

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 2, 2009

1:02 p.m.

**MEMBERS PRESENT**

Representative Craig Johnson, Co-Chair  
Representative Mark Neuman, Co-Chair  
Representative Bryce Edgmon  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Chris Tuck

**MEMBERS ABSENT**

Representative Kurt Olson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 134

"An Act relating to the terms and conditions of commercial vessel permits for the discharge of graywater, treated sewage, and other waste water; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 134

SHORT TITLE: CRUISE SHIP WASTEWATER DISCHARGE PERMITS

SPONSOR(S): REPRESENTATIVE(S) HARRIS

02/13/09	(H)	READ THE FIRST TIME - REFERRALS
02/13/09	(H)	CRA, RES
02/17/09	(H)	CRA AT 8:00 AM BARNES 124
02/17/09	(H)	Moved CSHB 134(CRA) Out of Committee
02/17/09	(H)	MINUTE(CRA)
02/18/09	(H)	CRA RPT CS(CRA) NT 5DP
02/18/09	(H)	DP: HARRIS, MILLETT, KELLER, HERRON, MUNOZ
03/02/09	(H)	RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE JOHN HARRIS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as the sponsor of HB 134.

DAVID FEATHERSON HAUGH (ph)  
NovaTech Consultants (ph)  
(No address provided)

**POSITION STATEMENT:** Answered questions in regard to HB 134.

LYNN TOMICH KENT, Director  
Division of Water  
Department of Environmental Conservation  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing on HB 134, provided information in regard to cruise ship wastewater discharge.

ALBERT JUDSON  
Haines, Alaska

**POSITION STATEMENT:** Opposed HB 134.

LEN LAURANCE  
Ketchikan, Alaska

**POSITION STATEMENT:** Supported HB 134 on behalf of Alaska RainForest Sanctuary, Seahorse Ventures, Taquan Air, and Alaska Canopy Adventures.

SHAUNA LEE, Tour Manager  
The Great Alaska Lumberjack Show  
Ketchikan, Alaska

**POSITION STATEMENT:** Supported HB 134.

BOB WEINSTEIN, Mayor  
City and Borough of Ketchikan  
Ketchikan, Alaska

**POSITION STATEMENT:** Supported HB 134 as written.

STACY STUDEBAKER, Conservation Chair  
Kodiak Audubon Society  
Kodiak, Alaska

**POSITION STATEMENT:** Opposed HB 134, but suggested an amendment.

JENNANEVA PEARSON (ph)  
Kodiak, Alaska

**POSITION STATEMENT:** Opposed HB 134.

JENNIFER GIBBINS, Soundkeeper/Executive Director

Prince William Soundkeeper  
Cordova, Alaska

**POSITION STATEMENT:** Opposed HB 134, but suggested an amendment.

CAROLINE HIGGINS, Chair  
Alaska State Chamber of Commerce  
Anchorage, Alaska

**POSITION STATEMENT:** Supported HB 134.

JOHN BINKLEY, President  
Alaska Cruise Association  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported HB 134.

KAREN HESS, Owner  
River Adventures  
Haines, Alaska

**POSITION STATEMENT:** Supported HB 134.

MICHAEL RICHARDS  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported HB 134.

DEB HICKOK, President, CEO  
Fairbanks Convention and Business Bureau  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported HB 134.

CHERYL METIVA, Executive Director, CEO  
Greater Wasilla Chamber of Commerce  
Wasilla, Alaska

**POSITION STATEMENT:** Supported HB 134.

ROGER MAYNARD  
Haines, Alaska

**POSITION STATEMENT:** Supported HB 134.

CHIP THOMA  
Responsible Cruising Alaska  
Juneau, Alaska

**POSITION STATEMENT:** Opposed HB 134 as written.

KATE TROLL, Executive Director  
Alaska Conservation Alliance  
Juneau, Alaska

**POSITION STATEMENT:** Opposed HB 134 as written, but suggested an amendment.

JEREMY WOODROW, Communications Coordinator  
Alaska Municipal League  
Juneau, Alaska

**POSITION STATEMENT:** Supported HB 134.

SHELLY WRIGHT, Executive Director  
Southeast Conference  
Juneau, Alaska

**POSITION STATEMENT:** Supported HB 134.

CHRISTOPHER KRENZ, Ph.D.  
Oceana  
Juneau, Alaska

**POSITION STATEMENT:** Opposed HB 134 as written.

#### **ACTION NARRATIVE**

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**CO-CHAIR MARK NEUMAN** called the House Resources Standing Committee meeting to order at 1:02 p.m. Representatives Neuman, Johnson, Seaton, Wilson, Tuck, Kawasaki, and Edgmon were present at the call to order. Representative Guttenberg arrived as the meeting was in progress.

#### HB 134-CRUISE SHIP WASTEWATER DISCHARGE PERMITS

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CO-CHAIR NEUMAN announced that the only order of business would be HOUSE BILL NO. 134, "An Act relating to the terms and conditions of commercial vessel permits for the discharge of graywater, treated sewage, and other waste water; and providing for an effective date." [Before the committee was CSHB 134(CRA).]

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REPRESENTATIVE JOHN HARRIS, Alaska State Legislature, Juneau, Alaska, sponsor of HB 134, began by noting that he agreed to bring the bill forward on behalf of the cruise ship industry and in consultation with the Department of Environmental Conservation (DEC). He explained that HB 134, as currently written, would eliminate five words, ["at the point of discharge"], from the statute. Those five words relate to where

and how the discharge from the larger cruise ships will be measured, he continued. For all other discharges around the state, DEC uses a mixing zone method rather than a point of discharge method. The cruise ship industry believes it is only fair that they be subject to the same mixing zone method, he said. The 2006 Alaska Cruise Ship Initiative that became law requires the larger cruise ships to meet a much higher standard for pollutants than do municipalities, processors, and other entities. Under HB 134, the Department of Environmental Conservation would have the ability to regulate cruise ship discharge using the mixing zone method, if the department so chooses.

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REPRESENTATIVE HARRIS urged that the Department of Environmental Conservation continue to encourage the cruise ship and other industries to put in place the best environmental techniques possible that are economical. There must be an equilibrium in regard to cost over the environment, he said. There are times when something cannot be allowed because it is too polluting, but this is not the case here as the majority of these cruise ships are meeting the interim standard. He reminded members that the standard will go higher in a couple of years and the cruise ship industry is saying that the higher standard will be even more difficult for them to meet with the technologies that are currently available.

REPRESENTATIVE HARRIS clarified that he is not saying these five words are insignificant. He credited the folks who put forth the 2006 initiative and said protecting the environment is the right thing to do. But, he continued, how far the environment is protected versus what municipalities and other industries are required to do must be challenged, and HB 134 does that.

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CO-CHAIR NEUMAN asked what communities have said about HB 134.

REPRESENTATIVE HARRIS answered that the Alaska Municipal League, a number of coastal and other communities around the state, and several chambers of commerce have written in support of HB 134, as it is currently written.

CO-CHAIR NEUMAN added that 38 [entities] from around the state have passed resolutions in support HB 134.

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REPRESENTATIVE KAWASAKI inquired whether HB 134 dilutes the original intent of the voter initiative.

REPRESENTATIVE HARRIS replied no. The discharge requirement will not change, it is where the test is taken that will change. When the test is done at the end of the pipe, it is what it is in the pipe. The proposed mixing zone method is what is in the pipe mixed with the water, so the standard would be easier to reach. The standard will not change, but the ability to reach it will.

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REPRESENTATIVE KAWASAKI responded that it is debatable as to whether this is not actually changing the standard. He surmised that Representative Harris is saying the standards for cruise ships should be reduced to meet the same compliance standards for municipalities which allow higher discharge levels of copper and ammonia.

