

#	Page	Line	Current language	Comment/ Justification	Proposed Language
1			Comments made to this document are formatted following the state of Alaska's Alaska Regulatory Numbering System (see last page)		
2			The process to reorganized statewide area planning from the <i>"Unified Plan"</i> format to a national standard <i>"Regional Plan"</i> format began in the spring of 2016. In 2018 a Regional Plan was adopted and approved by the ARRT without sufficient public review by stating that only "administrative changes" were implemented. Within 30 days of the closing of the <i>"Public Review"</i> the ARRT approved the draft plan in its entirety with no changes based on public comments received. . In addition the plan was not reviewed by the State Emergency Response Commission (SERC) or the Alaska Legislature as required by Alaska statutes. The lack of a cohesive process for development and implementation of an effective Regional Plan continues to demonstrate the dysfunctionality of the ARRT.		
3			A comment matrix was not provided for this review.		
4	5	4-6	Guidance to planners in preparing for a coordinated federal, State, tribal, and local response to a discharge, or substantial threat of discharge, of oil and/or release of a hazardous substance from a vessel or on/offshore facility operating within Alaska's boundaries and surrounding waters.	<p>The highlighted wording can suggest that the RCP only applies to spills/releases to water and only from vessels or facilities located on or adjacent to water. 40 CFR 300.3(a)(1) of the NCP does not identify the NCP as only pertaining to spills/releases from "facilities."</p> <p>40 CFR 300.3(a)(2) also does not use the term "facility."</p> <p>Use of this term can suggest that only operations requiring a state or federal required contingency plan are subject to NCP or RCP jurisdiction. While facility contingency plans are reviewed for compatibility with the NCP, a spill or release from a non-plan holder may fall under RCP/ACP jurisdiction.</p> <p>The proposed language is a compilation of 40 CFR (a)(1-2).</p>	Guidance to planners in preparing for a coordinated federal, State, tribal, and local response to discharges of oil into or on the navigable waters of the United States, on the adjoining shorelines, the waters of the contiguous zone, into waters of the exclusive economic zone, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States. In addition to releases into the environment of hazardous substances, and pollutants or contaminants which may present an imminent and substantial danger to public health or welfare of the United States.

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5	9	15	Alaska is covered by the Alaska Regional Response Teams (ARRT),	There is only one ARRT.	Alaska is covered by the Alaska Regional Response Team (ARRT),
6	20	1	Response Jurisdictional Boundaries	Add Section; The NCP requires that the DOD and DOE provide an FOSC for all response operations relating to spill/releases from their facilities or operations.	<u>FOSC for DOD and DOE Facilities</u> Per the National Contingency Plan, the Department of Defense (DOD) and the Department of Energy (DOE) shall provide FOSCs who will be responsible for taking all response actions to releases of hazardous substances, pollutants, or contaminants when the release is on, or the sole source of the release is from, any facility or vessel (including bareboat-chartered and operated vessels) under their jurisdiction, custody or control.
7	20	1	Response Jurisdictional Boundaries	Add Sections; Describing basic jurisdiction for TOSC and LOSC authorities within this section.	<u>Tribal On Scene Coordinators (TOSC)</u> May have jurisdiction to participate within the Unified Command's response structure when tribal public health, culture, resources, or economy are threatened or impacted. <u>Local On Scene Coordinators (LOSC)</u> Local governments may respond to a spill emergency to protect life and property, and in some cases, assume the role of Incident Commander until the immediate threat to public safety is abated and may participate within the Unified Command's response structure when the community's resources or economy are threatened or impacted.

