

NOTICE OF PROPOSED REGULATORY ACTION

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

The California State Lands Commission (Commission) will decide whether to adopt the regulatory actions described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commission proposes to amend section 2298.5 in Article 4.8 of Title 2, Division 3, Chapter 1 of the California Code of Regulations. 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 vessel arrival of each calendar year at a California port of call. The regulated community for this requirement includes masters, owners, operators, and persons in charge of vessels 300 gross registered tons and above that are capable of carrying ballast water.

Specifically, the proposed regulatory action would:

- Amend the submission method requirement for the *Marine Invasive Species Program Annual Vessel Reporting Form*.
- Amend section 2298.5 to incorporate by reference the revised annual reporting form.

The Commission proposes these amendments pursuant to Public Resources Code section 71201.7.

WRITTEN COMMENT PERIOD

Any interested person or authorized representative may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes on June 23, 2020. The Commission must receive all written comments by that time. Submit written comments to:

Nicole Dobroski
Assistant Chief
Marine Environmental Protection Division
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825

Written comments may also be submitted by facsimile at (916) 574-1950 or by email to CSLC.MEPDRegulations@slc.ca.gov. Please include “**Article 4.8 Comments**” in the subject line of the email.

PUBLIC HEARING

Commission staff has not scheduled a public hearing on this proposed action. However, the Commission will hold a public hearing, pursuant to Government Code section 11346.8, if it receives a written request for a public hearing from any interested person, or authorized representative, no later than 15 days prior to the close of the written comment period.

AUTHORITY AND REFERENCE

Authority: Public Resources Code sections 71201.7 and 71204.6 authorize the Commission to adopt regulations necessary to implement the provisions of the Marine Invasive Species Act.

Reference: The proposed amendments would implement or make specific Public Resources Code sections 71201.7, 71204, and 71205.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The purpose of this proposed regulatory action is to amend the submittal method for the *Marine Invasive Species Program Annual Vessel Reporting Form* and incorporate by reference the revised annual reporting form.

Public Resources Code section 71201, subdivision (d) declares that the purpose of the Marine Invasive Species Act is to move the state expeditiously toward elimination of the discharge of nonindigenous species (NIS) into the waters of the State or into waters that may impact the waters of the State. Public Resources Code sections 71201.7 and 71204.6 provide authority for the Commission to adopt regulations. To that end, the Commission adopted Article 4.8 “Biofouling Management to Minimize the Transfer of Nonindigenous Species from Vessels Arriving at California Ports (2 CCR section 2298.1 et seq), which took effect on October 1, 2017. These regulations impose both operational (i.e., biofouling management) and administrative (i.e., reporting and

recordkeeping) requirements on vessels in order to reduce the risk of NIS introduction into state waters.

The proposed amendment would require the submittal of the *Marine Invasive Species Program Annual Vessel Reporting Form* to the Commission through the web-based user interface <https://misp.io> and amend section 2298.5 to incorporate by reference the revised annual reporting form. This proposed action is promulgated pursuant to Public Resources Code section 71201.7.

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

The federal government does not have a comparable reporting requirement. Thus, there are no comparable federal regulations, nor is duplication or conflict with federal regulations expected. Similarly, there is no other comparable state reporting requirement, so the proposed amendment is neither inconsistent nor incompatible with any state regulations.

The Commission staff evaluated whether the proposed regulations are inconsistent or incompatible with existing State regulations and has found that there are no other State regulations concerning comparable reporting requirements or forms. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations

DOCUMENTS INCORPORATED BY REFERENCE

The following document is incorporated by reference within the proposed regulatory text:

- *Marine Invasive Species Program Annual Vessel Reporting Form (SLC 600.12, Revised 08/17-04/20)*

DETERMINATION ON MAJOR REGULATION DESIGNATION

The Commission staff has determined that this proposed regulatory action is not a major regulation as defined by Government Code section 11342.548.

LOCAL MANDATE

Commission staff has determined that the proposed regulatory action does not impose any mandates on local agencies or school districts.

FISCAL IMPACTS

Commission staff has determined that this proposed regulatory action:

- imposes no mandates or costs requiring state reimbursement to any local agency or school district pursuant to Government Code sections 17500 et seq.
- will have no impact on costs to any state agency
- will result in a savings to the Commission of approximately \$57,390 annually
- will have no other non-discretionary costs or savings imposed on local agencies
- will have no impact on costs or savings in federal funding to the State

HOUSING COSTS

Commission staff has determined that this proposed action will have no impact on housing costs.

