



California Air Resources Board
Marine Notice 2011-3



November 2011
Advisory to Owners or Operators of Ocean-Going Vessels
Visiting California Ports

Noncompliance Fee Provision Information and Submittal Forms

Regulation on Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels within California Waters and 24 Nautical Miles of the California Baseline

The purpose of this Marine Notice (which replaces Marine Notice 2009-7) is to advise owners and operators of ocean-going vessels of the noncompliance fee provision in California’s regulation establishing fuel sulfur requirements for ocean-going vessels (“regulation”). This regulation imposes fuel sulfur limits on vessels in Regulated California Waters (a zone approximately 24 nautical miles seaward of the California baseline; see Attachment A), or moor, dock, or otherwise visit a California port, roadstead, or terminal facility (“port”). This regulation was amended by the Air Resources Board in June, 2011, and the amended requirements will be enforced beginning on December 1, 2011. Marine Notice 2011-1 and 2011-2 summarize the requirements in the amended regulation. The full regulatory language can be found in 13 CCR §2299.2, and 17 CCR §93118.2. It can also be found at ARB’s website at: <http://www.arb.ca.gov/regact/2011/ogv11/ogv11.htm>.

The fuel requirements in the amended regulation are summarized in Table 1 below. These fuel requirements apply to ocean-going vessel main (propulsion) diesel engines, auxiliary diesel engines, and auxiliary boilers when operating within Regulated California Waters.

Table 1: Fuel Requirements for Ocean-going Vessel Main (Propulsion) Diesel Engines, Auxiliary Diesel Engines, and Auxiliary Boilers

Fuel Requirement	Effective Date	Percent Sulfur Content Limit
Phase I	July 1, 2009	Marine gas oil (DMA) at or below 1.5% sulfur; or Marine diesel oil (DMB) at or below 0.5% sulfur
	August 1, 2012*	Marine gas oil (DMA) at or below 1.0% sulfur; or Marine diesel oil (DMB) at or below 0.5% sulfur
Phase II	January 1, 2014	Marine gas oil (DMA) or marine diesel oil (DMB) at or below 0.1% sulfur

* The marine gas oil (DMA grade fuel) sulfur limit will be reduced from 1.5% to 1% beginning on August 1, 2012, consistent with the 1% fuel sulfur limit specified under the North American Emission Control Area established under the International Maritime Organization.

The regulation allows affected persons to pay a non-compliance fee instead of using the specified fuels. The payment of fees under the Noncompliance Fee Provision (NFP) is allowable only under specific and limited circumstances (see Attachment B for the circumstances).

If you elect to use the noncompliance fee provision, you must notify ARB before your vessel enters Regulated California Waters (notification is not required if you do not plan to use this provision).

For your convenience, we are providing a **suggested notification form in Attachment C (Form OGV-2A)**. This form may be submitted by facsimile, electronic-mail, or phone to:

Air Resources Board
Attention: Ship NFP Notification; Ms. Lynsay Carmichael Layla
Gonzalez
FAX: (916) 327-6251
E-mail: OGVFuelRule@arb.ca.gov or
lynsay.carmichael@arb.ca.gov lgonzale@arb.ca.gov
Phone: 877-808-7447

We are also providing a **suggested payment form in Attachment D (Form OGV-2B)**. You must pay the applicable fee before leaving the last California port of this voyage or a later date agreed to by ARB. To request a later date for submittal of payment or supporting documentation, please contact Ms. Layla Gonzalez at the e-mail address or phone number listed above.

When the payment is submitted, you must also provide ARB with the supporting information required by the regulation for the applicable reason for noncompliance (see Attachment B). The type of supporting information required will depend on the reason for using the NFP. The information in Attachment D and the required supporting information may be submitted by facsimile, electronic-mail, or mailed with payment to:

Air Resources Board
Attention: Accounting
P.O. Box 1436
Sacramento, CA 95812-1436

Persons whose vessels do not meet the regulation requirements when the vessels enter Regulated California Waters will be in violation of the regulation. Persons in violation of the regulation are subject to substantial civil and criminal penalties as provided under California Health and Safety Code, section 42400 et seq. and other applicable provisions of California law.

