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**Notice of Public Meeting for the
Task Force on Motorized Oil Transport –
Contingency Plan Work Group Meeting**

The Alaska Department of Environmental Conservation (ADEC), Division of Spill Prevention and Response announces that a public meeting of the Contingency Plan Work Group of the Task Force on Motorized Oil Transport will be held on October 16, 2000 in the Legislative Information Office, 716 West 4th Avenue, 2nd Floor, suite 200, Anchorage, Alaska 99501 from 9:30 a.m. to noon and 1:00 p.m. to 5:00 p.m. The meeting will focus on contingency plan requirements for nontank vessels.

This is another in a series of Task Force on Motorized Oil Transport work group meetings to determine how to implement response planning standards for a nontank vessel contingency plan and for a railroad tank car contingency plan as set out in Senate Bill 273 regarding oil discharge prevention and contingency plans for all self-propelled nontank vessels exceeding 400 gross registered tonnage and railroad cars carrying bulk oil and authorizing the inspection of nontank vessels and trains.

The agenda for the meeting will be posted to the Task Force website at: <http://www.state.ak.us/dec/nontank/>. Any person interested in further information is encouraged to review the website or contact Judith Erickson, Information Insights facilitation team, at (907) 586-3118, email at jerickso@pobox.alaska.net or Nancy Lowe, Information Insights, Inc. at (907) 452-2461, email at nancy@infoinsights.com.

If you are a person with a disability who may need special assistance to participate in the process on the proposed regulations, please contact Joel Casto at (907) 465-5041 as soon as possible to make necessary arrangements.

**TASK FORCE ON MOTORIZED OIL TRANSPORT
CONTINGENCY PLAN WORK GROUP**

Co-Chairs: Charlotte MacCay, Stephanie Madsen, Jeff Thompson

Meeting on October 16, 2000

Anchorage Legislative Information Office

9:30 a.m. to noon and 1:00 p.m. to 5:00 p.m.

DRAFT AGENDA

Work group process and methodology

Decision-making process

Objectives and deliverables

C-plan subcommittee meeting report

Spot Charter Group Memorandum: C-plan recommendations

DEC proposal: streamlined contingency plan

Contingency plan options

Generic contingency plan

Streamlined contingency plan

Fleet plan

Individual plan

Liability for C-Plan holders

Other C-plan options

Recommendation to Task Force

Inspections and spill drills

Generic contingency plan

Streamlined contingency plan

Fleet Plan

Individual plan

Other C-plan options

Recommendation to Task Force

Contingency plan review

DEC C-plan review schedule

Streamlined contingency plan

Fleet Plan

Individual Plan

Other C-plan options

Timeframe/effective date to have plans in place

Best available technology

Public notice

Recommendation to Task Force

Enforcement

Penalties

Recommendation to Task Force

Contingency Plan Work Group

October 16 - 17, 2000 Meeting Summary

Nontank Vessel Issues

Anchorage Legislative Information Office

10/16, 9:30 - 12:00, 1:15 - 5:15

10/17, 3:30 - 5:15

Task Force members present: Contingency Plan Work Group Co-chairs Charlotte MacCay, Stephanie Madsen and Jeff Thompson; and members Jim Carter, Scott Carter, Doug Lentsch, Rick Harris, and Lurilla Lee (for Kris Mullan)

Department of Environmental Conservation (DEC) staff present: Larry Dietrick, Susan Harvey, Holly Hill, Asst. Attorney General Breck Tostevin

Task Force Facilitation: Brian Rogers, Judith Erickson

Task Force Technical Assistance: Paul Fuhs

Members of the public also attended

Contingency Plan Work Group Recommendations:

1. Streamlined process. The work group recommends that DEC establish a streamlined process for submission and approval of contingency plans for nontank vessels. Under the streamlined process a contingency plan submission would consist of:

A. Vessel-specific information, much of which is already included in the financial responsibility application.

B. A response action plan consisting of

- Initial notification procedures: the notification procedures contained in the Shipboard Oil Pollution Emergency Plan (SOPEP) fulfills this requirement.
- Certification that the applicant is a member of a spill response cooperative (co-op) that is a primary response action contractor (PRAC) with a response action plan approved by DEC under requirements similar to that currently required for existing plan holders, or evidence (see options 2 and 3, below) demonstrating equivalent capability.
- Certification that the applicant has contracted with an incident management team (IMT) approved as a primary response action contractor under 18 AAC 75.550, or evidence (see options 2 and 3, below) demonstrating equivalent capability.

C. A prevention plan certification stating that the applicant vessel complies with applicable federal and International Maritime Organization (IMO) requirements.

2. Alternative Contingency Plan options. The work group recommends that DEC establish three alternative options for nontank vessel contingency plans (C-plans). Applicants would be allowed to choose from among the three options, provided they meet the requirements of the chosen option. All three options are available for plans covering single vessels or fleets. The recommended options are:

A. Option 1, using co-op membership. A responsible party (RP) contracts with a spill response cooperative that is a primary response action contractor (PRAC) with a response action plan approved by DEC under requirements similar to those currently required for existing plan holders, and with an incident management team (IMT) that is an approved PRAC under 18 AAC 75.550. DEC would review an Option 1 application within 15 days of receiving the application (or within 5

days in the event of extenuating circumstances). If the Option 1 application is for the addition of a vessel to an already approved fleet plan, DEC would complete its review within 5 days.

B. Option 2, developing equivalent response resources. An RP elects to meet its RPS by providing equivalent spill response resources as those provided by a co-op and IMT. DEC would review an Option 2 application within 45 to 90 days. If the Option 2 application is for the addition of a vessel to an already approved fleet plan, DEC would complete its review within 5 days.

C. Option 3, using equivalent resources and PRACs. RPs could chose to combine Options 1 and 2, using PRACs for some services while providing some services themselves. DEC would review an Option 3 application within 45 to 90 days. If the Option 3 application is for the addition of a vessel to an already approved fleet plan, DEC would complete its review within 5 days.

2. Response plan facilitator. The Work group recommends that a response plan facilitator (RPF), acting as an agent for a vessel(s), be able to develop and hold a generic contingency plan that would be activated by signature of an RP. The RPF would submit a generic plan for a specified area of operation to DEC for approval. The plan would contain all the elements of a contingency plan, except the

- vessel-specific information,
- the initial notification procedures or the SOPEP, and
- the prevention certification stating that the applicant vessel complies with applicable federal and IMO requirements.

A RPF could not bring a vessel into Alaska waters until the vessel-specific information, initial notification procedures and prevention certification is added to the plan, the plan is signed by the RP and DEC has received it.

In a letter to DEC Commissioner Michele Brown, the Spot Charter Group, represented by Task Force members Charlotte MacCay and Rick Harris, suggested that an RPF could be a maritime agent, co-op, or specialized agent. The Spot Charter Group proposed that an RPF prepare geographic rather than vessel-by-vessel C-plans, coordinate associated paperwork and communicate necessary documents back and forth between vessels and DEC, and assist the vessel in arranging the initial response of a response action contractor in the event of a spill.

4. Applicability to vessel operation outside of state waters. The work group recommends that nontank vessel contingency plans only be required for vessel operations within state waters (within three miles of shore).

5. Incident management team regulations. The work group recommends that DEC develop regulations that specify the requirements for qualification as an incident management team (IMT).

6. Application timeframes. The work group recommends that nontank vessel contingency plans be due to DEC within 180 days of adoption of the contingency plan regulations. DEC will give conditional approval to all plans submitted on time. Conditional approval will remain in effect until DEC has completed review of a plan. Nontank vessel contingency plans will be reviewed by DEC every three years. DEC will stagger the initial review process so that all nontank vessel contingency plans do not come up for review in the same year.

7. Spot charter vessels. The work group recommends the Task Force adopt the definition of "spot charter vessel" proposed by the Task Force members representing this industry. The definition reads: "spot charter vessel" is a "vessel contracted to lift a specific cargo on a one time, periodic, non-scheduled or tramp basis." Work group members agreed that this definition may not be needed for future legislation. They left the question of whether to address these vessels specifically up to the Legislature.

8. C-plan electronic postings. The work group recommends that DEC electronically post a listing of nontank vessel contingency plan applications and review schedules.

9. Public notice process. The work group endorses the public notice process in DEC's review process for contingency plans found in 18 AAC 75.455 and 75.415.

10. Regulation to implement 15-day review. The work group recommends DEC develop a new regulation to allow for a 15-day review of Option 1 contingency plans for nontank vessels.

11. DEC authority to inspect. The work group recommends that DEC be given the statutory authority to inspect nontank vessels for C-plan compliance. In the case of an Option 1 C-Plan, the department would inspect a nontank vessel to verify quantity of fuel, a contract with a spill response cooperative that is a PRAC with a response action plan approved by DEC under requirements similar to those currently required for existing plan holders, and with an incident management team (IMT) that is an approved PRAC under 18 AAC 75.550, and that a SOPEP and certificate of financial responsibility (COFR) are onboard the vessel. For an Option 2 or 3 C-Plan, the department would inspect to verify quantity of fuel, contracts and equipment listed in the C-Plan to meet the RPS, and that a SOPEP and certificate of financial responsibility (COFR) are onboard the vessel.*

12. Drills. The work group recommends that the frequency and type of required contingency plan spill drills DEC may require of nontank vessels be based on the nontank vessel contingency plan option.

- Option 1: Maximum of one tabletop spill drill required annually;
- Options 2 or 3: Maximum of one full deployment drill and one tabletop drill required during a three-year C-plan review cycle.*

The work group recommends that a spill response cooperative that provides services exclusively to nontank vessels be drilled a maximum of two times a year by DEC.*

Issues Outstanding:

The Work Group left it up to the Task Force to determine if the existing penalties for violations of contingency planning statutes are appropriate for nontank vessels or need modification. The work group asked DEC to report to the Task Force at its November 6 meeting on the existing statutory penalties. If the Task Force decides to recommend changes to the penalty structure, the changes will require legislation.

The Work Group left open the question of whether there is a need to limit liability for response plan facilitators (RPF). Noting that the ultimate liability for spills lies with nontank vessels, the Spot Charter Group requested that an RPF's liability for failing to perform its prescribed duties be limited to a set civil penalty.

Assistant AG Breck Tostevin said the statutory liabilities fall on the responsibility party who is the holder of a C-plan. DEC staff recommended that a RPF can be registered with the state as a primary response action contractor and would then be afforded the limited liability PRACs have for spill response that is consistent with a C-plan or under orders from an incident commander.

DEC agreed to continue to consider this issue, but asked Task Force members to identify specific sections in statute where they believe a specific limitation on liability might be necessary for RPFs. The issue will be on the agenda for the Nov. 6 Task Force meeting.

Also left to the Task Force was whether to grant DEC authority to inspect nontank vessels for compliance with federal and international maritime standards and for voluntary prevention measures.

The Task Force will be asked at its November 6 meeting to determine whether federal and international vessel requirements should be adopted as state law. According to Asst. Attorney General Breck Tostevin, if the state adopts the federal/international requirements, they can be enforced under state law as well as federal law. Alternatively, the state can require that vessel owners simply certify that they meet the federal requirements. Under this second proposal, if the state finds a vessel owner in violation of federal requirements, the violation could be forwarded to the U.S. Coast Guard for prosecution. The Prevention Work Group did not reach consensus on this issue and forwarded it to the Task Force for resolution.

If the Task Force adopts a prevention credit program, the Prevention Work Group has recommended that seeking a prevention credit from the state for prevention measures associated with a vessel grants the state the right to inspect that vessel to insure compliance.

* DEC staff have suggested changes to these recommendations that will be presented to the Task Force at the November 6 meeting.

Industry “C-Plans”

Oil Discharge Prevention & Contingency Plan

- ⇒ **Industry Specific**
- ⇒ **Site Specific**
- ⇒ **Addresses unique**
 - ⇒ **prevention**
 - ⇒ **response**
 - ⇒ **facility, vessel and corporate issues**

Goal: document and demonstrate sufficient resources to contain, clean-up and mitigate potential oil discharges and protect environmentally sensitive areas

C-Plan Contents (18 AAC 75.425)

Intro -	General RP Information
PART 1 -	Response Action Plan
PART 2 -	Prevention Plan
PART 3 -	Supplemental Information
PART 4 -	Best Available Technology (BAT)

+ Financial Responsibility

C-Plan Contents (18 AAC 75.425)

Intro -	General RP Information
PART 1 -	Response Action Plan
PART 2 -	Prevention Plan
PART 3 -	Supplemental Information
PART 4 -	Best Available Technology (BAT)

+ Financial Responsibility

C-Plan Contents (Proposed SB273 Vessels)

Intro - General RP Information

PART 1 - Response Action Plan

PART 2 - Prevention Plan ? TBD?

~~PART 3 - Supplemental Information~~

~~PART 4 - Best Available Technology (BAT)~~

+ Financial Responsibility

C-Plan Contents (Proposed SB273 Vessels)

Intro - Vessel Specific Information

- ⇒ **Owner & Operator Information**
- ⇒ **Vessel Description**
- ⇒ **Fuel Type & Volume**
- ⇒ **RPS Computation**
- ⇒ **Area of Operation (region & days in region)**
- ⇒ **Qualified Individual (QI) designation**

PART 1 - Response Action Plan (RAP)

- ⇒ **Initial Notification Procedures (e.g. SOPEP)**
- ⇒ **Membership in Co-op (or equivalent capability)**
- ⇒ **Membership with IMT (or equivalent capability)**

PART 2 - Prevention Plan by Rule - TBD

*** BAT - TBD as part of Prevention Effort**

C-Plan Contents (Proposed SB273 Vessels)

Intro - Vessel Specific Information

- **Owner & Operator Information**
- **Vessel Description**
- **Fuel Type & Volume**
- **RPS Computation**
- **Area of Operation (region & days in region)**
- **Qualified Individual (QI) designation**

PART 1 - Response Action Plan (RAP)

- **Initial Notification Procedures (e.g. SOPEP)**
- **Membership in Co-op (or equivalent capability)**
- **Membership with IMT (or equivalent capability)**

PART 2 - Prevention Plan by Rule - TBD

*** BAT - TBD as part of Prevention Effort**

C-Plan Contents (Proposed SB273 Vessels)

Intro - Vessel Specific Information

**Contained
in FR
Application**

- **Owner & Operator Information**
- **Vessel Description**
- **Fuel Type & Volume**
- **RPS Computation**
- **Area of Operation (region & days in region)**
- **Qualified Individual (QI) designation**

PART 1 - Response Action Plan (RAP)

- **Initial Notification Procedures (e.g. SOPEP)**
- **Membership in Co-op (or equivalent capability)**
- **Membership with IMT (or equivalent capability)**

PART 2 - Prevention Plan by Rule - TBD

*** BAT - TBD as part of Prevention Effort**

C-Plan Contents (Proposed SB273 Vessels)

Intro - Vessel Specific Information

- ⇒ **Owner & Operator Information**
- ⇒ **Vessel Description**
- ⇒ **Fuel Type & Volume**
- ⇒ **RPS Computation**
- ⇒ **Area of Operation (region & days in region)**
- ⇒ **Qualified Individual (QI) designation**

PART 1 - Response Action Plan (RAP)

- ⇒ **Initial Notification Procedures (e.g. SOPEP)**
- ⇒ **Membership in Co-op (or equivalent capability)**
- ⇒ **Membership with IMT (or equivalent capability)**

PART 2 - Prevention Plan by Rule - TBD

*** BAT - TBD as part of Prevention Effort**

C-Plan Contents (Proposed SB273 Vessels)

Intro - Vessel Specific Information

- **Owner & Operator Information**
- **Vessel Description**
- **Fuel Type & Volume**
- **RPS Computation**
- **Area of Operation (region & days in region)**
- **Qualified Individual (QI) designation**

PART 1 - Response Action Plan (RAP)

- **Initial Notification Procedures (e.g. SOPEP)**
- **Membership in Co-op (or equivalent capability)**
- **Membership with IMT (or equivalent capability)**

PART 2 - Prevention Plan by Rule - TBD

*** BAT - TBD as part of Prevention Effort**

C-Plan Contents (Proposed SB273 Vessels)

PART 1 - Response Action Plan: Co-op Plan Details

- Response Strategies
 - Deployment Strategies
 - Emergency Action Checklist
 - Reporting and Notification
 - Response Equipment Inventory
 - Response Planning Standard by Hub/Region
 - Realistic Maximum Response Operating Limitations
 - Protection of Environmentally Sensitive Areas
 - Safety Plan
 - Communications Plan
 - Logistics Plan
 - Training Plan
- * this Plan must be formally reviewed by DEC under 18 AAC 75.455**

C-Plan Contents (Proposed SB273 Vessels)

Intro - Vessel Specific Information

- ⇒ **Owner & Operator Information**
- ⇒ **Vessel Description & Area of Operation**
- ⇒ **Fuel Type, Volume, RPS**

PART 1 - Response Action Plan (RAP)

