Comments of

The America Waterways Operators
Chamber of Shipping of America
Cruise Lines International Association
International Association of Independent Tanker Owners
Pacific Merchant Shipping Association
World Shipping Council

Submitted to the
California State Lands Commission

In the matter of
Proposed Amendments to Article 4.7 - Performance Standards and Assessment Protocols for the Discharge of Ballast Water for Vessels Operating in California Waters

File Ref: W9777.290

April 17, 2012
The American Waterways Operators (AWO), Chamber of Shipping of America (CSA), Cruise Lines International Association (CLIA), International Association of Independent Tanker Owners (INTERTANKO), Pacific Merchant Shipping Association (PMSA), and World Shipping Council (WSC) file these comments in response to the California State Lands Commission’s (the “Commission”) Notice of Proposed Rulemaking published on February 24, 2012 (the “Notice”). The Notice proposes to amend Article 4.7 of Title 2, Division 3, Chapter 1 of the California Code of Regulations (CCR) to establish protocols to sample ballast water and assess vessel compliance with California’s performance standards for the discharge of ballast water. The Notice also proposes to modify the requirements for the installation of ballast water sampling ports.

The above listed maritime industry organizations together represent over 90 percent of all commercial vessels calling at California ports, in both the domestic and international trades, as well as most of the marine terminals that serve those vessels. (A description of each organization is provided in Appendix 1). The types of vessels owned and operated by our combined members include oceangoing and coastwise containerships, tankers, roll-on/roll-off vessels, bulk carriers, passenger vessels, and tug/barge units which operate in oceangoing, coastwise and inland waters.

We appreciate the importance of protecting California waters – and all waters – from the transfer of aquatic invasive species through ships’ ballast water discharges. We have advocated for more than ten years the adoption of U.S. national ballast water discharge performance standards consistent with the most environmentally protective treatment standards that can be achieved using commercially available treatment technology. Although California adopted its own ballast water performance standards in 2006, the Commission has also recognized the importance of having uniform ballast water standards. In its 2009 Ballast Water Efficacy Assessment Report, the Commission states:

“Commercial shipping is an international industry; any single ship may operate throughout several regions of the world. Ideally, performance standards should align both at the federal and international level and is preferable to a patchwork of standards adopted by individual states.”

Within the last six months, the U.S federal government has made significant progress in addressing the threat of aquatic invasive species transfers by adopting as the U.S. national ballast water treatment standard the International Maritime Organization (IMO) “D-2” standard. The U.S. Coast Guard (USCG) Final Rule and the U.S. Environmental Protection Agency (EPA) draft of the next Vessel General Permit (VGP) arrived at this standard on the basis of the findings of the EPA Science Advisory Board (SAB), the National Academy of Sciences (NAS), and other reports that the IMO D-2 standard is the most stringent standard that can be achieved using currently available technology.

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The Notice proposes the establishment of a sampling and compliance program that will determine whether vessels will be able to comply with California’s performance standards. With all due respect, this effort is completely inappropriate because technologies meeting the California standards do not exist, and the creation of a sampling and compliance regime will not change that fact. It is notable that neither the Commission nor any other government, independent laboratory, or other entity has said that it will certify treatment technologies as being able to comply with the California standards. The proposed compliance regime will not result in treatment technologies achieving the California standards. All that the proposed regime would do – or will attempt to do – is to create the perception that the California standards are being met, when in fact they are not.

While this regime might enable the Commission to avoid having to explain to the California Legislature the fact that the California standards should be amended because they cannot be achieved using commercially available treatment technologies, this compliance regime will not result in the protection of California waters beyond the IMO D-2 level, will not result in the installation of more protective treatment technologies on ships calling in California, and will not provide the commercial vessels that discharge ballast water in California, and that carry a significant percentage of California’s and the United States’ import and export cargo, with a clear, predictable, and achievable set of rules.

Rather than spending time developing a compliance regime that provides no environmental benefits to the State of California and that leaves vessels that install treatment technologies arbitrarily exposed to penalties and lawsuits for noncompliance with the unachievable California standards, we respectfully suggest that the Commission’s time would more productively be spent working with the Legislature to amend the California performance standards so they are consistent with the U.S. federal ballast water treatment standards.

More detailed comments on the Notice are provided below.

