

**DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**



18 AAC 75

**Oil and Other Hazardous Substances
Pollution Control**

As amended through March 23, 2017

**Bill Walker
Governor**

**Larry Hartig
Commissioner**

IMPORTANT NOTE TO READER

THE REGULATIONS REPRODUCED HERE HAVE BEEN PROVIDED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AS A PUBLIC COURTESY. WHILE EVERY EFFORT HAS BEEN MADE TO ASSURE THE ACCURACY OF THE REPRODUCED VERSION, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION CANNOT GUARANTEE ITS ABSOLUTE ACCURACY. PAPER COPIES OF THE REGULATIONS AS ORIGINALLY FILED BY THE LIEUTENANT GOVERNOR ARE AVAILABLE FROM THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

THE REGULATIONS HAVE AN EFFECTIVE DATE OF MARCH 23, 2017, ARE IN REGISTER 221, AND WILL APPEAR IN OFFICIAL PUBLISHED FORM IN THE APRIL 2017 SUPPLEMENT TO THE ALASKA ADMINISTRATIVE CODE.

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Chapter 75. Oil and Other Hazardous Substances Pollution Control.

Article

1. Oil Pollution Prevention Requirements (18 AAC 75.005 - 18 AAC 75.090)
2. Financial Responsibility for Oil Discharges (18 AAC 75.205 - 18 AAC 75.290)
3. Discharge Reporting, Cleanup, and Disposal of Oil and Other Hazardous Substances (18 AAC 75.300 - 18 AAC 75.396)
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8. Oil Discharge for Scientific Purposes (18 AAC 75.800 - 18 AAC 75.830)
9. General Provisions (18 AAC 75.905 - 18 AAC 75.990)

Editor's notes: Effective 5/14/92, Register 122, the regulations in 18 AAC 75 were comprehensively reorganized and revised. They replace all previous regulations in this chapter and in 18 AAC 20 (Financial Responsibility), which were repealed simultaneously with the adoption of these regulations. The history line at the end of each section does not reflect the history of that provision before the 5/14/92 effective date of this chapter, nor is the section numbering related to the numbering before that date.

Previous amendments to 18 AAC 20 and to this chapter are on file in the Office of the Lieutenant Governor as follows:

Previous amendments to regulations dealing with financial responsibility, which now appear at 18 AAC 75.205 - 18 AAC 75.275, are found at Register 79, 9/9/81; and at Register 103, 8/6/87.

Previous amendments to regulations dealing with oil and hazardous substances pollution control are found at Register 45, 4/15/73; Register 62, 4/23/77; Register 63, 9/16/77; Register 66, 4/19/78; Register 79, 9/9/81; Register 94, 5/2/85; Register 103, 8/6/87; Register 110, 7/89; and at Register 115, 8/17/90.

The regulations in 18 AAC 75.300 - 18 AAC 75.396, grouped under Article 3, effective January 22, 1999 and distributed in Register 149, constitute a comprehensive reorganization and revision of material formerly set out at 18 AAC 75.300 - 18 AAC 75.370, which also had been grouped at Article 3. The regulations at 18 AAC 75.300 - 18 AAC 75.396 replace former 18 AAC 75.300 - 18 AAC 75.370, which were repealed simultaneously with the adoption of these regulations. The history line at the end of each section does not reflect the history of the replaced provisions before January 22, 1999. Some section numbers in this revision were used for previous regulations, but current sections are not necessarily related to previous sections with the same section number. The earlier version of 18 AAC 75.300 - 18 AAC 75.370 may be reviewed at the Office of the Lieutenant Governor, and may be found at Register 122, effective May 14, 1992.

Article 1. Oil Pollution Prevention Requirements.**Section**

- 005. Responsibility
- 007. General oil pollution prevention requirements
- 015. Waiver
- 020. Oil Discharge Prevention Training & Recordkeeping
- 025. Transfer requirements
- 027. Requirements for laden tank vessels
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- 045. Operating requirements for exploration and production facilities
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- 055. Leak detection, monitoring, and operating requirements for crude oil transmission pipelines
- 065. Field-constructed aboveground oil storage tank requirements
- 066. Shop-fabricated aboveground oil storage tanks
- 075. Secondary containment requirements for aboveground oil storage tanks
- 080. Requirements for facility oil piping
- 085. Requirements for railroad tank cars and operations by rail
- 090. (Repealed)

18 AAC 75.005. Responsibility. The owner or operator of a tank vessel, oil barge, pipeline, oil terminal, railroad tank car, exploration facility, or production facility subject to the requirements of AS 46.04.030 or AS 46.04.055(j) is responsible for meeting the applicable requirements of this chapter and for preventing the discharge of oil into waters or onto land of the state. (Eff. 5/14/92, Register 122; am 12/14/2002, Register 164; am 12/30/2006, Register 180)

Authority:	AS 46.03.020	AS 46.04.030	AS 46.04.070
	AS 46.03.740	AS 46.04.050	

18 AAC 75.007. General oil pollution prevention requirements. (a) Except where application of the requirements of 18 AAC 75.005 - 18 AAC 75.085 would be preempted by federal law, those requirements apply to each facility or operation for which an approved oil discharge prevention and contingency plan is required under AS 46.04.030 or AS 46.04.055(j).

(b) A vessel, barge, pipeline, railroad tank car, or other facility subject to the applicable requirements of this chapter must be equipped and operated in accordance with this chapter and other state and federal law applicable to the prevention of an oil discharge. A railroad must be operated in compliance with applicable federal railroad safety regulations.

(c) If a requirement of 18 AAC 75.005 – 18 AAC 75.085 and a corresponding requirement of federal law differ and application of the requirement of 18 AAC 75.005 – 18 AAC 75.085 would not be preempted by federal law, the more stringent requirement applies.

(d) Repealed 12/30/06.

(e) The owner or operator shall have in place programs designed to ensure that each drill operator, each person who has navigational, towline, security, or maintenance duties, and any other person directly responsible for an activity that might result in a violation of this chapter is free of substance-abuse or medical condition that would impair that person's ability to do that person's job. The requirements of this section may be met

(1) for a railroad, by a program in accordance with 49 C.F.R. Part 219, as revised as of October 1, 2005 and adopted by reference;

(2) for a pipeline, by a program in accordance with 49 C.F.R. Part 199, as revised as of October 1, 2005 and adopted by reference; or

(3) for a vessel, by a program in accordance with 49 C.F.R. Part 16, as revised as of October 1, 2005 and adopted by reference.

(f) The owner or operator shall provide security measures and surveillance appropriate to each component of the operation to minimize the risk of vandalism, sabotage, and unauthorized entry.

(g) Repealed 12/30/2006.

(h) Repealed 12/30/2006. (Eff. 5/14/92, Register 122; am 4/4/97, Register 142; am 12/14/2002, Register 164; am 12/30/2006, Register 180)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070
AS 46.04.055

18 AAC 75.015. Waiver. (a) The department may waive a requirement of 18 AAC 75.005 – 18 AAC 75.085 if the owner or operator demonstrates to the department’s satisfaction that an equivalent level of protection will be achieved by using a technology or procedure other than the technology or procedure required by 18 AAC 75.005 – 18 AAC 75.085. (Eff. 5/14/92, Register 122; am 5/26/2004, Register 170; am 12/30/2006, Register 180)

Authority: AS 46.03.020 AS 46.04.050 AS 46.04.070
AS 46.04.030

18 AAC 75.020. Oil discharge prevention training & recordkeeping. (a) The owner or operator shall have in place personnel training programs designed to ensure that all personnel with job duties directly involving inspection, maintenance, or operation of oil storage and transfer equipment regulated under 18 AAC 75.005 - 18 AAC 75.085 are appropriately and regularly trained regarding company and state oil pollution prevention measures that are applicable to each position’s duties.

(b) Personnel training programs must include:

(1) a listing of each position with job duties listed under (a) of this section and the training and level of knowledge appropriate to that position;

(2) a listing of any licenses, certifications, or other prerequisites needed to hold each position listed in (1) of this subsection; and

(3) a listing of training objectives and the means of achieving them, including training subjects, training schedules, frequency, and type.

(c) Completion of training required by this subsection shall be verified by

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

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

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

(d) The owner or operator shall maintain for the life of the facility or operation, a history of all known oil discharges over 55 gallons within the state, including the source, cause, amount, and corrective action taken. Copies of records shall be provided to the department upon request.

(e) The owner or operator shall prepare and maintain records in retrievable form to document training, inspections, tests, maintenance, and repairs required by 18 AAC 75.005 - 18 AAC 75.085. Unless specified otherwise, records must be kept for at least five years and copies shall be provided to the department upon request. (Eff. 12/30/2006, Register 180)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.025. Transfer requirements. (a) The owner or operator of an oil terminal facility, railroad, tank vessel, or oil barge shall take all appropriate measures to prevent spills or overfilling during a transfer of oil, including reduced loading rates at the beginning and end of a transfer.

(b) Unless it is technically unfeasible to do so, an oil containment boom appropriate for local conditions must be deployed in an effective manner around a tank vessel or oil barge during the transfer of

(1) crude oil;

(2) other persistent products; and

(3) oily ballast water.

(c) Except for crude oil washing, tank cleaning operations may not be conducted during cargo offloading.

(d) The owner or operator shall ensure that each person involved in a transfer is capable of clearly communicating orders to stop a transfer at any time during the transfer.

(e) A positive means must be provided to stop a transfer in the shortest possible time consistent with the best commercially available technology.

(f) Before beginning a transfer to or from an area not protected by secondary containment, the owner or operator shall ensure that all valves in the transfer system have been checked to ensure that they are in the correct position, and that all manifolds not in use are blank flanged or capped. Where feasible, the owner or operator shall also inspect for damage or defects all piping and hoses used in the transfer before and at least once during each transfer.

(g) The lowermost drain and all outlets of any tank car or tank truck must be visually examined for leakage before filling and before departure. All tank car or tank truck manifolds must be blank flanged or capped, and valves must be secured before leaving the transfer area.

(h) All aboveground transfer piping that is used to transfer oil to or from docks or vessels must be visually checked before and during each transfer or monthly, whichever is less frequent.

(i) For purposes of (b) of this section, deployment of an oil containment boom is technically unfeasible if

(1) expected tidal currents and other local environmental conditions preclude the effective configuration and operation of the oil containment boom due to entrainment or splash over; or

(2) the physical facility layout precludes the effective configuration of the oil containment boom around the tank vessel or oil barge.

(j) In this section, "transfer" means any movement of oil within an oil terminal facility or between an oil terminal facility and a railroad tank car, tank truck, tank vessel, or oil barge by means of pumping, gravity, or displacement. (Eff. 5/14/92, Register 122; am 10/28/2000, Register 156; am 12/14/2002, Register 164; am 12/30/2006, Register 180)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070
AS 46.04.055

18 AAC 75.027. Requirements for laden tank vessels. (a) In addition to meeting the applicable requirements of 18 AAC 75.007 - 18 AAC 75.025, a laden tank vessel must carry or have ready access to sufficient oil transfer equipment to facilitate lightering to and from other vessels. The oil transfer equipment must be sufficient to lighter the volume of the largest cargo tank within 24 hours.

(b) The owner or operator shall ensure that each laden tank vessel has on board a person who is designated as an oil spill prevention and response officer and is responsible for training and drilling the crew on state and federal oil pollution prevention and response requirements.

(c) If the master is not fluent in English, a person fluent in English and in the master's language must be immediately available to the bridge of any laden tank vessel when underway in state waters.

(d) The owner or operator shall ensure that measures are in place that allow the prompt detection of an oil discharge, including

(1) visual lookouts;

(2) the sounding of all cargo tanks to check cargo and water levels in the tanks after an intentional or unintentional grounding, collision, or allision, and,

(3) where technically feasible, electronic leak detection systems.

(e) A tank vessel under escort by another vessel must, at all times, be operated in a manner that permits the escort vessel to be available immediately to provide the intended assistance to the tank vessel.

(f) While in state waters, towing line must be made up and prepared for rapid deployment to a towing vessel. The tow line must be fitted to allow tow vessels commonly available in the area of operation to take the vessel in tow rapidly. For a vessel 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)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.037. Requirements for laden oil barges. (a) In addition to meeting the applicable requirements of 18 AAC 75.007 - 18 AAC 75.025, a laden oil barge must carry or have ready access to sufficient oil transfer equipment to facilitate lightering to and from other vessels. The oil transfer equipment must be sufficient to lighter the volume of the largest cargo tank within 24 hours.

(b) The owner or operator of a laden oil barge shall ensure that each barge or vessel towing a barge has on board a person who is designated as an oil spill prevention and response officer and is responsible for training and drilling the crew on state and federal oil pollution prevention and response requirements.

(c) If the master is not fluent in English, a person fluent in English and in the master's language must be immediately available to any vessel towing an oil laden barge.

(d) The owner or operator shall ensure that measures are in place that allow the prompt detection of an oil discharge, including visual inspections of the barge and the area around the barge, and the sounding of all cargo tanks to check cargo and water levels in the tanks after an intentional or unintentional grounding collision, or allision.

(e) The owner or operator shall inspect towing equipment every two months and shall record the results of each inspection and any actions taken to resolve problems discovered during an inspection.

(f) The owner or operator shall provide an adequate means of recovering a barge that breaks free of its towing vessel. The recovery means must be capable of being used by other vessels if the towing vessel is lost or incapacitated. (Eff. 5/14/92, Register 122; am 12/30/2006, Register 180)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.045. Operating requirements for exploration and production facilities.

(a) In addition to the applicable requirements of 18 AAC 75.007 - 18 AAC 75.025, the owner or operator of an exploration or production facility shall collect and store oil produced during a formation flow test or other drilling operation in a manner that prevents the oil from entering the land or waters of the state.

(b) In state waters, a marine structure used for drilling must be inspected for fatigue and structural integrity as required by 30 C.F.R. Part 250, Subpart I, revised as of July 1, 2001 and adopted by reference. The inspection must be conducted after installation of the structure and before drilling or production operations begin. The owner or operator shall submit to the department a report of the inspection results and any corrective actions taken.

(c) Closure valves for pipelines leaving marine structures must be located at a protected location that isolates the pipeline from the structure if a discharge or other emergency occurs and must function both manually and remotely as part of an emergency shutdown system.

(d) The owner or operator of an exploration or production facility shall provide, at a minimum,

(1) containment and collection devices such as drip pans and curbs for offshore exploration and production wells; and

(2) wellhead sumps for exploration and production wells located onshore or on artificial islands or ice islands; for exploration and production wells drilled and completed after December 30, 2008 and located onshore or on artificial islands or ice islands, wellhead sumps shall be designed and installed to be sufficiently impermeable.

(e) A marine structure used for oil production other than an artificial island must have a sufficiently impermeable deck with catch tanks or other devices adequate to contain, collect, and divert spilled oil. The catch tank must have adequate storage capacity to contain anticipated and

accidental discharges of oil and high-liquid-level alarms that will immediately notify the operator if a high liquid level develops.

(f) Aboveground oil storage tanks, including bulk fuel tanks, must meet the applicable requirements of 18 AAC 75.065, 18 AAC 75.066, and 18 AAC 75.075.

(g) Piping associated with an exploration or production facility must meet the applicable requirements of 18 AAC 75.047 and 18 AAC 75.080. (Eff. 5/14/92, Register 122; am 12/30/2006, Register 189)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.047. Requirements for flow lines at production facilities. (a) The requirements of this section apply to each flow line associated with a production facility.

(b) Unless the owner or operator must comply with a more stringent requirement set out in this section, the owner or operator shall ensure that the design and construction of each flow line placed in service after December 30, 2008 is consistent with one of the following standards,

(1) American Society of Mechanical Engineers, *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids*, 2002 Edition (ASME B31.4-2002); adopted by reference;

(2) ASME *Gas Transmission and Distribution Piping Systems*, 2003 Edition (ASME B31.8-2003), adopted by reference;

(3) another equivalent and nationally recognized standard approved by the department.

(c) No later than December 30, 2007, the owner or operator shall ensure that measures for controlling corrosion in flow lines are undertaken, including, at a minimum,

(1) a corrosion monitoring and control program consistent with Chapter VIII of *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids* (ASME B31.4-2002) adopted by reference in (b)(1) of this section;

(2) unless a more stringent requirement is set out in this section, external corrosion control of buried or submerged flow lines consistent with NACE International's *Standard Recommended Practice-Control of External Corrosion on Underground or Submerged Metallic Piping Systems*, 2002 edition (NACE, RP0169-2002), adopted by reference;

(3) external corrosion control of aboveground flow lines by the application of a protective coating, by the use of corrosion-resistant alloys or by another method approved by the department, unless the operator demonstrates by test, investigation, or experience appropriate to the environment of the flow line segment, that the anticipated extent of corrosion will not affect the flow line's fitness for service; and

(4) a program designed to minimize internal corrosion, including, as appropriate, one or more of the following:

- (A) removal of foreign material by scraping or pigging;
- (B) treatment of residual water or dehydration;
- (C) injection of inhibitors, biocides, or other chemical agents;
- (D) removal of dissolved gases by chemical or mechanical means;
- (E) gas blanketing;
- (F) continuous internal coating or lining; or
- (G) another method approved by the department; and

(d) No later than December 30, 2007, the operator shall

(1) completely contain the entire circumference of the flow line and provide the interstitial space with a leak detection system approved by the department; or

(2) have in place a preventative maintenance program that ensures the continued operational reliability of any flow line system component affecting quality, safety, and pollution prevention; the owner or operator shall ensure that the program,

(A) for submerged flow lines, is consistent with Chapters VII through IX of *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids*, (ASME B31.4-2002), adopted by reference in (b)(1) of this section;

(B) for buried flow lines, is consistent with Chapters VII and VIII of *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids* (ASME B31.4-2002), adopted by reference in (b)(1) of this section;

(C) for aboveground flow lines, as appropriate, a program consistent with

(i) the requirements of American Petroleum Institute's (API) *Piping Inspection Code, Inspection, Repair, Alteration, and Rerating of In-service Piping Systems*, Second Edition, October 1998, Addendum 1, February 2000, Addendum 2, December 2001, and Addendum 3, August 2003, adopted by reference excluding Section 8;

(ii) Chapters VII and VIII of *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids* (ASME B31.4-2002), (API 570) adopted by reference in (b)(1) of this section; and

(D) for all flow lines, procedures to review proposed changes in operations to evaluate potential impacts on pipe integrity.

(e) Line markers shall be installed no later than December 30, 2007 and maintained over each onshore flow line at each road crossing and at one-mile intervals along the remainder of the pipe to identify and, for buried pipe, properly locate each flow line.

(f) On or after December 30, 2006, flow lines removed from service for more than one year must be free of accumulated oil and isolated from the system. The owner or operator shall notify the department when flow lines are removed from service and when the actions required by this subsection are completed. For purposes of this subsection, a flow line removed from service is free of accumulated oil if

(1) in the case of a piggable pipe, a cleaning pig is run through the pipe;

(2) in the case of a pipe that is not piggable but that can be drained entirely of its contents by gravity, the pipe is completely drained of oil; or

(3) in all other cases, air is blown through the pipe or another method is used to flush or evacuate standing oil accumulated in low spots; and

(g) Aboveground flow lines must be supported consistent with the requirements of Paragraph 421 of *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids* (ASME 31.4-2002), adopted by reference in (b)(1) of this section.

(h) The owner or operator shall verify compliance with the requirements of (c) and (d)(2) of this section by documentation, including

(1) for corrosion control measures under (c) of this section, documentation to validate the effectiveness of those measures, including

(A) dates and locations of inspections and tests;

(B) inspections and test data evaluation including analysis of

(i) weight loss coupons and electrical resistance probes; and

(ii) corrosion inspections;

(C) data and analysis of chemical optimization activities;

(D) analysis of corrosion trends that affect the fitness for service of the flow line; and

(E) a list and description of repair activities undertaken; and

(2) for a preventative maintenance program under (d)(2) of this section, documentation to validate the effectiveness of that program, including

(A) the procedures for program implementation under (d)(2) of this section;

(B) dates and locations of inspections and tests;

(C) inspections and test data evaluation including analysis, pipewall thickness measurements and remaining life calculations; and

(D) internal audit procedures of the program, including descriptions of controls and corrections for identified defects.

(i) In this section,

(1) “buried” means covered or in contact with soil;

(2) “defects”

(A) means an imperfection listed in Paragraph 451.6.2 of *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids*, ASME B.31.4-2002, adopted by reference in (b)(1) of this section; and

(B) has the meaning given in Section 3.10 of *Piping Inspection Code, Inspection, Repair, Alteration, and Rerating of In-service Piping Systems*, Second Edition (API 570), adopted by reference in (d)(2) of this section;

(3) “removed from service” means not in regular use for the service intended and not included in a regular maintenance and inspection program in accordance with (c) and (d) of this section.

(4) “submerged” means located below the surface of waters of the state. (Eff.12/30/2006, Register 180; am 3/23/2017, Register 221)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

Editor’s Note: The publications adopted by reference in 18 AAC 75.047 may be reviewed at the department’s offices in Anchorage, Fairbanks or Juneau, or may be obtained directly from the appropriate publisher. The mailing address, telephone number, facsimile number, and website, if available, for each publisher are as follows: American Society of Mechanical Engineers (ASME), 22 Law Drive, P.O. Box 2300, Fairfield, New Jersey 07007-2300; phone (800) 843-2763; fax (201) 882-1717; website: <http://www.asme.org/>; (NACE) International, 1440 South Creek Drive, Houston, Texas 77084-4906; phone (800) 797-6223; fax

(281) 228-6300; website: <http://www.nace.org>; American Petroleum Institute (API), 1220 L Street NW, Washington, DC 20005-4070; phone (202) 682-8000; fax (303) 397-2740; website: <http://www.api-ec.api.org>.

18 AAC 75.055. Leak detection, monitoring, and operating requirements for crude oil transmission pipelines. (a) A crude oil transmission pipeline must be equipped with a leak detection system capable of promptly detecting a leak, including

- (1) if technically feasible, the continuous capability to detect a daily discharge equal to not more than one percent of daily throughput;
 - (2) flow verification through an accounting method, at least once every 24 hours;
- and
- (3) for a remote pipeline not otherwise directly accessible, weekly aerial surveillance, unless precluded by safety or weather conditions.

(b) The owner or operator of a crude oil transmission pipeline shall ensure that the incoming flow of oil can be completely stopped within one hour after detection of a discharge.

(c) If aboveground oil storage tanks are present at the crude oil transmission pipeline facility, the owner or operator shall meet the applicable requirements of 18 AAC 75.065, 18 AAC 75.066 and 18 AAC 75.075.

(d) For facility oil piping connected to or associated with the main crude oil transmission pipeline, the owner or operator shall meet the requirements of 18 AAC 75.080. (Eff. 5/14/92, Register 122; am 12/30/2006, Register 180)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.065. Field-constructed aboveground oil storage tank requirements. (a) Unless the owner or operator must comply with a more stringent requirement set out in this section, the owner or operator of an oil terminal, crude oil pipeline, exploration, or production facility shall maintain and inspect each field-constructed aboveground oil storage tank consistent with the requirements, as appropriate of American Petroleum Institute's (API)

(1) *Tank Inspection, Repair, Alteration, and Reconstruction*, Third Edition, December 2001, and Addendum 1, September 2003 (API 653), adopted by reference; or

(2) *Recommended Practice for Setting, Maintenance, Inspection, Operation and Repair of Tanks in Production Service*, Fifth Edition, August 1997 (API RP 12R1) adopted by reference.

(b) Inspection intervals for a field constructed aboveground oil storage tank

- (1) may be reduced by the department

- (A) for a field-constructed aboveground oil storage tanks older than 30 years;
- (B) for a field-constructed aboveground oil storage tank that is riveted or bolted;
- (C) for a field-constructed aboveground oil storage tanks with a demonstrated structural, corrosion, or foundation problems; or
- (D) after a significant seismic event;

(2) may not be based upon similar service as specified in Section 6.4.2 of *Tank Inspection, Repair, Alteration, and Reconstruction*, (API 653), adopted by reference in (a) of this section; and

(3) may be based upon risk-based inspection as specified in Section 6.4.3 of *Tank Inspection, Repair, Alteration, and Reconstruction*, (API 653), adopted by reference in (a) of this section, if the risk based inspection assessment is submitted to the department for approval; the assessment must include

(A) a quantitative risk assessment, signed by a registered engineer and conducted in accordance with the American Petroleum Institute's *Risk Based Inspection*, First Edition, May 2002 (API RP 580), adopted by reference; and

(B) an inspection schedule with inspection intervals not to exceed 30 years.

(c) An onshore elevated field-constructed aboveground oil storage tank whose configuration allows external inspection of more than 50 percent of the tank bottom is not required to undergo an internal inspection if

(1) an external integrity inspection is substituted, and performed in accordance with *Tank Inspection, Repair, Alteration, and Reconstruction*, (API 653), adopted by reference in (a) of this section, or *Recommended Practice for Setting, Maintenance, Inspection, Operation and Repair of Tanks in Production Service*, (API RP 12R1), adopted by reference in (a) of this section; and

(2) the external integrity inspection includes an inspection and a nondestructive integrity test of the tank, including the tank bottom.

(d) Records and documentation

(1) required by this section shall be maintained by the owner or operator, except as provide in (2) of this subsection, for the service life of the tank and shall be provided to the department for inspection and copying upon request.

(2) of inspections required as specified in Section 6.3.1 of *Tank Inspection, Repair, Alteration, and Reconstruction* (API 653), adopted by reference in (a) of this section,

shall be maintained by the owner or operator for five years and shall be provided to the department for inspection and copying upon request.

(e) The owner or operator shall notify the department

(1) as soon as practical before a field-constructed aboveground oil storage tank undergoes major repair or major alteration, as defined in Section 12.3.1.2 of *Tank Inspection, Repair, Alternation, and Reconstruction*, (API 653), adopted by reference in (a) of this section; and

(2) before a field-constructed aboveground oil storage tank resumes service following major repair or alteration as defined in Section 12.3.1.2 of *Tank Inspection, Repair, Alternation, and Reconstruction*, (API 653), adopted by reference in (a) of this section.

(f) A field-constructed aboveground oil storage tanks served by an internal steam heating systems must be designed to control leakage through defective heating coils. Condensate lines must be monitored, passed through an oil separating device, or passed through a retention system.

(g) An internal lining system installed and used to control corrosion or to meet the requirements of (h) of this section, must be installed in accordance with American Petroleum Institute's (API).

(1) *Lining of Aboveground Petroleum Tank Bottoms*, First Edition, 1991, (API RP 652) adopted by reference, for internal lining systems installed before December 30, 2008; or

(2) *Lining of Aboveground Petroleum Storage Tank Bottoms*, Third Edition, October 2005 (API RP 652), adopted by reference, for internal lining systems installed after December 30, 2008.

(h) An owner or operator of an installation placed in service before May 14, 1992 shall

(1) equip each field-constructed aboveground oil storage tank with one or more of the following:

(A) a leak detection system that an observer from outside the tank can use to detect leaks in the bottom of the tank, such as secondary catchment under the tank bottom with a leak detection sump, a sensitive gauging system, or other leak detection system approved by the department;

(B) cathodic protection in accordance with the American Petroleum Institute's (API) *Cathodic Protection of Aboveground Petroleum Storage Tanks*, First Edition, 1991 (API RP 651), adopted by reference;

(C) a thick film liner in accordance with *Lining of Aboveground Petroleum Storage Tank Bottoms*; First Edition, 1991 (API R 652), adopted by reference in (g)(1) of this section;

(D) another leak detection or spill prevention system approved by the department; and

(2) operate and maintain, after December 30, 2007, the cathodic protection system on each field-constructed aboveground oil storage tank consistent with Section 11 of *Standard Recommended Practice: External Cathodic Protection of On-Grade Carbon Steel Storage Tank Bottoms*, (NACE RP0193-2001), adopted by reference in (j) of this section; a corrosion expert or qualified cathodic protection tester shall perform a cathodic protection survey specified under that standard.

(i) The owner or operator of an installation placed in service on or after May 14, 1992 and before December 30, 2008 shall meet each of the following requirements:

(1) each field-constructed aboveground oil storage tank must be constructed and installed in compliance with

(A) the American Petroleum Institute's (API)

(i) *Welded Steel Tanks for Oil Storage*, Eighth Edition, 1988 (API 650), adopted by reference;

(ii) *Specifications for Field Welded Tanks for Storage of Production Liquids*, Ninth Edition, 1989 (API Spec 12D), adopted by reference;

(iii) *Specifications for Shop Welded Tanks for Storage of Production Liquids*, 10th Edition, 1989 (API Spec 12F), adopted by reference; and

(iv) *Specifications for Fiberglass Reinforced Tanks*, First Edition, 1986 (API Spec 12P), adopted by reference; or

(B) another equivalent standard approved by the department;

(2) a field-constructed aboveground oil storage tank may not be of riveted or bolted construction;

(3) cathodic protection or another approved corrosion control system must be installed, to protect the bottom of each field-constructed aboveground oil storage tank from external corrosion where local soil conditions warrant; after December 30, 2007, operation and maintenance of the cathodic protection system must be consistent with Section 11 of *External Cathodic Protection of On-Grade Carbon Steel Storage Tank Bottoms* (NACE RP0193-2001), adopted by reference in (j) of this section; a corrosion expert or qualified cathodic protection tester shall perform a cathodic protection survey specified under that standard;

(4) each field-constructed aboveground oil storage tank must be equipped with one or more of the following leak detection systems that an observer from outside the tank can use to detect leaks in the bottom of the tank:

- sump;
- (A) secondary catchment under the tank bottom with a leak detection
 - (B) a sensitive gauging system;
 - (C) another leak detection system approved by the department.

(j) An owner or operator of an installation placed in service after December 30, 2008 shall meet each of the following requirements:

(1) each field-constructed aboveground oil storage tank must be constructed and installed in compliance with

(A) the American Petroleum Institute's (API) *Welded Steel Tanks for Oil Storage*, 10th Edition, November 1998, Addendum 1, January 2000, Addendum 2, November 2001, and Addendum 3, September 2003 (API 650), adopted by reference;

(B) the American Petroleum Institute's (API) *Specifications for Field Welded Tanks for Storage of Production Liquids*, 10th Edition, November 1994 (API Spec 12D), adopted by reference; or

(C) another equivalent standard approved by the department;

(2) a field-constructed aboveground oil storage tank may not be riveted or bolted construction;

(3) a cathodic protection system or another approved corrosion control system shall be installed to protect the bottom of each field-constructed aboveground oil storage tank from external corrosion unless deemed not necessary by an evaluation conducted by a corrosion expert in accordance with Chapter 5 of the American Petroleum Institute's (API) *Cathodic Protection of Aboveground Petroleum Storage Tanks*, Second Edition, December 1997 (API RP 651), adopted by reference; a cathodic protection system must be

(A) designed by a corrosion expert;

(B) installed under the supervision of a corrosion expert;

(C) installed, operated, and maintained in accordance with NACE International's *Standard Recommended Practice: External Cathodic Protection of On-Grade Carbon Steel Storage Tank Bottoms*, 2001 edition (NACE RP0193-2001), adopted by reference: a corrosion expert or qualified cathodic protection tester shall perform a cathodic protection survey specified under that standard; and

(4) each field-constructed aboveground oil storage tank must be equipped with

(A) a leak detection system that

(i) an observer from outside the tank can use to detect leaks in the bottom of the tank; and

(ii) is designed and installed, in accordance with Appendix I of *Welded Steel Tanks for Oil Storage* (API 650), adopted by reference in (1) of this subsection; or

(B) another leak detection system approved by the department.

(k) In addition to the applicable requirements of 18 AAC 75.025, and except as required in (1) of this subsection, the owner or operator of a field constructed aboveground oil storage tank shall ensure that one or more of the following means of preventing overfilling is provided:

(1) high liquid level alarms with signals that sound and display in a manner immediately recognizable by personnel conducting a transfer; an installation placed in service after December 30, 2008 must be in compliance with this paragraph, regardless of whether another means of preventing overfilling is provided;

(2) high liquid level automatic pump shutoff devices set to stop flow at a predetermined tank content level;

(3) a means of immediately determining the liquid level of each bulk storage tank, if the liquid level is closely monitored during a transfer;

(4) a system approved by the department which will immediately notify the operator of high liquid levels.

(l) Overfill protection devices must be tested before each transfer operation or monthly, whichever is less frequent. If monthly testing would necessitate interrupting the operation of a system subject to continuous flow, the owner or operator may substitute monthly inspection and annual testing for the monthly testing of overfill protection devices.

(m) An owner or operator who installs a cathodic protection system after December 30, 2008 on a field-constructed aboveground oil storage tank shall meet the applicable requirements of (j)(3) of this section.

(n) An owner or operator shall maintain the cathodic protection test lead wires on a field-constructed aboveground oil storage tank in a condition that enables electrical measurements to determine the effectiveness of a cathodic protection system.

(o) A field-constructed aboveground oil storage tank removed from service for more than one year must be free of accumulated oil, marked with the words "Out of Service" and the date taken out of service, secured in a manner to prevent unauthorized use, and either blank flanged or otherwise disconnected from facility piping. The owner or operator shall notify the department when a tank is removed from service and when the actions required by this subsection are completed. In this subsection, "removed from service" means not in regular use

for the service intended and not included in a regular maintenance and inspection program in accordance with this section. (Eff. 5/14/92, Register 122; am 5/26/2004, Register 170; am 12/30/2006, Register 180; am 3/23/2017, Register 221)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

Editor's Note: The publications adopted by reference in 18 AAC 75.065 may be reviewed at the department's offices in Anchorage, Fairbanks, or Juneau, or may be obtained directly from the appropriate publisher. The mailing address, telephone number, facsimile number, and website, if available, for each publisher are as follows: American Petroleum Institute (API), 1220 L Street NW, Washington, DC 20005-4070; phone (202) 682-8000; fax (303) 397-2740; website: <http://www.api.org> ; NACE International, 1440 South Creek Drive, Houston, Texas 77084-4906; phone (800) 797-6223; fax (281) 228-6300; website: <http://www.nace.org>.

18 AAC 75.066. Shop-fabricated aboveground oil storage tanks. (a) The owner or operator of a shop-fabricated aboveground oil storage tank placed in service:

(1) on or before December 30, 2008 shall meet the requirements of (f) - (h) of this section;

(2) after December 30, 2008 shall meet the requirements of this section.

(b) Unless the owner or operator must comply with a more stringent requirement set out in this section, the owner or operator shall ensure that

(1) one of the following standards is used for the design and construction of each shop-fabricated aboveground oil storage tank:

(A) Underwriters Laboratories (UL) *Steel Aboveground Tanks for Flammable and Combustible Liquids*, Eighth Edition, dated July 11, 2002 (UL 142), adopted by reference;

(B) Appendix J or American Petroleum Institute's (API) *Welded Steel Tanks for Oil Storage*, 10th Edition, November 1998, Addendum 1, January 2000, Addendum 2, November 2001, Addendum 3, September 2003, (API 650) adopted by reference;

(C) American Petroleum Institute's (API) *Specification for Shop Welded Tanks for Storage of Production Liquids*, Eleventh Edition, November 1994 (API Spec 12F), adopted by reference;

(D) Steel Tank Institute's (STI) *Standard for Aboveground Tanks with Integral Secondary Containment*, revised as of October 21, 2004, (STI F921-03), adopted by reference;

(E) Underwriters Laboratories (UL) *Protected Aboveground Tanks for Flammable and Combustible Liquids*, Second Edition, revised as of December 1, 1999, (UL 2085) adopted by reference;

(2) the design of a shop-fabricated above ground oil storage tank is certified by a registered engineer, and approved by the department as equivalent to a design for which a standard listed in (1) of this subsection is used.

(c) The owner or operator of a vaulted shop-fabricated aboveground oil storage tank shall ensure that the tank has

(1) a discrete secondary containment vault systems

(A) constructed of

(i) seamless, poured concrete that is sealed or lined;

(ii) welded carbon or stainless metal; or

(iii) other impermeable material; and

(B) able to contain 100 percent of the volume of the tank plus any necessary allowance for precipitation; and

(2) sufficient personnel access to allow full physical inspection of all sides of the tank.

(d) The owner or operator of a self-diked shop-fabricated aboveground oil storage tanks shall ensure that the tank

(1) has access that allows visual inspection for corrosion-or damage to the

(A) outer shell of the storage tank; and

(B) interior surfaces of the integral secondary containment dike; and

(2) has, at each tank fill connection, a fixed overfill spill containment system designed to prevent a discharge when a transfer hose or pipe is detached from the tank fill pipe or to divert that discharge into the secondary containment dike;

(3) is equipped with a system for freeing water or spilled fuel from the integral dike and for regular maintenance in accordance with 18 AAC 75.075(c) and (d); and

(4) is equipped with an operating interstitial monitoring system that enables an observer from outside the tank to detect oil leaks from the tank bottom and water accumulation within the secondary containment area

(e) The owner or operator of a double-walled shop-fabricated aboveground oil storage tank shall ensure that the tanks is equipped

(1) with an operating interstitial monitoring system that enables an observer from outside the tank to detect oil leaks and water accumulation;

(2) at each tank fill connection with a fixed overflow spill containment system designed to prevent a discharge when a transfer hose or pipe is detached from the tank fill pipe;

(3) with a system for freeing water or spilled fuel from the interstitial space and for regular maintenance in accordance with 18 AAC 75.075(c) and (d).

(f) Unless the owner or operator must comply with a more stringent requirement set out in this section, the owner or operator of an oil terminal facility, crude oil pipeline, exploration facility, or production facility shall ensure that one of the following standards is used for the maintenance and inspection of shop-fabricated aboveground oil storage tank:

(1) the Steel Tank Institute's (STI) *Standard for the Inspection of Aboveground Storage Tanks*, 3rd Edition, July 2005, (STI SP001), adopted by reference;

(2) the American Petroleum Institute's (API) *Tank Inspection, Repair, Alteration, and Reconstruction*, Third Edition, December 2001, and Addendum 1, September 2003 (API 653), adopted by reference;

(3) another equivalent standard approved by the department.

(g) In addition to the applicable requirements of 18 AAC 75.025, the owner or operator of a shop-fabricated aboveground oil storage tank

(1) shall ensure that the tank is equipped with one or more of the following means of preventing discharges:

(A) high liquid level alarms with signals that sound and display in a manner immediately recognizable by personnel conducting a transfer;

(B) high liquid level automatic pump shutoff devices set to stop flow at a predetermined tank content level;

(C) a means of immediately determining the liquid level of each bulk storage tank, if the liquid level is closely monitored during a transfer;

(D) a system approved by the department which will immediately notify the operator of high liquid levels; and

(2) if the tank is placed in service after December 30, 2008, shall ensure that the tank is equipped, at each tank fill connection, with a fixed overflow spill containment system designed to prevent a discharge when a transfer hose or pipe is detached from the tank fill pipe.

(h) The owner or operator of a shop-fabricated aboveground storage tank shall ensure that each discharge prevention device for the tank is tested before each transfer operation or monthly, whichever is less frequent. If monthly testing would necessitate interrupting the operation of a system subject to continuous flow, the owner or operator may substitute monthly inspection and annual testing for the monthly testing of overfill protection devices. (Eff. 12/30/2006, Register 180)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

Editor's Note: The publications adopted by reference in 18 AAC 75.066 may be reviewed at the department's offices in Anchorage, Fairbanks, or Juneau, or may be obtained directly from the appropriate publisher. The mailing address, telephone number, facsimile number, and website, if available, for each publisher are as follows: Underwriters Laboratories, Inc. (UL), Standards Department, 333 Pfingsten Road, Northbrook, Illinois 60062; telephone (708) 272-8800; fax (708) 272-8129; website: <http://www.ul.com>; Steel Tank Institute (STI), 570 Oakwood Road, Lake Zurich, Illinois 60062; telephone (708) 438-8265, extension 4331; fax (708) 438-8766; website: <http://www.steeltank.com>; American Petroleum Institute (API), 1220 L Street NW, Washington, DC 20005-4070; telephone (202) 682-8000; fax (303) 397-2740; website: <http://www.api.org>.

18 AAC 75.075. Secondary containment requirements for aboveground oil storage tanks. (a) Onshore aboveground oil storage tanks must be located within a secondary containment area that has the capacity to hold the volume of the largest tank within the containment area, plus enough additional capacity to allow for local precipitation. Minimum secondary containment system requirements include

(1) berms, dikes, or retaining walls that are constructed to prevent the release of spilled oil from within the containment area; and

(2) with the exception of the area under a tank, components constructed of, or lined with, materials that are

(A) adequately resistant to damage by the products stored to maintain sufficient impermeability;

(B) resistant to damage from prevailing weather conditions; and

(C) sufficiently impermeable; and

(D) resistant to operational damage.

(3) Repealed 12/30/2006.

(b) In locations where physically feasible, aboveground oil storage tank areas at an offshore exploration or production facility must incorporate a secondary containment method to prevent oil spills from entering the water.

(c) A secondary containment system must be maintained free of debris, vegetation, excessive accumulated water, or other materials or conditions that might interfere with the effectiveness of the system. Facility personnel shall visually check for the presence of oil leaks or spills within secondary containment areas during routine operations, and, unless precluded by safety concerns or weather conditions, shall conduct documented weekly inspections of secondary containment areas, including checking for

- (1) debris and vegetation,
- (2) proper alignment and operation of drain valves,
- (3) visible signs of oil leaks or spills; and
- (4) defects or failures of the secondary containment system.

(d) Drainage of water accumulations from secondary containment areas that discharge directly to the land or waters of the state must be controlled by locally operated, positive close failsafe valves or other positive means to prevent a discharge. Valves must be kept closed and locked when not in use. The owner or operator shall inspect accumulated water before discharging it from a secondary containment area to ensure that no oil will be discharged and shall keep for five years a written record of each drainage operation and whether a sheen was present or not. A discharge of water to land is subject to a cleanup plan approved under 18 AAC 75.360, a corrective action plan approval under 18 AAC 78.260, or a wastewater discharge permit issued under 18 AAC 72. If the discharge of water from a secondary containment area is to surface waters or wetlands, either a permit under 18 AAC 72, a permit under 18 AAC 83, or a certified NPDES permit under 18 AAC 15.120 may be required.

(e) An installation placed in service on or after May 14, 1992 is subject to the following:

(1) impermeable liners or double bottoms that are chemically resistant to damage by the product being stored in the tank must be installed under all tanks, except for tanks containing viscous products exceeding 400 SUS (Saybolt Universal System) at storage temperatures; and

(2) drains and other penetrations through secondary containment areas must be minimized consistent with facility operational requirements.

(f) At an installation placed in service before May 14, 1992, in the event of a known or suspected discharge, the department may require installation of monitoring wells to detect oil or other hazardous substances in the groundwater if the local geology and groundwater conditions allow installation of monitoring wells and if monitoring wells will not substantially increase the risk of contaminating groundwater.

(g) The owner or operator of rail tank car and tank truck loading areas and permanent unloading areas must ensure that those loading and unloading areas

(1) have a secondary containment system designed to contain the maximum capacity of any single compartment of the tank car or tank truck, including containment curbing and a trenching system or drains with drainage to a collection tank or device designed to handle a discharge;

(2) are paved, surfaced, or lined with sufficiently impermeable materials;

(3) are maintained free of debris, vegetation, excessive accumulated water or other materials or conditions that might interfere with the effectiveness of the system;

(4) have warning lights, warning signs, or a physical barrier system to prevent premature vehicular movement; and

(5) are visually inspected before any transfer operation or at least monthly.

(h) Shop-fabricated aboveground oil storage tanks of a vaulted, self-diked, or double-walled design meeting the requirements of 18 AAC 75.066(c), (d), or (e) are not required to be placed within bermed, lined, secondary containment areas if those tanks are equipped with catchments that positively hold any fuel overflow due to tank overflow or divert it into an integral secondary containment area.

(i) In this section, “failsafe” means designed such that the equipment defaults to a closed condition in the event of an equipment failure. (Eff. 5/14/92, Register 122; am 12/30/2006, Register 180)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.080. Requirements for facility oil piping (a) The owner or operator of an oil terminal, crude oil transmission pipeline, exploration facility, or production facility shall ensure that all facility oil piping associated with that facility meets the requirements of this section.

(b) The owner or operator shall maintain metallic facility oil piping containing oil in accordance with a written corrosion control program.

(c) Unless the owner or operator must comply with a more stringent requirement set out in this section, the owner or operator shall ensure that facility oil piping placed in service after December 30, 2008 is designed and constructed in accordance with one of the following standards, as appropriate:

(1) American Society of Mechanical Engineers’ *Process Piping* (ASME B31.3-2004), adopted by reference;

(2) American Society of Mechanical Engineers' *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids*, 2002 Edition (ASME B31.4-2002), adopted by reference;

(3) American Society of Mechanical Engineers' *Gas Transmission and Distribution Piping Systems*, 2003 Edition (ASME B31.8-2003), adopted by reference;

(4) another equivalent standard approved by the department.

(d) The owner or operator shall ensure that buried metallic facility oil piping placed in service between May 14, 1992 and December 30, 2008, is protected from corrosion by installing protective coating and cathodic protection appropriate for local soil conditions and is of all welded construction with no clamped, threaded, or similar connections for lines larger than a one inch nominal pipe size.

(e) The owner or operator shall ensure that buried facility oil piping placed in service after December 30, 2008

(1) is of all welded construction with no clamped, threaded, or similar connections for lines larger than one inch nominal pipe size; and

(2) unless constructed of a corrosion-resistant material approved by the department, is

(A) protected from corrosion by installing protective coating; and

(B) cathodically protected in accordance with (f) of this section.