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8	20	13-14	"If the agencies cannot agree, the ARRT will designate the FOSC, or refer the matter to the NRT."	The NCP does not provide authority for the RRT to select the FOSC. 40 CFR 300.115(j)(4)(iv) provides the RRT guidance on alternate OSC's.	Delete wording [IF THE AGENCIES CANNOT AGREE, THE ARRT WILL DESIGNATE THE FOSC, OR REFER THE MATTER TO THE NRT.]
9	27	9-10	Prevention and response activities begin long before spills. State and Federal laws require industries that produce, store, or transport oil to develop oil spill prevention and response contingency plans.	The first sentence " <i>Prevention and response activities begin long before spills</i> " makes no sense relating to the rest of the paragraph. C-plans are required for large quantity industries.	[PREVENTION AND RESPONSE ACTIVITIES BEGIN LONG BEFORE SPILLS.] State and Federal laws require industries that produce, store, or transport oil in larger quantities to develop oil spill prevention and response contingency plans.
10	27	13-14	Whether there is an approved industry contingency plan , the spiller is responsible for containment, cleanup, and contaminant disposal, including associated restoration and damage costs.	The first sentence of this paragraph is incomplete.	[WHETHER THERE IS AN APPROVED INDUSTRY CONTINGENCY PLAN,] in most all incidents the spiller is responsible for containment, cleanup, and contaminant disposal, including associated restoration and damage costs.
11	27	25-26	The response shall be conducted in accordance with their applicable response plan.	Private or small handlers may not have a response plan.	The response shall be conducted in accordance with [THEIR] the applicable response plan.
12	27	31-32	Removal activity undertaken by a responsible party must be consistent with the NCP, this RCP, the appropriate ACP, and applicable facility or vessel response plans.	This sentence is redundant to page 27 lines 26-27.	Delete wording [REMOVAL ACTIVITY UNDERTAKEN BY A RESPONSIBLE PARTY MUST BE CONSISTENT WITH THE NCP, THIS RCP, THE APPROPRIATE ACP, AND APPLICABLE FACILITY OR VESSEL RESPONSE PLANS.]
13	33	16-17	Preparation of an ACP, adequate to remove a worst-case discharge and mitigate or prevent a substantial threat of such discharge from a vessel,	Similar to the comment relating to page 5, line 4-6. The RCP and ACP's are not limited in scope to only facilities.	Preparation of an ACP, adequate to remove a worst-case discharge and mitigate or prevent a substantial threat of such discharge from a vessel, offshore facility, onshore facility, or other sources that threaten the public health

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			offshore facility, or onshore facility;	Add wording;	<u>and or environment.</u>
14	33	30-31	The FOSC should solicit the advice of the ARRT to determine appropriate representation from Federal and State agencies. The Area Committee is encouraged to solicit advice, guidance, or expertise from all appropriate sources and establish sub-committees or work groups as necessary to accomplish the preparedness and planning tasks.	Delete wording relating to FOSC. The Area Committee chairs should act for the AC. This language suggests independent action by the FOSC.	[THE FOSC SHOULD SOLICIT THE ADVICE OF THE ARRT TO DETERMINE APPROPRIATE REPRESENTATION FROM FEDERAL AND STATE AGENCIES.] <u>The ARRT provides guidance to the Area Committees to enhance consistency and compliance with the NCP.</u> The Area Committee is encouraged to solicit advice, guidance, or expertise from all appropriate sources and establish sub-committees or work groups as necessary to accomplish the preparedness and planning tasks.
15	28-29	1 & 11	1. Alaska Regional Response Team 1. ARRT Activation Procedures	Indexing is broken at this point with two C.1's.	Check indexing of entire document for final version.
16	33	10	2. Area Committees The primary role of an Area Committee is to act as a preparedness and planning body. The primary objective of Area Committees is to develop, maintain, and exercise ACPs. Area Committees provide a forum for bringing together Federal, State, tribal, and local response stakeholders for the	Add wording for RCAC participation; The Regional Citizens Advisory Councils are important aspects of effective emergency planning and response within three of the four Alaska areas. Their role and federally OPA-90 mandated responsibilities should be identified within this section. Specific language can be provided by the RCAC's.	The primary objective of Area Committees is to develop, maintain, and exercise ACPs. Area Committees provide a forum for bringing together Federal, State, tribal, and local response stakeholders, <u>including the RCAC's within their region of responsibility</u> for the