- ⇒ **Initial Notification Procedures (e.g. SOPEP)**
- ⇒ **Membership in Co-op (or equivalent capability)**
- ⇒ **Membership with IMT (or equivalent capability)**

PART 2 - Prevention Plan by Rule - TBD

*** BAT - TBD as part of Prevention Effort**

C-Plan Contents (Proposed SB273 Vessels)

Intro - Vessel Specific Information

- ⇒ **Owner & Operator Information**
- ⇒ **Vessel Description & Area of Operation**
- ⇒ **Fuel Type, Volume, RPS**

PART 1 - Response Action Plan (RAP)

- ⇒ **Initial Notification Procedures (e.g. SOPEP)**
- ⇒ **Membership in Co-op (or equivalent capability)**
- ⇒ **Membership with IMT (or equivalent capability)**

PART 2 - Prevention Plan by Rule - TBD

*** BAT - TBD as part of Prevention Effort**

C-Plan Contents (Proposed SB273 Vessels)

PART 1 - Response Action Plan

IMT Plan Details

- IMT Structure (RP specific or a contract with a qualified IMT)
- Communications Plan
- Training Plan

*** Primary Response Action Contractors (PRAC) must be approved by DEC under 18 AAC 75.550**

C-Plan Contents (Proposed SB273 Vessels)

Option #1 - Streamlined C-Plan Application

RP contacts out all tasks

- (a) Fleet plan**
- (b) Single Vessel Plan**

Option #2 - Alternative C-Plan Application

RP provides equivalent resources

- (a) Fleet plan**
- (b) Single Vessel Plan**

C-Plan Contents (Proposed SB273 Vessels)

Option #1 - Streamlined C-Plan Application

RP contacts out all tasks

- (a) Fleet plan**
- (b) Single Vessel Plan**

Option #2 - Alternative C-Plan Application

RP provides equivalent resources

- (a) Fleet plan**
- (b) Single Vessel Plan**

C-Plan Review Timeframe

Option #1 - Streamlined C-Plan Application

RP contacts out all tasks

- (a) Fleet plan**
- (b) Single Vessel Plan**

**Initial Application Review time frame 15 days*,
with 5 day turn-around on addition of a new vessel.**

- ◇ Assumes that Co-op has an approved Response Action Plan 18 AAC 75.455**
- ◇ Assumes that IMT Contractor is PRAC approved under 18 AAC 75.550**

***potential 5 day rush in extenuating circumstances**

C-Plan Review Timeframe

Option #2 - Alternative C-Plan Application

RP provides equivalent resources

- (a) Fleet plan**
- (b) Single Vessel Plan**

**Initial Application Review time frame 45-90 days*,
with 5 day turn-around on addition of a new vessel.**

➡ **Initial Fleet Application will be reviewed under 18 AAC 75.455**

C-Plan Review Timeframe

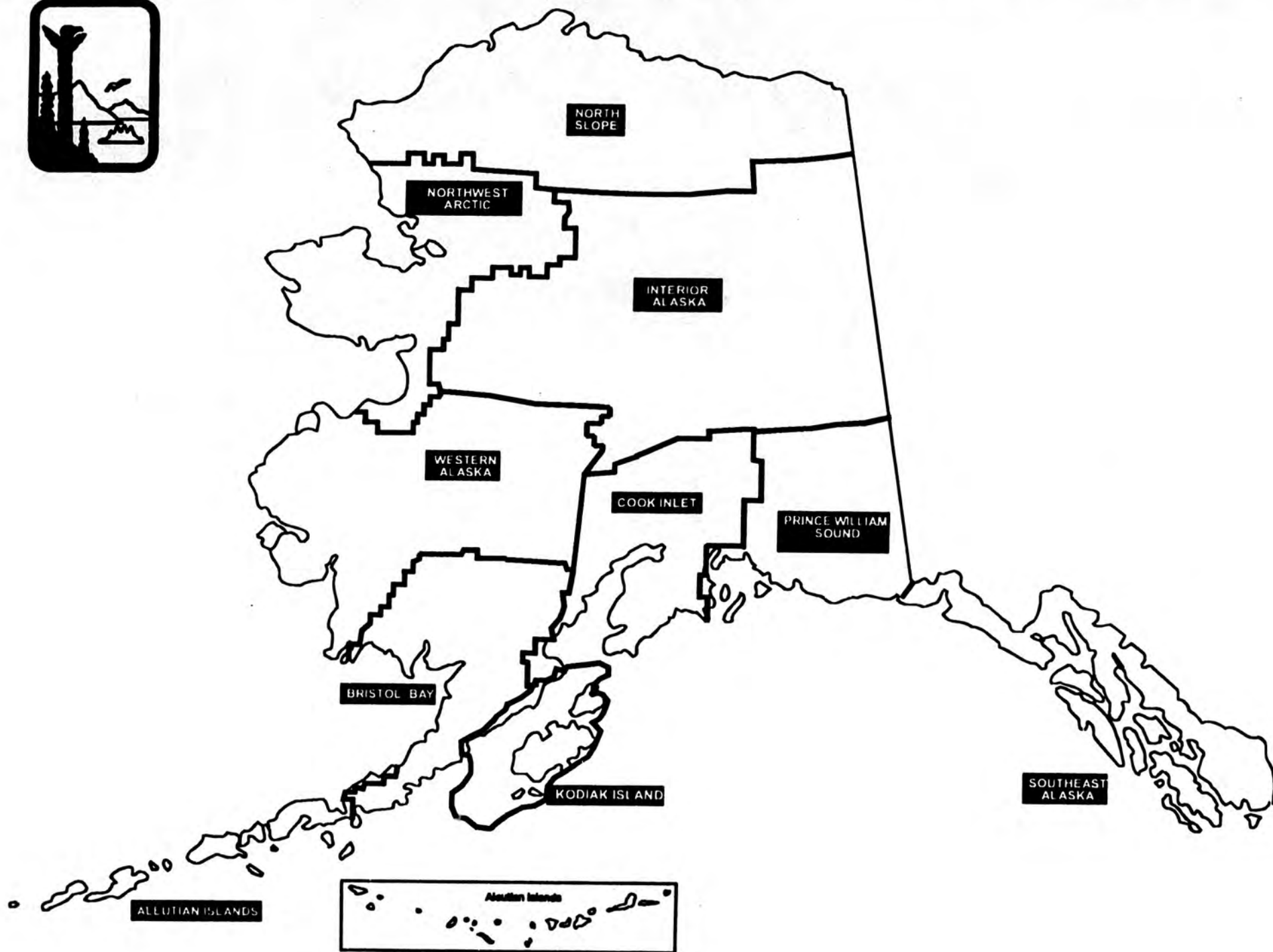
Option #2 - Alternative C-Plan Application

RP provides equivalent resources

- (a) Fleet plan**
- (b) Single Vessel Plan**

**Initial Application Review time frame 45-90 days*,
with 5 day turn-around on addition of a new vessel.**

⇒ **Initial Fleet Application will be reviewed under 18 AAC 75.455**



18 AAC 75.425. OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN CONTENTS.

(a) An oil discharge prevention and contingency plan submitted for approval under 18 AAC 75.400 - 18 AAC 75.495 must be in a form that is usable as a working plan for oil discharge prevention, control, containment, cleanup, and disposal. A plan must contain enough information, analyses, supporting data, and documentation to demonstrate the plan holder's ability to meet the requirements of AS 46.04.030 and 18 AAC 75.400 - 18 AAC 75.495.

(b) The plan for a facility comprised of multiple operations as described at 18 AAC 75.442, must describe, for each category of operation at the facility, the appropriate response measures to meet the applicable portion of the response planning standard.

(c) The submitted plan must be accompanied by a cover page or promulgation letter that includes

(1) the name of the plan holder, and the covered vessel, barge, facility, or operation, followed by the words "Oil Discharge Prevention and Contingency Plan;"

(2) the date of the plan; and

(3) a statement, signed by a person with appropriate authority, committing the resources necessary to implement the plan.

(d) The plan must

(1) include the official plan title;

(2) consist of the four parts and contain the information described in (e)(1)-(e)(4) of this section;

(3) contain a complete table of contents and lists of any tables or figures, with corresponding page numbers; and

(4) be presented in the order shown in (e) of this section, or include a cross-reference table that directs the reader to the appropriate information.

(e) The information in the plan must include:

(1) **PART 1 - RESPONSE ACTION PLAN:** The response action plan must provide in sufficient detail to clearly guide responders in an emergency event, all information necessary to guide response to a discharge of any size, up to and including a discharge that is equal to the applicable response planning standard set out at 18 AAC 75.430 - 18 AAC 75.442; the response action plan must include the following information:

(A) **Emergency action checklist** - a short checklist of the immediate response and notification steps to be taken if an oil discharge occurs; it is recommended that this summary be duplicated on a wallet-size card, to be carried by the appropriate response personnel while on duty;

(B) **Reporting and notification** - a description of the immediate spill reporting actions to be taken at any hour of the day, including

(i) the title and telephone number of facility personnel responsible for making the notification; and

(ii) the telephone number of each appropriate government agency to be notified if a discharge occurs;

(C) **Safety** - based on applicable safety standards, a description of the steps necessary to develop an incident-specific safety plan for conducting a response;

(D) **Communications** - a description of field communications procedures, including, if applicable, assigned radio channels or frequencies and their intended use by response personnel;

(E) **Deployment strategies** - a description of proposed initial response actions that may be taken, including

(i) procedures for the transport of equipment, personnel, and other resources to the spill site, including plans for alternative methods in adverse weather conditions; and

• (ii) if the operator is not the primary spill responder, procedures to notify and mobilize the response action contractor or other responder identified in the plan, including a description of the interim actions that the operator will perform until the responder identified in the plan initiates a full response to the discharge;

(F) **Response strategies** - a description of the discharge containment, control, and cleanup actions to be taken, which clearly demonstrate the strategies and procedures adopted to conduct and maintain an effective response; this information must be presented in the form of a response scenario to a discharge of the applicable response planning standard volume and must be usable as a general guide for a discharge of any size; response strategies must include

(i) procedures to stop the discharge at its source and prevent its further spread;

(ii) a description of methods to prevent or control a potential fire hazard;

(iii) for an exploration or production facility, a plan and time frame for drilling a relief well or otherwise controlling an exploration or production well blowout;

(iv) procedures and methods for real-time surveillance and tracking of the discharged oil on open water and forecasting of its expected points of shoreline contact;

(v) for a stationary facility or operation, and, if requested by the department, for a vessel, procedures and methods to exclude oil from environmentally sensitive areas and areas of public concern identified under (3)(J) of this subsection, including, for a land-based facility, protection of groundwater and public water supplies;

(vi) a description of the actions to be taken to contain and control the spilled oil, including, as applicable, boom deployment strategies, construction of temporary berms, and other methods;

(vii) a description of the actions to be taken to recover the contained or controlled oil using mechanical methods, including plans and provisions for skimming,

absorbing, or otherwise recovering the contained or controlled product from water or land;

(viii) procedures for lightering, transfer, and storage of oil from damaged tanks or from undamaged tanks that might be at risk of discharging additional oil;

(ix) procedures and plans for transfer and storage of recovered oil and oily water, including methods for estimating the amount of recovered oil;

(x) plans, procedures, and locations for temporary storage and ultimate disposal of oil contaminated materials, oily wastes, and sanitary and solid wastes, including plans for obtaining any required permits or authorizations for temporary storage or ultimate disposal;

(xi) plans for the protection, recovery, disposal, rehabilitation, and release of potentially affected wildlife, including: minimizing wildlife contamination through hazing or other means, when appropriate; the recovery of oiled carcasses to preclude secondary contamination of scavengers; and the capture, cleaning, rehabilitation, and release of oiled wildlife, when appropriate; and

(xii) if applicable, plans for the deployment of shoreline cleanup equipment and personnel, including cleanup and restoration methods and techniques to be used if the shoreline is impacted by the discharge;

(G) **Nonmechanical response options** - if applicable, a description of actions to be taken to obtain the necessary permits and approvals to initiate dispersant application, in situ burning, or other nonmechanical response methods, the basis for determining the conditions or circumstances under which these options will be used, and how the nonmechanical response techniques will be implemented, including a description of all required equipment and personnel; and

(H) **Facility or vessel diagram** - a plan diagram of the facility, vessel, or operation for reference in conducting emergency response operations, with locations of response equipment and other features pertinent to the response plan clearly marked, including surrounding topography, roads, air transportation and other transportation access, location and bathymetry of adjacent water bodies, mooring areas, oil transfer locations, pipelines, control stations, drip pans and drainage of drip pans, and a representation of the distance and gradients to surface water for an operation located on land, by topographic map, aerial photographs, or other means;

(2) **PART 2 - PREVENTION PLAN** - Under the provisions of 18 AAC 75.005 - 18 AAC 75.090, the prevention plan must include a detailed description of all oil discharge prevention measures and policies employed at the facility, vessel, or operation, with reference to the risks involved. The prevention plan may be submitted as a separate volume, and must include, at a minimum, the following information:

(A) a description and schedule of regular pollution prevention, inspection, and maintenance programs in place at the facility or operation;

(B) a history of all known discharges greater than 55 gallons that have occurred at the facility, with an analysis of the relationship, if any, between their frequency, cause, and size, and a description of actions to be taken to prevent or mitigate similar discharges in the future;

(C) an analysis of potential oil discharges, including size, frequency, cause, duration, and location, and a description of actions taken to prevent a potential discharge;

(D) a description of any conditions specific to the facility or operation that might increase the risk of a discharge, including physical or navigation hazards, traffic patterns, or other site-specific factors, and any measures that have been taken to reduce the risk of a discharge attributable to these conditions;

(E) a description of the existing and proposed means of discharge detection, including surveillance schedules, leak detection, observation wells, monitoring systems, and spill-detection instrumentation; if electronic or mechanical instrumentation is employed, detailed specifications, including threshold detection, sensitivities, and limitations of equipment must be provided;

(F) a detailed basis for the calculation of exceptions, if any, to be applied to the response planning standards set out in 18 AAC 75.430 - 18 AAC 75.438; and

(G) for an operation in existence or substantially completed before the effective date of this section, a compliance schedule as described at 18 AAC 75.015;

(3) **PART 3 - SUPPLEMENTAL INFORMATION:** The supplemental information section must provide background and verification information, including

(A) **Facility description and operational overview** - a general description of the oil storage, transfer, exploration, or production activities of the operation, including

(i) the number, type, and oil storage capacity of each container covered under the plan and its installation date, design, construction, and general condition;

(ii) the type and amount of oil stored in each container;

(iii) for vessels, a general chart showing routes normally used for the transportation of oil products within state waters, and the frequency of use for each route;

(iv) for vessels, plans or diagrams that identify cargo, bunker, and ballast tanks, all tank capacities, cargo piping, ballast piping, winches, emergency towing equipment, power plants, manifold pipe size, containment structures and equipment, and a description of the method of containing a discharge from fuel oil tank vent overflow and fill pipes;

(v) a description of the normal procedures for the loading or transfer of oil from or to a pipeline, facility, tank vessel, oil barge, or storage tank;

(vi) for a production facility, a description of the flow and gathering lines and processing facilities;

(vii) for vessels, a description of the methods for retention and disposal of oily wastes and bilge slops; and

(viii) any other information required by the department to evaluate the response capability of a vessel, including an approved loading manual that meets the requirements of 46 C.F.R. 45.105, as amended through October 1, 1990;

(B) **Receiving environment** - for a land-based facility or operation:

(i) the potential routes of travel of oil discharged from the facility or operation to open water in the form of a drainage diagram or map, showing gradients and potential containment sites and features, including identification and explanation of all measures that will be taken to prevent a discharge from entering open water; and

(ii) based on the information in (i) of this subparagraph, an estimate of what percentage of the applicable response planning standard volume set out at 18 AAC 75.430 - 18 AAC 75.436, or 18 AAC 75.442 for the facility or operation will reach open water;

(C) Command system - a description of the command system to be used in response to a discharge, including the title, address, telephone number, and affiliation by company, agency, or local government of each person, including a person identified in (1)(B) of this subsection, who by law or through employment, contract, or cooperative agreement, is responsible for responding to a discharge, and each person's functional role in the command system; this list must include command, fiscal, operations, planning, and logistics lead personnel; the command system must be compatible with the state's response structure outlined in the state master plan prepared under AS 46.04.200;

(D) Realistic maximum response operating limitations - a description of the realistic maximum response operating limitations that might be encountered at the facility or operation and, based on environmental and safety considerations, an analysis of the frequency and duration, expressed as a percentage of time, of limitations that would render mechanical and other response methods ineffective; the realistic maximum operating limitations for a response must be defined, with a description of any measures that will be taken to compensate for those periods when environmental conditions exceed this maximum; environmental conditions to be considered in this analysis must include

(i) weather, including wind, visibility, precipitation and temperature;

(ii) sea states, tides, and currents;

(iii) ice and debris presence;

