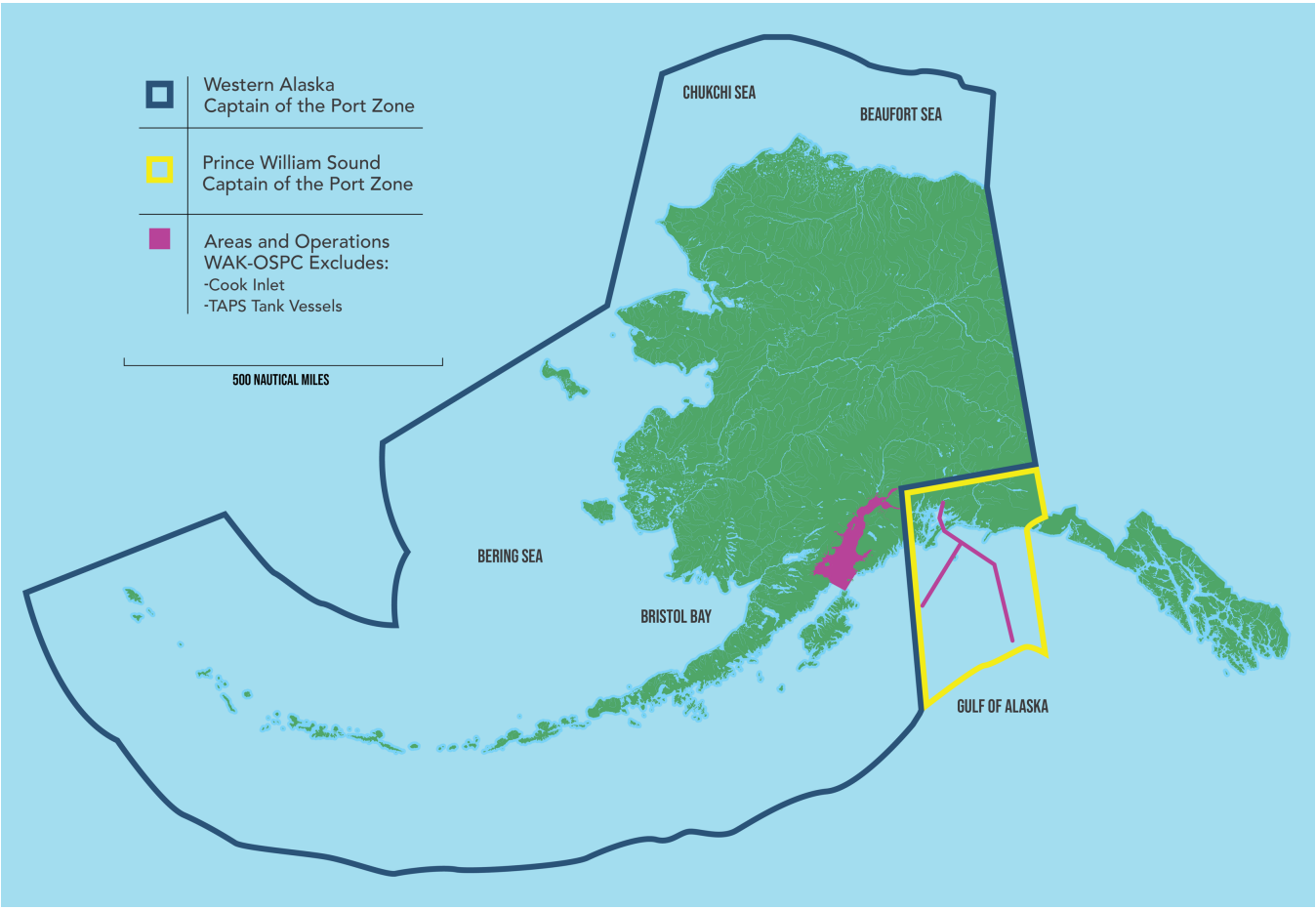

Western Alaska Oil Spill Planning Criteria Workshop Proceedings

APRIL 2025

Facilitated and prepared by:

NUKA RESEARCH

Thank you to the following sponsors for supporting the Western Alaska Oil Spill Planning Criteria Workshop.

Executive Summary

In February 2025, more than 70 representatives of vessel operators, oil spill removal organizations (OSRO), Salvage and Marine Firefighting (SMFF) contractors, Qualified Individuals (QIs), Tribes and Tribal organizations, federal and state agencies, local government, and non-profit organizations convened in Anchorage, Alaska and online for a workshop focused on expected future regulations to be developed by the U.S. Coast Guard (USCG) under statutory language in the Coast Guard Authorization Act of 2022. The statute directs the development of Western Alaska Oil Spill Planning Criteria for vessels subject to USCG Vessel Response Plan (VRP) requirements in the Western Alaska (WAK) and Prince William Sound (PWS) Captain of the Port (COTP) Zones. Workshop participants discussed the future WAK oil spill planning criteria and developed recommendations for those criteria, many of which align with current USCG VRP requirements.

Recommendations for WAK OSPC Regulations

Mechanical Recovery Resources and Response Timing

- Require the same volume and type of mechanical oil spill containment and recovery up to the planning caps in the current USCG VRP regulations.
- Specific timing requirements for equipment should be based on activation and mobilization, using the definitions and timing described in the OSRO Guidelines.
- For temporary storage, assume a 3:1 ratio for available non-dedicated temporary storage capacity.
- Use the same requirements for contracts or other approved means (for services, resources) as in the current USCG VRP regulations.
- Locate response hubs throughout the region to minimize response times as much as possible.

