



June 16, 2026

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

**Re: Clean Water SoCal comments on the Second 15-Day Amendments to the Advanced Clean Fleets Regulation**

Submitted electronically via: <https://ww2.arb.ca.gov/applications/public-comments>

**Dear Chair Lauren Sanchez and California Air Resources Board Members:**

Clean Water SoCal appreciates the opportunity to comment on the California Air Resources Board's (CARB's) most recently proposed amendments to the Advanced Clean Fleets (ACF) Regulation released on June 1, 2026. (See CARB, *Second Notice of Public Availability of Modified Text and Additional Information for Proposed Amendments to the Advanced Clean Fleets and Low Carbon Fuel Standard Regulations* (June 1, 2026), available at <https://ww2.arb.ca.gov/rulemaking/2025/acfab1594>; hereinafter "2<sup>nd</sup> 15-Day Amendments"). The 2<sup>nd</sup> 15-Day Amendments were designed in part to implement Executive Order N-79-20 (Sept. 2020), which originally established a goal that 100% of medium- and heavy-duty vehicles in the state be zero emission (ZE) by 2045 for all operations *where feasible*, and that 100% of drayage trucks be ZE by 2035.

As currently structured, Clean Water SoCal believes the ACF regulation undermines our members' duty and ability to protect public health and welfare. For this reason, Clean Water SoCal does not support an ACF framework that applies solely to public agency-related fleets. (See accord Executive Order N-27-25 [reaffirms California's commitment to accelerate the deployment of zero-emission technologies, including passenger, medium- and heavy-duty vehicles, consistent with the deployment targets and other actions directed in Executive Order N-79-20] (June 12, 2025).

Clean Water SoCal represents more than 80 public water and wastewater agencies across Southern California, servicing approximately 20 million residents in San Diego, Orange, Los Angeles, Santa Barbara, Riverside, San Bernardino, and Ventura counties. Our wastewater



agencies collectively manage over two billion gallons of wastewater daily in an environmentally responsible and cost-effective manner, transforming wastewater into valuable resources such as recycled water and importantly, renewable energy, which should be a key part of CARB's sustainable energy source portfolio.

As we have consistently communicated since 2022, our members have significant concerns regarding the ACF regulation's very restrictive requirements and inequity, since private fleets are not subject to the same standards. Clean Water SoCal's fundamental concerns include:

- The continued lack of sufficient charging infrastructure;
- The limited availability of necessary zero-emission vehicles (ZEVs) from manufacturers that can reliably perform all needed tasks;
- The serious challenges in obtaining timely exemptions or extensions when ZEVs or infrastructure are unavailable;
- The absence of a meaningful pathway to utilize renewable, non-fossil fuels generated at wastewater treatment facilities that also support food waste recycling mandates under SB 1383; and
- The severe cost constraints affecting contract fleets.

These concerns make it difficult to deem these regulations "necessary, appropriate, and technologically feasible. (CARB Res. 25-9 at p.10.).

The wastewater sector performs many different preventive and emergency response services. Thus, our sector must be able to perform these services under any and all circumstances, without limitation. This includes access to mission-critical vehicles whenever needed, including vehicles that must be contracted to support reliable essential public services to protect our communities.

With that in mind, Clean Water SoCal and its members prioritized participating in the ACF regulatory development process and have been active participants since Governor Newsom signed Executive Order N-79-20 in 2020. As the result of this participation, the CARB Board directed staff to increase flexibility for public agencies as a condition of their approval of Resolution 25-9, the ACF amendments adopted on September 25, 2025. Unfortunately, contrary to the direction provided in Res. 25-9,<sup>1</sup> the latest amendments do not resolve any of

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<sup>1</sup> See Res. 25-9 at p. 9 "Be it further resolved that the Board directs the Executive Officer to utilize the exemption criteria to ensure the regulation has no adverse impact on essential public services and to consult with state and local government entities to resolve their concerns." (Emphasis added.)



the concerns or issues identified by Clean Water SoCal to ensure reliable essential public services.

