

Register __, __ 2004 ENVIRONMENTAL CONSERVATION

18 AAC 75.015 is repealed and readopted to read:

18 AAC 75.015. Waiver. The department may waive a requirement of 18 AAC 75.005 - 18 AAC 75.090 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 75.090. (Eff. 5/14/92, Register 122; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.04.050 AS 46.04.070
AS 46.04.030

18 AAC 75.065(i)(2) is repealed:

(2) repealed __/__/__;

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

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

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

(d) The department may accept a single plan from an operator to address multiple facilities based on similarities in operations, logistical considerations, or other factors indicating to the satisfaction of the department that a single plan is appropriate given the commonality of operations. (Eff. 5/14/92, Register 164; am 12/14/2002, Register 164; am __/__/__, Register __)

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

The lead-in language of 18 AAC 75.425(e)(1)(F) is amended to read:

(F) response **scenario** [STRATEGIES] - a **written** description of **a hypothetical spill incident and response that demonstrates a plan holder's ability to respond** [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; THIS INFORMATION MUST BE PRESENTED IN THE FORM OF A RESPONSE SCENARIO] to a discharge of **each** [THE] 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** [AND] 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

....

18 AAC 75.425(e)(1)(F)(iii) is repealed, and (v), (vii), and (ix) - (xii) are amended to read:

(iii) repealed ___/___/___;

....

(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** [PROCEDURES AND METHODS TO EXCLUDE OIL FROM] 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;**

....

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

....

(ix) procedures [AND PLANS] for transfer and storage of recovered oil and oily water, including methods for estimating the amount of recovered oil;

(x) [PLANS,] procedures [,] and locations for temporary storage and ultimate disposal of oil contaminated materials, oily wastes, and sanitary and solid wastes, including **procedures** [PLANS] for obtaining any required permits or authorizations for temporary storage or ultimate disposal;

(xi) **procedures and methods** [PLANS] 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** [PLANS] 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;

18 AAC 75.425(e)(1)(G) is amended to read:

(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** [METHODS], the

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

18 AAC 75.425(e)(1) is amended by adding a new subparagraph to read:

(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 1977 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 climactic 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 climactic 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;

18 AAC 75.425(e)(2)(G) is amended to read:

(G) for an operation **subject to a waiver, alternate** [IN EXISTENCE OR SUBSTANTIALLY COMPLETED BEFORE THE EFFECTIVE DATE OF THIS SECTION, A] compliance schedule, **or existing condition of plan approval under 18 AAC 75.005 - 18 AAC 75.090 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 [AS DESCRIBED AT 18 AAC 75.015];

The lead-in language of 18 AAC 75.425(e)(3)(D) is amended to read:

(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 [AND OTHER] 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** [COMPENSATE FOR] those periods when

Register ____, ____ 2004 ENVIRONMENTAL CONSERVATION

environmental conditions exceed this maximum; environmental conditions to be considered in this analysis must include

....

The lead-in language of 18 AAC 75.425(e)(3)(F) is amended to read:

(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** [, INCLUDING]

....

The lead-in language of 18 AAC 75.425(e)(3)(G) is amended, and 18 AAC 75.425(e)(3)(G)(iii) - (v) is amended to read:

(G) nonmechanical response information - if a nonmechanical **option** [TECHNIQUE] such as dispersant use or in situ burning is proposed as a response option, the plan must include

....

(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** [TECHNIQUE];

(iv) identification of all permits, approvals, or authorizations for use of nonmechanical response **options** [TECHNIQUES] 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** [ACTION];

The lead-in language of 18 AAC 75.425(e)(3)(J) is amended to read:

(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,

Register ____, ____ 2004 ENVIRONMENTAL CONSERVATION

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

....

18 AAC 75.425(e)(4)(A)(i) is amended to read:

(i) for all contingency plans, [:] communications described under **(1)(D) of this subsection**, [18 AAC 75.425(e)(1)(D);] source control procedures to stop the discharge at its source and prevent its further spread described under **(1)(F)(i) of this subsection**, [18 AAC 75.425(e)(1)(F)(i);] trajectory analyses and forecasts described under **(1)(F)(iv) of this subsection**, [18 AAC 75.425(e)(1)(F)(iv);] and wildlife capture, treatment, and release **procedures and methods** [PROGRAMS] described under **(1)(F)(xi) of this subsection** [18 AAC 75.425(e)(1)(F)(xi)];

(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 __/__/__, Register ____)

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

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

(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

Register ___, ___ 2004 ENVIRONMENTAL CONSERVATION

determined under 18 AAC 75.432(b) or (c), **18 AAC 75.434** [18 AAC 75.434(b)], or 18 AAC 75.436(b), respectively; [,] or

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

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.030

18 AAC 75.434(b) is repealed and readopted, (c) is repealed, and new subsections added to read:

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

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

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

(c) Repealed ___/___/___.

(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

Register ___, ___ 2004 ENVIRONMENTAL CONSERVATION

those measures imposed by the Alaska Oil and Gas Conservation Commission or another agency. (Eff. 5/14/92, Register 122; am ___/___/___, Register ___)

Authority: AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.445(c) is amended to read:

(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 **limitations** [CONDITIONS] 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.

18 AAC 75.445(d)(2) and (3) are amended to read:

(2) for an exploration or production facility, **a summary of planned methods, equipment, logistics,** [PLANS] and time frames [ARE] in place **that provide** for **the control of** [CONTROLLING] 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 [, INCLUDING PROVISIONS FOR DRILLING A RELIEF WELL, AND TAKING INTO ACCOUNT ANY SEASONAL ENVIRONMENTAL CONDITIONS THAT MIGHT REASONABLY BE EXPECTED TO PRECLUDE EMERGENCY OPERATIONS FROM REGAINING CONTROL OF WELL PRESSURE];

(3) [PLANS,] procedures [,] and equipment are sufficient to monitor and track the discharge in order to ensure proper allocation and deployment of response personnel and equipment;

18 AAC 75.445(f) is amended to read:

(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** [WILL, IN ITS DISCRETION,] 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** [METHODS] 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.**

Register ____, ____ 2004 ENVIRONMENTAL CONSERVATION

18 AAC 75.445(g)(4) and (5) are amended, and a new paragraph added to read:

(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;
[AND]

(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** [LIMIT] 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.

The lead-in language of 18 AAC 75.445(i) is amended to read:

(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** [18 AAC 75.400 - 18 AAC 75.495], the contractor must be registered under 18 AAC 75.500 - 18 AAC 75.580. The plan

Register ____, ____ 2004 ENVIRONMENTAL CONSERVATION

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

....

18 AAC 75.445(j) is amended to read:

(j) **Training.** In addition to maintaining continuous compliance with other applicable state and federal training requirements, the plan holder shall demonstrate that 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. The plan holder shall ensure that proof of training is maintained for **five** [THREE] years and is made available to the department upon request.

(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 __/__/__, Register ____)

Authority:	AS 46.03.020	AS 46.04.030	AS 46.04.055
	AS 46.04.020	AS 46.04.035	AS 46.04.070

18 AAC 75.990(101) is amended to read:

(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;

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

(162) "annual average daily oil production volume" means the average oil production volume from a common reservoir to a common production facility based on the highest annual volume produced by a well at the facility during the previous 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. (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 __/__/__, Register ____)

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