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August 29, 1994

TO: Those interested in oil terminal and tanker safety
FR: Rick Steiner, Marine Advisory Program, Cordova, Alaska
RE: Proposal to establish a nationwide network of Regional
Citizen Advisory Councils

Building on the success of the pilot program established in Alaska by the Oil Pollution Act of 1990 (OPA 90) entitled the "Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990" (OPA 90, Sec. 5002, attached), and considering the assertion by Congress in OPA 90, Sec. 5002 (a)(2)(J) that:

"...similar programs should eventually be established in other major crude oil terminals in the United States because...the safe transportation of crude oil is a national problem. ...",

it seems to be time to evaluate which other oil ports along U. S. shores might benefit from similar such citizen oversight councils and move ahead on their establishment.

While the two Alaska pilot projects certainly have had their growing pains, as any fundamentally new institutional structure will, they have demonstrated their critical role in maintaining the vigilance of industry and government, reducing mistrust and confrontation, building consensus, and ensuring continued improvement in oil transportation safety. The pilot program has been an unequivocal success, and it is time to consider full, nationwide implementation of this institutional structure.

The purpose of this brief proposal is to solicit initial comment on this concept from those involved in the terminal and tanker safety issue.

It is proposed that the U. S. Coast Guard evaluate all U.S. ports and waterways and develop a list of "Waterbodies-at-Risk" of significant crude oil spills. Then legislation should be drafted that would, based upon the Regional Citizens Advisory Council model

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in Alaska, design and mandate an appropriate citizens' oversight council for each designated Waterbody-at-Risk. As with the Alaska pilot projects, a funding mechanism should be established that relies on complete support by the operators of local terminals and tankers.

Each council, in what then would be a nationwide network of councils, could be asked to appoint one representative each to a newly established National Tanker Safety Advisory Council that would become the primary citizens' interface with federal regulators, Congress, and oil shippers on this issue.

It is widely felt that the risks of oil shipping accidents are very real; their biological, social and economic consequences can be enormous; and that most such accidents can be easily prevented. It seems to be an appropriate time to further strengthen the safety net, and it is clear this can only be done at a local level.

I'd appreciate any and all initial comments concerning this concept of establishing a nationwide network of citizen oversight councils and a National Tanker Safety Advisory Council.

Attachments

P. S. Please circulate for discussion.

Distribution List:

- The White House
- U. S. House Merchant Marine Committee
- U.S. Senate Committee on Environment & Public Works
- Secretary of Transportation
- Commandant, U.S. Coast Guard
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- ✓ Prince William Sound Regional Citizens' Advisory Council
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The Citizens' Advisory Council as a means of mitigating environmental impacts of terminal and tanker operations

Patty Ginsburg, Scott Sterling and Sheila Gotteherer

The development of the Prince William Sound Regional Citizens' Advisory Council (RCAC) in the wake of the wreck of the *Exxon Valdez* is outlined, together with aspects of the Oil Pollution Act 1990, followed by a discussion of the structure of the RCAC. The challenges facing the RCAC are discussed and comparisons made with Sullom Voe. Issues considered include confidentiality v public access and representation. Accomplishments and activity cover oil spill prevention and response, environmental monitoring, tankers and tanker traffic, other scientific work and public education and awareness.

In 1987, a handful of people from the small fishing community of Cordova, Alaska, coalesced around concern over the risks of oil-related pollution and oil spills in Prince William Sound posed by the transAlaska pipeline terminal and tanker operations in neighbouring Valdez. The Cordova group sent an emissary to Alyeska Pipeline Service Company, which operates the Valdez Marine Terminal on behalf of its seven oil company owners. The emissary asked Alyeska to consider forming a citizen group to advise Alyeska on environmental issues of local or regional concern. Alyeska listened but rejected the idea.

In March 1989, the *Exxon Valdez* ran aground on Bligh Reef. Alyeska's owners, acting principally at the behest of majority owner British Petroleum, soon effected sweeping change in Alyeska's management. The change in management, with Jim Hermiller as President, produced a change in Alyeska's attitude toward the citizen advisory group proposal, and not long afterward Alyeska formed the Alyeska Citizen Advisory Committee. Over the next year that group evolved into what is now called the Prince William Sound Regional Citizens' Advisory Council (RCAC).

The Prince William Sound Regional Citizens' Advisory Council is a national experiment in providing citizens with a voice in corporate decisions that affect them and their communities. This paper recounts the story of RCAC's formation and evolution, the group's mission under both federal law and its contrast with Alyeska, and the hallmarks of its achievements and challenges to date.

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Historical background

The Oil Pollution Act of 1990 (see Table 1) established two national demonstration oversight and monitoring programmes in Prince William Sound and Cook Inlet. Each programme is to consist of an association, composed of oil industry and government representatives, and a citizens' advisory group.

The demonstration programmes established under OPA 90 are modelled after the Sullom Voe oil terminal in the Shetland Islands. The programmes include a four-member association of industry and governmental representatives charged with 'reviewing policies relating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals'. The association is to provide a forum for discussing and making recommendations about permits, plans and regulations governing the terminal facilities.

The purpose of the citizens' advisory council is to advise the association on those issues, monitor actual and potential environmental impacts of terminal and tanker operations, and review the adequacy of oil spill prevention and contingency plans. OPA 90 describes the membership, appointment process and structure of the regional citizens' advisory councils.

OPA 90 also includes a provision for certifying an alternative voluntary advisory group in lieu of the council, so long as the alternative group satisfies the intent of the law and broadly meets its requirements. The law goes on to name the Alyeska Citizens' Advisory Committee, the name under which RCAC was initially organized, and provisions of the Alyeska/RCAC contract as requirements for certification in lieu of council. Thus, the law directly sanctioned the RCAC-Alyeska relationship as sufficient fulfillment of OPA 90 intent. There is one other requirement for an alternative body: the President must certify annually that the alternative organization 'fosters the general goals and purposes of this section and is broadly representative of the communities and interests . . .'.¹

The Prince William Sound RCAC was certified in 1991 and 1992 as the alternative body in lieu of a council for Prince William Sound as there didn't happen to be an organization that fitted what OPA 90 described. In fact, the RCAC pre-dates OPA 90, and many of the people involved in its creation were responsible for having the demonstration programmes written into the law.

After the *Exxon Valdez* oil spill, BP executive Jim

Table 1. Oil Pollution Act of 1990 (section 5002, 'Terminal and Tanker Oversight and Monitoring').

- (2) Findings – The Congress finds that –
- (B) many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill;
- (C) one way to combat this complacency is to involve local citizens in the process of preparing, adopting and revising oil spill contingency plans;
- (D) a mechanism should be established which fosters the long-term partnership of industry, government and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals;
- (E) such a mechanism presently exists at the Sullom Voe terminal in the Shetland Islands and this terminal should serve as a model for others;
- (F) because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest terminal in Europe.
- (G) the present system of regulation and oversight of crude oil terminals in the United States has degenerated into a process of continual mistrust and confrontation;
- (H) only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus;
- (I) a pilot program patterned after Sullom Voe should be established in Alaska to further refine the concepts and relationships involved; and
- (J) similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware and Rhode Island indicate that the safest transportation of crude oil is a national problem.

Hermiller became president of Alyeska to help stem the damage from the public anger directed toward Alyeska. Whether the anger toward Alyeska was justified or not – Alyeska officials maintain they took more of the public blame than they deserved – it had taken a serious toll on the oil company consortium.

