

Prince William Sound
Response Planning Group

January 31, 2022

Zuzana Culakova
Alaska Department of Environmental Conservation
P.O. Box 111800
Juneau, AK 99811

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

Dear Ms. Culakova,

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

Plan Holders are pleased to submit the enclosure which comprises our collective comments and recommendations in response to the Notice of Proposed Changes to Oil Pollution Prevention Requirements in the Regulations of Alaska Department of Environmental Conservation with public comment period November 1, 2021 – January 31, 2022. We welcome the opportunity to offer constructive feedback on the proposed regulations.

While the enclosed comments focus on remaining areas of concern, plan holders do appreciate the Department's efforts to propose many positive changes and updates to the regulations that will help streamline and clarify responsibilities as well as improve overall plan administration processes.

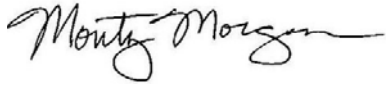
Again, we appreciate the opportunity to submit these comments and recommendations for your consideration.

Sincerely,



Angelina Fuschetto
RPG Chairman

and



Monty Morgan
PWS Tanker Plan Administrator

Enclosures:

RPG Comments in Response to Public Notice re Article 4: ADEC ODPCP Requirements

Electronic cc:

RPG members

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| No. | Citation | Subject | Comment / Recommendation |
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| 1 | 18 AAC 75.400(j) | Applicability / Plan Application Details | <p>The proposed regulation states that a person that files an application under (a) of this section must be the same person that files an application for proof of financial responsibility for oil discharges under 18 AAC 75.205(a). This could be problematic within organizations as regulatory responsibilities are often delegated across a wide array of divisions and employees. Plan holders also recommend that the regulation refer to an entity rather than a person (e.g. "The <i>responsible party</i> that files an application under (a) of this section must be the same <i>entity</i> that files an application for proof of financial responsibility for oil discharges under 18 AAC 75.205(a).").</p> |
| 2 | 18 AAC 75.408(b) | Plan Application Form Designated Signee | <p>The proposed regulation omits references that an agent who has been delegated authority may also sign applications. This could be problematic for routine plan maintenance. Plan holders should continue to have the ability to delegate signature authority to an approved agent within their organization. Also, the regulation refers to 18 AAC 15.030 which does not in turn reference back to 18 AAC 75.408(b).</p> |
| 3 | 18 AAC 75.449(a)(6)(O) | Response Scenario | <p>The current corresponding regulatory language includes a caveat "If required by the Department, the plan holder must provide additional response strategies..." There is no such caveat in the proposed regulation which would seem to require additional scenarios and strategies in all state contingency plans. Plan holders question the value of additional scenarios, particularly when seasonal strategies do not differ.</p> <p>In addition, plan holders would like to reiterate that scenario-based planning is unique to Alaska and is not utilized in any of the other states. 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 and regardless of how many scenarios there are, this would hold true. 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.</p> |

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| 4 | 18 AAC 75.485 | Discharge Exercises | <p>Plan holders remain concerned that 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.</p> <p>In addition, plan holders need to maintain flexibility with regard to how exercises are planned and designed. Plan holders should have the flexibility to conduct regularly scheduled training exercises that are not subject to the strict HSEEP planning and evaluation process, which may be impractical or may overly complicate the training exercise.</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> |
| 5 | 18 AAC 75.451(d) and 18 AAC 75.415 (b) | Command System | <p>Plan holders are pleased that the proposed regulation allows for some ICS personnel information to be provided in a separate document as this will reduce administrative burdens while still supplying the required information in a timely fashion. Standardizing requirements across plans to an appropriate level of detail such as functional titles of positions would further reduce administrative work that does not improve plan holders' ability to prevent or respond to an incident. In addition, plan holders would like additional clarity with regard to personnel of an IMT versus a plan holder per the reference to 18 AAC 75.415(b)(2) which includes a new reference to the "plan holder's" spill command and response personnel.</p> |
| 6 | 18 AAC 75.451(h) | Response Equipment Performance | <p>Plan holders would like assurances that a recovery system built over the course of decades will continue to meet the applicable regulations. This new regulation includes language, "if a plan holder wants to demonstrate to the department that another oil recovery efficiency rate is appropriate, the plan holder must submit a request for skimmer system efficiency evaluation form to the department; the department will approve or deny the request." The proposed regulation as written could be interpreted to apply to a single skimmer unit rather than a system or tactic which could have significant impacts on recovery numbers. Will previously approved systems, that were designed to meet or exceed regulations at the time, often at substantial cost, continue to be deemed compliant? Will previous associated correspondence from ADEC that approved alternate efficiency rates continue to apply after the proposed regulations are issued? Historically, ADEC has taken a "systems approach" with regard to response systems comprised of multiple, individual pieces of equipment; plan holders believe this is the best approach to evaluating a comprehensive, complex response system and strongly advocate for its continued utilization by the Department.</p> |

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| 7 | 18 AAC 75, Article 4 | Clarity of Language | Plan holders have some concerns over a lack of clarity in certain places within the proposed changes to regulations. It is recommended that the Article 4 undergoing amendment be reviewed in its entirety for continued language improvements with the goal to provide clear guidance and understandability for the regulated community. |
| 8 | 18 AAC 75, Article 4 | Implementation of New Regulations | Plan holders are interested in the implementation process for new/updated regulations and exactly how this will be conducted over what period of time. For instance, will previous agreements, conditions, and assumptions remain valid? As many of the proposed regulatory amendments represent substantial changes from the past, maintaining compliance will be of utmost importance to plan holders and should be attainable without increasing regulatory burdens. |