



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

MEMBERS

April 29, 2016

Alaska State
Chamber of Commerce

Jade Gamble
Alaska Department of Environmental Conservation
43335 Kalifornsky Beach Road, Suite 11
Soldotna, AK 99669

Via email: decsparplanning@alaska.gov

Chugach Alaska
Corporation

City of Cordova

Subject: Proposed Amendment to Annex B of the Alaska Federal/State Preparedness Plan for Response to Oil & Hazardous Substance Discharges/Releases (Unified Plan)

City of Homer

City of Kodiak

Dear Ms. Gamble:

City of Seldovia

The following are comments of the Prince William Sound Regional Citizens' Advisory Council that are hereby submitted in response to the Alaska Department of Environmental Conservation, U.S. Coast Guard, and Environmental Protection Agency, on behalf of the Alaska Regional Response Team's (ARRT) proposed amendment to portions of Annex B of the Alaska Federal/State Preparedness Plan for Response to Oil & Hazardous Substance Discharges/Releases (Unified Plan) relating to the Regional Stakeholder Committee (RSC) process.

City of Seward

City of Valdez

City of Whittier

Specifically, these comments address the Proposed Process for Community Outreach, Unified Plan Update March 2016, Annex B and Appendix VIII. The PWSRCAC is concerned that, on the whole, the proposed changes weaken rather than strengthen the current level of citizen stakeholder involvement with, and therefore effectiveness of, the Unified Command in responding to and cleaning up a major oil spill in Alaska. As the proposed amendment is drafted currently, we are concerned that it would be a step backward for the public's interest and therefore recommend that the ARRT engage with members of the Prince William Sound Regional Citizens' Advisory Council as well as other stakeholders to remedy the proposed amendment before it moves any further along toward approval.

Community of
Chenega Bay

Community of
Tatitlek

Cordova District
Fishermen United

Kenai Peninsula
Borough

Kodiak Island
Borough

Kodiak Village Mayors
Association

Thank you for seeing that these comments are considered. Members of the Prince William Sound Regional Citizens' Advisory Council from throughout Prince William Sound and the Kodiak Archipelago stand ready to work with the ARRT on adjustments to the draft amendment. We hope after reviewing our comments you will be willing to work with the Council to make constructive changes to the draft amendment. Please contact me if you have any questions regarding these comments, or if I can provide additional information.

Oil Spill Region
Environmental
Coalition

Sincerely,

Donna Schantz
Executive Director

Port Graham
Corporation

Prince William Sound
Aquaculture
Corporation

Enclosure: Comments on the ARRT Proposed Amendment to the Unified Plan, Annex B,
Process for Community Outreach

cc: ARRT Members
Larry Hartig, ADEC Commissioner



Date: April 29, 2016

To: Alaska Department of Environmental Conservation, U.S. Coast Guard, and Environmental Protection Agency

Submitted by email to decsparplanning@alaska.gov

From: Prince William Sound Regional Citizens' Advisory Council

Re: Comments on the ARRT Proposed Amendment to the Unified Plan, Annex B, Process for Community Outreach

1. PWSRCAC: The Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) is an independent, non-profit corporation whose mission is to promote environmentally safe operation of the Valdez Marine Terminal and associated tankers. The work of this Council is guided by the Oil Pollution Act of 1990 and the PWSRCAC contract with Alyeska Pipeline Service Company. PWSRCAC's 18 member organizations are from and representative of communities in the region affected by the 1989 *Exxon Valdez* oil spill, as well as commercial fishing, aquaculture, Native, recreation, tourism and environmental groups.

2. OVERVIEW: PWSRCAC strongly opposes the proposed process for community outreach outlined in the March 25, 2016 notice posted on the Alaska Department of Environmental Conservation's (ADEC) public notice website. The U.S. Coast Guard (USCG), Environmental Protection Agency (EPA), and ADEC, on behalf of the Alaska Regional Response Team (ARRT), proposed changes to parts of Annex B of the Unified Plan that would eliminate the Regional Stakeholder Committee (RSC) and replace it with a much less effective structure and a less transparent process for tribal and local governments, Regional Citizens' Advisory Councils (RCACs), land owners, and other stakeholders potentially impacted by oil spills. In our view, the proposed changes seriously reduce direct access to the Unified Command and reduce information on the response to stakeholders who would be most adversely impacted during an oil spill response, and is a major step backwards. PWSRCAC is concerned that the proposed amendment to the Unified Plan will undo the progress on citizen and stakeholder involvement that has been accomplished since the *Exxon Valdez* oil spill, and will weaken and marginalize citizen involvement in an oil spill response.