(iv) hours of daylight; and

(v) other known environmental conditions that might influence the efficiency of the response equipment or the overall effectiveness of a response effort;

(E) Logistical support - identification of aircraft, vessels, and other means that may be used to transport equipment and personnel during a discharge response, including information on ownership and availability of identified means of transportation;

(F) Response equipment - a complete list of contracted or other oil discharge containment, control, cleanup, storage, transfer, lightering, and related response equipment, including

(i) the location, inventory, and ownership of the equipment;

(ii) the time frame for delivery and startup of response equipment and trained personnel located outside the facility's primary region of operation;

(iii) the manufacturer's rated capacities, limitations, and operational characteristics for each item of oil recovery equipment, including any nonmechanical response techniques;

(iv) each vessel designated for oil recovery operations, including skimming vessels and platforms and vessels designated to tow and deploy boom;

(v) information on additional vessels available from other sources for oil recovery operations, including, if applicable, procedures for inventorying, training personnel, and equipping vessels;

(vi) pumping, transfer and temporary storage, and lightering equipment for transferring oil from damaged or undamaged tanks; and

(vii) the procedures for storage, maintenance, and inspection of spill response equipment under the immediate control of the operator when not in use, including procedures for periodic testing and maintenance of response equipment;

(G) Nonmechanical response information -if a nonmechanical technique such as dispersant use or in situ burning is proposed as a response option, the plan must include

(i) a description of the specific mechanisms in place to assess the environmental consequences of the nonmechanical response option and to provide continuous monitoring of its environmental effects;

(ii) a complete inventory of nonmechanical response equipment and supplies, including the type and toxicity of each dispersant, with procedures for storage, maintenance, and deployment;

(iii) identification of all necessary approvals, and a completed application for department approval for open burning if in situ burning is a proposed response technique;

(iv) identification of all permits, approvals, or authorizations for use of nonmechanical response techniques and the timeline for obtaining them; and

(v) a plan for protecting environmentally sensitive areas, areas of public concern, and the public from any adverse effects of the nonmechanical response action;

(H) oil spill primary response action contractor information - if a plan holder proposes to use the services of an oil spill primary response action contractor to meet a requirement of AS 46.04.030 or 18 AAC 75.400 - 18 AAC 75.495, the contractor must be registered under 18 AAC 75.500 - 18 AAC 75.580; the plan holder shall include a correct and complete list of each primary response action contractor, with name, address, telephone number, and affiliation by company, the response contractor information described in 18 AAC 75.445(i), and a description of the response equipment and services provided; the use of an oil spill primary response action contractor does not relieve the plan holder of its responsibility to provide the information required by this subsection and to meet all other applicable requirements of 18 AAC 75.400 - 18 AAC 75.495;

(I) Training - a detailed description of the training programs for discharge response personnel;

(J) Protection of environmentally sensitive areas and areas of public concern - for a stationary facility or operation, and, if required by the department, for a vessel, mapped predictions of discharge movement, spreading, and probable points of contact, based on expected local, seasonal, meteorologic, and oceanographic or topographic conditions; and, for each probable point of contact, a description of each environmentally sensitive area and each area of public concern, including

- (i) the effect of seasonal conditions on the sensitivity of each area;
- (ii) a discussion of the toxicity effects and persistence of the discharge, based on type of product; and
- (iii) an identification of which areas will be given priority attention if a discharge occurs;

(K) **Additional information** - other information necessary to provide background for or verification of the plan contents; and

(L) **Bibliography** - a list of data and information sources used to determine the information contained in the plan; and

(4) **PART 4 -- BEST AVAILABLE TECHNOLOGY REVIEW:** Unless application of a state requirement would be preempted by federal law, the plan must provide for the use of best available technology consistent with the applicable criteria in 18 AAC 75.445(k). In addition, the plan must

.(A) identify technologies applicable to the applicant's operation that are not subject to response planning or performance standards specified in 18 AAC 75.445(k)(1) and (2); these technologies include, at a minimum,

(i) for all contingency plans: communications described under 18 AAC 75.425(e)(1)(D); source control procedures to stop the discharge at its source and prevent its further spread described under 18 AAC 75.425(e)(1)(F)(i); trajectory analyses and forecasts described under 18 AAC 75.425(e)(1)(F)(iv); and wildlife capture, treatment, and release programs described under 18 AAC 75.425(e)(1)(F)(xi);

(ii) for a terminal, a crude oil transmission pipeline, or an exploration and production contingency plan: cathodic protection or another approved corrosion control system if required by 18 AAC 75.065(h)(3); a leak detection system for each tank if required by 18 AAC 75.065(h)(4); any other prevention or control system approved by the department under 18 AAC 75.065(i)(1)(D); a means of immediately determining the liquid level of bulk storage tanks as specified in 18 AAC 75.065(j)(3) and (4); maintenance practices for buried steel piping containing oil as required by 18 AAC 75.080(b); protective wrapping or coating and cathodic protection if required by 18 AAC 75.080(b)(1)(A); and corrosion surveys required by 18 AAC 75.080(b)(2)(A);

(iii) for a tank vessel contingency plan: measures to assure prompt detection of an oil discharge as required by 18 AAC 75.027(d); operation of a tank vessel under escort in a manner that permits an escort vessel to be available immediately to provide the intended assistance to the tank vessel as required by 18 AAC 75.027(e); tow lines as required by 18 AAC 75.027(f); and escort vessels;

(iv) for a crude oil transmission pipeline contingency plan: leak detection, monitoring, and operating requirements for crude oil pipelines that include prompt leak detection as required by 18 AAC 75.055(a); and

(v) for a barge contingency plan: measures to assure prompt detection of an oil discharge as required by 18 AAC 75.037(d) and means to recover a barge that breaks free of its towing vessel as required by 18 AAC 75.037(f);

(B) for each applicable technology under (A) of this paragraph, identify all

available technologies and include a written analysis of each technology, using the applicable criteria in 18 AAC 75.445(k)(3); and

(C) include a written justification that the technology proposed to be used is the best available for the applicant's operation.

(f) For purposes of this section and 18 AAC 75.445, "technology" means equipment, supplies, other resources, and related practices. (Eff. 5/14/92, Register 122; am 9/25/93, Register 127; am 3/28/96, Register 137; am 4/4/97, Register 142)

Authority: AS 46.03.020
AS 46.04.030

AS 46.04.035

AS 46.04.070

18 AAC 75.445. APPROVAL CRITERIA.

(a) The department will use the criteria set out in this section to review an oil discharge prevention and contingency plan submitted under 18 AAC 75.425.

(b) **General response procedures.** The plan must identify the maximum possible discharge that could occur at the facility or operation, and the general procedures to be followed in responding to a discharge of that magnitude, including the identification of resources in addition to those maintained by the plan holder or available under contract to meet the applicable response planning standard for that facility or operation.

(c) **Deployment strategies.** The plan must demonstrate that the identified personnel and equipment are sufficient to meet the applicable response planning standard and can be deployed and operating within the time specified under 18 AAC 75.430 - 18 AAC 75.442. The plan must state what conditions were assumed and must take into account the realistic maximum operating conditions and their effects on response capability and the deployment of resources. Plans using contractual resources must demonstrate that the transition and substitution of equipment and resources will occur without interruption of response or cleanup.

(d) **Response strategies.** The response strategies must take into account the type of product discharged and must demonstrate that

(1) procedures are in place to stop the discharge at its source within the shortest possible time;

(2) for an exploration or production facility, plans and time frames are in place for controlling a well blowout, including provisions for drilling a relief well, taking into account any seasonal environmental conditions that might reasonably be expected to preclude emergency operations from regaining control of well pressure;

(3) plans, procedures, and equipment are sufficient to monitor and track the discharge in order to ensure proper allocation and deployment of response personnel and equipment;

(4) sufficient oil discharge response equipment, personnel, and other resources are maintained and available for the specific purpose of preventing discharged oil from entering an environmentally sensitive area or an area of public concern that would likely be impacted if a discharge occurs, and that this equipment and personnel will be deployed and maintained on a time schedule that will protect those areas before oil reaches them according to the predicted oil trajectories for an oil discharge of the volumes established under 18 AAC 75.430 - 18 AAC 75.442; areas identified in the plan must include areas added by the department as a condition of plan approval;

(5) plan strategies are sufficient to meet the applicable response planning standard established under 18 AAC 75.430 - 18 AAC 75.442 for containment, control, recovery, transfer, storage, and cleanup within the specified time and under environmental conditions that might reasonably be expected to occur at the discharge site;

(6) there is access to sufficient lightering equipment and personnel to transfer all oil from damaged tanks and from undamaged tanks if the risk of an additional discharge is present; the plan must provide for commencement and completion of lightering within the shortest possible time, consistent with ensuring the safety of personnel; and

(7) adequate temporary storage and removal capacity for recovered oil and oily wastes will be available at or near the site of the spill to keep up with the skimming and recovery operations and to meet the applicable planning standard established under 18 AAC 75.430 - 18 AAC 75.442 for control, containment, and cleanup; plans for temporary storage and ultimate disposal must include the specific actions to be taken to obtain all necessary permits and approvals.

(e) **Receiving environment.** For an onshore facility or operation, the applicant must determine and clearly demonstrate that, based on an analysis of the facility or operation, resources identified in the plan are sufficient to clean up that portion of a discharge of the applicable planning standard volume that might realistically be expected to reach open water within the applicable time limit set out in 18 AAC 75.430 - 18 AAC 75.442.

(f) **Realistic maximum response limitations.** In designing a spill response, severe weather and environmental limitations that might be reasonably expected to occur during a discharge event must be identified. The plan must use realistic efficiency rates for the specified response methods to account for the reduction of control or removal rates under those severe weather or other environmental limitations that might reasonably be expected to occur. The department will, in its discretion, require the plan holder to take specific temporary prevention measures until environmental conditions improve to reduce the risk or magnitude of an oil discharge during periods when planned spill response methods are rendered ineffective by environmental limitations.

(g) **Response equipment.** Response equipment identified in the plan must meet the following conditions:

(1) the applicant must have ready access to enough equipment to meet the applicable response planning standards established under 18 AAC 75.430 - 18 AAC 75.442 using mechanical methods of oil control, containment, and cleanup;

(2) identified equipment must reflect the best available technology at the time the plan is submitted or renewed;

(3) types and amounts of boom, boom connectors, and anchorage devices must be of the appropriate design for the particular oil product, type of environment, and environmental conditions experienced at the facility or operation; the boom must be of sufficient length to mount an effective response to the volume of discharged oil established under 18 AAC 75.430 - 18 AAC 75.442 for each type of facility or operation;

(4) vessels used to deploy and tow boom must be of a number, size, and power adequate to deploy the types and amounts of boom addressed in (3) of this subsection and must be capable of operating in the manner and at the speeds necessary for the effective use of boom; and

(5) the number and size of skimmers and pumps to be used must be appropriate and adequate for recovery of the planning standard volume of the type of oil discharged within the planning standard time limit for cleanup established under 18 AAC 75.430 - 18 AAC 75.442; equipment types must be compatible with each other as necessary to ensure an efficient response.

(h) **Nonmechanical response information.** Plans which propose the use of dispersants, in situ burning, or other nonmechanical response techniques during periods when environmental conditions or other factors limit the use of mechanical spill response methods must demonstrate their efficiency and effectiveness and must include a full assessment of potential environmental consequences, provisions for continuous monitoring and real-time assessment of environmental effects, and full compliance with all applicable approval requirements. If in situ burning is proposed as a response technique, a completed application for approval by the department must be included.

(i) **Oil Spill Primary Response Action Contractor Information.** If a plan holder proposes to use the services of an oil spill primary response action contractor to meet a requirement of AS 46.04.030 or 18 AAC 75.400 - 18 AAC 75.495, the contractor must be registered under 18 AAC 75.500 - 18 AAC 75.580. The plan holder shall include a correct and complete list of each primary response action contractor, with name, address, telephone number, and affiliation by company, and, for each response action contract, a statement signed by the plan holder and the primary response action contractor attesting to the department that the contract

(1) clearly specifies that the contractor is obligated to

(A) provide the response services and equipment listed for that contractor in the contingency plan;

(B) respond if a discharge occurs;

(C) notify the plan holder immediately if the contractor cannot carry out the response actions specified in the contract or the contingency plan;

(D) give written notice at least 30 days before terminating its contract with the plan holder;

(E) respond to a department-conducted discharge exercise required of the plan holder; and

(F) continuously maintain in a state of readiness, in accordance with industry standards, the equipment and other spill response resources to be provided by the contractor under the contingency plan; and

(2) contains the provisions required under AS 46.04.030(r), if the contract is between the plan holder for a tank vessel or oil barge carrying crude oil that has been transported by the Trans Alaska Pipeline System and a primary response action contractor who is the common operating agent for the holders and lessees of the right-of-way agreement for the Trans Alaska Pipeline System.

(j) **Training.** In addition to maintaining continuous compliance with other applicable state and federal training requirements, the plan holder shall demonstrate that designated oil spill response personnel are trained and kept current in the specifics of plan implementation, including deployment of containment boom, operation of skimmers and lightering equipment, and organization and mobilization of personnel and resources. The plan holder shall ensure that proof of training is maintained for three years and is made available to the department upon request.

(k) **Best Available Technology Review.** For purposes of 18 AAC 75.425(e)(4), the department will review a plan and make a best available technology determination using the following criteria, as applicable:

(1) technology used for oil discharge containment, storage, transfer, and cleanup to satisfy a response planning standard in 18 AAC 75.430 - 18 AAC 75.442 will be considered best available technology if the technology of the applicants oil discharge response system as a whole is appropriate and reliable for the intended use as well as the magnitude of the applicable response planning standard;

(2) technology that complies with the performance standards of 18 AAC 75.005 - 18 AAC 75.080 and that is not subject to a best available technology review under 18 AAC 75.425(e)(4)(A), will be considered best available technology;

(3) technology identified under 18 AAC 75.425(e)(4)(A) will be evaluated using the following criteria, if applicable:

(A) whether each technology is the best in use in other similar situations and is available for use by the applicant;

(B) whether each technology is transferable to the applicants operations;

(C) whether there is a reasonable expectation each technology will provide increased spill prevention or other environmental benefits;

(D) the cost to the applicant of achieving best available technology, including consideration of that cost relative to the remaining years of service of the technology in use by the applicant;

(E) the age and condition of the technology in use by the applicant;

(F) whether each technology is compatible with existing operations and technologies in use by the applicant;

(G) the practical feasibility of each technology in terms of engineering and other operational aspects; and

(H) whether other environmental impacts of each technology, such as air, land, water pollution, and energy requirements, offset any anticipated environmental benefits.

(I) If the department's determination under (k) of this section is that a technology proposed for use by the applicant is not the best available technology, the department will provide a written finding explaining its decision. (Eff. 5/14/92, Register 122; am 9/25/93, Register 127; am 3/28/96, Register 137; am 4/4/97, Register 142)

Authority:	AS 46.03.020	AS 46.04.030	AS 46.04.070
	AS 46.04.020	AS 46.04.035	

18 AAC 75.447. DEPARTMENT EXAMINATION OF NEW TECHNOLOGIES. (a) To assure that proven new technologies are considered for use in oil discharge prevention and contingency plans, the department will review and appraise technology applied at other locations in the United States and the world that represent alternatives to the technologies used by plan holders in their oil discharge prevention and contingency plans submitted to meet response planning standards in 18 AAC 75.430 - 18 AAC 75.442 and the performance standards of 18 AAC 75.005 - 18 AAC 75.080. The department will conduct this review and appraisal by

(1) sponsoring a technology conference at least every five years and in cooperation with persons, organizations, and groups with interests and expertise in relevant technologies; this conference will provide interested parties with an opportunity to describe the status of existing technologies in use as well as technologies that may be considered superior to those in use at that time; and

(2) engaging in studies, inquiries, surveys, or analyses the department believes appropriate to the consideration of new technologies.

(b) After its review and appraisal under (a) of this section, the department will issue written findings identifying new technologies that the department considers represent proven technological breakthroughs in oil discharge containment, control, or cleanup equipment. In its findings, the department will

(1) provide an evaluation of the technologies applied at other locations based on the applicable criteria in 18 AAC 75.445(k)(3);

(2) identify the evidence that clearly and convincingly supports the determination that the equipment represents a proven technology breakthrough that could result in superior advances in the efficiency or effectiveness of oil spill response efforts; and

(3) identify specific operations, geographical locations, or physical environments where the technology could be applied.

(c) If a finding is issued under (b) of this section, the department will inform plan holders, primary response action contractors, and other interested persons of the department's findings, the availability of the new technology, and the opportunity to submit comment on the report to the department. (Eff. 4/4/97, Register 142)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.455. DEPARTMENT REVIEW PROCEDURES. (a) Within seven days after receipt of an application and plan, the department will determine if the application and plan are sufficient for public review. If the application or plan is not sufficient for public review, the department will request the necessary additional information from the applicant.

