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April 17, 2026

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

Re: California Air Resources Board (CARB) 15-Day Notice of Proposed Regulatory Order: Amendments to Advance Clean Fleets (ACF) and Low Carbon Fuels Standard (LCFS), April 2, 2026

Dear Chair Sanchez and Members of the Board:

The Transport Project (TTP) is a national coalition of roughly 200 fleets, vehicle and engine manufacturers and dealers, servicers and suppliers, and fuel producers dedicated to the ongoing development of a growing, profitable, and sustainable marketplace for gaseous fuels and fleets. Most fuel dispensed and used by our member companies is renewable natural gas (RNG), sourced from dairy digesters, local landfills, wastewater treatment plants, commercial food waste facilities, and agricultural operations.

Driven largely by the state's LCFS program, RNG use as a transportation fuel in California has increased 44 percent over the last five years, with RNG accounting for approximately 99 percent of all on-road fuel used in natural gas vehicles operating in the state¹. And while RNG made up just 5.6 percent of all on-road alternative fuels dispensed by volume, it generated 22.5 percent of all CO₂e reductions of on-road alternative fuels reported under the California LCFS in 2024². Consequently, amendments to the state's ACF and LCFS policies directly impact our members' fleet operations throughout the state.

Thus, on behalf of the undersigned TTP members, we submit the following comments in response to the CARB notice³ (referenced above):

Key Concerns

- As introduced, the 15-day notice violates the fundamental requirements of California's Administrative Procedures Act (APA) by proposing significant policy changes affecting parties that were not included in the original rulemaking, effectively denying stakeholders

¹ Natural gas volumes and emission reductions calculated using figures available from CARB LCFS Reporting Tool Quarterly Summaries

² Includes all RNG (bio-CNG + bio-LNG). Treats all renewable diesel reported in program as on-road fuel. DGE = diesel gallon equivalent. Data from CARB LCFS Reporting Tool Quarterly Summaries

³ Copy of notice available at: https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/acf_lcfs/15d%20notice.pdf

a meaningful opportunity to evaluate and comment on the amended regulations that they are now subject to.

- Amended provisions for the Captive Biofuel Use Exemption represent a considerable departure from the original intent of this exemption and do not reflect the practicalities of private fleet operations. If the goal is to provide additional flexibility for fleets to utilize produced RNG under California’s circular economy policies, the modified text does the opposite by imposing additional restrictions and hurdles to RNG production and use.
- If approved, the proposed scope of applicability and ambiguous emission limits would negatively impact existing and new contracts as well as future planning and capital investments in clean technologies that could lead to increased performance risks and higher service fees.

Comments

- **CARB’s application of the 15-day notice to modify text within the ACF and LCFS requirements is inconsistent with California’s APA requirements.**

The modifications detailed in CARB’s April 2, 2026 notice violate the APA requirements⁴ by introducing new regulated parties and enforcement mechanisms that were neither disclosed nor reasonably foreseeable from the originally noticed rulemaking. Specifically, the modified text would expand the scope of ACF applicability to include private contractors operating under agreements with state and local government entities by designating municipalities as “hiring entities” required to conduct ongoing compliance verification and recordkeeping of third-party contractors. This enforcement structure was never proposed, evaluated, or described in the original rulemaking materials.

These are not minor clarifications or technical adjustments; they are substantive policy expansions introduced at the final stage of the rulemaking process in a manner that conflicts with the APA. Consequently, stakeholders have not had an opportunity to meaningfully assess the feasibility within existing contractual frameworks, the availability of compliant fleets across affected service sectors or the impacts on procurement timelines and competitive bidding. Stakeholders have also been unable to evaluate potential and likely cost increases to municipal collection rates and subsequent service fees for residents, or the legal obligations for public agencies and contractors.

California courts have consistently invalidated regulations⁵ where late-stage modifications introduced new regulated parties, new compliance obligations, or a fundamentally different regulatory approach that interested parties could not have reasonably anticipated from the original proposal. These rulings make it clear that, under the APA, agencies may not issue a 15-day modification notice for proposed changes that fundamentally alter who must comply with a regulation or how compliance is enforced.

