

Alaska Statutes – Cruise Ship Pollution Law – passed in 2001.

Article 07. COMMERCIAL PASSENGER VESSEL ENVIRONMENTAL COMPLIANCE PROGRAM

Sec. 46.03.460. Program established.

(a) There is established the commercial passenger vessel environmental compliance program providing for

(1) terms and conditions of vessel discharges;

(2) independent verification of environmental compliance; and

(3) allowing the department to monitor and supervise discharges from commercial passenger vessels through a registration system.

(b) The department may adopt regulations to carry out the purposes of [AS 46.03.460](#) - 46.03.490. The department shall use negotiated regulation making under [AS 44.62.710](#) - 44.62.800, when appropriate, to develop those regulations.

Sec. 46.03.461. Registration requirements.

(a) Except as provided in [AS 46.03.487](#), each calendar year in which the owner or operator of a commercial passenger vessel intends to operate, or cause or allow to be operated, the vessel in the marine waters of the state, the owner or operator of the vessel shall register with the department. The registration shall be completed before the time any commercial passenger vessel of the owner or operator enters the marine waters of the state in that calendar year. The registration must include the following information:

(1) the vessel owner's business name and, if different, the vessel operator's business name for each commercial passenger vessel of the owner or operator that is scheduled to be in the marine waters of the state during the calendar year;

(2) the postal address, electronic mail address, telephone number, and facsimile number for the principal place of each business identified under (1) of this subsection;

(3) the name and address of an agent for service of process for each business identified under (1) of this subsection; the owner and operator shall continuously maintain a designated agent for service of process whenever a commercial passenger vessel of the owner or operator is in the marine waters of the state, and the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in and authorized to do business in this state;

(4) the name or call sign of and Port of Registry for each of the owner's or operator's vessels that is scheduled either to call upon a port in this state or otherwise to be in the marine waters of the state during the calendar year and after the date of registration; and

(5) an agreement to comply with the terms and conditions of vessel discharges specified under [AS 46.03.462](#).

(b) Registration under (a) of this section shall be executed under oath by the owner or operator.

(c) Upon request of the department, the registrant shall submit registration information required under this section electronically.

Sec. 46.03.462. Terms and conditions of discharges.

(a) An owner or operator required to register under [AS 46.03.461](#) shall comply with the standard terms and conditions of vessel discharges specified in (b) of this section, the alternative terms and conditions of vessel discharges specified in (c) of this section, or the alternative terms and conditions included in the plan approved by the department under (e) of this section.

(b) The standard terms and conditions of vessel discharges are that the owner or operator

(1) may not discharge untreated sewage, treated sewage, graywater, or other wastewater in a manner that violates [AS 46.03.463](#);

(2) shall maintain records and provide the reports required under AS 46.03.465(a);

(3) shall collect and test samples as required under [AS 46.03.465](#) (b) and (d) and provide the reports with respect to those samples required by [AS 46.03.475](#) (c);

(4) shall report discharges in accordance with [AS 46.03.475](#) (a);

(5) shall allow the department access to the vessel at the time samples are taken under [AS 46.03.465](#) for purposes of taking the samples or for purposes of verifying the integrity of the sampling process; and

(6) shall submit records, notices, and reports to the department in accordance with [AS 46.03.475](#) (b), (d), and (e).

(c) The department may establish alternative terms and conditions of vessel discharges applicable to an owner or operator of a vessel who cannot practicably comply with the standard terms and conditions of vessel discharges under (b) of this section, or who wishes to use or test alternative environmental protection equipment or procedures. Except as specified in alternative terms and conditions set by the department under this subsection, the alternative terms and conditions of vessel discharges must require compliance with the standard terms and conditions of vessel discharges under (b) of this section. The department, on a case-by-case basis, may set alternative terms and conditions of vessel discharges if

(1) the vessel owner or operator demonstrates to the department's reasonable satisfaction that equivalent environmental protection can be attained through other terms or conditions appropriate for the specific configuration or operation of the vessel;

(2) the vessel owner or operator agrees to make necessary changes to the vessel to allow it to comply with the standard terms and conditions of vessel discharges under (b) of this section but demonstrates to the department's reasonable satisfaction that additional time is needed to make the necessary changes; or

(3) an experimental technology or method for pollution control of a discharge is being used or is proposed as one of the alternative terms and conditions of vessel discharges and the department determines that the experimental technology or method has a reasonable likelihood of success in providing increased protection for the environment.

