

**Coalition For A Safe Environment
California Kids IAQ
Community Dreams
EMERGE
American Legion Post # 6
Wilmington Improvement Network
San Pedro & Peninsula Homeowners Coalition
NAACP- San Pedro-Wilmington Branch # 1069
California Communities Against Toxics
California Safe Schools
Del Amo Action Committee
Action Now
St. Philomena Social Justice Ministry
Comite Pro Uno
350 South Bay Los Angeles
Frack Free LA County**

June 25, 2020

Su: CARB Board Meeting Thursday June 25, 2020
20-6-4: Public Meeting To Hear An Informational Update On The
Control Measure for Ocean-Going Vessels At Berth

Re: Public Comments Submission In Opposition To Specific Proposed Amendments
And Requests To Correct And Include Additional Information

CARB Board:

The Coalition For A Safe Environment and the supporting et al organizations wish to submit our joint public comments on the proposed Control Measure for Ocean-Going Vessels At Berth Amendments.

We do not accept the majority of CARB management and staff recommended Amendments for the reasons that we have described in these written comments. In addition, there are numerous errors and omissions of information that the public has a right to know that we have also described in these public comments.

INTRODUCTION

Ocean-Going Vessels commonly known as ships are one of the largest sources of air pollution at ports. Each ship releases 2-4 tons of air pollution daily while docked at a port terminal. Ships

burn the dirtiest petroleum fossil fuel product called Bunker Fuel which is actually a thick liquid oil fuel. Ship emissions come from three sources: Main Engines, Auxiliary Engines and Boilers.

The current At Berth Rule requires that ships must use Electric Shorepower or an Equivalent Alternative Ship Emissions Capture and Treatment Technology. The At Berth Rule does not currently apply to all categories of ships.

We support California's transition to Zero Emission Freight Transportation and Emission Capture and Treatment Technologies. We cannot meet California's air quality standards and reduce our public health crisis with weak regulations, long implementation dates, no technology certification protocols, allowing mitigation measures that by-pass compliance asap and allowing ship exemptions.

Electric Shorepower

Every major port in California is required to have at least one terminal that offers Electric Shorepower. Ships must be retrofitted to be able to plug into Electric Shorepower and most ships have not been retrofitted or because of the design cannot be retrofitted. Some port terminals only offer shorepower on one end or location of a terminal so cannot be used on all ships.

Ship Emissions Capture, Control & Treatment Technology

There is an current existing and CARB Executive Order approved technology that is using basic vacuum cleaner technology to suck-in ship emissions from ship exhaust pipes and then processes these ship air pollution emissions with a series of filters so that clean emissions are released into the atmosphere. Ship Emissions Capture, Control & Treatment Technology can be built on-dock at a terminal or on a barge which can be maneuvered alongside a ship.

The AMECS-Advanced Maritime Emissions Control System was the first Ship Emissions Capture, Control & Treatment Technology to be invented by ACTI/AEG and is approved by a CARB Executive Order that complies with the At Berth Rule. ACTI/AEG owns eight US Technology Patents and is the only company to have built both an on-dock system at a terminal that works and an on-barge system tested and used At Anchor.

Electric Shorepower vs Ship Emissions Capture, Control & Treatment Technology

Electric Shorepower can only stop and prevent about 50% of ship emissions because shorepower can only connect to the Main Engines Exhaust Pipes. Toxic air pollution is still being released into the atmosphere untreated from Auxiliary Boilers. Boilers are used to heat a ship and crude oil in tanker ships. Ships were not designed to allow extra-large cables and supporting equipment etc. to be added later. Ship Emissions Capture, Control & Treatment Technology can capture and treat 99% of emissions and therefore are more effective than shorepower. A large vacuum hose attached to an extendable articulated arm is connected to the Main Engine, Auxiliary Engines and Boilers exhaust pipes.

