

Alaska Fuel Storage and Handling Alliance (AFSHA) is an Alaskan fuel industry association founded in 2007 to provide a forum for industry to provide member companies with a mechanism to identify and study issues relevant to our members, develop consensus positions and effectively present these positions as one voice to the appropriate regulatory entity, as one voice to effect change.

AFSHA supports the review of the regulations, statutes, and process in an effort to make them more effective and efficient. AFSHA does not support changes that would diminish the environmental protections that are contained in the existing regulations. AFSHA members take pride in not only meeting current environmental protections, but in the majority of cases, far exceeding those requirements. The following table represents consensus comments from AFSHA members.

Prevention, Preparedness and Response Regulation Project
Oil Discharge Prevention and Contingency Plan Public Scoping
Commenters: **Alaska Fuel Storage & Handling Alliance (AFSHA)**

Item Number	Reference	Topic	Recommendation/Comment
1	Global	<i>"The department will, in its discretion..."</i>	Delete "in its discretion", throughout.
2	General	<i>Guidance Documents or Guidelines versus Regulations</i>	<p>ADEC plan reviewers need to understand that "guidance or guidelines" do not supersede or supplant the regulations. Some of the existing guidance documents create ambiguity in interpreting the regulations. ADEC needs to internal ODPCP review training to new staff rather than letting staff flounder when assigned ODPCP reviews, especially major amendments and plan renewals.</p> <p>See Item 28 regarding ADEC discharge exercise guidelines.</p>
3	General	<i>Referencing Government plan content and ADEC dictating a timeframe for industry to update ODPCPs.</i>	<p>ADEC on two occasions has dictated to Industry a required timeframe to update ODPCP's because the government plans (Area Plans) were modified. The first instance was the when the federal/state government merged plans creating 4 Area Plans rather than 10 Subarea plans. ADEC issued a letter to ODPCP holders that all plans have to be updated within a 11-month period. After posting the 4 Area Plans it was pointed out to ADEC that the weblinks throughout each plan were broken. ADEC and the federal government corrected and reposted the plans. ADEC then issued a second letter dictating that industry update their</p>

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			<p>ODPCPs again. These unplanned ODPCP updates created an impact on industry, specifically those entities with multiple ODPCP's. Mandating minor updates such as references and website links to ODPCP's should be accomplished via the normal amendment or renewal process. Many ODPCP holders have combined federal/state plans, whereby a federal annual review and update is requirement. The annual review provides a planned and predictable opportunity for minor administrative updates of references.</p>
4	18 AAC 75.080	<p><i>Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids, 2002 Edition (ASME B31.4-2002)</i></p>	<p>Update reference and edition date</p>
5	18 AAC 75.220	<p><i>Application for amendment (financial responsibility); "be submitted to the department at least 30-days before placing the changes operation in service, except for the owner or operator of a nontank vessel must submit changes at least 15 days..."</i></p>	<p>The timeframe of 15-days for non-tank vessels should also apply to plan holders that are adding a tank vessel and/or barge to their plan since it typically takes approximately 15-days for the ADEC plan reviewer to approve the addition of a vessel. The approval of plan and financial responsibility timeframes would then be synchronized.</p>
6	18 AAC 75.400 (b)	<p><i>(b) If it determines that an exemption will be protective of human health, safety, and welfare, and of the environment, the department will exempt from the</i></p>	<p>Delete-The department will approve or deny the request for an exemption not later than 10 working days after it receives an application.</p>

Item Number	Reference	Topic	Recommendation/Comment
		<p><i>requirements of AS 46.04.030(c) and 46.04.055(f), a vessel that is conducting, or is available only for conducting, an oil discharge response operation. A person seeking an exemption under this subsection must apply on an application form supplied by the department. The department will approve or deny the request for an exemption not later than 10 working days after it receives an application.</i></p>	
7	18 AAC 75.400 (d)	<p><i>(d) The department may accept a single plan from an operator to address multiple facilities based on similarities in operations, receiving environments, logistical consideration, or other factors indicating to the satisfaction of the department that a single plan is appropriate given the commonality of operations.</i></p>	<p>Department personnel are currently attempting to direct owner/operators to combine multiple facility plans regulated by the federal government into one plan so that the state threshold of 10,000 barrels or more (oil terminal AS 46.04.050(a)) is reached thus requiring an ODPCP.</p> <p>AS 46.03.900(8) defines "facility" as any offshore or onshore structure, improvement, vessel, vehicle, land, enterprise or endeavor. 18 AAC 75.990(42) further defines "facility" or "facility or operation" as any offshore or onshore structure, improvement, vessel, vehicle, land, enterprise, endeavor, or act: "facility" or "facility or operation" includes an oil terminal facility, tank vessel, oil barge, pipeline, railroad tank car, railroad and exploration or production facilities.</p>

