

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

February 20, 2007
1:39 p.m.

MEMBERS PRESENT

Representative Kyle Johansen, Chair
Representative Mark Neuman, Vice Chair
Representative Anna Fairclough
Representative Craig Johnson
Representative Vic Kohring
Representative Mike Doogan
Representative Woodie Salmon

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Andrea Doll

COMMITTEE CALENDAR

OVERVIEW: OCEAN RANGER PROGRAM

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

JOE GELDHOF

Juneau, Alaska

POSITION STATEMENT: As co-author of the 2006 initiative that established the Ocean Ranger Program, presented information and answered questions regarding the authors' intent.

RENE ROUSSEL, Vice President

Nautical and Compliance Programs

Holland America Line ("Holland America")

Seattle, Washington

POSITION STATEMENT: Presented information regarding regulation compliance by Holland America ships and answered questions related to the Ocean Ranger Program.

DAVID WETZEL, President
Admiralty Environmental
Juneau, Alaska

POSITION STATEMENT: Presented information and answered questions related to the Ocean Ranger Program.

LYNN TOMICH KENT, Director
Division of Water
Department of Environmental Conservation (DEC)
Juneau, Alaska

POSITION STATEMENT: Presented information and answered questions about the impact of the Ocean Ranger Program on DEC.

RUTH HAMILTON HEESE, Assistant Attorney General
Environmental Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Answered questions related to the Ocean Ranger Program.

ACTION NARRATIVE

CHAIR KYLE JOHANSEN called the House Transportation Standing Committee meeting to order at [1:39:49 PM](#). Representatives Johansen, Salmon, Doogan, Neuman, Johnson, and Kohring were present at the call to order. Representative Fairclough arrived as the meeting was in progress. Representative Doll was also in attendance.

OVERVIEW: OCEAN RANGER PROGRAM

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CHAIR JOHANSEN announced that the only order of business would be the Ocean Ranger Program that was established under the Cruise Ship Ballot Initiative passed by Alaska voters in August 2006.

JOE GELDHOF stated that he is a co-author of the initiative. He said that the initiative is the culmination of many years of work, including work done by former Speaker of the House and former Department of Revenue Commissioner, Hugh Malone. He advised that while he would answer questions and give his opinion to the committee, the only "intent" that would be given weight by a court is the statements that accompanied the

initiative when it was submitted to the Office of the Lieutenant Governor.

MR. GELDHOF, in response to questions, stated that he has had a number of clients over the years and that he works for Marine Engineers' Beneficial Association (MEBA), an organization that represents licensed marine engineers working for Alaska Marine Highway System (AMHS), Alaska Tanker Company, Horizon Lines, and Samson Tug and Barge.

MR. GELDHOF explained that the initiative was put together by a broad-based coalition of people interested in pollution, revenue, and consumer protection. Discussion about how to verify whether [cruise ships] were really doing what they were supposed to be doing resulted in the idea of onboard observers - ocean rangers - similar to what is done on commercial fishing vessels. The Ocean Ranger Program would be funded by collecting a user fee of four dollars [per passenger]. It was determined that an ocean ranger should be an engineer licensed by the United States Coast Guard (USCG). While [engineer] is an undefined term and is probably someone with more than a "6-pack license," it does not mean the ocean ranger must have a chief engineer's license with an unlimited rating.

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MR. GELDHOF stated that the ocean rangers would report to the Department of Environmental Conservation (DEC), with incidental reporting to the USCG and other federal agencies. The ocean rangers would serve as observers to ensure that state, and perhaps federal, law is being followed. The rangers are not watchstanding, they do not put a license in the rack, and they do not serve in the engine room or other place on the vessel. They are there to report to and monitor testing as required by DEC and ensure that the laws of Alaska are followed. If there is a violation, the ocean ranger would then be the verification agent witness for the state attorney general and possibly the U.S. attorney general. He said that it was never envisioned that the Ocean Ranger Program would entail coverage of 24 hours a day, 7 days a week ("24/7").

MR. GELDHOF, in response to a question, said that the initiative specifically states that its provisions are applicable to "large passenger vessels" which are defined as vessels having 250 or more berths. It was decided not to have the initiative apply to smaller vessels for various environmental and revenue reasons.

MR. GELDHOF, in response to another question, said that the primary responsibility of the ocean rangers is to oversee the discharge of wastewater materials.

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MR. GELDHOF stated that ocean ranger duties also address healthcare and sanitation. He related that the people who put together the initiative acknowledged that there was no need to monitor visible [smokestack] emissions and particulate because this problem had been commendably addressed by the industry. However, there was sentiment that ship ventilation systems, and possibly some food service functions, should be monitored to prevent the spread of viruses to passengers who, in turn, could spread them to people in Alaska's coastal communities. He emphasized that the Ocean Ranger Program is primarily related to water quality and the protection of Alaska's waters and fisheries from pollution.

