

Staff Report 55

PARTY:

California State Lands Commission

PROPOSED ACTION:

Consider approval of the proposed amendments to sections 2292 and 2293 of the California Code of Regulations, Title 2, Division 3, Chapter 1, Article 4.7 Performance Standards and Compliance Assessment for the Discharge of Ballast Water for Vessels Operating in California Waters.

AREA, LAND TYPE, AND LOCATION:

California's ports in the San Francisco Bay area east of, and including, the Port of Rodeo, extending to the Ports of Stockton and Sacramento.

PROPOSED RULEMAKING:

The proposed amendments apply to approximately 24 vessels that arrive in California ports each year, which is a small percentage of total California port traffic. The amendments would require these vessels, that meet specific ballast water source and discharge criteria, to conduct a ballast water exchange at sea and prior to arrival, in addition to meeting existing ballast water discharge performance standards. This combination of management methods reduces the likelihood of new species invasions.

Vessels will be subject to the proposed regulations if they discharge ballast water and either do not have a record of ballast water source salinity or have a record of ballast water source salinity that is less than 18 parts per thousand (ppt). Salinity in ppt is a measure of dissolved salt in water, indicating the number of grams of salt per 1,000 grams of water. Vessels that are subject to the proposed regulations will need to conduct a ballast water exchange beyond 50 nautical miles from land prior to discharging at California's ports in the San Francisco Bay area east of, and

including, the Port of Rodeo, extending to the Ports of Stockton and Sacramento. Additionally, discharged ballast water from vessels that are subject to the proposed requirements must have a salinity of 30 ppt or greater, indicating a complete exchange with oceanic water.

BACKGROUND

The California Marine Invasive Species Program (MISP) is a multi-agency program designed to reduce the likelihood of introducing nonindigenous species (NIS) into State waters from vessels 300 gross registered tons and above that can carry ballast water. 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 MISP is to move the state expeditiously toward elimination of the discharge of NIS into the waters of the state (Public Resources Code section 71201, subdivision (d)). MISP is funded exclusively through fees assessed on vessels arriving at California ports.

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 establishing operational, recordkeeping, and reporting requirements for ocean-going vessels arriving at the state's ports.

To implement the Act, Public Resources Code section 71201.7 provides authority for the Commission to adopt regulations. The proposed action amends existing regulations to make permanent the [emergency ballast water management regulations](#) that were implemented on June 16, 2025 (see Summary of Rulemaking Process below).

PROBLEM STATEMENT

The proposed regulatory action is necessary to prevent serious harm to public health, safety, and welfare by preventing additional introductions of the golden mussel (*Limnoperna fortunei*) and other potentially harmful NIS into California's freshwater and low-salinity (a salinity of greater than 0.5 ppt and less than 18 ppt) environments. Golden mussels and similar invasive species are harmful because they rapidly colonize hard surfaces, clog critical water intake and irrigation infrastructure, and outcompete or smother native species, disrupting entire ecosystems and creating costly maintenance challenges. The recent introduction

of the golden mussel exposed the significant vulnerability of California's low-salinity environments to ballast water-mediated species introductions.

The objective of the proposed amendments is to close the gap in existing state and federal regulations that enabled this vulnerability. Vessels arriving at California ports are required to meet California's existing ballast water discharge performance standards, which specify an allowable maximum concentration of living organisms in ballast water. Meeting these standards typically involves onboard ballast water treatment. The shift in ballast water management toward performance standards and away from ballast water exchange, implemented at the state, national, and international levels, was intended to more reliably and consistently reduce the likelihood of introducing NIS. However, for fresh or low-salinity ballast water discharges, the addition of high salinity marine ocean water (i.e., water with a salinity of 30 ppt or greater) during an exchange is an effective means of killing freshwater or low-salinity organisms. The detection of the golden mussel in the Sacramento-San Joaquin Delta in October 2024 highlighted that performance standards alone likely results in higher concentrations of living, freshwater or low-salinity organisms being discharged in ballast water than would be expected if treatment was combined with exchange. When vessels exchange water at sea, they draw in higher salinity water that kills any NIS that might thrive if discharged into lower salinity environments, such as California's inland waterways. Conversely, any NIS that could possibly be taken onboard in the higher salinity zone are unlikely to be suitably adapted to lower salinity environments and are thus less of a threat to the State's waterways.