The aftermath of the oil spill had demonstrated that the oil industry could learn a lot from citizens of the region; those people who had the most to lose from an oil spill also knew the region and its conditions better than anyone else. They could help improve Alyeska's new contingency plan. Jim Hermiller had another incentive to pull local citizens into advising Alyeska on its oil spill prevention and response plan for Prince William Sound.

Alyeska officials felt misunderstood. The general public believed Alyeska was responsible not just for the terminal in Valdez, but also for all the tankers and any oil they spilled. Alyeska officials reasoned that it was to their advantage to have local citizens knowledgeable and informed about their prevention and response capabilities.

The group pulled together by Hermiller ultimately included representatives of affected communities and boroughs. Native groups, commercial fishermen, aquaculture and environmental organizations. The Alyeska Citizens' Advisory Committee was formed specifically to review and comment on Alyeska's rewrite of its oil spill contingency plan, which had been ordered by the Alaska Department of Environmental Conservation (ADEC).

The group had plenty of comments to offer:

Prevention is seriously understated . . . time and weather aren't included . . . response should include a plan for long-term recovery . . . dedicated phone lines to affected communities . . . call-out and notification should include public affairs . . . more detail on the transition of spill management from Alyeska to the spiller . . . the plan should have escort coverage for tankers past Seal Rocks . . .

At the same time, they began to lay the groundwork for a permanent citizens' group.

In December 1989, the Regional Citizens' Advisory Council incorporated as a non-profit corporation under Alaska state law. After six months of negotiations, RCAC and Alyeska signed a contract in February 1990. RCAC had insisted on absolute independence from Alyeska, access to Alyeska facilities, a guaranteed source of annual funds and assurances that the contract would last as long as oil flowed through the pipeline.

Alyeska agreed to all four conditions. RCAC received \$2 million a year for which it provides specific services. Those services include environmental monitoring, independent research; local and regional input on a broad range of contingency planning, environmental and oil transportation issues; and public information about Alyeska's capabilities in oil spill prevention and response, and environmental protection.

OPA 90 stipulates that many of the requirements laid out for establishing the association and the citizens' council are 'deemed to have been met' by the relationship between RCAC and Alyeska. Among the requirements deemed to have been met is the association. Thus, in its capacity as recipient of RCAC advice and recommendations, Alyeska functions as the association for Prince William Sound.

The Prince William Sound Tanker Spill Prevention and Response Plan Steering Committee functions much like the association described in OPA 90. The steering committee, required by the Alaska Department of Environmental Conservation for approval of contingency plans, consists of industry, agency and public representatives (RCAC). The steering committee addresses revisions and appendices to the PWS Tanker Plan through technical working groups.

There has been some debate about whether Congress meant to leave out the association or whether it was an oversight. From RCAC's perspective, formation of an association as described under the law carries potential advantages and disadvantages. The absence of an association has resulted in RCAC working directly, albeit informally, with federal and state agencies that otherwise might be represented on the association. In the absence of an association, those agencies are not required to consult with RCAC, though in fact there is coordination and communication between some of them and RCAC. Most notable in its efforts to meet the intent of OPA 90 in that regard has been the US Coast Guard.

While an association would ensure consultation by industry and government with RCAC, there is some concern that instead of serving as a direct communications pipeline between RCAC and industry and government, an association could amount to a layer of bureaucracy that effectively interferes with direct communications.

An association would be advantageous, however, since it would formalize the relationship between RCAC and owners and operators of the crude oil tankers that use the Valdez Marine Terminal. At present, RCAC's formal relationship is only with Alyeska, not the tanker owners

and operators. In addition, an association might strengthen the ability to enforce provisions of the contract such as information requests and timely responses to formal comments and advice.

Structure

The RCAC consists of 18 member organizations, including communities affected by the *Exxon Valdez* oil spill, as well as broad-based Native, aquaculture, commercial fishing, tourism, recreation and conservation groups. Charter members of RCAC were the cities of Valdez, Cordova, Whittier, Seward, Homer, Seldovia and Kodiak; the Kenai Peninsula Borough and Kodiak Island Borough, the Prince William Sound Aquaculture Corporation, Cordova District Fishermen United, National Wildlife Federation, Chugach Alaska Corporation and Kodiak Village Mayors Association.

Subsequent amendments to RCAC's by-laws added four more members: the Alaska State Chamber of Commerce, to represent tourism interests in Prince William Sound; Alaska Wilderness Recreation and Tourism Association, to reflect the interests of recreation groups; and the Native communities of Chenega Bay and Tatitlek, villages in closest proximity to oil tanker lanes in Prince William Sound.

With the exception of the City of Valdez, with two board seats, each member organization holds one seat on the Board of Directors. Directors are appointed annually and serve at the pleasure of their member organization. All director work is volunteer; they do not receive compensation from RCAC.

Much of the council's work is done by five volunteer committees consisting of council directors, other citizens and professionals with interests, experience and background in a given field. The committees are Oil Spill Prevention and Response, Terminal Operations and Environmental Monitoring, Port Operations and Vessel Traffic Systems, Scientific Advisory and Community Information and Education. Committee members are appointed annually through a formal application and selection process.

As a matter of policy the board places great emphasis on having the membership of each committee consist largely of citizen volunteers. While not necessarily ideal in terms of efficiency, the volunteer orientation of the committees is fundamental to the moral and ethical integrity of the organization.

Committees conduct research, participate in multi-entity work groups, draft position papers and recommend policy positions to the board of directors. Although each committee has at least one director, most of the committee members do not sit on the board. The committees are assisted by staff and contractors provided by the council.

Challenges

The first three years have not been without challenges, frustrations and conflicts. As a volunteer-driven organiza-

tion, RCAC depends on the commitment, good faith and reliability of its volunteers. But like democracies, volunteer organizations are not necessarily efficient. Committees took a long time to get organized and some major projects were delayed as volunteers struggled to write, revise and review project parameters.

Most of RCAC's first years have been spent catching up. Directors and committee members have devoted hundreds of volunteer hours to becoming knowledgeable about issues that used to be the province of only full-time professionals in industry and government. Even so, most volunteers – whether directors or committee members – have other jobs and responsibilities and RCAC business isn't always their first priority.

The lives of many people and institutions in the spill-affected region were changed forever by the *Exxon Valdez* oil spill. While people in those communities have not forgotten the spill, it has receded from attention.

We invite endless frustration if we expect the general public and even our member entities to hang breathless on every resolution and study the RCAC undertakes. It is human nature to move on to other issues once a crisis has passed, and to attend to daily lives and more immediate problems. That tendency to move on can be a source of frustration to RCAC, but it is also an important justification for RCAC's existence.

One of the foremost lessons of the 1989 oil spill was the need to pay attention. Through its myriad activities – from monitoring terminal and tanker operations, to commenting on rules and regulations, to alerting the public to timely issues – RCAC pays attention on behalf of the communities and interests it represents.

In the past year or so, RCAC has seen an evolution on its board of directors, as the initial leaders, many of whom were involved right from the start, begin to cut back their hours on RCAC work or leave the board altogether. New directors come on – people who may not have the history, background and expertise of their predecessors. As with any board, among the directors there are varying levels of familiarity with the issues, commitment and time available.