STATEMENT REGARDING ADVERSE ECONOMIC IMPACTS DIRECTLY AFFECTING BUSINESSES, INCLUDING ABILITY TO COMPETE

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.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Through the Economic Impact Assessment, Commission staff has determined that the proposed regulations:

- (1) will have no impact upon the creation or elimination of jobs within the State of California;
- (2) will have no impact upon the creation or elimination of existing businesses within the State of California; and
- (3) will have no impact upon the expansion of businesses currently doing business within the State of California.

Commission staff has determined that the proposed regulations will benefit California by reducing the need for staff time processing forms. Commission staff estimates the existing annual costs of staff time to process AVRFs that are submitted by email to be

\$66,547.58. The proposed regulation would reduce the need for this staff time to a value of approximately \$9,157.16, thereby allowing the Commission to redirect approximately \$57,390 of staff time annually to other program needs.

COST IMPACTS ON REPRESENTATIVE PERSONS OR BUSINESSES

There are no new costs imposed on persons or businesses by the proposed amendments. Any costs associated with the proposed regulation stem from existing law. The regulated community has been obligated to comply with the statutes and regulations of the Marine Invasive Species Act since 2000. This proposed amendment simply defines a specific method for the submittal of the *Marine Invasive Species Program Annual Vessel Reporting Form*. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT

The proposed regulation would not impose a new reporting requirement. However, it would require businesses to comply with an existing reporting requirement by submitting a form through a web-based user interface. Commission staff finds that this proposed amendment is necessary for the health, safety, or welfare of the people of the state to ensure that the Commission can better manage fiscal resources to protect the waters of the State.

SMALL BUSINESS DETERMINATION

The Commission staff finds that the adoption of this proposed action may affect small businesses. The Commission is not aware of any small businesses that would be subject to the proposed amendment, but there may be some. However, continued compliance with the Marine Invasive Species Act and regulations will add no economic burden to small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested persons to submit comments on potential alternatives to the proposed regulation during the written comment period.

CONTACT PERSONS

Direct inquiries concerning the substance of the proposed regulations to:

Nicole Dobroski
Assistant Chief
Marine Environmental Protection Division
California State Lands Commission
100 Howe Ave, Suite 100 South
Sacramento, CA 95825-8202
Telephone: (916) 574-0742
Facsimile: (916) 574-1950
Email: Nicole.Dobroski@slc.ca.gov

or: Patrick Huber
Staff Attorney
California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202
Telephone: (916) 574-0728
Facsimile: (916) 574-1855
Email: Patrick.Huber@slc.ca.gov

Requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based should be directed to:

Nicole Dobroski
Assistant Chief
Marine Environmental Protection Division
California State Lands Commission
100 Howe Ave, Suite 100 South
Sacramento, CA 95825-8202
Telephone: (916) 574-0742
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Email: Nicole.Dobroski@slc.ca.gov

AVAILABILITY STATEMENTS

Commission staff will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the Sacramento office listed above. As of the date this notice is published in the Notice Register, the rulemaking file consists of

this notice, the proposed text of the regulations, the initial statement of reasons, including the economic impact assessment, and relevant sources of information upon which the proposed rulemaking is based. Interested parties may obtain copies of any of the aforementioned files by contacting Nicole Dobroski as listed above, or by visiting the website listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT OF ORIGINALLY PROPOSED REGULATIONS

After considering all timely and relevant comments, the Commission may adopt the proposed regulation as described in this notice. If Commission staff makes any substantial and sufficiently related modifications to the proposed text, the modified text with changes clearly indicated will be made available to the public for at least fifteen days prior to the date that the Commission adopts the regulation. Interested parties shall send requests for copies of the modified regulation, if applicable, to the attention of Nicole Dobroski at the address indicated above. The Commission will accept written comments on the modified regulation for at least fifteen days after the date that it is available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, interested parties may obtain a copy of the Final Statement of Reasons by contacting Nicole Dobroski at the address, telephone number, or email address listed above or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the notice of proposed rulemaking, the initial statement of reasons, the proposed text of regulations, the economic impact assessment, relevant documents, and any future changes or modifications to the proposed text can be accessed through our website at: <http://www.slc.ca.gov>