

California Air Resources Board

# **Public Hearing to Consider the Proposed Repeal of the In-Use Locomotive Regulation**

## **Staff Report: Initial Statement of Reasons**

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## Executive Summary

The California Air Resources Board (CARB or the Board) approved the In-Use Locomotive Regulation (Locomotive Regulation) in April 2023 to help meet California's public health, air quality, and climate goals. Most locomotives today are diesel-electric. Combustion of diesel fuel emits harmful air pollutants, including diesel particulate matter, fine particulate matter (PM2.5), oxides of nitrogen (NOx), and greenhouse gases (GHG).

On June 16, 2023, the Association of American Railroads along with the American Short Line and Regional Railroad Association sued CARB in federal district court, seeking an injunction and declaration preventing CARB from implementing or enforcing the Locomotive Regulation.<sup>1</sup> After approval from the California Office of Administrative Law, CARB requested authorization for the Locomotive Regulation from the United States Environmental Protection Agency (U.S. EPA) in November 2023. On September 30, 2024, on CARB's representation to the court that it would not enforce any aspect of the Locomotive Regulation until U.S. EPA had taken final action on CARB's request, the court stayed the litigation. In January 2025, CARB withdrew its authorization request<sup>2</sup> because U.S. EPA would not act on it before the change in presidential administrations and because the incoming administration was not going to approve the authorization request.<sup>3</sup>

Given these developments and the absence of U.S. EPA authorization, CARB does not intend to attempt to enforce the Locomotive Regulation. Thus, the Locomotive Regulation's presence in the California Code of Regulations may cause confusion and uncertainty for California locomotive operators. Accordingly, CARB is proposing to repeal the Locomotive Regulation (Proposed Repeal). CARB considered alternatives to the Proposed Repeal but determined no reasonable alternative was less burdensome and equally effective in achieving the same purposes of reducing confusion.

The Proposed Repeal makes it clear to California locomotive operators that they will not be required to comply with the Locomotive Regulation.

In the original rulemaking to adopt the Locomotive Regulation, CARB estimated that, between 2024 and 2050, the Locomotive Regulation would have reduced:

- 7,390 tons PM2.5
- 386,283 tons NOx
- 21.6 million metric tons GHG

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<sup>1</sup> *Assoc. of Am. R.R. v. Randolph* (June 16, 2023), No. 2:23-cv-01154-JAM-JDP (E.D. Cal).

<sup>2</sup> [Letter](#) from Steven S. Cliff, Executive Officer, CARB to Jane Nishida, Acting Administrator, U.S. EPA (Jan. 13, 2025); [Letter](#) from Jane Nishida, Acting Administrator, U.S. EPA to Steven S. Cliff, Executive Officer, CARB (Jan. 14, 2025).

<sup>3</sup> See, e.g., Julie Cart et al., [Here we go again: California prepares to battle Trump over environmental policies](#), CALMATTERS (Nov. 8, 2024) ("Trump's EPA is expected to deny or try to revoke all of the waivers that California is seeking to enforce its clean air standards."); [Regulatory Outlook for Vehicle & Engine Emissions Standards Following the 2024 Presidential Election](#), GIBSON DUNN (Nov. 12, 2024).

These estimates, however, were based on implementation beginning as early as 2024 for some requirements. For the reasons explained above, implementation did not happen. To the contrary, without U.S. EPA authorization, the anticipated emission benefits will not occur.

CARB fully recognizes that many communities living near where locomotives operate are classified as disadvantaged and are disproportionately harmed by emissions from diesel locomotives. CARB's Initial Statement of Reasons for its 2023 Locomotive Regulation demonstrated that, were industry and U.S. EPA to act to implement the requirements, the monetized health savings of \$32 billion would far outweigh the \$13.8 billion cost of operating cleaner locomotives within California.

Given the developments described above that have led to this Proposed Repeal, communities will not experience those pollution reduction benefits. CARB intends, however, to continue to work toward reducing these emissions and hopes the railroads and U.S. EPA will make similar efforts for the benefit of California's vulnerable communities. CARB remains steadfastly committed to this objective of leveraging its overall portfolio of programs to meet the State's air quality and climate goals – regardless of the success of any individual measure. Despite the Proposed Repeal under consideration here, CARB continues to work toward achieving all air quality and climate goals identified in the State Implementation Plan Strategy and Scoping Plan.

