

Addendum to the Final Statement of Reasons for Rulemaking

Public Hearing to Consider the Proposed Amendments to the Commercial Harbor Craft Regulation

Public Hearing Dates: November 19, 2021, and March 24, 2022
Agenda Item Nos.: 21-12-6 and 22-5-1
Addendum Prepared: November 14, 2022
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I. General Discussion

This addendum to the Final Statement of Reasons (FSOR) for the rulemaking action entitled "Public Hearing to Consider the Proposed Amendments to the Commercial Harbor Craft Regulation" updates the FSOR that the California Air Resources Board (CARB) submitted to the Office of Administrative Law (OAL) on July 21, 2022.

On September 1, 2022, OAL issued a "Notice of Disapproval of Regulatory Action" for the Proposed Amendments for failure to comply with the "Clarity" standard of the Administrative Procedure Act. (Gov. Code, §. 11349(c)), which was further explained in OAL's "Decision of Disapproval of Regulatory Action" issued on September 8, 2022. On October 10, 2022, a Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information (Second 15-Day Notice) and Proposed Second 15-Day Modifications to the Proposed Regulation Order were posted for a public review and comment period through October 25, 2022. The proposed Second 15-Day Modifications addressed the concerns noted by OAL in its Decision of Disapproval of Regulatory Action and provided greater clarity and enforceability to the Proposed Amendments.

This addendum describes modifications made to the regulatory language per the 15-day changes released on October 10, 2022, as well as non-substantial modifications made to the regulatory language subsequent to those 15-day changes, and provides CARB's responses to public comments received during the 15-day comment period that ended October 25, 2022.

II. Modifications Made to the Original Proposal Subsequent to OAL's Disapproval

A. Modifications made in the Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information

Subsequent to OAL's "Decision of Disapproval of Regulatory Action," modifications to the original proposal were made to address the clarity concerns OAL raised. CARB staff released a Second 15-Day Notice on October 10, 2022, which notified the public of additional documents added into the regulatory record and presented additional modifications to the regulatory text.

The following is a broad summary of the changes that were made to the initial proposal and were made available for a second 15-day comment period. Staff proposed modifications to the 2022 Amendments to section 2299.5, title 13, division 3, chapter 5.1 of the California Code of Regulations (CCR) and section 93118.5, title 17, chapter 1, subchapter 7.5, CCR. For further details on all the modifications, see the "Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information" posted on October 10, 2022, available online at

<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/chc2021/2nd15daynotice.pdf>.

- In section 93118.5(d), staff added and/or modified definitions as necessary to improve clarity.
- In section 93118.5(e), staff modified subsection (2) to clarify requirements for the hour meter.
- In section 93118.5(e), staff added/replaced language to clarify subsection (8) regarding new and newly acquired engines, including incorporating two parts of the Code of Federal Regulations regarding emissions test data.
- In section 93118.5(e), staff added/replaced language to clarify subsection (9) regarding new and newly acquired in-use harbor craft, including refining the language describing the standards which engines in such harbor craft must meet.
- In section 93118.5(e), staff updated Tables 11, 12, 13, and 15 to either add or replace columns, symbols, notes, or other language as necessary to improve clarity.
- In section 93118.5(e), staff added/replaced language to clarify subsection (11) regarding Zero Emission and Advanced Technology (ZEAT) credits for early or surplus deployments, including to clarify the length of the ZEAT credit and that additional compliance time may not extend past December 31, 2034.
- In section 93118(e), staff added/replaced language to clarify subsection (12) regarding in-use engines and vessels performance standards, including removing unnecessary language from subsection (B)1. and (C)1., modifying subsection (C)2. and (C)3. to clarify the applicable engine standards, adding clarifying language to subsection (D)2., adding language to (E)3.b.vi. to clarify the list of actions taken to comply with the regulation, modifying language in (E)3.d. regarding documentation for extensions for

commercial passenger fishing vessels, and modifying subsection (E)5.c. to make the one-year extension renewable.

- In section 93118(e), staff added/replaced language to clarify subsection (13) regarding engine requirements on commercial fishing vessels, including clarifying that Pre-Tier 1 or Tier 1 engines may also be offered for sale, leased, rented or imported (in addition to being sold or purchased) prior to the compliance dates.
- In section 93118(e), staff deleted language in subsection (14)(C)2.c. for consistency with existing language regarding low-use exceptions for newly acquired vessels.
- In section 93118.5(f), staff added language to clarify requirements of the Alternative Control of Emissions (ACE) provisions, referring to additional subsections (e)(3), (e)(4), and (e)(5) in subsection (f)(1)(A), modifying language in subsection (1)(E)6. regarding ZEAT credits, moving previous subsection (1)(K) to new subsection (1)(F)5. regarding ACE plan application requirements, and added language clarifying in subsection (1)(I) that the ACE Plan may not use emission reductions already attributed to grant funding programs.
- In section 93118.5(g), staff modified the language to add clarity, including moving the date for when the unique vessel identifier requirement would be effective to the beginning of the subsection, removed subsection (2)(A), renumbered following subsections accordingly, and added “the owner or operator” in two locations to clarify who is subject to the respective provision.
- In section 93118.5(h), staff modified the language in this section to provide clarity to the provisions regarding idling, including specifying under what circumstances a vessel may idle for up to 30 consecutive minutes.
- In section 93118.5(i), staff added clarifying language for vessel owners/operators and facilities regarding shore power provisions.
- In section 93118.5(j), staff added language to clarify that the list of vessel tenants is due every year by July 1 and replaced language to clarify requirements for facilities that do not provide shore power.
- In section 93118.5(k), staff added clarifying language regarding opacity testing, requirements for its record keeping and transmittal, and reporting for any subsequent repairs as a result of testing.
- In section 93118.5(l), staff removed ambiguous language regarding refunds and replaced language to clarify when fees are due.
- In section 93118.5(m), staff added/replaced language to clarify requirements for logging activity data, its reporting, and record keeping. Staff also added subsection (21)(C) regarding an option for logging commercial passenger fishing activity and added language to subsection (21)(D) to clarify how to calculate trip lengths.
- In section 93118.5(o), staff made edits to the header to clarify who the subsection is applicable to, added language to clarify applicability and requirements for submittals, and added/replaced language to improve grammar.
- In section 93118.5(u), staff made edits to improve readability and clarify that submittal instructions apply to documentation and reports only, not fees, and updated language to remove ambiguity.

B. Non-Substantial Modifications

The non-substantial modifications described below clarify and do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the Proposed Amendments, as approved for adoption by CARB. (See Cal. Code Regs., tit. 1, § 40).