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17	35	2-4	For hazardous substance releases from any facility or vessel under the DOD's or DOE's jurisdiction, the department with jurisdiction designates the FOSC.	DOD and DOE jurisdiction does not only apply to Hazardous materials but also oil spills.	For <u>Oil and</u> hazardous substance releases from any facility or vessel under the DOD's or DOE's jurisdiction, the department with jurisdiction designates the FOSC.
18	36	6	NRDAR	Add Wording to line 14 as per 15 CFR 990.14(b)	<u>Trustees may develop pre-incident memoranda of understanding to coordinate their activities with response agencies and responsible parties.</u>
19	37	32-34	"by providing an LOSC as part of the Unified Command or by appointing a representative to serve on a multiagency coordination (MAC) committee or as part of the Regional Stakeholder Committee."	The AWA-ACP on page 9-53 and the AK-Inland ACP on page 11-3; use identical language below, <i>"However, the ICS used in Alaska for responses to oil and hazardous substance discharges does not employ MAC organization, but instead uses a RSC that works with the Unified Command."</i>	Delete wording referencing the MAC Committee. by providing an LOSC as part of the Unified Command or by appointing a representative to serve [ON A MULTIAGENCY COORDINATION (MAC) COMMITTEE OR] as part of the Regional Stakeholder Committee.
20	39	1-4	Pre- Authorization Agreements There are no current preauthorization agreements. As such, per the NCP, the FOSC must receive concurrence from the EPA representative to the ARRT, and the State of Alaska, in consultation with the <u>natural resource trustees</u> if a burning agent is to be used to facilitate an in-situ burn.	The term "natural resource trustees" can lead to confusion as per the current <i>In-Situ Burn Guidelines</i> consultation is required only with DOI and DOC trustees when a burning agent is to be used.	"There are no current preauthorization agreements <u>within the ACP's for the Alaska region.</u> As such, per the NCP, the FOSC must receive concurrence from the EPA representative to the ARRT, and the State of Alaska, <u>for In-situ burning on a case by case basis.</u> <u>In addition if a burning agent is to be used, consultation must also be conducted with DOI and DOC trustees'.</u>

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21	42	35	Natural Disaster Response:	<p>This reference to Natural Disaster Response is the only reference to natural disaster caused responses within the RCP and while appropriate is incomplete.</p> <p>Most historical cases for Stafford act responses to flood, earthquakes, or weather events which have caused oil spills or hazmat releases in Alaska, the FOSC/SOSC conducts oil spill/hazmat release response organized as a "Group" under the overall coordination of the FEMA IC. The role of the ARRT operations within a Stafford Act/FEMA response structure should be clarified.</p>	Consider adding a Section in Part Two – Response and Contingency Plan Structure to clarify the role of the ARRT and OSC's during a Stafford Act/FEMA lead response.
22	44-49		PART FIVE – APPLICABLE MEMORANDUM OF UNDERSTANDING/AGREEMENTS (MOU/MOA)	Of the twenty two (22) MOU/MOA listed in the RCP, thirteen (13) are over 25 years old without an update. The ARRT should insist its members begin the process of updating MOU/MOA's to enhance effective and coordinated planning and response.	
23	50	2-6	<p>There is no requirement in the NCP nor from the USCG or EPA for review and update of RCPs.</p> <p>The State of Alaska at AS 46.04.200 (a) prescribes that ADEC "shall prepare, annually review, and revise as necessary a statewide master oil and hazardous substance discharge prevention and contingency</p>	<p>The bolded statement is incorrect or misleading.</p> <p>40 CFR 300.115(i) states; The standing RRT shall recommend changes in the regional response organization as needed, revise the RCP as needed, evaluate the preparedness of the participating agencies and the effectiveness of ACPs for the federal</p>	<p>Recognizing that this RCP is a joint federal-State plan, the State's review and revision standard is adopted for the RCP. That is, the RCP will be reviewed annually and revised as necessary.</p> <p>[THERE IS NO REQUIREMENT IN THE NCP NOR FROM THE USCG OR EPA FOR REVIEW AND UPDATE OF RCPs.] The State of Alaska at AS 46.04.200 (a) prescribes that ADEC "shall prepare, annually review, and revise as</p>

