

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 11, 2020

3:01 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair
Representative Grier Hopkins
Representative Andi Story
Representative Steve Thompson
Representative Sarah Vance
Representative Laddie Shaw

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Sara Hannan

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 182

"An Act relating to testing of sexual assault examination kits;
and providing for an effective date."

- MOVED CSSSHB 182 OUT OF COMMITTEE

HOUSE BILL NO. 74

"An Act repealing the ocean rangers program; and providing for
an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 182

SHORT TITLE: SEXUAL ASSAULT EXAMINATION KITS: TESTING

SPONSOR(S): REPRESENTATIVE(S) TARR

01/21/20	(H)	PREFILE RELEASED 1/10/20
01/21/20	(H)	READ THE FIRST TIME - REFERRALS
01/21/20	(H)	STA, FIN
01/27/20	(H)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS

01/27/20 (H) READ THE FIRST TIME - REFERRALS
01/27/20 (H) STA, FIN
02/04/20 (H) STA AT 3:00 PM GRUENBERG 120
02/04/20 (H) Heard & Held
02/04/20 (H) MINUTE (STA)
02/06/20 (H) STA AT 3:00 PM GRUENBERG 120
02/06/20 (H) Heard & Held
02/06/20 (H) MINUTE (STA)
02/11/20 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 74

SHORT TITLE: COMM. VESSEL ENVIRONMENTAL COMPLIANCE/FEE
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/25/19 (H) READ THE FIRST TIME - REFERRALS
02/25/19 (H) STA, RES, FIN
02/11/20 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

JASON BRUNE, Commissioner
Department of Environmental Conservation (DEC)
Juneau, Alaska

POSITION STATEMENT: Presented the committee substitute (CS) for HB 74 on behalf of the House Rules Committee by request of the governor, with the use of a PowerPoint presentation.

EMMA POKON, Assistant Attorney General
Environmental Section
Civil Division
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Provided a sectional analysis and answered questions during the hearing on CSHB 74.

ACTION NARRATIVE

[3:01:49 PM](#)

CO-CHAIR ZACK FIELDS called the House State Affairs Standing Committee meeting to order at 3:01 p.m. Representatives Vance, Shaw, Hopkins, Story, Thompson, Fields, and Kreiss-Tomkins were present at the call to order.

HB 182-SEXUAL ASSAULT EXAMINATION KITS: TESTING

[3:02:21 PM](#)

CO-CHAIR FIELDS announced that the first order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 182, "An Act relating to testing of sexual assault examination kits; and providing for an effective date."

[3:03:04 PM](#)

CO-CHAIR KREISS-TOMKINS moved to adopt the committee substitute (CS) for SSHB 182, Version 31-LS1188\U, Radford, 2/6/20, as the working document. There being no objection, Version U was before the committee.

[3:03:29 PM](#)

The committee took a brief at-ease.

[3:03:40 PM](#)

CO-CHAIR KREISS-TOMKINS moved to report the CS for SSHB 182, Version 31-LS1188\U, Radford, 2/6/20, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSSHB 182(STA) was reported from the House State Affairs Standing Committee.

[3:04:07 PM](#)

The committee took an at-ease from 3:04 p.m. to 3:06 p.m.

HB 74-COMM. VESSEL ENVIRONMENTAL COMPLIANCE/FEE

[3:06:35 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be HOUSE BILL NO. 74, "An Act repealing the ocean rangers program; and providing for an effective date."

[3:07:35 PM](#)

JASON BRUNE, Commissioner, Department of Environmental Conservation (DEC), on behalf of the House Rules Committee by request of the governor, presented the committee substitute (CS) for HB 74, with the use of a PowerPoint presentation, entitled "CSHB74 Cruise ship Environmental Monitoring." [CSHB 74 was subsequently adopted as the working document by the committee.]

COMMISSIONER BRUNE relayed that his intent is to develop a program that is a new, improved, and modernized approach to the Ocean Ranger Program, which was established via the [voter-approved Ballot Measure 2] initiative process about 12 years ago [2006]. He began with slide 2, entitled "A Modernized Approach," which read:

- This bill clarifies that the cruise industry will be regulated in a similar manner to other industries
- Existing statutes limit DEC's ability to effectively monitor cruise ship emissions and discharges
- This CS maintains DEC's current authority and adds flexibility for how it is used

REPRESENTATIVE STORY asked for an example of how DEC regulates another industry.

COMMISSIONER BRUNE answered that most industries get one inspection per year. The wastewater treatment facilities for local communities, the oil and gas industry, the mining industry, and the fishing industry all have one or maybe two inspections annually. They do not have 24/7 monitoring or even 75 percent or 50 percent monitoring at their facilities.

CO-CHAIR KREISS-TOMKINS pointed out that in the industry of commercial fishing, there is 100 percent observer coverage, and there may be parallel examples of regulatory oversight in some of the other industries mentioned.

