

SENATE FINANCE COMMITTEE
February 8, 2013
9:01 a.m.

[9:01:21 AM](#)

CALL TO ORDER

Co-Chair Meyer called the Senate Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Senator Pete Kelly, Co-Chair
Senator Kevin Meyer, Co-Chair
Senator Anna Fairclough, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Donny Olson

MEMBERS ABSENT

Senator Lyman Hoffman

ALSO PRESENT

Lynn Kent, Deputy Commissioner, Department of Environmental Conservation; Michelle Bonnet Hale, Director, Water Quality Division, Department of Environmental Conservation.

SUMMARY

HB 80 CRUISE SHIP WASTEWATER DISCHARGE PERMITS

HB 80 was REPORTED out of committee with "no recommendation" and with one previously published zero fiscal note: FN1 (DEC).

#hb80

HOUSE BILL NO. 80

"An Act relating to the regulation of wastewater discharge from commercial passenger vessels in state waters; and providing for an effective date."

9:01:54 AM

Co-Chair Meyer discussed that there had been a significant amount of public testimony and communications on HB 80. An opinion letter from the Department of Fish and Game had been added to members' files (copy on file). He asked the Department of Environmental Conservation (DEC) to address the committee.

9:03:13 AM

LYNN KENT, DEPUTY COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, did not have additional comments; she was happy to answer any questions.

Co-Chair Meyer asked for an explanation of DEC's zero fiscal note. Ms. Kent replied that the permitting regime changes did not financially impact DEC. She explained that when HB 134 had passed in 2009 the department had not requested funding for the creation of the science advisory panel. She relayed that DEC was looking forward to returning to its work that had been deferred to accommodate the panel.

Co-Chair Meyer queried whether DEC asked permit applicants if they were using the latest technology. Ms. Kent replied in the affirmative.

Co-Chair Meyer asked for confirmation that permit applicants should use the latest technology. Ms. Kent answered in the affirmative.

Senator Olson asked whether there were any studies that had been done on the effects of copper on salmon migration. He recalled that DEC had testified that there were no known studies on copper's impact on fish.

Ms. Kent replied that DEC's water quality standards for copper included standards for acute and chronic affects; the standards were adopted based on Environmental Protection Agency (EPA) criteria. The criteria were developed subsequent to many studies on the effects of copper in fresh and marine waters. She stressed that DEC's standards were based on a significant number of marine water toxicity tests. The lack of studies for marine water was related to behavioral effects that had been observed in a couple of fresh water studies; researchers on the fresh

water study indicated that the data could not be extrapolated to marine waters. She understood that an additional study was underway related to behavioral affects in marine waters; DEC would review the study when it became available to determine whether it would drive a change to water quality standards.

[9:07:18 AM](#)

Senator Olson referred to prior testimony by Dr. Koski [Salmon Biologist, Juneau] who had mentioned a report on copper and salmon by Dr. Carol Ann Woody and other. He asked if there was a lack of validity to the studies that had been underway for years.

Ms. Kent responded that Dr. Koski had referred to a National Oceanic and Atmospheric Administration (NOAA) study by Nathaniel Scholz. She quoted from the study: "The extent to which our results can be extended to fishes in estuaries or salt water is less clear." She furthered that chemical and physiological reasons were listed by the researcher. She noted that the report recommended additional studies using seawater acclimated fish because the application of the freshwater studies was not clear. The department was not disputing the freshwater work, but there was currently no research or data to drive any changes to the state's marine criteria for copper.

Senator Olson wondered why the law should be changed if there was no conclusive evidence [on the impact of copper on salmon]. Ms. Kent answered that the water quality standards were a different set of regulations and issues from permitting and what was covered under HB 80.

[9:08:53 AM](#)

Vice-Chair Fairclough noted that Senator Olson had covered most of the responses included in the DFG letter. She referred to an email received by members that referenced the use of a preliminary report. She asked why the report was called "preliminary."

Ms. Kent responded that the law requiring a report is a report by the department to the legislature; the law spoke to a preliminary and final report based on timing. She elaborated that DEC provided a preliminary report in January 2013 and would provide a final report in two years.

She furthered that the science advisory panel had elected to provide its advice to DEC in a report and had used "preliminary" as its report name as well. She emphasized that the word preliminary should not be confused with the word "draft." The panel had gone through multiple drafts and had submitted a final report that provided a thorough analysis of current, new, and emerging technologies.

Vice-Chair Fairclough pointed to the removal of one person from the scientific advisory panel. She asked if the person had testified the prior day. Ms. Kent replied in the negative.

Vice-Chair Fairclough asked whether the selection of members had been based on geographic diversity, expertise, or both. Ms. Kent responded that the panel had been made up of both; the goal had been to include experts to help with the analysis of technology.

Vice-Chair Fairclough asked why one person had not been moved forward for inclusion on the panel. She stated that the person's removal had caused speculation that the panel's information may be biased.

Ms. Kent answered that there had been a long list of applicants for the advisory panel. One applicant had been considered as a candidate, but there had been concern that he may have been too strong an advocate due to his backing of a citizen's initiative that had passed in 2006. The goal had been to include people with expertise in wastewater discharge treatment facilities specifically related to their applicability on cruise ships.