## **I. Introduction and Background**

Locomotives are self-propelled off-road equipment used to push or pull rail-mounted cars carrying freight or passengers. Today, most locomotives are diesel-electric. Diesel-powered locomotives emit multiple air pollutants, including diesel particulate matter, PM<sub>2.5</sub>, NO<sub>x</sub>, and GHG. Exposure to these toxic and harmful diesel emissions is known to lead to cancer and increases in asthma, cardiopulmonary illness, hospitalizations, and premature mortality.

CARB approved the Locomotive Regulation in April 2023. The Locomotive Regulation would achieve emission reductions from diesel-powered locomotives.

Pursuant to its terms, the Locomotive Regulation applies to all locomotives operating in California and includes four main components: (1) a Spending Account, (2) In-Use Operational Requirements, (3) Idling Limits, and (4) Recordkeeping and Reporting Requirements.<sup>4</sup>

Section 209(e)(2) of the federal Clean Air Act preserves California's authority to adopt and enforce its own emission standards and requirements for nonroad engines or vehicles, subject to U.S. EPA's authorization. For locomotives, CARB is preempted from setting emission standards for "[n]ew locomotives or new engines used in locomotives"<sup>5</sup> and may regulate emissions from non-new locomotives operating within the state. On November 7, 2023, CARB submitted an authorization request to U.S. EPA for the Locomotive Regulation. With no action by U.S. EPA on the authorization request, on January 13, 2025, CARB withdrew the request.

After careful consideration, CARB staff is proposing to repeal the Locomotive Regulation.

## **II. The Problem that the Proposal is Intended to Address**

As discussed above, keeping the Locomotive Regulation in place, without the anticipated authorization, may cause confusion and uncertainty for California locomotive operators.

## **III. The Specific Purpose and Rationale of Repeal**

### **A. Sections 2478 through 2478.17.**

#### **Purpose and Rationale**

The purpose and rationale for the repeal is to give California locomotive operators more certainty and allow for consideration of other efforts to reduce locomotive emissions in California.

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<sup>4</sup> CARB, In-Use Locomotive Regulation Final Regulation Order, October 27, 2023 (Weblink: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/fro2.pdf>); see also CARB, Initial Statement of Reasons, September 20, 2022 (Weblink: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/isor.pdf>).

<sup>5</sup> 42 U.S.C. § 7543(e)(1)(B).

## **IV. Benefits Anticipated from the Regulatory Action, Including the Benefits or Goals Provided in the Authorizing Statute**

The Proposed Repeal definitively clarifies that the Locomotive Regulation will no longer be effective law and therefore will not be enforced. The Proposed Repeal will reduce uncertainty in the railroad industry.

The Proposed Repeal will also allow operators to be eligible for more funding programs for cleaner locomotives, because the operators would be achieving emission reductions extra to what is legally required of them. Some grant programs cannot fund projects that are done to comply with a regulation.

## **V. Air Quality**

### **A. Objectives**

This section summarizes the impacts to air quality without the Locomotive Regulation.

### **B. Baseline Information**

The Proposed Repeal is the equivalent of the business-as-usual baseline scenario in the 2022 Regulation Initial Statement of Reasons (2022 ISOR).<sup>6</sup>

### **C. Inventory Methods**

The locomotive emissions inventories used for evaluating emission impacts are published on CARB's website.<sup>7</sup> Because data sources and projection methodologies for each locomotive category (line haul, Class I switcher, Class III (shortline), industrial, and passenger) are specific to each category, staff developed emission inventories for each locomotive category independently. For further details about the Regulation PM and NOx emissions inventory methods, refer to the 2022 ISOR.<sup>8</sup> For further details about the Regulation GHG emissions inventory methods, refer to the 2022 ISOR.<sup>9</sup>

### **D. Air Quality Impacts**

Because the Proposed Repeal is the equivalent of the business-as-usual baseline scenario presented in the 2022 ISOR, there are no air quality impacts from the Proposed Repeal.

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<sup>6</sup> CARB, Public Hearing to Consider the Proposed In-Use Locomotive Regulation, Staff Report: Initial Statement of Reasons, September 20, 2022. p. 169 (Weblink: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/isor.pdf>).

<sup>7</sup> CARB, MSEI - Documentation - Off-Road - Diesel Equipment, accessed February 28, 2025 (Weblink: <https://ww2.arb.ca.gov/our-work/programs/msei/road-categories/road-diesel-models-and-documentation>).

