COST RECOVERY GUIDANCE MANUAL

July 01, 2012

Response Fund Administration

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1. INTRODUCTION

The Guide is available online for DEC use on the DEC Intranet site.

The Oil and Hazardous Substance Release Prevention and Response Fund (the Fund) was created in 1994 to pay for responses to a release or threatened release of oil or hazardous substances, as well as preparations for the possibility of a release or threatened release of oil or hazardous substances. The Commissioner of the Department of Environmental Conservation (DEC) is the statutory administrator of the Fund. The Commissioner has delegated management and oversight authority to the Director of Spill Prevention and Response (SPAR) to act as the Response Fund Manager.

Alaska Statute 46.08.070 requires that the Commissioner seek reimbursement for costs incurred in the cleanup or containment of oil or hazardous substance releases. Additionally, persons are strictly liable for costs defined under 46.03.822 for the release of hazardous substances. As such, Cost Recovery is not a fee charged by DEC, but is a civil settlement for recovery of costs incurred by the state's response to a release or threatened release of oil or hazardous substances.

Cost recovery by statute applies to the Oil & Hazardous Substance Release Prevention and Response Fund (Fund). If expenses are incurred by an agency outside the Division of Spill prevention and Response using a funding source that does not apply to the Fund, the Cost Recovery Program will not attempt to pursue cost recovery on the agencies behalf.

This manual is an extension of department policies related to the Fund. The manual serves as a guide for cost recovery efforts. The manual outlines the necessary steps personnel must take to ensure the successful recovery of costs expended in responding to a release or threatened release of oil or hazardous substances.

Reimbursement of state costs expended to respond to actual or potential contamination from oil or hazardous substances is not only a statutory requirement but is also good financial management of the Fund. Money the state receives through successful cost recovery is important in maintaining the ability to pay for critical departmental activities.

Cost Recovery is an integral part of response and remediation. Once a Ledge Code (LC) is established for a project, costs are tracked and records kept for the project. Generally this means from the time that a release incident is reported to DEC and a LC is requested. Project Managers and response staff coordinate with cost recovery staff at the very beginning of a project in order to establish a LC, which will be used to capture all relevant information needed to adequately document costs.

Once cost recovery has been initiated, RFA cost recovery staff keep Project Managers informed when informal or formal cost recovery actions occur. Often the greatest controversy occurs over cost documentation. Complete documentation lays the foundation for successful cost reimbursements or settlement negotiations.

Consistently accurate cost tracking is a necessary element in a successful cost recovery program. Cost tracking provides a credible and reliable documentation of costs expended by the state in

response to a release event. Cost documentation supports the full scope of the department's efforts to recoup costs from initial repayment requests through formal enforcement activities.

Efficient Fund Management dictates that all department staff implements the steps necessary for successful reimbursement of state funds expended for responses to a release event. The best thought-out procedures are of little value if they are not followed. Each SPAR staff member must be familiar with the department's cost recovery program and perform the necessary steps for DEC to achieve successful cost reimbursement.

The department has contracted with Department of Law (DOL) for legal services related to cost recovery. The Response Fund Administration (RFA) cost recovery staff and Program Managers have the responsibility to coordinate cost recovery activities with DOL. The contract with DOL is established to improve consistency, coordination and efficiency in achieving cost reimbursements from responsible parties.

2. SCOPE AND USE

This manual is intended to provide all DEC SPAR employees with a guide to the processes necessary for the successful cost recovery of response expenditures. The Cost Recovery Manual is for the use of department personnel and does not create rights or privileges in third parties.
This manual is not intended to cover all possible situations, but is meant to serve as the basic framework for cost recovery efforts. Unique or unusual circumstances that raise questions not answered in this manual should be discussed with supervisors, RFA cost recovery staff or DOL staff.

3. GENERAL COST RECOVERY CONSIDERATIONS

The following items, although separated into sections, are intricately linked. Successful cost recovery incorporates consistency, timely and reasonable communication, and cooperation between all concerned parties.

Organization

Successful cost recovery requires all necessary staff being involved in the process. Early communication and cooperation between programs, administrative, legal and fiscal staff is critical. Although formal case teams are not generally established, it cannot be emphasized enough that the team concept and organization provides skills and expertise vital for an effective cost recovery program.

Responsible Party Communication and Letter of State Interest

The intent of the "Potentially Responsibly Party" (PRP) letter is to be certain that the recipient of the letter is made fully aware that they may be financially responsible, prior to the PRP actually receiving a bill from the state.

The process leading up to SPAR sending the PRP letter consists of two levels of PRP identification performed by DEC. For informal cost recovery, DEC will perform a Level I review. The Level I review is a best effort based on cursory or circumstantial information available to identify the PRP. The Level II review is a more rigorous and thorough PRP search, which is performed in conjunction with formal cost recovery.
If an RP or PRP is not identified, DEC will seek other possible sources of recovery. For example, the Federal Oil Spill Liability Trust Fund or funding from the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) may be considered as other possible funding sources of recovery.

Once the PRP has been determined, the appropriate SPAR Program will prepare and mail a state letter of interest no later than 10 working days upon identification of the RP or PRP using a sample letter in the Cost Recovery Guidance Manual Appendix. In this context, the term RP is the person who is responsible under Alaska Statutes and the Alaska Administrative Code for cleaning up the discharge of oil or the release of a hazardous substance.

In the case of PERP, the SOSC is in the best position to determine the PRP. In the case of CS, the Project Manager would likely be in the best position to determine the PRP. However, there are some instances where identifying the PRP is less obvious and assistance from DOL could be very helpful in the effort to identify the PRP.

The CSP process, performed by the PM, for sending PRP letters include:

1) Discuss with supervisor if there may be a controversial issue associated with the PRP letter.
2) Call the PRP and inform them
   a. of the contamination issue and
   b. that they have been identified as a PRP and reason why,
   c. briefly explain the cost recovery law and needed assessment/cleanup actions for the site if any to occur, and
   d. that DEC would be mailing them a PRP letter.
3) CS PM prepares the PRP letter using the 3rd PRP template and usually includes the fact sheet and the questionnaire that are available on the SPAR CS Intranet.
4) CS mails out the letter certified to the identified PRP.
5) Place the appropriate action in the CS database.

Timeliness and Accuracy
Timely and accurate cost recovery billings are essential in the collection of amounts owed to the state. For responses where expenditures occur over a relatively short period of time, generally less than 30 days, prompt cost recovery shall be initiated by RFA and DOL shall provide a timely billing to the RP or PRP when response activities are complete.

When response activity occurs over a more extensive time period, prepare monthly, quarterly or a negotiated time frame for billings. The billing schedule will be, with the exception of the Leaking Underground Storage Tank (LUST) sites, on a monthly cycle unless a specific billing period is negotiated with RFA and the responsible party. Expenditures made from the prevention account on (LUST) sites are presently billed on a quarterly billing cycle.

Additionally, some RPs have negotiated and paid for anticipated remediation costs in advance of the state incurring costs. Federal costs are often provided in the form of a grant to DEC. RFA cost recovery staff will track and account for these "upfront" payments for cost recovery efforts.

Project Manager or SOSC Oversight

As noted in the Scope and Use section, this manual provides a framework for cost recovery and is not intended to cover all situations. The Project Manager or SOSC will be required to use their judgment not only to supervise and monitor the department's response, but also to work closely with the RFA staff on the cost recovery process, beyond merely approving expenditures. One of the tenets for cost documentation is that costs incurred are reasonable in nature. The Project Manager or SOSC must exercise good sense and sound judgment when documenting cost recovery actions in the time accounting system, and when authorizing and approving expenditures.

Cost recovery and DOD

The US Department of Defense and the State of Alaska have a Memorandum of Agreement which specifies how DEC's cost recovery will handled at sites where the military is the responsible person. While DOD reimburses DEC for oversight costs, this does not diminish DEC's regulatory authority over the military site cleanups. DOD is required by Stat law to reimburse DEC for oversight costs.

4. COST DOCUMENTATION

In order to pursue cost recovery actions effectively, DEC must provide cost records that are authentic, reliable, complete and accurate. Cost documentation should capture all costs, be accurate, consistent, and understandable. Documentation must demonstrate that:

- The RP is liable under federal or state law as documented by the State Letter of Interest;
- The charges were accurately documented; and
- The work performed was reasonable and necessary.

DEC has initiated a Reimbursable Services Agreement (RSA) with DOL to perform RP searches. Should the Project Manager or SOSC require assistance identifying RP's, a RP search request may be sent to RFA for DOL to perform additional follow-up. DOL staff will undertake efforts to identify the RP, use civil investigation tools, and coordinate search activities with RFA staff and PM's.

All costs associated with a contaminated site or release response must be fully substantiated in site-specific cost recovery files (see Appendix D). Documentation includes, at a minimum, the cost amount and proof of payment, and may also include expenditure justifications (Appendix F). These files, collected from the program site logs, time sheets, AKSAS, or other sources, are used as documentation for invoicing. Once assembled for invoicing, an invoicing file shall be maintained by RFA staff.

The Project Managers or the SOSC will maintain site-specific case files or project case files. RFA will maintain cost recovery files. Megatime retains timesheet and site log information. RFA staff will maintain the completed site log files for invoicing purposes. These files serve as the administrative record for a site or incident and include a description of the work performed and a justification that supports the expenditures during the response activity and site remediation (Appendix E).

The cost recovery record files and project case files for each site shall contain records that support the premise that the expenditures were reasonable and necessary.

Ledger Code

The identifier DEC uses to track site-specific costs in the Alaska Statewide Accounting System (AKSAS) is a set of eight digits called a ledger code (LC). One LC is assigned to each site or incident.

Ledger Code (LC) Assignment
LC's are provided by Division of Administrative Services (DAS) staff upon request by RFA cost recovery staff, and are typically assigned by the RFA Administrative Assistant. The Project Manager or SOSC identifies the need for an LC and routes the request to RFA cost recovery staff.

The web site to make the LC request is located at:
http://decjnuapp/applications/SPAR/RFAForm/Email_cs.aspx
In making the request for an LC, the Project Manager or SOSC will coordinate with RFA staff via email to determine the appropriate fund source. While awaiting assignment of an LC to a site, Project Managers or the SOSC can utilize the temporary assigned LC available in Megatime.

A verbal request for an LC issue is authorized under emergency circumstances. The Project Manager or SOSC will follow up the verbal request with a timely email to RFA staff detailing the required information.

Materiality
Costs associated with minor regulatory oversight tasks often exceed the amount it would take to recover the costs. Therefore, RFA shall determine when it is impractical to cost recover minor costs incurred. These costs are considered administrative oversight costs. Administrative overhead costs are accounted for in the indirect rate charge, as part of the cost recovery process.

The Prevention and Emergency Response Program (PERP), accounts for many "first and final" actions for reported contamination. For example, when no further remedial action is planned and

contamination is considered to be *de minimis*, the costs will be charged to a generic site work LC in 15 minute increments. These expenses calculated yearly and will be recovered via the indirect rate charged to all cost recovery sites.

CSP establishes qualifying sites when remediation work is expected to be required to be undertaken. When the time charged to the generic PERP LC for the PERP events or site exceeds or PERP plans to expend 1 hour or more of all staff time on that site, PERP will request an LC for the event or site. Establishing an LC for the site will then allow RFA to track costs for the site and to closely monitor threshold attainments for all SPAR sites.

The Contaminated Sites Program (CSP) has sites determined to be a low health risk and are designated as low priority sites. Small amounts of employee time may be charged to the generic site work LC for preliminary site work these sites. These expenses will be reviewed yearly and will be recovered via the indirect rate charged to cost recovery all sites.

CSP establishes qualifying sites when remediation work is expected to be required to be undertaken. When the time charged to the generic CSP LC for CSP sites is planned to exceed 1 hours or more of all staff time on that site, CS will request an LC for the event or site. Establishing a LC for the site will then allow RFA to track costs for the site and to closely monitor threshold attainments for all SPAR sites.

This policy allows DEC staff the ability to provide technical assistance without a direct charge and provides division wide consistency. Moreover, it is a reasonable cost/benefit cutoff point before cost recovery is pursued and is consistent with good management practices.

Consistency of Site Names
The PERP incident or CS site name used for obtaining the LC will be used as the cost recovery account name. As part of the LC assignment, programs shall maintain consistency of the site name of the event in the cost recovery files, the LC request, and the program files. Additionally, any unique identifying information, such as event identification numbers from the programs data base, shall be part of the LC request and the cost recovery files.

Personal Services Documentation

Site Log for Each Site
Any state employee who performs activities directly related to a site or incident where cleanup of oil or hazardous substances is being conducted must complete a site log. Examples are listed in Appendix G. Megatime generates a site log form the time sheet entries for CSP. PERP often uses LOG/ICS 214 site log form.

An individual site log must be maintained for each site by pay period and completed daily. Site logs document the employee name, dates when work was performed, number of hours worked each day, whether the work was regular time or overtime and a description of the task or activity performed, including what work was performed and why the activity was necessary.

This practice applies to all state employees incurring costs reasonably attributable to investigation, response, or remedial action activities due to a release of oil or hazardous substances or other environmental responses. This includes state cleanup sites, response RSAs, Federal Superfund sites and LUST sites.

The Project Manager or SOSC will ensure that all site-related direct activity is legibly recorded in site logs, including personnel from DEC divisions other than SPAR or from other state agencies requested to assist in a response.

Emergency responses require site logs are to be kept, annotated and turned in with the corresponding time sheets on a daily basis. Site logs and times sheets are required to correlate with each other. Site logs and time sheets must be accurate and completed in a timely matter. Site logs require completion as the work is executed and must be kept up to date.

Time Sheet
Personal services directly related to an incident or site must also be coded to the assigned LC on the employee's time sheet, and to the appropriate collocation code (Appendix H). This practice applies to all DEC employees incurring costs reasonably attributable to investigation, response or remedial action activities due to a release of oil or hazardous substances or other environmental response. This includes state cleanup sites, Response Reimbursable Services Agreements (RSA's), Federal Superfund sites and LUST sites.

Administrative Personal Services
Administrative salary costs, defined as work done by general support personnel (supervisors, clerical support, contract specialists and computer support) providing support to the investigation, response or cleanup of a contaminated site or incident should not be recorded on a site log. Costs for support services may be calculated based on the departmental rate and recorded as indirect costs.

Project Manager or SOSC Review
CS Unit Managers or SOSC's will review and approve employee site logs. Project Managers are responsible for signing and verifying all hours worked on a response are accurately documented and employees performing direct work at a site have completed site logs. This includes all other state agency staff outside of DEC.

