Sacramento Municipal Utility District (Nicole Looney)

SMUD Comments Re Proposed Second 15-Day Amendments to the Advanced Clean Fleets Regulation.

SMUD®

June 16, 2026

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

RE: Proposed Second 15-Day Amendments to the Advanced Clean Fleets Regulation

The Sacramento Municipal Utility District (SMUD) appreciates the opportunity to provide comments on the California Air Resource Board's (CARB) proposed second 15-day amendments to the Advanced Clean Fleets (ACF) regulation issued on June 1, 2026.[1] SMUD is a local publicly owned electric utility (POU) serving approximately 673,000 customer meters, or a population of about 1.5 million, in Sacramento County and small adjoining portions of Yolo and Placer Counties. SMUD also owns and operates infrastructure outside of its service area, including hydroelectric generation facilities and transmission lines in El Dorado County and wind generation facilities in Solano County. SMUD has established an ambitious goal of removing all greenhouse gas (GHG) emissions from its power supply by 2030, working within the guardrails of reliable and affordable electricity service. SMUD's plan recognizes the important GHG reduction, air quality, and potential customer savings benefits of electrification, and sets ambitious building and vehicle electrification targets accordingly.

SMUD is deeply concerned that the second 15-day amendments propose a major scope expansion with immediate, adverse effects on public agencies like SMUD—without adequate time for public review and feedback. SMUD's comments are as follows:

- CARB must not compel public agencies to add private contractors' vehicles to public agencies' fleets. CARB must immediately reissue the first 15-day amendments[2] to ensure timely rulemaking completion and revise recent compliance guidance to clarify that *only* contractor-owned vehicles that are actually *operated* by the public agency will be added to public agency fleets.
- CARB should commit to a subsequent rulemaking that holistically assesses the persistent zero-emission vehicle (ZEV) market challenges and affordability

[1] CARB, "Second Notice of Public Availability of Modified Text and Availability of Additional Documents" (second 15-day notice), June 1, 2026, available at https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/acf_lcfs/2nd%2015d%20notice.pdf, and CARB, "Second 15-day Changes Available for Comment-Version Meeting Requirements of the APA" (second 15-day amendments), June 1, 2026, available at https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/acf_lcfs/a-1%202nd%2015d.pdf.
[2] CARB, "15-day Proposed Regulation Order," April 2, 2026, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/acf_lcfs/15day%20attachment%20a-1.pdf.

concerns. CARB should consider alternate approaches that provide achievable compliance pathways while supporting ZEV truck deployment.

These comments are detailed further in the following pages.

I. CARB must not compel public agencies to add private contractors' vehicles to public agencies' fleets.

SMUD is deeply concerned about the second 15-day amendments' proposal to expand public agency fleets to include vehicles owned and operated by their contractors. As detailed below, this change would have major, adverse impacts on public agencies like SMUD. It creates ambiguity regarding the breadth of control CARB expects public agencies to exert over how consultants and contractors perform work, potentially expanding beyond independent contracting relationships and forcing agencies to take on unintended liabilities. This significant scope change could not have been reasonably anticipated based on the rulemaking Notice of Proposed Action[3] (NOPA) and therefore requires additional time for review and vetting. It also does not provide sufficient clarity or detail to be implementable. SMUD therefore urges CARB to issue a third and final set of 15-day amendments that reverse the proposed changes to title 13, CCR § 2013 (a)(1), 2013 (b), and 2013.4 (b). These amendments should be issued immediately to ensure a timely completion of the rulemaking. At a minimum, CARB must revise its June 1 guidance document[4] to clarify that only contractor vehicles actually *operated* by the public agency will be deemed part of the public agency's fleet.

a. Adding contractors' vehicles to public agency fleets could impact mission-critical services and double SMUD's annual ZEV purchasing requirement.

SMUD has major contracts for construction, materials and equipment, and services like vegetation management, line work, and pole replacements. The work performed through these contracts is critical to support SMUD's ability to maintain a safe, reliable electric grid, quickly restore power after outages, reduce wildfire risk, and build out the infrastructure needed to support electrification and regional economic growth. SMUD also contracts with third parties, often non-governmental agencies, to perform services benefiting customers such as home weatherization and installation of energy efficiency and electrification measures. SMUD additionally engages consultants for a wide range of services that may include occasional or incidental site visits.