<sup>8</sup> CARB, Public Hearing to Consider the Proposed In-Use Locomotive Regulation, Staff Report: Initial Statement of Reasons, September 20, 2022. pp. 170-171 (Weblink: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/isor.pdf>).

<sup>9</sup> CARB, Public Hearing to Consider the Proposed In-Use Locomotive Regulation, Staff Report: Initial Statement of Reasons, September 20, 2022. pp. 171-176 (Weblink: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/isor.pdf>).



## VI. Environmental Analysis

### A. Introduction

This chapter provides the basis for CARB's determination that the Proposed Repeal is exempt from the requirements of the California Environmental Quality Act (CEQA). This chapter also sets forth, in the alternative, the reasons none of the circumstances requiring subsequent or supplemental environmental analysis are met in connection with the proposed modifications to the Regulation. A brief explanation of this determination is provided in Section D below.

CARB's regulatory program—which involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans for the protection and enhancement of the State's ambient air quality—has been certified by the California Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA) (Cal. Code Regs. (CCR), tit.14, § 15251(d)). Public agencies with certified regulatory programs are exempt from certain CEQA requirements, including but not limited to, preparing environmental impact reports, negative declarations, and initial studies.

This chapter sets forth the reasons the Proposed Repeal is exempt from CEQA. However, even if the Proposed Repeal were not exempt from CEQA, no further CEQA analysis is required given the previously-prepared *Final Environmental Analysis for the Proposed In-Use Locomotive Regulation*, (CARB 2023) or Final EA., for the reasons set forth below.<sup>10</sup>

### B. Prior Environmental Analysis

CARB previously prepared the Final EA under its certified regulatory program (17 CCR §§ 60000-60008) to comply with the CEQA requirements. The Final EA provided an environmental analysis, which, among other things, described the reasonably foreseeable potentially significant adverse impacts on the physical environment resulting from reasonably foreseeable compliance responses.

The Locomotive Regulation was first presented to the Board in November 2022. CARB responded in writing to comments received on the Draft EA in a response to comments document that was made publicly available on April 14, 2023. At the second hearing in April 2023, the Board adopted Resolution 23-12 certifying the Final EA and adopting the findings and statement of overriding considerations. A Notice of Decision was filed with the Secretary of State on September 18, 2023, and the Regulation was effective on January 1, 2024. All associated documents are available at <https://ww2.arb.ca.gov/rulemaking/2022/locomotive>.

The Final EA provided an analysis of the potentially significant adverse environmental impacts resulting from implementation of the Locomotive Regulation and their associated reasonably foreseeable compliance responses. In addition, the Final EA used a conservative approach and considered some environmental impacts as potentially significant despite inherent uncertainties in predicting physical actions that regulated entities might take in response.

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<sup>10</sup> CARB, Final Environmental Analysis for the Proposed In-Use Locomotive Regulation. April 14, 2023.

The Final EA concluded that there could be less-than-significant impacts to energy demand, land use and planning, population and housing, public services, recreation, and wildfire. In addition, it was determined that potentially significant and unavoidable adverse impacts to the following resource areas could occur: aesthetics, agriculture and forestry, air quality (short-term construction-related), biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, noise, transportation, and utilities and service systems. While many of the identified potentially significant adverse impacts could be reduced to a less-than-significant level by mitigation that can and should be implemented by local lead agencies for a given specific project, authority to do so is beyond the purview of CARB. The authority to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, causing inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts. Consequently, the Final EA took the conservative approach in its post-mitigation significance conclusion and disclosures of potentially significant and unavoidable adverse impacts, for CEQA compliance purposes. The significance determinations are discussed in greater detail in the Final EA.

### **C. The Proposed Regulatory Action**

The Proposed Repeal would fully rescind the Locomotive Regulation. Therefore, the Proposed Repeal would not result in the compliance responses contemplated in the Final EA.

