

**CALENDAR ITEM
C42**

A Statewide

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**CONSIDER ADOPTION OF REGULATIONS FOR THE COLLECTION OF
INFORMATION RELATED TO THE HUSBANDRY PRACTICES OF COMMERCIAL
VESSELS FOR THE CONTROL OF MARINE INVASIVE SPECIES IN CALIFORNIA
WATERS**

PROPOSAL:

The Commission staff is proposing to adopt Section 2298 under Article 4.8 in Title 2, Division 3, Chapter 1 of the California Code of Regulations (CCR). This section would require the master, owner, operator, agent, or person in charge of a vessel specified in Section 71201 of the California Public Resources Code (P.R.C.) to submit information on the vessel's husbandry practices and voyage characteristics to the Commission, as directed by Sections 71205(e) and 71205(f) of the P.R.C. This information would be required to be submitted via the Hull Husbandry Reporting Form, incorporated by reference through the proposed Section 2298(b) of the CCR.

BACKGROUND:

Vessel fouling is a shipping-related vector for the introduction of nonindigenous species (NIS) and occurs when aquatic organisms attach to, or associate with, the hull and other submerged vessel surfaces. Because they are attached to the exterior surface of the vessel, these organisms are shuttled from port to port along a voyage route and have the potential for introduction and establishment in these new areas if they spawn, fall off, or are physically removed. This vector has been implicated in over 25% of the established NIS introductions in the San Francisco Bay and may be responsible for over 70% of all established coastal NIS introductions to North America.

The accumulation of fouling organisms on the submerged surfaces of vessels also increases the drag placed on these vessels during transit and ultimately decreases fuel efficiency, resulting in higher operating costs. Because of this, most vessels undergo an assortment of husbandry practices (e.g. hull cleaning and the application of antifouling coatings) aimed at removing or limiting the

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amount of fouling organisms associated with the vessel. This also serves to reduce the risk of NIS introduction associated with the vessel. However, the regularity with which some of these practices are conducted is largely unknown. Also unknown are the trends displayed by the commercial fleet operating in California regarding certain voyage characteristics (e.g. traveling speeds and the amount of time spent in port) that are believed to influence fouling levels.

This limited amount of baseline information relating to vessel fouling and NIS across the types of vessels operating in California was indicated as a major hindrance to the evaluation of the risk of NIS from the vessel fouling vector in the Commission's report "Commercial Vessel Fouling in California", which was presented to the California Legislature in April 2006. The Legislature acted on many of the recommendations made in that report through the passage of AB 740 (Chapter 370, Statutes of 2007) which was signed by the Governor in October 2007. This statute amended Section 71205 of the P.R.C. and requires annual submission of information relating to vessel husbandry practices to the Commission using a form to be developed by the Commission. In response to this directive, the Commission convened a Technical Advisory Group (TAG) consisting of scientists, shipping industry representatives, and State, Federal, and international agency representatives with expertise in fouling-related issues. Using input from the TAG, Commission staff have developed the Hull Husbandry Reporting Form (HHRF) (Exhibit B), which has been incorporated by reference in the proposed Section 2298(b) of the CCR.

Specifically, the Hull Husbandry Reporting Form requests information related to the following:

- Date and location of last dry dock and antifouling paint application
- Manufacturer and product name of antifouling paint applied
- Specific locations of the vessel where antifouling paint was applied
- Whether vessel's sea chests were inspected and cleaned during dry dock
- Manufacturer and product name of marine growth protection system (MGPS) used to prevent fouling growth in the vessels sea chests and piping system
- Date and location of last in-water cleaning, including specific locations of the vessel that were cleaned
- Whether anchors and anchor chains are rinsed upon retrieval
- Average traveling speeds over previous four months
- Average time spent in port over previous four months
- Number of times vessel has visited freshwater ports, tropical ports, and the Panama Canal since the vessel's last dry dock
- Whether vessel follows a regular route
 - If yes, names of ports included in regular route

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- If no, names of the previous ten ports visited
- Whether the vessel has spent ten or more consecutive days in a single location since the most recent dry dock
 - If yes, names of port(s) and length of visit(s)
 - If no, name of port where longest stay occurred, including amount of time spent there

ISSUES OR CONCERNS

Commission staff received one comment letter relevant to the proposed regulatory action. The commentor requested that the proposed text of the regulation include language regarding the timing of the submission requirement and also clarification of this requirement on the supplemental instructions (Part II of the HHRF). Commission staff accepted this comment and modified the language accordingly.