Vessel Routing, Monitoring, and Engagement

Include international routing, real-time vessel monitoring, tracking, and engagement with the following requirements for vessel operators in the WAK and PWS COTP Zones:

- Broadcast Automatic Identification System (AIS) throughout the area.
- Follow International Maritime Organization (IMO) routing measures as applicable.
- Ensure provision of 24/7, shore-based monitoring of the vessel's movements, with protocols in place to identify anomalies, make contacts if an operational anomaly is reported or detected, and share information to support a response.
- Notify shore-based monitor if deviating from applicable routing measures.

Wildlife Response Preparedness

Mirror the current state requirements on wildlife response preparedness, referencing that wildlife response preparedness must align with current Alaska Regional Response Team (RRT) policy and the Area Contingency Plans.

Response Equipment on Board Fuel Barges

Require the response equipment on fuel barges as is now done by the Alaska Petroleum Distributors & Transporters.

Non-mechanical Response

Use current State of Alaska approach to require identifying non-mechanical response equipment, procedures, and authorizations.

Plan Duration

Plans should be valid for 5 years (as in the current VRP regulations).

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1 Introduction

On February 12–13, 2025, 73 participants convened in Anchorage, Alaska and online for a workshop focused on expected future regulations U.S. Coast Guard (USCG) regulations to be developed under statutory language in the Coast Guard Authorization Act of 2022. The statute directs the USCG to develop unique Western Alaska Oil Spill Planning Criteria (WAK OSPC) for vessels subject to the federal Vessel Response Plan (VRP)[1] requirements in the Western Alaska (WAK) and Prince William Sound (PWS) Captain of the Port (COTP) Zones. It is understood that Congress adopted the WAK OSPC because since the adoption of the Oil Pollution Act of 1990 (OPA 90), the USCG has deemed some elements of the National Planning Criteria (NPC) to be inappropriate. Because of the extreme distances, harsh environmental conditions, and lack of infrastructure found in these areas, alternative approaches, called Alternative Planning Criteria (APC), have been approved under USCG regulations. The workshop goal was to facilitate discussion across a broad spectrum of interests on the future WAK OSPC regulations and generate recommendations on key issues in the WAK OSPC development.

A Steering Committee[2] guided the development of the agenda, invitations, a pre-read document, the workshop, and these proceedings. Nuka Research worked with the Steering Group to plan and facilitate the workshop. Materials shared during the workshop are available at: https://www.nukaprojects.com/wak-pc-registration.

The workshop was sponsored by the Alaska Chadux̂ Network, Ocean Conservancy, Ruby Marine, Resolve Marine, Paradigm Marine, Gallagher Marine Systems, American Seafoods, and T&T Salvage.

1.1 Workshop Participants

The workshop was open to anyone who expressed interest, including both online and in-person participation. Participants represented maritime operators and VRP holders, oil spill removal organizations (OSROs), salvage and marine firefighting (SMFF) contractors, qualified individuals (QIs), Tribes and Tribal organizations, federal and state agencies, local government, and nonprofit

[1] For simplicity, "VRP" is used throughout this document to refer to both tank vessel and non-tank vessel response plans required by USCG regulations without use of the alternative planning criteria option.
[2] Jim Butler (Alaska Chadux̂ Network), Todd Duke (Resolve Marine), Chris Graff (Gallagher Marine Systems), Andrew Hartsig (Ocean Conservancy), Rachel Kallander (Kallander Associates), Duncan Smith (Smith Advocacy Group), and Matt Sweetsir (Ruby Marine/APD&T). Nuka Research was contracted to work with the Steering Committee to plan, facilitate, and document the workshop.

organizations. While most participants joined for both days, some participants joined for a specific session only (e.g., wildlife response) or were online for only part of the session. Appendix A lists participating organizations.

1.2 Workshop Proceedings

These workshop proceedings summarize the workshop discussions and seek to capture the sense of the group regarding key elements of future WAK OSPC regulations to share with the USCG and other policy and stakeholders interested in the process of promulgating effective and sustainable regulations to meet the intent of Congress. These proceedings are generally organized according to the workshop agenda and do not attribute comments to individuals. The recommendations offered in Sections 4 and 5 seek to reflect the group discussion and the direction of the group. These proceedings were circulated as draft to all participants before being finalized with some revisions made under the guidance of the Steering Committee.

2 USCG Opening Remarks

USCG personnel from both Sector Western Alaska & U.S. Arctic and the Office of Marine Environmental Response Policy (CG-MER) provided opening remarks both in person and online before departing the workshop. Workshop participants were invited to a USCG-hosted industry day on March 28, 2025, and encouraged to join Area Committee meetings to stay up to date on USCG developments. The position of Western Alaska Oil Spill Program Manager has been filled and is based in Anchorage, Alaska. This position was one element in the same statute as the WAK OSPC.

The USCG explained that they are currently in consultation mode and working on formulating WAK OSPC regulations. CG-MER further explained they had recently posted a second list of questions embedded in a USCG website online and distributed it via the Area Committee and Tribal contact list.[3] They explained that the input will be used to formulate regulations for the new WAK OSPC, though the list of questions mentioned are not part of a formal public comment process. The following topics were highlighted in CG-MER opening remarks:

- Considering creation of "high-risk areas."
- Ensuring “build out” to meet NPC based on current USCG VRP regulations.
- Requiring vessel operators to contract with all available response resources.