1. **California’s Proposed Sampling and Compliance Protocol is Illogical, Because Technologies Do Not Exist to Meet California’s Performance Standards.**

   The Notice proposes to implement a sampling and compliance regime to enforce vessel compliance with California’s performance standards, which are neither achievable using current commercially available treatment technology nor measurable within the detection limits of the current scientific measurement techniques. It is not acceptable for the Commission to move forward with a compliance regime that would subject vessel owners and operators to enforcement actions when there is overwhelming evidence that the standards being enforced are not achievable.

   Although, since 2009, the Commission has provided the California Legislature with annual reports that have vaguely stated that ballast water treatment technology may have the “potential” to meet California’s standards, the substantive findings of every other available study regarding the efficacy and availability of ballast water treatment technology – including
those by the EPA SAB, the NAS, the Great Lakes Ballast Water Collaborative, the State of Wisconsin Department of Natural Resources, and independent scientists’ assessments of treatment technology availability – have determined that the most stringent standard that can be achieved using currently available technology is the IMO D-2 standard, and that current detection limits of scientific testing methods make it all but impossible to verify that standards significantly more stringent than IMO D-2 are being achieved. The inability to achieve standards significantly above IMO D-2 is not merely a result of the inability to measure standards of that magnitude, but is due to the inability of current technologies to meet these higher standards. The SAB concluded that “moderate adjustments or changes to existing combination technologies are expected to result in only incremental improvements. Reaching the Phase 2 [1,000x IMO] standard, or even 100x IMO D-2/Phase 1, would require wholly new treatment systems.”

In an effort to explain the need for a compliance regime, the Commission has pointed out that the performance standard for organisms greater than 50 microns is not 1,000x IMO, but is “no detectable living organisms” and has no volumetric component. While this is true, the fact remains that, no matter what volume is sampled, the detection limits for the “no detectable” standard do not provide a resolution better than the IMO D-2 standard. (The “no detectable living organism” standard is discussed in further detail in the next section.) It is also important to note that the performance standard for the 10-50 micron organism size class is precisely 1,000 times more stringent than the IMO D-2 standard.

Even the Commission’s own “2011 Update: Ballast Water Treatment Systems for Use in California Waters” demonstrates that technologies cannot consistently and reliably meet the California performance standards. For example, the five best systems highlighted in the report had test runs for which no organisms greater than 50 microns were detected in land-based tests only 53%, 31%, 46%, 64% and 72% of the time. In addition to the fact that the test data on its face demonstrates that systems cannot consistently meet the California standard, the Commission’s projections about the “potential” based on these tests are inherently unrealistic, because the test results provided by the candidate technology vendors were obtained using the IMO testing protocol, which is scaled only to verify that a system can meet the IMO standard – not the California standard. The IMO testing protocol also allows test sets with non-complying results to be discarded by the vendor. For comparison, the EPA’s ETV land-based protocol and the Coast Guard’s ship-board testing protocol used to demonstrate compliance with the federal standard will require 100% of the tests in a given set to meet that standard and will require presentation of all test results. Unless California intends its “no detectable organisms”

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2 SAB Final Report at 5 (emphasis added).
3 The ability for the IMO G8 and G9 testing guidelines to demonstrate that a technology can consistently and reliably meet the IMO D-2 performance standard has come under question as two technology vendors that had obtained IMO type approval recently pulled their products from the market because they could not reliably meet the IMO D-2 standard. If test results obtained pursuant to the IMO G8 and G9 guidelines cannot reliably demonstrate that a technology can comply with the IMO D-2 standard, we question how the same test results could be used by the Commission to demonstrate that technologies could comply with the far more stringent California performance standards.
standard to be significantly less stringent than the federal standard (in which case it should say so), systems that are substantially more effective than those cited in the Commission’s 2011 update will have to be created before vessels can meet the California standard. There is absolutely no basis upon which to believe that will happen in the foreseeable future.

Simply put, the “potential” cited in the Commission’s technology assessment reports has not yet translated into commercially available treatment systems, and such ambiguity with respect to what standards can be achieved using commercially available technology is no longer acceptable.

The fact that California’s standards cannot be achieved is directly relevant to the question of whether it is productive to attempt to develop a compliance regime to determine whether vessels are complying with the California standards. Logic dictates that if a given standard cannot be achieved, it makes no sense to try to devise a compliance regime to assess whether that standard is being met. If the underlying standard is unattainable, as it is here, then there can be only two results from compliance testing. Either the testing is reliable to a reasonable level of scientific certainty (in which case vessels with even the best systems will fail) or the testing will result in false negatives (in which case any conclusion that the desired environmental objectives are being met will be false). Neither outcome is consistent with the governing statute, which requires that California’s ballast water discharge standards be based on the “best available technology economically achievable” and also requires the Commission to provide the Legislature with an accurate assessment of whether ballast water treatment systems capable of meeting the California standards are available. See Cal. Pub. Res. Code §§ 71204.9 and 71205.3.

