

750 W. 2nd Avenue  
Suite 206  
Anchorage, AK 9950



907.258.0224 Telephone  
904.258.0223 Facsimile  
[www.oceanconservancy.org](http://www.oceanconservancy.org)

January 28, 2022

Zuzana Culakova  
Alaska Department of Environmental Conservation  
Division of Spill Prevention and Response – Prevention, Preparedness, and Response Program  
P.O. Box 111800  
Juneau, AK 99811

**VIA EMAIL:** [dec.cpr@alaska.gov](mailto:dec.cpr@alaska.gov)

**Re: Comments on Alaska Department of Environmental Conservation’s oil discharge prevention and contingency plan regulations**

Ms. Culakova:

On behalf of our members and supporters, Ocean Conservancy<sup>1</sup> submits the following comments on the Alaska Department of Environmental Conservation’s (DEC) proposal to change regulations on Oil Discharge Prevention and Contingency Plans and Streamlined plans for vessels, railroads, pipelines and oil terminal facilities.

Alaska’s existing oil discharge prevention and contingency plan regulations have helped protect the State’s people, wildlife and marine environment for decades. We are glad to see that most of the regulatory changes proposed by DEC will not adversely affect prevention and response standards, and we appreciate proposed changes that will reduce redundancy, improve clarity and facilitate usability.

That said, a few of the proposed changes—identified below—could weaken spill prevention and response safeguards. DEC should reconsider and revise these provisions to provide for stronger protections before adopting the proposed regulatory changes.

**DEC should revise proposed changes to require additional discharge exercises.**

Oil spill response exercises are a vital component of Alaska’s system of oil spill prevention and response. They help ensure operators can deploy response equipment and resources in a rapid and effective manner, and they promote safety for crew and responders by allowing them to practice in a non-emergency environment.

Proposed changes to 18 AAC 75.485 provide that DEC will conduct one operations-based discharge exercise for each five-year plan approval cycle and may conduct one additional exercise in each 12-month period. This new standard could reduce the number of exercises that DEC may conduct for large crude operators in Prince William Sound and may adversely affect preparedness and response capabilities.

---

<sup>1</sup> With headquarters in Washington, DC and Alaska-based staff in Anchorage, Juneau and Eagle River, Ocean Conservancy works to protect the ocean from today’s greatest global challenges. Together with our partners, we create science-based solutions for a healthy ocean and the wildlife and communities dependent on it.

DEC should change the proposed regulatory change to require additional drills and exercises. Specifically, DEC should revise 18 AAC 75.485 to require one significant Incident Management Team exercise and two field deployment exercises per year. The revision should also provide for other unannounced exercises if DEC deems them necessary and should retain DEC's ability to require additional exercises or take other appropriate action in the event a plan-holder cannot adequately execute their plan during a discharge exercise.

**DEC should reconsider its proposed repeal of regulations requiring examination of best available technologies.**

Current regulations require DEC to review and assess oil spill prevention and response technologies by sponsoring a technology conference at least every five years and engaging in studies and analyses to consider new technologies. 18 AAC 75.447(a). Current regulations also require DEC to issue written findings to identify breakthroughs in oil spill containment, control or cleanup, and to share those findings with plan holders and other interested parties. 18 AAC 75.447(b) and (c). DEC proposes to repeal these requirements.

In the absence of these provisions and as new technologies emerge, it is not clear how DEC will ensure that plan-holders and operators continue to use the most effective spill response and prevention equipment. We urge DEC to reconsider its proposed repeal of this section. DEC should not back away from the current regulation's commitment to best available technologies. The Department should retain existing section 75.447. If DEC feels that the existing regulation has not been effective or efficient, it should not simply repeal the regulation. Instead, it should propose an alternative that will continue to ensure ongoing review and assessment of proven new technologies for use in oil discharge and contingency plans.

**Updated regulations should continue to require DEC to provide Regional Citizens' Advisory Councils with copies of plan updates.**

DEC proposes to repeal provisions explicitly requiring that Regional Citizens' Advisory Councils (RCACs) receive materials related to contingency plan renewals, updates and amendments. 18 AAC 75.408(c). In place of this language, the new proposed regulations require DEC to post relevant information on the Department's website and notify interested stakeholders of the availability of such information.

Ocean Conservancy supports provisions that create greater transparency and accessibility, including requirements to distribute information and materials electronically, to ensure materials are easily searchable, to post application packages for review and final application packages on the Department's website, and to provide electronic notification to interested parties. That said, we urge DEC to revise the proposed regulatory changes to explicitly require the Department to notify RCACs of all new plans, plan renewals, major amendments, minor amendments and updates. An explicit requirement to notify RCACs is warranted due to their special role in reviewing contingency plans—a role that is recognized by DEC, by the Alaska Oil Spill Commission and in federal law. Moreover, an explicit requirement to notify RCACs will help ensure that DEC distributes information as required, even in the face of staff turnover and reductions in staff size that could impair the Department's ability to maintain an accurate and up-to-date listserv of interested parties.

**DEC's proposed regulations should clarify that amendments triggered by a new owner or operator will be treated as major amendments and will be subject to public review.**

Not all owners and operators have equal capabilities. When a facility or operation comes under new ownership or when new operators assume control, members of the public should have an opportunity to review and comment on those changes. Accordingly, plan amendments triggered by a change in the ownership of a facility or operation—or a change in the operator of a facility or operation—should be considered major amendments subject to public review. DEC should revise its proposed regulations at 18 AAC 75.414 and 75.415 to provide that when a change in ownership or operation triggers submission of a plan amendment, that plan amendment will be subject to public review under 18 AAC 75.455(b).

**Conclusion**

Many Alaskans depend directly on a healthy and vibrant marine ecosystem, and all Americans recognize Alaska for its magnificent ocean and coasts. It is in all our interests to prevent spills and to ensure prompt effective spill response. DEC's regulations have helped to do so for decades now. We urge DEC to modify proposed regulatory changes as described above to better safeguard the marine environment on which Alaskans depend.

Respectfully submitted,



Andrew Hartsig  
Director, Arctic Program  
Ocean Conservancy