. And that was just an index. It wasn't even the regulations themselves.

BRIAN ROGERS: That's Ed Page.

PAUL FUHS: This is Paul Fuhs. I think the concept when Brian says voluntary, when whatever all these regulations are, when you go above and beyond what is required, that would be a prevention measure under this proposed program. Whatever we come up with.

KRIS MULLAN: I think the way I was reading it, though, it was going to be a requirement. I could see where it could be read different is my concern.

BRIAN ROGERS: When we get to the recommendations we'll make sure we flag that issue. That's an important issue. What we're saying is you're required to do what you're already required to do, and not you're required to do what somebody else is required to do.

CAPTAIN ED PAGE: Ed Page again. Just to add. The importance of that is recognize what already exists, and that's why I say engaged, that exists for a certain class of vessels or what have you, so if it is, I don't have above and beyond as Paul mentioned, or whether it is already required.

BRIAN ROGERS: We had a fair bit of discussion

of the Intertanko decision and what those limitations are in terms of the ability of the state to regulate international commerce, and states are restricted to issues affecting unique waterways, and there was some discussion as to just what, how much we could declare our waterways to be unique and what that would mean in terms of prevention measures. I think the ultimate recommendations of the group do not utilize that unique waterway condition provision of the Intertanko decision.

The recommendations, then, basically one mandatory prevention measure, which is that all affected nontank vessels must comply with the existing federal and international requirements applicable to that nontank vessel. And that's our only mandatory measure. But for purposes of Alaska, the -- in terms of meeting the response planning standard, in terms of showing that you are doing things, basically nothing, that the state is not imposing any new -- under this recommendation, any new mandatory prevention measures.

BETH KERTTULA: This is Beth Kerttula in Juneau, and just kind of a question to Captain Page. I guess I just want to be sure that we've kind of said that, you know, there may be other provisions. It doesn't really have to do with what we're focusing on here, but through next session and through the -- with

CAPTAIN ED PAGE: I talked right to the officer who represented the Coast Guard in the Intertanko suit before the Supreme Court, so he's a professional and knows it inside and out. Loses me in about ten seconds, but at least I ask the questions.

BRIAN ROGERS: Yes, Commissioner.

COMMISSIONER MICHELE BROWN: This is Michele Brown. I think, Beth, if I understand your question, is more not so much whether what we come up with is going to be preempted, but whether this group is recommending this is the universe of prevention that should ever be done, and that would be going too far because --

BETH KERTTULA: I apologize, I just heard Captain Page speak and the question probably should have been more directed toward you. No offense, Ed.

COMMISSIONER MICHELE BROWN: No, and I think your point is well taken. I mean, all this group is saying is for purposes of these new vessels that are being brought in, there aren't at this point going to be recommendations of additional mandatory prevention. That does not bar the legislature from making a different analysis on different issues at a future time.

BETH KERTTULA: Exactly.

CAPTAIN ED PAGE: Sure.

BETH KERTTULA: Thank you.

BRIAN ROGERS: The second recommendation is a list for voluntary prevention measures. Those measures are contained on the second page of the Prevention Work Group Draft Report, and include emergency tow line or dedicated mooring line, emergency on-board dewatering or petroleum pumps, storage bladders, noncontiguous tank locations, redundant propulsion, redundant navigation, use of an Alaska marine pilot when not otherwise required by law, maintaining a transponder, automated identification system or other vessel location and identification technology on-board, advanced anchoring systems, placement of mooring buoys, use of routes that avoid proximity to shoreline hazards and environmentally sensitive areas, a vetting program, compliance with bridge safety management practices, meeting ISM code requirements earlier than required, participation in risk assessment process, and membership in marine safety organizations.

And the group is continuing to work on what other potential voluntary measures would be out there, and when we get to the future work of this group, one of the issues is determining for purposes of prevention credits or other issues what the weighting standard might be for these and sort of what are the priorities for these kinds of recommended measures. Because one of

the issues that the work group was aware of is that not all vessel types can do each of the recommended prevention measures. Some are impractical for certain vessel types or sizes. So that is the initial list. I would expect some additions to be made to that.

Charlotte?

CHARLOTTE MacCAY: Yes, this is Charlotte MacCay. My recollection is you did not get consensus to include use of routes that avoid proximity to shoreline hazards. It was an issue of pilots, and pilot choosing routes based on safety, and that should be dictated from outside, and I don't recall that we have consensus. There are also some other discussions that were added and have been dropped off the list.

BRIAN ROGERS: Okay. What were the ones that were --

CHARLOTTE MacCAY: We added some on having additional meteorologic or oceanographic equipment, or enlistment in a service that provided that kind of information. As well as staging of additional containment or cleanup supplies on shore near port areas above and beyond what's required by the (inaudible).

BRIAN ROGERS: Let me ask others if this issue of the routes is one that the group wants to drop. We'll go to Mike and then Heather.

MIKE O'HARA: Yeah, I have two problems with that avoidance of shoreline hazards and environmentally sensitive areas. Number one is the definition of "environmentally sensitive area." I think the entire coastline of Alaska is environmentally sensitive. And it depends on who defines environmentally sensitive. I was telling Jim that somebody can define the Barren Islands as environmentally sensitive and that (inaudible) and the entrance as impassable, which would basically shut down Cook Inlet.

The second thing is that it takes this kind of attitude, takes the seamanship away from the master or the pilot and could regulate or -- not regulate, but influence a master or pilot to make a decision based on this thing rather than on the aspects of weather or current or lees of shores or whatever. So this is more of a seamanship issue than -- I'm not comfortable with it.

BRIAN ROGERS: Heather?

HEATHER McCARTY: Yes, this is Heather McCarty. We talked about this a lot in the Prevention Work Group, and the subject that caught my attention was the environmentally sensitive areas, and people on that work group are tired of hearing about this, but when you're in the fishing industry you're in environmentally

sensitive areas operationally by definition almost all the time. So this was identified as one of the ones that we could never comply with as an industry, and would therefore, you know, have a hard time being a good guy on.

KRIS MULLAN: For prevention measures, I think in all there's a lot more ideas out there that hopefully we can come up with that would help, and I also have one question. What is a vetting program?

CAPTAIN ED PAGE: I guess I can explain that. Vetting program is done by charters of vessels where they do a safety assessment of vessel, looking at past track record and history, and violations, and they actually conduct inspection of vessels and set certain standards as far as go, no go, whether they're going to hire on that vessel. So essentially it's a safety assessment, environmental assessment of the vessel before you're hired on to carry your cargo. Commonly more used in the tanker area.

SIMON LISIECKI: Correct.

CAPTAIN ED PAGE: Correct, our own. And the tanker agencies that are --

SIMON LISIECKI: Simon Lisiecki. We've found our vetting program reduces accidents by about 25 percent statistically.

BRIAN ROGERS: Judy and Charlotte.

JUDY ERICKSON: The Prevention Work Group is meeting next Wednesday here in Anchorage, and this list can certainly be added to it at that time. So we really encourage you all to participate. It will be teleconferenced, and I have a draft agenda I'm going to hand out today for everyone.

BRIAN ROGERS: Charlotte, and then Gene.

CHARLOTTE MacCAY: I want to repeat a point I made once before. This list really does favor certain types of vessels who stay within Alaskan waters, and so other industries -- fishing has difficulty with a lot of these, spot charter has difficulty with a lot of these, and there's great potential for people to come and turn this on you, and instead of these people did something above and beyond, people will start comparing industries, these industries will be labeled dirty because they hardly employ pollution prevention per this list, and the list does not allow for parity of that. And I know we've talked about weighting, but I think you're going to have a great difficulty if you get into any sort of recognition award or any sort of listing other than recommending these.

BRIAN ROGERS: Gene?

GENE BURDEN: With the predicate that I'm not

privy to what took place in these discussions on prevention measures, but prevention measures are voluntary alternatives available that may be applicable in certain areas and not in others. And so from the standpoint of Mike's comment about the critical habitat areas or environmentally sensitive areas, I think a requirement that would preclude trafficking in those areas per se would certainly never get a consensus on, but there probably are some environmentally extremely sensitive areas that someone may want to elect to go around that might have some influence on the planning purposes for shoreline protection, for example. And, you know, I don't know, if these are not meant to be totally voluntary, I guess where does the potential for either discrimination or mandatory obligations arise? I'd like to hear how that might play out from the agency, and maybe from some of the concerns of other board members.

BRIAN ROGERS: Senator Pearce is next, but I wonder if somebody wants to respond to Gene's question first. Does somebody want respond on where the concern is about the negative implications of voluntary measures? Charlotte?

CHARLOTTE MacCAY: I think everyone realizes that these are voluntary, but there becomes an influence

and that's what I'm talking about. The influence. Let's avoid this which may keep someone from making a safety decision which may lead to an accident and a spill. So it was keeping it out of that. And my concerns were, there's never a purely voluntary thing, and when you get into permitting and other issues, people start looking if you're doing these and it gets held over your head, you know, you guys aren't doing anything here, maybe we want to give you this.

And the other concern was just the environmental groups calling in from the outside, looking at this list that's recommended and doing a tally, and then doing a good guy, bad guy list off of that. And you need a list that is very carefully stated, you know. If these are not really available to some groups, you need to be very up-front with that, that these are available to certain industries, other industries they're not available to, and not let people get misled that certain industries are just choosing not to do pollution prevention.

BRIAN ROGERS: Senator Pearce and then Eric Britten, Dave Owings and Paul Fuhs.

SENATOR DRUE PEARCE: The reason we're even talking about prevention measures is there was a lot of discussion by the industry that there should be some

opportunity for giving prevention credits that would bring down the planning standard if a ship had certain things that it had done to make itself safer and bring its risk down. So the use of these would be to take your 15 percent planning standard, and the -- I think that the devil is in the details of how you decide what percentage risk reduction you can assign to different things. But let's say you've got some of the new ships have noncontiguous tank locations, let's say we decide that reduces risk by 25 percent. Okay, boom, their planning standard, come down, their 15 percent gets reduced by 25 percent, and that's their new planning standard. That's where this is going to be used.

Those ships that don't use some of these voluntary measures, or if new ships are built that don't use some of them, fine. They then still have to meet the 15 percent planning standard. To on one hand say well, gee, if we're doing things, we should get credit for them, and then say although we don't like the list because somebody's going to say we're not doing them and therefore we're not good ships, kind of a round-robin that seems rather useless and forget the whole thing and forget prevention credits and everybody has to be the 15 percent, if that's the concern.

Because I don't think anybody is trying to come

up with a list so that other people can look at it and say, oh, no, you know, we can't reach these. Of course, there's some ships, because ships are different, and so some can do things that others can't do. But all of these are only here so we can try to reduce the planning standard and therefore reduce the cost of complying with the bill for those ships that have met some of these risk reductions, and I think it's just a list of different things we could use.

But my question, actually, two people said they were concerned about the use of routes, or three people were concerned about use of routes that avoid proximity of shoreline hazards. I heard concerns of it being there, but I didn't hear concerns of it being on there in the first place. So what I was sitting here thinking about -- I've been to Puerto la Cruz in Venezuela where all of the ships, cargo, tankers, so on and so forth, use a traffic pattern. It's a left-hand traffic pattern, if you fly airplanes, where all the ships come in one way and they go out another way, and everybody uses it, including the little pleasure boats, and it reduces risk of having a head-on collision because there ain't any ships going toward each other. They're all going -- they swim like fish, swim around in circles.

So is that why it's there? And it sounds like

it would be useful maybe in some areas where you ended up as kind of a voluntary pattern to help keep ships out of each other's way. But I'm wondering, how did it get there in the first place, what was the reason for it?

BRIAN ROGERS: This is Brian Rogers, and it actually came from DEC. The suggestion first, the environmentally sensitive areas, was the 55 most environmentally sensitive areas that have already been identified through a planning process and are on the website for this Task Force. But the idea was that if a vessel has the choice of a route that takes them outside the state's jurisdiction, there is more time to respond before the shoreline is going to be affected and therefore it's reducing the likelihood. And I don't know, Larry, if you want to speak to that.

LARRY DIETRICK: Larry Dietrick with DEC. The example used, this is being successfully used and becoming more popular in west coast states. Monterey has a critical marine habitat, it has a separation of those areas from shipping lanes. Probably the most graphic example we have in Alaska is the crude oil industry whereby they have moved crude oil shipping offshore, not only to protect the shoreline, but provide for response time, reaction time, greater ability to contain, control and clean up, but they're 200 miles

offshore. Less than 50 to 200 miles, and they not only have probably pretty much successfully mitigated any environmental impacts in Alaska, they are also successfully avoiding the actual requirements under state law and OPA, to have contingency plans, and so it is a very successful tool. And we didn't present it in the context to preclude fishermen from going into areas. It is strictly voluntary. But it is a tool that's a very good way of precluding impacts from oil spills. And it is at the ship's discretion. It would not supersede Mike's concern that the captain always had the ultimate decision there, and it's not intended to override.

BRIAN ROGERS: We have Eric, Dave, Paul, Charlotte, Mike O'Hara, Stephanie stacked up here. And Ernie. And Heather. And some people, if you want to put your hand up now, you can think about what you want to say later.

Go ahead, Eric.