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			<p>ADEC is of the opinion that two facilities owned by the same operator is considered one "oil terminal facility" for purposes of AS 46.04.900(14) and AS 46.04.050.</p> <p>This interpretation is an overreach of ADEC's authority and needs to be corrected.</p>
8	18 AAC 75.405; 75.410; 75.420	<i>Plan renewal and timeframe</i>	As a result of regulatory change in 2016, the plan review and renewal and approval process can take up to 240 days. The requirement for a 60-day pre-notification and a 180-day submittal timeframe make it difficult for a business to react to market changes. 240 days is far too long for a project to be permitted and in operation, many operations are seasonal in nature and this may prevent business opportunities.
9	18 AAC 75.408(c)(1)	<i>"the format must be electronic, paper, or both, as the department specifies;"</i>	There is no value in submitting paper copies of an ODPCP. With the ease of cloud-based storage, there is little value in submitting paper copies in addition to the electronic submission. This creates a substantial cost for the organizations making application for approval.
10	18 AAC 75.408(c)(3)	<i>"the department will specify the electronic format to be used; the submittal must be electronically searchable;"</i>	A Portable Document Format (PDF) is the standard electronic file format and should be the departments accepted format for submission.

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11	18 AAC 75.408(c)(4); 18 AAC 75.408(c)(5)	<i>“for new plans, plan renewals, and major amendments, the applicant must provide all copies to the department, the Department of Natural Resources, the Department of Fish and Game, regional citizens' advisory councils, and other persons designated by the department;”</i>	The requirement to provide copies of the plan to agencies and interested parties outside of ADEC should be removed. All plans should be uploaded to the ADEC website and e-mail notifications sent to reviewers outside of ADEC. This would ease the significant cost of printing hard copies (unless requested), make the plan readily available to all concerned parties and prevent non delivery due to email size constraints.
12	18 AAC 75.415	<i>Regulatory addition similar to (c) for regulated portable oil storage tanks</i>	There should be a quicker and easier means for a plan holder to add regulated portable oil storage tanks to their ODPCP. Currently it's considered a minor amendment with a 30-day review and approval period. ADEC should consider including something similar to (c) that includes the required oil storage tank information and allows for a 5-day review and approval timeframe.
13	18 AAC 75.425 (e)(1)(A)	<i>Emergency Action Checklist- “it is recommended that this summary be duplicated on a wallet-size card, to be carried by the appropriate response personnel while on duty”</i>	Delete this statement as each plan holder has their own method for insuring their employees carry out emergency actions.
14	18 AAC 75.425(e)(1)(E)	<i>Deployment Strategies</i>	A simple reference to the PRAC/OSRO Technical Manual and/or ADEC STAR Manual should provide sufficient information since the deployment strategies are discussed in each response scenario.

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15	18 AAC 75.425 (e)(1)(F)	<i>Response Scenarios-“if the information required by this subparagraph is contained within a separate document developed by the plan holder or the plan holder’s primary response action contractor identified in (3)(H) of this subsection, the plan holder may incorporate the information by reference upon obtaining the department’s approval..”</i>	A key component of the ODPCP used to validate the operator and their contractor(s) response capability are scenarios. The development and use of Master Scenarios by contracted OSRO/PRAC for the post 24-36 hours after the release. The owner/operator would provide the initial response and containment at the spill site, for the initial 24-36 hours of an event, and then transition operations to the OSRO/PRAC. The Master Scenarios will be reviewed by ADEC as an accountability measure. The Master Scenarios should be maintained and updated by the contracted PRAC (Southeast Area Prevention and Response Organization, Alaska Chadux, Alaska Clean Seas and Cook Inlet Spill Prevention and Response Incorporated).
16	18 AAC 75.425(e)(1)(F)(ii)	<i>A description of methods to prevent or control a potential fire hazard;</i>	Delete since ADEC does not have the statutory authority or expertise associated with fire hazards or responses.
17	18 AAC 75.425(e)(1)(I)	<i>Response scenario for an exploration or production facility</i>	Delete the reference to the July 1997 S.L. Ross oil deposition model.

Item Number	Reference	Topic	Recommendation/Comment
18	18 AAC 75.425 (e)(3)	<i>Supplemental Information</i>	Information that is contained in the Area and Regional Contingency Plans, Alaska Incident Management System Guide (AIMS), Spill Tactics for Alaska Responders Manual (STAR) and any other commonly available reference should be removed from section 3 and incorporated by reference to reduce the amount of duplication.
19	18 AAC 75.425(e)(3)(B)(x)	<i>(x) any other information required by the department to evaluate the response capability of a vessel, including verifying that the vessel is in compliance with the applicable stability requirements as set out in 46 C.F.R. 109.227, as amended through September 11, 1992;</i>	Delete reference to 46 CFR 109.227. ADEC does not have the authority or expertise to review vessel stability requirements. This is a U.S. Coast Guard requirement and responsibility. During an oil spill or emergency response this information would be provided to the Unified Command.
20	18 AAC 75.425(e)(3)(D)	<i>Realistic Maximum Response Operating Limitation</i>	This type of information should be part of the Plan holders OSRO/PRAC Technical Manual and/or Area Contingency Plan and just cross referenced in their ODPCP.
21	18 AAC 75.425(e)(3)(E)	<i>Logistical support</i>	This type of information should be part of the Plan holders OSRO/PRAC Technical Manual and/or Area Contingency Plan and just cross referenced in their ODPCP.