REPRESENTATIVE HARRIS said he is not at all saying that. "This bill does nothing at all to change the standard that was put in place by the initiative," he continued. All it does is possibly change how the test is conducted. It gives the authority to the Department of Environmental Conservation to use tried and true methods that are used in other places. "The discharge from municipalities is set at a much less stringent degree than it is for cruise ships and this does not change that at all," he said.

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REPRESENTATIVE KAWASAKI suggested that perhaps the standards for effluent discharge should be raised for the state's communities.

REPRESENTATIVE HARRIS replied that he thinks that point will be raised by folks who will be testifying. When a borough is told that its sewage rates will likely triple in order to pay for increased standards, it will not be easy for the borough. It is different when someone else is paying the bill. The municipal discharge level is not changed by HB 134 and neither is the discharge rate of the cruise ships, he argued. The bill allows - it does not mandate - that DEC use the tried and true methods that have been used for many years to measure the discharge from the cruise ships.

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REPRESENTATIVE SEATON noted that most of the resolutions of support are the same as that of the City and Borough of Juneau which reads as follows [original punctuation provided]:

NOW, THEREFORE, BE IT RESOLVED ... That the City and Borough of Juneau urges the Alaska Legislature in 2009, to examine, based on science, the standards governing the discharge of cruise ship wastewater such that those standards will continue to protect aquatic life and the environment, but will not be technologically and financially unreasonable or impractical, and establish an effective date.

REPRESENTATIVE SEATON understood that Representative Harris is not saying to necessarily lower the standards, but rather to do something that is effective, reasonable, and economical for the continuation of business.

REPRESENTATIVE HARRIS agreed that the bill does not lower the standards or diminish the quality of the environment. Rather, it gives DEC the ability to allow mixing zones like is done with every other discharge. He said he is not encouraging that the standards be reduced. If technology can be found that would provide the ability to meet these end-of-the-pipe standards, then DEC should encourage the ships to put this technology on board. A higher standard goes into effect in two more years and HB 134 does not stop that, but it will be even more difficult for the ships to meet this higher standard at the end of the pipe. The department has said it will continue to encourage the large cruise ships to have the best available technology that is affordable and can be done without undue harm, he related.

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DAVID FEATHERSON HAUGH (ph), NovaTech Consultants (ph), in response to Co-Chair Neuman, said he does not have any specifics to add at this point. He said he is available to offer his viewpoint on the feasibility of treating ship wastewater on shore, and that it would be better for that discussion to occur before he provides his comments. He understood that HB 134 would not change the quality of discharge from the ships, but rather the location at which it is measured.

MR. FEATHERSON HAUGH, in further response to Co-Chair Neuman and Representative Seaton, explained that NovaTech Consultants is a

consulting engineering firm that specializes in marine wastewater treatment and monitoring. The company samples and monitors all of the Royal Caribbean and Celebrity ships that operate in Alaska as well as one of the Carnival ships. He said NovaTech was retained by the Alaska Cruise Ship Association to provide technical advice at the [February 2009] Department of Environmental Conservation workshop. In further response, Mr. Featherson Haugh said NovaTech also works in the land-based municipal and industrial wastewater treatment business, has offices in British Columbia, and works in Canada and the U.S.

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LYNN TOMICH KENT, Director, Division of Water, Department of Environmental Conservation, spoke from the following written statement [original punctuation provided, but some formatting changes included]:

The Department of Environmental Conservation (DEC) has been working with the cruise industry and regulating cruise ship discharges for almost 10 years. More recently, we've been implementing the Cruise Ship Initiative that was passed by Alaskan voters in 2006. The initiative included three main environmental provisions:

A requirement to have an Ocean Ranger on board

A requirement for vessels to report their location hourly to DEC

A requirement for vessels that intend to discharge wastewater to obtain a permit from DEC.

I would like to provide an update on the environmental requirements of the initiative including the new Ocean Ranger program, the permit requirements, studies that are underway, and the impact of HB 134.

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#### **Citizen's Initiative - Ocean Rangers**

The initiative required an Ocean Ranger (a U.S. Coast Guard-licensed marine engineer) to be on board all large cruise ships entering Alaska waters to observe vessel compliance with state and federal

environmental, sanitation, health and safety requirements. The program is funded by a \$4/berth fee that nets approximately \$4.0 million/year.

DEC implemented a pilot program during the 2007 cruise ship season, using marine engineers and environmental professionals on board some vessels to evaluate training needs for the Ocean Rangers; to develop an Ocean Ranger checklist for observations; and to learn about the issues surrounding reservation of berths, scheduling of Ocean Rangers, and communications between Ocean Rangers and DEC.

Full implementation of the Ocean Ranger program started with the 2008 season:

An Ocean Ranger was on-board 88% of the voyages for the full time they were in Alaska waters.

Other vessels were inspected while in-port.

DEC received over 2,000 daily Ocean Ranger reports with 126 incidents that required follow-up. Most of the issues were immediately resolved by the vessels.

#### **Citizen's Initiative - Vessel Tracking**

The citizen's initiative requires the ships to provide hourly location information to DEC. All vessels complied with this requirement and DEC has been able to use the information to verify vessel compliance.

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#### **Citizen's Initiative - Wastewater Discharge Permit**

The initiative required large cruise ships to obtain a wastewater discharge permit from DEC and to comply with Alaska's Water Quality Standards "at the point of discharge."

Alaska's Water Quality Standards are regulations that describe how clean Alaska's fresh and marine waters have to be to protect the various uses - drinking water, contact recreation, and protection of aquatic life. The standards apply to the waterbody and not directly to a wastewater discharge, except in the case

of discharges from large cruise ships where the discharge must meet the Water Quality Standards at the point of discharge.

DEC issued a general permit on March 25, 2008. The permit contains "long term" effluent limits for ammonia, copper, nickel, and zinc based on the Water Quality Standards. These strict effluent limits must be met by the 2010 cruise ship season.

The permit also contains a compliance schedule and "interim limits" that are less stringent for the 2008 and 2009 cruise ship seasons.

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#### **HB 134**

The effect of HB 134 would be to allow DEC, under certain circumstances, to authorize mixing zones for treated wastewater discharged from cruise ships. A mixing zone is an area where Water Quality Standards can be exceeded while the wastewater has a chance to mix with receiving waters. The Water Quality Standards have to be met at the edge of an authorized mixing zone.

We have been looking at the science around cruise ship wastewater for years. For the last few years we have been engaged in a series of studies, some in conjunction with the U.S. Environmental Protection Agency, about how cruise ship discharges mix with receiving waters. We are also currently investigating potential wastewater treatment technologies.

Based on our work to date, the following are some of the facts as we know them.

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#### **Quality of treated wastewater**

All large cruise vessels discharging in Alaska waters have installed Advanced Wastewater Treatment systems that produce a high quality effluent.

During the 2008 cruise ship season, 20 of the 31 large cruise ships discharged in State waters. Cumulatively, these vessels took a total of 206 effluent samples to satisfy the terms of the wastewater discharge permit. Each sample was analyzed to determine the concentration of nine parameters.

Focusing just on the parameters of concern (ammonia, copper, nickel and zinc)-- out of 824 data points (206 samples with 4 parameters), there were 36 exceedances of interim permit limits noted on 11 vessels. That means approximately 4% ( $36/824 * 100 = 4.4\%$ ) of the data points exceeded the interim limits for ammonia, copper, or zinc. The most frequent exceedance was for ammonia (21 of the 36 exceedances).

If we look at exceedances of the stricter 2010 long term limits, we see a different picture. Based on 2008 effluent monitoring, there would be 563 exceedances of the long term permit limits for those same parameters. That means approximately 68% ( $563/824*100 = 68.3\%$ ) of the data points would exceed the long term limits.

