November 15, 2021

Liane M. Randolph
Chair, California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

SUBJECT: Comments Regarding the Proposed Amendments to the Commercial Harbor Craft Regulation

Dear Chair Randolph,

The various Civil Engineering and Transportation firms, operating within California's maritime sector, take immense pride in our aggressive pursuit of fleet innovation, while actively integrating Best Management Practices within our current business operations. Commercial Harbor Craft (CHC) operations are paramount to our industry's ability to dredge channels and maintain ports that are crucial to American trade. Additionally, long haul barge transport operations provide grossly overlooked benefits to the general public by connecting commodities to distant markets, without congesting California's already strained freeway system.

CHC operators understand the importance of taking meaningful steps towards reducing harmful Particulate Matter (PM) and Greenhouse Gas Emissions (GHG) such as SOx, NOx, and CO2 within our areas of operation. In our efforts to meet upcoming CHC regulations, we have dedicated resources towards researching and implementing new technologies within our fleets. However, the newly proposed CHC amendment promulgates an impractical expansion of existing CHC regulations. This amendment will now include engine upgrade requirements to be met within a timeframe that is simply not feasible for Subchapter M operators. Concerns regarding these additional regulations have arisen based upon valid observations of blatant discrepancies littered throughout the new amendment proposal process. These include, but are not limited to the following:

1) The exclusion of certain commercial fishing vessels from these CHC amendments. This exclusion is based upon factors which are every bit as prevalent for tug and barge operators. If negative financial impacts to industry sectors were being considered during the development of this amendment then surely Subchapter M operators, whose primary functions involve clamshell dredges and barges (assets which will also be impacted), should be considered for exemption as well.

2) Discrepancies, and misrepresentations, of inventory numbers and regional data are also clear. The initial use of the USCG registry to determine CHC vessel numbers was based upon a fundamental misunderstanding of "Hailing Port State". However, it does not end there. The July 7th release of the Standardized Regional Impact Assessment (SRIA) on the proposed amendments to the existing CHC regulation has a rather egregious

omission of regional CERP data that should be addressed. The South Coast Air Quality Management District's (SCAQMD) Community Emissions Reduction Plan (CERP) is a locally developed emission reduction strategy, for disadvantaged portside communities, based upon locally generated emissions reporting. The July 7th SIRA explicitly states:

> *"Emissions generated from CHC are one of the primary areas of concern in a number of portside communities currently developing CERPs due to their substantial toxic and criteria air pollution emissions."*

However, according to Chapter 3B within the WCWLB CERP, which represents Wilmington/Carson/West Long Beach, it asserts that, while Diesel Particulate Matter (DPM) was the main contributor of higher air toxic cancer risks within the SCAQMD basin, CHC vessels were not among the top contributors of PM2.5 or VOC. In fact, this document clearly states that overall NOx emissions are expected to increase through 2029 due to "industrial and on-road mobile sources". It also makes note of the fact that the primary contributors of NOx from the "Off-Road" sector remain Ocean Going Vessels (OGV's). While it does assert that Off-Road Sources account for 45% of NOx emissions within the region, nowhere does it make the claim that CHC vessels are a primary contributor. Concluding that the CHC fleet is the primary source of air pollution and higher cancer rates from this CERP is baseless and can only be rationalized by grouping CHC vessels in with Ocean Going Vessels, while at the same time dismissing CARB's own projections of the impact of on road mobile sources.

3) Subchapter M operators are bound by strict vessel stability requirements. If forced to install DPF+SCR aftertreatment systems, this could put many tugboats out of compliance with 46 CFR 170-173. The Cal Maritime Feasibility study points out that, in the case of ship assist tugs, the added equipment will raise the Vertical Center of Gravity (VCG), thus impacting the vessel's range of stability. The push to implement Tier 4 engines w/ DPF + SCR aftertreatment systems also assumes that tugboat designs are flexible and can accommodate the added equipment without major modifications to the vessel. This is incorrect, and is even stated throughout the Cal Maritime Feasibility Study, which "cherry picked" specific vessels in each CHC class that were most compatible with these new engine upgrades. This study asserts that, while these engine upgrades are technically feasible onboard a very specific vessel, it would require extensive rerouting of exhaust systems and a complete rearrangement of the engine room in order to make space for the aftertreatment equipment such as the DPF tank and SCR silencers. Considering that a tugboat's major components are deeply integrated throughout the vessel, making modifications such as the ones being proposed would be nearly impossible without having to retrofit the entire ship. Additionally, there are concerns regarding the impact of the DPF + SCR aftertreatment systems on the vessel's exhaust system which was not addressed in the Cal Maritime Feasibility Study. These aftertreatment systems choke the flow of exhaust creating a backup of pressure which can lead to engine failure. This highlights a valid safety concern, rather than a fiscal burden. Attempting to rapidly force unavailable, infeasible, and untested technology upon this specific class of vessel will put stability, and ultimately crew safety, in jeopardy.

