

Proposed

State of California Air Resources Board

Proposed Amendments to the Commercial Harbor Craft Regulation

Whereas, Health and Safety Code sections 39600 and 39601 authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations, and to do such acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the Board by law;

Whereas, Health and Safety Code section 43013, subdivision (b) authorizes the Board to adopt standards and regulations for off-road and nonvehicular engine categories, including marine vessels such as commercial harbor craft (CHC), to the extent permitted by federal law;

Whereas, Health and Safety Code section 43018, subdivisions (a) and (d)(3) direct the Board to endeavor to achieve the maximum degree of emission reductions possible from vehicular and other mobile sources, including marine vessels, in order to accomplish the attainment of the state ambient air quality standards at the earliest practicable date;

Whereas, in Health and Safety Code section 39650, the Legislature finds and declares that it is the public policy of the State that emissions of toxic air contaminants should be controlled to levels that prevent harm to the public health;

Whereas, Health and Safety Code sections 39658, 39659, and 39666 authorize the Board to establish airborne toxic control measures (ATCMs) for substances identified as toxic air contaminants in accordance with specified criteria;

Whereas, on August 27, 1998, the Board identified particulate matter from diesel-fueled engines (diesel PM) as a toxic air contaminant pursuant to article 3 (commencing with section 39660), division 26, part 2, chapter 3.5 of the Health and Safety Code;

Whereas, in identifying diesel PM as a toxic air contaminant, the Board determined that there is not sufficient scientific evidence to support identification of a threshold level for diesel PM below which no significant adverse health effects are anticipated; this is codified in title 17, California Code of Regulations (CCR), section 93000;

Whereas, for toxic air contaminants for which the Board has not specified a threshold exposure level, Health and Safety Code section 39666 subdivision (c) requires the development of ATCMs designed to reduce emissions of toxic air contaminants from nonvehicular sources to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on an assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent endangerment of public health;

Whereas, Health and Safety Code section 38505 defines "greenhouse gas" (GHG) or "greenhouse gases" for purposes of Division 25.5 of the Health and Safety Code as including all of the following gases:

carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons (HFC), perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride;

Whereas, Health and Safety Code section 38510 designates CARB as the State agency charged with monitoring and regulating sources of GHG emissions that cause global warming in order to reduce such emissions;

Whereas, section 38560 of the Health and Safety Code directs the Board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions from sources or categories of sources;

Whereas, Health and Safety Code section 38566 directs the Board to ensure that in adopting rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions authorized by Division 25.5 of the Health and Safety Code, that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide GHG emissions limit no later than December 31, 2030;

Whereas, Health and Safety Code section 38580 requires the Board to monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by CARB pursuant to Division 25.5 of the Health and Safety Code;

Whereas, Health and Safety Code section 41511 authorizes CARB to adopt rules and regulations to require the owner or operator of any air pollution emission source to take reasonable actions for the determination of the amount of such emission from such source;

Whereas, Health and Safety Code section 43019.1 authorizes CARB to adopt a schedule of fees to cover all or a portion of its reasonable costs associated with the certification, audit, and compliance of, off-road or nonvehicular engines and equipment, aftermarket parts, and emissions control components sold in the State;

Whereas, CHC are nonvehicular sources that emit significant amounts of air pollutants, including diesel particulate matter (DPM), fine particulate matter (PM_{2.5}), oxides of nitrogen (NO_x), oxides of sulfur (SO_x), and reactive organic gases (ROG);

Whereas, the Board approved at its November 2007 hearing the initial CHC regulation in Resolution 07-47, and the initial CHC regulation became effective on November 19, 2008;

Whereas, the initial CHC regulation identified Regulated California Waters as a region of water, including all California internal waters, estuarine waters, ports, and coastal waters generally within 24 nautical miles of California's coast, which is a subset of the California Coastal Waters (title 17, CCR, section 70500(b)(1)). The Board previously determined, in Resolutions 05-63, and 07-47, through extensive studies of meteorological, wind, and atmospheric conditions, that emissions of air pollutants within the California Coastal Waters are likely to be transported to coastal communities and have adverse impacts on human health and welfare and the environment;