The RCAC Board and committees frequently have eyes bigger than their stomachs. They see work that needs to be done, issues to be addressed, and often they take on more than they can reasonably handle. When limited resources are stretched too thin, the result is sometimes less than optimum scrutiny, care and attention. The RCAC is volunteer-driven, but volunteers can generate an enormous amount of administrative and project-specific work for a limited staff. People do burn out. Community apathy, over-extension, disparity in knowledge and experience, and burn out are internal challenges that RCAC must address on its own. There are external challenges too.

Cloning Sullom Voe

The demonstration projects described in OPA 90 are modelled on Sullom Voe, the terminal in the Shetland

Islands. Conflicts that have emerged to date appear to stem from underlying differences between the Shetland Islands and the USA in authority and jurisdiction, dispute resolution, and public access to governmental processes.

In Sullom Voe, the public interest is represented by the Shetland Islands Council, a local governing body with far more clout than any local jurisdiction enjoys in the USA. Through a special act of the UK Parliament in 1974, the Shetland Islands Council obtained extraordinary powers to regulate port, terminal and tanker operations. The Council has:

- harbour authority;
- authority over construction of pipeline landfalls;
- authority over construction and operation of jetties;
- authority to enter into joint ventures with other organizations; and
- responsibility for environmental conservation within three miles of the coastline.

By comparison, in Alaska those powers are spread out among state and federal agencies.

The fact that these powers are in the hands of local authorities in the Shetlands constitutes one of the major differences between the regulatory regimes at the Sullom Voe and Alyeska oil terminals. The ability of the council to enter partnerships with private industry gives it a dimension of control over development and operations unparalleled in the United States.²

The authority to enter into joint ventures paved the way for the Council to create, with the oil industry, the non-profit Sullom Voe Association. The association built, developed and manages the terminal. The Council owns 50% of the Sullom Voe Association; the other 50% is owned by the 32 oil companies that make up two pipeline groups. In Alaska that would be equivalent to the City of Valdez holding 50% ownership of Alyeska.

The Council also holds seats on the environmental advisory group funded by the Sullom Voe Association. The Shetland Island Oil Terminal Environmental Advisory Group (SOTEAG) is the pattern for the regional citizens' advisory councils required by OPA 90.

OPA 90 speaks to expectations of a long-term partnership and converting mistrust and confrontation into trust and consensus, attributes ascribed to Sullom Voe. Herein lies what may be a troublesome underlying flaw of Section 5002. What OPA 90 failed to take into account are the implications of vast political differences between the Shetland Islands and the USA.

Public process

Although public attitudes appear to be changing, the Shetland Islands inherited the UK tradition that accepts confidentiality and closed-door negotiations between government and industry.³ SOTEAG's scientific reports are available to the public and it does prepare an annual report designed for public dissemination, but its meetings are conducted in private and its advice and recommendations to the Sullom Voe Association remain confidential unless the Shetland Islands Council chooses to make them public.

That confidentiality is consistent with long standing practices in the UK, where closed-door negotiations between regulators and industry are a routine path to policy developments. Proponents of confidentiality maintain that it promotes frank discussion, cooperation and consensus-building, but not all Shetlanders accept this practice and public sentiment appears to be building for greater public access.

By contrast, all meetings of the RCAC are public with few exceptions; its reports are available to the public and released to the news media. RCAC's own policies are to operate consistently with open government practices, even though RCAC is privately funded.

Local government powers

As discussed earlier, the Shetland Islands Council has powers that far exceed anything in Alaska. The Council wields enormous influence over port activity, and holds half ownership in the association, providing it with considerable negotiating ammunition. The SIC is a force that the oil industry must reckon with. When environmental issues surface through the work of the SOTEAG – whose members include elected Council officials – the oil industry has an incentive to resolve it.

Compared to SOTEAG, the incentives for industry cooperation with RCAC are far less clear, since RCAC voting membership does not include entities with significant regulatory authority. Local governing bodies in Alaska have little if any authority over terminal operations and tanker movement, since those regulatory functions are held by state and federal agencies.

Conflict resolution

In the UK, environmental conflicts tend to be resolved the same way as policies are developed: behind closed doors. Going to court to resolve environmental disputes is considered a sign of failure, to be avoided at all costs.⁴ Environmental conflicts in the USA tend to be taken to court, in large part because environmental groups have no other recourse for influencing industry and government practices. Americans are suspicious of closed doors.

Confidentiality v public access

The Prince William Sound RCAC has struggled over its responsibilities to, and relationship with the public. A significant number of RCAC directors believe that because they represent public bodies – 11 of the 18 member entities are local governments and thus bound by open meetings laws – they are obliged to conduct their work openly and publicly.

Explicit in the RCAC-Alyeska contract is that the organizations, not the RCAC directors that represent them, are the entities with whom Alyeska has a contractual relationship. Although OPA 90 speaks of council members as individuals, it is implicit that those individuals represent the local public interests. Working for the public necessarily means not working behind closed doors.

Alyeska officials have bridled at that position, arguing that RCAC's job is to advise Alyeska and work cooperatively to resolve areas of disagreement. Cooperation and consensus, Alyeska officials maintain, are effectively discouraged when disagreements are discussed publicly (and possibly aired in the press) before the parties have had the opportunity to resolve them without fear of publicity.

It is not clear whether Congress intended for citizen advisory councils to operate in the confidential manner of Sullom Voe. Aside from language in the Section 5002 findings regarding local citizen involvement, the law is silent on how a regional citizens' council should relate, if at all, to the citizens and communities whose interests it represents.

Such secrecy – for that is how it's seen – is anathema to Americans bred on the excesses of Watergate. In Alaska, just as in the rest of the USA, local governing bodies must operate publicly and openly. Indeed, Alaska has the strongest open meeting and open records statutes in the nation. Alaska's constitution contemplates a state government readily open and accessible to the citizenry. Perhaps more so than other Americans, Alaskans tend to be distrustful, if not downright hostile, to big government and big industry.

The RCAC contract with Alyeska supports the position that it has a strong responsibility to the public, since it charges RCAC with providing services 'to the public and Alyeska'.⁵

RCAC proponents of extensive public outreach argue that to work in anything less than an open, public environment invites suspicion and charges that it is a lapdog rather than a watchdog. The RCAC cannot function under a veil of confidentiality. While Shetlanders may accept on faith that SOTEAG is working in their best interests, Alaskans would not. To practise that brand of confidentiality would do serious damage to RCAC's credibility. Its contract with Alyeska places the highest premium on both the fact and perception of independence:

The independence, and public perception of independence, of the Committee is of overriding importance to the Committee in fulfilling its functions and in meeting public needs. This Contract shall be interpreted in such a way as to promote the independence, both actual and perceived, of the Committee from Alyeska.⁶

There are gradations of openness; the choice is not necessarily between a system of secrecy and confidentiality on the one hand, and absolute, immediate public disclosure on the other. Questions have begun to surface about whether the public is well-served by absolute disclosure. If such disclosure creates an insurmountable obstacle to cooperation and consensus.

Clearly, however, RCAC directors will not be pushed to the edge of impotence in the name of building trust, cooperation and consensus. Trust, cooperation and consensus cannot and should not be viewed as ends in themselves, but as avenues to safer terminal and tanker operations, stronger environmental safeguards and better response capabilities.

Representation

Related to the debate over RCAC's relationship to the public is the question of representation. Alyeska officials have questioned whether positions taken by RCAC board members reflect the views of local citizens or constitute personal agendas.

RCAC directors maintain they are accountable to the member organizations – city councils, mayor and boards of directors – at whose pleasure they serve. It is up to the individual organization to decide whether its RCAC director is representing the organization's best interests.