(d) Alternative terms and conditions of vessel discharges approved by the department under (c) of this section may, if determined appropriate by the department, include a waiver by the department of portions of the requirements of [AS 46.03.463](#) and 46.03.465, for the time period that the department determines to be appropriate. Alternative terms and conditions of vessel discharges approved by the department under (e) of this section may, if determined appropriate by the department, include a waiver by the department of portions of the requirements of AS 46.03.463 for the time period for which the plan submitted under (e) of this section is approved.

(e) The owner or operator of a small commercial passenger vessel may submit a plan for alternative terms and conditions of vessel discharges if the keel of the vessel was laid before January 1, 2004. Except as provided in (f) of this section, the department shall approve the plan for a three-year period if the department finds that the alternative terms and conditions in the plan incorporate the best management practices for protecting the environment to the maximum extent feasible. The department shall adopt regulations to implement this subsection but may not require an owner or operator to retrofit a vessel solely for the purpose of waste treatment if the retrofitting requires additional stability testing or relicensing by the United States Coast Guard. In this subsection, "best management practices" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the marine waters of the state.

(f) A plan submitted under (e) of this section after December 31, 2012, may not be approved by the department for a period extending beyond December 31, 2015.

Sec. 46.03.463. Prohibited discharges; limitations on discharges.

(a) Except as provided in (h) of this section, a person may not discharge untreated sewage from a commercial passenger vessel into the marine waters of the state.

(b) Except as provided in (h) of this section or under [AS 46.03.462](#) (c) - (e), a person may not discharge sewage from a commercial passenger vessel into the marine waters of the state that has suspended solids greater than 150 milligrams per liter or a fecal coliform count greater than 200 colonies per 100 milliliters except that the department may by regulation adopt a protocol for retesting for fecal coliform, if this discharge limit for fecal coliform is exceeded, under which a discharger will be considered to be in compliance with the fecal coliform limit if the geometric mean of fecal coliform count in the samples considered under the protocol does not exceed 200 colonies per 100 milliliters. Upon submission by the owner or operator of a small commercial passenger vessel of a plan for interim protective measures under [AS 46.03.462](#) (c)(2) and (d), the department shall extend the time for compliance of that vessel with this subsection.

(c) Except as provided in (h) of this section or under [AS 46.03.462](#) (c) - (e), a person may not discharge graywater or other wastewater from a commercial passenger vessel into the marine waters of the state that has suspended solids greater than 150 milligrams per liter or a fecal coliform count greater than 200 colonies per 100 milliliters except that the department may by regulation adopt a protocol for retesting for fecal coliform, if this discharge limit for fecal coliform is exceeded, under which a discharger will be considered to be in compliance with the fecal coliform limit if the geometric mean of

fecal coliform count in the samples considered under the protocol does not exceed 200 colonies per 100 milliliters. Upon submission by the owner or operator of a large commercial passenger vessel of a plan for interim protective measures, the department shall extend the time for compliance of that vessel with this subsection for a period of time that ends not later than January 1, 2003. Upon submission by the owner or operator of a small commercial passenger vessel of a plan for interim protective measures under [AS 46.03.462](#)(c)(2) and (d), the department shall extend the time for compliance of that vessel with this subsection.

(d) The department may by regulation establish numeric or narrative standards for other parameters for treated sewage, graywater, and other wastewater discharged from commercial passenger vessels. In developing regulations under this subsection, the department shall consider the best available scientific information on the environmental effects of the regulated discharges, the materials and substances handled on the vessels, vessel movement effects, and the availability of new technologies for wastewater.

(e) Except as provided in (g) and (h) of this section or under AS 46.03.462(c) - (e), a person may not discharge any treated sewage, graywater, or other wastewater from a large commercial passenger vessel into the marine waters of the state unless

(1) the vessel is underway and proceeding at a speed of not less than six knots;

(2) the vessel is at least one nautical mile from the nearest shore, except in areas designated by the department;

(3) the discharge complies with all applicable vessel effluent standards established under the federal cruise ship legislation and any other applicable law; the standards under the federal cruise ship legislation and other applicable law may be adopted by regulation by the department; and

(4) the vessel is not in an area where the discharge of treated sewage, graywater, or other wastewater is prohibited.

(f) Except as provided in (h) of this section, a person may not discharge sewage from a small commercial passenger vessel unless the sewage has been processed through a properly operated and properly maintained marine sanitation device.

(g) The provisions of (e)(1) and (e)(2) of this section do not apply to a discharge permitted under sec. 1404(b) or (c) of the federal cruise ship legislation.

(h) The provisions of (a) - (f) of this section do not apply to discharges made for the purpose of securing the safety of the commercial passenger vessel or saving life at sea if all reasonable precautions have been taken for the purpose of preventing or minimizing the discharge.

