



SAN PEDRO & PENINSULA  
HOMEOWNERS COALITION



August 23, 2023

Honorable Chair Randolph & Board Members  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

*Submitted to online docket*

**Re: Continued Support for CARB's In-Use Locomotive Rule & Opposition to 15-Day Changes.**

Dear Chair Randolph and Board Members:

On behalf of the undersigned environmental justice and environmental organizations, we feel the continued urgency to clean up the deadly locomotive pollution that continues to poison California communities. Frontline community members and advocates fought hard over many years for the California Air Resources Board (CARB) to be a much-needed leader in regulating locomotive pollution. We continue to strongly support the In-Use Locomotive Regulation, which will result in over 3,200 avoided premature deaths, 1,486 fewer emergency room visits, and almost \$32 billion in health benefits. Yet we are extremely disappointed that the 15-day changes propose to delay implementation of this life-saving rule by two years. Frontline community members and advocates, many of whom are part of our organizations, have pushed tirelessly for decades to get relief from railyard toxic hotspots. We urge you to shift the timeline to the original start date.

Thank you for all the hard work the Board and staff invested into developing a strong rule. Please stay committed to environmental justice communities by addressing the comments noted below.

## **I. We strongly oppose CARB's delay of the implementation date by two years to 2026.**

The 15-day changes propose a two year delay on implementation of the Spending Account, Registration, and Reporting requirements, revising sections 2478.4 from an effective date of January 1, 2024 to January 1, 2026, and revising sections 2478.10, 2478.11(a)(6), and 2478.12(a) from effective date July 1, 2024 to July 1, 2026. With these changes, communities must wait two years longer before they see progress under the rule.

We strongly oppose this additional two year delay. Over a decade ago, CARB studied existing railyards in California and found that there are unacceptable cancer risks for residents living in close proximity to these facilities. Unfortunately, still today, there are far too many decades-old, toxic diesel locomotives operating in these communities. As CARB staff and board members heard from the dozens of community members who attended the April hearing on the In-Use Locomotive Rule, there is an urgency to clean up this industry as quickly as possible. Communities have been left gasping for breath for decades while the industry has gone largely unregulated.

CARB must reinstate the requirements for railroads to report on their operations and make investments in life-saving technologies over the next few years. These are important first steps to addressing these longstanding pollution burdens, and to set the groundwork for railroads to achieve zero emission operations.

A two year delay in the Spending Account requirements would cost the State near-term opportunities to advance zero emission technology and infrastructure adoption. History has shown that the railroads will not clean up their operations voluntarily – Tier 4 locomotives make up less than 5% of all Class I locomotives today, and more than 75% of Class I switchers remain at Tier 0. This glacial pace of progress is unacceptable, especially given that zero emission systems are available today. Catenary technology is widely used all over the world, and battery-electric technologies are now on cost parity with diesel. Rule implementation would require that the industry begins investing in these much-needed technologies.

In addition, an unprecedented amount of public funding for rail modernization is currently available. Rule implementation is needed to guide how both public and private investments will be applied. In the immediate term, it is critical to ensure that investments are directed to advancing the cleanest, zero emission technologies, and prioritizing relief for the most overburdened environmental justice communities. Implementation of the rule is needed to help guide these investments and lay the groundwork for achieving air quality and public health goals.

The 15 day changes also propose delaying implementation of Registration and Reporting requirements by two years. This delay would deprive CARB and the public of two years of data on locomotive engines, emissions, and idling. Collecting this data in the near-term is essential to informing both implementation of the In-Use Locomotive rule, and identifying enforcement measures, policies, and additional interventions that may be needed to protect public health. Given the strong public interest in implementing the rule as quickly as possible, we urge CARB to reinstate the 2024 implementation dates for the Spending Account, Registration, and Reporting requirements.

**II. We oppose the added flexibility of allowing locomotive operators to use public grant funds to fulfill their Spending Account obligations.**

Staff deleted subsection (e) from section 2478.4 to allow for grant funds to be used toward locomotive operators' Spending Account funding requirements. While we sincerely appreciate that local, state, and federal authorities are beginning to pay more attention to addressing rail pollution, we firmly believe that the railroad industry should front the costs of the transition to zero-emissions. The railroads consist of multi-billion and -million-dollar companies and can afford to invest in clean technology. For too long, it has been community members living and working near railyards and rail lines that have had to pay the costs of locomotive operators continuing to use outdated, diesel technology, even though locomotive operators have the means to remove this burden. It is upsetting that CARB is now allowing the railroads to continue to rely on taxpayers to support this long overdue regulatory change. We urge CARB to limit this flexibility by only allowing locomotive operators to use grant funds once they have exceeded their regulatory commitment under this or any other rule.

