

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 26, 2022

8:09 a.m.

MEMBERS PRESENT

Representative Sara Hannan, Co-Chair
Representative Calvin Schrage, Co-Chair
Representative Harriet Drummond
Representative Ken McCarty
Representative Kevin McCabe

MEMBERS ABSENT

Representative Josiah Patkotak, Vice Chair
Representative Mike Prax

COMMITTEE CALENDAR

HOUSE BILL NO. 303

"An Act relating to commercial passenger vessel environmental compliance; relating to commercial passenger vessel fees; establishing the wastewater infrastructure grant fund; repealing the authority for citizens' suits relating to commercial passenger vessel environmental compliance; repealing the commercial passenger vessel recognition program; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 402

"An Act relating to identification requirements for contractors and home inspectors."

- MOVED HB 402 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 303

SHORT TITLE: PASSENGER VESSEL ENVIRONMENTAL COMPLIANCE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/04/22	(H)	READ THE FIRST TIME - REFERRALS
02/04/22	(H)	CRA, RES, FIN
04/21/22	(H)	CRA AT 8:00 AM BARNES 124
04/21/22	(H)	-- MEETING CANCELED --

04/26/22 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 402

SHORT TITLE: IDENTIFICATION OF CONTRACTOR IN ADS

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

03/18/22 (H) READ THE FIRST TIME - REFERRALS
03/18/22 (H) CRA, L&C
03/29/22 (H) CRA AT 8:00 AM BARNES 124
03/29/22 (H) -- MEETING CANCELED --
04/05/22 (H) CRA AT 8:00 AM BARNES 124
04/05/22 (H) -- MEETING CANCELED --
04/07/22 (H) CRA AT 8:00 AM BARNES 124
04/07/22 (H) -- MEETING CANCELED --
04/12/22 (H) CRA AT 8:00 AM BARNES 124
04/12/22 (H) Heard & Held
04/12/22 (H) MINUTE(CRA)
04/14/22 (H) CRA AT 8:00 AM BARNES 124
04/14/22 (H) Heard & Held
04/14/22 (H) MINUTE(CRA)
04/21/22 (H) CRA AT 8:00 AM BARNES 124
04/21/22 (H) -- MEETING CANCELED --
04/26/22 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

EMMA POKON, Deputy Commissioner
Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: Presented HB 303 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

RANDY BATES, Director
Division of Water
Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: Presented HB 303 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

ACTION NARRATIVE

8:09:10 AM

CO-CHAIR SARA HANNAN called the House Community and Regional Affairs Standing Committee meeting to order at 8:09 a.m. Representatives Drummond, McCarty, McCabe, Schrage, and Hannan were present at the call to order.

HB 303-PASSENGER VESSEL ENVIRONMENTAL COMPLIANCE

[8:10:26 AM](#)

CO-CHAIR HANNAN announced that the first order of business would be HOUSE BILL NO. 303, "An Act relating to commercial passenger vessel environmental compliance; relating to commercial passenger vessel fees; establishing the wastewater infrastructure grant fund; repealing the authority for citizens' suits relating to commercial passenger vessel environmental compliance; repealing the commercial passenger vessel recognition program; and providing for an effective date."

[8:10:54 AM](#)

EMMA POKON, Deputy Commissioner, Alaska Department of Environmental Conservation (DEC), presented HB 303 on behalf of the House Rules Standing Committee, sponsor by request of the governor. She stated that she would be sharing what DEC has been doing over the last few years, including outreach to communities and stakeholders, the work to understand baseline water quality conditions, and specifics for DEC's proposed program going forward.

[8:11:32 AM](#)

The committee took a brief at-ease at 8:11 a.m.

[8:12:16 AM](#)

DEPUTY COMMISSIONER POKON stressed how seriously DEC takes its responsibilities with wastewater discharge oversight in particular. She said DEC questions how it could most effectively provide oversight of the food industry while protecting water quality in the state, as well as most effectively use available funding to provide the best environmental outcomes overall.

