

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 3, 2004

1:50 p.m.

MEMBERS PRESENT

Representative Nancy Dahlstrom, Co-Chair
Representative Beverly Masek, Co-Chair
Representative Cheryll Heinze, Vice Chair
Representative Carl Gatto
Representative Bob Lynn
Representative Nick Stepovich
Representative Kelly Wolf
Representative Beth Kerttula
Representative David Guttenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE CONCURRENT RESOLUTION NO. 28

Relating to the socioeconomic impacts of salmon harvesting cooperatives.

- MOVED HCR 28 OUT OF COMMITTEE

HOUSE BILL NO. 522

"An Act relating to discharges from small commercial passenger vessels; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 524

"An Act relating to the protection of land and water from waste disposal; providing for the regulation of waste management; making conforming amendments; and providing for an effective date."

- MOVED HB 524 OUT OF COMMITTEE

HOUSE BILL NO. 442

"An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HCR 28

SHORT TITLE: STUDIES OF SALMON HARVESTING COOPERATIVES

SPONSOR(S): REPRESENTATIVE(S) SEATON BY REQUEST OF SALMON
INDUSTRY TASK FORCE

01/28/04	(H)	READ THE FIRST TIME - REFERRALS
01/28/04	(H)	EDT, RES
02/12/04	(H)	EDT AT 10:00 AM CAPITOL 120
02/12/04	(H)	Moved Out of Committee
02/12/04	(H)	MINUTE(EDT)
02/19/04	(H)	EDT AT 10:00 AM CAPITOL 120
02/19/04	(H)	Mvd Out of Committee w/new fiscal notes
02/23/04	(H)	EDT RPT 4DP
02/23/04	(H)	DP: MCGUIRE, CISSNA, CRAWFORD, HEINZE
02/23/04	(H)	FIN REFERRAL ADDED AFTER RES
03/01/04	(H)	RES AT 1:00 PM CAPITOL 124
03/01/04	(H)	Heard & Held
03/01/04	(H)	MINUTE(RES)
03/03/04	(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 522

SHORT TITLE: SMALL CRUISE SHIP DISCHARGES

SPONSOR(S): STATE AFFAIRS

02/26/04	(H)	READ THE FIRST TIME - REFERRALS
02/26/04	(H)	RES
03/03/04	(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 524

SHORT TITLE: WASTE MANAGEMENT/DISPOSAL

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/26/04	(H)	READ THE FIRST TIME - REFERRALS
02/26/04	(H)	RES
03/03/04	(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 442

SHORT TITLE: BIG GAME GUIDE BOARD & SERVICES

SPONSOR(S): RULES BY REQUEST OF LEG BUDGET & AUDIT

02/09/04	(H)	READ THE FIRST TIME - REFERRALS
02/09/04	(H)	RES, FIN

02/20/04 (H) RES AT 1:00 PM CAPITOL 124
02/20/04 (H) Heard & Held
02/20/04 (H) MINUTE(RES)
03/03/04 (H) RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE PAUL SEATON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As sponsor of HCR 28, provided the committee with a letter addressing fiscal impacts of the bill.

LINDA SYLVESTER, Staff

to Representative Bruce Weyhrauch

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of Representative Weyhrauch, Chair of the House State Affairs Standing Committee, sponsor.

DAN EASTON, Director

Division of Facility Construction and Operation

Department of Environmental Conservation (DEC)

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 522.

CAPTAIN MICHAEL JONES (ph), Director

Marine Operations

Lindblad Expeditions (LEX)

Seattle, Washington

POSITION STATEMENT: Testified on HB 522 on behalf of the Alaska Small Cruise Vessel Association.

BRYCE BROCKWAY, Vice President

Operations

Cruise West

Seattle, Washington

POSITION STATEMENT: During hearing on HB 522, provided information.

CHIP THOMA

Juneau, Alaska

POSITION STATEMENT: Testified on HB 522; suggested ways to improve the bill.

ERNESTA BALLARD, Commissioner

Department of Environmental Conservation (DEC)
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 524.

MARILYN CROCKETT, Deputy Director
Alaska Oil and Gas Association (AOGA)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 524.

STEVE BORELL, Executive Director
Alaska Miners Association
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 524.

MYRL THOMPSON, Ogan is So Gone
Wasilla, Alaska
POSITION STATEMENT: During hearing on HB 524, asked questions about exemptions relating to coal bed methane drilling.

ACTION NARRATIVE

TAPE 04-11, SIDE A
Number 0001

CO-CHAIR NANCY DAHLSTROM called the House Resources Standing Committee meeting to order at 1:50 p.m. Representatives Dahlstrom, Masek, Gatto, Heinze, Wolf, and Guttenberg were present at the call to order. Representatives Lynn, Stepovich, and Kerttula arrived as the meeting was in progress.

