



The Honorable Liana Randolph  
Chair, California Air Resources Board  
1001 I Street  
Sacramento, CA 95811

March 15, 2023

**RE: Proposed In-Use Locomotive Regulation**

Dear Chair Randolph:

On behalf of the Southern California Regional Rail Authority (Metrolink), I write to you in support of the proposed In-Use Locomotive Regulation and to voice our appreciation for the collaboration with the California Air Resources Board (CARB) Board of Directors, CARB staff, the South Coast Air Quality Management District (SCAQMD) Governing Board, and the Metrolink Board of Directors in accelerating shared clean-air goals.

California's passenger rail agencies are leading the deployment of emissions-reducing technologies like the cleanest available Tier 4 locomotives and converting to 100% renewable fuel. These interim milestones result in cleaner air in communities across the state while zero-emission technologies are developed. We recognize that further progress toward zero emissions will require robust incentive funding and a multi-agency approach that brings together stakeholders in a framework that accounts for the unique operating conditions and needs of passenger rail agencies across the state.

We appreciate the CARB Board's public comments encouraging the proposed In-Use Locomotive regulation to consider potential unintended burdens to public passenger rail operators. While there is much potential and reason for optimism in the future sustainability of the state's passenger rail locomotive fleet, there remains a need to avoid irreparable harm at a time when these public agencies are reducing Vehicle Miles Travelled (VMT) and providing essential mobility services.

Metrolink's industry-leading Climate Action Plan put the agency on a path toward being a part of the clean-air solution in the Southern California air basin. 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 engines, the cleanest diesel technology currently available. Transitioning to a fully Tier 4 fleet will achieve greater emissions reductions, exceeding CARB's minimum annual regulation requirements through 2040. We have plans to continue the transition of our locomotive fleet in the years ahead with incentive funding support and look forward to eventually transitioning to zero-emissions technology once it is feasible and funding is available, allowing Metrolink to eliminate diesel emissions entirely.



The modified text of the proposed In-Use Locomotive regulation released on March 1 reflects the shared commitment from our agencies to craft a rule that is ambitious and can be implemented by local operators. Our support for the proposed regulation, as modified, reflects our satisfaction with, and great appreciation for, providing alternative compliance pathways for locomotive operators. The "Alternative Fleet Milestone Option" (AFMO, Section 2478.8) and "Alternative Compliance Plans" (ACP, Section 2478.7) account for the financial limitations of rail agencies and the technology limitations of current zero-emissions locomotive technology. We believe that these provisions will accelerate the deployment of zero-emission locomotives without undermining passenger rail service in the state. As you know, the provision of robust passenger rail service is critical to meeting the state's ambitious climate change, air quality, mode shift, and equity objectives. Our support for the proposed regulation, as modified, and these provisions notwithstanding, we provide several recommendations below which we believe would create additional certainty for locomotive operators and further support regulatory compliance with the AFMO provisions as well as agencies seeking approval of individual ACPs. We look forward to continuing to work with CARB as the proposed regulation moves forward for adoption this spring and as the regulation is implemented.

**Approval of AFMO and ACP/Compliance Obligations under Sections 2478.4 and Section 2478.5:** A locomotive operator that wishes to use the AFMO must apply to CARB at least 90 days prior to the requested start date of the AFMO. A locomotive operation that wishes to use the ACP must apply to CARB at least 180 days prior to the requested start date of the ACP. CARB is required to approve or disapprove the AFMO or ACP application within 45 calendar days.

**We appreciate that CARB has included a clear and brief timeline for approval or disapproval of an AFMO or ACP, but we respectfully request that CARB also clarify that a locomotive operator that submits an AFMO or ACP in accordance with Section 2478.15 shall have no current or retroactive compliance obligations under Sections 2478.4 and 2478.5 while the AFMO or ACP application is being evaluated by CARB.**

This recommendation seeks to address the financial impacts of the Spending Account requirements that would otherwise exist under the regulation, and which served as the primary basis for our concerns with the proposed regulation, as introduced.