After the July 21, 2022, submittal to OAL, the following non-substantial modifications were made to the Final Regulation Order:

- Throughout sections 2299.5 and 93118.5, staff made the following non-substantive changes to improve grammar, syntax, consistency and readability. Note that where specific changes provided below this bullet list state that edits were made to improve grammar, syntax, consistency or readability, it is referring back to one or more items in this list of non-substantive changes
 - Add, remove, or replace punctuation with more applicable punctuation (i.e., add a comma, replace semi colon with comma, add section symbol (§), etc.).
 - Add or remove capitalization (e.g., change "Title" to "title") or spaces.
 - Rearrange lists to be in numerical order (e.g., in a list of subsections, (e)(10) would be listed before (e)(12)(D)).
 - Replace "shall" with "must" where applicable and where doing so adds clarity but does not alter requirements, since the way "shall" was used meant "must."
 - Add, remove, or replace pronouns where applicable (i.e., "that" and "which").
 - Add, remove, or replace the words "herein," "as," "their," "those," "that," "the," "to," "and," "any," "all", "or," "of," "on," "in," "by," "be," "is," "are," "for," "an," "its," and "a" where applicable.
 - Add or remove hyphens where applicable (including such as when creating a portmanteau – e.g., "sport-fishing" to "sportfishing"), or replace "through" with a hyphen where applicable.
 - Change the word "subsection" and "regulation" to the more appropriate "section" when pointing to another section (i.e., 93118.5, 93117, etc.) for proper formatting and citation consistent with language in the CCR.
 - Replace terms with acronyms where applicable (i.e., replace Regulated California Waters with RCW).
 - Remove unnecessary text or replace it with more specific text when referencing CCR text (e.g., removing the title number and CCR when pointing to other sections within the regulation).
 - Change singular words to plural or change plural to singular, if needed.
 - Change the tense of words (i.e., past tense to present tense), if needed.
 - Change the part of speech of a word (i.e., noun to adjective, such as "distribution" to "distributed" or "implement" to "implementing").

- Move modifying words or phrases to before or after the word it is modifying (i.e., “combustion engines onboard vessels” changed to “onboard combustion engines”).
- Add quotation marks to signify a term defined in subsection 93118.5(d).
- Replace numerical numbers with written out numbers (i.e., change 6 to “six”).
- Replace “complying by” with “complying under.”
- Replace “a demonstration” with “documentation demonstrating.”
- Replace “paragraph” with “provision” where applicable.
- In section 2299.5, staff added subsection headings (a) and (b) to improve formatting.
- In section 2299.5(b), staff updated the syntax of the sentence to move the title 13 section after the title 17 section.
- In Authority and Reference citations of section 2299.5, staff made updates to improve the punctuation.
- In section 93118.5(a), staff removed the sentence “For purposes of this regulation, ‘this section’ refers to ‘Section 93118.5’ in its entirety” as surplusage and unnecessary.
- In section 93118.5(b), staff underlined the “(6)” as this was a change made in the 45-day regulation order that was not marked correctly.
- In sections 93118.5(b)(2) and 93118.5(b)(4), staff made edits to improve punctuation, syntax, and readability, without altering any requirement.
- In section 93118.5(c)(5), staff made minor edits to the language to improve readability and consistency without changing the meaning or intent of the provision.
- In section 93118.5(c)(11), staff moved the sentence “This subsection is only applicable until December 31, 2022,” to directly after the heading for improved grammar and formatting.
- In section 93118.5(c)(13), staff deleted “set forth” since it is surplusage and unnecessary, and its removal improves readability.
- In section 93118.5(d), staff reordered some definitions to ensure correct alphabetical order.
- In section 93118.5(d), in the definition of “Berth,” staff deleted “the” and made “purpose” plural so the sentence that in part read, “For the purpose of this section...” now reads, “For purposes of this section...” to improve readability.
- In section 93118.5(d), in the definition of “Call Sign Number,” staff updated the sentence that in part read, “means a unique identifier to a vessel containing...” to now read, “means a vessel’s unique identifier containing...” to improve readability.
- In section 93118.5(d), in the definition of “CARB Approved Emission Control System (CAECS),” staff made edits to improve consistency of citation in referencing other CCR sections.
- In section 93118.5(d), in the definition of “Category 3 Engine,” staff updated the sentence that in part read, “with a displacement at or above 30 liters per cylinder,” to

now read, "with a displacement of 30 liters per cylinder or greater" to improve readability.

- In section 93118.5(d), in the definition of "CHC Reporting System," staff replaced "CHC" with "CARB" to improve consistency with how this term is used in the other subsections.
- In section 93118.5(d), in the definition of "Commercial Passenger Fishing," staff added the word "Vessel" to the definition and other terms sharing this definition, as the definition describes vessels, not activities.
- In section 93118.5(d), in the definition of "Compliance Date," staff removed "or the extension set forth in (e)(12)(E)" and added "The Compliance Date may be extended pursuant to subsection (e)(12)(E)" for readability and clarity.
- In section 93118.5(d), in the definition of "Dedicated Emergency Use Vessel," staff added the word "implementing" between "to enforce provisions of the California Fish and Game Code or" and "regulations are not dedicated..." to improve readability and clarity.
- In section 93118.5(d), in the definition of "Diesel Fuel," staff removed "including any mixture of primarily liquid hydrocarbon (HC) – organic compounds consisting exclusively of the elements of carbon and hydrogen –" as the definition makes clear already that it includes any mixture of primarily liquid HC, so it is surplusage language. Staff also moved the second half of the sentence to the definition of "Hydrocarbon" where it belongs.
- In section 93118.5(d), in the definition of "Distributed Generation," staff replaced "generator" with "engine" for consistency with terminology in section 93115 (a)(29), which is referenced in the definition. Subsection (a)(29) was added for further specificity for ease of reference to the reader. Section 93139.5(c) was similarly added to make it clear to readers where the emission standards originated, but no changes were made to the emission standards. Staff deleted the bullets (A) through (D) as those are already included in the cross reference to title 17, CCR, subsection 93139(c) and are therefore surplusage. This removes redundancy.
- In section 93118.5(d), in the definition of "Emergency Operation," staff added "onboard" between "or use of" and "combustion engines" to improve clarity. This does not change the definition because it remains the only tenable interpretation that this definition would be relevant only to onboard engines.
- In section 93118.5(d), in the definition of "Escort Tugboats," staff changed the term to "Escort Tugboat," to remove the plural "s," deleted the hyphen from "in-route" to read, "in route," added "departing" before, "from docks and terminals," and added a plural "s" to "products" to improve readability and consistency.
- In section 93118.5(d), in the definition of "Facility Owner," staff deleted the sentence beginning with "In some cases..." because it is unnecessary and generally understood by the industry.

