

## Delta Western, LLC

Please see attached comments submitted on behalf of Delta Western, LLC.



January 31, 2022

Alaska Department of Environmental Conservation  
PO Box 111800  
Juneau, AK 99801  
ATTN: Zuzana Culakova

Submitted electronically to:  
[dec.cpr@alaska.gov](mailto:dec.cpr@alaska.gov)

Re: Comments on Notice of Proposed Changes to Oil Pollution Prevention Requirements in the Regulations of ADEC

Ms. Culakova,

Delta Western, LLC (Delta Western) has reviewed the documents provided as part of the Notice of Proposed Changes to Oil Pollution Prevention Requirements in the Regulations of Alaska Department of Environmental Conservation (ADEC or “the department”) and would like to provide the following general and specific comments.

**General Comments:**

Delta Western welcomes the changes ADEC proposed to the responsibilities and requirements regarding publication of public comment periods and approvals for Oil Discharge Prevention and Contingency Plans (CPLANs); these changes streamline the currently antiquated process outlined in the current regulations. Delta Western also would like to thank the department for the proposed changes to the timeline for routine plan updates to both clarify the intent of business days and to extend the timing to 10 days as this eases the burden on plan holders with multiple plans in the event of any key personnel changes. This streamlining contrasts with some of the other changes (or lack of changes) to the regulations. Under the proposed regulations, plan holders will now be required to provide the department one paper copy of the final approved plan, makes it unclear if email will continue to be accepted as a form of “written notice”, failed to shorten the timeframe for plan approvals from a combined 240 days, and adoption of the department’s Oil Spill Response Exercise Manual, which does not align with other industry standard and federally accepted programs. The lack of streamlining in these areas may result in moving away from readily available and well utilized technology, an inability for industry to timely respond to opportunities thus reducing competition and/or services within the state, and poses a significant burden to operators with multiple CPLANs to meet requirements for scheduling drills due to the planning periods required. These comments are re-iterated below, as appropriate.

Additionally, as an entity with multiple CPLANs that directly cite the regulations, Delta Western urges the department to provide a realistic timeline for implementing approved changes into pre-existing plans.

### **Comment 1 : Direct inclusion of email as a form of written notice**

Under 18 Alaska Administrative Code (AAC) 75.405(a) and 475(b), the proposed regulation has removed language from the subsection that directly includes electronic mail (email) as an acceptable form of written notice and an editor's note is added to the section that appears to indicate an email sent to a department inbox would be acceptable as written notice. 18 AAC 75.459(a) also has a similar change. Delta Western believes that key submittal information should not be buried in the editor's notes and instead called out specifically within the regulatory text. We suggest adding the following statement to the subsections cited above and removing the proposed Editor's Note.

An electronic mail sent to the department inbox at INBOXNAME@ADDRESS will be considered written notice for the purposes of this subsection.

Delta Western would also like to clarify that the temporary address of the department inbox used here and in the proposed regulations should be replaced with the actual address intended to be used before finalizing the regulations.

### **Comment 2: Scheduled submission dates**

Delta Western suggests the following changes to the proposed language under 18 AAC 75.405(a), and (d) for preapplication notice to reflect the flexibility given to submission of an application package under 18 AAC 75.405(b) for the preapplication consultation. Delta Western's proposed changes are in red.

18 AAC 75.405(a)

At least 60 days before **submitting the scheduled submission date for** an application package for approval of a new oil discharge prevention and contingency plan under 18 AAC 75.410 or for renewal of approval under 18 AAC 75.420, the applicant must notify the department in writing of its intent to submit an application.

18 AAC 75.405(d)

Upon satisfying the requirements under (a) and (b) of this section, the application package may be submitted to the department before **the 60 days specified in (a) and** the 30 days specified in (b)

### **Comment 3: Signature authority**

Delta Western suggests the following changes to the proposed language under 18 AAC 75.408(b) to include more flexibility in signature authority. Delta Western's proposed changes are in red.

