

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



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

Proposed Regulation Revisions

June 6, 2023

Mike Dunleavy
Governor

Jason Brune
Commissioner

**Public Comment period ends
July 6, 2023, at 11:59 p.m.**

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

Background and changes addressed

This packet is being proposed to adopt new and revised regulations in 18 AAC 75 to adjust the dollar amounts of proof of financial responsibility in accordance with changes to the CPI for the second half of 2022, and to remove requirements for how certain documents must be signed, allowing for electronic submissions.

Understanding the changes

Reading and understanding state regulations can be confusing. To assist you in understanding this draft, please note the proposed changes in the following text follow the formatting requirements of the “Drafting Manual for Administrative Regulations,” 23rd Edition, 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>

The introductory language of 18 AAC 75.205(c) is amended to read:

(c) Applications submitted under this section and renewal applications submitted under 18 AAC 75.225 must be signed [UPON OATH OR AFFIRMATION] as follows:

...

(Eff. 5/14/92, Register 122; am 10/28/2000, Register 156; am 11/27/2002, Register 164; am 3/23/2017, Register 221; am 10/27/2018, Register 228; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

18 AAC 75.215 is amended to read:

18 AAC 75.215. Applications submitted by facsimile or electronic mail. The department will accept an application by [FACSIMILE TRANSMISSION OR] electronic mail.

Original documentation for self-insurance under 18 AAC 75.245 or a guaranty under 18 AAC 75.260 [THE COMPLETED ORIGINAL OF THE APPLICATION] must be submitted to the department by registered or certified mail or by courier and must be postmarked or dated by courier within two working days after it was sent by [FACSIMILE OR] electronic mail. (Eff. 5/14/92, Register 122; am 10/28/2000, Register 156; am 9/4/2014, Register 211; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.04.055 AS 46.04.070
AS 46.04.040

Editor's note: Completed applications may be submitted to the department financial responsibility inbox at dec.spar.pprp.ind.fr@alaska.gov.

18 AAC 75.235(a) is amended to read:

(a) Each vessel or facility must be specifically covered by an approved form of financial responsibility. The dollar amounts of required financial responsibility set out in AS 46.04.040 or 46.04.055 are adjusted, based upon the percentage change between the reference base index and the semi-annual average Consumer Price Index for all urban Alaska consumers for the second half of **2022** [2019], as reported for Anchorage and Matanuska-Susitna Borough by the United States Department of Labor, Bureau of Labor Statistics. An applicant under 18 AAC 75.205 or 18 AAC 75.225 must demonstrate financial responsibility to respond in damages for claims covered by AS 46.04.040(i) in the following applicable minimum amount:

- (1) for a crude oil terminal facility, **\$111,450,000** [\$97,750,000] per incident;
- (2) for a noncrude oil terminal facility, **\$55.72** [\$48.88], per incident, for each barrel of total noncrude oil storage capacity at the terminal, or **\$2,229,000** [\$1,955,000], whichever is greater, subject to a maximum of **\$111,450,000** [\$97,750,000]; if the facility stores more noncrude oil than crude oil, the **\$55.72** [\$48.88] per incident, per barrel requirement of this paragraph applies to each barrel of oil storage capacity at the facility;
- (3) for a tank vessel or barge carrying crude oil, **\$688.70** [\$586.50], per incident, for each barrel of storage capacity or **\$222,900,000** [\$195,500,000], whichever is greater;
- (4) for a tank vessel or barge carrying noncrude oil, **\$222.90** [\$195.50], per incident, for each barrel of storage capacity or **\$2,229,000** [\$1,955,000], whichever is greater, subject to a maximum of **\$78,015,000** [\$68,425,000];
- (5) for a nontank vessel carrying predominantly nonpersistent product, **\$222.90** [\$195.50] per incident, for each barrel of total oil storage capacity, persistent and nonpersistent

product, on the vessel or **\$2,229,000** [\$1,955,000], whichever is greater;

(6) for a nontank vessel carrying predominantly persistent product, **\$688.70** [\$586.50] per incident, for each barrel of total oil storage capacity, persistent product and nonpersistent product, on the vessel or **\$11,145,000** [\$9,775,000], whichever is greater;

(7) for a railroad tank car,

(A) **\$688.70** [\$586.50] per incident for each barrel of persistent product based on the maximum amount of persistent product storage capacity of any train on the railroad; and

(B) **\$222.90** [\$195.50] per incident for each barrel of nonpersistent product based on the maximum amount of nonpersistent product storage capacity of any train on the railroad or **\$2,229,000** [\$1,955,000], whichever is greater;

(8) for a pipeline, **\$111,450,000** [\$97,750,000] per incident;

(9) for an offshore exploration or production facility, **\$111,450,000** [\$97,750,000] per incident;

(10) for an onshore production facility that produces more than 10,000 barrels per day of oil, **\$44,580,000** [\$39,100,000] per incident;

(11) for an onshore production facility that produces more than 5,000, but not more than 10,000 barrels per day of oil, **\$22,290,000** [\$19,550,000] per incident;

(12) for an onshore production facility that produces more than 2,500, but not more than 5,000 barrels per day of oil, **\$11,145,000** [\$9,775,000] per incident;

(13) for an onshore production facility that produces 2,500 or fewer barrels per day of oil, **\$2,229,000** [\$1,955,000] per incident;

(14) for an onshore exploration facility, **\$2,229,000** [\$1,955,000] per incident.

(Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 12/8/95, Register 136; am 10/1/99, Register 151; am 10/28/2000, Register 156; am 10/27/2002, Register 164; am 11/27/2002, Register 164; am 10/16/2005, Register 176; am 8/31/2008, Register 187; am 10/1/2011, Register 199; am 9/4/2014, Register 211; am 10/1/2014, Register 211; am 10/1/2017, Register 223; am 11/7/2017, Register 224; am 6/24/2021, Register 238; am 10/1/2023, Register __)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070
AS 46.04.040 AS 46.04.055 AS 46.04.890

The introductory language of 18 AAC 75.236(c) is amended to read:

(c) The owner or operator shall, when submitting an application under 18 AAC 75.205 or 18 AAC 75.225, submit a [NOTARIZED] statement certifying that the maximum daily production of oil at a facility during the period for which application is made will be ...

(Eff. 12/8/95, Register 136; am 11/27/2002, Register 164; am 3/23/2017, Register 221; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.04.040 AS 46.04.070

18 AAC 75.270(c) is amended to read:

(c) The department may approve a P&I club or insurance syndicate that does not agree to be subject to direct court action in this state or that does not agree to appoint an agent for service of process in this state if the requirements of AS 46.04.040(I) are met with respect to the amount of \$111,450,000 [\$97,750,000] or the amount required by 18 AAC 75.235(a), whichever is less. (Eff. 5/14/92, Register 122; am 11/26/94, Register 132; am 10/1/99, Register 151; am

10/28/2000, Register 156; am 10/27/2002, Register 164; am 10/16/2005, Register 176; am 8/31/2008, Register 187; am 10/1/2011, Register 199; am 10/1/2014, Register 211; am 10/1/2017, Register 223; am 6/24/2021, Register 238; am 10/1/2023, Register ____)

Authority: AS 46.03.020 AS 46.04.045 AS 46.04.070

AS 46.04.040