MR. GELDHOF said it was envisioned that the ocean rangers could be either state employees or contracted personnel. He related that due to the seasonal and licensing requirements, the co-authors realized that contracting the work might be better for the state. Since there is a revenue stream, DEC would be able to retain a marine management or shipping company that could hire and train personnel in accordance to DEC standards and then dispatch them as needed.

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CHAIR JOHANSEN asked where personnel would be found to fill the ocean ranger positions as they are written in the initiative.

MR. GELDHOF replied that there is not a talent pool in Alaska, at least not before May 4, 2007, when the first cruise ship sails in the Alaska trade. He said that if DEC waits even a few more weeks it will be very difficult to identify, train, and put into place the ocean rangers. There is a talent pool in the U.S. that could be available with enough notice and the training could be done through a 25-hour certification program. He said there are young, maritime academy graduates who would like to get the sea time even though it is not watchstanding. There are also older people, such as 50-year-old chief engineers, who might have an illness such as diabetes that precludes them from standing watch under USCG rules, but that could act as an observer for the state.

MR. GELDHOF pointed out that there is absolutely no need to transfer the ranger at sea. He said it was envisioned that the ranger would board the vessel in port, probably in Seattle or Vancouver, complete the paperwork on the way up to Alaska, and stay onboard for possibly up to two weeks depending on what DEC and the marine management company work out during the procurement process. The ranger could then disembark in Juneau and board another vessel. Mr. Geldhof noted that having the same person onboard a vessel for weeks and weeks is not advisable for "familiarity" reasons. He said he did not mean to sound harsh about DEC because the department is doing the best it can to come to terms with this program, but that the initiative's authors were anxious because DEC is getting "behind the curve" for meeting the deadline of the first ship's arrival.

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CHAIR JOHANSEN inquired whether this will have any affect on Mr. Geldhof's clients who predominantly work on the AMHS. He expressed his concern that the Ocean Ranger Program will impact the AMHS because many of those employees are perfectly suited for this program.

MR. GELDHOF answered that he does not anticipate a negative effect on the AMHS, but that it would affect the people he represents through the MEBA. He pointed out that the new law does not require marine engineers from the MEBA and it does not require union or non-union personnel, those options are up to DEC. He acknowledged that through the marine engineer procurement process, it is conceivable that some of the people he represents from throughout the U.S. could end up in Alaska on a cruise ship. In respect to AMHS employees, he said that he thought it would be unusual for any of them to take a temporary, seasonal job with a contractor. However, if an AMHS employee had a 2-week-on/2-week-off schedule, that person might be interested in taking a 2-week dispatch as an ocean ranger, and that he did not think this would be a bad thing.

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REPRESENTATIVE NEUMAN asked how much income was anticipated from the initiative.

MR. GELDHOF replied that in respect to the Ocean Ranger Program, it was anticipated that \$3.8 million would be brought in for use in paying ocean ranger salaries and DEC's administrative

overhead. This was based on an estimate of 1 million passengers coming through the Alaska trade per year.

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REPRESENTATIVE NEUMAN requested Mr. Geldhof's comments regarding reference to the Ocean Ranger Program on page 3 of the December 2006 DEC transition team report to Governor Palin which states [original punctuation provided]:

The Cruise Ship Ballot Initiative substantively duplicates DEC's existing commercial vessel environmental compliance program and includes a new permit and ocean ranger program. DEC estimates that 60 employees will have to be hired, which result in at least a \$2 million shortfall to implement the ballot initiative.

MR. GELDHOF responded that he thinks DEC erroneously concluded that there needed to be 24-hour watchstanding coverage which would require a minimum of two ocean rangers on all vessels at all times. He said that the intent of the initiative's sponsors was to only have a single ranger assigned to a vessel and that this ranger would only be on duty 8-10 hours per day. This would substantially reduce DEC's estimate and bring it within the bounds of the \$3.8 million in income from the program.

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REPRESENTATIVE JOHNSON commented that several years ago the state responded to wastewater problems by passing a law requiring that cruise ships have an environmental officer onboard. He asked whether there is a way to have these officers report directly to DEC in order to avoid duplication of effort.

MR. GELDHOF stated that he is not aware of any current law, other than the Ocean Ranger Program, that mandates the cruise ships in Alaska have an environmental official who reports to DEC. He related that certain cruise lines in Hawaii have an officer and an engineer onboard as the result of consent decrees from federal actions. In Alaska there is no active onboard monitoring. There are some reporting requirements where the industry gathers data according to DEC regulations and law. An onboard observer would cut down the incidents of pollution like those that have taken place in the past.

