

COOK INLET SUBAREA CONTINGENCY PLAN

APPENDIX: ALTERNATIVE PLANNING CRITERIA

A. OVERVIEW

Following the Exxon Valdez oil spill in Prince William Sound, Congress passed the Oil Pollution Act of 1990 (i.e. OPA-90), which applies throughout the nation and U.S. territories and extends to the Exclusive Economic Zone (EEZ), 200 nm offshore. OPA-90 prompted the U.S. Coast Guard to propagate several new maritime rules, including Oil or Hazardous Pollution Prevention Regulations for Vessels, in 33 CFR 155. Subpart D establishes oil spill response planning and equipment requirements for specific U.S. and foreign vessels transporting oil. Because of Alaska's sheer size and limited oil transportation in remote regions, it is not economically sustainable for tank vessels to maintain enough infrastructure to comply with OPA-90's response requirements. Therefore, only two subareas have current pre-positioned infrastructure to comply with OPA-90's requirements: Prince William Sound and Cook Inlet.

Since fiscal limitations prohibit compliance in remote areas, such as Alaska, Hawaii, and Guam, regulations allow industry to propose *Alternative Planning Criteria*. Moreover, vessels in innocent passage (i.e. not transiting to or from a U.S. port), are not subject to OPA-90's requirements. This includes nearly half the commercial vessel transits along the Great Circle route through Alaska's Aleutian Subarea. Likewise, 33 CFR 155.1065 states, "When the owner or operator of a vessel believes national planning criteria contained elsewhere in this part are inappropriate to the vessel for the areas in which it is intended to operate, the owner or operator may request acceptance of alternative planning criteria by the Coast Guard. Submission of a request must be made 90 days before the vessel intends to operate under the proposed alternative and must be forwarded to the COTP for the geographic area(s) affected." All remaining vessels must either meet full oil spill response planning requirements or submit *Alternative Planning Criteria* (APC) to the USCG.

The COTP for *Western Alaska* recognizes full compliance with federal oil spill response regulations is not sustainable for vessels operating in remote areas of *Western Alaska* due to extreme costs and lack of support infrastructure. Thus APCs are authorized to mitigate risk by enhancing oil spill prevention measures. Minimum requirements for APC content submissions are outlined in 33 CFR 155.5067. Consequently, the COTP, *Western Alaska*, established *APC Response Resource Expectations*, is outlined below. These represent baseline expectations for APCs to gain endorsement, or re-endorsement, prior to approval by the USCG's Office of Commercial Vessel Compliance.

B. U.S. COAST GUARD COTP WESTERN ALASKA EXPECTATIONS FOR APC

1. Response Resource Expectations

- Identify maximum available resources in-region by contract or other approved means. This includes the utilization of the most capable and available Coast Guard classified OSRO in the covered region or an equivalent level of in-region resources and capability.
- Utilizing non-Coast Guard classified OSROs or resources requires APC administrators to identify trained personnel, and services necessary to operate in the COTP zone or specific geographic

area. Additionally, the APC administrator must identify tests, inspections, and exercises that would be available to the Coast Guard to verify availability & readiness. The Coast Guard's Guidelines for OSRO Classification are recommended to establish criteria for these measures.

- The APC administrator should provide detailed descriptions of planning requirements that cannot be met. These typically include a gap analysis for response resources and response times that differ between OPA-90 requirements and OSRO capabilities. These response gaps must be addressed by providing a reasonable cascade plan with the understanding that response gaps will remain.

2. Prevention Measures/ Risk Reduction Expectations

- APC proposals must identify acceptable prevention measures to mitigate spill risks, proportionate to response gaps in remote operating areas.
- APCs servicing other than inland areas, must establish vessel routing measures to mitigate oil spill risks, proportionate to response gaps in remote operating areas.
- APC administrators must have a means to actively monitor and verify compliance with proposed operating procedures, including procedures for communicating with participating vessels. This plan must be provided in the APC submittal. In most cases, it is expected that the APC administrator will have a 24/7 monitoring capability to verify compliance with procedures and intervene when necessary.

3. APC Administration & Response Resource Expansion

- The Coast Guard specifies in the Final Rule (78 FR 60111) that the intended purpose of an APC is to gradually build-up response capability in remote areas. APCs should address how this will occur. The build-up of response resources should be coordinated with regional planning groups such as the Regional Response Team and subarea planning committees.
- APC submittals should provide examples of participation agreements or certificates, and outline the procedure for the vessel to verify compliance in order to obtain an approved Western Alaska Geographic Specific Appendix from the Vessel Response Plan program at USCG Headquarters.
- All APCs are subject to relevant stakeholder review and Endangered Species Act (ESA) consultation prior to Interim Operating Authorizations being permitted. APCs will not undergo ESA consultation until the APC is considered acceptable to the COTP.

C. APC COORDINATION WITH SUBAREA PLANNING COMMITTEES

Response resource improvements are expected to be coordinated with stakeholders to ensure optimal placement of critical resources. To facilitate this process, APC administrators shall participate with applicable subarea committees and provide annual reports to describe their build-up activities. Since APCs may span multiple subareas, emphasis shall be placed on specific subareas when their contingency plans are being updated. Disseminating a written build-up report is sufficient when applicable subarea plans are not being revised.