

California Environmental Protection Agency
Air Resources Board

Marine Notice 2006-2 (05/2007)

Ship Noncompliance Fee Information and Notification Form Ocean-Going Vessel Auxiliary Diesel Engine Regulation

For the purposes of this Notice, “**YOU**” means the vessel master, owner, operator, or any other person that charters, rents, or leases any ocean-going vessel that visits California ports. “**NONCOMPLIANCE**” means your vessel does not meet the emission limits in the regulation, or is not operating under a pre-approved Alternative Control of Emissions Plan.

Authority

California Health and Safety Code, sections 43013, 43018, and 39666; title 13, California Code of Regulations (CCR), section 2299.1; title 17, CCR, section 93118.

Purpose

The purpose of this Marine Notice is to advise you of a specific provision in California’s upcoming regulation on ship diesel auxiliary engines and diesel-electric engines (“regulation”). This regulation imposes air emission limits on you when you operate vessels in Regulated California Waters (a zone approximately 24 nautical miles seaward of the California baseline; see Attachment A) or moor, dock, or otherwise visit a California port, roadstead, or terminal facility (“port”). This regulation becomes effective on January 1, 2007, and can be found in 13 CCR §2299.1 and 17 CCR §93118. It can also be found at ARB’s website, <http://www.arb.ca.gov/regact/marine2005/marine2005.htm>.

The regulation limits emission rates of diesel particulate matter (PM), oxides of nitrogen (NO_x), and oxides of sulfur (SO_x) from auxiliary diesel engines and diesel-electric engines on ocean-going vessels to levels equivalent to using the following fuels:

Beginning January 1, 2007: (1) marine gas oil (MGO); or
(2) marine diesel oil (MDO) with a sulfur content of no more than 0.5% by weight.

The regulation allows affected persons to pay a non-compliance fee instead of meeting the emission limits or operating under a pre-approved Alternative Control of Emissions Plan. The payment of fees under the Noncompliance Fee Provision (NFP) is allowable only under specific and limited circumstances (see Attachment B for the circumstances). **You are advised to read the regulation to ensure that the safety exemption does not apply to your situation (no fees are required), and that no other exemption applies (see Attachment C for the “Safety Exemption” – note a safety exemption must be reported within 24 hours.)** This Notice in no way adds, deletes, or otherwise modifies the regulation, and shall not be construed as modifying the regulation.

If you elect to use the noncompliance fee provision, you must notify ARB before your vessel enters Regulated California Waters (notification is not required if you do not plan to use this provision).

For your convenience, we are providing a **suggested notification form in Attachment D (Form OGV-2A)**. This form or similar information may be submitted by facsimile, electronic-mail, or phone to:

Air Resources Board
Attention: Ship NFP Notification; Paul Milkey
FAX: (916) 327-6251
E-mail: pmilkey@arb.ca.gov
Phone: 877-808-7447

We are also providing a **suggested payment form in Attachment E (Form OGV-2B)**. You must pay the applicable fee before leaving the last California port of this voyage or a later date agreed to by ARB. To request a later date for submittal of payment or supporting documentation, please contact Paul Milkey at the e-mail address or phone number listed above.

When the payment is submitted, you must also provide ARB with the supporting information required by the regulation for the applicable reason for noncompliance (see Attachment B). The type of supporting information required will depend on the reason for using the NFP. This form or similar information and the required supporting information may be submitted by facsimile, electronic-mail, or mailed with payment to:

Air Resources Board
Attention: Accounting
P.O. Box 1436
Sacramento, CA 95812-1436

Persons whose vessels do not meet the regulation requirements when the vessels enter Regulated California Waters will be in violation of the regulation. Persons in violation of the regulation are subject to substantial civil and criminal penalties as provided under California Health and Safety Code, section 42400 et seq. and other applicable provisions of California law.

PAYMENT INFORMATION

Noncompliance Fees should be made payable to: AIR RESOURCES BOARD

Payment may be submitted by check, money order, wire transfer, or credit card. Please include vessel name, Lloyds/IMO #, type of vessel, company name, mailing address, contact name and title, phone number, FAX number, e-mail address, dates and ports visited under the noncompliance fee provision. You may use the suggested payment form in **Attachment E (Form OGV-2B)**.