ERIC BRITTEN: Thanks, Brian. Eric Britten with CSX. I think it's important again that we point out the fact that this is a work in progress. I think item 6, you know, above is actually a recommendation. Item 7, you know, there was a lot of discussion, as Heather was talking about, about what is applicable to

what class of vessel and what is not. And that's part of the process. I don't think that there is an intent here that every item on this list would be applicable to every vessel. And I missed the work session yesterday, but Paul brought me up to speed on the fact that we actually created five classes of vessels and tried to determine which of these items on these lists would be applicable to each of the classes of vessels. And rather than encourage further discussion on this, I simply would point out that since this is a work in progress, everyone who is focused on these issues that we seem to be talking about, I'd recommend that you come to the meeting next Wednesday because that's when we're going to be addressing these specific issues.

BRIAN ROGERS: Thank you, Eric. I was going to raise the same issue on this, is one of the things we're trying to do here by using the work group process is to make efficient use of the Task Force time, and so if this -- clearly we need more discussion on this issue. It may be most appropriate to do that next week. I guess I would think it would be appropriate for this group to continue discussion, though, of the concept of voluntary prevention measures, and if the Task Force is concerned that adopting a list of voluntary measures will cause -- instead of help with prevention, will

cause some industries to feel that it's not going to work and causes an area of dissent, that probably is something the Task Force needs to give the prevention group some guidance on.

With that, let me turn to Dave. You were next in line.

DAVID OWINGS: This is Dave Owings, with SEAPRO. I do believe that the best way to clean up a spill is to prevent it. Now, having said that, I think that we need to recognize that our endorsement of the items on this list will become standards of best practice, I guess is a good way to look at this. And I think Charlotte made some good points about the parts of industry that aren't going to be able to do some of these things or don't need to do some of these things, and how they're viewed from other organizations.

I also had a question on the issue of prevention credits, and I know --

BRIAN ROGERS: If you could hold on prevention credits -- that issue is later on the agenda -- and to try to focus first on the measures, I'd ask if you could hold on it.

DAVID OWINGS: Okay. I'll stop then.

BRIAN ROGERS: All right, thanks. Paul?

PAUL FUHS: Eric covered my deal, that we split

it into five and we went down the list. Just so you know, the other three things we added yesterday was ice class vessels, if you're operating in an ice environment; enhanced maintenance schedule, beyond what's required; and also specialized training for crew on board for how to react in the event of an oil spill. And there may be some others, too, but I just wanted to put those three on the table.

BRIAN ROGERS: Charlotte?

CHARLOTTE MacCAY: This is primarily to respond to Drue, and I'm not sure if I'll stay right where I'm supposed to on the agenda or not. If reduction and response planning standard is all this goes to, I don't think these concerns come up, but so far what's come out of this work group is the probability of some sort of five-star program and recognition, public recognition, being the most likely outcome. And that is what concerns me far more than any effect on the response planning standard. I mean, I'm not against pollution prevention, if that's how it's coming across, by any means. But I do think this is very weighted toward things that can happen to vessels that return, not come and go on occasion.

BRIAN ROGERS: Mike O'Hara, Stephanie, Ernie, Heather, Gene, and Lee.

MIKE O'HARA: I was going to ask Captain Page about the federal standards for meteorologic equipment. I get on a ship -- this is O'Hara, by the way. I get on a ship and they've got a fax and they've got VHF radios, but I'm not sure what the meteorological standards are.

CAPTAIN ED PAGE: That's it. I mean, there's nothing beyond that.

MIKE O'HARA: Weather fax means the ability to receive weather information. Not more sophisticated, or ocean routes, any of these. The only option is ocean routing.

CAPTAIN ED PAGE: That's right.

MIKE O'HARA: Over.

BRIAN ROGERS: Stephanie.

STEPHANIE MADSEN: Stephanie Madsen. I guess I'm a little concerned because -- I haven't attended all the prevention committees, but I do have the minutes, and when they listed out the benefits of pollution prevention, reduction of response planning standards is not on that list. And I see us, by -- and I remember it being talked about during the legislative session, but I get mixed messages here, because I'm told that -- what I hear now is that if pollution prevention may result in a reduced or a different response planning standard, but when we talk about different response planning standards

based on risk, we're directed that no, that's not acceptable.

And the other circle that I think we get in here pretty quickly when you're talking about different response planning standards is back to a cost problem. If in fact we are looking at joining a co-op and our costs are going to be based on the response planning standards that that co-op is going to meet, and then all of a sudden we have different legislation that is going to reduce response planning standards, that is going to reduce or change the co-op structure. And I think that we're in this circle where we're very concerned about costs, but when you start talking about differences in response planning standards, you've thrown all that, you know, kind of out with the baby, because we're back to square one, okay, now, who is this defined universe and what are their response planning standards.

So, again, I guess this is kind of a new twist we haven't heard about, at least from the notes I've seen and meetings I've been in, and I would be very uncomfortable today agreeing with recommendations based on these recommendations resulting in a reduced response planning standard for a certain class of vessel. I do agree about the different classes of vessels, and maybe looking at that list and in relationship to reducing the

response. But if we're going to be talking about response planning standard reductions, then I would go back and reask the question about a risk as one of those variables. Thank you.

BRIAN ROGERS: If I could, let me proceed with a little more of the presentation and then come back to where we left off on the discussion, because I think that may help form the discussion based on what Stephanie just said. I'd like to just proceed through two more things here, and then come back to the folks, Ernie, Heather, Gene and Lee, who are waiting, because I think the issue that Stephanie addressed may be dealt with.

And that is, the third recommendation is this catalog of vessel types, with prevention measures. The issue of prevention credits, we had the work group coming up with an incentive system for above -- ABC recognition for prevention measures above and beyond compliance. With publicity, and this was the issue Charlotte was concerned about. Of publicizing those vessels that go above and beyond compliance with publication and DEC website, using a self-certification process by vessel owners, and a process for nomination of new prevention items.

And the slide I wanted to get to here is the

prevention credit one, because there were several areas of prevention credit in addition to the response planning standard, and actually that I think the committee has discussed a little bit further trying to find a way to utilize the insurance companies to offer benefits.

A second area of discussion, and none of these are ready to go forward yet and will be at the next meeting, is tax credits against one of five potential taxes. Corporate tax -- corporate income tax, that is. Fisheries business tax. State share only; not municipal share. Fisheries landing tax. State share only, not municipal share. And insurance premium tax reduction to insurance companies that give insurance breaks to people with prevention credits. And a credit on the motor fuel tax.

Other regulatory relief. And I don't think that there was a clear sense of what that might be yet, but that there might be opportunities. Reduction of the civil penalties for a spill if you had undertaken prevention measures and through something other than gross negligence have a spill notwithstanding the fact that you've been trying to prevent it, you have a reduction in civil penalties.

And then finally, the one of the reduction of

the response planning standard, although I think a number of -- there's certainly no consensus on that one because of the kind of concerns that Stephanie raised. And it may be that I was in error in trying to shut off Dave Owings in trying to talk about credits, because it may be that the voluntary measures and the credits are too intertwined to try to talk about them separately.

So I'd like to go back now to Dave and then continue on down the list so that we can deal with these two issues intertwined. I think I made a mistake in trying to separate them.

DAVID OWINGS: Well, the point that I was trying to make was -- and I realize that I'm leading back down that road to joining an OSRO, and maybe not everyone wants to do that. But if -- and looking at Southeast, we don't have any gaps. And so, I guess I don't understand the need for reducing a planning standard that we already far exceed.

CHARLOTTE MacCAY: (Inaudible).

DAVID OWINGS: I mean, we're spending a lot of time working on this and so I'm just throwing the question out.

BRIAN ROGERS: Ernie, you're next.

ERNIE PIPER: This whole issue right here underscores not just the unique nature of the railroad,

to this group, but also the fact that the railroad is a publicly-owned railroad. Before the governor's bill and then Senator Pearce's bill appeared, the railroad made a commitment to meet or beat that regulatory standard. Because we believe that as a state-owned entity, when DEC or when the legislature or when the administration went to talk to industry about making improvements in any one of these areas, that it would be very awkward for the State of Alaska to go make some demands of industries that they weren't willing to meet themselves.

So, similarly, I can go do this risk assessment and this risk assessment will very clearly tell us in a measurable way what voluntary measures we can take to reduce our risk of derailment on the Alaska Railroad. And I will say that it is measurable because there is an industry standard that's almost a hundred years old that measures the (inaudible) risk.

Having said all that, if I were a private company, I could make a decision about whether I was going to meet those voluntary standards, and say, well, if there's really not anything in it for us, we'll just have a real good response program and a prevention program anyway and we'll meet the standards, and that's it. But the Alaska Railroad, once this risk assessment is done, is going to be in the position of saying that

we really don't have a choice. We really will not have a choice to say "no" to voluntary prevention measures, if that standard that we have set for ourselves is a state entity hold.

That also has a cost, because these are not AAR reimbursable or FRA defect reimbursable type of activities. Therefore, it does lead us to prevention credits or some type of reduction in response planning standard or something similar to that, because there will be a cost to the publicly-owned railroad to do that, and that we should be able to get something back to show that we're setting that standard. It's not just railroads that would be in this position; it's the publicly-owned railroad that's in this position.

BRIAN ROGERS: Heather?

HEATHER McCARTY: Yes, this is Heather McCarty. I'm a co-chair of the Prevention Work Group. And I think that we need to distinguish here for the benefit of all of us, those things that occurred and that were sort of reached consensus on during the actual prevention subgroup meeting, and those things that were just discussed during a subgroup meeting of that work group. It's kind of hard to distinguish even verbally, but there was a meeting yesterday. I was there for an hour out of I don't know how many, three hours maybe --

PAUL FUHS: Four.

HEATHER McCARTY: Four. Oh, my gosh. So that's how much we all missed. Because those things that happened during that discussion are in part reflected in this document, but they were not -- those things were not agreed upon by the entire Prevention Work Group. Isn't that right, Paul?

BRIAN ROGERS: This set of issues right here were all identified for further discussion.

HEATHER McCARTY: That's correct. And so I wanted to distinguish between those two for the benefit of the audience and those of us who weren't at them all, and then I have more to say.

PAUL FUHS: And, Heather, you are correct about that. And, Brian, you're not asking the Task Force to take any action on any of this today; is that correct?

BRIAN ROGERS: Not on prevention credits.

PAUL FUHS: This is just a status report.

HEATHER McCARTY: That's what I thought --

PAUL FUHS: This is also, you know, maybe one of the most dynamic committees. It's harder to put the finger on these issues than anything. The west coast has tried to do this and failed for how many years? But there are some possible avenues that look like might be available to us, with the P&I insurance clubs and other

issues of civil penalty issue that could directly reflect that given economic incentive. So that's what we're just slugging through. There's no action today on anything.

HEATHER McCARTY: Exactly.

BRIAN ROGERS: I think the group could take action on recommendation 1, which was that the only required prevention measures be those that are already required for vessels on an individual vessel basis.

HEATHER McCARTY: I was going to suggest that. I'm not done.

BRIAN ROGERS: Heather, you're still going, and then Gene, Lee and Kris.

HEATHER McCARTY: I would like to say those subgroup meetings should be publicly noticed just as much as the work group meeting as well, because I think there may be some interest that hasn't been identified, and that we shouldn't assume that certain people wouldn't like to be there and others might not. So I think that might be a practice from now on and I ask for that to occur.

BRIAN ROGERS: The issue of number of meetings, and the original attempt at it was for a staff member in DEC to sit down and develop a proposal that might be able to come to the group, that that was the first

meeting of what was a subcommittee. Those have evolved over the two weeks --

HEATHER McCARTY: Right.

BRIAN ROGERS: -- to where everybody wants to be at them.

HEATHER McCARTY: Right.

BRIAN ROGERS: So my recommendation to you is we do away with those and only have the work group meetings, because the sub work group meetings are -- their sort of attempts to prepare are becoming like meetings themselves.

HEATHER McCARTY: Exactly.

BRIAN ROGERS: As contractors, and DEC, we are concerned about volume of meetings here. I know for us, as facilitators, we signed on for three. I think we may have hit that already, in terms of meetings. So we do want to restrict how much time we're spending in meetings. But really, because of the level of interest, my recommendation to you is that we not have meetings outside of either the work group or Task Force.

HEATHER McCARTY: That would be fine. And I'm still not done.

By my recollection, the possibilities for incentives, under XI here, did not really specifically include, until probably yesterday, the last two, the

reduction in penalties for spill and reduction in the response planning standard, even though I, like Stephanie, recall that that was one of the original purposes for including prevention credits. And I think it's a grand idea. However, we do agree to the point that Stephanie got to, and I think her point was extremely well taken when at the beginning of this process we were told that all industries are going to be treated alike. And there will be no, you know, backing down from that response planning standard for everybody.

I think when we go at that response planning standard by means of prevention credits, we are in some cases getting on the edge of differentiating between industries, because of the possibilities of each industry meeting those prevention credit standards, so to speak. And I think that's where Stephanie was going. So we are sort of approaching that from a different point of view. Whether we want to do that or not is up to the Task Force. I was just pointing out that I think that's where we're headed with that particular tack.

BRIAN ROGERS: Commissioner, and Gene and Lee and Kris.

COMMISSIONER MICHELE BROWN: You can put me at the bottom.

BRIAN ROGERS: Gene?

GENE BURDEN: When we start trying to list prevention, what are the prevention actions, I guess I would just question, is it that much value to the group to really try to put together an exhaustive list of what the prevention measures might consist of? Really the focus is on providing an option for a C-plan applicant to propose prevention measures that they would individually implement for their particular operations, and then negotiate with DEC in that process to try to identify acknowledgment of that prevention measure, and try to translate that into some sort of benefit for the party. Similar to what DEC is doing with BAT. It would be real easy for the department to maintain a register of prevention measures that have been implemented throughout the industry for information purposes.