### **D. Exemption Analysis**

The CEQA statute specifies that CEQA does not apply to “[p]rojects that a public agency rejects or disapproves.” (Pub. Resources Code § 21080(b)(5).) Here, CARB’s proposal is to rescind the Locomotive Regulation in its entirety. This constitutes a project disapproval under CEQA, and is not subject to CEQA review, pursuant to the exemption in section 21080(b)(5).<sup>11</sup>

The Proposed Repeal also is exempt from CEQA under the “common sense” exemption. That exemption provides that a project is exempt from CEQA if “[t]he activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”<sup>12</sup> The Final EA identified a range of potentially significant, but unavoidable, impacts. Rescinding the Locomotive Regulation would have the effect of not proceeding with the project, which would avoid all the impacts caused by the project’s compliance responses. Furthermore, the Proposed Repeal would not present any new potentially significant impacts. The baseline for considering the environmental effects of a proposal is the existing conditions at the time environmental review commences. The CEQA Guidelines specify that “Generally, the lead agency should describe physical environmental

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<sup>11</sup> See, e.g., *City of Nat'l City v. State of California* (4 Dist. 1983) 140 Cal. App. 3d 598, 603; see also *Sunset Sky Ranch Pilots Assn. v. Cnty. of Sacramento* (2009) 47 Cal. 4th 902, 908.

<sup>12</sup> See CEQA Guidelines § 15061(b)(3).

conditions as they exist at the time...environmental analysis is commenced....”<sup>13</sup> The Locomotive Regulation has not been implemented by CARB, and CARB has no information that any implementation steps were taken by the regulated railroads. As a result, repealing the Locomotive Regulation would not result in a reversal of actions that could in turn lead to significant effects on the environment, including emission effects. Rather, the baseline existing prior to the adoption of the regulation has remained unchanged by the regulation because the railroads have continued to operate as they did before adoption. The Proposed Repeal would not result in any changes compared to baseline conditions. Given these considerations, it can be seen with certainty that there is no possibility that repealing the Locomotive Regulation may have a significant effect on the environment. The proposal is therefore not subject to CEQA.

## **E. Subsequent Environmental Review Analysis**

The subsection above explains the reasons why the Proposed Repeal is not subject to CEQA. However, even if it did not qualify for the CEQA exemptions discussed above, this subsection explains why the Proposed Repeal does not present any of the circumstances requiring further environmental review.

### **1. Legal Standards**

When considering modifications to a regulation for which a substitute document equivalent to an Environmental Impact Report (EIR) or negative declaration had previously been prepared, CARB looks to Public Resources Code section 21166 and CEQA Guidelines section 15162 for guidance on the requirements for subsequent or supplemental environmental review. (17 CCR § 60004.4.)

CEQA Guidelines section 15162 states:

- a) *When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:*
  - (A) *Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
  - (B) *Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*
  - (C) *New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the*

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<sup>13</sup> See CEQA Guidelines § 14 CCR § 15125(a)(1); see also *John R. Lawson Rock & Oil, Inc. v. State Air Res. Bd.* (2018) 20 Cal. App. 5th 77, 104–06.

*previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:*

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;*
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;*
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or*
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.*

If a subsequent or supplemental EIR or negative declaration is not required, the lead agency may document its decision and supporting evidence in an addendum. (14 CCR § 15164 (e).) The addendum and lead agency's findings should include a brief explanation, supported by substantial evidence, of the decision not to prepare a subsequent or supplemental EIR or negative declaration. (14 CCR § 15164(e).) An addendum need not be circulated for public review, but must be considered by the lead agency prior to making a decision on the project. (14 CCR § 15164(c), (d).)

## 2. Basis for Determination

CARB has determined that the Proposed Repeal does not involve any changes that result in any new significant adverse environmental impacts or a substantial increase in the severity of the significant adverse impacts previously disclosed in the Final EA. Further, there are no changes in circumstances or new information that would otherwise warrant any subsequent or supplemental environmental review. The basis for CARB's determination that none of the conditions requiring further environmental review are triggered by the Proposed Repeal is based on the following analysis.

- (1) There are no substantial changes to the regulation previously analyzed in the Environmental Analysis which require major revisions to the Environmental Analysis involving new significant environmental effects or a substantial increase in the severity of previously identified effects.*

The Final EA identified a range of potentially significant, but unavoidable, impacts. Not proceeding with the Locomotive Regulation would *avoid* all these impacts, since the compliance responses resulting in the impacts would not take place. Furthermore, the Proposed Repeal would not present any new potentially significant impacts. The baseline for considering the environmental effects of a proposal is the existing conditions at the time environmental review commences. The CEQA Guidelines specify that "Generally, the lead agency should describe physical environmental conditions as they exist at the

time...environmental analysis is commenced....”<sup>14</sup> The Locomotive Regulation has not been implemented, and no emissions reductions attributable to the Locomotive Regulation have been achieved. Therefore, no emissions-related impacts would occur in connection with the Proposed Repeal. Furthermore, no revisions to the Final EA are required; CARB is simply electing not to proceed with the project reviewed in the Final EA.