PAYMENT INFORMATION

Noncompliance Fees should be made payable to: AIR RESOURCES BOARD

Payment may be submitted by check, money order, wire transfer, or credit card. Please include vessel name, Lloyds/IMO #, type of vessel, company name, mailing address, contact name and title, phone number, FAX number, e-mail address, dates and ports visited under the noncompliance fee provision. You may use the suggested payment form in **Attachment D (Form OGV-2B)**.

MAILING ADDRESS:

Air Resources Board
Attention: Accounting
P.O. Box 1436
Sacramento, CA 95812-1436

WIRE TRANSFER Information:

Bank Name: Bank of America
Bank Address: Bank of America
State of California Treasurer
Interbranch to 0148
555 Capital Mall, Su 265
Sacramento, CA 95814
USA

Beneficiary: State of California - Air Resources Board
State Account Number: 01482-80005
Routing Number: 0260-0959-3

Additional Information: Provide explanation for transfer. [Ship NFP payment. Notify Lynsay Carmichael ~~SSD, Ms. Layla Gonzalez~~, when payment received by ARB]

Assistance Contact: Zina Malchenko
Administrative Services Division, Fiscal Branch
California Air Resources Board
1001 I Street
P. O. Box 1436
Sacramento, CA 95812-1436
USA
(916) 324-9907
zmalchen@arb.ca.gov

FEIN: 06-0288069

Credit Card Authorization Form

(Please Print or Type)

Owner/Operator Company Name		
Paying Company Name		
Address		
City	State	Zip
Phone #	Facsimile #	Type of Vessel
Vessel Name		Lloyds/IMO #
Port(s) Visited		Date(s)
Noncompliance Fee Amount \$		

Please charge my: **Visa** **Master Card** **American Express** **Discover**

Credit Card Holder Name	
Credit Card No.	
Expiration Date	Amount Authorized \$
Authorized Signature	Today's Date

