

Prince William Sound
Response Planning Group

March 9, 2020

Seth Robinson

Alaska Department of Environmental Conservation
Division of Spill Prevention and Response – Prevention, Preparedness, and Response Pgm.
610 University Avenue
Fairbanks, AK 99709

Subject: RPG Comments in Response to Notice of Public Scoping – ADEC ODPCP Requirements

Dear Mr. Robinson,

This letter is submitted on behalf of the Response Planning Group (RPG), comprised of the Prince William Sound (PWS) Tanker Oil Discharge Prevention and Contingency Plan (ODPCP) Plan Holders (including Alaska Tanker Company, LLC; Andeavor, LLC; BP Oil Shipping Company, USA; Crowley Alaska Tankers, LLC; and Polar Tankers, Inc.).

Plan Holders are pleased to submit the enclosure which comprises our collective comments and recommendations in response to the Department's Notice of Public Scoping: Oil Discharge Prevention and Contingency Plan Requirements issued October 15, 2019. We welcome this initiative and the opportunity to offer constructive feedback on regulations which aim to ensure the safe transportation of oil through Alaska state waters. Many of the regulations included in the scoping notice date back thirty years, and we feel it is a timely and beneficial step for the state to embark on to comprehensively and objectively review them through this process.

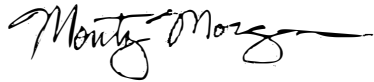
Together with agency and stakeholder partners, industry representatives have worked for decades to support and continuously improve prevention and response capabilities in the Prince William Sound region. These efforts have resulted in a world-renowned oil spill prevention and response system that is second to none. Improvements to the system in the last two years alone include new custom-built response vessels and escort tugs as well as new technologies in oil spill response equipment. These proactive investments are poised to help provide continuation of the safe and efficient transportation system in place in PWS.

The Department has made several positive changes and updates to the regulations in the past. We commend recent changes that have helped move the regulated

community's compliance into the twenty-first century with electronic submittals and distribution processes. Improvements such as these assist all interested parties and support transparency and efficient business operations. While there is more work to be done to modernize regulations, we believe this process is a notable step in that direction.

Again, we appreciate the opportunity to submit these comments and recommendations for your consideration and look forward to next steps in this process.

Sincerely,

A handwritten signature in black ink, appearing to read "Monty Morgan", with a long horizontal flourish extending to the right.

Monty Morgan
RPG Chairman & PWS Tanker Plan Administrator

Enclosures:

RPG Comments in Response to Notice of Public Scoping – ADEC ODPCP Requirements

Electronic cc:

RPG members

Response Planning Group Comments in Response to Notice of Public Scoping: ADEC ODP/CP Requirements

No.	Statute / Regulation	Subject	Comment / Recommendation
1	46.04.030 (k)(3) 18 AAC 75.438	Response Planning Standards for Crude Oil Tank Vessels and Barges	<p>Many system and vessel improvements have been made in the thirty years since the Oil Pollution Act of 1990 and related subsequent state regulations were enacted. While the response planning standards have remained unchanged, much forward progress has been made within the industry with regard to safety and efficiency improvements. For instance, all tank vessels that call at the Valdez Marine Terminal are now double-hulled as opposed to the single-hulled fleet of thirty years ago.</p> <p>The disparate nature of the two response planning standards (RPS) detailed in 18 AAC 75.438 (b), in which vessels with a cargo volume of less than 500,000 BBLs must meet an approximate RPS of 10%, while vessels with a cargo volume of 500,000 BBLs or more must meet an approximate RPS of 60% seems arbitrary. Consider updating the applicable regulations utilizing other states' and federal guidelines as potential resources (worst case discharge, average most probable discharge, etc.).</p>
2	18 AAC 75.438 (d) 18 AAC 75.430 (c)(2)	Prevention Measures Credits and Limits	<p>As single-hulled vessels are now obsolete, and double-hulled ships are the current required standard, the prevention credits aside from 18 AAC 75.438(d)(2), which allows for a 30% reduction credit for double hulls and bottoms, are also obsolete due to the cap on credits as outlined in 18 AAC 75.430(c).</p> <p>Also consider streamlining/consolidating RPS-related regulations. Prevention credits are outlined in 18 AAC 75.438(d) while the cap on credits is explained in 18 AAC 75.430(c).</p>
3	18 AAC 75.425 (e)(1)(F)	Response Scenario	<p>Scenario-based planning is unique to Alaska. The scenario(s) are required to demonstrate the plan holders' ability to respond to an RPS-sized spill. However, the specificity of each scenario only applies to one theoretical set of circumstances. While the main scenario and two response strategies outlined in the Core Plan comprise the bulk of the Response Action Plan as dictated by the regulations, responders in an actual event would utilize the SERVS Technical Manual as their reference guide and other resources for deployment of equipment and tactics. In no way is a scenario a usable guide for facilitating a response outside of the particular scenario with its unique variables. In addition, a scenario based on an instantaneous release of a ship's total cargo is unrealistic for double-hulled vessels which comprise the current PWS fleet. The mathematical calculations required by 18 AAC 75.445(n) should be sufficient to demonstrate how a plan holder can meet the RPS.</p>