[8:14:23 AM](#)

RANDY BATES, Director, Division of Water, Department of Environmental Conservation (DEC), presented a PowerPoint, titled "HB 303 Commercial Passenger Vessel Environmental Compliance" [hardcopy included in the committee packet]. He stated that specific to the commercial passenger vessel oversight, there is currently one marine engineer, one environmental protection

specialist, and two halftime program specialists. He informed the committee how many vessels were in service over the last couple of years. He noted that the larger vessels had a "clean bill of health" and did not incur any discharge violations, whereas the smaller vessels [50 to 249 berths] had challenges with their discharges the past season. Once the inspections were completed and troubleshooting was done, he explained, the water quality discharges improved by the end of the season.

[8:19:07 AM](#)

REPRESENTATIVE MCCABE questioned whether 250 was an indication of passenger berths or total berths.

MR. BATES answered passenger berths [not crew].

REPRESENTATIVE MCCABE referred to DEC being given the opportunity to correct some issues with the small cruise ships and asked whether any fines were levied.

MR. BATES responded that the smaller vessels operate under a best management practice to maintain a standard. He did not recall issuing fines, but the calculations and negotiations are ongoing, he said.

[8:22:43 AM](#)

CO-CHAIR HANNAN sought to confirm that the number of vessels was 13 small and 8 large. Of the 13 small, she asked how many different corporate lines or businesses are involved.

MR. BATES confirmed those numbers to be correct and offered his understanding that 4 of the 13 small vessels operated under parent lines.

CO-CHAIR HANNAN asked whether the violations were equally distributed amongst the fleet.

MR. BATES said they were equally distributed. He further explained that he had conversations with the owners of each of the companies and vessels.

CO-CHAIR HANNAN asked what was being done prior to COVID-19 in terms of monitoring the small vessels.

[8:25:33 AM](#)

MR. BATES replied that their staff looked at the best management practices and worked with the operators on the sampling to move them toward compliance. To his knowledge, he said, inspections on the small vessels had not been done before.

CO-CHAIR HANNAN observed that by design and advertisement, the small vessels are going into much more remote locations, such as small bays and "nooks." She referred to the staffing and how much time it took on the 24 ships that were monitored.

MR. BATES replied that monitoring means water quality monitoring and sampling, which was performed by a specific staff. In regard to the inspections, the marine engineer, the "EPS3," and the two part-timers are dedicated cruise ship individuals, he said.

[8:31:45 AM](#)

REPRESENTATIVE DRUMMOND questioned how sanitation is accounted for on larger vessels with a large number of people.

MR. BATES responded that DEC follows the federal definition under the Vessel and Discharge Act, based on passenger berths not including crew. The discharge requirements stand regardless of the number of passengers on board, as there must be a treatment system that meets water quality standards, he said.

REPRESENTATIVE DRUMMOND spoke of a time when she toured a Princess cruise ship and saw how duties were performed, especially in reference to sanitation. She asked how paid equipment was going unutilized on large ships.

DEPUTY COMMISSIONER POKON noted that Alaska Statutes followed federal rules as far as the number of passengers and discharge protocol.

[8:35:56 AM](#)

REPRESENTATIVE MCCARTY referred to page 4 of the bill and asked whether his interpretation of the language was correct.

MR. BATES stated that within the bill there is a provision that provides an incentive for a small or large commercial passenger vessel (CPV) to provide DEC with electronic monitoring if their wastewater discharges. If in a manner supported by DEC, the CPV would get \$1 off of their \$5 per berth fee. He explained that people still need to be on the vessels for inspections and to

run the pipes, adding that he would love to see additional electronic monitoring from the vessels to be able to track flow rates, particularly if issues rise.

REPRESENTATIVE MCCARTY asked whether technology exists in reference to the flow rate.

MR. BATES did not know the answer.

[8:40:16 AM](#)

MR. BATES returned to the presentation on slide 3, titled "2021 Cruise Ship Oversight," which read as follows [original punctuation provided]:

- × DEC led on-board inspections of small and large discharging vessels operating in Alaska
 - ×Respectful of COVID-19 protocols and safety measures
 - ×Inspections scheduled and unscheduled, in-port and underway
- × Vessel sampling results
- × Port and common corridor transit area water quality sampling

MR. BATES added that despite the limitation of cruise ships in 2020 and 2021, DEC saw high bacteria concentrations at several ports. He said that DEC looks forward to continuing to monitor for water quality into 2022 and beyond and will continue to collect data to tell a story about water quality in port communities throughout Alaska.

