



801 North Quincy Street
Suite 500
Arlington, VA 22203

PHONE: 703.841.9300
EMAIL: jcarpenter@americanwaterways.com

Jennifer A. Carpenter
President & CEO

August 21, 2023

Governor Gavin Newsom
1021 O Street, Suite 9000
Sacramento, CA 95814

Dear Governor Newsom:

I write with an urgent request for your leadership to avert serious risks to human life, the environment, the supply chain and the development of offshore wind energy that will result if the California Air Resources Board (CARB) does not change its recent amendments to the Commercial Harbor Craft (CHC) rule. The risk to mariner safety posed by these amendments is of paramount concern. On behalf of the American Waterways Operators (AWO), I appeal to you to take timely action to prevent loss of life and address the serious safety concerns that vessel owners, maritime labor, and the U.S. Coast Guard have raised but have gone unheeded by CARB.

The people of our industry are deeply committed to safety and sustainability. Barges and towing vessels move over 665 million tons of cargo each year while emitting 43 percent less greenhouse gases than rail and 832 percent less than trucks. AWO member companies operate the world's [first hybrid tugboat](#) in California and are currently developing the [nation's first](#) zero-emissions ship-assist vessel for operation in the state. Our industry's contributions to the economy and supply chain are also particularly important to California, which ranks third among states in waterborne commerce by tonnage and fourth by economic impact, with more than \$12.2 billion in annual economic activity driven by the domestic maritime transportation industry.

Throughout the regulatory process, our industry urged CARB to promulgate CHC amendments that meet the state's climate goals while protecting mariner safety. Along with other stakeholders, we expressed particular concern about the requirement to install unapproved Diesel Particulate Filters (DPFs) on tugboats, equipment that poses significant fire risk.

The installation of DPFs in the trucking industry has led to horrific truck fires. A fire on a towing vessel would endanger even more lives: while a truck driver can run from a fire, a vessel crew would need to abandon ship in hazardous conditions, putting mariners' lives at risk, and could lead to catastrophic environmental damage from a breach of a petroleum tanker, cargo ship or barge.

Earlier this year, AWO, the Pacific Merchant Shipping Association, and the International Association of Masters, Mates and Pilots (AFL-CIO) supported AB 1087 (Grayson) to address these dangerous shortcomings in the rule. However, CARB staff intervened, saying the agency had taken safety into account, and the chair of the Assembly Transportation Committee, Laura Friedman, refused to schedule a hearing to assess the merits of the bill. It is noteworthy that this bill had no formal opposition; it simply ensures that a standard safety review process is followed, engine warranties would not be voided, and mariners would be able to maintain power if any equipment failed. None of this is achievable under the 6-month mandate in the CHC rules. What's more, the rule provides no contingency should that equipment fail.

Subsequent to the bill not receiving a hearing, we received the attached letters through a Freedom of Information Act request that show that the U.S. Coast Guard informed CARB staff in 2021 of safety concerns similar to those raised in AB 1087. However, CARB's reply dismissed the Coast Guard's safety concerns. The letter and response indicate that that CARB prioritized short-term air emissions reductions over the safety of human life and long-term environmental protection. This is an untenable trade-off, especially given the inherent hazards of maritime employment.

It is unconscionable that CARB was advised of this risk by the Coast Guard, the nation's preeminent marine safety regulator, in 2021; that CARB failed to disclose the letter during the regulatory development process; and that CARB subsequently informed elected officials that the agency had considered safety while continuing to hide the letter from the public and the Legislature. Protecting the safety of mariners must be the top priority in any regulation of vessel equipment or operations. That is why AB 1087 was supported by both vessel owners and maritime labor as a necessary corrective to CARB's dangerously shortsighted regulation.

We urge you to prioritize protecting the lives of mariners by withdrawing CARB's request to the U.S. Environmental Protection Agency for authorization of amendments to its Commercial Harbor Craft rule pursuant to section 209(e) of the Clean Air Act (the Act) and instructing CARB to engage with stakeholders to fix the deficiencies in the rule.

The tugboat, towboat and barge industry has a demonstrated history of embracing technological innovation to advance sustainability. We do not shy away from heavy lifts to protect the environment, but the CHC rule creates serious safety risks and will lead to an *increase* in greenhouse gas emissions by threatening the viability of marine transport – the lowest greenhouse-gas emitting mode of freight transportation in the United States and one that is essential to the development of offshore wind – to operate in California.

I look forward to your response and respectfully urge you to withdraw CARB's request to the EPA and instruct the agency to amend the CHC rule to prioritize the lives of mariners.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer A. Carpenter". The signature is written in a cursive style with a large initial "J".

Jennifer A. Carpenter
President & CEO
The American Waterways Operators

Cc:

Secretary Michael S. Regan, U.S. Environmental Protection Agency

ADM Linda L. Fagan, Commandant, United States Coast Guard

Chairman Daniel B. Maffei, Federal Maritime Commission

Members, Subcommittee on Coast Guard and Maritime Transportation, U.S. House of Representatives