

July 9, 2024

The Honorable Troy E. Nehls  
Chairman, Subcommittee on Railroads,  
Pipelines, and Hazardous Materials  
Washington, D.C. 20515

The Honorable Frederica Wilson  
Ranking Member, Subcommittee on  
Railroads, Pipelines, and Hazardous  
Materials  
Washington, D.C. 20515

Dear Chairman Nehls and Ranking Member Wilson:

Ahead of the Railroads, Pipelines, and Hazardous Materials Subcommittee's July 9<sup>th</sup> Hearing entitled "*An Examination of the California Air Resources Board's (CARB) In Use Locomotive Regulation*" we write on behalf of the members of the National Stone, Sand & Gravel Association (NSSGA) and California Construction and Industrial Materials Association (CalCIMA), to express our concerns over the California Air Resources Board's (CARB) request for EPA authorization of its In-Use Locomotive Regulation.

The CARB rule would ban most locomotives that are more than 23 years old starting in 2030. It would require new passenger, switch, and industrial locomotives to have zero-emissions beginning in 2030 and new line-haul locomotives to have zero-emissions beginning in 2035. However, no commercially viable technology exists today for zero-emission locomotives for line haul service, making the petition unreasonable, arbitrary, and capricious. We are concerned that the rule is technically and economically infeasible, and therefore inconsistent with the Clean Air Act (CAA) requirements. We urge EPA to deny CARB's request.

Our organizations represent aggregates producers and those who manufacture equipment and services that support the construction industry. Our members are essential to the work of this country. Our members employ thousands of hard-working men and women, who are responsible for the essential raw materials found in every home, building, road, port, dam and public works project.

The CARB rule would require dramatic advances in locomotive technology. It would also require sweeping upgrades to the nation's electrical transmission system and interconnection permitting process that we believe is infeasible by the implementation deadlines. California lacks statutory authority for each of these endeavors.

These issues raise serious concerns that the CARB regulation violates the CAA. As discussed in EPA's Feb. 27, 2024, Federal Register Notice (89 FR 14484), EPA has previously held that state standards and enforcement procedures are inconsistent with section 202(a) of the CAA if "there is inadequate lead time to permit the development of the necessary technology, giving appropriate consideration to the cost of compliance within that time." Following the precedent of these previous decisions, EPA should deny authorization of the CARB requirements.

We are further concerned that the "Spending Account" provisions of the rule would impose significant financial burdens on railroads, which may be untenable for some short-line railroads who are often the first mile and last mile for critical commodities and have significant impacts on interstate commerce they enable including critical infrastructure and essential consumer goods. If these carriers are unable to continue operations, it could create additional supply chain disruptions and negatively impact large segments of the economy, including construction materials producers, manufacturers, farmers, and energy producers.

We strongly support a uniform federal regulatory framework for the nation's freight rail network. Allowing California and other states to adopt unique rules governing locomotives would be contrary to the ICC Termination Act of 1995, which largely preempts local or state laws that have a regulatory impact on railroads. Furthermore, it would undermine the national framework that supports the interoperability of rail equipment across the network, potentially harming the reliability and efficiency of rail service for our industries.

Thank you for your consideration of our concerns. We urge EPA to carefully consider the feasibility of the CARB rule, as well as its potential impacts on freight shippers that rely on rail service to deliver essential materials throughout the nation.

Sincerely,



Michael W. Johnson  
President and CEO  
National Stone, Sand & Gravel Association



Robert Dugan  
President and CEO  
California Construction & Industrial Materials Association

cc: The Honorable Sam Graves  
The Honorable Rick Larsen