[8:41:18 AM](#)

REPRESENTATIVE MCCARTY asked how far back the samplings went.

MR. BATES replied since 2015. More recently, he said, DEC dedicated additional funding specific to evaluating water quality in more areas. He continued to slide 4, titled "2022 Season and Beyond," which read as follows [original punctuation provided]:

- × DEC marine engineers and inspectors will
 - ×perform initial and annual inspections on ships operating in Alaska as early in the season as possible

xwill perform both scheduled and unscheduled inspections in-port and while vessel is underway
x Small vessels will be subject to the same inspection requirements

8:44:07 AM

REPRESENTATIVE MCCABE asked whether Mr. Bates is part of the inspection team that goes on board the vessel in the first few weeks.

MR. BATES replied yes and no. He said DEC works with the U.S. Coast Guard and, thus, has an understanding of what the Coast Guard's inspections look like. He added that DEC and the U.S. Coast Guard each have specific compliance focuses under federal law.

8:45:25 AM

REPRESENTATIVE DRUMMOND sought to confirm that 1.6 million passengers are expected in 2022.

MR. BATES confirmed that is correct.

8:47:35 AM

CO-CHAIR HANNAN sought to confirm that 1.6 million was based on the scheduled number of births available.

MR. BATES answered that is correct.

CO-CHAIR HANNAN sought to verify that the passenger vessel charge was applied only on a full birth.

MR. BATES answered no. He said structurally, vessels are required to tell DEC by March 1 how many passengers are on each voyage port to port, which dictates the passenger vessel charge and the ocean ranger fee.

8:51:08 AM

REPRESENTATIVE MCCARTY inquired about cruise ships' septic tank discharge and asked whether the release occurs in open water.

MR. BATES said that is accurate, adding that some vessels choose to wait until they are 12 miles off the coast of Alaska to discharge.

REPRESENTATIVE MCCABE sought to confirm that discharge limits are the same regardless of the number of passenger and crew.

MR. BATES confirmed that is correct.

8:55:49 AM

CO-CHAIR HANNAN referred to onboard inspections when the vessels are underway and sought to understand how similar it is to ocean ranger programs.

MR. BATES replied that last year, with such a limited season, it brought the opportunity for existing staff to set up protocols for inspection. He stated that it is different than the ocean ranger program. Additionally, the DEC inspectors have badge authority, whereas ocean rangers do not have the same capacity to "get behind all the doors."

8:59:22 AM

MR. BATES proceeded to slide 5, titled "Existing Challenges," which read as follows [original punctuation provided]:

- × Commercial Passenger Vessel Environmental Compliance Program statutes were passed in 2001
 - × Statutes require outdated, inefficient reporting methods
 - × Statute-based standards are difficult to change when waste treatment and monitoring technologies improve
- × 2006 ballot initiative put ocean ranger observers on large vessels
 - × DEC staff spent significant time going through ocean ranger reports
 - × Ocean ranger observations produced 6 notices of violation over 12 years
 - × Small vessels did not get the same attention as large vessels
- × Water quality in port communities is impacted by cruise passengers using onshore facilities

MR. BATES pointed out that for the first time, small vessels are getting the same level of attention as the large vessels.

9:02:37 AM

REPRESENTATIVE MCCABE referred to the bullet point describing ocean ranger observations producing six notices of violations over twelve years and asked how many sailings were included in this time period.

MR. BATES replied six violations through thousands of voyages.

CO-CHAIR HANNAN opined that there should be zero violations with an observer on board.

REPRESENTATIVE MCCABE suggested that the cost of the ocean ranger program should be compared to the benefits.

CO-CHAIR HANNAN offered her understanding that no one is opposed to better monitoring and more compliance for cleaner water in Alaska.

