



Alaska Native Interests

Public input needed to safeguard state protections: Alaska's oil spill prevention and response standards at risk

Background:

Alaska Department of Environmental Conservation (ADEC) recently opened a public scoping process to solicit comments and input from stakeholders, the public, and industry on the oil discharge prevention and contingency plan regulations (18 AAC 75, Article 4) and statutes relevant to contingency planning (AS 46.04).¹

A contingency plan (c-plan) is a document that contains all the details about preventing and responding to emergencies. C-plans demonstrate that enough equipment and personnel are available to respond in case of an oil spill. Owners and operators of facilities or tank vessels are required to submit their c-plans to ADEC prior to starting operation and for regular review. Regulators review the c-plan, and if it meets applicable statutes (laws) and regulations, the plan gets approved. It is in the contingency planning documents – and only in these documents – that industry demonstrates to the State and the public that planning and resources are available to prevent and respond to oil spills.

Preventing an oil spill from occurring in the first place is the most effective strategy to protecting human health and the environment. If an oil spill occurs, however, it is necessary that a systematic and well-organized approach to contain, control, and clean up be planned ahead of time so it can be implemented quickly. C-plans serve as a contract from industry to the State, acting as an insurance policy to the citizens that their interests are being protected in both spill prevention and response preparedness.

The world-class oil spill prevention and response system for the Valdez Marine Terminal and associated tankers is a direct result of post-Exxon Valdez spill laws and regulations designed to protect Alaskans and our environment, as well as commercial and sport fishing, aquaculture, recreation, tourism, subsistence, and cultural interests.² The 1990 Alaska Oil Spill Commission Report, which assessed the causes of the Exxon Valdez oil spill, states, "The notion that safety can be ensured in the shipping industry through self-regulation has proved false and should be abandoned as a premise for policy. Alert regulatory agencies, subject to continuous public oversight, are needed to enforce laws governing the safe shipment of oil."³ Industry has shown they have been able to meet or exceed current regulatory requirements, and has demonstrated a commitment to the environment through safer operations, while operating profitably for the last 30 years.

Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) has concerns that the current review and reform is an effort to roll back regulations in order to cut costs for the oil industry, effectively

¹ <https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=195806>

² <http://bit.ly/LegislativeIntent>

³ <http://www.evostc.state.ak.us/index.cfm?FA=facts.details>

shifting the burden from oil industry to the people, fish, wildlife, environment, and to the many industries, as well as cultural practices, which rely on them. A concern voiced by ADEC is that the regulations governing c-plans are long, making compliance burdensome.⁴ However, the length of the regulations is to provide details for the wide variety of operations, including crude tankers, non-crude tankers and barges, crude oil terminals, non-crude terminals, oil and gas exploration facilities, production facilities, pipelines, and railroad tank cars. Many of the details in c-plan regulations were adopted over time to provide guidance and predictability to industry. There is no “one size fits all” plan; each plan is only as long as it needs to be to include enough details on how prevention and response actions are to be carried out so that there is no ambiguity. The message the State is currently sending to Alaskans is clear: the long-term health of Alaska's coastal communities is secondary to the oil industry's bottom line.

Public input is needed to strongly oppose any legislative or regulatory changes that would erode oil spill prevention and response standards, increase the risk of a catastrophic spill, or demonstrate a return of the complacency on the part of the oil industry and regulators that Congress determined to be a primary cause of the Exxon Valdez oil spill.

We encourage you to make public comment in support of strong regulations that protect our communities, coastlines, subsistence food sources, and archeological sites from oil pollution.

Please review the extensive resources available at <http://www.pwsrcac.org/regulatoryreform/> for further details on contingency plans and the current public scoping process.

How This Impacts Alaska Native Interests:

PWSRCAC is concerned about the impact reduced regulations could have on Native villages, subsistence food and other natural resources, and cultural heritage rights. We have compiled the following notes to assist individuals and entities in crafting comments for ADEC that address these particular concerns.

Any weakening of oil spill prevention and response capabilities could have a devastating impact on Native lands, including traditional subsistence gathering areas and cultural activities.

Risk to fish, marine mammals, and birds:

An estimated 250,000 seabirds, 2,800 sea otters, 300 harbor seals, 250 bald eagles, up to 22 killer whales, and billions of salmon and herring eggs died because of the Exxon Valdez oil spill.⁵ We share our habitat with these animals, which are already impacted by other threats like ecosystem change. Many of them are part of a subsistence lifestyle. It can take decades for wildlife populations to recover after a large spill.

⁴ <https://vimeo.com/325737727>

⁵ <http://www.evostc.state.ak.us/%3FFA=facts.QA>

The Exxon Valdez and Deepwater Horizon oil spills both resulted in widespread fishery closures. Impacts of oil in the ecosystem disrupted some fisheries long term. The herring population in Prince William Sound never recovered, which some say is a direct result of the 1989 spill.⁶ A report from Sea Grant details some of the ways fish and marine ecosystems are disrupted by oil:

<http://masgc.org/oilscience/oil-spill-science-fish-impacts.pdf>

A reduction in response equipment and trained personnel could weaken oil spill response protection of Environmentally Sensitive Areas (ESA's) such as sensitive fish rearing habitat, salmon streams, and hatcheries. ESA's often have special procedures for protections listed in c-plans.

Food safety and traditions:

Oil in the water makes fish, shellfish, marine mammals, and other marine foods possibly unsafe to eat. After the Exxon Valdez oil spill, subsistence harvest declined between 9-77% in 10 villages within Prince William Sound, Cook Inlet, and Kodiak.⁷ After the Deepwater Horizon oil spill in the Gulf of Mexico, self-reported consumption of local seafood decreased by 50%.⁸ Local subsistence foods is an important part of community life and food security for many rural villages.

PWSRCAC emphasizes mechanical recovery as the best way to remove spilled oil from water. Dispersants are chemicals which move oil from the water's surface to spread throughout the water column. This theoretically reduces impact on animals at the surface, such as birds and otters, but results in an *increased* impact on fish and other species in the water column. Dispersants are highly toxic, and oil mixed with dispersants is more toxic than oil alone.⁹ A continued emphasis on mechanical recovery is important to protect marine food sources.

Long term impacts of oil spills to fish:

Oil that lingers in the environment can have toxic effects on fish species at much lower levels than previously thought, as low as 10 parts per billion. A PWSRCAC-sponsored study looked at the effects of very low levels of crude oil exposure on the embryos of Pacific herring and pink salmon. Exposed fish developed heart and spine defects that reduced swimming ability and reduced survival. Learn more and see the full report: www.bit.ly/HydrocarbonToxicity

In another study, some of the same scientists also looked at the effects of small amounts of crude oil on Arctic cod. Exposed embryos developed jaw, heart, and metabolism defects, resulting in higher mortality during their first winter. Learn more: <https://alaska-native-news.com/44757-2/44757/>

Cultural heritage:

Archeological sites can be damaged in an oil spill. A reduction in oil spill response equipment and trained personnel could impact the timing of a response to contain, control, and clean up an oil spill. Early and effective response is crucial to prevent damage to traditional sites of cultural importance. Prevention is key; some cultural sites were looted or damaged during spill response efforts after the Exxon Valdez oil spill.

⁶ <http://www.evostc.state.ak.us/index.cfm?FA=status.herring>

⁷ http://www.evostc.state.ak.us/index.cfm?FA=status.human_subsistence

⁸ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5034714/>

⁹ <http://www.pwsrcac.org/programs/environmental-monitoring/dispersants/dispersant-literature-reviews/>