

September 21, 2023

Len Mazzella  
Wallenius Wilhelmsen  
279 E. Port Hueneme Road  
Port Hueneme, California 93041

Dear Len Mazzella:

On December 1, 2021, Wallenius Wilhelmsen submitted an application (Application) for an Innovative Concept, pursuant to California Code of Regulations, title 17, section 93130.17 (2020 Regulation or Control Measure). The proposed concept consists of early adoption of plug-in cold ironing using hydrogen-powered portable fuel cells.

On July 14, 2022, California Air Resources Board (CARB) staff notified Wallenius Wilhelmsen that the Application was not complete as it did not contain the minimum information required for Innovative Concept applications as described in section 93130.17(b)(1). CARB's letter requested Wallenius Wilhelmsen to resubmit a revised, completed Application addressing the missing information by August 19, 2022. To date, CARB has not received the requested revised Application.

Without a response, CARB staff is unable to complete the evaluation of the Innovative Concept. Section 93130.17 (b)(5) of the Regulation allows for you to respond within 30 days of this letter and provide us with the information that we have outlined in the attachment called "Attachment A-Wallenius Wilhelmsen-Innovative Concept Evaluation-Request for More Information."

CARB staff also considered and responded to Wallenius Wilhelmsen's requests listed under CARB Responses to Additional Proposals within Attachment A; however, these requests were outside of the scope of the Innovative Concept application and should be removed.

Once we receive your response to this letter, we will re-evaluate your Application according to Section 93130.17 (b)(3). We look forward to your response by October 21, 2023. If CARB does not receive a corrected application within 30 days, Section 93130.17(b)(5) of the Regulation provides the Application will be denied.

If you have any additional questions or would like to further discuss the content of this letter and Attachment A, please contact Katie Carter, Air Pollution Specialist, Freight Incentive Section, at [Katelyn.Carter@arb.ca.gov](mailto:Katelyn.Carter@arb.ca.gov) or Angela Csondes, Section Manager, Marine Strategies Section, at [Angela.Csondes@arb.ca.gov](mailto:Angela.Csondes@arb.ca.gov). If you would like to discuss CARB staff's feedback via conference call or a virtual meeting, we would be happy to accommodate a meeting.

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Sincerely,

A handwritten signature in blue ink, appearing to read "Bonnie Soriano". The signature is fluid and cursive, with the first name "Bonnie" written in a larger, more prominent script than the last name "Soriano".

Bonnie Soriano, Branch Chief, Freight Activity Branch

Attachment - "Attachment A-Wallenius Wilhelmsen-Innovative Concept Evaluation-Request for More Information"

cc: Katie Carter, Air Pollution Specialist, Freight Incentive Section

**ATTACHMENT A**  
**Wallenius Wilhelmsen Innovative Concept Evaluation**  
**Request for More Information**

The California Air Resources Board (CARB)'s Control Measure for Ocean-Going Vessels At Berth (2020 Regulation or Control Measure) section 93130.17 provides that applications for Innovative Concepts (IC) must contain, at a minimum, the specific information detailed under section 93130.17 (b)(1). Your application submitted on December 1, 2021 (Application), did not contain the minimum information identified by the 2020 Regulation.

In general, applications for Innovative Concepts must contain any information necessary to demonstrate that the proposed Innovative Concept will "reduce NOx, PM 2.5, and ROG emissions equivalent to or greater than the level that would have been achieved by the Control Measure, while not increasing GHG,"<sup>1</sup> (See section 93130.17 (a)(2)).

Emissions Equivalency: To establish equivalency, the Application should provide three main components:

1. Baseline Emissions Estimates per section 93130.17 (b)(1)(C): "Estimate of the vessel emissions planned to be covered under the Innovative Concept for each pollutant NOx, PM 2.5, and ROG by multiplying the emission factor for a pollutant found in section 93130.5(d) of this Control Measure by the expected number of vessel visits, average visit duration, and expected power used during an average visit."
2. An estimate of reductions that would be achieved under direct compliance with the regulation, in absence of any Innovative Concept (generally referred to as Direct Compliance Estimates).
3. An estimate of reductions achieved by the proposed Innovative Concept (generally referred to as Innovative Concept Estimates).

See Items 2 and 19 below for more details.

These estimates must identify any assumptions such as activity, emission factors, energy consumed by the Innovative Concept, and provide estimates for NOx, PM 2.5, and ROG reductions. Please provide an Excel spreadsheet(s) that provides these calculations, assumptions, emission factors, activity, etc.

In the table below, CARB Staff has outlined the specific areas required by the 2020 Regulation which are missing or incomplete in your Application.