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### **Dilution Studies**

It is important to understand the effects of cruise ship discharges on Alaska waters. In order to do that, DEC must evaluate both the quality of the wastewater discharge in conjunction with the dilution that it is subject to. This information can then be used to estimate whether the wastewater would cause exceedances of Water Quality Standards in the receiving waters.

DEC convened a Science Advisory Panel to evaluate the results of a field study that [the Environmental Protection Agency] conducted in 2001 to determine the effect of discharges on Alaska waters when the vessel is underway. The Science Panel determined that when a typical large cruise ship is moving at a minimum speed of 6 knots, the wastewater discharged is subject to tremendous dilution. For wastewater discharged at 200 cubic meters/hour, the dilution factor is 50,000. When the sample results of the cruise ship wastewater

are divided by the 50,000 dilution factor, the Science Panel concluded that the wastewater would almost instantaneously meet Alaska Water Quality Standards in the receiving water.

During the 2008 legislative session, the legislature directed DEC to evaluate how treated cruise ship effluent mixes with and dilutes into receiving waters. We conducted the study in Skagway this past season in conjunction with research the U.S. Environmental Protection Agency was performing with its Ocean Research Vessel "Bold." We provided an interim report of the study to the legislature on January 12, 2009.

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The study last summer was designed to collect field data in order to calculate the dilution that occurs to wastewater when it is discharged under worst case conditions -- from a stationary cruise ship into a confined receiving environment with limited flushing. A ship moored in Skagway Harbor represents a worst case situation for dilution.

The results of the study were mixed. Under certain assumptions, Water Quality Standards would be met in the receiving water within 15 meters of the vessel. Using other assumptions, it will take a greater distance from the vessel to meet Water Quality Standards.

While the dilution study work is not complete, there is some suggestion that in certain worst cases, mixing zones may not be appropriate for moored vessels.

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### **Technology Review**

DEC is not currently aware of treatment systems that are readily available to be installed on all vessels by 2010 and that would produce effluent meeting water quality standards without mixing zones.

We are in the process of evaluating the cruise line's efforts to reduce ammonia, copper, nickel, and zinc in their wastewater effluent by evaluating potential

source reduction and, as necessary new treatment technologies.

We have retained a consultant to evaluate new and emerging technologies that could potentially be installed on cruise ships to meet the water quality standards at the point of discharge. A draft report is available for review and a technology workshop with national and international participants was held Wednesday, February 18 in Juneau. Information from the workshop will be incorporated into a final report expected April 13.

Preliminary information from the workshop indicates that three cruise lines are currently piloting new treatment technologies or optimizing their existing treatment technologies on one vessel each. We've learned that there are land-based treatment systems that could potentially be adapted for use on cruise ships, but the lead time to bring them to an operational phase could be approximately two years. The steps include: design pilot technology to fit on a cruise ship; obtain necessary vessel classification system approvals to use a new system; build and deliver system to the vessel; install and test system; conduct necessary monitoring and system adjustments; and then, if successful, adapt the system for use on other vessels.

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### **Existing Regulations**

DEC has existing regulations that allow a wastewater discharge permittee to apply for a mixing zone with their permit. The regulations include a 19 part test that must be met before DEC can authorize a mixing zone, including:

That the effluent is first treated to remove, reduce and disperse the pollutants using the most effective, technologically and economically feasible methods.

The anti-degradation policy also requires the use of "methods of pollution prevention, control, and treatment found by the department to be the most effective and reasonable" and that wastes and other

substances to be discharged "be treated and controlled to achieve ... the highest statutory and regulatory requirements."

If mixing zones were allowed, DEC would modify the cruise ship wastewater discharge general permit to include mixing zones where appropriate. Any proposed permit modifications would require a public review. Mixing zones may be prohibited in some areas and would only be allowed in other areas and under conditions that would fully protect aquatic life and other uses of Alaska's waters.

The modified permit would still require use of best available treatment technologies. Existing water quality regulations prohibit backsliding in treatment technology or decreases in effluent quality.

Every five years when the general permit is renewed, DEC must reevaluate what comprises best available treatment technologies. Renewed permits are modified to reflect any new, commercially available treatment technologies.

**Fiscal Impact** - HB 134 has no fiscal impact for the Department.

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CO-CHAIR JOHNSON inquired whether DEC would still monitor at the point of discharge should HB 134 pass and allow mixing zones.

MS. KENT answered that most of the permits issued by the department for a mixing zone require that monitoring occur at the point of discharge and at the edge of the mixing zone, so DEC would likely use this same approach.

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REPRESENTATIVE GUTTENBERG asked for a description of the size and shape of a mixing zone behind a cruise ship.

MS. KENT responded that studies by the Environmental Protection Agency (EPA) found that when a vessel is underway there is no mixing zone that would show on a map or behind the vessel because the effluent mixes so quickly while the vessel is moving. The DEC studies conducted last summer on moored vessels

in Skagway found that the mixing zone tends to look like a long ribbon, depending on what the tide is doing. A mixing zone in a river would go immediately downstream, she continued. Mixing zones authorized in marine waters from shore-based facilities often go two directions because of the tides.

REPRESENTATIVE GUTTENBERG inquired where the monitoring crew would be located behind the ship to take the measurement.

MS. KENT replied that DEC would not likely require monitoring of a mixing zone behind a vessel that is underway because nothing would be found to measure. Monitoring is more appropriate for a vessel that is moored, provided the ship is moored in a situation where DEC could authorize a mixing zone.

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REPRESENTATIVE GUTTENBERG understood that DEC is currently monitoring at the discharge pipe when a ship is underway. He surmised that if HB 134 is passed, DEC would no longer monitor a ship at the discharge pipe while it is underway and would instead only monitor a mixing zone when the ship is in port.

MS. KENT answered that the permit would likely still require monitoring at the point of discharge because the effluent limits in the permit apply there. If DEC could authorize a mixing zone for a moored vessel, monitoring would be required at the edge of the mixing zone for the Water Quality Standards. In further response, Ms. Kent said the permit for a moored vessel might describe the mixing zone in the shape of an oval.

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REPRESENTATIVE SEATON referenced the 4 percent discharge exceedance [for ammonia, copper, nickel, and zinc that occurred in 2008 from large vessels]. He presumed that if mixing zones were allowed there would not have been any exceedance because no matter how much the current standards were exceeded the mixing zone would take care it.

MS. KENT responded that if DEC were to authorize a mixing zone, those levels would likely be allowed while a vessel is underway.

REPRESENTATIVE SEATON asked whether the 4 percent exceedance would have been acceptable for the mixing zone of a moored vessel.

MS. KENT replied that calculations would have to be done in order to answer that question; the department would have to have the permit with an authorized mixing zone to know whether or not those would be in exceedance.

CO-CHAIR NEUMAN requested Ms. Kent to provide information on how all vessels are treated, not just cruise ships, when she next appears before the committee.

MS. KENT agreed to do so.

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REPRESENTATIVE TUCK asked Ms. Kent to list the Water Quality Standards from the most stringent to the least.

MS. KENT explained that the Water Quality Standards are set parameter by parameter by the use. For example, a water quality standard for copper for fresh water may be less stringent for drinking water purposes than the copper standard for aquatic life use. This is because humans are more resistant to copper, and drinking it, than are fish. In further response, Ms. Kent said she would need to pull up the Water Quality Standards [to outline the Water Quality Standards for copper from the most to least stringent]. She said she would get back to members with this information.

REPRESENTATIVE TUCK inquired whether any permits have been declined and for what reasons.

