



Friday, January 28, 2022

Zuzana Culakova
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response, Prevention, Preparedness, and Response Program
PO Box 111800
410 Willoughby Avenue, Ste. 303
Juneau, AK 99811

Re: Comments and recommended changes to 18 AAC 75

Dear Ms. Culakova:

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 75.400(c)

Need to provide a definition for 'permanently closed'.

18 AAC 75.405(a)

The 60 day advance notice prior to submittal of an application places an undue restriction on plan holders by extending the total review period for new plans. This can restrict a business' ability to make quick business decisions for constructing and permitting of new operations. With short construction and operational season here in Alaska, this will make it difficult to bid on new opportunities any sooner than 1 to 2 years out.

18 AAC 75.405(b)

Again, this requirement extends the time period for a review. The review period for plans used to be 65 days, now it takes over 180 days. This makes it difficult for a business to respond to potential business opportunities that may arise.

18 AAC 75.408(b)

LLCs are not listed in 18 AAC 15.030 and should be treated the same as a corporation.

18 AAC 75.408(c)(1)

The requirement to submit a paper copy of the plan in addition to the electronic copy of the plan should not be required. The Department, reviewers and interested parties can access the electronic copy on the state website and print copies for their use. This will just add to the cost and time to the submittal process.

18 AAC 75.408 Editor's Note

This is a major improvement. Interested parties may register for notifications making the old published Public Notices obsolete. The process of getting notices published in some of the smaller weekly publications is expensive and time consuming, often causing a delay in the review process.

18 AAC 75.410(a)

This requirement restricts the ability of business' to quickly respond to market needs. Submitting the application 180 days prior to the proposed start of the operation, along with the 60 day written notice, and 30 day consultation stretches the process for plan review to 270 days.

18 AAC 75.449(a)(2)

The additional information for 'potentially impacted groups and others who may be called on to provide resources during the spill' should be included in the Area Plan and referenced in this section of the contingency plan.

18 AAC 75.449(a)(6)

The purpose of the scenarios is not to be a spill response guide, but rather to demonstrate the plan holder's ability to contain, control, and recover the RPS volume.

18 AAC 75.449(a)(6)(D)

This is regulatory overreach into fire marshal territory. All facility designs are reviewed and approved by the State Fire Marshal or local Fire Department. Subjecting these items for further review by personnel not familiar with the fire code is not productive.

18 AAC 75.449(a)(6)(F)

This requirement may make it difficult or impossible for remote facilities to meet this regulatory requirement based on someone's arbitrary judgement for response times. Many of these facilities have few employees and are located 12 to 24 hours from a contactor/OSRO resources arrival. The protection

of "groundwater" before it would likely be impacted is unreasonable as "groundwater" could be at the surface or a very shallow depth throughout much of Alaska.

18 AAC 75.449(a)(6)(I)

Lightering details will be developed after consultation with naval architect and salvage master and are performed by the vessels Salvage and Marine Fire Fighting provider as required under federal requirements.

18 AAC 75.449(a)(6)(J)

The procedures for on-water recovery may include transfer to another vessel for transport to a shoreside reception facility. Facilities will likely transfer to a vessel/barge for transit to the final treatment facility. These procedures should ultimately be part of the long-term cleanup plan and not part of the emergency response.

18 AAC 75.449(a)(6)(K)

This requirement is asking for information that is unrealistic and controlled by various state agencies, not the plan holder. This is also creating a performance standard instead of a planning standard.

18 AAC 75.449(a)(6)(O)

The addition of this requirement will increase the burden to plan holders and allows the agency to request an undefined number of scenarios for any reason.

18 AAC 75.449(a)(8)(F)

There is no way that a plan holder can estimate the time required for an agency to issue a permit. This should be reworded and clarified.

18 AAC 75.449(a)(10)

The RPS volume is supposed to meet this. The plans already contain various lists of response equipment and the additional list of equipment should be contained in the Area plan or added to the existing information.

18 AAC 75.451(d)

It is not reasonable for the plan holder to identify agency personnel, local government personnel, or any other participants from outside of plan holders' company or contractor.

18 AAC 75.451(g)

It is not reasonable in all cases nor even possible to be able to protect environmentally sensitive areas and areas of public concern prior to oil reaching them. Often times the vessels are operating in close proximity to these areas and if a spill were to occur it may not be possible to meet this requirement. Remove "before oil reaches them".

18 AAC 75.455(b)(5)

This is an improvement over existing regulations and provides for better notification of projects and reduces the time and costs associated with them.

18 AAC 75.455(c)(1)

Should add "or sooner" to allow for a shorter review period if possible.

18 AAC 75.455(g)

Should add "or sooner" to allow for a shorter review period if possible.

18 AAC 75.480(d)

This appears to be over reach and does not allow due process.

18 AAC 75.485(a)(1)(A)

Industry and federal agencies utilize the PREP program. The state should also utilize this standard to reduce the need for separate drills.

18 AAC 75.485(b)

The contingency plan is a planning standard not a performance standard. The definition for significantly deficient should be included.

18 AAC 75.485(g)(2)

Industry and federal government utilize the PREP program for drills. This will potentially cause undue duplication.

Other items and recommendations

ODPCP Timeframe and Process: Notification, Consultation, Application, Review and Approval Process

Vitus Energy recommends reviewing the application submittal process for ways of improving the application and review process timeline. 270 days for a new plan approval may cause undue delays and prevent business' from responding quickly to market requests for proposals and services. Also consider different timelines for new plans vs. renewals and amendments. What is the purpose for extending the review timelines? This appears to only benefit the reviewing agency at the expense of the plan holders.

Best Available Technology Review

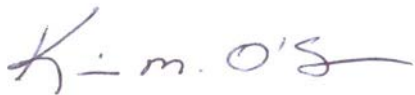
When BAT was first proposed in the 1990's, technology was limited and evolving rapidly. Most if not all BAT items that were included in the early days of the requirement are no required under either federal or state regulation, industry best practices, or insurance carrier requirements for coverage. Vitus Energy does not believe that the continued BAT requirements provide a beneficial element to the plan.

Discharge Exercises

The department's proposed "Oil Spill Response Exercise Manual – A Guide for Planning, Conducting, and Evaluating Exercises" seems to have been developed without the input and participation of those affected by the Guidelines. This seems to be a means of regulating by guidance and avoiding the regulatory process. Vitus Energy believes that the use of the NPREP process which industry and the USEPA and USCG have utilized for years. The costs associated with the proposed guidance are going to be potentially burdensome to smaller operator of those operators with multiple facilities in the state. Vitus Energy also has concerns that the state can dedicate the personnel resources that it has identified. For these reasons, Vitus Energy hopes that the department will revisit the guidelines and seek industry in put before adopting this document.

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

Regards,



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