

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 14, 2022

3:34 p.m.

MEMBERS PRESENT

Senator Joshua Revak, Chair
Senator Peter Micciche, Vice Chair
Senator Click Bishop
Senator Natasha von Imhof
Senator Jesse Kiehl
Senator Scott Kawasaki

MEMBERS ABSENT

Senator Gary Stevens

COMMITTEE CALENDAR

SENATE BILL NO. 180

"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

PREVIOUS COMMITTEE ACTION

BILL: SB 180

SHORT TITLE: PASSENGER VESSEL ENVIRONMENTAL COMPLIANCE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/04/22	(S)	READ THE FIRST TIME - REFERRALS
02/04/22	(S)	RES, FIN
02/14/22	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

EMMA POKON, Deputy Commissioner
Department of Environmental Conservation

Anchorage, Alaska

POSITION STATEMENT: Presented SB 180 on behalf of the administration.

RANDY BATES, Director

Division of Water

Department of Environmental Conservation

Juneau, Alaska

POSITION STATEMENT: Presented a slideshow titled SB 180 Commercial Passenger Vessel Environmental Compliance.

KARLA HART, Representing Self

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 180, stating she has followed the cruise ship industry for almost 40 years and supported the passage of the 2006 initiative to create the Ocean Ranger Program.

ACTION NARRATIVE

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CHAIR JOSHUA REVAK called the Senate Resources Standing Committee meeting to order at 3:34 p.m. Present at the call to order were Senators Kiehl, Kawasaki, von Imhof and Chair Revak. Senator Micciche arrived shortly thereafter. Senator Bishop arrived during the course of the meeting.

SB 180-PASSENGER VESSEL ENVIRONMENTAL COMPLIANCE

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CHAIR REVAK announced the consideration of SENATE BILL NO. 180 "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."

This was the first hearing and the intention was to hear the introduction, take testimony, and hold the bill in committee to allow members time to review it and prepare questions.

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EMMA POKON, Deputy Commissioner, Department of Environmental Conservation, Anchorage, Alaska, presented SB 180 on behalf of

the administration. She stated that the Department of Environmental Conservation (DEC) participated in a couple of hearings before COVID disrupted the legislative session a few years prior. As the original drafter of an earlier bill, she was pleased to present SB 180, DEC's vision for the future regulatory program of cruise ships. COVID was difficult for the industry and port communities. The department took advantage of the downtime to evaluate the program, talk to communities and stakeholders, perform extra water quality research, and think through details.

MS. POKON explained that DEC regulates many industries that discharge water. It regulates resource extraction, seafood processors, municipal wastewater treatment facilities, housing construction, and commercial passenger vessels. DEC takes this work seriously and expects the industries it regulates to make protecting the environment a primary goal in their operations.

MS. POKON said that SB 180 proposes to amend statutes implemented as a result of the 2006 ballot initiative relating to the cruise ship industry. Alaskans sent a clear message to take the environmental initiative seriously. The department intends to set up a robust regulatory program. The aim of SB 180 is to better protect water quality, human health, and the environment and to do it in a way that optimizes the use of available funds.

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RANDY BATES, Director, Division of Water, Department of Environmental Conservation, Juneau, Alaska, presented a slideshow titled SB 180, Commercial Passenger Vessel Environmental Compliance. He advanced to slide 2, Operating Expectations:

- All Industries operating in Alaska are subject to discharge requirements
 - Oil and gas
 - Hard rock and placer mining
 - Seafood processing
 - Publicly owned wastewater treatment facilities
 - Timber operations
 - Housing and industrial developments
 - Commercial passenger vessels

- DEC takes protection of Alaska's environment seriously, and we expect all industries and operating facilities to engage and perform meaningfully in that protection

MR. BATES said DEC takes protecting human health and the environment seriously. The department expects industry, operator, and facility compliance with all rules and discharge requirements.

MR. BATES advanced to slide 3, 2021 Cruise Ship Oversight to explain what the department has done over the past couple of years:

- DEC led on-board inspections of small and large discharging vessels operating in Alaska

He said that currently one full-time marine engineer is on staff. Staff dedicated to the oversight of the cruise passenger vessel compliance program include one environmental program specialist and two part-time environmental program specialists. The division intends to recruit one marine engineer, and one program specialist within the next few months to round out staffing for a good, robust group to carry out all the planned vessel visits this summer.