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22	18 AAC 75.425 (e)(3)(F)(iii)	<i>Response Equipment-the manufacturer's rated capacities, limitations, and operational characteristics for each item of oil recovery equipment."</i>	<p>Skimming capacity is limited to 20% of the manufacturers rated throughput capacity over a 24-hour period. The hours of operation must be established. We have been told by ADEC staff to use a maximum of 20 hours per day for operations, with 4 hours out of service for maintenance, etc. This requirement is essentially placing a further 12.5% reduction to the already de-rated recovery rate of the skimmer. The use of these policies and formulas encourages the use of the most inefficient high-volume skimmers to meet the RPS. More efficient skimmers, some with 80-95% efficiency rates would be used for planning if they were not de-rated to an unreasonable level.</p> <p>It has also been a common request of ADEC Plan reviewers to require 5 times the EDRC in available temporary storage for recovered water (ADEC STAR Manual recommends 2 times the EDRC in available storage). The 5 times factor requirement is not contained in the regulations and makes the assumption that the actual efficiency rate of the skimmers is 20%, not the effective rate of the skimmer.</p> <p>The process for having a skimmer efficiency reviewed by the department is cumbersome and does not provide a clear means of evaluation. Each plan holder would likely need to submit a request for review of equipment contained in their contingency plan. Equipment</p>

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			<p>manufacturers and spill response organizations have had much of their equipment evaluated using ASTM Standards as required under federal requirements, OHMSETT tests equipment in their facility using ASTM methods and standards. The results of this test data should be accepted by ADEC for the specific make and model of equipment tested.</p>
23	18 AAC 75.425 (e)(3)(J)	<i>“protection of environmentally sensitive areas and areas of public concern”</i>	<p>This type of information should be part of the Area Contingency Plan and just cross referenced in the planholders ODPCP. Priority protection during a spill is identified by the resource agencies and Unified Command.</p>
24	18 AAC 75.425 (e)(4)	<i>Best Available Technology (BAT)</i>	<p>Remove this entire section. A Best Available Technology Review no longer provides any benefit to the plan as the available technologies have been codified into the state and federal requirements since the inception of the regulatory requirement.</p>
25	18 AAC 75.445	<i>Approval Criteria for ODPCP</i>	<p>There should be an expedited procedure for renewal of plans that do not have major revisions to them that would allow for a timely review and renewal process. If the plan only contains minor and administrative changes, it should be reviewed as if it were a minor amendment.</p>

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26	18 AAC 75.455(b)(5)	<i>Public Notice- “the applicant makes arrangements with one or more newspapers of general circulation within the area or areas of operation to publish the notice (the department will determine the newspapers) and notifies the department of the publication date.”</i>	This costly and ineffective requirement of publishing a public notice for one day in one or multiple newspapers needs to be eliminated since it has resulted in zero public comments over a 10-year period. The public notice should be posted on the ADEC website throughout the public review period rather than publishing in newspapers.
27	18 AAC 75.465 (e)	<i>“must have the original or true photocopy of the following on board the tank vessel or oil barge inspection when operating in state waters,</i>	Recommend also allowing for electronic copies of the documentation, which would be consistent with federal law.
28	18 AAC 75.485	<i>Discharge exercises</i>	DEC conducted outreach efforts with stakeholders to collaborate on discharge exercise improvements. DEC’s outreach efforts included the release of a white paper in the spring of 2016, an online survey in November 2016 and two web-based visioning sessions in December 2016. A summary of the survey, the visioning session results, and DEC’s preliminary decisions on key topics were presented in an all-day stakeholder’s “workshop” in April 2017. During this “workshop” DEC presented their decision on how the agency intended to proceed, essentially ignoring participants’ recommendation to consider and adopt the

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			federal NPREP requirements. ADEC should re-evaluate their exercise program and adopt the federal NPREP.
29		<i>Coordination and Consistency</i>	There needs to be coordination and consistency within the different sections of ADEC with regards to those areas that may be involved during an oil spill response. Water Quality issues involved in decanting recovered water. Air Quality issues with in-situ burning of oily debris, the use of Smart Ash incinerators to dispose of used sorbent materials. Solid Waste concerns with general waste disposal, oil contaminated wastes/debris, and on-site sewage generation. A spill response will require the participation of most divisions within ADEC, a possible solution would be to grant the State On-Scene Coordinator the authority to approve all department permits and requests for the spill response.