ISSUES

1. The Majority Of New Proposed Revisions Are Attempts By CARB Management and Staff To Support The Private Shipping Industry Making Maximum Profits And To Delay Implementation, A Continuing Historical Example of Environmental Racism

The Environmental Justice Community and Public have already seen CARB Management and Staff delay the At Berth Rule Amendments 5 years with no justification. Public Health in Disadvantaged Communities and Significant Reductions of Toxic Ship Emissions and Greenhouse Gases continues to be a low priority to CARB.

AB 617 Port Communities have already identified ship pollution as a priority reduction requirement in their CERPs (Community Emissions Reduction Plans). CARB has NO LEGAL AUTHORITY to grant any exemptions or extensions of time that it cannot legally validate.

The Environmental Justice Community and Public only requested 4 basic changes:

Commented [J1]:

- That the regulation include all categories of ships with no exemptions
- That the regulation be adopted asap
- That there be no extensions of dates or time to comply with Rule requirements
- That CARB create a standardized industry technology certification protocol

2. Major Amendments Were Made That Were Not Requested by EJ Organizations, The Public & CARB Board Members

CARB management and staff made amendments that were not requested by the EJ Community or the Public nor were they directed by CARB Board members during the public hearings.

CARB management and staff illegally accepted public comment from the shipping industry after the public comment deadline of May 1, 2020 and incorporated some of the shipping industries requests into the current proposal. The purpose of this CARB Informational Hearing is to try to cover up this illegal action by the CARB staff. The public was not allowed or advised they could continue to submit additional public comment.

The majority of Environmental Justice Community and Public Comments that were submitted were not included in the current Amendments.

3. We Want CARB Approved Ship Emissions Control Technology Certification Requirement No Strategy

We want to replace the current CARB inappropriate technology approval process of using an Executive Order and want an industry standardized CARB Approved Ship Emissions Control Technology Certification Requirement. EO's allow personal bias, industry and political influence to interfere and approve less qualified companies which is occurring now.

We want no discretionary Executive Officer approval. A technology Applicant either passes or fails a CARB Approved Ship Emissions Control Technology Certification Protocol and Requirements.

A Strategy is only a Goal as clearly stated in all Dictionaries. A Strategy is not a requirement, condition or control measure. We want clearly defined and certified Ship Emissions Technology Control Certification Requirement and Mitigation Measures.

We want all references to CARB Approved Emission Control Strategy (CAECS), emission control strategy, innovative concept and innovative concept compliance terminology to be replaced throughout the regulation with CARB Certified Approved Ship Emissions Control Technology.

The regulation states that, "To receive CARB approval, a person must demonstrate that the emission controls strategy achieves emission The word person must be replaced with "Technology."

Current Available Technologies:

- A. On-Dock Ship Electric Shorepower
- B. On-Dock Stationary Emissions Capture, Control & Treatment Technology (AMECS)
- C. At-Dock At Anchor Ship Barge Emissions Capture, Control & Treatment Technology (AMECS). Ship is docked but the barge is alongside the ship.
- D. At Anchor Ship Barge Emissions Capture, Control & Treatment Technology (AMECS) Ship is not docked but anchored in the harbor.

Available In 2020:

- A. At Dock Tanker Ship SPUD Barge Emissions Capture, Control & Treatment Technology (AMECS)
- B. At Anchor Tanker Ship SPUD Barge Emissions Capture, Control & Treatment Technology (AMECS)

Future Potential Technologies:

- A. At Anchor Ship Barge Zero Emissions Electric Fuel Cell Power
- B. Ship On-Board Emissions Capture, Control & Treatment Technology

4. We Want A CARB Ship Emissions Control Technology Certification Protocol and Procedures

We are not here to play games or here to allow CARB to continue to obfuscate its responsibilities of failing to establish badly needed standardized shipping industry Technology Certification Requirements, Compliance Protocols and Testing Procedures.

