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 75.027(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 September 30, 2009, 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18 AAC 75.075(i) is repealed:

(i) Repealed __/__/____. (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

The introductory language of 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;

18 AAC 75.400(a)(3) is 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**;

18 AAC 75.400(a)(4) is amended to read:

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

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 whether the exemption will be protective of human health, safety, and welfare, and of the environment. The department will approve or deny the exemption not later than 10 working days after it receives the 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. The owner or operator shall apply for an exemption, and the department will review the application, as follows:

(1) the owner or operator shall submit an application form and a letter describing the permanent modification made to the facility;

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

(A) for purposes of reducing the storage capacity of the facility by removing one or more tanks,

(i) the tanks and associated piping must be emptied, secured in a manner to prevent unauthorized use, and either blank-flanged or disconnected from each other;

(ii) tanks removed from service must be clearly marked with the words “Out of Service” and the date taken out of service; and

(iii) 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;

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

(4) 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) is repealed:

(f) Repealed __/__/____.

18 AAC 75.400(g) is repealed .

(g) Repealed __/__/____.

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 as the

responsible party that submits an application for proof of financial responsibility for oil discharges under 18 AAC 75.205(a), and the filed application must be signed in accordance with 18 AAC 75.408(b). (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 is amended by adding a new section to read:

18 AAC 75.402. Delayed implementation dates. (a) If a person applies for a new plan under 18 AAC 75.410, an amendment determined to be a major amendment under 18 AAC 75.415(a), or a plan renewal under 18 AAC 75.420, and that person submits an application before [*effective date of regulations, plus 180 days*], the department will review the application under 18 AAC 75.400 - 18 AAC 75.496, as those provisions read on [*day before effective date of regulations*].

(b) An amendment application submitted before [*effective date of regulations*] will be reviewed under 18 AAC 75.400 - 18 AAC 75.496, as those provisions read on [*day before effective date of regulations*], if the application

(1) is determined to be a minor amendment under 18 AAC 75.415(a);

(2) is determined to be a routine update submitted under 18 AAC 75.415(b); or

(3) is for an amendment to allow the addition of a vessel to an approved oil discharge prevention and contingency plan under 18 AAC 75.415(c).

(c) A person submitting an application for a new plan, major amendment, or plan

renewal under (a) of this section may request that the department instead review the application under the applicable provisions of 18 AAC 75.400 - 18 AAC 75.496 in effect on [*effective date of regulations*].

(d) For a plan approved by the department before [*effective date of regulations*] or for a plan submitted and approved under (a) of this section, before the expiration date listed on the plan approval letter,

(1) the plan holder must comply with 18 AAC 75.400(a)(2), if applicable and 18 AAC 75.400(j) not later than [*effective date of regulations, plus one year*]; and

(2) the plan holder is not required to submit amendments to bring the plan into compliance with the requirements

(A) under 18 AAC 75.449(a)(6)(L);

(B) under 18 AAC 75.449(a)(6)(M) for procedures and methods for wildlife protection, recovery, disposal, rehabilitation, and release of wildlife to, as applicable, demonstrate best practices and recommendations in the Alaska Regional Response Team *Wildlife Protection Guidelines for Oil Spill Response in Alaska,* Version 2020.1, August 31, 2020; if approved by the department, the response strategies may use alternative procedures and methods that adequately protect wildlife;

(C) under 18 AAC 75.449(a)(8)(D);

(D) under 18 AAC 75.449(a)(9)(B);

(E) under 18 AAC 75.449(a)(10) to locate the information on general procedures to be followed in responding to the greatest possible discharge immediately following the response planning standard scenario;

(F) under 18 AAC 75.451(b)(7);

(G) under 18 AAC 75.451(b)(8);

(H) under 18 AAC 75.451(h)(3);

(I) under 18 AAC 75.451(h)(4)(A) to determine the necessary temporary storage capacity using the following formula: a system with a manufacturer's rated throughput capacity (T) with a planned operating period (U) requires temporary storage of T x U barrels per day to account for total liquids recovered; and

(J) under 18 AAC 75.453(3) to locate the required information in part five of the plan. (Eff. ___/___/____, Register ____)

Authority: AS 46.03.020 AS 46.04.050 AS 46.04.070
AS 46.04.030

18 AAC 75.405(a) is amended to read:

(a) At least 60 days before **the scheduled submission date for** [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 **at least** [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.

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 without waiting the 60 days specified in (a) of this section and without waiting the 30 days specified in (b) of this section. (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

Editor's note: A notification may be submitted to the department inbox at dec.odpcp.submissions@alaska.gov.

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

(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(c) is repealed and readopted to read:

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

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

(A) for paper copies of the plan, for an amendment or a renewal application package, 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) the department will specify the electronic format to be used; the submittal must be electronically searchable; and

(C) a person that is not able to access the documents from the department's Internet website may submit a request to the department for an alternate electronic format to be provided; if approved, the department will notify the plan applicant to provide the documents to the requester in an alternate electronic format; and

(2) all proposed additions, revisions, and deletions must be identified in the plan; the department may also request a summary of changes in a table format.

