

**ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672**  
**2832 SCOMM 123 TASK FORCE ON MOTORIZED OIL TRANSPORT, 2000**

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

11 BRIAN ROGERS: Thank you. Charlotte?

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

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

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

3 ERIC BRITTEN: It sounds really simple.

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

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

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

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

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

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

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

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

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

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

16 BRIAN ROGERS: It was.

17 PAUL FUHS: Was.

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

20 BRIAN ROGERS: Go ahead, Stephanie.

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

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

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

5 (Short recess taken.)

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

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

16 BRIAN ROGERS: Yes.

17 JUDY ERICKSON: November 6 is okay.

18 BRIAN ROGERS: You can't make it?

19 CAPTAIN ED PAGE: Depends on Alaska Airlines'  
20 schedules.

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

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

7 CAPTAIN ED PAGE: Same procedure, I gather.

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

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

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

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

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

23 Charlotte?

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

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

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

5 CHARLOTTE MacCAY: I guess to pass the hat.

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

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

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

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

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

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

6           MIKE O'HARA: Okay.

7           TERRY MURPHY: That's never been broached.

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

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

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

22           MIKE O'HARA: Yeah.

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

25           PUBLIC PARTICIPANT: Million and a half

1 dollars.

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

4 BRIAN ROGERS: Terry speaking. Please identify  
5 yourselves.

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

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

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

13 MIKE O'HARA: O'Hara.

14 BRIAN ROGERS: Yes. Larry?

15 LARRY DIETRICK: Yeah, Larry Dietrick, DEC.

16 Yeah, Mike, the rates in terms of hourly rates of  
17 personnel, equipment are available. We've got those.  
18 And I think if that's the question you ask, I think the  
19 co-ops have those numbers. I think I have them for all  
20 the numbers. So if that's your question, just --

21 MIKE O'HARA: That was the question.

22 LARRY DIETRICK: I mean, what Terry is saying,  
23 I can't tell you how long I need -- or how many people  
24 or how many shovels, but certainly can tell you the  
25 price per shovel and price per --

1 MIKE O'HARA: Right.

2 LARRY DIETRICK: If that gets to it.

3 MIKE O'HARA: That gets my attention.

4 BRIAN ROGERS: Any other comments on the issue?

5 Anything from the steering committee chairs before we  
6 close down for the day?

7 COMMISSIONER MICHELE BROWN: Just continued  
8 thanks for all the hard work and brain power.

9 JUDY ERICKSON: We're set for the LIO, second  
10 floor, all those meeting dates.

11 BRIAN ROGERS: And we will be looking  
12 potentially for one further one. Any other public  
13 comment? We've tried to afford that opportunity  
14 throughout, but anyone else? Yes, Jeff.

15 JEFF THOMPSON: Just a procedural  
16 administrative question. If you're not able to make  
17 that final Task Force meeting, as a Task Force member  
18 could I call in from the Lower 48?

19 BRIAN ROGERS: Absolutely. You can call in  
20 from the Lower 48. We've had that on several occasions.  
21 International calls we may have to discuss further.

22 Anything else? Going once, twice. We're  
23 adjourned for the day.

24 (Meeting concluded at 3:05 p.m.)

25 -oOo-

CERTIFICATE

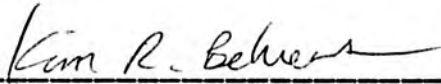
I, the undersigned Notary Public in and for the State of Alaska, do hereby certify:

That the annexed and foregoing proceedings were taken stenographically before me and reduced to typewriting under my direction;

I further certify that I am not a relative or employee of any of the parties to said action, and that I am not financially interested in the said action or the outcome thereof;

I further certify the proceedings, as transcribed, is a full, true and correct transcript of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 26<sup>th</sup> day of September, 2000.

  
\_\_\_\_\_  
Kim R. Behrens, RMR-CRR

Notary Public in and for the State of Alaska, residing at Anchorage.

My Commission Expires: 4.24.04

**SCOMM**

**123:5**

## **TASK FORCE ON MOTORIZED OIL TRANSPORT**

### **Revised Draft Agenda - November 6, 2000**

8:30 a.m.—5:00 p.m. (note: meeting will be extended into evening hours if necessary)

Anchorage Legislative Information Office

716 West Fourth Avenue – 2nd floor conference room

- I. Welcome from Task Force Chair, DEC Commissioner Michele Brown and Steering Committee Members Senator Drue Pearce and Representative Pete Kott
- II. Presentation by Brian Rogers, facilitator
  - A. Review Task Force decision-making process and meeting logistics
  - B. Update on activities since 9/20/00 Task Force meeting
  - C. Review of all recommendations on Consent Agenda
- III. Public Comment on Agenda Items (limited to 3 minutes)
- IV. Consent Agenda

#### Response Planning Standard Work Group

1. *The RPS wave height planning standard is 3 feet. (Task Force adopted 9/20)*
2. *The APD&T equipment schedule is sufficiently rapid to meet the non-tank vessel program needs. (Task Force adopted 9/20)*
3. *The control and containment equipment required for a nontank vessel is containment boom sufficient to extend three times the length of the vessel and an appropriate deployment system. (Task Force adopted 9/20)*
4. Control and containment equipment required to meet the response planning standard (RPS) for a nontank vessel must be stationed within the vessel's subarea of operation.
5. The required cleanup equipment is skimming capacity capable of cleaning up 15% of the maximum capacity of a vessel within 5 days and storage capacity equal to the daily recovery capacity. The skimmer must be appropriate for the type of oil.
6. To meet the RPS requirement of "cleanup of the discharge within the shortest possible time consistent with minimizing damage to the environment," a nontank vessel must either:
  - Position the required skimming and storage capacity within its subarea of operation; or
  - Reasonably demonstrate to the Dept. of Environmental Conservation the ability to position equipment in the subarea of operation within 24 hours.
7. Nontank vessels will be allowed two years from the adoption of regulations implementing SB 273 to have in place the skimmer(s) and associated storage capacity described in their contingency plan.

#### Contingency Plan Work Group

8. Nontank vessel contingency plans shall only be required for vessel operation in state waters, (generally within three miles of shore).
9. DEC shall establish a streamlined process for submission and approval of contingency plans for nontank vessels, consisting of a response action plan, financial responsibility, and prevention plan.
10. DEC shall establish three alternative options for nontank vessel contingency plans (C-plans), allowing use of established PRACS (including spill response cooperatives and IMTs), equivalent response resources, or a combination of the two. All three options will be available for plans covering single vessels or fleets.
11. DEC will complete its review of initial applications within 15 days for applicants using cooperatives, and within 45 to 90 days for applicants using equivalent response

resources. DEC will complete its review of applications for adding a vessel to an already-approved fleet plan within 5 days.

12. A response plan facilitator (RPF), acting as an agent for a vessel(s), can develop and ~~hold~~ a generic contingency plan that is activated by signature of a responsible party (RP). The plan will contain all the elements of a streamlined contingency plan. ✓
13. ~~Specifications for the requirements for qualification as an incident management team (IMT) will be developed and adopted. [Removed from Consent Agenda]~~
14. Nontank vessel contingency plans will be due to DEC within 180 days of adoption of the contingency plan regulations. DEC will conditionally approve initial contingency plans that are 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.
15. "Spot charter vessel" shall be defined as a "vessel contracted to lift a specific cargo on a one time, periodic, non-scheduled or tramp basis."
16. DEC shall electronically post a listing of nontank vessel contingency plan applications and review schedules.
17. The public review process in DEC's review process for contingency plans found in 18 AAC 75.455 and 75.415 will be used as the model for review of generic contingency plans and plans using equivalent resources.
18. ~~DEC shall have statutory authority to inspect nontank vessels for C-plan compliance. [Removed from Consent Agenda]~~
19. ~~The frequency and type of required contingency plan spill drills DEC may require of nontank vessels is one tabletop drill annually for cooperative members and no more than one full deployment drill and one tabletop drill for contingency plan holders providing equivalent resources. DEC may drill spill response cooperatives that provide services exclusively to nontank vessels a maximum of two times per year. [Removed from Consent Agenda]~~

#### Prevention Work Group

20. *All affected nontank vessels must comply with applicable federal and international requirements. (Task Force adopted 9/20)*
21. A reduction in the response planning standard should not be considered in a prevention credit program for nontank vessels.

#### Alaska Railroad Subcommittee

22. *The Alaska Railroad will undergo a contingency and prevention plan review under the rigor of existing law for currently regulated industry. (Task Force adopted 9/20)*
23. *The Alaska Railroad risk assessment process is endorsed as a prevention measure for the Alaska Railroad. (Task Force adopted 9/20)*
24. *The Alaska Railroad should follow the RPS methodology developed by the Task Force, designed to meet a response planning standard of 15% of the maximum fuel carried. (Task Force adopted 9/20)*

#### Prevention Work Group (affects all recommendations)

25. DEC will periodically review all Task Force recommendations with the regulated community.

#### V. Discussion and Action on Recommendations Removed from Consent Agenda

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VI. Contractor Report

- A. Discussion of final report outline and elements
- B. Timetable for action on final report
  - 1. Revised draft report due out to Task Force members and public Nov. 13
    - Comments by Task Force members and public due Nov. 20
  - 2. Complete draft report with appendices due out to Task Force members and public Nov. 21
    - Comments by Task Force members and public due Nov. 27
  - 3. Revised draft legislation and draft regulation memo due out to Task Force members and public Nov. 20
    - Comments by Task Force members and public due Nov. 27
  - 4. Final report, including draft legislation & regulations memo due out to Task Force members and public - Nov. 29
  - 5. Task Force - Teleconference adoption - Dec. 1

VII. Railroad presentation (scheduled for 11:30 a.m.)

- A. Progress on the Risk Assessment process
- B. Proposed timetable for Contingency and Prevention plan review.

VIII. Attorney General's office report on legal issues

- A. Legal Issues Memorandum
- B. Task Force Draft Legislation

IX. Discussion and Action on Unresolved Issues

- A. Contingency Plan Issues:
  - 1. Response Planning Facilitator as response action contractor
  - 2. Definition of qualified individual
- B. Prevention Issues:
  - 1. Adoption of federal/international mandatory requirements as state law
  - 2. Adoption of Prevention Credit Program for voluntary measures
    - Recommended prevention measures by vessel type
    - Options for what should be offered in a prevention credit program
      - a. Reduction in civil penalties
      - b. C-plan review
      - c. Tax credits
    - Liability issues
    - Inspections
    - Penalties for fraud
  - 3. Implementation of prevention credit program for voluntary measures
    - Three options: applicability to work group recommendations
    - Applicability to spot charter industry
  - 4. Blue Star Vessel Award Program for voluntary measures
- C. Funding for DEC administration of Nontank vessel program

X. Final task force member and public comments

## INCIDENT COMMAND SYSTEM

**Webmaster****Coast Guard  
Marine Environmental Protection****National Oceanic and  
Atmospheric Administration**I N C I D E N T   C O M M A N D  
S Y S T E M

## LINKS

- Field Operations Guide (Adobe Acrobat PDF File)
- Electronic ICS Forms
- Basic Organizational Charts and Diagrams
- ICS Training and Course Work
  - National Wild Fire Coordination
  - NEOTEC, LLC
- National Response Team

## COAST GUARD ADOPTION OF ICS

The United States Coast Guard initially adopted the National Interagency Incident Management System (NIIMS) based Incident Command System (ICS) for response to oil and hazardous substance releases on February 9, 1996 (COMMANDANT INSTRUCTION 16471.1) On August 28, 1998 the Coast Guard adopted the use of ICS Coast Guard wide in order provide a standardized response management system for all Coast Guard response operations (COMMANDANT INSTRUCTION 3120.14).

