

**Department of Environmental Conservation
Division of Spill Prevention & Response**



**18 AAC Chapter 75 – Oil and Other Hazardous Substances Pollution
Control**

Proposed Regulation Revisions

November 1, 2021

Mike Dunleavy
Governor

Jason W. Brune
Commissioner

**Public Comment period ends
January 31, 2022, 11:59 p.m.**

**Please see public notice for
details about how to comment**

Background and changes addressed

This packet is being proposed to adopt new and revised regulations in 18 AAC 75 to clarify and update requirements for oil discharge prevention and contingency plans.

Understanding the changes

Reading and understanding state regulations can be confusing. To assist you in understanding this draft, please note that state regulations are laid out in the following manner:

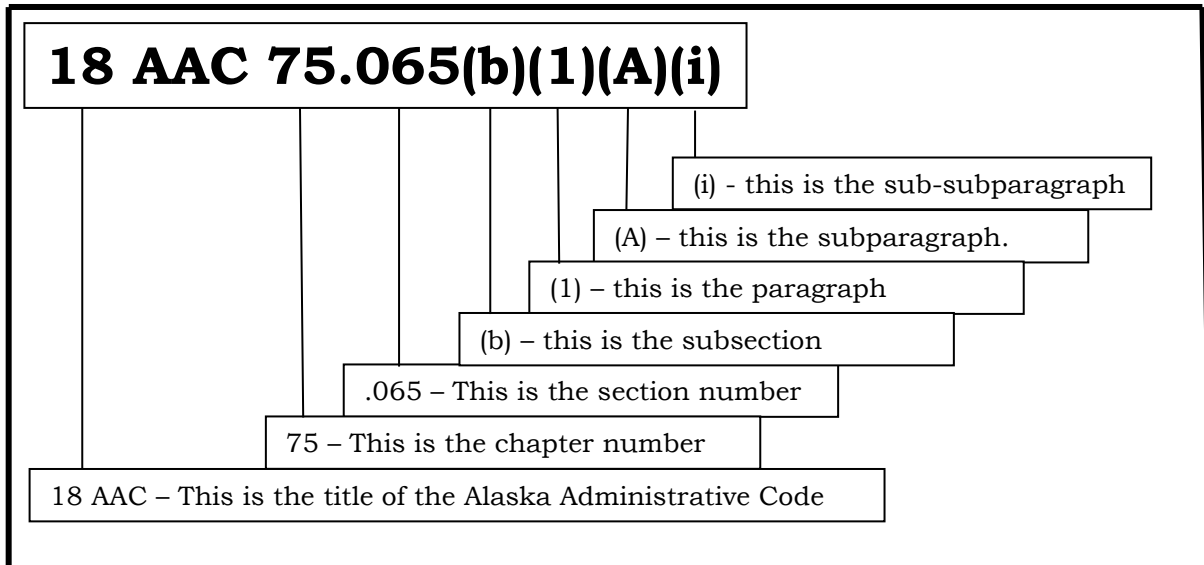


Figure 1. Alaska Regulatory Numbering System

In the following text, the proposed changes follow the formatting requirements of the “Drafting Manual for Administrative Regulations,” 22nd Edition, August 2018, as promulgated by the State of Alaska Department of Law. The draft changes are indicated as follows:

Lead-in text explains the changes to the text that follows.

[CAPITALIZED TEXT IN BRACKETS] indicates current regulatory text proposed to be deleted.

Bolded and underlined indicates proposed new text that amends the regulation. When an entire section or subsection is new, it is only indicated by the lead in line.

[...] indicates unchanged chunks of regulatory text.

For comparison purposes, a complete copy of the current 18 AAC 75 regulations can be found online at: <http://dec.alaska.gov/commish/regulations/index.htm>

The title of Article 4 of 18 AAC 75 is changed to read:

**Article 4. Oil Discharge Prevention and Contingency Plans [AND NONTANK VESSEL
PLANS]**

18 AAC 75.400. Applicability.

18 AAC 75.400(a) is amended to read:

(a) A person who is subject to AS 46.04.030 or AS 46.04.055(j) must file an application for approval of an oil discharge prevention and contingency plan as required under 18 AAC 75.400 - 18 AAC 75.420 and meet the applicable requirements of **18 AAC 75.430 - 18 AAC 75.495** [18 AAC 75.425 - 18 AAC 75.495]. Notwithstanding this requirement, a person who is subject to AS 46.04.030 and operates a noncrude oil tank vessel or barge that has a storage capacity of less than 500 barrels may **instead** file an application for approval of a streamlined plan under 18 AAC 75.400 - 18 AAC 75.421 [ON OR AFTER JANUARY 6, 2021]; the applicant must meet the applicable requirements of 18 AAC 75.426 - 18 AAC 75.496. A person who is subject to AS 46.04.055(f) must file an application for approval of a streamlined plan as required under 18 AAC 75.400 - 18 AAC 75.421 and meet the applicable requirements of 18 AAC 75.426 - 18 AAC 75.496. The application must be made

18 AAC 75.400(a)(1) is amended to read:

(1) for an oil terminal facility that **does not meet the exemption criteria under** [HAS A STORAGE CAPACITY OF 5,000 BARRELS OR MORE OF CRUDE OIL OR 10,000 BARRELS OR MORE OF NONCRUDE OIL AS PROVIDED IN] AS 46.04.050(a), by the

owner or operator of the facility;

18 AAC 75.400(a)(2) is repealed and readopted to read:

(2) for a vessel, by the person with primary operational control;

[(2) FOR A VESSEL, BY

(A) THE CHARTERER, IF THE VESSEL IS CHARTERED BY
DEMISE;

(B) THE OPERATOR OF THE VESSEL;

(C) THE OWNER OF THE VESSEL, IF THE AGENTS OR
EMPLOYEES OF THE OWNER RETAIN CONTROL AND RESPONSIBILITY FOR
THE OPERATION OF THE VESSEL; OR

(D) IN ANY OTHER CASE, THE PERSON WITH PRIMARY
OPERATIONAL CONTROL;]

18 AAC 75.400(a)(3) and (4) are amended to read:

(3) for an exploration or production facility, whether mobile or fixed, by the
[LEASE HOLDER OR THE] operator **or one or more lease holders;**

(4) for a pipeline, by the [LEASE HOLDER OR THE] operator **or one or more
lease holders;** or

(5) for a railroad tank car, by the railroad transporting the railroad tank car.

18 AAC 75.400(b) is repealed and readopted to read:

(b) The person with primary operational control of a vessel that is conducting, or is

available only for conducting, an oil discharge response operation may apply for an exemption from the requirements of AS 46.04.030(c) and 46 04.055(f) using an application form supplied by the department. The department will review the application to determine if the exemption will be protective of human health, safety, and welfare, and of the environment. The department will approve or deny the request for an exemption not later than 10 working days after it receives an application. In an emergency response to an actual discharge, a person seeking an exemption may make a verbal request, and the department may issue a verbal approval. The department will confirm a verbal approval in writing, stating the period during which the approval is valid.

Repealed text:

[(b) IF IT DETERMINES THAT AN EXEMPTION WILL BE PROTECTIVE OF HUMAN HEALTH, SAFETY, AND WELFARE, AND OF THE ENVIRONMENT, THE DEPARTMENT WILL EXEMPT FROM THE REQUIREMENTS OF AS 46.04.030(c) AND AS 46.04.055(f) A VESSEL THAT IS CONDUCTING, OR IS AVAILABLE ONLY FOR CONDUCTING, AN OIL DISCHARGE RESPONSE OPERATION. A PERSON SEEKING AN EXEMPTION UNDER THIS SUBSECTION MUST APPLY ON AN APPLICATION FORM SUPPLIED BY THE DEPARTMENT. THE DEPARTMENT WILL APPROVE OR DENY THE REQUEST FOR AN EXEMPTION NOT LATER THAN 10 WORKING DAYS AFTER IT RECEIVES AN APPLICATION. IN AN EMERGENCY RESPONSE TO AN ACTUAL DISCHARGE, A PERSON SEEKING AN EXEMPTION MAY MAKE A VERBAL REQUEST, AND THE DEPARTMENT MAY ISSUE A VERBAL APPROVAL. THE DEPARTMENT WILL CONFIRM A VERBAL APPROVAL IN WRITING, STATING THE PERIOD DURING WHICH THE APPROVAL IS VALID.]

18 AAC 75.400(c) is repealed and readopted to read:

(c) The owner or operator of an oil terminal facility that is subject to the requirements of AS 46.04.030 and 18 AAC 75.400 - 18 AAC 75.495 may apply for an exemption from those requirements if the effective storage capacity of the facility has been permanently reduced below the amounts set out in AS 46.04.050 by submitting an application form supplied by the department and a letter describing the permanent modification that was made to the facility;

(1) the applicant must provide proof of the permanent modification as follows:

(A) for purposes of reducing storage capacity by removing one or more tanks, the tanks and associated piping must be emptied, secured in a manner to prevent unauthorized use, and blank flanged; or the tank and piping must be disconnected from each other; tanks removed from service must be clearly marked with the words “Out of Service” and the date taken out of service; before reactivation of a tank that has been removed from service for the purposes of an exemption under this subsection, the owner or operator must notify the department and, if necessary, must file a new application for approval of an oil discharge prevention and contingency plan; and

(B) for the purpose of changes to the storage capacity of a tank, changes must be made in a permanent manner;

(2) the department will approve or deny the request for an exemption not later than 30 days after it receives a complete application; and

(3) the department will conduct inspections as necessary to ensure compliance with this subsection.

Repealed text:

[(c) THE OWNER OR OPERATOR OF AN OIL TERMINAL FACILITY THAT IS SUBJECT TO THE REQUIREMENTS OF AS 46.04.030 AND 18 AAC 75.400 - 18 AAC 75.495 MAY APPLY FOR AN EXEMPTION TO THOSE REQUIREMENTS UPON PROOF TO THE DEPARTMENT THAT THE EFFECTIVE STORAGE CAPACITY OF THE FACILITY HAS BEEN PERMANENTLY REDUCED BELOW THE AMOUNTS SET OUT IN AS 46.04.050. FOR PURPOSES OF REDUCING EFFECTIVE STORAGE CAPACITY, TANKS AND ASSOCIATED PIPING MUST BE EMPTIED AND RENDERED UNUSABLE TO THE DEPARTMENT'S SATISFACTION. TANKS REMOVED FROM SERVICE MUST BE CLEARLY MARKED WITH THE WORDS "OUT OF SERVICE" AND THE DATE TAKEN OUT OF SERVICE. A PERSON SEEKING AN EXEMPTION UNDER THIS SUBSECTION MUST APPLY ON AN APPLICATION FORM SUPPLIED BY THE DEPARTMENT. THE DEPARTMENT WILL APPROVE OR DENY THE REQUEST FOR AN EXEMPTION NOT LATER THAN 30 DAYS AFTER IT RECEIVES AN APPLICATION. BEFORE REACTIVATION OF A TANK THAT HAS BEEN REMOVED FROM SERVICE FOR THE PURPOSES OF AN EXEMPTION UNDER THIS SUBSECTION, THE OWNER OR OPERATOR MUST NOTIFY THE DEPARTMENT AND, IF NECESSARY, MUST FILE A NEW APPLICATION FOR APPROVAL OF AN OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN. FOR THE PURPOSE OF CHANGES TO THE STORAGE CAPACITY OF A TANK, ANY CHANGE MUST BE MADE IN A PERMANENT MANNER. THE DEPARTMENT WILL CONDUCT INSPECTIONS AS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBSECTION.]

18 AAC 75.400(d) is amended to read:

(d) The department may accept a single plan from an operator to address multiple facilities based on similarities in operations, receiving environments, logistical considerations, or other factors **that demonstrate** [INDICATING TO THE SATISFACTION OF THE DEPARTMENT] that a single plan is appropriate given the commonality of operations.

18 AAC 75.400(e) is amended to read:

(e) [THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO A NONTANK VESSEL OPERATING IN THE WATERS OF THE STATE IF THE NONTANK VESSEL IS ENTERING WATERS OF THE STATE UNDER CIRCUMSTANCES DETERMINED BY THE DEPARTMENT TO BE NECESSARY UNDER AS 46.04.055(e).] A person shall notify the department as soon as the person is aware of circumstances warranting a nontank vessel to enter state waters **under AS 46.04.055(e) and the department will determine if the circumstances warranted entry** without an approved **nontank vessel streamlined** plan.

18 AAC 75.400(f) and (g) are repealed:

(f) Repealed __/__/____. [A NATURAL GAS PRODUCTION OR NATURAL GAS TERMINAL FACILITY AS DEFINED IN AS 46.04.050(b) IS NOT REQUIRED TO SUBMIT AN OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN APPLICATION.]

(g) Repealed __/__/____. [AN EXPLORATION FACILITY MEETING THE NATURAL GAS EXPLORATION FACILITY EXEMPTION PROVISIONS OF AS 46.04.050(c) IS NOT REQUIRED TO SUBMIT AN OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN APPLICATION.]

- (h) An oil discharge prevention and contingency plan is required for
- (1) an oil terminal facility, except for a vessel operating as an oil terminal facility, until the storage capacity of the facility has been permanently reduced as set out in (c) of this section;
 - (2) a pipeline, while the pipeline
 - (A) is connected to a production facility or oil terminal facility; or
 - (B) contains oil;
 - (3) an exploration or production facility until the Alaska Oil and Gas Conservation Commission determines that all wells have been plugged as required under 20 AAC 25.112 and abandoned as required under 20 AAC 25.105; and
 - (4) a vessel while in the waters of the state.
- (i) In this section, “receiving environment” means fresh or marine water, ice, or land outside of an impermeable secondary containment area.

18 AAC 75.400 is amended by adding a new subsection to read:

- (j) The person that files an application under (a) of this section must be the same person that files an application for proof of financial responsibility for oil discharges under 18 AAC 75.205(a). (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 12/14/ 2002, Register 164; am 5/26/2004, Register 170; am 4/16/2016, Register 218; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.050 AS 46.04.070
AS 46.04.030 AS 46.04.055

18 AAC 75.405. Pre-application notification and consultation for oil discharge prevention and contingency plans; new plans and plan renewals.

18 AAC 75.405(a) is amended to read:

(a) At least 60 days before submitting an application **package** for approval of a new oil discharge prevention and contingency plan under 18 AAC 75.410 or for renewal of approval under 18 AAC 75.420, the applicant must notify the department in writing of its intent to submit an application. [AN ELECTRONIC MAIL OR FACSIMILE TRANSMISSION DELIVERED TO THE APPROPRIATE DEPARTMENT OFFICE WILL BE CONSIDERED WRITTEN NOTICE FOR PURPOSES OF THIS SUBSECTION.]

18 AAC 75.405(b) is amended to read:

(b) The applicant must consult with the department not later than 30 days before **the scheduled submission date for** [SUBMITTING] the application package to ensure that the application meets the requirements of 18 AAC 75.408 and the requirements of 18 AAC 75.410 or 18 AAC 75.420, to discuss the contents of the proposed plan, and to discuss the review process under 18 AAC 75.455.

(c) Pre-application notification and consultation is not required for a streamlined plan application submitted under 18 AAC 75.421.

18 AAC 75.405 is amended by adding a new subsection to read:

(d) Upon satisfying the requirements under (a) and (b) of this section, the application package may be submitted to the department before the 30 days specified in (b). (Eff. 5/14/92,

Register 122; am 11/27/2002, Register 164; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.050 AS 46.04.070
AS 46.04.030 AS 46.04.055

18 AAC 75.405 is amended by adding a new Editor's note to read:

Editor's note: A notification can be submitted to the department inbox at
INBOXNAME@ADDRESS.

18 AAC 75.408. General procedures to apply for oil discharge prevention and contingency plans.

18 AAC 75.408(a) is amended to read:

(a) An application **package** for approval of an oil discharge prevention and contingency plan must contain

- (1) an application form supplied by the department containing
 - (A) the applicant's legal name, address, and telephone number;
 - (B) the name, location, and type of facility or operation covered by the plan;
 - (C) for a vessel, the vessel's name, official number, and country of registry, the name and address of the owner, and the name and address of the operator;
 - (D) for a railroad tank car, the name of the railroad covered by the plan;

(E) the scheduled date for the operations covered by the plan to begin;
and

18 AAC 75.408(a)(1)(F) is amended to read:

(F) **additional** [ANY OTHER] information on the application form that is
applicable to the facility or operation;

- (2) a copy of the plan or amendment to the plan as applicable; and
- (3) supporting documentation as requested by the department.

18 AAC 75.408(b) is amended to read:

(b) The application form must be signed as **required under 18 AAC 15.030.**

[FOLLOWS:

(1) FOR A CORPORATION, BY A PRINCIPAL EXECUTIVE OFFICER OF
AT LEAST THE LEVEL OF VICE PRESIDENT OR THAT OFFICER'S AUTHORIZED
REPRESENTATIVE, IF THE REPRESENTATIVE IS RESPONSIBLE FOR THE OVERALL
MANAGEMENT OF THE PROJECT FACILITY OR OPERATION;

(2) FOR A PARTNERSHIP, BY A GENERAL PARTNER;

(3) FOR A SOLE PROPRIETORSHIP, BY THE PROPRIETOR;

(4) FOR A MUNICIPAL, STATE, FEDERAL, OR OTHER PUBLIC
FACILITY, BY EITHER A PRINCIPAL EXECUTIVE OFFICER, RANKING ELECTED
OFFICIAL, OR OTHER AUTHORIZED EMPLOYEE;

(5) FOR A JOINT VENTURE, BY THE OPERATOR;

(6) FOR A LIMITED LIABILITY COMPANY, BY A MEMBER;

(7) BY AN AGENT WHO HAS BEEN DELEGATED THAT AUTHORITY IN WRITING TO THE DEPARTMENT BY THE RESPONSIBLE PARTY UNDER (1) - (6) OF THIS SUBSECTION.]

18 AAC 75.408(c) is repealed and readopted to read

(c) An initial application package, responses to requests for additional information, and the final version of a plan or amendment must comply with the following:

(1) the format must be electronic; one paper copy of the initial application package and response to requests for additional information must be provided to the department upon request; one paper copy of the final approved plan must be submitted to the department:

(A) for paper copies of the plan, for an amendment or renewal application, the plan holder may submit only the changed pages if the pages are clearly marked and can easily be incorporated into the original plan document, otherwise the full plan must be provided;

(B) a person that is not able to access the documents from the department's Internet website shall submit a request to the department for an alternate format to be provided and the department will approve or disapprove the request; if approved, the plan holder will provide the package to the requester in an alternate format;

(C) the department will specify the electronic format to be used; the submittal must be electronically searchable;

(2) all proposed additions, revisions, and deletions must be identified in the plan as applicable; plan revisions must also be described in a table format;

(3) for new plans, plan renewals, and major amendments,

(A) upon determining the application package is sufficient for review under 18 AAC 75.455(a), the department will post it on the department's Internet website and notify interested stakeholders of the availability of the package by electronic mail to a listserv facilitated by the department;

(B) the department will post a copy of the final version of the application package on the department's Internet website and will notify interested stakeholders of the availability of the package by electronic mail to a listserv facilitated by the department;

(4) for minor amendments and routine updates, the department will post a copy of the final version of the application package on the department's Internet website, and will notify interested stakeholders of the availability of the package by electronic mail to a listserv facilitated by the department; and

(5) when a proposed minor amendment is provided to the department and the department has determined it will not be reviewed as a major amendment under 18 AAC 75.455, the department will notify interested stakeholders by electronic mail to a listserv facilitated by the department; the department shall provide an electronic copy upon request.