- 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

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SENATOR VON IMHOF asked whether any cruise ships visited Alaska in 2020.

MR. BATES answered that no cruise ships visited Alaska in 2020. In 2021, 21 cruise vessels visited the state; there were 13 small vessels and eight large vessels. The distinguishing characteristic between large and small vessels is the number of berths onboard. Small vessels have between 50 and 249 berths and large vessels have 250 or more berths. This distinguishing

characteristic, based on passenger capacity, determines how the division manages the vessel.

SENATOR VON IMHOF recalled that the division continued to obtain ocean water samples even though passenger vessels had cancelled sailings to Alaska due to COVID. She questioned why water samples continued to be collected in the absence of cruise ship activity and what the division discovered from its research.

MR. BATES prefaced his answer, reiterating that no cruise ships sailed to Alaska in 2020 and only a limited cruise ship season occurred late in 2021. The division continued to collect water samples, because the absence of cruise ship activity afforded a unique opportunity to establish baseline data in port communities and common corridor areas that typically see cruise ship traffic and water discharge. From its research, the division discovered high bacteria levels in ports, even in the absence of cruise ships. The division found no exceedances in the common corridor areas. The division plans to continue water quality sampling as the cruise ship industry returns to upward of 60 vessels in 2022. The division will sample the same areas that were tested in previous years to determine whether either large or small cruise ships have affected water quality, and manage the problem accordingly.

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SENATOR VON IMHOF sought confirmation that high bacterial levels detected in water samples collected in 2020 resulted from normal daily discharge from cities and towns in port communities.

MR. BATES answered that is correct.

SENATOR VON IMHOF asked if it was correct to infer that the high bacteria levels were not solely due to discharge by cruise ships.

MR. BATES replied the division asked itself this same question. Some of the division's work involves targeting and evaluating exceedances. The division has DNA markers to identify bacteria, whether it be dogs, humans or other. He reiterated that the division took advantage of the opportunity to bolster its sampling plan and collected data while the cruise vessels were gone in 2020. The division learned that in the absence of cruise ships, the port communities, particularly around boat harbors where there are fishing fleets or liveaboards, showed a higher incidence of human-traced bacterial concentrations.

SENATOR VON IMHOF commented she would like the findings depicted in a bar graph, comparing data with and without the presence of cruise ships, the year, and the collection site. She asked how many years the division had been collecting water samples.

MR. BATES answered that an improved sampling program was developed and implemented when the department received an infusion of funding in 2020. The pre-2020 sampling program is not necessarily comparable to the current program; however, the division does have port sampling protocols dating back several years prior to 2020. This data will be used to produce a bar graph illustrating the findings.

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SENATOR REVAK requested that the data be sent to the committee.

MS. POKON commented that the division sees seasonal discharge variations with heavier use of town and community facilities. The increased burden of passenger foot traffic on community wastewater treatment facilities is a factor that affects water quality not necessarily just discharge from the cruise vessels themselves.

CHAIR REVAK commented that he looked forward to seeing the data.

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MR. BATES provided information about the department's 2021 oversight. He reiterated that the equivalent of three staff, one marine engineer and two program managers, implemented DEC lead inspections on 13 small vessels and 8 large vessels. The inspections were a first and the division was excited about the opportunity to conduct them. The division was pleased to report large vessels and the Alaska Marine Highway System ferries were given a clean bill of health and did not incur any discharge violations this past season. However, the division found ample opportunity to critique the environmental performance of small vessels. The division worked with small vessel operators and owners, articulating the state's expectations on discharge numbers, environmental protocols, and practices. The division conducted follow-up meetings throughout the summer. Small vessel operators reviewed their systems and made improvements and corrections. The division has conveyed the state's environmental performance expectations to small vessels for the upcoming 2022 season.

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MR. BATES said the hottest news for 2022 is that twenty-four large vessels are registered to cruise the state of Alaska. Right now, large and small fleets are prepping to come to Alaska, figuring out their registration protocols and packages. The state is expecting packed ships. The department will know more March 1 which is the registration system deadline. The department will continue its preseason work through the winter and spring.

MR. BATES advanced to slide 4, 2022 Season and Beyond:

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

MR. BATES said that the division anticipates getting aboard vessels operating in Alaska the first couple of weeks of the season.

