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Written Statement of

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On behalf of

The Associated General Contractors of California

to the

United States House of Representatives

Subcommittee on Railroads, Pipelines, and Hazardous Materials

For a hearing on

**“An Examination of the California Air Resources Board’s (CARB) In Use
Locomotive Regulation”**

July 9, 2024



Introduction

Chairman Nehls, Ranking Member Wilson, and members of the Subcommittee on Railroads, Pipelines, and Hazardous Materials, thank you for inviting me to testify on this vitally important topic. My name is Ural Yal, Senior Vice President of the Corporate Preconstruction Group at Flatiron Construction, and an active member of the Associated General Contractors (AGC) of California. I currently sit on the Executive Committee at AGC as the Vice President of Highway & Transportation. Since 1920, AGC of California has been a member driven organization (501c6) with around 900 members specializing in commercial construction. We believe the construction industry is vital to the success of California. Together, our members actively create opportunities to build and strengthen our state. We are passionate about shaping policy, improving industry relationships, and developing our workforce.

AGC members are the contractors that built California's current infrastructure. They are also the contractors maintaining our existing infrastructure and building the next generation for the state. This includes passenger rail systems, freight rail, affordable, and mixed income housing developments, air and seaports, roads, bridges, transit systems, and more.

Flatiron is a leading infrastructure contractor with operations across the United States and Canada. We were founded in Colorado in 1947 and have been operating in California since 1989. With more than 3,500 craft and professional employees — 1,100 of those employees are in California — we collaborate with public and private clients to deliver essential infrastructure. Our revenues exceed \$2.5b, of which more than \$1B is generated in California. We are ranked top 10 by Engineering News-Record in transportation and heavy civil construction in the US. Our focus market segments are rail and transit systems, aviation, highways, bridges, water and wastewater treatment facilities, resiliency and flood protection, dams and reservoirs, and sustainable mobility. With a focus on safety and quality, Flatiron builds long-term, collaborative relationships with clients, construction partners and communities. Our skilled craft employees and on-site leaders bring vital expertise and experience to each project. Our industry-leading engineers create innovative solutions to complex issues. And, beyond delivering essential infrastructure projects, Flatiron people demonstrate a commitment to sustainability, to our clients and the communities where we live and work.

We have worked with passenger and freight rail operators throughout our history, with notable projects such as a 68-mile segment of California High-Speed Rail, Redlands Passenger Rail in San Bernardino County in California, North Coast Corridor program in San Diego that serves joint Amtrak and BNSF lines, intermodal facility improvements for BNSF, numerous safety improvements such as grade separations and double tracking on passenger and freight rail lines across California and several other states.

As a contractor that self-performs majority of our work with our own craft workforce and with rail and transit construction being a major part of our business, maintaining investments in infrastructure spending in this field very important to us.



The construction industry is vital to our nation's economy, providing the foundation upon which our communities are built and thrive. A more environmentally friendly nation starts with our state and federal agency partners' ability to build it while maintaining the jobs our communities need, ensuring stable material pricing, meeting effective transportation needs, and securing the funding required to support the communities our agency partners develop and build for. The construction industry not only creates jobs but also drives economic growth by developing the infrastructure necessary for a sustainable future.

While AGC of California supports the goal of a more environmentally friendly state, the California Air Resources Board's (CARB) In Use Locomotive Regulation, if granted, will have significant adverse effects on infrastructure development, the construction supply chain, and job creation.

CARB's regulation would require railroads, beginning in 2030, from operating locomotives in California that are more than 23 years beyond their original manufacture date. In addition, beginning in 2030 for industrial, switch, and passenger locomotives and 2035 for line-haul locomotives, newly purchased locomotives operated in California would need to be zero-emission. The railroads have made significant investments in developing battery electric and hydrogen fuel cell locomotives, however commercially viable zero-emission locomotives are unavailable.

