

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 26, 2009

6:08 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

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."

- MOVED CSHB 134(RES) OUT OF COMMITTEE

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
03/02/09	(H)	Heard & Held
03/02/09	(H)	MINUTE(RES)

03/16/09 (H) RES AT 1:00 PM BARNES 124
03/16/09 (H) Heard & Held
03/16/09 (H) MINUTE(RES)
03/25/09 (H) RES AT 1:00 PM BARNES 124
03/25/09 (H) Heard & Held
03/25/09 (H) MINUTE(RES)
03/26/09 (H) RES AT 6:00 PM BARNES 124

WITNESS REGISTER

LARRY HARTIG, Commissioner
Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: Answered questions and provided information during the hearing on HB 134.

ACTION NARRATIVE

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CO-CHAIR MARK NEUMAN, following a recess to the call of the chair from 3/25/09, called the House Resources Standing Committee meeting back to order at 6:08 p.m. Representatives Neuman, Johnson, Kawasaki, Tuck, Wilson, Olson, Seaton, Edgmon, and Guttenberg were present at the call to order.

HB 134-CRUISE SHIP WASTEWATER DISCHARGE PERMITS

[6:08:48 PM](#)

CO-CHAIR NEUMAN announced that the first 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).]

CO-CHAIR JOHNSON moved to adopt the proposed committee substitute (CS) for HB 134, Version 26-LS0570\C, Bullard, 3/26/09, as the work draft.

REPRESENTATIVE SEATON objected, then withdrew his objection after ascertaining that the motion was to adopt Version C as the working document.

[There being no further objection, Version C was before the committee.]

CO-CHAIR NEUMAN cited a 3/26/09 memorandum from Alpheus Bullard, Legislative Counsel, Division of Legal and Research Services, advising that the following technical drafting corrections would be made to Version C [original punctuation provided]:

page 2, line 7: "except as provided in (e) of this section" to replace "except as provided in 46.03.462(e)" [Drafting Manual at page 60]; and

page 4, line 16: "Sections 1 - 5" to replace "Sections 1 through 5".

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CO-CHAIR JOHNSON moved that the committee adopt Conceptual Amendment 1 to Version C, labeled 26.LS.0570\E.6, which read as follows:

Page 3, line 16, following "consists of"
Insert "eleven"

Page 3, line 18, following "AS 39.20.180."

Insert "Each of the individuals the commissioner selects will serve for up to a five year period and have expertise in the design, operation or function of wastewater management and treatment systems; the Commissioner will select at least one individual from each of the following groups:

- (1) coastal community domestic wastewater management;
- (2) cruise ship industry;
- (3) commercial fishing industry; and
- (4) a non-governmental organization with an interest in water quality matters.

REPRESENTATIVE WILSON objected for discussion purposes.

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LARRY HARTIG, Commissioner, Department of Environmental Conservation (DEC), said the department envisions that the Science Advisory Panel members will have expertise in waste management treatment and technology drawn from experience or education. The department also envisions the panel as being

comprised of a mix of people from both the public and private sector. At a minimum this would include at least one representative from a coastal community with wastewater management experience, the commercial fishing industry, a non-governmental organization with an interest in water quality matters, and the cruise vessel industry. These people will have some experience in waste treatment systems either on vessels or on shore.

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CO-CHAIR NEUMAN inquired whether the five-year appointments would be staggered.

COMMISSIONER HARTIG answered that the maximum would be five years because that is the maximum length that is intended for this panel. The intent would be to appoint everyone at the same time for a five-year term and only replacing those people who dropped off the panel during that time.

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REPRESENTATIVE WILSON commented that the way the amendment is written, all panel members would have to have expertise in wastewater treatment systems. She [moved that the committee adopt an amendment to] Conceptual Amendment 1 by adding the word "also" so that someone like a fisherman would not have to have wastewater expertise. Thus, Conceptual Amendment 1 would read:

"... the Commissioner also will select at least one individual from each of the following groups".

COMMISSIONER HARTIG stated that DEC would not have an objection to this, but that the department's preference would be to steer toward the science and engineering aspect rather than just a pure advocacy aspect.

