

**Department of Environmental Conservation
Division of Spill Prevention & Response**



**18 AAC Chapter 75 – Oil and Other Hazardous Substances Pollution
Control**

Proposed Regulation Revisions

December 13, 2016

Bill Walker
Governor

Larry Hartig
Commissioner

**Public Comment period ends
January 19, 2017, 5:00 p.m.**

**Please see public notice for
details about how to comment**

Background and changes addressed

This packet is being proposed to adopt new regulations in 18 AAC 75 for the registration of Class 2 facilities – 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.

Understanding the changes

In the following text, the proposed changes follow the formatting requirements of the “Drafting Manual for Administrative Regulations,” August 2015, as promulgated by the State of Alaska Department of Law. The draft changes are indicated as follows:

Lead-in text explains the changes to the text that follows.

[CAPITALIZED TEXT IN BRACKETS] indicates current regulatory text proposed to be deleted.

Bolded and underlined indicates proposed new text that amends the regulation. When an entire section or subsection is new, it is only indicated by the lead in line.

[...] indicates unchanged chunks of regulatory text.

For comparison purposes, a complete copy of the current 18 AAC 75 regulations can be found online at: <http://dec.alaska.gov/commish/regulations/index.htm>

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.915. Applicability of Class 2 Facility Regulations. (a) The requirements of 18 AAC 75.915 - 18 AAC 75.985 apply to all owners and operators of a Class 2 facility as defined in 18 AAC 75.985.

(b) The requirements of 18 AAC 75.915 - 18 AAC 75.985 apply to all aboveground storage tanks (ASTs) as defined in 18 AAC 75.985 located at a Class 2 facility unless the AST

(1) is used in a waste water collection system regulated under 18 AAC 72 or 18 AAC 83; or

(2) has a storage capacity of less than 500 gallons. (Eff. __/__/____, Register ____)

Authority: AS 46.03.020 AS 46.04.070

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.920. Registration and notification requirements. (a) An owner or operator of a Class 2 facility shall register the facility and each AST at the facility with the department using the paper or electronic form supplied by the department as follows:

(1) not later than November 1, 2017 for a facility in existence before August 1, 2017; and

(2) not later than 30 days after

(A) a facility is placed into service on or after August 1, 2017; and

(B) an AST is placed into service on or after August 1, 2017.

(b) Any person who assumes ownership of a Class 2 facility shall notify the department using the paper or electronic form supplied by the department not later than 30 days after the change in ownership.

(c) An owner or operator of a Class 2 facility shall notify the department using the paper or electronic form supplied by the department not later than 30 days after an AST is removed from service.

(d) An owner or operator of a Class 2 facility shall notify the department using the paper or electronic form supplied by the department not later than 30 days after the facility no longer meets the definition of a Class 2 facility due to a change in storage capacity. (Eff. __/__/____, Register __)

Authority: AS 46.03.020 AS 46.04.070

Editor's note: The forms referenced in 18 AAC 75.920 are available on the department's Internet website.

18 AAC 75 is amended by adding a new section to read:

18 AAC 75.985. Definitions for 18 AAC 75.915 - 18 AAC 75.985. In 18 AAC 75.915 - 18 AAC 75.985, unless the context indicates otherwise,

(1) "aboveground oil storage tank" or "AST" means a container, including a storage and surge tank, that is used to store bulk quantities of oil; "aboveground oil storage tank" does not include

- (A) an underground storage tank as defined in AS 46.03.450;
- (B) a surface impoundment, pit, pond, or lagoon; or

(C) a vehicle, such as a tank truck or railroad tank car, designed and used to transport oil from one location to another unless:

(i) the vehicle contains oil and remains in the same location more than 30 consecutive days; or

(ii) the vehicle dispenses oil and is refilled while in the same location;

(2) "Class 2 facility" means an onshore facility that stores noncrude oil in aboveground oil storage tanks and has a storage capacity of 1,000 gallons or greater but less than 420,000 gallons; "Class 2 facility" does not include

(A) facilities required under AS 46.04.030 to have an oil discharge prevention and contingency plan; or

(B) residential structures with aboveground oil storage tanks used solely to store heating oil for consumptive use on the premises;

(3) "dwelling unit" means real or personal property inhabited as a primary or secondary residence; "dwelling unit" includes an individual unit within a multiple unit residential structure;

(4) "placed into service" means

(A) for an aboveground oil storage tank, at the start of operational use after initial construction or installation; or

(B) for a Class 2 facility, at the start of operational use of a facility after

(i) initial construction; or

(ii) installation or removal of an AST or ASTs that changes the facility's storage capacity causing the facility to meet the definition of a Class 2 facility;

(5) "removed from service" means not in regular use for the service intended;

(6) "residential structure" means a structure used as a dwelling unit; "residential structure" does not include

(A) a structure with both residential and nonresidential uses and a common AST to store heating oil;

(B) transient lodging;

(C) a residential school or residence hall;

(D) a state or local correctional facility;

(E) a nursing home;

(F) a hospital; and

(G) a place constructed primarily for recreation activities;

(7) "storage capacity" means

(A) for an aboveground oil storage tank, the full physical volume of the tank; and

(B) for a Class 2 facility, the full physical volume of the aboveground oil storage tanks subject to the requirements of 18 AAC 75.915 - 18 AAC 75.985;

(8) "transient lodging" means a room or suite of rooms which is occupied not as a primary residence by persons for periods of less than 30 consecutive days or with services normally offered by hotels, including maid and linen service, a front desk, or telephone switchboard, regardless of the length of occupancy of a person; "transient lodging" does not

include dwelling units. (Eff. __/__/____, Register ____)

Authority: AS 46.03.020 AS 46.04.070