18 AAC 75.408 is amended by adding a new subsection to read:

(d) The department will notify interested persons about a new plan, a plan renewal, a major amendment, a minor amendment, and a routine update by electronic mail to a listserv facilitated by the department; the following additional distribution requirements apply:

(1) 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 persons of the availability of the package; and

(B) the department will post a copy of the final version of the approved plan on the department's Internet website and will notify interested persons of the availability of the final approved plan;

(2) 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 persons; the department will provide an electronic copy

upon request; and

(3) for minor amendments and routine updates, the department will post a copy of the application package and final approved plan on the department's Internet website, and will notify interested persons of the availability of the package and final approved plan. (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

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

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.

18 AAC 75.410(c) is amended to read:

(c) The department will review an application **package** 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).

(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 75.415(b) is amended to read:

(b) A routine plan update must be submitted in accordance with 18 AAC 75.408 not later than **10 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). The amendment application package** [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 **at least** [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 **the** [A PROPOSED PLAN] amendment **application package** [UNDER THIS SUBSECTION] unless the department determines that it is a major amendment under (a) of this section.

18 AAC 75.415(f) is amended to read:

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

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 a copy of the approved amended plan 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 persons 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 at least 10 working days before the aboveground 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 issue a written decision not later than 10 working days after receiving the application 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(c) is repealed:

(c) Repealed __/__/____.

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(c) is amended to read:

(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 **at least** [NOT LATER THAN] five working days before a vessel covered in the plan enters waters of the state.

(Eff. 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 75.425 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 ____)

[EDITOR'S NOTE: AS OF REGISTER 207 (OCTOBER 2013), AND ACTING UNDER AS 44.62.125(b)(6), THE REGULATIONS ATTORNEY MADE TECHNICAL CHANGES FOR 18 AAC 75.425(e)(1)(i).]

18 AAC 75.426(4) is amended to read:

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

18 AAC 75.426(5)(A) is amended to read:

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

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;

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;

18 AAC 75.426(14) is amended to read:

(14) for a plan submitted by a response planning facilitator, the name, telephone number, title, **and** [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);

(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

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

(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(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;

18 AAC 75.429(d)(3) is amended to read:

(3) provide containment [, SUCH AS DRIP PANS,] under all connections along the transfer hose and systems;

(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(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.

18 AAC 75.430(c)(1) is amended to read:

(1) 15 percent of the response planning standard applicable to **an** [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

(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

The introductory language of 18 AAC 75.432(a) is amended to read:

(a) For **an** [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

18 AAC 75.432(b) is amended to read:

(b) The response planning standard volume for **an** [A CRUDE OR NONCRUDE] oil terminal facility is equal to the capacity of the largest **aboveground** 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 a vessel operating as an oil terminal facility, the response planning standard is based on the entire storage capacity of the vessel.**

18 AAC 75.432(c) is amended to read:

(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 **aboveground** 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.

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

(1) alcohol and drug testing of key personnel: **five** [5] percent;

18 AAC 75.432(d)(2) is amended to read:

(2) an operations training program with a professional organization or federal

certification or licensing of program participants: **five** [5] percent;

18 AAC 75.432(d)(3) is amended to read:

(3) on-line leak detection systems **that automatically alarm at a facility control room that is continuously monitored,** for tanks and piping: **five** [5] percent;

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

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

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

(B) fail-safe **valves on** [VALVE] piping systems: 15 percent; or

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

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

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

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.

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.

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.

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.

(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(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

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

(1) alcohol and drug testing of key personnel: **five** [5] percent;

18 AAC 75.436(c)(2) is amended to read:

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

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

(3) on-line leak detection systems **that automatically alarm at a facility control room that is continuously monitored**: **five** [5] percent;

18 AAC 75.436(c)(5) is amended to read:

(5) underwater pipeline cathodic- and burial-profile inspection: **five** [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(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

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

(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 75.442 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 ____)

[EDITOR'S NOTE: 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 75.445. IN 1995 THE REVISOR OF STATUTES UNDER AS 04.05.031, RELETTERED FORMER AS 46.04.030(r) AS AS 46.04.030(q), AND RELETTERED FORMER AS 46.04.030(q) AS AS 46.04.030(R).
AS OF REGISTER 207 (OCTOBER 2013), AND ACTING UNDER AS 44.62.125(b)(6), THE REGULATIONS ATTORNEY MADE A CONFORMING TECHNICAL REVISION TO 18 AAC 75.445(i), SO THAT THE CROSS-REFERENCE TO FORMER AS 46.04.030(r) NOW REFERS TO THE RELETTERED SUBSECTION, AS 46.04.030(q).]

18 AAC 75.447 is repealed:

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

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

18 AAC 75.448. Oil discharge prevention and contingency plan; general plan requirements. (a) An oil discharge prevention and contingency plan submitted for approval

under 18 AAC 75.400 - 18 AAC 75.495 must be usable as a working plan for oil discharge control, containment, cleanup, and disposal. 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 46.04.055(c)(2), and 18 AAC 75.400 - 18 AAC 75.495. The plan 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) The plan must identify the greatest possible discharge that could occur at the facility or operation, and the general procedures to respond to a discharge of that magnitude.

(c) A plan including multiple facility types as described in 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.

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

(1) the official plan title, consisting of 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 under 18 AAC 75.408(b), committing the oil discharge prevention and response resources necessary to implement the plan.