- (2) *There are no substantial changes with respect to the circumstances under which the regulation is being undertaken which require major revisions to the previous Environmental Analysis involving new significant environmental effects or a substantial increase in the severity of previously identified effects.*

Changed circumstances trigger the need for subsequent environmental review only where they will result in new or more severe significant impacts. (14 CCR § 15162(a)(2).) The Final EA identified a range of potentially significant, but unavoidable, impacts. Not proceeding with the Locomotive Regulation would *avoid* all these impacts, as described above. Furthermore, the Proposed Repeal would not present any new potentially significant impacts or increase the severity of any previously-identified significant impact. The baseline for considering the environmental effects of a proposal is the existing conditions at the time environmental review commences. The CEQA Guidelines specify that “Generally, the lead agency should describe physical environmental conditions as they exist at the time...environmental analysis is commenced....”<sup>15</sup> The Locomotive Regulation has not been implemented, and no emissions reductions attributable to the Locomotive Regulation have been achieved. Therefore, no new or substantially more severe emissions-related impacts would occur in connection with the Proposed Repeal. Nor is CARB aware of any other environmental impacts or benefits that would result from the Proposed Repeal. Furthermore, no revisions to the Final EA are required; CARB is simply electing not to proceed with the project reviewed in the Final EA.

- (3) *There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Environmental Analysis was certified as complete, that changes the conclusions of the Environmental Analysis with regard to impacts, mitigation measures, or alternatives;*

CARB is not aware of any new information that would affect the analysis in the Final EA. As discussed above, the Proposed Repeal would avoid the significant impacts identified in the Final EA, and would not cause any new significant impacts or substantially increase the severity of a previously-identified significant impact. CARB is not aware of any new information that would affect the prior determinations in the Final EA, particularly in light of the avoided impacts as a result of the Proposed Repeal. CARB is also unaware of any new information that would change CARB’s determinations regarding feasibility of alternatives or mitigation

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<sup>14</sup> See CEQA Guidelines § 14 CCR § 15125(a)(1); see also *John R. Lawson Rock & Oil, Inc. v. State Air Res. Bd.* (2018) 20 Cal. App. 5th 77, 104–06.

<sup>15</sup> See CEQA Guidelines § 14 CCR § 15125(a)(1); see also *John R. Lawson Rock & Oil, Inc. v. State Air Res. Bd.* (2018) 20 Cal. App. 5th 77, 104–06.

measures. Those measures and alternatives would ultimately be unnecessary here, since CARB's proposed project involves rescission of the Locomotive Regulation.

As stated, CARB has no information indicating that any implementation steps taken by the regulated railroads reduced emissions in response to the Locomotive Regulation. Therefore, CARB is not aware of any possibility that emission reduction projects would be reversed as a result of the Proposed Repeal.

Finally, the Proposed Repeal is not inconsistent with applicable air quality and climate change plans as described in CARB's State SIP Strategy and Scoping Plan. These plans each recognize that CARB's commitment is to achieve the State's air quality and climate goals *in the aggregate*, and that the portfolio of individual measures for achieving those goals will continue to evolve.<sup>16</sup> CARB remains steadfastly committed to this objective of leveraging its overall portfolio of programs to meet the State's air quality and climate goals – regardless of the success of any individual measure. Despite the Proposed Repeal under consideration here, CARB continues to work toward achieving all air quality and climate goals identified in the SIP Strategy and Scoping Plan. Repealing the Locomotives Regulation presents a change from the approach that was described in those planning documents regarding a measure previously anticipated to help meet the State's (and CARB's) goals. That measure will not be implemented as described and would not ultimately be included in the State's individual State Implementation Plans. However, CARB does not view this planning change as a potentially significant impact under CEQA. As discussed above, emissions would not increase from the existing conditions baseline as a result of this change. Furthermore, the Proposed Repeal only reflects a change in the levers that CARB will ultimately pursue to achieve the goals described in CARB's State SIP Strategy and Scoping Plan. Each of the key planning documents (including the SIP Strategy and the Scoping Plan) is updated routinely, and CARB has a long history of adjusting its portfolio of programs, as needed, to track the State's evolving air quality and climate goals. Importantly, these plans do not prevent CARB's Board from declining to proceed on a specific regulatory action included in the plans, as CARB's Board maintains discretion to evaluate and adjust the individual measures for achieving the State's air quality and climate goals as needed over time. CARB remains committed to satisfying its planning obligations under the Clean Air Act.