Fostering the goals of OPA 90

Despite conflicts and the challenges of organizational maturation, the work of the RCAC is fostering goals articulated in OPA 90.

Local citizen involvement

Section 5002(a)(2)(c) states that: 'One way to combat this complacency is to involve local citizens in the process of preparing, adopting and revising oil spill contingency plans'.

Local citizens are involved in nearly every project RCAC undertakes. RCAC board members are primarily local citizens themselves, who represent the interests of their specific community or organization. The committee structure further involves local citizens by encouraging residents of the Prince William Sound and the rest of the spill-affected region to participate as members of the various working committees, which do most of the hands-on work of the RCAC.

Local citizens are also involved through periodic outreach efforts designed to promote public participation in the decision-making process.

The following are examples of local citizen involvement in oil spill contingency plans:

- Revisions and appendices to the Prince William Sound Tanker Spill Prevention and Response Plan;
- Regulations to implement Alaska's stronger prevention and response law – RCAC provided the perspective of local citizens and promoted citizen understanding of, and involvement in, development of regulations.
- Vessel contingency plans rule making – RCAC devoted extensive resources to this federal rule making. In addition to submitting written comments reflecting the concerns of local citizens, RCAC represented local interests as a participant in the Oil Spill Response Plan Negotiated Rulemaking Committee. The committee consisted of 26 members from industry, government and public interest groups. The committee, organized by the Coast Guard to help it develop the proposed rule on vessel response plans, met over an eight-month period in 1992.
- In cooperation with Alyeska, citizens in various spill-affected communities are developing community response centres.

Long-term partnership

Section 5002(a)(2)(D) urges affected parties to: 'Foster the long-term partnership of industry, government and local communities in overseeing compliance with environmental concerns in the operations of crude oil terminals'.

RCAC participates with industry and government in cooperative working groups, most of them dealing with contingency plan issues, such as plan coordination; navigation and prevention; in-situ burning, dispersants and bioremediation; and nearshore response and shoreline clean up. Nearshore response entails intensive community involvement in hatchery protection, community response depots, fishing vessel participation and training.

Since RCAC represents the interests of the communities and people in the region, its priorities are often at odds with those of industry. However, RCAC has generated greater appreciation among industry and government agencies for the perspectives of local citizens. RCAC is actively demonstrating that local citizens can play an effective, positive role in the decision-making process.

By providing a place at the table for the local perspective, RCAC is also generating greater understanding and appreciation among local residents for the complexities of oil transportation issues.

Accomplishments

RCAC's responsibilities under OPA 90 are to:

- provide advice and recommendations on policies, permits, and site-specific regulations relating to the operation and maintenance of terminal facilities and crude oil tankers;
- monitor the environmental impacts of the operation of the terminal facilities and crude oil tankers;
- monitor aspects of terminal facilities' and crude oil tankers' operations and maintenance which affect or may affect the environment in the vicinity of the terminal facilities;
- review the adequacy of oil spill prevention and contingency plans for crude oil tankers operating in Prince William Sound;
- provide advice and recommendations on port operations, policies and practices;
- Recommend (i) standards and stipulations for permits and site-specific regulations intended to minimize impact in the vicinity of the terminal facilities; (ii) modifications of terminal facility operations and maintenance intended to minimize the risk and mitigate the impact of terminal facilities, operations in the vicinity of the terminal facilities and to minimize the risk of oil spills; (iii) modifications of crude oil tanker operations and maintenance in Prince William Sound intended to minimize the risk and mitigate the impact of oil spills; and (iv) modifications to the oil spill prevention and contingency plans for terminal facilities and for crude oil tankers in Prince William Sound intended to enhance the ability to prevent and to respond to an oil spill.

The RCAC has met those responsibilities through the following activities and projects.

Oil spill prevention and response

Prince William Sound Tanker Spill Prevention and Response Plan. Many of RCAC's recommendations and suggestions have been adopted, resulting in the use and training of local fishing fleets, more realistic spill scenarios and increased training of Alyeska's response personnel.

As a member of the Prince William Sound Tanker Spill Prevention and Response Plan Steering Committee, RCAC works with Alyeska, other contingency plan holders, and state and federal agencies to resolve problems and outstanding issues in contingency plans.

The steering committee was formed in September 1990 by the Alaska Department of Environmental Conservation to address issues it had flagged in its review of the contingency plans. Much of the steering committee's work is accomplished by technical working groups.

Prior to 1991, oil spill contingency plans addressed only the immediate response area, eg the vicinity of the spill, and shoreline clean-up. RCAC called attention to the need for a response plan to recover oil that has escaped initial recovery efforts at the scene of the incident and threatens to affect the nearby shoreline. 'Nearby response' was the term adopted for attacking the frontline of a spill before it does major damage to a coastline.

As a direct result of RCAC's efforts, the State of Alaska began requiring all tanker owners to have a nearshore contingency plan in place by 1 June 1992. The nearshore plans must include use of local resources, such as fishing vessels. The Nearshore Response Work Group, chaired by an RCAC board member, worked with contingency planholders to develop nearshore response plans.

Regional response cooperative. RCAC conducted a study on the feasibility of establishing a community-based regional spill cooperative and a spill school in the Gulf of Alaska.

State of Alaska Master Contingency Plan. RCAC submitted comments and recommendations on the draft State of Alaska 'Master Oil and Hazardous Substance Discharge Prevention and Contingency Plan'. Based on RCAC's recommendation, the draft master plan includes regional citizens' advisory councils in spill response activities.

State Oil and Hazardous Materials Substance Discharge Prevention and Contingency Plan. RCAC submitted comments and assisted the Alaska Department of Environmental Conservation, at its request, in refining the plan in greater detail.

Spill drill monitoring and evaluation. RCAC monitors oil spill drills and exercises, both on-water and tabletop. RCAC has a dual function in spill drills, acting as both outside evaluator and communications resource for communities affected in the liaison.

State laws on oil spill prevention and response. RCAC represented local and regional interests in a working group to draft regulations implementing a new oil spill prevention and response law enacted by the State of Alaska as a result of the *Exxon Valdez* oil spill. RCAC increased public understanding and awareness of the regulations through guest editorials, new stories and informational advertisements encouraging public comment.

Double hull. RCAC reviewed the proposed rule making and submitted comments on five separate issues, including cargo piping in the void spaces, bunker tanks, hull separation minimums, suction wells, carriage of oil or oil products between hulls, need for increased scantlings in TAPS trade vessels and a ban on use of high tensile steel in TAPS trade vessels.

Vessel contingency plans. As previously discussed, RCAC participated in the negotiated rule making committee organized to develop consensus on specific elements of the rule. Prior to the committee's formation, RCAC reviewed the proposed rule making, submitted extensive comments, solicited public comment and participated in a workshop conducted by the Coast Guard.

Requirements for single hulls. In comments on the proposed rule making, RCAC recommended the issues be broken into more manageable units; objected to most of the structural measures listed as unproven; recommended new navigation technologies be required on tank vessels; and urged that vessel traffic systems be mandatory for vessels 300 tons and over.

Vessel escort rules for oil tankers in certain areas. RCAC urged the Coast Guard to take into account and address Prince William Sound's severe operating conditions and extreme weather. Since double escorts were already required for laden tankers under the state-approved Prince William Sound Tanker Spill Prevention and Response Plan, the federal rule should require no less, the RCAC said.

