

State of California  
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text  
and Availability of Additional Documents and Information**

**PROPOSED CONTROL MEASURE FOR OCEAN-GOING VESSELS AT BERTH**

Public Hearing Date: December 5, 2019  
Public Availability Date: March 26, 2020  
Deadline for Public Comment: May 1, 2020

At its December 5, 2019, public hearing, the California Air Resources Board (CARB or Board) considered staff's proposed amendments to title 13, division 3, chapter 5.1, section 2299.3, and title 17, division 3, chapter 1, subchapter 7.5, section 93118.3, California Code of Regulations (CCR); and adoption of new title 17, division 3, chapter 1, subchapter 7.5, sections 93130-93130.22, CCR. These amendments and new provisions would amend, and supersede in large part, the existing 2007 Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port.

The Board directed the Executive Officer to consider written comments submitted during the public review period, and to determine if additional conforming modifications to the regulation were appropriate and to make any proposed modified regulatory language available for public comment, with any additional supporting documents and information, for a period of at least 15 days in accordance with Government Code section 11346.8. The Executive Officer was directed to evaluate all comments received during the public comment periods, including comments raising significant environmental issues, and prepare written responses to such comments as required by CARB's certified regulations at California Code of Regulations, title 17, sections 60000-60007 and Government Code section 11346.9, subdivision (a). The Executive Officer was further directed to present to the Board, at a subsequently scheduled public hearing, staff's written responses to environmental comments and the final environmental analysis for consideration for approval, along with the finalized regulation for consideration for adoption.

Staff's proposed changes to the original proposed regulatory text, summarized in and attached to this notice, are sometimes referred to colloquially in this package as the "15-day changes." This term derives from the Administrative Procedure Act, which specifies that proposed changes from the originally-released regulatory text must be made available to the public for at least 15 days of review. (Cal. Gov. Code § 11346.8(c).) In this case, CARB has extended the traditional 15 day comment period.

These proposed changes provide additional operational flexibility to achieve the necessary emissions reductions in California's impacted port communities, while

encouraging continued cleaner economic growth. These changes include:

- Allowing use of an Innovative Concepts (IC) provision as a compliance option. The IC provision would enable regulated entities to use potentially lower cost options to achieve earlier or equivalent (or greater) emissions reductions in port communities versus reducing emissions directly at berth. The IC provision would also provide a pathway for regulated vessel fleets to continue using fleet averaging methods to comply with the Proposed Regulation.
- Expanding use of Vessel and Terminal Incident Events (VIEs and TIEs) to new and expanding fleets to encourage new business at California ports.
- Providing additional operational flexibility by extending the time a vessel has to connect to shore power or another CARB approved emissions control strategy (CAECS) from one hour to two hours; by extending the timeframe for reporting deadlines; and through an expansion of the remediation fund to ports and third-party CAECS operators.
- Broadening the scope of the interim evaluation to include a review of public information provided to CARB, including terminal specific engineering evaluations, logistical considerations, public engagement, and independent studies, to help inform the evaluation and implementation timeline.
- Accelerating implementation dates for ro-ro and tanker vessels to achieve earlier public health benefits.

The resolution and all other regulatory documents for this rulemaking are available online at the following [CARB website](https://ww2.arb.ca.gov):

<https://ww2.arb.ca.gov/rulemaking/2019/ogvatberth2019>

The text of the modified regulatory language is shown in Attachment A. The originally-proposed 45-day amendments to title 13, section 2299.3 and title 17, section 93118.3 are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions from the existing regulatory text. The proposed changes set forth in this notice to these two sections that are made public with this notice are shown in double underline to indicate additions, and double strikeout to indicate deletions. The other sections set forth below (sections 93130 through 93130.22) are new sections proposed in this rulemaking. Therefore, for simplicity, the originally-proposed 45-day language in those sections is shown in “normal type”, while proposed changes set forth in this notice to those sections that are made public with this notice are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this comment period that are responsive to this

notice, documents added to the record, or the changes detailed in Attachments A-D.

### **Summary of Proposed Modifications**

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity.

#### **A. Substantive Modifications**

##### 1. Modifications to Section 93130.2 Section Summary, and Definitions

###### a. Modifications to Subsection 93130.2 (b) Definitions, staff made modifications to the following definitions:

- i. In Subsection 93130.2(b)(1), staff proposes to add the definition for “Assembly Bill (AB) 617 Community Emissions Reduction Program”. This definition explains to the reader what an AB 617 community emissions reduction program is. This definition is necessary to include in the regulation language because the term is referenced in the requirements section of new section of regulation text (Section 93130.17) that staff is proposing to add to the regulation.
- ii. In Subsection 93130.2(b)(3), staff proposes to add the definition for “Ammonia Slip” to clarify that the term ammonia slip refers to unreacted ammonia through a selective catalytic reduction (SCR) system. This definition is necessary to clarify the requirements for SCR systems in Section 93130.5.
- iii. In Subsection 93130.2(b)(5), staff proposes to amend the definition for “Applicant” to include a person requesting approval for an innovative concept. The innovative concept is a new provision added to Section 93130.17, and as such, it is necessary to broaden the original definition to include persons applying for an innovative concept.
- iv. In Subsection 93130.2(b)(6), staff proposes to amend the definition for “Application” to include reference to the innovative concept in addition to a CARB Approved Emission Control Strategy (CAECS). It is necessary to establish that applications apply to both an innovative concept and a CAECS.
- v. In Subsection 93130.2(b)(20), staff proposes to amend the definition for “Commissioned Shore Power Vessel” to remove the word compatible in response to numerous public comments received expressing uncertainty about the meaning of the word

“compatible” in the wording of the original proposal. In the revised definition, staff updated the wording to state that a commissioned shore power vessel is compatible with a terminal when it has completed commissioning at a terminal. As such, the word “compatible” is redundant and no longer necessary and was removed to avoid confusion.

- vi. In Subsection 93130.2(b)(21), staff proposes to add the definition for “Compliance Period” to establish the maximum timeframe that an innovative concept may be used for compliance. The term is necessary to ensure applicants understand the timeframe an innovative concept is valid before applying (or reapplying) to use an innovative concept.
- vii. In Subsection 93130.2(b)(26), staff proposes to update the definition of “Distributed Generation” to clarify that distributed generation includes electrical power generation technologies, sources, equipment, or methods that produce electricity at or near the place of use. This change was necessary to clarify what constitutes distributed generation.
- viii. In Subsection 93130.2(b)(32), staff proposes to amend the definition for “Fleet” to specify the purpose of the fleet in regards to maintaining and authorizing the use of Vessel Incident Events (VIE). This addition is necessary to answer the question of how a vessel operator uses a VIE, and was made in response to public comments received.
- ix. Subsection 93130.2(b)(34) – Staff propose adding the definition of “g/kW-hr” to simplify and clarify the regulation text. This change is necessary for consistency and to clarify the regulation text, as the abbreviation is used a number of times throughout the regulation text.
- x. In Subsection 93130.2(b)(39), staff proposes to add the definition of “IMO Number”, where IMO stands for International Maritime Organization. This change is necessary to clarify the vessel and terminal reporting requirements.
- xi. In Subsection 93130.2(b)(40), staff proposes to add the definition of “IMO NOx tier”. This change is necessary to clarify the vessel and terminal reporting requirements.
- xii. In Subsection 93130.2(b)(42), staff proposes to add the definition of “Innovative Concept” to include an alternative compliance pathway in which applicants can achieve additional reductions near a port or

marine terminal and use the reductions for compliance. It is necessary to add this definition as the innovative concept provision is a new addition to the Proposed Regulation and was not included in the original proposal.

- xiii. Subsection 93130.2(b)(59) – Staff propose adding the definition of “ppmdv” to simplify the regulation text. This change is necessary for consistency and to clarify the regulation text, as the abbreviation is used a number of times throughout the regulation text.
- xiv. In Subsection 93130.2(b)(63), staff proposes to broaden the definition of “Ready to Work” to ensure that delays caused by any government authority with jurisdiction over a vessel visit do not impede with compliance with this regulation. This change is necessary to ensure the start of a visit occurs after a vessel is capable of being worked.
- xv. In Subsection 93130.2(b)(91), staff proposes to add language identifying that a shift from one berth to another is considered a new visit at each subsequent berth. The regulation text alludes to this scenario but the proposed changes further clarify this in the definition to avoid any misunderstanding of the definition of a visit.

## 2. Modifications to Section 93130.3 Applicability

- a. In Subsection 93130.3(b) Federal Requirements, staff proposes to add the following sentence: “Nothing in this Control Measure shall be construed to require anyone to take any action prohibited by the United States Constitution or the California Constitution.” This addition is necessary to ensure that this regulation does not supersede or conflict with federal or state constitutional provisions.

## 3. Modifications to Section 93130.5 CARB Approved Emission Control Strategy

- a. In Subsection 93130.5(a) Executive Order requirement, staff proposes to modify the original proposed regulatory language to remove the phrase “at a port or terminal”. This change is necessary to ensure that CAECS can be used on the vessel or alongside the vessel in addition to a port or terminal.
- b. In Subsection 93130.5(b)(4) Requirement to reduce emissions, staff propose to add new language to establish the innovative concept provision (added as Section 93130.17 to the regulation) as an approved compliance option for regulated entities in this regulation. This addition is necessary to ensure that entities using an innovative concept can comply with the requirements of the regulation.