SUMMARY OF RULEMAKING PROCESS

Staff proposes to permanently adopt the proposed regulatory amendments as shown in Exhibit A.

This regular rulemaking process began with an initial version of the proposed regulations (included as Exhibit B) that was published in the *California Regulatory Notice Register* (Register 2025, Notice File Number Z2025-1021-07) on October 31, 2025. The 45-day public comment period ended on December 15, 2025. This initial version of the proposed amendments differed from the emergency regulations (included as Exhibit C), that were adopted by the Commission and became effective on June 16, 2025, by requiring vessels to measure and record the salinity of the ballast water at source and discharge.

After reviewing written comments, Commission staff modified the proposed regulations. The modified proposed text (Exhibit A) removed the requirement to measure and record ballast water source and discharge salinity for each tank. Two additional modifications were made:

1. Vessels without a record of source salinity would be subject to the exchange requirement.
2. Discharged ballast water that is sampled during inspection must have a salinity of at least 30 ppt.

Because of these modifications, a 15-day public comment period was held from February 17, 2026, through March 2, 2026. No comments were received during this comment period.

All comments received will be formally addressed in the *Final Statement of Reasons* as part of the rulemaking process, but a summary with responses is provided below.

SUMMARY OF RESPONSES TO PUBLIC COMMENTS

Two industry stakeholders (Intertanko and America Waterways Operators) provided comments during the 45-day public comment period. The commenters raised concerns that the proposed requirement for vessels to measure salinity in each ballast tank at both uptake (source) and discharge, and ensure discharge at 30 ppt or above, was significantly more stringent than federal standards under the Vessel Incidental Discharge Act (VIDA). Commenters noted that neither VIDA nor the U.S. Environmental Protection Agency's standards of performance (Title 40 of the Code of Federal Regulations Part 139) require tank-by-tank measurements or a 30 ppt discharge threshold. Stakeholders also argued that imposing stricter requirements undermines VIDA's goal of establishing uniform federal standards and that forthcoming U.S. Coast Guard (USCG) regulations, expected in late 2026, will likely preempt these provisions. The commenters also questioned the logic of adopting short-term, burdensome requirements given the high compliance rate with existing California standards and recommended aligning California requirements with VIDA performance standards.

Additionally, the commenters raised operational concerns about the requirement to measure salinity. They emphasized that manual sampling for each tank could take hours, creating substantial operational burdens without clear environmental

benefit, and that current ballast water treatment systems have sensor calibration limitations that make accurate readings difficult.

One commenter suggested substituting seawater density measurement for direct salinity measurement as a more practical and reliable alternative. These recommendations aim to maintain environmental protection while ensuring operational feasibility and regulatory consistency.

Commenters recommended revising the proposed amendments to align with VIDA's uniform national standards to avoid imposing requirements that may be preempted by federal regulations when USCG enforcement rules are finalized. The commenters emphasized the importance of risk-based, technically feasible measures that do not disrupt maritime operations.

RESPONSE TO COMMENTS:

Following review and consideration of the comments, Commission staff modified the proposed regulations and removed the requirement for vessels to measure the salinity of both the ballast water source and discharge. This change addresses the comments related to sampling tank by tank and the operational concerns about measuring salinity. However, Commission staff did not change the requirement that vessels subject to the ballast water exchange requirement must discharge ballast water that is 30 ppt or greater because this is an indicator of compliance for vessels that are subject to the proposed regulations. Ballast water exchange, as defined in VIDA and California statute, is a widely accepted process that replaces the contents of ballast tanks with open-ocean water, which averages approximately 35 ppt salinity. Therefore, the requirement for these vessels to discharge water that is 30 ppt or above is a means of verifying compliance with the exchange requirement.