Item #	Applicable section of 93130.17	Requirement Summary Please see 2020 Control Measure section 93130.17 for the complete text and requirements. Ensure that all requirements are met in the updated application.	Category	Was an Applicant Response Provided?	Is the Applicant Response sufficient? Or is the Application Requirement met?	Missing Information	Please provide the following information
	<b>93130.17 (a)</b>	<i>"General requirements for using an innovative concept compliance option."</i>	N/A	N/A	N/A	N/A	N/A
<b>1</b>	(1)	<b>Submittal of the application by the December 1, 2021, deadline.</b>	Timeframe	Yes	Yes	Application meets this requirement.	N/A
<b>2</b>	(2)	<b>The application should demonstrate how the Innovative Concept will "...reduce NOx, PM 2.5, and ROG emissions equivalent or greater than the level that would have been achieved by the Control Measure, while not increasing GHG..."</b>	Emissions Reduction Estimates and Calculations	Yes	No	This requirement is asking for how you will estimate reductions achieved under your innovative concept (Innovative Concept Estimates) and reductions achieved under direct compliance (Direct Compliance Estimates). The Application provides basic information on the concept, but more details are required to show that the concept can be carried out.	Please show your calculations for your Innovative Concept Estimates and your Direct Compliance Estimates. Provide the annual reporting methodology, preferably on a spreadsheet, including the information that will be reported for compliance with the annual reporting required in Section 93130.17 (d)(2) for the listing of emissions reductions that were achieved with the Innovative Concept. Specifically, provide a clear listing of inputs for what information Wallenius Wilhelmsen will be keeping as records and how those records will be used to calculate the reductions achieved by the Innovative Concept. The methodology described in the application must be clear enough for CARB to understand what annual reporting per Section 93130.17 (d)(2) will entail and what information will be provided, with reductions calculations functionality so CARB can track reductions for compliance.
<b>3</b>	(3)	<b>The application must demonstrate how the Innovative Concept emissions reductions will be "...early or in excess of any other [government or legal requirement]."</b>	IC can't be Business as Usual or Otherwise Required	No	No	Potential existing rules, regulations, or requirements, if any, that Wallenius Wilhelmsen may need to exceed, or comply earlier than any other government or legal requirement, including any emission reduction strategy identified in an AB 617 Community Emissions Reduction Program.	Please show due diligence by indicating which state, federal or international rule, regulation, statute, or any other legal requirement have been considered in this analysis, even if it has been determined that they do not apply.
<b>4</b>	(4)	<b>The application must demonstrate how the Innovative Concept emissions reductions will be "...in and around the California port or marine terminal at which the vessel visits take place for which the innovative concept is used. The reductions must be at the same port or marine terminal, within adjacent communities, or overwater within three nautical miles of the port or marine terminal."</b>	Location of IC	Yes	No	See item 18b.	An adequate response to Item 18b (93130.17 (b)(1)(B)) satisfies this requirement.
<b>5</b>	(5)	<b>The application must demonstrate how the Innovative Concept will "not increase emissions at other ports or marine terminals."</b>	Description of IC	Yes	No	See item 18b.	An adequate response to Item 18b (93130.17 (b)(1)(B)) satisfies this requirement.
<b>6a</b>	(6)	<b>The application must demonstrate that the Innovative Concept is not an activity or technology implementation that is "...reasonably expected to occur within the relevant area in the absence of the incentive provided by the Innovative Concept provisions of this Control Measure..."</b>	IC can't be Business as Usual or Otherwise Required	Yes	No	For an emissions reductions activity to be considered innovative, it must be unique to the industry. For example, it must be an activity that was not part of a cost-savings activity or a plan-of-record upgrade. Even if the concept appears to "obviously" meet this requirement, a discussion surrounding the topic should be provided for an application to be considered complete.	Please provide an explanation of how this activity is unique and innovative and not business as usual. Also, if possible, show that this activity was not part of any existing business plans as part of cost-saving or otherwise.

<sup>1</sup> NOx is oxides of nitrogen, PM2.5 are fine particulate matter that are 2.5 microns or less in diameter, ROG is reactive organic gas, GHG is greenhouse gas.

