

**DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION**



18 AAC 69

Commercial Passenger Vessel Environmental Compliance Program

**Public Comment Draft**

March 15, 2005

**Frank Murkowski  
Governor**

**Kurt Fredriksson  
Acting Commissioner**

18 AAC 69.010(b) is amended to read:

**18 AAC 69.010. Registration.**

(b) The oath required by AS 46.03.461(b) [MUST BE NOTARIZED AND] must be in substantially the following form: "I, (owner or operator) say on oath or affirm that I have read the foregoing registration and believe all statements made in the registration under AS 46.03.461 are true." (Eff. 11/15/2002, Register 164; am \_\_/\_\_/\_\_\_\_, Register \_\_)

Authority: AS 40.03.460 AS 46.03.461

The Editor's note in 18 AAC 69.022 is changed to read:

Editor's Note: The addresses for mailing the items described in AS 46.03.460 – 46.03.490 and this chapter are: [cruise@dec.state.ak.us](mailto:cruise@dec.state.ak.us) or the Commercial Passenger Vessel Program, [AIR AND] Water [QUALITY] Division, Department of Environmental Conservation, 410 Willoughby Ave., Suite 303, Juneau, Alaska 99801-1795.

18 AAC 69.030(b)(8) is amended to read:

**18 AAC 69.030. Vessel specific sampling plan.**

....

(b) A vessel specific sampling plan must include

....

(8) each **discharge** pump type, [AND] **flow** rate, **and discharge line diameter**;

....

(Eff. 11/15/2002, Register 164; am \_\_/\_\_/\_\_\_\_, Register \_\_)

Authority: AS 40.03.460 AS 46.03.465

18 AAC 69.045 is repealed:

**18 AAC 69.045. Interim protective measures plan. Repealed** \_\_/\_\_/\_\_\_\_ [(a) TO OBTAIN AN EXTENSION OF TIME FOR COMPLIANCE WITH AS 46.03.463(B) OR (C),

AN OWNER OR OPERATOR THAT IS ELIGIBLE FOR AN EXTENSION MUST SUBMIT A PLAN FOR INTERIM PROTECTIVE MEASURES ON OR BEFORE MARCH 1 OF EACH CALENDAR YEAR.

(b) A PLAN FOR INTERIM PROTECTIVE MEASURES MUST DETAIL THE STEPS THAT THE OWNER OR OPERATOR IS UNDERTAKING TO COMPLY WITH THE DISCHARGE LIMITS FOR SEWAGE, GRAYWATER, AND OTHER WASTEWATER UNDER AS 46.03.463, INCLUDING

(1) A DESCRIPTION OF CURRENT MANAGEMENT PRACTICES;

(2) DISCHARGE LIMITS THAT CAN BE MET BY THE VESSEL'S EXISTING EQUIPMENT;

(3) DISCHARGE LIMITS THAT CAN BE MET BY THE BEST AVAILABLE EQUIPMENT;

(4) REASONS FOR NOT USING THE BEST AVAILABLE EQUIPMENT IF THAT EQUIPMENT IT IS DIFFERENT FROM THE EQUIPMENT USED BY THE VESSEL;

(5) A DESCRIPTION OF STAFF TRAINING FOR OPERATIONS AND MAINTENANCE OF MARINE SANITATION DEVICES;

(6) A DESCRIPTION OF PRACTICES USED TO LIMIT THE ADVERSE IMPACTS OF DISCHARGES; AND

(7) A SCHEDULE FOR COMPLIANCE WITH AS 46.03.463.

(c) UPON A DETERMINATION BY THE DEPARTMENT THAT A PLAN FOR INTERIM PROTECTIVE MEASURES SUBMITTED UNDER AS 46.03.463 IS IN COMPLIANCE WITH THIS SECTION, THE DEPARTMENT WILL APPROVE THE PLAN AND ISSUE A WRITTEN OR ELECTRONIC EXTENSION OF TIME FOR COMPLIANCE WITH AS 46.03.463(b) OR (c) FOR 12 MONTHS AFTER THE DATE OF APPROVAL.

