



July 13, 2026

Chair Sanchez and Members of the Board
California Air Resources Board (CARB)
1001 "I" Street
Sacramento, California 95814

Re: Agenda Item No. 26-5-2, 2026 State Implementation Plan Revisions for the California Extreme Ozone Nonattainment Areas

Dear Chair Sanchez and Members of the Board:

On behalf of Earthjustice, we write regarding the State Implementation Plan (SIP) revision for the 2015 8-hour Ozone Standard. We remain disappointed by the continued lack of progress in implementing plans that will actually attain ozone standards in the nation's most polluted air sheds. Pollution so far this year has been particularly punishing in parts of California. For example, the South Coast Air Basin has more dirty ozone days by this date compared to the same date last year. If this trajectory continues, we could have one of the worst smog seasons in decades. This air quality crisis is juxtaposed by a recalcitrant federal government set on derailing clean air progress. While we recognize we need the federal government to stop its assault on our lungs, we also need our California agencies, including CARB, to do everything in its power to dramatically drive down pollution to meet federal and state ozone standards.

I. Clean Air Act Section 182(e)(5) "Black Box" Measures Are Bad for Breathers.

Use of section 182(e)(5) measures provides an unfavorable tradeoff for breathers. While it can make "extreme" ozone plans easier to approve, California has zero track record of actually closing the "black box" in ozone plans. The South Coast Air Basin has never met an ozone standard, including failing to meet the 1979 1-hour ozone standard by 2010 and the 1997 8-ozone standard by 2024. In all plans for these standards, breathers were promised that our agencies would solve our air pollution crisis by closing the "black box." These promises have never been kept. What basis do we have that this is not just another exercise in making promises that will be broken in the future?

As CARB revises its plan, it is critical that the agency continue to annually monitor rule developments and make sure it is doing everything possible to dramatically drive down nitrogen oxide (NOx) pollution. It will also be important for the agency to have continued engagement with the public, including overburdened communities, which often bear the worse consequences of this failure to actually make it safe to breathe.

II. CARB Must Reject Efforts to Roll Back Protections, and It Must Implement a New Generation of Regulations to Pick Up the Harms from Federal Government Rollbacks.

CARB must do more to dramatically drive down NOx pollution. This is particularly important as the agency drafts its Drive Forward strategies and next generation of diesel freight regulations (e.g. Transportation Refrigeration Units II, Commercial Harborcraft II, etc.). These programs must be designed to dramatically drive down NOx emissions and other pollutants by the attainment date. In addition, we remain disappointed that several deadlines for rule adoption in the 2022 air plan are being pushed back.

We also remain disappointed that climate programs like the Low Carbon Fuel Standard and the Cap-and-Invest program are not being designed to more aggressively drive down NOx pollution to help fill gaps left by the federal government's abdication of its responsibility to protect clean air. CARB must use all of its authority, including these critical climate programs, to advance actual zero-emission solutions, rather than continue to provide large levels of support for combustion technologies that still emit NOx. At a moment when California must use every available tool to cut air pollution as swiftly as possible, CARB could look to its climate programs to drive even deeper NOx reductions.

Finally, we remain concerned by industry efforts to weaken current regulations. For example, methane industry stakeholders and their allies are taking novel and unsubstantiated views of the scope of the Advanced Clean Fleets (ACF) public fleet provisions, and asking the Board to roll back protections. We can ill afford to have CARB weaken protections when we are facing unprecedented federal attacks.

III. Air Districts in "Extreme" Areas Must Do More.

Given the aggressive actions from the federal government, we need agencies beyond CARB to do more. The South Coast Air Quality Management District ("South Coast AQMD") has significant opportunities to curtail NOx emissions from residential fuel combustion, the single largest source of NOx emissions under its jurisdiction. In addition, many larger boilers in the region continue to emit high levels of NOx pollution, even though there are commercially available nonpolluting technologies currently operating across the country. Air districts need to send a clearer signal that cleaner combustion units are not enough, especially in light of the determination in the 2022 South Coast Air Quality Management Plan that "the only way to achieve the required NOx reductions is through extensive use of zero-emission technologies across all stationary and mobile sources."¹ To

¹ South Coast AQMD, 2022 Air Quality Management Plan, at Executive Summary, available at [final-2022-aqmp.pdf](#).

facilitate this recognition, we request that CARB commit to developing suggested emissions control strategies to implement Best Available Control Technology (BACT) and Best Available Retrofit Control Technology (BARCT). There is precedent for this effort, including the commitment for CARB to explore making BACT/BARCT determinations for stationary sources in the 2022 State Strategy,² or the commitment to develop a suggested control measure to address emissions from commercial cooking in the 2018 Community Air Protection Blueprint.³ Similarly, the Central Valley Air Quality Coalition, in their letter submitted May 18, 2026, has identified several measures that the San Joaquin Valley Air Pollution Control District should pursue.

In summary, CARB should work with Air Districts to do everything in their authority to drive down emissions. It will be important for CARB and its representatives on the various Air Districts in “extreme” areas of nonattainment to engage with these agencies to reiterate the need to do more to fill in the gaps left by the federal government. We do not have the luxury to pick and choose categories of emissions to ignore.

IV. A Recent Court of Appeal Decision Impacts Energy Policy & Conservation Act (EPCA) Arguments Raised by Commenters.

In the docket for this plan revision, Southern California Gas Company, Rinnai America Corp, Noritz America Corporation and other commenters make arguments related to preemption under the Energy Policy and Conservation Act (EPCA) of CARB’s proposed efforts to curtail appliance pollution. The United States Court of Appeal for the Ninth Circuit recently ruled against Rinnai et al in their lawsuit challenging South Coast AQMD Rule 1146.2. The decision in that case, which impacts the arguments made by these commenters, is appended for your reference and reading enjoyment.

V. Conclusion

Earthjustice appreciate your consideration of these comments and looks forward to working together to develop an effective plan to meet federal and state standards.

Sincerely,

Adrian Martinez
Director, Right to Zero
Earthjustice

² CARB, Proposed 2022 State Strategy for the State Implementation Plan, at 29-30 (August 12, 2022), *available at* [Proposed 2022 State SIP Strategy](#).

³ CARB, Community Air Protection Blueprint, at 15 (October 2018), *available at* [Community Air Protection BLUEPRINT, October 2018](#).