

Public Comment Response Summary
Proposed Repeal to 18 AAC Chapter 75, Article 9
August 17, 2023

Introduction

The Alaska Department of Environmental Conservation’s (department’s) Prevention, Preparedness, and Response Program proposes to repeal regulations in 18 AAC 75, Article 9 dealing with Class 2 facilities. This includes facilities that store noncrude oil in aboveground storage tanks and have storage capacities of 1,000 gallons or greater but less than 420,000 gallons.

Summary of Changes

This regulation repeal includes the following changes:

- Repealing 18 AAC 75.835, 840, and 849 is part of the department’s plan to remove regulations that are not specifically required by statute. These regulations created a new class of facilities, known as Class 2 facilities, for the specific purpose of requiring them to register aboveground storage tanks between 1,000 gallons and less than 420,000 gallons capacity. These facilities are exempt from prevention and response planning regulation by the department under AS 46.04.050.
- Upon repeal of regulations under 18 AAC 75.835, 840, and 849, registration of aboveground storage tanks for Class 2 facilities will no longer be required. There is no change to regulations for petroleum facilities required to have oil discharge prevention and contingency plans under AS 46.04. 030, AS 46.04.047, and AS 46.04.055.

In response to the questions and comments received during public review period, the department has not changed the proposed regulation amendments.

The following table is organized in a comment/response format to address the comments made during the formal public review and comment period that ended on July 24, 2023. Four comments were received during the public comment period. Three comments were opposed, and one was supportive of the proposed repeal of 18 AAC 75.835, 840, and 849.

Response Summary

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| 1. | <p>Comment: One commenter expressed concerns about what could happen when fuel storage sites are no longer tracked. The specific concern is that tanks will degrade and start to leak and there would be harm to the environment. The commenter requested that the department not repeal the regulation, but they did not provide specific comments on the regulations.</p> <p>Response: Thank you for your comments. The regulations proposed to be repealed required owners and operators to register aboveground oil storage tanks as a group of facilities designated as “Class 2 facilities.” The regulations proposed to be repealed did not include inspection or maintenance protocols for operators, and they did not include provisions for department oversight and monitoring based on tank registrations. The regulations proposed for repeal do not have any impact on petroleum facilities regulated under 18 AAC 75, Article 4, including tank farms and oil terminals with 420,000 gallons or more of storage capacity, exploration and production facilities, crude oil transmission pipelines, tank vessels and barges, and nontank vessels. Even though Class 2 facilities will not be required to register their aboveground storage tanks, releases of petroleum to the environment must still be reported to the department, and the spiller is still required to respond and clean up a spill. For these reasons, we do not agree that repealing the Class 2 facility tank registration regulations will increase the risk of harm to the environment. No Action.</p> |
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| 2. | <p>Comment: One commenter expressed concerns about diminished oversight, decreased monitoring, and the rationale for the repeal of 18 AAC 75, Article 9 dealing with Class 2 facilities. A specified concern is that budget constraints are prioritized over oversight and monitoring of the oil industry. Consequently, repealing the regulations will lead to tanks degrading and there will be an increase in the potential for a spill that would be harmful to the environment, the public’s health, and economic growth to the Southeast Alaskan community. The commenter did not provide specific comments on the regulations.</p> <p>Response: Thank you for your comments. The regulations proposed to be repealed required owners and operators to register aboveground oil storage tanks as Class 2 facilities. The regulations did not establish inspection or maintenance protocols for operators, and they did not include provisions for department oversight and monitoring based on tank registrations. As noted above in Response to Comment #1, the regulations being repealed do not have any impact on facilities regulated under 18 AAC 75, Article 4, including tank farms and oil terminals with 420,000 gallons or more of storage capacity, exploration and production facilities, crude oil transmission pipelines, tank vessels and barges, and nontank vessels. The proposal to repeal regulations at 18 AAC 75.835, 840, and 849 does not diminish department oversight and monitoring of regulated petroleum facilities. No Action.</p> |
| 3. | <p>Comment: One commenter expressed concerns about impacts to rural communities and villages if regulations at 18 AAC 75, Article 9 are repealed. The commenter was concerned that oversight and decreased monitoring in rural tank farms would be diminished, and the risk of tank leaks would go unnoticed. The commenter did not provide specific comments on the regulations.</p> <p>Response: Thank you for your comments. Facilities designated as Class 2 facilities under the regulations proposed to be repealed are located in both urban and rural communities and villages. Similarly, facilities required to have oil discharge prevention and contingency plans under 18 AAC 75, Article 4 (tank farms and oil terminals with 420,000 gallons or more of storage capacity, exploration and production facilities, crude oil transmission pipelines, tank vessels and barges, and nontank vessels) are located in or call at ports in both urban and rural communities and villages. No Action.</p> <p>The department offers technical assistance to tank farm operators that are not required to have oil discharge prevention and contingency plan, including those facilities located in rural communities and villages. Please see the department webpage Non-Regulated Aboveground Storage Tanks at https://dec.alaska.gov/spar/ppr/prevention-preparedness/class-2-facilities/aboveground-storage-tanks/ for resources and opportunities available to owners or operators.</p> |
| 4. | <p>Comment: One commenter expressed support for the repeal of 18 AAC 75, Article 9 dealing with Class 2 facility aboveground oil storage tank registration. The commenter highlights that the repeal will reduce unnecessary administrative processes, remove regulation redundancies, ensure adherence to safety standards, allow for more streamlined processes for facilities, minimize duplication of tasks, and ultimately reduce operational costs.</p> <p>Response: Thank you for your comment. As acknowledged by the commenter, the regulation repeals requirements to register aboveground storage tanks with the department, but it will not impact oversight and monitoring by jurisdictional federal agencies. No Action.</p> |