The application form must be signed as required under 18 AAC 15.030 **or by an agent who has been delegated signing authority in writing to the department by a current or former signatory.**

#### **Comment 4: Requirements for final approved plans and electronic format of submittals**

Delta Western believes the proposed changes to 18 AAC 75.408(c)(1) requiring the submittal of paper copies of final approved plans does not align with general business changes towards electronic recordkeeping unlike the department's use of their website to provide electronic copies of application packages and approved plans to interested stakeholders and the public under 18 AAC 75.408(c)(3). As one of the goals of the proposed regulatory changes was to streamline processes, this change goes backwards. To address this, Delta Western suggests the department add "upon request" to the statement as noted below.

Additionally, Delta Western, notes that the second set of proposed additions, under 18 AAC 75.408(c)(1)(C) need to reflect the department's expectations to be made early enough to be accommodated while protecting the content provided as part of the application process (i.e., it would not be appropriate for the department to require native word or excel files that constitute proprietary business property). Delta Western's proposed changes are in red.

- (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 **upon request**:
  - (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;
  - (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 plan holder will provide the package to the requester in an alternate format;
  - (C) the department will specify the electronic format to be used **during the preapplication consultation required under 18 AAC 405(b)**; the submittal must be electronically searchable **and non-editable**;

#### **Comment 5: Minor citation error**

During review of the proposed regulations, it was noted that a new regulatory citation in 18 AAC 75.448(a) is likely incorrect and should be corrected before finalizing the regulations. Delta Western's believes the citation should be Alaska Statute (AS) 45.04.055(c)(2) but defers to the department's intent for the correction. Partial text of the subsection is provided below with the citation underlined and Delta Western's proposed changes in red.

Oil discharge prevention and contingency plan, general content and approval criteria. (a) An oil discharge prevention and contingency plan submitted for

approval under 18 AAC 75.400 – 495 must be usable as a working plan for oil discharge control, containment, cleanup, and disposal of an oil discharge of any size. The plan must contain enough information, analyses, supporting data, and documentation to demonstrate the plan holder's ability to meet the requirements of AS 46.04.030, AS 46.04.055(c)(2), and 18 AAC 75.400 - 18 AAC 75.495. . . .

#### **Comment 6: Response Action Plan changes**

Delta Western would like clarification on the definition of the new term “maximum possible discharge” under 18 AAC 75.449(a). If the department intends to continue use of this term, a definition should be added to the rule under 18 AAC 75.990.

Alternatively, Delta Western believes that the term may be substituted with the previously defined “response planning standard” that is used as the basis for scenarios as is already in common use. Further, it is likely that for most operators the “general procedures” required to be stated in the Response Action Plan would be substantially similar for any large discharge regardless of the specific definition. If the department prefers to replace “maximum possible discharge” with “response planning standard”, Delta Western would also like to note the term is used under 18 AAC 75.449(a)(10) and should be substituted in both places.

#### **Comment 7: Clarification on emergency action checklist**

Delta Western requests clarification on the expectation for response personnel to carry an emergency action checklist under 18 AAC 75.449(a)(1). Due to changes in the language from 18 AAC 75.425(e)(1), the predecessor to the current paragraph, a conservative interpretation of the proposed language indicates any person who may potentially respond to a discharge would be required to carry an emergency action checklist on their person at all times, even while on personal time. The proposed language is provided below for reference with suggested clarifications from Delta Western in red.

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 **appropriate** response personnel **while on duty**;

#### **Comment 8: Changes to reporting and notification**

Delta Western requests removal of the new language in the proposed 18 AAC 75.449(a)(2) due to the use of undefined terms and the room left for interpretation, making compliance difficult. Alternatively, Delta Western would like to see the terms “potentially impacted groups” and “others who may be called on to provide resources” defined in the regulation or specific examples of who ADEC intends for this to include. “Potentially impacted groups” may be an overly broad designation including anyone from leaseholders and adjacent landowners to non-governmental organizations, fishing co-ops, Native corporations, etc. “Others who may be called on to provide resources” could also be interpreted to include a broad range of providers and if taken literally, could penetrate down to providers such as hardware stores and caterers who may support

response efforts. Delta Western does not believe this is ADEC's intent as it would be overly burdensome and resource providers may change. The idea of maintaining such a list when these things are readily available and presented in other documents, is overly burdensome and does not add significant value to the CPLANs. Delta Western's proposed changes are in red.

