



GAO

Report to Selected Members of the  
Congress

August 1993

OIL SPILL  
PREVENTION

Progress Made in  
Developing Alaska  
Demonstration  
Programs



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Resources, Community, and  
Economic Development Division

B-253659

August 5, 1993

Congressional Recipients

Following the 1989 Exxon Valdez oil spill in Alaska's Prince William Sound, the Congress enacted the Oil Pollution Act of 1990 (P.L. 101-380), in part to better ensure the safe transport of crude oil on the nation's waterways. The act established, among other things, demonstration programs to involve local citizens in overseeing the environmental impact of oil terminals and tanker operations in two Alaska locations, Prince William Sound and Cook Inlet. The act called for the creation of a citizen advisory council—whose activities would be funded by the oil industry—at each location. The Congress saw this approach as a possible forerunner for similar programs in other parts of the United States.

Section 5002 (1) of the act requires GAO to report to the President and the Congress, by August 18, 1993, on the effectiveness of the two programs and the handling of funds by the citizen councils. In evaluating the programs' effectiveness, we principally reviewed two factors that the Congress regarded as important: (1) whether the programs increased citizens' involvement with industry and government in dealing with environmental issues and concerns and (2) whether policies and procedures have been established that help develop trust and consensus and foster a successful long-term partnership of these diverse groups. Our analysis of the councils' handling of funds included an assessment of key functions, including travel and contracting, and a review of independent audits performed on the two programs.

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## Results in Brief

The demonstration programs have substantially increased the level of citizens' involvement with the oil industry and with government regulators in environmental oversight of oil terminal and tanker operations. Through various projects and activities, the citizen councils have provided extensive input into matters such as oil-spill contingency plans, tanker navigation and escort procedures, and oil terminal operations. Industry and government agency officials acknowledge that many of the councils' projects and activities have been helpful. For example, both the Prince William Sound and Cook Inlet councils were recognized for their contributions in evaluating the results of oil-spill response drills.

While the demonstration programs have increased citizens' involvement, they have been less effective in establishing policies and procedures that

would (1) help develop trust and consensus among the citizen councils, government, and industry and (2) foster a partnership of these diverse groups to better ensure the long-term success of the programs. The early years of the programs have been marked by considerable dissension or dissatisfaction about such basic issues as what types of projects should be undertaken and how the results of those studies should be communicated to industry or released to the public. The high level of dissension strained relationships and limited progress in gaining consensus on recommendations stemming from the projects and activities undertaken. While some dissension is to be expected in a process that attempts to bring together groups with diverse points of view, the level of dissension between industry and citizens was magnified because effective procedures were not in place for communicating between the groups and resolving disputes.

The councils, industry, and government have recently established some important policies and procedures to improve communication and strengthen the partnership. However, considerable mistrust still exists; this mistrust could affect the groups' ability to operate as effective partnerships. Recently, the Coast Guard—which oversees the programs—established specific program guidelines that may reduce the level of mistrust and better ensure the long-term effectiveness of the programs.

Regarding their handling of funds, both councils appeared to have adequate policies and procedures and a system of internal controls for managing their operations and funds. Our analyses of key functions, such as travel and contracting, did not disclose any material weaknesses. Although we found occasional deviations from policies and procedures, they did not appear to result in abuses or inaccurate reports. A review of several independent audit reports evaluating the two programs' financial activities confirmed our findings. These reports showed no material internal control weaknesses or improprieties.

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## Background

The devastating impact that the Exxon Valdez oil spill had on local communities highlighted the need to involve local citizens in issues affecting the operation of oil terminals and tankers. According to the act, many people believe that complacency on the part of industry and government contributed to that oil spill. The Congress established the

demonstration programs as a way to involve local citizens in a partnership with industry and government to combat this complacency.<sup>1</sup>

Section 5002 of the act provides two methods for establishing the citizen councils. One method, which we refer to as the “prescriptive” option, sets forth specific requirements dealing with matters such as (1) council membership and responsibilities, and the level of funding to be provided by industry; (2) the interaction of federal agencies with the councils; and (3) the establishment of a four-member association of oil industry and government representatives to receive input from the councils and make recommendations about permits, plans, and regulations governing oil terminal and tanker operations. The second method—referred to as the “alternative voluntary” option—allows these requirements to be waived if certain conditions are met.<sup>2</sup> For example,

- the alternative voluntary group has to have a contract with oil terminal and tanker owners and operators to provide its funding and
- the Coast Guard has to certify that the alternative voluntary council (1) fosters the general goals and purposes of section 5002 and (2) is broadly representative of the communities and interests near the oil terminals and in Prince William Sound and Cook Inlet.

Both councils chose to organize under the alternative voluntary option. The Prince William Sound Regional Citizens’ Advisory Council was incorporated in December 1989, before the act was passed. The council had contracted with the Alyeska Pipeline Service Company, which operates the Valdez terminal, to perform certain functions. According to council and industry officials, these functions are similar to those later included in section 5002. The council’s funding level has been at least \$2 million annually since 1990. The Cook Inlet Regional Citizens’ Advisory Council was incorporated in December 1990. The council initially contracted with a consortium of oil companies and tanker operators at an annual funding level of \$600,000 (revised to \$650,000 in mid-1992). Participants in the council’s funding agreement are 10 companies with interests in Cook Inlet. In 1991, 1992, and 1993, both councils were certified as meeting the act’s conditions for the alternative voluntary option.

<sup>1</sup>The term demonstration programs refers to all components of the programs: the councils and their associated committees, industry, and pertinent government regulatory agencies.

<sup>2</sup>Under the “prescriptive” option, the councils and the associations were required to report to the President and the Congress on their activities within 3 years after the enactment of the act. Under the “alternative voluntary” option, that requirement was waived.

Although not required to do so, both councils adopted certain of the act's specifications for councils established under the prescriptive option. For example, both councils adopted that option's list of key duties and responsibilities, such as monitoring oil terminal and tanker operations and reviewing the adequacy of oil-spill contingency plans. Also, the memberships of both councils conform to the membership stipulated under that option. (See app. I for information on the duties of the councils and app. II for information on their memberships.)

