CALCIMA

California Construction and Industrial Materials Association

June 16, 2026

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

Re: Request for Governing Board Review of Proposed Contracted Fleet Provisions in the Second 15-Day Amendments to the Advanced Clean Fleets Regulation

Dear Chair Sanchez and Members of the California Air Resources Board,

CalCIMA appreciates the opportunity to comment on California Air Resources Board’s (CARB) “Second 15-Day Notice of Public Availability of Modified Text (Second 15-Day)” regarding the Advanced Clean Fleets (ACF) regulation. The proposed amendments concerning contracted fleet operations appear to introduce a policy interpretation that affects private sector fleets performing services under contract for State and Local Government (SLG) entities. Because neither the CARB Governing Board’s September 2025 direction nor the original rulemaking materials clearly indicated that the amendment process would address the treatment of contracted private fleets, CalCIMA respectfully requests that CARB return this issue to the Governing Board for consideration and direction before final adoption. Given the potential implications for contractors, subcontractors, public procurement practices, infrastructure construction, and private fleet operators, CalCIMA believes the proposed contracted fleet provisions warrant a separate and transparent policy discussion, supported by additional analysis, stakeholder outreach, and Board review through the appropriate regulatory process.

CalCIMA is the statewide voice of the construction and industrial materials industry. With over 500 local plants and facilities throughout the state, producing aggregate, concrete, cement, asphalt, industrial minerals, and precast construction products, our members produce the materials that build our state’s infrastructure, including public roads, rail, and water projects; homes, schools and hospitals; assist in growing crops and feeding livestock; and play a key role in manufacturing consumer products as well, including roofing, paint, low-energy light bulbs, and battery technology for electric cars and windmills. The continued availability of our members' materials is vital to California’s economy, as well as ensuring California meets its renewable energy, affordable housing, and infrastructure goals.

While CARB characterizes these amendments as clarifications, CalCIMA believes they represent a significant policy change and raise implementation, stakeholder process, and legal questions regarding the treatment of contracted fleets. The following comments outline these concerns and request additional analysis, stakeholder engagement, and Governing Board review before these amendments are finalized.

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1. **<u>The proposed amendments introduce a new interpretation regarding contracted fleets that has not been fully evaluated through the rulemaking process.</u>**

CalCIMA understands CARB's proposed amendments add references throughout Section 2013 to vehicles that a State or Local Government (SLG) entity "contracts for the operation of" and would modify definitions related to fleet ownership, fleet applicability, and operator documentation. CARB states that these changes are intended to clarify an existing requirement and remove ambiguity regarding vehicles operated on behalf of SLG entities. However, these amendments appear to go beyond mere clarifications and are substantially broader than stakeholders were led to believe would be the case.

During the first 15-day comment period, CalCIMA reviewed the proposed amendments and observed language pertaining to rental and leased vehicles. CalCIMA did not identify language indicating that private fleets performing contracted services for public agencies would effectively become part of a SLG entity's compliance framework. Additionally, CalCIMA did not identify discussion of impacts in the original rulemaking materials, Initial Statement of Reasons, or final regulatory package.

The first indication CalCIMA received regarding CARB's interpretation was through CARB correspondence referenced in comments submitted by another stakeholder organization, CCEEB, in the first 15-day comment period. According to that correspondence, CARB staff indicated when a SLG contracts with a private company to perform public services, the SLG entity must account for those contracted vehicles when demonstrating compliance with ACF requirements. If this has always been CARB's intended interpretation, CalCIMA respectfully asks why affected contracting industries were not informed and engaged during earlier phases of the rulemaking process?

2. **<u>The proposed amendments do not provide regulatory certainty intended by the repeal of High-Priority fleet requirements and instead create new questions for private fleets.</u>**

CalCIMA supported CARB's repeal of the High-Priority fleet requirements because it was understood to provide regulatory certainty for private fleets that would no longer be subject to ACF compliance obligations. However, the proposed amendments concerning vehicles operated under contract for SLG entities appear to create new uncertainty for construction materials fleets that routinely support public infrastructure projects. CalCIMA members generally do not rent or lease vehicles to public agencies, but many provide essential services through public works contracts, maintenance activities, emergency response efforts, and other infrastructure-related projects. As drafted, the amendments leave several important implementation questions unanswered, including:

a) How will contractors performing work for SLG entities be affected?
b) How would exemptions or compliance pathways available to SLG fleets apply when services are performed by private contractors?
c) Whether the amendments could influence public procurement requirements or competitive bidding processes?
d) How would subcontractors and multi-tier contracting arrangements be treated?