## WHAT IS ICS?

NIIMS ICS is standardized response management system. It is an "all hazard – all risk" approach to managing crisis response operations as well as non-crisis events. NIIMS was originally designed by a group of local, state, and federal agencies with wild- land fire protection responsibilities, to improve the ability of fire forces to respond to any type of emergency. A new training curriculum was completed in 1994 to better reflect the "All Hazard – All Risk" capability of NIIMS (floods, earth quakes, oil spills, fires, planned events etc..). It is organizationally flexible and capable of expanding and contracting to accommodate responses or events of varying size or complexity.

NIIMS consists of 5 major subsystems that collectively provide a total systems approach to all-risk incident management. These five subsystems are: Incident Command System, Training, Qualifications and Certification, Publication Management and Supporting Technology

## BENEFITS OF ICS

The adoption of NIIMS ICS provides many advantages:

1. A flexible, standardized response management system that will allow for the cultivation of response management expertise at all echelons of Coast Guard command.
2. Provides for an increased support of trained personnel during major incidents.
3. NIIMS is a "public domain" system that allows unrestricted distribution by commanding officers to improve the capabilities of, and unify the local response community into a more effective organization.

## **Nontank Vessel Inspection Authority**

- The proposed legislation does not create or make any new activities subject to inspection but simply extends existing authority to nontank vessels and the railroad.
- The existing language was included in the oil spill legislation passed in 1990.
- The existing inspection language allows DEC to continue to focus its inspection activities on prevention and response capability.
- The existing inspection language is not in conflict with the recent U. S. Supreme Court's decision which allows states to verify and have continued oversight for oil spill contingency plans and proof of financial responsibility.
- The Department of Environmental Conservation and the United States Coast Guard operate under a formal Memorandum of Agreement that explicitly outlines their respective roles for vessel inspection activities to ensure coordination, eliminate duplication, prevent overlap and avoid any jurisdictional conflicts under state, federal or international laws or agreements.
- All DEC staff conducting vessel inspection activities have appropriate training or extensive prior experience conducting vessel inspection work for the United States Coast Guard.

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## VI

### PREVENTION OF OIL SPILLS

- A. Cooperative Implementation:** The Parties are coordinating their efforts to prevent oil spills in the marine environment.

To the extent permitted under applicable laws, the Parties agree to cooperate in the execution of their respective regulatory responsibilities to minimize duplication of effort. The Parties will also seek to identify opportunities for innovative implementation of vessel and facility prevention plans. Both Parties recognize the importance of encouraging cross-training in each other's regulations and rules including the areas of inspection and response.

- B. Vessel Inspections:** Each Party recognizes they may elect to independently exercise their respective examination responsibilities in accordance with applicable law, regulations and policies. The Coast Guard conducts inspection programs for the purpose of enforcing both international agreements and domestic law aboard United States and foreign-flagged vessels. The State has authority to conduct inspections for the purpose of ensuring compliance with state laws and regulations and can participate in joint examinations with federal agencies. Further, either Party may evaluate the inspection process and make recommendations for improvement or perform its own inspections in accordance with applicable laws.

1. The Parties agree to work together to avoid inconsistent requirements and to find ways to conduct vessel inspections in such a way that disruption to the industry is minimized and efficiency and safety maximized. To this end, the Parties will endeavor to exchange information and conduct joint inspections or may pursue agreements under which a single inspection may fulfill both state and federal requirements.
2. In implementing any State examination programs, the State agrees to avoid conflicts and unnecessary duplication in reviewing Federal inspection programs by on-going consultation with the Coast Guard.
3. Review of inspection records: The Parties each agree to make inspection records available to the other and to cooperatively review inspection results, subject to applicable laws, regulations, and procedures.
4. The State shall report recognized discrepancies in meeting the requirements of international agreements believed to exist aboard United States and foreign-flagged vessels to the responsible Officer in Charge, Marine Inspection (OCMI).
5. Requirements in State Waters: The Parties will cooperate to establish consistent pollution prevention requirements, and to cooperatively monitor, examine and exchange information relative to those requirements, for vessels to operate in State waters.

# **CORRECTION**

**THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION**



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

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**MEMORANDUM OF AGREEMENT**  
**ON**  
**OIL AND HAZARDOUS SUBSTANCE POLLUTION PREVENTION AND RESPONSE**  
**BETWEEN**  
**THE COMMANDER, SEVENTEENTH COAST GUARD DISTRICT**  
**AND**

**THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

WHEREAS, the United States Coast Guard and the State of Alaska share a common interest and responsibility for protecting the waters of Alaska and have determined that their cooperative response to large oil spills such as the EXXON VALDEZ oil spill has permitted the State and the Coast Guard to leverage available resources, which in turn has led to better protection of our environment; and

WHEREAS, the United States Coast Guard and the State of Alaska find efficiency in government is important to the public they serve and that entering into a Memorandum of Agreement that builds upon present close working relationships and identifies areas for expanded interaction will lead to increased protection of Alaska's marine environment at greater efficiency; and

WHEREAS, the authority for the USCG to enter into this Agreement can be found in 14 U.S.C. § 141.

WHEREAS, Congress enacted the Oil Pollution Act of 1990 (OPA 90) to protect the waters of the United States from oil pollution and to plan for the effective and immediate response in the event of an oil spill, and the President subsequently designated the Coast Guard as the Federal On-Scene Coordinator (FOSC) within the Alaska coastal zone; and

WHEREAS, Congress has decided in a number of enactments, including OPA 90, not to preempt the various States from regulating certain matters associated with the protection of waters within their jurisdiction from oil pollution, which matters are also subject to regulation by the Coast Guard under OPA 90 and other statutes; and

WHEREAS, Congress explicitly provided the provisions of OPA 90 do not: (1) preempt or affect the authority of any state to impose additional liability or requirements regarding oil discharges or other oil pollution within such a state or removal activities in connection with such a discharge; (2) affect the authority of any state to establish a fund to pay for oil pollution or the substantial threat of oil pollution costs or damages, or to require any person to contribute to such a fund; or (3) affect the authority of any state to impose any fine or penalty for violation of law relating to a discharge; and

## VI

### PREVENTION OF OIL SPILLS

- A. Cooperative Implementation:** The Parties are coordinating their efforts to prevent oil spills in the marine environment.

To the extent permitted under applicable laws, the Parties agree to cooperate in the execution of their respective regulatory responsibilities to minimize duplication of effort. The Parties will also seek to identify opportunities for innovative implementation of vessel and facility prevention plans. Both Parties recognize the importance of encouraging cross-training in each other's regulations and rules including the areas of inspection and response.

- B. Vessel Inspections:** Each Party recognizes they may elect to independently exercise their respective examination responsibilities in accordance with applicable law, regulations and policies. The Coast Guard conducts inspection programs for the purpose of enforcing both international agreements and domestic law aboard United States and foreign-flagged vessels. The State has authority to conduct inspections for the purpose of ensuring compliance with state laws and regulations and can participate in joint examinations with federal agencies. Further, either Party may evaluate the inspection process and make recommendations for improvement or perform its own inspections in accordance with applicable laws.

1. The Parties agree to work together to avoid inconsistent requirements and to find ways to conduct vessel inspections in such a way that disruption to the industry is minimized and efficiency and safety maximized. To this end, the Parties will endeavor to exchange information and conduct joint inspections or may pursue agreements under which a single inspection may fulfill both state and federal requirements.
2. In implementing any State examination programs, the State agrees to avoid conflicts and unnecessary duplication in reviewing Federal inspection programs by on-going consultation with the Coast Guard.
3. Review of inspection records: The Parties each agree to make inspection records available to the other and to cooperatively review inspection results, subject to applicable laws, regulations, and procedures.
4. The State shall report recognized discrepancies in meeting the requirements of international agreements believed to exist aboard United States and foreign-flagged vessels to the responsible Officer in Charge, Marine Inspection (OCMI).
5. Requirements in State Waters: The Parties will cooperate to establish consistent pollution prevention requirements, and to cooperatively monitor, examine and exchange information relative to those requirements, for vessels to operate in State waters.

6. The State will promptly inform the cognizant OCM and the Coast Guard will promptly inform the ADEC Industry Preparedness and Pipeline Program's Marine Vessel Section Manager of any situation or circumstance relative to a vessel whose condition or equipment may significantly increase the potential for an unauthorized discharge or create an unusual or an unacceptable risk to public health and safety, or the safety of navigation. Both Parties also agree to ensure joint notification when an initial report is received from Alyeska SERVVS regarding any irregularity or indication of a problem which threatens a tanker or its cargo (including ballast water) as well as situations where a tanker leaves both the U.S. Coast Guard designated Prince William Sound and Valdez Arm traffic lanes (except when an outbound tanker leaves the lanes at the Hinchinbrook Entrance terminus).
7. Both Parties agree to share all applicable information obtained from their respective vessel inspections.

- C. Vessel Screening:** The Coast Guard, under federal law, through the District Commander and the Captain of the Port (COTP), has the authority to regulate the entry of vessels into the COTP zone, including those determined to be a threat to the environment. The State may establish the means by which it can determine whether tank vessels entering the waters of the State pose a substantial risk of harm to the public health and safety and the environment.

When the State determines that a particular vessel or vessels pose a substantial risk, that determination will be forwarded to the cognizant Captain of the Port (COTP). The COTP shall consider that information in making a determination under federal law as to appropriate action to be taken, if any, including the possibility of denial of entry.

- D. Tank Vessel Crewing:** The Coast Guard establishes and enforces requirements for crewing, competence, and documentation of personnel aboard vessels.
1. The Coast Guard will consult with the State, to the extent practicable, in its evaluation and implementation of additional requirements for crewing, training, and qualification requirements through the crewing standards process.
  2. The Parties agree to actively promote and coordinate research projects to identify human factors which need to be regulated to prevent pollution incidents.
- E. Tank Vessel Transfer Operations:** Monitoring tank vessel transfer operations has been identified as an effective pollution prevention action.

The Parties will cooperate to monitor transfer operations involving tank vessels (as well as cruise ships, fish processors, fishing vessels, etc.), including, but not limited to, dockside transfer at facilities, lightering and bunkering operations. Each party will advise the other of violations observed.

## I. EXECUTIVE SUMMARY

Financial responsibility and oil spill response planning requirements have long been in place for tank vessels carrying petroleum as their principal cargo. Senate Bill 273, enacted by the 2000 Alaska Legislature, established similar requirements for nontank vessels of more than 400 gross tons, and for railroad tank cars.

The new law establishes a response planning standard (RPS) for "containment and control of 15 percent of the maximum oil capacity" of the nontank vessel or railroad train within 48 hours. Cleanup is required "within the shortest possible time consistent with minimizing damage to the environment."

The bill established the Task Force on Motorized Oil Transport and charged the Task Force with determining how to implement the response planning standard.

The Task Force recommends implementing the standard with a process that is:

- **Realistic**, capable of being implemented with available technology and expertise;
- **Effective**, providing real protection to the environment;
- **Economically feasible**, capable of being implemented without unreasonable costs;
- **Flexible**, providing a wide variety of options and choices for vessel owners and shippers to meet the requirements of the law.

The Task Force recommendations implement the response planning standard in full recognition of all federal pre-emption. They provide alternative means of implementing the response planning standard that include fleet plans, vessel agents, a streamlined contingency planning process, and voluntary spill prevention measures.

The recommendations recognize the existing framework of response planning requirements for tank vessels while providing opportunities for vessel owners to determine their most efficient means of meeting the standard. The Task Force envisions that market forces will for most vessel owners yield several alternative compliance choices.

The requirements of these recommendations apply only to vessels in state waters, generally within three miles of shore.

### **Summary - Response Planning Standard**

The Task Force recommends the response planning standard be based on a three foot wave height.

Control and containment equipment, including sufficient boom to extend three times the length of the vessel, must be stationed within a vessel's area of operation, or be able to reach the area within 24 hours. Skimming equipment for cleanup must be able to clean up 15 percent of the maximum capacity of the vessel within five days.