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CHAIR JOHANSEN noted that other people have interpreted the initiative's language in different ways than stated by Mr. Geldhof. He asked Mr. Geldhof to reiterate his interpretation of the initiative's language regarding when a vessel must have a marine engineer onboard. Is it when the ship leaves port? Is it when the ship crosses into Alaska waters? Is it at the pilot station? Is it at the port of entry?

MR. GELDHOF stated that the intention was when "it is entering" and that this is stated in the new law. He said that the initiative's authors thought that the ocean ranger should embark with the vessel from Seattle or Vancouver so that the observer is there from the "get go". The authors left the tail end loose so that there would be enough flexibility for DEC or the marine management company to move the observers in an efficient way. He relayed that the authors specifically rejected the idea that an observer would come aboard in Dixon Entrance or other potentially rough place with the pilot. The authors also thought that boarding the observers in Seattle or Vancouver would provide the opportunity for cost-sharing with the governments of Canada or Washington. The details of how long the observer would be onboard the ship were intentionally left to DEC and/or the marine management company.

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CHAIR JOHANSEN inquired whether it was envisioned that the observer would be on call 24/7 once he or she was onboard or would there be two observers onboard with 12-hour shifts.

MR. GELDHOF stated that the authors specifically rejected having two observers onboard. He said that the intention was to have a single ranger onboard each vessel when it entered Alaska and that the ranger would be "available" 24 hours a day, but not "on duty" 24 hours because it is not a watchstanding type of marine job.

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REPRESENTATIVE DOOGAN asked whether any of the initiative's authors had talked with DEC personnel regarding the program's scope and where the rangers would board the ships.

MR. GELDHOF replied that he had talked with DEC and that DEC is moving slowly on implementing the program. However, the Department of Revenue (DOR) is moving expeditiously on

regulations for collecting the program fees. He commented that DEC appears to be in a quandary as to what to do. He stated that he has told DEC that the initiative only requires a single ocean ranger, so there is no need for an extra general fund (GF) appropriation of \$2 million. Mr. Geldhof said that he had a constructive discussion with then-Commissioner Fredriksson about options, and that he also had discussions with DEC staff in November and December 2006 and again in either late January or early February 2007.

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REPRESENTATIVE NEUMAN requested further clarification on whether Section 46.03.476 of the statute requires that the ocean rangers be DEC employees.

MR. GELDHOF stated that the new law "on its face" gives DEC the discretion to either hire ocean rangers as employees or to contract out. The intent was to give the department this flexibility so that it could get the job done.

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REPRESENTATIVE FAIRCLOUGH inquired as to how many marine engineers are in Alaska.

MR. GELDHOF said that there are conceivably 300-400 during summer months when there are marine engineers holding licenses from the Netherlands and Indonesia. There are always marine engineers on the Alaska Marine Highway System and on ships picking up crude oil in Valdez, some of whom are Alaska residents and some of whom are not. He said that he could not give a firm number of Alaska residents who hold a USCG license at an "unlimited thirds rating" or above, which is what the USCG believes is probably warranted under the new law.

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REPRESENTATIVE FAIRCLOUGH pointed out that the statute language asks for USCG certified marine engineers, and that it is her understanding that there are only about 80 USCG certified marine engineers employed by the AMHS. She expressed her concern that the Ocean Ranger Program may attract some of those licensed engineers, subsequently damaging the ferry system. She asked how will the state qualify prospective engineers from elsewhere and where will those people be found.

MR. GELDHOF replied that the new law gives DEC the flexibility to work with a marine management company to contract for the services of an ocean ranger. He said that the wages should be set at the entry level of third engineer, and that this wage level would not be attractive to AMHS employees who are "chiefs, firsts, or seconds" and who have "permanent billets". He advised that the only thing DEC or the contractor would then need to do is determine the details of what the ocean rangers will do, give them training in those responsibilities, and then deploy them. Structuring the wages at an entry level will not cause "cannibalism" of AMHS and private marine companies.

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REPRESENTATIVE FAIRCLOUGH voiced her concern that there may not be enough time to hire people and get them USCG certified by May.

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REPRESENTATIVE NEUMAN asked how long would an ocean ranger be employed during the year.

MR. GELDHOF explained that in the maritime industry people go where the work is, taking dispatches of varying lengths in time that can be as short as two weeks or as long as five months. A young marine academy graduate could take an ocean ranger position for as short a time as a few weeks or for the entire summer. He said that the cruise ship season in Alaska is from early May to late September, and that an ocean ranger could work all or part of the season.

