

HB

134

SENATE COMMITTEE REPORT

DATE: 4/3/09

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Resources Committee considered CS FOR HOUSE BILL NO. 134(RES)

HB 134 CRUISE SHIP WASTEWATER DISCHARGE PERMITS

"An Act relating to the terms and conditions of commercial passenger vessel permits for the discharge of graywater, treated sewage, and other wastewater; establishing a science advisory panel on wastewater treatment and effluent quality in the Department of Environmental Conservation; and providing for an effective date."

and recommends:

- be replaced with SCS or CS HB 134 (RES)
- adopt previous SCS or CS _____ ()
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:

- Same Title
- New Title

HOUSE BILL:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DEC	2/13/09			<input checked="" type="checkbox"/>	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	Hugrus			<input checked="" type="checkbox"/>	
	French			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
CO-CHAIR:	McLean				<input checked="" type="checkbox"/>
CO-CHAIR:	Wielechowski	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	

ALASKA STATE LEGISLATURE



SENATOR LESIL McGUIRE
SENATOR BILL WIELECHOWSKI
Co-Chairs, Senate Resources Committee

MEMORANDUM

Memorandum

To: Leg. Legal
From: Shalon Szymanski, Committee Aide
Senate Resources Committee
Date: April 10, 2009
Re: Final CS Request

Please create a Final Committee Substitute (SRES) for work order # 26-LS0570\W incorporating the attached amendment (26-LS0570\W.3).

HB 134 did move out of committee today and we would like to have it read across on the floor tomorrow, SATURDAY.

Thank you!

CS FOR HOUSE BILL NO. 134(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/30/09

Referred: Rules

Sponsor(s): REPRESENTATIVES HARRIS, Kelly, Millett, Johansen, Foster, Keller, Chenault, Coghill, Johnson, Wilson, Muñoz, Hawker, Dahlstrom

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the terms and conditions of commercial passenger vessel permits for
2 the discharge of graywater, treated sewage, and other wastewater; establishing a science
3 advisory panel on wastewater treatment and effluent quality in the Department of
4 Environmental Conservation; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 LEGISLATIVE INTENT. It is the intent of the legislature that the minimum standards
9 for the terms and conditions of wastewater discharge permits for large commercial passenger
10 vessels meet all applicable state and federal effluent limits or standards, including Alaska
11 Water Quality Standards, governing pollution at the point of discharge. ~~The Department of~~
12 Environmental Conservation ^{shall establish and consult} ~~in consultation with the~~ science advisory panel on wastewater
13 treatment, ^{to evaluate} ~~determines that compliance with those limits or standards is~~ the most
14 technologically effective and economically feasible treatment options.

1 * **Sec. 2.** AS 46.03.462(b) is amended to read:

2 (b) The minimum standard terms and conditions for all discharge permits
3 authorized under this section require that the owner or operator

4 (1) may not discharge untreated sewage, treated sewage, graywater, or
5 other wastewaters in a manner that violates any applicable effluent limits or standards ^{technology-based}
6 under state or federal law, including Alaska Water Quality Standards governing
7 pollution at the point of discharge, except as provided in (e) of this section;

8 (2) shall maintain records and provide the reports required under
9 AS 46.03.465(a);

10 (3) shall collect and test samples as required under AS 46.03.465(b)
11 and (d) and provide the reports with respect those samples required by
12 AS 46.03.475(c);

13 (4) shall report discharges in accordance with AS 46.03.475(a);

14 (5) shall allow the department access to the vessel at the time samples
15 are taken under AS 46.03.465 for purposes of taking the samples or for purposes of
16 verifying the integrity of the sampling process; and

17 (6) shall submit records, notices, and reports to the department in
18 accordance with AS 46.03.475(b), (d), and (e).

19 * **Sec. 3.** AS 46.03.462 is amended by adding new subsections to read:

20 (e) When issuing, reissuing, renewing, or modifying a permit required under
21 (a)(1) of this section, the department may include effluent limits or standards ^{technology-based} less
22 stringent than those required under (b)(1) of this section for no more than two years
23 duration if the department finds that a permittee is using methods of pollution
24 prevention, control and treatment found by the department to be the most
25 technologically effective and economically feasible in controlling all wastes and other
26 substances in the discharge but is unable to achieve compliance with Alaska Water
27 Quality Standards at the point of discharge.

28 (f) In developing an effluent limit or standard under (e) of this section, the
29 department shall

30 (1) require use of methods of pollution prevention, control, and
31 treatment found by the department to be the most technologically effective and

1 economically feasible; and

2 (2) apply all other applicable provisions of state law and this section.

3 (g) When reissuing, renewing, or modifying a permit required under this
4 section that was issued after the effective date of this bill section, the department may
5 not include effluent limits or ^{technology-based} standards less stringent than the comparable effluent
6 limitations in a previous permit issued under this section.

7 (h) Nothing in this section shall be construed to limit the authority of the
8 department to

9 (1) restrict the areas in which discharges permitted under this section
10 may occur; or

11 (2) impose additional terms and conditions on the manner in which
12 discharges permitted under this section may be made in a specific area.

13 * **Sec. 4.** AS 46.03 is amended by adding a new section to read:

14 **Sec. 46.03.464. Advisory panel on wastewater treatment; commissioner's**
15 **reports to the legislature.** (a) A science advisory panel is established in the
16 department. The panel consists of 11 members selected by the commissioner.
17 Members of the panel serve without compensation but are entitled to transportation
18 expenses and per diem as authorized for members of boards and commissions under
19 AS 39.20.180. Each of the individuals the commissioner selects will serve for up to a
20 five-year period and have expertise in the design, operation, or function of wastewater
21 management and treatment systems; among the 11 panel members, the commissioner
22 shall select at least one individual from each of the following groups:

23 (1) coastal community domestic wastewater management;

24 (2) cruise ship industry;

25 (3) commercial fishing industry; and

26 (4) a non-governmental organization with an interest in water quality
27 matters.

