Alaska Oil and Gas Association

AOGA

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March 16, 2020

Via ADEC Website: www.alaskadec.commentinput.com

Seth Robinson
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response -
Prevention, Preparedness, and Response Program
610 University Avenue
Fairbanks, AK 99709

RE: Notice of Public Scoping: Alaska Department of Environmental Conservation Oil Discharge Prevention and Contingency Plan Requirements

Dear Mr. Robinson,

This letter provides comments of the Alaska Oil and Gas Association ("AOGA") in response to the Alaska Department of Environmental Conservation's ("ADEC") Notice of Public Scoping: Oil Discharge and Prevention Contingency Plan ("Notice of Scoping"),[1] seeking input from the public on the oil discharge and prevention contingency plan regulations and statutes under 18 AAC 75 Article 4 and AS 46.04. AOGA appreciates ADEC's consideration of the comments set forth in this letter.

I. THE ALASKA OIL AND GAS ASSOCIATION

AOGA is a professional trade association whose mission is to foster the long-term viability of the oil and gas industry for the benefit of all Alaskans. AOGA's membership includes 14 companies representing the industry in Alaska that have state and federal interests, both onshore and offshore. AOGA's members have a well-established history of prudent and environmentally responsible oil and gas exploration, development, and production in Alaska. Part of AOGA's interest is representing its members in regulatory proceedings such as the Notice of Scoping.

[1] *See* https://dec.alaska.gov/spar/regulation-projects/oil-discharge-prevention-contingency-plan-public-scoping/ (October 15, 2019).

Many of AOGA's member companies own, operate, and/or utilize oil terminal facilities, pipelines, exploration facilities, onshore production facilities, tank vessels and oil barges, non-tank vessels over 400 gross registered tons, and railroad tank cars. Accordingly, these members are required to have oil discharge prevention and continency plans ("ODPCPs")[2] and are extremely familiar with the ODPCPs regulations. AOGA members have collected data, developed compliance operating policies and procedures, and have participated in hundreds (if not thousands) of spill response drills.

In summary, AOGA and its members have a strong and well-established interest in the ODPCPs process. Our deep, practical experience with the regulations uniquely qualifies us to comment on and constructively inform ADEC in the Notice of Scoping.

II. GENERAL COMMENTS

The purpose of ODPCPs is to ensure that plan holders have measures in place to prevent and respond to oil spills and to provide enough information to guide personnel during an emergency event resulting in a discharge of any size. However, most of the regulations were developed in the early 1990s and are outdated and long overdue for review and revision. Currently, many aspects of the regulations result in misdirected compliance burdens that are not cost effective for environmental protection and unnecessarily increase costs ultimately reducing Alaska's competitiveness.

AOGA and its members are encouraged that ADEC is seeking public comment to determine "whether the current regulations [pertaining to Oil Discharge Prevention and Contingency Planning] could be made more clear and understandable without compromising environmental protection" or if "any of the provisions may be outdated or duplicative." Comments and suggestions herein improve the ODPCPs requirements by providing clear, workable environmental protections.

Simply stated, current ODPCPs regulations require change in order to be relevant and reflect the current state of Alaska's oil exploration, production, pipelines, distribution and transportation industries. With improvements in equipment, technology, and years of experience, AOGA supports modernization of the regulatory scheme. Modernization will eliminate unnecessary administrative compliances that ultimately hurt Alaska's competitiveness while maintaining strict environmental protection.

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[2] *See* AS 46.04.030; AS 46.04.055; and 18 AAC 75.400.

AOGA generally supports the following changes to ODPCPs:

- Revision and clarification of the definition of "oil terminal facility" under AS 46.04.900(14).

- Modernization of the administration of ODPCPs which would improve and promote sustainability and would streamline the application process thereby avoiding unnecessary delays while maintaining protection of the environment.

- Modernization of the prescribed industry standards, which have not been revised since 2006 and are grossly outdated, to provide clear compliance standards.

- Revision of the tank truck loading and permanent unloading area requirements to allow more flexibility for operations where a full-sized secondary containment is impractical.

- Modernization of the response planning standards ("RPS"), approval criteria, and RPS prevention measures, to include language identifying and incorporating additional credits against RPS for prevention measures.

- A best available technology ("BAT") analysis should not be required if the plans must be prepared in accordance with good engineering practice, including consideration of applicable industry standards, and if plans must be consistent with the state/federal-managed Regional and Area Contingency Plans.

AOGA believes these issues can be addressed and the regulatory schemes streamlined without increasing any risks of damage or harm to the environment. More certainty in the requirements and a clearer description of compliance standards would lend itself to more consistency in implementing spill prevention. Moreover, reducing unnecessary administrative burdens would allow regulators greater capacity to assess and audit plans with a focus on the most at-risk areas.

III. DETAILED COMMENTS

As indicated above, AOGA supports the Notice of Scoping as an important step toward improving and clarifying ODPCPs regulations and procedures carried out by various agencies. Below we identify and comment on specific aspects of the regulations and provide constructive recommendations to improve the clarity or effectiveness of certain provisions. AOGA and its members strongly support efficient, effective, accurate, and lawful ODPCPs regulations that protect the environment.

Additional comments on ADEC's Notice of Scoping can also be found in Attachment A. Moreover, AOGA is aware of and supports by reference comments made by Alyeska Pipeline Service Company.

1. AS 46.04.900(14): Clarification of the Definition of "Oil Terminal Facility"

The definition of "oil terminal facility" should clarify that bulk oil storage tanks at a pipeline, exploration, or production facility that are in place to support processes within those operations and not intended for the singular purpose of transferring, processing, refining, or storing oil for distribution outside of the facility are not an "oil terminal facility." The definitions of "pipeline" and "production facility" in AS 46.04.900(18) and (19) (respectively) include "storage tank," therefore, bulk oil storage tanks at pipeline and production facilities should not also be categorized as an "oil terminal facility." Bulk oil storage tanks at exploration facilities serve similar purposes as those at a pipeline or production facility and should be distinguished from an "oil terminal facility" as well. Since bulk oil storage tanks at a pipeline, exploration, or production facility are not an "oil terminal facility," requirements of 18 AAC 75.432, *"Response planning standards for oil terminal facilities,"* should not apply to pipeline, exploration, or production facilities.

2. ODPCPs Administration Improvement

The administration of ODPCPs must be improved to promote sustainability and to streamline the application process to encourage ADEC's efficiency and avoid project delays. The following comments are related to the management of ODPCPs applications during the review and approval process.

18 AAC 75: As a general matter, the state should fully adopt the use of the National Incident Management System ("NIMS"), Incident Command System ("ICS"), and the Unified Command roles within those systems. The Regional and Area Contingency Plans for Alaska were recently significantly revised to increase consistency with the National Contingency Plan ("NCP"). It is recommended that the structure and organization of the ODPCP data and information also be fully revised to be consistent with the NCP.

Additionally, data and information that is not required or pertinent for actual response actions, operations management, or support should be completely removed and placed in a supplemental information submittal.

