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Liquified natural gas
tankers - Applicability
of exemption contained in
AS 46.04.050

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The Department of Environmental Conservation has asked whether AS 46.04.050 exempts liquified natural gas tankers from the contingency planning requirements of AS 46.04.030 and the financial responsibility requirements of AS 46.04.040.

AS 46.04.050(b) was enacted in 1992 and states as follows:

The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural gas production facility and a natural gas terminal facility; for purposes of this subsection the terms "natural gas production facility" and "natural gas terminal facility"

(1) mean a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas;

(2) do not include a platform, facility, or structure that produces, stores, or transports natural gas in combination with oil.

AS 46.04.900(9) states in pertinent part:

"natural gas". . . (B) includes liquified natural gas

Our understanding is that liquified natural gas tankers are vessels that transport and are primarily powered by liquified natural gas. Bunker fuel is carried on board for auxiliary power.

House Bill 557, the bill that ultimately became AS 46.04.050(b), initially exempted a "natural gas production facility" from contingency planning, financial responsibility, and inspection requirements. HB 557, 17th Alaska Legislature,

introduced February 26, 1992. "Natural gas production facility" was defined as "a platform or structure, the principle purpose of which is the production or development of deposits of natural gas." Id. Later, the exemption from inspection requirements was deleted and the bill was expanded to exempt "a natural gas production facility" and "a natural gas terminal facility" from contingency planning and financial responsibility requirements. CSHB 557 (Res.), 17th Alaska Legislature, introduced April 6, 1992. These specialized terms were jointly defined for the purpose of the exemption to mean "a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas." Id.

Neither "facility" nor "structure" are defined in AS 46.04. However, for the sake of comparison, AS 46.03.900(8) includes vessels within the meaning for the term "facility" for the purposes of AS 46.03. Similarly, the term "oil terminal facility" defined in AS 46.04.900(11), includes vessels operating within listed parameters.

Given this background and the plain language of AS 46.04.050, our conclusion is that AS 46.04.050(b) does exempt liquified natural gas tankers from the contingency planning and financial responsibility requirements of AS 46.04.030 and AS 46.04.040. AS 46.04.050(b) contains its own definition of what is exempted and this definition specifically includes a "facility" or "structure" used solely to "transport" natural gas. The terms "facility" and "structure" are broad enough linguistically as well as by past legislative usage to indicate that the legislature intended to include vessels within the scope of the exemption.¹

Our conclusion is not changed by the language of AS 46.04.050(b)(2), which states that the exemption from the requirements of AS 46.04.030 and AS 46.04.040 does not apply to facilities or structures that transport natural gas in conjunction with oil. AS 46.04.030 and .040 require a contingency plan and proof of financial responsibility for a "tank vessel." The definition of "tank vessel" contained in AS 46.04.900(18) states that the term does not include "vessels carrying oil as fuel or stores for that vessel." Accordingly, AS 46.04.050(b)(2), as an exemption from AS 46.04.030 and .040, does not appear to be directed at vessels carrying liquified natural gas as cargo and oil for their own consumption, but rather at vessels carrying more than one type of bulk cargo.

1 We do not attempt to analyze what the difference may be between the terms "facility" and "structure."

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