- will perform both scheduled and unscheduled inspections in-port and while vessel is underway

MR. BATES said that the majority of inspections will be done in port. The division will determine whether follow-up vessel visits are necessary and schedule them accordingly. Some follow-up visits will be conducted while the vessel is underway, going port to port. Division staff will be onboard watching how discharge activities occur, typically waste water discharge activities are done in the evening.

- Small vessels will be subject to the same inspection requirements

MR. BATES said that small vessels receive the same level of inspection as large vessels. This has not necessarily been the case in the past.

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MR. BATES advanced to slide 5, Existing Challenges:

- Commercial Passenger Vessel Environmental Compliance Program statutes were passed in 2001

MR. BATES gave a brief overview of the history of commercial passenger vessel (CPV) statutes. DEC had the ability to regulate and oversee CPVs since the department's inception in 1971. Specific CPV statutes were passed in 2001 and amended in 2003. Statutes were further amended in 2006 with the passage of Ballot Measure 2 and the implementation of the Ocean Ranger Program. Clearly, the message was that Alaskans wanted DEC to improve environmental compliance oversight for CPVs.

MR. BATES reported that DEC has improved its oversight over time through ongoing compliance evaluations. The department has gained a significant amount of experience and knowledge about what works, what is effective, whether there are gaps in coverage, and what could be improved in the most cost-effective manner.

- Statutes require outdated, inefficient reporting methods
- Statute-based standards are difficult to change when waste treatment and monitoring technologies improve

MR. BATES laid out some of the existing challenges, stating current statutes collectively contain outdated information and inefficient reporting methods. CPV statutes are difficult to adjust and adapt to treatment and monitoring programs as they are improved.

- 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

MR. BATES said that Ocean Rangers were observers and provided reports. DEC staff spent quite a bit of time reviewing those reports in office, not on the ships.

- Water quality in port communities is impacted by cruise passengers using onshore facilities

MR. BATES said that for several years fleet and passenger loads have increased in Alaska and DEC hears numbers are on the rise. A majority of passengers and crew disembark in port, visit shops, shoreside attractions and create an economy. However, they also leave waste that communities must collect and treat. Port communities are impacted and could likely use some assistance to upgrade treatment facilities to improve wastewater discharge, and most importantly water quality effluent.

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SENATOR KAWASAKI asked whether significant or modified changes have occurred since the 2006 ballot initiative passed on the commercial passenger environmental compliance program.

MR. BATES answered that, to the best of his knowledge, a statutory revision had not occurred since 2006.

SENATOR KAWASAKI asked whether any noteworthy regulatory changes had been made.

MR. BATES answered that he was not aware of any regulatory changes, particularly substantive changes that addressed CPV groups.

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SENATOR KIEHL recalled that work had been done on pipe standards, especially as they pertained to metals, and the level of plan small vessels were required to submit. He made a special request of the director to look back a little bit and provide the committee with additional research.

CHAIR REVAK asked whether clarification on the question was needed.

MR. BATES understood the request to be specific to regulations pertaining to CPVs. The state has a chapter of regulations that apply to CPVs. The state also has chapters of water quality regulations that all industries are subject to, whether it is the cruise industry, the mining industry, or a publicly owned treatment facility.

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SENATOR KAWASAKI recalled that effluent quality changes came out in 2008/2009, so he would like to have both.

MR. BATES answered that he would provide that analysis.

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MR. BATES moved on to slide 6, Proposed Changes.

- Move detailed statutes to regulation

MR. BATES said this bill simplifies statutory directives, so the department has greater flexibility to set specific standards by regulation. DEC plans to lift a number of sections that are currently embedded in the statutes and move them into regulation. This will give the department more flexibility and adaptability to manage an industry where technology changes quicker than statutory programs. It will also strengthen and clarify DEC's authority to board and inspect CPVs in Alaska.

- Clarify DEC authority to board vessels while in port and underway
- Allow DEC to set format requirements for reports from vessels

MR. BATES said this bill will capture some of the statutory cleanups and clarifying edits DEC learned were necessary, through administering the compliance program, to ensure compliance with environmental laws.

- Simplify fee structure

MR. BATES said that one major component this bill proposes is to replace the complex matrix of multiple fees with a single \$5 per lower berth fee for each voyage for all CPVs, small or large.

- Incorporate technology

MR. BATES said that this bill proposes to incorporate technology through the development of electronic, real-time discharge monitoring, and timely, formatted reporting will allow DEC to spot and respond to areas of concern more quickly.