Environmental monitoring

Ballast water treatment. RCAC commissioned independent reviews of the sampling and testing programmes conducted by Alyeska at its ballast water treatment facility in Valdez. Subsequent phases of the ballast water treatment work included design of 'ideal' monitoring programmes and independent monitoring programmes to verify the results obtained by Alyeska.

Air quality. RCAC commissioned an independent review of studies conducted by Alyeska on the health risk posed to Valdez residents from benzene emitted during tanker loading at the Valdez Marine Terminal. The terminal is the largest single source of volatile organic compound (VOC) emissions in the USA. Tanker loading at the terminal emits 43 000 tons of VOCs, including 450 tons of benzene, per year.

Consistent with its responsibility under OPA 90 and the contract with Alyeska, RCAC's consultants critiqued Alyeska's methodology, suggested revisions to the study and assessed the validity of the study findings and conclusions.

Using data supplied by Alyeska, RCAC retained an independent consultant to study the fate and effects of airborne hydrocarbons emitted from the terminal.

Tankers and tanker traffic

Disabled tanker towing study. In a joint effort with industry and regulatory agencies, RCAC is co-sponsoring a study to evaluate different types of tugs, escort vessels and emergency towing equipment. It is also evaluating towing practices and simulating various disabled tanker scenarios between Port Valdez and approaches to Hinchinbrook Entrance.

Tankers entering Prince William Sound are already required to have an emergency towing plan and to carry the necessary equipment. Escort vessels are also an integral part of the current operations. The study will investigate better alternatives.

Structural concerns. RCAC expressed concern to crude oil shippers about the structural integrity of the tanker fleet, in light of a hull-cracking incident and information contained in a US Coast Guard study. RCAC asked shippers to comment on the Coast Guard study, provide an assessment of the structural status of their vessels and advise the council of current and planned efforts to correct structural problems in the aging fleet. The RCAC also urged the US Secretary of Transportation to provide full funding for an expanded Coast Guard inspection programme, and urged the Commandant of the Coast Guard to intensify inspections of the Prince William Sound fleet.

Surveillance. RCAC reviewed proposed changes in the vessel traffic systems and submitted comments to the Coast Guard on its decision to use an automated dependent surveillance system in Prince William Sound.

Staffing. RCAC began a review of existing studies of staffing levels on tankers and escort vessels, including a database and literature search, on the impact of reduced manning levels aboard tankers and escort vessels.

Weather reporting. RCAC reviewed weather reporting and dissemination practices in Prince William Sound and conducted a preliminary assessment of the need for additional weather reporting stations.

Other scientific work

Scientific bibliography. RCAC developed an annotated scientific bibliography of research conducted since 1986 on the biology of Prince William Sound. In addition to past research, the bibliography includes current projects and proposes research. The bibliography is updated as new research is planned, conducted and completed.

Ecological monitoring study. A study is underway to establish baseline data for hydrocarbon levels and monitor for changes in those levels. Blue mussels were selected as the indicator species because they are low on the food chain, non-migratory, sensitive to low levels of hydrocarbon exposure, broadly distributed in the impact area, are large sample size, easy to measure and can provide continuous assessment.

The project includes chemical assessment for hydrocarbon concentrations and characteristics from intertidal and subtidal zones and examination of bioaccumulation in blue mussel tissue. Field work is anticipated to begin in February or March 1993.

Socio-economic study. One of RCAC's biggest projects, in terms of financial and personnel resources, is a study underway that ultimately will help communities reduce or prevent the social, cultural and economic impacts of a major oil spill or other disruption. The study, referenced in both the contract with Alyeska and OPA 90, is assessing social, cultural and economic impacts of oil spills in order to develop mitigation strategies for communities in the region.

The project seeks to assist communities in identifying impacts and ways to prevent and mitigate the disruptions that would occur in each community after a large oil spill. Communities impacted by the *Exxon Valdez* oil spill have suffered high alcoholism and drug use, family dysfunction and community conflict, employment disruption, sudden influx of strangers, labour shortages and a resulting strain on services and facilities.

Public education and awareness

RCAC publishes a quarterly newsletter, conducts public meetings and forums, appears before community groups and produces informational media campaigns to promote public awareness of oil-related environmental issues. It also solicits comments from citizens in the region through public opinion surveys and works with Alyeska to increase public awareness of oil spill prevention and response, and environmental protection issues.

Conclusions

The involvement of citizens in decisions that affect their communities is fundamental to RCAC's existence. It is they who have the most at stake.

One of the foremost justifications for Section 5002 of OPA 90 was the belief that complacency among industry and government agencies was an underlying cause of the *Exxon Valdez* oil spill. Local citizen involvement, OPA 90 says, is a way of keeping such complacency at bay. In Prince William Sound and other areas affected by the *Exxon Valdez* oil spill, volunteer vigilance has prevented complacency from taking root. Relations between local citizens, the oil industry and government agencies have

improved dramatically since 1989, as people of good faith and intentions seek to find common ground.

Yet expectations of Congress, as expressed in the 'findings' language of Section 5002, may be unrealistic. There are indeed opportunities for consensus, but the parties involved must have clear and sustained incentives for negotiating.

However, too much can be made of the 'consensus'. Some government and industry representatives appear to believe that consensus is the only measure of a successful process. Yet, agreement – all consensus is – is meaningless if it fails to make systems safer. Inherent in the need for a citizens' advisory group is the concept of questioning, challenging and testing industry and government decisions. In the long run, RCAC's appropriate role is to maintain a healthy challenge of industry and government decisions to protect the public interest.

Mistrust and confrontation can be reduced, but they will never be eliminated. Because of the very foundations of capitalism, the interests of corporations engaged in resource extraction and transportation are, at best, not necessarily consistent with the environmental interests of citizens and communities. That is particularly true in Prince William Sound and other coastal regions of Alaska, where the livelihoods of so many people depend on the natural resources most at risk from terminal and tanker operations. To ignore or underestimate the inherent conflicts would be naive, foolhardy and ultimately unproductive.

Citizens have an extremely important role to play in any effort to protect the environment, but they cannot and should not be viewed as a substitute for government as the steward of public resources and protector of the public interest.

Citizens can enhance government's ability to do its job. In an interview for an RCAC video, Cmdr Ed Thompson, USCG, said RCAC has changed the way agencies such as the Coast Guard do business. 'It adds accountability on the part of regulators like me, and the government and industry. We have to operate in the open, and talk about things in the open, and take the time to bring citizenry along with us in the logical path to the solutions for our problems. It's an organized and disciplined way to get citizen involvement in what we do. I think that's good, because the system really isn't worth much unless the citizens are involved with it'.⁷

¹Oil Pollution Act of 1990, Sec 5002, p 46.

²V. Kelly, *Alyeska, Sullom Voe and the Oil Pollution Act of 1990: A Comparison of Tanker Safety Regulations and Environmental Monitoring*, 1991, p 11.

³*Ibid*, p 32.

⁴*Ibid*, p 40.

⁵Contract Between Regional Citizens' Advisory Committee and Alyeska Pipeline Service Company, 1990, Article II, 2.1.

⁶*Ibid*, Article 1, 1.1.

⁷*A Voice for Prince William Sound*, 1991.

(h) **STATUS OF EMPLOYEES.**—Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(i) **TERMINATION.**—The Institute shall terminate 10 years after the date of the enactment of this Act.