(f) The owner or operator shall ensure that, after December 30, 2008, cathodic protection systems installed on facility oil piping are

(1) consistent with NACE International's, *Standard Recommended Practice-Control of External Corrosion on Underground or Submerged Metallic Piping Systems*, 2002 edition (NACE RP0169-2002), adopted by reference;

(2) designed by a corrosion expert; and

(3) installed under the supervision of a corrosion expert;

(g) The owner or operator shall ensure that, if a piping segment of a buried facility oil piping installation is exposed for any reason, the segment is carefully examined, for damaged coating or corroded piping in accordance with Section 9.2.6 of *Piping Inspection Code, Inspection, Repair, Alteration, and Rerating of In-service Piping Systems* (API 570), adopted by reference in (j) of this section, if active corrosion is found during that examination,

(1) the owner or operator shall implement actions for control of future corrosion; and

(2) significant repairs or replacements must meet the requirements of (c) and (e) of this section.

(h) An owner or operator of a buried facility oil piping installation of metallic construction without cathodic protection shall ensure that the piping

(1) is electrically inspected by a corrosion expert for active corrosion at least once every three years, but with intervals between inspections not exceeding 39 months; and

(2) in areas in which active corrosion is found, cathodically protected in accordance with (d) or (f) of this section, as appropriate;

(i) The owner or operator shall ensure that aboveground facility oil piping is supported consistent with the requirements of Paragraph 321 of *Process Piping*, (ASME B31.3-2004), adopted by reference in (c) of this section.

(j) After December 30, 2007, unless the owner or operator must comply with a more stringent requirement set out in this section, the owner or operator shall ensure that all facility oil piping is maintained and inspected under

(1) a program developed in accordance with the requirements of the American Petroleum Institute's (API) *Piping Inspection Code, Inspection, Repair, Alteration, and Rerating of In-service Piping Systems*, Second Edition, October 1998, Addendum 1, February 2000, Addendum 2, December 2001, and Addendum 3, August 2003, (API 570) adopted by reference; or

(2) another equivalent program approved by the department.

(k) Unless the owner or operator must comply with a more stringent requirement set out in this section, the operation and maintenance of a cathodic protection system on facility oil piping must

(1) be consistent with Section 10 of *Standard Recommended Practice: Control of External Corrosion on Underground or Submerged Metallic Piping Systems*, (NACE RP0169-2002), adopted by reference in (f) of this section;

(2) include a cathodic protection survey by a corrosion expert or qualified cathodic protection tester; and

(3) include maintenance of test lead wires in a condition that enables electrical measurements to be taken to determine the effectiveness of a cathodic protection system;

(l) The owner or operator of aboveground facility oil piping, other than piping specified in (m) of this section, shall ensure that the piping is protected from atmospheric corrosion by the application of a protective coating or by the use of corrosion-resistant material unless the owner or operator demonstrates by test, investigation, or experience appropriate to the environment of the piping segment that the anticipated extent of corrosion will

(1) only be a light surface oxide; or

(2) not affect the safe operation of the piping before the next scheduled inspection under a program developed under (j) of this section;

(m) The owner or operator of aboveground facility oil piping located outside a sufficiently impermeable deck onboard a marine structure or at a soil-to-air interface shall ensure that the piping is protected against external corrosion through the application of a protective coating or by the use of corrosion-resistant materials.

(n) The owner or operator of aboveground facility oil piping and valves must ensure that the piping and valves are

(1) visually checked for leaks or damage during routine operations or at least monthly, and

(2) appropriately protected from damage by vehicles.

(o) The owner or operator of facility oil piping that is removed from service for more than one year shall ensure that the facility oil piping is free of accumulated oil, identified as to origin, marked on the exterior with the words "Out of Service" and the date taken out of service, secured in a manner to prevent unauthorized use, and either blank flanged or otherwise isolated from the system. For piping removed from service after December 30, 2006, the owner or operator shall notify the department when facility oil piping is removed from service and when the actions required by this subsection are completed.

(p) In this section,

(1) "active corrosion" means continuing corrosion that, unless controlled, could result in a spill;

(2) "buried" means covered or in contact with soil;

(3) "protective coating" means a durable external coating that is applied to piping and that

(A) isolates the external surface of the piping from the environment;

(B) has sufficient adhesion to effectively resist underfilm migration of moisture;

(C) is sufficiently ductile to resist cracking in the range of temperatures encountered during bending, handling, installation, and operation;

(D) has sufficient strength and adhesion, or is otherwise protected, to resist mechanical damage;

(E) resists degradation throughout the range of temperatures encountered during storage, shipping, construction, and operation; and

(F) is compatible with the cathodic protection system in use on the piping;

(4) “removed from service” means not in regular use for the service intended and not included in a regular maintenance and inspection program in accordance with (j) of this section.

(5) “submerged” means located below the surface of waters of the state. (Eff. 5/14/92, Register 122; am 12/30/2006, Register 180; am 3/23/2017, Register 221)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

Editor’s Note: The publications adopted by reference in 18 AAC 75.080 may be reviewed at the department’s offices in Anchorage, Fairbanks, or Juneau, or may be obtained directly from the appropriate publisher. The mailing address, telephone number, facsimile number, and website, if available, for each publisher are as follows: American Society of Mechanical Engineers (ASME), 22 Law Drive, P.O. Box 2300, Fairfield, New Jersey 07007-2300; telephone (800) 843-2763; fax (201) 882-1717; website: <http://www.asme.org/>; National Association of Corrosion Engineers (NACE) International, 1440 South Creek Drive, Houston, Texas 77084-4906; telephone (800) 797-6223; fax (281) 228-6300; website <http://www.nace.org>; American Petroleum Institute (API), 1220 L Street NW, Washington, DC 20005-4070; telephone (202) 682-8000; fax (303) 397-2740; website: <http://www.api.org>.

As of Register 210 (July 2014), and acting under AS 44.62.125(b)(6), the regulations attorney made a technical revision to 18 AAC 75.080(c).

18 AAC 75.085. Requirements for railroad tank cars and operations by rail. In addition to the applicable requirements of 18 AAC 75.007 – 18 AAC 75.025, the owner or operator of a railroad tank car shall ensure that

- (1) the tank car meets all applicable federal specifications;
- (2) the operation and transport of railroad tank cars by railroad, at a minimum, meet all applicable federal operating and transport criteria and practices;
- (3) if the tank car is subject to the federal inspection and maintenance reporting requirements of 49 C.F.R. 180.501 – 180.519, the required reports are available for review by the department upon request;
- (4) the transporting railroad maintains avalanche detection and mitigation systems designed to address local avalanche hazards to the safe transportation of railroad tank cars; and
- (5) the transporting railroad maintains an appropriate system of track-mounted detectors designed to detect defects on railroad tank cars during transit. (Eff. 12/14/2002, Register 164)

Authority: AS 46.03.020 AS 46.04.030 AS 46.03.070
AS 46.04.055

18 AAC 75.090. Recommended practices. Repealed. (Eff. 5/14/92, Register 122; repealed 12/30/2006, Register 180)

Article 2. Financial Responsibility For Oil Discharges.**Section**

- 205. Application for approval
- 215. Applications submitted by facsimile or electronic mail
- 220. Application for amendment
- 225. Renewals
- 235. Amount and evidence of financial responsibility: general provisions
- 236. Amount and evidence of financial responsibility: onshore production facilities
- 237. Public access to records
- 240. Certificate of proof of financial responsibility
- 245. Self-insurance
- 250. Insurance
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- 260. Guaranty
- 265. Letters of credit
- 270. Other proof of financial responsibility for tank vessels, oil barges, oil terminal facilities, and oil exploration or production facilities, pipelines and railroad tank cars
- 271. Proof of financial responsibility for nontank vessels
- 272. Termination or cancellation of proof of financial responsibility
- 275. Service of process
- 280. Classification as an oil terminal facility
- 285. Oil terminal facilities
- 290. Enforcement

18 AAC 75.205. Application for approval. (a) Subject to the exemptions provided under AS 46.04.050 and (d) of this section, an application for approval of proof of financial responsibility under AS 46.04.040 or 46.04.055, including an application for renewal of approval under 18 AAC 75.225, must be submitted to the department by the following responsible party:

(1) for an oil terminal facility that 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;

(2) for a railroad tank car, by the owner or operator of the railroad tank car;

(3) for a vessel, by

(A) the charterer, if the vessel is chartered by demise;

(B) the operator of the vessel;

(C) the owner of the vessel, if the agents or employees of the owner retain control and responsibility for the operation of the vessel; or

(D) in any other case, the person with primary operational control;

(4) for an exploration or production facility, whether mobile or fixed, by the operator or one or more lease holders;

(5) for a pipeline facility, by the operator or one or more lease holders;

(6) for a group of vessel or facility owners or operators who have agreed to pool their resources to provide proof of financial responsibility for each other, by a designated person in the group.

(b) Applications under this section and renewal applications under 18 AAC 75.225 must be made on a form supplied by the department. The following conditions apply, as appropriate, to an application:

(1) an applicant must furnish the department with the appropriate documents listed in the "financial responsibility application and checklist" supplied by the department;

(2) except a nontank vessel, the completed and signed application must be submitted to the department at least 30 days, but no earlier than 90 days before operations are proposed to begin; the department will, in its discretion, expedite its review of an application if circumstances warrant;

(3) for a nontank vessel, the completed and signed application must be received by the department at least 15 days before operations are proposed to begin; the department will accept an application received less than 15 days before operations are proposed to begin and expedite the review of the application, if the

(A) application is received at least five days before operations are proposed to begin; and

(B) applicant demonstrates that unanticipated circumstances prevent the applicant from meeting the 15-day deadline under this paragraph;

(4) if the applicant is an agency of the United States or this state whose debts and liabilities are the debts and liabilities of the United States or this state, proof of financial responsibility is not required, but the "financial responsibility application and checklist" must be submitted to the department in accordance with the time frames established under this section;

(5) an applicant may submit a combined application for more than one vessel or facility;

(6) an approval may not be assigned to another person, and may not be transferred from one vessel or facility to another; an attempted assignment or transfer of an approval voids the approval;

(7) all forms of proof of financial responsibility must be in effect before operations begin; an approval will not be given on pending coverage.

(c) Applications submitted under this section and renewal applications submitted under 18 AAC 75.225 must be signed upon oath or affirmation as follows:

(1) in the case of a corporation, by a principal executive officer of at least the level of vice president or that officer's authorized representative, if the representative is responsible for the overall management of the facility or operation;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor;

(4) in the case of a municipal, state, federal, or other public facility, by a principal executive officer, ranking elected official, or other authorized employee;

(5) in the case of a combined application, by an appropriate representative of each party to the application;

(6) in the case of a joint venture, by the operator;

(7) by an agent who has been delegated that authority by the responsible party under (a) of this section on a form supplied by the department; and

(8) for a limited liability company, by a member.

(d) The department will, in its discretion, approve an application for an exemption from the proof of financial responsibility requirements of AS 46.04.040(c) and 46.04.055(a) if the owner or operator of a vessel that is conducting, or is available only for conducting, an oil discharge response operation submits to the department

(1) a written explanation, to the department's satisfaction, requesting the exemption, giving details of the time period during which the exemption is requested for each vessel for the oil discharge response operation; and

(2) a completed "application for exemption from financial responsibility" form. (Eff. 5/14/92, Register 122; am 10/28/2000, Register 156; am 11/27/2002, Register 164; am 3/23/2017, Register 221)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.215. Applications submitted by facsimile or electronic mail. The department will accept an application by facsimile transmission or electronic mail. The completed original of the application must be submitted to the department by registered or certified mail or by courier and must be postmarked or dated by courier within two working days after it was sent

by facsimile or electronic mail. (Eff. 5/14/92, Register 122; am 10/28/2000, Register 156; am 9/4/2014, Register 211)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.220. Application for amendment. The owner or operator must file an application with the department for a change in operation that would change the dollar amount of financial responsibility required under 18 AAC 75.235(a). The application must include appropriate proof of financial responsibility under 18 AAC 75.235 – 18 AAC 75.271, include a letter describing the change in operation, and be submitted to the department at least 30 days before placing the changed operations into service, except that the owner or operator of a nontank vessel must submit changes at least 15 days before placing the changed operations into service within state waters. The department will review the application in accordance with 18 AAC 75.205 - 18 AAC 75.271. (Eff. 11/27/2002, Register 164)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.225. Renewals. (a) An application for renewal of department approval of proof of financial responsibility must be submitted to the department at least 30 days, but no earlier than 90 days, before the current approval of proof of financial responsibility expires, except for a nontank vessel. For a nontank vessel, an application for renewal must be submitted at least 15 days before expiration.

(b) An application for renewal must include the information required by 18 AAC 75.205(b)(1). (Eff. 5/14/92, Register 122; am 9/4/2014, Register 211)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.235. Amount and evidence of financial responsibility: general provisions. (a) Each vessel or facility must be specifically covered by an approved form of financial responsibility. The dollar amounts of required financial responsibility set out in AS 46.04.040 or 46.04.055 are adjusted, based upon the percentage change between the reference base index and the semi-annual average Consumer Price Index for all urban consumers in the Anchorage metropolitan area for the second half of 2013, as reported by the United States Department of Labor, bureau of labor statistics. An applicant under 18 AAC 75.205 or 18 AAC 75.225 must demonstrate financial responsibility to respond in damages for claims covered by AS 46.04.040(i) in the following applicable minimum amount:

- (1) for a crude oil terminal facility, \$91,500,000 per incident;

(2) for a noncrude oil terminal facility, \$45.75, per incident, for each barrel of total noncrude oil storage capacity at the terminal, or \$1,830,000, whichever is greater, subject to a maximum of \$91,500,000; if the facility stores more noncrude oil than crude oil, the \$45.75 per incident, per barrel requirement of this paragraph applies to each barrel of oil storage capacity at the facility;

(3) for a tank vessel or barge carrying crude oil, \$549.00, per incident, for each barrel of storage capacity or \$183,000,000 whichever is greater;

(4) for a tank vessel or barge carrying noncrude oil, \$183.00, per incident, for each barrel of storage capacity or \$1,830,000, whichever is greater, subject to a maximum of \$64,050,000;

(5) for a nontank vessel carrying predominantly nonpersistent product, \$183.00 per incident, for each barrel of total oil storage capacity, persistent and nonpersistent product, on the vessel or \$1,830,000, whichever is greater;

(6) for a nontank vessel carrying predominantly persistent product, \$549.00 per incident, for each barrel of total oil storage capacity, persistent product and nonpersistent product, on the vessel or \$9,150,000, whichever is greater;

(7) for a railroad tank car,

(A) \$549.00 per incident for each barrel of persistent product based on the maximum amount of persistent product storage capacity of any train on the railroad; and

(B) \$183.00 per incident for each barrel of nonpersistent product based on the maximum amount of nonpersistent product storage capacity of any train on the railroad or \$1,830,000, whichever is greater;

(8) for a pipeline, \$91,500,000 per incident;

(9) for an offshore exploration or production facility, \$91,500,000 per incident;

(10) for an onshore production facility that produces more than 10,000 barrels per day of oil, \$36,600,000 per incident;

(11) for an onshore production facility that produces more than 5,000, but not more than 10,000 barrels per day of oil, \$18,300,000 per incident;

(12) for an onshore production facility that produces more than 2,500, but not more than 5,000 barrels per day of oil, \$9,150,000 per incident;

(13) for an onshore production facility that produces 2,500 or fewer barrels per day of oil, \$1,830,000 per incident;

(14) for an onshore exploration facility, \$1,830,000 per incident.

(b) The required amount of financial responsibility does not increase with increasing numbers of vessels or facilities operated by the same applicant. An application for multiple vessels or facilities must show proof of financial responsibility in an amount equal to the highest applicable amount prescribed by (a) of this section. The department will, in its discretion, consider the proof of financial responsibility as being applicable to all operations if each separate operation is named as being specifically covered by the proof submitted.

(c) The applicant may add an owned, operated, leased, or chartered vessel or facility to its proof of financial responsibility by submitting a letter to the department requesting an amendment to the application and including documents that verify to the department's satisfaction that the additional operation is covered by the current approved proof of financial responsibility.

(d) The applicant may delete an owned, operated, leased, or chartered vessel or facility from its proof of financial responsibility by submitting a letter to the department requesting an amendment to the application and including documents that verify to the department's satisfaction that the vessel or facility is no longer covered by the current approved proof of financial responsibility.

(e) In satisfying proof of financial responsibility requirements for a combined application, a guarantor or insurer is responsible only for the amount applicable to the vessel or facility that discharges oil and not the amount applicable to another vessel or facility listed on the application.

(f) If a vessel or facility subject to AS 46.04.040 or 46.04.055 discharges oil and the department determines that a claim has been or is likely to be presented as a result of the discharge and that payment of the claim will reduce the owner's or operator's demonstrated financial responsibility below that required by (a) of this section, the department will, in its discretion, require the owner or operator to demonstrate an additional amount of financial responsibility equal to the amount the department determines might be paid as a result of the claim.

(g) If the applicant fails to comply with the requirement imposed under (f) of this section to demonstrate an additional amount of financial responsibility, the department will, in its discretion, provide the owner or operator with 10 days' notice of the department's intent to revoke its approval of the proof of financial responsibility.

(h) If the department provides a notice under (g) of this section, the applicant may request an informal review under 18 AAC 15.185 or an adjudicatory hearing under 18 AAC 15.195 – 18 AAC 15.340. The requirement of (f) of this section is not stayed during the pendency of an adjudicatory hearing.

(i) Proof of financial responsibility may be demonstrated by one or any combination of the mechanisms listed in AS 46.04.040(e), as approved by the department.

(j) An insurer or surety shall respond to damages covered by AS 46.04.040(i), but only with respect to the stated limit of liability contained in an insurance policy or surety submitted as proof of financial responsibility and approved under this chapter.

(k) For purposes of this section, the reference base index is the semi-annual average Consumer Price Index for all urban consumers in the Anchorage metropolitan area for the first half of 1990 as reported by the United States Department of Labor, Bureau of Labor Statistics.

(l) A person required to demonstrate proof of financial responsibility under AS 46.04.040 or AS 46.05.055 shall maintain coverage for at least 60 days after operation of the vessel or facility ceases.

(m) Short-term testing, evaluation, or experimental pilot production activities are subject to the financial responsibility requirements of AS 46.04.040 and 18 AAC 75.205 - 18 AAC 75.290 for exploration facilities.

(n) For purposes of AS 46.04.040, 46.04.055 and this section, "operation" means

(1) for an oil terminal facility, until

(A) the department finds that storage tanks are empty and out of use and that all connecting pipe lines are rendered unusable and posted with a placard prohibiting refilling of the tank without department approval; or

(B) the facility is closed and dismantled;

(2) for a pipeline, while the pipeline

(A) is connected to a production facility; or

(B) contains oil;

(3) an exploration or production facility, until the department has been notified in writing by the Alaska Oil and Gas Conservation Commission that all wells were properly plugged as required by 20 AAC 25.112 and abandoned as required by 20 AAC 25.105; and

(4) for a vessel, while the vessel is in the waters of the state, unless the owner or operator submits a notarized statement to the department certifying that all oil on the vessel has been removed. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 12/8/95, Register 136; am 10/1/99, Register 151; am 10/28/2000, Register 156; am 10/27/2002, Register 164; am 11/27/2002, Register 164; am 10/6/2005, Register 176; am 8/31/2008, Register 187; am 10/01/2011, Register 199; am 9/4/2014, Register 211; am 10/1/2014, Register 211)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040 AS 46.04.055

Editor's note: On September 16, 2005, the Office of the Lieutenant Governor filed amendments to 18 AAC 75.235(a). Under AS 44.62.180, those amendments became effective on October 16, 2005. Due to a clerical error, the regulations did not appear in print in the Alaska Administrative Code. As of Register 186 (July 2008), the regulations attorney made a technical revision under AS 44.62.125 (b)(6), to incorporate the October 16, 2005 amendments into 18 AAC 75.235(a).

As of Register 195 (October 2010), the regulations attorney made a technical revision under AS 44.62.125(b)(6), to 18 AAC 75.235(n).

18 AAC 75.236. Amount and evidence of financial responsibility: onshore production facilities. (a) In addition to the other applicable requirements of this chapter, for an onshore production facility, the amount of financial responsibility required is based on maximum daily production of oil, measured in barrels per day. "Maximum daily production" means the highest amount of oil to be produced at a facility in one day during the period for which application is made.

(b) For an onshore production facility that is taken out of service, or suspended under 20 AAC 25, but that is not closed or abandoned, the amount of financial responsibility required is the most recent amount of financial responsibility required under this chapter, and that amount will continue to be required until production resumes at which time the owner or operator shall determine maximum daily production under (a) of this section.

(c) The owner or operator shall, when submitting an application under 18 AAC 75.205 or 18 AAC 75.225, submit a notarized statement certifying that the maximum daily production of oil at a facility during the period for which application is made will be

- (1) more than 10,000 barrels a day;
- (2) more than 5,000 barrels a day, but not more than 10,000 barrels a day;
- (3) more than 2,500 barrels a day, but not more than 5,000 barrels a day; or
- (4) 2,500 or fewer barrels a day.

(d) With the certification submitted under (c) of this section, the owner or operator shall submit to the department a description of how the owner or operator determined the maximum daily production.

(e) The owner or operator shall notify the department in writing at its Juneau office of a change in production that would alter the certification submitted under (c) of this section within 30 days after the operator has knowledge of change or knowledge of the impending change, whichever occurs first.

(f) If the department finds that the maximum daily production is or may be higher than that certified under (c) or reported under (e) of this section, the department will require the owner or operator to provide proof within 20 days that the amount certified or reported is correct. If the owner or operator fails to provide proof under this subsection that is satisfactory to the department, or fails to report a change under (e) of this section, the department will, in its discretion, deny or revoke its approval of the proof of financial responsibility.

(g) For purposes of this section, "production" has the meaning given "regular production" in AS 31.05.170; however, the term "production facility" retains the meaning given in 18 AAC 75.990. (Eff. 12/8/95, Register 136; am 11/27/2002, Register 164; am 3/23/2017, Register 221)

Authority: AS 46.03.020 AS 46.04.040 AS 46.04.070

18 AAC 75.237. Public access to records. Records received by the department under 18 AAC 75.205 - 18 AAC 75.290, including financial responsibility applications, operations files, and proof of financial ability to respond to a spill incident, are subject to AS 40.25.110 - 40.25.220. (Eff. 12/8/95, Register 136)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.240. Certificate of proof of financial responsibility. (a) If the department approves a proof of financial responsibility, it will issue a certificate to the applicant stating that the proof of financial responsibility requirements have been met for each vessel or facility identified in the application.

(b) The original certificate, or a copy of the original certificate, including a printed copy of a certificate sent by electronic mail or a facsimile copy, that is certified by the applicant to be a true copy of the original certificate, must be readily available for inspection

(1) at each covered facility or pipeline;

(2) on each covered vessel while it is in state waters; the certificate must be shown to the owner or operator of an oil terminal facility before loading or unloading

(A) liquid bulk oil cargo; or

(B) oil to or from a nontank vessel; or

(3) with respect to a railroad tank car, at the headquarters office of the responsible party under 18 AAC 75.205(a) and at each facility at which oil is loaded or unloaded; if the financial responsibility requirements of the responsible party change, the responsible party shall immediately notify the department and the affected facilities and obtain

an updated or amended certificate to reflect such changes, in accordance with 18 AAC 75.205 and 18 AAC 75.225.

(c) The effective date and the expiration date, as determined under AS 46.04.040(f), will be clearly marked on the certificate. For certificates that are effective for more than one year when issued, the continuing effectiveness of the form of financial responsibility that was approved by the department must be verified annually by submitting to the department, not more than 90 days and not less than 30 days before the anniversary of the certificate's effective date, the affidavit of a responsible party, as specified under 18 AAC 75.205(a), stating that the form of financial responsibility remains in effect and stating the date on which it will expire.

(d) If the owner or operator to whom the certificate was issued ceases to be the responsible party under 18 AAC 75.205(a), that person shall immediately return the original certificate to the department with written information regarding the new owner or operator's name and address and the date of the change in ownership or operational control so that a new certificate can be issued.

(e) A certificate is void and subject to immediate revocation by the department, without prior notice, if

(1) it contains erasures or is altered in any way, except for erasures, errors, or alterations made by the department in issuing the certificate;

(2) the person to whom the certificate was issued

(A) is no longer the responsible party under 18 AAC 75.205(a) for the facility or vessel identified on the certificate;

(B) fails to furnish acceptable proof of the continuing effectiveness of a form of financial responsibility as required under (c) of this section or in support of an application for renewal; or

(C) permits the cancellation or termination of the form of financial responsibility upon which issuance of the certificate was based.

(f) The department will give a certificate holder 10 days' written notice of the department's intent to revoke a certificate under AS 46.04.040(h). The notice will include an effective date for and an explanation of the revocation.

(g) If the department acts or provides a notice under (e) or (f) of this section, the applicant may request an informal review under 18 AAC 15.185, or an adjudicatory hearing under 18 AAC 15.195 – 18 AAC 15.340. (Eff. 5/14/92, Register 122; am 10/28/2000, Register 156; am 11/27/2002, Register 164; am 9/4/2014, Register 211)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.245. Self-insurance. (a) In order to demonstrate financial responsibility through self-insurance, an applicant shall maintain in the United States, working capital and net worth, each in an amount at least equal to the applicable amount required under 18 AAC 75.235(a), or a lesser amount necessary to supplement other forms of proof which, when combined, are at least equal to the applicable amount required under 18 AAC 75.235(a). In determining working capital or net worth, the department will consider all current contractual requirements to which the applicant is bound. For the purposes of this subsection,

(1) "working capital" means the amount of current assets located in the United States,

(A) other than those assets that are petroleum inventory that may be affected by an oil discharge from a facility covered by the self-insurance; and

(B) less all worldwide current liabilities; and

(2) "net worth" means the amount of all assets located in the United States, less all worldwide liabilities.

(b) The proof of financial responsibility required under (a) of this section must be supported by the following, which must be submitted with the application for approval, and which must be later supplemented as described:

(1) annual audited financial statements for consolidated holdings in the United States for the fiscal year ending immediately before each initial or renewal application, certified by an independent certified public accountant; if the financial statements do not specify what portion of the applicant's working capital and net worth are located in the United States, the statements must be supplemented by an affidavit from the applicant's chief financial officer or treasurer, or a sworn statement by the certified public accountant who prepared the audit, certifying that the working capital and net worth located in the United States are each in an amount equal to the applicable amount required under 18 AAC 75.235(a);

(2) subsequent quarterly affidavits attesting that the amounts of working capital and net worth are each equal to the applicable amount required under 18 AAC 75.235(a); and

(3) any additional information the department considers necessary.

(c) Instead of the information required under (b) of this section, a self-insuring applicant may provide the department with a copy of the applicant's Form 10K as filed with the United States Securities and Exchange Commission for the fiscal year preceding application or renewal, and each Form 10Q subsequently filed with that commission, subject to the following conditions:

(1) if the applicant's fiscal year ended six months or more before initial application, the applicant's Form 10Q for the first quarter of the current fiscal year must also be submitted with the initial application; and

(2) if the applicant's United States Securities and Exchange Commission forms do not specify what portion of its working capital and net worth are located in the United States, those forms must be supplemented by an affidavit from the applicant's chief financial officer or treasurer, or a sworn statement by the certified public accountant who prepared the form, certifying that the working capital and net worth located in the United States are each in an amount equal to the applicable amount required under 18 AAC 75.235(a).

(d) Repealed 4/6/2016.

(e) Instead of the information required under (b)(1) and (c) of this section, the applicant may submit annually to the department a copy of its Form No. 6 as filed with the Federal Energy Regulatory Commission for each fiscal year, starting with the fiscal year that ended immediately preceding application and subsequent quarterly affidavits under (b)(2) or (c)(2) of this section.

(f) The affidavits or sworn statement required under (b)(2) of this section must be signed as follows:

- (1) in the case of a corporation, by the treasurer or chief financial officer;
- (2) in the case of a partnership, by a general partner;
- (3) in the case of a sole proprietorship, by the proprietor;
- (4) in the case of a municipal, state, federal, or other public facility, by an authorized public official or employee; and
- (5) in the case of a combined application, by a representative of each party to the application;
- (6) in the case of a joint venture, by the operator; and
- (7) in the case of a limited liability company, by a member.

(g) A self-insurer shall notify the department within 10 days after the self-insurer knows, or has reason to believe, that the amount of the self-insurer's working capital or net worth has fallen below the applicable amount required under 18 AAC 75.235(a) or the lesser amount necessary to supplement other forms of proof.

(h) Unless it is earlier replaced by another form of financial responsibility approved by the department, termination or cancellation of self-insurance that serves as proof of financial responsibility under AS 46.04.040 may not take effect until 60 days after the self-insurer sends written notice to the department's Juneau office by certified mail.

(i) The department will, in its discretion, revoke a certificate issued under 18 AAC 75.240 if any document required under this section is not submitted to the department on or before the following due date:

(1) a Form 10K is due within four calendar months after the end of the applicant's fiscal year;

(2) a Form 10Q is due two calendar months after the quarter ends;

(3) a Form No. 6 is due no later than four calendar months after the end of the applicant's fiscal year;

(4) an annual audited financial statement is due within four calendar months after the end of the applicant's fiscal year; and

(5) a quarterly affidavit is due within two calendar months after the quarter ends.

(j) Upon written request, the department will, in its discretion, grant a reasonable extension of a time limit set in (i) of this section if the request is received at least 15 days before the document is due.

(k) A self-insurer must submit a renewal application no later than four calendar months after the end of the applicant's fiscal year. The initial application to demonstrate self-insurance may be submitted at any time. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 12/8/95, Register 136; am 11/27/2002, Register 164; am 4/6/2016, Register 218)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040 AS 46.04.055

18 AAC 75.250. Insurance. (a) An applicant may demonstrate financial responsibility with insurance for the applicable amount required under 18 AAC 75.235(a), in full or in part. The applicant shall provide proof of insurance issued by an insurer either who is authorized to sell insurance in Alaska under a certificate of authority issued by the director of the division of insurance of the Department of Commerce, Community, and Economic Development or who is an unauthorized insurer listed by the division of insurance as meeting the minimum trust or capital and surplus requirements of AS 21.34.040(c). Proof of insurance may be provided by a binder, by a certificate of insurance acceptable in form to the department, or by a copy of the policy. If a binder or certificate of insurance is submitted to meet the requirements of this subsection, a copy of the underlying insurance policy must also be provided to the department within 90 days.

(b) Except for nontank vessels submitting proof of financial responsibility under 18 AAC 75.271(a)(2) or (3), if a policy of insurance, certificate, or binder is submitted, it must include an endorsement with the following, or substantially similar language:

"Any other provision of this policy notwithstanding: (1) this policy insures against any liability the insured may incur under Alaska Statute 46.04.040(i) or any provision cited in it as a result of an unlawful discharge of oil within or affecting land or waters within the territorial jurisdiction of the State of Alaska; however, **the insurer's liability does not exceed the limits of coverage set out in Section (Article or Clause) _____ of this**

policy, subject to any deductible as specifically set out in Section (Article or Clause) _____ of this policy (binder, certificate); (2) the insurer agrees that any final judgment against the insured for damages under AS 46.04.040(i) or any provision cited in it resulting from an unlawful discharge of oil from or by any vessel or facility named in this policy may be enforced or executed in Alaska state courts, directly against the insurer, **subject to the limits of coverage in this policy**; the insurer will be bound by such a judgment as if the judgment were against the insurer; any person obtaining such a judgment against the insured is expressly made a third-party beneficiary of this provision; and (3) termination or cancellation of this policy, insofar as it serves as proof of the insured's financial responsibility under AS 46.04.040, shall not become effective until 60 days after notice with the exception for nonpayment of premium which will require 30 days notice, in writing has been mailed, prepaid and certified, by the insurer to the insured and to the Alaska Department of Environmental Conservation at its office in Juneau, Alaska; however, this policy shall apply to all claims arising from a discharge occurring during the period covered by the policy and before the effective date of the termination or cancellation."

(c) An applicant may submit a claims-made policy if it contains

(1) an extended reporting period of at least six months; and

(2) the endorsement language required by (b) of this section, with the following added to the end of the endorsement: "and made to the insurer during the policy period or the extended reporting period."

(d) A deductible provision in any policy of insurance, binder, or certificate is acceptable if

(1) the applicant demonstrates supplemental coverage for the amount of the deductible by means of other acceptable insurance, surety, guaranty, self-insurance, letter of credit, or other proof of financial responsibility approved by the department; or

(2) the deductible provision provides for a loss reimbursement plan that contains language guaranteeing that the insurer will be responsible for the payment of all claims on a first dollar basis, without waiting for the insured to pay the deductible.

(e) For purposes of this section, "claims made policy" means a policy of liability insurance that covers claims arising out of a discharge occurring after a specified retroactive date but before the end of the policy period and first made to the insurer. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 10/28/2000, Register 156)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040 AS 46.05.055

Editor's note: As of Register 171 (October 2004), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Community and Economic Development to the Department of Commerce, Community, and

Economic Development made by ch. 47, SLA 2004 and the corresponding title change of the commissioner of community and economic development.

18 AAC 75.255. Surety. (a) An applicant may demonstrate financial responsibility with a contract of surety, in full or in part, for the applicable amount required under 18 AAC 75.235(a). The applicant shall submit the contract of surety to the department on forms supplied by the department.

(b) The issuer of the contract of surety must

(1) be registered to do business in Alaska;

(2) possess a current certificate of authority to do business in the United States under 31 C.F.R. 223; and

(3) possess an underwriting limitation of risk at least equal to the amount of the bond, or in a lesser amount necessary to supplement other forms of proof of financial responsibility.

(c) An applicant may demonstrate financial responsibility by a contract of surety for an amount equal to the deductible of an insurance policy submitted under 18 AAC 75.250 or in combination with another means of proof.

(d) Termination or cancellation of a contract of surety that serves as proof of financial responsibility under AS 46.04.040 may not become effective until 60 days after the surety notifies the department in writing, by certified mail, at its office in Juneau, Alaska. The surety remains liable for any discharge occurring before the effective date of termination or cancellation. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040 AS 46.05.055

18 AAC 75.260. Guaranty. (a) An applicant may demonstrate financial responsibility with a contract of guaranty, in full or in part, for the applicable amount required under 18 AAC 75.235(a). The applicant shall submit the contract of guaranty to the department, using a form supplied by the department.

(b) The issuer of the guaranty contract must meet the financial, application, and reporting requirements of 18 AAC 75.245.

(c) Termination or cancellation of a guaranty that serves as proof of financial responsibility under AS 46.04.040 may not become effective until 60 days after the guarantor notifies the department in writing, by certified mail, at its office in Juneau, Alaska. The

guarantor remains liable for any discharge occurring before the effective date of termination or cancellation. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 4/6/2016, Register 218)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040 AS 46.04.055

18 AAC 75.265. Letters of credit. (a) An applicant may demonstrate financial responsibility with a letter of credit, in favor of the State of Alaska, for the applicable amount required under 18 AAC 75.235(a), in full or in part. The letter of credit

(1) must be irrevocable for a period of not less than one year on the part of the issuer; in addition, the letter must provide that it will be automatically extended for one year unless the department and the applicant are notified in writing at least 90 days before expiration of its stated term that the letter will not be renewed; however, if a vessel is to be used in state waters for less than one year, the letter of credit must cover the period that the vessel is to be used in state waters plus 30 days;

(2) must be irrevocable until satisfaction of a judgment or of a claim against the applicant under AS 46.04.040(i) or the provisions cited in it which results from a discharge occurring during its term, subject to the limit of credit;

(3) must be a standby letter of credit, to respond specifically to a claim under AS 46.04.040(i) or the provisions cited in it, subject to the limit of credit;

(4) may not be used as collateral and may not be drawn upon by the applicant except to respond to a claim under AS 46.04.040(i) or the provisions cited in that subsection for as long as the letter of credit is used by the applicant as proof of financial responsibility under AS 46.04.040 or 46.04.055;

(5) must be issued by a financial institution that has authority to issue letters of credit, and that is regulated and examined by state and federal banking agencies; and

(6) must state an effective date and an expiration date, and must be effective on or before the approval date of proof of financial responsibility.

(b) The issuing bank shall pay upon presentation by the State of Alaska of a draft or other document as specified in the letter of credit and may not make determinations of fact or law that might be at issue between the responsible party and the department. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 10/28/2000, Register 156)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040 AS 46.04.055

18 AAC 75.270. Other proof of financial responsibility for tank vessels, oil barges, oil terminal facilities, oil exploration or production facilities, pipelines, and railroad tank cars. (a) This section applies to other proof of financial responsibility for tank vessels, oil barges, oil terminal facilities, oil exploration or production facilities, pipelines, and railroad tank cars. An applicant may demonstrate financial responsibility for the applicable amount required under 18 AAC 75.235(a)(1) - (4) or (7) - (14), in full or in part, with a contract of indemnity or with insurance issued by a group of insureds who have agreed to cover the pollution risks of the group's members, if approved by the department.

(b) Subject to AS 46.04.040(e), the department will, in its discretion, approve a protection and indemnity (P&I) club or an insurance syndicate contract of indemnification as demonstrating financial responsibility under this section if

(1) a statement of indemnification issued by the P&I club or insurance syndicate contains an endorsement that meets the requirements of 18 AAC 75.250(b);

(2) the P&I club or insurance syndicate has the financial solvency and a favorable history of claim handling to meet the obligations contained in the contract of indemnity; and

(3) the P&I club or insurance syndicate appoints an agent for service of process in the state as required under AS 46.04.040(e).

(c) The department may approve a P&I club or insurance syndicate that does not agree to be subject to direct court action in this state or that does not agree to appoint an agent for service of process in this state if the requirements of AS 46.04.040(l) are met with respect to the amount of \$91,500,000 or the amount required by 18 AAC 75.235(a), whichever is less. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 10/1/99, Register 151; am 10/28/2000, Register 156; am 10/27/2002, Register 164; am 10/16/2005, Register 176; am 8/31/2008, Register 187; am 10/1/2011, Register 199; am 10/1/2014, Register 211)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040

Editor's note: On September 16, 2005, the Office of the Lieutenant Governor filed amendments to 18 AAC 75.270. Under AS 44.62.180, those amendments became effective on October 16, 2005. Due to a clerical error, the regulations did not appear in print in the Alaska Administrative Code. As of Register 186 (July 2008), the regulations attorney made a technical revision under AS 44.62.125 (b)(6), to incorporate the October 16, 2005 amendments into 18 AAC 75.270.

18 AAC 75.271. Proof of financial responsibility for nontank vessels. (a) This section applies to proof of financial responsibility for nontank vessels. An applicant may demonstrate financial responsibility for the applicable amount required under 18 AAC 75.235(a)(5) or (6), in full or in part, with

(1) evidence of financial responsibility meeting the requirements of 18 AAC 75.245, 18 AAC 75.250, 18 AAC 75.255, 18 AAC 75.260, or 18 AAC 75.265;

(2) proof of entry of the nontank vessel in a P&I club or proof of coverage with another insurer, including a group of insureds who have agreed to cover the pollution risks of the members of the group, if approved by the department; or

(3) insurance, a surety bond, self-insurance, a financial guaranty, or other evidence of financial responsibility used to satisfy the federal financial responsibility requirements contained in 33 C.F.R. Part 138, if the coverage includes the oil pollution risks specified in AS 46.04.040(i).

(b) The department will, in its discretion approve an insurance policy, or a P&I club or insurance syndicate contract of indemnification, as demonstrating financial responsibility under this section if

(1) the insurance policy, contract of indemnification, or P&I club rules and related documentation

(A) reflects that each entered nontank vessel is covered for the oil pollution risks specified in AS 46.04.040(i) in at least the applicable amount specified in 18 AAC 75.235(a)(5) or (6); coverage for the oil pollution risks specified in AS 46.04.040(i) may be demonstrated by using the following endorsement or substantially similar language: “Any other provision of this policy notwithstanding, this policy insures against any liability the insured may incur under AS 46.04.040(i) or any provision cited in it as a result of an unlawful discharge of oil from or by a covered vessel within or affecting land or waters within the territorial jurisdiction of the State of Alaska; however, the insurer’s liability does not exceed the limits of coverage set out in Section (Article or Clause) of this policy, subject to any deductible as specifically set out in Section (Article or Clause) of this policy (binder, certificate)”;

(B) names the applicant as an assured or member; and

(2) for a contract of indemnification from a P&I club or insurance syndicate, the P&I club or insurance syndicate has the financial solvency and a favorable history of claim handling to meet the obligations contained in the contract of indemnification.

(c) The insurance policy or contract of indemnification submitted as evidence of financial responsibility for a nontank vessel under this section

(1) need not include the endorsement required by 18 AAC 75.250(b); and

(2) must include

(A) all addenda that pertain to pollution coverage and deductibles; and

(B) for a contract of indemnification by a P&I club, a copy of the applicable P&I club rules and the vessel’s certificate of entry into the P&I club.

(d) If an applicant submits a policy of insurance, binder, certificate, or evidence of P&I club coverage containing a deductible or similar provision exceeding \$50,000,

(1) the applicant must demonstrate supplemental coverage for the amount of the deductible by means of other acceptable insurance, a surety, a guaranty, self-insurance, a letter of credit, or other proof of financial responsibility approved by the department; or

(2) the deductible provision must provide for a loss reimbursement plan that contains language guaranteeing that the insurer will be responsible for the payment of all claims on a first dollar basis, without waiting for the insured to pay the deductible.

(e) In addition to meeting the renewal requirements of 18 AAC 75.225, and no later than 60 days after the renewal of the P&I club coverage, a holder of a certificate of proof of financial responsibility who uses P&I club membership as the method of financial responsibility shall submit to the department a renewal confirmation letter from the P&I club showing that the certificate holder’s membership in the P&I club has been renewed. The certificate holder shall also submit additional documentation acceptable to the department showing renewal of the certificant’s membership in the P&I club, no later than 90 days after renewal of the P&I club coverage. Acceptable documentation includes a copy of the addendum or renewal certificate of entry, both of which contain the information required by this subsection, and any additional terms or conditions that may affect coverage, including renewal and new expiration dates.

(f) If requested by the department, a holder of a certificate of proof of financial responsibility who uses P&I club membership as the method of financial responsibility shall submit documentation executed by the certificate holder’s P&I club confirming that the certificate holder’s coverage used to demonstrate financial responsibility remains current. (Eff. 10/28/2000, Register 156; am 11/27/2002, Register 164)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040 AS 46.04.055

18 AAC 75.272. Termination or cancellation of proof of financial responsibility. Termination or cancellation of proof of financial responsibility does not relieve a person subject to AS 46.04.040 or 46.04.055 from

(1) the requirement to provide proof of financial responsibility if that person's vessel or facility remains in operation as defined in 18 AAC 75.235(n); and

(2) liability for a discharge from that person's vessel or facility before, at the time of, or after termination or cancellation of proof of financial responsibility. (Eff. 12/8/95, Register 136; am 10/28/2000, Register 156)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.275. Service of process. An agent designated for service of process under AS 46.04.040(e) must be a resident of the state or a corporation authorized to do business in the state. If no designation is made and filed, or if process cannot be served in Alaska upon the designated agent, process may be served upon the commissioner. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.280. Classification as an oil terminal facility. (a) If a vessel is to operate as an oil terminal facility as defined at AS 46.04.900, the owner or operator shall submit a written request for classification of the vessel as an oil terminal facility to the department. The request for classification must include the

- (1) name of the owner or operator;
- (2) vessel name and official number;
- (3) oil storage capacity of the vessel;
- (4) type of product carried as cargo; and
- (5) period of time during which the classification will apply.

(b) Upon receipt of a request under (a) of this section, the department will issue a certificate to the vessel, classifying the vessel as an oil terminal facility for the prescribed period.

(c) If the capacity of the vessel for which classification is requested is more than 10,000 barrels of noncrude oil, the owner or operator must meet the financial responsibility requirements of 18 AAC 75.235(a)(2) and the oil discharge prevention and contingency plan requirements of AS 46.04.030. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132)

Authority: AS 46.03.020 AS 46.04.050 AS 46.04.070
AS 46.04.040 AS 46.04.055 AS 46.04.900
AS 46.04.045

18 AAC 75.285. Oil terminal facilities. (a) An oil terminal facility may not transfer a liquid bulk oil product to or from a tank vessel or oil barge if the oil product is declared as liquid bulk cargo, unless the tank vessel or oil barge provides proof to the terminal operator that the tank vessel or oil barge has a current, valid certificate of proof of financial responsibility issued

under 18 AAC 75.205 – 18 AAC 75.290, an exemption under 18 AAC 75.205(d), or a certificate of classification as an oil terminal facility issued under 18 AAC 75.280.

(b) Unless a nontank vessel is subject to an exemption in AS 46.04.055(e)(2) or (3), an oil terminal facility may not transfer oil to or from a nontank vessel unless the nontank vessel provides proof to the terminal operator that the nontank vessel has a current, valid certificate of proof of financial responsibility issued under 18 AAC 75.205 – 18 AAC 75.290.

(c) If a vessel has frequent transactions at an oil terminal facility and is known by the facility operator, the owner or operator of that oil terminal facility may accept verbal confirmation from the vessel's master that the vessel has on board a current, valid certificate of proof of financial responsibility issued under 18 AAC 75.205 – 18 AAC 75.290.