(e) 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. (Eff. _____, Register ____)

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 response action 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; the checklist must be immediately available to response personnel while on duty;

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

(A) the titles and telephone numbers of facility personnel responsible for making the notification;

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

(C) additional contact information for potentially impacted groups;

(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, using the resources described in the plan, 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 and under environmental conditions that might reasonably be expected to occur at the discharge site; the response scenario must be usable as a general guide for a discharge of any size, must describe the discharge containment, control, recovery, transfer, storage, and cleanup actions to be taken, and must clearly demonstrate the strategies and procedures adopted to conduct and maintain an effective response, consistent with ensuring the safety of personnel; if the information required by this paragraph is contained in a separate document developed by the plan holder or the plan holder's oil spill primary response action contractor identified in 18 AAC 75.451(i), the plan holder may incorporate the information by reference upon department approval; response strategies for the scenario 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 spill trajectory, and the relevant environmental conditions, including weather, sea state, and visibility;

(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;

(E) procedures, 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, and 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, for 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 areas of public concern that would likely be impacted if a discharge occurs; this equipment and personnel must 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 calculated for the response planning standard under 18 AAC 75.430 - 18 AAC 75.442 for each type of facility or operation; 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 that demonstrate access to sufficient lightering equipment and personnel to transfer all oil from damaged tanks and from undamaged tanks that might be at risk of discharging additional oil; the plan must provide for the start and completion of lightering within the shortest possible time;

(J) procedures for transfer and storage of recovered oil and oily water that demonstrate adequate temporary storage and removal capacity to keep up with skimming and recovery operations; for on-water recovery, this includes procedures for offloading and transfer of oil and oily water from temporary storage at or near the spill site to shore-side storage; for on-land recovery, this includes procedures for transfer from onsite temporary storage to more secure storage; procedures must include methods for estimating the amount of recovered oil;

(K) procedures and locations for temporary storage and ultimate disposal of oil-contaminated materials, oily wastes, and sanitary and solid wastes generated during the response that demonstrate adequate temporary storage and removal capacity to keep up with the recovery operations; plans for temporary storage and ultimate disposal must include identification of all necessary permits, approvals, and authorizations and the timeline to apply 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, the responsible party must apply

to the department's state on-scene coordinator for approval on a form supplied by the department;

(M) procedures, methods, and a description of equipment that will be used for the protection, recovery, disposal, rehabilitation, and release of potentially affected wildlife; these procedures and methods must, as applicable, demonstrate best practices and recommendations in the Alaska Regional Response Team *Wildlife Protection Guidelines for Oil Spill Response in Alaska*, Version 2020.01, August 31, 2020, adopted by reference; if approved by the department, the response strategies may use alternative procedures and methods that adequately protect wildlife; the procedures methods, and equipment must include

(i) minimizing wildlife contamination through hazing or other means, when appropriate;

(ii) the recovery of oiled carcasses to preclude secondary contamination of scavengers; and

(iii) the capture, cleaning, rehabilitation, and release of oiled wildlife, when appropriate;

(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) if required by the department, additional response strategies to demonstrate alternative strategies for anticipated receiving environments and seasonal conditions, including time of year and spills of varying source and size;

(7) additional requirements for a response scenario for an exploration or production facility - if the facility is an exploration or production facility

(A) the response scenario must also include 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; the blowout contingency plan is not part of an application package 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 or an electronic copy, and it must be available at the facility; 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) for development of a response scenario, a plan holder may use 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; if required by the department, 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 paragraph is contained within a separate document developed by the plan holder or the plan holder's oil spill primary

response action contractor identified in 18 AAC 75.451(i), the plan holder may incorporate the information by reference upon receiving department approval;

(8) nonmechanical response options - plans that 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 a description of the specific mechanisms in place for conducting these assessments; and

(D) a description of specific procedures, methods, and resources in place for protecting environmentally sensitive areas, 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 diagram of the facility for reference in conducting emergency response operations; the facility diagram must include

(A) 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;

(B) a representation of the distance and gradients to surface water for an operation located on land, by topographic map, aerial photographs, or other means;

(C) the location of fire suppression equipment, main power shutoff switches, and other relevant fire control features; and

(D) for a railroad tank car or locomotive, a diagram 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 general procedures to be followed in responding to the greatest possible discharge that could occur at the facility - this information must be located in the plan immediately following the response planning standard scenario or scenarios required by (6) of this subsection.

(b) In this section,

(1) "predominant wind directions" means those directions that occur greater than ten percent of the time indicated;

(2) "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;

(3) "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;

(4) "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. (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: https://dec.alaska.gov/spar/ppr/regulations-guidance/forms-applications/. The Alaska Regional Response Team *Wildlife Protection Guidelines for Oil Spill Response in Alaska,* adopted by reference in 18 AAC 75.449(a)(6)(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 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 measures, policies, and programs in place at the facility, with reference to the specific oil discharge risks involved. The prevention plan may be submitted as a separate volume.

(b) The prevention plan must include the following information:

(1) discharge prevention programs - a description and schedule of regular oil discharge prevention, inspection, maintenance, substance abuse and medical monitoring, security and surveillance, and oil discharge prevention training programs in place at the facility or operation;

(2) discharge history - a list of 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, and amount of each discharge;

(B) corrective actions 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 - an analysis of potential oil discharges, including size, frequency, cause, duration, and location, and a description of actions taken to prevent a potential discharge;

(4) specific conditions - based on the discharge history required in (2) of this subsection and the potential discharge analysis required in (3) of this subsection, 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, 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. The supplemental information section must provide the background and verification information identified in (b) - (n) of this section.