No changes to the proposed regulations were made in response to the comments regarding alignment with VIDA. The timing of the adoption and implementation of the USCG VIDA regulations is unknown, as are the specific regulatory components that will be proposed and adopted by the USCG. At this time, the Commission is unable to align its enforcement policies with those of the federal regulations because the federal regulations have not yet been proposed.

STAFF ANALYSIS AND RECOMMENDATION

AUTHORITY:

Public Resources Code sections 71201.7, 71204.3, and 71204.5

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The proposed amendments will further the interests of the Public Trust by providing greater protection of Public Trust resources. Currently, the introduction of NIS to California's low-salinity waters threatens Public Trust resources and values, including ecosystem preservation and the promotion and protection of fishing, water operations, water-related recreation, maritime commerce, and water-dependent tourism. The proposed regulations are expected to benefit both the State's environment and the health and welfare of California residents.

The proposed amendments satisfy the purpose of the Marine Invasive Species Act (Public Resources Code, § 71201, subd. (d)) "to move the State expeditiously toward elimination of the discharge of nonindigenous species into the waters of the State." Thus, staff believes that adoption of the proposed regulations would further enhance and protect Public Trust resources and is in the State's best interests.

CONCLUSION:

For these reasons, staff believes that the proposed amendments would benefit existing Public Trust uses and resources and be in the best interests of the State.

OTHER PERTINENT INFORMATION

1. The proposed regulations interpret, implement, and make specific the provisions of Public Resources Code sections 71200, 71204, and 71206.
2. No alternatives would be more effective in carrying out the purposes for which the regulations are proposed, would be as effective as and less burdensome, or would more greatly lessen any adverse economic impact on small businesses or affected private persons, than the proposed regulations.
3. The Commission staff has determined that this proposed regulatory action is not a major regulation as defined by Government Code section 11342.548.
4. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.

5. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 8, Actions by Regulatory Agencies for Protection of the Environment; California Code of Regulations, title 14, section 15308.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

EXHIBITS

- A. Text of the modified proposed regulations for consideration.
- B. Text of the initial proposed regulations published in the Notice Register on 10/31/2025.
- C. Text of the emergency regulations approved by the Commission on 2/25/2025.

RECOMMENDED ACTION

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 8, Actions by Regulatory Agencies for Protection of the Environment; California Code of Regulations, title 14, section 15308.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that adoption of the proposed amendments, or amendments substantially in the same form, will not substantially interfere with the public rights to navigation or the Public Trust needs and values at this time; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Adopt the amendments of the California Code of Regulations, Title 2, Division 3, Chapter 1, Article 4.7, substantially in the form as set forth in the attached Exhibit A.

2. Authorize Commission staff to make changes without regulatory effect within the meaning of 1 Cal. Code Regs. § 100 to the proposed regulations in response to recommendations by the Office of Administrative Law.
3. Authorize Commission staff to take whatever action is necessary and appropriate to comply with provisions of the Government Code regarding the lawful adoption and publication of the regulations and to ensure that the regulations become effective.
4. Authorize Commission staff to take whatever action is necessary and appropriate to implement the regulations at such time as they become effective.

Exhibit A

PROPOSED REGULATORY TEXT

TITLE 2. ADMINISTRATION
DIVISION 3. STATE PROPERTY OPERATIONS
CHAPTER 1. STATE LANDS COMMISSION
ARTICLE 4.7. PERFORMANCE STANDARDS AND COMPLIANCE ASSESSMENT FOR THE
DISCHARGE OF BALLAST WATER FOR VESSELS OPERATING IN CALIFORNIA WATERS

Staff has illustrated changes to the original text in the following manner:

- *Originally proposed language is underlined; deletions from the original text are shown in strikeout using a “-”.*
- *Modified proposed additions after comment consideration are double underlined; modified proposed deletions after comment consideration are shown in double strikethrough.*

California State Lands Commission staff proposes to amend Article 4.7 of Chapter 1, Division 3 of Title 2 of the California Code of Regulations, to read as follows:

Section 2292 Definitions

~~Unless the context otherwise requires, the~~The following definitions shall govern the construction of this Article:

(a) “Ballast Water Capacity” means the total volumetric capacity of any tanks, spaces, or compartments on a vessel used for carrying, loading or discharging ballast water, including any multi-use tank, space or compartment designed to allow carriage of ballast water.