I guess addressing your issue, Charlotte, I think that's in the context of trying to come up with a list, because we could come up with a list of hundreds of prevention credits, or prevention measures. The trouble has always been, as Paul mentioned, is trying to translate that into some sort of bottom line benefit to the person that implements that.

So, I think, conceptually, we ought to be encouraging the use of prevention measures, I think we ought to be acknowledging that that's an issue that is

very specialized to the applicant and, subject to DEC and the applicant, reaching a consensus in the review process, as well as what effect that will have on their deployment strategies. If there's some way we can come up with recommendations to highlight prevention of an applicant or some way that might impact insurance premiums, you know, I certainly support that. We haven't been as successful in the past on the crude petroleum shipment angle on that.

And I guess the last thing is that there's some great ideas here, and I would hope that this group, even though it may be outside the purview, would say, hey, we wouldn't mind seeing these sort of things applied to the crude and (inaudible) either.

BRIAN ROGERS: Lee?

LEE EGLAND: Very good. Lee Egland. Going back to the senator's comments about the intent of the prevention credits, during discussion of the bill it was very simply stated that, you know, what can we do to reduce the risk of a spill, ultimately, you know, reducing our costs, hopefully. And I think it's duly noted that depending upon your particular situation, the area of operation, the types of vessel you operate, some or none of these may be available to you.

Likewise, if you're going to be going it alone,

or going through a co-op or an established cooperative to develop your response, would also have a determining factor in making a potential business decision as to which one of these credits would you or would you not want to take on?

With that being said, I think the whole issue -- and I would like to compliment the group on taking this issue on. As we duly noted at the beginning of the Task Force, this was going to be, we thought, one of the most contentious groups, recognizing that it's going to be very difficult to come up with a tangible end result of what is it going to benefit us as owner-operators to implement these.

So, I encourage the group to continue, but I might just suggest one small revision to the language for this section 7, is that understanding the report is a very important part of what's going to come out of, you know, this Task Force, and just some minor wordsmithing to the language I think would help so it would maybe take some concerns into consideration as to can we or can't we? But just simply, and I'll just throw out where I'm going with this, is that here's how I would make the bold read: The Prevention Work Group identified the following list of potential prevention measures for nontank vessels that may be considered for

prevention credits, resulting in the lowering of the owner-operators' RPS.

That way this isn't cast in concrete. It's just something that here's the list; if you want to do it, great. If it applies to you, great. But understanding that when it's all said and done here, this may not apply to anyone, or someone may not want to do it.

BRIAN ROGERS: Credit.

KRIS MULLAN: Holy mackerel. If I can comment.

LEE EGLAND: Please.

KRIS MULLAN: What's in it for -- what's the State going to give us if we follow all these prevention measures? Basically, we're in a pattern here to where even if we do all these prevention measures, what kind of guarantee do we have that the State is going to give us anything? They might just say, well, that's good, you're a safe operator, thanks.

BRIAN ROGERS: Michele?

COMMISSIONER MICHELE BROWN: I wanted to try to see if we could put some summary on this similar to I think what Gene was saying. The prevention group really has, as the way I see it, being removed from it, kind of three charges. One is, is there anything that should be made mandatory? I think the group has already spoken to

that. Two, is the threshold question of should there be prevention credits that bring down the RPS? With a full discussion of the issues Stephanie raised, that Dave raised, you know, in the areas where there are gaps do you guys want to gang up and bully the biggest ship to bring the RPS -- you know, there's a lot of issues there. The equity issues, you know -- and the fact that it's already a pretty low RPS. So I think you have to grapple with that issue.

If the answer is yes, you want to give prevention credits, then you're going to need to define so people know what, as Kris said, the State is going to give you to do it. If the answer is no -- and it could come out either way for any of the reasons we've heard today -- then the question is, are there some voluntary pollution prevention items that because we've got this great talent pool here thinking through that we want to encourage outside of this -- I mean, the task really for this work group is should there be prevention credits that bring down the RPS, because that's the specific thing we have to decide.

But if the answer is no, you may want to make a subsequent recommendation that but we do encourage the State to look at these things that could help prevention in ways that will offer a benefit. Be it a tax credit,

a reduction of penalties, an award program, you know, things that we look at frequently in all our environmental leadership programs as ways to encourage going above and beyond, but they're not reducing standards. And I think you have to take those things as three separate issues to deal with them, otherwise you can really get yourself caught in this.

BRIAN ROGERS: This is Brian Rogers, and I think that's where the subcommittee work yesterday was, subject to the full group, was on what at the prior meeting was called the "groovy ship award." That was a program that is now called the "above and beyond compliance," and that these issues that are more financially intangible are still under discussion. I have Paul, Charlotte, and then Kris.

PAUL FUHS: Yeah, I was just going to say the reason, as we went through this, we didn't consider the response planning standard, although that was in the legislation, that even if you go from 15 to 10 percent, does that mean, say, you're in a co-op, Chadux needs any less equipment out there. It doesn't save them money, how can you implement it? Plus, you're already at 15 percent. That's already low. The concept came from the tank program where it's 100 percent. And then you give credits down, you know, you get 30 percent off for

double hulls or, you know, real specific items. So that's really where it came from.

Now we're off into -- I think the most fruitful thing is looking at the insurance premiums area, because some of the insurance companies do give credits and reductions. The question for them is if that's on an ad hoc basis per vessel. Where the insurance company carriers sign off on a more formalized program where the State lays out and says these are the list of prevention credits and if you meet this, we're going to reduce our civil penalties? I can tell you the insurance companies would be very interested in that because that money comes straight out of their pocket and that's put in there as a fine to try to affect behavior. But what you're doing here is saying, well, let's take that potential fine and move it onto the front end and try to get some prevention from it. I mean, that's the whole policy concept.

So if we can make that work -- maybe we can -- we talked with Captain Page about would the Coast Guard be interested in helping provide some of the inspection for this if we get the list, when they go on to inspect for seaworthiness, would they look for those prevention items that people said they had as a way of having a realistic way to try to keep people from making

fraudulent claims, and he said yes, they would participate in that with the inspection program with DEC. So maybe we've got something there, and I guess what we're just asking is let us work on this. We're doing some more research with the insurance companies and with our premium tax. Maybe we can come up with something. If we can't make it work for dollars, maybe there's an award, or maybe we throw up our hands like the rest of the west coast and say, cool if you do it, otherwise keep bringing your stuff in and we'll go to the lowest common denominator.

BRIAN ROGERS: Charlotte?

CHARLOTTE MacCAY: Most of what I had to say has been said, but I will say I participated a while back in the DEC P-2 workshop that went on for a long time just dealing with pollution prevention in other areas, and ever finding a way to give credit for them pretty much stalemated out of weeks and weeks of workshops. Just focused on that. So I think it's always a great idea, and it's a can of worms once you get into it. And I think particularly, from our point of view, an award program really sets some people up to look bad, and of all things that's what I'd least like to see happen.

BRIAN ROGERS: Kris and Mike.

KRIS MULLAN: On the reduction of penalties, I'm assuming that's on the State end. Pharmacology and also the fuel? That would be the on the State tax.

BRIAN ROGERS: Yes. Mike O'Hara.

MIKE O'HARA: Yeah. From a mariner's standpoint, these are all preventers, and if somebody looks bad because of an award program, maybe they are bad. I mean, so what? The vetting process is supposed to get rid of those bozos. That where I'm coming from. Just a simple sailor. This looks like a good idea. Over.

BRIAN ROGERS: For the first time in an hour, I've got no one stacked up waiting to speak.

What I'd like to ask the group is, if you're ready to adopt recommendation number 1 of the Prevention Work Group, which is that the only mandatory requirement that would be applied to a vessel are those international and federal requirements that also apply to those vessels. Or in the negative, that the State of Alaska will not impose additional mandatory requirements, prevention requirements on vessels. Are you ready to adopt that recommendation? I think I can turn the lights back on.

Second warning for everybody. Are you ready? Discussion. Yes? Can you come up and identify yourself

for the record, and get close enough to the folks on teleconference.

DAMON JORGENSON: I'm Damon Jorgenson. This may have been addressed earlier, but does this then provide for double jeopardy for federal penalties and state penalties if they don't meet the federal requirements?

CAPTAIN ED PAGE: Already they are subject to both state and federal penalties in the house bill. So I don't see that that would change anything. So my answer would be no -- not being a lawyer, but my answer would be no, in light of what the practice is today.

BRIAN ROGERS: Further discussion?

PAUL FUHS: Brian, maybe the language is not that we're going to also make these mandatory by the State. I can see where Damon is coming on that. But maybe it would say that the Task Force would recommend that no additional measures be in this legislation requirement of prevention measures above and beyond what's already required by federal law. I think that's the recommendation.

BRIAN ROGERS: Commissioner?

COMMISSIONER MICHELE BROWN: Yes, this is Michele Brown. I guess what you're asking, Damon, does the State then have the authority to look for those same

requirements during the inspection and take a state action if they're not there, as well as the Coast Guard could take that action.

DAMON JORGENSON: Correct.

COMMISSIONER MICHELE BROWN: And, you know, I think that's a question that I think we'd probably need to deal with in the inspection, is that something that the State would find actionable? It wouldn't be double jeopardy if it's authorized.

CAPTAIN ED PAGE: If it was regulatory, too, is the other issue.

COMMISSIONER MICHELE BROWN: Right. So I don't know that any of the groups have actually grappled with the fact that -- I think everyone should -- is the State going to be looking at more requirements, and the answer is no. Does the State want to retain the authority to be able to ensure that the federal and international ones are being met while the vessel is in state waters? My guess is the group never really talked about that.

BRIAN ROGERS: I don't think the group did.

COMMISSIONER MICHELE BROWN: Is that your question?

DAMON JORGENSON: I just wanted to know if the State was going to have its own enforcement authority and group that went out to the ships to inspect for

these federal requirements; and if they found them, were then they going to take some action against the vessel, a state action as opposed to going to the feds?

BRIAN ROGERS: Charlotte?

CHARLOTTE MacCAY: The way this is written up on the summary says, "This recommendation would allow the state to take action for violation of federal or international requirements."

And I think maybe the group needs to rewrite this before we vote to accept it. I think all these points are important and it needs to be crafted more carefully.

CAPTAIN ED PAGE: I can see the ambiguity, perhaps ambiguity seen by that. What kind of action are we talking about? Bumping up the response planning standards 50 percent, does he have a track record of noncompliance with federal ISM regulations, and if we're at a higher risk? Or would it be some other scheme that directs action right at that moment? Penalty action. So it doesn't clarify what is envisioned by that statement. So I think I misunderstood you beforehand.

KRIS MULLAN: Shouldn't that be limited to the state, though, for state track record?

CAPTAIN ED PAGE: You mean the track record? I guess the point would be if the state was to look at the

port state information exchanged data base that the Coast Guard has available for all vessels and records all the violations and the patrols, problems, the track record, and the state looks at that and says obviously they have a bad track record with respect to compliance with international and Coast Guard regulations. Our law says you got to be compliant with that, otherwise we're not going to give you the 15 percent response planning standard. Won't even give you 50 percent because your risk is greater than the other folks for towing the line. Perhaps. But I don't think it was fleshed out, but that's one possible option, I suppose.

BRIAN ROGERS: Susan Harvey.

SUSAN HARVEY: Susan Harvey, DEC. We have not addressed how we would handle our inspection authority, and at one time it got deferred to the C-plan Work Group, so it's still a remaining item that warrants a lot of discussion. I might just want to add in terms of what we do with existing regulated community, we work very closely offshore with the Coast Guard, and onshore with EPA. If in the course of our inspection -- we often do them together, but in the course of our inspection while we are looking for being over and above requirements and we observe a problem that is subject to federal requirements, we certainly will alert the Coast

Guard, onshore will alert the EPA.

The way we handle it now is have, that their first line course of action for them to go ahead and implement their requirements, and they're very diligent. They normally take our recommendations and follow through on them. So I guess throw that out there as that's a means of how we handle it now in a very cooperative fashion with the feds, and I can't imagine anything that could be better than that.

BRIAN ROGERS: Anyone else? I sense the group is not ready to act on this until prevention has met again and crafted the language a little bit differently.

And with that, rather than jump into the next item on the agenda, we're through the first six of nine items. We've still got the Contingency Plan Work Group, which is really, as a work group has not met, but we do want to review the preliminary subcommittee report and give them any direction. We might want to spend a little bit of time after lunch before that if there's any other thoughts that come to people on prevention, I think before completely closing out prevention. Sort of leave us in the middle of agenda item 6 as we break now, and there may be some items that come up after lunch.

My estimate is that Contingency Plan Work Group and scheduling issues, we're probably at a maximum of an

hour for those two items this afternoon. And so we're probably looking at an hour, maybe as much as an hour and a half, for people just as a personal planning, depending on the level of public comment that might occur at the end of the meeting. But with that, I think this might be a good point for the group to break.

We do have the issue of whether to stay in this room this afternoon or to move downstairs. There are pluses and minuses to each of those. There is more room downstairs. There are some logistics of moving all the equipment. We'll do whatever is the pleasure of the Task Force in terms of the room. Anyone have a burning desire to move? This is a small hot room. But maybe that is why we're so far ahead of schedule. Okay. Without objection, we'll stay where we are this afternoon. We'll break until -- the schedule said 1:00. Because we're far enough ahead of schedule, to allow people time to get to and from lunch, why don't we make it 1:15.

CHARLOTTE MacCAY: Sounds great.

BRIAN ROGERS: We'll go off line until 1:15.