We additionally request that CARB include in the Certification Requirements that the manufacturer and/or seller provide evidence of ownership of technology patents or permission to use Emissions, Capture, Control and Treatment Technologies. CARB has issued an EO's to a company that does not own the patents or rights for its technologies and allowed that they also be awarded CARB grant subcontracts.

The regulation requires a manufacturer to provide a Warranty but Carb Staff is currently waiving those requirements and allowing a company to continue to operate out of compliance and in violation of a CARB Executive Order and CARB Subcontract requirements. i.e. Port of Los Angeles Green OMNI Terminal Project - Clean Air Engineering-Maritime, Inc. Marine Exhaust Treatment System (METS-1) and ShoreKat System.

5. We Want All Ports & Terminals To Have Specific Compliance Requirements In The Regulation

CARB staff has created unacceptable non-compliance schemes such as TIE's and VIE's for Ports and Terminals to avoid planning their ship compliance needs in advance, budgeting funds in advance, ordering adequate equipment in advance, building electric utility infrastructure in advance and purchasing sufficient equipment in advance.

Ships are required to file an Inward Forwarding Manifest with the U.S. Customs and the average ship travel time to the US is 10 days. So Ports and Terminals know in advance when a ship will arrive.

Reference: 19 CFR § 4.7a - Inward manifest; information required; alternative forms

(xv) Date of departure from foreign, as reflected in the vessel log (this element relates to the departure of the vessel from the foreign port with respect to which the advance cargo declaration is filed (see § 4.7(b)(2) or § 4.7(b)(4)); the time frame for reporting this data element will be either:

(A) No later than 24 hours after departure from the foreign port of lading, for those vessels that will arrive in the United States more than 24 hours after sailing from that foreign port;

The Ports and Terminal Operators can list 99% of all possible worst case scenarios and prepare emergency back-up contingency plans today now.

These are CARB Management and Staff elaborate schemes to allow ships to continue to maximize their profits, pollute our air and waters and allow significant Public Health Impacts to continue in our communities.

6. Applicability Shall Refer To A CARB Ship Emissions Control Technology Certification Protocol/Procedure

We do not except the meaningless CARB staff proposed CARB Approved Emissions Control Strategy. We want a CARB Ship Emissions Control Technology Certification Program, Protocols and Procedures to be referenced.

We want all responsible parties, the ports, terminal operators, ships and third party testing companies to be held jointly and severally liable for violating this Control Measure. We do not accept Staffs wording of "may be held Liable." Again another CARB staff attempt to minimize enforcement in EJ Port Communities.

7. We Want No Ship Category Exemptions For Dry Bulk, Break Bulk Or General Cargo Ships

CARB staff was directed by CARB Board Members at the December CARB Meeting to include Dry Bulk, Break Bulk and General Cargo Ships but staff has failed to include them in Table 1. CARB was presented an engineering firms data in December showing the significant amount of emissions of Dry Bulk, Break Bulk and General Cargo Ships and staff has not provided any evidence or data to validate an exemption.

January 1, 2021	Container and refrigerated cargo vessels
January 1, 2021	Passenger vessels
January 1, 20242025	Roll-on roll-off vessels
January 1, 20252027	Tanker vessels that visit the ports of Los Angeles or Long Beach
January 1, 20272029	All remaining tanker vessels

- A. Container Ships
- C. Tanker Ships
- D. Dry Bulk Carrier Ships
- E. General Cargo Ships
- F. RORO-Roll-On Roll-Off Ships
- G. Passenger-Cruise Ships

CARB staff also did not include Dry Bulk, Break Bulk and General Cargo Ships in Terminal Plans. Reference: Section 93130.14. Terminal and Port Plans and Interim Evaluation

CARB staff also did not include Dry Bulk, Break Bulk and General Cargo Ships in Table 4: Remediation Fund Hourly Amount.

