

August 17, 2020

Honorable Betty T. Yee  
Controller – State of California

Honorable Eleni Kounalakis  
Lt. Governor – State of California

Ms. Keely Bosler  
Director – California State Department of Finance

California State Lands Commission  
Sacramento, California 95825-8202

**Re: California State Lands Commission Public Hearing, August 20, 2020 / Agenda Item 55 "Article 4.8 Marine Invasive Species Program Annual Vessel Reporting Form "**

Dear California State Lands Commissioners:

The Pacific Merchant Shipping Association (PMSA) appreciates the opportunity to offer public comment on Agenda Item 55 of the August 20, 2020 State Lands Commission hearing; *"Consideration of Approval of Proposed Amendment to section 2298.5 of the California Code of Regulations, title 2, division 3, chapter 1, article 4.8 Marine Invasive Species Program Annual Vessel Reporting Form."*

PMSA is a regional trade association representing ocean carriers servicing California's international trade needs through its commercial ports. PMSA and its members have a long history of supporting efforts to minimize the impacts of aquatic invasive species introduction through maritime vectors.

We applaud the Commission's effort to develop more automated and efficient methods for data collection. None the less we must express our concerns with the schedule of adoption for this proposal and would ask for a phased-in period of adoption, or at least a phased-in period for enforcement, to allow the regulated community to transition to this new requirement that will be a significant change from current practice.

Per the staff report, about 97 percent of submitted reports come via e-mail, and 3 percent through the interactive internet portal. The new requirement would require 100 percent submission via the interactive internet portal. Some ships do not have reliable digital communication capabilities, many do not have full internet access and most ships have limited broadband capability necessary to successfully execute interactive internet sessions while at sea. This can be further complicated by firewalls erected for cybersecurity reasons. Because the form must be submitted prior to arrival, this may pose problems for well-intentioned vessels trying to accommodate the new requirement.

August 17, 2020

Staff has outlined alternatives that a vessel may request, and we appreciate the availability of those options. However, because this new requirement will change how most vessels currently comply, we believe that the Commission may become swamped with such requests, which might defeat the intent of the rule by placing additional workload on MISP staff in processing and resolving those requests. Consequently, we ask that the new requirement be **phased in over the first year, with no violations or penalties assessed during that transition period**. Instead, staff can use that time to educate the regulated community in this new requirement, and ships can more adequately adopt new protocols for compliance. Along those lines, we would also request that the MISP department conduct one or two webinar training sessions in the first year of enactment to assist all participants, and to have the training session recordable and downloadable so that it can be provided to vessel crews for viewing while at sea.

The State Lands staff has done an admirable job in outreach to the regulated community in proposing these amendments, and we appreciate their sincere recognition and response to some of the concerns that have been raised in our formal comments. However, because of the radical change from existing procedures inherent in this proposal, a one-year phase in period would be more productive for both the Commission and the regulated community.

I would be happy to respond to any questions or concerns that the Commission may have.

Sincerely,



John Berge  
Vice President

cc: CS LC / J. Luchessi; N. Dobroski



August 19, 2020

The Honorable Betty T. Yee  
Controller – State of California

The Honorable Eleni Kounalakis  
Lt. Governor – State of California

Ms. Keely Bosler  
Director – California State Department of Finance

California State Lands Commission  
Sacramento, California 95825-8202

**Subject: California State Lands Commission Public Hearing, August 20, 2020, Agenda Item 55 " Consider approval of proposed amendment to section 2298.5 of the California Code of Regulations, title 2, division 3, chapter 1, article 4.8 Marine Invasive Species Program Annual Vessel Reporting Form."**

Dear California State Lands Commissioners:

Thank you for this opportunity to comment on Agenda item 55 for the August 20th SLC Agenda, "Consideration of Approval of Proposed Amendment to section 2298.5 of the California Code of Regulations, title 2, division 3, chapter 1, article 4.8 Marine Invasive Species Program Annual Vessel Reporting Form."

Maersk is an international container logistics company, operating about 750 container vessels globally. Each year 45 to 60 of our vessels make over 500 calls in California ports. Approximately half of these vessels are Maersk-owned, and half are chartered from other companies. Typically, each of these large international vessels spends less than 5% of its operable lifetime in the waters of any one state or country. Network changes and vessel redeployments are an essential part of vessel and supply chain operations.

Maersk has long been an environmental leader in shipping. We are committed to going beyond compliance to achieve environmental excellence.

We appreciate the constructive relationship with SLC Staff, and their consistent responsiveness when operational questions arise. We certainly understand the need to manage Staff time spent on forms handling; this is true for both the Agency and for us in industry.



Unfortunately, vessels face challenges in implementing web-based reporting: While the vessels are in port (hours to a few days) the Captains are very busy with operations, inspections and other demands. The preferred time to complete lengthy forms is while the vessels are at sea. Unfortunately, satellite internet connections are not ideal, and many vessels have only satellite email and not full internet capability. Captains also report that completing an off-line form (e.g., PDF) can be done as time allows, rather than having to complete the web report in one session. An offline form also allows easy delegation of sections to other personnel, but the on-line process will probably be done solely by the captain.