Clean Water SoCal's comments focus on the 2<sup>nd</sup> 15-Day Amendments, specifically:

1. In section 2013(a)(1), Fleet Applicability, the language "Except for excluded vehicles as specified in section 2013(c)" was deleted, and the language "rents, contracts for the operation of" was added.

In section 2013(b) in the definition for "Fleet owner," the language "rents, leases, operates, or contracts for the operation of" was added. This change is necessary to conform with the changes made to section 2013(a)(1), Fleet Applicability, for the same reasons.

In section 2013.4(b), Operator Documentation, the language "Contract" and the language "copies of any agreement contracting for vehicles or services using vehicles" was added.

These changes were stated to be needed to remove unnecessary redundancy and clarify intent. The addition of "rents, contracts for the operation of" was stated to be added to make it explicit that the regulation applies to vehicles being operated both by *or for* government entities subject to the regulations. Vehicles that a state or local agency "owns, leases, rents, operates, or contracts for the operation of" are included now to be considered part of its fleet.

**Effect:** This new language significantly expands local government's compliance obligations to third-party operators. Thus, private contractors performing public functions are now proposed to be treated as if they were effectively part of the agency's fleet.

Expecting a vehicle not currently required to meet ACF (rentals, leases) to meet ACF will create unanticipated problems. For example, if compliant contract vehicles are not available, waiting for exemptions for another owner's vehicle could cause delays, and high demand from multiple agencies for limited compliant vehicles could drive costs up. This example could create an impossible situation, resulting in agencies either paying substantially more or being unable to find the vehicles needed. Both situations could leave public entities' needs unmet or vulnerable to supply shortages. This change in policy to include contracted vehicles and vehicles performing contracted services in a public agency's fleet inventory increases compliance obligations, substantively alters how compliance is determined, implemented, and enforced, expands the regulatory burdens, and will substantially increase costs to local governments, such as Clean Water SoCal's members.



2. The 2<sup>nd</sup> 15-Day Amendments allege that the “proposed modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis included in the Staff Report because the proposed modifications primarily consist of standardization of terms to maintain the provisions of the regulation as applied to State and local governments.” However, no evidence was provided to support this claim. Where the scope of covered vehicles will be substantially increased, the analysis must include the new scope of coverage. In addition, the environmental analysis needs to ensure that cradle to grave impacts of electric versus conventional vehicle use are included.
  
3. Clean Water SoCal believes that CARB’s failed to follow rulemaking procedures established by the Administrative Procedure Act (APA). Incorporating substantive policy changes under the guise of minor policy clarifications without a hearing by CARB erodes stakeholder trust and leads stakeholders to allege this constitutes an underground regulation. The APA does not permit agencies to introduce materially new regulatory burdens through the compressed 15-day process. If changes are not “sufficiently related,” the agency must issue a new 45-day notice, not just a 15-day notice. (Cal. Gov. Code § 11346.8(c) [“No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to Section 11346.5, unless the change is (1) nonsubstantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.”].) Stakeholders were not on notice that these proposed changes could result from previous rulemaking and, thus, these changes do not qualify as “sufficiently related.”

Failing to engage all affected stakeholders in a full public review process with a clear understanding of the substantive policy changes can and likely will result in infeasible or overly burdensome regulation.

### **CARB’s Change in Policy Substantively Alters Compliance Requirements for Essential Public Services**

Prior to the release of the 2<sup>nd</sup> 15-Day Amendments, CARB’s executive officer and staff repeatedly stated this proposal would simply clarify terms. However, the 2<sup>nd</sup> 15-Day Amendments propose to alter and substantially expand the definition of “Fleet Owner” to include “the person or entity who owns, rents, leases, operates or contracts for the operation of the vehicles comprising the fleet.” These changes further expand the regulatory requirements imposed on public agencies in a way that extends far beyond previous guidance



provided by CARB staff to various stakeholders through inquiries since the initial rule adoption. The proposed 15-Day Amendments greatly expand the stakeholder group impacted by the regulation, despite courts cautioning that regulatory agencies may not fundamentally alter who must comply with a regulation or how compliance is enforced through 15-Day Amendments. (See *Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877, 889.)