18 AAC 75.400(a)(1)-(2): The ADEC Spills Database shows overwhelmingly that both the frequency and volume of spilled oil and hazardous substances in Alaska occurs at facilities below the stated storage capacity limits. At the time of drafting, these regulations only distinguished "tank vessels" and "non-tank vessels."[3] This binary system has created compliance difficulties and issues with the Certificate for Proof of Financial Responsibility ("COFR") when vessels that are not configured as typical oil tankers are used to store or transport relatively large quantities of oil

[3] S*ee* Certificate of Financial Responsibility, at Article 2.

products in support of oil and gas development projects (e.g., platform supply vessels, offshore supply vessels, etc.).

AOGA recommends adding a provision where, in consultation with ADEC, there is a third option for vessels or operations that are not neatly defined as either "tank vessel" or "non-tank vessel" regulations. This would help with coastal or littoral project planning in remote regions where large volumes of oil are necessary for the project but is not being carried or stored in a "tank vessel."

18 AAC 75.400(c): Tanks/Pipes – AOGA suggests the definition of "rendered unusable" be changed to, "disconnected or separated from the facility and isolated with blind flanges or other permanent means." This regulation should also be placarded appropriately stating "permanently taken out of service on [date]." Another suggested change would be to make this regulation consistent with EPA requirements for "permanently closed" facilities.

18 AAC 75.408(c)(1): This regulation should be rewritten so that all ODPCPs submittals by plan holders are to be made in electronic format only and that only one copy is to be submitted to ADEC's ODPCPs coordinator. ADEC could request that the submitted electronic plan copy be in "track changes" mode to show any changes.

ADEC should be responsible for coordinating distribution of plan copies to all governmental and other public reviewers. The plan holder should be required to submit only one final approved electronic copy and one final approved paper copy of the ODPCPs to ADEC, with the original company approval signature, once approved. ADEC should be responsible for publishing and distribution of final electronic copies of the ODPCPs including on ADEC's website.

18 AAC 75.408(c)(2)-(7): Most of the requirements in subsection (c)(2)-(7) could be eliminated if ADEC coordinates reviews of ODPCPs in electronic form. These regulations should also provide that ADEC is required to post plans on its website.

18 AAC 75.408(c)(4) and (5): The applicant should be relieved of directly providing copies of new plans, plan renewals, and major amendments to the Department of Natural Resources, the Department of Fish and Game, regional citizen's advisory councils, and other interested parties because ADEC is required under 18 AAC 75.408(c)(8) to post a copy of the proposed and final versions of applications and plans on the ADEC's website.

Typically, new plans, plan renewals, major amendments, and amended plans are large documents that must be distributed in paper or electronic copy (i.e., compact disc or "CD") format by mail. Application reviews can be unduly delayed pending confirmation of receipt of mailed paper or electronic copies. Applicants cannot control paper copies to ensure they are maintained up-to-date and computer CD-reader drives are becoming uncommon. Furthermore, mailing paper copies and CDs is carbon intensive and creates a waste stream (e.g., paper, used CDs, and mailing materials), which is contrary to many AOGA member's sustainable development goals and practices.

Finally, the regulations do not contain a definition of what constitutes a minor amendment versus a routine amendment. ADEC should provide a clarification and, in the event an amendment is determined to be minor, ADEC should immediately issue approval of the minor amendment. The

plan holder would then send ADEC the final original amended copy with signature. If ADEC determines that the amendment is major, the plan holder would follow current application procedure.

18 AAC 75.415(b): ADEC should broaden the scope of a "routine amendment" or allow greater discretion in determining if an amendment is routine when an applicant proposes administrative changes to general content that does not affect response capability such as general update to facility information, revised references, addition of approval letters or waivers, and update to existing regulated tank information. A formal 30-day review and approval process for routine or general administrative changes and updates is a strain on ADEC's time and resources.

At a minimum, routine amendments should include changes to ODPCPs telephone numbers, addresses, emails or other contact information for response personnel, companies, IMT members, or other organizations as well as changes in reference to resource documents including spill guidelines, government spill response plans, response support plans, and website referenced constitutes routine amendments. For routine amendments to ODPCPs, plan holders should provide ADEC notification within 14 days of the change by submitting the application form and one electronic copy of the amended ODPCP. In such circumstance, ADEC approval would not necessary and ADEC would ensure amended plans are sent to other agencies and posted on the ADEC website as necessary.

18 AAC 75.415(f): There is confusion regarding the timing of notification that a proposed amendment is a major amendment and when an application for major amendment is determined sufficient for review in 18 AAC 75.455(a). The regulation specifies that ADEC must notify the plan holder that a proposed amendment is major "not later than 10 working days after receipt of the amendment;" however ADEC must also determine if an application is sufficient for review "not later than seven working days after receipt of an [ODPCP] application package for a… major amendment."

An application should be considered "major" before it is considered "sufficient for review" as a major amendment. A plan holder (applicant) should have an opportunity for pre-application consultation with ADEC to confirm if an amendment is "major" instead of waiting until an application is submitted. Some plan amendments that may be considered "major" may address changes that have short timelines for implementation and a six-month or more process for review and approval may cause undue business risk and uncertainty for the project. ADEC should align the timing to equal seven working days for both determination if an application is a "major" amendment and for determination if an application is "sufficient for review" as a major amendment. Furthermore, ADEC should allow plan holders (applicants) to confirm if an amendment is "major" during a pre-application consultation for a proposed amendment.

18 AAC 75.415(h): The regulation states, "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." Unfortunately, for some AOGA members, ADEC is not providing this notification, and, in fact, plans are not updated or uploaded to ADEC's website in a timely manner, and often they are not updated at all. ADEC must manage plans in a timely and efficient manner to ensure current

plans are readily available and ADEC must communicate when updated plans are posted to the website.

AOGA recommends that the regulation provide that, "The department shall notify parties identified in 18 AAC 75.408(c)(5) that the approved amended plan is available on the department's Internet website within 24-hours of such availability." Moreover, adding language requiring the department to post amended plans to the website would alleviate concerns about posting/uploading delays.

18 AAC 75.420(a) and (e): The regulation states, "The application must be submitted at least 180 days, or the number of days stated in the plan approval letter… in advance of expiration of the plan to allow sufficient time for ADEC review before the plan approval expires." If plan renewal applications are reviewed under provisions of 18 AAC 75.455, submittal of an application 180 days in advance of expiration typically does not allow enough time, under the prescribed process, to reach decision within 180 days. An application that results in a request for additional information would, according to the prescribed timeline, result in a timeframe of approximately 212 days, at a minimum.

AOGA members have experienced plan renewals where the process timeline extended close to the plan expiration date, despite submitting applications 180 or more days in advance. Each process is unique and may require more time than anticipated; however, ADEC could significantly improve efficiency of the plan review and approval process by changing requirements in 18 AAC 75.455.

Timeliness should be attached for the state to accept/reject responses for requests for additional information ("RFAI") as well as issuing plan approval once RFAI has been accepted. Without this deadline for amendment issuance, AOGA's members cannot adequately plan and a major amendment that should take four months can go on indefinitely. That the "clock" can start/stop pending public comment and comment evaluation only lengthens an already cumbersome process.

18 AAC 75.425(a): In a real-world event, it is highly unlikely that a plan, written before an event, can be used with any degree of certainty. The presumption that a document prepared in order to gain a license to operate will be useable for an emergency event sometime in the future, and under unknown and probably different circumstances, sets up an unrealistic expectation of what exactly it is the state wants from the ODPCPs.