HCR 28-STUDIES OF SALMON HARVESTING COOPERATIVES

Number 0158

CO-CHAIR DAHLSTROM announced that the first order of business would be HOUSE CONCURRENT RESOLUTION NO. 28, Relating to the socioeconomic impacts of salmon harvesting cooperatives.

CO-CHAIR DAHLSTROM reminded the members that at the last hearing there were some questions related to the fiscal note. She said she sent Representative Paul Seaton, sponsor of HCR 28, an e-mail requesting clarification on a couple of points and copies of that response have been provided to the members. Co-Chair Dahlstrom said she believes Representative Seaton's response [memorandum dated March 3, 2004] was adequate and any further questions related to financial issues are best addressed in the next committee of referral, the House Finance Committee.

Number 0229

REPRESENTATIVE WOLF commented that he did not receive the e-mail.

CO-CHAIR DAHLSTROM replied that all offices were supplied with a copy of the response this morning, but an additional copy will be provided.

The committee took an at-ease from 1:55 p.m. to 1:56 p.m.

Number 0300

CO-CHAIR MASEK said that it is pretty clear that it is not the intent of the Joint Legislative Salmon Industry Task Force (JLSITF) or the sponsor to fund the request made in HCR 28 with general funds. She said she believes that was the major concern members had and it has now been addressed.

Number 0345

CO-CHAIR MASEK moved to report HCR 28 out of the House Resources Standing Committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE WOLF objected. He said he has a problem with the University of Alaska's involvement in the report. In the past the socioeconomic studies that the university has done have created concerns on both sides of the issue. Representative Wolf told the members that he cannot support the resolution.

Number 0420

REPRESENTATIVE GATTO clarified that this resolution is HCR 28.

A roll call vote was taken. Representatives Heinze, Gatto, Lynn, Stepovich, Guttenberg, Dahlstrom, and Masek voted in favor of HCR 28. Representative Wolf voted against it. Therefore, HCR 28 was reported out of the House Resources Standing Committee by a vote of 7-1.

REPRESENTATIVE SEATON thanked the committee for their efforts.

HB 522-SMALL CRUISE SHIP DISCHARGES

CO-CHAIR DAHLSTROM announced that the next order of business would be HOUSE BILL NO. 522, "An Act relating to discharges from small commercial passenger vessels; and providing for an effective date."

Number 0545

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, testified, and noted that HB 522 is sponsored by the House State Affairs Standing Committee. She said HB 522 was brought forward by the small commercial passenger vessels. She explained that in 2001, the legislature passed the Alaska Commercial Vessel Environmental Compliance Program, which was a collaborative effort that was initiated by the Department of Environmental Conservation (DEC), Representative Kerttula, and the cruise ship industry itself. It was a program that was designed to minimize discharges into the waters of Alaska. The program itself involved requirements in which technologies would be brought on line and wastewater would be processed on board, in addition, the small vessels were included in this. This included the large 3,000 passenger cruise ship vessels and the smaller vessels, which are defined as passenger vessels between 50 and 249 passengers.

MS. SYLVESTER said the idea behind including the small commercial passenger vessels was that technology would be developed for processing wastewater and the technology would filter down to the smaller vessel, which would be able to implement those and then comply with the Act. The idea didn't exactly happen that way. There are technologies but to implement those technologies, the small passenger vessels would be required to undergo major modifications, excess holding, or would have to modify the structure to increase the capacity for storage of the wastewater and other reasons, which is not practical for this group of vessels, she said. Ms. Sylvester said the total amount of discharge from this group of boats is about 3 percent. She said the Alaska Marine Highways and the small passenger vessels combined is the total amount of 6 percent of wastewater in Alaska, and Alaska Marine Highway vessels are exempt from this Act. She said this would only net in the small vessels.

MS. SYLVESTER said the group was waiting for a report from the DEC on how the industry has been doing and the report was that the industry is doing very well. The large passenger vessels have done a great job and Alaska is a true star in environmental protection for its waterways, she said. The small vessels are

fine at sea but have troubles when in port and stationary. She said the group got together with the department and worked out a plan and decided that if the group can't be perfect and their impact on the environment is very minimal, the best thing to do would be to work towards best management practices and come up with a regulatory scheme in which the department can oversee what's going on and still protect the environment. The bill is the regulatory scheme. She said essentially the department will work with each individual operator and eventually a plan for best management practices would be approved for each vessel for 3 years and "they would touch bases in 3 years." She said the idea is that the department would have latitude to make determinations if there is technology that comes on line, and in its discretion, the department might feel they want to require the small vessels to implement those. She said the 3-year period is technology based.

MS. SYLVESTER said BMPs [Best Management Practices] aren't going to really change; the thought is to ensure there is latitude to require the small vessels to comply if technology develops. She said this bill ultimately sunsets, which is structured to essentially grandfather the vessels that are currently operating in the waters of Alaska and to control the vessel's emissions into the water. In 2016, she said this bill will sunset and those small vessels won't be allowed to discharge water in Alaska. She explained that any vessel currently under construction would be required to implement technologies and wouldn't be covered under this plan.

