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Citizens promoting the environmentally safe operation of the Alyeska terminal and associated tankers.

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**Anchorage**

3709 Spenard Rd, Ste 100  
Anchorage, AK 99503  
O: (907) 277-7222  
(800) 478-7221

**Valdez**

P.O. Box 3089  
130 S. Meals, Ste 202  
Valdez, AK 99686  
O: (907) 834-5000  
(877) 478-7221

August 5, 2021

Allison Natcher

Interagency Coordination Unit Manager

Alaska Department of Environmental Conservation

555 Cordova Street

Anchorage, AK 99501

**RE: Comments on the Alaska Regional Contingency Plan Public Review  
Draft, June 2021**

Dear Ms. Natcher:

The Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) is an independent, nonprofit corporation promoting the environmentally safe operation of the Valdez Marine Terminal and associated tankers. Our work is guided by the Oil Pollution Act of 1990 and our contract with Alyeska Pipeline Service Company. PWSRCAC's 18 member organizations are communities in the region affected by the 1989 *Exxon Valdez* oil spill, as well as commercial fishing, aquaculture, Alaska Native, recreation, tourism, and environmental groups.

PWSRCAC reviewed the version of the Alaska Regional Contingency Plan (RCP) that was posted for public review in June 2021. Our comments and suggestions are offered with the following goals in mind:

- Clarity for agency representatives, including those new to Alaska, and the Alaska public
- Transparent decision-making and clear and predictable processes for document review and adoption
- Creating the best possible outcome for citizens and the environment in the event of an oil spill in Alaska

This letter addresses the three overarching issues related to the proposed RCP content and process that are most important to us, followed by some additional suggestions to enhance plan clarity.

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PWSRCAC's three most important issues are:

**1) The Regional Contingency Plan should set policy, and changes among the Area Contingency Plans (ACPs) should be transparent to the public.**

Transparency is critical to stakeholder involvement in contingency planning. How issues are addressed and resolved at this level of planning should be clear

and straightforward. Decision making done in a transparent process can foster trust among government, industry, and citizens.

As the RCP states on page 5, one of the purposes of the document is to provide "Guidance to planners in preparing for a coordinated federal, state, tribal, and local response to a discharge..." As also depicted in Figure 1, the RCP governs the four ACPs in Alaska. The RCP sets policy and provides guidance, while the ACPs provide operational details and geographically specific information.

This public review of the RCP is timely and appropriate (if perhaps too short and conducted during a challenging season in Alaska for "public" engagement), affording the opportunity to comment on further document organization and content changes since the first version of the document was completed in 2018. Since that time, the four new ACPs have been released and have also undergone varying rounds of update under the new "Sponsorship Model" described in Part One F of the RCP. The way this process has unfolded raises two concerns regarding the roles of the different plan levels and transparency to the public:

- *ACP updates are being made based on public comment periods for other ACPs.* PWSRCAC noted that the December 2020 update to the Arctic and Western Alaska ACP, done without a public comment period, was based on public review opportunities provided for the Inland and Southeast Alaska ACPs (as stated in the Record of Changes, without specifics on what those changes were). This suggests that anyone who is tracking government contingency planning on behalf of a particular community or geography should be monitoring all four Area Plan comment periods since the language could move from one plan to another and be adopted in the name of "sustainable plan maintenance" (as described in the Arctic and Western Alaska ACP Record of Changes).
- *The ACPs are not necessarily following RCP guidance.* Even while the RCP, approved in 2018, stated that Alaska does not use a Multi-agency Coordination (MAC) Committee, both the Southeast Alaska ACP and Inland ACP were released stating that a MAC Committee approach may be used.

From our first few years of experience with this model beginning in 2018, we find it creates an unwieldy process that does not achieve an appropriate level of transparency. Many issues may be the same across the state, and consistency is a worthy goal, but much of the information that used to be in the former joint federal/state "Unified Plan" for Alaska is now spread amongst the four Area Plans. The movement of changes in the Area Plans, as well as many guidance documents, job aids, protocols, and other appendices should be more transparent and easier to follow. It would also be helpful to understand the differences between these various documents as far as their use and inclusion in the RCP and ACPs.