PWSRCAC appreciates the challenges posed when dealing with the public and stakeholders in an oil spill but does not agree that elimination of the RSC as it has been constituted and worked well is a constructive way forward. Separating the RSC into two groups whose input is treated differently during a spill does not help unite stakeholders

in protecting their communities, and is contrary to the combined perspective of various stakeholders. Rather, PWSRCAC strongly recommends:

a. that the proposed amendment by the ARRT be withdrawn so that the Regional Stakeholder Committee as constituted remains as it is today and has been for more than a decade while generally working well; and

b. that representatives of the EPA, USCG, and ADEC actively engage with the PWSRCAC and other stakeholder representatives, including representatives of local governments, Alaska Native tribes and corporations, the fishing industry, tourism, the state Chamber of Commerce, and non-governmental organizations, so as to refine and improve the coordination between the RSC and the Unified Command while correcting deficiencies in the currently proposed amendment.

At the end of the day, all the citizens and stakeholders have to fall back on is what is written in the Unified Plan. Ensuring a clear understanding of the timing, process, and methods for the public to provide input is essential. PWSRCAC believes the proposed language lacks clarity and is subject to subjective interpretation, characteristics that could create stumbling blocks during an emergency response. PWSRCAC stands ready and able to work together to improve the RSC process in the plan, and is confident that such an informal process initially can help work out revisions to the amendment for which there would be near-universal support.

3. LACK OF PUBLIC OUTREACH: Upon receiving verbal notification from ADEC on March 23, 2016 about the proposed changes to the RSC language, PWSRCAC was surprised that very few changes were made to the version provided in 2013. On November 5, 2013, PWSRCAC submitted a letter to ADEC, with copies to other ARRT members, outlining concerns of PWSRCAC members about the content and effects of these proposed changes, which in PWSRCAC's view at that time substantially reduced the roles of local and tribal governments, RCACs and stakeholder groups such as land owners, fishing groups, tourism, and others. PWSRCAC did not ever receive a formal response to its 2013 comments. When inquiring about the status of the proposed changes over the past three years, PWSRCAC was verbally informed that changes were being worked on. It is unfortunate and counterproductive that there was little to no dialogue between federal and state policymakers and citizens and various stakeholders while these changes were being drafted, since the changes could potentially affect virtually all Alaskans directly or indirectly.

When PWSRCAC received notice of this public review, we sought to inform the citizens and stakeholders in the Prince William Sound region. Upon conducting outreach to our member entities and other regional stakeholders, PWSRCAC found that very few were aware of the proposed changes or that a formal public review period had begun. It became apparent that the same entities that had been participating in the RSC in drills over the years were not informed that changes had been proposed.

It has been through PWSRCAC's efforts that citizens and stakeholders in our region have become aware of this review in the short 30-day public review time-frame. PWSRCAC does not believe that 30 days is enough time to provide an effective and meaningful public outreach effort on such a complicated topic. Shortly after learning of the public review, PWSRCAC sought an extension to the public comment period so PWSRCAC and

other region stakeholders would have adequate time to review and respond to the proposed amendment. That extension request was subsequently denied.

Comparing this process to the outreach efforts when the EPA, USCG, ADEC, and ARRT proposed changes to the Dispersant Use Plan for Alaska (also in the Unified Plan) in 2013, the outreach conducted regarding this amendment was deficient, severely limiting the stakeholders ability to provide input. For the dispersant amendment, outreach meetings were held in five different locations throughout Alaska to explain the changes, and citizens and stakeholders were given additional time to both understand and provide comments.

PWSRCAC contributed to those outreach efforts by making presentations for tribes and communities, and communicating with local governments, tribes, and other stakeholders in our region. PWSRCAC suggests a similar outreach and review process be applied to the current changes, and would be willing to help achieve that in whatever way that it can help.

4. CONCERNS: PWSRCAC has identified the following concerns with the proposed amendment:

a. Decreased direct access to the Unified Command. As the RSC would be replaced with the Tribal and Local Government Group (TLG) and Affected Stakeholder Group (ASG) under the proposed changes, direct access to the Unified Command would not be guaranteed for either group.

Under the current organization, the RSC has ***direct access*** to the Unified Command:

The RSC should have direct access to the Unified Command. Their input needs to be considered during the planning cycle. But the Unified Command can commit limited time (usually less than 1 hour per day) to directly deal with the RSC. (Unified Plan, Annex B, p. B-30).

