

**DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**



18 AAC 69

Commercial Passenger Vessel Environmental Compliance Program

As amended through March 24, 2018

**Bill Walker
Governor**

**Larry Hartig
Commissioner**

IMPORTANT NOTE TO READER

THE REGULATIONS REPRODUCED HERE HAVE BEEN PROVIDED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AS A PUBLIC COURTESY. WHILE EVERY EFFORT HAS BEEN MADE TO ASSURE THE ACCURACY OF THE REPRODUCED VERSION, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION CANNOT GUARANTEE ITS ABSOLUTE ACCURACY. PAPER COPIES OF THE REGULATIONS AS ORIGINALLY FILED BY THE LIEUTENANT GOVERNOR ARE AVAILABLE FROM THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

THE REGULATIONS HAVE AN EFFECTIVE DATE OF MARCH 24, 2018, ARE IN REGISTER 225, AND WILL APPEAR IN OFFICIAL PUBLISHED FORM IN THE APRIL 2018 SUPPLEMENT TO THE ALASKA ADMINISTRATIVE CODE.

Chapter 69. Commercial Passenger Vessel Environmental Compliance Program.

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18 AAC 69.010. Registration. (a) In accordance with AS 46.03.461, an owner or operator shall register with the department on or before March 1 of each calendar year.

(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)

Authority: AS 46.03.460 AS 46.03.461

18 AAC 69.015. Environmental compliance fees and refunds; vessel voyage reports.
(a) An owner or operator, except for the state, shall

(1) on or before June 1 of each calendar year, pay to the department the environmental compliance fee imposed by AS 46.03.480; and

(2) in each calendar year in which the owner or operator caused or allowed to be operated a commercial passenger vessel in the marine waters of the state, submit

(A) written or electronic vessel voyage reports containing the actual number of voyages during which each vessel registered under AS 46.03.461 operated in the marine waters of the state during the calendar year; and

(B) payment for any additional fees due under AS 46.03.480, or, as applicable, a signed and certified request for refund of any overpayment of those fees.

(b) The owner or operator shall submit the items required under (a)(2) of this section on or before

(1) November 15 of the calendar year for each commercial passenger vessel the owner or operator caused or allowed to be operated seasonally; and

(2) June 1 of the following calendar year for each commercial passenger vessel the owner or operator caused or allowed to be operated year round.

(c) The department will review any request for refund made under (a)(2)(B) of this section promptly. If the department determines that a refund is due, the department will refund the overpayment promptly. (Eff. 11/15/2002, Register 164; am 12/16/2013, Register 208)

Authority: AS 46.03.460 AS 46.03.480

18 AAC 69.018. Waiver of deadlines; alternative terms and conditions. (a) If a report, plan, fee, or other requirement of an owner or operator under this chapter has a specific date by which it must be submitted, the department will waive compliance with that deadline if the owner or operator demonstrates, to the satisfaction of the department, a reasonable basis for the waiver. A decision made after January 1 by an owner or operator to operate a vessel in that calendar year provides a reasonable basis to grant a waiver of deadlines in that calendar year.

(b) If the department waives a deadline under this section, the department will set a reasonable time for compliance and provide the owner or operator with a written or electronic notice of that deadline promptly.

(c) Notwithstanding any requirement of this chapter, the department may establish alternative terms and conditions to the extent allowed by AS 46.03.462(k). (Eff. 11/15/2002, Register 164; 3/24/2018, Register 225)

Authority: AS 46.03.460 AS 46.03.462

18 AAC 69.020. Posting of certain requirements. The department will post a summary of dates and other deadlines for compliance with certain requirements set out in this chapter on the department's Internet web site. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.465 AS 46.03.471
AS 46.03.461 AS 46.03.470 AS 46.03.475
AS 46.03.462

Editor's note: The department's Internet website can be found at http://dec.alaska.gov/water/cruise_ships. As of Register 197 (April 2011), the regulations attorney made a technical revision under AS 44.62.125(b)(6), to the authority citation that follows 18 AAC 69.020, to delete a citation to a nonexistent statute.

