



## The California Caterpillar Dealers

April 5, 2023

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

Subject: Advanced Clean Fleets – 15-Day Comments

Dear Chair Randolph and Members of the Board:

The undersigned California Caterpillar dealers provide the following comments to this extremely complicated regulation proposal. The impacts will be financially overwhelming for our privately held companies, and we question how this regulation can be technologically or economically feasible given the diversity of the critical services we provide in the repair of off-road equipment used in construction, agriculture, oil and gas, and military, and emergency generators used for the preservation of life and safety; and in the rental of heavy construction vehicles that are used in remote locations such as construction and agricultural sites and forest locations where charging stations are unavailable and infeasible. To exacerbate this, there is no clear method to find, apply for, and secure any of the state-funded incentives designed to ease the financial burden of compliance. There are too many barriers to this funding and the timing is far too long in the process to meet the schedules proposed.

Since 2019 we have provided both staff and your Board written concerns in five letters, and we have spoken our concerns at public workshops, and at the Board hearing in October 2022. Unfortunately, none of the issues we have raised have been addressed for our industry. Therefore, we urge the Board to delay any approval of this complex regulation, and we ask the Board to move that the regulation be re-written to remove the complexities and to provide for suitable answers to and exemptions for our concerns below.

In addition, in our review of the proposed regulation presented for 15-day comments, we also find it hard to believe public comments before your Board remain closed with such significant changes since the October 2022 Board hearing.

The concerns we have raised over the last 4 years that still must be addressed are:

1. Legality of singling out high priority private fleets with disregard for the business type or operational constraints in the use of electric vehicles for our industry and the industries we serve. This not only puts our companies at a competitive disadvantage, but it also restrains us from the business trades we are currently serving.

2. Infeasibility of electric vehicles used for rentals in the heavy construction industry (e.g, water trucks, dump trucks, bucket trucks). DC charging stations are not available at remote sites and there is no solution to address this.
3. Infeasibility of electric vehicles used for specialized service vehicles over 8,500 pounds GVWR equipped to the maximum GVWR rating with air compressors, cranes, welders and special tooling, requiring power take off (PTO) or auxiliary power, that travel variable distances to service heavy construction, agriculture, emergency generators, and military equipment.
4. Infeasibility of electric Class 8 electric vehicles used for transporting heavy construction and agricultural machinery and equipment, and large generators for critical services.
5. Lack of remote charging for vehicles used in the industries identified above. Infrastructure is essentially non-existent and impractical considering the many remote sites we service that are out on dirt construction sites and in remote off-road sites; none of which have utility power for any necessary charging stations to ensure proper servicing and rental of equipment. There is currently no solution to address this.
6. The regulation is far too complicated with too many ways for a company to fall out of compliance; especially for companies with hundreds of vehicles. Management of this difficult regulation will require a full time, highly paid, employee(s), or a company will need to hire an expensive consulting firm.
7. Daily Mileage Exemption is unworkable for our business type where our technicians and drivers are expected to drive distances round trip that exceed the ZEV range. If a ZEV cannot fulfill our requirements, we cannot be expected to eliminate the vehicle and driver just because we do not meet the ten percent ZEV requirement to apply for the exemption.
8. The ZEV Purchase Exemption Application process is also unworkable because it leaves decisions purely up to CARB staff's discretion to determine eligibility that will compromise what vehicle a company would need to "settle with" that is less capable of required performance and safety than the ICE it is replacing.

### **Legality of Singling Out High Priority Fleets**

As we have repeatedly mentioned to staff since 2019, we question the legality of this approach to single out large companies like ours that service the construction, agricultural, military and critical services businesses simply based upon revenue or number of vehicles. Doing so will effectively take away our ability to compete in renting to these businesses and in servicing their equipment while other companies that do not meet the high priority fleet requirements will still be allowed to rent and service this same equipment using diesel fueled vehicles. In all likelihood this will create more emissions as the fleets that do not meet the high priority fleet definition will grow to fill the void with diesel trucks while still staying under the threshold. This regulation will put a restraint of trade on our business due to the fact our company must convert to electric, whereas so many companies we compete with that are not considered "large" (but by no means are small companies) will continue to offer diesel rental vehicles to the construction and agricultural industries.

### **Heavy Construction and Agriculture Equipment Rental Vehicles**

There is nothing in the proposed regulation that addresses the infeasibility of rental heavy construction related vehicles (e.g, water trucks, dump trucks, bucket trucks). This issue has been addressed by our industry and the construction industry since 2019, but no solution has been provided.

Rental and leasing companies, more specifically those engaged in heavy equipment rentals that service the construction and agricultural industries (SIC Code 7353 – see Attachment A), must be exempt. Many details were provided in the several letters we, and various industry organizations, provided since 2019 to staff and your Board. However, aside from the restraint of trade issue we have identified that this regulation presents, one must also look at how infeasible renting vehicles of the heavy construction type are for remote sites. DC chargers do not exist in remote sites because hard wired, high voltage, high amperage electrical power is not available (OSHA requires connections at higher voltages to be hard wired). Thus, DC chargers will never be available in remote sites no matter how much infrastructure is created, because they are remote. Certainly connecting a portable DC charger to a diesel generator is self-defeating. Also, these types of rental vehicles can have multiple users in a single day. Electric vehicles cannot be easily fully recharged for the next use, which certainly is not practical for a construction rental business. The heavy equipment rental industry must to be exempt from this regulation.

