

Department of Environmental Conservation
Division of Spill Prevention & Response



Chapter 75 – Oil and Other Hazardous Substances
Pollution Control

Proposed Regulation Revisions

January 2014

Sean Parnell
Governor

Larry Hartig
Commissioner

Public Comment period ends
February 26, 2014, 5:00 p.m.

Please see public notice for
details about how to comment

Register _____, _____2014 Environmental Conservation

18 AAC 75.215 is amended to read:

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 __/__/__, Register__)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.225(a) is amended to read:

(a) 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 that must be submitted at least 15 days before expiration.

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.235(n)(3) is amended to read:

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

25.105 [FOR PURPOSES OF THIS PARAGRAPH, "ABANDONED" MEANS THAT A WELL HAS BEEN PLUGGED AS REQUIRED BY 20 AAC 25.105]; and

(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 10/16/2005, Register 176; am 8/31/2008, Register 187; am 10/1/2011, Register 199; am __/__/__, Register __)

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

The introductory language of 18 AAC 75.240(b) is amended to read:

(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. (Eff. 5/14/92, Register 122; am 10/28/2000, Register 156; am 11/27/2002, Register 164; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

The introductory language of 18 AAC 75.300(a) is amended to read:

(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:

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

18 AAC 75.413 is repealed:

18 AAC 75.413 Transitional Provisions for Review and Approval of Nontank Vessel Plans.

Repealed __/__/____. [(a) A NONTANK VESSEL PLAN APPLICATION SUBMITTED WITHIN 180 DAYS AFTER NOVEMBER 27, 2002 WILL BE CONSIDERED CONDITIONALLY APPROVED AND A SCHEDULE FOR REVIEW WILL BE DETERMINED BY THE DEPARTMENT. AN APPLICANT MUST SUBMIT THE APPLICATION AND RETAIN A COPY OF THE RECEIPT OF DELIVERY FOR THE APPLICATION AS EVIDENCE OF THE CONDITIONAL APPROVAL.

(b) NONTANK VESSEL PLAN HOLDERS SHALL MAINTAIN OR HAVE AVAILABLE UNDER CONTRACT, WITHIN EACH REGION OF OPERATION, SUFFICIENT OIL DISCHARGE CONTROL AND CONTAINMENT EQUIPMENT TO MEET THE REQUIREMENTS OF 18 AAC 75.441 WITHIN 180 DAYS AFTER NOVEMBER 27, 2002. HOWEVER, FOR ANY NONTANK VESSEL OPERATING IN THE NORTH SLOPE REGION AS DESCRIBED IN 18 AAC 75.496(9), A PLAN HOLDER IS ALLOWED UNTIL JULY 1, 2003 TO HAVE THE EQUIPMENT IN PLACE.

(c) NONTANK VESSEL PLAN HOLDERS SHALL MAINTAIN OR HAVE AVAILABLE UNDER CONTRACT, WITHIN EACH REGION OF OPERATION OR CAPABLE OF ARRIVING IN EACH REGION OF OPERATION WITHIN 24 HOURS, SUFFICIENT OIL DISCHARGE CLEANUP EQUIPMENT TO MEET THE

REQUIREMENTS OF 18 AAC 75.441 WITHIN TWO YEARS AFTER NOVEMBER 27, 2002.] (Eff. 11/27/2002, Register 164); repealed __/__/__, Register__)

18 AAC 75.425(c)(3) is amended to read:

(3) a statement, signed by **an individual** [A PERSON] with appropriate authority, committing the oil discharge prevention and response resources necessary to implement the plan.