- c. In Subsection 93130.5(d)(4), staff propose to add language to specify that CAECS using SCR must use a continuous emission monitor (CEM) in order to continuously test ammonia slip and oxides of nitrogen (NO<sub>x</sub>). This addition is necessary to ensure that any technology relying on an SCR to control ammonia slip and NO<sub>x</sub> must have a CEM system on it.
- d. Subsection 93130.5(d)(6) – The word “calendar” was added before the word “days”. This change is necessary for clarity and consistency with the intention of the regulation.
- e. In Subsection 93130.5(g), staff propose to delete the word “certified”. Because CARB does not have a certification program for vessel source testing, this change is necessary to be less restrictive in who can provide source testing for ocean-going vessels. However, CARB staff still expect third party testing to be completed by qualified sources with knowledge in the area of ocean-going vessel emissions testing.
- f. In Subsection 93130.5(k) Records Retention, staff propose adjusting the time allowed for a regulated party to return information when requested by CARB staff from 30 days to 10 days. This change is necessary to ensure CARB enforcement staff are provided with requested information in a timely manner to aid in the determination of a visit’s compliance, and for consistency with the same change proposed in Sections 93130.7(g), 93130.9(g), and 93130.12(e).

#### 4. Modifications to Section 93130.6 Opacity Requirements

- a. In Section 93130.6 Opacity Requirements, staff propose amendments to clarify the methodology to be used to analyze opacity to ensure that readers understand the methodology that will be used to assess opacity. Staff also added language to recognize that alternative test methods for opacity may be used upon written approval from the Executive Officer. In public comments, use of the United States Environmental Protection Agency’s (U.S. EPA) Alternative Method 082 was suggested to measure opacity. Although this alternative wasn’t incorporated into the regulation language because of the emissions stack size limitations of the method, the modification to the original proposal is necessary to ensure that a suitable alternative standard could be considered to be used to determine opacity.

#### 5. Modifications to Section 93130.7 Vessel Operator Requirements

- a. In Subsection 93130.7(a) Shore power requirements for at berth emission reductions, staff propose amendments to clarify the requirement for terminals to plug-in commissioned shore power vessels. The concept of a

compatible shore power vessel was removed and replaced with compatibility being based on the vessel successfully commissioning. This change is necessary to provide clarity to regulated entities as to what constitutes a commissioned shore power vessel, and is critical as it plays a role in determining who is responsible for violations when emissions are not reduced from shore power capable vessels at berth.

- b. In Subsection 93130.7(b) Requirements for vessel auxiliary engines, staff propose amendments to the compliance start dates for controlling auxiliary engines for roll on-roll off vessels to 2024, tanker vessels visiting the Ports of Los Angeles (LA) and Long Beach (LB) to 2025, and all remaining tanker vessels to 2027. This change is proposed in direct response to CARB Board's request at its December 5, 2019 meeting to accelerate implementation dates in order to achieve earlier public health benefits from the regulation.
- c. In Subsection 93130.7(c) Requirements for tanker auxiliary boilers on tanker vessels with steam driven product pumps, staff propose amendments to the compliance start dates for controlling tanker auxiliary boilers for tanker vessels at the Ports of LA/LB to 2025, and all remaining tanker vessels to 2027. This change is proposed in direct response to CARB Board's request at its December 5, 2019 meeting to accelerate implementation dates in order to achieve earlier public health benefits from the regulation.
- d. In Subsection 93130.7(e) Vessel compliance checklists, staff propose the following modifications:
  - i. In Subsection 93130.7(e)(2), staff propose amendments to add ports as entities that can require commissioning. The original proposal only listed terminals, so this change is necessary to expressly allow ports to be the entity requiring commissioning of a vessel prior to connecting it to shore power.
  - ii. Subsection 93130.7(e)(3), staff propose amendments to the time requirement for vessels to begin controlling emissions from within 1 hour after "Ready to Work" to within 2 hours after "Ready to Work". This change is necessary to address vessel and terminal operator concerns with meeting the 1 hour requirement from the original proposal when common issues (such as equipment malfunctions, connection issues, and labor delays) arise.
  - iii. In Subsection 93130.7(e)(4), staff propose the following modifications:
    - i. The allowable timeframe for vessel operators to report visit

information be increased from 7 days to 30 days. This change is necessary to address vessel and terminal operator concerns with meeting the reporting timeframe in the original proposal.

- ii. In Subsection 93130.7(e)(4)(A), adding “fleet name” to the vessel’s reporting requirements. This change is necessary to ensure that fleet names are reported with each visit, as that is how VIEs are determined (in Section 93130.11 of the regulation).
  - iii. In Subsection 93130.7(e)(4)(E), adding reporting of a vessel’s IMO NOx tier to the vessel’s reporting requirements. This addition is necessary because the IMO NOx tier of a vessel has an impact on the remediation fund amount due if a remediation fund is used during a visit.
  - iv. In Subsection 93130.7(e)(4)(S), amending language to clarify the reporting requirements in the event a vessel uses the remediation fund during a visit. These changes were necessary to clarify how to report use of the remediation fund, and to specify that remediation fund usage must be requested and is not automatically approved through reporting of an incident.
  - v. In Subsection 93130.7(e)(4)(T), amending language to clarify the reporting requirements in the event a vessel uses a TIE or VIE during a visit. These changes were necessary to clarify how to report use of a TIE or VIE.
  - vi. In Subsection 93130.7(e)(4)(U), adding reporting requirements for vessel operators using an innovative concept to comply with the regulation instead of using a CAECS on a vessel to reduce emissions at berth during a visit. This addition is necessary as a direct result of new language staff propose adding to the regulation in Section 93130.17.
- e. Subsection 93130.7(f) was consolidated in a new section (Section 93130.19) along with other identical subsections throughout the document. This change was made to shorten and simply the regulation text.
- f. In Subsection 93130.7(g) Records retention, staff propose adjusting the time allowed for a regulated party to return information when requested by CARB staff from 30 days to 10 days. This change is necessary for

consistency with the same change proposed in Sections 93130.5(k), 93130.9(g), and 93130.12(e).

#### 6. Modifications to Section 93130.8 Vessel visit exceptions

- a. In Subsection 93130.8(d), staff propose to broaden the exception for research projects. CARB recognizes that there are times when valuable research could further the efforts of technology for controlling emissions. Broadening this research exception is necessary to allow for vessels to remain compliant with the regulation if their research precludes a vessel visit from reducing emissions at berth as required by the regulation, especially if the research task is to test a new potentially viable compliance strategy.
- b. In Subsection 93130.8(g), staff propose to amend the language to clarify that the at berth emission reduction requirements of section 93130.7 and section 93130.9 of this Control Measure do not apply during a vessel's visit if the vessel fleet uses a VIE or the terminal operator uses a TIE specified in section 93130.11 of this Control Measure. This addition is necessary to clarify what requirements of the regulation are covered by the use of a TIE or VIE.
- c. In Subsection 93130.8(h), staff propose to amend the language to clarify that the at berth emission reduction requirements of section 93130.7 and section 93130.9 of this Control Measure do not apply during the portion of a vessel's visit that qualifies and uses the remediation fund option in section 93130.15 of this Control Measure. This addition is necessary to clarify what requirements of the regulation are covered by the use the remediation fund.
- d. Staff propose to add Subsection 93130.8 (i) to provide a vessel operator with instructions for how to use an exception when using an innovative concept to comply with the regulation. This addition is necessary to ensure that vessel visits utilizing an innovative concept are able to comply with the regulation even if emissions are not reduced while a vessel is at berth.

#### 7. Modifications to Section 93130.9 Terminal Operator Requirements

- a. In Subsection 93130.9 (a) Shore power requirements for at berth emission reductions, staff propose the following modifications:
  - i. In Subsection 93130.9(a), staff amended language throughout subsection (a) to include ports as entities with the responsibility to commission vessels. This change is necessary based on comments CARB staff received stating that ports sometimes were

responsible for requiring vessel's to commission, and that it is not always the responsibility of the terminal operator.

- ii. In Subsection 93130.9(a)(1), staff deleted the word “compatible” from the regulation language. This change is necessary to eliminate stakeholder confusion about what made a shore power vessel “compatible”, and align this subsection with the revised definition of “commissioned shore power vessel” in subsection 93130.2(b)(20). Subsection 93130.9(a)(1) emphasizes the requirement that a terminal must accommodate a vessel that has previously been commissioned. If a terminal has accommodated a vessel once, they are expected to find a way to accommodate them again.
  - iii. In Subsection 93130.9(a)(2), proposed language is added to clarify that a terminal operator's responsibility to commission shore power vessels exists when the vessel is berthed with shore power facing the wharf. This addition is necessary to ensure that terminal operators are not held responsible for connecting a vessel to shore power if that vessel does not have a connection point on the side that a terminal can berth the vessel. For example, if a terminal is only able to accommodate a vessel berthing on the port side, then they do not have an obligation to commission the shore power on a vessel that only has a starboard side connection point. In this case, the vessel would be responsible for making shore power commissionable with the terminal, including moving their shore power connection box or installing shore power on both sides of the vessel.
- b. In Subsection 93130.9(d) Terminal operator compliance checklist, staff propose the following modifications:
- i. In Subsection 93130.9(d)(4), added language to clarify requirements for connecting a vessel to shore power or another CAECS. This change from the original Proposed Regulation is necessary to specify that these requirements apply to all CAECS, not only shore power.
    - 1. Subsection 93130.9(d)(4)(B) and (C) amendments to the time requirement for vessels to begin controlling emissions from within one hour after “Ready to Work” to within two hours after “Ready to Work”. This change is necessary to address concerns that vessel and terminal operators have with meeting the one hour requirement from the original proposal when common issues (such as equipment malfunctions, connection issues, and labor delays) arise.

The proposed language is also changed to clarify that the connection time requirement pertains to any CAECS, not just shore power.