[(c) THE INITIAL APPLICATION PACKAGE, RESPONSES TO REQUESTS FOR ADDITIONAL INFORMATION, AND FINAL VERSIONS OF THE PLAN MUST COMPLY WITH THE FOLLOWING:

(1) THE FORMAT MUST BE ELECTRONIC, PAPER, OR BOTH, AS THE DEPARTMENT SPECIFIES;

(2) THE DEPARTMENT WILL SPECIFY THE NUMBER OF COPIES;

(3) THE DEPARTMENT WILL SPECIFY THE ELECTRONIC FORMAT TO

BE USED; THE SUBMITTAL MUST BE ELECTRONICALLY SEARCHABLE;

(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;

(5) FOR MINOR AMENDMENTS AND ROUTINE UPDATES, THE APPLICANT MUST:

(A) PROVIDE ALL COPIES TO THE DEPARTMENT;

(B) PROVIDE COPIES OF THE FINAL VERSION OF THE PLAN TO THE DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT OF FISH AND GAME, REGIONAL CITIZENS' ADVISORY COUNCILS, AND OTHER PERSONS DESIGNATED BY THE DEPARTMENT;

(6) AN APPLICANT MUST NOTIFY THE DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT OF FISH AND GAME, REGIONAL CITIZENS' ADVISORY COUNCILS, AND OTHER PERSONS DESIGNATED BY THE DEPARTMENT WHEN A PROPOSED MINOR AMENDMENT IS PROVIDED TO THE DEPARTMENT; PARTIES REQUESTING A COPY OF THE MINOR AMENDMENT SHALL SUBMIT THE REQUEST TO THE APPLICANT AND THE APPLICANT SHALL PROVIDE A COPY;

(7) ALL PROPOSED ADDITIONS, REVISIONS, AND DELETIONS MUST BE IDENTIFIED IN THE PLAN AS APPLICABLE; THE DEPARTMENT MAY ALSO REQUEST A SUMMARY OF CHANGES IN A TABLE FORMAT;

(8) FOR NEW PLANS, PLAN RENEWALS, AND MAJOR AMENDMENTS,

THE DEPARTMENT WILL POST A COPY OF THE PROPOSED AND FINAL VERSION OF THE APPLICATION PACKAGE ON THE DEPARTMENT'S WEBSITE; FOR MINOR AMENDMENTS AND ROUTINE UPDATES, THE DEPARTMENT WILL POST A COPY OF THE FINAL VERSION OF THE APPLICATION PACKAGE ON THE DEPARTMENT'S WEBSITE.] (Eff. 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228; am ____ / ____ / ____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

The Editor's note for 18 AAC 75.408 is amended to read:

Editor's note: The application form referenced in 18 AAC 75.408 is available on the department's [INTERNET] website **search page: <http://dec.alaska.gov/spar/ppr/regulations-guidance/forms-applications/>. The application package may be submitted to the department inbox at INBOXNAME@ADDRESS. Persons that would like to receive notifications may sign up for the department's contingency plan public review listserv on the department's website: <http://dec.alaska.gov/spar/ppr.aspx>.**

18 AAC 75.410. Procedures to apply for oil discharge prevention and contingency plans; new plans.

18 AAC 75.410(a) is amended to read:

(a) An application **package** for approval of a new oil discharge prevention and contingency plan must be submitted in accordance with 18 AAC 75.408. An application

package must be submitted at least 180 days before the proposed start of operation.

(b) Repealed 4/16/2016.

(c) The department will review an application for a new plan using the procedures set out under 18 AAC 75.455 and will issue its decision under 18 AAC 75.460(a).

(d) Repealed 4/16/2016.

(e) Repealed 4/16/2016. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 4/8/2012, Register 202; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.414. Procedures to apply for oil discharge prevention and contingency plans; owner or operator changes. A change in the owner, operator, or name of the owner or operator of a facility or operation with an approved oil discharge prevention and contingency plan requires that the new owner or operator submit an application package as an amendment under 18 AAC 75.415. (Eff. 4/16/2016, Register 218; am 3/23/2017, Register 221)

Authority. AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.415. Procedures to apply for oil discharge prevention and contingency plans; plan amendments. (a) An application for approval of an amendment to an oil discharge prevention and contingency plan must be submitted in accordance with 18 AAC 75.408 and approved by the department, before a change to a plan may take effect, unless it is a routine plan

update under (b) of this section. A plan amendment that incorporates one or more of the following will be reviewed as a major amendment:

- (1) an increase to the response planning standard volume that exceeds the response capabilities of the plan holder documented in the plan;
- (2) a change that affects the response scenarios, including a change to the
 - (A) scenario location;
 - (B) receiving environment as defined in 18 AAC 75.400(i); or
 - (C) season of operations;
- (3) expansion of the operations to include one or more new physical locations outside of the current operational area of the plan;
- (4) a change in the amount or quality of prevention, response resources, or training that reduces the existing level of prevention or response capabilities;
- (5) a change that requires an increase in prevention, response resources, or training.

18 AAC 75.415(b) is amended to read:

(b) A routine plan update must be submitted in accordance with 18 AAC 75.408 not later than **ten working** [FIVE] days after the date the proposed change occurs. Routine plan updates include

- (1) a deletion from the list of vessels operating under the approved plan if the deleted vessel is not included as a response asset in the current response action plan under **18 AAC 75.449** [18 AAC 75.425(e)(1)]; and

(2) a revision to the list of names, addresses, or telephone numbers of **the plan holder's** spill command and response personnel.

18 AAC 75.415(c) is amended to read:

(c) An **amendment** application [FOR APPROVAL OF A PLAN AMENDMENT] to allow the addition of a vessel to operate under an approved oil barge or tank vessel oil discharge prevention and contingency plan must include the information required by **18 AAC 75.449(a)(9) and 18 AAC 75.451(b)(3) and (b)(5) and** [18 AAC 75.425(e)(1)(H) AND (3)(A)(iii), (v), (vi), (viii), AND (x). A PLAN AMENDMENT FOR THE ADDITION OF AN OIL BARGE OR TANK VESSEL] must be submitted not later than five working days before the vessel **enters** [OPERATES IN] state waters. The department will review the amendment and issue a written decision not later than five working days after receiving a **complete** proposed plan amendment **application package** under this subsection unless the department determines that it is a major amendment under (a) of this section.

(d) Repealed 3/23/2017.

(e) Repealed 4/16/2016.

18 AAC 75.415(f) is amended to read:

(f) **The department will determine** [IF THE DEPARTMENT DETERMINES] that a proposed plan amendment submitted under (a) of this section is a major **or minor** amendment, **and** [THE DEPARTMENT] will notify the plan holder **of this determination** not later than 10 working days after receipt of the amendment. **For** [IF THE DEPARTMENT DETERMINES THAT A PROPOSED PLAN AMENDMENT IS] a minor amendment, the department will

[NOTIFY THE PLAN HOLDER NOT LATER THAN 10 WORKING DAYS AFTER RECEIPT OF THE AMENDMENT AND] issue a written decision not later than 30 days after receipt of the proposed plan amendment.

(g) A major amendment will be reviewed under 18 AAC 75.455. A minor amendment will not be reviewed under 18 AAC 75.455.

18 AAC 75.415(h) is amended to read:

(h) For a minor amendment approved under (f) of this section, the plan holder shall **submit the final copy to the department** [DISTRIBUTE COPIES IN ACCORDANCE WITH 18 AAC 75.408(c)] not later than 30 days after approval. The department will notify **interested stakeholders by electronic mail to a listserv facilitated by the department** [PARTIES IDENTIFIED IN 18 AAC 75.408(c)(5)] that the approved amended plan is available on the department's Internet website.

18 AAC 75.415 is amended by adding a new subsection to read:

(i) An amendment application to allow the addition of an aboveground oil storage tank with a storage capacity of 10,000 gallons or greater to operate on a temporary basis under an approved plan must include, as appropriate, the information required by 18 AAC 75.451(b)(1) and (5). An application package for this type of plan amendment must be submitted not later than ten working days before the oil storage tank is located at a facility. Unless the department determines that it is a major amendment under (a) of this section, the department will review the application package and issue a written decision not later than ten working days after receiving the complete package. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 12/14/2002,

Register 164; am 4/8/2012, Register 202; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.420. Procedures to apply for oil discharge prevention and contingency plans; plan renewals. (a) A plan holder must apply for renewal of the department's approval of an oil discharge prevention and contingency plan in accordance with 18 AAC 75.408. The application must be submitted at least 180 days, or the number of days stated in the plan approval letter under 18 AAC 75.460(a), in advance of expiration of the plan to allow sufficient time for department review before the plan approval expires.

(b) Repealed 4/16/2016.

18 AAC 75.420(c) is repealed:

(c) Repealed __/__/____. [IF NO CHANGE WILL BE MADE IN THE PLAN WHEN IT IS RENEWED, A COPY OF THE ORIGINAL PLAN NEED NOT BE SUBMITTED AND MAY BE INCORPORATED BY REFERENCE ON THE APPLICATION FORM UNLESS OTHERWISE REQUESTED BY THE DEPARTMENT]

(d) Repealed 4/16/2016.

18 AAC 75.420(e) is amended to read:

(e) An application for a plan renewal, **including items that were not changed since the last plan approval**, will be reviewed under the provisions of 18 AAC 75.455. (Eff. 5/14/92,

Register 122; am 11/27/2002, Register 164; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.421. Procedures to apply for streamlined oil discharge prevention and contingency plans. (a) An application for approval of a new streamlined oil discharge prevention and contingency plan must be made on an application form supplied by the department.

(b) An application for approval of an amendment to a streamlined plan must be submitted using an application form supplied by the department and approved by the department before a change to the plan may take effect.

(c) An application for approval of a new streamlined plan, an amendment to a previously approved streamlined plan, or a reinstatement of a suspended nontank vessel streamlined plan must be submitted to the department for review and approval not later than five working days before a vessel covered in the plan enters waters of the state.

(d) A plan holder must apply for renewal of the department's streamlined plan approval, using an application form supplied by the department, not later than five working days in advance of the expiration of the plan.

(e) A plan holder may voluntarily terminate an approved streamlined plan or suspend a nontank vessel streamlined plan by submitting a streamlined plan notification form supplied by the department. The department will provide acknowledgment of the plan holder's suspension or termination not later than five working days after receiving the notification.

(f) A terminated or expired streamlined plan cannot be reinstated. Before a vessel can enter state waters after a streamlined plan has been terminated or expired, an application for a new streamlined plan must be submitted under (a) of this section. (Eff. 4/16/2016, Register 218; am 11/7/2020, Register 236)

Authority. AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.425 is repealed.

18 AAC 75.425 Oil discharge prevention and contingency plan contents. Repealed. (Eff. 5/14/92, Register 122; am 9/25/93, Register 127; am 3/28/96, Register 137; am 4/4/97, Register 142; am 12/14/2002, Register 164; am 5/26/2004, Register 170; am 12/30/2006, Register 180; am 9/4/2014, Register 211; am 3/23/2017, Register 221; am 10/27/2018, Register 228; repealed ____/____/____, Register ____)

18 AAC 75.426. Streamlined plan contents. A streamlined plan application must contain the following information:

- (1) the name, address, and telephone number of the plan holder;
- (2) for each covered vessel, the
 - (A) vessel's name, official number, and country of registry;
 - (B) name and address of the owner; and
 - (C) name and address of the operator;
- (3) the application date and the first scheduled date of entry into waters of the state;

18 AAC 75.426(4) and (5)(A) are amended to read:

(4) the name, telephone number, title, **and** electronic mail address [, AND FACSIMILE NUMBER] of each qualified individual for the plan holder;

(5) a description of the immediate spill reporting actions to be taken at any hour of the day, including

(A) the title, [AND] telephone number, **and** [ANY] electronic mail address [, AND ANY FACSIMILE NUMBER] of personnel responsible for making notifications; and

(B) the telephone number of each appropriate government agency to be notified if a discharge occurs;

(6) the length overall, maximum beam, gross tonnage, and type and configuration of each covered vessel;

18 AAC 75.426(7) is amended to read:

(7) a description or diagram of each covered vessel for reference in conducting emergency response operations; each diagram must clearly mark the location of **all features** [ANY FEATURE] pertinent to the response, including

(A) the location, size, and storage capacity of each oil storage tank;

(B) the type of oil carried in each tank; and

(C) [ANY] other information that a responder may need to know in an emergency;

18 AAC 75.426(8) is amended to read:

(8) the name, location, and telephone number of an emergency contact for gaining access to detailed plans for each vessel showing [THE]

(A) **the** location of personnel quarters and each emergency exit;

(B) **the** location of all fuel piping locations, including valve locations and identification;

(C) the location and size of each tank, tank valve, overflow pipe, and tank access point;

(D) the location of each internal or portable pump on board;

(E) the location of each emergency shutdown switch; and

(F) other detailed information pertinent to emergency response operations;

(9) for each covered

(A) nontank vessel, the maximum fuel capacity, in barrels, and the volume used to calculate the response planning standard under 18 AAC 75.441 for each vessel; if the volume used to calculate the vessel's response planning standard is less than the maximum fuel capacity of the vessel, the vessel operator must certify that the volume used to calculate the vessel's response planning standard under 18 AAC 75.441 is the maximum volume of fuel carried by the vessel in state waters;

(B) noncrude oil tank vessel or barge that has a storage capacity of less than 500 barrels, the storage capacity, in barrels, and the volume used to calculate the response planning standard under 18 AAC 75.440 for each vessel;

(10) each region of operation for each covered vessel;

18 AAC 75.426(11) is amended to read:

(11) except for a plan using a response planning facilitator who is providing the response services described in 18 AAC 75.428(a)(2), the name, [AND] telephone number and [ANY] electronic mail address [, AND ANY FACSIMILE NUMBER] of each contracted streamlined plan cleanup contractor and incident management team;

(12) except for a plan using a response planning facilitator who is providing the response services described in 18 AAC 75.428(a)(2), a statement certifying that

(A) for each region of operation identified in the plan, the applicant has a contract with, or is a member of, at least one streamlined plan cleanup contractor for that region of operation;

(B) each streamlined plan cleanup contractor identified in the statement is registered under 18 AAC 75.500 - 18 AAC 75.580 for the appropriate classification under 18 AAC 75.561(b)(1), Table F, and region of operation identified in the plan; and

(C) each contract or membership agreement with the streamlined plan cleanup contractor demonstrates that the cleanup contractor will respond on behalf of the applicant;

(13) except for a plan using a response planning facilitator who is providing the response services described in 18 AAC 75.428(a)(2), a statement certifying that

(A) for each region of operation identified in the plan, the applicant has a contract with at least one streamlined plan incident management team for that region of operation;

(B) each streamlined plan incident management team identified in the statement is registered under 18 AAC 75.500 - 18 AAC 75.580 for the appropriate

classification under 18 AAC 75.562(b), Table G, and region of operation identified in the plan; and

(C) each contract with the streamlined plan incident management team demonstrates that the incident management team will respond on behalf of the applicant;

18 AAC 75.426(14) is amended to read:

(14) for a plan submitted by a response planning facilitator, the name, telephone number, title, [ANY] electronic mail address [, AND ANY FACSIMILE NUMBER] of that response planning facilitator, and the role of the response planning facilitator as described in 18 AAC 75.428(a)(1) or (2);

(15) for a plan using a response planning facilitator who is providing the response services described in 18 AAC 75.428(a)(2), a statement certifying that the

(A) applicant has a contract with the response planning facilitator to provide oil spill response services to the applicant to meet the applicable requirements of 18 AAC 75.400 - 18 AAC 75.496 for each region of operation identified in the plan and the appropriate vessel fuel classification under 18 AAC 75.561(b)(1), Table F and 18 AAC 75.562(b), Table G; and

(B) contract under (A) of this paragraph demonstrates that the response planning facilitator will respond on behalf of the applicant;

(16) a statement certifying that each vessel complies with applicable federal and international maritime requirements;

(17) a statement, signed by an individual with the authority described in the statement, committing the resources necessary to implement the plan, and certifying the contents

of the application; the statement must read as follows: “I certify, under penalty of unsworn falsification in violation of AS 11.56.210, that I am the applicant, a principal of the applicant, an authorized agent for the applicant, or an official of the applicant; that I have authority to sign this application and commit the resources necessary to implement the plan on behalf of the applicant; and that I have examined this application in its entirety and to the best of my knowledge, information, and belief, find it to be true, correct and complete.” (Eff. 11/27/2002, Register 164; am 12/13/2002, Register 164; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

Editor’s note: As of Register 221 (April 2017), the regulations attorney made technical corrections under AS 44.62.125(b)(6), to 18 AAC 75.426, changing cross-referenced table headers from “Table G” to “Table F” and from “Table H” to “Table G”, to reflect the agency’s repeal of 18 AAC 75.446, including former Table F, as part of amendments that took effect March 23, 2017, Register 221.

18 AAC 75.428. Response planning facilitator. (a) A response planning facilitator registered under 18 AAC 75.500 - 18 AAC 75.580 may submit a streamlined plan under 18 AAC 75.421 on behalf of a plan holder. A response planning facilitator may

18 AAC 75.428(a)(1) is amended to read:

(1) act as an intermediary between the plan holder and one or more streamlined plan cleanup contractors and one or more streamlined plan incident management teams [IN ORDER] to facilitate the submission of a streamlined plan under 18 AAC 75.421, including

facilitation of the execution of a contract or membership agreement between the plan holder and each streamlined plan cleanup contractor and incident management team as described in 18 AAC 75.426(12) and (13); or

(2) enter into a contract with the plan holder to meet the requirements of 18 AAC 75.400 - 18 AAC 75.496; the response planning facilitator's registration application under 18 AAC 75.553 must

(A) certify that the response planning facilitator has a contract with, or is a member of, one or more streamlined plan cleanup contractors and has a contract with one or more streamlined plan incident management teams registered under 18 AAC 75.500 - 18 AAC 75.580 in each region of operation and for the response planning standard appropriate to each vessel covered under the streamlined plan; and

(B) contain a statement, signed by the response planning facilitator and each streamlined plan cleanup contractor and incident management team, that the streamlined plan cleanup contractor and incident management team will respond on behalf of a plan holder who enters into a contract with the response planning facilitator to meet the requirements of 18 AAC 75.400 - 18 AAC 75.496.