California has a total of twelve ports and about forty percent of container freight moves through California ports.¹ According to Union Pacific, 52% of rail traffic is bulk commodities for things like agriculture and energy products, construction materials, chemicals, equipment, metals, minerals, among other things.² And according to the Association of American Railroads, rail accounts 40 percent of long-distance freight by ton-mile.³ The ability to transport construction materials and other freight by rail is vital to the economy of California and the nation and would be hindered by the CARB regulation.

Construction Costs have Increased

The costs of construction have gone up, including the cost of construction materials, construction labor, and transport of materials. The CARB In Use Locomotive Regulation would further increase these costs and the cost to rebuild the nation's infrastructure.

Construction Material Prices

At Flatiron Construction, and more broadly within the construction industry, managing inflation defined 2023 and a lot of 2024. Since February 2020, the average cost of construction materials has increased by 39%; nearly twice as high as the rate of consumer inflation, which was 21% during that same period (See Appendix Table 1). More specifically, some construction markets, like highway construction, have seen an increase of 68% since December 2020, according to the Federal Highway Administration's (FHWA) National Highway Construction Cost Index (NHCCI).⁴ These figures also reflect significant cost increases for specific construction materials from February 2020 to May 2024 (See Appendix Table 2), which include a:

¹ The California Legislature's Nonpartisan Fiscal and Policy Advisor, [Overview of California's Ports](#)

² Union Pacific, [How Much Freight Ships by Rail In the US?](#)

³ Association of American Railroads, [Data Center](#)

⁴ National Highway Construction Cost Index, [Q4 2020 to Q4 2023](#)



- 63% increase in the price of diesel;
- 60% increase in the price of steel mill products;
- 49% increase in the price of gypsum (used in a lot of building materials); and
- 38% increase in the price of cement.⁵

The price of fuel, especially diesel, has driven up costs for the construction industry and project costs nationwide. Higher diesel costs mean construction companies must pay more to operate equipment, deliver materials to jobsites, and haul away dirt, debris, and equipment. Likewise, construction workers themselves feel the pain of higher commuting costs – particularly for jobs in rural areas where workers often have long commutes.

Construction Labor Costs

The Bureau of Labor Statistics released numbers in April 2024 that showed that there were still 338,000 job openings in construction despite 353,000 new hires reported throughout the month. In other words, the industry cannot find enough people to hire. This has resulted in dramatic increases in labor costs. The average hourly earnings in construction increased 20% from \$29.64 an hour in December 2020 to \$35.45 an hour in May 2024. This increase, outpacing growth in the private sector.⁶

Transporting Construction Materials

Construction material prices have increased and as a result of the increased cost of diesel, so have the costs to transport them. The CARB regulation would only exacerbate the problem.

While railroads account for a smaller portion of freight movement by weight and value, it is significant because these shipments reduce what would otherwise be increased congestion on our roadways. In addition, according to the Association of American Railroads, on average railroads are three to four times more fuel efficient than trucks.⁷ Railroads account for about 0.5% of total U.S. greenhouse gas emissions and just 1.7% of greenhouse gas emissions in the transportation sector.⁸

CARB Regulation will Jeopardize Planned Infrastructure Projects

The proposed Spending Account and Useful-Life Requirement within CARB’s In-Use Locomotive Regulation present significant financial and operational challenges for our agency partners. These requirements are designed to accelerate the transition to zero-emission locomotives by mandating substantial financial contributions from operators into a spending account and limiting the operational life of existing locomotives. While the intent to reduce emissions is commendable, these measures impose undue burdens on our transportation agencies and, by extension, the communities they serve. We are

⁵ Bureau of Labor Statistics, [Producer Price Indexes](#)

⁶ Bureau of Labor Statistics, [Current Employment Statistics Survey](#)

⁷ Association of American Railroads, [Freight Rail Facts and Figures](#)

⁸ Association of American Railroads, [Data Center](#)



concerned that this regulation will have unintended consequences and jeopardize planned infrastructure projects and construction jobs.