STATUTORY AND OTHER REGULATIONS:

- A. Public Resources Code Section 71200 through 71271

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

2. The proposed regulatory amendments do not affect small businesses as defined in Gov. C. Section 11342.610, because all affected businesses are transportation and warehousing businesses having annual gross receipts of more than \$1,500,000, as specified under Gov. C. Section 11342.610 sub. (c)(7).

Exhibit:

- A. Proposed Amendments.
- B. Hull Husbandry Reporting Form

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IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. FIND THAT THE REGULATORY AMENDMENT DOES NOT AFFECT SMALL BUSINESSES AS DEFINED IN GOV. C. SECTION 11342.610, BECAUSE ALL AFFECTED BUSINESSES ARE TRANSPORTATION AND WAREHOUSING BUSINESSES HAVING ANNUAL GROSS RECEIPTS OF MORE THAN \$1,500,000, AS SPECIFIED UNDER GOV. C. SECTION 1342.610(c)(7).
3. FIND THAT THE REGULATORY AMENDMENT WILL NOT HAVE A SIGNIFICANT IMPACT ON THE CREATION OR ELIMINATION OF JOBS OR NEW OR EXISTING BUSINESSES WITHIN CALIFORNIA, NOR WILL IT HAVE AN ADVERSE ECONOMIC IMPACT ON BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES.
4. FIND THAT NO ALTERNATIVE WOULD BE MORE EFFECTIVE IN CARRYING OUT THE PURPOSE FOR WHICH THE REGULATION IS PROPOSED OR WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO AFFECTED PRIVATE PERSONS THAN THE PROPOSED REGULATION.
5. ADOPT ARTICLE 4.8, SECTION 2298 IN TITLE 2, CALIFORNIA CODE OF REGULATIONS, SUBSTANTIALLY IN THE FORM OF THAT SET FORTH IN EXHIBIT "A" TO BECOME EFFECTIVE JANUARY 1, 2009.
6. AUTHORIZE THE COMMISSION STAFF TO MAKE MODIFICATIONS TO THE AMENDMENT IN RESPONSE TO RECOMMENDATIONS BY THE OFFICE OF ADMINISTRATIVE LAW.
7. DIRECT THE COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO COMPLY WITH PROVISIONS OF THE GOVERNMENT CODE REGARDING ADOPTION OF REGULATIONS AND AMENDMENTS AND TO ENSURE THAT THE REGULATION BECOMES EFFECTIVE.
8. DIRECT COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO IMPLEMENT THE AMENDMENT TO THE REGULATION AT SUCH TIME AS IT BECOMES EFFECTIVE.

STATE LANDS COMMISSION

TEXT OF MODIFIED REGULATIONS

The Commission has illustrated changes to the original text noticed to the public in the following manner: regulation language originally proposed is underlined; deletions from the language originally proposed are shown in strikeout using a "-"; and additions to the language originally proposed are double underlined.

Title 2, Division 3, Chapter 1
Article 4.8. The Collection of Information
Relating to Hull Husbandry Practices of Vessels for Control of
Marine Invasive Species in Waters of California

Section 2298. Hull Husbandry Reporting Form

- (a) Section 71205(e) of the Public Resources Code requires the master, owner, operator, agent, or person in charge of a vessel carrying, or capable "or" of carrying, ballast water into the coastal waters of the State to file the "Hull Husbandry Reporting Form" developed by the California State Lands Commission providing information regarding the hull husbandry practices relating to the vessel, within 60 days of receiving a written or electronic request from the Commission.
- (b) The following form "Hull Husbandry Reporting Form" is hereby incorporated by reference and shall be used by the master, owner, operator, agent, or person in charge of a vessel carrying, or capable "or" of carrying, ballast water into the coastal waters of the State to comply with the provisions of Section 71205(e) of the Public Resources Code.