SMUD's contracts generally do not specify the tools, equipment or method for completing the contracted scope of work, including what vehicles, or quantities of vehicles, will be used to perform the work. In fact, California law is clear that doing so could endanger the status of such contractors as independent contractors, which may open SMUD up to significant additional potential employment and other liabilities.[5]

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[3] CARB, "Notice of Public Hearing," July 29, 2025, available at https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/acf_lcfs/notice.pdf.
[4] CARB, "Advanced Clean Fleets Guidance: State and Local Government Agencies, 2025 Amendments Update," June 1, 2026, available at https://ww2.arb.ca.gov/resources/fact-sheets/ACF-2025-Amendments-Guidance
[5] See, e.g., California Labor Code, Article 1.5, Chapter 2, Division 3, section 2775 *et seq.*

SMUD conservatively estimates that approximately 160 contractor-owned, on-road medium- and heavy-duty (MHD) trucks are currently used in its construction, vegetation management line work and pole replacement contracts alone. That number could be substantially higher if consulting services and contracts involving freight or delivery, such as contracts for transformer purchases or cleaning of fire-resistant lineworker uniforms, are also covered.[6] Critically, SMUD estimates that this new and unexpected scope of inclusion would double its ZEV purchase requirement for 2026—from roughly 30 to 60 ZEVs, or more.[7]
This change could severely limit SMUD's ability to contract for critical work and services or change what services that SMUD provides. It would also further inflate the ACF compliance costs that are ultimately borne by SMUD's customers. SMUD already competes with the investor-owned utilities for critical contract work when their larger footprints give them an advantage in correspondingly larger contract sizes. In light of this competition, if doing work for SMUD also means the contractor will have to expend substantial resources on fleet upgrades, they will almost invariably prioritize other work. This is especially concerning in regard to critical specialized work where resources are scarce.

Moreover, contractors have made significant investments in their vehicles and equipment; many will not have the capital to purchase ZEV trucks. For example, SMUD's SEED (Supplier Education and Economic Development) program aims to reinvest in the local community and promote economic vitality by offering incentives to local small businesses that participate in SMUD's competitive bidding process. Unfortunately, small business contractors may be disproportionately affected by expanded ZEV requirements. Additionally, many vehicles involved in SMUD's large contracts—like heavier work trucks, foreman trucks, dump trucks, line trucks, and aerial buckets—are not available as ZEVs. While the guidance document suggests that fleets could use exemptions for their contractors' vehicles, CARB has established so many access barriers that flexibility is in reality non-existent and exemptions are a near-impossibility even when the public agency has purchasing authority over the vehicles in question.[8] It is unclear how CARB expects public agencies to demonstrate—such as by obtaining negative manufacturer statements or real-world battery electric vehicle data for performance comparisons -—that its *contractors'* vehicle purchases could not have been made as ZEVs.

To avoid jeopardizing ACF compliance—and the thousands of dollars of per-vehicle, per-day fines that noncompliance carries—public agencies may face a challenging

[6] In total, SMUD estimates that between 700 and 800 contracts may involve covered trucks and therefore could be impacted by this change.
[7] SMUD is currently planning to purchase 56 MHD trucks in 2027, 28 of which must be ZEVs. SMUD's existing construction contracts are estimated to include 60 MHD trucks; an equivalent number for new contracts would increase SMUD's "purchases" by another 60 vehicles, 30 of which must be ZEV.
[8] See SMUD's April 16, 2026, comments in response to the first 15-day changes, available at https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid377/did200185/pid_214073/assets/merged/4509il63s12_document.pdf?v=49511. This access barrier will be even higher if a public agency is also required to demonstrate that all of its contractors' vehicles—now considered part of the public agency's fleet—could not have been purchased as ZEVs.

decision: spend millions of dollars on excess purchases of electric pickup trucks and vans *that they do not operationally need* simply to ensure they can continue working with contractors, or let some critical services grind to a halt. These options would be bad for SMUD's customers, SMUD's rates, and supporting electrification, and SMUD urges CARB to consider these impacts before moving forward.

