Las Gallinas
VALLEY SANITARY DISTRICT

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June 16, 2026

Clerks' Office
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: CASA Comments on the Second 15-Day Amendments to the Advanced Clean Fleets Regulation

Submitted electronically via: https://carb.commentinput.com/comment/landingPage?lang=en

Dear California Air Resources Board:

The Las Gallinas Valley Sanitary District (LGVSD) appreciates the opportunity to comment on the California Air Resources Board's (CARB's) most recent proposed amendments to the Advanced Clean Fleets (ACF) Regulation released June 1, 2026 (referred herein as the second 15-Day Changes).

The Las Gallinas Valley Sanitary District is in the Las Gallinas Valley between Novato and San Rafael, in Marin County, California and provides wastewater collection and treatment services to the residents and businesses in this area. The District's wastewater treatment and recycling facilities are located on over 400 acres on San Pablo Bay. The District currently serves over 30,000 people in communities north of central San Rafael. LGVSD is a member of the California Association of Sanitation Agencies (CASA) and fully supports the comments submitted by CASA staff regarding this issue.

The wastewater sector must perform preventive and emergency response services in all circumstances, without limitation. As such, our sector must have access to mission-critical vehicles whenever needed, including vehicles under contract to support reliable essential public services that protect communities.

With that in mind, LGVSD (through CASA and our fellow members) prioritized participating in the ACF regulatory development process since Governor Newsom signed Executive Order N-79-20 in 2020. Throughout that process, the CARB Board directed staff to increase flexibility for public agencies, including a specific directive as a condition of their approval of the ACF amendments on September 25, 2025. Unfortunately, the latest amendments do not resolve any of the issues identified by CASA to date.

CASA (on behalf of LGVSD and the other members) has submitted several comment letters highlighting the major concerns with the ACF regulations; however, these comments focus primarily on the second 15-Day Changes. Specifically:

– CARB's change in policy to include contracted vehicles and vehicles performing contracted services in a public agency's fleet inventory (and related compliance obligations) substantively alters how compliance is determined, implemented, and enforced.

- CARB's failure to follow rulemaking procedures established by the Administrative Procedure Act (APA) when incorporating a substantive policy change erodes stakeholder trust and may result in the ACF regulation being considered an underground regulation.
- Without engaging all affected stakeholders in a public review process with a clear understanding of the substantive policy change, the changes have resulted in an unimplementable regulation.

CARB's Change in Policy Substantively Alters Compliance Requirements for Essential Public Services

Prior to the release of the second 15-Day Changes, CARB's executive officer and staff repeatedly stated the changes would simply provide clarification of terms. However, contrary to those commitments, staff altered the definition of "Fleet Owner" to state that it "…means the person or entity who owns, <u>rents, leases, operates or contracts for the operation of</u> the vehicles comprising the fleet." By including all vehicles contracted for one year or longer in a public agency's inventory that is subject to ACF compliance, CARB **greatly** expanded the stakeholder group impacted by the regulation. However, regulatory agencies have been cautioned to not fundamentally alter who must comply with a regulation or how compliance is enforced through 15-Day Changes. In this case, the expanded definition resulted in an additional and unbounded level of uncertainty regarding compliance since the regulation does not clarify to what extent "contracts for the operation of vehicles" is considered. For example, CARB staff have already 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. These types of considerations need to be evaluated.

This substantive change will result in numerous impacts to public agencies and private entities that have not been evaluated. These changes will dramatically affect how public agencies and local governments procure services, structure contracts, manage franchise arrangements, and deliver essential public services. These changes reach far beyond a simple clarification.

Additionally, the expansion of the "Fleet Owner" definition puts public agencies in the position of enforcing the requirements of the ACF regulation on CARB's behalf on all entities for which they contract to perform public services (for one year or more). However, public agencies have limited (and sometimes no) control or authority over contracted fleet vehicles, and exercising this type of direct control requires an approved waiver of preemption request from the EPA under the Clean Air Act.

Public agencies are now scrambling 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. This leaves public agencies at high risk of system failures, which will negatively impact the ability of these agencies to protect public health and the environment.

CASA's members have relied on contracts for specific public services for decades. The changes to the "Fleet Owner" definition have created an exceptionally high level of uncertainty for those services and a significant increase in potential for system failure. Public agencies may be abruptly and unexpectedly unable to rely on those essential contracts as a result of these changes and cannot immediately fill the gap in those services due to the challenges outlined.

