

Minor Amendment and Housekeeping Package Frequently Asked Questions

Questions from the public have been gathered along with the department's responses. Substantially similar questions have been aggregated.

1. Question: Why are the provisions of 18 AAC 75.066 being limited to shop-fabricated aboveground oil storage tanks with storage capacities of 50,000 gallons or less?
 - a. 18 AAC 75.066 is being limited to shop-fabricated tanks with capacities of 50,000 gallons or less because the construction standards referenced in 18 AAC 75.066(b)(1) were written specifically for shop-fabricated tanks with capacities of 50,000 gallons or less. The construction standards and prevention and maintenance measures of 18 AAC 75.065 are more appropriate for shop-fabricated tanks with capacities greater than 50,000 gallons.

Updated on March 2, 2018 for accuracy

2. Question: Why are the requirements in 18 AAC 75.425(e)(3)(A)(i), (ii), and (vi) being amended?
 - a. They are being amended to specify the information requirements for aboveground oil storage tanks with a storage capacity between 1,000 gallons and 10,000 gallons. By adding the language to the regulations, it will eliminate the need for a guidance document that has been in place since 1992, OPC 92-6.

Below are questions added March 2, 2018

3. Question: Why are the provisions of 18 AAC 75.438(c) and 18 AAC 75.440(b) being amended?
 - a. These subsections are being amended to clarify how the response planning standard (RPS) is calculated for crude oil tank vessels and barges. The current regulations are unclear because "cargo capacity" is not defined in statute or regulation. "Cargo volume" is defined in 18 AAC 75.990(14). These edits also makes the subsections consistent with the statutory language found in AS 46.04.030(k)(3) - (5) and the department's procedures for calculating the RPS for crude oil tank vessels and barges.
4. Question: How will the amendment of 18 AAC 75.205(b)(3) affect financial responsibility applications for nontank vessels?
 - a. Applicants will no longer be able to submit an application for financial responsibility once a year on the chance that the nontank vessel will enter state waters. Applicants will be required to manage the movement of the nontank vessel to assure that financial responsibility applications are submitted no earlier than 90 days prior to operating in state waters.

- b. The edit from “at least 15 days before operations” to “not later than 15 days before operations” does not reflect a change to the meaning of the regulation and was made to be consistent with legal terminology.

Below are questions added March 9, 2018

- 5. Question: Will the amendment of 18 AAC 75.205(b)(3) affect nontank vessel streamlined plan approvals and require that the plan be suspended until the vessel intends to enter Alaska waters?
 - a. No, the change is to the application process for approval of proof of financial responsibility. Plans will not be required to be suspended until the vessel intends to enter Alaska waters. As stated in the terms and conditions of nontank vessel streamlined plan approvals, the vessel must have a department-approved Certificate of Proof of Financial responsibility prior to entering Alaska state waters.

Below are questions added March 23, 2018

- 6. Question: Will the changes to the provisions of 18 AAC 75.438(c) and 18 AAC 75.440(b) affect the RPS volume calculation for tank vessels?
 - a. The edits to this section are not intended to change the RPS volume calculation but to align language in the relevant statute and regulations. The primary reason for replacing ‘capacity’ with the term ‘volume’ is to be consistent with the statutory language found in AS §46.04.030(k)(3)-(5), which establishes the RPS for both crude and non-crude oil tank vessels or barges.

Updated April 6, 2018

- 7. Question: What is the reason for the change to 18 AAC 75.425(e)(3)(A), besides incorporation of SPAR Guidance No. OPC 92-6?
 - a. The change to 18 AAC 75.425(e)(3)(A) clarifies that all tanks with capacities of at least 1,000 gallons are to be used in determining the oil storage capacity at a facility for contingency planning purposes (i.e., when a facility is regulated under AS 46.04) and must be included in a plan.
 - b. For a person who is subject to AS 46.04.030 or AS 46.04.055, an accurate facility description should include information on oil movement and storage within a regulated facility. The identification of the location of oil storage tanks from 1,000 to 10,000 gallons informs both prevention and potential oil spill response operations.
- 8. Question: Is the department knowledgeable of the number of 1,000 to 10,000 gallon tanks at regulated facilities; i.e., is the additional workload appropriately understood?
 - a. The proposed regulation revision is consistent with SPAR Guidance No. OPC 92-6 (in place since 1992), which informed plan holders that tanks with capacities of at least 1,000 gallons must be included in the plan. Since this

information should already be included in the plan, no additional workload should be required.