### **Summary - Contingency Plans**

For a vessel owner, compliance with contingency plans for meeting the response planning standard is a streamlined process that includes demonstration that the vessel

- meets the financial responsibility requirements of state law;
- has designated an individual who is qualified to make decisions about a spill on behalf of the vessel owner, has a response action plan that includes

1. initial notification procedures such as those contained in the shipboard oil pollution emergency plan;
  2. a contract with a primary response action contractor or use of equivalent resources, to contain and control 15 percent of the maximum capacity of the vessel; and
  3. a contract with an incident management team or equivalent resources
- meets applicable federal and International Maritime Organization requirements

A vessel owner can demonstrate a vessel plan through three options:

- I. By contracting with a primary response action contractor for containment, control and cleanup, and by contracting with a primary response action contractor for incident management;
- II. By demonstrating to the department equivalent resources for containment, control, cleanup and incident management; or
- III. By a combination of A and B.

A vessel fleet, operated by a single owner or by a group of independent owners, can prepare a plan for a group of vessels, demonstrating to the department the fleet's plan using any of the three options. Vessels can be added to the fleet through a simple fleet plan amendment process. Vessel agents, acting as response plan facilitators, can prepare generic contingency plans, designed to be activated by vessels entering state waters on short notice.

The Task Force recommends that Department of Environmental Conservation act upon contingency plans under tight timeframes, provided that sufficient funding is provided for adequate staff. Public review opportunities continue to exist through review of primary response action contractor plans and by electronic posting of a listing of contingency plan filings.

The Task Force recommends a simple schedule of tabletop drills for vessels contracting with primary response action contractors and full deployment drills for vessels using alternative resources.

#### **Summary – Prevention**

The Task Force recommends that all affected nontank vessels comply with applicable federal and international requirements.

The Task Force does not recommend any reduction in the response planning standard be part of a prevention credit program.

More to come? . . .

#### **Summary – Alaska Railroad**

The Task Force endorses the Alaska Railroad Risk Assessment process, and recommends the process be followed through to completion. The Alaska Railroad should undergo a Contingency and Prevention Plan review under the rigor of existing law for currently regulated industry.

The Task Force on Motorized Oil Transport believes its recommendations meet the Alaska Legislature's request for implementation of the Response Planning Standard set forth in SB 273 and SCR 1, providing increased protection of the environment at a reasonable cost to affected shippers.



**Alaska Department of Environmental Conservation**

**Alaska's Oil Spill Safety Net**

**Task Force on Motorized Oil Transport**

**DRAFT  
REPORT  
October 30, 2000**



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## **TASK FORCE ON MOTORIZED OIL TRANSPORT**

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Senator Drue Pearce

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## Accomplishing the Recommendations

### Required Statutes and Regulations

This table represents an analysis by staff of one way to approach the need for statutes and/or regulations to accomplish the Task Force's recommendations. It is intended to give an overview of a framework; the Alaska Department of Law will, of course, determine when statutory authority is necessary for particular provisions.

Generally, staff recommend the adoption of broad statutes granting statutory authority to the Department to adopt regulations, with the more specific material being set out in regulation. This format will allow more flexibility as circumstances change over the years.

Staff recommends that a Letter of Intent be drafted that would incorporate the report of the Task Force into legislative intent. In this way, a somewhat formal mechanism would exist to provide guidance to the Department of Environmental Conservation when drafting regulations. A legislative sponsor would need to be found -- perhaps Senator Pearce.

If the Task Force adopts prevention incentive measures such as tax credits or a reduction in the penalties for a spill, these provisions would have to be in statute.

A=approved by Task Force

Y=Yes; N=No;

CA=on consent agenda for 11/6 meeting SA=Should be broad Statutory Authority

### MARINE VESSEL RECOMMENDATIONS

| Stat<br>us | Recommendation | Reg | Stat | Comment |
|------------|----------------|-----|------|---------|
|------------|----------------|-----|------|---------|

#### A. General Recommendations

|   |                                                                                                                                                                                                                                                                                                       |   |   |                                                                                                        |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|--------------------------------------------------------------------------------------------------------|
| A | 1. <u>Wave height planning standard.</u> The Task Force adopted, and recommends that others adopt, a response planning standard wave height of 3 feet or less. [                                                                                                                                      |   | Y | Should be in statute.                                                                                  |
| A | 2. <u>Schedule for acquiring new equipment.</u> The Task Force recommends that schedule established under the tank vessel program for the APD&T group to acquire new equipment and place it in service is sufficiently rapid for the additional equipment required to implement the non-tank program. | N | N | Concept should be covered in letter of intent; specifics will be reflected in C-plan approval process. |

**B. Control and containment recommendations**

|           |                                                                                                                                                                                                                                                                                                                          |          |                  |  |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------------|--|
| <b>A</b>  | <b>3. <u>Required control and containment equipment.</u> The control and containment equipment required for a nontank vessel to meet its response planning standard (RPS) is containment boom sufficient to extend three times the length of the vessel and an appropriate means for deploying the containment boom.</b> | <b>Y</b> | <b>N;<br/>SA</b> |  |
| <b>CA</b> | <b>4. <u>Stationing of control and containment equipment.</u> Control and containment equipment required for a nontank vessel to meet its response planning standard (RPS) must be stationed within the subarea of the vessel's operation.</b>                                                                           | <b>Y</b> | <b>N</b>         |  |

**C. Cleanup Recommendations**

|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |          |           |  |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------|--|
| <b>CA</b> | <b>5. <u>Required cleanup equipment.</u> The cleanup equipment required for a nontank vessels to meet its RPS includes skimming capacity capable of cleaning up 15 percent of the maximum capacity of the vessel within five days and storage capacity that equals the daily recovery capacity of the chosen skimmer. The skimmer chosen must be appropriate for the type of oil carried by the vessel. [This is a modification of a previous RPS recommendation approved by the Task Force on September 20.]</b> | <b>Y</b> | <b>SA</b> |  |
| <b>CA</b> | <b>6. <u>Stationing of cleanup equipment.</u> To meet the RPS requirement of "cleanup of the discharge within the shortest possible time consistent with minimizing damage to the environment," a nontank vessel must either (a) position the required skimming and storage capacity within its subarea of operation; or (b)</b>                                                                                                                                                                                  | <b>Y</b> | <b>SA</b> |  |

|    |                                                                                                                                                                                                                                                                     |   |    |  |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|--|
|    | <b>reasonably demonstrate to DEC the ability to position equipment in its subarea of operation within 24 hours.</b><br>[This is a modification of a recommendation approved by the Task Force on September 20.]                                                     |   |    |  |
| CA | <b>7. <u>Schedule for acquiring new cleanup equipment.</u> Nontank vessels shall be allowed two years from the adoption of regulations implementing SB 273 to have in place the skimmer(s) and associated storage capacity described in their contingency plan.</b> | Y | SA |  |

**D. Contingency planning recommendations**

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |   |    |                                                                                                                                                                                                                                                                              |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CA | <b>8. <u>Vessel operation outside of state waters.</u> Nontank vessel contingency plans (C-plans) shall only be required for vessel operations in state waters, within three miles of shore.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |   |    |                                                                                                                                                                                                                                                                              |
| CA | <b>9. <u>Streamlined Contingency Plan process.</u> DEC shall establish a streamlined process for submission and approval of contingency plans for nontank vessels. Under the streamlined process a contingency plan submission shall consist of:</b><br><ul style="list-style-type: none"> <li>i) vessel-specific information,</li> <li>ii) a response action plan consisting of <ul style="list-style-type: none"> <li>a) initial notification procedures such as those contained in the shipboard oil pollution emergency plan (SOPEP),</li> <li>b) certification that the applicant is a member of a spill response cooperative 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</li> </ul> </li> </ul> | Y | SA | A general statute should cover contingency plan requirements for non-tank vessels, including reference to a streamlined process when RAC's are used; an alternative process for others; quick turn-around; fleet plans, the use of a response plan facilitator and the like. |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |   |    |            |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|------------|
|    | <p>holders, and</p> <p>c) certification that the applicant has contracted with an incident management team (IMT) approved as a primary response action contractor under 18 AAC 75.550. Evidence demonstrating equivalent capability may be submitted in lieu of (b) or (c).</p> <p>iii) a prevention plan certification stating that the applicant vessel complies with applicable federal and International Maritime Organization requirements.</p>                                                                                                                                         |   |    |            |
| CA | <p>10. <u>Alternative Contingency Plan options.</u> DEC shall establish three alternative options for nontank vessel contingency plans (C-plans):</p> <p>a) C-Plan Option I: using co-op membership,</p> <p>b) C-Plan Option II: developing equivalent response resources, or</p> <p>c) C-Plan Option III: using a combination of equivalent resources and primary response action contractors.</p>                                                                                                                                                                                          | Y | SA | See above. |
| CA | <p>11. <u>Action on Contingency Plans.</u> DEC will complete its review of applications for the addition of a vessel to an already approved fleet plan within 5 days. DEC will review an initial full application submitted under C-plan Option I within 15 days of receiving the application; in the event of extenuating circumstances the review will be completed within 5 days. Initial full applications submitted under C-plan Options II or III will be reviewed by DEC within 45 to 90 days. DEC will establish these timeframes for review of contingency plans in regulation.</p> | Y | SA | See above. |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |   |    |            |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|------------|
| CA | 12. <b><u>Response plan facilitator.</u></b> A response plan facilitator (RPF), acting as an agent for a vessel or vessels, may develop and hold a generic contingency plan that is activated by signature of an RP. The RPF will submit a generic plan for a specified area of operation to DEC for approval. This plan will 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. | Y | SA | See above. |
| CA | 13. <b><u>Incident management team qualification.</u></b> DEC shall specify the requirements for qualification as an incident management team (IMT).                                                                                                                                                                                                                                                                                                                                                                                                                                              | Y | SA | See above. |
| CA | 14. <b><u>Application timeframes.</u></b> Nontank vessel contingency plans shall 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.                                                          | Y | SA | See above. |
| CA | 15. <b><u>Spot charter vessels.</u></b> Should the term "spot charter" need to be defined in future regulations or legislation, the Task Force recommends that the state adopt the definition of proposed by the Task Force members representing the spot charter industry, i.e., a "vessel contracted to lift a specific cargo on a one-time, periodic, non-scheduled or tramp basis."                                                                                                                                                                                                           | Y | N  |            |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |   |    |            |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|------------|
|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |   |    |            |
| CA | 16. <b><u>C-plan electronic postings.</u></b> The Task Force recommends that DEC electronically post a listing of nontank vessel contingency plan applications and review schedules.                                                                                                                                                                                                                                                                                                                                                                                                                                   | N | N  |            |
| CA | 17. <b><u>Public notice process.</u></b> The Task Force endorses the public notice process in DEC's review process for contingency plans found in 18 AAC 75.415 and 75.455.                                                                                                                                                                                                                                                                                                                                                                                                                                            | Y | SA |            |
| CA | 18. <b><u>DEC authority to inspect.</u></b> The Task Force recommends legislation to give DEC statutory authority to inspect nontank vessels for C-plan compliance.                                                                                                                                                                                                                                                                                                                                                                                                                                                    | N | Y  |            |
| CA | 19. <b><u>Drills.</u></b> The Task Force recommends that the frequency and type of contingency plan spill drills required of nontank vessels be based on the nontank vessel contingency plan option. Under C-Plan Option I, a maximum of one tabletop spill drill may be required annually. Under C-Plan Options II and III, a maximum of one full deployment drill and one tabletop drill may be required during a three-year C-plan review cycle. The Task Force recommends that a spill response cooperative that provides services exclusively to nontank vessels be drilled a maximum of two times a year by DEC. | Y | SA | See above. |

**E. Prevention recommendation**

|    |                                                                                                                                                   |  |   |                                                                           |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------|--|---|---------------------------------------------------------------------------|
| CA | 20. <b><u>Mandatory prevention measures.</u></b> All affected nontank vessels must comply with applicable federal and international requirements. |  | ? | The Task Force was to discuss whether to put this requirement in statute. |
| CA | 21. <b><u>Reduction in the response</u></b>                                                                                                       |  |   |                                                                           |

|  |                                                                                                                                                                                                          |   |   |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|--|
|  | <b><u>planning standard.</u> The Task Force does not now recommend inclusion in any nontank vessel prevention credit program any incentive based on the reduction of the response planning standard.</b> | N | N |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|--|

### ALASKA RAILROAD RECOMMENDATIONS

| Stat<br>us | Recommendation                                                                                                                                                                                                              | Reg | Stat | Comment |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|------|---------|
| A          | 22. <b><u>ARR review under rigor of existing law.</u> The Task Force recommends the Alaska Railroad undergo a contingency and prevention plan review under the rigor of existing law for currently regulated industry.</b>  | Y   | Y    |         |
| A          | <b><u>ARR risk assessment process.</u> The Task Force endorses the Alaska Railroad risk assessment process, and recommends the process be followed through to completion.</b>                                               | N   | N    |         |
| A          | 23. <b><u>Railroad RPS.</u> The Task Force recommends the Alaska Railroad follow the response planning standard methodology developed by the Task Force, designed to meet an RPS of 15 percent of maximum fuel carried.</b> | Y   | Y    |         |

## TASK FORCE ON MOTORIZED OIL TRANSPORT FINAL REPORT

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## **I. EXECUTIVE SUMMARY**

[to be distributed prior to 11/6 Task Force meeting]

## II. TASK FORCE AND WORK GROUP PROCESS

Financial responsibility and oil spill response planning requirements have long been in place for tank vessels carrying petroleum as their principal cargo. Senate Bill 273 enacted by the 2000 Alaska Legislature established similar requirements for nontank vessels of more than 400 gross tons, and for railroad tank cars.