MAILING ADDRESS:

Air Resources Board
Attention: Accounting
P.O. Box 1436
Sacramento, CA 95812-1436

WIRE TRANSFER Information:

Bank Name: Bank of America
Bank Address: Bank of America
State of California Treasurer
Interbranch to 0148
555 Capital Mall, Su 265
Sacramento, CA 95814
USA
Beneficiary: State of California - Air Resources Board
State Account Number: 01482-80005
Routing Number: 0260-0959-3
Additional Information: Provide explanation for transfer. [Ship NFP payment. Notify SSD,
Paul Millkey, when payment received by ARB]
Assistance Contact: Rozanne McPhee
Administrative Services Division, Fiscal Branch
California Air Resources Board
1001 I Street
P. O. Box 1436
Sacramento, CA 95812-1436
USA
(916) 324-9907
FEIN: 06-0288069

Credit Card Authorization Form

(Please Print or Type)

| | | |
|------------------------------------|--------------------|-----------------------|
| Owner/Operator Company Name | | |
| Paying Company Name | | |
| Address | | |
| City | State | Zip |
| Phone # | Facsimile # | Type of Vessel |
| Vessel Name | | Lloyds/IMO # |
| Port(s) Visited | | Date(s) |
| | | |
| | | |
| | | |
| Noncompliance Fee Amount | | |
| \$ | | |

Please charge my: Visa Master Card American Express Discover

| | |
|--------------------------------|--------------------------|
| Credit Card Holder Name | |
| Credit Card No. | |
| Expiration Date | Amount Authorized |
| | \$ |
| Authorized Signature | Today's Date |
| | |

Attachment A

Regulated California Waters

“Regulated California Waters” means all of the following:

- (A) all California internal waters;
- (B) all California estuarine waters;
- (C) all California ports, roadsteads, and terminal facilities (collectively “ports”);
- (D) all waters within 3 nautical miles of the California baseline, starting at the California-Oregon border and ending at the California-Mexico border at the Pacific Ocean, inclusive;
- (E) all waters within 12 nautical miles of the California baseline, starting at the California-Oregon border and ending at the California-Mexico border at the Pacific Ocean, inclusive;
- (F) all waters within 24 nautical miles of the California baseline, starting at the California-Oregon border to 34.43 degrees North, 121.12 degrees West, inclusive; and
- (G) all waters within the area, not including any islands, between the California baseline and a line starting at 34.43 degrees North, 121.12 degrees West; thence to 33.50 degrees North, 118.58 degrees West; thence to 32.48 degrees North, 117.67 degrees West; and ending at the California-Mexico border at the Pacific Ocean, inclusive.

“Regulated California Waters” is shown on the map below as indicated.

Note: Chart is not to scale.



Attachment B

REASONS FOR NONCOMPLIANCE AS BASIS FOR USE OF THE NCF PROVISION

IMPORTANT: The following are excerpts from and adaptations of section 2299.1(h), title 13, CCR, and section 93118(h), title 17, CCR. They are simplified and condensed versions of the NFP requirements and do not in any way modify the requirements of those regulations. You are advised to refer to the entire regulations in 13 CCR 2299.1 and 17 CCR 93118 for the exact regulatory language. References to “subsections” are to the corresponding subsections in 13 CCR 2299.1 and 17 CCR 93118.

The Executive Officer may permit a person to pay NFP fees, as shown in Attachment E (Form OGV-2B), in lieu of meeting the emission limits in subsection (e)(1) of the regulations provided the person meets the requirements of the NFP as provided in (A), (B), or (C) below.

(A) Noncompliance for Reasons Beyond a Person’s Reasonable Control

Demonstration of Need: The person shall, through adequate documentation, demonstrate to the Executive Officer’s satisfaction that the person’s noncompliance with the requirements of subsection (e)(1) of the regulations is beyond the person’s reasonable control. Please provide documentation that noncompliance is beyond your reasonable control. “Beyond your reasonable control” applies only when one or more of the following sets of circumstances (1, 2, or 3) applies:

1. *Unplanned Redirection.*

This provision applies only when all of the following criteria are met:

- a. after leaving the last port of call, the person’s vessel was redirected from his/her original, officially logged, non-California destination to a California port, roadstead, or terminal facility (“port”); and
- b. the vessel does not contain a quantity of fuel sufficient for the auxiliary engines to meet the requirements of subsection (e)(1) and cannot comply using the alternative emission control strategies under an approved ACE [Alternative Control of Emissions Plan].

2. *Inadequate Fuel Supply.*

This provision applies only when all of the following criteria are met:

- a. the person made good faith efforts to acquire a quantity of fuel sufficient for the vessel’s auxiliary engines to meet the requirements of subsection (e)(1); and
- b. the person was unable to acquire fuel sufficient for the engines to meet the requirements of subsection (e)(1) and cannot comply using the alternative emission control strategies under an approved ACE [Alternative Control of Emissions Plan].