### **Heavy Equipment Service Vehicles**

Our companies service large, heavy construction, agricultural, oil and gas, and military equipment, as well as large emergency generators that require Class 2b through Class 8 vehicles equipped to the maximum GVWR with air compressors, cranes, welders and special tooling, requiring power take off (PTO) or auxiliary power, that travel variable distances to service heavy construction, agriculture, and military equipment, as well as emergency generators. This equipment includes, but is not limited to: off-road mobile machines (e.g. backhoes, wheel loaders, reach lifts, scrapers, forklifts), pumps, water trucks, cranes, portable equipment, and generator sets for stationary sites, including those generator sets installed in critical facilities like hospitals, nursing homes, military facilities, data centers, banking institutions, and waste treatment and water treatment plants. Servicing this equipment at a moment's notice is critical, and availability of the service vehicles at any time cannot be jeopardized. Our companies are authorized to service Caterpillar heavy equipment where others are not. The servicing requires specialized equipment to access the electronics of this equipment that others are not authorized to access.

Vehicles used for servicing and repairing this equipment do not have set routes or destinations. Technicians are sent out into the field to repair any number of machines or equipment, and distance will vary from several miles to hundreds of miles. This will vary day to day. Servicing heavy construction and AG equipment can also require a technician to stay out in the field several days. With no means to charge the vehicle, this is impractical. Additionally, technicians can be sent on their jobs from the business location or from the technician's home. Technicians placed on emergency repair calls can be sent out into the field at any time of the day, including weekends. There would be no ability for a technician to charge the vehicle at home, or on the road. These vehicles require very expensive DC chargers that cannot be installed in homes, and they are not available now (or for the foreseeable future) publicly on the roadways for these specialized heavy duty vehicles. Thus, our technicians will either be unsafely stranded on the highway, or be unable to respond to necessary repairs, including those repairs for emergency systems and equipment.

Vehicles required by our technicians to properly service this equipment must include cranes, air compressors, welders and specialized tooling that rely on a power take off (PTO) from the engine, or an auxiliary engine. This ancillary equipment, which could be operated for long periods during a repair, would draw heavily on charged battery systems, thereby reducing the vehicle range and onsite operation time, leading to stranding the vehicles and drivers because they will have no ability to hook up to a DC charging station to return home. Even more importantly, battery-powered ancillary equipment raises significant concerns for the safety of our technicians. If the battery

power is depleted while the technician is in the process of hoisting heavy equipment during the repair, it places that technician in an unsafe situation that could lead to injury.

With safety being a top priority for our employees and customers, putting them in a situation that puts them at risk of injury, or being stranded on the highway, or unable to respond in the case of emergency repairs, is unacceptable.

Similar to the restraint of trade issue we identified for the rental vehicles, this regulation will also put us at a competitive disadvantage in the service industry where unqualified mechanics will not meet the large company requirements, so they end up still being able to continue to use their diesel vehicles to service the customer base we currently serve; however, not at the level of service quality our customers require. We will be limited on our service capabilities by a battery charge, where they can simply refuel at a diesel station. Again, we question the legality of the inequitable situation this regulation imposes on our company and manufacturers' dealerships like ours. The heavy equipment service industry needs to be exempt from this regulation.

### **Class 8 Vehicles Used to Transport Heavy Construction and Agricultural Machinery and Equipment, and Large Generators for Critical Services**

Our businesses also require we have Class 8 transportation vehicles in our fleet that must deliver the heavy equipment we rent, service and sell. However, we are not for hire. These Class 8 vehicles must pull special trailers to transport this heavy equipment that require a PTO to operate the trailer hydraulics. Again, a PTO on an electric vehicle will reduce the overall travel distance and again can end up unsafely stranding our vehicle and driver. This also presents us with a dilemma in that it will force us to haul our equipment with other companies that are still able to use diesel Class 8 haul vehicles because they do not meet the large private fleet definition. This defeats any logic CARB has about reduction in emissions. It will create more emissions as the fleets that do not meet the high priority fleet definition will grow to fill the void with diesel trucks while still staying under the threshold. These not-for-hire Class 8 vehicles must be exempt from this regulation.

### **Infrastructure Is Cost Prohibitive and Is Essentially Not Available for Use In Our Industry**

Given the size of our fleets and the types of vehicles we use and rent in our business, the infrastructure alone will be cost-prohibitive. Quotes provided to our companies for a single standard 200 kW DC charger runs between \$100K to \$150K depending upon the quantity and features, and the lead time is at least 30+ weeks. The costs staff presented in the ISOR are well below these amounts. Both the cost and lead times will only get worse as the larger demand for electric vehicle replacements from this regulation occur. We do not prescribe to the estimated lower costs for these vehicles and infrastructure over time that staff has presented to your Board. The supply chain issues make it evident the costs will increase, not decrease. Of course, the cost for the charger does not include the cost for the electrical upgrades needed to get the megawatts of power to each of our many facilities for the many vehicles we will need to charge nightly. We already know from experience it takes easily up to 2 years or more to get charging stations installed including plan design, plan check, utility company backlog in completing necessary power upgrades, and in delays in getting the actual charging stations. Even with the propose changes to the delays allowed, it does not provide adequate time for companies that have hundreds of vehicles and multiple sites in California that reside in different electric power supplier areas. The utility company backlog and equipment availability will only get worse, making compliance with the regulation infeasible due to circumstances that are out of any control of the fleet.

