



MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: November 25, 2022

FROM: Kristina Serezhenkov, OLE

RE: Allen Marine Tours Inc – Common
Carrier Licenses

Requested Action: Refund request for AB-29 Waiver of Operation fees for 2022 and to remove the first strikes against the licenses.

Statutory and Regulatory Authority:

Sec. 04.11.330. Denial of license or permit renewal.

(a) An application requesting renewal of a license shall be denied if

(1) the board finds, after review of all relevant information, that renewal of the license would not be in the best interests of the public;

(2) the license has been revoked for any cause;

(3) the applicant has not operated the licensed premises for at least 240 hours during each of the two preceding calendar years, unless the board determines that the licensed premises are under construction or cannot be operated through no fault of the applicant;

3 AAC 304.170. Waiver of annual operating requirement and minimum operating requirements

(a) Except as provided in this section, the board will deny an application for renewal of a license if the licensed premises were not operated for the time required by AS 04.11.330(a)(3) or (d).

(b) A licensee may apply to the board, requesting that the board waive the operating requirement of AS 04.11.330 (a)(3) or (d). Under AS 04.11.330(a)(3), the board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises could not be operated for the required time during the preceding calendar year.

(c) An application for waiver for a calendar year must be made in writing to the board and must be accompanied by a non-refundable application fee of:

(1) an amount equal to one-half the applicable biennial license fee if a waiver application was not made for the previous year; or

(2) double the amount of the fee paid for the previous year's waiver application;

(d) In an application for waiver, the licensee must explain why the licensed premises were not operated. Additionally, the licensee must provide a copy of the application to the local governing body, if any, having jurisdiction over the license and licensed premises.

(e) The board will, in its discretion, deny a third or subsequent consecutive application for waiver unless the licensee clearly shows that the licensed premises were not operated because the premises were condemned or substantially destroyed by any cause. If the premises identified on an applicant's license are not leased or owned by the licensee, the

third or subsequent application will, in the board's discretion, be denied. Additionally, a third or subsequent consecutive application for waiver that does not identify a licensed premises location will, in the board's discretion, be denied.

(f) The board will, in its discretion, impose conditions along with the approval of an application for waiver.

(g) If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the board under AS 04.11.330(a)(3).

(h) In addition to the application fee under (c) of this section, the applicant shall pay \$1,000 for an application that is received too late for board consideration at its last meeting of the calendar year for which waiver is requested.

(i) In circumstances of death of a licensee, destruction of the premises, or comparable circumstances showing extraordinary hardship, the board will, in its discretion, waive the fees under (c) and (h) of this section.

(j) If a license is exercised only to satisfy the minimum operating requirement under AS 04.11.330(a)(3) or 3 AAC 304.107(c)(1), a licensee shall operate in a similar fashion to other licensed premises of the same type by meeting the following operating requirements if appropriate for the license type:

(1) provide signage, of sufficient size and visibility to show that the premises is open for business, stating business name and hours of operations;

(2) offer for sale at the licensed premises, as appropriate to the type of license, a variety of malt beverages, wines, and distilled spirits;

(3) visibly display the alcoholic beverages stock in a licensed package store premises;

(4) provide seating in beverage dispensary licensed premises for at least one-half of the maximum number allowed by the occupancy permit;

(5) comply with all state or municipal health, fire, and zoning laws or ordinances required for the operation of business;

(6) maintain a record of all purchases of alcoholic beverages for resale on the licensed premises; and

(7) record sales with a cash register or point of sale system that retains a record of transactions.

(k) The licensee has the burden of proof to show that the licensed premises was operated for the minimum required period of time and met the operating requirements under (j) of this section. The licensee may provide receipts, invoices, photographs, permits, timecards, and other records to meet the burden of proof. If the licensee fails to provide proof that one or more of the operating requirements was met, the board may consider additional documentation provided by the licensee to determine whether the licensee has met the burden of proof.

Staff Rec.: Evaluate refund request in accordance with above statutes and regulation

Background: The licensee is requesting a refund of the fees associated with the AB-29 Waiver of Operations. In 2022 to date, AMCO has received 17 AB-29 Waiver of Operations forms and fees for this year, including those for Allen Marine Tours Inc.

Attachment: Letter of Explanation & Refund Request
AB-29 forms

From: [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
To: [Susan Ginn](#)
Cc: [Jamey Cagle](#); [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
Subject: RE: Allen Marine Tours AB-29 Forms 2022
Date: Thursday, October 20, 2022 4:01:32 PM

Good afternoon,

I have received the AB-29 forms and your request to the Board to consider waiving the fees and strikes against the licenses. I will need to collect the fees for these AB-29 forms but will add your request under Special Consideration on the agenda for the next Board meeting scheduled for 12/12/2022. If the Board approves the waiver of fees and the removal of the strikes against the licenses you will receive a refund of the fees.

