

House Transportation Committee

March 30, 2023

# House Bill 128

## 18 AAC 75.432

(a) For a crude or non-crude oil terminal facility, the plan holder shall maintain or have available under contract within the plan holder's region of operation or another approved location, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to (1) contain or control and clean up within 72 hours that portion of the response planning standard volume that enters open water; and (2) contain or control within 72 hours, and clean up within the shortest possible time consistent with minimizing damage to the environment, that portion of the response planning standard volume that enters a receiving environment other than open water. **(b) The response planning standard volume for a crude or non-crude oil terminal facility is equal to the capacity of the largest oil storage tank at the facility covered by the plan, unless there are specific natural or manmade conditions outside the facility which could place the facility at an increased risk of an oil discharge affecting one or more storage tanks.** (c) For an increased risk described in (b) of this section, the response planning standard volume is equal to the capacity of all of the potentially affected oil storage tanks at the facility. The plan must set out the basis for selecting the storage tanks and the volume of oil planned for in the response. (d) The department will, in its discretion, reduce the requirements of (b) of this section, by a percentage up to that shown, for each of the following prevention measures in place at the facility: (1) alcohol and drug testing of key personnel: 5 percent; (2) an operations training program with a professional organization or federal certification or licensing of program participants: 5 percent; (3) on-line leak detection systems for tanks and piping: 5 percent; (4) a sufficiently impermeable secondary containment area with a dike capable of holding the contents of the largest tank, or all potentially affected tanks in the case of increased risk, and precipitation: 60 percent; (5) for secondary containment as described in (4) of this subsection, designed with the following enhancements, an additional allowance for (A) cathodic protection: 10 percent; (B) fail-safe valve piping systems: 15 percent; or (C) impervious containment area extending under the full area of each storage tank or double bottoms with leak detection: 25 percent; and (6) containment outside the secondary containment area: 10 percent.

18 AAC 75.432(b) with proposed language

(b) The response planning standard volume for a crude or non-crude oil terminal facility is equal to the capacity of the largest oil storage tank at the facility covered by the plan, unless there are specific natural or manmade conditions outside the facility which could place the facility at an increased risk of an oil discharge affecting one or more storage tanks. **For vessels operating as oil terminal facilities, the response planning standard is based on the entire storage capacity of the vessel.**

## Alaska Fuel Storage and Handling Association Response to proposed change

Delete the language added/proposed. What exactly is a “vessel operating as oil terminal facility”? Please define and provide parameters when a VESSEL (barge, NTV or TV) is considered an OIL TERMINAL FACILITY. Under the new requirements, would the RPS of a 120,000 bbl. non crude barge be 120,000 bbl.? Why isn't the 15% reduction (for calculating RPS of non-crude barge or tank vessel) utilized since these are VESSELS. Does DEC consider vessels moored offshore for transfer operations, to be a greater threat than a vessel transiting from port to port? Please provide examples (real world) of how a double-hulled vessel or barge will lose its entire cargo.

## Department of Environmental Conservation Response (1/6/2023)

The definition in 18 AAC 75.990 and AS 46.04.900(14) for “oil terminal facility” answers the commenter’s question. The definition of “oil terminal facility” includes “a vessel, other than a nontank vessel, is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil terminal facility[.]” A vessel that falls under the definition in AS 46.04.900(14) is subject to the requirements for an oil terminal facility, including the requirement at 18 AAC 75.430(c)(1). The proposed edit to 18 AAC 75.432(b) provides additional clarity and will be retained.

## AS 46.04.900(14) – Current Statutory Definition of “Oil Terminal Facility”

(14) “oil terminal facility” means an onshore or offshore facility of any kind, and related appurtenances, including a deepwater port, bulk storage facility, or marina, located in, on, or under the surface of the land or waters of the state, including tide and submerged land, that is used for the purpose of transferring, processing, refining, or storing oil; a vessel, other than a nontank vessel, is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil terminal facility;

18 AAC 75.990(76) – Regulatory definition of “oil terminal facility”

“oil terminal facility” has the meaning given in AS 46.04.900 and includes vessels classified as oil terminal facilities under 18 AAC 75.280

## 18 AAC 75.280 Classification as an oil terminal facility

(a) If a vessel is to operate as an oil terminal facility as defined at AS 46.04.900, the owner or operator shall submit a written request for classification of the vessel as an oil terminal facility to the department. The request for classification must include the

- (1) name of the owner or operator;
- (2) vessel name and official number;
- (3) oil storage capacity of the vessel;
- (4) type of product carried as cargo; and
- (5) period of time during which the classification will apply.

(b) Upon receipt of a request under

(a) of this section, the department will issue a certificate to the vessel, classifying the vessel as an oil terminal facility for the prescribed period.

(c) If the capacity of the vessel for which classification is requested is more than 10,000 barrels of noncrude oil, the owner or operator must meet the financial responsibility requirements of 18 AAC 75.235(a)(2) and the oil discharge prevention and contingency plan requirements of AS 46.04.030.



- **Alaska Statutes require land-based oil terminals and vessels that deliver oil as cargo to have oil spill response plans known as “contingency plans”**
- **Land-based terminals have a planning standard that requires equipment to respond to a spill from their largest tank.**
- **Vessel operators have a planning standard that requires equipment to respond to spill from a percentage of their total cargo.**
- **The planning standards differ because responding to a spill on land is different than on water.**
- **Comingling and lack of clarity regarding the definition “oil terminal facility” is causing concern among fuel delivery vessel operators in Alaska**

It appears that the definition of “oil terminal facility” that includes vessels that transfer fuel to smaller vessels in state waters, now requires vessels that already have oil spill plans to now plan for and acquire tens of millions of dollars of new equipment to comply with oil terminal facility planning requirements.

The additional requirements and the financial commitments to meet them are a concern to stakeholders because those requirements will cost time and money which will be passed on to customers.

# Sectional Analysis of House Bill 128 Version U

**Section 1 – Page 1, lines 4 through 11** – adds language that an approved contingency plan for a tank vessel or oil barge satisfies the requirement in (a) of this section for contingency plans for oil terminal facilities.

**Section 2 – Page 1, line 12 through Page 2, line 6** – adds language that proof of financial ability for a tank or oil barge that is approved under this subsection satisfies the requirements of (a) of the section for proof of financial ability for oil terminal facilities.

**Section 3 – Page 2, lines 12 through 26** – changes the definition of oil terminal facility to confirm to the additions of sections one and two; specifying that when a tank vessel or oil barge are operating with approved contingency plans and proof of financial ability, they are not considered “oil terminal facilities”.

**Section 4 – Page 2, line 27** – Added an immediate effective date to the bill.