

BASIS STATEMENT
Chapter 532, Large Commercial Passenger Vessels

History. The proposed chapter applies to discharges to Maine's coastal waters of graywater and mixtures of graywater and blackwater from large commercial passenger vessels. It specifies the minimum level of effluent quality in terms of biochemical oxygen demand, suspended solids, pH, fecal coliform, and chlorine. It also specifies requirements for keeping a sewage and graywater discharge record book and for sampling and reporting.

The proposed chapter is required by 38 MRS 423-D(4)(B)(in part).¹ Much of the chapter is based upon provisions in federal laws that are implemented in certain Alaska waters. A draft rule and associated materials were made available during an informal comment period and reviewed by the Attorney General's Office. Following minor revisions, the rule was posted to rulemaking with no hearing planned. Administrative Procedure Act (APA) notification requirements were followed. In addition, information concerning the proposed rule was made available on the web. The comment period ended at 5:00 p.m. on January 5, 2005.

Information concerning how to request a hearing was made available in the rulemaking notice, by mail and in major newspapers, as well as through email to interested persons and on the DEP's website. No person requested a hearing.

Comments were received from:

#	Name	Organization represented, if any
1	Blasi, Antonio	Hancock Point Kayak Tours
2	Erhart, Shep	Maine Coast Sea Vegetables, Inc.
3	Main, Ivy	
4	McGiffert, Michael	
5	Moise, Renata	
6	Thompson, Ted	International Council of Cruise Lines (ICCL)

Comment. Paragraph 5(A)(6) states:

“Ensure all samples, as required by this section, are collected and tested by a laboratory accepted by the department for the testing of conventional and priority pollutants, as defined by the chapter, and in accordance with the large commercial passenger vessel's department accepted QA/ACP and VSSP...”.

¹ For purposes of this paragraph, the department shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, to implement the requirements in the federal Consolidated Appropriations Act of 2001, Public Law 106-554, Section 1(a)(4) and Appendix D, Division B, Title XIV, Section 1404(b) or (c), 114 Stat. 2763, 2763A-316 and Code of Federal Regulations 159.315 and 159.317 (2003) with the following changes: "Maine" is substituted for "Alaska," "Department of Environmental Protection" is substituted for "Captain of the Port" and for "Coast Guard," and "graywater or a mixture of graywater and blackwater" is substituted for "treated sewage and/or graywater."

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States certify laboratories using EPA standards. There is a need to assure that the various states accept the testing and results from laboratories certified by other states as sending multiple samples to different states would not be possible as stated because of the limit on hold times between the samples are drawn and the tests conducted. International Council of Cruise Lines (ICCL) will work with DEP and our members to address this issue. (6)

Response. DEP agrees that it is important for large commercial passenger vessels to have sufficient access to state-certified laboratories in order to meet testing requirement. Under existing rules, laboratories certified by the State of Maine must be used.² Many laboratories outside of Maine are currently certified by Maine through reciprocity, and DEP has made the Department of Human Services' list of the laboratories available on the web. If the laboratories on this list do not meet the needs of the large commercial passenger vessels, DEP will work to seek certification of additional laboratories.

Note: one combined response is included to the following 5 comments.

Comment. I am a Registered Maine Guide and own my own sea kayak and touring business, Hancock Point Kayak Tours. I am writing to ask the DEP to enact the most stringent rules for Cruise Ship waste disposal, similar to rules in effect in Alaska. My small business depends on the pristine natural beauty of our local Frenchman Bay and shoreline. Cruise ship visits to Bar Harbor are increasing every year, and are basically floating hotels carrying thousands of inhabitants. Please protect our Bay and firmly enforce the rules once they are written. (1)

Comment. I would like to request that the strictest discharge regulations be imposed for the following reasons. My company, Maine Coast Sea Vegetables, Inc., harvests several different species of edible seaweeds from the Frenchman's Bay watershed. We sell them into health food markets nationwide as clean and healthy foods. Plus we are inspected yearly by an organic inspector who requires documentation that the plants are not contaminated from impure water. We spend thousands of \$ per year testing our plants for heavy metals, herbicides, pesticides, fuel oil and bacteriological contamination. Water quality is essential to our continued livelihood.