## Programs Have Increased Citizens' Involvement but Lack Procedures to Foster Successful Partnerships

The councils' activities and projects have substantially increased the level of citizens' involvement with industry and government. However, government agencies, industry, and the councils involved in the two programs have been less effective in establishing policies and procedures that develop trust and consensus among them and foster a cooperative partnership. Although important improvements have been made recently, considerable mistrust still exists, particularly between industry and the councils. Recently, program participants have taken steps that may help resolve the tensions and better ensure the long-term effectiveness of the programs.

## Programs Have Increased Citizens' Involvement

The increased level of citizens' involvement with government and industry has taken several forms.

- Many projects and activities involve joint participation by citizens, government officials, and industry representatives. For example, in early 1993 a Cook Inlet council subcommittee of industry, government, and citizen representatives was developing equipment packages for local citizens—trained by the subcommittee—to use if an oil spill occurs. In Prince William Sound, council and committee members contributed significantly to an in-depth review of an important oil-spill contingency plan for tankers using the Valdez marine terminal, according to industry representatives. Review work was still ongoing as of June 30, 1993. Industry and regulatory agency members commended both citizen councils for their contributions to agency-sponsored working groups that were formulating new regulations on federal and state requirements for oil-spill prevention and response.
- The councils' open meetings provide a public forum in which industry and government representatives can discuss issues with citizens and council members. For example, an oil company operating in Cook Inlet attended a council meeting to discuss a proposal to change an operating permit for

one of its oil platforms. According to council representatives, this process helped to prevent misunderstandings and mitigated citizens' opposition to the permit change.

- As a matter of policy, some government agencies use the councils to inform citizens of events and to seek their input to improve agency review and oversight functions. For example, the Alaska Department of Environmental Conservation includes the councils in its review process for oil-spill contingency plans, and the Coast Guard advises the councils about the results of oil spill investigations in communities that the councils represent.
- To help stimulate public interest and involvement, the councils have also been actively involved in outreach efforts. To facilitate citizens' participation, the councils advertise their meetings in advance and hold them in different locations throughout the areas they represent. Also, the councils have developed public awareness activities—including speeches and visual presentations at schools and professional and civic organizations—to educate the public on the councils' functions and activities. The Cook Inlet council recently published a document describing oil-spill response methods in layman's terms and outlining how citizens might be affected by these response strategies. The Prince William Sound council is conducting a public information advertising campaign as part of its efforts to keep local citizens informed about oil transportation issues affecting their communities.

Industry and government officials supported the concept of involving citizens in environmental monitoring of oil terminals and tanker operations, and they indicated that many of the councils' activities and projects have been beneficial. The officials said that the councils have provided extensive input on policies for oil-spill prevention and response techniques, tanker navigation and escort procedures, and terminal and facility operations. For example, industry and regulatory agency officials said that the Prince William Sound council's review of oil-spill contingency plans provided invaluable information by relaying the concerns of communities and fishermen. Both councils have actively participated in oil-spill response drills and were recognized by regulatory agency members for their contributions in evaluating the results of those exercises.

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## Effective Procedures Not Established Early on to Foster Successful Partnerships

The interaction between citizens, industry, and government agencies has been marked by significant dissension or dissatisfaction about several basic issues. The issues include the (1) design and scope of council projects, (2) review and release of study results, (3) extent of the councils' role in advocating change, and (4) degree of participation by all key federal government agencies. While some dissension is to be expected when parties with diverse points of view are brought together, the intensity of this dissension was aggravated by the lack of clear policies and procedures for communicating between groups and resolving disputes. Council, industry, and government officials agreed that the high level of dissension significantly strained relationships and limited progress in gaining consensus on recommendations stemming from the projects and activities undertaken. The parties in the process have recently taken several actions to address some of these issues.

A brief description of the lack of procedures and the corresponding problems that developed as a result follows. (See app. III for more details on these issues.)

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## Procedures for Discussing Project Design and Scope

In many cases, industry or agency officials have contended that projects conducted by the councils or consultants they hired unnecessarily duplicated previous studies, used flawed methodology, or employed contractors that were not qualified or were unfamiliar with conditions in the area. Generally, council representatives have strongly disagreed with the validity of these assertions. In several cases, industry officials said that they had discounted study results obtained by consultants whom they believe were unqualified or unfamiliar with local conditions. Also, the scope and timing for projects to be undertaken by the Cook Inlet council, and the corresponding cost of these projects, were major issues of contention with industry. Disagreement on these issues almost led to the dissolution of the council, according to council and industry officials.

These problems might have been avoided if the councils, industry, and government had formalized procedures from their inception for periodically discussing planned and ongoing council projects. The Prince William Sound council has established a written protocol with industry to discuss issues of concern like planned and ongoing projects. However, as of June 30, 1993, the Cook Inlet council did not have a comprehensive set of procedures for such discussions. Key industry and council officials agree that such procedures could increase the acceptance of project



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findings and recommendations and decrease major differences about project methodologies or the duplication of effort.

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## Policies for Reviewing and Releasing Study Results and Resolving Issues

Significant disagreements have developed regarding how the councils have communicated their study findings and recommendations to industry and agencies. Until recently, neither council had written agreements governing the exchange and review of information, the resolution of issues, and the release of research results to the public. In some cases, according to industry and government officials, study results were made available to the public, including the media, without first discussing with industry or applicable regulatory agencies the details of the issues, the accuracy of data, or the validity of conclusions. Industry and agency representatives told us that as a result, they were unprepared to respond to media inquiries. They said that these instances were particularly troublesome when the released information was subsequently found to contain inaccuracies. Industry representatives also said that they thought this method of releasing information sometimes positioned industry and the councils as adversaries.

In April 1993, the Prince William Sound council and Alyeska completed a detailed communication protocol as part of their funding agreement. This protocol establishes a process whereby representatives of industry and the council will meet regularly to discuss and attempt to resolve issues of concern, including problems associated with the review and release of study results.

As of June 30, 1993, industry, government, and the Cook Inlet council had not jointly developed such written protocols. However, a council representative said that, as a matter of internal policy, the council sends draft reports without council endorsement to pertinent industry and government members and requests feedback or comments. Council representatives said that this feedback from industry has not been forthcoming. Council representatives also said that these reports and the feedback on them were important because they provided a basis for later council recommendations. Key members of industry told us that they were confused by the council's procedure, as they were not always sure when information was being forwarded solely for their review and when it was being forwarded as a council-endorsed recommendation that required action by industry. Although council members said that their procedure distinguished recommendations from other information, industry representatives do not believe the procedure is working adequately.