Failure to have standards that can be achieved using available technology places regulated vessels in an untenable situation. No matter what steps they take, they will not be able to comply with the standards. If the Commission proceeds with development of the proposed compliance regime, which was apparently designed with a goal of finding most vessels with installed technology to be in compliance, enforcement problems and public policy problems will inevitably follow. First, since the best commercially available treatment systems cannot eradicate all organisms from every ballast water discharge, it is a question of “when”, not “if”, vessels equipped with such systems would be found noncompliant. If, as a result, the Commission were to issue penalties to the affected vessels, there is nothing the noncompliant vessels could do to prevent further penalty action, because there is no better technology that a vessel owner can install.

Second, if the performance standards are left in place and the proposed compliance regime is implemented, the California Legislature and citizens of California would be led to believe that the California standards are being implemented and complied with when, in fact, they are not. This is not a sensible way to approach a problem whose solution must first and foremost be grounded in sound science.

Rather than create a system in which compliance with the standards is being continuously “fudged” through a compliance regime, we respectfully submit that the
appropriate course of action is for the Commission to rescind this Notice and provide a report
to the Legislature that:

1) states the fact that technologies do not exist to meet the California performance
standards, and

2) recommends that the Legislature amend the statutory performance standards and
implementation schedule so they are in alignment with the requirements in the USCG Final
Rule.

2. The Proposed Compliance Regime Would Not Demonstrate to a Reasonable Level of
Scientific Certainty That an Installed Technology Is Meeting the Standards for a Given
Size Class.

The proposed compliance regime would not be able to provide sufficient scientific
resolution to be able to demonstrate that installed treatment technologies are achieving the
California performance standards, even if such standards were achievable. Taken as a whole,
the proposed compliance and sampling regime would do no better than the resolution offered
by the best sampling methodologies available today, which can provide resolution to
approximately the IMO D-2 level. This is true also for the “no detectable living organism”
standard for organisms greater than 50 microns, which is defined by the proposed sampling
volume contained in the Notice. The problem is that a significant percentage of treated ballast
water discharges will, in fact, contain some live organisms, which means that vessel compliance
with the “no detectable living organisms” standard for organisms greater than 50 microns
would be more a matter of luck than of treatment efficacy.

The sampling and compliance protocols for the greater than 50 microns and 10-50
micron size classes are discussed in greater detail below.

A. The “No Detectable Living Organism” Standard for Organisms > 50 Microns.

Because, as already mentioned, this discharge standard has no volumetric component
(e.g. no detectable living organisms per cubic meter), this discharge standard is defined in large
part by the sample volumes and the techniques used to collect and analyze the samples. While
it may be possible to collect and analyze three cubic meters of treated ballast water, as
proposed in the Notice, it is important to note that “no detectable living organisms” in this
sample volume does not mean that no live organisms in this size class would be present in the
treated discharge water. The EPA SAB noted, with respect to the “no detectable living
organisms” standard that “zero organisms detected in a 1 –m³ (one cubic meter) sample could
correspond to a true concentration of organisms in the ballast tank of up to ~3.7 organisms \( \text{m}^{-3} \).”

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4 EPA SAB at 27.
The EPA SAB also concluded, based on current test methods, that: “Not one of the BWMS examined could be categorized in group 1 (i.e. consistently scored “zero” or “non-detectable”). Instead, BWMS were roughly split between frequency classes 2 and 3. For all BWMS, live organisms in the ≥ 50 µm and/or ≥ 10 to < 50 µm size classes were detected in at least two independent test trials and in general live organisms ≥ 10 µm were detected in 20% to 80% of test trials.” This finding is consistent with the Commissions’ findings in the 2011 Update report (discussed above on page 3), which showed that organisms were present in a significant percentage of the land-based tests for organisms greater than 50 microns for all five of the most promising ballast water treatment technologies identified in the report.