(d) THE OWNER OR OPERATOR SHALL MAINTAIN A COPY OF THE VALID, APPROVED PLAN FOR INTERIM PROTECTIVE MEASURES ON BOARD EACH VESSEL THAT THE OWNER OR OPERATOR CAUSES OR ALLOWS TO BE OPERATED IN THE MARINE WATERS OF THE STATE.] (Eff. 11/15/2002, Register 164; repealed \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 46.03.460 AS 46.03.463

18 AAC 69 is amended by adding a new section to read:

**18 AAC 69.046. Best management practices plan.** (a) An owner or operator of a small commercial passenger vessel who intends to operate under a plan for alternative terms and conditions under AS 46.03.462(e) must operate in accordance with an approved best management practices plan. If an owner or operator of a small commercial passenger vessel operating under alternative terms and conditions under AS 46.03.462(e) fails to operate in accordance with an approved best management practices plan, the vessel discharges must meet the standard terms and conditions in AS 46.03.462(b).

(b) On or before March 1 of each calendar year, except in a calendar year in which an approved best management practices plan is effective, an owner or operator of a small commercial passenger vessel who intends to operate under alternative terms and conditions under AS 46.03.462(e) shall submit an application using a form provided by the department. The application must include

- (1) the vessel name;
- (2) the name, telephone number, facsimile number, mailing address, and electronic mail address of the person responsible for implementation of the plan;
- (3) the date when the vessel keel was laid and supporting documentation;
- (4) a certification that for physical or economic reasons the vessel cannot practicably comply with the standard terms and conditions in AS 46.03.462(b) and additional supportive documentation that may include a
  - (A) letter signed by a naval architect, professional engineer, or classification society inspector stating that new or modified waste treatment systems that would produce sewage, graywater, or other wastewater that complies with the standard terms and conditions in AS 46.03.462(b) could not be installed without requiring additional stability testing or relicensing by the United States Coast Guard; or
  - (B) statement from the vessel owner or operator that provides the estimated costs of installing new or modified waste treatment systems on the vessel that would produce sewage, graywater, or other wastewater that complies with the standard terms and conditions in AS 46.03.462(b), the reasons why those costs are not practicable, and supporting information from vendors; and
- (5) a best management practices plan that meets the requirements in (c) of this section.

(c) A best management practices plan must include

- (1) the average number of gallons of sewage, graywater, and other wastewater that will be discharged by the vessel expressed as an eight-hour average volume and a daily total volume for each day of the vessel's usual scheduled voyage in the marine waters of the state, including volumes discharged while in port;

(2) for a vessel that has operated in the marine waters of the state within the previous two years, a description of the quality of the sewage, graywater, and other wastewater discharged by the vessel summarized from analytical testing data on conventional pollutants from samples taken

(A) within the previous two years; and

(B) while the vessel operated in the marine waters of the state;

(3) for a vessel that has not operated in the marine waters of the state within the previous two years, analytical testing data on conventional pollutants from samples

(A) taken and analyzed in accordance with a plan of sampling techniques and analytical testing methods established under 18 AAC 69.025(a), and

(B) that are most likely to be representative of the discharges of sewage, graywater, and other wastewater from that vessel;

(4) for a vessel that will not discharge sewage, graywater, or other wastewater while the vessel is traveling at a speed of less than six knots or is located less than one nautical mile from the nearest shore, a statement by the owner or operator that the vessel will not discharge sewage, graywater, or other wastewater while the vessel is traveling at a speed of less than six knots or is located less than one nautical mile from the nearest shore;

(5) for a vessel that will discharge sewage, graywater, or other wastewater while the vessel is traveling at a speed of less than six knots or is located less than one nautical mile from the nearest shore, operating practices that

(A) preclude the discharge of sewage, graywater, or other wastewater within

(i) 100 meters of mean lower low water tidal datum of the tidally affected portion of a catalogued anadromous fish stream;

(ii) herring spawning areas south of 58° N. latitude before June 15 and north of 58° N. latitude before July 15 each calendar year; and

(iii) areas designated by the Alaska Legislature as refuges, sanctuaries, and critical habitat areas under AS 16.20; and

(B) protect the environment to the maximum extent feasible by

(i) reducing the amount of sewage, graywater, or other wastewater discharges identified in (1) of this subsection to the maximum extent practicable;

(ii) improving the quality of the sewage, graywater, or other wastewater discharged by reducing the fecal coliform bacteria and residual chlorine included under (2) or (3) of this subsection to the maximum extent practicable;

(iii) minimizing the risk to human health caused by exposure to the vessel's sewage, graywater, or other wastewater discharges; or

(iv) dispersing sewage, graywater, and other wastewater discharged into the marine waters of the state to the maximum extent practicable;

(6) a description of the crew or passenger training programs, vessel scheduling, or other means that will be used to implement the best management practices described in (4) or (5) of this subsection; and

(7) a description of the recordkeeping documents, including logbooks, that will be used to demonstrate compliance with the best management practices described in (4) or (5) of this subsection.

