

# Comment Log Display

Here is the comment you selected to display.

Comment 1 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

**First Name** Russ

**Last Name** Hodel

**Email Address** rphodel@att.net

**Affiliation**

**Subject** Plese...Save our boats

**Comment**

Based on the first numbers you published, the overwhelming vote was "save our boats". Isn't this what democracy is all about? Why do you think the average guy or gal on the street distrusts politicians? They do not listen to us. Rather they move on and enact baseless rules and regulations that allows them to spout of about how much they care and done to improve things.

3461

I grew up sportfishing in California and have the pleasure to experience teaching and sharing the same thing with my grandkids. Please give some serious thought to let these good people continu to provide the kind of entertainment that is unique to California and cherished by so many.

**Attachment**

**Original File Name**

<b>Date and Time</b>	2022-10-10 18:08:58
<b>Comment Was Submitted</b>	

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

[Board Comments Home](#)

# Comment Log Display

Here is the comment you selected to display.

Comment 2 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

**First Name** Jed A.

**Last Name** Hendrickson

**Email** jedhendrickson@gmail.com

**Address**

**Affiliation**

**Subject** Oppose commercial harbor craft regulation

**Comment**

I oppose all regulation directed by CARB. Unelected bureaucrats should not be allowed to excersise such authority. This only belongs to the legislature.

3462

**Attachment**

**Original  
File Name**

**Date and** 2022-10-15 14:28:05

**Time**

**Comment**

**Was**

**Submitted**

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

## Board Comments Home

# Comment Log Display

Here is the comment you selected to display.

Comment 3 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

**First Name** Joshua  
**Last Name** Kehoe  
**Email Address** kehoej1@gmail.com  
**Affiliation** no affiliation  
**Subject** R99/100

**Comment**

Dear CARB personnel,

3463

I recently submitted comments for the off-road diesel regulations. The crux of my comments there were issues with regulatory language that would exclude biodiesel blends and instead legislate the use of R99/100. In fact my prior comments had mentioned the benefits of biodiesel lubricity potentially being more important for larger and more powerful marine diesel engines than for many of the smaller off-road engines affected by the pending off-road legislation. I had not realized at the time this parallel track of harbor craft legislation was already underway a much further along than for off-road diesel. I came across all this quite by chance tonight during a random internet search looking for biodiesel blends to potentially reduce CII scores under IMO legislation, which is obviously an entirely different topic.

I have nothing new to add here aside from again not understanding the rationale to exclude biodiesel blends in the regulatory language. From my layman's viewpoint, a B20/R80 blend would seem to offer significant reductions in both PM and NOx emissions versus petroleum diesel. As I noted in my off-road dies

comments, the issue of potential increased NOx emissions with BD/blends with greater proportions of biodiesel is not an area where think you can make conclusive statements about NOx emissions increasing with biodiesel. Amongst the research articles I have read attempting to answer this NOx/BD question, there are simply too many variable in experiment setup as well as the data itself state with any certainty that BD results in more NOx versus petroleum or renewable diesel. While there is a growing supply of RD coming on the market, there is still quite a bit of BD production that seems most appropriate for heavier-duty engine us such as in larger marine craft and locomotives, etc. I fail to se how CARB legislating against a use of a B20/80 blend will benefit the citizens of California. My understanding from what I have rea is that the particulate matter emissions of larger engines under various workloads is harder to manage with DPF devices than with smaller diesel engines. Given the importance of PM emissions from both a human toxicity standpoint, as well as their GHG potential, it seems logical to allow the use of at least a B20/R80 blend giv the known advantages of BD in reducing PM emissions. As stated earlier, the lubricity of biodiesel also has the potential added benefit of reducing engine wear-and-tear in these larger, harder-working engines, which should also have at least a theoretical advantage in reducing emissions simply through engine being in better condition over time. Clearly I could be overthinking this last point. Given the maritime and rail industr interest in BD blends both nationally and internationally, I woul have to think that if there were major concerns with biodiesel th these would have become apparent through commerical disinterest i using these fuels. As I stated in my off-road comments, in the US at least, it may be the economic forces and competition for feedstock create market forces that reduce biodiesel production over time in favor of renewable diesel (and sustainable aviation fuel).

As always, thank you for providing a forum through which I can voice my thoughts and opinions as a California citizen. For the record, I do have a small investment in a private, potential futu renewable diesel project, but otherwise have no commercial or oth connections to any corporation or lobbying group, etc.

