



April 17, 2026

Chair Lauren Sanchez
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: 15-Day “Proposed Amendments to the Regulation on Methane Emissions from Municipal Solid Waste Landfills” Comments

Dear Chair Sanchez:

Thank you for the opportunity to weigh in on the proposed revisions to the Landfill Methane Regulation. Unfortunately, many of the proposed changes appear to scale back critical protections that limit harmful emissions. Methane and related pollutants pose real health threats for millions of Californians. Effective regulations are essential to ensure leaks are quickly addressed and communities are adequately protected.

Looking ahead, we encourage staff and the Board to revisit these areas when you return to report on and update the rule in mid-2028. That milestone will be an important opportunity to evaluate how the rule is performing in practice, assess unintended emissions or enforcement challenges, and incorporate new data, technologies, and best practices. Given the rapidly evolving landscape of methane monitoring and mitigation, periodic updates will be essential to ensure the regulation continues to reflect the strongest, most effective approaches to protecting public health and reducing emissions.

Weakening Monitoring for Liquid Levels Will Harm Gas Collection Performance
CARB’s proposed change to require operators to monitor for liquid levels at just once a year instead of twice a year makes California's standard much weaker than Michigan's 2023 statute¹:

“Except as provided in this subsection, the liquid level in each well shall be monitored at least semi-annually. If for 2 consecutive monitoring events the liquid level in a well exceeds 50% but does not exceed 75% of the screened interval length, the owner or operator shall submit to the department for review a liquids removal evaluation and corrective action report for the well, unless the well has a functional, operated liquid pump. If the liquid level in a well exceeds

¹ MCL - Section 324.11512d.

75% of the screened interval length during a monitoring event, then the liquid level monitoring frequency for that well shall be increased to quarterly. If the liquid level in a well exceeds 75% of the screened interval length for 2 consecutive monitoring events, the owner or operator of the landfill shall install a liquids pump, unless the department approves an alternative corrective action plan. If the liquid level in a well did not exceed 50% for the immediately preceding 2 consecutive monitoring events, the owner or operator may petition the department for a decreased monitoring frequency. However, decreased monitoring shall be conducted at least annually. For the purposes of the petition, the 2 consecutive monitoring events may include monitoring conducted before the effective date of the amendatory act that added this section."

Waiting a full year to detect elevated liquid levels delays corrective action, increasing methane emissions. Single annual measurements are not representative, and landfills are heterogeneous and dynamic systems, where gas conditions can vary significantly over short distances and time periods.

While California may have lower average rainfall than Michigan, landfill liquid levels are not controlled by precipitation alone. Condensate formation, waste decomposition, and operational practices such as leachate recirculation are major drivers of liquid accumulation. These processes occur regardless of climate. Liquids can rapidly impair gas collection efficiency and increase methane emissions. Therefore, reducing monitoring to once per year would delay detection of elevated liquid levels, increasing the likelihood of prolonged system underperformance and emissions. We urge CARB to refrain from weakening liquid level monitoring.

CARB impermissibly included provisions for GCCS downtime that are less stringent than federal standards and must revise.

The Clean Air Act, allows states to adopt alternative pollution standards or limitations and may also establish rules more stringent than the federal rules.² However, states are not allowed to adopt less stringent standards than the federal requirements.³ Thus, CARB's LMR, which is the 111(d) Plan they submit to EPA for approval, is subject to the minimum standards of the Clean Air Act, in this instance, the Emission Guidelines in 40 C.F.R. Part 60, Subpart Cf.

² 42 U.S.C. § 7416.

³ *Id.*; *New York v. U.S. E.P.A.*, 413 F.3d 3, 42 (D.C. Cir. 2005).

2016 revisions to the federal standards to remove startup, shutdown and malfunction provisions

In 2016, EPA revised the Emission Guidelines in Subpart WWW by replacing them with 40 C.F.R. Part 60, Subpart Cf. 40 C.F.R. § 60.763(f) requires that the control system be operated at all times when gas is routed to the system. The previous Subpart WWW requirements allowed MSW landfill operators an allowance of five days (120 hours) and one hour for GCCS downtime events to avoid enforcement action for violations. However, in responding to comments requesting that the five day (120 hour) exemption be retained, EPA responded that they were not reinstating the exemption because “the provision provides an exemption from compliance with the standard during SSM periods, which the EPA does not have the authority to do under the reasoning of the Sierra Club decision.”⁴

The Sierra Club decision referenced is also explained by EPA in response to comments: in 2008, the D.C. Circuit Court held that startup, shutdown and malfunction (SSM) provisions were unlawful. Therefore, because these SSM provisions were vacated, EPA did not include in the 2016 revisions to the Emission Guidelines the five day (120 hour) exemptions for GCCS downtime.

