

Advisory Committee Charter

**Ballast Water Rulemaking**

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# Authority

DEQ is appointing this advisory committee under the authority of ORS 183.333.

# Objectives and Scope

This Committee is based upon Task Force on Shipping Transport of Aquatic Invasive Species (ORS 783) and has been formed to advise administrative rulemaking activities associated with ballast water management in Oregon.

## Technical and Policy

The committee will discuss and provide input on key program requirements needed to implement ballast water management in Oregon. This includes:

* Prohibitions on discharge of high-risk ballast water;
* Management practices required to be authorized for ballast discharge in state waters; or
* Acceptable use of ballast water treatment systems.

Individual meeting agendas will identify specific topics of discussion where DEQ needs input.

## Fiscal and Economic Impact

According to ORS 183.333, DEQ will ask the committee to consider the fiscal and economic impact of the proposed rules including:

* Whether the rules will have a fiscal impact, and if yes, what the extent of that impact will be, and
* Whether the rules will have a significant adverse impact on small businesses, and if so, recommendations on compliance with ORS 183.540[[1]](#footnote-1).

# Roles

Describe the particular functions the program expects the committee to perform. specific requirements, these duties are advisory only.

Only one member, the primary or alternate, may participate in a meeting. DEQ expects either the primary and alternate members to:

* Participate actively in all scheduled meetings.
* Lead and contribute resources and time to committee endeavors.
* Keep an open mind.

## Chair

The Chair:

* Creates encourages open, candid and robust dialogue.
* Starts and ends the meetings on time
* Encourages innovation by listening to all ideas
* Tries not to lose good ideas to the consensus process
* Identifies and verbalizes ideas and discussion outside the scope of the meeting

## Primary members

All members take responsibility for the success of the meeting Late arrivals will plug in

Notify chair of known absence

If not at a meeting, member relinquishes control and those present may reach consensus decision. If those present need more input, the committee may wait for additional input

## Alternate Members

## Support

DEQ Ballast Water Program staff will provide support to the Advisory Committee.

The committee support will post:

* Agenda and meeting materials on the committee Web page two weeks in advance
* Draft and approved meeting summary notes within two weeks of the subject meeting.

## Non Committee member attendees

Those who attend the committee meetings but are not members are there only to observe and not to actively participate

# Duration and Meetings

DEQ anticipates the advisory committee will complete its charge by April 2015. The committee will officially terminate when DEQ has filed rules with Secretary of State.

Meetings will occur every 4-6 weeks beginning in December 2015. Approximately 3 meetings – half day in duration each – are anticipated.

Conference call in options will be available for members that are unable to attend in person.

**Recordkeeping**

All committee and any subcommittee records, formal and informal, become part of the rulemaking record. All DEQ rulemaking records are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings.

DEQ captures and maintains committee agendas, minutes, materials and committee reports and recommendations. DEQ will destroy the committee record 10 years after Oregon repeals the rules.

# Advisory Committee Structure

## Overall Structure

Chair Dr. Mark Sytsma, Portland State University

Support DEQ staff (Rian vanden Hooff) will provide general support to the committee.

## Committee Meetings

1. All committee meetings will be:
   * open to the public
   * advertised on DEQ’s webpage
   * scheduled between 9 am to 4 pm unless stated otherwise in the meeting agenda
   * held in Portland
   * accessible via a call-in number
2. The committee is expected to meet three times:

* Wednesday, December 2nd, 2015
* January 2016 (TBD)
* February 2016 (TBD)

1. Meeting materials will be on the advisory committee webpage located at: <http://www.deq.state.or.us/lq/cu/emergency/staistaskforce.htm>
2. DEQ will not prepare formal meeting minutes or a formal committee report. Meeting summaries will highlight committee discussions, different perspectives and recommendations of committee members.

