



COMMISSIONER OF SECURITIES AND INSURANCE

Troy Downing
Commissioner

Office of the
Montana State Auditor

April 8, 2024

Hon. Michael S. Regan, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW; 1101-A
Washington, D.C. 20460

Re: CARB's Clean Air Act Authorization Request [Docket ID Number: EPA-HQ-OAR-2023-0574]

Dear Administrator Regan:

I am writing to request that the EPA reject the above authorization request, which would permit the California Air Resources Board (CARB) to circumvent federal laws and impose unrealistic mandates requiring railroads across the United States to purchase zero emission locomotives that are not yet commercially viable. Granting this authorization would disrupt national supply chains, hurt the U.S. economy, increase inflation for consumers, drive railroads out of business, and divert millions of tons of freight from rail to more carbon intensive transportation options.

In Montana, railroads haul 105 million tons of freight annually to markets in the U.S. and across the globe. Montana businesses and producers provide biofuels to west coast customers, high quality wheat gluten for west coast bakeries, and many other commodities that are moved west for value added processing.

The CARB would limit the useful life of more than 25,000 locomotives. Smaller railroads cannot simply replace these locomotives. In fact, CARB anticipates that 20 percent of smaller railroads would be driven out of business immediately from this rule. This would shrink competition in the industry and further drive up prices. Montana farmers already know what lack of competition means to getting their high-quality agriculture products to market. We don't need more challenges for Montana's hard-working farm and ranch families.

Moreover, granting the waiver would open the floodgates to expansion of these disruptive mandates given that Section 209(e) of the Clean Air Act permits other states to adopt the CARB regulation once authorized by EPA. Creating a patchwork of state laws governing

840 Helena Avenue, Helena, Montana 59601
(main fax) 406.444.3413 | (securities fax) 406.444.5558
(insurance consumer services fax) 406.444.1980 | (legal fax) 406.444.3499
(phone) 800.332.6148 or 406.444.2040 | (email) csi@mt.gov | (web) www.csimt.gov

rail operations would severely undermine the interconnectivity of the freight rail network and run afoul of federal laws created with preserving that network in mind.

Montana exports increased 29% from December 2022 to December 2023. Railroads are critical partners in facilitating much of this trade and are key to our clean energy and agricultural industries. The EPA is charged with protecting both the environment and people. The CARB's attempt to transform overnight what is already the cleanest mode of transportation is both unreasonable and unacceptably risky for our economic progress. Approving the CARB's request will lead to higher consumer prices, more carbon emissions, deteriorating public infrastructure, and more congested and less safe highways. Please reject this waiver authorization request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Troy Downing', is written over a faint, light blue circular stamp or watermark.

Troy Downing
Montana State Auditor
Commissioner of Securities and Insurance

c: Members of the Montana Congressional Delegation