reporting and notification - a description of the immediate spill reporting actions to be taken at any hour of the day, including (A) the title and telephone number of facility personnel responsible for making the notification; and (B) the telephone number of each appropriate government agency to be notified if a discharge occurs ~~and additional contact information for potentially impacted groups and others who may be called on to provide resources during the spill;~~

### **Comment 9: Changes to fire hazard control requirements**

Delta Western requests removal of the new language in the proposed 18 AAC 75.449(a)(6)(D) due to regulatory overreach into state fire marshal and federal marine fire safety systems jurisdictions. Additionally, it should be noted here that providing such detailed information in publicly available documents, which are readily accessible to anyone, is inconsistent with some of the happenings at the federal level with respect to security of critical infrastructure. As many of the CPLAN related facilities in the state are waterfront facilities and thus subject to security plan regulations at the federal level, Delta Western strongly opposes the requirement to present information that could be used in a manner that puts these facilities at risk. This concern is also reiterated later in this letter (see Comment 15).

While Delta Western appreciates that the department has a vested interest in operators having fire safety equipment and training, all operators must comply with several different local, state, and federal requirements for operating in the state, it does not serve to have agencies require submittal of specialized documentation intended for and understood by different agencies. Delta Western's proposed changes are in red.

a description of methods to prevent or control a potential fire hazard, ~~including a facility diagram which includes the location of fire suppression equipment, main power shutoff switches, and other relevant information; all fire control plans must be compatible with applicable fire codes and industry standards;~~

### **Comment 10: Prevention of discharged oil from entering special areas**

Delta Western seeks clarification or removal of new language in the proposed regulations under 18 AAC 75.449(a)(6)(F). Operators are now required to prevent the discharge of oil from entering environmentally sensitive areas (ESAs) or areas of public concern as well as maintain equipment, personnel, and other resources for the specific purpose of preventing the discharge of oil into these special areas. It is unclear what is the department is expecting of operators to comply with the protection of these higher-tiered special areas. In the unlikely event of a discharge, Delta Western plans to use all response equipment available to respond and would not hold back any

equipment for use only in an ESA or area of public concern if it was needed to respond immediately. It is also unclear if the requirements under the proposed regulations are contradictory to existing geographic response strategies. In addition, while Delta Western centers response operations around the safety and protection of personnel and the environment, in the event a discharge occurs within an ESA or area of public concern, this subparagraph is impossible to comply with as written in such that a discharge of oil would have already entered the ESA or area of public concern due to the point of origin. For this reason alone, the language in 18 AAC 75.449(a)(6)(F) should be revised as it puts operators in an impossible situation where no matter what they do, they are in violation.

Further, as there is not a comprehensive list of ESAs or areas of public concern currently published by the department, it would be very difficult to maintain compliance with the proposed regulation as written, particularly for vessels that may operate anywhere in the state. Similar language is present under 18 AAC 75.451(g) and for the same reasons, Delta Western strongly requests the language be revised. Delta Western suggests the following edits in red to the proposed language.