As indicated in the current plan, the RSC's input directly to the Unified Command is clearly shown with appropriate timing to ensure consideration of RSC input prior to the final decision for the next operating period.

In the proposed amendment, however, this critical direct element gets filtered through the Responsible Party Liaison Officer. For both the TLG and ASG, the Liaison Officer's responsibilities include the following:

The LOFR [Liaison Officer] will:

- *Communicate TLG Group [AS Group] information to the Unified Command as clearly and accurately as possible and, in turn, clearly and accurately communicate Unified Command information to the TLG Group [AS Group].*
- *Coordinate and facilitate any direct meetings or teleconferences between the TLG Group [AS Group] and the Unified Command. (Proposed Process for Community Outreach, Unified Plan Update March 2016, p. 6-7).*

In the proposed changes, direct access to the Unified Command is not guaranteed to either TLG or ASG. It is essential that important details provided by either group get

communicated directly to the Unified Command. Equally important are the details provided by the Unified Command to the stakeholders. In a high pressure situation, such as an oil spill, it is important that details are accurately communicated between those involved in the response and the communities being impacted. The ARRT has understood and articulated that in certain places in the amendment but the changes undercut that meritorious and proper objective. Relying on crucial information being filtered through a Liaison Officer (who may represent the Responsible Party or spiller) is contrary to building the trust of the public and stakeholders needed in an emergency such as an oil spill – direct communication with Unified Command is needed to build such trust.

Another clarification to the proposed language is what is meant by “regular meetings.” Under the current plan, the RSC has “*direct access to the Unified Command....But the Unified Command can commit limited time (usually less than 1 hour per day) to deal directly with the RSC...*” (Annex B, p. B-30). This is interpreted to mean the Unified Command has a commitment to meet with impacted stakeholders daily for an hour or less. Contrasting that language with the proposed language “*Conduct regular meetings with the TLG [AS] Group.*” (Proposed Process for Community Outreach, p. 6-7), it is not clear what is meant by “regular meetings.” Does that mean once a day, once a week, for 15 minutes? Under the proposed language, stakeholders are seeing a serious erosion of or perhaps even have lost the commitment by the Unified Command to two-way communication directly to and from stakeholders.

Additionally, there are marked differences in information in Tabs A and B in the proposed changes relating to the TLG and ASG (Proposed Process for Community Outreach p. 4-7). Simply put, there are four pages dedicated to membership, general guidelines, information flow process, and responsibilities for TLG, while all the information for ASG is contained on one page. It is not clear to PWSRCAC why this difference in information exists. The same level of detail should be included for all stakeholders, not just tribes and local governments. The appearance of such changes is not helpful and, whether intended or not, those changes appear to be trying to undo the gains made over the years in terms of public outreach.

b. Decreased access to information about how the spill will be cleaned up. Only limited portions of the Incident Action Plan (IAP) may be provided to the TLG that the Responsible Party Liaison Officer deems to be “pertinent” for tribes and local governments. There is no mention of any information in the IAP, which provides details on the Responsible Party’s cleanup activities and priorities, being provided to the ASG. All impacted communities, tribes, and stakeholders deserve to know what is being done to clean up a spill in their local waters and area. There is no guarantee that either the TLG or the ASG will get any copies of the IAP on the same day it is published.

All stakeholders besides tribes and local governments would be grouped into the ASG with no guaranteed access to the Unified Command and access only to information that the Responsible Party Liaison Officer is willing to share. It is not clear that the ASG would even have access to the Command Center directing spill response efforts.

ADEC has indicated on many occasions that this change to the RSC structure resulting in the TLG and ASG was necessary because during the *Kulluk* response, many outside groups wanted to establish an RSC. While many of the outside groups may have had an

interest in the response, there were questions whether they were “really affected” by the incident. Dividing the RSC into two groups does not change the need for the Unified Command to determine who to include from each group during an incident. Each response is incident-specific, so the members that make up the TLG and ASG or RSC will vary based on the response location, incident type, and/or responsible party.