Number 0988

REPRESENTATIVE HEINZE asked if the parameter for a small commercial passenger vessel is from 50 to 249 passengers.

MS. SYLVESTER said according to the definitions, a commercial passenger vessel means a vessel that carries passengers for hire except that commercial passenger vessel does not include a vessel that's authorized to carry fewer than 50 passengers. She said the Act doesn't concern itself with vessels that are smaller than 50 passengers, so by default it is between 50 and 249.

REPRESENTATIVE HEINZE asked Ms. Sylvester if she knew how much the compliance fee would be.

MS. SYLVESTER said she didn't know.

REPRESENTATIVE HEINZE asked Ms. Sylvester to find out.

Number 1120

DAN EASTON, Director, Division of Facility Construction and Operation, Department of Environmental Conservation, testified. Mr. Easton told the committee when DEC started talking with the industry about the concept of pulling the small vessels out of the full coverage of the 2001 legislation, it was suggested that the department look for four things in a bill, as follows: One, that the bill applied only to existing vessels; all new vessels would be expected to comply with the full force and effect of the 2001 legislation. Second, that new and existing small vessels would comply with the registration sampling, reporting, and inspection requirements. The bill includes more than just limits on discharge quality, it includes these other sort of requirements, and it is thought that the existing small vessels could comply with those. Third, it is thought [DEC] could develop regulations specifying best management practices (BMP). Fourth, [DEC] saw the finite end point in time to this arrangement, and the bill does include a 2016 deadline. In summary, he said this bill includes everything that [DEC] is looking for in a bill, and [DEC] does support it. He noted that a zero fiscal note had been provided.

Number 1242

CAPTAIN MICHAEL JONES (ph), Director, Marine Operations, Lindblad Expeditions (LEX), testified. Captain Jones told the committee that he was speaking on behalf of the Alaska Small Cruise Vessel Association, which represents 3 companies that operate 10 small vessels in Alaska. Those companies are Cruise West, Clipper Cruise Line/New World Ship Management Company, and Linblad Expeditions. He said LEX consists of charter vessels operating natural history voyages in Alaska since 1982. In 1989, LEX had the opportunity to purchase the vessels it was chartering and as such are operating the vessels Sea Lion and Sea Bird, to date. He said those vessels are sister ships, 152 feet in length, and carry 70 passengers and 24 crewmembers. The ships operate between Sitka and Juneau taking in ports in areas such as Tracy Arm, Glacier Bay National Park and Preserve, and Petersburg.

CAPTAIN JONES provided the contact information for Clipper Cruise Line/New World Ship Management Company. He said Clipper Cruise Line/New World Ship Management Company operates the Yorktown Clipper, a 257 vessel that carries 138 passengers and

42 crewmembers, and the Clipper Odyssey, a 300 vessel that carries 122 passengers and 72 crewmembers. He said Clipper Cruise Line/New World Ship Management Company has been operating in Alaska since 1990, starting with the Yorktown Clipper. He said Yorktown Clipper has itineraries similar to that of LEX vessels, and the Clipper Odyssey operates farther out. He noted that the bill packet contained some economic impact information from each of the companies. Captain Jones talked about LEX's economic impact for 2004, the information pertaining to the company's operations in Alaska, and the company's promotions of Alaska through direct mailings and brochures. He said one brochure goes to over half a million households, and another brochure in which Alaska is featured goes to about 890,000 households. He concurred with previously provided testimony. Captain Jones remarked:

The regulations as stated and in the term small passenger vessel, we don't have a lot of room to add things. Over the years, we've maintained our marine sanitation devices. In some instances holding out; last year, waiting for this new technology to ideally come down in size to fit within the envelope, the footprint of our vessels, so we could actually take out existing equipment and put in.

Unfortunately, the footprint of this new equipment is too large, and the process involves separating liquids and solids, which requires an immense holding capacity to get to another area to pump out or in the case of larger vessels where they actually dry the solids and burn it in there incinerators, which the small vessels just don't have ... that time.

Number 1602

CAPTAIN JONES mentioned a letter entitled "Limitations on Modifying Small Commercial Passenger Vessels" from John Waterhouse, P.E., President, Elliott Bay Design Group, Ltd, who helps to articulate the situation of the small cruise ships trying to add new technology into existing vessels.

Number 1655

BRYCE BROCKWAY, Vice President, Operations, Cruise West, testified. He noted that his responsibilities include the oversight of all marine, hotel, and technical operations. Mr. Brockway explained that Cruise West operates six small cruise

vessels in Alaskan waters, which range in size from 78 passenger vessels to 114 passenger vessels. He mentioned many of the small communities that Cruise West vessels visit throughout Alaska, and he explained that Cruise West was founded by Chuck West (ph) in 1946, in Fairbanks. Mr. Brockway explained that Mr. West started with some tours out into the Arctic and over the years it's transformed to Alaska sightseeing and then to what it is today, Cruise West. He talked about the financial impact information contained in the bill packets that Cruise West had provided, and explained that it is essentially similar to what the other two companies had provided. He pointed out the Cruise West does employ many Alaska residents because it does have an "over the road operation" as well through the Interior, and land offices in Juneau, Ketchikan, and Petersburg. Mr. Brockway said he intended to provide his testimony in person but conflict wouldn't allow it.