- Repeal ocean ranger observers
- Establish grant program to assist port municipalities to upgrade wastewater treatment facilities serving vessel passengers

MR. BATES said that this bill establishes a program to help finance wastewater infrastructure improvements for port communities serving CPVs and their passengers.

MR. BATES said SB 180 has a zero fiscal note with a slight revenue increase associated with the application of berth fees specific to the small vessels. The slight revenue increase would be about \$100,000, \$80,000 of which comes from small CPVs. A delayed effective date of 2024 was built in, so small vessels could minimize the financial impact of the change.

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MR. BATES advanced to slide 7, What Will Not Change:

- DEC's authority to conduct inspections at reasonable times and ability to get a warrant if necessary

MR. BATES stated that DEC absolutely retains authority to conduct onboard inspections.

- DEC's vessel registration system, which is required for all passenger vessels with over 50 overnight berths

MR. BATES said that the registration system used by vessels, which notifies the state of intent to travel to Alaska, the number of voyages planned, and the number of passengers onboard, will not change.

- Air emission monitoring program
- The large cruise ship wastewater discharge general permit

MR. BATES stated the large CPV general permit is still in effect and vessels are required to obtain this permit to discharge in Alaska waters.

- Separate discharge requirements for small vessels
- Sampling and reporting requirements

MR. BATES said that sampling and reporting requirements will not change. Vessels are required to collect samples within 10 days

of arrival in Alaska. DEC looks at the samples and reviews the results with vessels.

- What may not be discharged to Alaska's environment

MR. BATES said that vessels cannot discharge wastewater without a permit and without treatment; what can and cannot be discharged will not change.

- Recognition program

MR. BATES said that the recognition program currently in statute remains in effect, so outstanding companies and individuals may be honored and acknowledged by the commissioner. The commissioner acknowledged Princess Cruises earlier this year on the 20th anniversary of shore power. In conjunction with the City and Borough of Juneau, Princess Cruises developed shore power hookup which reduced vessel dependency on generators, reduced air emissions and was overall a very good product.

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SENATOR MICCICHE joined the meeting.

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SENATOR KAWASAKI directed attention to Section 3 where the word "wastewater" is substituted for "sewage, graywater, or other wastewaters." He asked whether there is a difference between the terms and if "wastewater" encompasses all discharged water.

MR. BATES answered yes, this bill changes and clarifies terminology. It proposes to use the term "wastewater" throughout existing statute to define all the effluents for which the department is concerned. Wastewater would be the term used to define graywater, blackwater and other wastewater.

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MS. POKON added that Section 16 adds a definition for wastewater that captures graywater and sewage, so terminology is consistent throughout the section.

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CHAIR REVAK asked whether the Ocean Ranger Program has been successful and to elaborate on why or why not. He asked the department's position on the program.

MR. BATES answered the Ocean Ranger Program was put in place by a ballot initiative in 2006. The vote indicated that Alaskans

wanted greater ardor in the examination and management of effluent discharged from ships. The Ocean Ranger Program went into effect in 2006 and included only large CPVs, not small CPVs. Ocean rangers observed activities on vessels and followed a chart of duties on a daily basis. The state paid for berth space on vessels for ocean ranger lodging which totaled \$3.5 million per year. Ocean rangers provided oversight, not inspection or enforcement. Ocean rangers provided DEC with reports of what was observed onboard. The department reviewed the reports and acted immediately to enforce laws if anything was of concern. Ocean rangers did not have the authority to enforce laws, but they served an important service at a critical time. DEC evaluated the \$3.5 million per year Ocean Ranger Program. Over the past 12 years, the cost totaled over \$40 million. The department considered whether the program continued to provide a meaningful, cost-effective service that could not be otherwise duplicated. The department determined the Ocean Ranger Program served a purpose; however, it was better that the department move on from this program.

MR. BATES stated at this point, the department has a robust, rigorous structure in place consisting of inspectors and marine engineers that implement a solid program without gaps in authority, enforcement, or coverage. The department believes this is the most effective way to manage the industry. Though not directly equivalent because of fund source changes, DEC believes that communities could make better use of the \$3.5 million treating and improving community wastewater discharges.