## Responsibilities

Chair Responsibilities of the Chair:

* Facilitate the conversation so the committee stays focused on the agenda and on intended outcomes of the meeting
* Ensure that all perspectives are heard
* Ensure that all members adhere to the process and ground rules
* Facilitate comments and input from the public

Members Responsibilities of the committee members:

* Attend each meeting to ensure continuity throughout the process. The primary member may assign an alternate if needed. It is each committee member’s responsibility to brief the alternate fully on all relevant issues and prior committee discussions.
* Prepare for and set aside time for the meetings.
* Provide DEQ staff with copies of relevant research and documentation cited during the meeting.
* Stay focused on the specific topics for each meeting.
* Comment constructively and in good faith.
* Consult regularly with constituencies to inform them on the process and gather their input.
* Treat everyone and his or her opinions with respect.
* Allow one person to speak at a time.
* Be courteous by not engaging in sidebar discussions.
* Avoid representing to the public or media the views of any other committee member or the committee as a whole.

## Decision making

DEQ will not seek consensus positions from the committee or ask the committee to vote on specific issues. DEQ will ask each individual committee member for input and recommendations.

DEQ will use the committee’s discussions in forming draft rules. The draft rules will be part of the required formal notice process that includes public hearings and an opportunity for the public to comment.

## Committee Composition

In convening this committee, DEQ selected members that reflect the range of entities both directly and indirectly affected by implementation of the program. Representatives should be able to consider the technical, policy, fiscal and economic impact of the program for their business and/or organization that they represent. The committee will include representatives:

* From the regulated parties – groups and associations representing maritime industry operators
* From the research community – representing up-to date scientific expertise on biological invasions.
* From the general public, small business, and/or environmental advocacy groups.
* From applicable government entities representing other Oregon agencies, neighboring states, and/or Federal agencies.

Advisory Committee Members include;

* Mark Sytsma, Portland State University (CHAIR)
* Jas Adams, retired/citizen
* Michelle Hollis, Port of Portland
* Frank Holmes, Western States Petroleum Association
* Ross McDonald, Sause Bros.
* Hans Meere, EGT LLC
* Fred Myer, Port of Portland
* Amanda Hanson, Lower Columbia River Estuary Partnership
* Kate Mickelson, Columbia River Steamship Operators Association
* Dick Vander Schaaf, The Nature Conservancy
* Travis Williams, Willamette Riverkeeper

Ex-Officio Participants

* Rick Boatner, ODFW
* Nicole Dobroski, California State Lands Commission (alt: Chris Scianni)
* Robyn Draheim, USFWS
* Michael Pearson, USCG
* Allen Pleus, Washington Department of Fish and Wildlife (alt: Gary Gertsen)

# Expenses

DEQ is able to reimburse any in state, out-of-town committee members for travel expenses, if DEQ approves them in advance.

# Public Records and Confidentiality

Committee records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records. Committee communications are not confidential and become part of the public rulemaking record. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

# Information Exchange

###### Committee members will provide information as much in advance as possible of the meeting at which such information is used. The members will also share all relevant information with each other to the maximum extent possible. If a member believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

# Public Involvement

All meetings will be open to the public and have time set aside for the public to speak. Additionally, citizens who wish to submit comments are encouraged to communicate directly with a committee member or directly with DEQ staff.

Once the committee process is complete, DEQ will develop draft rules and conduct a public rulemaking process to seek broader public and stakeholder input. Individual committee members may provide comments to DEQ on the full draft rule at this time. DEQ may modify the final proposed rules based on public comment. DEQ intends to take a final proposed rule to the EQC for consideration at its January 7-8, 2015 meeting.

# Communications and Media Coverage

DEQ will respond to public or media inquiries associated with the organization, structure, process and goals for the program and committee process. While free to communicate and share individual perspectives with the media and others, DEQ asks committee members to offer their personal viewpoint only and to refrain from speaking for other committee members or the committee as a whole. DEQ asks committee members to vet ideas and issues concerning the program at committee meetings before discussing them outside of the committee structure to respect the ability of the committee to work together. When asked for information about the purpose or activities of the committee, please refer people to the committee website.

# DEQ Contacts

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1. If the statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by: (1) Establishing differing compliance or reporting requirements or time tables for small business; (2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business; (3) Utilizing objective criteria for standards; (4) Exempting small businesses from any or all requirements of the rule; or (5) Otherwise establishing less intrusive or less costly alternatives applicable to small business. [↑](#footnote-ref-1)