(b) “Ballast Water Sample” means a unit of ballast water that may be collected for compliance assessment or research purposes.

(c) “Ballast Water Treatment System,” also referred to as a “Ballast Water Management System,” means any system that processes ballast water to remove, kill, or render nonviable organisms in ballast water prior to discharge or to avoid the uptake or discharge of organisms.

(d) “Colony Forming Unit” means a measure of viable bacteria in a sample.

(e) “Commission” means the California State Lands Commission.

(f) “Detailed Analysis” means a direct measurement of the organism's concentration in a representative sample to assess compliance with the discharge standards.

(g) "Exchange" means to replace the water in a ballast tank using either of the following methods:

(1) "Flow through exchange," which means to flush out ballast water by pumping three full volumes of near-coastal waters through the tank, continuously displacing water from the tank, to minimize the number of original coastal organisms remaining in the tank.

(2) "Empty/refill exchange," which means to pump out, until the tank is empty or as close to 100 percent empty as is safe to do so, the ballast water taken on in ports, or estuarine or territorial waters, then to refill the tank with near-coastal waters.

~~(g)~~(h) "Functionality Monitoring" means monitoring of the applicable operational performance parameters to verify that the ballast water treatment system is operating according to the manufacturers' specifications.

~~(h)~~(i) "Indicative Analysis" means a rapid preliminary assessment of the organism concentration in a representative sample of the ballast water volume of interest using biological, chemical, or physical parameters.

(j) "Land" has the same meaning as "land" in Public Resources Code section 71200(i).

~~(j)~~(k) "mL" means milliliter.

(l) "Near-coastal waters" means waters that are more than 50 nautical miles from land and at least 200 meters (656 feet, 109 fathoms) deep.

(m) "Port" has the same meaning as "port" in Public Resources Code section 71200(n).

~~(j)~~(n) "Public Water System" is defined the same as in Title 40 of the Code of Federal Regulations, section 141.2 (7-1-20 Edition), which is hereby incorporated by reference.

~~(k)~~(o) "Sampling Port" means the equipment installed in the ballast water piping through which representative samples of the ballast water being discharged are extracted.

~~(h)~~(p) "System Design Limitations" or "SDLs" are the physical or operational parameters important to the proper operation of the ballast water treatment system and designed to achieve the discharge performance standards (for example, minimum and maximum flow rates, time between ballast uptake and discharge, water quality limitations, operating environmental conditions, filter pressure, or ultraviolet transmittance).

~~(m)~~(g) "Vessel" has the same meaning as in Section 71200, Public Resources Code, subdivision (r).

Authority cited: Sections 71201.7 and 71205.3, Public Resources Code.

Reference: Sections 71200, 71201.7, 71204, 71205.3 and 71206, Public Resources Code.

Section 2293. Performance Standards for Ballast Water Discharges.

The provisions under this Section apply only to vessels that discharge ballast water in California waters.

(a) Federal Performance Standards for Ballast Water Discharges.

(1) Notwithstanding section 2296, the owner or operator of a vessel shall not discharge ballast water in California waters unless the ballast water discharge performance standards set forth in Section 151.2030(a) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, are met.

(2) The performance standards in Section 2293, subdivision (a)(1), must be met according to the implementation schedule in Section 151.2035(b) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, unless either of the follow conditions are met:

(A) The owner or operator of a vessel has been granted an extension to the vessel's compliance date by the United States Coast Guard pursuant to Section 151.2036 of Title 33 of the Code of Federal Regulations, or as that regulation may be amended; or

(B) The vessel is using water from a Public Water System as ballast water pursuant to Section 2296.

~~(b) This subdivision applies only to vessels arriving at ports in the San Francisco Bay area east of, and including, the port of Rodeo, extending to the Ports of Stockton and Sacramento.~~
Salinity-based Ballast Water Management Requirements.

