

Jim Ayers

To Whom It May Concern:

Thank you for your solicitation of public comments regarding the scoping of AS 46.04 and 18 AAC 75 Article 4. As the former Executive Director of the Exxon Valdez Oil Spill Trustee Council, former Chief of Staff to Governor Tony Knowles, advisor to the US Coast Guard on the Deepwater Horizon disaster, and a resident of Alaska for over 40 years, I appreciate the opportunity to provide some historical insight and recommendations grounded in decades of personal and professional experience.

As the warming Arctic creates opportunities for increased maritime activity, Alaska is increasingly vulnerable to the discharge of oil and other hazardous materials. We've learned firsthand the need for thorough regulation, monitoring, and response through the disaster of the Exxon Valdez oil spill -- the effects of which are still being felt 30 years later. As Alaska prepares for an expansion of marine traffic, we must counter this additional risk with expanded protection of our environmental resources and coastal communities. This includes ensuring that there are qualified personnel and sufficient clean-up equipment in coastal communities, as well as diligent monitoring and response programs. To do anything less is to absolve corporations of their responsibility while shifting the burden to Indigenous peoples and coastal residents, further exploiting our most vulnerable and sending an unmistakable message that DEC prioritizes corporate interests over the protection of Alaskans and our environment.

Surrounded by nearly 34,000 miles of shoreline -- more than all of the Lower 48 states combined -- and five large marine ecosystems, Alaska is home to a multitude of pristine coastal and marine habitats that support innumerable species of fish, marine mammals, birds, marine invertebrates, and other ocean life. Alaska's waters and marine resources provide tremendous economic opportunity through fisheries, tourism, and outdoor recreation, and are intrinsically linked to our way of life. Alaska has the largest commercial seafood industry in the United States and produces more harvest volume than all other states combined. The commercial seafood industry contributed 31,900 full-time equivalent jobs to Alaska's economy in 2015 and 2016, accounting for 7.2% of statewide employment and \$1.9 billion in labor income.¹ Marine resources are also a critical component of subsistence harvest and cultural practices in coastal and Alaska Native communities. On average, subsistence fishing provides about 230 pounds of food per person annually in rural Alaska.

Despite Alaskans' best efforts to be responsible stewards of our marine and coastal ecosystems, history has revealed that our environment is just one mistake away from being irrevocably damaged. No incident in Alaska has exemplified this more than the 1989 grounding of the Exxon Valdez and its subsequent spill of an estimated 11 million gallons of crude oil. Although a response plan had been instituted, responders found that they were ill-prepared to address the crisis: some of the response equipment was buried under ten feet of snow, a response barge was undergoing maintenance, and there were not enough trained personnel on hand to respond to the spill. After the Exxon Valdez oil spill, subsistence harvest declined between 9-77% in 10 villages

within Prince William Sound, Cook Inlet, and Kodiak.

More recently, the Deepwater Horizon incident leaked over 210 million barrels of oil into the Gulf of Mexico between April and July 2010. According to the US Coast Guard Incident Specific Preparedness Review (ISPR), the disaster "tested, and in some cases exceeded, the limits of the Nation's oil spill response resources and capabilities developed after the 1989 Exxon Valdez oil spill". After the incident, self-reported consumption of local seafood in the Gulf of Mexico decreased by 50%. The Gulf Coast also experienced a significant decline in tourism interest, with tourists' perception of negative impacts sometimes overshadowing the impacts themselves. As a result, BP paid almost \$2 billion in tourism-related claims.

Both the Exxon Valdez and the Deepwater Horizon had countless negative impacts to marine ecological health, tourism, commercial fisheries, and coastal communities. However, one positive outcome of these disasters was a thorough review of the standards used to determine the adequacy of private sector oil spill response capacity, as well as the implementation of new laws and regulations to prevent such incidents from happening again (including AS 46.04 and 18 AAC 75 Article 4). In its 1990 report on the Exxon Valdez, the Alaska Oil Spill Commission states, "The notion that safety can be ensured in the shipping industry through self-regulation has proved false and should be abandoned as a premise for policy. Alert regulatory agencies, subject to continuous public oversight, are needed to enforce laws governing the safe shipment of oil."

As Alaskans, we have already had our wake-up call, and have worked diligently and collaboratively to create an oil spill response framework established in AS 46.04 and enhanced over time designed to protect our environment and communities. DEC's supposition that this framework is too burdensome -- after 30 years of industry compliance and numerous revisions to streamline regulations -- is not only untrue, but also transfers the burden of another disaster to the communities and environment DEC is charged with protecting.

Instead of seeking to reduce the State's oversight of an industry that has repeatedly proven its inability to self-regulate, DEC should incorporate the lessons learned from the Exxon Valdez and Deepwater Horizon disasters by establishing a comprehensive, interconnected community-based monitoring and observation network, and improving local response capability. Building strong partnerships between communities, the State of Alaska, and the US Coast Guard provides the only real course to meeting the standards recommended by the USCG ISPR and The National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, which noted that "increased citizen involvement before a spill occurs could create better mechanisms to utilize local citizens in response efforts, provide an additional layer of review to prevent industry and government complacency, and increase public trust in response operations." Funded by the Oil Spill Liability Trust Fund (OSLTF), this program would aim to ensure that there are trained personnel and equipment sufficient to contain, control and clean up worst case discharge (WCD) events in Alaskan waters. Without robust systems for monitoring and response, our coastal communities and ecosystems will continue to be jeopardized so that foreign corporations can reap the benefits.

Thank you very much.

Sincerely,

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Public Comment: Oil Discharge Prevention & Contingency Plan Public Scoping

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¹ <https://www.mcdowellgroup.net/wp-content/uploads/2017/10/ak-seafood-impacts-sep2017-final-digital-copy.pdf>

² http://www.adfg.alaska.gov/static/regulations/regprocess/gameboard/pdfs/2013-2014/Statewide_03-14-14/rcs/rc011_ADFG_Subsistence_Update.pdf

³ <http://www.pwsrcc.org/announcements/how-alaskans-reimagined-oil-spill-prevention-and-response/>

⁴ http://www.evostc.state.ak.us/index.cfm?FA=status.human_subsistence

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⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5034714/>

⁶ <http://credbc.ca/tourism-industry-impacts-the-deepwater-horizon-spill/>

⁷ <https://www.boem.gov/sites/default/files/environmental-stewardship/Environmental-Studies/Gulf-of-MexicoRegion/Nadeau.pdf>

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