(Lunch recess taken from 11:55 to 1:15 p.m.)

BRIAN ROGERS: Let's bring the group back to order. We were on agenda item 6, basically item 6-B, on further work group activities.

A couple things came up during the break. One, we've been operating under a system with three, what we're calling tri-chairs, the steering committee. Each of the three work groups has three tri-chairs. For those that aren't aware, for the Response Planning Standard, that's Gene Burden, Lee Egland and John Hansen. For the Prevention Work Group, that's Eric Britten, Heather McCarty and Mike O'Hara. And for the C-plan, that's Jeff Thomas, Stephanie Madsen and Charlotte MacCay. Those are the three work groups, each with three tri-chairs, as of today.

I said I'd hold us on agenda item 6-B, so if there were any further thoughts on prevention issues before we moved into contingency plan, there would be an opportunity for people to reflect and go on on that. So let me basically turn it to Task Force members and see what else, if anything, the members of the Task Force want to suggest to the Prevention Work Group for further discussion at their meeting next Wednesday, or other issues they'd like to raise. Does anyone have anything else?

Stephanie?

STEPHANIE MADSEN: I think the commissioner pointed out that we really do need to resolve the issue on whether these pollution prevention credits are going

to go to different response planning standards. And if the answer is yes, then that's one path. If the answer is no, then it's a different path. And I'm not sure if that's such a policy call that it should be discussed here at the Task Force to provide direction to the prevention committee, or whether you let them talk about it and bring it back to us, but I think that from my perspective, that's kind of a decision point for a lot of other things.

BRIAN ROGERS: Are you ready to engage that issue as a group, as to whether the prevention credits affect the response planning standard?

Yes, Heather.

HEATHER McCARTY: I think it's one of the key issues and we haven't discussed it yet, so I think we should. I mean, I think we have to.

BRIAN ROGERS: As a Task Force today?

HEATHER McCARTY: Pardon?

BRIAN ROGERS: As the Task Force here and now?

HEATHER McCARTY: I misunderstood you. I thought you said the prevention --

BRIAN ROGERS: No. The question is whether that needs to be addressed here in the Task Force before the Prevention Work Group goes to work, in order to give some guidance to the Prevention Work Group to the extent

to which they focus on prevention credits, addressing the RPS versus other forms of prevention credits.

HEATHER McCARTY: Same answer.

DAVID OWINGS: It's really a question for the State rather than a discussion point, isn't it?

LARRY DIETRICK: Larry Dietrick of DEC. Well, it is -- I mean, we can make our input, but our input goes along with everybody else's in that process, and I think it's just not right -- I mean, the Prevention Work Group is scheduled to meet the 27th, and it is on the agenda to be discussed if you want to have several remedies. And I mean, it's my full intention, based on the little work session yesterday, that there's no conclusion on that yet and that that was just getting the materials ready for that discussion to take place next week. So I'm not sure if it's ripe yet for today, but it's my understanding that it will be fully taken up, as Heather indicated, next week, that that's fully planned.

BRIAN ROGERS: Commissioner?

COMMISSIONER MICHELE BROWN: I would recommend that it be taken up in the work group first. I mean, that's where a lot of heavy lifting of the issues are really vented out more, and there's so many pros and cons and you need to make sure everybody's working from

the same level of knowledge before the work group starts. And if they come back and say, we don't really have a recommendation but we've narrowed the issues, then I think it's more ripe for the Task Force, especially if it gets sent out a week in advance and people can prepare for it.

BRIAN ROGERS: One of the advantages we will have is with the completion of the prevention task force on the 27th, nearly four weeks until -- and we don't know exactly yet what the date is for the Task Force meeting -- that's next on our agenda -- so there will be ample advance opportunity.

Anyone else want to weigh in on this issue? It's post-lunch so you got to try to keep the air flow going in here. Open up this door to try to help that. Yes, Heather.

HEATHER McCARTY: Heather McCarty. As the commissioner stated earlier, I think the discussion about this should precede the discussion about the different measures and how they might add up, so to speak.

COMMISSIONER MICHELE BROWN: It is a threshold issue.

HEATHER McCARTY: Rewrite the agenda, do it according to that order.

BRIAN ROGERS: Other thoughts?

CHARLOTTE MacCAY: This is Charlotte. I think that extends to all the measures. I think first you need to go through and cull out what are the possible measures you're taking. Because if there are none, there's no reason to spend time on that list.

BRIAN ROGERS: What are the credits that you're taking?

CHARLOTTE MacCAY: Yeah, whether it's -- decrease in your response capacity, whether it's something you can do through taxes. I mean, if all those things end out canceling, you will have wasted your time if you've been working on the list.

HEATHER McCARTY: The measures themselves.

CHARLOTTE MacCAY: The measures themselves, yes.

BRIAN ROGERS: The work group so far has identified one, the groovy ship award, as being the only one that doesn't require -- but that's not a --

CHARLOTTE MacCAY: But there's also strong opposition to it.

BRIAN ROGERS: Yes.

CHARLOTTE MacCAY: So maybe it doesn't stay in.

BRIAN ROGERS: Anything else on prevention issues?

HEATHER McCARTY: I don't see it on here specifically, but I see that it's on the report from before, and we haven't talked about it too much, the liability issue. And I believe it was Captain Page who brought that up at our last meeting, or one of the last meetings, I get mixed up. And I think that that should be addressed, and I note in here that it says you want the members to address it in writing, so that the AG's office can give their opinion on that.

BRIAN ROGERS: That was the request of the Attorney General's office, yes.

HEATHER McCARTY: Okay. So, may I ask if anyone has done that, thus far, in terms of putting it in writing, or whether we will still need to do that.

BRIAN ROGERS: No one has put it in writing either to me or to Judy. I'd ask the prevention co-chairs if anyone has put anything in writing.

HEATHER McCARTY: I haven't seen anything.

BRIAN ROGERS: And DEC has not. So at this point, the liability concerns, no one has identified exactly what those concerns are.

HEATHER McCARTY: I hesitate to restate it because I think Captain Page might be able to state it better, but just so the Task Force knows what that means, because it wasn't really stated in this report.

CAPTAIN ED PAGE: I'll just make an observation, when we were talking about that day in the five-star program, that if it was in fact adopted by a large majority of the vessels, then in essence development to what we refer to as standard of care. So that if a vessel failed to exercise that standard of care when involved in an accident, it would very likely have greater liability exposure, I think whatever, however it's assessed. That would be one of the concerns the industry could raise, is increased exposure because of that.

And it's a pro and a con. Pro is that then people would be motivated to make sure they weren't the 20 percent that didn't comply and were in the 80 percent that did comply. The con would be that people concerned maybe there's unintended consequences involved in the standards of care that made them even more vulnerable for lawsuits. This is an issue that would need to be resolved so we knew where we stood on the implications.

HEATHER McCARTY: Thank you.

BRIAN ROGERS: Anyone else on prevention issues? Yes?

MIKE O'HARA: We talked yesterday about liability for the -- what was it, the --

PAUL FUHS: This is Paul Fuhs. If a nonprofit

is set up for incident command similar to the PRACs, do the limits on liability extend to the PRACs, would they also extend to that nonprofit? Or would it also, would it require it to be addressed, to extend it to an incident command nonprofit? Because it seems that might be an efficient way to provide those services to companies that normally don't do that. I mean, fishing vessels and these others, they don't deal with oil all the time. It's just something they have to put in their ship to go do the rest of their business. So that was another liability issue.

BRIAN ROGERS: And that liability issue is addressed in the C-plan Work Group Draft Report and there's further work to come on that.

MIKE O'HARA: Okay.

BRIAN ROGERS: For an area that had a lot of strong feelings, I'm somewhat surprised, and I can only attribute it to be post-lunch that people are holding back right now, but I'll close out the issue of discussion of prevention topics if no one else has anything to say.

CAPTAIN ED PAGE: I'll say something just to break the post-lunch syndrome.

Ed Page here from the Coast Guard. What I'm reading here is that actually this group has a fairly

open -- there's no real -- I'm not trying to narrow them down -- evidently, we're saying all these options for us, incentives for these prevention measures still are out there. For instance, the possibility of response planning standards being ratcheted down, no one's said to the Task Force, anyway, said take that off the table. Not an option. You're saying let's explore further, evaluate the pros and cons of different factors that might impel or urge someone -- there's got to be some benefit from doing these prevention measures, a cross benefit so to speak. You just don't do them and reduce risk and fiduciary benefit as far as less insurance rates or less rates of -- better with respect to the OSRO, PRACs and similar. That's what I'm understanding. That's correct?

BRIAN ROGERS: Charlotte?

CHARLOTTE MacCAY: I'm not still not sure that most people really understand where spot charters end out on this. Which is why we object so much to having a list. Because your list does become a standard to be looked at and it becomes due diligence in court. It starts to develop a life of its own. And for a spot charter, there's a worldwide fleet out there and you're trying to pick out of it. For us, personally, at this point in time we get pretty good ships because zinc has

a high profit right now and they get a higher share, so the nice ships come to us. If zinc prices fall and a different spot charter that doesn't get as much profit margin, they get what's left over in the world fleet. They don't have control over whether or not they have ships that have added all these things. So while it's nice to think this will just cull out the bad ones, there's not that many excess ships, I don't think, in the world fleet that availability will get rid of the ships with the lesser pollution prevention. Somebody's going to get stuck with them, and it's going to be whoever has the least amount of money in their marketing. And it sets that whole industry up very unfairly.

BRIAN ROGERS: Gene, and then Stephanie, and then Kris.

GENE BURDEN: As already indicated -- this is Gene Burden -- I think there's a good argument to be made, not necessarily to try to make an exhaustive list, but sort of the counter to your suggestion there, Charlotte, is that in the event of an accident, and in the event that you're trying to look at whether or not parties exercised due diligence, what Alaska does here will have very little relevance to what a court would find in terms of liability. They'd be looking at

practices that are known in the industry way beyond Alaska to come to that kind of conclusion. So I'm not sure that the fact that we do that or not is going to really address concerns about generating more liability. There are literally hundreds of prevention items that have been recognized as available for ships to use and operators to use, both by studies that have been done here, work in Prince William Sound, Washington state, in California. They're all out there and those would all be raised as, you know, here are some practices that you knew or should have known about, in terms of trying to establish whether you comply with standards.

BRIAN ROGERS: Stephanie?

STEPHANIE MADSEN: I can't see everybody so I'm going to stand up. Stephanie Madsen. I guess my concern is this is really a policy call, and I'm not sure that I'm convinced that it's only in the pollution credit committee. Because what I understand -- what I hear is that there's the potential by doing some prevention activities that your risk is reduced for spilling oil and the State is going to allow a reduction in your response planning standards.

Well, beyond that, I think that if we look at the nonhomogeneous group of vessels you're talking about here, within that class there are vessels that have less

risk just because of their activities. For example, fishing vessels generally are outside three miles for the majority of their time, and when they're coming in to a port and delivering. Or you may have vessels, like Charlotte's example, that may only come in once. But they get no reduction because their risk is lower than another class of vessels because, you know, we've determined early on that that's a mess and, you know, can of worms we don't want to get into. But yet we're willing to get into it under the heading of pollution prevention, and I think that that's a policy call.

And either we are willing to reward for reduced risk or we're not. And I think then if we are, then I think we need to talk about the difference in the different vessels and their exposure to state water oil spills. And I'm not advocating that we go there because I'm not sure I want to get into that debate, but I can't sit here and say that the pollution committee is the only one, you know, that can identify where they're going to get a reduced response planning standard. Because if you're going to talk about risk, let's talk about risk in the bigger picture, not just on this list that you get to pick from and get credits. Let's talk about what your activities are for the majority of the time, how often you're inside three miles, and what your

record is.

And so, I guess I'm back to I think that's a policy call that really in some respects is beyond this Task Force. That's a policy call for the legislature and, you know, the state. We can make recommendations but, you know, I know that -- and I know I'm repeating myself from this morning, but the message has come across loud and clear during the legislative session, was there would be no -- everybody would be treated the same under response planning standards. And what I'm hearing in this subcommittee is that that's no longer going to be the policy. Potentially no longer going to be the policy.

BRIAN ROGERS: Kris. You had your hand up? No?

KRIS MULLAN: No.

BRIAN ROGERS: Okay. Anyone else?

ERIC BRITTEN: Just a quickie. I think maybe what everybody is saving up for, everybody's marking next Wednesday in their Daytimer.

CAPTAIN ED PAGE: Or Palm Pilot.

ERIC BRITTEN: Or Palm Pilot as the case may be. You know, interpretation of it, whether -- Stephanie is saying whether we're trying to interpret and classify risk, whether there is a difference between

risk and the way you operate your vessel and prevention standards, or not, a question that came up at the Prevention Work Group last time was what is the intent of our charge? Are we trying to keep, quote, unquote, undesirable vessels out of Alaska waters? And is this a way we're trying to do it? I think the answer we came up with was actually that our job was not to do that. But that kind of discussion always comes into this because we get so close to that area, as I think we're all, you know, attesting.

But I think if everybody actually will spend some time between now and next Wednesday trying to define some of these things like such as what we're talking about, is this risk, is this prevention? How should it be rewarded? How should we talk about it next week?

If we say yes, it can be considered, you know, as something that can be rewarded by a reduced planning standard, can it also be reduced by the list that Paul gave earlier? Or if the answer is no, do we go to the list? I mean, there's still a long way for this committee to go.