(j) **USE OF FUNDS.**—All funds authorized for the Institute shall be provided through the National Oceanic and Atmospheric Administration. No funds made available to carry out this section may be used to initiate litigation. No funds made available to carry out this section may be used for the acquisition of real property (including buildings) or construction of any building. No more than 20 percent of funds made available to carry out this section may be used to lease necessary facilities and to administer the Institute. None of the funds authorized by this section shall be used for any purpose other than the functions specified in subsection (b).

(k) **RESEARCH.**—The Institute shall publish and make available to any person upon request the results of all research, educational, and demonstration projects conducted by the Institute. The Administrator shall provide a copy of all research, educational, and demonstration projects conducted by the Institute to the National Oceanic and Atmospheric Administration.

(l) **DEFINITIONS.**—In this section, the term "Prince William Sound and its adjacent waters" means such sound and waters as generally depicted on the map entitled "EXXON VALDEZ oil spill dated March 1990".

SEC. 5002. TERMINAL AND TANKER OVERSIGHT AND MONITORING.

(a) **SHORT TITLE AND FINDINGS.**—

(1) **SHORT TITLE.**—This section may be cited as the "Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990".

(2) **FINDINGS.**—The Congress finds that—

(A) the March 24, 1989, grounding and rupture of the fully loaded oil tanker, the EXXON VALDEZ, spilled 11 million gallons of crude oil in Prince William Sound, an environmentally sensitive area;

(B) many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill;

(C) one way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans;

(D) a mechanism should be established which fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals;

(E) such a mechanism presently exists at the Sullom Voe terminal in the Shetland Islands and this terminal should serve as a model for others;

(F) because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest terminal in Europe;

(G) the present system of regulation and oversight of crude oil terminals in the United States has degenerated into a process of continual mistrust and confrontation;

(H) only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus;

(I) a pilot program patterned after Sullom Voe should be established in Alaska to further refine the concepts and relationships involved; and

(J) similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.

(b) **DEMONSTRATION PROGRAMS.**—

(1) **ESTABLISHMENT.**—There are established 2 Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Demonstration Programs (hereinafter referred to as "Programs") to be carried out in the State of Alaska.

(2) **ADVISORY FUNCTION.**—The function of these Programs shall be advisory only.

(3) **PURPOSE.**—The Prince William Sound Program shall be responsible for environmental monitoring of the terminal facilities in Prince William Sound and the crude oil tankers operating in Prince William Sound. The Cook Inlet Program shall be responsible for environmental monitoring of the terminal facilities and crude oil tankers operating in Cook Inlet located South of the latitude at Point Possession and North of the latitude at Amatuli Island, including offshore facilities in Cook Inlet.

(4) **SUITS BARRED.**—No program, association, council, committee or other organization created by this section may sue any person or entity, public or private, concerning any matter arising under this section except for the performance of contracts.

(c) **OIL TERMINAL FACILITIES AND OIL TANKER OPERATIONS ASSOCIATION.**—

(1) **ESTABLISHMENT.**—There is established an Oil Terminal Facilities and Oil Tanker Operations Association (hereinafter in this section referred to as the "Association") for each of the Programs established under subsection (b).

(2) **MEMBERSHIP.**—Each Association shall be comprised of 4 individuals as follows:

(A) One individual shall be designated by the owners and operators of the terminal facilities and shall represent those owners and operators.

(B) One individual shall be designated by the owners and operators of the crude oil tankers calling at the terminal facilities and shall represent those owners and operators.

(C) One individual shall be an employee of the State of Alaska, shall be designated by the Governor of the State of Alaska, and shall represent the State government.

(D) One individual shall be an employee of the Federal Government, shall be designated by the President, and shall represent the Federal Government.

(3) **RESPONSIBILITIES.**—Each Association shall be responsible for reviewing policies relating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals. Each Association shall provide a forum among the owners and operators of the terminal facilities, the owners and operators of crude oil tankers calling at those

Public
information.

Oil Terminal
and Oil Tanker
Environmental
Oversight and
Monitoring Act
of 1990.
33 USC 2732.

facilities, the United States, and the State of Alaska to discuss and to make recommendations concerning all permits, plans, and site-specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

(4) DESIGNATION OF EXISTING ORGANIZATION.—The Secretary may designate an existing nonprofit organization as an Association under this subsection if the organization is organized to meet the purposes of this section and consists of at least the individuals listed in paragraph (2).

(d) REGIONAL CITIZENS' ADVISORY COUNCILS.—

(1) MEMBERSHIP.—There is established a Regional Citizens' Advisory Council (hereinafter in this section referred to as the "Council") for each of the programs established by subsection (b).

(2) MEMBERSHIP.—Each Council shall be composed of voting members and nonvoting members, as follows:

(A) VOTING MEMBERS.—Voting members shall be Alaska residents and, except as provided in clause (vii) of this paragraph, shall be appointed by the Governor of the State of Alaska from a list of nominees provided by each of the following interests, with one representative appointed to represent each of the following interests, taking into consideration the need for regional balance on the Council:

(i) Local commercial fishing industry organizations, the members of which depend on the fisheries resources of the waters in the vicinity of the terminal facilities.

(ii) Aquaculture associations in the vicinity of the terminal facilities.

(iii) Alaska Native Corporations and other Alaska Native organizations the members of which reside in the vicinity of the terminal facilities.

(iv) Environmental organizations the members of which reside in the vicinity of the terminal facilities.

(v) Recreational organizations the members of which reside in or use the vicinity of the terminal facilities.

(vi) The Alaska State Chamber of Commerce, to represent the locally based tourist industry.

(vii)(I) For the Prince William Sound Terminal Facilities Council, one representative selected by each of the following municipalities: Cordova, Whittier, Seward, Valdez, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough.

(II) For the Cook Inlet Terminal Facilities Council, one representative selected by each of the following municipalities: Homer, Seldovia, Anchorage, Kenai, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough.

(B) NONVOTING MEMBERS.—One ex-officio, nonvoting representative shall be designated by, and represent, each of the following:

(i) The Environmental Protection Agency.

(ii) The Coast Guard.

(iii) The National Oceanic and Atmospheric Administration.

(iv) The United States Forest Service.

(v) The Bureau of Land Management.

(vi) The Alaska Department of Environmental Conservation.

(vii) The Alaska Department of Fish and Game.

(viii) The Alaska Department of Natural Resources.

(ix) The Division of Emergency Services, Alaska Department of Military and Veterans Affairs.

(3) TERMS.—

(A) DURATION OF COUNCILS.—The term of the Councils shall continue throughout the life of the operation of the Trans-Alaska Pipeline System and so long as oil is transported to or from Cook Inlet.

(B) THREE YEARS.—The voting members of each Council shall be appointed for a term of 3 years except as provided for in subparagraph (C).

(C) INITIAL APPOINTMENTS.—The terms of the first appointments shall be as follows:

(i) For the appointments by the Governor of the State of Alaska, one-third shall serve for 3 years, one-third shall serve for 2 years, and one-third shall serve for one year.

(ii) For the representatives of municipalities required by subsection (d)(2)(A)(vii), a drawing of lots among the appointees shall determine that one-third of that group serves for 3 years, one-third serves for 2 years, and the remainder serves for 1 year.

(4) SELF-GOVERNING.—Each Council shall elect its own chairperson, select its own staff, and make policies with regard to its internal operating procedures. After the initial organizational meeting called by the Secretary under subsection (i), each Council shall be self-governing.