COMMISSIONER BRUNE responded that [for fishing vessels] there is coverage for counting fish but not for every environmental discharge or other regulatory oversights. It is for counting species and for counting the numbers, sizes, and total biomass.

COMMISSIONER BRUNE stated that when the initiative was passed, it required 100 percent coverage on each cruise ship; the 100 percent coverage was never met. He moved to slide 3, entitled "Current Program Challenges and Inefficiencies," which read:

- There were typically 22 ocean rangers on vessels throughout a summer season
- Ocean rangers performed in-port and underway observations

- DEC staff spent majority of time going through ocean ranger reports
- Ocean rangers looked for potential non-compliance with marine discharge and pollution requirements and to ensure proper sanitation, health, and safety practices for passengers and crew
- Ocean rangers were observers, not inspectors, and passed concerns to DEC for further investigation

CO-CHAIR FIELDS expressed his understanding that DEC's interpretation of the statute is that each vessel needs at least one inspection per year to achieve 100 percent coverage under the law. He asked how many sailings have Ocean Ranger coverage.

COMMISSIONER BRUNE replied that approximately 60-70 percent of vessels currently have Ocean Ranger coverage in any given season. He reiterated that the Ocean Rangers were observers not inspectors, therefore, would pass their daily reports onto DEC staff.

[3:12:54 PM](#)

COMMISSIONER BRUNE referred to slide 4, entitled "Current Program Challenges and Inefficiencies," which read in part:

- Over 12 years, DEC has spent roughly \$40 million on the ocean ranger contract. During that time, six of the DEC issued notices of violation (NOVs) were attributable to ocean ranger observations

COMMISSIONER BRUNE added that the six violations attributable to the Ocean Ranger Program were out of a total of 264 notices of violations. He suggested that if the program were funded through general fund (GF), it would have been eliminated years ago. It is funded through the \$5 per lower berth fee. He asked, "Is that money well spent?" He mentioned that most of the violations are either observations and violations detected by DEC staff or self-reported by the industry itself.

COMMISSIONER BRUNE reviewed slide 5, entitled "CS Bill Overview," which read:

- Simplified fee structure
- Moving detailed statutes to regulation

- Incorporating technology
- Updating wastewater systems in port communities through a grant or loan program

REPRESENTATIVE STORY referred to the report of six NOVs attributed to the Ocean Ranger Program and suggested that the presence of oceans rangers on board vessels may have contributed to best practices.

COMMISSIONER BRUNE answered that he agrees with that perspective to some extent; however, he said that if a company wished to commit a nefarious act, it could do so, regardless of an Ocean Ranger being on board. The Ocean Rangers do not work 24 hours per day and are busy with other duties at times. He offered that proposed under CSHB 74, there would be announced and unannounced inspections, which would have a deterrent effect similar to 24-hour coverage.

[3:16:06 PM](#)

COMMISSIONER BRUNE turned to slide 6, entitled "Current Fee Structure," and slide 7, listing the ten components of the fee structure under AS 46.03.480(b)(1)-(10). He offered that it is confusing how the fee structure is assessed. The fees are assessed based on the number of lower berths; for example, the charge is "\$175 for a commercial passenger vessel with overnight accommodations for at least 100 but not more than 249 passengers for hire" [AS 46.03.480(b)(2)]. Under CSHB 74, there would be a \$4 per berth fee to pay for the Ocean Rangers for large vessels and \$1 per berth fee for the Commercial Passenger Vessel Environmental Compliance (CPVEC) Program. It would result in a simplified \$5 per berth fee.

COMMISSIONER BRUNE continued with slide 8, entitled "Proposed Fee Structure," which read:

- New fee would take effect in 2021 cruise season
- All vessels over 50 berths pay \$5 per berth
 - Large vessels pay roughly the same, small vessels will see an increase in fees and an increase in oversight

- The fee would be reduced by \$1 per berth for any ship that maintains a DEC-approved electronic wastewater monitoring system

COMMISSIONER BRUNE added that the intent of the proposed legislation is to have a \$5 per berth fee put into the CPVEC fund.

REPRESENTATIVE STORY referred to the increase in fees for the small vessels, mentioned on slide 8, and asked for the fee amount.

COMMISSIONER BRUNE responded that the fee would depend on the number of voyages of the vessel; it would be a \$5 per berth fee, which is currently not paid. He said, "If they weren't assessed it, and there [were] a hundred berths on the ship, it would be a \$500 per voyage additional cost for that vessel." He added that many of the smaller vessels are luxury vessels. He estimated the full increase in cost for the smaller vessels over the course of a full season to be about \$60,000.

CO-CHAIR FIELDS asked whether the vessels discussed are overnight vessels.

COMMISSIONER BRUNE answered yes. He confirmed that the small boats used for day excursions are not included.