Response Planning Group Comments in Response to Notice of Public Scoping: ADEC ODDCP Requirements

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4	18 AAC 75.425 (e)(3)(C)	Command System	<p>This regulation calls for, in part: "a description of the command system to be used in response to a discharge, including the title, address, telephone number, and affiliation by company, agency, or local government of each person...and each person's functional role in the command system..." This personnel information changes somewhat frequently and necessitates a plan amendment each time along with the requisite production and distribution processes. There should be an alternative way to provide the required information to the agency without including all of the specific contact information within a contingency plan. Providing the Department an updated biannual (or other suitable schedule) ICS listing would reduce administrative burdens for all parties. This is currently done for the conveyance of other types of important information to the Department including Fishing Vessel availability reporting and RFG member contact information. In support of this recommendation, 18 AAC 75.425(e)(1)(F) currently includes language that allows for pertinent information to be contained within a separate document from the contingency plan.</p>
5	18 AAC 75.485	Discharge Exercises	<p>The regulation does not provide any limitations to the scope of an exercise. This creates ongoing uncertainty with regard to business planning processes. References within the regulation to undefined terms such as "significantly deficient" and "inadequate" exacerbate this uncertainty. In the past, there have been conversations among the regulated community with regulators of the need for a more defined drill and exercise program that sets out clear goals and performance measurements. Plan holders support the development of such a guidance document and applicable updates to related regulations.</p> <p>PWS plan holders conduct an annual large-scale exercise in the region on a rotational basis among the various companies. The scenario of these exercises has traditionally focused on an RPS-sized spill. However, plan holders and the response community in general could benefit from a more varied approach to exercise design such as conducting exercises that focus on more likely spills, namely smaller-scale potential incidents.</p>

Response Planning Group Comments in Response to Notice of Public Scoping: ADEC ODPCP Requirements

No.	Statute / Regulation	Subject	Comment / Recommendation
6	18 AAC 75.405 18 AAC 75.455	Length of time for Department Review Procedures for ODPCP renewals and amendments	Regulations allow for a minimum of approximately nine months for plan renewals and major amendments with some processes having required a year or more to be completed. This process is excessively long. For instance, 18 AAC 75.455(c)(1) allows the Department 90 days after the end of a public comment period to issue a Request for Additional Information (RFAI). This three-month period, well into the overall review process, seems disproportionate, especially when considering there can be multiple, indeed unlimited, rounds of RFAI. The length of some reviews creates uncertainty and can negatively impact business operations and considerations.
7	18 AAC 75.415(h) and standard language included in approval letters issued by ADEC	Length of time to distribute an approved ODPCP or amendment	The standard time allowed in ADEC approval correspondence for publication and distribution of an initial or amended contingency plan has historically been 30 days. Increasing this time to a recommended 45 days or more would provide a more reasonable timeframe to distribute amended plans. This timeframe encompasses preparing updated files based on a just-issued agency approval, the printing phase, and distribution to include shipment of updated documents to vessels in various, sometimes far-flung locations.
8	18 AAC 75.447(a)(1)	BAT technology conference	This regulation states the Department will conduct a review and appraisal of new technologies, in part, by sponsoring a technology conference at least every five years. This has not been historically adhered to in practice. Plan holders have not been able to depend on this measure as a mechanism for new technologies to be evaluated. The regulation should be updated to reflect current practices or omitted as warranted.
9	18 AAC 75.027(f) 18 AAC 75.990(96)	PWS towing package	Consider removing references to the PWS towing package to be consistent with current IMO / SOLAS regulations (e.g. Guidelines for Emergency Towing Arrangements on Tankers).
10	18 AAC 75.430(d) 18 AAC 75.438(d) 18 AAC 75.485(c)	Department discretion	It is difficult to comply with regulations in which the Department's discretion is referenced. This discretion allows for different interpretations of the same regulation by regulators, for instance after personnel changes or across different offices, and creates uncertainty with regard to compliance.
11	18 AAC 75.425 18 AAC 75.455	Streamlining	Much of the information in 18 AAC 75.425 (plan contents) and 18 AAC 75.455 (approval criteria) is redundant. In order to be more clear and understandable, these sections should be reviewed for potential streamlining.

Response Planning Group Comments in Response to Notice of Public Scoping: ADEC ODP/CP Requirements

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12	18 AAC 75.412 18 AAC 75.413 18 AAC 75.427 18 AAC 75.443 18 AAC 75.446	Streamlining	Consider removing repealed regulations as they provide no added value to regulators or the regulated community.
13	18 AAC 75.200 (Article 2)	Financial Responsibility for Oil Discharges	State regulations exceed federal Certificate of Financial Responsibility (COFR) levels. P&I insurance limits (\$1B) exceed state levels. As such, we recommend the state accept federal COFR as other states do.