(b) The plan holder must provide a facility description and operational overview. This is a general description of the oil storage, transfer, exploration, or production operations, including

(1) for each aboveground oil storage tank with a storage capacity of greater than 10,000 gallons, the oil storage capacity, installation date, design, construction, and 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) a map showing the location of each main line, siding, and yard area; and

(B) 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 piping 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) For an onshore facility or operation, the plan holder must include an analysis of the amount and locations of oil from a discharge, of the volume calculated for the response planning standard under 18 AAC 75.430 - 18 AAC 75.442 for each type of facility or operation, which might realistically be expected to reach open water within the applicable time limit set out in those provisions. The analysis must include

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

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

(3) a determination that resources identified in (g) of this section are sufficient to clean up the response planning standard discharge volume of oil that enters open water within the applicable time limit.

(d) The plan holder must include 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 position, functional role in the command system, and affiliation by company for 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. This list of positions 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. The diagram must also include key state, federal, or local government on-scene coordinator positions that make up the unified command for the response planning standard scenario. At a minimum, the detailed personnel contact information for the qualified individual must be located in the plan. The names and detailed contact information for persons filling positions in the command system must be maintained by the plan holder, and this information may be contained in a separate document. This document is part of the plan, and the document must be submitted 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 document will be treated as confidential and will not be publicly reviewed; it must be maintained and updated in real time. Notwithstanding the requirements under 18 AAC 75.415(b)(2), an updated document must be provided to the department at least on a quarterly basis if changes occur.

(e) In designing a spill response, 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 and other environmental limitations. The plan must include

(1) a description of the realistic maximum response operating limitations, including severe weather and environmental 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;

(3) an analysis that provides the basis for the requirements in (1) and (2) of this subsection; the analysis must consider 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,

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

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

(C) identification of all necessary permits, approvals, or authorizations for use of nonmechanical response options and the timeline to apply for them.

(f) The plan holder must identify 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) The plan holder must have ready access to enough equipment to meet the applicable response planning standard 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 standards, to protect and recover wildlife as required by 18 AAC 75.449(a)(6)(M), and to protect environmentally sensitive areas and areas of public concern that are identified in (k) of this section 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) before oil reaches them. 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 and undamaged tanks;

(7) the capacity of the temporary storage system for recovered oil and oily wastes; 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 discharged oil, of the volume calculated for the response planning standard under 18 AAC 75.430 - 18 AAC 75.442 for each type of facility;

(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 conducted under (4)(C) of this subsection demonstrates that another effective daily oil recovery capacity is appropriate; equipment types must be compatible with each other as necessary to ensure an efficient response;

(3) the following formula must be used to determine the effective daily oil recovery capacity for each skimming system:

$R = T \times U \times E$

where

R = Effective daily oil recovery capacity in barrels;

T = Manufacturer's rated throughput capacity as defined in (o) of this section, in barrels per hour;

U = Hours that an operator can document capability to operate equipment during a 24-hour period under spill conditions; this figure 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 unless otherwise approved by the department;

(4) compliance with the response planning standard must be attainable by

designing a response capability

(A) that is equal to or greater than the volume of oil established by the response planning standard; and

(B) as demonstrated through the plan scenario, as follows:

(i) the capacity of the temporary storage system for recovered oil and oily 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) requires temporary storage of T x U barrels per day to account for total liquids recovered;

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

(iii) 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 on a form supplied by the department; the department will approve or deny a modified oil recovery efficiency rate based on the information provided.

(i) 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. The plan must include a correct and complete list of each oil spill primary response action contractor, with name, address, telephone number, and affiliation by company, and a description of the response equipment and services provided. For each primary response action contract, the plan must also include a statement of contractual terms signed by the plan holder and the oil spill 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 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 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 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) A plan holder shall provide a detailed description of the training programs for designated discharge response personnel and operations 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 oil discharge prevention measures as required by 18 AAC 75.020; and

(3) proof of training required in (1) and (2) of this subsection 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) For a stationary facility or operation, for 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 discharge of the volume calculated for the response planning standard under 18 AAC 75.430 - 18 AAC 75.442 for each type of facility or operation. If identification of those areas and site-specific strategies for protection of those areas are in an applicable geographic zone in one or more area contingency plans, the plan holder may incorporate that information by reference. The identification of and planned protection measures for those areas must

(1) be based on mapped predictions of discharge movement, spreading, and probable points of contact, based on expected local, seasonal, meteorological, and, as applicable, oceanographic and topographic conditions; and

(2) for each probable point of contact, include a description of each environmentally sensitive area and each area of public concern, including

(A) the effect of seasonal conditions on the sensitivity of each area;

(B) a discussion of the toxicity effects and persistence of the discharge, based on type of product; and

(C) an identification of which areas will be given priority attention if a discharge occurs.

(*l*) The plan must include a list 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, that may be used for responding to the greatest possible discharge.

(m) The supplemental information must include other information necessary to provide background for or verification of the plan contents.

(n) The supplemental information must include a bibliography listing data and information sources used to determine the information contained in the plan.

