



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Environmental  
Conservation**

DIVISION OF ADMINISTRATIVE SERVICES

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The Honorable Neal Foster  
Co-chair, House Finance Committee  
State Capitol Room 505  
Juneau AK, 99801

The Honorable Jennifer Johnston  
Co-chair, House Finance Committee  
State Capitol Room 511  
Juneau AK, 99801

Dear Representatives Foster and Johnston:

Thank you for the opportunity to provide an overview of the Department of Environmental Conservation's FY2021 Budget Request on January 28<sup>th</sup>. Questions arose during this meeting that required additional information. I have responded to these questions below. If you would like more information or have additional questions, I am happy to assist.

***Approximately how many shellfish permittee's are there that would be bearing the costs of additional fees? (Rep. Foster)***

In FY2019, the Department issued permits to 153 individuals and/or businesses. Of those permittees, 29 submitted a total of 1,183 samples to the Environmental Health Laboratory for analysis: 566 paralytic shellfish toxin, 6 domoic acid, and 611 growing water. It should be noted that some operations require multiple permits. For example, an operator may hire or accept product from multiple divers or harvesters, all of whom are individually permitted. In that instance, only the operator will submit samples for regulatory testing.

***What types of tank farms are these Class II facilities? Are these primarily located in smaller communities? (Rep. Foster)***

Class II facilities are on-shore facilities that store between 1,000 gallons and 420,000 gallons of non-crude oil (petroleum-based, motor fuels, jet fuels, heating oil, residual fuel oils, lubricants, and used oils). These facilities are not required to have Oil Discharge Prevention and Contingency Plans. Many Class II facilities are in rural Alaska, including rural schools, electric co-ops, and fuel storage facilities.

***What does EPA oversight of the Class II facilities look like? (Rep. Josephson)***

EPA requires facilities with over 1,320 gallons of oil in above ground tanks to submit an oil spill prevention and response plan under their Spill Prevention, Control, and Countermeasure (SPCC)

program. EPA does conduct inspections under SPCC, however their resources are limited and they focus those inspections on high risk facilities. Of the tens of thousands of tanks in EPA Region 10 that fall under SPCC requirements, approximately 30 were inspected in 2019.

The U.S. Coast Guard also approves plans for facilities that take oil from a vessel with a capacity of 250,000 gallons or more. Their geographic scope is more limited; they only regulate and inspect from the marine header (where the vessel connects to shore) to the first valve inside of the onshore bulk fuel storage containment area.

***Could you explain or describe the type of monitoring that takes place with cruise ship air emissions in these port communities? How does the department actually monitor that? When we talk about this type of testing, does it happen every time a cruise ship comes into port? What kind of coverage do you get with this testing? (Rep. Ortiz)***

The overall approach for observing ships, responding to complaints, and following up on visible emission violations will be consistent with the approach used in prior years. Air Quality Division staff have expertise and are trained to observe marine vessel emissions and the existing contract for stack emission observations will remain in effect.

Air emissions monitoring of cruise ships in port communities throughout Alaska are done using an established method adopted in state regulation, U.S. EPA Reference Method 9. Observers under the Department's program are either individuals under contract or Department staff. Individuals are certified to conduct the emission observations by calibrating sample readings under the established method. While observing emissions, the individual is prescriptively measuring the opacity or "thickness" of smoke and the percentage of visible light that is obstructed by the smoke. There are certain requirements that must be met in order to conduct a valid reading under Method 9; examples include: sun angle relative to the observer, height and distance of smoke from the observer, berth orientation, vessel itineraries, weather conditions, and others. All of these criteria impose restrictions on when and how individual observations are made in order to ensure accuracy.

Due to the restrictions on opportunity, readings under contract are done in such a way to focus efforts on the three busiest ports along with some readings in a wider range of ports throughout the state. While the department does not track a percentage of time available to conduct readings, or minutes that ships spend in port compared to minutes observed, the department tries to maximize observations in a fair and effective way relative to vessel traffic; spending more time on ships with known compliance issues or in response to public complaints, as opposed to those docked and on shore-power with engines off. When an observer is on the ground, they are likely to observe every vessel in a specific port on a specific day. Under the contract, the Department requires a minimum of 225 readings per season, but can often obtain double that amount. In order to meet that minimum, the Department requires that no more than 160 of the 225 be made in one port. Beyond the minimum, that restriction would not apply. Readings are also required to be spread out throughout the season with additional visits to three to eight different, smaller ports each season. Finally, barring extenuating circumstances, the department requires that observations be made on all large vessels and state ferries throughout the season with reasonable effort to also read all smaller vessels. The Department's current contractor is based out of Ketchikan, with staff available in at least four other locations; this has significantly helped supplement readings done by Department staff located in Juneau. The contract strives to encourage representative readings, efficiency and coverage, responsiveness, and fairness throughout the regulated community.

As resources allow, the Department also conducts occasional ambient air monitoring studies using instruments that measure air quality during the cruise ship season. While these do not necessarily

monitor for compliance with opacity standards, they can help the Department and local residents understand air quality impacts in a port community. For example, the Department used low cost air monitoring sensors last summer in the downtown Juneau area (<http://dec.alaska.gov/air/air-monitoring/juneau-cruise-ship-monitoring-project/>). The Department expects to complete and release the report on that monitoring project prior to the next summer season.

***The Department ran out of time to present the final slide of the budget overview on the status of the Ocean Ranger program. For the Committee's information, I am pleased to provide a summary of our planned testimony below and look forward to spending more time on this topic in the Subcommittee on February 4th.***

Funding for the Ocean Ranger program was vetoed in the FY2020 operating budget. There are no plans for Ocean Rangers to ride along as 24/7 observers on cruise ships for the upcoming tourist season. The Department continues to believe the Ocean Ranger program was an inefficient way to regulate wastewater discharges from cruise ships, and not cost effective.

It should be noted that the Ocean Ranger fee remains in statute and the Department continues to collect \$4.00 per/berth from cruise ships with 250 berths or more. That fee is collected into the Commercial Passenger Vessel Environmental Compliance Fund along with the environmental compliance fees collected from cruise ships. Those two revenue streams to the fund have been tracked separately since 2009.

The Department has had, and continues to have authority to regulate the wastewater discharges from cruise ships and existing staff will continue to enforce existing permits. Over the last twelve years, 266 notices of violation (NOV) were issued to cruise ships operating in Alaska for potential improper actions. Only six of those NOVs were attributable to Ocean Ranger observations. The remaining NOVs were the result of the existing regulatory program that includes staff inspections and reviews, air opacity monitoring conducted by staff and contractors, as well as self-monitoring and self-reporting by cruise ship operators.

That said, there are ways to increase the Department's ability to do this work and the Department has a plan we believe will be more effective than Ocean Rangers. We will be working with the committees on revisions to HB74 and SB70, the bills introduced in 2019 to repeal the Ocean Ranger program, to incorporate that plan.

Sincerely,



Ruth Kostik  
Director of Administrative Services, Acting

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