(b) A response planning facilitator may sign a streamlined plan application form as an authorized agent on behalf of the plan holder. An application signed by a response planning facilitator has the full force and effect of an application signed by the plan holder as described in 18 AAC 75.400(a)(2). (Eff. 11/27/2002, Register 164; am 4/16/2016, Register 218; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.429. Equipment, training, personnel, and fuel transfer requirements for noncrude oil tank vessel or barge streamlined plans.

(a) A noncrude oil tank vessel or barge that has an approved streamlined plan must maintain the following equipment on board:

18 AAC 75.429(a)(1) is amended to read:

(1) sorbent boom, not less than six times the length of the vessel and at least five inches in height, and equipment necessary to secure it;

(2) a vessel capable of deploying the sorbent boom required under (1) of this subsection;

(3) sorbent sweep not less than the length of the vessel; and

(4) 200 sorbent pads.

(b) At least two personnel trained in the deployment of the equipment listed in (a) of this section must be on board the vessel or an accompanying tug during transit or transfer of oil.

(c) Trained personnel shall use the equipment listed in (a) of this section to immediately mitigate and minimize a discharge until the streamlined cleanup contractor identified in the plan arrives.

18 AAC 75.429(d)(1) and (3) are amended to read:

(d) Trained personnel shall be familiar with the vessel's fuel transfer procedures and take all appropriate measures to prevent spills or overfilling during a transfer of oil, including the following fuel transfer procedures:

(1) ensure that each person involved in a transfer is capable of clearly communicating orders to stop a transfer [AT ANY TIME] during the transfer;

- (2) provide a positive means to stop a fuel transfer in the shortest possible time;
- (3) provide containment, [SUCH AS DRIP PANS,] under all connections along the transfer hose and systems;
- (4) ensure that all valves in the transfer system have been checked, and that all manifolds not in use are blank flanged or capped before each transfer;
- (5) inspect for damage or defects all piping and hose used in the transfer before each transfer; and
- (6) reduce loading rates at the beginning and end of a transfer. (Eff. 11/7/2020, Register 236; am ____ / ____ / ____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.430. Response planning standards. (a) Notwithstanding the response planning standards set out in 18 AAC 75.430 - 18 AAC 75.442, the plan must demonstrate the general procedures to clean up a discharge of any size, including the greatest possible discharge that could occur, subject to the provisions of AS 46.04.020 and AS 46.09.020.

18 AAC 75.430(b) is amended to read:

(b) Except for the requirements of 18 AAC 75.438(b)(1) and (2), 18 AAC 75.440, and 18 AAC 75.441, the department will consider and provide modifications to the response planning standards set out in 18 AAC 75.430 - 18 AAC 75.442 for a prevention measure that is in addition to those listed in 18 AAC 75.432 - 18 AAC 75.438, if the plan holder demonstrates [TO THE DEPARTMENT'S SATISFACTION] that the proposed measure reduces the potential size or risk of a discharge.

(c) If more than one prevention measure is used to modify the response planning standard, each subsequent reduction will be applied separately to the response planning standard value that results from application of the previous modification. However, in no case will the department reduce the response planning standard below an amount equal to

(1) 15 percent of the response planning standard applicable to a crude or noncrude oil terminal facility, an exploration or production facility, or a crude oil pipeline as determined under 18 AAC 75.432(b) or (c), 18 AAC 75.434, or 18 AAC 75.436(b), respectively; or

(2) 30 percent of the response planning standard for a crude oil tank vessel or barge as determined by 18 AAC 75.438(c).

(d) The department will, in its discretion, revoke or reduce a prevention credit set out in 18 AAC 75.432 - 18 AAC 75.438 if the department finds that the plan holder has failed to execute or has not effectively implemented the prevention measure used to determine that credit.

(e) Liquefied petroleum gas is exempt from the requirements of 18 AAC 75.430 - 18 AAC 75.442. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 5/26/2004, Register 170; am ____ / ____ / ____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070

AS 46.04.030

18 AAC 75.432. Response planning standards for oil terminal facilities. (a) For a crude or noncrude oil terminal facility, the plan holder shall maintain or have available under contract within the plan holder's region of operation or another approved location, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources

to

18 AAC 75.432(a)(1) is amended to read:

(1) contain or control, and clean up within 72 hours, that portion of the response planning standard volume that enters open water; and

(2) contain or control within 72 hours, and clean up within the shortest possible time consistent with minimizing damage to the environment, that portion of the response planning standard volume that enters a receiving environment other than open water.

18 AAC 75.432(b) is amended to read:

(b) The response planning standard volume for a crude or noncrude oil terminal facility is equal to the capacity of the largest oil storage tank at the facility covered by the plan, unless there are specific natural or man-made conditions outside the facility which could place the facility at an increased risk of an oil discharge affecting one or more storage tanks. **For vessels operating as oil terminal facilities, the response planning standard is based on the entire storage capacity of the vessel.**

(c) For an increased risk described in (b) of this section, the response planning standard volume is equal to the capacity of all of the potentially affected oil storage tanks at the facility. The plan must set out the basis for selecting the storage tanks and the volume of oil planned for in the response.

(d) The department will, in its discretion, reduce the requirements of (b) of this section, by a percentage up to that shown, for each of the following prevention measures in place at the facility:

(1) alcohol and drug testing of key personnel: 5 percent;

(2) an operations training program with a professional organization or federal certification or licensing of program participants: 5 percent;

18 AAC 75.432(d)(3) and (d)(5)(A) are amended to read:

(3) on-line leak detection systems **that automatically alarm at a central facility system that is continually monitored,** for tanks and piping: 5 percent;

(4) a sufficiently impermeable secondary containment area with a dike capable of holding the contents of the largest tank, or all potentially affected tanks in the case of increased risk, and precipitation: 60 percent;

(5) for secondary containment as described in (4) of this subsection, designed with the following enhancements, an additional allowance for

(A) cathodic protection **for aboveground petroleum storage tanks and facility oil piping within secondary containment:** 10 percent;

18 AAC 75.432(d)(5)(B) is amended to read:

(B) **failsafe valve(s) on** [FAIL-SAFE VALVE] piping systems: 15 percent; or

(C) impervious containment area extending under the full area of each storage tank or double bottoms with leak detection: 25 percent; and

(6) containment outside the secondary containment area: 10 percent.

(Eff. 5/14/92, Register 122; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.433. Response planning standards for railroad tank cars. For a railroad tank car, the plan holder shall maintain, or have available under contract within the plan holder's region of operation or another approved location, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to

(1) contain and control 15 percent of the maximum oil capacity of the train within 48 hours after a spill; and

(2) clean up the discharge within the shortest possible time consistent with minimizing damage to the environment. (Eff. 12/14/2002, Register 164)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070
AS 46.04.055

18 AAC 75.434. Response planning standards for exploration or production facilities. (a) For an exploration or production facility, the plan holder shall maintain or have available under contract within the plan holder's region of operation or another approved location, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to

18 AAC 75.434(a)(1) is amended to read

(1) contain or control, and clean up within 72 hours that portion of the response planning standard volume that enters open water; and

(2) contain or control within 72 hours, and clean up within the shortest possible time consistent with minimizing damage to the environment, that portion of the response planning standard volume that enters a receiving environment other than open water.

18 AAC 75.434(b) is amended to read:

(b) The response planning standard for an exploration facility is

(1) 16,500 barrels, unless relevant well data, exploration data, and other supporting technical documentation provided to the department and to the Alaska Oil and Gas Conservation Commission demonstrates [TO THE SATISFACTION OF THE DEPARTMENT] that a lower response planning standard volume is appropriate; and

(2) an additional 5,500 barrels for each of 12 days beyond 72 hours, unless relevant well data, exploration data, and other supporting technical documentation provided to the department and to the Alaska Oil and Gas Conservation Commission demonstrates [TO THE SATISFACTION OF THE DEPARTMENT] that a lower response planning standard volume is appropriate.

(c) Repealed 5/26/2004.

18 AAC 75.434(d) is amended to read:

(d) If the actual flow rate of a well at an exploration facility exceeds 5,500 barrels per day, and the facility is to continue operations, the department will increase the response planning standard volume determined under (b) of this section for subsequent exploration wells drilled at that facility to a response planning standard volume taking into account the actual well flow rate of that well. The plan holder must submit a plan amendment under 18 AAC 75.415 addressing the increased response planning standard volume **not later than** [WITHIN] 30 days after the department notifies the plan holder of the department's determination under this section. The department will review the plan amendment under 18 AAC 75.455.

(e) The response planning standard for a production facility is

(1) three times the annual average daily oil production volume for the maximum producing well at the facility; and

(2) for a production facility with wells without assisted lift, an additional volume equal to the annual average daily oil production volume for the maximum producing well at the facility for each of 12 days beyond 72 hours.

(f) The department may consult with the Alaska Oil and Gas Conservation Commission and other agencies as necessary to

(1) verify the production data submitted under (d) of this section; and

(2) determine, under (b) of this section, a lower response planning standard for exploration facilities.

18 AAC 75.434(g) is amended to read:

(g) If an operator proposes the planned voluntary ignition of a well blowout **for the purpose of adjusting the response planning standard volume**, the operator shall submit data, analyses, and supporting documentation that **demonstrate** [INDICATES TO THE SATISFACTION OF THE DEPARTMENT] that **the** [ANY] discharged oil would have an American Petroleum Institute (API) gravity of 35 or greater, a gas-oil ratio in excess of 2,000, and an anticipated combustion efficiency of at least 90 percent, that well ignition would not exceed national ambient air quality standards set under 42 U.S.C. 7409 (Clean Air Act), and that well ignition will be protective of human health, safety, and welfare, and of the environment. The department will adjust the response planning standard determined under (b) - (e) of this section based on the submitted data. The department may consult with the Alaska Oil and Gas Conservation Commission and other agencies in evaluating the data provided by the operator

under this subsection.

(h) If exploration and production facilities are covered under a single plan accepted under 18 AAC 75.400(d), the department will consider the largest of the response planning standards determined under (b) - (e) of this section to be the response planning standard for that plan.

18 AAC 75.434(i) is amended to read:

(i) The department will protect from public disclosure [ANY] data, analyses, or supporting documentation [THAT IS] required under this section and held confidential by the department or another state agency under applicable constitutional law, statutes, and common law doctrines that protect trade secrets within the meaning of AS 45.50.940 and other commercially sensitive, confidential, and proprietary information. If disclosure of that information is required in an adjudicatory hearing under 18 AAC 15.185 - 18 AAC 15.340, the hearing officer shall limit and condition disclosure to the extent necessary to comport with applicable constitutional, statutory, and common law doctrines that protect trade secrets within the meaning of AS 45.50.940 and other commercially sensitive, confidential, and proprietary information. In limiting or conditioning disclosure under this subsection, the hearing officer shall or department will, as necessary

(1) review confidential information in-camera; and

(2) redact department decisions to protect confidential information.

(j) The department may reduce the requirements of (b) - (e) of this section, up to the limits set out in 18 AAC 75.430(c)(1), for prevention measures in place at the facility beyond those measures imposed by the Alaska Oil and Gas Conservation Commission or another

agency. (Eff. 5/14/92, Register 122; am 5/26/2004, Register 170; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.436. Response planning standards for crude oil pipelines. (a) For a crude oil pipeline facility, the plan holder shall maintain or have available under contract within the plan holder's region of operation or another approved location, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to

18 AAC 75.436(a)(1) is amended to read:

(1) contain or control, and clean up within 72 hours that portion of the response planning standard volume that enters open water; and

(2) contain or control within 72 hours, and clean up within the shortest possible time consistent with minimizing damage to the environment, that portion of the response planning standard volume that enters a receiving environment other than open water.

(b) The response planning standard volume for a crude oil pipeline facility is the amount of oil which equals the length of the pipeline between pumping or receiving stations or valves (Lpl), minus the hydraulic characteristics of the pipeline due to terrain profile (Hpl), times the capacity of the pipeline in barrels per lineal measure (Cpl), plus the flow rate of the pipeline in barrels per time period (FRpl), multiplied by the estimated time to detect a spill event (TDpl), plus the time to shut down the pipeline pump or system (TSDpl). Written as a formula, the response planning standard is $(Lpl - Hpl) * Cpl + FRpl * (TDpl + TSDpl)$.

(c) The department will, in its discretion, reduce the requirements of (b) of this section, by a percentage up to that shown, for each of the following prevention measures in place at the facility:

(1) alcohol and drug testing of key personnel: 5 percent;

(2) an operations training program with a professional organization or federal certification or licensing of program participants: 5 percent;

18 AAC 75.436(c)(3) is amended to read:

(3) on-line leak detection systems **that automatically alarm at a central facility system that is continually monitored**: 5 percent;

(4) corrosion control using

(A) ultrasonic thickness meters: 15 percent;

(B) instrumented in-line cleaning and diagnostic equipment ("smart pigs"): 15 percent; or

(C) a method described in (A) or (B) of this paragraph, coupled with cathodic-profile inspection at least triennially: 30 percent; and

(5) underwater pipeline cathodic- and burial-profile inspection: 5 percent.

(Eff. 5/14/92, Register 122; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.070 AS 46.04.030

18 AAC 75.438. Response planning standards for crude oil tank vessels and barges.

(a) For a crude oil tank vessel or barge, the plan holder shall maintain or have available under contract within its region of operation, sufficient discharge containment, storage, transfer, and

cleanup equipment, personnel, and other resources to

18 AAC 75.438(a)(1) is amended to read:

(1) contain or control, and clean up within 72 hours that portion of the response planning standard volume set out in (b) of this section that enters open water; and

(2) contain or control within 72 hours, and clean up within the shortest possible time consistent with minimizing damage to the environment, that portion of the response planning standard volume set out in (b) of this section that enters a receiving environment other than open water.

(b) For purposes of the requirements of (a) of this section, the response planning standard volume for a crude oil tank vessel or barge is

(1) 50,000 barrels, if the tank vessel or barge has a cargo volume of less than 500,000 barrels; and

(2) 300,000 barrels, if the tank vessel or barge has a cargo volume of 500,000 barrels or more.

(c) In addition to the requirements of (a) of this section, for all crude oil tank vessels and barges, the plan holder shall plan to have deployed and operating within 72 hours, from within or outside its region of operation, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to contain and control, and clean up at least 60 percent of the total cargo volume of the tank vessel or barge.

(d) The department will, in its discretion, reduce the requirements of (c) of this section, by a percentage up to that shown, for each of the following prevention measures in place for the vessel or barge:

- (1) hydrostatic loading: 20 percent;
- (2) double hulls and bottoms: 30 percent;
- (3) double bottoms: 25 percent; and
- (4) emergency-response vessels and procedures described as follows:
 - (A) vessel escort during entire vessel transit in port area;
 - (B) escort vessels capable of
 - (i) providing steering and propulsion assistance with the ability to attach towing cables in a timely fashion under the weather conditions of transit; and
 - (ii) exerting sufficient force to change or maintain the escorted vessel's course;

18 AAC 75.438(d)(4)(C) is amended to read:

(C) limits on the escorted vessel's speed **so it matches the** [IN ORDER TO MATCH] escort vessel's ability to render assistance; and

(D) escort vessels have on-board oil discharge response equipment:

11 percent.

(e) A crude oil tank vessel or barge that has been exempted under 18 AAC 75.400(b) is exempt from the requirements of this section. (Eff. 5/14/92, Register 122; am 10/27/2018, Register 228; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.440. Response planning standards for noncrude oil tank vessels and barges. (a) For a noncrude oil tank vessel or barge, the plan holder shall maintain or have

available under contract within the plan holder's region of operation or another approved location, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to

(1) contain or control within 48 hours, and to clean up within the shortest possible time, that portion of the response planning standard volume that enters open water; and

(2) contain or control, and clean up within the shortest possible time consistent with minimizing damage to the environment, that portion of the response planning standard volume that enters a receiving environment other than open water.

(b) The response planning standard volume for a noncrude oil tank vessel or barge is equal to 15 percent of the total cargo volume of the oil tank vessel or barge. (Eff. 5/14/92, Register 122; am 10/27/2018, Register 228)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.441. Response planning standards for nontank vessels. (a) For a nontank vessel, the plan holder shall maintain or have available under contract or membership agreement within the plan holder's region of operation, sufficient oil discharge containment and control equipment and shall maintain or have available under contract or membership agreement within the plan holder's region of operation or capable of arriving in the region of operation within 24 hours, sufficient storage, transfer, and cleanup equipment, personnel, and other resources to contain and control 15 percent of the maximum oil capacity of the nontank vessel within 48 hours. The plan holder must clean up the discharge within the shortest possible time consistent with minimizing damage to the environment.

(b) For purposes of AS 46.04.055(c)(1) and this section, “maximum oil capacity” means the

(1) total fuel tankage of the nontank vessel; or

(2) demonstrated actual maximum fuel volume that the vessel will carry in state waters, as certified by the vessel owner or operator. (Eff. 11/27/2002, Register 164)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

Editor's note: As of Register 170 (July 2004), the regulations attorney made a technical revision under AS 44.62.125(b)(6) to 18 AAC 75.441(a).

18 AAC 75.442 is amended to read:

18 AAC 75.442. Response planning standards for multiple operations. For a plan [FACILITY] having multiple facility types [MORE THAN ONE CATEGORY OF OPERATION] that require [REQUIRES] an approved oil discharge prevention and contingency plan, the plan holder must plan to respond to a discharge of the applicable response planning standard volume for each separate facility type in the plan [CATEGORY OF OPERATION AT THE FACILITY] as established under 18 AAC 75.430 - 18 AAC 75.440. (Eff. 5/14/92, Register 122; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.445 is repealed.

18 AAC 75.445 Approval criteria for oil discharge prevention and contingency plans. Repealed. (Eff. 5/14/92, Register 122; am 9/25/93, Register 127; am 3/28/96, Register

137; am 4/4/97, Register 142; am 5/26/2004, Register 170; am 12/30/2006, Register 180;
repealed ____/____/____, Register ____)

18 AAC 75.447 is repealed.

18 AAC 75.447 Department examination of new technologies. Repealed. (Eff. 4/4/97,
Register 142; repealed ____/____/____, Register ____)

Repealed text:

[(a) TO ASSURE THAT PROVEN NEW TECHNOLOGIES ARE CONSIDERED FOR
USE IN OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS, THE
DEPARTMENT WILL REVIEW AND APPRAISE TECHNOLOGY APPLIED AT OTHER
LOCATIONS IN THE UNITED STATES AND THE WORLD THAT REPRESENT
ALTERNATIVES TO THE TECHNOLOGIES USED BY PLAN HOLDERS IN THEIR OIL
DISCHARGE PREVENTION AND CONTINGENCY PLANS SUBMITTED TO MEET
RESPONSE PLANNING STANDARDS IN 18 AAC 75.430 - 18 AAC 75.442 AND THE
PERFORMANCE STANDARDS OF 18 AAC 75.005 - 18 AAC 75.080. THE DEPARTMENT
WILL CONDUCT THIS REVIEW AND APPRAISAL BY

(1) SPONSORING A TECHNOLOGY CONFERENCE AT LEAST EVERY
FIVE YEARS AND IN COOPERATION WITH PERSONS, ORGANIZATIONS, AND
GROUPS WITH INTERESTS AND EXPERTISE IN RELEVANT TECHNOLOGIES; THIS
CONFERENCE WILL PROVIDE INTERESTED PARTIES WITH AN OPPORTUNITY TO
DESCRIBE THE STATUS OF EXISTING TECHNOLOGIES IN USE AS WELL AS
TECHNOLOGIES THAT MAY BE CONSIDERED SUPERIOR TO THOSE IN USE AT
THAT TIME; AND

(2) ENGAGING IN STUDIES, INQUIRIES, SURVEYS, OR ANALYSES THE DEPARTMENT BELIEVES APPROPRIATE TO THE CONSIDERATION OF NEW TECHNOLOGIES.