Attachment A. Regulated California Waters



Figure 1a. Regulated California Waters

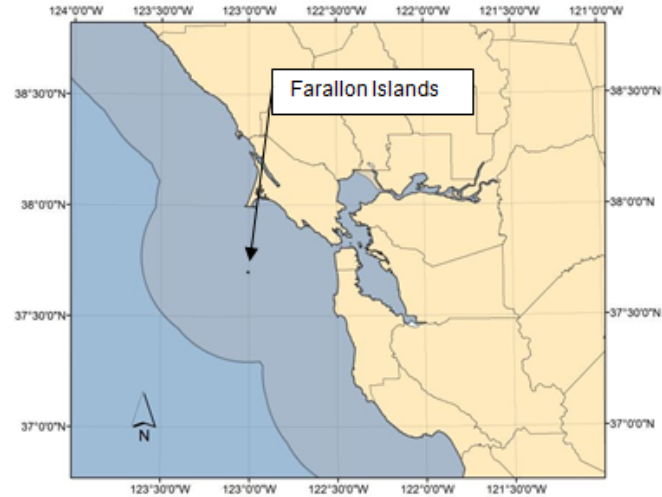


Figure 1b. Bay Area Detail

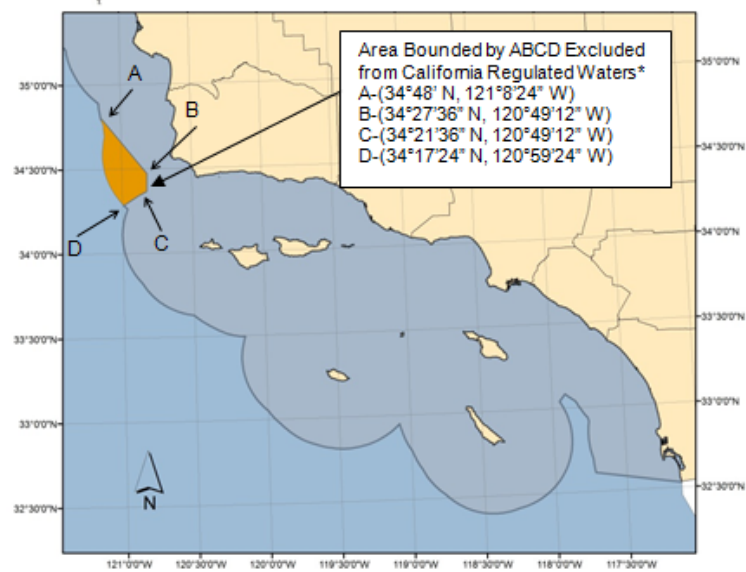


Figure 1c. Southern California Detail

*California Regulated Waters are consistent with the Contiguous Zone except for region bounded by ABCD in Figure 1c.

Attachment B

REASONS FOR NONCOMPLIANCE AS BASIS FOR USE OF THE NCF PROVISION

IMPORTANT: The following are excerpts from and adaptations of section 2299.2(h), title 13, CCR, and section 93118.2(h), title 17, CCR. They are simplified and condensed versions of the NFP requirements and do not in any way modify the requirements of those regulations. You are advised to refer to the entire regulations in 13 CCR 2299.2 and 17 CCR 93118.2 for the exact regulatory language. References to “subsections” are to the corresponding subsections in 13 CCR 2299.2 and 17 CCR 93118.2

The Executive Officer may permit a person to pay NFP fees, as shown in Attachment D (Form OGV-2B), in lieu of using the fuels specified in subsection (e)(1) of the regulations provided the person meets the requirements of the NFP as provided in (1), and (2), (3) or (4) below.

(1) Notification Requirements

For each voyage before the person’s vessel enters Regulated California Waters from waters outside Regulated California Waters, a person must notify the Executive Officer that the person will not meet the requirements of subsection (e)(1) while operating within Regulated California Waters, but the person will instead meet the requirements of this subsection (h). If the Executive Officer has not received such notice and the person enters Regulated California Waters, the person will be in violation of this section.

(2) Noncompliance for Reasons Beyond a Person’s Reasonable Control

Demonstration of Need: The person shall, through adequate documentation, demonstrate to the Executive Officer’s satisfaction that the person’s noncompliance with the requirements of subsection (e)(1) of the regulations is beyond the person’s reasonable control. Please provide documentation that noncompliance is beyond your reasonable control. “Beyond your reasonable control” applies only when one or more of the following sets of circumstances (1, 2, or 3) applies:

1. *Unplanned Redirection.*
This provision applies only when all of the following criteria are met:
 - a. after leaving the last port of call, the person’s vessel was redirected from his/her original, officially logged, non-California destination to a California port, roadstead, or terminal facility (“port”); and
 - b. the vessel does not contain a quantity of fuel sufficient for the auxiliary engines, main engines, and auxiliary boilers to meet the requirements of subsection (e)(1).
2. *Inadequate Fuel Supply.*
This provision applies only when all of the following criteria are met:
 - a. the person made good faith efforts to acquire a quantity of fuel sufficient for the vessel’s auxiliary engines, main engines, and auxiliary boilers to meet the requirements of subsection (e)(1); and
 - b. the person was unable to acquire fuel sufficient for the auxiliary engines, main engines, and auxiliary boilers to meet the requirements of subsection (e)(1).
3. *Inadvertent Purchase of Defective Fuel.*
This provision applies only when all of the following criteria are met:
 - a. based on the fuel supplier’s certification of the fuel specifications, the person reasonably believed, and relied on such belief, that the fuel the person purchased on the route from the vessel’s home port to California would enable the auxiliary engines, main engines, and auxiliary boilers to meet the requirements of subsection (e)(1);

- b. the person determined that the vessel's auxiliary engines, main engines, and auxiliary boilers in fact will not meet the requirements of subsection (e)(1) using any of the fuel purchased under paragraph 3.a. above; and
- c. the vessel is already on its way to California, and there are no other ports of call on the vessel's route where fuel can be purchased sufficient to meet the requirements of subsection (e)(1).