Number 1821

CHIP THOMA testified. He said he had the opportunity a couple of years ago to sit on the cruise ship initiative as a member. Mr. Thoma said what precipitated it is The Anchorage Daily News and The New York Times uncovered instances of [cruise ships] dumping [in] "doughnut holes." He said [doughnut holes] are large areas 3 miles from shore, and there are two or three of them in Southeast. Mr. Thoma said large ships were targeting these areas, actually dumping waste in them because the ships did not comply, and they figured this was outside the realm of state waters, and they could do so. He said legally they could, and that brought on the actions by then-U.S. Senator Frank Murkowski, which resulted in the cruise ship initiative. The results of that were outstanding. It took a long time to get the ships tested and to identify that in many cases, the maintenance to the systems on board had not been done, he said. Had the maintenance been done, these systems would have worked a lot better than that. He said there were very high levels of discharge.

MR. THOMA said this came about because the large cruise ships insisted that state ferries and small ships be included in this program, and this was an attempt to do that. He said both the small ships and the ferries were given a 3-year variance to do it, which he thought was adequate at the time. Since then it's been stated that the new equipment doesn't fit and is not ready to go, but he is not sure if that's the case, and he hadn't seen anything to that affect yet, he said. Mr. Thoma said it won't replace what's in here. He said he did appreciate the work

that's been done on HB 522 and thought it was a well-written bill, but to say that the ships can't feasibly comply with the program is questionable.

MR. THOMA said the bill packet contains a marine engineer report which states that the systems cannot be added, and cannot be readily changed; the combination of U.S. Coastguard regulations, licensing requirements, and vessel construction practices makes the addition of new treatment equipment and holding tanks technically infeasible adding additional volume and increasing the capacity of wastewater tanks below the main deck. He said he would agree that adding things to small ships is a problem but the possibility of replacing them had not been looked at yet. He said he thought that's what the state should look at and that is why it has a good 3-year program to review these things, so DEC can look at the systems that are available to see if some of them can be replaced. He said the only problem he has with the bill is on page 3, [lines 20-24], which read in part:

The department may adopt regulations to implement this subsection but may not require an owner or operator to retrofit a vessel solely for the purpose of waste treatment if the retrofitting requires additional stability testing or relicensing by the United States Coast Guard.

Number 2043

MR. THOMA said he believes that this is basically a "poison pill clause" for the bill that negates the ability to move on, actually get some changes, and then retrofit some of these ships. He remarked, "To say that whatever we do is going to require this, we just don't know that." Mr. Thoma said if a marine engineer says it is going to require relicensing or retesting, then [the vessel operator] is "off the hook." He suggested that it should be looked at. Mr. Thoma, directing attention to page 6, said he thought [paragraphs] (1)-(4) were very good. He referred to paragraphs (1) and (2), which read:

(1) the vessel is underway and proceeding at a speed of not less than six knots;

(2) the vessel is at least one nautical mile from the nearest shore, except in areas designated by the department;

MR. THOMA remarked:

I went to the web sites for all these companies - Lindblad, Cruise West - all the companies that we're talking about today. Each one of these ships specifically targets wildlife areas. They're going exactly to these doughnut holes; they're going to the Brothers Island, and Frederick Sound. They're going to Point Adolphus, and they're going to Neka Sound off of Sitka to look at Sea Otters. So that's what they're doing is targeting wildlife.

MR. THOMA said he thought this [paragraph], except in those areas designated by the department, should be looked at very closely to see if "that can actually expand these discharge areas." He said there really should be a two or three mile buffer around the Brothers Island, which is a huge sea lion rookery that whales coming in from Mexico and Hawaii go to. He said the same [should be done] with Point Adolphus and Neka Sound. Mr. Thoma said he thought there are some special areas that need some further work by DEC, and if that could be done to "bring this bill up to snuff," he was very much in support of it.

Number 2115

REPRESENTATIVE GATTO asked if the big ships insisted that small ferries be included.

MR. THOMA said correct; into the program.

REPRESENTATIVE GATTO asked, "Who says they can insist on anything?"

MR. THOMA said the [cruise ship industry] was a part of the cruise ship initiative, and as far as the consensus process that was worked up, it had a very big part in determining how [the initiative] was going to proceed. He indicated that the cruise ship industry was not going to cooperate unless the state's ferry system and small ships also complied. Mr. Thoma said there was a lot of testimony given that the smaller ships couldn't add the extra tanks. On the bigger ships it was found that the ballast tanks could be converted into holding tanks, and it wasn't necessary to have them all for ballasts. He said the small ships just didn't have that, which is why they were given three years to look at further technology and changes.