The new law establishes a response planning standard (RPS) for "containment and control of 15 percent of the maximum oil capacity" of the nontank vessel or railroad train within 48 hours. Cleanup is required "within the shortest possible time consistent with minimizing damage to the environment."

The bill established the Task Force on Motorized Oil Transport and charged the Task Force with determining how to implement the response planning standard. The Task Force is to report its recommendations to the Legislature on or before the first day of the 2001 session. The Task Force decided to finalize its report by December 1, 2000.

Also approved by the 2000 Legislature was SCR 1, a resolution directing the Task Force to address several specific issues in its report. SB 273 and SCR 1 are found in Appendix A.

At its first meeting, on July 11, 2000, the Task Force decided to accomplish its work by establishing several work groups, including the Response Planning Work Group, Prevention Work Group and Contingency Plan Work Group. The Task Force hired contractors to facilitate the process and to provide specialized expertise to the Task Force and work groups. DEC established a project website to provide public information about the Task Force and notice of Task Force and work group meetings (<http://www.state.ak.us/dec/nontank>).

The three work groups held a series of public meetings, using expertise from the Task Force membership, the facilitators and contractors, and members of the public. Each meeting agenda and a summary of actions was posted to the project website.

Recommendations of the work groups were forwarded to the Task Force, which decided on recommendations to the Legislature.

At its second meeting, the Task Force reached consensus that it would task itself to recommend *realistic, effective, economically feasible* and *flexible* response strategies to achieve the response planning standard required by SB 273.

1. *Realistic* means capable of being implemented with available technology and expertise within a reasonable timeframe.
2. *Effective* means providing real protection to the environment at the level required by the law, not just the appearance of protection.
3. *Economically feasible* means capable of being implemented without bankrupting shippers or imposing unreasonable cost increases on their customers.

4. *Flexible* means providing for improvements and changes in methods and requirements to reflect changes in technology, the volume of vessel or Railroad tankcar trade, expertise, and other parameters.

At its second meeting, the Task Force heard reports from the work groups, adopted initial recommendations guiding completion of the work group efforts, determined the structure of the Task Force report to the Legislature, and set a timetable for project completion.

In the third meeting, the Task Force decided on recommendations forwarded from the work groups, and dealt with recommendations for which the work groups had not reached consensus.

### III. MARINE VESSEL RECOMMENDATIONS

The Task Force adopted the following recommendations relating to how nontank vessels exceeding 400 gross registered tons will meet the requirements enacted in SB 273.

#### ***A. Response Planning Standard Work Group***

##### ***General recommendations***

1. ***Wave height planning standard. The Task Force adopted, and recommends that others adopt, a response planning standard wave height of 3 feet or less.***  
[Already approved by Task Force.]

The state of the sea is an important variable in the technical feasibility of containment, control and recovery operations. As wave heights increase, recovery becomes problematic, and eventually impossible. The 3-foot-or-less wave height planning standard adopted by the Task Force is the same standard as was approved by DEC for tank vessel oil spill response planning by the Alaska Petroleum Distributors and Transporters (APD&T), a group formed by the major Alaska barge transporters of non-persistent fuel oil.

2. ***Schedule for acquiring new equipment. The Task Force recommends that schedule established under the tank vessel program for the APD&T group to acquire new equipment and place it in service is sufficiently rapid for the additional equipment required to implement the non-tank program.*** [Already approved by Task Force.]

The Task Force reviewed the schedules established by the U.S. Coast Guard (USCG) and the Department of Environmental Conservation (DEC) for the acquisition of new equipment by APD&T under the federal Oil Pollution Act of 1990. The potential spill volumes under the APD&T agreement are generally larger than the likely spill amounts under the non-tank program. Moreover, it would be manifestly unfair to require non-tank vessels brought under regulation only this year to meet schedules faster than those approved for vessels that have been regulated since 1990. Under the agreement with APD&T, additional equipment must be sited at Dillingham by July 2001, Bethel by July 2002, Nome by July 2002, and the North Slope by July 2003.

##### ***Control and containment recommendations***

3. ***Required control and containment equipment. The control and containment equipment required for a nontank vessel to meet its response planning standard (RPS) is containment boom sufficient to extend three times the length of the vessel and an appropriate means for deploying the containment boom.*** [Already approved by Task Force.]

The Task Force determined that the immediate response requirements of containment and control of an oil spill within 48 hours can be met with containment boom sufficient to extend three times the length of a regulated vessel, together with an appropriate means for deploying the containment boom.

4. **Stationing of control and containment equipment.** Control and containment equipment required for a nontank vessel to meet its response planning standard (RPS) must be stationed within the subarea of the vessel's operation. [Recommended by RPS Work Group and placed on the Nov. 6 consent agenda.]

A map showing the ten Alaska subareas is found in Appendix \*\*\*. A table, "Regional Containment and Clean-up Planning Summary," showing current equipment available in each subarea is found in Appendix \*\*\*. The schedule for control and containment equipment will be either immediate or, at the latest, on the APDT schedule.

#### ***Cleanup recommendations***

5. **Required cleanup equipment.** The cleanup equipment required for a nontank vessels to meet its RPS includes skimming capacity capable of cleaning up 15 percent of the maximum capacity of the vessel within five days and storage capacity that equals the daily recovery capacity of the chosen skimmer. The skimmer chosen must be appropriate for the type of oil carried by the vessel. [Recommended by RPS Work Group and placed on the Nov. 6 consent agenda; this is a modification of a previous RPS recommendation approved by the Task Force on September 20.]

For example, if the nontank vessel carries 10,000 barrels of fuel, the RPS quantity is 1500 barrels. To meet the RPS, a nontank vessel must have skimming capacity capable of cleaning up 300 barrels of spilled fuel per day. With a skimmer that recovers 80 percent fuel and 20 percent water, temporary storage capacity must be provided that will hold 360 barrels of liquid per day (300 barrels of fuel and 60 barrels of water).

Acquisition of additional persistent and non-persistent skimming capacity, and additional storage will likely be necessary to meet the Task Force recommendation on required cleanup equipment.

6. **Stationing of cleanup equipment.** To meet the RPS requirement of "cleanup of the discharge within the shortest possible time consistent with minimizing damage to the environment," a nontank vessel must either (a) position the required skimming and storage capacity within its subarea of operation; or (b) reasonably demonstrate to DEC the ability to position equipment in its subarea of operation within 24 hours. [Recommended by RPS Work Group and placed on the Nov. 6 consent agenda; this is a modification of a recommendation approved by the Task Force on September 20.]

Placement of skimming and storage capacity within a subarea ensures that the equipment will be readily available for response. Exceptions to this requirement may be granted if it can be demonstrated that the equipment can be available in the subarea within 24 hours.

The Task Force expects that efficiency and cost factors will influence the non-tank vessel regulated community to move toward centralized positioning of the required skimming and storage capacity. These resources would then be cascaded to the site of a spill as needed. The success of this strategy depends on mobility. Equipment will need to be designed to fit in a type of aircraft that is usually available. Unless Hercules-type aircraft can be shown to be generally

accessible, equipment to be cascaded will probably need to be designed to fit in a DC-6.

7. **Schedule for acquiring new cleanup equipment.** Nontank vessels shall be allowed two years from the adoption of regulations implementing SB 273 to have in place the skimmer(s) and associated storage capacity described in their contingency plan. [Recommended by RPS Work Group and placed on the Nov. 6 consent agenda.]

This implementation schedule compares favorably with the APD&T schedule described above (see discussion following recommendation 2). It gives the regulated vessels time to amortize costs of containment and control equipment prior to acquiring new cleanup equipment.

#### ***B. Contingency planning work group***

8. **Vessel operation outside of state waters.** Nontank vessel contingency plans (C-plans) shall only be required for vessel operations in state waters (generally within three miles of shore). [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

The exemption is expected to induce some vessels to remain outside of state waters. The Task Force concurs with DEC officials who say that keeping vessels outside state waters will substantially reduce the risks of spills, and contribute to protecting the state's environment. For example, some vessels that call at Dutch Harbor and file a C-plan for that region may choose to remain outside state waters when transiting or working in other subareas, thus avoiding the need to file C-plans covering operations in those areas.

9. **Streamlined Contingency Plan process.** DEC shall establish a streamlined process for submission and approval of contingency plans for nontank vessels. Under the streamlined process a contingency plan submission shall consist of:

- i) vessel-specific information,
- ii) a response action plan consisting of
  - a) initial notification procedures such as those contained in the shipboard oil pollution emergency plan (SOPEP),
  - b) certification that the applicant is a member of a spill response cooperative 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, and
  - c) certification that the applicant has contracted with an incident management team (IMT) approved as a primary response action contractor under 18 AAC 75.500-580.

Evidence demonstrating equivalent capability may be submitted in lieu of (b) or (c).

- iii) a prevention plan certification stating that the applicant vessel complies with applicable federal and International Maritime Organization requirements.

[Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

Much of the vessel-specific information is already contained in the financial responsibility application required to be filed by regulated vessels.

**10. Alternative Contingency Plan options. DEC shall establish three alternative options for nontank vessel contingency plans (C-plans):**

- a) C-Plan Option I: Contract out all duties to PRACs,**
- b) C-Plan Option II: developing equivalent response resources, or**
- c) C-Plan Option III: using a combination of equivalent resources and primary response action contractors.**

[Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

Under C-Plan Option I, a responsible party (RP) contracts with a spill response cooperative that is a primary response action contractor with a response action plan approved by DEC, and contracts with an incident management team (IMT) that is an approved PRAC under 18 AAC 75.500-580. Under C-Plan Option II, an RP elects to meet its RPS by providing equivalent spill response resources as those provided by a co-op and IMT. RPs could choose a hybrid approach C-Plan Option III, using PRACs for some services while providing some services themselves. Applicants will be allowed to choose from among the three options, provided they meet the requirements of the chosen option. Each of the three options can be used for plans covering single vessels or fleets.

**11. Action on Contingency Plans. DEC will complete its review of applications for the addition of a vessel to an already approved fleet plan within 5 days. DEC will review an initial full application submitted under C-plan Option I within 15 days of receiving the application; in the event of extenuating circumstances the review will be completed within 5 days. Initial full applications submitted under C-plan Options II or III will be reviewed by DEC within 45 to 90 days. DEC will establish these timeframes for review of contingency plans in regulation.** [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

Because the timeframes for DEC review of nontank vessel contingency plans are critical to the regulated community, the Task Force decided to address this issue in a specific recommendation. DEC will require adequate funding for staff to effect this recommendation.