**III. There is still a need for Air District level reporting on locomotive idling and use.**

The 15-day changes would amend sections 2478.3 and 2478.4(h) to remove Air-District-level reporting. We oppose these changes.

Air District level reporting is important to inform progress toward attaining federal air quality standards, and to provide regional pollution and public health information. Importantly, the South Coast and San Joaquin Valley air basins are in nonattainment of ozone and fine particulate matter standards. These districts have a tremendous need to address air pollution from rail. Providing district level data would allow CARB and the Air Districts to track progress toward attainment, as well as to identify where additional measures are necessary to get the districts on track.

Additional information about where the oldest and dirtiest locomotives are operating is also needed to identify hotspots and disclose where locomotive operations pose the greatest potential health risks. Likewise, reporting is necessary to identify where idling is occurring and where additional enforcement action is needed.

We urge that all Annual Reports should be made available to the public. This information is critical to inform residents living near railyards and rail corridors about the potential health risks they are facing, and to allow for informed decision-making at the local level.

**IV. Staff must be very cautious not to create loopholes that allow continued operation of diesel locomotives of 23 years or older.**

Staff revised Subsection 2478.5(a)(2) to add subsection (C), which describes how locomotives older than 23 years, that meet the cleanest current United States Environmental Protection Agency Tier and emission standards, can continue to operate in some cases. Staff made this change because it is possible that under some 5 circumstances an operator could have had to unnecessarily cease operation of a 23-year old locomotive and replace it with operations from a newer locomotive of the same Tier.

It is essential that staff be very cautious in not creating loopholes that allow locomotive operators to evade this regulation. We appreciate that staff revised subsections 2478.5(b) and (c) to clarify that even with the addition of subsection 2478.5(a)(2)(C), locomotives older than 23 years will need to be operated in a ZE configuration while in California as required under the provisions of (b) and (c). We ask that CARB staff support this clarification in the record to ensure that this change does not create a pathway for a regulatory loophole.

## **V. Conclusion**

We thank you for your consideration of our comments. We reiterate our strong support for the In-Use Locomotive Rule, and urge CARB to reinstate the original timeline and implement the rule as swiftly as possible to provide much-needed relief for California communities.

Sincerely,

Marven Norman  
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Center for Community Action & Environmental Justice

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Kathleen Woodfield  
San Pedro Peninsula Homeowners Coalition

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Yassi Kavezade  
Sierra Club California

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Please find the following materials attached and submitted into the record:

1\_ Ivette Torres Testimony to U.S. Senate Environment & Public Works Subcommittee Hearing on “Cleaner Trains: Opportunities for Reducing Emissions from America’s Rail Network” (July 26, 2023).

2\_ Transcript for U.S. Senate Environment & Public Works Subcommittee Hearing on “Cleaner Trains: Opportunities for Reducing Emissions from America’s Rail Network” (July 26, 2023).

3\_ Video Recording – U.S. Senate Environment & Public Works Subcommittee Hearing on “Cleaner Trains: Opportunities for Reducing Emissions from America’s Rail Network” (July 26, 2023), available at: <https://www.epw.senate.gov/public/index.cfm/hearings?ID=C798B992-F8E9-43E9-89BE-8DC25AEC2D55>.

4\_ U.S. Environmental Protection Agency Proposed Greenhouse Gas Phase 3 Rule (April 27, 2023).

5\_ Moving Forward Network Comment Letter on Locomotive Preemption proposal in U.S. Environmental Protection Agency Proposed Greenhouse Gas Phase 3 Rule, Attachment 1 (June 16, 2023).

6\_ Moving Forward Network Comment Letter on Locomotive Preemption proposal in U.S. Environmental Protection Agency Proposed Greenhouse Gas Phase 3 Rule, Attachment 3 (June 16, 2023).

7\_ Moving Forward Network Comment Letter on Locomotive Preemption proposal in U.S. Environmental Protection Agency Proposed Greenhouse Gas Phase 3 Rule, Attachment 4 (June 16, 2023).

8\_ Moving Forward Network Comment Letter on Locomotive Preemption proposal in U.S. Environmental Protection Agency Proposed Greenhouse Gas Phase 3 Rule, Attachment 5 (June 16, 2023).

9\_ Moving Forward Network Comment Letter on Locomotive Preemption proposal in U.S. Environmental Protection Agency Proposed Greenhouse Gas Phase 3 Rule, Attachment 6 (June 16, 2023).

10\_ Moving Forward Network Comment Letter on Locomotive Preemption proposal in U.S. Environmental Protection Agency Proposed Greenhouse Gas Phase 3 Rule, Attachment 7 (June 16, 2023).

11\_ Letter to EPA re: Finalizing Locomotive Preemption Regulations (August 14, 2023).