(o) 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. For a skimmer system in which the pump on the device limits the throughput of liquid, the manufacturer's rated throughput capacity must be calculated using the pump capacity. The manufacturer's rated throughput capacity is used in conjunction with the oil recovery efficiency rate 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 form required under 18 AAC 75.451(h)(4)(C), and statement of contractual terms form required under 18 AAC 75.451(i), are available on the department's website search page: https://dec.alaska.gov/spar/ppr/regulations-guidance/forms-applications/. Completed forms may be submitted to the department inbox at dec.odpcp.submissions@alaska.gov.

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) 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 (c) of this section. Technologies that are not subject to the response planning standards or the referenced performance standards in (c)(1) and (2) of this section must be identified in the plan and evaluated using the criteria specified under (c)(3) of this section; these technologies include

(1) at a minimum, for all 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 plan,

(A) a leak detection system for each tank if required by 18 AAC 75.065(i)(4) or (j)(4);

(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 if required by 18 AAC 75.080(*l*) or (m)(1) or (2);

(3) for a tank vessel 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 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 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 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).

(b) For each applicable technology under (a)(1) - (6) of this section, the plan must identify all available technologies and include a written analysis of each technology, using the applicable criteria in (c)(3) of this section, and must include a written justification that the technology proposed to be used is the best available for the applicant's operation.

(c) For purposes of (a) of this section, the department will review a plan and make a best available technology determination as follows:

(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 75.085 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)(1) - (6) 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 that 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.

(d) If the department determines that a technology evaluated under (c) of this section is not the best available technology, the department will provide the applicant 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

(1) provide a mathematical calculation of the applicable response planning standards set out in 18 AAC 75.430 - 18 AAC 75.440 and 18 AAC 75.442;

(2) include a detailed calculation and justification of reductions to the response

planning standard; and

(3) include an estimate of the percentage of the applicable response planning standard volume set out at 18 AAC 75.430 - 18 AAC 75.436, and 18 AAC 75.442 based on calculations in (1) and (2) of this section for the facility or operation that will reach open water, and based on the receiving environment information in 18 AAC 75.451(c). (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(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 an amendment application submitted as a minor amendment but 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 determines that the application is for a major amendment.** If the application package is not sufficient for review, the department will 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 **that** the **application** package **is** [TO BE] unusually large or complex, or **that** determines a longer comment period **is** [TO BE] in the public interest, the department will set the public comment period for a maximum of 45 days;

18 AAC 75.455(b)(4) is amended to read:

(4) send a letter to the applicant, **and send notice to interested persons by electronic mail to a listserv facilitated by the department** [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

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

(5) [DIRECT THE APPLICANT TO PUBLISH A ONE-TIME NOTICE PROVIDED BY THE DEPARTMENT] **publish a notice online** announcing the public comment period for the plan **and will notify interested persons 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

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

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

18 AAC 75.455(b)(5)(C) is repealed:

(C) repealed __/__/____;

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.

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 **and when the request will be provided**; 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 that the package is unusually large or complex, the request will be transmitted not later than 90 days after the close of the public comment period in (b) of this section;** 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 **in accordance with 18 AAC 75.408(c)** [AS

REQUIRED BY 18 AAC 75.408(c)(1) - (4) AND (7)];

18 AAC 75.455(c)(4) is amended to read:

(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)** [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(d) 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.

18 AAC 75.455(e) is amended to read:

(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 **action was taken** [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**

(1) the department determines that good cause exists; or

(2) at least 20 days before the end of the public comment period under (b)(3) of this section, a hearing is requested by

(A) at least 50 residents of the affected area; or

(B) the governing body of an affected municipality or tribal entity.

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.

(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

Editor's note: The public notice will be published on the State of Alaska Online Public Notice System website at https://aws.state.ak.us/OnlinePublicNotices/.

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:

18 AAC 75.456(a)(2) 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;

18 AAC 75.456(a)(3) is amended to read:

(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;

18 AAC 75.456(a)(4) is amended to read:

(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** [.]

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

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

(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(a) is amended to read:

(a) **After the department has determined that the application package is complete and** [AT ANY TIME] 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.

(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

Editor's note: <u>Requests for a preissuance conference may be submitted to the department inbox at dec.odpcp.submissions@alaska.gov.</u>

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(b)(1) is amended to read:

(1) the department's written decision **<u>and</u>** [, IF IT IS THE DEPARTMENT'S DETERMINATION THAT AN OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN 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 **<u>a</u>** [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 **<u>a</u>** [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 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.

(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

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, **P.O. 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 REQUIREMENT FOR APPROVAL TO OPERATE UNDER OTHER STATUTES OR REGULATIONS].

18 AAC 75.465(a)(1) is amended to read:

(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 copy of the certificate,** approving the oil discharge prevention and contingency plan or streamlined plan for that operation; and

18 AAC 75.465(a)(2) is amended to read:

(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 **a copy** [COPIES] of **the approved streamlined plan, or** the response action and prevention plan sections of the [CURRENT] approved oil discharge prevention and contingency plan, **and a copy of the** [OR THE ORIGINAL CERTIFICATE OR A TRUE PHOTOCOPY OF THE ORIGINAL STREAMLINED] plan approval certificate, **are available on the** [FOR THAT] vessel or barge [IS ON BOARD THE VESSEL OR BARGE], or for a railroad tank car, **are** [IS] available from the operator of the railroad tank car**; these documents may be the original, a true photocopy, or an electronic copy**.