(b) When the department determines that an application and plan are sufficient for public review, the department will

(1) send a notice setting a 30-day comment period to the Department of Natural Resources, the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and other persons who have made a written request for information regarding submissions subject to review under this section;

(2) direct the applicant to provide a copy of the application and the plan to the Department of Natural Resources and the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and other persons designated by the department;

(3) set a date, within the 18th to 25th day of the 30-day comment period, by which the department will convey to the applicant any request from the department or a person reviewing the application that the department finds necessary to make a determination that the application or plan is complete; and

(4) publish one 30-day notice of the application, in the manner described in 18 AAC 15.050(b), stating the deadline for comments established under (1) of this subsection and the date established under (3) of this subsection for conveying requests for additional information; the applicant is responsible for paying the cost of the notice under this paragraph.

(c) The notice published under (b) of this section will state that a copy of the application and plan are available for review at the district and regional offices of the department nearest to the affected area of the state. It is the applicant's responsibility to provide a copy of the application and plan if the department receives a request for a copy.

(d) If, by the date set under (b)(3) of this section, the department determines that additional information is necessary to evaluate the application or plan, the department will

(1) notify the applicant of the information needed; and

(2) extend the 30-day comment period established under (b)(1) of this section until the information is received, plus 10 days.

(e) If the department determines that additional information is necessary under (d) of this section and requests the information from the applicant, the applicant shall send a copy of any additional information requested to the department and to the Department of Natural Resources, the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and other persons designated by the department;

(f) Upon receipt by the department of the additional information requested under (d) of this section, the department will provide to the parties described in (e) of this section notice of (1) receipt of the information and (2) the final comment deadline, as extended.

(g) The department will make a determination as to whether an application and plan are complete within seven days after the receipt of any additional information under (e) of this section or, if no additional information was requested under (d) of this section, within two days after the end of the 30-day comment period established under (b)(1) of this section.

(h) Notwithstanding the review procedures set out in this section, if, at any time after receipt of an application and plan, and after consultation with the Department of Natural Resources, the Department of Fish and Game, and affected coastal districts and regional citizens advisory councils, the department determines that all information necessary to evaluate the application and plan has been received, the department will, in its discretion, find the application and plan complete. However, no decision will be made under (i) of this section until after the comment deadline established under (b)(1) of this section.

(i) Following the comment deadline established under (b)(1) of this section, including any extension under (d)(2) of this section, and within 65 days after the department determines that an application and plan are complete, the department will approve, approve with conditions, or disapprove a plan.

(j) The department will, if it determines good cause exists, hold a public hearing on an application and plan in the manner provided under 18 AAC 15.060.

(k) To assist the department in its review of contingency plans under this chapter, the department will enter into an annual agreement with the Department of Natural Resources and the Department of Fish and Game to provide expertise regarding protection of fish and game, state land, areas of public concern, and environmentally sensitive areas. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.457. EMERGENCY MODIFICATION OF REVIEW PROCESS. If, due to an emergency as described in AS 26.23 or AS 46.04.080 or other applicable law, an applicant needs an expedited review, or if the commissioner or the commissioner's designee finds that an expedited review is necessary for the preservation of the public peace, health, safety, or general welfare, the commissioner or the commissioner's designee will, in that person's discretion, and consistent with the requirements of AS 46.04.030(j) that a copy of the applicant's plan be provided to the Department of Fish and Game and the Department of Natural Resources, modify the review process established in 18 AAC 75.455 as necessary to meet the emergency. Any modifications in the review process made under this section will be made in writing by the commissioner or the commissioner's designee based upon clear and convincing evidence of a need for the modification. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.459. PREISSUANCE CONFERENCE. (a) At any time before the department's decision under 18 AAC 75.460, the applicant may request a preissuance conference from the appropriate regional office of the department. The request may be made orally, and will be granted if the applicant demonstrates that holding a conference will materially aid the department in reaching its decision.

(b) A preissuance conference under this section will be conducted in the manner provided under 18 AAC 15.070. However, the time period for the department's review will not be held in abeyance pending completion of the conference. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.460. DEPARTMENT DECISION. (a) After considering the information, analyses, and commitments contained in a complete application for an oil discharge prevention and contingency plan

approval and timely comments submitted under 18 AAC 75.455, the department will approve, approve with conditions, or disapprove a plan.

(b) A decision issued under (a) of this section will include

(1) the written approval, if it is the department's determination that an oil discharge prevention and contingency plan approval should be issued; the department will provide a summary of the basis for its decision to approve a plan in a case in which public comment adverse to the application has been received;

(2) a brief summary of the basis for the department's decision if the decision is to disapprove a plan, or to subject a plan to conditions specific to the activity; and

(3) a statement that, if aggrieved by the department's decision, the applicant or any person who submitted timely comments on the application under 18 AAC 75.455 may request an adjudicatory hearing by submitting the information required under 18 AAC 15.200(a)(1)–(5), and that any hearing requested under this subsection will be subject to the procedures set out at 18 AAC 15.210 - 18 AAC 15.310.

(c) The department's decision will be served on the applicant and each person who submitted timely comments on the application under 18 AAC 75.455. The applicant and any person who submitted timely comments on the application under 18 AAC 75.455 may request an adjudicatory hearing within 30 days after service of the department's decision. The hearing will be conducted in accordance with the procedures set out at 18 AAC 15.200 - 18 AAC 15.310.

(d) An approval under this section is effective for three years after the date it is issued, or for a shorter time specified in the approval letter and certificate. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

Editor's note: Department of Environmental Conservation approval under 18 AAC 75.460 does not negate any other requirement for approval to operate under other statutes or regulations, such as Alaska Coastal Management Program approval under 6 AAC 50.

(h) Nothing in (d) - (g) of this section affects a plan holder's right under (c) of this section to an adjudicatory hearing. (Eff. 5/14/92, Register 122)

Authority:	AS 46.03.020	AS 46.03.750	AS 46.04.070
	AS 46.03.740	AS 46.04.030	AS 46.35.090(e)
	AS 46.03.745		

18 AAC 75.495. REGIONAL MASTER DISCHARGE PREVENTION AND CONTINGENCY PLAN BOUNDARIES. (a) The regions described in this subsection and depicted on the map at Figure 1 are established for the purpose of preparing a regional master oil and hazardous substance discharge prevention and contingency plan as required by AS 46.04.210:

(1) **Southeast Alaska Region:** that area of the state east of 142°E W. longitude and south of a line just west of Icy Bay that connects the U.S.-Canadian border with the Gulf of Alaska, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(2) **Prince William Sound Region:** that area south of 63°30' N. latitude, west of the region described in (1) of this subsection, and east of the region described in (3) of this subsection, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(3) **Cook Inlet Region:** that area encompassed by the boundaries of the Kenai Peninsula Borough, the Municipality of Anchorage, and the Matanuska-Susitna Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(4) **Kodiak Island Region:** that area encompassed by the boundaries of the Kodiak Island Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(5) **Aleutian Region:** that area encompassed by the boundaries of the Aleutians East Borough and the Aleutians West Coastal Resource Service Area, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(6) **Bristol Bay Region:** that area encompassed by the boundaries of the Bristol Bay Coastal Resource Service Area, the Bristol Bay Borough, and the Lake and Peninsula Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(7) **Western Alaska Region:** that area north of the area described in (6) of this subsection, encompassed by the boundaries of the southernmost boundary of the Bering Straits Regional Corporation, and Regional Educational Attendance Areas 11 and 5, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(8) **Northwest Arctic Region:** that area encompassed by the Northwest Arctic Borough and the Bering Straits Regional Corporation, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(9) **North Slope Region:** that area encompassed by the boundaries of the North Slope Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

(10) **Interior Alaska Region:** that area of the state not included in (1) - (9) of this subsection.

(b) If the department finds that a discharge that could occur in an area beyond the territorial sea would not have a significant adverse impact on the resources of the state or on other interests of the state, the department will, in its discretion, adjust the seaward boundary of a region established in (a) of this section to exclude that area. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020

AS 46.04.070

AS 46.04.210

INSERT FIGURE 1 MAP

Contingency Plan Work Group Draft Subcommittee Report

I. The DEC envisions a streamlined C-plan system for nontank vessels.

The DEC outlined a proposal for a streamlined contingency plan system for nontank vessels. extensive); and a showing that the best available technology (BAT) is being used.

A response action plan (RAP) would simply include:

- Initial Notification: A notification procedure - an existing SOPEP could suffice.
- Membership in Co-op: Evidence of membership in a co-op or a contract with a primary response action contractor (PRAC), would show access to the appropriate equipment to meet the RPS.
- Spill management capability

A prevention plan by rule would include:

- Prevention measures as recommended by the Prevention Work Group; voluntary - the C-plan would simply state what measures had been taken.

II. Best Available Technology can be met by co-op membership.

- The BAT requirements could be met by co-op membership, with a review of their equipment every few years.

III. The subcommittee outlined a number of different models for allocating C-plan responsibility.

Vessels that are owner-operated, such as cruise ships and container ships, would probably hold a C-plan themselves, and contract with a PRAC for response. An entity that consistently charts vessels could hold a fleet plan and add vessels on fairly short notice to DEC. A third party entity, such as a shipping agent or a non-profit marine exchange (modeled on the WSMC - Washington State Marine Corporation) could hold a C-plan, and agree to provide Incident Command (IC) services for a short period. That entity could contract with a PRAC for response. The parties in these arrangements would allocate liability and responsibility through their contracts. The committee discussed the idea of extending the partial immunity now available to response action contractors to third parties providing C-plan or incident command services.

IV. The C-plan requirements for a party choosing not to join a co-op or contract with an RAC would be more complex.

The C-plan requirements for a party that did not chose to join a co-op were not articulated; but the committee recognized that such a plan would have to show how the party would independently meet the response planning standard. The benefits of a united effort would be lost.

V. The C-plan subcommittee recommends that the Task Force adopt the streamlined contingency plan as set out by the DEC.

The committee recommends that the Task Force adopt the streamlined C-plan that the DEC has developed and presented to the committee.

VI. Issues outstanding.

Several issues remain to be addressed at future meetings:

- * Enforcement. What would be the penalties for failure to have a COFR; a C-plan?
- * Public notice; C-plans for currently regulated entities are put out for public review; would such a measure be appropriate for the streamlined C-plans?
- * Drills and inspections: drills might be handled at the PRAC level; inspections were more appropriately left to the Prevention work group.

APPENDIX - SUMMARY OF SURVEY COMMENTS CONCERNING CITIZENS' ADVISORY COMMITTEES

As part of the RCAC Study, a survey was made of various members of Federal and State of Alaska agencies that interact with the RCACs, state agencies in California and Maine that sponsor oil spill advisory committees, representatives of private industry companies that interact with RCACs to obtain insight on key issues concerning the effectiveness of the RCAC concept as it exists in Alaska and the possibility of transferring the RCAC concept to the "lower 48." Questions posed were intended to draw on each group's experience to describe the current conditions in Alaska and the overall applicability of the RCAC concept throughout the United States. As part of the survey, the following agencies, organizations, and companies were contacted.

- Coast Guard MSO Anchorage
- Coast Guard MSO Valdez
- NOAA Scientific Support Coordinator in Alaska
- State of Alaska, Department of Environmental Conservation
- State of California, Office of Spill Preparedness and Response
- State of Maine, Department of Environmental Protection
- Alyeska Corporation in Valdez
- CISPRI in Cook Inlet
- Polar Tanker Corporation (Tanker operator in PWS)
- Prince William Sound Regional Citizens Advisory Committee
- Cook Inlet Regional Citizens Advisory Committee

The following is a synopsis of the comments and suggestions obtained from survey responders.

Question #1: How do Federal agencies, State agencies, industry and other organizations interact with the RCACs? Is the interaction ongoing or just at scheduled meetings?

Members of federal and state agencies categorized their interactions with RCACs as excellent, frequent, ongoing, and both formal and informal. This included interaction at formal RCAC meetings, as well as regular informal interactions with staff, contractors, committee and board members in the course of working on specific projects and through the contingency plan review process. Likewise, the representatives of industry cited "quite a bit" of contact with RCACs both formally and informally, particularly as part of specific technical projects and through the contingency planning process.

Question #2: How have the RCACs adapted since their formation following OPA 90? Have they expanded their scope to address issues besides oil spill prevention and response?

Government respondents noted that the RCACs have expanded their scope to such issues as "marine fire fighting, environmental monitoring, circulation measurements and models, non-indigenous species," fisheries, and ice. RCACs have "become more objective and advisory," complementing state and federal agencies. Industry representatives noted that the RCACs have tried to expand their scope to all oils, not just crude oil. In terms of geographical interest, the PWSRCAC has expanded its area of concern to include southern sections of the TAPS pipeline, and the CIRCAC area of concern has expanded up to the Port of Anchorage.

These changes in scope have also been noted by the RCACs. They cite their partnerships with other agencies, organizations, and industry on issues not strictly related to crude oil, but germane to any oil, such as safe moorage sites and pipeline issues. Also, the RCACs noted that OPA 90 requirements extended beyond oil spill prevention and response to an environmental monitoring program to detect potential effects by oil industry operations. Initiatives have included air quality, ballast water management, and technological disaster response.

Question #3: Are the RCAC meetings well-attended, with good representation from NGOs, municipalities, and private citizens? Do the same representatives routinely attend the meetings (ensuring continuity)? Are new members actively pursued?

According to federal agency members, RCAC meetings are well-attended on a regular basis by a diverse group that includes their membership and industry, federal, state, city, and borough representatives. The membership is stable, with the "same players consistently" attending; some members have been involved since the inception of the RCACs. New members are actively pursued as terms expire.

State agency members report low turnover and "decent" continuity on the RCACs, noting that the staff provides continuity. Representation is generally good, with the exception of limited representation for NGOs. The RCACs recruit new members to serve on committees as the terms of the incumbents expire.

Industry respondents noted the absence of citizens and the public at large at meetings. The same people attend, generally representatives of federal and state governments and the oil companies.

While one RCAC reported that attendance by citizens, NGOs, municipalities, cities, and boroughs is high, the other reported that public participation varies by community. Among government agencies, the primary players (USCG, EPA, and ADEC) attend while other government agencies are "less active." Three-year terms (CIRCAC) ensure continuity while allowing enough turnover for new input.

Question #4: Are there areas of overlap in focus and activities between the RCACs and Federal agencies, State agencies, and other organizations (including other NGOs)?

Federal agency members found overlap between their agencies and the RCACs "particularly in the contingency planning arena." The RCACs' attention to environmental issues led one respondent to comment that "when the two [RCAC and federal agencies] get together, it's a good match and provides for a complete picture." Some overlap between RCAC's focus and groups represented on the RCAC has led to industry complaints that when Council members "take a position different from the RCAC's overall position when they speak for other groups (that they represent)." However, this does not appear to be a "show stopper" in RCAC industry relations.

Question #5: Are there other organizations besides the RCACs that provide citizen input on environmental issues (such as oil spills, coastal zone management, harbor management)? Do agencies and organizations have alternative methods of gaining local community and citizen's organization input on port safety and environmental protection issues in addition to RCAC input.

According to federal agency members, citizens' input groups are less well defined in non-RCAC areas. Federal, industry, and RCAC respondents identified Cook Inlet Keepers as another citizens' input organization (environmental NGO) in Cook Inlet. Some federal agency representatives reported receiving community and citizens' input from Area Committees, city council meetings, and Cook Inlet Keeper, while another cited the RCAC as the only good source of citizens' input.

ADEC pointed out that the State of Alaska has an regulatory requirement and established mechanism for obtaining public review and comment on oil spill contingency plans and policy changes independent of the RCACs. Fishermen's groups were also mentioned by PWSRCAC as a source of citizen's input. Several responders pointed out that the RCACs were valuable in providing a consensus "second opinion" on oil spill prevention and response preparedness, as well as other environmental issues.

Question #6: How does the RCACs interact with the Area Committee established under the NCP?

Federal agency representatives note that CIRCAC also interacts with stakeholders through the Marine Safety Committee in Cook Inlet. The Area Committee process is seen as redundant due to "the primacy of the state contingency planning requirements" such that contingency plans are largely handled by ADEC in direct consultation with the Federal agencies, RCACs and other stakeholders.

CIRCAC reported that its staff participates "in the further development of the Kodiak and Cook Inlet sub-area plans." PWS RCAC reports that it participates in Area Committee meetings, although they occur infrequently.

Question #7: How would the RCAC concept fit within the Harbor Safety Committee concept in Anchorage and Valdez, and in the "lower 48"?

The Harbor Safety Committee concept has not yet been implemented in Cook Inlet and Prince William Sound. However, in the view of federal agency responders, the RCACs would fit well within the HSC Concept as an environmental NGO. Industry responses cited the good strong ties to HSC stakeholder organizations, the likelihood that the RCAC could be incorporated into the larger structure of the HSCs, and its position as a good access point for citizens' stakeholders. In the RCAC's opinion, the RCAC would work with the HSC in the same manner as it works with the Area Committee.

Question #8: What are the key contributions of the RCACs to port safety and environmental protection issues in the region and port areas?

Federal agency respondents listed the following contributions:

- *Serving "as the conscience of the potentially affected area"*
- *Giving "cohesive voice to points of view" needed in decision making*
- *"Being a conduit of information"*
- *"Ability of RCAC's full time employees to dedicate time and effort to specific projects"*

State agency responses cited the increased scrutiny of issues and the effort to enhance regulatory requirements, with proactive review resulting in better regulations. Industry comments noted the improvement in contingency plans as a result of thorough review, and the ability of the RCACs to "provide focus and continuity of public thought." Additional contributions listed included "pooling of resources and efforts in major technical efforts," such as the study of Community Impact of Environmental Crisis, and involvement in the PWS Risk Assessment.

Specific port safety and environmental protection topics addressed by the over the last three years (as reported by the RCACs) included:

- *Risk assessment*
- *Tractor tugs*
- *Invasive species work*
- *Study of ballast water treatment capability*
- *Community Impact Guidebook*
- *Contingency Plan review*
- *Vapor control system*
- *Testing of ballast water*
- *Long-term environmental monitoring*
- *Acoustic Doppler Current Profiler (ADCP) study (for Cook Inlet)*

- *list of safe moorage sites*
- *Web-based oil industry facilities database*
- *Development of a Geographic Response Strategy (GRS) for central Cook Inlet*

Question #9: What are the key obstacles faced by the RCACs (e.g. funding, competing committees, complacency in general public, etc.)?

Federal and state agency members and industry respondents warned of the possibility of complacency. With time, focus may be lost. Also mentioned by these groups was CIRCAC's funding, with one respondent noting that CIRCAC perceived itself as under-funded in comparison with PWSRCAC. Despite the identification of funding as an obstacle, one person noted that CIRCAC doesn't spend all of its money. Another obstacle cited was the mandate to confine efforts to issues related to the crude oil industry.

RCAC replies were similar, citing funding, narrow crude oil mandates, and the benefits of more public interest. Another obstacle identified by the RCAC was the perception that industry funding makes the group "tainted."

Question #10: Are there inherent flaws in the RCAC concept as applied in Alaska?

Replies by federal agency representatives were mixed as to inherent flaws in the RCAC concept in Alaska. While one respondent criticized crude oil limitations because they limit the RCACs and require one industry to provide all the funding, another felt that failure to follow the "crude oil" mandate would be a flaw. One survey participant found it difficult to identify any inherent flaws.

Industry pointed out that to create a consensus building forum, all stakeholders should provide funding, including federal and state agencies. Stakeholder funding would ensure stakeholder interest. Also, accountability, a major concern of industry, could be increased by having constituencies elect their representative; for example, the mayor or mayor's designee should be the municipal representative, so that there is accountability to the voters. Members should be representative of the local community and region, not regional and national NGO representatives with no accountability to the local public. Quantitative performance measures should be established.

The RCACs identified various strategic changes that could be made to improve RCAC effectiveness including:

- *Smaller Board size: Large boards were described as unwieldy*
- *Changes in the re-certification process to make it less onerous on the RCACs and on the USCG (e.g., require recertification every year for the first three years, then yearly*

thereafter, unless the Coast Guard determines that serious circumstances warrant an interim check)

- *Funding levels should be reviewed by an entity that is unbiased towards or against industry*
- *Broader mandates. Narrow mandates (e.g. restriction of focus to crude oils limits RCAC effectiveness).*
- *Eliminating the words "not more than" in the funding statement of the enabling OPA 90 legislation. A minimum ceiling established by the words "not less than" would better guarantee effectiveness and sustainability.*
- *Addition of requirements that the RCACs be included in Alaska RRT or its committees, Unified Command, Federal vessel plan reviews, USCG navigational safety decisions, etc*

Questions #11: Are there inherent flaws in the RCAC concept as it might be applied to the "lower 48"?

The level of interest and close association of the people to the land and water would be difficult to duplicate in the "lower 48". Multiple users in addition to crude carriers pose a high risk, and concerns as to who will pay were expressed by federal agency members. Industry comments also identified the different issues in the "lower 48" as potential flaws, with one respondent noting that new RCACs could become either a focal point or redundant, depending on location and venue.

Question #12: To what degree do the RCACs build partnerships and collaboration within the stakeholder community (with government, industry and local community)? Are there specific success stories in building partnerships?

Federal respondents find that the RCACs collaborate very well with stakeholders, particularly with the communities, and that they are very effective at building consensus for safety improvements. Good collaboration with USCG and ADEC on contingency planning and spill drills was noted by industry.

The RCAC respondents enumerated several ways in which their organizations built partnerships:

- *Collaboration on projects*
- *Working groups on specific topics*
- *Seeking expertise from government and industry during research projects and during meetings*
- *Staff participation with industry, researchers, agencies, and other citizen groups*
- *Strong public outreach*
- *Data sharing*

Specific Success Stories

In Cook Inlet, federal agency sources included the RCAC's ability to convince industry to fund third-party investigation of baseline contamination levels in clams, and the creation of the central Cook Inlet Geographic Response Strategies as success stories. In Prince William Sound, the successes included the funding of the purchase of a simulator by a local community college for a tanker navigation techniques class and participation in and financial support of the PWS Risk Assessment.

Workshops, particularly those concerning broken ice and tugs for vessel assistance, leadership in the development of geographically site-specific response plans, and the employment of a specialist to promote better outreach to communities were specific successes listed by industry.

The RCACs identified the following as specific examples of successful partnership activities:

- *Physical oceanographic studies (Cook Inlet)*
- *Development of Geographic Response Strategies (Cook Inlet)*
- *Completion of a facilities inventory*
- *Planning and development of workshops or symposia*



**AML Board of Directors and Alaska Conference of Mayors
Resolution 2000-02**

**A RESOLUTION SUPPORTING THE WORK OF THE TASK FORCE
ON MOTORIZED OIL TRANSPORT AND PROMOTING
PUBLIC PARTICIPATION IN THE PROCESS**

WHEREAS, oil spills of any kind into marine waters can cause severe damage to the environment and create social and economic distress for the citizens of Alaska; and

WHEREAS, more oil spills occur from nontank vessels and non-crude oil tank vessels than from crude oil tank vessels; and

WHEREAS, Alaska is the only state on the West Coast that has not extended its contingency plan laws to include nontank vessels; and

WHEREAS, the citizens of the state of Alaska are concerned about oil pollution from any source; and

WHEREAS, the 21st Alaska Legislature established a Task Force on Motorized Oil Transport to establish reasonable oil spill prevention and response rules for the Alaska Railroad and nontank vessels; and

WHEREAS, during the past ten years the Regional Citizens Advisory Councils for Cook Inlet and Prince William Sound have proven that citizens oversight is an effective method to prevent oil spills and increase oil spill response readiness; and

WHEREAS, Cook Inlet Regional Citizens Advisory Council has been selected to represent citizen interests on the Task Force

NOW, THEREFORE, BE IT RESOLVED BY THE ALASKA CONFERENCE OF MAYORS AND ALASKA MUNICIPAL LEAGUE BOARD OF DIRECTORS:

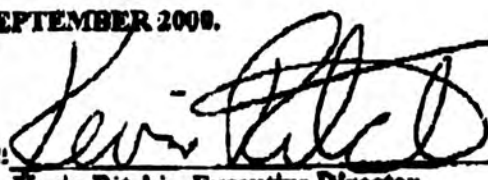
SECTION 1. That the Task Force on Motorized Oil Transport and the State of Alaska are encouraged to seek and support public comment from residents of coastal communities during its deliberations.

SECTION 2. That the Task Force on Motorized Oil Transport and the State of Alaska are encouraged to recognize the effectiveness of citizen oversight as an oil spill prevention tool.

SECTION 3. That the Task Force on Motorized Oil Transport is encouraged to include in its report to the Alaska Legislature a recommendation that Regional Citizens Advisory Councils be designated to review oil spill prevention and contingency plans for all non-tank vessels exceeding 400 gross registered tonnage.

ADOPTED THIS 28th DAY OF SEPTEMBER 2000.

Attest:


Kevin Ritchie, Executive Director

10/6/00

SPOT CHARTER GROUP RECOMMENDATIONS

8/18/00

MEMORANDUM

FROM: Charlotte MacCay
TO: Commissioner Michelle Brown
Department of Environmental Conservation
State of Alaska
RE: Contingency Plan Recommendations

DATE: August 18, 2000**PAGES:** 5

This memorandum sets forth several recommendations arrived at through discussions between members of the Spot Charter Group. The recommendations are intended to begin the discussion of the Spot Charter Group's approach to the contingency plan issues facing the larger Non-tank Vessel Task Force. Because the Alaska Department of Environmental Conservation (ADEC) will play a central role in crafting the eventual regulatory regime under which the spot charter vessels will operate, we would appreciate DEC's support for these proposals.

Senate Bill 273 charges the Non-tank Vessel Task Force with developing regulations that, among other things, establish requirements for oil spill response and contingency plans (C-plans). The eventual regulations should address C-plan content, submittal, and review requirements for all non-tank vessels operating in Alaskan waters. While every aspect of the regulations will likely be of general interest to the Spot Charter Group, the Group's energies should be focused on specific provisions designed to meet those needs unique to the spot charter industry. This memorandum presents an initial discussion of what those needs might be, and how they can best be met.

If the regulations are to allow for the continued use of spot charter vessels in Alaskan waters they must be clear and capable of implementation, while still providing the protection contemplated by SB 273. The regulatory tools for achieving this balance include the use of shipping agents or associations, a provisional C-plan review mechanism, the use of fleet plans, and an overall goal of uniformity and integration with other state and federal C-plan laws. These and other features are discussed in detail below:

SPOT CHARTER GROUP RECOMMENDATIONS

8/18/00

Uniformity

A non-tank vessel that presently operates on the West Coast may already have in place an approved state or federal C-plan. Washington, Oregon, and California each have comprehensive spill prevention and response regulations specific to non-tank vessels, as does the federal government through the Coast Guard. Alaska should follow Oregon's lead in promoting a consistent West Coast approach to spill prevention and response by supporting coordination and integration with foreign-state and federal requirements. (See OAR 340-047-0100). This means that Alaska should allow vessel owners, operators, or agents to satisfy Alaska's requirements by submitting federal plans required under 33 CFR 154, 40 CFR 109, 40 CFR 110, or the Federal Oil Pollution Act of 1990, or plans required by other states, so long as those plans equal or exceed Alaska's requirements with regard to site specific response scenarios. Such an approach would not only be efficient, it also promotes the uniformity that has long been a guiding principle of admiralty law.

Provisional Review

Distinct from the issue of what a C-plan should contain is the question of how the State should proceed when a C-plan is submitted for its review. Oregon, for example, requires that a vessel submit its C-plan for review a full 90 calendar days prior to beginning operation in state waters (Washington requires 65). This prolonged review period would be unduly burdensome to spot charter operators who generally seek to enter Alaska's waters on short notice. One solution to this problem is the efficient provisional review procedure found in California's regulations. An outline of California's review regulation is as follows:

A nontank vessel shall submit a contingency plan that is received by the Department at least seven working days prior to entering marine waters. On a one-time basis only, the Department may allow a nontank vessel to enter marine waters in a shorter period if the owner/operator provides: (1) vessel name, call sign, cargo information, etc.; (2) copy of a valid spill response contractor contract; (3) identity of vessel's Qualified Individual; (4) \$300,000 worth of financial responsibility proof. 14 CCR 826.01(b)(1)&(2).

Initial sufficiency review is within seven working days of notification that vessel is entering state waters. Owner/operator will be notified if the plan meets the minimum requirements (same as the "one-time only" requirements) or if it does not. If so, vessel can enter while more thorough review is conducted. The more thorough review will result in plan approval or denial in 180 days. If plan is deficient, applicant has 90 days to cure. Inspections or unannounced drills prior to approval are authorized. 14 CCR 826.03(a)&(b).

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A contingency plan shall be approved if it adequately addresses all of the requirements specified in this subchapter. Unless the Department determines otherwise on a case-by-case basis, a contingency plan will be considered to be effective upon notification that minimum plan requirements have been met, unless or until the Department notifies the owner/operator that the plan is deficient upon thorough review. 14 CCR 826.03(e)(2).

As can be seen, the California approach is to allow a vessel to enter state waters upon seven day's notice so long as the vessel's C-plan passes an initial review of a few basic plan elements. Also relevant to the needs of the spot charter industry is the "one-time-only" provision that allows a non-tank vessel to enter state waters without a complete C-plan on less than seven days notice so long as it is a one-time-only entry and the basic information is provided. By adopting California's approach, Alaska could meet the unique needs of the spot charter industry while still providing for adequate environmental protection.

Associations and Shipping Agents

It should be recognized that not all spot charter vessels operate in Alaskan waters under equal circumstances. For example, some vessels may operate independently and enter Alaskan waters only on a one-time basis, while others may operate in State waters consistently and belong to a fleet of similarly engaged vessels. While the owners or operators of vessels regularly operating in Alaska may find it in their interest to develop and maintain a C-plan on their own, other owners or operators might find it inordinately burdensome to do so. This is particularly true if they do not operate in Alaska on a consistent basis. For this reason there should be several alternative means of developing and maintaining C-plans. Three such alternatives are discussed below.

1. A vessel owner or operator may develop and maintain a C-plan on his own. That is, the owner or operator would deal directly with DEC and any response contractor organizations and take full responsibility for ensuring that the plan was maintained and implemented according to the eventual regulations.

2. The contingency plan coverage could also be provided by a business entity such as a nonprofit corporation, for-profit corporation, or limited liability company, funded by industry contributions and enrollment fees, that existed solely for the purpose of providing oil spill response and contingency plan coverage in compliance with the final non-tanker laws and regulations. The corporation would maintain several C-plans, each of which would cover different regions of Alaska's waters (Geographic Response Plans (GRPs)). The corporation would also maintain contracts with spill response contractors for each GRP. A non-tank vessel needing coverage would execute an enrollment agreement with the corporation and receive a "field guide" version of the vessel's duties under the geographically appropriate plan, along with any required

SPOT CHARTER GROUP RECOMMENDATIONS**8/18/00**

approval certificates. The field guide would be in a language or format comprehensible to a foreign-language-speaking vessel operator. In the event of a spill, the corporation would initiate spill response and management control to ensure both a timely and adequate response. Within the first 24 hour response period, spill management responsibilities would be transferred to the responsible party. Upon enrollment, the vessel would have the option of choosing a specific spill response contractor to be mobilized in the event of a spill. The liability of the corporation would be limited by statute in a way similar to the limitation of liability for the State of Washington's C-plan corporation. See RCW 88.46.065, attached. The limitation on the plan-holder's liability is particularly necessary during the first 24-48 hours of a response action.

3. Finally, a vessel owner or operator could elect to use the services of a maritime or shipping agent. The agent would have a function similar to that of the above-described corporation, though a single agent would not be required to maintain multiple GRPs. An agent's liability for providing C-plan coverage to a vessel would also be limited to a degree similar to that of the above-mentioned corporation, with the same emphasis on limiting liability during the first 24-48 hours of a response action.

Fleet Plans

It is important that the C-plan regulations allow for an approved plan to cover multiple vessels and that a procedure be established for adding or removing vessels from coverage as needed.

Other Topics

Other areas of particular concern to spot charter vessel operators and the clients they serve will likely become clear as discussion progresses. This memorandum is not intended to be a comprehensive statement of the Spot Charter Group's concerns, rather it is intended to get the discussion started. Future discussion should address the several types of response contractors and co-ops to be used by plan holders, as well as what types of contracts and rate structures would be sanctioned under the eventual regulations.

Thank you for your consideration. The Spot Charter Group looks forward to receiving ADEC's comments on the above.

151.26 Shipboard Oil Pollution Emergency Plans (SOPEPS)

BLACK - Regulatory Text

RED - Plan Sections

BLUE - Explanations/Examples

- (a) *Language of the plan.* The shipboard oil pollution emergency plan must be available on board in English and in the working language of the ship master and the officers of the ship, if other than English.
- (b) *Plan format.* The plan must contain the following six sections. A seventh non-mandatory section may be included at the shipowner's discretion:

(1) *Introduction*

This section of the plan must contain the following:

- (i) **Introductory text.** The introductory text of the plan must contain the following language:

This plan is written in accordance with the requirements of regulation 26 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78)

The purpose of the plan is to provide guidance to the master and officers on board the ship with respect to the steps to be taken when a pollution incident has occurred or is likely to occur.

The plan contains all information and operational instructions required by the guidelines (Resolution MEPC.54(32)). The appendices contain names, telephone numbers, etc. of all contacts referenced in the plan, as well as other reference material.

Changes to the seventh section of the plan and appendices do not require approval by the Coast Guard. The appendices must be maintained up-to-date by the owners, operators, and managers.

