

FINAL REGULATION ORDER

AIRBORNE TOXIC CONTROL MEASURE FOR CRUISE SHIP ONBOARD INCINERATION

Adopt new section 93119, title 17, California Code of Regulations, to read as follows:

Section 93119. Airborne Toxic Control Measure for Cruise Ship Onboard Incineration.

(a) Purpose.

The purpose of this control measure is to reduce emissions of toxic air contaminants from the use of incinerators aboard cruise ships. Specifically, this regulation prohibits cruise ships from conducting onboard incineration while operating within three miles of the California coast. This control measure is expected to reduce exposure to toxic air contaminants for residents living near ports and along the California coast.

(b) Applicability.

Except as provided in subsection (c), this section applies to any person who owns or operates a cruise ship, as defined in subsection (d)(2), including foreign flagged cruise ships, which travel within three miles of the California coast or visit California ports or terminals.

(c) Exemptions.

- (1) This section does not apply to vessels without berths or overnight accommodations for passengers.
- (2) This section does not apply to noncommercial vessels, warships, vessels operated by nonprofit entities as determined by the Internal Revenue Service, and vessels operated by the State of California, the United States, or a federal government.

(d) Definitions. For the purposes of this section, the following definitions apply:

- (1) "Air Pollution Control Officer" or "APCO" means the air pollution control or executive officer of a district, or his or her delegate.
- (2) "Cruise ship" means a commercial vessel that has the capacity to carry 250 or more passengers for hire.
- (3) "District" means an air pollution control or air quality management district as defined in Health and Safety Code section 39025.

- (4) "Executive Officer of the Air Resources Board" means the executive officer of the California Air Resources Board or his or her delegate.
- (5) "Incinerator" means any device used to conduct onboard incineration.
- (6) "Onboard incineration" means the combustion or burning of any materials or wastes for the purpose of volume reduction, destruction, sanitation, or sterilization, aboard a cruise ship. Onboard incineration does not include incinerators which are only burning fuels including, but not limited to, natural gas, gas oil, marine gas oil, marine diesel fuel, fuel oil, or residual fuel oil for the specific purpose of maintaining a minimum temperature in the incinerator to minimize thermal cycling.
- (7) "Owner or Operator" means a person who owns or operates a cruise ship.
- (8) "Person" shall have the same meaning as defined in Health and Safety Code section 39047.
- (9) "Segment" means that portion of the cruise ship's voyage from the last port of call to the next port of call.
- (10) "Within three miles of the California coast" means between the California coast and the Three Nautical Mile Line as shown on the following National Oceanic and Atmospheric Administration (NOAA) Nautical Charts as authored by the NOAA Office of Coast Survey, which are incorporated herein by reference:
 - (A) Chart 18600, Trinidad Head to Cape Blanco (January 2002);
 - (B) Chart 18620, Point Arena to Trinidad Head (June 2002);
 - (C) Chart 18640, San Francisco to Point Arena (August 2005);
 - (D) Chart 18680, Point Sur to San Francisco (June 2005);
 - (E) Chart 18700, Point Conception to Point Sur (July 2003);
 - (F) Chart 18720, Point Dume to Purisima Point (January 2005); and
 - (G) Chart 18740, San Diego to Santa Rosa Island (April 2005).

(e) Requirements.

- (1) Notwithstanding sections 93104 and 93113 of title 17, California Code of Regulations, no cruise ship owner or operator, agent, representative, or employee shall conduct onboard incineration within three miles of the California coast.

(2) *Recordkeeping and Reporting Requirements*

(A) *Recordkeeping Requirements*

1. Owners or operators of cruise ships subject to the requirements of this section shall maintain records for each segment of a voyage if, during any portion of that segment, the cruise ship travels within three miles of the California coast.
 - a. The date and time of start and stop of incineration (in local time);
 - b. The position of the ship in latitude and longitude for each start and stop time of incineration;
 - c. The estimated amount incinerated in cubic meters (m³); and
 - d. The name or signature of officer in charge of the operation.
2. Records shall be maintained in English and shall be kept and maintained onboard the respective cruise ship for two years.
3. During an onboard inspection, records shall be made available to Air Resources Board personnel, District personnel, or their delegates.

(B) *Reporting Requirements*

1. Owners or operators of cruise ships that are subject to this section, shall, upon written request by the Executive Officer of the Air Resources Board or the Air Pollution Control Officer from a District, provide copies of the records as specified in subsection (e)(2)(A) within 30 calendar days of the request.

(f) Updates to NOAA Charts.

The Executive Officer shall publish in the California Regulatory Notice Register and notify potentially affected cruise ship owners or operators, regarding revisions to subsection (d)(10) with regard to Nautical Charts updated by NOAA, at least 30 days before the updates take effect in the following situations:

- (1) The Executive Officer may revise subsection (d)(10) when there is a change in the chart number or name; or

- (2) The Executive Officer may revise subsection (d)(10) when NOAA revises the Three Nautical Mile Line, as shown on the respective charts.

(g) Severability.

Each part of this section shall be deemed severable, and in the event that any part of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

NOTE: Authority cited: Sections 39516, 39600, 39601, 39631, 39650, 39656, 39658, 39659 and 39666 Health and Safety Code. Reference: Sections 39630, 39631, 39632, 39650, 39656, 39659, 39666 and 41700 Health and Safety Code.