Sec. 46.03.465. Information-gathering requirements.

(a) Except as provided under [AS 46.03.462](#)(c) - (d), the owner or operator of a commercial passenger vessel shall maintain records and, upon request of the department, provide to the department a report, with copies of the records related to the period of operation in the marine waters of the state, detailing the dates, times, and locations, and the volumes or flow-rates of any discharge of sewage, graywater, or other wastewater into the marine waters of the state.

(b) Except as provided under [AS 46.03.462](#) (c) - (d), while a commercial passenger vessel is present in the marine waters of the state, the owner or operator of the vessel shall collect routine samples of the vessel's treated sewage, graywater, and other wastewater that are being discharged into the marine waters of the state with a sampling technique approved by the department before the sample is collected. The number of routine samples for each vessel to be collected under this subsection shall be the greater of two per calendar year or the number of samples required to be collected under federal statutes and regulations for sewage, graywater, or other wastewater discharges.

(c) Except as provided under [AS 46.03.462](#) (c) - (d), while a commercial passenger vessel is present in the marine waters of the state, the department, or an independent contractor retained by the department, may collect additional samples of the vessel's treated sewage, graywater, and other wastewater that are being discharged into the marine waters of the state.

(d) Except as provided under [AS 46.03.462](#) (c) - (d), the owner or operator of a vessel required to collect samples under (b) of this section shall have the samples tested to measure fecal coliform, ammonia, residual chlorine, pH (degree of acidity or alkalinity), chemical oxygen demand (COD), biochemical oxygen demand (BOD), total suspended solids, and other parameters as required by the department in the samples with an analytical testing method that was approved by the department before the testing is conducted. A laboratory used for testing under this subsection shall agree not to disclose the testing results to any person other than to the department, the United States Coast Guard, or the owner or operator of the vessel.

(e) The owner or operator of a commercial passenger vessel shall pay for all routine sampling under (b) of this section and the testing of routine samples. The department shall pay for all additional sampling under (c) of this section and the testing of the additional samples.

(f) If the owner or operator of a commercial passenger vessel has, when complying with another state or federal law that requires substantially equivalent information gathering, gathered the type of information required under (a), (b), or (d) of this section, the owner or operator shall be considered to be in compliance with that subsection so long as the information is also provided to the department.

Sec. 46.03.470. Record keeping requirements.

An owner or operator subject to [AS 46.03.465](#) shall record the information required to be gathered under that section and shall maintain the records for three years after the date the information was gathered.

Sec. 46.03.475. Reporting requirements.

(a) An owner or operator of a commercial passenger vessel who becomes aware of a discharge in violation of [AS 46.03.463](#) shall immediately report that discharge to the department. There is no audit report privilege under [AS 09.25.450](#) for this information.

(b) If the owner or operator of a commercial passenger vessel operating in the marine waters of the state is required by the Administrator of the Environmental Protection Agency or the secretary of the federal department in which the United States Coast Guard is operating to collect samples and test sewage, graywater, or other wastewater and keep records of the sampling and testing, the owner or operator shall, within 21 days after the sewage, graywater, or other wastewater is tested, submit to the department a copy of the records.

(c) Within 21 days after the testing required under [AS 46.03.465](#) (d), the owner or operator shall submit a written report to the department that contains the measurements required under [AS 46.03.465](#) (d) and describes the sampling technique and analytical testing methods used. The information in the report required under this subsection may be provided by referring to, and including copies of, other reports that are required by substantially equivalent state or federal reporting requirements.

(d) If the owner or operator of a commercial passenger vessel operating in the marine waters of the state is required by the laws of the United States or by the laws of Canada or of a province or territory of Canada to file a report or provide notice of a discharge or offloading of a hazardous waste, as defined in [AS 46.03.900](#), or of a hazardous substance, as defined in [AS 46.03.826](#), that was generated, discharged, or offloaded while the vessel was operating in the marine waters of the state, the owner or operator shall submit to the department a copy of the report or notice within 21 days after having provided the report or notice to an agency of the government of the United States or to an agency of the government of Canada or of a province or territory of Canada.

(e) Before the operation of a commercial passenger vessel in the marine waters of the state, the owner or operator of the vessel shall provide to the department a plan that describes the vessel's policies and procedures for

(1) offloading in this state or disposing into the marine waters of the state of nonhazardous solid waste other than sewage; and

(2) offloading of hazardous waste or a hazardous substance from the vessel while it is operating in the marine waters of the state to the extent that the offloading is not covered by (d) of this section.