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CHAIR JOHANSEN noted that state regulation of cruise ship wastewater began in 2001 with the passage of House Bill 260. He referred to DEC's 2004 compliance report entitled, "Assessment of Cruise Ship and Ferry Wastewater Impacts in Alaska". He requested Mr. Geldhof to clarify his earlier statements about there being no oversight by DEC.

MR. GELDHOF stated that beginning in 2000 or 2001 Alaska's standards led the world in addressing cruise ship pollution. However, he said, what was not implemented was the same degree of permitting that is required of seafood processors and other industries. The [2001 legislation] was a half-measure because it did not have active onboard observers. The ocean ranger

portion of the initiative requires the cruise ship industry to get a permit and meet all Alaska water quality standards, and it puts onboard an active agent of the state to monitor the testing and to monitor that Alaska's laws are being followed. Mr. Geldhof stressed that he did not mean to imply that the state does not do anything. The initiative ratchets up where the state was in 2000 and Alaska is once again in the forefront of protecting its marine waters.

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RENE ROUSSEL, Vice President, Nautical and Compliance Programs, Holland America Line ("Holland America"), reviewed his years of marine experience and the responsibilities of his current position. He reported that Holland America had eight ships in Alaska in 2006 and that all of them have advanced wastewater treatment systems (AWWTS). The systems treat both gray- and blackwater and meet both USCG and Alaska standards. He said that items such as plastics are filtered out of the wastewater and disposed ashore and that biomass from the aerobic process is discharged outside 12 miles; with the resulting permeate meeting or exceeding drinking water qualities. Mr. Roussel explained that bi-monthly samples must be taken in order to maintain USCG certification. Additionally, samples are taken twice monthly by DEC. He distributed a USCG article entitled, "Cleaning Up Wastewater".

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MR. ROUSSEL concurred with Mr. Geldhof's statement that Alaska set the pace for the rest of the world in the early 2000s. Mr. Roussel pointed out that those standards have now been replicated by other states. He read from page 6 of the aforementioned DEC report and then cited a 2004 DEC PowerPoint presentation which states that no hazardous chemicals are being discharged through cruise ship wastewater systems and that large ship effluents meet all Alaska quality standards in receiving water. He said the reports indicate that the cruise ship industry is doing a good job of taking pollutants out of its wastewater discharges.

MR. ROUSSEL reported that cruise ships must now comply with many layers of regulations, including air emission regulations, because other states and countries have followed Alaska's lead. He noted that human error accounts for over 80 percent of marine casualties and violations, and that one way to reduce this error is to provide clear, unambiguous guidance on what conduct is

expected. Different and multiple layered regulations across jurisdictional boundaries complicate this process and should be avoided - standardization and uniformity are desired. He reviewed other rules and regulations that are impacting the cruise ship industry.

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MR. ROUSSEL pointed out that Holland America is also voluntarily implementing several programs. For example, the company has installed monitoring systems on its ships that record the time and ship's location whenever an overboard discharge valve is opened or closed. This system will sound an alarm if discharge is occurring at an improper time or location. Holland America is also testing electronic recordkeeping systems on one of its ships to reduce the amount of time officers spend in the keeping and verifying of records.

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REPRESENTATIVE JOHNSON asked whether there was anyone currently on Holland America's ships who would meet the qualifications being required for an ocean ranger.

MR. ROUSSEL answered yes, the environmental officers.

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REPRESENTATIVE JOHNSON inquired whether environmental officers have responsibility beyond what the ship's captain or crew says.

MR. ROUSSEL responded that the environmental officers report directly to the master of the ship.

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REPRESENTATIVE JOHNSON asked whether there is anything that would keep the environmental officers from being certified by the State of Alaska so that they could become ocean rangers and provide DEC with reports that would fulfill the requirements of the initiative.

MR. ROUSSEL replied that this would be a possibility because the environmental officers' duties already far exceed what the Ocean Ranger Program envisions. However, he said, what is really being asked for is transparency in what the environmental

officers are doing onboard the ships. What would be reported would need to be defined.

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REPRESENTATIVE NEUMAN stated that the citizens of Alaska passed the initiative, that they want a more open government, and that it is the legislature's responsibility to ensure that this happens. He requested Mr. Roussel's ideas for how the environmental officers could serve this dual purpose and still ensure an open process.

MR. ROUSSEL responded that he thinks there is the potential of doing more than the initiative proposed. A series of discussions could be undertaken to determine where the "rubbing points" are and then a Memorandum of Understanding (MOU) could be developed and tested for implementing the Ocean Ranger Program. After testing the MOU and making any necessary changes, it could be then used for developing into a regulation. Regarding the suggestion that experienced engineers with disabilities could be hired as ocean rangers, Mr. Roussel said that Holland America's insurance companies would not allow disabled personnel in a ship's engine room. He said that he likes the idea of an environmental officer having a relationship with the regulators, and that this could be fleshed out.

