



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Environmental Conservation

DIVISION OF SPILL PREVENTION AND RESPONSE

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April 4, 2023

The Honorable Kevin McCabe, Chairman  
House Transportation Committee  
State Capitol  
Juneau, AK 99801

Dear Representative McCabe,

The Alaska Department of Environmental Conservation (DEC) appreciates this opportunity to address concerns brought forth by the House Transportation Committee regarding DEC's implementation of the statutory definition of "oil terminal facility" in determining contingency planning and financial responsibility requirements for vessels that conduct ship-to-ship oil transfers.

In order to operate in Alaska, Alaska statutes require oil terminals and certain vessels, including tank vessels and oil barges, to maintain compliance with a contingency plan and proof of financial ability to respond to damages approved by the department. Alaska statutes at AS 46.04 have included vessels in the definition of "oil terminal facility" since 1980, and vessels remained included through updates to the definition in 2000 and 2015.

Applying land-based oil terminal facility requirements to vessels that conduct ship-to-ship oil transfers is illogical. DEC believes that a plain reading of the statute says that tank vessels and oil barges operating as oil terminal facilities fulfill the contingency planning and financial responsibility requirements with their approved tank vessel or oil barge contingency plan and proof of financial responsibility that includes proposed operations. The statutes do not require vessels conducting ship-to-ship oil transfers to have both a vessel plan and an oil terminal facility plan, or "double" financial responsibility coverage. The statutory provisions of AS 46.04 are not ambiguous and DEC has consistently, through many changes of administration, interpreted its statutes this way.

The recent regulation update to 18 AAC 75.432(b) did not change planning requirements for vessels conducting ship-to-ship oil transfers. The response planning standard volume used as the basis for the contingency plan continues to be calculated under rules for that vessel type; the change in the regulation reaffirms that it is based on the entire vessel capacity and not a single vessel cargo tank. Regulated vessel operators will continue operating under their approved contingency plans and financial responsibility proof.

While DEC believes that no statutory changes are necessary to support the agency's implementation of its statutes regarding what requirements apply to vessels, the department recognizes that there is always an opportunity to clarify statutes and regulations. Further, DEC is aware of the need to make technical corrections to clarify financial responsibility requirements for vessels under 18 AAC

75.280. We believe that the most tailored way to eliminate confusion is to add specificity directly to the requirements in question: tank vessel and oil barge contingency plans (AS 46.04.030(c)) and financial responsibility (AS 46.04.040(c)).

DEC's spills database does not specifically track spills that occurred during ship-to-ship oil transfers, but retrievable spill records show approximately 250 spills from regulated vessels since 1995. We do not have knowledge of any instance of an insurer declining a financial responsibility claim filed by the department. The department does not have information about business conducted between insurance companies and regulated operators.

Thank you for the opportunity to coordinate on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tiffany Larson', followed by a long horizontal flourish.

Tiffany Larson, Director  
Spill Prevention and Response