(f) Upon request of the department, the information required under this section shall be submitted electronically.

(g) This section does not relieve the owner or operator of a commercial passenger vessel from other applicable reporting requirements of state or federal law.

Sec. 46.03.480. Fees.

(a) There is imposed an environmental compliance fee on each commercial passenger vessel operating in the marine waters of the state.

(b) The fee imposed by (a) of this section for all commercial passenger vessels, other than vessels operated by the state, is a separate fee for each voyage during which the commercial passenger vessel operates in the marine waters of the state. The fee shall range from \$.70 to \$1.75 per berth, based on the overnight accommodation capacity of the vessel, determined with reference to the number of lower berths, according to the following categories:

(1) \$75 for a commercial passenger vessel with overnight accommodations for at least 50 but not more than 99 passengers for hire;

(2) \$175 for a commercial passenger vessel with overnight accommodations for at least 100 but not more than 249 passengers for hire;

(3) \$375 for a commercial passenger vessel with overnight accommodations for at least 250 but not more than 499 passengers for hire;

(4) \$750 for a commercial passenger vessel with overnight accommodations for at least 500 but not more than 999 passengers for hire;

(5) \$1,250 for a commercial passenger vessel with overnight accommodations for at least 1,000 but not more than 1,499 passengers for hire;

(6) \$1,750 for a commercial passenger vessel with overnight accommodations for at least 1,500 but not more than 1,999 passengers for hire;

(7) \$2,250 for a commercial passenger vessel with overnight accommodations for at least 2,000 but not more than 2,499 passengers for hire;

(8) \$2,750 for a commercial passenger vessel with overnight accommodations for at least 2,500 but not more than 2,999 passengers for hire;

(9) \$3,250 for a commercial passenger vessel with overnight accommodations for at least 3,000 but not more than 3,499 passengers for hire;

(10) \$3,750 for each commercial passenger vessel with overnight accommodations for 3,500 or more passengers for hire.

(c) The fee imposed by (a) of this section for a commercial passenger vessel that is operated by this state shall be determined by agreement between the commissioner of environmental conservation and the commissioner of transportation and public facilities.

(d) A commercial passenger vessel operating in the marine waters of the state is liable for the fee imposed by this section. The fee is due and payable to the department in the manner and at the times required by the department by regulation.

Sec. 46.03.482. Commercial passenger vessel environmental compliance fund.

(a) The commercial passenger vessel environmental compliance fund is created in the general fund.

(b) The fund consists of the following, all of which shall be deposited in the fund upon receipt:

(1) money received by the department in payment of fees under AS 46.03.480;

(2) money received under [AS 46.03.760](#) (e) as a result of a violation related to [AS 46.03.460](#) - 46.03.490 unless the money would otherwise be deposited in the oil and hazardous substance release prevention and response fund established by [AS 46.08.010](#);

(3) money appropriated to the fund by the legislature;

(4) earnings on the fund.

(c) The legislature may make appropriations from the fund to the department to pay for the department's operational costs necessary to prepare reports that assess the information received by the department for the cruise ship seasons of 2000, 2001, 2002, and 2003 and for the department's operational costs necessary to carry out activities under [AS 46.03.460](#) - 46.03.490 relating to commercial passenger vessels.

(d) The unexpended and unobligated balance of an appropriation made from the fund to the department for the purposes described in (c) of this section lapses into the fund on December 31 following the end of the period for which the appropriation was made.

(e) Nothing in this section creates a dedicated fund.

Sec. 46.03.485. Recognition program.

The department may engage in efforts to encourage and recognize superior environmental protection efforts made by the owners or operators of commercial passenger vessels that exceed the requirements established by law.

Sec. 46.03.487. Exemption for vessels in innocent passage.

[AS 46.03.460](#) - 46.03.490 do not apply to a commercial passenger vessel that operates in the marine waters of the state solely in innocent passage. For purposes of this section, a vessel is engaged in innocent passage if its operation in marine waters of the state, regardless of whether the vessel is a United States or foreign-flag vessel, would constitute innocent passage under the

(1) Convention on the Territorial Sea and the Contiguous Zone, April 29, 1958, 15 U.S.T. 1606; or

(2) United Nations Convention on the Law of the Sea 1982, December 10, 1982, United Nations Publication No. E.83.V.5, 21 I.L.M. 1261 (1982), were the vessel a foreign-flag vessel.

Sec. 46.03.488. Activities of the department.