18 AAC 75.443 is repealed:

18 AAC 75.443. **Prevention credits for nontank vessels.** Repealed __/__/____. [(a) A NONTANK VESSEL PLAN APPLICANT MAY APPLY TO THE DEPARTMENT FOR A PREVENTION CREDIT FOR MEASURES TAKEN TO PREVENT AN OIL SPILL. TO OBTAIN A PREVENTION CREDIT, THE NONTANK VESSEL OWNER OR THE OWNER’S REPRESENTATIVE MUST SUBMIT AN AFFIDAVIT TO THE DEPARTMENT LISTING EACH PREVENTION MEASURE LISTED IN TABLE E OF THIS SUBSECTION EMPLOYED BY EACH VESSEL AND STATING THE CLASS OF VESSEL TO WHICH THAT VESSEL BELONGS. EACH PREVENTION MEASURE EMPLOYED BY A VESSEL AND LISTED IN TABLE E OF THIS SUBSECTION WILL BE ASSIGNED POINTS UNDER THE COLUMN LABELED “RELATIVE WEIGHT OF MEASURE” IF THAT MEASURE IS APPLICABLE TO THAT CLASS OF VESSEL. THE TOTAL NUMBER OF POINTS POSSIBLE FOR A CLASS OF VESSEL IS AT THE BOTTOM OF THE COLUMN FOR THAT VESSEL CLASS.

TABLE E. PREVENTION MEASURES - WEIGHT AND APPLICABILITY											
PREVENTION MEASURE	RELATIVE WEIGHT OF MEASURE	FISHING VESSELS		FISH PROCESSORS & TENDERS		GENERAL CARGO		PASSENGER VESSELS		CONTAINER SHIPS	
		APPLICABLE?	WEIGHT	APPLICABLE?	WEIGHT	APPLICABLE?	WEIGHT	APPLICABLE?	WEIGHT	APPLICABLE?	WEIGHT
EMERGENCY TOWLINE OR DEDICATED MOORING LINE WITH ON-BOARD MEANS FOR DEPLOYMENT	2	YES	2	YES	2	YES	2	YES	2	YES	2
EMERGENCY ON-BOARD DEWATERING OR PETROLEUM PUMPS	2	YES	2	YES	2	YES	2	YES	2	YES	2
ON-BOARD STORAGE BLADDER OR DEDICATED TANK	2	YES	2	YES	2	YES	2	YES	2	YES	2
NON-CONTIGUOUS TANK LOCATION ON VESSEL	3	NO	0	NO	0	YES	3	YES	3	YES	3
REDUNDANT PROPULSION SYSTEMS	3	YES	3	YES	3	YES	3	YES	3	YES	3
REDUNDANT AND INTEGRATED NAVIGATION SYSTEMS	1	YES	1	YES	1	YES	1	YES	1	YES	1
MAINTAINING A TRANSPONDER OR AUTOMATIC IDENTIFICATION SYSTEM	2	YES	2	NO	0	YES	2	YES	2	YES	2
USE OF AN ADVANCED ANCHORING SYSTEM OR PLACEMENT OF MOORING BUOYS	2	NO	0	NO	0	YES	2	YES	2	YES	2
PARTICIPATION IN A RISK ASSESSMENT PROCESS FOR VESSEL OPERATIONS	2	YES	2	YES	2	YES	2	YES	2	YES	2
MEMBERSHIP IN A MARINE SAFETY ORGANIZATION	1	YES	1	YES	1	YES	1	YES	1	YES	1
TUGBOATS STAGED OR ON STANDBY	2	NO	0	NO	0	NO	0	YES	2	YES	2
ADDITIONAL STAGED EQUIPMENT ONSHORE TO IMPROVE RESPONSE TIME TO AN OIL SPILL	1	YES	1	YES	1	YES	1	YES	1	YES	1
CONTINUOUS REAL-TIME WEATHER AND OCEANOGRAPHIC CONDITION MONITORING AND FORECASTING	1	NO	0	NO	0	YES	1	YES	1	YES	1
ENHANCED MAINTENANCE OR PREVENTATIVE MAINTENANCE REQUIREMENTS MORE STRINGENT THAN THE REQUIREMENTS OF 18 AAC 75.400 - 18 AAC 75.496	1	YES	1	YES	1	YES	1	YES	1	YES	1