The proposed amendment fails to assist the Unified Command in the process to designate the appropriate members of each group. From our reading of the proposed changes, it appears the ASG could be treated no differently than the general public with no access to the Unified Command and limited access to response information. Our view is that if Prince William Sound is in the site of an oil spill incident from the Valdez Marine Terminal or associated tankers, then a representative from the PWSRCAC should be included in any group identified to work with the Unified Command. This way, the full measure of resources and knowledge built up over the years within the PWSRCAC can be brought to bear during an oil spill response.

c. Decreased collaboration and cooperation. The two separate groups that would be formed under the proposed changes would result in partitioning and segregating local governments and tribes from all other affected stakeholders. This separation would reduce communication and collaboration between those groups. In the proposed change, RCACs would be part of the ASG which is significantly different from the existing structure that includes all stakeholders. The current structure recognizes that stakeholders transcend municipal or tribal boundaries, and incorporates RCAC’s members by including local governments, tribes, and other types of non-governmental stakeholders. The cooperative and collaborative decision-making opportunities that occur when all stakeholders work as one group under the RSC would be greatly diminished or eliminated. Alaskans should have the opportunity and responsibility to work collaboratively and cooperatively with all affected stakeholders to ensure the spill materials are efficiently and effectively removed.

d. Decreased expert representation. RCACs and other local experts with specific oil spill response expertise would no longer be guaranteed an active and directly informed role in representing stakeholders in their areas affected by a spill. While the Unified Plan would still allow PWSRCAC to serve in the Operations, Planning and Joint Information Center sections, PWSRCAC would not be able to work with other stakeholder experts as it currently does through the RSC. The RSC provides an opportunity for citizens, stakeholders and other experts with important local knowledge and extensive and critical technical expertise to provide informed answers back from the Unified Command to citizens and organizations most affected and at risk from an oil spill.

e. Trigger revisions to other subarea other plans. The proposed amendment would create a Unified Plan that is inconsistent in how it treats the various members of the existing RSC and would trigger revisions of subarea plans that integrate into the Unified Plan. As proposed, the language would require subsequent changes to all references to the RSC in the Unified Plan, all 10 subarea plans in Alaska, the Alaska Incident Management System Guide, and any oil discharge prevention and contingency plans that currently use the Regional Stakeholder Committee language.

Additionally and in general, PWSRCAC has found the proposed changes to be confusing to the general public. Regarding the changes in Annex B, it is not clear which sections of

Annex B are proposed to be modified. While ADEC clarified by email to PWSRCAC which sections were proposed for changes, that information was not made available to the general public. The public notice identifies Annex B starting on page B-11 and Appendix VIII starting on page B-30. Nowhere does the public notice indicate that only *Section F. Regional Stakeholder Committee* on page B-11 would be modified. It is not clear in the public review whether *4. THE REGIONAL CITIZENS' ADVISORY COUNCILS* on page B-11 will be replaced. Additionally, the current Unified Plan contains other references to the Regional Stakeholder Committee in Annex A and Annex B which are not addressed in this public review, adding to further confusion.

5. RECOMMENDATIONS: Rather than implement the proposed changes to the Unified Plan, PWSRCAC makes the following recommendations:

a. Withdraw Annex B revision and initiate a consensus-based, collaborative work group process to address improving the current community outreach. PWSRCAC opposes the proposed process for community outreach outlined in ADEC's March 25, 2016 public notice. As stated previously, amending Annex B as proposed would result in eliminating the Regional Stakeholder Committee and replacing it with two separate groups - a Tribal and Local Government Group and Affected Stakeholders Group. Rather than clarifying and strengthening the process for communication and stakeholder participation and outreach during an oil spill, this proposed change appears to make the process more cumbersome by creating two groups rather than one united group. The Unified Command will still need to decide the members of each group during an incident, and having two groups instead of one adds more process and could possibly add more confusion during an emergency situation. PWSRCAC recommends that representatives of the ARRT engage with RCACs and other stakeholders, including representatives from local governments, Alaska Native tribes and corporations, the fishing industry, tourism, land owners, etc. to refine and improve coordination between the existing RSC and Unified Command while addressing any deficiencies in the proposed changes.

The rationale for replacing the RSC with two groups - TLG and ASG - is not clear, and PWSRCAC does not believe that this change would improve stakeholder communications during an oil spill. The draft changes to Annex B describe uneven processes for the proposed groups, and diminish the role that the RCACs typically play in supporting community outreach.

Eliminating the RSC adversely impacts PWSRCAC's ability to carry out its Oil Pollution Act of 1990 (OPA 90) responsibilities. OPA 90 was created after the *Exxon Valdez* oil spill to "*involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans.*" [OPA 90 §5002(a)(2)(C)]. As Congress found in OPA 90 "*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*" [OPA 90 §5002(a)(2)(F)]. Limiting RCAC involvement by replacing the RSC is contrary to the intent of the legislation. This would represent a major step backward for public involvement, and we strongly recommend that such a step not be taken as it would be detrimental to the public's interest.

