

# Regulatory Advisory

March 2015

## **Ships At-Berth Regulation Schedule for Proposed Amendments and Administrative Changes**

The purpose of this advisory is to inform affected fleets of the proposed schedule for considering amendments to the Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port<sup>1</sup> (At-Berth Regulation or Regulation) and to explain administrative changes in implementation during the time needed to develop amendments to the Regulation. Regulatory amendments are planned for Air Resources Board (ARB or Board) action in late 2015, where the Board will consider changes designed to improve regulatory certainty while still achieving California's clean air commitments.

### **Regulatory Background**

The At-Berth Regulation is intended to reduce emissions of diesel particulate matter (PM) and oxides of nitrogen (NOx) from auxiliary engines on ocean-going vessels while at-berth at California ports. Fleets affected by the Regulation include those composed of container vessels, passenger vessels, or refrigerated cargo vessels. Fleets intending to comply with the Regulation by satisfying the Reduced Onboard Power (Shore power) Option must satisfy the following two criteria, on a quarterly basis, starting January 1, 2014:

- At least 50 percent of a fleet's visits to a port must satisfy the following limit on engine operation: for each visit, the auxiliary engines on the vessel cannot operate for more than three hours during the entire time the vessel is at-berth (e.g., a shore power visit); and
- The fleet's total onboard auxiliary engine power generation must be reduced by at least 50 percent from the fleet's baseline power generation.

Fleets can also comply under the Equivalent Emission Reduction Option pathway, which requires the fleets, through use of an approved technology, to reduce NOx and PM by 50%.

ARB staff issued a Regulatory Advisory in late 2013 to address key implementation issues affecting fleets making good faith efforts to comply with the At-Berth Regulation. However, even with the flexibility provided, fleets may have technical difficulty meeting some of the regulatory requirements even though they have made the necessary investments in vessel shore power equipment. In most cases, the difficulties are outside the control of the vessel operator. Consequently, ARB staff has initiated a process to develop proposed amendments to the Regulation. These amendments will be designed to both address implementation issues and achieve, and potentially enhance, the expected emission benefits of the At-Berth Regulation. It is anticipated that the proposed amendments will be considered by the Board in late 2015.

### **Administrative Changes**

During the time required to develop and have the Board consider proposed amendments, the following administrative actions will be taken for four scenarios with the objective of providing flexibility to fleets making good faith efforts to comply with the At-Berth Regulation. Fleets are

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<sup>1</sup> Section 93118.3, title 17, chapter 1, subchapter 7.5, California Code of Regulations (CCR)

encouraged to use this advisory in good faith, and are expected to make every effort to reduce emissions to meet the requirements of the At-Berth Regulation. Board staff will review each fleet's determination that they meet the Scenario conditions on a case by case basis. Staff may request additional information to verify a fleet's claims. If staff is unable to verify a fleet's claims, the fleet may be denied use of the relief provided under this advisory. The provisions in this Advisory will cover actions between June 30, 2014, when the December 2013 Advisory terminated, and ending when any formal Board action on the amendments becomes effective.

**Scenario 1. The vessel visiting the port is equipped to receive shore power, but the terminal's shore power berth is not able to provide shore power.**

Scenario 1 applies to visits by shore power equipped vessels where, for reasons beyond the fleet operator's control, the terminal's shore power berth is not able to provide shore power. For example, the berth is undergoing construction or shoreside equipment failed and is being repaired. In addition, there must be no other shore power berth available for the vessel at the terminal. In these cases, the visit will count towards compliance with the Regulation as a shore power visit. Without this relief, fleet operators anticipating using the visit to meet their compliance requirements may be unable to do so. This could result in fleet operators not being able to meet the quarterly compliance requirements due to situations outside their control.

In order to qualify for relief under this scenario, the fleet operator must inform ARB staff, as soon as practical but no later than leaving port, that a visit falls under the scenario and, at a minimum, provide the following information about the visit: vessel name, Lloyds or IMO number, date and time of arrival, and terminal and berth, reason for berth unavailability. Fleets may use the "Scenario 1 Notification Form" attached to this advisory to provide this information to ARB.<sup>2</sup> In addition, at the end of each quarter, fleets must summarize their use of Scenario 1 and provide additional information about the berth unavailability including: contact person at the terminal, detailed reason for berth unavailability including any documentation provided by the terminal regarding the berth unavailability, and estimated ready date for the shore power berth.