In summary, no supplemental or subsequent environmental analysis is required for the Proposed Repeal because, as described above, the rescission of the Locomotive Regulation

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<sup>16</sup> See, e.g., August 12, 2022, CARB State Implementation Plan Strategy at 33 ("While the Proposed 2022 State SIP Strategy includes estimates of the emissions reductions from each of the individual new measures, CARB's overall commitment is to achieve the total emissions reductions necessary from State-regulated sources to attain the federal air quality standards, reflecting the combined reductions from the existing control strategy and new measures. Therefore, if a particular measure does not get its expected emissions reductions, the State's overall commitment to achieving the total aggregate emissions reductions still exists."); available at [https://ww2.arb.ca.gov/sites/default/files/2022-11/Proposed\\_2022\\_State\\_SIP\\_Strategy.pdf](https://ww2.arb.ca.gov/sites/default/files/2022-11/Proposed_2022_State_SIP_Strategy.pdf). See also November 16, 2022, Scoping Plan at 265 (describing the holistic and collaborative approach needed to meet the State's climate goals); and at 11 (noting the need for a "portfolio" approach that keeps all available tools on the table, and that if gaps are identified, describes the need for developing new policies and programs to ensure all sectors remain on track to reduce emissions). Available at [https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp\\_1.pdf](https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp_1.pdf).

would not result in any new environmental impacts or in a substantial increase in severity to the impacts previously disclosed in the Final EA. Further, there are no changes in circumstances or new information that would otherwise warrant an additional environmental review.

## VII. Environmental Justice

State law defines environmental justice as the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. (Gov. Code, § 65040.12, subd. (e)(1).) Environmental justice includes, but is not limited to, all of the following: (A) The availability of a healthy environment for all people. (B) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities. (C) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process. (D) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions. (Gov. Code, § 65040.12, subd. (e)(2).) The Board approved its Environmental Justice Policies and Actions (Policies) on December 13, 2001, to establish a framework for incorporating environmental justice into CARB's programs consistent with the directives of State law. These policies apply to all communities in California, but are intended to address the disproportionate environmental exposure burden borne by low-income communities and communities of color. Environmental justice is one of CARB's core values and fundamental to achieving its mission.

Locomotive routes and locomotive railyards can be located near schools, hospitals, elder care facilities, and residential neighborhoods. The communities in and around facilities where locomotives operate are exposed to dangerous emissions from diesel-powered locomotives. Many of the communities near rail operations throughout California are classified as disadvantaged by the California Environmental Protection Agency (CalEPA), using the California Communities Environmental Health Screening Tool Version 4.0 (CalEnviroScreen).<sup>17</sup>

The Proposed Repeal would not reduce exposure to air pollutants or reduce negative health impacts from exposure to toxic air contaminants, nor would it increase exposure. As discussed in the 2022 ISOR, Chapter V: Air Quality had California received U.S. EPA authorization, the Locomotive Regulation would have reduced criteria pollutants, toxic air contaminants, GHG emissions, and community risk from regional air pollution. The Locomotive Regulation was projected to result in a 79% decrease in PM<sub>2.5</sub> and 77% decrease in NO<sub>x</sub> emissions by 2050 compared to the business-as-usual scenario. Shorter-term emission improvements were also expected: a 67% decrease in PM<sub>2.5</sub> and a 55% decrease in NO<sub>x</sub> by 2030.

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<sup>17</sup> Office of Environmental Health Hazard Assessment, CalEnviroScreen 4.0, accessed July 20, 2022 (Weblink: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>).

Community members have expressed concern about the harmful effects of diesel emissions from locomotives. The emission reductions and associated improvements to air quality would have particularly benefited those in heavily burdened and disproportionately affected communities. Given the developments described above that have led to this Proposed Repeal, communities will not experience those pollution reduction benefits. CARB intends, however, to continue to work toward reducing these emissions and hopes the railroads and U.S. EPA will make similar efforts for the benefit of California's vulnerable communities.