And considering the fact, time -- time not of the essence, but there isn't a lot of time, I think what I'm asking is, come to the meeting next week but do your

homework. We will try to get, you know, some direction and some ideas from, you know, from Senator Pearce and from the commissioner, you know, to help us in our endeavors, but I really feel we need to press forward until we really feel sure that we have exhausted, you know, all the possibilities that are out there, and then either we have or have not come up with something.

BRIAN ROGERS: Mike?

MIKE O'HARA: Eric, are you saying we ought to get into the quantification of risk? This is O'Hara.

ERIC BRITTEN: Actually, no, I'm not, because I think that -- you know, we've talked about that before and that really becomes part of the negotiation, you know, between the vessel or the company and the SR, you know, as far as what your rate is going to be. But this is where it gets gray.

HEATHER McCARTY: Yeah.

ERIC BRITTEN: You know, we were talking about the fact that all the other states have given up on this. I don't think it's a givable upable thing necessarily.

MIKE O'HARA: I agree.

ERIC BRITTEN: Although, after next Wednesday, you know, we may all --

BRIAN ROGERS: Yes, Heather.

HEATHER McCARTY: Well, prevention measures are the reduction of risk, for the most part. I mean, that's what they're all about. So I don't think you can talk about the two things separately. Just from my perspective, that's where I'd be coming from. So what Stephanie said about risk issues does perhaps extend to other areas than prevention, i.e. how many times, where do you go, and so forth. Because those are all risk assessment, part of risk assessment, which I know the railroad is doing. And I think that it's entirely appropriate for them to be doing that. I think it's appropriate for us all to be doing that, and I think we probably do that as an individual industry every time you go out on the water, you do a risk assessment of whatever it is you're looking to risk and make your decisions accordingly. So looking at the railroad as a model, I don't think that it's a bad thing to do in this circumstance, so prevention is part of that in my estimation.

BRIAN ROGERS: I'm sorry.

COMMISSIONER MICHELE BROWN: No.

CHARLOTTE MacCAY: I think I just have -- I hadn't really thought about it from this perspective, but it's true that your ships which are potentially causing the least risk are also the ships that have the

least potential to do any of the things on that list. And so your ships of the least risk are going to come out with the least pollution prevention credits and they're getting penalized kind of from two different directions at once, and I don't think you can be selective, and I think this is a can of worms that is beyond what you can get done in time for January.

BRIAN ROGERS: Commissioner?

COMMISSIONER MICHELE BROWN: What I was going to say is similar to what I think Eric said, is this is a subject that lends itself to a decision tree. And I think if we can lay that out before the meeting to help people get their thoughts in order of how far down this tree do you want to go, when you see how far out on a limb you're going to have to go if you take one route. Because there are a lot of threshold decisions. And I agree with Stephanie, it is a fundamental policy choice on whether you're going to allow credits for certain prevention activities. But a lot of what we're doing is policy, and we do have work groups that recommend to the full Task Force, and the Task Force will make a policy choice in making a recommendation to the legislature, I mean ultimately. None of what any of us do at any point here is necessarily the decision until it goes back to the legislature.

So, I mean, I think it needs that kind of very rigorous decision tree analysis, because when I listen to discussion here, we keep going all over the place in terms of what we mean of prevention credits, prevention measures; and then if you're going to allow credits, how far down that risk do you go? And is it truly worth it to spend that kind of brain power for 1 or 2 percent credit on something that's already very low and just creates so much expenditure in the co-op or the spill response group, whatever it is, to figure out how to charge rates, that ultimately it's more expensive because the administrative costs go up. So I think we really should put a little thought into a decision tree first and some of the factors that you can take a certain route that you'd have to consider so that people can make those kind of choices.

BRIAN ROGERS: Mike O'Hara.

MIKE O'HARA: Yes, I would like to respond to Charlotte. Charlotte, you have the impression that all ships, spot charter ships, are basically pieces of junk, and that's not true.

CHARLOTTE MacCAY: No, I don't. We have fairly good ships.

MIKE O'HARA: That's what you're saying, these people can't comply. I had a brand-new ship, it was one

of the nicest ships I've ever seen. Spot charter.

CHARLOTTE MacCAY: We don't have the control over whether or not they have these things on them. So like I say, right now we have great ships. We're also a high-priced commodity right now. The people who have the lower priced commodities are left with what's left over, and they don't have control over whether or not they get ships that have a lot of these amenities that will get them credit or not. It doesn't mean it's a piece of junk, but you're giving credit or not credit over something they have absolutely no control over.

MIKE O'HARA: Let it go.

BRIAN ROGERS: Captain Page.

CAPTAIN ED PAGE: Ed Page here. I guess to add, that I think those who are in the business of cleaning up oil all realize what a difficult task it is, and prevention is definitely worth pursuing a little harder, and our best bucks are really placed in prevention area than they are in response area. So unfortunately it's a very complex problem. With any luck we'll get an earlier vision, but I think it's probably worth the effort. And the legislature did mention, briefly albeit, but they did mention prevention, so I think it's worth the extra effort. I don't personally -- and this is my opinion. I don't

think we should mess with the 15 percent planning standard. I think it's too complicated. I think it doesn't fit well for the OSROs, and I think it's a pretty low standard as it is. I don't think we ever want to budge from that.

I think the answer would be some other incentives. I think we had some pretty good ideas in the work group when I was listening the other day. And I think we find a list of small number of jewels that fit the ships fairly comfortably, and our people look at and kind of agree that that's palatable, makes sense, it would reduce the risk, and then they could actually buy into that. And in some cases, the vessel can't meet those standards because of -- tramper, the consequence would most likely be their insurance rates would be higher or their OSRO charge would be higher, or some other things to -- and that's just a consequence of it. But probably worth the effort because, again, having realized how tough it is to get oil back in the bottle again once it goes out. That's well worth the prevention efforts.

BRIAN ROGERS: Susan Harvey.

SUSAN HARVEY: Susan Harvey from DEC. I think I'd like to echo Ed's comments. What we're asking you to do is buy cheap insurance, and the one thing we've

heard repeatedly is there has to be some financial incentive, and we recognize that's in the interests, but there is a big financial incentive that we can't lose sight of. If you buy cheap insurance in terms of prevention, it ultimately reduces your total cost in the event of a actual spill. So there is a built-in financial incentive in putting prevention measures in place to keep the oil in the container. We've got lots of data on the books that it's a lot cheaper to keep it in the container than clean it off the beaches. Ed is shaking his head. Both Ed and I can provide you data on that. So in essence there is an underlying built-in financial incentive in terms of keeping it off the beach.

BRIAN ROGERS: If I can -- go ahead.

HEATHER McCARTY: Can we talk a little about how we're going to address these other possibilities for incentive? At the next meeting? Are we going to have a report, for instance, on some of these other possibilities? Is that the plan?

PAUL FUHS: That's the research that I'm doing.

HEATHER McCARTY: Okay. And that will include --

PAUL FUHS: Premium tax. Just straight rate reductions of the companies, possible connections to

civil penalties, or anything else that might -- that they might tell us would interest them in a prevention program, or they'd be willing to link it to their insurance rates.

HEATHER McCARTY: And we've already had sort of -- excuse me.

BRIAN ROGERS: Go ahead.

HEATHER McCARTY: This is Heather McCarty, by the way. Sorry. The co-op fees, we've already talked about that.

PAUL FUHS: That's tied to the response planning standard, but I don't know, maybe there's something else that the response contractors would be willing to do if they wanted to buy into the prevention program. Right now it's not part of any of their fee structures and it's difficult to do.

BRIAN ROGERS: And I think one of the questions that came up in the group was whether this group can make a recommendation for how the co-ops operate. Concern I heard in the prevention.

HEATHER McCARTY: So far, yes. That's true. However, I think it would be -- rather than speculating about it, I think we should maybe take it off the list or ask them to give a report on what their feelings are. I mean, that's kind of the way I feel about it, rather

than just saying, well, maybe they will and maybe they won't. That doesn't help me at all in determining whether it's legitimate as an incentive or not. I mean, obviously it's going to be a private decision, and a negotiating point perhaps. But I guess I just haven't heard that from them myself.

BRIAN ROGERS: So we will ask them to talk about what they might be able to do toward prevention as one of the agenda items.

HEATHER McCARTY: I think that would be helpful.

BRIAN ROGERS: Is everybody okay with that?

GENE BURDEN: Wait a minute. This is Gene Burden. We're going to ask CISPRI and others to come in and explain what they can do for prevention?

HEATHER McCARTY: Well, it's on the list of incentives, that's the only reason I bring it up.

CHARLOTTE MacCAY: Reduced rates, theoretically.

GENE BURDEN: There's a disconnect there.

BRIAN ROGERS: Gene?

GENE BURDEN: I don't understand what that's going to do.

HEATHER McCARTY: Me either.

BRIAN ROGERS: Charlotte, and then Eric.

PUBLIC PARTICIPANT: Excuse me. This is Juneau. We're having a hard time hearing you, and could you identify yourselves, please.

CHARLOTTE MacCAY: This is Charlotte MacCay. Kind of following up on that, I'm somewhat vague on whether or not there is any possibility from the response contractors, so we should know whether or not it's a possibility before we spend time on it.

HEATHER McCARTY: Right.

CHARLOTTE MacCAY: The same with the insurance rate, and you mentioned that crude tried to do that and was unable to do that, and is there any information from that effort that could maybe keep us from wasting effort if it's a dead-end, following a dead-end, if it is one?

GENE BURDEN: Honestly, I don't know if there is. I'll see if I can dig some of that out. I don't know, is the answer.

CHARLOTTE MacCAY: That works.

ERIC BRITTEN: Eric Britten, CSX. Gene, in response to your question, I think where we have been in the Prevention Work Group, was we made an assumption, and the assumption we made was that the State had no way, no right, and no authority to come to the SRs and say, here's this list from the Prevention Work Group and we want you to take these things into account as you

assess your underwriting risk, or whatever, in determining your rate structure, you know, for these people you're going to be selling tickets or coverage or, you know, whatever.

And I think the question maybe that Heather said, was could we get the responders to say, A, that's exactly right, don't consider that; B, we're not about to tell the general public how we go devising our rate structure, you know, for our new associate members or whatever, if in fact you even are there yet; or C, sure, give us the list, we'd like to entertain it and here are the parameters we'd like from you guys.

GENE BURDEN: Okay, thanks.

BRIAN ROGERS: Captain Page.

CAPTAIN ED PAGE: My simple mind, I was looking at my car insurance and I know they ask me how many days I drive to work, how many miles a year, if I have air bags, exposure risk by how often I travel. Which is number of port calls, in my mind, and what kind of safety equipment. Do I have ABS, air bag. And then they look at my track record and come up with a rate for me. And they still have to pay X amount of money into this big box to pay out for damages and claims and what have you. But they decide that my share of that is smaller than some 22-year-old driving a Miata, you know,

whatever, going 30,000 a miles a year down in L.A.

So the point is, I think life does take this into consideration, in insurance or rates and what have you. So I don't think it's too far a reach or asking too much to say, why couldn't we have a similar concept in mind, and if we reach some consensus on what we believe are things that reduce risk and are doable, and then for those who want to go ahead and get the ABS, brakes and the air bags, or whatever risk prevention mitigation measures exist, that there be some different rate structure for them. And the bottom line, the co-ops will still get the X amount of money they need, have all the equipment by having it available. And I think if it was something -- and they need to go back and see if -- sitting here, I don't think that's a totally novel or out of the box, inconceivable idea. I think it's been applied elsewhere, many other areas for that matter.

TOM REUTER: I'm Tom Reuter. I wanted to concur with Captain Page's analogy. However, the box that we're talking about is worldwide, and with the different classes of vessels that have been talked about, fishing, spot charters, dedicated service vessels, the box is different. And so, for a spot charter vessel that's on the world market that can be

traveling to four corners of the globe, and to come in to Alaska for a 14-day period, as an example, how much would prevention measures that they take to meet or exceed the Alaska requirements have an effect on their 365-day insurance policy? I guess just a question to Lee.

BRIAN ROGERS: Gene, and then Scott.

GENE BURDEN: Just to follow up. I guess a frustration that I experience, when we looked at this a number of years ago -- getting to be quite a number of years ago, though -- is that a lot of people think that you can identify these factors and you can go to a table and say, for a vessel of 70,000 tons it's going to save you $5,000 a month on your insurance. It just doesn't work that way. It's very specific to the vessels. Does a 90,000-ton tanker, double-bottomed, double-hulled, safety features, have lower insurance than others? The answer is, probably in most cases it's going to have lower insurance rates, but it's very, very difficult to articulate with any confidence what that actual margin is going to be.

BRIAN ROGERS: Scott?

SCOTT CARTER: On Captain Page's comments. It would be the equivalent of your analogy of saying that, well, I need a quote on my insurance, I don't know what

I'm driving, I don't know when I'm driving it, I don't know if I have air bags or if I have brakes.

CAPTAIN ED PAGE: They'll give you a high rate, charge you a lot.

SCOTT CARTER: That's kind of where we are. How do we even approach an estimate if we don't have a measure to go with? I'm sure it's an unknown factor for us.

BRIAN ROGERS: Go ahead, Kris.

KRIS MULLAN: Kris Mullan. Also, basically it follows right down to what the co-ops want to do also. There's no -- lost my train of thought.

What they vote on, we have no say over. They can say, you know what, we're going to stick with our -- I'll use this as an example because this represents boats our size. Even though we're still adding 100 customers to our fleet, we're still going to keep our base rates to five grand a boat. Sorry, tried to work with you, it's not going to work. And so make all of this here what we're trying to plan out worthless. That's a concern that I have.