**ATTACHMENT A**

<b>Item #</b>	<b>Applicable section of 93130.17</b>	<b>Requirement Summary</b> Please see 2020 Control Measure section 93130.17 for the complete text and requirements. Ensure that all requirements are met in the updated application.	<b>Category</b>	<b>Was an Applicant Response Provided?</b>	<b>Is the Applicant Response sufficient? Or is the Application Requirement met?</b>	<b>Missing Information</b>	<b>Please provide the following information</b>
6b	(6)	<b>The application must demonstrate that the Innovative Concept emission reductions</b> <i>“are real, quantifiable, verifiable, and enforceable.”</i>	Description of IC	Yes	No	Please indicate how emissions reductions will be collected such that it can be quantified, reported, and verified.	An adequate response to Items 2 (93130.17 (a)(2)), 19 (93130.17 (b)(1)(C)) and Item 20 (93130.17 (b)(1)(D)) satisfies this requirement.
7	(7)	<b>Please acknowledge an understanding that:</b> <i>“No innovative concept shall have a compliance period greater than five years...”</i>	Timeframe	Yes	Yes	Application meets this requirement.	N/A
8	(8)	<b>Please acknowledge an agreement that: The Innovative Concept cannot be extended for another compliance period if</b> <i>“...the Executive Officer concludes that any of the circumstances listed in subsection 93130.17(f)(1) of this Control Measure are present; or the applicant elects to cancel an approved innovative concept...”</i>	Timeframe	No	No	No information was provided in the Application.	Please provide a statement of acknowledgement of this requirement and an intention to conform to it using the Innovative Concept.
9	(9)	<b>Please acknowledge an understanding that:</b> <i>“Visits made under an innovative concept are not counted toward a fleet’s VIEs<sup>2</sup> or terminal operator’s TIEs in section 93130.11 of this Control Measure, and are ineligible for using the remediation fund provisions in section 93130.15 of this Control Measure.”</i>	General provisions	No	No	No information was provided in the Application.	Please provide a statement of acknowledgement of this requirement and an intention to conform to it using the Innovative Concept.
10	(10)	<b>Please acknowledge an understanding that:</b> <i>“Reductions can be used toward compliance as specified in this section only in the calendar year in which they are achieved or the following calendar year.”</i>	Timeframe	No	No	No information was provided in the Application.	Please provide a statement of acknowledgement of this requirement and an intention to conform to it through the use of the Innovative Concept.
11	(11)	<b>Please acknowledge an understanding that:</b> <i>“Early reductions achieved through an innovative concept that occur before a vessel or terminal’s first compliance period can be used towards compliance during the first compliance period of up to five years. However, early reductions are only applicable for the initial compliance period, and will expire when the initial compliance period ends.”</i>	Timeframe	No	No	No information was provided in the Application.	Please provide a statement of acknowledgement of this requirement and an intention to conform to it using the Innovative Concept.
12	(12)	<b>Show or acknowledge that:</b> <i>“...the innovative concept is not to be partially or fully funded with a public incentive program.”</i>	Funding	Yes	Yes	Application meets this requirement.	N/A
13a	(13)	<b>Demonstrate your plan to maintain records that show that:</b> <i>“...information on fuel usage, routes, port calls, maintenance procedures, and emissions test results.”</i>	Recordkeeping	No	No	No information was provided in the Application.	Please provide a statement of acknowledgement of this requirement and an intention to conform to it with the Innovative Concept.
13b	(13)	<b>Please acknowledge an understanding that:</b> <i>“Such records and reports shall be retained for a period of not less than five years and shall be submitted to the Executive Officer in the manner specified in the approved innovative concept and upon request by the Executive Officer, either within 10 calendar days or by a later date approved by the Executive Officer on a case-by-case basis.”</i>	Recordkeeping	No	No	No information was provided in the Application.	Please provide a statement of acknowledgement of this requirement and an intention to conform to it with the Innovative Concept.
14	(14)	<b>Please acknowledge an agreement that:</b> <i>“No person shall operate under an innovative concept unless the applicant has first been notified in writing by the Executive Officer that the innovative concept application has been approved. Prior to such approval, vessel operators and terminal operators intending to use the innovative concept shall comply with the provisions of this section, including the emission limits in sections 93130.7 and 93130.9 of this Control Measure.”</i>	General provisions	No	No	No information was provided in the Application.	Please provide a statement of acknowledgement of this requirement and an intention to conform to it with the Innovative Concept.
15	(15)	<b>Explain your implementation plan, showing that:</b> <i>“The innovative concept will be implemented within the timeframe needed to be used for compliance with this Control Measure, including any time needed for environmental review (if applicable).” Also see Item 24 (93130.17 (b)(1)(H)) and 93130.17 (b)(3)(E).</i>	Timeframe Governmental and Environmental Approvals	No	No	No information was provided in the Application.	Please provide a project plan showing how this Innovative Concept will be implemented in the indicated timeframe. For example, timelines, Gantt charts, and flow charts may be used to show schedules and milestones for the project.
16	(16)	<b>Please acknowledge agreement that:</b> <i>“No person shall comply with this section by operating under an innovative concept that has been revoked as provided in section 93130.17(f) of this Control Measure.”</i>	General provisions	No	No	No information was provided in the Application.	Please provide a statement of acknowledgement of this requirement and an intention to conform to it with the Innovative Concept.
	<b>93130.17 (b)(1)</b>	<i>“Applications for innovative concepts shall contain, at a minimum, the following information:”</i>	N/A	N/A	N/A	N/A	N/A
17	(A)	<i>“Company name, address, and contact information.”</i>	Applicant information	Yes	Yes	Application meets this requirement.	N/A
18a	(B)	<i>“A description of the proposed Innovative Concept(s) including source and scope of emission reductions.”</i>	Description of IC	Yes	No	The “scope” of reductions would include the details surrounding the planning, activities, equipment, approvals, and effort to ensure	Please provide more details about the concept including the hydrogen fuel cell system that you are planning on using, how often will it be used, what are the expected emissions reductions,