Sincerely,

Josh Kehoe

**Attachment**

**Original  
File Name**

**Date and** 2022-10-22 21:12:45

**Time**

**Comment**

**Was**

**Submitted**

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

[Board Comments Home](#)



October 25, 2022

Clerks' Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814  
Electronic submittal: <https://www.arb.ca.gov/lispub/comm/bclist.php>

**RE: Proposed Amendments to the Commercial Harbor Craft Regulation**

On behalf of the Sportfishing Association of California (SAC), the Golden Gate Fishermen's Association (GGFA), their members that operate Commercial Passenger Fishing Vessels, and their crews and families, we wish to extend our appreciation to the staff at the California Air Resources Board for their continued collaboration on improving the Commercial Harbor Craft rule. 3464.1

We believe that the modifications made to the data reporting requirements not only fully clarify the types of data to be reported but also simplify the reporting process by aligning with the data already collected by CDFW through mandated electronic logs submitted by each vessel. This alignment will allow reporting entities to utilize the electronic logs transmitted to CDFW if CARB is unable to obtain the data directly.

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. 3464.2

SAC and GGFA will continue to engage with the Governor, Legislature and CARB to request adequate funding to replace the Carl Moyer Program funding that the fleet relied upon for engine retrofits to reduce emissions. With adequate funding the fleet will continue to aggressively pursue emission reduction projects and allow those vessel operators to engage with CARB staff on reviewing hybrid and zero emission technology for future repowers when feasible.

Sincerely,

A handwritten signature in black ink that reads 'Greg Hurner'. The signature is written in a cursive, flowing style.

Greg Hurner



# Comment Log Display

Here is the comment you selected to display.

Comment 5 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

<b>First Name</b>	Tim	
<b>Last Name</b>	Hanners	
<b>Email Address</b>	Hanners@watertransit.org	
<b>Affiliation</b>	WETA	
<b>Subject</b>	Comments on Carbs Proposed Amendment to Harbor Craft	
<b>Comment</b>	Attached Comments to proposed regulations	3465
<b>Attachment</b>		
<b>Original File Name</b>	Comments on CARBs Proposed Amendments.pdf	
<b>Date and Time Comment Was Submitted</b>	2022-10-25 13:50:33	

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

[Board Comments Home](#)

# Comment Log Display

Here is the comment you selected to display.

Comment 6 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

<b>First Name</b>	Tim
<b>Last Name</b>	Hanners
<b>Email Address</b>	Hanners@watertransit.org
<b>Affiliation</b>	WETA
<b>Subject</b>	Repower

**Comment**

3466

8.  
*“Repower” means replacing an existing used engine with another brand new or reconditioned engine that meets meeting current required emission standards in effect at the time of replacement repower., Repower including but not limited to major engine repairs on a damaged engine requiring a different new engine block.*

**Comment** - Is the intension that this definition would require the operator to repower the vessel to the most current engine emissio Tier should their existing engine suffer a failure that required replacement of the engine block? Repowering to Tier 4 is orders o magnitude more expensive than an engine rebuild including a block As an example, replacement of the block on a 32L Tier 2 engine wa 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 complet

**Attachment**

**Original  
File Name**

**Date and  
Time** 2022-10-25 13:53:52

**Comment  
Was  
Submitted**

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

[Board Comments Home](#)

# Comment Log Display

Here is the comment you selected to display.

Comment 7 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

**First Name** Tim  
**Last Name** Hanners  
**Email Address** Hanners@watertransit.org  
**Affiliation** WETA  
**Subject** One Year Extension

**Comment**

**44.**  
*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.*

3467

**Comment** - Does this statement mean that after receiving the one-year extension the operator has 3 months to determine if that extension was long enough?

**Attachment**

**Original  
File Name**

<b>Date and Time Comment Was Submitted</b>	2022-10-25 13:55:02
------------------------------------------------------------	---------------------

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

[Board Comments Home](#)

# Comment Log Display

Here is the comment you selected to display.

Comment 8 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

**First Name** Jessica

**Last Name** Palmer

**Email** jessica.n.palmer8.civ@us.navy.mil

**Address**

**Affiliation** Navy Region Southwest / DoD

**Subject** DoD Comments on the Proposed Amendments to the CHC Regulation

**Comment**

Good Afternoon,

On behalf of the military Services in California, please find consolidated Department of Defense (DoD) comments on the Californ Air Resources Board's (CARB's) Modified Text and Additional Documents and Information for the Proposed Amendments to the Commercial Harbor Craft Regulation, attached. We appreciate the opportunity to comment and CARB's continued efforts on this regulation.

