



People Who Know®

January 31, 2022

Alaska Department of Environmental Conservation
Division of Spill Prevention & Response
Attn: Zuzana Culakova
P.O. Box 111800
Juneau, Alaska 99811

**Subject: Crowley Government Services Comment Submittal -
Oil Discharge Prevention and Contingency Plan (ODPCP) Regulations Update**

Dear ADEC,

Crowley Government Services (CGS) is pleased to submit the attached comments in response to the department's proposed update of the 18 AAC 75 Article 4 regulations. The purpose of the proposed regulatory updates are to better implement the statutory authorities, streamline and clarify the regulations, and reorganize and update the content and approval requirements of the ODPCP.

CGS appreciates the time and effort that the department has devoted to the regulations update, including the multiple regulatory public scoping opportunities that proceeded the update. CGS supports the department's efforts to reorganize the regulations and clarify definitions and procedures and we support the department's overall goal of protecting the environment. However, obtaining and maintaining an ODPCP represents a significant amount of time and expense to industry and the process can take much longer than it should. The process can slow and hinder industry's efforts to remain nimble and responsive to changing economic conditions and slows the adoption of advancements in environmental technologies.

Overall, we find that the proposed regulations include improvements to the overall organization and structure of the regulations. These changes will facilitate the development and maintenance of facility response plans in a timely manner. Unfortunately, our review finds that there are proposed regulations that seem to add additional regulatory burden for the plan holder with very little apparent benefit contributing to the overall goal of ensuring that industry is in the best position to prevent, plan for, and respond to spills at our facilities. Some of these proposed additions will add unnecessary time and expense to the overall process of obtaining and updating our plans.

Developing and maintaining an approved State of Alaska ODPCP is an important and vital requirement that industry takes seriously and CGS strongly supports. The following table includes detailed comments which we have prepared in response to the proposed regulations. In addition, CGS has reviewed and supports the detailed response and comments that have been submitted to the department by the Alaska Fuel Storage and Handlers Alliance.

Sincerely,

Laura J Noland, Environmental Manager
Crowley Government Services

Cc: Sean Thomas, Vice President
Scott Mulvihill, Director of Operations
Angela Watson, Facilities Manager

459 W. Bluff Road.
Anchorage, AK
99501

P: 907.258.2301
crowley.com



crowley.com/social

Citation 18 AAC 75	Current <u>Underlined font</u> : Location in current regulations	Proposed Bold underlined font - inserted by ADEC [Red font in brackets] - deleted by ADEC Green font - indicates change from current regulation	Crowley Government Services
.400(j)	None	<u>The person that files an application under (a) of this section must be the same person that files an application for proof of financial responsibility for oil discharges under 18 AAC 75.205(a).</u>	Industry commonly relies on financial and legal internal staff with specific and dedicated financial authority to ensure that the initial and annual Proof of Financial Responsibility is submitted in accordance with 18 AAC 75.205(a). It is the responsibility of the person filing the application (often environmental manager) to ensure that the Proof of Financial Responsibility is provided to ADEC by the financial and legal department. As proposed, this language is unworkable in most companies and should not be adopted.
.408(c)(1)	18 AAC 75.408(c)(1-3): (1) the format must be electronic, paper, or both, as the department specifies; (2) the department will specify the number of copies; (3) the department will specify the electronic format to be used; the submittal must be electronically searchable;	<u>(1) the format must be electronic; one paper copy of the initial application package and response to requests for additional information must be provided to the department upon request; one paper copy of the final approved plan must be submitted to the department:</u> <u>(A) for paper copies of the plan, for an amendment or renewal application, the plan holder may submit only the changed pages if the pages are clearly marked and can easily be incorporated into the original plan document, otherwise the full plan must be provided;</u> <u>(B) a person that is not able to access the documents from the department's Internet website shall submit a request to the department for an alternate format to be provided and the department will approve or disapprove the request; if approved, the</u>	No paper copies should be required unless specifically requested by ADEC. Suggest requesting (1) to add "submitted to the department upon request" at the end. Suggest requesting (C) to be updated to "specify the electronic format to be used during the preapplication consultation required in 18 AAC 405(b); the submittal must be electronically searchable and non-editable;".
.449(a)(1)	18 AAC 75.425(e)(1)(A): Emergency action checklist - a short checklist of the immediate response and notification steps to be taken if an oil discharge occurs; it is recommended that this summary be duplicated on a wallet-size card, to be carried by the appropriate response personnel while on duty;	<u>emergency action checklist - a short checklist of the immediate response and notification steps to be taken if an oil discharge occurs to be carried by the response personnel;</u>	Emergency Action Checklists are posted in prominent areas of the facility and found in emergency binders (paper), on share drives and or company servers (electronic). Every worker at a facility is responsible for immediately responding to a spill event. It seems unreasonable and unworkable to require response personnel to carry a checklist which can only provide limited information. Posting detailed check lists at multiple and prominent facility locations and ensuring that checklist binders are placed in facility vehicles would be more useful.
.449(a)(6)(C)	18 AAC 75.425(e)(1)(F)(i): procedures to stop the discharge at its source and prevent its further spread;	<u>in place procedures to stop the discharge at its source, within the shortest possible time, and prevent its further spread;</u>	Adding the wording to specify "within the shortest possible time" seems redundant and an unnecessary addition to the regulation. All plan holders wish to stop discharges within the shortest possible time while taking measures to ensure personnel safety.

