

July 8, 2016



Mr. Rian Hooff  
Oregon Department of Environmental Quality  
811 SW 6th Avenue  
Portland, OR 97204



Dear Mr. Hooff:

This letter is written in response to questions posed by the Oregon Department of Environmental Quality (DEQ) in a meeting held on June 21, 2016. The questions are in response to a public comment letter, dated May 24, 2016, from the American Waterways Operators, the Columbia River Steamship Operators' Association, the Oregon Public Ports Association, the Port of Portland, Sause Bros., and Western States Petroleum Association ("Commenters") regarding DEQ's ballast water rulemaking.



We appreciate the DEQ taking the time to meet with us and for DEQ's willingness to work with us throughout the ballast water rulemaking process and we look forward to continuing this collaborative effort moving forward. The maritime community recognizes the value and importance of the work being done by DEQ's Ballast Water Management program to protect Oregon waterways from the introduction of non-indigenous aquatic invasive species. We continue to support DEQ in these efforts and would like to provide these additional comments in response to the DEQ's questions, as requested.



**1. PERTAINING PRIMARILY TO THE INTRODUCTION AND BULLET ITEM I, "DEQ SHOULD POSTPONE RULEMAKING UNTIL THE NEW VGP IS FINALIZED" DEQ HAS NOTED THAT THE COMMENT LETTER CONTAINS FACTUAL INACCURACIES AND ASKED THE COMMENTERS TO CONSIDER IF WE HAVE MISUNDERSTOOD THE CONTENT OF THE PROPOSED RULE. DEQ NOTED THAT THIS RULE, AS IT IS WRITTEN, WOULD AFFECT APPROXIMATELY 10% OF VESSELS ENTERING OREGON WATERS.**



We collectively maintain that the DEQ should postpone rulemaking until the new Vessel General Permit (VGP) is finalized.



Please note that there may be potential environmental and operational challenges with the ballast water exchange (BWE) plus ballast water treatment (BWT) concept as it relates to select BWT systems. As an example, vessels that can only conduct flow-through exchange and are outfitted with Ultra Violet (UV) systems are not constructed with the additional BWE piping. Therefore, BWE would require that the ballast tank be topped up in port, and then exchanged by pumping out through the deck vents, or other means, under the proposed rule. This process could diminish the efficacy of the system and thereby potentially become less effective, resulting in greater risk.

These specific systems are designed to treat ballast water on uptake and discharge through a UV reactor; as such, BWE plus BWT cannot physically be conducted in concert with each other. It is further noted that during the use of these systems, the ballast water is treated twice before it is discharged. Conducting a BWE at sea would effectively negate the effect of conducting a BWT while loading ballast, reduce the effect of conducting BWT while loading ballast, and reduce the results of the treatment during discharge of the exchanged ballast.

It is further noted that Federal USCG regulations require that operators of vessels with these types of systems must operate their systems per the manufacturer's instructions and therefore are unable to circumvent the specified operation of the system without violating the Federal ballast water regulations. We recommend that the DEQ research these types of systems to ensure the revised rules have allowances in place to account for these situations.

Should the DEQ not elect to postpone rulemaking, we encourage DEQ to ensure there are allowances in the revised rules to account for situations where BWE plus BWT cannot be conducted.

**2. REGARDING BULLET ITEM II(A), PARAGRAPH 3 IN THE LETTER, DEQ HAS ASKED THE COMMENTERS TO CONSIDER AGREEING TO A MODIFICATION OF THE LANGUAGE FROM "ALL STATE WATERS" TO "LOW SALINITY PORTS, INCLUDING COLUMBIA RIVER AT RM 0, YAQUINA BAY AT RM2, AND COOS BAY" OR A VERSION THEREOF.**

We agree that changing the language to account for a listing of low salinity ports within the proposed rule is acceptable. Should DEQ make this change, language indicating specific river mile markers and defined low salinity ports is preferred.

**3. REGARDING BULLET ITEM II(C), DEQ HAS ASKED THE COMMENTERS TO CONSIDER AGREEING TO A SUNSET DATE OF DECEMBER 2023.**

While we understand the DEQ's disdain for rulemaking that will only be in effect for approximately 18 months. We maintain that the proposed rule revisions should be reconsidered at the expiration of the Vessel General Permit (VGP). We stress that alignment of the sunset date to the proposed DEQ rule that corresponds with the expiration and renewal of the VGP will ensure that the new VGP does not conflict with requirements under DEQ rules. Further this will allow DEQ to take advantage of the most current information in determining whether to continue BWE plus BWT.

**4. DEQ HAS ASKED THE COMMENTERS TO SUBMIT THE PREVIOUSLY SUBMITTED LETTER, DATED MAY 24, 2016, TO THE ONLINE DOCKET SO THAT IT IS AVAILABLE FOR ONLINE REVIEW BY OTHER STAKEHOLDER.**

Please note, the letter has been submitted through the online docket for stakeholder review.

We understand that the letter has been received by the DEQ prior to the initial public comment deadline and is part of the public record. We understand that the letter was not available for online public review and DEQ was not able to submit it online on our behalf.

**5. ADDITIONAL COMMENTS**

The Commenters request a clear list of ports of concern, where salinity is below the 18 ppt threshold. It is our understanding that several West Coast ports, for example upper San Francisco Bay, fall under this threshold that may increase the original estimation of 10% of vessels entering Oregon waters, originally suggested by DEQ.

We further note, tramp vessels, those that trade on the spot market with no fixed schedule or port of call, with intent to travel to a Washington port, and are then directed to an Oregon port, would be required to go out to sea to conduct a BWT plus BWE, to comply with the proposed rule and assume the costs associated with the port call, i.e. pilotage costs, tug costs, time delays, etc. This

would thereby increase the costs of doing business at our Oregon ports, making them less competitive.

## 6. CONCLUSION

The American Waterways Operators, the Columbia River Steamship Operators' Association, the Oregon Public Ports Association, the Port of Portland, Sause Bros., and Western States Petroleum Association support an approach that will introduce regulatory changes at the time they are needed, to ensure the consistency and efficacy we all desire. We thank you for the opportunity to comment.

Sincerely,



Charles Costanzo  
Vice President - Pacific Region  
American Waterways Operators



Mark Landauer  
Executive Director  
Oregon Public Ports Association



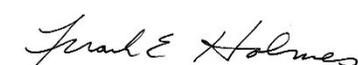
Ross McDonald  
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Kate Mickelson  
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Fred Myer  
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Frank Holmes  
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Cc: Senator Arnie Roblan  
Representative Caddy McKeown  
Mr. Pete Shepherd, Interim Director, OR DEQ  
Mr. Bruce Giles, Manager, Cleanup and Emergency Response Programs, OR DEQ  
Mr. Palmer Mason, Senior Legislative Advisor, OR DEQ