The current status of SSM provisions

Since the 2008 Sierra Club decision, issues related to SSM have been litigated.⁵ EPA has also put out guidance that has shifted over the past two Presidential Administrations.⁶ However, the current policy of EPA is that SSM exemptions and affirmative defense State Implementation Plan provisions will generally be viewed as inconsistent with Clean Air Act requirements.⁷ Additionally, under the U.S. Sugar decision, the D.C. Circuit affirmed that EPA may also set emission standards that do not factor emissions that

⁴ Standards of Performance for Municipal Solid Waste Landfills, 81 Fed. Reg. 59332, 59359 (Aug. 29, 2016).

⁵ For example, the D.C. Circuit Court also rejected affirmative defense provisions that EPA intended to shield alleged violators of the Clean Air Act from liability for “certain emissions violations caused by ‘unavoidable’ malfunctions. *United States Sugar Corp. v. Env’t Prot. Agency*, 830 F.3d 579, 607 (D.C. Cir.), *on reh’g en banc*, 671 F. App’x 822 (D.C. Cir. 2016), and *on reh’g en banc in part*, 671 F. App’x 824 (D.C. Cir. 2016).

⁶ In 2015, EPA issued a SIP action that set out EPA policy on SSM exemption provisions and affirmative defense SDIP provisions. State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, 80 Fed. Reg. 33840 (June 12, 2015). Then in 2020 the EPA issued a Memorandum to replace the 2015 SIP policy statements. Memorandum from Andrew R. Wheeler to Regional Administrators 1-10, Oct. 9, 2020, *available at* <https://www.epa.gov/system/files/documents/2021-09/2020-ssm-in-sips-guidance-memo.pdf> [hereinafter “2020 EPA SSM Memo”]. In 2021, EPA withdrew the 2020 EPA SSM Memo and reinstated EPA’s previous policy. Memorandum from Janet McCabe to Regional Administrators, Sept. 30, 2021, *available at* <https://www.epa.gov/system/files/documents/2021-09/oar-21-000-6324.pdf> [hereinafter “2021 EPA SSM Memo”].

⁷ 2021 EPA SSM Memo at 1.

occur during periods of malfunction, without disturbing any possible affirmative defenses that operators may have related to malfunction events.⁸ Finally, in 2025 the D.C. Circuit Court also held that a complete affirmative defense to liability does not render an emission limitation non-continuous and thus are not impermissible, as EPA argued.⁹

CARB must revise the LMR to remove the unlawful SSM exemption.

In the proposed LMR in Subsection 95464(b)(1) and (2)(a)-(b) CARB appears to retain the requirements that EPA removed in Subpart Cf in the 2016 revisions to the Emission Guidelines. In the Public Notice, CARB explains that:

[S]taff proposes to specify that control system downtime for utility power outages and catastrophic events outside the owner or operator's control are not subject to enforcement action so long as efforts are taken to minimize the downtime, and increase the downtime limit to 240 hours per year for gas collection and control systems that collected less than 12,000 metric tons of methane per year for all of the prior three years. For the GCCS owners or operators subject to the 240-hour limit, staff also proposes to add that no single downtime instance can last longer than 120 consecutive hours[...] The allowances for circumstances beyond the owner or operator's control are necessary because they can cause downtime that is not the result of poor planning, inadequate maintenance, or other issues within the control of the owner or operator. Not excluding these events could mean that owners or operators would need to install backup power to remain compliant in case of a utility outage (such as Public Safety Power Shutoffs or weather-related damage to utility poles, transmission lines, and substations), which was not considered as a compliance response in the analyses in the ISOR.¹⁰

For the reasons explained by EPA in the 2016 revisions to the Emission Guidelines, allowing a 120 hour exemption in the LMR is an impermissibly weaker standard than in the federal requirements. Therefore, CARB must revise this section to align with the federal standards. Alternatively, if CARB thinks the additional language included in this section somehow addresses this flaw, we urge CARB to explain their reasoning.

⁸ 830 F.3d 579, 609 (D.C. Cir.).

⁹ *SSM Litig. Grp. v. Env't Prot. Agency*, 150 F.4th 593, 599 (D.C. Cir. 2025).

¹⁰ CARB, Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information, at 6-7, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/LMR/notice_15-day.pdf (last visited April 17, 2026).

Conclusion

We appreciate the significant effort and thought that staff have brought to this process and remain encouraged by the direction of this rule. With targeted adjustments, this regulation can deliver stronger outcomes for both the climate and frontline communities. We look forward to continued collaboration with CARB to ensure successful implementation and ongoing improvement of this important policy in 2028.

Sincerely,



Katherine Blauvelt,
Executive Director
Full Circle Future