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Prince William Sound industry officials expressed similar confusion about the transmittal of council recommendations and advice. Industry and government officials also said that, in addition to communication protocols to facilitate the transmittal of information, a forum is needed to collectively receive and review the council's recommendations. This body could then compare recommendations with current industry and government policies and practices and determine what actions to take. In early 1993, industry and government in both locations decided to voluntarily establish these forums—patterned after the associations described in the prescriptive option of the act—to help improve overall communication and coordination. As of June 30, 1993, these associations were developing their operating guidelines and had not yet addressed any substantive matters.

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### Agreement on Councils' Lobbying Activities

Industry representatives at both locations generally believe that the councils should provide their advice and recommendations primarily to industry or to regulatory agencies. Conversely, the councils believe that they have the right to advocate their positions with legislative officials and others—a practice that industry defines as lobbying. Until recently, neither group had an agreement that outlined the councils' role in a mutually acceptable way. According to officials from both councils, without an agreement, tensions increased as a result of the opposing views each time the councils participated in an activity that industry found unacceptable.

In August 1992, the Cook Inlet council, as part of its funding agreement with industry, agreed not to engage in any activities referred to as lobbying in its agreement. In April 1993, the Prince William Sound council and Alyeska also developed an agreement on lobbying. However, industry and council members from Cook Inlet and industry representatives from Prince William Sound said that further refinements may be necessary, as the agreements have not yet resolved all of their disagreements about lobbying. Representatives of the Prince William Sound council said that they thought the issue had been resolved.

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### Interaction of Key Federal Agencies With the Councils

Two federal agencies, the U.S. Coast Guard and the Environmental Protection Agency (EPA), have key roles to interact with the citizen councils on issues, partly because of their responsibilities for issuing regulations or permits in the vicinity of the terminal facilities. The Coast Guard has interacted with the councils. For example, it has regularly attended council meetings. It has also allowed representatives from both

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councils to participate in Coast Guard-sponsored working groups, such as a rulemaking committee that discussed requirements for vessels transporting oil. However, another key agency—EPA—has participated minimally in council activities and, according to council representatives, has not always kept the councils well-informed on new and changing permits or regulations. The programs could be adversely affected as a result, because EPA issues several regulations and permits relating to oil terminal operations. Council representatives said they have a responsibility to comment on these issues. They therefore believe it is important that they be made aware of pending new regulations or permits and changes to existing ones to carry out this responsibility.

A provision in section 5002 requires interaction with federal agencies for programs established under the prescriptive option but not for programs established under the alternative voluntary option. The provision requires that federal agencies consult with the councils about regulations, permits, or other pertinent matters relating to the operation of oil terminals before issuing them.

Prince William Sound council members said that while EPA's participation with their council was limited in the early years, the agency's involvement has improved substantially since mid-1992. They said that, as of June 30, 1993, EPA and the Prince William Sound council were completing details of a draft memorandum of agreement to ensure mutually acceptable interaction similar to that required by the act for a council established under the prescriptive option. However, a Cook Inlet council representative said that, as of June 30, 1993, the same kind of agreement had not been established between the Cook Inlet council and EPA, despite the council's past effort to notify EPA of its interest in developing a relationship. An EPA official said that staff resource limitations have affected EPA's ability to be involved more regularly with both councils.

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### Mistrust Continues Between Councils and Industry

Although the recent agreements discussed above may improve communication among groups involved with council activities, the effectiveness of these agreements in developing trust and a partnership among the parties is still uncertain. According to Prince William Sound council members, citizens' trust of industry and government regulatory agencies was shattered as a result of the Exxon Valdez oil spill. They said that the impact of that spill on both people and the environment was staggering, as communities and individuals struggled with economic losses and dislocation resulting from this accident. Prince William Sound council

members also said that they had to build the citizen groups from this foundation of mistrust. Given this low starting point, they believed that significant progress had been made in redeveloping a relationship between industry, citizens, and government. However, government and industry officials said that considerable mistrust still exists between industry and the councils, and they continue to question each other's actions and commitment to building the partnership. These tensions affect the development of a genuine partnership in which the parties can agree to openly address their differences and work to achieve mutually acceptable solutions, according to industry and government officials. Several examples discussed in the following sections illustrate factors that have contributed to the current level of mistrust.

From industry's perspective, the councils are too concerned about the public's perception of their independence. Thus, they develop their own solutions to problems rather than working out joint solutions with industry and government. For example, industry representatives at both locations would prefer that the councils consult with them to develop the scope and methodology to be used in upcoming projects. Industry representatives said that this would help prevent the councils from spending money provided by industry on projects that duplicate existing studies or are likely to be of little public value. The councils maintain that industry's assistance in this area would limit their independence and give the general public the impression that the councils were not distant enough from industry to objectively review its activities. The councils' concern about public opinion is intensified by the fact that they are funded by industry—an issue that the councils believe limits their public credibility.

From the councils' perspective, industry has fostered mistrust in several ways. Council members told us that industry continues to be uncooperative by withholding requested information, such as candid feedback and the analytical data the councils need to perform their duties effectively. For example, Prince William Sound council members and staff said that industry had not provided data on an air quality study to the council even after repeated requests. Council staff said that their consultants' peer review of the study has been stymied by industry's unwillingness to provide data. Industry representatives denied this contention and said that they have provided all available data requested by the council representatives.

## The Coast Guard Has Taken Steps to Establish Communication Procedures Needed to Help Mitigate Future Dissension

In March 1992, the Coast Guard was delegated authority by the Department of Transportation to carry out provisions of the act. Since that time, the Coast Guard has taken several key actions to improve relationships between the councils and industry. For example, the Coast Guard was instrumental in resolving a serious impasse in funding negotiations between industry and the Cook Inlet council in mid-1992 that would likely have led to the council's dissolution. The Coast Guard's efforts to develop certification guidelines for the programs have also been significant. As part of its June 1993 certification guidelines, the Coast Guard has specified that communication procedures and protocols be established to help strengthen the programs and mitigate dissension, particularly between industry and the councils. The Coast Guard also has recently taken the initiative to form association-like organizations in each location in an attempt to provide forums for considering the councils' advice and making necessary policy and procedural changes.