VESSEL CLASSIFIED FOR OPERATION IN ICE	2	NO	0	NO	0	YES	2	YES	2	YES	2
SPECIALIZED ONBOARD TRAINING PROGRAMS IN PREVENTION AND RESPONSE	2	YES	2								
MOORING PLAN	1	NO	0	YES	1	YES	1	YES	1	YES	1
OTHER MEASURES AS PROPOSED BY OPERATORS AND APPROVED BY THE DEPARTMENT	1	YES	1								
TOTAL POSSIBLE SCORE FOR VESSEL CLASS	31		20		19		29		31		31

(b) THE DEPARTMENT WILL ISSUE A PREVENTION MEASURE CERTIFICATE FOR EACH VESSEL THAT WILL IDENTIFY THE CLASS OF VESSEL FOR WHICH THE CERTIFICATE IS ISSUED AND LIST THE PREVENTION MEASURES THAT HAVE BEEN CLAIMED BY THE OWNER. ON THE PREVENTION MEASURE CERTIFICATE, THE DEPARTMENT WILL STATE THE NUMBER OF POINTS THAT THE OWNER HAS RECEIVED AS A RESULT OF THOSE PREVENTION MEASURES.

(c) THE PREVENTION MEASURE CERTIFICATE IS VALID UNTIL THE PLAN UNDER WHICH THE VESSEL OPERATES EXPIRES. A NEW AFFIDAVIT AS REQUIRED UNDER (A) OF THIS SECTION MUST BE SUBMITTED AT THE TIME AN APPLICATION FOR RENEWAL IS SUBMITTED TO THE DEPARTMENT.

(d) TO BE ELIGIBLE FOR A PREVENTION CREDIT, A VESSEL MUST EARN 50 PERCENT OF THE POINTS AVAILABLE TO THAT VESSEL CATEGORY SET OUT IN TABLE E IN (A) OF THIS SECTION. IF A VESSEL IS DETERMINED ELIGIBLE FOR THE PREVENTION CREDIT, THE DEPARTMENT WILL GIVE THE VESSEL AN ACKNOWLEDGEMENT, KNOWN AS THE BLUE STAR AWARD, FOR ACHIEVING PREVENTION MEASURES ABOVE AND BEYOND COMPLIANCE WITH THE DEPARTMENT’S REQUIREMENTS.

(e) IF ALL OF THE ELIGIBLE VESSELS COVERED UNDER A SINGLE NONTANK VESSEL PLAN MEET THE REQUIREMENTS OF (D) OF THIS SECTION, AND EACH AFFIDAVIT IS FILED WITH OR BEFORE AN INITIAL APPLICATION, AMENDMENT, OR RENEWAL UNDER 18 AAC 75.426, 18 AAC 75.427, OR 18 AAC 75.428, THE DEPARTMENT WILL GRANT, AS SET OUT IN 18 AAC 75.456(B) OR 18 AAC 75.460(D), AS APPLICABLE, A FIVE YEAR NONTANK VESSEL PLAN REVIEW CYCLE, INSTEAD OF A THREE YEAR CYCLE.

(f) EACH AFFIDAVIT MUST CONTAIN A STATEMENT THAT THE VESSEL AND THAT VESSEL'S CREW COMPLY WITH ALL APPLICABLE STATE, FEDERAL, AND INTERNATIONAL MARITIME LAWS. FOR FAILURE TO COMPLY WITH THOSE LAWS WITH RESPECT TO THE VESSEL, THE DEPARTMENT WILL REVOKE ANY PREVENTION CREDIT GRANTED TO THE OWNER OF THE VESSEL.

(g) BY APPLYING FOR A PREVENTION CREDIT, THE VESSEL OWNER AND OPERATOR CONSENT TO INSPECTION OF THE OWNER'S AND OPERATOR'S VESSELS AND RECORDS BY THE DEPARTMENT IN ORDER TO VERIFY THE EXISTENCE OF PREVENTION MEASURES CLAIMED IN THE APPLICATION. THE NONTANK VESSEL PLAN HOLDER MUST RETAIN RECORDS CONCERNING ITS PREVENTION MEASURES FOR AT LEAST FIVE YEARS AFTER THE CREDIT IS CLAIMED.] (Eff. 11/27/2002, Register 164; repealed __/__/__, Register__)

18 AAC 75.456(b) is amended to read:

(b) A nontank vessel plan is effective for

(1) **five** [THREE] years after the date the plan is approved by the department;

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(2) a time period shorter than **five** [THREE] years, as specified in the department's approval letter. [; OR]

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18 AAC 75.456(b)(3) is repealed:

(3) repealed __/__/____. [FIVE YEARS, IF THE REQUIREMENTS OF 18 AAC 75.443(e) ARE MET.]