[3] Previously, the USCG had published a Request for Information (RFI) via the Federal Register in which a series of questions were posed for public comment. The previous notice is available under Docket No. USCG-2023-0824.

- Requiring dedicated emergency towing resources in the region in the WAK OSPC.

In response to a question, the USCG later confirmed that any comments provided to the USCG in response to the new questions would be posted along with the questions on the USCG website, provided that personal identification or confidential information is not included.

Workshop participants shared comments regarding the challenge of paying the capital costs and operating costs for emergency towing vessels, along with the example in Canada where the Canadian federal government has leased two emergency towing vessels to operate on the west coast. Concerns were also raised about creating an expensive system that could drive trans-Pacific shippers to use Canadian ports instead of U.S. ports and thereby circumvent the requirement to comply with U.S. law and VRP regulations.

USCG personnel departed the meeting after sharing their opening remarks, stating that they sought to avoid a conflict of interest. Workshop participants reflected on the topics highlighted in the USCG's opening remarks during the workshop; these reflections are discussed in Section 5.

3 Overview of Statute and Criteria

The 2022 Coast Guard Authorization Act[4] included language to establish a Western Alaska Oil Spill Criteria Program that includes: 1) a civilian program manager, 2) training for USCG personnel, and 3) the unique WAK OSPC that were the focus of the workshop.

Regulations under the WAK OSPC statutory language will revise the requirements for federal VRP holders operating in the WAK and PWS COTP Zones, with two exceptions: (1) the statute explicitly excludes Cook Inlet (part of the WAK COTP Zone) where existing VRP regulation will remain; and (2) the statute made no change to the application of existing regulations for tank vessels calling at the Valdez Marine Terminal while they are in the PWS COTP Zone. (See Figure 1.) The statute also does not change the current regulatory language which allows a planholder to pursue alternative planning criteria, but the new WAK OSPC is intended by Congress to replace Alternative Planning Criteria (APC) as standard practice for vessels in the WAK and PWS COTP Zones.

[4] Included within the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023

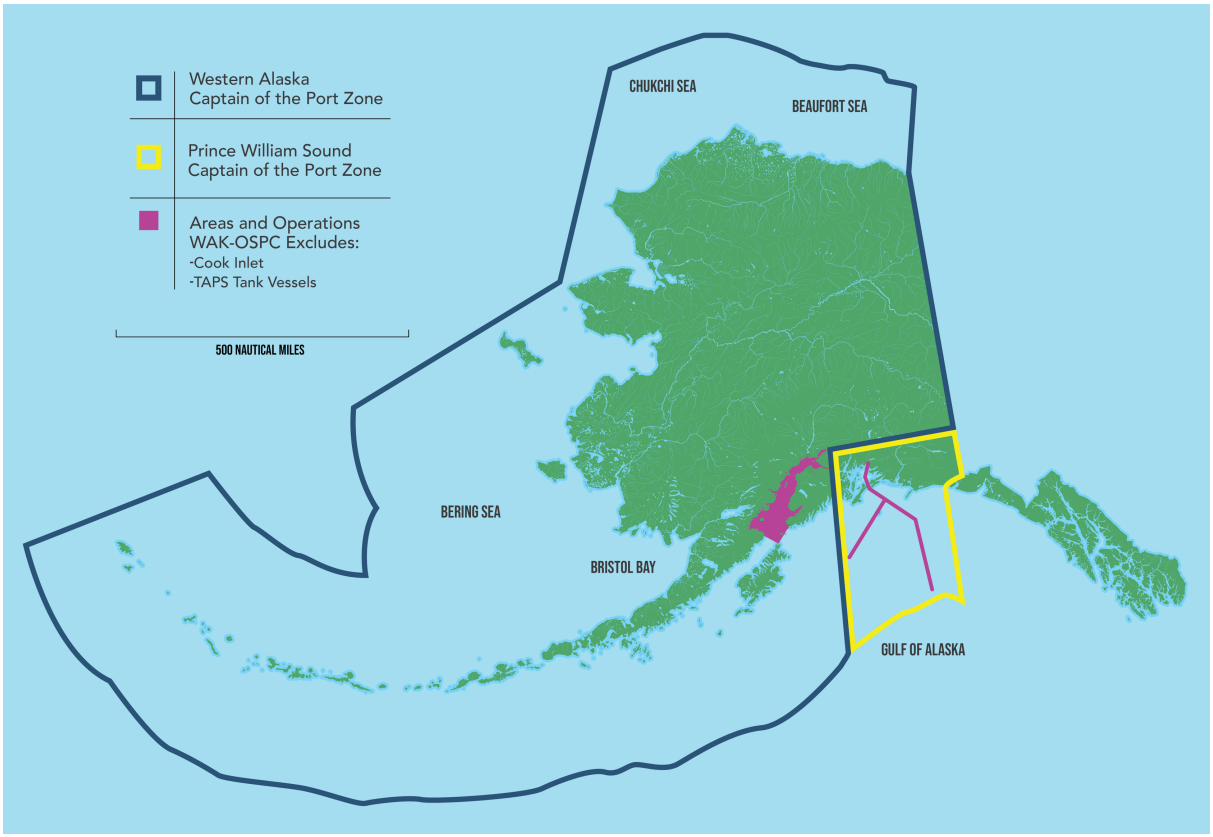

Figure 1. COTP Zones included in the 2022 statutory language and exempted areas/operations

WAK OSPC statutory language requires:

- Overall requirements for vessels (mechanical response resources including equipment, vessels, and response times; response equipment onboard barges; plan duration; and wildlife response preparedness).
- Requirements for OSROs (mechanical recovery equipment, response hubs, and temporary storage; non-mechanical response capability; resources located at strategic locations throughout the region; and wildlife response preparedness).