It is not clear from the proposed DRAFT Regional Contingency Plan how Annex D from the former Alaska Federal/State Preparedness Plan for Response to Oil & Hazardous Substance Discharges/Releases" (Unified Plan) has been fully addressed. When the Alaska Regional Contingency Plan was adopted in 2018, the section covering plan review (APPENDIX VI: PLAN

REVIEW, UPDATE PROCEDURES, & SCHEDULE) was labeled “to be developed” and left blank. Previously, there was a defined process and two-page flow chart describing how the Unified Plan would be updated. Whether with additional description or a simple flowchart, clarification on the process of plan updates would be helpful for the public and other stakeholders.

If the Sponsorship Model is adopted, the Statewide Planning Committee should provide detailed updates on the issues being addressed through the working group process, including the participants of both the Committee and the working groups and their intended timelines. This can be shared as part of updates at RRT meetings but also posted on a webpage that provides a single focal point for someone from any part of the state to identify the topics receiving attention and point of contact if they have questions, suggestions, or would like to participate as a stakeholder or subject matter expert.

Additionally, language should be added to the RCP that:

- Better defines the Sponsorship Model;
- Defines how topics are selected and by whom;
- Defines who decides whether to establish a working group;
- Defines who can be a member of a working group and who makes that decision;
- Sets timelines for public review;
- Provides clear guidance for both the RCP and ACP levels regarding what constitutes a substantive vs. administrative change (or that these be made simultaneously with a public comment opportunity included);
- Defines how this process will be implemented for the numerous appendices, job aids, and guidelines referenced throughout the documents; and
- Addresses where information on proposed plan changes can be found.

This process should set the expectation that overarching changes are made at the RCP level first. If changes relate to the numerous items that may be similar across Alaska but are now relegated to the Area Plans (e.g., almost all Appendices of the former Unified Plan), then public comment opportunities should articulate the intent that a change will percolate throughout the four Area Plans to encourage attention from around the State. Additionally, it is not clear whether changes made to an individual Area Plan are assumed to be adopted into other Area Plans simply by inclusion in an Area Plan. Each Area Plan should undergo its own update and public review regardless of whether a change has been incorporated into another plan.

## **2) PWSRCAC opposes the proposed language changes to the definition of the Regional Stakeholder Committee and Multi-agency Coordination Committee.**

The Regional Stakeholder Committee (RSC) approach is an Alaska-grown mechanism for involving affected local entities in an oil spill response to provide information, raise concerns, and identify local resources that can support the response. The approach grew out of a 1999 exercise in Kodiak and was finalized with a description in the Alaska Incident Management

System (AIMS) Guide by 2002.<sup>1</sup> The AIMS Guide description of the RSC was carried forward in the Unified Plan to the new RCP/ACP structure as the standalone approach to linking the Unified Command to a group of affected local stakeholders. The RSC approach has been exercised and refined over the years, with a clear purpose, process, and types of participants identified in various forms from the AIMS Guide to the Prince William Sound ACP and Arctic and Western Alaska ACP to the RSC job aid. A change to this approach within the former Unified Plan was considered in 2013, but the RRT abandoned that change in favor of retaining the RSC.

The RSC provides a clearly described structure for diverse local entities to receive and discuss the Incident Action Plan promptly upon its approval. RSC participants also have a direct line of communication to the Unified Command and receive timely information about the response in the form of the Incident Action Plan or other information shared by a Liaison Officer. Perhaps most important, the group can share ideas and discuss issues to bring into the response, streamlining a process that would otherwise require multiple Liaison Officers to engage separately with diverse groups. While the RSC does not in any way usurp the right of consultation, when done well it may also provide an avenue for multiple Tribes, Indigenous organizations, or Indigenous communities to come together to inform the response (for those that are not serving in a Local or Tribal On-Scene Coordinator role).

The RCP version provided for public comment mentions both an RSC and a Multi-agency Coordination Committee (referred to in the document as a MAC) with some important changes proposed to how each is defined.

The MAC definition states that it is:

an ICS term that refers to the functions and activities of representatives of involved agencies and/or jurisdictions who come together to make decisions regarding the prioritization of incidents and the sharing and use of critical resources during an emergency response. The MAC organization oversees the incident commander, but is not a part of the on-scene response, nor is it involved in developing operational tactics. **However, the incident command system used in Alaska for responses to oil and hazardous substance discharges can employ either a MAC organization or a Regional Stakeholder Committee (RSC) that works with the Unified Command.**<sup>2</sup>

This last sentence, in bold, represents a proposed change from the current version of the RCP, which used to state that a response in Alaska "does not employ a MAC organization, but instead uses a Regional Stakeholder Committee (RSC) that works with the Unified Command."<sup>3</sup>

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<sup>1</sup> This document is referenced in Part One, B, 3 of the RCP version posted for public comment (p. 12).

