



April 19, 2024

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

RE: Docket ID No. EPA-HQ-OAR-2023-0574

Dear Administrator Regan:

On behalf of America's 3,069 counties, parishes and boroughs, the National Association of Counties (NACo) thanks you for the opportunity to comment on the *California State Nonroad Engine Pollution Control Standards; In-Use Locomotive Regulation*. **As intergovernmental partners and local rail stakeholders, the nation's counties urge you to reject the waiver being sought by the California Air Resources Board (CARB) that would implement unfeasible emission standards for freight rail and result in the elimination of critical short line service.**

Counties support reasonable emission reduction policies narrowly tailored to avoid unintended consequences, like those associated with CARB's waiver, where granting the waiver could result in an unworkable patchwork of state-by-state rules for an essential transportation mode that depends on consistency and continuity to operate, hence freight rail's regulation at the federal level. Section 209 of the Clean Air Act (42 U.S.C. 7401 et seq.) allows other states to adopt California's emissions standards if they are identical and a waiver has been granted. Counties support a coordinated federal-state-local effort for rail service that will be threatened if regulatory authority shifts to the state level.

New locomotive age limits and fiduciary requirements for carriers of all sizes will have dire consequences, including the elimination of critical short line service in many areas. Concerningly, CARB acknowledges that smaller locomotives will be disproportionately impacted, resulting in the stoppage of service. CARB stated in its [2022 standardized regulatory impact assessment](#), "Some smaller Class III locomotive operators in California may face significant compliance costs. If these businesses are unable to pass on the costs of the Proposed Regulation to customers or if there is a significant change in demand for services, it is possible some of these businesses would be eliminated."

Counties strongly support the preservation and restoration of short line railroads that are typically found in small and rural areas where the majority of the nation's rail freight originates. With nearly 70 percent of the nation's counties considered rural with populations of 50,000 and below, the waiver poses a widespread risk to connectivity and economic development. Far beyond rural America, eliminating short line service jeopardizes individuals, industry and the economy alike. Real world impacts include the loss of good paying jobs, the inability of farmers to get goods to market and increased consumer costs. We urge the EPA to consider the impacts of compliance costs on small carriers.

CARB's waiver may be well-intentioned, but it does not offer commerce a more environmentally sound transportation alternative, citing that "California's trucking industry is currently operating at capacity and is not expected to have additional capacity in the near-term." This may be true at present; however, the practical effect of granting CARB's waiver will be the diversion of cargo to heavy trucks that – unlike locomotives – have ready-to-procure, battery powered models.

Although electric trucks produce zero emissions, expanding and electrifying fleets creates other challenges for counties who own and operate more road miles than any other level of government and four out of ten of the nation's bridges. Battery powered trucks weigh more than diesel trucks, causing additional damage to local infrastructure where two-thirds of heavy truck vehicle miles are traveled. Forcing additional, heavier trucks onto local networks can prove disastrous for [already compromised](#) infrastructure. Counties oppose any increase in truck size and weight without adequate funding to fully accommodate the additional maintenance burden on local roads and bridges.

Counties support the ability of states to establish environmental standards; however, granting CARB's waiver will create a slippery slope for other states to seek similar authority, threatening the ability of freight rail to operate efficiently on a national network. Most importantly, critical short line service must be protected. Counties respectfully urge you to ensure the sole authority to regulate freight rail operations remains at the federal level. Thank you for the opportunity to comment.

Sincerely,



Matthew D. Chase
CEO/Executive Director