REPRESENTATIVE GATTO expressed concern about the words "consensus" and "insisted" almost being used together.

MR. THOMA said in a consensus situation, a consensus cannot be reached unless there are some parameters. He said he guessed that the parameters were set up so that small ships and ferries be included, and that's what everybody agreed to. Mr. Thoma said "we" wanted to address all of the problems, especially, the large boat's problems, which have hundreds of passengers on board.

Number 2187

REPRESENTATIVE HEINZE asked Mr. Thoma what he would suggest to take the "poison out of the pill."

MR. THOMA said by taking out this clause, so the onus is not on DEC that every time it comes up with an idea that it is not going to "fly" because it's going to require a new test. He said he thought DEC and the small ships should work cooperatively, which he thought they are. He said he didn't think there is any animosity at all, and there is certainly none on his part. Mr. Thoma noted that he thought [DEC and the small ships] should work more collaboratively together.

Number 2227

REPRESENTATIVE KERTTULA thanked Mr. Thoma for his work. She asked what stability testing and relicensing encompasses.

MR. THOMA replied that he didn't know.

REPRESENTATIVE KERTTULA asked why the section was drafted this way to say that the department couldn't require retrofitting if it was going to cause additional stability testing or relicensing. She asked about the kinds of testing and what relicensing encompasses.

CAPTAIN JONES referred to Mr. Waterhouse's letter, and he said he thought Mr. Waterhouse did a pretty good job on the section entitled "Regulatory environment", which read [original punctuation provided]:

Small Commercial Passenger vessels that operate under the U.S. flag are regulated by the U.S. Coast Guard and carry a certificate of inspection showing compliance with all safety requirements. To qualify

as a small passenger vessel they must admeasure less than 100 gross tons. Please note that gross tonnage is a measure of internal volume and not weight. Their design and construction are principally regulated under Subchapter K of Chapter 46 of the Code of Federal Regulations which applies to vessels that carry 50 or more passengers in overnight service or more than 150 passengers in day service. If changes are made to a vessel that increase its admeasurements to more than 100 Gross Tons, the vessel is no longer considered a small passenger vessel by the U.S. Coast Guard and is subject to a different "license" or certification.

CAPTAIN JONES remarked:

When we say additional stability testing and licensing that the Coast Guard ... may require, is sort of what's encapsulated here in this ... letter is the vessel now becomes a different animal, a different ship, [and] is no longer a small passenger vessel. It would then potentially become a large passenger vessel, which would have a regulator under subchapter H, which requires ... a whole lot more equipment, space, [and] personnel on board; the licenses is a certification itself for the vessel and potentially people operating the vessel.

... It just becomes a whole different vessel, so I think that's why, in the bill, that provision was put there, because of the major modification that was discussed earlier [it] certainly ... wasn't the intention when we worked with ADEC [Department of Environmental Conservation] and the industry to draft this bill that we're going to be ... forced to cut the ship in half to stretch it lengthen it, [and] put sponson on it.

Those sort of issues that would then kick in. ... Virtually, what it would mean is we'd be out of business. ... We wouldn't be able to spend the money, take the ship out of revenue, lose passenger space, and add all this. It'd be multi-million dollars to do that. ... In the letter, it's pretty unfeasible to think that you would be able to have subchapter K vessel and operate under the existing licensing; it

would become something different, which is not our business.

Number 2267

REPRESENTATIVE KERTTULA related her understanding that the requirement to do stability testing means that the vessel has dramatically changed.

CAPTAIN JONES replied yes. He said he thought stability modeling and different testing are things that can be done and is something that goes on within the parameters. He remarked:

In this bill is this something that's going to drastically turn this ship into something that then kicks in the major modification clause within the regulations, which then again makes it a ... whole different vessel.

REPRESENTATIVE KERTTULA asked if stability testing would only be done for something major rather than for minor changes.

CAPTAIN JONES said correct. Under this context there are different stability tests and models that are done all the time. There are stability booklets and letters for the operation of the vessel as it is built.

MR. BROCKWAY said basically the vessels are fixed tonnage and if anything is adjusted or taken off and replaced with a new piece of equipment that is the same weight, stability testing is not required. He said the plan is to keep looking at new equipment as Mr. Thoma suggested. As long as the new equipment used to replace the old equipment doesn't change the weight. He said changing weights is a "whole new game" because the weight change has to be overcome by adding more buoyancy. He said Mr. Waterhouse's letter explains what the buoyancy and stability means to the small vessel. The large ship was able to take "tankage" that was used for ballasts and change them into graywater and black water storage. He said in order for [small vessels] to do that, the weight has to be overcome by adding buoyancy, and by doing that, in most cases, vessels will have to add "sponsity" or be lengthened. Mr. Brockway noted that this clause was put in the bill to explain that.

