



November 26, 2019

Jason Brune, Commissioner
Department of Environmental Conservation
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Via email: dec.commissioner@alaska.gov

Lynn Kent, Deputy Commissioner
Department of Environmental Conservation
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Subject: The RCACs' concerns regarding ADEC Public Scoping Notice on Contingency Plans

Dear Commissioner Brune and Deputy Commissioner Kent:

We are writing in response to Deputy Commissioner Lynn Kent's recent opinion piece titled "State's oil spill regulation review isn't an attempt to gut environmental protections" and comments made by Commissioner Brune at Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) Board meetings, and to the Resource Development Council earlier this year.

PWSRCAC is not opposed to a scoping process in general. As representatives of the citizens for the entire Exxon Valdez oil spill region, including the Prince William Sound, Cook Inlet, and Kodiak Island regions, the RCACs welcome and, indeed, encourage public involvement. However, ADEC is asking citizens to comment on a very large section of the regulations and their guiding statutes without sharing which specific parts you have identified as needing reform, thus placing the public at a distinct disadvantage. ADEC announced earlier this year that the contingency plan scoping process would cover only two sections of 18 AAC 75, namely 425 - oil discharge prevention and contingency plan contents, and 445 - approval criteria for oil discharge prevention and contingency plans. ADEC staff reaffirmed the scoping parameters in early August, and informed PWSRCAC of plans for a public meeting in Anchorage prior to the scoping process, to provide details on ADEC's intent and expectation. In late September, ADEC informed PWSRCAC that the scoping process had expanded to include all of Article 4 of 18 AAC 75. On October 11, 2019, just days before the scoping notice was published, ADEC informed both RCACs that the scoping process had further expanded to include all of the contingency planning guiding statutes in AS 46.04. It is not entirely clear to PWSRCAC and the Cook Inlet Regional Citizens Advisory Council (CIRCAC), or other members of the public, what specific Articles under AS 46.04 are included under this review.

To ask the public to provide specific feedback, including input on recommended changes, additions, deletions, as well as what does and does not work well, on a section of

regulations and statutes that covers so many different oil spill prevention and response requirements, for multiple operations and facilities, is unreasonable. This approach shifts the burden of justifying every aspect of proven protection measures to the public, and is like taking a shot in the dark to guess what ADEC and industry have already identified as needing to be changed. This is especially frustrating considering Commissioner Brune has mentioned on several occasions that he has heard from Alaskans that the contingency planning process is too burdensome and onerous for industry, that the current regulations are stale, and that ADEC has already identified a number of areas of the regulations that “can be either completely eliminated or significantly reformed to show that Alaska’s open for business” without sharing any specifics with the public.

ADEC’s scoping notice states that ADEC is looking for improvements without compromising environmental protection. PWSRCAC and CIRCAC are encouraged by Deputy Commissioner Kent’s statement that there will not be a weakening of existing oil spill planning, preparedness, and response under her watch. However, there is plenty for PWSRCAC, CIRCAC, and the public at large to be concerned with regarding the manner in which this process is being conducted. Since ADEC is not being forthcoming with information on the reform package, the citizens are left drawing conclusions based on experience. From our combined experiences, claims that the regulations are stale, the current system is too burdensome on industry, and reform to “open Alaska up for business,” historically translates to rolling back requirements, weakening protections, and saving industry money at the expense of the citizens and environment.

PWSRCAC has observed a slow erosion of state and federal regulatory oversight in Alaska for the Valdez Marine Terminal and associated tankers for the past several years. PWSRCAC and CIRCAC have both expressed ongoing concerns regarding SPAR Division staffing since the re-organization in 2015, and the situation has only gotten worse with the elimination of additional positions such as the economic analyst, engineers, and others. The problem is further compounded by the loss of experienced staff over the past several years, and the current 20% SPAR vacancy rate. From the point of view of both organizations, the remaining ADEC staff can barely keep up with the day to day operations and responsibilities, and SPAR staff do not appear to have the support necessary to provide the level of oversight that was envisioned when the SPAR Division, and the related statutes and regulations, were bolstered after the 1989 Exxon Valdez oil spill.

These are just a few of the many reasons why PWSRCAC and CIRCAC view this contingency plan scoping effort as one of the biggest threats facing the oil spill prevention and response safeguards put in place after the 1989 Exxon Valdez oil spill.

We hope this letter helps explain why the RCACs are so concerned by the potential implications of this scoping process, and respectfully request information on the statutes and regulations ADEC has identified for elimination or significant reform.

Sincerely,



Donna Schantz
Executive Director
Prince William Sound RCAC



Michael Munger
Executive Director
Cook Inlet RCAC