We recommend that ADEC assess plans, and implement regulations, in a manner that allows the plan holder sufficient and reasonable latitude within the plan to respond to a variety of situations.

Moreover, the language used in subsection (a) that a plan "must be in a form that is usable" and "must contain enough information… 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" has resulted in plans being interpreted and enforced subjectively by different plan reviewers. AOGA members have, in the past, experienced situations where this clause was used to justify a wide variety of elements that

individual ADEC reviewers wanted to include in the ODPCPs but were elements not specifically required by regulation.

AOGA recommends that either (1) this language is made prescriptive (thereby creating a checklist criterion for approval) or (2) be removed completely.

18 AAC 75.425(e): This regulation refers to the plan holder holding a Blowout Contingency Plan and associated information around well blowouts. A "blowout" indicates one type of well control event, whereas there can be several levels of well control events and ways to manage them. We recommend changing this terminology to the more inclusive "well control plan" or "well control event" and allow plan holders flexibility to incorporate well control planning and management into their operational and/or incident management processes and procedures in order to meet the requirement.

The following chart shows an example of how well control events break out:

The regulation also states that the plan holder needs to make the plan available to ADEC, yet the regulators interpret this as needing to submit the plan for review by AOGCC and that it needs to be physically present on the rig during an inspection. ADEC does not possess the expertise to complete a review and AOGCC may not have the resources to complete a review. Moreover, there is no regulatory guidance with which to review it against. Well control plans and procedures are typically company-information that are specific to an area of operation or project, and that are integrated into an overall drilling plan and not a stand-alone plan. ADEC should consider the intent and usefulness of this requirement. Well control incident management is typically incorporated into incident command system functions and capabilities, which is required by 18 AAC 75.425(e)(3)(C).

18 AAC 75.425(e)(1)(B): Spill reporting requirements required in ODPCPs are detailed in 18 AAC 75.300. In 18 AAC 75.300(a)(1)(B), the regulation cites reporting of "oil to water." We recommend changing the language to "oil to waters of the state" as defined in AS 46.04.900 so that ADEC can provide clarity on the definition of "water."

Additionally, the parent information for 18 AAC 75.425(e)(1)(B) is detailed in 18 AAC 75.300. In 18 AAC 75.300(a)(1)(A), the regulation cites reporting of "hazardous materials other than

oil." This in turn refers the plan holder to definitions and then to AS 46.03.826 for a definition of hazardous substances, which provides a very vague definition allowing too much room for interpretation on the part of ADEC. AOGA recommends adopting the Environmental Protection Agency's List of Lists with specific chemicals and corresponding reportable quantity thresholds.

Finally, 18 AAC 75.425(e)(1)(B)(ii) should be changed to include notification of facility emergency personnel, plan holder responders, OSRO/PRACs, and appropriate government agencies.

18 AAC 75.425(e)(1)(D)-(I): In Section 425, there is fundamentally little added value with subsections (e)(1)(D) through (e)(1)(I). These subsections add plan weight and create confusion and delay in the incident reporting process as plan users/implementers need to navigate their way through the plan to find notification protocols.

For example:

> 18 AAC 75.425(e)(1)(F) and (e)(1)(I) both provide for a "response scenario" and require plan holders to provide hypothetical spill incidents and responses. These hypothetical descriptions are then used by ADEC as a commitment by the plan holder to respond to a spill as described. In the event of a real-world spill, a predetermined response effort prevents those on the ground from using best available practices. Instead, the plan holder should be allowed to make on-site decisions in real time for how best to respond to an incident.
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> 18 AAC 75.425(e)(1)(F)(viii) require plan holders to prescribe procedures for lightering, transfer, and storage of oil from damaged tanks or from undamaged tanks that might be at risk of discharging additional oil. Similar to the blow-out contingency plan comments above, lightering and emergency oil transfer from damaged vessels or tanks is an extremely hazardous undertaking, and one that should only be performed by highly trained, specialty service providers. To develop and implement a lightering plan requires knowledge and equipment that is not readily available to plan holders. Instead, lightering plans are part of the ICS operational planning process. Requiring the plan holder to include a description of how the lightering operations are to be conducted is dangerous and creates expectations that might not be practical.
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> 18 AAC 75.425(e)(1)(G) provides for non-mechanical response options. However, non-mechanical responses are not offered to the plan holder as an option and should not be included as a requirement for a response action plan.
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> 18 AAC 75.425(e)(1)(I) requires that plan holders incorporate an uncontrolled well blowout response scenario that summarizes operations to control the well within 15 days. AOGA would like to discuss with ADEC and industry representatives to determine if 15 days is a realistic timeframe.

18 AAC 75.425(e)(3)(B)(ii): The requirements in this regulation would be best described in response scenarios and should be removed from this location.

18 AAC 75.425(e)(3)(C): AOGA recommends that this requirement be narrowed to command system structure, showing positions/titles through to Primary Operations, Planning, Logistics, and Finance Section Chiefs. It should also include a description of the system the plan holder uses to track and notify command system personnel. Names, addresses, and telephone numbers should remain confidential and should not be included in the ODPCPs (since they are public documents).

18 AAC 75.455: ADEC should consider revising the ODPCPs review procedures to improve efficiency of the process and to reduce potential for delays that could negatively impact oil and gas development operations.

18 AAC 75.455(a) and (b)(1)-(4): The regulation prescribes seven working days for ADEC to determine if an application package is sufficient for review and to notify the applicant, and to set the public comment period and send a letter to the applicant and other interested parties about the comment period. To avoid undue delays, ADEC must meet this timeline. AOGA members have experienced ADEC issuing a "sufficiency" letter, then halting the process until a public comment start date is determined and a second letter is issued that communicates the public comment period dates to interested parties and directs the applicant to publish notice of the application. This second step of the process is unaccounted for in the regulations and adds days or weeks to the review, which is an undue delay. Instead, a pre-application consultation should address plan sufficiency and type of amendment (e.g., minor or major) and planning for the public comment period. ADEC should issue one letter within seven working days that declares an application "sufficient for review" and communicates the public comment period dates.

Moreover, ADEC should consider adding a requirement that it distribute copies to all other reviewers in Subsection (b)(2).

18 AAC 75.455(b)(5): ADEC should consider removing the requirement for the applicant to publish notice in publications (e.g., newspapers) because ADEC, like other state agencies, posts public notices on their website. Some regional or small community publications publish once per week; therefore, if this requirement is to remain, timing for the public comment period should be planned in advance during a pre-application consultation so that newspaper publications can be coordinated in a timely manner. In addition, ADEC must post applications on their website in a timely manner.

18 AAC 75.455(c): The 90-day period for ADEC to transmit a request for additional information is excessive. A 30-day period should be sufficient for ADEC to review public comments received and to determine if additional information is necessary. The 90-day period should not be used for ADEC to review an application. ADEC should be closely familiar with plans under a renewal application and new plan applications should be reviewed and understood during pre-application consultation. ADEC should conduct a thorough plan review and assessment during the 30-day public comment period. AOGA members have experienced ADEC using the entire 90-day period to review an application and issue a request for information when little to no substantial public comment was received. The 90-day period causes applications to unnecessarily linger for months,

which could be problematic for applicant's business decisions that depend on the outcome of the application.