~~(1) The master, operator, or person in charge of a vessel subject to this subdivision must measure and record the salinity and maintain a record on board the vessel of the salinity measurements for.~~
This subdivision applies only to vessels arriving at ports in the San Francisco Bay area east of, and including, the port of Rodeo, extending to the Ports of Stockton and Sacramento; and either

~~(A) Any ballast water source for each ballast water tank.~~
With a recorded ballast water source salinity of less than 18 parts per thousand; or

~~(B) Discharged ballast water for each ballast water tank.~~
Without a recorded ballast water source salinity.

~~(2) The master, operator, or person in charge of a vessel with ballast water sourced from waters with a measured salinity of less than 18 parts per~~

~~thousand~~ subject to this subdivision must, in addition to meeting the ballast water discharge performance standards incorporated in subdivision (a):

(A) Conduct a ballast water exchange in near-coastal waters; and

(B) ~~Ensure that the~~ Upon inspection, have a salinity of discharged ballast water is equal to or greater than 30 parts per thousand.

~~(b)~~(c) Interim California Performance Standards for Ballast Water Discharges.

No later than January 1, 2030, the owner or operator of a vessel must comply with the interim California performance standards for the discharge of ballast water. The interim performance standards for the discharge of ballast water in California require that ballast water discharged will contain:

(1) No detectable living organisms that are greater than or equal to 50 micrometers in minimum dimension;

(2) Fewer than 0.01 living organisms per mL that are less than 50 micrometers in minimum dimension and greater than or equal to 10 micrometers in minimum dimension;

(3) For living organisms that are less than 10 micrometers in minimum dimension:

(A) fewer than 1,000 bacteria per 100 mL;

(B) fewer than 10,000 viruses per 100 mL;

(C) concentrations of microbes that are less than:

1. 126 colony forming units per 100 mL of *Escherichia coli*;

2. 33 colony forming units per 100 mL of Intestinal enterococci; and

3. 1 colony forming unit per 100 mL or 1 colony forming unit per gram of wet weight of zoological samples of Toxicogenic *Vibrio cholerae* (serotypes O1 and O139).

~~(e)~~(d) Final California Performance Standards for Ballast Water Discharges.

No later than January 1, 2040, the owner or operator of a vessel to which this Article applies, must implement and meet the final performance standards for the discharge of ballast water. The final performance standards for the discharge of ballast water in California waters require that the ballast water discharged must have zero detectable living organisms for all organism size classes.

Authority cited: Sections 71201.7 and 71205.3, Public Resources Code.

Reference: Sections 71201.7 and 71205.3, Public Resources Code.

Exhibit B

EXPRESS TERMS

**TITLE 2. ADMINISTRATION
DIVISION 3. STATE PROPERTY OPERATIONS
CHAPTER 1. STATE LANDS COMMISSION
ARTICLE 4.7. PERFORMANCE STANDARDS AND COMPLIANCE ASSESSMENT FOR THE
DISCHARGE OF BALLAST WATER FOR VESSELS OPERATING IN CALIFORNIA WATERS**

Staff has illustrated changes to the original text in the following manner: proposed language is underlined; deletions from the original text are shown in ~~strikeout~~ using a "-".

California State Lands Commission staff proposes to amend Article 4.7 of Chapter 1, Division 3 of Title 2 of the California Code of Regulations, to read as follows:

Section 2292 Definitions

~~Unless the context otherwise requires, the~~The following definitions shall govern the construction of this Article:

(a) "Ballast Water Capacity" means the total volumetric capacity of any tanks, spaces, or compartments on a vessel used for carrying, loading or discharging ballast water, including any multi-use tank, space or compartment designed to allow carriage of ballast water.

(b) "Ballast Water Sample" means a unit of ballast water that may be collected for compliance assessment or research purposes.

(c) "Ballast Water Treatment System," also referred to as a "Ballast Water Management System," means any system that processes ballast water to remove, kill, or render nonviable organisms in ballast water prior to discharge or to avoid the uptake or discharge of organisms.

(d) "Colony Forming Unit" means a measure of viable bacteria in a sample.

(e) "Commission" means the California State Lands Commission.

(f) "Detailed Analysis" means a direct measurement of the organism's concentration in a representative sample to assess compliance with the discharge standards.