b. *The proposed changes represent a major scope expansion that were not reasonably foreseeable and therefore necessitate a 45-day comment period.*

CARB's second 15-day notice explains that the expansion of fleet applicability "follow[s] the intent and necessarily implicit meaning of the original regulation."[9] However, the original regulation never contemplated that contractors' vehicles would be considered part of the fleet of a public agency. In fact, this would lead to an illogical outcome, because privately owned fleets were directly regulated and subject to ZEV transition requirements under section 2015 of the original regulation.[10] Under this new interpretation, private fleet owners and public agencies would both be responsible for the private fleet owner's ZEV purchases and fleet composition decisions—even though those purchase decisions were solely within the purview of the private fleet owner. While the original regulation did establish certain requirements for regulated entities when hiring certain privately owned fleets or publicly owned fleets subject to ACF, those hiring entity requirements consisted simply of confirming the hired fleet's compliance status and disclosing potential regulation applicability within contract documents.[11] Such requirements are materially different from assuming compliance obligations for the vehicles within the hired fleet. SMUD strongly disagrees, therefore, with the characterization of the second 15-day amendments as consistent with the intent or implicit meaning of the original regulation.

Furthermore, neither the NOPA nor the rest of the rulemaking record suggested that CARB was contemplating a wholesale change in approach. The CARB Board's direction to staff at public hearing also did not foreshadow such a departure from the existing regulation, and this expansion is contrary to the Board's actions. Consistent with its withdrawal of the Clean Air Act waiver request, CARB proposed repealing all requirements pertaining to privately owned fleets, including hiring requirements.[12] At the same time, CARB did *not* propose any changes in the 45-day amendments to expand public agency compliance obligations to include their contractors' vehicles.[13] Similarly,

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[9] See p.3 of the second 15-day notice.
[10] See CCR § 2015 (a) (setting forth scope and applicability), § 2015.1 (setting forth the model year schedule requirements for truck purchases by privately owned fleets), and § 2015.2 (setting forth the alternative "ZEV Milestones" fleet composition requirement for privately owned fleets).
[11] See CCR § 2013 (j) and § 2015 (g).
[12] CARB, "High Priority Fleets Regulation Order," July 29, 2025, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/acf_lcfs/atta3.pdf.
[13] CARB, "SLG Proposed Regulation Order," July 29, 2025, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/acf_lcfs/atta1.pdf. The 45-day amendments proposed minor clarifying changes to fleet applicability and vehicle scope in § 2013 (a)(1) and (2), respectively, and no changes to the definition of "fleet" or "fleet owner." The hiring entity requirements were moved to a new § 2013.7 (a)(1) of the regulation and incorporated several clarifications, including narrowing to only hired fleet vehicles that are operated or *dispatched* by the public agency. The Initial Statement of Reasons further clarifies at p. 78 that the definition of dispatch is intended to apply "only when the fleet owner directs the routing of a particular vehicle, not when issuing broad guidance such as

neither the first 15-day amendments nor the accompanying notice gave any indication that CARB would now interpret the scope of public agency fleets to include vehicles beyond those the public agency owned or leased through long-term agreements.[14] Should CARB have intended to do so it could (and should) have stated such intention.

Government Code § 11346.8 (c) requires that 15-day changes be "sufficiently related to the original text that the public was adequately placed on notice that the change could result from the original proposed regulatory action." As detailed above, nothing in the NOPA nor the proposed 45-day amendments provided any indication that public agencies would be assigned new compliance obligations for vehicles they do not own, rent, lease, or operate. SMUD therefore urges CARB to reverse these proposed amendments and reconsider them in a future rulemaking that provides sufficient opportunity for public review and vetting of a proposal of this magnitude.

c. The proposed amendments are ambiguous and do not provide clear direction to regulated entities.

The proposed changes to applicability (see § 2013 (a)(1)) and to the "fleet" and "fleet owner" definitions (see § 2013 (b)) incorporate new language addressing scenarios where the public agency "contracts for the operation of" vehicles or has "contracted" vehicles. Beyond these changes, however, the proposed regulation provides very little guidance about how these requirements will be effectuated. In fact, the definition of vehicle purchase, even as amended, continues to refer solely to lease or rental agreements and does not define the scope of public contracting that would now be encompassed.