18 AAC 75.455(g): The 65-day period for ADEC to approve, approve with conditions, or disapprove a plan and issue a decision is excessive. A 10-day period should be sufficient for ADEC to issue a decision for most plan renewals or applications with no changed or new conditions of approval. A 30-day period should be sufficient for ADEC to issue a decision for new plan applications or applications with significantly changed or new conditions of approval. AOGA members have experienced ADEC using the entire 65-day period for applications that received little or no substantial public comment and even for some applications that did not result in a request for additional information.

18 AAC 75.485: AOGA seeks a complete review of ADEC exercise regulations and requirements and strongly recommends eliminating the current exercise requirements in Section 485. Instead, ADEC should adopt federal NPREP exercise requirements. ADEC may then add the means and methods to inspect records, participate in exercises, provide evaluation, and conduct announced and unannounced governmental exercises in accordance within the current NPREP guidelines.

18 AAC 75.485(d): This regulation provides that "[t]he 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."

ADEC should specify how many days in advance they would like notification of the exercise. ADEC currently seeks notification within 60 days.[4] If ADEC believes that 60 days is sufficient time for notification, that timeframe should be written into the regulation and subject to public comment.[5]

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[4] ADEC has previously provided a guidance document for this effort which has been treated as regulation. Should ADEC determine 60 days is sufficient, it needs to be written into the regulation and sent out for public comment.

[5] It should be noted in the workshop process prior to the publishing of ADEC's guidance document, Industry and Oil Spill Response Organizations ("OSRO") overwhelmingly supported the adoption of the National Preparedness for Response Exercise Program ("NPREP") standard. Nonetheless, ADEC adopted a modified Homeland Security Exercise and Evaluation Program ("HSEEP") process that creates another voluminous layer of documentation and an associated meeting schedule that federal, state and local regulators are having a hard time meeting. This is especially true given the number of exercises there are annually. It's also especially hard for small operators to comply. The regulation states ADEC must be given the opportunity to "monitor, evaluate, or participate". A prescriptive agenda on how the work is completed is not part of the regulation. This should be treated like any other standard operating procedure and leave the methodology for discharge exercises up to the operator, requiring the operator to have their own written program. This suggestion would allow the operator to right-size the exercise scope and execution of their operations.

Finally, ADEC's guidance document for this effort suggests the after action report process should be collaborative with the agencies, yet subsequent evaluations from the state are not received sometimes for months after the exercise (if they are received at all) and are issued without the input of the plan holder. They often contain significant errors to actual events that occurred during the exercise.

We believe that the plan holder notification procedures could be updated and could be better defined to provide notice of what is expected in the after-action reports.

3. Prescribed Industry Standards are Outdated

The required contents of an ODPCP described in 18 ACC 75.425(e)(2) must describe how applicable requirements of 18 AAC 75.005 – 18 AAC 75.085 (i.e., Article 1) are met; therefore, comments on Article 1 are provided herein. Article 1 includes requirements to design, construct, and maintain aboveground oil storage tanks, flow lines, and facility oil piping according to some accepted best practices and industry standards. In order to require those individual practices and standards, the regulation refers to the specific editions and publication years in place at the time the regulations were made effective (i.e., 12/30/2006). The references in the regulation have not been revised since 2006 and are now grossly outdated.

18 AAC 75.047, .065, .066, and .080: ADEC should remove reference to specific American Society of Mechanical Engineers (ASME), National Association of Corrosion Engineers (NACE) International, American Petroleum Institute (API), Underwriters Laboratories (UL), and Steel Tank Institute (STI) standards for design, construction, and operation and maintenance of pipelines, piping systems, and aboveground oil storage tanks. Currently, the regulation references outdated industry standards and practices, some are over 15 years old, and all have since been improved through multiple revisions or iterations. Typically, industry standards are revised to incorporate new learnings resulting from experiences with industry process safety events, innovations or changes in materials or use practices, and other contributions toward continuous improvement; revisions are often vetted through committees of professional engineers and industry experts.

ADEC should allow plan holders flexibility to use the most up-to-date, industry-accepted recommended practices and standards without requiring that plan holders seek ADEC approval. The effort to seek ADEC approval of a current recommended practice or standard over those referenced in the regulation is unduly burdensome and superfluous when the outcome should always result in approval, since applying outdated standards presents risk of failure of good engineering practices. For example, an AOGA member recently had to request approval for API Standard 620, *Design and Construction of Large, Welded, Low-Pressure Storage Tanks*, an industry-accepted standard, but a standard that is alternative to those currently listed in the regulations. The requirement to seek ADEC approval for alternative standards creates compliance uncertainty and business risk if not agency-approved, for operation of oil and gas facilities that are continuously well engineered under current best engineering practices for design, construction, and maintenance.

AOGA strongly recommends removing the references to specific industry standards and recommended practices from Article 1 of the regulations. ADEC should consider incorporating language into 18 AAC 75.425(e)(2) to state the prevention plan must be prepared in accordance with good engineering practice, including consideration of applicable industry standards. Alternatively, the regulation could be changed for the plan holder to state in the plan (subject to ADEC approval) what industry standard (NACE, STI, API, RP, etc.) it is that they are following for their facility, rather than the other way around. The plan holder would then be held to its stated standard.

18 AAC 75.027(f): In subsection (f) of 75.027, ADEC should remove the reference to the "Prince William Sound towing package." A better, safer tow line is already being provided under international standards. This equipment, as defined at 18 AAC 75.990(96), is now obsolete and below both industry best practice and international standards.

4. Tank Truck Loading and Permanent Unloading Areas

Article 1 also includes requirements to provide a secondary containment system for tank truck loading areas and permanent unloading areas that may be impractical for some oil and gas operations.

18 AAC 75.075(g): The requirement for secondary containment at tank truck loading and permanent unloading areas to be sized to contain the maximum capacity of any single compartment of the tank truck is impractical for some oil and gas operations that utilize portable regulated oil storage tanks or facilities that are mobile or not permanent-built to a single location. ADEC guidance No. IPP 2004-01 "Secondary Containment Requirements at Tank Truck and Rail Car Loading and Unloading Areas" issued in 2004 was intended to clarify how the requirement pertains to "less defined oil related operations at regulated facilities." However, the 2004 guidance was developed prior to addition of provisions in the regulations for shop-fabricated aboveground oil storage tanks and it does not address other operations that have evolved or changed in the last 15 years.

