

August 14, 2023

U.S. Environmental Protection Agency  
EPA Docket Center, OAR  
Mail Code 28221T  
1200 Pennsylvania Avenue NW  
Washington, DC 20460  
Docket ID No. EPA-HQ-OAR-2022-0985

**Re: EPA should finalize the locomotive preemption regulations in its Phase III Greenhouse Gas rule by the end of October.**

Dear Administrator Regan:

We write on behalf of community and environmental justice organizations that experience the brunt of the environmental and health impacts from railyard pollution, and allied environmental organizations. Our organizations submitted a comment letter with the Moving Forward Network in strong support of the U.S. Environmental Protection Agency's (EPA) proposal to align the agency's locomotive rules with the plain text and Congressional intent behind the Clean Air Act § 209(e). Railyard pollution remains one of the most harmful sources of pollution in our communities, so our organizations greatly appreciate the EPA's latest interest in aligning the additional legal protections reinforcing states' rights to regulate the rail and locomotive sector. **Now we are asking EPA to act expeditiously to finalize the locomotive preemption proposal by the end of October 2023.**

Presently, the EPA is proposing to clarify that states and local authorities are authorized to address locomotive pollution under the Clean Air Act, consistent with how the agency views preemption for other vehicle sources. The request to finalize the decision by October is based on the urgency of the public health and environmental impacts caused by the largely unregulated freight rail and locomotive sector.

Rail pollution is a national issue with significant and deadly environmental justice impacts. The freight system remains one of the largest sources of pollution in the country, and locomotives, in particular, are responsible for a large amount of pollution in communities across the country.<sup>1</sup> Rail pollution impacts our health, safety, and well-being.<sup>2</sup> Bright lights, noises, and vibrations that feel like earthquakes are torturous consequences of passing trains. The effects of asthma, cardiovascular disease, and other dangerous diesel-related illnesses diminish health and quality

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<sup>1</sup> For example, in California, locomotive emissions represent a considerable 12 percent of statewide NOx emissions, and 8 percent of statewide PM2.5 emissions. Cal. Air Res. Board, *Draft In-Use Locomotive Regulation Workshop*, (March 30, 2021), at 11, [https://ww2.arb.ca.gov/sites/default/files/2021-03/Draft%20In-Use%20Locomotive%20Regulation%20Workshop%20Slides%203-30-2021\\_0.pdf](https://ww2.arb.ca.gov/sites/default/files/2021-03/Draft%20In-Use%20Locomotive%20Regulation%20Workshop%20Slides%203-30-2021_0.pdf).

<sup>2</sup> Giulia Grande et al., *Association Between Cardiovascular Disease and Long-term Exposure to Air Pollution with Risk of Dementia*, JAMA Neurol. 77(7), at 801-09, (July 1, 2020), <https://pubmed.ncbi.nlm.nih.gov/32227140/>.

of life in frontline and fenceline communities and contribute to shorter lifespans.<sup>3</sup> Rail pollution has serious negative effects on our air quality and the climate. In fact, more than 13 million of us in the United States live and work near railyards, rail lines, and ports.<sup>4</sup> We are forced to breathe in diesel pollution day after day. Cancer clusters in neighborhoods near railyards show the undeniable link between diesel emissions from locomotives and other railyard equipment and adverse health harms<sup>5</sup>—yet our well-being rests on outdated locomotive emission standards that no longer reflect the current state of technology. EPA’s decades-old locomotive emission standards are not bringing the emissions reductions and health benefits that the agency anticipated and communities need.

**The agency’s current approach has long stalled local and state action to protect communities from the perils of deadly locomotive pollution, so it is critical that the agency finalizes the locomotive preemption regulations separately and by the end of October.**

Given that the locomotive issues present discrete and purely legal considerations involved in the Phase 3 truck proposal, the EPA should finalize this portion of the rule as expeditiously as possible in a separate Federal Register notice. The locomotive preemption proposal made up just five pages of the 236-page Notice of Proposed Rulemaking for the Phase 3 Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles, making this a distinct issue well-positioned to be finalized in October of this year.

We have lived under the veil and excessive pollution caused by this erroneous and misaligned legal interpretation by EPA. Lives could have been saved if EPA had provided the appropriate guidance. Railyard pollution continues to create an urgent public health crisis in our communities. By finalizing the locomotive preemption rule by the end of October, EPA will be fixing an issue that has had cascading consequences which have chilled efforts to constrain pollution from a reckless and heavily polluting industry.

In addition, we point the agency to MFN’s letter dated June 16, 2023, which highlights the need to address locomotive pollution in order to protect the health and safety of community members, including by requiring air monitors at all railyards across the country.

Thank you for your consideration of our request. If there are any follow-up questions, please contact Molly Greenberg, MFN Campaign Manager, at [greenbergm@oxy.edu](mailto:greenbergm@oxy.edu).

Sincerely,  
The Moving Forward Network (MFN)

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<sup>3</sup> American Lung Association. 2023 State of the Air, Key Findings. <https://www.lung.org/research/sota/key-findings> (last accessed: June 1, 2023)

<sup>4</sup> Office of Transportation and Air Quality (OTAQ), U.S. Environmental Protection Agency (EPA), Regulatory Impact Analysis: Control of Emissions of Air Pollution from Locomotive Engines and Marine Compression Ignition Engines Less than 30 Liters Per Cylinder, EPA420, pp. 2-57 (March 2008). Available at: <http://www.regulations.gov/#!documentDetail:D=EPAHQ-OAR-2003-0190-0938>.

<sup>5</sup> Andrea Hricko et al., *Global Trade, Local Impacts: Lessons From California on Health Impacts and Environmental Justice Concerns for Residents Living Near Freight Rail Yards*, Int.J. Environ. Res. Public Health, 11(2), at 1914-41 (Feb. 2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3945577/>.

The following MFN members also sign-on to this comment letter as organizations:

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