CO-CHAIR NEUMAN, after ascertaining that there was no objection, announced that the amendment to Conceptual Amendment 1 has passed. [Conceptual Amendment 1, as amended, was now before the committee.]

REPRESENTATIVE SEATON agreed with Representative Wilson's suggestion that these four representatives should not be required to have the same level of scientific expertise as the other panel members.

REPRESENTATIVE GUTTENBERG pointed out that the page and line numbers included in Conceptual Amendment 1 were based on yesterday's working document, so they will need to be applied to Version C where appropriate.

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REPRESENTATIVE WILSON withdrew her objection.

REPRESENTATIVE TUCK objected and suggested adding a University of Alaska science and engineering student to foster involvement of the university.

CO-CHAIR JOHNSON said this would have to be offered as a new amendment.

CO-CHAIR NEUMAN agreed that this is a good suggestion and said the commissioner has heard it.

REPRESENTATIVE TUCK withdrew his objection.

CO-CHAIR NEUMAN, after ascertaining that there was no further objection, announced that Conceptual Amendment 1, as amended, has passed.

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REPRESENTATIVE SEATON withdrew Amendment 2 to Version C, labeled 26-LS0570\C.2, Bullard, 3/26/09.

CO-CHAIR NEUMAN noted that Amendment 2 was also about the makeup of the advisory panel.

REPRESENTATIVE SEATON moved that the committee adopt Amendment 3 to Version C, labeled 26-LS0570\C.3, Bullard, 3/26/09, which read as follows [original punctuation provided]:

Page 3, line 22, following "workshops":

Insert ", with at least one public conference or workshop to be held between January 1, 2012, and January 1, 2014, if the department issues, renews, or modifies a permit required under AS 46.03.462(a)(1) after January 1, 2012, 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"

CO-CHAIR JOHNSON objected for discussion purposes.

REPRESENTATIVE SEATON explained that Amendment 3 would ensure that if there has not been satisfaction and/or permits have been issued for lesser standards after the 2012 workshops and preliminary report, another technological workshop is required for the final report.

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REPRESENTATIVE WILSON stated that use of the word "if" on line 3 of the amendment does not make sense to her.

REPRESENTATIVE SEATON clarified that this means a second conference is not mandated if, after the preliminary report in 2012, all of the conditions have been satisfied and the cruise ships are meeting all of the standards. In further response, he stated that another technological workshop would be held if, after January 2012, DEC issues a new permit that has less stringent water quality standards. The purpose of this conference would be to determine the technologies that are available that could be used by 2014 when the final report is due. However, if the cruise ships are meeting the standards, there is no reason to require another conference by statute.

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REPRESENTATIVE WILSON said she does not think that is what Amendment 3 says.

CO-CHAIR NEUMAN agreed with Representative Wilson.

CO-CHAIR NEUMAN stated that Amendment 3 looks different than the amendment that was provided to members last night.

REPRESENTATIVE SEATON explained that the amendments he had provided were conceptual and these are the same amendments as drafted by the Division of Legal and Research Services.

COMMISSIONER HARTIG said he does not have a copy of Amendment 3 as drafted by the Division of Legal and Research Service. He interpreted Amendment 3 to mean that DEC would be required to hold another public workshop before the department's second report is due to the legislature in 2014 in the event that the permitted vessels at that time had not yet achieved the at-the-point-of-discharge requirement. He said the department does not have a problem with that if this interpretation is correct.

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CO-CHAIR NEUMAN commented that four amendments were provided last night, but today there are five.

REPRESENTATIVE SEATON responded that one of the five amendments is a conceptual amendment because page 3, line 22, of Version C does not say that the first workshop must be held before 2012. So, he said he is proposing that the first workshop be held before 2012, and if the cruise ships do not meet the requirements at that time and another permit is issued with less stringent guidelines, then another workshop will be required before the final report is due.

REPRESENTATIVE GUTTENBERG understood that DEC can issue waivers, but in regard to violating standards, he said he thinks that that was what was being written into the bill.

The committee took an at-ease from 6:28 p.m. to 6:50 p.m.