A copy of each site log must be faxed, or scanned and emailed, or mailed, with the corresponding timesheet to RFA staff every pay period, prior to RFA preparing the cost recovery package. The site log is the primary document supporting personal service costs and is the source for the number of hours used in the cost calculation.

Non-Personal Services Expenditures

All non-personal service expenditures directly related to a site or incident must be coded to the assigned LC. This includes all travel-related expenditures, contractual costs, supply costs and equipment use. The LC should be clearly indicated on all stock requests, contracts and original invoices before any paperwork is submitted to DAS for processing.

If travel or equipment use is related to multiple sites, costs are to be divided among sites in a logical way and charged directly to each site. In most cases, apportioning the total travel cost between sites based on the relative amount of time spent at each site is acceptable.

Equipment use must be documented daily on an hourly basis. Charges for equipment will be calculated by a standard usage rate developed for the type of equipment involved.

Cost Recovery File Contents.

The cost recovery file for an incident or site is maintained by the RFA cost recovery staff and provides the cost records to support billings and litigation. To corroborate all costs, a Cost Recovery File may contain items such as correspondence, procurement documents, financial records or photographs. Appendix D provides the details of the Cost Recovery File Contents.

Generally, all paperwork required for payment and the record of payment from the AKSAS Financial Transaction Report (FTR) provides sufficient documentation. The file must include copies of site logs, travel authorizations, invoices for contractual payments, and detailed invoices from any state contractors conducting investigation and cleanup work. . Periodically, the cost recovery file documentation should be reconciled with expenditure activity posted in AKSAS for each LC.

The cost recovery file contains any relevant correspondence, including emails, interim bills, settlements or agreements and other pertinent financial records, including periodic audit trails summarizing charges posted to the state accounting system for the site and used to reconcile file contents and accounting system charges.

Project Managers will ensure expenditures are adequately justified. In general, procurement of services, supplies and equipment must follow the same policies and procedures for procurement of non-site related state expenditures. Justifications should explain or describe:

- What goods or services were acquired;
- Why the expenditure was necessary for the response and/or cleanup;
- How the goods or services were used in the response and/or cleanup;
- Where the goods or services were used in the response and/or cleanup; and
- What the method of acquisition was for the goods or services.

Appendix D and E list the type of records maintained in the cost recovery file.

Appendix F outlines items that will justify various types of expenditures.

The cost recovery file retention must conform to the current state archive and records management requirements.

Other Department Files

There may be other files maintained by department staff indirectly related to site or incident activity expenditures. These files may organize particular items associated with a site or may contain general documentation that would support the premise that costs are reasonable.

DAS staff developed rates that support the departmental allocated costs plan (cost basis, rate components, and cost pool), the indirect rate approved for federal grants, and the departmental procurement of contractual services, supplies and equipment. These files may be needed to substantiate costs for a particular case.

5. COST CALCULATION

Personal Services
Direct personal service cost calculations are based on the number of hours worked on a site or incident as documented on site logs multiplied by a standard rate. The rates are a blended average of employee costs. The standard rates used are obtained from DAS staff.

Travel, Contractual, Equipment, and Supplies
Other costs such as travel, contractual, equipment and supplies expended for a particular site are documented by the site-specific LC and will be charged at the actual cost paid for such items. . Expenses for multiple sites must be divided among sites in a logical way and charged directly to each site. For example, it is acceptable to apportion the total travel cost of a trip to more than one site on the relative amount of time spent at each site.

Equipment Rates
When equipment is purchased solely for use in responding at a single site or incident, the actual cost will be charged. When equipment is shared between sites, a usage rate must be developed for the types of equipment being utilized. The equipment cost for shared equipment is calculated by the number of hours of documented equipment use multiplied by the usage rate. The usage rate is calculated by equipment cost (purchase price plus estimated maintenance costs less salvage value) and length of the equipment's useful life.

Indirect Rates
Departmental indirect cost rates will be based on the department allocated cost plan. This plan distributes department common costs (copier, lease, telephone, etc.) and DAS costs (accounting, personnel, computer services, etc.) by division. The indirect cost will be calculated by multiplying the direct personal services cost by the current indirect rate for common costs and DAS costs.

Division General Support and Management Costs
Salary costs for division administrative staff, including directors, supervisory, administrative and clerical staff associated with response to a site or incident represent indirect personal service costs. These costs may be charged if the cost allocation is supported by an allocation plan or if the costs are included in the standard personal service rate for direct salary costs. In either case, the methodology used to assess costs must be consistent and reasonable.

Legal Costs
DOL will recover their departmental costs from RPs under informal or formal cost recovery. DOL paralegal time under the informal cost recovery program is included in the indirect rate. Reimbursement will be sought for the costs DOL incurred and recorded for each site.

Interest
Interest is applied to costs not paid 30 days after the issuance of an invoice. The state may elect at its discretion and on a case-by-case basis not to pursue all or part of any interest assessed DOL in consultation with the RFA cost recovery staff will make this decision.

Threshold
Informal billing will proceed for those cost recovery accounts that exceed an initial balance due of $1,000. However, the state may elect at its discretion and on a case-by-case basis not to pursue informal billings under $1,000.

6. INFORMAL COST RECOVERY

The department has a statutory obligation to promptly seek reimbursement and relies on DOL to pursue collection of these monies. The first step in the informal cost recovery process begins with RFA cost recovery staff providing DOL with a cost recovery package. Next, DOL assigns a paralegal that will serve as the initial point of contact to work with RFA cost recovery staff. The paralegal will coordinate, track and execute all informal cost recovery actions undertaken at the request of DEC.

Initial Cost Recovery Request

RFA cost recovery staff will generate and send an informal cost recovery packet to the Project Manager

RFA cost recovery staff will refer the case to the DOL paralegal and will include the following information and documents:

- The name of DEC staff member serving as contact person for site questions. In most cases, this will be the Project Manager or SOSC;
- A letter or memo summarizing the site or incident and providing the LC, incident number and other relevant information, as necessary (for example, is the RP involved in other sites, does the RP have an attorney, etc.) (See Appendix I for referral example);
- All copies of all correspondence with the RP concerning costs and reimbursements; and
- The cost recovery expenditure package, which is further explained below, including site log copies, an itemized expenditure summary and expenditure detail documentation.

Cost Recovery Expenditure Package

The following are documents included in the package:

- Itemized invoice and a statement (a summary of invoices and payments);
- Supporting documentations (Site Logs, Completed Travel Claims, Copy of paid NTPs, etc); and
- Copy of "Referral Memo" to DOL, which is initiated by RFA and approved by the Project Manager (for first time billing).

These documents are arranged in order of the itemized invoice.

Note: In some special cases, (for example, when the department seeks reimbursement from the Oil Spill Liability Trust Fund or CERCLA), daily cost summaries will need to be prepared as part of the expenditure package. In these cases, RFA cost recovery staff will work with the Project Manager to prepare additional documentation.

Direct Expenditures
Supporting documentation for the cost summary must include invoice copies and site logs. When required, documentation may also include:

- An accounting summary of personal services with employee names, dates, hours spent and a general description of work performed; and
- Billing schedule for each employee including name, position and rate.

Indirect Expenditures
Supporting documentation for indirect costs should contain worksheets that detail the calculations used to calculate or distribute costs. It may also be necessary in some instances to include the allocation plan (allocation basis, cost pools and rates) as provided by DAS.

Expenditure Reconciliation
RFA cost recovery staff will develop expenditure packages using information from AKSAS and the site-specific cost recovery file. Cost documentation from both sources must be reconciled. The cost recovery package cannot be forwarded to DOL until figures from site log, AKSAS and the cost recovery file match. RFA cost recovery staff and Project Managers are responsible for any differences in the cost recovery documents.

Review and Verification
Once the cost recovery package is complete, RFA cost recovery staff will forward the package to DOL for invoicing. Final review and verification by RFA should ensure that all costs included in the package are: properly charged to the site or incident and that all relevant costs are documented. This process is repeated for each cost recovery package sent to DOL for collection.

7. FORMAL COST RECOVERY

If the Cost Recovery Paralegal (CRPL) and the Assistant AG determine that informal cost recovery efforts have failed, the Assistant AG is authorized to elevate the case to formal cost recovery without going through a formal DEC referral process. In these instances, the Department of Law must notify by email the RFA Program Manager and the Cost Recovery Manager at the time the determination is made to elevate the site to formal cost recovery.

In consultation with the assistant attorney general overseeing the cost recovery program, RFA may also decide to pursue formal cost recovery without regard to informal cost recovery. A referral memo (Appendix J) from the Director of Spill Prevention and Response (or staff with appropriate delegated authority) to DOL initiates formal cost recovery.

In either case, DOL will provide legal services needed to support formal cost recovery and negotiate settlement amounts.

Liens

Liens can be a very important cost recovery tool. Liens against real property should be considered after the RP has failed to satisfactorily respond to the informal cost recovery process. Liens against real property are critically important cost recovery tools in cases in which a Chapter 11 Bankruptcy organization or Chapter 7 Bankruptcy liquidation is a substantial possibility and the state has incurred significant costs through oversight or a state lead. Without a lien in place, the State's costs in a bankruptcy proceeding will likely be considered unsecured costs subject to the lowest priority payout or no payment at all. A lien may also result in a cost recovery pay-off in the event of a sale. The lien, however, is not a court judgment. The legitimacy of the underlying debt must still be proven in court or through an agreement of the parties.

DOL shall make the recommendation to consider proceeding with a lien against property in writing to the respective SPAR Program Manager. The RFA cost recovery staff, working closely with DOL and Program Managers, will assemble the lien documentation package to accompany the recommendation. Program Managers and RFA will review the facts, make a recommendation, and forward to the SPAR Director for approval. If approved, the SPAR Director will forward to DOL for action.

The recommendation package will include:

- Evidence that the property owner identified to be liable for the expenditures associated with this site or event is indeed the person responsible for payment;
- Documentation of expenditures by the state for the costs of response, containment, removal, or remedial action resulting from an oil or hazardous substance release, or, with respect to response costs, for the costs of response to a threatened release of oil or a hazardous substance, against all property owned by a person. Those costs must equal or exceed the amount of the lien. The documentation will typically include all records from the informal or formal cost recovery file to support the lien, and information concerning the priority of the lien in regards to other parties with a secured interest in the property(s);

- Documentation that the state has exercised due diligence in its efforts to collect the funds owed to DEC; and
- Supporting documentation that delineates the chronology of events that clearly supports the RP's refusal to meet cost recovery obligations;
- Lien Certification must be signed by RFA to verify accuracy of the cost recovery statements and preservation of that information.

Upon receiving the lien signed by the Commissioner's designee, DOL will record the certificate of lien against real property in the appropriate recording district. The Commissioner has delegated this authority to the SPAR Director at the time this manual was revised.

All property liens must comply with AS 46.08.075 which states:

> (a) The State has a lien for expenditures by the State from the fund, or from any other State fund, for the costs of response, containment, removal, or remedial action resulting from an oil or hazardous substance release, or, with respect to response costs, for the costs of response to a threatened release of oil or a hazardous substance, against all property owned by a person who is determined by the Commissioner to be liable for the expenditures under this chapter, AS 46.03, AS 46.04, 42 U.S.C. 9607, or other State or federal law. The lien includes interest, at the maximum rate allowable under AS 45.45.010(a), from the date of the expenditures. The State may file an action in a court of competent jurisdiction in order to foreclose on the lien.
>
> (b) A lien established under this section against real property is not effective until
>
> > (1) a certificate of lien is recorded in the district recorder's office for the district in which the property is located, describing the property and stating the amount of the lien, the name of the owner as grantor, and, if known, the name of the person causing the oil or hazardous substance release; and
> >
> > (2) the Commissioner sends a copy of the certificate of lien by certified mail return receipt requested, or actually delivers a copy of the certificate of lien, to the persons described in (1) of this subsection and to all other persons of record holding an interest in the property.
>
> (c) When any amount with respect to which a lien has been recorded under this section has been paid or reduced, the Commissioner shall, upon request of the property owner, issue a certificate discharging or partially releasing the lien. That certificate may be recorded in the office in which the certificate of lien was recorded.
>
> (d) The Commissioner may, in the Commissioner's discretion, reduce, discharge or partially release a lien under this section if a bond, or other security, in a form and an amount satisfactory to the Commissioner is posted. The bond or other security must include an amount sufficient to cover the cost of execution, collection, or foreclosure, including attorney fees. A reduction, discharge, or partial release may not be granted under this subsection if it would be contrary to the public interest. When a lien is reduced, discharged,

or partially released under this subsection, the Commissioner shall, at the request of the property owner, issue a certificate to that effect.

(e) A person with an ownership interest in property against which a lien is recorded may bring an action in a court of competent jurisdiction to require that the lien be released. The lien may be released to the extent of that person's ownership interest if the court finds that the person is not liable for the expenses incurred by the State in connection with the costs of response, containment, removal, or remedial action resulting from the release or from the threatened release, of oil or a hazardous substance.

Department of Law Services

The Department of Law will be responsible for cost recovery actions. These include but are not limited to:

- PRP searches
- Review the cost recovery package provided by cost recovery staff for completeness;
- Draft correspondence and cost reimbursement requests;
- Investigate facts relevant to cost recovery;
- Prepare final cost recovery request, sign and submit to responsible parties;
- Coordinate cost recovery actions with RFA cost recovery staff; and

The Department of Law shall notify the DEC / SSPAR Director prior to filing a complaint relating to the release or threat of a release of oil or hazardous substances.

Reimbursement Alternatives
DOL will investigate and recommend possible alternatives for cost recovery in addition to reimbursement from RPs. This includes assessing whether the Oil Spill Liability Trust Fund or CERCLA funds are a feasible source for reimbursement of state costs. In the event an alternative source is appropriate, DOL, in consultation with RFA and the respective Program Manager, will pursue necessary cost recovery actions. This course of action shall remain as an RFA function if DOL refuses to take action on the reimbursement alternatives.

Status Reports
DOL will track the status of cost recovery cases and summarize this data in a monthly report that will be submitted to RFA on or before the 7th of each month. This report will serve as a running total for tracking the billing status and payment status of active cost recovery sites. The monthly report will be emailed to the supervisor of the Cost Recovery section, the cost recovery Accounting Technician. The paralegal will serve as the point of contact for status information.

Upon request by RFA, DOL will provide RFA with custom reports on an as needed basis. RFA will discuss the custom reporting requirements in advance with DOL to determine whether the data can be captured in a timely manner and the level of effort required in producing the report. An example of a custom report may include information required for the Biennial and Interim Response Fund Reports.

