



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Environmental Conservation

DIVISION OF SPILL PREVENTION AND RESPONSE
Prevention, Preparedness & Response Program

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February 3, 2023

Kevin O'Shea
AFSHA President

Dear Mr. O'Shea:

The Department of Environmental Conservation (department) appreciates the concerns about the added provision to response planning standard regulations for oil terminal facilities shared at the Monday, January 30, 2023, meeting with Commissioner Brune and department staff.

During the meeting Alaska Fuel Storage & Handlers Alliance (AFSHA) members shared its concern that the additional provision in regulations at 18 AAC 75.432(b), "For vessels operating as oil terminal facilities, the response planning standard is based on the entire storage capacity of the vessel," applied to tank vessels and oil barges operated by the members under approved oil discharge prevention and contingency plans (ODPCPs). The department's intention was for this provision to be linked to the classification requirements in 18 AAC 75.280. We did not anticipate that it would be interpreted to apply to vessels covered under ODPCPs.

The department has reviewed its records and verified how many vessels operated by AFSHA members were classified as oil terminal facilities under 18 AAC 75.280 and confirmed that AFSHA members had not requested classification as an oil terminal facility for any vessels under their control. As such:

- At this time, there are no AFSHA member vessels classified as oil terminal facilities under the regulations at 18 AAC 75.280. To the department's knowledge, AFSHA does not operate any vessels in the small subset that may be classified as oil terminal facilities.
- The new provision in 18 AAC 75.432(b) and associated regulations at 18 AAC 75.280 will be reviewed to clarify that tank vessels and oil barges covered under an approved ODPCP are not subject to the provisions of 18 AAC 75.280, and they are not subject to the response planning standards for oil terminal facilities.

Additionally, the department wishes to highlight past determinations regarding vessels classified as oil terminal facilities:

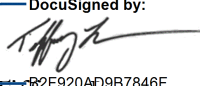
Tank vessels and oil barges operating under an approved ODPCP are not subject to the oil terminal classification regulation at 18 AAC 75.280, and they are not subject to response planning standard provisions for oil terminal facilities.

1. Ship-to-ship transfer operations in compliance with an approved ODPCP are not subject to additional planning standards as terminal facilities.
2. Vessels required to apply for classification as oil terminal facilities under 18 AAC 75.280 include:
 - vessels under 400 GRT, regardless of fuel capacity, (not nontank vessels, tank vessels, or oil barges) if they conduct ship-to-ship transfers of oil in state waters; and
 - nontank vessels (NTVs), only if they intend to conduct ship-to-ship transfers of oil in state waters and the vessel storage capacity is 10,000 barrels or greater.
3. Vessels classified as oil terminal facilities are required to obtain financial responsibility approval under 18 AAC 75.235(a)(2) and ODPCP approval under AS 46.04.030 when:
 - a vessel that is less than 400 GRT, (not nontank vessels, tank vessels, or oil barges,) conducts ship-to-ship transfers of oil, and has a storage capacity of 5,000 barrels or greater of crude oil, or a storage capacity of 10,000 barrels or greater of noncrude oil, or
 - an NTV conducts ship-to-ship transfers of oil and has a storage capacity of 10,000 barrels or greater of noncrude oil.

The department has no record that AFSHA members operate vessels that should have been classified as oil terminal facilities. If AFSHA members operate, or are planning to operate, vessels not covered in an approved ODPCP that might be required to request classification as an oil terminal facility, they should work with department staff to comply with the oil terminal facility classification requirements, and financial responsibility and plan requirements as applicable.

I hope this information provides clarification and allays the concerns presented at the January 30, 2023, meeting with Commissioner Brune.

Sincerely,

DocuSigned by:

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Tiffany Larson

SPAR Director