Number 2590

CO-CHAIR DAHLSTROM noted that the committee was under time constraints due to commitments to hear other bills. She said it is apparent that the committee has some work to do on this bill and that it is the last committee of referral. She asked the sponsor to continue to work on the issues that had been addressed.

Number 2626

REPRESENTATIVE HEINZE asked how often vessels go into the doughnut holes during a summer and how much waste is dumped.

CAPTAIN JONES said he didn't think the doughnut hole issue is and issue for [LEX]. He suggested the issue was brought up because of untreated sewage being dumped in those areas. Furthermore, he said [LEX's] waste is treated and can be discharged anywhere. Captain Jones said [LEX] does not target doughnut holes and "we may very well, trying to get from point A to point B, be in different areas, but an itinerary isn't designed because of a doughnut hole." He reiterated that this is not really an issue for these vessels. Captain Jones noted that 3 percent is the total discharge for this group of vessels and is a factual number in the report. He remarked:

To try to look at it in the case of my two vessels ... in the entire Alaska season where I have 14 seven-day trips on one vessels and 16 seven-day trips on another vessel, I'll be carrying probably just over a thousand passengers total for the entire summer, so if you put that against one that's doing a thousand or more at a time.

CAPTAIN JONES referred to a graph, and he said saltwater is used to flush the toilets on the ship, which includes seawater and graywater. He said his vessels were using 2,000 gallons of graywater and 3,000 gallons of black water for a 24-hour period of time.

CO-CHAIR DAHLSTROM asked Captain Jones to provide that information to Representative Weyhrauch's staff, and she said she thought having that information will answer some of these questions, which can be addressed during the next bill hearing.

CAPTAIN JONES said the information was already in the report contained in the bill packets.

Number 2785

REPRESENTATIVE HEINZE said 3 percent sounded like a small number, but she was trying to define what was really going on.

CO-CHAIR DAHLSTROM said the bill would be brought up as soon as possible.

[HB 522 was held over.]

HB 524-WASTE MANAGEMENT/DISPOSAL

Number 2802

CO-CHAIR DAHLSTROM announced that the next order of business would be HOUSE BILL NO. 524, "An Act relating to the protection of land and water from waste disposal; providing for the regulation of waste management; making conforming amendments; and providing for an effective date."

ERNESTA BALLARD, Commissioner, Department of Environmental Conservation (DEC), testified. She said the governor has a very ambitious program for environmental protection and resource development. She remarked, "They compliment each other and the governor expects excellence in both." Commissioner Ballard said this bill is an essential piece of [DEC's] ability to support any resource development program and to assure that the environment is protected at the time that the resources are developed. She said she is proud to report to the committee in support of the governor's overall program that each of the budgets that have been presented to the legislature by Governor Murkowski has increased DEC's core capabilities with additions to its permit staff.

Number 2888

COMMISSIONER BALLARD said DEC's environmental protection role is defined by legislation passed over many legislative sessions over the last 30 years that assigns clear responsibility to DEC control water, land, and air pollution in Alaska and to also fulfill the state's obligations under the Clean Water Act, the Clean Air Act, and other federal legislation, which establish a two-tiered approach to protecting the nation's environment. The first tier is national air and water quality standards. The second tier is state implementation that is responsive to the unique needs of each state. She stated that she is a relentless advocate of a strong state budget and a strong state program for environmental protection and the comprehensive regulatory

program necessary to carry that out. She said the Clean Water Act is ultimately the subject of HB 524 and is designed to provide states with the latitude to shape water pollution control programs to fit their own unique circumstances. The Alaska Legislature, following the opportunity presented by the Clean Water Act, has charted a course in state law that governs water, as well as air, energy, and environmental conservation.

COMMISSIONER BALLARD said HB 524 expands the responsibilities already designated by the legislature for DEC. It expands DEC's ability to control pollution and it refocuses DEC's approach to the complex issues of solid and mine wastes. She said HB 524 provides important "tools" DEC will use to authorize its waste disposal activities. She said "the tools are arrayed by risk" and there are "different tools for different risks." She said this bill grew from [DEC's] comprehensive review of its programs that followed Administrative Order 202, the first administrative order passed by Governor Murkowski when he first took office in December 2002. She said Administrative Order 202 directed all departments of state government to do a comprehensive review of their statutory authorities and their programs to assure that they are using state resources efficiently and effectively. Commissioner Ballard said HB 524 is part of DEC's overall effort to clarify, streamline, and adhere to federal and state statutes.

TAPE 04-11, SIDE B

COMMISSIONER BALLARD it is DEC's goal with its environmental protection program to assure that all program components from legislative budgeting and oversight to fieldwork and enforcement are conducted in the state, with Alaskan solutions, and specifically addressing Alaskan challenges. She said HB 524 is an essential piece of bringing Alaskan program home to Alaska to assure that the priorities negotiated between the governor and the legislature, at the time the budgets are approved, are translated into "on the ground" programs to protect the state's resources.

