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Chair Gipson and members of this committee, thank you for the opportunity to address you today. My name is Kyle Burleson, and I am a Director of State Advocacy for the American Waterways Operators.

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's 5,000 towing vessels and 33,000 barges comprise the largest segment of the U.S.-flag domestic fleet, supporting more than 270,000 jobs nationwide and moving more than 665 million tons of cargo critical to the U.S. economy. Further, AWO has eight member companies headquartered here in California, and about twenty that do business here.

California is third among states in waterborne commerce and is home to over 51,000 maritime jobs, contributing \$12.2 billion to the economy here, and generates over \$3.6 billion in labor income. California is a lynchpin to maritime trade not just on the Pacific coast, but the entire United States, where it ranks third in waterborne commerce by tonnage and fourth in economic impact.

Tugboats, towboats, and barges are the greenest mode of freight transportation with tonnage moved on a barge producing 43% less greenhouse gas emissions than that on rail and more than 800% less than trucks per ton. Having said that, our members are continually looking to improve efficiencies and environmental sustainability. AWO members brought the first hybrid tugboat to California in 2010, operated the first fuel barges with hydrocarbon capture technology and will be bringing America's first zero-emission ship assist vessel online at the Port of San Diego soon, perhaps as early as this year. Elsewhere in the United States, an AWO member just recently christened the country's first electric hybrid inland towboat. This leadership comes from the top. Our CEO-led sustainability task force was assembled to assist our member companies with navigating the issue of decarbonization. This task force has filled a lot of needs in our industry, including the promotion of resources and policies that aid companies in pursuing the decarbonization agenda that makes the most sense for their needs and operations. Further, AWO has a Sustainability Tech Working group, which is a coalition of subject matter experts that guides our understanding of the technical needs and opportunities of our industry regarding decarbonization and sustainability. It serves as a forum for the towing industry to share experiences and expertise in the development and adoption of new sustainability technologies, and an opportunity to connect our industry with other stakeholders in this space.

I share all of this because I want to make it clear that our industry does not run from regulation. AWO looks to work with state and federal legislators and regulators to develop policies that benefit mariners, customers, and the general public. I'm proud to report that AWO and the Coast Guard have the longest safety partnership in existence, stretching back to 1995.

Which is why our interactions with the California Air Resources Board have left our industry at a loss. While we share the same goals as CARB, and why shouldn't we when our mariners breathe the same air they do, CARB has been completely unwilling to have a real discussion about the Commercial Harbor Craft, or CHC, rule. Just this past August, the CARB Board Members were invited to multiple tugboat tours, and with the notable exception of one member who contacted us to say he was not available, our invitations were met with silence. In meeting with CARB staff, we were told "we want to hear what you have to say, but we will not reopen the rule."

When it came to CARB and their recent amendments to the CHC rule, we couldn't even agree on the number of tugboats, towboats, and ATBs in California. CARB claimed that were 229 vessels operating in California. Real-time automatic identification system (AIS) data showed that there were 200 such vessels operating in CA: 68 ship assist boats, 114 pushboats, and the rest, about 15, Articulated Tug Barges, also known as ATBs, which I will touch on a bit later in my remarks. CARB inflated the numbers, making towing vessel emissions appear much higher than they actually are.

AWO has identified four major shortcomings with the CHC Rule:

- Potentially dangerous equipment will be mandated
- There is not nearly enough funding available to pay for compliance.
- Vessels are not currently allowed to use their engines for their useful life.
- ATBs belong in the at-berth rule, as their very nature and mode of operation is much more like oceangoing vessels.

Starting with my first point, the CHC rule will mandate the installation of Diesel Particulate Filters (DPFs) and Selective Catalytic Reduction systems (SCRs) on all commercial harbor craft. The first issue with this is that these devices are not readily available for the size of the engines we are talking about when it comes to harbor craft. Sure, they can be obtained for a 600 horsepower truck engine, but they simply do not yet exist for a 3,000 horsepower marine diesel engine. More concerning is that while they will eventually be developed and commercially availability, their scarcity right now means that vessel classifications societies, which are subject matter experts relied upon by the Coast Guard to verify technical feasibility, cannot vet them in the amount of time we have before vessels need to start complying with the CHC Rule.

Additionally, without the availability of these devices, there is no way for engine manufacturers to create systems compatible with their engines. Without this, the engine could lose its EPA tier certification, which is required by the federal and California governments and the company's engine warranties. However, the most important point is that DPFs have a long history of having sensors fail, which render vehicles immovable, as well as catching fire on

trucks. On a truck, if there is a problem, the driver can simply pull over and walk away. Mariners do not have that option. A vessel's engines are the propulsion, steerage, and brakes. Without functioning engines, a vessel is dead in the water, posing threats to mariner and vessel safety and in the case of vessels assisting tanker ships or moving barges full of petroleum products or other chemicals, a threat to the environment. Mariners need safe and vetted equipment on their vessels in order to do their jobs safely and to get home to their families when the job is done.

