

WAC 220-650-060 Temporary compliance plans and alternative strategies.

(1) **In general.** The department may require a vessel owner or operator to submit a temporary compliance plan or a temporary alternative strategy to bring its vessel into compliance with state ballast water management law. Temporary compliance plans and alternative strategies are only utilized when it is not feasible to otherwise comply with regulatory requirements, and then, only for the minimum time necessary to bring a vessel into compliance. If the department approves, at its sole discretion, a compliance plan or alternative strategy, the department will issue a formal waiver exempting the vessel owner or operator from specified provisions in these rules for a specified period of time, not to exceed two years from the approval date of the waiver, to allow the vessel owner or operator to implement corrective action to bring the vessel into full compliance with the statute and rules. Forms and guidance may be adopted by department policy to assist in the implementation of this subsection.

(2) **Compliance plan.** A temporary compliance plan describes how the vessel owner or operator plans to correct vessel equipment problems causing ballast water or sediment discharges that are not in compliance with state law. These temporary compliance plans are generally related to vessels that claim safety exemptions for design limitations or equipment failure, and vessels that are listed as carrying high risk ballast water and require accelerated implementation of WAC 220-650-090 to meet the state discharge performance standard. At a minimum, a temporary compliance plan will document the responsible vessel representative, objectives and expectations, scope of work to be performed, tasks to be completed by timeline, any deliverables, interim ballast water and sediment management plan, reporting requirements, and the total time period for which a waiver is requested, up to two years. Additional information may be required by the department on a case-by-case basis. An extension of the plan beyond two years may be granted by the department in its sole discretion.

(3) **Alternative strategy.** A temporary alternative strategy describes how the vessel owner or operator plans to conduct ballast management operations to sufficiently reduce the risk of introducing non-indigenous species into waters of the state to a level determined acceptable by the department. These temporary alternative strategies are generally related to vessels that cannot otherwise meet the full regulatory requirements due to extenuating circumstances. At a minimum, a temporary alternative strategy will document the responsible vessel owner or operator, objectives and expectations, scope of actions to be performed, tasks to be completed by timeline, any deliverables or reporting requirements, and the total time period for which a waiver is requested, not to exceed two years. Additional information may be required by the department on a case-by-case basis. An extension of the strategy beyond two years may be granted by the department, in its sole discretion.

(4) **Submission.** To seek a waiver of specified rules, a vessel owner or operator shall submit to the department a completed and signed temporary compliance plan or temporary alternative strategy at their convenience if not required by the department, or within sixty days of department notice under either WAC 220-650-030 or 220-650-050, to avoid being in violation of these rules. Additional time may be allowed on a case-by-case basis. The department will notify the ballast water work group when a submission has been received and provide a copy if requested.

(5) **Review and approval.** The department will review a vessel's proposed temporary compliance plan or alternative strategy within sixty days of receipt, for completeness and suitability in accomplishing objectives. The department will then make one of the following determinations:

(a) Approval - The compliance plan or alternative strategy is acceptable for the period of time noted in the document. The department will then return the approved plan or strategy to the vessel owner or operator, attached to a waiver signed by the department;

(b) Incomplete - The document will be returned to the vessel owner or operator for revision or additional information under the original sixty-day review timeline unless otherwise extended; or

(c) Deny approval - The department determines, in its sole discretion, that the document is not suitable for meeting its regulatory objectives. The department may also deny the request if the parties do not come to agreement on an acceptable plan or strategy within sixty days of receipt of the plan by the department, unless such time frame is extended by the department in its sole discretion.

(6) **Availability.** Vessel owners or operators shall make a copy of the signed temporary compliance plan or alternative strategy document readily available for examination by the department as part of the vessel's ballast water management plan per WAC 220-650-030(5). The department will make all approved compliance plans and alternative strategies available on the department's web site or electronically, as requested.

(7) **Revocation of approval.** The department may revoke the waiver if the vessel owner or operator is not meeting the terms of the temporary compliance plan or alternative strategy. The department may agree to revise the temporary compliance plan or alternative strategy if appropriate, reasonable, and practical. In the event the department issues a notice of revocation, the vessel owner or operator will cease discharging ballast water into waters of the state unless it can meet the applicable regulations. The vessel owner or operator may appeal the decision to revoke the waiver. The appeal must be made to the director within twenty days of notice, by electronic or hard copy written form, according to the procedures set forth in chapter 34.05 RCW, Part IV, and chapter 10-08 WAC.

[Statutory Authority: RCW 77.04.020, 77.12.045, 77.12.047, 77.120.040(5). WSR 18-08-013, § 220-650-060, 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 § 220-650-060, 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), § 220-150-037, filed 6/25/09, effective 7/26/09.]