



THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

Department of Environmental  
Conservation

DIVISION OF SPILL PREVENTION & RESPONSE  
INDUSTRY PREPAREDNESS PROGRAM

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December 10, 2013

File No. 304.30

Joseph P. Robertson  
Regulatory Affairs Director  
Alyeska Pipeline Service Company  
P. O. Box 196660  
Anchorage, AK 99519-6660

**Subject: Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan, ADEC  
Plan Number: 08-CP-4049. Short Term Approval Extension.**

Dear Mr. Robertson:

The Alaska Department of Environmental Conservation (department) is in the process of reviewing the renewal application and plan for the Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan (plan) dated October 15, 2012 and amended January 8, 2013, January 18, 2013, and February 8, 2013. The public review period was suspended on March 29, 2013, and requests for additional information (RFAI) were sent to Alyeska on May 1, 2013, May 20, 2013, June 10, 2013, July 24, 2013, July 29, 2013, August 2, 2013, and August 15, 2013.

Significant actions in response to the RFAIs are provided below.

- July 2013, department staff received draft informal responses to a limited portion of requests contained in the Volume 1, Part 2, RFAI dated May 1, 2013;
- September 24, 2013, department staff received draft informal responses to the Volume 1, Part 2, RFAI dated May 20, 2013. Department staff met with Alyeska Pipeline Service Company (Alyeska) on October 15, 2013, to discuss the RFAI responses and provide additional clarification for the RFAIs;
- November 19, 2013, department staff received a partial draft of the revised Response Planning Standard (RPS) Scenario and participated in an Alyeska led walk through of the RPS Scenario on November 20, 2013. This draft was in response to the Volume 2 RFAI dated June 10, 2013.
- December 6, 2013, department staff received draft informal responses to the Volume 1, Part 5, RFAI dated July 29, 2013.

During several meetings about the renewal process, department and Alyeska personnel discussed reviewing informal RFAI response drafts and agreed to meet in-person every two weeks to provide clarification. Alyeska's plan team met three times with Department and Bureau of Land Management staff between July and October to review RFAs, update the status of efforts to respond, and get clarification as needed. To date, draft or informal responses to the majority of RFAs have not been provided or discussed with the department. In addition, upon initial review of the drafts provided on September 24, 2013, department staff discovered that Alyeska elected to disregard the department's repeated instruction to identify all changes to the plan in response to RFAs. Many changes proposed were redlined and identifiable, but many changes were captured as regular text only. Alyeska staff indicated that they had not retained a version of the plan that identified all changes, and that being required to identify the changes would result in significant work. The department's requirement that Alyeska provide all of the changes to the plan in a format that clearly identifies each addition, deletion, and movement remains in place.

Alyeska's plan team has changed throughout the last six months, and we recognize that personnel changes can lead to delays as well as provide fresh insight. However, we are concerned because the plan renewal has exceeded both the original and extended approval expiration dates. We are also concerned with Alyeska's limited contact with the department regarding RFAs and the limited number of RFAI draft responses shared to date. Communications with the department's review team have been intermittent, and in many cases, changes have been made that are unexpected and could raise new questions. We believe more open communication from Alyeska's team may have minimized some of the unnecessary delays.

We want to take this opportunity to reiterate past recommendations that Alyeska carefully consider past plan approvals, conditions of approval, detailed findings documents, inspection and exercise findings, audits, and working group processes when making substantive changes to the current plan application. The department does not disregard past findings or past requirements for collaborative efforts on scenarios, exercises, tactical guides, or other work products created with Alyeska's full participation and agreement.

We remain committed to working with Alyeska to bring the current plan application to a state in which it can be provided for additional public review and comment. We strongly request that your team work closely and openly with our plan review staff, Ms. Elizabeth Stergiou (lead reviewer) and Ms. Jennifer Lindberg, (unit lead.)

The department has determined that Alyeska is substantially in compliance with their current plan. However, because we are concerned about the progress of the plan renewal, we are approving a short term extension until May 9, 2014 with certain conditions for interim deadlines in order to assist the plan holder in making sufficient progress to support a full year extension of the original plan approval period. Specific conditions are outlined below.

This short term approval applies to the following plan:

**Plan Name and Dates:** Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan, dated May 9, 2008, as amended on July 16, 2008, February 24, 2010, June 13, 2011, and July 13, 2012.

**Plan Holder:** Alyeska Pipeline Service Company  
P. O. Box 196660  
Anchorage, AK 99519

**Facility:** Valdez Marine Terminal  
P. O. Box 300  
Valdez, AK 99686

**PLAN APPROVAL:** An approval for the reference plan is hereby granted, effective December 10, 2013. This approval supersedes the approval letters and certificates dated May 9, 2008, and May 9, 2013.

A certificate of approval stating that the department has approved the plan is enclosed. This approval is subject to the following terms and conditions:

**Condition of Approval No. 1:** Any draft informal RFAI responses must be provided to department review staff no later than Friday, January 31, 2014. *This is necessary to ensure the plan renewal application review and decision can be completed by the extended approval expiration date of May 9, 2014. During the next two months, the department will be available to provide informal feedback concerning Alyeska's initial responses. Department informal feedback will be no indication of a future plan approval decision; rather, this is an opportunity for Alyeska to obtain clarification and utilize the available extension as effectively as possible.*

**Condition of Approval No. 2:** All formal RFAI responses, including redlined or other format that identifies all changes in the plan, must be submitted to the department no later than Friday, February 28, 2014. *This condition is necessary to ensure the department's review team has sufficient time to review the responses, issue a second RFAI if necessary, extend the public comment period, and develop recommendations for a decision on the application prior to the expiration date.*

**EXPIRATION:** This approval expires May 9, 2014. After the approval expires, facility operations are prohibited by Alaska law until an approved plan is once again in effect.