(b) AFTER ITS REVIEW AND APPRAISAL UNDER (a) OF THIS SECTION, THE DEPARTMENT WILL ISSUE WRITTEN FINDINGS IDENTIFYING NEW TECHNOLOGIES THAT THE DEPARTMENT CONSIDERS REPRESENT PROVEN TECHNOLOGICAL BREAKTHROUGHS IN OIL DISCHARGE CONTAINMENT, CONTROL, OR CLEANUP EQUIPMENT. IN ITS FINDINGS, THE DEPARTMENT WILL

(1) PROVIDE AN EVALUATION OF THE TECHNOLOGIES APPLIED AT OTHER LOCATIONS BASED ON THE APPLICABLE CRITERIA IN 18 AAC 75.445(k)(3);

(2) IDENTIFY THE EVIDENCE THAT CLEARLY AND CONVINCINGLY SUPPORTS THE DETERMINATION THAT THE EQUIPMENT REPRESENTS A PROVEN TECHNOLOGICAL BREAKTHROUGH THAT COULD RESULT IN SUPERIOR ADVANCES IN THE EFFICIENCY OR EFFECTIVENESS OF OIL SPILL RESPONSE EFFORTS; AND

(3) IDENTIFY SPECIFIC OPERATIONS, GEOGRAPHICAL LOCATIONS, OR PHYSICAL ENVIRONMENTS WHERE THE TECHNOLOGY COULD BE APPLIED.

(c) IF A FINDING IS ISSUED UNDER (b) OF THIS SECTION, THE DEPARTMENT WILL INFORM PLAN HOLDERS, PRIMARY RESPONSE ACTION CONTRACTORS, AND OTHER INTERESTED PERSONS OF THE DEPARTMENT'S FINDINGS, THE AVAILABILITY OF THE NEW TECHNOLOGY, AND THE OPPORTUNITY TO SUBMIT COMMENT ON THE REPORT TO THE DEPARTMENT.]

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.448. Oil discharge prevention and contingency plan, general content and approval criteria. (a) An oil discharge prevention and contingency plan submitted for approval under 18 AAC 75.400 – 495 must be usable as a working plan for oil discharge control, containment, cleanup, and disposal of an oil discharge of any size. The plan must contain enough information, analyses, supporting data, and documentation to demonstrate the plan holder's ability to meet the requirements of AS 46.04.030, AS 46.055(c)(2) and 18 AAC 75.400 - 18 AAC 75.495. It must demonstrate that the personnel, equipment, and other resources identified in the plan are sufficient for meeting each response planning standard applicable for each facility in the plan. The plan must take into account realistic maximum response operating limitations and their effects on response capability and the deployment of resources. The department will review and evaluate a plan by verifying that it meets the applicable requirements under 18 AAC 75.448 - 18 AAC 75.453.

(b) A plan comprised of multiple facility types as described at 18 AAC 75.442 must describe the appropriate response measures to meet the applicable portion of the response planning standard for each facility type covered by the plan.

(c) The submitted plan must be accompanied by a cover page or letter that includes

- (1) the official plan title: the name of the plan holder and the covered facility or facilities, followed by the words "Oil Discharge Prevention and Contingency Plan";
- (2) the date of the plan; and
- (3) a statement, signed by an individual with appropriate authority as set out under 18 AAC 15.010(b), committing the oil discharge prevention and response resources necessary to implement the plan.

(d) The plan must

(1) consist of five parts and contain the information described in 18 AAC 75.449 - 18 AAC 75.453;

(2) contain a complete table of contents and lists of tables or figures, with corresponding page numbers; and

(3) be presented in the order shown in 18 AAC 75.449 - 18 AAC 75.453 or include a cross-reference table that directs the reader to the appropriate information.

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070
AS 46.04.020 AS 46.04.055

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.449. Part 1 - Oil discharge prevention and contingency plan, Response Action Plan. (a) The oil discharge prevention and contingency plan response action plan must contain immediate steps to be taken in response to a discharge of any size, hypothetical response scenarios based on applicable response planning standards, nonmechanical response procedures if the plan holder intends to request approval for their use, facility diagrams to support emergency response plans, and general procedures for responding to the maximum possible discharge that could occur at the facility or facilities covered by the plan. The plan must include the following information in sufficient detail to clearly guide responders in an emergency event:

(1) emergency action checklist - a short checklist of the immediate response and notification steps to be taken if an oil discharge occurs to be carried by the response personnel;

(2) reporting and notification - a description of the immediate spill reporting actions to be taken at any hour of the day, including

(A) the title and telephone number of facility personnel responsible for making the notification; and

(B) the telephone number of each appropriate government agency to be notified if a discharge occurs and additional contact information for potentially impacted groups and others who may be called on to provide resources during the spill;

(3) safety - based on applicable safety standards, a description of the steps necessary to develop an incident-specific safety plan for conducting a response;

(4) communications - a description of field communications procedures, including, if applicable, assigned radio channels or frequencies and their intended use by response personnel;

(5) deployment strategies - a description of proposed initial response actions that may be taken, including

(A) procedures for the transport of equipment, personnel, and other resources to the spill site, including plans for alternative methods in adverse weather conditions; and

(B) if the operator is not the primary spill responder, procedures to notify and mobilize the response action contractor or other responder identified in the plan, including a description of the interim actions that the operator will perform until the responder identified in the plan initiates a full response to the discharge; the description must demonstrate that the transition and substitution of equipment and resources between

the plan holder and response contractor will occur without interruption of response or cleanup;

(6) response scenario - a written description of a hypothetical spill and response that demonstrates a plan holder's ability to respond to a discharge of each applicable response planning standard volume within the required time frames under 18 AAC 75.430 – 18 AAC 75.442, using the resources described in the contingency plan; the response scenario must be usable as a general guide for a discharge of any size and must describe the discharge containment, control, and cleanup actions to be taken, and clearly demonstrate the strategies and procedures adopted to conduct and maintain an effective response, and if the response scenario is for an exploration or production facility, must also meet the applicable requirements of (7) of this subsection; if the information required by this subparagraph is contained in a separate document developed by the plan holder or the plan holder's primary response action contractor identified in 18 AAC 75.451(i), the plan holder may incorporate the information by reference upon receiving the department's approval; response strategies must be sufficient to meet the applicable response planning standard established under 18 AAC 75.430 - 18 AAC 75.442 for containment, control, recovery, transfer, storage, and cleanup within the specified time and under environmental conditions that might reasonably be expected to occur at the discharge site and must include

(A) the spill location, time of year, and time of day, the source and cause of the spill, the quantity and type of oil spilled, the relevant environmental conditions that might reasonably be expected to occur at the discharge site, including weather, sea state, and visibility, and the spill trajectory;

(B) the expected timeline for response actions, describing response actions to be taken;

(C) in place procedures to stop the discharge at its source, within the shortest possible time, and prevent its further spread;

(D) a description of methods to prevent or control a potential fire hazard, including a facility diagram which includes the location of fire suppression equipment, main power shutoff switches, and other relevant information; all fire control plans must be compatible with applicable fire codes and industry standards;

(E) procedures and methods, and a description of the equipment that will be used for real-time surveillance and tracking of the discharged oil on land and on open water, forecasting of its expected points of shoreline contact; these must be sufficient to ensure that there is proper allocation and deployment of response personnel and equipment;

(F) for a stationary facility or operation, or a railroad, and, if requested by the department, for a vessel, a description of site-specific strategies for the protection of environmentally sensitive areas and areas of public concern identified under 18 AAC 75.451(k), including, for a land-based facility or railroad, protection of groundwater and public water supplies; sufficient oil discharge response equipment, personnel, and other resources must be maintained and available for the specific purpose of preventing discharged oil from entering these environmentally sensitive areas or an areas of public concern that would likely be impacted if a discharge occurs, and that this equipment and personnel will be deployed and maintained on a time schedule that will protect those areas before oil reaches them according to the predicted oil trajectories for an oil discharge of the volumes established under 18 AAC 75.430 - 18 AAC 75.442; areas identified in the plan must include areas added by the department as a condition of plan

approval; if identification of those areas and site-specific strategies for protection of those areas are in an applicable Geographic Zone of one or more Area Contingency Plans described in 18 AAC 75.495, the plan holder may incorporate that information by reference;

(G) a description of the actions to be taken to contain and control the spilled oil, including, as applicable, boom deployment strategies, construction of temporary berms, and other methods;

(H) a description of the actions to be taken to recover the contained or controlled oil using mechanical response options, including procedures and provisions for skimming, absorbing, or otherwise recovering the contained or controlled product from water or land;

(I) procedures for lightering, transfer, and storage of oil with enough detail to demonstrate that there is access to sufficient lightering equipment and personnel to transfer all oil from damaged tanks and from undamaged tanks if the risk of an additional discharge is present; the plan must provide for the start and completion of lightering within the shortest possible time, consistent with ensuring the safety of personnel;

(J) procedures for transfer and storage of recovered oil and oily water, including methods for estimating the amount of recovered oil; for on-water recovery, this includes procedures for offloading and transfer of oil and oil-water mixture to shore-side storage; for on-land recovery, this includes procedures for transfer from onsite temporary storage to more secure storage;

(K) procedures and locations for temporary storage and ultimate disposal of oil contaminated materials, oily wastes, and sanitary and solid wastes, with enough detail to demonstrate that there is adequate temporary storage and removal capacity for recovered oil and oily wastes available at or near the site of the spill to keep up with the skimming and recovery operations and to meet the applicable planning standard established under 18 AAC 75.430 - 18 AAC 75.442 for control, containment, and cleanup; plans for temporary storage and ultimate disposal must include identification of all necessary permits, approvals, or authorizations and the timeline for them;

(L) procedures for decanting if the plan holder intends to request approval for decanting during a spill response; this does not eliminate the requirement for the response strategies to include procedures for storage of recovered oil and oily water; if, at the time of a spill the responsible party wants to decant, they must apply to the department's State On-Scene Coordinator for approval on a form supplied by the department;

(M) procedures and methods for the protection, recovery, disposal, rehabilitation, and release of potentially affected wildlife, including: minimizing wildlife contamination through hazing or other means, when appropriate; the recovery of oiled carcasses to preclude secondary contamination of scavengers; and the capture, cleaning, rehabilitation, and release of oiled wildlife, when appropriate; plans for wildlife protection, recovery, disposal, rehabilitation, and release of wildlife should follow the recommendations of the Alaska Regional Response Team *Wildlife Protection Guidelines for Oil Spill Response in Alaska*;

(N) if applicable, a description of procedures for the deployment of shoreline cleanup equipment and personnel, including cleanup and restoration methods and techniques to be used if the shoreline is impacted by the discharge; and

(O) additional response strategies to demonstrate alternative strategies for anticipated receiving environments and seasonal conditions, including time of year, spills of varying source and size, and weather limitations;

(7) if the facility is an exploration or production facility, a response scenario that complies with (6) of this subsection, and in addition

(A) a summary of planned methods, equipment, logistics, and time frames proposed to be employed to control a well blowout within 15 days;

(B) the plan holder shall certify in the plan that the plan holder maintains a separate well blowout contingency plan and that the well blowout contingency plan summary provided in the plan is aligned with the blowout contingency plan approved under 20 AAC 25.XXX; the approved blowout contingency plan is not part of an application required under 18 AAC 75.400 - 18 AAC 75.495 but must be made available to the department for inspection upon request under 18 AAC 75.480; this may be a paper copy or an electronic version that is retrievable by the operator at the facility at all times; the department may consult with the Alaska Oil and Gas Conservation Commission, the Department of Natural Resources, or other agencies to determine the adequacy of the planned methods, equipment, logistics, and time frames for the control of a well blowout;

(C) a plan holder may use for development of a response scenario the July 1997 S.L. Ross oil deposition model for surface oil well blowouts, or another oil deposition model approved by the department for surface oil well blowouts;

(D) the response scenario must account for variations in seasonal conditions, a plan holder must provide a response scenario for a discharge of the applicable response planning standard volume under typical summer environmental conditions and typical winter environmental conditions; and

(E) if the information required by this section is contained within a separate document developed by the plan holder or the plan holder's primary response action contractor identified in 18 AAC 75.451(i) the plan holder may incorporate the information by reference upon receiving the department's approval; for purposes of this subsection;

(8) nonmechanical response options - plans which propose the use of dispersants, in situ burning, or other nonmechanical response techniques during periods when environmental conditions or other factors limit the use of mechanical spill response methods must include

(A) the basis for determining the conditions or circumstances under which these options will be used, and how the nonmechanical response options will be implemented, including a description of all required equipment and personnel;

(B) a demonstration of their efficiency and effectiveness;

(C) an assessment of potential environmental consequences, provisions for continuous monitoring and real-time assessment of environmental effects, and including a description of the specific mechanisms in place to assess the environmental consequences of the nonmechanical response option and to provide continuous monitoring of its environmental effects;

(D) a complete inventory of nonmechanical response equipment and supplies, including the type and toxicity of each dispersant, with procedures for storage, maintenance, and deployment;

(E) identification of all necessary approvals, and a completed application for department approval for open burning if in situ burning is a proposed response option;

(F) identification of all necessary permits, approvals, or authorizations for use of nonmechanical response options and the timeline for them; and

(G) a plan for protecting environmentally sensitive areas and areas of public concern identified in 18 AAC 75.451(k), and the public from adverse effects of the nonmechanical response option;

(9) facility diagram - a plan diagram of the facility for reference in conducting emergency response operations, with locations of response equipment and other features pertinent to the response plan clearly marked, including surrounding topography, roads, air transportation and other transportation access, location and bathymetry of adjacent water bodies, mooring areas, oil transfer locations, pipelines, control stations, drip pans and drainage of drip pans, and a representation of the distance and gradients to surface water for an operation located on land, by topographic map, aerial photographs, or other means; for a railroad tank car or locomotive, a diagram must be included for each distinct type of railroad tank car or locomotive showing locations of fuel and lubrication systems and oil storage tanks, piping, and valves; and

(10) the plan must identify the maximum possible discharge that could occur at the facility and the general procedures to be followed in responding to a discharge of that magnitude, including the identification of resources in addition to those maintained by the plan holder or available under contract to meet the applicable response planning standard for that

facility or operation; this information must be located in the plan immediately following the scenario or scenarios required by (6) of this subsection.

(b) In this section

(1) "typical summer environmental conditions" means the average wind speeds and predominant wind directions as depicted by a wind rose, temperature, sea state, and other climatic and environmental conditions occurring during the period of May through October, based on National Weather Service data or local weather records of a duration sufficient to determine a reasonable average;

(2) "typical winter environmental conditions" means the average wind speeds and predominant wind directions as depicted by a wind rose, temperature, sea state, and other climatic and environmental conditions occurring during the period of November through April, based on National Weather Service data or local weather records of a duration sufficient to determine a reasonable average;

(3) "wind rose" means a polar coordinate plot designed to show the distribution of wind directions and speeds at a given location over a considerable period of time, with the distance from the origin proportional to the probability of the wind direction being at the given angle, measured in 16 cardinal compass points, and the disposition of the wind speeds indicated for each direction; and

(4) "predominant wind directions" means those directions that occur greater than 10 percent of the time indicated. (Eff. _____, Register _____)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070

AS 46.04.030 AS 46.04.055

Editor's note: The decanting authorization form referenced in 18 AAC 75.449(a)(6)(L) is available on the department's website search page: <http://dec.alaska.gov/spar/ppr/regulations-guidance/forms-applications/>. The Alaska Regional Response Team *Wildlife Protection Guidelines for Oil Spill Response in Alaska* referenced in 18 AAC 75.449(M) is available through the department's website Area Plan References and Tools page: <https://dec.alaska.gov/spar/ppr/contingency-plans/response-plans/tools/> and on the Alaska Regional Response Team's website Reference Library Page: <https://alaskarrt.org/Home/Documents/9>

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.450. Part 2 - Oil discharge prevention and contingency plan, Prevention Plan. (a) The prevention plan must include the information needed to demonstrate that the applicant meets all applicable requirements of 18 AAC 75.005 - 18 AAC 75.085 and must provide a detailed description of all oil discharge prevention programs in place at the facility, with reference to the specific oil discharge risks involved. The applicant must take discharge history and other factors into account when designing a prevention program that addresses the specific areas and situations encountered at the facility or on or near the vessel. This information must be provided in a prevention plan and may be submitted as a separate volume. The applicant must describe in the prevention plan how they meet the applicable requirements of 18 AAC 75.005 - 18 AAC 75.085.

(b) In addition to the description required in (a) of this section, the prevention plan must

include the following information:

(1) discharge prevention programs - a description and schedule of regular oil discharge prevention, inspection, and maintenance programs in place at the facility or operation;

(2) discharge history - list all known oil discharges greater than 55 gallons that have occurred at the facility within the state; the history must include

(A) the source, cause, amount of each discharge;

(B) corrective action taken;

(C) an analysis of the relationship, if any, between the frequency, cause, and size of the discharges; and

(D) a description of actions to be taken to prevent or mitigate similar discharges in the future;

(3) potential discharge analysis - including size, frequency, cause, duration, and location, and a description of actions taken to prevent a potential discharge;

(4) specific conditions - a description of

(A) conditions specific to the facility or operation that might increase the risk of a discharge, including physical or navigation hazards, traffic patterns, and other site-specific factors; and

(B) measures that have been taken to reduce the risk of a discharge attributable to these conditions, including a summary of operating procedures designed to mitigate the risk of a discharge;

(5) discharge detection - a description of the existing and proposed means of discharge detection, including surveillance schedules, leak detection, observation wells, monitoring systems, and spill-detection instrumentation; if electronic or mechanical instrumentation is

employed, detailed specifications, including threshold detection, sensitivities, and limitations of equipment, or an approved waiver, must be provided; and

(6) waivers - for an operation subject to a waiver under 18 AAC 75.015 or alternate compliance schedule or existing condition of plan approval under 18 AAC 75.005 - 18 AAC 75.085 or 18 AAC 75.400 - 18 AAC 75.496, documentation of

(A) each waiver, alternate compliance schedule, or existing condition of plan approval; and

(B) the approval of each waiver, alternate compliance schedule, or existing condition of plan approval. (Eff. _____, Register ____)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070
AS 46.04.030 AS 46.04.055

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.451. Part 3 - Oil discharge prevention and contingency plan, Supplemental

Information. (a) The supplemental information section must provide background and verification information, listed in (b) - (n) of this section.