<sup>2</sup> See pages 54-55 of the RCP version posted for public comment.

<sup>3</sup> See page 71 of the RCP Version 1 from August 2018.

The RSC is defined as:

a committee composed of individuals and representatives of entities that may be affected by an emergency incident. **It is a type of a Multi-agency Coordination Committee (MAC).** The RSC may include local government representatives, community emergency coordinators, Regional Citizens Advisory Council representatives, landowners, leaseholders, and special interest groups. RSC membership may vary from incident-to-incident and from phase-to-phase. Agencies/organizations that are functioning as part of the overall ICS response structure would not normally be included in the RSC. The RSC does not play a direct role in setting incident priorities or allocating resources but can advise the Unified Command and provide recommendations or comments on incident priorities and objectives, and the incident action plan.<sup>4</sup>

This definition was also changed by adding the statement that the RSC is a type of Multi-agency Coordination Committee (MAC) (in line 2 of the definition, in bold).

PWSRCAC strongly opposes these two proposed language changes. If adopted as written, we are concerned that they will:

- Unnecessarily change an approach developed in Alaska to maximize input from diverse entities representing affected communities and interests;
- Significantly restrict the opportunity for broadly defined "stakeholders" to provide information and input directly to the Unified Command as part of the response structure (if a MAC option is used *instead of* the RSC because they are seen as equivalent in some way);
- Create undesirable confusion by equating two structures or groups that are not the same thing and do not serve the same purpose.

Since the RSC and MAC are not the same thing, and Unified Command will not be choosing between the two approaches, it is possible that they may be used differently for different types of incidents, or perhaps used simultaneously for a large, complex incident. For example, while the exercises and AIMS Guide from which the RSC was developed are focused on oil spills specifically, a MAC could be useful for a HAZMAT incident involving fire or other public safety elements that may draw resources from multiple agencies. PWSRCAC strongly suggests the following if the option of the MAC were to remain in the RCP:

- (1) The RCP *should* clearly state that the RSC is the preferred approach used in Alaska for oil spill responses, while a MAC may be suitable for other types of responses covered by the RCP.
- (2) The RCP definition of the RSC *should not* be amended as proposed to describe it as a type of MAC.

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<sup>4</sup> See page 56 of the draft posted for public comment.

- (3) The RCP definition of the MAC *should* identify the types of agencies and jurisdictions this may include in Alaska, not just copied from the Coast Guard Incident Management Handbook.
- (4) The RCP *should* explain how a MAC and RSC, if ever used simultaneously, will be coordinated as necessary to eliminate inefficiencies.
- (5) The RCP *should* direct the Area Committees to develop a description of the MAC participants and process that mirrors the level of detail described for the RSC in the Prince William Sound Area Contingency Plan and Arctic and Western Alaska Area Contingency Plan.

Without these clarifications, it is unclear why the flexibility of choosing either option that is now proposed in the RCP will create anything besides confusion.

### **3) Process for updating the RCP should be more transparent as well.**

Similar to our comment #1, above, PWSRCAC shares the observation that additional predictability and transparency is needed regarding changes to the RCP itself. While we have the opportunity to participate in the Area Committee Subcommittees (i.e., Admin and GRS Subcommittees of the Arctic and Western Alaska ACP, etc.), and understand and anticipate changes to the ACPs of interest to our organization, there is no parallel opportunity at the RCP level. This could be remedied with more detailed updates at ARRT meetings on processes and issues being considered for changes to the RCP, allowing for opportunities for discussion where warranted.

Additionally, we request that future updates to the RCP use redlined text to note changes. While we appreciate that this update would have been unreadable if redlines were used, hopefully after this round of comments the content will not require such substantial revisions in the future.

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PWSRCAC offers the following additional comments to enhance plan clarity and utility.

## **Part Two B                      Response Scope and Policy**

### **Notifications (p. 27, line 19-21)**

This section describes response notifications, stating in section (e) that the Responsible Party must report spills to the Alaska Department of Environmental Conservation (ADEC) and the National Response Center. The document does not mention that the Responsible Party is responsible for notifications more broadly under state regulations at 18 AAC 75.425(e)(B).

