

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

DIVISION 3. STATE PROPERTY OPERATIONS

CHAPTER 1. STATE LANDS COMMISSION

ARTICLE 4.7. BALLAST WATER DISCHARGE PERFORMANCE STANDARDS

The California State Lands Commission (Commission) will consider whether to amend the Marine Invasive Species Act (MISA) ballast water discharge performance standards regulations described below, after considering all comments, objections, or recommendations regarding the proposed action.

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 December 15, 2025. Submit written comments to:

Jonathan Thompson
Senior Environmental Scientist
California State Lands Commission
Division of Environmental Science, Planning, and Management
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825

Written comments may also be submitted by email to cslc.regulations@slc.ca.gov. Please include “**Article 4.7 Comments**” in the subject line of the email.

PUBLIC HEARING

Commission staff has not scheduled a public hearing for 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 (PRC) sections 71201.7, 71204.3, and 71204.5 provide the Commission with the authority to adopt the proposed amendments.

Reference: The proposed amendments would implement, interpret, and make specific PRC sections 71200, 71204, 71204.3, 71204.5, and 71206.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Public Resources Code section 71201, subdivision (d) declares that the purpose of the Marine Invasive Species Act (MISA) is to “move the state expeditiously toward elimination of the discharge of nonindigenous species into the waters of the State or into waters that may impact the waters of the State.”

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 MISA established the Marine Invasive Species Program to reduce NIS introductions by regulating operational and reporting requirements for oceangoing vessels arriving at the state’s ports.

The proposed action amends existing regulations to make permanent the emergency ballast water management regulations that were implemented on June 16, 2025.

SUMMARY OF EXISTING LAWS AND EFFECT OF THE PROPOSED ACTION

The Commission implements ballast water discharge performance standards (Performance Standards) for vessels arriving at California ports (Cal. Code Regs., tit. 2, § 2293, subd. (a)(1)). California's Performance Standards set limits on the concentration of living organisms that may be discharged in ballast water and are identical to the federal Performance Standards implemented by the U.S. Environmental Protection Agency (EPA, 2013 Vessel General Permit Section 4.4.3.7) and the U.S. Coast Guard (USCG, 33 CFR 151.2030).

In addition to the Performance Standards that are implemented in California and at the national level, the EPA and USCG are working towards implementing new regulations authorized by Title IX of the Frank LoBiondo Coast Guard Authorization Act of 2018, Pub. L. No. 115-282, 132 Stat. 4192 (2018). Title IX, also known as the Vessel Incidental Discharge Act (VIDA), required the EPA to develop and adopt performance standards for ballast water and other vessel discharges and the USCG to adopt implementing regulations. The EPA and the USCG were directed to adopt their respective regulations sequentially, each within a two-year timeline. The EPA adopted regulations (40 CFR Part 139) under authority granted in the VIDA in October 2024. The EPA VIDA regulations include a requirement for vessels with ballast water sourced from water that is 18 parts per thousand (ppt) salinity or less and that will discharge in California waters that are 18 ppt salinity or less to conduct ballast water exchange in addition to complying with the federal Performance Standards. These federal regulations are aligned with the Commission’s proposed regulations but will not become

effective until the USCG completes their rulemaking, likely no sooner than the fall of 2026.

Section 71204 of the Public Resources Code requires vessels operating in state waters to minimize the uptake and release of NIS via ballast water through specified actions. The proposed ballast water management amendments align seamlessly with Public Resources Code section 71204 and the legislative intent of the MISA, existing federal requirements (USCG (33 CFR 151.2030) and EPA (2013 Vessel General Permit Section 4.4.3.7), and relevant standards adopted by the EPA pursuant to the VIDA.

The Commission's proposed regulations do not interfere with existing state or federal laws or requirements or existing business operations.

DIFFERENCES FROM FEDERAL REGULATIONS

The existing federal Performance Standards implemented by the USCG (33 CFR 151.2030) and the EPA (2013 Vessel General Permit Section 4.4.3.7) differ substantially from, but are not incompatible with, the proposed regulations because they do not require 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 to:

- Complete a ballast water exchange in addition to meeting Performance Standards
- Measure and keep a record of ballast water source salinity and ballast water discharge salinity

The EPA's regulations promulgated pursuant to the VIDA will require ballast water exchange in addition to meeting Performance Standards when the same conditions as the proposed action are present. However, the VIDA regulations are not expected to be implemented until the fall of 2026 or later.

OBJECTIVES AND ANTICIPATED BENEFITS OF THE PROPOSED ACTION

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. The recent introduction of the golden mussel exposed the significant vulnerability of these environments to ballast water-mediated species introductions.

The objective of the proposed amendments is to close the gap in existing regulations that created this vulnerability. Vessels arriving in California ports are required to meet California's Performance Standards, which specify an

allowable concentration of 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 (Briski et al., 2015; Drake et al., 2020; Bradie et al., 2023). The detection of the golden mussel 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 when treatment is combined with exchange.

The proposed amendments require vessels arrivals that are subject to the regulation to conduct a ballast water exchange, in addition to meeting the Performance Standards. This combination of management methods reduces the likelihood of new species invasions (Briski et al., 2015; Drake et al., 2020; Bradie et al., 2023).

Specifically, the proposed regulations require vessels carrying ballast water sourced from a location with a measured salinity of less than 18 ppt 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, the vessels must measure and keep a record of the salinity of ballast water at its source and discharge to determine applicability and implementation of the proposed rule.