(d) An oil terminal facility may not transfer a liquid bulk oil product to or from a railroad tank car, unless the owner or operator of the railroad tank car has previously provided the terminal owner or operator with a certified copy of the current, valid certificate of proof of financial responsibility as required by 18 AAC 75.240(b)(3).

(e) If a tank vessel, oil barge, or railroad tank car operator fails or refuses to provide proof of a current, valid certificate of proof of financial responsibility issued under 18 AAC 75.205 – 18 AAC 75.290, an exemption under 18 AAC 75.205(d), or a certificate of classification as an oil terminal facility issued under 18 AAC 75.280(b), or if a railroad tank car owner or operator has not provided a current certificate to the oil terminal facility as required by 18 AAC 75.240(b)(3) before loading or unloading a railroad tank car, the owner or operator of an oil terminal facility shall notify the department's Anchorage, Fairbanks, or Juneau office of that failure or refusal by telephone or facsimile on the next working day.

(f) If a nontank vessel owner or operator fails or refuses to provide proof of a current, valid certificate of proof of financial responsibility issued under 18 AAC 75.205 – 18 AAC 75.290, or to demonstrate that the nontank vessel owner or operator is subject to an exemption under AS 46.04.055(e)(2) or (3), the owner or operator of an oil terminal facility shall notify the department's Anchorage, Fairbanks, or Juneau office of that failure or refusal by telephone or facsimile on the next working day.

(g) The requirements of this section with respect to nontank vessels and railroad tank cars apply after January 30, 2001. (Eff. 5/14/92, Register 122; am 10/28/2000, Register 156)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.290. Enforcement. If person required to provide proof of financial responsibility under AS 46.04.040, AS 46.04.055, or 18 AAC 75.205 - 18 AAC 75.290 fails or refuses to do so, the department will, in its discretion,

(1) seek civil assessments and costs under AS 46.03.760 or other appropriate statutes for each separate violation of AS 46.04.040, 46.04.055, or of 18 AAC 75.205 - 18 AAC 75.290;

(2) take action to halt the operation of a vessel or facility that is not in compliance with AS 46.04.040, AS 46.04.055, or 18 AAC 75.205 - 18 AAC 75.290;

(3) take action to deny entry to a vessel to the navigable waters of the state;

(4) take action to detain a vessel that does not produce, upon the department's request, a current, valid certificate of proof of financial responsibility issued under 18 AAC 75.205 - 18 AAC 75.290; or

(5) take such other and further action as may be warranted by the circumstances. (Eff. 5/14/92, Register 122; am 10/28/2000, Register 156)

Authority:	AS 46.03.020	AS 46.04.040	AS 46.04.070
	AS 46.03.760	AS 46.04.050	AS 46.04.900
	AS 46.03.850	AS 46.04.055	

Article 3. Discharge Reporting, Cleanup, and Disposal of Oil and Other Hazardous Substances

Section

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Editor's note: The regulations in 18 AAC 75.300 – 18 AAC 75.396, grouped under Article 3, effective January 22, 1999 and distributed in Register 149, constitute a comprehensive reorganization and revision of material formerly set out at 18 AAC 75.300 - 18 AAC 75.370, which also had been grouped at Article 3. The regulations at 18 AAC 75.300 - 18 AAC 75.396 replace former 18 AAC 75.300 - 18 AAC 75.370, which were repealed simultaneously with the adoption of these regulations. The history line at the end of each section does not reflect the history of the replaced provisions before January 22, 1999. Some section numbers in this revision were used for previous regulations, but current sections are not necessarily related to previous sections with the same section number. The earlier version of 18 AAC 75.300 - 18 AAC 75.370 may be reviewed at the Office of the Lieutenant Governor, and may be found at Register 122, effective May 14, 1992.

18 AAC 75.300. Discharge or release notification; reporting requirements. (a)

Subject to (b), (c), and (g) of this section, a person in charge of a facility or operation shall notify the department by telephone, and immediately afterwards send the department a written notice by facsimile, electronic mail, hand delivery, or first class mail, informing the department about a discharge or release of a hazardous substance at or from the facility or operation as follows:

(1) as soon as the person has knowledge of a

(A) discharge or release of a hazardous substance other than oil;

(B) discharge or release of oil to water; or

(C) discharge or release, including a cumulative discharge or release, of oil in excess of 55 gallons solely to land outside an impermeable secondary containment area or structure; and

(2) within 48 hours after the person has knowledge of a discharge or release, including a cumulative discharge, of oil solely to land

(A) in excess of 10 gallons, but 55 gallons or less; or

(B) in excess of 55 gallons, if the discharge or release is the result of the escape or release of oil from its original storage tank, pipeline, or other immediate container into an impermeable secondary containment area or structure.

(b) A person in charge of a facility or operation shall maintain, and provide to the department monthly, a written record of each discharge or release, including a cumulative discharge or release, of one gallon to 10 gallons of oil solely to land.

(c) If a person in charge of a facility or operation has entered into an agreement with the department, as provided under AS 46.03.755(b) or AS 46.09.010(b), for the periodic reporting of a discharge or release of a hazardous substance, the terms of the agreement replace the applicable requirements of this section for the hazardous substance.

(d) After receiving notice of a discharge or release under (a) of this section, and until containment and cleanup are completed, the department will require interim reports as the department considers necessary to ascertain any threat to human health, safety, or welfare, or to the environment.

(e) Unless the department determines that a written report is not needed for the department to ascertain any threat to human health, safety, or welfare, or to the environment, a written report must be submitted to the department within 15 days after containment and cleanup are completed or, if no cleanup occurs, within 15 days after the discharge or release. The report must be submitted to the department's Anchorage, Fairbanks, or Juneau office, whichever is nearest to the location of the discharge, unless the department specifies otherwise. The report must contain the information specified in (f) of this section.

- (f) A report, record, or notification required by this section must contain, as applicable,
- (1) the date and time of the discharge or release;
 - (2) the location of the discharge or release;
 - (3) the name of the facility or operation;
 - (4) the name, mailing address, and telephone number of
 - (A) each responsible person; and
 - (B) the owner and the operator of the facility or operation;
 - (5) the type and amount of each hazardous substance discharged or released;
 - (6) factors that caused or contributed to the discharge or release;
 - (7) a description of any environmental effects of the discharge or release, or the containment and cleanup, to the extent those effects can be identified;
 - (8) a description of the containment or cleanup action taken;
 - (9) the estimated amount of
 - (A) hazardous substance cleaned up; and
 - (B) hazardous waste generated;
 - (10) the date and method of disposal or treatment of the hazardous substance, contaminated equipment, contaminated materials, contaminated soil, and contaminated water;
 - (11) a description of actions being taken to prevent another discharge or release;
- and
- (12) other information that the department requires to fully assess the cause and impact of the discharge or release, including any sampling reports and a description and estimate of any remaining contamination.
- (g) Reporting under this section is not required for a discharge or release
- (1) that is authorized by a valid permit issued by the department; or
 - (2) that is excluded from the definition of “release” under AS 46.03.826(9). (Eff. 1/22/99, Register 149; am 1/30/2003, Register 165; am 9/4/2014, Register 211)

Authority:	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.050	AS 46.03.755	AS 46.09.010
	AS 46.03.710	AS 46.04.020	AS 46.09.020
	AS 46.03.740		

18 AAC 75.305. Posting of information required. (a) The owner or operator shall display a discharge or release notification placard, provided by the department, that includes telephone numbers of department offices in conspicuous locations on a

- (1) tank truck containing more than 500 gallons of a hazardous substance, in addition to that required to operate the vehicle;
- (2) tugboat, tank vessel, oil barge, tow boat, or other vessel transporting a hazardous substance as cargo in state waters;
- (3) vehicle carrying or towing a hazardous substance other than oil, or more than 500 gallons of oil, as cargo off-road over frozen or unfrozen ground; and
- (4) facility that has a total above-ground or underground storage capacity in excess of 1,000 gallons of a hazardous substance.

(b) A person who wants to post a substitute for a placard provided by the department shall submit the proposed placard to the department for approval. The department will approve the substitute if the department determines that the substitute meets the requirements of (a) of this section. A placard approved under this subsection must contain the words: "Form approved by the Alaska Department of Environmental Conservation." (Eff. 1/22/99, Register 149)

Authority:	AS 46.03.020	AS 46.04.020	AS 46.09.020
	AS 46.03.050	AS 46.09.010	AS 46.09.070
	AS 46.03.755		

18 AAC 75.310. Scope and duration of initial response actions. (a) Immediately after receiving notice from a person or after otherwise becoming aware of a discharge or release of a hazardous substance to land or waters of the state, a responsible person shall, as required by 18 AAC 75.315, immediately contain and control the discharge or release and seek approval of cleanup and disposal plans to be used for that release. After obtaining approval of cleanup and disposal plans, the responsible person shall perform a cleanup of the discharge or release and dispose of the contaminated material in accordance with those plans.

(b) The department under AS 46.04.020(a), or the commissioner under AS 46.09.020(a), will waive the requirements of (a) of this section if the department or commissioner as appropriate

- (1) determines, in consultation with appropriate agencies as provided in AS 46.04.020(a)(1) or AS 46.09.020(a)(1), that containment or cleanup of the discharge or release is technically not feasible; or

(2) determines that the containment or cleanup effort would result in a greater threat to human health, safety, or welfare, or in greater damage to the environment than the discharge or release itself.

(c) Unless relieved under (b) of this section, a responsible person shall immediately begin the initial response actions required by 18 AAC 75.315 and continue until

(1) the department, using the factors set out in 18 AAC 75.315, determines that

(A) the lowest practicable level of contamination has been achieved;

(B) any imminent and substantial threat to human health, safety, or welfare, or to the environment is abated; and

(C) additional action, including site cleanup under 18 AAC 75.325 - 18 AAC 75.390, is not required; or

(2) the department determines, on its own or at the request of a responsible person, that the source of the contamination has abated and that cleanup of residual soil and groundwater contamination should proceed under 18 AAC 75.325 - 18 AAC 75.396. (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020
	AS 46.03.710	AS 46.04.020	

18 AAC 75.315. Initial response actions. (a) A responsible person shall investigate, contain, and perform a cleanup of a sudden or recent discharge or release of a hazardous substance

(1) in consultation with the department, or upon notification of a discharge or release under 18 AAC 75.300;

(2) in a manner that does not result in a significantly greater overall threat or damage to human health, safety, or welfare, or to the environment than another alternative, including taking no action; and

(3) until the lowest practicable level of contamination is achieved under (c) of this section.

(b) A person who is not a responsible person and who undertakes an initial response action at a site subject to this section shall comply with this section and 18 AAC 75.320.

(c) For containment and cleanup under this section, the department will determine the lowest practicable level of contamination based on

(1) protection of human health, safety, and welfare, and of the environment;

- (2) the nature and toxicity of the hazardous substance, including amount and concentration;
- (3) hydrogeological and climatological factors;
- (4) the extent to which the hazardous substance has migrated, or is likely to migrate, from the area of original contamination if the hazardous substance remains onsite;
- (5) the natural dispersion, attenuation, or degradation of the contamination;
- (6) the extent to which residual soil contamination exceeds the cleanup levels in 18 AAC 75.340 and 18 AAC 75.341;
- (7) the extent to which groundwater contamination exceeds the groundwater cleanup levels in 18 AAC 75.345;
- (8) the current and future use of the groundwater under 18 AAC 75.350; and
- (9) the need for an interim removal action under 18 AAC 75.330.

(d) If the department determines that the lowest practicable level of contamination has been achieved under this section, a responsible person is not required to perform additional containment or cleanup. The department will base a determination under this section on the most current and complete information available to the department. The department will require a responsible person to perform additional containment or cleanup if subsequent information indicates that

- (1) the level of contamination that remains does not protect human health, safety, or welfare, or the environment; or
- (2) the information the department relied upon was invalid, incomplete, or fraudulent. (Eff. 1/22/99, Register 149)

Authority: AS 46.03.020 AS 46.03.740 AS 46.04.070
AS 46.03.050 AS 46.03.745 AS 46.09.020
AS 46.03.710 AS 46.04.020

18 AAC 75.320. Department oversight of containment and cleanup. (a) The department will determine that a responsible person's containment and cleanup efforts are inadequate under 18 AAC 75.315 or 18 AAC 75.325 - 18 AAC 75.396 if the department determines that

- (1) the responsible person has not used, or has not adequately used, containment equipment to intercept, concentrate, and collect the hazardous substance in its pattern of movement, unless environmental conditions exceed the operational limitations of the equipment;

(2) the responsible person has not used, or has not adequately used, exclusion equipment to protect a sensitive environmental zone, unless environmental conditions exceed the operational limitations of the equipment;

(3) the area affected by the hazardous substance is increasing at an avoidable rate despite containment and removal activities, unless environmental conditions exceed the operational limitations of the equipment, or unless immediate containment would pose a greater threat to human health, safety, or welfare, or to the environment, than to allow the discharge or release to temporarily spread;

(4) the containment and exclusion equipment is not functioning effectively because of weather or oceanographic conditions, and other equipment is reasonably available that can function effectively in those conditions;

(5) containment, exclusion, and lightering equipment is not deployed and operational as specified in an applicable oil discharge prevention and contingency plan approved under AS 46.04.030 or a nontank vessel plan approved under AS 46.04.055;

(6) major items of cleanup equipment and materials, including booms, skimmers, lightering pumps, sorbent, and storage containers, are not fully operational;

(7) available personnel, equipment, sorbent, or supplies are inappropriate, being mismanaged, or not being used, or additional personnel, equipment, sorbent, or supplies are required but not being provided; or

(8) containment and cleanup have not proceeded in a timely manner that is protective of human health, safety, and welfare, and of the environment.

(b) If the department determines that a responsible person's containment and cleanup efforts do not adequately protect human health, safety, or welfare, or the environment, the department will

(1) direct that responsible person or another responsible person to use additional measures or to cease cleanup activities;

(2) begin cleanup activities, or authorize an agent of the department to begin cleanup activities; or

(3) take a combination of these actions. (Eff. 1/22/99, Register 149; am 11/27/2002, Register 164)

Authority:	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.050	AS 46.03.822	AS 46.08.140
	AS 46.03.710	AS 46.04.020	AS 46.09.020
	AS 46.03.740	AS 46.04.055	

18 AAC 75.325. Site cleanup rules: purpose, applicability, and general provisions.

(a) The requirements of 18 AAC 75.325 - 18 AAC 75.390 are referred to in this chapter as the "site cleanup rules". The site cleanup rules establish administrative processes and standards to determine the necessity for and degree of cleanup required to protect human health, safety, and welfare, and the environment at a site where a hazardous substance is located.

(b) The site cleanup rules apply to

(1) a sudden or recent discharge or release of a hazardous substance, if the department determines under 18 AAC 75.310 that application of the site cleanup rules is necessary; or

(2) a release of a hazardous substance caused by past activities.

(c) The site cleanup rules do not apply to

(1) a release from an underground storage tank (UST) subject to AS 46.03.360 - 46.03.450 and 18 AAC 78, except as made applicable expressly by 18 AAC 78; or

(2) an oil and gas reserve pit closure and permitted solid waste storage or disposal facility regulated under 18 AAC 60, 18 AAC 62, or 42 U.S.C. 6901 - 6992k (Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act).

(d) A responsible person shall investigate, contain, and perform a cleanup of a discharge or release of a hazardous substance unless

(1) the department makes a written determination that a discharge or release does not pose a threat to human health, safety, or welfare, or to the environment and requires no cleanup action according to the information available at the time of the determination; or

(2) the department issues an order under AS 46.04.020(c), or the commissioner issues an order under AS 46.09.020(c) that the responsible person cease cleanup activities.

(e) A person who is not a responsible person and who undertakes a cleanup activity at a site that is subject to the site cleanup rules shall comply with those provisions of the site cleanup rules that are applicable to the particular cleanup activity undertaken.

(f) A responsible person shall

(1) to the maximum extent practicable,

(A) use permanent remedies;

(B) recover free product in a manner that

(i) minimizes the spread of contamination into an uncontaminated area by using containment, recovery, and disposal techniques appropriate to site conditions;

(ii) avoids additional discharge; and

(iii) disposes of the recovered free product in compliance with applicable local, state, and federal requirements;

(C) complete cleanup in a period of time that the department determines to be protective of human health, safety, and welfare, and of the environment;

(D) prevent, eliminate, or minimize potential adverse impacts to human health, safety, and welfare, and to the environment, onsite and offsite, from any hazardous substance remaining at the site; and

(E) evaluate and perform a cleanup of surface soil staining attributable to a hazardous substance;

(2) meet the applicable cleanup levels determined under 18 AAC 75.340 - 18 AAC 75.350; and

(3) provide for long-term care and management of a site as required under the site cleanup rules, including proper operation and maintenance of

(A) cleanup techniques and equipment;

(B) monitoring wells and equipment, if required; and

(C) institutional controls, if required under 18 AAC 75.375

(g) If using method two or method three for determining the applicable soil cleanup levels as described in 18 AAC 75.340 and 18 AAC 75.341, or if applying the groundwater cleanup levels at Table C in 18 AAC 75.345, a responsible person shall ensure that, after completing site cleanup, the risk from hazardous substances does not exceed a cumulative carcinogenic risk standard of 1 in 100,000 across all exposure pathways and does not exceed a cumulative noncarcinogenic risk standard at a hazard index of one, reported to one significant figure, across all exposure pathways. Instructions for determining cumulative risk are provided in the department's *Procedures for Calculating Cumulative Risk*, dated September 15, 2016 and adopted by reference.

(h) If proposing an alternative cleanup level for soil or groundwater, based on a site-specific risk assessment under method four in 18 AAC 75.340(f) or under the provisions of 18 AAC 75.345(b)(2), a responsible person shall ensure that the risk from hazardous substances does not exceed the cumulative carcinogenic risk standard of 1 in 100,000 across all exposure pathways and does not exceed the cumulative noncarcinogenic risk standard at a hazard index of one, reported to one significant figure, across all exposure pathways. Instructions for determining cumulative risk are provided in the department's *Procedures for Calculating Cumulative Risk*, adopted by reference in (g) of this section.

(i) A responsible person shall obtain approval before disposing of soil or groundwater from a site

(1) that is subject to the site cleanup rules; or

(2) for which the responsible person has received a written determination from the department under 18 AAC 75.380(d)(1);

(j) The department will seek public participation regarding activities conducted under the site cleanup rules, using methods that the department determines to be appropriate for seeking public participation.

(k) If a discharge, release, or planned cleanup affects an anadromous fish-bearing stream or lake or an area designated under AS 16.20, activities under the site cleanup rules are subject to coordination with appropriate resource agencies, including the Department of Fish and Game under AS 16.05.871(a) or AS 16.20. (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 10/9/2008, Register 188; am 6/17/2015, Register 214; am 1/1/2016, Register 217; am 11/6/2016, Register 220)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.020
	AS 46.03.050	AS 46.03.745	AS 46.04.070
	AS 46.03.710	AS 46.03.822	AS 46.09.020

Editor's note: The department's *Procedures for Calculating Cumulative Risk*, adopted by reference in 18 AAC 75.325 may be viewed at or obtained from the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna or the department's Internet website at http://dec.alaska.gov/spar/csp/guidance_forms/csguidance.htm.

As of Register 166 (July 2003), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.325(k), to reflect Executive Order 107 (2003). Executive Order 107 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Fish and Game to the Department of Natural Resources.

As of Register 179 (October 2006), and acting under AS 44.62.125(b)(6), the regulations attorney made a technical revision to 18 AAC 75.325(c)(1). This change reflects the enactment of sec. 2, ch. 102, SLA 2006, effective August 5, 2006, which repealed AS 46.03.360 and 46.03.363.

As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.325(k), to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

18 AAC 75.330. Interim removal actions. (a) The department, or a responsible person as provided in (c) of this section, will perform an interim removal action if the department determines that an interim removal action is necessary under the site cleanup rules to prevent

- (1) human or environmental exposure to a hazardous substance at the site; or
- (2) migration of a hazardous substance at or from the site.

(b) An interim removal action must, to the maximum extent practicable, contribute to the overall performance of any long-term cleanup action at the site. An interim removal action may

- (1) achieve cleanup levels for a portion of the site;
- (2) provide for a partial cleanup for all or part of the site, but not achieve cleanup levels; or
- (3) provide for a partial cleanup at the site and not achieve cleanup levels, but provide information on how to achieve cleanup levels for the final cleanup action.

(c) An interim removal action may occur at any time during the cleanup process and may be performed by the department or by a responsible person with prior approval of the proposed action. An interim removal action may not be used to delay or supplant the cleanup process.

(d) An interim removal action must be followed by additional cleanup actions at the site unless the department determines that the interim removal action has met the requirements of the site cleanup rules.

(e) An interim removal action taken by the department does not

- (1) require the department to take an additional response or cleanup action; or
- (2) relieve a person from liability associated with the discharge or release. (Eff. 1/22/99, Register 149)

Authority:	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.050	AS 46.03.755	AS 46.09.010
	AS 46.03.710	AS 46.03.822	AS 46.09.020
	AS 46.03.740	AS 46.04.020	

18 AAC 75.333. Qualified environmental professionals and qualified samplers. (a) A responsible person shall ensure that a qualified environmental professional

- (1) prepares the site characterization work plan required under 18 AAC 75.335(b)(1);
- (2) prepares the site characterization report required under 18 AAC 75.335(c)(1);
- (3) performs sampling collection required under 18 AAC 75.355(a), or that a qualified sampler performs sampling collection if the department approves the use of a qualified sampler under 18 AAC 75.355(a);
- (4) conducts or supervises site cleanup work under 18 AAC 75.360;

(5) prepares the post-treatment sampling and analysis plan under 18 AAC 75.365(a)(1)(C);

(6) prepares the final cleanup report required under 18 AAC 75.380(a);

(7) prepares and signs a report to justify a request for a waiver under 18 AAC 75.390.

(b) For purposes of the site cleanup rules, an individual is a qualified environmental professional if the individual

(1) is an impartial third party;

(2) is qualified to perform site characterization and cleanup activities, including

(A) fate and transport analysis;

(B) remediation design; and

(C) other activities associated with contaminated sites;

(3) actively practices in the field of environmental science or another related scientific field;

(4) has not been found to have falsified environmental data or committed other acts of fraud directly related to environmental work; and

(5) meets one or more of the following minimum educational qualification and experience requirements:

(A) has a four-year undergraduate or a graduate degree from a nationally or internationally accredited postsecondary institution in environmental science or another related scientific field, and has at least one year of professional experience in contaminated site characterization and cleanup activities under the direct supervision of a qualified environmental professional completed after the degree described in this subparagraph was obtained;

(B) has a four-year degree from a nationally or internationally accredited postsecondary institution in any field or a two-year associate degree from a nationally or internationally accredited postsecondary institution in environmental science or another related scientific field, and has at least three years of professional experience in contaminated site characterization and cleanup activities under the direct supervision of a qualified environmental professional completed after a degree described in this subparagraph was obtained;

(C) is certified as an environmental technician under an apprenticeship program with a registration under 29 C.F.R. Part 29, and has at least three years of

professional experience in contaminated site characterization and cleanup activities under the direct supervision of a qualified environmental professional completed after the certification described in this subparagraph was obtained.

(c) For purposes of the site cleanup rules, an individual is a qualified sampler if the individual

(1) is an impartial third party;

(2) collects samples of environmental media for laboratory analysis; in this paragraph, "environmental media"

(A) includes soil, groundwater, and surface water;

(B) does not include air or soil gas;

(3) has not been found to have falsified environmental data or committed other acts of fraud directly related to environmental work;

(4) has successfully completed

(A) applied field work involving environmental sample collection of soil, groundwater, or surface water associated with coursework for a completed degree in environmental science or another related scientific field at a nationally or internationally accredited postsecondary institution; or

(B) an environmental sampling training program recognized by the department; and

(5) has at least three months of experience in environmental sampling under the direct supervision of a qualified environmental professional completed after the training described in (4)(A) or (B) of this subsection was obtained.

(d) In this section, "another related scientific field" includes engineering, geology, physical science, hydrology, biology, and chemistry. (Eff. 6/17/2015, Register 214)

Authority:	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.050	AS 46.03.755	AS 46.09.010
	AS 46.03.710	AS 46.03.822	AS 46.09.020
	AS 46.03.740	AS 46.04.020	

18 AAC 75.335. Site characterization. (a) Before proceeding with site cleanup under the site cleanup rules, a responsible person shall characterize the extent of hazardous substance contamination at the site.

(b) A responsible person shall submit a site characterization work plan to the department for approval before beginning site characterization work. The department will approve the site characterization work plan if the work plan is

(1) prepared by a qualified environmental professional; and

(2) designed, to the maximum extent practicable, to

(A) determine if a discharge or release of a hazardous substance has occurred;

(B) identify each hazardous substance at the site, including the concentration and extent of contamination; this information must be sufficient to determine cleanup options;

(C) identify site characteristics or conditions that could result in ongoing site contamination, including the potential for leaching of in-situ contamination and the presence of leaking barrels, drums, tanks, or other containers;

(D) evaluate the potential threat to human health, safety, and welfare, and to the environment from site contamination;

(E) identify any interim removal action necessary under 18 AAC 75.330;

(F) locate sources of known site contamination, including a description of potential releases into soil, sediment, groundwater, or surface water;

(G) evaluate the size of the contaminated area, including the concentrations and extent of any soil, sediment, groundwater, or surface water contamination;

(H) identify the vertical depth to groundwater and the horizontal distance to nearby wells, surface water, and water supply intakes;

(I) evaluate the potential for surface water run-off from the site and the potential for surface water or sediment contamination; and

(J) identify the soil type and determine if the soil is a continuing source for groundwater contamination.

(c) After completing site characterization work, the responsible person shall submit to the department for approval a site characterization report that

(1) is prepared by a qualified environmental professional;

(2) sets out the information obtained from activities performed in accordance with a site characterization work plan;

(3) sets out the results of sampling and analysis;

(4) demonstrates that the inspections, sampling, and analysis performed adequately characterize the extent of hazardous substance contamination; and

(5) proposes cleanup techniques for the site.

(d) The department will approve the report submitted under (c) of this section if the department determines that the work described in the report and the cleanup techniques proposed are protective of human health, safety, and welfare, and of the environment. The department will, as part of its approval, modify proposed cleanup techniques or require additional cleanup techniques for the site as the department determines to be necessary to protect human health, safety, and welfare, and the environment. (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 6/17/2015, Register 214)

Authority:	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.050	AS 46.03.755	AS 46.09.010
	AS 46.03.710	AS 46.04.020	AS 46.09.020
	AS 46.03.740		

18 AAC 75.340. Soil cleanup levels; general requirements. (a) This section provides the requirements for cleanup levels for hazardous substances in soil. For each site, except as provided in (b) of this section, a responsible person shall propose soil cleanup levels for approval, shall base those cleanup levels upon an estimate of the reasonable maximum exposure expected to occur under current and future site conditions, and shall develop those cleanup levels using one or more of the following methods:

(1) method one for petroleum hydrocarbon-contaminated soil in

(A) a non-Arctic zone as set out in Table A1 of 18 AAC 75.341(a); or

(B) an Arctic zone as set out in Table A2 of 18 AAC 75.341(b);

(2) method two for soil contaminated with

(A) chemicals other than petroleum hydrocarbons as set out in Table B1 of 18 AAC 75.341(c); or

(B) petroleum hydrocarbons as set out in Table B2 of 18 AAC 75.341(d);

(3) method three, as described in (e) of this section, for developing site-specific alternative cleanup levels; or

(4) method four, as described in (f) of this section, for developing site-specific alternative cleanup levels.

(b) Alternative soil cleanup levels developed under method three or method four may not be used at another site without prior approval. If alternative cleanup levels are developed for one site within a facility with multiple similarly contaminated sites, and if the department determines that the use of those cleanup levels at another site within that facility will be protective of human health, safety, and welfare, and of the environment, the department will approve the use of those cleanup levels at the other site.

(c) For methods two, three, and four, a responsible person shall demonstrate that the Arctic zone soil cleanup level, if applicable, is protective of migration to surface water.

(d) The soil cleanup levels provided under method one and method two apply at a contaminated site unless the department develops an alternative cleanup level or approves an alternative cleanup level that the responsible person has proposed under method three or method four. To obtain approval for an alternative cleanup level, a responsible person must demonstrate that an alternative cleanup level proposed under method three or method four is protective of human health, safety, and welfare, and of the environment, and must demonstrate compliance with the applicable institutional control requirements under 18 AAC 75.375. The cleanup level that applies at a site is the most stringent of either the alternative cleanup level or, for a pathway where no alternative cleanup level was calculated, the listed value for a hazardous substance in Table B1 of 18 AAC 75.341(c) or Table B2 of 18 AAC 75.341(d).

(e) Under method three, a responsible person may propose for the department's approval or the department may set an alternative cleanup level for a hazardous substance listed in Table B1 of 18 AAC 75.341(c) or Table B2 of 18 AAC 75.341(d) that modifies the levels for the

(1) migration to groundwater or human health pathway in Table B1 or migration to groundwater or inhalation pathway in Table B2, based on the use of approved site-specific soil data, and the equations set out in the department's *Procedures for Calculating Cleanup Levels*, dated September 15, 2016, adopted by reference;

(2) migration to groundwater pathway in Table B1 or Table B2 based on approved site-specific soil and groundwater data and an approved fate and transport model that demonstrates that alternative soil cleanup levels are protective of the applicable groundwater cleanup levels under 18 AAC 75.345; or

(3) human health pathway in Table B1 or ingestion or inhalation pathway in Table B2 based on use of commercial or industrial exposure parameters listed in Appendix B of the *Procedures for Calculating Cumulative Risk*, adopted by reference in (1) of this subsection, if the department determines that the site serves a commercial or industrial land use; the department will base a land use determination under this paragraph upon

(A) consultation with the public, including the local zoning authority, if any;

(B) a determination that the site does not serve a residential land use;

(C) a determination that the site will not serve a future residential land use based on consideration of the factors in EPA's *Land Use in the CERCLA Remedy*

Selection Process, OSWER Dir. No. 9355.7-04, dated May 25, 1995, adopted by reference; land in an undeveloped area for which it would be difficult to determine a future use pattern is capable of being a residential area, unless demonstrated otherwise; and

(D) consent of each landowner who is affected by the contamination at the site that a cleanup level less stringent than a cleanup level appropriate to residential land use is appropriate for the site.

(f) Under method four, the department will approve a site-specific alternative cleanup level if a responsible person

(1) performs a site-specific risk assessment and submits a risk assessment report to the department for approval, and if the department determines that the alternative cleanup level is protective of human health, safety, and welfare, and of the environment based on the site-specific risk assessment; in performing the risk assessment, a responsible person shall follow the department's *Risk Assessment Procedures Manual*, dated October 1, 2015, adopted by reference; and

(2) obtains the consent of each landowner who is affected by the contamination at the site that a cleanup level less stringent than a cleanup level appropriate to residential land use is appropriate for the site.

(g) The department will develop a site-specific cleanup level for a hazardous substance not listed under 18 AAC 75.341(c) using the procedures set out in the department's *Risk Assessment Procedures Manual*, adopted by reference in (f)(1) of this section, unless the responsible person demonstrates that a site-specific cleanup level is not necessary to ensure protection of human health, safety, and welfare, and of the environment.

(h) The department will approve less stringent soil cleanup levels subject to any institutional controls required under 18 AAC 75.375, if a responsible person demonstrates that

(1) background concentrations of a hazardous substance in the site area exceed the applicable cleanup level set out in 18 AAC 75.341 for the hazardous substance; or

(2) the practical quantitation limit for the hazardous substance exceeds the applicable cleanup level set out in 18 AAC 75.341 for that substance.

(i) The department will require a responsible person to modify a cleanup level under this section or to perform a site-specific analysis of additional site risks if the department determines that

(1) as a result of site conditions or new data, a modification is necessary to protect human health, safety, or welfare, or the environment; or

(2) a site-specific analysis is necessary due to

(A) exposure pathways such as the potential for the accumulation of vapors in buildings or other structures at levels that threaten human health;

- (B) sediment contamination;
 - (C) impacts to ecological receptors;
 - (D) other site uses such as recreational, agricultural, or subsistence use; or
 - (E) the presence of sensitive subpopulations who respond biologically to lower levels of exposure to a hazardous substance.
- (j) Soil cleanup levels based on
- (1) migration of a hazardous substance to groundwater must be attained in the surface soil and the subsurface soil;
 - (2) human exposure from ingestion of or dermal contact with soil, or inhalation of particulates or a volatile hazardous substance, must be attained in the surface soil and the subsurface soil to a depth of 15 feet, unless an institutional control or site conditions prevent human exposure to the subsurface soil; and
 - (3) the maximum allowable concentrations for petroleum hydrocarbons described in Table B2 of 18 AAC 75.341(d) must be attained in the surface soil and the subsurface soil.
- (k) For a cleanup conducted under methods two and three, a chemical that is detected at one-tenth or more of the Table B1 direct contact and inhalation cleanup levels set out in 18 AAC 75.341(c) must be included when calculating cumulative risk under 18 AAC 75.325(g). (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 10/9/2008, Register 188; am 1/1/2016, Register 217; am 11/6/2016, Register 220)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020
	AS 46.03.710	AS 46.04.020	

Editor's note: The documents adopted by reference in 18 AAC 75.340 may be reviewed at, or requested from, the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna. The documents adopted by reference may also be viewed through the department's Internet website at http://dec.alaska.gov/spar/csp/guidance_forms/csguidance.htm.

18 AAC 75.341. Soil cleanup levels; tables. (a) If a responsible person uses method one for petroleum hydrocarbons for a non-Arctic zone under 18 AAC 75.340, the soil cleanup levels must be based on Table A1 in this subsection.

**TABLE A1. METHOD ONE – PETROLEUM HYDROCARBON SOIL
CLEANUP LEVELS IN NONARCTIC ZONES**
(See notes to table for further requirements)

Part A: Determine score for each item*

<p>1. Depth to Groundwater Less than 5 feet (10) 5 feet to 15 feet (8) More than 15 feet to 25 feet (6) More than 25 feet to 50 feet (4) More than 50 feet (1)</p>	
<p>2. Mean Annual Precipitation More than 40 inches (10) More than 25 inches to 40 inches (5) 15 inches to 25 inches (3) Less than 15 inches (1)</p>	
<p>3. Soil Type (Unified Soil Classification) Clean, coarse-grained soils (10) Coarse-grained soils with fines (8) Fine-grained soils (low organic carbon) (3) Fine-grained soils (high organic carbon) (1)</p>	
<p>4. Potential Receptors (Select the most applicable category) a. Public water system within 1000 feet, or private water system within 500 feet (15) b. Public/private water system within 1/2 mile (12) c. Public/private water system within one mile (8) d. No water system within one mile (4) e. Nonpotable groundwater (1)</p>	
<p>5. Volume of Contaminated Soil More than 500 cubic yards (10) More than 100 cubic yards to 500 cubic yards (8) More than 25 cubic yards to 100 cubic yards (5) 10 cubic yards to 25 cubic yards (2) Less than 10 cubic yards (0)</p>	

*The items to be scored are defined in note 1 to this table.

Part B: Add scores from Part A to determine matrix score and cleanup level

Matrix Score for Each Category	Cleanup Level in mg/kg		
	Gasoline Range Organics	Diesel Range Organics	Residual Range Organics
Category A: More than 40	50	100	2000
Category B: More than 26 to 40	100	200	2000
Category C: 21-26	500	1000	2000
Category D: Less than 21	1000	2000	2000

Notes to Table A1:

1. The following definitions for items 1 - 5 in Part A apply for purposes of using method one:

a. "depth to groundwater" means the measurement from the lowest point of the zone of soil contamination to the seasonal high groundwater table; a responsible person may not claim a lower matrix score for soil by moving contaminated soil to a higher elevation relative to the groundwater table;

b. "mean annual precipitation" is defined at 18 AAC 75.990;

c. "soil type" means the predominant Unified Soil Classification (USC) soil type between the deepest point of contamination and the seasonal high groundwater table; a responsible person may seek to demonstrate that otherwise coarse-grained soil has an organic carbon content that might enable a lower point classification. Soil types using the USC system are further defined as shown in Figure 1:

Figure 1

SOIL TYPE	UNIFIED SOIL CLASSIFICATIONS
Clean coarse-grained	GW, GP, SW, SP
Coarse-grained with fines	GM, GC, SM, SC, GP-GC, SP-SM, GW-GM, SW-SM, SW-SC
Fine-grained with low organic carbon	ML, CL, HM, CH
Fine-grained with high organic carbon	OL, OH, Pt

d. for the "potential receptors" categories,

(i) "public water system" and "private water system" have the meaning given those terms in 18 AAC 80.1990;

(ii) "nonpotable" means unusable for drinking water due to a water quality condition, such as salinity, that was not caused by or that does not arise from contamination at the site;

e. "volume of contaminated soil" means the total estimated volume of soil that is contaminated above the applicable cleanup level before a responsible person begins a removal or cleanup action.

2. For the "potential receptors" categories, a responsible person shall submit a demonstration supporting the score assigned, including the results of an approved water well survey; the most conservative score must be used to determine the proximity of potential receptors; for example, if a water system is within one-quarter mile, the category "public/private water system within one mile" that would score 8 would be superseded by the category "public/private water system within 1/2 mile" that would score 12.

3. The identity of a released refined petroleum product must be assumed to be unknown unless a responsible person demonstrates that the product is only gasoline, or only a refined nongasoline product; the department will waive the requirement that a product be identified by analysis if a responsible person demonstrates that only one type of product was stored or distributed at the site; the soil cleanup levels in Part B are based on gas chromatographic analytical measurements corresponding to a specific measured range of petroleum hydrocarbons as follows:

a. gasoline range organics: light-range petroleum products such as gasoline, with petroleum hydrocarbon compounds corresponding to an alkane range from the beginning of C₆ to the beginning of C₁₀ and a boiling point range between approximately 60° Centigrade and 170° Centigrade;

b. diesel range organics: mid-range petroleum products such as diesel fuel, with petroleum hydrocarbon compounds corresponding to an alkane range from the beginning of C₁₀ to the beginning of C₂₅ and a boiling point range between approximately 170° Centigrade and 400° Centigrade;

c. residual range organics: heavy-range petroleum products such as lubricating oils, with petroleum hydrocarbon compounds corresponding to an alkane range from the beginning of C₂₅ to the beginning of C₃₆ and a boiling point range between approximately 400° Centigrade and 500° Centigrade.

4. In addition to meeting the soil cleanup levels in Part B, a responsible person shall ensure that the site meets the most stringent standards for benzene, toluene, ethylbenzene, and total xylenes for the applicable exposure pathway in Table B1 in (c) of this section.

(b) If a responsible person uses method one for petroleum hydrocarbons for an Arctic zone under 18 AAC 75.340, the soil cleanup levels must be based on Table A2 in this subsection.

TABLE A2. METHOD ONE - PETROLEUM HYDROCARBON SOIL CLEANUP LEVELS IN THE ARCTIC ZONE			
PRODUCT	Cleanup Level in mg/kg		
	Diesel Range Petroleum Hydrocarbons	Gasoline Range Petroleum Hydrocarbons	Residual Range Petroleum Hydrocarbons
Gasoline	N/A	100	N/A
Diesel	200*	N/A	N/A
Unknown/Crude	200	100	N/A
Residual	N/A	N/A	2000

In this table, "N/A" means "not applicable."

* If a responsible party demonstrates that contamination is due to a diesel spill, that levels of benzene, toluene, ethylbenzene, and total xylene isomers (BTEX) are less than 15 mg/kg, that benzene levels are less than 0.5 mg/kg, and that other site conditions are favorable, and if the department determines that a less stringent level is protective of human health, safety, and welfare, and of the environment, the department will allow a cleanup level of 500 mg/kg for diesel range petroleum hydrocarbons.

The Arctic Zone numeric cleanup levels in this table cover only contamination related to manmade pads and roads. The department will determine the cleanup levels for undisturbed tundra or other undisturbed native vegetation on a site-specific basis, depending upon whether a cleanup action would cause more severe or long-term damage than would the discharge or release alone.

(c) If a responsible person uses method two for chemicals other than petroleum hydrocarbons under 18 AAC 75.340, the soil cleanup levels must be based on Table B1 in this subsection.

