

Record Book shall be responsible for the maintenance of such record.

(h) The Sewage and Graywater Discharge Record Book shall be maintained on board for not less than three years.

§ 159.317 Sampling and reporting.

(a) The owner, operator, master or other person in charge of a cruise vessel that discharges treated sewage and/or graywater in the applicable waters of Alaska shall:

(1) Not less than 90 days prior to each vessel's initial entry into the applicable waters of Alaska during any calendar year, provide to the COTP certification of participation under a Quality Assurance/Quality Control Plan (QA/QCP) accepted by the COTP for sampling and analysis of treated sewage and/or graywater for the current operating season;

(2) Not less than 30 days nor more than 120 days prior to each vessel's initial entry into the applicable waters of Alaska during any calendar year, provide a certification to the COTP that the vessel's treated sewage and graywater effluents meet the minimum standards established by the Administrator, or in the absence of such standards, meet the minimum established in § 159.319 of this subpart;

(3) Within 30 days of each vessel's initial entry into the applicable waters of Alaska during any calendar year, provide to the COTP a Vessel Specific Sampling Plan (VSSP) for review and acceptance, and undergo sampling and testing for conventional pollutants of all treated sewage and graywater effluents as directed by the COTP;

(4) While operating in the applicable waters of Alaska be subject to unannounced sampling of treated sewage and graywater discharge effluents, or combined treated sewage/graywater discharge effluents for the purpose of testing for a limited suite, as determined by the Coast Guard, of priority pollutants;

(5) While operating in the applicable waters of Alaska be subject to additional random sampling events, in addition to all other required sampling, of some or all treated sewage and graywater discharge effluents for con-

ventional and/or priority pollutant testing as directed by the COTP;

(6) Ensure all samples, as required by this section, are collected and tested by a laboratory accepted by the Coast Guard for the testing of conventional and priority pollutants, as defined by this subpart, and in accordance with the cruise vessel's Coast Guard accepted QA/QCP and VSSP;

(7) Pay all costs associated with development of an acceptable QA/QCP and VSSP, sampling and testing of effluents, reporting of results, and any additional environmental record keeping as required by this subpart, not to include cost of federal regulatory oversight.

(b) A QA/QCP must, at a minimum include:

(1) Sampling techniques and equipment, sampling preservation methods and holding times, and transportation protocols, including chain of custody;

(2) Laboratory analytical information including methods used, calibration, detection limits, and the laboratory's internal QA/QC procedures;

(3) Quality assurance audits used to determine the effectiveness of the QA program; and

(4) Procedures and deliverables for data validation used to assess data precision and accuracy, the representative nature of the samples drawn, comparability, and completeness of measure parameters.

(c) A VSSP is a working document used during the sampling events required under this section and must, at a minimum, include:

(1) Vessel name;

(2) Passenger and crew capacity of the vessel;

(3) Daily water use of the vessel;

(4) Holding tank capacities for treated sewage and graywater;

(5) Vessel schematic of discharge ports and corresponding sampling ports;

(6) Description of discharges; and

(7) A table documenting the type of discharge, type of sample drawn (grab or composite), parameters to test for (conventional or priority pollutants), vessel location when sample drawn, date and time of the sampling event.

(d) Test results for conventional pollutants shall be submitted within 15

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calendar days of the date the sample was collected, and for priority pollutants within 30 calendar days of the date the sample was collected, to the COTP directly by the laboratory conducting the testing and in accordance with the Coast Guard accepted QA/QCP.

(e) Samples collected for analysis under this subpart shall be held by the laboratory contracted to do the analysis for not less than six months, or as directed by the COTP.

(f) Reports required under this section may be written or electronic. If electronic, the reports must be in a format readable by Coast Guard and Alaska Department of Environmental Conservation data systems.

§ 159.319 Fecal coliform and total suspended solids standards.

(a) *Treated sewage effluent discharges.* Until such time as the Administrator promulgates effluent discharge standards for treated sewage, treated sewage effluent discharges in the applicable waters of Alaska shall not have a fecal coliform bacterial count of greater than 200 per 100 ml nor total suspended solids greater than 150 mg/l.

(b) *Graywater effluent discharges.* [Reserved]

§ 159.321 Enforcement.

(a) *Administrative Penalties—(1) Violations.* Any person who violates this subpart may be assessed a class I or class II civil penalty by the Secretary or his delegatee.

(2) *Classes of penalties.* (i) *Class I.* The amount of a class I civil penalty under this section may not exceed \$10,000 per violation, except that the maximum amount of any class I civil penalty under this section shall not exceed \$25,000. Before assessing a civil penalty under this subparagraph, the Secretary or his delegatee shall give to the person to be assessed such penalty written notice of the Secretary's proposal to assess the penalty and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed penalty. Such hearing shall not be subject to 5 U.S.C. 554 or 556, but shall provide a reasonable opportunity to be heard and to present evidence.

(ii) *Class II.* The amount of a class II civil penalty under this section may not exceed \$10,000 per day for each day during which the violation continues, except that the maximum amount of any class II civil penalty under this section shall not exceed \$125,000. Except as otherwise provided in paragraph (a) of this section, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions as in the case of civil penalties assessed and collected after notice and an opportunity for hearing on the record in accordance with 5 U.S.C. 554. Proceedings to assess a class II administrative civil penalty under this section will be governed by 33 CFR part 20.

(3) *Rights of interested persons.* (i) *Public notice.* Before issuing an order assessing a class II civil penalty under this paragraph, the Secretary shall provide public notice of and reasonable opportunity to comment on the proposed issuance of each order.

(ii) *Presentation of evidence.* Any person who comments on a proposed assessment of a class II civil penalty under this section shall be given notice of any hearing held under paragraph (a) of this section, and of the order assessing such penalty. In any hearing held under paragraph (a)(3) of this section, such person shall have a reasonable opportunity to be heard and present evidence.

(iii) *Rights of interested persons to a hearing.* If no hearing is held under paragraph (a)(2) of this section before issuance of an order assessing a class II civil penalty under this section, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such an order, the Secretary or his delegatee to set aside such order and provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Secretary, or his delegatee, shall immediately set aside such order and provide a hearing in accordance with paragraph (a)(2)(ii) of this section. If the Secretary or his delegatee denies a hearing under this clause, the Secretary or his delegatee shall provide to