The use of portable storage and non-permanent mobile facilities or operations at oil drilling and production operations on the North Slope has increased with innovations in drilling techniques (extended reach, multi-laterals, sidetracks, fracking, etc.), management of aging facilities (well workovers and facility upgrades, maintenance turnarounds, pipeline and tank maintenance, etc.), and a surge in exploration activity and related operations in remote, roadless locations (construction / ice road / drilling camps and operations, well testing, etc.). Typically, these operations utilize large tank trucks with capacity up to 325 barrels, which would necessitate installation of a secondary containment sized to 325 barrels. Containment sized to 325 barrels (i.e., 13,650 gallons) is generally impractical due to short-term use or non-permanent use of regulated tanks in a single location, space limitations on gravel pads, the temporary nature of ice pads, safety

factors related to operation of tank truck secondary containment (e.g., truck access, backing operations, and slips, trips, and falls, etc.), and cost associated with portable containment systems.[6]

The 2004 guidance provides some clarification but is not comprehensive to address the many types of operations that may be applicable. The 2004 guidance has provisions that require plan holders to seek waivers for temporary or infrequent use areas, which in some cases creates administrative burden without meaningful environmental protection or is inappropriate, such as requiring a waiver for a spill response. Furthermore, the explanations of "temporary or infrequent use" are very limited and should be expanded to include more types of operations that may be applicable. AOGA strongly recommends ADEC consider revising the requirement to allow more flexibility for operations where a full-sized secondary containment is impractical. ADEC should consider that spills of an entire tank truck at a loading or unloading area at North Slope oil drilling and production facilities are extremely infrequent, to non-existent. Best practices such as use of drip pans and constant monitoring of transfers incorporated into established operational procedures are effective in preventing major discharges from tank trucks at most loading and unloading areas. In addition, many tank trucks used at North Slope oil drilling and production facilities are equipped with built-in containment at connections to contain typical spills. In some cases, use of a very large secondary containment area provides nominal benefit relative to the best practices and procedures in place and cost to install and maintain the containment.

5. Response Planning Standards, Approval Criteria, and RPS Prevention Measures

The regulations should be updated to identify and incorporate any additional credits against RPS for prevention measures.

18 AAC 75.445(c): The language, "… and must take into account…" should be changed to "… and should acknowledge…" realistic maximum operating limitations.

18 AAC 75.445(d): Subsection (d) should be changed to, "The response strategies must take into account the type of product discharged *as well as the potential response limitations resulting from inherent safety, spreading rate, dispersion, evaporation, water emulsion, and other factors associated with the product type. With due consideration of these limiting factors, the response strategies must reasonably demonstrate that*…"

A subsection (d)(8) should be added to Section 445 and provide, "adequate capability to initially store oily wastes and to quickly expand oily wastes capabilities as necessary."

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[6] For example, recently an AOGA member sourced a heavy-duty, modular portable type of tank truck containment system commonly used by the military (www.polystarcontainment.com). A single system sized to contain approximately 225 barrels with dimension 100-feet by 16-feet by 10-inches was quoted at a cost of over $50,000. These systems require technical assembly and are not readily mobile; they have unknown or anticipated limited field life on the North Slope.

18 AAC 75.445(d)(7): This regulation provides that response strategies must take into account the type of product discharged and must demonstrate that 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.

AOGA recommends removing the language requiring response strategies to demonstrate removal capacity for oily wastes. The "response strategies" are included in the response scenario found in 18 AAC 75.425(e)(1)(F) which, as discussed above, is purely "hypothetical." As a result, responses are limited by predetermined response strategies and commit the plan holder to a certain suite of response equipment, readiness, and timeliness. Additionally, a waste management plan is developed as part of the incident management process and is right-sized at the time for the type and volume of spill and for the recovery methods approved (another example of something that cannot be pre-scripted).

18 AAC 75.445(d)(8): AOGA recommends adding a subsection (d)(8) to this Title and Chapter (18 AAC 75.445(d)). Subsection (d) should include the following language, "adequate capability to initially store oily wastes and to quickly expand oily wastes capabilities as necessary."

18 AAC 75.445(f): The language contained in this subsection, that "the plan must use," should be changed to, "the plan must acknowledge" realistic efficiency rates.

18 AAC 75.445(g)(6): This regulations provides that response equipment identified in the plan must have the capacity of the temporary storage system for recovered oil and oil wastes and must be appropriate and adequate for the total volume recovered within the response planning time frames for cleanup.

AOGA recommends that language be added at the end of the subsection and provide, "except for that quantity of oily water wastes that may be collected during on water skimming and decanting."

6. Best Available Technology

18 AAC 75.425(e)(4)(A)(ii): ADEC should consider the usefulness and intent of these requirements as they relate to today's common use of readily available technologies, and the broad selection and diverse application of technologies. Oil and gas operators seek best engineering practices when designing, constructing, and operating their facilities because they often support safe, cost efficient, and sustainable operations. Furthermore, ADEC may lack the resources to properly assess the cast technologies available and that could vary among operations and users, yet provide effective, equivalent protections. A best available technology ("BAT") analysis should not be required if ADEC requires plans to be prepared in accordance with good engineering practice, including consideration of applicable industry standards and if plans must be consistent with state/federal-managed Regional and Area Contingency Plans.

ADEC should remove requirements of 18 AAC 75.447 as ADEC may lack the resources to comply. ADEC-initiated technology and analyses, and BAT conferences have not occurred for quite some time.

IV. CONCLUSION

AOGA appreciates the opportunity to review and provide comments on ADEC's Notice of Scoping. After the March 16, 2020 submittal deadline, AOGA encourages ADEC to continue to be open and transparent. AOGA welcomes any opportunities to develop a workgroup or to hold regular meetings for open and honest discussions regarding changes. Finally, on the whole, we believe that regulatory revisions will significantly improve the ODPCPs by providing clarity, creating efficiencies, and maintaining an accurate and effective approach to agency review. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

PATRICK N. BERGT
Regulatory and Legal Affairs Manager

ATTACHMENT A

AOGA Comments on ADEC's Notice of Public Scoping on Oil Discharge Prevention and Contingency Plan Requirements

No.	Citation	Issue / Concern	Impact	Improvement
1.	AS 46.04.900(14)	Definition of "oil terminal facility" should clarify that bulk oil storage tanks at pipeline, exploration, or production facilities are not considered to be an "oil terminal facility".	Definitions for "pipeline" and "production facility" already include "storage tanks". Tanks at pipeline, exploration, and production facilities should not be required to meet Response Planning Standard volume requirements of 18 AAC 75.432	Clarify language in the definition to exclude oil storage at a pipeline, exploration, or production facility.
2.	18 AAC 75.408(c)(4)	Providing copies of plans and applications to ADNR, ADF&G, and others is time consuming and wasteful and ineffective when controlled copies of plans are posted on the ADEC website.	Generating multiple copies of plans and applications and mailing them creates valueless cost, is time consuming and can delay start of review. Paper copies and electronic copies are uncontrolled and create waste when provided in paper and CD format. Agencies and other recipients may find it burdensome to manage multiple uncontrolled copies of plans from many applicants.	Remove the requirement to provide copies of plans and applications to ADNR, ADF&G, and others. The ADEC should manage the responsibility of maintaining plans on their website, as they have determined to do so under 18 AAC 75.408(c)(8).
3.	18 AAC 75.415(b)	The scope of a "routine plan update" is too limited.	Plan holders should have discretion to update and maintain plans with routine administrative changes and updates to existing plan information without the burden of submitting applications and waiting 30 days for approval. For example, the ADEC should not require approval of changing "Unified Plan" references, adding waivers or other ADEC-approved supporting information (e.g., tank design approval letters), or updating regulated tank information.	Broaden the scope of a "routine amendment" to lessen the burden of seeking approval for plan revisions that are administrative or routine maintenance in nature and that do not directly impact (e.g., reduce or change) a plan holder's response capability. Verification of plan content and/or regulated equipment should be made through inquiry to applicants, inspections, and drills/exercises.