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REPRESENTATIVE SEATON moved that the committee adopt Amendment 1 to Amendment 3 as follows:

Line 1, following workshops
Insert "and"

Line 4, following "2012,"
Delete "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"

Thus, Amendment 3, as amended, would read as follows:

Page 3, line 22, following "workshops and":
Insert ", with at least one public conference or workshop to be held between January 1, 2012, and January 1, 2014, if the department issues, renews, or modifies a permit required under AS 46.03.462(a)(1) after January 1, 2012."

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COMMISSIONER HARTIG stated that the department has no objection.

CO-CHAIR NEUMAN, after ascertaining there was no objection, announced that Amendment 1 to Amendment 3 has passed and that Amendment 3, as amended, is now before the committee.

REPRESENTATIVE SEATON reiterated that, if a permit is issued after 2012, Amendment 3 would require one more technological workshop be held before the final report is due.

CO-CHAIR JOHNSON withdrew his objection.

CO-CHAIR NEUMAN, after ascertaining there was no further objection, announced that Amendment 3, as amended, has passed.

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REPRESENTATIVE SEATON moved that the committee adopt Conceptual Amendment 4 to Version C, which read as follows:

Page 3, line 22, after "workshops"
Insert "before 2012;"

REPRESENTATIVE SEATON explained that Conceptual Amendment 4 would require one workshop to be held before 2012 and Amendment 3, as amended and adopted, would require a second workshop if a permit was issued [after 2012].

CO-CHAIR JOHNSON objected for discussion purposes.

COMMISSIONER HARTIG stated that DEC's intent is to have one workshop before 2012 and report on that workshop in the interim report to the legislature, therefore Conceptual Amendment 4 is consistent with what the department is intending to do.

CO-CHAIR JOHNSON removed his objection.

CO-CHAIR NEUMAN, after ascertaining there was no further objection, announced that Conceptual Amendment 4 has passed.

[6:55:37 PM](#)

REPRESENTATIVE SEATON moved that the committee adopt Amendment 5, labeled 26-LS0570\C.1, Bullard, 3/26/09, which read as follows [original punctuation provided]:

Page 2, following line 18:
Insert a new bill section to read:

"* **Sec. 3.** AS 46.03.462(b), as amended by sec. 2 of this Act, is amended to read:

(b) 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 [, EXCEPT AS PROVIDED IN 46.03.462(e)];

(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)."

Renumber the following bill sections accordingly.

Page 4, line 14:

Delete "AS 46.03.464 is"

Insert "AS 46.03.462(e), 46.03.462(f), and 46.03.464 are"

Page 4, line 15:

Delete "Section 6 of this Act takes"

Insert "Sections 3 and 7 of this Act take"

Page 4, line 16:

Delete "Sections 1 through 5 of this Act take"

Insert "Except as provided in sec. 8 of this Act, this Act takes"

REPRESENTATIVE WILSON objected.

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REPRESENTATIVE SEATON explained that Section 6, page 4, line 14, of Version C repeals the Science Advisory Panel. Amendment 5 would provide that once the panel is repealed, a permit could no longer be issued that exceeds water quality standards at the point of discharge.

CO-CHAIR NEUMAN asked whether this would eliminate everything that has just been done.

REPRESENTATIVE SEATON responded no. Amendment 5 provides that if the problem is not solved in five years, then the issue would come back to the legislature to decide what to do. Without Amendment 5, there could be a continuous offering of wastewater discharge permits that exceed the [at-the-point-of-discharge] limits and there would be no requirement to come back to the legislature if this were to occur. He reiterated that this would eliminate the ability to grant discharge permits that exceed the limits once the Science Advisory Panel is eliminated.

CO-CHAIR NEUMAN maintained that Amendment 5 would bring everything back to where things are today, and the efforts over the next five years would all be for naught.

COMMISSIONER HARTIG said Version C, as currently written without Amendment 5, provides that this does come back to the legislature through DEC's final report in 2014. The report will provide the legislature with the information necessary to make an informed decision as to whether DEC has pushed the cruise line companies as far as technology will take them. Thus, the report would be a check on DEC and the legislature could choose to take action at that time if it believes DEC has not done its job in implementing AS 46.03.462. He agreed that Amendment 5 would create the problem described by Co-Chair Neuman, which is that there is a standard the cruise ships just cannot meet despite their best efforts.