28 (b) The panel shall

29 (1) meet at the call of the commissioner and give public notice of
30 meetings of the panel as required under AS 44.62.310 and 44.62.312;

31 (2) hold one or more public conferences or workshops before 2012,

1 with at least one public conference or workshop to be held between January 1, 2012,
 2 and January 1, 201⁵, if the department issues, renews, or modifies a permit required
 3 under AS 46.03.462(a)(1) after January 1, 2012; and

4 (3) assist and advise the commissioner in conducting the analyses and
 5 preparing the reports required in (c) and (d) of this section.

6 (c) On or before January 1, 2012, the commissioner, in consultation with the
 7 panel, shall provide a preliminary report to the legislature that summarizes

8 (1) methods of pollution prevention, control, and treatment in use and
 9 the level of effluent quality achieved by commercial passenger vessels;

10 (2) additional methods of pollution prevention, control, and treatment
 11 that could be employed to provide the most technologically effective and
 12 economically feasible measures to control all wastes and other substances in the
 13 discharge; and

14 (3) the environmental benefit and cost of implementing additional
 15 methods of pollution prevention, control, and treatment identified in (2) of this
 16 subsection.

17 (d) On or before January 1, 201⁵, the commissioner, in consultation with the
 18 panel, shall provide a final report to the legislature that includes the topics identified in
 19 (c)(1) - (3) of this section.

20 * **Sec. 5.** AS 46.03.465 is amended by adding a new subsection to read:

21 (h) On request, the owner or operator of a commercial passenger vessel
 22 discharging wastewater under AS 46.03.462(b) shall provide the department with
 23 information relating to wastewater treatment, pollution avoidance, and pollution
 24 reduction measures used on the vessel, including testing and evaluation procedures
 25 and economic and technical feasibility analyses.

26 * **Sec. 6.** AS 46.03.464 is repealed.

27 * **Sec. 7.** Section 6 of this Act takes effect ~~June~~ ^{Jan} 1, 201⁵.

28 * **Sec. 8.** Sections 1 through 5 of this Act take effect immediately under AS 01.10.070(c).

Y | IIII
N | I

26-LS0570\W.3
Bullard
4/10/09

PASSED

AMENDMENT

OFFERED IN THE SENATE

BY THE SENATE RESOURCES

TO: CSHB 134(RES), Draft Version "W" COMMITTEE

1 Page 1, line 11:

2 Delete "if the"

3 Insert ". The"

4

5 Page 1, lines 12 - 14:

6 Delete ", in consultation with its science advisory panel on wastewater treatment,
7 determines that compliance with those limits or standards is the most technologically effective
8 and economically feasible"

9 Insert "shall establish and consult with a science advisory panel on wastewater
10 treatment to evaluate the most technologically effective and economically feasible treatment
11 options."

12

13 Page 2, following line 18:

14 Insert a new bill section to read:

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

16 (b) The minimum standard terms and conditions for all discharge permits
17 authorized under this section require that the owner or operator

18 (1) may not discharge untreated sewage, treated sewage, graywater, or
19 other wastewaters in a manner that violates any applicable effluent limits or standards
20 under state or federal law, including Alaska Water Quality Standards governing
21 pollution at the point of discharge [, EXCEPT AS PROVIDED IN (e) OF THIS
22 SECTION];

23 (2) shall maintain records and provide the reports required under

1 AS 46.03.465(a);

2 (3) shall collect and test samples as required under AS 46.03.465(b)
3 and (d) and provide the reports with respect those samples required by
4 AS 46.03.475(c);

5 (4) shall report discharges in accordance with AS 46.03.475(a);

6 (5) shall allow the department access to the vessel at the time samples
7 are taken under AS 46.03.465 for purposes of taking the samples or for purposes of
8 verifying the integrity of the sampling process; and

9 (6) shall submit records, notices, and reports to the department in
10 accordance with AS 46.03.475(b), (d), and (e)."

11
12 Renumber the following bill sections accordingly.

13
14 Page 4, line 2:

15 Delete "2014"

16 Insert "2015"

17
18 Page 4, line 17:

19 Delete "2014"

20 Insert "2015"

21
22 Page 4, line 26:

23 Delete "AS 46.03.464 is"

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

25
26 Page 4, line 27:

27 Delete all material and insert:

28 **** Sec. 8.** Sections 3 and 7 of this Act take effect January 1, 2015."
29

30 Page 4, line 28:

31 Delete "Sections 1 through 5 of this Act take"

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

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 134(CRA)
 (H) Publish Date: 2/18/09

Identifier (file name): HB134-DEC-WQ-02-13-09 Dept. Affected: Environ. Conservation
 Title: Cruise Ship Wastewater Discharge Permits RDU: Division of Water
 Component: Water Quality
 Sponsor: Representative Harris
 Requester: House Community and Regional Affairs Committee Component Number: 2062

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

HB 134 has no fiscal impact on the Department of Environmental Conservation.

Prepared by: Lynn J. Tomich Kent
 Division: Water
 Approved by: Dan Easton
 Deputy Commissioner

Phone (907) 269-7599
 Date/Time 2/13/09 3:00 PM
 Date 2/13/2009

(Revised 9/10/2008 OMB)

Alaska State Legislature

Interim: (June-Dec)
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ANCHORAGE, AK
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Session: (Jan-May)
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REPRESENTATIVE JOHN HARRIS

Sponsor Statement

CS for House Bill No. 134 (RES)

An Act relating to terms and conditions of commercial passenger vessel permits for wastewater discharges

The House Resources Committee Substitute for HB 134 represents a compromise to address the issue of permits for wastewater discharges from large commercial passenger vessels known as cruise ships.

In 2006, Alaska voters approved the cruise ship initiative that amended the law to require vessels to meet water quality standards at the point of discharge. Municipal wastewater systems and discharges from other commercial entities commonly use mixing zones, and smaller-sized vessels in Alaska are exempt.