TABLE B1. METHOD TWO – SOIL CLEANUP LEVELS TABLE (See notes for additional requirements)						
Hazardous Substance	CAS Number ¹	health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Arctic Zone ²	Under 40 Inch Zone ³	Over 40 Inch Zone ⁴	Migration to Groundwater ⁶ (mg/kg)
			Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	
Acenaphthene ⁷	83-32-9	nc	6300	4600	3800	37
Acenaphthylene ^{7,8}	208-96-8	nc	3100	2300	1900	18
Acetone	67-64-1	nc	1.0 x 10 ⁵ ; ⁹	81000	65000	38
Aldrin	309-00-2	ca	0.67	0.49	0.40	0.0099
Ammonium Perchlorate	7790-98-9	nc	96	71	58	0.037
Anthracene ⁷	120-12-7	nc	31000	23000	19000	390
Antimony (metallic)	7440-36-0	nc	55	41	33	4.6
Arsenic, Inorganic ¹¹	7440-38-2	ca	12	8.8	7.2	0.20
Barium	7440-39-3	nc	25000	20000	17000	2100
Benz[a]anthracene ⁷	56-55-3	m	2.7	2.0	1.7	0.28
Benzaldehyde	100-52-7	nc	770 ¹⁰	770 ¹⁰	770 ¹⁰	0.52
Benzene ⁷	71-43-2	ca	16	11	8.1	0.022
Benzo[a]pyrene ⁷	50-32-8	m	0.28	0.20	0.17	0.27
Benzo[b]fluoranthene ⁷	205-99-2	m	2.8	2.0	1.7	2.7
Benzo[g,h,i]perylene ^{7,8}	191-24-2	nc	3100	2300	1900	15000
Benzo[k]fluoranthene ⁷	207-08-9	m	28	20	17	27
Benzoic Acid	65-85-0	nc	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹	200
Benzyl Alcohol	100-51-6	nc	11000	8200	6700	5.7
Beryllium and compounds	7440-41-7	nc	270	200	170	260
Bis(2-chloroethyl)ether	111-44-4	ca	4.0	2.8	2.1	0.00042
Bis(2-ethylhexyl)phthalate	117-81-7	ca	680	500	410	88
Bromobenzene	108-86-1	nc	160 ¹⁰	160 ¹⁰	160 ¹⁰	0.36
Bromodichloromethane	75-27-4	ca	5.3	3.6	2.6	0.0043
Bromoform	75-25-2	ca	340	240	170	0.10
Bromomethane	74-83-9	nc	15	10	7.4	0.024
Butadiene, 1,3-	106-99-0	ca	1.2	0.86	0.64	0.0012

TABLE B1. METHOD TWO – SOIL CLEANUP LEVELS TABLE (See notes for additional requirements)						
Hazardous Substance	CAS Number ¹	health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Arctic Zone ²	Under 40 Inch Zone ³	Over 40 Inch Zone ⁴	Migration to Groundwater ⁶ (mg/kg)
			Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	
Butanol, N-	71-36-3	nc	6500 ¹⁰	6500 ¹⁰	6500 ¹⁰	5.3
Butyl Benzyl Phthalate	85-68-7	ca	5000	3700	3000	16
Butylbenzene, n-	104-51-8	nc	20 ¹⁰	20 ¹⁰	20 ¹⁰	23
Butylbenzene, sec-	135-98-8	nc	28 ¹⁰	28 ¹⁰	28 ¹⁰	42
Butylbenzene, tert-	98-06-6	nc	35 ¹⁰	35 ¹⁰	35 ¹⁰	11
Cadmium (Diet)	7440-43-9	nc	120	92	76	9.1
Carbon Disulfide	75-15-0	nc	500 ¹⁰	500 ¹⁰	500 ¹⁰	2.9
Carbon Tetrachloride	56-23-5	ca	13	9.1	6.6	0.021
Chlordane	12789-03-6	ca	29	22	17	0.18
Chlordecone (Kepone)	143-50-0	ca	0.95	0.70	0.58	0.0083
Chloroaniline, p-	106-47-8	ca	47	35	29	0.015
Chlorobenzene	108-90-7	nc	180 ¹⁰	180 ¹⁰	180 ¹⁰	0.46
Chloroform	67-66-3	ca	5.8	4.0	2.9	0.0071
Chloromethane	74-87-3	nc	250	170	120	0.61
Chloronaphthalene, Beta-	91-58-7	nc	8400	6200	5100	26
Chlorophenol, 2-	95-57-8	nc	680	510	410	0.71
Chromium(III), Insoluble Salts ¹²	16065-83-1	nc	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹
Chromium(VI) ¹²	18540-29-9	m	4.9	3.9	3.2	0.089
Chrysene ⁷	218-01-9	m	280	200	170	82
Copper	7440-50-8	nc	5500	4100	3300	370
Cresol, m-	108-39-4	nc	5500	4100	3400	6.1
Cresol, o-	95-48-7	nc	5500	4100	3400	6.2
Cresol, p-	106-44-5	nc	11000	8200	6700	12
Cumene	98-82-8	nc	54 ¹⁰	54 ¹⁰	54 ¹⁰	5.6
Cyanide (CN-) ¹³	57-12-5	nc	48	34	26	0.20
Cyclohexane	110-82-7	nc	77 ¹⁰	77 ¹⁰	77 ¹⁰	150
DDD	72-54-8	ca	40	29	24	0.49
DDE, p,p'-	72-55-9	ca	34	25	20	0.72

TABLE B1. METHOD TWO – SOIL CLEANUP LEVELS TABLE (See notes for additional requirements)						
Hazardous Substance	CAS Number ¹	health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Arctic Zone ²	Under 40 Inch Zone ³	Over 40 Inch Zone ⁴	Migration to Groundwater ⁶ (mg/kg)
			Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	
DDT	50-29-3	ca	33	24	20	5.1
Dibenz[a,h]anthracene ⁷	53-70-3	m	0.28	0.20	0.17	0.87
Dibenzofuran	132-64-9	nc	130	95	77	0.97
Dibromochloromethane	124-48-1	ca	140	110	88	0.0027
Dibromoethane, 1,2- (Ethylene Dibromide)	106-93-4	ca	0.62	0.42	0.31	0.00024
Dibromomethane (Methylene Bromide)	74-95-3	nc	45	31	22	0.025
Dibutyl Phthalate	84-74-2	nc	11000	8200	6700	16
Dichlorobenzene, 1,2-	95-50-1	nc	78 ¹⁰	78 ¹⁰	78 ¹⁰	2.4
Dichlorobenzene, 1,3- ⁸	541-73-1	nc	62 ¹⁰	62 ¹⁰	62 ¹⁰	2.3
Dichlorobenzene, 1,4-	106-46-7	ca	31	21	15	0.037
Dichlorobenzidine, 3,3'-	91-94-1	ca	21	16	13	0.056
Dichlorodifluoromethane	75-71-8	nc	220	150	110	3.9
Dichloroethane, 1,1-	75-34-3	ca	67	46	33	0.092
Dichloroethane, 1,2-	107-06-2	ca	7.9	5.5	3.9	0.0055
Dichloroethylene, 1,1-	75-35-4	nc	480	330	240	1.2
Dichloroethylene, 1,2-cis-	156-59-2	nc	270	200	170	0.12
Dichloroethylene, 1,2-trans-	156-60-5	nc	960 ¹⁰	960 ¹⁰	960 ¹⁰	1.3
Dichlorophenol, 2,4-	120-83-2	nc	330	250	200	0.21
Dichlorophenoxy Acetic Acid, 2,4-	94-75-7	nc	1200	910	740	0.53
Dichloropropane, 1,2-	78-87-5	ca	16	11	8.0	0.016
Dichloropropene, 1,3-	542-75-6	ca	29	21	15	0.018
Dieldrin	60-57-1	ca	0.59	0.44	0.36	0.0047
Diethyl Phthalate	84-66-2	nc	88000	66000	54000	60
Dimethylphenol, 2,4-	105-67-9	nc	2200	1600	1300	3.2
Dimethylphthalate ⁸	131-11-3	nc	88000	66000	54000	48
Dinitrobenzene, 1,2-	528-29-0	nc	11	8.2	6.7	0.014
Dinitrobenzene, 1,3-	99-65-0	nc	11	8.2	6.7	0.014
Dinitrobenzene, 1,4-	100-25-4	nc	11	8.2	6.7	0.014

TABLE B1. METHOD TWO – SOIL CLEANUP LEVELS TABLE (See notes for additional requirements)						
Hazardous Substance	CAS Number ¹	health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Arctic Zone ²	Under 40 Inch Zone ³	Over 40 Inch Zone ⁴	Migration to Groundwater ⁶ (mg/kg)
			Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	
Dinitrophenol, 2,4-	51-28-5	nc	220	160	130	0.34
Dinitrotoluene, 2,4-	121-14-2	ca	30	23	18	0.024
Dinitrotoluene, 2,6-	606-20-2	ca	6.3	4.7	3.8	0.0050
Dinitrotoluene, 2-Amino-4,6-	35572-78-2	nc	270	200	160	0.25
Dinitrotoluene, 4-Amino-2,6-	19406-51-0	nc	270	200	160	0.25
Dioxane, 1,4-	123-91-1	ca	100	73	58	0.012
Diphenylamine	122-39-4	nc	2800	2000	1700	4.3
Endosulfan	115-29-7	nc	820	610	500	9.3
Endrin	72-20-8	nc	33	25	20	0.61
Ethyl Chloride	75-00-3	nc	1400 ¹⁰	1400 ¹⁰	1400 ¹⁰	72
Ethylbenzene ⁷	100-41-4	ca	72	49	35	0.13
Ethylene Glycol	107-21-1	nc	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹	110
Fluoranthene ⁷	206-44-0	nc	4200	3100	2500	590
Fluorene ⁷	86-73-7	nc	4200	3100	2500	36
Formaldehyde	50-00-0	ca	430	290	210	0.011
Heptachlor	76-44-8	ca	2.2	1.6	1.3	0.0076
Heptachlor Epoxide	1024-57-3	ca	1.2	0.86	0.69	0.0019
Hexachlorobenzene	118-74-1	ca	2.8	2.0	1.5	0.0082
Hexachlorobutadiene	87-68-3	nc	3.3 ¹⁰	3.3 ¹⁰	3.3 ¹⁰	0.020
Hexachlorocyclohexane, Alpha-	319-84-6	ca	1.5	1.1	0.91	0.0029
Hexachlorocyclohexane, Beta-	319-85-7	ca	5.3	3.9	3.2	0.010
Hexachlorocyclohexane, Gamma- (Lindane)	58-89-9	ca	9.9	7.4	6.0	0.016
Hexachlorocyclopentadiene	77-47-4	nc	2.0	1.4	1.0	0.0093
Hexachloroethane	67-72-1	ca	24	17	12	0.018
Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX)	121-82-4	ca	110	79	64	0.027
Hexane, N-	110-54-3	nc	130 ¹⁰	130 ¹⁰	130 ¹⁰	130 ¹⁰
Hexanone, 2-	591-78-6	nc	380	270	210	0.11
Hydrazine	302-01-2	ca	0.79	0.55	0.40	2.9 x 10 ⁻⁵

TABLE B1. METHOD TWO – SOIL CLEANUP LEVELS TABLE (See notes for additional requirements)						
Hazardous Substance	CAS Number ¹	health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Arctic Zone ²	Under 40 Inch Zone ³	Over 40 Inch Zone ⁴	Migration to Groundwater ⁶ (mg/kg)
			Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	
Indeno[1,2,3-cd]pyrene ⁷	193-39-5	m	2.8	2.0	1.7	8.8
Isophorone	78-59-1	ca	10000	7400	6100	2.7
Isopropanol	67-63-0	nc	14000	9500	6800	1.1
Lead and Compounds ¹⁴	7439-92-1	nc	400	400	400	n/a
Mercuric Chloride ⁸	7487-94-7	nc	41	30	25	3.9
Mercury (elemental)	7439-97-6	nc	3.1 ¹⁰	3.1 ¹⁰	3.1 ¹⁰	0.36
Methanol	67-56-1	nc	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹	1.0 x 10 ⁵ ; ⁹	54
Methoxychlor	72-43-5	nc	550	410	340	13
Methyl Ethyl Ketone (2-Butanone)	78-93-3	nc	23000 ¹⁰	23000 ¹⁰	23000 ¹⁰	15
Methyl Isobutyl Ketone (4-methyl-2-pentanone)	108-10-1	nc	2200 ¹⁰	2200 ¹⁰	2200 ¹⁰	18
Methyl Mercury	22967-92-6	nc	14	10	8.3	180
Methyl tert-Butyl Ether (MTBE)	1634-04-4	ca	970	670	480	0.40
Methylene Chloride	75-09-2	nc	630	460	360	0.33
Methylnaphthalene, 1-	90-12-0	ca	68 ¹⁰	68 ¹⁰	68 ¹⁰	0.41
Methylnaphthalene, 2-	91-57-6	nc	420	310	250	1.3
Naphthalene ⁷	91-20-3	ca	42	29	20	0.038
Nickel Soluble Salts	7440-02-0	nc	2600	2000	1700	340
Nitrobenzene	98-95-3	ca	63	43	31	0.0079
Nitroglycerin	55-63-0	nc	11	8.2	6.7	0.0082
Nitroguanidine	556-88-7	nc	11000	8200	6700	5.8
Nitrosodimethylamine, N-	62-75-9	m	0.036	0.026	0.020	3.3 x 10 ⁻⁶
Nitroso-di-N-propylamine, N-	621-64-7	ca	1.4	1.00	0.82	0.00068
Nitrosodiphenylamine, N-	86-30-6	ca	1900	1400	1200	4.6
Nitrotoluene, m-	99-08-1	nc	11	8.2	6.7	0.013
Nitrotoluene, o-	88-72-2	ca	55	41	34	0.024
Nitrotoluene, p-	99-99-0	nc	440	330	270	0.32
Octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazocine (HMX)	2691-41-0	nc	6700	5000	4100	9.7
Octyl Phthalate, di-N-	117-84-0	nc	1100	820	670	370

TABLE B1. METHOD TWO – SOIL CLEANUP LEVELS TABLE (See notes for additional requirements)						
Hazardous Substance	CAS Number ¹	health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Arctic Zone ²	Under 40 Inch Zone ³	Over 40 Inch Zone ⁴	Migration to Groundwater ⁶ (mg/kg)
			Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	
Pentachlorophenol	87-86-5	ca	18	13	11	0.0043
Pentaerythritol tetranitrate (PETN)	78-11-5	nc	220	160	130	0.43
Perfluorooctane Sulfonate (PFOS) ²⁰	1763-23-1	nc	2.2	1.6	1.3	0.0030
Perfluorooctanoic Acid (PFOA) ²⁰	335-67-1	nc	2.2	1.6	1.3	0.0017
Phenanthrene ^{7,8}	85-01-8	nc	3100	2300	1900	39
Phenol	108-95-2	nc	33000	25000	20000	29
Phosphorus, White	7723-14-0	nc	2.7	2.0	1.7	0.020
Polychlorinated Biphenyls (total) ¹⁵	1336-36-3	ca	1.0	1.0	1.0	n/a
Propyl benzene	103-65-1	nc	52 ¹⁰	52 ¹⁰	52 ¹⁰	9.1
Pyrene ⁷	129-00-0	nc	3100	2300	1900	87
Selenium	7782-49-2	nc	680	510	410	6.9
Silver	7440-22-4	nc	680	510	410	11
Styrene	100-42-5	nc	180 ¹⁰	180 ¹⁰	180 ¹⁰	10
TCDD, 2,3,7,8- ¹⁶	1746-01-6	ca	8.2 x 10 ⁻⁵	6.0 x 10 ⁻⁵	4.9 x 10 ⁻⁵	3.9 x 10 ⁻⁶
Tetrachloroethane, 1,1,1,2-	630-20-6	ca	30	21	15	0.022
Tetrachloroethane, 1,1,2,2-	79-34-5	ca	8.8	6.1	4.4	0.0030
Tetrachloroethylene	127-18-4	nc	68 ¹⁰	68 ¹⁰	68 ¹⁰	0.19
Tetryl (Trinitrophenylmethylnitramine)	479-45-8	nc	270	200	170	2.5
Thallium (Soluble Salts)	7440-28-0	nc	1.4	1.00	0.83	0.19
Toluene ⁷	108-88-3	nc	200 ¹⁰	200 ¹⁰	200 ¹⁰	6.7
Toxaphene	8001-35-2	ca	8.6	6.4	5.2	0.72
Trichloro-1,2,2-trifluoroethane, 1,1,2-	76-13-1	nc	740 ¹⁰	740 ¹⁰	740 ¹⁰	1700
Trichlorobenzene, 1,2,3-	87-61-6	nc	110	81	66	0.15
Trichlorobenzene, 1,2,4-	120-82-1	nc	65	45	32	0.082
Trichloroethane, 1,1,1-	71-55-6	nc	360 ¹⁰	360 ¹⁰	360 ¹⁰	32
Trichloroethane, 1,1,2-	79-00-5	nc	2.3	1.6	1.1	0.0014
Trichloroethylene	79-01-6	nc	7.1	4.9	3.5	0.011
Trichlorofluoromethane	75-69-4	nc	980 ¹⁰	980 ¹⁰	980 ¹⁰	41

TABLE B1. METHOD TWO – SOIL CLEANUP LEVELS TABLE (See notes for additional requirements)						
Hazardous Substance	CAS Number ¹	health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Arctic Zone ²	Under 40 Inch Zone ³	Over 40 Inch Zone ⁴	Migration to Groundwater ⁶ (mg/kg)
			Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	Human Health ⁵ (mg/kg)	
Trichlorophenol, 2,4,5-	95-95-4	nc	11000	8200	6700	28
Trichlorophenol, 2,4,6-	88-06-2	nc	110	82	67	0.092
Trichlorophenoxyacetic Acid, 2,4,5-	93-76-5	nc	1100	820	670	0.66
Trichlorophenoxypropionic acid, -2,4,5	93-72-1	nc	880	660	540	0.55
Trichloropropane, 1,2,3-	96-18-4	m	0.089	0.066	0.054	3.1 x 10 ⁻⁵
Trimethylbenzene, 1,2,4-	95-63-6	nc	43 ¹⁰	43 ¹⁰	33	0.16
Trimethylbenzene, 1,3,5-	108-67-8	nc	37 ¹⁰	37 ¹⁰	37 ¹⁰	1.3
Tri-n-butyltin	688-73-3	nc	41	30	25	0.68
Trinitrobenzene, 1,3,5-	99-35-4	nc	3900	2900	2400	15
Trinitrotoluene, 2,4,6-	118-96-7	nc	64	47	39	0.39
Vanadium and Compounds	7440-62-2	nc	680	510	420	1100
Vinyl Acetate	108-05-4	nc	2100	1400	1000	1.1
Vinyl Chloride	75-01-4	ca	0.69	0.65	0.61	0.00080
Xylenes ⁷	1330-20-7	nc	57 ¹⁰	57 ¹⁰	57 ¹⁰	1.5
Zinc and Compounds	7440-66-6	nc	41000	30000	25000	4900

See notes to table for further requirements. "n/a" means not applicable.

NOTES TO TABLE B1 FOLLOW TABLE B2 IN (d) OF THIS SECTION

(d) If a responsible person uses method two for petroleum hydrocarbons under 18 AAC 75.340, the soil cleanup levels must be based on Table B2 in this subsection.

TABLE B2. METHOD TWO - PETROLEUM HYDROCARBON SOIL CLEANUP LEVELS

Petroleum Hydrocarbon Range	Arctic Zone ² mg/kg			Under 40 Inch Zone ³			Over 40 Inch Zone ⁴			Maximum Allowable Concentrations ¹⁷ mg/kg
	Ingestion (mg/kg) ¹⁸	Inhalation (mg/kg) ¹⁹	Migration to Groundwater (mg/kg) ⁶	Ingestion (mg/kg) ¹⁸	Inhalation (mg/kg) ¹⁹	Migration to groundwater (mg/kg) ⁶	Ingestion (mg/kg) ¹⁸	Inhalation (mg/kg) ¹⁹	Migration to Groundwater (mg/kg) ⁶	
For Laboratory Analysis using AK Methods 101, 102, and 103										
C ₆ -C ₁₀ GRO using AK 101	1400	1400	n/a	1400	1400	300	1400	1400	260	1400
C ₁₀ -C ₂₅ DRO using AK 102	12500	12500	n/a	10250	12500	250	8250	12500	230	12500
C ₂₅ -C ₃₆ RRO using AK 103	13700	22000	n/a	10000	22000	11000	8300	22000	9700	22000
For Laboratory Analysis using AK Aliphatic and Aromatic Fraction Methods 101AA, 102AA, and 103AA										
C ₆ -C ₁₀ Aliphatics	1000	1000	n/a	1000	1000	270	1000	1000	240	1000
C ₆ -C ₁₀ Aromatics	1000	1000	n/a	1000	1000	150	1000	1000	130	1000
C ₁₀ -C ₂₅ Aliphatics	10000	10000	n/a	10000	10000	7200	8300	10000	6400	10000
C ₁₀ -C ₂₅ Aromatics	5000	5000	n/a	4100	5000	100	3300	5000	90	5000
C ₂₅ -C ₃₆ Aliphatics	20000	20000	n/a	20000	20000	20000	20000	20000	20000	20000
C ₂₅ -C ₃₆ Aromatics	4100	10000	n/a	3000	10000	3300	2500	10000	2900	10000
See notes to table for further requirements. "n/a" means not applicable.										

Notes to Tables B1 and B2:

If applicable, alternative cleanup levels must be protective of migration to surface water. Concentrations of hazardous substances in soil must be calculated and presented on a per dry weight basis. For volatile organic hazardous substances for which toxicity data are not currently available or calculated levels exceed the calculated saturation concentration, the cleanup level that applies at a site is the calculated saturation concentration determined using the equations set out in the *Procedures for Calculating Cleanup Levels*, adopted by reference in 18 AAC 75.340. The cleanup level from Table B1 or B2 that applies at a site is the most stringent of the applicable exposure pathway-specific cleanup levels based on human health, ingestion, inhalation, or migration to groundwater. Where the superscript figure “9” follows the exponent “10⁵”, separated by a semicolon, the figure “9” refers to Note 9.

1. “CAS Number” means the Chemical Abstract Service (CAS) registry number uniquely assigned to chemicals by the American Chemical Society and recorded in the CAS Registry System.

2. “Arctic zone” is defined at 18 AAC 75.990.

3. “Under 40 inch zone” means a site that receives mean annual precipitation of less than 40 inches each year.

4. “Over 40 inch zone” means a site that receives mean annual precipitation of 40 or more inches each year.

5. The “Human Health” exposure pathway is the cumulative exposure pathway through dermal contact, ingestion, and inhalation of volatile and particulate compounds from hazardous substances in the soil but excludes the vapor intrusion pathway of indoor air inhalation.

6. The “Migration to Groundwater” exposure pathway is the potential for hazardous substances to leach to groundwater where they may result in a completed human health exposure pathway through dermal contact, ingestion, or inhalation of contaminants at or above levels listed in Table C at 18 AAC 75.345(b)(1); soil cleanup levels protective of migration to surface water must be determined on a site-specific basis.

7. If using method two or method three, the applicable petroleum hydrocarbon cleanup levels must be met in addition to the applicable chemical-specific cleanup levels for benzene, ethylbenzene, toluene, and total xylenes; the chemical-specific cleanup levels for the polynuclear aromatic hydrocarbons acenaphthene, acenaphthylene, anthracene, benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[k]fluoranthene, benzo[g,h,i]pyrene, chrysene, dibenz[a,h]anthracene, fluoranthene, fluorene, indeno[1,2,3-c,d]pyrene, naphthalene, phenanthrene, and pyrene must also be met unless the department determines that those cleanup levels need not be met to protect human health, safety, and welfare, and the environment.

8. Where one or more toxicological values were unavailable, toxicity values from surrogate compounds or other sources were used as follows:

(A) pyrene is a toxicity surrogate for acenaphthylene, benzo(g,h,i) perylene, and phenanthrene;

(B) 1,2-dichlorobenzene is a toxicity surrogate for 1,3-dichlorobenzene;

(C) diethylphthalate is a toxicity surrogate for dimethylphthalate;

(D) elemental mercury is a toxicity surrogate for mercuric chloride.

9. The ceiling limit of 100,000 mg/kg is equivalent to a chemical representing 10 percent by weight of the soil sample. At this contaminant concentration and higher, the assumptions for soil contact may be violated (for example, soil adherence and wind-borne dispersion

assumptions) due to the presence of the foreign substance itself.

10. These levels are based on soil saturation level (C_{sat}) using the equations set out in *Procedures for Calculating Cleanup Levels*, adopted by reference in 18 AAC 75.340. Refer to the *Procedures for Calculating Cumulative Risk*, adopted by reference in 18 AAC 75.325, for inhalation risk screening levels.

11. Due to the prevalence of naturally occurring arsenic throughout the state, arsenic at a site will be considered background arsenic unless anthropogenic contribution from a source, activity, or mobilization by means of another introduced contaminant is known or suspected.

12. Due to the prevalence of naturally occurring chromium III throughout the state, sample results reported for total chromium detected at a site will be considered background chromium III unless anthropogenic contribution of chromium III or VI from a source, activity, or mobilization by means of another introduced contaminant is known or suspected. The calculated chromium III migration to groundwater cleanup level exceeds 1,000,000 parts per million.

13. Cyanide expressed as free, or physiologically available cyanide.

14. Lead cleanup levels are based on land use; for residential land use, the soil cleanup level is 400 mg/kg. For commercial or industrial land use, as applied in 18 AAC 75.340(e)(3), the soil cleanup level is 800 mg/kg; through an approved site-specific risk assessment, conducted according to the *Risk Assessment Procedures Manual*, adopted by reference in 18 AAC 75.340, approved exposure models may be used to evaluate exposure to a child resident or an adult worker; a responsible person may also propose an alternative cleanup level, through a site-specific risk assessment conducted according to the *Risk Assessment Procedures Manual*, and based on a chemical speciation of the lead present at the site. For soils contaminated with lead more than 15 feet below ground surface, lead cleanup levels will be determined on a site-specific basis.

15. For unrestricted land use, polychlorinated biphenyls (PCBs) in soil shall be cleaned up to the listed value, unless the department determines that a different cleanup level is necessary as provided in 18 AAC 75.340(i); with the prior approval of the department, PCBs in soil may be cleaned up to

(A) between 1 and 10 mg/kg if the responsible person

(i) caps each area containing PCBs in soil at levels between 1 and 10 mg/kg; for purposes of this Note 15, "caps" means covering an area of PCB contaminated soil with an appropriate material to prevent exposure of humans and the environment to PCBs; to be approved, a cap must be designed and constructed of a material acceptable to the department and of sufficient strength and durability to withstand the use of the surface that is exposed to the environment; within 72 hours after discovery of a breach to the integrity of a cap, the responsible person or the landowner shall initiate repairs to that breach; and

(ii) provides the department within 60 days after completing the cleanup, documentation that the responsible person has recorded a deed notation in the appropriate land records, or on another instrument that is normally examined during a title search, documenting that PCBs remain in the soil, that the contaminated soil has been capped, and that subsequent interest holders may have legal obligations with respect to the cap and the contaminated soil; or

(B) an alternative PCB soil cleanup level developed through an approved site-specific risk assessment, conducted according to the *Risk Assessment Procedures Manual*, adopted by reference at 18 AAC 75.340.

16. This cleanup level is for 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) only; all cleanup levels for polychlorinated dibenzo-*p*-dioxin (PCDD) and polychlorinated dibenzofuran (PCDF) congeners must be determined on a site-specific basis.

17. This level is the concentration of C₆ - C₁₀, C₁₀ - C₂₅, or C₂₅ - C₃₆ petroleum hydrocarbon range in surface and subsurface soil that if exceeded, indicates an increased potential for hazardous substance migration or for risk to human health, safety, or welfare, or to the environment; the level of a petroleum hydrocarbon may not remain at a concentration above the maximum allowable concentration unless a responsible person demonstrates that the petroleum hydrocarbon will not migrate and will not pose a significant risk to human health, safety, or welfare, or to the environment; free product must be recovered as required by 18 AAC 75.325(f).

18. "Ingestion" means a potential pathway of exposure to hazardous substances through direct consumption of the soil.

19. "Inhalation" means a potential pathway to volatile organic hazardous substances in the soil through volatilization.

20. Toxicity values for PFOS and PFOA were sourced from EPA's *Health Effects Support Document for Perfluorooctane Sulfonate (PFOS)* (EPA 922-R-16-002), dated May 2016, and *Health Effects Support Document for Perfluorooctanoic Acid (PFOA)* (EPA 822-R-16-003), dated May 2016.

(Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 10/9/2008, Register 188; am 11/6/2016, Register 220)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020
	AS 46.03.710	AS 46.04.020	

Editor's note: The applicable EPA rule governing disposal and cleanup of PCB contaminated facilities under 40 C.F.R. Part 761.61 (PCB remediation waste) may apply to PCB cleanup at a contaminated site. The PCB cleanup levels listed in Table B1 are based on cleanup levels referred to in 40 C.F.R. 761.61 for high occupancy areas with no cap.

18 AAC 75.345. Groundwater and surface water cleanup levels. (a) Except as otherwise provided in this section, cleanup of a discharge or release of a hazardous substance to groundwater or surface water must meet the requirements of this section.

(b) Contaminated groundwater must meet

(1) the cleanup levels in Table C if the current use or the reasonably expected potential future use of the groundwater, determined under 18 AAC 75.350, is a drinking water source;

TABLE C. GROUNDWATER CLEANUP LEVELS

Hazardous Substance	CAS Number ¹	Health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Groundwater Human Health Cleanup Level ² (micrograms /liter)
Acenaphthene	83-32-9	nc	530
Acenaphthylene ³	208-96-8	nc	260
Acetone	67-64-1	nc	14000
Aldrin	309-00-2	ca	0.0092
Ammonium Perchlorate	7790-98-9	nc	14
Anthracene	120-12-7	nc	43 ⁴
Antimony (metallic)	7440-36-0	nc	7.8
Arsenic, Inorganic ⁵	7440-38-2	ca	0.52
Barium	7440-39-3	nc	3800
Benz[a]anthracene	56-55-3	m	0.12
Benzaldehyde	100-52-7	nc	1900
Benzene	71-43-2	ca	4.6
Benzo[a]pyrene	50-32-8	m	0.034
Benzo[b]fluoranthene	205-99-2	m	0.34
Benzo[g,h,i]perylene ³	191-24-2	nc	0.26 ⁴
Benzo[k]fluoranthene	207-08-9	m	0.80 ⁴
Benzoic Acid	65-85-0	nc	75000
Benzyl Alcohol	100-51-6	nc	2000
Beryllium and compounds	7440-41-7	nc	25
Bis(2-chloroethyl)ether	111-44-4	ca	0.14
Bis(2-ethylhexyl)phthalate	117-81-7	ca	56
Bromobenzene	108-86-1	nc	62
Bromodichloromethane	75-27-4	ca	1.3
Bromoform	75-25-2	ca	33
Bromomethane	74-83-9	nc	7.5
Butadiene, 1,3-	106-99-0	ca	0.18
Butanol, N-	71-36-3	nc	2000
Butyl Benzyl Phthalate	85-68-7	ca	160
Butylbenzene, n-	104-51-8	nc	1000
Butylbenzene, sec-	135-98-8	nc	2000
Butylbenzene, tert-	98-06-6	nc	690
Cadmium (Diet)	7440-43-9	nc	9.2
Carbon Disulfide	75-15-0	nc	810
Carbon Tetrachloride	56-23-5	ca	4.6
Chlordane	12789-03-6	ca	0.20

TABLE C. GROUNDWATER CLEANUP LEVELS

Hazardous Substance	CAS Number ¹	Health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Groundwater Human Health Cleanup Level ² (micrograms /liter)
Chlordecone (Kepone)	143-50-0	ca	0.035
Chloroaniline, p-	106-47-8	ca	3.7
Chlorobenzene	108-90-7	nc	78
Chloroform	67-66-3	ca	2.2
Chloromethane	74-87-3	nc	190
Chloronaphthalene, Beta-	91-58-7	nc	750
Chlorophenol, 2-	95-57-8	nc	91
Chromium(III), Insoluble Salts ⁶	16065-83-1	nc	22000
Chromium(VI) ⁶	18540-29-9	m	0.35
Chrysene	218-01-9	m	2.0 ⁴
Copper	7440-50-8	nc	800
Cresol, m-	108-39-4	nc	930
Cresol, o-	95-48-7	nc	930
Cresol, p-	106-44-5	nc	1900
Cumene	98-82-8	nc	450
Cyanide (CN-)	57-12-5	nc	1.5
Cyclohexane	110-82-7	nc	13000
DDD	72-54-8	ca	0.32
DDE, p,p'-	72-55-9	ca	0.46
DDT	50-29-3	ca	2.3
Dibenz[a,h]anthracene	53-70-3	m	0.034
Dibenzofuran	132-64-9	nc	7.9
Dibromochloromethane	124-48-1	ca	8.7
Dibromoethane, 1,2- (Ethylene Dibromide)	106-93-4	ca	0.075
Dibromomethane (Methylene Bromide)	74-95-3	nc	8.3
Dibutyl Phthalate	84-74-2	nc	900
Dichlorobenzene, 1,2-	95-50-1	nc	300
Dichlorobenzene, 1,3- ³	541-73-1	nc	300
Dichlorobenzene, 1,4-	106-46-7	ca	4.8
Dichlorobenzidine, 3,3'-	91-94-1	ca	1.3
Dichlorodifluoromethane	75-71-8	nc	200
Dichloroethane, 1,1-	75-34-3	ca	28
Dichloroethane, 1,2-	107-06-2	ca	1.7
Dichloroethylene, 1,1-	75-35-4	nc	280
Dichloroethylene, 1,2-cis-	156-59-2	nc	36

TABLE C. GROUNDWATER CLEANUP LEVELS

Hazardous Substance	CAS Number ¹	Health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Groundwater Human Health Cleanup Level ² (micrograms /liter)
Dichloroethylene, 1,2-trans-	156-60-5	nc	360
Dichlorophenol, 2,4-	120-83-2	nc	46
Dichlorophenoxy Acetic Acid, 2,4-	94-75-7	nc	170
Dichloropropane, 1,2-	78-87-5	ca	4.4
Dichloropropene, 1,3-	542-75-6	ca	4.7
Dieldrin	60-57-1	ca	0.018
Diethyl Phthalate	84-66-2	nc	15000
Dimethylphenol, 2,4-	105-67-9	nc	360
Dimethylphthalate ³	131-11-3	nc	16000
Dinitrobenzene, 1,2-	528-29-0	nc	1.9
Dinitrobenzene, 1,3-	99-65-0	nc	2.0
Dinitrobenzene, 1,4-	100-25-4	nc	2.0
Dinitrophenol, 2,4-	51-28-5	nc	39
Dinitrotoluene, 2,4-	121-14-2	ca	2.4
Dinitrotoluene, 2,6-	606-20-2	ca	0.49
Dinitrotoluene, 2-Amino-4,6-	35572-78-2	nc	39
Dinitrotoluene, 4-Amino-2,6-	19406-51-0	nc	39
Dioxane, 1,4-	123-91-1	ca	4.6
Diphenylamine	122-39-4	nc	310
Endosulfan	115-29-7	nc	100
Endrin	72-20-8	nc	2.3
Ethyl Chloride	75-00-3	nc	21000
Ethylbenzene	100-41-4	ca	15
Ethylene Glycol	107-21-1	nc	40000
Fluoranthene	206-44-0	nc	260 ⁴
Fluorene	86-73-7	nc	290
Formaldehyde	50-00-0	ca	4.3
Heptachlor	76-44-8	ca	0.014
Heptachlor Epoxide	1024-57-3	ca	0.014
Hexachlorobenzene	118-74-1	ca	0.098
Hexachlorobutadiene	87-68-3	nc	1.4
Hexachlorocyclohexane, Alpha-	319-84-6	ca	0.072
Hexachlorocyclohexane, Beta-	319-85-7	ca	0.25
Hexachlorocyclohexane, Gamma- (Lindane)	58-89-9	ca	0.42
Hexachlorocyclopentadiene	77-47-4	nc	0.41

TABLE C. GROUNDWATER CLEANUP LEVELS

Hazardous Substance	CAS Number ¹	Health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Groundwater Human Health Cleanup Level ² (micrograms /liter)
Hexachloroethane	67-72-1	ca	3.3
Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX)	121-82-4	ca	7.0
Hexane, N-	110-54-3	nc	1500
Hexanone, 2-	591-78-6	nc	38
Hydrazine	302-01-2	ca	0.011
Indeno[1,2,3-cd]pyrene	193-39-5	m	0.19 ⁴
Isophorone	78-59-1	ca	780
Isopropanol	67-63-0	nc	410
Lead and Compounds ⁷	7439-92-1	nc	15
Mercuric Chloride ³	7487-94-7	nc	5.7
Mercury (elemental)	7439-97-6	nc	0.52
Methanol	67-56-1	nc	20000
Methoxychlor	72-43-5	nc	37
Methyl Ethyl Ketone (2-Butanone)	78-93-3	nc	5600
Methyl Isobutyl Ketone (4-methyl-2-pentanone)	108-10-1	nc	6300
Methyl Mercury	22967-92-6	nc	2.0
Methyl tert-Butyl Ether (MTBE)	1634-04-4	ca	140
Methylene Chloride	75-09-2	nc	110
Methylnaphthalene, 1-	90-12-0	ca	11
Methylnaphthalene, 2-	91-57-6	nc	36
Naphthalene	91-20-3	ca	1.7
Nickel Soluble Salts	7440-02-0	nc	390
Nitrobenzene	98-95-3	ca	1.4
Nitroglycerin	55-63-0	nc	2.0
Nitroguanidine	556-88-7	nc	2000
Nitrosodimethylamine, N-	62-75-9	m	0.0011
Nitroso-di-N-propylamine, N-	621-64-7	ca	0.11
Nitrosodiphenylamine, N-	86-30-6	ca	120
Nitrotoluene, m-	99-08-1	nc	1.7
Nitrotoluene, o-	88-72-2	ca	3.1
Nitrotoluene, p-	99-99-0	nc	43
Octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazocine (HMX)	2691-41-0	nc	1000
Octyl Phthalate, di-N-	117-84-0	nc	22 ⁴
Pentachlorophenol	87-86-5	ca	0.41
Pentaerythritol tetranitrate (PETN)	78-11-5	nc	39

TABLE C. GROUNDWATER CLEANUP LEVELS

Hazardous Substance	CAS Number ¹	Health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Groundwater Human Health Cleanup Level ² (micrograms /liter)
Perfluorooctane Sulfonate (PFOS) ⁹	1763-23-1	nc	0.40
Perfluorooctanoic Acid (PFOA) ⁹	335-67-1	nc	0.40
Phenanthrene ³	85-01-8	nc	170
Phenol	108-95-2	nc	5800
Phosphorus, White	7723-14-0	nc	0.40
Polychlorinated Biphenyls (PCBs)	1336-36-3	ca	0.50
Propyl benzene	103-65-1	nc	660
Pyrene	129-00-0	nc	120
Selenium	7782-49-2	nc	100
Silver	7440-22-4	nc	94
Styrene	100-42-5	nc	1200
TCDD, 2,3,7,8- ⁸	1746-01-6	ca	1.2 x 10 ⁻⁶
Tetrachloroethane, 1,1,1,2-	630-20-6	ca	5.7
Tetrachloroethane, 1,1,2,2-	79-34-5	ca	0.76
Tetrachloroethylene	127-18-4	nc	41
Tetryl (Trinitrophenylmethylnitramine)	479-45-8	nc	39
Thallium (Soluble Salts)	7440-28-0	nc	0.20
Toluene	108-88-3	nc	1100
Toxaphene	8001-35-2	ca	0.71
Trichloro-1,2,2-trifluoroethane, 1,1,2-	76-13-1	nc	55000
Trichlorobenzene, 1,2,3-	87-61-6	nc	7.0
Trichlorobenzene, 1,2,4-	120-82-1	nc	4.0
Trichloroethane, 1,1,1-	71-55-6	nc	8000
Trichloroethane, 1,1,2-	79-00-5	nc	0.41
Trichloroethylene	79-01-6	nc	2.8
Trichlorofluoromethane	75-69-4	nc	5200
Trichlorophenol, 2,4,5-	95-95-4	nc	1200
Trichlorophenol, 2,4,6-	88-06-2	nc	12
Trichlorophenoxyacetic Acid, 2,4,5-	93-76-5	nc	160
Trichlorophenoxypropionic acid, -2,4,5	93-72-1	nc	110
Trichloropropane, 1,2,3-	96-18-4	m	0.0075
Trimethylbenzene, 1,2,4-	95-63-6	nc	15
Trimethylbenzene, 1,3,5-	108-67-8	nc	120
Tri-n-butyltin	688-73-3	nc	3.7
Trinitrobenzene, 1,3,5-	99-35-4	nc	590

TABLE C. GROUNDWATER CLEANUP LEVELS

Hazardous Substance	CAS Number ¹	Health effect that drives risk: carcinogen (ca); noncarcinogen (nc); mutagen (m)	Groundwater Human Health Cleanup Level ² (micrograms /liter)
Trinitrotoluene, 2,4,6-	118-96-7	nc	9.8
Vanadium and Compounds	7440-62-2	nc	86
Vinyl Acetate	108-05-4	nc	410
Vinyl Chloride	75-01-4	ca	0.19
Xylenes	1330-20-7	nc	190
Zinc and Compounds	7440-66-6	nc	6000
PETROLEUM HYDROCARBONS			
C ₆ -C ₁₀ GRO		nc	2200
C ₁₀ -C ₂₅ DRO		nc	1500
C ₂₅ -C ₃₆ RRO		nc	1100

Notes to Table C:**Notes to Table C:**

1. "CAS Number" means the Chemical Abstract Service (CAS) registry number uniquely assigned to chemicals by the American Chemical Society and recorded in the CAS Registry System.
2. The "Human Health" exposure pathway is the cumulative exposure pathway through dermal contact, ingestion, and inhalation of volatile compounds from hazardous substances in the water.
3. Where one or more toxicological values were unavailable, toxicity values from surrogate compounds or other sources were used as follows:
 - (A) pyrene is a toxicity surrogate for acenaphthylene, benzo(g,h,i) perylene, and phenanthrene;
 - (B) 1,2-dichlorobenzene is a toxicity surrogate for 1,3-dichlorobenzene;
 - (C) diethylphthalate is a toxicity surrogate for dimethylphthalate;
 - (D) elemental mercury is a toxicity surrogate for mercuric chloride.
4. These levels are based on water solubility using the data set out in *Procedures for Calculating Cleanup Levels*, adopted by reference in 18 AAC 75.340.
5. Due to the prevalence of naturally occurring arsenic throughout the state, arsenic at a site will be considered background arsenic unless anthropogenic contribution from a source, activity, or mobilization by means of another introduced contaminant is known or suspected.
6. Due to the prevalence of naturally occurring chromium III throughout the state, sample results reported for total chromium detected at a site will be considered background chromium III unless anthropogenic contribution of chromium III or VI from a source, activity, or mobilization by means of another introduced contaminant is known or suspected.
7. The lead cleanup level is taken from EPA's action level for lead in water.
8. This cleanup level is for 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) only; all cleanup levels for polychlorinated dibenzo-*p*-dioxin (PCDD) and polychlorinated dibenzofuran (PCDF) congeners must be determined on a site-specific basis.

9. Toxicity values for PFOS and PFOA were sourced from EPA's *Health Effects Support Document for Perfluorooctane Sulfonate (PFOS)* (EPA 922-R-16-002), dated May 2016, and *Health Effects Support Document for Perfluorooctanoic Acid (PFOA)* (EPA 822-R-16-003), dated May 2016.

(2) an approved cleanup level based on an approved site-specific risk assessment conducted under the *Risk Assessment Procedures Manual* adopted by reference in 18 AAC 75.340;

(3) an alternative cleanup level for a hazardous substance not listed under (1) of this subsection proposed by the responsible party and approved by the department, using the procedures set out in the department's *Risk Assessment Procedures Manual*, adopted by reference in 18 AAC 75.340, unless the responsible person demonstrates that an alternative cleanup level is not necessary to ensure protection of human health, safety, and welfare, and of the environment; or;

(4) an alternative cleanup level for a hazardous substance not listed under (1) of this subsection set by the department using the procedures set out in the department's *Risk Assessment Procedures Manual*, adopted by reference in 18 AAC 75.340.

(c) The department will set a more stringent cleanup level than the applicable level under (b) of this section, if the department determines that a more stringent cleanup level is necessary to ensure protection of human health, safety, or welfare, or of the environment, and based on actual onsite and actual or likely offsite uses of the groundwater that are likely to be affected by the hazardous substance. In making a determination under this subsection, the department may consider

(1) the risks to current or potential future users of the groundwater as a drinking water source, as determined under 18 AAC 75.350;

(2) the presence of sensitive subpopulations who respond biologically to lower levels of exposure to a hazardous substance;

(3) the groundwater use classifications other than for drinking water, as set out under 18 AAC 70.020(a)(1)(A) and 18 AAC 70.050(2);

(4) the primary or secondary maximum contaminant levels in 18 AAC 80.300 for actual or likely drinking water supplies;

(5) a health advisory value developed by EPA's Office of Water; and

(6) the cleanup levels in this section for groundwater contaminated with petroleum; the contamination may not exceed, for each petroleum hydrocarbon range applicable, including the gasoline range, the diesel range, and the residual range,

(A) a threshold odor number (TON) of 1 for odor, as measured by Method 2150B, *Standard Methods for the Examination of Water and Wastewater*, 22nd edition, American Public Health Association (2012), adopted by reference; or

(B) a flavor threshold number (FTN) of 1 for flavor, as measured by Method 2160B, *Standard Methods for the Examination of Water and Wastewater*, adopted by reference in (A) of this paragraph.

(d) Where the department determines that toxicity information is insufficient to establish a cleanup level for a hazardous substance or a pollutant that ensures protection of human health, safety, and welfare, and of the environment, the department may require a responsible person to provide an alternative source of drinking water for the affected parties or implement other institutional controls under 18 AAC 75.375 until a cleanup level is established under (b)(2), (3), or (4) of this section.

(e) Toxic substances in sediment may not cause, and may not be reasonably expected to cause, a toxic or other deleterious effect on aquatic life, except as authorized under 18 AAC 70. For purposes of this subsection, "toxic substances" has the meaning given in 18 AAC 70.990.

(f) The point of compliance where groundwater cleanup levels must be attained is throughout the site from each point extending vertically from the uppermost level of the zone of saturation to the lowest possible depth that could potentially be affected by the discharge or release of a hazardous substance, unless the department approves an alternative point of compliance as part of the cleanup action under 18 AAC 75.360. For the department to approve an alternative point of compliance under this subsection, the

(1) alternative point of compliance must be within the existing groundwater contamination plume; and

(2) cleanup levels established in (b) and (c) of this section must be met at the property boundary in an area where the current use or reasonably expected potential future use of groundwater in the neighboring property is determined to be a source of drinking water, unless a responsible person

(A) demonstrates that attainment of the applicable groundwater cleanup levels is not practicable; and

(B) provides an alternative source of water for affected persons.

(g) Groundwater that is closely connected hydrologically to nearby surface water may not cause a violation of the water quality standards in 18 AAC 70 for surface water or sediment. The department will, in consultation with local, state, and federal officials and the public, establish points of compliance with this subsection, taking into account

(1) groundwater travel time and distance from sources of hazardous substances to surface water;

(2) the contribution of the groundwater to the chemical and physical quantity and quality of the surface water;

(3) organisms living in or dependent upon the groundwater to surface water ecosystems;

(4) climatic, tidal, or seasonal variations;

(5) feasibility of attaining applicable water quality standards to support the designated uses of the surface water;

(6) presence of sediment contamination; and

(7) if conducted for the site, the conclusions of a site-specific risk assessment conducted under the *Risk Assessment Procedures Manual*, adopted by reference in 18 AAC 75.340.

(h) If the groundwater point of compliance is established at or near a property boundary or if groundwater is closely connected hydrologically to a surface waterbody, the department will, if the department determines that sentinel monitoring is necessary to ensure protection of human health, safety, or welfare, or the environment, require a responsible person to develop sentinel monitoring wells that monitor for any hazardous substances likely to migrate to the applicable point of compliance at concentrations that exceed the cleanup levels.

(i) The department will require long-term monitoring if the department determines that monitoring is necessary to ensure protection of human health, safety, or welfare, or of the environment and if groundwater, surface water, soil, or sediment contains residual concentrations of a hazardous substance that exceed the applicable cleanup levels. If long-term monitoring is required under this subsection, a responsible person shall submit a plan and schedule for monitoring as part of the requirements for cleanup operations under 18 AAC 75.360. Unless otherwise approved by the department, a responsible person shall conduct monitoring quarterly for at least one year to establish the concentration trend. The department will evaluate the monitoring program yearly. If the monitoring indicates that the concentration trend

(1) is increasing, the department will require additional follow-up monitoring and assess the need for additional cleanup; or

(2) is stable or decreasing, and that hazardous substance migration is not occurring, the department will decrease or discontinue the monitoring frequency and locations, if the responsible person demonstrates that continued monitoring is not necessary to ensure protection of human health, safety, and welfare, and of the environment.

(j) The department will require groundwater, surface water, soil, or sediment monitoring to estimate contaminant flux rates and to address potential bioaccumulation of each hazardous substance at the site, if the department determines that monitoring is necessary to ensure protection of human health, safety, or welfare, or of the environment. If monitoring is required under this subsection, a responsible person shall submit a plan and schedule for monitoring as part of the cleanup operation requirements under 18 AAC 75.360.

(k) Groundwater monitoring wells must be installed, developed, and decommissioned in accordance with an approved method that is protective of human health, safety, and welfare, and of the environment.

(l) For a cleanup conducted under (b)(1) of this section, a chemical that is detected at one-tenth or more of the Table C value must be included when calculating cumulative risk under 18 AAC 75.325(g). (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 10/9/2008, Register 188; am 6/17/2015, Register 214; am 11/6/2016, Register 220)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.010
	AS 46.03.710	AS 46.04.020	AS 46.09.020

Editor's note: *Standard Methods for the Examination of Water and Wastewater*, adopted by reference in 18 AAC 75.345, may be purchased from the American Water Works Association at <http://www.awwa.org/store.aspx> or by contacting the organization at service@awwa.org or (800) 926-7337. The document also may be viewed at the department's Anchorage, Fairbanks, Juneau, and Soldotna offices.

