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It is imperative for every organization in order to maintain effectiveness and efficiency to periodically review their operational policies and management structure to determine whether or not they are achieving the organizations primary goals and objectives. The Alaska Department of Environmental Conservation – Prevention Preparedness and Response program (ADEC-PPR) is no different and their primary resources for structuring environmental compliance are found in Alaska statutes AS 46.04 and regulations 18 AAC 75.400.

Spill preparedness and response regulation must be an active continuous process that maintains relevance to changes to the environmental threats/potential impacts to our communities and habitat and to advancements in prevention and response technologies. In reading the submitted comments currently presented to the department during this scoping process and the commentaries in the news media, the majority consensus is that any change to existing regulations is a weakening of the regulation. I disagree and strongly support periodic review of spill prevention and response regulations as over reliance on thirty year old regulation to prevent or respond to oil spills is the definition of complacency.

I feel that the bulk of discontent with the current regulations (defined by ADEC as ‘cumbersome’) is being expressed not because of the statutes and regulations themselves, but the widespread inconsistency of contingency planning requirements and regulatory enforcement across the state. Examples of these inconsistencies are an oil spill skimmer on the North Slope has a lower efficiency rating then the identical skimmer in other regions. An oil tanker operating in one region has a standard for processing and retention of sea water collected during oil recovery and the very same tanker has different compliance standards upon entering another region. Despite the recent confusion and inconsistencies created by ADEC, the response and prevention community has been very successful in reducing the frequency and impact of black and refined oil spills within the state since the 1990’s.

There are many areas within the current regulatory language that should be reviewed and upgraded, promoting increased efficiency and consistent compliance.

- There are major discrepancies between the contingency plan content regulations located in 18 AAC 75.425 and plan approval regulations found in 18 AAC 75.445.
- ADEC continues to utilize the 1990 USCG process developed for determining oil spill recovery device efficiencies and does not recognize the current internationally accepted ASTM standard for determining oil recovery device capabilities.
- In 2018, ADEC developed an exercise guidance document that states they will follow the Homeland Security Exercise Evaluation Program (HSEEP) format but does not recognize

this or the National Preparedness for Response Exercise Program (NPREP) process in regulation or practice. Oil spill response exercises cost the response community millions of dollars a year and the exercise programs effectiveness in promoting effective integrated management during a response should be questioned because of the lackluster and inconsistent leadership by ADEC. Regulatory clarity can have a positive effect on these processes.

- The department's handling of major or minor plan amendments is haphazard and completely arbitrary. The definition of a "*major*" amendment is not clear to the plan holder, stakeholders, or the department.
- The current regulations requiring a plan holder to plan for shoreline habitat restoration and monitoring of long term impacts (18 AAC 75.425(e)(1)(F)(xii)) including stranded oil are ignored by the department and rarely included in contingency plans. The word "*restoration*" appears once in the entire chapter relating to contingency planning.
- The current regulations allow a plan applicant to reference other documents not included within their applications. While this may be acceptable with such documents as ASTM standards or OSRO technical manuals, the allowance of referencing becomes clouded with documents that ADEC may have no enforcement control over. The allowance of referencing non plan holder documents should be clarified.
- Some requirements within plan contents are very technical such as; tank construction, pipeline leak detection, alarm systems and other aspects of facility construction or operations that are completely outside of most ADEC's plan reviewers expertise or abilities. Currently the ADEC - PPR program has two engineers on staff to provide adequate review for the 125 approved contingency plans currently operating under the regulations subject to the scoping process.

Many other areas of improvement can be found within the regulations that do not degrade oil spill prevention, preparedness and response or "*gut the regulations*" and in most cases, industry and other members of the response community would support the increased consistency and recognition of the advancements within the spill response industry over the last 30 years.

Many commenters have suggested that inconsistencies within the planning and enforcement structure is based on the "*discretion of the department*" generated from language include within; AS 46.04.030(e) "*the department may attach reasonable terms and conditions to its approval.*" While it is absolutely appropriate that specific regional planning requirements are in place to protect unique conditions within a plan holders region of operation, *at the discretion of the department* should never be based on the personality of the individual plan reviewer. This widespread condition, currently found within ADEC's regulatory enforcement framework existed before the 2015 program reorganization but was offset and controlled by adequate and experienced program management. The 2015 program reorganization implementation and current framework have eliminated this control, resulting in the programs current dysfunction.

One question that must be asked during this scoping process is does ADEC have the current capacity or ability to conduct an effective regulatory review within its current structure? Based on the initial reaction of the public and industry to the announcement of the scoping process and the complete mistrust of the department's intentions, I would say no. ADEC should consider developing a commission of stakeholders and resource trustees to review and recommend upgrades to 18 AAC 75.400 Article 4 and AS 46.04. This commission would then make specific regulatory recommendations to senior ADEC management, the legislature and governor's office, and develop a responsible open and transparent process for public review and outreach.

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