MS. KENT answered that DEC generally works with the applicant to ensure that an application is submitted that will meet the department's requirements and be able to be permitted. Projects that do not meet the requirements are few and do not happen and DEC does not keep records of that. The applicant usually finds a way to meet DEC's standards. In further response, she said she would get back to the committee with an example of a declined permit.

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CO-CHAIR NEUMAN opened public testimony.

ALBERT JUDSON stated that he disagrees with HB 134 and hopes it will be eliminated from the legislative process. He posed the question, "What would happen if the Environmental Protection

Agency reversed their decision of 1973 when they exempted vessel discharges requiring a federal permit?"

MR. JUDSON offered six considerations, the first being a historical consideration. He said HB 134 was introduced by Republican representatives at the request of the cruise ship industry. It would delete language in the 2006 initiative approved by Alaska voters, that language being "at the point of discharge". A major conference was held in the 1990s, he further recalled, to address the wastewater and air pollution that was being generated by cruise ships in Alaska. Eventually, a cruise ship program was established with the DEC.

MR. JUDSON said the second consideration is that the Alaska initiative process is very strict. The 2006 initiative satisfied all of the requirements, was certified by the lieutenant governor, the people voted for it, and it became law. He said the reasons for the "at the point of discharge" requirement include the mobility of the ships, the areas that they travel, and that thousands of people travel on one large ship, sometimes as many as 5,000.

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MR. JUDSON related that the third consideration is that the cruise ship industry has until 2010 to comply with the 2006 initiative, and technological advancements have already occurred and more are likely to occur. Eventual compliance is not impossible because the cruise ship industry is a billion dollar trade. A fourth consideration is that the impact on harbors and docks has yet to be determined and grievances have been occurring due to inadequate space for Alaskans. The fifth consideration is that dumping by cruise ships in mixing zones would conflict with the commercial and subsistence efforts of Alaska people.

MR. JUDSON said the sixth consideration is that Alaskans are confronting the negative impacts of these large ships as portrayed in the February 15, 2009, "New York Times" article by Jennifer Conlin: cruise ships emit twice the carbon dioxide as airplanes; most ships use cheap and dirty bunker fuel; and a one-week voyage produces 210,000 gallons of sewage, a million gallons of gray water, 25,000 gallons of bilge water, 11,550 gallons of sewage sludge, and more than 13,000 gallons of hazardous waste.

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LEN LAURANCE, spoke on behalf of Alaska RainForest Sanctuary, Seahorse Ventures, and Taquan Air located in Ketchikan and Alaska Canopy Adventures located in Juneau and Ketchikan. He testified in favor of HB 134 as follows:

The tours offered by these businesses are pre-sold aboard cruise ships. The four shore excursion operators employ over 150 persons. The wastewater standards of passenger cruise vessels that are scheduled to go into effect in 2010 will require these ships to go to sea to discharge, resulting in one less port call in Alaska. This is because the upcoming standards for these wastewaters are technically not achievable at this time. The average cruise ship makes three-and-a-half port calls on a seven day cruise. The major ports are Juneau, Skagway, and Ketchikan. The half port call is mostly a short stop in Victoria, B.C., to satisfy Jones Act requirements. The deletion of a full Alaska port call would be devastating to shore excursion providers, resulting in loss of jobs, local sales and property taxes, and a general economic downturn in communities that are hurting from declining populations. The wastewater standards for cruise ships should be established scientifically, not by legislation. I have been involved in Alaska tourism on a statewide and local level for over 40 years. ... There should not be relief for increased wastewater discharge standards for cruise ships, it will be the most negative thing to impact Alaska tourism during that entire time, including 911. I urge you to pass HB 134.

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REPRESENTATIVE SEATON inquired whether Mr. Laurance's opinion on the discharge of pollution would change if a solution could be found that would not cause cruise ships to spend less time in port or miss a port call.

MR. LAURANCE responded yes. He said he believes the standards should be established by DEC because the department is familiar with the latest technology and can scientifically apply whatever technology is available at that time.

CO-CHAIR NEUMAN requested that Ms. Kent explain the standards and how DEC meets and evaluates them at the next hearing.

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SHAUNA LEE, Tour Manager, The Great Alaska Lumberjack Show, offered her support for HB 134. She spoke as follows:

The cruise ship industry has become a vital part of life in Ketchikan. As fishing and logging have waned over the years, the cruise industry has grown exponentially and there is no arguing that it supports many people and businesses here in Southeast. While that growth has brought prosperity, it has also brought the question of environmental impact to our beautiful state. In response the cruise line industry was very pro-active in bringing their ships up to the highest standards possible and even exceeded the standards that our own cities were held to. It was unfortunate, then, that a simple mistake in wording came to threaten the industry. With the passage of HB 134 we can put the burden of proof on the organization best equipped to make those decisions that protect our waters. The [Department of Environmental Conservation's] function is to set standards and to be a watchdog for those standards. Let them do their job. The initial sponsors of the bill said that they wanted to even the playing field in regard to cruise ship discharge and HB 134 would do just that. I urge you to pass [HB] 134 and put the decisions regarding cruise ship emission standards into the hands of those best equipped and best informed.

1:56:29 PM

BOB WEINSTEIN, Mayor, City and Borough of Ketchikan, said he would like to address the amendment to the bill that he understands will be proposed today.

CO-CHAIR NEUMAN replied that amendments will not be proposed or addressed until after public testimony when committee discussion occurs. In further response to Mayor Weinstein, Co-Chair Neuman said the mayor is welcome to call back at that time.

MAYOR WEINSTEIN stated that the City of Ketchikan supports HB 134, as written. He said the city feels that science, not politics, should govern the standards regulating pollution of any kind.

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STACY STUDEBAKER, Conservation Chair, Kodiak Audubon Society, noted that she is a biologist and retired science teacher who has lived in Alaska for nearly 40 years. She said the Kodiak Audubon Society was established in 1982 and its mission is to "conserve Alaska's natural ecosystems, focusing on birds, other wildlife, and their habitats for the benefit and enjoyment of current and future generations." She testified as follows in opposition to HB 134 and suggested an amendment:

Kodiak has been receiving more interest from the cruise ship industry recently with 24 to 27 visits scheduled for this year. That is nearly double what we had just a few years ago. As cruise ships enter our waters that support our fishery economy, we must hold them to the strictest standards for water quality. Cruise ships will come and go but our fishery economy is what sustains us. If we are going to give ... the cruise ship industry the benefit of visiting our beautiful island, then they need to reciprocate by investing in better onboard technology that ensures that their wastewater doesn't pollute our marine ecosystem and jeopardize our seafood industry.

We oppose HB 134. The bill is premature and unnecessary. If it passes it removes the ban on mixing zones and would allow harmful pollutants from cruise ship wastewater, such as copper and ammonia, to be directly discharged into marine waters. Research has identified copper as specifically affecting salmon. Given the nature of the main pollutants associated with cruise ship operations, such as metals, it is imperative that these discharges are regulated and that every effort is made to minimize discharge directly into the marine environment so that our seafood remains safe to eat and our marine food chain is intact for all marine life. Mixing zones are rules that allow for pollutants to be discharged directly into the environment and diluted before water quality is tested. Mixing zones are not science-based. They are engineering-based, risk analyses that assume that organisms will either not be present when the discharge occurs, not be harvested and consumed, or represent a small enough percentage of the population as to not result in long-term harm to the environment or people. When the water you are

impacting supports the food you eat, the base of your economy, and the habitat of wildlife, mixing zones are unacceptable.