No.	Citation	Issue / Concern	Impact	Improvement
4.	18 AAC 75.415(f)	Notification to the plan holder that a proposed amendment is a major amendment not later than 10 working days after receipt of the amendment application conflicts with 18 AAC 75.455(a) where not later than 7 working days after receipt of an application for major amendment the package is determined sufficient for review and the ADEC notifies the applicant, sets public comment period, etc.	There is a discrepancy between the time to notify a plan holder (applicant) that an amendment is considered "major" and when a major amendment is considered sufficient for review. An application should be determined as "major" before it is considered sufficient for review. In addition, plan holders (applicants) should have opportunity for pre-application consultation to determine if an amendment is "major" and not wait until the application is submitted. Amendments to plans that would be considered "major" may have short timelines for implementation and a 6-month or more process for approval has business risk.	Change days to determine/notify that a proposed plan amendment is a major amendment to "within 7 working days" in 18 AAC 75.415(f). Incorporate review and determination of "type of amendment" for potential major amendment applications before submittal in 18 AAC 75.405; the objective is to give applicants a process to confirm the "type of amendment" prior to submitting an application to facilitate advanced planning for impending short lead time projects.
5.	18 AAC 75.415(h)	Although the regulation states they will, the ADEC does not notify parties identified in 18 AAC 75.408(c)(5) that the approved amended plan is available on the ADEC's Internet website. The ADEC is not timely in updating plans on the Intranet website. For example, as of November 2019 the Alpine ODPCP on the website is version "Revision 4"; the ADEC has approved two subsequent revisions.	The ADEC is not communicating when amended plans are posted on their Intranet website. Postings are not timely. The most current information (i.e., plans) is not provided.	Improve ADEC administrative process to post plans in a timely manner and to communicate when plans are posted.

No.	Citation	Issue / Concern	Impact	Improvement
6.	18 AAC 75.420(a) and (e)	If plan renewal applications are reviewed under provisions of 18 AAC 75.455, submitting an application 180 days in advance of expiration does not allow enough time if the timing in 18 AAC 75.455 is followed. An application that results in a Request for Additional Information (RFAI) would (according to the regulation) result in a timeframe of 212 days. Plan renewal applications often do not have significant change; the ADEC should already be familiar with the plan and therefore require minimal time for review and decision making. The ADEC should not need 90 days to issue an RFAI for a plan renewal application, nor an additional 65 days to make a decision.	Time to conduct review of a plan renewal application must be efficient and not unnecessarily linger, yet it should be sufficient enough to ensure approval is obtained to continue facility operations, with no risk of interruption or failure to comply.	Set a realistic, measurable timeframe to conduct review of a plan renewal application. The standard timing should be based on an application that results in an RFAI and should incorporate approximately 30 days for the applicant to respond. The time for the ADEC to issue the RFAI and to issue a decision should be reduced for a plan renewal.
7.	18 AAC 75.425(e)(1)(F)	Information required in a Response Scenario may be within a separate document developed by the plan holder or the plan holder's primary response action contractor and may be incorporated into a plan by reference upon obtaining the ADEC's approval; however no process for obtaining that approval is described.	The plan holder should have the flexibility to reference credible information without getting ADEC approval.	Remove the ambiguous requirement to obtain ADEC approval. If a plan incorporates Response Scenario information by reference, the ADEC should simply review the referenced information and approve a plan based on its content relative to the referenced information.
8.	18 AAC 75.425(e)(1)(F)(v)	Reference to "subarea contingency plan"		Revise the reference to "Area Contingency Plan"

No.	Citation	Issue / Concern	Impact	Improvement
9.	18 AAC 75.425(e)(1)(F)(viii)	The intent of this requirement needs clarification. The ADEC has interpreted this as applying to transfer of oil from tanks used to store recovered oil / fluids. The origin of this requirement seems to be an on-water spill from a vessel / oil tanker and applies to the lightering and transfer of oil from the vessel / tankers storage tanks, either damaged or undamaged.	The ADEC has mistakenly applied this requirement to "lightering" of recovered fluids from temporary oil storage tanks, which is redundant with requirements of 18 AAC 75.425(e)(1)(F)(ix).	Clarify this requirement pertains to removal of oil from a damaged tank or tank within a damaged system, not removal of oil from tanks storing recovered oil / fluids. Transfer of recovered fluids from temporary storage tanks is addressed by 18 AAC 75.425(e)(1)(F)(ix). Ensure consistency with requirement in 18 AAC 75.445(d)(6), which specifies lightering from damaged tanks and from undamaged tanks if the risk of additional discharge is present.
10.	18 AAC 75.425(e)(1)(I)	The regulation allows use of the S.L. Ross oil deposition model for surface oil well blowouts. If the S.L. Ross model is used, the plan response scenario should be allowed to plan for the actual deposition conditions presented by the model, where at least 10% of the oil is in droplets so small they do not fall to the ground.	The Response Planning Standard (RPS) volume is incorporated into the S.L. Ross model as a daily flow rate. The volume of oil escaping the well impacts the deposition plume trajectory. The loss of a fraction of oil due to atomization is not a reduction in the RPS volume.	The ADEC should allow plan holders to apply the S.L. Ross modeling to response planning.
11.	18 AAC 75.425(e)(1)(I)	Information required in a Response Scenario may be within a separate document developed by the plan holder or the plan holder's primary response action contractor and may be incorporated into a plan by reference upon obtaining the ADEC's approval; however no process for obtaining that approval is described.	The plan holder should have the flexibility to reference credible information without getting ADEC approval.	Remove the ambiguous requirement to obtain ADEC approval. If a plan incorporates Response Scenario information by reference, the ADEC should simply review the referenced information and approve a plan based on it's content relative to the referenced information.

No.	Citation	Issue / Concern	Impact	Improvement
12.	18 AAC 75.425(e)(2) (flowlines and facility oil piping 18 AAC 75.047 and .080)	"Describe how the applicant meets all applicable requirements of 18 AAC 75.005-18 AAC 75.085": Requirements to design, construct, and inspect flowlines, and facility piping to specific "editions" of industry standards that are now outdated does not ensure the best engineering is employed.	Applicants should be allowed to use the most current versions of industry standards to ensure best engineering practices are used to design and construct flowlines, and facility oil piping. The most current versions of the standards are developed by experts and should be used to ensure utmost safety and integrity of systems. Professional engineers and contract engineering firms are professionally obligated to use the most appropriate code or standard for the job; typically, it is the recent versions. Applicants should have the flexibility to use the best available engineering standard applicable and not be limited to those selected by the ADEC.	Accept that plan holders will use most recent or current versions of codes and standards required by the regulation. Remove reference to specific editions or years. The ADEC should remove reference to specific standards or recommended practices entirely to give the plan holder the flexibility to select the best available engineering standard applicable. The ADEC should add a requirement to 18 AAC 75.425(e)(2) stating the prevention plan must be prepared in accordance with good engineering practice, including consideration of applicable industry standards.
13.	18 AAC 75.425(e)(2) (aboveground oil storage tanks 18 AAC 75.065 and .066)	"Describe how the applicant meets all applicable requirements of 18 AAC 75.005-18 AAC 75.085": Requirements to design, construct, and inspect tanks to specific "editions" of industry standards that are now outdated does not ensure the best engineering is employed.	Applicants should be allowed to use the most current versions of industry standards to ensure best engineering practices are used to design and construct tanks. The most current versions of the standards are developed by experts and should be used to ensure utmost safety and integrity of systems. Professional engineers and contract engineering firms are professionally obligated to use the most appropriate code or standard for the job; typically, it is the recent versions. Applicants should have the flexibility to use the best available engineering standard applicable and not be limited to those selected by the ADEC.	Accept that plan holders will use most recent or current versions of codes and standards required by the regulation. Remove reference to specific editions or years. The ADEC should remove reference to specific standards or recommended practices entirely to give the plan holder the flexibility to select the best available engineering standard applicable. The ADEC should add a requirement to 18 AAC 75.425(e)(2) stating the prevention plan must be prepared in accordance with good engineering practice, including consideration of applicable industry standards.