4) CHC operators are faced with limited options for installing EPA certified marine engines and aftertreatment systems. Currently, there are not enough engine manufacturers producing the necessary ranges of Tier 4 EPA certified engines, or Level 3 DPF aftertreatment systems for marine use. As of today, the new proposal will force every CHC operator, covered under this regulation, to patron a small pool of manufacturers in order to install equipment that meets their specifications. While this will certainly benefit the manufacturer(s), it will ultimately cause extensive delays for CHC operators attempting to comply by getting this equipment installed.

5) The new CHC amendments will ultimately impact tug and barge companies engaging in the Civil and Other Heavy Duty Engineering Sector, on two fronts. These Subchapter M operators are frequently contracted to perform necessary work in the marine space on behalf of construction firms and federal agencies. Necessary channel maintenance projects in California are contracted out by the U.S. Army Corps of Engineers. These projects, especially in California, require the use of clamshell dredges which are also subject to the tenets of the new CHC amendments. For tug operators who own and employ dredge assets this pending regulation will proliferate an additional layer of regulatory action taken against their fleets.

6) There are a limited number of Subchapter M operators capable of handling the volume and scope of marine construction work along California's coast. The consequences of these regulations will not only cause immediate harm to tug companies operating in the maritime construction industry but will have compounding effects on those construction firms who contract tug and barge operators as well. The subsequent industry impacts of these CHC Amendments will be reflected through higher rates and possible delays of vital marine construction and management projects. Most notably, this will impact channel deepening/widening projects which must occur regularly for our ports to remain open to large container vessels carrying vital cargo. The few Subchapter M operators who will be left to perform this work will have a monopoly on this specific industry sector causing the prices of these large-scale dredging projects to increase. For construction firms that subcontract CHC operators for the use of their tugs and barges, rates will increase as well.

The new amendment seems to be an unjustified expansion of existing CHC regulations that is being slipped under the current AB-617 legislation. The insurmountable financial burden and lost opportunity costs associated with repowering lower tier vessels, within the fleets of small tug and barge operators, puts them at a competitive disadvantage. Furthermore, attempting to spur innovation of cleaner marine technologies by way of harsher regulations will be counterproductive and will ultimately achieve an antithetical result.

For these reasons we ask that CARB:

-Define its methodology for establishing the population of CHCs operating over 300 hours in California waters. It is important that the methodology also accounts for the specific operational usage of these vessels.

-Show direct cause between CHC's and higher cancer rates. It is irresponsible to draw this conclusion without first proving causation for obvious reasons. Placing the burden of guilt upon CHC operators, while openly acknowledging that "Industrial & On Road emission sources will cause NOx levels to increase through 2029", in a region that is heavily industrialized and situated amongst the nations most congested freeway systems seems to be a rush to judgement.

-Enforce compliance dates on a case-by-case basis. CARB's approach to these CHC regulations applies a "one size fits all" solution for various types of vessels across vastly different industry sectors. While the current technology may be feasible for some CHC operators to implement within their fleets at this time, it does not mean that other operators in different industry sectors can automatically do the same. We ask that these compliance dates work in conjunction with a responsible rollout of this technology, where the OEM tests and approves these new engine upgrades for each specific vessel.

-Re-evaluate its approach of regulation over incentivization. If the goal is to substantially lower emissions within heavily impacted, low-income regions then the current incentive structure must be re-evaluated. Currently, the only applicable public funding for vessel repowers come via the Carl Moyer, DERA, and VW Mitigation Trust programs. The ability of these programs to allocate funds for the purpose of a vessel repower is hindered by relatively low maximum award limits and grant stacking restrictions. These programs are inefficient in allocating sufficient funds for singular marine repower projects, much less multiple projects within the same fleet. As previously mentioned, many of these projects will not be simple repowers, but will involve a complete retrofit of the vessel. If this is the case for multiple ships within a single fleet, then the costs of integrating these new engines will be much higher. This means that the current maximum award limits of these funds will render them almost useless in helping CHC operators meet these new upgrade requirements. Restriction of these funds will be further exacerbated upon the implementation of harsher CHC regulations under AB-617.

Sincerely,

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