- ii. In Subsection 93130.9(d)(5), staff propose amending the time to submit visit information from 7 days to 30 calendar days to be consistent with the changes made to Sections 93130.7 (e)(4) and 93130.15(c). This change is necessary to ensure consistent reporting requirements in the regulation language.
  - i. In Subsection 93130.9(d)(5)(C), staff propose amending language to include reporting of a vessel's type. This information is necessary for consistency with the vessel reporting requirements in Subsection 93130.7(e), and is critical because control requirements of the regulation depend on vessel type.
  - ii. In Subsection 93130.9(d)(5)(D), staff propose amending language to include reporting of a vessel's IMO NOx tier. This addition is necessary because the IMO NOx tier of a vessel affects the remediation fund amount due if a remediation fund is used during a visit.
  - iii. In Subsection 93130.9(d)(5)(N), staff propose amending the language to clarify the reporting requirements in the event a vessel uses the remediation fund during a visit. These changes were necessary to clarify how to report use of the remediation fund, and to specify that remediation fund usage must be requested and is not automatically approved through reporting of an incident.
  - iv. In Subsection 93130.9(d)(5)(O), staff propose amending the language to clarify the reporting requirements in the event a vessel uses a TIE or VIE during a visit. These changes were necessary to clarify how to report use of a TIE or VIE.
  - v. In Subsection 93130.9(d)(5)(P), staff propose amendments to include reporting requirements for terminal operators using an innovative concept to comply with the regulation instead of using a CAECS on a vessel to reduce emissions during a visit.
- c. Subsection 93130.9(e) was consolidated in a new section (Section 93130.19) along with other identical subsections throughout the document. This change was made to shorten and simplify the regulation text.

- d. In Subsection 93130.9(g) Records retention, staff propose adjusting the time allowed for a regulated party to return information when requested by CARB staff from 30 days to 10 calendar days. This change is necessary for consistency with the same change to Section 93130.5(k), 93130.7(g), and 93130.12(e)
8. Modifications to Section 93130.10 Terminal Exceptions
- a. In Subsection 93130.10(c) Vessel commissioning, staff propose adding language to be consistent with the vessel exception for commissioning in Subsection 93130.8(c). This change is necessary to identify that the exception for commissioning applies to terminal operators as well as vessel operators because commissioning must occur when using shore power to ensure safe operation of the system.
  - b. In Subsection 93130.10(e) Research, staff propose updates consistent with the changes made to Subsection 93130.8(d). This is necessary to allow for a broader exception for research projects.
  - c. In Subsection 93130.10(h) Innovative concept, staff propose updates to be consistent with changes made to Subsection 93130.8(i). This addition is necessary to ensure that terminal operators utilizing an innovative concept are able to comply with the regulation even if emissions are not reduced while a vessel is at berth.
9. Modifications to Section 93130.11 Vessel Incident Events (VIE) and Terminal Incident Events (TIE)
- a. In subsection 93130.11(a), staff propose amending the language to include the phrase “excluding those visits made under an innovative concept in Section 93130.17 of this Control Measure”. This additional language is necessary to clarify that visits for which an innovative concept provision is used to comply with the regulation are not included in the total number of vessel visits used for determining how many VIEs and TIEs will be issued to the fleet.
  - b. In Subsection 93130.11(b), staff propose to update the VIE and TIE table to reflect the proper TIE and VIE rates for the proposed adjustments to the implementation dates for roll on-roll off (ro-ro) and tanker vessels. This is necessary to provide VIEs and TIEs at appropriate levels for these categories based on their new compliance start dates. Compliance years 2029 and 2030 were also struck from the table, as they are no longer relevant due to the proposed change in implementation dates.
  - c. Staff propose adding a new Subsection 93130.11(c) Request for TIEs and

VIEs in order to provide a process for fleets and terminals to request additional TIEs or VIEs when an increase in activity is anticipated, or for new fleets or terminals that would not have historical visit information to determine TIEs or VIEs. This section is necessary to ensure fleets and terminals have the ability to plan for growth, and to allow for new businesses to enter the California market. When a request for TIEs or VIEs is approved, the number of TIEs or VIEs granted would be based on a percentage of the upcoming year's anticipated visits instead of the current year's visits. A fleet or terminal operator that receives additional TIEs and VIEs under this provision is responsible for not using more TIEs and VIEs than they would receive based on their actual activity in the year. The process allows for CARB staff to review the vessel visit activity and issue a violation for noncompliance if excess VIEs and TIEs are used.

- d. In Subsection 93130.11(d), staff have added the words "for which" to make a clause consistent with the other clauses in the same subsection.

#### 10. Modifications to Section 93130.12 CAECS Operator Requirements.

- a. In Subsection 93130.12(b) CARB approved emission control strategy checklist, staff propose the following changes:
  - i. In Subsection 93130.12(b)(2), staff propose amendments to the time requirement to begin controlling emissions from within one hour after "Ready to Work" to within two hours after "Ready to Work" to be consistent with the changes made in section 93130.7(e)(3). This change is necessary to address concerns that vessel and terminal operators have with meeting the 1 hour requirement from the original proposal when common issues (such as equipment malfunctions, connection issues, and labor delays) arise.
  - ii. In Subsection 93130.12(b)(3), staff propose the following modifications for consistency with changes made to Subsection 93130.7(e)(4):
    - i. The allowable timeframe for reporting a vessel visit increased from 7 days to 30 days. This change is necessary to address concerns that vessel and terminal operators have with meeting the reporting timeframe in the original proposal.
    - ii. In Subsection 93130.12(b)(D), staff proposed adding language requiring the reporting of a vessel's IMO NOx tier to the vessel's reporting requirements. This addition is necessary because the IMO NOx tier of a vessel affects the remediation fund amount due if a remediation fund is used

during a visit.

- iii. In Subsection 93130.12(b)(H), staff propose adding language requiring the reporting of a CAECS operator's contact information. This addition is necessary to provide CARB enforcement staff with contact information in case additional follow-up is required.
- iii. Staff propose to create a new Subsection 93130.12(c), to move malfunction reporting and recordkeeping requirements out of the CAECS compliance checklist section and in its own separate section for better clarity. In this new subsection, staff propose multiple amendments to change some reporting requirements from the original proposal into recordkeeping requirements (versus reporting), which were moved to a separate subsection 93130.12(c)(2). The changes in this subsection are critical to streamlining the reporting requirements and lessen the burden on reporting for CAECS operators.
- iv. In Subsection 93130.12(e) Records retention, staff propose adjusting the time allowed for a regulated party to return information when requested by CARB staff from 30 days to 10 days. This change is necessary for consistency with the same change to Section 93130.5(k), 93130.7(g), and 93130.9(g).
- v. Subsection 93130.12(f) was consolidated in a new section (Section 93130.19) along with other identical subsections throughout the document. This change was made to shorten and simplify the regulation text.

#### 11. Modifications to Section 93130.13 Port Requirements

- a. Staff proposes adding Subsection 93130.13(b) Shared responsibility with terminals, to specify that ports share responsibility with terminals to reduce emissions on vessels at a terminal. The language states that ports must outline their responsibilities in their port plan, meaning they can be held responsible for violations that are the port's responsibility. This addition is necessary to ensure ports understand that the responsibilities of the port in the port plan are tied to compliance with a vessel visit.

#### 12. Modifications to Section 93130.14 Terminal and Port Plans and Interim Evaluation

- a. Staff propose the following modifications to Subsection 93130.14(a) Terminal plans:

- i. In Subsection 93130.14(a)(2)(F), staff propose adjusting the submittal dates by one year for ro-ro terminals (from 2024 to 2023) and by two years for tanker terminals (from 2026 to 2024 for tankers at Ports of Los Angeles and Long Beach, and from 2028 to 2026 for all remaining statewide tanker terminals). This change is proposed in response to the adjusting of implementation dates in Section 93130.5(b) and (c).
  - ii. In Subsection 93130.14(a)(3), staff propose adding "such that the terminal is capable of meeting compliance requirements by the implementation date listed in Table 1". This change is necessary to ensure that terminal plans include a discussion of any necessary infrastructure modifications that are needed to reduce emissions from ocean-going vessels and are done within a time frame that will allow the terminal to comply with the required implementation date for their vessel category as listed in Table 1.
  - iii. In Subsection 93130.14(a)(4), staff propose adding language to specify that the division of responsibilities between a terminal operator and port (as applicable) must be signed by the port's Responsible Officer. This addition is necessary to ensure that terminal and ports are submitting an agreed upon division of responsibilities. This is intended to assist with CARB enforcement's determination of which party may ultimately be held responsible for any uncontrolled emissions during a regulated vessel visit.
- b. Staff propose the following modifications to Subsection 93130.14(b) Port plans:
  - i. In Subsection 93130.14(b)(3), staff propose adding " such that each terminal at the port is capable of meeting compliance requirements by the implementation dates listed in Table 1". This change is necessary to ensure that port plans include a discussion of any necessary infrastructure modifications that are needed to reduce emissions from ocean-going vessels and are done within a time frame that will allow each of their regulated terminals to comply with the required implementation date for their vessel category as listed in Table 1.
  - ii. In Subsection 93130.14(b)(4), staff propose to delete the phrase "If port plan schedules are not met, they are subject to enforcement actions". This deletion is necessary in order to avoid penalizing terminals and ports that are unable to meet their original plan timelines, which could potentially be due to circumstances outside their control (such as construction or permitting delays).

Staff also propose to add language to specify that the division of responsibilities between a terminal operator and port (as applicable) must be signed by the port's Responsible Officer. This additional language is necessary to ensure consistency with language added to Subsection 3130.14(a)(4).