(3) Noncompliance Because Vessel Needs to be Taken Out of Service for Modifications to Meet the Regulation

If a person cannot meet the requirements of subsection (e)(1) without vessel modifications, and such modifications cannot be completed prior to the effective date of subsection (e)(1) (i.e., July 1, 2009), the Executive Officer may permit the person to pay NFP fees. The vessel must be scheduled to complete the necessary modifications (e.g. during a dry dock operation) as soon as possible, but no later than December 31, 2014.

Demonstration of Need: For this provision to apply, the person shall meet all of the following criteria and provide the necessary documentation to the Executive Officer:

The person shall provide the Executive Officer a Compliance Retrofit Report, signed by the Chief Engineer of the person's vessel, which:

1. identifies the specific vessel modifications ("modifications") (e.g., installation of additional fuel tanks) the person plans to use for meeting the requirements of subsection (e)(1);
2. identifies the specific date by which the modifications will be completed (e.g., while the vessel is in dry dock); and
3. demonstrates to the satisfaction of the Executive Officer that the modifications will be made at the earliest possible date (e.g., the vessel has been scheduled for the earliest available dry dock appointment).

Within ten (10) business days after the scheduled or actual completion of the modifications, whichever occurs first, the person shall provide written certification to the Executive Officer that the modifications specified under subsection (h)(3) have been completed. If the modifications have not been completed, the person shall certify which modifications have been completed, which have not, and the anticipated completion date for the remaining modifications. The notification requirement specified in this paragraph, the notification requirements in subsection (h)(1) above, and the NCF fee provisions shall apply until all the modifications have been completed.

(4) Noncompliance Because the Vessel Is an Infrequent Visitor and Needs Modifications to Meet the Regulation

If a person cannot meet the requirements without modifications for the vessel at issue, and that vessel will make no more than two California port visits per calendar year, and no more than 4 California port visits after July 1, 2009 during the life of the vessel, noncompliance fees may be paid according to the NFP fee schedule in Attachment D (Form OGV-2B).

Attachment C
**Ship Noncompliance Fee Provision Notification Form
Form OGV-2A**

(page 1 of 2)

Form OGV-2A should be filed with the ARB before your vessel enters Regulated California Waters.

If you intend to use the Noncompliance Fee Provision (NFP), you must notify the ARB as required under the regulation before your vessel enters Regulated California Waters (notification is not required if you do not plan to use this provision). For your convenience, we are providing you with this suggested notification form (Form OGV-2A). You are not required to use this form to notify the ARB. Regardless of how you submit the information, you will be subject to substantial penalties under State law if you fail to disclose your noncompliance and the reason(s) for noncompliance before your vessel enters Regulated California Waters. You will also be subject to penalties if you fail to pay the noncompliance fee before you leave the last California port of this voyage or by a later date agreed upon by the ARB. A suggested form to submit payment is provided in Attachment D (Form OGV-2B). Form OGV-2A or similar information may be submitted by facsimile, electronic-mail, or phone to:

Air Resources Board

Attention: Ship NFP Notification; Lynsay Carmichael

FAX: (916) 327-6251

E-mail: OGVFuelRule@arb.ca.gov or

lynsay.carmichael@arb.ca.gov ~~pmilkey@arb.ca.gov~~

Phone: 877-808-7447

Ship and Contact Information

Vessel Name: _____

Lloyds/IMO #: _____

Country Flag: _____

Type of Vessel: _____

Company Name: _____

Mailing Address: _____

Contact Person: _____

Title: _____

Phone: _____

FAX: _____

Email: _____

Ship Noncompliance Fee Provision Notification Form Form OGV-2A (page 2 of 2)