Approximately 24 vessel arrivals per year discharge ballast water into ports in the San Francisco Bay area east of, and including, the Port of Rodeo, extending to the Ports of Stockton and Sacramento and would need to comply with the proposed rule. Vessels are readily able to comply with the proposed requirements, as no new equipment is required to implement them.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Aside from the Commission's existing regulations, there are no other California regulations governing ballast water management or for measuring and recording ballast water source and discharge salinity.

DETERMINATION ON MAJOR REGULATION DESIGNATION

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

proposed action establishes ballast water management and recordkeeping requirements under the MISA. The estimated costs associated with implementing the proposed regulations across the industry are between \$13,368 and \$176,472. This economic impact range is based on forecasted additional cumulative energy costs to perform a ballast water exchange for all vessels that would be subject to the requirements.

The majority of owners of vessels that operate in California are international companies and not California businesses. The affected industry will consist mainly of non-California based international businesses. These regulation amendments will not affect the ability of California businesses to compete with other states and will not make it more costly for California businesses to produce goods and services here.

DISCLOSURES REGARDING THE PROPOSED ACTION

Commission staff, acting on behalf of the Commission, has made the following determinations:

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS:

None. The proposed rulemaking is for the regulation of commercial shipping vessels and does not impose a mandate on local agencies or school districts. No local agency or school district is required to undertake new activities that would necessitate reimbursement, nor are there other nondiscretionary costs or savings imposed on local agencies.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 17500 THROUGH 17630:

None. The proposed regulatory action imposes no such costs.

OTHER NON-DISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:

None. The proposed regulatory action will have no non-discretionary costs or savings imposed upon local agencies.

COST OR SAVINGS TO ANY STATE AGENCY

None. The proposed regulatory action will have no impact on cost or savings to any state agency.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE:

None. The proposed action will have no impact on costs or savings in federal funding to the State.

HOUSING COSTS:

None. The proposed action will have no impact on housing costs.

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

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 regulations are not expected to have a significant impact on existing maritime shipping industry business activities.

COST IMPACTS ON REPRESENTATIVE PERSONS OR BUSINESSES

The annual overall economic impact of this regulation across the regulated industry is estimated as an approximate range between \$13,368 and \$176,472. This economic impact range is based on forecasted additional cumulative energy costs for all vessels that would be subject to the requirements. This range is based on the estimated cost to complete a ballast water exchange for small to large vessels (see Worksheet for STD.399 Calculations contained within the rulemaking record).

This cost is insignificant compared to the current costs of operation in California ports. For example, the average partial cost of a container vessel calling at the Port of Los Angeles, including dockage and pilotage fees, is about \$58,061^{1,2}. The overall average cost is likely higher, as there are other fees associated with the total costs of a port call, but Commission staff could not obtain reliable values, and they are not included in this estimate.

There are no expected economic impacts from the proposed requirement for vessels to measure and record the salinity of ballast water. Measuring water density, with a hydrometer, and temperature, with a thermostat, is standard practice for cargo operations on board commercial vessels that are subject to this proposed regulation. The density measurement is specific gravity. Salinity is derived by converting temperature and specific gravity using a formula.

SMALL BUSINESS DETERMINATION

There are no small businesses that are expected to be subject to the proposed regulations because the regulated community consists mostly of shipping businesses that generate too much revenue to qualify as small businesses.

¹ This estimate includes an average port call length of 4.5 days for a container vessel about 150,000 gross registered tons in size.

² The numbers used for the cost calculations were obtained from the Pacific Merchant Shipping Association in June 2023.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Through the Economic Impact Assessment, Commission staff has determined that the proposed regulations will have no impact upon the following:

- Creation or elimination of jobs within the State of California
- Creation of new businesses or elimination of existing businesses within the State of California
- Expansion of businesses currently doing business within the State of California
- Worker safety within the State of California

Commission staff has determined that the proposed regulations meet the purpose of the MISA (Public Resources Code section 71201, subdivision (d)): "...to move the State expeditiously toward elimination of the discharge of nonindigenous species into the waters of the state..." and will benefit the following:

- (1) The state's environment by reducing the likelihood of future environmental, human health, and economic impacts resulting from the introduction and establishment of new NIS.
- (2) The health and welfare of California residents by strengthening protection of California's natural ecosystems and water infrastructure from the impacts of new species introductions. This will reduce the risk of vessel-mediated introductions of:
 - pathogens and parasites
 - harmful and invasive NIS (e.g., harmful algal blooms and toxic diatoms)

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (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 regulations during the written comment period.

CONTACT PERSONS

Direct inquiries concerning the substance of the proposed regulation to:

Jonathan Thompson

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California State Lands Commission
Division of Environmental Science, Planning, and Management
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202
Telephone: (916) 574-2276
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or:

Nina Tantraphol

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Requests for copies of the proposed text of the regulations, 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:

Jonathan Thompson

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Division of Environmental Science, Planning, and Management
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AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

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

- Notice of Proposed Rulemaking (this notice)
- Proposed text of the regulations

- Initial Statement of Reasons (includes the economic impact assessment)
- Relevant sources of information upon which the proposed rulemaking is based

Interested parties may obtain copies of any of the aforementioned files by contacting Jonathan Thompson 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 regulations substantially 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 available to the public for at least fifteen days prior to the date that the Commission considers adopting the regulations. Interested parties shall send requests for copies of any modified regulations to the attention of Jonathan Thompson at the address indicated above. The Commission will accept written comments on the modified regulations for fifteen days after the date that they are 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 Jonathan Thompson 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/>