COMMISSIONER BRUNE reviewed slide 9, entitled "Staying Current with Technology and Environmental Standards," which read:

- This CS removes sections of statute that are overly detailed and do not allow for changing technology and environmental standards
- Requires DEC write regulations that address the items removed from statute
- Putting requirements in regulation allows DEC to respond to future improvements in waste treatment and monitoring technologies
- New technology could provide for 24/7 electronic monitoring of ships' discharge ports

CO-CHAIR FIELDS asked whether the proposed legislation would either allow DEC to perform the monitoring or to hire a

contractor to perform the monitoring with oversight by the department.

COMMISSIONER BRUNE answered, "Yes, that is correct."

[3:20:56 PM](#)

COMMISSIONER BRUNE relayed, "I have often said that ... we should have the highest of environmental standards, and indeed we do have the highest of environmental standards in the world, in Alaska, and I'm very proud of that." He continued by saying that Alaska should not only hold industry to a high standard but should hold itself to that same high standard. He referred to slide 10, entitled "Water Quality Improvements," which read:

- Part of the fees will be used to upgrade wastewater treatment facilities in port communities
- Large cruise ship permit allows up to 40 fecal colony forming units per 100 ml
- Local waste water treatment facility permit allows up to 1.5 million fecal colony forming units per 100 ml.
- Many of the over one million yearly cruise ship passengers will use on-shore restrooms when visiting Alaska ports

COMMISSIONER BRUNE emphasized that he is not suggesting that cruise ships should be allowed to discharge 1.5 million fecal coliforms. He said he is suggesting that Alaska should do everything in its power to bring the local communities up to the high standard that the cruise industry is already meeting. He pointed out that many of the cruise ship passengers use onshore restrooms; and many of Alaska's communities were not built to accommodate the large number of visitors. He maintained that he is proposing through the legislation to use some of the funds to upgrade the local wastewater systems.

COMMISSIONER BRUNE continued with slide 11 and explained that under the Federal Clean Water Act is the 301(h) waiver [allowing municipalities to discharge wastewater with less than full secondary treatment as required by law]; the Environmental Protection Agency (EPA) oversees wastewater discharge from communities with the 301(h) waiver. He pointed out that the communities of Sitka, Skagway, and Ketchikan may still discharge

up to 1.5 million fecal coliforms per 100 milliliters (ml) of water.

CO-CHAIR FIELDS asked whether the communities listed were the only ones with the waiver.

CO-CHAIR FIELDS replied that that the list [on the slide] was selective of those communities that are visited frequently by cruise ships. He added that there are communities with 301(h)-like waivers.

CO-CHAIR FIELDS asked whether Hoonah has a waiver.

COMMISSIONER BRUNE said that Hoonah is not on the list of communities with 301(h) waivers.

REPRESENTATIVE STORY asked for confirmation that the intent of the proposed legislation is to maintain the large cruise ship permit allowing up to 40 fecal colony [forming units per 100 ml].

COMMISSIONER BRUNE emphasized that under the proposed legislation, there would be no change in the requirements. The intent is to bring the wastewater discharge of the local communities up to a level better for the environment.

[3:24:44 PM](#)

COMMISSIONER BRUNE reviewed slide 12, entitled "2020 Cruise Ship Season," which read:

- Marine engineers (DEC staff and contractors) will perform initial and annual inspections on ships operating in Alaska as early in the season as possible
- Marine engineers and/or DEC inspectors will perform both random and targeted inspections in-port and underway

CO-CHAIR KREISS-TOMKINS asked for the scope of expertise of a marine engineer. He asked, "What is a marine engineer in the context of cruise ship wastewater compliance?"

COMMISSIONER BRUNE relayed that marine engineers have extensive experience on boats; they have extensive training and special classification and certification. The engineer looks at the

"as-built" of a ship and confirms that it has everything as purported. He offered to provide more information.

CO-CHAIR FIELDS asked for information on practices in other states with extensive cruise ship visitations - including enforcement regimes, workforce, and operations.

COMMISSIONER BRUNE committed to providing the information requested. He reiterated that Alaska has some of the highest environmental standards in the world with its current program. He said that the administration commits to maintaining that standard with the proposed legislation.

CO-CHAIR FIELDS asked about the available workforce for the positions needed and the timeline for hiring.

COMMISSIONER BRUNE responded that one reason only three or four of the current Ocean Rangers are Alaskans is because it is a highly technical, highly qualified workforce; there are not many in Alaska. He said that his thought is to bring on one additional marine engineer to work for DEC, therefore, having two of them, and the other hires would be inspectors. When DEC needs engineers early in the season, it would contract for them. For future years, it may be a seasonal position or a contractor.