(b) Facility description and operational overview - a general description of the oil storage, transfer, exploration, or production operations, including

(1) for each oil storage tank with a storage capacity of greater than 10,000 gallons, the oil storage capacity, installation date, design, construction, and the product type stored;

(2) for each oil storage tank with a storage capacity of 1,000 gallons and greater but less than or equal to 10,000 gallons, the location, oil storage capacity, and the product type

stored, unless the oil storage tank is used on a temporary basis;

(3) For vessels,

(A) a general chart showing routes normally used for the transportation of oil products within state waters, and the frequency of use for each route;

(B) plans or diagrams that identify cargo, bunker, and ballast tanks, all tank capacities, cargo piping, ballast piping, winches, emergency towing equipment, power plants, manifold pipe size, containment structures and equipment, and a description of the method of containing a discharge from fuel oil tank vent overflow and fill pipes;

(C) a description of the methods for retention and disposal of oily wastes and bilge slops; and

(D) additional information required by the department to evaluate the response capability of a vessel, including verifying that the vessel is in compliance with the applicable stability requirements as set out in 46 C.F.R. 109.227, as amended through September 11, 1992;

(4) for a railroad, a map showing the location of each main line, siding, and yard area; a description of railroad tank cars and locomotives normally in service, including type, number and capacity, general piping diagrams, location of valves, and tank volumes;

(5) a general description of the procedures for the loading or transfer of oil from or to a pipeline, facility, tank vessel, oil barge, railroad tank car, or storage tank;

(6) for a production facility, a description of the flow and gathering lines and processing facilities;

(7) for an oil terminal facility, an exploration facility, and a production facility, a

pipings diagram showing all facility oil piping, including the location of valves; and

(8) for a transmission pipeline, a pipeline diagram including the location of all mainline valves, pumping units, and other appurtenances connected to the pipeline.

(c) Receiving environment - for an onshore facility or operation, the applicant must determine and clearly demonstrate that, based on an analysis of the facility or operation, resources identified in the plan are sufficient to clean up that portion of a discharge of the applicable planning standard volume that might realistically be expected to reach open water within the applicable time limit set out in 18 AAC 75.430 - 18 AAC 75.442; the analysis of the expected amount and locations of oil to reach open water must include

(1) a drainage diagram or map showing gradients and potential containment sites and features at the facility; and

(2) identification and explanation of all measures that will be taken to prevent a discharge from entering open water from the facility.

(d) Command system - a description and diagram of the incident command system management hierarchy to be used in response to a discharge, specific to operations described in the response planning standard scenario, including the name, position, telephone number, and affiliation by company, agency, or local government of each person, including a person identified in 18 AAC 75.449(a)(2), 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, financial, operations, planning, logistics and environmental personnel; the incident command system must be compatible with the state's response structure outlined in the Alaska Regional Contingency Plan. Command system descriptions, diagram, and management hierarchy must all be contained in the plan. At a

minimum, the detailed personnel contact information for the qualified individual must be located in the plan. Detailed information for other listed incident command system personnel may be maintained by the plan holder in a separate document; the document is part of the plan, and it must be provided to the department with the plan application package. For plans that propose 24-hour operations, the detailed personnel document must identify available staff for 24-hour operations. This separate document will be treated as a confidential document and will not be publicly reviewed; it must be maintained and updated in real time. Notwithstanding the requirements of 18 AAC 75.415(b)(2), an updated document may be provided to the department on a quarterly basis if changes occur.

(e) Realistic maximum response operating limitations - in designing a spill response, severe weather and environmental limitations that might be reasonably expected to occur during a discharge event must be identified and realistic efficiency rates must be used for the specified response methods to account for the reduction of control or removal rates under those severe weather or other environmental limitations. The plan must include

(1) a description of the realistic maximum response operating limitations that might be encountered at the facility or operation and, based on environmental and safety considerations, an analysis of the frequency and duration, expressed as a percentage of time, of limitations that would render mechanical response methods ineffective;

(2) descriptions of additional specific temporary prevention or response measures that will be taken to reduce the environmental consequences of a discharge, including nonmechanical response options, during those periods when environmental conditions exceed realistic maximum response operating limitations; and

(3) an analysis considering the following environmental conditions:

(A) weather, including wind, visibility, precipitation and temperature based on National Weather Service data or local weather records;

(B) sea states, tides, and currents;

(C) ice and debris presence;

(D) hours of daylight; and

(E) other known environmental conditions that might influence the efficiency of the response equipment or the overall effectiveness of a response effort; and

(4) for plans proposing the use of nonmechanical response options, information required under 18 AAC 75.449(a)(8).

(f) Logistical support - identification of aircraft, vessels, and other means that may be used to transport equipment and personnel during a discharge response, including information on ownership and availability of identified means of transportation.

(g) Response equipment - the applicant must have ready access to enough equipment to meet the applicable response planning standards established under 18 AAC 75.430 - 18 AAC 75.442 using mechanical methods of oil control, containment, and cleanup. Identified equipment must reflect the best available technology when the plan is submitted or renewed; the plan must include a complete list of contracted or other oil discharge containment, control, cleanup, storage, transfer, lightering, and related response equipment to meet the applicable response planning standard, and to protect environmentally sensitive areas and areas of public concern that are identified in (k) of this section before oil reaches them and that may be reasonably expected to be impacted by a spill of the response planning standard volume as described in the response strategies developed under 18 AAC 75.449(a)(6) and (7); the list must include

(1) the location, inventory, and ownership of the equipment;

(2) the time frame for delivery and startup of response equipment and trained personnel located outside the facility's primary region of operation;

(3) the manufacturer's rated throughput capacities, limitations, and operational characteristics for each item of oil recovery equipment, including nonmechanical response techniques;

(4) each vessel designated for oil recovery operations, including skimming vessels and platforms and vessels designated to tow and deploy boom; vessels used to deploy and tow boom must be of a number, size, and power adequate to deploy the types and amounts of boom and must be capable of operating in the manner and at the speeds necessary for the effective use of boom;

(5) information on additional vessels available from other sources for oil recovery operations, including, if applicable, procedures for inventorying, training personnel, and equipping vessels;

(6) pumping, transfer and temporary storage, and lightering equipment for transferring oil from damaged or undamaged tanks;

(7) the capacity of the temporary storage system for recovered oil and oil wastes must be appropriate and adequate for the total volume recovered within the response planning standard time frames for cleanup established under 18 AAC 75.430 - 18 AAC 75.442; and

(8) the procedures for storage, maintenance, and inspection of spill response equipment under the immediate control of the operator when not in use, including procedures for periodic testing and maintenance of response equipment.

(h) Response equipment identified in the plan must meet the following conditions:

(1) types and amounts of boom, boom connectors, and anchorage devices must

be of the appropriate design for the particular oil product, type of environment, and environmental conditions experienced at the facility or operation; the boom must be of sufficient length to mount an effective response to the volume of discharged oil established under 18 AAC 75.430 - 18 AAC 75.442 for each type of facility or operation;

(2) the number and size of skimmers and pumps to be used must be appropriate and adequate for recovery of the response planning standard volume of the type of oil discharged within the response planning standard time frame for cleanup established under 18 AAC 75.430 - 18 AAC 75.442, using an effective oil recovery capacity of 20 percent of the equipment manufacturer's rated throughput capacity over the planned hours of equipment operation within a 24-hour period unless an analysis demonstrates to the satisfaction of the department that another effective daily oil recovery capacity is appropriate; equipment types must be compatible with each other as necessary to ensure an efficient response; and

(3) the following formula must be used to determine the effective daily oil recovery capacity for each piece of recovery equipment; compliance with the response planning standard is attainable by designing a response capability that is equal to or greater than the volume of oil established by the response planning standard and as demonstrated through the plan scenario

$$R = T \times U \times E$$

R = Effective daily oil recovery capacity in barrels;

T = Manufacturer's rated throughput capacity, in barrels per hour; for those devices in which the pump limits the throughput of liquid, throughput rate must be calculated using the pump capacity;

U = Hours that an operator can document capability to operate equipment during a 24-hour

period under spill conditions; may not exceed 20 hours per day unless an operator can demonstrate that the recovery rate can be sustained for longer periods;

E = Oil recovery efficiency rate, 0.2 (20%) unless otherwise approved by the department;

(A) the capacity of the temporary storage system for recovered oil and oil wastes must be appropriate and adequate for the total volume of oily fluids recovered, based on the equipment manufacturer's rated throughput capacity, within the response planning standard time frames for cleanup established under 18 AAC 75.430 - 18 AAC 75.442; a system with a manufacturer's rated throughput capacity (T) with a planned operating period (U) would require temporary storage of $T \times U$ barrels per day to account for total liquids recovered;

(B) if available storage capacity is insufficient, then the effective daily recovery capacity must be reduced to the limits of the available storage; and

(C) if a plan holder wants to demonstrate to the department that another oil recovery efficiency rate is appropriate, the plan holder must submit a request for skimmer system efficiency evaluation form to the department; the department will approve or deny the request.

(i) Oil Spill Primary Response Action Contractor Information - if a plan holder proposes to use the services of an oil spill primary response action contractor to meet a requirement of AS 46.04.030 or 18 AAC 75.432 - 18 AAC 75.442, the contractor must be registered under 18 AAC 75.500 - 18 AAC 75.580. The use of an oil spill primary response action contractor does not relieve the plan holder of its responsibility to provide the information required by this subsection and to meet all other applicable requirements of 18 AAC 75.400 - 18 AAC 75.495. Plans using contractual resources must demonstrate that the transition and substitution of equipment and

resources will occur without interruption of response or cleanup. The plan holder shall include, in the plan, a correct and complete list of each primary response action contractor, with name, address, telephone number, and affiliation by company, and a description of the response equipment and services provided; and, for each primary response action contract, a statement of contractual terms signed by the plan holder and the primary response action contractor attesting to the department that the contract

(1) clearly specifies that the contractor is obligated to

(A) provide the response services and equipment listed for that contractor in the contingency plan;

(B) respond if a discharge occurs;

(C) notify the plan holder immediately if the contractor cannot carry out the response actions specified in the contract or the contingency plan;

(D) give written notice at least 30 days before terminating its contract with the plan holder;

(E) respond to a department-conducted discharge exercise required of the plan holder; and

(F) continuously maintain in a state of readiness, in accordance with industry standards, the equipment and other spill response resources to be provided by the contractor under the contingency plan; and

(2) contains the provisions required under AS 46.04.030(q), if the contract is between the plan holder for a tank vessel or oil barge carrying crude oil that has been transported by the Trans Alaska Pipeline System and a primary response action contractor who is the common operating agent for the holders and lessees of the right-of-way agreement for the Trans

Alaska Pipeline System.

(j) Training - in addition to maintaining continuous compliance with other applicable state and federal training requirements, the plan holder shall provide a detailed description of the training programs for discharge response personnel to demonstrate that

(1) designated oil spill response personnel are trained and kept current in the specifics of plan implementation, including deployment of containment boom, operation of skimmers and lightering equipment, and organization and mobilization of personnel and resources;

(2) personnel are trained and kept current in methods of preventing oil discharges as required by 18 AAC 75.020; and

(3) proof of that training is maintained for five years and is made available to the department upon request; this must include

(A) a statement, signed and dated by each participant, listing the course or program content;

(B) shipboard records verified by the vessel master; or

(C) computerized records verified by the owner or operator.

(k) Protection of environmentally sensitive areas and areas of public concern - for a stationary facility or operation, or a railroad, and, if required by the department, for a vessel, mapped identification of environmentally sensitive areas and areas of public concern that may be impacted by a spill of the applicable response planning standard volume; if identification of those areas and site-specific strategies for protection of those areas are in one or more applicable Area Contingency Plans, the plan holder may incorporate that information by reference; whether prepared separately or incorporated by reference, the identification of and planned protection

measures for those areas must be based on mapped predictions of discharge movement, spreading, and probable points of contact, based on expected local, seasonal, meteorological, and oceanographic or topographic conditions; and, for each probable point of contact, must include a description of each environmentally sensitive area and each area of public concern, including

- (1) the effect of seasonal conditions on the sensitivity of each area;
- (2) a discussion of the toxicity effects and persistence of the discharge, based on type of product; and
- (3) an identification of which areas will be given priority attention if a discharge occurs.

(l) Additional information - other information necessary to provide background for or verification of the plan contents.

(m) Bibliography - a list of data and information sources used to determine the information contained in the plan.

(n) In this section “manufacturer’s rated throughput capacity,” also referred to as “manufacturer’s nameplate recovery rate,” means the maximum rate at which the skimmer system can recover and process oil under ideal conditions, as stated by the manufacturer, and represents the total liquid recovered within the limitations of the test method. In skimming systems where the pump on the skimming device is the limiting factor for liquid throughput, the manufacturer’s rated throughput capacity is derived from the rated capacity of the pump. It is accepted that the manufacturer’s rated throughput capacity should be used in conjunction with a derating factor to account for various real-world conditions including changing encounter rate, slick thickness, changes in oil properties, and inclement weather. (Eff. _____, Register ____)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070

AS 46.04.030

AS 46.04.055

Editor's Note: The request for a skimmer system efficiency evaluation and the statement of contractual terms forms are available on the department's website search page: <http://dec.alaska.gov/spar/ppr/regulations-guidance/forms-applications/>. Completed forms can be submitted to the department inbox at INBOXNAME@ADDRESS.

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.452. Part 4 - Oil discharge prevention and contingency plan, Best Available Technology Review. (a) Best Available Technology Review: Unless application of a state requirement would be preempted by federal law, the plan must provide for the use of best available technology consistent with the applicable criteria in (b) of this section. In addition, the plan must identify technologies applicable to the applicant's operation that are not subject to response planning or performance standards specified in (b) of this section, these technologies include

(1) at a minimum, for all contingency plans:

- (A) communications described under 18 AAC 75.449(a)(4);
- (B) source control procedures to stop the discharge at its source and prevent its further spread described under 18 AAC 75.449(a)(6)(G);
- (C) trajectory analyses and forecasts described under 18 AAC 75.449(a)(6)(E); and
- (D) wildlife capture, treatment, and release procedures and methods described under 18 AAC 75.449(a)(6)(M);

(2) for an oil terminal, a crude oil transmission pipeline, or an exploration or production facility contingency plan:

- (A) a leak detection system for each tank if required by 18 AAC 75.065(i)(4) or another leak detection system approved by the department under 75.065(j)(4)(B);
- (B) another leak detection or spill prevention or control system approved by the department under 18 AAC 75.065(h)(1)(D);
- (C) a means of immediately determining the liquid level of bulk storage tanks as specified in 18 AAC 75.065(k)(3) and (4) or in 18 AAC 75.066(g)(1)(C) and (D); and
- (D) protective coating and cathodic protection if required by 18 AAC 75.080 (l), or (m)(1) or (2);

(3) for a tank vessel contingency plan:

- (A) measures to assure prompt detection of an oil discharge as required by 18 AAC 75.027(d);
- (B) operation of a tank vessel under escort in a manner that permits an escort vessel to be available immediately to provide the intended assistance to the tank vessel as required by 18 AAC 75.027(e); and
- (C) escort vessels;

(4) for a crude oil transmission pipeline contingency plan, leak detection, monitoring, and operating requirements for crude oil pipelines that do not have the continuous capability to detect a daily discharge equal to not more than one percent of daily throughput as required by 18 AAC 75.055;

(5) for a barge contingency plan:

(A) measures to assure prompt detection of an oil discharge as required by 18 AAC 75.037(d); and

(B) means to recover a barge that breaks free of its towing vessel as required by 18 AAC 75.037(f);

(6) for a railroad tank car contingency plan:

(A) measures to assure prompt detection of a tank car leak as required by 18 AAC 75.450(b)(5);

(B) spill prevention and containment devices for locomotive fueling systems, and spill collection and recovery devices at locomotive fueling and tank car filling stations as required by 18 AAC 75.075(g);

(C) avalanche detection and mitigation systems as required by 18 AAC 75.085(4); and

(D) track-mounted railroad tank car defect detector systems as required by 18 AAC 75.085(5);

(7) for each applicable technology under (a) of this section, identify all available technologies and include a written analysis of each technology, using the applicable criteria in (b) of this section; and include a written justification that the technology proposed to be used is the best available for the applicant's operation.

(b) Best Available Technology Review - for purposes of (a) of this section, the department will review a plan and make a best available technology determination using the following criteria, as applicable:

(1) technology used for oil discharge containment, storage, transfer, and cleanup

to satisfy a response planning standard in 18 AAC 75.430 - 18 AAC 75.442 will be considered best available technology if the technology of the applicant's oil discharge response system as a whole is appropriate and reliable for the intended use as well as the magnitude of the applicable response planning standard;

(2) technology that complies with the performance standards of 18 AAC 75.005 - 18 AAC 75.080 and that is not subject to a best available technology review under (a) of this section will be considered best available technology;

(3) technology identified under (a) of this section will be evaluated using the following criteria, if applicable:

(A) whether each technology is the best in use in other similar situations and is available for use by the applicant;

(B) whether there is a reasonable expectation each technology will provide increased spill prevention or other environmental benefits;

(C) the cost to the applicant of achieving best available technology, including consideration of that cost relative to the remaining years of service of the technology in use by the applicant;

(D) the age and condition of the technology in use by the applicant;

(E) the practical feasibility of each technology in terms of engineering and other operational aspects; and

(F) whether other environmental impacts of each technology, including air, land, water pollution, and energy requirements, offset anticipated environmental benefits.

(c) If the department's determination under (b) of this section is that a technology proposed for use by the applicant is not the best available technology, the department will provide a written finding explaining its decision. (Eff. _____, Register ____)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070
AS 46.04.030 AS 46.04.055

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.453. Part 5 - Oil discharge prevention and contingency plan, Response Planning Standard. The plan must provide a mathematical calculation of the applicable response planning standards set out in 18 AAC 75.430 - 18 AAC 75.440 and 18 AAC 75.422, include a detailed calculation and justification of reductions to the response planning standard, and include, based on the receiving environment information in 18 AAC 75.451(c), an estimate of what percentage of the applicable response planning standard volume set out at 18 AAC 75.430 - 18 AAC 75.436, or 18 AAC 75.442 for the facility or operation that will reach open water. (Eff. _____, Register ____)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070
AS 46.04.030 AS 46.04.055

18 AAC 75.455. Department review procedures for oil discharge prevention and contingency plans; new plans, plan renewals, and major plan amendments.

18 AAC 75.455(a) is amended to read:

(a) Not later than seven working days after receipt of an oil discharge prevention and

contingency plan application package for a new plan, plan renewal or major amendment, the department will determine if the application package is sufficient for review. **For minor amendment applications that are determined to be a major amendment, the department will determine if the application package is sufficient for review not later than seven working days after it is determined to be a major amendment.** If the application package is not sufficient for review, the department will notify the applicant in writing.