Over the past 25 years, PWSRCAC has built an extensive and effective stakeholder communication and outreach process in Prince William Sound. Eliminating the RSC as it

currently stands, and weakening rather than strengthening the involvement of stakeholders and the public during an oil spill, is a major step backwards in spill response planning.

Further, PWSRCAC's broad span of membership, experience, local knowledge, and understanding of citizens' concerns adds unique capabilities, public trust, and credibility to the existing RSC. PWSRCAC's membership includes representatives from city and borough governments in the *Exxon Valdez* oil spill region, as well as from the Alaska State Chamber of Commerce, tribes, Alaska Native corporations, commercial fishing industry, tourism, and the environmental community. Under the existing RSC, PWSRCAC is able to provide important analyses, input, and advice to the Unified Command during spills by providing highly-trained, experienced individuals to participate in the RSC.

PWSRCAC supports stakeholder involvement during spills as outlined in the current Unified Plan and associated subarea plans, and is committed to the success of this process. Over the years, PWSRCAC has worked cooperatively with ADEC, USCG, industry, and others to apply and refine the RSC approach during drills and exercises. In addition, PWSRCAC has worked collaboratively with state and federal agencies on updating the subarea plans, Geographic Response Strategies, and Potential Places of Refuge, and we welcome and stand ready to engage in the process of working constructively to improve the proposed amendment.

b. Continued direct access to the unified command and information. For over a decade, the RSC process has been used successfully during drills and exercises. Under the current Unified Plan, the Unified Command provides the RSC with:

- Direct access to the Unified Command and Command Post to know what is happening during the response;
- Direct access to data about how the spill will be cleaned up, including complete copies of the Responsible Party's IAP that includes cleanup activities and priorities on the same day it is produced;
- All information produced by the Joint Information Center when it is created;
- The opportunity for experts to represent Alaskan's interests where RCACs and local experts have the opportunity to serve;
- Answers to questions raised by stakeholders during the spill response; and
- Support for stakeholders to carry out their duties and responsibilities during a spill.

The IAPs provided during past events epitomizes the State's commitment and the public's high value placed on transparent communication with potentially impacted communities. ADEC has set a positive precedent outside the Unified Plan guidelines when this information has been made publicly available in the past. PWSRCAC supports continuation of this practice that has proven effective, and strongly recommends that it not be abandoned. Any change to diminish access to information would be a major step backwards in protecting the public's interests, and could have the unintended consequence of eroding public trust in a spill response.

While PWSRCAC understands the IAP may contain security specific information such as phone numbers, radio frequencies, and facility and vessel diagrams, PWSRCAC

recommends that, at a minimum, the information contained on the following forms (with redacted security specific information) be provided to all stakeholders:

- ICS 202 - Response Objectives
- ICS 204 - Assignment Lists
- ICS 207 - Incident Organization Chart
- ICS 209 - Incident Status Summary
- ICS 232 - Resources at Risk Summary

Allowing communities and stakeholders access to accurate information and the ability to participate in the RSC enables stakeholders to become part of the solution rather than be excluded. If stakeholders feel they are excluded from providing or receiving information during a response, their communities would logically and consequently feel disenfranchised and upset. This is the type of situation that meaningful stakeholder involvement is designed to ameliorate or eliminate. As pointed out earlier, the legislation in OPA 90 dictated that local citizens' involvement in the process is essential in developing the trust needed for consensus. Although such participation by the public may add additional effort/work on the part of state, federal government, and industry officials, it is far superior and unquestionably preferable to having a repeat of the public consternation with spill management seen in 1989. Any rewrite to this section should aim to go forward and improve on the current Regional Stakeholder Committee process.

PWSRCAC believes that the proposed changes to the RSC would significantly reduce access to information and to the Unified Command during an oil spill response and would be a major step backwards. To implement this policy change in its current form would ignore the painful lessons Alaskans learned in 1989, and would dismantle a system designed to include the citizens, tribes, communities, and organizations harmed by the *Exxon Valdez* spill.

PWSRCAC recommends that the proposed amendment regarding oil spill incident community outreach process be withdrawn and that the ARRT engage with the PWSRCAC and other stakeholders to improve and strengthen the current RSC process. PWSRCAC stands ready to participate in a collaborative effort to improve community outreach.