



Saturday, March 14, 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

Re: Comments and recommended changes to 18 AAC 75

Dear Mr. Robinson:

Please find below, Vitus Energy's comments and recommended changes to the existing Oil Spill Prevention and Discharge Regulations. Vitus believes that the comments and recommendations provided below will not diminish the protection of the environment or to Alaskans. These recommendations will allow for the industry to react quickly to business opportunities and reduce unnecessary cost and burden.

18 AAC 75.405 & 75.410

The requirement for a 60-day pre-notification and a 180-day submittal timeframe make it difficult for a business to react to market changes. 240 days is far too long for a project to be permitted and in operation, many operations are seasonal in nature and this may prevent business opportunities.

18 AAC 75.408(c)(1)

"the format must be electronic, paper, or both, as the department specifies;"

With the ease of cloud-based storage, there is little value in submitting paper copies in addition to the electronic submittal. This creates a substantial cost for the organizations making application for approval.

18 AAC 75.408(c)(3)

"the department will specify the electronic format to be used; the submittal must be electronically searchable;"

The common electronic file format that is used by most organizations is the Portable Document Format (PDF) and should be the accepted format for submission.

18 AAC 75.408(c)(4)

“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;”

The requirement to provide copies of the plan to agencies and interested parties outside of ADEC should be removed. All plans should be uploaded to the ADEC website and e-mail notifications sent to reviewers outside of ADEC. This would ease the significant cost of printing hard copies (unless requested), make the plan readily available to all concerned parties and prevent non delivery due to e-mail size constraints.

18 AAC 75.425. Oil discharge prevention and contingency plan contents

(1) Part 1 - Response Action Plan:

(2) Part 2 - Prevention Plan:

(3) Part 3 - Supplemental Information:

(C) command system - a description of the command system to be used in response to a discharge, including the title, address, telephone number, and affiliation by company, agency, or local government of each person, including a person identified in (1)(B) of this subsection, who by law or through employment, contract, or cooperative agreement, is responsible for responding to a discharge, and each person's functional role in the command system; this list must include command, fiscal, operations, planning, and logistics lead personnel; the command system must be compatible with the state's response structure outlined in the state master plan prepared under AS 46.04.200;

Information that is contained in the Area and Regional Contingency Plans, Alaska Incident Management System Guide (AIMS), Spill Tactics for Alaska Responders Manual (STAR) and any other commonly available reference should be removed from section 3 and incorporated by reference to reduce the amount of duplication.

18 AAC 75.425(e)(3)(F)(iii)

Skimming capacity is limited to 20% of the manufacturers rated throughput capacity over a 24-hour period. The hours of operation must be established. We have been told to use a maximum of 20 hours per day for operations, with 4 hours out of service for maintenance, etc... This requirement is essentially placing a further 12.5% reduction to the already de-rated recovery rate of the skimmer. The use of these policies and formulas encourages the use of the most inefficient high-volume skimmers to meet the RPS. More efficient skimmers, some with 80-95% efficiency rates would be used for planning if they were not de-rated to an unreasonable level.

It has also been a common request of reviewers to require 5 times the EDRC in available temporary storage for recovered water. This requirement is not contained in the regulations and makes the assumption that the actual efficiency rate of the skimmers is 20%, not the effective rate of the skimmer.

The process for having a skimmer efficiency reviewed by the department is cumbersome and does not provide a clear means of evaluation. Each plan holder would likely need to submit a request for review of equipment contained in their contingency plan. Equipment manufacturers and spill response organizations have had much of their equipment evaluated using ASTM Standards as required under federal requirements, OHMSETT tests equipment in their facility using ASTM methods and standards. The results of this test data should be accepted by ADEC for the specific make and model of equipment tested.

(4) Part 4 - Best Available Technology Review:

Remove this entire section. A Best Available Technology Review no longer provides any benefit to the plan as the available technologies have been codified into the state and federal requirements since the inception of the regulatory requirement.

18 AAC 75.445. Approval criteria for oil discharge prevention and contingency plans

There should be an expedited procedure for renewal of plans that do not have major revisions to them that would allow for a timely review and renewal process. If the plan only contains minor and administrative changes, it should be reviewed as if it were a minor amendment.

References

After the recent required update to all Contingency Plans, a second update notice was sent to plan holders to again update their plans due to a change in State of Alaska website changes. This occurred shortly after we received approval for the initially requested changes to references to the Alaska Regional Contingency Plan and Area Contingency Plans. These changes could have and should have been made as plans were submitted for renewal as was required by the federal agencies.

Other items and recommendations

The use of "Master Scenarios" maintained by a contracted OSRO/PRAC.

The development and use of Master Scenarios by contracted OSRO/PRAC for the post 24-36 hours after the release. The owner/operator would provide the initial response and containment at the spill site, for the initial 24-36 hours of an event, and then transition operations to the OSRO/PRAC.

The combining of 2 unregulated oil terminal facilities that are under the regulated size standard into a regulated facility. There is no clear method for determining when or how this decision is made. AS 46.04.900(15) defines "oil terminal facility" means an onshore or offshore facility of any kind, and related appurtenances, including but not limited to a deepwater port, bulk storage facility, or marina, located in, on, or under the surface of the land or waters of the state, including tide and submerged land, that is used for the purpose of transferring, processing, refining, or storing oil; a vessel, other than a nontank vessel, is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil

terminal facility; This definition does not provide for the combining of 2 independent unregulated facilities into a single regulated facility. If an operator owns 2 small facilities in a geographical area, on separate parcels of land with no commonly shared lot lines, pipelines, or other associated facility connections. The state should not be able to make an arbitrary decision to combine the facilities for the purpose of regulation.

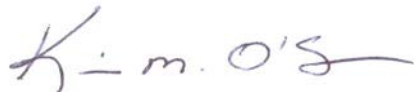
If this is going to be standard procedure, the procedure needs to be clearly defined in either the statutes or regulations. As it currently exists, this decision is based solely on someone's opinion.

Coordination and Consistency

There needs to be coordination and consistency within the different sections of ADEC with regards to those areas that may be involved during an oil spill response. Water Quality issues involved in decanting recovered water. Air Quality issues with in-situ burning of oily debris, the use of Smart Ash incinerators to dispose of used sorbent materials. Solid Waste concerns with general waste disposal, oil contaminated wastes/debris, and on-site sewage generation. A spill response will require the participation of most divisions within ADEC, a possible solution would be to grant the State On-Scene Coordinator the authority to approve all department permits and requests for the spill response.

If you have any questions concerning these comments, please contact me directly at 907-278-6713.

Regards,

A handwritten signature in blue ink that reads "K-m. O'Shea". The signature is written in a cursive, slightly stylized font.

Kevin M. O'Shea
Vitus Energy LLC
Safety & Environmental Manager