Recovery of Expenses and seeking reimbursement
RFA with input from the Program Manager and the Assistant Attorney General overseeing the Cost Recovery Program may waive selective reimbursement when one or more of the following situations exist:

- No responsible person or alternative source of recovery can be identified;
- A litigation or legal impediment would prevent recovery.
- As recommended by RFA or DOL and approved by the Director.

Process for Non-Reimbursement Decision Review

- The Project Manager may request a waiver for Non-Cost Recovery through the Program Manager by using the Internal Non-Cost Recovery Action Form (Appendix K) from RFA.

Process for Reimbursement Decision Review

- The Program Manager may request waiver for payment from RFA staff by using the Cost Recovery Action form (Appendix L) prior to referral to DOL;
- The Director may approve the Cost Recovery Action form, either before or after referral, depending on the circumstance; and
- As appropriate, DOL will send out a letter with a copy of the bill to the RP – to inform the RP of the decision.

Storage Tank Assistance Program Grant Recipients
Storage Tank Assistance Program grant recipients are entitled to limited immunity from cost recovery for DEC oversight costs in responding to an eligible discharge from a regulated Underground Storage Tank (UST) provided the RP continues to meet the limited immunity eligibility requirements in Section 4 of 1990, Underground Storage Tank Legislation (Chapter 96, SLA 1990, HB220). One of the most important elements of these requirements is that the person acts in good faith towards resolving the contamination issues resulting from the LUST incident. DEC may undertake corrective action and recover costs from a UST/LUST grant assistance recipient under state law if the RP has not acted in good faith to complete the corrective action on the site.

Other Section 4 provisions include:

- Provides limited immunity to a person who was approved to receive UST assistance but the LUST site ranked too low to receive assistance;
- DEC can cost recover from a UST grant recipient if the cost recovery is for discharges that occurred after December 22, 1992;
- DEC can cost recover for discharges from a UST installed on or after December 22, 1988; and
- This limited immunity only applies to discharges of petroleum and not other hazardous substances.

The RP may be eligible for limited immunity, only for the cost recovery expenses associated with the particular grant facility. This immunity is not transferable from the Grant recipient to subsequent property owners of the grant facility. The grant recipient may not transfer any cost recovery immunity from the eligible site to any other facility they may own.

8. REVENUE DEPOSITS

- DOL staff will forward all cost recovery payments to RFA cost recovery staff.
- RFA cost recovery staff and the DAS revenue section will post payments received to the appropriate account in AKSAS and notify DOL to allow DOL's accounts receivable records to be updated.
- Funds received by SPAR staff should be immediately forwarded to DAS staff for deposit and posting to the accounting system.
- RFA staff will follow through to verify payments are correctly posted to AKSAS

Payment Schedules

Cost reimbursement and settlement payments for both informal and formal invoices may be either lump-sum payments or scheduled partial payments over a period of time, as negotiated by DOL. Payment schedules must be documented in the cost recovery file and are tracked by the RFA cost recovery section, as well as DOL.

9. SITE OR PROJECT CLOSURE

Site files shall be available after the site has been closed by the respective program for cost recovery purposes. The files shall be kept in accordance with the appropriate record retention schedule.

Release of Obligations from the Response Account

The release of Response Fund obligations can occur when:

1) Cleanup and monitoring is complete which is a determination made by PERP;

2) Cost recovery is complete which is a determination made by RFA; and

3) Settlement is complete, including fines and penalties, which is a determination made by DOL.

IPP also investigates and determines violations of prevention and c-plan regulations which are ultimately included by DOL in a final settlement.
The Cost Recovery Guidelines should be amended to include these roles and who is in overall charge of a case for SPAR. Information about cleanup and monitoring, violations of prevention and c-plan regulations, cost recovery, and final settlements of fines and penalties should be coordinated within SPAR and between SPAR and DOL.

Reviews

As part of the fiscal year cost recovery tally of cost recovery efforts, RFA cost recovery staff will review the status of sites or incidents for potential financial activity and act accordingly.

File Closure

The RFA cost recovery staff will complete the File Closure Check-List (Appendix M) after all reviews are complete. A copy will be transmitted to Project Managers with cases on the list and to DAS staff.

The Project Manager will prepare a summary of response activities, including response descriptions and statements outlining the nature of the threat. This information should be transmitted to RFA cost recovery staff and also placed in the cost recovery file for future reference. CS currently provides site closure information on a weekly basis via email.

The cost recovery file should be prepared for archival; all duplicate documents should be removed and remaining documents organized chronologically and systematically.

Storage

Files may be stored in DEC offices while being prepared for the state archives. File archiving should be done in accordance with standard statewide procedures previously mentioned.

10. FEDERAL FACILITY COST RECOVERY PROCESS

DEC has cost recovery agreements with many of the federal agencies that dictate how they pay for CS program oversight costs. In general the federal process includes the following steps:

- DEC and the federal agency set up a joint agreement on how we will interface and manage the oversight work;
- DEC and the federal agency meet and agree to an annual work plan of projects to be worked on and DEC's associated costs. For Department of Defense (DOD) this step is completing the Joint Execution Plan (JEP);
- DEC formalizes the oversight costs in federal form 424 (grant application) which is signed by the DAS Financial Officer and transmitted to the federal agency. By using the 424 form DEC is informing the federal agency that DEC will manage and comply with the federal fiscal requirements and circulars (A-87) dictating how states handle federal funds under grants, cost reimbursement contracts and other agreements;
- The federal agency notifies DEC that the funding amounts stated in the 424 are available for DEC to bill against. The federal agency does not sign the 424;
- DAS bills the federal agency as agreed to in the 424 and joint agreement. The CS program provides the federal agency with backup Project Manager information as agreed to in the joint agreement. This will vary based on what is agreed to between DEC and the federal

agency; for example, with DOD this is a semi-annual report and for the Forest Service this is a simple quarterly spreadsheet updating what has been done by DEC; and

- DEC does a limited amount of direct cost recovery from some federal agencies such as U.S. Postal Service, and Indian Health Service. This process follows the same rules and procedures as private sites cost recovery.

11. THE OIL SPILL LIABILITY TRUST FUND (OSLTF)

History of the Fund

In August 1990, President George H.W. Bush signed the Oil Pollution Act (OPA) into law and authorized use of the Oil Spill Liability Trust Fund (OSLTF). At the time, the fund was already fours years old. Congress created the fund in 1986. However, Congress did not pass legislation to authorize the use of the money or the collection of revenue necessary for its maintenance. It was only after the Exxon Valdez grounding and the passage of OPA that authorization was granted.

Use of the Fund

The Project Manager or the SOSC may consider the OSLTF as a viable funding source, once an oil spill is discovered or a substantial threat of discharged into or on the navigable waters of the Alaska or adjoining shorelines or the Exclusive Economic Zone

To access this fund source, the following criteria must apply:

- The Spill must be eligible for immediate removal under the Clean Water Act, as amended by OPA 90;
- The substance spilled/discharged or threatening discharge must be oil;
- The Spill must have occurred after August 18, 1990;
- The Aggregate amount of the request is equal to or less than $250,000 (For State Access Only);
- All State proposed actions must be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (including 40 CFR 300.305) requirement that a reasonable effort is made to have the discharger voluntary and promptly perform removal actions;
- The State's proposed levels of response, proposed actions and amount requested must be appropriate for the circumstance; and
- The State must have the means to complete the immediate removal.

The State has three ways of accessing the OSLTF:

1. Direct State Access. Such authority is limited to $250,000;
2. Acting as a Contractor to the FOSC. In this venue, the state assists the FOSC and receives reimbursement thru the FOSC-approved Pollution Removal Funding Authorization also known as PRFA. The State performs the removal action under the direct supervision of the FOSC, but spending is not limited to $250,000; and

3. Claims: The State may submit claims for uncompensated removal costs directly to the Fund. This approach is not limited to $250,000.

Claims

Submit claims to:

National Pollution Funds Center
4200 Wilson Boulevard, Suite 1000
Arlington, VA 22203-1804

OSLTF Process

- RFA will research the most expedient way to get funds from the OPA in the event the RP will not pay for removal costs. The finance section will work with SOSC to determine the best method;
- RFA may request up to $250,000 be obligated from the OSLTF per incident for immediate removal costs;
- RFA may exceed the $250,000 limit by requesting a Pollution Removal Funding Authorization (PRFA). Under this option, we perform the removal actions under the direct supervision of the FOSC-essentially becoming a contractor for the federal government;
- In cases where SPAR cannot identify a RP, or the RP is unable to pay the costs, RFA may file a claim with the National Pollution Fund Center for any uncompensated removal costs. No advance notification to the federal government is necessary to exercise this option and claims are not limited to $250,000. However, it may take several years to be reimbursed;
- The SOSC must request access to the fund from the FOSC. This request may be made verbally and is the preferred method because it allows for discussions. The FOSC evaluates the request and determines whether the proposed removal actions are eligible for funding The FOSC decision is final;
- The SOSC may also initiate a memo requesting access to the funds. (See Appendix N);
- If SPAR receives an authorization for this funding, RFA must submit a request for payment within 30 days after completion of immediate removal actions. The request for payment may be by submittal of either SF Forms 1080 or 270, or an equivalent state invoice acceptable to the National Pollution Funds Center. The request must be accompanied by incident reports, identifying the interested parties involved in the incident, documentation of costs, etc.; and
- When the SOSC has more information concerning the amount of manpower and length of time needed for state personnel and resources, the SOSC will need to complete a formal request to the SPAR Director for access to the State's Response Fund. The Director will then submit a memo to the Governor advising her/him of the intended use of the response fund.

12. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

CERCLA, commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. This Act:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and

- Long-term remedial response actions, that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life threatening. These actions can be conducted only at sites listed on EPA's National Priorities List (NPL).

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the NPL.

CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986.

What CERCLA means to the state:

CERCLA will allow a site to be listed on the NPL by EPA, CERCLA listing on the NPL would allow DEC to act as a support agency; and DOL may use CERCLA to recover hazardous substance cleanup costs from an RP in federal court.

13. EVERGREEN PROCESS

The Cost Recovery Manual is for the use of departmental personnel and does not create rights or privileges in third parties.

The manual is an operational document intended to serve as a day to day reference guide for cost recovery procedures. The manual is a work in progress and is subject to change.
RFA is responsible for the Cost Recovery Guidance Manual and for making revisions to the manual each year as needed.

The comment period will open on the 1st of March of each year. However, comments and suggestion may be submitted at any time to RFA. The manual will be reviewed and editing will be finished by June 30 of each year.

At the time of review, suggestions and comments will be requested from each SPAR Program Manager and from DOL staff working on cost recovery. The Program Managers will in turn solicit comments from their staff and provide a response for their program by email.

The manual will be attached as a Word document to an email message and sent to Program Managers during the first week of March.

The process will be coordinated by the RFA Contract Section Manager in Anchorage. All responses should be directed to the RFA Contract Section Manager, with a cc to each Program Manager and to the SPAR Director. Changes and revisions will be in track-changes and reasons for rejected comments with be provided by the RFA Contract Section Manager when the revised manual is reissued.

APPENDIX A: Roles and Responsibilities

All State Employees

Complete a site log with a site-specific LC for all personal services activity directly related to the site or incident.

Code all time sheets, travel documents and purchase documents for direct costs with a site-specific LC.

Forward the site log and time sheet, at the end of the time reporting period, to the Supervisor or SOSC for approval.

Project Manager or SOSC

Request site-specific LC from RFA staff to track all direct costs related to response activities for a particular site in accordance with approved procedures.

Perform initial PRP search and consult with DOL attorney, if necessary, on recommended designations.

Maintain site records in a project or incident file.

Ensure all personal services costs directly related to site are documented in a site log.

Approve and monitor work plan.

Coordinate with RFA cost recovery staff to provide incident summary and other necessary information. Approves the materiality of the cost recovery expenses.

Confer, as requested by and with the Program Manager when informal efforts fail and recommend further action.

Initiate site closure and prepare the project or the incident file for storage. Notify RFA staff upon site closure by copying RFA Cost Recovery Staff on the site closure letter.

Program Manager

Approves the formal referral to the Director.

Reviews the CRAS process and signs the CRAS, indicating recommendations.

Confers with DOL on collection decisions.

DAS Staff

Assign site-specific LC upon request by RFA staff to track site costs.

RFA Cost Recovery Staff

Initiate informal cost recovery efforts to include the summary of the incident via memo to DOL in close coordination with the Project Manager or SOSC.

Obtain payment documents and maintain cost recovery files.

Periodically reconcile the cost recovery file documentation with state accounting system records.

Prepare a reconciled cost package upon request of the Project Manager or the SOSC, including personal services costs based on the site log , time sheets and other expenditures.

Perform initial review of the reconciled cost package for accuracy, consistency and completeness with state accounting system.

Consult with the Project Manager or SOSC to identify and resolve any discrepancies with the cost recovery package.

Forward cost recovery packages to the Project Manager or SOSC for review and verification.

Assist the Project Manager or the SOSC and DOL staff with cost recovery efforts.

Assure recovered funds are posted to the site-specific LC in state accounting system.

Review closure list, recommend other action or concur and prepare cost recovery file for storage in accordance with archives records retention schedules.

Provides quarterly, annual, and as needed cost recovery activity reports. SPAR staff will be authorized to query the Cost Recovery Database for recovered costs and outstanding balances.

Develop and supervise cost recover procedures.

Initiate closeouts of LCs.

Maintain master list of the universe of cost recovery actions.

Maintain management reports to measure cost recovery effectiveness.

Train SPAR staff as needed in cost recovery procedures.

Paralegal - Department of Law

Works with the Assistant Attorney General overseeing Cost Recovery activity at DOL and coordinates informal cost recovery.

May initially assess any request by the RP to review and adjust cost recovery with an Assistant Attorney General and subsequently coordinate with RFA staff to formally initiate any request for consideration of adjusting costs.

At the request of the Project Manager, SOSC, or Assistant Attorney General, perform detailed responsible party searches after initial efforts by Project Manager

Review cost packages received from RFA or the Program Manager or the SOSC and reviews documentation needed to support informal cost recovery.

Draft correspondence and other cost recovery letters.

Investigate relevant facts related to informal cost recovery. Informs the Assistant Attorney General who oversees the DOL cost recovery program, if legal issues should arise in the RP's response to the receipt of cost recovery invoices or RP retains legal counsel to dispute cost recovery obligations.

Prepare final cost recovery request, sign and submit to responsible parties.