Authority: Public Resources Code Sections 71201 and 71204.6

Reference: Public Resources Code Sections 71205(e) and 71205(f)

**California State Lands Commission
 Marine Invasive Species Program
 Hull Husbandry Reporting Form
 Public Resources Code – 71205(e) and 71205(f)
 June 6, 2008
 Part I: Reporting Form**

Vessel Name:
Official / IMO Number:
Responsible Officer's Name and Title:
Date Submitted (Day/Month/Year):

Hull Husbandry Information

1. Since delivery, has this vessel ever been removed from the water for maintenance?
 Yes No

a. If Yes, enter the date and location of the most recent out-of-water maintenance:

Last date out of water (Day/Month/Year):	
Port or Position:	Country:

b. If No, enter the delivery date and location where the vessel was built:

Delivery date (Day/Month/Year):	
Port or Position:	Country:

2. Were the submerged portions of the vessel coated with an anti-fouling treatment or coating during the **out-of-water** maintenance or shipbuilding process listed above?

Yes, full coat applied <input type="checkbox"/>
Yes, partial coat <input type="checkbox"/> Date last full coat applied (Day/Month/Year)
No coat applied <input type="checkbox"/> Date last full coat applied (Day/Month/Year)

3. For the most recent **full coat** application of anti-fouling treatment, what type of anti-fouling treatment was applied and to which specific **sections** of the submerged portion of the vessel was it applied?

Manufacturer/Company:
Product Name:
Applied on (Check all that apply): Hull Sides <input type="checkbox"/> Hull Bottom <input type="checkbox"/> Sea Chests <input type="checkbox"/> Sea Chest Gratings <input type="checkbox"/> Propeller <input type="checkbox"/> Rope Guard/Propeller Shaft <input type="checkbox"/> Previous Docking Blocks <input type="checkbox"/> Thrusters <input type="checkbox"/> Rudder <input type="checkbox"/> Bilge Keels <input type="checkbox"/>

Manufacturer/Company:
Product Name:
Applied on (Check all that apply): Hull Sides <input type="checkbox"/> Hull Bottom <input type="checkbox"/> Sea Chests <input type="checkbox"/> Sea Chest Gratings <input type="checkbox"/> Propeller <input type="checkbox"/> Rope Guard/Propeller Shaft <input type="checkbox"/> Previous Docking Blocks <input type="checkbox"/> Thrusters <input type="checkbox"/> Rudder <input type="checkbox"/> Bilge Keels <input type="checkbox"/>

Official / IMO Number: _____

Manufacturer/Company: _____

Product Name: _____

Applied on (**Check all that apply**): Hull Sides Hull Bottom Sea Chests
Sea Chest Gratings Propeller Rope Guard/Propeller Shaft
Previous Docking Blocks Thrusters Rudder Bilge Keels

4. Were the sea chests inspected and/or cleaned during the **out-of-water** maintenance listed above? If no out-of-water maintenance since delivery, select Not Applicable. **Check all that apply.**

Yes, sea chests inspected Yes, sea chests cleaned
No, sea chests not inspected or cleaned Not Applicable

5. Are Marine Growth Protection Systems (MGPS) installed in the sea chests?

Yes <input type="checkbox"/>	Manufacturer: _____	Model: _____
No <input type="checkbox"/>		

6. Has the vessel undergone **in-water** cleaning to the submerged portions of the vessel since the last out-of-water maintenance period? Yes No

a. If Yes, when and where did the vessel most recently undergo **in-water** cleaning (Do not include cleaning performed during out-of-water maintenance period)?

Date (Day/Month/Year): _____	
Port or Position: _____	Country: _____
Vendor providing cleaning service: _____	

Section(s) cleaned (**Check all that apply**):

Hull Sides Hull Bottom Propeller Sea Chest Grating
Sea Chest Bilge Keels Rudder Docking Blocks
Thrusters Unknown

Cleaning method: Divers Robotic Both

7. Has the propeller been polished since the last **out-of-water** maintenance (including shipbuilding process) or **in-water** cleaning?

Yes <input type="checkbox"/>	Date of propeller polishing (Day/Month/Year): _____
No <input type="checkbox"/>	

8. Are the anchor and anchor chains rinsed during retrieval? Yes No

Voyage Information

9. List the following information for this vessel averaged over the last four months:

a. Average Voyage Speed (knots):
b. Average Port Residency Time (hours or days): Hours or Days

10. Since the hull was last cleaned (**out-of-water** or **in-water**), has the vessel visited:

a. Fresh water ports (Specific gravity of less than 1.005)?

