

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION DIVISION 3. STATE PROPERTY OPERATIONS CHAPTER 1. STATE LANDS COMMISSION ARTICLE 4.5. MARINE INVASIVE SPECIES CONTROL FUND FEE

The California State Lands Commission (Commission) will consider whether to adopt the regulations described below after considering all comments on the proposed action.

PROPOSED REGULATORY ACTION

The Commission proposes to amend California Code of Regulations, Title 2, Section 2271 (Section 2271).

The proposed regulatory action would amend Section 2271 to adjust the fee paid by vessels arriving at California ports (the Fee) from one thousand dollars (\$1,000) to one thousand two hundred twenty-five dollars (\$1,225) per vessel voyage from a location outside of California. The proposed action would also add a provision to automatically adjust the amount of the Fee for inflation every five years. The Fee is used to fund all components of the Marine Invasive Species Program (MISP) as described in Division 36 of the Public Resources Code.

The regulation also makes non-substantive changes to authority and reference citations and includes biofouling in the vessel management practices considered when setting the Fee amount.

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 fifteen days prior to the close of the written comment period.

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 will be open for 60 days, rather than the required minimum 45-day period, to avoid closing during late December. The written comment period closes on January 6, 2026. To be considered, all written comments must be received by the end of that day. Submit written comments to:

Chris Scianni
Environmental Program Manager
Marine Invasive Species Program
Division of Environmental Science, Planning, and Management
California State Lands Commission
301 E. Ocean Blvd, Suite 350
Long Beach, CA 90802

Written comments may also be submitted by email to cslc.regulations@slc.ca.gov. Please include “**Article 4.5 Comments**” in the subject line of the email.

AUTHORITY AND REFERENCE

Authority: Public Resources Code Section 71215 requires the Commission to establish a reasonable and appropriate fee, through regulation, to carry out the activities required by the Marine Invasive Species Act.

Reference: The proposed regulations would implement, interpret, and make specific Public Resource Code section 71215.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Public Resources Code section 71215 created the Marine Invasive Species Control Fund and requires the Commission to establish a reasonable and appropriate Fee to carry out the activities required by the Marine Invasive Species Act (the Act). It also states that the Fee may not exceed one thousand

dollars (\$1,000) per qualifying voyage (i.e., arriving at a California port after operating at a port outside of California); however, this amount may be adjusted for inflation every two years. Under Public Resources Code section 71215, subdivision (c), the California Department of Tax and Fee Administration shall collect the Fee from the owner or operator of each vessel, or the vessel agent acting on behalf of the owner or operator, that arrives at a California port of place from a port or place outside California. That fee may not be assessed on any vessel arriving at a California port or place if that vessel comes directly from another California port or place.

The federal Vessel Incidental Discharge Act, specifically Section 1322(p)(9)(A)(iv) of Title 33 of the U.S. Code, preempts some state regulatory authority and places a \$1,000 initial cap on the vessel arrival fee states can assess. However, this cap can be adjusted for inflation every five years, based on the difference in the U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers between the October prior to the adjustment and the October five years prior.

The proposed regulation would amend the Fee requirement authorized by Public Resources Code section 71215, subdivision (b)(1). The Fee is required to fulfill the specific multi-agency tasks mandated by the Act. However, the current Fee amount (\$1,000 per qualifying voyage) does not produce sufficient revenues to meet the costs of the programs mandated under the Act. The proposed regulations would set the exact amount of the Fee to be used to support the programs required under the Act at one thousand two hundred twenty-five dollars (\$1,225) per qualifying voyage and would automatically adjust for inflation every five years thereafter.

The anticipated benefits of the proposed regulatory amendment include continued funding for the State's MISP to protect state waters from vessel-mediated introductions of nonindigenous species (NIS) and the negative environmental, economic, and human health impacts associated with NIS.