In fact, expanding the definition creates additional uncertainty by not clarifying to what extent “contracts for the operation of vehicles” are considered. CARB staff previously referenced including temporary contracts with construction services firms working on wastewater treatment capital improvement projects who, in turn, subcontract to companies that provide vehicles supporting construction operations. Because it is not clear which vehicles and what level of contracts are included in the updated Fleet Owner definition, further clarification on the types of contracts and potentially subcontracts included is needed. Inexact wording creates problems by allowing multiple, differing interpretations. The meaning is not clear, and these considerations must be evaluated.

**Effect:** The 2<sup>nd</sup> 15-Day Amendments are not merely clarifying or incremental, but instead materially expand the scope of regulated entities and obligations, particularly by treating contractor-operated vehicles as part of public agency fleets.

What has been characterized as merely clarifying actually represents a substantive change that will impact public agencies and private entities that they contract with. These impacts have not been evaluated, particularly as these changes may affect how public agencies and local governments procure services, structure contracts, manage franchise arrangements, and deliver essential public services. Thus, these changes reach far beyond a simple clarification.

Additionally, the expansion of the “Fleet Owner” definition puts public agencies in the position of enforcing ACF regulation requirements on CARB’s behalf against any entities contracting to perform public services (for one year or more). This will inevitably create new problems as public agencies have limited control or authority over contracted fleet vehicles, and moreover CARB is required to obtain a Section 209(b) Clean Air Act waiver to impose such restrictions on private fleets (i.e., the 2<sup>nd</sup> 15-Day Amendments propose to unlawfully regulate private fleets). In an 8-1 decision authored by former Justice Antonin Scalia, the U.S. Supreme Court ruled that SCAQMD's rules constituted an illegal, preempted "emission standard" under Section 209 of the Clean Air Act *as applied to private fleets*. (See *Engine Mfrs. Assn. v. South Coast Air Quality Management Dist.* (2004) 541 U.S. 246.) The 2<sup>nd</sup> 15-Day Amendments suffer the same legal infirmity.



Public agencies must now scramble to respond to this significant expansion in the regulation's scope, including the potential for contractors and service providers to break their contracts in the near term and no longer bid on public agency services, leaving public agencies at high risk of system failures.

Clean Water SoCal members have relied on various contracts for decades. These contracted services are very diverse, and support the construction of capital improvements, maintenance, and operational support to provide uninterrupted services to the public. The changes to the "Fleet Owner" definition have created an exceptionally high level of uncertainty for those services and significant increase in potential for system failures since public agencies may be abruptly and unexpectedly unable to rely on those contracts and cannot immediately fill the gap in those services due to the challenges stated in the above paragraphs.

### **CARB's Failure to Follow Rulemaking Procedures Triggers Concerns of APA Non-Compliance and Underground Regulation**

California's APA limits the scope of 15-Day Amendments by requiring they be sufficiently related to the originally proposed text and constitute a logical outgrowth of the proposal that was noticed for public comment. (Gov. Code §§ 11346.5(a)(4), 11346.8(c).) A 15-day period is insufficient to allow regulated public agencies—many of which that must coordinate across legal, procurement, and operational departments—to analyze and respond meaningfully.

Additionally, California courts have consistently held that a regulation is invalid where late-stage modifications introduce new regulated parties, new compliance obligations, or a fundamentally different regulatory approach that interested parties could not have reasonably anticipated from the original proposal. (*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.) CARB staff failed to acknowledge that these new proposals strayed too far from the original rules.

