

June 16, 1997

Air and Radiation Docket
Attention: Docket Number A-94-31
U.S. Environmental Protection Agency
401 M Street, SW
Waterside Mall, Room M-1500
Washington, DC 20460

To Whom It May Concern:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), we wish to provide comments on the U.S. Environmental Protection Agency's (EPA's) proposed emission standards for locomotives and locomotive engines, as published in the *Federal Register* on February 11, 1997 (62 FR 6365).

STAPPA and ALAPCO are aware that locomotives contribute to inventories of nitrogen oxides, volatile organic compounds, particulate matter (PM) and carbon monoxide in various areas of the country. We are, therefore, pleased that EPA has taken steps to comply with its statutory responsibility under Section 213(a)(5) of the Clean Air Act to regulate emissions from new locomotives and locomotive engines. Appropriate regulation of these sources will assist state and local air quality regulators in meeting their goals of attaining and maintaining clean and healthful air nationwide.

The associations, however, have one major concern with EPA's proposal: We are extremely disturbed that through this rule EPA proposes to preempt state and local authority to regulate remanufactured locomotives. STAPPA and ALAPCO note that any preemption of state and local ability to control a source of air pollution ties the hands of state and local regulators in addressing problems to whatever extent they deem necessary; not only for locomotives, but for any source of air pollution, the associations argue that it is inappropriate for EPA to preempt state and local regulatory authority unless explicitly required by Congress.

While we understand that EPA believes the locomotive rule, as proposed, is a good one, we assert that neither EPA nor state and local air agencies can predict today what circumstances may exist in the future. Should such future circumstances warrant further control of locomotive emissions in order to improve or maintain air quality and protect public health, such action will be largely beyond the authority

of state and local regulators. Moreover, as we know well from experience, control technologies can evolve and cost effectiveness can improve over relatively short periods of time. By preempting state and local authority to regulate remanufactured locomotives, EPA is precluding our ability to take advantage of these improvements in the future.

Particularly in light of our concerns related to preemption, STAPPA and ALAPCO believe it is absolutely critical that EPA subject locomotives and locomotive engines to especially stringent regulations that apply rigorous standards beginning as quickly as feasible and ensure continued compliance in use over the useful life of the source. To this end, we offer the following comments on several key aspects of the proposal.

Emission Standards

STAPPA and ALAPCO believe that EPA's proposed Tier 0 PM standard, when combined with the proposed Averaging, Banking and Trading (ABT) provisions, is too lenient and could result in significant increases in PM emissions. Given EPA's likely promulgation next month of new standards for fine particulate, we believe the agency should ensure that the locomotive rule does its fair share in reducing PM emissions. Therefore, either the Tier 0 PM standard should be tightened or the ABT provisions modified.

Also with respect to Tier 0, the NO_x-related provision allowing some locomotives to exceed the standard as long as a 33-percent reduction is achieved for a specific engine family is inappropriate. Given the ABT provisions included in the proposal, there is no reason that an engine family unable to meet the prescribed standards should not be required to make up the difference through ABT.

The associations also believe that the proposed smoke standards should be strengthened to ensure adequate control of PM. While the proposed standards may be appropriate for current locomotives, they are insufficient for controlling future locomotives, which will be capable of complying with more stringent standards in use.

While we find the other emission standards proposed by EPA to be both appropriate and feasible, we note that the Tier II standards for NO_x and PM result in ultimate emission reductions of about 60 percent and 50 percent, respectively -- levels substantially lower than the approximately 80-percent reductions required for heavy-duty trucks in the same timeframe. Accordingly, we urge EPA to pursue an additional tier of standards for further emission reductions from locomotives, comparable to those required of heavy-duty trucks.

Lead Time

STAPPA and ALAPCO believe that EPA's proposed effective dates of January 1, 2000 for Tier 0 and Tier 1 and January 1, 2005 for Tier 2 are entirely reasonable. Members of the locomotive manufacturing industry have been actively involved in the development of this rule and have been aware of the direction EPA has been pursuing and the general level of the standards to be imposed for a number of years. Lead times of two years for Tiers 0 and I and seven years for Tier II are adequate and should not be extended.

In-Use Testing

Ensuring that locomotives continue to meet emission standards in use is critical to the overall success and integrity of the locomotive program. STAPPA and ALAPCO agree with EPA's analysis that Section 208 of the Clean Air Act clearly provides the agency with authority to require the manufacturer-performed in-use testing proposed. We note, too, that EPA's marine engine regulations also include an in-use testing program run by the engine manufacturers.

Useful Life

Finally, it is imperative that emission control devices for locomotives last, or be well maintained, at least as long as other components of the engine, so that the locomotive is able to meet emission standards as long as the engine is capable of operating. Accordingly, EPA must establish a definition of useful life for locomotives that includes a sufficiently long period of time so that locomotives do not continue in operation without being subject to the emission standards and other aspects of the regulatory program. In addition, the definition of useful life should be adjustable upward, so that as the actual lives of locomotives become longer, the period during which locomotives are required to comply with the regulatory program is also extended.

In conclusion, we urge EPA to promulgate a comprehensive and stringent final rule for locomotives and locomotive engines. Further, we remind EPA that if the final locomotive rule preempts state authority to regulate remanufactured, as well as fresh, locomotives, the agency is obligated to accept responsibility for ensuring that the rule includes, at a minimum, appropriately stringent standards that take effect in a timely manner, a rigorous in-use testing program and sound maintenance requirements.

We thank you for the opportunity to comment on this proposal. If you require any further information, please do not hesitate to contact either of us or S. William Becker, Executive Director of STAPPA and ALAPCO.

Sincerely,

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