(g) "Exchange" means to replace the water in a ballast tank using either of the following methods:

(1) "Flow through exchange," which means to flush out ballast water by pumping three full volumes of near-coastal waters through the tank, continuously displacing water from the tank, to minimize the number of original coastal organisms remaining in the tank.

(2) "Empty/refill exchange," which means to pump out, until the tank is empty or as close to 100 percent empty as is safe to do so, the ballast water taken on in ports, or estuarine or territorial waters, then to refill the tank with near-coastal waters.

~~(g)~~(h) "Functionality Monitoring" means monitoring of the applicable operational performance parameters to verify that the ballast water treatment system is operating according to the manufacturers' specifications.

~~(h)~~(i) "Indicative Analysis" means a rapid preliminary assessment of the organism concentration in a representative sample of the ballast water volume of interest using biological, chemical, or physical parameters.

(j) "Land" has the same meaning as "land" in Public Resources Code section 71200(i).

~~(j)~~(k) "mL" means milliliter.

(l) "Near-coastal waters" means waters that are more than 50 nautical miles from land and at least 200 meters (656 feet, 109 fathoms) deep.

(m) "Port" has the same meaning as "port" in Public Resources Code section 71200(n).

~~(j)~~(n) "Public Water System" is defined the same as in Title 40 of the Code of Federal Regulations, section 141.2 (7-1-20 Edition), which is hereby incorporated by reference.

~~(k)~~(o) "Sampling Port" means the equipment installed in the ballast water piping through which representative samples of the ballast water being discharged are extracted.

~~(h)~~(p) "System Design Limitations" or "SDLs" are the physical or operational parameters important to the proper operation of the ballast water treatment system and designed to achieve the discharge performance standards (for example, minimum and maximum flow rates, time between ballast uptake and discharge, water quality limitations, operating environmental conditions, filter pressure, or ultraviolet transmittance).

~~(m)~~(q) "Vessel" has the same meaning as in Section 71200, Public Resources Code, subdivision (r).

Authority cited: Sections 71201.7 and 71205.3, Public Resources Code.

Reference: Sections 71200, 71201.7, 71204, 71205.3 and 71206, Public Resources Code.

Section 2293. Performance Standards for Ballast Water Discharges.

The provisions under this Section apply only to vessels that discharge ballast water in California waters.

(a) Federal Performance Standards for Ballast Water Discharges.

(1) Notwithstanding section 2296, the owner or operator of a vessel shall not discharge ballast water in California waters unless the ballast water discharge performance standards set forth in Section 151.2030(a) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, are met.

(2) The performance standards in Section 2293, subdivision (a)(1), must be met according to the implementation schedule in Section 151.2035(b) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, unless either of the follow conditions are met:

(A) The owner or operator of a vessel has been granted an extension to the vessel's compliance date by the United States Coast Guard pursuant to Section 151.2036 of Title 33 of the Code of Federal Regulations, or as that regulation may be amended; or

(B) The vessel is using water from a Public Water System as ballast water pursuant to Section 2296.

(b) This subdivision applies only to vessels arriving at ports in the San Francisco Bay area east of, and including, the port of Rodeo, extending to the Ports of Stockton and Sacramento.

(1) The master, operator, or person in charge of a vessel subject to this subdivision must measure and record the salinity and maintain a record on board the vessel of the salinity measurements for:

(A) Any ballast water source for each ballast water tank.

(B) Discharged ballast water for each ballast water tank.

(2) The master, operator, or person in charge of a vessel with ballast water sourced from waters with a measured salinity of less than 18 parts per thousand must, in addition to meeting the ballast water discharge performance standards incorporated in subdivision (a):

(A) Conduct a ballast water exchange in near-coastal waters; and

(B) Ensure that the salinity of discharged ballast water is equal to or greater than 30 parts per thousand.

~~(b)~~(c) Interim California Performance Standards for Ballast Water Discharges.