**12. Response plan facilitator. A response plan facilitator (RPF), acting as an agent for a vessel or vessels, may develop a generic contingency plan that is activated by signature of an RP. The RPF will submit a generic plan for a specified area of operation to DEC for approval. This plan will 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.** [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

A vessel may not enter 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 approved it.

An RPF could be a maritime agent, co-op, or specialized agent. An RPF could prepare geographic areawide C-plans covering operations in specified areas, coordinate associated paperwork, 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. No certificate is issued to the RPF, only to the planholder.

**13. Incident management team qualification. DEC shall specify the requirements for qualification as an incident management team (IMT).** [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

Use of an Incident Management Team contractor is anticipated under the recommendations adopted by the C-Plan Work Group. There are no current regulations regarding requirements for, or qualifications of, IMT contractors. DEC has recommended that the NIIMS ICS model be used to standardize Incident Command positions, and recommends the following IMT structure as follows:

**Potential Requirements for IMT capabilities for Non-tank Vessels**  
**(This is a minimum planning requirement only.)**

| <b>RPS Volume<br/>(Barrels)<br/>Persistent</b> | <b>RPS Volume<br/>(Barrels)<br/>Non-Persistent</b> | <b>ICS positions required</b>                                                                                                              |
|------------------------------------------------|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 0-5,000                                        | 0-10,000                                           | Incident Commander, Qualified Individual (as defined by 33 CFR 155.1026)                                                                   |
| 5,001+                                         | 10,001+                                            | Incident Commander, Finance Chief, Planning Chief, Operations Chief, Logistics Chief, Qualified Individual (as defined by 33 CFR 155.1026) |

It is assumed that all other command staff positions such as the safety officer, public information officer, etc., and supporting ICS positions would be accessible and available as needed to meet the requirements of the incident in a timely manner.

**14. Application timeframes.** Nontank vessel contingency plans shall 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. [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

In choosing a 180-day timeframe, the Task Force considered the need for appropriate evaluation of C-plan alternatives, implementation planning, and the coordination within the regulated community that will be necessary to establish efficient and cost-effective control, containment and cleanup mechanisms. Regulated entities will be required to state in the C-plan their plans for the ordering and taking delivery of required new equipment

**15. Spot charter vessels.** Should the term "spot charter" need to be defined in future regulations or legislation, the Task Force recommends that the state adopt the definition of proposed by the Task Force members representing the spot charter industry, i.e., a "vessel contracted to lift a specific cargo on a one-time, periodic, non-scheduled or tramp basis." [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

There is no definition of "spot charter" in current regulations or legislation. If a definition is required, the Task Force recommends this definition.

**16. C-plan electronic postings.** The Task Force recommends that DEC electronically post a listing of nontank vessel contingency plan applications and review schedules. [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

Under the streamlined C-Plan process, public notice is required for new contingency plans that do not use co-ops, or for generic contingency plans. Applications for adding vessels to existing approved plans, for activating generic contingency plans, or for vessels that use co-ops will be acted upon in short timeframes. Electronic posting provides an opportunity for the public to know what vessels are activating C-plans. DEC will require adequate funding for staff to effect this recommendation.

**17. Public review process. The Task Force endorses the public review process in DEC's review process for tank vessel contingency plans found in 18 AAC 75.415 and 75.455.** [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

Section 415 describes routine amendments to C-plans and provides that such amendments will be reviewed within 30 days of submission, unless there is an addition to a pre-existing C-plan in which case the review period is five days. Section 455 provides the procedures to be followed in processing new applications and non-routine amendments.

**18. DEC authority to inspect. The Task Force recommends legislation to give DEC statutory authority to inspect nontank vessels for C-plan compliance.** [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

In the case of a contingency plan under C-plan Option I, the department would inspect a nontank vessel to verify quantity of fuel, a contract with a spill response cooperative and with an IMT, and that a SOPEP and certificate of financial responsibility (COFR) are onboard the vessel. For C-plan Options II and III, the department would also inspect to verify contracts and equipment listed in the plan.

**19. Drills. The Task Force recommends that the frequency and type of contingency plan spill drills required of nontank vessels be based on the nontank vessel contingency plan option. Under C-Plan Option I, a maximum of one tabletop spill drill may be required annually. Under C-Plan Options II and III, a maximum of one full deployment drill and one tabletop drill may be required during a three-year C-plan review cycle. The Task Force recommends that a spill response cooperative that provides services exclusively to nontank vessels be drilled a maximum of two times a year by DEC.** [Recommended by C-plan Work Group and placed on the Nov. 6 consent agenda.]

Spill drills are currently conducted in the tank vessel regulated community for responsible parties with contingency plans. The current tank vessel drill program must be modified to fit the circumstances of the nontank vessels. The Task Force recommends a schedule that gives DEC an opportunity to conduct drills at a frequency similar to that of tank vessels for nontank vessels not using co-ops, and less intensive tabletop drill for nontank vessels using coops.

### **C. Prevention Work Group**

The Task Force's recommendations related to prevention and prevention credit programs were restricted to how those programs relate to non-tank vessels. Prevention credit programs for tank vessels are outside the purview of the Task Force on Motorized Oil Transport.

**20. Mandatory prevention measures. All affected nontank vessels must comply with applicable federal and international requirements.** [Recommended by Prevention Work Group and placed on the Nov. 6 consent agenda.]

The Task Force discussed whether federal vessel requirements should be adopted as state law. A Department of Law attorney explained that if the state adopts the federal requirements, they can be enforced under state law as well as federal law. Alternatively, he said 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.

**21. Reduction in the response planning standard. The Task Force does not now recommend inclusion in any nontank vessel prevention credit program any incentive based on the reduction of the response planning standard.**

[Recommended by Prevention Work Group and placed on the Nov. 6 consent agenda.]

It is possible that prevention credit issues could evolve over the years, perhaps in unforeseen ways. The affected industries and DEC should be prepared to review these issues periodically, as needed.

#### **IV. ALASKA RAILROAD RECOMMENDATIONS**

**22. ARR review under rigor of existing law.** The Task Force recommends the Alaska Railroad undergo a contingency and prevention plan review under the rigor of existing law for currently regulated industry. [Already approved by Task Force.]

All currently regulated facilities are required to file a C-plan consisting of four elements: a response action plan, prevention plan, supplemental information, and a best-available-technology review. Details of what is required in each of these elements differ depending on the kind of facility—pipeline, refinery, etc. Railroads are not currently included in this list; from the standpoint of applying the existing regulation, the railroad probably bears the closest affinity to pipelines. Not all of the facilities where the railroad loads and unloads petroleum are currently required to file C-plans.

**23. ARR risk assessment process. The Task Force endorses the Alaska Railroad risk assessment process, and recommends the process be followed through to completion.** [Already approved by Task Force.]

The Alaska Railroad's risk assessment process provides the railroad with substantial information about the line risks that could lead to oil spills from railroad tank cars. As such, this process can be a strong oil spill prevention program if carried through to completion, and the recommendations are implemented. It covers issues including track/engineering issues, mechanical issues, operating issues, determination of critical track segments for possible adverse train dynamics, identifies possible adverse track geometry locations, reviews highway crossing protection issues, reviews derailment and operating safety incidents, reviews rule and efficiency testing data, and evaluates susceptibility to L/V derailments.

**24. Railroad RPS. The Task Force recommends the Alaska Railroad follow the response planning standard methodology developed by the Task Force, designed to meet an RPS of 15 percent of maximum fuel carried.** [Already approved by Task Force.]

The Alaska Railroad operates within two separate subareas. The railroad's RPS standard of 15 percent in 48 hours was established in SB 273. This differs from the standards for other upland facilities such as pipelines, which generally (with exceptions) must plan for cleaning up 100 percent of the discharge, but need not plan to accomplish this in a specific time frame.

***Prevention work group – recommendation affecting all areas***

**25. Periodic Review . The Task Force recommends that the Department of Environmental Conservation review all recommendations with the regulated community on a periodic basis.** [Recommended by the Prevention Work Group and placed on the Nov. 6 consent agenda.]

## **V. PROPOSED LEGISLATION**

To be distributed 11/6 Task Force meeting

This draft legislation will be revised following the 11/6 Task Force meeting and distributed to Task Force Members and the public on 11/20.

## **VI. DRAFT MEMORANDUM DESCRIBING REGULATIONS**

To be completed following 11/6 Task Force meeting and distributed to Task Force Members and the public on 11/20.

## **VII. APPENDICES**

To be completed following 11/6 Task Force meeting and distributed to Task Force Members and the public on 11/20.

### ***I. Response planning standard supporting data***

- 1. Vessel size and maximum size spill table***
- 2. Schedule of new response hubs (APD&T)***
- 3. Map of subareas***
- 4. RPS comparison***
- 5. Table of equipment costs***
- 6. Alaska Approved PRACs***

### ***II. Contingency plan supporting data***

- 1. DEC Streamlined C-plan exhibits***

### ***III. Prevention plan supporting data***

- 1. Federal/International Pollution Regulations***
- 2. Table of voluntary prevention measures***

### ***IV. Alaska Railroad supporting data***

- 1. System risk assessment***
- 2. RPS and C-Plan plan schedule***

### ***V. Bibliography of supporting information***

## **Prevention Credit Scheme**

Draft, October 11

### **Department of Environmental Conservation provisions.**

#### **I. Application for prevention credits.**

##### **a. Submit signed affidavit.**

The owner of a vessel may apply to the department for a certificate evidencing the existence of certain prevention measures with respect to that vessel. The application must include an affidavit signed by the vessel owner or an authorized representative of the vessel owner attesting to the measures. The owner of more than one vessel may submit a single affidavit for a fleet of vessels, but the affidavit must indicate which measures apply to all of the vessels and, if applicable, the additional measures that apply to individual vessels in the fleet.

##### **b. Records and inspection.**

An application for the certification of prevention measures constitutes the granting of consent by the vessel owner to a search, by the state or the Coast Guard, of the vessel to verify the existence of prevention equipment, and consent to access by the state to records of the owner pertaining to the equipment and any prevention procedures. An owner who requests certification of a prevention measure must retain written records pertaining to that measure for at least three years after the expiration of any tax credit or penalty reduction granted as a consequence of that measure.

##### **c. Compliance with federal and international law. [Do the committee members recommend that this be part of the prevention credits scheme?]**

The affidavit must contain a statement by the owner or authorized representative that the vessel for which certification is sought complies with applicable federal and international requirements for vessels. [and crew?]

#### **II. Issuance of Certificate**

A separate numbered certificate will be issued for each vessel. The certificate, or a copy of the certificate, must be carried on the vessel. The certificate will be issued based solely upon information in the affidavit.

The certificate will list the prevention measures that have been claimed for the vessel.

The certificate is valid for one year.

