

EXHIBIT G



December 6, 2019

CALIFORNIA AIR RESOURCES BOARD
1001 I Street
Sacramento, CA 95814

Attn: Clerks' Office

Re: Proposed Control Measure for Ocean Going Vessels at Berth (At-Berth Rule)

California Air Resources Board,

On behalf of Crowley Maritime Corporation (Crowley), thank you for the opportunity to comment on the California Air Resources Board's (CARB's) At-Berth Rule. Crowley applauds CARB's leadership in the stewardship of California's air quality and appreciates CARB's current recognition that the U.S. domestic maritime industry's fleet of large ocean-going articulated tug-barges (ATBs) (20,000 deadweight tons or more) play a substantial role supporting the economies of West Coast states and the livelihood of their citizens, including those of California, with respect to the region's requirements for coastal energy transportation.

Crowley is the largest independent operators of petroleum ATB's and tankers in the United States. We own and operate a diverse, sophisticated fleet of double-hull tank vessels, enabling us to offer a wide range of environmentally safe and reliable transportation options and meet virtually any commercial or Government customer requirement. In so doing, we maintain an extensive fleet of 40 U.S. flagged product and crude oil tankers and large petroleum ATB's ranging in size from 20,000 DWT to 45,800 DWT that safely and reliably carries petroleum in bulk throughout the U.S. East, Gulf and West Coasts, including Alaska, as well as international ports. Crowley has proven itself as an innovator and leader in petroleum transportation through the development of an unrivaled articulated tug barge (ATB) and tanker fleet which includes the newest and most sophisticated U.S.-flagged vessels.

Crowley companies operate Self-propelled tank ships and Articulated Tug-Barges (ATBs) that regularly call California ports; General cargo vessels and container ships that may call California ports; and a fleet of harbor tugboats servicing the San Francisco Bay area, the Los Angeles-Long Beach area, and San Diego. Because of Crowley's extensive experience with vessel operations across a broad range of vessel types, many of which may be covered under the proposed At-Berth Rule, leads Crowley to submit these comments to CARB.

SUPPORT FOR WORLD SHIPPING COUNCIL COMMENTS

Crowley is a member of World Shipping Council (WSC) and supports the comments provided to CARB on the At-Berth Rule by WSC.

ATBs ARBITRARILY EXCLUDED FROM THE DEFINITION OF OCEAN-GOING VESSELS AND FEDERAL PREEMPTION

The At-Berth Rule arbitrarily excludes ATBs from the definition of Ocean-Going Vessels and capriciously classifies ATBs as Commercial Harbor Craft, which they are not. This arbitrary classification of ATBs as Commercial Harbor Craft will result in the control of emissions from two types of vessels with nearly-identical operational profiles – ATBs and tank ships – under separate regulatory schemes, causing an illogical,



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inefficient, costly patchwork regulatory scheme applicable to the movement of petroleum products in bulk between California ports.

The disparate regulation of ATBs and tank ships introduces unnecessary complications into the regulatory compliance burden imposed on ATB and tank ship operators. It is not clear what benefits the people of California and the broader environment of California will receive in exchange for these burdens and extra costs being imposed on vessel operators.

CARB DEFINITION OF ATBs AND OCEAN-GOING VESSELS

Section 93130.2(b)(42) of the proposed regulation order defines ATBs and Ocean-Going Vessels as follows:

“Articulated Tug Barge” means a tanker barge that is mechanically linked with a paired tug that functions as one vessel. For the purposes of this Control Measure, articulated tug barges are not considered ocean-going vessels.

“Ocean-Going Vessel” means a commercial, government, or military vessel, excluding articulated tug barges, meeting any of these criteria:

- A. A vessel greater than or equal to 400 feet in length overall as defined in 50 CFR § 679.2, as adopted June 19, 1996;*
- B. A vessel greater than or equal to 10,000 gross tons under the convention measurement (international system) as defined in 46 CFR § 69.51-.61, as adopted September 12, 1989; or*
- C. A vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.*

The Initial Statement of Reasons (ISOR) provides the following rationale for the exclusion of ATBs from the definition of Ocean-Going Vessels as follows:

“When an articulated tug barge is fully connected, it may meet the definition of an ocean-going vessel, as defined in this chapter (Section 93130.2(b)). However, despite being defined as a subcategory of tankers, articulated tug barges are considered a barge and a tug separately. As such, they are considered a harbor craft instead of an ocean-going vessel, and must comply with the requirements of CARB’s Commercial Harbor Craft Regulation and not of this Proposed Regulation.”

The ISOR explanation appears to be based on circular logic and incorrect, the mistaken nature of which contradicts applicable federal law and Coast Guard rules regulating the type of vessel (ocean-going) that CARB’s proposed rule considers “harbor craft”.

First, the explanation implies that ATBs only meet one of the three conditions to classify as an Ocean-Going Vessel when those ATBs are fully connected. This argument is erroneous. Crowley currently operates 17 ATB units, comprised of a total of 17 ATB tugboats and 17 ATB barges, for a total of 34 individual vessels. Over seventy percent of those vessels (25 tugs or barges) meet one of the conditions to classify as an ocean-going vessel, *individually*. Stated differently, the majority of the tugs and barges in Crowley’s ATB fleets classify as ocean-going vessels, individually, based on the conditions that CARB itself has outlined for ocean-going vessels (i.e., length, tonnage, or per-cylinder displacement).