PWSRCAC suggests that this language be revised to reflect the state regulatory requirements.

### **Terminology (p. 28, line 13)**

This section uses the term "Responsible Party On-Scene Coordinator (RPOSC)." PWSRCAC suggests that the term "RPOSC" should be removed from the Plan in favor of the more common ICS term, "Responsible Party's Incident Commander" (as used on page 35).

#### **Response Cooperatives (p. 28, line 9)**

In line 9 it states that "Facilities and companies in a region may form response cooperatives..." PWSRCAC suggests that a clarification be added, since the Trans Alaska Pipeline System lessees are essentially required to work together through the state regulations referencing the spill response requirements of the "common operating agent" of TAPS lessees [46.04.020(g)]. This would add some clarifying Alaska-specific information.

### **Part Two C            Alaska Regional Response Team**

#### **Purpose of the ARRT (p. 28, lines 23-26)**

This language says that the ARRT "evaluates the preparedness of participating federal agencies and the effectiveness of ACPs for the Federal response to discharges and releases..." PWSRCAC suggests that the effectiveness of the ACPs should be considered more broadly, to include the effectiveness of joint responses that may include federal, state, tribal, and local partners.

#### **Role of ADEC (p. 30, line 18)**

The section describing State Membership of the ARRT identifies ADEC as a member of the ARRT, but not as a co-chair, which is used only for the U.S. Coast Guard and U.S. EPA. We understand that this is accurate based on the ARRT Charter but suggest that the ARRT website should use terminology that aligns with the Regional Contingency Plan.

#### **ARRT Meetings (p. 31, lines 27-28)**

This section states that "when in-person meeting attendance is not practical, remote meeting participation via teleconference or web-conference is encouraged." PWSRCAC appreciates that the ARRT has ensured a remote option for meeting attendance in recent years and suggests that language should be added to this section stating a commitment to continue this practice in the future.

#### **Local Government Responsibilities (p. 37, line 30)**

This section states that, "Local citizens play a key role in spill prevention and, in some cases, initial response." PWSRCAC disagrees with the first part of this sentence. While local governments may advocate for spill prevention measures, implementation and oversight is often up to operators and federal or state agencies and not up to local citizens.

### **Part Nine        Agency Roles and Responsibilities**

#### **ADEC's Food Safety and Sanitation Program (p. 98; table)**

The discussion of ADEC roles and responsibilities should include ADEC's Food Safety and Sanitation Program with authorities under AS 17.20.005 and relevant regulations related to

ensuring the safety of commercially caught fish following an oil spill. This program plays an important role in both large and small spills where commercially caught or processed foods may be affected.

**State's Nearshore Operations Response Strategy (NORS) and Community Trailers (p. 100; table)**

The language at the end of the ADEC table under "Nearshore Response Resources" requires some clarification. The NORS and the local response trailers are two different things. The links provided are correct, but the description is unclear. Additionally, if the NORS is to be mentioned, then other aspects of SPAR's long-term efforts should be mentioned as well, including the STAR Manual overall (not just the NORS section), Geographic Response Strategy program, and Potential Places of Refuge program.

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Thank you for your consideration of these comments. As an OPA 90 mandated organization focused on the *Exxon Valdez* oil spill region, we take seriously our mandate to advise on oil spill response planning on behalf of our member entities. We also bring more than 30 years of experience engaging directly in oil spill response planning, exercises, programs, and policy discussions in Alaska on behalf of those members. While changes can bring improvements, we firmly believe that changes to long-standing policies or approaches in Alaska *must* represent improvements or they should not be made. We measure those improvements through the eyes of the potentially – and historically – affected public who are our members and who hold high expectations for the transparency and accountability of Alaska industry and public agencies.

We hope these comments are helpful and would be glad to discuss any of our recommendations further. Please do not hesitate to contact us.

Sincerely,



Donna Schantz  
Executive Director



Robert Archibald  
Board President

Cc: Mark Everett, ARRT Tri-Chair  
Beth Sheldrake, ARRT Tri-Chair  
Tiffany Larson, ARRT Tri-Chair  
Mary Goolie, EPA  
Mark Randolph, USCG  
LCDR Matt Richards, USCG  
LT Alex Gomez, USCG  
LTJG Joseph Zarlengo, USCG  
Kathy Hamblett, USCG