No later than January 1, 2030, the owner or operator of a vessel must comply with the interim California performance standards for the discharge of ballast water. The interim performance standards for the discharge of ballast water in California require that ballast water discharged will contain:

(1) No detectable living organisms that are greater than or equal to 50 micrometers in minimum dimension;

(2) Fewer than 0.01 living organisms per mL that are less than 50 micrometers in minimum dimension and greater than or equal to 10 micrometers in minimum dimension;

(3) For living organisms that are less than 10 micrometers in minimum dimension:

(A) fewer than 1,000 bacteria per 100 mL;

(B) fewer than 10,000 viruses per 100 mL;

(C) concentrations of microbes that are less than:

1. 126 colony forming units per 100 mL of *Escherichia coli*;

2. 33 colony forming units per 100 mL of Intestinal enterococci; and

3. 1 colony forming unit per 100 mL or 1 colony forming unit per gram of wet weight of zoological samples of Toxicogenic *Vibrio cholerae* (serotypes O1 and O139).

~~(e)~~(d) Final California Performance Standards for Ballast Water Discharges.

No later than January 1, 2040, the owner or operator of a vessel to which this Article applies, must implement and meet the final performance standards for the discharge of ballast water. The final performance standards for the discharge of ballast water in California waters require that the ballast water discharged must have zero detectable living organisms for all organism size classes.

Authority cited: Sections 71201.7 and 71205.3, Public Resources Code.

Reference: Sections 71201.7 and 71205.3, Public Resources Code.

Exhibit C

EXPRESS TERMS

**TITLE 2. ADMINISTRATION
DIVISION 3. STATE PROPERTY OPERATIONS
CHAPTER 1. STATE LANDS COMMISSION
ARTICLE 4.7. PERFORMANCE STANDARDS AND COMPLIANCE ASSESSMENT FOR THE
DISCHARGE OF BALLAST WATER FOR VESSELS OPERATING IN CALIFORNIA WATERS**

Staff has illustrated changes to the original text in the following manner: proposed language is underlined; deletions from the original text are shown in ~~strikeout~~ using a “-”.

California State Lands Commission staff proposes to amend Article 4.7 of Chapter 1, Division 3 of Title 2 of the California Code of Regulations, to read as follows:

Section 2292 Definitions

Unless the context otherwise requires, the following definitions shall govern the construction of this Article:

(a) “Ballast Water Capacity” means the total volumetric capacity of any tanks, spaces, or compartments on a vessel used for carrying, loading or discharging ballast water, including any multi-use tank, space or compartment designed to allow carriage of ballast water.

(b) “Ballast Water Sample” means a unit of ballast water that may be collected for compliance assessment or research purposes.

(c) “Ballast Water Treatment System,” also referred to as a “Ballast Water Management System,” means any system that processes ballast water to remove, kill, or render nonviable organisms in ballast water prior to discharge or to avoid the uptake or discharge of organisms.

(d) “Colony Forming Unit” means a measure of viable bacteria in a sample.

(e) “Commission” means the California State Lands Commission.

(f) “Detailed Analysis” means a direct measurement of the organism's concentration in a representative sample to assess compliance with the discharge standards.

(g) “Exchange” means to replace the water in a ballast tank using either of the following methods:

(1) "Flow through exchange," which means to flush out ballast water by pumping three full volumes of near-coastal waters through the tank, continuously displacing water from the tank, to minimize the number of original coastal organisms remaining in the tank.

(2) "Empty/refill exchange," which means to pump out, until the tank is empty or as close to 100 percent empty as is safe to do so, the ballast water taken on in ports, or estuarine or territorial waters, then to refill the tank with near-coastal waters.

~~(g)~~(h) "Functionality Monitoring" means monitoring of the applicable operational performance parameters to verify that the ballast water treatment system is operating according to the manufacturers' specifications.

~~(h)~~(i) "Indicative Analysis" means a rapid preliminary assessment of the organism concentration in a representative sample of the ballast water volume of interest using biological, chemical, or physical parameters.

(j) "Land" has the same meaning as "land" in Public Resources Code section 71200(i).

~~(j)~~(k) "mL" means milliliter.

(l) "Near-coastal waters" means waters that are more than 50 nautical miles from land and at least 200 meters (656 feet, 109 fathoms) deep.