Sincerely,

Jessica Palmer

DoD REC 9 Governmental Affairs

Navy Region Southwest

**Attachment** [www.arb.ca.gov/lists/com-attach/3751-chc2021-VjIFbARhAAwAZQIm.docx](http://www.arb.ca.gov/lists/com-attach/3751-chc2021-VjIFbARhAAwAZQIm.docx)

**Original File Name** DoD Comment Matrix\_CHCReg.docx

**Date and Time** 2022-10-25 14:48:51

**Comment Was Submitted**

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

[Board Comments Home](#)



**Department of Defense Comment Matrix**

Submitted: 25 October 2022

**California Air Resources Board  
Commercial Harbor Craft Regulation**

Comment #	Location		Department of Defense Comment	Requested Revision
	Page	Section		
1		General Comment for Section 93118.5.	This regulation emphasizes in its initial purpose and intent, and in multiple sections throughout its entirety, that it is meant to reduce specific emissions from diesel propulsion and auxiliary engines (“diesel” is written 147 times, including revisions). Although the applicability section states that as of January 1, 2023 this regulations applies, “to any new or in-use harbor craft, regardless of fuel type,” and in the most recent revision the word “diesel” was struck from Section (8) on page 59 of 124 as follows, “All Harbor Craft (Excluding Commercial Fishing Vessels) – Requirements for New and Newly Acquired Diesel Engines (Applicable On and After January 1, 2023),” 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, “ <u>When conducting testing procedures, engines may be fueled using CARB diesel, or U.S. EPA nonroad diesel fuel...</u> ”	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.  3468.1
2	7 of 124	Section 93118.5.(c)(3)(5)	This section conflates the exemptions for recreational vessels and alternatively-fueled commercial harbor craft by combining them in the following way, “A recreational vessel or any alternative fueled vessel that carries 6 or fewer passengers and that is not required to be documented with the U.S. Coast Guard pursuant to 46 CFR 67.7 as last amended on September 25, 2009 and 46 CFR 67.9 as published on November 15, 1993, which are incorporated by reference herein, is exempt from this section in its entirety;”	Recommend splitting this exemption into two separate exemptions, one specific to recreational vessels and one specific to alternatively-fueled commercial harbor craft. This would better clarify the details of the exemption for recreation vessels versus alternatively-fueled harbor craft, and ensure that both stakeholder groups are equally likely to see the exemption applicable to them when reading this regulation.  3468.2

**Department of Defense Comment Matrix**

Submitted: 25 October 2022

**California Air Resources Board  
Commercial Harbor Craft Regulation**

Comment #	Location		Department of Defense Comment	Requested Revision
	Page	Section		
3	16 of 24	Section 93118.5.(d)	To improve clarity the words, “but is not limited to” were removed from the definition of “Facility,” leaving the revised definition as, “any port, marine terminal, oil terminal, marina, harbor, and land with docks for allowing a commercial harbor craft to dock, moor, or otherwise conduct commerce.”	To further improve clarity in this section, and in follow-on sections relevant to facility requirements, it is recommended that the words “commercial harbor craft” are replaced with “vessels subject to this regulation” in the definition of “Facility.”

3468.3

# Comment Log Display

Here is the comment you selected to display.

Comment 9 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

**First Name** Leah

**Last Name** Harnish

**Email** lharnish@americanwaterways.com

**Address**

**Affiliation** The American Waterways Operators

**Subject** American Waterways Operators Comments on Second 15-Day Modifications to the CHC Regulation

**Comment**

To Whom it May Concern,

On behalf of The American Waterways Operators, I am submitting the attached comments in response to the Notice of Second Public Availability of Modified Text and Availability of Additional Documents and Information for the Proposed Amendments to the Commercial Harbor Craft Regulation. If for any reason the document does not open, please email me at lharnish@americanwaterways.com give me a call at (703) 373-2290 and I will send them to you in a new format.

Thank you,

Leah Harnish

**Attachment** [www.arb.ca.gov/lists/com-attach/3752-chc2021-BjRXYVFiBGVVfIBh.pdf](http://www.arb.ca.gov/lists/com-attach/3752-chc2021-BjRXYVFiBGVVfIBh.pdf)

<b>Original File Name</b>	2022-10-25 AWO Comments on Second 15 Day Rulemaking.pdf
<b>Date and Time</b>	2022-10-25 15:50:03
<b>Comment Was Submitted</b>	

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

[Board Comments Home](#)



999 N. Northlake Way  
Suite 223  
Seattle, WA 98103

PHONE: 206.406.3922  
EMAIL: pschrappen@americanwaterways.com

Peter J. Schrappen, CAE  
Vice President – Pacific Region

October 25, 2022

Steven S. Cliff, Ph.D.  
Executive Officer  
California Air Resources Board  
1001 I Street, Sacramento, CA 95814