18 AAC 75.465(b) is amended to read:

(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. **The owner or operator of an oil terminal facility may notify the department to suspend the requirement to submit a monthly log when no fuel transfer operations will occur for two or more consecutive months.** 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.

18 AAC 75.465(c) is amended to read:

(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].

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, or an electronic copy of the following:

(1) the approved streamlined plan or the response action and prevention plan sections of the approved oil discharge prevention and contingency 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.

18 AAC 75.465(f) is repealed:

(f) Repealed __/__/____. (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

Editor's note: The verification log is available on the department's website search page: https://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(e) is amended to read:

(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.

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

18 AAC 75.475(a) is 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 in 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.

18 AAC 75.475(b) is amended to read:

(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. [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.

18 AAC 75.475(c) is amended to read:

(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. (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

Editor's note: A notification of nonreadiness may be submitted to the department inbox at dec.odpcp.submissions@alaska.gov.

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 AS 46.04.030 or AS 46.04.055 and to 18 AAC 75.400 - 18 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 statutes and regulations, the department may conduct announced and unannounced inspections of the facility.

(b) The owner or operator of a facility subject to the requirements of AS 46.04.030 or AS 46.04.055 and to 18 AAC 75.400 - 18 AAC 75.496 shall allow the department, at reasonable times and upon presentation of credentials establishing authority, to enter or access the facility to conduct in-person or virtual inspections under (a) of this section, including an inspection to verify

(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 or AS 46.04.055 and to 18 AAC 75.400 - 18 AAC 74.496 must provide a copy of required documents to the department upon request during a facility inspection or a records audit. In addition,

(1) the department may make its own copies;

(2) 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

(3) 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 inspection; they must be provided to the department on the same day of a virtual facility inspection.

(d) During an inspection conducted under this section, the department may obtain samples of suspected contaminated materials to verify compliance with 18 AAC 75.300 - 18 AAC 75.396 and 18 AAC 75.400 - 18 AAC 75.496, as applicable.

(e) During an inspection conducted under this section, the use of virtual technology must be mutually agreed upon with the facility owner or operator.

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

(g) Based on the results of an inspection conducted under this section, the department may 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 46.03.822**	AS 46.04.065
	AS 46.03.050	**AS 46.04.020**	AS 46.04.070
	AS 46.03.710	AS 46.04.030	**AS 46.09.010**
	AS 46.03.740	AS 46.04.055	**AS 46.09.020**
	AS 46.03.755	AS 46.04.060	

18 AAC 75.485 is repealed and readopted to read:

18 AAC 75.485. Discharge exercises. (a) The department may conduct announced and unannounced discharge exercises appropriate to the plan holder's current status of operations 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.

(b) At a minimum, a plan holder must conduct the following exercises as appropriate to the plan holder's current status of operations:

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

(A) one operations-based discharge exercise for each five-year plan approval cycle in coordination with the department, based on the Homeland Security Exercise and Evaluation Program methodology described in the department's *Oil Spill Response Exercise Manual*, adopted by reference in (f) of this section, and

(B) the department may require not more than one additional operations-based 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 on board the vessel in each 12-month period to ensure on-going familiarity with onboard 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), as follows;

(A) the exercise must be an operations-based initial emergency response actions drill as described in the department's *Oil Spill Response Exercise Manual*, adopted by reference in (f) of this section, and must include documentation of onboard personnel training and of readiness of onboard response equipment;

(B) the plan holder shall self-certify the exercise conduct, lessons learned, and any corrective actions taken as a result on a form supplied by the department;

(C) the plan holder shall retain documentation of each exercise in retrievable form for five years and shall provide a copy to the department upon request; and

(D) the department may conduct not more than one additional onboard operations-based initial emergency response actions exercise in each 12-month period.

(c) Execution of an oil discharge prevention and contingency plan during an operations-based 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 an oil spill primary response action contractor identified under 18 AAC 75.451(i).

(d) Execution of onboard initial emergency response actions during an 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 onboard exercise as required under (b)(2)(B) of this section.

(e) If a plan holder cannot adequately execute the plan or streamlined plan during an exercise conducted under this section, the department may

(1) notwithstanding the limitations in (b)(1)(B) or (2)(D) of this section, require additional exercises until the department is satisfied the plan or the streamlined plan and its execution are adequate; or

(2) take other appropriate action in accordance with 18 AAC 75.490.

(f) The department will consider a regularly scheduled training exercise or a Preparedness for Response Exercise Program exercise initiated by a plan holder to be a discharge exercise, as required under (b)(1) of this section, if the exercise is operations-based, if the department participates in the planning and evaluation of the exercise, and if the exercise follows the procedures described in the department's *Oil Spill Response Exercise Manual*, {*effective date*}, adopted by reference.

(g) In this section, "Preparedness for Response Exercise Program" means the April 2016 document that provides a mechanism for exercise compliance with federal pollution response exercise requirements mandated under 33 U.S.C. 2701 - 2762 (Oil Pollution Act of 1990). (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

Editor's Note: The *Oil Spill Response Exercise Manual* is available on the department's website page: https://dec.alaska.gov/spar/ppr/prevention-preparedness/exercises/manual. The exercise self-certification form referenced in 18 AAC 75.485(b)(2)(B) is available on the department's website search page: https://dec.alaska.gov/spar/ppr/regulations-guidance/forms-applications/.