Whereas, the Board approved amendments to the CHC regulation in June 2010, which became effective on July 20, 2011, which are hereby referred to as the "Current Regulation";

Whereas, the Current Regulation will be fully implemented by the end of 2022 and there will be additional need to reduce emissions from CHC;

Whereas, despite substantial progress in reducing emissions from CHC over the last decade, CHC emissions continue to impact nearby communities, including communities located in ozone and PM2.5 nonattainment areas. In addition, the DPM emissions from CHC impact communities located adjacent to those operations, as well as people living and working miles away;

Whereas, the air pollutants emitted by diesel engines on CHC pose serious health concerns to nearby communities due to near source exposure to such toxic pollutants;

Whereas, in October 2015, U.S. Environmental Protection Agency adopted a more stringent 70 parts per billion (ppb) ozone standard with an attainment date of 2037 that will likely result in additional areas of the State being classified as nonattainment and therefore requiring even further emission reductions in California's existing nonattainment areas;

Whereas, coastal areas throughout the State continue to be impacted by emissions generated from the approximately 3,159 CHC operating in Regulated California Waters, especially near California seaports and marine terminals;

Whereas, the emissions from CHC directly impact five air basins or counties in California - the San Francisco Bay Area, the San Joaquin Valley, the Ventura County, the South Coast, and the San Diego Air Basins – that are not in attainment with the federal National Ambient Air Quality Standards (NAAQS) for PM2.5 and ozone NAAQS;

Whereas, in 2018, CARB staff presented a scoping evaluation for the Ports of Los Angeles and Long Beach that indicated CHC were one of the top contributors to near source cancer risk in 2016, and would pose an even larger cancer risk in 2023;

Whereas, the October 2018 Community Air Protection Blueprint (Blueprint) adopted by the Board to implement AB 617, identifies the introduction of new cleaner standards for CHC to reduce emissions and exposure in disproportionately burdened communities throughout the State;

Whereas, Executive Order N-79-20 set a goal to transition to 100 percent zero-emission off-road vehicles and equipment by 2035, where feasible, to put the State on the path to carbon neutrality;

Whereas, to achieve additional emission reductions from CHC, CARB staff has Proposed Amendments, as set forth in Appendix A to the Staff Report: Initial Statement of Reasons (September 2021 Staff Report) released to the public on September 21, 2021;

Whereas, the tugboat, towboat, and barge industry is committed to emissions reduction and transitioning to a 100 percent zero-emissions inventory in California in the safest and most efficient manner;

Whereas, staff reviewed written comments received on the Draft EA and prepared written

responses to those comments in a document entitled Response to Comments on the Environmental Analysis Prepared for the proposed Amendments to the Commercial Harbor Craft Regulation (Response to EA Comments);

Whereas, prior to the duly noticed public hearing held on March 24, 2022, staff presented the Final EA and the Response to EA Comments, as released to the public on March 14, 2022;

Whereas, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

Whereas, the Board finds that:

1. Upon implementation, the Regulation approved herein would reduce emissions of Diesel PM, GHG and Nox,
2. Supply chain delays, staffing shortages, and technical limitations decrease operators' ability to repower vessels in a typical timeframe,
3. The compliance deadlines in the Proposed Amendments should be modified to allow adequate time for engineering assessments, materials acquisition, shipyard reservation, and repowering,
4. Diesel Particulate Filters (DPF) installation shall not be required until a Board technical review finds a DPF that has been certified for marine use by the U.S. Coast Guard and American Bureau of Shipping, and is determined to be safe for installation by the engine manufacturer for the specific make and model of the engine,
5. A minimum of six (6) years from the point of DPF approval is needed in order to do the necessary reporting steps and to align the repowering work with other required regulatory activities, and
6. Upon passage of the Proposed Amendments, Board directs staff to work with industry to implement this and all previous Board resolutions and directives relating to the CHC Rule.

Now be it resolved that the adopted regulatory text may be further revised, which will be added to the rulemaking effort.