[9:12:24 AM](#)

Vice-Chair Fairclough communicated that committee members had received emails stating that some systems removed copper or metal products better than others; however, the panel's report indicated that a single advanced treatment system was not able to meet all of the quality standards. She asked if the report's statement on the issue was true.

Ms. Kent answered that there was not any single vessel that consistently met all of the standards.

Vice-Chair Fairclough asked about Alaska's level of water quality standards in comparison to other locations. Ms.

Kent assumed Vice-Chair Fairclough was referring to the state's water quality standards as opposed to discharge standards and permitting. She replied that Alaska's water quality standards were primarily derived from the EPA and EPA studies.

Vice-Chair Fairclough pointed to language marked for removal in the legislation: "If the keel of the vessel was laid before January 1, 2004" (Section 2, lines 12 and 13). She asked why the administration believed the removal of the language was important.

Ms. Kent replied that the original intent of the language was to provide relief to small commercial passenger vessels that had been in operation and to push new small vessels to meet the same point of discharge requirements; however, DEC did not believe any vessels could meet the standards given the results of the science advisory panel and DEC's analysis of technology.

[9:15:20 AM](#)

Vice-Chair Fairclough observed that the issue was heartfelt and very important to many communities. She pointed to a fear by communities that the bill would lower water quality standards or allow sewage to be dumped along coastlines and in waters where fish would be harmed. She stated that the science panel did not reflect the comments. She remarked that it did not appear that anything would change; permits were issued because advanced waste water treatments could not currently provide the desired outcome on a ship. She continued that there was emerging technology on land that proposed to take out copper and nickel in the future. She asked for a comment on the issue.

Ms. Kent answered that the passage of HB 80 would not permit cruise ships to make any changes to their current treatment practices. She added that the ships treated to a high level.

Vice-Chair Fairclough asked if DEC had the resources to continue water quality testing to ensure the safety of Alaska's waters. Ms. Kent affirmed that the program was sufficiently funded.

Senator Olson referred to prior discussions about amending the bill's effective date to 2020. He wondered if the state

would be adversely impacted if the effective date was pushed out to 2020.

[9:17:48 AM](#)

Ms. Kent asked for verification that Senator Olson wondered what would happen if the requirement to all water quality standards at the point of discharge was extended until 2020.

Senator Olson replied in the affirmative. Ms. Kent believed that in a few years DEC would present similar concerns that vessels could not meet the stringent requirements for the last four parameters in a few years.

Senator Olson asked for confirmation that there would be no ill effects to Alaska, the industry, or to residents if the effective date was amended to 2020. Ms. Kent answered that the industry needed a significant amount of lead time to plan its routes and itineraries; a delay would continue to put industry in a bind. She surmised that the cruise industry could provide a more detailed answer.

Senator Olson remarked that he did not realize the industry was in a bind. Ms. Kent answered that without changes to the current law the point of discharge requirements would take effect in three years; companies were beginning to plan itineraries for that time period.

Co-Chair Kelly asked whether fishing boats had to meet the same standards as cruise ships. Ms. Kent replied in the negative. Co-Chair Kelly asked whether boats in the Juneau harbors had to meet the standards. Ms. Kent responded in the negative. Co-Chair Kelly asked if coastal communities were held to the standards. Ms. Kent answered in the negative.

Co-Chair Kelly opined that communities should be looked at if the concern was about pollution in Alaska's waters. He asked for verification that communities and boats engaged in commerce in Alaska were discharging pollution at a higher rate than cruise ships. Ms. Kent answered that waste water mixing zones were allowed, but the water was required to be treated beforehand.

[9:20:24 AM](#)

Senator Dunleavy referred to prior public testimony by Mr. Thoma. He asked for confirmation that the testifier was satisfied with everything except for 4 issues in several ships including zinc, copper, ammonia, and other.

Ms. Kent answered that the large commercial passenger vessels were meeting all of the water quality standards at the point of discharge with the exception of ammonia, copper, nickel, and zinc.

Senator Dunleavy wondered whether smaller boats, harbors, or other were monitored to the extent that the cruise ships were monitored. Ms. Kent deferred the question to her colleague.

MICHELLE BONNET HALE, DIRECTOR, WATER QUALITY DIVISION, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, answered that there were several permits covering smaller vessels. There was a sampling requirement of twice per year for the small commercial passenger vessel permit and the best management practices plan. There were also U.S. Coast Guard requirements that were oriented towards best management practices for small vessels. Additionally, there was an EPA vessel general permit that had some sampling requirements, but the requirements did not typically apply to smaller vessels.

[9:23:11 AM](#)

Co-Chair Kelly MOVED to REPORT HB 80 out of committee with individual recommendations and the accompanying fiscal note.

HB 80 was REPORTED out of committee with a "no recommendation" and with one previously published zero fiscal note: FN1 (DEC).

Co-Chair Meyer discussed the schedule for the following week.

ADJOURNMENT

[9:25:03 AM](#)

The meeting was adjourned at 9:25 a.m.