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

18 AAC 75.489. Definition. In 18 AAC 75.400 – 18 AAC 75.496, "temporary basis" means the use of an aboveground oil storage tank located at a facility for a duration of less than 12 consecutive months and is limited to aboveground oil storage tanks used for project or maintenance activities. (Eff. ____/____/____, Register ____)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.03.030

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.

(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 46.03.880**	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]
	AS 46.03.750		

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. The area boundaries are as follows:

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

(2) the Prince William Sound Area planning boundaries mirror the Prince William Sound Captain of the Port Zone and extend seaward from the coastline 200 nautical miles to the Exclusive Economic 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 defined in (b) of this section, lies partially within the Prince William Sound Area;

(3) the Arctic and Western Alaska Area planning boundaries mirror the Western Alaska Captain of the Port Zone and extend seaward from the coastline 200 nautical miles to the Exclusive Economic 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, and the Yukon River up to Pitka's Point and the Andreafsky River confluence, not including St. Mary's; the following geographic zones, as defined in (b) of this section, lie partially within the Arctic and Western Alaska Area:

(A) Aleutian Island;

(B) Bristol Bay;

(C) Cook Inlet;

(D) Kodiak Island;

(E) North Slope;

(F) Northwest Arctic

(G) Prince William Sound; and

(H)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 (1) - (3) of this subsection; portions of all 10 geographic zones described in (b) of this section lie partially within the Alaska Inland Area.

(b) The 10 geographic zones are defined by the department as follows:

(1) Southeast Alaska Geographic Zone: that zone east of 142º 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 63º 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 Kuspuk 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.

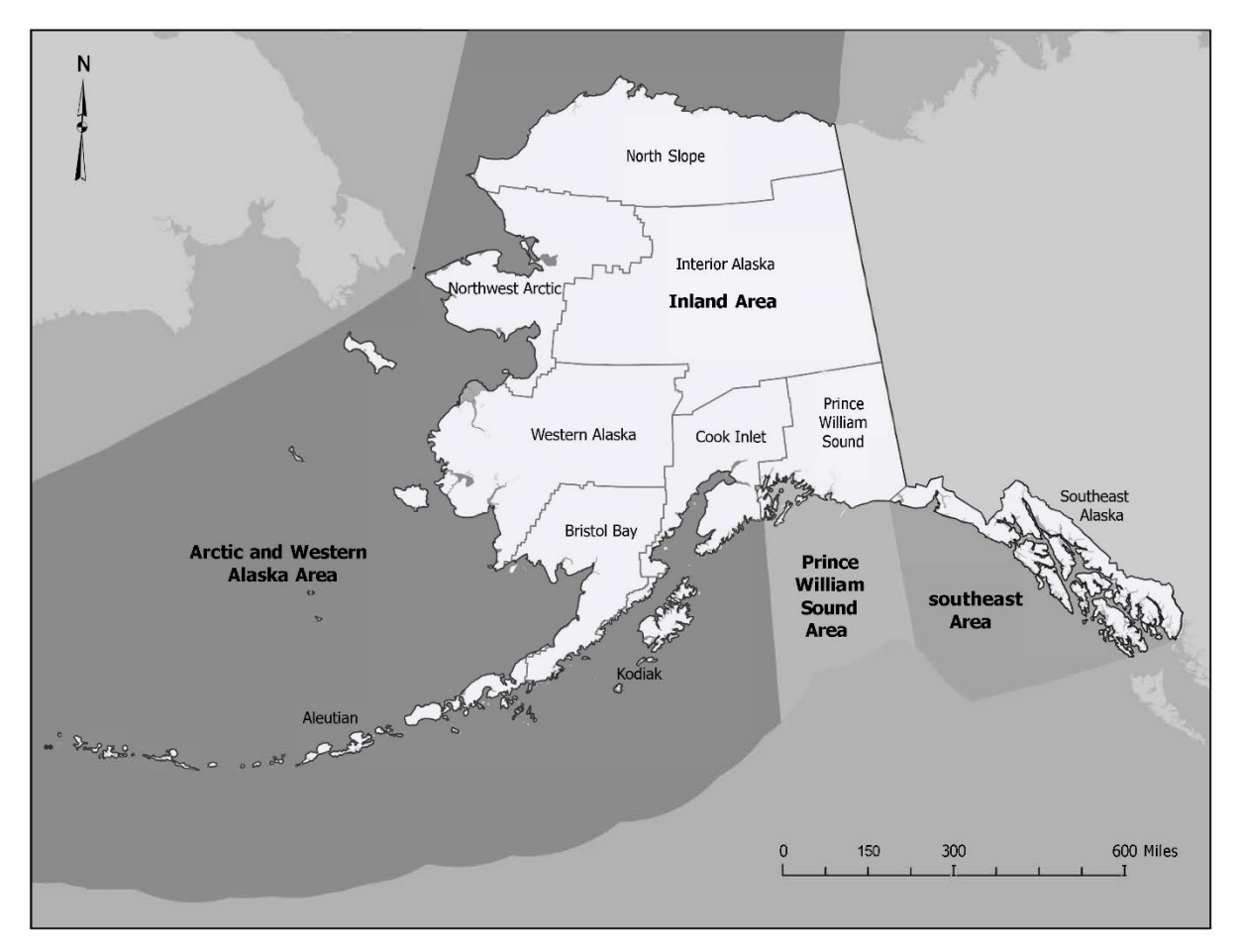
(c) If the department finds that a discharge that could occur beyond the territorial sea would not have a significant adverse effect on the resources of the state or on other interests of the state, the department may adjust the seaward boundary of a geographic zone established in (b) of this section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