[3:29:02 PM](#)

COMMISSIONER BRUNE reviewed slide 13, entitled "2020 Cruise Ship Season," which read:

- DEC Inspection, Monitoring, and Compliance
 - 4 new DEC positions
 - 10 DEC staff available for the cruise ship season to review reports and conduct in-port and underway inspections, compliance and enforcement actions
 - Inspections will be random and targeted

COMMISSIONER BRUNE added that inspections would be announced as well as unannounced.

REPRESENTATIVE STORY asked where the four new DEC positions would be based.

COMMISSIONER BRUNE responded that he expects that during the cruise ship season the positions would be based predominantly in Southeast Alaska; the rest of the year the inspectors would have other duties. He mentioned that the cruise ships visit Homer, Anchorage, and Dutch Harbor; therefore, the focus for inspection cannot be only in Southeast Alaska waters; to be "random and targeted" the inspectors must show up at all ports of call. He expressed that he did not know exactly where they would be based.

REPRESENTATIVE SHAW asked whether the Alaska Marine Highway System (AMHS) must meet the same environmental oversight requirements as the cruise ship industry. He mentioned that AMHS transports people similarly to what the cruise ships do.

COMMISSIONER BRUNE answered yes. They are required to meet the same standards; however, the commissioner of DEC and the commissioner of the Department of Transportation & Public Facilities (DOTP&F) are afforded the flexibility to negotiate the cost charged per berth for the ferries, and that negotiated fee has been zero; under CSHB 74, that process would remain as it.

CO-CHAIR KREISS-TOMKINS recalled legislation from a previous legislative session exempting small commercial passenger vessels from wastewater discharge requirements.

COMMISSIONER BRUNE stated he is not aware of the legislation. He opined that state ferries should be held to the same standard as industry and as local communities; all entities should adhere to the state's environmental standard.

CO-CHAIR FIELDS asked for more information on the industry trend of small luxury cruise ships coming to Alaska and whether DEC is addressing this trend through its monitoring program.

COMMISSIONER BRUNE responded, "Absolutely." He said that is one of the reasons that inspections of smaller vessels would be incorporated into DEC's regime. He acknowledged that accumulatively these vessels can have a significant impact; therefore, oversight is necessary.

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COMMISSIONER BRUNE turned to slide 14, entitled "Additional Changes," which read:

- Repeals and re-enacts 46.03.482(c) addressing fee schedule for State of Alaska vessels
- Repeals citizens' suits
- Conforming changes

COMMISSIONER reviewed the information on slide 15, entitled "Effective Dates," as follows: If CSHB 74 is enacted into law, immediately or retroactively to April 1, 2020, the Ocean Ranger Program would be repealed, and the fees applied to DEC's activities. The current [Ocean Ranger Program] contract is \$3.5 million annually; it has brought in about \$40 million since inception; the funds would be transferred to DEC for its activities. On January 1, 2021, the \$5 fee would be in place and the new regulations would be in place.

CO-CHAIR FIELDS expressed an interest in hearing from the department in the future about whether the inspection regime is maintaining an equivalence with the Ocean Ranger regime in terms of number of vessels inspected and number of sailings [inspected], so that the public has confidence that the coverage is continuing.

COMMISSIONER BRUNE responded that ten DEC staff would be committed to doing inspections and would inspect every vessel early in the season. He offered to report to the legislature on the number of ships inspected to determine whether that number meets the legislature's expectations.

CO-CHAIR KREISS-TOMKINS referred to slide 14 and asked for an explanation of "citizen's suits."

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EMMA POKON, Assistant Attorney General, Environmental Section, Civil Division, Department of Law (DOL), responded that currently AS 46.03.481 provides for citizens' suits, whereby any member of the public can bring a lawsuit against the owner or operator of a cruise ship or against the department for failing to perform an act or duty that the public member determines should have been performed. She maintained that under the proposed legislation, DEC would have the flexibility to decide how to approach any violation that occurs and the best course of action with respect to enforcement.

CO-CHAIR KREISS-TOMKINS asked whether that provision in the law has ever been employed by an aggrieved citizen.

MS. POKON answered, "Not to my knowledge."

COMMISSIONER BRUNE reviewed slide 16, entitled "Fiscal Impacts," which read:

- Revenue: Large ships see little change, fees go up for small vessels in 2021
- Contract for marine engineer inspections will be considerably lower than for Ocean Rangers
- Attached fiscal note includes expenditure authority for the 2020 cruise season.
- Personal services and other support costs for four new positions add to DEC's baseline budget
- Expect future capital appropriation in grant authority to improve water quality near communities

COMMISSIONER BRUNE added that inspections would be done on shore and possibly at one consistent location; the contract would be shorter than the full-season marine engineer requirement for Ocean Rangers currently.

CO-CHAIR FIELDS asked for confirmation that there are funds from the Ocean Ranger fees; and under CSHB 74, those funds would be used for the new purposes under the regulatory regime.