Barstow International Gateway Project

Burlington Northern Santa Fe Railway (BNSF) Railway's Barstow International Gateway is a transformative infrastructure project designed to enhance the efficiency and capacity of freight rail operations in California. This state-of-the-art, master-planned rail facility represents an investment of over \$1.5 billion and spans approximately 4,500 acres on the west side of Barstow. The facility will include a rail yard, an intermodal facility, and warehouses for transloading freight from international containers to domestic containers. The facility is designed to improve cargo velocity and reduce congestion both at the ports and on the highways. By allowing for the direct transfer of containers from ships at the Ports of Los Angeles and Long Beach to trains, the project will help reduce truck traffic and freeway congestion in the Los Angeles Basin and the Inland Empire. The use of clean-energy powered cargo-handling equipment at the facility will also contribute to improving the region's air quality.⁹

The Spending Account (Section 2478.4(a)-(e)) mandates that locomotive operators deposit significant sums annually based on the tier of their locomotives. Katie Farmer, CEO of BNSF spoke at the North American Rail Shippers Conference and said, "We estimate that that payment for us, and I know that it would be similar for the Union Pacific, would be around \$800 million a year."¹⁰

The path forward, if the EPA were to grant a waiver, would be unclear and in question for BNSF¹¹

Furthermore, in a comment made by California's Office of Business and Economic Development on the BNSF Barstow Project, "The significance of BNSF's investment to improve the supply chain here in California cannot be overstated. Rail plays a critical role in moving goods safely and efficiently, while reducing emissions due to congestion in many of our high-traffic corridors," said Trelynd Bradley, Deputy Director of Sustainable Freight and Supply Chain Development at the Governor's Office of Business and Economic Development. He added, "Projects like BNSF's will work to strengthen our inland local economies, such as that of Barstow in San Bernardino County. We look forward to continuing to work with projects like these, as well as others, to drive transformative investments that will enhance and elevate California's supply chain ecosystem for a more efficient and resilient tomorrow."¹²

California clearly and publicly supports infrastructure development that improves upon the movement of goods specifically referring to BNSF Railway's Barstow International Gateway Project. Trelynd Bradley also stated the positive impact "Rail plays a critical role in moving goods safely and efficiently, while reducing emissions due to congestion in many of our high-traffic corridors" again, stated by California's

⁹ BNSF Railway, [BNSF to Build New Integrated Rail Complex in Barstow to Increase Supply Chain Efficiency Nationwide](#)

¹⁰ Trains.com, [California locomotive emission rules threaten BNSF's proposed Barstow terminal](#)

¹¹ Progressiverailroading.com, [Rail industry to Congress: California's locomotive rule is a state reg with national consequences](#)

¹² BNSF Railway, [BNSF to Build New Integrated Rail Complex in Barstow to Increase Supply Chain Efficiency Nationwide](#)



Office of Business and Economic Development. However, the CARB regulation works to dismantle such efforts.

The Barstow Project would Create Jobs and have Positive Economic Impacts

The Barstow International Gateway is poised to create significant economic benefits for the region and beyond. The project is expected to generate approximately 20,000 direct and indirect jobs, a substantial boost to the local economy of Barstow, where the population is around 25,231. The jobs impacted by this regulation would span beyond my company and the construction industry and also jeopardize jobs in operations, and ancillary services, providing much-needed employment opportunities in the high desert region. Those jobs and many others are threatened by CARB's In-Use Locomotive Regulation.