(m) "Port" has the same meaning as "port" in Public Resources Code section 71200(n).

~~(j)~~(n) "Public Water System" is defined the same as in Title 40 of the Code of Federal Regulations, section 141.2 (7-1-20 Edition), which is hereby incorporated by reference.

~~(k)~~(o) "Sampling Port" means the equipment installed in the ballast water piping through which representative samples of the ballast water being discharged are extracted.

~~(h)~~(p) "System Design Limitations" or "SDLs" are the physical or operational parameters important to the proper operation of the ballast water treatment system and designed to achieve the discharge performance standards (for example, minimum and maximum flow rates, time between ballast uptake and discharge, water quality limitations, operating environmental conditions, filter pressure, or ultraviolet transmittance).

~~(m)~~(q) "Vessel" has the same meaning as in Section 71200, Public Resources Code, subdivision (r).

Authority cited: Sections 71201.7 and 71205.3, Public Resources Code.

Reference: Sections 71200, 71201.7, 71204, 71205.3 and 71206, Public Resources Code.

Section 2293. Performance Standards for Ballast Water Discharges.

The provisions under this Section apply only to vessels that discharge ballast water in California waters.

(a) Federal Performance Standards for Ballast Water Discharges.

(1) Notwithstanding section 2296, the owner or operator of a vessel shall not discharge ballast water in California waters unless the ballast water discharge performance standards set forth in Section 151.2030(a) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, are met.

(2) The performance standards in Section 2293, subdivision (a)(1), must be met according to the implementation schedule in Section 151.2035(b) of Title 33 of the Code of Federal Regulations, or as that regulation may be amended, unless either of the follow conditions are met:

(A) The owner or operator of a vessel has been granted an extension to the vessel's compliance date by the United States Coast Guard pursuant to Section 151.2036 of Title 33 of the Code of Federal Regulations, or as that regulation may be amended; or

(B) The vessel is using water from a Public Water System as ballast water pursuant to Section 2296.

(b) This subdivision applies only to vessels with ballast water sourced from waters with a measured salinity of less than 18 parts per thousand and arriving at ports in the San Francisco Bay area east of, and including, the port of Rodeo, extending to the Ports of Stockton and Sacramento. In addition to meeting the ballast water discharge performance standards incorporated in subdivision (a), the master, operator, or person in charge of a vessel subject to this subdivision must:

(1) Conduct a ballast water exchange in near-coastal waters; and

(2) Ensure that the salinity of discharged ballast water is equal to or greater than 30 parts per thousand.

~~(b)~~(c) Interim California Performance Standards for Ballast Water Discharges.

No later than January 1, 2030, the owner or operator of a vessel must comply with the interim California performance standards for the discharge of ballast water. The interim performance standards for the discharge of ballast water in California require that ballast water discharged will contain:

- (1) No detectable living organisms that are greater than or equal to 50 micrometers in minimum dimension;
- (2) Fewer than 0.01 living organisms per mL that are less than 50 micrometers in minimum dimension and greater than or equal to 10 micrometers in minimum dimension;
- (3) For living organisms that are less than 10 micrometers in minimum dimension:
- (A) fewer than 1,000 bacteria per 100 mL;
- (B) fewer than 10,000 viruses per 100 mL;
- (C) concentrations of microbes that are less than:
1. 126 colony forming units per 100 mL of *Escherichia coli*;
 2. 33 colony forming units per 100 mL of Intestinal enterococci; and
 3. 1 colony forming unit per 100 mL or 1 colony forming unit per gram of wet weight of zoological samples of Toxicogenic *Vibrio cholerae* (serotypes O1 and O139).

~~(e)~~(d) Final California Performance Standards for Ballast Water Discharges.

No later than January 1, 2040, the owner or operator of a vessel to which this Article applies, must implement and meet the final performance standards for the discharge of ballast water. The final performance standards for the discharge of ballast water in California waters require that the ballast water discharged must have zero detectable living organisms for all organism size classes.

Authority cited: Sections 71201.7 and 71205.3, Public Resources Code.

Reference: Sections 71201.7 and 71205.3, Public Resources Code.