THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

June 16, 2026 **Submitted Electronically**

Clerk's Office
California Air Resources Board
1001 I Street
Sacramento, CA 95814
https://ww2.arb.ca.gov/applications/public-comments

Comments on the Second 15-Day Rulemaking Package for the Advanced Clean Fleets Regulation

Dear California Air Resources Board,

The Metropolitan Water District of Southern California (Metropolitan) appreciates the opportunity to comment on the California Air Resources Board's (CARB) Proposed Amendments to the Advanced Clean Fleets (ACF) and Low Carbon Fuel Standards Regulation, dated June 1, 2026 (hereinafter referred to as the Second 15-Day Rulemaking Package). Metropolitan has actively participated in the ACF rulemaking process for six years. Metropolitan is deeply concerned that the Second 15-Day Rulemaking Package introduces substantial changes that broaden the applicability to contracted private fleets without adequate stakeholder involvement, and creates ambiguity in the implementation of the proposed rule. Metropolitan urges CARB to withdraw the Second 15-Day Rulemaking Package and reconsider the First 15-Day Rulemaking Package, which would facilitate proceeding with the timely adoption of the regulation as directed in Resolution 25-9.

Metropolitan is a regional water wholesaler that delivers about two million acre-feet of water annually to 26 member public agencies, which in turn directly or through their retail agencies provide water to approximately 19 million people in Southern California. As the largest distributor of treated drinking water in the United States, Metropolitan's service area covers approximately 5,200 square miles across Los Angeles, Orange, San Diego, Riverside, San Bernardino, and Ventura counties. In addition, Metropolitan operates a range of facilities, including the Colorado River Aqueduct, 15 hydroelectric plants, nine reservoirs, over 830 miles of large-scale pipes, and five regional water treatment plants.

In accordance with the zero-emission vehicle (ZEV) Purchase Schedule, Metropolitan is transitioning its fleet and operational equipment away from carbon-based fuels, with a goal of achieving carbon neutrality by 2045. We anticipate that 20 percent of our approximately 600 medium-to-heavy duty trucks will be zero-emission by the end of 2026, provided there are no manufacturer cancellations of recently submitted ZEV orders. Metropolitan's dedicated fleet supports emergency response, critical infrastructure repairs, capital improvement projects, and an average of 35 planned large-scale shutdowns each year to maintain reliable water deliveries. In support of operations, Metropolitan maintains long-standing contracts for goods and services with private companies that involve vendor-owned and vendor-controlled vehicles that are not part of Metropolitan's day-to-day fleet management and serve multiple State and Local Government (SLG) customers. For these reasons, Metropolitan is providing the following comments to ensure the ACF Regulation clearly distinguishes Metropolitan's fleet obligations from the obligations of private vendors that own, operate, and control their own vehicles.

Comments:

1. **Withdraw the Second 15-Day Rulemaking Package Due to Substantial Expansion of ACF Requirements and Lack of Clarity**

Following CARB's September 25, 2025, hearing, the drayage, high-priority, and federal fleet requirements were repealed, leaving only SLG fleets subject to the ACF Regulation. CARB's April 2, 2026, First 15-day Rulemaking Package added flexibility for SLG fleets but raised questions regarding how contracted private vehicles would be treated, including whether SLGs would be responsible for vehicles owned and operated by private contractors providing services such as street sweeping, maintenance, or waste hauling. On June 1, 2026, CARB issued the Second 15-Day Rulemaking Package adding to the rule, for the first time, that vehicles operated by SLGs, including private fleets under contractual arrangements, are part of the government entity's fleet. While Metropolitan appreciates CARB's intent to clarify this issue, the Second 15-Day Rulemaking Package raises additional questions, lacks clarity, and appears to introduce substantive changes without following the appropriate stakeholder and rulemaking process.