3. *Inadvertent Purchase of Defective Fuel.*

This provision applies only when all of the following criteria are met:

- a. based on the fuel supplier’s certification of the fuel specifications, the person reasonably believed, and relied on such belief, that the fuel the person purchased on the route from the vessel’s home port to California would enable the auxiliary engines to meet the requirements of subsection (e)(1);

- b. the person determined that the vessel's auxiliary engines in fact will not meet the requirements of subsection (e)(1) using any of the fuel purchased under paragraph 3.a. above and the person cannot comply using the alternative emission control strategies under an approved ACE [Alternative Control of Emissions Plan]; and
- c. the vessel is already on its way to California, and there are no other ports of call on the vessel's route where fuel can be purchased sufficient to meet the requirements of subsection (e)(1).

(B) Noncompliance Because Vessel Needs to be Taken Out of Service for Modifications to Meet the Regulation

If a person cannot meet the requirements of subsection (e)(1) without vessel modifications, and such modifications cannot be completed prior to the effective date of subsection (e)(1) (i.e., January 1, 2007), the Executive Officer may permit the person to pay NFP fees. This provision also applies to vessels that will undergo modifications pursuant to an Executive Officer approved Alternative Control of Emissions (ACE) Plan. The vessel must be scheduled to complete the necessary modifications (e.g. during a dry dock operation) as soon as possible, but no later than 5 years after the effective date of this section (i.e., January 1, 2007).

Demonstration of Need: For this provision to apply, the person shall meet all of the following criteria and provide the necessary documentation to the Executive Officer:

The person shall provide the Executive Officer a Compliance Retrofit Report, signed by the Chief Engineer of the person's vessel, which:

1. identifies the specific vessel modifications ("modifications") (e.g., installation of additional fuel tanks) the person plans to use for meeting the requirements of subsection (e)(1) or an ACE Plan;
2. identifies the specific date by which the modifications will be completed (e.g., while the vessel is in dry dock); and
3. demonstrates to the satisfaction of the Executive Officer that the modifications will be made at the earliest possible date (e.g., the vessel has been scheduled for the earliest available dry dock appointment).

Within ten (10) business days after the scheduled or actual completion of the modifications, whichever occurs first, the person shall provide written certification to the Executive Officer that the modifications specified under subsection (h)(3) have been completed. If the modifications have not been completed, the person shall certify which modifications have been completed, which have not, and the anticipated completion date for the remaining modifications. The notification requirement specified in this paragraph, the notification requirements in subsection (h)(1) above, and the NCF fee provisions shall apply until all the modifications have been completed.

(C) Noncompliance Because the Vessel Is an Infrequent Visitor and Needs Modifications to Meet the Regulation

If a person cannot meet the requirements without modifications for the vessel at issue, and that vessel will make no more than two California port visits per calendar year, and no more than 4 California port visits after January 1, 2007 during the life of the vessel, noncompliance fees may be paid according to the NFP fee schedule in Attachment E (Form OGV-2B).

Demonstration of Need: The person shall demonstrate to the satisfaction of the Executive Officer that modifications to the vessel are necessary to meet the requirements of subsection (e)(1), and that the vessel shall meet the visitation limits specified above.

Attachment C
Safety Exemption

The requirements of the regulation, including the payment of Noncompliance Fees, do not apply to the master of the vessel ("master") if the master reasonably and actually determines that compliance with the regulation would endanger the safety of the vessel, its crew, its cargo or its passengers because of severe weather conditions, equipment failure, fuel contamination, or other extraordinary reasons beyond the master's reasonable control.

This exemption applies only as long as and to the extent necessary to secure the safety of the vessel, its crew, its cargo, or its passengers and provided that:

- (A) the master takes all reasonable precautions after the conditions necessitating the exemption have ended to avoid or minimize repeated claims of exemption under this subsection;
- (B) the master notifies the Executive Officer of a safety exemption claim within 24 hours after the end of each such episode (i.e., the period of time during which the emergency conditions exist that necessitate the safety exemption claim; and
- (C) the master submits to the Executive Officer, within 4 working days after the notification in paragraph (B) above, all documentation necessary to establish the conditions necessitating the safety exemption and the date(s), local time, and position of the vessel (longitude and latitude) in Regulated California Waters at the beginning and end of the time period during which a safety exemption is claimed under this subsection. All documentation required under this paragraph shall be provided in English.