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MR. BATES advanced to slide 8, Current Fee Structure:

CPVEC Fee	Applies to Large and small Vessels	Fee \$0.70 - \$1.75 scaled per lower berth fee based on range of berths
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Ocean ranger Fee	Applies to Large vessels	Fee \$4 per berth
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- Commercial Passenger Vessel Environmental Compliance Fee (CPVEC) established in 2001 to fund DEC oversight of cruise ships
- Ocean ranger fees were created in 2006 to fund the onboard observer program

MR. BATES stated that slide 8 offers an idea of what the subset of the matrix looks like in statute. A couple of different funds are associated with the CPVEC fee established in 2001 to fund oversight. The Ocean Ranger Program fee was established in 2006 to fund the onboard observer program. Large vessels were subject to the ocean ranger fee while all vessels were subject to CPVEC fees. DEC proposes to simplify the fee structure basically by combining both the CPVEC and ocean ranger fees.

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MR. BATES advanced to slide 9 to explain the simplified Proposed Fee Structure:

- All vessels over 50 berths pay \$5 per lower berth

MR. BATES said that Section 9 of SB 180 contains the proposed simplified fee structure and he reiterated that all vessels will pay the \$5 fee.

- Large vessels pay roughly the same

MR. BATES said that large vessels currently pay about \$6.8 million in berth fees. The DEC fiscal note is zero, although there will be a slight revenue increase of about \$17,000.

- Small vessels will pay increased fees in 2024

MR. BATES said that the entire fleet of small vessels currently pay \$18,000 per year. SB 180 will increase that by \$80,000.

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

MR. BATES stated that SB 180 offers a \$1 berth fee reduction for ships that maintain an electronic monitoring program that:

- the department can work with, and
- has a clear connection to port discharges.

So, rather than \$5, the vessel could pay a \$4 berth fee.

MR. BATES indicated that during talks with the industry, a rebate or true-up at the end of the year was requested for unused berths due to CDC capacity restrictions, particularly related to COVID. Suppose 1,000 berths are paid for on March 1 and later the CDC restricts sailings to half capacity. It would not be appropriate to hold the industry responsible for the

unused berths. This bill would allow true-up at the end of the year, permitting the state to issue rebates accordingly.

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SENATOR KIEHL expressed his belief that this was a per passenger fee in the first place; he assumed there was a true-up.

SENATOR KIEHL stated that the industry presumably has a sense of the cost for an electronic monitoring system. He asked whether the department has had conversations with the industry about whether the \$1 rebate is sufficient to install and operate the envisioned valve monitoring system that would make this program work well.

MR. BATES answered that he has not had that particular conversation with the industry in the last year. He expressed his belief that the deputy commissioner and the commissioner had the conversation with the industry previously. This is an incentive. It is not a solve-all. It is a program the department would love the industry to get behind; it would be driven by the industry. DEC can take the data, but it is critically important the industry is willing to provide and structure the data in a format the department can use. He expressed his understanding that it would take a little bit of effort and money to install open/closed electronic monitoring on a variety of different ports, valves, and openings. He did not know exactly how much effort and money it would take to accomplish the task. \$1 is 20 percent of the berth fee which could total \$1.5 million per year for the large fleet. The offset may be enough to be an incentive.

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MS. POKON expressed her understanding that the state does not have the authority under federal law to require this type of electronic monitoring. She clarified that the state wants to retain and fund an inspection program. This bill does not propose to waive the fee entirely in hopes of offering the industry financial resources for electronic monitoring. However, given that the state lacks the authority to require electronic monitoring, offering an incentive is the next best thing.

MR. BATES added that DEC currently gathers information from the vessel latitude/longitude time-date stamps, where the vessel is and where the vessel has been. The CPV is obligated to provide that information; it is accessible through a server. Electronic monitoring would be a "not so simple" add-on to this. DEC met with the Marine Exchange recently and they have a lot of

technology. The department has a bit of information that can be recreated, but DEC needs to have access to information. For instance, after the pipe opens:

- what was discharged;
- what was the flow rate; and
- which pipe was used for the discharge.

The department needs a lot of additional data, this is a science-based need, and the data matters.

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SENATOR KIEHL said that he did not want to give the impression that he thought that this sort of automated system was a replacement for inspections. He agreed with the director and reiterated that it is necessary to know where the valve goes.

SENATOR KIEHL said that if the incentive is so small as to not make a difference, the state will not get the benefit of automation. On the other hand, if it is much bigger than it needs to be, the state ends up subsidizing. He asked how this is pegged to give the state one piece of a much broader, overall monitoring program, but that piece is on 24/7.