<sup>2</sup> VIE is a vessel incident event, TIE is a terminal incident event.

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Item #	Applicable section of 93130.17	Requirement Summary Please see 2020 Control Measure section 93130.17 for the complete text and requirements. Ensure that all requirements are met in the updated application.	Category	Was an Applicant Response Provided?	Is the Applicant Response sufficient? Or is the Application Requirement met?	Missing Information	Please provide the following information
						that all systems are in place and compatible to provide the reductions.	and any other information to describe the scope of the project implementation.
18b	(B)	<i>"A description of proposal including a project site plan and a location map."</i>	Location of IC	No	No	A project site plan and a location map.	Please provide the planned location(s) of this equipment.
19	(C)	<b>An estimate of the planned vessel emissions reductions of NOx, PM 2.5, and ROG due to the Innovative Concept. To estimate these reductions, "...[multiply] the emission factor for a pollutant found in section 93130.5(d) of this Control Measure by the expected number of vessel visits, average visit duration, and expected power used during an average visit."</b>	Emissions Reduction Estimates and Calculations	Yes	No	Your application indicates that you do not wish to disclose the specific emissions reductions to the public or to any business competitors. Without this information we are unable to approve the Innovative Concept application.	Please provide your Baseline Emissions Estimates per section 93130.17 (b)(1)(C). A spreadsheet should be provided that reflects the information that will be tracked, calculated, and reported. For additional detail on what to include in this spreadsheet, see Item 2 (93130.17 (a)(2)), and Item 20 (93130.17 (b)(1)(D)). If you have previously sent this information to CARB, please indicate who the information was sent to.
20	(D)	<i>"The proposed recordkeeping, reporting, monitoring, and testing procedures that will be used to demonstrate reductions."</i>	Recordkeeping	Yes	No	How will the emissions reductions be monitored? What type of reporting will be done to demonstrate reductions? How will the reductions be validated/tested?	Please provide the annual reporting methodology as it will be submitted to CARB, including all sources for all assumptions and metrics that will be included to calculate reductions. Provide a spreadsheet that details how you intend to monitor, calculate, log, and report emissions reductions to CARB annually.
21	(E)	<b>Any MOUs or similar agreements between the applicant and any partners.</b>	Funding	Yes	No	Who will be providing the fuel cell equipment? Have you entered into any agreements?	Please indicate all potential funding partners, owners/operators of controlled equipment and any agreements that are or may be planned for this Innovative Concept.
22	(F)	<i>"The proposed length of time during which the innovative concept would be used...as well as the number and duration of any anticipated time extension requests..."</i>	Timeframe	Yes	Yes	Application meets this requirement.	N/A
23	(G)	<i>"A summary of all governmental approvals necessary to enable development of the innovative concept."</i>	Governmental and Environmental Approvals	Yes	Yes	Application meets this requirement.	N/A
24	(H)	<ul style="list-style-type: none"> <li><i>"A discussion regarding any environmental review requirements that may apply to the proposed innovative concept..."</i></li> <li><i>"Identification of which agency would serve as the lead agency for environmental review purposes..."</i></li> </ul>	Governmental and Environmental Approvals	Yes	Yes	Application meets this requirement.	N/A
25	(I)	<b>Provide "Any information necessary to demonstrate that the proposed innovative concept meets all [the following] eligibility and applicability requirements in subsection 93130.17(a)" as shown above in Items 1 through 16.</b>	Applicant information	See Items 1 through 16	See Items 1 through 16	See Items 1 through 16	See Items 1 through 16