In 2008, the Department of Environmental Conservation issued a general permit for all large cruise ships that provided a two-year period for vessels to meet standards at the point of discharge. DEC has also conducted a cruise ship technology conference on available treatments for discharges of ammonia and dissolved metals.

All sides on this issue agree that technology is unavailable now for onboard treatment of wastewater that allows vessels to meet all water quality standards at the point of discharge.

This bill addresses how the agency will permit wastewater discharges from vessels to allow for the time it takes to get the technology developed and installed onboard. It is important to keep in mind that cruise ships discharge cleaner wastewater than most municipalities, commercial entities, and all other Alaska vessels.

The House Resources Committee version of HB 134 establishes a reasonable compromise that will both protect Alaska waters and allow coastal communities the opportunity for cruise ships to stay in port longer.



April 10, 2009

Senator Lesil McGuire
Co-Chair, Senate Resources Committee
State Capitol, Room 9
Juneau, AK, 99801

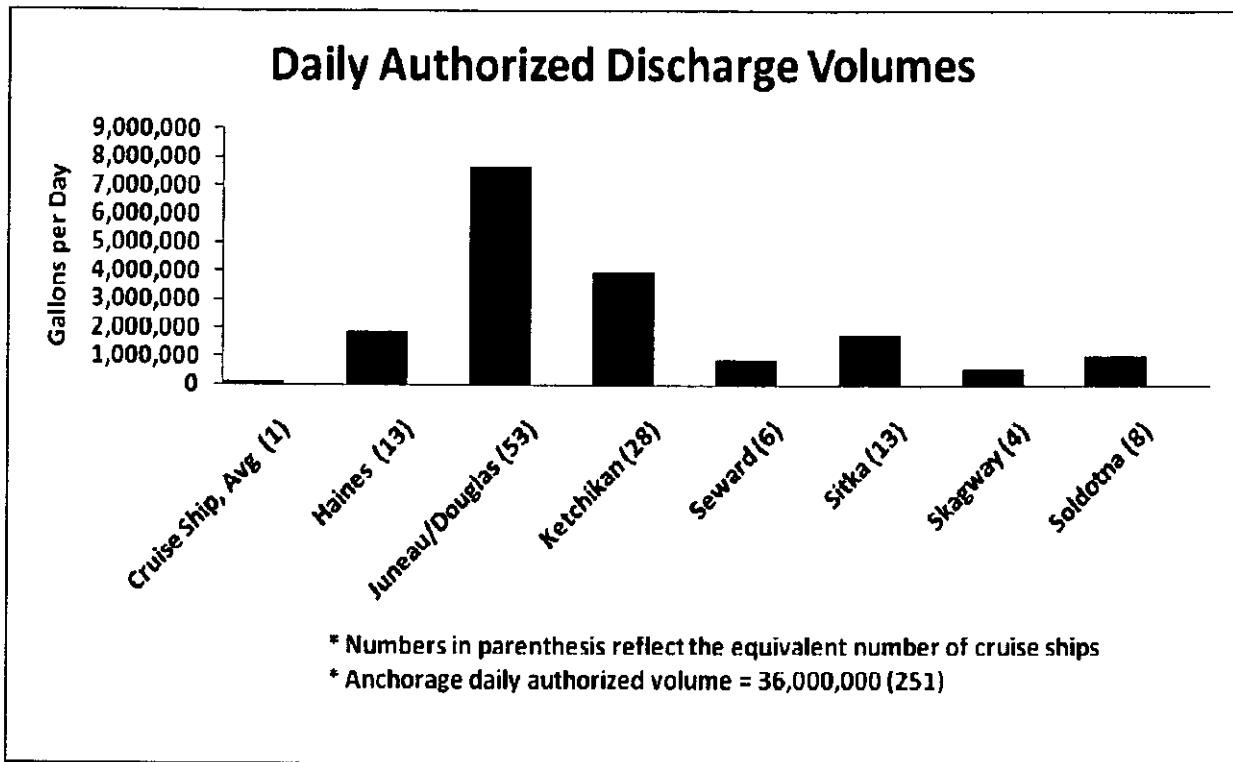
Dear Senator McGuire:

I am writing to address a number of the questions raised at Monday's Senate Resources Committee as well as correct the record regarding several incorrect statements made on HB 134.

You heard testimony that cruise ships travel in a parade and, "discharge millions of gallons each night in long hour and two hour long spurts." While this statement might work to incite extreme environmentalists, the facts show otherwise.

The amount of effluent produced by the ships' advanced wastewater systems is very small compared to municipal dischargers. Cruise ship discharges are mostly continuous; both while at dock and underway. This is primarily due to the belief that the quality of the effluent being the highest when it immediately comes out of the treatment system, thus precluding the possibility of bacterial re-growth when it is held in tanks. Tank capacities vary greatly by ship but according to responses to EPA's 2004 survey, graywater holding capacity ranges from 5 to 90 hours with an average holding capacity of 56 hours (http://www.epa.gov/owow/oceans/cruise_ships/pdf/section3_graywater.pdf). It should be noted that reaching capacity and holding also raises special considerations such as ballast and the safety and efficiency of the vessel.

All ships discharge different total volumes of effluent per 24 hours and at different rates of flow. The most definitive independent data is from the EPA. In 2004, EPA staff conducted an extensive study onboard ships in Alaska, using monitoring equipment to measure discharge volumes. The report can be found at http://www.epa.gov/owow/oceans/cruise_ships/results.html and reflects an average volume of 143,600 gallon per day. The chart below compares this average volume of ships to land based systems. You will see that it would take 53 ships in Juneau one time to equal the daily volumes that the municipal systems are permitted.