Privately held companies do not have the financial resources to replace large fleets and install cost-prohibitive charging systems and electrical infrastructure upgrades while also trying to maintain their day to day businesses. We cannot just raise our rates like those in the public sector. This holds even truer with the economic downturn we are currently experiencing that is leading to a recession.

Further, a public DC charging network for these vehicles is essentially non-existent. DC charging stations currently available in urban areas are meant for passenger vehicles and are not practical for our business operations. A technician cannot just roll up to a DC charging station at a Walmart and be expected to sit for 3 hours on non-chargeable time while the vehicle's battery recharges to continue necessary equipment repairs or travel back from the remote jobsite. Additionally, as already mentioned, there are no DC charging stations at the many remote sites we service that are out on dirt construction sites and in remote off-road sites, and given the nature of these remote sites, such stations are not even feasible without the self-defeating use of a portable diesel generator.

### **Extremely Complicated Regulation To Manage**

Our fleets are comprised of hundreds of vehicles that, due to their daily variations in use and mileage, the recordkeeping and numerous requests for ZEV unavailability exemptions will be a nightmare. Each year we will need to file hundreds of applications for exemption for our highly specialized service vehicles, our heavy duty rental construction vehicles, and our transportation vehicles. This will require additional staff or a contract with a consulting firm to even begin to understand how to manage the many complicated processes for applying for extensions, and in meeting the obligations of the regulation's compliance without running into an enforcement issue.

### **Daily Mileage Exemption Is Unworkable**

The Daily Mileage Exemption is unworkable because from the onset of the regulation starting in less than a year, a company is expected to have at least ten percent of its fleet to already be ZEV/NZEV. For companies such as ours with hundreds of vehicles, this is impossible to achieve. Electric vehicles that *match* the performance requirements of the ICE vehicles we use for the services we provide are not commercially available, and getting charging stations for the hundreds of vehicles in a timely manner is infeasible, let alone not cost-effective or economically feasible. The daily mileage exemption must be available from day one with no minimum fleet ZEV requirement.

### **ZEV Purchase Exemption Process Is Unworkable**

The ZEV Purchase Exemption Application process is also unworkable because it leaves decisions purely up to CARB staff to determine eligibility that will compromise what vehicle a company would need to "settle with" that is less capable of the ICE it is replacing. Further, requiring two letters from manufacturers stating ZEV unavailability for an application is not only cumbersome, but in reality, the ZEV manufacturers and dealers, who are in the business to sell, are more likely to misstate the performance capabilities of a vehicle so the end users will end up with a vehicle that does not match our required performance of our current ICEs; and thus we will end up having our application unjustly denied.

As we and industry associations and end users have already stated many times, the focus of this regulation should only be on the high percentage of vehicles operating in California that are light to heavy duty logistics trucks (e.g. box trucks, vans and pick-ups) that typically run delivery and pick-ups within a generally unvaried radius during the day, and which pose less challenges with electric vehicle substitution. This regulation must exclude the rental, service and transportation vehicles serving the construction, agricultural, military and critical service businesses due to their irregularity of daily routines and mileage and the inability to charge remotely, and due to the variability of use that will deplete the battery, leaving a vehicle and driver stranded. Further, without such an exemption it will prevent our companies from responding to emergency repairs, and potentially puts our employees at risk to injury during a repair.

We ask this Board to direct staff to remove the inequities, and the restraint of trade, and the infeasibilities, both technological and economical, this regulation represents to our businesses. We also ask this Board to direct staff to exempt businesses such as ours that provide rental equipment and service and transportation vehicles that serve heavy equipment and critical industries. Finally, as stated, the way this regulation is written it is far too complex for companies to manage without risk to enforcement. We, therefore, ask this Board to delay approval and redirect staff to thoroughly revise this regulation in such a manner to remove the complexities and address the concerns we have been raising since 2019.

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

Sincerely,

**The California Caterpillar Dealers**



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## **Attachment A**

### **Rental and Leasing Company Related SIC Code Definitions**

#### **Description for 7353: Heavy Construction Equipment Rental and Leasing**

Division I: Services | Major Group 73: Business Services

Industry Group 735: Miscellaneous Equipment Rental And Leasing

7353 Heavy Construction Equipment Rental and Leasing

Establishments primarily engaged in renting or leasing (except finance leasing) heavy construction equipment, with or without operators. Establishments primarily engaged in finance leasing are classified in Finance, Industry 6159.

- Bulldozer rental and leasing
- Construction equipment, heavy: rental and leasing
- Crane rental and leasing
- Earth moving equipment rental and leasing