

**Enrolled**  
**House Bill 2714**

Sponsored by Representative ROBLAN

CHAPTER .....

AN ACT

Relating to aquatic invasive species; creating new provisions; amending ORS 783.635; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 783.635 is amended to read:

783.635. (1) Except as authorized by this section, the discharge of ballast water in the waters of this state is prohibited.

(2) An owner or operator of a vessel may discharge ballast water in the waters of this state:

(a) If the owner or operator has conducted a complete open sea or coastal exchange of ballast water prior to entering the waters of this state. The open sea or coastal exchange must be performed using either of the following methods:

(A) Flow-through exchange. A flow-through exchange occurs when an amount of ocean water equal to or exceeding three times the capacity of the vessel's ballast water tank is pumped into an opening in the ballast water tank while the existing ballast water is discharged through another opening.

(B) An empty and refill exchange. An empty and refill exchange occurs when a ballast water tank is pumped empty to the point that the pump loses suction and then is refilled with ocean water.

(b) Without performing an open sea exchange or a coastal exchange of ballast water if:

(A)(i) The owner or operator reasonably believes that an exchange would threaten the safety of the vessel; or

(ii) The exchange is not feasible due to vessel design limitations or equipment failure; and

(B) The vessel discharges only the amount of ballast water that is operationally necessary.

**(c) If the ballast water is discharged in a manner consistent with standards and procedures adopted by the Environmental Quality Commission under subsection (4) of this section.**

(3) An owner or operator who discharges ballast water in the waters of this state under subsection (2)(b) of this section is subject to the reporting requirements under ORS 783.640.

**(4)(a) The Environmental Quality Commission may adopt by rule standards and procedures that the commission considers necessary to carry out the provisions of ORS 783.625 to 783.640. The standards and procedures must minimize the risk of introducing aquatic invasive species into the waters of this state and must be based on the availability of treatment technology. Rules adopted under this subsection include, but are not limited to:**

**(A) Standards for the discharge of ballast water into the waters of this state and appropriate timelines for the implementation of the standards. In adopting the standards, the commission shall consider the extent to which treatment technology is feasible, practicable**

and commercially available, or expected to be available, by the proposed implementation timelines.

(B) Emergency response procedures for managing high-risk ballast water. The rules must define high-risk ballast water in light of the source of the water and other applicable factors. The procedures must establish notification and consultation requirements, as well as feasible alternative ballast water management strategies.

(C) Procedures for implementing alternative ballast water management strategies for the exemptions specified in subsection (2)(b) of this section.

(b) To the extent practicable, the commission shall adopt rules under this subsection consistent with relevant rules adopted by the States of California and Washington.

**SECTION 2.** In adopting rules under ORS 783.635, the Environmental Quality Commission shall consult with the Shipping Transport of Aquatic Invasive Species Task Force created under section 3 of this 2009 Act.

**SECTION 3.** (1)(a) There is created the Shipping Transport of Aquatic Invasive Species Task Force.

(b) The President of the Senate and the Speaker of the House of Representatives shall each appoint two members from among members of the Legislative Assembly to serve in an advisory capacity to the task force.

(c) The Director of the Department of Environmental Quality may appoint members to the task force to provide equitable representation from individuals who represent the interests of this state and federal, State of Washington, maritime industry, environmental and academic interests.

(2) The purpose of the task force is to study and make recommendations:

(a) For combating the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state;

(b) For identifying sources of funding to support and maintain the ballast water program established in ORS 783.625 to 783.640; and

(c) For changes to the ballast water program established in ORS 783.625 to 783.640, including but not limited to the following considerations:

(A) Shipping industry compliance with ORS 783.625 to 783.640;

(B) Practicable and cost-effective ballast water treatment technologies;

(C) Appropriate standards for discharge of treated ballast water into the waters of this state;

(D) The compatibility of ORS 783.625 to 783.640 with new laws enacted by the United States Congress, regulations promulgated by the United States Coast Guard and ballast water management programs established by the States of Alaska, California and Washington and the Province of British Columbia;

(E) Practicable and cost-effective techniques to combat the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state; and

(F) Appropriate regulations and standards to combat the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state.

(3) The Department of Environmental Quality may provide staff support or coordination assistance to the task force.

(4) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

(5) A majority of the members of the task force constitutes a quorum for the transaction of business.

(6) Official action by the task force requires the approval of a majority of the members of the task force.

(7) The task force shall elect one of its members to serve as chairperson.

(8) The task force shall submit a report, including recommendations for legislation, to an interim committee of the Legislative Assembly related to natural resources no later than June 1, 2010.

(9) Notwithstanding ORS 171.072, members of the task force who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the task force. Other members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(10) As used in this section:

(a) "Aquatic nonindigenous species" means any species or other viable biological material that enters an ecosystem beyond its historic range.

(b) "Waters of this state" has the meaning given that term in ORS 783.625.

SECTION 4. Section 3 of this 2009 Act is repealed on January 2, 2012.

SECTION 5. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House April 15, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate May 12, 2009

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President of Senate

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State