



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Environmental  
Conservation**

DIVISION OF ADMINISTRATIVE SERVICES

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February 10, 2020

The Honorable Dan Ortiz  
Chair, House Finance Subcommittee  
State Capitol Room 513  
Juneau AK, 99801

Dear Representative Ortiz:

Thank you for the opportunity to provide an overview of the Department of Environmental Conservation's Water, Spill Prevention & Response, and cruise ship budget actions on February 4<sup>th</sup>. Several 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.

***What is the basis for the finding that it's not legal to require electronic monitoring in the State of Alaska? (Rep. Spohnholz)***

The federal Ports and Waterways Act preempts certain areas of State regulation with respect to vessel equipment, particularly where it's a requirement that would impact the vessel outside of State waters. Because the electronic monitoring equipment would be permanently installed on the vessel, it's unlikely that the courts would allow the State to require its installation. See 46 U.S.C. 3703 and *United States v. Locke*, 529 U.S. 89 (2000).

***Could you provide a breakdown of funding for the wastewater program in port communities prior to the proposed fund source change? (Rep. Hopkins)***

Wastewater permitting and compliance work is conducted under the Alaska Pollutant Discharge Elimination Systems (APDES) program. The full cost of the program is approximately \$4.7 million, of which about \$1.3 million is covered by unrestricted general funds. The proposed fund source change from general funds to commercial passenger vessel environmental compliance fees was intended to offset the fund source change in the Division of Environmental Health related to shellfish testing costs. The Department does not track APDES costs as it relates to port communities. The Department anticipates any potential shortfall between the fund source change amount and actual expenditure will be minimal enough to be absorbed by the program.

***Is there any way to breakdown the costs of dairy inspections by permittee? Could you also provide the future expected costs of the new dairy in Delta, should it open? (Rep. Rauscher)***

The Department does not track costs by individual permittee in the Dairy program. If an additional dairy or dairies were to come online, there would be increased travel and supply expenditures. Travel costs will vary depending on location of the dairy; however, due to sample hold times (samples must

be analyzed within a certain number of hours), dairy inspections are typically day trips, even for inspections that require air travel by Department staff.

***Does the equipment used for dairy testing get used for anything besides dairy? (Rep. Rauscher)***

The majority of equipment used in support of the dairy program is not used for other purposes. The Department owns this equipment and there is minimal cost to maintain it.

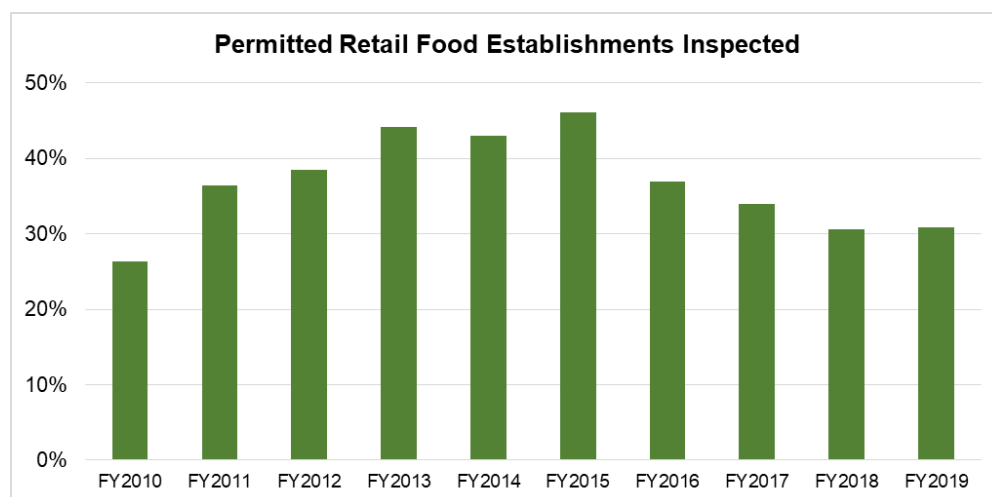
***What is the breakdown of time it takes to do the analysis of each dairy sample? (Rep. Spohnholz)***

While Department staff track their time in 15 minute increments as it relates to the program they are working on, the Department does not track the specific time it takes to process each sample. Of the \$179.6 in costs related to Dairy, \$108.3 reflects laboratory staff time working directly on Dairy activities. This work includes testing of regulatory samples, performing mandatory Food and Drug Administration (FDA) and proficiency training, and audits and certifications of the on-site dairy laboratories.

***How do food facility inspections in FY2019 compare to the previous year? (Rep. Spohnholz)***

In FY2019, there were 4,908 permitted permanent food establishments, and a total of 1,512, or 31% were inspected by department staff. Of these, 173 required follow-up inspections to ensure corrective actions were taken. These inspections covered 49% of high risk retail food facilities and 40% of medium risk retail food facilities. In FY2018, there were 4,818 permitted permanent food establishments, of which 31% were inspected by Department staff. Of these, 136 required follow-up inspections to ensure corrective actions were taken. Of permitted food establishments, Department staff inspected 46% of high risk retail food facilities and 40% of medium risk retail food facilities. Low risk facilities are generally only inspected when complaints are received, if the facility has never been inspected, if the opportunity arises when an inspector is in a community, or if it is affiliated with a higher risk facility.

This data is tracked in the Department's performance measures, and can be viewed online at: <https://omb.alaska.gov/html/performance/details.html?p=53#td10065>. For the Subcommittee's reference, this chart is also provided below.



Representative Ortiz

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Sincerely,



Ruth Kostik

Director of Administrative Services, Acting

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Amy Moselle, Office of Management and Budget  
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