

February 16, 2023 Email Responses to Senator Claman's questions:

1. **Question:** What is the total program cost for the existing 402 program in Alaska? How much of the revenue for that program is federal funds/grants, state general funds, and permits fees?

Answer: The approximate annual cost for the Section 402 APDES program is \$5,938 million annually. The following is the breakdown of funding sources (in millions):

- a. Federal Grant - \$2,936
- b. State GF (including match) - \$2,419
- c. Cooperative Service Agreements - \$104
- d. Reimbursable Service Agreements - \$479

Section 402 APDES program revenues include CSAs, RSAs, and permit fees for a total of ~\$2,050, some of which are included in the expenditures above.

2. **Question:** Where can we find the most recent EPA audit of Alaska's 402 program and the state's response? Can you send us a copy?

Answer: EPA does not conduct an overall audit on the State's Section 402 APDES program, but they do oversee and engage with DEC on the various program components of the program.

- a. EPA conducts the Permit Quality Review (PQR) for Alaska's 402 APDES permitting program approximately every four years. The most recent completed and final PQR was conducted in 2015, and the report was finalized on Oct 19, 2016 (attached). The Division's response to EPA is located in Appendix B of the attached PQR report. EPA is in the process of finalizing the most recent PQR report, which was conducted in 2019.
- b. EPA conducts the State Review Framework (SRF) for Alaska's 402 APDES compliance, enforcement, and data program. The SRF occurs on a rolling five-year cycle. The most recent SRF, found at [Round 4](#), selected 2017 within the review timeframe (Federal FY2013 – FY2017) as the basis for the review. The next SRF, Round 5, will examine an unknown year between FY2018 and FY2022, but EPA has yet to provide the next SRF kickoff letter which will identify the chosen year. Note that the SRF examines three programs – the Clean Air Act (pages 1 – 16), Clean Water Act (pages 17 onward), and future SRFs will include Hazardous Wastes (RCRA) once delegated.

3. **Question:** Did the state obtain approval of the 402 program assumption through “phased” approach to implementation?

Answer: To the phased approval approach on Section 402 APDES program – yes, the State worked through a phased assumption approach. On October 31, 2008, DEC began implementation of Phase I, which included domestic discharges, log storage facilities, seafood processing facilities, and hatcheries. DEC began implementation of Phase II on October 31, 2009, including assumption of authority for federal facilities, storm water program, pretreatment program, and miscellaneous nondomestic discharges. On October 31, 2010, DEC began implementation of Phase III, mining operations. The fourth and final phase of the transfer of authority was scheduled for October 31, 2011, but DEC proposed and EPA granted an extension of Phase IV transfer for one year. Phase IV includes the oil

and gas industry, munitions, cooling water intakes and discharges, and pesticides. On October 31, 2012 full NPDES program authority transferred from EPA to DEC.

To the phased approach on Section 404 Dredge and Fill program – no, the State does not plan to pursue phased or partial assumption. Current federal law requires an assuming state to take on the full 404 Program – partial program assumption is not allowed. DEC intends to develop an application for assumption of the full program within 2 years of program funding.

4. **Question:** What is the status of the multi-state effort to get federal funding for 404 Assumption as referenced in the Jade North report?;

Answer: DEC is working with EPA, our congressional delegation, other states, and other organizations to fund states' efforts to assume and implement the Section 404 Dredge and Fill program. The Environmental Council of States (ECOS) has passed a resolution “[s]upporting U.S. Congressional action to authorize and appropriate adequate funding for states that assume the Section 404 permitting program and to broaden the eligibility of the existing U.S. EPA wetland grant program for both development and implementation activities[.]” EPA staff has acknowledged that funding is a barrier to assumption and implementation. DEC is working to ensure that EPA diverts some of the federal agency’s substantial budget increase this year toward funding 404 assumption programs.

5. **Question:** Do entities that need 404 permits (the regulated community) pay any permitting fees to EPA/Corps of Engineers for 404 permits in the current structure and, if so, how much?

Answer: The U.S. Army Corps of Engineers (COE) charges \$10 for non-commercial Standard Permits and \$100 for commercial Standard permits.

6. **Question:** How much has the Corps spent to administer the 404 program for each of the last 5 years (2018, 2019, 2020, 2021, and 2022

Answer: The COE, Alaska Regulatory Division, has an average budget of \$8.5 million over the last five years.