(Eff. 11/27/2002, Register 164; am __/__/__, Register__)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

The introductory language of 18 AAC 75.459(a) is amended to read:

(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** [REGIONAL] office

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.460(d) is amended to read:

(d) An approval under this section is effective for

(1) **five** [THREE] years after the date it is issued;

(2) a time period shorter than **five** [THREE] years, as specified in the department's approval letter and certificate. [;OR]

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18 AAC 75.460(d)(3) is repealed:

(3) repealed ___/___/___ [FIVE YEARS, IF THE REQUIREMENTS OF 18 AAC

75.443(e) ARE MET.]

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

___/___/___, Register___)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070

AS 46.04.030

18 AAC 75.475(b) is amended to read:

(b) Except for a transfer approved under 18 AAC 75.470, if a significant change occurs in, or is made to, 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 [A] electronic mail or facsimile transmission** delivered to the appropriate **department** [REGIONAL] 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.

(Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 12/30/2006, Register 180; am

___/___/___, Register___)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070

AS 46.04.030

18 AAC 75.521(c) is repealed:

(c) Repealed __/__/____. [NONTANK VESSEL CLEANUP CONTRACTOR APPLICATIONS SUBMITTED WITHIN 60 DAYS AFTER NOVEMBER 27, 2002 WILL BE CONSIDERED CONDITIONALLY APPROVED AND A SCHEDULE FOR REVIEW WILL BE DETERMINED BY THE DEPARTMENT. AN APPLICANT MUST SUBMIT THE APPLICATION AND RETAIN A COPY OF THE RECEIPT OF DELIVERY FOR THE APPLICATION AS EVIDENCE OF THE CONDITIONAL APPROVAL.]

(Eff. 11/27/2002, Register 164; am __/__/__, Register__)

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

18 AAC 75.522(c) is repealed:

(c) Repealed __/__/____. [NONTANK VESSEL INCIDENT MANAGEMENT TEAM APPLICATIONS SUBMITTED WITHIN 60 DAYS AFTER NOVEMBER 27, 2002 WILL BE CONSIDERED CONDITIONALLY APPROVED AND A SCHEDULE FOR REVIEW WILL BE DETERMINED BY THE DEPARTMENT. AN APPLICANT MUST SUBMIT THE APPLICATION AND RETAIN A COPY OF THE RECEIPT OF DELIVERY FOR THE APPLICATION AS EVIDENCE OF THE CONDITIONAL APPROVAL.]

(Eff. 11/27/2002, Register 164; am __/__/__, Register__)

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

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18 AAC 75.523(c) is repealed:

(c) Repealed __/__/____. [NONTANK VESSEL RESPONSE PLANNING FACILITATOR APPLICATIONS SUBMITTED WITHIN 60 DAYS AFTER NOVEMBER 27, 2002 WILL BE CONSIDERED CONDITIONALLY APPROVED AND A SCHEDULE FOR REVIEW WILL BE DETERMINED BY THE DEPARTMENT. AN APPLICANT MUST SUBMIT THE APPLICATION AND RETAIN A COPY OF THE RECEIPT OF DELIVERY FOR THE APPLICATION AS EVIDENCE OF THE CONDITIONAL APPROVAL.]

(Eff. 11/27/2002, Register 164; am __/__/__, Register__)

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

18 AAC 75.990(151)(A) and (B) are amended to read:

(A) United States Department of **Homeland Security** [TRANSPORTATION], United States Coast Guard **Incident Management Handbook, COMDTPUB P3120.17A, as revised as of August 2006** [COMDTPUB P3120.17, AS REVISED AS OF APRIL 11, 2001] **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** [JANUARY 2000] and adopted by reference;

(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 __/__/__, Register__)

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