

INITIAL STATEMENT OF REASONS

TITLE 2. ADMINISTRATION DIVISION 3. STATE PROPERTY OPERATIONS CHAPTER 1. STATE LANDS COMMISSION

ARTICLE 4.8 BIOFOULING MANAGEMENT TO MINIMIZE THE TRANSFER OF NONINDIGENOUS SPECIES FROM VESSELS ARRIVING AT CALIFORNIA PORTS § 2298.5 MARINE INVASIVE SPECIES PROGRAM ANNUAL VESSEL REPORTING FORM

BACKGROUND

The California Marine Invasive Species Program (MISP) is a multi-agency program designed to reduce the risk of introducing nonindigenous species into State waters from vessels 300 gross registered tons and above that are capable of carrying ballast water. The MISP was established by the Ballast Water Management for Control of Nonindigenous Species Act of 1999 and reauthorized and expanded by the Marine Invasive Species Act of 2003. The purpose of the MISP is to move the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state (Public Resources Code section 71201, subdivision (d)). The MISP is funded exclusively through fees assessed on vessels arriving at California ports. Fees are deposited in the Marine Invasive Species Control Fund; the MISP uses no general fund dollars.

Nonindigenous species (NIS) are organisms that have been transported by humans to locations where they do not naturally or historically occur. Once established, NIS can have adverse economic, ecological, and public health consequences. The Marine Invasive Species Act addresses NIS introduction by regulating operational, recordkeeping, and reporting requirements for ocean-going vessels arriving at the state's ports.

To implement the mandate of the Marine Invasive Species Act, Public Resources Code section 71201.7 provides authority for the Commission to adopt regulations. To that end, the Commission adopted Title 2, California Code of Regulations, Division 3, Chapter 1, Article 4.8, section 2298 et seq., which took effect on October 1, 2017. These regulations include a comprehensive set of requirements, both operational (biofouling management) and administrative (reporting and recordkeeping), to help prevent vessel-borne introductions of NIS into the waters of the state.

PROBLEM STATEMENT

Per Title 2, California Code of Regulations, section 2298.5, the Commission currently requires submission of the *Marine Invasive Species Program Annual Vessel Reporting Form* (AVRF) to the Commission in written or electronic form at least twenty-four hours in advance of the first arrival of each calendar year at a California port of call. The AVRF consists of two sections with sixteen questions, totaling six pages of information. On average, 1,850 vessels are subject to the reporting requirement annually. Since the adoption of this reporting requirement in 2017, all AVRFs have been submitted to the Commission electronically. Ninety-seven percent of AVRFs are submitted as an email attachment; the remaining three percent of forms, on average, are submitted using the Commission's web-based user interface (<https://misp.io>).

When forms are received as an email attachment, Commission staff prints, date stamps, and enters data contained on the AVRFs into the Marine Invasive Species Program database. If the AVRF lacks the required information or contains errors, staff contacts the submitter directly for clarification and correction. After data entry, the AVRFs are stored for a minimum of five years per the Commission's Records Retention Schedule. Based on existing processes, staff prints and must subsequently find storage for over 11,000 pages of data annually.

The current manual procedure (print, review, data entry, etc.) requires four Commission staff members spending approximately 56 minutes to manually process each AVRF received as an email attachment, totaling approximately 143.89 hours per month to process AVRFs. Due to the time-intensive nature of the manual process, staff has a current backlog of approximately 1,800 forms awaiting data entry. As a result of this backlog, staff is unable to address public and internal requests for data in a timely fashion. Additionally, the backlog impacts the Commission's ability to prioritize vessels for boarding and inspection based on a weighted risk assessment procedure that uses the information reported on each vessel's AVRF. Finally, the current manual process is impacting other high priority projects within the MISP such as compliance assessments and enforcement proceedings, as well as basic scientific literature reviews and analyses.

The current manual data entry process is inefficient and resource intensive, requiring four staff to handle each AVRF, with an estimated annual time of 1,726.67 hours. The MISP is solely funded through fees assessed on vessels arriving at California ports, and the fee is currently set at the maximum allowable by statute (see Public Resources Code section 71215, subdivision (b)). The balance in the Marine Invasive Species Control Fund is declining due to increased costs for personnel and Commission

overhead. Therefore, the MISP must be as efficient as possible in its use of resources to carry out its mandates.

