Ballast Water Rulemaking Advisory Committee

Meeting Minutes

Ballast Water 2016

Wednesday, Jan. 27, 2016
10:00-12:30 p.m.
DEQ Headquarters
(Check-in on 10th floor)
811 SW 6th Avenue
Portland, OR 97204

Operations Division
Ballast Water Program
811 SW 6th Avenue
Portland, OR 97204
Phone: 503-229-6865
800-452-4011
Fax: 503-229-5850
Contact: Rian Hooff
www.oregon.gov/DEQ

DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

Committee Members participating (in attendance or via conference call):

Mark Sytsma (PSU)	Jas Adams (Willamette University)
Michelle Hollis (Port of Portland)	Amanda Hanson (LCREP)
Kate Mickelson (CRSOA)	Dick Vanderschaaf (TNC)
Rick Boatner (ODFW)	Chris Scianni (CSLC)
Michael Pearson (USCG)	Fred Myer (Port of Portland)

Others present:
Art Leskovitch (USACE)

DEQ staff present:
Rian Hooff
Bruce Gilles

List of Meeting Materials:

- Oregon DEQ presentation slidedeck (ppt)
- Audio Recording

Meeting Commenced: 10:00 AM

1. Welcome and Introductions.

2. In response to a request from Port of Portland representatives, DEQ provided more detailed information regarding risk factors for determining high-risk voyages for transporting NIS to Oregon waters. There are numerous variables that affect invasion risk probability from ballast water discharge. Factors include; discharge volume, ballast water age (i.e. time since first sourced), management method(s) used to reduce risk, and environmental similarity between source location and receiving port. To screen vessel arrival for the latter, DEQ primarily relies upon salinity data from global port database. For vessels proposing ballast discharge to low-salinity ports of Oregon, ballast water that had been recently sourced from ports with average annual surface salinity values less than 2 parts per thousand (ppt) is considered to be a high-risk, while ports with salinity

levels 2-16 ppt are considered to represent a moderately high risk. DEQ references the salinity data used as part of the Keller et al. 2011 AIS risk assessment and global shipping network study (Diversity and Distributions vol 17, pp 93–102).

3. After reviewing the objectives for this rulemaking efforts, DEQ identified the rationale and approach that it took to developing draft rule language to address two specific areas of ballast water management that currently represent a risk for Oregon waters. Draft rule language was distributed by DEQ to Advisory Committee Members on 1/20/16. In general, draft rule language would:
   - Revise OAR 340-143-0010 to adopt a saltwater flush requirement for empty ballast tanks. The intent of the draft language is to mirror EPA Vessel General Permit 2.2.3.6.4 in intent, and language as much as is practical.
   - Revise OAR 340-143-0050 to maintain mid-ocean ballast water exchange management requirements for vessels that represent a high-risk for transporting AIS to Oregon ports – in addition to meeting federal discharge performance standards involving use of shipboard ballast water treatment systems. The criteria for which vessels would be subject to the proposed rule has been drafted per December 2nd Advisory Committee discussions suggesting that it was important to strive towards consistency with rules proposed for Canadian ports. As a result, source port salinity would not be a criteria, but rather all vessels discharging to low-salinity Oregon ports that do not meet one of the exemptions would be required to meet the 'exchange plus treatment' requirement. DEQ estimates that this would affect approximately 57% of vessel arrivals to Oregon. In contrast, the previously discussed alternative proposal (mimicking 'exchange plus treatment' criteria established by the EPA Vessel General Permit for vessels operating in the Great Lakes) would affect approximately 10% of Oregon arrivals. In addition, the draft rule language identifies multiple exemption categories from the 'exchange plus treatment' requirement, some of which are not provided for by other jurisdictions.

4. Roundtable discussion about the proposed draft rule language.
   - OAR 340-143-0010:
     - Multiple advisory committee members questioned the wording regarding 'sealing of tanks' which is directly copied from the EPA VGP, but has questionable practical meaning.
     - Committee members discussed the value of having 30 ppt minimum salinity threshold criteria. Is the intent to establish a compliance verification value, or to provide an exemption from saltwater flushing for vessels that do not represent a high-risk? As is, the language contains ambiguity. Also noted that the 'universe' of vessels not fully captured by draft rule 340-143-0010(3).
     - Some committee members suggested simplifying to rule/intent by only establishing a 30 ppt minimum salinity

State of Oregon
Department of Environmental Quality

Operations Division
Ballast Water Program
811 SW 6th Avenue
Portland, OR 97204
Phone: 503-229-6865
800-452-4011
Fax: 503-229-5850
Contact: Rian Hooff
www.oregon.gov/DEQ

DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

criteria. It was acknowledged that this approach would deviate most in wording from the EPA VGP rule, but would have the same effect and might be easier to communicate.

- OAR 340-143-0050:
  - The issue of a possible sunset date on the proposed rule was raised by multiple members. If the part of the justification for the rule is to provide enhanced AIS prevention until ballast treatment systems are proven to be sufficiently robust and trustworthy, how will the rule be revoked? DEQ noted that there are multiple ways that a rule could be established with a sunset date, including the possibility of invoking into the rulemaking, the establishment of a 'new' rule for x years in the future that would not include the exchange plus treatment provision.
  - It was noted that the language used to provide exemption for vessels using/meeting a discharge standard '100x more stringent' than the federal standard could be interpreted as ambiguous. Instead, DEQ may want to consider codifying specific numerical standards in rule.
  - There was significant discussion amongst committee members regarding the tradeoffs for which vessels are or are not subject to the 'exchange plus treatment' proposed rule. On the one hand, there was acknowledgment that vessels with low-salinity ballast water are the vessels that represent the greatest threat for introducing AIS to Oregon ports, and thus a rule that mimics the EPA approach for the Great Lakes would be a preferable approach for limiting the number of vessel arrivals affected. However, there was also acknowledgement that regardless of source conditions, BWE is known to improve the performance and efficacy of ballast water treatment systems. Therefore, adopting an approach comparable to MA/MN/NY/RI has environmental benefits, as well as being consistent with the other states that have established this type of rule. The decision also still revolves around whether or not it is more important to craft a rule that achieves regional consistency, is consistent with a specific jurisdiction or model such as the EPA VGP, or is tailored to meet the needs and specific risk factors for the State of Oregon.

5. Discussion of Next Steps
   - Members discussed need to conduct more extensive outreach and engagement with their constituents, co-workers, clients and membership groups.
   - DEQ will produce another version of draft rule language within the next two weeks.
   - Agreement on need for another meeting to further discuss rule options and tradeoffs.

Meeting Adjourned at 12:00

State of Oregon
Department of Environmental Quality

Operations Division
Ballast Water Program
811 SW 6th Avenue
Portland, OR 97204
Phone: 503-229-6865
800-452-4011
Fax: 503-229-5850
Contact: Rian Hooff
www.oregon.gov/DEQ

DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

Next Advisory Committee meeting: **TBA**

State of Oregon
Department of
Environmental
Quality

Operations Division
Ballast Water Program
811 SW 6th Avenue
Portland, OR 97204
Phone: 503-229-6865
800-452-4011
Fax: 503-229-5850
Contact: Rian Hooff
www.oregon.gov/DEQ

DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.