MR. BATES replied that he understood.

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CHAIR REVAK asked Senator Kiehl whether he wanted follow-up data or whether that was a comment.

SENATOR KIEHL replied it was a comment. He would be happy to work with the department on the scope and scale as well as talk to the industry about incentives. If it costs \$37,000 a ship per year and the system costs \$50,000 to install, the cost is a little rich. If it costs \$1 million to install, it is not an incentive at all.

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SENATOR MICCICHE surmised that the instrumentation and the data points of large and small vessels may vary little, but the incremental costs will be much more for smaller vessels. He said that a fully automated monitoring system was far superior and his belief is that in the long-term, it would save on labor costs for inspections and other similar matters. He asked whether vessel operators had offered feedback on this issue.

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MR. BATES replied that the incentive provision had been included in the bill for a couple of years but there was very little discussion on whether the incentive was enough or too much. He offered to contact the industry and follow-up.

MR. BATES informed the committee that large vessel treatment facilities are vastly different from small vessels. On small vessels, marine sanitation devices are operated in accordance with how the device was manufactured. The devices treat effluent to about 200 fecal colony forming units per 100 milliliters of water. That is the device's expected performance, and the best smaller vessels can do. Tinier CPVs with smaller marine devices could probably provide information by writing it down, like:

- when the pipes opened;
- the duration the pipes were opened; and
- the latitude - longitude coordinate point of discharge.

MR. BATES emphasized that this bill proposes a more meaningful porting-in of electronic data. This will not be an easy setup for the department let alone for vessels, especially for large vessels which may require moving apparatus around and have multiple ballast tanks, holding tanks and treatment tanks. It is critically important to the department that the pipes can be mapped and monitored for opening/closing as well as flow rates. He supports seeing the system come online though expects an incrementally challenging process. He commented that he had just been advised of some of the challenges and costs. He reiterated that it would be wonderful if the industry could be present to comment.

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SENATOR MICCICHE reiterated that the cost of monetizing a system serving over 5,000 passengers will be significantly different than a system serving over a couple hundred. It may be worth a discussion on whether the state may need to offer greater incentives to smaller vessels than larger vessels. He reviewed the bill and was largely supportive. He wants more details about cost structure and industry feedback regarding a viable price point.

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MR. BATES advanced to slide 10, Local Water Quality Disparity, which depicted one graph with 40 units (dots) in 100 milliliters (ml) of fluid and another graph with 1.5 million units (dots) also in 100 ml of fluid. The 40-dot fluid was relatively light and clear while the 1.5-million-dot fluid was so thick with dots that the fluid appeared dark and murky.

- Large cruise ship permit allows up to 40 fecal colony forming units per 100 ml.

MR. BATES said that federal and state law require large cruise ships to treat their wastewater through an advanced wastewater system to a water discharge quality of 40 fecal colony forming units per 100 ml. Small vessels treat, at best, to 200 fecal units.

- Local wastewater treatment facility permit allows up to 1.5 million fecal colony forming units per 100 ml.

MR. BATES said the Environmental Protection Agency (EPA) has authorized communities to discharge at the higher level. He recognized that water quality has its challenges. A disparity exists between the state's expectation of the industry it manages and the expectation for its publicly owned treatment facilities.

- Many of the over one million yearly cruise ship passengers will use onshore restrooms when visiting Alaska ports.

MR. BATES reiterated that in the absence of CPVs, DEC had observed high concentrations of bacteria, particularly human-based material at several ports. DEC recognized that local treatment facility exceedances directly correlate with seasonal visitor influx and the high traffic of CPV passengers.

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MR. BATES advanced to slide 11, Local Water Quality to illustrate the significant difference between the levels of fecal colony forming units discharged in port communities verses the maximum allowed the industry:

<u>Community</u>	<u>301(h) Waiver?</u>	<u>Fecal Colony Forming Unit Effluent Limit(s) per #/100 ml</u>
Juneau	N	<u>Juneau Douglas:</u> Average monthly: 200 Average weekly: 400 Daily Maximum: 800 <u>Mendenhall (varies seasonally):</u> Average monthly: 112-200 Average weekly: 168-400

Daily Maximum: 224-800

City of	Y	<u>Ward Cove:</u>
Ketchikan (Charcoal Point)		Average monthly: 200
		Average weekly: 400
		Daily Maximum: 800
		<u>Charcoal Point:</u>
		Average monthly: 1,000,000
		Daily Maximum: 1,250,000

MR. BATES stated that Juneau and Ward Cove discharge at a level of 800 fecal colony forming units daily compared to the 40-unit level allowed the industry.