The CARB Regulation would Contradict State Priorities

Furthermore, the Los Angeles County Metropolitan Transportation Authority (LA Metro), Ventura County Transportation Commission (VCTC), San Bernardino County Transportation Authority (SBCTA), National Railroad Passenger Corporation (Amtrak), Orange County Transportation Authority (OCTA) Southern California Regional Rail Authority (Metrolink) and Peninsula Corridor Joint Powers Board (Caltrain) accounting for the majority of passenger rail in California have expressed the severe financial burden that would be a result of such accounts. According to CalTrain "This would mean encumbering tens of millions of dollars into a Spending Account that would be unavailable for rail operations, state of good repair improvements, or leveraging federal investment in rolling stock and capital projects, despite existing plans to replace 75 percent of our fleet with ZEV EMUs. Caltrain does not have flexible funds that could account for this level of financial disruption and would be forced to impact operating budgets, reduce service, or in the worst case, shut down entirely. This requirement in creating a new financial liability could impact the agency's credit rating, which would be problematic for the financing that may be needed simply to comply with the regulation and continue to run service. There is no funding attached to this regulation and thus, passenger rail agencies will have no assistance or recourse to comply."¹³

The world is anticipating the LA28 Olympic Games which officials have advertised as 'car-free' games.¹⁴ This regulation itself contradicts the State of California's goals to reduce Vehicle Miles Traveled (VMT) if our agency partners ability to utilize funds for maintenance, operations, and expansion of rail prior to the Olympics is significantly reduced. While the goals of the Spending Account and Useful-Life Requirement within CARB's In-Use Locomotive Regulation are aimed at promoting environmental sustainability, the adverse effects on agency partners are substantial.

Conclusion

In conclusion, while the goals of CARB's In-Use Locomotive Regulation to reduce emissions and promote environmental sustainability are commendable, the proposed Spending Account and Useful-Life Requirements present significant challenges that cannot be overlooked. These measures impose undue

¹³ California Air Resource Board, [Caltrain letter](#)

¹⁴ Los Angeles Times, [L.A. buses helped eliminate 1984 Olympic traffic. Can they repeat for 2028?](#)



financial and operational burdens on our transportation agencies, complicating compliance with existing federal standards and diverting critical funds from essential infrastructure projects.

While construction materials are shipped by virtually every mode of transportation, constraining the rail industry’s ability to operate in the state of California could have ripple effects across the country. In addition, AGC is concerned about other states following suit and mandating zero emission locomotives like how they followed California’s vehicle emission standards.¹⁵

The construction industry, which is pivotal to rebuilding our nation’s infrastructure, stands to be severely impacted. The burden and uncertainty of the CARB regulation could disrupt supply chains, delay construction projects, and jeopardize construction jobs. This, in turn, undermines the ability of the construction industry and it’s agency partners to build and maintain the infrastructure that supports our communities.

I thank the Committee for the opportunity to testify today and look forward to answering any questions that members may have.

¹⁵ California Air Resource Board, [States that have Adopted California's Vehicle Regulations](#)