The fees for each vessel are as listed below:

- #5056 - St. Michael- Common Carrier- Seasonal - \$250.00
- #5062 - American Eagle- Common Carrier Seasonal - \$250.00
- #5539 - St. Innocent- Over 10 Common Carrier Seasonal - \$50.00
- #5540 - St. Anastasia - Over 10 Common Carrier Seasonal - \$50.00
- #5060 - St. John- Common Carrier- \$500.00

I will reach out by telephone tomorrow for credit card payment or, if you like, I can ebill you for the amounts. If you would like an ebill please shoot me back an email to let me know.

Thank you,

Kristina Serezhenkov
Licensing Examiner
Alcohol and Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From: Susan Ginn <sginn@allenmarine.com>
Sent: Thursday, October 20, 2022 2:24 PM
To: Alcohol Licensing, CED ABC (CED sponsored) <alcohol.licensing@alaska.gov>
Cc: Jamey Cagle <jcagle@allenmarine.com>
Subject: Allen Marine Tours AB-29 Forms 2022

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Attached are the AB-29 forms for our Allen Marine Tours boats that did not operate in 2022.

- #5056 – St. Michael
- #5062 – American Eagle
- #5539 – St. Innocent
- #5540 – St. Anastasia
- #5060 – St. John

We understand that this would typically be a strike against these licenses, however, these boats were unable to be operated due to the lingering effects of Covid on our company, our supply chains, and hiring challenges. We respectfully request that the Alcoholic Beverage Control Board consider waiving the strike and penalty fees for not operating these licenses in 2022. We continue to work hard to get all our boats back in service, but it was impossible this year.

Please let me know if these will be counted as a strike and whether we'll need to pay the fees typically charged for not operating a license. If we do owe fees, I can give a credit card number over the phone if someone would be available to call me.

Thank you for your consideration,

Susan Ginn
Accounting Manager
Allen Marine/Alaskan Dream Cruises
907-966-8130 direct line

From: [Susan Ginn](#)
To: [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
Cc: [Jamey Cagle](#)
Subject: Allen Marine Tours AB-29 Forms 2022
Date: Thursday, October 20, 2022 2:24:54 PM
Attachments: [#5056 - St. Michael Form AB-29 2022.pdf](#)
[#5062 - American Eagle Form AB-29 2022.pdf](#)
[#5539 - St. Innocent Form AB-29 2022.pdf](#)
[#5540 - St. Anastasia Form AB-29 2022.pdf](#)
[#5060 - St. John Form AB-29 2022.pdf](#)

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Thank you for your consideration,

Susan Ginn

Accounting Manager

Allen Marine/Alaskan Dream Cruises

907-966-8130 direct line



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

Why is this form needed?

This form is the means by which a licensee may request that the Alcoholic Beverage Control (ABC) Board waive the operating requirement of AS 04.11.330(a)(3) or (d). If a recreational site license has not been operated at least once in a calendar year, or if a license of any other type has not been operated for at least 240 hours in each calendar year, then a complete copy of this form and the corresponding fees must be submitted for that calendar year, per 3 AAC 304.170.

This application must be accompanied by a non-refundable waiver application fee of:

- for a 1st request, an amount equal to ½ the applicable biennial license fee; or
- for a 2nd or subsequent request, double the amount of the fee paid for the previous waiver application.

The ABC Board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises count not be operated for the required time during the calendar year. The ABC Board may impose conditions along with the approval of an application for waiver, and it may deny a third or subsequent application for waiver. If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the Board. In addition to the waiver application fee, the applicant must pay a late fee of \$1,000 for an application that is received too late for Board consideration at its meeting before November 30 of the year for which the waiver is requested. Please check AMCO's website for meeting agenda deadlines.

Please note that a licensee must submit a separate completed copy of this form and pay a separate corresponding fee for each license and for each calendar year during which a license was not operated in compliance with AS 04.11.330.

Section 1 – Establishment Information

Enter information for the license that has not been operated for the time required under AS 04.11.330.

Licensee:	Allen Marine Tours, Inc.	License Number:	5539		
License Type:	Common Carrier - Seasonal				
DBA:	St. Innocent				
Premises Address:	Alaska Waters				
City:	None	State:	Alaska	ZIP:	
Local Governing Body:	None				

Section 2 – Request Number and Calendar Year

- 1st Request
 2nd Request
 3rd Request
 Other Covid

Request for Calendar Year 2022



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

Section 3 – Reason for Non-operation

Provide an explanation as to why the licensed premises were not operated:

Covid has had lingering effects on our company that directly impacted our ability to operate our full fleet in 2022.

Supply chain and manufacturing issues caused materials and parts needed for maintenance to be delayed or unavailable, workforce shortages caused an inability to hire enough shipyard workers to complete necessary repairs and maintenance, workforce shortages also caused an inability to hire enough support staff and crew to operate some of the boats we did have ready to go, and inflation and rising fuel costs have increased the financial strain that our company is already suffering from due to Covid.