Sitka	Y	Average monthly: 1,000,000
		Maximum Daily: 1,500,000
Skagway	Y	Average monthly: 1,000,000
		Maximum Daily: 1,500,000

MR. BATES explained that under a "301(h) waiver facility," Charcoal Point and Ketchikan discharge at 1,250,000 fecal units daily. Sitka and Skagway are both authorized to discharge at 1,500,000 fecal units per day.

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SENATOR VON IMHOF asked how the cruise ships manage to offload at a level of 40 colony forming units as compared to the 1.5 million discharged in local ports.

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MR. BATES answered that cruise ships have a wastewater offloading process; however, treatment is largely accomplished onboard. The primary level of treatment is the simplest method, disinfecting with a chlorine compound or ultraviolet light. The primary level of treatment significantly reduces bacteria levels. The secondary level of treatment cleans up and eliminates bacteria to about the 200 fecal coliform units; this baseline is the standard used in Alaska. Treatment systems must produce at the secondary level with the exception of 301(h) waiver facilities. Large vessels have a tertiary level of treatment, an advanced wastewater treatment system that kills additional fecal coliform bacteria using methods like filtration and additional ultraviolet radiation.

MR. BATES stated that many facilities have a "mixing zone" associated with some discharges that span a hundred-mile radius.

He explained that it is viably possible to reduce the discharge radius down to 100 yards using disinfection treatments like ultraviolet light or a simple treatment of chlorine. These treatments are massively effective.

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MR. BATES advanced to slide 12, Shore side Facility Upgrades, stating Section 13 was a critical piece of the bill:

- A portion of the berth fees will be used to support improvements to shore-based wastewater treatment facilities in port communities
- DEC will establish a grant program to provide financial assistance

MR. BATES said that DEC will establish regulations to implement a competitive award or grant primarily focused on:

- protecting or improving public health and water quality, or
- mitigating environmental impacts caused commercial passenger vessels or their passengers.

MR. BATES talked about the costs of establishing a grant program. Berth fees will bring in between \$6 and \$8 million. If the CPV oversight budget runs \$3.5 - \$4 million, then the remaining \$3.5 - \$4 million per year could be put towards the grant program to aid with port community wastewater treatment facility improvements. At the end of the day, the grant would mitigate the effects of passenger traffic and help to alleviate the challenges these communities face improving water quality and effluent.

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SENATOR MICCICHE said that after the 2006 initiative passed, fecal coliform discharges were supposed to incrementally decrease to zero over time with no mixing zones at the point of discharge. This statutory requirement was changed about ten years after the initiative was written into law. One reason the statute was changed had to do with the 301(h) waiver and that the number of fecal colonies it allowed was inequitable.

SENATOR MICCICHE expressed excitement about the proposed use of berth fees to fund water treatment improvements for communities with 301(h) waivers. Whether or not sufficient funds would be available for the number one waived community in the state, this

is a unique approach. This business model might prove useful for the city with essentially secondary water treatment for 300,000 plus people.

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SENATOR KAWASAKI referred to Section 7 and asked whether other states require substantially equivalent CPV information gathering as Alaska.

[4:26:01 PM](#)

MS. POKON expressed her understanding that DEC will accept the format of similar information submitted to the Coast Guard or other fellow regulatory entity.

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SENATOR KAWASAKI asked whether the term "substantially equivalent" is a term of art or if it is used in other areas of law. He harkened back to the time of the big debates over mixing zones and effluent, recalling Alaska had the strictest rules. He asked whether Alaska continues to have the strictest regulations.

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MR. BATES answered that Section 7 is specifically about information that Alaska requests. It is a clarifying edit without intention of substantial or substantive change. It is not about standards applied to other state or federal discharge numbers. He expressed his belief that Alaska is equivalent to federal oversight. Alaska has the ability to manage wastewater, sewage/greywater, in Alaska. Alaska sets those standards as the state sees fit. He mentioned that the International Maritime Organization and federal laws that control additional discharges from some vessels that are international in nature. He mentioned a federal law called VIDA, Vessel Incidental Discharge Act, which is in the process of being implemented. The state networks with VIDA but retains discretion and authority over cruise vessel management and wastewater discharge in the state. DEC will continue to look at the issue if concerns remain.

