

July 27, 2020

Clerk of the Board
California Air Resources Board
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https://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=ogvatberth2019&comm_period=2

Subject: Cruise Lines International Association (CLIA) Comments on Second Supplemental 15-Day Notice - Proposed Regulation of Oceangoing Vessels At Berth

Dear Clerk:

Thank you for the opportunity to comment on the proposed At Berth Regulation Second 15-Day Changes. CLIA on behalf of the cruise lines that visit California ports appreciates the opportunity over the last few years to work with California Air Resources Board members and staff directly and through the Industry Coalition during regulatory development of this rule.

The Second 15-Day Notice provides for changes to the regulatory structure of the proposed At Berth Regulation and includes one very important change requested by CLIA and the Industry Coalition: the ability for the currently regulated fleet to continue to use the existing fleet average rule for at least an additional two years from 2021 to 2023. These amendments provide the ability for cruise line fleets to continue in compliance with the existing shore power rule as has been the case since 2014 when the original rule went into effect, and which is particularly important given the extreme impacts the COVID-19 pandemic has had on cruise line operations. Importantly, it also provides an opportunity for discussions over the next two years to address issues that remain to be adequately addressed in the new rule for fleets. Those issues are discussed below. In addition, CLIA supports the Industry Coalition Second Supplemental 15-Day Notice comments.

CLIA SUPPORTS THE NEW EFFECTIVE DATE TO ALLOW TIME TO ADDRESS ONGOING CONCERNS WITH THE NEW RULE AND DEVELOP OPTIONS FOR FLEETS

As previous comments stated, CLIA and the industry coalition have serious concerns with the proposed rule, particularly that it contains provisions that will result in noncompliance even though these existing regulated ships have been in compliance since the existing shore power rule was put in place. CLIA supports the delay of implementation of the new regulation until January 1, 2023 for existing regulated fleets and welcome using this time to continue meetings with staff to discuss concerns that remain to be resolved in the new regulation, and determine solutions that meet the needs of fleets and allow them to remain in compliance.

CLIA REQUESTS STAFF DEVELOP SUFFICIENT COMPLIANCE PATHWAYS FOR NON-FREQUENT FLIERS TO AVOID REQUIRING THESE VESSELS TO CONTINUE TO PULL CALLS OUT OF CALIFORNIA

The cruise lines request that CARB staff work over the next year with cruise lines and other stakeholders that have non-frequent fliers to find an alternative compliance option for vessels that rarely or unexpectedly visit California ports. The goal will be to allow cruise vessels to continue to make 4 or fewer calls in California without being forced to either put in shore power that is rarely used or eliminate calls in California ports to stay in compliance. CARB has unfortunately classified these non-frequent fliers as “unregulated” because they are exempted from the existing At Berth rule.

Out of hundreds of cruise vessels worldwide, only a limited number continually visit California and are equipped with shore power. Cruise vessels that are visiting California ports only once every few years cannot support the huge investment in shore power and ongoing maintenance required, but unfortunately also cannot use the existing CARB-approved alternative compliance option. In addition, although the draft rule did change the implementation date for non-frequent fliers to 2023, unlike fleets, that deferral did not give these global and transition cruises an option but to pull calls out of California. The cruise sector sets itineraries years in advance and the previously pending 2021 regulations already forced a reduction in the number of planned calls in 2021 and 2022 from “nonfrequent flier” ships.

Without clarity on the 2023 regulation sometime in the next year, these vessels will have the same result in 2023 and 2024. While the extension of the current regulation for the regulated fleet is helpful, losing the ability of non-frequent fliers to call on

California ports during this two-year extension would detrimentally impact these lines as well as prohibit many additional calls to California ports, specifically those transiting to and from Alaska. The more specialized world cruises and relocating cruise vessels may visit once every two to four years and only a few ports each visit, using entirely different cruise ships each time. This means that these vessels would be able to use these \$2 million systems only 8-16 hours every one or two years.

A different flexible alternative is critical for these vessels to avoid displacing this trade that though fewer in overall numbers are still financially significant to impacted California ports that will lose additional calls. It is also important to note that the ISOR and SRIA do not properly analyze the possibility of future vessel diversions as well as those that have already occurred, and their economic impact.

CLIA SUPPORTS MOVING UP PORT AND TERMINAL PLAN DUE DATES SO THEY ARE IN PLACE PRIOR TO 2023, BUT ARE CONCERNED THAT THERE ARE NO DATES BY WHICH PLANNED INFRASTRUCTURE MUST BE IN PLACE

CLIA appreciates that the rule has been amended to require port and terminal plan due dates by December 1, 2021, before 2023. However, assurances should be included in the rule that shoreside shore power infrastructure will be available to meet the increased port calls required beginning in 2023.

CLIA REQUESTS THAT THE FOCUS OF THE INTERIM EVALUATION BE EXPANDED

The interim evaluation due now December of 2022 should be specifically expanded to address issues regarding rule implementation raised by stakeholders. As work on implementation continues, it will be critical to resolve issues, including incorporation of fleet averaging under Innovative Concepts or CARB Approved Emission Control Systems (CAECS), finalizing sufficient compliance pathways for non-frequent fliers, and addressing other issues identified in this letter, previous CLIA comments, and the Industry Coalition letters.

CLIA REQUESTS THAT LIABILITY BE CLARIFIED

By 2023, the liability provisions in the new rule should be clarified. The new proposed rule still requires joint and several liability for violating the control measure, which conflicts with specific liability/responsibility for ports, terminals, vessels and alternative compliance operators in other sections of the rule.

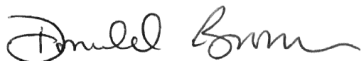
CLIA'S PREVIOUS COMMENTS STILL APPLY REGARDING UNRESOLVED CONCERNS WITH THE NEW PROPOSED RULE

There remain a number of comments previously submitted by CLIA that are unresolved with the new rule:

- the new rule remains extremely complex and doesn't work well for fleet-based companies - which has the potential to place vessels in compliance since 2014 in noncompliance;
- an alternative compliance option to shore power should be available for vessels that cannot use the only existing CARB-approved alternative compliance option;
- the remediation fund hourly amount of \$12,000 per hour is punitive for cruise vessels and acts like a major penalty usually reserved for willful or intentional violations – in addition, a more reasonable per hour rate should also be considered as a compliance option for non-frequent fliers;
- a phase-in period should be allowed for low activity terminals suddenly being added to the rule based on activity;
- ongoing issues remain with the checklist, the timed connection requirement, and compliance decisions being made long after the vessel leaves port leaving vessels unsure of possible violations until after a California port visit.

Again, thank you for your consideration of these comments.

Sincerely,



Donald Brown
VP, Maritime Policy
Cruise Lines International Association