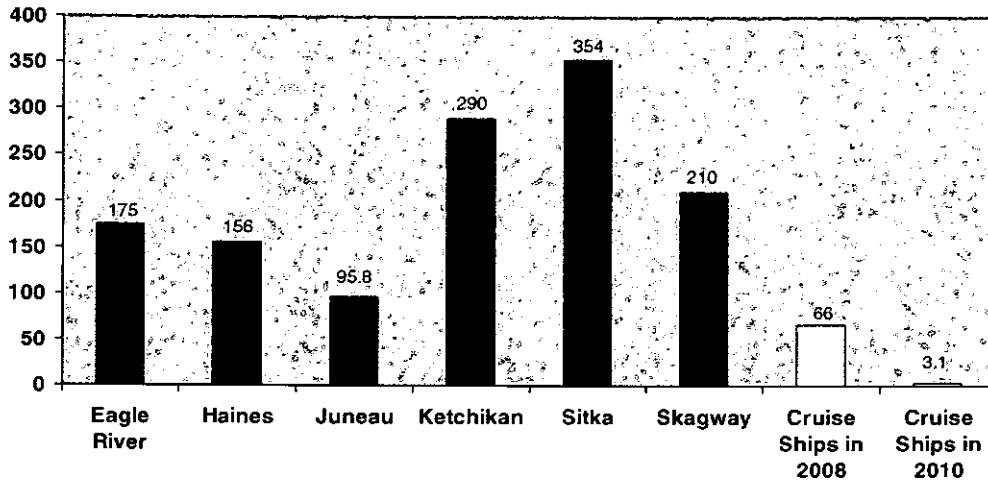
The quality of the effluent produced today by the ships' advanced wastewater system is very clean. Cruise ships have the most advanced and efficient wastewater treatment systems permitted in our state. For metals the quality of the effluent is based on many variables. One such variable is municipal drinking water that we purchase from Alaska communities. DEC's technology contractor, OASIS found that, "one main source appears to be water taken on board from municipalities and bunkered for use." A study of municipal water at selected ports showed Juneau with a maximum content of 280 parts per billion copper (average of sampling was 54). Skagway samples showed a maximum of 470 parts per billion of nickel (average of sampling was 28).

Port	Contaminant	Average	Maximum	Exceedance Rate
		Ppb	ppb	(% of samples)
Vancouver	Copper	20	120	77
Juneau	Copper	54	280	83
Seattle	Zinc	499	1500	63
Skagway	Nickel	28	470	29

If you look at the "at the point of discharge" standard required under the 2010 permit, you will find that discharges are only authorized to a maximum of 3.1 parts per billion copper and 8.2 parts per billion nickel. These levels are not only significantly lower than samples of municipal drinking water that is brought aboard the ships, they are significantly lower than authorized discharges from municipal wastewater systems. For example, Juneau is permitted to discharge

95.8 parts per billion copper, Eagle River is authorized 175 parts per billion copper and Ketchikan is permitted 290 parts per billion copper. Not one permitted facility in the State can meet the 2010 limits, nor are they being required to do so.

Copper Limits for Community Discharge Permits vs. Cruise Ship Permit Limits



Max Daily Permit Limits in Parts Per Billion (ppb)

Chip Thoma, of Responsible Cruising in Alaska, stated to the committee that the 2002 Science Advisory Panel Report¹ was only “engineering” and “none of it was scientific.” The record shows otherwise. The panel reviewed and developed conclusions of bioassays conducted in July 2002. The tests included sample effluent from five different ships and addressed the effect that simultaneous exposure has on an organism. In this test, organisms selected were representative of marine species most likely to be sensitive to the effluent. The results showed, “The various effluents tested and analyzed would be expected to impart no acute or chronic toxic effects to marine organisms at the high dilutions that occur when vessels are underway.” Additional

¹ Panel members include:

Marlin Atkinson: Professor of Oceanography, University of Hawaii

C-J Beegle-Krause: Oceanographer, National Oceanic and Atmospheric Administration

Kenwyn George: Environmental Engineer for Wastewater Discharge for Alaska DEC

Kenneth Hall: Professor, University of British Columbia (Department of Civil Engineering and Institute for Resources and Environment)

Lincoln Loehr: Environmental analyst

Charles McGee: Laboratory Supervisor, Orange County (CA) Sanitation District

Alan Mearns: Senior Staff Scientist, Hazardous Materials Response Division, NOAA

Michael S. Stekoll: Professor of Chemistry and Biochemistry, University of Alaska

Michael Watson: Senior toxicologist for US Environmental Protection Agency

Dave Eley: President, Cape Decision International Services, Inc.

information can be found at:

http://www.dec.state.ak.us/water/cruise_ships/pdfs/sap_wettest_final.pdf. It is also important to note that this study was conducted prior to the installation of the current advanced treatment systems, which produce a much cleaner level of effluent.

A number of studies have been conducted to determine the effects of dilution. In 2002, the science advisory panel found that a large cruise ship discharging at a rate of 200 cubic meters per hour (typical for continuous discharge) and traveling at the minimum allowed speed of 6 knots, will have mixing greater than 50,000 to 1. In 2002 the EPA conducted a plume tracking study and found that ships traveling between 9.1 and 17 knots have a dilution factor of "200,000 to 640,000 to 1 immediately behind the boat." Based upon this information, the DEC has testified that treated effluent from large cruise ships' advanced wastewater treatment systems would meet Alaska's tough standards "almost instantaneously" when under motion.

Study	Conditions	Dilution
EPA Skagway Study, 2008	Stationary, slack tide conditions	65:1
DEC Science Panel, 2002	Minimum speed 6 knots	50,000:1
EPA Plume Study, 2001	Speeds between 9.1 and 17.4 knots	200,000:1 to 640,000:1

Sources: http://www.epa.gov/owow/oceans/cruise_ships/plume_dilution_sampling_report.pdf,
http://www.epa.gov/owow/oceans/cruise_ships/plumerpt2002/plumereport.pdf,
http://www.dec.state.ak.us/water/cruise_ships/pdfs/impactofcruiseship.pdf.