- c. In Subsection 93130.14(d), staff propose adding language specifying that the interim evaluation will include a review of:
- Potential requirements for control technologies for use with bulk and general cargo vessels, and for ocean-going vessels at anchor;
  - Information provided by port and terminal plans;
  - Other public information provided to CARB, including terminal specific engineering evaluations, logistical considerations, public engagement, and independent studies that inform the implementation timeline.

These additions are necessary to provide more specificity to the interim evaluation and are proposed in direct response to direction given to staff by CARB's Board at the December 5, 2019, public Board meeting.

Staff also propose adjusting the date of the interim evaluation from July 1, 2023 to December 1, 2022. This change is due to the adjustment of implementation dates in Section 93130.7(b) and (c), and is necessary to provide more time for CARB staff to review the progress of emissions control technologies and necessary infrastructure improvements for ro-ro and tanker vessels ahead of their implementation dates.

### 13. Modifications to Section 93130.15 Remediation Fund Use

- a. Staff propose the following modifications to Subsection 93130.15(b):
- i. Adding language throughout Section 93130.15 to allow CAECS operators and ports to request to use the remediation fund option if the request is supported by compelling documentation that demonstrates the eligibility of the request, consistent with the criteria in Section 93130.15, as determined by CARB. The original proposal specified that only vessel and terminal operators could use the remediation fund. This change is in response to multiple comments received requesting CAECS operators and ports to be able to use remediation to remain compliant with the regulation in qualifying circumstances.
  - ii. In Subsection 93130.15(b)(1) Terminal equipment repairs, staff propose adding language that allows terminals and/or ports who

have invested in shore side control equipment, and maintain that equipment according to manufacturer recommendations, to use the remediation fund in the event that equipment needs maintenance, commissioning, repairs, or needs to be replaced (and new or replacement equipment has been ordered in a timely manner, but has not been received). The original proposal allowed remediation fund use only for terminal equipment repair/replacement, construction, and delayed connection events, however, staff received numerous comments that the remediation fund should be available for commissioning and maintenance circumstances as well.

iii. In Subsection 93130.15)(b)(2) Vessel equipment repairs, staff propose adding language that allows vessel operators who have invested in shore power or other on-board control equipment, and maintain that equipment according to manufacturer recommendations, to use the remediation fund in the event that equipment needs maintenance, commissioning, repairs, or needs to be replaced (and new or replacement equipment has been ordered in a timely manner, but has not been received). The original proposal allowed for remediation fund use only for equipment repair/replacement, construction, and delayed connection events, however, staff received numerous comments that the remediation fund should be available for commissioning and maintenance circumstances as well. CARB staff agree this is a reasonable request, and so this additional language is necessary to allow for the use of the remediation fund for vessel maintenance and commissioning events.

b. In Section 93130.15(c), staff propose amending the reporting requirements from 7 days to 30 days to remain consistent with changes made to the vessel and terminal operator reporting requirements in Sections 93130.7(e)(4) and 93130.9(d)(5), respectively. This change is necessary to ensure consistent reporting requirements in the regulation language.

c. In Section 93130.15(h), staff propose amending the reporting requirements from 7 days to 30 days to remain consistent with changes made to the vessel and terminal operator reporting requirements in Sections 93130.7(e)(4) and 93130.9(d)(5), respectively. This change is necessary to ensure consistent reporting requirements in the regulation language.

#### 14. Modifications to Section 93130.16 Remediation Fund Administration

a. In Section 93130.16, staff revised the introductory language to clarify that

in order to be eligible for use under the proposed regulation, remediation fund monies must fund incentive activities that comply with adopted CARB guidelines on existing incentive programs, and achieve emission reductions that are early or in excess of any other state, federal or international rule, regulation, statute, or any other legal requirement or (including any requirement under a Memorandum of Understanding with a government entity), or an emission reduction strategy identified in an AB 617 Community Emissions Reduction Program that has been approved by CARB's Board. Staff also proposes to define the term "guidelines" to mean CARB funding program guidance documents, including CARB funding program related documents titled either as "guidelines" or as "blueprints". These modifications are necessary to further clarify the remediation fund eligibility requirements.

- b. In Subsection 93130.16(a), staff propose adding the phrase "the California Air Pollution Control Officers Association (CAPCOA)" to the language to make it clear that solicitations for remediation fund administrator will be sent to this group. The addition of CAPCOA as an eligible entity to apply to be a remediation fund administrator is a change from the original proposal, and as such, it is necessary to include them in this section for clarity and consistency. Staff also re-ordered this paragraph and made a few phrasing improvements to enhance its clarity.
- c. In Subsection 93130.16(c)(1), staff propose revisions in the references to other existing CARB incentive programs, to ensure their accuracy.
- d. Staff propose to add Subsection 93130.16(c)(7) to include new language regarding how to consider remediation fund administration where funds may be combined with other incentive or funding programs. This new subsection includes a requirement that remediation fund administration applications include a description of any other incentive or funding programs with which any remediation funds may be combined. It would also require that in funding remediation activities, remediation funds may only be combined with funds from other incentive programs to the extent that the emissions reductions caused by the remediation fund are capable of being calculated and attributed to the remediation fund. If funds would be combined in this manner, the application must demonstrate that the emissions reductions resulting from the remediation fund can properly be attributed to, and claimed by, the remediation fund. These new requirements ensure that only the emissions reductions attributable to the remediation fund would be eligible for use under the remediation fund pathway in the proposed regulation.
- e. In Subsection 93130.16(d), staff propose adding language stating that CARB may request additional information from applicant requesting to use the remediation fund if it is necessary to determine the applicant's

eligibility or that it meets the criteria for approval as specified in the regulation. This additional language is necessary to ensure that CARB staff can request additional information from entities requesting to use the remediation fund if inadequate information is submitted during the application process.

- f. In Subsection 93130.16(d)(4), staff propose an addition requiring CARB to verify that the emissions reductions resulting from the remediation fund can properly be attributed to, and claimed by, the remediation fund. This addition is necessary to limit remediation fund eligibility to emissions reductions that can properly be attributed to the remediation fund. Note that pursuant to the initial paragraph of Section 93130.16 such emissions must be early or in excess of any other state, federal or international rule, regulation, statute, or any other legal requirement.
- g. In Subsection 93130.16(f), staff propose adding language to allow air districts without direct jurisdiction over a port and CAPCOA as potential remediation fund administrators. This additional language is necessary to broaden the pool of potential remediation fund administrators in order to reduce the likelihood of the remediation fund not being an available option to use for compliance with the regulation at any specific port or marine terminal.
- h. Staff made the following modifications to Subsection 93130.16(h):
  - i. In Subsection 93130.16(h)(3), staff propose to add a provision that a Memorandum of Understanding (MOU) with a remediation fund administrator must include a provision stating that remediation funds may only be combined with funds from other incentive programs to the extent that the emissions reductions caused by the remediation fund are capable of being calculated and attributed to the remediation fund. This mirrors the requirement added to subsections (c)(7) and (d)(4), and is needed for consistency and to ensure that this requirement is observed by remediation fund administrators.
  - ii. In Subsection 93130.16(h)(5), staff propose adding language to state that a MOU with a remediation fund administrator must include a timeframe by when the remediation monies must be expended. This additional language is necessary to ensure that remediation funds collected by remediation fund administrators are spent over a certain period of time and not left sitting unused for an extended period of time.
  - iii. In Subsection 93130.16(h)(7), staff propose amending the recordkeeping requirements for remediation fund administrators

from three years to five years, and also added language to clarify when that time period of recordkeeping commences and ends. The change is necessary to ensure CARB staff has ample time to audit and review activities funded through use of the remediation fund to ensure they are achieving the required emissions reductions, and to ensure remediation fund administrators have a clear understanding of the timeframe in which those records need to be kept.

#### 15. Addition of Section 93130.17 Innovative Concept Compliance Option

- a. Staff propose to add Section 93130.17 to the regulation. Section 93130.17 is a new section added to the original proposal that was released for public review on October 15, 2019. This section sets forth a compliance option to provide a regulated entity a way to incorporate an innovative concept to reduce emissions from other sources in and around the port at a level comparable to what would be achieved with reducing emissions from vessels.

Under this section, innovative strategies can be implemented as an additional compliance pathway for the regulation, provided the innovative concepts/strategies result in emission reductions of particulate matter 2.5 (PM<sub>2.5</sub>), oxides of nitrogen (NO<sub>x</sub>), and reactive organic gas (ROG) emissions that are the same or greater than the emissions reductions that would have occurred by controlling the vessel emissions at berth over the applicable compliance period, while also not increasing greenhouse gas (GHG) emissions.

Staff propose adding this section to the regulation in response to numerous comments received from industry members and ports expressing the desire to pursue lower cost emissions reductions strategies that might achieve equivalent or greater emissions reductions as reducing emissions from vessels at berth. This provision is anticipated to be particularly useful during the early years of the regulation, giving vessels, terminals, and ports additional time to develop infrastructure and equipment to control emissions from vessels at berth.

- b. Subsection 93130.17(a) lists the general requirements for using an innovative concept compliance option including the timeframe during which one can submit an application, the emissions reductions requirements that must be achieved, the location(s) where reductions must occur, the timeframe during which an innovative concept can be used for compliance, and how the innovative concept interacts with other compliance mechanisms such as TIEs, VIEs, and remediation. This section is necessary to provide regulated parties with criteria for how the innovative concept can be used and to provide certainty that the concept

will result in reductions equivalent or greater to the control measure's requirements. This section is also necessary to advise applicants that they must receive Executive Officer approval for an innovative concept prior to using it for compliance. Furthermore, it requires that any innovative concept must be able to be implemented within the timeframe needed to be used for compliance with the Control Measure, including any time needed for environmental review (if applicable). This language is necessary to notify the public that CARB will only consider approving innovative concepts which could realistically be used for compliance with the Control Measure. This is necessary to preserve CARB staff resources, and to ensure that CARB may terminate an innovative concept approval if it becomes apparent that the innovative concept is not implementable in the way the Control Measure envisions.