COMMISSIONER BRUNE replied, "Absolutely." There is about \$10 million in the fund currently, which would be used for the proposed functions, given spending authority to do so. He restated that \$3.5 million has been collected annually for the Ocean Ranger Program; about \$40 million over 12 years has been spent on the program; CSHB 74 proposes to use the excess funds generated annually - about 50 percent of what is collected from the \$5 per berth fee - for upgrading shore-based wastewater treatment facilities in the communities that are visited by and affected by the cruise ship industry. He maintained that ultimately there would be a significant positive environmental impact on those communities; however, future capital appropriations from the legislature would be required. He maintained that the goal is to have a program like Village Safe Water or the [Clean Water] State Revolving Fund, whereby

communities would need to demonstrate need and financial commitment and work with DEC staff to develop a program to upgrade community wastewater treatment systems.

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COMMISSIONER BRUNE stated:

Our commitment is to making sure that the waters of Alaska are protected; that we are open for business for those companies that are choosing Alaska as a destination; but that we are insuring that our high environmental standards are going to be adhered to by those companies; and putting that authority with DEC staff and DEC inspectors.

COMMISSIONER BRUNE reviewed slide 17, entitled "What Will Not Change," which read:

- DEC's authority to conduct inspections at reasonable times and ability to get a warrant if necessary
- DEC's vessel registration system, which is required for all passenger vessels with over 50 overnight berths.
- Air emission monitoring program
- The large cruise ship wastewater discharge general permit
- The small cruise ship and ferry best management plan requirements
- Sampling or reporting requirements
- What may not be discharged to Alaska's environment

COMMISSIONER BRUNE added that air monitoring would be done by the Division of Air Quality.

CO-CHAIR FIELDS asked to what extent air emissions enter the water.

COMMISSIONER BRUNE answered that different ships have different technologies; some discharge air emissions into the water during

the sulfur conversion process; some use scrubbers [air-emission control equipment] on their smokestacks.

CO-CHAIR FIELDS asked whether air emission discharge into the water is monitored by [Division of Water] staff.

COMMISSIONER BRUNE expressed his belief that the amounts of sulfur discharged into the water is so far below what naturally occurs that the impact is negligible.

CO-CHAIR KREISS-TOMKINS recalled the bill [exempting small commercial passenger vessels from wastewater discharge regulations] - Senate Bill 3 [Thirtieth Alaska State Legislature (2017-2018), signed into law 8/10/17] - which exempts vessels under 250 [passengers]. He asked whether under the proposed legislation there would be any provisions that alter or repeal provisions in law established through Senate Bill 3.

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MS. POKON replied that there are provisions in CSHB 74 that remove detail from statute with the intention of putting that detail into regulations. The intent is not to change provisions in the current scheme but to put them into regulations to allow DEC the flexibility to react to changing circumstances in the future.

CO-CHAIR KREISS-TOMKINS asked whether the proposed legislation would maintain the provisions exempting small vessels from wastewater discharge requirements.

MS. POKON answered that those provisions would be in regulation; DEC would continue to have the authority to distinguish between different classes of dischargers. She said there could be a set of rules applying to large vessels and a set of rules applying to small vessels based on the risks they present. She added that the department can apply the best management practices to the smaller vessels - as is done currently - and continue to require the more robust permit coverage.

CO-CHAIR KREISS-TOMKINS asked about DEC's current air monitoring for cruise ships - programmatically and operationally.

MS. POKON answered that currently the primary air emissions monitoring by DEC uses opacity monitoring [EPA] "Method 9" from shore; in the last couple years ambient air monitors have been

used in a test project. She offered to provide more information on capacity monitoring.

[3:49:14 PM](#)

REPRESENTATIVE HOPKINS asked what Ocean Rangers look at. He asked, "Do they only look at the fecal coliform and the sewage discharge, or do they look at other aspects of the discharge from the cruise ships?"

MS. POKON answered that the Ocean Rangers observed compliance with a variety of federal and state environmental requirements and reported on it. She said that they did not have the authority of a DEC staff person or the expertise of an inspector with respect to collecting evidence or keeping records for enforcement purposes; they were looking more broadly.

COMMISSIONER BRUNE added that Ocean Rangers were looking at pools, nail salons, food distribution areas, and other health and safety practices. He continued by adding to the list: air pollution, oil and fuel, hazardous materials, solid waste, permitted ships, ballast water, wastewater, certificates, safety, health, and sanitation.

REPRESENTATIVE HOPKINS asked whether electronic monitoring was used only for sewage discharge. He asked how other monitoring was performed, such as for diesel dumping.

COMMISSIONER BRUNE said that the emphasis would be on wastewater discharge and other discharges. Air monitoring would continue from shore. The other monitoring comes under other regulatory oversight from the U.S. Food and Drug Administration (FDA) or from other federal entities performing inspection. He expressed his belief that much of what the Ocean Rangers have done was duplicative. The focus would be on those items having the greatest risk to the environment - discharges from the boat through air and wastewater processes.