Coordinate cost recovery actions with RFA, Project Managers or the SOSC.

Informs Program Manager and RFA cost recovery staff when informal cost recovery efforts have failed. Investigate and assess use of the OSLTF and CERCLA as an appropriate source for reimbursement of State costs.

Track status of cases to report progress of cases periodically to the Cost Recovery Section Manager.

Assistant Attorney General - Department of Law

Oversee cost recovery paralegal's informal cost recovery efforts, evaluate legal issues that arise during those efforts, advise SPAR staff concerning those legal issues and evaluate the need to convert a case to formal cost recovery.

Evaluate and approve requests to take action on cost recovery adjustments.

Determine when informal cost recovery efforts have failed. Determine whether the site needs to be elevated to formal cost recovery and take action accordingly. In these instances, the Department of Law must notify via email the RFA Program manager and the Cost Recovery Manager at the time the determination is made to elevate the site to formal cost recovery.

Recommend appropriate course of action to the SPAR Director, including formal cost recovery and collection efforts.

Provide legal services upon request of the SPAR Director for formal cost recovery.

Draft liens and justification for real property liens for the SPAR Director's review, approval or denial.

Track Lien status, once they are filed.

Response Fund Manager

Delegated management for Oil and Hazardous Substance Release Prevention and Response Fund from the DEC Commissioner.

Oversee cost recovery efforts managed by the RFA cost recovery section.

Authorized to delegate selected administrative responsibilities.

SPAR Division Director

Final approval authority for settlement to cost recovery amounts and approve cost recovery referrals.

Review and approve recommendations real property liens

APPENDIX B: Definitions

Administrative Costs - Include salaries of support personnel, public information, procurement services, data processing, financial and accounting, budgeting, fund administrative services and any other administrative costs.

AKSAS - The Alaska State Accounting System.

Allocated Costs - Fixed or variable costs that are directly attributable to the cost of operation of the department and are necessary to support response to a release or a threatened release of oil or other hazardous substances. These costs include, but are not limited to, telecommunications including basic phone services, toll charges, phone maintenance and installation, copier leases, supplies and maintenance agreements, space leases, postage and courier services.

CERCLA - Comprehensive Environmental Response, Compensation and Liability Act.

Collocation Code - Number within the state accounting system (AKSAS) associated with an appropriation of state funds.

Cost Recovery Staff - Employees responsible for managing cost recovery accounting functions, including site expenditure file documentation, cost package preparation , reconciliation, and invoice preparation. The CR Staff is overseen by the RFP Program Manager.

Corrective Action - Broadly defined in AS 46.03.450 to mean action necessary to stop the migration, determine the extent, and undertake recovery of petroleum after its unpermitted release; cleanup affected site and groundwater; and stabilize the site of the release to prevent or remove hazards to the public health or the environment.

CRAS-Cost Recovery Action Sheet.

DAS - Division of Administrative Services.

Expenses - Money expended by the department in response to a release or a threatened release. Some examples of expenses include the cost of response personnel, response equipment, and necessary support services, additional supplies, indirect costs, contractors, travel related expenses, oversight, administrative support and legal services.

Formal Cost Recovery - Contractual services provided to DEC by DOL . Services include all actions taken to facilitate compliance with environmental statutes and regulations, formally recover costs due and seek fines and penalties as appropriate. (See Informal Cost Recovery.)

FTR - The Financial Transaction Report (FTR) is pulled from AKSAS and contains proof of payment information.

Good Faith - Intangible and abstract quality with no technical or statutory definition. Example: faithful to one's duty or obligation.

Ledger Code (LC) - Tracking number associated with the state accounting system (AKSAS) that is attached to all expenditure records pertaining to a specific incident response or cleanup effort.

Incident - An imminent or actual oil or hazardous substance release to the air, land, or water of the state; used synonymously with "site" and "project" in cost recovery manual.

Informal Cost Recovery - Contractual services provided to DEC by DOL and initiated RFA staff. Services include all actions taken informally and cooperatively to recover costs short of initiating formal enforcement proceedings and consist of responsible person searches, information requests, demand letters, billing and case tracking. (See Formal Cost Recovery)

Oil Spill Liability Trust Fund - Federal trust fund available to states for possible reimbursement of oil spill response costs. The DOL determines whether to pursue use of this fund as part of their contractual cost recovery services provided to DEC.

OPA - Federal Oil Pollution Act establishing the National Pollution Funds Center and the Oil Spill Liability Trust Fund (OSLTF). The federal trust fund is available to states for reimbursement of response costs.

Liable party – A person liable for response costs or damages under AS 46.03.822, 42 U.S.C. 9607 or other law.

Materiality - is a concept or convention within auditing and accounting relating to the importance of an amount, transaction, or discrepancy. The assessment of what is material is a matter of professional judgment. Materiality is defined in the International Accounting Standards Board's "Framework for the Preparation and Presentation of Financial Statements" in the following terms:

> "Information is material if its omission or misstatement could influence the economic decision of users taken on the basis of the financial statements. Materiality depends on the size of the item or error judged in the particular circumstances of its omission or misstatement. Thus, materiality provides a threshold or cut-off point rather than being a primary qualitative characteristic which information must have if it is to be useful."

CRITTS- SPAR electronic time accounting system used for time sheets and site logs.

Project - See "site;" used synonymously with "site" and "incident" in cost recovery manual.

Project Manager - Project or case manager (may be SOSC) for an oil or hazardous substance spill/incident or contaminated site.

Program Manager - Person responsible for the activities for oversight of SPAR's CSP, IPP, PERP or RFA programs.

Response Fund Manager - Director of SPAR or his/her designee.

Responsible Person - An organization or individual legally responsible for responding to a discharge or a hazardous substance release to the water or land in Alaska.

Responsible Party – An organization or individual that is a Responsible Person or a Liable Party. See 18 AAC 75.

Site - Location of an imminent or actual oil or hazardous substance release or historic contamination to the land of the state; used synonymously with "incident" and "project" in cost recovery manual.

Site Log - Primary document for supporting personal services costs. The PERP ICS 214 Sit Log Template is available at G:/SPAR/SPAR-PERP/STATE ICS Toolkit/ ICS forms/ICS 214_Site Log Template. The CSP site log is generated in the Megatime time accounting system.

State-on-Scene Coordinator (SOSC) - Staff member of SPAR delegated the authority from the Commissioner to act as SOSC for response to oil and hazardous spills. The SOSC is responsible for prevention, preparedness and response activities in each of three areas of the state (southeastern, central, and northern).

APPENDIX C: Letter of State Interest Examples

INSERT THE FOLLOWING TEXT INTO YOUR INDIVIDUAL LETTERHEAD FORMAT:

File: (File No.)

Date: (Date)

Certified Mail, Return Receipt Requested
Article No. (Insert Certified Article #)

Enter Address Information

Re: Project Name, Address, City, State
RecKey No.
Ledger Code (Insert Ledger Code)

Dear Recipient:

This letter is to advise you that a contaminated site has been identified at Street or legal address. Since you are identified as a current or past owner and/or operator of this site, please be advised you may be financially responsible or liable for the investigation and/or cleanup of any hazardous substance contamination that might be present.

Alaska Statute 46.03.822 establishes who is liable for contamination. Records available to the Alaska Department of Environmental Conservation (DEC) indicate that you meet one or more of the following criteria:

- owned or controlled the hazardous substance at the time of its release;
- own(ed) or operate(d) the property or facility from which the release occurred;
- owned or operated property at which the hazardous substance came to be located; and
- arranged for transport, disposal, or treatment of hazardous substances that were released

In order to better evaluate your potential responsibility or liability as a former or current landowner for any hazardous substance contamination, DEC requests that you answer the following questions:

1. Provide your full name and company affiliation (if any).

2. Please indicate when you acquired the subject property, and summarize your activities on the land since you acquired it. If hazardous substances have been or are being stored or used on site, please describe the circumstances and time frame of storage and/or use.

3. Please provide any information you might have regarding potential or existing contamination of the subject property, including information provided to you or which you were aware of regarding contamination at the property before purchase.

In accordance with Alaska Statute Title 46, DEC is authorized to provide regulatory oversight for any contamination response efforts initiated by the responsible party. However, if response actions by the

responsible party are not satisfactory to DEC, we may then assume the lead role in the investigation and cleanup efforts. In the event that State response actions are necessary, the responsible parties may be held financially liable for any response actions taken by the State.

Alaska Statutes 46.03.760, 46.03.822, and 46.08.070 establish cost recovery procedures for certain costs, including oversight activities, incurred by the State in responding to pollution incidents. If you are determined to be a responsible or liable party, DEC may bill you at a later date for our expenditures associated with this pollution incident. Expenses for which we may seek reimbursement include: staff time associated with general or technical assistance; work plan review; project oversight; general project management; legal services; interest; travel; equipment and supplies; and any contracting costs. Pursuant to Alaska Statute 46.08.075, the State may also file liens against all property owned by a person who is responsible or liable for State expenditures.

Please respond in writing within thirty (30) days from the date of this letter addressing your intended actions with respect to the pollution incident. If you believe someone else is responsible for this pollution incident or if you have any questions concerning this matter, please contact the DEC Project Manager for this pollution incident at (907) (Phone No.) In addition, please submit the completed information questionnaire by the same date.

Sincerely,

Name of Project Manager
Title

cc: (Insert Name of Section Manager), Section Manager, CS/ (Insert Location)
(Insert Name of Cost Recovery Section Chief), SPAR/Juneau
(Insert Name of Dept. of Law Contact), Paralegal, Dept. of Law/ (Insert Location)

INSERT THE FOLLOWING TEST INTO YOUR INDIVIDUAL LETTERHEAD FORMAT:

File: (Insert File #1)

Date: (Date)

Certified Mail Return Receipt Requested
Article No. (Insert Certified Article #1)

(Insert Addressee Name)
(Insert Company Name)
(Insert Address)
(Insert City, State, and Zip Code)

Re: (Insert Site Name and Location)
Hazard ID: (Insert Hazard ID)
Ledger Code: (Insert Ledger Code)

Dear (Insert Addressee Name):

This letter is to advise you that a contaminated site has been identified at (insert precise description of site location) for which you may be financially responsible. Alaska Statute Title 46 authorizes the State to respond to this pollution incident and to take appropriate action to minimize damages to human health, safety, or welfare or to the environment. Under Title 46, the owner or operator may be held financially responsible for any actions taken by the State. If you undertake response actions approved by the Department under 18 AAC 75.300-.396, the adequacy of those actions will be evaluated by (insert name of project manager) at (907) (insert name phone number of project manager), the Project Manager for this pollution incident. Response actions are adequate if they accord with state and federal law, including 18 AAC 75.

If you are taking adequate actions, State action will be limited to approving cleanup plans, monitoring the progress of cleanup activities and providing guidance as necessary. Alaska Statutes 46.04.010 and 46.08.070 require that recovery be sought for certain costs, including oversight activities, incurred by the State in responding to pollution incidents. If you are determined to be a responsible party, the State will bill you at a later date for State expenditures associated with the pollution incident. Billable State expenditures include the direct cost of State staff time and indirect State overhead costs, as well as contractual and material costs. Billable State staff time includes all time spent on activities related to the incident, including site visits, response and report reviews, telephone conversations, meetings, legal services and interest.

If you believe someone else may be responsible for this pollution incident, or if you have questions concerning this matter, please contact me (insert phone number).

Sincerely,

(Insert Name)
(Insert Title)

Cc: (Insert Name of Section Manager), Section Manager, CS/ (Insert Location)
(Insert Name of Cost Recovery Section Chief), SPAR/Juneau
(Insert Name of Dept. of Law Contact), Paralegal, Dept. of Law/ (Insert Location)

INSERT THE FOLLOWING TEST INTO YOUR INDIVIDUAL LETTERHEAD FORMAT:

File: (Insert File #)

Date:

Certified Mail Return Receipt Requested
Article No. (Insert Certified Article #)

(Insert Addressee Name)
(Insert Company Name)
(Insert Address)
(Insert City, State, and Zip Code)

Re: (Insert Site Name and Location)
Hazard ID: (Insert Hazard ID)
Ledger Code: (Insert Ledger Code)

Dear (Insert Addressee Name):

The Alaska Department of Environmental Conservation, Contaminated Sites Program, (DEC) has determined that there is contaminated soil and/or water associated with your property at (Insert Location). This letter introduces you to the statues and regulations that outline your responsibilities as land owner (or operator) and identifies a DEC staff person assigned to work with you to evaluate any environmental issues.

As required by law, DEC ensures that hazardous substance contamination issues are addressed in accordance with state standards. Due to the complex nature of these standards, we want you to know that we are available to offer assistance in understanding the requirements and implementing any assessment and cleanup actions that may be required. Although there is some flexibility in how each cleanup project is managed, the assessment and cleanup actions must be performed by a "qualified person" who meets minimum regulatory qualifications.

Please find enclosed a *Fact Sheet*, which briefly summarizes the major elements of Alaska's Contaminated Sites Regulations (Alaska Statutes Title 46 and Title 18 of Alaska's Administrative Code of Regulations, Chapter 75, or "18AAC 75" See Article 3) and describes the general cleanup process. The full text of Chapter 75 can be downloaded at http://dec.alaska.gov/regulations/index.htm.

If the contamination resulted from a leaking underground fuel tank (UST), you will need to follow a similar process outlined in 18 AAC 78 that is specific to those spills resulting from the operation of regulated USTs. You can download a copy of the UST regulations at the above web link as well.

The responsibility for the investigation and cleanup of hazardous substance contamination is established by State law. The owner and/or operator that caused the release of the hazardous substance(s) is responsible for its cleanup (Alaska Statute 46.03.822). However, if the responsible

party is not the owner of the property and/or is not willing or able to conduct the necessary cleanup actions, the landowner is liable for the cost of the cleanup actions. If you believe that another party is responsible for the contaminations (e.g., a past owner or operator of the site), please provide this information to the DEC Project Manager assigned to your site. It is best to identiy and work with all potentially responsible parties for the beginning of the cleanup process so everyone understands their responsibilities. The process requires that work plan(s) be submitted to DEC *before* beginning any work on your site. The purpose of this review and approval process is to ensure regulatory requirements are met and hopefully, accomplish a cost effective approach to resolving environmental issues. A useful guide to the cleanup process, giving a step-by-step description, can be found on the internet at http://www.dec.state.ak.us/spar/csp/process.htm.