(d) In this section, the "Captain of the Port Zone" boundaries are those established in 33 C.F.R. 3.85-10, as revised as of July 2, 2007, and adopted by reference, and 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)



(((Publisher: Figure 1 should precede the history note and authority citation of 18 AAC 75.495)))

18 AAC 75.496(5) is 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;

18 AAC 75.496(6) is amended to read:

(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;

18 AAC 75.496(7) is amended to read:

(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;

18 AAC 75.496(8) is amended to read:

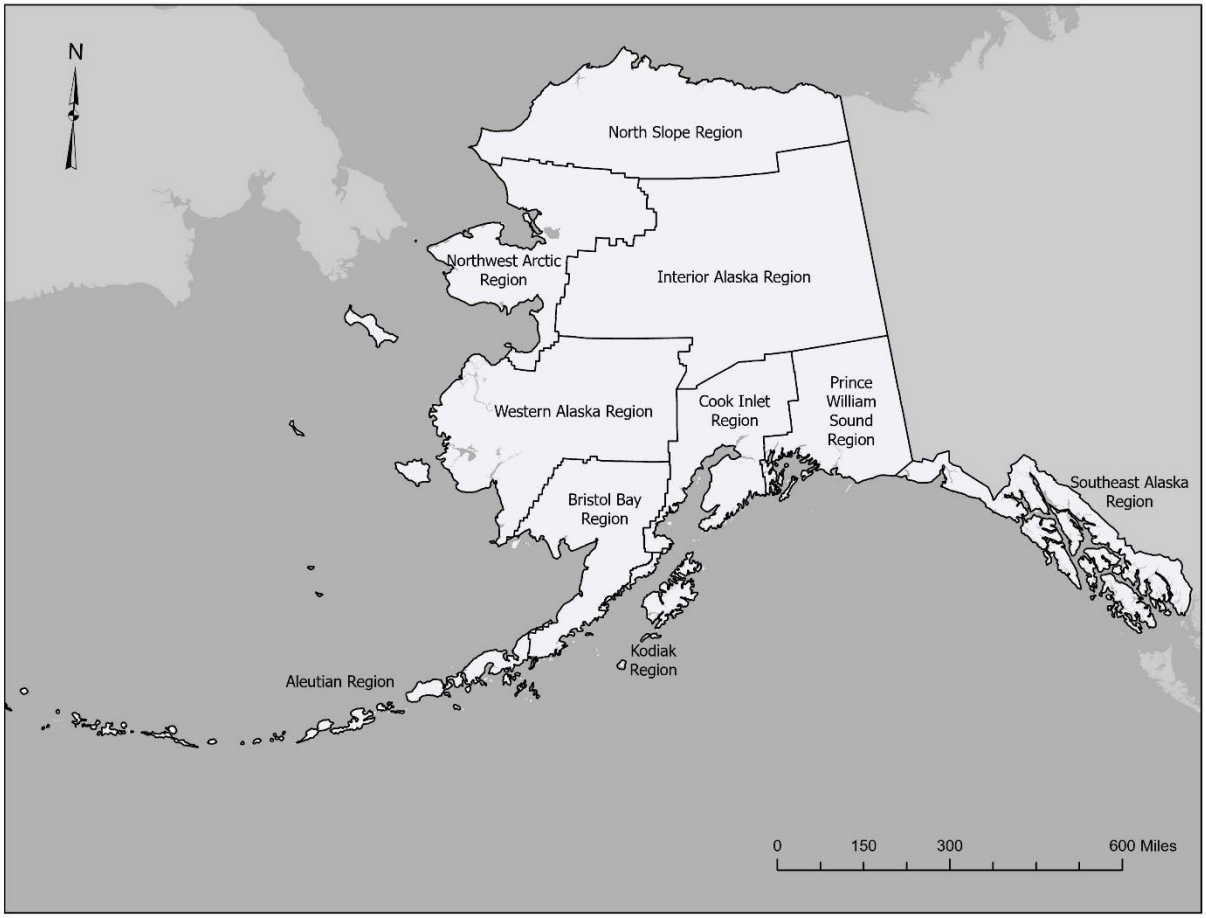
(8) Northwest Arctic Region: that area encompassed by the Northwest Arctic Borough and the **Bering Straits Native Corporation** [BERING STRAITS REGIONAL CORPORATION], including adjacent shorelines and state waters;

(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)



(((Publisher: Figure 1 should precede the history note and authority citation of 18 AAC 75.496)))

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 **<u>18 AAC 75.451(i)</u>** [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(j)** [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 is amended to read:

18 AAC 75.580. Voluntary termination of registration. 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

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 __/__/____;

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 the number of days in the **12-month period** [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 volume produced by the highest producing well for the period for which 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 - 18 AAC 75.453** [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 new paragraphs to read:

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

(202) “fail-safe” means designed so that the equipment defaults to a closed condition in the event of an equipment failure;

(203) “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

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