18 AAC 69.022. Location for submission of payments, plans, records, and reports. Except as specifically provided otherwise, each payment, plan, record, and report required to be provided under AS 46.03.460 - 46.03.490 and this chapter shall be submitted to the division assigned to air and water quality, in Juneau, Alaska. The documents must be submitted electronically to the extent practicable. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.475 AS 46.03.480

Editor's note: The addresses for mailing the items described in AS 46.03.460 – 46.03.490 and this chapter are: DEC.WQ.Cruise@alaska.gov or the Commercial Passenger Vessel Program, Division of Water, Department of Environmental Conservation, P.O. Box 111800, Juneau, Alaska 99811-1800.

18 AAC 69.025. Quality assurance project plan. (a) On or before March 1 of each calendar year, except in a calendar year in which a plan is valid for the calendar year under (c) of this section, an owner or operator who intends to cause or allow sewage, graywater, or other wastewater to be discharged into the marine waters of the state shall submit a quality assurance project plan to be used for purposes of AS 46.03.465. The plan must include

- (1) the quality assurance and quality control measures to be used during sample collection, analysis, and reporting undertaken to comply with AS 46.03.465;
- (2) a detailed description of sampling techniques, analytical testing methods, and equipment, including information about sampling preservation methods, sample holding times, transportation protocols, and the chain of custody;
- (3) laboratory analytical information, including methods used, calibration, detection limits, and the laboratory's quality assurance and quality control measures;
- (4) procedures for quality assurance and quality control audits used to determine the effectiveness of the plan; and
- (5) procedures for data validation used to assess precision, accuracy, representativeness, comparability, and completeness of the measured parameters in the data obtained from the samples.

(b) Sampling under AS 46.03.465 may not occur before the department approves a quality assurance project plan.

(c) A quality assurance project plan is valid for three years. The department will approve the plan if the

(1) department determines that the plan provides sufficient measures for quality assurance and quality control; and

(2) analytical testing methods used are on the department's list of approved *Analytical Testing Methods for the Commercial Passenger Vessel Environmental Compliance Program*, revised as of June 7, 2002 and adopted by reference, or the department determines a proposed method to be substantially equivalent to an approved method on that list.

(d) An owner or operator may submit, at any time, an amendment to a plan of sampling techniques and analytical testing methods. The department will review any proposed amendment promptly and approve or disapprove the proposed amendment at the earliest practicable time.

(e) Between November 15 and January 15, the department will require changes that the department reasonably determines to be necessary to a valid plan of sampling techniques and analytical testing methods. The changes required under this subsection will be effective 90 days after the date the department provides notice of the required changes.

(f) The owner or operator shall maintain a copy of the valid, approved plan of sampling techniques and analytical testing methods 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; am 12/16/2013, Register 208)

Authority: AS 46.03.460 AS 46.03.465

Editor's note: The department's list of approved analytical testing methods, adopted by reference in 18 AAC 69.025(c)(2), is available at the department's offices in Anchorage and Juneau and at the department's Internet website at http://dec.alaska.gov/water/cruise_ships

18 AAC 69.030. Vessel specific sampling plan. (a) An owner or operator who intends to cause or allow the discharge of sewage, graywater, or other wastewater into the marine waters of the state shall submit a vessel specific sampling plan no later than 21 days before sampling required under AS 46.03.465 is to occur.

(b) A vessel specific sampling plan must include

(1) the vessel name;

- (2) the passenger and crew capacity of the vessel;
- (3) the estimated average daily water use per individual of the vessel;
- (4) the capacity and location of each holding tank for treated sewage;
- (5) the capacity and location of each holding tank for graywater;
- (6) the capacity and location of each holding tank for combined treated sewage and graywater;
- (7) a vessel schematic of discharge ports and corresponding sampling ports;
- (8) each discharge pump type, flow rate; and discharge line diameter;
- (9) each type of treatment system;
- (10) a table documenting
 - (A) the discharge type;
 - (B) whether the type of sample to be collected is grab or composite;
 - (C) parameters to be tested for each sample;
 - (D) the location on the vessel where each sample is to be collected; and
 - (E) a narrative description of the time at which each sample is to be taken based upon the circumstances that will yield a sample most likely to be representative of the average discharge that passes through the location where the sample is taken; and
- (11) a description of the standards the owner or operator will use to determine a deviation from the plan.
 - (c) A plan is valid for 12 months after the date of approval. The department will approve the plan if the department determines that the plan provides sufficient information to assure appropriate sampling from the specific vessel to comply with AS 46.03.465.
 - (d) The owner or operator shall maintain a copy of the valid, approved vessel specific sampling plan on board each vessel from which the owner or operator intends to cause or allow the discharge of sewage, graywater, or other wastewater into the marine waters of the state. (Eff. 11/15/2002, Register 164; am 5/18/2006, Register 178)

