

31 January 2022

Jason Brune, Commissioner
Department of Environmental Conservation
410 Willoughby Avenue, Suite 303
Juneau, AK 99801-1795
DEC.Commissioner@Alaska.gov

RE: Notice of Proposed Changes to Oil Pollution Prevention Requirements in the Regulations of ADEC

Dear Commissioner Brune,

Alaska Chadu Network (ACN) appreciates the opportunity to comment on the proposed changes to ADEC's Oil Discharge Prevention and Contingency Plan regulations. These comments are based on our multiple decades of experience in Alaska's spill response community and as a Primary Response Action Contractor (PRAC) providing support to our planholders.

Planholder Incident Management Team Command System (451(d))

- "For plans that propose 24-hour operations, the detailed personnel document must identify available staff for 24-hour operations." The information required to be provided to the ADEC for each ICS position according to the Alaska Regional Contingency Plan for 24-hr operations unfairly burdens small planholders who do not confront large extended responses and source their IMT members internally.
- Having to "maintain and update in real time" the ICS position information would result in substantial administrative burden for all involved. If someone listed in the contingency plan is unavailable for a short period of time, it is unclear what the threshold is for ADEC to be notified.
- **Recommendation:** Remove the language for 24-hr operations and replace with "ability to operate for multiple operational periods". Remove the "maintain and update in real time" language and replace with a requirement for quarterly updates. Revert to original text.

Response Personnel Training (451(j)(2))

- "...the plan holder shall provide a detailed description of the training programs for discharge response personnel to demonstrate that (2) personnel are trained and kept current in methods of preventing oil discharges as required by 18 AAC 75.020".

- The intent of this language is unclear. Is the intent to train response contractors to prevent spills from the facility or vessel? Or is the intent to train responders to prevent additional spills during the response? Spill responders should not be expected to be trained to prevent spills during daily operations of a plan holder.
- **Recommendation:** Please clarify language to remove ambiguity.

Best Available Technology (BAT) (452)

- (a)(1)(D) BAT is required for wildlife capture, treatment and release procedures and methods.
- **Recommendation:** Require the adherence to the Wildlife Protection Guidelines instead of Best Available Technology.
- “(c) If the department's determination under (b) of this section is that a technology proposed for use by the applicant is not the best available technology, the department will provide a written finding explaining its decision.”
- **Recommendation:** Please clarify the process to reconcile differences of opinion regarding BAT or identify any applicable appeal process.

Planholder Exercise Frequency (485(a)(1)(A))

- While ACN supports exercises to improve response readiness, ACN believes that the requirement for exercises to be conducted every five years for every facility is overly burdensome on planholders, PRACs, Qualified Individuals (QIs), and regulators in which a planholder has multiple facilities. From the Oil Spill Response Exercise Manual introduction, a guiding principle of the Exercise Program is to “increase cost effectiveness”. That principle does not appear to being considered here.
- Companies with multiple facilities could be holding a drill every quarter with the same incident management team (IMT). The return on investment to the planholder’s IMT would be diminished with multiple exercises each year.
- The proposed regulation does not account for the burden on industry and does not account for the fact that deployment exercises generally need to occur in the short, busy, months of the Alaskan summer which further compounds the scheduling issue.
- It is also not clear that ADEC (or supporting agencies) will have the resources to attend / administer the potential volume of such exercises.
- **Recommendation:** For planholders with multiple facilities, rather than specifying a certain number of exercises in five years for each facility, require the selection of the number and type of exercises to be determined between the planholder and agency with the primary consideration being the improved response readiness of the planholder.

Oil Spill Response Exercise Manual

- The manual is very comprehensive and certainly provides valuable guidance for the conduct of oil spill response exercises for ADEC, planholder, and PRAC.
- Continuing from the previous comment above, ACN is concerned that ADEC resources are unable to support the large-scale exercises described in this manual at the frequency required by the proposed regulations. For example, in Figure 1, there are up to 12 State Roles identified to fill ICS Oversight Roles in an exercise in addition to the ADEC planning team.
- **Question:** With the manual being considered a 'living document' and not subject to the public regulatory review process, what is the review schedule, and will that review include public comment/input?
- **Recommendation:** Please clarify the review schedule and public input process in the Purpose and Scope of the document.

Please do not hesitate to contact Matt Green at Matt.Green@AlaskaOSRO.org or (907) 348-2301 to clarify any of these comments if required.

Best regards,



Buddy Custard
President/CEO