18 AAC 75.449(a)(6)(F)

for a stationary facility or operation, or a railroad, and, if requested by the department, for a vessel, a description of site-specific strategies for the protection of environmentally sensitive areas and areas of public concern identified under 18 AAC 75.451(k), including, for a land-based facility or railroad, protection of groundwater and public water supplies; ~~sufficient oil discharge response equipment, personnel, and other resources must be maintained and available for the specific purpose of preventing discharged oil from entering these environmentally sensitive areas or an areas of public concern that would likely be impacted if a discharge occurs, and that this equipment and personnel will be deployed and maintained on a time schedule that will protect those areas before oil reaches them according to the predicted oil trajectories for an oil discharge of the volumes established under 18 AAC 75.430 - 18 AAC 75.442;~~ areas identified in the plan must include areas added by the department as a condition of plan approval; if identification of those areas and site-specific strategies for protection of those areas are in an applicable Geographic Zone of one or more Area Contingency Plans described in 18 AAC 75.495, the plan holder may incorporate that information by reference;

18 AAC 75.451(g)

Response equipment - the applicant must have ready access to enough equipment to meet the applicable response planning standards established under 18 AAC 75.430 - 18 AAC 75.442 using mechanical methods of oil control, containment, and cleanup. Identified equipment must reflect the best available technology when the plan is submitted or renewed; the plan must include a complete list of contracted or other oil discharge containment, control, cleanup, storage, transfer, lightering, and related response equipment to meet the applicable response

planning standard, and to protect environmentally sensitive areas and areas of public concern that are identified in (k) of this section ~~before oil reaches them~~ and that may be reasonably expected to be impacted by a spill of the response planning standard volume as described in the response strategies developed under 18 AAC 75.449(a)(6) and (7); the list must include

#### **Comment 11: Timeline for permits, approvals, and authorizations**

Delta Western requests clarification on the proposed language under 18 AAC 75.449(a)(6)(K) and (a)(8)(F). As currently written, it appears operators would need to speak on behalf of agencies regarding when they believe approvals and other documents would be issued. Delta Western suggests that the department revise the language in these two sections to allow operators to provide information that is ascertainable versus speculative. Delta Western's proposed changes are in red.

##### 18 AAC 75.449(a)(6)(K)

procedures and locations for temporary storage and ultimate disposal of oil contaminated materials, oily wastes, and sanitary and solid wastes, with enough detail to demonstrate that there is adequate temporary storage and removal capacity for recovered oil and oily wastes available at or near the site of the spill to keep up with the skimming and recovery operations and to meet the applicable planning standard established under 18 AAC 75.430 - 18 AAC 75.442 for control, containment, and cleanup; plans for temporary storage and ultimate disposal must include identification of all necessary permits, approvals, or authorizations and the timeline **for the submittal of applications** for them;

##### 18 AAC 75.449(a)(8)(F)

identification of all necessary permits, approvals, or authorizations for use of nonmechanical response options and the timeline **for the submittal of applications** for them; and

#### **Comment 12: Requirement for alternative response strategies**

Delta Western asks the department to strongly reconsider the removal of the phrase "if required by the department" that was present in the existing regulations under 18 AAC 75.425(e)(1)(F) that is no longer present in the equivalent subparagraph in the proposed regulations 18 AAC 75.449(a)(6)(O). This change could be particularly burdensome as it will likely require the creation of potentially several more response scenarios per plan particularly with the open-ended language as written. In the event that the department requires multiple scenarios under this subparagraph, the implication is the plan holder would have the opportunity to ask questions and understand what is expected to be included. In contrast, as written, an applicant may not learn or understand the plan reviewer's expectations until the RFAI process at which time it would be very difficult to respond in a timely manner and would likely require a second public comment period, thus increasing an already lengthy approval process. Delta Western also has concerns about the



consistent application of this provision by the department due to the open-ended language. Delta Western has presented two options to adjust the proposed language below in red.

if required by the department, additional response strategies to demonstrate alternative strategies for anticipated receiving environments and seasonal conditions, including time of year, spills of varying source and size, and weather limitations;

additional response strategies to demonstrate alternative strategies for anticipated receiving environments and seasonal conditions, including time of year, spills of varying source and size, and weather limitations; the department will provide guidance on requirements for alternative strategies during the preapplication consultation required under 18 AAC 405(b);

### **Comment 13: Requirements for discharge history**

Delta Western requests that a five-year limit be put on the timeline for the proposed language under 18 AAC 75.450(b)(2). There can be many operational and personnel changes over a five-year period and Delta Western believe that this would be sufficient to demonstrate changes made in response to recent events. Events older than five-years should have already resulted in changes that would be fully integrated into daily operations. Delta Western's proposed changes are below in red.