Authority: AS 46.03.460 AS 46.03.465

18 AAC 69.035. Nonhazardous solid waste offloading and disposal plan. (a) As part of the plan required under AS 46.03.475(e)(1), that describes a vessel's policies and procedures for offloading in this state or disposing into the marine waters of the state of nonhazardous solid waste other than sewage, the owner or operator shall include, for each vessel that the owner or operator intends to operate, or cause or allow to operate,

(1) an estimate of the volume of each waste type that the owner or operator anticipates offloading in this state or disposing into the marine waters of the state;

(2) the proposed offloading or disposal method;

(3) the name and address of each contractor to be used for offloading in this state or disposing into marine waters of the state; and

(4) the harbors, landfills, or other offloading or disposal facilities in the state proposed to be used by the owner or operator or an agent of the owner or operator.

(b) A plan required under AS 46.03.475(e)(1) must be submitted on or before March 1 of each calendar year. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.062 AS 46.03.475

18 AAC 69.040. Hazardous waste and hazardous substance offloading plan. (a) As part of the plan required under AS 46.03.475(e)(2), that describes a vessel's policies and procedures for offloading of hazardous waste or a hazardous substance from a vessel while that vessel is operating in the marine waters of the state, and to the extent that the offloading is not covered by a report or notice submitted under AS 46.03.475(d), the owner or operator shall include, for each vessel that the owner or operator intends to operate, or cause or allow to operate, and for each hazardous waste or hazardous substance anticipated to be offloaded,

(1) an estimate of the volume and type of each waste or substance;

(2) the proposed offloading method;

(3) material safety information provided by the manufacturer, if applicable;

(4) the name and address of each contractor to be used for offloading;

(5) the controlled storage, processing, or disposal facilities or treatment works proposed to be used; and

(6) a description of vessel crew training in offloading procedures.

(b) A plan required under AS 46.03.475(e)(2) must be submitted on or before March 1 of each calendar year. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.062 AS 46.03.475

18 AAC 69.045. Interim protective measures plan. Repealed. (Eff. 11/15/2002, Register 164, repealed 5/18/2006, Register 178)

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(k) must operate in accordance with a best management practices plan approved by the department under this section. If an owner or operator of a small commercial passenger vessel operating under alternative terms and conditions under AS 46.03.462(k) 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) and (e) and 46.03.463(b) and (c).

(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 a plan for alternative terms and conditions under AS 46.03.462(k) shall submit an application on 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 the implementation of the plan;

(3) a certification that for physical or economic reasons the vessel is unable to practicably comply with the standard terms and conditions in AS 46.03.462(b) and (e) and 46.03.463(b) and (c), and additional supportive documentation that may include a

(A) letter signed by a naval architect, registered engineer, or classification society 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) and (e) and 46.03.463(b) and (c) cannot be installed without requiring additional stability testing or relicensing by the United States Coast Guard; or

(B) statement from the owner or operator that provides

(i) 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) and (e) and 46.03.463(b) and (c);

(ii) the reasons why the costs are not practicable; and

(iii) supporting information from vendors; and

(4) 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 two years immediately preceding the date of submission of the plan, a description of the quality of the sewage, graywater, and other wastewater discharged by the vessel summarized from analytical testing data from samples taken

(A) for fecal coliform bacteria, total suspended solids, pH, biochemical oxygen demand and residual chlorine;

(B) within the previous two years; and

(C) 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 two years immediately preceding the date of submission of the plan, analytical testing data from samples

