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Brian W. Vahey  
Senior Manager – Atlantic Region

October 14, 2020

Ms. Peg Hanna  
Assistant Director  
Air Monitoring and Mobile Sources  
New Jersey DEP  
401 East State St.  
Trenton, NJ 08625

Re: Harbor Craft Emissions

Dear Ms. Hanna:

On behalf of The American Waterways Operators (AWO), thank you for the opportunity to respond to the New Jersey Department of Environmental Protection's proposed efforts to reduce emissions from ocean-going vessels and harbor craft. AWO is the national trade association for the tugboat, towboat, and barge industry. AWO's more than 300 member companies own and operate towing vessels on the U.S. inland and intracoastal waterways; the Atlantic, Pacific and Gulf coasts; and the Great Lakes. The tugboat, towboat and barge industry provides family-wage jobs and ladders of career opportunity for more than 50,000 Americans, including 38,000 positions as mariners who safely, securely and efficiently move more than 760 million tons of cargo critical to the U.S. economy. The industry supports more than 300,000 jobs nationwide.

AWO appreciates the NJDEP's recognition that developing emissions regulations for harbor craft must be a collaborative effort. We also appreciate the agency's early outreach to maritime operators. AWO members take environmental stewardship very seriously: tugboat engines are subject to the U.S. Environmental Protection Agency's Tier 4 engine requirements and tugboat, towboat, and barge transportation is the most environmentally friendly means of freight transportation in the country.

The NJDEP has modeled its regulatory concepts for harbor craft emissions on those promulgated by the California Air Resources Board. AWO members have a long history of engagement with CARB and we are deeply committed to ongoing efforts to reduce air emissions and the carbon footprint of our operations throughout the country. That said, our engagement with CARB has been challenging, and we continue to have significant questions about the costs, benefits, feasibility, and legality of CARB's proposals. We have outlined these

concerns below and urge the NJDEP to take heed of the lessons we have learned through our engagement with California. We have attached AWO's most recent comment letter to CARB for further information and context.

#### Define the Scope of the Problem

The NJDEP has taken the initial steps of determining the size of the New Jersey-based harbor craft fleet and attributing an emission percentage to harbor craft operating in the Port of NY/NJ, but it is unclear how the agency has derived these figures and how accurate they are. In California, CARB used Coast Guard data to generate a baseline for its harbor craft vessel population, but then inflated those numbers based on a belief that the Coast Guard data were inaccurate. For instance, AWO found 60 vessels associated with a member's operation in the Coast Guard dataset, but only 18 of those vessels operated in California or regularly called on California ports. The remaining 42 vessels did not operate in California. Additionally, the number of vessels in a fleet is not particularly illustrative of its air pollution profile. We urge NJDEP to devote considerable effort to understanding the number, operational profile, fuel burn rates, and emission profiles of harbor craft in its airshed. Without an accurate picture of the scope of harbor craft operation in New Jersey waters, it is impossible to accurately judge the extent of harbor craft emissions and develop fair and effective pollution reduction strategies and timelines.

#### Understand the Scope of the Regulatory Impact

New Jersey is an important maritime state. It ranks fourth in the nation in waterborne commerce by barge and towing vessel tonnage, ninth in economic impact, and generates more than \$7 billion annually in economic activity. The New Jersey domestic maritime industry supports over five thousand jobs and \$387 million annually in worker income. But this does not tell the entire story. As noted above, many of the vessels that call on New Jersey ports arrive from origins across the Eastern seaboard and even from the Gulf of Mexico. Many of these operators are headquartered in other states and trade to other ports in addition to New York and New Jersey, including Portland, Boston, Philadelphia, Wilmington, DE; Baltimore, Norfolk, Wilmington, NC; Charleston, Savannah, Jacksonville, and Miami. The ramifications of New Jersey harbor craft regulations will be felt in every port along the East and Gulf coasts of the United States.

In California, AWO members are encountering engine performance standards and deadlines that are infeasible and excessively demanding. The impossibility of CARB's requirements means that, in some cases, relatively new vessels following federal standards would be barred from operation in California simply because the operators failed to anticipate the enactment of California's more rigorous requirements. To put it starkly, California's aggressive regulations risk forcing out vessel operators with state-of-the-art, EPA-compliant Tier 4 engines in order to chase a negligible emissions benefit that the state does not fully understand because it has not done an accurate inventory of harbor craft in its airshed. This is wasteful, and if New Jersey were to adopt this same strict compliance approach, it would be to the detriment of the state's economy.

### Understand the Legal Implications

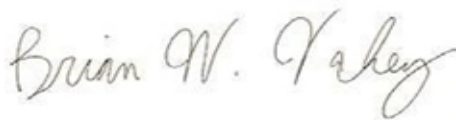
Towing vessels engage in interstate commerce and it is imperative that they be subject to a consistent set of regulatory requirements from one state to the next. Several of CARB's proposed concepts cannot be enacted without express authorization from the U.S. Environmental Protection Agency because they are "standards and other requirements relating to the control of emissions." Although the federal Clean Air Act expressly preempts state regulation of emissions from many types of engines, it allows California, and only California, to seek authorization from the EPA to adopt standards for certain nonroad engines and vehicles including harbor craft. It is important that New Jersey be careful and precise in defining its authorities under its harbor craft regulations, or else it could easily conflict with federal standards as provided under the Clean Air Act.

### Further Industry Engagement is Needed

AWO welcomes the opportunity to work with the NJDEP to better understand the scope of the emissions problem in New Jersey's airshed. We would like to discuss further with you (1) the contribution of harbor craft to total pollution load and (2) the contribution of towing vessels to the harbor craft share. Our experience in California has shown that if a state does not have an accurate picture of the maritime industry's pollution load, it is difficult to create equitable performance standards and timelines. We are available to meet with you at your earliest convenience.

Thank you for the opportunity to provide comments on this important subject. We would be pleased to answer any questions as the NJDEP sees fit.

Sincerely,

A handwritten signature in cursive script that reads "Brian W. Vahey".

Brian W. Vahey  
Senior Manager – Atlantic Region