- b. Facilities regulated under AS 46.04.030 are also likely regulated by EPA and subject to Spill Prevention Control and Countermeasure (SPCC) planning obligations under 40 CFR 112. In the event a facility's plan does not currently include the necessary information, the identification of the location, storage capacity, and the product type stored in tanks with a storage capacity of 1,000 gallons or greater should be readily available within a facility's SPCC plan.

Updated April 6, 2018.

- 9. Question: For plans that do not currently list 1,000 to 10,000 gallon tanks, how and when will they have to be added?
 - a. A plan that does not contain information on in-service tanks with capacities of 1,000 to 10,000 gallons will need to be amended following the procedures under 18 AAC 75.415. In most cases, this will be a minor amendment. As the regulation revision is currently written, plans will need to be amended not later than 30 days after the lieutenant governor approves the regulation.

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- 10. Question: Are tanks with capacities of 1,000 to 10,000 gallons subject to applicable oil spill prevention requirements of 18 AAC 75.005 - 18 AAC 75.085 (Article 1)?
 - a. Operations at regulated facilities are subject to the general pollution prevention regulations within Article 1 of 18 AAC 75, including the operations of oil tanks with capacities of 1,000 to 10,000 gallons. The requirements of 18 AAC 75.065 (field-constructed aboveground oil storage tank requirements) and 18 AAC 75.066 (shop-fabricated aboveground oil storage tanks) are not applicable to tanks 10,000 gallons or less.
- 11. Question: Is there a length of time that a tank with a capacity of 1,000 to 10,000 gallons used for short-term projects can be in service without being added to the facility plan?
 - a. The department will investigate how it will handle temporary tanks with capacities of 1,000 to 10,000 gallons.
- 12. Question: Will tanks with capacities of 1,000 to 10,000 gallons need to be depicted on facility diagrams? What about for mobile and portable tanks that are frequently moved?
 - a. Stationary tanks with capacities of 1,000 to 10,000 gallons must be included on the facility diagram. The department will investigate what information will need to be included on a facility diagram for mobile tanks.

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13. Question: Does the plan need to be amended before the tanks arrive at the facility or before they are used? Can a frequency schedule be established: Monthly? Quarterly? Annually?
- a. The department will establish procedures for managing 1,000 to 10,000 gallon tanks at a facility.

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14. Question: SPCC plan holders have 6 months to revise their tank tables after a tank is put into service. Can the SPCC update schedule (every 6 months) be used to initially create and subsequently update the list of tanks with capacities of 1,000 to 10,000 gallons?
- a. The department will establish procedures for managing 1,000 to 10,000 gallon tanks used at a facility.
15. Question: The regulation requires the location of tanks with capacities of 1,000 to 10,000 gallons to be listed in the plan. The locations of mobile and portable containers change frequently. Will the plan need to be amended when the location changes? Can the location listed in the plan be the entire facility when appropriate (e.g. for mobile and portable tanks)?
- a. The department will investigate how it will handle location changes of mobile tanks with capacities of 1,000 to 10,000 gallons and how the locations are listed in the plan.

Added April 6, 2018

Questions regarding the change to 18 AAC 75.425(e)(3)(a)(ii)

The department has received a number of questions regarding the proposed changes to 18 AAC 75.425(e)(3)(a)(ii), which clarifies information required within the plan's facility description. Based on initial comments, the department is considering addressing this issue in a separate regulation package.

Although the guidance document to be rescinded (OPC 92-6) has been effect since 1992, the department recognizes that many plans do not currently contain a facility listing of tanks between 1,000 to 10,000 gallons. The facility descriptions for tanks that have been in use as part of the facility infrastructure (i.e., in use > 1 year and stationary tanks) must be updated with a plan amendment (18 AAC 75.415).

The department also recognizes the challenges of managing plan updates for mobile and temporary tanks from 1,000 to 10,000 gallons, including contractor or project-specific tanks. We strongly encourage affected persons to submit comments regarding impacts of incorporating tanks from 1,000 to 10,000 gallons, especially for mobile or temporary use, within the plan facility description.