The California Caterpillar Dealers

June 3, 2024

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

Subject: Proposed Zero-Emission Forklift (ZEF) Regulation – 15-Day Comments

Dear Chair Randolph, and CARB Board Members,

Beginning in 2020 the California Caterpillar dealers have worked with staff to help educate them on the limits and infeasibilities of replacing large spark-ignited (LSI) forklifts with electric. We appreciate the interaction with staff and what changes have been made to address some of our concerns listed in the December 2023 letter to your Board. Unfortunately, even with those modifications, the regulation is still unworkable, extremely disruptive and economically infeasible for businesses throughout the state, especially for large operations and rental fleets and dealers.

For the record we are committed to emissions reduction. However, we and many other industry experts, identified that staff has not fully vetted more reasonable approaches and alternatives in lieu of a mandated phase-out of propane forklifts. Alternatives could include incentivizing replacements with electric, phase-out only of pre-2010 forklifts that do not meet the current low large spark-ignited (LSI) forklift standards, setting lower standards for LSI engines, or use of renewable propane; any of which could transition the industry more feasibly and economically. Until these alternatives can be made a part of this regulation, we ask this Board to not approve this regulation and instruct staff to re-draft the regulation to provide alternatives that can achieve the same or better results without a mandate to phase out propane forklifts.

Specifically, on 15-day changes made to regulation, we have additional concerns that must be addressed. Reasoning will follow this summary:

1. The definition for "Rent" in Section 3001(a) must be modified to remove any time limit. A rental forklift cannot be moved back and forth for compliance between the rental fleet and an end user's fleet simply because the rental may exceed 12 months. Doing so provides no emissions benefit, and it creates an administrative nightmare for reporting inconsistencies by both the rental company and the end user, and it will add unnecessary complexity to the current way rental companies contract and operate.
2. A 1-year sell through provision must be provided for any new 2021 to 2025 model year Class IV or Class V LSI forklift after 1/1/26. It is extremely common for dealers to have new prior model year vehicles and equipment in inventory due to unforeseen circumstances.
3. The phase-out cap provided in this regulation is unacceptable, especially for very large operations and rental fleets. The phase-out cap must be set at 25% per year for all fleets and be allowed to extend forward through the entire phase out period between 2027 and 2037. Setting a higher 50% phase out cap all large fleets is not only excessive, but it puts these fleets at an unreasonable competitive disadvantage.
4. Simplify Section 3009(k) for large fleets to participate in the phase-out cap to only require the initial and annual reporting to indicate the total number of forklifts broken out by engine model year instead of requiring all other forklift detail required in 3009(b)(2).

<u>Modify Definition of “Rent” to Remove Any Time Limit</u>

This definition must be modified to state the following without any time limit: <u>"Rent" means to pay for the use of an LSI Forklift offered by a Rental Agency."</u>

We, and all other rental companies, have rentals with government, large businesses, seasonal source operations, and within a company’s own divisions that can be of any length from a single day to beyond 12 months. Simple contracts can actually be taken out for a short period and then end up being out past 12 months. End users that only rent a forklift for a project would have no idea they need to report to CARB if the rental surpasses 12 months. In the LSI regulation it made sense to distinguish a rental of more than 12 months as in the possession of the end user for the calculation of a fleet average. However, <u>in this regulation whether the rental is 12 months or less, or it is over 12 months, *the forklift is still owned by the rental company*, and the rental company is the one responsible for complying to the phase-out schedule, not the end user</u>. Trying to move the vehicle back and forth between the rental company and the end user only adds unnecessary complexity to an already complexly written regulation, with no emissions benefit.

<u>There must not be any time limit to what is considered a rental and the rental forklift must remain only in the rental fleet that is responsible for its compliance</u>.

<u>A Sell Through Provision Is Required for Sales of *Any* 2021 - 2025 Model Year *New* Class IV and Class V LSI Forklifts After 1/1/26</u>

In response to our request of the Board in our December 18 letter on this issue, CARB staff did incorporate a sell through provision for one (1) year following 1/1/2026 for dealers to sell remaining new inventory. However, the language provided by staff only allows for sales of engine model year 2025 forklifts. Dealers will acquire Class IV and Class V forklifts from the manufacturer in 2024 and 2025 and prior that could easily remain in inventory due to reasons beyond the dealer’s control.

Therefore, Sections 3002(a)(2), 3003(a)(2), 3003(b)(1)(B) and 3003(b)(2)(B) must be modified and Sections 3003(a)(1)(B), 3003(b)(1)(A)1. 3003(b)(2)(A)1. must be removed to allow the one (1) year sell through provision for <u>any</u> new LSI Class IV or V forklift with engine model 2021 - 2025 still on the dealer’s lot. Sales must be allowed both externally and internally to rental agencies, sales to fleet operators, as well as sales internally to a company’s operations fleet.