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REPRESENTATIVE DOOGAN inquired how a person working for the cruise ship company being regulated would fulfill his or her duties in a case where a vessel violated the standards. Would the person first report the violation to the cruise ship or to the regulatory agency?

MR. ROUSSEL noted that personnel are already required to report violations, and that it is worse to not report something than to cover it up because failing to report is a criminal violation under most statutes. If the captain on a Holland America ship refuses to report an incident, the environmental officer is then required to report it to the Vice President of Environmental Compliance. He stated that Holland America's own incident reporting requirements are lower than Alaska's, and that any incident covered by regulation would then be reported to the USCG, the flag state, or the local state, as required. He suggested that the MOU could stipulate the reporting of other things that are not already required by regulation. Mr. Roussel

said that he does not see a conflict because reporting is required by regulation.

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DAVID WETZEL, President, Admiralty Environmental, noted that his business provides sampling and project management services to the cruise line companies operating in Alaska waters. He explained that cruise ships are currently subject to testing of their effluent under both state and federal regulations, and that Admiralty Environmental provides a third party independent sampling service to meet these requirements. Admiralty Environmental employees are trained in standard environmental sampling procedures, wastewater chemistry, and the basic concepts of marine advanced wastewater treatment systems.

MR. WETZEL related that all cruise ship sampling activities must be performed under the guidelines of the cruise ship Quality Assurance Quality Control Plan (QA/QCP). He said that this document was composed in 1999 as a guideline for monitoring the effluent from large ships and that it is reviewed each year to reflect changes in regulatory framework and improvements in the program. He stated that all of Admiralty Environmental's employees are fully trained in the activities directed by this plan, including sampling, field testing, safety, chain of custody procedures, quality control, and delivery of samples to the laboratory. Mr. Wetzel said that the QA/QCP also mandates the service of a third party quality assurance officer to oversee all sampling and analytical testing on the project. This position is currently held by Dr. Lisa Hoferkamp of the University of Alaska Southeast. She performs independent sampling and data audits throughout the Alaska cruise season. She reports directly to DEC and the USCG regulators with her findings.

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MR. WETZEL pointed out that DEC audits the sampling program regularly throughout the season. These audits are performed against the QA/QCP to ensure that all proper procedures are being followed. He noted that the basis of the QA/QCP is that it is a random, unannounced sampling and analysis program. The program began as a voluntary activity in the year 2000 and was later adopted into state and federal law. Each ship is sampled twice per season for a comprehensive list of conventional and priority pollutants. He noted that this sampling can occur at any location where ships are discharging into Alaska waters.

This particular plan mandates that all sampling activities and analytical work are supervised by a third party independent project manager, and this is the service that Admiralty Environmental provides.

MR. WETZEL stated that Admiralty Environmental reports all of its activities directly to the regulatory agencies. He emphasized that the plan includes very detailed directions for the flow of information between the project manager, regulators, quality assurance officers, lab managers, and the vessel owners. The plan is adopted by the entire industry through the Northwest Cruise Ship Association and all ships are treated equally under this plan. The data produced from this project is distributed concurrently to the regulators and the vessel owners.

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MR. WETZEL also discussed federal regulation 33CFR159 that contains a provision for continuous discharge into Alaska waters for vessels when certain conditions are met. Ships must demonstrate compliance with federal effluent limits with five satisfactory samples over a 30 day period. Once the USCG grants a certification to discharge under this program, the vessel must present two satisfactory sample results per month that meet these federal effluent limits to maintain the certification. Ships must maintain this testing year around even when sailing outside of Alaska waters.

MR. WETZEL explained that in order to operate cleanly and meet these standards, most of the cruise ships have installed advanced wastewater systems to allow them to discharge into Alaska waters. He related that in the 2006 season, all 26 of the large ships that regularly call in Alaska waters had these advanced treatment systems onboard. Of these 26 ships, 23 applied for and received the continuous discharge certification from the USCG. He said that he expects to see the same type of numbers for the 2007 season.

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REPRESENTATIVE JOHNSON asked whether Admiralty Environmental's employees are USCG certified and whether they are marine engineers.

MR. WETZEL replied no, they are not USCG certified. He explained that Admiralty Environmental is certified through the State of Alaska to do the sampling, and that the USCG does not

have a certification program for sampling. He stated that Admiralty Environmental's employees are not marine engineers. Mr. Wetzel related that the company has standard operating procedures that employee's must follow for all of the sampling and chain of custody activities, and that the company has an internal structure for training its employees in the activities that they perform.