BRIAN ROGERS: Paul?

PAUL FUHS: Yeah. Paul Fuhs. It's not like a vessel wouldn't be able to come here. You can work something out if the insurance companies say, okay,

we'll consider it, and even if you want to formalize it and do a program, that's fine. If you guys will help us certify that this stuff is on board. If you get an insurance break, that's great. If you can't and you don't get it, so what, you keep going about your business like do you now.

So the policy question, then, really for the State is -- and Senator Pearce, I hope you don't mind if I put you on the spot here for a second to see if you think we even ought to be exploring these prevention measures or you think there might be support in the legislature to look at prevention, or we ought to be just looking at, well, let's just look at when the oil spills.

SENATOR DRUE PEARCE: There has always been acknowledgement and support for -- acknowledgment of the fact that the way to -- that prevention is the key. We want to prevent oil spills, because once the oil is in the water it's incredibly difficult to pick up and clean up. We've gone to extraordinary lengths in terms of prevention measures in some areas of the state, primarily Cook Inlet, Prince William Sound, in terms of the oil tankers, and have the state of the art system that everybody else looks to.

In bringing the other ships into a system in

Alaska, which is what the bill attempted to do, and something that we didn't do back in 1990 when we first wrote 567, once again prevention is key. While other states may not have been able to figure out how can you put -- how can you decide how much risk you're lessening if you do X, and figure out some way to have a reward for the folks, I think Alaska should not stop looking at it, because I think it's so important.

And from my standpoint, as a person who represents the people of the state, represents the state and sets what the policy is going to be, if we want to do business in the state, I want to -- I would like to have an incentive to try to entice the lowest common denominator ships to either get better or not come. And I am understanding much better now, while there are tankers out there in the world that we don't want to come here, I understand that while there are some cargo vessels, what some of the previous events of those ships that I just as soon never come in, I can understand that we do have some industries that find it difficult perhaps to, or the vagaries of the market dictate what sort of ships they can get to come in and take their commodities.

But I don't think we can just give up and not look at it. Because during all the time that we were in

Juneau talking about 273, we kind of kept going around in these circles of discussion. On one hand people said, well, what about those of us who have done some things to try to make sure we do have clean ships and we've made strides. I'd like to find a way to do something for those people.

On the other hand, you have to have some level of absolute and without meeting these requirements, you don't come. But I don't think that this group should just quit. I think the subcommittee should continue. And maybe while it doesn't look like the tax avenue per se works well in terms of certain amount of corporate income tax, because so few companies pay corporate income tax, there are other areas, perhaps the marine fuel tax or something like that. There are some places where the state could provide an incentive to those that go the extra mile. Not every company is able to do that, but those that do should be rewarded.

BRIAN ROGERS: Anyone else? Gene?

GENE BURDEN: Just penciling out some thoughts on this, and I'll get it to co-chairs, Eric and the group, that it looks like that, you know, aside from saying, yes, everybody agrees that prevention is desirable and should be pursued by everyone, that all parties should comply with federal and state laws, and

that this Task Force is not going to propose additional prevention measures beyond existing law, then you could say that the C-plan applicants would provide a description of any prevention measures that they want to propose to the department, and also project what the prevention measure would equate to in terms of percentage spill risk reduction. And I'm not sure how that takes place, but there's people that are able to help with that.

And then the department should extend the credits, recognizing those prevention efforts, and then you could set up a schedule where I use some prevention benefits that are close to me and my company, years for contingency plan, for example. And these are very arbitrary, just an example, but you might have one category that says if your prevention reduces your spill risk 10 to 30 percent, 30 to 60, 60 to 100, whatever. And that if you have on C-plan, instead of doing it once every three years, in that first category it's once every four years, second category once every five years, third category once every six. If you look at frequency of full deployment spill drills, I think -- Larry, correct me -- he may be out -- if I'm wrong -- but I think that's like once every two or three years there's a full deployment drill that most people have. And you

do the same thing, you just stretch it out and say, well, if you're in that first category, you'll have a full deployment once every four years, second category once every five, once every six. That's real dollars, bottom line dollars. That doesn't change the 15 percent planning standard, but that puts dollars in people's pocket potentially.

And then, if you look at reduction in penalties for spills, you could do the same thing. It's a factor of one if you don't have any prevention measures. If you're in the first category, it's a factor of .9, .8, et cetera. What the group, say, awards, dream up some awards, Alaska award if you're in the first category, gold star on your forehead if you're in the middle, and governor's award if you're in the top. And you could do something like that and make it available, but without being prescriptive in what the prevention measures necessarily would be. And I'll try to put that in some kind of writing and get it to you and that might help, I don't know.

BRIAN ROGERS: I'd like to echo what Eric said earlier. I'd encourage people to come to the meeting on the 27th. If I understand the direction from the Task Force to the Prevention Work Group, first it's to reword the issue on mandatory measures to ensure what we're

really saying is we're not adding any new mandatory measures.

Second, that there are significant concerns, or strong concerns, over an incentive system, a recognition system that might come back to bite those who are not recognized.

Third, there are strong concerns about a prevention credit system that would affect the RPS and therefore not treat industry the same.

Fourth, that there is interest in other methods of prevention credits, and that the Task Force would like the group to explore those further. And that in terms of the order of agenda, we should really begin with the discussion of credits, and follow that with the prevention measures, rather than the way we had the agenda initially set up.

Does that capture well enough what we want the work group to do next week? Anything before we close on prevention? Commissioner?

COMMISSIONER MICHELE BROWN: I was going say, you might, just to avoid some of the confusion, it might be better if you called that last point "prevention incentives" --

BRIAN ROGERS: Okay.

COMMISSIONER MICHELE BROWN: -- versus

"measures." Because if you say measures, then people start thinking, are they mandatory, are they credits? You're talking about a secondary program for other ways to get incentives.

BRIAN ROGERS: The voluntary measures.

COMMISSIONER MICHELE BROWN: Yes.

BRIAN ROGERS: Or voluntary incentive. Pat?

PAT CARTER: Pat Carter, Senator Pearce's office. Just to go back to what Stephanie and Heather were discussing before. I think we were confusing the difference between an incentive and penalty, and saying that one therefore equals the other. We've set a standard like, to use analogies, in the home building business, you have homes that have to be built to the Uniform Building Code. But to get a five-star rating, which we have incentives, we want to encourage people to build more energy-efficient homes, we've given people lower mortgage rates and incentives, government incentives, lower tax rates, things like that, to be able to do that. It doesn't say that somebody has to go out and build that home. There's lots of people building homes that aren't five-star homes, but we're not penalizing them for not building them. We're just not giving them an incentive. So people are being treated fairly and the same, it's just that people who

want to go the extra mile are getting something a little bit -- makes it easier for them to sell their home.

BRIAN ROGERS: Stephanie and then Heather and then Charlotte.

STEPHANIE MADSEN: I agree with you totally, but what I hear you saying is that if you build a house, you have to maintain, you have to use Uniform Building Code rules. You are providing incentives to get a five-star energy home, but they don't, just because they build a five-star energy home, get to have lower Uniform Building Codes.

HEATHER McCARTY: Right.

PAT CARTER: That's correct.

STEPHANIE MADSEN: But what I'm hearing -- you know, the conversation earlier was by considering reduction in RPSs, you are lowering the Uniform Building Code, and that's my concern.

HEATHER McCARTY: Right.

STEPHANIE MADSEN: But I agree with your analogy totally.

HEATHER McCARTY: I do, too. This is Heather McCarty. Stephanie said it. It's exactly right. If the response planning standard is going to be affected by this prevention credit program, then it would not be a level playing field for those.

PAT CARTER: I see what you're saying.

HEATHER McCARTY: But I also agree it's an important aspect of this.

BRIAN ROGERS: Anything else on prevention? Yes?

TERRY MURPHY: I think when you're talking about --

BRIAN ROGERS: Terry.

TERRY MURPHY: Terry Murphy with Alaska Chadux. When you're talking about affecting the RPS, the difficulty there is the OSRO is still going to have to meet the maximum vessel RPS for that region, we still have to pay that cost. How do we recoup that cost to our members, considering right now that our full members right now all have these prevention measures in place, they meet ISO and everything else. I mean, there's no incentive to them. It doesn't decrease their fees at all by, you know, this. How do we equate that to new members coming in? These are issues that we have not approached as far as prevention credits. We basically charge by capacity.

KRIS MULLAN: This is Kris Mullan. Also talking about tankers, too, though, and tank forms.

TERRY MURPHY: But even our associate members that we have right now that are not, that's by capacity.

The full members pay by through-put. How much they put through in a year. Or transfer. And that's different.

KRIS MULLAN: I was going to say, you can't compare that to what we're talking about here.

TERRY MURPHY: But even the associate members are by capacity, so if you're running 50,000 barrels, that's what you're charged at. That's not to say that's what's going to be charged in the future. There are alternative funding programs that are being looked at. And we're trying to simplify it. We have a complicated system to some degree right now, and trying to make it a little easier for people to get it through and so our folks understand it and make it work right, too.

BRIAN ROGERS: Eric?

ERIC BRITTEN: Well, interestingly enough, just sort of bouncing off what Terry is talking about, basically what Terry is saying is we don't take risk into account; we take capacity into account. And I'm not saying necessarily this is the way that you choose to move forward. But if that's the case, you're saying, we don't care whether it's a Panamanian-flagged ship that's 77 years old and it's driven by oar power, or, you know, a brand-new vessel that meets every possible -- like the brand-new Tote vessels, and you're saying you don't take any of that into account.

One other area that this opens up for discussion, however, is if there was some sort of a matrix that was designed, that was agreed upon as fair to all parties because maybe it delved into classes, would it be possible then for the responders to take a look at whatever kind of rating or whatever that came out of this matrix when they are actually trying to figure out what part of the pie each associate member has to pay for? In other words, you're saying it's going to charge -- it's going to cost you $100,000 to operate and that's flat. The question that we're all talking about here is how does it get allocated and is it fair and is it not fair and what effects and everything else.

TERRY MURPHY: Right, and I see your concern. This is Terry Murphy with Alaska Chadux. I don't know if I can really answer that, but I would say that I think one of the first things that would come up is how is that rating certified. You know, how does Joe Blow here, he says he's got this rating, and Sam over here is different. How is that certified? Because we want to make it equitable. We want to make sure that we're getting a fair deal, because if somebody, heaven forbid, says something that isn't true, then the OSRO is the one that is out there cleaning up the oil from the incident,

the initial and stuff like that. And then it all comes back in the end, and I think that's an issue that would have to be thrown in there.

ERIC BRITTEN: And your exposure is greater than --

TERRY MURPHY: Yes, I mean, is the State going to certify it? Is the OSRO the one that's going to have to certify that? I mean, now you're talking an inspection program and maybe getting bigger, I don't know.

BRIAN ROGERS: Senator Pearce is next, followed by Captain Page, Gene.

SENATOR DRUE PEARCE: Actually, I'll wait.

BRIAN ROGERS: Ed?

CAPTAIN ED PAGE: I was going to ask, and I'm sure I know the answer, but I would assume that there's a different rate -- the vessel came in once a year into your AOR, area of responsibility, but their rate is different than some vessel that makes 20 port calls a year in the AOR, so is there a trip basis -- that's an exposure of risk already. Is that the case, or does everyone have the flat rate no matter how many times they show up?

TERRY MURPHY: Terry Murphy. That's an area that really we've discussed it, but we haven't come to

any final answer because we didn't know what was going to be required and everything.

CAPTAIN ED PAGE: Right.

TERRY MURPHY: But we do understand that it might be different for a spot charter that comes once a year versus somebody, a fishing vessel that's operating around the coast for six months at a time. And I can't give a fair answer there, but it's being considered, you know, we're looking at that. I mean, it would somehow tie in to capacity still, but it would be at a lesser rate.

CAPTAIN ED PAGE: The point I'm trying to make is elsewhere around the country they come through, spot charter, they have a special rate for someone that comes in once, or different people plying up and down the coast all the time.

TERRY MURPHY: Right.

CAPTAIN ED PAGE: Already there's an exposure, risk scale, fee scale, that exists. And what they're looking at now, the group is saying that (inaudible) element to that. Because there is a scale. Not flat. We're saying it's a flat rate. It's really not. How many times you come into the AOR, and there might be another factor. And, you know, prevention stuff up there that might --

TERRY MURPHY: Terry Murphy. That's distinctly possible. It's just something that has not been discussed at any of our meetings.

BRIAN ROGERS: If we could defer further on that until you've had a chance to respond. I have Gene and Lee, and then I'd like to, if we can close, out the discussion on prevention and move on on the contingency.

GENE BURDEN: I'll make it real quick. As a participant in a response action contractor, CISPRI in this case, I know that any flexibility to recognize prevention features of one of our members, for example, is going to be contingent on getting the rest of the members to concur with that.

And just as in CISPRI, the membership in CISPRI has some similarities, but it's also got a lot of differences between the members and their operations. You're going to run into the same thing with these other co-ops. And sometimes it's going to be quite a challenge to come up with something that is universally acceptable to the people that fund these co-ops, and volume typically is what has served as the basis for that. And then coming up with some agreed amount for spot vessels to come in is certainly a practice that's been employed a lot.

But coming up with a credit, we just put a

double-hulled tanker in and there's nothing on the horizon that is going to reduce our contribution to CISPRI, I don't think. And, you know, so even though Doug might like to do that, it's just not possible.

BRIAN ROGERS: Lee, and then we'll close out the discussion.