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CO-CHAIR NEUMAN commented that the intent of HB 134 is to continue the pressure to meet the standards established by the 2006 Cruise Ship Initiative ("the initiative"). He said Representative Harris's fear is that if the technology is not there, the cruise ships could not come to Alaska, which would be devastating to communities. This problem is solved by HB 134, but Amendment 5 would make everything start all over again. He

asked whether Commissioner Hartig agrees with his interpretation of what Amendment 5 would do.

COMMISSIONER HARTIG replied correct.

REPRESENTATIVE GUTTENBERG said his reading of Amendment 5 is that it simply requires legislative action at the end of the five-year period, and this action would be to either extend the permits or say the problem has gone away.

CO-CHAIR NEUMAN inquired whether this could mean the legislature does not take the recommendations of the Science Advisory Panel.

REPRESENTATIVE GUTTENBERG answered that members would do whatever they do.

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REPRESENTATIVE SEATON pointed out that the legislature receives dozens of reports a year, and most are simply filed with the secretary and no one ever sees them and no action is taken on them. There is no requirement for the legislature to do anything with the 2014 report if permanent authority is given to DEC to override the initiative's provisions for measurement at the point of discharge. Under Version C and Amendment 5, five years are given to improve the technology and then it comes back before the legislature and the legislature can decide whether or not to give DEC the ability to issue permits.

COMMISSIONER HARTIG stated that yesterday's amendment [Amendment 3 to CSHB 134(CRA)] requires a permit every two years, which means there will be three permits over the next five years. The current permit has conditions that must be changed by March 2010 and, under the two year permit cycle, permits will need to be issued again in 2012 and 2014. Amendment 5 could possibly leave everyone in a suspended status because DEC would be giving its final report by January 2014 and then the legislature might not act until April 2015. If DEC had to modify the permit for a fourth time in five years, the department would have only two weeks to act before the 2015 cruise season, yet by law a 30 day public comment period must be provided for permits.

CO-CHAIR NEUMAN said he does not believe the legislature would be unaware of this issue.

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REPRESENTATIVE GUTTENBERG asked whether the department would have the ability to issue a two-year permit in December 2013.

COMMISSIONER HARTIG replied that with yesterday's Amendment 3, the department could not issue a permit with a life of more than two years if it has conditions other than meeting all water quality criteria at the point of discharge. Under the current timetable a permit will be issued in March 2010. If the cruise ships do not meet the standards by March 2012, a new two-year permit would be issued and would be in effect until March 2014. If the legislature changed anything during the 2014 legislative session, another permit would have to be issued sometime between March 2014 and the cruise season which starts May 2014.

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CO-CHAIR NEUMAN remarked that this would put DEC in a bind.

COMMISSIONER HARTIG agreed and said this puts DEC in an even greater bind than what he had pointed out yesterday.

CO-CHAIR NEUMAN inquired whether Commissioner Hartig thinks there is a need for Amendment 5.

COMMISSIONER HARTIG answered that he thinks DEC's original proposal was a reasonable approach. He said he does not see a need for this many permits this quickly. Technologically things do not change that much and the discharge does not change that much. If there was that much of a risk with the discharge DEC would not even allow the discharge in the first place. He reminded members that what is being talked about is parts per billion and it is extraordinary to be putting this much effort into dealing with something on that scale.

REPRESENTATIVE SEATON contended that the March 2014 permit would be good until March 2016. Amendment 5 does not say that permits have to be revoked, it only says that DEC cannot issue a permit with less stringent standards after that. Thus, there would be two years after 2014 for DEC to handle this.

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REPRESENTATIVE TUCK asked whether Commissioner Hartig believes the water quality standards will be met by 2014 when the Science Advisory Panel ceases, or will the cruise ship industry be meeting standards that will be good enough.