SPECIFIC PURPOSE OF THE AMENDMENT

The specific purpose of this proposed regulation is to amend the required submittal method for the *Marine Invasive Species Program Annual Vessel Reporting Form*. If the proposed regulation is adopted, all AVRFS will have to be submitted using the Commission's web-based user interface.

NECESSITY OF THE PROPOSED AMENDMENT

The proposed amendment is necessary to reduce the administrative and resource burden placed on the Commission. Adoption of the proposed amendment would reduce the number of manually processed reporting forms, reduce paper use and storage requirements, and allow the Commission to redirect resources to other high priority projects within the MISP. Mandating the use of the web-based user interface will also improve transparency and customer service while allowing the MISP to function more efficiently and effectively.

ECONOMIC IMPACT ASSESSMENT

Commission staff has determined that the proposed regulations will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed amendment would not affect the:

- Creation of jobs within California
- Elimination of jobs within California
- Creation of new businesses within California
- Elimination of existing businesses within California
- Expansion of businesses currently doing business within the state
- Health and welfare of California residents, worker safety, or the state's environment

Because the proposed amendment would only affect the submittal method for an existing reporting requirement, it will not have any impact on the creation or elimination of jobs or businesses within California. Businesses will not need to hire additional workers to complete this reporting form, nor will businesses experience significant cost

increases or need to eliminate jobs as a result of the proposed amendment. Similarly, the proposed amendment would not open a new market for businesses, neither creating new businesses nor expanding existing businesses, nor would it impose financial or regulatory hardship resulting in the elimination of any businesses. Lastly, requiring submission of the AVRF via the web-based user interface would have no potential to affect the health and welfare of California residents, worker safety, or the state's environment.

BENEFITS

The proposed amendment would reduce the administrative burden placed on the Commission. Commission staff would manually process significantly fewer reporting forms, reduce paper use and storage requirements, and redirect resources to focus on other high priority projects within the Marine Invasive Species Program.

Commission staff currently spends approximately 56 minutes to manually process a single AVRF received as an email attachment. On average, 1,850 vessels are subject to the reporting requirement annually. The Commission's web-based user interface enables online completion, submission, and tracking of required reporting forms, including the AVRF. For AVRFs submitted through the MISP's web-based user reporting system, Commission staff performs a review of the data prior to releasing the information into the database; on average, this process takes approximately 5 minutes for each form, significantly reducing the time to process an AVRF. Hence, the web-based user interface has already proven to increase the efficiency and effectiveness of the Commission's MISP. The proposed amendment would significantly reduce the annual time to process AVRFs from 1,726.67 hours to approximately 154.17 hours, enabling management to redirect staff hours to focus on other high priority projects within the MISP. This would not result in a budget reduction but would allow approximately 1,572.50 staff hours, valued at \$57,390.18, to be redirected to other program needs.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

The Commission staff has determined that there are no alternatives which would be more effective in carrying out the purposes of the proposed regulation or would be as effective and less burdensome to affected parties.

EVIDENCE SUPPORTING NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The proposed regulatory action would not have a significant adverse economic impact, including the ability of businesses to compete with businesses in other states. The proposed regulation would require masters, owners, operators, or persons in charge of a vessel to submit the AVRF to the Commission through the web-based user interface <https://misp.io>. The regulated community is already required to complete and submit the AVRF; forms are usually electronically submitted as an email attachment. The proposed amendment to the reporting method would not change existing annual reporting requirements or impose any additional economic impact on businesses. Staff has found no evidence that completing the AVRF via the web-based user interface is any more time consuming or expensive than submitting the form as an email attachment.

EFFORTS TO AVOID UNNECESSARY DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

There is no federal requirement to submit annual reporting forms outlining vessel-specific maintenance and operational practices that influence biofouling accumulation and viability. Therefore, no duplication or conflict with federal regulations would occur.