Table 4: Remediation Fund Hourly Amount		
Vessel Type	Hourly Remediation Payment Beginning in 2021*	
	Normal Rate	Tier III Rate
Container, Reefer, Ro-ro	\$1,900	\$1,100
Tanker with electric pumps	\$1,600	\$1,000
Tanker with steam driven pumps	\$3,400	\$2,700
Passenger vessels with capacity under 1,500 combined passengers and crew	\$5,300	\$3,200
Passenger vessels with capacity of 1,500 or more combined passengers and crew	\$12,000	\$7,100

CARB staff also did not include Dry Bulk, Break Bulk and General Cargo Ships in Table 5: Innovative Concept Application Due Date.

<u>Table 5: Innovative Concept Application Due Date</u>	
<u>Vessel Type</u>	<u>Due Date</u>
<u>Container/ Reefer</u>	<u>July 1, 2021</u>
<u>Passenger</u>	<u>July 1, 2021</u>
<u>Ro-ro</u>	<u>December 1, 2021</u>
<u>LA/LB Tankers</u>	<u>December 1, 2021</u>
<u>Other Tankers</u>	<u>December 1, 2021</u>

8. We Want Ship Emissions Compliance At All Ship Locations

- A. At-Dock
- B. At-Anchor In Port Waters
- C. At- Anchor Outside Of Break Water
- D. At-Anchor In California Coastal Waters

9. We Do Not Want CAPCOA To Be A Remediation Fund Administrator, CARB has this Responsibility Or A Qualified Mitigation Non-Profit Foundation

We do not want CAPCOA or an Air District to be a Remediation Fund Administrator and we do not approve of the use of an unenforceable and unappealable Memorandum of

Understanding or “similar agreement”. We want a legal signed contract between all parties.

CAPCOA and Air districts have not supported EJ Communities Proposals, Requests, Recommendations, Appeals and Lawsuits 90%+ of the time in the past.

The Harbor Community Benefit Foundation in San Pedro in Southern California and the Rose Foundation in Oakland in Northern California are qualified to administer this fund.

10. We Want No Extension Of Originally Proposed Dates Or Times Compliance Requirements

CARB staff has proposed numerous date and time extensions which are not necessary.

11. We Want CARB To Establish Minimum At Berth Rule Port Responsibilities Information Requirements

We do not want to wait for Ports to take 2-3 years to develop their responsibilities. We want CARB to hold 2-3 public hearings within 6 months to develop preliminary Port Responsibilities. They can be fine-tuned by ports who may have some special circumstances.

12. We Want No At Berth Rule Interim Requirements

Any and all requirements must be mandatory and clearly defined. We want no waivers, variances and extensions for non-certified technology. There can be an approved Pilot Project or Test Demonstration in preparation for final CARB Certification.

13. We Want The At Bert Rule To Include MARPOL ANNEX VI & XIII Engine Requirements & For Ships To Provide Certificate Information

International Air Pollution Prevention Certificate (IAPPC)

Engine International Air Pollution Prevention Certificate (EIAPPC)

14. We Want The AT Bert Rule To Include The U.S. EPA North American and U.S. Caribbean Sea Emissions Control Areas Penalty Policy for Violations by Ships of the Sulfur in Fuel Standard and Related Provisions

The regulation fails to reference and include all international IMO ship mandatory requirements and penalties. We request that CARB research and include all applicable IMO requirements for inclusion in this regulation.

15. We Want PM Emissions Standards & Compliance Data In Addition To Opacity Requirements

There is no definition of Opacity and Opacity Requirements. It essentially means how dark is the black smoke that you see and the volume. You cannot see or see clearly the smoke in the rain, on a foggy day and at night.

Opacity Requirements require a person to take a class and having opacity charts/scales to look at or to confirm an observation. So there is some personal opinion and best judgement allowed

We want to include CARB PM Standards and Testing Requirements included in the regulation.