Regulatory treatment of ATB components as individual vessels by the Federal Government was first set forth in Coast Guard Inspection Guidance Regarding Integrated Tug Barge Combinations, NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2 - 81 (NVIC 2-81), which classifies the type of ATBs operated by Crowley as "Dual Mode ITBs". For purposes of regulation of ocean-going vessels, NVIC 2-81 applies Federal statutes and Coast Guard regulations to tug barge combinations. To the extent CARB's proposed classification of ATB tugs as Harbor Craft, therefore, treats ocean-going ATB tugs as other than "ocean-going vessels", CARB's proposed rule is preempted by federal law.

In effect, CARB appears to have taken a position that:

- Even though the majority of Crowley's ATB tugs and ATB barges are by definition ocean-going vessels *when considered individually*
- All of Crowley's ATB units meet the conditions to classify as an ocean-going vessel when connected as a unit
- All of the ATBs tugs and barges functionally operate connected as a unit
- None of the ATBs are ocean-going vessels

Second, the ISOR explanation appears to state that simply because a barge and a tug are barges and tugs, they are not ocean-going vessels. There is no explanation for why a barge and a tug, even if they meet *CARB's own conditions for ocean-going vessels* are classified as harbor craft and not ocean-going vessels. Again, CARB's regulation is preempted by applicable federal statutes and U.S. Coast Guard regulations that occupy the field of vessel regulation in interstate commerce and conflicts with the proposed rulemaking.

Here, CARB appears to have taken the position that:

- An ocean-going vessel is a vessel that meets one of three conditions
- A tug or a barge that meets one of those three conditions is not an ocean-going vessel because it is a tug or a barge

The exclusion of ATBs from the definition of ocean-going vessels appears to be based on an inaccurate understanding of the length, tonnage, and per-cylinder displacement of many tugs and barges in ATB units, and to be based on circular logic. The mistaken application also in conflict with applicable federal law and regulation administered in the fields of marine safety, vessel operation and design by the U.S. Coast Guard.

OPERATIONAL PROFILE OF ATBs AND OCEAN-GOING TANK SHIPS

Crowley's ATBs are, from a trading perspective, the effective equivalent of ocean-going tankers.

Crowley operates Medium Range and Aframax tank ships, as well as ATBs, in California. Crowley therefore knows from direct experience that Crowley ATBs:

- Call the same petroleum terminals in California that are called by Crowley managed tank ships (for example, Chevron Richmond, Shell Martinez, Phillips Rodeo, Shell Mormon Island).
- Carry the same cargoes that are carried by Crowley-managed tank ships. Both ATBs and tank ships carry refined petroleum products and (in some cases) crude oil.
- Conduct operations in a manner equivalent to those conducted by Crowley managed tank ships. Both ATBs and tank ships transit California waters bound to a petroleum terminal, conduct cargo operations at the terminal, and then depart California waters for their next port of call.

Crowley also operates harbor tugboats in California. Crowley therefore knows, from direct experience, that Crowley ATB operational profiles are not at all similar to those of commercial harbor tugboat operational profiles. Figure 1 (below) demonstrates the similarities between ATB and tank ship operational profiles and the distinctions between ATB and commercial harbor tug profiles.

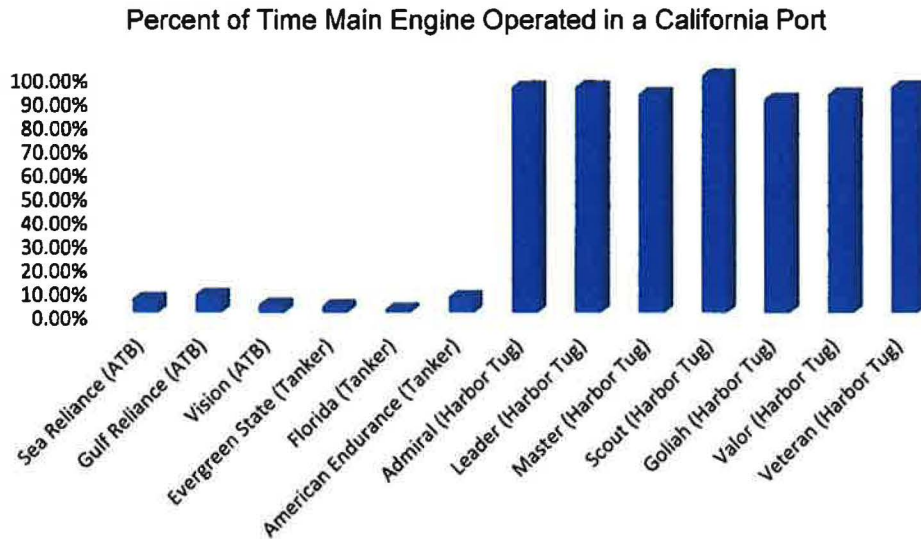


Figure 1: Percent of time a selection of Crowley-managed ATB, tank ship, and harbor tugboats operated their main engines in California ports during the first half of 2019.

SUMMARY

The At-Berth Rule arbitrarily excludes ATBs from the definition of Ocean-Going Vessels. This exclusion appears to be based on a misunderstanding of the characteristics of ATBs and associated circular logic. The exclusion is also inconsistent with the actual operational profiles of ATBs and is preempted by applicable federal laws relating to ocean-going vessels and, therefore, violates the Commerce Clause of the U.S. Constitution.

For these reasons, Crowley asks that CARB remove the exclusion of ATBs from the definition of Ocean-Going Vessels in the final At-Berth Rule and regulate ATBs as Ocean-Going Vessels – not as harbor craft.

Yours respectfully,
CROWLEY MARITIME CORPORATION

 Art Mead
 Vice President & Chief Counsel,
 Government and Regulatory