LEE EGLAND: Lee Egland, Crowley. I'm also a board of director of Alaska Chadux Corporation, one of the founding members. Gene almost took the words right out my mouth as far as the response organizations are not insurance companies. We don't deal with risk. These service organizations provide a service. It's not to say that there couldn't be some consideration when determining a rate, on how are we charging based on volumes. But, as noted, it's a very difficult issue to address because of the diverse memberships that we have. Existing members, full time, and associate. We considered and/or provided some information to the legislature about rates, taking into consideration changing our rate schedule in order to address the spot market.

So I think in CISPRI, I'm sure, as well as SEAPRO, you know, in the future when -- if this comes to pass, that we're going to have a whole new group of members that we're going to have to address their

concerns. We are not for-profits. We're only here to serve our members as they desire. and we have to take that into consideration at all times. So I'll leave you with that thought.

KRIS MULLAN: This is Kris Mullan. For all -- I'll use actually fishing industry as an example.

CAPTAIN ED PAGE: Wonder why.

KRIS MULLAN: If I understand correctly, most fishing boats are going to be an associate member; is that correct?

LEE EGLAND: If you were to join today, that's correct.

KRIS MULLAN: Okay. What is our guarantee that there's going to be some flexibility there, or even have a chance for voting privileges? You know what I mean? Everybody that's on -- like you represent Crowley, very big company, you guys have a lot of tank farms, refineries. I mean, you know, we're just a smaller portion here, and no matter how many of us are involved here, we still have no say on what's going to happen.

LEE EGLAND: Well -- Lee Egland -- to answer your question, I think, you know, there are no guarantees in life.

KRIS MULLAN: Right.

LEE EGLAND: And I can't assure you that what

your rate is going to be, as well as our current associate member bylaws, the way they read, are you going to have voting rights? Today they don't. But that's not to say that, you know, if we get 300 new, what we would call associate members, that there's going to have to be some future consideration so that they do get a say. You know, we're adaptable. But at the same time, you have to understand that the members that have put these organizations together, just not a Chadux, have spent a lot of time and money over the years developing these organizations. And it gets a little complex from the standpoint of how much you pay. Associate members currently do not buy in on depreciated capital. They pay a fee for compliance. They don't pay for buying in on past capital that's already bought. They don't buy into a proportionate share of the operating expenses. You got to remember there's two sides to the story.

KRIS MULLAN: Right.

LEE EGLAND: If you want a say, there's always a price to that process. But again, I'll leave you with this. That the Chadux Corporation, for which I was the co-chair or the chair of our legislative committee that was working very hard to assist the legislature when they went through some of the work group sessions on

SB273. And we're committed, we're flexible. But, you know, until we know what's required and how that's going to affect, you know, our existing membership, we can't commit to anything.

BRIAN ROGERS: I'd like to remind people that we said we were going to cover this issue of the relationship with co-ops and price at the prevention meeting, and there are some people that would like to -- I'm getting a sense of the group we'd like to move on and leave that, the Task Force having delegated it, wants to keep it delegated.

GENE BURDEN: That's the last time you try to wake up the group after lunch.

BRIAN ROGERS: We did get things going. I learned a lesson.

KRIS MULLAN: We're kind of stuck here not knowing what we're going to get offered, and the co-ops are saying, well, we don't know, you know, and we're kind of going back and forth here and getting nowhere.

BRIAN ROGERS: Senator Pearce, do you want to close this one out?

SENATOR DRUE PEARCE: I don't know if I'll close it off, but a couple of things. First of all, as we've heard both from Chadux and from CISPRI, they base what they charge on volume. So, if you walk in the door

and your ship carries X, and 15 percent of X is whatever it is, you're going to get charged the same as everybody else based on that volume. So, when -- if they have to bring in -- if they have to add equipment -- a lot of the areas of the state is covered. Those areas where we have to add equipment, that cost of that equipment will then be spread over all the people who are being covered on the base of this volume.

So I don't see -- I'm missing something, and a lot of people keep saying, well, we don't know what it's going to cost. There's some fee per volume, and I don't know whether it's per barrel, per skimming capacity, I don't know how you do it, but there's a fee. And if it's based on volume, then everybody's being treated pretty much the same way. So, I guess where is all this fear? I'm missing -- I'm disconnecting on some part of this discussion.

But also, if we're based on a volume, that must somehow be based on the planning standard that's in the law, in 567, for the tankers. Let's say that you had to meet, well, my skimming capacity, 15 percent, and 72 hours, whatever it was. So what you charge is based on that volume. And you walk in the door, here's my ship, and this is my volume, and they're going tell you, okay, this is what it's going to cost you to be covered.

While they haven't yet dealt with what to do with those ships that just come once or seldom, as opposed to often, and they do need to do that, I don't understand why, if the law reduced the planning standard based on having encapsulated tanks, like the Tote ships for sake of an example -- if the law said if your risk -- the risk is reduced by, we consider this risk reduced by, say, some percentage, because you have done this, and so the planning -- take the 15 percent and you reduce it by whatever the number is, I don't know why if you base on volume, your volume just went down and your charge just went down.

So when Gene said we're not going to get any reduction because of our new double-hulled, double-bottomed ship, that's something that I think could be fixed if we wanted to go there. And I'm not saying that we necessarily need to go there. But if you're really basing it on volume, then there's no reason you can't. Because you have changed that standard, which is what you're basically charging on a standard. You have to be able to put in, clean up, have boilerplate capacity to clean up a certain amount in so much time. If that so much comes down, then your fee ought to go down. Am I wrong in the way you described how your fees work? I know it's not happening now, I

understand that. But if that's the way your fees work, then that could happen.

TERRY MURPHY: They'd have to agree on that.

SENATOR DRUE PEARCE: Yeah, if people don't want to do it that way, that's a whole other discussion. But if we want to -- I think telling somebody that they're a five-star tanker versus having -- costs of making these changes are enormous. Tote ships discussing $6 million, it's costing them $6 million, to put in $150 million building the new ships, so they tell us, to put in all of these new prevention capabilities that they are doing and, you know, we're going to see the costs of goods and services in Anchorage go up because of that. But they've made the decision they think it's important and so they're doing so.

I certainly, back when we were writing 567, then this year when we were looking at 273, from my personal standpoint -- I'm not speaking for the full legislature because I can't -- I see no reason why we shouldn't be able to use some sort of a reduction for that sort of major prevention measure. Take the whole list, can you get into the 1 percent or 3 percent? No, of course you can't. But when new vessels come on line, I don't know why we couldn't. You're not being treated differently if everything is based on volume. And

you've got a certain boilerplate capacity that you're looking for.

BRIAN ROGERS: The group wants to move on. I still have people wanting to speak. Stephanie?

STEPHANIE MADSEN: Well, I guess my concern, Senator Pearce, is that although that particular person's rate is going to go down, following your logic, the overall expense to the co-op is not. And so all you're going to do is you're going to shift that reduction to everybody else in that co-op. Because, as you heard, there's not only the capacity charges, but there's the depreciation, there's the operating, there's other expenses, and I'm not sure that that's going to go down because somebody's response planning standard went down inside that co-op. And so I guess, I don't mean to debate, but I'm saying that I think that it's a little bit more complicated than just an assessment on capacity reducing the co-op's expense doesn't quite follow that path. I do recognize that for that individual operator, it may. But I guess our concern is that other co-op members are going to have to take up that slack, given the current structure of the co-op.

BRIAN ROGERS: Senator Pearce?

SENATOR DRUE PEARCE: There's only -- well, I don't know. You have to look at the regions and the

ships that are driving what the largest ship is. And I don't know that, whether -- if you've got one that is so out of balance because the biggest ship that appears just once is twice as big in terms of capacity than anything else, I don't think it's fair that everybody has to carry the cost, frankly, if that one ship comes in once in a while. That particular ship ought to have to carry a little bit more. But that's obviously discussion for next week.

BRIAN ROGERS: Caution everybody then to stay tuned and don't miss next week's prevention meeting. We start at 10:00 a.m. I believe we're on the second floor. Next week, 10:00 a.m., on Wednesday, the 27th, for prevention.

It's now 2:35. My sense is we have perhaps a half an hour to go. Do people want to take a break or work right through? Do it? Okay. What I'm going to do here is in about three overheads go over a subcommittee report and then ask that the folks who are there -- I wasn't, but I'm going to try to cover the primary issues that came out in that report.

This is a subcommittee of the C-plan Work Group. The C-plan Work Group will meet for the first time on the 16th of October. Basically, the Department of Environmental Conservation has presented a first

order proposal for streamlined contingency plan for nontank vessels. And there's a one-page description that Susan Harvey presented to the RPS group that looks like this, as to the contents. That simple C-plan consists of initial notification, and SOPEP would be an example of what that piece of the response action plan would be.

Second, the membership in the co-op would de facto demonstrate that the equipment is available. Alternatively, a vessel could show equivalent capability. The prevention measures are voluntary. And that they have spill management capability. That they deal with prevention plan by rule. And then the best available technology would be shown either by co-op membership or by regular review of equipment.

Several models for allocating C-plan responsibility have been discussed. Again, the subcommittee will be presenting and discussing these with the full work group at the first meeting. An example would be an owner-operated C-plan with response action contractor membership. A second might be a fleet plan for consistent charters. A third would be a shipping agent or marine exchange that had C-plan and incident command responsibility.

Without a co-op, the C-plan would be more

complex. The individual vessel would need to demonstrate that that entity met the same contingency requirements as the co-op does. Basically, the C-plan would need to show how the party meets the response planning standard. And the recommendation that the subcommittee is making to the full work group is to adopt the concept of a streamlined contingency plan. Again, that's not a recommendation to the Task Force yet. It's a recommendation to the work group.

The outstanding issues. There are issues of enforcement, in terms of penalties on the COFR, penalties if there is not a C-plan. Process for public notice and review. And the issues of drills and inspections.

So that's the quick and dirty of yesterday's first subcommittee meeting and where the C-plan Work Group will begin at its meeting which is currently noticed for the 16th of October.

Let me stop again here, turn the light back on, and see if there are other issues on C-plan that -- first, from any of the members that were there yesterday, that that brief review, what did I miss? Again, the meeting finished at 4:30 last night, and this presentation had to be ready by 11:00, so it's quite possible that I missed something there.

Paul?

PAUL FUHS: One oversight. In the C-plan you have to show your COFR.

BRIAN ROGERS: Okay. Gene, and then Charlotte.

GENE BURDEN: First comment. I guess I'm a little bit troubled by saying the C-plan would necessarily be more complex if you're doing it on a stand-alone basis. It's not going to be any more complex. You're going to have the same obligations to demonstrate that. It's not going to be as convenient, probably, for the department, but it's not going to be any more complex.

And secondly, I really strongly support having -- recognizing that there's going to be some C-plan holders that have never done this before, you have small operations, and this would be a great opportunity to have C-plan Handholding 101 by the department for certain groups. So I think there's a transition phase, I think, probably here for C-plan holders to have some assistance by the department on completing that. And call it preparation or training or whatever you want to call it.

BRIAN ROGERS: Charlotte?

CHARLOTTE MacCAY: Just because we are kind of crunched for time, and one of the things in the report,

why are we waiting until the 16th of October to address this?

BRIAN ROGERS: Judy?

JUDY ERICKSON: Well, we tried to schedule for the week before and there was a big Coast Guard event which several members here were participating in. And that was two days of the week. And on Friday there was another one of the -- I think that was when Chadux was having --

TERRY MURPHY: We have our thing in the middle of the week.

JUDY ERICKSON: They're doing something, too. And a lot of DEC people were invited to that. So that moved us to the 16th. We could possibly -- we have not formally noticed this yet, so we could move to possibly Friday, the 13th.

CAPTAIN ED PAGE: Good luck.

JUDY ERICKSON: That's why we ended up there. We really tried for the 11th, and we thought we were set on the 11th, and we were asked by Task Force members to delay.

BRIAN ROGERS: And the situation for notice right now is because notice goes out in the Journal on a Wednesday, has to be ten days notice, we effectively have to give two weeks notice from a Wednesday, so the

earliest we could meet would be the end of the first week in October. And scheduling, as you might expect with this group, has been and will continue to be clearly a challenge, with 24 members and with each of your own schedules and the schedules of the support team.

KRIS MULLAN: If you can give the airlines at least two weeks notice, plane tickets are cheaper.

BRIAN ROGERS: And we have tried to make sure, in all cases we have given at least two-week notice. We also are -- 10:00 is a late starting time, but for Juneau-arriving participants that does allow this to be a one-day trip. And that's one of the reasons for starting prevention as late as we are next week. The schedule changes in October and we can actually start moving things up. But as of next week, it's still a late arrival.

Anything else on C-plan, any other advice we want to give? Again, this is -- originally, we had not even anticipated having any C-plan, but clearly we were making -- if you recall, your discussion at the last meeting was if we're not making headway on response planning standard and on prevention, then why even worry about C-plan, we're not getting anywhere. I think the feeling is we're making some headway and therefore we

advanced this to try to get things rolling.

So while we do have some time left, what are the things people want to pass on? Heather, I think, and then Eric. And am I missing anybody else? Stephanie.

HEATHER McCARTY: This is Heather McCarty. I might be asking the same question Eric is asking. I notice that we were talking about leaving inspections to the Prevention Work Group. And that's what the agenda item on our Prevention Work Group is all about, the last number 4 on the old Prevention Work Group agenda.

Are we going to make recommendations from the Prevention Work Group as to inspections having to do with C-plan issues? Is that what that means? I'm just curious.

BRIAN ROGERS: I'd leave that up to the chairs. Yes, Deborah?

DEBORAH VOGT: I've got from the meeting that the C-plan group concluded that the only inspections that were going to be necessary were those for -- whether prevention measures were on board or not. That there would be no other C-plan inspection requirements.

HEATHER McCARTY: Okay.

BRIAN ROGERS: But again, that's subject to decision by the work groups and ultimately the Task

Force. And inspections, I think several people have suggested that we have to address that issue, but it's fairly late in the process, because until we know what it is we have to inspect for, we really don't know what we want to do.

HEATHER McCARTY: That was going to be my point. This is Heather McCarty. If we're meeting next week on prevention, we may not know if there's any other requirements we should discuss in the inspection area.

BRIAN ROGERS: In which there might be new areas addressed at C-plan.

HEATHER McCARTY: Yes.

ERIC BRITTEN: Eric Britten. Just one word here jumped out on this C-plan page here, and actually I think it's part of Gene's and Lee's group's discussion more, but I see this term, "best available technology." Considering what Commissioner Brown's department is going through with the feds and the issue of Red Dog, this is a term that just scares the dickens out of me. Is this involved in the spill response standard discussion?

BRIAN ROGERS: Go ahead, to response. Gene.

GENE BURDEN: It's currently a requirement under Alaska law, both statute and under the Alaska regulations, for spill response. So I presume that's

how that got incorporated.

ERIC BRITTEN: I guess my only comment is I hope that the relationship within the state continues to be like it is, as opposed to some of the interpretations that could be taken.

BRIAN ROGERS: Stephanie, Susan, Jeff, and Charlotte.

STEPHANIE MADSEN: I was just looking for Paul and Jeff to help out in the liability question, because I don't think that's on our list of things that need to be followed up and we did talk about that. Maybe Jeff can verbalize it better than I.

JEFF THOMPSON: Jeff Thompson. Stephanie, the advice that came out of yesterday in terms of the liability discussion, which has been an ongoing issue, was to synthesize our questions in writing to Breck Tostevin, which I haven't had a chance to do yet but I intend to do this week, to submit to him and to the facilitator staff, dealing with specific liability questions in terms of the definition of PRAC, can that currently in Alaska law, can that amenity be extended to an organization that develops initial response capability or offer spill management capabilities as well. This is in context to either a vessel agency or nonprofit organization, i.e. the marine exchange being

given a fire wall of immunity at least as far as Alaska law in terms of if they function in this regard.

BRIAN ROGERS: Susan?

SUSAN HARVEY: I was going to provide a little information to respond to Heather's question on inspections. The two things that we inspect for right now, one is prevention measures, are they in place, if they were required. So that's why it got passed off to the prevention group. The other thing that we inspect for is our spill response equipment on-site. If you are going to use a membership in a co-op, we could do that through the context of our drill and exercise program. We have a good relationship and work with them very closely, so I don't think we'd need to go out and inspect and validate that beyond what we already do with the co-ops. So, if you are using a co-op, the inspection issue is solely a prevention issue if there are prevention issues that come out of this Task Force.

If you're going to have your own response equipment, we're going to have to keep in mind that there will be some inspection requirement if do you an equivalent equipment standard.

Eric, on your question about BAT, this one comes up quite often, and Gene actually facilitated the BAT workshop and so he knows a lot about this. But just

to alleviate some concern, for the response end, BAT, by definition, is you meet BAT if you can meet your response planning standard. There's nothing more complicated than that. So, if through the hub-based system, or your equivalency standard, if you meet that, then you've met BAT and you're done, okay, it's that straightforward. On the prevention end, if you have no required prevention measures and they're all recommended practice, I think it's a moot point. So just to alleviate some concerns there.

BRIAN ROGERS: Thank you. Charlotte?

CHARLOTTE MacCAY: This is part question, part statement. I'm not sure what I'm doing here. But regarding the BAT question, I think it's a different scenario, and correct me if I'm wrong, but in the scenario that's in court right now it's the Clean Air Act, which is a federal act, and a state program that's been approved by that act. And the establishment of BAT. This is simply a state program. So I don't think you have that other level of someone jumping in and trying to define for you what that is. Does that help?

ERIC BRITTEN: I think perhaps my analogy was improper. I simply didn't want the responders and DEC to get into conflict over what BAT is. Because, as I said, maybe my example was wrong, but -

CHARLOTTE MacCAY: It's a good point, but it could be more complicated.

ERIC BRITTEN: It sounds really simple.

CHARLOTTE MacCAY: It's not as simple as yours.

ERIC BRITTEN: The resolution is awesome, so my problem is alleviated.

BRIAN ROGERS: For the C-plan Work Group, we've actually completed appointment of the tri-chairs just today, so they'll be sitting down and working out an agenda, and we'll work on a -- and see if it's possible to move that meeting on the 16th up, so as to have more opportunity for advance prior to the -- prior to the next meeting of the Task Force.

Let me dim the lights for the last time, and the last overhead, just so we can go over the proposed schedule where we are in the process. We have currently noticed Prevention Work Group for next Wednesday. Tentatively scheduled, with meeting location, et cetera, a meeting on the 16th. If we move the C-plan up, we might, since we have the facility, use that date for another -- we still have one additional RPS Work Group meeting that is currently unscheduled. And we have to determine when in late October, early November we had the final in-person meeting of the Task Force, where we would go from there. And we want to discuss that today

and try to get some sense and see if we can schedule that.

In late November, the final draft report would be circulated, along with the draft legislation and the draft regulation memorandum, which are part of the final draft report. And then we'd be looking at a teleconference just on dealing with final report in late November. Again, assuming that at the final Task Force meeting at the end of this month, we basically made all of the policy calls and lined out that there aren't decisions left hanging. And that is our goal, is to complete the decisions on the recommendations and then just work out -- work with the Department of Law on legislation, work with the contractors and Department of Law on the regulation memorandum, and then have a report circulated in advance so that everyone has a chance to review it, and then go through, submit some comments to us on the report. The goal again being that while the report is due at the beginning of the next legislature, the goal is to have that report out and completed and circulated by the 1st of December.

So at this point it would appear we've got two currently scheduled work group meetings, one more work group meeting and a Task Force meeting, and no further subcommittee meetings because of the concern over

notice, and effectively that those would become full group meetings. My sense of process is that both the Prevention Work Group and C-plan Work Group should anticipate that they will not, like we're about to, get out early those days.

I'll stop and turn the lights back on again, and see if anyone has any issues with the schedule, and then we'll take about a five-minute huddle while steering committee chairs go over potential dates for a final Task Force meeting, and then we'll try to propose a date and see if that works for the Task Force meeting. Anyone else have issues as to scheduling? Gentlemen.

JEFF THOMPSON: This is Jeff Thompson. I thought October 30th was the date for the final Task Force meeting.

BRIAN ROGERS: It was.

PAUL FUHS: Was.

BRIAN ROGERS: We're working on an alternate date now because of a schedule conflict.

BRIAN ROGERS: Go ahead, Stephanie.

STEPHANIE MADSEN: Won't know whether the National Marine Fisheries Service gets their biological opinion in to the courts.

BRIAN ROGERS: We're just going to go off line for about five minutes here while people get their

calendars out. I'm going to work with the two of the co-chairs that are here and see if we can find a mutually acceptable date, and then we'll come back on line. So we're in recess for five minutes.

(Short recess taken.)

BRIAN ROGERS: Here's where we are on schedules. At this point, we're looking at a final, Task Force meeting, Monday, November 6, would be the next meeting of the full Task Force. That actually gives an extra week, so I'm more comfortable with the Alaska Railroad being able to present its completed work on their assessments. Anyone have severe conflicts with November 6th?

CAPTAIN ED PAGE: Up here in Anchorage, I gather.

BRIAN ROGERS: Yes.

JUDY ERICKSON: November 6 is okay.

BRIAN ROGERS: You can't make it?

CAPTAIN ED PAGE: Depends on Alaska Airlines' schedules.

BRIAN ROGERS: So, then in terms of other meetings, we have it, as noted earlier, a tentative C-plan on the 16th, and we now have a tentative prevention -- excuse me. RPS on the 17th of October. And the idea there was to go meetings back-to-back, it

will be challenging. The idea is if we have two days there, we can cover a lot of ground and try to save some people some travel costs in terms of coming to Anchorage for those two. Again, both of those will be teleconferenced for anyone who is unable to be in person.

CAPTAIN ED PAGE: Same procedure, I gather.

BRIAN ROGERS: Actually, it's possible that the phone-in number would change because the legislature is in the process of changing systems.

CAPTAIN ED PAGE: But you'll let us know.

BRIAN ROGERS: There would be e-mail notification to all members of the Task Force, and it would be on the website, and e-mail to notify. Judy?

JUDY ERICKSON: I need to check really quickly here with the LIO before we totally confirm these dates. So let me make sure we have a space.

BRIAN ROGERS: Okay. And there is some feeling in the group that trying to complete C-plan in that one day may be a challenge, in which case having RPS the next day may allow us to carry over or to adjourn into the evening for some discussions the night of the 16th.

Charlotte?

CHARLOTTE MacCAY: You need to give two weeks notice. You may want to plan another meeting that may

be canceled, so there's a potential to have another meeting the following week if there's one needed.

BRIAN ROGERS: I think I need discussion with DEC after this meeting in terms of that issue.

CHARLOTTE MacCAY: I guess to pass the hat.

COMMISSIONER MICHELE BROWN: There's one in the middle of the table to pass.

BRIAN ROGERS: It is quite possible. Again, depending on how much homework people do and how much opportunity we have to get research out in advance and to have an opportunity for e-mail discussion. And I would encourage members to take that opportunity. We have on the website the contacts for all the members, and there's actually an e-mail list, anyone who wants to do an e-mail to all members of the Task Force can let me know, we've got an address that we'll work to get out to everybody at once. And that might be a way of initiating some discussion electronically in advance of the next meeting. And what I would like to do after we adjourn today is to sit down with the C-plan tri-chairs that are here and talk about scheduling a little bit on that meeting as well. Mike O'Hara.

MIKE O'HARA: I have a question for Terry on prevention. And I don't want to make a big subject, but do you folks -- can you folks operate on a daily rate?

TERRY MURPHY: I can't answer that. I don't know.

MIKE O'HARA: Could you answer that within a week?

TERRY MURPHY: No, I don't think so.

MIKE O'HARA: Okay.

TERRY MURPHY: That's never been broached.

DAVID OWINGS: That would have to go through a board of directors, and so it's -- not that he doesn't want to answer it. It's a rather cumbersome process for us.

MIKE O'HARA: Well, then how -- Mike O'Hara. My question, the idea is if we use a marine exchange or recommend a marine exchange, so that Heather could come to the marine exchange and say, okay, we're going to give you prevention credits and it's going to cost you this much. In order to do that, we have to know what your daily rate is to clean up a spill.

TERRY MURPHY: To clean up each spill is different, the equipment you're using, the number of people.

MIKE O'HARA: Yeah.

TERRY MURPHY: There's no way to put a figure on that.

PUBLIC PARTICIPANT: Million and a half

dollars.

TERRY MURPHY: Up here in Alaska it's difficult. Somebody said by volume.

BRIAN ROGERS: Terry speaking. Please identify yourselves.

TERRY MURPHY: You can't really do it by volume. There's just too many unknowns. The cost goes up remotely versus it's right here off of Anchorage. So I don't think we can give you an answer as far as a spill cleanup.

MIKE O'HARA: You couldn't do it by area?

TERRY MURPHY: No, I don't think so.

MIKE O'HARA: O'Hara.

BRIAN ROGERS: Yes. Larry?

LARRY DIETRICK: Yeah, Larry Dietrick, DEC. Yeah, Mike, the rates in terms of hourly rates of personnel, equipment are available. We've got those. And I think if that's the question you ask, I think the co-ops have those numbers. I think I have them for all the numbers. So if that's your question, just --

MIKE O'HARA: That was the question.

LARRY DIETRICK: I mean, what Terry is saying, I can't tell you how long I need -- or how many people or how many shovels, but certainly can tell you the price per shovel and price per --

MIKE O'HARA: Right.

LARRY DIETRICK: If that gets to it.

MIKE O'HARA: That gets my attention.

BRIAN ROGERS: Any other comments on the issue? Anything from the steering committee chairs before we close down for the day?

COMMISSIONER MICHELE BROWN: Just continued thanks for all the hard work and brain power.

JUDY ERICKSON: We're set for the LIO, second floor, all those meeting dates.

BRIAN ROGERS: And we will be looking potentially for one further one. Any other public comment? We've tried to afford that opportunity throughout, but anyone else? Yes, Jeff.

JEFF THOMPSON: Just a procedural administrative question. If you're not able to make that final Task Force meeting, as a Task Force member could I call in from the Lower 48?

BRIAN ROGERS: Absolutely. You can call in from the Lower 48. We've had that on several occasions. International calls we may have to discuss further.

Anything else? Going once, twice. We're adjourned for the day.

(Meeting concluded at 3:05 p.m.)

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CERTIFICATE

I, the undersigned Notary Public in and for the State of Alaska, do hereby certify:

That the annexed and foregoing proceedings were taken stenographically before me and reduced to typewriting under my direction;

I further certify that I am not a relative or employee of any of the parties to said action, and that I am not financially interested in the said action or the outcome thereof;

I further certify the proceedings, as transcribed, is a full, true and correct transcript of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 26th day of September, 2000.

Kim R. Behrens

Kim R. Behrens, RMR-CRR

Notary Public in and for the State of Alaska, residing at Anchorage.

My Commission Expires: 4.24.04