(A) for fecal coliform bacteria, total suspended solids, pH, biochemical oxygen demand, and residual chlorine;

(B) taken and analyzed in accordance with a quality assurance project plan established under 18 AAC 69.025(a); and

(C) 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 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

(i) within 100 meters horizontally of mean lower low water tidal datum of the tidally affected portions of waters identified under 5 AAC 95.011 as important for the spawning, rearing or migration of anadromous fish;

(ii) from March 1 through June 15 of each calendar year, within waters that are of a depth of 20 meters vertically of mean lower low water tidal datum, and that are identified in the department's set of maps entitled, *Herring Spawning Areas in Alaska*, dated November 2005 and adopted by reference; and

(iii) within areas designated under AS 16.20 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, greywater, or other wastewater discharges identified in (1) of this subsection to the maximum extent practicable;

(ii) improving the quality of 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 vessels 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 section; and

(7) a description of the record keeping 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(k) not later than 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(k) that meets the requirements of AS 46.03.463(k) and (b) of this section for a period of five years after the approval date, unless the plan is modified or terminated under (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(k) to a new owner or operator of the vessel covered by that plan if 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(k) not later than 30 days after receipt of an application that the department determines meets the requirements of AS 46.03.462(k) and (b) of this section; or

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

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

(B) after the department provides written notice to the owner or operator, 30 days before the date of termination, 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 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) An owner or operator may not implement a modification to a plan for alternative terms and conditions under AS 46.03.462(k) 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) An owner or operator must

(1) maintain a copy of the approved plan on board the vessel for which the plan was approved;

(2) maintain for 12 months the record keeping documents described in the approved plan on board the vessel for which the plan was approved;

(3) provide the department access, upon request, to record keeping documents required in the approved plan; and

(4) submit copies of the record keeping documents required in the approved plan within 21 days after receipt of a written or electronic request from the department. (Eff. 5/18/2006, Register 178; am 12/16/2013, Register 208; am 3/24/2018, Register 225)

Authority: AS 46.03.460 AS 46.03.462 AS 46.03.465

Editor's note: Information regarding catalogued waters that are important for the spawning, rearing, or migration of anadromous fish is available from the Department of Fish and Game's *Catalog of Waters Important for the Spawning, Rearing or Migration of Anadromous Fishes*, adopted by reference by the Department of Fish and Game in 5 AAC 95.011, and is also located on the Department of Fish and Game's Internet website at <http://www.adfg.alaska.gov/sf/SARR/AWC>. The Department of Environmental Conservation's set of maps entitled *Herring Spawning Areas in Alaska*, adopted by reference in 18 AAC 69.046(c)(5)(A)(ii), is available at the department's offices in Juneau and Anchorage, and is also located on the Department of Environmental Conservation's Internet website at <http://www.dec.state.ak.us/water/cruise-ships>.

As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made a technical change to 18 AAC 69.046(c)(5)(A)(i) and the editor's note to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

18 AAC 69.050. Sewage and graywater discharge record book. (a) An owner or operator shall maintain records required by AS 46.03.465(a) on board the vessel for 12 months, detailing each discharge of treated sewage, graywater, or other wastewater into the marine waters of the state.

(b) For an intermittent discharge of treated sewage, graywater, or other wastewater into the marine waters of the state, the records required by AS 46.03.465(a) must include the

(1) date, time, latitude, and longitude when and where the discharge started and ended;

(2) overboard discharge port through which the discharge occurred;

(3) type of discharge;

(4) volume and average discharge rate for each overboard discharge port;

(5) minimum vessel speed during discharge; and

(6) signature of the individual in charge of discharge operations and the date when that individual signed the discharge record.

