

## **Ocean-Going Vessel (OGV) At Berth Regulation** **ENFORCEMENT NOTICE**

*October 24, 2023*

### **U.S. EPA approval of CARB's Request for Authorization for the 2020 At Berth Regulation**

The purpose of this Notice is to notify the public that the United States Environmental Protection Agency (U.S. EPA) issued a Notice of Decision granting California Air Resources Board (CARB)'s authorization request for the Final Regulation Order Control Measure for Ocean-Going Vessels At Berth (2020 Regulation) pursuant to section 209(e) of the Clean Air Act. The 2020 Regulation appears in sections 93130 through 93130.22 of Title 17, California Code of Regulations. The U.S. EPA published its issuance of authorization for the 2020 Regulation in the *Federal Register* on October 20, 2023. The 2020 Regulation aims to further reduce diesel particulate matter (PM) and oxides of nitrogen (NO<sub>x</sub>) from vessel auxiliary engines at berth. These reductions are essential to reducing air pollution and protecting public health near portside communities.

The March 30, 2023, Enforcement Notice (*March 2023 Notice*) outlined reporting and enforcement requirements during the "transition period," which spanned from January 1, 2023, through 30 days after the U.S. EPA publishes its issuance of authorization for the 2020 Regulation in the Federal Register. The "transition period" ends on November 19, 2023. During the transition period, all vessel and terminal operators were able to select one of two paths described in the March 2023 Notice. Option 1 allowed regulated entities to opt for achieving the per-visit emission reduction provisions of the 2020 Regulation. Option 2 allowed regulated entities to opt for achieving the 80% reduction provisions specified in the 2007 At Berth Regulation. At the conclusion of the transition period, the two enforcement path options provided by the March 2023 Enforcement Notice will no longer be in effect.

Beginning November 20, 2023, all regulated entities must follow and comply with the requirements set forth in the 2020 Regulation, including the use of vessel incident events (VIE), terminal incident events (TIE), and the remediation fund option.

CARB staff will issue updated VIE and TIE allocations prior to the end of the transition period to vessel and terminal operators who chose Option 2 to ensure their availability for use when the transition period ends. These updated VIE and TIE allocations will be prorated and will exclude allocations for the transition period. The proration adjustment for this period equals the number of days from the transition period's conclusion through February 1, 2024 (74 days), divided by 396 days. VIEs and TIEs are exceptions provided to regulated vessel fleets and terminal operators for a limited number of visits in which emissions are not reduced during a regulated vessel visit. A vessel or terminal operator may use a VIE or TIE in

any situation where a party is unable to meet the emissions reduction requirements of the 2020 Regulation to remain in compliance.

In accordance with section 93130.11(a)(1) of the 2020 Regulation, vessel visits reported during 2023 will be used to determine the number of TIEs and VIEs vessel and terminal operators get in 2024. This includes visits reported during the transition period. Vessel and terminal operators who anticipate growth in 2024 may apply for additional TIEs and VIEs by December 1, 2023.

Vessel and terminal operators, as well as third-party CARB Approved Emissions Control Strategy (CAECS) operators if applicable, when visiting any California port or marine terminal (including a low-activity terminal) must report the information detailed in section 93130.7(e)(4) (vessel operators), section 93130.9(d)(5) (terminal operators), and section 93130.12(b)(3) (CAECS operators) of the 2020 Regulation to CARB within 30 calendar days of each vessel's departure. Vessel reporting is required for all vessel types (in addition to container, cruise, and reefer vessels). Template reporting forms are provided by CARB and available at: [At Berth Reporting Templates](#). Entities that selected the Option 2 pathway under the March 2023 Notice must submit fleet visit information with documentation for any exemptions or scenario relief to show compliance with the 80 percent reduction provisions. The fleet visit information must be submitted by January 19, 2024, which is 60 days after the last day of the transition period.

Vessel, terminal operators, ports, and CAECS operators may also comply using the remediation fund option if they meet the requirements under section 93130.15. Applications for remediation fund participation that are approved by CARB as eligible will qualify for remediation fund participation even if the remediation fund account has not yet been established by the fund administrator. Within 30 calendar days following the establishment of the remediation fund account by the fund administrator, the eligible applicant must transfer, and the fund administrator must receive, the funds. Template request forms to use the remediation fund are available at: [Request to remediate template](#). See FAQ #87 in the At Berth [FAQ Document](#) for more information on this process. As of the date of this Notice, CARB staff is in the process of establishing the remediation fund program and updates on the program status will be available at: [Ocean-Going Vessels At Berth Regulation | California Air Resources Board](#).

For detailed information related to U.S. EPA's authorization process, visit the [U.S. EPA's official website](#). For information pertaining to the 2020 Regulation, please visit the [CARB website](#) or contact staff via: [shorepower@arb.ca.gov](mailto:shorepower@arb.ca.gov).

## Contacts

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