In cooperation with the citizen councils and industry, the Coast Guard began developing initial certification guidelines in July 1992.<sup>3</sup> We reviewed early drafts of the guidelines and suggested several substantive changes to facilitate the development of the partnerships. For example, the early draft guidelines lacked clear criteria for assessing whether the councils foster the goals and purposes of the act. To resolve this problem, we suggested that the Coast Guard clarify the language and include procedures and mechanisms designed to improve communication and the overall success of the partnerships. These procedures would provide for (1) periodic discussions of planned and ongoing projects, (2) appropriate communication of study results, and (3) clear conveyance and disposition of advice and recommendations. All of these procedures could lead to more timely resolution of disputes. We also suggested that the Coast Guard strengthen the language of the guidelines to better ensure that they hold the citizen groups accountable for fostering the goals and purposes of the act.

Coast Guard officials agreed with our suggestions, and in July 1993 they published formal policy guidance in the Federal Register that identified the criteria the Coast Guard will use in making its certification determinations. The Coast Guard expects the new criteria and language to provide an improved framework for evaluating the councils' eligibility for certification.

<sup>3</sup>The first Coast Guard certifications of the programs occurred in 1992 but were made subjectively because certification guidelines did not exist, according to a cognizant Coast Guard official. The President provided the initial certification of each program in 1991.

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## Councils Were Handling Funds Appropriately

Generally, both councils had implemented policies, procedures, and a system of internal controls to manage their operations and funds and to prevent the misuse of funds. The councils appeared to have reasonable policies and practices to properly control travel and contracting expenses and to ensure that these expenses were appropriately processed and paid. We noted minor errors and omissions and deviations from policies and procedures on travel expenses and contracting documentation, but these were not significant in terms of abuses or inaccurate reports. Both councils have conflict-of-interest policies and processes that should prevent contracting abuse.

Audits performed on both councils' financial activities during the past 2 years by oil industry and independent certified public accounting firms showed no material internal control weaknesses or improprieties. Minor concerns identified in each of the audits appear to have been addressed by both councils through changes in their policies and procedures. (App. IV discusses the steps we performed to evaluate the councils' handling of funds.)

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## Conclusions

Many positive changes have resulted from the demonstration programs. The level of citizens' involvement in environmental oversight at the two Alaska locations has increased substantially since the Exxon Valdez oil spill, and the citizen councils have made significant contributions in the areas of oil-spill prevention and cleanup. Key industry and government officials with whom we spoke supported the philosophy of having citizens closely involved with industry and government in this manner. However, the programs have not yet evolved into the effective partnerships of citizens, industry, and government that the Congress had hoped to create under the Oil Pollution Act of 1990. When diverse groups with different points of view must collaborate, disagreement is inevitable. Such collaboration is even more difficult after a disaster of the magnitude of the Exxon Valdez spill. The disagreements that marked the early relationships—and the subsequent levels of dissension and mistrust that remain—have slowed the development of the partnerships and limited further improvements to environmental oversight and safety. In addition, participation by a key federal agency—EPA—is still lacking in one of the councils.

Recent actions taken by the involved parties to improve the partnership are encouraging and should lead to a better relationship among the councils, industry, and government. However, until more experience with

the new protocols and procedures has been acquired, it would be premature to conclude that communication and trust will improve sufficiently to ensure the long-term success of the programs. If the programs are successful, they should prove useful models for further program expansion. However, no requirement currently exists to ensure that the Congress receives periodic reports on the status of the model programs.

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## Recommendations

We recommend that the Secretary of Transportation direct the Commandant of the Coast Guard to report annually to the Congress on (1) the progress of the Alaska demonstration programs in achieving the act's purposes and (2) whether the demonstration programs have reached such a level that they should be used as models if the Congress considers expanding the programs to other locations.

We also recommend that the Secretary intercede, if necessary, directly with the EPA Administrator to encourage the establishment of a memorandum of agreement on EPA's participation in the Cook Inlet program.

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## Agency Comments

We showed a draft of this report to the Chief, Marine Environmental Protection Division, at U.S. Coast Guard headquarters and other key Coast Guard officials in Alaska; key officials in the Alaska Department of Environmental Conservation; key officials representing the oil industry in Alaska's Cook Inlet and Prince William Sound; and the executive directors and council presidents for the two citizen councils. Generally, these officials agreed with the facts in this report. However, these officials expressed different opinions about the relative need for an effective partnership among industry, government, and the councils to achieve greater safety in transporting oil in Alaska waters. Officials from the Prince William Sound council said that developing an effective partnership is not a primary goal for these programs. Rather, the council's role is to ensure that measures are adopted to promote greater safety in transporting oil, and a stronger partnership is not necessary to ensure that greater safety is achieved. Other officials, including those from the Coast Guard, Alaska Department of Environmental Conservation, and industry, disagreed. In their view, an effective partnership is needed to encourage open, candid communication and minimize polarization on potentially contentious issues. We believe that while an effective partnership does not guarantee greater safety in transporting oil, it substantially increases

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rapport and understanding among the parties involved and provides a much better basis for achieving positive results.

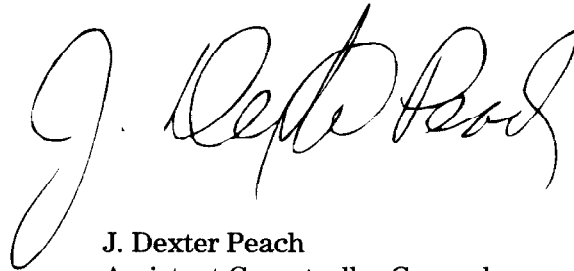
As agreed with the authorizing committees in the Senate and the House of Representatives, we did not obtain written agency comments on a draft of this report.

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We conducted our work between June 1992 and June 1993 in accordance with generally accepted government auditing standards. During that time, we contacted numerous federal and state officials, council members and staff, and representatives of industry. We also reviewed and analyzed pertinent data and studies. Details of our scope and methodology are provided in appendix IV.

We are sending copies of this report to the Secretary of Transportation; the Commandant, U.S. Coast Guard; the Administrator, Environmental Protection Agency; the Director, Office of Management and Budget; and other interested parties. We will also make copies available to others on request.

This work was performed under the direction of Kenneth M. Mead, Director, Transportation Issues, who can be reached at (202) 512-3834. Major contributors to this report are listed in appendix V.