MR. WETZEL, in response to a further question from Representative Johnson, confirmed that none of Admiralty Environmental's employees would meet the initiative's criteria of being a [USCG licensed] marine engineer. He explained that the activities performed by Admiralty Environmental do not pertain to, nor require, a marine engineer license.

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CHAIR JOHANSEN requested further explanation of how the program actually works in the field.

MR. WETZEL stated that different cruise lines have different approaches. He explained that for the unannounced program, Admiralty Environmental conducts two unannounced sampling events on all the ships calling in Alaska waters under the Northwest Cruise Ship Association. For the 23 ships that maintain continuous discharge certification, Admiralty Environmental conducts sampling of each ship a minimum of twice per month. He noted that several of the other cruise lines voluntarily exceed that amount of sampling, and that Admiralty Environmental samples them every port call in Juneau or elsewhere so they are sampled at least once a week.

MR. WETZEL, in further response to Chair Johansen, explained that all the ships calling in Alaska now have environmental officers. These officers are charged by their individual companies to administrate the sampling program, so the officers escort Admiralty Environmental employees throughout the time that they are onboard for sampling. In addition to the official tests conducted by Admiralty Environmental, the company has in some cases trained the environmental officers to perform their own onboard tests to monitor the quality of their effluent. He stated that these officers are fairly well informed in how their ship's systems operate and the chemistry that is involved.

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LYNN TOMICH KENT, Director, Division of Water, Department of Environmental Conservation (DEC), introduced assistant attorney general, Ruth Hamilton Heese. She noted that Ms. Heese has been instrumental in helping DEC implement its current program along with the changes that the ballot initiative is driving. Ms. Kent related that in 2006 there were 29 large vessels that took a total of about 550 voyages to Alaska, and there were 17 small vessels that took a total of about 200 voyages. She explained that a large vessel has 250 or more lower berths and a small vessel has 50-250 lower berths. These vessels carry over one million passengers and crew each year to Alaska. Most of the vessels coming to Alaska have advanced wastewater treatment systems, she reported. They treat to meet federal and state requirements, and they are approved by DEC and the USCG to discharge continuously while they are in Alaska waters. The standards that they have to meet for their discharge are much more stringent than for vessels that want to discharge under different circumstances.

MS. KENT said that there was a handful of vessels last year that chose to hold their wastewater while in Alaska waters and discharge outside of Alaska waters. Therefore, those vessels did not have to meet specific requirements for their discharges other than to not discharge while here. She reported that there was one vessel that discharged per DEC's regulations, meaning it was going at least six knots at the time of discharge and was one mile from shore.

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MS. KENT stated that DEC's current oversight program is run with a staff of just over two full-time equivalents (FTE) plus some contractor assistance. The current program requires an annual registration for all of the large and small vessels and they do this through an electronic online registration system. This will continue under the new initiative. Ms. Kent related that there are regulatory limits that limit the quality of the wastewater that can be discharged from the vessels. The vessels are required to have a vessel-specific sampling plan that is approved by DEC and they must have a quality assurance project plan that is approved by the department to ensure that DEC can have confidence in the data that is generated. She said that she would skip a review of the sampling requirements since that was covered by Mr. Wetzel. Ms. Kent explained that vessels must also record the dates, times, locations, volumes, and flow rates of any discharges of sewage, graywater, and other wastes into waters of the state. She said that these records must be made

available to DEC if requested and that the department does occasionally request the records to make sure the vessels are complying.

MS. KENT noted that some independent inspections of vessels are conducted. A contractor is used to conduct visible emissions readings to measure the opacity of vessel air emissions, and this is done about 250 times a year on different vessels while they are in port. She said that the department takes enforcement action when a violation occurs in wastewater discharge or air emission. She pointed out that DEC occasionally conducts special studies, such as ambient air monitoring.

MS. KENT explained that DEC collects fees based on a fee structure in existing statutes for running the program, and that the fee is still in place under the new initiative. She remarked that Alaska's program has been very effective and that other states and countries look at Alaska as the model.

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MS. KENT cited the current program's successes. She said that air opacity violations decreased from 15 in 2000 to 2 in 2005, the last year for which she has data. She noted that the number of violations issued each year for exceeding the limits on fecal coliform bacteria are either zero or one. She said that several compliance letters are sent each year, primarily having to do with sampling protocols or a small vessel that did not take the samples it was required to take.

MS. KENT informed the committee that the ballot initiative took effect in December 2006. The initiative requires changes to DEC's current program and it requires some new functions. She said that DEC is taking the initiative very seriously and is working diligently to implement the program as it is currently written. She emphasized that regardless of the intent behind the words on paper, DEC must implement what is written in the statute despite any ambiguity in the initiative's language. She pointed out that most of the changes under the initiative apply to the large vessels.