While the ballast water treatment technologies installed in ships operating in California waters will be able to significantly reduce the numbers of organisms greater than 50 microns, a small number of live organisms will normally be present in the ships’ ballast water discharges. The best commercially available treatment systems will have 10 or fewer organisms per cubic meter, which means a three cubic meter ballast water sample collected pursuant to this protocol may contain up to 30 organisms. There is a high likelihood, therefore, that any vessel equipped with the latest commercially available treatment technology would not be able to comply with this portion of the protocol. Even if the Commission were to reduce the sample volume from three cubic meters to, for example, one cubic meter, vessels would remain unreasonably exposed to noncompliance with this standard. Reducing the sample volume will simply reduce the probability that a given vessel’s sample will be found non-compliant for that compliance check.

Until such time as ballast water treatment technologies can consistently and reliably eradicate all living organisms in ship’s ballast water, there will always be a risk that live organisms will be present in a given discharge sample. The Commission’s proposed “no detectable living organism” approach is both scientifically and legally flawed. First, it suggests attainment of a level of treatment efficacy that is in fact not being met. That undermines the factual baseline for all future analysis of the relationship between propagule pressure and invasion risk. Second, it makes enforcement an inherently arbitrary and capricious exercise, with a vessel’s compliance or noncompliance dependent on the happenstance of how organisms are distributed in any given sample.

B. The Standard for Organisms Between 10 and 50 Microns.

The proposed sample volume to assess the concentration of organisms between 10 and 50 microns is three liters. The proposed protocol would concentrate the three liter sample down to one liter, and then at least four discrete one milliliter subsamples would be analyzed from the one liter volume to make a determination about the compliance of the discharge. While a three liter sample volume could theoretically provide sufficient resolution to demonstrate that the treated discharge is below the required California standard, this would only be true if the full three liters of sampled water were analyzed immediately after the

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5 EPA SAB at 37.
sample is collected. The problem is that analyzing the full three liter sample, rather than a very small subsample of it as proposed by the Notice, would require dozens of trained technicians working on very small 10 to 30 milliliter subsamples so that the entire three liter sample could be evaluated simultaneously and using the same analytical methods and equipment. The sampling methods contained in the Notice, in contrast, would not provide resolution that a system is achieving any more than the IMO D-2 standard for this organism size class.

We reviewed the findings contained in the Commission’s 2011 Update Report with respect to the 10 to 50 micron organism size class. Even setting aside the fact that the testing data cited in the report were collected during tests performed pursuant to the IMO testing guidelines, which are not scaled appropriately to provide resolution to the 1,000x IMO level of the California standards, none of the five most promising treatment technologies listed in the report was able to achieve the California standards in all of the land-based tests. As already mentioned, EPA and Coast Guard land-based and ship-board testing protocols used to demonstrate compliance with IMO D-2 standard require 100% of the tests to meet the standard.

3. The Proposed Sampling Port Requirements are Unnecessary and Unworkable, and Are Preempted by Federal Law.

The proposed changes to section 2297(c) would delete a sample port specification that is consistent with IMO guidelines, the EPA ETV testing protocols, and Coast Guard regulations. In contrast to those performance-based federal and international specifications, the proposed regulation would mandate fixed valve sizes and installation configurations. The proposal is unnecessary, unworkable, and preempted by federal law.

A. There is No Need for the Proposed Change.

At the outset, the proposed rule offers no explanation for the change, so it is entirely unclear why the Commission believes that it would be useful to create a regime that is potentially at odds with all other applicable requirements for ballast water sampling ports. We are not aware of any reason for the proposed change.

B. The Proposed Revision is Likely to Conflict with Existing Federal and International Requirements.

In addition to being unnecessary, the proposal is unworkable. First, depending on the configuration of any particular ballast water treatment system, the proposed changes have the potential to create situations in which it will be physically impossible for vessel owners and operators to comply with both the California regulations and federal or international regulations (the latter two of which are consistent).

In the next section, we discuss the legal basis of the federal preemption doctrine that would apply if the proposed ballast water sampling port requirements were adopted. There is also a related practical reason why states cannot be in the business of regulating shipboard
equipment on international vessels. Vessels in international trade are rarely committed for their entire working lives to any given trade lane. Instead, they are moved around the world in response to demand for vessels with particular operating characteristics—cargo capacity, speed, draft, fuel efficiency, etc. In international trades, there is no such thing as a “California vessel.” Instead, there are vessels that sometimes call California. Those vessels also, of course, call ports in other parts of the United States and in other parts of the world. They have to comply with the requirements of all of the jurisdictions in which those ports are located, not the laws of a single jurisdiction. Furthermore, they may change their itineraries on short notice.