J. Dexter Peach  
Assistant Comptroller General



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List of Recipients

The Honorable Frank R. Lautenberg  
Chairman

The Honorable Alfonse M. D'Amato  
Ranking Minority Member  
Subcommittee on Transportation  
Committee on Appropriations  
United States Senate

The Honorable Ernest F. Hollings  
Chairman

The Honorable John C. Danforth  
Ranking Minority Member  
Committee on Commerce, Science,  
and Transportation  
United States Senate

The Honorable Max S. Baucus  
Chairman

The Honorable John H. Chafee  
Ranking Minority Member  
Committee on Environment and  
Public Works  
United States Senate

The Honorable Daniel Patrick Moynihan  
Chairman

The Honorable Bob Packwood  
Ranking Minority Member  
Committee on Finance  
United States Senate

The Honorable Bob Carr  
Chairman

The Honorable Frank R. Wolf  
Ranking Minority Member  
Subcommittee on Transportation  
Committee on Appropriations  
House of Representatives

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The Honorable John D. Dingell  
Chairman  
The Honorable Carlos J. Moorhead  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

The Honorable Lee H. Hamilton  
Chairman  
The Honorable Benjamin A. Gilman  
Ranking Minority Member  
Committee on Foreign Affairs  
House of Representatives

The Honorable W.J. (Billy) Tauzin  
Chairman  
The Honorable Howard Coble  
Ranking Minority Member  
Subcommittee on Coast Guard and  
Navigation  
Committee on Merchant Marine and  
Fisheries  
House of Representatives

The Honorable George Miller  
Chairman  
The Honorable Don Young  
Ranking Minority Member  
Committee on Natural Resources  
House of Representatives

The Honorable Norman Y. Mineta  
Chairman  
The Honorable Bud Shuster  
Ranking Minority Member  
Committee on Public Works and  
Transportation  
House of Representatives

**The Honorable George E. Brown, Jr.  
Chairman**

**The Honorable Robert S. Walker  
Ranking Minority Member  
Committee on Science, Space, and  
Technology  
House of Representatives**

**The Honorable Dan Rostenkowski  
Chairman**

**The Honorable Bill Archer  
Ranking Minority Member  
Committee on Ways and Means  
House of Representatives**

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**Abbreviations**

BPX	British Petroleum
EMC	Environmental Monitoring Committee
EPA	Environmental Protection Agency
GAO	General Accounting Office
PROPS	Prevention, Response, Operations and Safety Committee
RFP	request for proposal

# Key Duties Adopted by the Prince William Sound and Cook Inlet Regional Citizen Advisory Councils

Both councils have elected to adopt key duties specified in the Oil Pollution Act of 1990 as mandatory for councils established under the prescriptive option. At Prince William Sound, tasks have been completed or are under way in each key duty area. At Cook Inlet, tasks have been completed in most areas and plans are under way to start tasks in the remaining areas in 1993. Table I.1 shows the key duties specified in the act and the group responsible for taking action.

**Table I.1: Duties Adopted by the Prince William Sound and Cook Inlet Councils**

<b>Key duties identified in section 5002 of the Oil Pollution Act of 1990 (Subsections of the act are identified in parentheses)</b>	<b>Group or committee responsible at the Prince William Sound council</b>	<b>Group or committee responsible at the Cook Inlet council</b>
Key duties identified for the councils		
Provide advice and recommendations on policies, permits, and site-specific regulations for terminal and tanker operations and maintenance (d)(6)(A)	Council	Council
Monitor environmental impacts of the operation of terminals and tankers (d)(6)(B)	Council	Council
Monitor terminals and tanker operations and maintenance that may affect the environment near terminals (d)(6)(C)	Council	Council
Review the adequacy of oil-spill prevention and contingency plans for terminals and tankers (d)(6)(D)	Council	Council <sup>a</sup>
Provide advice and recommendations on port operations, policies, and practices (d)(6)(E)	Council	Council
Key duties identified for the committees		
Advise council on monitoring strategy to permit early detection of environmental impacts of terminal and tanker operations (e)(2)(A)	TOEM and SAC	EMC
Develop monitoring programs (e)(2)(B)	TOEM and SAC	EMC
As warranted, select and contract with scientific institutions to perform monitoring projects (e)(2)(C)	TOEM and SAC	EMC <sup>a</sup>
As warranted, review oil-spill prevention and contingency plans in light of new technological developments and changed circumstances (f)(2)(A)	OSPR	PROPS <sup>a</sup>
Monitor periodic drills and testing of contingency plans (f)(2)(B)	OSPR	PROPS
Study wind and water currents and other environmental factors that would be useful for oil-spill prevention or response (f)(2)(C)	OSPR	PROPS
Identify highly sensitive areas that may require special protection during oil spills (f)(2)(D)	OSPR	PROPS

(continued)

**Appendix I  
Key Duties Adopted by the Prince William  
Sound and Cook Inlet Regional Citizen  
Advisory Councils**

<b>Key duties identified in section 5002 of the Oil Pollution Act of 1990 (Subsections of the act are identified in parentheses)</b>	<b>Group or committee responsible at the Prince William Sound council</b>	<b>Group or committee responsible at the Cook Inlet council</b>
Monitor developments in oil-spill prevention, containment, response, and clean-up technology (f)(2)(E)	OSPR	PROPS & EMC
Periodically review port organization, operations, and incidents, and the adequacy of vessel traffic systems (f)(2)(F)	POVTS	PROPS
Periodically review standards for tankers bound for, loading at, or exiting from oil terminals (f)(2)(G)	POVTS	PROPS

Legend

EMC = Environmental Monitoring Committee  
 OSPR = Oil Spill Prevention and Response Committee  
 POVTS = Port Operations and Vessel Traffic Systems Committee  
 PROPS = Prevention, Response, Operations and Safety Committee  
 SAC = Scientific Advisory Committee  
 TOEM = Terminal Operations and Environmental Monitoring Committee

\*Tasks will be initiated in 1993.

# Representation on the Prince William Sound and Cook Inlet Regional Citizen Advisory Councils

The Prince William Sound council includes at least one representative from each group that the Oil Pollution Act of 1990 specifies must be represented on councils established under the prescriptive option. The Cook Inlet council has one representative from each of these groups except for two—the environmental group and the Environmental Protection Agency. Table II.1 shows the groups represented on each council.