- (ii) **General Information.**

(A) The ship's name, call sign, official number, IMO number, and principal characteristics.

(B) [Reserved]

(2) *Preamble*

This section must contain an explanation of the purpose and use of the plan and indicate how the shipboard plan relates to other shore-based plans.

The plan should state that it is designed to assist personnel in the response to a discharge of oil. It must also describe how it relates to other company plans and contain a brief description of how the plans will be integrated.

Example: "This plan is designed to assist personnel in the response to a discharge of oil. It will be utilized in conjunction with the corporate plan for oil discharge response efforts. In the event of an operational or damage-related oil spill or potential spill, the master's first concern will be the safety and well-being of the passengers and crew, and the ship. He will then take appropriate

response action to minimize the effect of the spill. This plan will enable the Master to set in motion those steps necessary to stop or minimize a spill or potential spill and to mitigate its effect.

This will be accomplished primarily by the immediate initiation of proper notification, requests for assistance from available resources, while concurrently conducting damage control measures and internal transfer procedures to contain or control the oil outflow. Response measures contained in this manual, combined with those in the Deck Procedures Manual, are all available to the master."

(3) **Reporting Requirements.**

This section of the plan must include information relating to the following:

(i) *When to report.* A report shall be made whenever an incident involves--

(A) A discharge of oil resulting from damage to the ship or it's equipment, or for the purpose of securing the safety of a ship or saving life at sea;

(B) A discharge of oil during the operation of the ship in excess of the quantities or instantaneous rate permitted in 151.10 of this subpart or in 157.37 of this subchapter; or

(c) A probable discharge. Factors to be considered in determining whether a discharge is probable include, but are not limited to: ship location and proximity to land or other navigational hazards, weather, tide,

The plan should state that a report will be made in the event of any of the above incidents.

(iii) *Information required.*

This section of the plan must include a notification form such as that depicted in Table 151.26(b)(3)(ii)(A), that contains information to be provided in the initial and follow up notifications. The initial notification should include as much of the information as possible, and supplemental information, as appropriate. However, the initial notification must not be delayed pending collection of all information. Copies of the form must be placed at the location(s) on the ship from which notification may be made.

The plan must include a form containing the following information:

AA (ship name, call sign, flag)

BB (date and time of event, UTC)

D D H H M M

CC (position, lat, long)

____ N S ____ E W
d d m m d d d m m

DD (Bearing, distance from landmark)

____ d d d ____ N miles

EE (Course)

d d d

FF (Speed, knots)

kn kn 1/10

LL (Intended Track)

MM (Radio station(s) guarded)

NN (Date and time of next report, UTC)

D D H H M M

PP (Type and quantity of cargo/bunkers on board)

OO (Brief details of defects/ deficiencies/damage)

RR (Brief details of pollution, including estimate of quantity lost)

SS (Brief details of weather and sea conditions)

Direction

Wind<

Speed

(beaufort)

Direction

Swell<

Height

(m)

TT (Contact details of ship's owner/ operator/ agent)

UU(Ship size and type)

Length: (m) Breadth: (m) Draught: (m) Type:

XX (additional information)

Brief details of incident:

Need for outside assistance:

Actions being taken:

Number of crew and details of any injuries:

Details of P&I Club & local correspondent:

Others:

(iii) *Whom to contact.*

(A) This section of the plan must make reference to the appendices listing coastal state contacts, port contacts, and ship interest contacts.

The SOPEP must state that it includes an appendix of all applicable contacts (state, federal and international). See section 6 - *Appendices*.

(B) For actual or probable discharges of oil, the reports must comply with the procedures described in MARPOL Protocol I. The reports shall be directed to either the nearest Captain of the Port or to the National Response Center (NRC) toll free number 1-800-424-8802.

Spill reports must be made to the Coast Guard (within U.S. waters).

(4) *Steps to control a discharge.* This section of the plan must contain a discussion of procedures to address the following scenarios:

- (i) Operational spills: the plan must outline procedures for removal of oil spilled and contained on deck. The plan must also provide guidance to ensure proper disposal of recovered oil and cleanup materials;

Example:

Operational discharges are generally the result of mechanical failure of piping, hoses and connections or improper operation of fuel, lube or bilge oil. In the event of an operational spill:

- Cease operations
- Secure the system in use
- Notify the master
- Commence cleanup
- Dispose of recovered oil and cleanup materials must be in accordance with local laws

(A) Pipe leakage: The plan must provide specific guidance for dealing with pipe leakage;

Example:

- Sound general alarm and initiate emergency response procedures
- Stop bunkering operations and close manifold valves
- Locate source of leakage and contain all spilled oil
- Begin cleanup procedures
- Drain affected pipeline into tank

(B) Tank overflow. The plan must include procedures for dealing with tank overflows. It must provide alternatives such as transferring cargo or bunkers to empty or slack tanks, or readying pumps to transfer the excess ashore:

Example:

- Stop bunkering, close manifolds
- Sound general alarm
- Inform bunkering personnel of incident
- Begin cleanup
- Transfer oil back to shore if necessary

(B) Hull leakage: The plan must outline procedures for responding to spills due to suspected hull leakage, including guidance on measures to be taken to reduce the head of oil in the tank involved either by internal transfer or discharge ashore. Procedures to handle situations where it is not possible to identify the specific tank from which leakage is occurring must also be provided. Procedures for dealing with suspected hull fractures must be included.

These procedures must take into account the effect of corrective actions on hull stress and stability.

Example: Possible sources for hull leakage are welded seams and cracks in hull plating due to fatigue or stress. Oil leakage can occur above or below the water line. When an oil sheen is observed around the vessel, any bunkering operations should be stopped immediately. Shore side personnel should be notified immediately.

Depending on the location of the leak, it may be necessary to bring the oil level below the water line. Transfer to an empty slack tank or pump internally to an appropriate tank with spare volume.

(ii) Spills resulting from casualties:

Each of the casualties listed below must be treated in the plan as a separate section comprised of various checklists or other means which will ensure that the master considers all appropriate factors when addressing the specific casualty. These checklists must be tailored to the specific ship. In addition to the checklists, specific personnel assignments for anticipated tasks must be identified. Reference to existing fire control plans and muster lists is sufficient to identify personnel responsibilities in the following situations:

Grounding;

Example:

- Sound the General Alarm
- Initiate visual inspection of vessel
- Take soundings to determine seabed
- Evaluate the probability of a release
- Determine if towing assistance is available

After assessing the situation, evaluate the possibility of transferring bunkers or trimming ballast.

(A) Fire or explosion;

Example:

- Sound fire alarm to alert Master, officers, and crew
- Determine if there are casualties
- Determine the extent of damage
- Request assistance
- Assess the potential for a spill

(C) Collision;

Example:

- Determine the extent of damage
- Ready pumping system for salvage pumping
- Determine effects of separation (opening of breached spaces, increase threat of pollution, etc)
- If oil tanks are breached, attempt to transfer to other tanks

(D) Hull failure;

Example:

- Ring general alarm and inform crew
- Depending on circumstances, select heading and minimum speed to minimize any hull deflections
- Observe surrounding water for oil movement in way of engine room intakes. May be necessary to maneuver, if possible, to keep suction free from oil
- Take actions to reduce hull stress (reduce speed or stop)

- Assess potential for capsizing

(E) Excessive list.

Example:

- Determine cause (shift of cargo, incorrect loading, flooding, etc)
- Check all tanks and voids
- If oil has spilled, make appropriate notifications
- Take corrective action

(iii) In addition to the checklist and duty assignments required by paragraph (b)(4)(ii) of this section, the plan must include--

(A) Priority actions to ensure the safety of personnel and the ship, assess the damage to the ship, and take appropriate further action

The plan should list the priorities of actions to be taken in the case of a casualty. Example: The master's main priority is the safety of personnel. After determining the casualties, the master will direct the crew to take immediate action to mitigate the situation (closing valves, altering course, emergency repairs, etc.)

(B) Information for making damage stability and longitudinal strength assessments, or contacting classification societies to acquire such information. Nothing in this section shall be construed as creating a requirement for damage stability plans or calculations beyond those required by law or regulation; and

This section must provide information for making damage stability and longitudinal assessments (i.e. diagrams) or contacting a classification society which can provide such info. The plan may list a naval architect, and include contact information.

(C) Lightening procedures to be followed in cases of extensive structural damage. The plan must contain information on procedures to be followed for ship to ship transfer of cargo. Reference may be made in the plan to existing company guides. A copy of such company procedures for ship to ship transfer operations must be kept in the plan. The plan must address the coordination of this activity with the coastal or port state, as appropriate.

This section must discuss how the vessel would *lighten*, which can include but is not limited to lightening, in the case of extensive damage.

Example: "1) The Master will direct the Chief Engineer to deballast or transfer freshwater ballast to raise the vessel with respect to waterline. A shift of about two feet of draft overall can be affected by ballast lightening. 2) The Port Captain will contact tug and barge operators in the vicinity and arrange for 200 feet of hose and portable transfer pumps to be made available in the event of the need for lightening operations. Contacts, equipment, and arrangements will also be made with tank truck operators in the area of operations to remove fuel from AMHS vessels. The Port Captain will notify coastal and port authorities of the intent to lighten and report on lightening operations as they progress. 3) The Office of the Watch will make communications contacts with lightening tugs and barges."

(5) National and Local Coordination

This section of the plan must contain information to assist the master in initiating action by the coastal state, local government, or other involved parties. This information must include guidance to assist the master with organizing a response to the incident should a response not be organized by the shore authorities. Detailed information for specific areas may be included as appendices to the plan.

Example: "This section of the plan is to provide information that will assist the Master in initiating action by the Coastal State, local government or other involved parties. If the authorities shore side do not take action to organize a response to the spill, the Master is responsible to take necessary action.

The most effective response to a spill is usually a coordinated effort by the shipboard response team and the shore side professionals.

The master should make every effort necessary to assist the local authorities when they coordinate the response. If there is no local assistance taking charge or available to the ship, the master shall initially rely on the ship's response resources."

(6) Appendices.

Appendices must include the following information:

- (i) Twenty-four hour contact information and alternates to the designated contacts. These details must be routinely updated to account for personnel changes and changes in telephone, telex, and telefacsimile numbers. Clear guidance must also be provided regarding the preferred means of communication.
- (ii) The following lists, each identified as a separate appendix:
 - (A) A list of agencies or officials of coastal state administrations responsible for receiving and processing incident reports;

Example:

The first notification required by MARPOL 73/78 is to the nearest coastal state. If any delay is experienced in contacting the responsible authority, the nearest coastal reporting station or nearest port agent should be contacted. If the ship is in port, the appropriate port agent(s) shall also be notified.

Albania

Spill Notification Point
Director of Sea Transport
Ministry of Transport

Tel: +355 42 27766
Fax: +355 42 27773
Tlx: 4207 MINKOM AB

Algeria

Ministire de l'Interieur
Direction de l'Environnement

Tel: +213 2 732340
Tlx: 66341 M1 dz

- (B) A list of agencies or officials in regularly visited ports. When this is not feasible, the master must obtain details concerning local reporting procedures upon arrival in port; and

Example:

State of Hawaii

National Weather Service Recorded Buoy Reports:	973-6114
State Civil Defense Agency	733-4300
Marine Emergencies, nearshore	911
Marine emergencies, offshore	541-2500
Coast Guard	1-800-552-6458

Washington

Washington State DoE

425-649-7000

Washington State Emergency Management Division 800-258-5990
USCG 206-220-7002
USCG MSO 206-217-6232

Oregon

Oregon Emergency Response Center 1-800-452-0311
USCG 206-220-7002
USCG MSO Portland 503-240-9300

- (C) A list of all parties with a financial interest in the ship such as ship and cargo owners, insurers, and salvage interests.

Example:

Owner: Ocean Tankers Co.
1353 N. Second St.
New York, NY 14683

Operator: Gulf Line LTD.
1386 Port of New Orleans Place
New Orleans, LA 70130

Agent: American Transporters
72938 Elm St.
Seattle, WA 28137

Tel: 206-281-7623

- (D) A list which specifies who will be responsible for informing the parties listed and the priority in which they must be notified.

Example:

The Marine Operations Dept. is prepared to assist the master in making the several notifications which are required by local, national, and international authorities. Such assistance can be reached by several communication methods available to the Master. The best means available at the time should be used. The following call down list is provided for information:

<u>Office</u>	<u>telephone</u>	<u>fax</u>
Marine operations	808-475-9475	808-475-9456
Maritime Affairs	808-475-9471	808-475-9345
Marine Ops Coordinator	808-475-9888	808-475-3000

- (iii) A record of annual reviews and changes.

Example:

Date of annual Review	Revision number	Person conducting the review	Description of changes
-----------------------	-----------------	------------------------------	------------------------

10/1/98	1	Stan Mikita	POC information
09/27/99	2	Mike Ramsey	Address information

(7) **Non-mandatory provisions.** If this section is included by the shipowner, it should include the following types of information or any other information that may be appropriate:

- (i) Diagrams;
- (ii) Response equipment or oil spill removal organizations;
- (iii) Public affairs practices;
- (iv) Recordkeeping;
- (v) Plan exercising; and
- (vi) Individuals qualified to respond.

Many plans include amplifying information such as the items listed above. Plan holders are encouraged to include this kind of information as it strengthens a SOPEP and makes it more useful to the crew.

(8) **Index of sections.** The plan must be organized as depicted in Table 151.26(b)(8)

Table 151.26(b)(8) – Index of Sections – Sample Format

Mandatory

- Section 1: Introduction
- Section 2: Preamble
- Section 3: Reporting requirements
- Section 4: Steps to control a discharge
- Section 5: National and local coordination
- Section 6: Appendices

Voluntary

- Section 7: Non-mandatory provisions

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[Title 33, Volume 2, Parts 125 to 199]
[Revised as of July 1, 1999]
From the U.S. Government Printing Office via GPO Access

[CITE: 33CFR151.09]

[Page 248] NAVIGABLE WATERS CHAPTER I--COAST GUARD, DEPARTMENT OF TRANSPORTATION (CONTINUED) PART 151--VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER—

Table of Contents Subpart A--Implementation of MARPOL 73/78 and the Protocol on Environmental Protection to the Antarctic Treaty as it Pertains to Pollution from Ships Sec. 151.09 Applicability.

(a) of this section, Secs. 151.09 through 151.25 apply to each ship that—

- (1) Is operated under the authority of the United States and engages in international voyages;
- (2) Is operated under the authority of the United States and is certificated for ocean service;
- (3) Is operated under the authority of the United States and is certificated for coastwise service beyond three nautical miles from land;
- (4) Is operated under the authority of the United States and operates at any time seaward of the outermost boundary of the territorial sea of the United States as defined in Sec. 2.05-10 of this chapter; or
- (5) Is operated under the authority of a country other than the United States while in the navigable waters of the United States, or while at a port or terminal under the jurisdiction of the United States.

(b) Sections 151.09 through 151.25 do not apply to—

- (1) A warship, naval auxiliary, or other ship owned or operated by a country when engaged in noncommercial service;
- (2) A Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting and tributary waters;
- (3) A Canadian or U.S. ship being operated exclusively on the internal waters of the United States and Canada; or (4) Any other ship specifically excluded by MARPOL 73/78.

(c) Sections 151.26 through 151.28 apply to each United States oceangoing ship specified in paragraphs (a)(1) through (a)

(4) of this section which is—

- (1) An oil tanker of 150 gross tons and above or other ship of 400 gross tons and above; or
- (2) A fixed or floating drilling rig or other platform, when not engaged in the exploration, exploitation, or associated offshore processing of seabed mineral resources.

(d) Sections 151.26 through 151.28 do not apply to—

- (1) The ships specified in paragraph (b) of this section;
- (2) Any barge or other ship which is constructed or operated in such a manner that no oil in any form can be carried aboard. Note: The term "internal waters" is defined in Sec. 2.05-20 of this chapter.