Reason For Non-Compliance (check whichever applies; see Attachment B)

The following are the ONLY permissible reasons, as specified under the Noncompliance Fee provision. **You must also provide the supporting information for the applicable noncompliance reason to the ARB’s Executive Officer before your vessel leaves Regulated California Waters or a later date agreed to by ARB (see Attachment B for the required supporting information).**

- Reasons Beyond a Person’s Reasonable Control – check a., b., or c. below**
 - a. Unplanned Redirection to a California Port (see Attachment B)
 - b. Inadequate Fuel Supply (see Attachment B)
 - c. Inadvertent Purchase of Defective Fuel (see Attachment B)
- Vessel Needs to be Removed From Service for Modifications to Meet the Regulation (see Attachment B)**
- Vessel Is an Infrequent Visitor that Needs Modifications to Meet the Regulation (see Attachment B)**

Ports Your Vessel will Visit During This Voyage to and from California

List all stops at a port, roadstead, or terminal facility while in Regulated California Waters, as well as all moorings (i.e., ship drops anchor) at an offshore location in Regulated California Waters, while your vessel is in noncompliance.

Name of California Port or Location (Longitude & Latitude) of Mooring	Expected Date

Add additional ports or locations of moorings on separate sheet if needed.

Certification: I am an officer and authorized representative of the company listed in Form OGV-2A and hereby certify that all information entered on this Noncompliance Fee Notification is complete and accurate to the best of my knowledge and belief.	
Print Name:	Title:
Signature:	Date:

Attachment D

**Ship Noncompliance Fee Payment Form
Form OGV-2B**

(page 1 of 5)

Form OGV-2B should be filed with the ARB before your vessel leaves the last California port of this voyage or a later date agreed to by ARB.

If you plan to use the Noncompliance Fee Provision, you must first notify the ARB prior to entering Regulated California Waters (see Form OGV-2A). You must then provide the information required in the regulation (see Attachment B) and fee payment before your vessel leaves the last California port of this voyage. You are not required to use this form to notify ARB. Regardless of how you submit the information, if you fail to pay the noncompliance fee and submit the information required by the regulation (see Attachment B) before you leave the last California port of this voyage or by the date approved by the ARB, you will be subject to substantial penalties under State law. This form or similar information and the required supporting information may be submitted by facsimile or electronic-mail to:

Air Resources Board

Attention: Ship NFP Notification, Lynsay Carmichael Layla Gonzalez

FAX: (916) 327-6251

**E-mail: OGVFuelRule@arb.ca.gov or lynsay.carmichael@arb.ca.gov
pmilkey@arb.ca.gov**

or mailed with payment to:

Air Resources Board

Attention: Accounting

P.O. Box 1436

Sacramento, CA 95812-1436

**Noncompliance Fees should be made payable to: AIR RESOURCES BOARD
Payment may be submitted by check, money order, wire transfer, or credit card.**

Ship and Contact Information

Vessel Name: _____

Lloyds/IMO #: _____

Country Flag: _____

Type of Vessel: _____

Company Name: _____

Mailing Address: _____

Ship Noncompliance Fee Payment Form
Form OGV-2B
 (page 2 of 5)

Contact Person: _____
 Title: _____
 Phone: _____
 FAX: _____
 Email: _____

Ports Visited During Each Voyage to and from California

List all stops at a port, roadstead, or terminal facility while in Regulated California Waters, as well as all moorings (i.e., ship drops anchor) at an offshore location in Regulated California Waters, while your vessel is in noncompliance. Also note whether fuel compliant with subsection (e)(1) of the regulation was/or will be purchased at the noted port and used at this port and upon departure.

Name of California Port or Location (Longitude & Latitude) of Mooring	Date and Time of Visit or Mooring	Was Compliant Fuel Purchased and Used?