REPRESENTATIVE HOPKINS asked for confirmation that air would be monitored from the shore.

COMMISSIONER BRUNE responded that air monitoring would not change much at all. The Ocean Rangers were not involved much with air monitoring. Air monitoring was performed from shore through a contract, and DEC trained personnel used the Method 9 analysis. Most of the inspections came from the shore; therefore, the Ocean Rangers were not involved.

REPRESENTATIVE HOPKINS asked whether the electronic [wastewater] monitoring system proposed under the legislation would track the other discharges that the Ocean Rangers tracked.

COMMISSIONER BRUNE answered that the electronic monitoring would be focused on wastewater discharge. The department would have the flexibility to take advantage of any new technology in air monitoring that exists in the future.

REPRESENTATIVE HOPKINS asked whether fuel leakage would be electronically monitored.

COMMISSIONER BRUNE responded that many vessels deal with that issue. When DEC gets reports on leakages, the Division of Spill Prevention and Response (SPAR) responds to them. He expressed that if fuel leakage monitoring technology exists, DEC would want to be aware of it.

REPRESENTATIVE HOPKINS offered that the amounts of discharge from small boats are not a concern in the same way that discharges from multi-thousand passenger ships are. He maintained that he expects DEC to continue to look at the environmental hazards coming out of the "small cities" that are coming into Alaska ports. He asserted that fuel leakages should be electronically monitored and regulated; the overhaul of DEC's environmental monitoring should be made to work for protecting Alaska's oceans.

COMMISSIONER BRUNE stated that if there is a way to electronically monitor fuel leakages, DEC is absolutely interested. He offered to provide more information on that possibility.

[3:55:49 PM](#)

CO-CHAIR FIELDS commented on the many polluting discharges from ships and his interest in electronic monitoring.

REPRESENTATIVE HOPKINS referred to slide 12 and asked the question: Who would be responsible for scheduling the early season inspections?

COMMISSIONER BRUNE answered that DEC staff would be responsible for them - namely the Division of Water under Director Randy Bates.

REPRESENTATIVE HOPKINS asked whether there is adequate staff to schedule inspections and perform the monitoring.

COMMISSIONER BRUNE answered yes - with what has been proposed with the fiscal note (FN) and supplemental appropriation request. He reiterated that under CSHB 74, the cruise ship industry would still be regulated significantly more than any other industry or community wastewater discharge system or air emissions. He asserted that DEC has sufficient staff to inspect ships and meet the demand from the Alaska public that ships use Alaska waters in an environmentally responsible way.

CO-CHAIR KREISS-TOMKINS referred again to observer coverage in the fishing industry and acknowledged that the primary function of observers is to collect biological data, species being caught, and to ensure fishermen are not cheating; however, it is very much an oversight and regulatory function. In any of the fishing vessels there is 100 percent coverage. He opined that it is not fair to consider the cruise ship industry a complete and total outlier in terms of regulatory oversight.

CO-CHAIR KREISS-TOMKINS referred to slide 17 and asked how the DEC vessel registration system worked and its function.

MS. POKON answered that any vessel intending to operate in the marine waters of the state registers with the department in advance of entering the waters. Some of those vessels intend to discharge while in state waters, therefore, must obtain a permit or if a small vessel, follow the best management practices (BMP). Through the registration program, DEC has a record of the vessels that are going to be in state waters during the operating season.

CO-CHAIR KREISS-TOMKINS asked whether all vessels with over 50 overnight berths are registered in the system.

MS. POKON said, "I believe so."

[4:00:46 PM](#)

REPRESENTATIVE VANCE referred to slide 13 and asked how the supplemental budget request would coordinate with the new positions and the transition to prepare for the 2020 cruise ship season.

COMMISSIONER BRUNE explained that the supplemental line item shows \$900,000, which includes the four new DEC positions as

well as a contract to hire marine engineers for the early season inspections. The four positions would consist of one marine engineer and three regular inspectors. It is expected that those individuals would be retained for the subsequent fiscal year. It is unclear at this point whether the work would be done by DEC staff or DEC staff in conjunction with a marine engineer contract.

REPRESENTATIVE VANCE asked whether there is uncertainty regarding filling the four positions, therefore, a contract would be needed to fill the gap.

COMMISSIONER BRUNE replied that he is confident that DEC can fill three of the positions because they don't require marine engineers. He said he is hopeful that DEC can hire a marine engineer for the fourth position. He said that in order to perform the early season inspections to cover all the ships coming into Alaska, DEC may need to contract with marine engineers or hire seasonal employees.

[4:03:24 PM](#)

REPRESENTATIVE HOPKINS referred to the fourth bullet on slide 9, which read: "New technology could provide for 24/7 electronic monitoring of ships' discharge ports." He asked whether "could" means that future technology could provide for 24/7 electronic monitoring of ships' discharge ports or whether the potential exists now and could provide the monitoring.

