

MEMORANDUM

State of Alaska

Department of Environmental Conservation
Division of Water

TO: Ben White
Cruise Ship Program Manager

Edward C. White for

DATE: January 9, 2017

FILE NO:

PHONE NO: 465-5135

FROM: Michelle Hale
Director

Michelle Hale

SUBJECT: No Action Assurance for small cruise
ships and state ferries

This memorandum is to inform you of the Alaska Department of Environmental Conservation's (DEC or Department) No Action Assurance relating to the compliance of small cruise ships and state ferries with Alaska statutes AS 46.03.462, AS 46.03.463, and AS 46.03.465. Up until January 1, 2016, small cruise ships and the state ferries could be authorized to discharge treated sewage, graywater or other wastewater into waters of the state under a permit issued by DEC [AS 46.03.462(a)(1)] or a plan approved by DEC under AS 46.30.462(c) [AS 46.03.462(a)(2)]. Under 46.03.462(c), DEC would have to find that the plan proposed by a vessel owner or operator seeking coverage under AS 46.03.642(a)(2) incorporated Best Management Practices (BMPs) for protecting the environment to the maximum extent feasible. The alternative compliance provision in AS 46.03.462(b) was automatically repealed on January 1, 2016 due to a sunset provision in legislation that had passed in 2007. Without this alternative, small cruise ships and the state ferries are subject to the same statutory requirements as large cruise ships that require owners or operators to obtain permit coverage for the discharge of wastewater.

A bill was pre-filed January 9, 2017, Senate Bill 3 (SB 3), sponsored by Senator Stedman, with the intent to reinstate the language in statute that provided for an alternative wastewater authorization measure for small cruise ships and state ferries based on having a DEC-approved plan incorporating Best Management Practices. If the bill passes, DEC will be amending our regulations to conform to the revised statute. We intend to keep potentially affected and interested parties informed of the status of the legislation, regulations and implementation of this No Action Assurance until all of the new statutory and regulatory provisions are in place.

The bill, if passed this session, will not be effective in time to provide coverage for all of 2017. The Department has determined that it is appropriate to exercise its enforcement discretion by issuing this "No Action Assurance" to address potential gaps in coverage for small cruise ships (including state ferries) with the following terms:

1. **Eligibility.** Cruise ships and ferries with overnight accommodations of between 50 and 249 lower berths.
2. **Prior Notification.** Submit annual registration to the CPVEC program under AS 46.03.461 providing information on intent to discharge.

3. **Compliance.** Comply with the Department-approved or draft submitted Best Management Practices Plan¹ and:
 - a. Sample according to the approved Vessel Specific Sampling Plan (VSSP) and Quality Assurance Project Plan.
 - b. Notify the Department if sample results indicate performance issues with wastewater quality, take corrective actions, and resample after corrective actions are taken. Report on the corrective actions and results to the Department.
 - c. Update the BMP Plan and VSSPs, as needed, and submit for Department a technical review and an approval of the updated VSSP.
 - d. Submit all required sample reports and end-of-season deviation reports.

This No Action Assurance does not apply to criminal violations or to situations where egregious circumstances exist which may cause serious harm or which may present an imminent and substantial endangerment to public health or the environment, or where no Best Management Practices are in place to protect public health or the environment, or to any enforcement proceeding related to wastewater discharges not covered by this memorandum.

This No Action Assurance will terminate on **December 31, 2017**.

If SB 3 does not pass this legislative session, this No Action Assurance is intended to provide the owners and operators of the state ferries and small cruise ships time to work with the Department to resolve outstanding issues relating to DEC authorization for the discharges of wastewater from these vessels.

The Department reserves the right at any time to exercise its discretion to address a specific discharge should circumstances warrant. The Department also reserves the right to withdraw or revise this No Action Assurance at any time. This No Action Assurance memo, and any future revisions or withdrawals, will be posted on our website at: http://dec.alaska.gov/water/cruise_ships/index.htm. Notice of any revisions or withdrawals will also be sent to any owners or operators of vessels that have requested such notification in writing to the Cruise Ship Program.

¹ For those operators without a Department-approved BMP – submit a completed BMP Plan to the Department for a technical review. If that plan is not approved, the Department may notify the vessel owner or operator that they are not meeting the requirements of this No Action Assurance and the Department may take an alternative course to enforce the provisions in AS 46.03.462(a) and related statutes and regulations.