WAK OSPC statutory language makes discretionary two "additional considerations" which *may* be included in the future regulations:

- International routing.
- Real-time monitoring/engagement with vessels.

The statute does not modify which vessels are subject to VRP requirements. It also does not change the requirement to have QIs in place to initiate a response and SMFF contractors for the COTP Zones transited. These will remain the same in the WAK and PWS COTP Zones as in the rest of the country.

4 Discussion and Recommendations Related to WAK OSPC Statutory Language

This section summarizes the discussion and recommendations related to each section of the WAK OSPC statutory language. Each subsection below includes the relevant statutory language,[5] a brief background, a short summary of key points raised by workshop participants during the discussion, and recommendations. The recommendations are intended to provide guidance from a cross-section of experienced experts and interested stakeholders. They draw on current regulation or practice wherever applicable and are based on input from workshop participants.

[5] Note that the mechanical recovery (equipment volumes, timing, and location) and wildlife response preparedness items are included in both the overall requirements and OSRO requirements but were discussed as a single topic.

4.1 Response Times and Response Capacity

Relevant statutory language appears in two places: general criteria at 33 USC 1321(j)(9)(E)(i)(I-III) and OSRO requirements at 33 USC 1321(j)(9)(E)(i)(IV)(aa-dd)

General requirements include:

(I) Mechanical oil spill response resources that are required to be located within any part of the area of responsibility of the Western Alaska Captain of the Port Zone or the Prince William Sound Captain of the Port Zone for which the Secretary has determined that the national planning criteria established pursuant to this subsection are inappropriate for a vessel operating in such area.

(II) Response times for mobilization of oil spill response resources and arrival on the scene of a worst case discharge of oil, or substantial threat of such a discharge, occurring within such part of such area.

(III) Pre-identified vessels for oil spill response that are capable of operating in the ocean environment.

OSRO requirements (IV) include:

Ensuring the availability of at least 1 oil spill removal organization that is classified by the Coast Guard and that—

(aa) is capable of responding in all operating environments in such part of such area;

(bb) controls oil spill response resources of dedicated and nondedicated resources within such part of such area, through ownership, contracts, agreements, or other means approved by the President, sufficient—

(AA) to mobilize and sustain a response to a worst case discharge of oil; and

(BB) to contain, recover, and temporarily store discharged oil;

(cc) has pre-positioned oil spill response resources in strategic locations throughout such part of such area in a manner that ensures the ability to support response personnel, marine operations, air cargo, or other related logistics infrastructure;

(dd) has temporary storage capability using both dedicated and non-dedicated assets located within such part of such area…

Background

To facilitate discussion, the overlapping topics in the statute related to mechanical recovery were organized as follows, with some brief context provided for each topic:

- Mechanical recovery equipment (boom, skimmers, storage) suited to operating environment – The actual volume of mechanical recovery equipment required in the current VRP regulations is dictated by a vessel's capacity, oil cargo, and type, up to certain "caps" set in regulations. The largest tanker in the region would be required to meet its "worst case discharge" by having the following as dedicated equipment in the COTP Zone: 50,000-bbl estimated daily recovery capacity of skimming capacity, boom sufficient to operate the skimming systems, 15,000-ft of offshore boom, 30,000-ft of nearshore boom, and temporary storage capacity of double the skimming capacity.

- Vessels available and appropriate as platforms to transport and deploy mechanical recovery equipment – Vessels are critical platforms for deploying mechanical recovery equipment as well as shoreline protection. "Pre-identified" vessels as mentioned in the statute are not defined in current VRP regulations.

- OSRO equipment (contracts, etc.) – Current VRP regulations define how OSROs demonstrate access to equipment outside their ownership via, "contract or other approved means." In addition, a VRP planholder provides certification that they have a contract or other approved means to access an OSRO's resources.

- Response hubs in "strategic locations" – Response hubs are not explicitly required in current VRP regulations but are used throughout the region by the OSROs that support APCs. There are currently 21 hubs between the two OSROs that support APCs (including in overlapping locations). In addition, the Alaska Department of Environmental Conservation (ADEC) and USCG have response caches, though these cannot be relied on for VRP compliance. Response hubs and caches largely use locations that have personnel, air cargo access, and capability for marine operations (three of the requirements in the statute language on strategic hubs).

- Response times to mobilize and arrive on-scene – Current requirements for response equipment to be mobilized and arrive on-scene are captured between the VRP regulations

and OSRO Guidelines.[6] The OSRO Guidelines define time requirements for notification (30 minutes for all) and mobilization (varying depending on whether equipment is owned/contracted, dedicated/non-dedicated and whether personnel are on scene). Current VRP regulations state that equipment would need to start to be able to arrive on scene in 24 hours (with increasing equipment volumes up to caps required at 48 and then 72 hours after a spill). Unlike OSROs, SMFF compliance in Outer-Continental United States (OCONUS) areas such as Alaska have no time requirement for SMFF resources to be on scene beyond 50 nautical miles (NM) from a COTP city (in this case, Anchorage and Valdez).

