

November 4, 2022

California Air Resources Board (CARB)
Board of Directors
1001 I Street
Sacramento, CA 95814
[Submitted via comments to the Board]

Re: Proposed In-Use Locomotive Regulation – Metrolink Comment Letter

Dear CARB Board of Directors:

On behalf of the Southern California Regional Rail Authority (Metrolink), I write to you regarding the California Air Resources Board (CARB) proposed In-Use Locomotive Regulation.

California's passenger rail agencies share CARB's goals to reduce locomotive emissions, ultimately to zero, and have taken aggressive steps toward achieving these goals by investing in the cleanest available Tier 4 locomotives at substantial public cost. At Metrolink, we have demonstrated further commitment to these objectives by becoming the first passenger rail operator in the world to convert fully to 100% renewable fuel early this year. These efforts have significantly reduced emissions, and we are aggressively seeking funding and exploring options to further reduce emissions in our rail operations. However, Metrolink and our fellow California passenger rail agencies remain deeply concerned about the financial impacts of this regulation at a time when ridership has far from fully recovered from pandemic-related historic lows.

Metrolink has been a leader in the pursuit of cleaner emissions technologies to improve overall air quality in our air basin, and to address the concerns of the communities close to our facilities where we operate. This proposed regulation comes at a time when Metrolink, has invested hundreds of millions of dollars in federal, state, and local funds over the past decade to upgrade 73% of our locomotive fleet to Tier 4, the cleanest available diesel technology and has adopted one of the State's most aggressive climate-action plans for passenger rail. Our Climate Action Plan adopted in 2021 set us on a path to fully transition our locomotive fleet to lower-emission renewable fuels, to upgrade the remainder of our fleet to Tier 4 contingent on grant funding being made available, and to demonstrate and eventually transition to zero-emissions – once the technology is ready and funding is available, allowing Metrolink to eliminate diesel emissions entirely.



It is imperative to continue discussion and development of the proposed draft regulation within the context of what is feasible given the realities of technological maturity and financial realities of each passenger rail agency. Such considerations will enable zero emissions goals to be achieved as soon as possible and provide the framework for the following specific comments.

CARB's regulatory framework should incorporate the lessons learned and best practices from successfully converting other transportation sectors in a manner that is safe and appropriate. The regulation as written risks unintended harm to the public by impacting Metrolink's ability to operate a robust schedule of passenger rail service – with the potential unintended consequence of increasing transportation sector emissions and Vehicle Miles Travelled (VMT) across Southern California if our passengers turn to vehicles.

First, we acknowledge the intended goal of the Alternative Compliance Plan (ACP) framework in reducing the harmful impacts of the regulation. However, the language as drafted would functionally revert ACP agencies back to required Spending Accounts (§ 2478.4) and In-Use Operational Requirements (§ 2478.5). We request that public agencies not be held to **the emissions requirements in the** Spending Account or **23-year** Useful-Life In-Use Operational Requirement under any scenario as a means of further emissions reductions. Mandatory spending accounts siphon critical funds needed by commuter rail agencies recovering from precipitous ridership declines due to the pandemic. Three years after the start of the pandemic, Metrolink has recovered around 40% of our ridership as workers have transitioned to work-from-home schedules, and some of our peer agencies in California have even lower passenger recovery rates. This reality directly impacts operating revenues; is a direct cause of an ongoing reduction of service; and will be further exacerbated by the proposed regulation. Furthermore, **requiring that the ACP achieve the same incremental emissions reductions as the Spending Account would force public agencies like Metrolink to begin in 2031 retiring Tier 4 locomotives as early as 14 years into operation, 16 years before their end of useful life.** A CARB imposed useful life requirement for locomotives of 23 years will be significantly shorter and in conflict with the federal 30-year regulatory requirement. Passenger rail agencies would be placed in the untenable position of being out of compliance with either the federal or state requirement, and potentially subject to severe financial penalties. Early retirement of equipment is further complicated and conflicted with useful life limits and disposal requirements under the local South Coast Air Quality Management District (SCAQMD) Carl Moyer Program which funded Metrolink's Tier 4 fleet of 40 locomotives.

Second, we ask that CARB provide a consistent date of 2035 for freight and passenger rail agencies under § 2478.5 for the purchase of zero emissions equipment, fostering a more robust shared freight and passenger market for the nascent technology. The current regulation language imposes a 2030 date for passenger rail agencies and affords a five-year delay for freight rail operators. Passenger rail only accounts for 7% of all locomotive NOx



emissions and 5% of PM_{2.5} emissions from the sector and operate larger fleets of cleaner Tier 4 equipment compared to freight rail, which operates mostly Tier 2 and older locomotives. Freight rail is responsible for five times the harmful emissions compared to passenger rail. Passenger rail should not be held to a more stringent timeline than freight rail and a unified compliance date will provide the time needed for technology and markets to further mature. While hydrogen multiple units are in operation in Europe and elsewhere, no such zero-emission units and no battery electric or hydrogen locomotives have been approved by the Federal Railroad Administration, a process that requires extensive and lengthy review process for operation in the United States. Indeed, independent industry experts expect commercially viable zero-emissions technologies in this sector to mature within decades, not years.

Third, we ask CARB to extend the time frame for an Alternative Compliance Plan (ACP) to no less than 15 years under § 2478.7. The ACP must also account for early emissions-reduction actions, technology adoptions, and provide credit for reductions in Vehicle Miles Travelled (VMT) and emissions that are facilitated through public passenger rail service. A longer-term ACP and accounting for VMT/emissions reductions through passenger rail service will provide greater certainty for operators and appropriately capture the environmental benefits accrued through passenger rail service. Our peer passenger rail agencies in California uniformly concur that five years is too short to accomplish the objectives of the ACP.