Be it further resolved that the Board directs the Executive Officer to determine if additional sufficiently related modifications to the amendments to section 2299.5, title 13, California Code of Regulations, and to section 93118.5, title 17, California Code of Regulations, as set

forth in Appendix A to the Initial Statement of Reasons released to the public on September 21, 2021, are appropriate, and that if no additional modifications are appropriate, the Executive Officer shall take CARB's final step for final approval of such amendments through submittal of the Board-approved rulemaking package to the Office of Administrative Law. If the Executive Officer determines that additional sufficiently related substantial modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information, for at least 15 days, and the Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Board delegates to the Executive Officer the authority to both (1) either approve or disapprove proposed changes in regulatory language under Government Code section 11346.8(c), and (2) conduct any appropriate further environmental review associated with such changes, consistent with the Board's Certified Regulatory Program regulations, at California Code of Regulations, title 17, sections 60000-60008, for those sufficiently related substantial modifications. Alternatively, rather than taking action on the proposed modifications, the Executive Officer may instead present the modifications, and any appropriate further environmental review associated with the modifications, to the Board for further consideration, if the Executive Officer determines further Board consideration is warranted.

Be it further resolved that the Board directs the Executive Officer to finalize the Final Statement of Reasons, submit the completed rulemaking package to the Office of Administrative Law, and transmit the Notice of Decision to the Secretary of the Natural Resources Agency for posting.

Be it further resolved that, to the extent necessary, the Executive Officer shall, upon adoption, forward the regulations to the Environmental Protection Agency with a request for an authorization or confirmation that the regulations are within the scope of an existing authorization pursuant to section 209, subdivision (e)(2)(A) of the CAA, as appropriate.

Proposed

State of California Air Resources Board

Proposed Amendments to the Commercial Harbor Craft Regulation

Whereas, Health and Safety Code sections 39600 and 39601 authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations, and to do such acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the Board by law;

Whereas, Health and Safety Code section 43013, subdivision (b) authorizes the Board to adopt standards and regulations for off-road and nonvehicular engine categories, including marine vessels such as commercial harbor craft (CHC), to the extent permitted by federal law;

Whereas, Health and Safety Code section 43018, subdivisions (a) and (d)(3) direct the Board to endeavor to achieve the maximum degree of emission reductions possible from vehicular and other mobile sources, including marine vessels, in order to accomplish the attainment of the state ambient air quality standards at the earliest practicable date;

Whereas, in Health and Safety Code section 39650, the Legislature finds and declares that it is the public policy of the State that emissions of toxic air contaminants should be controlled to levels that prevent harm to the public health;

Whereas, Health and Safety Code sections 39658, 39659, and 39666 authorize the Board to establish airborne toxic control measures (ATCMs) for substances identified as toxic air contaminants in accordance with specified criteria;

Whereas, on August 27, 1998, the Board identified particulate matter from diesel-fueled engines (diesel PM) as a toxic air contaminant pursuant to article 3 (commencing with section 39660), division 26, part 2, chapter 3.5 of the Health and Safety Code;

Whereas, in identifying diesel PM as a toxic air contaminant, the Board determined that there is not sufficient scientific evidence to support identification of a threshold level for diesel PM below which no significant adverse health effects are anticipated; this is codified in title 17, California Code of Regulations (CCR), section 93000;

Whereas, for toxic air contaminants for which the Board has not specified a threshold exposure level, Health and Safety Code section 39666 subdivision (c) requires the development of ATCMs designed to reduce emissions of toxic air contaminants from nonvehicular sources to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on an assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent endangerment of public health;

Whereas, Health and Safety Code section 38505 defines "greenhouse gas" (GHG) or "greenhouse gases" for purposes of Division 25.5 of the Health and Safety Code as including all of the following gases:

carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons (HFC), perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride;

Whereas, Health and Safety Code section 38510 designates CARB as the State agency charged with monitoring and regulating sources of GHG emissions that cause global warming in order to reduce such emissions;

Whereas, section 38560 of the Health and Safety Code directs the Board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions from sources or categories of sources;

Whereas, Health and Safety Code section 38566 directs the Board to ensure that in adopting rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions authorized by Division 25.5 of the Health and Safety Code, that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide GHG emissions limit no later than December 31, 2030;

Whereas, Health and Safety Code section 38580 requires the Board to monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by CARB pursuant to Division 25.5 of the Health and Safety Code;