**Table II.1: Representation on the Prince William Sound and Cook Inlet Councils**

Representation identified in section 5002 of the Oil Pollution Act of 1990	Present on the Prince William Sound council? <sup>a</sup>	Present on the Cook Inlet council? <sup>a</sup>
Full voting members		
Commercial fishing	Yes	Yes
Aquaculture	Yes	Yes
Alaska native	Yes	Yes
Environmental	Yes	No <sup>b</sup>
Recreational	Yes	Yes
Alaska Chamber of Commerce	Yes	Yes
Municipalities and communities	Yes(13) <sup>c</sup>	Yes(7) <sup>d</sup>
Ex-officio members		
Alaska Department of Environmental Conservation	Yes	Yes
Alaska Department of Fish and Game	Yes	Yes
Alaska Department of Natural Resources	Yes	Yes
Alaska Division of Emergency Services	Yes	Yes
U.S. Bureau of Land Management	Yes	Yes
U.S. Coast Guard	Yes	Yes
U.S. Environmental Protection Agency	Yes	No <sup>e</sup>
U.S. Forest Service	Yes	Yes
U.S. National Oceanic and Atmospheric Administration	Yes	Yes

<sup>a</sup>All categories designated with a "Yes" have one representative except as noted by numbers in parentheses.

<sup>b</sup>Environmental representative resigned effective September 11, 1992.

<sup>c</sup>Includes at least one representative from each of the following entities: Community of Chenega Bay, Community of Tatitlek, Cordova, Homer, Kenai Peninsula Borough, Kodiak, Kodiak Peninsula Borough, Kodiak Village Mayors Association, Seldovia, Seward, Valdez (2), and Whittier.

<sup>d</sup>Includes one representative from each of the following entities: Anchorage, Homer, Kenai, Kenai Peninsula Borough, Kodiak, Kodiak Peninsula Borough, and Seldovia.

<sup>e</sup>The council provides for EPA participation, but as of June 30, 1993, no EPA representative has participated with the council.



# Problems Experienced With the Partnership and Procedures Implemented

It is not surprising that a process bringing together such diverse points of view contains some degree of dissension, and during our review we identified several areas of substantive disagreement and problems that have occurred since the demonstration programs began. The absence of formalized policies and procedures governing interactions among citizens, industry, and government contributed to the severity of this dissension. If the programs had developed policies to facilitate communication among all of the parties earlier, they might have prevented some of the misunderstanding that occurred. Recent actions have been taken by the programs' participants to address some of these issues. However, many people with whom we discussed the programs believe that the level of trust among the partners is not sufficiently developed to ensure the long-term success of the programs.

Several key mechanisms—which will likely improve trust and consensus in the long term—were absent from the programs throughout most or all of their development. A brief description of these and the corresponding problems that developed follows.

## Procedures for Discussing Project Design and Scope

In many cases, industry or agency officials contended that projects conducted by the councils or consultants they hired unnecessarily duplicated previous studies, used flawed methodology, or employed contractors that were not qualified or were unfamiliar with conditions in the area. Generally, council representatives strongly disagreed with the validity of these assertions. In several cases, industry officials said that they had discounted study results obtained by consultants whom they believed were unqualified or unfamiliar with local conditions. Also, the scope and timing for projects to be undertaken by the Cook Inlet council, and the corresponding cost of these projects, were major issues of contention with industry. These issues almost led to the dissolution of the council, according to council and industry officials. For example, in our discussions with representatives of Cook Inlet industry, reference was regularly made to one early report completed by a consultant these representatives considered to be unfamiliar with the conditions in the area. This report contained numerous recommendations that industry members said they did not accept because they believed the recommendations were unsuitable for the local conditions. In other instances, industry members believed that the recommendations duplicated already existing work. Cook Inlet council representatives maintained that the report is worthy and that many of its recommendations are sound. As of June 30, 1993, the council members

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were continuing to use the report and study its recommendations for council endorsement.

According to one Cook Inlet industry representative, industry's concerns about the cost of Cook Inlet council projects and the validity of their study results also affected discussions of funding levels for ongoing and future projects. The most recent funding negotiations between industry and the council lasted for almost 7 months. According to a council representative, the council was almost dissolved before an agreement was finally reached with industry. Key industry sources said that the impasse stemmed in part from industry's belief that the council had previously relied on consultants too much, had chosen inappropriate consultants, or had undertaken projects that did not produce information useful to industry.

Representatives of industry also said that the council had tried to undertake too many projects simultaneously and that the council needed to set priorities for the projects over a longer period of time rather than demand funding for all of them in the immediate year's budget. In any case, the council's activities during this time were significantly curtailed due to preoccupation with the negotiations. The council's Executive Director said that the majority of her time and a great deal of the other council members' time was spent trying to resolve the funding issue. Some council representatives said that this emphasis on funding limited the time available to focus on substantive issues related to achieving the council's mission.

These problems might have been avoided if the councils, industry, and government had formalized procedures from their inception for periodically discussing planned and ongoing council projects. The Prince William Sound council has established a written protocol with industry to discuss issues of concern like planned and ongoing projects. However, as of June 30, 1993, the Cook Inlet council did not have a comprehensive set of procedures for such discussions. Key industry and council officials agree that such procedures could increase the acceptance of project findings and recommendations and decrease major differences about project methodologies or the duplication of effort. A recent example illustrates the value of such a process. As part of the 1993 Prince William Sound funding negotiations, representatives of Alyeska and the citizen council met to discuss current and planned projects. Through these meetings, industry representatives suggested changes in project scope and methodology, identified those projects they believed were unnecessary, and suggested additional projects that the citizens might wish to undertake. Both Alyeska and council representatives said that this meeting

was extremely useful and productive in facilitating agreement and understanding. According to a Cook Inlet representative, at least one representative from the council attends board meetings of a cooperative of oil companies to update them monthly on the council's projects. While this practice is useful, the council staff believe that further interaction and communication is necessary to facilitate the partnership.