These are certainly factors in the 97% use of the emailed PDF form vs. 3% web form stated in the staff report. Considering this remarkably low adoption rate for the on-line tool, we recommend the following:

1. Delay or phase-in the web tool requirement for 1-2 years with no violations to be issued to vessels for continued email reporting or for incomplete submittal or failed submissions (which may not be recognized until after the reporting deadline).
2. During this period, work with industry to conduct a web tool awareness campaign to increase web tool use and to identify technical barriers to web reporting
3. Ensure that the proposed petition process for requesting alternate submission methods will allow submitting one petition for multiple vessels or a full fleet. This will reduce workload for Agency staff and industry during this transition.

I'm happy to provide further information if it will be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Kindberg", with a stylized, flowing script.

Lee Kindberg, PhD, GCB.D

Head of Environment & Sustainability, North America

CC: SLC: Jennifer Lucchesi, Nicole Dobrowski, Kim Lunetta



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Charles P. Costanzo  
General Counsel & Vice President – Pacific Region

August 19, 2020

The Honorable Betty T. Yee  
Controller – State of California

The Honorable Eleni Kounalakis  
Lt. Governor – State of California

Ms. Keely Bosler  
Director – California State Department of Finance

California State Lands Commission  
Sacramento, California 95825-8202

Re: California State Lands Commission  
Public Hearing, August 20, 2020 /  
Agenda Item 55 "Article 4.8 Marine  
Invasive Species Program Annual Vessel  
Reporting Form"

Dear California State Lands Commissioners:

The American Waterways Operators (AWO), the national trade association for the tugboat, towboat, and barge industry, appreciates the opportunity to offer public comment on Agenda Item 55 of the August 20, 2020 State Lands Commission hearing; *"Consideration of Approval of Proposed Amendment to section 2298.5 of the California Code of Regulations, title 2, division 3, chapter 1, article 4.8 Marine Invasive Species Program Annual Vessel Reporting Form."*

The tugboat and barge industry safely and efficiently moves 760 million tons of cargo each year, including more than 60 percent of U.S. export grain, energy sources, and other bulk commodities that are the building of the U.S. economy. The fleet consists of nearly 5,500 tugboats and towboats, and more than 31,000 barges of all types. These vessels transit 25,000 miles of inland waterways, the Great Lakes, and the Atlantic, Pacific and Gulf Coasts. Tugboats also provide essential harbor services in ports and harbors around the country. The tugboat, towboat and barge industry provides the nation with a safe, secure, cost effective, and environmentally-sound means of transportation for America's domestic commerce.

Eight AWO member companies are headquartered in California, and many more operate tugboats and barges in California waters. These vessels help to move tens of millions of tons of freight every year on California waterways, reducing congestion on the state's highways and railroads while producing significantly fewer pollutants than trucks and trains. In addition, harbor and ship assist tugboats perform shipdocking, tanker escort, and bunkering services in California's harbors and ports.

AWO appreciates the Commission's effort to develop more automated and efficient methods for data collection. Nonetheless, we are concerned with the schedule of adoption for this proposal. A phased-in period of adoption and enforcement would allow the regulated community to transition to this new requirement that is a significant change from the current procedures.

Per the staff report, about 97 percent of submitted reports come via e-mail, and 3 percent through the interactive internet portal. The new requirement would require 100 percent submission via the interactive internet portal. Some towing vessels do not have reliable digital communication capabilities, many do not have full internet access, and most have limited broadband capability to execute interactive internet sessions while at sea. This can be further complicated by firewalls erected for cybersecurity reasons. Because the form must be submitted prior to arrival, this may pose problems for well-intentioned vessel operators trying to comply with the new requirement.

Additionally, towing vessel companies are shouldering increased technology cost burdens as charting, operational monitoring, communications, and other regulatory reporting requirements shift to digital formats. These connectivity costs are substantial since the process is technically challenging and service providers are limited for commercial marine applications. Increased connectivity demands also necessitate more powerful hardware aboard the vessels and increased cybersecurity costs. Finally, shoreside personnel and vessel crews must be trained in new technologies, adding to implementation time and costs.

CSLC staff has outlined alternatives that a vessel may request, and we appreciate the availability of those options. However, because this new requirement will change how most vessels currently comply, we believe that the Commission may become overwhelmed with such requests, which might defeat the intent of the rule by placing additional workload on Marine Invasive Species Program staff in processing and resolving those requests. Consequently, we ask that the new requirement be **phased in over the first year, with no violations or penalties assessed during that transition period**. Instead, staff can use that time to educate the regulated community on this new requirement, and vessels can adopt new protocols for compliance. Along those lines, we would also request that the MISP department conduct one or two webinar training sessions in the first year of enactment to assist all participants, and make the training session recordable and downloadable so that it can be provided to vessel crews for viewing while at sea.

