



State of Oregon Department of Environmental Quality

Draft Fiscal Impact Statement

Ballast Water 2023 Advisory Committee Meeting

Aug. 18, 2023

Introduction

DEQ is proposing to remove the expiration of Oregon’s “exchange plus treatment” rule (OAR 340-143-0050(2)) for proper management of freshwater ballast discharge from commercial vessels while in Oregon waters. The current rule has been adopted federally for application to the entire Pacific coast, but not yet promulgated. Oregon’s rule expires on Dec. 19, 2023.

In 2018, the Vessel Incidental Discharge Act was signed into law. VIDA incorporates Oregon’s exchange plus treatment requirement and applies it to the entire Pacific coast. While VIDA contained a specific timeline for its rules to take effect in December 2022, delays in promulgation at the federal level have created a scenario in which the federal exchange plus treatment requirement will not yet be in place by the time Oregon’s rule expires. Oregon’s rule was implemented specifically to protect the freshwater Columbia and Willamette Rivers and Coos Bay from high-risk ballast discharges in the absence of an appropriately similar federal rule.

Request for advisory committee comment

DEQ is requesting the committee’s feedback on:

- Whether the proposed rule amendments would have a fiscal impact.
- If yes, the extent of the impact, and how DEQ might mitigate any impacts.
- Whether the proposed rule amendments would have a significant adverse impact on small businesses, and if yes, how might DEQ reduce that impact.
- The draft racial equity statement and environmental justice considerations for these proposed rule amendments.

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact

This rulemaking amends invasive species protection practices required of commercial vessels greater than 300 gross tons that intend to discharge ballast water while operating in state waters. The vast majority of affected vessels are owned and operated by large foreign businesses. The proposed rules do not involve a significant cost of compliance for these foreign businesses and are not expected to have any indirect effects on local businesses that are dependent upon maritime commerce.

Statement of Cost of Compliance

State agencies

This rulemaking will not require additional resources for the Department of Environmental Quality, nor other state or federal agencies.

Local governments

This rulemaking only affects commercial vessels greater than 300 gross tons arriving from outside Oregon waters, and therefore has no fiscal impact on local governments.

Public

This rulemaking would not impose a negative economic impact on the general public. Rather, these rules are intended to protect the general public by preventing the introduction of aquatic invasive species, which have caused devastating economic impacts for public and private sector entities in other regions of the country.

Large businesses - businesses with more than 50 employees

No significant economic impact is anticipated as a result of the proposed rules. The proposed rules do not impose fees or require the use or installation of new equipment or management practices. This rulemaking only affects commercial vessels greater than 300 gross tons arriving from outside of Oregon. The current rule has been adopted federally for application to the entire Pacific coast, but not yet promulgated. Any fiscal impacts will be incurred due to the federal adoption of the rule. This rulemaking seeks to align DEQ rules with federal requirements.

Small businesses – businesses with 50 or fewer employees

No significant economic impact is anticipated as a result of the proposed rules. Our state ballast water management regulations establish a minimum vessel size criteria (>300 gross tons with ballast tanks) and exemptions for commercial fishing vessel whereby no small businesses are subject to these rules. Moreover, the proposed rules do not establish fees or

require new operational practices to manage ballast water, and thus, under normal operational conditions, would not impose significant economic impacts, either directly or indirectly, to any small businesses.

ORS 183.336 Cost of Compliance Effect on Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

This rulemaking only affects commercial vessels greater than 300 gross tons arriving from outside Oregon waters and therefore should have no fiscal impact on small businesses.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

This rulemaking only affects commercial vessels greater than 300 gross tons arriving from outside Oregon waters and therefore should have no fiscal impact on small businesses.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

This rulemaking only affects commercial vessels greater than 300 gross tons arriving from outside of Oregon waters and therefore should have no fiscal impact on small businesses.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ did not involve small businesses directly in this rulemaking because this rulemaking only affects commercial vessels greater than 300 gross tons arriving from outside of Oregon waters and therefore should have no fiscal impact on small businesses. Some of the advisory committee members represent organizations that may have small businesses as part of the membership.

During the public comment period DEQ will send notifications about this rulemaking to potentially impacted companies, including small businesses, giving them the opportunity to provide comments on the proposed rules.

Documents relied on for fiscal and economic impact

Document title	Document location
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Advisory committee fiscal review

ORS 183.33 requires DEQ to ask for the committee's feedback on:

- Whether the proposed rule amendments would have a fiscal impact
- If yes, the extent of the impact, and how DEQ might mitigate any impacts
- Whether the proposed rule amendments would have a significant adverse impact on small businesses, and if yes, how might DEQ reduce that impact.

The committee will review the draft fiscal and economic impact statement and will share its findings with DEQ staff, who will document those comments and findings.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rule 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 rule amendments will have no impact on the supply of housing or land for residential development. The proposed rule amendments will not impact the cost of labor or administration related to such development.

Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

This rulemaking is not expected to affect racial equity in the state. The focus of the rule is a vessel operating procedure that is already currently required of the vessels subject to the rule. The exchange of low-salinity ballast prior to treatment is required by both rule and statute to take place no less than 50 nautical miles from shore in a minority of cases, and at least 200 nautical miles from any shore in the majority of voyages subject to the rule. Further, this rule is primarily focused on the prevention of an action (the introduction of invasive species via ballast water discharge) that would certainly affect lower-income communities disproportionately. The following is a short list of potential impacts being prevented by Oregon's ballast water exchange requirement.

Disproportionate impact on indigenous communities: ballast water discharge can introduce invasive species that can disrupt ecosystems and harm traditional food sources of indigenous communities who rely on fishing and harvesting from natural waters sources.

Unequal access to resources for monitoring and responding to invasive species: marginalized communities may not have access to the same resources or expertise as other communities to monitor and respond to invasive species, making them more vulnerable to the impacts of discharging unmanaged ballast water.

Health impacts: invasive species introduced through ballast water discharge can pose health risks to individuals who come into contact with contaminated water, such as recreational water users or those who rely on water sources for drinking or irrigation.

Economic impacts: invasive species can have significant economic impacts, including damage to fisheries and other industries that rely on water resources. These impacts can disproportionately affect marginalized communities who may already be economically disadvantaged.

Environmental Justice Considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues.

As above, this rulemaking primarily focused on the prevention of an action (the introduction of invasive species via ballast water discharge). If ballast water discharge leads to the introduction/spread of species, that would certainly affect lower-income communities disproportionately. The following is a non-exhaustive list of these impacts.

Disproportionate impact on low-income communities: if ballast water discharge leads to the spread of invasive species, this can have a disproportionate impact on low-income communities that rely on fishing and other natural resources for their livelihoods. These communities may be particularly vulnerable to changes in fish populations or the introduction of new species that compete with native species.

Cultural impacts: some communities may have cultural or spiritual ties to the ocean and its ecosystems, and the introduction of invasive species can disrupt these traditional relationships. Additionally, ballast water discharge could have negative impacts on cultural sites, including burial grounds and other sacred areas.

Environmental degradation: the introduction of invasive species can cause significant environmental degradation, including the loss of habitat, changes in water quality, and alterations of the food chain. This can impact not only local aquatic life, but also the larger ecosystem, leading to cascading effects that can be difficult to predict.

Lack of representation in decision-making: communities that are most directly impacted by ballast water discharge may not have a voice in the decision-making process. This can lead to a lack of consideration for their concerns and needs and can result in decisions that do not adequately address the potential environmental justice implications of ballast water discharge.

Translation or other formats

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