



DEPARTMENT OF ENVIRONMENTAL SCIENCE AND POLICY

ONE SHIELDS AVENUE  
DAVIS, CALIFORNIA 95616-857

February 20, 2025

California State Lands Commission  
100 Howe Ave., Suite 100 South  
Sacramento, CA 95825

Commissioners:

Honorable Eleni Kounalakis, Chair; Lt. Governor – State of California  
Honorable Malia M. Cohen, Controller – State of California  
Mr. Joe Stephenshaw, Director – California State Department of Finance

**SUBJECT: SUPPORT FOR APPROVAL OF AGENDA ITEM 57**

Chair Kounalakis and Commissioners,

My name is Dr. Edwin Grosholz, and I am writing in support of Agenda Item 57.

I am a Professor Emeritus in the Department of Environmental Science and Policy at the University of California, Davis. I have spent my career researching biological invasions, their environmental and economic impacts, and the effectiveness of coastal management and policy. I also serve on, and am past chair of, the California Invasive Species Advisory Committee (CISAC), an advisory body created to advise and make recommendations to the Invasive Species Council of California (ISCC), co-chaired by the Secretary of the California Natural Resources Agency and comprised of other California agency secretaries.

The Commission's Marine Invasive Species Program has been a world leader in developing and implementing regulations that have wide-ranging positive impacts on reducing the likelihood of species introductions from commercial shipping activities in California and across the globe. The proposed emergency rulemaking action (Item 57) is another of these impactful policies, one that is critical to protect California's vulnerable fresh and brackish water environments from nonindigenous species and their potential negative impacts. Considering the recent detection of invasive freshwater golden mussels in Stockton, and its spread throughout much of the Delta, I agree that time is of the essence, and that the proposed regulatory amendments must be implemented immediately through an emergency rulemaking action to put additional protections on discharges of fresh or brackish ballast water into California's fresh and brackish water ports.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Edwin Grosholz".

Dr. Edwin Grosholz  
Distinguished Professor Emeritus  
Alexander and Swantz Specialist in Cooperative Extension

February 25, 2025

Lt. Governor Eleni Kounalakis, Chair  
California State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, CA 95825

**RE: Emergency Rulemaking Amendments to California Marine Invasive Species Act: Ballast Water Exchange (2 CCR 2292 et seq.)(2/25/2025, Agenda Item #57)**

On behalf of the members of the Pacific Merchant Shipping Association (PMSA), we are writing in regard to the State Lands Commission (SLC) Meeting agenda item #57, Proposed Emergency Rulemaking Amendments to the California Marine Invasive Species Act. PMSA is a nonprofit trade association which represents owners and operators of U.S. and foreign flagged vessels operating along the U.S. West Coast potentially impacted by the proposed action and, as such, submit these comments on their behalf.

Firstly, PMSA is greatly appreciative of the longstanding, positive engagement with SLC and Marine Invasive Species Program staff that has fostered a collaborative relationship over the last two plus decades. Successful implementation of regulations and policies are most benefited when stakeholders and agencies collaborate on common goals. This success is demonstrated in the twelve biennial reports over the last 25 years where members have been recognized for the high level of programmatic compliance rates that continue to rise every year, and hosted SLC staff on over 47,000 inspections.

PMSA understand these proposed amendments pertain specifically to fresh or brackish ballast water discharges in California Bay Area, Sacramento and Stockton water environments, requiring water exchange to reach a certain salinity prior to discharge. SLC staff have estimated approximately 63 - 79 arrivals of bulk, tank, and articulated tug-barge vessels would be affected by the proposed action.

While the number of estimated vessel visits that this will impact may be minimal, PMSA takes this opportunity to submit comments that memorialize the rights of navigation and the need to respect the principal role of safety of the operation of vessels and limits the authority of the state at three nautical miles. With respect to the safe operations of vessels, we would request that the definition of "Flow through exchange" (§2292.(g)1) be revised to include the proviso "flush out ballast water *as is safe to do so*..." There is no need to force vessels that are in extremis or tough navigational conditions to add a step of a ballast water exchange to their operation and there needs to be a standardized safety exception for all vessel water exchanges.

In addition, given the inclusion of "Near-coastal waters" (§2292.(l)) please note that we further submit this letter to memorialize the reservation of our rights to limit the State of California's

control of any vessel operations in any area beyond the 3-mile limit offshore. Since 1849, the Boundary of the State of California has been fixed at 3 miles in the California Constitution. (Art. III, § 2 (see Art. XII, Calif. Constitution of 1849)). Likewise, the provisions for Marine Resources Protection zones in the California Constitution are limited to an area within 3 miles offshore (Art. XB, §2(d)(2)). While in some instances, subject to recent litigation, the state has successfully defended enactment of regulatory authority beyond the 3 mile limit, these were approved by the 9<sup>th</sup> circuit with the ultimate explanation that they were “an expansive and even possibly unprecedented state regulatory scheme” justifiably necessary as “the severe environmental problems confronting California (especially Southern California) are themselves unusual and even unprecedented.” (*Pacific Merchant Shipping Ass’n v. Goldstene*, 639 F.3d 1154, 1181-1182 (9<sup>th</sup> Cir., 2011)).

PMSA looks forward to continued collaboration with SLC in moving towards our common goal of eliminating, to the extent possible, the introduction of aquatic invasive species through the commercial maritime sector. Please do not hesitate to contact me at [jmmoore@pmsaship.com](mailto:jmmoore@pmsaship.com).

Respectfully,

A handwritten signature in cursive script that reads "Jacqueline M. Moore". The signature is written in black ink on a light-colored background.

Jacqueline M. Moore  
Vice President

cc: Chris Scianni, Program Manager, Marine Invasive Species Program