



January 31, 2021

Alaska Department of Environmental Conservation
PO Box 111800
Juneau, AK 99801
ATTN: Zuzana Culakova

Submitted electronically to:
dec.cpr@alaska.gov

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

Ms. Culakova,

Northern Oilfield Solutions, LLC (Northern) has reviewed the documents provided as part of the Notice of Proposed Changes to Oil Pollution Prevention Requirements in the Regulations of Alaska Department of Environmental Conservation (ADEC or “the department”) and would like to provide the following general and specific comments.

General Comments:

Northern thanks the department for making some much needed changes that streamline the currently antiquated process outlined in the current regulations. However, Northern believes that the department also made some changes that take a step backwards by deleting email as written notice, requiring paper copies, and introducing new terms that are not defined. Additionally, Northern believes the department is overreaching in certain areas and has not invoked some changes that would significantly improve and reduce the timeline for approvals. There has been much improvement in the areas of technology recently that should be utilized to and helps reduce the burden on operations and the state. These comments are re-iterated below, as appropriate.

Additionally, as an entity with a CPLAN currently in the midst of the renewal process which cites the existing regulations verbatim, Northern urges the department to provide a realistic timeline for implementing approved changes into pre-existing plans.

Comment 1 : Direct inclusion of email as a form of written notice

Under 18 Alaska Administrative Code (AAC) 75.405(a), 475(b), and 459(a), the proposed regulation has removed language that includes email as an acceptable form of written notice. While an editor’s note is added to the section that suggests that an email sent to a department inbox would serve as written notice, it is not 100% clear. Suggest the department add back in email as an acceptable form of written notice into the language of each proposed subsection as this is standard business practice and utilizes currently available technology to streamline processes.

Comment 2: Signature authority

Northern suggests the proposed language under 18 AAC 75.408(b) be amended to include more flexibility in signature authority, specifically the department should allow an application to be signed by an agent who has been delegated signing authority by a current or former signatory.

Comment 3: Requirements for final approved plans and electronic format of submittals

Northern believes the proposed changes to 18 AAC 75.408(c)(1) requiring the submittal of paper copies of final approved plans does not align with the use of current technology and is a step backwards not forwards. Northern requests that the department remove the requirement for paper copies and clearly state that a .pdf file with bookmarks is the department's preferred means of submittal under 18 AAC 75.408(c)(1)(C) as this file type is industry standard and the widely utilized by both industry and the department.

Comment 4: Response Action Plan changes

Northern does not believe the introduction of the new term "maximum possible discharge" adds any value to the regulations, as it is not defined and requests that the department utilize "response planning standard" which has been used in previous versions of the regulations and is clearly defined.

Comment 5: Clarification on emergency action checklist

The new language in 18 AAC 75.449(a)(1) is unclear on department expectations. A conservative interpretation of the proposed language indicates any person who may potentially respond to a discharge would be required to carry an emergency action checklist on their person at all times, even while on personal time. The department should clarify that personnel should have access to the checklist or only be required to carry it while on duty.

Comment 6: Changes to reporting and notification

Northern requests removal of the new language in the proposed 18 AAC 75.449(a)(2) due to the addition of undefined terms. It is unclear that the new language would provide any benefit to the department and more likely would be inconsistent across plans and be hard to maintain over time. If the department wishes for specific entities to be listed, this should be discussed as part of the pre-application consultation or the RFAI process.

Comment 7: Changes to fire hazard control requirements

Northern requests removal of the new language in the proposed 18 AAC 75.449(a)(6)(D) due to regulatory overreach into state fire marshal and federal marine fire safety systems jurisdictions.

Comment 8: Prevention of discharged oil from entering special areas

Northern recommends removal of new language in the proposed regulations under 18 AAC 75.449(a)(6)(F). The new language requires plan holders to prevent the discharge of oil from entering environmentally sensitive areas (ESAs) or areas of public concern as well as maintain equipment, personnel, and other resources for the specific purpose of preventing the discharge of oil into these special areas. This is impossible to comply with in the event the initial discharge occurs in one of these areas. Further, Northern is concerned with the ability to implement this new requirement without the department publishing a comprehensive list of ESAs or areas of public concern that plan holders can utilize. Northern believes that publication of such a list would likely also be inappropriate if areas of public concern include historical or cultural sites, the confidentiality of which is closely held. Based on these reasons, Northern requests the department remove the new proposed language.