No.	Citation	Issue / Concern	Impact	Improvement
14.	18 AAC 75.425(e)(2) (tank truck loading and unloading secondary containment 18 AAC 75.075)	"Describe how the applicant meets all applicable requirements of 18 AAC 75.005-18 AAC 75.085": Requirements to provide full sized containment for short term use or non-permanent (e.g., portable tanks) facilities is not practical.	A full-sized (e.g., 100%) capacity secondary containment at tank truck loading and unloading areas is impractical for some operations, particularly those using portable regulated tanks or mobile facilities. Permanent installations are not feasible and portable containments are high cost and require significant square footage of space on a gravel pad, which is not always available.	The ADEC should reevaluate the 2004 guidance document to allow more flexibility for exception when containments are impractical for portable or mobile facilities. The regulation should reduce the size requirement for containment; 100% is excessive and not commensurate with the actual, real spill risk potential.
15.	18 AAC 75.425(e)(2)(F)(i) and (ii)	It's not clear how (i) and (ii) are different; is (i) the application and (ii) the approval letter?	Typically, applications are not incorporated into a plan. This creates an administrative burden and adds little value to the intent and purpose of the plan. Including the waiver approval letter is appropriate.	Repeal (i).
16.	18 AAC 75.425(e)(3)(A)(i)	Citing a guidance document from 1992, ADEC asserts "containers" with capacity less than 10,000 gallons are to be included in the facility description of the plan. This requirement has not been consistently enforced (if at all) and would be burdensome.	There is significant administrative burden to maintain a listing of nearly 1,000 oil storage containers in the plan. Currently, any change to the existing tank information (tanks with capacity greater than 10,000 gallons) requires an amendment application and 30-day ADEC review to approve, and approval is required prior to operation, use, etc.	Include a statement similar to 18 AAC 75.425(e)(1)(F) and 18 AAC 75.425(e)(1)(I), which "allows" information to be within a separate document or system (i.e., records or maintenance database) developed by the plan holder. Do not require "approval" for this document or database.
17.	18 AAC 75.425(e)(3)(C)	For response teams staffed by volunteer, company personnel, such as company Incident Management Teams, providing specific names and phone numbers of persons is not appropriate for a public document. A plan holder should be allowed to maintain a list, database, or document of response personnel separate from the plan.	Plan holders should have discretion and flexibility to maintain internal documents with names of employees or contractors that assist incident command.	Include a statement similar to 18 AAC 75.425(e)(1)(F) and 18 AAC 75.425(e)(1)(I), which "allows" information to be within a separate document or system (i.e., document or database) developed by the plan holder. Do not require "approval" for this document or database.

No.	Citation	Issue / Concern	Impact	Improvement
18.	18 AAC 75.425(e)(3)(F)	Requirement for a "complete list of contracted or other oil discharge containment, control, cleanup, storage, transfer, lightering, and related response equipment…" along with the other information required is not practical for plan holders with very large inventories (i.e., 1,000's of pieces of equipment) to maintain in a plan.	Administrative burden; impractical.	Include a statement similar to 18 AAC 75.425(e)(1)(F) and 18 AAC 75.425(e)(1)(I), which "allows" information to be within a separate document or system (i.e., document or database) developed by the plan holder. Do not require "approval" for this document or database.
19.	18 AAC 75.425(e)(3)(G)	Nonmechanical response options should be allowed to be planned for to meet the Response Planning Standard (RPS) volume.	In situ burning and voluntary wellhead ignition are practical, proven response tactics that mitigate spill impact and readily protect the environment.	Allow nonmechanical response options to plan for meeting the RPS volume.
20.	18 AAC 75.425(e)(3)(J)	Reference to "subarea contingency plan"		Revise the reference to "Area Contingency Plan"
21.	18 AAC 75.425(e)(4)(A)(ii)	The "housekeeping" regulation changes proposed in February 2018 made provisions to clarify the words "other than cathodic protection" were added after "approved corrosion control system" pertaining to requirements of 18 AAC 75.065(i)(3) or (j)(3). The words were adopted for the Register 228, January 2019 in a September 27, 2018 Memorandum signed by Larry Hartig. The October 27, 2019 PDF version of 18 AAC 75 regulations with changes described in Register 228, January 2019 do not have those words.	ADEC requires operators of field-constructed ASTs with a cathodic protection system for corrosion control to operate and maintain the system consistent with NACE RP0193-2001. A program meeting these requirements meets BAT and therefore a BAT analysis is not required.	The ADEC must ensure the PDF versions of regulations posted on their website are consistent with the official legal version published in the Register. This section should include the phrase "other than cathodic protection".

No.	Citation	Issue / Concern	Impact	Improvement
22.	18 AAC 75.425(e)(4)(A)(ii)	The "housekeeping" regulation changes proposed in February 2018 made provisions to clarify that the word "buried" was to appear before the phrase "metallic piping containing oil" in this requirement. Previous versions of the regulations provided by ADEC on their website included the word "buried". C-Plans approved and in place for many years have addressed this requirement for "buried" piping only. The ADEC is not maintaining a complete and accurate version of the regulations and is not following through on changes proposed under formal review processes.	Approved C-Plans only address BAT for "buried" piping, if applicable, because the regulations previously held the word "buried". Furthermore, the ADEC prescribes a maintenance and inspection program in accordance with industry standard API 570; an operator following that standard would meet BAT, therefore a BAT analysis is not required.	The ADEC must ensure the versions of regulations posted on their website are consistent with the official legal version published in the Register. This section should refer to "buried" metallic piping.
23.	18 AAC 75.425(e)(4)(A)(ii)	The ADEC should not require a BAT analysis of a system or program for which ADEC prescribes must follow specific industry standards, i.e., API RP 651, NACE RP0193, API 650, NACE RP0169, API 570.	If an operator follows the ADEC-prescribed industry standards, a BAT analysis is not necessary.	Revise this section to better reflect a need for BAT analysis if ADEC-required or industry standards are NOT followed.
24.	18 AAC 75.432	Oil production facility operators historically have provided a Response Planning Standard for large aboveground oil storage tanks under this requirement; however, the AST often is not a "crude or noncrude oil terminal facility".		The ADEC should clarify the applicability of this requirement.