[2:00:10 PM](#)

The cruise ship initiative was passed by a majority vote of the people in 2006 with the intent to protect water quality from the harmful impacts of cruise ship wastewater pollution. In a recent poll conducted by Anchorage Channel 2 News, 81 percent of the respondents asked if they think the state should loosen wastewater regulations for cruise ships answered no. The 2006 initiative was a major milestone towards realizing the fundamental goals of the Clean Water Act to protect our marine ecosystem and the integrity and image of our Alaskan fishery industry. The Alaska voter initiative created the demand for a solution to the problem. Advancing technology to deal with removing pollutants from cruise ship wastewater either onboard or onshore. HB 134 would remove the incentive that is currently driving these advances. The voter initiative created the original deadline for cruise ships to meet the new standards. We are in favor of extending the deadline a year or two which would allow developers more time to work on better and more innovative wastewater methods to fit onboard ships. In the meantime cruise ships must comply with existing laws.

[2:01:45 PM](#)

JENNANEVA PEARSON (ph) said she has lived in Kodiak since 1941 and lived in Ketchikan in 1939. She maintained that HB 134 is jumping the gun because future technology will enable the cruise ships to comply with the law as it was proposed and passed by the people of Alaska. The legislature should honor the wishes of the majority of the people of this state. "There is always the way of doing things right and there is always ample funds for achieving that goal," she said. She urged that this be played out as the voters mandated.

[2:02:55 PM](#)

JENNIFER GIBBINS, Soundkeeper/Executive Director, Prince William Soundkeeper, explained that her organization's board and members are comprised of residents from Prince William Sound's five

communities and the organization's mission is to protect water quality in the sound. She said she has a background in tourism and destination marketing and serves on the Cordova Chamber of Commerce. Ms. Gibbins spoke as follows in opposition to HB 134 and suggested an amendment:

In 2006 the voters voted to protect clean water, plain and simple. Or, in this case, pure and simple. Clean water is essential, not only to the region, but to the state - to our environment, our culture, and our economy. ... We depend on clean water, and the cumulative impacts of the pollutants that are associated with cruise ship wastewater are serious. HB 134 does one thing - it removes the ban on mixing zones and this is a very significant change and we should not take this lightly. It will diminish the quality of the environment and it will allow pollutants to be directly discharged into the marine environment. And how you can argue that that is neither significant nor serious, I don't know.

... Why do we need this law? Because, unfortunately, the cruise industry has shown us that they need the incentive of law to protect water quality. And the cruise industry itself has acknowledged that the current law has been the driving force for technology advancement. I've spoken with folks trying to ... make sure that I'm understanding everything properly here. I've spoken to some of the folks involved in the report that was commissioned by DEC, and I've asked them what's the bottom line. Is this or is this not possible? And they said it is possible, technology is advancing, it's possible, we just need a little more time. So, let's not throw the baby out with the gray water here. Let's do something that is actually quite simple - extend the deadline and we can realize the goal as the voters intended, which is to protect water quality. ... HB 134 does absolutely nothing to enhance DEC's ability to make science-based decisions. If you want science-based decisions, then ask a biologist, don't ask the cruise industry.

[2:06:11 PM](#)

CAROLINE HIGGINS, Chair, Alaska State Chamber of Commerce, testified in favor of HB 134 as follows:

The state chamber membership has adopted as one of our top legislative priorities support for changes to the point of discharge standard governing cruise ship wastewater permitting. The state chamber urges the adoption of HB 134 which deletes the point of discharge standard governing the cruise ship wastewater permits. HB 134 simply fixes a mistake made in the original language. The state chamber ... asks the state to apply the best available data and technology when setting standards for cruise ship wastewater discharge permits. The Alaska State Department of Environmental Conservation holds not only cruise ships, but also ships such as our state ferries, to a different standard than it holds every other discharger in Alaska. This new permit measures effluent at the point of discharge instead of allowing a dilution zone, which every state in the United States allows and the State of Alaska statutes contemplate. This is a different standard from what is required for coastal communities, the fishing industry, or oil platforms in Cook Inlet.

We strongly urge the legislature to give due consideration to modifying the standards governing the discharge of cruise ship wastewater for a lower level based on science that will continue to protect aquatic life and the environment, but will not be technologically and financially unreasonable or impractical. Should the cruise ship industry need to comply with the statutes of this permit, the ships will have to hold their wastewater discharges until they are out of Alaska waters. Not only will this shorten time in port, but will likely result in fewer ports of call.

[2:08:32 PM](#)

Both results will negatively impact Alaska businesses and financially harm port communities. Small businesses that offer services to tour-related companies may well go out of business without these suggested changes. Alaska's Water Quality Standards contemplate the use of dilution factors such as mixing zones or short-term variances. According to ADEC, mixing zones are provided for in the Clean Water Act and used by every state in the nation. Without mixing zones wastewater would have to be treated to the point

where it could serve as a source of drinking water before being discharged, and that is just not feasible here or anywhere else. Sewage treatment plants and seafood processors in Alaska could not operate without a mixing zone and this is also true for the cruise ships. Alaska should hold cruise ships to the same stringent standards as its coastal communities. It is not in the state's best interest to shorten the time cruise visitor's have ashore or to force the elimination of some ports of call. State Chamber urges you vote favorably on HB 134.

2:09:42 PM

JOHN BINKLEY, President, Alaska Cruise Association, began by asking the question, "What was the will of the people when they passed [the 2006] initiative?" He said the initiative was primarily about the head tax issue. However, the environmental aspects of the initiative can best be described by quoting two of the initiative's sponsors during that time. He quoted Dr. Gershon Cohen of Campaign to Safeguard America's Waters as having said, "If passed, the new initiative will level the economic and environmental playing field between the cruise ship industry and other major dischargers of polluted wastes into Alaska waters." He quoted attorney Joe Geldhof as having said, "This would make the cruise industry adhere to the same pollution standards as fisheries, municipalities, and gas and oil companies." Few people look at the nuances of technical law, Mr. Binkley maintained, and Alaska voters relied on the initiative's authors to be straight with them as to what the initiative meant.

2:11:58 PM

MR. BINKLEY said HB 134 would fix the initiative that was passed and make the law adhere to what the initiative's sponsors told the people of Alaska. The bill would let DEC's scientists decide these complicated and difficult issues, he continued. The department is the best equipped to protect the marine environment, aquatic life, and human health. The tried and true permitting process has been in place for many years and is an open public process.

MR. BINKLEY argued that the will of the people is also expressed by the 44 resolutions passed by communities and organizations around the state, including the Alaska Municipal League which represents all elected municipalities in the state of Alaska.

He related that just prior to the 2006 initiative vote, the Anchorage Daily News advised that the initiative had problems but urged voters to pass it and then rely on the legislature to fix the problems. This is one of those problems, he said. The legislature fixed the other two problems, one of which was to exempt the Alaska Marine Highway and small cruise ships from the initiative's requirements and the other of which was a disclosure requirement. He urged that HB 134 be passed unamended.

[2:14:11 PM](#)

KAREN HESS, Owner, River Adventures, supported HB 134. She spoke as follows:

I believe that [HB 134] is the most logical and reasonable position for the legislature to take to correct a gross injustice that was caused by the initiative. When Ballot Measure 2 came for a vote of the people and the voter pamphlet was distributed to Alaskans, there was a statement that was prepared by the ADEC that simply stated, "The initiative would require DEC to develop and maintain a new permit program for large commercial passenger vessels to replace the current program for regulating these vessels." However, several pages later it also stated that the cruise lines must meet standards at the point of discharge. These five words virtually took the power away from DEC to regulate as the initiative itself was the regulating document after it was passed and became law. One would have to have looked up ... on the Internet or somewhere to find the Alaska Water Quality Standards to know the full extent of those five words. If the intent was for DEC to develop and maintain a permit program, then I ask you today to pass HB 134 to give DEC the tools to make permitting decisions.

