CALIFORNIA TRUCKING ASSOCIATION

Dr. Robert Sawyer, Chair
California Air Resources Board
1001 "I" St.
Sacramento, CA 95812

Re: Comments on *Rulemaking to Consider Adoption of New Emission Standards, Fleet Requirements, and Test Procedures for Forklifts and Other Industrial Equipment*.

Dear Dr. Sawyer:

The California Trucking Association appreciates the opportunity to comment on the *Rulemaking to Consider Adoption of New Emission Standards, Fleet Requirements, and Test Procedures for Forklifts and Other Industrial Equipment*. The CTA supports the adoption of enhanced emission requirements in the manufacturing standards for forklifts.

The CTA opposes the in-use fleet requirements that would require forklift fleet operators to comply with progressively stringent fleet average emission standards initially by January 2009 and subsequently by January 2011 and January 2013. The in-use requirement is based upon an ARB staff assertion that normal fleet turnover would not bring about sufficient emission improvements without establishing in-use fleet standards that must be achieved by the above dates certain.

However, according to ARB staff, the ARB's analysis has not evaluated, collected data on or considered the prevalence in California of 5-year forklift leases among medium and large forklift fleets or the impact of leasing on the emission improvements that would result from normal equipment turnover. In addition, the details of calculations that have been performed by ARB to derive key conclusions have not been made public or provided in a sufficiently documented form to allow them to be analyzed and critiqued.

- There are no discussions of the extensive phenomena of forklift leasing and the role leasing plays among forklift users, except tangentially from the perspective of forklift dealer inventories and in the regulation as it affects how lease equipment operators must count their leased equipment in achieving regulatory compliance. In fact, discussions with ARB staff have revealed that the analysis of fleet improvements that would occur in the absence of an in-use rule did not include an analysis of the impacts of leasing on equipment turnover. The proportion of leased equipment used in California will have a significant impact on the average emission improvement that can be expected from normal equipment turnover. ARB's analysis assumed that typical forklift fleet turnover was 7 years whereas the typical forklift lease runs for 5 years, an almost 30 percent shorter period. A 5-year turnover cycle is consistent with US tax law which allows equipment such as forklifts to be depreciated for only 5 years.

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- The ARB forklift inventory contains no information regarding the extent of forklift leasing in California. According to discussions with ARB staff, the only information on leasing that the ARB has is from a 1995 Gas Research Institute report that claims that over 50 percent of all forklifts nationwide are leased. However, the only reference to the GRI report in the ISOR is as a source for the national proportions of small, medium and large fleets, which proportions are thereby applied to California. These different sized fleets are not differentiated from each other regarding their relative age or proportion of leased equipment. Instead, fleets of all sizes are assumed to have the same average age of equipment and turnover, an assumption that has no empirical basis.

- The ARB forklift inventory is not up to date. Although the ISOR for this rulemaking claimed that the forklift inventory had been updated twice, that claim has turned out to be misleading as none of the updates related to the population of fork lifts or their population characteristics. Moreover, the 1998 inventory referenced in the ISOR actually established a 1990 base year inventory. Projections from this 1990 baseline, employing economic factors, are used to determine what the fleet emission profile would look like in 2010, 20 years later. However, since there would be four 5-year turnover cycles over a 20 year period versus slightly less than three 7-year turnover cycles, incorporating leasing information in turnover cycles would result in a substantially different fleet emission profile in 2009. ARB reports in the ISOR that 88 percent of the forklift fleet is (or was in 1990) seven or fewer years old. However, equipment age is not equivalent to length of turnover cycle. Tax limits on depreciation drive equipment turnover. Used equipment is typically purchased by smaller companies to whom this proposed regulation does not apply.

- Key assertions in the ISOR cannot be confirmed because, despite a number of requests, all the details of calculations have not been provided in a form that would allow them to be analyzed. The decision to not publish detailed calculations was made, according to ARB staff, by ARB management. A 37 page ISOR, with no appendices detailing calculations, is not an adequate analytical showing. Telephone calls to staff regarding the details of their analyses are not a satisfactory substitute for publishing complete analyses with all their details intact. The lag time for ARB staff returning calls is unacceptably long and typically has taken two or three days to, in several instances, one or two weeks.

- The apparent decision by ARB management to not provide details of the forklift analysis raises concerns about the Board's commitment to transparency. The process adopted by ARB staff in this rulemaking has not served the Board or the public well. Analysis that justifies the adoption of rules must be completely documented and fully transparent to the public. In an age of essentially cost-less electronic publication there is no reasonable justification for withholding any detail of staff analyses that is essential to an outside review. That detail should include working copies of the actual spreadsheets that were used to make calculations as well as documentation of assumptions used and the basis for those assumptions.

The CTA requests that the Board delay its decision until an adequate consideration of the impact of leasing on fleet turnover is conducted and until all the details of staff calculations are made public with sufficient time allowed for their analysis. To assist in and further the ARB's analysis of leasing, the CTA proposes to conduct a survey of its membership on leasing and equipment turnover practices as they relate to forklifts and provide that information to ARB staff for its review.

The CTA would support and in-use fleet requirement that began in 2013 since normal fleet turnover in combination with enhanced emission requirements on forklift manufacturers will have transformed the forklift fleet by that time.

Sincerely,

Stephanie Williams

Stephanie Williams
Senior Vice President

CC: Members, California Air Resources Board
Honorable Jenny Oropeza, Chair, Assembly Transportation Committee
Members, Assembly Transportation Committee
Honorable Alan Lowenthal, Senate Transportation and Housing Committee
Members, Senate Transportation and Housing Committee
Moira Topp, Governor's Office
Sunne Wright McPeak, Secretary, Business, Transportation and Housing