Discussion

Participants discussed the mechanical response equipment controlled by OSROs and included in the current APCs. Participants noted that the two OSROS supporting APCs[7] currently have the following total equipment in the region: 208,226 feet of boom (various types), 16,035 bbl estimated daily recovery capacity of skimming capacity, 61,270 bbl dedicated temporary storage, and 800,000 bbl non-dedicated temporary storage. It was noted that a variety of equipment types (as required in the regulations) will be necessary in different operating environments.

The current USCG VRP regulations are planning standards and not a requirement for what would happen on any given day. Planholders are required to commit that they could meet the time requirements to arrive on scene throughout the region when they submit their plans. In much of Western Alaska, this is impossible due to the extreme distances between coastal communities and lack of infrastructure. Workshop participants also discussed weather and seasonal conditions, which can impede movement even across short distances.

Instead of the time requirements to arrive on scene from the time of a spill or imminent release, participants discussed focusing on having time requirements for mobilization and emphasized the importance of strategic response hubs throughout the region, a requirement of the WAK OSPC. The prompt identification of vessels in distress through vessel tracking, monitoring, and engagement (see Section 4.2) can also mean that mobilization and transport of resources can begin before a spill occurs.

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[6] "OSRO Guidelines" is used throughout to refer to the "Guidelines for the U.S. Coast Guard Oil Spill Removal Organization Classification Program," (2021) available at: https://homeport.uscg.mil/Lists/Content/Attachments/55022/OSRO Guidelines - December 2021.pdf

[7] This includes current OSRO resources in WAK and PWS COTP Zones owned by the Alaska Chadux̂ Network and Resolve Marine Services; it does not include resources of the other OSROs in Alaska, USCG, or ADEC.

Currently there are hubs at most locations with air cargo access but they contain varying amounts and types of equipment. Some Tribes and Tribal organizations are interested in locating hubs in their communities and encouraged engagement with Tribal communities on response hub development. Community-based responders, if properly pre-trained, could help mount an initial response from a hub while an OSRO mobilizes larger resources from another location.

Workshop participants did not have time to identify the locations for the hubs but agreed that the criteria in the statute (that hubs be able to support response personnel, marine operations, and air cargo) were appropriate. One option for identifying hubs could be to use some of the alternative COTP Zone cities in the OSRO guidelines, consistent with the criteria in the WAK OSPC statute. Although these should not be used as a prescriptive list because infrastructure and needs may change over time.

Participants did not see reason to modify current VRP regulation language for how OSROs should demonstrate access to equipment.

Recommendation for WAK OSPC

- Require the same volume and type of mechanical oil spill containment and recovery up to the planning caps in the current VRP regulations,
- Specific timing requirements for equipment should be based on activation and mobilization, using the definitions and timing described in the OSRO guidelines,
- For temporary storage, assume a 3:1 ratio for available non-dedicated temporary storage capacity (instead of the 2:1 ratio found in OSRO Guidelines),
- Use the same requirements for contracts or other approved means (for services, resources) as in the current VRP regulations, and
- Response hubs should be located throughout the region to minimize response times as much as possible.
- Additional work is required to determine response hub minimum requirements and locations throughout the region.

4.2 Vessel Routing Measures & Real-time Continuous Vessel Tracking, Monitoring, and Engagement Protocols

Relevant statutory language (note that these sections are the only ones noted as "additional" elements which "may" be included in the future criteria) at 33 USC 1321(j)(9)(E)(ii):

(ii) ADDITIONAL CONSIDERATIONS.—The Western Alaska oil spill planning criteria established under subparagraph (D)(i) may include planning criteria for the following:

''(I) Vessel routing measures consistent with international routing measure deviation protocols.

(II) Maintenance of real-time continuous vessel tracking, monitoring, and engagement protocols with the ability to detect and address vessel operation anomalies.

Background

The International Maritime Organization (IMO) has approved international routing measures in the WAK COTP Zone including areas to be avoided (ATBA), recommended routes, and precautionary areas. They are: 1) ATBA in the Aleutian Islands with approved passes to use when navigating through the island chain and 2) ATBA around Nunivak, St. Lawrence, and King Islands and recommended routes with precautionary areas at their termini in the Bering Sea/Strait. The IMO routing measures are not required, but are voluntary measures intended for transiting vessels. They do not preclude use of the areas by vessels calling at local ports or engaging in activities such as fishing, cargo delivery, lightering, or tourism. The IMO routing measures are intended to improve navigational safety, but vessel masters retain the authority to choose the safest course of action depending on conditions at the time.[8]

Automatic Identification System (AIS) transmittals have become the primary means of monitoring vessel movements. Current VRP regulations do not require that vessels be monitored or tracked or establish any requirement for engagement with the operator should a vessel appear to have an operational anomaly or potentially be in distress. While not included in the VRP regulations, both APC

[8] International Maritime Organization (IMO). (2019). *Ships' Routeing [sic],* 2019 Edition. London, U.K. IMO Publication.

providers currently provide for monitoring of vessels they cover and have engagement protocols in place.

Discussion

The topics of vessel routing and real-time monitoring, tracking, and engagement are closely connected and were discussed as such. It was mentioned that during the legislative process, the fishing community objected to including these elements, although most fishing vessels are small enough that they are not subject to USCG VRP regulations.