**III. [Tiered system] Tax and penalty reduction.**

The certificate will indicate whether the vessel is a Tier 1, Tier 2 or Tier 3 vessel, according to the schedule set out ..... The owner of the vessel is eligible for a reduction in the state penalties for a spill, and (or?) for a refund of state motor fuel tax [and (or?) for a reduction in the fisheries business tax or fisheries business landing tax] with respect to that vessel as set out in the following table:

|        | Reduction in<br>penalty for spill | Motor fuel tax                                                              | Fisheries business<br>tax or landing tax                                                                                |
|--------|-----------------------------------|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| Tier 1 | Penalty X 0.9                     | Refund of 25% of<br>taxes paid for that<br>vessel (or \$.012 per<br>gallon) | ? Credit of ?% of<br>tax due on fish<br>landed/caught/proc<br>essed by vessel<br>- or - Credit not to<br>exceed \$_____ |
| Tier 2 | Penalty X 0.7                     | Refund of 50% of<br>taxes paid for that<br>vessel (or \$.025 per<br>gallon) | ? Credit of ?% of<br>tax due on fish<br>landed/caught/proc<br>essed by vessel<br>- or - Credit not to<br>exceed \$_____ |
| Tier 3 | Penalty X 0.5                     | Refund of 75% of<br>taxes paid for that<br>vessel (or \$.037 per<br>gallon) | ? Credit of ?% of<br>tax due on fish<br>landed/caught/proc<br>essed by vessel<br>- or - Credit not to<br>exceed \$_____ |

### **III. [Single trigger system] Tax and penalty reduction.**

The certificate will indicate whether the owner of the vessel has adopted the requisite number of prevention measures to be entitled to a reduction in the state penalties for a spill, and (or?) for a refund of state motor fuel tax [and (or?) for a reduction in the fisheries business tax or fisheries business landing tax] with respect to that vessel. The reduction or credit is set out in the following table:

|                                                 |                                                         |                                                                                           |                                                                                                                                                               |
|-------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Prevention Measures Certificate</b>          | <b>Reduction in penalty for spill<br/>Penalty X 0.?</b> | <b>Motor fuel tax<br/>Refund of ?% of taxes paid for that vessel (or \$.? per gallon)</b> | <b>Fisheries business tax or landing tax<br/>? Credit of ?% of tax due on fish landed/caught/processed by vessel<br/>- or - Credit not to exceed \$ _____</b> |
| <b>Enhanced Prevention Measures Certificate</b> | <b>Penalty X 0.?</b>                                    | <b>Refund of ?% of taxes paid for that vessel (or \$.? per gallon)</b>                    | <b>? Credit of ?% of tax due on fish landed/caught/processed by vessel<br/>- or - Credit not to exceed \$ _____</b>                                           |

Etc.

### **III. (Specified Five Measures) Tax and penalty reduction**

The certificate will indicate whether the owner of the vessel has adopted the prevention measures necessary to be entitled to a reduction in the state penalties for a spill, and (or?) for a refund of state motor fuel tax [and (or?) for a reduction in the fisheries business tax or fisheries business landing tax] with respect to that vessel. The reduction or credit is set out in the following table:

|                                        |                                                         |                                                                                           |                                                                                                                                                               |
|----------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Prevention Measures Certificate</b> | <b>Reduction in penalty for spill<br/>Penalty X 0.?</b> | <b>Motor fuel tax<br/>Refund of ?% of taxes paid for that vessel (or \$.? per gallon)</b> | <b>Fisheries business tax or landing tax<br/>? Credit of ?% of tax due on fish landed/caught/processed by vessel<br/>- or - Credit not to exceed \$ _____</b> |
|----------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### IV. Reissuance of a certificate.

A certificate will be reissued for subsequent years upon the vessel owner's submission of a statement indicating the owner's continued eligibility for the certificate. The statement must indicate whether there is any change in the prevention equipment or procedures for a vessel. If prevention measures have been added, the statement of the owner or authorized representative must be notarized. If prevention measures have been discontinued or added, the department will reassess the owner's eligibility for the certificate.

#### V. Reduction in penalties for a spill.

A person who is liable to the state for stipulated penalties for the discharge of oil [**which definition includes all petroleum products but excludes crude oil**] may reduce those penalties by showing that the vessel from which the oil was spilled had a valid, current prevention measure certificate at the time of the spill.

### Department of Revenue provisions

#### VI. Motor Fuel Tax refunds

- a. The owner of a vessel that has been issued a prevention measure certificate under \_\_\_\_\_ may apply for a refund of motor fuel taxes on fuel purchased for that vessel if the motor fuel tax has been paid on the fuel;
- b. The amount of the refund is \$.0? per gallon of fuel; [**or a percentage of the taxes paid**]<sup>1</sup>
- c. The vessel owner may apply for the refund at any time but not more than frequently than [quarterly; annually;], on a form provided by the department. A copy of the prevention measures certificate must accompany the request for a refund.
- d. A vessel owner claiming a refund under this section is a taxpayer for purposes of the administrative and penalty provisions applying to taxpayers. If a taxpayer penalty is based upon the amount of the tax, a prevention tax credit penalty will be based upon the amount of the refund requested.

#### VII. Fisheries Business Tax

- a. A taxpayer who is the owner of a vessel that has been issued a prevention measure certificate under \_\_\_\_\_ may claim as a credit \_\_\_\_\_% of the fisheries business tax due on the fisheries resources processed by that vessel.<sup>2</sup>

#### VIII. Fisheries Business Landing Tax credits.

A taxpayer who is the owner of a vessel that has been issued a prevention measure certificate under \_\_\_\_\_ may claim as a credit \_\_\_\_\_% of the fisheries business landing tax due on the fisheries resources landed by that vessel.<sup>2</sup>

<sup>1</sup> It makes more sense to express the amount as cents per gallon, since that is how the tax is levied. Presumably the vessel owner will have receipts for gallons of fuel purchased; he would add them up and multiply by -- for example -- \$.02. For a percentage reduction, the taxpayer would have to first multiply \$.05 times the number of gallons (the tax paid), then calculate -- for example -- 25% of that amount.

<sup>2</sup> It is not necessary to amend the statute if the Task Force recommends that the credit for fisheries taxes come out of the state's share, and not the share of the municipalities. The current statutes provide that 50% of the fisheries taxes collected will be shared with the municipalities.

1 TASK FORCE ON MOTORIZED OIL TRANSPORT

2 TASK FORCE MEETING

3  
4 November 6, 2000  
5 8:30 A.M.

6 Held at  
7 Legislative Information Office  
8 716 West Fourth Avenue, 2nd Floor  
9 Anchorage, Alaska

10 Brian Rogers, Facilitator

11 Steering Committee:

12 Senator Drue Pearce  
13 Representative Pete Kott  
14 Commissioner Michele Brown, Chair

15 Task Force members present:

16 Ed Page  
17 Bob Heavilin  
18 Lee Eglund  
19 Jeff Thompson  
20 Charlotte MacCay  
21 Scott Carter  
22 Stephanie Madsen  
23 Gene Burden  
24 Simon Lisiecki  
25 Mike O'Hara  
Jim Carter  
Ernie Piper  
Heather McCarty  
Eric Britten  
John Hansen  
Rick Harris  
Sandra Jackson (alternate for Dave Owings)  
Lurilla Lee

1 ANCHORAGE, ALASKA; NOVEMBER 6, 2000

2 DEC TASK FORCE ON MOTORIZED OIL TRANSPORT

3 -oOo-

4 COMMISSIONER MICHELE BROWN: Can we bring this  
5 meeting to order? We have a very aggressive schedule  
6 today, and Brian's got his facilitator. We're going to  
7 get this done.

8 There are packets of information at the  
9 entrance there. As usual, I want to thank everybody for  
10 the incredible amount of work that's gone into getting  
11 us ready for this meeting, which we hope will be our  
12 final major meeting. And so, since we have such an  
13 aggressive schedule, I won't do much more talking.

14 Maybe Senator Pearce would like to say  
15 something.

16 SENATOR DRUE PEARCE: Welcome.

17 PETE KOTT: I'll echo what you've already said.  
18 I think it's been an incredible process up to this  
19 point. It's involved the public, it's posted on the  
20 website, and I think the chair and the committee members  
21 have done just a remarkable job. And so far I think  
22 we're right on track. We can accomplish our agenda  
23 today. Thanks.

24 COMMISSIONER MICHELE BROWN: Thank you.  
25 I'll turn it over to you, Brian.

1 BRIAN ROGERS: Okay. First, can I ask who is  
2 on line on teleconference.

3 CHRIS NORRIS: Chris Norris, Icicle Seafoods in  
4 Petersburg.

5 BRIAN ROGERS: Anyone else?

6 Okay. I'm going to start with a brief Power  
7 Point presentation here. And, Chris, I guess we have  
8 not faxed a copy of that to the -- oh, you have it.  
9 Okay.

10 JUDY ERICKSON: It's coming.

11 BRIAN ROGERS: It's coming to you.

12 So we have a revised draft agenda, and so what  
13 I want to do is walk through that agenda -- Judy, can  
14 you turn the lights down? And then review some of our  
15 decision-making process, our meeting logistics, et  
16 cetera.

17 Today's agenda will start with my report,  
18 followed by public comment. This will be an opportunity  
19 for anyone not a member of the Task Force to speak on  
20 any of the agenda items. We'll follow that with a  
21 consent agenda.

22 And the way we've set up the agenda is that all  
23 of the Task Force recommendations are laid out on this  
24 agenda. Anything that anyone disagrees with, you think  
25 needs more discussion or you want to have a separate

1 vote on, will come off the consent agenda and be  
2 discussed separately. So far, three items have been  
3 asked by members of the Task Force to be removed from  
4 the consent agenda, and so the revised agenda that you  
5 have moves items 13, 18, and 19 down for discussion.  
6 When we get to the consent agenda, any member of the  
7 Task Force can move any of the other items that have not  
8 been adopted by the Task Force off the consent agenda  
9 and for discussion. We'll then by single motion adopt  
10 all of the recommendations that have no dissenting  
11 opinions. And this was an attempt to try to speed our  
12 way through that portion of the agenda.

13 We'll then have discussion and action on any of  
14 the 25 recommendations that have been pulled from the  
15 consent agenda and we'll go through those one at a time.

16 We'll then discuss the report, the final report  
17 of the Task Force. We'll have a presentation by the  
18 Alaska Railroad, as requested at our prior meeting that  
19 they brief us on their risk assessment process and where  
20 they are. We've scheduled that for 11:30, for an hour.

21 We'll then cover legal issues, and so the  
22 Alaska Railroad may go earlier or later in this agenda.  
23 We did want to give their contractor a fixed time.  
24 Breck Tostevin from the attorney general's office is  
25 here to discuss the legal issues that were raised.

1           And then we have the unresolved issues, those  
2   that have been forwarded by the work groups to the full  
3   Task Force.

4           A little bit on decision-making today. As I  
5   said, we've got public comment at the beginning of the  
6   agenda. In order -- given the length of the agenda, we  
7   have only Task Force members speaking during the  
8   discussion and action portion of the agenda, but Task  
9   Force members can request any expertise from nonmembers  
10   of the Task Force. This is a departure from the way  
11   we've done the work groups where we allowed everyone to  
12   speak throughout the agenda, and basically this is the  
13   portion where we're trying to contain and control the  
14   length of the agenda.

15           We'll have voting by Task Force members on the  
16   issues, and then currently scheduled for December 1 for  
17   a final report.

18           A couple of other things on meeting logistics.  
19   I'd ask that each individual identify yourself prior to  
20   speaking. This is both for the transcript and for -- so  
21   that anyone who is on the teleconference knows who is  
22   speaking. The transcripts are an important part of this  
23   process because they will be entered into the regulatory  
24   record at the point that the regulatory process starts.

25           And let me discuss that for just a minute.

1 Wait, before I get there, if there are copies that we --  
2 if we've made insufficient copies of any document, you  
3 need another copy, we'll make them during the breaks.

4 There is a signup sheet for lunch going around.  
5 We're going to fax in an order to have lunch brought in.

6 And let's see. We've got two -- we have one  
7 new member of the Task Force. Lurilla Lee replaces Kris  
8 Mullan on the Task Force, and Sandra Jackson is sitting  
9 in for Dave Owings today.

10 I want to review briefly what the public input  
11 opportunities will be during this process. They don't  
12 end with the Task Force. We do have public comment at  
13 the beginning and at the end of today's agenda. We  
14 have -- there will be public communication, anything  
15 received will be sent out to all Task Force members  
16 between now and the scheduled December 1st report  
17 adoption. We would also have public comment at the  
18 December 1st teleconference. And then any legislation  
19 that's recommended, of course, through the normal  
20 legislative process, there would be hearings as part of  
21 the legislative deliberations.