As I mentioned in my testimony, the industry would prefer the original version of HB 134 and its straightforward approach to leveling the playing field for all industries. However, the current version is reasonable. Specifically, we support the creation of a new science panel, the continued review of new technology and the anti-backsliding provisions. The current version will establish a process for DEC and industry to work cooperatively toward improving technology. The bill will also give DEC the authority to establish permit conditions such as excluding ports, sensitive marine areas, or minimum speeds for discharges.

I believe adding a sunset provision would be the wrong approach and have the opposite effect of what this bill is trying to accomplish. Individual cruise companies utilize different technology in their advanced wastewater treatment system. It is fair to say that even with the different systems, all the environmental departments believe they can make improvements. However, no one can predict when technology will be available to integrate into existing systems and prove to be effective 100% of the time in a marine environment. We have manufacturers of the systems now performing research and development with the cruise lines to improve their systems. We are told that there are no guarantees that a redesigned system will get all the way to the "end of pipe standard."

If a sunset is added to the bill and the authorization for DEC to permit a ship using the best available technology goes away, I am concerned that companies will not have any incentive to make major investments in advancing technology. Instead, we may see investment in alternatives such as increasing holding capacities and altering itineraries.

I thank you for your interest in understanding the science and technology of wastewater discharges. I would request that the bill move from the Senate Resources Committee unamended.

Sincerely,

A handwritten signature in black ink, appearing to read "John".

John Binkley
President
Alaska Cruise Association

SARAH PALIN
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 19, 2009

The Honorable John Harris
Alaska State Legislature
State Capitol, Room 403
Juneau, AK 99801

Dear Representative Harris:

Thank you for your letter requesting my help clarifying expectations for the Department of Environmental Conservation (DEC) should your legislation, known as HB 134, pass the Legislature and become law. I share your confidence in DEC's abilities and efforts, and agree that DEC officials are working hard to implement the best treatment technology as quickly as possible.

I would like to assure you, and anyone else interested in this issue, that in the event that this legislation passes, DEC will retain the ability to preserve and protect water quality through their existing permitting authority. While discharge permits could be modified to include mixing zones where appropriate, cruise ships would still have to obtain and comply with permits that will fully protect aquatic life and other uses of Alaska's waters. Permits could include a variety of conditions to ensure water quality is protected.

DEC would retain the authority to prevent backsliding by assuring that any standards currently achieved must continue to be met and would have the ability to mandate that the best and most feasible treatment technology be used. As you may know, DEC is aware of no technologies currently available for widespread shipboard use that would allow standards to be met. From DEC's technology conference held last month, it appears there are new waste reduction and treatment options that could become commercially available in the future. We want to encourage improvement, and continue to explore these options.

I appreciate your interest and efforts in this issue and hope this information is helpful as you continue hearings on this legislation.

Sincerely,

A handwritten signature in black ink that reads "Sarah Palin". The signature is fluid and cursive, with a large loop at the end.

Sarah Palin
Governor

Alaska State Legislature

Interim: (June - Dec.)
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Session: (Jan. - May)
State Capitol, Room 403
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REPRESENTATIVE JOHN HARRIS

March 11, 2009

Governor Sarah Palin
Office of the Governor
Juneau, Alaska

Subject: Large Commercial Passenger Vessel Wastewater Discharge Permits

Dear Governor Palin:

This is to call your attention to legislation relating to wastewater discharge permits for large passenger vessels operating in state waters. Policy direction from your office would be helpful to the legislature, coastal communities, vessel owners, and many interested individuals toward resolving this issue.

House Bill 134 would provide the Department of Environmental Conservation with the same authority to regulate wastewater discharges of large vessels that it has with other entities. Current law – which was established by voter initiative in 2006 – requires testing of vessel wastewater specifically at the point of discharge.

Testing at the point of discharge imposes a different methodology than that which exists for any other industry or municipality in Alaska. For example, mining operations, seafood processing, and coastal communities have their discharges tested at a reasonable distance away from the discharge point. Be that as it may, clean water itself should be our standard, and if someone is polluting our waters, then DEC must step in and stop them.

In spite of the initiative's language, DEC issued a general permit for all large commercial passenger vessels on March 25, 2008 that provides interim effluent limits and recognizes that vessels need time to make changes to their operations or equipment. The compliance schedule provides a deadline of 2010 to fully meet new standards for ammonia, copper, nickel, and zinc.

I believe this first discharge permit was a good first step. It complies with the citizens' initiative, and it establishes a reasonable approach toward developing vessel treatment systems that will keep our marine water clean.

Two bills have already been signed into law that have amended the citizens' initiative. One, by former Sen. Kim Elton, removed state ferries and other vessels of similar size from the initiative's requirements. Another, by Rep. Lindsey Holmes, removed certain passenger disclosure provisions. HB 134 -- if enacted -- would not be the first change to the initiative.

As the prime sponsor of HB 134, I have confidence that DEC is fully qualified to evaluate the best available methods and technologies and apply them to the operational permits that cruise ships must obtain. A technology session recently held by DEC revealed several approaches that could result in protecting Alaska waters; however, it found that not all systems could work on all vessels, not all vessels could discharge to shore, and all this is a developing field needing further evaluation by DEC. The bottom line is that your administration is working right now toward bringing the best treatment systems possible on board vessels as quickly as possible.

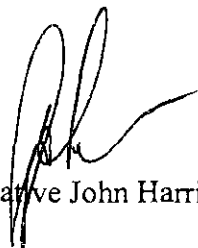
By having confidence in DEC's ability and efforts, I sponsored HB 134. Giving the agency broad authority does nothing to diminish water quality standards. Its officials are working hard to implement the best treatment technology as quickly as possible, and they will hold vessels to high water quality standards.