- i. Subsection 93130.17 (a)(1) lists the application due dates. Applications for innovative concepts are due on or before terminal plan and port plan due dates. The reason staff selected this due date for innovative concepts is to allow staff to evaluate port and terminal plans with the knowledge of what potential innovative concepts would be applied, as well as ensure innovative concepts are real, quantifiable, and achieve emissions reductions early or in excess of other requirements.
- ii. Subsection 93130.17 (a)(5) requires that an innovative concept not increase emissions at other ports or marine terminals. This language is necessary to ensure that regulated entities are not achieving their innovative concept-driven emissions reductions by shifting emissions to another California port or marine terminal.
- iii. Subsection 93130.17 (a)(6) requires that a proposed innovative concept must achieve emissions reductions that exceed any reductions otherwise required by law, and that exceed any reductions that would otherwise occur under in a conservative business-as-usual scenario. This requirement is necessary to ensure that innovative concepts only receive credit for emissions reductions that would not have otherwise occurred.
- iv. In Subsection 93130.17 (a)(8), staff proposes to allow innovative concepts to be valid for a compliance period no greater than three years before needing to be renewed. The three year time period is expected to be long enough to allow the applicant a window of certainty for compliance with the rule but short enough to ensure that an innovative concept is still achieving early or excess emissions reductions. Reapplication after three years is necessary because it is possible that the emissions source being controlled through an innovative concept may become regulated in the future,

meaning that innovative concept may not be valid for achieving early or excess emissions reductions indefinitely. It also helps ensure that the innovative concept would continue to meet the requirements of section 93130.17 into the future. (For example, over time, the activity underlying the innovative concept could become required by other law or contractual obligations.) After each compliance period of three years, the Executive Officer may renew an innovative concept application, but only after ensuring that it still meets all the criteria of an innovative concept and has succeeded in meeting the required reductions of the program.

1. In Subsection 93130.17(a)(8)(A), staff proposes requiring applications for extending the approved timeframe for innovative concepts be submitted at least 180 days before the end of the three year compliance period. Staff selected 180 days to ensure there is enough time to complete the full review process, including the public comment period, response period, and review period.
- v. In Subsection 93130.17(a)(9), staff proposes to add language laying out the reasons that an innovative concept might not be extended for another compliance period. This section is necessary to ensure that regulated entities using an innovative concept are informed of the circumstances that could lead to an innovative concept not being renewed, so that they may prepare compliance responses accordingly.
- vi. In Subsection 93130.17(a)(11), staff propose (11) to add language stating that emissions reductions from an innovative concept can be used toward compliance only in the calendar year in which they are achieved or the following calendar year. This language is necessary to ensure that emissions reductions are being achieved in the communities on a timeframe similar to the reductions that would otherwise be achieved by the other provisions in the proposed Control Measure.
- vii. In Subsection 93130.17(a)(12), staff propose to add language stating that early emissions 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 three-year compliance period, and that early reductions are only applicable for the initial compliance period and will expire when the initial compliance period ends. This language is necessary to encourage regulated entities to achieve early emissions reductions that benefit California communities, and also to ensure that early reductions cannot be used indefinitely. This ensures that emissions

reductions are being achieved in the communities on a timeframe similar to the reductions that would otherwise be achieved by the other provisions in the proposed Control Measure.

- viii. In Subsection 93130.17(a)(13), staff propose to require that no innovative concept shall be partially or fully funded with a public incentive program. This is necessary to prevent combining innovative concepts with incentive programs to ensure that the reductions achieved through this provision are equal to or in excess of what is required by the regulation. An innovative concept is precluded from using public incentive programs for funding because incentive money cannot be used to fund projects that are already required by state law. Even if a project were able to show the reductions are early or in excess of the regulatory requirement, the emissions reductions from that cannot be used for other programs since a requirement of the innovative concept is that the emissions reductions meet or exceed the reductions that would have been obtained through compliance in general.

By contrast, use of the remediation fund compliance option for this regulation is not tied to funding a specific emissions reduction activity. Compliance with the regulation is achieved through use of a CAECS and the remediation fund is only used under a limited number of instances when the CAECS was unable to be used as required in the regulation. The remediation fund administrator must use guidelines from other funding programs to manage the remediation fund monies, and in some instances may apply funds from both the other funding programs and the remediation fund to an emissions-reducing activity. The purpose of this is to allow remediation fund dollars to be used consistently with existing funding programs. The portion of funding from remediation dollars must be attributed to the At Berth Regulation, and cannot count toward the other funding program reductions. The second purpose is that the funds generated through the remediation fund may not be enough in themselves to fund an entire emissions reduction activity. Remediation funds and other funding mechanisms can be used together, as long as reductions can be accounted for appropriately so that the funds can be used to complete a greater number of emissions reduction activities in a shorter time frame.

- ix. In Subsection 93130.17(a)(14), staff propose to require that any person complying with this Control Measure using an approved innovative concept maintain and keep all records as specified in this subsection for a period of not less than five years. This addition is necessary to ensure that entities using an innovative concept are reporting and recording adequate information needed

by CARB staff to verify that the innovative concept is achieving the required emissions reductions.

Staff also propose that reports and records should be submitted to the Executive Officer in the manner specified in the approved innovative concept and upon request by the Executive Officer within 10 calendar days or by a later date approved by the Executive Officer on a case-by-case basis. This language is necessary to give CARB enforcement staff flexibility in the event that an entity is unable to meet the 10 calendar day deadline if there are events occurring beyond their control.

- c. Subsection 93130.17(b) lists the application and approval process for an innovative concept compliance option. Applications must contain enough information that CARB staff can review the innovative concept to understand who will be the primary contact overseeing the innovative concept(s), what reductions the concept will achieve, how the reductions will be accounted for, and to review the agreement with all project partners on the scope and requirements of the activity to qualify it for use as an innovative concept. A public comment period is required and applicants must respond to all public comments before CARB will consider an application. This is necessary to allow the public an opportunity to engage in a dialogue and be included in the review process for innovative concepts. Applications must also include information regarding the proposed length of time during which the innovative concept would be used, a summary of all governmental approvals necessary to enable development of the innovative concept, and discussion of any environmental review considerations relating to the proposed innovative concept. These provisions are necessary to ensure CARB satisfies any applicable environmental review obligations and for CARB to evaluate the feasibility of the activity within the timeframe planned .
- d. Subsection 93130.17(b)(2) outlines the public comment and response requirement for innovative concept applications. Staff believes 45 days is an adequate time for the public to review the proposed compliance pathway and for the applicant to respond.
  - i. Subsection 93130.17(b)(3) lists the factors staff will use to evaluate and approve an innovative concept. Staff believes 45 days is adequate to review an application and respond to the applicant with an approval or request for additional information. This includes a requirement that, before approving the use of a proposed innovative concept, any required environmental review must be completed for that innovative concept, if applicable. This provision ensures that approval of a proposed innovative concept would be consistent with environmental review requirements (including the

California Environmental Quality Act (CEQA)). This subsection also includes provisions describing the approval process for scenarios in which CARB is, or is not, the lead agency for environmental review purposes. These provisions are necessary to inform the public what levels of documentation and information submittals will be necessary before the Executive Officer is able to consider approving a proposed innovative concept for use under the Control Measure. The regulation text also notes that the Executive Officer may deny, in whole or in part, an innovative concept application if necessary to avoid any significant environmental impact, or for any other reason set forth in section 93130.17. This provision reflects established CEQA law regarding lead agency discretion. This subsection also notifies entities considering innovative concepts that they may be required to pay the reasonable costs incurred by CARB in conducting environmental review. This provision regarding costs is also set forth in section 21089 of the Public Resources Code, and therefore a cross-reference to that section is included in this subsection in the interest of transparency.

- ii. Subsection 93130.17(b)(4) sets forth the Executive Officer approval step, and notes that such approval does not excuse the innovative concept applicant from complying with any other laws, ordinances, regulations, and standards applicable to the proposed innovative concept. CARB's approval is simply an approval in concept, and does not constitute a local land use approval. As such, proposed innovative concepts will need to go through any required permitting and environmental review before they can be developed.
  - iii. Subsection 93130.17(b)(5) requires applications to respond to a request for additional information, and provides applicants 30 calendar days to complete the response. Staff believes that 30 calendar days is adequate for an applicant to provide any additional information that may be requested for staff to complete the evaluation of the innovative concept.
- e. Subsection 93130.17(c) reiterates that vessel operators and terminal operators must continue to report vessel visit information as they normally would during a visit that uses an innovative concept. This language is included to gather information about the vessel visit activity and resulting emissions, so that CARB staff can determine the baseline emissions that need to be offset by the innovative concept.