Number 2950

COMMISSIONER BALLARD said [HB 524] clarifies [DEC's] "statutory foundation," and she called attention to handout in the packet provided by DEC. She said the handout begins by asserting that this is a key piece of [DEC's] statutory foundation. The bill has a zero fiscal note because it is clarification of the department's authorities and does not add any additional staff

or expenses. She said [the bill] is part of a rational water protection program that the state has not enjoyed over the 30 years as it has developed its environmental protection program. Commissioner Ballard said DEC calls that program "raindrops to oceans" and the term is used because water begins as condensate in the air and ultimately falls to the earth as rain; it cycles through surface water, ground water, and ultimately goes out to the sea. She remarked, "If we don't have a comprehensive and a rational approach to it, we're going to miss the boat." She said if it is protected in one area and not another area, "we" haven't done ourselves any good.

COMMISSIONER BALLARD explained that the water is looked at as a continuum from raindrops to ocean, and this bill is a key component of filling in gaps that [DEC] feels it has now in its statutory foundation to protect the water. She said it is a bill that primarily gives [DEC] a set of risk-based authorizations, which can be used to address the riskiest impacts to water with the "sharpest tools." She said remarked, "We can still by rule and therefore, with public comment, with opportunity for all stakeholders to participate; by rule we can address even the most minimal risks." She said the bill has five components of authorization for waste disposal activities depending on risks, which are identified in the handout by the bullet points. This an extremely important change from the current authority DEC has. The current authority simply references a permit; it doesn't make clear that a permit may be a different type of authorization than an individual permit with the name of the discharger on it, and developing an individual relationship with DEC.

COMMISSIONER BALLARD said the tool DEC would use for the riskiest impacts to water would be an individual permit in which DEC would negotiate specific discharge requirements for an individual discharger. The next tool in reduction of risk would be a general permit in which DEC would authorize one permit for a number of similar activities in a geographic area. Each individual discharger would still need to contact DEC, and DEC would still have an individual relationship with them, but would not negotiate independent or promulgate independent permit terms for them.

Number 2812

COMMISSIONER BALLARD called attention the third bullet, and she said this tool is one that DEC is very eager to have. It's called "permit by rule" or sometimes "regulatory rule" or

"permission by regulation," she said. She said the best example she can give for people who are unfamiliar with environmental regulations is a building permit. In some communities, if a person is doing simple remodeling at a cost of less than \$5,000, that individual does not need an individual permit. She said if the remodeling does not include moving a bearing wall or putting in plumbing, the home owner would simply conform to "best practices," which are usually listed in a sheet that the city can provide. She said this is a permit by rule, and the rule is that person complies with the conditions that are on the sheet of paper, but does not need an individual permit or a building inspector. She said the difference between a permit by rule and nothing is, first, [DEC] goes through rule making and promulgates the terms and conditions under which, for instance, bilges could be pumped. She offered some examples.

COMMISSIONER BALLARD said if [DEC] goes through rule making to identify the best practices for a low risk activity, then it has the opportunity for stakeholder comment, and equally important, DEC would have the opportunity to enforce. She said if there is a blatant violation and somebody observes somebody else doing wrong and points it out to DEC, and if DEC had done nothing and had no regulatory relationship with the general public, it is helpless. He said if DEC has a permit by rule, it is a low impact risk and a very low impact regulatory activity, but it provides the protection [DEC] believes the environment deserves and needs. She turned attention to "plan approvals," and she said [DEC] has many places, in both statute and regulation in state law and state code, in which plans are submitted to various agencies for review. Commissioner Ballard said this bill gives [DEC] specific authority to not just review, but approve a plan when it's necessary, and that approval step provides the control [DEC] thinks it needs to achieve environmental protection.

COMMISSIONER BALLARD said something extremely important to large mines is the opportunity for DEC to issue a consolidated waste management permit for complex facilities which now require more than one permit. She said this is permit streamlining, and this administration had talked a lot about it and this is an example of it. She said HB 524 also allows an administrative extension of DEC permits, and she remarked, "We are good, but we're not perfect." She said DEC sometimes doesn't have the staff or the resources to renew a permit at the time the permit has expired.

COMMISSIONER BALLARD said it is extremely important for DEC to have the permits administratively extended so the regulated

community, municipalities, and industrial permit holders are not out of compliance because [DEC] does not have the resources to get to the permits. She said the next issue is extremely important to stakeholders and developers because it allows [DEC] to require proof of financial responsibility under certain waste circumstances. She said DEC uses proof of financial responsibilities in several places in DEC regulation, and it is the tool by which DEC assures that financial resources are set aside and dedicated to long-term clean up or maintenance of a long-term treatment system for a solid waste facility or a mine waste facility. This assures citizens in the future that when an undertaking is over and there is a residual waste system or pile in place, that financial resources are available to assure that it is maintained.

