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California Air Resources Board
1001 I Street
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Subject: Comments on 2026 State Implementation Plan Revisions for the California Extreme Ozone Nonattainment Areas

To the Executive Officer and Members of the Board:

Southern California Gas Company (SoCalGas) appreciates the opportunity to comment on the California Air Resources Board's (CARB) 2026 Extreme Ozone State Implementation Plan (SIP) Revisions, specifically the section addressing the Clean Space and Water Heater Standards. SoCalGas supports the development of practical, effective strategies that advance the State's air quality and climate objectives while maintaining energy reliability, affordability, and customer choice.

While CARB's efforts to fortify emissions reductions for ozone attainment are understandable, SoCalGas is concerned that the proposed SIP revision continues to rely on zero-emission appliance-focused measures that raise significant legal, affordability, feasibility, and implementation challenges. In particular, the revised Clean Space and Water Heater Standard measure appears largely based on the regulatory framework presented at CARB's December 11, 2025, public workshop on proposed Zero-Emission Space and Water Heater Standards. As noted in our previous comments¹, that framework would functionally limit or phase down the availability of natural gas-fired space and water heating appliances without adequately considering infrastructure readiness, customer affordability, or alternative lower-emission pathways.

In response to the proposed revisions, SoCalGas raises three primary concerns: 1) potential preemption under the federal Energy Policy and Conservation Act (EPCA); 2) impacts on consumer choice and affordability for California consumers; and 3) the need to evaluate and consider fuel-neutral alternatives capable of reducing emissions while preserving affordability and flexibility.

¹ California Air Resources Board (CARB), SoCalGas Comments on CARB December 11, 2025 Zero-Emission Space and Water Heater Standards Public Workshop, January 21, 2026, <https://ww2.arb.ca.gov/form/public-comments/submissions/57366>.

1) Potential preemption under the federal Energy Policy and Conservation Act (EPCA)

Until recently, CARB proposed concepts for zero-emissions standards that would have acted as a *de facto* ban on EPCA-covered appliances, phased in over time. Such zero-emission requirements raise preemption concerns under EPCA, which expressly preempts state and local regulations concerning the energy use of federally covered natural gas appliances. The proposed Clean Space and Water Heater Standard measure likewise seeks to effectively ban gas appliances by prohibiting any combustion emissions from subject appliances.² That such a measure raises federal preemption concerns is supported by the Ninth Circuit Court of Appeals’ decision in *California Restaurant Association v. City of Berkeley*, 89 F.4th 1094 (9th Cir. 2024), which held that regulations effectively eliminating the use of certain consumer appliances fall within the scope of EPCA preemption. Specifically, EPCA preempts regulations “that relate to ‘the quantity of [natural gas] directly consumed by’ certain consumer appliances at the place where those products are used.”³

CARB’s revised approach, establishing percentage-based sales limits on gas appliances, does not resolve these concerns. The likely—and intended—result of this measure is that appliances above a sales percentage cap will not be sold. The practical effect is a *de facto* ban on covered appliances, leading either to reduced availability or higher consumer costs.

Congress explicitly sought to prevent such outcomes; EPCA prohibits regulations that place restraints on manufacturers impacting the appliances they design, produce, distribute, sell and service, and likewise place restraints on appliance availability and customer choice.⁴ Congress noted, as an example, that EPCA, “upon a sufficient showing, would forbid a standard for small gas furnaces being set at a level that would increase the price to the point that the product would be noncompetitive and that would result in minimal demand for the product.”⁵ Sales caps are in effect a limited gas appliance ban—either making appliances unavailable or acting to “increase the price to the point that the product would be noncompetitive.”

This limited ban is preempted by EPCA for the same reasons as a complete ban via a zero-emission limit. Regulators may not accomplish indirectly what they are barred from doing directly⁶. The fact that the measure would allow a capped percentage of gas appliance sales does not meaningfully distinguish it from a full ban; a restriction affecting 75% of sales raises the same legal concerns as one affecting 100%.

² See 42 U.S.C. §6297(c) (preempting any state regulation concerning the energy use of covered appliances).

³ *Id.* at 1101.

⁴ See, e.g., 42 U.S.C. §6295(o)(4) (cannot adopt a regulation that makes appliance characteristics unavailable), §6297(d)(4) (same for waivers from preemption).

⁵ S. Rep. No. 100-6, at 8-9.

⁶ See *Cal. Rest.*, 89 F.4th at 1107 (cannot do indirectly what cannot be done directly).