Further, as also requested in December, <u>there must be some provision to allow the sale of a forklift ordered in 2024 or 2025 specifically for an end user that ends up being delayed by the manufacture until after 1/1/2026</u>. That forklift should still be allowed to be sold and purchased by the end user after 1/1/2026 even though the forklift and/or engine could be model 2026. In this case, a 2026 model year forklift sold under this provision would be required to be phased out in the same year as the 2025 model year forklifts.

<u>Phase Out Cap Unreasonable</u>

The phase-out cap provided in this regulation is unreasonable, especially for very large operations and rental fleets. The phase-out cap must require <u>no more than 25% per year of the applicable model year forklifts to be phased out, with the remainder of the fleet not turned over by the phase out model year to be carried into the next year</u>. Each ensuing year the oldest forklifts already meeting the phase out would be subject to retirement first under that cap. <u>Phase-outs must continue with only 25% per year throughout the entire phase out period between 2027 and 2037</u>. They must not be limited to a one fell swoop in the first year of phase-outs.

Further, setting a higher 50% phase out cap all large fleets is not only excessive, but it puts these fleets at an unreasonable competitive disadvantage. As it is, a 25% per year cap will create an economic infeasibility, and most certainly a physical infeasibility, for very large fleets. Large companies will require mass replacements, thus creating potential electric forklift availability issues and possibilities of leaving companies with the inability to properly operate their business.

The footnote in 3006(d) must be removed, and the entire section on phase-outs must be revised to allow the phase-outs at no more than 25% for all fleets throughout the entire phase-out timeline.

Simplify Section 3009(k) for Large Fleet Reporting to Participate in the Phase-Out Cap

This section is unreasonable, especially for quite large fleets like our dealer fleets. First, large fleets should not need to provide all detailed information for each and every forklift as of 1/1/2026 just to participate in the phase-out cap option. Large fleets should still only be required to report initially and annually in accordance with 3009(c) showing only the total number of Class IV and Class V LSI forklifts (separately), but to participate in the phase-out cap option a large fleet would need to break out the totals by engine model year. This will give CARB the information necessary to know what LSI forklifts must be managed year by year in the phase-out approach described above in this letter.

In addition, 3009(k)(2), which requires reporting of a primary operating location address, must be removed because it is meaningless for a large fleet with multiple locations. CARB will already have the main address provided by the company in the initial reporting in accordance with 3009(b).

Finally, 3009(k)(3) is unnecessary as long as in the annual reporting the fleet shows that 25% of the oldest engine model years have been removed. It is virtually impossible for a fleet to know before a compliance date whether a specific unit will be replaced by a compliance date in a phase-out cap. For example - 1) equipment wear and tear that may make one forklift retirement better than another, but such information may only be known just before a compliance date, 2) a unit in a fleet 1/1/2026 may no longer be in the fleet by the compliance date. We would suggest this whole section be simplified.

In summary, we ask the Governing Board to do the following:

1. Not approve this regulation as currently written. We ask the Governing Board to direct staff to look at alternative approaches to meeting the same emissions reductions without such a draconian approach of eliminating necessary LSI forklifts in the industry.
2. Address the additional concerns we raised in this letter on the added 15-day language:
    a. Revise the definition of “Rent” to remove any time limit.
    b. Provide a sell-through provision to 1/1/2027 for all new 2021 – 2025 new Class IV and Class V LSI forklifts that remains in the dealer inventory beyond 1/1/2026.
    c. Include a provision for the sale of a forklift ordered in 2024 or 2025 specifically for an end user that ends up being delayed by the manufacture until after 1/1/2026. That forklift should still be allowed to be sold and purchased by the end user after 1/1/2026 even though the forklift and/or engine could be model year 2026.
    d. Revise the phase-out cap language in Section 3006 to require no more than 25% for all fleets, and to allow for the cap to be throughout the entire phase out period between 2027 and 2037 to reduce economic infeasibility issues with forklift purchases and infrastructure.
    e. Simplify reporting requirements in Section 3009(k) for large fleets to participate in the phase-out cap as described in this letter.

If you have any questions or you require additional information, you may contact Bob Shepherd at 562-463-6013.

Sincerely,

The California Caterpillar Dealers

Bob Shepherd
Quinn Group, Inc.
Manager – Sustainability & Compliance

John Braden
Hawthorne CAT
Fleet Management Specialist

Grant Stickney
Peterson CAT
Product Support and Emissions Solutions

Cary Roulet
Holt of California
Vice President Material Handling Division

Mike Mason
Fleet Manager
Holt of California