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## **Policies for Reviewing and Releasing Study Results and Resolving Issues**

Significant disagreements have developed about how the councils have communicated their study findings and recommendations to industry and agencies. Until recently, neither council had written agreements governing the exchange and review of information, resolution of issues, and release of research results to the public. In some cases, according to industry and government officials, study results were made available to the public, including the media, without first discussing with industry or applicable regulatory agencies the details of the issues, the accuracy of data, or the validity of conclusions. Industry and agency representatives told us that, as a result, they were unprepared to respond to media inquiries. They said that these instances were particularly troublesome when the released information was subsequently found to contain inaccuracies. For example, one council evaluated a state agency's performance during an oil-spill drill and publicly released a draft report without first obtaining comments from the agency. According to a state official, this report was sharply critical of the agency and was later found to contain inaccurate information that damaged the agency's reputation and its relationship with the council. The official said that although corrections were later made and the report was released again, he believed the damage had already been done. Industry representatives also said that they believed this method of releasing information sometimes positioned industry and the councils as adversaries.

In April 1993, the Prince William Sound council and industry completed a detailed communication protocol as part of their funding agreement. This protocol establishes a process whereby representatives of industry and the council will meet regularly to discuss and attempt to resolve issues of concern, including problems associated with the review and release of study results. The stated goal of this process is to facilitate the exchange of information and advice, encourage consensus, and promote nonadversarial resolution of differing opinions before these opinions are communicated to federal or state agencies. However, this protocol is effective only until April 1994. At that time it will be reevaluated by industry and the council and renegotiated if it is not working satisfactorily.

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As of June 30, 1993, industry, government, and the Cook Inlet council had not jointly developed such a written protocol. However, a council representative said that, as a matter of internal policy, the council sends draft reports without the council's endorsement to pertinent industry and government members and requests feedback or comments. Council representatives said that this feedback from industry has not been forthcoming. When comments are received, a council representative said, the contractor generally responds to the comments in the final draft of the report, which is then re-released to the same group that received the draft. Council representatives also said that these reports and the feedback on them were important because they provided a basis for later council recommendations. Key members of industry told us that they were confused by the council's procedure as they were not always sure when information was being forwarded solely for their review and when it was being forwarded as a council-endorsed recommendation that required action by industry. Although council members said that their procedure distinguished recommendations from other information, industry representatives do not believe the procedure is working adequately.

Prince William Sound industry officials expressed a similar confusion about the transmittal of council recommendations and advice. Industry and government officials also said that, in addition to communication protocols to facilitate transmittal of information, a forum is needed to collectively receive and review the council's recommendations. This body could then compare the recommendations with current industry and government policies and practices and determine what actions to take. The act's prescriptive option for establishing demonstration projects included such a forum—called an association—to provide a formal means for discussing and acting on council recommendations about permits, plans, and regulations governing oil tanker and terminal operations. The Prince William Sound and Cook Inlet programs, both established under the alternative voluntary option, did not include such an association as part of their program structures. Without it, the councils had to work individually with industry and regulatory agencies. For the Cook Inlet council, this meant consulting with as many as 10 different oil companies as well as the agencies. According to a key Cook Inlet council representative, the council found it difficult to consistently (1) obtain the collective perspectives and views of all applicable organizations to ensure timely resolution of issues or (2) receive responses to the advice and recommendations provided. In early 1993, industry and government in both locations decided to voluntarily establish these forums—patterned after the associations described in the act—to help improve overall communication and

coordination. As of June 30, 1993, these associations were developing their operating guidelines and had not yet addressed any substantive matters.

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## **Agreement on Councils' Lobbying Activities**

Industry representatives at both locations generally believe that the councils should provide their advice and recommendations primarily to industry or to regulatory agencies. Conversely, the councils believe that they have the right to advocate their positions with legislative officials and others—a practice that industry defines as lobbying. Until recently, neither group had an agreement that outlined the councils' roles in a mutually acceptable way. According to officials from both councils, without an agreement, tensions increased as a result of the opposing views each time the councils participated in an activity that industry found unacceptable.

In August 1992, the Cook Inlet council, as part of its funding agreement with industry, agreed not to engage in any activities referred to in its agreement as lobbying. Specifically, the agreement provided that the council would not use industry funding for activities defined as lobbying by federal law, Alaska state law, or by the by-laws of the council to influence the outcome of legislative or political activities. The agreement, however, ends when the funding contract expires in December 1994. At that time, the parties may choose to renegotiate the lobbying agreement.

In April 1993, the Prince William Sound council and Alyeska also developed a lobbying agreement. This agreement included specific provisions permitting some forms of advocacy, such as grassroots lobbying of the general public and other public communication with government officials about the adoption, repeal, or modification of administrative regulations. This agreement expires when the Alaska legislature's 1996 regular session adjourns.

However, industry and council members from Cook Inlet and industry representatives from Prince William Sound said that further refinements may be necessary to resolve all of their disagreements about lobbying. Representatives of the Prince William Sound council said that they believed the issue had been resolved.

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## **Interaction of Key Federal Agencies With the Councils**

Two federal agencies, the U.S. Coast Guard and the Environmental Protection Agency (EPA), have key roles to interact with the citizen councils on issues, partly because of their responsibilities for issuing regulations or permits in the vicinity of the terminal facilities. The Coast

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Guard has interacted with the councils. For example, it has regularly attended council meetings. It has also allowed representatives from both councils to participate in Coast-Guard-sponsored working groups, such as a rulemaking committee that discussed requirements for vessels transporting oil. However, another key agency—EPA—has participated minimally in council activities and, according to council representatives, has not always kept the councils well informed on new and changing permits or regulations. As a result, the programs could be adversely affected, because EPA issues several regulations and permits relating to oil terminal operations. Council representatives said they have a responsibility to comment on these issues and believe it is important that they are made aware of pending new regulations or permits and changes to existing ones to carry out this responsibility. For example, a council representative said there were occasions when EPA informed the Prince William Sound council of a permit change late in the process, providing the council with little time to comment on the issue.

EPA has participated much less with the Cook Inlet council than it has with the Prince William Sound council. EPA informed us and the Cook Inlet council that it was unable to participate with this council because of limited staff resources. An EPA official said that EPA had given a priority to providing an ex-officio member to the Prince William Sound council because of the greater potential for problems in that area—because of the volume and sensitivity of the resource being transported in Prince William Sound. This same EPA official also said, in June 1993, that efforts are being made to have an EPA staff member participate more regularly with the Cook Inlet council. However, a Cook Inlet council representative said that they had no knowledge of EPA efforts in this area.

A provision in section 5002 requires such interaction for programs established under the prescriptive option but not for programs established under the alternative voluntary option. The provision requires that federal agencies consult with the councils about regulations, permits, or other pertinent matters relating to the operation of oil terminals. Coast Guard officials said that in the absence of such a requirement, no means are available for them to force agencies to interact with the councils before issuing permits or regulations.