COMMISSIONER BRUNE relayed that some of the newer ships have technology that documents when the ports are open; some of the older ships still rely on hand-written logbooks. He offered that the goal is that when internet connectivity is "amazing" and ships are underway and open their ports, there would be real-time notification to DEC that a port is open. He added that the possibility is that DEC would acquire a great deal of data. He said that DEC could potentially do "geofencing," that is, associating an open port with a geographic location to notify DEC of ports being opened in areas not allowed. He reminded the committee that most of the violations of which DEC becomes aware are self-reported. He mentioned that the recent violation that occurred in Glacier Bay National Park and Preserve [the illegal discharge of grey water in the park on 9/11/18] was self-reported.

REPRESENTATIVE STORY mentioned the value of the Marine Exchange of Alaska in vessel monitoring and tracking.

4:06:29 PM

The committee took a brief at-ease.

4:06:39 PM

CO-CHAIR FIELDS moved to adopt the CS for HB 74, Version 31-GH1117\S, Marx, 2/10/20, as the working document. There being no objection, Version S was before the committee.

4:07:19 PM

MS. POKON reviewed the sectional analysis for CSHB 74, included in the committee packet, with the use of a PowerPoint presentation. The sectional analysis read as follows:

Section 1 - Amends AS 46.03.460 to clarify that DEC has organizational flexibility to regulate cruise ships with personnel from different DEC divisions (air, water, etc.) and directing DEC to adopt regulations implementing the simplified environmental compliance statutes.

Section 2 - Repeals and reenacts AS 46.03.463 to simplify and broadly consolidate existing subsections (a) - (c), (e), and (f) and (h) into a single subsection, enabling DEC to set specific discharge limits and requirements in regulation.

Section 3 - Amends AS 46.03.465(a) to provide DEC with flexibility to establish the form and timing for cruise ships to report to DEC.

CO-CHAIR KREISS-TOMKINS asked what the desired flexibility or timing the department envisions for submitting reports.

MS. POKON answered that currently statute requires that it not be later than five days after each calendar month of operation in state waters and be provided monthly. She relayed that under the proposed legislation, timing would be depend on several factors and what is workable for staff. She continued with the sectional analysis, which read:

Section 4 - Amends AS 46.03.465(c) to clarify DEC's authority to inspect vessel wastewater and air emissions systems.

Section 5 - Conforming amendments to AS 46.03.465(d).

Section 6 - Amends AS 46.03.465(d) to authorize DEC to require certain reports in a particular form (e.g., electronic).

MS. POKON added that Section 4 would allow for inspections while the ship is underway. Regarding Section 6 and in response to Representative Kreiss-Tomkins, she confirmed that records were submitted to DEC in the form of photographs of hand-written logs.

COMMISSIONER BRUNE added that electronically sending a photograph of a hand-written log complied with the requirement in the initiative for electronic submission. He maintained that the time DEC staff spent transcribing the information was a waste of technical staff time. Electronic submissions in a format that could "plug into" DEC's system would allow better use of staff time.

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MS. POKON continued with the sectional analysis, which read:

Section 7 - Conforming amendment to AS 46.03.465(h).

Section 8 - Conforming amendment to AS 46.03.465(i).

Section 9 - Amends AS 46.03.480(a) to establish a simplified environmental compliance fee of \$5 per berth per voyage on all commercial passenger vessels operating in state waters. This replaces both the \$4 fee for the ocean rangers and the matrix of general environmental compliance fees. This amendment also reduces the \$5 fee by \$1 for vessels that use electronic monitoring systems that will improve DEC's ability to efficiently oversee environmental compliance. As noted in Section 19, this amendment to the fee structure would become effective January 1, 2021.

Section 10 - Repeals and re-enacts 46.03.480(c) to conform to changes created by deleting clarifying language included with the fee structure in the repealed version of 46.03.480(b). This does not change the effect of (c) as it currently exists in statute.

Section 11 - Amends AS 46.03.482(c) to remove obsolete language and to broaden the stated purposes for which the legislature might appropriate the collected fees to include a grant or loan program created by Section 12.

Section 12 - Adds a new section, AS 46.03.483, authorizing DEC to create a grant or loan program to support improvements to shore-based wastewater treatment facilities necessary to serve visiting cruise ships and cruise ship passengers.

Section 13 - Repeals a number of detailed statutes governing commercial passenger vessels.

Section 14 - Repeals the ocean ranger statute, AS 46.03.476, separately so that it may have a different effective date. This repeal will be retroactive to April 2020 (see Section 17) so that DEC can transition to staff inspections this season.

Section 15 - Transition language added to the uncodified law to authorize DEC to work on regulations before the majority of the bill becomes effective in January 2021.