discharge history - list all known oil discharges greater than 55 gallons that have occurred at the facility within the state in the previous 5 years; the history must include

### **Comment 14: Information required for small storage tanks**

Delta Western requests the department consider removal of the proposed requirements for information required to be reported for smaller storage tanks between 1,000 gallons and 10,000 gallons under 18 AAC 75.451(b)(2) because these tanks are generally so much smaller than the tanks the trigger CPLAN requirements and responding to small tanks is well within capabilities of any CPLAN regulated facility.

### **Comment 15: Requirements for facility piping**

Delta Western suggests the department update the new requirements for facility piping under 18 AAC 75.451(b)(7) to limit the diagrams to display the location of safety shutdown valves instead of all valves. It should be noted here that providing such detailed information in publicly available documents, which are readily accessible to anyone, is inconsistent with some of the happenings at the federal level with respect to security of critical infrastructure. As many of the CPLAN related facilities in the state are waterfront facilities and thus subject to security plan regulations at the federal level, Delta Western strongly opposes the requirement to display the location of all valves. Delta Western's proposed changes are in red.

for an oil terminal facility, an exploration facility, and a production facility, a piping diagram showing all facility oil piping, including the location of **safety shutdown** valves; and

#### **Comment 16: Command system requirements**

Delta Western requests the department revert the language for command system requirements under the proposed 18 AAC 75.451(d) to the existing regulations under 18 AAC 75.425(e)(3)(C). The proposed language requires a lot of very specific information for each person that may be utilized in response to a discharge, instead of general positional type information. Delta Western believes this would result in multiple updates a year for each plan as personnel change roles within the company as well as local, state, and federal agencies. It is also difficult to predict which agency personnel would be sent to respond as this is not something plan holders have control over. Plan holders are often not informed of personnel changes at agencies as well. As far as company personnel, which plan holders do have access to, the exact personnel may vary from incident to incident based on availability, severity, etc. and thus, providing contact information is unusually burdensome. It is Delta Western's belief that complying with this expanded requirement would be difficult and time consuming and would not provide corresponding value to the response effort because each discharge is treated individually based on circumstances.

#### **Comment 17: Deployment vessel requirements**

Delta Western suggests clarification on the proposed language under 18 AAC 75.451(g)(4). Delta Western's proposed changes are in **red**.

each vessel designated for oil recovery operations, including skimming vessels and platforms and vessels designated to tow and deploy boom; vessels used to deploy and tow boom must be of a number, size, and power adequate to deploy the types and amounts of boom **intended for use in the response effort** and must be capable of operating in the manner and at the speeds necessary for the effective use of boom;

#### **Comment 18: Available storage capacity**

Delta Western requests clarification on the proposed language under 18 AAC 75.451(h)(3)(B). "Available storage" is not defined in the regulation so it is difficult to know the department's intent with this subparagraph. Is it intended that "available storage" include the existing unused capacity of a bulk facility? If defined as temporary storage (such as a towable bladder), this is likely an intermediate step between recovery and disposal or oil separation and in this case, temporary storage may not appear to be sufficient for an entire day's recovery efforts but if simultaneous removal is occurring, the scenario should not be derated to reflect the temporary storage maximums.

### **Comment 19: Repeated training recordkeeping requirements**

Delta Western suggests the proposed language under 18 AAC 75.451(j)(3) be revised to reference 18 AAC 75.020(c) to reduce repetition in the regulation. Delta Western's proposed changes are in red.

proof of ~~that~~ training is maintained for five years and is made available to the department upon request; this must include ~~the required information under 18 AAC 75.020(c)~~

~~(A) a statement, signed and dated by each participant, listing the course or program content;~~

~~(B) shipboard records verified by the vessel master; or~~

~~(C) computerized records verified by the owner or operator.~~

### **Comment 20: Best available technology requirements**

Delta Western still asserts that the best available technology (BAT) review required under the proposed rule at 18 AAC 75.452 is outdated and should be removed. Should the department retain these requirements, Delta Western strongly suggested that the department should allow each the plan holder to affirm that BAT is being used and if so, not require the exercise of reviewing each technology in tabular format in the plan. It is suggested that only those technologies for which the plan holder is not using BAT or BAT is still emerging and/or changing, should be required to be reviewed.

