

SPAR Article 4 Response Plan Amendments Frequently Asked Questions

Questions from the public have been gathered along with the department's responses. Substantially similar questions have been aggregated

1. When does removal of a vessel from an approved plan qualify as a routine update?
 - a. If only the vessel operations are covered by the plan, the plan holder can apply for a routine update.
 - b. If an operator proposes to remove a vessel with any spill response role, an amendment application and approval are required prior to the vessel's removal. For example, if a plan states that a non-petroleum cargo barge will provide temporary or interim storage for recovered liquids in the event of a discharge from another covered vessel, removal of that barge from the plan can only be accomplished by amending the plan prior to its removal.
2. Why is the department proposing to repeal the plan holder's ability to submit a revision to a training procedure or course work requirement as a routine update?
 - a. Department staff need to evaluate the proposed revision to training descriptions based on the factors listed in the proposed 18 AAC 75.415(a)(1) – (4) to verify that there aren't substantive changes to prevention or response capabilities or other substantive changes that require public review.
3. What is the practical impact of the proposed public comment timeline revisions?
 - a. Public comments and requests for additional information would be due 30 days after the start of the public comment period. If department staff determine that additional information is required to complete the review, only the additional proposed revisions will be open for public comment during this additional comment period.
4. Why do 18 AAC 75.415 and 18 AAC 75.420 require that proposed additions, revisions, and deletions be identified?
 - a. Identifying the edits or changes in the plan will make the review more efficient for both the public and department staff.
5. Why were some of the references to days updated to working days?
 - a. Specifying working days will allow adequate time for DEC staff to review the documents.
6. What is meant by "a plan submitted in a format specified by the department"?
 - a. This would allow the department to change the electronic format as common document format technology and use change over time without having to amend the regulations.

Below are questions added on May 22, 2015

7. Will comments be accepted and considered for other sections of 18 AAC 75 Article 4 and 9 that are not included in this package?
 - a. Selected parts of 18 AAC 75 Article 4 and 9 are currently out for public comment. Comments received for sections not covered in this regulatory package will not be considered.
8. Will the in-person workshops be teleconferenced?
 - a. No, there will not be a teleconference component for the in-person workshops. There will be a teleconference on June 23, 2015 from 1:00 - 2:00 p.m. Please see our website for further details: [Division of Spill Prevention and Response](#)

Below are questions added on June 5, 2015

9. Is the sufficiency review timeframe adequate? Did the department consider lengthening it?
 - a. A definition for sufficient for review is being proposed in 18 AAC 75.990 (xx).
 - b. Lengthening the timeframe was not part of our proposed package. We would welcome your comments.
10. What is the Emergency Modification of Review Process? When would it be used? What emergency would qualify? Is there statutory authority for it?
 - a. This is not a new regulation (18 AAC 75.457). The only proposed change is to modify a word for grammatical purposes and to delete language that a copy of the applicant's plan would be provided to the Department of Fish and Game and the Department of Natural Resources because that language is in statute.
 - b. It has not been used frequently, if ever.
 - c. Statutory authorities are listed below the regulation (AS 46.03.020, AS 46.04.030, AS 46.04.070)
11. Did the department consider adding regulations to provide for short term extensions of plan approvals?
 - a. That was not part of our proposed package. We would welcome your comments.
12. Is there an obligation in these regulations for the department to provide Findings Documents for all plan approvals?
 - a. See 18 AAC 75.460(b)(1). Regulations currently require that the department summarizes the "...basis for its decision to approve a plan in a case in which public comment adverse to the application has been received." This requirement is why some plan approval decisions are accompanied by either a brief summary of the basis for approval or a larger stand-alone document frequently called a "Findings Document."
13. Is there going to be a provision to make plans available on the department's website?

- a. Yes. It is proposed that plans will be available on the department's website. See the proposed 18 AAC 75.460(b)(4). Any redacted information from a plan would not be publicly available.

Below are questions added on June 22, 2015

- 14. What does “consider” mean in 18 AAC 75.415(a)?
 - a. Consider means that when evaluating a plan amendment the department will use the factors in 18 AAC 75.415(a)(1) through 18 AAC 75.415(a)(4) (factors), to decide if the review procedures under 18 AAC 75.455 (455) will be used. The factors are not an automatic trigger for review under 455.
- 15. 18 AAC 75.415(a)(4) refers to “substantive changes”. What does substantive mean?
 - a. The second sentence 18 AAC 75.415(a)(4) defines substantive.
- 16. 18 AAC 75.420(c) states that in addition to revisions being identified in the amendment copies, the department may request a summary of changes in a table format. How will a plan holder know when a table will be requested?
 - a. Department staff will notify the plan holder if the summary table is required.

Below are questions added on July 2, 2015

- 17. Are operators of natural gas production or terminal facilities required to request an exemption?
 - a. Please refer to Alaska statute, 46.04.050(b) which addresses exemptions. The department has not proposed additional detail in this package. We would welcome your comments.
- 18. Are operators of natural gas exploration facilities required to request an exemption?
 - a. The department will follow what is currently required, which is that the operator submit a request for a natural gas determination to AOGCC and copy the department or request an exemption from the department and copy AOGCC. Please refer to Alaska statutes, 46.04.050(c) and 31.05.03(l) for additional information.
- 19. 18 AAC 415(a) Regarding identifying proposed additions, revisions, and deletions (tracked changes): Some revisions may be so extensive that tracked changes are unreadable. Could an operator provide a summary of the changes rather than tracking changes? For example, a detailed table describing the changes can be followed by a reader to understand what has been revised. This would be similar to what is described for a renewal plan in 18 AAC 75.420.
 - a. 18 AAC 75.420 allows for the department to request a summary table in addition to changes being identified. Including this language in 18 AAC 415(a) was not part of the proposed package. We would welcome your comments.

