



The California Caterpillar Dealers

November 7, 2022

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

Subject: Off-Road Regulation Amendments

Dear Chair Randolph, Vice Chair Berg, and CARB Board Members,

The undersigned California Caterpillar dealers appreciate the opportunity to provide comments to this proposed regulation.

Our concerns include the proposed timing of the Tier 3 and Tier 4 Interim purchase bans, the requirement for use of renewable diesel by as early as 1/1/2024, and section 2449(d)(6)(I) related to engines in new machines, and replacement engines.

Tier 3 Ban 1/1/2024 Too Early

A ban on Tier 3 machines should be extended to 1/1/2026 at minimum for fleets. A ban on the Tier 3 purchases by fleets as quickly as 1/1/2024, especially those in small fleets that will be banned from Tier 2 purchases at the end of 2022, will create issues with used equipment sales out of large and medium fleets trying to meet the final compliance, and it will make it more difficult for small fleets to reach their final compliance. As for the small fleets, they have not even reached 2026 where a Tier 3 average is required.

Remove Tier 4 Interim Ban Altogether

Tier 4 Interim should not be banned from purchase at all. The current NOx fleet average is based upon fleets meeting a final fleet average equivalent to Tier 4 Interim, so this should not be eliminated as a purchase option at all. If a phase out of purchased equipment is to be used for equipment certified to this level, we suggest it only be considered when Tier 5 becomes the standard and such machines are readily available. We suggest this should not occur any sooner than 2030 in order that should a Tier 5 standard be adopted, machines with a Tier 5 engine could be readily available for purchase across most all machine models. The ban on this equipment in 2024 will bring havoc to all fleets in their ability to meet their final compliance, as well as their ability to sell their Tier 4 Interim machines, excepting out of state at a much reduced asset value. This again creates issues with bonding and financial stability for fleets to purchase Tier 4 Final equipment.

Mandate for Renewable Fuel By 1/1/2024 Must Be Moved Further Out

If the proposed regulation is approved on November 17, 2022 with a 1/1/2024 mandate for use of renewable R99 or R100 diesel, by the time the regulation is approved by the Office of Administrative Law (OAL) it will likely be several months into 2023. This will mean everybody will be approaching vendors of this fuel with less than a year to meet compliance. This will be virtually impossible. Not only will this drive up the cost of the fuel when the nearly 13,000 off-road fleets subject to DOORS with nearly 200,000 off-road machines will be seeking to purchase this fuel all at once, but many of these fleets have current diesel contracts that extend out more than a year making such a change costly, if not infeasible. Many of these fleets have multiple sites across the state which will need more time for the adjustment. Further, with this mandate being a little over a year away, we are quite doubtful such demand can be met. We believe CARB should allow more time for the adjustment by moving the mandate to 1/1/2028 and in the time between now and then fleets should be able to acquire incentives for earlier use of this fuel.

Remove Section 2449(d)(6)(I)

This section must be removed. It appears from the ISOR that CARB is already assuming "Tier 5" will be adopted and that if CARB and EPA standards are not aligned, CARB will still require a vehicle with a "Tier 5" engine and will reject a fleet owners' ability to add a vehicle certified through EPA. Having two separate standards and having CARB only allow the more stringent standard will not only adversely and detrimentally affect the availability of off-road mobile equipment to end users in California, including agriculture even though they are not affected by this in-use regulation but they are affected by new machine availability, but it will also affect the industrial engine and portable engine availability in California.

Even as stated, the proposed section is incorrectly worded.

First, if a more stringent standard is adopted and becomes effective 1/1/2028, within the current EPA and regulations a manufacturer is allowed to use up current inventory into a new model year. Thus, there could be some 2028 machines built after 1/1/2028 that could legally have 2027 model year engine that may only meet Tier 4 Final standards. As incorrectly stated this would not be allowed. This current regulatory provision must still be preserved.

Second, equipment manufacturers, similar to auto and truck manufacturers, start labeling their machine model years several months back into the prior year. A 2028 model year machine could be manufactured in September 2027. However, a 2028 model year engine would not be installed in those machines manufactured between September and December 2027. This must also be preserved.

Third, if EPA and CARB agree a flexibility engine provision will be included in any transition between Tier 4 Final and a possible more stringent California standard, a flexibility engine would not meet the current standard but it would still be labeled as a 2028 engine and would still be certified as such and that must be acceptable.

Fourth, we understand Tier 4 Final machines would still be allowed to be added to a fleet (and our hopes are Tier 4 Interim will as well as per our earlier comment), even if a more stringent standard in California is adopted; however, the current wording does not make this clear.

As for the second sentence, it seems to suggest that only current tier level engines meeting the 2028+ standard can be used as replacement engines for existing machines. We understand that also is not the intent. The intent is to still allow like for like replacements for earlier tier level engines remaining in machines in fleets.

Again, this section must be removed. It is premature and unnecessary and inappropriate to include this regulation. If and when a "Tier 5" standard is adopted, the language in that standard's regulation would not allow anything but a California certified engine anyway, and it is within that CARB regulation for new engines and equipment where this type of statement should be made. Not in the in-use off-road regulation.

We respectfully ask the Governing Board to direct staff to:

1. Move the deadline for Tier 3 purchases to 1/1/2026.
2. Remove the Tier 4 Interim ban altogether. In alternative, the regulation could be stated to ban purchases of Tier 4 Interim machines when Tier 5 may be the standard and machines are readily available, but no earlier than 2030.
3. Move the deadline for the R99/R100 mandate to 1/1/2028 to allow sufficient time for fleets to convert, and to allow some time for potential incentives for early transition.
4. Remove Section 2449(d)(6)(I) as we have suggested above. This section is not appropriate to be included in this regulation.

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



Andy Sutherland
Technical Communications Manager
Empire Machinery