



People Who Know®

March 12, 2020

Seth Robinson
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
Prevention, Preparedness, and Response Program
610 University Avenue
Fairbanks, AK 99709

Regarding: Notice of Public Scoping for Alaska Department of Environmental Conservation Oil Discharge Prevention and Contingency Plan Requirements

Mr. Robinson,

For many years, Crowley Fuels LLC ("Crowley") has operated facilities and tank vessels in Alaska that are subject to Alaska Department of Environmental Conservation (DEC) Oil Discharge Prevention and Contingency Plan (ODPCP) requirements. Based on this experience, Crowley is well versed in spill preparedness in Alaska and in implementation of the ODPCP requirements.

Crowley is therefore uniquely positioned to respond to DEC's 15 October 2019 request for input from the public on the ODPCP regulations under 18 AAC 75 Article 4 and on the Department's statutory authorities relevant to contingency planning under AS 46.04. Crowley's comments on these matters are outlined in the attached matrix.

Crowley appreciates the opportunity to comment on the ODPCP regulations and associated statutory authorities.

Sincerely,

Shane Robinson
Vice President, Operations Integrity
Crowley Fuels LLC



crowley.com/social

201 Arctic Slope Avenue
Anchorage, Alaska 99518
crowley.com

| Reference | Topic | Recommendation/Comment |
|--|---|---|
| 18 AAC 75.220 | <i>Application for amendment (financial responsibility); “be submitted to the department at least 30-days before placing the changes operation in service, except for the owner or operator of a nontank vessel must be submit changes at least 15 days...”</i> | The timeframe of 15-days for nontank vessels should also apply to plan holders that are adding a tank vessel and/or barge to their plan since it typically takes approximately 15-days for the ADEC plan reviewer to approve the addition of a vessel. The approval of plan and financial responsibility timeframes would then be synchronized. |
| 18 AAC 75.405; 75.410; 75.420 | <i>Plan renewal and timeframe</i> | As a result of regulatory change in 2016, the plan review and renewal and approval process can take up to 240 days. Excessively long review period constrains flexibility for Alaska businesses. If a plan is submitted for renewal in time and DEC does not respond, the plan should automatically be renewed. The renewal timeframe makes it difficult for a business to react to market changes and may impact business opportunities. |
| 18 AAC 75.408(c)(1) | <i>“the format must be electronic, paper, or both, as the department specifies;”</i> | There is no value in submitting paper copies of an ODPCP. Electronic submittal should suffice and can easily be made available to agencies and the public on a cloud-based server. |
| 18 AAC 75.408(c)(3) | <i>“the department will specify the electronic format to be used; the submittal must be electronically searchable;”</i> | A Portable Document Format (PDF) is the standard electronic file format and should be the departments accepted format for submission. |
| 18 AAC 75.408(c)(4); 18 AAC 75.408(c)(5) | <i>“for new plans, plan renewals, and major amendments, the applicant must provide all copies to the department, the Department of Natural Resources, the Department of Fish and Game, regional citizens' advisory councils, and other persons designated by the department;”</i> | Since ADEC creates plan distribution lists they should be responsible for providing copies of the plan to agencies and interested entities rather than the plan holder. ADEC should also maintain and update the distribution lists rather than the plan holder being the middleman in providing contact updates to ADEC. ADEC should also upload plans to the website and e-mail notifications sent to reviewers outside of ADEC. |

| Reference | Topic | Recommendation/Comment |
|------------------------------|--|---|
| 18 AAC 75.425 (e)(1)(A) | <i>Emergency Action Checklist- "it is recommended that this summary be duplicated on a wallet-size card, to be carried by the appropriate response personnel while on duty"</i> | Delete this statement as each plan holder has their own method for insuring their employees carry out emergency actions. |
| 18 AAC 75.425 (e)(1)(F) | <i>Response Scenarios-"if the information required by this subparagraph is contained within a separate document developed by the plan holder or the plan holder's primary response action contractor identified in (3)(H) of this subsection, the plan holder may incorporate the information by reference upon obtaining the department's approval.."</i> | A key component of the ODPCP used to validate the operator and their contractor(s) response capability are scenarios. Currently, the plan holder develops individual response planning scenarios for regions of operation. These scenarios often are developed with limited input from the Primary Response Action Contractor (PRAC). This regulation also allows the plan holders to incorporate by reference a separate document. Plan holders need work with ADEC to capitalize and pursue having Master Scenarios for each region of the state, and in a useable format (ICS Incident Action Plan) and cover the timeframe from 24 hours and beyond. The Master Scenarios can be maintained and updated by the contracted PRAC (Southeast Area Prevention and Response Organization, Alaska Chadux, Alaska Clean Seas and Cook Inlet Spill Prevention and Response Incorporated). |
| 18 AAC 75.425 (e)(3) | <i>Supplemental Information</i> | Including detailed descriptions or listings of easily attainable information could easily be addressed by incorporating the information by referencing government documents or weblinks rather than adding to the length of these plans, which are designed to be used for emergency response (i.e. description of the command system, listing of environmentally sensitive areas and areas of public concern for a region of operation). |
| 18 AAC 75.425 (e)(3)(F)(iii) | <i>Response Equipment-the manufacturer's rated capacities, limitations, and operational characteristics for each item of oil recovery equipment."</i> | Regulation requires a recovery rate of 20% of the equipment manufacture's rate throughput capacity unless proven to be greater. In a September 11, 2009 letter issued by ADEC a decision was made that all plan holders must use a 20% recovery rate Mechanical recovery and skimmer de-rating. This regulation and policy discourage the use of higher efficiency and effective skimmers to meet the planning requirements. The formula and assumptions have been created at the discretion of the department. Each plan holder should not have to |

| Reference | Topic | Recommendation/Comment |
|----------------------|---|---|
| | | justify a higher EDRC of each skimmer if the device has been tested using industry standards. The results of the test data should be accepted by ADEC for the specific make and model of equipment tested. In addition, DEC requires 5 times multiplying factor to calculate the quantity of recovered water theoretically collected by skimmers. The Spill Tactics for Alaska Responder uses 2 times multiplying factor, as does the federal government. These discrepancies need to be reviewed and discussed (agency, industry workgroup) and corrected. |
| 18 AAC 75.425 (e)(4) | <i>Best Available Technology (BAT)</i> | Eliminate the BAT regulations as they are duplicative to Article 1 Oil Pollution Prevention requires, which reference industry standards or other regulation (federal) that constitute standards of care for the applicable operations (i.e. transfer operations). |
| 18 AAC 75.455(b)(5) | <i>Public Notice- “the applicant makes arrangements with one or more newspapers of general circulation within the area or areas of operation to publish the notice (the department will determine the newspapers) and notifies the department of the publication date.”</i> | This costly and ineffective requirement of publishing a public notice for one day in one or multiple newspapers needs to be eliminated since it has resulted in zero public comments. The public notice should be posted on the ADEC website throughout the public review period rather than publishing in newspapers. |
| 18 AAC 75.465 (e) | <i>“must have the original or true photocopy of the following on board the tank vessel or oil barge inspection when operating in state waters,</i> | Recommend also allowing for electronic copies of the documentation, which would be consistent with federal law. |