



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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SUMMARY OF REVISED STATE BALLAST WATER RULES

The Washington State Fish and Wildlife Commission adopted a new set of ballast water rules on June 5, 2009. These rules were then published in the state register on June 25 and are effective as of July 26, 2009. Statutory authority to adopt these rules comes from RCW 77.12.047, 77.120.030, 77.120.040, and 77.120.070. The rules were developed over two years in close consultation with, and recommended in consensus by, the department's Ballast Water Work Group (BWWG). The BWWG is a stakeholder committee consisting of cargo and passenger shipping representatives, state and federal agencies, the NW Indian Fisheries Commission, environmental groups, academia, marine engineering and other interested parties.

Substantive changes have been made to the rule format from the previous WACs, 220-77-090 and 220-77-095 including the designation of a new Chapter 220-150 WAC specific to ballast water management. Many of the previous requirements have been extensively revised to improve clarity of intent and process for compliance. Rule requirements are divided into three groups: deleted rules that are no longer required; carry-over requirements from previous rules; and new requirements necessary to meet statute directives.

Deleted rules:

WAC 220-77-090(4) Interim report for implementing 2007 ballast water exchange program.

Carry-over requirements:

WAC 220-150-030: Reporting forms, waivers, safety exemptions, and recordkeeping.

- Subsections (2) and (3) - Ballast water reporting form and request for reporting form waiver are consistent with previous rule requirements. Clarifies reporting requirements between state ports. Waivers must be filed on department-provided form.

WAC 220-150-033 Vessel inspections.

- Vessel inspections by department clarifies requirements consistent with previous rule.

WAC 220-150-040: Interim open sea exchange requirements

- Subsection (2) – Open sea exchange methodology is consistent with statute requirements for empty/refill and flow-through procedures; clarifies empty/refill as preferred.
- Subsection (3) – Open sea exchange areas (200 and 50 nautical miles) are consistent with statute requirements.
- Subsection (4) – Common water exemption is consistent with statute requirements.
- Subsection (5) – Safety exemptions are consistent with statute requirements.

WAC 220-150-060: Treatment notification and promising treatment waiver process

- Subsection (2) – Notification modifies existing one-time reporting requirement for vessels using treatment technologies.
- Subsection (3) – Waiver for promising-treatment technology use revises existing types of vessels that may apply and reduces many previous reporting and compliance requirements.
- Subsections (4) – (7) Notification and waiver application form content, submission, acceptance, and conditions modify existing requirements.

July 26, 2009

WAC 220-150-070: Ballast tank sediment

- Subsection (1) – Purpose clarifies requirements not to discharge ballast tank sediment or fouling organisms consistent with statute authority.

WAC 220-150-080: Penalties and enforcement

- Subsection (1) – (5) clarifies existing requirements for compliance with notices of correction and notice of penalty consistent with statute authority.

NEW state requirements:

WAC 220-150-030: Reporting forms, waivers, safety exemptions, and recordkeeping

- Subsection (4) – Vessels claiming safety exemptions provides: (b) minor documentation requirements on established ballast water reporting form; (c) department review process to determine need for a compliance plan or alternative strategy; (d) a discharge authorization requirement; and (e) a safety exemption filing fee of \$500.
- Subsection (5) – Ballast water management plan is a one-time state requirement, similar to that required by US Coast Guard law.
- Subsection (6) – Ballast water log or record book is state requirement, but is already in common practice and rules allow alternative means of recordkeeping to minimize any additional requirements.

WAC 220-150-035 Vessels carrying high risk ballast water.

- Subsection (2) – Provides factors for listing vessels carrying high risk ballast water.
- Subsection (3) - Provides delisting options for specified high risk vessels placed on list by the department.

WAC 220-150-037 Temporary compliance plans and alternative strategies.

- Temporary compliance plans and alternative strategies provide requirements for specific vessels as identified in WAC 220-150-030(4) for safety exemptions and 220-150-035(3) for listed high risk vessels.

WAC 220-150-040: Interim open sea exchange requirements

- Subsection (6) – Alternative discharge areas may be required in limited situations, but likely to benefit vessel operators from not having to go out 50 miles to conduct an open sea exchange.
- Subsection (7) – Prohibited discharge areas is requirement to protect sensitive areas, but highly unlikely location for vessels to currently discharge ballast water.

WAC 220-150-043 Interim open sea exchange alternative.

- Provides option to encourage use of installed treatment systems instead of conducting exchange.

WAC 220-150-070: Ballast tank sediment

- Subsection (2) – Ballast tank sediment removal options provides methods allowed for compliance.
- Subsection (3) - Reporting requirements part of WAC 220-150-030(6).

WAC 220-150-080: Penalties and enforcement

- Subsection (4) – Calculation and payment of civil penalties sets base penalties between \$2,000 and \$5,000 and provides protocols for increasing penalties up to \$27,500 per day of violation – increase from maximum \$5,000 prior to 7/1/2007.

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