(c) For an automatic or continuous discharge, in port, at anchorage, or underway, of treated sewage, graywater, or other wastewater into the marine waters of the state, the records required by AS 46.03.465(a) must describe for each voyage

(1) the daily estimated volume of discharge by type;

(2) a description of how the daily volume by discharge type was estimated;

(3) for each stay that a vessel makes at an anchorage or dock, the

(A) date of the stay;

(B) time expressed in a 24-hour clock format at the beginning and end of each docking or anchorage;

(C) latitude and longitude of the stay; and

(D) estimated average flow rate of discharge by type of discharge; and

(4) for each vessel route while the vessel is underway between each stay identified in (3) of this subsection, the

(A) dates while en route;

(B) time expressed in a 24-hour clock format at the beginning and end of each vessel route;

(C) vessel's average speed; and

(D) estimated average flow rate of discharge by type of discharge.

(d) Within five days after the end of each calendar month while operating on the marine waters of the state, an owner or operator shall submit electronic copies of the treated sewage, graywater, or other wastewater discharge records required under AS 46.03.465(a), or a report in a format requested by the department. (Eff. 11/15/2002, Register 164; am 12/16/2013, Register 208)

Authority: AS 46.03.460 AS 46.03.465 AS 46.03.470
AS 46.03.463

18 AAC 69.053. Notice of sampling. An owner or operator, or an employee, contractor, or agent of the owner or operator, shall provide written or electronic notice to the department at least 36 hours before collecting a sample required to be taken by AS 46.03.465(b). The notice must include the time and date on which the sample will be taken. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.465

18 AAC 69.055. Sampling and analytical testing report. (a) An owner or operator shall submit each sampling and analytical testing report required under AS 46.03.460 - 46.03.490 to the department not later than 21 days after completion of the analytical testing for each sampling event.

(b) The sampling and analytical testing report must include

- (1) the date, time, and onboard location where each sample was collected;
- (2) the sampling technique and analytical testing method used for each sample;
- (3) the quality assurance and quality control analysis of the sampling, analytical testing, and analytical data;
- (4) the analytical results;
- (5) any deviation from the approved plan submitted under 18 AAC 69.025;
- (6) any deviation from the approved plan submitted under 18 AAC 69.030;
- (7) the type of wastewater sampled; and
- (8) if necessary, a notification that resampling under 18 AAC 69.070 is occurring. (Eff. 11/15/2002, Register 164; am 12/16/2013, Register 208)

Authority: AS 46.03.460 AS 46.03.465 AS 46.03.475

18 AAC 69.060. Notification and reporting requirements for discharge necessary for the safety of the vessel or saving life at sea. (a) If wastewater is discharged from a commercial passenger vessel into the marine waters of the state for the purpose of securing the safety of the vessel or saving human life at sea, the owner or operator shall notify the department within 24 hours after the discharge, of the

- (1) name of the vessel;

- (2) date and time when the discharge occurred;
- (3) amount and type of wastewater discharged; and
- (4) the location, in latitude and longitude, of the vessel when the discharge occurred.

(b) Unless the department determines that a written or electronic report is not needed for the department to ascertain any threat to human health, safety, or welfare, or to the environment, a written or electronic report must be submitted within five days after the event causing the need to discharge ends.

(c) A report under (b) of this section must

(1) be submitted to the department's Anchorage or Juneau office, whichever is nearest to the location of the discharge; and

(2) contain, as applicable,

(A) the date and time of the discharge;

(B) the latitude and longitude of the vessel when the discharge occurred;

(C) the name of the vessel;

(D) the name, mailing address, and telephone number of the master of the vessel;

(E) the type and estimated amount of wastewater discharged;

(F) an explanation of why the discharge was necessary to secure the safety of the vessel or save a life at sea;

(G) a description of the precautions taken to prevent or minimize the discharge; and

(H) other information that the department requires to assess fully the ability of the owner or operator to prevent or minimize the discharge. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.463 AS 46.03.465

18 AAC 69.065. Other reports. (a) Subject to (b) of this section, on or before November 15 of each calendar year in which the owner or operator has caused or allowed to be operated a commercial passenger vessel in the marine waters of the state, the owner or operator shall submit a written or electronic report that documents any deviation from the plan submitted

under AS 46.03.475(e)(1) and 18 AAC 69.035, or from the plan submitted under AS 46.03.475(e)(2) and 18 AAC 69.040.

