William Leung
California Air Resources Board
1001 I Street
Sacramento, CA 95814

June 24, 2022

Dear Mr. Leung:

Thank you for submitting the standardized regulatory impact assessment (SRIA) and summary (Form DF-131) for Proposed In-Use Locomotive Regulation, as required in the California Code of Regulations, title 1, section 200(a)(1) for major regulations. Proposed text of the regulations were not submitted, therefore comments are based solely upon the SRIA and other publicly available information.

The proposed regulation is intended to reduce locomotive emissions of nitrogen dioxide, carbon monoxide, and particulate matter in the following manner: (1) generally limiting locomotive idle time to 30 minutes by 2023; (2) requiring operators to make deposits based on their emissions into internal accounts that can only be used to buy cleaner locomotives by 2024; (3) requiring engines built in 2035 or later to be zero-emission, and (4)banning train engines older than 23 years beginning in 2030. Annual costs, mainly from freight railroads replacing locomotives, as well as increased fuel costs and opportunity costs of holding money in internal accounts, are estimated to average around $630 million between 2024 and 2047. Annual benefits of reduced adverse health outcomes (including likelihood of cancer), especially amongst people who live near railyards, are estimated to average around $1.2 billion between 2024 and 2047. State and local impacts will include capital costs for local commuter rail lines and state-run Amtrak lines, reduced diesel fuel tax revenue, and increased sales tax revenue. Between 2024 and 2047, annual state costs for equipment and infrastructure are estimated to average $14 million and reduced diesel tax revenue around $39 million, while revenue gains mostly from administrative fees and sales tax will average around $15 million.

Finance generally concurs with the methodology used to estimate impacts of the proposed regulations, with the following exception. The SRIA must disclose all key assumptions that are material to the analysis and must provide the rationale for those assumptions. The SRIA is missing some descriptions of assumptions and data sources including the following issues: (1) the SRIA assumes that railroads will replace their entire fleets and continue their current practice of sending any available long haul locomotives to California. However, the SRIA also estimates that the required hydrogen locomotives would cost about 70 percent more than diesel locomotives and that operators will spend more on hydrogen fuel than on diesel fuel, so railroads may have an incentive to replace only the locomotives that run in California and to continue running diesel locomotives in other states. The SRIA should include a sensitivity analysis to show how impacts may vary under different compliance scenarios or provide justification for the current assumption; (2) The SRIA assumes that incidence-per-ton factors calculated for the period from 2014 to 2016 will hold in the future, while it may be that additional years of data might change these factors and/or causal relationships and hence change the estimated benefits. The SRIA should explain why the period from 2014 to 2016 was used or update the analysis with additional years of data. (3) The SRIA evaluates cancer risk impacts for only the population living within a mile of a railyard. As moving from just inside the 1-mile radius to just outside may not eliminate the cancer risk, the SRIA should include a sensitivity analysis to show how health benefits may vary for different proximities or explain why the 1-mile rule is the best approximation to evaluate changes in cancer risk from reduced locomotive emissions.

These comments are intended to provide sufficient guidance outlining revisions to the impact assessment if a SRIA is required. The SRIA, a summary of Finance's comments, and any responses must be included in the rulemaking file that is available for public comment. Finance understands that the proposed regulations may change during the rulemaking process. If any significant changes to the proposed regulations result in economic impacts not discussed in the SRIA, please note that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. Please let us know if you have any questions regarding our comments.

Sincerely,

Somjita Mitra

Somjita Mitra
Chief Economist

cc: Ms. Dee Dee Myers, Director, Governor's Office of Business and Economic Development
Mr. Kenneth Pogue, Director, Office of Administrative Law
Mr. Richard Corey, Executive Director, California Air Resources Board