State of California
Air Resources Board

Executive Order G-09-089

Relating to Essential Modifications Exemption under California Code of Regulations, title 13, section 2299.2(g) and title 17, section 93118.2(g)

TMM Co., Ltd.

WHEREAS, pursuant to sections 39600, 39601, 41510, 41511, 43013, and 43018 of the Health and Safety Code, the California Air Resources Board (ARB) has established requirements for ocean-going vessels (OGV) to use marine gas oil (DMX or DMA grades) or marine diesel oil (DMB grades) at specified sulfur limits in the main engine, auxiliary engines, and auxiliary boilers within a 24 nautical mile zone of the California Coastline; these requirements are found at California Code of Regulations (CCR), title 13, section 2299.2 and title 17, section 93118.2 (OGV Fuel Regulation);

WHEREAS, subdivision (g) of the OGV Fuel Regulation authorizes the Executive Officer to provide an exemption in whole or part from using the specified fuels provided that a person submits an Essential Modification Report that: (1) includes information demonstrating it is not feasible to use the specified fuels unless essential modifications to the OGV are made; and (2) identifies the maximum extent with respect to trip distance or regulated equipment type to which the vessel can use the fuels without essential modifications where feasible and safe for each of the auxiliary engines, main engines, and auxiliary boilers;

WHEREAS, TMM Co., Ltd. submitted Essential Modification Reports dated October 5, 2009 and October 14, 2009 and additional materials also provided on October 5, 2009 and October 14, 2009, requesting essential modification exemptions for the following vessels and equipment listed in Table 1;

Table 1. Vessel and Auxiliary Boiler Information

Owner/Operator	Ship Name	IMO	Auxiliary Boiler Make and Model	Quantity
TMM Co., Ltd.	FORWARD FLAIR	9332781	Mitsubishi Heavy Industries, MAC-30B	1
TMM Co., Ltd.	MAGELLAN ENDEAVOUR	9333280	Aalborg Mission OM 45	1
TMM Co., Ltd.	MADONNA	9196436	Osaka Krautler KG	1

WHEREAS, the Essential Modification Reports state that the aforementioned vessels could not use the fuels specified in the OGV Fuel Regulation in the auxiliary boilers as listed in Table 1 without essential modifications;

WHEREAS, TMM Co., Ltd. stated it is planning on making the modifications to the vessels listed in Table 1 to enable the vessels to use the required fuels in the auxiliary boilers;

WHEREAS, ARB has reviewed the Essential Modification Reports and additional supporting materials provided by TMM Co., Ltd., and determined that the submissions satisfactorily demonstrate that essential modifications are necessary for the auxiliary boilers on the vessels listed in Table 1 to fully comply with the fuel use requirements in the OGV Fuel Regulation;

WHEREAS, based on the determinations described above, the vessels listed in Table 1 qualify for an essential modification exemption for the auxiliary boilers;

NOW, THEREFORE, IT IS ORDERED, TMM Co., Ltd. is granted an exemption from the fuel use specifications set forth in subdivision (e)(1) and from the recordkeeping, reporting and monitoring requirements in subdivision (e)(2) of the OGV Fuel Regulation for the auxiliary boilers on the vessels listed in Table 1, subject to the limitations and conditions in this order and the OGV Fuel Regulation;

BE IT FURTHER ORDERED, the vessels listed in Table 1 shall comply with the fuel specifications set forth in subdivision (e)(1) and the recordkeeping, reporting and monitoring requirements in subdivision (e)(2) of the OGV Fuel Regulation for the main engines and auxiliary engines in the vessels listed in Table 1;

BE IT FURTHER ORDERED, that if the OGV Fuel Regulation is amended to modify any provisions relating to the essential modification exemption, the Executive Officer may revoke or modify this essential modification exemption as necessary to bring it into conformance with the revised regulation;

BE IT FURTHER ORDERED, if the Executive Officer issues written findings that federal requirements are in place that will achieve equivalent emissions reductions within the Regulated California Waters pursuant to subdivision (j) of the OGV Fuel Regulation, the Executive Officer shall revoke this exemption upon notice to TMM Co., Ltd.;

BE IT FURTHER ORDERED, if the Executive Officer determines that the essential modification exemption is no longer warranted, the Executive Officer may modify or revoke this exemption after providing 30 days written notice to TMM Co., Ltd. of its intent to modify or revoke the exemption;

BE IT FURTHER ORDERED, if the essential modifications that are the basis for this exemption are made voluntarily, or due to other regulatory requirements, or for other reasons, then this exemption terminates and the auxiliary boilers on the vessels listed in Table 1 must use the required fuels while in Regulated California Waters, and TMM Co., Ltd. must provide ARB with immediate written notification that modifications have been made;

BE IT FURTHER ORDERED, the Executive Officer encourages TMM Co., Ltd. to voluntarily make the essential modifications noted above to the vessels listed in Table 1 and to use the specified fuels in the OGV Fuel Regulation while in California Regulated Waters to benefit the health and welfare of California's citizens.

Executed at Sacramento, California this 27 day of October, 2009

James N. Goldstene
Executive Officer

by

Daniel E. Donohoue

Daniel E. Donohoue, Chief
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Stationary Source Division