(e) Section 151.26(b)(5) applies to all vessels subject to the jurisdiction of the United States and operating in Antarctica. [CGD 88-002, 54 FR 18404, Apr. 28, 1989, as amended by CGD 88-002A, 55 FR 18582, May 2, 1990; CGD 93-030, 59 FR 51338, Oct. 7, 1994; CGD 97-015, 62 FR 18045, Apr. 14, 1997]

[Code of Federal Regulations]
[Title 33, Volume 2, Parts 125 to 199]
[Revised as of July 1, 1999]
From the U.S. Government Printing Office via GPO Access

[CITE: 33CFR151.26] [Page 254-259] NAVIGABLE WATERS

CHAPTER I--COAST GUARD, DEPARTMENT OF TRANSPORTATION (CONTINUED)
PART 151--VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE,
MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER—

Table of Contents Subpart A—

**Implementation of MARPOL 73/78 and the Protocol on Environmental Protection to the
Antarctic Treaty as it Pertains to Pollution from Ships Sec.**

151.26 Shipboard oil pollution emergency plans.

- (a) Language of the plan. The shipboard oil pollution emergency plan must be available on board in English and in the working language of the master and the officers of the ship, if other than English. (b) Plan format. The plan must contain the following six sections. A seventh non-mandatory section may be included at the shipowner's discretion: [[Page 255]]
- (1) Introduction. This section must contain the following:
 - (i) Introductory text. The introductory text of the plan must contain the following language (For ships operating in Antarctica, the introductory text of the plan must contain the following language and explain that they are in accordance with the Protocol on Environmental Protection to the Antarctic Treaty): This plan is written in accordance with the requirements of Regulation 26 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78). The purpose of the plan is to provide guidance to the master and officers on board the ship with respect to the steps to be taken when a pollution incident has occurred or is likely to occur. The plan contains all information and operational instructions required by the guidelines (Resolution MEPC.54(32)). The appendices contain names, telephone numbers, telex numbers, etc. of all contacts referenced in the plan, as well as other reference material. This plan has been approved by the Coast Guard and, except as provided below, no alteration or revision may be made to any part of it without the prior approval of the Coast Guard. Changes to the seventh section of the plan and the appendices do not require approval by the Coast Guard. The appendices must be maintained up-to-date by the owners, operators, and managers.
 - (ii) General information.
 - (A) The ship's name, call sign, official number, International Maritime Organization (IMO) international number, and principal characteristics.
 - (B) [Reserved]
- (2) Preamble. This section must contain an explanation of the purpose and use of the plan and indicate how the shipboard plan relates to other shore-based plans.

- (3) Reporting Requirements. This section of the plan must include information relating to the following: (i) When to report. A report shall be made whenever an incident involves—
- (A) A discharge of oil resulting from damage to the ship or its equipment, or for the purpose of securing the safety of a ship or saving life at sea;
 - (B) A discharge of oil during the operation of the ship in excess of the quantities or instantaneous rate permitted in Sec. 151.10 of this subpart or in Sec. 157.37 of this subchapter; or
 - (C) A probable discharge. Factors to be considered in determining whether a discharge is probable include, but are not limited to: ship location and proximity to land or other navigational hazards, weather, tide, current, sea state, and traffic density. The master must make a report in cases of collision, grounding, fire, explosion, structural failure, flooding or cargo shifting, or an incident resulting in failure or breakdown of steering gear, propulsion, electrical generating system, or essential shipborne navigational aids.
- (iii) Information required. This section of the plan must include a notification form, such as that depicted in Table 151.26(b)(3)(ii)(A), that contains information to be provided in the initial and follow-up notifications. The initial notification should include as much of the information on the form as possible, and supplemental information, as appropriate. However, the initial notification must not be delayed pending collection of all information. Copies of the form must be placed at the location(s) on the ship from which notification may be made.

[[Page 256]] [GRAPHIC] [TIFF OMITTED] TR07OC94.020

[GRAPHIC] [TIFF OMITTED] TR07OC94.021

- (iv) Whom to contact.
- (A) This section of the plan must make reference to the appendices listing coastal state contacts, port contacts, and ship interest contacts.
 - (B) For actual or probable discharges of oil, the reports must comply with the procedures described in MARPOL Protocol I. The reports shall be directed to either the nearest Captain of the Port (COTP) or to the National Response Center (NRC), toll free number 800-424-8802.
 - (C) For Antarctica, in addition to compliance with paragraph (b)(3)(iii)(B) of this section, reports shall also be directed to any Antarctic station that may be affected.
- (4) Steps to control a discharge. This section of the plan must contain a discussion of procedures to address the following scenarios:
- (i) Operational spills: The plan must outline procedures for removal of oil spilled and contained on deck. The plan must also provide guidance to ensure proper disposal of recovered oil and cleanup materials;
 - (A) Pipe leakage: The plan must provide specific guidance for dealing with pipe leakage;
 - (B) Tank overflow: The plan must include procedures for dealing with tank overflows. It must provide alternatives such as transferring cargo or bunkers [[Page 258]] to empty or slack tanks, or readying pumps to transfer the excess ashore;
 - (C) Hull leakage: The plan must outline procedures for responding to spills due to suspected hull leakage, including guidance on measures to be taken to reduce the head of oil in the tank involved either by internal transfer or discharge ashore. Procedures to handle situations where it is not possible to identify the specific tank from which leakage is occurring must also be provided. Procedures for dealing with suspected hull fractures must be included.

These procedures must take into account the effect of corrective actions on hull stress and stability.

- (ii) Spills resulting from casualties: Each of the casualties listed below must be treated in the plan as a separate section comprised of various checklists or other means which will ensure that the master considers all appropriate factors when addressing the specific casualty. These checklists must be tailored to the specific ship. In addition to the checklists, specific personnel assignments for anticipated tasks must be identified. Reference to existing fire control plans and muster lists is sufficient to identify personnel responsibilities in the following situations:

- (A) Grounding;
- (B) Fire or explosion;
- (C) Collision;
- (D) Hull failure; and
- (E) Excessive list.

- (iii) In addition to the checklist and personnel duty assignments required by paragraph (b)(4)(ii) of this section, the plan must include—

- (A) Priority actions to ensure the safety of personnel and the ship, assess the damage to the ship, and take appropriate further action;
- (B) Information for making damage stability and longitudinal strength assessments, or contacting classification societies to acquire such information. Nothing in this section shall be construed as creating a requirement for damage stability plans or calculations beyond those required by law or regulation; and
- (C) Lightening procedures to be followed in cases of extensive structural damage. The plan must contain information on procedures to be followed for ship-to-ship transfer of cargo. Reference may be made in the plan to existing company guides. A copy of such company procedures for ship-to-ship transfer operations must be kept in the plan. The plan must address the coordination of this activity with the coastal or port state, as appropriate.

(5) National and Local Coordination.

- (i) This section of the plan must contain information to assist the master in initiating action by the coastal State, local government, or other involved parties. This information must include guidance to assist the master with organizing a response to the incident should a response not be organized by the shore authorities. Detailed information for specific areas may be included as appendices to the plan.
- (ii) For Antarctica, a vessel owner or operator must include a plan for prompt and effective response action to such emergencies as might arise in the performance of its vessel's activities.
- (iii) To comply with paragraph (b)(5)(ii) of this section, an agency of the United States government may promulgate a directive providing for prompt and effective response by the agency's public vessels operating in Antarctica. (6) Appendices. Appendices must include the following information:
 - (i) Twenty-four hour contact information and alternates to the designated contacts. These details must be routinely updated to account for personnel changes and changes in telephone, telex, and telefacsimile numbers. Clear guidance must also be provided regarding the preferred means of communication.
 - (ii) The following lists, each identified as a separate appendix:

- (A) A list of agencies or officials of coastal state administrations responsible for receiving and processing incident reports;
- (B) A list of agencies or officials in regularly visited ports. When this is not feasible, the master must obtain details concerning local reporting procedures upon arrival in port; and
- (C) A list of all parties with a financial interest in the ship such as ship and cargo owners, insurers, and salvage interests.
- (D) [[Page 259]]
- (E) A list which specifies who will be responsible for informing the parties listed and the priority in which they must be notified.
- (ii) A record of annual reviews and changes.
- (6) Non-mandatory provisions. If this section is included by the shipowner, it should include the following types of information or any other information that may be appropriate:
 - (i) Diagrams;
 - (ii) Response equipment or oil spill removal organizations;
 - (iii) Public affairs practices;
 - (iv) Recordkeeping;
 - (v) Plan exercising; and
 - (vi) Individuals qualified to respond.
- (7) Index of sections. The plan must be organized as depicted in Table 151.26(b)(8).

Table 151.26(b)(8)--Index of Sections—

Sample Format Mandatory Section 1: Introduction

Section 2: Preamble

Section 3: Reporting requirements

Section 4: Steps to control a discharge

Section 5: National and local coordination

Section 6: Appendices Voluntary

Section 7: Non-mandatory provisions [

CGD 93-030, 59 FR 51338, Oct. 7, 1994, as amended by CGD 97-015, 62 FR 18045, Apr. 14, 1997]

licensed physician within 60 days before the date of renewal of the license;

(4) submit proof satisfactory to the board that the person has

(A) engaged in piloting vessels subject to this chapter in the marine pilotage region for which the license is to be renewed during at least 120 days in the licensing period immediately preceding the licensing period for which renewal is sought; or

(B) completed the minimum number of familiarization trips required by the board for renewal of a marine pilot license for a marine pilotage region for which the license is to be renewed.

(b) The board shall establish criteria for the renewal of a deputy marine pilot license.

Sec. 08.62.130. Lapsed license. (a) The board shall reinstate a lapsed marine pilot license if, in addition to complying with the requirements of AS 08.01.100(a) - (c) and AS 08.62.120, the pilot takes and passes a written and oral examination if the license has been lapsed one year or more.

(b) The board shall establish criteria for reinstatement of a lapsed deputy marine pilot license.

Sec. 08.62.140. Fees. The department shall set fees under AS 08.01.065 for applications, licenses, agent registrations, investigations, audits, and training.

Sec. 08.62.150. Denial, revocation or suspension. (a) The board shall impose a disciplinary sanction on a person licensed under this chapter when the board finds that the person

(1) is incompetent in the performance of pilotage duties;

(2) is chemically impaired;

(3) illegally possesses, uses, or sells narcotic or hallucinogenic drugs;

(4) makes a false statement to obtain a license;

(5) violates a provision of this chapter or a regulation adopted under this chapter;

(6) is guilty of misconduct during the course of employment;

(7) has had the person's United States Coast Guard pilot license conditioned, suspended, or revoked; or

(8) charges, collects, or receives an amount for pilotage services that is different from the rate adopted under AS 08.62.046 or the rate agreed to under AS 08.62.175(e) by the pilot organization of which the person is a member.

(b) *Repealed 1987.*

Sec. 08.62.155. Disciplinary sanctions. (a) The board may take disciplinary action against a person licensed under this chapter under AS 08.01.075.

(b) The board may impose a civil fine not to exceed \$5,000 on a marine pilot organization recognized by the board if the organization violates this chapter or a regulation adopted under this chapter. The board may also suspend or revoke the recognition of a pilot organization that fails to comply with its articles, bylaws, and rules, so as to no longer satisfy the minimum standards for recognition by the board.

Article 3. Miscellaneous Provisions.

Section

157. Duties of licensed pilots

160. Mandatory employment of licensed pilots

163. Pilots as independent contractors

165. Limitation of liability

170. Pilot's lien for compensation

175. Regional marine pilot organizations

180. Exemptions

185. Certain licensed pilots required for oil tankers

187. Registration of agents required

190. Penalties

Sec. 08.62.157. Duties of licensed pilots. (a) A person licensed under this chapter has a primary duty to safely navigate vessels under the pilot's direction and control and to protect life and property and the marine environment while engaged in the provision of pilot services.

(b) A person licensed under this chapter shall report to the appropriate authority all violations of a federal or state pilotage law.

Sec. 08.62.160. Mandatory employment of licensed pilots. A vessel subject to this chapter navigating the inland or coastal water of or adjacent to the state as determined by the board in regulation shall employ a pilot holding a valid license under this chapter. The board shall define the mandatory pilotage water of the state.

Sec. 08.62.163. Pilots as independent contractors. (a) Pilots licensed under this chapter are independent contractors and may not be employed as an employee of the owner or operator of a vessel subject to this chapter.

(b) The owner or operator of a vessel subject to this chapter may not employ a person licensed under this chapter as an employee.

Sec. 08.62.165. Limitation of liability. (a) A pilot licensed under this chapter is not liable for damages in excess of \$250,000 per incident for damages or loss occurring as a result of the error, omission, fault, or neglect of the pilot in performing pilotage services, except that the limitation does not apply in a case where

(1) the pilot is either grossly negligent or guilty of wilful misconduct; or

(2) the error, omission, fault, or neglect of the pilot constitutes an act for which the board shall impose a disciplinary sanction under AS 08.62.150(a)(2) or (3).

(b) Nothing in this section exempts a vessel, a vessel's cargo, or the owner or operator of a vessel or cargo from liability for damage or loss caused by the vessel, the vessel's cargo, or the owner or operator of the vessel or cargo to the vessel, the vessel's cargo, another person, or other property on the ground that

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- (1) the vessel was piloted by a pilot licensed under this chapter; or
- (2) the damage or loss occurred as a result of the error, omission, fault, or neglect of a pilot licensed under this chapter.

(c) An organization of pilots is not liable for claims arising from acts or omissions of a pilot who is a member of the organization or for acts or omissions of another organization of pilots that relate to pilotage of a vessel. A pilot is not liable, directly or as a member of an organization of pilots, for claims arising from acts or omissions of another pilot or organization of pilots that relate to pilotage of a vessel. This subsection does not apply to acts or omissions relating to the ownership or operation of pilot boats or the transportation of pilots to and from a vessel to be piloted.

Sec. 08.62.170. Pilot's lien for compensation. Each vessel, its tackle, apparel, and furniture and the owner of the vessel are jointly and severally liable for the compensation of a pilot employed on the vessel and the pilot has a lien on the vessel, the vessel's tackle, apparel, and furniture for the pilot's compensation.

Sec. 08.62.175. Regional marine pilot organizations. (a) To the extent permitted under federal and state law, persons licensed under this chapter may form organizations of pilots within each pilotage region established by the board.

(b) The board shall recognize pilot organizations that satisfy the minimum standards established by the board by regulation.

(c) A pilot organization recognized by the board shall

- (1) promote a safe and reliable system of marine pilotage for the region in which the organization is recognized;
- (2) provide for the dispatch of pilots who are members of the organization;
- (3) adopt and revise rates for the provision of pilotage services not covered by an agreement under (e) of this section;

(4) subject to the membership application and approval provisions contained in the articles and bylaws of the organization, be open to membership by all persons licensed under this chapter to pilot vessels in the pilotage region in which the organization is recognized;

(5) operate or participate in a training program for pilots and deputy pilots that is approved by the board; a training program for deputy pilots may include a deputy marine pilot apprenticeship program approved by the board;

(6) cooperate with and assist the board in implementing this chapter;

(7) by February 1 of each year, submit a report to the board that includes information on the status of training and apprenticeship programs, the number of members of the pilot organization who are state residents, and other information requested by the board.

(d) A pilot organization recognized by the board may not begin operating until the articles, bylaws, and rules of the pilot organization are approved by the board on the basis of

- (1) uniform and nondiscriminatory application of the articles, bylaws, and rules to marine pilots and deputy marine pilots licensed under this chapter and trainees for

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marine pilot licenses;

- (2) compliance with applicable laws; and
- (3) effectiveness in

(A) promoting an efficient, reliable, and professional marine pilotage system in the region;

(B) maintaining a sufficient number of qualified pilots available for dispatch to serve the needs of vessels visiting the region during each hour of the day and each day of the year to the extent that it is reasonably possible given the size of the membership of the pilot organization;

(C) promoting training programs for marine pilots and deputy marine pilots that are approved by the board.

(e) A pilot organization recognized by the board may enter into agreements with the master, owner, operator, or agent of a master, owner, or operator, of a vessel concerning the terms and conditions under which the pilot organization will provide pilotage services.

(f) A pilot organization recognized by the board shall dispatch a person who is licensed under this chapter and who is a member of the organization to provide pilotage services upon the request of a representative of a vessel required to employ a pilot under AS 08.62.160.

Sec. 08.62.180. Exemptions. This chapter does not apply to

(1) vessels subject to federal pilot requirements under 46 U.S.C. 8502 except as provided in AS 08.62.185;

(2) fishing vessels, including fish processing and fish tender vessels, registered in the United States or in British Columbia, Canada;

(3) vessels propelled by machinery and not more than 65 feet in length over deck, except tugboats and towboats propelled by steam;

(4) vessels of United States registry of less than 300 gross tons and towboats of United States registry and vessels owned by the State of Alaska, engaged exclusively

(A) on the rivers of Alaska; or

(B) in the coastwise trade on the west or north coast of the United States including Alaska and Hawaii, and including British Columbia, Yukon Territory, and Northwest Territories, Canada;

(5) vessels of Canada, built in Canada and manned by Canadian citizens, engaged in frequent trade between

(A) British Columbia and Southeastern Alaska south of 58 degrees, 10 minutes North latitude, if reciprocal exemptions are granted by Canada to vessels owned by the State of Alaska and those of United States registry; or

(B) northern Alaska north of 68 degrees, 7 minutes North latitude and Yukon Territory or Northwest Territories;

(6) pleasure craft of United States registry; and

(7) pleasure craft of foreign registry of less than 300 gross tons as measured under 46 C.F.R. 69.51—69.75.

Questions from Work Group Sessions of the Task Force on Motorized Oil Transport

1. Question: If the State of Alaska adopts a requirement set out under a current federal regulation as a mandatory requirement under a new state regulation, will the vessel owner or operator (whomever is the subject of the regulation) be subject to penalties by both the State and the Federal Government for failure to meet the terms of the regulation?