### **Comment 21: Time frame for final approvals**

Delta Western requests that the time frame for final approvals be reduced from 60 days to 10 business days under 18 AAC 74.455(g). A wait of 60 days, while better than the previous 65 days, should be considered an undue delay to business considering this step comes after all department review of the application package and a decision is ready to be issued. Delta Western's proposed changes are in red.

Not later than ~~60~~ **10 business** days after the department determines that an application package is complete under (e) of this section, the department will approve, approve with conditions, or disapprove a plan and issue a decision under 18 AAC 75.460.

Delta Western still asserts that the approval timeline for new plans, plan renewals, and major amendments is much too long. The department should revisit all timelines within the proposed regulation and further identify where they may reduce the overall timeframes. The department's lack of consideration for industry in this area is detrimental to competition and development within the state, which relies largely on oil and gas for much of its revenue.

### **Comment 22: Facility inspection sampling**

Delta Western strongly objects to the proposed new section under 18 AAC 75.480(d) as it appears to be regulatory overreach into the contaminated sites regulations (covered under 18 AAC 75, Article 3). As persons subject to these regulations are required to use a third-party sampler for the collection of all samples, it seems that the state should also be required to use a third-party sampler, should it wish to perform sampling that may have potential regulatory implications. This is particularly true, as the collection of samples, if not done correctly, can result in biased results, data quality issues, or cross-contamination. Unless the department intends to ensure that all of their CPLAN inspectors meet the definition of a Qualified Sampler and are thoroughly familiar with the Field Sampling Guidance and quality control procedures, sampling should be left to those individuals with the proper credentials.

Additionally, this subsection does not address or indicate consequences to operators in the event that contamination is found. Finally, even if contamination was found, there is not necessarily a correlation between contamination and current noncompliance with CPLAN regulations. Contamination may be the result of actions by a previous owner/operator, a previous spill that was reported and cleaned up to the then current regulations and cleanup levels, previous practices that have been corrected, or even a facility that is situated on known contaminated land or property.

For these reasons and others, Delta Western asks the department to remove this proposed subsection. In the event that ADEC retains this section, additional information should be added to the regulations to require ADEC to provide advanced notice of the intention to collect samples, including the number and analytical methods, such that plan holders may have on hand the necessary equipment and personnel to collect and have independently analyzed duplicate samples.

### **Comment 23: Self-certification form not made available**

The required self-certification form referenced in the proposed regulations under 18 AAC 75.485(c), and the Editor's Note to this section has not been made available as part of the public review process. Delta Western believes that this should be made available as part of the public comment process because it is the intent of the department to make this form required. Delta Western strongly recommends that the department provide the proposed form as part of a supplemental public notice and extend the public comment period to allow for proper review by interested parties.

### **Comment 24: Adoption of the Oil Spill Response Exercise Manual**

Delta Western does not support the adoption of the department's Oil Spill Response Exercise Manual into the regulation for several reasons. First and foremost is the fact that the department has not made it clear if the adoption would make the manual enforceable or required to be followed. Up until this point, it has been provided as a guidance document only. Second, the

department maintained language in the manual that it is “considered a living document. As such, it will periodically be reviewed and updated...”. This caveat appears to contradict the intent and practical concept of adopting the manual as regulation. To adopt it as regulation would require that the department put out a public notice and allow for public comments any time they wish to modify this document. Anything short of this would skirt the public’s ability to participate in the regulatory process as it exists today. Thirdly, it is unclear if the department intends to further modify the manual ahead of its adoption into the regulations as the provided version includes “DRAFT VERSION” on the cover. The idea that the department may further modify this document and potentially make it enforceable seems to skirt the public comment process by not allowing regulated or interested parties to provide comments on the final version that is proposed.