(b) An owner or operator who caused or allowed a commercial passenger vessel to be operated year round shall submit, as part of the annual plans required on or before March 1 under 18 AAC 69.035 and 18 AAC 69.040, a written or electronic report that documents any deviations to the plans for any period not addressed in the previous November 15 report required under (a) of this section.

(c) The owner or operator shall submit a copy of records required under AS 46.03.475(b) within 21 days after completion of the analytical testing for each sampling event. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.465 AS 46.03.475
AS 46.03.463

18 AAC 69.070. Exceedance of discharge limitations. (a) If the fecal coliform level in a sample taken under AS 46.03.460 – 46.03.490 exceeds the maximum fecal coliform limit in AS 46.03.463(b) or (c), the owner or operator may resample and retest, if

(1) all resampling occurs not later than 30 days after the original sampling;

(2) no two samples are collected within a 24-hour period;

(3) resampling occurs according to the provisions of the valid, approved plans submitted under 18 AAC 69.025 and 18 AAC 69.030; and

(4) resampling includes measurements for temperature, pH, and chlorine analyzed in the field at the time of sample collection.

(b) The department will consider a person to be in compliance with the maximum fecal coliform limit in AS 46.03.463(b) or (c) if that person demonstrates to the department's satisfaction that the geometric mean of the fecal coliform counts in all of the samples collected under (a) of this section, including the one that exceeded the maximum allowable concentration, does not exceed 200 colonies per 100 milliliters. (Eff. 11/15/2002, Register 164; am 12/16/2013, Register 208)

Authority: AS 46.03.460 AS 46.03.463

18 AAC 69.075. Information requests. The department may require an owner or operator to provide information in that owner's or operator's custody or control that is material and reasonably necessary to assist the department in carrying out the purposes of AS 46.03.462 and 46.03.465. (Eff. 11/15/2002, Register 164; am 12/16/2013, Register 208)

Authority: AS 46.03.460 AS 46.03.462 AS 46.03.465

18 AAC 69.080. Discharges from small commercial passenger vessels; logbook. (a) In determining compliance with AS 46.03.463(f), the department will consider the owner or operator of a small commercial passenger vessel to have a properly maintained and properly operated marine sanitation device if

(1) the vessel has a manufacturer's certification plate specifying the type of marine sanitation device;

(2) the marine sanitation device is in good working order;

(3) while the marine sanitation device is used in the marine waters of the state, the owner or operator operates the marine sanitation device according to the operating specifications of

(A) the manufacturer;

(B) a registered engineer; or

(C) a classification society; and

(4) the owner or operator maintains the marine sanitation device according to the maintenance specifications of

(A) the manufacturer;

(B) a registered engineer; or

(C) a classification society.

(b) An owner or operator of a small commercial passenger vessel shall maintain on board for three years a marine sanitation device maintenance and operations logbook that documents all maintenance performed for each marine sanitation device used on a small commercial passenger vessel that operates in the marine waters of the state. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.463 AS 46.03.465

18 AAC 69.085. Access to commercial passenger vessels. (a) For purposes of compliance with AS 46.03.462(b)(5), the owner or operator shall allow an agent or employee of the department, who is authorized in writing by the commissioner and upon presentation of credentials, to enter upon the premises where sewage, graywater, or other wastewater is stored, treated, conveyed, discharged, or sampled,

(1) when samples are being taken and for the purpose of verifying the integrity of the sampling process, to

(A) inspect any sewage, graywater, or other wastewater treatment, storage, conveyance, or discharge devices and the sampling ports; or

(B) verify the owner's or operator's sampling process or procedures; or

(2) to sample sewage, graywater, or other wastewater.

(b) Nothing in this section limits or impairs the department's rights or powers of access, inspection, or subpoena under other applicable law. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.462

18 AAC 69.090. Persons conducting sampling and analytical testing. (a) An owner or operator shall ensure that the sampling required under AS 46.03.465 is conducted by a qualified, approved person. The owner or operator must submit information describing the qualifications of the proposed person to be approved no later than 21 days before sampling required under AS 46.03.465 is to occur. In determining whether a person is qualified to conduct sampling, the department will consider whether the person

(1) has been trained in sampling methodology, sample handling, chain of custody, field measurements, and quality assurance procedures; and

(2) is familiar with the requirements of the plan of sampling techniques and analytical testing methods and the vessel specific sampling plan for the vessel being sampled.

