



United States Department of the Interior
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
WASHINGTON, DC 20240-0001

March 7, 2023

Dear Tribal Leader,

On behalf of the Bureau of Safety and Environmental Enforcement (BSEE), we would like to invite you or your designee to participate in Government-to-Government consultations concerning an upcoming rulemaking that would apply to oil spill response requirements for facilities located seaward of the coastline. BSEE is initiating this rulemaking to address the regulatory gaps identified by the multiple investigations and studies following the Deepwater Horizon incident. Additionally, the proposed rule would implement recommendations of those reports and studies to advance oil spill response best practices.

The oil spill response regulations in 30 CFR 254 were last updated in 1997. This proposed rule would update the regulations to be consistent with offshore oil and gas industry best practices and applied technologies. This proposed rule also would incorporate BSEE's recent guidance and address the elements and requirements of the National Response System. Lastly, this proposed rule would address regulatory gaps and implement recommendations to improve oil spill response planning and practices to advance safety and protection of the environment.

In accordance with the recommendations from the investigations, studies, and reports, BSEE has identified certain topics within the current oil spill response plan (OSRP) regulations that are worth reconsidering. These topics include, but are not limited to, the following:

1. Amend the interim operating authority to extenuating circumstances only and for no longer than a one-year period;
2. Require the use of oil characterization data and stochastic oil spill modeling specific to the offshore facility in Worst Case Discharge (WCD) scenario planning;
3. Amend the procedures for calculating the WCD from "30 days" to scenario-based estimates of the time necessary to implement temporary source control measures;
4. Establish capability thresholds and minimum response times for a systematic suite of response capabilities;
5. Amend OSRP requirements to align with protection priorities of sensitive resources in Regional Contingency Plans (RCPs) and Area Contingency Plans (ACPs);
6. Add reporting requirements for periods of reduced readiness of major response resources; and
7. Strengthen and clarify requirements for inspecting and verifying functionality and material condition of response equipment listed in OSRPs.

The proposed regulatory changes specific to the Arctic environment include:



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1. Extend the applicability of Arctic-specific requirements to all offshore facilities in the Arctic seaward of the coastline;
2. Add requirements for spill response planning for a discharge on solid ice; and
3. Add reporting for changes to response capabilities due to seasonal changes in operations.

BSEE is also considering applying all the new regulatory subparts to offshore facilities in State waters seaward of the coastline; aligning exercise requirements and terminology with the National PREP Guidelines; incorporating regulatory changes based on Homeland Security Presidential Directive No. 5 for the use of Incident Command System (ICS) for response organization and procedures; and integrating source control and containment equipment (SCCE) information into the OSRP.

Your perspective is important to this process, and we would welcome the opportunity to consult with you on this matter. We would like to initiate consultations on this subject on or before May 15, 2023 after the whaling season. Our staff will be contacting your organization to set up a suitable time for a consultation.

Thank you for your consideration of this invitation, and we look forward to meeting with you and your representative(s). If you would like to submit written comments either in addition to, or instead of, in-person consultation you are welcome to do so.

If you have any questions, please contact Jack Lorrigan at 907-334-5357 or at jack.lorrigan@bsee.gov.

Respectfully,

Jack Lorrigan