COMMISSIONER HARTIG replied that he does not want to predict where the technology, or the technology that could be employed, will be in 2014. Even if the technology becomes available in 2012, it will still take a period of time to purchase, fabricate, and install the equipment, all of which must be done around the cruise season. He said he thinks the ships will continue to advance and be closer if not there, but he is unable to speculate whether they will be able to meet all water quality criteria at the end of the pipe by 2014. The science panel could be extended if needed, but by that time it is likely that everything that needs to be known about treatment systems for cruise ships will be known.

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REPRESENTATIVE TUCK inquired how DEC will ensure that the standards are eventually met if they have not yet been achieved by the time the Science Advisory Panel is sunsetted.

COMMISSIONER HARTIG stated that DEC could convene another technology conference if it sees the need. He pointed out that this is what DEC did with the February 2009 conference - there was no statute that required DEC to hold that conference. He said he thought that the panel and a 2014 report would give comfort to the legislature and others that DEC was making a concerted effort to reach the mandated standards as much and as quickly as possible. At that point, the legislature can extend the panel if it thinks the benefits from such a panel have not been exhausted. Once the panel is no longer there does not mean that DEC will stop trying to advance the wastewater treatment.

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REPRESENTATIVE WILSON reviewed the timeline that Commissioner Hartig had previously outlined and surmised that this would not give DEC enough time to act if changes needed to be made because there had not been enough progress.

COMMISSIONER HARTIG answered correct.

REPRESENTATIVE WILSON said this makes sense to her.

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REPRESENTATIVE EDGMON interpreted Amendment 5 to mean that after five years there is a mandate for the legislature to take action, whether it is no action or some type of action. He

understood the commissioner to be saying that he cannot tell for certain that the standards will be achieved after five years.

COMMISSIONER HARTIG said correct. The department will push this technology as hard as it can and it is DEC's hope that in five years, when the next five-year permit is issued, the technologies will have been identified that would achieve the water quality standards at the point of discharge for all pollutants. If all of the companies had not already employed the technology at that time, then a compliance schedule would be put in the permit that is issued in 2014.

REPRESENTATIVE EDGMON remarked that he does not have a clear picture because he is hearing two different things - assurance that the developing technology is coming along such that it could be in place, yet there is hesitation that five years from now that technology may not be available. In addition, there is the term economically feasible in the bill. Therefore, he said this does not line up for him to be able to have a reasonable interpretation of the impact of Amendment 5.

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CO-CHAIR NEUMAN asked whether Commissioner Hartig believes DEC will get spread too thin trying to deal with so many permits and conferences for an issue that may not really require this much attention since it is parts per billion and DEC has many other important issues that it must also deal with.

COMMISSIONER HARTIG responded that DEC will follow whatever the legislature directs. Only a handful of contaminants are not yet meeting the at-the-point-of-discharge requirement, he pointed out. At the February 2009 conference, some vendors expressed optimism for ammonia, but that same optimism was not there for the metals. For copper, what is being talked about is in the parts per billion. The vendors at the conference were for particular models of pollution reduction equipment, and those models may not fit on all ships. Some ships may already have a different system with a different vendor and the question is whether that ship would be required to scrap that system and put in a whole new system from a different vendor that might only get a few parts per billion more. He said he is worried about setting iron-clad requirements based on general statements that everything is going to be fine in two years. The department wants to be aggressive, but the question is how aggressive DEC should be when something is already this close with no risk of environmental harm in the meantime. In further response,

Commissioner Hartig said the vendors at the conference were not signing contracts guaranteeing they would have systems for the ships that would meet the water quality criteria. If such contracts were in place, he said he would have more confidence.

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REPRESENTATIVE SEATON argued that if Amendment 5 is not included, then the legislature, through the proposed new subsection (e) to AS 46.03.462, is permanently overriding the statute that requires an end-of-the-pipe measurement of these discharges. This end-of-the-pipe standard is what is being exceeded under subsection (e), he pointed out. In response to Co-Chair Neuman, he said Amendment 5 directs that in five years the end-of-the-pipe standard will be back in place and the legislature must deal with it.

CO-CHAIR NEUMAN disagreed that this is all that Amendment 5 would do.

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REPRESENTATIVE TUCK understood Amendment 5 to mean that if the end-of-the-pipe standards are being met in five years, there will be no need for the Science Advisory Panel and no need for the legislature to do anything. If the standards are not being met at that time, then the legislature can decide what to do based on the information in DEC's reports. He said he thinks this is a fair amendment.