22 And finally, and perhaps most important, the  
23 actual adoption of the regulations. The language we're  
24 adopting here is not the final regulatory language.  
25 That will not be written until after the legislature

1 adopts whatever is there, but this is intended to guide  
2 those regulations and to determine the issues that are  
3 laid out in the regulations. And as a result, all the  
4 Task Force transcripts, all of the reports would be  
5 entered into that regulatory process to make it clear  
6 what your intent is in the regulations. And so,  
7 that's -- really the final opportunity, then, is the  
8 standard procedure for adoption of administrative  
9 regulations.

10 Let me stop there and ask if there are any  
11 questions about the agenda or the process from here. If  
12 there aren't any, I'll go quickly then through the  
13 activity since the last meeting. We've had meetings of  
14 the Response Planning Standard Work Group. The  
15 Contingency Plan Work Group had a meeting and some staff  
16 work, and some of that staff work is reflected in the  
17 report that came to you. The Prevention Work Group had  
18 a meeting and there's also some staff work there. And  
19 finally, a fairly substantial legal analysis of the  
20 issues raised by members of the Task Force that will be  
21 reported later in the day.

22 You've also received a facilitator's report and  
23 a two-page draft executive summary of that this morning.

24 With that, I'm going to proceed then to a  
25 review of the recommendations that are contained on

1 today's agenda. The first three were adopted in your  
2 meeting on September 20th. And I would say I've tried  
3 to do some of these in shorthand on the agenda. The  
4 actual recommendation is the item in bold in the report.  
5 So where there's a little difference between the two,  
6 your adoption would adopt the recommendation as stated  
7 in bold type in the report, rather than in this shorter  
8 form on the agenda.

9           The three you've already adopted are that the  
10 RPS wave height planning standard is three feet or less,  
11 seas of three feet or less; that the APD&T equipment  
12 schedule is sufficiently rapid to meet the nontank  
13 vessel program needs; and finally, control and  
14 containment equipment required for a nontank vessel is  
15 containment boom sufficient to extend three times the  
16 length of the vessel, and an appropriate deployment  
17 system. Those are the initial recommendations that you  
18 adopted at the last meeting.

19           The fourth, coming from the RPS Work Group, is  
20 control and containment equipment for a nontank vessel  
21 must be stationed within the vessel's subarea of  
22 operation. And I would note that there have been a  
23 couple questions about this one. If there is some  
24 discussion needed on this one, we need to pull this one  
25 from the consent agenda.

1           The fifth, that the required cleanup equipment  
2    is skimming capacity capable of cleaning up 15 percent  
3    of the maximum capacity of a vessel within five days,  
4    and storage capacity equal to the daily recovery  
5    capacity, and that the skimmer must be appropriate for  
6    the type of oil.

7           I've had one suggestion -- and I'm not sure if  
8    people would feel this needs to be pulled from the  
9    consent agenda or not -- and that was the skimmer's  
10   operating capacity, adding the word "operating" to make  
11   it clear. And when we get to the consent agenda, if  
12   anyone feels that making that technical change is  
13   substantive, then we should pull that from the consent  
14   agenda.

15           The sixth, to meet the RPS requirement of  
16   cleanup of the discharge within the shortest possible  
17   time consistent with minimizing damage to the  
18   environment, the vessel has to either position the  
19   required skimming and storage capacity within its  
20   subarea of operation; or reasonably demonstrate to the  
21   department the ability to position the equipment in the  
22   subarea of operation within 24 hours. What Larry calls  
23   the 24-hour shock clock. If it's not there, you have to  
24   demonstrate you can get it there within 24 hours.

25           The seventh item, nontank vessels will be

1 allowed two years from the adoption of the regulations  
2 to have in place the skimmers and associated storage  
3 capacity as described in the contingency plan.

4 The eighth -- and that one goes on to C-plan,  
5 we're in C-plan at this point -- nontank vessel  
6 contingency plans only required for vessel operations in  
7 state water, which is generally defined as within three  
8 miles of shore. This is a major issue in terms of  
9 allowing certain vessels to position themselves outside  
10 state waters for portions of their operation in order to  
11 effectively meet the requirements of the law, is to not  
12 be covered by the requirements of the law.

13 The ninth, DEC establishing a streamlined  
14 process for contingency plans, consisting of a response  
15 action plan, financial responsibility, and a prevention  
16 plan. And that's detailed in more depth in the actual  
17 recommendation.

18 The tenth, three alternative options for those  
19 C-plans. First, allowing use of established primary  
20 response action contractors, such as spill response  
21 cooperatives and IMT contractors, or equivalent response  
22 resources demonstrated to the department, or a  
23 combination of the two. And each of those options is  
24 available for plans either covering a single vessel or a  
25 fleet, a fleet plan.

1           The 11th is the time tables, that initial  
2   applications for vessels would be adopted within 15 days  
3   for applicants that use cooperatives; primary response  
4   action contractors, within 45 to 90 days on equivalent  
5   response; and adding a vessel to an already approved  
6   fleet plan within five days.

7           Now, as noted by DEC, this is really -- this  
8   requires sufficient financial resources to be able to  
9   process within that time, and so that's assumed by this  
10   recommendation. But we do have the issue of dealing  
11   with their fiscal issues or the costs on today's agenda.

12           The 12th is creating, as a type of primary  
13   response action contractor, the response plan  
14   facilitator. The response plan facilitator, generally a  
15   vessel agent, can develop -- and this is a typo on my  
16   part here -- the "and hold" should not be there. The  
17   response plan facilitator develops a generic contingency  
18   plan that is activated by the signature of a responsible  
19   party. The responsible party is the holder of the plan.  
20   That plan contains all the elements of a streamlined  
21   contingency plan, and this is really designed to be the  
22   method by which a spot charter or other vessel coming on  
23   short notice, that the response plan facilitator has  
24   lined everything up in advance so that that vessel can  
25   meet the requirements of the law on short notice.

1           The 13th -- and this has been removed from the  
2 consent agenda -- as worded, specifications for the  
3 requirements for qualification for incident management  
4 team will be developed and adopted. In the report, it  
5 lists something that had not been before the committee,  
6 DEC's recommendation for levels -- levels of  
7 determination as to what's required for an IMT. That's  
8 an issue that we will be discussing past the consent  
9 agenda.

10           More on the recommendations. On time lines,  
11 the nontank vessel C-plans are due to DEC within 180  
12 days of adoption of the regulations. That 180 days was  
13 chosen as sufficient time following the regulations, and  
14 rather than setting a hard date, since we don't know  
15 when those regs will be adopted, so it's tied to that  
16 date. DEC would conditionally approve the initial  
17 C-plans that are submitted on time, and that conditional  
18 approval would remain in effect until DEC completes the  
19 review of the plan. DEC would stagger the initial  
20 review process so that they don't all come at once, and  
21 the C-plans would be reviewed by DEC every three years.  
22 There is another recommendation in the prevention that  
23 could extend that three-year period to a longer period,  
24 but that would be subject to whatever you decide on  
25 prevention credits.

1           The 15th defines spot charter vessel as a  
2 vessel contracted to lift a specific cargo on a one-time  
3 periodic, nonscheduled or tramp basis. And that  
4 recommendation, should a definition be needed in either  
5 the statutory or regulatory process, this is the  
6 definition that the work group recommends.

7           The group recommends DEC electronically post a  
8 listing of the C-plan applications and review schedules,  
9 so that there's opportunity for public knowledge of what  
10 vessels are being added to fleet plans, what vessels --  
11 because it's a very expedited review process, the idea  
12 was electronically posting of the listing -- not the  
13 whole application but a listing, would assist in public  
14 review. Again, there are cost features of that  
15 recommendation.

16           Continuing a public review. The public review  
17 process, currently contained in the DEC review process  
18 in 18 AAC 75.455 and 415 would be used as the model for  
19 review of the generic contingency plans and the plans  
20 using equivalent resources. This will require adoption  
21 of a new regulation, but the idea is using the same  
22 regulation as a model for the C-plans, that would be  
23 held by the response that would be developed by the  
24 response planning facilitators, the generic plans, and  
25 for anyone not using primary response action contractors

1 as response and incident management.

2 The next item has also been removed from the  
3 consent agenda. Statutory authority for inspection of  
4 vessels for C-plan compliance.

5 Number 19, also removed from the consent  
6 agenda, is drills. And this has to do with the  
7 frequency and type of C-plan drills. For those, under  
8 the proposal that came forth from the C-plan Work Group,  
9 it would be up to one tabletop drill each year for a  
10 responsible party who is a co-op member, and no more  
11 than one full deployment and one tabletop drill for  
12 C-plan holders that provide equivalent resources.

13 Basically, the discussion on that was that the  
14 cooperatives are already drilled as part of the tank  
15 vessel plan, and so -- and they're not actually -- I'm  
16 sorry. They're not drilled themselves, but the  
17 responsible parties are drilled. But that involves the  
18 cooperatives in the drill and therefore there was not  
19 the same level of review required for those who are  
20 co-op members.

21 There was a potential for a sort of hole in the  
22 process, and that is if a new cooperative came into  
23 existence that wasn't serving nontank vessels, there  
24 needed to be authority to drill that new cooperative,  
25 and that's the two times a year requirement in the last

1 sentence here.

2 Again, this one was developed very late in the  
3 meeting. I think several people felt that this one  
4 needs a little more discussion, and there was a little  
5 confusion over this one. Therefore, I had multiple  
6 requests to move this one off the agenda -- off the  
7 consent agenda.

8 In the Prevention Work Group, you've already  
9 adopted number 20, that affected nontank vessels must be  
10 comply with applicable federal and international  
11 requirements.

12 Number 21, the recommendation is that a  
13 reduction in the response planning standard should not  
14 be considered in a prevention credit program. Now, what  
15 should be considered is before you, late in the agenda,  
16 is something that the Prevention Work Group did not  
17 agree on a specific recommendation, but basically  
18 developed options and forwarded those options to the  
19 full Task Force.

20 The three recommendations on the Alaska  
21 Railroad you adopted on the 20th of September. That the  
22 railroad would undergo a C-plan and prevention plan  
23 review under the rigor of existing law for currently  
24 regulated industry; that their risk assessment process  
25 was endorsed as a prevention measure; and that they

1 should follow the same RPS methodology designed to meet  
2 the response planning standard 15 percent of maximum  
3 fuel carried.

4 Finally, coming from the Prevention Work Group,  
5 a recommendation that really affects all of the other 24  
6 recommendations, and that is that DEC would periodically  
7 review the recommendations with the affected community  
8 to see if any changes are required.

9 That completes the outline of the  
10 recommendations, which would bring us to public comment  
11 for anyone not a member of the Task Force, and then  
12 we'll go through and see which items you want to strike  
13 from the agenda.

14 Is there anyone that didn't get signed up for  
15 lunch that wants to have lunch brought in for them?

16 So, are there any members of the -- nonmembers  
17 of the Task Force who would like to speak on the  
18 recommendations? There's one empty seat at the table,  
19 you can come to the table. And we've asked people to  
20 limit their comments to five minutes.

21 Joe.

22 JOE LeBEAU: Senator Pearce, Commissioner  
23 Brown --

24 BRIAN ROGERS: Come up to the table so they can  
25 catch you.

1           JOE LeBEAU: Okay.

2           Senator Pearce, Commissioner Brown, I'm Joe  
3 LeBeau, and I work for the Alaska Center for the  
4 Environment. And I would like to thank you, all the  
5 members of the work groups, for having come together and  
6 worked hard to get to this point. You've done well, and  
7 I really appreciate all the work that you've done.  
8 You've worked really hard at this.

9           One of the things that I wanted to point out is  
10 that we really appreciate -- I work in the Valley, in  
11 the Mat Valley, and we are particularly concerned with  
12 the railroad, and the railroad's capacity to respond to  
13 spills and to be able to address spills of hazardous  
14 substances as well.

15           And we have obtained signatures on 1200  
16 postcards from people that live all throughout Alaska,  
17 and I wanted to make you aware of it, that those were  
18 available at some point. And I have some examples,  
19 blank postcards that I can pass around, so that you'll  
20 have an idea what they look like.