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			plan.” Recognizing that this RCP is a joint federal-State plan, the State’s review and revision standard is adopted for the RCP. That is, the RCP will be reviewed annually and revised as necessary.	response to discharges and releases, and provide technical assistance for preparedness to the response community. Delete partial wording on line 2 and replace with wording on lines 5-6. Add additional wording relating to the requirement for public comment.	necessary a statewide master oil and hazardous substance discharge prevention and contingency plan.” <u>AS 46.04.200(c)(2) requires the draft plan to be submitted for public review and comment</u>
24	50	17-19	Recommendation for changes to the RCP or its appendices should may be made via the ARRT website “Contact RRT/ Submit Comments” tool . These recommendations will be referred to the SPC for review, consideration, and recommendation to the ARRT chairs.	Provide link to “Submit Comment tool.”	https://www.alaskarrt.org/Comment
25	54	36	tribe or authorized tribal entity (FEMA), or in Alaska a Native Village or Alaska Regional Native	What does (FEMA) refer to relating to native tribes?	Delete wording tribe or authorized tribal entity [(FEMA)], or in Alaska a Native Village or Alaska Regional Native

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26	55	3-5	The MAC organization oversees the incident commander , but is not a part of the on-scene response, nor is it involved in developing operational tactics. However, the incident command system used in Alaska for responses to oil and hazardous substance discharges can employ either a MAC organization or a Regional Stakeholder Committee (RSC) that works with the Unified Command.	The MAC does not “oversee” the OSC but acts as an advisory committee to the OSC/UC All ACP’s in Alaska state; “However, the ICS used in Alaska for responses to oil and hazardous substance discharges <u>does not employ MAC organization, but instead uses a RSC that works with the Unified Command.</u> ”	The MAC organization [OVERSEES] <u>advises</u> the incident commander <u>/Unified Command</u> . Delete wording [HOWEVER, THE INCIDENT COMMAND SYSTEM USED IN ALASKA FOR RESPONSES TO OIL AND HAZARDOUS SUBSTANCE DISCHARGES CAN EMPLOY EITHER A MAC ORGANIZATION OR A REGIONAL STAKEHOLDER COMMITTEE (RSC) THAT WORKS WITH THE UNIFIED COMMAND.]
27	56	15-16		Spacing.	
28	57	7-8	Remedial Project Manager (RPM) : the official designated by the lead agency to coordinate, monitor, or direct remedial or other response actions under the NCP.	This is an EPA designation.	Remedial Project Manager (RPM) : the <u>EPA</u> official designated [BY THE LEAD AGENCY] to coordinate, monitor, or direct remedial or other response actions under the NCP.
29	56	30	Definitions	Add definition for Regional Citizens Advisory Councils.	Language to be provided by the RCAC’s
30	56	9	Place of Refuge : A “place of refuge” is defined as a location where a vessel needing assistance can be temporarily moved and	This wording can be defined better.	Place of Refuge : A “place of refuge” is defined as a <u>pre-identified</u> location where a vessel needing assistance [CAN] <u>may</u> be temporarily [MOVED] <u>relocated upon approval by the COTP</u> and,,,,,

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31	57	22	SERC definition The SERC also reviews the State Oil and Hazardous Substance Discharge Prevention and Contingency Plan and Local Emergency Response Plans.	Alaska Statutes - 26.23.071(e)(2) 46.04.200 and 46.04.210 requires that the SERC review the statewide oil and hazardous substance contingency plans, for the purpose of this plan, this language should refer to the Alaska Regional Plan. A review should be conducted to determine if the Alaska Area Plans should also be reviewed by the SERC.	The SERC also reviews the [STATE OIL AND HAZARDOUS SUBSTANCE DISCHARGE PREVENTION AND CONTINGENCY PLAN] <u>Alaska Regional Contingency Plan</u> and Local Emergency Response Plans.
32	57	31-32	Volunteer: any individual accepted to perform services by the lead agency that has authority to accept volunteer services (examples: See 16 U.S.C. 742(f)(c). A volunteer is subject to the provisions of the authorizing statute and the NCP.	The RCP does not describe implementation of individual volunteers to assist in response efforts. Both the AWA and Inland ACP's contain sections for "Volunteer Organizations" but not individuals. The state of Alaska does not support the use of volunteers to augment a response by a responsible party.	Volunteer: any individual accepted to perform services by the lead agency that has authority to accept volunteer services (examples: See 16 U.S.C. 742(f)(c). A volunteer is subject to the provisions of the authorizing statute and the NCP. <u>The state of Alaska does not support the use of volunteers to augment a response by a responsible party.</u>
33	57	34	Volunteer Organizations	Add definition for a Volunteer Organization.	
34	98-100		ADEC roles and responsibilities	This section can be condensed and re written.	