California State Lands Commission  
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The State Lands staff has done an admirable job in outreach to the regulated community in proposing these amendments, and we appreciate their recognition and sincere response to some of the concerns that have been raised in our formal comments. However, because of the radical change from existing procedures inherent in this proposal, a one-year phase in period would be more productive for both the Commission and the regulated community.

I would be happy to respond to any questions or concerns that the Commission may have.

Sincerely,



Charles. P. Costanzo  
General Counsel & Vice President – Pacific Region

cc: CSLC / J. Luchesi; N. Dobroski; K. Lunetta



August 18, 2020

California State Lands Commission  
Sacramento, California 95825-8202

Commissioners:

Honorable Betty T. Yee, Controller – State of California

Honorable Eleni Kounalakis, Lt. Governor – State of California

Ms. Keely Bosler, Director – California State Department of Finance

Re: California State Lands Commission Public Hearing, August 20, 2020 / Agenda Item 55 "Article 4.8 Marine Invasive Species Program Annual Vessel Reporting Form "

Dear California State Lands Commissioners:

On behalf of Crowley Maritime Corporation ("Crowley"), we thank you for the opportunity to offer public comment on Agenda Item 55 of the August 20, 2020 State Lands Commission hearing; "Consideration of Approval of Proposed Amendment to section 2298.5 of the California Code of Regulations, title 2, division 3, chapter 1, article 4.8 Marine Invasive Species Program Annual Vessel Reporting Form."

As the largest operator of tankers and large petroleum articulated tug barges ("ATBs") in the United States as well as various other cargo and harbor craft whose vessels operate regularly in California ports, Crowley is directly affected by the proposed amendments.

#### **SUPPORT FOR INDUSTRY TRADE ASSOCIATION COMMENTS**

Crowley supports the comments submitted by the Pacific Maritime Shipping Association (PMSA) and American Waterways Operators (AWO) requesting that the California State Lands Commission (CSLC) consider adopting a phased approach for implementation and exercising enforcement discretion during the implementation period should the proposed amendments be approved.

#### **CONSIDERATION OF ALTERNATIVES**

While Crowley understands and applauds CSLC's efforts to reduce manual transcription and storage of paper based recordkeeping we would respectfully submit that there are alternative means of time stamping, transferring data, and storing records via common software solutions such as .pdf conversion to .xml format (similar to the process utilized for Ballast Water Reporting to NBIC and CSLC) that could streamline an e-mail based submission process as an alternative to the proposed submission solely via the MISP.io WebApp interface.

Internet access is not universal onboard vessels owned and operated by business lines within Crowley; those vessels with internet access are often heavily firewalled to maintain the



cybersecurity of the vessel network in accordance with the business line safety management system. These firewalls may potentially prevent vessels from accessing the MISP.io WebApp.

Completion of the AVRF is oftentimes a collaborative effort between vessel and shoreside support personnel. Vessel personnel oftentimes complete the current .pdf version on the AVRF during sea legs due to the busy operational tempo experienced during port calls. Vessel personnel are managing cargo operations, customer / regulatory audits and inspections, and maintenance that cannot be completed while underway, all of which must be completed in accordance with international work hour restrictions. Moving forward with the requirement to complete the AVRF solely via the MISP.io WebApp interface will place a burden on the vessel personnel while in port.

#### **SUGGESTION FOR REVISION OF THE ANNUAL VESSEL REPORTING FORM**

Crowley understands that the limited scope of this rulemaking may not allow for revisions of the actual contents of the Annual Vessel Reporting Form (AVRF) at this time. We look forward to working with CSLC personnel through public and industry engagement opportunities to encourage future revision of the AVRF to remove redundant reporting requirements.

#### **SUGGESTION FOR TRAINING OPPORTUNITIES**

Crowley would suggest that CSLC personnel plan to offer online training sessions to familiarize personnel with registration, access, and completion of the AVRF via the MISP.io web app should the proposed rulemaking move forward. A recorded, downloadable version of this training will also be critical to familiarize vessel personnel with firewalled, limited, or no internet access at sea with the MISP.io submission process.

In closing, we greatly appreciate the industry outreach efforts of the California State Lands Commission Marine Invasive Species Program personnel as well as their consideration of previously submitted comments. We are available to respond to any questions that the Commission may have and look forward to working with CSLC staff through future public engagement opportunities.

Yours respectfully,

**CROWLEY MARITIME CORPORATION**

/s/

Art Mead

*Vice President & Chief Counsel*

*Government and Regulatory*

E-mail: [CSLC.CommissionMeetings@slc.ca.gov](mailto:CSLC.CommissionMeetings@slc.ca.gov), please include "08/20/2020: Agenda Item 55" in the subject line of the e-mail