**REVOCAION, SUSPENSION, OR MODIFICATION:** This approval is effective only while the plan holder is "in compliance with the plan" and with all of the terms described in this letter. The department may, after notice and opportunity for a hearing, revoke, suspend, or required the modification of an approved plan if the plan holder is not in compliance with it, or for any other reason stated in AS 46.04.030(f). In addition, Alaska law provides that a vessel or facility that is not "in compliance with the plan" may not operate (AS 46.04.030). The department may terminate approval prior to the expiration date if deficiencies are identified that would adversely affect spill prevention, response, or preparedness capabilities.

**DUTY TO RESPOND:** Notwithstanding any other provisions or requirements of this plan, a person causing or permitting the discharge of oil is required by law to immediately contain and cleanup the discharge regardless of the adequacy or inadequacy of a contingency plan (AS 46.04.020).

**NOTIFICATION OF NON-READINESS:** Within twenty four (24) hours after any significant response equipment specified in the plan becomes non-operational or is removed from its designated storage location, the plan holder must notify the department in writing and provide a schedule for equipment substitution, repair, or return to service (18 AAC 75.475(b)).

**NOTICE OF CHANGED RELATIONSHIP WITH RESPONSE CONTRACTOR:** Because the plan relies on the use of response contractor(s) for its implementation, the plan holder must immediately notify the department in writing of any change in the contractual relationship with the plan holder's response contractor(s), and of any event including but not limited to any breach by either party to the response contract that may excuse a response contractor from performing, that indicates a response contractor may fail or refuse to perform, or that may otherwise affect the response, prevention, or preparedness capabilities described in the approved plan.

**CIVIL AND CRIMINAL SANCTIONS:** Failure to comply with the plan may subject the plan holder to civil liability for damages and to civil and criminal penalties. Civil and criminal sanctions may also be imposed for any violation of AS 46.04, any regulation issued thereunder, or any violation of a lawful order of the department.

**INSPECTIONS, DRILLS, RIGHTS TO ACCESS AND VERIFICATION OF EQUIPMENT, SUPPLIES AND PERSONNEL:** The department has the right to verify the ability of the plan holder to carry out the provisions of its plan and access to inventories of equipment, supplies, and personnel through such means as inspections and discharge exercises, without prior notice to the plan holder. The department has the right to enter and inspect the covered vessel or facility in a safe manner at any reasonable time for these purposes and to otherwise ensure compliance with the plan and the terms and conditions (AS 46.04.030(e) and AS 46.04.060). The plan holder shall conduct exercises for the purpose of testing the adequacy of the contingency plan and its implementation (18 AAC 75.480 and 485).

**FAILURE TO PERFORM:** In granting approval of the plan, the department has determined that the plan, as represented to it by the applicant in the plan and application for approval, satisfies the minimum planning standards and other requirements established by applicable statutes and regulations, taking as true all information provided by the applicant. The department does not warrant to the applicant, the plan holder, or any other person or entity: (1) the accuracy or validity of the information or assurances relied upon; (2) that the plan is or will be implemented; or (3) that even full compliance and implementation with the plan will result in complete containment, control, or clean-up of any given oil spill, including a spill specifically described in the planning standards. The plan holder is encouraged to take any additional precautions and obtain any additional response capability it deems appropriate to further guard against the risk of oil spills and to enhance its ability to comply with its duty under AS 46.04.020(a) to immediately contain and clean up an oil discharge.

**COMPLIANCE WITH APPLICABLE LAWS:** If amendments to the approved plan are necessary to meet the requirements of any new laws or regulations, the plan holder must submit an application for amendment to the department at the above address. The plan holder must adhere to all applicable state statutes and regulations as they may be amended from time to time. This approval does not relieve the plan holder of the responsibility for securing other federal, state or local approvals or permits, and the plan holder is still required to comply with all other applicable laws.

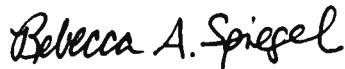
**INFORMAL REVIEW OR ADJUDICATORY HEARING:** Any person who disagrees with this decision may request an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340 or an informal review by the Division Director in accordance with 18 AAC 15.185.

Informal review requests must be delivered to the Spill Prevention and Response Division Director, 555 Cordova Street, Anchorage, Alaska 99501 within 15 days of the permit decision.

Adjudicatory hearing requests must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived. Anyone who submits a request for an informal review or an adjudicatory hearing should also send a copy of the request to the undersigned. .

If you have any questions, please contact Elizabeth Stergiou at (907) 269-6426 or via email at [Elizabeth.Stergiou@alaska.gov](mailto:Elizabeth.Stergiou@alaska.gov).

Sincerely,



for Betty Schorr  
Program Manager

Enclosure: Certificate of Approval Number 08CER-019.2

Electronic cc w/o enclosure:

Scott Hicks, APSC  
Joe Kuchin, APSC  
Judy McCormick, APSC  
Lori Burroughs, APSC  
Ron Dunton, AO, BLM  
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