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Caitlyn E. Stewart
Vice President – Regulatory Affairs

December 15, 2025

Mr. 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

RE: Amendments to Article 4.7 of
Chapter 1, Division 3 of Title 2 of
the California Code of Regulations

Dear Mr. Thompson:

The American Waterways Operators (AWO) is the tugboat, towboat, and barge industry's advocate, resource, and united voice for safe, sustainable, and efficient transportation on America's waterways, oceans, and coasts. As the largest segment of the nation's 40,000-vessel domestic maritime fleet, our industry safely and efficiently moves 665 million tons of cargo each year and enables the flow of goods through ports on the inland and intracoastal waterways; the Atlantic, Pacific and Gulf Coasts; and the Great Lakes. On behalf of our more than 300 member companies, we appreciate the opportunity to comment on the California State Lands Commission's (CSLC) Notice of Proposed Rulemaking Action to Amend Article 4.7 of Chapter 1, Division 3 of Title 2 of the California Code of Regulations.

AWO members are proud to be an integral part of the most environmentally safe and efficient mode of freight transportation. California boasts the largest and busiest ports on the West Coast. Protecting these waters from the threat that nonindigenous species pose is important to our members as part of their commitment to environmental stewardship. At the same time, we seek to ensure that state environmental regulations are risk-based, technically and operationally feasible, and do not disrupt the efficiency or continuity of maritime commerce. In that spirit, AWO is pleased to offer the following comments.

Enacted in 2003 and administered by CSLC, the Marine Invasive Species Act (MISA) aims to minimize the introduction of nonindigenous species in California waters via ballast water discharge and biofouling. CSLC has previously acknowledged that compliance with MISA and associated regulations is very high. From 2019 to 2024, the Marine Invasive Species Program (MISP) enforced a total of 14 ballast water management violations, none of which concerned ballast water discharge performance standards. Further, CSLC's 2025 Biennial Report states that 91% of vessels visiting California ports submitted ballast water reports. CSLC has an

existing and transparent process for assessing penalties for MISA violations that is very effective, as demonstrated by the high rates of compliance. Despite this, the agency believes that the proposed amendments are necessary, even in the wake of the Vessel Incidental Discharges Act (VIDA) National Standards of Performance, which were promulgated in 2024. VIDA was enacted by Congress in 2018 to replace the existing patchwork quilt of federal and state regulations with uniform national standards for ballast water and other vessel discharges. Once the U.S. Coast Guard publishes its enforcement regulations – which it is required to do by 2026 – VIDA expressly preempts states from enforcing laws or regulations that exceed, or cannot be met concurrently with, federal standards.

The proposed requirements that vessels measure each ballast tank's salinity at the uptake and discharge of ballast water and discharge at 30 parts per thousand (ppt) or above are more stringent than what VIDA requires. Under VIDA, commercial vessel operators must conduct a complete ballast water exchange if they transport ballast water sourced from waters with a measured salinity less than 18 ppt to a Pacific Region port or destination with a measured salinity also less than 18 ppt. In these cases, operators must measure salinity to confirm that the ballast water is at or below the low salinity threshold to trigger the exchange requirement. Neither VIDA nor EPA's National Standards of Performance implementing the law specify that operators must conduct measurements on a tank-by-tank basis, nor that discharged ballast water must meet a measurement of 30 ppt.

Not only is this requirement absent from VIDA, but it is also infeasible from a technological and operational perspective. Many type-approved ballast water management systems (BWMSs) do not have a salinity measurement mechanism, as Coast Guard rules do not require such technology. These systems function by connecting all tanks through one line, and are already capable of accurately determining ballast water contents through measurements other than salinity. CSLC is requiring operators to open each tank, collect a sample, and manually measure salinity. At best, we estimate this will take two hours per tank. Given the extensive operational and administrative responsibilities vessel crewmembers already shoulder, adding an hours-long sampling and measurement process would divert significant time, energy, and resources, with no demonstrated environmental benefit. To require this action when Coast Guard – the primary regulatory authority over the commercial maritime industry – does not, is excessive and undermines the purpose of VIDA to replace the existing patchwork of ballast water management regulations with a uniform federal standard.

If the proposed regulations are adopted, we expect the Coast Guard to preempt the requirement that vessels measure each tank at uptake and discharge at 30 ppt or above when it publishes its enforcement regulations in 2026. We question the logic of establishing burdensome new requirements that will likely be in effect for only a short period of time, especially given the already-high rate of compliance with California's existing requirements. Should CSLC choose to move forward, we recommend revising the proposed amendments to mirror the VIDA performance standards. To implement requirements more stringent than those found within VIDA will undermine the law's goal of establishing uniform federal standards that effectively safeguard our shared waterways.

Thank you again for the opportunity to comment. We appreciate CSLC's consideration of our comments and would be pleased to answer any questions or provide further information to assist in your decision-making.

Sincerely,

A handwritten signature in cursive script that reads "Caitlyn E. Stewart". The ink is dark and the signature is fluid.

Caitlyn Stewart
Vice President – Regulatory Affairs