- In section 93118.5(d), in the definition of "Ferry," staff updated the sentence that read, "on-demand basis, which is not for pleasure," to now read as, "on-demand basis, for purposes other than pleasure" to improve readability. Staff also added a reference to CCR Title 20, Division 1, Chapter 1 to be consistent with the information provided in the ISOR on Page I-26.
- In section 93118.5(d), in the definition of "Fishing Vessel," staff made edits to rearrange information to improve readability and punctuation without adding or removing content or changing the interpretation of the definition.
- In section 93118.5(d), in the definition of "Hydrocarbon (HC)," staff added "organic compounds consisting exclusively of the elements of carbon and hydrogen that falls into . . ." This change moved already existing language to the appropriate definition.
- In section 93118.5(d), in the definition of "Hydrogen Fueling Infrastructure," staff deleted the word "necessary" to improve readability.
- In section 93118.5(d), in the definition of "International Maritime Organization (IMO) Number," staff deleted unnecessary information that does not alter the interpretation of the definition and replaced the deleted language with "vessels."
- In section 93118.5(d), in the definition of "Low-Use," staff replaced "except" with "other than" after "in-use vessels," moved "Table 22" to before "in subsection (e)(14)" where it was previously after it, and made other minor edits to grammar/syntax in line with the above-mentioned broad/blanket edits to improve readability.
- In section 93118.5(d), in the definition of "Military Tactical Support," staff added the word "Vessel" to the definition and reworded the last sentence, since the definition is referring to vessels, rather than the operators.
- In section 93118.5(d), in the definition of "Newly Acquired Harbor Craft," staff made edits to clarify the intent as provided in the ISOR, page IV-28. The regulation applies only to harbor craft operating within Regulated California Waters, which the added language clarifies, and is the only tenable reading.
- In section 93118.5(d), in the definition of "Ocean-going Tugboats and Towboats," staff changed the term to "Ocean-going Tugboats or Towboats" to be consistent with how the term is used throughout section 93118.5. Other minor language edits were made to improve readability consistent with the blanket changes mentioned at the top of this section of the Addendum.
- In subsection 93118.5(d), in the definition of "Opacity," staff made minor language changes to improve consistency and readability and added a date to the reference to SAE J1667. Because the February 1996 document is incorporated by reference already, adding the date in the text here provides clarity while not altering the interpretation of the definition.
- In section 93118.5(d), in the definition of "Physical Constraint," staff edited the language to provide clarity and increased readability without altering the

interpretation of the definition, including replacing “to provide” with “that prevents the terminal from providing.”

- In section 93118.5(d), in the definition of “Pilot Vessel,” staff edited the sentence that in part read, “designed for and utilized for,” to now read as, “designed and utilized for” to improve readability.
- In section 93118.5(d), in the definition of “Propulsion Engine,” staff moved the quotation marks to encompass “engine” so the end of the definition now reads, “Main engine” for improved punctuation.
- In section 93118.5(d), in the definition of “Regulated California Waters,” staff moved the abbreviation to inside the term and added parenthesis so it now reads, “Regulated California Waters (RCW)” to improve consistency of formatting with other definitions.
- In section 93118.5(d), in the definition of “Renewable Diesel,” staff bifurcated mentions of R100 and R99 so R100 is now mentioned first and R99 is mentioned second (and separately) to improve readability.
- In section 93118.5(d), in the definition of “Research Vessel,” staff added the date “(October 1, 2012)” to make clear the version of the 46 CFR, Chapter 1, Subchapter U that was used. This edit identifies the version of the CFR that is incorporated into the regulation, which has already been included in the record.
- In section 93118.5(d), in the definition of “Selective Catalytic Reduction (SCR),” staff made minor language edits to improve syntax and readability, including adding “such as ammonia or urea,” between “nitrogen-containing compounds,” and “into the exhaust stream.” This edit helps provide the reader with two common examples for ease of reference without actually changing the definition.
- In section 93118.5(d), in the definition of “Short-Run Ferry,” staff updated definition in line with other non-substantive changes as mentioned in the broad/blanket statements above (i.e., “provide” changed to “providing,” “straight line” to “straight-line,” etc.) as well as moving “apart” to after “distance” from its previous location following “nautical miles” to improve readability.
- In section 93118.5(d), in the definition of “Total Hydrocarbons (THC),” staff removed the words “or Hydrocarbons (HC)” to remove surplusage language as HC is already defined.
- In section 93118.5(d), in the definition of “Vessel Tenant,” staff added the word “specific” before facility, to provide clarity without altering the interpretation of the definition.
- In section 93118.5(d), in the definition of “U.S. Coast Guard Documentation Number (USCG Number),” staff added the word “that” and removed “Documentation” to improve flow and readability of the definition.
- In section 93118.5(d), in the definition of “Water Taxi,” staff added two commas (after “ferry,” and “for hire”), changed “less” to “fewer,” and changed “vessels that carry” to “vessels carrying” to improve grammar/syntax and readability. Also, staff changed “or” to “and” so the provision in part now reads “passengers for hire and U.S. Coast

Guard inspected passenger vessels.” The change from “or” to “and” was made to ensure that either definition can be applicable.

- In section 93118.5(d), in the definition of “Zero-Emission,” staff moved the language “or vessel utilizing a zero-emission propulsion and auxiliary power system to the end and added language that “This includes” to signify what is included. It also changed the word “has” to “generates” for accuracy.
- In section 93118.5(e)(7)(A), staff removed “Renewable Diesel” as unnecessary surplusage language since the abbreviation (R100) was already there.
- In section 93118.5(e)(8), staff replaced the word “action” with “acquisition” and “criteria” with “subsections” to improve clarity without altering the requirement, and made other non-substantive edits in line with the grouped edits mentioned above in the blanket statements.
- In section 93118.5(e)(8)(A)3., staff replaced “the demonstration” with “demonstrating compliance with this provision” to further clarify what the “demonstration” is actually referring to.
- In section 93118.5(e)(8)(B), staff removed “as set forth in this paragraph” since the language is unnecessary, replaced “of this subsection” with “above,” and made other non-substantive edits in line with the grouped edits mentioned above in the blanket statements.
- In section 93118.5(e)(8)(C), staff moved “engine replacement exemption” to be in front of, “provisions of 40 CFR § 1042.615,” and made other non-substantive edits in line with the grouped edits mentioned above in the blanket statements to improve readability.
- In section 93118.5(e)(9)(A)4., to improve readability, staff reworded part of the provision that read as, “that date such vessels are acquired that are applicable” to now read as, “the date of vessel acquisition that are applicable,” and changed “if such vessels are acquired” to “if the vessel is acquired.”
- In section 93118.5(e)(9)(A)5., staff replaced “not meeting this standard” with “use under this subsection” and replaced “and not” with “instead” to improve clarity without altering the requirements.
- In section 93118.5(e)(10)(A), staff replaced “the following” with a more specific subsection reference to improve clarity without altering the requirements.
- In section 93118.5(e)(10)(B), staff added language to add clarity to the meaning of the word “all” by adding “on vessels subject to subsection (e)(10)” after “combustion engines.”
- In section 93118.5(e)(10)(B)1., staff deleted “at minimum” as unnecessary language, to improve readability.
- In sections 93118.5(e)(10)(C)1. and 93118.5(e)(11)(C)1., staff deleted “a minimum of” as unnecessary language, to improve readability.