- **The modified Captive Biofuel Use Exemption provisions impose additional restrictions and hurdles to RNG production and use as a transportation fuel for on-road vehicles.**

⁴ Gov. Code §§ 11346, 11346.5, 11346.5(a)(4), 11346.8(c)

⁵ *Morning Star Co. v. State Bd. of Equalization* (2006) 38 Cal.4th 324, 336–337; *Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877, 888–889

The revised conditions applied to the Captive Biofuel Use Exemption depart significantly from its original intent of protecting fleets hauling, transferring, or processing in state organic waste. It was never contemplated that municipal contracts with private fleets not engaged in such activities would become subject to ACF requirements. Significantly, not all waste or wastewater treatment facilities produce renewable biofuel and of those that do, not all have surplus renewable biofuel capable of powering private fleet operations due to size, age, and other economic factors.

Conditioning exemption eligibility on the ability to produce excess renewable natural gas (biomethane) is a new interpretation that was not vetted through the public process and may not reflect all operational realities. Moreover, this approach unnecessarily penalizes entities that have heavily invested in the production of renewable biofuel or in the cleanest available internal combustion engine technologies to help advance the state's clean air and climate goals.

- **If approved, the proposed amendments would negatively impact contractual agreements and future investments in clean technologies, resulting in increased performance risks and higher service fees.**

Many affected third-party service providers - particularly waste and recycling - operate under long-term, highly structured agreements with local jurisdictions that typically span ten years or longer; rely on fixed capital investments and long-term fleet deployment strategies; and are governed by negotiated service, rate and performance terms.

The proposed regulatory order would negatively impact contracted service providers as well as state and local government entities acting as hiring agencies by imposing additional requirements that cannot be reasonably integrated into existing agreements without renegotiation, service disruption, or legal conflict. These pressures destabilize service delivery systems that depend on continuity and reliability, and impact projected revenue estimates after having already taken this into account before signing long-term contracts.

Likewise, the proposed definition of "Low NOx ICE Vehicle" references a nitrogen oxide (NOx) emissions limit that does not clearly specify the governing standard as either the current federal standard of 200 mg NOx, or California's Heavy Duty Omnibus standard of 50 mg NOx, which remains subject to ongoing litigation. This ambiguity places both private fleets and public agencies at risk of unintended noncompliance. To eliminate this ambiguity, we suggest the following definition:

"Low NOx ICE Vehicle" is a vehicle certified to operate on Alternative Fuel that is equipped with a 2026 or earlier engine certified at or below a NOx emission standard or family emission limit of 50 milligrams per bhp-hour, or a 2027 or later engine certified at or below a NOx emission standard or family emission of 35 milligrams per bhp-hour.

Predictable regulatory conditions are essential for sectors operating under long-term contracts. When compliance obligations are unclear or subject to change, contract negotiations related to future planning and investments in clean technologies are further challenged as regulatory uncertainty disrupts financing based on assumed regulatory frameworks; destabilizes municipal collection rates; and forces entities to delay or freeze capital deployment. Municipalities may also face higher procurement costs due to escalated regulatory risks, reduced competition, and increased administrative and legal burdens. Ultimately, these costs are borne by taxpayers and ratepayers, without corresponding environmental benefits.

Conclusion

The modified text included in the proposed regulatory order does not constitute technical refinements appropriate for a 15-day modification notice and comment period, nor does it reflect the policy modifications agreed to by the Board during its September 2025 meeting. Rather, the proposed amendments have been introduced at the final stage of rulemaking in a manner inconsistent with APA policies and procedures and represent a fundamental restructuring of the ACF regulatory framework as well as a significant expansion of scope.

For these reasons, TTP and its undersigned members respectfully request that CARB revise the proposed regulatory order to:

- Remove provisions that expand applicability to contracted fleets and impose obligations on hiring entities; and,
- Clarify that ACF compliance obligations will not be imposed through contractual or procurement-based mechanisms.

We further ask that CARB issue a second 15-day notice with the revised amendment package to provide affected stakeholders the opportunity to review and comment, as appropriate, prior to final approval.

TTP and its members remain committed to working constructively with CARB to ensure ACF implementation is transparent, legally sound, and operationally achievable. For further information or questions, please email Katie Vassalli, TTP's Director of Regulatory Affairs, at kvassalli@transportproject.org.

Sincerely,

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