

March 10, 2025

The Honorable Rob Bonta
Attorney General
California Department of Justice
Office of the Attorney General
1300 I Street
Sacramento, CA 95814

RE: ACWA Request to Include Ballast Water in State of California Petition for Review Regarding U.S. EPA's Final Rule on Vessel Incidental Discharge National Standards of Performance

Dear Attorney General Bonta:

The Association of California Water Agencies (ACWA) respectfully requests the California Department of Justice include ballast water in its Petition for Review¹ regarding the U.S. Environmental Protection Agency's (EPA) final rule on Vessel Incidental Discharge National Standards of Performance.² Given the deadline of March 10, 2025, for submitting the Docketing Statement and Statement of Issues, ACWA appreciates your attention to this time-sensitive request.

ACWA is the largest statewide coalition of public water agencies in the country. ACWA's more than 470 member agencies are responsible for delivering about 90 percent of the water to communities, farms, and businesses in California. For more than a century, ACWA and its members have been working to provide high quality, reliable water supplies in an environmentally sustainable and fiscally responsible manner.

As you know, ballast water discharges are a primary path for the introduction and spread of contaminants and invasive species into California's waters as well as waters both nationwide and abroad. This can present significant risks to California's economy, infrastructure, public health, ecosystems, and environment. The State's complex, unique water systems remain highly vulnerable to the introduction of contaminants via ballast water.

Similar to California State, ACWA strongly opposed the passage of the Vessel Incidental Discharge Act (VIDA)³ through multiple comment letters and direct engagement with federal officials to support ballast water discharge standards that comply with the Clean Water Act and meet the needs of Californians. While EPA's final rule issued in compliance with VIDA sets national standards for discharges from vessels operating in U.S. waters, it recognizes the potential

¹ *California State Lands Commission v. EPA*, et al. (Case No. 25-1049). <https://www.epa.gov/system/files/documents/2025-02/2025.02.06-ca-state-lands-commission-pfr.pdf>; consolidated Case No. 25-1027.

<https://www.epa.gov/system/files/documents/2025-01/25-1027-lake-carriers-association-v.-epa-1.pdf>.

² *Vessel Incidental Discharge National Standards of Performance*, 89 Fed. Reg. 82074 (October 9, 2024) (to be codified at 40 C.F.R. pt. 139). <https://www.govinfo.gov/content/pkg/FR-2024-10-09/pdf/2024-22013.pdf>.

³ Frank LoBiondo Coast Guard Authorization Act, Pub. L. No. 115-282, 132 Stat. 4192 (2018). <https://www.congress.gov/115/statute/STATUTE-132/STATUTE-132-Pg4192.pdf>.



for federal preemption; EPA thus fails to allow states' opportunities to provide stronger protections and recognize the different needs among waterbodies—especially in sensitive California waters such as the San Francisco Bay, the Sacramento-San Joaquin Delta, and coastal waters.

By including ballast water in its Petition for Review regarding EPA's final rule, the California Department of Justice can aid efforts that ensure federal standards do not compromise California's ability to protect its precious water resources. If EPA's ballast water standards are not challenged now, it will be at least 5 years (based on the statute) and likely more than 10 years (based on past practice) before another opportunity to challenge them arises. Not doing so could prohibit California from the opportunity to implement more stringent standards for ballast water discharge in the future.

ACWA appreciates your continued leadership in protecting California's water resources and consideration of this request. Please let us know if we can provide additional information or be of assistance. If you have any questions or would like to follow up on this matter, please contact ACWA Director of Federal Relations, Ian Lyle, at ianl@acwa.com or (202) 434-4765.

Respectfully,

A handwritten signature in dark ink, appearing to read "Ian Lyle". The signature is fluid and cursive, with the first name "Ian" and last name "Lyle" clearly distinguishable.

Ian Lyle
Director of Federal Relations
Association of California Water Agencies