(b) When the department determines that an application package is sufficient for review, the department will

- (1) notify the applicant in writing;

18 AAC 75.455(b)(2) is amended to read:

- (2) direct the applicant to provide copies of the application package to **the department** [REVIEWERS] in accordance with 18 AAC 75.408(c);

18 AAC 75.455(b)(3) is amended to read:

- (3) set the public comment period for a minimum of 30 days; if the department determines the **application** package to be unusually large or complex, or determines a longer comment period to be in the public interest, the department will set the public comment period for a maximum of 45 days;

- (4) send a letter to the applicant, the parties specified in 18 AAC 75.408(c)(4), and other persons who have made a written request for information regarding submissions subject to review under this section; in the letter the department will include

- (A) information on the public comment period established under (3) of

this subsection; and

(B) a statement that the department will accept comments on the plan and proposed requests for additional information until the end of the public comment period; and

18 AAC 75.455(b)(5) is amended to read:

(5) [DIRECT THE APPLICANT TO PUBLISH A ONE-TIME NOTICE PROVIDED BY] the department **will publish an online public notice** announcing the public comment period for the plan **and will notify interested stakeholders of the availability of the package on the department's Internet website by electronic mail to a listserv facilitated by the department;** [THE APPLICANT IS RESPONSIBLE FOR PAYING THE COST OF THE NOTICE UNDER THIS PARAGRAPH; THE APPLICANT MUST PUBLISH THE NOTICE IN ONE OR MORE PUBLICATIONS OF GENERAL CIRCULATION IN THE AREA THAT WOULD BE AFFECTED BY THE OPERATION;]in the notice the department will include

(A) a statement that a person may submit comments or propose requests for additional information by providing them to the department before the published deadline;

(B) information on the nature and location of the plan;

18 AAC 75.455(b)(5)(C) is amended to read:

(C) a statement that a copy of the application package is available for review [AT SPECIFIC OFFICES OF THE DEPARTMENT AND OTHER LOCATIONS AS DETERMINED BY THE DEPARTMENT]; and

18 AAC 75.455(b)(5)(D) is amended to read:

(D) a statement that the **application** package is available on the department's Internet website.

(c) If the department determines that additional information is required to evaluate if the application package is complete,

18 AAC 75.455(c)(1) is amended to read:

(1) the department will notify the applicant in writing that a request for additional information will be transmitted; the department will transmit the request for additional information not later than **60** [90] days after the end of the public comment period in (b) of this section; **if the department determines the package to be unusually large or complex, or determines a longer period is required, the request will be transmitted not later than 90 days,** the department may set a deadline for the submittal of the additional information;

18 AAC 75.455(c)(2) is amended to read:

(2) the applicant must provide responses to the [DEPARTMENT'S] requests for additional information to the department as required by 18 AAC 75.408(c)(1) - (4) and (7);

(3) if the applicant has not provided the information requested or if the applicant's responses to requests for additional information cause the department to identify the need for additional information, the department will send subsequent requests for additional information until the department determines that the applicant has supplied the necessary information in response to the requests; and

(4) when the department has verified all requests have been addressed, the

applicant must provide copies of the responses to the requests for additional information in accordance with 18 AAC 75.408(c)(1) - (4) and (7).

18 AAC 75.455(d) is amended to read:

(d) Upon receipt **and review** by the department of the additional information requested under (c) of this section, the department will provide notice to the parties described in 18 AAC 75.408(c)(4) of a minimum 10-day public comment period on the additional information. The comment period under this subsection is limited to the additional information submitted in response to the request for additional information.

(e) The department will make a determination as to whether an application package is complete not later than seven working days after the end of the public comment period established in (d) of this section, or if no additional information was requested under (c) of this section, not later than seven working days after the end of the comment period established under (b)(3) of this section. The department will notify the applicant when the application package is complete.

18 AAC 75.455(f) is amended to read:

(f) The department will [, IF IT DETERMINES GOOD CAUSE EXISTS,] hold a public hearing on an application package in the manner provided under 18 AAC 15.060 **if, no later than 20 days before the end of the public comment period under (b)(3) of this section, a hearing is requested by**

(1) 50 residents of the affected area;

(2) the governing body of an affected municipality; or

(3) if the department determines that good cause exists.

18 AAC 75.455(g) is amended to read:

(g) Not later than **60** [65] days after the department determines that an application package is complete under (e) of this section, the department will approve, approve with conditions, or disapprove a plan and issue a decision under 18 AAC 75.460.

(h) To assist the department in its review of oil discharge prevention and contingency plans under this chapter, the department will enter into an annual agreement with the Department of Natural Resources and the Department of Fish and Game to provide expertise regarding protection of fish and game, state land, areas of public concern, and environmentally sensitive areas. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 4/8/2012, Register 202; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.456. Department decision on streamlined Oil Discharge Prevention and Contingency Plans.

18 AAC 75.456(a) is amended to read:

(a) The department will **approve or disapprove** [MAKE A DECISION ON] a streamlined oil discharge prevention and contingency plan or plan amendment not later than five working days after receipt of a complete application. The department will approve a streamlined plan application submitted under 18 AAC 75.421 if the plan meets the following requirements:

(1) the information submitted conforms to the requirements of 18 AAC 75.426;

18 AAC 75.456(a)(2)-(5) is amended to read:

(2) **the** [ANY] streamlined plan cleanup contractor identified under 18 AAC 75.426(11) is registered under 18 AAC 75.500 - 18 AAC 75.580 for the appropriate classification and region of operation identified in the application;

(3) **the** [ANY] streamlined plan incident management team identified under 18 AAC 75.426(11) is registered under 18 AAC 75.500 - 18 AAC 75.580 for the appropriate classification and region of operation identified in the application;

(4) **the** [ANY] response planning facilitator identified under 18 AAC 75.426(14) is registered under 18 AAC 75.500 - 18 AAC 75.580 to provide the appropriate response planning facilitation services identified in the application; **and** [.]

(5) **the** [ANY] noncrude oil tank vessel or barge meets the onboard equipment, training, and personnel requirements of 18 AAC 75.429.

(b) A streamlined plan is effective for

(1) five years after the date the plan is approved by the department; or

(2) a time period shorter than five years, as specified in the department's approval letter.

(c) Streamlined plans are available for review as public records upon request to the department. (Eff. 11/27/2002, Register 164; am 9/4/2014, Register 211; am 4/16/2016, Register 218; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070

AS 46.04.030

18 AAC 75.457 is amended to read:

18 AAC 75.457. Emergency modification of review process. If, due to an emergency as described in AS 26.23, AS 46.04.080, or other applicable law, an applicant needs an expedited review, or if the commissioner or the commissioner's designee finds that an expedited review is necessary for the preservation of the public peace, health, safety, or general welfare, the commissioner or the commissioner's designee may, consistent with the requirements of AS 46.04.030(j), modify the review process established in 18 AAC 75.455 as necessary to meet the emergency. **Modifications** [ANY MODIFICATIONS] in the review process made under this section will be made in writing by the commissioner or the commissioner's designee based upon clear and convincing evidence of a need for the modification. (Eff. 5/14/92, Register 122; am 4/16/2016, Register 218; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.459. Preissuance conference.

18 AAC 75.459(a) is amended to read:

(a) [AT ANY TIME] **After the department has determined the application package is complete and** before **the department issues its** [THE DEPARTMENT'S] decision under 18 AAC 75.460, the applicant may request a preissuance conference from the [APPROPRIATE] department [OFFICE]. **The** request **must** [MAY] be made **in writing** [ORALLY], and will be granted if the applicant demonstrates that holding a conference will materially aid the department in reaching its decision.

(b) A preissuance conference under this section will be conducted in the manner provided under 18 AAC 15.070. However, the time period for the department's review will not

be held in abeyance pending completion of the conference. (Eff. 5/14/92, Register 122; am 9/4/2014, Register 211; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

The Editor's note for AAC 75.459 is amended to read:

Editor's note: Requests for a preissuance conference can be submitted to the department inbox at INBOXNAME@ADDRESS. As of Register 164 (January 2003), the regulations attorney made a technical revision under AS 44.62.125 (b)(6), adding an authority citation for 18 AAC 75.459.

18 AAC 75.460. Department decision on Oil Discharge Prevention and Contingency Plans; new plans, plan renewals, and major plan amendments. (a) After considering the information, analyses, and commitments contained in a complete application package for approval of an oil discharge prevention and contingency plan and comments received not later than the close of the public comment period set out in 18 AAC 75.455, the department will approve, approve with conditions, or disapprove an oil discharge prevention and contingency plan.

(b) A decision issued under (a) of this section will include

18 AAC 75.460(b)(1) is amended to read:

(1) the department's written decision, if it is the department's determination that an oil discharge prevention and contingency plan **decision** [APPROVAL] should be issued; the department will provide a summary of the basis for its decision to approve a plan, disapprove a

plan, or subject a plan to conditions specific to the activity;

18 AAC 75.460(b)(2) is amended to read:

(2) a statement that, if aggrieved by the department's decision, the applicant or a [ANY] person who submitted comments on the application not later than the close of the public comment period set out in 18 AAC 75.455 may request

(A) an informal review in accordance with 18 AAC 15.185; or

(B) an adjudicatory hearing by submitting the information required under

18 AAC 15.200(a), and that a [ANY] hearing requested under this subparagraph will be subject to the procedures set out under 18 AAC 15.195 - 18 AAC 15.340; and

18 AAC 75.460(b)(3) is amended to read:

(3) a statement **requiring** [THAT] the plan holder **to** [WILL] provide copies of the approved plan in accordance with 18 AAC 75.408 not later than 30 days after approval **unless the department determines that the plan is unusually large or complex, in which case the decision will include a statement requiring the plan holder to provide copies not later than 45 days after approval**; the department will **notify interested stakeholders of the availability of the approved plan on the department's Internet website by electronic mail to a listserv facilitated by the department** [SEND A NOTICE BY ELECTRONIC MAIL TO THE PARTIES SPECIFIED IN 18 AAC 75.408(C)(4) THAT THE DOCUMENT IS AVAILABLE ON THE DEPARTMENT'S INTERNET WEBSITE].

18 AAC 75.460(c) is amended to read:

(c) The department's decision will be served on the applicant and each person who submitted comments on the application not later than the close of public comment period set out in 18 AAC 75.455(b), or the close of the public comment period set out in 18 AAC 75.455(d) if a request for additional information was made. The applicant and a [ANY] person who submitted comments on the application not later than the close of the public comment period set out in 18 AAC 75.455(b), or the close of the public comment period set out in 18 AAC 75.455(d) if a request for additional information was made, may request an informal review in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 - 18 AAC 15.340. An informal review request must be delivered in accordance with 18 AAC 15.185 to the [ANCHORAGE] office of the director of the department division that oversees spill prevention and response. An adjudicatory hearing request must be delivered in accordance with 18 AAC 15.200 to the [JUNEAU] office of the commissioner.

(d) An approval under this section is effective for

(1) five years after the date it is issued; or

(2) a time period shorter than five years, as specified in the department's approval letter and certificate. (Eff. 5/14/92, Register 122; am 7/11/2002, Register 163; am 11/27/2002, Register 164; am 9/4/2014, Register 211; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228; am ____/____/____, Register ____).

Authority: AS 46.03.020 AS 46.04.070 AS 46.04.890
AS 46.04.030

The Editor's note for AAC 75.460 is amended to read:

Editor's note: The mailing address for informal review requests for purposes of 18 AAC

75.460 is Department of Environmental Conservation, Office of the Director, Division of Spill Prevention and Response, **610 University Avenue, Fairbanks, AK 99709** [555 CORDOVA STREET, ANCHORAGE, ALASKA 99501 - 2617]. The mailing address for adjudicatory hearing requests is Department of Environmental Conservation, Office of the Commissioner, **Box 111800, Juneau, AK 99811-1800** [410 WILLOUGHBY AVENUE, SUITE 303, JUNEAU, ALASKA 99801]. Department of Environmental Conservation approval under 18 AAC 75.460 does not negate [ANY] other **requirements** [requirement] for approval to operate under other statutes or regulations.

18 AAC 75.465. Proof of approved plan.

18 AAC 75.465(a)-(c) are amended to read:

(a) The owner or operator of an oil terminal facility may not cause or permit the transfer of oil to or from a vessel, barge, or railroad tank car unless

(1) the operator of the vessel, barge, or railroad tank car has produced for inspection by the facility owner or operator the original certificate, [OR] a true photocopy of the original, **or an electronic version if it is retrievable by the operator at all times**, approving the oil discharge prevention and contingency plan or streamlined plan for that operation; and

(2) the operator of the vessel, barge, or railroad tank car has certified, on a contingency plan verification log supplied by the department and maintained by the owner or operator of the oil terminal facility, that copies of the response action and prevention plan sections of the current approved oil discharge prevention and contingency plan, or the original certificate, [OR] a true photocopy of the original streamlined plan approval certificate, **or an**

electronic version if it is retrievable by the operator at all times, for that vessel or barge is on board the vessel or barge, or for a railroad tank car is available from the operator of the railroad tank car.

(b) The owner or operator of an oil terminal facility shall certify on the contingency plan verification log that the operator of the vessel or barge has complied with (a)(1) and (2) of this section. The facility owner or operator shall maintain the log on a monthly basis and shall submit the log for the previous month to the department not later than the fifth day of the following month, **and must retain logs for five years. As applicable, the owner or operator of an oil terminal facility may notify the department to suspend the requirement to submit a monthly log for seasonal operations where no fuel transfers occur, including for facilities that do not expect to complete fuel transfers due to frozen river conditions.** Submission is effective upon personal delivery, [FACSIMILE TRANSMISSION, OR] electronic mail transmission, or on the date of mailing by certified mail to the department. The department will retain copies of all logs received under this subsection for five years after receipt.

(c) On the first working day after the operator of a vessel or railroad tank car fails to comply with the requirements of (a)(1) or (2) of this section, the oil terminal facility owner or operator shall report that failure to the department by telephone **or** [,] electronic mail [OR FACSIMILE TRANSMISSION].

(d) Verification and entry on the contingency plan verification log referred to under (b) of this section is required for each separate loading or unloading operation of a vessel at an oil terminal facility.

18 AAC 75.465(e) is repealed and readopted to read:

(e) Each facility that has a plan approved under 18 AAC 75.460(a) and each vessel that has a streamlined plan approved under 18 AAC 75.456(a) must at all times have available at the facility, or for a railroad tank car must at all times have available from the operator of the railroad tank car, the original, a true photocopy of, or an electronic version of the following:

- (1) the current approved oil discharge prevention and contingency plan or streamlined plan;
- (2) the approval letter and certificate of approval issued by the department; and
- (3) additional department approval letters issued after initial plan approval is granted.

[(e) ANY TANK VESSEL, OIL BARGE, OR RAILROAD TANK CAR REQUIRED TO HAVE A PLAN UNDER AS 46.04.030 AND 46.04.055 AND APPROVED UNDER 18 AAC 75.460(a) MUST HAVE THE ORIGINAL OR TRUE PHOTOCOPY OF THE FOLLOWING ON BOARD THE TANK VESSEL OR OIL BARGE AND AVAILABLE FOR INSPECTION WHEN OPERATING IN STATE WATERS, OR FOR A RAILROAD TANK CAR, AVAILABLE FROM THE OPERATOR OF THE RAILROAD TANK CAR:

- (1) COPIES OF THE RESPONSE ACTION AND PREVENTION PLAN SECTIONS OF THE CURRENT APPROVED OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN;
- (2) THE APPROVAL LETTER AND CERTIFICATE OF APPROVAL ISSUED BY THE DEPARTMENT; AND
- (3) ANY ADDITIONAL DEPARTMENT APPROVAL LETTERS ISSUED AFTER INITIAL PLAN APPROVAL IS GRANTED.]

18 AAC 75.465(f) is repealed:

(f) Repealed __/__/____; [A VESSEL THAT HAS A STREAMLINED PLAN APPROVED UNDER 18 AAC 75.456(a) MUST HAVE THE ORIGINAL OR TRUE PHOTOCOPY OF THE FOLLOWING ON BOARD THE VESSEL AND AVAILABLE FOR INSPECTION WHEN OPERATING IN STATE WATERS:

(1) THE APPROVED STREAMLINED PLAN;

(2) THE APPROVAL LETTER AND CERTIFICATE OF APPROVAL ISSUED BY THE DEPARTMENT; AND

(3) ANY ADDITIONAL DEPARTMENT APPROVAL LETTERS ISSUED AFTER INITIAL PLAN APPROVAL IS GRANTED.] (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 12/14/2002, Register 164; am 4/16/2016, Register 218; am 11/7/2020, Register 236; am __/__/____, Register ____)

Authority:	AS 46.03.020	AS 46.04.050	AS 46.04.070
	AS 46.04.030	AS 46.04.055	AS 46.04.900

18 AAC 75.465 is amended by adding a new Editor's note to read:

Editor's note: The verification log is available on the department's website search page: <http://dec.alaska.gov/spar/ppr/regulations-guidance/forms-applications/>. The verification log may be mailed to the Alaska Department of Environmental Conservation at 555 Cordova Street, Anchorage, Alaska 99501 or emailed to DECSPARC-PLAN@alaska.gov.

18 AAC 75.470. Transfers between plan holders. (a) If approved under this section, a plan holder, or an oil spill response contractor or cooperative upon which one or more plan

holders rely, may furnish to another plan holder or to another person, equipment, materials, or personnel to assist in response to an oil discharge. A description of the proposed transfer that addresses each of the considerations set out in (b) of this section must be provided with the request for approval of a transfer.

(b) The department will, in its discretion, approve a transfer under this section after considering

(1) for a provider of oil spill response equipment, materials, or personnel:

(A) the amount and types of equipment, personnel, or other resources to be transferred in response to a discharge and where it will be transferred;

(B) the number and types of other plan holders who rely upon the provider's response equipment, personnel, and other resources;

(C) the percentage by which the provider's response capability will be reduced by the transfer;

(D) the ability of the provider to acquire and deploy alternate response equipment if an emergency discharge occurs while equipment, materials, or personnel are transferred; and

(E) any compensating measures that will be taken by the provider to prevent or reduce the size of potential discharges during the period of reduced response capability; and

(2) for a plan holder receiving the equipment, the time estimated for the response equipment to reach the discharge.

(c) The department will, in its discretion, attach terms and conditions to an approval issued under (b) of this section.

(d) The provider shall reorder and replace equipment or materials that are

(1) exhausted, lost, destroyed, or rendered inoperable as soon as the condition is known by the provider; and

(2) not expected to be returned, such as sorbent boom, sorbent pads, and dispersant, as soon as they are transferred.

(e) If equipment, materials, or personnel are not replaced or returned to the provider within 30 days after the transfer, the plan holder may request an extension from the department. If the extension is denied, the provider must apply for approval of an amendment to its approved prevention and contingency plan under 18 AAC 75.415.

(f) Except in response to a major or catastrophic discharge, the department will not approve a transfer of equipment, materials, or personnel to another plan holder if the provider's spill response capability would be reduced to less than 40 percent of the response capability identified in its plan. If a major or catastrophic oil discharge occurs, the department will, in its discretion, approve an immediate transfer of up to 100 percent of the provider's response equipment, personnel, and other resources.

