

Small Business Economic Impact Statement

Finding: One (1) Small Business. A survey of 21 Washington State businesses with vessels regulated under these rules found on only one small business: B & N Fisheries (Appendix 1). Identification of these businesses was based on ownership of vessels that have filed ballast water reporting forms with the department since 2004 and best efforts to only list those that are currently owned and operated independently from all other businesses. B & N Fisheries reported owning seven commercial fishing vessels that meet the minimum 300 gross tons requirement and that they all work out of Dutch Harbor, Alaska. Of the seven vessels, only four have made Washington port visits (three only once; one only twice) and discharged only minimal amounts of ballast water (Appendix 2).

Minimum 300 gross ton criterion eliminates most small businesses. The minimum vessel size criterion established by the department in 2000, and similar to California regulations, indirectly appears to have nearly eliminated the impact of these regulations on Washington State small businesses that own vessels capable of discharging ballast water.

No regulatory differences for Small Businesses. Small businesses with vessels over 300 gross tons must comply with the same regulations as those required by businesses with greater than 50 employees.

1. Description of the business reporting, record keeping, and other compliance requirements of the proposed rule.

The proposed rules substantively change the rule format from the previous WACs, 220-77-090 and 220-77-095. Many of the previous requirements have been modified to improve clarity of intent and process for compliance. Rule requirements are therefore divided into two groups: a) those that carry over from previous rules and do not substantively increase workload; and b) new requirements necessary to meet statute directives. A rough estimate, by percentage of vessel arrivals (based on an average of 4,000 per year), is provided at the end of each bullet to show potentially affected vessels.

a) Existing or 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. (100%)
 - Subsection (5) – Ballast water management plan is a one-time state requirement, but is already necessary by US Coast Guard law. Replaces previous “Interim report for implementing 2007 ballast water exchange program” requirement. (100%)
- **WAC 220-150-033 Vessel inspections.**

- Vessel inspections by department clarifies requirements consistent with previous rule requirements. (5-10%)
- **WAC 220-150-040: Interim open sea exchange requirements**
 - Subsection (2) – Open sea exchange methodology is consistent with previous requirements for empty/refill and flow-through procedures. (100%)
 - Subsection (3) – Open sea exchange areas are consistent with previous requirements (except (d) – see below). (100%)
 - Subsection (4) – Common water exemption is consistent with previous requirements. (100%)
 - Subsection (5) – Safety exemptions is consistent with previous requirements. (< 0.1%)
- **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. (100%)
 - Subsection (3) – Waiver for promising-treatment technology use revises existing types of vessels that may apply and reduces many previous reporting and compliance requirements. (< 1%)
 - Subsections (4) – (7) Notification and waiver application form content, submission, acceptance, and conditions modify existing requirements. (100%)
- **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. (100%)
- **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. (100%)
- b) **New 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. (< 0.1%)
 - 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. (100%)
 - **WAC 220-150-035 Vessels carrying high risk ballast water.**
 - Subsection (3) - Provides delisting options for specified high risk vessels placed on list by the department. (< 10%)
 - **WAC 220-150-037 Temporary compliance plans and alternative strategies.**
 - Temporary compliance plans and alternative strategies provide requirements for specific vessels as identified in Subsections (7) or (8). (< 2%)

- **WAC 220-150-040: Interim open sea exchange requirements**
 - Subsection (3) – (d) “Pacific coast region” definition requires only vessels originating from coastal areas outside this region to go out 200 miles to exchange; consistent with California. (< 1%)
 - 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. (< 1%)
 - Subsection (7) – Prohibited discharge areas is requirement to protect sensitive areas, but highly unlikely location for vessels to currently discharge ballast water. (< 1%)
 - **WAC 220-150-043 Interim open sea exchange alternative.**
 - Provides option to encourage use of treatment systems instead of conducting exchange. (< 10%)
 - **WAC 220-150-070: Ballast tank sediment**
 - Subsection (2) – Ballast tank sediment removal options provides methods allowed for compliance. (< 10%)
 - Subsection (3) - Reporting requirements part of WAC 220-150-030-(6). (< 10%)
 - **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 7/1/07. (1-5%)
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2. **Kinds of professional services that a business is likely to need in order to comply with such requirements.**

- **Compliance plans.** A business MAY benefit from contracting with a marine engineer to rectify equipment limitation or failure issues in meeting exchange requirements for those circumstances.
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3. **Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs.**

- **No new reporting and record keeping costs** – except for those that become listed as high risk or require compliance plans or alternative strategies if they cannot meet state regulations. (< 5%)
- **New fees for filing safety exemption.** The department must assess a minor \$500 fee on vessels claiming a safety exemption. Very low frequency (<0.1%) currently claiming a safety exemption.