[2:16:01 PM](#)

MS. HESS quoted a statement written by initiative sponsors that was in the voter pamphlet: "The cruise lines are 'selling' Alaska - while impacting our docks, roads, public facilities, wildlife, and quality of our lives. This initiative will do nothing to turn visitors away; it will keep our tourism industry sustainable while protecting the needs of all Alaskans." She warned that one ship has already been pulled from Alaska in 2010

and more will follow if this is not fixed. This is not sustaining the tourism industry and will negatively impact Alaskan's quality of life. She continued:

In 2006 I believe that the voters passed the initiative simply because it was labeled as a cruise ship head tax. I trust DEC to protect the environment and regulate the cruise industry accordingly, and I trust you, our legislators, to protect our economic environment. I ask you to help sustain the tourism industry by passing HB 134 out of your committee today, unamended.

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MICHAEL RICHARDS noted that he is a CPA and member of the Fairbanks Chamber of Commerce, but that he is speaking for himself. He said that when the tourism industry is economically healthy in Southeast Alaska, it is also economically healthy in Fairbanks. While he does not think the cruise ship that pulled out for 2010 did so because of the current law, he said he does think that the current law is one more barrier that could cause cruise ships to think twice about coming to Alaska and instead go where fewer costs will be incurred. He related that many of the clients at his CPA firm derive their businesses from tourism and he has seen that tourism trickles down even to the corner coffee shop. He said a decrease in tourism will affect all businesses and industries; he therefore supports HB 134 because it is good for all of Alaska's economy.

[2:18:58 PM](#)

DEB HICKOK, President, CEO, Fairbanks Convention and Business Bureau, testified in favor of HB 134 as follows:

The board of directors of the Fairbanks Convention and Business Bureau did pass a resolution on January 12, [2009], which advocates a modification of the point of discharge permit established by the passage of the cruise ship ballot initiative in 2006. The Fairbanks Convention and Business Bureau was the twenty-seventh of the forty-four communities and organizations to pass similar resolutions. Why is Fairbanks weighing in? Well, Cruiseland Tours makes about 50 percent of the summer visitation to Fairbanks, so any cruise industry issue is one of ours and any Alaskan issue is one of ours. We sell the pristine environment of

Alaska; that is part of our product. HB 134 ... allows the experts at DEC to impose the most environmentally effective and the most scientifically possible standards for discharge. DEC's work is impressive. They are the experts. Please let them do their job and approve HB 134.

2:20:18 PM

CHERYL METIVA, Executive Director, CEO, Greater Wasilla Chamber of Commerce, said the chamber fully supports HB 134 and has passed a resolution in support of the bill. The cruise industry is a viable cornerstone to tourism in the state, she continued. The industry has exceeded all expectations in fulfilling its commitment to provide top quality wastewater at point of exit. The chamber's board of directors visited a number of cruise ships this past summer, she noted, and the directors were extremely impressed with what they found. She urged that DEC be allowed to provide the tools and expertise to fulfill the requirements. Currently, no community in Alaska could meet the same end-of-the-pipe standards that are being required of the cruise ships. It would be unrealistic and cost prohibitive to require communities to come up to these same standards. The cruise ship industry is being required to take actions that no other community, citizen, or business could afford to take.

2:22:23 PM

ROGER MAYNARD noted that he works summers in the tourism industry. He related that according to Alaska Department of Labor & Workforce Development statistics, the total income of Haines is about \$98 million per year and the cruise industry accounts for about \$4.4 million or about 4.5 percent of the income for the Haines Borough. Haines receives most of its cruise ship passengers via shuttle from Skagway, he continued. The tourists that come to Haines devote four to five hours to the whole process of taking the tours. If HB 134 does not pass, and the cruise ships cannot meet the standards, they will leave Alaska's waters to dump their effluent in federal waters. This would result in shorter port times. Shorter port times in Skagway would mean that visitors would no longer have time to come to Haines for tours. In this case, the Skagway shuttle ferry would likely cease to exist, which would cause a complete collapse of the cruise ship tourist industry in Haines. He urged that HB 134 be passed to fix the mistake that was made in the Alaska statutes. The Water Quality Standards remain the same and there would be no major difference other than allowing

the cruise ships to continue to operate in Alaska. The bill does not preclude DEC from making the standard higher as the technology and the science show that it is available.

[2:24:51 PM](#)

CHIP THOMA, Responsible Cruising Alaska, said his advocacy group helped win passage of the 2006 initiative on cruise ship pollution, fair taxes, and consumer protection. The law has been a great success in all of these regards. He said the reason he is involved in this issue is because salmon and whales all feed in and migrate through the exact same areas for which mixing zones are being proposed - and mixing zones are pollution zones. He continued:

Regarding HB 134, un-amended, my initial comment is that this legislation is premature and unnecessary. Many ships in the Alaskan cruise fleet are already meeting our Water Quality Standards on both ammonia and copper, those discharged substances that most harm salmon and other marine life. Most ships need only make a few attachments and adjustments to their present systems to make them fully legal and fully compliant with the 2010 law.

... I recently reviewed the Notices of Violations issued by DEC for the 2008 cruise ship discharges and was amazed to find that three-quarters of the fleet were not cited for any metals violations, but five of the seven metals violations are with one of the cruise lines - Princess. I believe the copper problem has now been identified. Those high metal discharges are centered in older ships, like the Princess fleet, whose copper plumbing is leaching into treated discharge water. Dissolved copper is a big problem. It never goes away, it builds up in the water, and disorients returning salmon. ... Most other ships have solved their onboard copper problems by using flex hose plastic plumbing.... However, suspended metals removal technology is improving at a very rapid pace, pioneered by the need for absolutely clean water in U.S. computer manufacture. I'm confident that copper can soon be removed from all cruise ship discharges. ... Regarding ammonia, the sole source is urine and that technology is also readily available.... I am also very confident these problems

can be solved onboard as most ships in the fleet are doing now.

... The cruise passengers want clean ships. Alaskan subsistence, commercial, and sport users want clean ships that take no chances to harm state fish and wildlife and marine resources. We should all agree to fully protect clean marine waters by statute. The cruise laws passed in 2006 accomplish that. However, HB 134, unamended, rolls back those protections and allows potentially harmful discharges. Also, [HB] 134 primarily exempts one cruise line from the water quality standards being met by most of the 28 ships in the Alaska fleet. HB 134 would financially penalize ships that make discharge improvements and now comply with Alaska cruise law. And finally, Alaskans want these discharge problems solved, either onboard the cruise ships or at onshore plants, but not by mixing in our pristine waters.

[2:31:13 PM](#)

KATE TROLL, Executive Director, Alaska Conservation Alliance, explained that her organization is an umbrella group of 40 member groups representing about 38,000 Alaskans. She said she is opposed to HB 134 as drafted, but would like to suggest an amendment. Given that her two children financed their college educations by working summers for the cruise industry and her inclination to find solutions that work for economic development and protecting the environment, Ms. Troll said she was pleased when John Binkley requested a meeting with her. In that meeting, Mr. Binkley explained the dilemma regarding the ammonia and copper standards and the performance records of various cruise ships. However, it was clear that advancements were being made. Based on that conversation, she related, she told Mr. Binkley she would be interested in looking at language that he might propose to fix the copper and ammonia problem. She said she was therefore surprised that instead of a surgical fix to deal with the ammonia and copper, HB 134 proposes to go back to the old water quality standard of "the solution to pollution is dilution".