The California Administrative Procedure Act (APA)[1] typically requires CARB to provide a 45-day public review period on any rule so there is a meaningful opportunity for stakeholders to review and comment on the proposed regulation.[2] Government Code section 11346.8(c) allows for a 15-day period for notice and comments, but only if the change is nonsubstantial, grammatical, or sufficiently related to the original text such that the public was adequately placed on notice that the change could result from the original rulemaking.[3] Accordingly, CARB Resolution 25-9 delegates authority to the Executive Officer to approve or disapprove proposed changes under Government Code section 11346.8(c), but only for sufficiently related substantial modifications and after making the modified language available for public comment. Here, the proposed Second 15-Day Rulemaking Package fails to comply with Section 11346.8(c) because adding contracted private vehicles to SLG fleets is not sufficiently related to the original rule, and it would substantially expand the proposed compliance obligations.

As described below, the Second 15-Day Rulemaking Package expands the scope of the original rule, creates ambiguity, and raises significant reporting, procurement, and essential service concerns.

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[1] Gov. Code § 11340, et seq.
[2] Gov. Code § 11346.4.
[3] *See Wendz v. State Dept. of Education*, 93 Cal. App. 5th 607 (2023) (invalidating a proposed change to a rule for failure to provide adequate notice when using the 15-day process).

A. Ambiguity in Applicability, Definitions, and Compliance Responsibility

The Second 15-Day Rulemaking Package includes the following proposed references to vehicles under contract to SLGs:

- Updated Section 2013(a)(1) – "*Fleet Applicability*" has been expanded to include "*rents, contracts for the operation of.*" In the accompanying "*Second Notice of Public Availability of Modified Text*" document, CARB states that this was added "*to explicitly state the applicability of the regulation to such vehicles being operated by or for government entities subject to the regulation.*"

- Updated Section 2013(b), Definitions – The definitions for "*Fleet*" or "*total fleet,*" "*Fleet Owner,*" and "*Removed from the California fleet*" were updated to include terms such as "*contracted,*" "*contracts for the operation of,*" and "*removed from a contract,*" respectively.

Although the above terms are being incorporated to clarify the existing ACF requirements, the proposed rule does not define the terms or clearly explain how "*contracted*" or "*contracts for the operation of*," should be interpreted in the context of the ACF regulation. In order to be valid, regulations must have clarity and consistency, and do not conflict with other provisions of the law.[4] The proposed Second 15-Day Rulemaking Package lacks clarity and is inconsistent with existing law.[5] In particular, the proposed amendments add "*contracts for the operation of*" to the applicability language, but the "*fleet owner*" definition still appears to presume ownership based on Department of Motor Vehicles registration or lease status, creating ambiguity over whether the SLG or the private third-party contractor is responsible for reporting, documentation, exemptions, extensions, and ZEV compliance. Expanded application of the ACF would result in the SLG indirectly imposing their ACF requirements on the private fleet owners contracting with SLGs and would be inconsistent with CARB's repeal of the ACF rules for private fleets.[6] If not vetted appropriately, this lack of clarity may become a significant issue when the amended regulation is submitted to the Office of Administrative Law.

Furthermore, the accompanying June 1, 2026, ACF Guidance states that "*The regulation applies to public services performed by a State and local government agency, including functions carried out through contractual arrangements.*" The guidance document introduces additional uncertainty regarding the term "public services" and how those could be carried out through contractual arrangements. For example, it is unclear whether "public service" means only services performed under the direction and control of an SLG as part of its fleet operations, or

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[4] Gov. Code §§ 11349, 11349.1 (identifying the six standards for valid regulations, including necessity, authority, clarity, consistency, reference, and nonduplication).
[5] *See In re: Air Resources Board*, OAL Matter No. 2025-0103-01S at 3 (Feb 25, 2025) (finding portions of the Low Carbon Fuel Standards lacked clarity, and created inconsistent rules), posted at https://oal.ca.gov/wp-content/uploads/sites/166/2025/02/LINDSEY-2025-0103-01S.pdf.
[6] Attempting to expand the scope of the SLG requirements to indirectly impose ACF requirements on private fleets would likely trigger legal challenges and raise questions of federal preemption.

whether it could be interpreted more broadly to include vendor-provided goods and services that merely support an SLG's public functions.