REPRESENTATIVE OLSON commented that it looks to him like micro-management and he does not want to go down this path.

REPRESENTATIVE TUCK disagreed that this is micro-management, saying that what is being proposed is a method of relief if the initiative's standards cannot be met.

CO-CHAIR NEUMAN agreed with Representative Olson and said he thinks the commissioner is expressing concern about being able to do the rest of his job and feels the bill meets the intent of the initiative.

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REPRESENTATIVE EDGMON requested a rebuttal from the maker of the amendment.

REPRESENTATIVE SEATON said the current law requires that the point of discharge be the point of measurement. Amendment 5 says that relief from this requirement is being given for five years and at the end of the five years this relief goes away. If Amendment 5 does not pass, then members are saying that this relief goes on forever because the exception under proposed subsection (e) to AS 46.03.462 will continue to be in place and the department could continue to issue permits that are less stringent than the water quality standards currently imposed in statute from the initiative. Amendment 5 is saying that if the standards cannot be met at the end of the five years, then it must be brought back to the legislature.

CO-CHAIR NEUMAN pointed out that the commissioner has said the statute cannot be met because the technology is not there and that the measurements are in parts per billion.

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REPRESENTATIVE EDGMON presented a scenario in which Amendment 5 does not go into effect and the legislature does not take action in 2014 to ensure that the standards of the initiative are reached. Could a third party then force this issue through the courts and put everybody in a bind, he asked.

COMMISSIONER HARTIG understood that if the proposed new subsection (e) to AS 46.03.462 sunsets and the cruise companies are unable to meet all the criteria at the point of discharge in 2014, there is a provision in the statute established by the initiative that allows citizens to file suit even if DEC were to give the cruise ships a further break.

REPRESENTATIVE WILSON offered her opinion that the proposed new subsection (f) to AS 46.03.462 under Section 3 would require DEC to do what members want the department to do.

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REPRESENTATIVE EDGMON asked how the term economically feasible, as written on page 3, line 1, ties into the initiative given that economic feasibility was not part of the initiative.

COMMISSIONER HARTIG related that the initiative language says the cruise ships must meet all water quality criteria at the point of discharge and did not speak one way or the other to technology. He presumed that the initiative's assumption was

that the technology existed or that the cruise ships would not discharge in Alaska.

REPRESENTATIVE EDGMON surmised that the term economically feasible comes from DEC.

COMMISSIONER HARTIG said the term is standard language that is not unique to the cruise industry; the term is applied to every other context. For example, he explained, if there were other dischargers in the state that were subject to water quality criteria at the point of discharge and they could not meet the criteria, the department would look at economic feasibility along with several environmental factors to determine how the discharger could be given a break. At a minimum, DEC would still require the discharger to use the most effective treatment technology that is technologically and economically feasible.

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REPRESENTATIVE SEATON inquired whether DEC could issue a permit in 2020 that does not meet the initiative's end-of-the-pipe standard if Amendment 5 fails to pass.

COMMISSIONER HARTIG answered that that would be correct, but only if in 2020 it could be shown to the department's satisfaction that the discharger is using the most effective technology that is technologically and economically available. He pointed out that this is one requirement among others that are already in state statute. Even if that level of technology was being achieved, if there were still environmental risks, DEC would not allow it. So it is not a free card because there are still many requirements that must be met.

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REPRESENTATIVE WILSON asked whether a waiver could be issued in 2020 if the technology is available.

COMMISSIONER HARTIG said no, all water quality criteria would have to be met at the point of discharge. This is the current state requirement for all dischargers; it is not unique to cruise ships. Whether it is an oil, gas, mining, or water treatment company, the at-the-point-of-discharge requirement should be met. However, the technology does not always exist for this or it is not economically feasible. He noted that DEC does not require fishing boats to meet all water quality criteria, but if the department did do this, then it would

presumably give the fishing boats a break if there was no technology that all fishing vessels could use to meet the criteria. But, once that technology existed, DEC would require fishing boats to have it.

