



California Air Resources Board Marine Notice 2009-5



September 2009

**Advisory to Owners or Operators of Ocean-Going Vessels
Visiting California Ports**

Safety Exemption Information and Claim Form

Regulation on Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels within California Waters and 24 Nautical Miles of the California Baseline

The purpose of this advisory is to provide owners and operators of ocean-going vessels with a summary of the safety exemption included in California Code of Regulations, title 13, section 2299.2, subsection (c)(5), and title 17, section 93118.2, subsection (c)(5) in California's regulation establishing fuel sulfur requirements for ocean-going vessels (the "regulation").

This Marine Notice contains excerpts from 13 CCR §2299.2(c)(5), and 17 CCR §93118.2(c)(5). They are condensed versions of the safety exemption language and do not in any way modify the regulation. You are advised to refer to the entire regulation in 13 CCR §2299.2 and 17 CCR §93118.2 for the exact regulatory language, which can be found on the California Air Resources Board's website at the following location: <http://www.arb.ca.gov/regact/2008/fuelogv08/fuelogv08.htm>

What is the purpose of the "safety exemption?"

The safety exemption is designed to provide the master of the vessel with an exemption from the regulation in situations where compliance would endanger the safety of the vessel, its crew, its cargo or its passengers due to severe weather conditions, equipment failure, fuel contamination, or other extraordinary reasons beyond the master's reasonable control.

Can you explain when the exemption can and cannot be used?

As noted above, the exemption can be used when compliance would endanger the safety of the vessel, its crew, its cargo or its passengers due to extraordinary reasons beyond the master's reasonable control. For example, a storm that requires additional crew efforts and renders the master unable to also safely handle a fuel transition may involve circumstances warranting the use of this exemption. An unexpected operational problem or mechanical failure may also fall under this exemption if the problem or failure is an extraordinary event beyond the master's reasonable control. As an example, if the master unexpectedly finds that the main engine cannot operate reliably

on the complying distillate fuel without risking a foreseeable propulsion loss and the master is unable to take corrective action to mitigate the problem while the vessel is underway, then the master can switch back to heavy fuel oil to see if this alleviates the problem, and then claim the safety exemption.

The exemption cannot be used for events or issues within the master's reasonable control. For example, the exemption is not designed to apply in situations where the vessel operator knows that the equipment on board the vessel cannot use the complying distillate fuel, and does not make the necessary modifications or apply to the Air Resources Board for an "essential modifications exemption" under the regulation. The exemption would also not apply to a vessel operator that repeatedly invokes the safety exemption without taking reasonable steps to address the underlying issues and prevent future safety problems that necessitate use of the exemption. Among other things, a pattern of repeated use of the exemption suggests the events that are triggering use of the exemption are not extraordinary, as required by the regulation.

What is the process to apply for the exemption?

First, if the master of the vessel determines that compliance with the regulation would endanger the safety of the vessel, its crew, its cargo, or its passengers, the master should immediately take the necessary steps to remedy the situation. During this time, the master should limit the use of the non-compliant fuel to the relevant equipment and duration needed to maintain vessel safety.

Next, within 24 hours after the episode during which the safety exemption is claimed, the master must notify the Air Resources Board staff contact listed below that the master is claiming a safety exemption. Masters may use the form attached to this advisory (see Attachment A) to provide the required notification. This information may be submitted by facsimile, electronic-mail, or phone to:

Air Resources Board
Attention: Ship Safety Exemption, Paul Milkey
FAX: (916) 327-6251
E-mail: pmilkey@arb.ca.gov
Phone : (916) 327-2957 or 877-808-7447

Finally, the master must submit to the ARB, within 4 working days after the notification above, all documentation (in English) necessary to establish 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. The master must also submit steps that will be taken to avoid or minimize repeated claims of the exemption.

What are the limitations on the use of the exemption?

The 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. For example, if a vessel encounters unexpected mechanical difficulties in its main engine while transitioning to the complying distillate fuel, the main engines may be switched back to their original heavy fuel oil if the master believes switching back to heavy fuel oil will prevent a propulsion loss or other potentially dangerous incident. However, during this time, the vessel operator should limit use of the safety exemption to the main engine by using the complying distillate fuel in the auxiliary engines and boilers. In addition, the vessel operator should seek to minimize the emissions from the main engine by using the lowest sulfur heavy fuel available on board, or by using a distillate/heavy fuel oil blend if feasible. While the vessel is at dockside, when the main engine is not in operation, the master should make all reasonable efforts to prepare the main engine to use the complying distillate fuel on the voyage leaving California. If the problem cannot be addressed during the dockside visit, the master should take all reasonable precautions to avoid or minimize repeated claims for the exemption during subsequent visits.

Is there a fee involved?

No. There is no fee required to apply for the safety exemption.

Need More Information?

For further information, please contact Mr. Paul Milkey, Technical Analysis Section, at (916) 327-2957, or by email at pmilkey@arb.ca.gov; or Ms. Bonnie Soriano, Technical Analysis Section, at (916) 327-6888, or by email at bsoriano@arb.ca.gov. You can also sign up to receive future notices regarding our marine vessel programs at our website here: <http://www.arb.ca.gov/ports/marinevess/lists.htm>

Attachment A
Safety Exemption Claim Form

Note: You are required to notify the Air Resources Board within 24 hours after the end of each episode for which a safety exemption is claimed. This form may be used to satisfy this notification requirement by submitting it electronically (preferred) or by facsimile (FAX) to:

Air Resources Board
Attention: Safety Exemption, Paul Milkey
FAX: (916) 327-6251
Email: pmilkey@arb.ca.gov

In addition, within 4 working days after this notification, you are required to submit in English all documentation necessary to establish the conditions necessitating use of 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. This information may be submitted to the contact above or mailed to

Air Resources Board
Attention: Stationary Source Division, Paul Milkey
1001 "I" Street
Sacramento, CA 95814

Ship and Contact Information

Vessel Name: _____ Lloyds/IMO #: _____
Type of Vessel: _____
Company Name: _____
Mailing Address: _____

Contact Person: _____ Title: _____
Phone: _____ Fax: _____
Email: _____
Reason for Exemption: _____

Certification: I am the master of the vessel listed above and hereby certify 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, as demonstrated by documentation I will provide pursuant to the regulation. The information on this form is complete and accurate to the best of my knowledge and belief.	
---	--

Print Name: _____	Title: _____
Signature: _____	Date: _____