Commission staff evaluated whether there were any other regulations, aside from the existing regulations that are proposed for amendment here, concerning the collection of a fee to fund the activities of the MISP. No other state regulations exist to collect a fee for this purpose. Therefore, the proposed regulatory amendment is neither inconsistent nor incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR REGULATIONS

Commission staff has determined that the proposed regulatory amendments are not mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS

Public Resources Code Section 71215(b)(2) sets a \$1,000 cap on the Fee but allows that amount to be adjusted for inflation every two years, and the Fee has not been adjusted since April 2017. The federal Vessel Incidental Discharge Act, specifically Section 1322(p)(9)(A)(iv) of Title 33 of the U.S. Code, also sets a \$1,000 initial cap on a fee a state can assess, but allows for adjustments for inflation every five years.

DISCLOSURES REGARDING THE PROPOSED ACTION

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 other 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 SIGNIFICANT STATEWIDE 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.

DETERMINATION ON MAJOR REGULATION DESIGNATION

Commission staff has determined that this proposed regulatory action is not a major regulation, as defined by Government Code section 11342.548. This proposed action would amend the existing Fee amount to one thousand two hundred twenty-five dollars (\$1,225), an increase of two hundred twenty-five dollars (\$225) per qualifying voyage. Using vessel voyage information from July 1, 2023, through June 30, 2024 (i.e., fiscal year 23-24), Commission staff estimates the annual cost to an individual shipping company from the proposed action will range from two hundred twenty-five dollars (\$225) to forty-nine thousand two hundred seventy-five dollars (\$49,275). Assuming 5,245 qualifying vessel voyages annually, the fiscal impact per year to the entire regulated community is estimated to be one million one hundred eighty thousand one hundred twenty-five dollars (\$1,180,125); therefore, this proposed action is not a major regulation. None of these parties are considered California business enterprises or individuals. Most of the affected businesses are international shipping companies headquartered outside of California.

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

Commission staff has determined that the proposed regulations will benefit:

- (1) the State's environment by ensuring sufficient funding for the Marine Invasive Species Program, which will continue to protect California from the introduction of nonindigenous species from vessels that arrive at California ports.
- (2) the health and welfare of California residents by continuing to reduce the likelihood of future environmental, human health, and economic impacts resulting from the introduction and establishment of nonindigenous species.

COST IMPACTS ON REPRESENTATIVE PERSONS OR BUSINESSES

Using vessel voyage information from July 1, 2023, through June 30, 2024, where individual vessels were billed between one and 219 times, Commission staff estimates the annual cost to an individual shipping company will range from two hundred twenty-five dollars (\$225) to forty-nine thousand two hundred seventy-five dollars (\$49,275).

BUSINESS REPORT

Commission staff has determined that the proposed regulatory amendment does not require a report from businesses.

SMALL BUSINESS DETERMINATION

Commission staff has determined that the proposed amendment may affect small businesses; however, the Commission is not aware of any small businesses that would be subject to the proposed amendment, but there may be some.

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 regulation during the written comment period.

CONTACT PERSONS

Direct inquiries concerning the substance of the proposed regulations to:

Chris Scianni
Environmental Program Manager
Marine Invasive Species Program
Division of Environmental Science, Planning, and Management
California State Lands Commission
301 E. Ocean Blvd., Suite 350
Long Beach, CA 90802
Telephone: (562) 499-6390
Email: cslc.regulations@slc.ca.gov

or: Nina Tantraphol
Staff Attorney
California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202
Telephone: (916) 574-0452
Email: cslc.regulations@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:

Chris Scianni
Environmental Program Manager
Marine Invasive Species Program
Division of Environmental Science, Planning, and Management
California State Lands Commission
301 E. Ocean Blvd., Suite 350
Long Beach, CA 90802
Telephone: (562) 499-6390
Email: cslc.regulations@slc.ca.gov

AVAILABILITY STATEMENTS

Commission staff will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the Long Beach 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 Chris Scianni 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 Chris Scianni 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 completion of the Final Statement of Reasons, interested parties may obtain a copy of the Final Statement of Reasons by contacting Chris Scianni 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>. From the homepage, select "Laws and Regulations" and then select "New and Proposed Regulations."