Answer: Yes. However, as a practical matter, state and federal regulators do not usually duplicate each other's enforcement actions.

2. Question: If State of Alaska adopts a oil pollution prevention requirement as part of a prevention credit program, but does not make it mandatory under State regulations, will there be penalties assessed by the State for failure to meet the requirement?

Answer: A recommended practice would not form the basis for civil assessments for failure to meet the requirement. If adoption of a recommended practice was structured so that it relieved a person from meeting another regulatory requirement, then failure to meet the recommended practice would result in a violation of the other regulatory requirement and subject the person to penalties.

3. Question: If the Task Force develops a list of prevention measures and adopts a prevention program whereby a vessel owner or operator who performs a certain number of measures (non-mandatory) gets an award or some recognition for doing so, will this create a "standard of care" such that the vessel owner or operator who does not perform any measures will automatically be seen as negligent when that owner or operator has an oil spill even though that owner or operator was fully in compliance with the law?

Answer: No. The standard of care for purposes of determining negligence is not established by such voluntary practices but by consideration of industry-wide practices, national standards and regulatory requirements -- among other factors -- in determining the standard of care of a reasonable person under the circumstances of the case. See, e.g., *Ward v. Lutheran Hospital & Homes Soc. of America*, 963 P.2d 1031, 1036-37 (Alaska 1998); *In re Bankers Trust Co.*, 651 F.2d 160, 173-175 (3rd Cir. 1981). Moreover, the Alaska Supreme Court in *Doyle v. Peabody*, 781 P.2d 957, 959 (Alaska 1989) made clear that under AS 46.03.870 a private right of action does not exist to enforce DEC regulations in a negligence action seeking to use a DEC regulation as a standard of care. Finally, this liability concern about a negligence standard relating to oil pollution prevention practices does not take into account that vessel owners and operators are already strictly liable without fault for both public and private oil spill damages under both state and federal law.

4. Question: If a non-profit organization is created to perform Incident Command functions, will that non-profit organization receive the same protection from civil liability under AS 46.03.825 as an oil spill response action contractor?

Answer: An organization providing incident command functions under contract to a responsible party would fall within the definition of an oil spill response action contract under AS 46.03.825 and be able to avail itself of the civil liability protections under that statute. It does not matter whether the contractor is a for-profit or non-profit business in order to be an oil spill response action contractor under AS 46.03.825.

5. Question: If a vessel owner, for instance, joins a cooperative response action contractor organization, will that owner be subject to liability for the negligence or spill-clean up costs of another member of the cooperative who either cannot or will not clean up the spill? (Is there likely to be a successful "deep pocket" action against a member of the co-op with deep pockets?) If there is any such potential liability, can this be addressed by the by-laws or contracts within the cooperative?

Answer: Most cooperative response action contractor organizations are set up as corporations. As a separate corporation a cooperative is a separate legal entity from its members or shareholders as long as the corporation is adequately capitalized and not a shell used to defraud. See, e.g. *Uchitel Co. v. Telephone Co.*, 646 P.2d 229, 235 (Alaska 1982). Alaska Corporation law already protects shareholders (members) from direct liability. AS 10.06.438; *Elliot v. Brown*, 569 P.2d 1323 (Alaska 1977) (50% owner not individually liable simply because of mere control of corporation); *Croxton v. Crowley Maritime Corporation*, 817 P.2d 460, 465 (Alaska 1991) (functional analysis is not enough to void legal distinction between parent corporation and subsidiary corporation). Potential liabilities as between the cooperative and its members (as well as financial responsibility issues) can be addressed both in the corporation's by-laws and in contracts for membership. A-15.45.900.

6. Question: If a shore-side facility that does not hold a contingency plan for vessel operations (i.e. a lumber yard) contracts with a vessel owner or operator to haul the product from the shore-side facility to some other location, will the shore-side facility be liable for a spill from the fuel tanks of the vessel (the product owned by the shore-side facility is not fuel), absent any separate contractual arrangement between the vessel and the shore-side facility?

Answer: No. Under AS 46.03.822/AS 46.03.758, the shore-side facility would not be liable unless it owned or operated the vessel from which the fuel spilled or unless the shore-side facility owned the fuel in the vessel at the time of the spill.

7. Question. Would a third-party such as a ship agent/broker who prepared all or part of a contingency plan for the vessel owner or operator incur any new or additional liabilities under AS 46 by providing such a service? (The vessel owner/operator would be the contingency plan applicant and plan holder).

Answer: No. The ship agent in this situation would not be a responsible party under AS 46.04.020, AS 46.03.758 or AS 46.03.822 by assisting with preparation of a contingency plan. Nor would the ship agent be acting as a contingency plan applicant or a contingency plan holder within the meaning of AS 46.04.030. As a result, the ship agent/third party in this situation would not incur any new or additional liability under AS 46 for providing such a service to a vessel contingency plan holder.

8. Question: Can the DEC inspect a vessel for compliance with federal requirements and can the USCG inspect a vessel for compliance with state requirements?

Answer: Under review.

9. Question. Would the limitations of liability in AS 46.03.825 for oil spill response action contractors extend to a co-op or other organization established to hold a generic or fleet nontank vessel contingency plan and which contracts to provide oil spill response services on behalf of a vessel owner or operator (hereinafter "c-plan co-op")?

Answer: Under review.



DEPARTMENT OF ENVIRONMENTAL CONSERVATION
OIL SPILL PRIMARY RESPONSE ACTION CONTRACTOR
APPLICATION FOR REGISTRATION

SUBMIT WITH A CHECK OR MONEY ORDER FOR THE APPROPRIATE FEE
AT LEAST 60 DAYS IN ADVANCE TO:

Contractor Registration Program
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
410 Willoughby Avenue, Suite 105
Juneau, Alaska 99801 - 1795

- I. THIS APPLICATION IS FOR THE FOLLOWING REGION OR REGIONS OF OPERATION:
(Please refer to map on Page 4 of this application or to 18 AAC 75.495)

- | | | |
|-----|----------------------|-------|
| 1. | Southeast Alaska | _____ |
| 2. | Prince William Sound | _____ |
| 3. | Cook Inlet | _____ |
| 4. | Kodiak Island | _____ |
| 5. | Aleutian Islands | _____ |
| 6. | Bristol Bay | _____ |
| 7. | Western Alaska | _____ |
| 8. | Northwest Arctic | _____ |
| 9. | North Slope | _____ |
| 10. | Interior Alaska | _____ |

- II. (check only one)

INITIAL APPLICATION (\$500 fee) _____

RENEWAL (\$100 fee) _____

DO NOT SEND CASH

attach the correct fee

make check/money order payable to: **STATE OF ALASKA**

your canceled check is your receipt

- III. (complete and provide all information)

(A) APPLICANT INFORMATION

- A.1 APPLICANT NAME: _____
- A.2 CONTACT PERSON: _____
- A.3 ADDRESS: _____
- A.4 TELEPHONE NUMBER: _____
- A.5 FACSIMILE NUMBER: _____

OIL SPILL PRIMARY RESPONSE ACTION CONTRACTOR APPLICATION FOR REGISTRATION

- (B) ATTACH A CALL-OUT LIST OF APPROPRIATE RESPONSE PERSONNEL BY NAME & TELEPHONE NUMBER, OR LABOR SUBCONTRACTOR AND LABOR CONTRACT.
- (C) ATTACH A COMPLETE APPLICATION FOR AND CERTIFIED COPY OF THE APPLICANT'S CURRENT LETTER OF CLASSIFICATION AS AN OIL SPILL REMOVAL ORGANIZATION ISSUED BY THE U.S. COAST GUARD, OR COMPLETE THE FOLLOWING PART C:

C.1 TYPE OF OIL TRAINED & EQUIPPED TO RESPOND (check those that apply):

CRUDE

PERSISTENT
NONCRUDE
(bunker, #4, #5)

NONPERSISTENT
NONCRUDE

C.2 TYPE OF RECEIVING ENVIRONMENT TRAINED & EQUIPPED TO RESPOND
(check those that apply):

NEARSHORE
MARINE

FRESH
WATER

OPEN
OCEAN

ICE

LAND

- (D) IF YOU HAVE NOT ATTACHED THE U.S. COAST GUARD LETTER OF CLASSIFICATION AND APPLICATION AS DESCRIBED IN PART C, THEN ATTACH A COMPLETE DESCRIPTION AND MOST RECENT INVENTORY OF OIL SPILL RESPONSE RESOURCES, INCLUDING:

D.1 NUMBER AND LOCATION OF TRAINED PERSONNEL;

D.2 DESCRIPTION OF APPLICANT'S MINIMUM TRAINING REQUIREMENTS FOR RESPONSE PERSONNEL AND PROCEDURES FOR TRAINING ADDITIONAL PERSONNEL IF NEEDED;

D.3 AMOUNT AND LOCATION OF

D.3.i OIL CONTAINMENT EQUIPMENT

D.3.ii OIL RECOVERY EQUIPMENT & NAMEPLATE RATING (BBLS/HOUR)

D.3.iii TRANSFER, STORAGE, DISPOSAL EQUIPMENT

D.3.iv DISPERSANT OR BURNING EQUIPMENT

D.3.v OTHER SIGNIFICANT RESOURCES AND EQUIPMENT

- (E) ATTACH A CHRONOLOGICAL SUMMARY OF APPLICANT'S PREVIOUS OIL SPILL ACTIVITIES AND COMPLIANCE HISTORY (MUST BE COMPLETED IN ADDITION TO C AND D).

- (F) ATTACH A COMPLETE LIST OF THE OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS IN WHICH THE APPLICANT HAS AGREED IN WRITING TO BE LISTED AS A PRIMARY RESPONSE ACTION CONTRACTOR.

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**OIL SPILL PRIMARY RESPONSE ACTION CONTRACTOR
APPLICATION FOR REGISTRATION**

IV. Applicant must sign below:

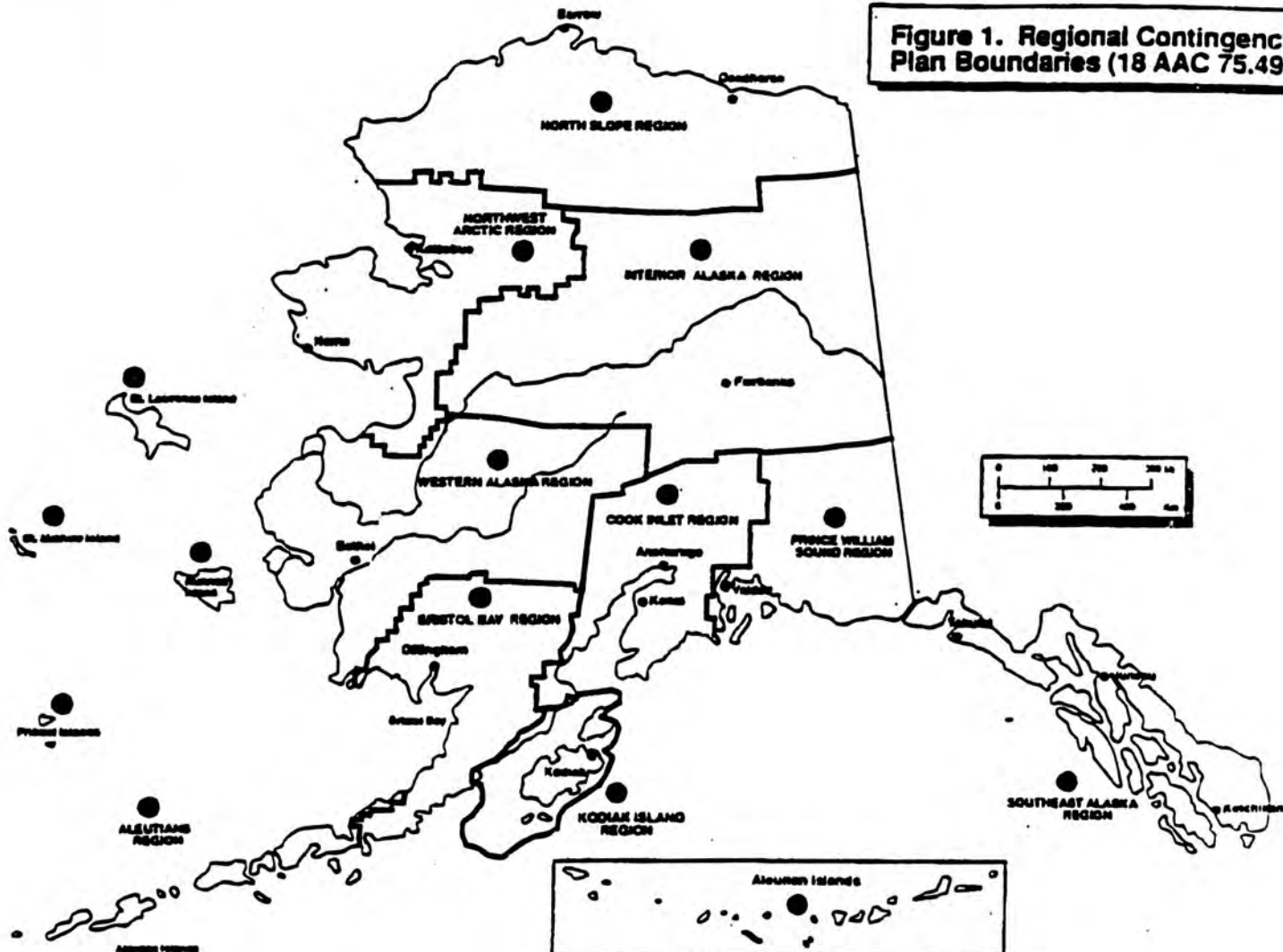
I certify that all the information in this application for registration as an oil spill primary response action contractor in the State of Alaska is complete, true and correct, that I have attached the correct fee payable to the State of Alaska, that I will operate in compliance with the oil discharge prevention and contingency plan requirements and response planning standards set out in AS 46.04.030 and 18 AAC 75.425 – 18 AAC 75.495, and that I will operate in compliance with the minimum registration standards in 18 AAC 75.560.

I certify that, as representative of the contractor named below, I have authority to legally bind the contractor in this matter. I am aware that false statements, representations, or certifications may be punishable as civil and/or criminal violations of law.

SIGNED: _____ **DATE** _____
NAME (print): _____
TITLE: _____
FOR: _____
 CONTRACTOR

OIL SPILL PRIMARY RESPONSE ACTION CONTRACTOR
APPLICATION FOR REGISTRATION
PAGE 4

**Figure 1. Regional Contingency
Plan Boundaries (18 AAC 75.495)**



(h) Nothing in (d) - (g) of this section affects a plan holder's right under (c) of this section to an adjudicatory hearing. (Eff. 5/14/92, Register 122)

Authority:	AS 46.03.020	AS 46.03.750	AS 46.04.070
	AS 46.03.740	AS 46.04.030	AS 46.35.090(e)
	AS 46.03.745		

18 AAC 75.495. REGIONAL MASTER DISCHARGE PREVENTION AND CONTINGENCY PLAN BOUNDARIES. (a) The regions described in this subsection and depicted on the map at Figure 1 are established for the purpose of preparing a regional master oil and hazardous substance discharge prevention and contingency plan as required by AS 46.04.210:

(1) **Southeast Alaska Region:** that area of the state east of 142° W. longitude and south of a line just west of Icy Bay that connects the U.S.-Canadian border with the Gulf of Alaska, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(2) **Prince William Sound Region:** that area south of 63°30' N. latitude, west of the region described in (1) of this subsection, and east of the region described in (3) of this subsection, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(3) **Cook Inlet Region:** that area encompassed by the boundaries of the Kenai Peninsula Borough, the Municipality of Anchorage, and the Matanuska-Susitna Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(4) **Kodiak Island Region:** that area encompassed by the boundaries of the Kodiak Island Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(5) **Aleutian Region:** that area encompassed by the boundaries of the Aleutians East Borough and the Aleutians West Coastal Resource Service Area, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(6) **Bristol Bay Region:** that area encompassed by the boundaries of the Bristol Bay Coastal Resource Service Area, the Bristol Bay Borough, and the Lake and Peninsula Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(7) **Western Alaska Region:** that area north of the area described in (6) of this subsection, encompassed by the boundaries of the southernmost boundary of the Bering Straits Regional Corporation, and Regional Educational Attendance Areas 11 and 5, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(8) **Northwest Arctic Region:** that area encompassed by the Northwest Arctic Borough and the Bering Straits Regional Corporation, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(9) **North Slope Region:** that area encompassed by the boundaries of the North Slope Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

(10) **Interior Alaska Region:** that area of the state not included in (1) - (9) of this subsection.

(b) If the department finds that a discharge that could occur in an area beyond the territorial sea would not have a significant adverse impact on the resources of the state or on other interests of the state, the department will, in its discretion, adjust the seaward boundary of a region established in (a) of this section to exclude that area. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020

AS 46.04.070

AS 46.04.210

INSERT FIGURE 1 MAP