MS. KENT related that the initiative includes a provision for citizen suits against owners and operators of the vessels for alleged violations of the statutes. It allows for suits against DEC for failure to perform any of the parts of the law that are not discretionary. She stressed that DEC is therefore "in the

hot seat" to implement the bill as it is written. The citizen suit provision also provides that 25-50 percent of any fines or penalties go to the person who provided information sufficient to commence the investigation of the enforcement action. However, she said, it is not clear if that last provision applies only to the public or if it applies to vessel staff, or ocean rangers, or DEC staff. Ms. Kent said that the provision appears to be limited to Alaska residents; therefore a passenger on a vessel who notices a violation would be ineligible for a share of the penalty.

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MS. KENT pointed out that the initiative will require DEC to revise its current regulations because it makes substantive changes. The department has hired a contractor to assist in looking at the current regulations to see what needs to be changed. While it is important to amend the regulations, she said, it is not quite as time critical as some of the other provisions in the initiative such as the new permit requirement.

MS. KENT explained that the initiative requires DEC to now issue wastewater discharge permits to the vessels, much like the permits that are issued to other industrial or domestic wastewater dischargers. The department is in the process of drafting a general permit. A general permit is a single permit under which multiple vessels or multiple regulated entities are covered together - this is done when the discharges are relatively the same. She stated that DEC plans to go to public notice soon and is hoping to have the general permit in place for the coming cruise ship season. If possible, the department intends to use the current online vessel registration system for the general permit so as not to add another layer of requirements on the industry. She expects that the permit will include most of the same monitoring and reporting requirements that DEC currently has in place for the industry outside of the context of the permit.

MS. KENT reported that the initiative requires hourly GPS tracking of both large and small vessels while they are in Alaska waters. She said that DEC is using contractor assistance in order to have the system operational by the coming cruise ship season.

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MS. KENT noted that the Ocean Ranger Program is by far the most significant change to DEC's current program. It will require a USCG licensed marine engineer on the large ships while they are in Alaska. The ocean ranger's job is to serve as an independent observer to monitor both state and federal requirements for marine discharge and pollution and to ensure that passengers, crew, and residents at port are protected from improper sanitation, health, and safety practices. She advised that this is an incredibly broad mandate that goes beyond the traditional mandates that DEC has had, particularly in regard to safety issues. In addition to the safety issues, it could include wastewater discharge, solid waste, air opacity, drinking water, and food service.

MS. KENT related that a contractor was hired to evaluate the needs and to make recommendations regarding the Ocean Ranger Program, and that DEC is currently reviewing the contractor's draft report. Copies of the report will be made available to the legislature once it is finished. The contractor is evaluating whether the ocean rangers should be state employees, contracted personnel, or some combination of the two, and whether onboard coverage should be 24/7, or 8-12 hour shifts, or some other level of oversight. Ms. Kent noted that the initiative is silent on the coverage and DEC must determine the level that is sufficient to meet what DEC believes is the initiative's intent.

MS. KENT said that the contractor is also looking at whether the ocean rangers should embark on a voyage from Washington, or British Columbia, or an Alaskan port of call. Additionally, the contractor is looking into how the cruise industry will assess for room and board of the ocean rangers while they are onboard, the logistics for getting them on and off the vessels, scheduling and dispatch needs, the required qualifications and job descriptions, training needs, and the availability of qualified marine engineers. She warned that there will likely be a problem for this first year in having enough qualified marine engineers available. Lastly, the contractor is looking at the costs of the various options as they will vary significantly if coverage is less than 24/7.

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MS. KENT outlined the challenges that DEC is facing in finding marine engineers. She explained that a marine engineer license requires training in a maritime academy and sufficient sea time and experience in the vessel power and propulsion systems. The

department believes that an unlimited third engineer's license is probably the appropriate license needed to qualify for an ocean ranger. A licensed third engineer would come with skills and knowledge in propulsion, power generation systems, essential auxiliary systems, and vessel safety systems. However, she noted, a licensed third engineer would not be trained in all the state and federal environmental laws, public health laws, and the safety rules that the initiative requires the engineers to know and watch for while they are onboard the cruise ships.

MS. KENT pointed out that a big part of this effort is dealing with the training challenges for the ocean rangers. For example, there are DEC employees who are focused only on air issues, or only on wastewater issues, or only on solid waste issues. Now DEC must have marine engineers who are trained in all of those subject areas and the department must do this in a very short time period. Ms. Kent explained that the marine engineers/ocean rangers will need to know about the technical wastewater management systems, permitting and permit compliance, and inspection and enforcement protocols. They will also need onboard training for each vessel-specific wastewater system. Lastly, DEC must determine what training is necessary for ocean rangers regarding the protection of residents at port. The initiative does not give any guidance on this issue.

