

WAC 220-650-010 Purpose, stakeholder consultation, and cooperative management. (1) Purpose.

(a) These rules apply to vessels as recognized under RCW 77.120.020. Owners or operators of vessels to which this chapter does not apply are encouraged to voluntarily comply to the extent possible.

(b) These rules are provided to fulfill the legislative general directives under chapter 77.120 RCW and the specific directives under RCW 77.120.030(3), "to ensure that the discharge of ballast water poses minimal risk of introducing nonindigenous species."

(c) As directed by statute and in response to scientific evidence gathered since the state ballast water management program was first established in 2000, the approach to meet this directive is to encourage vessel owners or operators to reduce the volume of ballast water discharged, phase-out the ballast water open sea exchange requirement, and replace open sea exchange with an effective ballast water discharge performance standard.

(d) The legislature, in recognizing the complexity, evolving science, and technological challenges of ballast water management, gave the department broad authority under RCW 77.120.030(3) and 77.120.040(5) to develop discharge standards that pose minimum risk of introducing nonindigenous species. To assure the legislature that this authority is applied in a transparent and accountable manner, the department met the three key conditions required by statute. First, the rules were developed in consultation with advisors from the regulated industries and potentially affected parties as required in RCW 77.120.040(5) and as identified in subsection (2) of this section. Second, the rules were developed in consideration of the extent to which the requirement for a discharge performance standard is technologically and practically feasible. Third, the rules were developed to complement, to the extent practical and appropriate, current ballast water management regulations of the United States Coast Guard (USCG), the International Maritime Organization (IMO), and the state of Oregon.

(e) In the absence of a national discharge performance standard, these rules were developed to complement, and promote consistency along the west coast in accordance with, the West Coast Governor's Agreement on Ocean Health 2008 Action Plan, Action 2.3, and the Puget Sound Partnership's 2008 Action Agenda, Priority A.5.2, Near-term Actions 1 and 2. When a national discharge standard is developed, the department will assess these rules for consistency, as practical and appropriate.

(2) **Ballast water work group consultation.** The department will establish the ballast water work group (BWWG) or a similar forum to advise the department on developing, revising, and implementing chapter 77.120 RCW and this chapter regarding ballast water management. The department, at a minimum, will invite the participation of shipping interests, ports, shellfish growers, fisheries, environmental interests, citizens who have knowledge of the issues, and appropriate governmental representatives, including the USCG and the tribes per RCW 77.120.040(5).

To assist the department in making every reasonable effort to protect state waters from introduction of nonindigenous species, the BWWG may advise the department on:

(a) Issues to bring forward to the state invasive species council;

(b) Developing and implementing the ballast water management plan;

- (c) Providing science-based recommendations and technical information;
 - (d) Adjusting laws, rules, or policies if and when necessary or advisable;
 - (e) Enhancing the predictability and stability of the process so that stakeholders can anticipate and prepare for change; and
 - (f) Working with regional and national ballast water regulators to strive for a coordinated and integrated program.
- (3) **Cooperative ballast water management.** The department communicates and cooperates with the USCG and other federal and state agencies to standardize regulations to the extent practical and appropriate, minimize duplication of efforts, and share information. The goal is to provide transparency and accountability in the regulatory process, protect state resources, and facilitate collaboration among federal and state agencies. The department also communicates and cooperates to the extent practical and appropriate with international ballast water management entities. Agencies that the department works with directly include:
- (a) The Washington department of ecology. Pursuant to RCW 77.120.030(3), the department of fish and wildlife will consult and coordinate with the department of ecology on Clean Water Act issues related to ballast water management.
 - (b) The Washington department of health. The department of fish and wildlife will consult with the department of health on public health issues related to ballast water management.
 - (c) The Puget Sound partnership. Pursuant to chapter 90.71 RCW, the department will consult and coordinate with the Puget Sound partnership on biennial budget needs related to the ballast water program, cross-border coordination, policy, and research and monitoring needs to protect and restore Puget Sound by 2020.
 - (d) Tribes. Pursuant to RCW 77.120.040(5), the department of fish and wildlife will consult and coordinate with federally recognized Indian tribes in the state of Washington on ballast water management issues to assist in the protection of aquatic resources. The department will inform tribes of any ballast water management regulatory changes. The department also will notify tribes of any ballast water technologies as accepted under WAC 220-650-100 and supply the tribes with available supporting documentation.
 - (e) State of Oregon. Pursuant to RCW 77.120.040(5), the department will consult and coordinate with the state of Oregon on ballast water management in the Columbia River system. The department will strive to enter into cooperative management agreements with the state of Oregon to implement provisions of Washington, Oregon, and other appropriate federal ballast water laws. The agreements may include, but are not limited to, arrangements for cooperative enforcement, inspection, research, and monitoring.
 - (f) United States Coast Guard (USCG). Pursuant to RCW 77.120.030(3) and 77.120.040(5)(a), the department will strive to enter into cooperative management agreements with the USCG to implement ballast water management objectives. The agreements may include, but are not limited to, arrangements for cooperative enforcement, inspection, research, and monitoring.
 - (g) United States Environmental Protection Agency (EPA). The department, as practical and appropriate, will consult and coordinate with the EPA on Clean Water Act issues related to ballast water management.

(h) Pacific Coast states. Pursuant to RCW 77.120.040 (5)(a), the department will consult and coordinate with the Pacific Coast states of Alaska, California, Hawaii, and Oregon on ballast water issues. In general, this will be through the Pacific ballast water group or a similar cooperative forum.

(i) Canada. As practical and appropriate, the department will strive for consistency and cooperation with the Canadian government through the province of British Columbia or other appropriate venues to manage ballast water risks.

(j) International Maritime Organization (IMO). As practical and appropriate, the department will strive for consistency and cooperation with the IMO to manage ballast water risks.

(4) **Other state and federal laws.** Nothing in this chapter shall supersede more stringent state or federal regulations, including public health and Clean Water Act criteria. Nothing in these regulations negates the need to comply with other state and federal regulations regarding the management of ballast water or any other vessel-related discharges.

[Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, 77.120.040(5). WSR 18-08-013, § 220-650-010, 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 § 220-650-010, 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), § 220-150-010, filed 6/25/09, effective 7/26/09.]