The department may engage in the following activities relating to commercial passenger vessels operating in the marine waters of the state:

(1) direct in-water monitoring of discharges or releases of sewage, graywater, and other wastewater and direct monitoring of the opacity of air emissions from those vessels;

(2) monitoring and studying of direct or indirect environmental effects of those vessels; and

(3) researching ways to reduce effects of the vessels on marine waters and other coastal resources.

Sec. 46.03.490. Definitions.

In [AS 46.03.460](#) - 46.03.490,

(1) "agent for service of process" means an agent upon whom process, notice, or demand required or permitted by law to be served upon the owner or operator may be served;

(2) "commercial passenger vessel" means a vessel that carries passengers for hire except that "commercial passenger vessel" does not include a vessel

(A) authorized to carry fewer than 50 passengers;

(B) that does not provide overnight accommodations for at least 50 passengers for hire, determined with reference to the number of lower berths; or

(C) operated by the United States or a foreign government;

(3) "discharge" means any release, however caused, from a commercial passenger vessel, and includes any escape, disposal, spilling, leaking, pumping, emitting, or emptying;

(4) "federal cruise ship legislation" means secs. 1401 - 1414 of H.R. 5666, as incorporated by reference into P.L. 106-554;

(5) "fund" means the commercial passenger vessel environmental compliance fund established under [AS 46.03.482](#);

(6) "graywater" means galley, dishwasher, bath, and laundry waste water;

(7) "large commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for 250 or more passengers for hire, determined with reference to the number of lower berths;

(8) "marine waters of the state" means all waters within the boundaries of the state together with all of the waters of the Alexander Archipelago even if not within the boundaries of the state;

(9) "offloading" means the removal of a hazardous substance, hazardous waste, or nonhazardous solid waste from a commercial passenger vessel onto or into a controlled storage, processing, or disposal facility or treatment works;

(10) "other wastewater" means graywater or sewage that is stored in or transferred to a ballast tank or other holding area on the vessel that may not be customarily used for storing graywater or sewage;

(11) "passengers for hire" means vessel passengers for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel;

(12) "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain human body waste;

(13) "small commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for 249 or fewer passengers for hire, determined with reference to the number of lower berths;

(14) "treated sewage" means sewage that meets all applicable effluent limitation standards and processing requirements of 33 U.S.C. 1251 - 1376 (Federal Water Pollution Control Act), as amended,

the federal cruise ship legislation, and regulations adopted under 33 U.S.C. 1251 - 1376 or under the federal cruise ship legislation;

(15) "untreated sewage" means sewage that is not treated sewage;

(16) "vessel" means any form or manner of watercraft, other than a seaplane on the water, whether or not capable of self-propulsion;

(17) "voyage" means a vessel trip to or from one or more ports of call in the state with the majority of the passengers for hire completing the entire vessel trip; a vessel trip involving stops at more than one port of call is considered a single voyage so long as the majority of passengers for hire complete the entire trip;

(18) "waters of the Alexander Archipelago" means all waters under the sovereignty of the United States within or near Southeast Alaska, beginning at a point 58 degrees 11 minutes 41 seconds North, 136 degrees 39 minutes 25 seconds West (near Cape Spencer Light), thence southeasterly along a line three nautical miles seaward of the baseline from which the breadth of the territorial sea is measured in the Pacific Ocean and the Dixon Entrance, except where this line intersects geodesics connecting the following five pairs of points: (A) 58 degrees 05 minutes 17 seconds North, 136 degrees 33 minutes 49 seconds West and 58 degrees 11 minutes 41 seconds North, 136 degrees 39 minutes 25 seconds West (Cross Sound); (B) 56 degrees 09 minutes 40 seconds North, 134 degrees 40 minutes 00 seconds West and 55 degrees 49 minutes 15 seconds North, 134 degrees 17 minutes 40 seconds West (Chatham Strait); (C) 55 degrees 49 minutes 15 seconds North, 134 degrees 17 minutes 40 seconds West and 55 degrees 50 minutes 30 seconds North, 133 degrees 54 minutes 15 seconds West (Sumner Strait); (D) 54 degrees 41 minutes 30 seconds North, 132 degrees 01 minutes 00 seconds West and 54 degrees 51 minutes 30 seconds North, 131 degrees 20 minutes 45 seconds West (Clarence Strait); (E) 54 degrees 51 minutes 30 seconds North, 131 degrees 20 minutes 45 seconds West and 54 degrees 46 minutes 15 seconds North, 130 degrees 52 minutes 00 seconds West (Revillagigedo Channel); the portion of each such geodesic situated beyond three nautical miles from the baseline from which the breadth of the territorial sea is measured forms the outer limit of the waters of the Alexander Archipelago in those five locations.