COMMISSIONER BALLARD said the last major component of HB 524 is modification to the definitions of solid waste and municipal solid waste. It is important for DEC to be able to distinguish between municipal wastes and industrial wastes. She said DEC has different provisions in law and in regulation and it ultimately needs the ability to allow the small municipal waste facilities that are operated in Alaska's many small villages and communities to operate under a much less rigorous regulatory regime than more large and complex facilities. She said this changes to the definition makes DEC's authority to do that clear.

Number 2579

CO-CHAIR DAHLSTROM asked that testimony be limited to three minutes each.

Number 2542

MARILYN CROCKETT, Deputy Director, Alaska Oil and Gas Association (AOGA), testified, and stated she is in support of HB 524. She said the bill is a very important and necessary streamlining mechanism that the department has proposed. The ability to use the additional regulatory tools is very important, not only to the applicants but to the department, which has to operate with limited resources, she said. She said the other component of the bill that AOGA is very interested in and is strongly supporting is the ability of the department to administratively present permits when they expire. That does allow DEC to focus and prioritize on the authorizations and the permits that have the higher risk, and it allows DEC to prioritize those activities. She said it provides protection to

the regulated community, as well, in the event that a permit or an authorization that is currently held is about to expire and there is not time to get it renewed. She said this is a procedure that is routinely used by the federal government through the Environmental Protection Agency (EPA), and AOGA commends the department for including it in this provision.

Number 2463

STEVE BORELL, Executive Director, Alaska Miners Association (AMA), testified. He said AMA supports this bill, which would make important changes, specifically, the administrative extension of permits, which [AMA] believes is crucial and will help both industry and DEC in that situation. He said the use of permit by rule was well described, and he suggested it is much simpler for all [parties] involved to have a set of rules "and if a person follows those rules, they are indeed in compliance with the law and they don't need to actually go and apply for a permit, wait for the processing, worry about not getting the permit on time, and then ... they need to review the permit." He said he believes these are all important changes to the law, and AMA supports them.

Number 2386

MYRL THOMPSON, Ogan Is So Gone, testified. He directed attention to Section 3, subparagraph (C), and asked if this is an exemption for coal bed methane drilling.

COMMISSIONER BALLARD said this language is in existing statute and there is no change proposed. She said subparagraph (C) refers to "exploratory drilling the produced water," and the exemption was put in by the legislature a number of years ago. She stated that DEC is not proposing any change.

MR. THOMPSON asked how that exemption would affect drilling in the Matanuska Valley with respect to [HB 524].

COMMISSIONER BALLARD said there would be no change to the current regulatory regime since there is no change proposed to statute.

MR. THOMPSON said he didn't have any problem with the bill per se, but he does have a problem with that particular exemption due to the ongoing process in the Matanuska Valley.

Number 2263

REPRESENTATIVE HEINZE asked how the proof of financial responsibility integrate with reclamation and reclamation bonding or funds.

COMMISSIONER BALLARD mentioned that the Department of Natural Resources had recently presented the committee with some statutory language. She noted that it was pointed out in the handout that DEC will coordinate with a "financial assurance vehicle," which is provided through DNR requirements. She said both requirements are important and "their" reclamation bonding is extremely important for the physical acts of reclamation.

COMMISSIONER BALLARD said DEC's proof of financial assurance is important for the environmental protection that it seeks for future potential waste management issues. She said if a mining developer offers a financial instrument which has adequate asset depth to cover both requirements, [DEC and DNR] will both accept the same instrument but can't put up the same assets to pledge for two different responsibilities.

Number 2191

REPRESENTATIVE GUTTENBERG turned attention to page 2, [paragraph 2], and he asked if that section would have been dealt with if Fairbanks had made a different determination on its last election.

COMMISSIONER BALLARD said that language will not have any impact on the I/M program in Fairbanks.

REPRESENTATIVE GUTTENBERG turned attention to page 5, Section 4, and he said it looks like the bill is changing who does the forms from the EPA to the state. He asked if it was assumed that could be done with no cost.

COMMISSIONER BALLARD answered in the affirmative.

Number 2140

REPRESENTATIVE HEINZE moved to report HB 524 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 524 was reported from the House Resources Standing Committee.

CO-CHAIR DAHLSTROM turned the gavel over to Co-Chair Masek.

HB 442-BIG GAME GUIDE BOARD & SERVICES

Number 2106

CO-CHAIR MASEK announced that the final order of business would be HOUSE BILL NO. 442, "An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services; and providing for an effective date."

CO-CHAIR DAHLSTROM moved to adopt CSHB 442, 23-LS1398\Q, Utermohle, 2/26/04, as the working document. There being no objection, CSHB 442, version Q, was adopted by the House Resources Standing Committee.

CO-CHAIR MASEK announced the bill will be held in committee.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:57 p.m.