Key questions include:

- What does it mean for an agency to "contract[] for the operation of the vehicle"? This critical question is left unanswered. It is unclear whether CARB intends to cover any service contract involving vehicles (e.g., UPS package pickup), only contracts where the public agency is actually operating the vehicle, or something in between. Public agencies contract for vast amounts of services that involve vehicles in all manner of capacities.
- Will contractors' *existing* vehicles or *new* vehicle purchases affect public agency compliance requirements? In general, public agencies are subject to the annual ZEV purchase requirement, but CARB did not clarify (within the definition of "vehicle purchase" or elsewhere in the regulation) the mechanisms by which contractors' vehicles will be added to the fleet.
- Which contractors' vehicles (or purchases) will be added to public agency compliance requirements? If a contractor uses a ZEV one day, but an internal combustion engine vehicle the next, which vehicle would count toward the public agency's fleet? Some large companies—including vegetation management—can dispatch vehicles and crews from multiple states to support storm response,

a contract that specifies the areas to service by a garbage truck fleet or a contract that outlines when and where road repair activities need to be made."

[14] CARB, "Notice of Public Availability of Modified Text and Availability of Additional Documents," April 2, 2026, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/acf_lcfs/15d%20notice.pdf.

for example. How would this affect the public agency's ZEV purchase requirement?

- How will renewals of existing contracts be treated? The definition of "vehicle purchase" suggests that existing contracts and renewals of existing contracts are excluded, but it is unclear how such renewals are defined and what, if any, terms may change apart from the end date.
- How will public agencies account for contractors' vehicles when applying for exemptions? In the first 15-day changes, CARB conditioned exemption access on a showing that no other vehicle purchase made by the public agency could have been a ZEV. How would a public agency make this showing for private entity's purchase decisions?

These are a few of many, many initial questions facing public agencies on review of this 15-day language. The introduction of this ambiguity and the prospect of the potential doubling of fleet electrification requirements leaves regulated entities with significant questions about how to plan for compliance or the magnitude of additional vehicles that will be added to "their" fleet. While SMUD appreciates that CARB's guidance document states CARB will focus on education and working with public agencies case-by-case on their "good faith" efforts to comply, these fundamental questions remain unanswered. It is imperative that CARB revert to the first 15-day amendments and defer these new changes until there is an opportunity for further stakeholder discussion and clarification.

II. CARB should commit to a subsequent rulemaking that holistically assesses the persistent ZEV market challenges and affordability concerns.

SMUD is disappointed that the second 15-day changes did not remove the exemption access barriers or provide fleets with more achievable paths to compliance. As described in SMUD's 15-day comments, without the ability to access exemptions, SMUD's ACF compliance costs (for just its *own* vehicle purchases) will increase by $1 million to $1.4 million annually.[15] If contactors' vehicles were added, those extra costs will likely double or more. These cost increases compound the cumulative cost pressures SMUD is already facing as it strives to maintain affordable electricity for its customers, continue clean energy progress, and encourage vehicle and building electrification.

SMUD has broadly supported the objectives of the ACF and is concerned that the current regulatory framework—a mandatory purchase requirement for public agencies alone, without usable exemptions—does not adequately respond to a ZEV market that has pulled back on development. SMUD therefore restates the request from its 15-day comments that CARB commit to a successor ACF rulemaking in 2027. Moreover, CARB should take a holistic view of ACF and consider whether there are alternative approaches that would provide public agencies with achievable compliance paths while increasing ZEV truck deployment and emissions reductions.

[15] Note that this estimated cost is based *only* on the excess ZEV purchases that SMUD must make due to exemption access barriers. It does not reflect the cost of planned ZEV purchases.

III. Conclusion

SMUD is deeply concerned by both the expansion of scope presented in the second 15-day amendments and the process through which it was proposed. SMUD urges CARB to reverse these changes, immediately reissue the first 15-day amendments to ensure timely rulemaking completion, and revise the June compliance guidance accordingly. More broadly, CARB should commit to a successor rulemaking that reimagines the ACF in a manner that is achievable for public agencies and supports fleet emissions reductions.

/s/

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