

Union of Concerned Scientists - Clean Air Task Force - Natural Resources Defense Council
- Friends of the Earth - Communities for Clean Ports - Sierra Club California - American
Lung Association of California - Coalition for Clean Air - Coalition for a Safe Environment

October 24, 2007

Mary D. Nichols, Chairwoman
California Air Resources Board
Headquarters Building
1001 I Street
Sacramento, CA 95812

Re: Proposed Harborcraft Regulation

Dear Ms. Nichols:

Friends of the Earth, Coalition for Clean Air, Natural Resources Defense Council, Union of Concerned Scientists, Clean Air Task Force, Communities for Clean Ports, Coalition for a Safe Environment, Sierra Club California, and the American Lung Association of California would like to voice support for the proposed Harborcraft Regulations (regulation).¹ While we have some remaining concerns with the regulatory proposal,² we believe that it is important for the board to swiftly adopt this significant diesel pollution reduction measure. We recommend several small modifications, however, that can substantially improve the public health impacts of the rule within California and beyond.

In California, marine sector diesel particulate matter (DPM) and nitrogen oxide (NO_x) emissions are significant.³ Furthermore, emissions from certain marine vessels, such as harborcraft, have gone largely unregulated.⁴ In light of the public health and regulatory implications in not controlling this emission stream, ARB has set goals for reducing these pollutants, including the Goods Movement Emission Reduction Plan, which calls for 25 percent reductions in DPM and NO_x by 2010 compared to baseline 2001 levels,⁵ and the ARB's Diesel Risk Reduction Plan, which commits to decreasing the risk from diesel pollution by 75 percent by 2010. In accord

¹ Emission Limits and Requirements for Diesel Engines on Commercial Harbor Craft Operated within California Waters and 24 Nautical Miles of the California Baseline; Airborne Toxic Control Measure for Diesel Engines on Commercial Harbor Craft Operated within California Waters and 24 Nautical Miles of the California Baseline [hereinafter regulation].

² See separate Friends of the Earth comment letter submitted to ARB October 24, 2007.

³ California Air Resources Board, Staff Report: Initial Statement of Reasons for Proposed Rulemaking—Proposed Regulation for Commercial Harbor Craft, (September 2007), at ES 1 [hereinafter Staff Report] (roughly 3.3 tons per day of DPM and 73 tons per day of NO_x are expelled from diesel engines on commercial harbor craft in California); Emission Reduction Plan for Ports and Goods Movement in California, (2006), at 22-23 (marine emissions, as a percentage of goods movement emissions, account for approximately 30 percent of DPM and 20 percent of NO_x emissions in California).

⁴ Staff Report, at ES 1 (“Approximately 80 percent of all harbor craft engines are unregulated diesel engines”).

⁵ *Id.*, at 2; Compare with California Air Resources Board, Technical Support Document: Initial Statement of Reasons for Proposed Rulemaking—Proposed Regulation for Commercial Harbor Craft, (September 2007), [hereinafter Technical Report], at VII-3 (22 percent emission reductions for DPM and 19 percent emission reductions for NO_x from 2004 baseline).

with these general Action Plan goals, the proposed regulation will eventually eliminate a substantial amount of marine vessel pollution. We request, however, that the following modifications to the regulation be included to increase near term reductions of diesel PM and NOx emissions.

Expedite Phase-In Timeline to Meet ARB Action Plan Goals

The compliance timeline in the staff proposal is extremely lengthy, stretching until 2022, despite the urgent need to reduce harborcraft emissions. We support a shorter compliance schedule, as outlined in the second alternative considered in the Staff Report. In this alternative, total diesel PM emissions reductions:

...would be significantly more than with the proposed schedule, 6.0 million pounds during the 14 years from 2009 to 2022.... The total NOx reduction of this same time would be 46,000 tons, nearly 20 percent more than with the proposed regulation. This alternative would produce earlier reductions than the current proposal, with a cost-effectiveness similar to the current proposal.⁶

This alternative was rejected due to concerns about statewide engine replacement capacity. However, possible alternatives exist to address these concerns including out-of-state engine replacement locations, financial inducements (such as the Carl Moyer Memorial Air Quality Standards Attainment Program),⁷ and subsidized increased capacity arrangements. These possible alternatives should be evaluated to accelerate and augment needed vessel emission reductions.

Recommendation: ARB should accelerate and compress the compliance schedule. At a minimum, ARB should duplicate the compliance schedule for the South Coast Air Quality Management District statewide.

Divide the proposed regulation into separate NOx and DPM rules

ARB's regulation of in-use marine diesel emissions is also extremely important to states other than California, because it will provide one of the few opportunities available to them to mandate emission reductions from nonroad marine diesel engines. Due to the limited legal options available to other states to reduce nonroad emissions and protect their citizens, it is critical that California regulations be promulgated in a form that can be adopted by other states. Specifically, we request the Board to split the proposed harborcraft regulation into two separate parts—one addressing NOx emissions, the other addressing DPM. Such a separation of the proposed harborcraft regulation into distinct NOx and DPM rules would provide states other than California with much needed flexibility to consider adoption of one or the other of these rules, depending on their particular air quality situation. We note that the Board accepted a similar

⁶ Staff Report, at 24.

⁷ See Technical Report, at VI-4 (“Staff also anticipate that some vessel owner/operators will replace their engines early in order to be eligible for incentive funding. These voluntary early repowers would shift the distribution of repowers and more evenly distribute the workload on the industry”); See *Id.*, at VI-5 (additional grant information), and at VIII-28 (table of projected annual in-use engine replacements).

recommendation and adopted this approach recently by dividing its regulation for In-Use Off-Road Diesel Vehicles into separate rules for NOx and DPM.

Recommendation: We urge ARB to divide the proposed harborcraft regulation into separate NOx and DPM rules, thereby facilitating the adoption of in-use marine diesel emission reduction measures by other states around the nation.

Ocean-Going Tugboats and Towboats

We support ARB's decision that ocean-going tugboats and towboats should be covered under the regulation and subject to all compliance requirements. ARB correctly notes that these ocean-going tugboats "are functionally equivalent or otherwise very similar to their harbor tugboat counterparts."⁸ To delineate between the tugboat types for purposes of this regulation would unfairly burden harbor tugboats and advantage ocean-going tugboats on overly narrow technical grounds, which importantly do not address the significant contributions of each classification to marine vessel pollution, especially near-shore pollution. Finally, ARB asserts that ocean-going tugboats made over 500 visits to California ports in 2006.⁹ This sizeable contribution to port pollution rightly cannot be ignored.

Recommendation: Exemptions should only be extended in rare cases and for compelling reasons. ARB should continue to require full-regulatory compliance for ocean-going tugboats and towboats.

We commend the hard work and dedication of ARB staff, who crafted the regulation and conducted outreach. Given ARB's Diesel Risk Reduction and Goods Movement Emission Reduction Plan¹⁰ goals, as well as ARB's efforts to attain state and federal air quality objectives, ARB should move quickly to address the under-regulated marine vessel sector with a strong, health protective regulation. We urge you to adopt the strengthening provisions outlined here.

Thank you for considering these comments.

Sincerely,

Diane Bailey
Scientist
Natural Resources Defense Council

Tom Plenys
Research and Policy Manager
Coalition for Clean Air

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Clean Vessels Program Associate

⁸ Staff Report, at 25.

⁹ *Id.*

¹⁰ Part of the Goods Movement Action Plan (Action Plan).

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