That is why we have worked with Asm. Jasmeet Bains to introduce AB 1122. It simply says that if CARB mandates equipment on a vessel, it needs to be verified by a vessel classification society for safe use before it can be installed. Moreover, in the event of a DPF regeneration or failure, an override or bypass can be used to get the vessel and its crew home safely before having to deal with the root cause of the failure. The bill also requires that any operator using a bypass or override system report to the Coast Guard and to the State as soon as safely possible to keep records of these events.

Larger and stronger storms and atmospheric rivers are the new normal. Vessels and the crews that operate them work 24/7, including building the forthcoming offshore windfarms. Safety can never take a back seat to any other issue when protecting human lives and the environment.

To touch on funding, CARB has demonstrated that they can alleviate some of the \$1.3 billion burden this rule will have on the tugboat, towboat, and barge industry. That \$1.3 billion price tag was a conservative pre-inflation estimate, so the real world cost of compliance is almost assuredly considerably higher today. Recently, CARB increased the flexibility of the Carl Moyer program, of which we hope our members will be able to take advantage. However, the funding is limited and spread broadly across many different sectors, with carve outs for certain industries and land-based applicants historically receiving the vast majority of funding. In fact, we were told last year that the South Coast Air Quality Management District is not planning to allocate any funding for vessels. The State of California allocated only \$60 million to a program geared specifically toward complying with the CHC Rule but is choosing to prioritize funding for certain vessels over our industry. With hundreds of millions of dollars in additional need, there will not be sufficient funding to assist the operators in this critical, front-line position in our supply chain.

The CHC Rule also challenges businesses in the tugboat, towboat, and barge industry with harsh deadlines for compliance. Marine engines have a useful life of 15-25 years, and a tugboat has, on average, four engines: two for propulsion and two to serve as electrical generators. One of the other requests we had as CARB developed this rule was to allow operators to come into compliance in the ordinary course of business and upgrading engines as necessary – as is being allowed in the trucking industry. Instead, CARB came back with a rule that will cost operators over \$1.3 billion in new engines, but also the cost of lost work, and thus, money they will need to pay for them. For many vessels, Tier 3 engines are the lowest emitting engine available on the market and many vessels in California have already made this purchase over the last ten years. However, the CHC rule will require them to upgrade to a Tier 4 as soon as it becomes available. The simple fix to allow operators to use their engines for

their useful lives would also allow operators to have these engine upgrades performed at their scheduled drydockings as required by the Coast Guard. These engines are large investments for companies and need to be fully capitalized and amortized to make good business sense. Additionally, current regulations do not take into account the lack of shipyards in California that can perform this type of work and the lead time required to purchase an engine (about six months) and reserve space at a drydock (often over one year) and do the work (about three months under ideal circumstances). We estimate that the lead time required to comply is a little under two years, in a perfect world, and CARB has given operators six months.

With regard to ATBs, they have been included in the CHC Rule for the stated reason that “they are tugboats, and thus are harbor craft.” This statement paints our industry with a brush that is far too broad, as it ignores the fact that ATBs operate like oceangoing vessels and their engines are sized accordingly. As opposed to ship assist tugs or towboats pushing barges on rivers, the tugboat component of an ATB is a large vessel, pushing a large barge, often full of petroleum products, up and down the coast, serving as a pipeline for the state of California, where pipelines are expensive, and due to seismic activity, often ill advised. The engines on these vessels more closely resemble engines on oceangoing cargo ships and should be regulated as such under the At-Berth rule. This argument has fallen on deaf ears.

In summary, the recent amendments to the CARB CHC Rule will create a scheme under which a vessel can be Coast Guard compliant, or CARB compliant, but not both. This Catch 22 renders vessels useless in the State of California, and as east coast wind operations move forward, Jones Act vessels are in high demand there. It is almost inevitable that without further amendments, the CHC Rule will drive boats out of California or make it more difficult to operate in the state, leading to further delays in the supply chain, increase costs to consumers, and delay in building offshore windfarms. Put simply, without increased flexibility for compliance, tugboats and towboats currently operating in California will almost assuredly be relocated outside the state where there is high demand for vessels in windfarm construction or other traditional lines of business for the industry. It will also set an environment where ships will find it more efficient to utilize ports in other states.

Thank you for your time. I know this was a lot of information, and I am happy to answer any questions you may have.