All of these factors were taken into consideration when making the decision that this boat would need to be kept out of service for 2022. Please consider not holding this as a strike against this license since we did not operate this boat due to Covid-related issues.

Section 4 – Certifications

The following must be completed for establishments located within the boundaries of a local governing body:

Read the line below, and then sign your initials in the box to the right of the statement:

Initials

I certify that I will provide a true copy of this application to the local governing body listed on Page 1 of this form prior to ABC Board consideration of this application.

I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted are true and correct. I understand that any falsification or misrepresentation of any item or response in this application, or any attachment, or documents to support this application, is sufficient grounds for denying or revoking a license/permit. I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

Jamey Cagle

Printed name of licensee

Signature of licensee

Office Use Only

Waiver Application Fee:		Late Fee:		Transaction #:	
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Alaska Alcoholic Beverage Control Board

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This application must be accompanied by a non-refundable waiver application fee of:

- for a 1st request, an amount equal to ½ the applicable biennial license fee; or
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The ABC Board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises count not be operated for the required time during the calendar year. The ABC Board may impose conditions along with the approval of an application for waiver, and it may deny a third or subsequent application for waiver. If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the Board. In addition to the waiver application fee, the applicant must pay a late fee of \$1,000 for an application that is received too late for Board consideration at its meeting before November 30 of the year for which the waiver is requested. Please check AMCO's website for meeting agenda deadlines.

Please note that a licensee must submit a separate completed copy of this form and pay a separate corresponding fee for each license and for each calendar year during which a license was not operated in compliance with AS 04.11.330.

Section 1 – Establishment Information

Enter information for the license that has not been operated for the time required under AS 04.11.330.

Licensee:	Allen Marine Tours, Inc.	License Number:	5540		
License Type:	Common Carrier - Seasonal				
DBA:	St. Anastasia				
Premises Address:	Alaska Waters				
City:	None	State:	Alaska	ZIP:	
Local Governing Body:	None				

Section 2 – Request Number and Calendar Year

- 1st Request
 2nd Request
 3rd Request
 Other Covid

Request for Calendar Year 2022



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

Section 3 – Reason for Non-operation

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All of these factors were taken into consideration when making the decision that this boat would need to be kept out of service for 2022. Please consider not holding this as a strike against this license since we did not operate this boat due to Covid-related issues.

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Printed name of licensee

Signature of licensee

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Section 1 – Establishment Information

Enter information for the license that has not been operated for the time required under AS 04.11.330.

Licensee:	Allen Marine Tours, Inc.	License Number:	5056		
License Type:	Common Carrier - Seasonal				
DBA:	St. Michael				
Premises Address:	Alaska Waters				
City:	None	State:	Alaska	ZIP:	
Local Governing Body:	None				

Section 2 – Request Number and Calendar Year

1st Request
 2nd Request
 3rd Request
 Other Covid

Request for Calendar Year 2022



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

Section 3 – Reason for Non-operation

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Supply chain and manufacturing issues caused materials and parts needed for maintenance to be delayed or unavailable, workforce shortages caused an inability to hire enough shipyard workers to complete necessary repairs and maintenance, workforce shortages also caused an inability to hire enough support staff and crew to operate some of the boats we did have ready to go, and inflation and rising fuel costs have increased the financial strain that our company is already suffering from due to Covid.

All of these factors were taken into consideration when making the decision that this boat would need to be kept out of service for 2022. Please consider not holding this as a strike against this license since we did not operate this boat due to Covid-related issues.

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Printed name of licensee

Signature of licensee

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Alaska Alcoholic Beverage Control Board

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Section 1 – Establishment Information

Enter information for the license that has not been operated for the time required under AS 04.11.330.

Licensee:	Allen Marine Tours, Inc.	License Number:	5060		
License Type:	Common Carrier				
DBA:	St. John				
Premises Address:	Alaska Waters				
City:	None	State:	Alaska	ZIP:	
Local Governing Body:	None				

Section 2 – Request Number and Calendar Year

- 1st Request
 2nd Request
 3rd Request
 Other Covid

Request for Calendar Year 2022



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

Section 3 – Reason for Non-operation

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Printed name of licensee

Signature of licensee

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Section 1 – Establishment Information

Enter information for the license that has not been operated for the time required under AS 04.11.330.

Licensee:	Allen Marine Tours, Inc.	License Number:	5062		
License Type:	Common Carrier - Seasonal				
DBA:	American Eagle				
Premises Address:	Alaska Waters				
City:	None	State:	Alaska	ZIP:	
Local Governing Body:	None				

Section 2 – Request Number and Calendar Year

- 1st Request
 2nd Request
 3rd Request
 Other Covid

Request for Calendar Year 2022



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

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