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& Recycling Association®

June 16, 2026

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

Re: The National Waste & Recycling Association Comments on 2nd 15-Day Notice of Proposed Changes to the Advanced Clean Fleet Regulation – State and Local Government Fleet Provisions

Dear Dr. Cliff:

The National Waste & Recycling Association (NWRA) appreciates the opportunity to provide comments on the 2nd Notice of Public Availability of Modified Text & Availability of Additional Documents for the proposed changes to the Advanced Clean Fleets (ACF) regulation.

NWRA represents private sector waste and recycling companies operating across the United States, including companies that provide essential solid waste, recycling, and organics services throughout California. These services are delivered under long-term agreements with state and local governments and are fundamental to protecting public health and maintaining environmental quality.

NWRA previously submitted comments on April 17, 2026. The industry supports efforts to reduce emissions through approaches that are technologically feasible, economically practical, and legally sound. However, the Second 15-Day modifications raise significant concerns that NWRA would like to comment on.

Expansion of SLG Fleet Provisions

The current proposal appears to expand the scope of the State and Local Government (SLG) Fleet provisions beyond what was reflected in the original rulemaking record. The Initial Statement of Reasons indicated that private fleets were not subject to the proposed SLG amendments. The revised language, however, would require public agencies to include vehicles operated by private contractors in their compliance determinations. In practice, this approach brings privately owned and operated fleets within the ACF framework. This shift has meaningful implications and cannot be characterized as a clarification. It represents a substantive change that was not evaluated in the original analysis.

Impacts on Contracted Solid Waste Services

Waste and recycling services are typically provided through long-term franchise agreements, municipal contracts, and other arrangements where the private service provider owns, operates, and maintains its fleet. These systems are built around:

- Specialized collection vehicles
- Route-specific operations
- Long-term capital planning and rate structures

Public agencies generally do not control fleet procurement decisions, nor do existing agreements provide a mechanism to require rapid changes to fleet composition or technology. Requiring public agencies to account for contractor fleets for compliance purposes would inevitably shift responsibility to private operators through contract terms. This creates significant challenges, including:

- Contract renegotiations
- Increased costs for local governments and ratepayers
- Uncertainty about compliance responsibility and risk
- A need to develop a vehicle recharge system to meet the daily demand of waste collection

These are not theoretical concerns, they directly affect the ability to deliver reliable, essential services.

Inconsistency with Prior Rulemaking Direction

The proposed changes also raise concerns regarding consistency with prior actions in this rulemaking. The removal of the High Priority Fleet provisions and related actions signaled that private fleets would not be subject to ACF requirements under the current framework. Reintroducing similar obligations indirectly through SLG fleet accounting creates confusion and undermines regulatory clarity. Regulated entities rely on clear signals when making long-term investment decisions. Changes of this nature, introduced at the 15-day stage, do not provide sufficient notice or analysis.

Clean Air Act Preemption Concerns are Raised with the Second 15 Day Changes.

Requiring private fleets to meet specific emission standards without federal preemption raises concerns under section 209(a) of the Clean Air Act. CARBs withdraw of the ACF waiver should not impose an undue burden on private fleets through the utilization of public agency contracts. As the United States Supreme Court recognized that commanding a purchaser to buy a particular vehicle may constitute an emissions standard and subject to federal preemption.

Broader Operational and Policy Considerations

NWRA members operate across multiple jurisdictions and must make long-term fleet and infrastructure investments based on predictable regulatory frameworks. An approach that effectively assigns compliance obligations through public agency contracts introduces uncertainty that extends beyond California. It complicates contract structures, increases financial risk, and may discourage efficient long-term planning. A policy shift of this magnitude warrants a transparent rulemaking process with a full evaluation of operational, economic, and legal impacts.

Requested Clarification

NWRA respectfully requests that CARB revise the proposed regulatory language to clearly state that:

Privately owned and operated fleets are not part of a state or local government fleet solely because they provide services under contract; and entering into or maintaining a service agreement does not constitute ownership, control, or operation of those vehicles by a public agency for ACF compliance purposes.

Clear and consistent regulatory language is necessary to ensure that responsibilities are well defined and that essential services can continue to be delivered reliably. If CARB intends to regulate private fleets through contractual mechanisms, NWRA encourages the agency to pursue a separate rulemaking supported by appropriate analysis and stakeholder engagement.

NWRA and its members remain committed to advancing emissions reductions while maintaining safe, reliable, and affordable waste and recycling services.

The 2nd Notice of Public Availability of Modified Text & Availability of Additional Documents changes introduce significant uncertainty by expanding the scope of the SLG Fleet provisions without adequate analysis or clarity. We urge CARB to revise the proposal to align with the original rulemaking framework and provide clear direction to regulated entities.

Thank you for your consideration.

Sincerely,

Kirk M. Sander
Senior Vice President, Chief Safety and Standards