(g) The department will issue a verbal approval for a transfer if a discharge poses an imminent threat to life, property, the environment, or other significant public concern. The verbal approval will be verified in writing by the department.

18 AAC 75.475. Notification of nonreadiness.

18 AAC 75.475(a)-(c) are amended to read:

(a) All spill response and other equipment identified in the approved oil discharge

prevention and contingency plan or streamlined plan to meet the response planning standards set out at 18 AAC 75.430 - 18 AAC 75.442 must be maintained in operational condition.

Equipment [ANY EQUIPMENT] found not to be operating properly must be repaired or replaced immediately.

(b) Except for a transfer approved under 18 AAC 75.470, if a significant change occurs in, or is made to, **a** [ANY] component of a plan that would diminish the plan holder's response capability, the plan holder shall, within 24 hours, notify the department in writing and provide a schedule for a prompt return to operational status. **For equipment that is maintained by a streamlined plan cleanup contractor, the cleanup contractor shall be responsible for this notification.** [AN ELECTRONIC MAIL OR FACSIMILE TRANSMISSION DELIVERED TO THE APPROPRIATE DEPARTMENT OFFICE WILL BE CONSIDERED WRITTEN NOTICE FOR PURPOSES OF THIS SUBSECTION.] If the department finds that, as a result of the change, the plan holder is no longer able to execute the plan, it will take appropriate action under 18 AAC 75.490.

(c) Notwithstanding (a) and (b) of this section, removal or inactivation of **a** [ANY] major response item for maintenance or repair must be approved by the department before removal or inactivation. A request under this subsection must be submitted at least 10 days before the scheduled action or as soon as possible for an unanticipated repair. The request must state what substitute or temporary measures will be taken to provide equivalent response capability, reduce the time out of service, or otherwise ensure that equivalent response capability is maintained.

(d) A plan holder shall notify the department in writing within 24 hours if a significant change occurs in, or is made to, one or more of the following systems, and if, as a result of that change, the system no longer meets the applicable performance requirements:

(1) a leak detection system required by 18 AAC 75.047(d)(1);

(2) a leak detection system required by 18 AAC 75.055(a);

(3) a secondary containment system required by 18 AAC 75.075. (Eff. 5/14/92,

Register 122; am 11/27/2002, Register 164; am 12/30/2006, Register 180; am 9/4/2014, Register

211; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070

AS 46.04.030

18 AAC 75.475 is amended by adding a new Editor's note to read:

Editor's note: A notification of nonreadiness can be submitted to the department inbox at INBOXNAME@ADDRESS.

18 AAC 75.480 is repealed and readopted to read:

18 AAC 75.480. Inspections. (a) To verify that an owner or operator of a facility subject to the provisions of AS 46.04.030, AS 46.04.055, and 18 AAC 75.400 - 18 AAC 75.496 is in compliance with those statutes and regulations, or to verify compliance with an approved oil discharge prevention and contingency plan or a streamlined plan under those regulations, the department may conduct announced and unannounced inspections of a facility that is subject to those requirements.

(b) The owner or operator of a facility subject to the requirements of AS 46.04.030, AS 46.04.055, and 18 AAC 75.400 - 18 AAC 75.496 shall allow the department to, at reasonable times and upon presentation of credentials establishing authority, enter or access the facility to

conduct in-person or virtual inspections and verification of

(1) facility infrastructure and prevention requirements under 18 AAC 75.001 - 18 AAC 75.085;

(2) availability and operability of oil spill response resources identified in the approved plan; and

(3) facility-specific records required to be maintained at the facility under (c) of this section.

(c) The owner or operator of a facility subject to the requirements of AS 46.04.030, AS 46.04.055, and 18 AAC 75.400 - 18 AAC 75.496 must maintain and provide copies of required documents to the department upon request during a facility inspection, including a records audit; the department may choose to make its own copies;

(1) records provided for review and inspection include documents required under 18 AAC 75.001 – 18 AAC 75.085 and 18 AAC 75.400 - 18 AAC 75.496; and

(2) documents required to be located at the facility under 18 AAC 75.240 and 18 AAC 75.400 - 18 AAC 75.496 must be readily available and provided to the department as part of an in-person or virtual facility inspection.

(d) During a facility inspection under this section, the department may obtain samples of suspected contaminated materials for purposes of compliance verification with 18 AAC 75.400 - 18 AAC 75.496.

(e) Upon mutual agreement between the facility owner or operator and the department, the department may conduct inspections using virtual technology.

(f) If practicable, an inspection under this section will be coordinated with other regulatory agencies.

(g) Based on the results of an inspection made under this section, the department will take appropriate action under 18 AAC 75.490.

Repealed text: [(a) TO VERIFY COMPLIANCE WITH THE PROVISIONS OF AS 46.04.030, AS 46.04.055, AND 18 AAC 75.400 - 18 AAC 75.496, THE DEPARTMENT MAY CONDUCT ANNOUNCED AND UNANNOUNCED INSPECTIONS OF A VESSEL, BARGE, PIPELINE, OR OTHER OPERATION THAT IS SUBJECT TO THE REQUIREMENTS OF AS 46.04.030, AS 46.04.055, AND 18 AAC 75.400 - 18 AAC 75.496. IF PRACTICABLE, AN INSPECTION UNDER THIS SECTION WILL BE COORDINATED WITH OTHER REGULATORY AGENCIES.

(b) BASED ON THE RESULTS OF AN INSPECTION MADE UNDER THIS SECTION, THE DEPARTMENT WILL, IN ITS DISCRETION, TAKE APPROPRIATE ACTION UNDER 18 AAC 75.490.]

(Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am ____/____/____, Register ____)

Authority:	AS 46.03.020	AS 46.04.055	AS 46.04.065
	AS 46.04.030	AS 46.04.060	AS 46.04.070

18 AAC 75.485 is repealed and readopted to read:

18 AAC 75.485. Discharge exercises. (a) The department conducts announced and unannounced discharge exercises to ensure that an oil discharge prevention and contingency plan or the initial response actions in a streamlined plan for a noncrude oil tank vessel or barge are adequate in content and execution. The department will conduct:

(1) for an oil discharge prevention and contingency plan,

(A) the department will conduct one operations based discharge exercise

for each 5-year plan approval cycle in coordination with the plan holder, based on the Homeland Security Exercise and Evaluation Program methodology described in the department's *Oil Spill Response Exercise Manual*, adopted in (e) of this section, and

(B) the department may conduct not more than one additional exercise in each 12-month period; and

(2) for each noncrude oil tank vessel or barge with a streamlined plan, the plan holder must conduct one exercise onboard the vessel in each 12-month period to ensure on-going familiarity with on-board response equipment and response actions required under 18 AAC 75.429(a) and capability to conduct initial emergency response actions required under 18 AAC 75.426(5); the exercise must be an operations-based drill as described in the department's *Oil Spill Response Exercise Manual*, adopted in (e) of this section and must include documentation of readiness of on-board response equipment and currency of on-board personnel training; the plan holder will self-certify the exercise conduct and lessons learned and any corrective actions taken as a result on a form provided by the department; the plan holder will retain documentation of each exercise in retrievable form; exercise records must be kept for five years and copies shall be provided to the department upon request; the department may conduct not more than one additional onboard equipment deployment exercise in each 12-month period.

(b) Execution of an oil discharge prevention and contingency plan during a discharge exercise will be considered inadequate if the readiness for response and response performance described in the plan are significantly deficient due to inadequate mobilization or performance of personnel, equipment, other resources, or other factors, including the mobilization or performance of a response action contractor identified under 18 AAC 75.451(i).

(c) Execution of an onboard initial emergency response operations-based exercise for a

streamlined plan will be considered inadequate if the plan holder is not able to conduct initial response actions in a timely and effective manner or if the plan holder fails to complete and retain the required self-certification form for each on-board exercise as required under (a)(2) of this section.

(d) If an oil discharge prevention and contingency plan or noncrude streamlined plan holder cannot adequately execute the plan during a discharge exercise, the department may

(1) require additional exercises until it is satisfied that the oil discharge prevention and contingency plan or the noncrude streamlined plan and its execution are adequate; or

(2) take other appropriate action as described at 18 AAC 75.490.

(e) The department will consider a regularly scheduled training exercise or a Preparedness for Response Exercise Program exercise initiated by a plan holder as a discharge exercise, as required under (a) of this section, if the department participates in the planning and evaluation of an operations-based exercise as outlined in the Homeland Security Exercise and Evaluation Program methodology and described in the department's *Oil Spill Response Exercise Manual*, MONTH, XX, 202X, adopted by reference.

(f) The department will conduct announced or unannounced discharge exercises appropriate to the plan holder's current status of operations.

(g) In this section

(1) "Homeland Security Exercise and Evaluation Program" means the January, 2020 Federal Emergency Management Agency document that provides a set of guiding principles for exercise programs, as well as a common approach to exercise program management, design and development, conduct, evaluation, and improvement planning; and

(2) “Preparedness for Response Exercise Program” (PREP) means the April, 2016 document that provides a mechanism for exercise compliance with Oil Pollution Act of 1990 mandated federal pollution response exercise requirements; PREP is a unified federal effort and provides one option that satisfies the exercise requirements of the: United States Department of Homeland Security, United States Coast Guard, Environmental Protection Agency, Pipeline and Hazardous Materials Safety Administration, and Bureau of Safety and Environmental Enforcement.

Repealed text:

[(a) THE DEPARTMENT MAY CONDUCT ANNOUNCED AND UNANNOUNCED DISCHARGE EXERCISES TO ENSURE THAT AN OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN OR A STREAMLINED PLAN FOR A NONCRUDE OIL TANK VESSEL OR BARGE IS ADEQUATE IN CONTENT AND EXECUTION. UNLESS AN EXERCISE DEMONSTRATES, IN THE DEPARTMENT'S JUDGMENT, A PLAN HOLDER'S FAILURE TO IMPLEMENT THE PLAN EFFECTIVELY, IN EACH 12-MONTH PERIOD, THE DEPARTMENT WILL CONDUCT

(1) NOT MORE THAN TWO EXERCISES FOR AN OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN;

(2) NOT MORE THAN ONE EXERCISE FOR A NONCRUDE OIL TANK VESSEL OR BARGE WITH A STREAMLINED PLAN IN ORDER TO DEMONSTRATE THE PLAN HOLDER'S ABILITY TO DEPLOY THE ONBOARD SPILL RESPONSE EQUIPMENT.

(b) EXECUTION OF A PLAN DURING A DISCHARGE EXERCISE WILL BE

CONSIDERED INADEQUATE IF THE READINESS FOR RESPONSE AND RESPONSE PERFORMANCE STATED IN THE PLAN ARE SIGNIFICANTLY DEFICIENT DUE TO INADEQUATE MOBILIZATION OR PERFORMANCE OF PERSONNEL, EQUIPMENT, OTHER RESOURCES, OR OTHER FACTORS, INCLUDING THE MOBILIZATION OR PERFORMANCE OF A RESPONSE ACTION CONTRACTOR IDENTIFIED UNDER 18 AAC 75.445(I).

(c) IF A PLAN HOLDER CANNOT ADEQUATELY EXECUTE THE PLAN DURING A DISCHARGE EXERCISE, THE DEPARTMENT WILL, IN ITS DISCRETION,

(1) REQUIRE ADDITIONAL EXERCISES UNTIL IT IS SATISFIED THAT THE PREVENTION AND CONTINGENCY PLAN AND ITS EXECUTION ARE ADEQUATE; OR

(2) TAKE OTHER APPROPRIATE ACTION AS DESCRIBED AT 18 AAC 75.490.

(d) THE DEPARTMENT WILL CONSIDER A REGULARLY SCHEDULED TRAINING EXERCISE INITIATED BY A PLAN HOLDER AS A DISCHARGE EXERCISE IF THE DEPARTMENT MONITORS, EVALUATES, OR PARTICIPATES IN THE EXERCISE AND CONCURS THAT IT IS EQUIVALENT TO A DISCHARGE EXERCISE CONDUCTED BY THE DEPARTMENT. A PLAN HOLDER SHALL NOTIFY THE DEPARTMENT IN ADVANCE OF THE EXERCISE AND SHALL PROVIDE AN OPPORTUNITY FOR A DEPARTMENT REPRESENTATIVE TO BE PRESENT AND PARTICIPATE.

(e) THE DEPARTMENT WILL CONDUCT ANNOUNCED OR UNANNOUNCED DISCHARGE EXERCISES APPROPRIATE TO THE PLAN HOLDER'S CURRENT STATUS

OF OPERATIONS.]

(Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; 3/23/2017, Register 221; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.485 is amended by adding a new Editor's note to read:

Editor's Note: The *Oil Spill Response Exercise Manual* is available on the department's website page: CORRECT URL. The exercise self-certification form referenced in 18 AAC 75.485(a)(2) is available on the department's website search page: CORRECT URL.

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.489. Definitions In this Article "temporary basis" is defined as the use of an oil storage tank for a duration of less than a total of 12 consecutive months at a facility; and includes oil storage tanks used for construction or maintenance activities but does not include tanks that are moved within the facility and used for more than 12 months. (Eff. ____/____/____, Register ____)

18 AAC 75.490. Failure to comply.

18 AAC 75.490(a) is amended to read:

(a) If a plan holder fails to comply with an approved oil discharge prevention and contingency plan or streamlined plan, demonstrates an inability to maintain continuous access to

the quality or quantity of resources identified in the plan, fails to respond with those resources in the shortest possible time if a discharge occurs, or is [IN ANY OTHER WAY] subject to the terms of AS 46.04.030(f)(1) - (4) [OR AS 46.04.055,] the department may

(1) revoke the approval of the plan after notice and opportunity for hearing under (c) of this section;

(2) suspend its approval of the plan after notice and opportunity for hearing under (c) of this section, stating the conditions under which the department will reinstate the approval and allow operations to resume;

(3) order the plan holder to file an application to amend the plan within a specified time under 18 AAC 75.415; or

(4) take other necessary action to correct the failure to comply.

(b) If a plan holder fails to apply for an amendment as required under (a)(3) of this section, the department may revoke the approval of the plan after notice and opportunity for hearing under (c) of this section.

(c) If the department issues a notice of intent to revoke an approval under this chapter, the plan holder may request an adjudicatory hearing under 18 AAC 15.195 - 18 AAC 15.340.

(Eff. 5/14/92, Register 122; am 7/11/2002, Register 163; am 11/27/2002, Register 164; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority:	AS 46.03.020	AS 46.03.750	AS 46.04.070
	AS 46.03.740	AS 46.04.030	AS 46.04.890
	AS 46.03.745	AS 46.04.055	AS 46.35.090

18 AAC 75.495 is repealed and readopted to read:

18 AAC 75.495. Regional master discharge prevention and contingency plan

boundaries. (a) Three coastal areas and one inland area, and associated geographic zones as described in (b) of this section, are established for the regional master oil and hazardous substance discharge prevention and contingency plan boundaries as required by AS 46.04.210; planning areas and geographic zones are depicted on the map in Figure 1:

(1) The Southeast Alaska Area planning boundaries mimic the Southeast Alaska Captain of the Port Zone, and extend seaward from the coastline 200 nautical miles to the Economic Exclusion Zone; the Area also extends inland 1,000 yards; the Southeast Alaska geographic zone, as described in (b) of this section, lies partially within the Southeast Alaska Area;

(2) Prince William Sound Area planning boundaries mimic the Prince William Sound Captain of the Port Zone and extend seaward from the coastline 200 nautical miles to the Economic Exclusion Zone; the Area also extends inland 1,000 yards and includes the Lowe River from Port Valdez to Thompson Pass; the Prince William Sound geographic zone, as described in (b) of this section, lies partially within the Prince William Sound Area;

(3) The Arctic and Western Alaska Area planning boundaries mimic the Western Alaska Captain of the Port Zone and extend seaward from the coastline 200 nautical miles to the Economic Exclusion Zone; the Area also extends inland 1,000 yards, and includes the Knik River up to Old Glenn Highway Bridge, the Kuskokwim River up to Bethel Old Army Airstrip, the Kvichak River up to Levelock Creek, the Naknek River up to King Salmon Quinault Landing, the Nushagak River up to Black Point, the Wood River up to South end of Sheep Island, the Yukon River up to Pitkas Point and the Andreafsky River confluence, not including St. Marys; the following geographic zones, as defined in (b) of this section, lie partially within

the Arctic & Western Alaska Area: Aleutian Island, Bristol Bay, Cook Inlet, Kodiak Island, North Slope, Northwest Arctic, Prince William Sound, and Western Alaska;

(4) The Alaska Inland Area includes all terrestrial land of the state 1,000 yards inland of the coastline not encompassed by the planning areas in paragraphs (1)-(3); portions of all ten geographic zones described in (b) of this section lie partially within the Alaska Inland Area.

(b) The ten geographic zones are defined by the department as follows:

(1) Southeast Alaska Geographic Zone: that zone includes the area of the state east of 142° W. longitude and south of a line just west of Icy Bay that connects the U.S.-Canadian border with the Gulf of Alaska, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(2) Prince William Sound Geographic Zone: that zone south of 63° 30' N. latitude, west of the zone described in (1) of this subsection, and east of the zone described in (3) of this subsection, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(3) Cook Inlet Geographic Zone: that zone encompassed by the boundaries of the Kenai Peninsula Borough, the Municipality of Anchorage, and the Matanuska-Susitna Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(4) Kodiak Island Geographic Zone: that zone encompassed by the boundaries of

the Kodiak Island Borough, extending from the Barren Islands at the north to Chirikof Island and the Semidi Island group at the south, and the coastal area watershed draining to the Shelikof Strait on the south side of the Alaska Peninsula from Cape Kilokak to Cape Douglas; the Kodiak archipelago and west side of Shelikof Strait within the Kodiak Island Borough is approximately 100 miles wide and 250 miles long; it includes more than 5,000 square miles of land, no point of which is more than 15 miles from the sea, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(5) Aleutian Island Geographic Zone: that zone encompassed by the boundaries of the Aleutians East Borough, the Aleutians West Census Area, and the Pribilof Islands, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(6) Bristol Bay Geographic Zone: that zone encompassed by the boundaries of the Dillingham Census Area, the Bristol Bay Borough, and the Lake and Peninsula Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(7) Western Alaska Geographic Zone: that zone north of the zone described in (6) of this subsection, encompassed by the boundaries of the southernmost boundary of the Bering Straits Native Corporation, and Iditarod and Kuspuks Regional Educational Attendance Areas, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial

sea is measured;

(8) Northwest Arctic Geographic Zone: that zone encompassed by the Northwest Arctic Borough and the Bering Straits Native Corporation, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(9) North Slope Geographic Zone: that zone encompassed by the boundaries of the North Slope Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn so that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

(10) Interior Alaska Geographic Zone: that zone of the state not included in (1) - (9) of this subsection.