In addition, State law requires DEC to recover the costs associated with our oversight work from the responsible party/parties (Alaska Statute 46.04.010 and Alaska Statute 46.08.070). This may include conducting site inspections and any time associated with reviewing work plans. The contaminated site cleanup process can be a lengthy and costly endeavor. However, DEC wishes to limit your costs by working with you to accomplish the primary goal of protecting public health and the environment. In general, the quicker that this environmental concern is resolved, the lower the cleanup costs.

We want you to be aware that the contamination at your property has been listed in DEC's database of contaminated sites, and that this information is public record. Our database is accessible on the internet at http://dec.alaska.gov/spar/csp/db_search.htm.

The DEC project manager assigned to your site is (Insert Project Manager Name), and can be reached at (Insert Address, Phone Number, and E-mail). You are requested to contact this person within 30 days from receipt of this letter as to what your intentions are related to this matted.

Sincerely,

(Insert Name)
(Insert Title)

Cc: (Insert Name of Section Manager), Section Manager, CS/ (Insert Location)
(Insert Name of Cost Recovery Section Chief), SPAR/Juneau
(Insert Name of Dept. of Law contact), Paralegal, Dept. of Law/ (Insert Location)

INSERT THE FOLLOWING TEST INTO YOUR INDIVIDUAL LETTERHEAD FORMAT:

File No: 2405.38.008
Return Receipt Requested
Article No: xxxxxxxxx

August 17, 2012

PRP Name
PRP Incorporated
P.O. Box 150
PRP, AK 99558

Re: Contaminated Site Notification; PRP Tank Farm #1, PRP Tank Farm #2

Dear PRP,

The Alaska Department of Environmental Conservation (ADEC), Contaminated Sites Program, has determined that there is contaminated soil and/or water associated with the Insert Site Name Here located at Insert Location Information Here (see Attachment A). These sites (This site) have/has been listed in the ADEC database of contaminated sites and information contained in the file is now part of the public record. Our databases are accessible on the Internet at: http://dec.alaska.gov/spar/csp/db_search.htm

ADEC's primary concern is that the contamination on this property may pose a risk to human health or the environment, therefore any current or future use or development of this property must account for this contamination. If you are interested in discussing the evaluation and/or cleanup of this contamination or if there are any proposed changes in land use or ownership, please contact your ADEC project manager for this site Insert PM Name at (907) XXX-XXXX or via email at PM.Name@alaska.gov.

Alaska Statute Title 46 authorizes the State to respond to this pollution incident and to take appropriate action to minimize damages to human health, safety or welfare or to the environment. Under Title 46, the owner or operator may be held financially responsible for any actions taken by the State. If you undertake response actions approved by the Department under 18 AAC 75.300-.396, the adequacy of those actions will be evaluated by Insert PM Name at (907) XXX-XXXX, the Project Manager for this pollution incident. Response actions are adequate if they accord with state and federal law, including 18 AAC 75.

If you are taking adequate actions, State action will be limited to approving cleanup plans, monitoring the progress of cleanup activities and providing guidance as necessary. Alaska Statutes 46.04.010 and 46.08.070 require that recovery be sought for certain costs, including oversight activities, incurred by the State in responding to pollution incidents. If you are determined to be a responsible party, the State will bill you at a later date for State expenditures associated with the

pollution incident. Billable State expenditures include the direct cost of State staff time and indirect State overhead costs, as well as contractual and material costs. Billable State staff time includes all time spent on activities related to the incident, including site visits, response and report reviews, telephone conversations, meetings, legal services and interest.

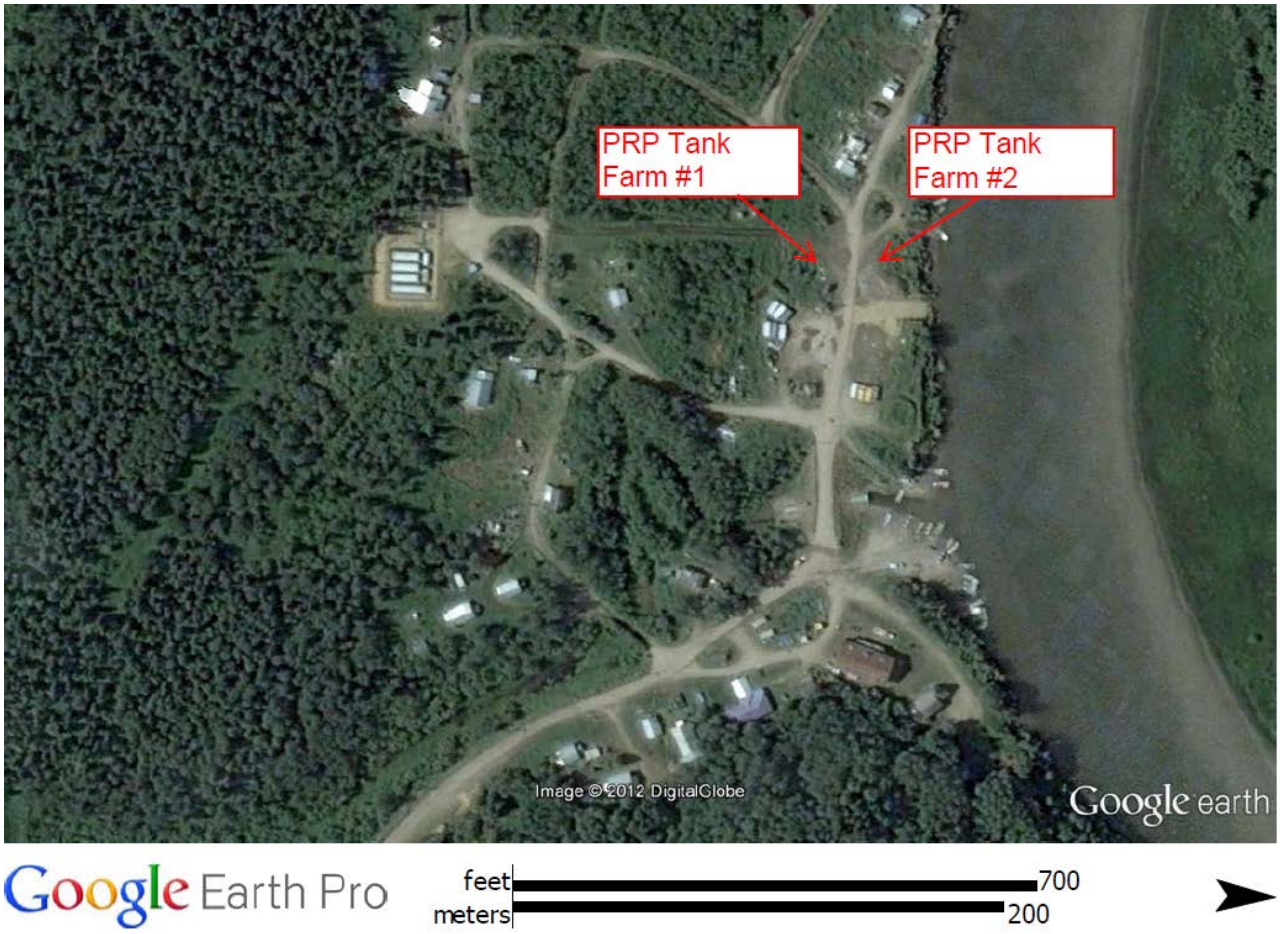
Sincerely,

PM Name
Environmental Specialist

CC: Name, CS Section Manager/Location
Name, Accountant, SPAR/Juneau
Name, Paralegal, Dept. of Law/Anchorage

Attachment A: PRP Former Tank Farm Locations

Attachment A: **PRP Former Tank Farm Locations**



ADEC INFORMATION REQUEST
Concerning a contaminated site(s)

Re: Street or legal address, or name of contaminated site.

Please precede each answer with the number of the question to which it corresponds. Please direct any questions concerning this information request to Project Manager**, Contaminated Sites Program,** Address, phone no.. Thank you for your cooperation.

1. Provide name and company affiliation of the person answering the questionnaire.
2. Provide copies of all studies, reports, and supporting information (including preaquisition assessments and work done on behalf of other parties) which you have knowledge of which address past and/or present environmental conditions at the site. Identify the name, title, address, and phone number of the party(s) who are responsible for preparing the studies or information. Information which has been previously submitted to ADEC need not be submitted again (unless specifically requested in a subsequent communication) if you can provide the name of the office (and name and title of the DEC officer if known) to whom the report was previously provided.
3. Provide a description of any ongoing or planned investigations or cleanup work at the site. Identify the names, titles and phone numbers of the individuals responsible for preparing the studies or information.
4. Provide a description of known releases at the site (date of occurrence, quantity released, type of substance released, etc.) and a description of corrective measures that were taken. Provide information on any suspected releases which may have or are occurring.
5. Describe the nature of past and present operations at the site. In particular, any actions that may have caused the release or threat of release at the site. Describe the physical characteristics of the site including major structures, water wells, fuel or waste storage systems, drainage or septic systems, etc.
6. Provide a list of any permits issued by the Department which relate to activities at the site and a list of RCRA identification numbers (U.S. EPA identification numbers) which may be held.
7. Identify persons to whom you leased all or a portion of the property and describe the nature of their operations.
8. Identify the person(s) who used the site for disposal of substances deposited there, if any.
9. Provide copies of manifests for any hazardous waste and/or petroleum contaminated materials taken to or from the site.
10. Provide a list of persons and their phone numbers and addresses of persons who have knowledge about the use of hazardous substances at the site.
11. Provide information regarding the existence of insurance coverage for damages resulting from releases of hazardous substances and copies of all such insurance policies, both currently in effect and in effect during the periods of activity in question.
12. Describe the acts or omissions of any person, other than your employees, agents, or those persons with whom you had a contractual relationship, that may have caused the release or threat of release of hazardous substances at the site.
    a. In addition, describe all precautions that you took against foreseeable acts or omissions of any such third parties.
13. Describe the care you exercised with respect to the hazardous substances found at the site.
14. Describe the physical characteristics of the site including structures, wells, drainage systems, etc.

555 Cordova Street
Anchorage, AK 99501
Phone: (907) 269-7684
Fax: (907) 269-7648
http://www.state.ak.us/dec

DIVISION OF SPILL PREVENTION AND RESPONSE
Prevention and Emergency Response Program
[Area Response Team Name]

Certified Mail Return Receipt Requested:

[Date]

[PRP Name]
[Company]
[Address]
[City, State, Zip Code]

Dear [PRP Name]:

RE: [spill name], Spill #; Ledger Code #

This letter is to advise you that on [date] a pollution incident occurred at [location] for which you may be financially responsible. Alaska Statute Title 46 authorizes the State to respond to this pollution incident and to take appropriate action to minimize damages to human health, safety or welfare or to the environment. Under Title 46, the owner or operator may be held financially responsible for any actions taken by the State. If you undertake response actions, they must be approved in advance by the Department under 18 AAC 75.300 - .396, and the adequacy of those actions will be evaluated by [name and phone number of coordinator OR project manager], the [State On-Scene Coordinator OR Project Manager] for this pollution incident. Response actions are adequate if they accord with state and federal law, including 18 AAC 75.

If you are taking adequate actions, State action will be limited to approving cleanup plans, monitoring the progress of cleanup activities and providing guidance as necessary. Alaska Statute 46.08.070 requires that recovery be sought for certain costs, including oversight activities, incurred by the State in responding to pollution incidents. If you are determined to be a responsible party, the State will bill you at a later date for State expenditures associated with this pollution incident. Billable State expenditures include the direct costs of State staff time and indirect State overhead costs, as well as contractual and materials costs. Billable State staff time includes all time spent on activities related to the incident, including site visits, response and report reviews, telephone conversations, meetings, legal services, and interest.

If you believe someone else may be responsible for this pollution incident or if you have any questions concerning this matter, please contact me at [907-phone number].

Sincerely,

[Name]
[State On-Scene Coordinator OR
Project Manager]

G:\SPAR\SPAR-RFA\OTHER FOLDERS\COST RECOVERY\CR 2010\INPUTS\PERP\State Interest Letter Template.doc

APPENDIX D: Cost Recovery File Contents

This file is maintained by RFA cost recovery staff as part of the Cost Recovery Packet.

Personal services costs:

- Site Log and time sheet copies;
- Worksheet calculating hourly rate detailing employee name, position and rate; and
- Explanation of rate cost components.

Travel:

- Travel Authorization (TA) which details trip purpose and per diem costs;
- Invoices or vouchers showing starting point and destination, transportation method, number and names of persons on trip;
- Receipts for transportation, hotels, car rentals, etc.; and
- Proof of payment (AKSAS FTR).

In addition, travel documents should be reviewed with site logs to verify that coding is the same for all records.

Contractual:

- Contract;
- Invoice; and
- Proof of payment (AKSAS FTR).

Supplies:

- Invoice;
- Justification (include for LUST and Superfund federal grants); and
- Proof of payment (AKSAS FTR).

Equipment:

- Invoice;
- Delivery Order (DO);
- Justification (include for LUST and Superfund federal grants);
- Hourly records of equipment use or allocation schedule if standard equipment rates are used for billing purposes; and
- Proof of payment (AKSAS FTR).

Other Items:
Relevant correspondence, including emails, settlements or agreements and other pertinent financial records, including periodic audit trails summarizing charges posted to the state accounting system for the site and used to reconcile file contents and accounting system charges.

APPENDIX E: Case File Contents

Travel:
Staff should report on all inspections made to a site including contractor oversight inspections. These records will help verify contractor services and justify the reasonableness and necessity for the travel expenditure.

Expenses for travel to multiple sites should be divided among sites in a logical way and charged directly to the LC for each site. In most cases, apportioning the total travel cost between sites based on the relative amount of time spent at each site is acceptable.

Contractual:
The file should include contractual procurement documents such as contractors' proposals and cost data, the contract itself, statements of work, work/change orders and technical progress reports.

APPENDIX F: Justification Guide

The following explanations, attachments or descriptions provide justification and support for the necessity and reasonableness of response expenditures.

Travel, Food, Lodging:

- Include reason for travel on TAs;
- Include trip reports indicating field activities; and
- Match lodging bills to housing lists for staff receiving lodging.

Air Charter:

- Include passenger list;
- Explain the purpose of each flight;
- Justify contractual standby time;
- Justify non-response/cleanup passengers on contracted flights; and
- Describe destination within the scope of the response/cleanup.

Vessel Charter:

- Provide legible vessel logs for each billing;
- Support invoices with narrative justifying field activity;
- Identify passengers and justify non-response/cleanup passengers.

Lab Analysis:

- Explain what test was performed;
- Explain why test was performed;
- Describe results of the test if appropriate to the justification; and
- Explain how test is essential to the response or cleanup.