CalCIMA has not seen analysis demonstrating the practical impacts of these provisions on construction materials fleets, public procurement practices, project delivery, or infrastructure construction costs adding to uncertainty and cost from current market disruptions due to the present conflict in the Middle East.

3. <u>The proposed amendments were introduced without adequate notice or stakeholder engagement regarding their potential impact on contracted fleets.</u>

At the CARB September 2025 Governing Board (Board) meeting, the Board directed CARB staff to:

a) Extend AB 1594 flexibilities to all SLG fleets;
b) Delay the 100 percent ZEV purchase requirement until 2030;
c) Utilize exemption criteria to ensure the regulation has no adverse impact on essential public services;
d) Consult with SLG entities to resolve concerns; and
e) Allow small fleets and fleets located in designated counties to continue waiting until 2030 before purchasing ZEVs.

These directives focus on addressing implementation challenges faced by SLG fleets, utilities, emergency response providers, and other essential service operators. These directives do not contemplate expanding or clarifying the application of ACF requirements to private fleets performing services under contract for SLG entities. As a result, CalCIMA and other stakeholders did not receive notice of these issues and did not anticipate amendments that could affect their operations and had little opportunity to assess operational, contractual, legal, or economic implications. CalCIMA respectfully submits that a "policy interpretation" with the potential to affect public contracting, fleet procurement decisions, and private-sector service providers warrants a higher degree of transparency, outreach, and stakeholder engagement than has occurred.

4. <u>CARB has not explained how legal considerations underlying the High-Priority fleet repeal were evaluated in developing the proposed contracted fleet provisions.</u>

CalCIMA respectfully requests additional clarity regarding how legal considerations associated with the repeal of the High-Priority fleet requirements have been evaluated in the development of the proposed contracted fleet provisions. It is broadly understood that the repeal of the High-Priority fleet requirements occurred in response to litigation, federal waiver uncertainty, and other legal challenges affecting implementation of the ACF regulation. However, CARB's rulemaking documents largely attribute the repeal to US EPA's inaction on California's waiver request under the prior administration and ongoing federal opposition to California's vehicle regulations. Given the proposed amendments would create indirect regulatory pathways for private fleets performing services under contract for SLG entities, CalCIMA requests clarification regarding how these provisions were evaluated in light of the legal issues that contributed to the repeal. Specifically, if the Board determined that repealing the High-Priority fleet requirements was necessary due to implementation, legal or regulatory concerns. CalCIMA requests an explanation of how those same considerations have been assessed with respect to the proposed treatment of contracted fleets and whether CARB has evaluated the potential legal and practical implications of influencing fleet purchasing and deployment decisions for private-sector operators.

5. <u>CalCIMA requests additional analysis, legal clarification, stakeholder engagement, and regulatory clarification before CARB finalizes amendments to the ACF regulation.</u>

Prior to finalizing amendments to ACF, CalCIMA respectfully requests the following:

a) Clearly state that the proposed amendments is an expansion of how ACF requirements will be applied in practice;
b) Provide examples of how these amendments would be applied in common contracting arrangements involving public agencies and private fleet operators;

c) Evaluate and disclose potential impacts on public procurement infrastructure construction, service contracting, and the competitive bidding processes;
d) Clarify how exemptions, compliance pathways, reporting obligations, and enforcement provisions would apply when contracted fleets are involved;
e) Explain how the proposed amendments align with the Board's prior direction to repeal High-Priority fleet requirements and provide certainty to affected stakeholders;
f) Describe how legal considerations, litigation-related developments, and other factors that contributed to the repeal of the High-Priority fleet requirements were evaluated in developing the proposed contracted fleet provisions;
g) Conduct an adequate/comprehensive environmental assessment of the impacts; and
h) Conduct additional stakeholder outreach with industries likely to be affected by these provisions before amendments are adopted.

CalCIMA appreciates CARB's efforts to provide regulatory clarity and avoid unintended compliance gaps resulting from the repeal of the High-Priority fleet requirements. However, the proposed amendments concerning contracted fleet operations raise significant process questions that warrant additional evaluation and public discussion. Thank you for your consideration of these comments. Please contact me at (951) 941-7981 or at sseivright@calcima.org.

Sincerely,

Suzanne Seivright-Sutherland
Director of Regional Governmental Affairs and Grassroots Operations

Cc:
1. Chair Lauren Sanchez, CARB
2. Governing Board Members, CARB
3. Dr. Steven Cliff, Executive Officer