

WAC 220-650-100 Treatment notification and promising treatment waiver process. (1) **Purpose.** This section implements RCW 77.120.040 (5)(a). All vessels using treatment technologies designed to meet state ballast water discharge performance standards are required to notify the department prior to or within thirty days of their first use in waters of the state. A prior notification is preferred to assess compliance with state regulations in using treatment technology to meet discharge performance standards and to assist vessel owners or operators in avoiding the discharge of ballast water that does not meet those standards or that poses other potential violations. It is the responsibility of the vessel owner or operator to show that the installed equipment meets state discharge performance standards. Vessel owners or operators wishing to use treatment technology that does not meet state standards may apply for a waiver to use the technology as promising technology under subsection (3) of this section.

(2) **Notification.** Vessel owners or operators using treatment technology must file a signed notification form, as provided by the department, stating that their vessel meets state discharge performance standards under WAC 220-650-090. A single notification form may cover multiple vessels under the authority of a single vessel owner or operator. The form must include the minimum content as required in subsection (4) of this section.

(3) **Waiver for promising treatment technology use.**

(a) In general. Vessel owners or operators using promising treatment technology do not need to file a notification, but they must apply for a waiver to the interim open sea exchange requirements under WAC 220-650-070.

(b) Criteria. The form must include the minimum content as required in subsection (4) of this section and be received by the department at least forty-five days prior to entering waters of the state. In addition, promising technology must meet one or more of the following criteria:

(i) The same manufacturer's treatment technology is being tested on a vessel that is enrolled in the USCG Shipboard Technology Evaluation Program (STEP), United States Environmental Protection Agency Environmental Technology Verification (ETV) program, or other department-recognized regional or national program;

(ii) The technology is approved as promising technology or a similar classification by the state of California, Oregon, Hawaii, or Alaska for use in their state waters; or

(iii) The technology is being actively evaluated under the IMO final approval process.

(4) **Notification and waiver application form content.**

(a) In general. Standard notification application and promising technology waiver forms are provided by the department and must be used for this subsection. A single waiver form may cover multiple vessels under the authority of a single vessel owner or operator.

(b) Content. The department's notification of treatment technology use and application for promising treatment technology waiver forms will, at a minimum, require the following information:

(i) Vessel name(s), identification number(s) (International Maritime Organization, Lloyds of London, or USCG registry number), owner, agent, and vessel type(s);

(ii) The manufacturer and brand name of the technology on board the vessel and a brief description of the technology and process for removing or inactivating organisms in ballast water;

(iii) The name of the organization or flag state that has approved the ballast water treatment technology, and the approval or certification number of the technology or other information that reasonably documents how the technology was tested to ensure it meets, or is likely to meet in the case of promising treatment technology, state discharge performance standards for the vessel type on which it is being used;

(iv) If the treatment technology will not be used on all ballast tanks, the number of tanks and the volume of each tank that will be managed using the treatment technology;

(v) A recommendation from the state department of ecology, based upon a toxicity report provided in accordance with Appendix H of ecology publication number WQ-R-95-80, setting conditions necessary for the environmentally safe discharge of biocide-treated ballast water;

(vi) A statement that the vessel owner or operator will file a new notification if there are any changes in the information required in this subsection;

(vii) A statement that the vessel will conduct a valid ballast water exchange, under WAC 220-650-070, if it does not use the treatment technology; and

(viii) The signature of the vessel owner or operator.

(5) **Submission.** The department will accept notification and waiver application forms at any time. Send the completed form to the department by email to ballastwater@dfw.wa.gov, or if email is not possible, by fax to 360-902-2943, or by U.S. mail to: WDFW, AIS Unit, P.O. Box 43200, Olympia, Washington 98504-3200, USA. The vessel owner or operator will be notified of the department's receipt of the form within ten working days.

(6) **Acceptance.**

(a) Notification. The department will make a final decision on acceptance of a notification application form within forty-five days of receipt. If the notification is illegible or incomplete, it will be returned to the vessel owner or operator as unacceptable, with an explanation of the deficiencies. The notification is effective upon department verification of acceptance by email or in writing to the vessel owner or operator.

(b) Waiver for promising treatment technology use. The department will make a final decision on acceptance for a waiver within forty-five days of receipt. If the application is illegible or incomplete, it will be returned to the vessel owner or operator as incomplete, with an explanation of the deficiencies. The waiver is effective upon department verification of acceptance by email or in writing to the vessel owner or operator.

(7) **Notification and waiver acceptance conditions.**

(a) In general. To maintain acceptance, the vessel owner or operator must meet a minimum set of conditions.

(b) Conditions. Minimum conditions include:

(i) All acceptance form content in subsection (4) of this section remains accurate;

(ii) Vessel owners or operators shall maintain a copy of the accepted notification of treatment technology use or waiver form for promising treatment technology use in the vessel's ballast water management plan under WAC 220-650-030(5);

(iii) The technology is used as defined in subsection (8) of this section for installed treatment technology; and

(iv) The department determines through inspections, sampling, investigations, or other methods that the technology continues to meet,

or is likely to continue to meet, ballast water discharge performance standards under WAC 220-650-090.

(8) **Installed treatment technology.**

(a) In general. If ballast water treatment technology used for purposes of complying with the regulations under this subsection is installed on a vessel, maintained in good working order and used by the vessel, the vessel may use that technology for the shortest of:

(i) Federal requirements;

(ii) The life of the vessel on which the technology is used; or

(iii) The manufacturer's equipment life specifications.

(b) Incremental improvements. Vessel owners and operators are encouraged to incrementally improve installed treatment technology to meet higher discharge performance standards and reduce the risk of introducing nonindigenous species. The expectation is these improvements would take advantage of regular maintenance and upgrade schedules.

(c) Record or log book. All information regarding compliance with this subsection must be recorded in the vessel's ballast water record or log book per WAC 220-650-030(6).

(9) **Other laws.** Nothing in these rules or laws authorizes the discharge of other pollutants or assures that the technology is safe to operate or that it meets other state, federal, and international laws governing business, marine applications, or other elements.

[Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, 77.120.040(5). WSR 18-08-013, § 220-650-100, filed 3/22/18, effective 4/22/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-650-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047, 77.120.030, 77.120.040, and 77.120.070. WSR 09-14-052 (Order 09-110), § 220-150-060, filed 6/25/09, effective 7/26/09.]