Unless a bill is enacted this session that amends the testing requirement "at the point of discharge," both large commercial passenger vessels and DEC will face a difficult decision. Either the agency will have to continue to issue permits that don't meet the requirements of the citizens' initiative or large commercial passenger vessels will have to abide by standards for which technology is not now available.

HB 134 returns that authority to the agency. Your support for the legislation will convey your confidence that the agency will do the job that we expect it to do.

Thank you for your time and consideration of this important issue.

Sincerely,



Representative John Harris

cc: Commissioner Larry Hartig, Department of Environmental Conservation
Jerry Gallagher, Legislative Director, Office of the Governor

CSAW
Campaign to Safeguard America's Waters



Earth Island Institute

4/5/09

Madame Chairman and Members of the Senate Resources Committee,

Thank you for this opportunity to testify today on HB134. My name is Gershon Cohen Ph.D., I am a 25-year resident of Haines, Alaska. I am one of the co-sponsors and drafters of the Alaska Cruise Ship Ballot Initiative (CSBI) that became law by a majority vote of Alaskans in 2006.

I urge you to adopt several key amendments to the current bill so that it may be supportable by all sides of this debate:

First and foremost, there must be a reasonable sunset date for closure of the WQS waiver program included in the bill or it will fail two fundamental tests: (1) adequate protection of our State marine resources, and (2) respecting the intent of Alaskans who voted in a clear majority in 2006 to pass the cruise ship ballot measure. CSBI sponsors have never challenged DEC decision to give the industry a reasonable timeframe for compliance provided the ships make an honest effort to comply with the law. But without a meaningful deadline, any incentive to improve their performance will simply disappear.

Second, the intent language in Section 1 implies, if not provides, an inappropriate level of power to an appointed body over the actions of DEC. The role of the Science Panel is to assist DEC in its examination of wastewater treatment technologies. No decision by the department should be in any way dependent on this consultation. It must be clear DEC is free to accept or reject the panel's findings without prejudice and make its own decisions. The simple way to achieve this is to end the sentence in Section 1, line 11 with a period after the word "discharge." The following sentence can read, "The Department of Environmental Conservation shall establish a science advisory panel to assist the Department in its evaluation of technologically effective and economically feasible wastewater treatment options."

Third, DEC stated in its Feb. 16, 2009 *Draft Feasibility Study: Reducing Concentrations of Dissolved Metals and Ammonia in Large Passenger Vessels Wastewater Discharges* that technologies exist capable of achieving all State WQS at the point of discharge. DEC staff further stated in their report of March 2, 2009 *Water Division Staff's Status Report* that only 4% of the samples taken in 2008 violated interim permit limits and ~1/3 of the time cruise ships were already meeting the long term limits without a mixing zone. Obviously, full compliance is not only possible it is already being achieved by some members of the fleet. We therefore recommend the timing for the workshops and reports from the Science Panel described in Section 4 be accelerated by one year. Under the current proposed schedule, most if not all ships will be capable of complying with the law before the Science Panel holds a public workshop, which would defeat its purpose of helping to inform the debate over which technologies are the most effective and feasible.

If the committee is willing and able to amend HB134 to the effect described above, the sponsors of the Alaska Cruise Ship Ballot Initiative will stand in support of this legislation.

Sincerely,

Gershon Cohen Ph.D., Project Director, CSAW
Co-sponsor CSBI

Opinion

Vote yes, then fix it This may be the only way to get cruise industry to pay something There is something for everyone in Ballot Measure 2, the citizens initiative on Tuesday's primary election ballot to impose new taxes and fees, stricter environmental rules and consumer disclosure requirements on the cruise ship industry. And there are problems with almost every one of the provisions.

But the indigestion is worth it. That's why we recommend a yes vote. Then get ready for litigation and legislative battles to fix the problems and, we hope, after a couple of years, Alaska will be left with a workable, fair set of laws.

Our fear is that unless Alaska stands up and forces the issue this election, the cruise industry will not willingly pay toward all the services it and its almost 1 million passengers a year enjoy while in our state. Though they are very good at donating millions of dollars to charities and other nonprofits, the cruise lines have been equally strong in battling against state and local taxes and fees.

For example, the industry mischaracterized a 2005 economics study, claiming in its campaign material: "The cruise industry pays over \$42 million annually in taxes to local governments in Alaska." Not quite. Passengers and crew paid an estimated \$17.4 million in local sales taxes. Passengers paid an estimated \$6.4 million in local hotel taxes. Cruise lines paid \$14.6 million in fees to tie up at local ports, essentially reimbursement for costs. That leaves just \$4.5 million the cruise companies actually paid from their own corporate pockets in local property taxes and sales taxes.

That doesn't cut it. Not for an industry that profits from carrying a million passengers to Alaska each year. Without Alaska and all that it offers, there would be no cruises. The \$4.5 million is less than the state collects in rental car taxes, a significantly smaller industry.

The ballot measure would amend state law to require that cruise lines pay corporate income taxes on their shipboard profits, just like any other business making money in Alaska. The cruise industry would have been subject to income taxes under a 1998 Alaska Supreme Court ruling, but it successfully lobbied the Legislature and governor's office to adopt a law retroactively exempting it from the tax.

Also, the initiative's \$4 fee per passenger to pay for onboard state observers to monitor pollution is a good dose of preventive medicine.

Were those the only issues in the ballot measure, this would be an easy yes vote.

The \$46 fee per passenger for the right to come into Alaska might not survive a legal challenge, though a reasonable "head tax" to cover state and city waterfront- and passenger-related expenses is appropriate and legally defensible. And the initiative's provision allowing Juneau and Ketchikan to maintain their own passenger fees on top of the state's fee defeats the idea of a single set of laws.

The provision requiring cruise lines to disclose in big type the commission they earn for selling bus tours, flightseeing tours and such seems like piling on in a measure already heavily weighted with revenge against the companies.

And the 33 percent tax on cruise ship gambling revenues is excessive. Whatever the social ills of gambling aboard the ships, those costs don't fall on Alaska.