Equipment/Furniture:

- Indicate that DEC would not purchase such equipment except for the necessity of response or cleanup activity;
- Support limited use for response/cleanup;
- Note useful life of equipment and depreciation.

Clothing:

- Explain necessity for purchase, including replacement need.

Telephone:

- Include phone log.

Photo Processing, Film:

- Explain what was photographed and why; and
- Explain how photos, videos used to assist or expedite the response or cleanup.

Building lease/rentals:

- Detail need for space or storage;
- Justify additional charges for maintenance or repairs; explain why not provided by owner as part of lease/rental agreement;
- Explain impact to success of response or cleanup if expenditure not incurred;
- Indicate need for controlled storage to protect equipment from loss, damage or theft;
- Indicate need for controlled storage to ensure that a sufficient inventory of materials, equipment and supplies are on hand to avoid impeding progress of response or cleanup operations.

Attachments to include as justification:

Air Charter Manifest;
Catering Log;
Vessel Log;
Passenger List; and
Lodging List.

APPENDIX G: Site Log Steps and Samples

Action:

Information is recorded on a site log (example attached) to document the hours and activities employees perform that directly relate to an oil or hazardous substance site. Site logs should be completed for any and all activity related to an incident or site and be legible. CRITTS is the Division site log and time sheet generator.

Responsibility: Employee performing work directly related to a site or project.

1. Maintain a separate site log for each site-specific ledger code shown on time sheet for the reporting period.

   a. Fill out, sign and date in ink each site log; time increments should be no smaller than 0.25 hour and must be consistent with the time sheet for the same period.

   b. Typical Activity Descriptions include:

Correspondence	- To whom and subject
Inspection	- Purpose, date, place, brief summary of findings
Meeting	- With whom, subject, date (include public meetings)
Phone call	- With whom, subject, # called, date, who initiated call
Report Review	- Name of report, date of report
Media Contact	- With whom, subject, and date
Miscellaneous	- Describe

2. Submit the completed site log to project manager or SOSC for review. Supervisors will sign site logs and time sheets at the end of each time reporting period, or as requested.

Responsibility: Project Manager or SOSC

3. Review the site log for accuracy and completeness.

4. Return inaccurate or incomplete site logs to staff for necessary correction or information.

5. Sign the site log to verify accuracy.

6. Provide site logs to the time keeper, who will forward to RFA Staff.

7. Forward site log copies to RFA cost recovery staff prior to preparation of cost package.

Responsibility: RFA Cost Recovery Staff

8. Verify receipt of a site log for each site-specific ledger code shown on the time sheet.

Contact project manager or SOSC if a site log is missing or hours shown on the site log are inconsistent with hours shown on the time sheet.

9. Calculate direct personal services costs on basis of the number of hours worked on site as recorded on site logs multiplied by standard rate. Standard rates are developed and provided by DAS staff.

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DAILY CLEANUP AND MONITORING SITE LOG/ICS 214

SITE NAME:			MONTH		YEAR	2009
EMPLOYEE NAME:		ICS Position:	PAYROLL 1-15			
CC: 18556001	LC:	SPILL #	PAYROLL 16-31			

Date Worked	24 Hour Time in	Clock Time out	# of Reg Hours	# of OT Hours	Activity Description
Total			0.00	0.00	
Total Reg and OT			0.00		

EMPLOYEE SIGNATURE _____ DATE _____

Data on this form is a correct record of hours worked and activity performed.

PROJ. MGR./SOSC SIGNATURE _____ DATE _____

Activity Detail Report

Project Name		**Start Date**		**Collocation Code**	
Employee		**End Date**		**Ledger Code**	

Date	Hours	Activity Code	Activity Name	Memo
8/1/2012	3.50	01	Administrative, General	
	4.00	01	Administrative, General	
8/2/2012	3.50	01	Administrative, General	
	4.00	01	Administrative, General	
8/3/2012	4.00	01	Administrative, General	
	1.50	01	Administrative, General	

Total Hours 20.50

We certify these are correct records of hours worked and activity performed:

Employee Name _____ Signature _____ Date _____

Project Manager / SOSC Name _____ Signature _____ Date _____

APPENDIX H: Time Sheet Steps

Action:

Each employee prepares a time sheet as required by their respective program. After review and approval, administrative staff enters the time sheet data into AKPAY. Copies of time sheets with time coded to a site-specific ledger code are maintained in site cost recovery files.

Responsibility: All Employees

Employees are responsible for coding their response and monitoring time to the time sheet.

1. Complete time sheet.

   a. Each employee shall list there start and stop time for hours worked by entering hours worked by funding source (collocation code) and site (name and ledger code, if assigned).

   b. If a ledger code has not been assigned for a project, the employee should code hours on to the temporary LC on the time sheet with the site name and incident number.

   c. Sign and date completed time sheet, attach leave slip to document any leave time taken (annual or sick) during pay period and submit completed time sheet to the supervisor.

   d. Attach and sign each site log for submittal with the time sheet.

Responsibility: Supervisor

Each supervisor will be responsible for ensuring that staff are consistently coding their response and monitoring time.

2. Review for correctness and sign and approve time sheets and sit logs.

Route approved time sheet according to division practices.

Responsibility: Division Administrative Staff

3. Review time sheet.

   a. Check the time sheet for the following items:

✓ Name	✓ Correct arithmetic
✓ Employee signature	✓ Any corrections noted by initials
✓ Social security number	✓ Ledger Code
✓ Pay period end date	

   b. Note any errors and return time sheet to employee for corrections.

Responsibility: All staff

4. Correct time sheets, if necessary, and resubmit corrected sheets to administrative staff.

Responsibility: Division Administrative Staff

5. Enter time sheet information into AKPAY.

6. Copy times sheet, as needed.

7. Submit original time sheet to the Division of Personnel.
   (Exception for LUST sites: Original time sheet is submitted to DAS Federal Grant section)

8. Submit copy of time sheet with time coded to a site-specific Ledger Code to the RFA cost recovery staff.

Responsibility: RFA Cost Recovery Staff

9. File to individual site files.

APPENDIX I: Informal Cost Recovery Referral Memo Example

MEMORANDUM

State of Alaska
Department of Environmental Conservation
Division of Spill Prevention and Response

TO: Insert Name
Paralegal, Department of Law
Environmental Section
Department of Law

DATE: Insert Date

FILE NO: Insert File No.

THRU: Insert Name
Insert Title (eg: CS Program, Unit Manager)

FROM: Insert Name
Insert Title (eg: CS Program, Project Manager)

PHONE NO: Insert Phone No.

SUBJECT: Project Site Name for
Informal Cost Recovery Referral

This case is being referred to the Department of Law for informal cost recovery proceedings and the evaluation for pursuing any potential civil penalties.

CASE SUMMARY:

Case Title: Insert info.

Spill/Incident/Haz ID/Reckey Number: Insert info.

Ledger Code: Insert info.

DEC Contact Person/Program/Location/Phone Number: Insert info.

Site Summary: Insert info.

Responsible and/or Liable Party/Address/Phone Number: Insert info.

Responsible and/or Liable Party Attorney/Address/Phone Number: Insert info.

Project Manager Recommendation: Insert info.

Attachment(s): Cost Recovery Expenditure Package including Site Logs, State Letter of Interest, and Correspondence with the RP concerning costs and reimbursements

cc: Insert Name, Accounting Technician, RFA Program

C:\Documents and Settings\dallen\Local Settings\Temporary Internet Files\Content.Outlook\PK3KFFPA\Informal Cost Recovery Referral Memo_042810.doc

APPENDIX J: Formal Cost Recovery Referral Memo Example

MEMORANDUM State of Alaska

Department of Environmental Conservation
Division of Spill Prevention and Response

TO: Name
Chief Assistant Attorney General
Environnemental Section
Anchorage Environmental Section
Department of Law; or

Name
Assistant Attorney General
Fairbanks Natural Resources Section
Department of Law; or

Name
Assistant Attorney General
Juneau Natural Resources Section
Department of Law

DATE:

FILE NO:

TELEPHONE NO:

SUBJECT: ***Confidential Attorney - Client Communication and Deliberative Process Privileged: Not For*** *Public* ***Files***

THRU: Director - SPAR

FROM: SPAR Program Manager

I. REFERRAL RECOMMENDATION

I am referring this case to the Attorney General's Office for the initiation of enforcement proceedings.

II CASE SUMMARY

A. Background

Be sure to include official file name, RSA and ledger codes.
Example: This is a shipwreck/oil spill case. This case involves the grounding of the F/V Blank on Whatsit Island. The F/V Blank is owned by Blank, Inc., a "one-ship" Aruba corporation.

On March 16, 1990, the 92-foot fishing vessel grounded on Whatsit Island. The vessel became stuck in the ice, lost its steering and after a rescue attempt by the Coast Guard, ran aground. As a result of the grounding

some 6,800 gallons of diesel fuel were spilled into the ocean. The vessel remains abandoned in a number of pieces on state tidelands.

B. Actions by DEC to Date

Example: On May 16, 1990, a letter was sent to Blank, Inc. demanding removal of the wreck. The company responded on June 1, 1990 refusing to take any action on the grounds that _____.

Chronology, correspondence, e-mails, and other pertinent documents attached.

C. Alleged Violations

1. Generally describe violations in broad general terms.

2. Specifically list out each group of violations, the statute, regulation, permit or DEC approval violated. Indicate who violated the provision and what evidence DEC has to make out the specific elements of the violations. (Look at the statute, regulation, permit in question and the definition sections). Who, What, Where, Why, How, and How Much. Give names, addresses and telephone numbers of all witnesses. Identify important documents/samples and location and keepers of those documents/samples. Comment on the future availability of evidence, i.e., Coast Guard personnel leaving the state or samples will no longer be available if action not taken.

3. Factually and objectively analyze the severity of the violation in terms of harm to human health or the environment, potential harm or harm to the regulatory scheme. (For example, failure to report a spill creates harm to the regulatory system since DEC cannot oversee cleanup).

4. Did the violator comply voluntarily when confronted with the violation, did the violator attempt to conceal the violation, past history of non-compliance, what is the regulatory sophistication of the violator, and could the violations have been prevented, foreseen, or mitigated? Include copies of NOVs, warning letters, USCG or EPA actions.

5. Other similarly situated violators. For example: other contaminated sites in the area (state, federal or other). What is the status of those sites? Compare to industry norm or conduct.

6. Actions by the federal government? Discuss federal program delegation, oversight, etc.

D. Potentially Responsible Parties

List all possible PRPs, and indicate whether each has received a PRP Notification Letter.

III RECOMMENDED ENFORCEMENT ACTION

A. What Actions Are Recommended and Why

1. <u>Enforce compliance</u>

   a. Administrative: compliance order, consent decree, compliance order by consent, emergency order, state funded cleanup and cost recovery, etc.

   b. Judicial: temporary restraining order, preliminary injunction, permanent injunction, judicial contempt order, etc.

   c. Get appropriate ledger code(s) and actual DEC costs. Check to see if a file log or timesheet or other informal time-keeping was used for the case in the past.

2. <u>Collect civil assessments or penalties</u>

   (for which violations?) See AS 46.03.760; AS 46.03.758 – .759.

   a. If recommended, quantify the environmental damages from the violations; is there a way to identify a monetary measure of the damage?

   b. State's expenses (remember other agency costs such as ADF&G, DNR, and DOT).

   c. Violator's "economic savings" in not complying with the law. Estimated ball park costs of cleanup, equipment, etc. What financial incentives did the violator have for taking the action? Compute value of money from date of violation (legal rate 10.5 percent annually or better use EPA BEN computer program).

   d. How long have the violations continued? Have any been corrected? Note the date the statute or regulation was effective and the date violation occurred.

e. Other comparable civil assessments collected? Amounts and dates.

f. Determine size of company and ability to pay. This can come from Western States Project.

g. Other factors in considering penalties: Has DEC acted in a fair and consistent manner; are penalties appropriate to the gravity of the violations; does the penalty eliminate economic incentive for non-compliance, deter violations, and expedite compliance. Consider the following gravity factors: seriousness of violation (potential for harm to integrity of system or environment or human health and extent of deviation from law), good faith efforts to comply or lack, ability to pay, risk or cost of litigation. Mitigators may be significant and must be considered.

h. Consider possible alternative penalties: environmental audits, environmental projects, pollution prevention, training, equipment above and beyond required by law. "Alternative penalties" must be in proportion with the violation and potential penalties.

3. Other Possible Regulatory Enforcement Actions:
Contingency plan or permit suspension, modification, or revocation. Possible federal or other state agency violations?

4. Criminal Action
Is one envisioned or referred?

B. Other Considerations

1. Time constraints

2. Why should this case be pursued and how will it create a positive precedent for other cases

3. Press release on recommended action

4. Public or legislative involvement

5. DEC acquiescence or delays

6. Other state actors

7. Comparable enforcement actions (statewide)

8. Other considerations (mitigating and aggravating)

C. Enforcement Problems

Any anticipated problems in enforcing a judgment or order. For example, is this a foreign or out of State company; a company in financial trouble, the violator is already in jail, etc. Federal government, State or municipal agency is the violator.

D. Any Additional Investigation Work Needed

Additional evidence or information that needs to be developed.
Are final interviews completed?

