



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

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MEMBERS October 31, 2019

Alaska State
Chamber of Commerce

The Honorable Mike Dunleavy
Governor of Alaska
Third Floor, State Capitol
P.O. Box 110001
Juneau, AK 99811

Chugach Alaska
Corporation

City of Cordova

SUBJECT: Concerns Over Notice of Public Scoping and Transmittal of
*Resolution 19-03 - Safeguarding Alaska's Oil Spill Prevention and
Response Standards*

City of Homer

City of Kodiak

Dear Governor Dunleavy:

City of Seldovia

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

City of Seward

City of Valdez

City of Whittier

Community of
Chenega

Attached please find the Council's *Resolution 19-03 - Safeguarding Alaska's Oil Spill Prevention and Response Standards*. This resolution is being transmitted in response to the Alaska Department of Environmental Conservation's (ADEC) recent public notice entitled "[Notice of Public Scoping](#): Alaska Department of Environmental Conservation Oil Discharge Prevention and Contingency Plan Regulations" issued on October 15, 2019.

Community of
Tatitlek

Cordova District
Fishermen United

As the resolution states, PWSRCAC recommends the State of Alaska reconsider this public scoping process. The Council has a number of concerns it would like to bring to your attention, including lack of transparency, lack of specificity, an extremely broad scope, the State's capacity for this review, and shifting the burden of this review to the public. The following outlines more details on each of these concerns.

Kenai Peninsula
Borough

Kodiak Island
Borough

Kodiak Village Mayors
Association

Oil Spill Region
Environmental
Coalition

There is a lack of specificity to claims that contingency plan regulations are burdensome and onerous, as well as a lack of overall transparency with this public scoping process. For example, at the Resource Development Council meeting on March 21, 2019, ADEC Commissioner Jason Brune stated that his department had identified more than 50 regulatory packages that could be eliminated or significantly reformed and that the regulations governing oil spill contingency plans provide an example of an opportunity for improvement. However, when Commissioner Brune was asked numerous times

Port Graham
Corporation

Prince William Sound
Aquaculture
Corporation

to provide an example of an area in the regulations that had been identified for improvement, he could not, or would not, provide any.

In 2019, Commissioner Brune attended two of the Council's Board of Directors meetings to discuss regulatory reform. At those meetings (as well as in ADEC's recent press release), Commissioner Brune said that he had "heard from Alaskans that contingency plans are unnecessarily burdensome while lacking corresponding environmental benefits." The Commissioner provided no specific reference to which Alaskans he had heard from, nor which regulations and/or statutes were unnecessarily burdensome.

The current scoping process is extremely broad, covering some 60 pages of regulations and 34 sections of statutes, with no indication as to what is currently under consideration for removal or reform by ADEC. In order to provide productive comments and recommendations, the public would best be served if the regulations and/or statutes that are considered "overly burdensome and not protecting human health and the environment" were identified. This is not the case with the current public scoping process.

The Council would like you to consider the impact on ADEC staff, given their current vacancy rate of almost 20 percent. The extra workload placed on ADEC staff to solicit and process comments received through this broad public scoping will require a significant amount of time and effort. With limited resources, including the elimination of the economic analyst position within ADEC that would analyze the associated impacts of regulatory and statutory changes, the Council is concerned that thorough and adequate analysis of proposed changes may not occur. The Council is very concerned that the current vacancy rate is presenting challenges for ADEC staff to keep up with their day-to-day workloads and the timing of this immense scoping process presents additional challenges.

Commissioner Brune encouraged the Council to be as specific as possible in the scoping comments provided, identifying what is working or what is not. This scoping process shifts the burden to the public to justify and defend every oil spill regulation and statute, an approach the Council disagrees with. Many people (regulators, politicians, oil industry executives, and other experts) worked very hard on developing and implementing these statutes and regulations after the *Exxon Valdez* oil spill to make sure a system was in place to prevent another major oil spill disaster, and to have an adequate response system should prevention measures fail.

PWSRCAC believes the lack of catastrophic spills in Alaska since the *Exxon Valdez* oil spill is proof that the existing regulations and statutes are working as intended. Relaxing the requirements put in place after that devastating spill, which impacted so many people, the environment, and recreation, tourism, fisheries, Native, cultural, subsistence, and socio-economic interests of the state, does not provide protection to the citizens. 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. The contingency plans serve as a contract with the state, acting as an insurance policy to the citizens that their interests are being protected.

The Council was formed to provide a voice for the citizens, to fight complacency, and to rebuild the public trust in industry and regulators that was lost because of the 1989

Exxon Valdez oil spill. Many of the people involved in creating Alaska's strong oil spill statutes and regulations believe that if the system were to be weakened, Alaskans would face the risk of reliving an event that was devastating to the environment, economy, and people. Attached for your review is a Council-commissioned report titled "[Alaska's Oil Spill Response Planning Standard - History and Legislative Intent](#)," which documents the history of the strong oil spill planning requirements put in place after the *Exxon Valdez* oil spill. These actions have led to Alaska being considered a world leader in oil spill prevention and response.

It is the Council's understanding that contingency plan regulations have been revised nine times since 1992 to clarify requirements, streamline the review process, include new categories of contingency plans, and make contingency planning less onerous. These changes provided guidance and predictability to industry while also improving the State's ability to defend plan approval decisions.

The Council works to be a resource for the State. If ADEC provides specifics on concerns that have been shared with them regarding regulations, as well as details on the 50 regulatory packages their department noted could be revised, the Council will be happy to share our expertise and advice regarding possible improvements that would not reduce the protections currently in place. The lack of specificity and transparency makes this type of collaboration difficult and places the Council in a position to question the entire scoping process.

For the reasons stated above, PWSRCAC urges you to rescind the public scoping process on Article 4 of 18 AAC 75 and AS 46.04. The Council advises that the proven and effective prevention and response system in Alaska be maintained. Reducing the regulatory burden to industry would unfairly transfer the risk to the citizens, communities, and environment already impacted by the 1989 *Exxon Valdez* oil spill. To say now, 30 years after the *Exxon Valdez* spill, that the current requirements are too burdensome on industry is not reasonable and is the type of complacency the Council was created to prevent.

Please feel free to contact us to discuss this further at 907-834-5070.

Sincerely,


Robert Archibald
President of the Board


Donna Schantz
Executive Director

Cc: Commissioner Jason Brune
PWSRCAC Board of Directors

Enclosures:

1. [Resolution 19-03 - Safeguarding Alaska's Oil Spill Prevention and Response Standards](#)
2. [Alaska's Oil Spill Response Planning Standard: History and Legislative Intent, Report to Prince William Sound Regional Citizens' Advisory Council, August 2018](#)