

Submitted Electronically

April 5, 2024

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW; 1101-A
Washington, DC 20460

Re: CARB's Clean Air Act Authorization Request (EPA-HQ-OAR-2023-0574)

Dear Mr. Administrator:

The undersigned groups representing agricultural producers and agribusinesses urge you to deny a request from the California Air Resources Board (CARB) for authorization of regulations that would target key aspects of the operation of freight locomotives in California. The proposed regulations would (1) levy annual fees on rail carriers for deposit in accounts that can only be used to comply with the regulations; (2) require the decommissioning of locomotives 23 years or older beginning in 2030 and require that new switch, industrial (used by rail customers) and passenger locomotives operate in zero-emission configuration (2035 for new line haul locomotives); (3) attempt to regulate locomotive emissions by requiring railroads to shut them down while in transit in certain circumstances; and (4) impose certain reporting and "administrative payments."

If the CARB regulations were authorized by EPA, we believe freight rail carriers and their rail customers would be significantly hindered financially and operationally. The inevitable increases in transportation costs and introduction of operational inefficiencies for agricultural shippers and receivers would result in food price inflation. For these and other reasons, we believe there is substantial merit to the claims by the Association of American Railroads and the American Short Line and Regional Rail Association in their pending legal challenge of the rules in the U.S. District Court for the Eastern District of California that all or a significant part of CARB's regulations are preempted by 49 U.S.C. §10501(b), which gives the Surface Transportation Board ("STB") exclusive jurisdiction over the operations and other activities of freight railroads in interstate commerce, and as written preempts all state and federal laws that are in conflict. The District Court affirmed the legitimacy of the railroads' preemption arguments in an order issued February 16, 2024.

Moreover, the proposed rules would require railroads and rail customers to meet regulatory goals that cannot be reached. Specifically, zero emissions locomotives would have to be purchased to replace the decommissioned locomotives, but such locomotives are not yet commercially viable and won't be in the foreseeable future.

Presumably, battery technology would need to be utilized to meet the zero-emission requirement. While battery powered locomotives have been tested, they are not presently commercially viable primarily due to a limited operating range.

In summary, we believe the proposed CARB regulations pose a significant danger to U.S. agriculture and the broader U.S. supply chain and that as written they are legally questionable. We therefore urge you to reject the request for authorization.

Thank you for your consideration of our concerns with CARB's request for authorization of its in-use locomotive regulation.

Sincerely,

National Associations

Advanced Biofuels Association
Agricultural Retailers Association
Agriculture Transportation Coalition – AgTC
American Farm Bureau Federation
American Feed Industry Association
AmericanHort
American Soybean Association
Consumer Brands Association
Corn Refiners Association
National Aquaculture Association
National Association of Wheat Growers
National Cattlemen’s Beef Association
National Chicken Council
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Grain and Feed Association
National Oilseed Processors Association
National Sorghum Producers
North American Millers’ Association
North American Renderers Association
Pet Food Institute
Soy Transportation Coalition
Specialty Soya Grains Alliance
The Fertilizer Institute
USA Rice

State/Regional Associations

Agribusiness Council of Indiana
Alaska Farm Bureau
Arizona Farm Bureau Federation
Arkansas Soybean Association
Association of California Egg Farmers
California Farm Bureau
California Grain and Feed Association
California Poultry Federation
California Seed Association
California Warehouse Association
Colorado Farm Bureau
Grain and Feed Association of Illinois
Idaho Farm Bureau Federation
Illinois Farm Bureau
Illinois Soybean Association
Indiana Farm Bureau
Iowa Soybean Association
Kansas Agribusiness Retailers Association
Kansas Farm Bureau
Kansas Grain and Feed Association
Kentucky Soybean Association
Louisiana Farm Bureau Federation
Michigan Agri-Business Association

Michigan Farm Bureau
Michigan Soybean Association
Mid-Atlantic Soybean Association
Minnesota Grain and Feed Association
Minnesota Soybean Growers Association
Mississippi Farm Bureau Federation
Mississippi Soybean Association
Missouri Farm Bureau
Missouri Soybean Association
Montana Farm Bureau Federation
Montana Grain Growers Association
Nebraska Farm Bureau
Nebraska Soybean Association
Nevada Farm Bureau Federation
New Mexico Farm and Livestock Bureau
New York Farm Bureau
North Carolina Farm Bureau
North Dakota Agricultural Association
North Dakota Grain Dealers Association
North Dakota Soybean Growers Association
Ohio AgriBusiness Association
Ohio Farm Bureau Federation
Ohio Soybean Association
Oregon Farm Bureau
Pacific Coast Renderers Association
Pacific Egg & Poultry Association
Pennsylvania Farm Bureau
South Carolina Corn & Soybean Association
South Dakota Farm Bureau
South Dakota Soybean Association
Tennessee Farm Bureau Federation
Texas Grain and Feed Association
Virginia Farm Bureau
Virginia Soybean Association
Washington Farm Bureau
Wisconsin Agri-Business Association
Wisconsin Farm Bureau Federation

Cc: Senate Committee on Agriculture, Nutrition and Forestry
House Committee on Agriculture
Senate Committee on Commerce, Science, and Transportation
Senate Committee on Environment and Public Works
House Committee on Transportation and Infrastructure
Senate Committee on Health, Education, Labor and Pensions
House Committee on Energy and Commerce
The Honorable Tom Vilsack
The Honorable Pete Buttigieg
The Honorable Martin Oberman
The Honorable Karen Hedlund
The Honorable Robert Primus
The Honorable Patrick Fuchs
The Honorable Michelle Schultz