Delta Western also believes that much of the content of the manual would be extremely difficult to comply with given the timelines presented and need for agency participation for every drill and exercise, especially for plan holders that are required to perform drills and exercises for other agencies. For example, the majority of Delta Western’s CPLAN regulated sites conduct drills and exercises designed to fulfill requirements for ADEC and the United States Coast Guard concurrently. According to this manual, for the department to consider these to fulfill CPLAN requirements, it appears operators will have to schedule their functional drills on a timeline as long or longer than the frequency at which they are required to be conducted (i.e., timeline required is 6 to 9 months for a functional exercise whereas deployment exercises are conducted once for each 6 month period). With the number of sites Delta Western operates, if the department intends to make this enforceable, it would be a major burden on site personnel and the Environmental Department to comply. Many drills and exercises are conducted opportunistically based on workload, weather, and other factors; ADEC’s proposed participation in all of these, removes plan holder flexibility, which will have unintended consequences. For example, if the planned exercise day has poor weather or personnel (plan holder or agency) are unable to get to the location due to health or travel delays, exercises may not occur as scheduled. This may result in additional costs to the state as well as missed opportunities to confirm all facility personnel are trained and that exercises happen in due time. Delta Western also wishes to note our concern about the department’s ability to provide adequate funding and staff to implement the Oil Spill Response Exercise Manual. It is our understanding that implementation will have to be done by existing staff and current funding. Since the state was not able to commit to a shorter review timeline for CPLANs, we don’t believe they will have the staff to be able to participate in every drill or exercise from pre-planning to execution.

The National Preparedness for Response Exercise Program (NPREP) is an industry standard, which is utilized by the majority of regulated plan holders. If ADEC’s goal is to streamline processes and ensure plan holders are prepared to respond, ADEC would be better served by adopting NPREP in the regulations than the department’s Oil Spill Response Exercise Manual.

It is for the above reasons and more that Delta Western suggests the following edits to the proposed language in red.

The department will consider a regularly scheduled training exercise or a Preparedness for Response Exercise Program exercise initiated by a plan holder as a discharge exercise, as required under (a) of this section, if the ~~exercise meets the requirements for exercises under 18 AAC 75.485 department participates in the planning and evaluation of an operations-based exercise as outlined in the Homeland Security Exercise and Evaluation Program methodology and described in the department's Oil Spill Response Exercise Manual, MONTH, XX, 202X, adopted by reference.~~

### **Comment 25: Figure 2 Updates**

As presented, Figure 2 is incomplete. Delta Western suggest the following updates to the proposed Figure 2 Regional Response Operation Plan Boundaries in 18 AAC 75.496:

- Change the page orientation to landscape;
- Move the extended Aleutian Islands to their geographical location;
- Add a key or legend; and
- Delineate the boundaries between Regions 2 (PWS), 5 (Aleutian), 7 (Western), and 10 (Interior Alaska). As presented, there is no dotted line between these regions making compliance difficult for any operators that may be moving between them.

### **Comment 26: Definition of Primary Operational Control**

Delta Western requests the following change to the proposed definition of “primary operational control” under 18 AAC 75.990. Delta Western’s proposed changes are in **red**.

“primary operational control” means the person, **or that person’s agent**, that exercises control over a vessel while the vessel is in state waters; this includes control over the port of call, arrangement for loading or unloading of oil, setting out the parameters of the approved prevention and response plan including speed, transfer procedures, tug escort, and crew standards and response to spills; primary operational control may be established for the purpose of holding and implementing a plan through a binding agreement between the party wishing to establish control and the vessel owner, operator or charterer.

If you have any questions on the comments/questions provided, please feel free to contact me at via e-mail or phone.

Respectfully,

**Christina Bentz**  Digitally signed by Christina Bentz  
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