Whereas, Health and Safety Code section 41511 authorizes CARB to adopt rules and regulations to require the owner or operator of any air pollution emission source to take reasonable actions for the determination of the amount of such emission from such source;

Whereas, Health and Safety Code section 43019.1 authorizes CARB to adopt a schedule of fees to cover all or a portion of its reasonable costs associated with the certification, audit, and compliance of, off-road or nonvehicular engines and equipment, aftermarket parts, and emissions control components sold in the State;

Whereas, CHC are nonvehicular sources that emit significant amounts of air pollutants, including diesel particulate matter (DPM), fine particulate matter (PM_{2.5}), oxides of nitrogen (NO_x), oxides of sulfur (SO_x), and reactive organic gases (ROG);

Whereas, the Board approved at its November 2007 hearing the initial CHC regulation in Resolution 07-47, and the initial CHC regulation became effective on November 19, 2008;

Whereas, the initial CHC regulation identified Regulated California Waters as a region of water, including all California internal waters, estuarine waters, ports, and coastal waters generally within 24 nautical miles of California's coast, which is a subset of the California Coastal Waters (title 17, CCR, section 70500(b)(1)). The Board previously determined, in Resolutions 05-63, and 07-47, through extensive studies of meteorological, wind, and atmospheric conditions, that emissions of air pollutants within the California Coastal Waters are likely to be transported to coastal communities and have adverse impacts on human health and welfare and the environment;

Whereas, the Board approved amendments to the CHC regulation in June 2010, which became effective on July 20, 2011, which are hereby referred to as the "Current Regulation";

Whereas, the Current Regulation will be fully implemented by the end of 2022 and there will be additional need to reduce emissions from CHC;

Whereas, despite substantial progress in reducing emissions from CHC over the last decade, CHC emissions continue to impact nearby communities, including communities located in ozone and PM2.5 nonattainment areas. In addition, the DPM emissions from CHC impact communities located adjacent to those operations, as well as people living and working miles away;

Whereas, the air pollutants emitted by diesel engines on CHC pose serious health concerns to nearby communities due to near source exposure to such toxic pollutants;

Whereas, in October 2015, U.S. Environmental Protection Agency adopted a more stringent 70 parts per billion (ppb) ozone standard with an attainment date of 2037 that will likely result in additional areas of the State being classified as nonattainment and therefore requiring even further emission reductions in California's existing nonattainment areas;

Whereas, coastal areas throughout the State continue to be impacted by emissions generated from the approximately 3,159 CHC operating in Regulated California Waters, especially near California seaports and marine terminals;

Whereas, the emissions from CHC directly impact five air basins or counties in California - the San Francisco Bay Area, the San Joaquin Valley, the Ventura County, the South Coast, and the San Diego Air Basins – that are not in attainment with the federal National Ambient Air Quality Standards (NAAQS) for PM2.5 and ozone NAAQS;

Whereas, in 2018, CARB staff presented a scoping evaluation for the Ports of Los Angeles and Long Beach that indicated CHC were one of the top contributors to near source cancer risk in 2016, and would pose an even larger cancer risk in 2023;

Whereas, the October 2018 Community Air Protection Blueprint (Blueprint) adopted by the Board to implement AB 617, identifies the introduction of new cleaner standards for CHC to reduce emissions and exposure in disproportionately burdened communities throughout the State;

Whereas, Executive Order N-79-20 set a goal to transition to 100 percent zero-emission off-road vehicles and equipment by 2035, where feasible, to put the State on the path to carbon neutrality;

Whereas, to achieve additional emission reductions from CHC, CARB staff has Proposed Amendments, as set forth in Appendix A to the Staff Report: Initial Statement of Reasons (September 2021 Staff Report) released to the public on September 21, 2021;

Whereas, the tugboat, towboat, and barge industry is committed to emissions reduction and transitioning to a 100 percent zero-emissions inventory in California in the safest and most efficient manner;

Whereas, the Board recognized and directed staff in Resolution 20-22 to engage the articulated tug barge (ATB) industry to determine the best options for cost-effective emissions reductions that recognize the unique nature of ATBs;

Whereas, staff reviewed written comments received on the Draft EA and prepared written responses to those comments in a document entitled Response to Comments on the Environmental Analysis Prepared for the proposed Amendments to the Commercial Harbor Craft Regulation (Response to EA Comments);