Attachment D
Ship Noncompliance Fee Provision Notification Form
Form OGV-2A

(page 1 of 2)

Form OGV-2A should be filed with ARB before your vessel enters Regulated California Waters.

If you intend to use the Noncompliance Fee Provision (NFP), you must notify ARB as required under the regulation before your vessel enters Regulated California Waters (notification is not required if you do not plan to use this provision). For your convenience, we are providing you with this suggested notification form (Form OGV-2A). You are not required to use this form to notify the ARB. Regardless of how you submit the information, you will be subject to substantial penalties under State law if you fail to disclose your noncompliance and the reason(s) for noncompliance before your vessel enters Regulated California Waters. You will also be subject to penalties if you fail to pay the noncompliance fee before you leave the last California port of this voyage or by a later date agreed upon by the ARB. A suggested form to submit payment is provided in Attachment E (Form OGV-2B). Form OGV-2A or similar information may be submitted by facsimile, electronic-mail, or phone to:

Air Resources Board
Attention: Ship NFP Notification; Paul Milkey
FAX: (916) 327-6251
E-mail: pmilkey@arb.ca.gov
Phone: 877-808-7447

Ship and Contact Information

Vessel Name: _____

Lloyds/IMO #: _____

Country Flag: _____

Type of Vessel: _____ diesel-electric

Company Name: _____

Mailing Address: _____

Contact Person: _____

Title: _____

Phone: _____

FAX: _____

Email: _____

Ship Noncompliance Fee Provision Notification Form Form OGV-2A

(page 2 of 2)

Reason For Non-Compliance (check whichever applies; see Attachment B)

The following are the ONLY permissible reasons, as specified under the Noncompliance Fee provision. **You must also provide the supporting information for the applicable noncompliance reason to the ARB’s Executive Officer before your vessel leaves Regulated California Waters or a later date agreed to by ARB (see Attachment B for the required supporting information).**

- Reasons Beyond a Person’s Reasonable Control – check a., b., or c. below**
 - a. Unplanned Redirection to a California Port (see Attachment B)
 - b. Inadequate Fuel Supply (see Attachment B)
 - c. Inadvertent Purchase of Defective Fuel (see Attachment B)
- Vessel Needs to be Removed From Service for Modifications to Meet the Regulation**
(see Attachment B)
- Vessel Is an Infrequent Visitor that Needs Modifications to Meet the Regulation**
(see Attachment B)

Ports Your Vessel will Visit During This Voyage to and from California

List all stops at a port, roadstead, or terminal facility while in Regulated California Waters, as well as all moorings (i.e., ship drops anchor) at an offshore location in Regulated California Waters, while your vessel is in noncompliance.

| Name of California Port or Location (Longitude & Latitude) of Mooring | Expected Date |
|---|---------------|
| | |
| | |
| | |
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| | |

Add additional ports or locations of moorings on separate sheet if needed.

| | |
|--|--------|
| Certification: I am an officer and authorized representative of the company listed in Form OGV-2A and hereby certify that all information entered on this Noncompliance Fee Notification is complete and accurate to the best of my knowledge and belief. | |
| Print Name: | Title: |
| Signature: | Date: |

Attachment E

**Ship Noncompliance Fee Payment Form
Form OGV-2B**

(page 1 of 5)

Form OGV-2B should be filed with the ARB before your vessel leaves the last California port of this voyage or a later date agreed to by ARB.

If you plan to use the Noncompliance Fee Provision, you must first notify the ARB prior to entering Regulated California Waters (see Form OGV-2A). You must then provide the information required in the regulation (see Attachment B) and fee payment before your vessel leaves the last California port of this voyage. You are not required to use this form to notify ARB. Regardless of how you submit the information, if you fail to pay the noncompliance fee and submit the information required by the regulation (see Attachment B) before you leave the last California port of this voyage or by the date approved by the ARB, you will be subject to substantial penalties under State law. This form or similar information and the required supporting information may be submitted by facsimile or electronic-mail to:

**Air Resources Board
Attention: Ship NFP Notification, Paul Milkey
FAX: (916) 327-6251
E-mail: pmilkey@arb.ca.gov**

or mailed with payment to:

**Air Resources Board
Attention: Accounting
P.O. Box 1436
Sacramento, CA 95812-1436**

**Noncompliance Fees should be made payable to: AIR RESOURCES BOARD
Payment may be submitted by check, money order, wire transfer, or credit card.**