Yes <input type="checkbox"/>	How many times?
No <input type="checkbox"/>	

b. Tropical ports (between 23.5° S and 23.5° N latitude)?

Yes <input type="checkbox"/>	How many times?
No <input type="checkbox"/>	

c. Panama Canal?

Yes <input type="checkbox"/>	How many times?
No <input type="checkbox"/>	

d. List the previous 10 ports visited by this vessel in the order they were visited (start with most recent). Note: If the vessel visits the same ports on a regular route, check here and list the route once (you do not have to use all 10 spaces if the route involves less than 10 ports; add more lines if regular route involves more than 10 ports). **List dates as (Day/Month/Year).**

Port or Position:	Country:
Arrival date:	Departure date:

Port or Position:	Country:
Arrival date:	Departure date:

Port or Position:	Country:
Arrival date:	Departure date:

Port or Position:	Country:
Arrival date:	Departure date:

Port or Position:	Country:
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Port or Position:	Country:
Arrival date:	Departure date:

Port or Position:	Country:
Arrival date:	Departure date:

Port or Position:	Country:
Arrival date:	Departure date:

Official / IMO Number: _____

11. Since the **most recent** hull cleaning (out-of-water or in-water) or delivery, has the vessel spent 10 or more consecutive days in any single location (Do not include time out-of-water or during in-water cleaning).

No List the longest amount of time spent in a single location since the last hull cleaning:

Number of Days:	Date of Arrival (Day/Month/Year):
Port or Position:	Country:

Yes List all of the occurrences where the vessel spent 10 or more consecutive days in any single location since the last hull cleaning.

Number of Days:	Date of Arrival (Day/Month/Year):
Port or Position:	Country:

Number of Days:	Date of Arrival (Day/Month/Year):
Port or Position:	Country:

Number of Days:	Date of Arrival (Day/Month/Year):
Port or Position:	Country:

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Number of Days:	Date of Arrival (Day/Month/Year):
Port or Position:	Country:

**California State Lands Commission
Marine Invasive Species Program
Hull Husbandry Reporting Form
Public Resources Code – 71205(e) and 71205(f)
June 6, 2008**

Part II: Supplementary Instructions for Completing Reporting Form

TEXT OF MODIFIED REGULATIONS

The Commission has illustrated changes to the original text noticed to the public in the following manner: deletions from the language originally proposed are indicated using double-strikeout; and additions to the language originally proposed are double-underlined. Note: A change was only made to the directly following statement, and was required to allow for the sole comment received during the 45-day comment period. No other changes were made to the instructions.

**HULL HUSBANDRY REPORTING FORM TO BE SUBMITTED ANNUALLY WITHIN
60 DAYS OF RECEIVING A WRITTEN OR ELECTRONIC REQUEST FROM THE
COMMISSION ~~THE FIRST VISIT OF THE YEAR TO A CALIFORNIA PORT~~**

SUBMIT THE COMPLETED FORM TO:

California State Lands Commission
Marine Facilities Division
200 OceanGate, Suite 900
Long Beach, CA 90802
FAX: 562-499-6444
Email: bwform@slc.ca.gov

Hull Husbandry Information

Question 1: Check the appropriate box to indicate whether, since delivery, the vessel has ever been removed from the water for maintenance.

- If Yes was selected, enter the date (Day/Month/Year) and location for the most recent out-of-water maintenance period (for example, if vessel was out of water for dry-dock from January 1-10, list January 10 as the last date out of water).
- If No was selected, enter the vessel's delivery date (Day/Month/Year) and the location where the vessel was built.

Question 2: Check the appropriate box to indicate whether the vessel's hull was coated with an anti-fouling treatment/coating during the out-of-water maintenance period or shipbuilding process described in Question 1.

- If "Yes, full coat applied" was selected, move on to Question 3.
- If "Yes, partial coat" was selected, list completion date (Day/Month/Year) of most recent full coat application of an anti-fouling treatment/coating.

- If “No coat applied” was selected, list completion date (Day/Month/Year) of most recent full coat application of an anti-fouling treatment/coating.

Question 3: For the most recent full coat application of anti-fouling treatment/coating, list the manufacturer(s)/company(ies) and product names of the treatment(s)/coating(s) and check the box next to the specific section(s) of the submerged portions of the vessel where each treatment was applied (check all sections that apply). List information for each anti-fouling treatment/coating if more than one was applied. Attach additional pages if necessary.

