

5/24/2007

Commissioner Larry Hartig  
Mr. Chris Foley  
Alaska Department of Environmental Conservation  
410 Willoughby Avenue, Suite 300  
Juneau, Alaska, 99801-1795

Re: Public Comment on the Draft Wastewater General Permit for Large Commercial Passenger Vessels (Permit Number 2007DB0002)

Dear Commissioner Hartig,

Thank you for accepting the following comments on the Large Passenger Vessel General Permit for Wastewater Discharges (GP) on behalf of Responsible Cruising in Alaska (RCA.) Responsible Cruising in Alaska is a volunteer organization whose members include Alaskans from virtually every coastal community and cruise ship port in the State, as well as many Alaskans from interior communities. More than 81,000 Alaskans voted in favor of tightening cruise ship pollution standards and monitoring in August 2006, and expect DEC to move forward expeditiously to adopt regulations accurately implementing the intent and purposes of AS 46.03.062.

Generally, we support DEC effort in preparing this draft permit. However, a number of specific issues requiring revision will be described in the following memo. One significant omission from the draft GP is the absence of any discussion related to the provisions of the State's Antidegradation Policy (ADP.) The State's ADP (18AAC70.015) prohibits authorization of any reduction in water quality before the State has demonstrated based on information provided by the applicant that: (1) evidence provided supports a lowering of water quality is necessary to accommodate important economic and social development where the water is located; (2) the reduction in water quality will not violate the State's WQS; (3) all existing uses will be fully protected; and (4) the application of the most effective and reasonable methods of pollution prevention, control, and treatment will be employed. Although this is a general permit, and we recognize variations exist on individual ships with respect to pollution control equipment, we believe the State must set out certain requirements for treatment methodologies reflecting the highest technological potential for controlling pollution from cruise ships, and present a defensible socio-economic argument in support of lowering the quality of the State's waters from any ship discharges.

It is likely a subset of the cruise fleet will not participate in this permitting system, opting to hold discharges until outside Alaska waters. In addition to the no-discharge option open to all vessels, facilities could be constructed in ports throughout the essentially linear route that would allow the entire fleet to pump out wastes to shore-side treatment centers. In the long run this may be the most beneficial scenario for Alaska because the ships would achieve zero discharge into public waters consistent with the primary goal of the Clean Water Act, and the communities where treatment facilities would be located would have sufficient wastestream volumes and funding to operate state-of-the-art treatment works. This would not only improve the treatment quality of ship-generated wastes and remove much of the monitoring and oversight burden on the State and the industry, it would greatly improve the effluent quality generated by local municipalities.

We are pleased the general permit establishes a prohibition against discharges into Game Refuges, Critical Habitat Areas, and Game Sanctuaries. However, this exclusion should also apply to all waters in National and State Parks, and all other waters of exceptional recreational and or ecological significance (Tier 3 waters), as stipulated under 18AAC70.015(a)(3). We urge DEC to undertake an analysis in the near future to identify, nominate, and establish Tier 3 waters in consultation with local communities and the fishing and shellfish industries for all areas within the range of the cruise fleet's operations.

We offer the following specific questions and comments in order of their appearance in the draft permit:

### Section 1.3

The permit does not appear to address the discharge of food wastes (not otherwise included in graywater discharges) or other solid or semi-solid wastes such as incinerator ash, oil sludge, and sewage sludge. Would such releases be considered part of the "normal operation of the vessel?" If so, such wastestreams should be included in the permit since they would have the potential to exceed State WQS for numerous parameters.

### Section 1.4

Point 2: Please explain the rationale for establishing the no-discharge zone at 100 meters horizontally of mean lower low water.

### Section 1.5

Point 2: How will the Department define the term "adverse effects" with regards to the impact from discharges on aquatic or terrestrial animal and plant life, their reproduction, or habitat? Since State law prohibits the establishment of mixing zones for these discharges, wouldn't the term "adverse effects" simply and directly refer to meeting all State's WQS at the point of discharge?

Point 5: Please clarify whether the permit requires ship discharges to meet all State WQS in all waters within the Alexander Archipelago. Existing federal law closed the “donut holes” within the Archipelago, but only for two specific pollutants, fecal coliform bacteria and total suspended solids. Will the ships be allowed to exceed WQS for other parameters as long as they are more than three miles from land?