(b) An owner or operator shall ensure that the testing required under AS 46.03.465 is conducted by an approved laboratory. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.460 AS 46.03.462 AS 46.03.465

18 AAC 69.945. Appeals. Any person may within 30 days after a final department decision under AS 46.03.462(k) or 18 AAC 69.950 submit a request for an adjudicatory hearing under 18 AAC 15.195 – 18 AAC 15.340. (Eff. 11/15/2002, Register 164; am 11/7/2017, Register 224; am 3/24/2018, Register 225)

Authority: AS 46.03.020 AS 46.03.880

18 AAC 69.950. Informal dispute resolution. An owner or operator subject to this chapter may request an informal review under 18 AAC 15.185 – 18 AAC 15.190 of a final department decision under this chapter. (Eff. 11/15/2002, Register 164)

Authority: AS 46.03.020 AS 46.03.460

18 AAC 69.955. Public information. (a) The department will maintain a list of interested persons who wish to be informed when the department

(1) receives a request for an alternative term or condition under AS 46.03.462(k);
and

(2) makes a final decision under 18 AAC 69.950.

(b) When the department receives a request or makes a decision described in (a) of this section, a copy or summary of the request or decision will be

(1) provided to each person who has requested information about the decision or request; and

(2) posted on the department's Internet web site. (Eff. 11/15/2002, Register 164, am 5/18/2006, Register 178; am 3/24/2018, Register 225)

Authority: AS 46.03.020 AS 46.03.460

18 AAC 69.990. Definitions. Unless the context indicates otherwise, in this chapter

(1) "approval" means written or electronic approval by the department;

(2) "approved" means approved in writing or electronically by the department;

(3) repealed 5/18/2006.

(4) "calendar year" means a period of time between January 1 and December 31 during which the owner or operator intends to operate, or cause or allow to be operated, a commercial passenger vessel in the marine waters of the state;

(5) "classification society" means an organization

(A) involved in the inspection of ships and ship equipment; and

(B) that, as determined under 33 U.S.C. 1322(f) by the Commandant of the United States Coast Guard, meets the standards in the International Maritime Organization (IMO) Resolution A.739(18), "*Guidelines for the Authorization of Organizations Acting on behalf of the Administration*";

(6) "commissioner" means the commissioner of environmental conservation;

(7) “department” means the Department of Environmental Conservation;

(8) “geometric mean” means the n th root of the product of a series of n numbers computed by taking the logarithm of each number, computing the arithmetic mean of the logarithms, and raising the base used to take the logarithms to the arithmetic mean;

(9) “hazardous substance” has the meaning given in AS 46.03.826;

(10) “hazardous waste” has the meaning given in AS 46.03.900;

(11) “marine sanitation device” means

(A) equipment that is installed on board a vessel, and that is designed to receive, retain, treat, or discharge sewage; and

(B) any process to treat sewage on board a vessel;

(12) “operated seasonally” means operated only between January 1 and October 31 in the marine waters of the state;

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

(14) "owner or operator" means the owner or operator of a commercial passenger vessel who intends to operate, or cause or allow to be operated the vessel, in the marine waters of the state;

(15) "parameter" means a single analytical determination or group of determinations using a specific method of analysis identified by the laboratory;

(16) "registered engineer" means a professional engineer who is registered under AS 08.48.171 - 08.48.265;

(17) "solid waste" has the meaning given in AS 46.03.900;

(18) “submit” means to submit in writing or electronically to the department.

(19) “naval architect” means a person who

(A) is responsible for the analysis, design, alteration, and construction of marine vessels to applicable standards and regulations of the United States Coast Guard and any applicable standards of a classification society; and

(B) holds a valid certificate, registration, or license from another state to perform work described in (A) of this paragraph. (Eff. 11/15/2002, Register 164, am 5/18/2006, Register 178)

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		

Editor's Note: The IMO resolution in 18 AAC 69.990(a)(5) can be obtained from the IMO publication section at <http://www.imo.org/publications>.