20. 18 AAC 75.415(b) Questions

1. Routine updates currently are provided as final revised pages (changes not tracked) to ADEC and other plan recipients. Under the revised regulations, would the operator provide tracked changes and final pages in the same submittal?

a. This it is currently proposed in this package. We would welcome your comments.

2. Will ADEC have a new form for routine plan updates?

a. We anticipate using a single form for all application types including routine amendment notifications.

3. Will the plan holder be required to submit an electronic copy of the entire plan with the redline strikeouts? And will this be posted on the ADEC website?

a. We did not intend to require that routine updates have the changes identified so that will be corrected. A complete plan with the updated page(s) included would be required to be submitted to the department to post on the website.

4. Will ADEC notify DNR, DF&G, regional citizen advisory councils, and other persons designated that an updated version of the plan is available and on the ADEC Website?

a. That was not part of the proposed package. We would welcome your comments.

5. What is the timeline for ADEC to post the revised plan?

a. That was not part of the proposed package. We would welcome your comments.

21. Under 18AAC 75.415(f) can ADEC notify the plan holder that the amendment will or will not be reviewed under 18AAC 75.455? This would alleviate any doubt.

a. 18AAC 75.415(f) does require the department to notify the plan holder within 10 working days after receipt of the amendment indicating if the amendment will be reviewed under 18 AAC 75.455. Notifying the plan holder if it will not be reviewed under 18 AAC 75.455 is not part of the proposed package. We would welcome your comments.

22. Does 18 AAC 75.415(g) cover an amendment that is under review by ADEC or an amendment that has been approved by ADEC? The plan holder shall publish a proposed plan amendment and provide to ADEC within 30 days of what? (Note, the word 'publish' is a source of confusion.) Does the plan holder first submit an amendment to ADEC and then publish the amendment? How are submit and publish different? Is this a red-lined submittal or the final pages? Is the amendment posted to the ADEC website?

a. 18 AAC 75.415(g) addresses the routine updates and proposed amendments that are submitted.

b. It looks like some of the language intended for 18 AAC 75.415(h) was placed in 18 AAC 75.415(g). The 30 day requirement to publish will be removed from this subsection.

23. 18 AAC 75.415(h) Questions

1. Is there a time frame for when the approved amendment (revised pages) should be sent to the plan recipients?
 - a. That was not part of the proposed package. We would welcome your comments.
2. Will ADEC post the revised plan on the website after approval?
 - a. Yes, approved plans will be posted on the department's website.

24. 18 AAC 75.415 General questions

1. Can you provide a flow chart for the amendment processes which clearly outlines the process for all amendment types?
 - a. A flow chart of timelines for the amendment types is not available. A [flow chart](#) with the major plan review milestones was presented at recent workshops and is posted on our website.
2. Can you describe for the amendment process when documents will be posted to the ADEC website and when they will be removed from the ADEC website?
 - a. Plans under review and currently approved plans will be published on the department's website. A timeline of when plans will be posted to and removed from the department's website is not part of this package.
3. If plans are redacted: What kind of information will be allowed to be redacted? Will this be defined in the regulation?
 - a. The information exempted from disclosure is described in AS 40.25.120(a) and 46.04.025.

25. 18 AAC 75.420(c) In a renewal, some revisions may be so extensive that tracked changes are unreadable. Unlike the amendment text, the renewal language states that ADEC may request a summary of the changes in table format in addition to tracked changes. Could this be instead of the tracked changes?

- a. That was not part of the proposed package. We would welcome your comments.

26. 18 AAC 75.455(e)

1. Should this public comment period be a minimum of 10 working days?
 - a. The proposal is for 10 days, not 10 working days.
2. 18 AAC 75.455(g): last sentence, reference to "comment deadline established under (b)(2) or (c) of this section..." (c) does not have a comment deadline. Should the regulation be revised to "under (b)(2) or (e) of this section"?
 - a. Yes, this should refer to 18 AAC 75.455(e); this will be corrected.
3. 18 AAC 75.455(i): same comment as above: should (c) of this section be changed to (e)?
 - a. Yes, this should refer to 18 AAC 75.455(e); this will be corrected.

27. 18 AAC 75.455 General questions:

1. Can you describe for the new plan process when documents will be posted to the ADEC website and when they will be removed from the ADEC website?
 - a. Plans under review and currently approved plans will be published on the department's website. A timeline of when plans will be posted to and removed from the department's website is not part of this package.

2. Can you provide a flow chart describing the new plan process and the role ADEC will play in notifying agencies when plans are available on the ADEC website?
 - a. A [flow chart](#) with the major plan review milestones was presented at recent workshops and is posted on our website. The department will post plans under review on the department's website. Notification by the department of when the plan is posted on the website was not part of the proposed package. We would welcome your comments.

3. When correspondence is sent via email to ADEC will there be a reply email from ADEC acknowledging that the email was received?
 - a. That was not part of the proposed package. We would welcome your comments.