18 AAC 75.350. Groundwater use. Subject to 18 AAC 75.345(c), groundwater at the site is considered to be a drinking water source unless a responsible person demonstrates or the department determines that

(1) the groundwater is not

(A) used for a private or public drinking water system;

(B) within the zone of contribution of an active private or public drinking water system; or

(C) within a recharge area for a private or public drinking water well, a wellhead protection area, or a sole source aquifer;

(2) the groundwater is not a reasonably expected potential future source of drinking water, based on an evaluation of

(A) the availability of the groundwater as a drinking water source, including depth to groundwater, the storativity and transmissivity of the aquifer, the presence of permafrost, and other relevant information;

(B) actual or potential quality of the groundwater, including organic and inorganic substances, and as affected by background, saltwater intrusion, and known or existing areawide contamination;

(C) the existence and enforceability of institutional controls described in 18 AAC 75.375 or municipal ordinances or comprehensive plans that prohibit or limit access to the groundwater for use as drinking water;

(D) land use of the site and neighboring property, using the factors in EPA's *Land Use in the CERCLA Remedy Selection Process*, adopted by reference in 18 AAC 75.340;

(E) the need for a drinking water source and the availability of an alternative source; and

(F) whether the groundwater is exempt under 40 C.F.R. 146.4, revised as of July 1, 1997, and adopted by reference; and

(3) the groundwater affected by the hazardous substance will not be transported to groundwater that is a source of drinking water, or that is a reasonably expected potential future source of drinking water, in concentrations in the receiving groundwater that exceed the groundwater cleanup levels; in reviewing the demonstration required under this paragraph, the department will consider

(A) the areal extent of the affected groundwater;

(B) the distance to any existing or reasonably anticipated future water supply well;

(C) the likelihood of an aquifer connection due to well construction practices in the area where the site is located;

(D) the physical and chemical characteristics of the hazardous substance;

(E) the hydrogeological characteristics of the site;

(F) the presence of discontinuities in the affected geologic stratum at the site;

(G) the local climate;

(H) the degree of confidence in any predictive modeling performed; and

(I) other relevant information; the department will request additional information if the department determines that the information is necessary to protect human health, safety, or welfare, or the environment. (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020
	AS 46.03.710	AS 46.04.020	

18 AAC 75.355. Sampling and analysis. (a) Unless the department determines that final confirmation sampling is not needed to meet the requirements of the site cleanup rules, a responsible person shall submit a sampling and analysis plan for approval under 18 AAC 75.360, and after implementing the plan, shall submit the analytical sampling results collected to the department. If approved in the sampling and analysis plan, sample collection for soil or water may be performed by a qualified sampler when a qualified environmental professional is not available. Based on the results of the analyses, a responsible person shall demonstrate compliance with the site cleanup rules.

(b) A responsible person and the owner or operator of an offsite or portable treatment facility under 18 AAC 75.365 shall ensure that the collection, interpretation, and reporting of data, and the required sampling and analysis is conducted or supervised by a qualified environmental professional.

(c) If a hazardous substance is suspected at the site because of empirical evidence or prior analysis, but is not detected or is detected at a concentration below the practical quantitation limit, and the practical quantitation limit is higher than the cleanup level for that substance,

(1) the department will determine the responsible person to have attained the cleanup level, if additionally the more stringent of the following conditions is met:

(A) the practical quantitation limit is no greater than 10 times the method detection limit for all hazardous substances other than polychlorinated biphenyls where the practical quantitation limit is no greater than five times the method detection limit; or

(B) the practical quantitation limit is no greater than the practical quantitation limit established in EPA's *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW-846), Third Edition, including Final Update IV (2009), adopted by reference;

(2) and if the department determines that additional action is necessary to ensure protection of human health, safety, or welfare, or of the environment, the department will require one or more of the following:

(A) use of a surrogate measure to estimate the concentration of the hazardous substance;

(B) use of a specialized sample collection or analytical method to improve the accuracy, precision, method detection limit, or practical quantitation limit for the hazardous substances at the site; or

(C) monitoring to ensure that the concentration of the hazardous substance does not exceed quantifiable levels; and

(3) and if the department determines that an improved analytical method or other responsive action is necessary to ensure protection of human health, safety, or welfare, or of the

environment, the department will, before site closure and if the site is in a monitoring stage, periodically consider whether improved analytical methods should be used at the site and will require the use of an improved analytical method or other responsive action.

(d) Among the analytical methods set out in EPA's *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW-846), as adopted by reference in (c) of this section, if there is more than one analytical method for a hazardous substance, a responsible person may select any of those methods with a practical quantitation limit less than the applicable cleanup level. If only one analytical method has a practical quantitation limit less than the applicable cleanup level, that method must be used. Analysis for petroleum contamination must follow the applicable Alaska methods for petroleum hydrocarbons referred to in Table 1 of Chapter 2 of the *Underground Storage Tanks Procedures Manual*, dated August 18, 2014. Table 1 of Chapter 2 and Appendices C and D of the *Underground Storage Tanks Procedures Manual*, dated August 18, 2014 are adopted by reference.

(e) Laboratory analysis under the site cleanup rules must be performed by a laboratory approved by the department under 18 AAC 78.800 - 18 AAC 78.815. (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 6/17/2015, Register 214)

Authority:	AS 44.46.025	AS 46.03.710	AS 46.04.020
	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020

Editor's note. The documents adopted by reference in 18 AAC 75.355 may be viewed at or obtained from the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna, or the department's Internet website at http://dec.alaska.gov/spar/csp/guidance_forms/csguidance.htm. EPA's *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW-846) may also be viewed at <http://www.epa.gov/wastes/hazard/testmethods/sw846/online/index.htm>.

18 AAC 75.360. Cleanup operation requirements. A responsible person shall ensure that site cleanup is conducted or supervised by a qualified environmental professional. A responsible person shall submit each of the following elements for approval before work on that element begins, and for additional approval if a modification to an element is anticipated:

- (1) a schedule for conducting field work, monitoring, cleanup, and submittal of interim and final cleanup reports;
- (2) a sampling and analysis plan that meets the requirements of 18 AAC 75.355;
- (3) a waste management plan for handling, transporting and disposing of investigation-derived wastes, including
 - (A) purged water from a boring or monitoring well;
 - (B) cuttings, mud, and other wastes from well or boring installation and development; and

- (C) contaminated equipment and materials;
- (4) a cleanup plan that includes
 - (A) provisions for the cleanup of soil and groundwater contaminated at levels exceeding the applicable cleanup levels determined under the site cleanup rules;
 - (B) detailed specifications for each cleanup technique that the department has approved under 18 AAC 75.335(c) - (d);
 - (C) provisions for minimizing hazardous substance migration to previously unaffected areas;
 - (D) provisions for transporting contaminated soil as a covered load in compliance with 18 AAC 60.015; and
 - (E) provisions for the disposal of contaminated soil and groundwater, including the location and method of disposal;
- (5) a list of chemical additives proposed for use and their potential effects on
 - (A) the hazardous substances at the site; and
 - (B) human health, safety, and welfare, and the environment;
- (6) a site control plan, if necessary to protect human health, safety, or welfare, or the environment, including engineering measures, such as the installation of caps and liners, and provisions for restricting access, such as the use of fences, signs, or other barriers;
- (7) a demonstration that site work and the cleanup action will comply with the air quality standards and requirements of 18 AAC 50;
- (8) a plan for ensuring that contaminated soil does not come in contact with uncontaminated soil during the cleanup process, except under an approved cleanup plan under this subsection or an approved operations plan under 18 AAC 75.365;
- (9) a nondomestic wastewater system plan under 18 AAC 72.600, if the cleanup operation requires construction, alteration, installation, modification, or operation of a nondomestic wastewater treatment works or disposal system; and
- (10) the additional elements required under 18 AAC 75.365, as applicable;
- (11) for ex-situ cleanup techniques,
 - (A) provisions for containment and handling of leachate, if leachate is produced;

(B) provisions for storing contaminated soil in compliance with the requirements of 18 AAC 75.370;

(C) if using a hot asphalt batch plant, written certification by a registered engineer that processes incorporating contaminated soils meet current industry standards for asphalt paving; and

(D) if combining contaminated soil with asphalt for the purpose of cold asphalt recycling;

(i) a pavement structure design study for incorporating the excavated material; the study must be certified by a registered engineer;

(ii) the leaching assessment or model proposed for use in determining hazardous substance migration; and

(iii) results of the approved hazardous substance leaching assessment or model, referenced under (ii) of this subparagraph; those results must demonstrate that hazardous substance concentrations in the soil will not migrate;

(E) if using bioremediation, a detailed description of

(i) cultured microbes, unless using an indigenous microbe population;

(ii) electron acceptor and nutrient source for microbes;

(iii) the expected rate of biodegradation;

(iv) intermediate and final breakdown products;

(v) type and amount of contamination;

(vi) any potential adverse effect on human health, safety, or welfare, or on the environment; and

(vii) other information requested by the department; the department will request additional information if it determines that the information is necessary to ensure protection of human health, safety, or welfare, or of the environment;

(F) if using solidification, a solidification report that includes

(i) a demonstration that hazardous substance concentrations in the solidified material will not migrate;

(ii) results of structural testing on the solidified material to demonstrate that the solidified material has an unconfined compressive strength of 2,000 psi or more after 28 days;

(iii) results of leachability testing of the solidified material; and

(iv) specifications for the ratio of the mass of contaminated soil to the mass of reagent;

(G) if using soil contaminated with petroleum hydrocarbons or metals as a base for a physical barrier,

(i) a demonstration that the contaminated soil that is used for the base will be blended with uncontaminated soil only if necessary to meet design specifications;

(ii) a physical barrier design study, certified by a registered engineer;

(iii) the leaching assessment or model proposed for use in determining hazardous substance migration;

(iv) results of the approved leaching assessment or model referenced under (iii) of this subparagraph; those results must demonstrate that hazardous substance concentrations in the soil will not migrate;

(v) a demonstration that the base for a physical barrier will use no more than 18 vertical inches of material containing contaminated soil;

(vi) a demonstration that the contaminated zone will be compacted to 95 percent or more of the maximum density as specified in American Society for Testing and Materials (ASTM) D 1557-07, *Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort*, updated November 2007 and adopted by reference or ASTM D 4253-00, *Standard Test Methods for Maximum Index Density and Unit Weight of Soils Using a Vibratory Table*, updated March 2006 and adopted by reference;

(vii) a demonstration that the material containing contaminated soil will be placed in a zone directly beneath the final base course with at least 18 inches of impervious pavement extending beyond the horizontal limit of the material containing contaminated soil;

(viii) a demonstration that at least six feet will separate the seasonal high groundwater point from the lowest point of material containing contaminated soil; and

(ix) as-built drawings, certified by a registered engineer, that show the final location of material containing contaminated soil; and

(12) for in-situ cleanup techniques,

- wells;
- (A) a site monitoring plan showing proposed locations of monitoring wells;
 - (B) a hydrogeologic description of the site, including
 - (i) soil and sediments present;
 - (ii) stratigraphy;
 - (iii) aquifer characteristics, including groundwater gradient, confining layers, perched water, permeability, and aquifer transmissivity;
 - (iv) percolation rates from precipitation; and
 - (v) other relevant factors;
 - (C) results of hydrogeologic modeling performed to address capture zones, effects of hydraulic loading, and plume migration; and
 - (D) if using bioremediation, a demonstration of compliance with (11)(E) of this section. (Eff. 1/22/99, Register 149; am 10/9/2008, Register 188; am 6/17/2015, Register 214)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.020
	AS 46.03.050	AS 46.03.745	AS 46.04.070
	AS 46.03.710	AS 46.03.822	AS 46.09.020

Editor's note: The ASTM methods adopted by reference in 18 AAC 75.360 may be reviewed at the department's Anchorage, Fairbanks, Juneau, and Soldotna offices, and may be obtained from the ASTM International, Publications Department, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959; telephone (610) 832-9585; fax (610) 832-9555.

As of Register 204 (January 2013), the regulations attorney made a technical revision under AS 44.62.125(b)(6), to 18 AAC 75.360(4)

18 AAC 75.365. Offsite or portable treatment facilities. (a) A person who owns or operates an offsite or portable treatment facility shall

(1) obtain approval of an operations plan before that person accepts or treats contaminated soil; the department will approve the plan if the department determines that the operations proposed in the plan are protective of human health, safety, and welfare, and of the environment; a plan submitted under this paragraph must include

- (A) a facility diagram that shows the location of
 - (i) each soil treatment, storage, and transportation area;

- (ii) major roads within or bordering the site or facility; and
 - (iii) monitoring wells, surface water, water supply wells, facility boundaries, and public or private buildings within 500 feet of the facility boundary;
- (B) a detailed process description, including a discussion of
- (i) air, water, and solid waste process streams;
 - (ii) startup and shutdown procedures;
 - (iii) maximum process flow rate;
 - (iv) air pollution control equipment;
 - (v) water treatment systems;
 - (vi) the projected maximum time necessary for the treatment method to achieve soil cleanup levels for contaminated soil; and
 - (vii) a detailed description of any additive to be used;
- (C) a post-treatment sampling and analysis plan prepared by a qualified environmental professional in accordance with 18 AAC 75.355(b) to verify that the applicable cleanup levels have been met;
- (D) provisions for complete containment of the contaminated soil before, during, and after treatment until the contaminated soil meets the applicable cleanup levels; alternatively, if the treatment process, such as landfarming or landspreading, will not contain the contaminated soil, the person who owns or operates the offsite or portable treatment facility must demonstrate that there will be no uncontrolled leachate from the treatment area;
- (E) for an offsite treatment facility classified as a Category C or Category D facility, as described in the department's *Operation Requirements for Soil Treatment Facilities*, dated March 15, 2013, engineering plans and engineering record drawings for contaminated soil and water containment structures; the *Operation Requirements for Soil Treatment Facilities*, dated March 15, 2013, is adopted by reference; and
- (F) site monitoring procedures that will measure for secondary contamination at the treatment facility;
- (2) if the facility is a Category C or Category D facility, as described in the *Operation Requirements for Soil Treatment Facilities*, adopted by reference in (1) of this subsection, submit the following to the department before the owner or operator accepts or treats contaminated soil:

(A) proof of a performance bond or other approved means of fiscal responsibility that will provide the department with a source of funds to clean up contaminated soils that have been received for treatment if the facility operator fails to treat the contaminated soils in accordance with this chapter; a performance bond must be executed by an insurance company licensed in the state and include a bond amount that will cover cleanup of the contaminated soils at the treatment facility; the bond shall be based on

(i) the quantity of contaminated soil allowed at the facility specified in the facility's approved operation plan; and

(ii) the cost per ton for treating contaminated soil at that facility location; and

(B) proof of pollution liability insurance that will provide the department with a source of funds to clean up secondary contamination at the facility property that is caused by the soil treatment facility during soil treatment operations;

(3) perform confirmation sampling of treated soil in accordance with a sampling and analysis plan approved under this subsection to verify that applicable cleanup levels have been met;

(4) submit to the department an assessment of background contamination at the facility before initial startup of the treatment facility; and

(5) submit to the department within 90 days after terminating operation of the treatment facility, a closure assessment demonstrating that secondary contamination did not occur at the facility; if secondary contamination did occur at the facility, the owner or operator of the portable treatment facility shall perform a cleanup of the contamination by in-situ or ex-situ treatment within two years after terminating operation.

(b) If the owner or operator of an offsite or portable treatment facility fails to process soils to the department's satisfaction in accordance with the operations plan approved under (a)(1) of this section, the department will withdraw approval under (a)(1) of this section, and that owner or operator may not process or receive contaminated soil.

(c) For purposes of this section

(1) "engineering plans" means a set of plans approved and sealed by a registered engineer;

(2) "engineering record drawings" means the approved original plans prepared for construction and department approval under (a)(1) of this section, revised to reflect how the containment structure or system was constructed or installed, and sealed by a registered engineer;

(3) "facility" has the meaning given in AS 46.03.900; "facility" includes the land, structures, and equipment associated with treatment of contaminated soil;

(4) “offsite or portable treatment facility” has the meaning given in the *Operation Requirements for Soil Treatment Facilities*, adopted by reference in (a)(1) of this section;

(5) “owner or operator” has the meaning given to “owner” and “operator” in AS 46.03.826;

(6) “performance bond” means a written agreement between the owner or operator and the department guaranteeing performance of the obligations covered by the agreement;

(7) “registered engineer” means a professional engineer registered to practice in the state under AS 08.48. (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 6/17/2015, Register 214)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020
	AS 46.03.710	AS 46.04.020	

Editor’s note: The department’s *Operation Requirements for Soil Treatment Facilities*, adopted by reference in 18 AAC 75.365(a)(1), may be viewed at or obtained from the department’s offices in Anchorage, Fairbanks, Juneau, and Soldotna, or the department’s Internet website at http://dec.alaska.gov/spar/csp/guidance_forms/csguidance.htm.

18 AAC 75.370. Soil storage and disposal. (a) Unless the department approves the activity in question as protective of human health, safety, and welfare, and of the environment, a responsible person may not blend contaminated soil with uncontaminated soil and shall

(1) segregate contaminated soil based on

(A) the intended cleanup alternatives; and

(B) the specific hazardous substance present;

(2) store contaminated soil

(A) 100 feet or more from surface water, a private water system, or a fresh water supply system that uses groundwater for a use designated in 18 AAC 70.020(a)(1)(A) and 18 AAC 70.050(2); and

(B) 200 feet or more from a water source serving a community water system, a non-transient non-community water system, or a transient non-community water system, as defined in 18 AAC 80.1990;

(3) place contaminated soil on a liner or on or within another impermeable surface that prevents soil and groundwater beneath the liner from becoming contaminated;

(4) place petroleum-contaminated soil on a liner that meets the minimum specifications for the testing methods set out in Table D of this section;

TABLE D. BOTTOM LINER SPECIFICATIONS

Method	Coated Fabric	Extruded Fabric
Short-term storage of petroleum-contaminated soil (less than 180 days)		
Cold crack (ASTM D 2136-02(2012), updated 2012)	-60° Fahrenheit	-60° Fahrenheit
Black carbon content (ASTM D 1603-14, updated 2014)	two percent or greater	two percent or greater
Tensile strength (ASTM D 751-06(2011), updated 2011)	125 pounds (warp)	N/A
Mullen burst (ASTM D 751-06(2011), updated 2011)	250 pounds per square inch (psi)	N/A
One inch tensile strength (ASTM D 882-12, updated August 2012)	N/A	25 pounds (warp)
One inch elongation MD (machine direction)	N/A	550 percent
Nominal thickness	10 mil	10 mil
Oil resistance (ASTM D 471-12a, updated December 2012)	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit
Long-term storage of petroleum-contaminated soil (180 days to two years)		
Cold crack (ASTM D 2136-02(2012), updated 2012)	-60° Fahrenheit	-60° Fahrenheit
Black carbon content (ASTM D 1603-12, updated May 2012)	two percent or greater	two percent or greater
Tensile strength (ASTM D 751-06(2011), updated 2011)	300 pounds (warp)	N/A
Mullen burst (ASTM D 751-06(2011), updated May 2011)	500 pounds per square inch (psi)	N/A
One inch tensile strength (ASTM D 882-12, updated August 2012)	N/A	45 pounds (warp)
One inch elongation MD (machine direction)	N/A	625 percent
Nominal thickness	20 mil	20 mil
Oil resistance (ASTM D 471-12a, updated December 2012)	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit
The ASTM International methods referred to in this table are adopted by reference. "N/A" means not applicable.		

(5) place nonpetroleum contaminated soil on a liner compatible with the type of hazardous substance, and meet the general strength and thickness requirements of Table D;

(6) cover and protect the contaminated soil stockpile from weather with no less than a six-mil, reinforced polyethylene liner or its equivalent, with the edge of the cover lapped over the bottom liner to prevent water running through the soil; and

(7) inspect and maintain the contaminated soil stockpile regularly to ensure that the cover remains intact and that the soil and any liquid leachate derived from the soil is contained.

(b) A responsible person shall obtain approval before moving or disposing of soil subject to the site cleanup rules. (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 10/9/2008, Register 188; am 6/17/2015, Register 214; am 11/6/2016, Register 220)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020
	AS 46.03.710	AS 46.04.020	

Editor's note: The ASTM International methods adopted by reference in Table D of 18 AAC 75.370(a) may be reviewed at the department's Anchorage, Fairbanks, Juneau, and Soldotna offices, or may be obtained from the ASTM International, Publications Department, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959; telephone (610) 832-9585; fax (610) 832-9555 or www.astm.org.

As of Register 215 (October 2015), the regulations attorney made technical corrections under AS 44.62.125(b)(6), to 18 AAC 75.370(a), Table D.

18 AAC 75.375. Institutional controls. (a) The department will, after consultation with each landowner of the site, determine that the use of an institutional control is necessary, on a site-specific basis, if the department determines that controls are required to ensure

- (1) compliance with an applicable cleanup level;
- (2) protection of human health, safety, or welfare, or the environment; or
- (3) the integrity of site cleanup activities or improvements.

(b) Institutional controls include

- (1) the requirement for and maintenance of physical measures, such as fences and signs, to limit an activity that might interfere with cleanup or result in exposure to a hazardous substance at the site;

(2) the requirement for and maintenance of engineering measures, such as liners and caps, to limit exposure to a hazardous substance;

(3) restrictive covenants, easements, deed restrictions, or other measures that would be examined during a routine title search, and that limit site use or site conditions over time or provide notice of any residual contamination; and

(4) a zoning restriction or land use plan by a local government with land use authority.

(c) The use of institutional controls must, to the maximum extent practicable, be

(1) appurtenant to and run with the land so that the control is binding on each future owner of the site; and

(2) maintained by each responsible person or owner of the site.

(d) If the department determines any of the following are necessary to protect human health, safety, or welfare, or the environment, the department will require that institutional controls be designed to accomplish one or more of the following:

(1) prohibit activities on the site that might interfere with the site cleanup, operation and maintenance, monitoring, or other response actions;

(2) prohibit activities that might result in the release of a hazardous substance that was contained as a part of the site cleanup activities;

(3) require written notice to the department of any proposal to use the site in a manner that is inconsistent with a restrictive covenant or other measure described in (b)(3) of this section; and

(4) grant the department and its designated representatives the right to enter the property at reasonable times to evaluate compliance with the institutional control, including the right to take samples, inspect any cleanup actions taken at the site, and inspect records relating to the operation and maintenance of the institutional control.

(e) If the department determines that financial assurance is necessary to ensure protection of human health, safety, or welfare, or of the environment, the department will require a responsible person to provide financial assurance sufficient to cover costs of operation and maintenance, including compliance monitoring and corrective measures, for any institutional control.

(f) If the concentrations of all residual hazardous substances remaining at the site are subsequently determined to be below the levels that allow for unrestricted use, the department will approve elimination of the institutional control. (Eff. 1/22/99, Register 149; am 10/9/2008, Register 188)

Authority:	AS 46.03.020	AS 46.03.745	AS 46.04.110
	AS 46.03.050	AS 46.04.020	AS 46.09.060
	AS 46.03.710	AS 46.04.070	AS 46.09.070
	AS 46.03.740		

18 AAC 75.380. Final reporting requirements and site closure. (a) A responsible person shall submit a written final cleanup report to the department for each site undergoing cleanup under the site cleanup rules. The report must be prepared by a qualified environmental professional.

- (b) The written report required by (a) of this section must contain, as applicable,
- (1) the date and time of the discharge or release;
 - (2) the location of the discharge or release, including latitude and longitude coordinates;
 - (3) the name and physical address of the site, facility, or operation;
 - (4) the name, mailing address, and telephone number of the owner and of the operator of the site, facility, or operation;
 - (5) the type and amount of each hazardous substance discharged or released;
 - (6) a description of environmental damage caused by the discharge, release, or containment, to the extent the damage can be identified;
 - (7) a demonstration that the free product was recovered in compliance with 18 AAC 75.325(f)(1)(B) and that provides, at a minimum, the following information:
 - (A) the estimated amount, type, and thickness of free product observed or measured in wells, boreholes, and excavations;
 - (B) the type of free product recovery system used;
 - (C) whether a discharge or release has occurred or will occur at the site or offsite during the recovery operation and where the discharge or release occurred or will occur;
 - (D) the type of treatment applied to, and the effluent quality resulting or expected from, any substance that has been discharged or released or will be discharged or released;
 - (E) whether a discharge or other permit was required under local, state, or federal law and if each required permit was obtained;
 - (F) the date, location, and method of disposal of the recovered free product, dissolved phase product, or contaminated soil; and

(G) whether free product remains at the site, and, if so, the estimated quantity;

(8) a summary of each applicable soil and groundwater cleanup level approved under the site cleanup rules and a description of the factors used in determining each applicable cleanup level;

(9) a description of cleanup actions taken, including

(A) a demonstration that cleanup was conducted in accordance with the elements, including modifications to the elements, approved under 18 AAC 75.360;

(B) sampling reports and a description of the soil and groundwater sampling protocol and sampling locations;

(C) a summary of the laboratory reports for the final verification samples collected at the site; the laboratory or a responsible person shall keep those reports and make them available to the department upon request for at least 10 years after submission of the summary to the department;

(D) a detailed explanation of what was done if a sample exceeded the applicable required cleanup level;

(E) a demonstration that contaminated soil and groundwater were stored, treated, and disposed of in an approved manner;

(F) an estimate of the extent of any remaining residual contamination, above and below the applicable cleanup levels;

(G) a demonstration that surface soil staining was evaluated and that a cleanup of that staining was performed;

(H) whether permits were required under local, state, or federal law and if each required permit was obtained;

(I) confirmation that any hazardous waste generated was stored, treated, or disposed of in compliance with 42 U.S.C. 6901 - 6992k (Solid Waste Disposal Act, as amended by Resource Conservation Recovery Act), as amended through January 6, 2003 and adopted by reference; and

(J) other information requested by the department, as the department determines necessary to ensure protection of human health, safety, or welfare, or of the environment;

(10) a demonstration of compliance with applicable institutional control requirements under 18 AAC 75.375.

(11) cumulative risk calculations.

(c) The department will determine final compliance with the

(1) applicable soil cleanup levels, based on sampling results from onsite contaminated soil and from contaminated soil moved offsite for treatment or disposal, calculated and presented on a per dry weight basis and based on the maximum concentrations detected, unless the department approves an appropriate statistical method, in which case compliance will be based on the mean soil concentration at the 95th percent upper confidence limit; approval of a statistical method will be based on

(A) the number and location of samples taken;

(B) whether large variations in hazardous substance concentrations relative to the mean concentration exist; and

(C) whether a large percentage of concentrations are below the method detection limit; and

(2) groundwater cleanup levels, based on an analysis of unfiltered groundwater samples unless a responsible person demonstrates that a filtered sample provides a more representative measure of groundwater quality; the department will determine compliance based on the maximum concentrations of a hazardous substance detected in the final confirmation samples; before closure, the size of the dissolved plume must be steady state or shrinking and concentrations of the hazardous substance must be decreasing.

(d) After reviewing the final cleanup report submitted under this section, if the department determines that

(1) a site has been adequately characterized under 18 AAC 75.335 and has achieved the applicable requirements under the site cleanup rules, the department will issue a written determination that the cleanup is complete, subject to a future department determination that the cleanup is not protective of human health, safety, or welfare, or of the environment; or

(2) the cleanup and applicable institutional controls are not protective of human health, safety, or welfare, or of the environment, the department will, as necessary to ensure protection of human health, safety, or welfare, or of the environment, require a responsible person to conduct additional actions that meet the requirements of the site cleanup rules. (Eff. 1/22/99, Register 149; am 10/9/2008, Register 188; am 6/17/2015, Register 214)

Authority:	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.050	AS 46.03.755	AS 46.09.010
	AS 46.03.710	AS 46.04.020	AS 46.09.020
	AS 46.03.740		

18 AAC 75.385. Appeals. A person aggrieved by a final department decision under the site cleanup rules may request an adjudicatory hearing under 18 AAC 15.195 - 18 AAC 15.340. A request for an adjudicatory hearing must be made within 30 days after the date of the decision being appealed. (Eff. 1/22/99, Register 149; am 7/11/2002, Register 163; am 1/30/2003, Register 165)

Authority: AS 46.03.020 AS 46.35.090

18 AAC 75.390. Waiver or modification. (a) Except as provided in (b) of this section, and if the department determines that a waiver or modification will be protective of human health, safety, and welfare, and of the environment, the department will waive or modify the site cleanup rules based on a review of the quantity or concentration of the discharge or release, soil and groundwater conditions, surface water and topography, geology, water and land use, construction methods and materials, and any other human health or environmental factor important to the evaluation. A responsible person seeking a waiver or modification of a provision of the site cleanup rules under this section shall submit a written report to justify the request and to demonstrate that the waiver or modification is protective of human health, safety, and welfare, and of the environment. A qualified environmental professional shall prepare and sign the report submitted under this section.

(b) For purposes of the site cleanup rules, the department will waive on a site-specific basis the requirement in 18 AAC 75.333(b)(1) that a qualified environmental professional be an impartial third party or the requirement in 18 AAC 75.333(c)(1) that a qualified sampler be an impartial third party if

(1) a responsible person, or if the waiver is for an offsite or portable treatment facility under 18 AAC 75.365, a responsible person, owner, or operator

(A) who seeks a waiver from 18 AAC 75.333(b)(1) demonstrates that work performed will be conducted or supervised by an objective individual who meets the requirements of 18 AAC 75.333(b)(2) - (5);

(B) who seeks a waiver from 18 AAC 75.333(c)(1) demonstrates that work performed will be conducted or supervised by an objective individual who meets the requirements of 18 AAC 75.333(c)(2) - (5); and

(C) submits

(i) a written request for a waiver;

(ii) the resume of the person qualified to conduct or supervise the work to be performed, showing relevant education, vocational training, related work experience, and any special training, license, certificate, or registration held by that person; and

(iii) a description of the supervisory and organizational structure related to the person identified in (ii) of this subparagraph; and

(2) the department determines that a waiver is protective of human health, safety, and welfare, and of the environment, and that strict compliance with the impartial third party requirement is not practicable. (Eff. 1/22/99, Register 149; am 6/17/2015, Register 214)

Authority: AS 46.03.020 AS 46.03.745 AS 46.09.010
AS 46.03.050 AS 46.03.755 AS 46.09.020
AS 46.03.710 AS 46.04.070

18 AAC 75.395. Interference with cleanup prohibited. A person may not interfere with, hinder, or obstruct the containment or cleanup of a hazardous substance conducted under this chapter. This prohibition does not apply to the United States Coast Guard or EPA. (Eff. 1/22/99, Register 149)

Authority: AS 46.03.020 AS 46.04.070 AS 46.09.020
AS 46.04.020

18 AAC 75.396. Local control. Subject to AS 29.35.020, AS 46.04.110, and AS 46.09.060, the requirements of 18 AAC 75.300 - 18 AAC 75.390 do not preempt local control that is as stringent as, or more stringent than, those requirements, and that is consistent with a regional master plan prepared under AS 46.04.210. (Eff. 1/22/99, Register 149)

Authority: AS 46.03.020 AS 46.04.210 AS 46.09.060
AS 46.04.110

**Article 4. Oil Discharge Prevention and Contingency Plans and Nontank Vessel Plans.
Section**

- 400. Applicability
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- 410. Procedures to apply for oil discharge prevention and contingency plans; new plans
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- 440. Response planning standards for noncrude oil tank vessels and barges
- 441. Response planning standards for nontank vessels
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- 447. Department examination of new technologies
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- 465. Proof of approved plan
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- 485. Discharge exercises
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- 495. Regional master discharge prevention and contingency plan boundaries
- 496. Regional response operations plan boundaries for nontank vessels

18 AAC 75.400. Applicability. (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 75.425 - 18 AAC 75.495. A person who is subject to AS 46.04.055(f) must file an application for approval of a nontank vessel 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

(1) for an oil terminal facility that 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;

(2) for a vessel, by

(A) the charterer, if the vessel is chartered by demise;

(B) the operator of the vessel;

(C) the owner of the vessel, if the agents or employees of the owner retain control and responsibility for the operation of the vessel; or

(D) in any other case, the person with primary operational control;

(3) for an exploration or production facility, whether mobile or fixed, by the lease holder or the operator;

(4) for a pipeline, by the lease holder or the operator; or

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

(b) If it determines that an exemption will be protective of human health, safety, and welfare, and of the environment, the department will exempt from the requirements of AS 46.04.030(c) and 46.04.055(f), a vessel that is conducting, or is available only for conducting, an oil discharge response operation. A person seeking an exemption under this subsection must apply on an application form supplied by the department. The department will approve or deny the request for an exemption not later than 10 working days after it receives an application. In an emergency response to an actual discharge, a person seeking an exemption may make a verbal request, and the department may issue a verbal approval. The department will confirm a verbal approval in writing, stating the period during which the approval is valid.

(c) The owner or operator of an oil terminal facility that is subject to the requirements of AS 46.04.030 and 18 AAC 75.400 - 18 AAC 75.495 may apply for an exemption to those requirements upon proof to the department that the effective storage capacity of the facility has been permanently reduced below the amounts set out in AS 46.04.050. For purposes of reducing effective storage capacity, tanks and associated piping must be emptied and rendered unusable to the department's satisfaction. Tanks removed from service must be clearly marked with the words "Out of Service" and the date taken out of service. A person seeking an exemption under this subsection must apply on an application form supplied by the department. The department

will approve or deny the request for an exemption not later than 30 days after it receives an application. Before reactivation of a tank that has been removed from service for the purposes of an exemption under this subsection, the owner or operator must notify the department and, if necessary, must file a new application for approval of an oil discharge prevention and contingency plan. For the purpose of changes to the storage capacity of a tank, any change must be made in a permanent manner. The department will conduct inspections as necessary to ensure compliance with this subsection.

(d) The department may accept a single plan from an operator to address multiple facilities based on similarities in operations, receiving environments, logistical consideration, or other factors indicating to the satisfaction of the department that a single plan is appropriate given the commonality of operations.

(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 without an approved plan.

(f) A natural gas production or natural gas terminal facility as defined in AS 46.04.050(b) is not required to submit an oil discharge prevention and contingency plan application.

(g) An exploration facility meeting the natural gas exploration facility exemption provisions of AS 46.04.050(c) is not required to submit an oil discharge prevention and contingency plan application.

(h) An oil discharge prevention and contingency plan is required for

(1) an oil terminal facility, except for a vessel operating as an oil terminal facility, until the storage capacity of the facility has been permanently reduced as set out in (c) of this section;

(2) a pipeline, while the pipeline

(A) is connected to a production facility or oil terminal facility; or

(B) contains oil;

(3) an exploration or production facility until the Alaska Oil and Gas Conservation Commission determines that all wells have been plugged as required under 20 AAC 25.112 and abandoned as required under 20 AAC 25.105; and

(4) a vessel while in the waters of the state.

(i) In this section, “receiving environment” means fresh or marine water, ice, or land outside of an impermeable secondary containment area. (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)

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

18 AAC 75.405. Pre-application notification and consultation for oil discharge prevention and contingency plans; new plans and plan renewals. (a) At least 60 days before submitting an application 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.

(b) For an application submitted after October 16, 2016, the applicant must consult with the department not later than 30 days before submitting the application package to ensure that the application meets the requirements of 18 AAC 75.408 and the requirements of 18 AAC 75.410 or 18 AAC 75.420 to discuss the contents of the proposed plan, and to discuss the review process under 18 AAC 75.455.

(c) Pre-application notification and consultation is not required for a nontank vessel streamlined application submitted under 18 AAC 75.421. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 4/16/2016, Register 218; am 3/23/2017, Register 221)

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

18 AAC 75.408. General procedures to apply for oil discharge and contingency plans. (a) An application 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) 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.

(b) The application form must be signed as follows:

(1) for a corporation, by a principal executive officer of at least the level of vice president or that officer's authorized representative, if the representative is responsible for the overall management of the project or operation;

(2) for a partnership, by a general partner;

(3) for a sole proprietorship, by the proprietor;

(4) for a municipal, state, federal, or other public facility, by either a principal executive officer, ranking elected official, or other authorized employee;

(5) for a joint venture, by the operator;

(6) for a limited liability company, by a member;

(7) by an agent who has been delegated that authority in writing to the department by the responsible party under (1) – (6) of this subsection.

(c) The initial application package, responses to requests for additional information, and final versions of the plan must comply with the following:

(1) for submittals after October 16, 2016, the format must be electronic, paper, or both, as the department specifies;

(2) the department will specify the number of copies;

(3) for submittals after October 16, 2016, the department will specify the electronic format to be used; the submittal must be electronically searchable;

(4) for new plans, plan renewals, and major amendments, the applicant must provide all copies to the department, the Department of Natural Resources, the Department of Fish and Game; regional citizens' advisory councils, and other persons designated by the department;

(5) for minor amendments and routine updates, the applicant must

(A) provide all copies to the department;

(B) provide copies of the final version of the plan to the Department of Natural Resources, the Department of Fish and Game, regional citizens' advisory councils, and other persons designated by the department;

(6) an applicant must notify the Department of Natural Resources, the Department of Fish and Game, regional citizens' advisory councils, and other persons designated by the department when a proposed minor amendment is provided to the department; parties requesting a copy of the minor amendment shall submit the request to the applicant and the applicant shall provide a copy;

(7) for submittals after October 16, 2016, all proposed additions, revisions, and deletions must be identified in the plan as applicable; the department may also request a summary of changes in a table format;

(8) after October 16, 2016, for new plans, plan renewals, and major amendments, the department will post a copy of the proposed and final version of the application package on the department's website; for minor amendments and routine updates, the department will post a copy of the final version of the application package on the department's website. (Eff. 4/16/2016, Register 218; am 3/23/2017, Register 221)

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.

18 AAC 75.410. Procedures to apply for oil discharge prevention and contingency plans; new plans. (a) An application for approval of a new oil discharge prevention and contingency plan must be submitted in accordance with 18 AAC 75.408. For submittals after October 16, 2016, an application must be submitted at least 180 days before the proposed start of operation.

(b) Repealed 4/16/2016.

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

(d) Repealed 4/16/2016.

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.03.030

18 AAC 75.412. Transitional provisions for review of plans approved before May 14, 1992. Repealed. (Eff. 5/14/92, Register 122; repealed 11/27/2002, Register 164)

18 AAC 75.413. Transitional provisions for review and approval of nontank vessel plans. Repealed. (Eff. 11/27/2002, Register 164; repealed 9/4/2014, Register 211)

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

Authority. AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.415. Procedures to apply for oil discharge prevention and contingency plans; plan amendments. (a) An application for approval of an amendment to an oil discharge prevention and contingency plan must be submitted in accordance with 18 AAC 75.408 and approved by the department, before a change to a plan may take effect, unless it is a routine plan update under (b) of this section. A plan amendment that incorporates one or more of the following will be reviewed as a major amendment:

- (1) an increase to the response planning standard volume that exceeds the response capabilities of the plan holder documented in the plan;
 - (2) a change that affects the response scenarios, including a change to the
 - (A) scenario location;
 - (B) receiving environment as defined in 18 AAC 75.400(i); or
 - (C) season of operations;
 - (3) expansion of the operations to include one or more new physical locations outside of the current operational area of the plan;
 - (4) a change in the amount or quality of prevention, response resources, or training that reduces the existing level of prevention or response capabilities;
 - (5) a change that requires an increase in prevention, response resources, or training.
- (b) A routine plan update must be submitted in accordance with 18 AAC 75.408 not later than 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 75.425(e)(1); and
 - (2) a revision to the list of names, addresses, or telephone numbers of spill command and response personnel;

(c) An 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 75.425(e)(1)(H) and (3)(A)(iii), (vi), (viii) and (x). A plan amendment for the addition of an oil barge or tank vessel must be submitted not later than five working days before the vessel operates in state waters. The department will review the amendment and issue a written decision not later than five working days after receiving a proposed plan amendment under this subsection unless the department determines that it is a major amendment under (a) of this section.

(d) Repealed 3/23/2017.

(e) Repealed 4/16/2016.

(f) If the department determines that a proposed plan amendment submitted under (a) of this section is a major amendment, the department will notify the plan holder not later than 10 working days after receipt of the amendment. If the department determines that a proposed plan amendment is a minor amendment, the department will notify the plan holder not later than 10 working days after receipt of the amendment and issue a written decision not later than 30 days after receipt of the proposed plan amendment.

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

(h) For a minor amendment approved under (f) of this section, the plan holder shall distribute copies in accordance with 18 AAC 75.408(c) not later than 30 days after approval. The department will notify parties identified in 18 AAC 75.408(c)(5) that the approved amended plan is available on the department's Internet website. (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)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.420. Procedures to apply for oil discharge prevention and contingency plans; plan renewals. (a) A plan holder must apply for renewal of the department's approval of an oil discharge prevention and contingency plan in accordance with 18 AAC 75.408. For submittals after October 16, 2016, the application must be submitted at least 180 days, or the number of days stated in the plan approval letter under 18 AAC 75.460(a), in advance of expiration of the plan to permit department review before the plan approval expires.

(b) Repealed 4/16/2016.

(c) If no change will be made in the plan when it is renewed, a copy of the original plan need not be submitted and may be incorporated by reference on the application form unless otherwise requested by the department.

(d) Repealed 4/16/2016.

(e) An application for a plan renewal 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)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

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

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

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

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

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

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

Authority. AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.425. Oil discharge prevention and contingency plan contents. (a) An oil discharge prevention and contingency plan submitted for approval under 18 AAC 75.400 - 18 AAC 75.495 must be in a form that is usable as a working plan for oil discharge prevention, control, containment, cleanup, and disposal. A 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 and 18 AAC 75.400 - 18 AAC 75.495.

(b) The plan for a facility comprised of multiple operations as described at 18 AAC 75.442, must describe, for each category of operation at the facility, the appropriate response measures to meet the applicable portion of the response planning standard.

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

(1) the name of the plan holder, and the covered vessel, barge, railroad, facility, or operation, 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, committing the oil discharge prevention and response resources necessary to implement the plan.

(d) The plan must

(1) include the official plan title;

(2) consist of five parts and contain the information described in (e)(1) - (5) of this section;

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

(4) be presented in the order shown in (e) of this section, or include a cross-reference table that directs the reader to the appropriate information.

(e) The information in the plan must include

(1) **Part 1 - Response Action Plan:** The response action plan must provide in sufficient detail to clearly guide responders in an emergency event, all information necessary to guide response to a discharge of any size, up to and including a discharge that is equal to the applicable response planning standard set out at 18 AAC 75.430 - 18 AAC 75.442; the response action plan must include the following information:

(A) **Emergency action checklist** - a short checklist of the immediate response and notification steps to be taken if an oil discharge occurs; it is recommended that this summary be duplicated on a wallet-size card, to be carried by the appropriate response personnel while on duty;

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

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

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

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

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

(E) **Deployment strategies** - a description of proposed initial response actions that may be taken, including

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

(ii) 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;

(F) **Response scenario** - a written description of a hypothetical spill incident and response that demonstrates a plan holder's ability to respond to a discharge of each applicable response planning standard volume within the required time frames using the resources described in the contingency plan, and that identifies the spill location, time of year, and time of day, the source and cause of the spill, the quantity and type of oil spilled, the relevant environmental conditions, including weather, sea state, and visibility, the spill trajectory, and the expected timeline for response actions, describing response actions to be taken; the response scenario must be usable as a general guide for a discharge of any size, must describe the discharge containment, control, and cleanup actions to be taken, which clearly demonstrate the strategies and procedures adopted to conduct and maintain an effective response, and if the response scenario is for an exploration or production facility, must also meet the applicable requirements of (I) of this paragraph; if required by the department, the plan holder must provide additional response strategies to account for variations in receiving environments and seasonal conditions; if the information required by this subparagraph is contained within a separate document developed by the plan holder or the plan holder's primary response action contractor identified in (3)(H) of this subsection, the plan holder may incorporate the information by reference upon obtaining the department's approval; response strategies must include

(i) procedures to stop the discharge at its source and prevent its further spread;

(ii) a description of methods to prevent or control a potential fire hazard;

(iii) repealed 5/26/2004;

(iv) procedures and methods for real-time surveillance and tracking of the discharged oil on open water and forecasting of its expected points of shoreline contact;

(v) for a stationary facility or operation, or a railroad, and, if requested by the department, for a vessel, a description of site-specific strategies for the protection of environmentally sensitive areas and areas of public concern identified under (3)(J) of this subsection, including, for a land-based facility or railroad, protection of groundwater and public water supplies; if identification of those areas and site-specific strategies for protection of those areas are in an applicable subarea contingency plan, the plan holder may incorporate that information by reference;

(vi) 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;

(vii) 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;

(viii) procedures for lightering, transfer, and storage of oil from damaged tanks or from undamaged tanks that might be at risk of discharging additional oil;

(ix) procedures for transfer and storage of recovered oil and oily water, including methods for estimating the amount of recovered oil;

(x) procedures and locations for temporary storage and ultimate disposal of oil contaminated materials, oily wastes, and sanitary and solid wastes, including procedures for obtaining any required permits or authorizations for temporary storage or ultimate disposal;

(xi) procedures and methods for the protection, recovery, disposal, rehabilitation, and release of potentially affected wildlife, including: minimizing wildlife contamination through hazing or other means, when appropriate; the recovery of oiled carcasses to preclude secondary contamination of scavengers; and the capture, cleaning, rehabilitation, and release of oiled wildlife, when appropriate; and

(xii) 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;

(G) **nonmechanical response options** - if applicable, a description of actions to be taken to obtain the necessary permits and approvals to initiate dispersant application, in situ burning, or other nonmechanical response options, 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; and

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

(I) **response scenario for an exploration or production facility** – if the facility is an exploration or production facility, a response scenario that, in addition to complying with (F) of this paragraph, includes as part of the response strategies a summary of planned methods, equipment, logistics, and time frames proposed to be employed to control a well blowout within 15 days; the plan holder shall certify that the plan holder maintains a separate blowout contingency plan; the blowout contingency plan is not part of an application required under 18 AAC 75.410 - 18 AAC 75.420, but must be made available to the department for inspection upon request under 18 AAC 75.480; a plan holder may use for development of a response scenario the July 1997 S.L. Ross oil deposition model for surface oil well blowouts, or another oil deposition model approved by the department for surface oil well blowouts; if required by the department to account for variations in seasonal conditions, a plan holder must provide a response scenario for a discharge of the applicable response planning standard volume under typical summer environmental conditions and typical winter environmental conditions; if the information required by this subparagraph is contained within a separate document developed by the plan holder or the plan holder's primary response action contractor identified in (3)(H) of this subsection, the plan holder may incorporate the information by reference upon obtaining the department's approval; for purposes of this subparagraph,

(i) "predominant wind directions" means those directions that occur greater than 10 percent of the time indicated;

(ii) "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;

(iii) "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;

(iv) "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;

(2) **Part 2 - Prevention Plan:** The prevention plan must include a detailed description of all oil discharge prevention measures and policies employed at the facility, vessel, or operation, with reference to the specific oil discharge risks involved. The prevention plan must describe how the applicant meets all the applicable requirements of 18 AAC 75.005-18 AAC 75.085. The prevention plan may be submitted as a separate volume, and must include, at a minimum, the following information:

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

(i) oil discharge prevention training programs required by 18 AAC 75.020(a);

(ii) substance abuse and medical monitoring programs required by 18 AAC 75.007(e);

(iii) security and surveillance programs required by 18 AAC 75.007(f).