Section 16 - Includes legislative intent language that clarifies that the \$4 fee collected under AS 46.03.480(d) may be used for funding services to passenger vessels, including regulatory services. This ensures DEC can collect the established fee this year to support the agency's cruise ship environmental compliance work notwithstanding the repeal of the ocean rangers statute.

Section 17 - Section 14 (repeal of ocean rangers requirement) is retroactive to April 2020.

Section 18 - Provides an immediate effective date for Sections 14 - 17 including intent language specifically for the summer 2020 cruise season (Section 16) and transition language providing authority to work on regulations (Section 15).

Section 19 - Provides a special effective date of January 1, 2021 for the majority of the bill; this

ensures that DEC has time to adopt regulations before the repeals in Section 13 and other amendments become effective.

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CO-CHAIR FIELDS summarized the questions for the committee to consider, for which more information from DEC is requested, and for which stakeholders' input is needed. They were: What percentage of sailings should have onboard inspections? What's the right balance of details for an inspection regime in the statute versus to be promulgated subsequently in regulation? Is the \$1 per berth fee reduction a good amount to incentivize installation and operating of 24/7 monitoring? Can the proposed legislation be drafted better? Regarding workforce, are there highly skilled occupations, other than marine engineers, that could augment DEC's inspection regime? Regarding technology, what do electronic monitoring systems look for and what is the range of capacities on the different cruise ships owned by different companies? What percentage of cruise ships in Alaska currently have electronic monitoring? To what extent could they report to a contractor like the Marine Exchange of Alaska and how long would that transition take? If the submission of discharge reports is not monthly, what is the appropriate frequency of the submissions? Should there be sideboards on the percentage of user fees invested in onboard inspections versus onshore infrastructure investments?

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REPRESENTATIVE STORY added the question: What are best practices followed in other ports?

REPRESENTATIVE HOPKINS asked about the penalty for a violation.

MS. POKON answered that it varies depending on the violation and on whether it falls under EPA policy or Alaska statute. She said that as an example, the Glacier Bay incident generated a \$17,000-\$18,000 penalty for the state violations.

REPRESENTATIVE HOPKINS asked what the penalties were for the six violations discovered by the Ocean Rangers.

COMMISSIONER BRUNE replied that DEC would provide that information.

CO-CHAIR KREISS-TOMKINS referred to Section 13 of the proposed legislation and asked why the "Recognition Program" in AS 46.03.485 would be repealed. It read:

The department may engage in efforts to encourage and recognize superior environmental protection efforts made by the owners or operators of commercial passenger vessels that exceed the requirements established by law.

MS. POKON responded that DEC has not had the funding or capacity to do anything explicitly. The department can always acknowledge good environmental performance by any of its permittees, but in recent years DEC has not taken the time to do so for cruise ships.

CO-CHAIR KREISS-TOMKINS summarized as follows: DEC has not engaged in this activity in the past, it does not need a law permitting it to do so, and CDHB 74 would take it out of statute to "tighten up the law."

MS. POKON agreed.

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CO-CHAIR KREISS-TOMKINS referred to the proposed repeal of two definitions under AS 46.03.490. He asked why the definition for "untreated sewage" - in paragraph (15) - would be repealed.

MS. POKON pointed out that there is a definition for "treated sewage" in paragraph (14); therefore, the definition for untreated sewage is superfluous. Removal of the definition was a recommendation from Legislative Legal Services. She added that under the proposed legislation, the definition in paragraph (1) - "agent for service of process" - would be repealed because the term is no longer in existing statute.

CO-CHAIR KREISS-TOMKINS restated that both definition repeals are effectively conforming changes.

MS. POKON agreed.

REPRESENTATIVE VANCE commented that she supports Section 12 of the proposed legislation, which adds support for the shore-based treatment facilities. She expressed her appreciation that the proposed legislation would continue to maintain the regulations that were previously under the Ocean Ranger Program and

additionally provide a means for shore-based communities to upgrade their systems for future generations. Although Homer has a modern water and sewage treatment plant, it was able to install restrooms downtown with the funds received from the cruise ship industry.

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CO-CHAIR KREISS-TOMKINS questioned the repeal of AS 46.03.462 - "Terms and conditions of discharge permits" - proposed in the legislation. He asked whether there would be an equivalent reenactment.

MS. POKON offered that the broad language proposed under Section 2 of CSHB 74, which repeals and reenacts AS 46.03.463 - "Prohibited discharges", would authorize DEC to put into regulation the comparable provisions that are currently in AS 46.03.462.

CO-CHAIR KREISS-TOMKINS asked for confirmation that Section 2 repeals and reenacts AS 46.03.463 and to some extent, AS 46.03.462.

MS. POKON concurred.

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CO-CHAIR FIELDS stated that CSHB 74 would be held over.

[4:26:31 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [4:27] p.m.