Staff also failed to request information from stakeholders on potential impacts of the expanded definition, modified language, or impacts to the ability for public agencies to meet specified levels of services. The intent of APA's notice and comment framework is to ensure the impacts are evaluated *before* regulations are finalized, not after. (Gov. Code §§ 11346, 11346.5.) The impacts associated with the proposed changes include, but are not limited to:

- Feasibility of compliance within existing contractual frameworks;
- Availability of compliant fleets across affected service sectors;



- Impacts on procurement timelines and competitive bidding rates;
- Potential likely cost increases not anticipated under municipal rates; and
- Legal exposure for public agencies and now their contractors.

Public agencies are held to a very high standard to deliver specified levels of service at a moment's notice as well as to responsibly manage their ratepayers' funds. Public agencies operate under strict budget cycles, funding restrictions, procurement schedules and requirements, and capital planning processes that can require years of lead time. Infrastructure upgrades necessary to support fleet electrification alone will take several years to design, permit, fund, procure, and construct when subject to requirements for budgeting ratepayer funds.

Vehicle availability, utility coordination, charging infrastructure, facility modifications, and specialized equipment requirements all create significant implementation challenges that cannot be accelerated for a regulation that failed to acknowledge or account for these challenges. It is standard practice for a public agency to consider and balance all these elements as part of any implementation plan. Clean Water SoCal and its members could have provided this level of planning detail to CARB staff (including contracting practices, procurement requirements, emergency response obligations, affordability impacts, service delivery considerations) if additional time had been granted and a proper APA process had been followed.

Clean Water SoCal respectfully requests that CARB follow standard APA protocols and the Office of Administrative Law's (OAL) regulatory review procedures before approving the amendments to avoid unintended system failures to critical community services that protect public health and the environment.

CARB's "Guidance Document" also suggests staff will provide "compliance assistance" over the next two to three reporting cycles implying staff will collect information on impacts of implementation that will be used to inform future amendments. That approach is not supported by California courts or OAL's regulatory review, which require that all rules demonstrate Necessity, Authority, Clarity, Consistency, Reference, and Nonduplication *prior to* approval. (See accord Gov't Code §11349.1(a); §11349(a)-(f).)

Waiting to assess the impacts of the proposed 2nd 15-Day Amendments until after approval would lead to the following outcomes, which represent grounds for OAL to disapprove of the amendments:



- Inadequate justification of the regulation.
- Regulation exceeding the authority granted by the statute.
- Inadequate analysis of potential environmental and economic impacts.
- Unclear and inconsistent regulation contrary to the intent of the original State and Local Government Agency Fleets regulation.
- Failure to allow adequate time for and to appropriately respond to public comments.

### **Failure to Engage ALL Affected Stakeholders Puts Essential Public Services at High Risk**

The wastewater sector was established to protect public health and the environment. The public agencies in this sector perform essential functions for the communities served. Staff at every wastewater treatment facility work tirelessly every day to take the necessary measures to protect communities. Although Clean Water SoCal and its members have been and remain committed to working collaboratively with CARB to continue our mission, these latest proposed changes to the ACF regulation are highly problematic and put the wastewater sector at high risk, which could have been avoided.

CARB staff must work with our members before approval of these amendments to document the specific challenges they pose, and to consider modifications or concessions to make the proposal more workable. Our public agency members seek to work with CARB staff to prevent avoidable critical infrastructure failures due to improper regulatory evaluation while continuing to achieve state goals and protecting communities.

### **Outstanding Amendments to the ACF Regulation Critical to Water & Wastewater Services**

Clean Water SoCal has previously commented on critical elements of the ACF regulation that will undermine the resilience of public services, which were established to keep communities safe. Society relies on water and wastewater services first to exist, as well as thrive. CARB staff fail to recognize that the ACF regulation, if approved as written, will decrease reliability of public services. Without the proper evaluations of impacts to services and appropriate amendments to the language to ensure reliability remains paramount, implementation will impede public agencies from protecting California citizens.