(d) The department will approve or disapprove a plan for alternative terms and conditions under AS 46.03.462(e) within 30 days after receipt of an application submitted under (b) of this section.

(e) The department will approve a plan for alternative terms and conditions under AS 46.03.462(e) that meets the requirements of AS 46.03.462(e) and (b) of this section for a period of three years after the approval date, unless the plan is modified, transferred, or terminated in accordance with (f) of this section.

(f) The department will

(1) approve the transfer of an approved plan for alternative terms and conditions under AS 46.03.462(e) to a new owner or operator of the vessel covered by that plan provided that the succeeding owner or operator certifies in writing to the department that the succeeding owner or operator assumes responsibility for compliance with the plan;

(2) approve a modification to an approved plan for alternative terms and conditions under AS 46.03.462(e) within 30 days after receipt of an application that the department determines meets the requirements of AS 46.03.462(e) and (b) of this section.; or

(3) terminate an approved plan for alternative terms and conditions under AS 46.03.462(e)

(A) immediately if the owner or operator requests that the plan be terminated; or

(B) after the department provides a 30 calendar day written notice to the owner or operator if the department finds that

(i) the owner or operator failed to operate according to an approved plan; or

(ii) changes in the factual basis underlying the application submitted under (b) of this section have occurred, including a significant change in the operating area or the sewage, graywater, or other wastewater discharge quantity or quality such that the plan fails to protect the environment to the maximum extent feasible.

(g) The owner or operator may not implement a modification to a plan for alternative terms and conditions under AS 46.03.462(e) until the department approves the modification and the owner or operator is notified of that approval in writing by the department.

(h) A best management practices plan that is modified retains its original expiration date, unless the owner or operator requests that the department review and approve the modification as a new application under (b) of this section.

(i) The owner or operator must

(1) maintain a copy of the approved plan for alternative terms and conditions under AS 46.03.462(e) on board the vessel for which the plan was approved;

(2) maintain the recordkeeping documents described in the approved plan for alternative terms and conditions under AS 46.03.462(e) on board the vessel for which the plan was approved for 12 months;

(3) provide the department access, upon request, to recordkeeping documents required in the approved plan for alternative terms and conditions under AS 46.03.462(e); and

(4) submit copies of the recordkeeping documents within 21 days after receipt of a written or electronic request from the department. (Eff. \_\_\_/\_\_\_/\_\_\_; Register \_\_\_)

Authority: AS 46.03.460

AS 46.03.462 AS 46.03.465

Editor's note: Information about Alaska's catalogued fish steams is available from the Alaska Department of Fish and Game's *Catalog of Waters Important for the Spawning, Rearing or Migration of Anadromous Fishes*, adopted by reference in 5 AAC 95.010. Information on herring spawning areas is available from the *Coastal Sensitivity Atlas Volume II* published by National Oceanic and Atmospheric Administration or on the department's Internet web site at [http://www.state.ak.us/dec/cruise\\_ships/index/](http://www.state.ak.us/dec/cruise_ships/index/).

18 AAC 69.990(3) is repealed:

(3) **repealed** / / \_\_\_\_; [“BEST AVAILABLE EQUIPMENT” MEANS THE MOST EFFECTIVE SEWAGE AND GRAYWATER TREATMENT EQUIPMENT THAT A COMMERCIAL PASSENGER VESSEL CAN USE TO MEE THE DISCHARGE LIMITS ESTABLISHED UNDER AS 46.03.460 – 46.03.490 AND THIS CHAPTER, TAKING INTO ACCOUNT THE EQUIPMENT’S EFFECTIVENESS UNDER FIELD CONDITIONS BUT WITHOUT CONSIDERING COST;]

18 AAC 69.990(13) is amended to read

(13) “operated year round” means operated **seasonally and** one time or more between November 1 and December 31 in the marine waters of the state;

18 AAC 69.990 is amended by adding a new paragraph to read:

**(18) “conventional pollutants” means fecal coliform bacteria, total suspended solids, pH, biochemical oxygen demand, and residual chlorine.** (Eff. 11/15/2002, Register 164; am \_\_/\_\_/\_\_, Register \_\_)

Authority:	AS 46.03.460	AS 46.03.470	AS 46.03.485
	AS 46.03.461	AS 46.03.475	AS 46.03.487
	AS 46.03.462	AS 46.03.480	AS 46.03.488
	AS 46.03.463	AS 46.03.482	AS 46.03.490
	AS 46.03.465		