- In section 93118.5(e)(10)(C)2.a., staff added the word “indicating” to improve the grammar and syntax of the sentence.
- In section 93118.5(e)(11)(A), staff updated the paragraph after Table 15 to delete, “consider the scenario in which,” deleted commas after “subsection (e)(10)” and “2027,” and changed “that” to “this” to now read as “In this scenario...” to remove unnecessary language and improve grammar and syntax within the provision.
- In section 93118.5(e)(11)(C)1.c., staff added the word “credit” to improve the grammar and syntax of the sentence.
- In section 93118.5(e)(11)(C)3., staff replaced the word “application” with “credit,” which improves specificity without changing requirements because the meaning is already clear in context, and replaced the word “assure” with “ensure” to improve grammar.
- In section 93118.5(e)(12)(A)2., staff deleted “(e)(12)” as unnecessary, to improve readability.
- In section 93118.5(e)(12)(B)2.-7., staff made language edits to improve grammar, readability and clarity, without altering the requirements. These edits include inserting “marine” or “off-road” before “standards” to clarify the standards referred to without changing the meaning or intent of the language, since it is already clear in context which standards (marine or off-road) apply.
- In section 93118.5(e)(12)(B)5., staff changed “maybe” to “may be” to improve grammar/syntax.
- In section 93118.5(e)(12)(C), staff moved the paragraph beginning with “Regulated in-use vessels...” at the end of (C)4. to before subsection (C)1. and replaced the word “above” to “below” to improve organization and readability.
- In section 93118.5(e)(12)(C)1., staff moved terms “marine” and “off-road” so the affected part of the provision now reads, “U.S. EPA certified Tier 3 or Tier 4 marine engine or Tier 4 Final off-road,” for improved syntax.
- In section 93118.5(e)(12)(C)2., similar to directly above, staff moved terms “marine” and “off-road” so the affected part of the provision now reads, “U.S. EPA certified Tier 3 or Tier 4 marine engine or U.S. EPA or CARB certified Tier 4 Final off-road,” for improved syntax.
- In section 93118.5(e)(12)(D)1.a., staff deleted the word “legitimate” to remove unnecessary language and improve readability without altering the requirements.
- In section 93118.5(e)(12)(D)2., staff italicized the entirety of the heading to ensure proper formatting and staff also deleted the word “method” at the end of the heading to improve consistency and readability.
- In section 93118.5(e)(12)(D)2.c., staff removed, “Upon receipt of that information,” as it is unnecessary and its removal improves readability.
- In subsection 93118.5(e)(12)(E), staff added “after the compliance date” after “eight years” to improve specificity and consistency of reference within the provision.

- In sections 93118.5(e)(12)(E)1.c. and 93118.5(e)(12)(E)2.c., staff added to word “prior” to improve clarity of what extension is being referred to.
- In section 93118.5(e)(12)(E)2.a., staff deleted “or requirements” as it is unnecessary and its removal improves readability.
- In section 93118.5(e)(12)(E)2.b., staff added “applicable” and replaced “supplied” with “submitted” for improved clarity and specificity without altering the requirements.
- In section 93188.5(e)(12)(E)2.d.i., staff made language edits including replacing the word “vessel” with “vessel’s engines” to improve specificity and inserting the phrase “the expiration date of the” to improve clarity, readability, and grammar.
- In section 93118.5(e)(12)(E)2.d.ii., staff added “off-road” after “Tier 4 Final” to improve specificity of what engine is being referred to.
- In section 93118.5(e)(12)(E)3., staff added the word “Owner” in the subsection heading to improve grammar and ensured entirety of heading was italicized for proper formatting.
- In section 93118.5(e)(12)(E)3.b., staff added “CARB-verified” before “DPF” and replaced “supplied” with “submitted” to improve clarity.
- In section 93118.5(e)(12)(E)3.b.v., staff replaced “where applicable” with “if available” to improve clarity.
- In section 93118.5(e)(12)(E)3.c., staff added the words “prior” after “expiration of the” and before “extension,” “further” before “compliance extensions” and “of this type” directly after, deleted “pursuant to this extension,” changed “6” to “six,” and “has been” to “have been,” to improve clarity and formatting.
- In section 93118.5(e)(12)(E)3.c.i., staff rearranged language to improve syntax by changing “compliance deadline on December 31, 2024 or earlier,” to “deadline on or before December 31, 2024.”
- In section 93118.5(e)(12)(E)3.d., staff made edits to the subheading and to subsection i. to improve consistency in referencing the subsections immediately following the subheading.
- In section 93118.5(e)(12)(E)3.d.iv., staff changed the word “undertake” to “take” to improve syntax.
- In section 93118.5(e)(12)(E)3.d.v., staff replaced the phrase “requirements, including either Tier 3 or 4 + DPF as outlined” with “performance standards set forth” and replaced the phrase “as contained within” with “under” to improve clarity and readability without altering the requirements.
- In section 93118.5(e)(12)(E)3.d.vi., staff changed “subdivision” to “subsection” for improved syntax and formatting.
- In section 93118.5(e)(12)(E)4.c. and 5.c., staff added “prior” before “extension” to reinforce which extension is being referred to.
- In section 93118.5(e)(12)(E)4.d.i., staff updated language in the second paragraph that read, “For all other regulated in-use vessel categories, except for barges...” to now

read, "For all regulated in-use vessels other than barges..." Staff also changed, "Auxiliary engines on board regulated vessel categories except for barges..." to now read, "Auxiliary engines onboard regulated vessels other than barges..." These edits improve syntax without altering the material requirements of the provision.

- In section 93118.5(e)(12)(E)4.d.ii., staff added "of exceeding the hourly thresholds" after "within 30 days" to improve clarity of what is the specific trigger of the 30 day timeline.
- In sections 93118.5(e)(12)(E)5.b.i., 93118.5(e)(12)(E)5.b.iii., and 93118.5(e)(12)(E)5.b.iv., staff replaced the phrase "that the applicant chooses to receive the extension" with "to which the extension(s) will apply" to improve readability.
- In section 93118.5(e)(14), moved up "the ZEAT requirements in subsection (e)(10)" from the end of the provision to improve the numerical ordering (now precedes mention of standards/requirements in subsections (e)(12) and (e)(13), respectively).
- In section 93118.5(e)(14)(B)1., staff added the word "eligibility" and "purposes of" between "For" and "this subsection," to improve grammar and syntax.
- In section 93118.5(e)(14)(B)2., staff replaced the word "the" with "all" and inserted the section number 93118.5 to improve specificity.
- In section 93118.5(e)(14)(B)4., in Table 22, to improve readability and grammar, updated the heading to remove the plural from "Hours" and added a "d" at the end of "Disadvantaged."
- In section 93118.5(e)(14)(C)2., staff moved, "must contain" to follow directly after "application package" to improve syntax.
- In section 93118.5(e)(14)(C)2.c., staff changed "engine has not operated" to "engine was not operated" for improved syntax/grammar and deleted "of demonstration" as it is unnecessary and its deletion improves readability.
- In section 93118.5(e)(14)(C)2.e., staff changed, "such as personal pleasure, such hours do not count," to "such as for personal pleasure, those operating hours do not count," for improved syntax.
- In section 93118.5(e)(14)(C)2.f., staff inserted the phrase "in that fleet" to improve clarity.
- In section 93118.5(f)(1)(E)7., language previously in subsection 8. shifted up to subsection 7 to improve readability. Staff changed subheadings i. and ii. to a. and b., respectively, for formatting consistency. Staff also added "applicable" in subsection b. to improve clarity without altering the requirements.
- In section 93118.5(f)(1)(E)8., language shifted up to subsection 7.
- In section 93118.5(f)(1)(F), staff moved the "and" to properly follow before the last provision (which would be "5." with these amendments) from it's original location preceding subsection 4.
- In section 93118.5(f)(1)(I), staff replaced "use" with "include" to improve grammar and syntax.