## **VIII. Economic Impacts Assessment or Standardized Regulatory Impact Analysis**

The Economic Impacts Assessment (EIA) estimates the cost and benefit impacts of the Proposed Repeal. This regulatory action will not have a significant economic impact on businesses. CARB has not implemented or enforced the Locomotive Regulation. CARB is not aware of any business that has taken steps to comply with the Locomotive Regulation beyond what could be expected under the business-as-usual baseline discussed in the 2022 ISOR. Therefore, while the Proposed Repeal will give businesses assurances that they will not need to comply with this regulation in the future, the repeal does not otherwise impact businesses, as the costs remain, to date, the same as in the 2022 baseline. A similar analysis holds for economic benefits: no regulated actors were required to take steps beyond what would be expected under a business-as-usual scenario. Therefore, the baseline for both cost and benefits has remained the same since the 2022 ISOR; the repeal maintains this status-quo.

## **IX. Evaluation of Regulatory Alternatives**

Government Code section 11346.2, subdivision (b)(4) requires CARB to consider and evaluate reasonable alternatives to the proposed regulatory action and provide reasons for rejecting those alternatives. This section discusses alternatives evaluated and provides reasons why these alternatives were not included in the proposal. As explained below, no alternative proposed was found to be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing law. The Board has not identified any adverse impact on small business or any reasonable alternatives that would lessen any such impact.

### **A. Hold Sections 2478 through 2478.17 Without Repeal**

The first alternative that CARB considered was keeping the Locomotive Regulation in the California Code of Regulations as is. However, in light of the developments described above, the Locomotive Regulation would remain largely unenforceable. This alternative would thus retain the uncertainty the Proposed Repeal is designed to eliminate. This alternative thus does not meet a core objective here.

### **B. Resubmit Regulation for U.S. EPA Authorization**

Staff evaluated the alternative of resubmitting the Locomotive Regulation for U.S. EPA authorization. However, it is likely U.S. EPA will not provide authorization, enhancing uncertainty. It does not appear to be reasonable to resubmit the Locomotive Regulation to U.S.



EPA in these circumstances, and doing so would likely increase the uncertainty this Proposed Repeal is designed to eliminate. CARB therefore has rejected this alternative.

### **C. Small Business Alternative**

The Board has not identified any reasonable alternatives that would lessen any adverse impact on small business. Furthermore, staff has not identified any adverse impacts on small businesses from the Proposed Repeal.

### **D. Health and Safety Code section 57005 Major Regulation Alternatives**

CARB estimates the proposed repeal will not have an economic impact on the state's business enterprises of more than \$10 million in one or more years of implementation, because the repeal does not modify the existing economic baseline. Therefore, CARB is not required, under Health and Safety Code section 57005, to evaluate alternatives submitted to CARB and consider whether there is an alternative or combination of alternatives that would be equally as effective within the same amount of time as the repealed requirements.

### **X. Justification for Adoption of Regulations Different from Federal Regulations Contained in the Code of Federal Regulations**

CARB is proposing to repeal the Regulation, which did not duplicate or conflict with federal regulations.<sup>18</sup> This repeal thus likewise creates no conflict with nor duplication of federal law.

### **XI. Documents Relied Upon**

1. CARB, Public Hearing to Consider the Proposed In-Use Locomotive Regulation, Staff Report: Initial Statement of Reasons, September 20, 2022. (Weblink: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/isor.pdf>).
2. CARB, MSEI - Documentation - Off-Road - Diesel Equipment, accessed February 18, 2024. (Weblink: <https://ww2.arb.ca.gov/our-work/programs/msei/road-categories/road-diesel-models-and-documentation>).
3. CARB, Appendix G: CARB's 2022 In-Use Locomotive Emission Inventory: Regulatory Proposal and Scenarios, August 2022. (Weblink: <https://ww2.arb.ca.gov/sites/default/files/2023-09/AppG%20CARB%27s%202022%20In-Use%20Locomotive%20Emission%20Inventory%20Regulation%20Proposal%20and%20Scenarios.pdf>).

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<sup>18</sup> CARB, Initial Statement of Reasons at section X, September 20, 2022 (Weblink: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/isor.pdf>).

## **XII. Appendices**

A-1. In-Use Locomotive Regulation Proposed Regulation Order (.pdf)

A-2. In-Use Locomotive Regulation Proposed Regulation Order (.docx)