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SENATOR KIEHL asked whether the definition of "wastewater" wrote out ballast discharges. He expressed his belief that ballast discharge was covered in previous bill language.

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MS. POKON expressed her understanding that ballast water is outside the scope of the state's authority to regulate under

federal law. The idea is to prevent a loophole. Wastewater that is put into the ballast cannot subsequently be discharged as "ballast" water. She expressed her belief that, generally, DEC would not look directly at ballast water. However, if wastewater was rerouted into the ballast, it would fall under the scope of state regulatory authority.

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SENATOR KIEHL asked what the current permitting process and standard is for small ships.

MR. BATES answered that state regulations require small vessels to operate under best management practices and DEC reviews their alternative plans. Alternative plans are not permitted, but they are approved by DEC. DEC reviews the operational plan, treatment, and discharge process. The expectation is that small vessels treat to the level of their marine sanitation device (MSD) that is set by Coast Guard rules. MSDs are supposed to treat to 200 fecal colony units. This is the target level the state expects, but small vessels have not necessarily achieved it. Vessels were put in storage this last year due to COVID without a lot of clean up, because it was difficult to find workers during the pandemic. The small vessels came back up and their numbers for fecal coliform units were particularly high. All vessels, large and small, were expected to sample their treatment facilities within ten days of arrival in Alaska waters and share the numbers with the department. The numbers were unacceptably high, so the department worked with the vessels to get their numbers down closer to the required MSD level or target.

CHAIR REVAK asked whether Senator Kiehl had further questions.

SENATOR KIEHL replied that his question was answered.

[4:32:22 PM](#)

SENATOR BISHOP joined the meeting.

[4:33:00 PM](#)

CHAIR REVAK said he planned to hold the bill in committee for further review. He opened public testimony on SB 180.

[4:33:36 PM](#)

KARLA HART, Representing Self, Juneau, Alaska, testified in opposition to SB 180, stating she has followed the cruise ship industry for almost 40 years and supported the passage of the 2006 initiative to create the Ocean Ranger Program. She was also

active in Governor Parnell's administration era rollbacks of components of the cruise initiative. She said that two minutes is insufficient time to get through everything, so she pointed out that the three major cruise corporations represented in Alaska have engaged in illegal processes relating to dumping things into waters, and all three have pled guilty in federal court to multiple violations. Two of those companies used "magic pipes" to bypass regulation, a major component, across multiple vessels, showing a corporate culture.

MS. HART said that Carnival Corporation, which owns Princess, Holland America, Carnival Cruise Line and others, is still on active probation for violations, including violations caught by Alaska Ocean Rangers. They continue to violate their probation. She said she will submit a letter to the committee about the latest probation hearing. They have a culture of violations which remain unreformed during the probation period. Judge Sykes in Florida requires corporate CEOs to appear in person at each hearing; she has threatened them individually and the companies collectively with arrest if they don't comply. Carnival Corporation brands are recidivist criminals, so it is critical that ocean rangers are on board ships. DEC talks a lot about fecal matter, which is important, but the industry dumps oily and toxic waste that should not be dumped under any conditions. Alaskans wanted eyes onboard and that is why they voted for the Cruise Ship Initiative and to have ocean rangers onboard.

MS. HART expressed concern that the Governor's Office did not issue a press release, though there was two other press releases the day of introduction. People are unaware of this bill. She urged the committee to hold the bill and notify the public about the bill so Alaskan residents have a chance to testify.

MS. HART said the existing program has been revenue neutral. DEC's advocacy for cost effectiveness is a little ironic because money is collected from cruise passengers, then buying berths at full-rack rate back from the cruise industry. So, the industry is making money on this except for the fact that the onboard ocean rangers catch their violations and cost the industry millions of dollars in penalties. She intended to deliver information to offices next week. She requested the committee to slow down and give Alaskans a chance to comment. It is not just about fecal matter.

CHAIR REVAK encouraged Ms. Hart to submit written testimony to the committee if she had more to share.

4:37:48 PM

CHAIR REVAK closed public testimony on SB 180.

[CHAIR REVAK held SB 180 in committee.]

4:38:29 PM

There being no further business to come before the committee, Chair Revak adjourned the Senate Resources Standing Committee meeting at 4:38 p.m.