- **No new required costs for equipment, supplies, or labor expected to meet regulations.** Vessel operators have option to retain, exchange, use exchange alternatives to meet regulations, or identify how they plan to meet requirements over time using compliance plans or alternative strategies.
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4. Will compliance with the rule cause businesses to lose sales or revenue?

- **No or minor new impacts to sales or revenue expected.**
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5. Cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules, using one or more of the following as a basis for comparing costs:

- (a) Cost per employee;
 - (b) Cost per hour of labor; or
 - (c) Cost per one hundred dollars of sales.
- **Minimal reporting and record keeping costs** – except for those that become listed as high risk or require compliance plans or alternative strategies if they cannot meet state regulations.
 - **\$500 fee for safety exemptions.** Minimal cost based on frequency of anticipated application and as compared to overall shipping business expenses.
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6. Steps taken by the agency to reduce the costs of the rule on small businesses, or reasonable justification for not doing so.

- **Minimum 300 gross tons criteria.** Vessel size is an adequate criterion for reducing the impact on small businesses with vessels capable of discharging ballast water.
 - **Ballast Water Work Group.** The department developed proposed rules in consultation with its Ballast Water Work Group, consisting of state and federal agencies, tribal governments, affected industries, environmental organizations, academia, and technical interests.
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7. A description of how the agency will involve small businesses in the development of the rule.

- **Ballast Water Work Group.** The department will continue to consult with the Ballast Water Work Group to minimize small business impacts.
- **Technical Assistance.** The department will offer technical assistance to B & N Fisheries and any other future small business to help them meet state requirements as necessary.

8. A list of industries (small and large businesses) that will be required to comply with the rule.

- **Cargo, tanker, bulker, passenger, large fishing* and other shipping industries.**
*Only vessels equal to or over 300 gross tons.

Appendix 1

List of all Washington State registered businesses with vessels regulated under RCW 77.120

	Owner	Address
1	Alaska Ocean (Totem Ocean Express, Inc)	500 Alexander Ave, Tacoma, WA 98421
2	American Seafoods Co.	2025 1st ave #900, Seattle, WA 98121
3	Arctic Fjord, Inc.	400 N. 34th st. # 306, Seattle, WA 98103
4	B&N Fisheries Co.*	1959 NW Dock Pl. #3000, Seattle, WA, 98107
5	Clipper Seafoods	641 W Ewing St, Seattle, WA 98119-1528
6	Coastal Transportation Inc.	4025 13TH AVE W., SEATTLE, WA 98119
7	Conoco Phillips (Polar Tankers, Inc.)	PO Box 8, Ferndale, WA 98248
8	Crowley Marine Services	1102 Massachusetts St., Seattle, 98119
9	FOSS MARITIME CO	660 W. EWING ST., SEATTLE, WA 98119
10	Glacier Fish Company LLC	1200 Westlake Ave N #900, Seattle, WA 98109
11	Icicle Vessel Holding	4019 21st Ave W. Seattle, WA 98199
12	Iquique	4257 24th Ave W, Seattle, WA 98199-1214
13	K-Sea, Pacific Division	2700 W. Commodore Way, Seattle, WA 98199,
14	Northern Hawk LLC (Northern Hawk Partners LP)	1200 Market PI Tower 2025 1st Ave, Seattle, WA 98121
15	NVLC Freight, LLC (Northland Services, Inc.)	PO Box 24527, Seattle, WA 98124
16	OLYMPIC TUG AND BARGE, INC	PO BOX 24006, SEATTLE, WA 98124
17	Phoenix Processor LP	111 West Harrison, Seattle, WA, 98119
18	Signature Seafoods	5517 Seaview Ave NW, Seattle, WA 98107
19	Totem Ocean Trailer Express	500 Alexander Ave., Tacoma, WA 98421
20	Trident Seafoods (Nor Quest Seafoods)	5303 Shilshole Ave NW, Seattle, WA 98107
21	University of Washington	Box 1503 NE Boat St, Seattle, WA 98195

* WA Small Business with 50 or fewer employees

Appendix 2**B & N Fisheries Vessels and Discharge History**
(Since December 2004)

Vessel Name	Vessel Size (Gross Tons)	Ballast Water Reporting History
Arctic Explorer	892	2006 – Discharged 286 m ³
Bristol Explorer	727	2006 – Discharged 238 m ³ 2008 – Discharged 238 m ³
Epic Explorer	338	No reports found
Intrepid Explorer	538	No reports found
Northwest Explorer	816	2006 – Discharged 577 m ³
Ocean Explorer	896	No reports found
Pacific Explorer	896	2007 – Discharged 346 m ³