- f. Subsection 93130.17(d) lists the process for submitting annual reports and a mechanism to calculate how much emissions reductions are required for compliance under an innovative concept. In general, the emissions needing to be reduced will be strictly those emission that result from the operation of auxiliary engines and tanker boilers in the case of tanker vessels with steam driven boiler pumps. In the situation where a vessel uses an innovative concept that involves the vessel itself at berth, the vessel needs to create a new baseline for the vessel's visit based on the estimated emissions from the total power used at berth, assuming the auxiliary engine(s) and boiler(s) were running the entire time using CARB's default emissions rates. The annual report must also include a summary of the reductions achieved by the innovative concept, which will follow the calculations and methodology described in the innovative concept's approved application. Staff chose February 1 for the reporting deadline for consistency with other reporting deadlines in the regulation.
- i. Subsection 93130.17(d)(1)(B) describes an equation to determine emissions needing to be reduced based on fuel used during a visit. This equation is "fuel used (kg) \* power conversion factor of a diesel engine (kWh/kg) \* emission factor (g/kWh)", where kg means kilograms, kWh/kg means kilowatt-hour per kilogram, and g/kWh means grams per kilowatt-hour. For the emission factor, we use the difference between the baseline emission factor of a vessel and the required emission level for compliance. For example, if a vessel used 1,000 kg of fuel during a visit, then the vessel's anticipated emission reductions would be about 41,000 g NO<sub>x</sub> because  $1,000 \text{ kg MGO} * (1 \text{ kWh} / 0.270 \text{ kg MGO}) * (13.8 - 2.8) \text{ g NO}_x / \text{kWh} = 40,740 \text{ g}$ . Similarly, PM 2.5 reductions would be 560 g and ROG reductions would be 1,680 g. This equation is necessary to include in the regulation so that entities applying to use an innovative concept know how to calculate projected emissions reductions when planning and developing their innovative concept and application.
- ii. Subsection 93130.17(d)(1)(C) describes an equation to determine emissions needing to be reduced based on power used during a visit. This equation is to be used when an innovative concept incorporates strategies that affect the fuel used on the vessel during a visit, such as shore power. In these cases, the first equation would be improper to use as a baseline since the innovative concept would reduce the amount of fuel used and thus reduce the emission reductions required by the innovative concept. The equation is power consumed at berth (kWh) multiplied by the

emission factor (g / kWh). For the emission factor, we use the difference between the baseline emission factor of a vessel and the required emission level for compliance. For example, if a vessel used 3,700 MWh of electricity during a visit, then the vessel's anticipated emission reductions would be about 41,000 g NO<sub>x</sub> because  $3,700 \text{ MWh} * (13.8 - 2.8) \text{ g NO}_x / \text{kWh} = 40,740 \text{ g}$ . This equation is necessary to include in the regulation so that entities applying to use an innovative concept know how to calculate projected emissions reductions when planning and developing their innovative concept and application.

- iii. Subsection 93130.17(f) describes a procedure for revocation or modification of an approved innovative concept. This is necessary to ensure that the Executive Officer has the means of limiting the use of an innovative concept in the event that requirements as specified in the Proposed Regulation and the innovative concept application are not met. An innovative concept will not be revoked if it continues to operate as specified in the approved application, and continues to meet all criteria and requirements for an innovative concept. This provision also specifies that an innovative concept may be revoked if it becomes no longer capable of being used for compliance with the Control Measure, for any reason, including due to failure to meet any eligibility or applicability requirement in subsection 93130.17 (a), or if any review or implementation related circumstances might delay the innovative concept such that it is no longer usable as a compliance pathway. This is necessary to ensure that the Executive Officer may revoke innovative concepts if they are not realistically useable for compliance with the Control Measure. Note that if the Executive Officer does not revoke an innovative concept and the innovative concept fails to meet the requirements set forth in section 93130.17, then the otherwise-applicable provisions of the Control Measure (i.e., the provisions that would apply without the innovative concept) would control. See Subsection 93130.17(g), below.
- g. In Subsection 93130.17(f)(2), staff has determined that 30 calendar days is adequate time for users of an innovative concept to be alerted of a revocation or modification of their Executive Order.
- h. In Subsection 93130.17(g), staff proposes a provision specifying that if a proposed innovative concept is not approved, or if a regulated entity is unable to rely on an innovative concept for compliance with the Control Measure, then that entity remains subject to the otherwise-applicable

requirements in the Control Measure. Failure to ensure compliance with those requirements would be a violation of the Control Measure, as set forth in proposed section 93130.20. This provision is necessary to inform the public that it is the regulated entities' responsibility to ensure they comply with the Control Measure, regardless of whether an innovative concept is ultimately developed in a manner enabling it to be used as a compliance pathway. Entities relying on an innovative concept as their compliance pathway do so at their own risk, and are subject to the default requirements in the Control Measure if they ultimately are unable to satisfy some or all of their compliance obligations through use of the innovative concept.

16. Modifications to Section 93130.18 Summary of Responsibilities (formerly Section 93130.17)

- a. Staff propose the following modifications to Table 6 (formerly Table 5): Summary of Responsibilities
  - i. Adding the innovative concept as a circumstance that may qualify for an exception to the at berth control requirements of the regulation (as found in Sections 93130.8(i) and 93130.10(h)). This change is necessary to clarify that the new innovative concepts provision may qualify a regulated entity for an exception from the at berth control requirements of the regulation.
  - ii. Amending the Summary of Responsibilities table to reflect that CAECS operators are considered responsible parties when delays connecting to a CAECS occur but reductions are still achieved, and to reflect that terminal operators may be considered responsible parties when CAECS fail. This addition is necessary to more accurately reflect the control requirements of the regulation, and to signal that any party may be held accountable when uncontrolled emissions occur during a regulated vessel visit, depending on CARB enforcement team's assessment of each unique situation.

17. Addition of Section 93130.19 Sending information to CARB.

- a. Staff propose to add new section 93130.19 to the regulation to streamline the regulation by putting identical submission information from multiple sections in the original proposal into one place.

18. Modifications to Section 93130.20 Violations (formerly Section 93130.18)

- a. In Subsection (b), staff propose adding language to emphasize that readers understand that all responsible parties may be held jointly and severally liable for violations of the regulation. This addition is necessary

to ensure regulated entities understand they have an obligation to comply with the requirements of the regulation or risk being held accountable.

## **B. Non-substantive Modifications**

In addition to the modifications described above, additional modifications correcting grammar, punctuation and spelling have been made throughout the proposed changes. These changes are nonsubstantive. A summary of the nonsubstantive changes staff made are as follows:

1. Consistent changes throughout multiple section of the document:
  - a. Staff updated section/subsection numbers and table numbers throughout the regulation text due to the addition of two new sections: Sections 93130.17 Innovative Concepts and 93130.19 Sending information to CARB.
  - b. Spelled out California Code of Regulations instead of abbreviating it as “CCR” for clarity.
  - c. Staff capitalized the word “wharfinger” in multiple places for consistency.
  - d. Staff spelled out numbers less than ten in multiple places for grammatical correctness and consistency.
  - e. Staff abbreviated “California Air Resources Board” as “CARB” in multiple places for consistency.
  - f. Staff defined “CARB approved emission control strategy” as “CAECS”, and abbreviated in multiple places to simplify the regulation language.
  - g. A space was added to “PM2.5” in multiple places for formatting consistency.
  - h. Staff modified multiple words from upper-case to lower-case or vice versa for consistency.
  - i. A hyphen was added to the phrase “CARB approved” in multiple places for grammatical consistency.
  - j. Staff pluralized or made words singular in multiple places for consistency and clarity.
  - k. Staff spelled out “Memorandum of Understanding” instead of abbreviating it as “MOU” for clarity.
  - l. The formatting of dates were amended in multiple places for consistency.
2. Section 93130.1 – Staff spelled out the first use of “California Air Resources Board” for clarity.
3. Section 93130.1 - Staff revised the names of the portions of the Health and Safety Code and legislation that give authority for the regulation for clarity.
4. Subsection 93130.2 (a) - Staff updated the table of contents to reference the correct page numbers and section numbers as a result of changes made to the regulation text.
5. Subsection 9310.2(b) – Definitions renumbered as a result of adding new definitions per these noticed proposed changes.
6. Subsection 93130.2(b)(81) – The word “flag” was capitalized for consistency.
7. Subsection 93130.2(b)(85) – The word “the” was deleted because it was

unnecessary.

8. Subsection 93130.3(a) – Staff added the phrase “for violating this Control Measure” for clarity.
9. Subsection 93130.3(b) – Staff added “laws or” before the word “regulations” for clarity to reiterate that any applicable Federal law or regulation would supersede this Control Measure.
10. Subsection 93130.5(a) – The word “it” was deleted and replaced it with “that person” for clarity and consistency.
11. Subsection 93130.5(c)(1) – The phrase “gram per kilowatt-hour” was deleted and replaced it with the abbreviation g/kW-hr, since staff propose adding the abbreviation to the regulation definitions in Section 93130.2(b).
12. Subsection 93130.5(c)(1) – The phrase “parts per million on a dry volume basis” was deleted and replaced with the abbreviation ppm<sub>dv</sub>, since staff propose adding the abbreviation to the regulation definitions in Section 93130.2(b).
13. Subsection 93130.5(d)(1) – The phrase “using the grid emission rate” was added for clarity.
14. Subsection 93130.5(d)(3) – A hyphen was added to “grid neutral” to make it “grid-neutral” for grammatical consistency.
15. Subsection 93130.5(f)(2) – The phrase “an actual” was deleted for clarity.
16. Subsection 93130.5(g)(2) – The word “is” was deleted and the phrase “shall be” was added for consistency.
17. Subsection 93130.5(h)(5) – The phrase “if available” was added to the beginning of the sentence for clarity.
18. Subsection 93130.5(i)(1) – The word “within” was changed to “at least” for clarity.
19. Subsection 93130.5(i)(1) – The word “of” was changed to “prior to” for clarity.
20. Subsection 93130.5(k) – The word “supplied” was changed to “sent” for clarity.
21. Section 3130.6 – The letter “s” was added to the Section header “Opacity Requirements” for consistency.
22. Subsection 93130.7 – The word “calendar” was added before the word “day” for clarity and consistency.
23. Subsection 93130.7(b) – Staff added the phrase “and listed in Table 1” for clarity.
24. Subsection 93130.7(b) – Staff added the phrase “and listed in Table 2” for clarity.
25. Subsection 93130.7(e)(1) – The word “shall” was added for consistency to align with the use of “shall” earlier in the same subsection.. The phrase “if the vessel operator is using a CARB approved emission control strategy” was deleted for clarity because it was repetitive and unnecessary.
26. Subsection 93130.7(e)(3)(A) and (B) – The word “using” was replaced with the phrase “controlling emissions with” for clarity.
27. Subsection 93130.7(e)(4) – The phrase “each vessel’s” was added for clarity.
28. Subsection 93130.7(e)(4) – Renumbered subsections (e)(4)(A) through (e)(4)(U) accordingly due to amended requirements as of this notice of proposed changes.
29. Subsection 93130.7(e)(4)(E) – Staff deleted the word “fleet” as it is duplicative and unnecessary.
30. Subsection 93130.7(g) – The word “supplied” was changed to “sent” for clarity.
31. Section 93130.8(a) – Updated the word “events” in the section header to be singular for consistency.