National governments around the world have gone to great lengths, through bilateral agreements and through multi-party international agreements, to ensure that standards for vessels are either consistent worldwide or that differing standards are granted reciprocity. If California were to set a unique “one-size-fits-all” sampling port requirement, it would undermine that system of international cooperation and potentially place vessels in the position of having to choose between compliance in California or compliance in other parts of the world. The California sampling port regulation on the books today is consistent with federal and international law. We respectfully suggest that California should leave it that way.

C. The Proposed Sampling Port Revision Is Preempted by Federal Statute and the Constitution.

As noted above, there are both national and international ballast water sampling port requirements on the books. California’s current regulations mirror those national and international standards. As such, although California has no authority to mandate vessel equipment specifications, the current rules do no practical harm. That is not true of the proposed rules.

On March 23, 2012, the United States Coast Guard published a final rule (77 Fed. Reg. 17254) amending its ballast water management regulations. Under 46 C.F.R. §§ 162.060-5 and 162.060-28 of those regulations, the Coast Guard has adopted the sampling port requirements of the EPA ETV Protocol and also imposed requirements for the location of sampling ports. Recognizing the variability in ship design and the realities of retro-fitting ballast water treatment technologies and sampling ports on existing vessels, the Coast Guard regulations provide more flexibility than do the proposed California regulations with respect to size, configuration, and placement of sampling ports.

Whether or not the proposed California sampling port requirements prove to be inconsistent with the federal standards in any particular vessel application, the proposed state standards would be preempted if adopted. In United States v. Locke, 529 U.S. 89 (2000), the Supreme Court held that 46 U.S.C. § 3703(a), which covers tanker “design construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning,”

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6 As Locke explains, even state regulations that are consistent with federal requirements may be preempted: “When Congress has taken the particular subject-matter in hand coincidence is as ineffective as opposition, and a state law is not to be declared a help because it attempts to go farther than Congress has seen fit to go.” Locke, 529 U.S. at 115, quoting Charleston & Western Carolina R. Co. v. Varnville Furniture Co., 237 U.S. 597, 604 (1915).
established complete preemption of many aspects of the state law under review because those topics fall “within a field reserved for federal regulation…” Id. at 111. Part of the authority for the Coast Guard’s regulations at 46 C.F.R. Part 162 (the part into which the Coast Guard has added its ballast water sampling regulations) is 46 U.S.C. § 3703. Thus, for tank vessels, Locke directly and unconditionally preempts the proposed California sampling port regulations.

The proposed California sampling port regulations are also preempted for non-tank vessels. 46 U.S.C. § 3306, which is also cited as a source of authority for the Coast Guard’s Part 162 regulations, provides regulatory authority to the Coast Guard to adopt regulations governing the equipment and operations of broad classes of vessels, including non-tank cargo vessels. That authority covers virtually the same scope of equipment and operational practices as section 3703 covers for tank vessels. Specifically, section 3306 provides that “the Secretary shall prescribe necessary regulations to ensure the proper execution of, and to carry out, this part in the most effective manner for – (1) the design, construction, alteration, repair, and operation of those vessels, including superstructure, hulls, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, [and] electric installations. . . .”

In explaining the narrow range of state regulations that might survive field preemption under such broad federal authority, the Locke court explained that:

“Local rules not preempted under Title II of the PWSA pose a minimal risk of innocent noncompliance, do not affect vessel operations outside the jurisdiction, do not require adjustment of systemic aspects of the vessels, and do not impose a substantial burden on the vessel’s operation within the local jurisdiction itself.”

Locke, 529 U.S. at 112. California’s highly prescriptive proposed requirements for the size, configuration, and placement of ballast water sampling ports fail every aspect of this test, and they would therefore be preempted if adopted.

Even if the proposed sample port specifications were not statutorily preempted under the field preemption test in Locke, they would be still be preempted by the United States Constitution. Although Locke was a statutory preemption case, the Court there recognized that there are instances in which it is improper under the Commerce Clause of the U.S. Constitution (art. 1, §8, cl.3) for states to regulate navigation even in the absence of federal regulation (an example of the so-called “dormant” Commerce Clause):

“The Court in Cooley v. Board of Wardens of Port of Philadelphia ex rel. Soc. For Relief of Distressed Pilots, 53 U.S. 299, 12 How. 299, 13 L.Ed. 996 (1852), stated that there would be instances in which state regulation of maritime commerce is inappropriate even absent the exercise of federal authority, although in the case before it the Court found the challenged state regulations were permitted in light of local needs and conditions.”