MS. KENT noted that this is the first and only program where DEC actually places a state employee or contractor in a regulated facility potentially full-time, and that DEC does not currently do this with any other industry in the state. She explained that this comes with a host of other issues that have never been addressed by DEC, such as safety of the ocean rangers while they are onboard the vessels and their conduct while onboard but off duty. There are also security clearance issues and the potential need for vessel staff to provide escorts to the ocean rangers when they are in sensitive portions of the ship.

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MS. KENT reported that DEC is working on an implementation plan for the coming cruise ship season, along with a schedule. The department is trying to figure out what it can feasibly do in the short amount of time remaining before the season starts. She stated that DEC would like to conduct a public workshop to go through the contractor's report and get feedback on the implementation options. The department plans to have some ocean rangers onboard some vessels this coming cruise ship season. However, she advised, DEC will not have a fully developed

program with suitably trained ocean rangers on every vessel this year. The department will be using this season to ramp up, gain experience, and refine the program for full implementation in 2008.

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REPRESENTATIVE FAIRCLOUGH referred to the previous discussion with Holland America regarding use of the cruise line's environmental officers for implementing the program. While acknowledging that this could be considered the fox watching the hen house, she asked whether there might be a possibility of entering into an MOU for this first year.

MS. KENT said that this is a new concept that had not previously been contemplated by DEC.

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REPRESENTATIVE FAIRCLOUGH commented that the voters have spoken and asked Alaska to be more diligent in its management of the cruise ship industry. However, she said, the voters may not have understood all the unintended regulatory consequences or questions involved with implementing the initiative.

MS. KENT replied that she and Ms. Heese looked at the initiative's language and it does say "independent". Therefore DEC needs to determine what "independent" means vis-à-vis a vessel crew member.

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REPRESENTATIVE FAIRCLOUGH noted that Alaska has state and municipal ombudsmen who are tasked with a higher level of reporting on their own industry or their personnel. Therefore it might be helpful if the state went with that model in some way, at least for year one, so that the state could have some sort of a systems analysis on how to gather the information.

MS. KENT observed that prior to the state enacting laws regulating the cruise ships, the industry worked with DEC on a voluntary basis to collect data about their discharges, and this information led to the department's program. She remarked that DEC has a good working relationship with the industry ahead of rule making.

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REPRESENTATIVE FAIRCLOUGH inquired whether the information gathering is technical in nature so that the data cannot be altered when it comes in or whether it is physical reporting that is written down.

MS. KENT explained that DEC receives the sampling results for the wastewater discharge monitoring directly from the laboratory and the samplers, so there is no intervening step by the cruise ship industry. She said that the method of collecting other data varies. Some vessels are still manually keeping a log book of when the ship's discharge valves are opened and closed and the ship's location at the time. Other vessels are recording this electronically.

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REPRESENTATIVE JOHNSON asked what the penalty is for not reporting a violation.

RUTH HAMILTON HEESE, Assistant Attorney General, Environmental Section, Civil Division (Juneau), Department of Law (DOL), responded that if there is an event of non-reporting, the vessel can be held accountable under the current system. She said that there are fines for failure to report violations, but that she is unsure of the dollar value. She said that she would get the information for the committee. In response to a further question, Ms. Heese stated that she did not know whether criminal charges are involved for failing to report violations, and that she would get this information to the committee as well.

REPRESENTATIVE JOHNSON inquired whether it would be sufficient for transparency purposes to enact legislation that assesses a substantial penalty for violations by environmental officers on vessels that partner with the state to act as "ocean rangers".

MS. HEESE answered that this is a policy question for the legislature and DEC.

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REPRESENTATIVE DOOGAN asked how DEC resolved the questions and ambiguities that the department sees in the initiative.

MS. KENT explained that DEC is still trying to resolve some of them, one example being the expectations for health and safety

of the public at port. Another example is that statutes on the books prior to the initiative made reference to other provisions in the law that have now been deleted. The result is "roads to nowhere" in the statutes that are now causing confusion about small ships and what they need to comply with. In response to further questions, Ms. Kent stated that the contractor was hired two months ago to help look at the various options for those things having no guidance in the initiative. She related that DEC began looking at the implementation challenges as soon as the bill passed in August 2006. It took a lot of time for DEC and DOL to sort through the challenges and determine what the issues were for the contractor to address.

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CHAIR JOHANSEN announced that he is reserving the right for further discussion of the issue at the next committee meeting.

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:31 p.m.