Whereas, prior to the duly noticed public hearing held on March 24, 2022, staff presented the Final EA and the Response to EA Comments, as released to the public on March 14, 2022;

Whereas, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

Whereas, the Board finds that:

1. Upon implementation, the Regulation approved herein would reduce emissions of Diesel PM, GHG and Nox,
2. Oceangoing tugs and barges and ATBs operate under the same conditions as vessels regulated under the California “*Control Measure for Ocean-Going Vessels at Berth Regulation*” (At-Berth Rule) and work under the conditions as the fishing vessels currently exempt from the Proposed Regulation,
3. These oceangoing vessels and all ATB with a capacity over 120,000 billion barrels of liquid should be exempt from the CHC rule and regulated under the At-Berth Rule,
4. Upon passage of the Proposed Amendments, Board directs staff to work with industry to implement this and Board resolutions 20-22.

Now be it resolved that the adopted regulatory text may be further revised, which will be added to the rulemaking effort.

Be it further resolved that the Board directs the Executive Officer to determine if additional sufficiently related modifications to the amendments to section 2299.5, title 13, California Code of Regulations, and to section 93118.5, title 17, California Code of Regulations, as set forth in Appendix A to the Initial Statement of Reasons released to the public on September 21, 2021, are appropriate, and that if no additional modifications are appropriate, the Executive Officer shall take CARB’s final step for final approval of such amendments through submittal of the Board-approved rulemaking package to the Office of Administrative Law. If the Executive Officer determines that additional sufficiently related substantial modifications are appropriate,

the modified regulatory language shall be made available for public comment, with any additional supporting documents and information, for at least 15 days, and the Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Board delegates to the Executive Officer the authority to both (1) either approve or disapprove proposed changes in regulatory language under Government Code section 11346.8(c), and (2) conduct any appropriate further environmental review associated with such changes, consistent with the Board's Certified Regulatory Program regulations, at California Code of Regulations, title 17, sections 60000-60008, for those sufficiently related substantial modifications. Alternatively, rather than taking action on the proposed modifications, the Executive Officer may instead present the modifications, and any appropriate further environmental review associated with the modifications, to the Board for further consideration, if the Executive Officer determines further Board consideration is warranted.

Be it further resolved that the Board directs the Executive Officer to finalize the Final Statement of Reasons, submit the completed rulemaking package to the Office of Administrative Law, and transmit the Notice of Decision to the Secretary of the Natural Resources Agency for posting.

Be it further resolved that, to the extent necessary, the Executive Officer shall, upon adoption, forward the regulations to the Environmental Protection Agency with a request for an authorization or confirmation that the regulations are within the scope of an existing authorization pursuant to section 209, subdivision (e)(2)(A) of the CAA, as appropriate.

Proposed

State of California Air Resources Board

Proposed Amendments to the Commercial Harbor Craft Regulation

Whereas, Health and Safety Code sections 39600 and 39601 authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations, and to do such acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the Board by law;

Whereas, Health and Safety Code section 43013, subdivision (b) authorizes the Board to adopt standards and regulations for off-road and nonvehicular engine categories, including marine vessels such as commercial harbor craft (CHC), to the extent permitted by federal law;

Whereas, Health and Safety Code section 43018, subdivisions (a) and (d)(3) direct the Board to endeavor to achieve the maximum degree of emission reductions possible from vehicular and other mobile sources, including marine vessels, in order to accomplish the attainment of the state ambient air quality standards at the earliest practicable date;

Whereas, in Health and Safety Code section 39650, the Legislature finds and declares that it is the public policy of the State that emissions of toxic air contaminants should be controlled to levels that prevent harm to the public health;

Whereas, Health and Safety Code sections 39658, 39659, and 39666 authorize the Board to establish airborne toxic control measures (ATCMs) for substances identified as toxic air contaminants in accordance with specified criteria;

Whereas, on August 27, 1998, the Board identified particulate matter from diesel-fueled engines (diesel PM) as a toxic air contaminant pursuant to article 3 (commencing with section 39660), division 26, part 2, chapter 3.5 of the Health and Safety Code;