Fourth, we ask that CARB include consistent offramps for the proposed regulation modeled on those provided to public bus transit operators required to purchase zero-emission buses by 2029 under the Innovative Clean Transit Rule (ICT), including delayed implementation for financial emergencies and the availability of equipment that meets required safety, operations, and maintenance cycles. We know from past ICT efforts that these emergencies and mitigating circumstances will occur, we only ask the same flexibility to meet these challenges as were provided to other transit modes when transitioning to zero emissions.

Fifth, we ask that a neutral and independent market analysis be completed by an informed third party, such as the Caltrans Division of Rail and Mass Transportation before a rule is adopted by the CARB Board of Directors. The SRIA omitted or mischaracterized significant critical information relating to the cost and availability of zero-emissions locomotive technology according to our estimates.

Sixth, we ask that onerous and burdensome reporting requirements under § 2478.10 be revised for public agencies. Collection of much of the data requested, such as idling, the use of ground power and engine shutdowns is not automated and would require a labor-intensive manual system collection exceeding existing staff and technical resource capacity at significant cost.



Lastly, we ask that CARB provide a commensurate level of incentive funding required for the development of locomotive and multiple unit technologies as was provided to other public transit modes. There are mature commercial markets for hybrid and zero-emissions buses and personal vehicles in part because of decades of significant public investment at the federal and state levels, often in partnership with private industry. Rail will require the time and incentive pilot funding afforded to the development of other zero-emissions technologies. Ultimately, the funding that will be required to implement this regulation will likely reach into the billions of dollars.

We request that the comments above and the more specific requests following be incorporated within the regulation adopted by CARB.

Market Assessment and Analysis: We ask that CARB fully consider an independent market assessment and analysis **prior** to approving any regulation language. This study will inform the timeline, incentives, and technologies necessary to meet the needs of operators across the state. The Standardized Regulatory Impact Assessment (SRIA) document included errors and incorrect information with respect to cost estimates and the assessment on the availability of zero emissions locomotive technologies which issues were raised in a comment letter submitted from the five statewide commuter rail agencies to CARB and Department of Finance staff. Additionally, this is further compounded as Appendix F: “Technology Feasibility Assessment for the Proposed In Use Locomotive Regulation” in the Initial Statement of Reasons (ISOR) did not address the missing and incorrect information of the SRIA.

Funded Pilot Demonstrations: A funded pilot phase should be implemented before any penalties or purchase requirements are imposed. Such pilots will accelerate the development of technologies faster and in more coordinated manner than would otherwise be possible with operators pursuing pilots independently.

Consideration of Alternative Regulation Models: We ask that the CARB Board carefully consider alternative regulation models, including a purchase requirement or fleet management framework. These models with the appropriate timelines would better align shared zero-emissions goals with the realities of market availability, public procurements, and complex transition plans. These models have proven successful in the transition of other public transportation fleets to zero-emission technologies.

Alternative Compliance Plan (Plan) Procurement Schedules: § 2478.7(b) outlines the assumptions used in determining the equivalent emission reductions needed to be achieved as part of the Plan. The section as written would require that emissions reductions be calculated assuming that locomotive purchases occur as soon as sufficient funding is accumulated. However, publicly operated railroads rarely purchase a single locomotive and typically purchase in bulk due to manufacturing and financing constraints. The typical purchasing behavior should be allowed as an option in determining the procurement



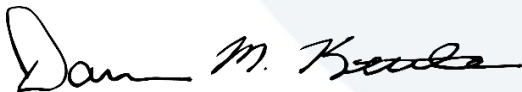
schedule and timing of calculating emission reductions. We ask that the regulation language be modified to allow for flexibility of procurement schedules.

Idling: § 2478.8(a) limits idling to no more than 30 minutes after a locomotive becomes stationary. Passenger rail agencies are required to complete locomotive maintenance and properly maintain a comfortable temperature in the passenger cars that may require idling for periods greater than 30 minutes. We request that language be added to allow idling more than 30 minutes for locomotives when required for passenger rail service.

Reporting and Record Keeping Requirements: § 2478.10(c)(1) describes the reporting requirements for the locomotive emissions annual reporting. We note that these requirements are substantial and request that flexibility be added to these requirements where it is determined infeasible or cost-prohibitive by the operator. For example, it will require substantial effort beyond our current ability to determine the required reporting for the activity data in each air district. Metrolink is in full compliance of federal equipment and standard idling procedures, which do not require annual documentation and reporting. We request that language be added to recognize that should these requirements require excess resources, that appropriate surrogates or substitute reports be allowed upon approval of CARB's Executive Officer. Since the reporting of hours per locomotive is not needed in calculating emissions, this requirement should be removed from the regulation. These required flexibilities maintain the reporting's spirit of transparency.

We appreciate your attention to these important concerns as the CARB Board of Directors seeks to advance the shared goal of reducing emissions from the rail sector. We recognize the commitment by CARB staff in working toward a regulatory approach that is ambitious, feasible and achievable. I am confident this is possible and look forward to working with the CARB Board and staff toward that shared goal. Please contact Paul Hubler, Metrolink's Chief Strategy Officer, at HublerP@scrra.net or (213) 563-8411 if there are questions regarding this matter.

Sincerely,



Darren M. Kettle

Chief Executive Officer

Cc: Metrolink Board of Directors
Michael Pimentel, California Transit Association (CTA)
Metrolink State Legislative Delegation Offices