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

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

(ii) corrective action taken;

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

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

(C) 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;

(D) specific conditions - a description of

(i) any 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

(ii) any 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;

(E) 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 must be provided;

(F) 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

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

(ii) the approval of each waiver, alternate compliance schedule, or existing condition of plan approval;

(3) **Part 3 - Supplemental Information:** The supplemental information section must provide background and verification information, including

(A) facility description and operational overview - a general description of the oil storage, transfer, exploration, or production activities of the operation, including

(i) the number, type, and oil storage capacity of each container covered under the plan and its installation date, design, construction, and general condition;

(ii) the type and amount of oil stored in each container;

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

(iv) for a railroad, a map showing the location of each main line, siding, and yard area;

(v) for vessels, 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;

(vi) 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;

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

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

(ix) for a railroad, 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; and

(x) any other 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;

(B) Receiving environment - for a land-based facility or operation:

(i) the potential routes of travel of oil discharged from the facility or operation to open water in the form of a drainage diagram or map, showing gradients and potential containment sites and features, including identification and explanation of all measures that will be taken to prevent a discharge from entering open water; and

(ii) based on the information in (i) of this subparagraph, an estimate of what percentage of the applicable response planning standard volume set out at 18 AAC 75.430 - 18 AAC 75.436, or 18 AAC 75.442 for the facility or operation will reach open water;

(C) Command system - a description of the command system to be used in response to a discharge, including the title, address, telephone number, and affiliation by company, agency, or local government of each person, including a person identified in (1)(B) of this subsection, who by law or through employment, contract, or cooperative agreement, is responsible for responding to a discharge, and each person's functional role in the command system; this list must include command, fiscal, operations, planning, and logistics lead personnel; the command system must be compatible with the state's response structure outlined in the state master plan prepared under AS 46.04.200;

(D) Realistic maximum response operating limitations - a description of the realistic maximum response operating limitations that might be encountered at the facility or operation and, based on environmental and safety considerations, an analysis of the frequency and duration, expressed as a percentage of time, of limitations that would render mechanical response methods ineffective; the realistic maximum response operating limitations for a response must be defined, with a description of any 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 this maximum; environmental conditions to be considered in this analysis must include

- (i) weather, including wind, visibility, precipitation and temperature;
- (ii) sea states, tides, and currents;
- (iii) ice and debris presence;
- (iv) hours of daylight; and
- (v) other known environmental conditions that might influence the efficiency of the response equipment or the overall effectiveness of a response effort;

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

(F) Response equipment - a complete list of contracted or other oil discharge containment, control, cleanup, storage, transfer, lightering, and related response equipment to meet the applicable response planning standard, and to protect environmentally sensitive areas and areas of public concern that are identified in (J) of this paragraph and that may be reasonably expected to suffer an impact from a spill of the response planning standard volume as described in the response strategies developed under (1)(F) and (1)(I) of this subsection, the list must include

- (i) the location, inventory, and ownership of the equipment;
- (ii) the time frame for delivery and startup of response equipment and trained personnel located outside the facility's primary region of operation;
- (iii) the manufacturer's rated capacities, limitations, and operational characteristics for each item of oil recovery equipment, including any nonmechanical response techniques;
- (iv) each vessel designated for oil recovery operations, including skimming vessels and platforms and vessels designated to tow and deploy boom;
- (v) information on additional vessels available from other sources for oil recovery operations, including, if applicable, procedures for inventorying, training personnel, and equipping vessels;
- (vi) pumping, transfer and temporary storage, and lightering equipment for transferring oil from damaged or undamaged tanks; and

(vii) 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;

(G) Nonmechanical response information - if a nonmechanical option such as dispersant use or in situ burning is proposed as a response option, the plan must include

(i) a description of the specific mechanisms in place to assess the environmental consequences of the nonmechanical response option and to provide continuous monitoring of its environmental effects;

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

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

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

(v) a plan for protecting environmentally sensitive areas identified in (J) of this paragraph, areas of public concern identified in (J) of this paragraph, and the public from any adverse effects of the nonmechanical response option;

(H) oil spill primary response action contractor information - if a plan holder proposes to use the services of an oil spill primary response action contractor to meet a requirement of AS 46.04.030 or 18 AAC 75.400 - 18 AAC 75.495, the contractor must be registered under 18 AAC 75.500 - 18 AAC 75.580; the plan holder shall include a correct and complete list of each primary response action contractor, with name, address, telephone number, and affiliation by company, the response contractor information described in 18 AAC 75.445(i), and a description of the response equipment and services provided; 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;

(I) training - a detailed description of the training programs for discharge response personnel;

(J) protection of environmentally sensitive areas and areas of public concern - for a stationary facility or operation, or a railroad, and, if required by the department, for a vessel, identification of environmentally sensitive areas and areas of public concern that may suffer an impact from a spill of the applicable response planning standard volume; if identification of those areas and site-specific strategies for protection of those areas are in an applicable subarea contingency plan, the plan holder may incorporate that information by reference; whether prepared separately or incorporated by

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

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

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

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

(K) Additional information - other information necessary to provide background for or verification of the plan contents; and

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

(4) **Part 4 -- Best Available Technology Review:** Unless application of a state requirement would be preempted by federal law, the plan must provide for the use of best available technology consistent with the applicable criteria in 18 AAC 75.445(k). In addition, the plan must

(A) identify technologies applicable to the applicant's operation that are not subject to response planning or performance standards specified in 18 AAC 75.445(k)(1) and (2); these technologies include, at a minimum,

(i) for all contingency plans, communications described under (1)(D) of this subsection; source control procedures to stop the discharge at its source and prevent its further spread described under (1)(F)(i) of this subsection; trajectory analyses and forecasts described under (1)(F)(iv) of this subsection; and wildlife capture, treatment, and release procedures and methods described under (1)(F)(xi) of this subsection;

(ii) for a terminal, a crude oil transmission pipeline, or an exploration and production contingency plan: cathodic protection or another approved corrosion control system if required by 18 AAC 75.065(h)(2), (i)(3), or (j)(3); a leak detection system for each tank if required by 18 AAC 75.065(i)(4) or (j)(4); any other prevention or control system approved by the department under 18 AAC 75.065(h)(1)(D); 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); maintenance practices for buried metallic piping containing oil as required by 18 AAC 75.080(b); protective coating and cathodic protection if required by 18 AAC 75.080(d) (k)(1),(l) or (m); and cathodic protection surveys required by 18 AAC 75.080(k)(2);

(iii) for a tank vessel contingency plan: measures to assure prompt detection of an oil discharge as required by 18 AAC 75.027(d); 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); tow lines as required by 18 AAC 75.027(f); and escort vessels;

(iv) for a crude oil transmission pipeline contingency plan: leak detection, monitoring, and operating requirements for crude oil pipelines that include prompt leak detection as required by 18 AAC 75.055(a);

(v) for a barge contingency plan: measures to assure prompt detection of an oil discharge as required by 18 AAC 75.037(d) and means to recover a barge that breaks free of its towing vessel as required by 18 AAC 75.037(f); and

(vi) for a railroad tank car contingency plan, measures to assure prompt detection of a tank car leak, spill prevention and containment devices for locomotive fueling systems, spill collection and recovery devices at locomotive fueling and tank car filling locations, track-mounted railroad tank car defect detector systems, and avalanche detection and mitigation systems;

(B) for each applicable technology under (A) of this paragraph, identify all available technologies and include a written analysis of each technology, using the applicable criteria in 18 AAC 75.445(k)(3); and

(C) include a written justification that the technology proposed to be used is the best available for the applicant's operation.

(5) **Part 5 – Response Planning Standard:** A calculation of the applicable response planning standards set out in 18 AAC 75.430 - 18 AAC 75.440 and 18 AAC 75.442, including a detailed basis for the calculation of reductions, if any, to be applied to the response planning standards.

(f) For purposes of this section and 18 AAC 75.445, "technology" means equipment, supplies, other resources, and related practices. (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)

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

18 AAC 75.426. Nontank vessel streamlined plan contents. A nontank vessel streamlined plan application must contain the following information:

(1) the name, address, and telephone number of the plan holder;

- (2) for each covered vessel, the
 - (A) vessel's name, official number, and country of registry;
 - (B) name and address of the owner; and
 - (C) name and address of the operator;
- (3) the application date and the first scheduled date of entry into waters of the state;
- (4) the name, telephone number, title, electronic mail address, and facsimile number of each qualified individual for the plan holder;
- (5) a description of the immediate spill reporting actions to be taken at any hour of the day, including
 - (A) the title and telephone number, any electronic mail address, and any facsimile number of personnel responsible for making notifications; and
 - (B) the telephone number of each appropriate government agency to be notified if a discharge occurs;
- (6) the length overall, maximum beam, gross tonnage, and type and configuration of each covered vessel;
- (7) a description or diagram of each covered vessel for reference in conducting emergency response operations; each diagram must clearly mark the location of 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;
- (8) the name, location, and telephone number of an emergency contact for gaining access to detailed plans for each vessel showing the
 - (A) location of personnel quarters and each emergency exit;
 - (B) location of all fuel piping locations, including valve locations and identification;
 - (C) the location and size of each tank, tank valve, overflow pipe, and tank access point;

- (D) the location of each internal or portable pump on board;
 - (E) the location of each emergency shutdown switch; and
 - (F) other detailed information pertinent to emergency response operations;
- (9) the maximum fuel capacity, in barrels, of each covered vessel and the volume used to calculate the response planning standard under 18 AAC 75.441 for each vessel; if the volume used to calculate the vessel's response planning standard is less than the maximum fuel capacity of the vessel, the vessel operator must certify that the volume used to calculate the vessel's response planning standard under 18 AAC 75.441 is the maximum volume of fuel carried by the vessel in state waters;
- (10) each region of operation for each covered vessel;
- (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, any electronic mail address, and any facsimile number of each contracted nontank vessel cleanup contractor and nontank vessel incident management team;
- (12) except for a plan using a response planning facilitator who is providing the response services described in 18 AAC 75.428(a)(2), a statement certifying that
- (A) for each region of operation identified in the plan, the applicant has a contract with, or is a member of, at least one nontank vessel cleanup contractor for that region of operation;
 - (B) each nontank vessel cleanup contractor identified in the statement is registered under 18 AAC 75.500 - 18 AAC 75.580 for the appropriate vessel fuel classification under 18 AAC 75.561(b)(1), Table F, and region of operation identified in the plan; and
 - (C) each contract or membership agreement with the nontank vessel cleanup contractor demonstrates that the nontank vessel cleanup contractor will respond on behalf of the applicant;
- (13) except for a plan using a response planning facilitator who is providing the response services described in 18 AAC 75.428(a)(2), a statement certifying that
- (A) for each region of operation identified in the plan, the applicant has a contract with at least one nontank vessel incident management team for that region of operation;
 - (B) each nontank vessel incident management team identified in the statement is registered under 18 AAC 75.500 - 18 AAC 75.580 for the appropriate vessel fuel classification under 18 AAC 75.562(b), Table G, and region of operation identified in the plan; and

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

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

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

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

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

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

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

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

18 AAC 75.427. Nontank vessel equivalent plan contents. Repealed (Eff. 11/27/2002, Register 164; repealed 3/23/2017, Register 221)

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

(1) act as an intermediary between the plan holder and one or more nontank vessel cleanup contractors and one or more nontank vessel incident management teams in order to facilitate the submission of a nontank vessel streamlined plan under 18 AAC 75.421, including facilitation of the execution of a contract or membership agreement between the plan holder and each nontank vessel cleanup contractor and nontank vessel incident management team as described in 18 AAC 75.426(12) and (13); or

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

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

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

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

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

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

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

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

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

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

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

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

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

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

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

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

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

- (1) alcohol and drug testing of key personnel: 5 percent;
- (2) an operations training program with a professional organization or federal certification or licensing of program participants: 5 percent;
- (3) on-line leak detection systems for tanks and piping: 5 percent;
- (4) a sufficiently impermeable secondary containment area with a dike capable of holding the contents of the largest tank, or all potentially affected tanks in the case of increased risk, and precipitation: 60 percent;
- (5) for secondary containment as described in (4) of this subsection, designed with the following enhancements, an additional allowance for
 - (A) cathodic protection: 10 percent;
 - (B) fail-safe valve piping systems: 15 percent; or
 - (C) impervious containment area extending under the full area of each storage tank or double bottoms with leak detection: 25 percent; and
- (6) containment outside the secondary containment area: 10 percent.

(Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

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

- (1) contain and control 15 percent of the maximum oil capacity of the train within 48 hours after a spill; and
- (2) clean up the discharge within the shortest possible time consistent with minimizing damage to the environment. (Eff. 12/14/2002, Register 164)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070
AS 46.04.055

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

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

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

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

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

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

(c) Repealed 5/26/2004.

(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 within 30 days after the department notifies the plan holder of the department's determination under this section. The department will review the plan amendment under 18 AAC 75.455.

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

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

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

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

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

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

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

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

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

(1) review confidential information in-camera; and

(2) redact department decisions to protect confidential information.

(j) The department may reduce the requirements of (b) - (e) of this section, up to the limits set out in 18 AAC 75.430(c)(1), for prevention measures in place at the facility beyond those measures imposed by the Alaska Oil and Gas Conservation Commission or another agency. (Eff. 5/14/92, Register 122; am 5/26/2004, Register 170)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

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

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

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

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

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

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

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

(3) on-line leak detection systems: 5 percent;

(4) corrosion control using

(A) ultrasonic thickness meters: 15 percent;

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

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

(5) underwater pipeline cathodic- and burial-profile inspection: 5 percent.
(Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.070 AS 46.04.030

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

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

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

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

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

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

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

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

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

(1) hydrostatic loading: 20 percent;

(2) double hulls and bottoms: 30 percent;

(3) double bottoms: 25 percent; and

(4) emergency-response vessels and procedures described as follows:

(A) vessel escort during entire vessel transit in port area;

(B) escort vessels capable of

(i) providing steering and propulsion assistance with the ability to attach towing cables in a timely fashion under the weather conditions of transit; and

(ii) exerting sufficient force to change or maintain the escorted vessel's course;

(C) limits on the escorted vessel's speed in order to match escort vessel's ability to render assistance; and

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

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

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.440. Response planning standards for noncrude oil tank vessels and barges. (a) For a noncrude oil tank vessel or barge, the plan holder shall maintain or have available under contract within the plan holder's region of operation or another approved location, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to

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

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

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

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

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

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

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

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

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

18 AAC 75.442. Response planning standards for multiple operations. For a facility having more than one category of operation that 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 category of operation at the facility as established under 18 AAC 75.430 - 18 AAC 75.440. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.443. Prevention credits for nontank vessels. Repealed. (Eff. 11/27/2002, Register 164; repealed 9/4/2014, Register 211)

18 AAC 75.445. Approval criteria for oil discharge prevention and contingency plans. (a) The department will use the criteria set out in this section to review an oil discharge prevention and contingency plan submitted under 18 AAC 75.425.

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

(c) **Deployment strategies.** The plan must demonstrate that the identified personnel and equipment are sufficient to meet the applicable response planning standard and can be deployed and operating within the time specified under 18 AAC 75.430 - 18 AAC 75.442. The plan must state what conditions were assumed and must take into account the realistic maximum response operating limitation and their effects on response capability and the deployment of resources. Plans using contractual resources must demonstrate that the transition and substitution of equipment and resources will occur without interruption of response or cleanup.

(d) **Response strategies.** The response strategies must take into account the type of product discharged and must demonstrate that

(1) procedures are in place to stop the discharge at its source within the shortest possible time;

(2) for an exploration or production facility, a summary of planned methods, equipment, logistics, and time frames in place that provide for the control of a well blowout within 15 days; the plan holder shall certify that the plan holder has a blowout contingency plan and shall make the blowout contingency plan available to the department for inspection upon request under 18 AAC 75.480; 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;

(3) procedures and equipment are sufficient to monitor and track the discharge in order to ensure proper allocation and deployment of response personnel and equipment;

(4) sufficient oil discharge response equipment, personnel, and other resources are maintained and available for the specific purpose of preventing discharged oil from entering an environmentally sensitive area or an area of public concern that would likely be impacted if a discharge occurs, and that this equipment and personnel will be deployed and maintained on a time schedule that will protect those areas before oil reaches them according to the predicted oil trajectories for an oil discharge of the volumes established under 18 AAC 75.430 - 18 AAC 75.442; areas identified in the plan must include areas added by the department as a condition of plan approval;

(5) plan strategies are sufficient to meet the applicable response planning standard established under 18 AAC 75.430 - 18 AAC 75.442 for containment, control, recovery, transfer, storage, and cleanup within the specified time and under environmental conditions that might reasonably be expected to occur at the discharge site;

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

(7) adequate temporary storage and removal capacity for recovered oil and oily wastes will be available at or near the site of the spill to keep up with the skimming and recovery operations and to meet the applicable planning standard established under 18 AAC 75.430 - 18 AAC 75.442 for control, containment, and cleanup; plans for temporary storage and ultimate disposal must include the specific actions to be taken to obtain all necessary permits and approvals.

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

(f) **Realistic maximum response operating limitations.** In designing a spill response, severe weather and environmental limitations that might be reasonably expected to occur during a discharge event must be identified. The plan must use realistic efficiency rates for the specified response methods to account for the reduction of control or removal rates under those severe weather or other environmental limitations that might reasonably be expected to occur. The department may require the plan holder to take specific temporary prevention or response measures until environmental conditions improve to reduce the risk or magnitude of an oil discharge during periods when planned mechanical spill response options are rendered ineffective by environmental limitations. Plans that propose the use of nonmechanical response options under 18 AAC 75.425(e)(3)(D) must meet the requirements of 18 AAC 75.425(e)(1)(G), 18 AAC 75.425(e)(3)(G), and (h) of this section.

(g) **Response equipment.** Response equipment identified in the plan must meet the following conditions:

(1) the applicant must have ready access to enough equipment to meet the applicable response planning standards established under 18 AAC 75.430 - 18 AAC 75.442 using mechanical methods of oil control, containment, and cleanup;

(2) identified equipment must reflect the best available technology at the time the plan is submitted or renewed;

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

(4) vessels used to deploy and tow boom must be of a number, size, and power adequate to deploy the types and amounts of boom addressed in (3) of this subsection and must be capable of operating in the manner and at the speeds necessary for the effective use of boom;

(5) 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 a 24-hour period, unless an analysis demonstrates to the satisfaction of the department that another effective daily oil recovery capacity is appropriate; equipment types must be compatible with each other as necessary to ensure an efficient response;

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

(h) **Nonmechanical response information.** Plans which propose the use of dispersants, in situ burning, or other nonmechanical response techniques during periods when environmental conditions or other factors limit the use of mechanical spill response methods must demonstrate their efficiency and effectiveness and must include a full assessment of potential environmental consequences, provisions for continuous monitoring and real-time assessment of environmental effects, and full compliance with all applicable approval requirements. If in situ burning is proposed as a response technique, a completed application for approval by the department must be included.

(i) **Oil Spill Primary Response Action Contractor Information.** If a plan holder proposes to use the services of an oil spill primary response action contractor to meet a requirement of AS 46.04.030 or 18 AAC 75.432 - 18 AAC 75.442, the contractor must be registered under 18 AAC 75.500 - 18 AAC 75.580. The plan holder shall include a correct and complete list of each primary response action contractor, with name, address, telephone number, and affiliation by company, and, for each response action contract, a statement signed by the plan

holder and the primary response action contractor attesting to the department that the contract

(1) clearly specifies that the contractor is obligated to

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

(B) respond if a discharge occurs;

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

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

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

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

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

(j) **Training.** In addition to maintaining continuous compliance with other applicable state and federal training requirements, the plan holder shall demonstrate that

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

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

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

(k) **Best Available Technology Review.** For purposes of 18 AAC 75.425(e)(4), the department will review a plan and make a best available technology determination using the following criteria, as applicable:

(1) technology used for oil discharge containment, storage, transfer, and cleanup to satisfy a response planning standard in 18 AAC 75.430 - 18 AAC 75.442 will be considered

best available technology if the technology of the applicant's oil discharge response system as a whole is appropriate and reliable for the intended use as well as the magnitude of the applicable response planning standard;

(2) technology that complies with the performance standards of 18 AAC 75.005 - 18 AAC 75.080 and that is not subject to a best available technology review under 18 AAC 75.425(e)(4)(A), will be considered best available technology;

(3) technology identified under 18 AAC 75.425(e)(4)(A) 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 each technology is transferable to the applicant's operations;

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

(D) 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;

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

(F) whether each technology is compatible with existing operations and technologies in use by the applicant;

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

(H) whether other environmental impacts of each technology, such as air, land, water pollution, and energy requirements, offset any anticipated environmental benefits.

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

(m) **Prevention Plan.** The prevention plan required by 18 AAC 75.425(e)(2) must describe all oil discharge prevention programs in place at the facility or operation. The plan must demonstrate that the applicant meets all applicable requirements of 18 AAC 75.005 - 18 AAC 75.085 and 18 AAC 75.425(e)(2).

(n) **Response Planning Standard.** The response planning standard required by 18 AAC 75.425(e)(5) must provide a mathematical calculation of the applicable response planning standards set out in 18 AAC 75.430 - 18 AAC 75.440 and 18 AAC 75.422, and include a detailed calculation and justification of any reductions to the response planning standard. (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)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070
 AS 46.04.020 AS 46.04.035

Editor's note: 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 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. 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 75.446. Approval criteria for nontank vessel equivalent plans. Repealed (Eff. 11/27/2002, Register 164; am 4/16/2016, Register 218; repealed 3/23/2017, Register 221)

18 AAC 75.447. Department examination of new technologies. (a) To assure that proven new technologies are considered for use in oil discharge prevention and contingency plans, the department will review and appraise technology applied at other locations in the United States and the world that represent alternatives to the technologies used by plan holders in their oil discharge prevention and contingency plans submitted to meet response planning standards in 18 AAC 75.430 - 18 AAC 75.442 and the performance standards of 18 AAC 75.005 - 18 AAC 75.080. The department will conduct this review and appraisal by

(1) sponsoring a technology conference at least every five years and in cooperation with persons, organizations, and groups with interests and expertise in relevant technologies; this conference will provide interested parties with an opportunity to describe the status of existing technologies in use as well as technologies that may be considered superior to those in use at that time; and

(2) engaging in studies, inquiries, surveys, or analyses the department believes appropriate to the consideration of new technologies.

(b) After its review and appraisal under (a) of this section, the department will issue written findings identifying new technologies that the department considers represent proven technological breakthroughs in oil discharge containment, control, or cleanup equipment. In its findings, the department will

(1) provide an evaluation of the technologies applied at other locations based on the applicable criteria in 18 AAC 75.445(k)(3);

(2) identify the evidence that clearly and convincingly supports the determination that the equipment represents a proven technology breakthrough that could result in superior advances in the efficiency or effectiveness of oil spill response efforts; and

(3) identify specific operations, geographical locations, or physical environments where the technology could be applied.

(c) If a finding is issued under (b) of this section, the department will inform plan holders, primary response action contractors, and other interested persons of the department's findings, the availability of the new technology, and the opportunity to submit comment on the report to the department. (Eff. 4/4/97, Register 142)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.455. Department review procedures for oil discharge prevention and contingency plans; new plans, plan renewals and major plan amendments. (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. If the application package is not sufficient for review, the department will notify the applicant in writing.

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

(1) notify the applicant in writing;

(2) direct the applicant to provide copies of the application package to reviewers in accordance with 18 AAC 75.408(c);

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

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

(A) information on the public comment period established under (3) of this subsection; and

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

(5) direct the applicant to publish a one-time notice provided by the department announcing the public comment period for the plan; the applicant is responsible for paying the cost of the notice under this paragraph; the applicant must publish the notice in one or more publications of general circulation in the area that would be affected by the operation; in the notice the department will include

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

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

(C) a statement that a copy of the application package is available for review at specific offices of the department and other locations as determined by the department; and

(D) after October 16, 2016, a statement that the package is available on the department's Internet website.

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

(1) the department will notify the applicant in writing that a request for additional information will be transmitted; the department will transmit the request for additional information not later than 90 days after the end of the public comment period in (b) of this section; the department may set a deadline for the submittal of the additional information;

(2) the applicant must provide responses to the department's requests for additional information as required by 18 AAC 75.408(c)(1) – (4) and (7);

(3) if the applicant has not provided the information requested or if the applicant's responses to requests for additional information cause the department to identify additional information needed to find the application package is complete, the department will send subsequent requests for additional information until the department determines that the requests have been answered and the application package is complete; and

(4) when the department has verified all requests have been addressed, the applicant must provide copies of the responses to the requests for additional information in accordance with 18 AAC 75.408(c)(1) – (4) and (7).

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

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

(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.

(g) Not later than 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 issues a decision under 18 AAC 75.460.

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.456. Department decision on nontank vessel streamlined oil discharge prevention and contingency plans. (a) The department will make a decision on a nontank vessel 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 nontank vessel streamlined plan application submitted under 18 AAC 75.421 if the plan meets the following requirements:

- (1) the information submitted conforms to the requirements of 18 AAC 75.426;
- (2) any nontank vessel cleanup contractor identified under 18 AAC 75.426(11) is registered under 18 AAC 75.500 - 18 AAC 75.580 for the appropriate vessel fuel classification and region of operation identified in the application;
- (3) any nontank vessel incident management team identified under 18 AAC 75.426(11) is registered under 18 AAC 75.500 - 18 AAC 75.580 for the appropriate vessel fuel classification and region of operation identified in the application;
- (4) 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.

(b) A nontank vessel plan is effective for

- (1) five years after the date the plan is approved by the department; or
- (2) a time period shorter than five years, as specified in the department's approval letter.

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

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. 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)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.459. Preissuance conference. (a) At any time before the department's decision under 18 AAC 75.460, the applicant may request a preissuance conference from the appropriate department office. The request may be made orally, and will be granted if the applicant demonstrates that holding a conference will materially aid the department in reaching its decision.

(b) A preissuance conference under this section will be conducted in the manner provided under 18 AAC 15.070. However, the time period for the department's review will not be held in abeyance pending completion of the conference. (Eff. 5/14/92, Register 122; am 9/4/2014, Register 211)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

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 75.459.

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

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

(1) the department's written decision, 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;

(2) a statement that, if aggrieved by the department's decision, the applicant or 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 any hearing requested under this subparagraph will be subject to the procedures set out under 18 AAC 15.195 – 18 AAC 15.340; and

(3) a statement that the plan holder will provide copies of the approved plan in accordance with 18 AAC 75.408 not later than 30 days after approval; for submittals after October 16, 2016, 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.

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

(d) An approval under this section is effective for

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

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.03.030

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, 555 Cordova Street, Anchorage, Alaska 99501 – 2617. The mail address for adjudicatory hearing requests is Department of Environmental Conservation, Office of the Commissioner, 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. Proof of approved plan. (a) The owner or operator of an oil terminal facility may not cause or permit the transfer of oil to or from a vessel, barge, or railroad tank car unless

(1) the operator of the vessel, barge, or railroad tank car has produced for inspection by the facility owner or operator the original certificate, or a true photocopy of the original, approving the oil discharge prevention and contingency plan or nontank vessel plan for that operation; and

(2) the operator of the vessel or barge has certified, on a contingency plan verification log supplied by the department and maintained by the owner or operator of the oil terminal facility, that copies of the response action and prevention plan sections of the current approved oil discharge prevention and contingency plan, or the original certificate or a true photocopy of the original nontank vessel plan approval certificate, for that vessel or barge is on board the vessel or barge, or for a railroad tank car is available from the operator of the railroad tank car.

(b) The owner or operator of an oil terminal facility shall certify on the contingency plan verification log that the operator of the vessel or barge has complied with (a)(1) and (a)(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. Submission is effective upon personal delivery, facsimile transmission, or electronic mail transmission, or on the date of mailing by certified mail to the department. The department will retain copies of all logs received under this subsection for five years after receipt.

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

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

(e) Any tank vessel, oil barge, or railroad tank car required to have a plan under AS 46.04.030 and 46.04.055 and approved under 18 AAC 75.460(a) must have the original or true photocopy of the following on board the tank vessel or oil barge and available for inspection when operating in state waters, or for a railroad tank car, available from the operator of the railroad tank car:

(1) copies of the response action and prevention plan sections of the current approved oil discharge prevention and contingency plan;

(2) the approval letter and certificate of approval issued by the department; and

(3) any additional department approval letters issued after initial plan approval is granted.

(f) A nontank vessel required to have a plan under AS 46.04.030 and 46.04.055 and approved under 18 AAC 75.456(a) must have the original or true photocopy of the following on board the vessel and available for inspection when operating in state waters:

(1) the approved nontank vessel streamlined plan;

(2) the approval letter and certificate of approval issued by the department; and

(3) any additional department approval letters issued after initial plan approval is granted. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 12/14/2002, Register 164; am 4/16/2016, Register 218)

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

18 AAC 75.470. Transfers between plan holders. (a) If approved under this section, a plan holder, or an oil spill response contractor or cooperative upon which one or more plan holders rely, may furnish to another plan holder or to another person, equipment, materials, or personnel to assist in response to an oil discharge. A description of the proposed transfer that addresses each of the considerations set out in (b) of this section must be provided with the request for approval of a transfer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) The department will issue a verbal approval for a transfer if a discharge poses an imminent threat to life, property, the environment, or other significant public concern. The verbal approval will be verified in writing by the department. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.475. Notification of nonreadiness. (a) All spill response and other equipment identified in the approved oil discharge prevention and contingency plan or nontank vessel plan to meet the response planning standards set out at 18 AAC 75.430 - 18 AAC 75.442 must be maintained in operational condition. Any equipment found not to be operating properly must be repaired or replaced immediately.

(b) Except for a transfer approved under 18 AAC 75.470, if a significant change occurs in, or is made to, 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.

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

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

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

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

(3) a secondary containment system required by 18 AAC 75.075. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 12/30/2006, Register 180; am 9/4/2014, Register 211)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.480. Inspections. (a) To verify compliance with the provisions of AS 46.04.030, AS 46.04.055, and 18 AAC 75.400 - 18 AAC 75.496, the department may conduct announced and unannounced inspections of a vessel, barge, pipeline, or other operation that is subject to the requirements of AS 46.04.030, AS 46.04.055, and 18 AAC 75.400 - 18 AAC 75.496. If practicable, an inspection under this section will be coordinated with other regulatory agencies.

(b) Based on the results of an inspection made under this section, the department will, in its discretion, take appropriate action under 18 AAC 75.490. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164)

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

18 AAC 75.485. Discharge exercises. (a) The department may conduct announced and unannounced discharge exercises to assure that an oil discharge prevention and contingency plan or nontank vessel plan is adequate in content and execution. No more than two exercises will be required for an oil discharge prevention and contingency plan in each 12-month period, unless an exercise demonstrates, in the department's judgment, a plan holder's failure to implement the plan effectively.

(b) Execution of a plan during a discharge exercise will be considered inadequate if the readiness for response and response performance stated in the plan are significantly deficient due

to inadequate mobilization or performance of personnel, equipment, other resources, or other factors, including the mobilization or performance of a response action contractor identified under 18 AAC 75.445(i).

(c) If a plan holder cannot adequately execute the plan during a discharge exercise, the department will, in its discretion,

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

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

(d) The department will consider a regularly scheduled training exercise initiated by a plan holder as a discharge exercise if the department monitors, evaluates, or participates in the exercise and concurs that it is equivalent to a discharge exercise conducted by the department. A plan holder shall notify the department in advance of the exercise and shall provide an opportunity for a department representative to be present and participate.

(e) The department will conduct announced or unannounced discharge exercises appropriate to the plan holder's current status of operations. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; 3/23/2017, Register 221)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.05.030

18 AAC 75.490. Failure to comply. (a) If a plan holder fails to comply with an approved oil discharge prevention and contingency plan or nontank vessel plan, demonstrates an inability to maintain continuous access to the quality or quantity of resources identified in the plan, fails to respond with those resources in the shortest possible time if a discharge occurs, or is in any other way subject to the terms of AS 46.04.030(f)(1) - (4) or AS 46.04.055, the department may

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

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

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

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

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

(c) If the department issues a notice of intent to revoke an approval under this chapter, the plan holder may request an adjudicatory hearing under 18 AAC 15.195 – 18 AAC 15.340. (Eff. 5/14/92, Register 122; am 7/11/2002, Register 163; am 11/27/2002, Register 164)

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

18 AAC 75.495. Regional master discharge prevention and contingency plan boundaries. (a) The regions described in this subsection and depicted on the map at Figure 1 are established for the purpose of preparing a regional master oil and hazardous substance discharge prevention and contingency plan as required by AS 46.04.210:

(1) Southeast Alaska Region: that area of the state east of 142E 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 in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(2) Prince William Sound Region: that area south of 63E30' N. latitude, west of the region described in (1) of this subsection, and east of the region described in (3) of this subsection, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

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

(4) Kodiak Island Region: that area encompassed by the boundaries of the Kodiak Island Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(5) Aleutian Region: those areas encompassed by the boundaries of the Aleutians East Borough, the Aleutians West Coastal Resource Service Area, and the Pribilof Islands, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(6) Bristol Bay Region: that area encompassed by the boundaries of the Bristol Bay Coastal Resource Service 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 in such a manner that each point on it is 200 nautical miles from the baseline from

which the territorial sea is measured;

(7) Western Alaska Region: that area north of the area described in (6) of this subsection, encompassed by the boundaries of the southernmost boundary of the Bering Straits Regional Corporation, and Iditarod and Kuspuk Regional Educational Attendance Areas, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

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

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

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

(b) If the department finds that a discharge that could occur in an area beyond the territorial sea would not have a significant adverse impact on the resources of the state or on other interests of the state, the department will, in its discretion, adjust the seaward boundary of a region established in (a) of this section to exclude that area. (Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 10/9/2008, Register 188)

Authority: AS 46.03.020 AS 46.04.070 AS 46.04.210

18 AAC 75.496. Regional response operations plan boundaries for nontank vessels. The regions described in this section and depicted on the map at Figure 1 are established for the purpose of establishing boundaries for nontank vessel plans:

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

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

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

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

(5) Aleutian Region: those areas encompassed by the boundaries of the Aleutians East Borough, the Aleutians West Coastal Resource Service Area, and the Pribilof Islands, including adjacent shorelines and state waters;

(6) Bristol Bay Region: that area encompassed by the boundaries of the Bristol Bay Coastal Resource Service Area, the Bristol Bay Borough, and the Lake and Peninsula Borough, including adjacent shorelines and state waters;

(7) Western Alaska Region: that area north of the area described in (6) of this section, encompassed by the boundaries of the southernmost boundary of the Bering Straits Regional Corporation, and Iditarod and Kuspuk Regional Educational Attendance Areas, including adjacent shorelines and state waters;

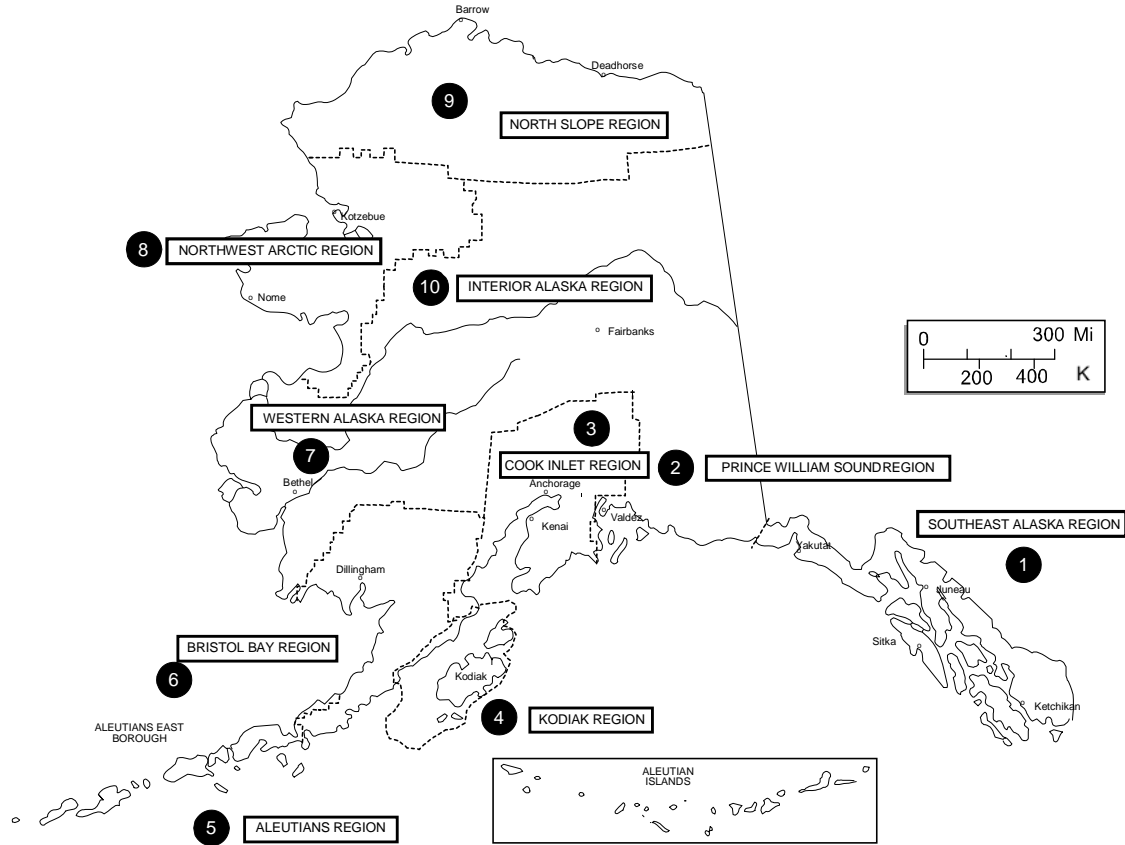
(8) Northwest Arctic Region: that area encompassed by the Northwest Arctic Borough and the Bering Straits Regional Corporation, including adjacent shorelines and state waters;

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

(10) Interior Alaska Region: that area of the state not included in (1) - (9) of this section. (Eff. 11/27/2002, Register 164)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

Figure 1. Regional Response Operations Plan Boundaries (18 AAC 75.496)



Article 5. Oil Spill Primary Response Action Contractors.**Section**

- 500. Definition of oil spill primary response action contractor; applicability
- 501. Applicability with respect to nontank vessel cleanup contractors, nontank vessel incident management teams, and response planning facilitators
- 510. General provisions
- 520. Application for oil spill primary response action contractor registration or renewal
- 521. Application for nontank vessel cleanup contractor registration
- 522. Application for nontank vessel incident management team registration
- 523. Application for response planning facilitator registration
- 530. Registration application contents for oil spill primary response action contractors
- 531. Registration application contents for nontank vessel cleanup contractors
- 532. Registration application contents for nontank vessel incident management teams
- 533. Registration application contents for response planning facilitators
- 540. Registration and renewal fees
- 550. Application review procedures for oil spill primary response action contractors
- 551. Application review procedures for nontank vessel cleanup contractors
- 552. Application review procedures for nontank vessel incident management teams
- 553. Application review procedures for response planning facilitators
- 560. Minimum registration standards for oil spill primary response action contractors
- 561. Minimum registration standards for nontank vessel cleanup contractors
- 562. Minimum registration standards for nontank vessel incident management teams
- 563. Minimum registration standards for response planning facilitators
- 565. Discharge exercises for nontank vessel cleanup contractors and nontank vessel incident management teams
- 570. Failure to comply
- 580. Voluntary termination of registration

18 AAC 75.500. Definition of oil spill primary response action contractor; applicability. (a) As used in AS 46.04.035 and 18 AAC 75.500 - 18 AAC 75.580, "oil spill primary response action contractor" means a person who is or intends to be obligated under contract to the holder of an approved oil discharge prevention and contingency plan issued under AS 46.04.030 to provide resources or equipment to contain, control, or clean up an oil discharge. "Oil spill primary response action contractor" does not include

(1) a person who provides only ancillary services or equipment not for the specific purpose of containing, controlling, or cleaning up an oil discharge; or

(2) an approved oil discharge prevention and contingency plan holder who provides to another plan holder resources or equipment to contain, control, or clean up an oil discharge.

(b) A response action contractor is not required to register under 18 AAC 75.500 - 18 AAC 75.580 unless the contractor is directly obligated to a plan holder by contract to provide spill response resources to meet the requirements of AS 46.04.030 and 18 AAC 75.400 - 18 AAC 75.495 and is listed in that plan holder's oil discharge prevention and contingency plan as providing all or part of the response resources required to demonstrate compliance with an applicable response planning standard under 18 AAC 75.432 - 18 AAC 75.442.

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

(d) Any person may apply to the department for registration under 18 AAC 75.500 - 18 AAC 75.580 as an oil spill primary response action contractor. (Eff. 9/25/93, Register 127; am 3/28/96, Register 137)

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

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 75.500.

18 AAC 75.501. Applicability with respect to nontank vessel cleanup contractors, nontank vessel incident management teams, and response planning facilitators. (a) The department will not consider a person to be a nontank vessel cleanup contractor, nontank vessel incident management team, or response planning facilitator, or to be otherwise subject to the registration requirements of AS 46.04.055 and 18 AAC 75.500 - 18 AAC 75.580, if the person

(1) provides only ancillary services or equipment not for the specific purpose of

(A) containing, controlling, or cleaning up an oil discharge under a contract or membership agreement to meet all or part of the requirements of AS 46.04.055 and 18 AAC 75.400 - 18 AAC 75.496;

(B) providing incident management services for a spill under a contract to meet all or part of the requirements of AS 46.04.055 and 18 AAC 75.400 - 18 AAC 75.496; or

(C) response plan facilitation to develop the response operations plan under 18 AAC 75.428 to meet all or part of the requirements of AS 46.04.055 and 18 AAC 75.400 - 18 AAC 75.496; or

(2) is an approved oil discharge prevention and contingency plan holder or nontank vessel plan holder who provides to another plan holder resources or equipment to

- (A) contain, control, or clean up an oil discharge;
- (B) provide incident management services for a spill; or
- (C) provide response plan facilitation services.

(b) A nontank vessel cleanup contractor is not required to register under this chapter unless that contractor is listed in a nontank vessel plan as providing containment, control, or cleanup actions under a contract or membership agreement to meet all or part of the requirements of AS 46.04.055 and 18 AAC 75.400 – 18 AAC 75.496.

(c) A nontank vessel incident management team is not required to register under this chapter unless that team is listed in a nontank vessel plan as providing incident management team services under a contract to meet all or part of the requirements of AS 46.04.055 and 18 AAC 75.400 – 18 AAC 75.496.

(d) A response planning facilitator is not required to register under this chapter unless that facilitator is listed in a nontank vessel plan as providing response planning facilitation services under 18 AAC 75.428 to meet all or part of the requirements of AS 46.04.055 and 18 AAC 75.400 – 18 AAC 75.496.

(e) Nothing in this chapter prohibits a person from registering as more than one of the following, in order to provide more than one type of response action for nontank vessels:

- (1) a nontank vessel cleanup contractor;
- (2) a nontank vessel incident management team;
- (3) a response planning facilitator. (Eff. 11/27/2002, Register 164)

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

18 AAC 75.510. General provisions. (a) The resources of a response action contractor listed in an oil discharge prevention and contingency plan to contain, control, or clean up an oil discharge and to demonstrate compliance with all or part of a response planning standard under 18 AAC 75.432 - 18 AAC 75.442 will not be considered by the department in its review of the plan unless

(1) that person is registered as an oil spill primary response action contractor under 18 AAC 75.500 - 18 AAC 75.580; and

(2) all other requirements of 18 AAC 75.425(e)(3)(H) and 18 AAC 75.445(i) are met.