Locke, 529 U.S. at 99.
The *Locke* Court also observed that “[t]he authority of Congress to regulate interstate navigation, without embarrassment from intervention of the separate States and resulting difficulties with foreign nations, was cited in the Federalist Papers as one of the reasons for adopting the Constitution.” *Id.* The Supreme Court’s Commerce Clause jurisprudence has allowed states to address issues affecting navigation that are “local and not national,” *Cooley v. Bd. of Wardens of Port of Phila. Ex rel. Soc'y for Relief of Distressed Pilots*, 53 U.S. 299, 319 (1851), so long as there is no field preemption and no conflict with federal regulation.

In the case of the proposed sampling port regulations, the hardware that California proposes to require is integral to the operation of the ship, and by definition must be capable of meeting regulatory requirements in every port that it calls, anywhere in the world. The only way that equipment standards for vessels can be harmonized worldwide so as to allow vessels to meet all of their global regulatory requirements is if those standards are set through international agreements that are negotiated and enforced by national governments. There is, and can be, no place for the States in that field.

Given that the proposed change to California’s ballast water sampling port regulations is unnecessary, unworkable, and void under federal preemption doctrine, we respectfully request that the Commission avoid future confusion and uncertainty by withdrawing that proposed revision.

4. *Conclusion.*

We appreciate the opportunity to provide these comments for the Commission’s consideration. Given that there are no commercially available treatment technologies that can meet the California ballast water discharge standards, we respectfully suggest that the Commission should shift its focus away from developing protocols to measure compliance with an impossible standard, and instead direct its efforts to providing the California Legislature the accurate, science-based treatment technology availability analysis that the governing statute requires. That approach would provide the Legislature with the information necessary to consider changes to California’s laws to bring the State into alignment with recent scientific analyses and would allow the Commission to contribute its resources to assisting in the timely implementation of the recently established federal standards.

We stand ready to work with the Commission to establish in California an approach that meets both the letter and the spirit of the governing statute, and that is consistent with the realities of vessels engaged in international trade.

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Appendix 1

The American Waterways Operators (AWO) is the national trade association representing the owners and operators of tugboats, towboats, and barges serving the waterborne commerce of the United States. Its mission is to promote the long term economic soundness of the industry, and to enhance the industry's ability to provide safe, efficient, and environmentally responsible transportation, through advocacy, public information, and the establishment of safety standards. (www.americanwaterways.com)

The Chamber of Shipping of America (CSA) represents 35 U.S. based companies that own, operate or charter oceangoing tankers, container ships, and other merchant vessels engaged in both the domestic and international trades. CSA member companies regularly call in California ports and would be severely impacted if this proposed regulation were to be made final in its current form. (www.knowships.org)

The nonprofit Cruise Lines International Association (CLIA) is the world’s largest cruise industry trade association. CLIA represents the interests of 26 member lines and participates in the regulatory and policy development process while supporting measures that foster a safe, secure and healthy cruise ship environment. (www.cruising.org)

The International Association of Independent Tanker Owners (INTERTANKO) represents oil and chemical tanker owners. The organization has 230 members in over 41 countries, whose combined fleet comprises some 3,200 tankers totaling 280 million deadweight tons. INTERTANKO is committed to working for safe transport, cleaner seas and free competition. (www.intertanko.com)

The Pacific Merchant Shipping Association (PMSA) is an independent, not-for-profit association focused on global trade. PMSA operates offices in San Francisco, Long Beach and Seattle, and represents owners and operators of marine terminals and U.S. and foreign vessels operating throughout the world. On behalf of its members, PMSA engages in community affairs and legislative and regulatory affairs in California and Washington state. PMSA provides members with information services, including regular updates on matters of interest to the shipping industry. It also serves as a clearinghouse for environmental practices across the industry. (www.pmsaship.com)

The World Shipping Council (WSC) is a non-profit trade association that represents the liner shipping industry – primarily operators of containerships, vehicle carriers, and roll-on/roll-off vessels. Together, the Council’s members carry approximately 90% of the world’s containerized trade. Vessels operated by Council members make frequent calls in California ports, and the Council’s members would be directly and substantially affected by this proposed rule. (www.worldshipping.org)