



PO Box 296
Kotzebue, AK 99752
ph (907) 442-3467
fax (907) 442-2162
www.kotzebueira.org

January 6, 2022

Jason Brune, Commissioner
Department of Environmental Conservation
410 Willoughby Avenue, Suite 303
Juneau, AK 99801-1795
Tel: (907) 465-5066
Dec.commissioner@alaska.gov

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

Dear Commissioner Brune,

The Native Village of Kotzebue appreciates the opportunity to provide comments for the Alaska Department of Environmental Conservation (ADEC) **Notice of Proposed Changes to Oil Pollution Prevention Requirements in the Regulations.**

The citizens of the Tribe continue to rely on the healthy populations of fish and wildlife that use the Bering, Chukchi and Beaufort Seas for feeding, reproduction and overall survival. The fish and wildlife found in Alaska waters are critical to the continued survival of our way of life and provide for the economic, spiritual, nutritional, and cultural needs of our people. The Tribe believes that it the responsibility of all Alaskans to first and foremost ensure the protection of these waters. The ADEC is of course, charged specifically with overseeing oil development and transport in nearshore waters, and thus has an additional responsibility to ensure that oil pollution prevention requirements are sufficient for the task of substantially decreasing the risk of chronic, or catastrophic, oil spills and releases.

We understood that, in addition to simplifying regulations by removing superfluous requirements, the overall regulatory burden of the oil industry was a priority consideration, and we wrote at some length in our comments during the scoping part of the process, about the necessity of keeping in place a robust system of oversight regardless of the burden to industry. It appears that in the final proposal most of the regulations have in fact stayed in place substantively and we are pleased with the approach taken by ADEC during this review. There are a few areas however, that we would request ADEC reconsider the proposed requirements. These are:

18 AAC 75.408(c). Who distributes documents, interested stakeholders, and the removal of named reviewers (pages 13-14). The regulations should continue to name the RCACs for Cook Inlet and Prince William Sound as recipients required to be notified of plan reviews, updates, and amendments, electronically or otherwise. Besides federal recognition of the RCACs' special role in reviewing contingency plans for the terminal and associated oil tankers within the Oil Pollution Act of 1990, the Alaska Oil Spill Commission similarly recommended that the RCACs be integrated into a state system of citizen oversight including government agency operations. As stated in our scoping comments, we are strong supporters of the Citizens' Advisory Council process in all regulatory arenas. The ADEC should take advantage of the Prince William Sound Regional Citizens' Advisory Council and Cook Inlet Regional Citizens' Advisory Council in continuing to provide them recognition in regulations to specifically be identified as recipients to receive printed materials during contingency plan renewals, updates, and amendments. These fellow Alaskans bring a wealth of knowledge to the table and have demonstrated a serious commitment to protecting the marine environment on which all the rest of Alaska depends. They also provide a valuable service to the ADEC by promoting public participation in opportunities like this current one, and go out of their way to help educate the interested public of the particulars of regulatory related actions so that they can respond in a more informed and useful manner. While under the proposed change they would continue to be provided information like all other interested stakeholders, by keeping them listed in the regulations it would recognize their special place in the Alaska community and also be a sign that ADEC understands and appreciates their significant contributions to oversight in the area of oil spill prevention. Their demonstrated commitment and service over the years really requires that they be highlighted as recipients in the regulations.

18 AAC 75.485. Discharge exercises (pages 95-101). While it is not entirely clear whether the proposed changes would result in a reduction of the number of oil spill

drills and exercises required to be conducted by larger plan holders, such as the Valdez Marine Terminal and associated shippers, it concerns us that it may. This concern goes back to our scoping comments where we discuss at length the necessity to do everything practical to reduce the potential for oil spills. The minimum number of exercises required for crude oil plans should be set at one significant Incident Management Team and two field deployment exercises per year, as well as other unannounced exercises as ADEC deems necessary. Regulations should also retain the commitment that if a plan holder fails to demonstrate the ability to implement their plan, ADEC will require additional exercises and take other appropriate action. The ounce of prevention is worth more than a pound of cure. This has been demonstrated in way too many unnecessary loss-of-control events in the oil shipping arena. Alaska should have the best and most robust response and training regime in the world when it comes to maritime oil activities. It should be undertaken in the same vigorous manner today, as if the Exxon Valdez tragedy happened last year, or last month even. It is the job of those shipping oil and those charged with oversight, to stay vigilant and ready to respond quickly and effectively to prevent unnecessary and tragic release of oil into our waters. It is the implicit and explicit commitment and responsibility assumed by both industry and government when they agree to the transport of oil on Alaska's waters. We deserve no less.

Along these same lines, within **18 AAC 75.447. Department examination of new technologies (page 45)**. The ADEC should retain the explicit commitments in regulation on staying informed of all of the industry's Best Available Technologies, including the commitment to regular BAT conferences. While we believe it is the intention of the personnel working at ADEC to continually educate themselves about the current and new BAT, by committing to this in regulation, it reassures the public, that they have the proper approach to oversight, while also ensuring that regardless of personnel changes, it continues as a priority of the ADEC and as an integral part of the standard operating procedure. Like the discussion above about removing the RCACs as recipients, this is an unnecessary change that does nothing practical to reducing regulatory burdens, or superfluous items – its only effect would seem to potentially decrease confidence by the public in the actual commitment of the ADEC to oil spill prevention. Whoever was doing the cost benefit analysis on these items, we would respectfully ask them to reassess the calculations.

Lastly, while we agree that the adoption of International Maritime Organization (IMO) standards for emergency towing arrangements is appropriate, we believe that the additional requirement that tankers calling at the Valdez Marine Terminal be able

to deploy the arrangement from the forward (bow) position in 15 minutes. It should be unnecessary to point out why we believe additional safeguards at this location are not overkill.

In closing we appreciate, the work that the ADEC has undertaken in this review and also the majority of the proposed outcomes. It is reassuring to us that the ADEC is demonstrating through this process their commitment to ensuring safe transportation of oil across Alaska's waters. We believe that if the ADEC reassesses some of their decisions as described above and implements these important but rather simple suggestions, it will increase even more our level of confidence and appreciation in the work that the ADEC does.

Thank you for considering our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'alex whiting', with a stylized, sweeping end.

Alex Whiting
Environmental Program Director

A handwritten signature in blue ink, appearing to read 'Pete Schaeffer', with a simple, horizontal stroke.

Pete Schaeffer
Tribal Council Chairman