IV CONCLUSION

Summary of Recommendations

cc: <Name>, Commissioner, DEC

APPENDIX K: Internal Non-Cost Recovery Action

SPAR Internal Non-Cost Recovery Action Sheet

Site Name:

Ledger Code:

UNPAID BALANCE

Responsible Party (Name & Address)

Spill Date:

Activity Funded by:	
Prevention Acct	Response Acct

Cost Recovery Action:

I hereby recommend *not to pursue* cost recovery action for this site due to the following reason:

Expenditures past statute of limitation:		Other (See explanation below)	
Can't find any viable assets for the RP:			
Lack of DEC documentation on response:			
RP left state - unable to locate:			
RP responsibility questionable:			

Prepared by: Date

Verified by: Vic Alinson Date

CONCURRENCE/NON-CONCURRENCE:

Concur **Do not concur**

Reason for non-concurrence:

Project Manager

Date

Concur **Do not concur**

Reason for non-concurrence:

Program Manager

Date

Concur **Do not concur**

Reason for non-concurrence:

SPAR Administrative Manager

Date

Concur **Do not concur**

Reason for non-concurrence:

SPAR Director

Date

APPENDIX L: Cost Recovery Action

Site Name: _____

Ledger Code: _____

Spill Date: _____

UNPAID BALANCE

Responsible Party (Name & Address)

Activity Funded by:	
Prevention Acct ■	Response Acct ■

Cost Recovery Action:

I hereby recommend *not to pursue* cost recovery action for this site due to the following reason:

Expenditures past statute of limitation.		Other (See explanation below)	
RP no viable asset.			
Lack of DEC documentation on response.			
RP left state - unable to locate.			
RP responsibility questionable:			

Prepared by: Date:

Verified by: Date

CONCURRENCE/NON-CONCURRENCE:

Concur ■ **Do not concur** ■

Department of Law

Reason for non-concurrence:

Date

Concur ■ **Do not concur** ■

Program Manager

Reason for non-concurrence:

Date

Concur ■ **Do not concur** ■

SPAR Administrative Manager

Reason for non-concurrence:

Date

Concur ■ **Do not concur** ■

SPAR Director

Reason for non-concurrence:

Date

APPENDIX M: File Closure Check-List

Alaska Department of Environmental Conservation

410 Willoughby Avenue, Suite 303, Juneau, AK 99801

FILE CLOSURE CHECK-LIST

Site Name: _____ **Ledger Code:** _____

Total Expenditures: _____ **Total Amount Billed:** _____

Total Amount Paid: _____ **Last known activity (FY):** _____

This contract file is recommended for closure for following reason:

_____ Site is now declared closed by Project Manager (email attached)

_____ Last known activity is more than 6 years. (CRAS attached)

_____ RP is cleared of all financial liabilities (No pending invoice)

_____ Other: See explanation below.

Closed by: _____ Date: _____
your name here

Approved by: _____ Date: _____
Veris Lunasin

APPENDIX N: OSLTF Process Sample Letter

SARAH PALIN, GOVERNOR

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF SPILL PREVENTION AND RESPONSE

410 Willoughby Ave., Ste. 302
JUNEAU, AK 99801-1795
PHONE: (907) 465-5250
FAX: 465-5262
http://www.state.ak.us/dec/home.htm

Date:

To: LTCDR Matt Jones, USCG (FOSC)

This is a request for access to the Oil Spill Liability Trust Fund via the Pollution Removal Funding Authorization in the amount of $100,000. This funding is requested for expenditures associated with response and cleanup activities associated with the F/V Nordic Viking Grounding, Port Gravina. On July 21, 2007, the Nordic Viking ran aground at Port Gravina near Olson Bay, Prince William Sound. An estimated 3,500 gallons of diesel has been released at this time that is expected to impact surrounding land and waterways.

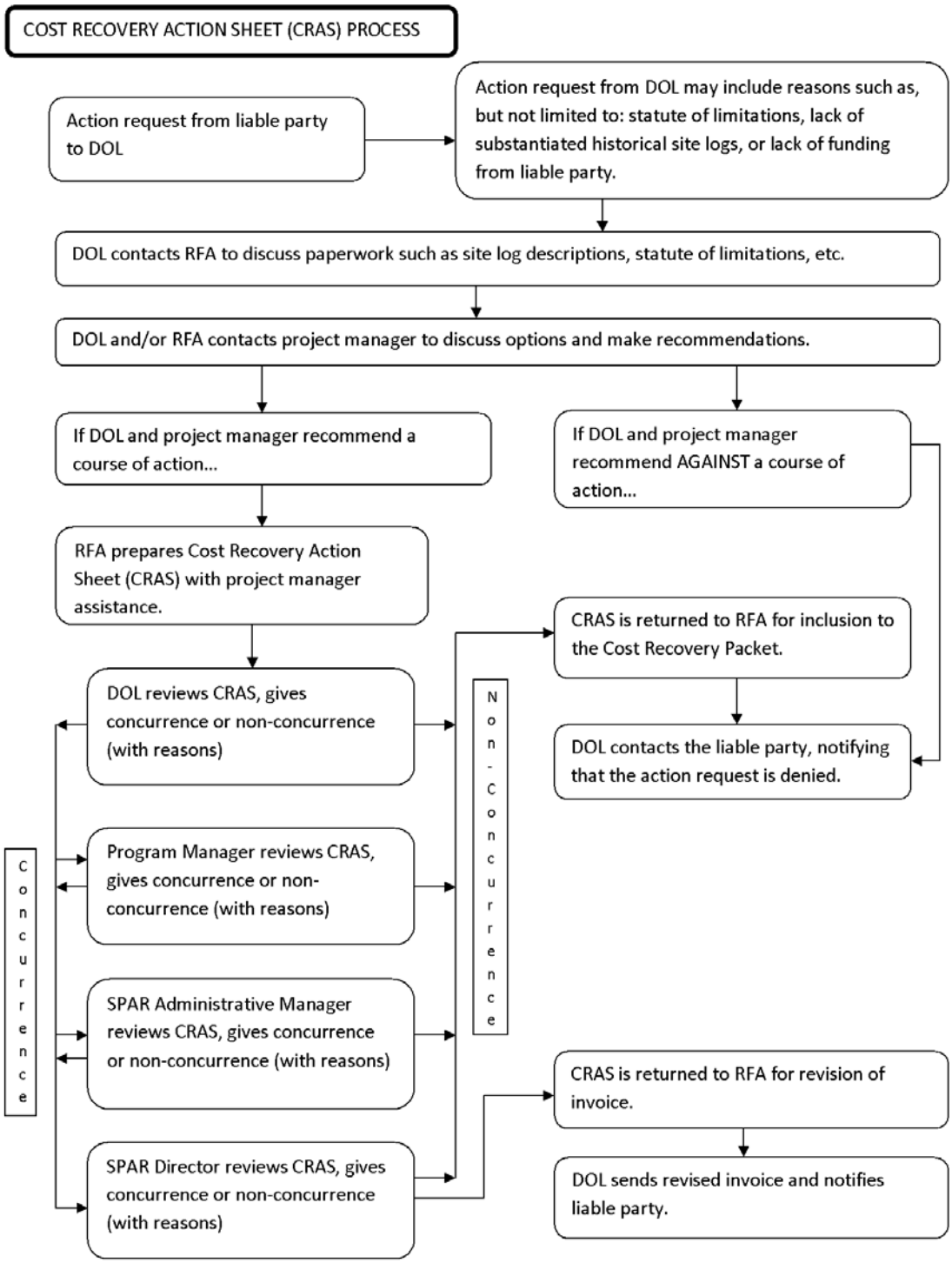
We have estimated that emergency response and cleanup activities will continue through August 15, 2007.

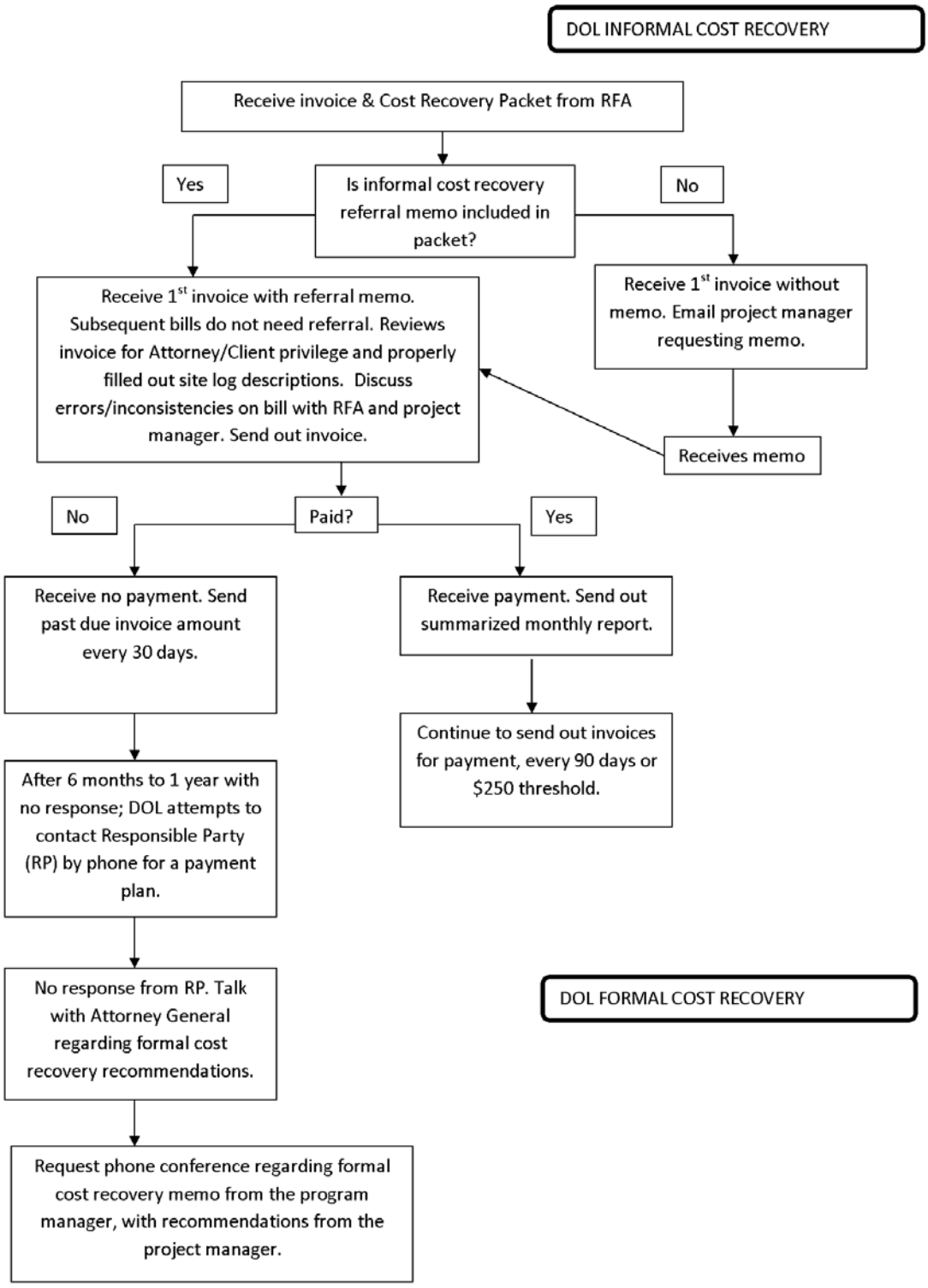
Thank you for your attention to this request.

Sincerely,

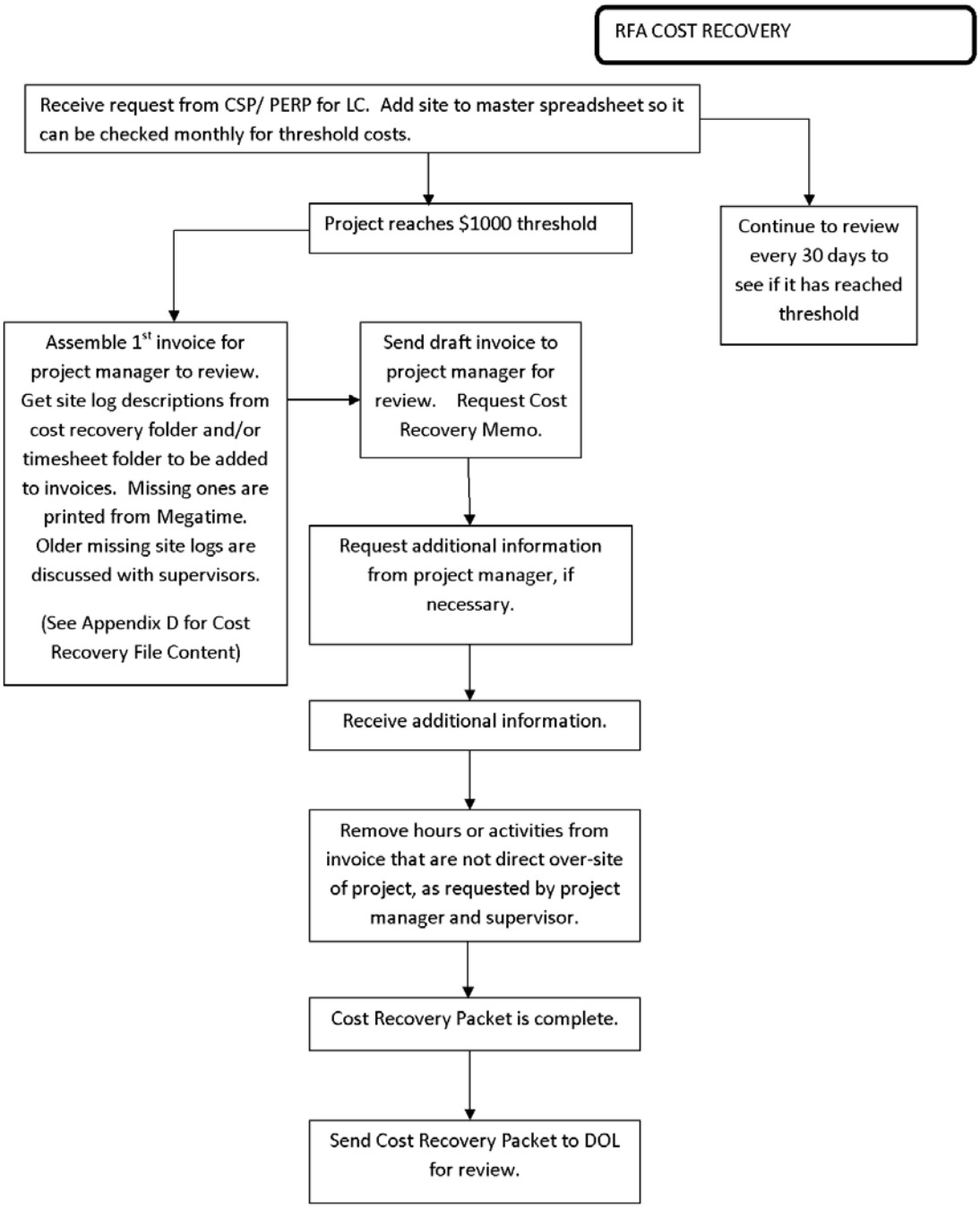
John Brown
State On-scene Coordinator
Alaska Department of Environmental Conservation