Comment 9: Timeline for permits, approvals, and authorizations

Northern requests that the proposed language under 18 AAC 75.449(a)(6)(K) and (a)(8)(F) be revised to reflect the plan holders' requirement to identify the timeline for submittal of applications vs. the timeline for permits, approvals, or authorizations as the actual time for such items is unknown and any inclusion on the part of plan holders would be purely speculative.

Comment 10: Requirements for discharge history

Northern requests that a five-year limit be put on the timeline for the proposed language under 18 AAC 75.450(b)(2).

Comment 11: Information required for small storage tanks

Northern requests the department consider removal of the proposed requirements for information required to be reported for smaller storage tanks between 1,000 gallons and 10,000 gallons under 18 AAC 75.451(b)(2).

Comment 12: Requirements for facility piping

Northern suggests the department update the new requirements for facility piping under 18 AAC 75.451(b)(7) to limit the diagrams to display the location of safety shutdown valves instead of all valves.

Comment 13: Command system requirements

Northern requests the department revert the language for command system requirements under the proposed 18 AAC 75.451(d) to the existing regulations under 18 AAC 75.425(e)(3)(C). The proposed language requires a lot of very specific information for each person that may be utilized in response to a discharge, instead of general positional type information. Northern believes this would result in multiple updates a year for each plan as personnel change roles within the

company as well as local, state, and federal agencies. Additionally, Northern is concerned that these requirements may require making publicly available the personal phone numbers of company and agency personnel.

Comment 14: Best available technology requirements

Northern believes that the best available technology (BAT) review required under the proposed rule at 18 AAC 75.452 is outdated and should be removed.

Comment 15: Time frame for final approvals

Northern requests that the time frame for final approvals be reduced from 60 days to 10 business days under 18 AAC 74.455(g). Northern also notes that the five day reduction proposed here does little to reduce the lengthy approval timeline for new plans, plan renewals, and major amendments. For facilities located on the North Slope, there is a limited window for construction and/or facility upgrades. The currently approval timeline does not account for these limitations or other business considerations that require industry to move more quickly than 240 days.

Comment 16: Facility inspection sampling

Northern strongly objects to the proposed new section under 18 AAC 75.480(d) as it appears to be regulatory overreach into the contaminated sites regulations (covered under 18 AAC 75, Article 3). The contaminated sites regulations and sampling requirements are robust and improper sampling can result in biased results, data quality issues, or cross-contamination. Additionally, this subsection does not address or indicate consequences to operators in the event that contamination is found. The department should recognize that even if contamination were to be found, there is not necessarily a correlation between contamination and current noncompliance with CPLAN regulations. For example, Northern's facility is located on a documented contaminated site, thus any sampling conducted is unlikely to provide any beneficial results to the department and would be a wasteful use of state resources.

Comment 17: Adoption of the Oil Spill Response Exercise Manual

Northern does not support the adoption of the department's Oil Spill Response Exercise Manual into the regulation. As written, the manual appears to give the department flexibility while skirting the public comment process by including words like "draft" and "living document". Having completed an agency-participated exercise in 2021, Northern encountered several challenges related to the completion of the exercise as envisioned due to factors outside of their control including department staffing changes and leave, staffing limitations due to COVID, etc. While the elements were successfully completed and DEC credit obtained, it was a significant time commitment. To go through this process for every exercise/drill is an undue burden on plan holders and will be a significant draw on the department.

Northern encourages the department to adopt the National Preparedness for Response Exercise Program (NPREP) instead as this is an industry standard, which is utilized by the majority of

regulated plan holders. If ADEC's goal is to streamline processes and ensure plan holders are prepared to respond, ADEC would be far better served by adopting NPREP in the regulations than the department's Oil Spill Response Exercise Manual.

If you have any questions on the comments/questions provided, please feel free to contact me at via e-mail or phone.

Respectfully,

Christina Bentz Digitally signed by Christina Bentz
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