(b) Registration of an oil spill primary response action contractor by the department does not

(1) constitute an assurance by the department of the qualifications or abilities of that contractor;

(2) constitute an assurance by the department that the contractor will adequately respond to a release or threatened release of oil; or

(3) provide a defense to liability under state law. (Eff. 9/25/93, Register 127; am 3/28/96, Register 137)

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

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 75.510.

18 AAC 75.520. Application for oil spill primary response action contractor registration or renewal. (a) Oil spill primary response action contractor registration under this section is effective for three years after the date of issuance under 18 AAC 75.550.

(b) A person seeking registration or renewal of registration as an oil spill primary response action contractor must submit an application, on a form provided by the department, to the contractor registration program, division of spill prevention and response within the department.

(c) An applicant for renewal of registration must submit an application no less than 60 days before the registration expires. If the information required by 18 AAC 75.530 has not changed since the previous application, the renewal application may incorporate the previous application by reference. (Eff. 9/25/93, Register 127; am 3/28/96, Register 137; am 11/27/2002, Register 164)

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

Editor's note: An application for registration or renewal of registration as an oil spill primary response action contractor should be sent to Contractor Registration Program, Department of Environmental Conservation, Division of Spill Prevention and Response, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801 - 1795.

18 AAC 75.521. Application for nontank vessel cleanup contractor registration. (a) Nontank vessel cleanup contractor registration is effective for as long as the contractor is in compliance with the applicable requirements of this chapter.

(b) A person seeking registration as a nontank vessel cleanup contractor must submit an application, on a form provided by the department, to the nontank vessel cleanup contractor registration program, division of spill prevention and response within the department. The application must be submitted at least 60 days before the start of operations.

(c) Repealed 9/4/2014. (Eff. 11/27/2002, Register 164; am 9/4/2014, Register 211)

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

Editor's note: An application for registration as a nontank vessel cleanup contractor should be sent to Nontank Vessel Cleanup Contractor Registration Program, Department of Environmental Conservation, Division of Spill Prevention and Response, 555 Cordova Street, Anchorage, Alaska 99501-2617.

18 AAC 75.522. Application for nontank vessel incident management team registration. (a) Nontank vessel incident management team registration is effective for as long as the contractor is in compliance with the applicable requirements of this chapter.

(b) A person seeking registration as a nontank vessel incident management team must submit an application, on a form provided by the department, to the nontank vessel cleanup contractor registration program, division of spill prevention and response within the department. The application must be submitted at least 60 days before the start of operations.

(c) Repealed 9/4/2014. (Eff. 11/27/2002, Register 164; am 9/4/2014, Register 211)

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

Editor's note: An application for registration as a nontank vessel incident management team should be sent to Nontank Vessel Cleanup Contractor Registration Program, Department of Environmental Conservation, Division of Spill Prevention and Response, 555 Cordova Street, Anchorage, Alaska 99501-2617.

18 AAC 75.523. Application for response planning facilitator registration. (a) A response planning facilitator registration is effective for as long as the contractor is in compliance with the applicable requirements of this chapter.

(b) A person seeking registration as a response planning facilitator must submit an application, on a form provided by the department, to the nontank vessel cleanup contractor registration program, division of spill prevention and response within the department. The application must be submitted at least 60 days before the start of operations.

(c) Repealed 9/4/2014. (Eff. 11/27/2002, Register 164; am 9/4/2014, Register 211)

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

Editor's note: An application for registration as a response planning facilitator should be sent to Nontank Vessel Cleanup Contractor Registration Program, Department of Environmental Conservation, Division of Spill Prevention and Response, 555 Cordova Street, Anchorage, Alaska 99501-2617.

18 AAC 75.530. Registration application contents for oil spill primary response action contractors for oil discharge prevention and contingency plans. (a) An application required under 18 AAC 75.520(b) must

- (1) include the applicant's name, address, telephone number, and facsimile machine number;
- (2) identify each region described in 18 AAC 75.495 where the applicant's oil spill response resources will be made available for use by a contingency plan holder;
- (3) include a call-out list of appropriate response personnel or identify any
 - (A) labor subcontractor; and
 - (B) labor contract to supply response personnel;
- (4) completely describe the most recent inventory of the applicant's oil spill response resources available for mobilization and deployment to each of the geographic regions identified in (2) of this subsection, including
 - (A) the number and location of trained personnel;
 - (B) a description of the applicant's minimum training requirements for response personnel and procedures for training additional personnel if needed; and
 - (C) the amount and location of
 - (i) oil containment equipment;
 - (ii) oil recovery equipment, including equipment nameplate ratings in barrels per hour;
 - (iii) transfer, storage, and disposal equipment;

(iv) dispersant or burning equipment; and

(v) significant ancillary resources and equipment; and

(5) describe the applicant's previous oil spill activities and history of compliance with state and federal environmental laws.

(b) Instead of submitting the information required under (a)(4) and (5) of this section, an applicant may submit a complete copy of an application for and a certified copy of the applicant's current Interim or Final Letter of Classification as an Oil Spill Removal Organization issued by the United States Coast Guard. If a letter of classification has not been issued at the time of application, the applicant shall submit a certified copy of the letter of classification upon its receipt. (Eff. 9/25/93, Register 127; am 3/28/96, Register 137)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070
AS 46.04.030

18 AAC 75.531. Registration application contents for nontank vessel cleanup contractors. An application submitted under 18 AAC 75.521 must include the following information:

(1) the applicant's name, address, and telephone number, and any facsimile number;

(2) a current list of nontank vessel plans that rely on the contracted services of the applicant, the number of vessels covered by those plans, and the largest vessel response planning standard volume;

(3) the vessel fuel classification under 18 AAC 75.561(b)(1), Table F, for which application is made; the vessel fuel classification must correspond to the response planning standard volume specified under (2) of this subsection;

(4) each region of operation for which application is made; the applicant's equipment required under 18 AAC 75.561(b)(1), Table F, must be available for use by a plan holder in each region of operation for which application is made;

(5) a current inventory of equipment, and description of personnel and other resources, demonstrating that the applicant meets or exceeds the requirements of 18 AAC 75.561 for each vessel fuel classification for which application is made;

(6) the location of personnel and equipment required under 18 AAC 75.561(b)(1), Table F;

(7) a description of previous oil spill response activities and a history of compliance with state and federal environmental laws;

(8) a statement, signed by the contractor, that each contract or membership agreement will obligate the contractor to

(A) respond upon notification by the plan holder or response planning facilitator, as applicable;

(B) notify the plan holder or response planning facilitator, as applicable, immediately if the contractor cannot carry out the services specified in the contract, membership agreement, or nontank vessel plan;

(C) give written notice at least 30 days before terminating the contract or membership agreement with the plan holder or the response planning facilitator, as applicable; and

(D) in accordance with industry standards, maintain the equipment and other spill response resources listed in the application in a state of readiness;

(9) a certification, under penalty of unsworn falsification in violation of AS 11.56.210, that the statements made in the application are correct to the best of the applicant's knowledge;

(10) an acknowledgment that knowingly providing false information, or a demonstrated inability to perform the services described in the application, may result in the revocation of registration. (Eff. 11/27/2002, Register 164)

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

Editor's note: As of Register 221 (April 2017), the regulations attorney made technical corrections under AS 44.62.125(b)(6), to 18 AAC 75.531, changing cross-referenced table headers from "Table G" to "Table F" to reflect the agency's repeal of 18 AAC 75.446, including former Table F, as part of amendments that took effect March 23, 2017, Register 221.

18 AAC 75.532. Registration application contents for nontank vessel incident management teams. An application submitted under 18 AAC 75.522 must include the following information:

(1) the applicant's name, address, and telephone number, and any facsimile number;

(2) a current list of nontank vessel plans that rely on the contracted services of the applicant, the number of vessels covered by those plans, and the largest vessel response planning standard volume;

(3) the vessel fuel classification under 18 AAC 75.562(b), Table G, for which application is made; the vessel fuel classification must correspond to the response planning standard volume specified under (2) of this section;

(4) each region of operation for which application is made; the personnel required under 18 AAC 75.562(b), Table G, must be available for use by a plan holder in each region of operation for which application is made;

(5) a list of identified personnel required by 18 AAC 75.562(b), Table G, for each vessel fuel classification for which application is made; the list must

(A) provide the individual's name, emergency contact information, training, and experience; and

(B) demonstrate that the applicant meets or exceeds the requirements of 18 AAC 75.562 for each vessel fuel classification for which application is made;

(6) the location of identified personnel listed under (5) of this section, and the location of other resources;

(7) a description of previous oil spill response activities and a history of compliance with state and federal environmental laws;

(8) a list of the sources of available personnel required by 18 AAC 75.562(b), Table G, for each vessel fuel classification for which application is made; the list need not identify available personnel by name; however, the list must describe additional personnel resources available through contract or other means, and must describe the experience and training, location, and approximate timeframes for mobilization of those personnel resources, up to and including the maximum number of available personnel;

(9) a statement, signed by the contractor, that each contract will obligate the contractor to

(A) respond upon notification by the plan holder or response planning facilitator, as applicable;

(B) notify the plan holder or response planning facilitator, as applicable, immediately if the contractor cannot carry out the services specified in the contract or nontank vessel plan;

(C) give written notice at least 30 days before terminating the contract with the plan holder or the response planning facilitator, as applicable; and

(D) in accordance with industry standards, maintain the spill response resources listed in the application in a state of readiness;

(10) a certification, under penalty of unsworn falsification in violation of AS 11.56.210, that the statements made in the application are correct to the best of the applicant's knowledge;

(11) an acknowledgment that knowingly providing false information, or a demonstrated inability to perform the services described in the application, may result in the revocation of registration. (Eff. 11/27/2002, Register 164)

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

Editor's note: As of Register 221 (April 2017), the regulations attorney made technical corrections under AS 44.62.125(b)(6), to 18 AAC 75.532, changing cross-referenced table headers from "Table H" to "Table G" to reflect the agency's repeal of 18 AAC 75.446, including former Table F, as part of amendments that took effect March 23, 2017, Register 221.

18 AAC 75.533. Registration application contents for response planning facilitators.
An application submitted under 18 AAC 75.523 must include the following information:

- (1) the applicant's name, address, and telephone number, and any facsimile number;
- (2) the role of the response planning facilitator, as described in 18 AAC 75.428(a)(1) or (2);
- (3) as applicable under 18 AAC 75.428(a)(2), a current list of nontank vessel cleanup contractors with which the applicant has a contract, or of which the applicant is a member, and a statement, signed by the response planning facilitator and each nontank vessel cleanup contractor, that the nontank vessel cleanup contractor will respond on behalf of a plan holder who enters into a contract or membership agreement with the response planning facilitator to meet the requirements of 18 AAC 75.400 – 18 AAC 75.496;
- (4) as applicable under 18 AAC 75.428(a)(2), a current list of each nontank vessel incident management team with which the applicant has a contract, and a statement, signed by the response planning facilitator and each nontank vessel incident management team, that the nontank vessel incident management team will respond on behalf of a plan holder who enters into a contract with the response planning facilitator to meet the requirements of 18 AAC 75.400 – 18 AAC 75.496;
- (5) as applicable under 18 AAC 75.428(a)(2), a current list of each nontank vessel plan in which the applicant is identified as the contracted response planning facilitator, the number of vessels covered by each of those plans, each region of operation of each vessel covered by each plan, and the largest vessel response planning standard volume for each plan;
- (6) as applicable under 18 AAC 75.428(a)(2), a statement, signed by the response planning facilitator, that each contract will obligate the response planning facilitator to
 - (A) activate the appropriate response resources if a discharge occurs;
 - (B) notify the plan holder immediately if the response planning facilitator cannot carry out the obligations specified in the contract; and

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

(7) a certification, under penalty of unsworn falsification in violation of AS 11.56.210, that the statements made in the application are correct to the best of the applicant's knowledge;

(8) an acknowledgment that knowingly providing false information, or a demonstrated inability to maintain the appropriate response planning facilitation services listed in the application, may result in the revocation of registration. (Eff. 11/27/2002, Register 164)

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

18 AAC 75.540. Registration and renewal fees. (a) The following fees are established for registration of oil spill primary response action contractors, except as provided in (b) – (e) of this section, and must be submitted with the appropriate application:

(1) for initial application, \$500;

(2) for renewal, \$100.

(b) The department will charge a \$500 fee for registration of nontank vessel cleanup contractors under 18 AAC 75.531.

(c) The department will charge a \$500 fee for registration of nontank vessel incident management teams under 18 AAC 75.532.

(d) The department will charge a \$100 fee for registration of response planning facilitators under 18 AAC 75.533.

(e) The department will not charge an additional fee for adding or deleting a region of operation to an existing registration under (b) or (c) of this section. (Eff. 9/25/93, Register 127; am 11/27/2002, Register 164)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.03.035

18 AAC 75.550. Application review procedures for oil spill primary response action contractors. (a) After receipt of an application for registration or renewal as an oil spill primary response action contractor, the department will determine whether the application is complete. If the department finds that an application is incomplete, the applicant will be notified of the need for additional information. The department will review each complete application and issue a decision.

(b) The department will approve an application for oil spill primary response action contractor registration or renewal of registration if the applicant meets the application requirements of 18 AAC 75.510 - 18 AAC 75.540 and the minimum registration standards of 18 AAC 75.560.

(c) After completing the review, the department will notify the applicant that the application for registration or renewal of registration has been approved or denied. If the application is approved, the department will include a registration certificate describing the conditions of approval, the date registration will expire, and each region of operation identified in 18 AAC 75.530(a)(2) for which the applicant is registered. If the application is denied, the department will explain the basis for the denial and include a list of corrective actions that would be required for the applicant to obtain approval of registration or renewal.

(d) Within 10 days after receiving a notice of denial under (c) of this section, the applicant may request an informal review of the decision under 18 AAC 15.185, and may request an adjudicatory hearing under AS 44.62 (Administrative Procedure Act).

(e) Repealed 7/11/2002.

(f) Repealed 7/11/2002.

(g) Repealed 7/11/2002.

(h) Repealed 7/11/2002.

(i) Repealed 7/11/2002. (Eff. 9/25/93, Register 127; am 3/28/96, Register 137; am 7/11/2002, Register 163)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070
AS 46.04.030

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 75.550.

18 AAC 75.551. Application review procedures for nontank vessel cleanup contractors. (a) After receipt of an application for registration as a nontank vessel cleanup contractor under 18 AAC 75.521, the department will determine whether the application is complete. If the department finds that an application is incomplete, the applicant will be notified of the need for additional information within 10 working days after receipt of the application. The department will review each complete application and issue a decision within 30 days after the department determines that the application is complete.

(b) The department will approve an application for a nontank vessel cleanup contractor registration if the applicant meets the application requirements of 18 AAC 75.521 and 18 AAC 75.531 and the minimum registration standards of 18 AAC 75.561.

(c) After completing the review, the department will notify the applicant that the application for registration has been approved or denied. If the application is approved, the department will include a registration certificate describing the conditions of approval, and listing the vessel fuel classifications identified in 18 AAC 75.531(a)(3) and regions of operation identified in 18 AAC 75.531(a)(4) for which the applicant is registered. If the application is denied, the department will explain the basis for the denial and include a list of corrective actions that would be required for the applicant to obtain approval of registration.

(d) Within 10 days after receiving a notice of denial under (c) of this section, the applicant may request an informal review of the decision under 18 AAC 15.185.

(e) Nothing in this section affects an applicant's right to appeal the department's decision under AS 44.62 (Administrative Procedure Act). (Eff. 11/27/2002, Register 164; am 9/4/2014, Register 211)

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

18 AAC 75.552. Application review procedures for nontank vessel incident management teams. (a) After receipt of an application for registration as an incident management team under 18 AAC 75.522, the department will determine whether the application is complete. If the department finds that an application is incomplete, the applicant will be notified of the need for additional information within 10 working days after receipt of the application. The department will review each complete application and issue a decision within 30 days after the department determines that the application is complete.

(b) The department will approve an application for nontank incident management team registration if the applicant meets the application requirements of 18 AAC 75.522 and 18 AAC 75.532 and the minimum registration standards of 18 AAC 75.562.

(c) After completing the review, the department will notify the applicant that the application for registration has been approved or denied. If the application is approved, the department will include a registration certificate describing the conditions of approval, and listing the vessel fuel classifications identified in 18 AAC 75.532(a)(3) and regions of operation identified in 18 AAC 75.532(a)(4) for which the applicant is registered. If the application is denied, the department will explain the basis for the denial and include a list of corrective actions that would be required for the applicant to obtain approval of registration.

(d) Within 10 days after receiving a notice of denial under (c) of this section, the applicant may request an informal review of the decision under 18 AAC 15.185.

(e) Nothing in this section affects an applicant's right to appeal the department's decision under AS 44.62 (Administrative Procedure Act). (Eff. 11/27/2002, Register 164; am 9/4/2014, Register 211)

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

18 AAC 75.553. Application review procedures for response planning facilitators.

(a) After receipt of an application for registration as a response planning facilitator under 18 AAC 75.523, the department will determine whether the application is complete. If the department finds that an application is incomplete, the applicant will be notified of the need for additional information within 10 working days after receipt of the application. The department will review each complete application and issue a decision within 30 days after the department determines that the application is complete.

(b) The department will approve an application for a response planning facilitator registration if the applicant meets the application requirements of 18 AAC 75.523 and 18 AAC 75.533, the minimum registration standards of 18 AAC 75.563, and, as applicable, the registration requirements of 18 AAC 75.428(a)(2).

(c) After completing the review, the department will notify the applicant that the application for registration has been approved or denied. If the application is approved, the department will include a registration certificate describing the conditions of approval. If the application is denied, the department will explain the basis for the denial and include a list of corrective actions that would be required for the applicant to obtain approval of registration.

(d) Within 10 days after receiving a notice of denial under (c) of this section, the applicant may request an informal review of the decision under 18 AAC 15.185.

(e) Nothing in this section affects an applicant's right to appeal the department's decision under AS 44.62 (Administrative Procedure Act). (Eff. 11/27/2002, Register 164; am 9/4/2014, Register 211)

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

18 AAC 75.560. Minimum registration standards for oil spill primary response action contractors. (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 75.425 - 18 AAC 75.495 that are applicable to a contractor listed in an approved oil discharge prevention and contingency plan.

(b) In addition to the requirements of (a) of this section, an oil spill primary response action contractor must be in compliance with the following minimum registration standards:

(1) repealed 3/28/96;

(2) the contractor shall maintain sufficient response preparedness to immediately initiate response efforts as described in the applicable contingency plan upon direction by the plan holder; response preparedness is subject to department verification through inspections and plan holder discharge exercises at any location for which the plan holder has listed the contractor in an approved oil discharge prevention and contingency plan as providing response resources;

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

(4) professional response action standards and practices must be continuously maintained, and must include

(A) responding immediately upon direction by the plan holder;

(B) remaining in substantial compliance with applicable contracts;

(C) abiding by applicable permits and authorizations unless directed to proceed otherwise by the federal or state on-scene coordinator;

(D) maintaining a working knowledge of all applicable oil pollution statutes and regulations and pertinent provisions of each contingency plan in which that contractor is listed;

(E) maintaining a safe working environment and an acceptable safety history;

(F) notifying a plan holder within 24 hours after any significant change in the response preparedness referred to in (2) of this subsection, unless a 10-day pre-notice is required under 18 AAC 75.475(c); and

(G) notifying a plan holder and the department within five days after any change by the United States Coast Guard in classification as an Oil Spill Removal Organization under 18 AAC 75.530(b).

(c) No later than January 31 of each year, an oil spill primary response action contractor registered under this chapter shall provide to the department a complete list of oil discharge prevention and contingency plans in which that contractor has agreed in writing to be listed as a primary response action contractor. (Eff. 9/25/93, Register 127; am 3/28/96, Register 137)

Authority: AS 46.03.020 AS 46.04.035 AS 46.04.070
AS 46.04.030

18 AAC 75.561. Minimum registration standards for nontank vessel cleanup contractors. (a) The minimum registration standards for nontank vessel cleanup contractors are set out in (b) – (f) of this section.

(b) Response equipment maintained by, or available under contract to the contractor must meet the following conditions:

(1) at a minimum, response equipment must meet the requirements set out in Table F of this paragraph;

TABLE F. MINIMUM REGISTRATION STANDARDS FOR NONTANK VESSEL CLEANUP CONTRACTORS¹**Classification A: Maximum Individual Vessel Fuel Capacity Or Fuel Volume To Be Carried, As Identified Under 18 AAC 75.441, Up To And Including 15,000 Barrels**

Required Equipment Type	Minimum Equipment Requirement
boom ²	3,000 feet or 3 times the length of the largest vessel, whichever is greater
skimmer ³	2 or more skimmers, 900 barrels a day total
cleaning kit ⁴	2 kits
storage capacity ⁵	900 barrels of oil plus all associated water
personnel ⁶	8 individuals
workboats ⁷	4 workboats
hazing kit ⁸	2 kits
radios ⁹	5 radios
Classification B: Maximum Individual Vessel Fuel Capacity Or Fuel Volume To Be Carried, As Identified Under 18 AAC 75.441, Greater Than 15,000 Barrels, Up To And Including 30,000 Barrels	
Required Equipment Type	Minimum Equipment Requirement
boom ²	3,000 feet or 3 times the length of the largest vessel, whichever is greater
skimmer ³	2 or more skimmers, 1,800 barrels a day total
cleaning kit ⁴	2 kits
storage capacity ⁵	1,800 barrels of oil plus all associated water
personnel ⁶	8 individuals
workboats ⁷	4 workboats
hazing kit ⁸	2 kits
radios ⁹	5 radios
Classification C: Maximum Individual Vessel Fuel Capacity Or Fuel Volume To Be Carried, As Identified Under 18 AAC 75.441, Greater Than 30,000 Barrels	
Required Equipment Type	Minimum Equipment Requirement
boom ²	3,000 feet or 3 times the length of the largest vessel, whichever is greater
skimmer ³	2 or more skimmers, 2,700 barrels a day total, or 1/5 of the response planning standard oil volume of the largest vessel, whichever is greatest
cleaning kit ⁴	2 kits
storage capacity ⁵	2,700 barrels of oil plus all associated water, or 1/5 of the response planning standard oil volume of the largest vessel plus all associated water, whichever is greatest
personnel ⁶	10 individuals
workboats ⁷	4 workboats
hazing kit ⁸	2 kits
radios ⁹	5 radios

Notes to Table F:

¹This table sets out minimum registration standards, not performance standards; during an incident, equipment must be mobilized in an amount and of a type appropriate to the actual circumstances of that incident.

²The type of boom must be based on an assumed maximum sea state of three feet; listed quantities of boom must be available in each region of operation.

³Skimmer capacity must meet or exceed the response planning standard volume for the predominant type of fuel, whether persistent product or nonpersistent product, carried by each vessel covered under a plan; skimmer capacity must be calculated based on a derated capacity corresponding to actual anticipated performance rather than manufacturer rated capacity, and may not include associated water; skimmers must be in the region of operation or capable of being deployed in the region of operation within 24 hours.

⁴Cleaning kits must be in the region of operation or available within 24 hours; cleaning kits must include, at a minimum,

a. 2,500 feet of sorbent boom and 1,000 nine-ounce minimum sorbent pads for recovery of nonpersistent product;

b. 2,500 feet of viscous, sweep, or similar material for recovery of persistent product;

c. 12 fence posts;

d. one fence post driver;

e. 500 feet of rope;

f. 10 anchor, buoy, and line systems sized to the containment boom and designed to work in 100 feet of water;

g. 12 pitchforks;

h. 12 rakes;

i. 12 pointed shovels;

j. 12 flat shovels;

k. two bundles of survey stakes or two rolls of survey tape;

l. 12 rolls of barrier tape;

m. 250 waste bags, each at least 6 mils thick;

n. 300 bag ties;

o. three rolls of 100-foot x 24-foot plastic sheeting, at least six mils thick; and

p. 12 rolls of duct tape.

⁵Storage capacity must be in the region of operation or available within 24 hours, and be capable of handling the specified amount of fuel and all associated water recovered in one day; the daily storage handling capacity must be calculated based on a five-day cleanup of the entire response planning standard volume; the amount of storage needed for associated water must be based on skimmer capacity; skimmer capacity must be calculated based on a derated capacity corresponding to actual anticipated performance rather than manufacturer rated capacity.

⁶Personnel numbers are based on the minimum number necessary to deploy boom using skiffs; personnel do not include incident management personnel.

⁷Workboats must be of appropriate size and horsepower for towing up to 500-foot sections of boom; listed quantities must be available in each region of operation.

⁸Hazing kits must be in the region of operation or available within 24 hours; hazing kits must include, at a minimum,

a. 10 rolls of mylar tape;

- b. 20 mylar balloons;
- c. 30 pounds of towels or rags;
- d. gloves;
- e. binoculars;
- f. a field guide to birds of this state;
- g. an air horn;
- h. three predator silhouettes; and
- i. strapping tape.

⁹Radios must be in the region of operation or available within 24 hours; a minimum of five radios is required unless the contractor has more than 10 personnel; if the contractor has more than 10 personnel, the number of radios must equal at least one-half of the number of personnel.

(2) types and amounts of recovery devices, boom, boom connectors, and anchoring systems must be of the appropriate design for the particular oil product and type of environment, and capable of operation in wave heights of up to three feet; and

(3) vessels used to deploy and tow boom must be of a number, size, and power adequate to deploy the types and amounts of boom addressed in (2) of this subsection, and must be capable of operating in the manner and at the speeds necessary for the effective use of boom.

(c) The nontank vessel cleanup contractor must demonstrate the ability to mobilize and deploy sufficient equipment to allow the commencement of containment, control, and cleanup activities in the region of operation within the shortest possible time, and the ability to deliver all equipment identified in Table F in (b)(1) of this section to the region of operation within 24 hours after notification of an incident.

(d) Nontank vessel cleanup contractor personnel must be trained and kept current in the specifics of equipment mobilization, deployment, and operation. Proof of training must be maintained for three years and made available to the department upon request.

(e) Professional response action standards and practices and a response action plan must be maintained, and must include

(1) responding immediately upon direction by the plan holder or incident management team;

(2) remaining in substantial compliance with each applicable contract;

(3) abiding by applicable permits and authorizations unless directed to proceed otherwise by the federal or state on-scene coordinator designated under 33 U.S.C. 1321 or AS 46.04.020;

(4) maintaining a working knowledge of all applicable oil pollution statutes and regulations and pertinent provisions of each nontank vessel plan in which that contractor is listed;

(5) maintaining a safe working environment and an acceptable safety history; and

(6) notifying the plan holder or response planning facilitator, as applicable, within 24 hours after any significant change in the contractor's

(A) equipment required by Table F in (b)(1) of this section; or

(B) response preparedness described in (c) of this section.

(f) No later than January 31 of each year, a nontank vessel cleanup contractor registered under this chapter shall provide to the department a complete list of each nontank vessel plan in which that contractor has agreed in writing to be listed as a nontank vessel cleanup contractor. (Eff. 11/27/2002, Register 164; am 9/4/2014, Register 211)

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

Editor's note: As of Register 221 (April 2017), the regulations attorney made technical corrections under AS 44.62.125(b)(6), to 18 AAC 75.561, changing the table header from "TABLE G" to "TABLE F" and changing cross-referenced table headers from "Table G" to "Table F" to reflect the agency's repeal of 18 AAC 75.446, including former Table F, as part of amendments that took effect March 23, 2017, Register 221.

18 AAC 75.562. Minimum registration standards for nontank vessel incident management teams. (a) The minimum registration standards for nontank vessel incident management teams are set out in (b) – (i) of this section.

(b) The nontank vessel incident management team shall, at a minimum, meet the registration requirements set out in Table G of this subsection.

TABLE G. MINIMUM PERSONNEL REQUIREMENTS FOR NONTANK VESSEL INCIDENT MANAGEMENT TEAMS		
Classification	Personnel Requirements	
	Identified Personnel¹	Available Personnel²
Classification A: Maximum individual vessel fuel capacity, or fuel volume to be carried, as identified under 18 AAC 75.441, up to and including 30,000 barrels	12 individuals, in the following capacities: 1 incident commander, and 1 alternate; 1 deputy incident commander, and 1 alternate; 1 planning section chief, and 1 alternate; 1 operations section chief, and 1 alternate; 1 logistics section chief, and 1 alternate; 1 finance section chief, and 1 alternate	10 additional responders
Classification B: Maximum individual vessel fuel capacity, or fuel volume to be carried, as identified under 18 AAC 75.441, greater than 30,000 barrels	12 individuals, in the following capacities: 1 incident commander, and 1 alternate; 1 deputy incident commander, and 1 alternate; 1 planning section chief, and 1 alternate; 1 operations section chief, and 1 alternate; 1 logistics section chief, and 1 alternate; 1 finance section chief, and 1 alternate	15 additional responders

Notes to Table G:

¹"Identified personnel" means individuals who must be identified under 18 AAC 75.532(5) in the application for registration.

²"Available personnel" means individuals who need not be identified by name, but for whom the information required by 18 AAC 75.532(8) must be provided.

(c) The nontank vessel incident management team shall demonstrate the ability to mobilize and position the personnel required in Table G in (b) of this section according to the following schedule:

(1) the incident commander and that individual's alternate must be

(A) available at all times within two hours after initial notification of an incident to begin to establish, direct, and manage an incident command system organization; these functions may be performed by a qualified individual identified by the plan holder in accordance with 18 AAC 75.426(4); these functions may be performed other than in person at the outset;

(B) capable of arriving in each region for which application is made within six hours after initial notification of an incident to continue to direct and manage the incident response;

(2) the deputy incident commander and that individual's alternate must be capable of arriving in each region for which application is made within six hours after the incident commander's initial notification of an incident to assist in directing and managing the incident response;

(3) the planning section chief, operations section chief, logistics section chief, and finance section chief, and the respective alternates for those individuals, must be capable of arriving in each region for which application is made within 12 hours after the incident commander's initial notification of an incident to perform relevant functions for the incident response;

(4) within 24 hours after the incident commander's initial notification of an incident, at least

(A) five additional responders must be capable of arriving to assist in the incident response in each region of operation for which application is made, for a maximum individual vessel fuel capacity or fuel volume to be carried, as identified under 18 AAC 75.441, up to and including 30,000 barrels; and

(B) 10 additional responders must be capable of arriving to assist in the incident response in each region of operation for which application is made, for a maximum individual vessel fuel capacity or fuel volume to be carried, as identified under 18 AAC 75.441, greater than 30,000 barrels.

(d) The requirements of Table G in (b) of this section and of (c) of this section set out minimum registration standards, not performance standards. During an incident, personnel must be mobilized in a number appropriate to the actual circumstances of that incident.

(e) Each incident commander and section chief, and the alternates for those individuals, must satisfy the following minimum training requirements:

(1) incident command system training appropriate to expected duties and tasks;

(2) Hazardous Waste Operations and Emergency Response Standards (HAZWOPER) certification under 29 C.F.R. 1910.120 with annual refreshers, appropriate to expected duties and tasks;

(3) familiarity with the plans prepared under 33 U.S.C. 1321(j)(4) and AS 46.04.200 - 46.04.210;

(4) familiarity with the oil discharge prevention and contingency plans or nontank vessel plans for which services are to be provided;

(5) a working knowledge of the response organizations and capabilities in this state, including marine salvage, firefighting, wildlife rescue, and related logistical support capabilities.

(f) Proof of training required by (e) of this section must be maintained for three years and made available to the department upon request.

(g) The nontank vessel incident management team must be capable of establishing and equipping an incident command post appropriate to the needs of an incident response and capable of facilitating the effective organization and direction of response activities.

(h) Professional response action standards and practices must be maintained and must include

(1) immediate response upon direction by the plan holder or the federal or state on-scene coordinator designated under 33 U.S.C. 1321 or AS 46.04.020;

(2) remaining in substantial compliance with applicable contracts;

(3) abiding by applicable permits and authorizations unless directed to proceed otherwise by the federal or state on-scene coordinator designated under 33 U.S.C. 1321 or AS 46.04.020;

(4) maintaining a working knowledge of all applicable oil pollution statutes and regulations and pertinent provisions of each nontank vessel plan in which that contractor is listed;

(5) maintaining a safe working environment and an acceptable safety history; and

(6) notifying the plan holder or response planning facilitator, as applicable, within 24 hours after any significant change in the response preparedness described in Table G in (b) of this section and in (c) of this section.

(i) No later than January 31 of each year, a nontank vessel incident management team registered under this chapter shall provide to the department a complete list of nontank vessel plans in which that contractor has agreed in writing to be listed as a nontank vessel incident management team. (Eff. 11/27/2002, Register 164; am 12/13/2002, Register 164; am 3/23/2017, Register 221)

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

Editor's note: As of Register 221 (April 2017), the regulations attorney made technical corrections under AS 44.62.125(b)(6), to 18 AAC 75.562, changing the table header from "TABLE H" to TABLE G" and changing cross-referenced table headers from "Table H" to "Table G" to reflect the agency's repeal of 18 AAC 75.446, including former Table F, as part of amendments that took effect March 23, 2017, Register 221.

18 AAC 75.563. Minimum registration standards for response planning facilitators.

(a) As applicable under 18 AAC 75.428(a)(2), a response planning facilitator shall maintain contracts with or membership in the nontank vessel cleanup contractors and nontank vessel incident management teams identified in 18 AAC 75.533(3) – (5).

(b) Professional response action standards and practices must be maintained, and must include

(1) remaining in substantial compliance with applicable contracts;

(2) maintaining a working knowledge of all applicable oil pollution statutes and regulations and pertinent provisions of each nontank vessel plan in which the response planning facilitator is listed;

(3) maintaining a safe working environment and an acceptable safety history; and

(4) notifying a plan holder and the department within 24 hours after any significant change in the response planning facilitator's ability to carry out its responsibilities under 18 AAC 75.428.

(c) No later than January 31 of each year, a response planning facilitator registered under this chapter shall provide to the department a complete list of nontank vessel plans in which that contractor has agreed in writing to be listed as a response planning facilitator, and shall identify on that list the role of the response planning facilitator with regard to each plan as described in 18 AAC 75.428(a)(1) or (2). (Eff. 11/27/2002, Register 164)

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

18 AAC 75.565. Discharge exercises for nontank vessel cleanup contractors and nontank vessel incident management teams. (a) The department may conduct announced and unannounced discharge exercises to assure that a nontank vessel cleanup contractor or a nontank vessel incident management team is adequately prepared to act in the event of a spill. No more than two exercises will be required for a nontank vessel cleanup contractor in each 12-month period. The department will consider other required discharge exercises conducted by the nontank vessel cleanup contractor in meeting this requirement. No more than two discharge exercises will be required for a nontank vessel incident management team in each 12-month period.

(b) The performance of a nontank vessel cleanup contractor or a nontank vessel incident management team during a discharge exercise will be considered inadequate if the nontank vessel cleanup contractor or nontank vessel incident management team does not respond in a manner consistent with the minimum registration standards of 18 AAC 75.561 and 18 AAC 75.562, as applicable.

(c) If the performance of a nontank vessel cleanup contractor or a nontank vessel incident management team during a discharge exercise is considered inadequate under (b) in this section, the department may

(1) require additional exercises until the department is satisfied that the performance of the contractor is adequate; or

(2) take enforcement action as described in 18 AAC 75.570.

(d) The department will consider a regularly scheduled training exercise initiated by a nontank vessel cleanup contractor or nontank vessel incident management team as a discharge exercise if the department monitors, evaluates, or participates in the exercise and concurs that it is equivalent to a discharge exercise conducted by the department. A nontank vessel cleanup contractor or nontank vessel incident management team shall notify the department in advance of the exercise and shall provide an opportunity for a department representative to be present and participate.

(e) The department will conduct announced or unannounced discharge exercises appropriate to the current status of operations of the nontank vessel cleanup contractor or nontank vessel incident management team and the participation of the nontank vessel cleanup contractor or nontank vessel incident management team in other discharge exercises or response actions. (Eff. 11/27/2002, Register 164)

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

18 AAC 75.570. Failure to comply. (a) If the department determines that an oil spill primary response action contractor, nontank vessel cleanup contractor, nontank vessel incident management team, or response planning facilitator has failed to meet or maintain a minimum registration standard identified in 18 AAC 75.560 – 18 AAC 75.570, the department may revoke, suspend, or modify the

(1) contractor's registration; and

(2) department's approval of the oil discharge prevention and contingency plan in which that contractor is listed as an oil spill primary response action contractor or the nontank vessel plan in which that contractor is listed as a nontank vessel cleanup contractor, nontank vessel incident management team, or response planning facilitator.

(b) A person who is aggrieved by a department decision under (a) of this section may request an informal review of that decision, using the procedures described in 18 AAC 15.185.

Nothing in this subsection affects that person's right to an adjudicatory hearing under AS 44.62 (Administrative Procedure Act). (Eff. 9/25/93, Register 127; am 7/11/2002, Register 163; am 11/27/2002, Register 164)

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

18 AAC 75.580. Voluntary termination of registration. Unless the department has taken action under 18 AAC 75.570 for failure to comply, a registered oil spill primary response action contractor, nontank vessel cleanup contractor, nontank vessel 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 75.445(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)

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

Article 6. Civil Penalties for Discharge of Petroleum and Petroleum Products and Byproducts.

Section

- 605. Applicability
- 610. Freshwater environments
- 620. Marine environments
- 630. Public land environments
- 640. Toxicity of petroleum and petroleum products and byproducts
- 650. Degradability of petroleum and petroleum products and byproducts
- 660. Dispersibility of petroleum and petroleum products and byproducts
- 670. Schedule of civil penalties

18 AAC 75.605. Applicability. 18 AAC 75.605 - 18 AAC 75.670 establish a schedule of civil penalties under AS 46.03.758 for the discharge of petroleum and petroleum products and byproducts, other than crude oil. The schedule of civil penalties does not apply to a discharge that is specifically made subject to the provisions of AS 46.03.760(a). (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.758

18 AAC 75.610. Freshwater environments. (a) For the purposes of AS 46.03.758(b)(1)(A), freshwater environments with significant aquatic resources are classified as follows:

(1) **Critical freshwater environments** include

(A) surface and subsurface water supplies that are currently being used or may reasonably be expected to be used sometime in the future as a drinking water source based on

- (i) water quality characteristics;
- (ii) technical feasibility of utilizing the water source; and
- (iii) population growth trends in the immediate area;

(B) rivers, lakes, and streams designated under AS 16.05.870(a) as important for the spawning, rearing, or migration of anadromous fish, and the water of lakes, streams, and rivers that flows or empties into those designated waters;

(C) lakes, streams, rivers, and freshwater wetlands within the boundaries of land administered under the National Wildlife Refuge System, and the water of lakes, streams, and rivers that flows or empties into those waters;

(D) lakes streams, rivers, and freshwater wetlands within the boundaries of game reserve areas, refuges, critical habitat areas, and sanctuaries established under AS 16.05.255(1) or AS 16.20, and the water of lakes, streams, and rivers that flows or empties into those waters; and

(E) lakes, streams, rivers, and freshwater wetlands within the boundaries of fish reserve areas, refuges, critical habitat areas, and sanctuaries established under AS 16.05.251(1) or AS 16.20, and the water of lakes, streams, and rivers that flows or empties into those waters; and

(2) **Sensitive freshwater environments** include

(A) lakes other than those classified in (1) of this subsection;

(B) freshwater wetlands other than those classified in (1) of this subsection; and

(C) subsurface freshwaters other than those classified in (1)(A) of this subsection.

(b) For purposes of AS 46.03.758(b)(1)(C), all freshwater of the state that is not classified in (a) of this section is classified as "without significant aquatic resources." (Eff. 5/14/92, Register 122; am 1/30/2003, Register 165)

Authority: AS 46.03.020 AS 46.03.758

Editor's note: As of Register 166 (July 2003), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.610(a)(1)(B), to reflect Executive Order 107 (2003). Executive Order 107 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Fish and Game to the Department of Natural Resources.

As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.610(a)(1)(B), to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

18 AAC 75.620. Marine environments. (a) For the purposes of AS 46.03.758(b)(1)(B), estuarine, intertidal, and saltwater environments are classified as follows:

(1) Critical marine environments include

(A) marine water within the boundaries of state game refuges established under AS 16.05.255(1) or AS 16.20;

(B) marine water within the boundaries of fish and game critical habitats established under AS 16.20;

(C) marine water within the boundaries of marine sanctuaries established under 16 U.S.C. 1436 - 16 U.S.C. 1445, as amended through July 1, 1991;

(D) marine water within the boundaries of areas administered under the National Wildlife Refuge System;

(E) marine water within one statute mile of the mouth of waters designated under AS 16.05.870(a) as important for the spawning, rearing, or migration of anadromous fish;

(F) marine water within one statute mile of a seabird colony or marine mammal rookery or hauling ground identified by the Alaska Department of Fish and Game under AS 16.20;

(G) high density sea otter habitat identified by the Alaska Department of Fish and Game under AS 16.20; and

(H) marine water within the barrier island-lagoon ecosystems extending from the Colville River to Canning River, and seaward of the Copper River delta; and

(2) Sensitive marine environments include

(A) the inside waters of Southeast Alaska not otherwise classified in (1) of this subsection;

(B) saltwater wetlands and other intertidal and estuarine areas not otherwise classified in (1) of this subsection;

(C) Prince William Sound, and the bays, arms, fjords, ports, and other inside marine waters of Prince William Sound not otherwise classified in (1) of this subsection; and

(D) all marine water within 10 statute miles of any point of those waters designated in (1) of this subsection.

(b) For the purposes of AS 46.03.758(b)(1)(C), marine water that is not classified in (a) of this section is classified as "without significant aquatic resources." (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.758

Editor's note: Seabird colonies, marine mammal rookeries or hauling grounds, and high density sea otter habitats, referred to in 18 AAC 75.620(a)(1)(F) and (G) are described in the current edition of "Alaska Habitat Management Guides," published by, and available for review at the Alaska Department of Fish and Game.

As of Register 166 (July 2003), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.620(a)(1)(E), to reflect Executive Order 107 (2003). Executive Order 107 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Fish and Game to the Department of Natural Resources.

As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.620(a)(1)(E), to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

18 AAC 75.630. Public land environments. (a) For the purposes of AS 46.03.758(b)(1)(C), public land is classified as follows:

(1) Critical terrestrial environments include

(A) state game reserve areas, refuges, and sanctuaries established under AS 16.05.255(1) or AS 16.20;

(B) state parks, campgrounds, and waysides;

(C) municipal parks and park reserves;

(D) national parks, preserves, wilderness areas, monuments, recreation areas or other National Park System units, and lands administered under the National Wildlife Refuge System;

(E) established campgrounds, scenic waysides, and picnic areas; and

(F) national historical landmarks;

(2) Very sensitive terrestrial environments include

(A) land administered under the National Forest System not otherwise classified in (1) of this subsection;

(B) land underlain with continuous permafrost not otherwise classified in (1) of this subsection; and

(C) land in state forests and research areas not otherwise classified in (1) of this subsection; and

(3) Sensitive terrestrial environments include land other than that classified in (1) or (2) of this subsection upon which continuous natural terrestrial vegetation cover is present.

(b) For the purposes of AS 46.03.758(b)(1)(C), all public land not classified in (a) of this section is classified as "without significant terrestrial environmental resources." (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.758

18 AAC 75.640. Toxicity of petroleum and petroleum products and byproducts. For the purposes of AS 46.03.758(d), the toxicity of petroleum and petroleum products and byproducts is as follows:

(1) highly toxic:

- (A) numbers 1, 2, and Arctic diesel fuel and heating oil;
- (B) jet aviation fuels A and B;
- (C) motor gasoline, including aviation gasoline;
- (D) kerosene; and
- (E) stationary turbine fuels;

(2) moderately toxic:

- (A) waste oil and waste oil mixtures;
- (B) lubricating oil; and
- (C) jet fuels other than those specified in (1)(B) of this section;

(3) less toxic:

- (A) bunker and residual fuel oils; and
- (B) hydraulic fluids; and

(4) relatively nontoxic:

- (A) asphalts;
- (B) tars; and

(C) other petroleum and petroleum products and byproducts not listed in (1) - (3) of this section. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.758

18 AAC 75.650. Degradability of petroleum and petroleum products and byproducts. For the purposes of AS 46.03.758(d), the degradability of petroleum and petroleum products and byproducts is as follows:

- (1) low degradability:
 - (A) asphalt;
 - (B) tar;
 - (C) bunker and residual fuel oils; and
 - (D) other petroleum and petroleum products and byproducts not otherwise listed in (2) or (3) of this section;
- (2) moderate degradability:
 - (A) hydraulic fluids;
 - (B) lubricating oil; and
 - (C) waste oils and waste oil mixtures; and
- (3) high degradability:
 - (A) motor gasoline, including aviation gasoline;
 - (B) numbers 1, 2, and Arctic diesel fuel and heating oil;
 - (C) jet and stationary turbine fuels; and
 - (D) kerosene. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.758

18 AAC 75.660. Dispersibility of petroleum and petroleum products and byproducts. For the purposes of AS 46.03.758(d), the dispersibility of petroleum and petroleum products and byproducts is as follows:

- (1) highly dispersible:
 - (A) motor gasoline, including aviation gasoline;
 - (B) all jet fuels;
 - (C) kerosene;
 - (D) numbers 1, 2, and Arctic diesel fuel and heating oil;
 - (E) hydraulic fluids; and

- (F) stationary turbine fuels;
- (2) moderately dispersible:
 - (A) emulsified oil mixtures;
 - (B) lubricating oils; and
 - (C) waste oil and waste oil mixtures; and
- (3) low dispersibility:
 - (A) bunker and residual fuel oils;
 - (B) asphalts;
 - (C) tars; and
 - (D) other petroleum and petroleum products and byproducts not otherwise listed in (1) or (2) of this section. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.758

18 AAC 75.670. Schedule of civil penalties. The schedule of civil penalties for which a person may be held liable under AS 46.03.758(e) is established as follows:

(1) The base civil penalty for a discharge into a receiving environment is as follows:

Receiving Environment	Freshwater	Marine	Public Land
Critical environments	\$10.00	\$2.50	\$1.00
Very sensitive environments	N/A	N/A	\$0.95
Sensitive environments	\$ 9.00	\$2.25	\$0.90
Environments without significant resources	\$ 1.00	\$1.00	\$0.70

(2) Toxicity, degradability, and dispersibility factors are as follows:

	Factor
(A) toxicity	
(i) highly toxic	1.0
(ii) moderately toxic	0.75
(iii) less toxic	0.50
(iv) relatively nontoxic	0.25
(B) degradability	
(i) low degradability	1.0
(ii) moderate degradability	0.50
(iii) high degradability	0.25
(C) dispersibility	
(i) high dispersibility	0.15
(ii) moderate dispersibility	0.50
(iii) low dispersibility	1.0

(3) The net civil penalty that will be assessed per gallon of oil discharged is calculated by multiplying the base penalty established in (1) of this section by the arithmetic mean of the factors established in (2) of this section. If a portion of the oil enters more than one receiving environment, the civil penalty will be based upon the most sensitive receiving environment which that portion enters. (Eff. 5/14/92, Register 122; am 1/30/2003, Register 165)

Authority: AS 46.03.020 AS 46.03.758

Article 7. Surface Oiling.**Section**

700. Surface oiling permit

710. Exemption from surface oiling permit

720. Prohibitions

730. Decision on application for surface oiling permit; permit terms and conditions

18 AAC 75.700. Surface oiling permit. (a) No person may discharge, cause to be discharged, or permit the discharge of oil, asphalt, bitumen, or a residuary product of petroleum onto the land of the state unless that person has been issued a surface oiling permit under 18 AAC 75.730.