Participants described the different types of AIS signals broadcast and different platforms used for receivers (shore-based and satellite). Participants also mentioned that U.S. requirements for certain vessels to use AIS only apply out to 12 NM.

Current APC providers communicate with transiting vessels they cover to be sure they know about the international routing measures. APC providers also require the vessel operator to notify them if they need to deviate (e.g., to enter an ATBA for any reason). APC providers monitor covered vessels and engage with the vessel master if they notice a vessel making an unexplained deviation from an international route, slowing or changing speed or direction unexpectedly, or broadcasting a status of "Not Under Command" via AIS. This combination of monitoring, tracking, and engagement is intended to identify a vessel in distress and begin communications with the vessel master and the various organizations that may be needed to assist the vessel if needed, and to activate the vessel's VRP and begin readying oil spill response equipment and personnel for deployment before an oil spill, should it be required.

The WAK OSPC statutory language refers narrowly to "international routing." Monitoring vessel movements related to international routes is relevant to the larger, transiting ships. Participants also shared how monitoring can help with the early identification of potential problems, for example if the vessel broadcasts "Not Under Command" over its AIS, or to identify vessel activity relevant to various agency requirements or guidance. AIS can also be used to communicate information to vessels.

Recommendation for WAK OSPC regulations

International routing, real-time vessel monitoring, tracking, and engagement protocols should be included in future WAK OSPC regulations as prevention measures. These should include requirements for vessel operators when operating in the WAK and PWS COTP Zones:

- Broadcast AIS throughout the WAK and PWS COTP Zones.
- Follow international routing measures approved in the IMO publication *Ships' Routeing [sic]* if the measures apply to the vessel's size, type, and/or route.

- Ensure provision of 24/7 monitoring of the vessel's movements, with protocols in place to identify anomalies, make contacts if an operational anomaly is reported or detected, and share information to support a response.
- Notify shore-based monitor if deviating from routing measures, if applicable to the vessel's size, type, and/or route.

4.3 Wildlife Response Preparedness

Relevant statutory language appears in two places: OSRO requirements at33 USC 1321(j)(9)(E)(i)(IV)(ff) and general requirements at 33 USC 1321(j)(9)(E)(i)(VII)

OSRO requirements (IV) include:
(IV)(ff) has wildlife response resources for primary, secondary, and tertiary responses to support carcass collection, sampling, deterrence, rescue, and rehabilitation of birds, sea turtles, marine mammals, fishery resources, and other wildlife.

Criteria overall include:
(VII) Managing wildlife protection and rehabilitation, including identified wildlife protection and rehabilitation resources in that area.

Background
The "Wildlife Protection Guidelines for Oil Spill Response in Alaska" (2020) was adopted by the Alaska Regional Response Team (RRT)[9] and is referenced in state oil discharge prevention and contingency plan regulations.[10] That document includes definitions of primary, secondary, and tertiary wildlife response and associated procedures, checklists, permit requirements, and other policies. NOAA Fisheries has also developed guidance for OSROs regarding preparedness for cetacean and pinniped response, though this is not required in regulations, nor has it been formally adopted as RRT policy.

The State of Alaska requires that a covered operator describe the equipment, personnel, and other resources that would be used to support wildlife response in a spill event. These requirements are in

[9] For information about the Alaska RRT see: https://www.alaskarrt.org/
[10] 18 AAC 75.449(a)(6)(M) and 18 AAC 75.451(g)

Alaska's state oil spill prevention and response regulations. Current USCG VRP regulations do not include wildlife response preparedness requirements.

Discussion
Wildlife response may require specialized skills beginning early in a spill response, including removing oiled carcasses. State requirements are currently met through contracts with qualified wildlife response organizations that have the necessary training and permits in place. OSROs that provide oil spill compliance under Alaska state law already have contracts for wildlife response. These parties also participate in training and exercises for potential responses.

Participants commented that the role of Tribes in wildlife response is also important to consider in a response, particularly where there are co-management organizations through federal relationships.

Recommendation for WAK OSPC regulations
New regulations should mirror the current state requirements on wildlife response preparedness, but instead of referencing the Wildlife Protection Guidelines by name they should reference that wildlife response preparedness must align with current Alaska RRT policy and the Area Contingency Plans. This allows for potential future updates without requiring a regulatory change and allows for coordination with all appropriate parties such as Tribes and both state and federal agencies.

4.4 Response Equipment On Board Tank Barges

> *Relevant statutory language at 33 USC 1321(j)(9)(E)(i)(V):*
>
> (V) With respect to tank barges carrying non-persistent oil in bulk as cargo, oil spill response resources that are required to be carried on board.

Background
Approximately 36 barges of various sizes deliver non-persistent fuel throughout WAK and PWS, including coastal areas and some rivers. Fuel barge capacities range from a few thousand to almost 200,000 bbl (as of 2015 APD&T APC). The Alaska Petroleum Distributors & Transporters (APD&T) APC has covered tank barges carrying non-persistent fuels around Alaska since 1993. The APC includes a commitment to carry response equipment on board barges and leave space available for storing

recovered fluids.[11] Current USCG VRP regulations require barges to carry equipment to clean up spills on deck, not to contain and recover oil spilled to water.[12]

Discussion

Participants explained that barges vary in how much deck space they have available. Some of the newer barges have dedicated storage areas for response equipment, but otherwise it is often exposed to the elements on deck and requires maintenance and replacement. As agreed in the APD&T APC, the equipment is required on board for every voyage and crews are trained to deploy it promptly if needed.