**CARB Response to Additional Proposals**

Item	WW Referred Section of 93130.17	Wallenius Wilhelmsen Proposals	CARB Response	Applicable section of 93130.17
26	(a)(2)	WW proposes that emissions reductions achieved early and in excess of the rule's requirements would be allowed to provide additional VIEs that could be used for vessels not capable of using shore power over the period of 2025-2027 on a one-for-one basis and/or to provide future allowance to provide future fleet flexibility during 2025-2027. The allowances would be used, until exhausted, in the calculation of a fleet average compliance rate to achieve rule's required reduction of 90%.	The purpose of the Innovative Concept portion of the Control Measure is to create equivalent or better emissions reductions to the communities near the ports in lieu of using a CARB Approved Emission Control Strategy (CAECS) (shore power or capture and control technology). By providing additional VIEs in addition to the equivalent reductions would negate the emissions reductions achieved by the Innovative Concept. Furthermore, this proposal cannot be part of a CARB Innovative Concept approval as the requirements and allowances are governed by the 2020 Regulation. When submitting your updated Application please remove any additional agreements that are not part of the requirements as listed in section 93130.17 of the 2020 Regulation.	<ul style="list-style-type: none"> <li>Intro to Section 93130.17.</li> <li>93130.17 (a)(9)</li> </ul>
27	(b)(4),(b)(5)	Wallenius Wilhelmsen proposes that because the scope and terms of an enforceable (a)(3) agreement pursuant to this Innovative Concept necessarily have yet to be negotiated, crafted, or discussed prior to Application submission, however such terms must be negotiated prior to full Innovative Concept application, that this application not be deemed incomplete but rather approved subject to the approval of an agreement published in an Executive Order pending agreement, similar to the provisional allowance for future compliance to obtain the permits or approvals necessary to undertake the activities constituting the Innovative Concept.	The purpose of the Application process is to demonstrate that the Innovative Concept emission reductions "are real, quantifiable, verifiable, and enforceable." To do this, it is not necessary to negotiate, craft, or enter into agreements. The purpose of the application is to show that the Applicant has done their due diligence to prove that the concept will be viable. As with all plans, there will be changes and unknown challenges. However, the Innovative Concept provides much flexibility to accommodate these changes. For example, unlike a CAECS, emissions reductions can be banked and used later. In other words, a compliant visit is binary for a CAECS - either the baseline reductions are met, or they are not. Alternatively, the Innovative Concept credits can be banked and used as needed. Therefore, if the final emissions reductions due to the Innovative Concept are higher or lower than originally expected during the planning phase, the credits can be banked and used later either way.	93130.17 (a)(6)
28	(N/A) Additional Agreement Proposal from WW	Wallenius Wilhelmsen proposes that both parties agree that this Innovative Concept is consistent with 13 CCR §2299.3 and 17 CCR §93118.3 and is effective compliance with vessel operational requirements adopted by the United States Environmental	Thank you for the suggestions noted in the "Additional Terms of Agreement" section of your application. Please note that agreements are not part of the Innovative Concept application process. Rather, an applicant is to submit an application pursuant to the provisions set forth in the	93130.17 (b)

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<b>Item</b>	<b>WW Referred Section of 93130.17</b>	<b>Wallenius Wilhelmsen Proposals</b>	<b>CARB Response</b>	<b>Applicable section of 93130.17</b>
		<p>Protection Agency (U.S. EPA) as a final action of national applicability for purposes of section 307(b)(1) of the Federal Clean Air Act (see U.S. EPA waiver issuance, FRL-9503-4 (76 FR 77515, 13 December 2011)), that (a)(2) Emissions Reductions are subject to regulatory compliance consistent with those requirements and that (a)(3) Emissions Reductions are voluntary reductions enforceable by agreement, and that pursuant to the terms of said agreement that Wallenius Wilhelmsen will not challenge 17 CCR §§93130 - 93130.22 under the terms of the Federal Clean Air Act with respect to pre-emption of emissions standards enacted without waiver by the U.S. EPA so long as the Innovative Concept provides a pathway for effective vessel compliance with the existing U.S. EPA waiver.</p>	<p>2020 Regulation and CARB then reviews that application for completeness and consistency with the At Berth Regulation. Therefore, the terms included in the "Additional Terms of Agreement" cannot be part of a CARB Innovative Concept approval as it is not an agreement, and it is governed by the 2020 Regulation. When submitting your updated Application please remove any additional agreements that are not part of the requirements as listed in section 93130.17 of the 2020 Regulation.</p>	