No.	Citation	Issue / Concern	Impact	Improvement
25.	18 AAC 75.434(g)	Voluntary well ignition could be expected to produce very high oil elimination at the source, but current response planning criteria are too restrictive for use as a response technique.	The requirement is too prescriptive and there is no process for ADEC and/or AOGCC to analyze the data with appropriate authority to approve the technique and reduce the RPS volume.	Revise the regulation to remove specific limits on oil properties and instead accept a plan for voluntary well ignition prepared by qualified professionals such as company experts in accordance with a written procedure or third-party expert. The plan would include data and modeling to demonstrate the estimated oil eliminated and combustion plume dispersion. Affects to air quality would be identified and mitigated by recommended measures.
26.	18 AAC 75.445	Streamline - much of this information is covered in .425	Much of the information in 18 AAC 75.425 (plan contents) and 18 AAC 75.445 (approval criteria) is redundant. In order to be clearer and more understandable, these sections should be reviewed for potential streamlining.	
27.	18 AAC 75.445(h)	The regulation implies that in situ burning would be approved by the ADEC and requires a "completed application" be included in the plan.	According to the State Regional Contingency Plan "In Situ Burning Guidelines for Alaska" the on-scene coordinators in the Unified Command ultimately make decision on whether to authorize burn; therefore, an application in a plan cannot be approved by ADEC.	Refer to process within the Regional Contingency Plan for Unified Command approval of in situ burning.
28.	18 AAC 75.447(a)(1)	BAT technology conference	This regulation states the ADEC will conduct a review and appraisal of new technologies, in part, by sponsoring a technology conference at least every five years. This has not been historically adhered to in practice. Plan holders have not been able to depend on this measure as a mechanism for new technologies to be evaluated.	The regulation should be updated to reflect current practices or repealed, as needed.

No.	Citation	Issue / Concern	Impact	Improvement
29.	18 AAC 75.455	ADEC review procedures create a timeline over 180 days for most plan reviews and the process allows for unmanaged time spans that can cause a review to exceed reasonable timeframes.	The review procedures timing creates uncertainty and risk to planned projects, budgets, and investments.	Revise this requirement to streamline the process to improve efficiency and create value toward plan continuous improvement and compliance assurance.
30.	18 AAC 75.455(b)(1-4)	Regulation must be clear that notice of "sufficient for review" will be made not more than 7 working days after receipt of a plan application package, as stated in 18 AAC 75.455(a), upon determination. The requirement to provide copies of the application package to reviewers should be removed because plans are posted on the ADEC website.	Delay in issuing the notice causes uncertainty and risk to planned projects, budgets, and investments.	Specify the written notice that includes public comment period dates and the letter to applicant and parties will be issued not more than 7 working days after receipt of a plan application package. Remove the specific requirement for applicants to provide copies of the application to reviewers because ADEC posts plans on their website.
31.	18 AAC 75.455(b)(5)	Public notice publication in local newspapers causes delay in the process and is not commensurate with similar process within other state agencies where notices are primarily published online.	Delay in issuing the notice causes uncertainty and risk to planned projects, budgets, and investments. Not consistent with other State public review processes.	Remove the requirement to publish public notice in local newspapers.
32.	18 AAC 75.455(c)(1)	There is no timeframe in which ADEC notifies an applicant that additional information will be transmitted. The 90-day period to transmit the request is too long. ADEC has unfairly utilized the 90 day period for further review of a plan or application. The intent of the time period is for review and consideration of public comments received.	Delay in transmitting the request for information causes uncertainty and risk to planned projects, budgets, and investments.	Specify the written notice will be transmitted within a minimum number of working days (e.g., 3) after the end of the 30-day public review. Change the 90-day period to 30 days. 30 days is sufficient for review of public comments received.
33.	18 AAC 75.455(d)	There is no timeframe in which ADEC will provide notice of a minimum 10-day public comment period to review information received in response to information request(s).	Delay in issuing the notice causes uncertainty and risk to planned projects, budgets, and investments.	Specify the notice will be written and will be provided within a minimum number of working days (e.g., 3) after the requested information is received.

No.	Citation	Issue / Concern	Impact	Improvement
34.	18 AAC 75.455(g)	An additional 65 days after an application is determined to be complete to notify of approval, approval with conditions, or disapproval is excessive.	Delay in issuing the approval or disapproval causes uncertainty and risk to planned projects and investments.	Change the 65-day period to 30 days. 30 days to issue an approval, approval with conditions, or disapproval is reasonable.
35.	18 AAC 75.460(b)(3)	The ADEC is required to "send a notice by electronic mail to parties… that the document (approved plan) is available on the ADEC's Internet website."	The ADEC is not notifying parties when approved plans are available on the website. Furthermore, ADEC significantly delays or neglects uploading or updating versions of approved plans on the website. Plan holders rely on the posting to provide official, current versions of approved plans to interested parties; ADEC is not maintaining the plans to ensure current information is available.	The ADEC must develop an efficient process for posting approved plans upon approval to ensure the most current versions are available. ADEC must notify parties when the document is available on the website.
36.	18 AAC 75.480	ADEC inspections should result in timely communication of results and findings.	Delay in issuing results and findings or requests for additional information is burdensome when they occur months after an inspection or when short-term projects (e.g., exploration) that were inspected have completed. Personnel and facility operations have provided time and effort to assist in detailed facility inspections and to receive no follow up or results communications or letter from the ADEC is a missed opportunity and devalues the effort.	Compliance audits are valued as an important process to ensure safe and incident free operations and fosters continuous improvement. The perspective of an external observer benefits the operation even when no non-compliance items found. The ADEC should provide timely inspection results to demonstrate oversight of regulated facilities and to facilitate continuous improvement.

No.	Citation	Issue / Concern	Impact	Improvement
37.	18 AAC 75.485	Discharge Exercises	It is not always feasible for the ADEC to attend exercise planning meetings. According to the ADEC's Oil Spill Response Exercise Guidance document, Page 15, Table 3, 1) the ADEC must be invited to participate in the planning meetings for the exercise to be considered compliant with "485." Notification of schedule and invitation to attend exercises is a typical practice of many operators for many years. However, with the guidance, if they cannot attend meetings or even an exercise, does that mean there would not be "credit" for an exercise? and 2) All core exercise planning team members should be able to make decisions for their organization. Rarely is this the case, and often this lack of authority delays key planning milestones taking up valuable time. If "credit" is required to demonstrate compliance, the ADEC should issue written letters to verify '485' exercise credit. Otherwise, plan holders will maintain their own documentation of compliance.	
38.	18 AAC 75.495	This section of the regulations refers to the now outdated organization of the State under the new Regional and Area Contingency Plan structure.	Contingency planning regions have changed. This information and the map are outdated.	
39.	18 AAC 75.200 (Article 2)	Financial Responsibility for Oil Discharges	State regulations exceed federal Certificate of Financial Responsibility (COFR) levels. P&I insurance limits ($1B) exceed state levels. As such, we recommend the state accept federal COFR as other states do.	