- In section 93118.5(f)(2)(C), staff added the word “indicating” to improve readability.
- In section 93118.5(g)(1), staff spelled out “California Air Resources Board” and added abbreviation to UVI abbreviation to improve readability.
- In section 93118.5(g)(2)(A), staff added a space between “subsection” and “(o)” for improved punctuation, added a plural “s” to “UVIs” and deleted “numbers” that proceeded “UVI” since it was no longer necessary now that UVI was made plural.
- In section 93118.5(g)(2)(B)3., staff replaced “letters and numbers” with “CARB UVI characters” and updated/moved the language that originally read “surface shall be lime green with decimal code (R,G,B) – (0,255,0) on which the letters and numbers are placed,” and now reads, “surface on which the characters are placed shall be lime green with decimal code (R,G,B) – (0,255,0).” Staff has also deleted the last sentence because it is redundant to existing language in subsection (g)(2)(B). Staff has made these edits to make the language consistent and increase readability.
- In section 93118.5(g)(2)(B)5., staff updated this provision to improve punctuation, grammar, formatting, and overall readability. The provision formerly read, “Marking shall be kept maintained in a manner that retains the legibility required by the subsections (C)(1-4) immediately above,” to now read “Marking shall be maintained in a manner that retains the legibility required by subsections 1.-4. Immediately above.”
- In section 93118.5(g)(2)(C), staff updated the provision to improve the readability and fix an erroneous numbering error. The end of the provision formerly read, “the specifications in (C)1., 2., 4., and 5. described above,” and now reads “the specifications in subsections (g)(2)(B)1., 2., 4., and 5.”
- In section 93118.5(h)(1)(C), to improve readability staff updated this provision that formerly read, “Idling or operation that meets the definition of emergency operation,” to “Idling or operation during emergency operations as defined in subsection (d).”
- In section 93118.5(h)(1)(E), to improve readability, staff updated this provision that had started with, “Idling or operation for up to 30 consecutive minutes is permitted for the initial start-up,” to “Idling or operation of up to 30 consecutive minutes for the initial start-up.”
- In section 93118.5(i)(1)(A)2., in addition to other minor edits to remove a “the,” add a plural “s” to “purposes,” change numerical numbers with written out numbers, staff also removed the sentence at the end “For example, 50 different vessels operating two hours each, or a single vessel operating consecutively for 50 days, would each equal 50 visits for a given facility” as this text was a non-regulatory example.
- In section 93118.5(i)(1)(A)3., staff deleted “of this section” at the end of the provision as the language is unnecessary and its deletion improves readability.
- In section 93118.5(i)(1)(A)3.a., staff inserted the word “a” to improve grammar and replaced the phrase “from the E.O., following the procedures outlined in” with “pursuant to” to improve readability. Staff also corrected the reference citation at the end of the provision for proper formatting.

- In section 93118.5(i)(1)(D), staff added “the owner or operator of” before “a facility” to improve grammar and syntax.
- In section 93118.5(i)(2), to improve readability and remove unnecessary language, staff updated the provision that read, “to any facility where ZEAT vessels dock or moor at its location” to now read, “to any facility at which ZEAT vessels dock or moor.”
- In section 93118.5(i)(2)(A), to be consistent with the edit made above, staff deleted “where” and replaced it with “at which.”
- In section 93118.5(i)(2)(B), staff replaced “effectively operate” with “power” to improve clarity.
- In section 93118.5(j)(1), staff deleted “subject to this subsection” to improve clarity. Staff also added, “if the facility is” and deleted “for” before “a marine oil terminal,” and deleted instances of “must” since it is unnecessary.
- In section 93118.5(j)(1)(A)5., staff added “name” to improve clarity.
- In section 93118.5(j)(3), staff deleted “retain and” after “this subsection shall” and added “must” before “contain the following” to improve readability.
- In section 93118.5(k), staff inserted the word “and” and “level” to improve grammar and clarity.
- In section 93118.5(k)(1)(C), staff moved “from the California Council on Diesel Education and Technology (CCDET) to the end of the sentence, and removed “the Society of Automotive Engineers “Surface Vehicle Recommended Practice, Snap Acceleration Smoke Test Procedure for Heavy-Duty Power Vehicles” as well as the date “February 1996” as this information is already incorporated into the regulation so surplusage.
- In section 93118.5(k)(1)(E), staff replaced “compliance method” with “method of compliance” to improve readability.
- In sections 93118.5(k)(2)(A)-(B), staff inserted the phrase “Exhaust from” to improve clarity.
- In section 93118.5(k)(3)(C), staff changed “meets” to “met” to improve readability.
- In section 93118.5(k)(4)(B), staff removed “Chapter I, subchapter C” from the title of the document incorporated by reference since it is unnecessary. Staff also made minor edits to remove a “the,” fix capitalization, and add a comma.
- In section 93118.5(l)(5), staff replaced “the E.O.” with “CARB” to improve clarity without altering the requirements. Staff also added “late fee” to the example under Table 23 to improve clarity without altering the requirements.
- In section 93118.5(m), staff replaced “retained” with “maintained” to improve clarity.
- In section 93118.5(m)(14)(C), staff replaced “Percent time” with “Percentage of time” to improve readability.
- In section 93118.5(m)(16), staff inserted the word “vessel” to improve clarity and readability.
- In section 93118.5(m)(17)(A), staff inserted the word “are” to improve grammar.

- In section 93118.5(m)(17)(B), staff inserted the word “number” after “phone” to improve clarity.
- In section 93118.5(m)(19)(A), staff removed an erroneous “a” from the sentence.
- In section 93118.5(m)(20)(B), staff removed the reference to (m)(20) since it is unnecessary/superfluous. The language in the provision already makes it clear that CARB is pointing to the subsection (A), so staff also added “above” to make it abundantly clear which subsection we are pointing to.
- In section 93118.5(m)(21), staff added “described below” before “in subsection (A)” to improve readability.
- In section 93118.5(m)(21)(C), staff made edits to improve readability and clarity, such as replacing “fishers” with “anglers,” replacing “in military time, i.e., 06:20 hours,23:15 hours, etc.,” with “using 24-hour notation,” adding the word “departure” before “date,” removing “recorded as.”
- In section 93118.5(m)(21)(D), staff revised the language for “passenger day” from “is considered a single person sportfishing for a full eight-hour day or multiple people sportfishing for shorter periods summing to a full eight-hour day” to “equals eight hours of fishing activity by one angler, or shorter periods of fishing activity by multiple anglers adding up to eight hours.” This revision was intended to improve readability. Staff also spelled out numbers (for example, 4 is now “four”) in various places in this section, switched out the word “be” to “equal” as well as “lengths” for “duration” for accuracy (e.g., four hours and 20 minutes would “equal” 5.5 passenger-days) and also edited verb tense for syntax.
- In section 93118.5(q)(1), staff added “fuel” after “CARB diesel” to improve clarity without altering the requirements.
- In section 93118.5(t)(1), section 93118.5(u)(1), and section 93118.5(u)(2)(B) staff changed the word from “regulation” to “section” for consistency.
- In Authority and Reference citations of section 93118.5, staff made updates to improve the punctuation.

III. Modifications to the Original Summary of Comments and Agency Responses in the FSOR

CARB staff posted the Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information on October 10, 2022, referred to herein as the second 15-day notice. The following commenters submitted comments to the public docket during the 15-day comment period which ran from October 10, 2022, through October 25, 2022. The full comments can be found in the appendix to this FSOR addendum.

Comment #	Name	Affiliation
3461	Russ Hodel	Individual
3462	Jed Hendrickson	Individual
3463	Joshua Kehoe	Individual
3464.1 – 3464.2	Greg Hurner	Sportfishing Association of California (SAC) & Golden Gate Fishermen’s Association (GGFA)
3465	Tim Hanners	Water Emergency Transit Authority (WETA)
3466	Tim Hanners	WETA
3467	Tim Hanners	WETA
3468.1 – 3468.3	Jessica Palmer	Department of Defense (DoD)
3469.1 – 3469.5	Leah Harnish	American Waterways Operators (AWO)
3470.1 – 3470.2	Ray Carpenter	R.E. Staite Engineering, Inc.

The following comments and agency responses are additions or modifications to the FSOR.

a) Irrelevant Comments

(3461) (3462) (3465)

Response 3461 et al.: CARB staff thanks all commenters that submitted comments to the docket during the second 15-day comment period. The comments listed in this category were not specifically directed to the modifications described in the second 15-day notice or to the procedures followed by CARB in proposing or adopting such modifications, and therefore do not require a staff response.

b) Proposed Change #25 in the Second 15-Day Notice

Comment 3470.1: “RES objects to locking or disabling any marine vessel to prevent operation. Unlike land equipment, a marine vessel cannot be "parked" somewhere and remain safe. A marine vessel must be constantly maintained, operating or not. Unless the vessel is hauled out of the water at great cost, any vessel that does not meet the performance standards will be docked at a wharf or similar structure. There are many reasons a vessel may need to be moved quickly other than for regular operation, such as for storm protection, regular maintenance or accessibility to an area where it is berthed. If an engine is disabled it may affect the safety of people and property adjacent to it. RES suggests that rather than be required to disable a vessel that an Owner be required to submit a signed statement that the vessel will not be operated unless it is for safety, maintenance or accessibility.”

Response 3470.1: The proposed second 15-day changes to subsection 93118.5 (e)(12)(B)6. were limited to the replacement of the word “locking” with “disabling” to clarify the original

intent of the language to address concerns raised to CARB staff by OAL during their review. Therefore, this comment is not specifically directed to the proposed modification of section 93118.5 (e)(12)(B)6 or to the procedures followed by CARB in proposing or adopting the proposed modification, and therefore does not require a response. Notwithstanding that response, any operation of a CHC engine in California that is not exempted from the CHC regulation, does not meet applicable performance standards and has not been granted a compliance extension, low use exception, ZEAT credit, or is allowed to continue operating under an approved ACE plan would be noncompliant under the Proposed Amendments. It is critical that the Proposed Amendments include this provision to ensure that non-compliant engines are not operated in California. Please see Page IV-69 of the ISOR for additional rationale for this provision.

c) Proposed Change #34 in the Second 15-Day Notice

Comment 3469.1: "AWO recognizes the benefit that CARB's proposed amendment provides by offering examples of what types of actions an applicant can take. However, we still believe that requiring this information puts an undue and unworkable burden on companies to prove that compliance will harm their business. It is impossible for companies to determine whether various business models will prevent this loss. The application package already requires three years of profit and loss statements, three years of federal and state income tax documents, and technical reports to prove eligibility. Subsection (e)(12)(E)3.b.vi is onerous and unnecessary and AWO asks CARB to strike it from the proposed CHC rule."

Response 3469.1: The proposed second 15-day changes to subsection (e)(12)(E)3.b.vi. provide specificity as requested by OAL, and do not substantively change the originally proposed requirements, therefore this comment is not specifically directed to the proposed changes to subsection (e)(12)(E)3.b.vi. or to the procedures followed by CARB in proposing or adopting such changes and accordingly does not require a response. Notwithstanding that response, CARB staff note that the portion of subsection (e)(12)(E)3.b.vi quoted by AWO in their comment letter was originally proposed with the 45-day notice. CARB did not receive comments on this provision during the 45-day public comment period. As stated in the ISOR on page IV-82, this subsection is necessary for vessel owners/operators to demonstrate to CARB that they have tried to comply with the Proposed Amendments. Applications must include information regarding the owner/operator's attempts at compliance to ensure that there has been a good faith effort to achieve compliance and that extensions are only granted when circumstances outside of the vessel owner/operator's control prevent compliance by the nominal deadline.

Comment 3470.2: "The American Waterways Operators (AWO) submitted an objection in their letter to Staff on September 14, 2022 related to this section. Their concern, taken from their September 14th letter states:

"vi. A list of actions that the applicant has taken to comply or in anticipation to comply with the regulation at the earliest compliance date and supporting documentation to demonstrate that these actions have been taken. AWO is extremely concerned about this reporting requirement. The language puts an undue and unworkable burden on companies to prove

that compliance will harm their business. It is impossible for companies to determine whether various business models will prevent this loss. The application package already requires three years of profit and loss statements, three years of federal and state income tax documents, and technical reports to prove eligibility. Proposed Subsection (e)(12)(E)3.b.vi is onerous and unnecessary and AWO asks CARB to strike it from the proposed CHC rule." CARB staff has revised this section in the 2nd Notice to expand upon the list of items necessary to prove eligibility in addition to three years of profit and loss statements, three years of federal and state income tax documents, and technical reports. It is requested that this section be omitted as it is unnecessary and onerous as originally detailed above by AWO."

Response 3470.2: See Response 3469.1.

d) Comments in Support

Comment 3464.1: This comment indicated that the Sportfishing Association of California (SAC) and the Golden Gate Fishermen's Association (GGFA) are supportive of the modifications made to the data reporting requirements.

Comment 3469.3: "AWO appreciates that CARB incorporated recommendations from our previous comments into their proposal, especially the expansion of the (E)(5) Scheduling Extension. The goal of this extension is to make sure owners and operators who are working in good faith are not be penalized for noncompliance if there are project delays outside of their control. Allowing applicants to renew this extension and use it for any equipment, installation or inspection delays will create new flexibility in the CHC regulation that will promote long-term compliance. We would also like to thank CARB for reiterating that any technology an owner or operator is required to install must be approved by the U.S. Coast Guard."

Response 3469.3: CARB staff thanks SAC, GGFA, and AWO for their support and their participation and input during the regulatory process and development of the amendments.

e) Repower Definition

Comment 3466: "Is the intension that this definition [of "repower"] would require the operator to repower the vessel to the most current engine emission Tier should their existing engine suffer a failure that required replacement of the engine block? Repowering to Tier 4 is orders of magnitude more expensive than an engine rebuild including a block. As an example, replacement of the block on a 32L Tier 2 engine was approximately \$50,000 in extra material expense. Recently, repowering that vessel with Tier 4 engines was approximately \$750,000 per engine including 2-3 months in the shipyard. How can operators stay in business not knowing if their maintenance costs could include an extremely costly repower that would require extensive engineering, shipyard time and modifications to complete?"

Response 3466: As stated in the second 15-day notice, the 15-day changes to the definition of “repower” in section 93118.5(d) were limited to changes to improve clarity without changing the meaning or intent of the definition. Therefore, this comment is not specifically directed to the proposed changes to the definition of “repower” in subsection (d) or to the procedures followed by CARB in proposing or adopting such changes and does not require a response. Notwithstanding that response, staff have communicated extensively with WETA throughout the regulation development process and remain available to WETA and all stakeholders respond to specific questions regarding implementation. Staff would also note that subsection (e)(8)(C) sets forth requirements for replacing an engine that is non-functioning due to equipment failure. These provisions are necessary because lower tier engines are significantly higher-polluting than engines that meet the current emission standards, and it is critical to reduce emissions from commercial harbor craft by requiring cleaner engines to be installed rather than rebuilding older, higher-polluting engines.

f) Extension E5 Renewal

Comment 3467: “In subsection 93118.5(e)(12)(E)5., staff added a subsection (c) stating ‘Renewal: The applicant may apply for an additional one-year extension no later than 9 months and no earlier than 12 months before the expiration of the extension’ to specify when renewals of the E5 extension must be submitted. Does this statement mean that after receiving the one-year extension the operator has 3 months to determine if that extension was long enough?”

Response 3467: The renewal application period for extension E5 is consistent with the renewal application periods for other one-year extensions such as E1. A period of 9 to 12 months is necessary to ensure adequate staff time to review and issue decisions for applicants.

g) Renewable Diesel

Comment 3463: The commenter discussed the benefits of using 80/20 biodiesel blends and raised concerns that not allowing its use will not benefit California.

Response 3463: This comment is not specifically directed to any of the proposed changes contained in the second 15-day notice or to the procedures followed by CARB in proposing or adopting such changes and does not require a response. Notwithstanding this response, please see the responses in the FSOR under section (t) Renewable diesel and biodiesel for more information on the decision to require the use of renewable diesel instead of biodiesel blends.

h) Gasoline Engines

Comment 3468.1: “...it remains unclear as to what thresholds these alternative fueled craft/engines are included/regulated, and thus what requirements become applicable to them (“alternative-fuel/s” is written 6 times and “gasoline” is written 1 time, including

revisions). This lack of clarity is exacerbated by the majority inclusion of diesel technical standards and testing for regulated crafts/engines. For example, new language was added to section (q)(1) on page 123 of 124 that reads, "When conducting testing procedures, engines may be fueled using CARB diesel, or U.S. EPA nonroad diesel fuel...." Recommend revising the proposed regulation in a way that brings clarity to the applicability of alternatively-fueled harbor craft and engines (inboard and outboard); specifically address gasoline-powered harbor craft and engines based on their prevalence in small craft."

Response 3468.1: This comment is not specifically directed to any of the proposed changes contained in the second 15-day notice or to the procedures followed by CARB in proposing or adopting such changes and does not require a response. Notwithstanding this response, please see the responses in the FSOR under section (j) Sportfishing for more information on the requirements and rationale for alternative fueled vessels and page 16 of the Notice of Public Availability of Modified Text and Availability of Additional Documents and Information posted on May 19, 2022 that discusses the necessity and rationale for the additions to subsection (q)(1).

<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/chc2021/15daynotice.pdf>

i) Exemptions

Comment 3468.2: The commenter states that section 93118.5(c)(5) conflates the exemptions for recreational vessels and alternatively-fueled CHC. The commenter suggests splitting the exemption into two separate exemptions, one specific to recreational vessels and one specific to alternatively-fueled CHC to better clarify the details of the exemption and to ensure that both stakeholder groups are equally likely to see the exemption applicable to them.

Response 3468.2: This comment is not specifically directed to any of the proposed changes contained in the second 15-day notice or to the procedures followed by CARB in proposing or adopting such changes and does not require a response. Notwithstanding this response, please see pages 3 and 4 of the Notice of Public Availability of Modified Text and Availability of Additional Documents and Information posted on May 19, 2022 that discusses the necessity and rationale for the proposed modifications to subsection (c)(5).

<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/chc2021/15daynotice.pdf>

j) Facility Definition

Comment 3468.3: The commenter suggests replacing "commercial harbor craft" with "vessels subject to this regulation" in the definition of "facility" to further improve clarity.

Response 3468.3: This comment is not specifically directed to any of the proposed changes contained in the second 15-day notice or to the procedures followed by CARB in proposing or adopting such changes and does not require a response. Notwithstanding this response, please see page 5 of the Notice of Public Availability of Modified Text and Availability of Additional Documents and Information posted on May 19, 2022, that discusses the necessity

and rationale for the proposed modifications to the definition of “facility” in subsection (d). <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/chc2021/15daynotice.pdf> Staff would also point out that the definition of “harbor craft,” which is synonymous with “commercial harbor craft,” provides a clear description of which vessels are considered commercial harbor craft under the regulation.

k) Opacity Testing

Comment 3469.2: “Subsection (k)(1)(C) requires training for individuals conducting opacity tests. OAL rejected this subsection, stating that the proposed regulation implies that training courses and certifications for opacity-test procedures are available, but the Initial Statement of Reason (ISOR) indicates they are not. AWO agrees with OAL’s determination and underscores the need for flexibility in this process. Therefore, we recommend changing the ISOR language to the following:

“If, during implementation of the Amended Commercial Harbor Craft Regulation, there are challenges associated with the consistent application of the proposed CHC opacity testing methodology, then an operator may submit an alternative strategy for testing that achieves equivalent results as those required within this subsection or submit an alternate proof of compliance as required by a federal enforcement agency.”

While standardized testing because of uniform training is important, certain vessels’ operational profiles do not fit into the proposed testing procedures. This change will allow operators to determine the best way to report opacity for their vessel. Additionally, AWO urges CARB to clarify which opacity method they want operators to use. Subsection (k)(1) states that “Opacity testing shall be performed...using Society of Automotive Engineers ‘Surface Vehicle Recommended Practice, Snap Acceleration Smoke Test Procedure for Heavy-Duty Powered Vehicles.’” However, Subsection (k)(4)(B) requires the opacity of exhaust from auxiliary engines to be measured using the test Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources as described in 40 CFR, Chapter I, subchapter C, Part 60 Appendix A-4. AWO asks CARB to work with industry to identify a reasonable, reliable, and consistent opacity testing method.”

