



## Concerns with ADEC Proposed Changes for Oil Spill Prevention and Response Regulations

The Council is an independent nonprofit corporation guided by its mission: Citizens promoting the environmentally safe operation of the Alyeska terminal and associated tankers.

### Summary:

In late 2019/early 2020, the Alaska Department of Environmental Conservation (ADEC) held a public scoping for the state's statutes and regulations regarding oil discharge prevention and contingency plans. ADEC released their proposed changes to regulations resulting from that scoping process in November 2021, and a public comment period is currently open for this regulatory reform package.

Comments can be submitted to ADEC here: <https://spar.alaskadec.commentinput.com/?id=uh7DP>

### Deadline for public comments is January 31, 2022.

Prince William Sound Regional Citizens' Advisory Councils (PWSRCAC) staff have been working through the proposed regulatory reform package. Our review has noted a number of positive changes proposed including increased clarity within regulations, combination of redundant sections, and use of technology in the interest of modernizing workflow. However, we have also identified concerns with some of the changes for our region.

The Council is in the process of developing public comments for submission to ADEC, which will be publicly available once they are finalized. In the interest of supporting our stakeholders in submitting their own public comments, the following information covers what we believe to be the top issues important to ensuring that nothing is lost or diminished through the current regulatory reform effort.

### Top concerns:

**#1: The proposed regulation changes provide an inadequate minimum number of oil spill drills and exercises** and could reduce the total number that ADEC may conduct for larger crude operators, such as those in Prince William Sound. These drills and exercises are a key piece of a robust oil spill prevention and response system, ensuring rapid deployment of resources for effective containment and cleanup should a spill occur and supporting safety for responders by allowing them to practice response activities ahead of an actual emergency.

- **Recommendation:** The minimum number of exercises required for crude oil plans should be set at one (1) significant Incident Management Team and two (2) field deployment exercises per year, as well as other unannounced exercises as ADEC deems necessary. Regulations should also retain the commitment that if a plan holder fails to demonstrate the ability to implement their plan, ADEC will require additional exercises or take other appropriate action.

**#2: The existing regulations have commitments to examine best available technologies (BAT)** in use outside of Alaska, engage in studies, evaluate and identify where new technologies could be applicable in Alaska, and hold a conference related to advancing this knowledge, as well as providing findings to plan holders. The proposed changes remove the language requiring the BAT conference and it is uncertain how or if ADEC will meet the vision and intent of ensuring that oil spill response and prevention equipment, and other spill functions that have previously been subject to this BAT analysis, is the most effective and available as new technologies emerge.

- **Recommendation:** The State of Alaska and ADEC should continue to show leadership in staying informed and promoting best available technology. Regulatory changes should not result in any diminished emphasis on best available technology, including retaining the requirement that a BAT conference be held every five years or otherwise stating how they will examine new technologies to meet the mandates of AS 46.04.030(e).

**#3: The existing regulations require both RCACs (Prince William Sound and Cook Inlet)** receive printed materials during contingency plan renewals, updates, and amendments. Each RCAC represents multiple boroughs, municipalities, and organizations throughout Cook Inlet, Kodiak, and Prince William Sound. The language identifying each RCAC has been removed as part of the proposed changes. Instead, the department intends to notify “interested stakeholders” that these materials are available for review via an ADEC listserv. While both RCACs support materials being distributed electronically and having these plans electronically searchable, we have concerns and questions around practical aspects of using a listserv. In particular, given staffing reductions over the past several years and position turnover, the department’s ability to implement this in a timely manner that allows interested parties to easily access the specific information they need is uncertain.

Federal law recognizes the RCACs’ special role in reviewing contingency plans within the Oil Pollution Act of 1990. The Alaska Oil Spill Commission similarly recommended that the RCACs be integrated into a state system of citizen oversight including government agency operations.

- **Recommendation:** The regulations should continue to specifically name the RCACs for Cook Inlet and Prince William Sound as recipients required to be notified of plan reviews, updates, and amendments, electronically or otherwise.

**#4: Proposed regulations would change tow package requirements for tankers calling at the Valdez Marine Terminal.** With technological improvements since the early 1990s, it should be readily feasible for all tankers calling at the terminal to be outfitted with both forward (bow) and aft (stern) emergency towing systems capable of being deployed in 15 minutes or less.

- **Recommendation:** The adoption of International Maritime Organization (IMO) standards for emergency towing arrangements is appropriate, but with the additional requirement that tankers calling at the Valdez Marine Terminal be able to deploy the arrangement from the forward (bow) position in 15 minutes.

Specifics on where to find the sections related to these concerns within the regulatory reform package are available by contacting the Council.

We hope other stakeholders will consider providing public comments on these important issues by the January 31 deadline.

The focus of this update is to assist the public in understanding the implications of proposed regulatory changes and in developing meaningful comments that support maintaining strong oil spill prevention and response requirements in Alaska.

**Additional background:**

In October 2019, ADEC solicited public comments on areas where Alaska oil spill regulations and statutes could be streamlined. Specifically, ADEC focused on [18 AAC 75, Article 4](#) and [Alaska Statute 46.04 \(AS 46.04\)](#) which deal with oil discharge prevention and contingency plan requirements. At that time, ADEC Commissioner Jason Brune issued a press release stating that he had heard “contingency plans were unnecessarily burdensome while lacking environmental benefits,” and to achieve Governor Dunleavy’s goal of Alaska being open for business, ADEC was beginning a scoping process seeking input from the public on these regulations and statutes.

ADEC received more than 350 comments from approximately 130 parties, which can be viewed on [ADEC’s public scoping page](#) under [Public Comments](#). As can be seen from reviewing these comments, the majority support maintaining current regulation standards and oppose any changes that would weaken regulations. Commissioner Brune has reported that he and his staff met on a weekly basis for several months in 2020 to review comments received. The proposed regulatory changes are the result of what he and his team put together from that effort.

*Note: ADEC has stated that there are currently no changes to laws anticipated at this time. While regulation changes, like those proposed, can be made by the agency that oversees them (in this case ADEC), state statutes (laws) can only be amended by the State Legislature.*

**Prince William Sound Regional Citizens’ Advisory Council:** [www.pwsrcac.org](http://www.pwsrcac.org)