(5) DUAL MEMBERSHIP AND CONFLICTS OF INTEREST PROHIBITED.—(A) No individual selected as a member of the Council shall serve on the Association.

(B) No individual selected as a voting member of the Council shall be engaged in any activity which might conflict with such individual carrying out his functions as a member thereof.

(6) DUTIES.—Each Council shall—

(A) provide advice and recommendations to the Association on policies, permits, and site-specific regulations relating to the operation and maintenance of terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of the terminal facilities;

(B) monitor through the committee established under subsection (e), the environmental impacts of the operation of the terminal facilities and crude oil tankers;

(C) monitor those aspects of terminal facilities' and crude oil tankers' operations and maintenance which affect or may affect the environment in the vicinity of the terminal facilities;

(D) review through the committee established under subsection (f), the adequacy of oil spill prevention and contingency plans for the terminal facilities and the adequacy of oil spill prevention and contingency plans for crude oil tankers, operating in Prince William Sound or in Cook Inlet;

(E) provide advice and recommendations to the Association on port operations, policies and practices;

(F) recommend to the Association—

(i) standards and stipulations for permits and site-specific regulations intended to minimize the impact of the terminal facilities' and crude oil tankers' operations in the vicinity of the terminal facilities;

(ii) modifications of terminal facility operations and maintenance intended to minimize the risk and mitigate the impact of terminal facilities, operations in the vicinity of the terminal facilities and to minimize the risk of oil spills;

(iii) modifications of crude oil tanker operations and maintenance in Prince William Sound and Cook Inlet intended to minimize the risk and mitigate the impact of oil spills; and

(iv) modifications to the oil spill prevention and contingency plans for terminal facilities and for crude oil tankers in Prince William Sound and Cook Inlet intended to enhance the ability to prevent and respond to an oil spill; and

(G) create additional committees of the Council as necessary to carry out the above functions, including a scientific and technical advisory committee to the Prince William Sound Council.

(7) **NO ESTOPPEL.**—No Council shall be held liable under State or Federal law for costs or damages as a result of rendering advice under this section. Nor shall any advice given by a voting member of a Council, or program representative or agent, be grounds for estopping the interests represented by the voting Council members from seeking damages or other appropriate relief.

(8) **SCIENTIFIC WORK.**—In carrying out its research, development and monitoring functions, each Council is authorized to conduct its own scientific research and shall review the scientific work undertaken by or on behalf of the terminal operators or crude oil tanker operators as a result of a legal requirement to undertake that work. Each Council shall also review the relevant scientific work undertaken by or on behalf of any government entity relating to the terminal facilities or crude oil tankers. To the extent possible, to avoid unnecessary duplication, each Council shall coordinate its independent scientific work with the scientific work performed by or on behalf of the terminal operators and with the scientific work performed by or on behalf of the operators of the crude oil tankers.

(e) **COMMITTEE FOR TERMINAL AND OIL TANKER OPERATIONS AND ENVIRONMENTAL MONITORING.**—

(1) **MONITORING COMMITTEE.**—Each Council shall establish a standing Terminal and Oil Tanker Operations and Environmental Monitoring Committee (hereinafter in this section referred to as the "Monitoring Committee") to devise and manage a comprehensive program of monitoring the environmental impacts of the operations of terminal facilities and of crude oil tankers while operating in Prince William Sound and Cook Inlet. The membership of the Monitoring Committee shall be made up of members of the Council, citizens, and recognized scientific experts selected by the Council.

(2) **DUTIES.**—In fulfilling its responsibilities, the Monitoring Committee shall—

(A) advise the Council on a monitoring strategy that will permit early detection of environmental impacts of terminal facility operations and crude oil tanker operations while in Prince William Sound and Cook Inlet;

(B) develop monitoring programs and make recommendations to the Council on the implementation of those programs;

(C) at its discretion, select and contract with universities and other scientific institutions to carry out specific monitoring projects authorized by the Council pursuant to an approved monitoring strategy;

(D) complete any other tasks assigned by the Council; and

(E) provide written reports to the Council which interpret and assess the results of all monitoring programs.

Reports.

(f) **COMMITTEE FOR OIL SPILL PREVENTION, SAFETY, AND EMERGENCY RESPONSE.**—

(1) **TECHNICAL OIL SPILL COMMITTEE.**—Each Council shall establish a standing technical committee (hereinafter referred to as "Oil Spill Committee") to review and assess measures designed to prevent oil spills and the planning and preparedness for responding to, containing, cleaning up, and mitigating impacts of oil spills. The membership of the Oil Spill Committee shall be made up of members of the Council, citizens, and recognized technical experts selected by the Council.

(2) **DUTIES.**—In fulfilling its responsibilities, the Oil Spill Committee shall—

(A) periodically review the respective oil spill prevention and contingency plans for the terminal facilities and for the crude oil tankers while in Prince William Sound or Cook Inlet, in light of new technological developments and changed circumstances;

(B) monitor periodic drills and testing of the oil spill contingency plans for the terminal facilities and for crude oil tankers while in Prince William Sound and Cook Inlet;

(C) study wind and water currents and other environmental factors in the vicinity of the terminal facilities which may affect the ability to prevent, respond to, contain, and clean up an oil spill;

(D) identify highly sensitive areas which may require specific protective measures in the event of a spill in Prince William Sound or Cook Inlet;

(E) monitor developments in oil spill prevention, containment, response, and cleanup technology;

(F) periodically review port organization, operations, incidents, and the adequacy and maintenance of vessel traffic service systems designed to assure safe transit of crude oil tankers pertinent to terminal operations;

(G) periodically review the standards for tankers bound for, loading at, exiting from, or otherwise using the terminal facilities;

(H) complete any other tasks assigned by the Council; and

(I) provide written reports to the Council outlining its findings and recommendations.

Reports.

(g) **AGENCY COOPERATION.**—On and after the expiration of the 180-day period following the date of the enactment of this section, each

Federal department, agency, or other instrumentality shall, with respect to all permits, site-specific regulations, and other matters governing the activities and actions of the terminal facilities which affect or may affect the vicinity of the terminal facilities, consult with the appropriate Council prior to taking substantive action with respect to the permit, site-specific regulation, or other matter. This consultation shall be carried out with a view to enabling the appropriate Association and Council to review the permit, site-specific regulation, or other matters and make appropriate recommendations regarding operations, policy or agency actions. Prior consultation shall not be required if an authorized Federal agency representative reasonably believes that an emergency exists requiring action without delay.

(h) **RECOMMENDATIONS OF THE COUNCIL.**—In the event that the Association does not adopt, or significantly modifies before adoption, any recommendation of the Council made pursuant to the authority granted to the Council in subsection (d), the Association shall provide to the Council, in writing, within 5 days of its decision, notice of its decision and a written statement of reasons for its rejection or significant modification of the recommendation.

(i) **ADMINISTRATIVE ACTIONS.**—Appointments, designations, and selections of individuals to serve as members of the Associations and Councils under this section shall be submitted to the Secretary prior to the expiration of the 120-day period following the date of the enactment of this section. On or before the expiration of the 180-day period following that date of enactment of this section, the Secretary shall call an initial meeting of each Association and Council for organizational purposes.

(j) **LOCATION AND COMPENSATION.**—

(1) **LOCATION.**—Each Association and Council established by this section shall be located in the State of Alaska.

(2) **COMPENSATION.**—No member of an Association or Council shall be compensated for the member's services as a member of the Association or Council, but shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Association or Council not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code. However, each Council may enter into contracts to provide compensation and expenses to members of the committees created under subsections (d), (e), and (f).

