PACIFIC STATES • BRITISH COLUMBIA

Oil Spill Task Force

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Docket Management Facility (USCG –2001-8661)
U.S. Department of Transportation, Rm. PL-401
400 7th St. SW
Washington, DC 20590-0001

Re: Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions NPRM

Dear Madam/Sir,

These comments are submitted on behalf of the Pacific States/British Columbia Oil Spill Task Force, whose membership includes the oil spill regulatory agencies of Alaska, British Columbia, Washington, Oregon, Hawaii, and California. The Task Force member agencies appreciate this opportunity to comment on the Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions. The Task Force has long advocated that all available response tools should be "in the toolbox," so we thank the US Coast Guard (USCG) for their efforts to address that issue, as outlined in this Notice of Proposed Rulemaking.

Considering the value of having a variety of spill response technologies available, we concur and support the USCG's proposal not to allow offsets in minimum mechanical equipment requirements for investments in dispersant equipment. We find the proposal to allow offsets for investments in In-situ Burn (ISB) equipment (page 63333) to be inconsistent with this position, however. Continuing with the toolbox analogy, why would we need fewer screwdrivers because we added another hammer? All the tools should be available, since we cannot know in advance which ones would be most useful or would provide the greatest environmental benefit in any specific case. The Task Force does not agree with the USCG rationale that mechanical and ISB equipment work in almost identical circumstances and are interchangeable, so that a limited offset is practicable for ISB equipment. While both techniques may require booms and boats, there are more restrictions on the use of ISB, such as weather, population exposure, or the weathering of spilled oil. In addition, fire-boom would not be interchangeable with regular boom for many reasons: cost, limited inventory and availability, specialized handling needs, and the fact that in-situ burning causes fire-boom to fail within an hour, among others.

While there may be areas of the country where ISB could conceivably be approved within a reasonable time frame, this is not always the case. In some regions, guidelines and pre-approved agreements for conducting ISB are in place. However, many of these guidelines are so restrictive

as to virtually ban ISB in all but the rarest of circumstances. In addition, burning in populated areas would not be approved due to public health impacts. Airborne toxics from ISB have not been addressed. To allow a credit in these circumstances is, in effect, allowing a reduction in on-water recovery capability. Option 5 also ignores the fact that ISB may be prohibited even if approved by the FOSC and local counterparts. The ability of citizens and organizations to use the courts to impede or prohibit the use of dispersants and ISB must be recognized in any evaluation of proposals to reduce mechanical recovery capability in favor of those technologies.

The USCG proposes (page 63333) that dispersant operations must begin within 7 hours of a decision to use dispersants, and ISB operations must start within 12 hours of a use decision. Such timelines are reasonable from the perspective of the dispersability or ignitability of oils exposed to the environment, but they imply an expedited timeline with regard to decision-making. To achieve expedited decision-making, Area Contingency Plans should include checklists for the use of dispersants or ISB, as well as any pre-approved procedures developed by the applicable Regional Response Team or Area Committee. Furthermore, vessel and facility contingency plans should include the information necessary to complete dispersant or ISB approval checklists as outlined in Area Contingency Plans.

The USCG proposes (page 63334) that dispersant exercises be added to the PREP schedule. We recommend that ISB exercises also be added to planholders' exercise schedules if they include ISB in their contingency plans. In fact, ISB techniques probably need additional exercise since close coordination between various vessels and considerable maneuvering to properly position the boom are required.

In Alaska, it is possible that dispersants and ISB might be used in those areas pre-approved for such tactics in Prince William Sound and Cook Inlet, but would be a large financial burden for responsible parties in other areas of the state that lack both existing infrastructure and trained personnel to support the required activation timeline. These requirements need to be modified for areas outside of Prince William Sound and Cook Inlet.

The USCG proposes (page 63335) that, consistent with current response equipment paradigms, planholders should use private-sector aircraft for dispersant applications and not count on USCG or other government aircraft. The proposed rules do not take into consideration the limited availability of aircraft in some locations, the volumes of dispersant needed to be stockpiled and the potential "shelf life" of these stockpiles. While we recognize that the rule allows flexibility with regard to dispersant application platforms, including both vessels and aircraft, we are concerned that this prohibition would negate existing agreements in Hawaii and Alaska for dispersant applications that rely on USCG C-130s. The Hawaii arrangement has been in existence four years and proven to be most beneficial. To require Hawaii to meet a CONUS standard is not practical. We formally request an exception for both Alaska and Hawaii. The USCG will implement this rule where pre-approvals exist for either dispersant or ISB use, which means that the agency is already committed to approaching this on an area planning basis. Why not allow the state and industry stakeholders to work with the USCG (or EPA or MMS) in each area to define a strategy tailored to that area's unique needs? Such a strategy might include use of government aircraft where necessary and appropriate.

The USCG would require (page 63335) planholders to have access to aircraft and personnel for visual monitoring of response operations out to 50 nm from shore. As proposed, these monitoring operations should be on scene within 3 hours and be available for up to 3 10-hour periods, and observation personnel should be different from pilots. The Task Force supports these requirements, as long as the required flight time periods take into consideration the need for

refueling. We also note that the requirements do not take into account Alaska's climatic conditions and geographic realities. During winter, areas of the state do not receive enough daylight to achieve the oil spill aerial tracking requirements envisioned. The requirements would have to be modified to account for Alaska's seasonally short or non-existent daylight hours.

The USCG explains (page 63335) that the recommendations in the NPRM regarding amount of fire-boom assumes that each fire boom would last for one day of use. This is unreasonable; fire-boom would probably last for only one use, not for an entire day of use. Tests have shown that fire-boom becomes useless within an hour of initiating burning and must be replaced.

Regarding the various alternatives considered by the USCG, (page 63336) we would have preferred one that requires investment in both ISB and dispersants where pre-approvals exist. We do recommend that the USCG evaluate regional capabilities to respond to worst case spill events during future reviews of response equipment requirements.

We note that the USCG (page 63341) would allow a planholder to reference an OSRO approved by the USCG to have dispersant capability. While we do not disagree with this in concept, we have noted that the National Strike Force Coordination Center has approved OSRO claims of recovery rates higher than 20% without consulting with the COTP where that OSRO operates or without requiring a performance standard for such a claim. We are uncomfortable with this approach, especially if it were applied to OSROs claiming dispersant capability.

The USCG offers (page 63342) to allow Area Committees to claim even greater offsets for investments in ISB in locations where broken ice conditions exist for long time periods. As stated previously, we are opposed to ANY offsets for ISB, but this would be a particularly bad idea where broken ice conditions would interfere with fire-boom deployment.

Thanking you for your consideration of these comments on behalf of the member agencies of the Pacific States/BC Oil Spill Task Force, I remain,

Sincerely yours,

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