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June 16, 2026

Dr. Steven Cliff
Executive Officer, California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: California Air Resources Board (CARB) Second 15-Day Notice of Modified Text to the State and Local Government Advance Clean Fleets (ACF) Regulations

Dear Dr. Cliff:

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 state[1]. 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 $CO_2e$ reductions of on-road alternative fuels reported under the California LCFS in 2024[2]. Consequently, amendments to the state's ACF policies will directly affect 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 notice[3] (referenced above):

<u>Key Concerns</u>

- As stated in our previously submitted comments concerning the first 15-day notice[4], we believe the inclusion of "contracted vehicles" as part of the "government entity's fleet for purposes of the regulation" represent a significant policy change affecting parties that

[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/rulemaking/2025/acfab1594?utm_medium=email&utm_source=govdelivery
[4] Copy of notice available at:
https://ww2.arb.ca.gov/rulemaking/2025/acfab1594?utm_medium=email&utm_source=govdelivery

were not included in the original rulemaking, and thus violates the fundamental requirements of California's Administrative Procedures Act (APA) by effectively denying stakeholders a meaningful opportunity to evaluate and comment on the amended regulations that they are now subject to.

- The second notice fails to address the numerous concerns previously raised by TTP and others, including industry coalitions, municipalities and local government agencies. For example, the Captive Biofuel Use Exemption Conditions introduced in the first 15-day notice do not reflect real-world operations.
- While CARB staff have indicated that compliance guidance will be provided following issuance of the final rule, we do not believe such action is approved policy post-OAL approval. Moreover the "good faith" assurance does little to address the practicalities of private fleet operations and the impact these modifications may have on existing contracts between private fleet owners and state/local government agencies.
- If approved, the proposed scope of applicability would negatively impact future planning and capital investments in clean technologies thus resulting in increased performance risks and higher service fees. Public agencies need to have access to vehicles capable of performing essential functions while helping achieve the state's NOx and climate goals. 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.

TTP Concerns

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

The modifications detailed in CARB's June 2, 2026 notice violate the APA requirements[5] 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, nor was it ever agreed to by the Board during subsequent meetings following the federal government's revocation of the state's waiver under the Clean Air Act to regulate motor vehicles.

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. The APA's notice-and-comment framework is intended to ensure these issues are evaluated before regulations are finalized, not after.

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

California courts have consistently invalidated regulations[6] 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.**

The revised conditions applied to the Captive Biofuel Use Exemption within the first 15-day notice 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.

- **CARB suggests that "guidance" will remedy stakeholder concerns with proposed regulations.**

We do not believe that a potential guidance document is approved policy post-approval of the Office of Administrative Law (OAL). Public companies can't rely on guidance to attest to complying with the ACF requirements, especially because guidance can change over time. The guidance documents could require state and local governments to provide good-faith reporting and receive flexibility and leniency. However, from precedent, "good faith" has also appeared for SB 253, the Low Carbon Fuel Standard and other areas leaving all the discretion to CARB, meaning stakeholders will not know if they are in compliance until CARB determines them to be so.

- **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 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 contemplated at contract formation.

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

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[6] *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

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.

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 latest 15-day notice fails to address the significant concerns raised by stakeholders previously and continues to present a fundamental restructuring of the ACF regulatory framework that is inconsistent with the APA notice and logical-outgrowth requirements. Nor do the changes reflect the direction provided by the Board during its September 2025 meeting.

For these reasons, TTP and its undersigned members respectfully request that CARB exclude the 2nd 15-day language from the final regulatory package to be sent for approval by OAL and include only the September and April amendments previously adopted by the Board. This would ensure the delay and other utility focused amendments move forward while also providing time for stakeholders and CARB to properly evaluate impacts of including contracted vehicles under the state and local government requirements. Absent this action, TTP urges CARB to 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.

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,

American Biogas Council
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