Understanding the changes

Reading and understanding state regulations can be confusing. To assist you in understanding this draft, please note that state regulations are laid out in the following manner:

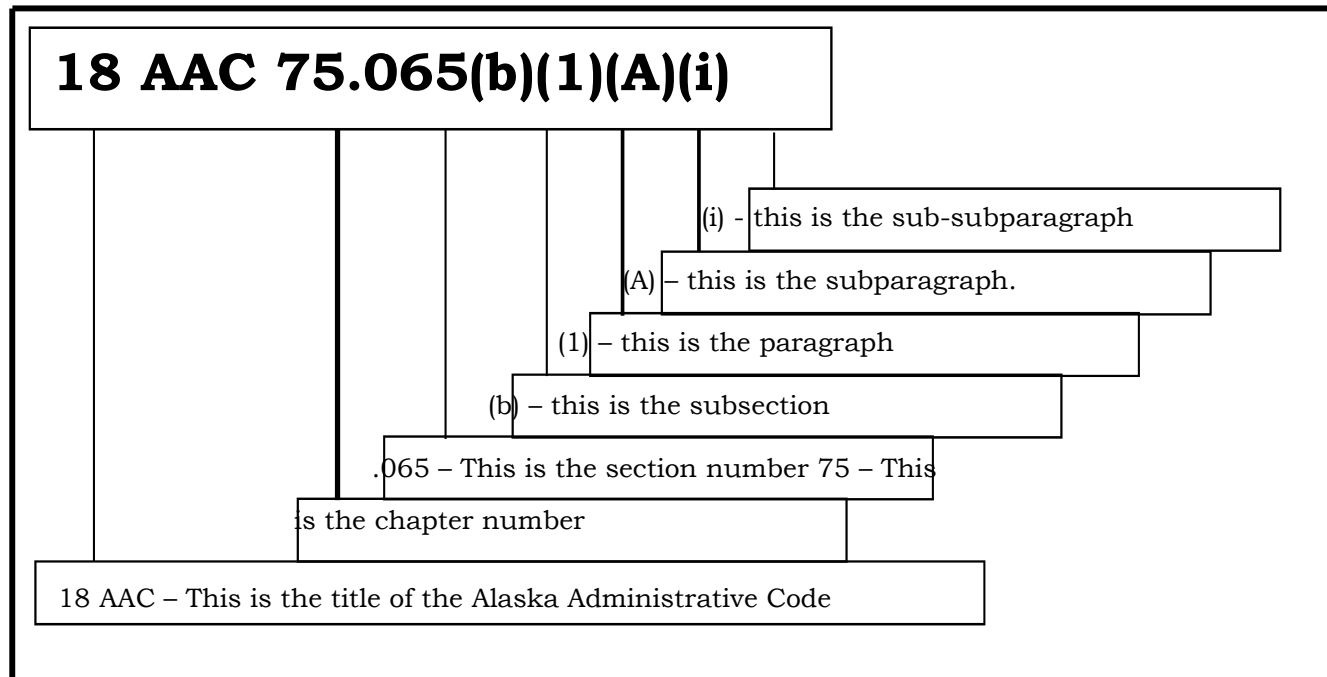


Figure 1. Alaska Regulatory Numbering System

In the following text, the proposed changes follow the formatting requirements of the “Drafting Manual for Administrative Regulations,” 20th Edition, August 2013, as promulgated by the State of Alaska Department of Law. The draft changes are indicated as follows:

Lead-in text explains the changes to the text that follows.

[CAPITALIZED TEXT IN BRACKETS] indicates current regulatory text proposed to be deleted.

Bolded and underlined indicates proposed new text that amends the regulation. When an entire section or subsection is new, it is only indicated by the lead in line.