Ship Noncompliance Fee Payment Form Form OGV-2B

(page 3 of 5)

Fee Calculation

Your NFP Fee will be calculated according to the following fee schedule. Note that the fee is halved for port visits where the vessel operator purchases fuel compliant with subsection (e)(1) of the regulation and uses this fuel at this port and upon departure. "Port Visit" includes all stops at a port, roadstead, or terminal facility in Regulated California Waters, as well as all moorings (i.e., the ship drops anchor) at an offshore location in Regulated California Waters away from a port, roadstead, or terminal facility (e.g., Catalina Island or off Monterey). However, for the purposes of assessing NCP fees, offshore anchorages made in conjunction with a port visit shall not be considered as a separate port visit.

As an example of how the fees are calculated, if a vessel operator makes three port visits in the same voyage to California while using noncompliant fuel, and then purchases and uses compliant fuel at the third port visited, the total fee that you will pay will add up to \$136,500 (\$45,500 for Port 1, \$45,500 for Port 2, and \$45,500 for Port 3 because the \$91,000 fee is halved due to the purchase and use of complying fuel). Regarding the submission of this form OGV-2B, you can either submit it with the applicable fee and information required by the regulation (see Attachment B) before leaving each California port you visited while in noncompliance, or before leaving the last California port of this voyage.

Noncompliance Fee Schedule, Per Port per Vessel

Port Visit	Per-Port Visit Fee	Fee if Compliant Fuel Purchased and Used
1 st Port Visited	\$45,500	\$22,750
2 nd Port Visited	\$45,500	\$22,750
3 rd Port Visited	\$91,000	\$45,500
4 th Port Visited	\$136,500	\$68,250
5 th or more Port Visited	\$182,000	\$91,000

Fee Payment Submitted For This Voyage:

Port Visited	Fee Submitted (USD)	Date Fee Submitted	Form of Payment

TOTAL	\$
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Ship Noncompliance Fee Payment Form
Form OGV-2B
(page 4 of 5)

Noncompliance Fees should be made payable to: AIR RESOURCES BOARD

Payment may be submitted by check, money order, wire transfer, or credit card.

MAILING ADDRESS:

Air Resources Board
Attention: Accounting
P.O. Box 1436
Sacramento, CA 95812-1436

WIRE TRANSFER Information:

Bank Name: Bank of America
Bank Address: Bank of America
State of California Treasurer
Interbranch to 0148
555 Capital Mall, Su 265
Sacramento, CA 95814
USA

Beneficiary: State of California - Air Resources Board
State Account Number: 01482-80005
Routing Number: 0260-0959-3

Additional Information: Provide explanation for transfer. [Ship NFP payment. Notify SSD, Ms. Lynsay Carmichael ~~Layla Gonzalez~~, when payment received by ARB]

Assistance Contact: Zina Malchenko
Administrative Services Division, Fiscal Branch
California Air Resources Board
1001 I Street
P. O. Box 1436
Sacramento, CA 95812-1436
USA
(916) 324-9907
zmalchen@arb.ca.gov

FEIN: 06-0288069

Ship Noncompliance Fee Payment Form Form OGV-2B

(page 5 of 5)

Credit Card Authorization Information

If contact information is the same as Form OGV-2B pages 1 and 2, check here

Owner/Operator Company Name		
Paying Company Name		
Address		
City	State	Zip
Country	Phone #	FAX #

Please charge my: Visa Master Card American Express Discover

Credit Card Holder Name	
Credit Card No.	
Expiration Date	Amount Authorized \$
Authorized Signature	Today's Date

Certification

Certification: I am an officer and authorized representative of the company listed in Form OGV-2B and hereby certify that all information entered on this Noncompliance Fee Notification, including all supporting information submitted pursuant to the requirements noted in Attachments A through C, is complete and accurate to the best of my knowledge and belief.	
Print Name:	Title:
Signature:	Date: