

Executive Order R-22-005

Relating to Resubmittal Package to the Office of Administrative Law for the Proposed Amendments to the Commercial Harbor Craft Regulation

Whereas, on November 19, 2021, and March 24, 2022, the California Air Resources Board (CARB or Board) conducted public hearings to consider the Proposed Amendments to the Commercial Harbor Craft Regulation, as set forth in Appendix A to the Initial Statement of Reasons released to the public on September 21, 2021;

Whereas, CARB prepared a draft environmental analysis (Draft EA) under CARB's regulatory program certified under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)) in the Staff Report, which concluded that the implementation of the Proposed Amendments have the potential to result in less than significant impacts to long-term air quality, energy demand, greenhouse gases, land use and planning, mineral resources, population, employment and housing, public services, recreation, and wildfire; and potentially significant and unavoidable adverse impacts to aesthetics, agriculture and forestry resources, short-term construction-related impacts to air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, traffic and transportation, tribal cultural resources, and utilities and services systems;

Whereas, following the public hearing on March 24, 2022, the Board adopted Resolution 22-6 in which the Board approved for adoption amendments to section 2299.5, California Code of Regulations, title 13, and section 93118.5, California Code of Regulations, title 17, as set forth in Appendix A to the Initial Statement of Reasons released to the public on September 21, 2021, and certified the Final EA, as released to the public on March 14, 2022;

Whereas, Resolution 22-6, directed the Executive Officer to make any additional conforming modifications deemed appropriate available for public comment, with any additional supporting documents and information, for a period of at least 15 days. The Executive Officer was directed to consider written comments submitted during the public review period and make any additional appropriate conforming modifications available for public comment for at least 15 days, and to take final action to adopt the regulation after addressing all appropriate modifications or present the regulation to the Board for further consideration if warranted;

Whereas, modified regulatory language and supporting documentation were circulated for a 15-day public comment period, with the changes to the originally proposed text clearly indicated, according to provisions of California Code of Regulations, title 1, section 44 and Government Code section 11340.85, from May 19, 2022, through June 3, 2022;

Whereas, written comments were received during the initial 45-day comment period and supplemental 15-day comment period, and those comments were considered by the Executive Officer;

Whereas, the Executive Officer adopted the Proposed Amendments to the Commercial Harbor Craft Regulation by Executive Order R-22-003, dated July 21, 2022, and submitted the rulemaking package to the Office of Administrative Law (OAL) for review in accordance with the California Administrative Procedure Act (APA);

Whereas, on September 1, 2022, OAL issued a Notice of Disapproval of Regulatory Action and on September 8, 2022, issued a Decision of Disapproval of Regulatory Action;

Whereas, modifications were made to regulatory language in order to correct the deficiencies specified in the September 8, 2022, Decision of Disapproval of Regulatory Action;

Whereas, the modifications were made available for second 15-day comment period, with the changes to the originally proposed text clearly indicated, according to provisions of California Code of Regulations, title 1, section 44 and Government Code section 11340.85, from October 10, 2022, through October 25, 2022;

Whereas, written comments were received during the second 15-day comment period and those comments were considered by the Executive Officer; and

Whereas, based on substantial evidence in the record, the Final EA remains applicable to and adequate for the project, and there is no possibility the modifications to the regulation made available for 15 day public comment periods after the Board hearing could affect the conclusions of the Final EA or otherwise require subsequent or supplemental environmental analysis, so no additional environmental analysis was required.

Now, Therefore, It Is Ordered that the recitals and findings contained in Resolution 22-6 and Executive Order R-22-003 are incorporated herein.

It Is Further Ordered that section 2299.5, California Code of Regulations, title 13, and section 93118.5, California Code of Regulations, title 17, are adopted as set forth in the "Final Regulation Order" attached to this Order.

It Is Further Ordered that the adopted regulatory text may be further revised with non-substantial or grammatical changes, which will be added to the rulemaking record and indicated as such.

Executed this 14th day of November at Sacramento, California.



Steven S. Cliff, Ph.D.,
Executive Officer

Attachment