APPENDIX O: Cost Recovery Flow Charts

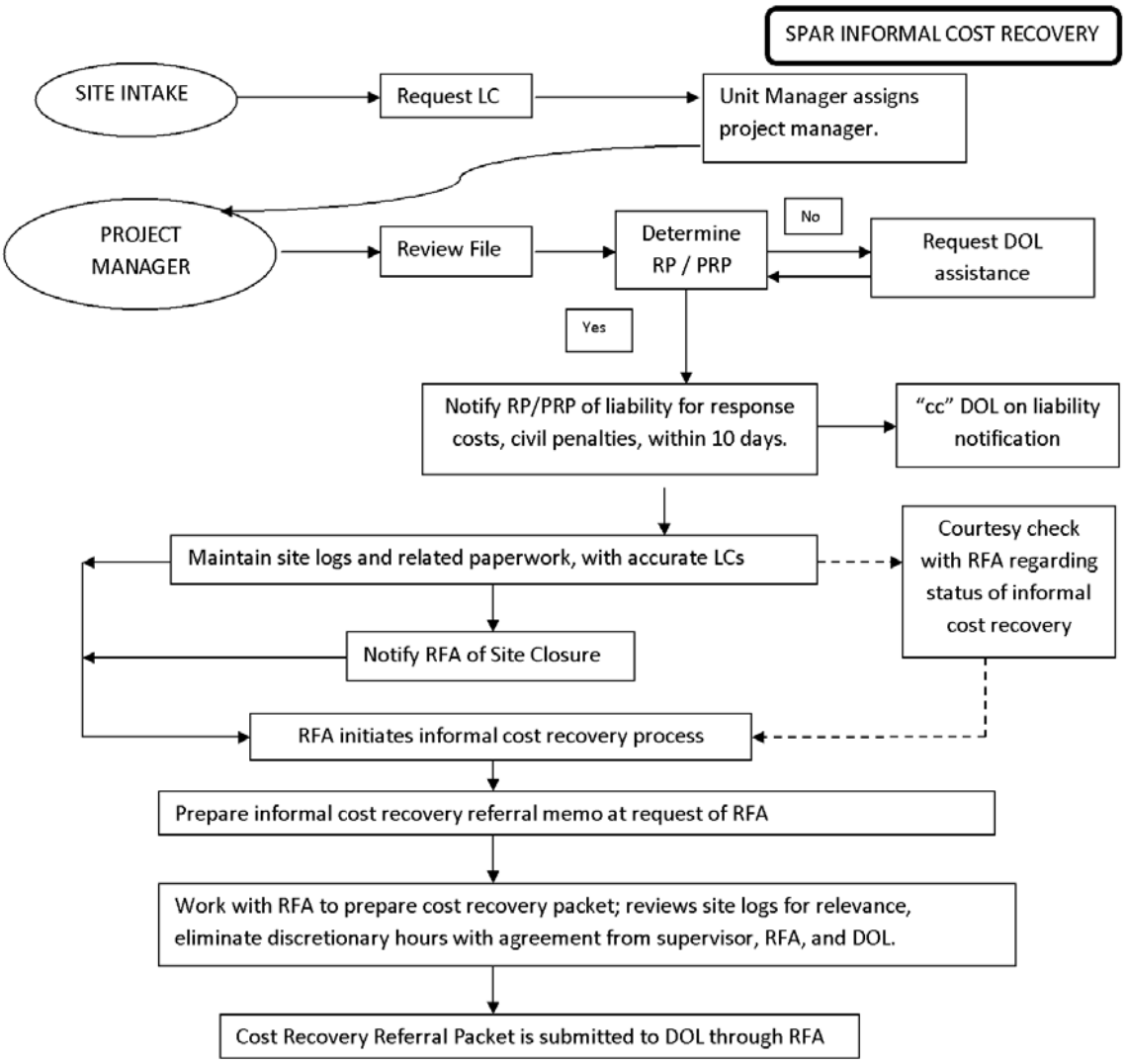


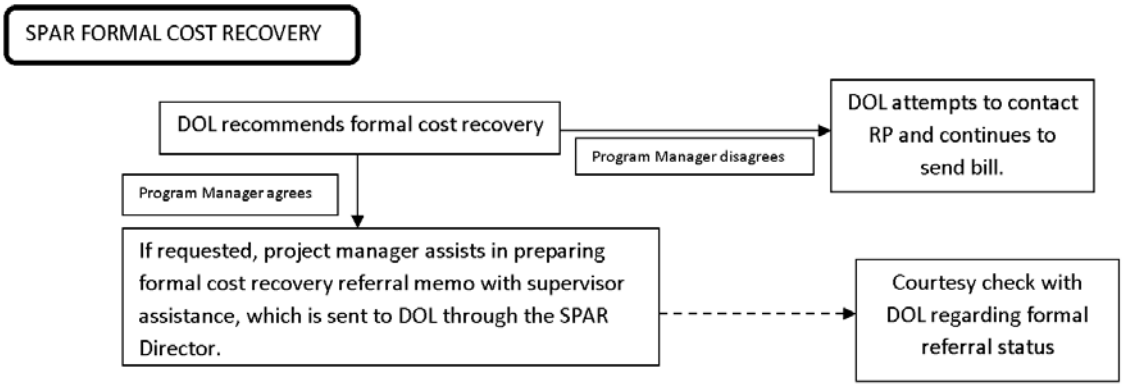

DOL INFORMAL COST RECOVERY
Receive invoice & Cost Recovery Packet from RFA
Yes
Is informal cost recovery referral memo included in packet?
No
Receive 1st invoice with referral memo. Subsequent bills do not need referral. Reviews invoice for Attorney/Client privilege and properly filled out site log descriptions. Discuss errors/inconsistencies on bill with RFA and project manager. Send out invoice.
Receive 1st invoice without memo. Email project manager requesting memo.
Receives memo
No
Paid?
Yes
Receive no payment. Send past due invoice amount every 30 days.
Receive payment. Send out summarized monthly report.
Continue to send out invoices for payment, every 90 days or $250 threshold.
After 6 months to 1 year with no response; DOL attempts to contact Responsible Party (RP) by phone for a payment plan.
No response from RP. Talk with Attorney General regarding formal cost recovery recommendations.
DOL FORMAL COST RECOVERY
Request phone conference regarding formal cost recovery memo from the program manager, with recommendations from the project manager.

06/11/2010


RFA COST RECOVERY
Receive request from CSP/ PERP for LC. Add site to master spreadsheet so it can be checked monthly for threshold costs.
Project reaches $1000 threshold
Continue to review every 30 days to see if it has reached threshold
Assemble 1st invoice for project manager to review. Get site log descriptions from cost recovery folder and/or timesheet folder to be added to invoices. Missing ones are printed from Megatime. Older missing site logs are discussed with supervisors.
(See Appendix D for Cost Recovery File Content)
Send draft invoice to project manager for review. Request Cost Recovery Memo.
Request additional information from project manager, if necessary.
Receive additional information.
Remove hours or activities from invoice that are not direct over-site of project, as requested by project manager and supervisor.
Cost Recovery Packet is complete.
Send Cost Recovery Packet to DOL for review.

6/11/2010


SPAR INFORMAL COST RECOVERY
SITE INTAKE
Request LC
Unit Manager assigns project manager.
PROJECT MANAGER
Review File
Determine RP / PRP
No
Request DOL assistance
Yes
Notify RP/PRP of liability for response costs, civil penalties, within 10 days.
"cc" DOL on liability notification
Maintain site logs and related paperwork, with accurate LCs
Courtesy check with RFA regarding status of informal cost recovery
Notify RFA of Site Closure
RFA initiates informal cost recovery process
Prepare informal cost recovery referral memo at request of RFA
Work with RFA to prepare cost recovery packet; reviews site logs for relevance, eliminate discretionary hours with agreement from supervisor, RFA, and DOL.
Cost Recovery Referral Packet is submitted to DOL through RFA


SPAR FORMAL COST RECOVERY
DOL recommends formal cost recovery
Program Manager disagrees
DOL attempts to contact RP and continues to send bill.
Program Manager agrees
If requested, project manager assists in preparing formal cost recovery referral memo with supervisor assistance, which is sent to DOL through the SPAR Director.
Courtesy check with DOL regarding formal referral status

06/11/2010

APPENDIX P: Ledger code Request Form

SPAR Ledger Code Request Form

Date Requesting:

Enter in MM/DD/YY format with slashes

Site Name

Spill/Reckey Number(s)

RP Name

RP Address

RP City

RP State

RP ZIP

Project Manager

Site Description

Eligible for National Pollution Grant? Yes No

Federal Grant Yes No

EMERGENCY? Yes No

Submit Clear

State of Alaska, Department of Environmental Consevration,
Division of Spill Prevention and Response.
Programming and Design by Iliya Stepanov and Antoine Doiron.

APPENDIX Q: Lien Certification

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF SPILL PREVENTION AND RESPONSE
RESPONSE FUND ADMINISTRATION

SEAN PARNELL, GOVERNOR

410 Willoughby Avenue, Suite 303
Post Office Box 111800
Juneau, Alaska 99811-1800
Phone: 907-465-5250
Fax: 907-465-5262
http://dec.alaska.gov/spar/index.htm

May 8, 2012

The Response Fund Administration – Cost Recovery Section has reviewed the **Lien Recommendation** documents for ***RP NAME*, *CITY*, Alaska**. The accuracy of the cost recovery statements has been verified and preservation of that information has been retained.

Certified by:

_____Vicente Alinson – Accountant IV, Cost Recovery

_____Cassidy Kearney – Administrative Operations Manager, RFA

Regarding the CR manual:

1) On Page 6 it notes that if an RP or PRP is not identified, DEC will seek other possible sources of recovery e.g., Federal Oil Spill Liability Trust Fund or thru CERCLA. This is a bit confusing in that the preceding is talking about not finding a PRP then goes into DEC seeking CR by these means. It infers that we have spent monies on some action such as a lot of oversight costs or initiating a State lead then attempt to obtain reimbursement thru the Federal Oil Spill Liability Trust Fund or thru CERCLA. Suggest some clarification and transition language.
2) In the following paragraph, it notes that a PRP letter is sent out w/in 10 days and I am not sure whether this occurs for PERP or not esp. in the context of small releases. While the paragraph describes that the PERP SOSC tries to identify that PRP, there is no mention that a PRP letter would or would not be issued regardless of the size of the release – if my assumption is correct, perhaps some verbiage could be added on this at the discretion of the PERP SOSC, a PRP letter may not be sent if the size of the release is ….. .
3) On page 7 it notes that a monthly bill will be sent out by RFA unless previously negotiated. I am uncertain whether this occurs.
4) On page 8 it notes that if determined de minimus by PERP, time would be charged to a general LC. This is more of an fyi as I am aware of several instances whereas in the past no LC was obtained by PERP that involved investigating sites and were eventually transferred to CS. While the language is OK, what is the determination of de minimus; which is a rather ambiguous term.
5) Our site logs show two lines Employee Signature and Proj. Mgr./SOSC Signature. Since a number of us in CS supervise a number of employees and see a number of site logs, Natalie of AGs and Melanie Forbes and Veris had agreed that supervisors only needed to initial and date their employee site logs. There also was discussion then to review the site logs whether the second line was necessary and I thought that it was the consensus that it was not necessary.
6) Under Bullet #5 on page 13, it notes that there is a threshold for initiating CR bills at $1,000.00. There is nothing that I am aware of in Statutes that sets any threshold. Recommend deletion of any threshold.
7) Under Section 6 Initial CR Request, lists a number of items sent by RFA to DOL. Does RFA send all those documents – specifically All copies of all correspondence with the RP.
8) Under the following section, under bullet two, suggest also include bills from DEC's contractors as often I have had to ask RFA for those documents to review. In comparison to DEC staff time, they are the bulk of DEC's overall bill if a contractor is involved.
9) At this time the procedure on the initial bill is that Lena contacts the PM sometimes ccing the supervisor (which I strongly suggest occur all of the time), requesting the referral memo to DOL with the letter of interest included. The PM initials as does the Unit supervisor in CS and it is sent via email to Lena, A hard copy then is sent along with the letter of interest to Kamie. If during the process it is found that a letter of interest has not been sent, such a letter is sent and then after it is determined that the RP received such a letter, the memo/letter of interest is sent onto Kamie. If the bill is determined inaccurate also by the PM, discussion between RFA and the PM and perhaps Kamie also occurs and a new bill is sent to the PM. Perhaps such language is needed in the manual suggest referring a bit more

in Section 6 of the flow charts on this process that were developed by Natalie and Melanie Forbes and noted in Appendix O, or revisited to determine whether still accurate.

I also did a search on Appendix O and it only showed up in the appendix section not in the text. I did so for Appendix J and it did show up in the text so it may behoove us to have someone verify that each appendix is properly cited in the text.

10) Under Liens on page 16 and 17, there is reference to SPAR Director approving liens. Suggest that it be replaced to the Commissioner's designee as it notes this later in this section. It is clarified later in the section that the Commissioner has delegated the SPAR Director for this approval – at the time this manual was revisited. This would allow for a potential change in whomever may be delegated in the next year to perform this approval activity.
11) Under c) of this section, it notes that the Commissioner can release the lien. However, I believe that the Commissioner's designee which is the SPAR Director at this time can release the lien. Suggest some follow-up to verify my recollection.
12) Under Section 7, it notes that if the AAG determines that formal CR is necessary it will inform RFA. However suggest that DOL also inform the DEC project manager and Program Manager at least so that we are aware that this activity is occurring. May also want the AAG or paralegal to give a heads up to DEC prior to initiating formal CR as there may be some circumstances that the AGs is unaware of – perhaps the RP died and it is in an estate now.
13) The document refers to Informal and Formal CR and that a informal referral to the AG is necessary on informal CR but a formal referral is not necessary when the AAG determines that informal CR has failed. The document also notes that the AGs office can assist in title searches and with liens. However, I did not see a separate section whereas it clearly states when a Formal Referral to the AGs is necessary, e.g. assistance to the PM when a title search is needed. Suggest a subsection on Formal Referrals to assist PMs when a formal referral is necessary.

    To this effect also, I suggest that language be inserted that PMs after approval from their Unit Manager can discuss with AAGs whether the AAGs can provide assistance, e.g, perform a quick title search or interpret Statutes, provided that it is under $1,000.00. That is, PMs need to discuss issues with DOL such as CR bills and more comprehensive issues such as interpretation of Statutes but as long as it is reasonable. This is somewhat discussed on page 25 as the PM or SOSC duties but is a bit vague.
14) On page 25 under the PMs duties, I doubt whether the following occurs in the means noted: Initiate site closure and prepare the project or the incident file for storage. Notify RFA staff upon site closure by copying RFA Cost Recovery Staff on the site closure letter.

    While I doubt we have notified RFA in our closure letter, as at least I have not done so, if we want to go this way let us know as we can then place you or Vincente on our closure template letter on the Intranet. I believe though that we have notified RFA when Eric Norberg sends out his weekly site closure list. Regardless suggest some rewording or feedback on this issue.