[9:10:18 AM](#)

MR. BATES continued to slide 6, titled "Proposed Changes," which read as follows [original punctuation provided]:

- × Move detailed statutes to regulation
- × Clarify DEC authority to board vessels while in port and underway
- × Allow DEC to set format requirements for reports from vessels
- × Simplify fee structure
- × Incorporate technology
- × Repeal ocean ranger observers
- × Establish grant program to assist port municipalities to upgrade wastewater treatment facilities serving vessel passengers

MR. BATES added that the bill has a zero fiscal note. He highlighted the delayed effective date for the change in berth fees, which would go into effect in 2024. He moved to slide 7, titled "What Will Not Change," which read as follows [original punctuation provided]:

- × 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
- × Separate discharge requirements for small vessels
- × Sampling and reporting requirements
- × What may not be discharged to Alaska's environment
- × Recognition program

MR. BATES advanced to slide 8, titled "Current Fee Structure," which highlighted Commercial Passenger Vessel Environmental Compliance Fee (CPVEC) fees compared to ocean ranger fees. He moved to slide 9, titled "Proposed Fee Structure," which read as follows [original punctuation provided]:

- × All vessels over 50 berths pay \$5 per lower berth
 - × Large vessels pay roughly the same
 - × Small vessels will pay increased fees in 2024
 - × The fee would be reduced by \$1 per lower berth for any ship that maintains a DEC-approved electronic wastewater monitoring system

[9:14:38 AM](#)

MR. BATES continued to slide 10, titled "Local Water Quality Disparity," which read as follows [original punctuation provided]:

- × Large cruise ship permit allows up to 40 fecal colony forming units per 100 ml.
- × Local wastewater 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 onshore restrooms when visiting Alaska ports

MR. BATES observed that passenger traffic in port communities has a strong correlation with increased treatment needs.

[9:16:53 AM](#)

REPRESENTATIVE MCCABE highlighted the word "allows" and asked whether the allowance is being exceeded with the presence of all the passengers. He asked whether the allowance should be changed.

MR. BATES replied there are water quality standards uniformly applied throughout all the industries, and in this case, the fecal limit is 40 units per 100 ml which the large vessels are meeting. On small vessels, he said, they do not have the advanced wastewater treatment systems the large vessels have. He gave examples of various communities and their numbers, as shown on slide 11, titled "Local Water Quality," which shows three columns featuring community, 301(h) waiver, and fecal colony forming unit effluent limit(s) per pound/100 milliliters. The figures cover the Alaska communities of Juneau, Ketchikan, Sitka, and Skagway. He reiterated that the number of passengers and crew are stressing the system, noting that it is more difficult for smaller communities to maintain systems necessary to treat that type of wastewater from a transient population.

[9:21:03 AM](#)

DEPUTY COMMISSIONER POKON stated that a significant factor is which treatment technology is available on the large vessels versus the small vessels in terms discharge.

REPRESENTATIVE MCCABE expressed his confusion about the allowances. He further conveyed that it appeared the cruise ships are held to a higher standard than those on shore. He wished to see more data, opining that there are too many variables.

MR. BATES acknowledged the "spot on" observation and agreed the cruise ships are held to a much higher standard. The average monthly, weekly, and maximum numbers shown on slide 11 are the maximum allowances over the course of the timeframes. He recognized the need to improve community wastewater treatment facilities. Even in the absence of cruise vessels in 2020 and 2021, many of the ports showed existing problems of human-based discharges that are unrelated to commercial passenger vessels.

[9:25:43 AM](#)

CO-CHAIR HANNAN sought to confirm that eight communities in Alaska currently have the 301(h) waiver treatment facilities of the Clean Water Act, meaning that their local discharge systems do not comply with the Clean Water Act discharge standards.

MR. BATES clarified that nine communities are operating under the U.S. Environmental Protection Agency (EPA)-based waivers, which only treat to a primary level of treatment.

REPRESENTATIVE MCCABE stated his belief that it would be a mistake to blame local communities' sewer issues strictly on cruise ships. In previous conversation, he said, it had already been stated that the communities have problems regardless.

MR. BATES replied that DEC is fully engaged with the communities and wants to assist improving their treatment so their water and environment are cleaner and healthier. He stated HB 303 would be a "path forward" for restructuring funding and providing an opportunity for the communities.