**Appeal of AFMO or ACP Revocation:** An approved AFMO or ACP may be revoked at any time by the Executive Officer for reasons that include: failure to meet the requirements of the AFMO or ACP provisions; failure to submit documentation as required; the locomotive operator's failure to obtain approval of a detailed timeline report by no later than one year after the submission deadline; the locomotive operator's failure to meet the milestone



dates set forth in the detailed timeline report, if no extension is obtained; or the locomotive operator fails to meet other application requirements in the regulation. CARB is required to provide notice of the revocation to the locomotive operator at least 30 days prior to the official revocation.

**We respectfully request that CARB expand on these provisions by also including provisions establishing an appeals process that permits the locomotive operator to present information to CARB that identifies valid reasons for the locomotive operator's failure to meet the requirements, as to be specified, that would otherwise serve as the basis for revocation of an AFMO or ACP. These provisions should allow for a clear process for this appeal to be considered by the Executive Officer and granted if specified conditions are met.**

**Tracking of MWh Usage:** The AFMO and ACP provisions require locomotive operators to demonstrate their compliance with proposed regulation, as modified, through the tracking of MWh usage. As drafted, the proposed regulation suggests, but does not clearly state, that locomotive operators should rely on the definition of "Usage" in Section 2478.83 to track MWh usage. This definition requires locomotive operators to report MWh usage from the meter and affords locomotive operators with the ability to calculate MWh using annual fuel consumption if the locomotive is not equipped with a functional MWh meter. Unfortunately, this lack of clarity in the proposed regulation, as modified, may lead to unnecessary confusion and misreporting as locomotive operators work to comply with the proposed regulation.

**We respectfully request that CARB clarify the methodology that should be used to track MWh usage under the AFMO and ACP. We also urge CARB to recognize that the technological and human resource capacity of each locomotive operator differs significantly and provide a path toward locomotive operators and CARB identifying an alternative and mutually agreeable methodology for tracking and reporting MWh usage.**

**Provision of State Incentives:** State incentives that reduce the cost of zero-emission locomotives will continue to play an essential role in reducing the upfront capital cost associated with compliance with the regulation and reducing the proposed regulation's impacts to passenger rail service.

**We respectfully request that CARB continue to pursue from the Administration and Legislature dedicated state funding to provide financial incentives to passenger and commuter rail agencies to procure low- and zero-emission vehicles and supporting infrastructure.**

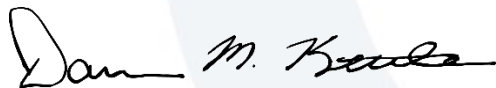


There are mature commercial markets for hybrid and zero-emissions buses and personal vehicles in part because of decades of significant public investment at the federal and state levels, often in partnership with private industry. Rail will require similar time and incentive pilot funding afforded to 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.

Finally, we wish to note that Metrolink fully supports CARB's completion of technology assessments in 2027 and 2032. As specified in the staff report for the proposed regulation, this assessment would include an analysis of the progress made in ZE locomotive technologies. This technology assessment would also provide CARB with the ability to determine if compliance dates need to be adjusted. As these assessments move forward, we urge CARB to ensure that they are as robust as possible and conducted with input from industry stakeholders and all relevant state and federal departments and agencies.

In closing we would like to reiterate our deep appreciation for the CARB Board of Directors and staff that have worked with Metrolink over the past two years in preparing the In-Use Locomotive regulation. I am confident the regulation as modified will result in greater emissions reductions and cleaner air because of your leadership. I would like to thank you, Director Gideon Kracov, Director Hector De La Torre, former Director Barbara Riordan, and the entire CARB Board for being a part of Metrolink's clean-air future.

Sincerely,



Darren M. Kettle  
Chief Executive Officer