32. Subsection 93130.8(a) – Staff deleted the phrase “a responsible official reasonably determines that compliance with section 93130.7 would endanger the safety of the vessel, its crew, its cargo or its passengers because of severe weather conditions, a utility event or other extraordinary reasons beyond the master’s reasonable control” and replaced it with the phrase “is defined as a safety and emergency event” to simplify the text, since “safety and emergency event” is defined in Subsection 93130.2(b).
33. Subsection 93130.8(a)(1) – Added an “s” to the word “take” to make it plural for consistency.
34. Subsection 93130.8(a)(2) – Added an “s” to the word “take” to make it plural for consistency. Also added the phrase “and emergency event” after “safety” for clarity and consistency.
35. Subsection 93130.8(c) – Deleted the word “additional” for clarity.
36. Subsection 93130.8(e)(2) – Wording was changed from “Vessel operators” to “All vessel operators” for clarity. Staff also added “starting on January 1, 2021” to the end of the sentence to clarify when reporting requirements begin for the Proposed Regulation.
37. Subsection 93130.8(f)(2) – Wording was changed from “Vessel operators” to “All vessel operators” for clarity.
38. Subsection 93130.8(g)(2) – Wording was changed from “Vessel operators” to “All vessel operators” for clarity. Staff also added “starting on January 1, 2021” to the end of the sentence for additional clarity about when reporting requirements begin for the Proposed Regulation.
39. Subsection 93130.8(h)(1) – Specific section reference numbers were added for clarity.
40. Subsection 93130.8(h)(2) – Wording was changed from “Vessel operators” to “All vessel operators” for clarity. Staff also added “starting on January 1, 2021” to the end of the sentence for additional clarify about when reporting requirements begin for the Proposed Regulation.
41. Section 93130.9 – The word “calendar” was added before the word “day” for clarity and consistency.
42. Subsection 93130.9(d)(1) – The phrase “For shore power:” was deleted as a correction. The language was unnecessary.
43. Subsection 93130.9(d)(2) – The word “equipped” was added for clarity.
44. Subsection 93130.9(d)(4)(D) – The phrase “When using shore power as the control strategy” and the word “immediately” were added for clarity.
45. Subsection 93130.9 – Renumbered subsections accordingly due to added language as of this notice of proposed changes.
46. Subsection 93130.9(d)(5) – The word “each” was added before the word “vessel’s” for clarity.
47. Subsection 93130.9(d)(5)(K) – The word “immediately” was added before the word “after disconnection” for clarity.
48. Subsection 93130.9(d)(5)(M) – The phrase “the type of exception” was added for clarity.
49. Subsection 93130.9(d)(5)(N) – Language was re-phrased for clarity.
50. Subsection 93130.9(d)(5)(O) – Language was re-phrased for clarity.

51. Subsection 93130.10(a)(4) – The word “All” was added to the beginning of the sentence for clarity. Staff also added “starting on January 1, 2021” to the end of the sentence to clarify when reporting requirements begin for the Proposed Regulation.
52. Subsection 93130.10(d) – The phrase “visit if a responsible official reasonably determines that compliance with this section would endanger the safety of the terminal, or its staff because of severe weather conditions, a utility event, or other extraordinary reasons beyond the terminal’s reasonable control” was deleted and replaced with “portion of the visit that is defined as a safety and emergency event” to simplify the text, since “safety and emergency event” is defined in Subsection 93130.2(b).
53. Subsection 93130.11(a) – The word “Granting” was deleted from the section header to better fit the content of this subsection.
54. Subsection 93130.11(d) – The words “for which” were added to better fit the content of this subsection.
55. Subsection 93130.12 – Renumbered subsections accordingly due to added language as of this notice of proposed changes.
56. Subsection 93130.12(a) – The word “Maintain” in the section title was deleted to simplify the language.
57. Subsection 93130.12(b) – The word “calendar” was added before the word “day” for clarity and consistency.
58. Subsection 93130.12(b) – The word “calendar” was added before the word “day” for clarity and consistency.
59. Subsection 93130.12(b)(3)(I) – The word “vessel” was corrected to “CARB approved emissions control strategy, if applicable”.
60. Subsection 93130.12(b)(3)(J) – The word “vessel” was corrected to “CARB approved emissions control strategy, if applicable”.
61. Subsection 93130.12(d) – The words “Action Report” in the section title were changed to lower case for consistency.
62. Subsection 93130.12(e) – The word “Retention” in the section title was changed to lower case for consistency.
63. Subsection 93130.12(f) – the phrase “information submitted to CARB shall” was deleted.
64. Subsection 93130.12(f) – A new header was created for the section instructing CAECS operators on how to submit information to CARB for better clarity.
65. Subsection 93130.13(c) – Staff propose adding the word “install” for clarity.
66. Subsection 93130.14(a)(3)(H) – The word “operator” was added after the word “terminal” for clarity.
67. Subsection 93130.14(c) – The word “calendar” was added before the word “day” for clarity and consistency.
68. Subsection 93130.14(d) – The word “extended” was changed to “adjusted forward or backward in time” for clarity.
69. In Subsections 93130.16(c)(2)-(3), staff propose to revise the beginning of these subsections to begin with “Description of the....” to improve the clarity and flow of these subsections.
70. In Subsection 93130.16(h)(3), “: Goods Movement Emission Reduction” has

been deleted to reflect the formatting of the standard reference to the Proposition 1B program (referenced earlier in Subsection 93130.16(c)(1)). The word “program” was also added for clarity.

71. Subsection 93130.16(h)(13) – The word “this” was changed to “the” for grammatical correctness.
72. Subsection 93130.16(h)(16) – The words “and regulatory compliance” were added to the title for accuracy.
73. Subsection 93130.20(c) – Health and Safety Code section number was corrected from “39764” to “39674”.
74. Subsection 93130.20(c) – The word “calendar” was added before the word “day” for clarity and consistency.

### **Environmental Analysis**

These modifications do not change implementation of the regulation in any way that affects the conclusions of the Draft Environmental Analysis (Draft EA) included in Appendix D of the ISOR. Many of the modifications consist primarily of definition, numbering changes, and provision clarifications that do not alter the compliance responses of regulated entities, so no additional environmental analysis or recirculation of the analysis is required.

Certain modifications would affect compliance responses to some extent, including modifications which would:

- Add the Innovative Concept compliance option.
- Expand use of Vessel and Terminal Incident Events (VIEs and TIEs) to new and expanding fleets to encourage new business at California ports.
- Accelerate implementation dates ro-ro and tanker vessels to achieve earlier public health benefits.
- Extending the time to begin controlling emissions from 1 hour to 2 hours.

However, these modifications would not result in any new reasonably foreseeable significant environmental impacts or substantially increase the severity of an identified environmental impact.

With regard to the Innovative Concept compliance option, it remains unclear whether, where, how, and when this additional compliance option would be used. As such, it would be speculative to conclude that any concepts developed under that option would have the potential to cause any new or increased significant environmental impacts. CARB anticipates that impacts relating to this option, to the extent there may be any, would be in-line with the infrastructure-related compliance responses already analyzed in the Draft EA. Even if the Executive Officer approves an innovative concept application, that approval does not mean an innovative concept will ultimately be developed or used for compliance with the proposed regulation. Vessel and terminal operations are fluid and may change from year to year in response to an array of economic, political, and logistical factors. CARB’s authority in reviewing an innovative

concept proposal is limited to determining whether a proposed innovative concept is eligible for use in complying with the Control Measure; it is not a land use approval. In other words, CARB lacks authority to either entitle (from a land use perspective) or to stop the activity underlying an innovative concept from being developed. Furthermore, as a practical matter, CARB lacks authority to require any innovative concept development to mitigate its environmental impacts pertaining to resource areas other than air quality or greenhouse gas emissions. As set forth in the regulatory text, CARB would carefully evaluate any proposed innovative concept to ensure that any applicable environmental review requirements are satisfied when an innovative concept is proposed in the future.

Regarding the expanded use of VIEs and TIEs to new or growing vessel fleets and/or terminals, this provision is not expected to be used frequently but is a necessary addition to the regulation in order to account for operational changes and economic growth at California's ports. Because the amount of VIEs and TIEs granted to a vessel fleet or terminal are based on the previous year's activity, VIEs/TIEs would not be available to new or expanding vessel fleets or terminals without this provision. This new provision allows CARB staff to reassess the number of visits expected by a new or growing fleet and grant a number of TIEs or VIEs that more accurately reflects the vessel's expected visit activity. The structure of the TIE/VIE provision specifically caps the number of TIEs/VIEs at a low percentage rate, therefore inclusion of this provision is expected to result in little to no increase in emissions.