Citation 18 AAC 75	Current <u>Underlined font</u> : Location in current regulations	Proposed Bold underlined font - inserted by ADEC [Red font in brackets] - deleted by ADEC Green font - indicates change from current regulation	Crowley Government Services
.449(a)(6)(J)	18 AAC 75.425(e)(1)(F)(ix): procedures for transfer and storage of recovered oil and oily water, including methods for estimating the amount of recovered oil;	<u>procedures for transfer and storage of recovered oil and oily water, including methods for estimating the amount of recovered oil; for on water recovery, this includes procedures for offloading and transfer of oil and oil-water mixture to shore-side storage; for on-land recovery, this includes procedures for transfer from onsite temporary storage to more secure storage;</u>	These types of activities will most likely be carried out by the plan holders' certified PRAC or OSRO which will outline the necessary response procedures in their ADEC registration operating plans and manuals. Plan holder should adopt the designated PRAC and waste management contractor procedures.
.450(b)(2)	18 AAC 75.425(e)(2)(B): discharge history - a history of all known oil discharges greater than 55 gallons that have occurred at the facility within the state; the history must include	<u>discharge history - list all known oil discharges greater than 55 gallons that have occurred at the facility within the state; the history must include</u>	Spills which have occurred at a facility over the last five years should be recorded in ADEC Spills Database and thus easily accessible by the public and ADEC. If the spill is significantly greater than 55 gallons it may be managed as a contaminated site by ADEC, or through a similar Compliance Order or approved work plan. Facilities often undergo changes in owners and operators and the current responsible party may not have access to historic spill data for the facility. This data requirement appears arbitrary and only adds additional time to the application process. Perhaps it would be more useful to ask applicant to identify known contaminates of concern and the location of contaminated sites at the facility which may need to be considered during a response for safety and treatment considerations.
.451(d)	18 AAC 75.425(e)(3)(C): command system - a description of the command system to be used in response to a discharge, including the title, address, telephone number, and affiliation by company, agency, or local government of each person, including a person identified in (1)(B) of this subsection, who by law or through employment, contract, or cooperative agreement, is responsible for responding to a discharge, and each person's functional role in the command system; this list must include command, fiscal, operations, planning, and logistics lead personnel; the command system must be compatible with the state's response structure outlined in the state master plan prepared under AS 46.04.200;	<u>Command system - a description and diagram of the incident command system management hierarchy to be used in response to a discharge, specific to operations described in the response planning standard scenario, including the name position, telephone number, and affiliation by company, agency, or local government of each person, including a person identified in 18 AAC 75.449(a)(2), who by law or through employment, contract, or cooperative agreement, is responsible for responding to a discharge, and each person's functional role in the command system; this list must include command, financial, operations, planning, logistics and environmental personnel; the incident command system must be compatible with the state's response structure outlined in the Alaska Regional Contingency Plan. Command system descriptions, diagram, and management hierarchy must all be contained in the plan. At a minimum, the detailed personnel contact information for the qualified individual must be located in the plan. Detailed information for other listed incident command system personnel</u>	The requirement for a detailed 24-hour response plan to include individual names and contact numbers is counter to the purpose of the ICS which relies on ensuring that the company, designated PRAC, and IMT personnel are qualified and available to fill ICS roles in the event of a major spill. As a public government entity, how will ADEC ensure that the plan is maintained as confidential? Where will it be securely stored and what access restrictions will be provided to ensure confidentiality? Will the plan be subject to the Freedom of Information Act requests? This requirement appears unreasonable and unworkable and may not be supported by department statute or regulatory authority.

Citation 18 AAC 75	Current <u>Underlined font</u> : Location in current regulations	Proposed <u>Bold underlined font</u> - inserted by ADEC [Red font in brackets] - deleted by ADEC Green font - indicates change from current regulation	Crowley Government Services
.455(a)	<p>Department review procedures for oil discharge prevention and contingency plans; new plans, plan renewals and major plan amendments. (a) Not later than seven working days after receipt of an oil discharge prevention and contingency plan application package for a new plan, plan renewal or major amendment, the department will determine if the application package is sufficient for review. If the application package is not sufficient for review, the department will notify the applicant in writing.</p>	<p>Not later than seven working days after receipt of an oil discharge prevention and contingency plan application package for a new plan, plan renewal or major amendment, the department will determine if the application package is sufficient for review. <u>For minor amendment applications that are determined to be a major amendment, the department will determine if the application package is sufficient for review not later than seven working days after it is determined to be a major amendment.</u> If the application package is not sufficient for review, the department will notify the applicant in writing.</p>	<p>The wording of this regulation is confusing. If during the initial seven-day review, the department determines that a minor plan amendment application should be submitted as a major plan amendment, then that determination is made and communicated within the same seven working days.</p>
.480(d)	New section	<p><u>During a facility inspection under this section, the department may obtain samples of suspected contaminated materials for purposes of compliance verification with 18 AAC 75.400 - 18 AAC 75.496.</u></p>	<p>What is the purpose of this addition to the regulations? What problem of noncompliance with spill preparedness and response is the department trying to solve? Will the ADEC sampler be qualified to collect and submit the sample to an approved laboratory in full compliance with an approved site-specific sampling plan including chain of custody procedures? Will the ADEC employee have completed full HAZWOPER certification, training in sampling procedures, and be knowledgeable regarding holding times? Will the department pay for the expense of collecting and analyzing the samples? Will ADEC employees be provided with appropriate PPE and supervision at the site to ensure facility safety protocols are followed? Many regulated facilities have known contaminated sites which are already actively managed and regulated through the ADEC Contaminated Sites Program with established sampling programs.</p>