21           And thank you very much. I really appreciate  
22 all the hard work that everybody's done. And it's  
23 admirable to sit here and watch the process. And I'm  
24 not happy with the small response planning standard but,  
25 you know, what can I say? We have a response planning

1 standard and that's terrific. Thanks.

2 COMMISSIONER MICHELE BROWN: Thank you, Joe.

3 Thank you for all your participation.

4 JOE LeBEAU: Thanks.

5 BRIAN ROGERS: Anyone else? We may get out of  
6 here on time today.

7 So, that would bring us to the consent agenda.

8 At this point, as shown on the revised agenda, we've  
9 removed item 13, which is the IMT; item 18, which is  
10 inspections; and item 19, which is drills.

11 Looking at the first seven items coming from  
12 the Response Planning Standard Work Group, does anyone  
13 wish to remove any of those other items for discussion  
14 from the consent agenda?

15 Charlotte.

16 CHARLOTTE MacCAY: We're just making minor  
17 corrections?

18 BRIAN ROGERS: I guess I'll leave that up to  
19 the group. If people are comfortable allowing what  
20 might be minor or technical as part of this process, I  
21 would accept that, but I guess if it involves extended  
22 discussion, then we ought to put it off until the next  
23 agenda item.

24 CHARLOTTE MacCAY: Okay.

25 BRIAN ROGERS: So why don't you try it. If

1 there's unanimous consent, then we'll accept it, if it's  
2 just a technical amendment.

3 CHARLOTTE MacCAY: When?

4 BRIAN ROGERS: Now.

5 CHARLOTTE MacCAY: Okay. On number 6, on the  
6 second bullet, reasonably demonstrate to the department  
7 the ability to position equipment in the subarea, I  
8 think at that point you wanted to say at the site.

9 BRIAN ROGERS: Pardon?

10 CHARLOTTE MacCAY: I think you wanted to say  
11 "at the site." That you either had to have it in the  
12 subarea ahead time or you needed to show in 24 hours  
13 that you could get it to the site, not to the subarea.  
14 You may be able to get it to Nome in 24 hours, but that  
15 doesn't mean that they'll get it to Red Dog in 24 hours.

16 BRIAN ROGERS: Is everyone comfortable with  
17 that, that that's the correct -- and we had it wrong?

18 And there was a suggestion that I mentioned  
19 earlier on number 5, in the third line it would be 15  
20 percent of the maximum operating capacity.

21 Any other technical amendments? John.

22 JOHN HANSEN: Brian, I have a question about  
23 number 5, more clarification.

24 I recall some discussion we had in an earlier  
25 meeting that had to do with a definition of what was the

1 actual fuel carried, or expected to be carried, and  
2 would never be exceeded on certain vessels, as opposed  
3 to the total tankage. In some cases, large ships, for  
4 example, you may have tankage that could accommodate  
5 3,000 tons, where in fact these ships may never carry  
6 more than 1500. So, I recall the discussion that we had  
7 on that had to do with whether or not there was  
8 flexibility within the process for DEC to issue a  
9 certificate of some kind to those ships who would never  
10 be exceeding a certain amount of tonnage of fuel  
11 carried.

12 Now, is that a technical question, or just  
13 something that would require further discussion for  
14 number 5?

15 BRIAN ROGERS: I think that that's probably  
16 more than a technical, and I guess -- one could either  
17 pull number 5 from the consent agenda, or offer as a  
18 recommendation number 26, a definition of maximum  
19 capacity, since that does come from the statute. So, I  
20 guess I'd offer you either of those alternatives.

21 Lee.

22 LEE EGLAND: Yeah. This is Lee Egland.

23 I think from a cost standpoint, this is the  
24 largest cost item on the consent agenda, and I might  
25 suggest we just pull it for a little further discussion

1 before we just --

2 BRIAN ROGERS: Okay. Let's do that.

3 LEE EGLAND: -- approve it, so that everybody  
4 understands what the implications are.

5 BRIAN ROGERS: Okay. Number 5 has been pulled  
6 from the consent agenda.

7 Anything else on the first seven that form the  
8 Response Planning Standard Work Group? Yes.

9 BOB HEAVILIN: Bob Heavilin.

10 On number 4, when we're talking about the  
11 equipment must be stationed within the vessel's subarea  
12 of operation, is that the same thing as the DEC region?

13 BRIAN ROGERS: Larry, do you want to --

14 LARRY DIETRICK: Larry Dietrick, DEC.

15 Those were the ten subareas that we adopted  
16 that currently exist in the state as the planning  
17 subareas.

18 BOB HEAVILIN: And I guess the comment is that  
19 if it's maybe confusing to some of us, is it going to be  
20 confusing to the legislature? I'm just trying to make  
21 sure that -- you know, that whatever -- we're trying to  
22 make this as clear as possible, so when it gets to them  
23 they understand exactly what we're talking about. I  
24 think that there are several areas where maybe we might  
25 want to make sure that -- you know, we've gone over this

1 stuff quite a bit, some of it probably isn't still real  
2 clear to everybody here, and if it isn't real clear to  
3 everybody here and we're going to send it on, we just  
4 want to make sure that -- so I don't know whether we  
5 just call them DEC regions or is it still appropriate  
6 then to call them the subareas.

7 LARRY DIETRICK: Larry Dietrick with DEC.

8 Yeah, these ten subareas that we've been  
9 talking about -- which I believe, Brian, you were going  
10 to include the map actually --

11 BRIAN ROGERS: Yes.

12 LARRY DIETRICK: -- in the full draft report --  
13 are actually established in existing regulations and are  
14 a part of the unified plan for the oil storage plan for  
15 Alaska. They've been adopted by both state and federal.

16 BOB HEAVILIN: I just didn't know whether we  
17 just called -- I guess I just call them regions, but --

18 LARRY DIETRICK: Yeah, it's semantics.

19 BOB HEAVILIN: -- they're actually subareas.

20 LARRY DIETRICK: Technically called subareas.  
21 The reason they were called subareas is because under  
22 the national contingency plan it's an area contingency  
23 plan, and the state and federal government of Alaska has  
24 called one area contingency plan for the whole state,  
25 under federal law there's a master plan of state law, so

1 they call it a unified plan. There's one area plan, and  
2 because our state is so large it's actually broken up  
3 into ten subareas under that single area plan.

4 BRIAN ROGERS: That was the reason for using  
5 the terminology "subarea," but in the text we'll add  
6 that those are commonly known as the DEC regions, and  
7 maybe that would be explanatory.

8 Eric, and then Captain Page.

9 ERIC BRITTEN: Eric Britten.

10 I think this is just a point of clarification  
11 here. I didn't attend the meeting where this was  
12 discussed. And it says "the nontank vessel" -- I'm  
13 assuming somewhere in here there's a reference to the  
14 fact that PRAC can be substituted for "the vessel," or  
15 is this saying that it remains the responsibility of the  
16 individual vessel to ensure that cleanup equipment is  
17 properly positioned, as opposed to the PRAC?

18 BRIAN ROGERS: The vessel has the  
19 responsibility to ensure that the equipment is there.  
20 One of the ways the vessel does that is by having a PRAC  
21 under contract that has the equipment there.

22 ERIC BRITTEN: Great. Okay.

23 BRIAN ROGERS: Captain Page.

24 CAPTAIN ED PAGE: Ed Page, Coast Guard.

25 I just want to clarify when we talk about the

1 passage of skimmers, whatever, that we discussed this.  
2 Are we referring to a D-rated capacity, or the nameplate  
3 capacity? I'm sure some of you folks who were involved  
4 at that meeting probably deliberated on that very issue,  
5 I suspect.

6 There's a big difference. I know national  
7 standards we look at, nameplate is if you're running the  
8 thing 24 hours a day and constantly in oil. As a  
9 practical matter, there's nighttime, there's not  
10 counting oil, they're shutting down to the pump, what  
11 have you, so as a practical matter, the reality is it's  
12 operating about 20 percent of the time to its capacity.  
13 So therefore we normally look at that as a -- there's a  
14 nameplate capacity and then there's actually D-rated  
15 capacity, which is, I believe, adopted by the state  
16 also. I know it's a federal criteria, but I know  
17 that -- that should be clarified to some extent.

18 BRIAN ROGERS: Larry Dietrick.

19 LARRY DIETRICK: Yeah. Larry Dietrick of DEC.

20 I'd prefer the Task Force were working off the  
21 annotated list here that Brian mentioned here, so some  
22 of these things I would just suggest people look in the  
23 draft report for the full language.

24 And, Ed, what we did on that, we included the  
25 nameplate under number 5, which I think makes that

1 pretty clear now. If not --

2 CAPTAIN ED PAGE: You said you are adopting the  
3 nameplate or adopting the D-rated capacity? Because the  
4 nameplate normally would be four times higher, five  
5 times higher.

6 LARRY DIETRICK: Right. It's taken into  
7 account in number 5 in the example that's given.

8 BRIAN ROGERS: Does anyone need a copy of the  
9 draft report here that didn't have one?

10 Yes, Senator Pearce.

11 SENATOR DRUE PEARCE: We had many of these like  
12 discussions back when we were doing 567 and put the  
13 standards in for the oil tankers. We ended up using  
14 nameplate capacity because, to speak to Bob's point, it  
15 was something at least everybody understood where you  
16 went and found that.

17 CAPTAIN ED PAGE: I wasn't clear on that. As  
18 long as you're using that, that's fine.

19 SENATOR DRUE PEARCE: It was a battle because  
20 it is understood that a skimmer never operates 24 hours  
21 a day. But it was something that you can point to and  
22 both sides would understand exactly what the number was.  
23 So, I think we should be consistent, is my point.

24 CAPTAIN ED PAGE: That's fine. I wasn't sure  
25 you had adopted.

1           SENATOR DRUE PEARCE: If the regs adopted  
2 something different in 567, then perhaps we just need to  
3 make sure in our recommendations that we say that the  
4 statutes should be consistent from one to the next.

5           BRIAN ROGERS: Are there any further issues on  
6 the response? Yes, Jim.

7           JIM CARTER: Jim Carter.

8           In the last paragraph of 6, in the middle where  
9 we say the success of this strategy depends on mobility,  
10 what follows doesn't seem to fit in with the success of  
11 the strategy. And what I mean by that, where we say  
12 type of aircraft that is usually available or generally  
13 accessible, it seems to me we ought to have some kind of  
14 language that says readily available or something  
15 similar to that. Because the way that it follows  
16 doesn't fit in with the strategy depends on mobility.

17          BRIAN ROGERS: So are you asking that that item  
18 be pulled for further --

19          JIM CARTER: If you don't want to make a word  
20 change. In other words, where it says "usually  
21 available," you could say "readily available." Or  
22 "available," or whatever.

23          BRIAN ROGERS: Does anyone object to that?  
24 It's a technical, taking out the "usually."

25          Okay, let's look at the items under the C-plan

1 Work Group. That's items 8 through 19, of which three  
2 have been pulled so far, items 13, 18 and 19.

3 Charlotte.

4 CHARLOTTE MacCAY: On number 9, in the verbiage  
5 that's in the report, under sub letter D, required  
6 certification that applicant is a member of a spill  
7 response cooperative, could we add the words "or has a  
8 contract with"? Spot charters may have a contract  
9 instead of a membership.

10 BRIAN ROGERS: Does anyone see that as anything  
11 other than a technical amendment? "...or has a contract  
12 with." "...is a member or has a contract with."

13 CHARLOTTE MacCAY: And then further down it  
14 says, evidence demonstrating equivalent capacity may be  
15 submitted in lieu of B or C. Can you, just for  
16 clarification, add the words "to meet your RPS."

17 BRIAN ROGERS: "To meet the vessel RPS."

18 CHARLOTTE MacCAY: Yes.

19 BRIAN ROGERS: Again, does anyone think that's  
20 other than technical?

21 BOB HEAVILIN: Well -- Bob Heavilin.

22 I think also if you're going to do, talking  
23 about the evidence, that probably maybe should  
24 incorporate that into the list as D.

25 CHARLOTTE MacCAY: Oh, okay.