Recommendation for WAK OSPC regulations

The new WAK OSPC regulations should require the response equipment on fuel barges as described in the 2015 APD&T APC.

4.5 Non-mechanical Response

Relevant statutory language is included in the OSRO requirements at 33 USC 1321(j)(9)(E)(i)(IV)(ee):

(ee) has non-mechanical oil spill response resources capable of responding to a discharge of persistent oil and a discharge of non-persistent oil, whether the discharged oil was carried by a vessel as fuel or cargo;

Background

The primary non-mechanical response methods are the application of dispersants and in-situ burning. According to Alaska RRT policy, the use of either method requires approval by the Alaska RRT as advisors to the Unified Command in the event of an actual response. However, within certain "dispersant preauthorization zones" offshore in the WAK and PWS COTP Zones, the Federal On-Scene Coordinator (FOSC) may make the decision to apply dispersants alone, though the RRT is always notified.[13]

[11] Crew training is also included in the APC.
[12] 33 CFR 155.210 and 215
[13] 33 CFR 1020 (Definitions); Alaska RRT, "Dispersant Use Plan for Alaska" (2018), retrieved from: https://nrt.org/sites/176/files/Alaska_RRT_Dispersant_Use_Guidelines_2018.pdf.

Current USCG VRP regulations require planholders who transit pre-authorized zones to be able to start dispersant application within 7 hours of the decision by the FOSC to use dispersants.[14] State regulations do not mandate planning for non-mechanical response but do require that if a planholder would use non-mechanical methods that the planholder provide an inventory of non-mechanical response equipment and supplies (including the type and toxicity of each dispersant), procedures, and all necessary approvals, permits, or authorizations.[15]

Discussion
The OSROs supporting the APCs in Alaska currently contract for the application of dispersants.

Dispersants are unlikely to be used for non-persistent spills. Dispersants are not considered a practical response tool for this type of oil discharge. Incorporation of non-mechanical response resources should not be emphasized as a response tool. Any potential non-mechanical requirements should factor in the absence of infrastructure, extreme distances, and unique environmental factors. Since dispersants are more likely to be used for crude oil (persistent) spills, the group discussed the few crude tankers that currently move through the WAK and PWS COTP Zones beyond Cook Inlet and the Prince William Sound-trade tankers.

Some participants expressed concerns about the impact of dispersant applications on wildlife as well as the functional or practical utility of this response tool in this region.

Recommendation for WAK OSPC regulations
New regulations should require, for operators proposing the use of non-mechanical methods, an inventory, procedures, and all necessary approvals for non-mechanical applications, similar to what the State of Alaska requires for operators proposing the use of non-mechanical methods.

4.6 Plan Duration

> *Relevant statutory language at 33 USC 1321(j)(9)(E)(i)(VI):*
>
> *(VI) Specifying a minimum length of time that approval of a vessel response plan is valid*

[14] 33 CFR 1050(k) (tank vessels) and 33 CFR 155.5050(j) (non-tank vessels)
[15] 18 AAC 74.451(e)(4)

Background
Both USCG and ADEC spill preparedness and response plans are valid for 5 years from approval.

Discussion
Shortening the timeframe only adds to unnecessary regulatory burdens on planholders to revise and revamp plans repeatedly in a shorter period. However, plan changes must still be reported.

Recommendation for WAK OSPC regulations
Plans should be valid for 5 years (as in the current VRP regulations).

5 Additional Items

The workshop included time to discuss additional topics that arose beyond the agenda's focused discussions on each statutory section of the criteria.

5.1 Reflections on Issues Raised by the USCG

Separate from the discussion of statutory sections as described in Section 4, the group also discussed topics mentioned in CG-MER's opening remarks.

5.1.1 Emergency Towing Vessels

Planning for emergency towing is included in the SMFF section of the current USCG VRP regulations found at 33 CFR 155 (Subpart I). Participants explained that these regulations require that vessels subject to current federal VRP regulations identify in their response plan how they will access emergency towing if needed. For Alaska, the OCONUS regulatory standard applies, meaning that for areas beyond 50 NM from the COTP Zone cities (for Anchorage for the WAK COTP Zone and Valdez for the PWS COTP Zone), there is no requirement for when emergency towing resource needs to be on-scene. Planholders meet this requirement by contracting USCG-approved SMFF providers for coverage of the current USCG VRP regulations throughout the area subject to the WAK OSPC.

The WAK OSPC statutory language refers only to VRP planholders and OSRO requirements, not SMFF requirements, so the current SMFF emergency towing requirements remain unchanged. Emergency towing is not mentioned, nor is the concept of "prevention" broadly included (the only prevention-related elements of the statute are those related to international routing and vessel monitoring/engagement).

Emergency towing is an important spill prevention method, but dedicated emergency towing vessels are expensive to capitalize and operate. Examples of a state-required and industry-funded

emergency towing vessel at Neah Bay, WA and Canadian-funded emergency towing vessels in Pacific Canada were mentioned.

Recommendation
Although emergency towing may be an important oil spill prevention tool, it is not included in the WAK OSPC statutory language. Options to provide this capacity in Alaska beyond meeting the current VRP SMFF requirements need to be pursued outside the WAK OSPC regulations since the statutory language does not mention SMFF services.