Whereas, in identifying diesel PM as a toxic air contaminant, the Board determined that there is not sufficient scientific evidence to support identification of a threshold level for diesel PM below which no significant adverse health effects are anticipated; this is codified in title 17, California Code of Regulations (CCR), section 93000;

Whereas, for toxic air contaminants for which the Board has not specified a threshold exposure level, Health and Safety Code section 39666 subdivision (c) requires the development of ATCMs designed to reduce emissions of toxic air contaminants from nonvehicular sources to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on an assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent endangerment of public health;

Whereas, Health and Safety Code section 38505 defines "greenhouse gas" (GHG) or "greenhouse gases" for purposes of Division 25.5 of the Health and Safety Code as including all of the following gases:

carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons (HFC), perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride;

Whereas, Health and Safety Code section 38510 designates CARB as the State agency charged with monitoring and regulating sources of GHG emissions that cause global warming in order to reduce such emissions;

Whereas, section 38560 of the Health and Safety Code directs the Board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions from sources or categories of sources;

Whereas, Health and Safety Code section 38566 directs the Board to ensure that in adopting rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions authorized by Division 25.5 of the Health and Safety Code, that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide GHG emissions limit no later than December 31, 2030;

Whereas, Health and Safety Code section 38580 requires the Board to monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by CARB pursuant to Division 25.5 of the Health and Safety Code;

Whereas, Health and Safety Code section 41511 authorizes CARB to adopt rules and regulations to require the owner or operator of any air pollution emission source to take reasonable actions for the determination of the amount of such emission from such source;

Whereas, Health and Safety Code section 43019.1 authorizes CARB to adopt a schedule of fees to cover all or a portion of its reasonable costs associated with the certification, audit, and compliance of, off-road or nonvehicular engines and equipment, aftermarket parts, and emissions control components sold in the State;

Whereas, CHC are nonvehicular sources that emit significant amounts of air pollutants, including diesel particulate matter (DPM), fine particulate matter (PM_{2.5}), oxides of nitrogen (NO_x), oxides of sulfur (SO_x), and reactive organic gases (ROG);

Whereas, the Board approved at its November 2007 hearing the initial CHC regulation in Resolution 07-47, and the initial CHC regulation became effective on November 19, 2008;

Whereas, the initial CHC regulation identified Regulated California Waters as a region of water, including all California internal waters, estuarine waters, ports, and coastal waters generally within 24 nautical miles of California's coast, which is a subset of the California Coastal Waters (title 17, CCR, section 70500(b)(1)). The Board previously determined, in Resolutions 05-63, and 07-47, through extensive studies of meteorological, wind, and atmospheric conditions, that emissions of air pollutants within the California Coastal Waters are likely to be transported to coastal communities and have adverse impacts on human health and welfare and the environment;

Whereas, the Board approved amendments to the CHC regulation in June 2010, which became effective on July 20, 2011, which are hereby referred to as the "Current Regulation";

Whereas, the Current Regulation will be fully implemented by the end of 2022 and there will be additional need to reduce emissions from CHC;

Whereas, despite substantial progress in reducing emissions from CHC over the last decade, CHC emissions continue to impact nearby communities, including communities located in ozone and PM2.5 nonattainment areas. In addition, the DPM emissions from CHC impact communities located adjacent to those operations, as well as people living and working miles away;

Whereas, the air pollutants emitted by diesel engines on CHC pose serious health concerns to nearby communities due to near source exposure to such toxic pollutants;

Whereas, in October 2015, U.S. Environmental Protection Agency adopted a more stringent 70 parts per billion (ppb) ozone standard with an attainment date of 2037 that will likely result in additional areas of the State being classified as nonattainment and therefore requiring even further emission reductions in California's existing nonattainment areas;

Whereas, coastal areas throughout the State continue to be impacted by emissions generated from the approximately 3,159 CHC operating in Regulated California Waters, especially near California seaports and marine terminals;

Whereas, the emissions from CHC directly impact five air basins or counties in California - the San Francisco Bay Area, the San Joaquin Valley, the Ventura County, the South Coast, and the San Diego Air Basins – that are not in attainment with the federal National Ambient Air Quality Standards (NAAQS) for PM2.5 and ozone NAAQS;