[2:33:40 PM](#)

MS. TROLL said she does not believe that voters wanted to go back to that standard when they passed the cruise ship initiative. Voters are fully aware that dilution is still

pollution, she maintained, and Alaska's waters and world-class marine resources deserve better. She said she feels that Alaska still needs this law. According to DEC's website, she related, it can take one to two years to go from the stage of characterizing the cruise ship's effluent to having a system installed and working correctly. The consultants say that vessel operators may be able to achieve the standards of the cruise ship initiative through adaptation of existing shore-based technology, new combination of multiple systems that each eliminates one or more chemicals, or shore-based discharge facilities, she continued. In other words, the law is working to spur innovation, so why backtrack now? As a solution, Ms. Troll suggested that Section 2 be amended by moving the effective date back to 2012. This would honor the intent of the cruise ship initiative and accommodate the needs of the cruise ship industry, she said.

[2:35:49 PM](#)

JEREMY WOODROW, Communications Coordinator, Alaska Municipal League, presented testimony as follows:

The Alaska Municipal League is in favor of HB 134 as it stands today. The AML is troubled in this time of economic downturn with standards imposed on cruise ships that seem to be ahead of technology and which only lead to cruise ships taking their business elsewhere and leaving a large financial gap in the budget of many coastal communities. At our annual local government conference in Ketchikan last November, AML passed Resolution 2009-08, a resolution urging the state to modify the standards governing the discharge of cruise ship wastewater such that those standards will continue to protect aquatic life and the environment. While those of us in local government obviously do not wish to pollute the place we call home, we believe there should be some flexibility on the part of the Alaska Department of Environmental Conservation as they enforce policies intended to maintain Alaska's healthy ports and harbors. However, as the law now reads, the cruise ships will most likely not be able to conform to the ever-tightening regulations set under the current timeframe. The AML strongly believes that healthy municipalities need healthy business and industry. We would like to work with DEC and with the cruise ship industry to make sure that cruise ships feel welcome

while yet helping us maintain clean water in our coastal communities.

2:37:25 PM

SHELLY WRIGHT, Executive Director, Southeast Conference, testified in support of HB 134 as follows:

Southeast Conference is the Alaska regional development organization for Southeast Alaska. We are designated as the economic development district by the U.S. Economic Development Administration. We are also the governing board of Southeast Alaska's Resource Conservation and Development Council. We are a membership organization and our members include local governments, visitors bureaus, chambers of commerce, as well as local businesses, agencies, and individuals - all interested in clean water and commerce and economic development in Southeast Alaska. Our mission is to undertake and support ... activities that promote strong economies, healthy communities, and a quality environment in Southeast Alaska. As part of that mission we encourage responsible development of Southeast's economy and preserving the environmental quality. Our members are very concerned about water quality, and support the level of standards determined and enforced by the Alaska Department of Environmental Conservation. It is our belief that the standards for the cruise vessels should be determined by science and the expertise of the Alaska Department of Environmental Conservation. We urge you to let them do their job as they have been doing so well for so many years.

2:39:27 PM

REPRESENTATIVE GUTTENBERG asked whether any fishing organizations are involved in the Southeast Conference.

MS. Wright said the conference has a fisheries committee comprised of several different fishing entities and fishermen.

REPRESENTATIVE GUTTENBERG inquired whether this fisheries committee has made any recommendations in regard to HB 134 that are different than Ms. Wright's testimony.

MS. WRIGHT responded that nothing was reflected to her by members during the vetting process of her testimony, but that is not to say there is not someone out there.

[2:40:17 PM](#)

CHRISTOPHER KRENZ, Ph.D., Oceana, explained that his organization is an international ocean conservation group with two offices and 11 staff in Alaska. The staff represents over 250 years of life experience in Alaska, he added. He said Oceana opposes HB 134 as written. He testified as follows:

Cruise ships bring a large number of people to Alaska each year. They enjoy a lot of what Alaska has to offer. They bring enormous benefits to the state as well. They also produce a lot of waste and that is obviously the issue here. A lot has been made about science and letting science lead the way. I think it is important to clarify that science can tell you what is a healthy level and what is not. It is a policy decision as far as where the level needs to be met and here it is the policy decision of whether or not one wants a mixing zone or to monitor pollutants at the ... tailpipe.

Dilution, we know, is not the solution; we've learned this over and over again from many places throughout the world. Basically, a mixing zone is an area that does not meet standards ... that are given by DEC. It is an area of a polluted water. And, in terms of cruise ships, this basically leaves ... opening for ... moving pollution zones that would basically follow the cruise ships around....

[HB 134] would amend the initiative and is basically taking a hatchet where a scalpel may be more appropriate. ... Oceana believes it is important to maintain incentives. There is promising new technology out there that we have heard about and we are concerned especially about the copper.... We know that it affects organisms from the microscopic algae that feed larger animals, including all the way up to salmon. ... For salmon, it may affect their sense of smell; migration is dependent on that sense of smell. It affects other aspects of salmon as well at non-lethal levels, including their immune response....

[2:43:34 PM](#)

REPRESENTATIVE GUTTENBERG asked whether the "new technologies" being mentioned by the various witnesses are actually new technology or just engineering problems that are being solved.

DR. KRENZ replied that he was unable to attend the recent conference held by the Department of Environmental Conservation, but he understood that the technology currently exists and the issue is one of engineering and figuring out how to do it in an economical way on a cruise ship.

CO-CHAIR NEUMAN closed public testimony.

[2:46:06 PM](#)

REPRESENTATIVE SEATON offered Amendment 1, labeled 26-LS0570\E.2, Bullard, 3/2/09, which reads as follows [original punctuation provided]:

Page 1, line 2:

Delete "waste water;"

Insert "wastewater, to wastewater, sewage, and treatment projects in certain communities, including shore-based wastewater treatment facilities that serve commercial passenger vessels, and to the disposition of proceeds of the excise tax levied on travel aboard commercial passenger vessels;"

Page 1, following line 4:

Insert new bill sections to read:

**\* Section 1.** AS 43.52.230(a) is amended to read:

(a) The proceeds from the tax on travel on commercial passenger vessels providing overnight accommodations in the state's marine water shall be deposited in a special ["] commercial vessel passenger tax account ["] in the general fund. The legislature may appropriate money from this account for the purposes described in (b) - (d) [AND (c)] of this section, for state-owned port and harbor facilities, other services to properly provide for vessel or watercraft visits, to enhance the safety and efficiency of interstate and foreign commerce, to plan, design, build, modify, construct, or rehabilitate wastewater and sewage systems and treatment works, and [SUCH] other lawful purposes as determined by the legislature.

\* **Sec. 2.** AS 43.52.230 is amended by adding a new subsection to read:

(d) The legislature may appropriate up to 50 percent of the money deposited into the commercial vessel passenger tax account to the Department of Environmental Conservation for planning, designing, building, modifying, constructing, or rehabilitating wastewater and sewage systems and treatment works in ports of call in which commercial passenger vessels load or unload passengers to ensure that untreated sewage, treated sewage, graywater, and other wastewater generated by the community and treated wastewater generated by commercial passenger vessels is not discharged in a manner that violates any applicable effluent limits or standards under state or federal law, including Alaska Water Quality Standards governing pollution at the point of discharge."

Re-number the following bill sections accordingly.

Page 1, line 6:

Delete "The"

Insert "Except as provided under AS 46.03.464(a), the [THE]"

Page 1, line 11:

Delete "[AT THE POINT OF DISCHARGE]"

Insert "at the point of discharge"

Page 2, line 9:

Delete all material and insert:

"\* **Sec. 4.** AS 46.03.462(b), as amended by sec. 3 of this Act, is amended to read:

(b) The [EXCEPT AS PROVIDED UNDER AS 46.03.464(a), THE] minimum standard terms and conditions for all discharge permits authorized under this section require that the owner or operator

(1) may not discharge untreated sewage, treated sewage, graywater, or other wastewaters in a manner that violates any applicable effluent limits or standards under state or federal law, including Alaska Water Quality Standards governing pollution at the point of discharge;

(2) shall maintain records and provide the reports required under AS 46.03.465(a);

(3) shall collect and test samples as required under AS 46.03.465(b) and (d) and provide the

reports with respect those samples required by AS 46.03.475(c);

(4) shall report discharges in accordance with AS 46.03.475(a);

(5) shall allow the department access to the vessel at the time samples are taken under AS 46.03.465 for purposes of taking the samples or for purposes of verifying the integrity of the sampling process; and

(6) shall submit records, notices, and reports to the department in accordance with AS 46.03.475(b), (d), and (e).

