



Oregon Department of Environmental Quality

Housing Cost Impact Statement Ballast 2016 Rulemaking

A housing cost impact statement is an estimate of the effect of a proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.

HEARING DATES	May 18, 2016
ADDRESS	DEQ Headquarters, 811 SW 6 th Ave.,
CITY/STATE	Portland, OR 97204
PHONE	503-229-5696
PERMANENT RULE	
EFFECTIVE DATE	On filing, April 19, 2016

Description of proposed change:

Ballast Water Rules

DEQ proposes the Oregon Environmental Quality Commission (EQC) approve the proposed ballast water management rule amendments. These amendments would further enhance DEQ's ability to prevent the transport and introduction of aquatic invasive species (AIS) from commercial shipping activities to state waters, thereby protecting Oregon from potentially harmful economic and environmental impacts. The proposed rule amendments are in response to recent changes in federal regulations and aim to ensure adequate AIS prevention strategies for Oregon ports.

The proposed rules establish greater protection for Oregon water resources and aquatic ecosystems in two ways. First, the rules close a management gap associated with residual ballast water and sediments in empty ballast tanks that represents a risk for introducing aquatic invasive species when vessel operators must ballast and subsequently de-ballast from empty ballast tanks while in state waters. Second, the rules address concerns that recent federal regulatory changes will replace a strategy that has proven to be highly protective for low-salinity ports (like those in Oregon) with reliance upon first generation shipboard treatment technologies that under some circumstances could be less protective of Oregon ports. Specifically, the rule would retain ballast water exchange requirements for a subset of vessel arrivals that represent a high-risk for introducing AIS to Oregon.

Under current state rules, vessel operators are no longer required to conduct ballast water exchange practices following implementation of federal discharge standards that generally require use of new shipboard treatment technology. The proposed rules would retain ballast water exchange requirements, in addition to meeting federal treatment requirements, for high-risk voyages that had sourced ballast from low-salinity environments. The EPA established a policy to retain ballast water exchange (a.k.a. 'exchange plus treatment') under the National Vessel General Permit as a strategy to protect freshwater ports from further damages by AIS, but only required this management model for voyages entering the Great Lakes. Retaining ballast exchange for high-risk voyages would serve as an important interim strategy to protect Oregon's low-salinity ports during a significant transition that depends upon the reliability of new technologies that have lacked rigorous testing. As proposed, the rule would be repealed after eight years unless DEQ and the EQC determine that technology reliability and efficacy of federal shipboard treatment policies remain inadequate. In the event that these rules are adopted by Oregon, it is anticipated that Washington Department of Fish and Wildlife will seek to adopt comparable rules for vessels operating in the Columbia River.

The proposed rules do not involve fees, additional equipment requirements or significant administrative efforts in order to comply. Therefore, under normal operating circumstances, these rules will not have any significant negative economic impacts, either direct or indirect.

DEQ Noise Regulations

This rulemaking includes a second element. As an administrative action intended to improve the clarity of its rules, DEQ has included rulemaking on a second topic in this rulemaking. This action involves DEQ's noise control regulations, found at OAR 340 division 35.

In 1991 the Oregon Legislature withdrew all funding for implementing and administering DEQ's noise regulations. (See OAR 340-035-0110.) DEQ therefore ended its noise control program, although the noise control regulations remain in effect. In response to budget reductions, DEQ no longer conducts a noise control program or enforces the noise control regulations. DEQ has no funding or program to respond to noise complaints, to provide advice about noise issues or to interpret the noise regulations. Local governments may choose to enforce the noise regulations.

The changes DEQ is proposing for the noise regulations are purely administrative to make it easier for the public to access information about these rules. These changes do not indicate any change in DEQ policy or practice concerning the noise regulations. DEQ still does not have a noise control program or have funding or the ability to enforce, apply or interpret the noise regulations, or to investigate noise issues or complaints.

The noise control regulations refer to a number of tables and external documents. Currently, those documents are not published with the official version of the rules on the Oregon Secretary of State web page. Instead, DEQ maintains those documents on its own web site.

In this rulemaking DEQ is asking the EQC to approve amendments to the noise regulations that only incorporate directly into the rules the tables and documents the rules already refer to. This

will make it easier for users of these rules to find the information they need to interpret and apply the rules. It will also relieve DEQ from the cost and responsibility of maintaining these documents on its web site.

This rule change does not change any content or wording of the noise control regulations. There is no change in the meaning, effect, or application of these rules. There is also no negative fiscal impact to any person or entity from this rule change.

DEQ will therefore ask the EQC to approve these proposed amendments to the division 35 noise control regulations.

Description of the need for, and objectives of the rule:

Management of Empty Ballast Tanks

What need would the proposed rule address?

The need to reduce the invasive species transfer risk associated with residual ballast water and sediments in ‘empty’ ballast tanks that may be used for ballasting and subsequent de-ballasting while in state waters.

How would the proposed rule address the need?

The proposed rule requires vessel operators to conduct a mid-ocean saltwater flush of empty ballast tanks that they want to use for ballasting and subsequent de-ballasting while in port.

How will DEQ know the rule addressed the need?

Mid-ocean saltwater flushing of an empty ballast tank will result in residual water salinity of at least 30 parts per thousand and thereby will significantly reduce the probability for introducing high-risk species to the low-salinity environments of Oregon ports. This minimum salinity criterion can be used for compliance verification purposes.

Retaining Ballast Water Exchange

What need would the proposed rule address?

There are concerns that new management practices established by federal requirements could, under some circumstances, represent a lower efficacy for preventing aquatic invasive species (AIS) transport to low-salinity ports in Oregon than current mid-ocean ballast exchange management practices.

How would the proposed rule address the need?

The rules retain ballast water exchange requirements for a subset of vessel arrivals to Oregon that represent a high risk for transporting AIS.

How will DEQ know the rule addressed the need?

Vessel inspections by DEQ staff, including sampling of ballast tank water for a minimum salinity, provides opportunity to verify compliance with elements of the proposed rule, as well as other ballast management criteria. The ballast water program at DEQ currently has the capacity to inspect approximately 15% of vessel arrivals to Oregon. Inspections are prioritized for vessel arrivals that represent a higher risk for transporting AIS to Oregon waters, such as the vessel arrivals that would be subject to the proposed rule. Compliance verification sampling of vessels subject to the rule, combined with ongoing evaluation of ballast water treatment system efficacy and monitoring for new non-indigenous species in Oregon waters, will inform DEQ's evaluation of the new rule and a determination of whether it is needed beyond the proposed expiration date in 2025.

Noise Tables

What need would the proposed rule address?

The rules are currently difficult for users to read, interpret and apply because the necessary information contained in tables and reference documents is not published in the same location as the rules.

How would the proposed rule address the need?

The amendments move tables and reference documents from a source that is external to the official published version of the rules and incorporates those documents into the official published version of the rules.

How will DEQ know the rule addressed the need?

The external documents will have been incorporated into the official published version of DEQ's rules.

List of rules adopted or amended:

Amend	OAR 340-143-0005, 340-143-0010, 340-143-0050
Amend	OAR 340-035-0015, 340-035-0025, 340-035-0030, 340-035-0035, 340-035-0040 340-035-0045

Materials and labor costs increase or savings:

Ballast Water Rules

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules would have no effect on the development costs because the rules only affect commercial vessels discharging ballast water that had been sourced from outside state water and the changes to regulations do not impose significant changes in operational costs or investment.

Noise Table Rules

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules would have no effect on the development costs because the changes to the noise rules are administrative only and have no substantive effect.

Land costs increase or savings:

None.