Whereas, in 2018, CARB staff presented a scoping evaluation for the Ports of Los Angeles and Long Beach that indicated CHC were one of the top contributors to near source cancer risk in 2016, and would pose an even larger cancer risk in 2023;

Whereas, the October 2018 Community Air Protection Blueprint (Blueprint) adopted by the Board to implement AB 617, identifies the introduction of new cleaner standards for CHC to reduce emissions and exposure in disproportionately burdened communities throughout the State;

Whereas, Executive Order N-79-20 set a goal to transition to 100 percent zero-emission off-road vehicles and equipment by 2035, where feasible, to put the State on the path to carbon neutrality;

Whereas, to achieve additional emission reductions from CHC, CARB staff has Proposed Amendments, as set forth in Appendix A to the Staff Report: Initial Statement of Reasons (September 2021 Staff Report) released to the public on September 21, 2021;

Whereas, the tugboat, towboat, and barge industry is committed to emissions reduction and transitioning to a 100 percent zero-emissions inventory in California in the safest and most efficient manner;

Whereas, staff reviewed written comments received on the Draft EA and prepared written

responses to those comments in a document entitled Response to Comments on the Environmental Analysis Prepared for the proposed Amendments to the Commercial Harbor Craft Regulation (Response to EA Comments);

Whereas, prior to the duly noticed public hearing held on March 24, 2022, staff presented the Final EA and the Response to EA Comments, as released to the public on March 14, 2022;

Whereas, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

Whereas, the Board finds that:

1. Upon implementation, the Regulation approved herein would reduce emissions of Diesel PM, GHG and Nox,
2. The cost to repower a vessel can be up to \$4.7 million and the cost to replace a vessel can be over \$16 million. Early retirement or repowering of these vessels prevent cost recouperation and can financially harm operators,
3. A vessel with a Tier 3 or Tier 4 engine, in full compliance with all parts of the Proposed Amendments except the DPF requirement, should have the opportunity to apply for an exemption whereas they may operate their existing engine for its full useful life with the requirement that at its close, the vessel will be retrofitted as a zero-emissions vessel or as close to zero-emissions as technology allows or be removed from California Regulated waters,
4. Existing financial assistance mechanisms should be modified to better support the maritime industry in reaching California's zero-emissions goal, and
5. Upon passage of the Proposed Amendments, Board directs staff to work with industry to implement this and all previous Board resolutions and directives relating to the CHC Rule.

Now be it resolved that the adopted regulatory text may be further revised, which will be added to the rulemaking effort.

Be it further resolved that the Board directs the Executive Officer to determine if additional sufficiently related modifications to the amendments to section 2299.5, title 13, California Code of Regulations, and to section 93118.5, title 17, California Code of Regulations, as set forth in Appendix A to the Initial Statement of Reasons released to the public on September 21, 2021, are appropriate, and that if no additional modifications are appropriate, the Executive Officer shall take CARB's final step for final approval of such amendments through submittal of

the Board-approved rulemaking package to the Office of Administrative Law. If the Executive Officer determines that additional sufficiently related substantial modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information, for at least 15 days, and the Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Board delegates to the Executive Officer the authority to both (1) either approve or disapprove proposed changes in regulatory language under Government Code section 11346.8(c), and (2) conduct any appropriate further environmental review associated with such changes, consistent with the Board's Certified Regulatory Program regulations, at California Code of Regulations, title 17, sections 60000-60008, for those sufficiently related substantial modifications. Alternatively, rather than taking action on the proposed modifications, the Executive Officer may instead present the modifications, and any appropriate further environmental review associated with the modifications, to the Board for further consideration, if the Executive Officer determines further Board consideration is warranted.

Be it further resolved that the Board directs the Executive Officer to finalize the Final Statement of Reasons, submit the completed rulemaking package to the Office of Administrative Law, and transmit the Notice of Decision to the Secretary of the Natural Resources Agency for posting.

Be it further resolved that, to the extent necessary, the Executive Officer shall, upon adoption, forward the regulations to the Environmental Protection Agency with a request for an authorization or confirmation that the regulations are within the scope of an existing authorization pursuant to section 209, subdivision (e)(2)(A) of the CAA, as appropriate.