Terminals and ports that do not make shore power available may be subject to ARB enforcement action, which will consider the specific circumstances of each case.

**Scenario 2. A vessel makes a commissioning visit to a terminal, and during the visit, the auxiliary engines operate longer than three hours.**

Commissioning of the vessel is undertaken to ensure that the vessel is compatible with the shoreside power hardware and that there are no safety issues for both the equipment and the personnel handling the connection. Scenario 2 applies to fleets with shore power equipped vessels that have yet to commission the shore power equipment at a terminal. The first commissioning visit made by a vessel to a terminal, regardless of the time necessary to connect or disconnect to shore power, will count towards compliance with the Regulation as long as the vessel was able to successfully connect to shore power. At the request of the fleet operator, Board staff may count an additional commissioning visit as compliant, on a case by case basis, in circumstances where a fleet demonstrates that the commissioning process could not be accomplished in a single visit or needed to be recommissioned due to changes in the shore power infrastructure.

In order to qualify for relief under this scenario, a fleet operator must provide documentation at the end of each quarter to verify that the scheduled commissionings occurred including vessel name, Lloyds number, date and time the vessel commissioned, terminal and berth vessel commissioned at, and a copy of the commissioning test results.

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<sup>2</sup> If the visit occurred before March 1, 2015, this information should be provided with the 2014 Annual Statement of Compliance due on March 1, 2015 or no later than April 1, 2015.

**Scenario 3. A vessel uses shore power, but fails to meet the three/five-hour time limit for connecting or disconnecting shore power.**

Scenario 3 applies to fleets which have elected to comply with the 50 percent power reduction requirement of the Regulation. Staff has been informed of many circumstances that could result in the auxiliary engines operating for more than the allotted time including delays lowering the gangway, securing the vessel, waiting for clearance, or waiting for labor to connect the vessel. A vessel visit that successfully uses shore power but was not able to meet the three/five hour time limits may request relief under this scenario. The fleet must still show that averaged over each quarter, an actual auxiliary diesel engine power generation reduction of 50 percent or greater was achieved from the fleet's baseline power generation.

In order to be considered for relief under this scenario, a fleet operator must provide at the end of each quarter a summary of their visit times including the total number of vessel visits, and shore power visits, and a summary of the auxiliary engine operating time for visits that exceeded the three/five-hour time limits. For each vessel visit where the engines operated for greater than the three/five hour time limits, the fleet must provide the vessel name, the date of the visits, and the reasons for operating engines longer than 3 hours. In addition, when fleets submit their annual compliance statement, they must also provide the applicable recordkeeping from the Regulation (Section 93118.3(g)(1)(B) or (g)(2)(B)).

**Scenario 4. Vessels are using an alternative control technology to comply with the At-Berth Regulation.**

Scenario 4 applies to fleets that are complying under the Reduced Onboard Power Generation Option that want to use an alternative control technology during a visit to reduce emissions. Use of an alternative control technology, with ARB approved control efficiencies, during a visit allows the visit to count towards the fleet visit requirement. Furthermore, the approved reductions may count toward an equivalent power reduction requirement based on the ARB approved control factors.

In order to qualify for relief under this scenario, a fleet must provide the name of the approved alternative control technology, the number of vessel visits using the control technology, and the total hours of operation by the fleet of the control technology. In addition, when fleets submit their annual compliance statement, they must also provide the recordkeeping from the Regulation (Section 93118.3(g)(1)(B) or (g)(2)(B)).

**Reporting Compliance Actions Taken Under this Advisory**

To qualify for temporary relief from specified At-Berth Regulation requirements described in this Advisory, an affected vessel fleet operator must report, under penalty of perjury, specific information to ARB by emailing that information to [ShorePower@arb.ca.gov](mailto:ShorePower@arb.ca.gov). The attached reporting forms ("Scenario 1 Notification Form" and "Quarterly Reporting Form") identify the information that needs to be reported for fleets using any of the four scenarios in 2014 and 2015.

**For Additional information**

Please visit <http://www.arb.ca.gov/ports/shorepower/shorepower.htm>, contact ARB staff at [ShorePower@arb.ca.gov](mailto:ShorePower@arb.ca.gov), or call Jonathan Foster at (916) 327-1512