Response 3469.2: No change was made in response to this comment. As a threshold matter, the commenter requests that CARB modify language in the ISOR describing subsection (k)(1)(C); this response assumes the commenter instead requests that CARB modify subsection (k)(1)(C) to incorporate the suggested text. The modified text is not acceptable because CARB is not aware of any other standardized test method for determining opacity of exhaust from commercial harbor craft engines, and the proposed text would therefore only introduce uncertainty associated with test procedures that have not been developed or been as widely used as the two test methods specified in subsections (k)(1) and (k)(4)(B), respectively.

In response to the commenter’s question regarding which opacity method applies, subsection (k)(1) states that opacity testing must be measured and evaluated using Society of Automotive Engineers “Surface Vehicle Recommended Practice, Snap Acceleration Smoke

Test Procedure for Heavy-Duty Powered Vehicles” (SAE J1667, February 1996). Subsection (k)(4)(B) specifies that opacity of exhaust from auxiliary engines must be measured using the test Method 9 – Visual Determination of the Opacity of Emissions from Stationary Sources as described in 40 CFR, Chapter I, subchapter C, Part 60 Appendix A-4 as it existed on September 26, 2022. The specification of different test methods for propulsion and auxiliary engines is needed because there is no single opacity testing method that will effectively and efficiently test all CHC main propulsion and auxiliary engines. The transient SAE J1667 test method adapted by CARB staff to CHC main propulsion engines may not be easily applicable to auxiliary engines that cannot be easily snap tested without use of additional equipment necessary to provide transient engine loads. Examples of such equipment could include a load bank for transient loading of generator engines or a truck load of k-rails or weights for a crane to hoist. In lieu of requiring all manner of methods that could be utilized to apply transient loads to the many possible auxiliary engine applications, the Method 9 test can be applied to auxiliary engines on vessels at dock where the exhaust stacks are stationary while the auxiliary engines are operated in their applicable vocation without requiring delivery of any additional test equipment for applying transient loads.

I) ACE Plan

Comment 3469.4: “It is essential that CARB continue to engage with stakeholders as they build out their implementation procedures. AWO appreciates having the Alternative Control Emissions (ACE) program as a way for operators to create their own plan for meeting CARB’s emission-reduction goals. As part of the application, operators must demonstrate that their mitigation measures meet or exceed the regulatory requirements. CARB has stated that they would like to create a standard method for calculating emissions reductions to ensure consistency and uniformity in reporting. AWO supports this and requests that CARB work with industry during the development process, publish the draft procedure, and hold a formal comment period before finalizing the methodology. It is necessary that every vessel class under the CHC rule use the ACE emissions calculation. The current program requires operators to report a vessel’s emissions profile in its homebase and operational area. In order to modify an ACE, an operator needs to recalculate their projected emissions and show that they will not exceed the compliance baseline or increase/transfer emissions into any disadvantaged communities (DACs) prior to making any operational changes. However, tugboats and barges move their homebase depending on where they work. These operators need the flexibility to move their vessels in a timely manner. AWO believes that if an operator has demonstrated that their vessel will continue to meet its emissions reductions obligations in additional air basins and the geographic change will not impact DACs, they should be able to do so without delay. Therefore, we ask CARB to include a grace period that allows owners and operators to continue using their ACE plan vessels while the E.O. reviews the plan modifications. AWO also requests that CARB amend Subsection (f)(1)(B) to allow an ACE application to include multiple air basins: “An applicant wishing to participate in an ACE may include one or more air basins and/or one or more harbor craft in the ACE...” AWO recognizes that the ACE application covers a single air basin to ensure DACs are not disproportionately impacted by emissions. This amendment would not change that burden of proof. However, allowing an entire fleet spanning multiple air basins to be included in a

single ACE will streamline the application process and decrease the number of future modifications to approved-ACE plans.”

Response 3469.4: This comment is not specifically directed to any of the proposed changes contained in the second 15-day notice applicable to subsections (f)(1)(A), (f)(1)(E)6, (f)(1)(F), or (f)(1)(I) or to the procedures followed by CARB in proposing or adopting such changes and does not require a response. Notwithstanding that response, CARB rejects the commenter’s proposal to adopt a “grace period” to allow vessels to operate while the Executive Officer reviews proposed modifications to an ACE plan because that proposal arguably creates a risk that CHC could emit harmful air pollutants in excess of allowable limits. For instance, if the Executive Officer subsequently determines a proposed ACE plan does not meet the applicable criteria for an ACE plan, that subsequent determination cannot adequately remediate the air pollutants and the associated environmental harms emitted from CHC operating under the proposed grace period. CARB also rejects the commenter’s proposal to amend the language to specifically allow an ACE application to include multiple air basins. The existing language in subsection (f)(1)(G) allows for an ACE to include emissions from harbor craft within an applicant’s fleet that operate within “another defined geographic area approved by the E.O.” Therefore, the E.O. could approve an ACE application spanning multiple air basins if the applicant demonstrated that the ACE would not result in a higher emissions burden to DACs as required by subsection (f)(1)(F)5.

Please see chapter IV, section H of the ISOR for more details on the rationale for each section of the ACE provision.

Comment 3469.5: “Additionally, AWO would like CARB to remove the phrase “under the person’s direct control” from Subsection (f)(1)(B), allowing a vessel or operator to apply for an ACE.”

Response 3469.5: This comment is not specifically directed to any of the proposed changes contained in the second 15-day notice applicable to subsections (f)(1)(A), (f)(1)(E)6, (f)(1)(F), or (f)(1)(I) or to the procedures followed by CARB in proposing or adopting such changes and does not require a response. Notwithstanding this response, CARB notes that subsection (f)(1)(B) reflects the text from the preexisting regulation that was not altered in either the 45-day or subsequent 15-day modifications for these amendments.

m) Data Reporting

Comment 3464.2: “SAC and GGFA strongly support the collaboration between CARB and CDFW to upgrade the current electronic logs and share data relevant to CARB’s mandate and mission while maintaining data confidentiality. This collaboration will also improve data accuracy and uniformity and will reduce the burden on reporting entities if the data can be transmitted from CDFW directly to CARB.”

Response 3464.2: This comment is not specifically directed to any of the proposed changes contained in the second 15-day notice applicable to subsection (m) or to the procedures

followed by CARB in proposing or adopting such changes, and does not require a response. Staff would, however, like to clarify that the vessel owner or operator is responsible for submitting the commercial passenger activity data in the correct .xlsx or .csv format as specified in subsection (m)(21)(C), whether that format is obtained directly from CDFW or compiled from paper or pdf logs by the vessel owner/operator. At this time, CARB does not have a CPFV activity data sharing agreement with CDFW, nor do CARB staff intend to enter into a data sharing agreement with CDFW for the purpose of obtaining CPFV activity data in lieu of receiving the CPFV activity data reports directly from CPFV owners/operators.