

September 9, 2022

Mr. Kenneth J. Pogue
Director, Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814-4339
Kenneth.Pogue@oal.ca.gov

Subject: Office of Administrative Law Decision to Disapprove California Air Resources Board's Proposed Amendments to Commercial Harbor Craft Regulation, OAL File # 2022-0721-09S

Dear Mr. Pogue:

On March 24, 2022, the California Air Resources Board (CARB) approved for adoption of proposed amendments to the Commercial Harbor Craft Regulation (hereinafter Proposed Amendments).¹ On July 21, 2022, CARB submitted the proposed adoption of the Proposed Amendments to the Office of Administrative Law for review in accordance with Government Code section 11349.1.

I understand that OAL staff has identified several issues in the Proposed Amendments, that CARB staff has been working to address those issues throughout this past week but has unfortunately not fully resolved all of those issues, and that OAL has disapproved the Proposed Amendments.

CARB acknowledges OAL's issuance of a Notice of Disapproval of a Regulatory Action pursuant to Government Code section 11349.3, for the Proposed Amendments on September 1, 2022, and anticipates receipt of OAL's written decision detailing its reasons for the decision no later than September 8, 2022.² Based on the issues discussed between CARB and OAL staff to date, I understand that the majority of issues identified by OAL concern perceived inconsistencies of specific regulatory provisions with the clarity standard specified in Government Code section 11349(c).

CARB staff will expeditiously remediate all the issues identified in OAL's written decision and will timely resubmit the Proposed Amendments to OAL to ensure that OAL will be able to confirm that the Proposed Amendments comply with the requirements of Government Code section 11349.1 well before January 1, 2023, the first effective date of the Proposed Amendments. CARB is aware that it may rewrite and resubmit the Proposed Amendments to OAL within 120 days of its receipt of OAL's written decision without needing to comply with the notice and public comment requirements of Government Code sections 11346.4,

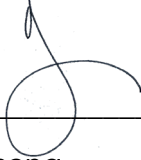
¹ The proposed amendments are comprised of amendments to section 2299.5, California Code of Regulations, title 13, and section 93118.5, California Code of Regulations, title 17.

² Government Code section 11349.3(b).

11346.5, and 11346.8 if the revisions do not significantly change the substantive elements of the Proposed Amendments.³

If you have any questions, please contact Heather Arias, Chief, Transportation and Toxics Division, at (916) 264-9472 or Heather.Arias@arb.ca.gov.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop that starts at the top left, goes down, loops around to the right, and then back up to the top left, ending with a small arrowhead pointing upwards.

Edie Chang
Deputy Executive Officer

cc: Heather Arias, Chief, Transportation and Toxics Division

³ Government Code section 11349.4(a). If the revisions significantly amend the Proposed Amendments, CARB will comply with the applicable requirements of Article 5 (commencing with section 11346), Chapter 3.5, part 1, Division 3, Title 2 of the Government Code. *Ibid.*