Prince William Sound council members said that while EPA's participation with their council in the early years was limited, the agency's involvement has improved substantially since mid-1992. They said that, as of June 30, 1993, EPA and the Prince William Sound council were completing details of

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a draft memorandum of agreement to ensure mutually acceptable interaction similar to that the act requires for a council established under the prescriptive option. This agreement stipulates that certain protocols will be followed regarding EPA's attendance at council meetings, the forwarding of pertinent correspondence between the parties, and communication among the parties on regulatory permit and enforcement practices. According to a Cook Inlet council representative, the same kind of agreement had not been established between the Cook Inlet council and EPA despite the council's past effort to notify EPA of its interest in developing a relationship. However, one official said that if the Cook Inlet council were to initiate a request for a memorandum of agreement with EPA like that being established between the Prince William Sound council and EPA, they would be willing to make such an agreement.

# Scope and Methodology

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## Effectiveness of the Program

To address the effectiveness of the two demonstration programs, we contacted numerous officials from Coast Guard headquarters in Washington, D.C., and Marine Safety Offices in Anchorage and Valdez, Alaska; the Environmental Protection Agency; the National Oceanic and Atmospheric Administration; the Alaska Departments of Environmental Conservation and Fish and Game; the two regional citizen advisory councils; Prince William Sound and Cook Inlet oil industry representatives; and members of environmental special interest groups in south central Alaska. We obtained and reviewed council reports on selected projects and obtained views on them from pertinent council, industry, and government sources; compared tasks set forth in the act with actual projects completed or planned by the councils; discussed with the Coast Guard its process for certifying councils; examined the councils' practices and policies for communicating the results of their work; and obtained the views of various special interest groups on the effectiveness of and improvements needed in council operations. We also addressed several legal questions regarding the councils' and the Coast Guard's authorities and responsibilities under the act.

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## Handling of Funds

To determine whether the two programs were properly handling program funds, we assessed policies, practices, and internal controls for key functions, including travel, contracts, and cash disbursement. We evaluated conflict-of-interest policies and procedures for council members. We reviewed financial reports and audits of council operations and fund management (see below for a list of these reports); interviewed program staff responsible for maintaining internal controls and accounting functions; obtained selected travel vouchers and tested, on a limited basis, the propriety of expenses claimed; and reviewed consultants' contracts for projects to determine whether contracts were awarded using the councils' internal contracting standards and practices. We did not perform an audit of the councils' financial statements. We reviewed all audit reports performed on the two programs.

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## External Audit Reports

As of December 31, 1992, three audits had been conducted of the Prince William Sound council. KPMG Peat Marwick conducted an audit of the financial statements for the years ending December 31, 1990 and 1991. British Petroleum (BPX) performed an internal audit (on behalf of Alyeska Pipeline Service Company) for the period ending November 1991. KPMG issued two audit reports, dated July 26, 1991, and May 8, 1992, on the Prince William Sound council's financial statements. The reports included



audits of the balance sheets and the related statements of revenues, expenses, and changes in fund balance and cash flows. The audits also included a review of the internal control structure and other operational matters. BPX performed a contract compliance audit of the Prince William Sound council for the period February 1990 to November 30, 1991. The audit was performed to ensure that funds provided by Alyeska were used in accordance with the terms of the Prince William Sound council's contract with Alyeska. The audit also included a review of the council's system of internal controls to ensure that the funds were used in an efficient and effective manner.

As of December 31, 1992, two audits had been conducted of the Cook Inlet council. A local certified public accounting firm—Obendorf, Tuter & Lambe—conducted an audit of the financial statements for the year ending December 31, 1991; and TESORO performed an internal audit (on behalf of Cook Inlet Spill Response, Inc.) and issued a report on September 30, 1992. Obendorf, Tuter & Lambe issued an audit report, dated June 4, 1992, on the Cook Inlet council's financial statements. This included an audit of the balance sheet and the related statements of revenues, expenses, and changes in fund balance and cash flows. The audit also included a review of the internal control structure and other operational matters.

## Travel Expenses

In reviewing travel expenses for each council, we

- discussed travel policies and procedures with the councils' executive directors and executive administrative assistants;
- reviewed the councils' policies for approval and reimbursement of travel;
- recorded the dollar range and total amounts of vouchers submitted by each staff member;
- determined whether each voucher submitted and paid was signed by the traveler and approved by the executive director or appropriate supervisor;
- used a "reasonable person" criterion to determine whether individual voucher expense items appeared appropriate given the circumstances of the travel undertaken;
- determined whether receipts were included for all travel expenses;
- reviewed selected travel vouchers from the Prince William Sound council submitted and paid for the period January through September 1992 (totaling 134 vouchers submitted by 31 council staff, including full-time office staff, council members, and committee members);

- reviewed a 1992 internal audit report prepared by BPX (on behalf of Alyeska) that, in part, covered certain travel expenses and policies of the Prince William Sound council;
- reviewed all travel vouchers from the Cook Inlet council submitted and paid for the period January through August 1992 (totaling 77 vouchers submitted by 25 council staff members, including full-time office staff, council members, and committee members); and
- reviewed a study performed by TESORO (the key funding source for the Cook Inlet council) on the council's 1991 expenses and other selected areas.

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## Contract Reviews

In performing our review of contracts, we

- discussed contracting policies and procedures with one or more of the following council representatives: the councils' executive directors, one council's deputy executive director, the councils' executive administrative assistants, and the staff assistants for the standing committees;
- reviewed the councils' policies for contracting;
- recorded relevant details related to each contract (i.e., contract value and date, contractor selected, sponsoring committee, number of requests for proposal (RFP) sent out, number of proposals received, payment terms, evaluation criteria used, etc.);
- determined whether the councils conducted their contracting activities in accordance with their policies and procedures;
- reviewed the general files and committee files for all of the contracts let by the Cook Inlet council (11 contracts in total), including a review of documentation for two council contracts, three Environmental Monitoring Committee (EMC) contracts, four Prevention, Response, Operations and Safety (PROPS) committee contracts, and two jointly held contracts—one held by PROPS and the council and one by PROPS and EMC; and
- reviewed the general contracting files for 15 selected contracts let by the Prince William Sound council before October 1992, including a review of documentation for these contracts.

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