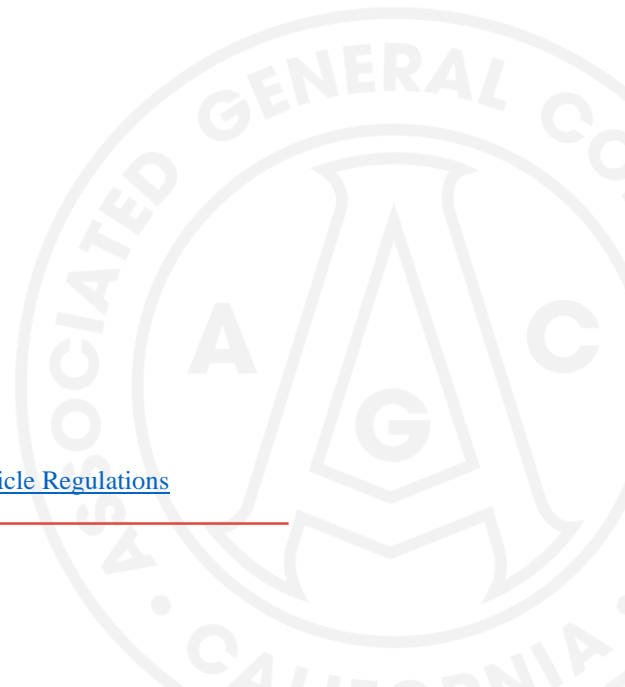
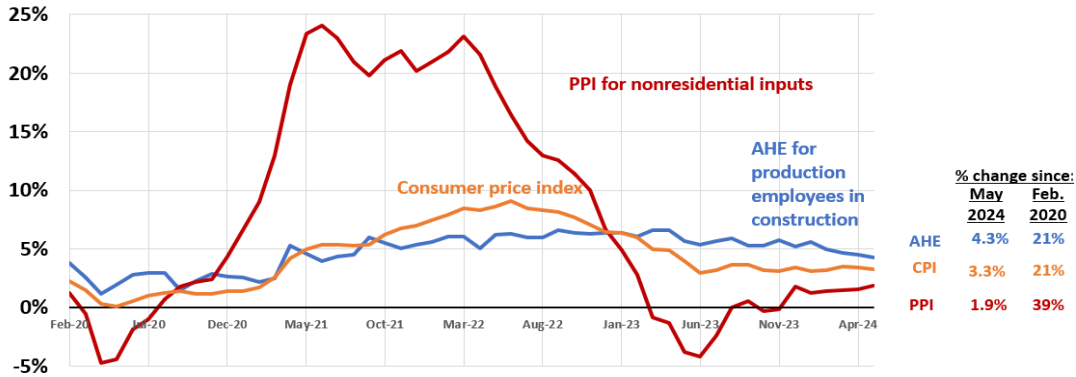


Table 1

Construction materials & labor costs top consumer inflation

Year-over-year change in producer price index (PPI) for nonresidential inputs, average hourly earnings (AHE) for production employees in construction, and consumer price index (CPI), Feb. 2020 – May 2024

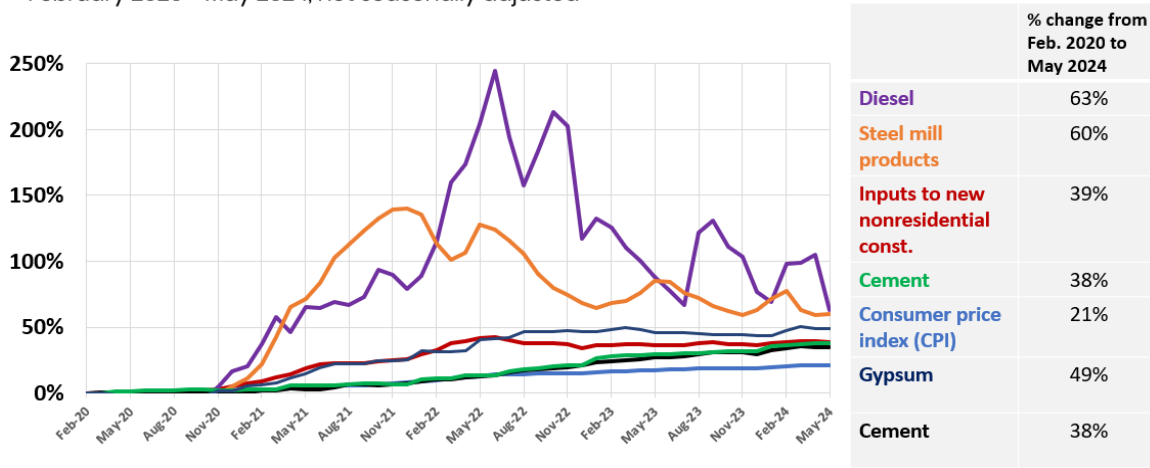


2 | Source: Bureau of Labor Statistics, PPI, www.bls.gov/ppi ; Current Employment Statistics, AHE, <https://www.bls.gov/ces/> ©2024 The Associated General Contractors of America, Inc.

Table 2

Cumulative change in CPI, new nonresidential inputs, and select construction materials

February 2020 – May 2024, not seasonally adjusted



1 | Source: Bureau of Labor Statistics

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