#### Section 1.6

Point 12: The use of the phrase “other wastewater discharges” is confusing since the term “other wastewater” is already defined in State law (AS 46.03.490 #10.)

#### Section 1.6.3.

Editing suggestion: “...that there will *be* no discharges...”

#### Section 1.6.4.

Editing suggestion: “...that there will *be* no discharges...”

Please explain the implications of this subsection with respect to the donut hole issue raised previously.

#### Section 1.7.1

Point 1: It is unclear which definition of “other wastewater” is being referred to in this section (see above.)

#### Section 1.7.2

Point 1: The effluent limits and monitoring provisions do not address the following pollutants of potential concern and existing WQS:

- a. Incinerator ash, sludge, ground food waste, and/or other solid and semi-solid discharges that should be monitored under this permit and be accompanied by effluent limits where appropriate, e.g., with respect to Total Suspended Solids and the State’s Turbidity standard;
- b. Routine monitoring for hydrocarbons to ensure these contaminants are not commingled with graywater and blackwater. We recognize petroleum hydrocarbons shouldn’t be present in the regulated wastestreams, but the industry’s history of illegally dumping oil-contaminated wastes and tampering with onboard oil pollution treatment equipment substantiates the need to establish monitoring procedures for hydrocarbons;
- c. There is no reference to Alaska’s Whole Effluent Toxicity provisions (18AAC70.030) that require toxicity testing if there is a reasonable potential that toxicity will occur. ADEC is already aware many of the ships will at minimum exceed WQS for several heavy metals. Therefore, WET testing should be included in the monitoring protocols;

- d. The monitoring schedule for organic toxic substances shouldn't be limited to VOCs, the schedule is too infrequent, and should require compliance with EPA's water quality limits for all priority pollutants instead of a "report." Cruise ships routinely use pesticides and fungicides, and have the potential to release potentially significant concentrations of pharmaceuticals, organic solvents, and other nonvolatile organic contaminants into State waters;
- e. The Total Residual Chlorine daily maximum is set at 0.0075 mg/L, yet the AWQS (18 AAC 70.020(2)(B)(i)) for this parameter is 0.002 mg/L. Please explain the discrepancy;
- f. An effluent limit and monitoring schedule should be included for the State's Dissolved Oxygen WQS; and
- g. Testing frequencies listed in Table 1 (twice per season or in some cases twice per month) are too infrequent. Testing for all parameters should be performed at least once or twice per month if not weekly. Twice per season testing effectively eliminates the State's ability to stop the release of pollutants exceeding the State's WQS in less than a year for ships making numerous transits of our waters. This could result in significant impacts to Alaska's marine resources and potentially impact public health. As a point of reference, the Haines Municipal Wastewater Treatment Facility permit (AK-002138-5) requires testing for some of the same parameters on a weekly basis.

#### Section 1.9

This section appears to be the catch-all for pollutants not otherwise delineated in the permit. DEC should clarify this issue by listing all potential pollutants and pollutant categories. Clear expectations will decrease the chances for conflict in the interpretation of this permit between the industry, the State, and the public.

#### Section 1.11

This section requires submission of a Source Reduction Analysis within 60 days when pollutants are documented by sampling to have exceeded Alaska WQS. Why is the requirement limited to the pollutants NH<sub>4</sub>, Cu, Pb, and Zn? The same protocol should apply to the detection of any pollutant that violates the WQS. Furthermore, the section needs to address the results of a failure by the ships to satisfactorily complete and submit that analysis, and establish timelines and benchmarks for reaching compliance.

#### Section 1.11.5

There appear to be no consequences if DEC rejects a Source Reduction Evaluation submitted by the industry.

### Section 1.11.8

More specific directions and deadlines should be addressed for replacing or upgrading pollution control equipment following the Source Reduction Evaluation. What is meant by the term “end of the season?” Will that refer to the last visit for an individual ship, or for any member of the fleet? Under the current language, if the ship fails to meet State WQS early in the season and does not develop or implement a satisfactory Source Reduction Evaluation, they essentially get a pass on meeting the WQS until the following year. As the cruise season becomes incrementally longer every year, pollutant levels in excess of the State WQS could enter State waters in increasing concentrations.

### Section 2.5

DEC should include references to the statutory language defining penalties, liabilities, mitigation requirements, etc., for any violations of the permit.

We look forward to your responses to the comments and questions described above. Thank you again for your efforts in this regard.

Comments prepared and submitted by:

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