

Byron Mallott
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520 465.5400 Fax
WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Gary Mendivil, Department of Environmental Conservation

FROM: Scott Meriwether, Office of the Lieutenant Governor - 465.4081 

DATE: March 8, 2016

RE: Filed Permanent Regulations: Department of Environmental Conservation
Regulations re: financial responsibility for oil discharges (18 AAC 75.245; 18 AAC 75.260(b))

Attorney General File: JU2015200829
Regulation Filed: March 7, 2016
Effective Date: April 6, 2016
Print: 218, July 2016

cc with enclosures: Linda Miller, Department of Law
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached three pages of regulations, dealing with 18 AAC 75 (Oil and Other Hazardous Substances Pollution Control) financial responsibility amendments are hereby adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 46.03 and AS 46.04 after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In consideration of public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken. The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action, as required by AS 46.03.024.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: December 11, 2015
Anchorage, Alaska



Larry Hartig, Commissioner
Department of Environmental Conservation

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on March 7, 2016 at 2 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: April 6, 2016.

Register: 218, July 2016

18 AAC 75.245(a) is amended to read:

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

(1) "working capital" means the amount of current assets located in the United States, other than those assets that are petroleum inventory that may be affected by an oil discharge from a facility covered by the self-insurance, ^{(C; and (B))} less all worldwide current liabilities; and

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

18 AAC 75.245(b)(1) is amended to read:

(1) annual audited financial statements for consolidated holdings in the United States for the fiscal year ending immediately before each initial or renewal application, certified by an independent certified public accountant ^(lowercase)) If the financial statements do not specify what ^(the applicant's) portion of its working capital and net worth are located in the United States, they must be ^(the statements) supplemented by an affidavit from the applicant's chief financial officer or treasurer, or a sworn statement by the certified public accountant who prepared the audit, certifying that

the working capital and net worth located in the United States are each in an amount equal to the applicable amount required under 18 AAC 75.235(a);

18 AAC 75.245(c)(2) is amended to read:

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

18 AAC 75.245(d) is repealed:

(d) Repealed 4/6/2016.

18 AAC 75.245(f) is amended to read:

(f) The affidavits or sworn statement required under (b)(2), *« Transpose »* [(c)(2), AND (d)] of this section must be signed as follows:

- (1) in the case of a corporation, by the treasurer or chief financial officer;
- (2) in the case of a partnership, by a general partner;
- (3) in the case of a sole proprietorship, by the proprietor;
- (4) in the case of a municipal, state, federal, or other public facility, by an authorized public official or employee; [AND]
- (5) in the case of a combined application, by a representative of each party to the application;[.]

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

(7) in the case of a limited liability company, by a member.

18 AAC 75.245 is amended by adding a new subsection to read:

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

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

18 AAC 75.260(b) is amended to read:

(b) The issuer of the guaranty contract must meet the financial, **application**, and reporting requirements of 18 AAC 75.245. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 4/6/2016, Register 218)

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