Ship and Contact Information

Vessel Name: _____

Lloyds/IMO #: _____

Country Flag: _____

Type of Vessel: _____ diesel-electric

Company Name: _____

Mailing Address: _____

Ship Noncompliance Fee Payment Form
Form OGV-2B
(page 2 of 5)

Contact Person: _____
Title: _____
Phone: _____
FAX: _____
Email: _____

Ports Visited During Each Voyage to and from California

List all stops at a port, roadstead, or terminal facility while in Regulated California Waters, as well as all moorings (i.e., ship drops anchor) at an offshore location in Regulated California Waters, while your vessel is in noncompliance.

| Name of California Port or Location (Longitude & Latitude) of Mooring | Date and Time of Visit or Mooring |
|--|--|
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| | |

Ship Noncompliance Fee Payment Form

Form OGV-2B

(page 3 of 5)

Fee Calculation

Your NFP Fee will be calculated according to the following fee schedule. "Port Visit" includes all stops at a port, roadstead, or terminal facility in Regulated California Waters, as well as all moorings (i.e., the ship drops anchor) at an offshore location in Regulated California Waters away from a port, roadstead, or terminal facility (e.g., Catalina Island or off Monterey). For example, if your non-diesel-electric cargo vessel visits 3 ports in the same voyage to California while in noncompliance, the individual NFP fees that you will pay for each port visited will add up to \$78,000 (\$13,000 for Port 1, \$26,000 for Port 2, and \$39,000 for Port 3). Regarding the submission of this form OGV-2B, you can either submit it with the applicable fee and information required by the regulation (see Attachment B) before leaving each California port you visited while in noncompliance, or before leaving the last California port of this voyage.

| Noncompliance Fee Schedule, Per Port per Vessel | | |
|---|-------------------------|---------------|
| Visit or Mooring | Fee | |
| | Diesel-Electric Vessels | Other Vessels |
| 1 st Port Visited | \$32,500 | \$13,000 |
| 2 nd Port Visited | \$65,000 | \$26,000 |
| 3 rd Port Visited | \$97,500 | \$39,000 |
| 4 th Port Visited | \$130,000 | \$52,000 |
| 5 th or more Port Visited | \$162,500 | \$65,000 |

Fee Payment Submitted For This Voyage:

| Port Visited | Fee Submitted (USD) | Date Fee Submitted | Form of Payment |
|--------------|---------------------|--------------------|-----------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

| | |
|-------|----|
| TOTAL | \$ |
|-------|----|

Noncompliance Fees should be made payable to: AIR RESOURCES BOARD

Payment may be submitted by check, money order, wire transfer, or credit card.

MAILING ADDRESS:

Air Resources Board
 Attention: Accounting
 P.O. Box 1436
 Sacramento, CA 95812-1436

Ship Noncompliance Fee Payment Form Form OGV-2B

(page 4 of 5)

WIRE TRANSFER Information:

Bank Name: Bank of America
Bank Address: Bank of America
State of California Treasurer
Interbranch to 0148
555 Capital Mall, Su 265
Sacramento, CA 95814
USA

Beneficiary: State of California - Air Resources Board
State Account Number: 01482-80005
Routing Number: 0260-0959-3
Additional Information: Provide explanation for transfer. [Ship NFP payment. Notify SSD,
Paul Milkey, when payment received by ARB]

Assistance Contact: Rozanne McPhee
Administrative Services Division, Fiscal Branch
California Air Resources Board
1001 I Street
P. O. Box 1436
Sacramento, CA 95812-1436
USA
(916) 324-9907

FEIN: 06-0288069

Ship Noncompliance Fee Payment Form Form OGV-2B

(page 5 of 5)

Credit Card Authorization Information

If contact information is the same as Form OGV-2B pages 1 and 2, check here

| | | |
|-----------------------------|---------|-------|
| Owner/Operator Company Name | | |
| Paying Company Name | | |
| Address | | |
| City | State | Zip |
| Country | Phone # | FAX # |

Please charge my: Visa Master Card American Express Discover

| | |
|-------------------------|-------------------------|
| Credit Card Holder Name | |
| Credit Card No. | |
| Expiration Date | Amount Authorized \$ |
| Authorized Signature | Today's Date |

Certification

| | |
|---|--------|
| Certification: I am an officer and authorized representative of the company listed in Form OGV-2B and hereby certify that all information entered on this Noncompliance Fee Notification, including all supporting information submitted pursuant to the requirements noted in Attachments A through C, is complete and accurate to the best of my knowledge and belief. | |
| Print Name: | Title: |
| Signature: | Date: |