(b) An application for a surface oiling permit

(1) is subject to the requirements of 18 AAC 15;

(2) must be made on forms supplied by the department; and

(3) must contain information considered necessary by the department.

(c) A person who proposes to stabilize soil with the application of asphalt emulsions, tars, asphaltic oils, cutback asphalts, oils, or other residuary petroleum product, without immediately applying a blotter or cover coat of aggregate, is not exempt from the surface oiling permit requirements of this chapter. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.740

18 AAC 75.710. Exemption from surface oiling permit. A person who proposes to construct one or more of the following types of surfaces is not required to obtain a surface oiling permit under this chapter, but shall ensure that construction of the surface does not result in pollution of land or waters of the state:

(1) a bituminous treatment surface that includes a surface constructed by sweeping the surface, applying a priming material, applying a bituminous body coat, and spreading a blotter or cover of mineral aggregate;

(2) a road-mix bituminous surface for which the mineral aggregate and the bituminous material are mixed directly in the surface;

(3) a plant-mixed bituminous surface for which the mineral aggregate and the bituminous material are thoroughly mixed at a suitable plant and then deposited on the surface;

(4) a bituminous macadam surface with a wearing course composed of broken stone aggregate of relatively coarse size and a bituminous material that is forced by penetration into the interstices of the stone after the stone has been compacted on the base; and

(5) a bituminous concrete or sheet asphalt surface with a wearing course composed of a bituminous mixture prepared in a stationary plant under close control of temperature, moisture content, and mixture composition. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.740

18 AAC 75.720. Prohibitions. (a) The use of oil for surface oiling or as a dust suppressant is prohibited if the oil contains any of the following components in the concentrations indicated:

- (1) polychlorinated biphenyls (PCBs) in any detectable concentration;
- (2) total volatile aromatics in 5000 parts per million by weight or greater;
- (3) total halogenated volatile organics in 100 parts per million by weight or greater; or
- (4) lead in 300 parts per million by weight or greater.

(b) The department will, in its discretion, require analysis of oil for a component listed in (a) of this section, using methods prescribed on the surface oiling permit application form. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.299 AS 46.03.740
AS 46.03.296

18 AAC 75.730. Decision on application for surface oiling permit; permit terms and conditions. (a) The department will, in its discretion, grant or deny an application submitted under 18 AAC 75.700. The department will consider the following criteria before issuing a decision under this section:

- (1) the potential for pollution of adjacent waters, including groundwater;
- (2) the potential for pollution of vegetation;
- (3) the need for the oiling, including local public opinion, and considerations of air quality as addressed by 18 AAC 50;
- (4) the predicted weather conditions for the time of the oiling; and
- (5) effects on the environment.

(b) In addition to the specific terms and conditions set out in the permit, a surface oiling permit is subject to the following terms and conditions:

(1) oil or other petroleum-derived dust retardants may not be applied to wet surfaces, frozen surfaces, or snow-covered surfaces; however, oil or other petroleum-derived dust retardants may be applied to a damp surface if deliberate dampening of the surface is part of the normal oiling procedure;

(2) oil or other petroleum-derived dust retardants may be applied only in the minimum amounts necessary and may not be allowed to stand in ponds on the surface;

(3) there may be no run-off of oil or other petroleum-derived dust retardants from the surface receiving the application;

(4) oil or other petroleum-derived dust retardants may not be applied to any surface during precipitation or when precipitation is imminent;

(5) there must be equipment such as brooms and mops on the job to prevent oily run-off and to spread any ponded oil or other petroleum-derived dust retardants;

(6) unless specifically allowed in the permit, in order to avoid drifting of droplets to adjacent vegetation and property, oil or other petroleum-derived dust retardants may not be applied if local wind speed is 15 miles per hour or greater;

(7) the permittee shall inspect immediately the freshly-treated surface for oily run-off and ponding of oil or other petroleum-derived dust retardants;

(8) to avoid offensive odors, only nonodorous oils and other petroleum-derived dust retardants may be used on surfaces near residential areas or on surfaces that receive considerable pedestrian traffic; odorous oils may be used only on rural surfaces where the odor is less likely to be noticeable and pedestrian traffic is minimal; and

(9) no oil or other petroleum-derived dust retardants may be allowed to enter state waters or to enter upon private property. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.740

Article 8. Oil Discharge for Scientific Purposes.

Section

800. Permit for oil discharge for scientific purposes

810. Permit procedures

820. Modification of permit

830. Termination of permit

18 AAC 75.800. Permit for oil discharge for scientific purposes. Notwithstanding 18 AAC 70.020, 18 AAC 72.010, and 18 AAC 75.700 - 18 AAC 75.730, the department will, in its discretion, issue a permit for the discharge of oil, asphalt, bitumen, or a residuary product of petroleum onto the land or into state waters for research and scientific purposes. The department will issue a permit under this section only after it has evaluated the proposed project and found that

- (1) the benefits from the information that will be developed outweigh the potential environmental damage that might result;
- (2) the project has the written approval of all potentially affected landowners and persons with appropriated water rights for the water to be affected;
- (3) the person proposing the project will, upon completion of the project, restore the environment affected by the project to a condition as near to the original condition as feasible;
- (4) the person proposing the project has sufficient expertise and resources to conduct the project in a responsible manner; and
- (5) the proposed project is otherwise in the public interest. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.740

18 AAC 75.810. Permit procedures. (a) An application for a permit under 18 AAC 75.800 must be made on forms supplied by the department. The application must be sent to the department at least 60 days before the proposed discharge is to begin. The application must include

- (1) the name, address, and telephone number of the applicant;
- (2) a detailed description of the proposed project, including plans for restoration;
- (3) a description of the geographical area involved; and
- (4) a description of the expected flow pattern of any water to be affected by the project.

(b) The department will

(1) send a copy of a completed application received under this section to the departments of fish and game, natural resources, commerce and economic development, and health and social services; and

(2) publish notice of the application as provided in 18 AAC 15.050.

(c) The department will attach terms and conditions to the permit which it finds are necessary to protect the environment and potentially affected property owners. A permit is further subject to the permittee's stipulation and agreement to

(1) modify activities if served with a notice under 18 AAC 75.820; or

(2) immediately cease all permitted activities if served with a notice to terminate under 18 AAC 75.830. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.740

18 AAC 75.820. Modification of permit. The department will, in its discretion, and after giving notice to the permittee, modify the terms and conditions of a permit issued under 18 AAC 75.810 if the department finds that modification is necessary to protect the environment. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.740

18 AAC 75.830. Termination of permit. The department will, in its discretion, and after giving notice to the permittee, terminate a permit issued under 18 AAC 75.810 if the department finds that

(1) the permit was obtained by misrepresentation of a material fact or by failure of the applicant to fully disclose the facts;

(2) there has been noncompliance with a term or condition of the permit; or

(3) based on information received after issuance of the permit, the permit should not have been granted. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.740

Article 9. General Provisions.

Section

905. Falsification prohibited

910. Cost Recovery

990. Definitions

18 AAC 75.905. Falsification prohibited. No person may falsely state information submitted under AS 46.03, AS 46.04, 46.09, or this chapter. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020 AS 46.03.790 AS 46.04.070

18 AAC 75.910. Cost recovery. (a) In order to implement the provisions of AS 46.03.760(d), AS 46.03.822, AS 46.04.010 and AS 46.08.070, the department will complete and maintain documentation to support its response actions and to form the basis for cost recovery.

(b) Each person who is liable under AS 46.03.760, AS46.03.822, AS 46.04.020, or AS 46.09.020 is liable for response costs that the department or this state incurs. Response costs are costs reasonably attributable to the site or incident and may include costs of direct activities, support costs of direct activities, and interest charges for delayed payments. Response costs include the costs of direct investigation, containment and cleanup, removal, and remedial actions associated with the incident or site undertaken by the department or its contractors, as well as the costs of oversight by the department of those activities involving the incident or site undertaken by a person other than the department. Response costs include legal costs incurred by the department concerning a site or incident, and include potential responsible party searches, obtaining site access, causal investigations, cleanup orders and agreements, cost recovery actions, and enforcement actions.

(c) The department will charge an hourly rate based on direct staff costs plus support costs. The department will on a fiscal year basis use the following formula for computing hourly personnel rates by job class:

(1) Hourly rate = DSC + DSC(AICR), where DSC means direct staff costs described in (2) of this subsection and AICR means the agency indirect cost rate described in (3) of this subsection;

(2) direct staff costs (DSC) are the average cost of hours worked per job class directly on an incident or site, including salaries, retirement plan benefits, health care benefits, and leave and holiday benefits required by law to be paid to, or on behalf of employees; direct staff costs do not include costs associated with responding to a public records request, preparing or reviewing invoices or answering questions pertaining to invoices, responding to governor, media, or legislative requests for information, responding to public inquiries concerning the site or incident with the exception of inquiries during a large response, internal or external training presentations or case studies, prospective purchaser agreements, policy or regulatory interpretation or discussion, or activities completed for training purposes;

(3) agency direct costs are the costs of facilities, communications, personnel, fiscal, and other statewide and agency-wide services that are not directly attributable to a project; the agency indirect cost rate (AICR) used is the agency indirect rate expressed as a percentage, approved by the United States Environmental Protection Agency acting as the department's federal cognizant agency, or by a successor federal cognizant agency, for each fiscal year.

(d) The department will assign a unique code to each incident or site for the purposes of tracking all state costs incurred. When the department requests payment of response costs, it will provide an itemized statement documenting the costs incurred. The department will bill a liable party for response costs on a periodic basis as costs are incurred.

(e) The department will charge interest on past due costs incurred as the result of a release or threatened release. Interest for costs incurred in a calendar year accrues at a rate equal to three percentage points above the 12th Federal Reserve District discount rate in effect on January 2 of the year in which the cost is incurred. Unless otherwise agreed by the department and the responsible party, interest begins to accrue on the date a cost is billed. The department may agree to waive interest if payment of the costs is made not later than 60 days after the billing date for the costs.

(f) A person receiving a cost recovery invoice may seek informal review of a disputed invoice by contacting the commissioner's designee not later than 30 days after receiving an invoice. Failure to pay invoices presented by the department may result in the department filing cost recovery liens under AS 46.08.075 and referring the matter to an attorney general for collection of response costs, interest, and legal costs.

(g) In consultation with the Department of Law, the department will consider a person's ability to pay response costs if payment of the costs would cause an undue financial hardship to the person. The department may allow for payment of response costs over time. The department may reduce the amount of response costs to be paid by a person by the amount that would create an undue financial hardship. In order to establish an undue financial hardship, the person must provide and authorize release of sufficient financial information to the department to clearly demonstrate that, in the determination of the department, payment of the response costs would deprive the person of ordinary and necessary assets or cause the person to be unable to pay for ordinary and necessary business expenses or ordinary and necessary living expenses. Under AS 40.25.120, the department will maintain non-public financial information as confidential to the extent the information qualifies as confidential business information, trade secrets, or confidential personal information.

(h) In this section, unless the context requires otherwise,

(1) "costs"

(A) means any money expended by the department in response to a release or threatened release of oil or a hazardous substance; in this subparagraph, "hazardous substance," "oil," and "release" have the meanings given in AS 46.03.826;

(B) includes the cost of response personnel, response equipment, necessary support services, additional supplies, overhead, contractors, travel-related expenses, oversight, administrative support, and legal services;

(2) “incident” means a release or discharge of oil or a hazardous substance from a facility or vessel or the substantial threat of a release or discharge of oil or a hazardous substance from a facility or vessel; in this paragraph, “facility,” “hazardous substance,” “oil,” “release,” and “vessel” have the meaning given in AS 46.03.826;

(3) “site” means a contaminated site or leaking underground storage tank site subject to the site cleanup rules under 18 AAC 75.325 – 18 AAC 75.390 or to site assessment and corrective action under 18 AAC 78. (Eff. 5/8/2016, Register 218)

Authority:	AS 40.25.120	AS 46.03.826	AS 46.08.070
	AS 46.03.020	AS 46.04.010	AS 46.08.075
	AS 46.03.760	AS 46.04.020	AS 46.09.020
	AS 46.03.822	AS 46.04.070	

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

(1) “accumulation” means the action or process that causes or results in the gradual increase in the quantity, concentration, or type of hazardous substance over time;

(2) “approval” means written approval by the department;

(3) “approved” means approved in writing by the department;

(4) “Arctic zone” means areas north of latitude 68° North; and area south of that latitude will be considered an “Arctic zone” on a site-specific basis, based on a demonstration that the site is underlain by continuous permafrost;

(5) “area of public concern” means a geographic area that, in the department's judgment, deserves special protection from an oil discharge, including

(A) an area of unique cultural value, historical significance, or scenic importance;

(B) an area of substantial residential or public recreational value or opportunity;

(C) an area where fish hatcheries or other facilities primarily dependent upon the use of potentially affected water are located;

(D) an area significantly used for commercial, sport, or subsistence hunting, fishing, and gathering; and

(E) an area where concentrations of terrestrial or marine mammals or bird populations primarily dependent on the marine environment are located;

(6) “background concentration” means the concentration of a hazardous substance that is consistently present in the environment or in the vicinity of a site and that is naturally present or is the result of human activities unrelated to a discharge or release at the site;

(7) “barge” means oil barge;

(8) “barrel” has the meaning given in AS 46.04.900;

(9) “best available technology” means the best proven technology that satisfies the provisions of 18 AAC 75.425(e)(4) and 18 AAC 75.445(k);

(10) “bioremediation” means a remediation method that decreases the concentration of a hazardous substance in soil through biological action;

(11) “capacity” means storage capacity;

(12) “carcinogen” means

(A) a substance that is expected to cause cancer in nonhuman life; or

(B) for human health purposes, a substance that meets the criteria of the descriptors “Carcinogenic to Humans” or “Likely to be Carcinogenic to Humans” according to EPA’s *Guidelines for Carcinogen Risk Assessment*, EPA/630/P-03/001F (March 2005), adopted by reference;

(13) “carcinogenic” means of or relating to a carcinogen;

(14) “cargo volume” means storage capacity;

(15) “catastrophic oil discharge” has the meaning given in AS 46.04.900;

(16) “catch tank” means the container that collects well fluids, muds, and oil from drilling;

(17) “cleanup” means efforts to mitigate environmental damage or a threat to human health, safety, or welfare resulting from a hazardous substance, and includes removal of a hazardous substance from the environment, restoration, and other measures that are necessary to mitigate or avoid further threat to human health, safety, or welfare, or to the environment;

(18) “cleanup level” means the concentration of a hazardous substance that may be present within a specified medium and under specified exposure conditions without posing a threat to human health, safety, or welfare, or to the environment;

(19) “commercial or industrial land use” means a use of real property or a portion of a property for other than human habitation or a purpose with a similar potential for human exposure; “commercial or industrial land use” includes manufacturing; industrial research and development; utilities; dry cleaning facilities; commercial warehouse operations; lumber yards; retail gas stations; auto service stations; auto dealerships; equipment repair and service stations;

professional offices, such as for lawyers, architects, or engineers; real estate or insurance offices; medical or dental offices and clinics; financial institutions; publicly-owned office buildings; a retail business where the principal activity is the sale of food or merchandise; personal service establishments, such as health clubs, barbershops, beauty salons, mortuaries, and photographic studios; churches; motels or hotels; and property restricted to commercial or industrial use by a legally enforceable zoning ordinance or specific deed restriction; for purposes of this paragraph,

(A) “medical and dental offices and clinics” does not include hospitals;

(B) “churches” does not include churches that provide day care or school services other than during normal worship services; and

(C) “motels and hotels” does not include motels or hotels that allow month-by-month residence;

(20) “contain” means to surround a discharge or release of a hazardous substance with booms, berms, dikes, or other barriers to prevent the further spread of the discharge or release;

(21) “contaminant” means a hazardous substance;

(22) “contaminated groundwater” means groundwater containing a concentration of a hazardous substance that exceeds the applicable cleanup level determined under the site cleanup rules;

(23) “contaminated soil” means soil containing a concentration of a hazardous substance that exceeds the applicable cleanup level determined under the site cleanup rules;

(24) “control” means to stop, restrict, or deflect the movement of a discharge;

(25) “cuttings” means rock chips or soil produced during the process of drilling a well or boring;

(26) “degradation” means a process by which a chemical is reduced to a less complex form;

(27) “demonstrate” means to prove through documentation or other evidence to the department's satisfaction;

(28) “demonstration” means proof through documentation or other evidence to the department's satisfaction;

(29) “department” means the Department of Environmental Conservation;

(30) “deposit” means to place, set down, or leave behind material;

(31) “deposition” means a placing, setting down, or leaving behind of material;

(32) “discharge” has the meaning given in AS 46.04.900, except that, as used in this chapter, “discharge” applies only to an unpermitted discharge into the environment;

(33) “dispersant” means a chemical agent used to enhance the breakup of discharged oil into droplets, promoting mixing of oil into the water column and accelerating dilution and degradation rates;

(34) “ecological receptor” means a

(A) member or local population of plant or animal species in the geographic area of the site; and

(B) habitat on or adjacent to the site;

(35) “environmentally sensitive area” means a geographic area that, in the department's determination, is especially sensitive to change or alteration, including

(A) an area of unique, scarce, fragile, or vulnerable natural habitat;

(B) an area of high natural productivity or essential habitat for living organisms;

(C) an area of unique geologic or topographic significance that is susceptible to a discharge;

(D) an area needed to protect, maintain, or replenish land or resources, including floodplains, aquifer recharge areas, beaches, and offshore sand deposits;

(E) a state or federal critical habitat, refuge, park, wilderness area, or other designated park, refuge, or preserve; and

(F) repealed 4/8/2012;

(36) “EPA” means the United States Environmental Protection Agency;

(37) “estuarine” means of or relating to an estuary;

(38) “estuary” means a semi-enclosed, waterbody with a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage;

(39) repealed 12/30/2006;

(40) “exploration facility” has the meaning given in AS 46.04.900;

(41) “ex-situ” means as applied to soil or groundwater moved from its original place, excavated, removed, or recovered from the ground;

(42) “facility” or “facility or operation” means any offshore or onshore structure, improvement, vessel, vehicle, land, enterprise, endeavor, or act; “facility” or “facility or

operation” includes an oil terminal facility, tank vessel, oil barge, pipeline, railroad tank car, railroad, and an exploration or production facility;

(43) “free product” means a concentration of a hazardous substance that is present as a nonaqueous phase liquid; for purposes of this paragraph, a “nonaqueous phase liquid” is a liquid that is not dissolved in water;

(44) “freshwater wetlands” means environments characterized by rooted vegetation that is partially submerged either continuously or periodically by surface freshwater with less than .5 parts per thousand salt content and not exceeding three meters in depth;

(45) “fugitive dust” means particulate matter that has become airborne;

(46) “groundwater” means

(A) water in the zone of saturation; or

(B) water beneath the surface of the soil, for purposes of evaluating whether the water will act as a transport medium for hazardous substance migration;

(47) “hazard index” means the sum of the hazard quotients attributable to noncarcinogenic hazardous substances with similar critical endpoints;

(48) “hazardous substance” has the meaning given in AS 46.03.826;

(49) “hazardous waste” means waste within the scope of 18 AAC 62.020;

(50) “hazard quotient” means the ratio of the exposure point value to the reference dose for the hazardous substance;

(51) “impermeable” means using a layer of material that is of sufficient thickness, density, and composition to produce a maximum permeability for the substance being contained of 1×10^{-7} centimeters per second at the maximum anticipated hydrostatic pressure, and that is sufficient to contain a discharge or release until it is detected and cleaned up;

(52) “inside waters of Southeast Alaska” includes all those marine waters lying inside the boundary line established in 42 Federal Register 35791 (July 11, 1977);

(53) “in-situ” means as applied to soil or groundwater in its original place, unmoved, unexcavated, or remaining in the subsurface;

(54) “institutional control” means a measure taken to limit, prohibit, or protect against an activity that could

(A) interfere with the integrity of contaminated site cleanup activities or improvements designed to encapsulate or control residual contamination; or

(B) result in human or environmental exposure to a hazardous substance;

(55) “landfarming” means spreading contaminated soil in a thin layer on the surface of the ground so that biological activity can be enhanced by the addition of nutrients, mechanical aeration, the addition of water, adjustment of pH, and similar activities;

(56) “landspreading” means spreading contaminated soil in a thin layer on the surface of the ground, relying mainly on aeration and unenhanced biological action to perform remediation;

(57) “lightering” means the pumping or transferring of oil from the cargo compartment of a vessel, barge, storage tank, or container to a different vessel, barge, storage tank, or container;

(58) “liquefied petroleum gas” means natural gas converted to a liquid state by pressure and cooling, including butane, propane, and other light ends which at 70 degrees Fahrenheit and atmospheric pressure revert to the gaseous state;

(59) “local government” means any borough, city, town, village, or other political subdivision of the state or any Indian tribe or authorized tribal organization; “local government” includes any rural community or unincorporated town or village;

(60) “local population” means a group of plants, animals, or other organisms of the same species that live together and breed within a given habitat;

(61) “major discharge” means a discharge of oil

(A) over 10,000 gallons on inland waters;

(B) over 100,000 gallons on coastal waters; or

(C) in any amount that results in a release that

(i) might require evacuation or sheltering of nearby residents or businesses; or

(ii) causes a serious environmental threat;

(62) “marine waters” means all saltwater environments, including saltwater wetlands, estuaries, and the intertidal zone;

(63) “mean annual precipitation” means the measurement of average yearly rainfall and the water equivalent of snowfall; this measurement may be obtained from the nearest weather station;

(64) “mechanical response method” means the use of containment booms, skimmers, and other apparatus and equipment required for mechanical containment and removal of a discharge or release;

(65) “method detection limit” means the minimum concentration of an analyte that can be measured and reported with 99 percent confidence that the concentration is greater than zero, determined from an analysis of a sample in a given matrix containing the analyte;

(66) “mineral oil” means a highly-refined petroleum distillate used as an insulating and cooling media for electrical transformers and other electrical equipment;

(67) “mobility” means freedom of particles to move in random motion or under the influence of fields or forces;

(68) repealed 12/30/2006;

(69) “noncarcinogen” means a hazardous substance with adverse health effects on humans other than cancer;

(70) “noncarcinogenic” means of or relating to a noncarcinogen;

(71) “noncrude oil” means a petroleum product derived from crude oil;

(72) “oil” has the meaning given in AS 46.04.900;

(73) “oil barge” has the meaning given in AS 46.04.900;

(74) “oil spill primary response action contractor,” for purposes of 18 AAC 75.425 and 18 AAC 75.445, has the meaning given in 18 AAC 75.500(a).

(75) repealed 12/30/2006;

(76) “oil terminal facility” has the meaning given in AS 46.04.900 and includes vessels classified as oil terminal facilities under 18 AAC 75.280;

(77) “oily waste” means any material, including water, that has been contaminated by or mixed with petroleum in other than naturally occurring circumstances;

(78) “open burning” means the burning of any material so that the products of combustion are emitted directly into the ambient air without passing through a stack or flare;

(79) “open water” means marine waters below mean low low water and freshwaters of the state, excluding wetlands and the wetland or shoreline perimeter of lakes, rivers, and streams;

(80) “operator” has the meaning given in AS 46.04.900;

(81) “owner or operator” means the owner or operator of a facility or operation that is subject to the requirements of AS 46.04.030, 46.04.040, 46.04.055, or this chapter;

(82) “permafrost” means soil or other earth material with a temperature that remains below 32 degrees Fahrenheit for two or more years;

(83) “persistence” means the length of time that a compound, once introduced into the environment, remains in the environment in a similar function or structure;

(84) “persistent product” has the meaning give in AS 46.04.900;

(85) “person” has the meaning given in AS 46.04.900;

(86) “person in charge,” in addition to the person causing or permitting a discharge, includes

(A) for a vessel, the master;

(B) for a vehicle, the operator; and

(C) the owner or person exercising a possessory interest in the facility or operation at the time of the discharge or release, unless the possessory interest is being exercised solely for the purpose of providing a place of residence for the person;

(87) “physical barrier” means a concrete or asphalt surface that

(A) is impermeable to water;

(B) is designed, constructed, and placed in accordance with industry standards; and

(C) provides enough support thickness, layering, and life to prevent compromising the structural integrity of the material;

(88) “pipeline” has the meaning given in AS 46.04.900;

(89) “plan” means an oil discharge prevention and contingency plan approved under this chapter; this paragraph does not apply to 18 AAC 75.300 – 18 AAC 75.396;

(90) “plan holder” means an applicant who has received department approval for an oil discharge prevention and contingency plan or nontank vessel plan and who is responsible for compliance with the plan as approved;

(91) “plume” means a visible or measurable discharge or release of a hazardous substance from a given point of origin;

(92) “ppm” means parts per million;

(93) “practicable” means capable of being designed, constructed, and implemented in a reliable and cost-effective manner, taking into consideration existing technology, site location, and logistics in light of overall project purposes; “practicable” does not include an alternative if the incremental cost of the alternative is substantial and disproportionate to the incremental degree of protection provided by the alternative as compared to another lower cost alternative;

(94) “practical quantitation limit” means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability when testing field samples under routine laboratory operating conditions using approved methods;

(95) “Prince William Sound” includes all marine waters lying inside the boundary line established in 42 Federal Register 35791 (July 11, 1977);

(96) “Prince William Sound towing package” means a towing gear assembly that consists of

(A) 400 feet of 2-1/4 inch tow reaching wire;

(B) 720 feet of six-inch polypropylene floating pickup line;

(C) one floating pickup buoy; and

(D) a "D" shackle, 2-1/4 inches in diameter, with a 4-1/8 inch jaw opening, and a breaking strain of 55 tons, to connect the floating line to the tow reaching wire;

(97) “private drinking water system” has the meaning given “private water system” in 18 AAC 80.1990;

(98) “production facility” has the meaning given in AS 46.04.900;

(99) “public drinking water system” has the meaning given “public water system” in 18 AAC 80.1990;

(100) repealed 6/17/2015;

(101) “realistic maximum response operating limitation” means the upper limit of a combination of environmental factors that might occur at a facility or operation beyond which an operator would be unable to mount a mechanical response to a discharge event;

(102) “reference dose” means the concentration of a hazardous substance via daily exposure through a specified exposure route for the human population, including sensitive subpopulations, that is likely to be without an appreciable risk of deleterious noncarcinogenic effects over the period of exposure;

(103) “registered engineer” means a professional engineer who is registered under AS 08.48.171 - 08.48.265;

(104) “release” has the meaning given in AS 46.03.826;

(105) “residential land use” means the use of property for dwellings such as single-family homes, multi-family apartments, children’s homes, and nursing homes; because of the similarity of exposure potential and the sensitive nature of the potentially exposed population, “residential land use” includes uses of property for day care facilities, educational facilities, hospitals, playgrounds, and similar facilities; “residential land use” includes property restricted

to residential use by a legally enforceable zoning ordinance or specific deed restriction; vacant land that is not zoned or deed-restricted for commercial or industrial land use will be considered residential unless demonstrated otherwise;

(106) “resource agencies” means the Department of Environmental Conservation, the Department of Natural Resources, and the Department of Fish and Game;

(107) “response planning standard” means a planning standard against which the department evaluates the adequacy of an oil discharge prevention and contingency plan or nontank vessel plan as described in 18 AAC 75.400 - 18 AAC 75.496; a “response planning standard” does not mean a cleanup level that a plan holder is required to achieve under 18 AAC 75.300 - 18 AAC 75.396;

(108) “responsible person” means a person who is required under AS 46.04.020 or AS 46.09.020 to contain or perform a cleanup of a discharge or release of a hazardous substance;

(109) “risk assessment” mean a determination of potential health effects including effects of contaminant exposure through inhalation, ingestion, dermal absorption, and other means, and the assessment of risk to human health and the environment from contaminants remaining in the land, air or water as a result of a release;

(110) “saltwater wetlands” means coastal areas along sheltered shorelines characterized by halophytic hydrophytes and macroalgae extending from extreme low tide to an area above extreme high tide that is influenced by sea spray or tidally induced water table changes;

(111) repealed 6/17/2015;

(112) “sensitive gauging system” means the best demonstrated available gauging technology at the time of tank construction or substantial reconstruction, or initial gauging system installation;

(113) repealed 12/30/2006;

(114) “significant change” means

(A) a change in operational readiness or removal from designated storage of significant equipment or materials;

(B) a management or ownership change resulting in new chain-of-command or lead response personnel;

(C) a change in response contractors;

(D) a change in spill control or cleanup strategies; or

(E) any factor that significantly alters or reduces the ability of the plan holder to respond according to the provisions of the approved contingency plan or nontank vessel plan;

(115) “site” means an area that is contaminated, including areas contaminated by the migration of hazardous substances from a source area, regardless of property ownership;

(116) “site cleanup rules” means the provisions of 18 AAC 75.325 - 18 AAC 75.390;

(117) “soil” means an unconsolidated geologic material, including clay, loam, loess, silt, sand, gravel, tills, or a combination of these materials;

(118) “sole source aquifer” means an aquifer that is needed to supply 50 percent or more of the drinking water for that area for which there are no reasonably available alternative sources if the aquifer becomes contaminated;

(119) “solidification” means the mixing of an additive into contaminated soil to immobilize the hazardous substances in the soil;

(120) “state waters” means waters of the state;

(121) “storage capacity” means,

(A) for a tank vessel or oil barge, either

(i) the maximum amount of oil that the vessel can legally carry as cargo while in state waters;

(ii) the amount certified by the American Bureau of Shipping, by the United States Coast Guard under a Certificate of Inspection, or by an equivalent society or agency in a foreign country; or

(iii) a lesser amount than the amount in (i) or (ii) of this subparagraph, upon proof and verification to the department's satisfaction;

(B) for an oil storage tank, the full physical volume of the tank;

(C) for a facility, the full physical volume of the oil storage tanks with storage capacities of 1,000 gallons and greater and the piping at that facility;

(D) for a nontank vessel, the full physical volume of all fuel tanks, lube oil tanks, hydraulic oil tanks, day tanks, slop/sludge tanks, waste oil tanks, and bilge tanks on the vessel; and

(E) for a train, the totally physical volume of all railroad tank cars in the train;

(F) for piping, the full physical volume of the piping;

(122) “storativity” means the volume of water that a permeable aquifer unit will absorb or expel from storage per unit surface area per unit change in head;

(123) “subsurface soil” means soil that is more than two feet below the surface;

(124) “sufficiently impermeable” means, for a secondary containment system, that its design and construction has the impermeability necessary to protect groundwater from contamination and to contain a discharge or release until it can be detected and cleaned up; for design purposes for tanks constructed after May 1992, “sufficiently impermeable” means using a layer of natural or manufactured material of sufficient thickness, density, and composition to produce a maximum permeability for the substance being contained of 1×10^{-6} cm per second at a maximum anticipated hydrostatic pressure, unless the department determines that an alternate design standard protects groundwater from contamination and contains a discharge or release until detection and cleanup;

(125) “supervise” means to

(A) take direct responsibility for preparing reports or making interpretations regarding field data;

(B) exercise onsite control over all work that requires assessment, investigation, characterization, reporting, or interpretation, including

(i) selection of the number, location, or depth of sample points in soil, groundwater, surface water, or stockpiles;

(ii) location, placement, or supervision of construction or completion of monitoring or remediation wells;

(iii) description of site characteristics, soil characteristics, or geological characteristics in field notes that will be used in the report submitted by a responsible person;

(iv) duties required to be performed under the site cleanup rules other than those strictly limited to the physical act of sample collection and transport; and

(v) collection of final verification samples; and

(C) exercise onsite or offsite control over routine tasks associated with the physical act of sample collection and transportation;

(126) “surety” includes a surety bond;

(127) “surface soil” means soil that extends no more than two feet below the surface;

(128) “surface water” means waters of the state naturally open to the atmosphere, including rivers, lakes, reservoirs, streams, impoundments, and seas;

(129) “tank vessel” has the meaning given in AS 46.04.900;

- (130) “technology” means equipment, supplies, other resources, and related practices;
- (131) “total xylene isomers” means the sum of ortho-xylene, meta-xylene, and para-xylene concentrations;
- (132) “toxicity index” means the number equal to the sum of the toxicity quotient numbers attributable to systemic toxic effects with similar critical endpoints for similarly responding ecological species;
- (133) “toxicity quotient” means the ratio of the exposure point value to the ecological benchmark value;
- (134) “transmission pipeline” means a pipeline through which crude oil moves in transportation, including line pipe, valves, and other appurtenances connected to line pipe, pumping units, and fabricated assemblies associated with pumping units; “transmission pipeline” does not include gathering lines, flow lines, or facility oil piping;
- (135) “transmissivity” means the rate at which water is transmitted through a unit width of an aquifer or confining bed under a hydraulic gradient of one;
- (136) “ultimate disposal” means disposal into or upon the waters or the surface or subsurface land of the state;
- (137) “vessel” has the meaning given in AS 46.04.900; and
- (138) “volatile organic” means an organic (carbon-containing) compound that evaporates or volatilizes readily at room temperature; in addition, for the purposes of 18 AAC 75.340 and 18 AAC 75.341, volatile organics are compounds that have a Henry’s Law constant, unitless, greater than 0.0001, that are liquids at soil temperatures, and that have a molecular weight of less than 200;
- (139) “waters of the state” has the meaning given in AS 46.04.900;
- (140) “wellhead protection area” means a three dimensional land surface and subsurface zone surrounding a water supply well or wellfield that encompasses the volume of materials through which water will move to the well;
- (141) “nonpersistent product” has the meaning given in AS 46.04.900;
- (142) “nontank vessel” has the meaning given in AS 46.04.900; as used in the definition of “nontank vessel” in AS 46.04.900, “gross registered tons” means “applicable gross tons” or “gross tonnage” as determined by the United States Coast Guard under 33 C.F.R. 138.30
- (143) “P&I club” means a protection and indemnity association;
- (144) “railroad tank car” has the meaning given in AS 46.04.900;
- (145) “train” has the meaning given in AS 46.04.900;

(146) “working day” means a day other than Saturday, Sunday, or a state holiday;

(147) repealed 4/8/2012;

(148) repealed 3/23/2017;

(149) “incident command system” means the incident management organization described in the National Interagency Incident Management System Incident Command System;

(150) “incident management team services” means those services described in the National Interagency Incident Management System Incident Command System;

(151) “National Interagency Incident Management System Incident Command System” means the command system followed by the National Interagency Incident Management System, as modified for oil spills, and set out in the

(A) United States Department of Homeland Security, United States Coast Guard's *Incident Management Handbook*, COMDTPUB P3120.17A, as revised as of August 2006 and adopted by reference; and

(B) *Alaska Incident Management System Guide for Oil and Hazardous Substance Response*, Revision 1 as revised as of November 2002 and adopted by reference;

(152) “nontank vessel cleanup contractor” means an oil spill primary response action contractor who is, or intends to be, obligated under contract or membership agreement to provide resources or equipment to contain, control, and perform cleanup of an oil discharge under an approved nontank vessel plan issued under AS 46.04.055;

(153) “nontank vessel incident management team” means an oil spill primary response action contractor who is, or intends to be, obligated under contract to provide incident management services under an approved nontank vessel plan issued under AS 46.04.055;

(154) “nontank vessel plan” means an oil discharge prevention and contingency plan covering a nontank vessel;

(155) “qualified individual”

(A) means an individual with the qualifications, duties, and authority of a qualified individual under 33 C.F.R. 155.1026; the provisions of 33 C.F.R. 155.1026, as revised as of July 1, 2001, are adopted by reference; and

(B) does not mean a

(i) qualified environmental professional described in 18 AAC 75.333(b)

or

(ii) qualified sampler described in 18 AAC 75.333(c);

(156) “region of operation” means, with respect to

(A) an oil discharge prevention and contingency plan other than a nontank vessel plan, a region established under 18 AAC 75.495; and

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

(157) “regional citizens’ advisory council” means an entity established under 33 U.S.C. 2732(d);

(158) “response planning facilitator” means an oil spill primary response action contractor who provides services as described in 18 AAC 75.428 to the holder of an approved nontank vessel plan issued under AS 46.04.055;

(159) “streamlined plan” means a nontank vessel plan submitted under 18 AAC 75.421 and meeting the requirements of 18 AAC 75.426 and 18 AAC 75.456, as applicable;

(160) repealed 3/23/2017;

(161) “railroad” means a non-highway ground transportation system that runs on rails and transports railroad tank cars; “railroad” includes trains, locomotives, railroad tank cars, rolling stock, railroad tracks, and associated facilities and operations;

(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 calendar year divided by the number of days in the year, expressed as barrels per day;

(163) "blowout contingency plan" means a written, site-specific description of the procedures, methods, equipment, personnel, logistics, and activities that will be employed to regain control of an uncontrolled flow of oil, gas, drilling mud, and other substances from an exploration or production well;

(164) "subarea contingency plan" means a regional master oil and hazardous substance discharge prevention and contingency plan approved under AS 46.04.210.

(165) “aboveground oil storage tank,” for the purposes of 18 AAC 75.065, 18 AAC 75.066, and 18 AAC 75.075, means a container, including a storage and surge tank, that is used to store bulk quantities of oil and that has a capacity of greater than 10,000 gallons; “aboveground oil storage tank” does not include a process pressure vessel or underground storage tank within the meaning of AS 46.03.450;

(166) “allision” means when a vessel comes into contact with a fixed object, including piers, rocks, platforms or other objects, whether manmade or naturally occurring, with sufficient force to incur damage to the vessel;

(167) “cathodic protection” means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell through the application of either galvanic anodes or impressed current;

(168) “corrosion” means the deterioration of metal from the loss of positively charged metal ions from the metal surface into an electrolyte;

(169) “corrosion expert” means a person who

(A) by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired through professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried metal piping and metal tanks, and

(B) is accredited or certified as being qualified by NACE International as a corrosion specialist, cathodic protection specialist, or is a registered engineer with education and experience in corrosion control of buried metal piping systems and metal tanks;

(170) “double-walled shop-fabricated aboveground oil storage tank” means a shop-fabricated aboveground oil storage tank with a surrounding containment tank fully enclosing a sealed interstitial space of a capacity less than 100 percent of the storage tank capacity and preventing visual inspection of the inner tank;

(171) “facility oil piping” means piping and associated fittings, including all valves, elbows, joints, flanges, pumps, and flexible connectors, originating from or terminating at

(A) an aboveground oil storage tank regulated under 18 AAC 75.065 or 18 AAC 75.066 up to the:

(i) union of the piping with a fuel dispensing system;

(ii) marine header;

(iii) fill cap or fill valve;

(iv) forwarding pump used to transfer oil between facilities, between adjacent pump stations, or between a pressure pump station and a terminal or breakout tank; or

(v) first flange or connection within a tank truck loading, loading rack containment area; or

(B) an exploration or production well, up to the:

(i) choke or valve interconnection with a flowline: or

(ii) first valve or flange inside a processing unit boundary;

(172) “field-constructed aboveground oil storage tank” means a welded metal aboveground oil storage tank erected on site where it will be placed in service;

(173) “flowline” means

(A) piping and associated fittings, including all valves, elbows, joints, flanges, pumps and flexible connectors,

(i) containing liquid oil;

(ii) located at a production facility; and

(iii) that is installed or used for the purpose of transporting oil between a well pad or marine structure used for oil production and the interconnection point with a transmission pipeline; and

(B) includes all piping between interconnections, including multi-phase lines and process piping, except

(i) facility oil piping; and

(ii) transmission pipelines;

(174) “installation” means an aboveground oil storage and surge tanks and associated operational appurtenances, including secondary containment systems, integral piping, overflow protection devices, and associated leak detection equipment;

(175) “marine structure”

(A) means an assembly that is

(i) permanently or temporarily attached to the seabed;

(ii) used by an exploration or production facility;

(B) includes mobile offshore drilling units, prefabricated offshore platforms, and artificial islands;

(176) “permanent unloading areas” means unloading areas routinely used for transfer operations; “permanent unloading areas” does not include areas used for short-term emergency response, seasonal usage, or short-term temporary usage to meet unusual operational demands:

(177) “pipe” or “piping” means any hollow cylinder or tube used to convey oil;

(178) “placed in service” means commencement of operational use, either after initial construction or installation or

(A) for field-constructed aboveground oil storage tanks, after the date of return to service after reconstruction as defined by American Petroleum Institute's (API) *Tank Inspection, Repair, Alteration, and Reconstruction*, 3rd Edition, December 2001, and Addendum 1, September 2003, (API 653) adopted by reference, or after the date of return to service after being removed from service in accordance with 18 AAC 75.065(o); or

(B) for facility oil piping, after the date of return to service after being removed from service in accordance with 18 AAC 75.080(o); or

(C) for flow lines, after the date of return to service after being removed from service in accordance with 18 AAC 75.047(f).

(179) "qualified cathodic protection tester" means a person who is accredited or certified as being qualified as, at a minimum, CPI-CP Tester by NACE international.

(180) "self-diked aboveground oil storage tank" mean a shop-fabricated aboveground oil storage tank with integral secondary containment of a minimum capacity of at least 100 percent of the capacity of the tank.

(181) "shop-fabricated aboveground oil storage tank" means an oil storage tank that is constructed at a tank manufacturer's plant and transported to a facility for installation.

(182) "vaulted shop-fabricated aboveground oil storage tank" means a shop-fabricated aboveground oil storage tank that is placed within a discrete secondary containment vault system at or below grade.

(183) "DRO" means diesel range organics within the meaning given in 18 AAC 78.995;

(184) "GRO" means gasoline range organics within the meaning given in 18 AAC 78.995.

(185) "PCBs" means polychlorinated biphenyls;

(186) "RRO" means residual range organics within the meaning given in 18 AAC 78.995.

(187) "qualified environmental professional" means an individual described in 18 AAC 75.333(b);

(188) "qualified sampler" means an individual described in 18 AAC 75.333(c);

(189) "zone of saturation" means the zone

(A) that is below the water table; and

(B) where permanently or seasonally all interstices are filled with water.

(190) "application package" means the documents required by 18 AAC 75.408(a)(1) – (3) to be included in the application submittal;

(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 75.445 for oil discharge prevention and contingency plans;

(192) “major amendment” means a proposed change to a plan that the department has determined will be reviewed under 18 AAC 75.455 after considering the factors under 18 AAC 75.415(a);

(193) “minor amendment” means a proposed change to a plan that the department has determined will not be reviewed under 18 AAC 75.455 after considering the factors under 18 AAC 75.415(a) and that is not a routine plan update under 18 AAC 75.415(b);

(194) “request for additional information” means a request for an applicant by the department for additional information necessary for an application package to be complete;

(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 75.425(e)(1) – (5) for oil discharge prevention and contingency plans; and

(C) supporting documentation as requested by the department.

(196) “mutagen” means a hazardous substance capable of inducing change to genetic material;

(197) “mutagenic” means of or relating to a mutagen;

(198) “sensitive subpopulation” means a group of individuals that is at increased risk of some adverse health even or outcome after exposure to a contaminant. (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)

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 46.09.020
	AS 46.03.745	AS 46.04.035	

Editor's Note: The publications adopted by reference in 18 AAC 75.990 may be reviewed at the department's offices in Anchorage, Fairbanks, or Juneau, or may be obtained directly from the appropriate publisher. The mailing address, telephone number, facsimile number, and website, if available, for each publisher are as follows: American Petroleum Institute (API), 1220 L Street NW, Washington, DC 20005-4070; telephone (202) 682-8000; fax (303) 397-2740; website: <http://www.api.org>.