\* **Sec. 5.** AS 46.03 is amended by adding a new section to read:

**Sec. 46.03.464. Shore-based wastewater treatment facilities.**

(a) Notwithstanding AS 46.03.462(b)(1), the Department of Environmental Conservation may provide a waiver effective July 1, 2011, through June 30, 2013, from the point of discharge requirement imposed under that paragraph for a discharge of treated wastewater from a commercial passenger vessel that is capable of discharging treated wastewater to a shore-based wastewater treatment facility. The waiver may be extended for an additional two-year period if

(1) not later than July 1, 2013, at least one shore-based wastewater treatment facility becomes fully operational; and

(2) as a condition of the waiver, while present in a community with a shore-based wastewater treatment facility to load or unload passengers, the vessel discharges its treated wastewater to the facility.

(b) A waiver granted under (a) of this section may be extended for an additional two-year period if, during the previous two years,

(1) at least one additional shore-based wastewater treatment facility becomes fully operational; and

(2) as a condition of the waiver, while present in a community with a shore-based wastewater treatment facility to load or unload passengers, the vessel discharges its treated wastewater to the facility.

(c) In this section, "shore-based wastewater treatment facility" means a wastewater treatment facility located in a community in which commercial passenger vessels load or unload passengers that

(1) does not violate any applicable effluent limits or standards under state or federal law, including Alaska Water Quality Standards governing pollution at the point of discharge; and

(2) is capable of receiving discharges of treated wastewater from commercial passenger vessels.

\* **Sec. 6.** AS 46.03.464 is repealed.

\* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT OF SECS. 4 AND 6. (a) Sections 4 and 6 of this Act take effect only if, not later than June 30, 2020,

(1) a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal or petition for certiorari holding that the excise tax levied on travel aboard commercial passenger vessels under AS 43.52.200 is unconstitutional; or

(2) AS 43.52.200 is repealed.

(b) If the excise tax is found unconstitutional as described in (a) (1) of this section, the attorney general shall promptly notify the revisor of statutes, the commissioner of environmental conservation, and the commissioner of revenue of the date that the excise tax was found unconstitutional.

\* **Sec. 8.** Sections 3 and 5 of this Act take effect January 1, 2011.

\* **Sec. 9.** If, under sec. 7 of this Act, secs. 4 and 6 of this Act take effect, they take effect on the earlier of the date

(1) a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal or petition for certiorari holding that the excise tax levied on travel aboard commercial passenger vessels under AS 43.52.200 is unconstitutional; or

(2) AS 43.52.200 is repealed.

\* **Sec. 10.** Except as provided in secs. 8 and 9 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

REPRESENTATIVE KAWASAKI objected to Amendment 1.

CO-CHAIR NEUMAN commented that Amendment 1 is almost like another bill, thus he will query committee members later as to how they would like to proceed.

[2:47:06 PM](#)

REPRESENTATIVE SEATON moved to amend Amendment 1 as follows:

Page 3, line 12, after "effective"  
Delete "July 1, 2011"  
Insert "January 1, 2010"

Page 4, line 19, after "January 1,"  
Delete "2011"  
Insert "2010"

[2:48:57 PM](#)

There being no objection to the amendment to Amendment 1, the amendment to the amendment was passed.

Amendment 1, as amended, was now before the committee.

REPRESENTATIVE SEATON said he shares the sponsor's desire "to enforce high quality standards and continue to develop technology that will allow ships to have the cleanest possible discharges". He related that the DEC technology conference found that technologies are available to meet these standards and these standards are being met on land-based systems in other parts of the U.S. However, the problem is converting and squeezing these systems onto a passenger vessel. Amendment 1 would instead convert the municipal systems at the ports of call to meet the end-of-the-pipe standards and these municipal systems would receive the cruise ship discharges for treatment.

[2:51:01 PM](#)

REPRESENTATIVE SEATON further explained that Amendment 1 would provide for up to 50 percent of the current head tax to be allocated for sequential upgrades of sewage facilities at the ports of call. Once the upgrades were on line, the cruise ships would be required to discharge to those municipal facilities. Thus, Amendment 1 would provide for meeting the standards without imposing any further taxes or requiring major vessel modifications. The waiver provision in Amendment 1 would be through 2013 to provide enough time for design and construction of the first community facility and sequentially for two years after that. The waiver would stay in place as long as progress is being made.

CO-CHAIR NEUMAN said he did not see where there is a gain with Amendment 1 as far as discharge quality. He asked that Representative Seaton get reports from the communities that would be affected as to how Amendment 1 would affect them and what it would cost them. Co-Chair Neuman pointed out that in Juneau it is common to have six or seven ships in port at one time and this would be a tremendous amount of effluent for a community to deal with at once.

REPRESENTATIVE SEATON reiterated that Amendment 1 would allocate up to 50 percent of monies from the existing cruise ship passenger head tax to upgrade municipal treatment facilities in a sequential manner.

[2:54:14 PM](#)

REPRESENTATIVE WILSON related that the head tax brought in \$46 million in 2008. She noted that some communities in her district have absolutely no system in place right now and waste is dumped directly into the water. She drew attention to the sixth to the last page in the committee packet which compares what the cruise ship industry is being asked to do with what seven communities are asked to do. She cited statistics from the page that showed three communities are 100 times over the level for copper that cruise ships are asked to do and the rest of the other communities are over two times as much. For nickel, there are no communities that meet the standard for cruise ships. She cited several other standards. She cited another statistic on the fifth to the last page that shows the daily discharge from these same seven communities and one mine is equivalent to the daily discharge of 388 cruise ships, and these discharges are not meeting the standards being requested of the cruise ships. Representative Wilson said she wants to know how much it will cost communities to meet the requirements of Amendment 1, especially for those communities that currently have no waste system in place.

CO-CHAIR NEUMAN commented that taking money out of the state budget to do this would impact schools, roads, and public safety elsewhere in the state.

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CO-CHAIR JOHNSON requested that the Department of Law address whether the cruise ship tax can be used to pay 100 percent of the cost for something that the cruise ships would only be using 50 percent of the year. If the tax cannot be used for 100

percent of the cost, then the cities would be liable for 50 percent of the cost, he surmised.

REPRESENTATIVE SEATON countered that if this was the case, then this same principal for proportional usage would have applied to something like a dock, boardwalk, or other facility that has been built and utilized by the cruise ship industry. He therefore urged that this wastewater treatment proposal not be singled out.

CO-CHAIR JOHNSON said he would still like to hear from the Department of Law in this regard.

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REPRESENTATIVE GUTTENBERG added that he would also like to hear from the Department of Law or Department of Commerce, Community, & Economic Development about the current allocation of, and the projected income from, the cruise ship head tax. He said he would also like to hear from the Department of Environmental Conservation as to whether there would be a problem in meeting the requirements of Amendment 1 since the ships are already meeting a higher standard than the communities; thus, the only problem might be the capacity of community sanitary facilities.

[3:00:17 PM](#)

CO-CHAIR NEUMAN held CSHB 134(CRA). He said that in the meantime he will host a discussion between the various parties in regard to Amendment 1.

[3:01:00 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:01 p.m.