(k) **FUNDING.**—

(1) **REQUIREMENT.**—Approval of the contingency plans required of owners and operators of the Cook Inlet and Prince William Sound terminal facilities and crude oil tankers while operating in Alaskan waters in commerce with those terminal facilities shall be effective only so long as the respective Association and Council for a facility are funded pursuant to paragraph (2).

(2) **PRINCE WILLIAM SOUND PROGRAM.**—The owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound shall provide, on an annual basis, an aggregate amount of not more than \$2,000,000, as determined by the Secretary. Such amount—

(A) shall provide for the establishment and operation on the environmental oversight and monitoring program in Prince William Sound;

(B) shall be adjusted annually by the Anchorage Consumer Price Index; and

(C) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound and the Prince William Sound terminal facilities Council.

(3) **COOK INLET PROGRAM.**—The owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet shall provide, on an annual basis, an aggregate amount of not more than \$1,000,000, as determined by the Secretary. Such amount—

(A) shall provide for the establishment and operation of the environmental oversight and monitoring program in Cook Inlet;

(B) shall be adjusted annually by the Anchorage Consumer Price Index; and

(C) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet and the Cook Inlet Council.

(l) **REPORTS.**—

(1) **ASSOCIATIONS AND COUNCILS.**—Prior to the expiration of the 36-month period following the date of the enactment of this section, each Association and Council established by this section shall report to the President and the Congress concerning its activities under this section, together with its recommendations.

(2) **GAO.**—Prior to the expiration of the 36-month period following the date of the enactment of this section, the General Accounting Office shall report to the President and the Congress as to the handling of funds, including donated funds, by the entities carrying out the programs under this section, and the effectiveness of the demonstration programs carried out under this section, together with its recommendations.

(m) **DEFINITIONS.**—As used in this section, the term—

(1) "terminal facilities" means—

(A) in the case of the Prince William Sound Program, the entire oil terminal complex located in Valdez, Alaska, consisting of approximately 1,000 acres including all buildings, docks (except docks owned by the City of Valdez if those docks are not used for loading of crude oil), pipes, piping, roads, ponds, tanks, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, vehicles, and other facilities associated with, and necessary for, assisting tanker movement of crude oil into and out of the oil terminal complex; and

(B) in the case of the Cook Inlet Program, the entire oil terminal complex including all buildings, docks, pipes, piping, roads, ponds, tanks, vessels, vehicles, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, emergency spill response vessels owned or operated by the operator of the terminal, and other facilities associated with, and necessary for, assisting tanker movement of crude oil into and out of the oil terminal complex;

(2) "crude oil tanker" means a tanker (as that term is defined under section 2101 of title 46, United States Code)—

(A) in the case of the Prince William Sound Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries, operating north of Middleton Island and bound for or exiting from Prince William Sound; and

(B) in the case of the Cook Inlet Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries and operating in Cook Inlet and the Gulf of Alaska north of Amatuli Island, including tankers transiting to Cook Inlet from Prince William Sound;

(3) "vicinity of the terminal facilities" means that geographical area surrounding the environment of terminal facilities which is directly affected or may be directly affected by the operation of the terminal facilities; and

(4) "Secretary" means the Secretary of Transportation.

(n) SAVINGS CLAUSE.—

(1) REGULATORY AUTHORITY.—Nothing in this section shall be construed as modifying, repealing, superseding, or preempting any municipal, State or Federal law or regulation, or in any way affecting litigation arising from oil spills or the rights and responsibilities of the United States or the State of Alaska, or municipalities thereof, to preserve and protect the environment through regulation of land, air, and water uses, of safety, and of related development. The monitoring provided for by this section shall be designed to help assure compliance with applicable laws and regulations and shall only extend to activities—

(A) that would affect or have the potential to affect the vicinity of the terminal facilities and the area of crude oil tanker operations included in the Programs; and

(B) are subject to the United States or State of Alaska, or municipality thereof, law, regulation, or other legal requirement.

(2) RECOMMENDATIONS.—This subsection is not intended to prevent the Association or Council from recommending to appropriate authorities that existing legal requirements should be modified or that new legal requirements should be adopted.

(o) ALTERNATIVE VOLUNTARY ADVISORY GROUP IN LIEU OF COUNCIL.—The requirements of subsections (c) through (l), as such subsections apply respectively to the Prince William Sound Program and the Cook Inlet Program, are deemed to have been satisfied so long as the following conditions are met:

(1) PRINCE WILLIAM SOUND.—With respect to the Prince William Sound Program, the Alyeska Pipeline Service Company or any of its owner companies enters into a contract for the duration of the operation of the Trans-Alaska Pipeline System with the Alyeska Citizens Advisory Committee in existence on the date of enactment of this section, or a successor organization, to fund that Committee or organization on an annual basis in the amount provided for by subsection (k)(2)(A) and the President annually certifies that the Committee or organization fosters the general goals and purposes of this section and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound.

(2) COOK INLET.—With respect to the Cook Inlet Program, the terminal facilities, offshore facilities, or crude oil tanker owners and operators enter into a contract with a voluntary advisory

organization to fund that organization on an annual basis and the President annually certifies that the organization fosters the general goals and purposes of this section and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Cook Inlet.

SEC. 5003. BLIGH REEF LIGHT.

33 USC 2733.

The Secretary of Transportation shall within one year after the date of the enactment of this title install and ensure operation of an automated navigation light on or adjacent to Bligh Reef in Prince William Sound, Alaska, of sufficient power and height to provide long-range warning of the location of Bligh Reef.

SEC. 5004. VESSEL TRAFFIC SERVICE SYSTEM.

33 USC 2734.

The Secretary of Transportation shall within one year after the date of the enactment of this title—

(1) acquire, install, and operate such additional equipment (which may consist of radar, closed circuit television, satellite tracking systems, or other shipboard dependent surveillance), train and locate such personnel, and issue such final regulations as are necessary to increase the range of the existing VTS system in the Port of Valdez, Alaska, sufficiently to track the locations and movements of tank vessels carrying oil from the Trans-Alaska Pipeline when such vessels are transiting Prince William Sound, Alaska, and to sound an audible alarm when such tankers depart from designated navigation routes; and

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the feasibility and desirability of instituting positive control of tank vessel movements in Prince William Sound by Coast Guard personnel using the Port of Valdez, Alaska, VTS system, as modified pursuant to paragraph (1).

Regulations.

Reports.

SEC. 5005. EQUIPMENT AND PERSONNEL REQUIREMENTS UNDER TANK VESSEL AND FACILITY RESPONSE PLANS.

33 USC 2735.

(a) IN GENERAL.—In addition to the requirements for response plans for vessels established by section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, a response plan for a tank vessel operating on Prince William Sound, or a facility permitted under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), shall provide for—

(1) prepositioned oil spill containment and removal equipment in communities and other strategic locations within the geographic boundaries of Prince William Sound, including escort vessels with skimming capability; barges to receive recovered oil; heavy duty sea boom, pumping, transferring, and lightering equipment; and other appropriate removal equipment for the protection of the environment, including fish hatcheries;

(2) the establishment of an oil spill removal organization at appropriate locations in Prince William Sound, consisting of trained personnel in sufficient numbers to immediately remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater;

(3) training in oil removal techniques for local residents and individuals engaged in the cultivation or production of fish or fish products in Prince William Sound;