16. We Do Not Want To Expand Use Of Vessel and Terminal Incident Events (VIE's and TIE's) To New & Growing Vessel Fleets & Terminals

All Ports, Terminal Operating and Shipping Industry have known and will know all new AT Berth Rule Requirements. All Ports and Terminal Operators have had a minimum of five years to prepare for the expansion of the At Berth Rule.

CARB staff has created acceptable non-compliance schemes such as TIE's and VIE's for Ports and Terminals to avoid planning their ship compliance needs in advance, budgeting funds in advance, ordering adequate equipment in advance, building electric utility infrastructure in advance and purchasing sufficient equipment in advance.

These are CARB Management and Staff elaborate schemes to allow ships to continue to maximize their profits, pollute our air and waters and allow significant Public Health Impacts to continue in our communities.

99% of all possible worst case scenarios are already known, can be listed and can be prepared for now, so there is no excuse to not be ready with back-up emergency power, additional emissions control and treatment technologies and including complete shut-down protocols.

All required ship forms, documentation and report requirements already exist, are on-line and there will only be a few changes and updates. 90%+ of all ship forms, documentation and reports can be prepared in advance before arrival at a port.

17. CARB's Reference To A Second Qualified Ship Emissions Capture & Control Technology Company Is A Fraud & Example of CARB Management Discrimination Against A Superior Minority Owned Technology Company

18. The Definitions Of Words Has Words That Are Not Defined In The Definitions

As one example: The definition of Anchorage includes the words "moor" and "California waters," but there are no definitions of these words.

The average person does not know what the word moor means and does not know how far out in the ocean is the California water boundary.

CARB's failure to include all important word definitions is an attempt to deceive the public as to how far outside a breakwater the At Berth Rule applies. Ports do not want any responsibility to acknowledge, identify, quantify and mitigate ship emissions outside the port. During the Covid-19 Pandemic and other events such as the Ports of Los Angeles and Long Beach ILWU union strikes and ports failures to assure that Terminal Operators had sufficient truck drivers and container chassis resulted in over 30 ships being "At-Anchorage or At-Anchor" outside the breakwater. Ships did not plug-in or use alternative ship emission control, capture and treatment technology so 100's of tons of ship air pollution went unmitigated and public health was negatively impacted. CARB, the AQMD's and Ports took no corrective or remedial action whatsoever.

The term At Anchor is used more often than At Anchorage and should also be included in the definitions.

We want the requirement and definition of Certification to be included in the definitions.

19. CARB Staff Has To Stop Making Up Definitions That Confuse The Public & Use Governmental Agency Or Industry Definitions

CARB staff needs to clean-up definitions. There are numerous errors and omissions.

There is no definition for IMO and does reference all the mandatory worldwide ship requirements that are applicable in this At Berth Rule.

The rule defines Remediation Fund but has no definition of Remediation.

There is a Tanker Boiler definition but fails to state that all ships have and use Boilers. Tanker Ship Boilers are also the largest source of emissions.

There is a Utility definition that is not correct or accurate. One accurate definition of Electric Utility is: An electric utility is a company in the electric power industry that engages in electricity generation and distribution of electricity for sale generally in a regulated market. Where does staff get the word "any person engaged in...?"

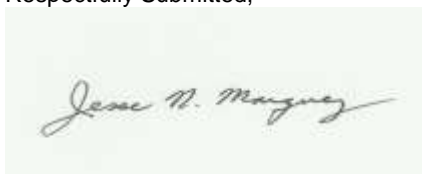
We want a review of all word definitions and all words contained in this regulation.

20. CARB Staff has Proposed No Enforcement, Penalties And Fines Section

We want a chapter or section that clearly outlines and describes CARB's Enforcement, Penalties And Fine Responsibilities.

For additional information the primary contact is Jesse N Marquez for these public comments.

Respectfully Submitted,

A handwritten signature in black ink on a light green background. The signature reads "Jesse N. Marquez" in a cursive script.

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