Question 4: Check the appropriate box to indicate whether the sea chest(s) were inspected and/or cleaned during the most recent out-of-water maintenance period described in Question 1. If no out-of-water maintenance since delivery, check Not Applicable.

Question 5: Marine Growth Protection Systems (MGPS) are systems installed in the sea chests to prevent the accumulation of fouling organisms within the sea chests and associated seawater circulation networks. Check the appropriate box to indicate if a Marine Growth Protection System is installed in the sea chest(s).

- If Yes was selected, list the Manufacturer and Model.

Question 6: Check the appropriate box to indicate if the vessel has undergone **in-water** cleaning on the submerged portions of the vessel since the last out-of-water maintenance period. **In-water** cleaning does not include cleaning carried out during out-of-water maintenance but does include cleaning carried out during the Underwater Inspection in Lieu of Dry-Docking (UWILD). For this question, out-of-water maintenance includes the shipbuilding process.

- If Yes was selected, answer Question 6a.
- If No was selected, move on to Question 7.

Question 6a: List date (Day/Month/Year) and location of most recent in-water cleaning (do not include cleaning performed during out-of-water maintenance period) as well as the vendor that conducted the in-water cleaning. Check the box next to the appropriate sections to indicate those sections of the vessel that were cleaned during the in-water cleaning described in Question 6. Indicate whether in-water cleaning was conducted by divers, a robotic system, or both.

Question 7: Check the appropriate box to indicate whether the propeller has been polished since the most recent out-of-water maintenance or in-water cleaning. For this question, **out-of-water** maintenance includes the shipbuilding process.

- If Yes was selected, list the date of the most recent propeller polishing.

Question 8: Check the appropriate box to indicate whether the anchor and anchor chains are rinsed during retrieval.

Voyage Information

Question 9a: Over the past four months, list the average speed (knots) at which this vessel has traveled.

Question 9b: Over the past four months, list the average length of time (either hours or days) that this vessel has spent in any given port.

Question 10a: Check the appropriate box to indicate whether this vessel has visited any freshwater ports (specific gravity of less than 1.005) since the hull was last cleaned (either in-water or out-of-water) or since delivery if the hull has never been cleaned.

- If Yes is selected, list the number of times that this vessel visited freshwater ports since the hull was last cleaned or since delivery if the hull has never been cleaned.

Question 10b: Check the appropriate box to indicate whether this vessel has visited any tropical ports between latitudes 23.5° S and 23.5° N since the hull was last cleaned (either in-water or out-of-water) or since delivery if the hull has never been cleaned.

- If Yes is selected, list the number of times that this vessel visited tropical ports since the hull was last cleaned or since delivery if the hull has never been cleaned.

Question 10c: Check the appropriate box to indicate whether this vessel has traversed the Panama Canal since the hull was last cleaned (either in-water or out-of-water) or since delivery if the hull has never been cleaned.

- If Yes is selected, list the number of times that this vessel has traversed the Panama Canal since the hull was last cleaned or since delivery if the hull has never been cleaned.

Question 10d: Starting with the most recent port, list the last 10 ports visited by this vessel. Provide information on the port or place, country, and the dates of arrival and departure.

If this vessel follows a regular route, visiting the same ports routinely, place a check in the box provided and list the information for the most recently completed route. You do not have to use all ten spaces if the regular route involves less than 10 ports. Add more lines if the regular route involves more than ten ports.

List all dates as Day/Month/Year.

Question 11: Check the appropriate box to indicate whether this vessel has spent 10 or more consecutive days in any single location since the last time the hull was cleaned (either in-water or out of water) or since delivery if the hull has never been cleaned. Do not include time spent out-of-water or time spent during in-water cleaning.

- If No is selected, enter the information for the single longest amount of time this vessel has spent in a single location since the last hull cleaning or since delivery if the hull has never been cleaned.
- If Yes is selected, list all of the occurrences where the vessel spent 10 or more consecutive days in any single location since the last hull cleaning or since delivery if the hull has never been cleaned.

Authority: Public Resources Code Sections 71201 and 71204.6

Reference: Public Resources Code Sections 71205(e) and 71205(f)