The U.S. Department of Justice (U.S. DOJ) recently reinforced this interpretation in a June 2025 letter⁷ to the South Coast Air Quality Management District's (South Coast AQMD) Governing Board regarding proposed amendments to Rule 1111 *Reduction of NOx Emissions from Natural Gas-Fired, Fan-Type Central Furnaces* and Rule 1121 *Control of Nitrogen Oxides from Residential-Type, Natural Gas-Fired Water Heaters*. Those amendments similarly sought to limit the sale of gas-fired space and water heating equipment through percentage caps. The U.S. DOJ concluded that such measures were preempted by EPCA and warned that the Attorney General may "take all appropriate action to stop the enforcement of state and local laws and regulations that burden the use of domestic energy resources, including natural gas...". CARB's proposed measure raises the same legal concerns.

Moreover, this measure likely cannot be approved into the California SIP by EPA. The Clean Air Act requires, as one of the criteria for EPA approval of an amendment to a SIP, that the state provide assurances that its rule "is not prohibited by any provision of Federal or State law." 42 U.S.C. 7410(a)(2)(E)(i). For the reasons stated above, the proposed measure would not meet the criteria for EPA approval.

2) Impacts on consumer choice and affordability for California consumers

The Clean Space and Water Heater Standard measure also raises significant affordability concerns for California households and businesses, particularly for low-income residents, renters, seniors, and customers living in older housing stock. Many California households are not equipped to transition to electric heat pump technologies without substantial electrical upgrades, panel replacements, rewiring, appliance relocation, ventilation modifications, or other structural retrofits.⁸ In many cases, these retrofit costs can far exceed the cost of the appliance itself, placing considerable financial strain on consumers.

Recent developments in the Bay Area highlight these challenges. The Bay Area Air Quality Management District plans to propose amendments to its zero-NOx appliance standards due to concerns regarding "affordability and the drivers of high costs" due to retrofit complexity.⁹ Public reporting indicates that heat pump installations can cost thousands of dollars more than comparable gas units, particularly where electrical upgrades or structural modifications are required. The staff proposal to potentially exempt up to 38% of water heater installations acknowledges that many households require hardship exemptions due to affordability concerns.

⁷ United States Department of Justice, Letter to Hon. Vanessa Delgado and the South Coast Air Quality Management District Governing Board, *South Coast AQMD*, June 5, 2025, <https://www.aqmd.gov/docs/default-source/rule-book/proposed-rules/1111-and-1121/united-states-department-of-justice-20250605.pdf>.

⁸ CARB, Workshop Presentation: "Zero-Emission Space and Water Heater Standards," December 11, 2025, https://ww2.arb.ca.gov/sites/default/files/2025-12/December_2025_Workshop_Slides_ADA.pdf, slides 39-41.

⁹ See Bay Area Air District Regulatory Overview: Rule 9-6 Flexibility Amendments, April 2026, https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/documents/20260410_rule_9_6_regulatory_overview_may_bod_final-pdf.pdf?rev=abd7515c429048419cc16ee484cc9356&sc_lang=en; see also Bay Area Air District Staff Presentation to Board of Directors, May 6, 2026, https://www.baaqmd.gov/~media/files/board-of-directors/2026/bod_presentation_050626_rv_op-pdf.pdf?rev=b61f315436004bf58290b6452f2aa12d&sc_lang=en.

Together, these developments underscore the importance of carefully evaluating real-world cost, equity, and implementation challenges before incorporating similar measures into California's State Implementation Plan commitments.

3) CARB should evaluate and consider fuel-neutral alternatives capable of reducing emissions while preserving affordability and flexibility

Rather than relying primarily on accelerated electrification mandates that constrain consumer choice, CARB should consider a broader portfolio of emissions reduction strategies that preserve customer flexibility while advancing air quality objectives. Potential alternatives include high-efficiency natural gas technologies, hybrid heating systems, hydrogen blending where feasible, and NOx reduction technologies. These strategies could reduce emissions while minimizing cost impacts and preserving consumer choice.

Importantly, a more flexible and fuel-neutral framework may also improve public acceptance compared to policies that impose limited bans on specific fuels or technologies.¹⁰

Conclusion

SoCalGas appreciates CARB's efforts to improve air quality and update SIP commitments. However, we remain concerned that the proposed Clean Space and Water Heater Standard measure will operate as a de facto ban on gas appliances. As such, it raises preemption concerns under EPCA and risks limiting consumer choice while increasing costs.

Accordingly, SoCalGas respectfully urges CARB to further evaluate cost-effective, fuel-neutral, and legally permissible alternatives capable of reducing emissions while preserving affordability and consumer choice.

Respectfully,

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¹⁰ See SoCalGas, "Report of Southern California Gas Company (U 904 G) on Virtual SB 1221 Information Session," summarizing public feedback concerning designation of priority neighborhood decarbonization zones in the Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning before the California Public Utilities Commission (R.24-09-012), April 1, 2026, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M604/K023/604023794.PDF>.