The ACF Guidance also states that SLG agencies "*must report any covered vehicle added to its California Fleet through a binding agreement with a third party.*" Many private fleets provide service to multiple public and private entities, so a particular vehicle could be involved with different entities in a short period of time, which could lead to multiple and repeated reporting for such vehicles. These concepts are not clearly incorporated into the proposed regulatory text, creating uncertainty about how CARB intends to distinguish between vehicles operated as part of public agency-controlled fleet and vendor-owned vehicles used to provide service to the agency. This ambiguity creates uncertainty for SLGs by placing certain terms and applicability in the rule text while delegating related concepts to guidance documents that do not carry the same binding weight. This misalignment between rule definitions and guidance can cause risk of non-compliance for SLG fleets that rely on contractual arrangements.

B. Problematic Implications for SLG Fleets and Private Vendors

As a result of the ambiguity described above, the proposed amendments could create the following problematic implications for SLG fleets:

- **Negative impact to SLG's pre-commitment to an ACF compliance pathway:** The requirement for an SLG to consider a vendor vehicle in their ACF compliance strategy would be significantly disruptive. With the 2023 adoption of the ACF, SLGs have been forecasting purchases and replacements based on budgets and projected needs. Inclusion of vehicles owned and controlled by a third party would be extremely difficult and may pose a compliance risk.

- **Increased administrative burden with uncertain scope:** SLGs must track contracts and determine if each arrangement falls under the rule's "*contracts for the operation of*" language, creating administrative overhead and potential retroactive risk if interpretations shift.

- **Risk of penalties and enforcement disputes:** With ambiguity in the rule, regulators may enforce differently across regions or fleets, while operators may face penalties for failing to comply under an interpretation they could not reasonably anticipate. New or increased administrative overhead could affect public utility rates, undermining the cost-effectiveness analyses essential to CARB's rulemaking.

- **Inconsistent reporting for SLG fleets:** The ACF Guidance document implies reporting when a vehicle is added through a third-party binding agreement, but the basis for determining what constitutes a "covered vehicle" may not be consistently applied if the rule lacks precise definitions.

- **Duplicative reporting for the same vehicles contracted by multiple SLGs:** When the same vehicle is under contract with several SLGs, multiple overlapping reporting obligations may be triggered. This can lead to redundant submissions to CARB, inconsistent data, and increased audit complexity, straining resources and creating confusion about which SLG is responsible for each report, with the risk of double-counting or omissions. Additional challenges may arise if one entity selects the Milestone Pathway for a vehicle and the other follows the ZEV Purchase Pathway.

- **Potential disruption to essential public services:** Broad application of the proposed language could affect contracts needed for water treatment, emergency response, infrastructure repair (including emergency infrastructure repair), construction support, facility maintenance, waste hauling, and other essential emergency and operational services. SLGs may need to revise procurement documents, contract terms, and bid evaluations to account for ACF compliance obligations, potentially affecting public health and safety related to the safe and reliable delivery of drinking water and water necessary for fire response, and increasing costs and limiting the pool of available vendors.

Given the number of concerns raised about the lack of precise and clear definitions in the rule and the misalignment between the rule and the guidance document, Metropolitan urges CARB to withdraw the June 1, 2026, Second 15-Day Rulemaking Package and reconsider the First 15-Day Rulemaking Package, which would facilitate proceeding with the timely adoption of the regulation as directed in Resolution 25-9. We encourage CARB to continue working with SLG fleets to define key terms that will provide clarity on how contracted fleets for public services should be incorporated in SLG ACF planning.

We look forward to continued engagement with CARB and other public agencies to refine the ACF regulation, with the goal of ensuring operational resiliency while supporting a feasible transition to zero-emission fleet technologies and maintaining essential services.

If you have any questions or need further information, please do not hesitate to reach out to Roxana Ramirez at rramirez@mwdh2o.com or 213-217-6407.

Very truly yours,

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