REPRESENTATIVE WILSON inquired whether DEC will be following up with this on all of the cruise ships.

COMMISSIONER HARTIG replied yes, the existing permit has a host of monitoring and reporting requirements. Failure to meet the requirements is a violation of the permit and an enforcement action would be taken.

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CO-CHAIR JOHNSON asked whether fishing boats are required to have a discharge permit.

COMMISSIONER HARTIG responded that at this point they do not. The Environmental Protection Agency (EPA) was sued several years ago for not requiring discharge permits, primarily relating to ballast water, he said. The federal court ruled that a permit was needed for all vessels, but last year Congress passed an act giving an exemption to commercial ships less than 79 feet in length. This exemption applies to approximately 14,000 private vessels in Alaska. The EPA went out with a general permit for the larger commercial vessels. In further response, Commissioner Hartig explained that, technically, vessels discharging pollutants in the waters of the United States should have a permit. However, small private watercraft and fishing vessels are exempted under federal law.

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CO-CHAIR JOHNSON inquired whether the state can restrict that discharge in state waters despite the federal exemption.

COMMISSIONER HARTIG said a separate state requirement could be created, but by no means is he suggesting this.

CO-CHAIR JOHNSON remarked that 14,000 vessels would put out a lot of bilge and other wastewater, as do the state ferries. He said he is all for clean water, but it seems to him that one industry is being singled out.

COMMISSIONER HARTIG agreed that there are a number of discharges that are exempted already and for those there is not any technology or requirements.

CO-CHAIR JOHNSON asked whether treatment technology exists in the market today for these exempted vessels.

COMMISSIONER HARTIG answered that if DEC were to do something for a situation of high numbers of recreation boats, it would be more along the line of adopting regulations for best management practices rather than issuing a permit for each vessel. This is what DEC does for analogous situations, he added.

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CO-CHAIR JOHNSON reiterated that it seems to him a single industry is being singled out on a parts per billion issue while a bigger water pollution culprit is being ignored. He asked whether the commissioner agrees.

COMMISSIONER HARTIG stated that no comparison has been done so he does not have a basis from which to offer an opinion.

REPRESENTATIVE WILSON commented that there are communities in Alaska that have no standards put upon them and Anchorage is one of them. She cited information from her committee packet that states the discharge from Anchorage is the same as 251 large cruise ships every day. She urged that the committee concentrate on what is in HB 134 for now because the issue is too far reaching to consider the other tangents.

CO-CHAIR JOHNSON countered that clean water is what HB 134 is looking at. If the committee is talking about clean water in parts per billion, then maybe this should be broadened out to include all of these other things. He said picking on one industry is where he has a problem. If the issue is clean water then that is what should be addressed and one industry should not be singled out, especially an industry that is working hard to address the issue while other industries are getting waivers.

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CO-CHAIR NEUMAN inquired whether the metals being discharged from the cruise ships are coming from the drinking water that is supplied to the vessels by Alaska communities.

COMMISSIONER HARTIG replied that the department is trying to address this question by requiring the cruise ships to conduct source reduction evaluations. Municipal drinking water is one of several suspects, he said. One suspect is the bunkered water sitting for a length of time onshore in copper pipes before it is brought onto the ship. In other instances the piping in the vessels is contributing the metals. In those cases where a vessel's metal piping was replaced with plastic piping, a reduction in metals was seen. In further response, Commissioner Hartig agreed that DEC will be continuing to look at this through the source reduction evaluations.

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REPRESENTATIVE WILSON maintained her objection to Amendment 5.

A roll call vote was taken. Representatives Tuck, Seaton, Guttenberg, and Kawasaki voted in favor of Amendment 5. Representatives Wilson, Olson, Edgmon, Neuman, and Johnson voted against it. Therefore, Amendment 5 failed by a vote of 4-5.

CO-CHAIR NEUMAN announced that Version C of the bill, as amended, was now before the committee.

CO-CHAIR JOHNSON moved to report Version C of HB 134, labeled 26-LS0570\C, Bullard, 3/26/09, as amended, out of committee with individual recommendations and the zero fiscal note. There being no objection, CSHB 134(RES) was reported out of the House Resources Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 7:53 p.m.