[9:29:56 AM](#)

REPRESENTATIVE MCCARTY stated that Alaska greatly appreciates cruise ships, adding that the money communities make from the cruise industry could go towards system improvement. He discussed the figure of 1.5 million in terms of contamination levels.

MR. BATES stated that the water quality standard applied to fecal was a level of 40 units, adding that seafood caught from that water was still safe to eat. At 1.5 million, the seafood was not safe to eat. He discussed the advanced wastewater treatment facility on large vessels, which produced water quality standards of 40 units. Alternatively, the discharge from the 301(h) waiver treatment facilities onshore could not meet water quality standards. He identified "mixing zones," which dispersed large quantities of water with the fecal matter to meet water quality standards at the edge of the boundary. He added that communities are provided with the ability to discharge with a mixing zone to meet water quality standards.

REPRESENTATIVE MCCARTY commented that he looked forward to further discussions on water treatment processes.

CO-CHAIR HANNAN shared her observation that aside from wastewater treatment, there are many houses and lodges along coastal Alaska that have outflow lines.

[9:36:44 AM](#)

CO-CHAIR SCHRAGE acknowledged the room for improvement regarding onshore communities. He imagined that upgrades would be costly, and asked to what extent inspections would be funded, maintained, and pursued. Finding the balance between properly monitored passenger vessels in sensitive areas and the state's job to protect its communities is key, he added.

[9:39:40 AM](#)

REPRESENTATIVE DRUMMOND noted that cruise ship populations are often bigger than some communities. She agreed that shoreside facilities should be a priority.

[9:40:52 AM](#)

REPRESENTATIVE MCCABE reminded the committee of the world economy. He shared an example of eating fish from other countries that may not have the same water quality standards as the U.S.

CO-CHAIR HANNAN shared her recollection that CPVEC fees were not allowed, adding that the use of those fees was the focus of prior litigation. She questioned whether the legislation was changing some of this in reference to the grant programs.

MR. BATES stated that it takes DEC approximately \$4 million to run the oversight program. He said in a normal year with passenger loads, there is enough to run the state's oversight program and provide cost effective matter for port communities.

[9:45:38 AM](#)

DEPUTY COMMISSIONER POKON expanded on the use of funds collected from commercial passenger vessels. She stated that DEC needs to be providing a service to the vessel, adding that they "threaded the needle" in terms of language used in the bill and how those funds can be distributed. She recognized that the onshore facilities are getting additional volume from passengers and crew passing through the communities. She noted that their treatment technology is not as robust as the larger vessels and cannot reach the same standard.

[9:46:54 AM](#)

CO-CHAIR HANNAN highlighted the struggles in other states regarding local limits and constraints. She sought information on federal limits in terms of what can be done in Alaska communities.

DEPUTY COMMISSIONER POKON offered to follow up with the requested information.

[9:49:43 AM](#)

MR. BATES stated that the bill would provide an opportunity for DEC to do a better management and oversight job of the industry, as well as provide an opportunity to improve wastewater treatment in Alaska.

[HB 303 was held over.]

HB 402-IDENTIFICATION OF CONTRACTOR IN ADS

[9:50:38 AM](#)

CO-CHAIR HANNAN announced that the final order of business would be HOUSE BILL NO. 402, "An Act relating to identification requirements for contractors and home inspectors."

[9:50:59 AM](#)

REPRESENTATIVE MCCABE expressed his support for the bill and expressed hope it would be advanced today.

CO-CHAIR HANNAN reminded the committee that the Alaska Division of Corporations, Business, and Professional Licensing had staff online to answer any questions. She relayed that the division had no concerns with updating the statute.

[9:51:51 AM](#)

REPRESENTATIVE MCCARTY concurred with moving bill, as it would not impose on contractors making websites or require them to become specialists in the trade. He proffered that the bill would make things easier.

[9:52:22 AM](#)

CO-CHAIR SCHRAGE moved to report HB 402 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 402 was reported out of the House Community and Regional Affairs Standing Committee.

[9:53:01 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:53 a.m.