CARB's Failure to Follow Rulemaking Procedures Triggers Concerns of Underground Regulation

California's APA limits the scope of 15-Day Changes 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.[1] 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. CARB staff failed to meet these requirements as it relates to the 15-Day Changes for the ACF regulations. CARB staff also failed to request information on the impacts of the expanded definition, and the ability of public agencies to meet specified levels of services. The intent of APA's notice-and-comment framework is to ensure the following types of impacts are evaluated before regulations are finalized – not after:[2]

- Feasibility within existing contractual frameworks;
- Availability of compliant fleets across affected service sectors;
- Impacts on procurement timelines and competitive bidding;
- Potential and likely cost increases to municipal rates; and
- Legal exposure for public agencies and contractors.

A public agency is held to a high standard to deliver specified levels of service at a moment's notice as well as manage ratepayer funds responsibly. Public agencies operate under strict budget cycles, funding restrictions, procurement schedules and requirements, and capital planning processes that require years of lead time. Infrastructure upgrades necessary to support fleet electrification alone take several years to design, permit, fund, procure, and construct. 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 simply did not account for these challenges. It is standard practice for a public agency to consider and balance all these elements as part of an implementation plan.

It is possible that CASA 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 a proper APA process had been followed. Unfortunately, no such opportunity was presented.

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

CASA respectfully requests that CARB follow APA protocol and the Office of Administrative Law's (OAL) regulatory review procedures before approving the amendments. CARB's "Guidance Document" suggests staff will provide "compliance assistance" over the next two to three reporting cycles following approval, implying staff will collect information on impacts of implementation that will be used to inform future amendments. However, OAL must first provide a regulatory review process using their core set of criteria upon which to base final approval of the amendments. These criteria include clarity, consistency, reference to the underlying statute and compliance with the rulemaking process. However, CARB's suggestion to wait to assess the impacts of the proposed second 15-Day Changes until commencing implementation would lead to the following outcomes, which are all grounds for the OAL to disapprove of the amendments:

- CARB not adequately justifying the regulation.
- The regulation exceeding the authority granted by the statute.
- Economic impacts not being properly analyzed.
- The regulation being unclear and inconsistent with the intent of the original State and Local Government Agency Fleets regulation.
- CARB failing to appropriately respond to public comments.

Failure to Engage ALL Affected Stakeholders Is Putting Essential Public Services at Risk

The wastewater sector was established to protect public health and the environment, essential to the function of each community it serves. CASA and its members have been and remain committed to working collaboratively with CARB to continue our mission and also achieve the state's climate goals. However, the latest changes to the ACF regulation put the wastewater sector at high risk.

CARB staff must work with our members before approval of the amendments to document the specific challenges the changes pose. This is essential to making the ACF regulation workable, and to prevent avoidable critical infrastructure failures.

Outstanding Amendments to the ACF Regulation Critical to Maintaining Water & Wastewater Services

CASA has commented repeatedly on critical elements of the ACF regulation that will undermine the resilience of public services. Society relies on water and wastewater services as they underpin safety, security, and the economy. The ACF regulation as written today will decrease reliability of these services. Without the proper evaluation of impacts to services and appropriate amendments to the language to ensure reliability remains paramount, implementation will impede public agencies from protecting California citizens. Specifically, the following 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 that they would be responsibly investing ratepayer funds.
- Wastewater agencies are now ineligible for the Captive Biofuel Use Exemption due to new records requirements inserted in the first 15-Day Changes, in addition to the Exemption only being available to those registered under the Milestones Option, for which most wastewater agencies are NOT. The records requirements need to be modified, and the Exemption needs to be available to agencies registered under the Purchase Schedule.
- Each bullet above presents an obstacle to SB 1383 implementation at wastewater treatment facilities. CalRecycle is relying on wastewater facilities to help achieve organic waste diversion requirements as well as methane reductions at landfills since there are not enough emission reduction credits in air basins to permit the needed capacity at composting facilities. Addressing the above bullets will not only address CalRecycle's program needs, it will further underpin the wastewater sector's overall resilience by allowing and encouraging use of a recovered resource to power/fuel operations reliably.

As we have since the ACF regulations were first proposed, LGVSD (through CASA and our fellow members) will continue to prioritize resilient, essential public services that protect public health and the environment. Unfortunately, the ACF regulation and the 15-Day Changes as proposed will result in a regulation that is unimplementable, lacks clarity around critical issues, and will ultimately harm local governments and their ratepayers. **LGVSD respectfully requests CARB delay approval of the regulations and the 15-Day Changes until the requisite evaluations are complete and critical issues are addressed through appropriate amendments.** Taking these actions would avoid issues with adherence to APA protocols and OAL's regulatory review process, and perhaps more importantly, help avoid unintended system failures to critical community services that protect public health and the environment.

We look forward to engaging with CARB staff to ensure LGVSD can continue providing sanitation and resource recovery services while complying with the ACF regulations. Please contact me with any questions at cpaxton@lgvsd.org or at (415) 526-1511.

Sincerely,

Curtis Paxton
General Manager