Please make sure that these ships cannot bypass or "fudge" the strictest possible standards, something along the lines of Alaska's regulations. The future of all the plants and animals in the bay is at stake – and consequently the larger human community. We trust your willingness to think long term in this situation. (2)

Comment. I am a summer resident of Hancock Point, Maine, on the shores of Frenchman Bay. My family owns a house that has been in the family now for five generations. My children sail on Frenchman Bay, while I kayak, canoe, or sometimes just sit and admire its rare and striking beauty. We eat lobsters, clams, mussels and crabs drawn from its waters, and enjoy watching seals, porpoises and the great variety of birds that make the bay their home.

In spite of its beauty and the great variety of life here, pollution is an ever-present threat to the health of the bay. As tourism and the number of both permanent and summer residents has increased over the years, the bay's waters have suffered proportionately. And Frenchman Bay is hardly unique; all up and down the coast of Maine, the same pressures are affecting the coastal waters of the state.

² For certification rules, see "Maine Comprehensive and Limited Environmental Laboratory Certification Rules", 10-144 CMR 263.

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It is therefore incumbent on the on the state to take all possible measures to protect the health of its coastal waters. One means of doing so is to impose the strictest possible waste disposal rules on cruise ships operating in Maine waters. These floating cities collect and store more waste than many of Maine's own municipalities, and the discharge of those untreated wastes has the same adverse effects on human health and the environment as a municipality discharging its sewage directly into the ocean, a practice that has been illegal for many years.

I urge the DEP to adopt the strictest possible cruise ship waste disposal rules as a means of safeguarding the health of one of Maine's great treasures, its coastal waters.

Comment. I have been told that the Department of Environmental Protection is drafting rules for the disposal of cruise ship waste in Maine waters. The subject is of concern because I have spent part of almost every summer of my 76 years at Pretty Marsh Harbor on Blue Hill Bay.

Now it's true that Blue Hill Bay isn't very likely to become a venue for cruise ships, but I have only to look across Mount Desert Island to Bar Harbor to get a strong and worried sense of the growing magnitude and urgency of the issue. I'm glad your department is tackling it.

I've been told by friends (at Hancock Point) that Alaska leads the United States in the stringency of its control of seaborne waste. The long-standing problem there must be quite similar to the growing problem in Maine. I hope you will look closely into Alaska's regulations, and take appropriate guidance from them as a model.

So many resources are at stake—fishing and lobstering especially, but also boating, whale-watching, and other tourist recreational activities. I have no idea how serious the problem has already become. The point is to keep it from become serious in the first place. I wish you well in finding the most effective way to do so. (4)

Comment. I have lived in Hancock, Maine for over 40 years (since birth), and strongly encourage the DEP to enact the roughest environmental protection laws possible in regard to cruise ship discharges. Our bays and coastal waters are our lifeblood, and maintaining ocean water (as well as shore line) purity is of utmost importance. Personally I feel that cruise ships are allowed far too much leeway in dumping in international waters as well. Please enforce the very strictest environmental protection of our waters, along the lines of Alaska's cruise ship regulations. Ocean and shore pollution will not only affect our tourism industry, but also spoil the quality of life for our children, grandchildren, and generations far into the future.

On summer evenings after work my husband and I are able to drive a few miles to Hancock Point, put kayaks into the water of Frenchman Bay, and escape into the fresh, salty expanse of the Sea. In the distance, settled between the Porcupine Islands, beneath the rounded mountains of Acadia, sit cruise ships at anchor. I try not to think about what they are spewing into the waters (legally or not); sewage, gray water, garbage, and god knows what else.

Thank you for protecting the environment.

Response. This is a combined response to the previous five comments. The standards to be used in the proposed rule were specified by the Maine Legislature by reference in the legislation requiring this rule. The effluent standards in the proposed rule are based upon certain standards applicable under federal law in certain Alaska waters, known commonly known as the "continuous discharge standards". This is the stricter of two effluent standards used in the federal Alaska rules. The standards in this rule do not include all aspects of the federal rules applicable in certain Alaska waters, nor some aspects of the

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framework of the State's of Alaska's cruise ship program. However, the proposed rules include the most important core requirements: specification of minimum effluent standards, as well as record keeping and sampling requirements.