One other reason to dislike the initiative is that it taxes only Outsiders, reinforcing the embarrassing attitude of many Alaskans that everyone should pay taxes but us. The solution to that dilemma is not to defeat this initiative but rather to convince Alaskans that they too should pay something toward the public services they enjoy.

The state constitution prohibits legislators from quickly repealing the initiative if it passes, but it allows them to amend the provisions. Between legislative amendments and some wise court decisions, we hope Alaska and the cruise lines can end up with a reasonable set of laws before too much damage is done to one of our few growing industries.

It's an awful lot in one ballot measure. Maybe too much, and maybe it will cause the industry to threaten cutting back its ships' time in Alaska. It has done just that when cities have imposed or even talked about adopting passenger fees. We believe that's the risk of showing the industry that Alaskans are tired of being taken for granted.

BOTTOM LINE: Ballet Measure 2 looks like the only way to get the cruise industry's attention.

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Anchorage Daily News

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**Our view: Cruise law amendment
Cut ships a qualified break***(02/16/09 18:49:38)*

The cruise industry finally found its champion to knock five words out of the 2006 cruise ship initiative. Former House Speak John Harris, R-Valdez, is sponsoring legislation to amend the initiative-passed law by deleting this phrase: "At the point of discharge."

What difference does it make

The amendment would allow the Alaska Department of Environmental Conservation to issue permits to cruise ships for wastewater discharge that in effect allows a mixing zone, whereby pollution is measured after it hits the water and is diluted. That's a standard allowed for shore-based sewage treatment throughout the state.

As it stands now, cruise ships have to meet discharge rules stricter than any other operation in Alaska. They can meet them in most categories, except for copper and ammonia. Even in those cases, their effluent is cleaner than what DEC allows sewage treatment plants.

The initiative is clear -- no mixing zones. So the cruise industry wants DEC to have the authority to cut them some slack.

That's fair -- to a point.

Already, to the chagrin of cruise initiative backers like Gershon Cohen, DEC has granted the industry until 2010 to meet the strict pollution standards. Industry spokesmen like John Binkley of the Alaska Cruise Association argue that even that extension isn't enough, and that furthermore, no science shows that the ships' effluent is harming marine life. Cohen argues that no science shows it isn't.

Binkley counters Cohen's assertion that the industry hadn't really tried to meet the copper and ammonia standards, saying the industry is working on it.

Cohen and his allies make no bones about the fact that they are pushing the industry to the leading edge of pollution control, forcing cruise ships to accelerate development and installation of technologies that shore-based, tax-supported facilities can't afford. Why? Because, they say, the industry can afford it. And their goal harks back to the original intent of the federal Clean Water Act, which was to eventually measure all pollution control at the point of discharge.

It's a good push to make, but you have to know when to ease off.

So we yes to the Harris amendment, but with this addition -- require both the cruise industry and DEC to report on the latest practical technologies for the cleanest effluent, and give DEC the authority to require those, at least as pilot programs, within a reasonable time frame.

We're confident Cohen and his allies will help keep DEC and the industry up to date on what's

available.

The initiative will keep its teeth, but delay its bite. And the cruise industry can prove that it's making a genuine effort to meet stricter standards.

The idea here is simple. Don't let the perfect be the enemy of the good; cruise pollution controls are vastly improved over 10 to 15 years ago. What they discharge is much cleaner than what Alaska cities pour into Alaska waters every day. Give the cruise lines some leeway.

But not too much; cruise lines cleaned up their acts because people and prosecutors demanded they do. Pressure helps.

If the perfect can be done, let's do it. Meet point-of-discharge rules and all the mixing zone math becomes moot. And Alaska's waters benefit.

BOTTOM LINE: Give cruise lines a little latitude on initiative's pollution standards -- but not too much.

Do not call

Legislature should add cell phones to phone soliciting law

A small but worthwhile bill before the Legislature would make it a violation of state law to make unwanted solicitations to cell phones.

You can already register cell phones as well as land lines on the national "do not call" list, at www.donotcall.gov. That makes unwanted phone solicitation a federal violation.

House Speaker Mike Chenault of Nikiski and several others from both major political parties are sponsoring a bill to make such calls to cell phones against state law as well.

The bill makes it clear that Alaskans can rely on state statute for protection from telemarketers, as well as the federal government.

BOTTOM LINE: It's good that the state is updating its phone solicitation law to cover cell phones.

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KEEP WATCH: Cruise lines need deadlines

Lawmakers and state officials were still working Tuesday on a bill to give cruise lines more time to meet strict pollution standards in Alaska waters.

More time for cruisers to comply is fair. More devilish are the details of just how long to let the clock run and how to measure progress. First priority: Keep the pressure on.

Backers of the Cruise Ship Ballot Initiative of 2006 have suggested one-year waivers on some discharges for up to three years, provided the cruise lines make progress toward meeting the standards required by the initiative.

Another suggestion has been to let the waiver period run up to five years.

We're not going to quibble about three years or five -- provided the cruise lines have to show progress each year on meeting the stricter standards. In other words, give waivers a year at a time and only when both good-faith effort and the need for more time to comply are clear.

Don't allow a blank check for five years. Or even three. Why allow the time at all? Hard-nosed backers of the initiative argue that cruise companies have spent more energy lobbying for changes than trying to comply since 2006.

Maybe so, but the fact is that cruise ships are spewing far less pollution than they were 10 years ago. They already discharge cleaner water than shore-side sewage treatment plants do. Even with more time, their discharges are less harmful to the marine environment. And cruise ships have the option of detouring to discharge in federal waters, where standards are less strict.

It's better for all hands, and for marine life, if Alaska can drive the stricter standards to become the norm. That keeps our waters clean and raises the bar beyond our borders. If a few more years will get us there, such cleaner cruising is worth the wait.

But keep the waivers conditional, and the heat on.