RE: 15-Day Changes after Office of  
Administrative Law's Disapproval of Regulatory  
Action for the Commercial Harbor Craft Rule

Dear Dr. Cliff:

The American Waterways Operators (AWO) is the tugboat, towboat, and barge industry's advocate, resource, and united voice for safe, sustainable, and efficient transportation on America's waterways, oceans, and coasts. Our industry makes up the largest segment of the U.S.-flagged domestic maritime fleet and represents the most sustainable mode of freight transportation, producing 43 percent less greenhouse gas emissions than rail and more than 800 percent less than trucks. Tugboat, towboat, and barge operations are particularly significant in California, which ranks third among states in waterborne commerce by tonnage and fourth in economic impact, with more than \$12.2 billion in annual economic activity driven by the domestic maritime transportation industry.

### Introduction

On September 9, 2022, the California Office of Administrative Law (OAL) published a Decision of Disapproval of Regulatory Action for the California Air Resource Board's (CARB) final Commercial Harbor Craft (CHC) rule. Government Code section 11349(c) requires a regulation to be "easily understood by those persons directly affected by them." OAL determined that the proposed regulatory changes failed to comply with this clarity standard.

AWO and its members have appreciated CARB's willingness to discuss the CHC rule over the last three years and welcome the opportunity to provide additional comments on CARB's proposed changes and OAL's decision.

Comments on Proposed Modifications to Commercial Harbor Craft Regulation

**34. Subsection 93118.5(e)(12)(E)3.b.vi**

Proposed Subsection (e)(12)(E)3.b outlines the application requirements for the (E)(3) Extension application. Among other things, this subsection requires:

“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.”

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.

Additional Comments from OAL’s Decision

**1.1 Proposed Subsection (k)(1)(C) of Section 93118.5**

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<sup>1</sup>:

3469.2

“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*<sup>2</sup>.”

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.

---

<sup>1</sup> Additions to the proposed language are *italicized*.

<sup>2</sup> An example of an alternate proof of compliance is International Air Pollution Prevention certificates. These certificates are issued by the U.S. Coast Guard or class societies and the program is regulated jointly by the USCG and U.S. Environmental Protection Agency. The certification’s standard is set by the International Convention for the Prevention of Pollution from Ships (MARPOL) Annex VI and the Act to Prevent Pollution From Ships (APPS).

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.

#### Other Comments

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. 3469.3

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. 3469.4

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.

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. 3469.5

### Conclusion

Thank you again for the opportunity to submit additional recommendations on the Commercial Harbor Craft Rule. We would be pleased to answer any questions or provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Schrapfen". The signature is fluid and cursive, with the first name being the most prominent.

Peter Schrapfen  
Vice President – Pacific Region



# Comment Log Display

Here is the comment you selected to display.

Comment 10 for Proposed Amendments to Commercial Harbor Craft Regulation (chc2021) - 15-2.

**First Name** Ray

**Last Name** Carpenter

**Email** restaite@restaite.net

**Address**

**Affiliation** R.E. Staite Engineering, Inc.

**Subject** Public Comments - 2nd Notice of Availability of Mod Text Amendments to CHC Regulations

**Comment**

Please see the attached comments from R.E. Staite Engineering, Inc. regarding the Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information to the Proposed Amendments to the Commercial Harbor Craft Regulation.

**Attachment** [www.arb.ca.gov/lists/com-attach/3753-chc2021-WjkBaF0xWWcFZIQ6.pdf](http://www.arb.ca.gov/lists/com-attach/3753-chc2021-WjkBaF0xWWcFZIQ6.pdf)

**Original File Name** Comments RES 2nd Notice of Public Availability of Modified Text and Availability of Additional Documents CHC Amendments.pdf

**Date and Time** 2022-10-25 16:19:07

**Comment Was Submitted**

If you have any questions or comments please contact Clerk of the Board at (916) 322-5594.

[Board Comments Home](#)



**R. E. STAITE ENGINEERING INC.**

ESTABLISHED. 1932 CLASS A LICENSE. 654631

Delivery via <https://www.arb.ca.gov/lispub/comm/bclist.php>

October 21, 2022

Clerks' Office  
California Air Resources Board  
1001 I Street  
Sacramento, California 95814

Attn: Steven Cliff, Ph.D., Executive Officer  
California Air Resources Board

RE: Public Comments

Subject: Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information to the Proposed Amendments to the Commercial Harbor Craft Regulation

Dear Mr. Cliff:

R.E. Staite Engineering, Inc. (RES) is R.E. Staite Engineering, Inc. is a family owned, heavy marine construction company headquartered in San Diego. RES is classified as a Federal Small Business within the System for Award Management (SAM). In order to maintain our small business status, we are limited to a revenue of \$32,500,000 per year over an average of three years. RES owns over \$50 million dollars of specialized marine equipment that we use to perform predominantly government contracts that require ocean-going marine equipment such as ocean-going tug boats, dredges and 3,000 CY dump scows, in addition to the various support vessels such as flat deck barges, work boats, survey boats and crew boats that are required for most of our projects. Since 2007, RES has upgraded 30+ engines, most of them at our own expense within our limited income bracket. Every piece of our marine equipment is affected by the Proposed CHC Amendments. The Proposed CHC Amendments will have a devastating impact on our company; R.E. Staite Engineering, Inc. will likely go out of business. The impacts of the elimination of our business will not just impact our employees, but will impact the greater San Diego region and impact government agencies that we perform work for. It is not an insignificant loss.

We are responding to the Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information to the Proposed Amendments to the Commercial Harbor Craft Regulation. We have provided feedback to the changes at every opportunity. As a small business, we do not feel heard or understood. Our suggestions for making this rule workable for our company have not been incorporated into the draft proposals, our company data that we have shared with CARB has not been used in a way that we understand, and we still have serious concerns about a majority of the data and assumptions used for parts of the analysis.

2145 E. Belt Street, San Diego, California 92113 • phone: 619.233-0178 fax: 619.233.3706  
[restaite@restaite.net](mailto:restaite@restaite.net)

Our understanding last November was that Staff would work with Stakeholders to make grant funding more accessible and to make extensions easier and more affordable. The clarifications that have been made and the workshops that have been held have not affected grant funding at all. We have been directed to many resources that we knew of and have taken advantage of previously. We were told that Staff could not affect change at the grant level, so we are left with the same programs, same rules and dwindling possibilities for funding due to timing and a fleet that has to be upgraded within a short period of time. We would request that the Board direct Staff to initiate changes, particularly to the Carl Moyer Grant Program that would allow an extended period of time to be eligible for grant funding. As the program stands now, RES may not be able to qualify for any funding for the future upgrades.

Our last comments to CARB Staff on September 13, 2022, requested that a flow chart or more simplified way of determining what is required for an extension be provided. Ms. Haynes followed up with an e-mail to RES on September 15, 2022 to let us know "We are in the process of preparing several "fact sheet" documents to post on the CHC program webpage that will more succinctly explain the requirements. One of these will be a fact sheet explaining extensions, including a summary in table format that should be easier to follow than the regulation language itself." The language surrounding extensions is difficult to decipher and makes it hard to plan for change when the timeline cannot be easily determined. Not working with the language and rules everyday puts companies such as ours at a disadvantage. There may be generous extensions available to us, but we can't find them buried in the text or within the new rules and exceptions. We request that the "fact sheets" be generated by December 31, 2022 to allow for planning for extensions.

The Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information to the Proposed Amendments to the Commercial Harbor Craft Regulation describes additional modifications made to the regulatory language to address the concerns noted by OAL in its Decision of Disapproval of Regulatory Action, and to provide greater clarification and enforceability of the proposed amendments. RES has reviewed the new proposed revisions and would like to provide additional feedback related to the following changes detailed in the Notice:

***25. In subsection 93118.5(e)(12)(B)6., staff replaced the word "locking" with "disabling" to clarify that an engine that does not meet performance standards but remains installed on a vessel must be disabled to prevent operation.***

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.

3470.1

**34. In subsection 93118.5(e)(12)(E)3.b.vi., staff added “Such actions may include developing new business structures (e.g., forming a new corporation) or restructuring existing accounting practices to pass some or all of the compliance costs associated with this regulation onto the consumers and entities receiving the applicant’s services, replacing existing engines with engines certified to more stringent marine engine or off-road certification standards, and procuring loans to finance anticipated compliance costs” to clarify examples of key actions applicants should include in the application and to match the intent as provided in the ISOR, p. IV-82. This edit clarifies proposed language that was disapproved by OAL as not meeting the clarity standard in Government Code section 11349, subdivision (c), and Cal. Code Regs., title 1, section 16, as stated in section 1.12 of its memo.**

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 14<sup>th</sup> 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.*

3470.2

*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 2<sup>nd</sup> 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.

As an invested Industry Stakeholder, and a business that has participated in the CHC Amendment process, we request that you take our objections and comments regarding the CHC Amendments into consideration. We value any further clarification and simplification of the Amended CHC Regulations that can be provided.

Sincerely yours,

**R.E. STAITE ENGINEERING, INC.**

  
R.A. Carpenter  
President