Accelerating implementation dates for ro-ro and tanker vessels would not change the nature or extent of physical changes to the environment; it would simply result in them occurring one or two years sooner, depending on the vessel category. CARB staff do not anticipate this change to have a large potential to cause cumulative impacts from other marine-related construction associated with this regulation, as no other compliance dates for ocean-going vessels or their related terminals are scheduled to go into effect during the new implementation years. While the implementation date for ro-ro vessels and terminals are now only one year apart from the first tanker implementation date instead of two years, most ro-ro terminals are expected to utilize barge-based capture and control systems versus a land-based control system that would require construction of shore-side infrastructure. Because the dates remain staggered and no significant construction is anticipated for ro-ro terminals, no increase in cumulative emissions is expected as a result of moving the dates forward. This change would also accelerate the proposed regulation's emissions benefits by two years.

Extending the time to begin controlling emissions from 1 hour to 2 hours from "ready to work" is expected to only minimally affect the projected emissions reductions from the proposed Control Measure. Staff analyzed a worst case scenario where every vessel visit utilized the additional hour to connect to a CAECS. This was calculated using the emissions inventory methodology assumptions (ISOR Appendix H) for power used by vessels statewide and average visit durations. In a worst-case scenario, emissions

reductions would decrease no more than 2.6 percent overall from the original regulatory proposal when compared to a one hour connection limit.

The actual impact to emissions is expected to be much lower. Based on past compliance data for the 2007 At-Berth Regulation, over half of all vessel visits were able to connect to shore power within two hours of tying first line to the dock. With the change of a visit shifting from “first line” until “Ready to Work” in the Proposed Regulation (when the vessel is fully tied to the dock and cleared by all relevant government agencies), these visits are expected to connect within one hour of “ready to work”. Staff anticipate most of the remaining visits will connect within 2 hours of “ready to work”. Only a small portion of vessel visits will be worst case, requiring the entire two hours to connect to shore power or to an alternative CAECS.

The 2 hour limit will provide increased regulatory certainty to vessel operators and terminal operators with minimal impact on emissions. Furthermore, as shown throughout the ISOR and the Draft EA, the proposed regulation would result in substantial overall emissions reductions compared to existing conditions. This would remain true with this change.

In summary, none of the proposed changes would result in a new significant environmental impact, or substantially increase the severity of a previously-identified significant impact. Therefore, recirculation of the Environmental Analysis is not required.

### **Additional Document(s) Added to the Record**

In the interest of completeness, and in accordance with Government Code section 11347.1, subdivision (a), staff has also added to the rulemaking record and invites comments on the following additional documents:

### **Additional References and Supplemental Documents**

#### **Supplemental Documents:**

Three supplemental documents are added as attachments to this notice to reflect changes in cost, health outcomes, and emissions inventory as a result of the changes staff propose to the Control Measure for Ocean-Going Vessels that was released on October 15, 2019. These supplemental documents are as follows:

1. Summary of Proposed Changes and Impacts on Cost (included as Attachment B to this notice)

This document presents updates to Chapter IX of the Initial Statement of Reasons (ISOR) document. This addendum provides a summary of staff's proposed changes as of this notice and covers changes in costs that are directly related to the proposed changes as of this notice staff made to the Proposed Regulation, and does not include any other changes to the cost inputs or

methodology. The Proposed Regulatory changes primarily affect the phase-in dates for tanker and ro-ro vessels, and include the addition of an Innovative Concept provision.

2. Updates to Appendix H: 2019 Update to Inventory for Ocean-Going Vessels At Berth: Methodology and Results (included as Attachment C to this notice)

This document presents updates and corrections to Appendix H of the ISOR. The updates presented in this document reflect the changes staff propose to the Control Measure for Ocean-Going Vessels (released on October 15, 2019), and do not include any updates to the inventory inputs or methodology. The proposed changes as of this notice primarily impact the implementation dates for ro-ros and tankers and reflect increases in emissions benefits due to earlier implementation of control requirements.

In ISOR Appendix H, Figures 12-20 incorrectly displayed emissions estimates for the Baseline and Draft Regulatory Concept. However, the baseline emissions estimates shown in Appendix H, Table 23 are correct. The tabulated baseline estimates have been included in Attachment C in Table 23a to this notice for ease of reference, with ROG and GHG emissions added in Table 23b for completeness. Emissions estimates for the Richmond Complex have also been added to the table to provide additional supporting information.

Two tables were included to provide emissions estimates for the Draft Regulatory Concept. Tables 24 a and b provide the estimates for the 15-day proposed changes version, including ROG and GHG emissions, and Tables 25 a and b provide corrected values for Appendix H, October 15, 2019, version, and includes ROG and GHG emissions for completeness.

Separately, this document also includes corrections to portions of ISOR Appendix H, Section 3.3. Effective Power (EP). This correction is necessary to correct a wording error in the original ISOR Appendix H and a new table (Table 26) has been added to clarify how the percentage of dead weight tonnage (DWT) of crude was determined for the Suezmax vessels that visit the port of Richmond.

3. Updates to the Health Analyses: Control Measure for Ocean-Going Vessel At Berth (included as Attachment D to this notice)

This document presents updates and corrections to Appendix G of the ISOR. This addendum covers changes in impacts to non-cancer mortality and illness estimates that are directly related to the changes staff propose to the Control Measure for Ocean-Going Vessels that released on October 15, 2019, and do not include any updates to the methodology. Separately, this document also includes a correction to the adjustment factor as specified in ISOR Appendix G. ISOR Appendix G incorrectly stated the adjustment factor as 0.4, but the actual

value used in the calculation was 0.5. Other changes that do not impact the non-cancer and illness are not included in this attachment.

### **Additional Reference Documents:**

In accordance with Government Code section 11347.1, subdivision (a), staff has added to the rulemaking record and invites comments on the following:

1. Letter from Igus – Dated November 11, 2019
2. Letter from EnviroCare International – Dated October 21, 2019
3. Email and Attachment from Cavotec – Dated November 10, 2019

The referenced letters from Igus and EnviroCare International and the email and attachment from Cavotec provided staff information about technology solutions for reducing emissions from ocean-going vessels. This information is being added to the record because it helped inform staff's opinion that there are technology solutions already available for improving shore power connections and also on-board solutions to reducing emissions from vessels at berth.

4. At Berth Emissions Estimates - *OGV Port Specific Emissions*, released October 23, 2019, Available at: <https://ww3.arb.ca.gov/ports/shorepower/shorepower.htm>

The At Berth Emissions Estimates - *OGV Port Specific Emissions* spreadsheet contains port specific emissions data for diesel PM, NOx, ROG, and GHG. The spreadsheet is being added to the public record for transparency, because the information was provided to stakeholders at their request after the release of the Notice and ISOR package on October 15, 2019.

5. At-Berth Health Impacts, dated August 27, 2019

The At-Berth Health Impacts spreadsheet contains health impact calculations for the Proposed Regulation for the ISOR version of the regulation. The spreadsheet is being added to the public record for transparency, because the information was provided to stakeholders at their request after the release of the Notice and ISOR package on October 15, 2019.

6. At-Berth Health Impacts, dated February 2, 2020

The At-Berth Health Impacts spreadsheets contain health impact calculations for the Proposed Regulation for the proposed changes versions of the regulation. The spreadsheets are being added to the public record for transparency as a result of the proposed changes to the regulation.

7. U.S. Department of Labor, Longshoring Industry, 2001, Accessed March 4, 2020

This reference is being added to the record for transparency as this information is necessary to address comments CARB staff received in response to the Environmental Analysis.

8. CARB, Community Air Protection Blueprint, October 19, 2018

This reference is being added to the record for transparency as this information is necessary to address comments CARB staff received in response to the Environmental Analysis.

9. Email and attachment from Thomas Jelenic to Bonnie Soriano and Angela Csondes titled "Calculation of Hourly Remediation Fund Value", dated January 15, 2020.

This reference is being added because the information was provided to CARB after the formal comment period closed and was used by staff as part of the analysis for the Innovative Concept provision included in the 15-day proposed changes as of this notice.

10. Western States Petroleum Association (WSPA) handout titled "CARB At Berth Regulation Amendment Alternatives Potential Port, Maritime, OGV Emission Reduction Options" provided to CARB during a meeting with WSPA on March 4, 2020.

This reference is being added because the information was provided to CARB after the formal comment period closed and was used by staff as part of the analysis for the Innovative Concept provision included in the 15-day proposed changes as of this notice.

These documents are available for inspection at the California Air Resources Board, 1001 I Street, Sacramento, California, 95814, between the hours of 9:00am to 4:00pm, Monday through Friday (excluding holidays). To inspect these documents please contact Chris Hopkins, Regulations Coordinator, at [chris.hopkins@arb.ca.gov](mailto:chris.hopkins@arb.ca.gov) or (916) 445-9564. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices may have limited public access. Please contact Chris Hopkins if you need physical copies of the documents.

### **Agency Contacts**

Inquiries concerning the substance of the proposed regulation may be directed to Angela Csondes, Manager, Marine Strategies Section at (916) 323-4882 or Nicole Light Densberger, Staff Air Pollution Specialist at (916) 445-6012.

### **Public Comments**

Written comments will only be accepted on the modifications identified in this Notice.

Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerks' Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB no later than the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerks' Office at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD



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Richard W. Corey  
Executive Officer

Date: March 26, 2020

Attachments

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www.arb.ca.gov) (www.arb.ca.gov).*