5.1.2 Contracting All Available Resources

Workshop participants discussed the CG-MER consideration of requiring that "all available resources" within a COTP Zone be contracted by the VRP planholder. Concerns were raised that this requirement would:

- Change the current oil spill response capability requirements beyond a vessel's VRP planning standard,
- Inflate costs without adding meaningful value to response preparedness,
- Create ambiguity regarding how equipment requirements are met,
- Unnecessarily complicate review of VRPs,
- Create confusion regarding which response organization is primarily responsible for a response, and,
- Disincentivize response organizations from investing in resources, leading to less capable OSROs.

In the case of a large spill, "all available resources" may effectively be brought to bear through mutual aid agreements and directions of the Unified Command, depending on the exigencies of the spill response.

Recommendation
WAK OSPC regulations should not require VRP holders to contract with all available resources.

5.1.3 Building Towards NPC

"Meeting NPC" means meeting the current USCG VRP regulations as they apply to a particular planholder. The statutory language of the WAK OSPC specifically says that the new criteria is in place of the existing NPC. NPC does not work in Western Alaska due to the vast distances, extreme environmental conditions, and lack of infrastructure.

Further, the NPC regulations do not include some of the elements that would be included in the WAK OSPC when implemented. These include:

- Response equipment on fuel barges,
- Response hubs located strategically throughout the area,
- Wildlife response preparedness, and
- "Additional consideration" items of international routing and vessel monitoring, tracking, and engagement.

Workshop participants preferred the WAK OSPC approach that includes the elements above (as well as the rest of the recommendations in Section 4), over losing these elements in favor of meeting NPC. The recommendations in Section 4 suggest the same mobilization time expectations as in "NPC" and the same mechanical recovery equipment volumes, but with the equipment distributed in hubs to reduce response time rather than having time requirements for equipment to arrive on scene.

Recommendation
WAK OSPC regulations should follow the recommendations in Section 4 without the goal of meeting NPC. NPC is not suited to the region and would provide a lower level of protection by losing the elements that are included in WAK OSPC but not NPC.

5.1.4 High Risk Areas

CG-MER mentioned potentially identifying high risk areas in the context of the new WAK OSPC regulations. Workshop participants were not clear on what this meant in the context of VRP regulations (this was not able to be clarified at the time since the USCG had departed the workshop). Current VRP regulations do identify and define "higher volume port areas" with some variation in requirements for these few locations, which include PWS. Otherwise, there is no known example of federal VRP regulations requiring planholders to meet different standards based on the "risk" in an area. Workshop participants expressed concerns about the implications such a designation could have on vessel insurance and the complexity of VRP requirements that may ensue.

Recommendation
Defining "high risk" areas is not required by the statute and should not be pursued as part of WAK OSPC regulations.

5.2 Other Issues

Other issues related to the statute arose during the discussions, beyond those on the agenda or raised by the USCG. These included:

- Ensuring that the exclusion of Cook Inlet from the WAK OSPC written into the statute is clear in the regulations and their implementation.

- As noted in the statute, subregions can only be considered after the WAK OSPC are developed; they were not discussed in detail in the workshop.[16]
- The number of vessels that pass through the area in innocent passage (and therefore not subject to USCG – or Alaska – regulations) remains a challenge. Planholders who are subject to the USCG VRP regulations should not be expected to mitigate the risk posed by this additional vessel traffic. This is a long-standing issue as vessels serving the U.S. and Canada transit through or near the other country's waters in this region as well as farther south. This should be addressed and will require a creative solution, but it is not something that will be resolved by the WAK OSPC.
- Vessels within the Polar Code area (north of 60 degrees) must have a Polar Code Polar Waters Operation Manual on board and comply with its requirements.
- The concept of a negotiated rulemaking was discussed as an approach that would include all perspectives in the development of WAK OSPC regulations.

[16] 33 USC 1321(j)(9)(D)(ii)

Appendix A: Workshop Participants

Organization
Alaska Chadux̂ Network
Alaska Department of Environmental Conservation
Alaska Department of Fish & Game
Alaska Maritime Agencies
Alaska Nannut Co-Management Council
Aleut Community of St. Paul
Aleutian Pribilof Islands Association
American Seafoods Company LLC
Bureau of Ocean Energy Management
City of Unalaska
Cook Inlet Spill Prevention & Response, Inc.
Crowley Fuels
Delta Western, LLC
Donjon-SMIT
Eskimo Walrus Commission, Kawerak, Inc.
Gallagher Marine Systems
Integrity Environmental
International Group of P&I Clubs
iWorkWise
Kawerak Inc.
Lamor
Marine Exchange of Alaska
Moran Towing Corporation
Native Village of Eyak
National Oceanic and Atmospheric Administration (NOAA Fisheries, Office of Response & Restoration)
NorthStar Energy Shared Services, LLC
Ocean Conservancy
Paradigm Marine
PCCI Inc.
Pew Charitable Trusts
Prince William Sound Regional Citizens' Advisory Council
Resolve Marine / 1 Call Alaska
Ruby Marine
Smith Advocacy Group LLC
T&T Salvage
Treadwell Development (working with Native Village of Eyak)
U.S. Department of the Interior (Bureau of Indian Affairs, Office of Environmental Policy)
Vitus Energy LLC