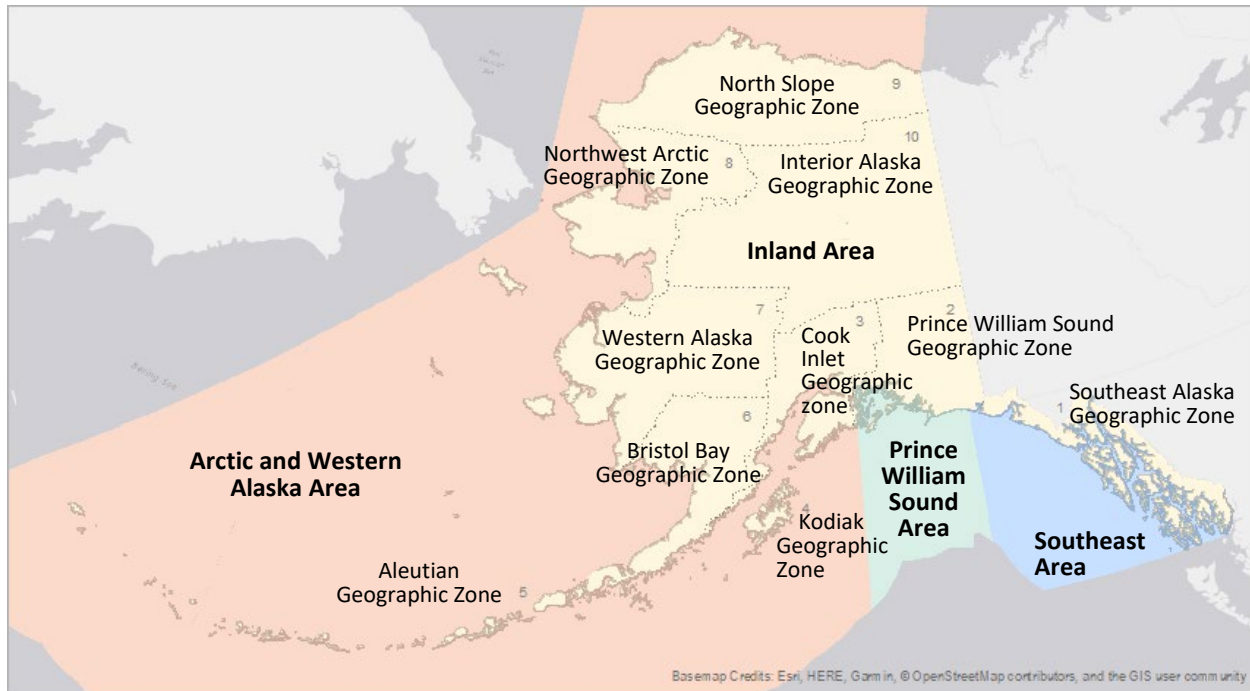
(c) If the department finds that a discharge that could occur in an area beyond the territorial sea would not have a significant adverse effect on the resources of the state or on other interests of the state, the department will, in its discretion, adjust the seaward boundary of a region established in (a) of this section to exclude that area.

(d) In this section, the “Captain of the Port Zone” boundaries are those established in 33 C.F.R. 3.85-15, as revised as of March 21, 2008, and adopted by reference. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 10/9/2008, Register 188; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.070 AS 46.04.210

18 AAC 75.495 is amended by updating Figure 1:

Figure 1: Regional Master Contingency Plan Boundaries (18 AAC 75.495)



18 AAC 75.496. Regional response operations plan boundaries for nontank vessels.

The regions described in this section and depicted on the map at Figure 2 are established for the purpose of establishing boundaries for nontank vessel plans:

(1) Southeast Alaska Region: that area of the state east of 142° W. longitude and south of a line just west of Icy Bay that connects the U.S. - Canadian border with the Gulf of Alaska, including adjacent shorelines and state waters;

(2) Prince William Sound Region: that area south of 63°30' N. latitude, west of the region described in (1) of this section, and east of the region described in (3) of this section, including adjacent shorelines and state waters;

(3) Cook Inlet Region: that area encompassed by the boundaries of the Kenai Peninsula Borough, the Municipality of Anchorage, and the Matanuska-Susitna Borough, including adjacent shorelines and state waters;

(4) Kodiak Island Region: that area encompassed by the boundaries of the Kodiak Island Borough, including adjacent shorelines and state waters;

18 AAC 75.496(5)-(8) are amended to read:

(5) Aleutian Region: those areas encompassed by the boundaries of the Aleutians East Borough, the **Aleutians West Census Area** [ALEUTIANS WEST COASTAL RESOURCE SERVICE AREA], and the Pribilof Islands, including adjacent shorelines and state waters;

(6) Bristol Bay Region: that area encompassed by the boundaries of the **Dillingham Census Area** [BRISTOL BAY COASTAL RESOURCE SERVICE AREA], the Bristol Bay Borough, and the Lake and Peninsula Borough, including adjacent shorelines and state waters;

(7) Western Alaska Region: that area north of the area described in (6) of this section, encompassed by the boundaries of the southernmost boundary of the **Bering Straits Native Corporation** [BERING STRAITS REGIONAL CORPORATION], and **Iditarod and Kuspuk** Regional Educational Attendance Areas [11 AND 5], including adjacent shorelines and state waters;

(8) Northwest Arctic Region: that area encompassed by the Northwest Arctic Borough and the **Bering Straits Native Corporation** [BERING STRAITS REGIONAL CORPORATION], including adjacent shorelines and state waters;

(9) North Slope Region: that area encompassed by the boundaries of the North Slope Borough, including adjacent shorelines and state waters;

(10) Interior Alaska Region: that area of the state not included in (1) - (9) of this

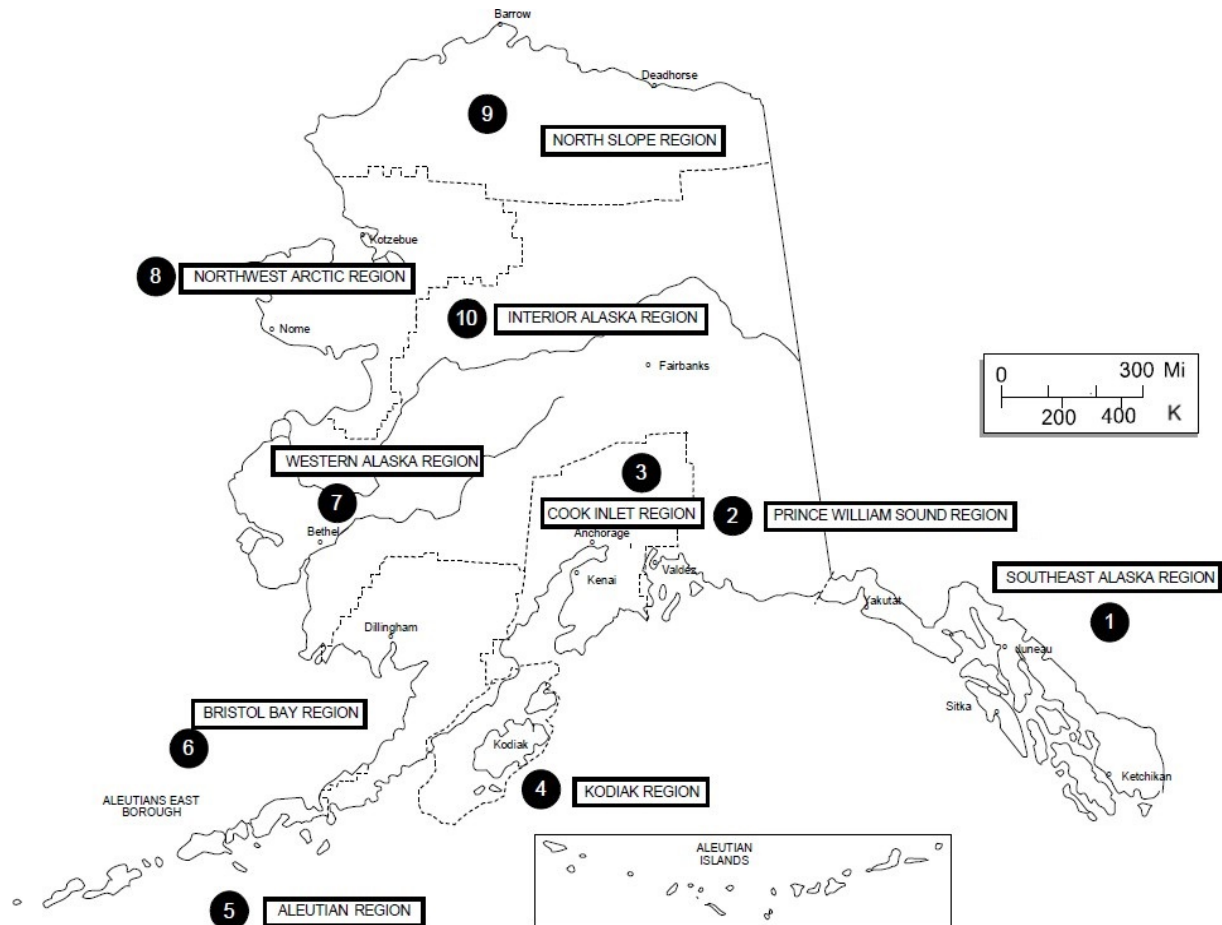
section. (Eff. 11/27/2002, Register 164; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070

AS 46.04.030

18 AAC 75.496 is amended by updating Figure 2:

Figure 2. Regional Response Operations Plan Boundaries (18 AAC 75.496)



18 AAC 75.990. Definitions. Unless the context indicates otherwise, in this chapter

18 AAC 75.990(9) is amended to read:

(9) "best available technology" means the best proven technology that satisfies the provisions of **18 AAC 75.452** [18 AAC 75.425(e)(4) AND 18 AAC 75.445(k)];

18 AAC 75.990(74) is amended to read:

(74) "oil spill primary response action contractor," for purposes of **18 AAC 75.451** [18 AAC 75.425 AND 18 AAC 75.445], has the meaning given in 18 AAC 75.500(a);

18 AAC 75.990(96) is repealed:

(96) repealed __/__/____; [“PRINCE WILLIAM SOUND TOWING PACKAGE” MEANS A TOWING GEAR ASSEMBLY THAT CONSISTS OF

- (A) 400 FEET OF 2-1/4 INCH TOW REACHING WIRE;
- (B) 720 FEET OF SIX-INCH POLYPROPYLENE FLOATING PICKUP LINE;
- (C) ONE FLOATING PICKUP BUOY; AND
- (D) A "D" SHACKLE, 2-1/4 INCHES IN DIAMETER, WITH A 4-1/8 INCH JAW OPENING, AND A BREAKING STRAIN OF 55 TONS, TO CONNECT THE FLOATING LINE TO THE TOW REACHING WIRE;]

18 AAC 75.990(156) is amended to read:

(156) "region of operation" means, with respect to

(A) an oil discharge prevention and contingency plan other than a streamlined plan for a nontank vessel, a **geographic zone** [region] established under 18 AAC 75.495; and

(B) a streamlined plan for a nontank vessel, a region established under 18 AAC 75.496;

18 AAC 75.990(162) is amended to read:

(162) "annual average daily oil production volume" means the average oil production volume from a common reservoir to a common production facility based on the highest annual volume produced by a well at the facility during the previous **12-months** [CALENDAR YEAR] divided by **365** [THE NUMBER OF] days [IN THE YEAR], expressed as barrels per day; **for a production facility that does not have 12-months of data, the average daily production volume is based on the total produced volume by the highest producing well for the period that data is available, divided by the number of days in that period;**

18 AAC 75.990(164) is amended to read:

(164) "**area** [SUBAREA] contingency plan" means a regional master oil and hazardous substance discharge prevention and contingency plan approved under AS 46.04.210;

18 AAC 75.990(191) is amended to read:

(191) "application package is complete" means that the applicant has provided the information necessary for the department to review and evaluate the plan using the criteria established under **18 AAC 75.448-18 AAC 75.453** [18 AAC 75.445] for oil discharge prevention

and contingency plans;

18 AAC 75.990(195) is amended to read:

(195) “sufficient for review” means that the application package contains the information necessary to begin the public review of the plan including the information identified in

(A) 18 AAC 75.408;

(B) **18 AAC 75.449 - 453** [18 AAC 75.425(e)(1) - (5) FOR OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS]; and

(C) supporting documentation as requested by the department.

18 AAC 75.990(200) is amended to read:

(200) "limit of quantitation"

(A) means the smallest concentration that produces a quantitative result with known and recorded precision and bias; and

(B) is set at or above the concentration of the lowest initial calibration standard and within the calibration range; [.]

18 AAC 75.990 is amended by adding the following new paragraphs to read:

(XXX) “deadweight tonnage” has the meaning given in 46 C.F.R. 309.2, revised as of August 23, 1974, and adopted by reference;

(XXX) “failsafe” means designed so that the equipment defaults to a closed condition in the event of an equipment failure;

(XXX) “primary operational control” means the person that exercises control over a vessel while the vessel is in state waters; this includes control over the port of call, arrangement for loading or unloading of oil, setting out the parameters of the approved prevention and response plan including speed, transfer procedures, tug escort, and crew standards and response to spills; primary operational control may be established for the purpose of holding and implementing a plan through a binding agreement between the party wishing to establish control and the vessel owner, operator or charterer. (Eff. 5/14/92, Register 122; am 9/25/93, Register 127; am 4/4/97, Register 142; am 4/11/97, Register 142; am 1/22/99, Register 149; am 8/27/2000, Register 155; am 10/28/2000, Register 156; am 11/27/2002, Register 164; am 12/14/2002, Register 164; am 1/30/2003, Register 165; am 8/8/2003, Register 167; am 5/26/2004, Register 170; am 12/30/2006, Register 180; am 10/9/2008, Register 188; am 4/8/2012, Register 202; am 9/4/2014, Register 211; am 6/17/2015, Register 214; am 4/16/2016, Register 218; am 11/6/2016, Register 220; 3/23/2017, Register 221; am 7/1/2017, Register 222; am 9/29/2018, Register 227; am ____/____/____, Register ____)

Authority:	AS 46.03.020	AS 46.03.755	AS 46.04.055
	AS 46.03.050	AS 46.03.822	AS 46.04.070
	AS 46.03.710	AS 46.04.020	AS 46.08.140
	AS 46.03.740	AS 46.04.030	AS 46.09.010
	AS 46.03.745	AS 46.04.035	AS 46.09.020

The Editor’s note for 18 AAC 75.990 is amended to read:

Editor’s note: The publications adopted by reference in 18 AAC 75.990 may be reviewed at the department’s **office** [OFFICES] in Anchorage [, FAIRBANKS, OR JUNEAU,]

or may be obtained directly from the appropriate publisher. The mailing address, telephone number, [FACSIMILE NUMBER,] and website, if available, for each publisher are as follows:

American Petroleum Institute (API), 1220 L Street NW, Washington, DC 20005-4070; telephone (202) 682-8000; [FAX (303) 397-2740;] website: <http://www.api.org>.

18 AAC 75.027(f) is amended to read:

(f) While in state waters, **the emergency towing arrangement** [LINE] must be made up and prepared for rapid deployment to a towing vessel. The **towing arrangement** [TOW LINE] must be fitted to allow **towing** [TOW] vessels commonly available in the area of operation to take the vessel in tow rapidly. For a vessel **over 20,000 deadweight tonnage the towing arrangement must meet the requirements of 33 C.F.R. 155.235, revised as of DATE, and adopted by reference** [OPERATING AT THE OIL LOADING TERMINAL AT VALDEZ, THE PRINCE WILLIAM SOUND TOWING PACKAGE MAY BE USED INSTEAD OF HAVING LINES MADE UP, IF THE PACKAGE PERMITS RAPID DEPLOYMENT TO A TOWING VESSEL]. (Eff. 5/14/92, Register 122; am 12/30/2006, Register 180; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.075(i) is repealed:

(i) Repealed __/__/____. [IN THIS SECTION, “FAILSAFE” MEANS DESIGNED SUCH THAT THE EQUIPMENT DEFAULTS TO A CLOSED CONDITION IN THE EVENT OF AN EQUIPMENT FAILURE.] (Eff. 5/14/92, Register 122; am 12/30/2006, Register 180; repealed ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.500(c) is amended to read

(c) The holder of an approved oil discharge prevention and contingency plan whose resources are listed in the plan of another plan holder to meet the requirements of AS 46.04.030 and 18 AAC 75.400 - 18 AAC 75.495 is not required to register as an oil spill primary response action contractor, but is subject to all other requirements of **18 AAC 75.451(i)** [18 AAC 75.425(e)(3)(H) AND 18 AAC 75.445(i)(1) AND (i)(2)].

(Eff. 9/25/93, Register 127; am 3/28/96, Register 137; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.055
AS 46.03.825 AS 46.04.035 AS 46.04.070

18 AAC 75.510(a)(2) is amended to read:

(2) all other requirements of **18 AAC 75.451(i)** [18 AAC 75.425(e)(3)(H) AND 18 AAC 75.445(i)] are met.

(Eff. 9/25/93, Register 127; am 3/28/96, Register 137; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.055
AS 46.03.825 AS 46.04.035 AS 46.04.070

18 AAC 75.560(a) is amended to read:

(a) In addition to the requirements of (b) of this section, the minimum registration standards and verification requirements for an oil spill primary response action contractor listed

in an approved oil discharge prevention and contingency plan are the oil discharge prevention and contingency plan requirements and the response planning standards set out in AS 46.04.030 and **18 AAC 75.428 – 18 AAC 75.495** [18 AAC 75.425 - 18 AAC 75.495] that are applicable to a contractor listed in an approved oil discharge prevention and contingency plan.

18 AAC 75.560(b)(3) is amended to read:

(3) training of contractor personnel must comply with **18 AAC 75.451(i)** [18 AAC 75.445(j)] and must include appropriate Occupational Safety and Health Administration Hazardous Operations training;

(Eff. 9/25/93, Register 127; am 3/28/96, Register 137; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070

AS 46.04.030 AS 46.04.055

18 AAC 75.580. Voluntary termination of registration

18 AAC 75.580 is amended to read:

Unless the department has taken action under 18 AAC 75.570 for failure to comply, a registered oil spill primary response action contractor, streamlined plan cleanup contractor, streamlined plan incident management team, or response planning facilitator may ask the department to terminate registration and to remove that contractor's name from the list required by

AS 46.04.035(e). A request under this section must be in writing and must be sent to all affected plan holders by certified mail. After the receipt of proof that all affected plan holders have been notified, the request must be submitted to the department with the certificate of registration and

proof that all affected plan holders were notified. A request under this section becomes effective on the 30th day after the department receives it as provided in **18 AAC 75.451(i)(1)(D)** [18 AAC 75.445(i)(1)(D)], 18 AAC 75.531(8)(C), 18 AAC 75.532(9)(C), and 18 AAC 75.533(6)(C), as applicable. (Eff. 3/28/96, Register 137; am 11/27/2002, Register 164; am 3/23/2017, Register 221; am 11/7/2020, Register 236; am ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070
AS 46.04.030 AS 46.04.055