BOTTOM LINE: Cruise ship bill should allow more time, but no free time.

**Department of Environmental Conservation
Testimony before the Senate Resources Committee
on CS HB 134(RES) Bill Version 26-LS0570\W
April 6, 2009**

Introduction

DEC appreciates Representative Harris and the Co-chairs of the Senate Resources Committee giving DEC the opportunity to provide input on CS HB 134 (RES). Over the past few weeks DEC has worked with Representative Harris and the Co-chairs of the House Resources Committee on the bill.

This is an important bill. As it is currently written, A.S. 46.03.462 requires large commercial passenger vessels to treat their waste water to meet all state water quality standards at the point of discharge. As worthy of a goal as this is, cruise ships are not able to meet this high standard despite using the best technology available to them. They either have to hold their treated waste and discharge it outside of state waters, or discharge it in violation of the standard.

DEC believes CS HB 134 (RES) strikes an appropriate and environmentally-protective balance, giving cruise ships limited relief from a standard they cannot currently meet, while pressing forward in a logical and effective manner towards finding technologies that can achieve water quality standards at the point of discharge.

At the point of Discharge Requirement

CS HB134 (RES) retains the requirement adopted by a citizen's initiative for waste water discharges from large cruise ships to meet Alaska water quality standards "at the point of discharge," but allows DEC to grant exceptions under section 3 (e) where cruise ships, despite employing the **most technologically effective and economically feasible** pollution prevention, control and treatment measures, cannot currently meet this standard.

The discharges would still have to meet all other DEC regulatory requirements. The environment will still be protected while industry works to meet the "at the point of discharge" standard for all pollutants.

Technology Forcing Requirements

The bill includes significant technology forcing requirements that are designed to ensure cruise ships make continuous progress towards meeting the Alaska water quality standards at the point of discharge.

1. When issuing or re-issuing permits the department would need to determine that a permittee is using the most effective methods of pollution prevention, control and treatment that are technologically and economically feasible, but the permittee is still unable to meet the water quality standards at the point of discharge; and
2. DEC would:
 - Convene a science advisory panel of select experts to advise the Department on methods to reduce sources of contaminants and on current and emerging treatment technologies for the onboard or onshore treatment of wastewater from cruise ships.
(The advisory panel includes 11 members, with at least one member appointed from the following groups:
 - Coastal community domestic wastewater management;
 - Cruise ship industry;
 - Commercial fishing industry; and
 - A non-governmental organization with an interest in water quality matters.
 - In conjunction with the advisory panel, DEC will:
 - Hold one or more technology conferences to look at progress in treatment technologies, again, including both on-board and on-shore options. (Currently, DEC is requiring cruise ships to provide periodic "Source Reduction Evaluation" reports describing their efforts to reduce pollution in their treated waste water. Section 5 of CS HB 134 (RES) includes authority for DEC to require cruise ships to also provide their technical and economic feasibility analyses of different waste prevention, control and treatment options);
 - Evaluate the quality of waste water effluent the cruise ships have been able to achieve;
 - Estimate timeframes for implementation of new technologies based on the technical requirements and economic factors;
 - Evaluate potential economic impacts to transitioning to new technologies; and
 - Evaluate the environmental improvements and costs anticipated from the new technologies.

DEC will provide an interim report to the legislature in January 2012 and a final report in January of 2014 which provides an opportunity for the legislature to evaluate the progress and determine if any additional changes should be made to the statutes prior to the 2014 cruise ship season.

Anti-backsliding

The cruise ship industry in Alaska has been able to achieve a relatively high quality effluent already. They are meeting state water quality standards "at the point of discharge" for many pollutants. The pollutants that have been more difficult to reduce or remove are ammonia, copper, and to a lesser degree nickel and zinc. Even here, some vessels have come close to meeting the "at the point of discharge" requirement.

The anti-backsliding provision in the bill at section 3 (g) (page 3, line 3) prohibits DEC from relaxing an effluent limit established in a previous permit, ensuring that any gains made in improving wastewater quality will be maintained.

DEC anticipates, if HB 134 passes, it will be issuing a modified general permit for cruise ship wastewater that reflects the changes called for under the bill. Once that permit is modified, the "anti-backsliding" requirement in section 3 (g) of the bill would assure that any ground already gained in reducing pollutants in wastewater discharges from cruise ships would not be lost.

Under the permitting structure established in HB 134, the Department will impose the stricter effluent limits as technology becomes available. For example, if the cruise ships can achieve the water quality standards for ammonia before technology is available for the metals, the stricter standard for ammonia will be imposed via permit. The stricter standards for metals will be imposed when the technology becomes available. The Science Advisory Panel and technology conferences will assist the Department in forcing technology development and in determining when technologies are available.

Future Action

At the start of the 2014 Legislative Session, the Legislature will have DEC's final report regarding on-board and on-shore treatment technologies applicable to treating wastewater from cruise ships. It will also know the track record on what the cruise ship industry has been able to achieve to date and the time and estimated economic impacts of implementing any additional new treatment technologies.

The Legislature can modify AS 46.03.462 to impose any appropriate requirements as to those pollutants that may still not be treated to the "at the point of discharge" standard, or if the Legislature believes DEC's existing

requirements are sufficient, it could leave the existing requirements in place. Under section 6 of the amended bill, the Science Advisory Panel would sunset.

It is important to understand that under this amended bill, cruise ships would continue to be subject to the anti-backsliding requirement. They would also be required, at a minimum to use "the methods of pollution prevention, control, and treatment found by the DEC to be the most effective and reasonable." Finally, they would still have to meet all of the other permitting requirements of DEC.

Fiscal Impact

DEC anticipates it would not need an increment or new positions in FY 2010. An increment might be needed for work in later years, but DEC would try to fund all work out of cruise ship registration fees. This was the funding source for past studies and ongoing permitting costs.

Conclusion

Again, DEC appreciates the opportunity to provide input on the amendment.