

NOTICES OF PROPOSED RULEMAKING

Department of Environmental Quality Chapter 340

Rule Caption: Ballast Water Management and Noise Control Regulation Tables 2016

Date:
5-18-16

Time:
3 p.m.

Location:
DEQ Headquarters
811 SW 6th Ave.,
10th Floor, Rm. EQC A
Portland, OR, 97204

Hearing Officer: DEQ Staff

Stat. Auth.: ORS 467, 468.020 & 783.620–783.640

Stats. Implemented: ORS 467, 467.010, 467.030 & 783.620–783.640

Proposed Amendments: 340-143-0005, 340-143-0010, 340-143-0050, 340-035-0015, 340-035-0025, 340-035-0030, 340-035-0035, 340-035-0040, 340-035-0045

Last Date for Comment: 5-25-16, 4 p.m.

Summary: 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.

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Department of Fish and Wildlife Chapter 635

Rule Caption: Amend Rules for Protected Wildlife, Holding and Propagating

Date:
6-9-16

Time:
1 p.m.

Location:
ODFW
4034 Fairview Industrial Dr. SE
Salem, OR 97302

6-10-16

8 a.m.

ODFW
4034 Fairview Industrial Dr. SE
Salem, OR 97302

Hearing Officer: ODFW Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Proposed Amendments: Rules in 635-044

Last Date for Comment: 6-9-16, Close of Hearing

Summary: The proposed rule amendments are needed to change or update various aspects of agency management of protected wildlife, holding, and propagating.

NOTE: Commission hearing dates for June are June 9 and June 10, 2016. (On June 9th the meeting will begin at 1:00 p.m. On June 10, the meeting will begin at 8:00 a.m.) Exhibits for the Wildlife