Other outstanding issues remain to be addressed:

- Ambiguity in the “Low NOx ICE Vehicle” definition remains, creating regulatory uncertainty and inability for wastewater agency boards and commissions to have confidence in responsibly investing ratepayer funds.
- Wastewater agencies are currently ineligible for the Captive Biofuel Use Exemption due to new records requirements inserted in the first 15-Day Amendments, in addition to that exemption only being available to those registered under the Milestones Option, which excludes most wastewater agencies. The records requirements must be modified and the exemption must be available to public agencies registered under the Purchase Schedule.

The above bullets present obstacles to SB 1383 implementation at wastewater treatment plants. CalRecycle relies on these plants to achieve organic waste diversion requirements as well as methane reductions at landfills since inadequate emission reduction credits exist in air basins to permit the needed capacity at composting facilities. Addressing the above bullets will not only address CalRecycle’s program needs, but it will also further increase the wastewater sector’s overall resilience through allowing use of a recovered resource in to power/fuel operations reliably. Regulating in silos ignores these important synergies.

Because Clean Water SoCal prioritizes resilient essential public services to protect public health and the environment, we respectfully request the CARB Board, comply with standard APA protocols and OAL’s regulatory review procedures. Delaying approval until the needed evaluations are complete and appropriate amendments are addressed will avoid unintended system failures to critical community services that protect public health and the environment. We look forward to increasing our engagement with CARB staff to ensure our members can continue providing proper sanitation and resource recovery services while complying with the ACF regulations.

Clean Water SoCal also supports the comments submitted by the California Association of Sanitation Agencies (CASA) and other public entities, particularly those addressing emergency response capabilities and concerns with contracted vehicles and services.

In closing, Clean Water SoCal believes that CARB’s reliance on a 15-day comment period was improper because the proposed modifications introduced substantive new regulatory obligations. In particular, the expansion of “fleet” to include contractor-owned or operated vehicles was not a reasonably foreseeable outgrowth or sufficiently related to the original proposal. These changes, therefore, exceed the scope of Government Code section 11346.8(c)



and require a renewed 45-day notice and comment period. Clean Water SoCal also requests a hearing before the Board as these important decisions should not be delegated to the Executive Officer.

If there are any questions regarding this transmittal, please contact me directly at (714) 878-9655 or [drothbart@cleanwatersocal.org](mailto:drothbart@cleanwatersocal.org).

Sincerely,

David L. Rothbart, P.E., BCEE  
Air Quality Manager – Clean Water SoCal

cc: The Honorable Lauren Sanchez, Chair, CARB  
The Honorable Lynda Hopkins, Board Member, CARB  
The Honorable Eric Guerra, Board Member, CARB  
The Honorable Patricia Lock Dawson, Board Member, CARB  
The Honorable Dr. Tania Pacheco-Warner, Board Member, CARB  
The Honorable Dr. Susan Shaheen, Board Member, CARB  
The Honorable Dr. John Balmes, Board Member, CARB  
The Honorable Cliff Rechtschaffen, Board Member, CARB  
The Honorable Gladys Limon, Board Member, CARB

The Honorable Yana Garcia, Secretary California Environmental Protection Agency  
Zoe Heller – Director, CalRecycle  
Linnea Whitney Skierski – Deputy Director, Office of Policy and Developmental Analysis  
Cara Morgan – Deputy Director, Division of Material Management and Local Assistance  
Michelle Martin – Deputy Director, Division of the Circular Economy  
Heather Rose – Sr Env Sci, Statewide Technical/Analytical Resources Branch  
Dr. Steven Cliff – Executive Officer, CARB  
Michelle Buffington – Division Chief, Mobile Source Control  
Clean Water SoCal Board Members  
Melissa Thorme, Stoel Rives LLP